

## HONOR KILLING

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### ABSTRACT

"Honor killing" is not it. There is no honor in murder. An honor killing is the murder of a member of a family or social group by other members, due to the belief of the perpetrators that the victim has brought dishonor upon the family or community. Honor killings are directed mostly against women and girls. Honor crimes tend to happen in places where there are inflexible and discriminatory attitudes about women's roles, especially around their sexuality, and these are often applicable to women but not exclusively so, because sometimes men are targeted for honor crimes as well. Honor killing is different from the dowry deaths that are also a very common practice in India as, in the case of dowry deaths, the perpetrators of that action claim that they have not been given enough material rewards for accepting the woman into the family. In that case there is a lot of harassment from the in-laws and more times than one, it has been noted that the wife commits suicide rather than being killed by the in-laws. We have had a tradition of honor killing. This tradition was first viewed in its most horrible form during the Partition of the country in between the years 1947 and 1950 when many women were forcefully killed so that family honor could be preserved.

What can we do to prevent such a thing from happening? Firstly, the mentality of the people has to change. Secondly, we need to have stricter laws to tackle these kinds of killings as this is a crime which cannot be pardoned because.

**Keywords:** honor killing, honor crimes, murder, female deaths, extra-marital, dowry death.

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## Introduction

‘A life without honor is not worth living.’

Yes, somewhere this quote stands true, but is honor the only essential requirement to make life worth living? Is it so important and paramount that to defend one’s honor, one can go to the extremes of taking someone’s life for it?

Honor crimes include a range of violent acts against women such as murder, attempted murder, acid attacks<sup>1</sup>, dowry deaths<sup>2</sup>, and female infanticide<sup>3</sup>. Murder is considered an honour killing when a person<sup>4</sup>, typically a youthful male<sup>5</sup>, kills a female relative because she has allegedly engaged in illicit sexual activity, including instances where a woman has been raped.<sup>6</sup> Honor crimes tend to happen in places where there are

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- 1 Hassan, Y., *Stove Burning, Acid Throwing, and Honour Killings*, (Askin, K.D. and Koenig, D.M. eds., 2000) in *WOMEN AND INTERNATIONAL HUMAN RIGHTS LAW 2*, p. 587-596, 2000. (explaining that acid throwing, common in Pakistan among all classes, is a form of violence against women where typically a male who is denied a woman's hand in marriage throws acid at her face).
  - 2 Cema, M.C. and Wallace, J.C., *Women and Culture*, in *WOMEN AND INTERNATIONAL HUMAN RIGHTS LAW 1*, (Askin, K.D. & Koenig, D.M. eds., 1999), p. 623 & 635, 1999. (identifying the practice, primarily in India, in which the groom's family makes increasing demands for dowry payments in the form of gifts from the bride's family and, when they are dissatisfied with the bride's family's purchases, kill the bride, often under the guise of kitchen accidents, in order to remarry their son to another woman who will again pay a hefty dowry for marriage).
  - 3 Bellamy, *Condemns Violence Against Women*, *JORDAN TIMES*, Mar. 7, 2000. (explaining various types of violence against women classified as honour crimes including female infanticide, which is killing female newborns, typically in Asia, due to the belief women have no economic value); McAllester, M., ‘*What I Did Was Right*’, *NEWSDAY*, May 15, 2000. (denoting various types of honour crimes). This Comment focuses on honour killings, a specific type of honour crime.
  - 4 The word "person" is chosen because honour killings, while predominantly carried out by male family members, have rarely been executed by female family members as well; Prusher, I.R., *Small Steps, But the Pace Quickens*, *CHRISTIAN SCI. MONITOR*, Aug. 7th, 2000 (reporting the case of Jordanian girl who killed her own mother for reasons of honour). It should be noted, however that brothers, uncles, husbands, male cousins and other male relatives commit almost all honour killings; Odeh, L.A., *Comparatively Speaking: The Honour of the East and the Passion of the West*, 1997 *UTAH L. REV 1*, p.107. [hereinafter Abu Odeh., *Comparatively Speaking*] (describing a male relative, usually a brother, as the typical perpetrator of honour killings).
  - 5 Thomas, K., *Deaths That Dishonour*, *MIDDLE EAST*, Nov. 1, p. 45, 1999. Available at 2000 WL 23261688. ( finding that most honour killings are committed by youthful males).
  - 6 Kinnear, K.L., *Women in the Third World*, *Contemporary World Issues Series*, p.200-01, 1999. (explaining that in the view of Arab men, regardless of whether a woman is a victim of rape, premarital sexual relations ruin a woman's moral and physical attributes). Moreover, in Arab society, rape is usually considered the woman's fault because she has probably done something to cause a man to become attracted to her; Goodwin, J., *Prize of Honour: Muslim Women lift the veil of Silence on the Islamic World*, p.339-40, 1994.(discussing an instance in which an Egyptian woman was sexually assaulted and blamed for the incident because she wore a long skirt and was returning from work rather than staying at home with her children).

inflexible and discriminatory attitudes about women's roles, especially around their sexuality, and these are often applicable to women but not exclusively so, because sometimes men are targeted for honor crimes as well.

### **History of Honor Crime**

As Fadia Faqir articulates, “The use of violence to maintain privilege is not a neoteric phenomenon rather it is historically entrenched, and has turned gradually into ‘the systemic and global destruction of women, with the institutionalization of patriarchy over the centuries.’”<sup>7</sup>

Honor killings have been known since ancient Roman times, when the *pater familias*, or senior male within a household, retained the right to kill an unmarried but sexually active daughter or an adulterous wife.<sup>8</sup> Honor-based crimes were known in medieval Europe where early Jewish law mandated death by stoning for an adulterous wife and her partner.<sup>9</sup>

In Ancient Rome, fathers maintained cultural and legal power over the life and death of all members of their families, and were in fact penalized if they did not take violent action against female relatives who were considered to have violated the sexual code. In medieval Albania, the legal structure permitted the killing of women believed to have committed adulterous acts (Honor Based Violence Awareness Network n.d.).<sup>10</sup> Clearly, honor killings drastically predate Islamic religion and maintain historical roots across the globe. Historically, in some Arab countries under Ottoman rule, a killer would "sprinkle his victim's blood on his clothes and parade through the streets displaying the bloody murder weapon... to increase his honour," thereby attracting community respect rather than condemnation for taking a life.<sup>11</sup>

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<sup>7</sup> Fadia, F., "Interfamily Femicide in Defense of Honour: The Case of Jordan." *Third World Quarterly* 22.1, 2001, p. 65-82. Web. 30 Nov 2009.

<sup>8</sup> Matthew A. Goldstein, "The Biological Roots of heat of passion crimes and honour killings," *Politics and Life Sciences* 21, 2 (2002): 28-37

<sup>9</sup> James A. Brundage, *Law, Sex and Christian Society in Medieval Europe*, Chicago: University of Chicago Press, 1987, 55.

<sup>10</sup> Honor Based Violence Awareness Network. "Historical Overview." International Honour Based Violence Resource Centre. <http://honour-killings.com/history/> (accessed January 31, 2015).

<sup>11</sup> Gideon Kressel et al., "Sorricide/fillicide homicide for family honour," *Current Anthropology* 22, 2 (1981): 143.

## Definitions and Reports

Everyone is entitled to all the rights and freedoms set forth in the Universal Declaration of Human Rights without distinction of any kind, such as caste, colour, race, religion, language, sex, birth, property, national or social origin, political or other status.<sup>12</sup> Honour killing self-evidently violates the Right to Life of the individual victim, a right which is regarded as the most fundamental of all rights and which is enshrined in all major human rights instruments, not least in the Universal Declaration of Human Rights (UDHR) (1948).

Committee on the Elimination of Discrimination against Women (CEDAW) 1979 also concludes many things regarding women rights in its Article 16, which states that “State Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women and the same right freely to choose a spouse and to enter into marriage only with their free and full consent.”<sup>13</sup>

AMNESTY INTERNATIONAL defines “honour killing” as a crime which is committed by male family members against a female relative, when the family believes that she has brought shame on her family and disregarded their honour. In many areas of the world, family honour is considered as a “social behavioral code imposed on women for the purpose of enforcing their inferiority and preserving male supremacy.”<sup>14</sup> According to UNITED NATIONS POPULATION FUND, 5000 women are killed by the name of honour in each year throughout the world.<sup>15</sup> Amnesty International (2001) adds that the regime of honour is unforgiving: women on whom suspicion has fallen are not given an opportunity to defend themselves, and family members have no socially acceptable alternative but to remove the stain on their honour by attacking the woman. Araj (2000) states that, “the conception of honour used to rationalize abuse and killing of

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12 Brownlie, I., Guy and Goodwin, J., *Basic Documents on Human Rights*, Oxford University Press, London, p.123-24, 2006.

13 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), *States that Have Signed, Ratified, Acceded, or Succeeded to the Convention*, Jan. 5, 1998, available at [gopher://gopher.un.org/00/ga/cedaw/RATIFICA%09%09%2B](http://gopher://gopher.un.org/00/ga/cedaw/RATIFICA%09%09%2B). (reporting that Jordan signed CEDAW on Dec. 3, 1980 and ratified CEDAW on July 1, 1992).

14 Ursula, S., *Honour Killing: Justice of the Peace*. Vol. I, p.170, 2006.

15 *Ibid.*

women is founded on the idea that one person's honour depends on the behaviour of others; behaviour that must be controlled.

Human Rights Watch (2001) defines honour killings as follows, “A woman can be targeted by (individuals within) her family for a variety of reasons, including: refusing to enter into an arranged marriage, being the victim of a sexual assault, seeking a divorce — even from an abusive husband — or (allegedly) committing adultery. The mere perception that a woman has behaved in a way that "dishonours" her family is sufficient to trigger an attack on her life. Other behaviour that challenge male control (staying out late, smoking, chatting, going to a pub etc.) can also be reasons for ‘honour crimes. The ‘dishonourable acts’ includes premarital sexual relations, illicit relations, seeking divorce, or being a victim of sexual assault or rape.”<sup>16</sup>

Ruggi (1998) states that, “honour killing is a complicated issue that cuts deep into the history of society. What the men of the family, clan, or tribe seek control of in a patriarchal society is reproductive power. Women, especially of the tribes, were considered a factory for making men. The honour killing is not a means to control sexual power or behaviour. What's behind it is the issue of fertility, or reproductive power.”<sup>17</sup>

The United Nations Population Fund (UNFPA) (2000) report estimates that the annual worldwide total of honour-killing victims may be as high as 5,000.<sup>18</sup> Security Council Resolution 1325, states that call on all parties to armed conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situation of armed conflict. It also emphasis the responsibility of all states to put an end to impunity and to prosecutor those responsible for genocide , crimes against humanity, war crimes including those

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16 Mazna, H., *Take my Riches, Give me Justice: A Contextual Analysis of Pakistan's Honour Crimes Legislation* Harvard Journal of Law & Gender, Vol. 29, p.122, 2006. Honour Killings Report. (2010). Pakistan - Researched and compiled by the Refugee Documentation Centre of Ireland on 5 February 2010. Human Right Commission of Pakistan, *Pakistan, The Tribal Justice System*, 2002. URL=<<http://www.amnesty.org/en/library/asset/ASA33/024/2002/en/293987eb-d81211dd-9df8-936c90684588/asa330242002en.pdf>>. Viewed May 20, 2010.

17 Ruggi, S., *Commodifying Honour in Female Sexuality: Honour Killings in Palestine*, Middle East Report, 206, p.12-15, spring 1998.

18 United Nations Population Fund (UNFPA) (2000), Chapter 3: Ending Violence against Women and Girls: A Human Rights and Health Priority. In *The State of World Population 2000: Lives Together, Worlds Apart* (pp. 25-30). Retrieved on 15th June 2011 from <http://www.unfpa.org/swp/2000/pdf/english/chapter3.pdf>

relating to sexual violence against women and girls, and in this regard, stresses the need to exclude these crimes where feasible from Amnesty provisions.\*

The corresponding provision in the International Covenant on Civil and Political Rights (ICCPR)\*\* is Article 9, paragraph 1, which stipulates: “Everyone has the Right to Liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.” By this, International protections for the right of human to sexual autonomy can also be found in the principal of bodily integrity enumerated in ICCPR provisions on liberty and security of person, therefore, when a women is severely punished for pre-marital sex, her right to make free decisions regarding her body is violated.

ACHR report (2004) describes that, “Most honour killings are usually committed by the close relatives- father, brother, son or husband of women”. They are forgiven by the same family member and released. Qisas and Diyat Ordinances are considered for the mitigation of sentence and honour crimes fails to receive actual redress. The heirs of the victim receive the money compensation from the killer in return of his forgiveness and state is bound under the statutory requirements to do in the favour of the victim’s family, so here in honour killing case the actual obstacle comes when a son could forgive his father for murdering his mother, a mother could forgive her husband for killing their daughter, a father could forgive his brother and so on. Under the ordinance,<sup>19</sup> so, amendment of 2004 in criminal law regarding honour killings tried to bring the private act into the realm of public, however failed to address the real issue of Qisas and Diyat laws, where the act of killing is compoundable within the parties and judiciary and government have no interference when both parties are willing to compromise. In this way, the issue of killing in the name of honour remains in private sphere and within family one can easily compromise other member (killer). So within the formal legal system, there is a great need of taking initiative to redress the deficiencies and the honour killing cases should be bring in public sphere rather than confining them in family sphere by not giving to right to the family to forgive the offender in honour killing cases.

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\* Adopted by the Security Council at its 4213th meeting, on 31 October 2000.

\*\* UNTS, Vol. 999, p. 171, 16 December 1966, entered into force 23 March 1976; 154 States Parties as of January 2005.

19 Mazna, H., *opcit.* p. 124.

## Honor Crime

Honor crimes consist of: forced marriages, oppression, murder, rape, torture and many other crimes which clearly violate Human Rights. As honour crimes are predominantly against females many women face discrimination across the world. Even though these human rights acts are universal, yet many countries ignore them, and comply with their cultural norms. Honour crime has been regarded as a complex issue which has been widely misunderstood for many centuries. There is a current battle being fought in regard the dichotomy between the national “equal” status of women and the perpetuation of honour killings. It is a battleground that represents the larger socio-political struggle to combine a modernizing nation with a traditional state of mind. Women face all kinds of domestic violence and abuse at the hands of male perpetrators’ family members and community, even today women are mutilated, beaten and murdered in ritual “honor killings.”<sup>20</sup> Almost 1000 women are killed in the name of honour every year. The concept of honor crimes is elastic which changes according to time, place and forms of articulation and expression in society. Honor crimes have been defined as patterns of conduct cutting across communities, cultures, religions and nations and manifested in a range of forms of violence directed, in the majority of cases, against women, including murder (honour killings) and forced marriages.<sup>21</sup> Losing honour by the female member brings disgrace and shame. Many acts are considered shameful, but nothing is more important than female chastity. “In honour bound societies, female chastity represents the family’s symbolic capital.” To defend and restore it, the offender female must be killed, in this society. This honour crime “redeems family honour and resurrects its prestige”<sup>22</sup> and is considered to be “a crime that threatens the unity and harmony of the community, and acts as a barrier preventing women from progressing in their lives.”<sup>23</sup>

This abuse occurs with shocking regularity in many areas of the Middle East, Europe and South Asia. Some have interpreted honour crimes as a religious extension of

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20 Muhammad, J.N., “*Daughter of Eye: Violence Against Women in Pakistan*”. Massachusetts Institute of Technology, p.222, 2004.

21 Cimel and interights (2006), available at: [http://www.soas.ac.uk/honourcrimes/Meet\\_Roundtable\\_Report.htm](http://www.soas.ac.uk/honourcrimes/Meet_Roundtable_Report.htm) Accessed: 4th April 2007

22 Knudsen, A., “*Licence to Kill: Honour Killings in Pakistan*, Chr. Michelsen Institute, p. 111, 2004.

23 Ruggi, S., *Commodifying Honour in Female Sexuality: Honour Killings in Palestine*, available at: <http://www.merip.org/mer/mer206/ruggi.htm>

traditional Islamic gender practices, where the female is bound to take care of the family's honour under the so called patriarchy system of Islam. Hussain says, "honour crimes occur predominantly, although not exclusively, in Muslim countries." He also mentions that some Muslim countries have codified laws to mitigate the punishment for the murderer. Others have argued that honour crimes are the antithesis of Islamic morality and consider it a cultural and traditional product but Hussain codes it. "Honour is a deep-rooted traditional notion that originated in pre-Islamic eras in the ancient culture of desert tribes."<sup>24</sup>

The incidence of honour crimes is presumed to increase in situations of economic crisis or conflict, or where traditional patriarchal values are under threat as for example in minority communities honour crimes are tolerated when they come into contact with mainstream societies which do not share the same views of appropriate gender roles. A woman in an immigrant community who is threatened by honour crime by her family is usually discriminated against not only on the basis of gender but may also encounter further ethnic, racial and gender prejudice if she seeks help from the police. Even a suspicion of the woman's committing any of the transgressions can be sufficient to trigger this action. The actual perpetrators of these crimes are often lauded for having restored the family honour and if brought to justice usually receive reduced sentence on the grounds that honour is regarded as an extenuating circumstance. Very often to ensure judicial leniency an under-age male is selected to commit the crime. In some societies committing an honour killing may be regarded as a "rite de passage" indicating and guaranteeing social maturity.<sup>25</sup>

In most countries where honour killings are tolerated, these acts do fall under laws dealing with murder but at the same time rules of defence relating to provocation and extenuating circumstances can be found in their penal codes. Such provisions usually originate from old colonial penal codes of Spanish, French or Ottoman empires where honour killings are accorded similar treatment as are "crimes of passion", in that sentencing is based not on the act itself but on the feelings of the perpetrator.<sup>26</sup> If defence

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24 Mazna, H., *opcit*, p.125.

25 Becker, J.N., *Crimes of Honour: Women's Rights and International Human Rights Law* – School of International Training, International Studies, Geneva Switzerland, 2004. [http://www.sit-edu-geneva.ch/crimes\\_of\\_honour.htm](http://www.sit-edu-geneva.ch/crimes_of_honour.htm).

26 EC-Toolkit on Mainstreaming Gender Equality in EC Development Cooperation, EC Europe Aid Cooperation Office, European Communities 2004.



of family honour is regarded as an extenuating circumstance, killing in the name of honour may incur a sentence of a few months only.

The efforts to eradicate violence against women from the modus operandi of gender relations in the private sphere symbolize a larger struggle for egalitarianism in the macro society. It is an imperative battle for modernization and social change, which makes this research exceptionally pertinent to the themes of this program. It was established that honour crime is a clear violation of all Human Rights. There are 30 Articles in the Human Rights Act and the Universal Declaration of Human Rights. These are universal rights of human beings regardless of jurisdiction, and other factors such as, ethnicity, age, sex and nationality. It appears that while the international community recognizes violence against women as an international humanitarian concern, an effective and sufficient response to this recognition has yet to be realized.<sup>27</sup> Several factors contribute to this chasm between rhetoric and action. First, the extent of the problem has received little international attention. Second, discussions of the intersection of religion and gender are inherently controversial and many avoid them for fear of being labeled ethnocentric. Lastly, because specific countries are apathetic to acts of violence against women, data on the extent and frequency of the problem is inconsistent. Due to the lack of accurate information on honour crimes, theoretical and empirical studies concerning acts of violence against women has been short coming.<sup>28</sup> This paper aims to address both issues by contributing to the awareness of the problem, by offering a discussion that is both critical and fair, and by highlighting further areas of research.

### **Scope of the Problem**

Recently, there has been a spate of honor killings in the country and this has led the government to decide what laws should be put in place to stop this heinous crime. Also whether the Hindu Marriage Act should be reformed or not is being debated. In my opinion Honour killing is defined as a death that is awarded to a woman of the family for marrying against the parent's wishes, having extramarital and premarital relationships,

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27 Arnold, K., *Are the Perpetrators of Honour Killings getting Away with Murder?* Article 340 of the Jordanian Penal Code analyzed under the Convention Of Elimination of All Forms of Discrimination Against Women, *Journal of Gender, Social Policy and the Law*, 11:2, 2, p.129-30, 2001.

Kogacioglu, D., *The Tradition Effect: Framing Honour Crimes in Turkey*, *A Journal of Feminist Cultural Studies*, p. 118-151, 2004.

28 Human Rights Watch. *A question of security: Violence against Palestinian women and girls*, p. 1-100, 2006.

marrying within the same gotra or outside one's caste or marrying a cousin from a different caste.

The most obvious reason for this practice to continue in India, albeit, at a much faster and almost daily basis, is because of the fact that the caste system continues to be at its rigid best and also because people from the rural areas refuse to change their attitude to marriage. The other reason why honour killings are taking place is because the mentality of people has not changed and they just cannot accept that marriages can take place in the same gotra or outside one's caste. The root of the cause for the increase in the number of honour killings is because the formal governance has not been able to reach the rural areas and as a result. Thus, this practices continues though it should have been removed by now.

There are various misconceptions regarding the practice of honor killing. The first misconception about honor killing is that this is a practice that is limited to the rural areas. The truth is that it is spread over such a large geographical area that we cannot isolate honor killings to rural areas only, though one has to admit that majority of the killings take place in the rural areas. The second misconception regarding honor killing is that it has religious roots. Even if a woman commits adultery, there have to be four male witnesses with good behavior and reputation to validate the charge. Furthermore only the State can carry out judicial punishments, but never an individual vigilante. So, we can clearly see that there is no religious backing or religious roots for this heinous crime.

### **Indian and Global Perspective**

The honour killing is not a recent social issue. The barbaric societies of Arab stoned and buried the girls alive who were thought to have brought disgrace to family. The Roman Civilization too gave the paterfamilias the right to kill their unmarried sexually active daughter or adulterous wives. The honour killings have been recognized throughout the world in the many forms. It persists in civilized western world under the name of crimes of passion.<sup>29</sup>

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29 Hossain, S. and Welchman, L., *Honour: Crimes, Paradigms and Violence Against Women*, Spinifex, Melbourne, p.12-13, 2005.

Much against the popular view that honour killing is concept of Islamic origin,<sup>30</sup> Indian society perhaps had enough of its own before Muslims invaded India in medieval times. Historically, Sita too can be said to have survived an honour killing when she was asked to prove her pavitrata by entering into burning flames and come out unscathed.<sup>31</sup> Talking in Indian context, most of the honour crimes take place as a result of inter-caste or inter-religious marriages. The caste system has deep roots in Indian society and any inter-caste, inter-religion or cross-culture marriages, especially after frequent interferences from the Khap Panchayats, are not a welcoming thought. At the same time, honour killings are negligible to almost non-existent in southern India owing to the efforts of the influence and activism of reformists like Swami Vivekananda, Ramakrishna Paramhansa, and Raja Ram Mohan Roy.<sup>32</sup>

In Middle East and India, when there is a suspicion or actual evidence that a female member of the household has dishonoured the family and clan, other mechanism of informal social control can be used to atone for the dishonourable act such as stoning, lashings and forced marriages. Depending on the circumstances of the discretion, murdering the perpetrator (most often the female) can be perceived by the clan as a reputable way to salvage family status and reputation. Subsequently, men in the direct family lineage such as a father, brother, grandfather, or uncle, commit the majority of honour crimes; victims are most commonly women though sometimes the male adulterer is a victim as well. Male victims of honour crimes are rare and they are typically viewed as collateral victims. That is, men are usually victims of honour crimes only when both the male and female are killed in an act of adultery.<sup>33</sup> Other perpetrators of honour crimes can include sisters, in-laws, neighbors, and friends. Mothers have been known to commit honour crimes, typically when their intent is to protect the family honour because of their daughter's premarital sexual activity or pregnancy.<sup>34</sup> In some cases the female family members act indirectly in the crime because they are encouraged by the head of the

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30 Idriss, M. and Abbas, T., *Honour, Violence, Women and Islam*, Taylor and Francis, London, p.189, 2010.

31 *Shri Ramcharitmanas*, (OCT. 10th, 2010), <http://timesofindia.indiatimes.com/city/delhi/Honour-killings-New-lawneeded/articleshow/6052254>.

32 Sharell, *Honour Killings in India*, (Oct. 10th, 2010), <http://www.whiteindianhousewife.com/2010/06/honour-killings-in-india>.

33 Nesheiwat, F., *Honour Crimes in Jordan: Their Treatment Under Islamic and Jordanian Criminal Laws*, Penn State International Law Review, p.251-281, 2005.

34 Human Rights Watch. 2006. *A question of security: Violence against Palestinian women and girls*, p.1-100, 2006.

household to convince the daughter or sister to return to the family with an assurance that they will not be harmed.<sup>35</sup>

While violence against women remains problematic in many places, honour crimes represent the most graphic illustration of “deeply embedded, society-wide gender discrimination”.<sup>36</sup> In some cases, families target women for honour crimes because they have voluntarily violated the moral code, or because they have been a victim of sexual violence. Rapists are sometimes forced to marry their victim because the purity of the woman has been defiled. Honour crimes are the most common in Middle East and India where honour and purity of women are stressed. They are also the most severe form of social control imposed upon women in these countries.<sup>37</sup>

Honour crimes are seen in countries such as Palestine, Pakistan, Afghanistan, Yemen, Lebanon, Egypt, Turkey, Iran, Iraq, Saudi Arabia, and Jordan. Although Jordan does not report honour crimes as a separate category in crime statistics, the official honour crime rate varies between 20 to 30 deaths per year. Lebanon only had twenty-five reported cases of honour crimes during 1980-2003. In Egypt, the 1995 report of the Department of General Security cited statistics produced by the National Centre for Social and Criminal Research that of the 843 murders that year, 52 were honour crimes. In 1999, the report’s authors found that 10% of murders in Egypt were crimes of honour.

Further, even when cases are reported and they make it into the court systems; perpetrators often received relaxed and lenient punishments. In Islamic countries, only men can testify to the court. Thus, courtrooms are dominated by men and because honour crimes are family-focused and are based on fundamental beliefs as to how women should act, theoretically, the caste system prevails.<sup>38</sup> In these countries, there are two types of law: legal law and religious law. Because these crimes are perceived as stemming from familial practice and custom, traditional law often trumps legal law depending on the practitioners.

### **Judicial Precedence in India**

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35 Nesheiwat, *opcit*, p.282.

36 Human Right Watch, *opcit*, p. 1-100.

37 Shalhoub-Kevorkian N., “*Researching a Women’s Victimization in Palestine: A Socio-legal Analysis*”, p. 160-180, 2005. In ‘*Honour’: Crimes, Paradigms, and Violence against Women*, edited by Hossain, S. and Welchman, L., Zed Books, London, p.213, 2005.

38 *Ibid*.

Normally, the cases of honour killings were admitted inside the courts in India in the forms of homicide or mans laughter but after seeing the nature and facts of killing, courts were also used to follow the flimsy so-called 'honour' of the family in the name of which the heinous crime was done and the perpetrators usually were rescued. This we can observe from the judgment of Supreme Court, in which Justice V.S. Sirpurkar and Justice Deepak Verma said that, "the murders were the outcome of a social issue like a marriage with a person of so-called lower caste. Such killings do not fall in the category of the rare of the rarest as the family of the girl has to face lot of taunts and humiliation in the society for the acts of the girl. However, time has come when we have to consider the social issues relevant while considering, death sentence in such circumstances." In other words, the court classified the shameful case-based honour killings as different from other homicides in which the maximum punishment of death can be awarded. In this case, the brother of the girl who belonged to Uttar Pradesh, had killed five members including his brother-in-law who was Schedule Caste.<sup>39</sup>

This was the earlier tradition but now-a-days from the various judgments of the courts we can say that the honour killings are not termed differently. Courts through their judgments had reiterated that killing anyone even in the name of honour is the violation of the Constitution of India and anyone going contrary to the Constitution will be punished. This we can see from the following cases-

In a landmark judgment, in March 2010, the Karnal Distt. Court ordered the execution of five perpetrators in honour killing case of Manoj and Bубли, while giving a life sentence to Khap (local caste-based council) head who ordered the killings of Manoj Banwala (23 years) and Bубли (19 years), two members of the same clan who eloped and married in June 2007 and later their mutilated bodies were found a week later from an irrigation canal. In the verdict Distt. Judge Vani Gopal Sharma stated, "This court has gone through sleepless nights and tried to put itself in the shoes of the offenders. Khap Panchayats have functioned contrary to the Constitution, ridiculed it and have become a Law unto themselves." This case was both the first court judgment convicting khap panchayats and the first capital punishment verdict in an honour case in India. The Indian media and legal experts hailed it as a landmark judgment. Also, few honour killing cases

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39 See, 'SC's conflicting judgment on honour' at < <http://news.webindia123.com/news/articles/India/20100613/1525659.html>> as accessed on 8th December2010.

go to court, and this is the first case in which the grooms' family in an honour killing filed the case.<sup>40</sup>

Also on August, 2010 the Supreme Court in a case of State of U.P v Krishna master & Ors<sup>41</sup> awarded life sentence to three persons who caused the death of six persons of a family in a case of honour killing at a village in U.P in 1991. A bench of justices H.S Bedi and J.M Panchal reversed the order of acquittal passed by Allahabad High Court after the trial court handed them the death sentence. The bench said that, "there is no manner of doubt the killing six persons and whipping out the whole family on flimsy ground of saving the honour of family would fall within the rarest of rare cases and therefore, the trial court was perfectly justified in imposing the Capital Punishment on the respondents." Further, a Bench of Supreme Court headed by Justice Markandey Katju in case of Lata Singh v State of Uttar Pradesh and others<sup>42</sup> had said that, "Honour Killings are nothing but barbaric cold-blooded murder and no honour is involved in such killing." Supreme Court while dropping all criminal proceeding against Singh's husband and her in-laws had gone to the extent of observing that, "Inter-caste and inter-religious marriages should be encouraged to strengthen the social fabric of society."<sup>43</sup>

Recently on June 22, 2010 Supreme Court had issued notice to Central Government and nine States in the face of rising honour killings across the country on Public Interest Litigation filed by Shakti Bhahini. The courts wanted to know what steps are being taken to curb such violence.<sup>44</sup> Thus we can see that in lack of any specific law on honour killing the judgments of the cases are normally conflicting. But now after the land mark judgments of Supreme Court cited above we can normally presume that where there is rule of law, law does not rescue any person to kill anyone in the name of honour of his family or clan.

Moving to any statutory body set up till now in India on the issue of honour

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40 See, <http://ibnlive.in.com/news/5-get-death-penalty-in-honour-killing-case/112360-3.html?from=tn> as accessed on 7th December, 2010. See also, [http://news.bbc.co.uk/2/hi/south\\_asia/8595168.stm](http://news.bbc.co.uk/2/hi/south_asia/8595168.stm). as accessed on 7th December, 2010.

41 See, CRIMINAL APPEAL NO. 1180of 2004, at <http://judis.nic.in/supremecourt/helddis3.aspx> as accessed on 6th December, 2010.

42 2006(5) SCC 475.

43 See, 'SC's conflicting judgment on honour' at <http://news.webindia123.com/news/articles/India/20100613/1525659.html> as accessed on 8th December, 2010.

44 See, 'Honour killing and the need for new legislation' at <http://indialawyers.wordpress.com/2010/07/03/honour-killing-and-the-need-for-new-legislation/> as accessed on 2nd December, 2010.

killing, we will find that till now only a single statutory body had been set up that too in 1990. National Commission for Women set up a statutory body in order to address the issues of honour killings among some ethnic groups in North India. This body reviewed Constitutional, legal and other provisions as well as challenges, women face. NCW's activism has contributed significantly towards the reduction of honour killings in rural areas of North India.<sup>45</sup>

### **Bill Proposed in Parliament**

As we all know that we do not have any codified law on honour killing. But alarmed by the rise of honour killings, Government planned to bring a bill (The Prevention of Crimes in the Name of 'Honour' & Tradition Bill, 2010 ) in the session of Parliament to provide for deterrent punishment for honour killing,<sup>46</sup> but not much has happened since then. Chidambaram asserted that the wildest crimes are committed in the name of defending the honour of family or women. Whoever is the cause of the crime, an individual or collective must be punished. My duty is to ensure that laws adopted by Parliament are obeyed and enforced. Once the law is made, it must be enforced."<sup>47</sup>

So the drafters of the proposed bill intend to add a clause to Section 300 of Indian Penal Code 1862. Section 300 deals with the crime of murder, the maximum punishment for which is death and/or a fine. It also wants to amend the Indian Evidence Act and Special Marriage Act, 1954, which would do away with the provision for the mandatory thirty days notice period for marriages intended to be solemnized under this act. The amendment in Special Marriage Act 1954 is necessary because the present procedure of getting a marriage registered is a long process. The complete process takes about forty five days. During this period a couple may be vulnerable and incidence of killing in the name of honour may happen. So steps need to be taken to simplify the registration process by amendment. The new bill is also expected to bring in a definition of such honour killings so that it will be treated as a special crime and will ensure clarity for the law enforcement agencies in India.

### **Changes Needed**

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45 See, <http://www.jeywin.com/blog/the-evil-of-honour-killing-in-india/> as accessed on 12th December, 2010.

46 Ibid.

47 See, <http://www.theindian.com/newsportal/uncategorized/honour-killings-a-shame-on-indiachidambaram100224214.html> as accessed on 13th December, 2010.

As we have seen that the Government is going to amend Indian Penal Code 1862, for the honour killing. But if we watch closely our Constitution and Indian Penal Code 1862, we can see that they are in itself sufficient to combat this crime. As we already know that honour killing are not so different from homicide; so we already have the following sections of Indian Penal Code, 1862, to punish the perpetrators behind the honour killings. Those can be mentioned as follows:

**Section 299-304:** Penalizes any person guilty of murder and culpable homicide not amounting to murder. The punishment for murder is life sentence or death or fine.

**Section 307:** Penalizes attempt to murder with imprisonment for up to 10 years and a fine. If a person is hurt, the penalty can extend to life imprisonment.

**Section 308:** Penalized attempt to commit culpable homicide by imprisonment for up to 3 years or with fine or both.

**Section 120 A and B:** Penalizes any person who is a party to criminal conspiracy.

**Section 107-116:** Penalizes person for abetment of offences including murder and culpable homicide.

**Section 34 and 35:** Penalizes criminal acts done by several persons in furtherance of common intention.

Also along with that the perpetrators in ‘honour killing’ can be punished under the various Articles of Constitution of India. We can see that the honour killings are the violation of following Constitution provisions like Art.14<sup>48</sup>, Art.15 (1)<sup>49</sup> & (3)<sup>50</sup> and Art.21<sup>51</sup>. Honour Killing violates the women Right to Live, Right to move freely, Right to Equality and Right to security. But to make our law stronger on the issue of honour killing, an important amendment in Section 300 of IPC must be done by adding a new definition of ‘murder’ in the form of honour killing. This amendment will make it easier for the judges to classify honour killing cases and will ease them in deciding the matters

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48 “The State shall not deny to any person equality before the law or the equal protection of laws within the territory of India.”

49 “The State shall not discriminate against any citizen on grounds of religion, race, caste, sex, place of birth or any of them.”

50 “Nothing in this article shall prevent the State from making any special provision for women and children”.

51 “No person shall be deprived of his life or personal liberty except according to the procedure established by law”.



according to the above mentioned sections and articles. Making the crime of honour killing a separate offence would bring more clarity for law enforcement agencies.

### **Conclusion**

None of the world's major religions condone honour-related crimes. But perpetrators have sometimes tried to justify their actions on religious grounds.

What can we do to prevent such a thing from happening? Firstly, the mentality of the people has to change. And when we say that the mentality has to change, we mean to say that parents should accept their children's wishes regarding marriage as it is they who have to lead a life with their life partners and if they are not satisfied with their life partner then they will lead a horrible married life which might even end in suicide.<sup>52</sup>

Secondly, in a country where there is a rule of law, the customary laws should not be given much value over the codified laws in matters of such heinous crimes like honor killing. Hence the penal actions should be imposed seriously over the perpetrators with the help of various provisions of law. These measures will definitely help to reduce the spate of honor killings. Honor killing is done for saving the honor of the family. But there is no such honor, in killing any person. Religion and culture cannot and must not be invoked as excuse for killing of women because religion and laws which derive from it are subjective interpretations. No culture has the right to kill and harm women based on their perceptions of morality or honor. The freedom of belief does not mean freedom to kill. Everyone has right to live with full dignity and equality. Honor Killing violates the women Right to Live, Right to move freely, Right to Equality and Right to security. Hence active laws are the only antidote to such dishonorable practices committed in various parts of the world.

In this struggle, words are indeed weapons. We need to find the right words – the right weapons – to fight this violation. "Honor killing" is not it. There is no honor in murder.

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<sup>52</sup> Abdullah Panniyankara, Honour Killing in India, <http://www.civilserviceindia.com/subject/Essay/honor-killing-in-india2.html>