HONOUR KILLING: A DISCRIMINATORY FORM OF VIOLENCE AGAINST WOMEN

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ABSTRACT

The present paper depicts that intolerance of the family members to the pre-marital relationships and matrimonial choices of their daughters especially towards inter-caste and Inter-religious marriages results into the honour based violence. A detailed analysis of the word ‘Honour’ has been discussed and a light has been thrown on the rationale which are vastly responsible for the cause of Honour killing. A recent statics have been shown in the paper which clearly implicit the growing phase of the problem of honour killing, through this article light has been thrown on the judicial approach as towards the honour killing and measures that can be taken to eradicate this problem of honour crime from our society. A number of instances depict that along with father and brothers of the girl, there are direct involvements of their mother, paternal and/or maternal uncles, family friends and even contract killers into the murders. It has been observed that the centuries old conformist mind set prevailing in the patriarchal society does not accept the girls to establish pre-marital relations or to find males of their own choices to marry with. The patronage of the community and the leniency of the law have made the honour killings frequent trend which possesses socio-cultural legitimacy as well. The preamble of our constitution guarantees us democracy, equality and liberty, but where these can be seen in practice when there are incidences like honour killing. How liberty can be exercised when one is not free to choose his/her life partner, this situation may lead to dissatisfaction in the society and can cause disintegration. Therefore, besides constituting rigorous laws and rigid punishments to counter the problem, it is immediately required to change the mindset of the bigoted patriarchal societies to become tolerant towards matrimonial choices of their daughters especially towards inter-caste and inter-religious marriages because when on the one side we are talking about the modernization and westernization and steps are taken to promote the girl child then why on the other hand the incidence like honour killing are taking place, now we have to accept that the time has come to let the children’s free from the
orthodox thinking of the family, love marriages should not be seen to be a murder of family honour but it should be seen as a mature understanding of the couples who choose one another to spend their life with each other after understanding each other properly and this should be accepted by the family members, otherwise time is not so far when children start ignoring their parents and will take their all decisions themselves and this will create chaos in the society.

**Keywords:** Honour killing; Family; Love Marriage; Family Honour; Relationship.
INTRODUCTION

In the era of globalization and industrial revolution where in one sphere India is climbing its stairs towards developing to developed country and in other sphere, it is lagging behind in the spheres of eliminating the curse of social evils from our society which are followed as custom or tradition to certain extent. Although India is known to the world as “Land of Culture” and respected worldwide, but if we see whole of the society and its cultures and traditions it may not be the same, as there are still curse of social evils prevailing in our society still today. It is true that India is a land of diverse customs and traditions and no doubt there are customs and traditions which are undoubtedly among the best in the world but there are some custom or tradition which acts as an antisocial element, the best example we can take is “Honour Killing”.

The Indian Constitution protects the rights of the citizens, irrespective of their caste, creed, religion, sex. Every human life is precious and beautiful, therefore it must be protected and preserve with dignity. Constitution has not given any specific provision about human dignity, but in Article 21 of Constitution of India the right to life it has wider meaning which includes the right to life with human dignity. It is fundamental right without which we cannot live as human being and includes all those aspects of life which go to make a man’s life meaningful worth of life. Life does not only include that we are taking breath, but life includes all the related aspects of a human being, as a dignified life, equality, freedom and choice.

Over the years, honour killing has grown as a deep-rooted social evil. Every Day we can see a number of news in various Newspapers taking about the incidence of Honour killing. It has become bane for our society. Unfortunately many death of young couples, who can be future Doctors, Engineers, lawyers, academicians or administrators are been reported and the count is increasing day by day. It is a heinous, brutal and barbaric. Manu, the famous law giver said1 “where women are honoured there the God dwells”. In patriarchal societies, mostly women fall victim of honour crimes by the members of family. Sometimes men can also be the victim2 of honour killing from the family members. It is one form of manifestation of male dominance. The gender specific

violence is omnipresent. It cuts across all boundaries of caste, creed, class, religion, wealth or nationality. But in India, customary practices, religious beliefs, social conditions, patriarchal notions and above all her subjectie nature is making women more vulnerable. In India so, the family violence against women is on the rise in the country\textsuperscript{3}. The basic reason for violence is their inferior status in male dominated society. Honour killing we normally understand that killing or murder is for the sake of honour\textsuperscript{4}.

Justice K. Ramaswamy said “Indian women has suffered and suffering discrimination in silence self-sacrifice and self-denial are their nobility and even then they have been subjected to all inequalities and discrimination”\textsuperscript{5}

As per the estimation of United Nations Population Fund (UNFPA), that there are 5,000 victims\textsuperscript{6} of honour killings in the world annually. However, many cases are not reported, and many deaths are reported as suicides, so it is difficult to grasp actual numbers.

**HONOUR: AN OUTLINE**

One of the hardest concepts to introduce to the western society about honour killings is the concept and meaning of honour in the context of Honour Killings. Many at first instance oppose the use of the word honour due to its frequent interchangeable positive attributions. Nevertheless, it is important to keep in mind that even though the origin of the term honour in context of the killings is positive, the mens rea element for the killing is fueled from the preservation of the same positive attribution, people are falling into the trap of honour killing because their family members or other want to save their so called honour in the society they live in.

The *Free Dictionary* meaning of honour killing is “a murder committed by a male on a female relative considered to have brought dishonour to the family, usually through sexual activity forbidden by religion or tradition”\textsuperscript{7}.

\textsuperscript{3} Cri. Law Journal April 2009, p.84
\textsuperscript{4} Indian Bar Review Vol. XXXIX(3), July- September, 2012, P. 145
\textsuperscript{5} Madhu Kishwar v. State of Bihar, AIR, 1996 S.C.1864
\textsuperscript{7} Available at [https://www.collinsdictionary.com/dictionary/english/honour-killing](https://www.collinsdictionary.com/dictionary/english/honour-killing) (last accessed on 26/1/2018)
Human Rights Watch defines "honour killings" as follows:

Honour killings are acts of vengeance, usually death, committed by male family members against female family members, who are held to have brought dishonour upon the family. 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. An honour killing or honour killing (also called a customary killing) is the murder of a member of a family or social group by other members, due to the belief of the perpetrators (and potentially the wider community) that the victim has brought dishonour upon the family or community. Honour killings are directed mostly against women and girls. The perceived dishonour is normally the result of one of the following behaviors, or the suspicion of such behaviors:

a. dressing in a manner unacceptable to the family or community,

b. wanting to terminate or prevent an arranged marriage or desiring to marry by own choice,

c. engaging in heterosexual sexual acts outside marriage, or even due to a non-sexual relationship perceived as inappropriate, and

d. Engaging in homosexual acts. Women and girls are killed at a much higher rate than men.

Sociologists believe that the reason why honour killings continue to take place is because of the continued rigidity of the caste system. Hence the fear of losing their caste status through which they gain many benefits makes them commit this heinous crime. 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, this practice continues though it should have been removed by now. But here I want to quote that now problem of honour killing is not limited to villages or rural area but it is spreading its wings in the urban area very fast and as a result of this, a number of cases can be quoted either from metropolitan cities or from the metro cities.

8 “Violence Against Women and ‘Honor’ Crimes”. Human Rights Watch.
SALIENT FEATURES OF HONOUR KILLING

Some salient features of honour killing they are as:

- Honour killing is a collective form of crime, or violence where number of family members and sometimes other society, community members plan and do the act of killing collectively.
- Honour killings are mostly committed against young women or girls for their actual or allegedly sexual activities.
- The act takes place for control of women’s behaviour and marriage against the wishes of the family members.
- There is no shaming of another’s feeling even when the girls or women are subjected to cruelty, or rape.
- There is enormous pressure created on male members i.e. father and brothers to not to resolve the matter and to kill them.
- Honour crimes decision is taken by number of persons including (father, brothers, uncle, cousin, mother and sister) conspire together in the settlement of question.
- Victims are exceptionally given the opportunity to represent her version of the allegation.
- Family members are more curious to punish when the victims are pregnant.
- Cultures of caste or communities lead to honour killing in society.
- Honour killing crimes are based on perceptions of honour in order to control women’s sexuality in the society.
- Honour killing is a pre planed crime which is done by the family members, sometimes including women who take a collective decision.
- Mere perception, suspicion or rumour is sufficient to consider it is as family dishonour to encourage killing of a girl or woman.
- They will not give any opportunity to victim to prove his/ her presumed dishonour actions.
RATIONALE OF HONOUR KILLING

As in the present days of globalization and immense spread of education in India still the peoples of India could not find the faultiness of the Honour killing. They think still honour than that of any rational justification, even at present scenario the crime of honour killing is being followed saying it as a customary law in the society.

The major reason of committing this crime is mind-set and attitude of the patriarchal society to control the women by using authority in the name of social norms and community. There are various reasons found in the society for honour killing. A woman can cause that dishonour of the family due to several reasons; including refusing to enter into arranged marriage or choosing to marry, engaging in certain sexual acts.

- Custom and Usages
Since ancient times Customs and usages are prevailing in Indian societies, families and communities. All societies, possessing having beliefs over moral and ethical norms, all communities, families and religion consists their own norms ethics and moral rules and regulations, (values). Customs and usages are binding with every society, religion and family. These are very significantly playing roles in the life of every religion, communities and family male or female members, there must be obliged by people otherwise it will be treated as dishonour of family, communities and religion. It is observed that, if anyone tries to do marriage by the inter-caste, inter-religion, choosing their own life partner against the wishes of parents, or having extra-marital relations, before marriage, and fall in love they will considered as against the norms of society, religion and dishonour of the community and family, so that in order to preserve the family honour they commit murder.

- Male Dominated Societies
However, Patriarchy system, customary and traditional patterns of life has inferior position of women to insignificance; women suffer this discrimination mutely. Women are subject to exploitation both in the house and outside the house (society). Gender based discrimination haunts a woman at all the of her life stages. The birth of daughter is considered as bad luck. Growing a girl child is considered as a burden for the family. At the tender age of she is under influence of
father, after the marriage she is under the influence of her husband, and at the old age she will be under influence her son. In spite of the enactment of number of laws, the position of woman has not changed.

In the case of Arushi Talwar\(^9\) the family members (mostly father) kill the youngsters (mostly female) on the suspicion of having illicit relations or on exercising right to choose their life partners, be finding men or committing immoral behavior, as according to the offenders it would cause dishonour to the family, in order to protect the family honour they killed daughter.

- **Lack of Education**
  Illiteracy is another major reason for giving scope to increases honour killing in our society and many women are killed. Illiterate women face several problems in her life like rape, forced marriages dowry problem, they could not understand in an orthodox way behave keeping blind faith over the customary practices and many women are killed due to suspicion and rumor. Due to illiteracy they could not identify their own power so that they are suffering violence which is committed at the hands of male. Due to lack of education women are unable to accept the reformed culture and refuse to adopt the legislative personal laws\(^{10}\). They don’t want to come out in religious customary chain that’s why they suffer violence fall prey to customary killing practices.

- **Committing Adultery**
  After marriage women were treated as property of men therefore men kept a control over her behavior and monitored her movements, friendship and conduct. If her conduct or behavior found suspicious in nature, in order to protect the chastity of family and community norms male people used to killed women.

- **Living Status of Women**
  In Indian society the status of women is lower it will not become high, because of only patriarchal system. Not only men but also majority of women are responsible to create their status low than

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\(^9\) In Delhi Arushi Talwar, case the police suspect that Aurshi may have been killed by her parents for sleeping with the servant., Honour killing case,22/6/2010 the times of India newspaper

\(^{10}\) The Special Marriage Act, 1954, The Hindu Marriage Act, 1955
others, whenever women wants to do something to uplift their status it is been crushed by the member of the society at large. It is shocking to know but although genuine that it was banned by khap Panchayats to wear jeans or to use mobile phones by girls or women’s. This is one of the reasons behind the honour killing.

- **Caste Systems**
  Caste system has been common basic feature of Indian society. Several society people have witnessed victims of number of customary evil practices, one of is a Caste system. It is divided to in several different types such as, high caste and low caste groups, depending upon community. Hindu caste consisting number of sub-caste, they are raged in nature to follows their own customary practices; in case of violation of it they face music of consequences i.e. customary killings.

- **Inter-Caste Marriages**
  Inter caste marriage means; marriages took place between person of different castes, community, and religion though once not uncommon, called as inter caste marriage. Manu prohibited inter-caste marriages; He classified it to in two categories of inter-caste marriages, Anuloma Marriages and Partiloma Marriages. The Government of India enacted Hindu Marriages validity Act, 1949 and Hindu Marriage Act 1955, Inter-caste marriages and inter-religion marriages are valid\(^\text{11}\). Even though society people are not ready to adopt this law and they considered as performing inter-caste, inter-religion marriages are dishonour of family, community and society and they are not ready to leave the customary practices. They strictly prohibited such types of marriages in society.

- **Marriages within the Gotra**
  If we look at the tents of personal laws we find the laws of succession is guided by the principles of genetically inheritance or by consanguinity (sapinda system). Hindu law also prohibits marriage with in the same Gotra\(^\text{12}\).According to Hindu Law the marriage between persons related but spinda

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\(^{11}\) Under Section 5 of The Hindu Marriage Act, 1955  
\(^{12}\) Gotra means consanguinity relationship or blood relationship, or spinda relationship
relationship is not valid and strictly prohibited. Therefore, inter-caste or inter-community marriage can be considered as a transgression to in the right of religion of the person. The mentality of the Indian society people has not yet changed and they cannot agree or accept that marriages take place in the same gotra due to this root because there is an increase the honour killing case in the country.

- **Rape Victims**
  In many part of the Indian country women who have been raped considered to have brought dishonour of family in order to restore the honour under the heading of customary killing they use to killing of their own female member. Rape victim also been killed for the dishonour of the family or community.

- **Pre-Marital Pregnancies**
  Pre-marriage pregnancy means a girl keeps immoral relations without performing marriage out of that she became a pregnant of someone. It is an immoral activity and considered as dishonour of family.

- **Seeking Divorce**
  It is observed that, several women who have sought divorce through the courts have been injured, killed or never been heard of again. Seeking divorce gives a strong signal of public defiance which calls for punitive action against such women to restore male honour within the traditional honour scheme. Sometimes married woman asked for divorce from her husband because some marital problems this amounts as dishonour and she is liable to punishment i.e. honour killing.

- **Homosexuality**
  Homosexuality or sexual inversion attraction of one person to another of the same sex, leading to physical contact and sexual pleasure. Female homosexuality is often called

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13. Under Section 5 (v) of Hindu Marriage, Act, 1955
15. Law Z Volume, 10, No.08, Issue 108 August 2010, P, 12
Lesbianism. Mostly women are killed in the name of honour killing, but in homosexuality men as well as women who are involved in immoral activity society people considered as dishonour of family and community in order to preserve the honour of the family or community they killed victims in the name of honour killing.

- Refusing Arranged Marriage

It is observed that, number of cases of honour killing took place due to a girl refuses to arranged marriage and express her willing to do marriage as per her choice who like, in such cases family members use to kill for sake of preserving their family honour.

LEGAL FRAMEWORK ON HONOUR KILLING

After having identified the problem of Honour killing practice it clearly resembles that it violates the basic human rights of women which are given under national and international parameter. Crime of Honour may involve violation of number of women’s rights. Women occupy a unique position in the society due to the importance in the procreation of the human race.

Woman is having equal rights to the man because all human beings are equal before the law. Moreover it is a constitutional right that no one should discriminate on ground of sex. A woman has always been an object of gross and severe violation at the hands of man. She is often become victim of customary practices. Not only in the house but also outside the house her human rights are always violate by the male person. Women are deprived of basic freedom and thereby are easily exposed to exploitation in socially. Moreover, patriarchal traditional system life of women becomes insignificance. Women suffer violence in silence; she is unable to raise her voice against perpetrator, because her life is tied with the rope of the patriarchal customary practices. Women’s rights always deprived by the custom and tradition. There are number of legislations are available even her rights are violated by showing number of reason by the society. Honour killing crimes violate Constitutional rights and equality principle which explain Under Article 14, 15 (1) and (3), 17 and 19 of the Indian Constitution. The right to life is the most fundamental rights which is

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17 Article 14 of the Constitution of India
18 Article 15 of the Constitution of India
enshrined in Article 21 of the Constitution of India provides that, “No person shall be deprived of his life, liberty or personal liberty except according to a procedure established by law” it means that every person have right to protect the fundamental right no one deprived or infringement this right, otherwise it will be treated as violation of Article 21 of Constitution.

Basically honour killing are inhuman cruel act which violates the natural right which are inalienable rights of the victims. Honour killing purely violence against women perpetrators withdraws the right of the person19. Also violates Article 2 of the Universal Declaration of Human Rights 1948 “Everyone is entitled to all the rights and freedom set forth in this declaration without discrimination of any kind such as race, color, sex, language, religion, political or other opinion, national of social origin, property or other status. Therefore, no discrimination shall be made on the basis of the political, jurisdictional status of the country to which a person belongs”.

But, in Honour killing crime whoever perform marriage outside the caste or inter-religion against the wishes of parents these persons become victims of customary killing practice.

Article 3 and 5 of the Universal Declaration of Human Rights 1948, stated that women are entitled to enjoy the right to life, liberty and security of person and right to be free from torture or cruel, in human and or degrading treatment in the name of the cultural, customary practices. Honour crimes violate the right to life and prohibiting from enjoyment of life of victim. The perpetrator commits crime of honour intentionally inflicts unauthorized pain and death punishment to victims of dishonour of the family. There are near about sixteen articles of the Universal Declaration of Human Rights which will enjoy women without any discrimination. Even though women all over the world every day challenges to customary practices, particularly honour killing practice violate women’s rights. In honour killing practice deprived the right to life free from torture, degrading treatment of victim with intending to inflict severe mental and physical pain on the women; it amounts to gross violation of women’s rights.

State parties have taken appropriate measures to protect women’s rights. It is observed that, customary killing practice violates women’s rights. State have obligation to respect and protect the rights of human being within its jurisdiction without discrimination Article 2 (1) of the International Covenant on Civil and Political Rights 1966, it also stated that, ‘Every human being

19 Article 1 of the Universal Declaration of Human Rights 1948
20 Ibid
has inherent right to life\textsuperscript{21}. This right shall be protected by law. No one shall be arbitrarily deprived of his life. It is primary duty of state has to take precaution about protection of life of human beings. Under the customary practices like honour killing the State has failure to protect the life of the victims. Honour killing crime usually murder committed by the family members who disobey the social norms of the family.

CONSTITUTIONAL PROVISIONS

The Constitution of India has ample provisions allowing an individual to exercise his/her choice independent of caste, religion or gender and protection from honour related crimes including honour killings. Such killings also violates Articles 14, 15 (1) & (3), 17, 18, 19 and 21 of the Constitution of India. Article 14 of the Indian Constitution guarantees to \textit{every person the right to equality before the law or the equal protection of the laws}. Every person, whatever is his or her status or situation is subject to the jurisdiction of the ordinary courts. This right to equality is thus documented as one of the fundamental features of the Indian Constitution. Honour Killings are thus hideously against this very Constitutional Right provided for the protection of Indian citizens. Honour killings are mainly directed towards women and thus give rise to gender violence.

Honour killings involve the murder of a particular person especially a woman and thus come under the ambit of Section 299 and Section 300 of the Indian Penal Code. It is also violation of Article 19 and Article 21 of the Constitution. Such brutal murders, under the garb of saving the honour of the family, are clearly against the Constitutional provisions enshrined in Article 21. Khap panchayats violate a person’s fundamental right to life as they kill or instigate murder, in the name of honour.

THE INDIAN MAJORITY ACT, 1857

Section-3, 1857 states that every person domiciled in India shall attain the age of majority on completion of 18 years and not before. Unless a particular personal law specifies otherwise, every person domiciled in India is deemed to have attained majority upon completion of 18 years of age. However, in the case of a minor for whose person or property, or both, a guardian has been appointed or declared by any court of justice before the age of 18 years, and in case of every minor

\textsuperscript{21}Article 6 of the International Covenant on Civil and Political Rights 1966
the superintendence of whose property has been alleged by the Court of Wards, age of majority will be 21 years and not 18.

The Act is relevant in cases where the khap panchayats have forcefully separated married couples who are of eligible age to get married. It is a violation of the provisions under this Act.

**SPECIAL MARRIAGE ACT, 1954**

The main reason behind the enactment of the Special Marriage Act, 1954 was to provide a special form of marriage for the people of India and all Indians residing in foreign countries, irrespective of the religion or faith followed by either party, to perform the intended marriage. Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

This Act was enacted by the Parliament of India, in order to avert atrocities against Scheduled Castes and Scheduled Tribes. The intention of the Act was to help the social inclusion of Dalits into Indian society. It defines acts such as forcing an SC/ST to eat or drink any inedible or obnoxious substance, removing clothes, parading naked or with painted face or body, assaulting, dishonouring and outraging the modesty of an SC/ST woman, sexual exploitation of an SC/ST woman, forcing an SC/ST to leave his or her house or village as punishable. The Act is linked to honour killings because numerous incidents of honour killing are in relation to caste and religion.

**THE PROTECTION OF HUMAN RIGHTS (AMENDMENT) ACT, 2006**

This Act makes the provision for protection of individual rights of human beings and the constitution of a National Human Rights Commission, State Human Rights Commission and Human Rights Courts for better protection of human rights of individuals.

**THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005**

It provides for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto. For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it –
a) Harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or

b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or

c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or

d) Otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

THE INDIAN EVIDENCE ACT, 1872

It makes provision to punish those who conceal facts, either before or at the time of, or after the alleged crime. Section 13 of the Act, Facts relevant when right or custom is in question - Where the question is as to existence of any right or custom, the following facts are relevant:

(a) Any transaction by which the right or custom in question was created, claimed modified, recognized, asserted or denied, or which was inconsistent with its existence;

(b) Particular instances in which the right or custom was claimed, recognized, or exercised, or in which its exercise was disputed, asserted, or departed from.

The Act is relevant to bring to justice those who become victim because of the verdicts issued by the khap panchayats.

PREVENTION OF INTERFERENCE WITH THE FREEDOM OF MATRIMONIAL ALLIANCES (IN THE NAME OF HONOUR AND TRADITION) BILL, 2015

Hereunder some of the main features of the proposed legislation are discussed with their root cause. Given the fact that the powerful influence of the caste or community Panchayats and the aggressive role played by them in controlling the freedom of choice of the marrying couple is the root cause of honour related crimes, there must be a check on such unwarranted interference by the members of Panchayats. The couple marrying against the wishes of members of the bodies like khap panchayats ought not to be driven to a state of insecurity and misery. Their life and liberty is ‘endangered’ because they are exposed to threats and socio-economic deprivations. The
close family members of the couple are also brought into the picture to enforce the diktats of such informal body of panchayats / councils. This is directly affecting the community and the family life in the villages, thereby posing a threat to social order and peace. As there is a need to divest the panchayatdars or caste ‘elders’ of their self-assumed hegemony and controlling influence in these matters, this Bill has been thought of, on balancing various considerations. It is proposed that there should be a threshold bar against the congregation or assembly for the purpose of disapproving an intended marriage or the conduct of the young couple and this objectionable conduct of the panchayatdars should be brought within the purview of penal law. A preventive provision prohibiting such assemblies and penalizing the participation in such assemblies has also been introduced.

Having rendered the convening and conduct of such assemblies unlawful and punishable under law, consequential penal provisions dealing with offences committed in relation thereto have been proposed. Two sections are proposed to be introduced, i.e., Section 3, which makes punishable the acts endangering liberty, which are also particularized in the Section. The other Section, i.e., Section 4 would deal with criminal intimidation by the members of unlawful assembly or others to secure compliance with the illegal decision of the assembly. Such acts of criminal intimidation which are punishable under the general law, i.e., the Indian Penal Code have been specifically introduced for the purpose of meting out higher punishment to those members of unlawful assembly. The other penal provisions and the Situations referred to above are not taken care of nor covered by the provisions of Penal Code. At any rate, there is a room for doubt as regards the invocation of the provisions of IPC. However, the criminal acts other than those falling under the three penal provisions of the Act can still be dealt with under the provisions of the Penal Code including the provisions relating to abetment and conspiracy. For instance, if a person who is a party to the unlawful assembly has committed or abetted the commission of an offence of grievous hurt against the targeted couple or one of them or their relatives, the IPC provisions will be attracted. That is why Section 5 has been introduced to make it clear that the provisions of Sections 2, 3, and 4 of the proposed Bill are without prejudice to the provisions of IPC. In order to have sufficient deterrent effect, mandatory minimum punishments have been prescribed while taking care to see that such punishment has an element of proportionality. Apart from these penal provisions, a specific section has been proposed to empower the District Magistrate or the SDM to take preventive measures and a further obligation is cast on them to take note of the information
laid before them by the marrying couple or their family members and to extend necessary protection to them. The officials are made accountable for the failure or omission on their part to take necessary steps to prevent unlawful assembly (caste panchayats, etc.) or to give protection to the targeted couple. It has been provided that the offences shall be tried by a Court of Sessions in the District presided over by the Sessions Judge or Additional Sessions Judge as notified by the High Court. The need for constitution of special courts can be reviewed at a later stage. The offences are cognizable, non-bailable and non-compoundable.

The overlapping with the provisions of IPC has been, as far as possible, avoided. Though, at first look, it may appear that the offence of unlawful assembly is nothing other than what we find in Section 141 of IPC, it needs to be pointed out that the unlawful assembly of the kind contemplated by the proposed Bill does not strictly fall within the scope of the said section. The ingredients of ‘unlawful assembly’ under the Indian Penal Code and the unlawful assembly contemplated by Section 2 of the proposed Bill are not the assembly under IPC has been prescribed under Section 2. As regards Section 4 dealing with criminal intimidation, as already clarified, this Section has been introduced with a view to provide for higher punishment in the case of acts of criminal intimidation by the members of unlawful assembly within the meaning of this Bill. Thus, the provisions of the proposed Bill coupled with those in IPC would, it is hoped, be effectively able to combat the menacing trend of dastardly actions and drastic social sanctions directed against the hapless young couple and their families. Moreover, a punishment higher than that prescribed for unlawful assembly under IPC has been prescribed under Section 2. As regards Section 4 dealing with criminal intimidation, as already clarified, this Section has been introduced with a view to provide for higher punishment in the case of acts of criminal intimidation by the members of unlawful assembly within the meaning of this Bill. Thus, the provisions of the proposed Bill coupled with those in IPC would, it is hoped, be effectively able to combat the menacing trend of dastardly actions and drastic social sanctions directed against the hapless young couple and their families.

HONOUR KILLING AND JUDICIAL ANALYSIS

The judicial decisions do have a tremendous impact on the formulation and implementation of national policies. India has a unified judicial system with the Supreme Court standing at the apex and the High Court’s below it. The Supreme Court thus enjoys the topmost position in the judicial
hierarchy of the country. It is the supreme interpreter of the Constitution and the guardian of the people Fundamental Rights. It is the ultimate court of appeal in all civil and criminal matters and the final interpreter of the law of land, and thus helps in maintaining uniformity of law throughout the country. The judiciary has played a vital role in promotion and protection of social justice and individual rights accordingly judiciary has delivered landmark judgments over the decades. Some of the most unpleasant, customary violations of human rights like honour killing, dowry, child marriage etc. have been abolished wholly owing to widespread awareness and strictly implementation measures taken by the judiciary. The people have always considered the judiciary as the ultimate guardian of their rights and liberties.\textsuperscript{22}

There are several customary practices that existed in Indian society. It is said that, every religion possesses a bundle of customary practices which routinely followed since ancestral period. It is observed that, every religion or caste or community is still tied up by the rusted chains of the customary practices. Some of customary practices are in good in nature which for useful for the development of the society and some of the bad in nature due to that degrading the social status or honour as well as sustain the development of the nation, e.g. customary practice of dowry, Sati practice, child-marriages, infanticide, female feticide, sexual abuses, rape, Sexual harassment, honour killing etc. It is prime most obligatory duty of state and central Government to frame rule and regulations to control or eradicate bad nature’s of customary practices from the society. The Supreme Court issues time to time suggest provides guidelines or sometimes issues notices to the state and Central government to take appropriate precaution to protections of the society or persons\textsuperscript{23} from such bad natures of customary practices.

It is observed that, honour killing is a brutal, bad and barbaric nature of customary practice. It is prevailing since ancient period in India. Judiciary always tries to control or eradicate honour killing practice through the judgements and decisions of the court. Therefore, on 21 June 2011, a bench of Justice \textit{R.M. Lodha and A.KPatnaik} issued notice to the centre and some states, the state of Punjab, Uttar Pradesh, West Bengal and Haryana for taking appropriate measures on the growing issue of honour killing on filing petition by the NGO ‘\textit{Shakti Vahini}’\textsuperscript{24}.

\textsuperscript{24} www.dnaindia.com/india/report
• Caste System is The Curse to the Nation
In *Arumugam Servai v. State of Tamil Nadu*\(^{25}\) the bench stated that, the caste system is a curse on the nation and sooner it is destroyed the better. In fact it is dividing the nation at a time when we have to be united to the face the challenges before the nation untidily. Hence inter caste marriages are in fact in the national interest as they will result in destroying the caste system.

• Disapproval to Harassment of People Who Love Each Other and Get Married
In case of *Sujit Kumar and other v. State of Utter Pradesh and others*\(^{26}\), the bench of Allahabad High Court elaborates in their judgement that judicial disapproval of honour killing or harassment of people who love each other and want to get marriage. In order to protecting honour of the family and norms of religion whoever commits harassment or violence or create any types of obstacle in the path of inter caste marriage before marriage or after marriage or at the time of marriage or in love each other and who want to get marriage inter caste or religious marriage. It is against the law and disapproval in the eye of the law.

• Police Protection Provided By the Judiciary
In case of *Geeta Sabharwal v. State of Haryana*\(^{27}\) and *Jivabhai v. State of Gujarat* in these cases the Hon’ble court directed to the administration and police authorities thought out the country will see to it that if any boy or girl who is a major undergoes inter caste marriage or inter religious marriage with woman or man who is a major, the couple are not harassed by any one nor subjected to threats or facts of violence and anyone who gives such threats or harasses or commits acts of violence either himself or at his instigation is taken to task by instituting criminal proceedings by the police against such person and further stern action is taken against such person as provided by law.

\(^{25}\) *(2011)6 SCC 405 (AIR 2011 SC 1859)*
\(^{26}\) *Sujit Kumar and other v. State of Utter Pradesh and others*, 2002 (456)ACC 79 at 81; *(2002 AIHC 4434) (All)*
• **Right to Marry**

*Lata Singh v. State of Uttar Pradesh*[^28], that this case reveals a shocking state of affairs. There is no dispute that the petitioner is a major and was at all relevant times a major. Hence she is free to marry anyone he likes or live with any one she likes.

• **No Jurisdiction of Khap Panchayat**

The Supreme Court of India in case of *Smt. Laxmi Kachawaha v. The State of Rajasthan*[^29] observed that, ‘Khap Panchayat do not have jurisdiction ‘to pass social boycott order or impose fine on them because it violates the basic rights of an individual. It is also observed that, it is always a contravention to the rights conferred vide part III of the Indian Constitution.

**CONCLUSION AND SUGGESTIONS**

Honour related violence is not only a problem of our country; it is worldwide problem. It is mostly related to youth. Youth are the future of every country. Whenever we punish youth for daring to choose their own life-partner and marry with him or her, obviously we destroy future of our country as well as reduce energy and power of our own notation. As preventive measures, in India, there is an immediate need of specific legislation with stringent provisions that specifically criminalizes forms of violence, faced by people, within the context of the Khap Panchayats. Such comprehensive legislative approach would encompass not only the criminalization of all forms of violence against women and the effective prosecution, punishment of perpetrators but also the prevention of violence, support and protection of survivors.

With regard to the inadequacies in Indian laws relating to honour killing, there has been much suggestion for making new laws. The object of new laws should be shaped in such that it brings under it scope to all the persons who indulge in such crime or helps in doing it. Some of the suggestions are as follows:-

- There should be a uniform definition of honour killing so that there is no room left for ambiguity as to what constitutes crime.

[^28]: AIR 2006 SC 2522
[^29]: AIR 1999 Raj 254
Indian Parliament is required to enact a new legislation at the earliest for curbing the menace of unconstitutional khap panchayats. It should be restrict panchayats to make any arbitrary rules on behalf of members of the society. If in case any been found, strict actions are to be taken against the persons involving in it. The sanction should be so strict that it should provide for rigorous punishments to those persons involved in the crime.

Any person convicted under such law should also be debarred from contesting any election for life time.

It should also restrict of any act to be done on behalf of honour and harming any member of the society or any family members. Strict actions are to be taken against those who act on this behalf.

The members of the society or any person who provokes for honour killing shall be punished with imprisonment to the term same as the term of persons actually acted.

The person who does the crime shall be imprisoned for life time or pronounced death sentence relying on the gravity of the crime.

Lastly there should be no relaxation to be granted towards the family members in investigation if in any case honour killing is suspected. As in many cases has been seen that even the family members indulge in honour killing.

Further,

Police authorities should be very strict in matters of investigating the cases relating to honour killing.

Police authorities should be conferred with powers as to make immediate arrest, if they suspect of any cases to be occurring. It will act as a preventive measure to stop honour killing.

Khap Panchayats or any panchayats which indulge in sanctioning the members of the society who acts against the honour of the society should be banned and any person forming such panchayats or groups, should be punished with imprisonment.

A separate Act should be introduced such as Prevention of Honour Killing Act to eradicate honour killing from the society.
• In the new act the honour killing should be defined and it should give instances whereby honour killing is being committed.

• It should provide for various punishments for the acts against honour killing.

• It should also impose life imprisonment, rigorous punishment and heavy fine on the persons committing honour killing.

• It should also provide provisions relating to protection of those persons who seemed to be endangered with life threat by the members of the social from family members.

So, a separate Act should be introduced in Indian Society where it defines honour killing and provide punishment under it towards those commits the crime of honour killing, and abets and aid the same.

Secondly, Proper rehabilitation should be provided to the people of prone area of honour crimes, so that they can understand the consequences of honour killing and they can help themselves and others to enhance their mentality and determined them not to indulge in crime like honour killing and not allow others to do the same.

Thirdly, inter caste marriage bureau should be set up in every village, district and at state and national level where counseling of the parents and children’s can be made upon, experts should be there in each level from different background so that counseling can be done in all sphere as related to biological aspects, social aspect and psychological aspects.

Fourthly, Proper education should be imparted to all people so that their thinking process can be made advanced and progressive, people should be told about the benefits of the intercaste marriage as it will promote harmony in the society, people from different background will come close to each other and they can share their traditions, cultures, ethics easily with each other, benefits of love marriages should be told that a sense of compatibility will be increased among the couples but it should be taught to young ones always that not to follow westernization blindly. Though there is freedom of choice but every freedom should be used in a limited a in a careful manner.
Lastly, Law awareness too plays an important role in removing the social evil from the society. So proper law awareness should also be provided wherein all can learn about their rights, remedies and punishments.

In the end of this discussion, I only find one solution to eradicate this social evil i.e. combined effort should be made by various modern and formal institutions of our country like Panchayati Raj, Judiciary, Police and the larger state. But above all, this deep rooted and thriving cactus’s destruction requires people to wake up. They should stop following the irrational norms laid down by Panchas. Education and awareness of the people are very necessary. But in spite of various efforts made by our government and judiciary, the culture of honour Killings continue unabated. The reason is simple. Even the law enforcement agencies strike a conciliatory note as there is hardly any case reported or action against these perpetrators of injustice. Moreover, police and political figures have their vested interests in its continuance.

So the answer of the above discussion comes with balancing the human values of liberty and equity without the uncivilized moral degradation of public based on neo liberalism. There is need for healthy norms along with some stringent legal measures that can come to power only through some new social reforms. Therefore, in addition to other effective way outs, the government and social organizations would have to resort of changing the mindset of people. As it is more than a law and order problem; It is a social evil!