

## HONOUR KILLING AND THE WOMEN'S RIGHT TO CHOICE IN MARRIAGE

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### ABSTRACT

*"The right to life of women is conditional on their obeying social norms and traditions."*

*-Hina Jilani, Pakistani lawyer and women's rights activist*

*There is no equal status to women in society. Violence against women includes crimes such as harassment, rape, murder and 'killing in the name of honour', where violence is perpetuated not only by strangers but by family members as well. With advancement and greater opportunities in education and employment, women know their rights and liberties and have consequently started demanding access to these rights. Any such expression is seen as an assertion of her autonomy. Despite such achievements, the society still considers a woman as the property of her family, kinship or community. When a woman asks to get married to a person of her choice it is considered as 'dishonour' for the family, kinship or community. Her refusal to get settled in a marriage 'arranged' for her is seen as a challenge to the 'family honour'. Such challenge is met with violence. Family which is otherwise considered to be a safe place for young girls and women, now becomes a place of torture, humiliation and violence. The law of the land has given equal rights and liberties to men and woman alike. However in practice, women are treated as second grade citizens who are not allowed to express their desires or for that matter their viewpoint. The expression 'honour' is usually used as a blanket term which generally describes a largely undefined concept within cultures that practice honour crimes. The paper aims to discover the derivatives and the perceptions of the concept of 'honour'. Attempt has been made to discover consequent effects of the notion of 'honour' on women in India with respect to their 'right to choice in marriage' within the legal framework followed by suggestions to overcome the shortcomings.*

**KEY WORDS:** *Right to choice, Honour killing, Human rights violation, Women empowerment*

### Introduction

In cases of honour crimes, a woman is always a victim, a woman is there always to be blamed even if she is innocent. Honour killings are socially sanctioned premeditated murders of women by male family members because of an alleged or real infraction of a social and/or sexual behaviour. The concept of honour is conceived as the honour of the

family, kinship group or the community, which is represented by men. It is directly linked with women's chastity. In order to protect the honour of men, women's mobility, sexual behaviour and sexuality must be controlled. This gendered ideology produces discrimination and inequality, with men and women embodying honour differently: women

as repository and men as regulator of women's conduct. Within caste and patriarchy, honour serves as a legitimate control over women because they pose a constant threat not only to the male lineage, but also to caste boundaries. The linking of honour to women's chastity established the right to kill women if they are considered to have transgressed men's honour. An honour killing is the homicide 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. Honour killings are directed mostly against women and girls. However men can also be victims of honour killings by members of the family of a woman with whom they are perceived to be in an inappropriate or illegal relationship.<sup>1</sup>

### Understanding Honour killing

There is neither any statutory definition for honour killing nor stands any precise definition otherwise for honour killing which can be said to be universally recognized. However an explanation, prevalent is, "the murder and forced suicide in the name of imposing certain moral values, the transgressions of which are professed as intolerable are honour killings".<sup>2</sup> An honour killing (also called a customary killing) is the murder of a family or clan member by one or more fellow family members, in which the perpetrators (and potentially the wider community) believe the victim to have brought dishonor upon the family, clan or community.

Human Rights Watch defines "honour killings" as "Honour crimes are acts of violence, usually murder, committed by male family members against female family members, who are held to have brought dishonor 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 a victim of a sexual assault, seeking a divorce- even from an abusive husband – or (allegedly) committing adultery. The mere perception that a women has behaved in a way that "dishonours" her family is sufficient to trigger an attack on her life."

Sharif Kanaana, professor of anthropology at Birzeit University states that honour killing is: "A complicated issue that cuts deep into the history of Arab society...What the men of the family, clan, or tribe seek control of in a patrilineal society is reproductive power. Women for the tribe 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>3</sup>

An Amnesty International statement adds: the regime of honour is unforgiving- women on whom suspicion has fallen are not given an opportunity to defend themselves and the family members have no socially acceptable alternative but to remove the stain on their honour by attacking the woman. The killings allegedly wash away the shame with blood and restore the tarnished honour.<sup>4</sup> Rumours circulating about a women's sexuality are often the only evidence men need to substantiate and legitimize their conduct in 'cleansing their honour'.....the only true form of restoration of honour relies on the bloodshed of the 'offending' female. This sentiment reasons that many women who are killed for honour are murdered strictly in the name of suspicion. As such, numerous autopsies performed on victims yield the result that the victim was a virgin at the time of death.....<sup>5</sup>

In her report, the U.N. Special Rapporteur on Violence against Women puts it thus: Honour is a magic word, which can be used to cloak the most heinous of crimes. The concept of honour is especially powerful because it exists beyond reason and beyond analysis. But what masquerades as "honour" is really men's need to control women's sexuality and their freedom. These murders are not based on religious beliefs but, rather, deeply rooted cultural ones.<sup>6</sup>

The odious practice of honour killing is not a new phenomenon. It is as old as the patriarchy itself and prevalent world over. According to Widney Brown, advocacy director for Human Rights Watch, the practice "goes across cultures and across religions." Honour killing is believed to have originated from tribal customs where an allegation against a woman can be enough to defile a family's reputation - 'a life

without honour is not worth living'.<sup>7</sup>Rana Husseini , a journalist and human rights activist addressing an audience on the topic of honour killing in a talk show stated that “ In Jordan, under the existing law, people found guilty of committing honour killings often receive sentences as light as three months, six months, one year for premeditated murder.....”<sup>8</sup>

Causes of honour Killing include:

- 1) Refusal to enter into an arranged marriage
- 2) Being a victim of a sexual assault.<sup>9</sup>
- 3) Seeking divorce, even from an abusive husband
- 4) Charged with adultery
- 5) Having unapproved relationships.<sup>10</sup>
- 6) Loss of virginity or pre-marital sex
- 7) Pre-marital pregnancy.
- 8) Child custody issues.<sup>11</sup>
- 9) General conformity to the family and community's culture and expectations.<sup>12</sup>
- 10) Casual scandal or gossip in the community.
- 11) Leaving the family or marital home without permission.<sup>13</sup>
- 12) Inter caste or inter religious marriage
- 13) Homosexuality.<sup>14</sup>
- 14) Live –in relationship.<sup>15</sup>
- 15) Seen in an objectionable position.<sup>16</sup>
- 16) Elopement.<sup>17</sup>
- 17) Dress or make-up deemed inappropriate.<sup>18</sup>

Crimes and other atrocities committed in the name of honour include : criminal intimidation, wrongful confinement, persistent harassment, mental torture, conspiracy, abetment, forced marriage, forced suicide, rape, social/ economic boycott, infliction of or threats of physical abuse, acid attacks, maiming or cutting off organ, domestic violence, homicide. In case of sagotra / inter-caste marriages, the erring couple may also be subjected to forced separation or illegal annulment of marriage at the hands of family and / or community members. While fathers are commonly responsible for honour killings, they often act in concert with their daughters' brothers, uncles and even female relatives. Even the mother of the victim( woman) may support an honour killing in order to preserve

the honour of other female family members since many men in these societies will refuse to marry the sister of a 'shamed' female whom family has not chosen to punish, thereby 'purifying' the family name by murdering the suspected female. For instance, in a case of honour killing in Pakistan, Samia Sarwar's mother, a doctor, facilitated the honour killing of her daughter in Lahore in April 1999 when Samia sought divorce from an abusive husband.<sup>19</sup>

Of the many instances of culturally sanctioned violence and discrimination against women around the world, the practice of honour killing has been among the most shocking to its detractors, as well as one of the most heatedly defended by its proponents. Honour crimes are culturally grounded violence against women because they are rooted both in patriarchal assumptions about female sexuality, as well as political and religious notions of male power.<sup>20</sup>

In such an environment, a woman's live is circumscribed by traditions which enforce seclusion and submission to men. Male relatives virtually own them and punish contraventions of their proprietorship with violence.

## Social, Religious, Cultural and Political justifications for honour killing

In nearly all parts of the world, women face violence and abuse within the home. However such violence escapes national and international scrutiny by virtue of the notions of culture and privacy. The culture of 'honour' views women as ancillary to men. Women's honour is defined in terms of submissiveness and docility, in following a circumscribed life, where the only acceptable roles for a woman are as a father's virginal property, a man's dutiful wife and the self- sacrificing mother of sons. Any deviation from the restrictive life- script of virginity, marriage according to the choice of the family and fidelity afterwards is believed to bring shame upon the entire family, a shame which can often only be removed by murder. The honour culture is threatened by any act of female autonomy

but autonomy within the sphere of sexuality and relationship is the most significant.<sup>21</sup>

Reasonable women do not air private grievances in public, even when they faced violence within the family. Reasonable women are caring homemakers who most certainly would not dishonor their husbands and families.<sup>22</sup>

A man who kills for reason of honour is 'ghairatmand', both morally and legally supported by his tribesmen in communities that practice honour killings. The killings are often performed openly. A man who is unable to cleanse his family honour is 'beghairat' or without honour and considered socially impotent.<sup>23</sup> Murderers, admitting social pressure, in their confessions repeatedly testify that their immediate social circle, family, clan, village or others expected them and encouraged them to commit the murder....<sup>24</sup> Also, murderers often justify their actions through appeals to religious beliefs, culture and tradition.<sup>25</sup> Rana Husseini stresses that so-called honour killings do not derive from religion or Arab tradition, though both are used to justify these crimes.<sup>26</sup> Cultural defence and vote bank politics have been seen as the motivating factors for the growing inconsistency between domestic political motivations and public commitment to international human rights treaties.

Violence against women results from ingrained patriarchal practices that are generally attributed to cultural and religious norms. In India, among rajputs 'preservation' of perceived 'purity' of their lineage is still practiced and marrying with other caste male/female instigates killing of the married couple and the family. In Haryana, the Jaat community practices the 'brotherhood norms' in case of marriage and any violation is followed by violence which often proves fatal.

The ground gained by women during the Indian freedom struggle where women participated equally with men was nearly lost in the period post-independence as violence and bloodshed of partition swept through India and Pakistan. Women from both the sides bore the brunt of the hate and venom partition created. Communal lines were firmly drawn and women, who were seen as the repositories of their community's honour, were sexually violated in

order to humiliate the men of their community. This mentality resulted in the restriction of women to the domestic sphere, and the mindsets have changed very little since then.<sup>27</sup> Also many women were forcefully killed during partition of the country so that family honour could be preserved.<sup>28</sup>

In societies like India, a man's perception of honour greatly relates to his possession and control of some desirable commodities and these honours are zan, zar, zameen, i.e. women, gold and land. Expressing desire to choose a spouse and marrying a partner of one's choice are seen as major acts of defiance in a society where most marriages are arranged by parents.

The most obvious reason for this practice to continue in India is because of the fact 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. According to them, if any daughter dares to disobey her parents on the issue of marriage and decides to marry a man of her wishes but in the same gotra or outside her caste, it would bring disrepute to the family honour justifying murder. It reflects that the mentality of the people has not changed and they just cannot accept that marriages can take place within same gotra or outside one's caste.<sup>29</sup>

Recently, in a workshop held on honour killing of women in Tiruchi, India, the reflections revealed that honour killings have their roots in patriarchal anarchism and casteism practiced in many parts in India. The fight therefore is not against just one or two cases, though it is important, but against the patriarchal and casteist mindset.<sup>30</sup>

CPI(Marxist) State secretary G. RamaKrishnan addressing a public meeting organized at Ramanathapuram, Tamil Nadu, India, lamented that women who married dalits fell victims to honour killing in most of the cases and claimed that in the last two years 46 honour killings had taken place in the state as people were still averse to inter-caste marriages called for a new law to curb honour killings in the state.<sup>31</sup>

## Honour Killing- Violation of woman's Human Right to Choice within marriage

The right to marry and the right to found a family are traditional fundamental liberties and basic human right of every human being guaranteed under the various international conventions and covenants as well as constitutional and statutory laws in India. CEDAW defines "discrimination against women" to include: Any distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. Working towards the Elimination of Crimes against women committed in the name of honour, a resolution adopted by the General Assembly [(A/ RES/55/66, of Dec.4,2000)], it was affirmed that crimes against women committed in the name of honour are a human rights issue .....and the State is under obligation to exercise due diligence to prevent, investigate and punish the perpetrators of such crimes and to provide protection to the victims and that the failure to do so constitutes a human rights violation.

In 2004, Sweden organized an international conference on honour killing, calling for "international co-operation" on the issue. Conference participants concluded: Violence in the name of honour must be combated as an obstacle to women's enjoyment of human rights. Interpretations of honour as strongly connected with female chastity must be challenged. It can never be accepted that customs, traditions, or religious considerations are invoked to avoid obligations to eradicate violence against women and girls, including violence in the name of honour. Violence against women must be addressed from a rights-based perspective.....Measures should be taken in the areas of legislation, employment, education, and sexual and reproductive health and rights. Respect for women's enjoyment of human rights is

intrinsically linked to democracy. International conventions must be incorporated into national legislations. The main objective behind the framing of these declarations, Covenants, Conventions and conference was to ensure that women must enjoy the same rights.....<sup>32</sup>

As the U.N. Special Rapporteur on Violence Against Women elaborated in a 2002 report: "The killing is mainly carried out by under-aged males of the family to reduce the punishment. They are then treated as heroes and the act is regarded as a passage into manhood".<sup>33</sup>The cultural attitudes that allow honour killings to go virtually unpunished in many Islamic states are rooted in both traditional patriarchal values and the mandates of Sharia. Therefore it is argued that honour killings are justified by religious beliefs and teachings, and consequently, are somehow immune to human rights law or any law at all, for that matter.<sup>34</sup>UNESCO Universal Declaration on Cultural Diversity adopted in 2001 under Article 4 entitling human rights as guarantees of cultural diversity states that " No one may invoke cultural diversity in order to infringe upon human rights guaranteed by international law, nor to limit their scope." Moreover, under CEDAW, states are bound to "establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination...."<sup>35</sup>The ICCPR further requires that that each State Party to the Covenant undertake to " respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant," without distinction based on sex.

Still, cultural defence is employed as an easy escape from international scrutiny against allegations of human rights violation. Cultural defence can easily provide a safe haven for human rights violators who justify abusive practices through longstanding cultural customs. These cultural violations of human rights are the most resistant to United Nations pressure of "naming and shaming" because government may easily invoke the allegations of cultural imperialism.<sup>36</sup>

## International Perspective on Right to Choice within Marriage

The Universal Declaration of Human Rights, adopted in 1948, recognizes the 'equal rights of men and women'. Article 3 of the UDHR confers on everyone the right to life, liberty and security. International Covenant on Civil and Political rights 1966 recognizes the inherent dignity and of the equal and inalienable rights of all members of the human family in addition to "the right to liberty and security of person which are the foundation of freedom, justice and peace in the world". In 1979 the United Nations General Assembly adopted the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) declares that ".....State Parties should take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and all other practices which are based on the idea of inferiority or the superiority of either of the sexes or on stereotyped roles for men and women". CEDAW General Recommendation 19 clarifies that traditional public and private ideologies that regard women as "subordinate to men" and seek to "justify gender-based violence as a form of protection or control" deprive women of mental and bodily integrity.

Article 5(a) of CEDAW makes clear that practices, like honour killings, which constitute " a cultural pattern..... based on the idea of inferiority or superiority of either sexes or on stereotyped roles for men and women," are strictly forbidden under international law.

Article 16 of the Convention on the Elimination of All Forms of Discrimination Against Women 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: (a) the same right to enter into marriage;(b) the same right freely to choose a spouse and to enter into marriage only with their free and full consent; and (c) the same rights and responsibilities during marriage and its

dissolution. Article 16 of the UDHR 1948, article 23 of the International Covenant on Civil and Political Rights 1966, also confers the similar rights.

The United Nations Commission on Human Rights, in its resolution 2000/31 on extrajudicial, summary or arbitrary executions expressed concern at the large number of killings committed in the name of passion or in the name of honour reported by the Special Rapporteur, and called upon Governments to investigate such killings promptly and thoroughly; to bring those responsible to justice; and to ensure that such killing was neither condoned nor sanctioned by Government officials or personnel. In its resolution 2000/45 on the elimination of violence against women, the Commission defined the term "Violence against women" as any act of gender –based violence that resulted in or is likely to result in physical, sexual or psychological harm or suffering to women, including crimes committed in the name of honour and crimes committed in the name of passion , and called upon States to condemn violence against women and not to invoke custom, tradition or practices in the name of religion to avoid their obligations to eliminate such violence.

## National Perspective on Right to choice within Marriage

The Constitution of India is the supreme law of the land. Certain fundamental rights are guaranteed to the citizens under the Constitution but it does not speak about the right to marry. One of the reasons is that India is a land of diverse religions and cultures. Though similar constitutional rights and duties are assigned to all the citizens but they are free to follow their social and religious beliefs. In India marriages are governed by personal laws.

Recently, there were reports in newspapers that young women and men are being assaulted for desiring to be in a relationship with a person of a different caste, religion, community or for being in a relationship or marrying such a person without parental approval. In India where most of the marriages are arranged by parents, seeking permission or attempting to enter into such a

marriage alliance with a person of one's choice without parental approval can be fatal. Therefore a perusal of various Personal Laws regarding marriage in India and the 'right to consent' of the parties to a marriage therein is desired:-

## Consent of Parties under Different Personal Laws

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### Hindu Law

According to section 5 of the Hindu Marriage Act<sup>37</sup>, a marriage may be solemnized between any two Hindus, if the conditions mentioned therein are fulfilled. One of the essential conditions required to be fulfilled is that the parties to the marriage should be capable of giving a valid consent to the marriage. However it has been seen that young girls and women are not asked by their parents for their consent to the marriage 'arranged' by them. A woman usually agrees to the choice 'proposed' by her parents. However if a woman questions the choice or proposes to marry according to her own choice, she is denied her legal right to express her consent and she may even be subjected to brutal violence, all in the name of the family honour. She may even be 'trapped' in a forced marriage. All legal rights turn out to be fake. A marriage therefore is valid even in the absence of a free consent.

### Muslim Law<sup>38</sup>

Muslim Personal Law of marriage is not codified in India. It is customary and based on Sharia. It lays down the age of puberty as the age of marriage. Unless the contrary is proved, the age of puberty is presumed to be fifteen years for both boys and girls. Muslim Personal Law provides in clear terms for the consent of the parties to a marriage. According to Muslim Personal Law, a marriage is a contract. It requires free consent of the parties to enter into a valid contract of marriage. The law presumes that parties are capable of giving consent at the age of puberty, i.e. fifteen years. Marriage performed without the consent of the parties who have reached the age of puberty is treated as illegal and thus void under the Muslim Personal Law. A minor or an

insane who has not attained puberty can be validly contracted in marriage by their respective guardians.

### Christian Law

A marriage under Christian law is in the nature of a contract and hence there should be a free and voluntary consent between the parties.<sup>39</sup> One of the parties intending marriage is required under the Indian Christian Marriage Act, 1872 to make a declaration under section 18 along with an oath under section 42 to the effect (1) that he or she believes there is no impediment of kindred or affinity or other lawful hindrance to the said marriage. (2) that the consent or consents required by law has or have been obtained. In case of the marriage of a minor, the consent of the father and if he is not alive then the guardian of the person of the minor and if there is no such guardian, then the consent of the mother of such minor may give consent to the minor's marriage.(Section 19).Also section 88 talks about non validation of marriages within prohibited degree.

### The Special Marriage Act, 1954

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The Special marriage Act, 1954 was enacted to provide a special form of marriage for any person in India and all Indian nationals in foreign countries irrespective of the religion or faith followed by either party to the marriage. The Special Marriage Act under section 4 of the Act<sup>40</sup> lays down the conditions as to the solemnization of a special marriage wherein both the parties should be capable of giving a valid consent to the marriage.

It is desired that 'right to consent' clause as provided in various personal laws should be religiously implemented. It will help in curbing the instances of forced marriages at the hands of parents and other relatives. Moreover forced marriages should be penalized, with provisions of preventive arrest in cases of suspected and attempted forced marriages. Provision of preventive arrest for the potential accused can also be used to contain instances of potential honour killing.

The murder of Manoj and Babli in 2007 for violating the 'brotherhood norms' prevalent in Jat community according to which they were considered siblings<sup>41</sup>, a dalit youth, E. Ilavarasan whose inter-

caste marriage to an upper caste girl, Divya, led to caste tension in Tamil Nadu, forcing the girl to return to her parent's home disowning her marriage and the boy was later found dead<sup>42</sup>, 21-year old girl strangled by her parents for marrying a man from another community<sup>43</sup>, murder of 21-year old pregnant woman by her family members for having married a boy outside her community<sup>44</sup>, a minor girl hacked to death by her father for having a relationship with a boy who was from a different caste<sup>45</sup>. These are just some instances of reported cases out of the many such cases which go unreported. Not a single day passes when such brutality is not reported in a case or two where youngsters are being killed or are hounded by their family members for the 'sin' of inter-caste marriage, or marriage against the will of their parents, turning relatives from care-takers into demons.

## Conclusion

Killing women in the name of 'honour' cannot be tolerated in any civilized society. A woman who is a major is free to marry anyone she likes or to live with anyone she chooses. Inter-caste marriages, inter-religious marriages, marriages within the village and same gotra marriages are not illegal and uncommon in India. However women are still treated as the property of the males in their family irrespective of their education, employment or economic independence. This treatment of women is prevalent in every class, caste or religious group. Equality of rights and the protection of such rights of the women can no longer be ignored by the concerned stakeholders be it police, judiciary or the government. Such killings will prove disastrous for the coming generations in the era of globalization and human rights activism where governance has to be sustained on accountability.

## Suggestions

- 1) It is alleged that developing Nations may view signing international human rights treaty merely as a means of satisfying

their international audience believing that having done so, they are relieved of their obligations under it. Domestic human rights practices in India need upgradation to meet their obligations under international human rights treaties.

- 2) Health and education strategies are essential to improve women's status both within the community and the home.
- 3) It is necessary for women to work to achieve positions of economic and social influence, in order to be able to detest the normalization of male authority, both at the workplace and at the home.
- 4) There is a need to educate both women and men about women's rights. It will go a long way in addressing violence against women.
- 5) A change in women's attitude towards their own dignity must be encouraged. Such a change in women's attitude may not ensure eradication of violence and discrimination against them in near future but it will certainly be more difficult for the public authorities to ignore.
- 6) Quicker changes tend to occur when laws are changed first and society then follows. All forms of violence against women and girls committed in the name of honour should be criminalized and those deliberately participating in, facilitating, encouraging or threatening violence against women should be addressed with severe penalties.
- 7) Efforts of the media to engage in awareness- raising campaigns must be encouraged and intensified.



- 8) Instead of viewing culture as an obstacle in implementing the women's human rights, culture should be part of the solution. NGOs, advocacy groups, religious and community leaders should work locally to integrate human rights norms into cultural practices. Also efforts should be aimed at changing the attitudes and behaviour that allow such crimes to be committed. Fundamental changes in societal attitudes are required.
- 9) Efforts should be made to encourage and facilitate victims and others to come forward and report such crimes in a safe, conducive and confidential environment. It is a known fact that crimes committed in the name of honour are to a large extent under reported due to hostile environment at the hands of the law enforcement agencies.
- 10) Special training and resources should be provided to the law enforcement agencies such as police personnel, judicial officers and health workers with the aim to increase their knowledge and understanding of the causes and consequences of crimes against women. The need is to strengthen their capacity to respond to complaints in an impartial and effective manner while respecting the human rights of the victims.
- 11) Efforts should be made to strengthen support services to cater to the needs of the actual and potential victims by providing for them appropriate protection, shelter homes, counseling, legal aid, rehabilitation and reintegration into society.
- 12) States should undertake measures to gather and disseminate statistical information on the occurrences of such crimes. There are no exact official numbers about honour killings in India as the cases are often arranged to look like accidents or suicides.
- 13) Women empowerment through their increased role in decision making and policy making processes must be encouraged. It will act as a tool to prevent and eliminate crimes against women committed in the name of honour.

## End Notes

<sup>1</sup> Khan, Rao Arif Ali, *"Honour killing Roots and Remedies- A global View"*, ISBN 81-8324-405-X, Mittal Publications, New Delhi, 2012.

<sup>2</sup> Verma, Sudarshan, *"Honour Killing The Criminalization of Choice Marriages: Denial of Women's Rights"*, *"Human Rights in 21<sup>st</sup> Century Changing Dimensions"*, ISBN: 978-93-5035-166-6, Universal Law Publishing Co, New Delhi, pp. 238-249.

<sup>3</sup> Khan, *Honour killing Roots and Remedies*, p.29.

<sup>4</sup> Prochazka, Susanne J., *"There is no Honour in Honour Killings: Why Women at risk for Defying Sociosexual Norms must be Considered a 'Particular Social Group' under Asylum Law"*, 34 T. Jefferson L. Rev. 445 2011-2012, p.447 available at <http://heinonline.org> accessed on March 6, 2013 at 5:01pm.

<sup>5</sup> Miller, Alex, *"A Sociological Analysis of Crimes of Honor: Examining the Effects of Higher Education on the Concepts of Honor and Notions of Gender Equality in Jordan"* (2009), pp.17-18. available at [http://digitalcollections.sit.edu/isp\\_collection/750](http://digitalcollections.sit.edu/isp_collection/750) accessed on 25/4/2015 at 9:45pm

<sup>6</sup> Zaunbrecher, Katie L., *"When Culture Hurts- Dispelling the Myth of Cultural Justification for Gender based Human Rights Violation"*, 33 Hous. J. Int'L. 679 2010-2011, pp.700-701. available at <http://heinonline.org> accessed on 9/3/2013 at 7:11pm

<sup>7</sup>Pandey Tanushree and Nivedita Singh, "Honour killing–The Feminist Discourse" available at < <https://symbiosis.academia.edu/TanushreePandey> > accessed on 4/20/15 at 8:10pm

<sup>8</sup>available at < <https://www.youtube.com/watch?v=-OgHE88D2uM> > accessed on 24/4/2015 at 1:10pm

<sup>9</sup>Rape is not seen as a crime against victim but as something she had invited justifying murder. Khan, "Honour killing Roots and Remedies", p.80. Also a woman is seen as 'damaged' or 'scratched' once her virginity is compromised. Miller, "A Sociological Analysis of Crimes of Honor", pp.17-18.

<sup>10</sup>The victim had an affair which was not acceptable to the girl's family. He was beaten to death by the girl's family members. Available at <http://timesofindia.indiatimes.com/city/jaipur/Anot-her-honour-killing-two-arrested/articleshow/46765729.cms> accessed on 23/4/2015 at 12:59 am.

<sup>11</sup>Khan, "Honour killing Roots and Remedies", p.81.

<sup>12</sup>Available at <http://hbw-awareness.com/faq/#twelve> accessed on 4/20/15 at 7:25 pm.

<sup>13</sup>A Pakistani man and his father set the son's wife alight for leaving the house without asking for his permission. She succumbed to her burn injuries. Available at [http://zeenews.india.com/news/south-asia/husband-sets-wife-on-fire-in-pakistan-honour-killing\\_1581239.html](http://zeenews.india.com/news/south-asia/husband-sets-wife-on-fire-in-pakistan-honour-killing_1581239.html) accessed on 23/4/2015 at 01:45 am.

<sup>14</sup> Khan, "Honour killing Roots and Remedies", p.81

<sup>15</sup>An aged man and a girl were attacked and later strangled to death in Allahabad. The duo was allegedly in a live –in relationship. Available at <http://timesofindia.indiatimes.com/city/allahabad/Couple-killed-for-honour-in-Allahabad/articleshow/46724947.cms> accessed on 23/4/2015 at 12:40 am.

<sup>16</sup>available at [http://www.businessstandard.com/article/pti-stories/teenaged-couple-killed-in-honour-killing-115040801070\\_1.html](http://www.businessstandard.com/article/pti-stories/teenaged-couple-killed-in-honour-killing-115040801070_1.html) accessed on 20/4/2015 at 10:00pm.

<sup>17</sup>A youth burnt his 19 years old sister to death with the help of his relatives, when she insisted that she wanted to marry her boyfriend, who belongs to a

different caste. The girl had earlier eloped with her boyfriend and on court orders the police found her and handed her over to her family. The family members were depressed and thought that she had brought disrepute to her family by eloping with a man from a different caste. Available at <http://timesofindia.indiatimes.com/city/jaipur/Honour-killing-Youth-arrested-for-setting-sister-on-fire/articleshow/46984373.cms> accessed on 23/4/2015 at 12:20 am.

<sup>18</sup> Khan, "Honour killing Roots and Remedies", p.81.

<sup>19</sup> Ibid., p.124.

<sup>20</sup> Zaunbrecher, "When Culture Hurts", pp.698-699.

<sup>21</sup> Khan, "Honour killing Roots and Remedies", pp.79-80.

<sup>22</sup>Thomas Anisha, 'Legal Institutions and Women: Need for a Sustained women's Movement', Women's Link, ISSN 2229-6409, Vol19, No. 1, Jan-Mar 2013, pp. 5-6.

<sup>23</sup> Khan, "Honour Killing Roots and Remedies", p.18.

<sup>24</sup> Ibid., p.32.

<sup>25</sup> Ibid., p.79.

<sup>26</sup> Rana

Husseini <http://www.ranahusseini.com/articles%20by%20Rana/honorcrimesrevisited.pdf> accessed on 24/4/2015 at 12:30pm.

<sup>27</sup>Thomas, "Legal Institutions and Women", pp.5-6.

<sup>28</sup>Khan, "Honour killing Roots and Remedies", p.110.

<sup>29</sup> Ibid., pp. 110-111.

<sup>30</sup>

[http://donboscoindia.com/english/bis/default\\_ms.php?proid=9&newsid=7433&newsidlist=,7474,7433,7426,7371,7370,7368,7367,7339,7307,7305,&pno=1](http://donboscoindia.com/english/bis/default_ms.php?proid=9&newsid=7433&newsidlist=,7474,7433,7426,7371,7370,7368,7367,7339,7307,7305,&pno=1) accessed on 22/04/2015 at 9:45pm ]

<sup>31</sup> Available at <http://www.thehindu.com/news/national/tamil-nadu/cpim-for-new-law-to-curb-honour-killings/article7083283.ece> accessed on 22/4/2015 at 10:20 pm.

<sup>32</sup> Verma, "Honour Killing The Criminalization of Choice Marriages", pp. 238-249.

<sup>33</sup> Zaunbrecher, "When Culture Hurts", p.700

<sup>34</sup> Ibid.

<sup>35</sup> Article 2(c), CEDAW.

<sup>36</sup>Zaunbrecher, "When Culture Hurts", pp.691-692.

<sup>37</sup> Section 5. Conditions for a Hindu Marriage:-

A marriage may be solemnized between any two Hindus, if the following conditions are fulfilled, namely:

- (i) neither party has a spouse living at the time of the marriage;
- (ii) at the time of the marriage, neither party,
  - (a) is incapable of giving a valid consent of it in consequence of unsoundness of mind; or
  - (b) though capable of giving a valid consent has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and the procreation of children; or
  - (c) has been subject to recurrent attacks of insanity or epilepsy;
- (iii) the bridegroom has completed the age of twenty one years and the bride the age of eighteen years at the time of the marriage;
- (iv) the parties are not within the degrees of prohibited relationship unless the custom or usage governing each of them permits of a marriage between the two;
- (v) the parties are not sapindas of each other, unless the custom or usage governing each of them permits of a marriage between the two.

<sup>38</sup> Essentials of a valid marriage under muslim law:-

- (1) The parties to the marriage i.e. husband and wife, must be competent.
- (2) The consent of the parties, or of their guardians must be a free consent.
- (3) The required formalities must be duly completed, and
- (4) There must not be any prohibition or impediment in contracting the marriage. See Sinha, Dr. R.K., '*Muslim Law*', Central Law Agency, Allahabad, 2003.

<sup>39</sup> Verma, "*Honour Killing The Criminalization of Choice Marriages*", pp. 238-249. Also see The Indian Christian Marriage Act, 1872.

<sup>40</sup> Special Marriage Act, 1954, Section 4 Conditions relating to solemnization of special marriage:- Notwithstanding anything contained in any other law for the time being in force relating to the solemnization of marriages, a marriage between any two persons may be solemnized under this Act, if at the time of the marriage the following conditions are fulfilled namely:

- (a) Neither party has a spouse living;
- (b) neither party-
  - (i) is incapable of giving a valid consent to it in consequence of unsoundness of mind, or
  - (ii) though capable of giving a valid consent, has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and the procreation of children; or
  - (iii) has been subject to recurrent attacks of insanity or epilepsy;
- (c) the male has completed the age of twenty-one years and the female the age of eighteen years;
- (d) the parties are not within the degrees of prohibited relationship:

Provided that where a custom governing at least one of the parties permits of a marriage between them, such marriage may be solemnized, notwithstanding that they are within the degrees of prohibited relationship

<sup>41</sup> available at <http://memini.co/memini/manoj-and-babli/> accessed on April 23, 2015 at 7:30pm

<sup>42</sup> The Hindu, July 5, 2013, p. 01.

<sup>43</sup> The Hindu, November 20, 2014, p. 01.

<sup>44</sup> The Hindu, March 31, 2014, p. 06.

<sup>45</sup> The Times of India, April 22, 2015, p. 04.

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