
MERCY KILLING AND HONOUR KILLING: AN OVERVIEW

Mark Dbritto, Thakur Ramnarayan College of Law

Seona Dmello, Thakur Ramnarayan College of Law

ABSTRACT:

Every person's greatest asset is their honour. It cannot be sacrificed either for the benefit of the individual or the benefit of the group. Honour-related murder is not only prohibited but also a serious violation of human rights. An individual's life should never be taken, especially without justification. It is also against the law. Everybody is entitled to life and dignity. Honour is sustained in life. The Indian Constitution recognizes this right as a fundamental one. Every person has the right to protection from any threat to their life. Everyone has the freedom of choice. The freedom of speech is also guaranteed. Right to marry is included in the definition of the right to live. And the second most topic covered in the research paper is mercy killing, According to definitions, honour killings are the most serious type of honour crime that results in

killing the victim to restore the family's honour. As a result of the lack of comprehensive data collection on these homicides, society underestimates the severity of the issue. The purpose of this paper is to possess greater understanding of the topic by describing a general perspective on the issue using the reason for prevention. A paper that supports the description of honour crimes, and voices the offence. Even though the poll is not sufficiently representative, the phenomenon of an honour killing is perceived differently.

Keywords: honour, mercy, killing, euthanasia, women victims, crime prevention, constitutional role.

View on honour killing:

While processing the fact of honour killing and its essence not only in India but, all the different parts of the world, which may deem it as a hideous crime of mankind, and the “murderers” get off very easily without even trying, due to the impeccable societal norms, the kinds that pluck up courage in the minds of the people to take a life and still manage to make a break for it. Honour killing is the apportionment of the death of a woman by her pedigree. Still can’t get through the system as in where is the honour in killing another breathing figure and still make peace with it in the name of “honour”, what kind of fear is aimed to be installed in the young minds? , no kind of honour can be depicted in killing another human being. “Honour killing” can be a result of numerous irrelevant things that are made up directly to relate to women by degrading and slurring them in the scales and standards that are set up only for them by sexist civilization. There have been various well researched reasons relating to the very roots of honour killing, for instance if the woman marries outside her caste or without her parents consent, if she is indulged into any illicit sexual activities, or if she has an extra-marital affair, and when worse comes to worse if she is even “suspected” of any of the above so called ‘immorality’, the woman becomes a victim of honour killing.

Legal Stand:

Our government has taken specific measures against organisations like Khap panchayats, such as proposing a statute titled "Prohibition of Unlawful Assembly 2011" by the law commission. The measure outlines punishments for organisations that have authorised the execution of couples who are accused of having a love marriage. Additionally, the judiciary has made rulings against these extra-constitutional bodies in a number of situations. But honour killings continue to occur, and Uttar Pradesh is the state with the highest number of documented occurrences.

According to Article 21 of the Indian Constitution, these crimes committed for the sake of honour are violations of human rights and the right to live in dignity. It demonstrates the lack of empathy, love, compassion, and tolerance among fellow humans and undermines the government's ability to stop such killings.

It compromises the reliability of institutions like the judiciary and police. It violates people's

freedom of choice and causes stress, worry, and trauma in the less fortunate. It impairs a nation's capacity for unity, cooperation, corporate, etc. It disrupts the serenity and demonstrates a lack of emotional intelligence and aptitude for reasonable thought. It does not constitute a crime against a specific person; rather, it is a crime against society as a whole, because certain people believe they are more superior than others and that they are above the law.

In the case of Smt. Chandrapati vs State of Haryana and Ors, popularly known as Manju-Babli murder case is a landmark case on honour killing. In this case, the Khap panchayat ordered the killing of a couple as they married in the same gotra. As Babli's grandfather was Khap leader, he along with relatives assisted in killing the couple. When the case was heard in the Karnal District Court, five of the murderers were sentenced to life imprisonment. This is the first case involving an honour killing that has resulted in a historic judgement awarding the accused with a life sentence.

There are certain provisions laid down by the Indian Legal system, Every citizen in our country has his or her own set of rights. Every citizen in India has rights, regardless of caste, religion, or gender, guaranteed by the Constitution of India. The Indian Constitution declares that India is a secular state, where we have the freedom to practise any religion and choose a life partner of our choice.

Honour killings are similar to homicides in certain ways. Sections 299 and 300 of the Indian Penal Code, 1860, define culpable homicide and murder. When the victim is killed with the goal of bringing the family's honour into question, those involved in murder can be booked under either of Section 302 or Section 304 of IPC.

Since the Roman era, when the pater families or the more senior men in a family had the authority to murder an unmarried but sexually active female or a spouse who was deceitful, murders based on honour have been known to occur. Honour-based offences were well-known in mediaeval Europe, where an unfaithful husband and her accomplice were to be stoned to death according to early Jewish law. In India, the practice of honour killing dates back to ancient times. Since the beginning of time, people have reported crimes against their relatives and described these executions as a demonstration carried out to preserve the family's dignity. Honour killings have

historically been committed primarily as sexual orientation-based crimes and have been used as a tool to maintain the dominance of men in society over women. This doesn't mean that the man has been completely spared from this wickedness, though. Additionally, there have been cases where men have been killed because they participated in gay pride parades or because they refused to arrange marriages. However, there are a lot of examples when young girls, girl in-laws, husbands, and so forth are slain for various reasons, such as talking to another guy, included in two-timing relationships, early problems, wedding all alone will, and so forth. Honour killings are said to have their roots in ancient customs. Yet, all types of people submit to honour killings and become victims of them, as implied by numerous networks' adjustments to moral standards. A variety of conduct for individuals, including more stringent standards for women's chastity, regarded to have started from ancestor traditions. They are prevalent throughout the world, as well as in outsider networks in countries where there aren't any cultural norms that promote honour killings. Although they also occur in urban areas, honor killings are frequently associated with rural and ancestral areas.

Mercy Killing Issues:

Euthanasia, sometimes known as "mercy killing," is the act or practice of putting to death without suffering those who have a physically debilitating illness or agonising, incurable condition, or allowing them to pass away by delaying treatment or removing artificial life support. It is typically recognized as either murder (if committed by another) or suicide (if committed by the patient) because most legal systems lack a particular provision for it. However, doctors have the legal right to decide not to prolong life when a patient is in excruciating agony and to provide them painkillers even if they shorten the patient's life. Several European nations' criminal codes included unique clauses for mild punishment and taking into account mitigating circumstances in euthanasia proceedings at the end of the 20th century.

When a person is living in an abnormal life and has availed their full life capacity, or the person is in a vegetative state and is unable to perform the usual and normal activities that a normal person can due to terminal illness and in these extreme cases the concept of 'Mercy killing' is practised.

It is an extremely sensitive issue to deal with in the socio-legal aspect as the right to life, which is

a fundamental right, is being dragged in question. Euthanasia may be legalised under specific conditions, but only if the "right to life," which belongs to every citizen, is respected. However, if a person spends years in a coma or a vegetative state as a result of a long illness, their life will become pointless and unpleasant.

Every nation is governed by laws, and all citizens are required to follow them. The most popular form of government is a democracy, in which everyone has the same rights as others, including the freedom to speak and live. Every country's citizens have the right to live a long, healthy, and respectable life. This is known as the right to life. Law can therefore take action to make mercy killing legal in such a scenario.

For those who are brain dead or terminally ill. The conduct of medical research on these patients for the advancement of medical science is another factor. Since it is immoral to conduct medical experiments on patients without their agreement, such a situation might promote euthanasia.

There has been a very accessible and open history about euthanasia or Mercy killing not only in regard to India but also worldwide. The overview on the same would be disclosing the history of the Netherlands, Japan, Belgium and India.

Euthanasia in Belgium:

On October 25, 2001, the bill allowing euthanasia was approved by a sizable majority in the Belgian Senate. But the legislation put forth certain conditions for the doctors to decide when a life has to end. To be qualified to receive euthanasia, those seeking it must reside in Belgium. Patients need to be a minimum of eighteen years old and must continually submit precise, voluntary requests for their life to be taken. Although it has been unclear and susceptible to interpretation, the precise number of "repeated requests".

Euthanasia in Netherlands:

Netherlands law has been the very first Country law to permit active euthanasia in the postwar period with the 'Euthanasian Act of 2002'.

But there were certain conditions that needed to be fulfilled, they as mentioned as under:

The patient's request must be voluntary and carefully considered, the suffering has to be unbearable and hopeless, the patient must be made aware of their current situation and potential future, there must be no reasonable alternatives, another physician needs to be approached, and the practice of euthanasia must be carried out with the appropriate level of medical care and attention.

Euthanasia in Japan:

According to the legal definition of euthanasia in Japan, it is "an act to relieve an acute physical pain of the patient, whose time of death is imminent, on his or her sincere request and to make the patient meet his or her own peaceful death."

Passive Euthanasia is legal in Japan and the criteria for the same is as follows:

The patient should be in such a fatal condition that he or she has no possibility of recovery, is afflicted with an incurable illness, and death is inevitable.

- The patient must be well informed and make a voluntary decision. To halt medical care at the appropriate time, the patient's expression must be present.
- ceasing all medical interventions, including medication, artificial respiration, artificial dialysis, blood transfusion, artificial feeding, rehydration, and so forth.
- There aren't any potential alternatives to treatment. A second physician should be consulted, and the procedure for death should be carried out with the appropriate level of medical care.

Euthanasia in India:

There are no specific legal or legislative regulations for euthanasia in India because it is still a relatively recent practice. Few medical situations in India in recent years have indicated the need for euthanasia.

In Aruna Shanbaug case:

Aruna Shanbaug was a nurse working at the King Edward Memorial Hospital, Parel, Mumbai. On

27 November 1973 she was strangled and sodomised by Sohanlal Walmiki, a sweeper. During the attack she was strangled with a chain, and the deprivation of oxygen left her in a vegetative state. On behalf of Aruna, her friend Pinki Virani, a social activist, filed a petition in the Supreme Court arguing that the "continued existence of Aruna is in violation of her right to live in dignity". The Supreme Court made its decision on 7 March 2011. The court rejected the plea to discontinue Aruna's life support but issued a set of broad guidelines legalising passive euthanasia in India. The Supreme Court's decision to reject the discontinuation of Aruna's life support was based on the fact that the hospital staff who treat and take care of her did not support euthanizing her. Aruna died from pneumonia on 18 May 2015, after being in a coma for a period of 42 years.

On March 9, 2018, the Supreme Court of India issued a landmark decision that became a national statute allowing passive euthanasia. This decision was made in response to Pinki Virani's petition to the Supreme Court in December 2009 on the "Next Friend" clause in the Constitution. It is a historic law that gives people more freedom of choice than governmental, medical, or religious authority, which views all pain as "destiny". In its 2011 ruling, the Supreme Court outlined two unchangeable requirements for the legalisation of passive euthanasia: According to established international standards, the feed can be tapered off and pain-managing palliatives provided for two groups of patients: (i) the brain-dead, for whom the ventilator can be turned off; and (ii) those in a persistent vegetative state (PVS).

REFERENCES:

https://thelawbrigade.com/wp-content/uploads/2019/12/MERCY-KILLING-IN-INDIA-A-JUDICIAL-OVERVIEW_MONALISHA.pdf

https://www.researchgate.net/publication/320829903_Euthanasia_A_Brief_History_and_Perspectives_in_India

https://en.wikipedia.org/wiki/Euthanasia_in_India

<https://legallyflawless.in/honour-crimes-india-legal-analysis/>

<https://timesofindia.indiatimes.com/readersblog/legal-awareness/honour-killing-in-india-33953/>

<https://www.legalserviceindia.com/legal/article-8389-honor-killing-in-india-an-analysis-on-indian-statutes.html>

https://www.researchgate.net/publication/359133006_HONOUR_KILLING_IN_INDIA_A_SOCIO-LEGAL_PERSPECTIVE