
CASE ANALYSIS: SHAKTI VAHINI V. UNION OF INDIA

Geetansh Malik, OP Jindal Global University

Honour killings are a significant concern that has been spreading rapidly in certain regions of the country. In many regions, local councils view it as their duty to punish individuals who engage in relationships against societal norms without the approval of their elders, labelling it as "Honour Killing." This Panchayat is known as "Khap Panchayat". These are groups of older and high-status men who influence the decisions of young couples. These "Khaps" govern their own specific regions and discourage marriage between individuals of the same 'gotra' to avoid being seen as siblings.

There has been a recent increase in honour killings in Haryana, Punjab, and Western Uttar Pradesh. This highlighted the need for further investigation and management of this significant issue, as current laws do not address station blending or these unauthorised gatherings that operate outside legal boundaries. To address this unique social phenomenon, it is essential to thoroughly analyse the issue, evaluate existing laws, and consider appropriate measures to control the concentration of power and authority. Individuals from rank chambers or Panchayats have a socio-social standpoint that results in minimal respect for individual freedom and self-sufficiency.

Shakti Vahini v. Union of India involves a court ruling that mandated the creation of a thorough system by state governments and the police department to combat the issue of Honour Killing in society. Moreover, to establish a robust framework, the court has outlined various preventive, corrective, and remedial measures for the states and the police administration. This situation exemplifies a victory of innovative thinking over outdated societal norms. An investigation was conducted on honour killings in Haryana, Punjab, and Western U.P. at the request of the petitioner, an organisation named 'Shakti Vahini'.

Shakti Vahini's application was approved to lead the research on honour killings in Haryana and Western Uttar Pradesh on 22/12/2009, as adopted by the National Women's Commission, in order to address this issue.

Shakti Vahini v. Union of India involves a court ruling that mandated the creation of a comprehensive system by state governments and the police department to combat the crime of Honour Killing in society. Furthermore, to establish a robust framework, the court has implemented preventive measures such as pinpointing districts with high crime rates and increasing surveillance in those areas, along with prohibiting any gatherings aimed at targeting vulnerable couples. Whenever a meeting is scheduled for any other purpose, it is important to have police presence and to record the proceedings on video. Suggestions were made to raise awareness among enforcement agencies and establish institutional mechanisms for coordination among stakeholders. The Court has mandated the government to offer secure housing for couples fleeing honour crimes, along with safeguarding those detained during the investigation of the alleged offence. Furthermore, state governments must establish 24-hour shelters to receive and register complaints and offer the required assistance and protection for couples.

This scenario exemplifies a victory of innovative thinking over outdated societal norms. An academic study on honour killings in Haryana, Punjab, and Western U.P. was authorised by the petitioner, an organisation named 'Shakti Vahini'.

They have discovered that the number of cases in society is rapidly increasing. As per Article 32 of the Constitution of India, a petition was filed for direction from the court to the Government (both State and Central), the Ministry of Home Affairs, and the Ministry of Women and Child Development.

The 54-page judgement was delivered by a three-judge bench including the Chief Justice of India, Mr. Justice Dipak Misra, Mr. Justice A.M Khanwilkar, and D.Y Chandrachud. The court ruled that criminal cases involving murder or violence against couples will be tried in a designated Court or Fast Track Court as deemed necessary by the authority for that purpose. The preliminary must continue on everyday premise to be closed ideally inside a half year from the date of taking the perception of the offense. This point will also be relevant for future cases. The District Judge will assign cases to a single court to ensure quick resolution. The ruling also states that Khap panchayats should not take the law into their own hands and cannot assume the role of a law enforcement agency as they do not have the legal authority to do so.

The organisation presented key questions it aimed to address while advocating for this case. Main concerns brought up were:

1. Is it permissible for an individual to select their own life partner?
2. Are the homicides committed by Khap-Panchayats legal?

It is crucial for us to examine this issue in its current state. For a thorough understanding of the current situation, we must address some fundamental questions.

What is the frequency of honour killings in India despite the presence of laws? Why is the existing system not sufficiently effective in addressing this ongoing social issue?

Honour killings are known for being significantly underreported, not because of state irregularities, but because of the state itself. In 2018, there was only one honour killing incident reported in the country, specifically in Delhi, according to the latest National Crime Records Bureau (NCRB) data. There was only one case reported in Surat, Gujarat, this year, compared to the previous year. As per the report, Tamil Nadu did not report any such cases in either of the years. However, in the past five years, based on field research and studies conducted by Evidence, an NGO dedicated to protecting the fundamental rights of Dalit and Tribal individuals in Tamil Nadu and Puducherry, there have been 195 documented cases of honour killings in Tamil Nadu alone. The annual report by the Centre is compiled with data from various countries and fields of association. The data is initially approved at the Police Station/District level as indicated by the NCRB and then confirmed by the State Police during the joint local review. If this is the process being followed, it will likely become apparent that either state governments lack a reliable method to track honour killings, or they are not inclined to do so. We lack information about the prevalence of the demonstration in relation to honour killings - only the number of people who are at risk. In 2014, according to NCRB reports, there were a total of 28 cases. The following year, in 2015, the number skyrocketed by 800% to reach 192 cases. The reports presented by these committees are the ones that are brought to the attention of the authorities, while most cases go unnoticed. In 2018, a total of 10,773 individuals were abducted because of their personal relationships. When couples primarily refrain from certain activities due to their family's disapproval of their relationships within their community or religious beliefs, they may be more vulnerable in addressing violence for similar reasons.

The problem of 'Honour Killing' is often overlooked because there are no specific laws in place to address it. Before 2012, 'Honour Killing' was not included in the list of murder motives provided by the NCRB. The problem is often viewed as a murder case, despite the presence of other significant motivations. While homicides are a significant concern, honour killings not only challenge the legal system but also the moral fabric of society. This issue should be viewed not only as a legal matter but also as a socio-legal concern, setting it apart from other criminal activities. This unfortunate incident happens for a variety of reasons, with casteism being the most significant factor. Investigating hate crimes requires a unique approach that takes into consideration the underlying motives. They serve as a legal attack as well as an emotional attack. Shame is a significant factor in these brutalities remaining unreported. The families of the victim often feel like outcasts and, in order to avoid additional societal backlash, opt to stay silent. Even the local authorities choose not to actively investigate these crimes out of fear of upsetting the dominant group. The media should offer dedicated coverage to such acts, as local journalists may not be reliable in exposing these crimes due to their societal influence, viewing them as efforts to eradicate immorality rather than criminal acts. Misconduct leading to honor-related violence typically follows a pattern, with warning signs like verbal threats, physical violence, coercion, and confinement. An alternative legislation would outline factors that contribute to this offence and aid in avoiding fatalities.

These are issues that arise from attitude problems, and in addition to legal consequences, it's important to raise awareness to address the underlying causes. These groups view marriage outside their norms as immoral, but it's important to educate people that love transcends caste and religion, representing a higher ideal. Choosing a partner should not be limited by societal constraints like castes and religions; it should be seen as an expression of personal freedom. These mental constraints can only be overcome through the increased awareness spreading among the population. A highly committed centre not only offers reliable information, critique, and support for at-risk couples but also highlights the significant divide between religion and socio-economic status in society. This might clarify why some individuals oppose the need for specific laws against dishonouring with the same intensity and indifference towards condemning marriages across different castes and religions - both leading to the breakdown of outdated divisions and the emergence of a more equal society.

In 2012, the Law Commission proposed a report outlining a unique legal system for addressing honour killings. Respecting the Freedom of Matrimonial Alliances Bill was directed to review

cases involving honour crimes by condemning actions such as organising groups to condemn a marriage and criminally intimidating a couple. It also proposed guidelines, security measures for vulnerable couples, and counselling and legal education for couples. Regrettably, a Member of Parliament did not bring up this Bill in Parliament.

Another important aspect to consider is the impact of hate crimes such as honour killings. Honour killings are often referred to as a 'crime of passion', indicating that the repercussions of such actions extend beyond just legal consequences to include psychological impact. Even though it is a gender-neutral ideology, the majority of the victims are females, resulting in a more significant impact on them compared to males. One prioritises living with dignity over life itself, which increases the burden on victims. Even if they manage to avoid physical harm, society will still destroy them. At times, not only are the victims affected, but their families are also targeted to set an example. In addition, the victims are driven to take their own lives or leave their homes in search of asylum due to the fear of facing a life of indignity or the destruction of their families caused by the society's negative mindset. In addition, if not compelled to take extreme measures or pressured to leave, women may choose not to disclose incidents of sexual assault and rape out of concern that it could tarnish their family's reputation, as society often links a family's honour to a woman's purity, potentially labelling her as a victim.

Committing honour killings stems from the negative aspects of a patriarchal society and is considered a heinous crime. It is crucial for the judiciary and the legislature to address this issue promptly. It is crucial to address the issues with the 'Khaps' system, for politicians to focus on the greater good, and for decisive measures to be taken to reduce hate crimes. Implementing a new and strict set of laws could help decrease the occurrences of these crimes. However, to completely eliminate the harmful concept of 'honor' and its associated evils, education and awareness are urgently needed.

REFERENCES

- Important Judgment of the Supreme Court of India, National Human Rights Council of India, <https://nhrc.nic.in/>, Last Visited – 12th December, 2020.
- Shakti Vahini V UOI, Indian Kanoon, <https://indiankanoon.org/doc/92846055/>, Last Visited – 12th December, 2020.
- Gulafroz Jan, Medcrave, <https://medcraveonline.com/SIJ/honour-killing-a-socio-legal-analysis-with-special-reference-to-district-srinagar-of-jampk.html>, Last Visited – 12th December 2020.
- Kushiki, PRS Legislative Research, <https://www.prsindia.org/theprsblog/honour-killings-are-we-prepared-tackle-problem>, Last Visited – 12th December, 2020.
- Anugraha Sundaravelu, The Swaddle, <https://theswaddle.com/honor-killings-india-law/>, Last Visited – 12th December, 2020.
- Kosha Doshi, Latest Laws, <https://www.latestlaws.com/articles/socio-legal-dimensions-of-honour-killing/>, Last Visited – 12th December, 2020
- Kubra Fatima, The News Minute, <https://www.thenewsminute.com/article/india-needs-separate-law-tackle-honour-crimes-activists-demand-govt-listening-62382>, Last visited – 12th December.
- Consequences of ‘Honor’ Killings and Crimes, The Advocates, <https://www.stopvaw.org/consequences2>, Last Visited – 12th December, 2020.