

Honour Killing- Tradition Or Cold Blooded Murder?

For the past few months, the news channels and newspapers seem to be spurting with the news of honour killings. Either it's just a fad that seems to have taken the villages in its grip or that these cases are finally coming to light like skeletons tumbling out of the closet.

Honour killing can be defined 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 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 "dishonors" her family is sufficient to trigger an attack on her life. [1]

'Honour killings are not new to the rural India especially in the regions of Haryana, Uttar Pradesh and Rajasthan. But then such cases are not just restricted to the rural areas. They are also heard in our capital and in the southern states like Kerala, Tamil Nadu etc. The Aarushi Talwar Case and the killing of Kuldeep and Monica[2] are speculated to be such killings.

Our country has been very selective about the kind of development she has undergone. On an international level with the nuclear deal, 8% growth rate and the recognition India is enjoying to voice its opinion, it seems that 'India is shining'. But dig deeper into the dark secrets of this developing nation and we still find rampant killings of young couples by their own family members to save their honour because of the incest committed by the couple. Their crime: living in the same village and getting married.

According to the 'conservative' khap panchayat, marriage between people of the same village is considered incest as they are siblings and hence these marriages are not valid. So the panchayat orders the murder of the couple and hangs their body in the village crossing as an example to other straying couples.

In India, with its patriarchal society, women are considered as property and the vessel of family's honour. And any act which might blot the family's prestige renders an absolute right to the male members to murder the girl, undo her wrongs and win back the honour.

Such crimes as well as such criminals have been breeding under the political blessings of the political parties mainly interested in the vote banks of these villages and the support of the khap panchayat.

Bone Of Contention:

In this regard, the very basic difference between Gotras and Sapindas need to be reviewed for the main crux of the discussion lies in the difference between these concepts.

Sapindas means:

'With reference to any person, it extends as far as the third generation (inclusive) in the line of ascent through the mother, and the fifth (inclusive) in the line of ascent through the father, the line being traced upwards in each case from the person concerned, who is to be counted as the first generation'

On the other hand Gotra means:

A Gotra is the lineage or clan assigned to a hindu at birth. Gotra is the Sanskrit term for a much older

system of tribal clans. The Sanskrit term "Gotra" was initially used by the Vedic people for the identification of the lineages. Generally, these lineages mean patrilineal descent from the sages or rishis in Brahmins, warriors and administrators in Kshatriyas and ancestral tradesmen in Vaishyas.

It can be seen that marriage of a person who is the sapinda of the other is considered invalid because marriage between such close relatives is unacceptable in the society and comes within the purview of prohibited relationships. Also marriage between closely related persons is not advisable as it leads to inbreeding depression.

But in the case of the gotras, the lineage of a person is traced back to a single rishi and hence another person belonging to the same gotra is considered a sibling. From a scientific point of view this doesn't seem to make sense as it is virtually impossible in today's age to confirm that we have an unbroken ancestral lineage to one of the eight rishis.

Psychology:

In order to find a solution for such killings, it is necessary to analyze it from the very core. The very root of such an attitude towards marriage in the same 'gotra' lies in the fact that incest is considered as a taboo in our culture. The Hindu Marriage Act of 1954 bars marriage between sapindas-people within the third generation in the line of ascent through mother, and fifth generation in the line of ascent through father. In addition to this it also bars marriage between certain 'degrees of prohibited relationships', including those between sisters and brothers. Thus, the law lays down the ingredients for a valid marriage and excludes marriage between close relatives.

It can thus be seen that in our culture people are made conscious of their relations with the siblings from the very beginning. Even a mere thought of a matrimonial relation with a close relative is an impure thought, so vile that it's an unforgivable offence. And this feeling is buried deep within the mind.

Hence it is this high level of consciousness that when marriage between people belonging to the same gotra is heard of, it creates indignation and anger in the minds of the family members as well as the society. The society goes further and boycotts the family which aggravates the situation to such an extent that the males in the family don't seem to mind killing the couple in order to restore their prestige in the society.

Provisions in the Indian Law:

The Indian legislation seems to have finally awoken to this problem after it has come into the limelight and people are speaking up against such cruelty. Finally, after the killings, according to the home minister P Chidambaram, the UPA led central government proposed to amend the Indian Penal Code and make Honour Killing a 'distinct offence'[4]; although how that will make any difference to the present condition still needs to be scrutinized as honour killing amounts to murder which is punishable under law[5].

In addition to this, the nature of the crime makes it virtually impossible to track the victim. This is because, usually a huge mob is sent after the couple to be pelted by stones and to be killed. Hence no definite accused can be found. The dominance enjoyed by the khap panchayat in the village and its pressure on the police unables them to function properly and carry on the investigation. Most of the cases are not even filed with the police and are hushed up by the family and the panchayat.

The government has also made proposals to revoke the 30 days notice period presently required under the Special Marriage Act for inter-community marriages[6], because that time is misused by families to track down, kill and forcibly separate couples.

Judgments regarding the issue:

The discussion on the issue of same gotra marriages was laid to rest sixty five years ago with the landmark judgment by the Bombay High Court where it declared that same gotra marriages were legal. The case of 'Madhavrao v. Raghavendrarao'[7] it was held that the marriage in question between a husband and wife belonging to the same gotra was valid. The court also referred to the eminent author PV Kane, author of 'The History of Dharmashatra' who had said:

"The mass of material on 'gotra' and 'pravara' in the sutras, the puranas and digests is so vast and full of contradictions that it is almost an impossible task to reduce it to order and coherence."

In addition to this the court also consulted the text of Manu and Yajnavalkya and observed that the requirements on gotra were recommendatory not mandatory. On the following grounds the court held that:

'it was impossible to accept the suggestion that in reference to the Brahmin families of today, their gotras and pravaras represent anything like an unbroken line of descent from the common ancestors indicated by the names of their respective gotras and pravaras.'

The most recent case that can be considered with respect to the issue of honor killing can be the Kaithal Murder Case[8] of Manoj and Babli the decision of which was declared on March 29th 2010. The landmark verdict was given by the Additional district and sessions judge Vani Gopal Sharma. Five of Babli's family members -- her brother Suresh, uncles Rajender and Baru Ram and cousins Satish and Gurdev -- were ordered to hang until death for killing the couple on June 15, 2007. The judge sentenced the seventh accused, Mandeep Singh, driver of the Scorpio used in the crime, to seven years' jail for kidnapping and conspiracy. In addition, the leader of Banawala khap, Ganga Raj, was awarded life sentence for hatching a conspiracy to kill a couple just because they had married against the wishes of elders who had termed them "brother and sister."

Reforms suggested:

- Till the time people at the grass root level are not influenced to despise such killings and the murderers and to consider it as an aggravated offence, no legislation can help improve matters. When water doesn't get a path to flow, it seeps through the cracks. This applies to humans as well. Till the time we don't believe in the matter from the core of ourselves, we can find lacunas in the law and a way past it.
- Khap Panchayats must be dissolved, so that their loss of power in the villages will help solve matters to some extent.
- People must be educated as to the scientific logic behind the concept of 'gotra' and its irrelevance to marriage in the 21st century. The system of gotra could be considered of importance in the early ages as it was meant to prevent marriage between people with the common lineage and to prevent inbreeding depression. But in the current scenario, when the lineages have diversified, the system of gotra is highly futile to be even considered at the time of marriage.
- Even a simple threat by a family member to the couple against the marriage should be considered potential danger to their lives and the couple should be given police protection.
- The punishment for such heinous crimes should be a deterrent for people to attempt such 'manly' crimes. We do not live in the middle ages, so advising a slow corporeal punishment would only raise the eyebrows of the human right activists. But life imprisonment is what can be awarded for such a

barbaric crime.

Conclusion:

The solution to this problem mainly lies in the eradication of myths in the minds of people. They need to be educated with the provisions given in the Hindu Marriage Act and what kinds of marriages are actually considered invalid. Since the concept of Gotras and Sapindas are different from each other, it should be explained to them.

Khap Pachayats should at last be ripped out of all its power so that it is unable to wrongly influence the naive people and to instigate them to commit such inhuman acts.

It is time India finally developed in the real sense. Building malls and increasing the standard of living of the common man is not really development. Cases such as these show that more than half of the Indians still lead lives within the strong crutches of caste system and even today youths don't have the power to make decisions regarding their own lives. To see that even today, people blindly commit such barbaric crimes and consider it as an act of sanctifying the impure shows that India has really not modernized. Development has to be from the very base, the core. Or else it's just a hollow wooden structure eaten on the inside by the termites that eventually comes crashing down.

[1] Definition by Human Rights Watch

[2] 'Twist in Delhi Honor Killing case': 22 June 2010 (The Times of India)

[3] Hindu Marriage Act (25 of 1955) S. 3(f)(i)

[4] Vibha Sharma(28 March 2010): 'Who gave the Khaps the right to kill: PC'(The Tribune)

[5] Section 302- Indian Penal Code

[6] Section 5- Special Marriage Act 1954 (Act no 43 of 1954)

[7] AIR 1946 Bom 377

[8] 'Five to hang for Khap death diktat': The Times of India (31 March 2010)