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Human Rights Perspective: Honour Killings and the Violation of Fundamental Rights

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Abstract

Honour killings constitute a severe manifestation of gendered and caste- and community-inflected violence in which families or community actors punish individuals—most often women and young couples—for perceived transgressions of sexual, matrimonial, or kinship norms. This paper frames honour killings as a human-rights violation that simultaneously implicates the right to life, equality, non-discrimination, dignity, liberty, privacy, and decisional autonomy, while exposing systemic failures in prevention, protection, and accountability. Using a doctrinal method, the analysis integrates constitutional principles with India's contemporary penal framework under the Bharatiya Nyaya Sanhita, 2023 (BNS), emphasizing the State's positive obligations to protect vulnerable persons from foreseeable private violence. The paper also situates honour killings within the scholarship on "honour"-based violence, which cautions against cultural essentialism and instead locates such crimes in patriarchal control over women's sexuality and family reputation. Empirically, the paper draws on official government tabulation of cases recorded with the motive of "honour killing" between 2020 and 2022, underscoring the limitations of motive-based recording and the likelihood of undercounting. The paper concludes that while the BNS provides robust substantive provisions to prosecute homicide, conspiracy, abetment, intimidation, unlawful assembly, kidnapping, and wrongful confinement, the persistence of honour killings reflects enforcement deficits, social sanctioning of violence, and inadequate protective infrastructure for at-risk couples. It proposes a human-rights oriented strategy that strengthens preventive policing, witness protection, survivor support, and accountability for officials who fail to act, while reaffirming constitutional morality against extra-legal caste and community diktats.

Keywords: *honour killings; honour-based violence; fundamental rights; right to life; equality; dignity; caste; gender; Bharatiya Nyaya Sanhita, 2023; State due diligence*

Introduction

Honour killings are commonly described as killings (and sometimes a wider set of coercive acts) undertaken to restore or defend “family” or “community” honour when an individual is perceived to have violated norms around sexuality, marriage, caste endogamy, clan/gotra boundaries, or gender roles. Contemporary scholarship has consistently argued that honour-based violence is not a “tradition” deserving deference but a form of gendered domination, operating through control of women’s sexuality and punishment for autonomy. Gill (2009) emphasizes that so-called “honour” violence is anchored in women’s subordinate status and community surveillance rather than any legitimate moral order.

From a constitutional and human-rights standpoint, honour killings are not only individual crimes but structural violations: they negate the victim’s personhood and autonomy, and they also reveal the State’s failure to discharge positive obligations to protect life and liberty against foreseeable private violence. The UN Human Rights Committee’s General Comment No. 36 on the right to life clarifies that States must adopt special measures to protect persons in situations of vulnerability and those exposed to patterns of violence, reinforcing a due diligence framework in which inaction can itself constitute a human-rights failure.

In India’s institutional setting, the harms of honour killings are shaped by intersecting hierarchies of gender, caste, and community. Prem Chowdhry’s work on north Indian social formations and the social policing of women’s sexuality illuminates how local patriarchal governance can normalize coercion and violence in the name of status and kinship control. Recent scholarship has also examined how customary councils and local power networks may perpetuate “honour” crimes through informal enforcement and social sanctioning.

This paper advances three interlinked arguments. First, honour killings are best understood as violations of fundamental rights and human rights, not merely as “family disputes” or “social issues.” Second, the substantive penal framework under the BNS is capable—at least doctrinally—of prosecuting the full sequence of conduct that typically culminates in an honour killing (surveillance, intimidation, confinement, abduction, conspiracy, collective violence, and homicide). Third, the persistence of honour killings is primarily an implementation and protection gap rather than a gap in the availability of criminal offences, making prevention, accountability, and victim support central to a rights-based response.

Methodology and Scope

The paper adopts a doctrinal legal methodology: it interprets statutory provisions of the *Bharatiya Nyaya Sanhita*, 2023 as enacted (Act No. 45 of 2023), alongside relevant judicial and policy materials, and reads them through a human-rights framework that emphasizes dignity, equality, and State due diligence. The BNS was enacted on 25 December 2023 and later brought into force from 1 July 2024 (with limited exceptions noted in official releases), making it the operative substantive criminal law basis for prosecution in the contemporary period.

The empirical component is deliberately modest and relies only on official government tabulation of cases recorded under the “motive of murder for honour killings” between 2020 and 2022, which is useful for illustrating patterns but should not be mistaken for the true prevalence of honour killings due to under-reporting and classification limits.

Conceptual Framework: Honour-Based Violence as a Human-Rights Problem

A persistent analytical risk in the public discourse on honour killings is cultural essentialism: the tendency to treat honour violence as a product of immutable “community culture,” thereby obscuring its political economy and its gendered power function. Gill has argued that “honour”-based violence should be treated as violence against women embedded in patriarchal control rather than as an exotic cultural practice, and that simplistic cultural narratives can weaken accountability by treating perpetrators as acting under “custom” rather than criminal intent.

A second conceptual point is that honour killings often operate as collective violence. In many cases, the act is not an impulsive individual offence but the culmination of a process: monitoring and restricting mobility, threats and coercion, attempted separation of partners, forced return to natal family, confinement, and finally homicide or staged death. The collective character of honour crimes also makes them especially resistant to ordinary criminal justice pathways because witnesses are often family members, victims may be isolated, and social retaliation may discourage reporting. The human-rights lens insists that these features generate heightened duties for the State to provide protection and safe access to justice, consistent with international understandings of “due diligence” obligations under the right to life.

A third conceptual point concerns autonomy and constitutional morality. Honour killings are directed against the idea that individuals are rights-bearing agents capable of making intimate decisions, including the choice of partner. The violence is thus both physical and symbolic: it punishes the assertion of equal moral worth by women and couples who reject caste/community endogamy or coercive kinship control. The Law Commission of India’s Report No. 242 explicitly frames the problem as interference with

the freedom of matrimonial alliances in the name of honour and tradition, emphasizing that coercive interference requires a structured legal and preventive response.

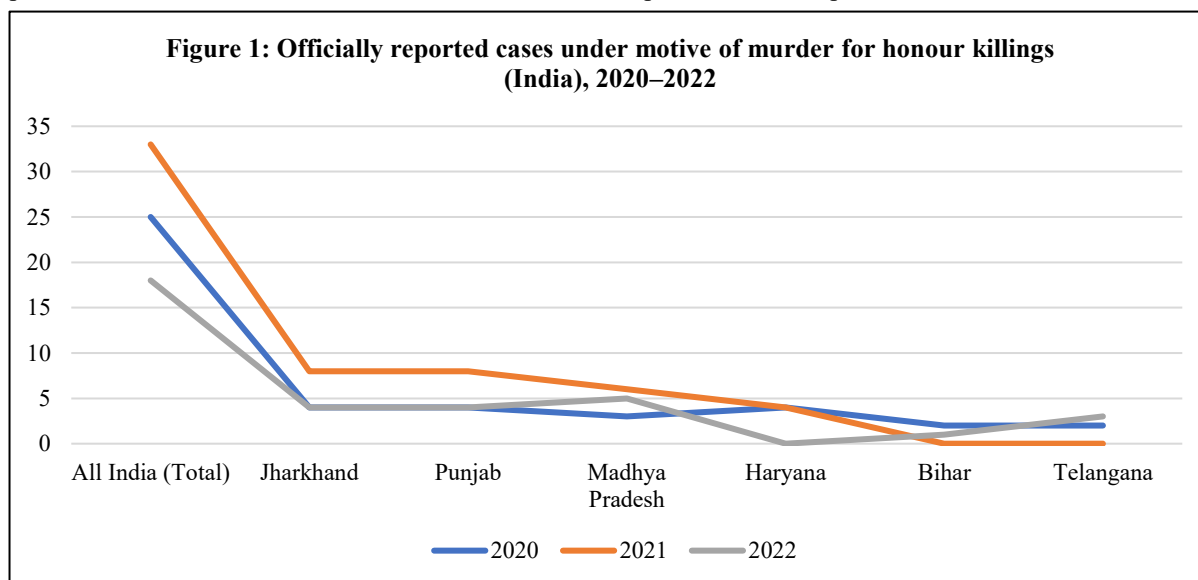
Constitutional and Fundamental Rights Dimensions

Honour killings violate the most basic constitutional commitments: they annihilate life and dignity, deny equality, and impose social hierarchy through violence. Although the Constitution primarily governs State action, Indian constitutionalism—especially in rights-based jurisprudence—has increasingly recognized that State failure to prevent foreseeable private violence can amount to a breach of

understanding by situating honour violence within broader patterns of violence against women.

The State's Human-Rights Obligations: Due Diligence and Positive Duties

A human-rights approach treats honour killings not only as prohibited acts by private individuals but also as events that may involve State responsibility when the State fails to prevent, protect, investigate, or punish. The UN Human Rights Committee's General Comment No. 36 on the right to life underscores that the right to life is not to be interpreted narrowly and that States must take special measures to protect individuals whose lives are at particular risk due to specific threats or patterns of violence.



constitutional duties. This is particularly salient where patterns of violence are known, where threats are reported, or where social institutions such as caste councils mobilize coercion against couples.

The Supreme Court's decision in *Shakti Vahini v. Union of India* (Writ Petition (Civil) No. 231 of 2010, decided 27 March 2018) is central to the constitutional framing of honour crimes, because it treats honour killings and honour-based threats as incompatible with constitutional freedoms and requires preventive and remedial steps by authorities. The Government of India itself, in a parliamentary response, explicitly links preventive measures on "honour crimes" to compliance with the Supreme Court's 27 March 2018 judgment in W.P. (C) No. 231 of 2010.

Constitutional analysis further requires attention to the equality dimension: honour killings are disproportionately directed at women and at couples who cross caste/community boundaries, indicating discrimination in both motive and effect. The structural nature of the harm matters because it transforms honour killings from isolated murders into gendered and caste-inflected rights violations. Scholarly work on honour crimes reinforces this

Note. Data are as provided in Annexure-II of Lok Sabha Unstarred Question No. 1954 (answered 11 March 2025) and reflect cases "reported under motive of murder for honour killings" for 2020–2022; the figures likely undercount incidence due to under-reporting and classification issues.

In India's administrative and policing context, this due diligence framework is reflected in governmental advisories that emphasize preventive, remedial, and punitive actions. In a Lok Sabha response dated 11 March 2025, the Ministry of Home Affairs described a comprehensive advisory issued to States/UTs on 31 May 2018 to address "honour crimes," including identification of high-risk areas, vigilance around gatherings, immediate registration of FIRs, provision of security to couples/families, and disciplinary action against erring officials.

This policy articulation is significant for two reasons. First, it signals an institutional acknowledgment that honour killings are foreseeable and patterned, not random. Second, it frames State obligations in operational terms: early warning, protective security, prompt investigation, and accountability for non-

performance. These are precisely the components a human-rights due diligence model would demand.

Empirical Snapshot: Officially Recorded “Honour Killing Motive” Cases (2020–2022)

Official crime statistics on honour killings are constrained by definitional and recording practices. India’s crime recording often captures “motive” categories within broader homicide counts, meaning that a killing may be recorded as an “honour killing” only if investigating authorities identify and code the motive accordingly. The Ministry of Home Affairs, citing NCRB’s “Crime in India” publication, provided a State/UT-wise annexure of cases recorded under the motive of murder for honour killings for 2020–2022, with All-India totals of 25 (2020), 33 (2021), and 18 (2022).

The limited number of motive-coded cases should not be interpreted as indicating rarity. Honour killings may be disguised as accidents or suicides, may be recorded under other motives, and may never be reported due to family control and community intimidation. The empirical insight therefore is less about absolute prevalence and more about the structural difficulties of detection and recording, reinforcing the need for prevention and protective mechanisms.

The Bharatiya Nyaya Sanhita, 2023: Substantive Criminal Law Mapping for Honour Killings

Honour killing is not, in most legal systems, a separate offence category; it is prosecuted through general offences such as homicide and allied offences. The BNS, as India’s consolidated substantive criminal law (Act No. 45 of 2023), provides a comprehensive basis to prosecute both the killing and the preparatory and enabling conduct that commonly precedes it.

Homicide and group-based murder provisions

The doctrinal core of prosecution lies in the offences affecting life. The BNS defines culpable homicide in Section 100 and defines murder in Section 101 through intention/knowledge standards and enumerated clauses. Importantly, Section 103 provides the punishment for murder, and also introduces a specific provision for murder committed by a group of five or more persons acting in concert on enumerated grounds such as caste, community, sex, language, and “any other ground.”

This group-based clause matters for honour killing analysis because many honour killings are either family-collective acts or are facilitated by community bodies that mobilize coercion. Where evidentiary material supports concerted action by five or more persons and links the murder to caste/community-based hostility or similar grounds, Section 103(2) becomes doctrinally relevant.

Joint liability, conspiracy, and abetment

Honour killings often involve multiple actors who coordinate surveillance, transport, confinement, and violence. The BNS addresses joint liability through a common intention clause in Section 3(5), which provides that when a criminal act is done by several persons in furtherance of common intention, each is liable as if the act were done by them alone.

The BNS also defines abetment in Section 45, capturing instigation, conspiracy-based aiding, or intentional assistance. Criminal conspiracy is set out in Section 61, establishing liability for agreements to commit an offence. These provisions are especially important because in honour killings senior family members or community influencers may not strike the fatal blow but may instigate, plan, fund, or coerce the execution of the crime.

Unlawful assembly and public tranquillity offences

A distinctive feature of honour violence in India is the role of collective gatherings, informal councils, and group mobilization. The BNS defines unlawful assembly in Section 189 when five or more persons share specified common objects including committing offences or compelling conduct by criminal force. When violence or intimidation follows from such assemblies, the public tranquillity chapter supports a framework for prosecuting collective coercion, not merely the final homicide.

The “pipeline” offences: confinement, kidnapping/abduction, intimidation

Honour killings are frequently preceded by coercive practices aimed at separating couples or controlling women’s mobility. These practices are not legally incidental; they are independently criminal and often provide evidentiary pathways to prove planning and motive.

The BNS criminalizes wrongful confinement under Section 127 and related provisions, capturing illegal restraint and confinement that are common in honour-based coercion within households. It addresses kidnapping and abduction in Section 137 and Section 138, and also provides aggravated provisions such as kidnapping or abducting in order to murder in Section 140. Criminal intimidation is defined in Section 351, which is frequently relevant where threats of death or social harm are used to force compliance or silence reporting.

These offences are crucial from a human-rights perspective because they recognize that honour violence is a continuum: the killing is the endpoint of a coercive process that often begins with threats, isolation, and unlawful control.

Table 1; Indicative BNS provisions relevant to honour-killing fact patterns (non-exhaustive)

Conduct commonly seen in honour-crime contexts	Illustrative BNS provisions	Doctrinal relevance
Lethal violence resulting in death	§§ 100–101 (culpable homicide; murder); § 103 (punishment for murder; group murder clause)	Establishes principal homicide liability and enhanced group-based doctrinal framing where applicable
Multiple perpetrators acting together	§ 3(5) (common intention)	Enables liability for all who act in furtherance of common intention even without identical physical acts
Planning, instigation, aiding	§ 45 (abetment); § 61 (criminal conspiracy)	Captures planners, instigators, and aiders including family/community influencers
Collective coercion and group mobilization	§ 189 (unlawful assembly)	Addresses group intimidation/coercion that often surrounds honour killings
Forcible separation and control of mobility	§ 127 (wrongful confinement); §§ 137–138 (kidnapping/abduction); § 140 (kidnapping/abduction to murder)	Criminalizes the coercive pipeline that frequently precedes honour killings
Threats to force compliance or prevent reporting	§ 351 (criminal intimidation)	Captures threats used to deter autonomy, silence victims, and obstruct justice

Judicial and Policy Recognition of Honour Crimes as Rights Violations

A rights-based approach depends on whether institutions treat honour killings as constitutionally intolerable. The Supreme Court’s role is therefore central. While honour killing discourse in India includes several decisions condemning caste/community diktats, the specific constitutional moment widely associated with structured preventive guidelines is the Supreme Court’s judgment dated 27 March 2018 in W.P. (C) No. 231 of 2010, which the Government later referenced as the trigger for a comprehensive advisory to States/UTs on honour crimes.

The Law Commission of India’s Report No. 242 (2012) similarly positions honour violence as interference with matrimonial autonomy “in the name of honour and tradition” and recommends a legal framework aimed at preventing and punishing such interference. In socio-legal terms, such institutional recognition is important because it shifts the narrative from “family honour” to “constitutional illegality,” thereby legitimizing protective policing and reducing the scope for informal compromise or social pressure.

Why Honour Killings Persist Despite Criminal Law Availability

The persistence of honour killings despite the availability of homicide, conspiracy, abetment, and intimidation offences requires analysis beyond doctrinal sufficiency. Three mechanisms are particularly salient.

First, under-reporting and misclassification are structurally likely. Families often control the narrative around the death; witnesses are internal; and community pressure discourages complaint. This is consistent with broader research on honour-based violence that emphasizes invisibility, community surveillance, and the risks faced by complainants.

Second, the enforcement problem is partly preventive. Honour killings are frequently preceded by threats and known risk indicators, meaning that police action—if timely—can prevent escalation. The MHA advisory described in parliamentary materials explicitly lists preventive identification of high-risk localities and early reporting of gatherings, implying that prevention is operationally feasible but inconsistently realized.

Third, institutional reluctance and social normalization can produce “soft impunity.” If local actors view caste/community enforcement as socially legitimate, the threshold for protective intervention may rise, leaving couples unprotected. Scholarship on the resilience of customary councils and their interaction with local power structures helps explain why coercive orders may persist even under formal legal prohibition.

Rights-Based Reform Directions Within the Existing Legal Framework

A human-rights strategy should treat honour killings as preventable rights violations and therefore prioritize protective and accountability mechanisms. This paper advances four reform directions, each compatible with the existing BNS doctrinal structure and the State measures described in official policy.

The first direction is early-risk identification and protective security for threatened couples. The State already acknowledges the need for preventive steps, including identification of areas with reported honour crimes and providing security to couples and families, as set out in the 2018 advisory referenced by the MHA. Human-rights logic requires that such measures be treated not as discretionary welfare but as rights-protective duties triggered by credible threats.

The second direction is robust prosecution of the entire coercive sequence, not only the final murder. Where police and prosecution focus exclusively on the homicide, they may lose the evidentiary story of coercion and planning. A BNS-informed approach would systematically prosecute confinement, intimidation, kidnapping/abduction, conspiracy, unlawful assembly, and joint liability alongside homicide, using Section 3(5), Section 45, and Section 61 to capture collective responsibility.

The third direction is accountability for official inaction. The MHA's description of punitive measures includes departmental or disciplinary action against erring officials in honour-crime contexts, which is consistent with due diligence principles under the right to life. Embedding such accountability in practice is necessary to shift institutional incentives toward protection.

The fourth direction is survivor-centered justice infrastructure. Honour violence frequently targets not only the deceased victim but also surviving partners, siblings, or supportive relatives. Policies referenced by the MHA—such as emergency response systems and integrated support services—are relevant to ensuring that individuals can access protection, shelter, legal aid, and psychological support. From a rights perspective, the aim is not merely conviction but restoration of agency and safety.

Discussion: Constitutional Morality Versus Social Morality

Honour killings represent a collision between constitutional morality and social morality. Constitutional morality rejects hierarchy-enforcing violence and insists that individual rights, dignity, and equality are non-negotiable. Social morality, when captured by caste patriarchy, may treat women as bearers of collective honour and punish autonomy. The human-rights approach is therefore not value-neutral: it chooses constitutional values over coercive community norms.

In this framing, the BNS should be understood not merely as a punitive code but as the State's substantive articulation that private violence, collective coercion, intimidation, and murder are wrongs against the person and the polity. The BNS provisions on murder, group murder by persons acting in concert, unlawful assembly, conspiracy, abetment, confinement,

abduction, and intimidation together provide a comprehensive doctrinal architecture to treat honour killings as organized rights-violations executed through criminal means.

Conclusion

Honour killings are an extreme form of honour-based violence that must be analyzed as a grave human-rights violation and a negation of fundamental rights. The harm is not confined to the death itself; it includes the systematic coercion, surveillance, confinement, threats, and collective mobilization that typically precede the killing and are designed to discipline autonomy. India's contemporary substantive criminal law under the Bharatiya Nyaya Sanhita, 2023 provides doctrinal tools to prosecute honour killings comprehensively, including homicide provisions (Sections 100–101 and punishment under Section 103), joint liability (Section 3(5)), abetment (Section 45), conspiracy (Section 61), unlawful assembly (Section 189), kidnapping/abduction (Sections 137–138, and aggravated Section 140), wrongful confinement (Section 127), and intimidation (Section 351).

Yet, official data show that cases recorded with the motive of honour killing persist across multiple jurisdictions, even as the recorded numbers likely understate incidence. The persistence of honour killings therefore reflects not the absence of legal offences but deficits in prevention, protection, reporting, and institutional accountability. A human-rights response requires the State to operationalize due diligence: proactive protection of threatened couples, effective investigation, prosecution of the full coercive sequence, support services, and consequences for official inaction. In doing so, the State affirms that "honour" cannot be a moral defence against rights, and that constitutional morality must govern intimate life, not coercive community control.

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