

Crimes against Women Committed in the Name of Honour

As an organisation fighting against torture, summary executions, forced disappearances, and all other forms of cruel, inhuman or degrading treatment, the World Organisation Against Torture (OMCT) is extremely concerned about the issue of “honour” crimes.

In this presentation I will attempt to:

- 1) Conceptualise “crimes of honour”
- 2) Differentiate and compare “crimes of honour” from “crimes of passion”
- 3) Elucidate state responsibility for “honour crimes”
- 4) Provide a brief overview of the work of the UN regarding “honour crimes”
- 5) Present problems of “honour crimes” in migrant communities in Europe
- 6) Suggest some strategies for the prevention and eradication of “honour crimes”

There exist different variants of “honour crimes” occurring in a number of societies and cultures around the world. Besides “honour killings”, different forms of honour crimes include; forced marriages, coerced marriages of a woman with her rapist, virginity testing and restrictions on women’s freedom of movement. Although “crimes of honour” are frequently associated with countries where the majority of the population is Muslim, it should be borne in mind that the crimes are certainly not limited to these countries.

The reasons that appear to provoke “honour crimes” vary from women exercising their right to choose a spouse, seek a divorce, engage in any behaviour which breaches family or community norms, in particular norms concerning sexual conduct, but also, for example, simply being away from home, in which case it is alleged that the woman has engaged in a sexual rendezvous during her absence. Even being raped may be a reason for the family to kill a woman. The perception of the loss of control of the woman’s sexuality is articulated as a justification for an “honour crime”. Maintaining the honour of a family is seen as the responsibility of its female members. Economic and social matters are reportedly also factors contributing to “honour crimes”. The emphasis that is placed on the different elements of sexual control, patriarchy, or property, that generally lead to the commission of “honour crimes”, varies depending on the context in which the crimes occur.

Perpetrators of honour crimes may be brothers, sons, fathers, uncles, nephews, husbands, lovers or ex-lovers. However, women are also sometimes involved in the “honour crime.” “Honour crimes” are often carried out by under-aged boys in order to reduce the punishment.

The prevalence of crimes committed in the name of honour perpetuates the total subordination of women to men in society by forcing women to live their lives in fear. In this atmosphere, all of the fundamental human rights of women are compromised, for

example, if death is the feared penalty, women cannot exercise their rights to freedom of speech, freedom of assembly, and freedom of movement. Women who fear for their lives are kept in jail in protective custody. Some women resort to suicide, voluntary or involuntary, for reasons of honour.

A distinction may be made, where it is possible, between “crimes of passion” and “honour crimes”. The term “crimes of honour” is often used in relation to the Middle East, while “crimes of passion” is generally seen as a European and Latin American concept. “Crimes of passion” are crimes, which are linked to a “love-relationship” between the perpetrator and the victim, for example between an (ex) husband and (ex) wife or between (ex) lovers and the crime is not perpetrated to defend the family honour but the “conjugal honour” or the honour of an individual man, or for reasons related to jealousy and frustration. The term “crimes of honour” appears to be wider as it also includes the victim’s blood relatives who do not have a sexual relationship with the victim. Moreover, independent of the perpetrator (brother, son, father, uncle, nephew, husband, lover or ex-lover) and the motive (family honour or own honour) of the crime committed against women in the name of honour, with regard to the punishment of the act one should, as in the usual application of criminal law, look at the following three elements: the seriousness of the violence (killing, mutilation); the degree of intent; whether the crime has been committed with premeditation (“dolus premeditatus”) or without premeditation (dolus repentinus”). It is very important to note that both crimes “crimes of honour” and “crimes of passion” can be committed with or without premeditation.

In different parts of the world, perpetrators of crimes against women committed in the name of honour, often go unpunished, receive reduced sentences or are exempted from prosecution on the justification of “honour”. Deeply rooted social and cultural prejudices underlie the “honour” defence which is accepted as an exonerating or mitigating circumstance. Thus, while there are laws and jurisprudence which protect the perpetrators of crimes committed in the name of honour, there are sufficient laws and procedures which protect women from these crimes.

Honour crimes are now located within the broad range of human rights violations, making it possible to address them with a human rights-based approach, which imposes on States an obligation under international law to exercise due diligence in the prevention and investigation of crimes committed against women the name of honour and in the prosecution and punishment of the perpetrators.

Article 4 of the UN Declaration on the Elimination of Violence against Women requires States to condemn violence against women and stipulates that they should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should: (c) exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons.

State responsibility under international law goes beyond a duty to enact and implement legislation and includes an obligation to adopt concrete measures for the modification of discriminatory cultural practices. For example, article 5 (a) of the Convention on the elimination of All Forms of Discrimination Against Women requires States to modify the social and cultural patterns of men and women in order to eliminate discrimination. Article 7 of the Convention on the Elimination of All Forms of Racial Discrimination requires states to take steps in relation to culture, education, and the media in order to change prejudices which lead to racial discrimination.

In recent years, “crimes of honour” have increasingly been addressed as a specific form of violence against women at UN level.

Both the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child have started to raise the issue of honour crimes in their work. Moreover, the Special Rapporteur on violence against women, the Special Rapporteur on the independence of judiciary and the Special Rapporteur on extrajudicial, summary or arbitrary executions have identified honour crimes as falling within their respective mandates. Each of these mechanisms has been emphatic in linking the activity of private persons (non-state actors) to the obligation of the State to protect, promote and fulfil human rights obligations through the exercise of due diligence in the prevention, investigation and, in accordance with national legislation, the punishment of acts of violence against women, whether these acts are perpetrated by the State or by private persons as articulated in article 4 of the Declaration on Violence against Women.

The concepts of “honour crimes” and “crimes of passion” have been placed on the agenda of the political bodies of the United Nations. The crimes are mentioned in the resolutions on extrajudicial, summary or arbitrary executions and on violence against women of the Commission on Human Rights.

In the Beijing Plus Five 5 Outcome Document of the 23rd Special Session adopted by consensus by the General Assembly "Women 2000: Gender Equality, Development and Peace for the Twenty-first Century", States committed themselves to continue to eliminate violence against women. In this context, more specific provisions were introduced in the Outcome document to address issues not directly mentioned in the Platform for Action of 1995, including crimes committed in the name of honour and passion. The outcome document also formulates a set of concrete, new measures to combat the violations of the human rights of women which include: a call for the adoption and enforcement of laws and other measures to address negative traditional practices, including honour crimes.

Moreover, at the Fifty-fifth General Assembly, Third Committee, in November 2000, the Dutch delegation decided to sponsor a resolution on “honour crimes” entitled: “Working toward the Elimination of Crimes against Women Committed in the Name of Honour” However, no consensus could be reached on the resolution and the text was adopted by a recorded vote of 120 in favour, none against and 25 abstentions. At the plenary session of the General Assembly on 4 December 2000, the same text was adopted, this time with

146 in favour, 1 against and 26 abstentions. However, the one vote against was made in error and should actually have been a vote in favour. The problems that arose during the negotiation of the resolution were largely related to the perceived linkage of “crimes of honour” with Islam and to the lack of clarity with respect to the definitions of “crimes of honour” and “crimes of passion.”

Finally, regarding initiatives at the international level, I would like to mention that a Report by the Secretary-General has been requested and this report is to include information on initiatives taken by the States to work towards the elimination of honour crimes. The Report is scheduled for consideration by the General Assembly at its fifty-seventh session in September 2002.

I would now like to say a few brief words on “honour crimes in the context of migrant communities”, in particular in Europe. While minority women themselves may not always find it easy to reconcile their cultural identity as members of a minority community with their individual human rights, women still seek protection against violence from the state. It is important to emphasise that the state has also an obligation under international law to exercise due diligence to prevent and investigate violence against women which occurs in migrant communities under their jurisdiction and to prosecute and punish the perpetrators. Honour crimes should be recognised as crimes and not as a customary practice to be condoned and/or tolerated. For example, in a number of Western European countries, there have been cases of police failure to intervene in cases of domestic violence and forced marriages occurring in migrant communities. Such non-intervention has frequently been justified on the grounds of cultural relativism.

Finally I would like to identify some strategies which could be used to address crimes of honour

At the international level:

I would urge human rights treaty bodies and mechanisms to take up the issue of “honour crimes” where appropriate.

At the national level:

I would urge that States take steps

- to intensify efforts to include both legislative measures and educational, social and other awareness-raising activities aimed at overcoming the negative influence of certain traditions and customs and to involve public opinion leaders, educators, religious leaders, chiefs and other traditional leaders and the media

- to develop and implement training programmes that cover the causes and consequences of such crimes among those responsible for enforcing the law, such as law enforcement officials, judicial personnel and health care professionals. Efforts should be made to document the incidence of “crimes of honour” as well as to research State responses to

these crimes. It is often very difficult to collect statistical data on honour crimes as these crimes often remain a private family affair.

- to protect women by establishing, strengthening or facilitating the development of support services, such as shelters, counselling, legal aid, rehabilitation and reintegration into society.

Finally, addressing honour crimes should be processed very carefully given the risks of a racist backlash and cultural stereotyping. In this regard, lessons may be learned from the international campaigns on female genital mutilation.