

No honour in the honour killings bill

Human Rights
Dawlat
13.1.05

By Sherry Rehman

THERE comes a time in every nation's history when its citizens have to face the mirror of its collective conscience. The first entitlement we owe ourselves is the right to survival and recourse to justice.

Yet what haunts half of the country's population these days is that many of us are still regarded as chattel, vulnerable to attack or murder as the mediaeval repositories of family, clan or tribal honour.

At least for some of us, it is a moment of great shame that in the 21st century we still countenance among our midst the gruesome and repugnant practice of killing, maiming, selling and injuring women in some misplaced concept of honour. What makes matters worse is that the national media is told by the government that now honour killing has become a capital offence. This is dangerously double-speak because it misleads people into believing that somehow, the death penalty has just been introduced for this crime, or that the new bill represents a serious attempt at curbing honour killings across the country.

The fact of the matter is, and any NGO worker or lawyer will tell you this, that the death penalty was always available as a sentence for judges hearing an honour crimes case in the Pakistan Penal Code, but the issue has always been the lack of convictions, or the acceptance by the lower courts of an honour killing case as premeditated murder where the heirs of the victim are allowed to forgive each other, or exchange money and walk away.

fronting the Qisas and Diyat laws introduced by a military regime more than twenty-five years ago under the larger ambit of the Hudood Ordinances which have become a rallying cry for Islamists who seek to divert attention from real issues by appropriating the power to interpret all Islamic law.

After these laws were put into effect, acquittals went up to 92 per cent and convictions to less than 8 per cent. These are not in accordance with either the spirit of justice prevalent throughout Islam, nor do they stand up to the standards of the freedoms and equality enshrined in our battered constitution.

This is the main law that condones clan killings by privatizing justice, and it still remains unaddressed. In other words, the perpetrators are able to obtain forgiveness from the heirs of the victim, and the state no longer remains the sole deci-

Most cases of honour killing or crimes have little to do with marriages of personal choice. The lacunae in the laws, which continue to exist after the government's new legislation, are used to justify killings that clear the way for property acquisition, and most often, revenge cases where the women abused or killed are simply used to warn or humiliate another clan in grisly vengeance.

This bill ensures that a minimum penalty is guaranteed for honour criminals, because unlike what the government likes to say, a death penalty option was always available to the courts; but more importantly, the PPPP bill ensures that no-one is allowed to get off on compromise clauses, nor does it allow justice for honour crime victims to amount to private deals that can be cut between family or tribe members.

The bill also plugs lacunae by removing the wide discretionary powers of the judiciary in negatively interpreting Islamist laws with respect to such cases, because even under Islamic law, the state is supposed to be the *wali* or heir, and not a family member. The fact of the matter is that the high courts rarely, if ever, award acquittals in such cases. To the contrary, they are correctly harsh in meeting out full punishments and life sentences to such criminals, but the ground reality is that very few cases like these ever reach any court, let alone the higher courts.

But there is much more the state must do, or at least attempt to do after fixing this flawed law. First, it has to turn its attention to mandatory gender-sensitization workshops for both our police and judiciary so that perpetrators of such crimes are not given special treatment in police stations or the courts as 'honour murderers.'

Secondly, state-controlled media like PTV should be encouraged to run regular programmes to inform the public about the injustice and cruelty of this crime, and also the status of women

sion-maker in dispensing justice, as was the case under the 1973 Constitution. The central

about who are openly called repositories of family honour or chattel by state ministers like

In fact, as an effect of this new law, the few convictions that were awarded in such cases will dwindle to even less, because the problem was never just the sentence, but the absence of actual convictions. It will mirror the justice delivery experience in gangrape cases, where just to sound politically effective, death penalty has been made mandatory, yet no convictions have been awarded since then.

Because of such problems in the law, the scourge, instead of dwindling over time, has spread like a disease with an escalating body count all over the country. In Sindh itself, government statistics testify to one woman killed every single day in the name of family honour. In Punjab the spurious morality of 'zan, zar and zamin' continues to produce spectacles like the one in which a female local councillor was paraded head-shaved and disrobed only a few months ago with impunity, in a case of *biradari* revenge which had nothing to do with the poor woman in question. In Balochistan and the Frontier province, for victims of 'honour' crimes, little chances for either escape or reporting exist, as in some areas, the bodies of the victims, both man and women, are considered too tainted for a normal burial.

The worst part of this narrative is that most cases of honour killing or crimes have little to do with marriages of personal choice. The lacunae in the laws, which continue to exist after the government's new legislation, are used to justify killings that clear the way for property acquisition, and most often, revenge cases where the women abused or killed are simply used to warn or humiliate another clan in grisly vengeance.

At present, despite the ratification of the government's tragically inadequate 'honour killings' bill in the National Assembly, the law allows criminalising an accused five years after the crime. The Federal Investigation Agency (FIA) has arrested five people in the last 12 months. KAWALPINDI, Jan 12: The

problem in justice-delivery for even reported cases is related to the fact that almost always the victim's extended family, direct family, kith or kin are not just the heirs but also the perpetrators or accomplices to the murders, so that giving up the right of punishment is often pre-planned.

Although the mitigation of crimes committed under 'grave and sudden provocation' has been removed from the Pakistan Penal Code, judges still apply the obsolete clause when defending murders as crimes of passion. Before the Qisas and Diyat laws were introduced, the state was a clear party to all such murder cases, which were non-compoundable in line with the principle that the state has to ensure the right to life of all citizens, irrespective of class, creed or gender.

The existing laws, however, allow poor litigants or parties to a dispute to be coerced into accepting blood money under the argument that what is done now cannot be undone, so they might as well surrender all claims to justice for the victim and accept the sum given out to them by the killer for compromising. A culture of condoning crimes against women therefore proliferates under this law, and devalues the life of an honour victim as not quite a life worth saving or seeking full justice for.

The obvious question to ask at this stage is really this: what steps can we as a society take to stem the tide of such incidents in the future, as well as to ensure at least the bare minimum of justice through the formal legal system? First of all, at this point it is crucial that the government stop using such serious issues for political grandstanding and modify its honour killings bill. For this, it has no extra work to do, nor re-invent any wheel. All it has to do is reach out for the PPPP bill from the committee graveyard where it has been thrown, as this bill was drafted in consultation with all stakeholders such as women's activists, Aurat Foundation and the Human Rights Commission of Pakistan.

Manzur Panwhar, in support of such crimes against women in the name of culture and tradition.

Thirdly, and most importantly, the government must establish crisis centres in each provincial capital to provide protection and rehabilitation to victims of such abuse. Safe shelter is one of the most critical deficits that women face when they visit *darul amans*, because when they are threatened or mistreated they have no recourse to alternative environments where protection is minimally provided to save them from being recruited as sex workers.

Fourth, the *jirga* decision-system that reinforces such privatization of justice should also be strictly disallowed as a parallel and feudal system of justice.

Without a doubt, the welcome discourse raging among educated Pakistan today acknowledges and condemns the objectification of women in roles that restrict their life choices and often reduce them to little more than movable property. For once, the electronic media too has played a strategic role in bringing several such cases like the Almanj and Shazia Khaskheli cases to public light. What is needed now is not a series of piece-meal bills that skirt around the fundamental problem.

Instead, it is time we all put our money where our mouth is and support legislation that allows no compromise on any such murders, whether they are crimes of passion or dispassion. The government threw out the PPPP's Hudood Repeal Bill after hemming and hawing for one year. At least let us have the courage to recognize that we have waited too long to roll back the disastrous effects of Ziaul Haq's spurious Islamization, and that there is no honour in turning a blind eye to the murder of innocent and powerless people in the Islamic Republic of Pakistan. Let us at least put some honour, and some teeth, back in the honour killings bill.

The writer is an MNA and mover of the PPPP bill on honour killings.