

Devaluing ‘honour’

Afiya S. Zia

THE 2016 Amendment to Offences in the Name/ Pretext of Honour Act has had mixed reactions. Some celebrate the reforms while others consider these to be a mere ‘smokescreen’. For decades, legal and rights activists have campaigned against this specialised form of murder of women for suspected sexual transgression and violating male ‘honour’. They have protested how culprits often secure legal forgiveness. So why are activists disappointed over the reform of a law for this gender-specific crime?

Critics say the definition of ‘honour crime’ remains vague in this law. They maintain that the compoundability provision is still available for pardoning such crimes. They also suggest that, by denying honour as his motive, the culprit may be able to invoke the pardon provision.

The anti-honour killing campaign in Pakistan has always been plagued by a conceptual dilemma and grammatical debate. One camp of activists has argued that the positive associations of the noun ‘honour’ should be expunged from the understanding and definition of such crimes against women. Under the slogan, ‘there-is-no-honour-in-honour killing’ they suggest these killings should be treated as common murder and punished accordingly.

Another camp feels that honour crimes signify very specific gendered dynamics. These crimes are a combination of domestic/ community violence, state collusion and laws that allow forgiveness. Removing the term ‘honour’ would erase the adjective that describes the act/ motive for controlling women’s choice and agency — usually sexual or marital.

Not everyone is happy with the amended law.

Accepting honour claims allows us to understand that men do not try and hide their act of killing but, in fact, claim, confess and own it. The price for lost honour is paid by sacrificing/ killing the ‘dishonourable’ woman. Honour is thus recovered and social balance restored.

This camp believes laws should not just punish but amputate the honour code shared by the state, police and communities that practise it. We must isolate the murderer and his act by taking away any moral, religious, customary or legal impunity.

Both camps agree that compoundability under the Qisas and Diyat laws has allowed murderers to be forgiven by their legal heirs for killing their sisters/ wives/ female family members.

This unresolved debate of whether or not to recognise honour-motivated acts as exceptional crimes against women has affected the law and the debate that follows. The recent amendments are commended by the second camp but criticised by the first. By asking for a stronger law, however, the critical camp is actually making a case for no anti-honour laws altogether.

First, defining 'honour' is problematic precisely because it's a vague and abstract false notion. This may make legal defence of victims challenging. Regardless, the amended law shifts the burden of this undefined honour on the killers.

Now if a man claims he has murdered for honour he is unambiguously a criminal liable to at least minimum punishment. If he denies the claim of honour to escape the penalty and qualify for forgiveness then automatically, inadvertently and ironically, he will lose the 'honour' badge. He's just an ordinary murderer by his own confession. The notion of honour may unpack itself and dissipate in this process.

Secondly, critics worry that denying honour as motive will allow the murderer to apply for pardon. But in any crime, motive has to be either confessed or established, so this is no different.

Third, critics advocate maximum punishment whether or not the murderer claims honour. This amounts to asking for a separate, gender-based punishment for murders of women only, and contradicts the existing Qisas and Diyat laws.

Such objections amount to arguing that there should be no anti-honour law. They suggest that because the motive is too slippery to establish, all murderers of women should be tried according to normative murder laws but be awarded the kind of punishment requiring amendment of a different law.

The value of the 2016 amendment is that it potentially breaks the unspoken bond between state and community-level honour codes. The state has retracted the easy pass which allowed men to kill for honour with impunity. It sends a message to women about their right to choice and justice.

Some argue this is simply looking for silver linings and symbolism in a flawed law. We should be clear that these amendments offer a redefinition of male honour and penalise its illegal status to the extent they can.

The real challenge lies (as it always did) in amending the Qisas and Diyat provision which is not women-specific. But this does not mean that we undervalue this amended law. If we do, then we have wasted a lot of energy over the last 20 years due to lack of conceptual clarity.

The writer is a sociologist based in Karachi.

afiyazia@yahoo.com

Published in Dawn October 17th, 2016