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# **Tradition and Violence Against Women**

**Legal notice**

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**Dear reader,**



Violence against women is a pivotal issue that must not be glossed over. In large parts of the world, women's rights are violated by genital mutilation, forced marriages or honour killings. These forms of violence occur in various groups of society and cannot be ascribed to just one specific culture or religion. Often based on certain values and notions, perpetrated by people invoking tradition, they constitute serious violations of human rights.

Austria, too, is being increasingly affected by this highly charged topic. However, lack of knowledge about the character and background of such violence can lead to generalisation and prejudice.

There can be no justification for any form of violence. Sensitising people to the topic and supporting affected and endangered women are among my key concerns. This brochure has the goal of raising awareness of the problem. We want to contribute toward lifting the veil that shrouds the issue of "tradition and violence against women" and to inform about advice centres.

This brochure was compiled to complement the study "So far and yet so near?" that deals with tradition-based violence. Information is provided on the website [www.frauen.bka.gv.at](http://www.frauen.bka.gv.at).

My primary goal is to further enhance the protection of victims. Our relevant measures include the 2009 extension of the Act on the Protection against Violence. This will improve the protection of women and children against violence, ensuring more comprehensive support for victims of criminal acts.

Yours sincerely,

**Gabriele Heinisch-Hosek**

Federal Minister for Women and Civil Service

## Preliminary note

*"Honour-related violence", "crimes of honour", "harmful traditions against women"* – like so often, there is a variety of terms – denote forms of gender-specific violence victimising women through certain notions of morals and values.

Adhering to traditions, people reproduce and hand down various forms of *"gendered violence"*, which means that rather than originating from religion, such violence is based on tradition.

"Tradition-based violence against women" comprises manifold forms of violence, which frequently stand for specific types of domestic violence against women, such as **Female Genital Mutilation/Cutting (FGM/C)** as well as **crimes "in the name of honour"** such as **forced marriage, honour killing and stoning**.

All of these types of gender-specific violence have something in common: they are practised in the family or community; to a large extent, they are socially accepted; and they build on patriarchal norms and values.

## Female Genital Mutilation/Cutting (FGM/C)

"Female Genital Mutilation/Cutting" (FGM/C) refers to all procedures that involve the removal or modification of the female genitals.

Such procedures subject girls and women to serious hazards, with dire consequences for their physical and mental health.

FGM/C has no medical justification, nor is it expressly endorsed or promoted by any religion. Based on cultural identity, it has been deeply rooted – sometimes for centuries – in the respective national societies and traditions. FGM/C is frequently practised as an initiation rite that ensures marriageability.

Under Austrian law, FGM/C constitutes bodily injury, normally punishable as maliciously inflicted injury with serious permanent consequences.

According to the 2001 Act Amending Criminal Law (*Strafrechtsänderungsgesetz*) (in force as of 1 January 2002), it is not possible to consent to this procedure. Not only are physicians who carry out the procedure liable to prosecution (serious malpractice in contravention of the Medical Practice Act), but also parents who have FGM practised on their daughters.

Hence parents cannot with impunity consent to genital mutilation on their children's behalf, nor can a woman of full age consent to genital mutilation on her own behalf.

Offenders are liable to prosecution in any case, even given the victim's consent, and certainly in the event of lack of consent.

Even when committed abroad (such as during home leave), the act is punishable if parents make arrangements from Austria for the actual perpetrator to carry out FGM, or if they contribute to the procedure in any other way.

As grounds for granting asylum, FGM/C is not expressly mentioned in the relevant statutory provisions but was brought to bear on a few cases.

The World Health Organisation estimates that between 100 and 140 million girls and women have been "circumcised" worldwide. Every year, some three million girls are threatened by FGM/C<sup>1</sup>.

The practice of FGM/C is widespread in Africa (to a lesser extent in southern and northern parts of Africa) as well as in several countries in the Middle East and Asia. Apart from East and West Africa, FGM/C is practised in Brazil, India, Indonesia, Iraq, Israel, Columbia, Malaysia, Mexico, Oman, Peru, Sri Lanka and the United Arab Emirates<sup>2</sup>.

With the exception of Africa, most affected countries do not keep any reliable comprehensive records.

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1 WHO 2008: 22 (see below).

2 Cf. Wakolbinger, Doris 2005. Weibliche Genitalverstümmelung. Linzer Schriften zur Frauenforschung 32. Linz: Trauner Verlag Universität: 57ff; cf. WHO 2008 (see below).

Notwithstanding numerous international human rights campaigns, FGM/C has not been eliminated so far. If anything, international migration flows have caused a shift that has carried these phenomena to Europe and North America.

## "In the name of honour"

"In the name of honour", women suffer violence in large parts of the world. This is due to a system of norms and values based on honour that is designed to build or maintain collective identity and public standing in a community.

"Violence in the name of honour" has many facets: mere threats of violence, exclusion from family inheritance, or more brutal forms – with the goal of influencing women's behaviour.

Tradition-based forms of violence that predominantly victimise women are a world-wide and frequently widespread phenomenon. We can only make rough estimates of the number and incidence of "crimes in the name of honour".

### Forced marriage

We speak of forced marriage when a marriage is not based on the "free will" of both partners. Specifically, this implies that a person feels compelled to marry, her/his refusal is disregarded, or s/he does not dare resist because of mental or social pressure or emotional blackmail.

While forced marriage is related to cultural traditions, it does occur in various religious and ethnic groups, transcending the boundaries of classes and castes and affecting rich and poor families alike. Cultural ideals, patriarchal power structures as well as economic and ethnic motives play a key role. Rather than being a result of religious injunctions, forced and arranged marriages are used by tradition as instruments to reinforce its power.

Honour and forced marriage have complex interrelations, because, on the one hand, forced marriage is practised as a castigating response to the "immoral" behaviour of girls and women. On the other, forced marriages are frequently due to the fact that girls and women are unable to escape a marriage arranged by their parents – without compromising family honour<sup>3</sup>.

While men can be victims of forced marriage, it is women and girls who bear the brunt of domestic or sexual violence as a consequence of forced marriage.

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3 Cf. Coomaraswamy, Radhika 2005. Preface: Violence against women and 'crimes of honour'. In: Welchman, Lynn/Hossain, Sara (ed.): "Honour" – Crimes, paradigms and violence against women. London: Zed Books: xi.



The following reasons are usually given as motivation for forced marriages<sup>4</sup>:

- Maintaining ties with the country of origin;
- Ensuring a "better" life in Austria for relatives or friends from the country of origin;
- Marriage within a community/family serves to strengthen it;
- Control of the sexuality and/or autonomy of young women;
- Intra-familial pressure on the parents;
- Economic motivations, such as obtaining a high bride price or the parents' intent to secure their daughters' financial future.

Forced marriage has severe implications for girls and young women. Sexual intercourse in a forced marriage is perceived as a series of acts of rape. Having to abandon their schooling also comes with serious consequences, since it reinforces dependence on their husbands.

Marriage with one or both partners induced to consent by means of massive pressure, threat or use of violence clearly constitutes a violation of human rights and a blatant breach of Article 16 of the Universal Declaration of Human Rights, which specifies that marriage shall be entered only with the free and full consent of the intending spouses.

Under Austrian law (until 2006), a man who coerced his female partner to marry him by means of violence or assault was liable to prosecution for marriage coercion; however, the marriage had first to be annulled under civil law by reason of violence or threat; moreover, the offence called for the victim to bring private criminal action within six weeks of the decree of nullity having become absolute.

The 2004 Act Amending Criminal Law abolished all differences between rape and sexual coercion inside or outside of marriage or domestic partnership. Rape or sexual coercion is not only committed by a husband forcing his wife to have sex with him by means of violence or assault but also by an individual who coerces the victim to have or endure sex with a third person. So the father who forces his daughter by means of violence or assault to endure sex with her husband is a direct perpetrator of the rape or sexual coercion.

The 2006 Act Amending Criminal Law brought a further improvement of the protection of victims: the previous regulation – forced marriage as an offence that required private criminal action to be brought by affected women themselves – subjected them to great emotional pressure.

To facilitate the fight against forced marriage, the 2006 Act Amending Criminal Law made marriage coercion a criminal offence rendering the accused liable to public prosecution. This also enables third persons to take legal action against forced marriage, even without the consent of the affected women and girls, thus helping relieve the pressure on them.

This tradition-based form of violence against women is rampant in Africa, South-East Asia, the Middle East and Turkey as well as Kurdistan.

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4 Cf. Samad, Yunas/ Eade, John 2003. Community Perceptions of Forced Marriage. London: Foreign and Commonwealth Office (Community Liaison Unit): 56ff; cf. Latcheva et al. 2007: 59ff (see below).

## Honour killing

Honour killings, the most notorious form of "crimes in the name of honour", are designed to wipe out an allegedly suffered disgrace.

If the daughter, wife or sister does not conform to the societal code of honour, it is the duty of the father, husband or brother to restore the honour and preserve the reputation of the family vis-à-vis the community.

This implies that the preservation of honour is closely linked to the ideal of manliness; the honour of the family is frequently associated with female behaviour and sexuality. Any deviation from the morally accepted behaviour can constitute a violation of honour, such as:

- A woman flirts with or talks to a person who is not a member of the family;
- A pre-marital or extra-marital relationship or the wish to choose her partner herself;
- Women can even be blamed for having been raped;
- A girl strives for independence (vocational training);
- Filing for divorce or fleeing domestic violence.

In this context, we must not disregard the societal pressure on the family to restore the (ostensibly) lost honour. This pressure works across borders and continents, influencing the lives of other family members. Brothers or sisters can only expect to get married if this honour is restored.

Many cases are being treated as accidents or suicides, and in many rural regions the disappearance of a girl or woman may even go unnoticed – registration of their births being sketchy –, which means that the number of unreported cases of honour killings is probably very high.

We may assume that the United Nations' estimate made in 2000 – about five thousand girls and women falling victim to honour killings every year – is way too low<sup>5</sup>.

"Crimes in the name of honour" occur in the following countries: Afghanistan, Iraq, Israel/Palestine, Jordan, Lebanon, Pakistan and Turkey. However, the situation in several non-Islamic countries, such as Brazil, Ecuador, India and Italy, is also considered critical.

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5 Cf. E/CN.4/2000/3

## Stoning

Stoning is a collective punishment that is frequently presented as a consequence of a family's violated honour. At first glance, stoning does not appear to be a form of gender-specific violence.

Looking at the cases more closely, it becomes obvious that in many cultures, it is primarily women who are sentenced to stoning for having disgraced the family through adultery or pre-marital sex. Men (for instance in the role of the denying lover) usually escape with their lives, whereas women suffer a painful death.

Gender injustice starts with discrimination against women in legislation. If a country's civil code denies women the right to divorce, they are more likely to commit adultery. On the other hand, men may be permitted to marry up to four times. In the event of forced marriage, women's defiance can even cost them their lives.

According to information provided by Stop-Stoning, injustice is perpetuated by the courts, with judges acting more by intuition than in consideration of witnesses' testimonies or conclusive evidence<sup>6</sup>.

Women are also at a disadvantage as regards the stoning itself: while men are buried to their hips, women are buried to their shoulders. This can make all the difference, because if the convicted person can "get free", s/he may obtain pardon. Given the circumstances, this is much easier for men.

Stoning is practised in several countries, such as Afghanistan, Iran, Yemen, Nigeria, Saudi Arabia and Sudan.

Registers and statistical material on this topic are hard to find, as are scientific discussions.

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6 <http://stop-stoning.org/node/9>

## Tradition-based violence and migration

Over the last years, the role of migrant women and their specific integration needs and problems have moved into the centre of attention. It is evident that forced marriage, other "crimes in the name of honour" and FGM/C pose a challenge for the integration of migrant women and their families. Even without these forms of violence against migrant women, they are in a disadvantaged position due to the following factors:

- Lack of social networks because of language barriers and (cultural) isolation;
- High dependence on employers (low qualifications) and husbands (low income, residence permit);
- No direct access to health care because physicians are frequently unaware of their problems;
- Limited access to educational facilities and language courses;
- Migrant men appear to respond to racism, poor working conditions and the resulting frustration with psychological or physical violence – at the expense of migrant women;
- Lack of "personal power and self-assurance" of migrant women often seems to be linked to gender-specific violence and (sexual and/or economic) exploitation<sup>7</sup>. In situations of domestic violence, migrant women are less likely to call the police because of the association with the Aliens' Police. Ndioro Ndiaye, Vice-Director of the International Organisation for Migration (IOM), thinks that discrimination by the police force seriously impedes the integration of migrant women<sup>8</sup>.

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7 Cf. *ibid.*

8 <http://www.iom.int/jahia/Jahia/cache/offonce/pid/1336?entryId=15588>

## Tradition-based violence in Austria

Concrete measures against tradition-based forms of violence are laid down in the law:

- Under the 2001 Punishment Modification Act (*Strafänderungsgesetz*), it is a punishable offence to "mutilate or otherwise injure the genitals in such a way as to cause permanent impairment of sexual sensation (Section 90 para 2 StGB / Criminal Code). The victim's consent to prosecution is no longer required;
- Immigration law prevents the so-called " 'import' of underage brides" by raising the age for family reunification to 18 years<sup>9</sup>;
- As of 1 January 2006, amendment to victims' rights for victims affected by genital mutilation;
- Since 1 July 2006, forced marriage has been a criminal offence rendering the accused liable to public prosecution under the charge of "serious coercion". The maximum sentence is ten years' imprisonment (Sections 105, 106 of the 2006 Punishment Modification Act).

Comprehensive measures are required to complement these provisions in the field of prevention and/or concrete help: information and awareness building, counselling and crisis intervention are offered in particular by non-governmental organisations, such as the African Women's Organisation, the Austrian Platform Against Female Genital Mutilation, the FEM-Süd Health Centre, the Austrian Platform against Forced Marriage, Orient Express and pro-FRAU.

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<sup>9</sup> Fassmann et al. 2007: 42 (see below).

## Advice centres in Austria

A comprehensive list for all federal states is provided on <http://www.frauen.bka.gv.at>.

**Frauenhelpline gegen Männergewalt**  
***Women's helpline against male violence***  
+43 (0)800 222 555 (free of charge 24/7)  
[frauenhelpline@aoef.at](mailto:frauenhelpline@aoef.at)  
<http://www.frauenhelpline.at/>

**Bright Future – Afrikanische Frauenorganisation**  
***African Women's Organisation***  
Schwarzspanierstraße 15/1 Tür 2, 1090 Vienna  
+43 (0)1 319 26 93  
[afrikanisc.frauenorganisation@chello.at](mailto:afrikanisc.frauenorganisation@chello.at)  
<http://www.african-women.org> (in progress)

**FEM Süd Gesundheitszentrum für Frauen, Eltern, Mädchen**  
***Health centre for women, parents, girls***  
Kaiser Franz Josef Hospital  
Kundratstraße 3, 1100 Vienna  
+43 (0)1 601 91-5201  
[femsued.post@wienkav.at](mailto:femsued.post@wienkav.at)  
<http://www.fem.at>

**Orient Express – Beratungs-, Bildungs- und Kulturinitiative für Frauen**  
***Counselling, educational and cultural initiative for women***  
Frauenservicestelle / *Women's Service Office*  
Hillerstraße 6/3-5, 1020 Vienna  
+43 (0)1 728 97 25  
[office@orientexpress-wien.com](mailto:office@orientexpress-wien.com)  
<http://www.orientexpress-wien.com/>

## Further reading

For a comprehensive bibliography and further links, please visit [http://www.frauen.bka.gv.at!](http://www.frauen.bka.gv.at)

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