Max Planck Institute
for Social Anthropology
Department 'Law & Anthropology'

German Verdict on a Failed Attempt to Incite to Honour Killing: Balancing Cultural Traditions and Legal Accountability

Question(s) at stake:

Whether a father who demands that his son kill his daughter (i.e., the son's sister) for reasons of honour is punishable under Section 30 of the German Criminal Code for attempted incitement to a crime.

Outcome of the ruling:

A father who demands that his son kill his daughter (i.e., the son's sister) for reasons of honour is punishable for attempted incitement to a crime (Section 30 of the German Criminal Code).

Topic(s):

- Crime and Punishment under State Law

Keywords:

- Honour crimes

Tag(s):

- Attempt to conduce another to commit a murder under aggravating circumstances

Author(s):

- Tellenbach, Silvia (Max Planck Institute for the Study of Crime, Security and Law, Freiburg, Germany)

Country:

Germany

Official citation:

Regional Court Limburg, Judgment of 23 April 2007, 3 Js 14048/06 – 2 Ks (LG Limburg, Urteil vom 23.April 2007, 3 Js 14048/06 – 2 Ks)

Link to the decision:

https://www.rv.hessenrecht.hessen.de/bshe/document/LARE240001211

ECLI:

ECLI:DE:LGLIMBU:2007:0423.3JS14048.06.2KS.0A

Date:

03 April 2007

Jurisdiction / Court / Chamber:

Regional Court Limburg

Remedy / Procedural stage:

First stage

Previous stages:

None

Subsequent stages:

- Federal Court of Justice, Order of 24 October 2007, 2 StR 421/07 (BGH, Beschluss vom 24.10.2007 - 2 StR 421/07)

Branches / Areas of law:

Criminal law

Facts:

The accused, who had lived in Germany for 16 years and worked as an imam in his community, sent four of his children to Turkey during the 2006 summer

holidays. The purpose of the trip was for his daughter G to marry her paternal cousin, O1.

However, during the engagement celebration and officiation of the imam marriage (*İmam nikahı*), T fell in love with her maternal cousin, H. Shortly afterwards, G and her brother R, who was to supervise her, moved into the house of H's mother, their maternal aunt. On the day of the flight back to Germany at the end of August, G returned the engagement ring to O1 and told him that she did not want to marry him.

On their return to Germany, the accused rebuked his son, R, so sharply for not having looked after his sister that R feared for his life. Furthermore, the accused threatened his daughter G that she would be killed if she refused to marry O1, including in a civil ceremony. G pretended to give in out of fear and flew back to Turkey at the end of September. There, however, she did not enter into a civil marriage with O1, but dissolved the marriage performed by the imam, believing that this would put an end to her father's accusation that she had violated the family honour.

A few days later she returned to Germany. Again, the accused threatened her to such an extent that she fled back to Turkey to her aunt and cousin H a few days later. The accused then pressured his son R to travel to Turkey and kill his sister G. However, R refused. Therefore, the accused insisted that R should confess to being the perpetrator of the crime, which another relative would actually commit.

The brother then confided in his class teacher, who called the police. The police subsequently arrested the accused.

Ruling:

The Regional Court of Limburg convicted the accused of attempted incitement to murder under aggravating circumstances, attempted aggravated coercion, and unlawful possession of weapons. Of particular interest in this case is the conviction for attempted incitement to murder under aggravating circumstances.

The Regional Court is the trial court in homicide cases. Therefore, the focus of the judgment is on establishing the facts.

The statements of the accused himself and the testimonies of the victims played the most significant role, supplemented by expert opinions. Already when assessing the evidence, the Court could establish that the father had decided that his daughter had to marry her paternal cousin, that it violated the family's honour if the daughter showed interest in another man after engagement and a marriage performed by an imam, that the father then decided to kill his daughter and obliged his son to do so because, in his opinion, the son had not supervised the sister sufficiently during her visit to Turkey and, as a minor, could expect a lighter sentence in Germany.

An anthropological expert confirmed that all this was in keeping with the traditions of the population in the region from which the accused came. Also, the Court, when assessing the evidence, found that the accused knew very well that an honour killing was contrary to the principles of the German legal community (*Rechtsgemeinschaft*), emphasizing that he could have acted differently in light of this knowledge.

The verdict and the subsequent reasoning were relatively short given the comprehensive details already present in the statement of facts. The Court found that the planned crime amounted to murder under aggravating circumstances due to base motives.

On the objective side of the crime, the Court only noted that the planned killing of the daughter to restore the family honour was particularly reprehensible and reckless. Within the context of examining the accused's "criminal capacity" (*Schuldfähigkeit*), the Court found that the accused had criminal capacity, i.e., that he was capable of recognizing the wrongfulness of his intended action and of acting accordingly. In this context, it is explained once again that the accused was well aware that German legal concepts as well as Turkish state law strongly disapproved of such a crime and that he was in no way bound by native archaic values that prevented him from comprehending the values of the German legal community.

Main quotations on cultural or religious diversity:

- “In line with the information provided by R., the ethnologist Dr F. confirmed that according to the archaic social structures prevailing in the south-eastern Anatolian province of Batman, according to which the ‘cross-cousin marriage’ as well as the husband’s second marriage are the rule, a wife’s immoral behaviour is punished by death. The daughter’s marriage is decided by the father, the head of the family, who also decides her death, in the sense that the killing itself is entrusted to a son who, due to his age, is not subject to any serious punishment. Should the son refuse to carry out the killing, he would also be punished by death since this would entail the violation of family honour. A wife’s behaviour is already immoral and punishable by death if, after entering into the imam marriage, she has apparently met with another man or even ‘made eyes’ at him. He pointed out that, according to statistics from the Turkish Minister of State for Family Policy, over 1,800 honour killings had been committed in Turkey over the last six years. He said that Batman province was both famous and infamous for the high number of honour killings and suicides of wives. The behaviour of his sister, described by R., was a massive violation of the family honour, punishable by death, because after her imam marriage to her cousin O1. she had acted immorally by turning to her other cousin H. She had, recognizable to both the family of O1. B. as well as the accused’s sisters-in-law, sought contact with H. and even stayed with him for the last few weeks of the holiday. In doing so, she had understandably undermined the prominent position of the accused as an imam. The accused’s clear awareness of this conduct condemned the daughter to a fate akin to a death sentence. The later dissolution of the imam marriage could not change this, as the immoral conduct had already been committed during the existing marriage. The Imam marriage was, on the one hand, a protection for G. as she could now turn to her partner [i.e. of the imam marriage], O1. On the other hand, she was strictly forbidden to go out without her husband or to meet another man. According to R.’s descriptions, she had clearly violated this rule. The

statements of the ethnologist Dr F. were confirmed by the former member of the Turkish parliament H.Y., who was a friend of the family of the accused and belonged to the Refah Party. According to him, the province of Batman is the leader in the number of honour killings and suicides of wives. Honour killings often occur when the wives start a relationship with another man after the imam marriage. If the parties are reasonable, nothing happens. It is true that imams in the province of Batman are role models. Therefore, in the case of immoral behaviour on the part of the daughter, they feel particularly obliged to deal with it by punishing the daughter severely."

- "Since the accused had already been living in the Federal Republic of Germany for 16 years and had had frequent contact with the authorities and the judiciary, there is no doubt in the Court's mind that he was familiar with the local legal and moral standards, and that he therefore also knew that the killing of his daughter because of the violation of his family's honour could in no way correspond to these standards. The accused also articulated this understanding."
- "The killing of his daughter, which was seriously intended by the accused and already sufficiently concretized, as well as to be carried out by his son R. to restore the family's honour, is to be regarded as particularly reprehensible and socially reckless".
- "The accused knew that both he and R. were putting themselves above the relevant ideas of the legal community of the Federal Republic of Germany and his daughter's right to life because of the family honour that had been violated, and that also R. was aware of that."
- "It can be ruled out that the accused was so firmly attached to his Anatolian convictions that he was unable to comprehend the German assessment of this motivation to act as base."

Main legal texts quoted in the decision:

- Section 211, para. 2, 22, 30 GPC

Cases cited in the decision:

- Federal Court of Justice, Judgment of 28 January 2004, 2 StR 452/03 (BGH, Urteil vom 28.01.2004, 2 StR 452/03)
- Federal Court of Justice, Decision of 10 January 2006, 5 StR 341/05 (BGH, Beschluss vom 10.01.2006, 5 StR 341/05)

Commentary

German Verdict on a Failed Attempt to Incite to Honour Killing: Balancing Cultural Traditions and Legal Accountability

In the case of honour killings involving women from families of Middle Eastern origin, it is traditionally the decision of a family council that selects and appoints the perpetrator, in this case, the head of the family, who felt that the honour of the family had been tarnished by the disobedience of his daughter. From a legal point of view, this is incitement and, as is the case with all incitements, there is a problem of provability. Very often, incitement is oral, leaving no material evidence behind. This explains why inciters can often *not* be brought to justice. In most honour killing cases that have thus far come before German courts, instigators were not prosecuted, despite evidence of their involvement.

The peculiarity of this case is that the son, incited by his father to commit the crime, refused to carry it out and, what is more, did not remain silent in front of all outsiders, but confided in his teacher, who then called the police. He also testified later in the trial, as did his sister, whose life he had saved through his behaviour. These were unusual circumstances that made it possible, exceptionally, to punish attempted incitement to a crime.

In most cases of honour killings, the victim is dead and can therefore no longer testify, while the family tends to remain strictly silent.

Literature related to the main issue(s) at stake:

General legal literature on the topic that may not be directly connected to the case

- Burmeister, Jonathan. 2011. *Die schuldangemessene Bewertung von Ehrenmorden im deutschen Strafrecht –Differenzierte Schuldmerkmale auf Tatbestandsebene bei sonstigen niedrigen Beweggründen*. Frankfurt u.a.: Lang.
- Çakır-Ceylan, Esma. 2011. *Gewalt im Namen der Ehre – Eine Untersuchung über Gewalttaten in Deutschland und der Türkei unter besonderer Betrachtung der Rechtsentwicklung in der Türkei.* Frankfurt u.a.: Lang.
- Elyafi-Schulz, Senan. 2012. *Das Phänomen des „Ehrenmordes" – Eine rechtliche Untersuchung unter Berücksichtigung der Täter- und Opferperspektive.* Marburg: Tectum.
- Erbil, Bahar. 2008. *Toleranz für Ehrenmörder?* Berlin: Logos.
- Grünewald, Anette. 2010. "Tötungen aus Gründen der Ehre". *Neue Zeitschrift für Strafrecht* 30 (1): 1–9.
- Kasselt, Julia. 2016. *Ehre im Spiegel der Justiz: Eine Untersuchung zur Praxis deutscher Schwurgerichte im Umgang mit dem Phänomen der Ehrenmorde*. Berlin/Freiburg: Duncker & Humblot/Max-Planck-Institut für ausländisches und internationales Strafrecht.
- Kasselt, Julia and Dietrich Oberwittler. 2014. "Die richterliche Bewertung von Ehrenmorden in Deutschland: Eine empirische Analyse der Sanktionspraxis im Zeitraum 1996 bis 2005". *Monatsschrift für Kriminologie und Strafrechtsreform* 97 (3): 203–223.
- Oberwittler, Dietrich and Julia Kasselt. 2011. *Ehrenmorde in Deutschland 1996-2005: eine Untersuchung auf der Basis von Prozessakten.* Köln: Luchterhand.
- Schorn, Martin. 2014. *Mord aus niedrigen Beweggründen bei fremden soziokulturellen Wertvorstellungen*. Baden-Baden: Nomos.

General legal literature on the topic from other disciplines

- Bodendieck-Engels, Hildegard. 2013. *“Ehrenmord” vor deutschen Gerichten – eine anthropologische Untersuchung von Strafprozessen*. Hamburg: Dr. Kovač.
- Kızılhan, Jan İlhan. 2006. *“Ehrenmorde”: der unmögliche Versuch einer Erklärung; Hintergründe - Analysen - Fallbeispiele*. Berlin: Regener.

CC BY ND

This case-law comment is licensed under a Creative Commons Attribution-NoDerivatives 4.0 International License (CC BY-ND 4.0) .

You may share this material, provided that appropriate credit is given. No derivatives or adaptations of this material are permitted.

Suggested citation of this case-law comment:

Tellenbach, Silvia (2026): German Verdict on a Failed Attempt to Incite to Honour Killing: Balancing Cultural Traditions and Legal Accountability, Department of Law and Anthropology, Max Planck Institute for Social Anthropology, Halle (Saale), Germany, CUREDI033DE029, https://www.doi.org/10.48509/CUREDI033DE029.