

CRIME OF HONOR KILLINGS IN INDIA: ANALYZING SOCIO-CULTURAL CHALLENGES WITHIN LEGAL FRAMEWORK

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Abstract

In the context of cultural and societal background, honor is the most valuable quality in every person. It can mean prestige, special respect when used as an adjective, righteousness when used as a noun, and so on. However, honor seems to turn into a stigma when it comes to honor killing. It also seems to turn into an excuse for ruthlessly taking the lives of one's own family members without even looking back, or in some cases, without feeling regret.

Violence against those who violate the "honor" of the family can take many different forms, such as rape, public lynchings, killings, nude parading, head shaving, face blackening, and so forth. For the sake of maintaining family honor, hundreds of women are murdered by their families. Every citizen's right to life and dignity is protected by the Constitution. Honor remains untarnished through life. This is a fundamental right guaranteed by the Indian Constitution. Every individual has the right to be shielded from threats to their life. Every person is entitled to freedom of choice. Another essential component of its guarantee is the freedom of opinion. Therefore, the freedom to choose a spouse and get married are both protected under the right to life. The right to live in society with dignity cannot be violated by social or cultural pressures.

The goal of the current paper is to examine the idea of honor and honor killing in India within the context of the fundamental legal framework. To gain insight into the judicial interpretation of law, some significant rulings from the apex court are also examined.

Keywords: killing and honor, life and liberty, illegal and unconstitutional, and legal and human rights.

History of Honor Killing in India

The underlying idea behind this issue is that women are men's property. In this regard, the Mahabharata provides insight. Queen Draupadi was put in jeopardy by Yudhishthira after he lost everything to Shakuni in a dice game. Dushasana embarrassed her by dragging her into the assembly of nobles. At that point, Bhishma had declared, "A woman is someone else's property, as is a slave." India is not far behind. In recent times, there has been an increase in honor killings in both the capital of India and its neighboring states. Monika Dagar, a girl from Sahibabad, recently wed her friend Gaurav Saini of Delhi against the wishes of her parents. Her parents brought them back forcibly.¹ A few days later, Monika was discovered dead under suspicious circumstances, and Gaurav Saini was accused of kidnapping by the police, who had allegedly accepted bribes from Monika's family. Monika's parents allegedly told the police that she had a lung infection the day she passed away. A post mortem was not performed. Following the case's widespread media coverage, the investigating officer was placed on leave and the SHO in question was moved. A formal complaint was filed against Monika's mother, father, brother, and uncles for kidnapping the couple and transporting them to Sahibabad from their residence in Delhi's Defence Colony.



A Muslim girl from Kashmir named Anchal @ Amina had a similar story, marrying a Hindu boy from Jammu named Rajneesh Sharma after seven years of friendship.² The boy was reportedly discovered hanging in a cell at the Ram Munshi Bagh Police Station in Srinagar. Amina@Anchal claimed her husband's death was the result of foul play and that her father and brothers were responsible.

A young couple from Sapa Kheri village, about 30 km from Jind, was discovered hanging from a tree, bringing attention to yet another heartbreaking Haryana incident.³ Because their parents disapproved of their relationship, they were also thought to be victims of honor killing. Before police could arrive in the village, their bodies were also cremated. On the contrary, the villagers barred the police and other outsiders from entering the village.

Two years after she had eloped with her lover, in January 2010, her father to have killed his daughter in front of the entire neighborhood when she went to her husband's aunt's house in Ghaziabad, where her parents stayed.⁴

Similar incidents have recently occurred in Tamil Nadu in the south.⁵ However, in this case, caste prejudice was the basis for the opposition to marriage. Because the former was a Dalit and the latter a Vanniyar, a young couple named S. Murugesan and D. Kannagi was killed in 2003 after being killed by the relatives of the young woman. This incident took place in the Cuddalore District's Puthukkooraipettai village. Both married secretly, with their parents not knowing about it. Both "family honor" and "caste honor" were insulted, according to Kannagi's father, the president of the local panchayat. The couple escaped for their lives, but they were apprehended and are said to have been poisoned. The fact that the Puthukkooraipettai atrocity appears not to have involved the informal panchayat, which is present in nearly every Tamil Nadu village, is a significant distinction between the incidents that occurred in North India and the tragedy that occurred in Cuddalore village. It is regrettable that even in a progressive state like Tamil Nadu, these kinds of things happen.

Five years prior, in November 1998, the majority caste Hindus in Thirunallur village, Pudukottai District, in the State, tonsured, stripped, and physically assaulted three young Dalit men for getting married to non-Dalit girls. The village's 12-member Oor panchayat issued the punishment of humiliation to the Dalits. The Oor panchayat found all three guilty because their marriages would serve as an example for other Dalit boys. In front of many people, including their

¹ Gaurav Saini – Monika Dagar Case' available at- [http:// www.stophonorkillings-com?=taxonomyterm/311](http://www.stophonorkillings-com?=taxonomyterm/311), <http://news.in.msn.com/crimefile/article.aspx?cp-documentid=3259338>.

² Anchal@Ameena- Rajneesh Sharma", available at- <http://www.openthemagazine.com/article/living/the-girl-who-dared>.

³ Sapa Kheri, Jind" October 29th. 2009 available at <http://timesofindia.indiatimes.com/city/chandigarh/Young-couple-found-hanging-in-Jind-village/articleshow/5174644.cms>.

⁴ Kuldeep – Monika Case, The Times of India, Friday, June 25, 2010.

⁵The Hindu, April 26, 2010, "Honor Killings: What needs to be done" available at <http://www.thehindu.com/opinion/Readers-Editor/article409862.ece>.



relatives, the Dalit youth were forced to roll around the village all night long. They got the order to leave the village early the following morning.

A month later, the police did arrest some people in accordance with the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act⁶ and started legal action after some political parties organized a protest against the atrocities and demanded action against those responsible for dehumanizing Dalits.

The Indian Penal Code, 1860 (IPC)⁷ and now the Bharatiya Nyaya Sanhita (BNS)⁸ specify the general legal penalties for crimes involving honor, as there are no national laws in India that address honour killings. So different clauses and sections are mentioned of both the IPC and BNS for reference, such as Sections 107/45 (abetment of murder), 120A and 120B/61 (criminal conspiracy), 299-304/100-105 (murder and culpable homicide), and 307-308/109-110 (attempt to kill and culpable homicide). In addition to the IPC, incidents of honor murders may be prosecuted under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, which addresses atrocities perpetrated against individuals from Dalit and tribal communities.

Given that the woman is viewed as an object of family honor, there is no better way to exact revenge than to mistreat her in order to damage the honor of the family. The woman is abused in order to inflict the greatest pain on her family. One glaring example is the case of Mukhtar Mai (in Pakistan).⁹ Although coming from a Gujar family of peasants, Mukhtar's 12-year-old brother was accused of speaking to a 20-year-old girl of the Mastoi Clan. The tribal council decided to order Mukhtar, the boy's sister, to be gang raped as retaliation for the boy's transgression. Mukhtar was made to walk home almost completely nude in front of a mocking mob after the sentence was carried out in broad daylight. It is another matter that Mukhtar managed to overcome her strong desire to commit suicide and has become an agent for change is a beacon of hope for oppressed women around the world. She is currently spearheading a revolution against women's oppression, rape, and illiteracy.

At the behest of Caste Panchyats, another type of "honor killing" takes place. The boy and girl who dare to wed in defiance of the so-called "societal norms" are disqualified for dishonoring their families and society. In Panipat, a Kadyan girl from Siwian married a "Gehlot" boy from Dharana. The Kadyan Khap (caste) Panchayat prohibited the two from getting married.¹⁰ They reasoned that since the two gotras were related by virtue of sharing a village, a marriage between them could not exist. They suffered somewhat from the same fate. The boy was expelled from the village along with his entire family. A Khap Panchayat forced another couple who had married within the same gotra to drink pesticide for harming their family and society's

⁶ Act No. 33 of 1989

⁷ Act No. 45 of 1860

⁸ Act No. 45 of 2023

⁹ "In the name of Family Honor- Mukhtar Mai" available at- <http://news.bbc.co.uk/2/hi/4620065.stm>.

¹⁰ "Gehlot – Kadyan Case", available at -<http://timesofindiatime.com/india/medieval-justice-just-50km-fromdelhi-articleshow4984351.cms>.



reputation.¹¹ Another couple of that kind had their marriage annulled by Beniwal Khap Panchayat.¹² The Haryana Khaps are not the only ones who have a reputation for outlawing same-gotra unions and punishing those who break the law. Even Rajasthan has persisted with the *gotra* rule. The same *gotra* marriage of Princess Diya Kumari daughter of Bhawani Singh with Narender Singh continues to haunt Jaipur's ex-royals. Narender Singh and his father were reportedly ex-communicated from the community of Rajputs in the year 1997 in view of "same *gotra*" marriage between them.¹³ Some are killed and some commit suicide, fearing the worst. A widespread societal acceptance of the Khaps' policies is what poses a threat. The writ of the *Khaps*, the "self-styled law enforcing agencies", runs high in these states, where honor takes precedence over feelings of the boys and girls. The Government is able to exercise little control, which worries the civilized society.

It is intriguing that although the honor killings attract considerable attention and outrage, but they continue to take place. What is painful is that the officials often claim that not much can be done to stop this practice. Such reaction actually emanates from the deep-rooted mind-set of patriarchal societies, where men only decide as to how the women should behave and conduct themselves. Police officials and prosecutors dealing with such matters need to be sensitized and convinced to treat these occurrences as not only crimes but as serious crimes.

One encouraging development is that the courts have occasionally intervened to assist these couples. A disturbing rise in honor killing cases has led the Delhi High Court to harshly criticize the police for what it sees as their inability to adequately protect people.¹⁴ The court made the comment, "You can search the entire city if a dog of your boss is lost but you cannot provide protection to the people," in reference to the massive police search that was conducted in March 2010 to locate the dog of the Delhi Police Commissioner that went missing. The Court for their false reports and their manipulation and fabrication of honor killing cases censured the Police.

A writ petition filed by a person named Latta Singh from Lucknow described, "Honor killing" as an "act of barbarism" by a bench of the Hon'ble Supreme Court¹⁵ made up of Justices Ashok Bhan and Markandey Katju. The Honorable Supreme Court stated, "We sometimes hear of 'honor' killings of such persons who willingly marry into a different caste or religion. Such killings are not honorable at all; rather, they are nothing more than heinous murders carried out by vicious, feudalistic individuals who ought to be severely punished for their savagery. We can eradicate these kinds of barbaric acts only in this manner." The Court mandated that police nationwide take severe measures against individuals who use violence to coerce major boys and girls into marrying outside their caste or religion.

¹¹ "Manoj – Babli Case"- May 28, 2010, available at - <http://arabnews.com/world/article58712.ece>.

¹² http://hr.abclivein/haryana/reports/beniwal_khap_panchayat_rohtak.html.

¹³ September 24, 2009, times of india.indiatimes.com/city/jaipur/FIR-agains-Rajput-Sabha-on-controversy-over-same-gotra-marriage/articleshow/5048653.cmswww.outlookindia.co/article.aspx?204095

¹⁴ 'Legal Voice gainst Honor Killing', available at - <http://news.oneindia.in/2010/06/17/delhi-hc-slams-police-over-honor-killling-cases.html>, <http://news.outlookindia.com/item.aspx?397670>.

¹⁵ *Ibid*.



In a writ petition filed by Sabeena Langoo, Justices J N Patel and Amjad Sayed of the Bombay High Court ordered the Saki Naka police to provide protection to a young couple, pointing out that honor killings have become a sort of everyday occurrence in some states. Following her marriage to Bihari native Ravi Tiwari, Sabeena, who comes from a conservative Muslim family in Kashmir, petitioned for protection from what she perceived to be threats from her family.¹⁶

In a recent case, the Hon'ble Punjab and Haryana High Court harshly criticized the police and administration. The court issued a warning, stating that Khap Panchayats, or "self-styled law enforcing agency," do not have the power to annul marriages or become a law unto themselves.¹⁷ The court additionally issued a warning, stating that the inability of a Senior Superintendent of Police and Deputy Commissioner to maintain control over the situation would be documented in their Annual Confidential Reports.¹⁸

However, Haryana's deplorable history of honor killings persists. The Central Government is currently thinking of changing the Indian Penal Code to include a deterrent punishment against khap panchayats that order the death penalty to young couples who violate caste barriers, after becoming alarmed by the recent wave of honor killings. It is also being considered to make honor killings a distinct and separate crime. The Bill, 2010¹⁹, which would prevent crimes committed in the name of "honor" and tradition, is currently being considered by the Parliament. It upholds children's autonomy to select their own spouses for marriage. It is illegal to take any action that impedes the exercise of this right. According to this, everyone who is a part of the caste, clan, community, or caste panchayat and who witnesses, takes part in, or encourages the commission of an act that results in death will be assumed to have committed the act in question. Acts that are punishable include extraditing couples or their families, harassing them mentally or physically, etc. The bill suggests shifting the burden of proof to the accused because it can be challenging for the police to locate witnesses in honor killings because they are frequently tightly held family secrets. The fact that the preventive measures entail a duty placed on the police to refrain from taking any action against the couple upon learning of their age and their willingness to get married and start a family from a government official is noteworthy.

Would the legal change alone be enough to achieve the desired outcomes? The Child Marriages Restriction Act was passed in 1929,²⁰ but it has been nearly 80 years since then, and child

¹⁶<https://indianexpress.com/article/india/crime/under-pressure-to-convert-husband-files-petition-seeking-wifes-return/>

¹⁷Available at <http://timesofindia.indiatimes.com/city/mumbai/High-court-orders-protection-to-runway-Hindu-Muslim-couple/articleshow/5204888.cms#xzz14mT7ty5P> "Punjab to Protect Runaway Couples.", *The Tribune*, November 3, 2010.<http://www.tribuneindia.com/2010/20101104/nation.htm#5> "Amritsar Administration Earmarks Protection Centres for Newly Wed couples, August 26th, 2010.

¹⁸ "Khaps Firm on Demand", *The Tribune*, June 23, 2010; "Law and Honor", *Indian Express*, June 24, 2010 "Delhi Killings prompted Centre to mull Ordinance", *Times of India*, June 24, 2010.

¹⁹ The Prevention of Crimes in the Name of 'Honor' and Tradition Bill, 2010.

²⁰ Act No. 19 of 1929



marriages are still common in some states. This is evidence that legislation cannot solve the issue on its own.

Honor killing as a global problem

Honor killings are common in nations like Afghanistan, Iraq, Bangladesh, Pakistan, India, and Iran where women are viewed as the guardians of men's honor. Men carry out honor killings for a variety of reasons, including women marrying outside of their families' wishes, intercaste unions, adultery before marriage, premarital sex, flirting, and in some instances, small-time offenses like neglecting to feed the husband on time. Not only that, but regrettably, rape victims are also susceptible to these kinds of murders. In conservative societies, there is a belief that the victims themselves are to blame for their circumstances and for bringing shame to their families. Honor killings are most common in Pakistan, according to Amnesty International [18]. The secretary-general of HCRP, I.A. Rehman, said that "an honor killing is carried out because the honor of men in the family is perceived to have been injured." "Basically, this is what happens when women's status in society is low."

A young woman in Turkey had her throat cut in the town square after she was the subject of a radio love ballad.²¹ Reports state that over a thousand people have been killed, with one honor killing occurring every week in Istanbul alone.

According to Article 548²² of the Syrian Penal Code, "a man shall be eligible for a reduced penalty which shall not be less than two years in prison if he catches his wife or sister committing adultery or illegitimate sexual acts with another and if he kills or injures one or both of them."

In Morocco, a husband who kills or maims his wife for "flagrante delicto," or wrongdoing, may be granted "extenuating circumstances" under Article 418 of the Penal Code.²³ This includes sexual misconduct.

One of the most well known examples that highlights the vulnerability of women in a society that ignores such practices is the story of Samia Imran. After ten years of marriage, 28-year-old Imran filed for divorce from her abusive husband. Her own family, including her father, the president of the Peshawar Chamber of Commerce, and mother, a doctor, were vehemently against this. It was a great shame for Imran's family's honor that she was considering filing for divorce. Arriving at her lawyer's office under the guise of meeting Imran, Imran's mother was accompanied by a male companion who promptly shot and killed Imran. Even though the murder happened in broad daylight, was allegedly encouraged by Imran's mother, and happened in the famous Pakistani lawyer Asma Jahangir's office, it is said that no one was ever held accountable for Imran's passing.²⁴

²¹ Hillary Mayell, "Thousands of Women killed for Family Honor" *National Geographic*, (February 12, 2002).

²² Law No. 148/1949

²³ Penal Code of the Kingdom of Morocco of 1962, with amendments through 2018.

²⁴ Samia Imran Case, available at http://news.nationalgeographic.com/news/2002/02/0212_020212_honor-killing_2.html.



Recently, a Kurdish woman was brutally raped, stamped on and strangled by members of her family and their friends in an “honor killing” carried out at her London home because she had fallen in love with the “wrong man”, as per her family; her family thought that she had brought shame to the family.²⁵

Judgments laid down by the Supreme Court to analyze the jurisprudence revolving around honor crimes.

In *Lata Singh v. State of U.P. & Anr.*,²⁶ a Division Bench of the Supreme Court made the historic observation that "there is no bar to an inter-caste marriage under the Hindu Marriage Act or any other law," meaning that the couple's decision to marry outside of their caste was not illegal. Remarkably, the Court stated that the worst thing parents could do for their child who they do not approve of is to stop having social relations with them. It further instructed law enforcement officials across the nation to guarantee that intercaste couples are not the target of violence and, in the event that they are, to file criminal charges against the perpetrators. The Supreme Court later noted that "Khap Panchayats" are similar to kangaroo courts and that issuing decrees against inter-caste couples is "wholly illegal and has to be ruthlessly stamped out" in *Arumugam Servai v. State of Tamil Nadu*,²⁷ a case involving caste conflict. In *Bhagwan Dass v. State (NCT of Delhi)*, the Supreme Court held in an appeal filed by an accused person challenging his conviction for the murder of his daughter that honor killing falls into the "rarest of rare" category and therefore acts as a deterrent for such heinous acts.²⁸

The Supreme Court took suo moto cognizance of a gang rape of a 20-year-old woman in West Bengal on the orders of community panchayat for having a relationship with a man from a different community in *Re: India Woman says Gang-raped on Orders of Village Court*, published in *Business & Financial News* on January 23, 2014.²⁹ The Court reaffirmed that the freedom of choice in marriage is a fundamental component of Article 21 of the Indian Constitution and that the State has an obligation to defend it.

The Court unequivocally held in *Vikas Yadav v. State of Uttar Pradesh & others*³⁰ that a woman's freedom and independence cannot be infringed upon by "self-assumed" honor when determining the appropriate punishment in a case of honor killing a sister because of her choice of partner.

Arumugam Servai vs. State of Tamil Nadu,³¹ The bench, which included Markenday Katju and Gyan Sudha Misra JJ, ruled that every person gains independence and the freedom to marry the person of their choosing when they reach the age of majority. There are no restrictions on this

²⁵ “Women Living under Muslim laws – Kurdistan”, available at- [http:// www.wluml.org/node/178](http://www.wluml.org/node/178); <http://www.dailymail.co.uk/news/article-452288/The-Moment-teenage-girl-stoned-death-loving-wrong-boy.html>.

²⁶ (2006) 5 SCC 475

²⁷ (2011) 6 SCC 405

²⁸ (2011) 6 SCC 396.

²⁹ 2014 4 SCC 786

³⁰ (2016) 9 SCC 541

³¹ (2011) 6 SCC 405



freedom of choice related to caste, creed, or religion; an individual can wed someone from a different caste or with someone who the parents do not approve of. In these situations, parents are free to end the relationship, but they are not allowed to intimidate or harass the newlyweds. In addition, the court instructed the government's administrative department to monitor the situation, stating "a person who is major and gets married to someone from a different caste must not be harassed by anyone or be threatened or violently attacked." However, a criminal investigation will be launched against the offender if they threaten, harass, or use violence." The legislation further stated that anyone found guilty of an act of honor killing should be barred from holding public office for a minimum of five years. In order to expedite the trial of cases involving honor killings, fast track courts should also be established.

In *Shakti Vahini v. Union of India*,³² the Supreme Court ultimately recognized that honor killing is a type of honor crime and ruled that "any form of torture or ill-treatment that amounts to an individual's choice of love and marriage being atrophy by any assembly, under whatever name it may go by, is illegal and cannot be allowed a moment of existence." The Court enlarged the definition of honor crimes by invoking the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence,³³ which states that any crime committed by an individual in violation of social, cultural, religious, or traditional norms or customs of appropriate behavior is subject to prosecution. It held the choice of the individual is an extricable part of dignity under Articles 19 and 21 of the Constitution to consensually choose each other as life partners. The Court issued a plethora of comprehensive directives aimed at preventing, correcting, and punishing honor crimes. These included, but were not limited to, identifying the districts where honor killings are common, offering the couple temporary shelter, outlawing unlawful assembly, initiating appropriate departmental proceedings against officials, raising awareness among law enforcement agencies, and establishing 24-hour helplines.

SUGGESTIONS:

1. A distinct law pertaining to honor killings is required in order to punish the perpetrators, provide rehabilitation, and assist the impacted family. While independent legislation and strict punishments can help reduce the rate of honour killing, they cannot stop the offence. Therefore, in order to provide the necessary dynamism of legal protection, executives should put the law of letters into effect with the assistance of the current set of laws.
2. Protective and Rehabilitative Measures: Dependable "Safe Houses" are desperately needed, and anyone feeling threatened should be able to find a safe place to stay and have access to police and legal support.
3. Redress Mechanisms: There is an urgent need for legislation specifically targeted at honor-based crimes and honor killings. Any relevant legislation, such as the 2015 amendments to the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, can be read in conjunction

³² (2018) 7 SCC 192

³³ <https://www.coe.int/en/web/gender-matters/council-of-europe-convention-on-preventing-and-combating-violence-against-women-and-domestic-violence>



with the new legislation to create a more comprehensive and efficient legal framework. Having prompt legal assistance is essential. Protecting victims needs to be a top priority. The victims must also have access to all auxiliary services upon request, such as mental health and trauma counseling.

4. The greatest ways to address honor crimes are through awareness, dialogue, and education.
5. The victims of honor crimes should have access to a convenient legal system so they can air their complaints and understand which legal safeguards they can use to ensure their safety.
6. The police department needs to move forward with the corrective, punitive, and preventive measures that the Supreme Court ordered.
7. Further, for couples who are afraid of violence based on honor, safe houses and protection centers should be constructed. In order to prevent honor killings, a hotline or call for service should be established to oversee safe houses for interfaith and interreligious couples in each district.
8. Women's choices in all spheres of life should be freely accepted and encouraged by society.
9. As rulings of the Supreme Court, assemblies or other organizations that deal with the lives of the people in violation of the law should not be given legal support.
10. In case the relationship is deemed unacceptable by the families, you are free to reject them from your family and avoid them in the future. However, you should never treat someone like a toy in life or disregard his or her adult decisions. Instead, respect their choices and allow them to make mistakes in life and learn from them.
11. Honor killing will inevitably begin to show a downward trend as families show a tendency to respect the decisions made by their loved ones. As a result, through counseling, families should be made aware of their own limitations, current legal requirements, and how breaking the law and severing ties with others only serves to make everyone's life more miserable than honorable.

Conclusion

Honor killing has become a social issue. This issue must first be acknowledged as a problem in order to be addressed. Deterrent and exemplary punishment in a few instances would undoubtedly convey a powerful message. However, that is a post-act remedy. The need of the hour is to change people's attitudes and provide education to every corner of the population. It is important to remember that two thirds of Indian women still reside in villages, where real education has not yet gained traction. It would be very beneficial to increase public awareness and spread education. It is interesting to note that a study conducted by scientists from India and abroad revealed a genetic connection among all Indians. Social change and awareness raising can be achieved solely through education.

In the face of entrenched social injustice, prejudice, and generation-old beliefs, there is still much work to be done before the rule of law can be fully implemented throughout India. However, there is hope that can be achieved through political will, education, and the empowerment of women, literacy, and the sensitization of the judiciary, police, and administrators. Without



supporting legislation, these guidelines are powerless to combat the threat of honor crimes in India's intricately layered society. In addition, crimes committed in the name of honor against members of sexual and gender minorities are rising. A legal system that prosecutes all offenses committed in the name of alleged honor would guarantee that a person has constitutionally guaranteed right to select their spouse.