

Critical Analysis of Laws in Pakistan with Reference to Honour Killing

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Abstract: *Women of different ages, religions, social status, wealth and education face honour killing. Pakistan being the sixth most populated country is considered as a vulnerable place for women who constitute almost half of its population. Pakistan is signatory to conventions which constitute rights of women. This study highlight factors of honour killing, its impact on society, Islamic perspective regarding punishments of honour crimes, laws in Pakistan for honour killing, measures taken by Government to put this inhumane act to end and will be concluded by throwing light on important case laws of honour killing in Pakistan.*

Keywords:

Taxation, Dispute Resolution, Tax Administration, Taxpayer Confidence, Income Tax Ordinance, Alternative Dispute Resolution, Finance Act 2023, Pakistan, Challenges, Amendments, Transparency, Fairness.

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Introduction

Honour killing is a persistent phenomenon not only in Pakistan but in many other parts of the world. Honour killing is defined as taking the life of a woman because she was guilty of immoral sexual conduct. The adulterous female is killed by men for the sake of restoring honour, to erase shame, and to control women's lives (Rabia, 2001). In most cases the woman is killed by her father, brother, uncle and even her husband. The tribal communities endorse honour or ghairat as an essential element of one's status in the society. Some honour crimes are motivated for property, inheritance and monetary gains, and the smaller the number of successors the smaller the prospects of divisions of the ancestral property. An important motivation responsible for the increase in this wicked crime is impunity of the perpetrator, which he enjoys despite the commission of crime. Even if the crime is reported and the perpetrator appears before a court of law (which is quite rare), the male dominated society and its effect also found in judicial system of Pakistan, which instead of giving exemplary punishments rather gives lighter punishments. In Pakistan, two legal forums decide the crimes of honour killings i.e informal legal system called the tribal justice system or jirgas and formal judicial institutions. The informal system of legal adjudication is based on tribal rules, commonly called as the "honour code" and is administered by a tribunal of quasi judicial nature, generally called jirga, typically biased against women.

Honour killing is known by the urdu word 'Karo-Kari' which means a 'black male' and a 'black female' and is defined as most often, the murder of a woman or a girl by male family members for the

purpose of seeking protection of the dignity and honour of family and is also known as shame killing. The word 'honour' was introduced for the first time by a Dutch scholar "Ana Nanta" in 1978. The person who commits honour killing is called "Ghairatmand". UNICEF defined honour killing as; " An ancient practice in which men kill female relatives in the name of family ' honour' or forced or suspected sexual activity outside marriage , even when they are the victims of rape."

Both men and women are free to take their decisions without any discrimination of race, nationality , gender , and religion and their rights are supported by Universal Declaration of Human Rights which states that everyone is entitled to all the rights and freedoms set forth in this Declaration without any distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The causes are deep rooted in social norms, culture and traditions of these societies. Pakistan faces 1/5th of the world's honour killing (1000 out of 5000 per year total). The reason behind committing honour killing is dishonour of family or community and the victim is murdered for the sake of restoring reputation and honour of the family they are killed for supposed 'Illicit' relationships for marrying men of their choice, for divorcing abusive husband. They are even murdered by their kin if they are raped as they are deemed to have brought shame on their family. The truth of the suspicion does not matter; merely the allegation is enough to bring dishonour on the family. Killing a Muslim unlawfully is a serious matter and a grave crime. Allah says;

"And whoever kills a believer intentionally, his recompense is Hell to abide therein; and the wrath and the curse of Allah are upon him , and a great punishment is prepared for him."

It is narrated from Ibn Umar (may Allah be pleased with Him) that the Messenger of Allah (peace and blessings of Allah be upon Him) said: " "The believer will continue to be encompassed by the mercy of Allah so long as He does not shed blood that it is forbidden to shed."

Honour killing includes a wide range of violences from unlawful confinement, assault, acid burning, rape to , cold blooded murder in the name of honour. Woman is considered as the symbol of honour and for protecting this honour men aims to regulate women's sexuality and freedom to control their choices and lives. In our society the murder in the name of honour killing restore the lost honour and uphold the masculinity of the male family members "The right to life of women in Pakistan is conditional on their obeying social norms and traditions." (Hina Jillani Lawyer and Human Rights Activist).

Pakistan Penal Code and Criminal Law Amendment Act 2004 deals with the punishments of intentional murder (Qatl-e-Amd). The punishment for intentional murder (Qatl e Amd) in Pakistan Penal Code is (a) Punished with death as Qisas (b) Punished with death or imprisonment of life (c) Punished with imprisonment of either description for a term which may extend to twenty five years. For example the accused (Mr. Sajjad Hussain) murdered his wife with her paramour after caught both red-handed in unethical position. In addition, he also killed his three children. After trial of case, the Court sentenced the accused to death of five counts. While concluding appeal of accused. High Court commuted the sentence by setting the five counts aside (2016 YLR 1517 , SAJJAD HUSSAIN STATE). Despite of lot of recent legal reforms , honour killing is remained a common practice in Pakistan today. For the purpose of women chastity, women must abide by socially restrictive cultural practices pertaining to women's status and family izzat or honour.

Evolution and Historical Background of Honour Killing in Pakistan

History of honor killing is as old as mankind is. According to biblical narration, the first murder in human history was of Abel who was killed at the hands of his brother Caine. Both of them wanted to marry a woman and, beside other things, honor was one of the motives that drove Caine to commit an offence since he was rejected by her for Abel. This event was passed but with the passage of time, the concept of honour killing extended and gained a gradual importance. Honour killing resulted in bloodshed and turmoil. According to an article published in the Herald, the act of honour killing cuts through deep valleys of history. Another era was the era of Babylon which is considered as the first written code by humans, which is enacted by King Hammurabi in 1780 BCE and became a way of life wherein women

were considered as the property of her husband.

This code made, the sexuality of women the property of her husband. If women is caught in the act of adultery, she is tied to her lover and cast into water to drown. A husband can save his wife but has to save her lover as well (Khan & Awan, 2020). The first Emperor of Rome Augustus, introduced the Julian Laws in 17 BCE. Under this law, the male head of the family can legally kill his wife or daughter on the allegation of adultery.

The practice of self-immolation by widows in 510 CE Sati, is first attributed to the city of Iran, the area now known as Madhya Pradesh in Central India. Widows are encouraged to die alongside their husbands' for the removal of their sins and to ensure their husbands' salvation. Pre-7th Century Prior to the Islamic civilization in the Arabian Peninsula, the proverb 'the burial of daughters is a noble deed' resonates throughout the nomadic tribes. Newborn females are often buried alive so that they don't grow up to become a potential source of disgrace to the clan. In 17th Century Karo-kari is the practice of killing, under the pretext of sexual transgression, those who have disgraced the clan. Its etymology is traced to Sindh, and its first-ever recorded incident is one during the Talpur reign, but instances of karokari have been recorded in areas across the country. In 20th Century Pursuant to Article 111 of the Iraqi Penal Code, introduced in the 1990s by Saddam Hussein, the law exempts men who kill their female relatives in defense of their family's honour from prosecution and punishment. Simultaneously, India sees an increase in female feticide, especially in states like Haryana and Punjab.

In 2004 The Criminal Law (Amendment) Act, 2004 is introduced to the Pakistan Penal Code, preventing a person accused of honour killing from availing the provisions of 'pardon' and 'blood money'. Yet, this results in no decrease in documented incidents of honour killings in the following years. Later in 2014, the Anti-Honour Killings Laws are introduced to address the gaps within previous legislation and to bring more culprits to justice.

There are no solid clarifications about the origin of Honour killings. It is stated by several writers that honour killing exists all over the world. Some states that honour killing belonging to some societies of South Asia and Middle East and which is deeply rooted in to customs and tradition since ancient periods. Honour killing is still carried out in many countries and is a traditional practice which originated over 2000 years ago (Khan & Awan, 2020).

Pakistan's International Obligations Regarding Protection of Women Rights

Pakistan is signatory to some international conventions which is under an International obligation to promote and protect the fundamental human rights of every human being without discrimination to gender, race, religion etc. Since it has ratified international covenant on civil and political rights (ICCPR), International covenant on Economic, Social And Cultural Rights (ICESCR) and Convention on the Elimination of all forms of Discrimination against women (CEDAW) and also Universal Declaration Of Human Rights (UDHR). With regard to the term "discrimination" in the International Covenant on Civil and Political Rights, the Human Rights Committee has stated its belief "that the term 'discrimination' as used in the Covenant should be understood to imply any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms".

The issue of honour killings is not explicitly addressed in any human rights instruments with the exception of the UN Declaration on the Elimination of all forms of violence against women. Despite this, a mandate to deal with honour killing as human rights violations can be derived both from general and women-specific human right instruments. Honour killings self evidently violate the right to life provisions safeguarding the right to life may be found in various international human right instruments including UDHR, ICCPR etc.

Provisions including the principle of equality and providing for the prohibition against discrimination

are also found in various instruments. The UDHR prohibits discrimination in article 2 and provides the rights to equality before the law in article 7. The ICCPR includes a comprehensive non-discrimination provision in article 26 in addition to the equality provision in article 3 and the non-discrimination clause in article 2(1). All the regional treaties include similar provision that guarantees the rights in the respective treaties without discrimination. Also, the Convention on the Elimination of all forms of violence against Women (CEDAW) includes a definition of discrimination against women (Article 2) and provides that state parties shall "accord to women equality with men before the law. Further honour killings are most extreme form of physical harm", a form of violence that occurs within the family and affects women disproportionately therefore, honour killings are clearly a form of "Violence against women in the family".

Honour killing can arguably violate also other rights, including the freedom from torture and inhumane treatment, the right to personal liberty and security of person, the right to privacy, and the right to health. All these rights are explicitly provided under these international human rights instruments. These instruments oblige all those countries which are signatory to these instruments to ensure protection to these rights.

Instruments also include the provision for the protection of life. The provision regarding the protection of life in these instruments obliges the State, not only to respect the right to life ensure it and must thus take certain protective measures to prevent the deprivation of life of the person by another person. Some positive obligations are expressly stated in the text of certain provisions. For example Article 6 of the ICCPR includes a duty to ensure the right to life. Similarly Article 3 of the UDHR states that "Everyone has the right to life, liberty and security of person". The positive obligation to protect the right to life thus includes the duty of States to make adequate provision in their law for the protection of human life. This duty includes the effective enforcement of the law, taking reasonable steps of prevention

e.g. by providing a judicial system, police and security forces, and by carrying out proper investigations, prosecuting offenders as well as providing for adequate remedies for victims.

These instruments also ensure protection against the honour killing of women on the basis of marriage of their own choice. Article 23 of the ICCPR states that no marriage shall be entered into without the free and full consent of the intending spouses. The same protection is provided under article 20 of the ICESCR and article 16 of UDHR. Furthermore, CEDAW provides protection to rights of women without any discrimination regarding gender, granting equal rights to women in their personal, social, civil, political and economic lives. This allows every woman to marry according to her choice. Which is in accordance with Hanafi law as well-killing women in the name of honour due to marriage to someone of their choice is a clear violation of these safeguards provided by law?

National Laws for Protection of Women Rights in Pakistan

The constitution of Pakistan has provisions allowing an individual to exercise his/her choice independent of caste, religion or gender and protection from honour related crimes including honour killing. Constitution of Islamic Republic of Pakistan 1973, includes Chapter 2 which accords fundamental rights to every citizen and also includes provisions for women. Article 4 of the constitution provides that "To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan".

Constitution of 1973 further ensure protection of women by providing under Article 9 that "No person can be deprived of their life and liberty, save in accordance with law". Article 25 of the Constitution of Pakistan guarantees equality of rights to all citizens irrespective of sex, race, and class and empowers the Government to take affirmative action to protect and promote women's rights.

Muslim Personal Law of Sharia recognizes the right of women to inherit in all forms of property. Muslim Family Law Ordinance 1961 recognizes women's rights against unjust procedures of marriage, divorce, polygamy. The Protection against harassment of Women at Workplace (Amendment) Bill 2022 was established to protect women from "bad-mannered" surrounding at workplace, market places,

travelling by local transport. Prevention of Anti-Women Practices Act 2011 was established to protect woman from abomination like in Badla-e-Sulha, Wani or Sawara. The Acid Control and Acid Crime Prevention Act 2011 was established to control the import, production, sale and use of acid to provide protection against misuse of acid.

Laws for Honour Killing in Pakistan

The Criminal Law (Amendment) Act 2004

Pakistan after gaining substantial publicity amongst the International media on failure of Restraining murders in the name of honour, there was persistent pressure from women's right groups and human rights to pass legislative measures to address these issues. Then the Parliament passed the first piece of legislation in 2004 titled as "The Criminal Law (Amendment) Act 2004", which recognized the honour killing as heinous crimes. This Act made amendments in section 299 of Pakistan Penal Code 1860 for considering honour related crimes in the context of Karo-kari, Siyah-Kari and other crimes for the maintenance of honour or Ghairat. It also made amendments in sections 302,310, and 331 of Pakistan Penal Code 1860 to determine the punishments for honour related crimes. Further it laid down that the offence of qatl-e-amd committed on the pretext of honour will fall within the ambit of section 302(a) and (b), as the case may be and will not ipso facto fall under section 302(c). Section 305 states that the accused or the convict will not act as the Wali of a victim and allowed the State to act as such, if needed. Section 311 says that in cases where there is more than one Wali and where all of them do not agree to waive or compound the right of qisas, or on the principle of causing fasad-fil-arz, the court may punish a perpetrator against whom the right of qisas has been waived or compounded while also giving minimum imprisonment for 10 years in case of honour crimes. The Act also made numerous changes in sections 345,401 of Criminal Procedure Code to ensure more effective prosecution of the cases of the honour killing (Khan & Awan , 2018).The Criminal Law (Amendment) Act 2004 gave a very clear definition of honour crimes as "Offences committed in the name or on the pretext of honour means an offence committed in the name or on the pretext of Karo-Kari, Siyah-Kari or similar other customs or practices".

Punishments in the Criminal Law (Amendment) Act 2004

The punishments laid down in this Act or that sections 302,310 and 331 of Pakistan Penal Code will be determined to maximum imprisonment of 25 years with minimum limit of 10 years. The Act also inserts a new section 310A, which punishes giving of female in marriage as part of a compromise to settle a dispute between two families or clans with rigorous imprisonment which may extend to 10 years but shall not be less than 3 years. Section 311 of the PPC has amended the maximum tazir penalty after waiver of qisas in cases of qatal-e- amad liable to qisas to death or life imprisonment. Similarly section 324 of the PPC has amended the punishment in case of honour related to hurt to half of imprisonment of such crime (Cheema, 2008).

There is a case law in which punishment was given to the accused by this Act. The case **was Sajjad Hussain vs State** in which Mr Sajjad Hussain (accused) had seen his wife and her paramour been in unethical position, committed murder of his wife ,her paramour and his own 3 children. The Trial Court convicted the accused and sentenced him to death on five counts, however, Honourable High Court commuted the sentence and held that: "Of courts, ambient circumstances, compelled the appellant to get rid of his wife, her alleged paramour and his own children in order to absolve himself from opprobrium life and odium living. These circumstances, have pursued the Court to convict the appellant under section 302 of PPC to sentence of imprisonment of 25 years"(2016 YLR 1517).Changes in CrPc were made to procedure i.e. higher ranks to police officers will be assigned to investigate honour crimes and zina offences.

Critical Analysis in the Criminal Law (Amendment) Act 2004

The Act 2004 made appreciative efforts to curb the crime of honour killing, despite of this, there remain a

number of lacunae in this Act which has made it inefficient and fails to provide relief to the woman, envisaged by the civil society and human rights group. Due to these loopholes the Act 2004 is not effective to reduce the rate of honour killings. The lacunae are as follows;

1. The first lacunae are that punishments for honour crimes were not mandatory for all instances of honor crimes which is a major loophole.
2. There was no exception on the application of the provisions of sections 309, 310, 311 of PPC in sections 5, 6 and 8 of the Criminal Law (Amendment) Act 2004 means provision of waiver and compoundability is still effective.
3. As the crime of honour killing is included in the definition of fasad-fil-arz where the rights of qisas have been waived by the legal heirs, the court has discretion to punish with minimum penalty.
4. The section 2 definition of honour killing is not comprehensive to include the crimes committed on the excuse of grave and sudden provocation.
5. There is no liability imposed on the family members of the accused who act as perpetrator of committing the honour crimes.
6. There is still a gap in penalty for exercise of judicial bias for the female gender to interfere and give lenient punishment to murders (Khan, 2006).

The Criminal Law (Amendment) (Offences in the Name or the Pretext of Honour) Act 2016

With the rapid increase in honour killings influenced internal and external pressure from International community, civil society, NGO's and Human Rights activist. The Government of Pakistan took further step to fill the loopholes in the previous laws. On 21st October 2016, in a joint session of Parliament a Bill was passed known as Anti-Honour Killing Bill 2016, which was afterwards named as "The Criminal Law (Amendment) (Offences in the name or pretext of Honour) Act 2016". This Act has amended sections 290, 302, 309, 310, 311, 338E and 345 of PPC and CrPc (Kanwal, 2021). The Act adds four important clauses under Qatal-e-Amad provisions of Penal Code which are as follows;

1. Fasad-fil-arz offence includes offences committed in the name or pretext of honour.
2. Four fasad-fil-arz offences the waiver and compounding of the right of qisas shall be subject to tazir provisions.
3. If a fasad-fil-arz offence has been entrenched the court may punish the offender against whom right of qisas has been waived.
4. If offence is committed in the name or pretext of honour the tazir punishment shall be imprisonment for life.

Punishments in the Criminal Law (Amendment) (Offences in the Name or Pretext of Honour) Act 2016

The punishment period in the Act 2016, is extended to life imprisonment of 25 years according to Criminal Law of Pakistan. Section 311 fixes mandatory punishments of life imprisonment for the honour crimes offenders. The discretionary powers given to the court in case of compounding, waiver or applicability of fasad-fil-arz, imprisonment of 14 years was fixed. The life imprisonment in the Act 2016 which extends to 25 years has been proclaimed fixed and mandatory for the offender.

Critical Analysis in the Criminal Law (Amendment) (Offences in the Name or Pretext of Honour) Act 2016

There are lacunae in the 2016 Act regarding 25 years of imprisonment for honour killing as punishment even if it is pardoned by the relatives of the victim, but in section 302 of PPC the accused in a simple murder case may get death penalty or 14 years imprisonment. Moreover, the legislation still contains loophole on honour killings for differentiating between the homicide done in the name of "Ghairat" and homicide done for any other reasons like enmity, property disputes etc which don't fall in fasad-fil-arz. The renowned case law of "Qandeel Baloch" highlights this loophole. The case **Muhammad Waseem vs**

State in which Lahore High Court held that the prosecution couldn't determine that whether Waseem had guilt his sister for honour because his confession suffered from illegalities as a result Waseem is acquitted from the case on the basis of compromise “.

PPC works on the relationship between offender and victim, so one can have lesser punishment, applying this proposition offender may be willing to charge with section 302 in lieu of section 311 of PPC. The collection of evidence is very difficult in honour killing due to this loophole a person cannot be convicted after killing his daughter, sister or mother. Further the Qanoon-e-Shahadat should be amended for honour killing cases so that the standard of evidence is relaxed which increases the possibility of conviction. Hence, these are the main concerns that are abolish, nullifying the efforts made by the State to stop the increasing rate of honour crimes as for the reason that in such crimes family members acts as accomplice.

Islamic Perspective of Punishment Regarding Honour Crimes

Islam is the first religion who contributed in women's rights and their equal status. In Islam both man and woman have equal status in their economic, political and domestic sphere. Teachings of Islam do not convey any ill-attitude towards women in domestic and in the sphere of society as well. Pakistan follows the religion of Islam whose supreme law is Quran and that is the reason that constitution of Pakistan also provides security to the person and that every person should be dealt in accordance with law.

The Prophet (peace and blessings of ALLAH be upon him) has explained to us the reasons for which it becomes permissible to shed this blood. He said: “It is not permissible to shed the blood of a Muslim who bears witness that there is no god but ALLAH and that I am the Messenger except in three cases: a life for a life (murder), zina of one of who is previously-married (adultery), and the one who changes his religion and forsakes the jamaa'ah.” Narrated by *al-Bukhari (6370)* and *Muslim (3175)*.

The Supreme Court of Pakistan has made a reference to the case of Owamer Ijlani brought before the Prophet Muhammad who suspected his wife of having an illicit relationship. The Prophet, instead of telling him to punish or divorce his wife, asked him to produce four witnesses to support his accusation otherwise he would be punished under qazf (false accusation) according to the Quran. In the case of Gul Muhammad Vs. The State (PLD 2012 Bal 22) it was held that; Islam has provided rights and safeguards for women, protecting them from injustice. Surah Noor Verse 4 reads; “And those who accuse chaste women and then do not produce four witnesses - lash them with eighty lashes and do not accept from them testimony ever after. And those are the defiantly disobedient”

Islamic Declarations (Fatwa) Given by Religious Scholars Regarding Honour Killings

Fatwa Issued by Sunni Ittehad Council

In 2016, an 18 year old girl, Zeenat Bibi, was killed in the name of honour killing in Pakistan. According to the family of Zeenat she brought dishonour to the family. She was doused with petrol and set on fire by her own mother after returning to the home. On this incident, The Sunni Ittehad Council issued a fatwa declaring honour killing an unlawful, un-islamic, and unpardonable crime. Islam does not force women to marry without their consent. The consent of women is essential to accept a marriage proposal, and that the man must promise to give some amount money to the women he is going to marry and that money is called Mehr.. ALLAH says in Quran;

“Live with them honorably. If you dislike them, it may be that you dislike a thing through which Allah brings a great deal of good” (An-Nisaa-19).

“And do not take life which Allah has made sacred except for a cause (under courts verdict)” (Al-Israel

Fatwa Issued by Hassan

The ex-member of Council of Islamic Ideology and one of the prominent religion scholar, Hasan Jan (late) stated that this kind of killing is not allowed logically, morally and according to the teachings of

Sharia (Jan , 2000).

Fatwa Issued by Jamia Uloom Islamia

The prominent Islamic School of Pakistan in Binori Town Karachi known as Jamia Uloom Islamia issued a Fatwa in this regard, in which they declared that all practices of honour killings are against Islamic rules and it is the responsibility of the State not an individual to take law in his hands and kill someone in the name of honour (Banuri).

Opinions of Different Religious Scholars Regarding Honour Killing

While discussing Islamic perspective of honour killing in Pakistan, it would be suitable to quote the opinion of the Council of Islamic Ideology of Pakistan, which consists of prominent Islamic scholars that suggest Islamic Laws. Islam provides strict evidential prerequisites for punishing the adulterous testimony of four witnesses before the Qazi (Judge in Islamic state) and the man and woman are given an opportunity of leading evidence to prove themselves innocent. The Quran declares: "If any of your women are guilty of lewdness, take the evidence of four (reliable) witnesses from amongst you against them."(4:15). Those who fail to produce the required evidence, they should be punished. These two verses of the Quran manifest that no one could take the law into one's own hands since it is against the grain of the criminal justice system of Islam. The only way allowed to take life by the Quran is according to law. The Quran commands: "whether open or secret; take not life, which Allah had made sacred, except by way of justice and law: thus doth He command you, that ye may learn wisdom"(6:151)..The Quran clearly says: "And those who launch a charge against chaste women, and produce not four witnesses (to support their allegations) flog them with eighty strips and reject their evidence ever after"(24:4). These two verses of the Quran manifest that no one could take the law into one's own hands since it is against the grain of the criminal justice system of Islam. The only way allowed to take life by the Koran is according to law. Pakistan follows the religion of Islam whose supreme law is Quran and that is the reason that constitution of Pakistan also provides security to the person and that every person should be dealt in accordance with law. The Council of Islamic Ideology was asked whether honour killings are lawful or not according to Islam in 1999 by Amnesty International. In 22 April 2000, in its 139th session on 6-7 December 1999 decide;

"Although sexual immorality is one of the major sins according to Islam for which Islam has prescribed very severe punishment, nobody is allowed to take the law in his hands. Willful homicide, whatsoever be the motive, is a culpable act tantamount to qatl-e-amd [murder] liable to qisas [equal punishment for the injury suffered based on the principle of an eye for an eye and a tooth for a tooth]. The Council for its opinion relied on an authentic hadith reported by Muslim, according to which a companion, Hazrat Saad Bin Ubadah, asked the Prophet (P.B.U.H. [peace be upon him]): if a person finds a man with his wife,

shall it be lawful for him to kill that man? The Prophet (P.B.U.H.) replied: 'No'. In another hadith on the same subject, Hazrat Saad Bin Ubadah asked the Prophet (P.B.U.H.): If I find a man with my wife should wait till I bring forth four witnesses? The Prophet (P.B.U.H.) said: '

Obstacles in Way of Punishments of Honour Crimes

There are few obstacles in way of punishment of honour crimes which are as follows:

- The first and foremost obstacle in way of punishment of honour crimes is forgiveness or pardon in most cases the family of the victim forgive the perpetrators and that is why they cannot get punishment. In such situations Courts cannot take further actions if the pardon is granted by the family member of the victim.
- Bribery is the evil which becomes the reason for the freedom of the perpetrators. In our system, bribery plays a major role and perpetrators get a chance to commit such inhumane acts repeatedly. Another most common obstacle prevailing in our society is threatening or blackmailing. Either the

judges or the family of the victims are threatened for taking legal action. Due to the threats the family of the victim leaves the matter and hence the perpetrators do not get the punishments.

- Sometimes the lack of solid proves and evidence also becomes the obstacle in way of punishing the culprit. In a society where the women is treated as a stigma and her every action whether good or bad is judge, women try not to expose their brutal experience with society and keeps it confidential. In our country many individuals are unaware of their basic rights and the procedure for taking legal action. When someone is unaware of his/her rights how can they take legal action. For the purpose of punishing the culprits the citizens must know their basic rights. Women are generally unaware of their basic human and legal rights and also the procedures to use for their own benefits.
- Honour killings are supposed to be prosecuted as ordinary murder, but in practice, police and prosecutors often ignore it. The non-success of end of honour killing is the result of the weakening of political institutions, corruption and economic decline.
- Because of civil crises, people adopt alternative methods, such as traditional tribal customs. In some rural parts of Pakistan, the male dominated Jirga, or tribunal council decide affairs and their decisions take supremacy over state legislation.

Factors of Honour Killing

Honour Killing is a brutal act practiced by male members of the society and is social esteem and control of the members of society. There are several reasons for honour killing but the main reasons areas follows;

1. Influence from society plays a major role in case of killings in the name of honour.
2. Fear of being ostracized also leads towards honour killing.
3. Due to lack of awareness of women's rights, rate of honour killing increases.
4. For killing or harming, a single perception is enough that she has brought dishonour to the family.
5. Sometimes a woman is killed by her family or relative because she is blamed of illicit relations with a guy.
6. Sometimes women want divorce from their husbands because of some marital problems , but are killed , when they (women) try to seek legal help.
7. When a girl is raped without her consent, even then she is being killed by her own family, because she brought the shame for the family. This kind of Honour Killing is a brutal kind of killing.
8. The desire to get the property or land is also a pretext for Honour Killing. Land is the main issue in Sindhi society in Pkaistan.
9. Ethnicity is also the reason of Honour Killing. When a girl choosesher partner from another ethnic community , is killed by the family.
10. Honour Killing sometimes occurs on the pretext of disobedience.
11. Honour killing is more common in less literate areas and has a strong relation with illetracy. When a culture or norms of society is violated by the women, it is considered as black mark on the family. For the purpose of removing that black mark people kill that person who is involved in it e.g marriage out of caste.
12. Men often use honour killing to assert their dominant patriarchal status. Women in the family may support the practice in order to preserve the honour of other female family members.
13. Sometimes a mother may support an honour killing of an 'offending' female family member in order to preserve the honour of other female family members.

Impacts on Society

1. Honour Killings violates a large number of rights of the victims which ranges from the 'right to

live to 'freedom of choice' and has a deep impact on the society and the fear of being a victim can affect life of woman. Sometimes the threats of honour killing from family leads to the death of woman.

2. Women who fear honour killings also seek asylum in other countries.
3. Since many men in these societies will refuse to marry the sister of a 'shamed' female whom the family has not chosen to punish, thereby failing to 'purify' the family name.
4. Killing in the name of prudency is not a murder of a man but also humanity. It results in despoil which runs lineally. The person who kill women in the name of prudency/honour are actually satisfying their evil ego. It makes women disloyal and averse and results in secureness in society.
5. Absence of strong legislations regarding honour killing, people take the law in their own hands and adopt alternative methods (i.e jirga system, tribunal council) for deciding their issues, and their decisions take primacy over the legislation of state.

Honour Killing affect the society very badly and this practice must be eliminated from the society as soon as possible, as there is nothing honourable in such killings and in fact they are nothing but barbaric and shameful acts of murder committed by brutal, feudal-minded persons who deserve harsh punishment. They are in fact breaking the law and breaking of law is not acceptable in any society.

Measures Taken by the Government to Put this Inhumane Act to End

The Government can take many measures for the eradication of this inhumane behaviour such as functional unity of the government, international community, local community, social awareness, law, religious community, undertaking wide range of public programs through the media, small level NGO'S government individuals etc. The law on Honour Killings had been modified several times. The distinguished legislation reforms in Pakistan to protect women from violence include:

1. The Protection of Women (Criminal Law Amendment) Act of 2006 (also known as Women's Protection Bill, the bill created a punishment of imprisonment for life and a fine if a woman is abducted or induced to marry a person without her personal consent and will. The bill also includes rape).
2. Criminal Law (Third Amendment) Act of 2011. (Created a punishment for giving or compelling a woman to marry for any reason including the purpose of preventing criminal liability (e.g. in case of rape) or settling a civil dispute).
3. The Punjab Protection of Women against Violence Act of 2016. (Goal of this act is "to establish an effective system of protection, relief and reparation of women against violence).
4. The Criminal Law (Amendment) (offences in the name or pretext of Honour) Act of 2016. (Repealed the loophole which allowed the perpetrators of Honour Killing to avoid punishment by seeking forgiveness for the crime from another family member and thus be legally pardoned and receive light punishment).

Under International and Domestic thrust, on December, 8, 2004, Pakistan enacted a law that increased punishment for Honour Killing to 7 years term or in most extreme cases by death penalty. In March, 2005, the Parliament of Pakistan rejected a bill which sought to strengthen the law against the practice of Honour Killing declaring it to be un-Islamic.

Renowned Case Laws of Honour Killing in Pakistan

Qandeel Baloch Case

The murder of Qandeel Baloch decoded the advanced culture of honour killing and how it affects someone's life. It also shows that how social media communication channels put one's life into trouble. This case was considered as the most high-profile "Honour Killings" of recent years.

Brief Summary of the Case

Qandeel Baloch was murdered at the age of 26 by her brother Muhammad Wasim in July 2016, and confessed to the murder that she was bringing disrepute to the family's honour. His brother was later sentenced to 25 years of imprisonment under section 311 of the Pakistan Penal Code.

Facts of the Case

1. The real name of Qandeel Baloch was Fouzia Azeem.
2. She was a Pakistani model, actress, social media celebrity and activist.
3. She was born in March 1, 1990 in Dera Ghazi Khan District, Punjab Pakistan in working-class Muslim family.
4. She was not allowed to get education like her brothers and was decided by her father to marry in an arranged marriage.
5. Qandeel Baloch got fame through media in 2013, when she auditioned for Pakistan Idol, and got selected and became most popular Internet celebrity.
6. She was also harassed by her husband and ran away with her son to women's shelter, called "ShirkatGah". She had to give up custody of her son to her husband for freedom who used to torture and beat her and then she decided to move to Karachi.
7. She was daughter of Awar Bibi and Muhammad Azeem and had 6 brothers and 2 sisters. She was interested in singing as well as acting. Before her rise to fame, her first job was as a bus hostess.
8. In June 2016, Qandeel Baloch publicly accused Mufti Qavi for behaving inappropriately with her during a meeting at a hotel.
9. She also pleaded, with the Government for protection saying that she was receiving threatening phone calls and messages, saying she had exposed the cleric for what she claimed he truly was: hypocrite who used Islam for gaining interests.

Death of Qandeel Baloch

On 15th July 2016, Qandeel Baloch was asleep at her parents' home in Multan; she was drugged and asphyxiated by her brother. Her death was reported by her father. Fouzia Azeem aka Qandeel Baloch had come on EidulFitr 2016 to stay with her parents. Their son Muhammad Wasim also came on 14-07-2016. Fouzia slept downstairs while the parents were upstairs. On the morning of 15-07-2016 they found her dead in bed. Muhammad Wasim was not at home and the home was unlocked from inside.

Statements and Confessions of Muhammad Wasim in Case of Honour Killing of Qandeel Baloch

PW20 Muhammad Ilyas Haider recorded the statement of the complainant. Forensic evidence (including DNA, swabs from bruises and food from the house) was collected from the site of incident by the Forensic Crime Scene Unit of PFSA, Multan, CRO and IT Team of CPO Office. On 16-07-2016 complainant (Muhammad Azeem, father of the victim) nominated his son's Muhammad Wasim and Aslam Shaheen as accused and in another statement nominated Abdul Basit, Haq Nawaz, Muhammad Arif and Muhammad Abdul Qavi. On 17-07-2016 Wasim submitted himself to the police and was arrested and confined to the police lock-up of Muzaffarabad Police Station, Multan. Wasim returned to their ancestral village of Shah Sadar Din, Multan a little over two hours drive away, where he made no effort to hide. According to many reports, he was spotted riding around on his motorbike in the village's main market the morning after he killed his sister. The murderer reported that "When I travelled to Shah Sadar Din in October 2016 to report on the murder, I met with many villagers who told me that they were disgusted when the news of her true origins broke".

When Wasim was arrested the day after the murder, he was presented at a press conference where Journalists asked him why he had killed his sister. "The reason is the way she was coming on Facebook", he replied simply. In his statement under section 161 CrPC; Wasim admitted that, alongside Haq Nawaz,

committed the murder of Qandeel Baloch. He confessed that it was in the name of honour and he had no guilt. On 18-07-2016 Muhammad Wasim recorded his statement under section 164 CrPC in front of Area Magistrate Muhammad Sarfraz Anjum, from where he was sent to judicial lock-up. On 27-07-2016 Muhammad Wasim admitted that his brother Arif told him to commit the murder who was in Saudi Arab at that time and stated that he committed the murder of his sister due to her alleged bad character and her fame due to her status as a social media model. He was brought in front of the Area Magistrate and request for physical remand was granted.

On 28-07-2016 the presence of Muhammad Wasim was also confirmed by the vendor who sold him milk on the night of 15-07-2016. Wasim's DNA was also found near the dead body and it was not a case of blind murder, Muhammad Wasim admitted in his judicial confession that after seeing the pictures and videos of his sister on social media, he committed the murder. Statement of Muhammad Wasim recorded in the Office of the PFSA before the Polygraph Unit was treated as extra-judicial confession as it was not recorded before a Magistrate. It was in the presence of a Police officer.

Additional Session Court Judge Imran Shafi held that the prosecution had successfully proven the case of the murder of Qandeel Baloch against the accused Muhammad Wasim through judicial confession corroborated by DNA analyses, beyond the shadow of reasonable doubt. In the case of the rest of the accused, for various reasons, the charges were deemed to not have been proven by the prosecution.

Judgement of Qandeel Baloch Case

After more than three years of the investigation and trial of Qandeel Baloch's honour killing, the Model Court in Multan sentenced Muhammad Wasim to 25 years of imprisonment under section 311 of Pakistan Penal Code. On the other hand, the other accused, such as Haq Nawaz who also confessed to the crime, were acquitted as the judge deemed their confessions as extra-judicial and the recoveries made insufficient corroborated evidence.

Farzana Parveen Case"

Brief Summary of the Case

Farzana Parveen was killed outside a Court in Lahore, Punjab Pakistan. There were nearly twenty attackers along with her father, two brothers and former fiancé. Farzana was killed in the name of honour killing and ran off with a man of her own choice and was pregnant by him. In November 2014, four members of the family of Farzana Parveen were convicted of murder and sentenced to death.

Facts of the Cases

1. Muhammad Iqbal and Farzana had been secretly engaged for many years and then decided to marry when she became pregnant.
2. When Farzana revealed her love affair to her parents, they were shocked however; they agreed to meet Muhammad Iqbal. At the meeting, Farzana's father Muhammad Parveen, indicated that he would agree for wedding on condition that Iqbal settle a large amount of money in Farzana's name as Mehr. Iqbal said he couldn't afford so much, and suggested a much smaller Mehr.
3. Farzana's father refused to support for the marriage after Iqbal refused his demands for more money.
4. Both Farzana and Muhammad Iqbal were determined to marry and Farzana's pregnancy was the principle reason, so they eloped and got married without informing anyone.
5. Since Farzana suddenly disappeared from her parents house one day, the family informed the police and, on the advice of lawyers, filed a Habeas Corpus petition in the Court. Police quickly caught the couple and produced them in the Court.

Death of Farzana Parveen

On 27 May 2014, Farzana Iqbal, 30, was attacked by about a dozen male family members in front of a Pakistani High Court. The attackers were led by her father, Muhammad Parveen, and included her two

brothers and other family members. They began by punching and kicking, and then it escalated to using clubs and bricks, then hurling stones. She was killed for eloping and marrying Muhammad Iqbal, 45, whom she loved and by whom she was pregnant. According to the Police, a scuffle took place between 20 members of Ms. Parveen's family and 10-15 of Mr. Iqbal's during which she was struck with a brick three times and fatally wounded. Police say Ms. Parveen was dead by the time officers were able to intervene. According to the police, everyone who was involved in the killing escaped except the girl's father, who admitted killing his daughter and said he did it for honor.

Judgement of Farzana Parveen Case

Police have arrested five people including Ms. Farzana's father, brother, cousin and former fiancé were all found guilty of murder by the Court, said Abdul Samad, a senior State prosecutor. Another cousin was sentenced to 10 years in prison on charges of abetting the crime. Judge Haroon Latif found Parveen's father Mohammad Azeem, brother Zahid Iqbal, former husband Mazhar Abbas and cousin Jahan Khan guilty of murder on Wednesday and sentenced them to death. He also sentenced Ghulam Ali, another brother of the victim, to 10 years in jail. This judgment will enhance people's confidence in the judicial system," said Rana Maqbool Ahmad, adviser to the Punjab minister for prosecution.

Recommendations

1. The most important duty for eliminating honour killing is to know the exact concept of honour killing i.e honour code and change the wrong perception of people on this superstitious belief.
2. Religion also plays a major role in campaigning against honour killings and Islamic Laws teaches us about the protection of women honour.
3. Government should take regulatory actions to regulate all rituals and practices .For example kala-kali Jahan Khan guilty of murder on Wednesday and sentenced them to death.
4. Gender Crime Cell whose function is to gather, collate and analyze data on violence against women was established on 1st April 2006. This Cell controls the social evil against women.
5. The Panchayat/Jirga system should be discouraged in Pakistan through Legislative amendments.
6. United Kingdom can also help to tackle the problem of honour killing in Pakistan by giving them aid. This aid can help to improve the situation of the rights of the human in Pakistan.
7. The murder cases should also be proclaimed in the name of Kala-kali as a felony and crime against the state and humanity. The killings should be seriously penalized in kala-kali cases.
8. The committees are established by the UN to observe the implementation of the rights of humans and works in three areas such as; protection, promotion and support to human rights.
9. A systematic awareness program of legal literacy needs to be implemented to remind women of their legal rights.
10. The loopholes in Qisas laws should be overcome and the Pakistani Government must repeal the laws. The amendments in laws are necessary to fight against honour crimes.
11. Several literacy campaigns must also be initiated in the form of conferences, lectures and local literature in both rural and urban areas in order to create awareness among the common people. The more the literacy rate the more the women will be able to know about their rights.
12. Establishment of Police training schools, colleges, academies can also play important role in improving the law enforcement response to human rights violations
13. There is a serious need to review, evaluate and update, national laws to effectively address gender-related killings of women, including, where appropriate, by providing for specific offences or aggravating circumstances and by reviewing legislation to ensure that it does include discriminating factors, passion, violent emotion, honour or provocation that allow perpetrators to escape criminal responsibility.
14. Both Men and women should be represented equally in all the Public institutions, the representation of the women in the Government is necessary to end the male domination. Women should participate in politics so that no discriminatory laws against women could be passed. It must be

ensure that competent authorities investigate and prosecute each case of honour killing of women with due diligence and without delay.

15. Our Parliamentarian must adopt a comprehensive law against honour killings.
16. National commission for women should be given more powers to deal with honour crimes.
17. There is a need of functional unity of the government, International community, and the NGO's and local community on the issue.
18. Punishments must be followed and given strictly to perpetrators and the evidence system should also be made strong for the sake of proper investigation and punishments.
19. The religious leaders can play their role in accordance with Islamic point of view as to what are the rights of a human in this world this will help to reduce the irrational behaviour towards the women.
20. Print and electronic media can also change the perspective of the community regarding honour killing. Especially the electronic media has great effect on peoples attitude.
21. The police must be given training to safeguard the rights of the citizens provided by the Constitution of Pakistan.

Conclusion

In Pakistan, honour killing is defined as taking the life of a woman because she was guilty of immoral sexual conduct. The adulterous female is killed for the sake of restoring honour, to erase shame, and to control women's lives. Pakistan has one of the highest incidence rates in the world. A survey conducted by the Thomson Reuters also includes Pakistan in the top five most dangerous countries for women in the world because of the highest rates of dowry murder and so-called honor killings.

Women are thought to be subordinate to men. From her birth a woman is considered to be a burden and her assets are calculated in terms of her power of reproduction and as an object of sexual satisfaction. Women are denied their own identity. They are thought of and recognized as mothers, daughters and sisters ñ never as individual persons. A woman is looked upon as a commodity going from one man house (her father) to another (her husband) killing occurs amongst women of different ages, religions, social status, wealth and education. Pakistan is considered as sixth most populated country likewise the worst in case of protection of women. The word 'honour' was introduced for the first time by a Dutch scholar "Ana Nanta" in 1978. Honour killing is known by the urdu word 'Karo – Kari' which means a 'black male' and a 'black female' and is defined as most often, the murder of a woman or a girl by male family members for the purpose of seeking protection of the dignity and honour of family and is also known as shame killing. Honour killing includes a wide range of violences from unlawful confinement, assault, acid burning, rape to, cold blooded murder in the name of honour. The history begins with the emergence of Adam and Eve on the face of earth. Pakistan, honour killing is defined as taking the life of a woman because she was guilty of immoral sexual conduct. There are no solid clarifications about the origin of Honour killings. It is stated by several writers that honour killing exists all over the world. Some states that honour killing belonging to some societies of South Asia and Middle East and which is deeply rooted in to customs and tradition since ancient periods. There are many factors of honour killing such as; family, property, disobedience, divorce, and ethnicity. Honour Killing affect the society very badly and this practice must be eliminated from the society soon as possible. Government can take measures in the shape of laws and there enforcement for ending this inhumane act. Islam is the first religion who contributed in women's rights and their equal status. In Islam both man and woman have equal status in their economic, political and domestic sphere. Teachings of Islam do not convey any ill-attitude towards women in domestic and in the sphere of society as well. To reduce the rate of honour killings in Pakistan The Criminal Law (Amendment) Act 2004, was introduced, also known as Honour Killing Act, which amended Pakistan Penal Code and Criminal Procedure Code to define honour killings as murder with penal punishments. Then Criminal Law (Amendment) (Offences in the name of pretext of Honour) Act 2016, established the punishment of honour killings to 14 years of imprisonment to life.

There are certain Acts and conventions that provide protection to women such as CEDAW which was signed in 1980 whose main purpose is protection of women's rights and elimination of discrimination.

The Constitution of Pakistan also guarantees fundamental rights of every person without discrimination in its article 25. Women's rights are also protected by UDHR (The Universal Declaration of Human Rights) and ICCPR (International Covenant on Civil and Political Rights) which states that all are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and any incitement to such discrimination. Muslim Personal Law of Sharia that protects woman's right of inheritance, Muslim Family Law Ordinance 1961 protects woman's right against unjust procedures of marriage and divorce, Prevention of Anti-Women Practices Act 2011 protects women from abomination like Badla-e-Sulha, Wanior Sawara, and The Protection against Harassment of Women at Workplace

(Amendment) Bill 2022 protects women from "bad-mannered" surrounding at workplace, market places, travelling by local transport, Hudood Ordinance protects rights of women after it was amended by Woman Protection of bill. There are few obstacles in the punishment of culprit such as pardon, lack of knowledge about rights, bribery, threatening, confidentiality etc. Honour killings can be eliminated through legislative measures, accurate sense of honour killing, literacy, role of Police etc.

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