



A pilot study on:

# 'Honour Killings' in Pakistan and Compliance of Law

By  
**Maliha Zia Lari**

**A Pilot Study on:**

**‘Honour Killings’ in Pakistan  
and Compliance of Law**

By

**Maliha Zia Lari**

**Published under  
Legislative Watch Programme for  
Women’s Empowerment**

 **Aurat Foundation**

## **About the Author**

The author is a High Court Advocate with an LLM in Human Rights from School of Oriental and African Studies (SOAS), University of London. She has been working on women's human rights, specifically women's legal rights for the last 8 years. She has worked with several NGOs and international organisations providing gender analysis of Pakistani law, drafting of laws and as a trainer. Her work has included several reports, articles and trainings given on issue of international human rights treaties, including CEDAW and discrimination against women in law and the judiciary. Currently she is practising law in the Sindh High Court at Karachi and continuing her work as a free lance gender and legal consultant.

## **All rights reserved**

**This publication is provided gratis or sold, subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out or otherwise circulated without the publisher's prior consent in any form of binding or cover other than in which it is published and without a similar condition being imposed on the subsequent publisher.**

**Preferences to this report and excerpts of the report can be reproduced with due acknowledge of the publication and Aurat Publication and Information Service Foundation (AF).**

**Published by:** Aurat Publication and Information Service Foundation

**Title painting by:** Aliya Mirza

**Title technical design by:** Black Box Sounds

**Layout design by:** Shahzad Ashraf

**Printing by:** Crystal Printers

**Date of publication:** November, 2011

# Table of Contents

	<b>Preface</b>	1
	<b>Introduction</b>	5
1.	<b>The Status of Women in Pakistan</b>	9
2.	<b>The Zia Effect of Systematic Discrimination against Women</b>	11
3.	<b>“Honour Killings”: their Prevalence and Understanding the Rationale</b>	17
4.	<b>“Honour Killings” and its Relationship with Law</b>	25
	“Honour Killings” and Pakistani Law	27
	The Criminal Law (Amendment) Act 2004	31
5.	<b>Implementation of the Criminal Law (Amendment) Act 2004</b>	37
	5.1. Registered Cases of “Honour Killings”	37
	Methodology	38
	Limitations and Problems Faced	39
	Findings of the Research	42
	Analysis of the FIRs	48
	5.2. Reported Cases of “Honour Killings”	50
	(i) Case Law in Pakistan	50
	(ii) Analysis of Pakistani Reported Case Law	59
6.	<b>Perspective of the Community</b>	63
	Causes of “Honour Killing”	64
	Awareness about the Criminal Law (Amendment) Act 2004	66
	Role of the Community	69
	Role of the Police	70
7.	<b>Conclusion and Main Findings</b>	73
8.	<b>Recommendations</b>	83



## Glossary

**Karo-kari:** Sindhi term literally meaning black i.e. disreputable man - disreputable woman (who have brought disgrace to the family or clan), a 'crime' that allows culturally condoned killing in the name of honour of a man or woman charged with an illicit relationship. In Balochistan the term used is *siyah kari*.

**Ghairat:** Loosely translated as honour but also refers to a chivalrous adherence to tradition.

**Jirga:** An assembly of male elders, usually tribal, who make decisions regarding social issues; an informal body for resolving disputes. The term is Pushto but the practice exists across Pakistan. Decisions taken by them are known to be anti-women.

**Panchayat:** An assembly of elders of the community, always males, who are called upon to resolve disputes.

**Qisas and Diyat Ordinance:** Law promulgated by the Ziaul Haq regime as *Sharia* law that allows compoundability of crimes including murder.

**Purdah:** Veiling

**Na-mehram:** All men excepting blood relatives.

**Izzat:** Respect

**Zan, Zar, Zamin:** Women, gold, land – commonly considered motives for committing crimes.

**Tazir:** Sentence of imprisonment or death under normal law.

**Masoom ud dam:** One whose life is sacred or protected.

**Quwwam:** Superior; men are *quwwam* over women as interpreted in the Quran.

**Qatl-e-amd:** Intentional murder

**Wali:** 'Protector' or 'guardian' of women in the family, the head of the family, patriarch.

**Zina:** Sexual relationship outside marriage

**Fasad-fil-ard:** Chaos/disorder on earth or society

**Badl-e-sulah:** Giving something (often women and girls) as compensation for a crime.

**Arsh:** Compensation for hurt



## Preface

Elimination of all negative and harmful customary practices, including killings in the name of so-called honour, has been part of Aurat Foundation's mission since its inception. While a woman's empowerment means her complete independence in making choices by her free will, it becomes reality only through her total emancipation from patriarchal hold. Customs and traditions, the gatekeepers of patriarchy, become more violent and brutal in tribal and feudal societies where all-male informal mechanisms of dispute resolution are still intact. Therefore, throughout history, the most widespread crimes against women in all regions of the world have been committed in the name of customs. What a self-explanatory foot-note of his-story! Even in present times, e.g. the crimes against women like female infanticide, female genital mutilation and killings in the name of 'family honour' result in 'unimaginably huge and shameful' loss of women's body and soul in several regions of the world.

In Pakistan, 'honour' killings are prevalent throughout the country, though in some areas the incidents of 'honour' killings have taken an alarmingly high proportion of incidents in recent years. According to Aurat Foundation's statistics, collected for its annual reports on violence against women, a total of 557 women were killed in the name of 'honour' in Pakistan in 2010, whereas 604 women were killed in 2009, and 475 women were killed in 2008. Parallel quasi judicial systems like *jirgas* and *panchayats* continue to issue verdicts declaring women and men guilty of '*karo-kari*' and '*siah-kari*' punishable through arbitrary killing, by anyone, by any means. Statistics have shown that usually women are killed after being declared '*kari*' and men are often able or made to escape from the scene of killing. These crimes have brought our country in disrepute and there is evidence that our failure to contain and address



this issue has resulted in a spill over of ‘honor’ killings to a number of foreign countries primarily through Pakistani immigrant communities.

In 2004, when after persistent efforts of women’s rights organizations and committed activists, along with active women in political parties, some legal amendments were made to Pakistan Penal Code to address the issue of ‘honor’ crimes through an act of Parliament, it turned out to be a ‘victory’ more shrouded in disappointment than joy. Besides jubilant official claims of making headway in resolving the issue, the response of civil society organizations was straightforward: “the law has no teeth – it will be ineffective”. Since, Shahla Zia from Aurat Foundation was the prime architect of the legislative bill which was handed over to the federal women’s ministry for legislative action, and she along with some senior members of the Legislative Watch Group in Islamabad, Tahira Abdullah, Sabira Qureshi, Nasreen Azhar and myself were participants to the negotiations with the ministry in 2004, it became clear, as well as painful for us to know that despite our protest and reservations, the original bill prepared by Shahla Zia was being severely ‘mutilated’ with the final outcome that its most vital clauses were dropped when it was passed by the National Assembly.

The bill was passed in December 2004, and became a law in January 2005. However, as the above-quoted statistics indicate, there was no let-up in the incidents of ‘honor’ killings during the following years. Since, we were aware of the presence of serious loopholes in the law, it did not come as a surprise. But, there could have been other factors, e.g. what does our case law say about ‘honor’ killings’; how were the law or the relevant provisions in the PPC received by the police, judiciary and legal community and; what were community perceptions towards the offence and any legal remedy to it. These were broad questions. Therefore, it was felt that a pilot study was required to analyze ground situation to ascertain the level of understanding on the new law by different stakeholders and

the nature and extent of its compliance. The scope of the study was kept narrow so as to have some initial understanding of the problem and its related dimensions.

This pilot study was conducted by Maliha Zia Lari, who is a practicing lawyer and researcher on human rights and international instruments with a strong passion and commitment to women's rights and their empowerment. She conducted the study with the assistance of local researchers in the four selected districts, Sheikh Abdul Razzaque (Naseerbad), Irfan A. Durrani (Nowshera), Naveed Malik (Ghotki) and Mumtaz Mughal (Gujrat). Saima Munir, Rubina Brohi and Haroon Dawood from Aurat Foundation's offices also helped her in conduct of the study.

Maliha has elaborated limitations and challenges faced during the conduct of the study in the next pages, which include difficulties in accessing information from concerned departments to 'culture of silence' among local communities to speak about or report these crimes. Nevertheless, the findings of the study, summed up in the last chapter, are startling, for instance, *"There is little awareness of the 2004 law on honour killings. The community at large either does not know of it, or does not know the specifics of the law. But what is far worse is that this ignorance also exists within the fundamental players of the justice sector, including the police, lawyers and even judges."*, and *"The police is often unwilling to implement the law due to the overwhelming social acceptance of the act and the influence of power holders. Often they are reluctant to take the case forward, as mostly the cases are compromised out of court. The police often try to bring about this negotiation themselves, as they feel that it is for the benefit of both parties to avoid the hassle of a court case and settle the matter before taking it to court."*

The findings draw attention of law-makers to reform law concerning these crimes as it is proved to be ineffective and counter-productive; and it is earnestly expected that the leaders and officials sitting at the helm of affairs in legislatures, governments, law-enforcement agencies, as well as, those who hold authority in courtrooms, will see wisdom in several landmark judgments pronounced by the Supreme Court prohibiting ‘honour killings’ and in addition listen to the last cries for help and justice of those who were killed simply because their only ‘crime’ was that they were women.

We hope that this report would pave way for further in-depth research, may be on a wider scale, to vindicate its findings with more evidence as has been suggested by the author. In the end, I would like to thank all those who gave input to the report in providing information and opinion on the issue. I would also like to express Aurat Foundation’s gratitude to the Norwegian development assistance which made it possible to conduct this study.

**Naeem Mirza**  
Chief Operating Officer  
Aurat Foundation

Islamabad, 25 November, 2011

## Introduction

The Criminal Law (Amendment) Act 2004, otherwise known as the ‘Honour Killings Act’, was promulgated after the murders of thousands of innocent women and girls and years of demands and struggle from different segments of society for a legislation to provide protection to citizens, especially women and girls; to make illegal and criminalize all murders committed under the name of ‘honour’; and to punish the perpetrators, aiders, abettors and supporters of these crimes.

The 2004 Act amended the Pakistan Penal Code (PPC) and the Criminal Procedure Code (CrPC) to define *karo kari* (honour killings) as murder with penal punishments. It has been held up by the government as a show of their commitment to eliminate honour killings and violence against women.

However, the Act falls short of providing actual protection to survivors/victims and ensuring punishment for the perpetrators and supporters of this heinous crime. It has been severely criticized by civil society, including eminent legal scholars. The amendments mostly deal with the Qisas and Diyat provisions in the PPC, but have left some major lacunas, which have, in effect, rendered the law useless.

The problems lie not just in the law itself but in its implementation. With the implicit consent of society, the murderers are given protection and impunity from within the community, which extends to the police, courts and other implementing agents and agencies. Apart from the inherent biases within these bodies, problems also lie with the methods of investigations, lack of up-dated machinery and tools etc.

With the Government holding up the 2004 Act as a success story of Pakistan, it is essential that this ‘success’ should be measured and its

shortcomings and failures also be recognised and accepted. Hundreds of women continue to be killed every year across Pakistan with the murderers and perpetrators going scot free. Civil society, including media, legal, NGO personnel and even Islamic jurists have all spoken out against honour crimes and have advocated for a strong stance against it. With the law in place, this issue should have decreased drastically. Nevertheless, the problem continues to exist.

It now becomes necessary to go beyond merely identifying the gaps in the law and to move on to identifying different strategies to push the Government and government agencies to conduct proper investigations into such cases and arrest and prosecute the perpetrators of these horrific crimes.

This report aims to take a closer look at the actual implementation of the 'Honour Killing Act'. It focuses on not just the numbers of honour killings quoted in the media, but to examine the actual effect on the ground. Taking a sample study from across the nation, it examines how many cases of honour killings actually get registered; what are the reactions of the offenders to the passing of a law specifically dealing with their crime; the language used by the police; a case analysis of judgments given on honour killings to evidence whether any social change has been created within the judiciary itself. The report aims to see whether any actual change has happened in the 5 years since the law was passed.

The report first examines the position women hold in Pakistan in order to set the environment in which these offences occur, elaborating on the patriarchal mindset and values that exist in current day Pakistan. It will go on to briefly review the impact of the tenure of General Zia-ul Haq in Pakistan and the effects of his discriminatory policies on women. This is vital as this was the time when discrimination against women was

formalised by the State and ‘legal’ impunity for men exploiting and violating women’s rights and freedoms began.

The report will then go on to examine the concept of ‘honour’ and ‘honour killings’ in order to understand the crime itself. In order to work towards eliminating it, it is necessary to comprehend the rationale behind it. From here will follow an assessment of how the law in Pakistan has dealt with honour killings. It will discuss how the law operated before 2004 in order to allow us to analyse its operation after the ‘Honour Killing Law’ was promulgated. The next section will discuss the findings of the research conducted. This will study the effects, if any, of the 2004 law. Finally, the report will end by summarising its findings with recommendations as to how to make the law more effective and measures that should be taken to address the increased number of honour killings.

**Maliha Zia Lari**



# 1. The Status of Women in Pakistan

Women's status in Pakistan varies across different classes, regions and rural/urban divide, and is very much based on the different cultural traditions and values. However, some generic statements can be made while keeping in mind that their effects vary according to the above-mentioned elements.

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'<sup>1</sup>. Women are denied their own identity. They are thought of and recognised as mothers, daughters and sisters – never as individual persons. A woman is looked upon as a 'commodity' going from one man's house (her father's) to another's (her husband's). This 'commodity' must be protected to ensure it is delivered in prime form to its recipient. This results in the men in a family restricting the space of the women in the family. There are restrictions placed on their mobility, their behaviour and their activities to ensure they do not bring shame to the family. This, along with the concept of *purdah* (veiling), which is supposedly meant to provide protection and respectability to women, but in fact is a manipulative tool used for control, results in internalising amongst women the notion of the fragility and importance of their own behaviour and the insecurity of their status. The concept of women as holding men's 'honour' is also an extremely relevant element here, but this will be discussed later in this report. This bias is widely held – thereby women's behaviour is monitored not just by the men in her family but by the whole of society where she is judged for any behaviour thought to be 'inappropriate'.

---

<sup>1</sup> "Two Steps Forward, One Step Back", Shaheed and Mumtaz, 1987



Gender is one of the organisational principles in Pakistan. Patriarchal values embedded in local tradition and culture, predetermine the social value of gender. A divide has been created resulting in the sexual division of labour – the woman in the reproductive and caregiver role in the house, and the man as the breadwinner. This has further resulted in low resource investment in women as a group by the State and the family. As a consequence of this low resource investment, women suffer greatly, whether through low life expectancy, lack of education etc.

Women are generally unaware of not only their basic human rights and their legal rights, but also of the processes, procedures and any of the mechanisms they could access and use for their own benefits. Additionally, although a large number of women, especially in rural areas, do work for e.g. in agriculture and farming, but their contribution is not only not recognised, but also they do not get to play any part in decision-making or administration, nor do they receive any financial remuneration for their work. Other types of work women do includes piece rate, home based work, which too is not recognised and remains unrecorded as they are not considered part of the labour force. The majority of women do not reap financial benefits from their work because the payment received is not considered their ‘own’ and is usually either taken by the male member of the family or used to support the family. For a large segment of the female population there are also restrictions on women working outside the house, which directly affects the economic independence of women. They are entirely dependent on men for any finances, which further infringes on their freedom of choice as they feel that without any financial support there are no options for them. This coupled with restrictions on women’s mobility results in a total dependence on men.

## **2. The ‘Zia’ Effect of Systematic Discrimination against Women**

As discussed above, women’s status in Pakistani society is considered as secondary to men. They are expected to play the role of nurturer, the mother, recognised and valued only for her reproductive capability. These highly patriarchal views are steeped in the traditional culture of Pakistan. However, these views were given massive support and formal support during the presidency of General Zia ul Haq<sup>2</sup>. While such views were always present, they were now perpetuated by the State through its actions, institutions and through the law. These policies did not just propagate and strengthen patriarchal beliefs in society, but also sent out the message that they were ‘right’ and it was acceptable to treat women in such a manner. The impunity granted to society’s treatment of women thereafter further served to entrench such notions into the psyche of the people in Pakistan with long lasting effects seen in different forms, including violence against women and the treatment of women by the legal system. The methods adopted by the State in this State sponsored discrimination of women are discussed a little later.

As noted by Mumtaz and Shaheed<sup>3</sup>, it was not until the last few decades that Pakistani women even conceived of their struggle as being against a patriarchal system. These women had played a part in demanding greater rights and concessions from within the existing system, believing that achieving their own rights was a matter of ‘natural’ evolutionary process. Until the Islamization period of General Zia ul Haq, which alerted women across the country into taking note of the rights and freedoms that were being taken away from them, women had not questioned how many of

---

<sup>2</sup> Ibid

<sup>3</sup> Ibid

their rights were achieved on paper and how many actually filtered down to the majority of women in Pakistan.

While Pakistani women may not have actively highlighted women's issues and pushed the women's agenda in the pre-Zia era, they were nevertheless notably present, albeit few in number, whether in the Pakistan Movement<sup>4</sup> or other facets of Pakistani life including labour<sup>5</sup>, the arts<sup>6</sup>, sports<sup>7</sup>, politics<sup>8</sup> etc. One of the most disastrous outcomes of the Zia regime was making the women of Pakistan invisible. Mumtaz and Shaheed have described the process by which Zia-ul-Haq and his Government systematically worked towards the removal of women from the public sphere and the perpetuation of the image of the modest and chaste woman.

This process consisted of successive policies at State level that in essence laid out the *behaviour* women should have and roles they were *expected* to play. By perpetuating discrimination through administrative and legal means, the system worked towards making the position of women insecure, subordinate and inferior to that of men, thereby creating a social change within Pakistan, allowing the underlying patriarchal elements to reign freely, making women extremely vulnerable in society.

The campaign started with the enforcement of the *chador*<sup>9</sup> for all female government employees and women and girls in educational institutions. This was followed by another campaign against obscenity and pornography, which in itself is not an issue, except that the Government equated women per se with obscenity, demanding that women should

---

<sup>4</sup> Ibid

<sup>5</sup> Ibid

<sup>6</sup> Ibid

<sup>7</sup> Ibid

<sup>8</sup> Ibid

<sup>9</sup> Ibid

only be present in commercial advertisements that were relevant to women. The Government then proceeded to perpetuate a certain image of women through the media, defining her as a care-taker in the home and only associated with articles of housework; women could only appear in clothes that completely covered her, and that too only for 25 per cent of the commercial; women could not appear on television during Ramadan. Along with this, pictures of women film stars were banned from newspapers; newspapers held debates on modesty and obscenity; women were generally regarded as synonymous with obscenity, corruption and immorality.

If women were harassed, killed or raped in the streets, or at home, it was because women had provoked these attacks by their speech, action or just their very presence. Television programmes started depicting women as the root of corruption; working women were depicted as the cause of lax morality and the disintegration of the family and social values. From official campaigns and government-controlled television, it appeared that the only manner in which the rapid deterioration of society could be checked was by eradicating the presence of women altogether.

The efforts continued with proposals to open separate universities for women, as co-education was 'un-Islamic'. The repercussions were that women were now being pushed out from other co-educational institutions, being told to go to 'their own' educational institutions, where it is important to note, the quality of education was also lower. Along with the segregation of women in education, women were also pushed out of the sports arena. Initially training camps for international sports events in which women athletes were supposed to be participating were cancelled.

Thereafter the Federal Minister for Sports and Culture announced that women could only play sports in front of an all women audience, as it was un-Islamic to play in front of *na-mehram* (all men excluding blood

relatives), in effect excluding all men. As a result, women were ‘allowed’ to play in segregated compounds and were free to play against international teams under Islamic conditions within the country, but were not allowed to participate in events held abroad.

Other efforts to segregate women included banning official coeducational social evenings, of stopping the promotion and recruitment of women in national banks, of cancelling the foreign postings of single Foreign Office women, and preventing women from taking up scholarships abroad.

Concurrently, women’s legal status was also methodically being reduced, in effect formalizing their secondary position in society. The promulgation of the Hudood Ordinances of 1979, the Law of Evidence and the Qisas and Diyat Ordinances were some examples of this. Even gender neutral laws that were meant to protect women were implemented in an extremely discriminatory and anti-women manner, creating a long lasting erosion of women’s legal status.

All of this had a distinct negative psychological effect on society. For women, it resulted in feelings of insecurity about their status and identities, while also creating a fear about the repercussions of their behaviour. This was strengthened by the reaction of the men, as the environment gave support to the more conservative factions of society, allowing them to take advantage of the situation to openly pursue their own agendas.

With regards to women’s attire, this scenario created an atmosphere in the country whereby all males became the judge of women’s modesty and status in society<sup>10</sup>. The atmosphere also allowed for men to decide what is appropriate or inappropriate behaviour for women. It placed women in such a weak and insecure position that men could behave with them in

---

<sup>10</sup> Pg 81

any manner whatsoever, harass them, judge them or even physically harm them, there would be little or no support for women from the State or the society, giving men impunity to act as they wished when it came to women.



### 3. “Honour Killings”: their Prevalence and Understanding the Rationale

‘Honour’ crimes is a term used widely to refer to the killing or harm induced on persons, usually women, for the protection of the perpetrator’s ‘honour’. A simplistic definition of ‘honour’ killings is given by Rabia Ali in a report for Shirkit Gah<sup>11</sup>: ‘[W]hen a man takes the life of a woman and claims that he did it because she was guilty of immoral sexual conduct it is called an honour killing, not murder’<sup>12</sup>. Another definition states: ‘Honor crimes are acts of violence, usually murder, committed by male family members against female family members, who are held to have brought dishonor upon the family’.<sup>13</sup>

The term ‘honour’ crimes is a wide term which includes different manifestations of violence, such as ‘honour’ killings, assault, confinement or imprisonment, and interference with choice in marriage, where the publicly articulated ‘justification’ is attributed to a social order claimed to require the preservation of a concept of ‘honour’ vested in male (family and/or conjugal) control over women and specifically women’s sexual conduct, actual, suspected or potential’<sup>14</sup>. The extra-judicial means employed in this ‘control’ of women are exercised usually through customary practices, forming a part of what has been termed “traditional

---

<sup>11</sup> A prominent human rights organization in Pakistan

<sup>12</sup> The Dark Side of ‘Honour’, Rabia Ali, Shirkat Gah

<sup>13</sup> ‘Honor Killing in Pakistan’, filed on 11-06-2009, <http://actdcmetro.wordpress.com/2009/06/11/honor-killing-in-pakistan/>

<sup>14</sup> P.4, ‘Honour’ Crimes, Paradigms, and Violence Against Women, Edited by Lynn Welchman, Sara Hossain, Oxford University Press, 2005



justice” or “tribal justice”, a contested form of private retribution that many find unwarranted and illegitimate<sup>15</sup>.

While the concept of honour killings goes back to pre-Islamic Arabia, it has also been traced to ancient Roman times, when the paterfamilias retained the right to kill an unmarried but sexually active daughter or an adulterous wife. It is not known when, or indeed if, the practice ended in Europe<sup>16</sup>. In Pakistan, the concept traces back to Pakhtun and Baloch tribal customs. It has however since become prevalent in both Sindh and in Punjab, resulting in murders being committed across the country without any regional or class boundaries.

Honour killings have transcended into modern times and are rampant across the world.

Pakistan is no exception to these killings. They are high in number, often non-reported therefore the statistics collected even now are incomplete and can only give a slight over-view of what the actual situation may be. In fact, honour killings, even from the incomplete number of cases reported, is one of the most prevalent forms of violence against women in Pakistan.

### **Understanding the Rationale Behind ‘Honour Killings’**

Understanding the concept of ‘honour killings’, as mentioned earlier, is extremely important to be able to have a holistic understanding of the crime. It is firmly based in a patriarchal system, obsessed with the idea of

---

<sup>15</sup> Nancy V. Baker, Peter A. Gregware and Margery A. Cassidy. "Family Killing Fields: Honor

<sup>16</sup> Rationales in the Murder of Women." *Violence Against Women* 5, No. 2 (1991): 164–84.

patrilineage<sup>17</sup>. From this follows two important notions on which the whole concept is based.

Firstly, the idea of men's 'honour' needs to be explored. Knudsen<sup>18</sup> defines it in terms of familial respect (*izzat*) and social prestige (*ghairat*); as a relation between a person's own feelings of self-worth and that of the peer-group ("honour group") to which he belongs. 'Honour' is bestowed at the behest of society and, therefore, it can also be lost and must be regained.

The second notion is that of women as the property of men. This concept of women as objects is based on tribal cultures. Khan points out: "Women are considered the property of the males in their family irrespective of their class, ethnic or religious groups. The owner of the property has the right to decide its fate. The concept of ownership has turned women into a commodity which can be exchanged, bought and sold"<sup>19</sup>.

This 'commodification' of women is directly linked to the obsession with patrilineage i.e. ensuring protection/ownership of the women's womb. As a woman's only asset, as mentioned above, is seen to be her reproductive capability and an object for sex desires, this concept is taken further to establish the need of controlling women's sexuality. By exercising any freedom, including sexual freedom, or attempts to break free of the control, she challenges the whole social order, undermining the ownership rights of others to her body. Women's physical chastity is of uppermost importance, and by the merest hint of 'illicit' sexual interest a

---

<sup>17</sup> P. 45, 'Beyond Honour', Tahira S. Khan, Oxford University Press

<sup>18</sup> Are Knudsen, 'License to kill: Honour Killings in Pakistan', Chr. Michelsen Institute Development Studies and Human Rights, 2004

<sup>19</sup> Honour Killings in Pakistan, Neshay Najam,  
<http://www.islamawareness.net/HonourKilling/>

woman loses her inherent value as an object worthy of possession and therefore her right to life<sup>20</sup>.

Khan discusses this in terms of a collective patriarchal male understanding. A man will be considered 'respectable' if he is able to control the sexual behaviour of his wife, daughters and sisters. This is only possible if he is able to control their movements, limit their mobility and thereby reduce their interaction with strange men with whom they threaten to 'sully' the family's 'honour'<sup>21</sup>. The notions of '*purdah*' and the '*na-mehram*' play an essential role in this control. He does this task on the assumption that if they do not protect their women, they cannot be assured to get 'clean' 'pure' women for themselves. This practice is not a cultural or traditional phenomenon, it very much has an economic basis and material motives<sup>22</sup>.

By entering into an adulterous relationship a woman subverts the order of things, undermines the ownership rights of others to her body and indirectly challenges the social order as a whole. She becomes black, *kari* (Sindhi) or *siyah*, hence *siyah kari* in Balochi. Women's' bodies must not be given or taken except in a regulated exchange effected by men.

Amnesty International<sup>23</sup>, also recognises the economic factors and advantages for men, relating to this "commodification" of women. Some of the examples of this 'economically viable' situation includes marriage of girls within the family to ensure property remains within the family; marriage of women to the Quran; payment of 'bride price' at the time of marriage, especially in tribal areas of NWFP, Sindh and Balochistan – including in the form of another woman; and blood money i.e. the

---

<sup>20</sup> *ibid*

<sup>21</sup> Pg 45 'Beyond Honour', Tahira S. Khan, Oxford University Press

<sup>22</sup> 'Beyond Honour', Tahira S. Khan, Oxford University Press

<sup>23</sup> Amnesty International Report: Pakistan: Violence Against Women in the Name of Honour, 1999

compensation negotiated to end a dispute which besides money may involve a woman to be given to an adversary.

Therefore, the idea of ‘protection’ referred to earlier appears logical as women are undoubtedly seen as objects ‘worthy of possession and need to be controlled on account of their inherent value’. A man’s property, wealth and all that is linked with these are the sum of total value and therefore it is an integral part of honour of man, tribe etc. A key observation is that "although honour is located in material wealth, the language and expression of honour resides in the body. Women's bodies are considered to be the repository of family honour". Honour in the traditional settings is a male prerogative, it is men who possess *zan*, *zar* and *zamin* (women, gold and land) that allows them to hold their heads up; women have no honour of their own<sup>24</sup>.

The question arises, what is it in female behaviour that sullies the ‘honour’ of men? Welchman and Hossain summarise a number of reasons identified by different authors across the world in the 2005 book “Honour’ Crimes, Paradigms, And Violence Against Women”<sup>25</sup>:

*‘...the range of female behaviour considered to violate ‘honour’ goes beyond sexual conduct (actual, potential or suspected) to include other behaviors that challenge male control (Aida Touma Sliman notes ‘staying out late and smoking for example)...how these paradigms of ‘honour’ interfere with the right of choice to marry across South Asia: forced*

---

<sup>24</sup> Honour Killings in Pakistan, Neshay Najam,  
<http://www.islamawareness.net/HonourKilling/>

<sup>25</sup> P.5, Honour’ Crimes, Paradigms, and Violence Against Women, Edited by Lynn Welchman, Sara Hossain, Oxford University Press, 2005

*marriage is one result, but other scenarios include being forced to remain in an unwanted relationship, or punished for leaving (or trying to leave) one, or exercising choice regarding whether to marry or not, and whom to marry...the significance attached to female virginity and the resulting imposition (or attempted) imposition of virginity testing on females suspected of having 'violated' family honour, including through having been subjected to rape. '*

An examination of cases in Pakistan recognises that a number of these scenarios have been played out locally. It is important to note that even the suspicion of any kind of behaviour that is seen to transgress social norms is sufficient for besmirching one's honour. Other examples include even a conversation with another man, past relationships, revenge honour killings, wandering unaccompanied outside the home too often, leaving the house without permission, being the victim of rape etc. Defiance of any of the controls or social norms translates into women 'misbehaving' and undermining men, the community and the social order as a whole, thereby needing to be punished, not just for her transgressions, but also as an example to other women.

Once a woman has behaved in a manner that has shamed the man and his honour, he has to restore his honour in any manner whatsoever. The necessity to regain and protect a man's honour is judged by the community as a whole. The logic of tribal tradition turns conceptions of victim and perpetrator, right or wrong on their own head. Women who are killed or flee a killing are not victims but are considered guilty in the tribal setting. The man whose honour has been tarnished is considered to be the victim. It is with him that the community sides, and not the 'bad' woman. In order to restore his 'lost honour' the man must return the shameful act with one of equal intensity in a very public manner. In honour bound societies, female chastity represents the family's "symbolic capital". To protect it, the offending woman must be killed rather than

divorced or excommunicated, an act which in itself is considered shameful. Killing her removes the offensive act, redeems family honour and resurrects its prestige. The murder is therefore a means to an end and used instrumentally to “restore honour” and “remove shame”.<sup>26</sup> In this way, the man regains his honour and is morally and legally supported by his kinsmen<sup>27</sup>.

---

<sup>26</sup> Are Knudsen, ‘License to kill: Honour Killings in Pakistan’, Chr. Michelsen Institute Development Studies and Human Rights, 2004

<sup>27</sup> “Honour Killing in Pakistan”, Neshay Najam,  
[http://www.crescentlife.com/articles/social%20issues/honor-killings\\_in\\_pakistan.htm](http://www.crescentlife.com/articles/social%20issues/honor-killings_in_pakistan.htm)



## 4. ‘Honour Killings’ and its Relationship with Law

The presence of murders termed as honour killings exist not just in Pakistan but in various countries around the world. A number of provisions relating to honour killings exist in different legislations around the world. A number of these provisions seem to be soft on the issue of honour killings. It is pertinent to note that countries such as Brazil and Colombia in the last 2 decades have amended laws relating to partial or complete defence of so called honour killings in their legislation<sup>28</sup>. However, there still exist negative provisions in different laws around the world. It is also important to note that the majority of these also use ‘provocation’ as the main reasoning behind leniency.

Countries, such as Morocco, have systematically failed to address the issue of honour killings. It, in fact, allows for leniency for the crime within its law. The only amendment it made was in 2007 where it extended this leniency to women along with men.

In countries like Yemen, Lebanon, Jordan and Syria, the legislation allows for lesser punishment where there is considered to be adequate ‘provocation’ by violating cultural norms.

Article 232 of the Penal Code of Yemen states “if a man kills his wife or her alleged lover in the act of committing adultery or attacking them causing disability, he may be fined or sentenced to imprisonment for a term not exceeding one year.”

---

<sup>28</sup> the report of the Special Rapporteur submitted to the 58th session of the United Nations Commission on Human Rights (2002) concerning cultural practices in the family that reflect violence against women (E/CN.4/2002/83)



Article 340 of the Jordanian Penal Code, which exempted from punishment men who kill a female family member found "committing adultery," has been repealed. Even though this constitutes a step in the right direction and is very welcome, perpetrators of so called "honour" crimes still benefit inappropriately from the provisions in Articles 97 and 98, which allow for a reduction in sentence if a man is "provoked" into killing.

Article 548 of the Penal Code of Syria also provides an exemption from penalty if a man kills or injures his wife or female after finding her committing adultery or other "illegitimate sexual acts with another." The law also provides for a reduction in penalty for a man who kills or injures his female relative after catching her in a "suspicious state with another." Also of concern is the way in which legislation in various countries awards lesser punishment in cases where the victim is considered to have "provoked" the crime by violating cultural norms.

Article 562 of Lebanon's penal code says that if a man catches his wife or female relative engaging in sex outside of wedlock, he can kill or injure her in a moment of passion and receive a lenient sentence. This legal protection does not, however, extend to a woman who happens upon her husband or a male relative in a similarly compromising position.

Three other articles of the penal code (193, 252 and 253) allow for crimes committed in certain circumstances – including defending honour and decency provided the criminal is not acting selfishly or for material gain – to receive lenient sentences.

Turkey is one of the few countries that have recently amended its law. In September of 2004 Turkey's Parliament enacted a new law requiring life sentences for anyone convicted of murder with a "moral killing"

motive<sup>29</sup>. The new law defined honour killings as voluntary suicide. Also, family members who encourage another member of the family to commit a murder or to commit suicide will be punished. Those who encourage children to commit a crime will be punished more severely.

## **‘Honour Killings’ and Pakistani Law**

In Pakistan, honour killings have regularly come for consideration before the courts for years. Until 2004, there was no specific legislation dealing with the issue. As a result, there is a huge body of jurisprudence pre-2004 that has been providing narrow interpretations and discriminatory judgments for a long time. It is important to take a cursory look at how the law on honour killings unfolded in order to understand and appreciate how the courts deal with honour killing cases currently. It is important also to have this information to be able to analyse and see whether there has been modification and advancement in the mindset of the judiciary while over-seeing such cases.

### **Honour Killing Cases pre 2004**

In pre-partition cases, as Warraich<sup>30</sup> notes, it was a norm that a husband could benefit from the exception of ‘grave and provocation plea’ if he killed his wife or her alleged lover if they were guilty of adultery. The courts were quite willing to give this plea a broad interpretation. In the initial post-independence years, court continued to give token sentences to perpetrators of alleged ‘honour killings’. Yasmeen Hassan notes that the benefit of the plea was extended to men, giving them authority to

---

<sup>29</sup> Department of State, *Country Reports on Human Rights Practices – 2004: Turkey*, Bureau of Democracy, Human Rights and Labor, at 13 (Feb. 28, 2005), available at <http://www.state.gov/g/drl/rls/hrrpt/2004/41713.htm>

<sup>30</sup> ‘Honour Killings and the Law in Pakistan’, Sohail Akbar Warraich, ‘Honour’ Crimes, Paradigms, And Violence Against Women, Edited by Lynn Welchman, Sara Hossain, Oxford University Press, 2005

monitor women's movements and kill them if they defied the social order<sup>31</sup>.

Post-independence, much of the debate related to the issue of Islamisation of the laws, specifically the criminal law relating to murder and hurt,<sup>32</sup> which directly relates to the prosecution of honour killings. The Qisas and Diyat Ordinance was promulgated to address the supposedly anti-Islamic elements of criminal law. The law made a number of changes, as summarised by Warraich<sup>33</sup>, followed by a discussion based on the effects of these changes.

Firstly all cases of death at the hands of a person were now termed as one of four categories of 'murder,' removing all previous categories e.g. manslaughter. Secondly, sentences were given not on the basis of the intensity or facts of the crime but on the form of proof of murder and the relationship of the offender to the deceased. There are different requirements for the proof for *qisas* (retribution i.e. death sentence) i.e. full confession to the satisfaction of the court or requisite witness. If these requirements are not fulfilled, the accused will be liable for sentencing under *tazir* (sentence of imprisonment or death sentence under normal law). Certain relatives were already exempted by the law as being only liable for *diyat* (giving compensation), but with the court's discretion to impose a maximum sentence of fourteen years of imprisonment. Thirdly, the law stated that *qisas* shall not be enforceable where, according to the injunctions of Islam, it is not applicable. Finally, the law now formally allowed the heirs of the murder victim or the victim of any form of bodily

---

<sup>31</sup> 'Honour Killings and the Law in Pakistan', Sohail Akbar Warraich, 'Honour' Crimes, Paradigms, And Violence Against Women, Edited by Lynn Welchman, Sara Hossain, Oxford University Press, 2005

<sup>32</sup> *Gul Hassan* judgment

<sup>33</sup>

harm, the right to ‘forgive’ an accused or to enter into a compromise with them involving compensation, known as ‘compounding’ the offense.

These changes in the law resulted in a large amount of confusion over their application. Questions about whether certain articles relate to sentences under *qisas* and/or *tazir*. The case of *Gul Hassan* contributed to this confusion by adding a number of new definitions and new provisions. It stated that from an Islamic point of view, a murder could only be exempt from *qisas* in only two situations: where the deceased was committing an act for which the sentence under Islam was death, and where the murder had been in self defence. The judgment went on to add that Islam does not permit the murder of ‘one who is *masoom ud dam*’ (one whose life is sacred or whose blood is protected). This protected category is not clarified in the judgment. The court noted that the penalty for *zina* (sexual relationship outside marriage) is death; therefore, the murderer will be exempted from a death sentence under *qisas*. Further, the introduction of self defence as an exemption from *qisas* and the court’s elaboration of this concept resulted in even more problems in the prosecution of honour killings.

The cases that came after this judgment continued to give conservative and contentious judgments, continuing to mete out light sentences or set free the perpetrators. The concept of *masoom ud dam* was interpreted<sup>34</sup> to include someone who was not entirely innocent, thereby widening the term and permitting murderers to declare their victims *masoom ud dam* and receive lesser sentences. The statement of the accused stood without scrutiny and the accounts regarding the victim’s conduct was given as the motive. This resulted in a barrage of cases where the victim’s conduct was an important element in deciding the case and directly linked to the possible sentence. In some cases while using this as a reason for

---

<sup>34</sup> *Mohammad Hanif*

mitigation, compensation for the heirs of the victims were set aside, as the victims were not '*masoom ud dam*'.

Self defence, as discussed above, was also an exception to qisas. Cases came forward raising the issue of use of self defence. The courts invoked the Quranic description of men as being *quwwam* (superior) over women, that is, responsible for women including their safeguard and protection. This concept went further to describe it as the basic right of men to 'protect the honour of his women and to defend them from outrage, disgrace and insult'<sup>35</sup>. The merger of all these concept i.e. of self-defence and the victim who is not *masoom ud dam* re-introduced the grave and sudden provocation exception. In fact, in other cases, it was noted that although the plea of provocation no longer existed in cases of murder due to the changes in law, it could still be used as a mitigating circumstance in cases under *tazir*<sup>36</sup>.

The Qisas and Diyat Act simply elevated elements of traditional justice to statutory law and encouraged out-of-court settlements in accordance with local customs, often involving monetary compensation or exchange of marriageable girls, although the latter is invalid but not outlawed. While there were a few forward looking positive cases with regards to honour killings, the majority of the cases came out with negative conclusions. Seemingly, the courts took advantage of the confusion to create wide interpretations, which fit their own conservative and anti-women biases, as opposed to providing justice equally to all citizens. The result was that honour killings seldom led to conviction and imprisonment, which could

---

<sup>35</sup> Ali Mohd v. Ali Mohd.

<sup>36</sup> Abdul Haque vs the State

be an important reason for the subsequent rise in honour killings since the promulgation of the Qisas and Diyat Ordinance in 1990.<sup>37</sup>

### **The Criminal Law (Amendment) Act 2004<sup>38</sup>**

In 2004, after years of advocacy from civil society, the Government finally passed an act making ‘honour’ crimes, especially ‘honour’ killings illegal. The Criminal Law (Amendment) Act 2004, referred to as the Honour Killings Law made a number of changes in the Pakistan Penal Code 1860 (PPC) and the Criminal Code of Procedure 1898 (CrPC), mainly making additions to existing provisions to include *qatl-i-amd* (intentional murder) under the pretext of ‘honour’. However, it is important to note that despite the huge amount of advocacy and collaboration with parliamentarians, a number of the vital changes demanded by civil society were not incorporated into the Act. The major amendments made by the law are summarized below.

#### **Amendments as per the Criminal Law (Amendment) Act 2004**

The most important addition in the introduction of a definition of honour crimes was "offence 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," which allow family members to kill women, and also men, on the pretext of having brought dishonour to the family.

---

<sup>37</sup>Are Knudsen, ‘License to kill: Honour Killings in Pakistan’, Chr. Michelsen, Institute of Development Studies and Human Rights, 2004

<sup>38</sup> This section has been produced with reference to Aurat Foundation publications: Honour Killings of women: Problems in the Law; We Demand Strong and Effective Legislation to Eliminate ‘Honour’ Crimes; ‘Honour Killings’ and the law in Pakistan’

The discretion of the court to decide where according to the injunctions of Islam the punishment of qisas was not applicable has been removed in reference to murder committed in the name, or on the pretext of honour. It also removes the possibility of the murderer being the *wali* (guardian), while also allowing the State to take the responsibility of wali if necessary.

The punishments have been raised from 14 to 25 years. Giving of women as *badl-i-sulah* (for marriage or otherwise in compensation for a crime committed) has been made illegal with penalties. In cases where all the wali do not waive or compound the right of qisas, or on the principle of causing *fasad-fil-ard* (chaos or disorder in society), the court may punish an offender against whom the right of qisas has been waived or compounded, while also giving a minimum imprisonment for 10 years in case of honour crimes. Minimum sentences are also given for different related offences. In cases of hurt where qisas will not be enforced, the court, along with *arsh* (compensation for hurt) may award a punishment of tazir, especially if it is an honour crime. In situations where the heirs choose to waive or compound the offence, in cases of honour crimes, a procedure has been laid down i.e. subject to conditions as the court sees fit according to the facts and circumstances of the case.

Changes in the CrPC include changes made to procedure, i.e. higher ranks of police officers will be assigned to investigate honour crimes and *zina* (sexual relationship outside marriage) offences. It clarifies, as above in the PPC, anyone who can waive or compound the offence, the conditions have to be approved by the court. It also takes away the provincial governments' power to remit or suspend any sentence on honour crimes.

## **Gaps in the Criminal Law (Amendment) Act 2004**

Despite the acceptance of the illegality of ‘honour’ killings and ‘honour’ crimes, there remain a number of fundamental lacunas in the Act, due to which the Act remains largely ineffective and does not provide relief to the victims, as civil society and human rights activists had envisioned and urged. The gaps in the Act are summarized below.

- Punishment for ‘honour’ crimes is not mandatory, which makes the purpose of introducing the legislation redundant.
- The provisions of waiver and compoundability, which almost inevitably pave the way for compromises, particularly since most crimes of this nature take place within close members of the family, remain valid in cases of ‘honour’ crimes. [No exclusion of the provisions of Sections 309, 310, 311, 338E PPC in the case of honour crimes]
- While ‘honour’ killing has been included in the definition of fasad-fil-ard and a minimum penalty of 10 years as tazir laid down (with a maximum of 14 years), the awarding of a penalty in cases where the right of qisas has been waived or compounded has been left completely at the discretion of the court. As in the past, this provides the loophole for murderers to get away with minimal or no penalty. [Amendment to Section 311 PPC].
- Where the penalty of tazir is waived or compounded in murder cases, the only stipulation made is that the permission of the court is required and subject to such conditions as it may deem fit. Apart from giving the court complete discretion in terms of awarding a tazir penalty, there is not even a minimal penalty laid



down for such cases. This applies to all other offences e.g. under hurt. [Amendment to Section 338E PPC].

- The definition (of honour crimes) may be fairly comprehensive but it does not include the words ‘whether due to grave or sudden provocation or not’ at the end. Thus, it leaves space for courts to distinguish between and make concessions in cases of what they consider ‘grave or sudden provocation.’ [Amendment to Section 229 PPC]
- The definition also combines ‘honour’ killing with other ‘honour crimes’ (e.g. acid throwing, burning, nose-cutting etc.) which are usually women specific and are committed for other reasons also. By being so general, it could become counter-productive, e.g. if a person caused ‘hurt’ to a man for obscene or obnoxious behaviour towards a woman, that person would also become liable to harsher penalties. [Amendments to Sections 299 and 337N PPC]
- With regard to penalties, the only penalties for ‘honour’ killings (if there is no compromise) are (a) death or life imprisonment (i.e. 25 years) as tazir. While the intention of providing a higher penalty may be a good one, this has proved to be counter-productive. Where courts are already reluctant to give harsh punishments in cases of ‘honour’ crimes, laying down a minimum of 25 years or death may discourage them from conviction in these cases, just as the mandatory death penalty in gang rape cases makes conviction near impossible [Amendment to Section 302 PPC].

- There is no mandatory minimum sentence for ‘honour killings’ irrespective of the relation of the perpetrator to the victim<sup>39</sup>.
  - There are also concerns as to the difference in the penalties for the same crime: death or life imprisonment (if there is no compromise) as mandatory punishments; no penalty or 10-14 years (if qisas is waived or compounded) at the discretion of the court; acquittal or any amount of tazir (if the tazir is waived or compounded) at the discretion of the court. [Amendments to Sections 302, 311, 338E PPC].
  - There is no liability to ensure that others who are usually involved in, encourage or validate such killings, e.g. *jirgas*, *panchayats*, family members/elders etc.), and are thus primarily responsible for perpetuating these practices, become equally liable to penalty under the law.
  - While it is positive that the issue of giving a woman in marriage of otherwise as badl-i-sulah has been specifically forbidden, this also needs to be accompanied with a penalty for all offenders. [Amendment to Section 310 PPC].
  - There is no provision in the Act to ensure that when courts allow compounding of offences, they must first satisfy themselves that the offence is not an ‘honour’ crime. It must be remembered that if stronger penalties for such crimes are incorporated in the law, the offenders might well choose not to mention honour as a motive for the crime. Therefore, it becomes important for courts
-

to properly determine the issue before allowing the compounding of offences.

- Though it is positive that the power to suspend or remit sentences in the case of 'honour' crimes has been taken away from provincial governments, however, the fact that the consent to suspension or remission being allowed to victims or families of victims may create an avenue of continuing pressure on them even after conviction of the offender.

Despite the promulgation of this Act, legal experts agree that the existing laws leave ample space for judicial gender biases to intervene and result in lenient sentences to murderers, protect perpetrators from getting maximum penalties and facilitate compromises which allow perpetrators to get away with minimal or no penalty.<sup>40</sup> These gaps in effect circumvent the entire idea of effectively prosecuting honour killings. There are so many loopholes that without diligence and activism on the part of the court, it will be hard to get very many convictions for honour killings under this law.

---

<sup>40</sup> P.251, 'Beyond Honour', Tahira S. Khan, Oxford University Press

## **5. Implementation of the Criminal Law (Amendment) Act 2004**

After 5 years of the legislation having been passed, the question arises as to how effective it has been. With this in mind, the pilot study focusses on two main questions: to investigate how many cases of honour killings were being reported to the police and being registered across the country; and how the courts were responding to cases of honour killings since the law was passed.

### **5.1 Registered Cases of Honour Killings**

It is extremely difficult to collect accurate data on the actual number of honour killings across Pakistan. Large numbers go unreported; others are categorised under other heads and are missed. This is evidenced by the fact that even organisations and bodies that do try to collect data on violence against women, including honour killings, are on many occasions unable to match even their own data!

The media has played a fundamental role in data collection. According to a 2009 report in the European Journal of Public Health, newspaper reports are a good source of surveillance when information is limited<sup>41</sup>. Aurat Foundation's Violence Against Women Policy and Data Monitoring Project (PDM)<sup>42</sup> has done tremendous work towards gathering data on violence against women since 2008-10, as evidenced below.

---

<sup>41</sup> 'The epidemiological patterns of honour killing of women in Pakistan', Muazzam Nasrullah 1,2,3, Sobia Haqqi 4, Kristin J. Cummings, European Journal of Public Health, Vol. 19, No. 2, 193–197

<sup>42</sup> Aurat Foundation has published 3 annual reports on statistics of violence against women for 2008 and 2010

**Table 1: Number & Percentages of Cases of VAW in Pakistan during 2008-2010**

Categories of Crime	Number of Cases of VAW in Pakistan during January 2008 to December 2010						
	Year 2008	%	Year 2009	%	Year 2010	%	Grand Total
<b>Abduction/Kidnapping</b>	1,784	29	1,987	33	2236	27.95	6,007
<b>Murder</b>	1,422	33	1,384	32	1436	17.95	4,242
<b>Domestic Violence</b>	281	20.36	608	44.05	486	6.075	1375
<b>Suicide</b>	599	31.21	683	35.59	633	7.9125	1915
<b>Honour Killing</b>	475	28.98	604	36.85	557	6.9625	1636
<b>Rape/Gang Rape</b>	778	29.43	928	35.11	928	11.6	2634
<b>Sexual Assault</b>	172	30.28	274	48.23	74	0.925	520
<b>Acid Throwing</b>	29	24.57	53	44.91	32	0.4	114
<b>Burning</b>	61	39.61	50	32.46	38	0.475	149
<b>Miscellaneous</b>	1,970	35	1,977	36	1580	19.75	5,527
<b>Total</b>	<b>7,571</b>		<b>8,548</b>		<b>8000</b>		<b>24119</b>
<b>Percentage%</b>	<b>31.10%</b>		<b>35.10%</b>		<b>33.17%</b>		<b>100%</b>

This data has provided a basis for analysis of trends of violence, and will be instrumental in measuring social change as time goes on.

## **Methodology**

The present study, supported by the findings of PDM, has attempted to take a step forward and collate registered FIRs on honour killings across the country to see how they are pursued in relation to the cases reported

in the media. Four districts were chosen as a sample group. The chosen districts were:

- (i) Naseerabad, Balochistan
- (ii) Ghotki, Sindh
- (iii) Nowshera, Khyber Pakhtunkhwa
- (iv) Gujrat, Punjab

The districts were chosen with reference to PDM reports for their high incidence of honour killings or, as, in the case of Nowshera, the extremely low reported incidents, but high numbers reported by word of mouth.

Four researchers were hired from the four provinces, with the main focus to not only collect the relevant data, but also to conduct interviews in the different areas to try to ascertain whether any attitudinal change had occurred in their respective regions. The interviews were conducted with community members, police officers, lawyers, the victims' families, the families of the perpetrators and the perpetrators themselves.

## **Limitations and Problems Faced**

From the onset of the project a number of obstacles immediately presented themselves, only to be followed by more. These are summarised below.

There is a serious lack of consolidated data available. The researchers faced much difficulty in collecting data from the different police stations. In a number of police stations, the First Information Reports (FIRs) were not categorised; in a number of others they were all written by hand in different files. Nor is there a standard format used. Researchers had to search through the papers to find the information required and then try to consolidate it for the purposes of this study. There is no concept of typing or printing complaints, FIRs or reports. Due to lack of resources, most of

the police stations are not even equipped with computers, much less personnel who are familiar with their usage. It was only because of the persistence of the researchers that the data was recovered, but it had to be consolidated mostly by them. This is not to say all police stations had the same problem, but this issue was widespread.

Apart from the lack of consolidated data, there is a huge problem with storage of the data. All the papers are placed in files and put in cupboards, making it difficult for people to recover them. This issue with storage is common across other sectors as well, including the courts. Without any other copies of a number of the reports, this led to disaster in a large number of districts, including Gujrat, where due to the floods in 2010 large amounts of data was lost. Since the only manner of recording was by hand written complaints, reports etc, these papers are now lost for good. As a result, Gujrat data was not available from before 2008. Other districts, which had high statistics on honour killings, were performance not included in this report because of the loss of data.

The categorisation of FIRs also presents a problem. For example, in the district of Nowshera, there is officially not a single case of honour killings registered, despite cases that have been heard of through word of mouth<sup>43</sup>. Apparently, when cases of honour killings are reported, they are immediately lodged under Section 302 of the Pakistan Penal Code, i.e.

---

<sup>43</sup> In March 2010, a young man was killed by his uncle (mother's brother) and no report was filed with the police. The families compromised and the victim's family shifted to Islamabad. The victim was rumoured to be having an affair with his uncle's wife. Despite warnings the two had continued to stay in contact, resulting in the murder of the victim by his uncle. The victim's family didn't report the case to the police, and compromised with the perpetrator's family, as it was their family matter and the victim's family believed that their son was guilty.

murder, as all honour killings are, but the motive is not mentioned, and they are classified as simple murder as opposed to honour crimes or honour killings. This reflects a social bias in such areas against the concept of reporting honour killings as a public issue, as opposed to a private, family issue.

Also, the main form of documentation with the police is FIRs. They do not keep records of cases files that are passed on to the court, nor are they regularly updated with what is happening with the case. Therefore, if the police have registered a case, they may have no idea of what the end result was. What happened to the case? Was the accused found guilty or not guilty?

Further, there are cases that are reported as ‘honour killings’ in police reports that were actually cases of domestic violence and domestic homicide. This exhibits a lack of knowledge of the aspects of both honour killings and/or domestic violence. As far as the police was concerned, a woman being killed in an argument with her husband or her in-laws made it an honour killing as she ‘argued too much’ with her husband.

Certain reports were recovered on an ad hoc basis from the courts. Initial efforts were made to recover court data with regards to honour killings, but the red tapism made it extremely difficult to do so. In courtrooms where researchers were given access, similar problems of data recovery and consolidation faced them.

It also proved to be difficult to interview all those who the researchers set out to interview. The majority of the attempted interviews failed as people were reluctant to comment on the issue. Those who had suffered directly or indirectly from this custom were even more silent on the matter. It became difficult to get people, especially community people, to speak on record on the issue. Judges also refused to give personal comments on the issue.



## Findings of the Research

The findings of the research have been placed in the table below. This data is the collated result of all the FIRs registered in the selected districts from 1 January 2005 to November 2010. One of the main aspects this study was interested in examining was comparing the number of cases registered as FIRs to the number of cases reported in the media. Unfortunately this comparison was only possible from 2008 when the Aurat Foundation Policy and Data Monitoring Project were initiated. Earlier statistics on honour killings are in a consolidated form according to province, as opposed to broken down district by district.

**Table 2: Data Gathered From FIRs across Chosen Districts**

No.	Nowshera FIRs <sup>44</sup>	Nowshera Media Reports	Ghotki FIRs	Ghotki Media Reports	Gujrat FIRs <sup>45</sup>	Gujrat Media Reports	Naseerabad FIRs	Naseerabad Media Reports
2005	0	n/a	6	n/a	*	n/a	18	n/a
2006	0	n/a	11	n/a	*	n/a	18	n/a
2007	0	n/a	6	n/a	*	n/a	11	n/a
2008	0	0	16	36	2	1	12	34
2009	0	3	27	24	7	2	22	20
2010	0	1	42	37	17	05	8	10

<sup>44</sup> No FIRs referring to honour killings are reported to have been registered in Nowshera.

<sup>45</sup> Due to the floods of 2010, a large amount of data in Gujrat was destroyed, including all data relating to FIRs before 2008.

This table compares the media reports with the registered FIRs. Comparison is only available from 2008. This is sufficient as it brings forward some interesting observations.

### **Nowshera**

The main reason Nowshera was identified as a sample district was due to its low reported incidence of the crime, while reports from residents note a high number of honour killings. This is also evident from the table. As mentioned earlier, the police deny a single case of honour killing ever being registered. Media reports too reflect a low rate of incidents. Interviews conducted in the area provided some insights on the issue. According to one of the interviewees, women ARE being killed in the name of honour but are buried silently and the matter is kept hidden<sup>46</sup>.

A meeting was held with DPO Nowshera, Mr. Nisar Tanoli. In the very little time provided, he just expressed a few things. He was totally unaware of the 2004 law and amendments to the law. The most notable comment was, “If you come to know that your wife is involved with someone, what will be your reaction, won’t you kill her?”

Police (Inspector, Sub Inspector and Investigation Officer) and the members of the *Masalihati Anjuman* (officially constituted bodies for resolving disputes outside courts) of Union Council Akora Khattak, stated that very often bodies of women are discovered in the river. Most of them are murdered by gunfire. The police stated that in such cases they take the dead body in their custody and file the case as unknown dead body. Investigations are rarely followed through without any interest shown from any family or community member to pursue the case.

---

<sup>46</sup> Interview conducted with Azhar Ali Khan, Advocate, Noor Education Trust

When asked about the lack of filing or reporting of cases of honour killing cases, the reason given was that the murder takes place within the family. Women are killed in the name of honour by their husbands, brothers or fathers, and sometimes by other relatives. The victim and perpetrator’s families are relatives or members of the same family, so no one is interested in filing cases. The most common answer was that “One life has been lost from our family and we do not want to lose another”. Interestingly, this sentiment was also echoed in responses heard by AIG (Islamabad) Ehsan Sadiq in his work as a police officer in Punjab.

### **Ghotki**

Ghotki provides an interesting comparison. While acknowledging the role played by media and its increasingly regular and updated reporting on violence against women, specifically honour killings, this table shows the opposite situation in district Ghotki. In 2008, the situation was that media reports doubled the number of FIRs registered, but the following two years reportedly reflect a decrease in media reporting when more FIRs were registered than reported by the police.

<b>Table 3: No. of Honour Killing cases compiled by Aurat Foundation from District Ghotki during Jan-Dec (2008-10)</b>			
<b>Year</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Number of cases reported in the media.</b>	36	24	37

This raises pertinent questions as to whether the figures reflect tardiness in the media in Ghotki? Or does this reflect a discriminatory bias within the Ghotki media? Does it reflect that the police is adept at keeping the issue on a low profile and not allowing access to the media? Does it

reflect the community's silence on the issue, not allowing for effective reporting?

Interviews conducted at community level show the conservative nature of the community. The researcher had an opportunity to interview a young man<sup>47</sup> who had murdered his own sister. He was extremely proud of what he had done. He claimed he would have lost all his honour because of her behaviour if he had not acted as he did. He stated that he had been supported in his actions by his immediate and extended family, as well as the neighbours and others. His brother, who was also the brother of the victim, stated his brother was indeed honourable. He noted that all women were responsible for their actions and therefore for their consequences, therefore his sister deserved to die. He also shared that on her death, the entire family celebrated her death with song, dance and firing in the air. When asked whether he knew about the 2004 law and that honour killings were illegal and punishable, he laughed it off, claiming that money can buy you anything, including your freedom, so there was no need to worry when you had money: 'When you have money, no law applies to you'. His brother also confirmed that the police always take money, so there was no problem. Another family member interjected asking, who had the law really punished until now?

Local lawyers state that in such cases there is usually a compromise between the families before the case even gets to court. Therefore, there is no fear amongst the people about being punished for the crime. If the worst comes to worst, the perpetrators have to undergo three years imprisonment.

---

<sup>47</sup> Names have been omitted for the sake of privacy

## Gujrat

Gujrat also shows a similar situation as Ghotki. Seemingly, the media has not been as swift at reporting as in some of the other districts. The table also shows a sharp increase in the filing of cases of honour killings in 2010. This raises queries as to why there has been a sudden hike of 10% registrations. All FIRs registered in Gujrat have been taken to court. Up to the time of reporting, only one case had been concluded with a compromise, while the rest were still pending judgment.

The police noted that while a number of cases are being registered as honour killings, the reasons for the crime are actually different; but the murderer has more of a chance to be released or receive a mitigated sentence if his claim of *ghairat* or honour is accepted<sup>48</sup>.

Year	2008	2009	2010
Number of cases Reported in the media.	01	02	05

During an interview the family of a victim revealed they had been subjected to a lot of pressure from the perpetrator and his family. They were threatened and finally were forced to compromise and forgive him without conditions in the court. A relative of the perpetrator noted that the entire family did not support the perpetrator's actions and in fact felt their honour had been harmed more by his actions than that of his wife. He felt that people were now gossiping and talking about them, whereas they were not doing that before. He also shared that there was no knowledge

---

<sup>48</sup> Interview conducted with S.I. Saghir Hussain Shah, Gujrat

or information about the 2004 law in the community. Had there been, perhaps the perpetrator may not have committed the murder.

### **Naseerabad**

The media in Naseerabad was shown to be quite active, as it has almost accurately reported the same number of cases as the registered FIRs in 2009 and 2010. The fluctuation in the registered FIRs is curious. While only 12 cases were reported in 2009, the figure almost doubles in 2009 and reduces drastically in 2010, as shown in table No. 5.

<b>Table 5: : No. of Honour Killing cases compiled by Aurat Foundation from district Naseerabad during Jan-Dec (2008-10)</b>			
<b>Year</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Number of cases Reported in the media.</b>	34	20	10

It is pertinent to note that the infamous case of the 5 women buried alive in Naseerabad<sup>49</sup> occurred in 2009. With widespread controversy surrounding their murder, the confusion that reigned due to lack of information and finally the stand taken by Senator Israrullah Zehri in the Senate defending the custom,<sup>50</sup> may have had something to do with the low number of cases registered in the district.

Arif Hassan, social commentator and author, noted that in his researches regarding social change, with regard to honour killing, the community committed these murders also as a warning to other girls who may be wishing to stretch the seams of the culture and tradition of their

---

<sup>49</sup> 'Five women buried alive in name of honour', Rauf Klassra, The News, 25-08-2008

<sup>50</sup> 'Anti-women' cabinet riles Pakistan activists, Saeed Shah, The Guardian, 12-11-2008

community. Perhaps this has been one of the side effects in this case – the warning has been heard. Further, the impunity with which this murder was treated until the national and international hue and cry, may have affected the psyche of the people. It does send the message that unless there is a high degree of pressure placed upon the State, the State will not investigate. The State’s implicit support of such actions is also seen through the appointment of Senator Zehri as Minister in the Federal Government. The promotion, as opposed to demotion of a person who has so vocally supported the practice of honour killings, in effect making him even more powerful in the community, gives the message to the nation that it is okay to support violence against women, to murder women and to commit such criminal acts. It is but natural that such actions on the part of the State should influence the community’s behaviour.

### **Analysis of the FIRs**

Reading FIRs from across the country provides a number of interesting observations. Some of these are shared below.

Despite boundaries, different languages, regional rivalries etc, it is astonishing how all of them come together when it comes to killing women. It becomes clear that all these murdered victims were killed without proper explanation, justification, a chance to defend or redeem themselves. These men stood judgment on these women, these human beings, and decided they deserved to die. The motives behind the majority of the murders were amazingly similar, if not the same:

- Bad character
- Bad morals
- Bad behaviour
- Bad character
- Loose behaviour and morals
- Leaving the house with or without permission

- Illicit affairs (suspected or real)
- Choosing to marry against the family's wishes/elopement
- Wandering outside the house too often
- Running away
- Being the victim of abduction and being murdered for the shame of her abduction
- Leaving the husband/divorce
- Previous marriages/relationships
- Revenge
- Any meeting/friendship/conversation with a man not from the family.

There are other similarities in writing and in style. For example, while generalising, there seem to be only a few types of incidents that occur. One scenario is that the family is sleeping at night and they wake up with screams when they see the perpetrator, alone or with accomplices, beating/strangling/firing upon the victim while stating she has been declared 'kari' i.e. dishonourable. The murderers then run away towards the east. Another scenario is that the complainant hears screams from the courtyard of the house of the perpetrator or victim and runs to it to see the perpetrator standing in the door/veranda screaming that he has murdered the victim as she was 'kari' with someone, and then the perpetrator runs away towards the east. There have been a few cases where the perpetrator has run away in another direction, but never to the west.

The language in the FIRs is extremely curt without any thorough background information or gender sensitivity. It displays a dismissive attitude to violence against women. While drama and emotion is not expected, what is expected is more detailed information in order to have a cohesive report on the incident for the investigating officer to follow up. The complete lack of details, the similarities across the nation, display that a particular format has been adopted by the police on the type of



reporting it will do when registering cases. The duty of the police should include asking questions to gather more holistic data on the incident. While the data would not form part of the complaint, observations of the reporting officer should also be added at the end. A question that can validly be asked is, is this non-creative, minimal information and unclear attitude also adopted by the police during investigation?

## **5.2 Reported Cases of Honour Killings**

### **(i) Case Law in Pakistan**

The courts, both district and senior level, are regularly faced with honour killings in its various forms. Having examined how the courts dealt with this issue pre-2004, an examination was carried out of court cases spanning the last 5 years. Not all cases since 2005 have been discussed here, but a general opinion has been formed, which is supplemented with examples.

Some interesting observations can be made straightaway. For example, the majority of cases that have come to the senior judiciary have been in Lahore, with Karachi as the second most approached court. There has been no reported judgment on honour killings from Balochistan to the knowledge of the researcher, and only a handful in Khyber Pakhtunkhwa. Another interesting discovery was that the defence of provocation was being used freely, much as in the pre-2004 years.

#### **Supreme Court**

Cases that have come before the Supreme Court have discussed the issue of honour killings, and alongside it the plea of grave and sudden provocation.

In the very first reported case post the 2004<sup>51</sup> law, Justice Muhammad Nawaz Abbasi stated that, “[t]he commission of an offence due to ghairat or family honour must be differentiated from the grave and sudden provocation in consequence to which crime is committed in the light of facts and circumstances of each case”. He notes that if a crime is committed with premeditation, the plea of grave and sudden provocation may not be available to the accused.

Justice Abbasi provided further clarification on this issue in a case decided later in the year<sup>52</sup>. He noted that while “[i]t is correct that in our Society, the illicit liaison of a female of the family is not tolerated but mere suspicion of such relations cannot be an excuse to commit murder and claim mitigating circumstance for lesser punishment. In this case, the court did not accept the actions of the accused were ‘neither grave nor sudden’ ”, and therefore not satisfactory for the mitigation of sentence.

Justice Tassaduq Hussain Jilani further elaborated on the defence of grave and sudden provocation in Pakistani law in the case of Abdul Jabbar<sup>53</sup>. The High Court in this case had mitigated the sentence of death for murder in a case where the brother and first cousin of the victim murdered the young woman, as she had married without the consent of her family. The High Court stated that, “*In our society nobody forgives any person who marries his sister or daughter without the consent of his parents or his near relations,*” and seeing the victim with her husband caused grave and sudden provocation. While over-turning the decision of mitigation of sentence by the High Court, Justice

---

<sup>51</sup> Muhammad Ameer v. The State 2006 PLD 283

<sup>52</sup> Muhammad Arshad v. The State, 2006 SCMR 89

<sup>53</sup> Abdul Jabbar v. The State, 2007 SCMR 1496

Jillani reiterated Justice Abbasi's earlier judgment, i.e. suspicion is not sufficient for a successful plea of grave and sudden provocation. Referring to earlier cases in Pakistani jurisprudence, Justice Jillani quoted that:

*"A mere allegation of moral laxity without any unimpeachable evidence to substantiate would not constitute grave and sudden provocation. If such pleas, without any evidence are accepted, it would give a licence to people to kill innocent people<sup>54</sup>."*

He also mentioned the judgment of a 2000<sup>55</sup> case which dealt with killings in the name of honour, where the Supreme Court specifically noted that:

*"Before parting, I may add that by and large all the cases of grave and sudden provocation would not ipso facto fall within the purview of section 302(c) particularly those of Qatl-i-Amd of wife, sister or other very close female relatives at the hands of males on the allegation of Siahkari."*

In other cases, the Supreme Court has now set a standard in cases of murder, if the accused is able to prove that he was *"deprived of the capability of self-control or was swayed away by circumstances immediately preceding the act of murder or there was an immediate cause leading to grave provocation"* <sup>56</sup> may be allowed a mitigation in his sentence.

---

<sup>54</sup> Mohib Ali v. The State 1985 SCMR 2055

<sup>55</sup> Zahir and another v. The State 2000 SCMR 406

<sup>56</sup> Muhammad Zaman v. The State P L D 2009 Supreme Court 49

It is clear from a cursory examination of these Supreme Court cases that the plea of grave and sudden provocation is indeed still allowed as a mitigating circumstance. While there are judgments that have firmly established that mere suspicion or any hint of premeditation will cancel out the possibility of taking this plea, it leaves a lot of room for the discretion of the judge. The fact also remains that this plea is, and will still be allowed, in cases of ‘ghairat’ or ‘honour’, where there is evidence of the abrogation of this ‘honour’ and if the act was committed in the heat of passion. In fact, one of the judgments<sup>57</sup> used by Justice Jillani in *Abdul Jabbar*, quotes the example of when the defence of provocation may be used, as when a perpetrator upon “*finding his wife in the act of adultery ... kills her or her paramour, and the law has always regarded that, although an intentional act, as amounting only to manslaughter by reason of the provocation received*”.

### **Khyber Pakhtunkhwa High Court**

In this region, the courts seem to continue to display a conservative, remain silent approach to honour killings. A 2009 case<sup>58</sup> conducted in Peshawar seems to refer to the murder of a girl on the orders of a jirga but never actually states this.

*‘The case of the prosecution is that on the day of occurrence there was a jirga between the complainant party and one Umar Zahid who allegedly took Mst. Shabnum deceased from her house in the dark hours. The deceased was buried without making any report about her un-natural*

---

<sup>57</sup> Lord Goddard in *Kumarasinghe v. Don John Perera* (1935) A.C. 200

<sup>58</sup> *Umar Zahid vs. The State*, 2009 M L D 4, Peshawar,

*death and it was subsequently discovered in an inquiry under section 174, Cr.P.C. that the death of the deceased had occurred due to hanging.'*

The judgment goes on to suppose that there is a possibility of this having been a forced honour suicide. In any case, the perpetrator was released on technicalities of the law. This also displays a biased behaviour towards the murderers in this region.

### **Sindh High Court**

While earlier cases of honour killings dealt with by the Sindh High Court (SHC) were not harsh on accused, recently, the SHC has become more active in cases involving misplaced honour. Though not a large number of cases seem to have come before the SHC, but in the cases that have, a number of strong statements have been made and positive actions taken.

Justice Shahid Anwar Bajwa stated that, '*Karo Kari is crime which is a blot not only on the fair name of Sindh...It has in the comity of nations, always sullied Pakistan and Muslim Society as a whole*<sup>59</sup>'. In this case, the court took notice of the conspiracy of the entire family to murder the victim for contracting a marriage of her own choice and rejected the bail of the applicants, while taking a strong stand against the heinous custom.

Justice Syed Shafqat Ali Shah Masoomi also noted in a judgment:

*"The crime of 'Karo Kari' is increasing in the Province of Sindh and innocent girls are being killed under the worst tradition of 'Karo Kari'. In this worst tradition false and frivolous allegations are*

---

<sup>59</sup> Daimuddin and others vs. The State, 2010 M L D 1089, Karachi

*levelled against the victim girls and they are never heard, and the declaration against girls as 'Kari' by their parents, husband and other family members is sufficient to treat them as 'Kari' and once that pronouncement comes that girl is treated as 'Kari'. In this part of the country the girls are being treated as cattle, just like buffaloes and goats, and the girls have no right in such situations on the pattern of animals as the animals have no rights. Therefore, such girls who are being declared 'Kari' are not required to be heard in those matters. In order to prevent such crimes the Courts of Law should have to take judicial notice while trying such heinous crimes."*

The Justice went on to comment on the procedure and environment of the court, noting that mother and sisters of the victims seemed to be under harassment and felt insecure, therefore he directed that the trial court should ensure that the case is conducted in *"an environment of complete freedom of mind of prosecution witnesses and to provide legal protection to the prosecution witnesses."*

The spirit displayed in these judgments seems to indicate that given the opportunity the SHC would potentially provide hard and appropriately harsh judgments against perpetrators and supporters of honour killings. While the SHC does not seem to have had the opportunity to preside over too many cases reaching this stage, it will be interesting to note whether it carries forward this spirit and translates it into its decisions and judgments.

### **Balochistan High Court**

As mentioned earlier, there seem to be no reported honour killings cases in the Balochistan High Court since 2004.

## **Lahore High Court**

The Lahore High Court (LHC), on the other hand is seen to give a number of contradictory decisions that both condemn and seemingly support honour killings.

In a 2006 case<sup>60</sup>, the court gave a strong statement against honour killings. While recognising that grave and sudden provocation was not an accepted motive for suspicion of illicit relationship, and therefore the contention of 'ghairat' as a mitigating circumstance was not sustainable, the court went on to state that, "*Neither law of the land nor religion permitted so-called 'honour –killing' which amounted to murder (Qatl-i-Amd) simpliciter*" and that "*honour-killing was violative of fundamental rights enshrined in Articles 8(I) & 9 of the Constitution.*"

The LHC proved to be vigilant while recognising that an accused could not prove his pleas of 'ghairat', 'self-defence' and 'sudden provocation' as said pleas appeared to be an afterthought story<sup>61</sup>.

In a 2009 case, Justice Tariq Shamim notes that, "*'Ghairat' has been excluded from being considered as an extenuating circumstance for awarding a lesser sentence*<sup>62</sup>."

However, despite these positive judgments, there exist a larger number of negative judgments, which are discussed below.

There is a large amount of case law available from the Lahore High Court over the years that continues to provide grave and sudden provocation as

---

<sup>60</sup> Bashir v. The State, 2006 PCRLG 1945

<sup>61</sup> The State v. Muhammad Sarwar, 2007 YLR 74

<sup>62</sup> Kamal Shah v. The State, 2009 P Cr. LJ 547

an acceptable plea to reduce sentences for murder in cases involving ‘honour<sup>63</sup>’, as is also seen in the cases dealt with by the Supreme Court.

The idea that killing for family honour is understandable is stated over and over again as an extenuating ground for grant of lesser punishment<sup>64</sup>. In fact, in one case, it is clearly stated that. *“Qatl committed on account of ghairat being not equivalent to Qatl-e-Amd the appellant is entitled to some concession”*<sup>65</sup>.

In a 2006 case<sup>66</sup> the court simply states, *“Record having established that it was a case of family honour, award of capital sentence to accused, was not justified”*. In a 2008 case, it was noted that, *“Killing over question of family honour on provocation has been accepted as an extenuating ground for grant of lesser punishment”*<sup>67</sup>.

While the Supreme Court attempted to place some requirements on the plea of provocation, a 2008 LHC displays how the loose ‘requirements’ allow conservative and discriminatory translations, and therefore implementation of the law results in a lax attitude towards honour killings.

In this case, the court states that while *“we would detest killing on this ground. But we are conscious of the fact that a situation as is apparent in this case and which had led to the occurrence was the cause of a grave provocation. If someone is provoked then his act is not one of pre-*

---

<sup>63</sup> Muhammad Waryam v. The State, 2005 YLR 1017; Mst. Matloob Hussain v. The State, 2008 P Cr. LJ 366

<sup>64</sup> Muhammad Imran v. The State , 2008 Y L R 1290

<sup>65</sup> Muhammad Imran v. The State , 2008 Y L R 1290

<sup>66</sup> Nasir Abbas v. The State, 2006 PCRLJ 497 Lahore

<sup>67</sup> Muhammad Imran v. The State, 2008 Y L R 1290



*meditation falling under the definition of cold-blooded murder. It is a case where human frailty governs consciousness and impulse dominates. We, therefore, agree with the learned counsel that although this was a double murder case...”<sup>68</sup>.*

This case in essence, removes the concept of ‘pre-meditation’, stating if there as is provocation, there is no pre-meditation.

In a 2007 case, the term *masoom-ud-dam* is shown to be still in existence and the social set-up and customs are given prevalence. The court stated that while *“human life was very sacred, but at the same time prevalent social set up, traditions and customs prevailing in the society could not be ignored where men would sacrifice their lives to safeguard the honour of their womenfolk, which was not considered a big sacrifice in any manner” and that “No religion allowed widespread immorality to destroy the fabric of a family life”<sup>69</sup>.*

The safeguards attempted to put in place by the Supreme Court, which stated that mere suspicion is not an acceptable reason for a plea of provocation and mitigation of sentence are clearly not followed by the LHC.

In a 2006 case, where a man was killed on the suspicion of being the paramour of the murderer’s wife, the court stated that, *“Family honour killings were to be discouraged, but it did not mean that the benefits of mitigation were not to be given at all to the accused in whose house someone had trespassed and invaded privacy to fulfil his lust”<sup>70</sup>.*

---

<sup>68</sup> Sarfraz v. The State, 2008 YLR 969, Lahore

<sup>69</sup> Sabir Hussain alias Pehlwan v. The State, 2007 PCRLJ 1159

<sup>70</sup> Zulfiqar Ali v. The State, 2006 MLD 1676

In a 2008 case<sup>71</sup> the court stated, “*As the murder has been committed out of suspicion of immorality, so award of lesser sentence to the appellant was proper and highly justified.*”

In a 2009 case<sup>72</sup> the court noted that the ‘possibility’ that the accused may have committed murder due to ghairat cannot be ignored, therefore, the “*awarding of capital sentence is a harsh order and as such the death penalty awarded to Muhammad Akhtar appellant by the learned trial Court is converted to life imprisonment.*”

As a result of this jurisprudence of law from the LHC, even a judge like Justice Pervaiz Inayat Malik stated in a 2009 case<sup>73</sup> that though he was not “*persuaded to subscribe to this view for the simple reason that in the name of ‘ghairat’ and sudden provocation, license cannot be given to any one including near relatives for committing murder of citizens of Pakistan....*” the court had to follow precedence and follow the law, and, as in this case, had to allow for accepting a reduction in sentence as ‘ghairat’ is accepted by the LHC as a mitigating circumstance.

## **(ii) Analysis of Pakistani Reported Case Law**

As is seen by the case law discussed above, ‘honour’ or ‘ghairat’ is clearly still accepted as a mitigating circumstance for reduced sentencing for murders under the guise of honour. In a large number of cases, the plea of grave and sudden provocation is still used.

While the Supreme Court has clearly accepted the use of this plea depending on the circumstance of the case, this leaves open a wide gap

---

<sup>71</sup> Muhammad Farooq v. The State, 2008 Y L R 2319

<sup>72</sup> Muhammad Akhtar, 2009 YLR 1092

<sup>73</sup> Qaisar Ayub v. The State, 2009 P Cr. L J 1148

for conservative and biased interpretation. This is evidenced by judgements given in a large number of cases in the LHC. These judgments are a reflection of how the precedents being set by the Supreme Court are being interpreted in lower courts. While the Supreme Court may have attempted to lay down a few specifications before acceptance of the plea of grave and sudden provocation, but clearly it is being translated as an acceptance of murder in the name of honour. In fact, apart from finding ways to circumvent the Supreme Court, a number of judgments do not even refer to the plea of provocation, but instead simply state ‘ghairat’ as an extenuating circumstance.

The Sindh High Court seems to be the only court that appears to be developing a revolutionary and progressive attitude in this regard, as exemplified in its strong statements. Nevertheless, due to a low number of honour killing cases reaching the High Court, it is not yet possible to see how far the SHC will go in perpetuating this spirit while hearing such cases.

The lack of case law in both Balochistan and Khyber Pakhtunkhwa is extremely worrying and also dangerous. As evidenced by the FIRs and media in Balochistan, such cases do occur, but the question is what happened to them? In Khyber Pakhtunkhwa, the problem of general acceptance of the crime by society and low reporting is also reflected in the data collected.

The questions that need to be asked are:

- What should the role of the court be after the law has been passed? Should courts adopt a more path breaking tone and attitude?
- While the plea of provocation is an accepted plea in cases of murder across the world, does the specific crime of honour

killings warrant special treatment in not allowing this plea to be entered?

- It is clearly dangerous to leave the sentencing to the discretion of judges, as they do not award the full punishment and allow their biases to seep through<sup>74</sup>.

---

<sup>74</sup> While the author subscribes to the view that the death penalty should be abolished, the argument here is that the perpetrators of honour killings should receive the full punishment for murders without any exceptions, rather than any reduced sentence.



## 6. Perspective of the Community

While evaluating the implementation of any law, it is vital to also examine its effect, if any, on the community. Laws, especially those that fall into the realm of ‘human rights laws,’ are promulgated with the intention of creating a social change. Accordingly, it is also important to gain the perspective of the community as to whether any change has come about at all. It is also essential to ascertain their point of view regarding gaps in the law and its implementation, alongside any difference it may have made within the value and belief system of society and the mode and prevalence of honour killings in society today.

For this reason a series of focus group discussions and interviews were conducted in the selected districts with a variety of different members of community, including the police, lawyers, health workers, NGO personnel etc. This section is a compilation of the discussions and interviews. A number of views have already been mentioned in the above sections, but they have all been consolidated under this section.

It is generally felt in the community that the incidence of honour killings has increased. However, the media states that there may not have been an increase in the incidence, but in the reporting of it. Whereas before no one would talk about honour killings, now they are discussed, not just on a national and international stage but even within smaller communities who had previously considered it a taboo subject. Arif Hassan has noted through his research that the incidence has increased and become more violent due to the increasing freedom of women and their attempts to gain these freedoms, as well as of murders being committed under the pretext of honour killings while in fact there are other reasons behind it.<sup>75</sup>

---

<sup>75</sup> Interview with the author

## **Causes of ‘Honour Killings’**

When discussing the causes of honour killings, a number of different issues were brought forward. Some of these have been discussed above, such as the dominating issue of supposed male supremacy and the subordination of women, as well as the consideration of women as the property of men. The community also generally agree that one of the major causes relate to the supposed ‘honour’ of men and the social non-acceptance of diminishing of ‘honour’. Often the social intolerance and *taaney* (taunts) about the lack of control that men exert over their own household provoke the perpetrators into committing the crime. And society plays the role of silent condemner.

One important element discussed was the trend to commit murder of women for a variety of reasons under the pretext of honour killings in order to give it social sanction, while in reality there were completely different motivations. These include situations of family feuds in which women are the bargaining chips as well as collateral damage, revenge, desire to contract another marriage etc. Poverty was a major contributing factor to a number of other issues, such as ownership of property, or with regards to inheritance, i.e. removing women from the scene in order to remove a legal heir, or to place the blame on another to remove him as a legal heir. Land feuds have also been the actual motives behind honour killings, and accusing another for committing an honour killing of a woman in the family can be an effective way to blackmail and sue for financial gains through compromise.

As discussed above, women in recent years have also started to transgress the social boundaries and break the bonds imposed on them by a male dominated society. With a greater number of women being educated, or entering the work force, or even being influenced through example, it becomes more and more difficult for them to remain within the traditional

mindset and existing confining social set up. For example, traditional customs, such as child marriages and *watta satta* (exchange of women in marriage between two families) have resulted in women attempting to escape their circumstances and consequentially being murdered. Women who try to enter into a marriage of their own choice can face the same situation.

An interesting fact that surfaced across the country was that there is an increase in the number of honour killings at the time of the ripening of the crop, i.e. when the agricultural community is at its most affluent. Because of this potential murderers feel that they can afford to enter into another marriage. They can also claim a large sum of money from their enemies by blaming them.

Another contributory factor brought forward by different members of the community was the role of the *vadera/zamindar* (landowner) and the *jirgas* and *panchayats* (council of elders in a village or community). Both are powerful within the community, and therefore hold the clout to deal with community issues. They act as judges and decide issues facing the community. These systems are routinely used to prove the guilt of the intended victim.

With regard to the *vadera*, the decision takes place at the home of the landowner. It is now reported to have almost become a business, where the landlord takes a commission for his personal expenditure and reserves the right to sell off the woman or keep her at his house. Or he decides that that a large amount of money has to be paid by the offending party as *khoon baha* (blood money), or that a girl (*chatti*) has to be given as *badal/aiwaz* (compensation).

These feudal landlords and tribal chiefs are active in some way or another in the commission or covering up of honour killings and crimes. These same people are also sitting in the legislatures and they actively oppose



the passing of any pro-women legislation. It was due to their pressure that the 2004 law remains flawed and the application of the Qisas and Diyat Ordinance was not revoked.

It was noted by the community that the crime of honour killing is now also used in another way. People kill the victim themselves and report it as suicide. The woman is taken outside the house during the night and killed.

### **Awareness about the Criminal Law (Amendment) Act 2004**

Questions relating to awareness about the 2004 law and its effects resulted in divergent answers.

It was a little shocking to realise that there still remains a large amount of ignorance about the law. This ignorance is not just confined to lay people but also includes lawyers, media personnel, civil society members and even the police! It is felt that there is relatively more awareness in the urban areas, but in rural districts there is little information on the matter.

This is disturbing, as an indirect effect of the promulgation of a punitive law on a specific issue, such as honour killings, is to discourage potential murderers. It also provides potential victims with a sense of support knowing that they have some sort of legal protection from being murdered under the pretext of honour; and provides the victim's family with a law that can assist them in obtaining justice. However, given the complete lack of awareness, this is not happening. The community is unaware of the law, so it has no effect on their attitude, reaction and treatment of incidents of honour killings.

This is largely so because of the lack of knowledge about the law in the justice sector itself. If the police and lawyers are not aware of the law,

even if cases are brought to them, they will not implement the relevant sections of the law, and the ignorance will continue.

The ignorance of the law of the police is extremely perturbing, as they are the first point of contact before and after a crime and play a major role in the prevention and investigation of a crime. If they are ignorant about the existence of the law and its substance, then they cannot truly effectively deal with the issue. A number of police officers stated that their seniors must know of the law, and that there was no procedure to provide regular updates about laws. The DSP Legal, Islamabad, noted that it is the obligation of every senior police officer to update himself about the laws and to share this information with his subordinate officers. However, this is clearly not happening on a consistent or large scale<sup>76</sup>. Therefore, in the honour killing cases that come before them, the specific elements dealing with honour killings are not being applied!

There are, nonetheless, people who do know of the law. However, even within this group they do not necessarily understand all it entails, thereby making them practically as ignorant. For example, a common misconception is that an honour killing has to now be registered under a separate provision enacted under the 2004 law, while in reality, the 2004 act has mostly just amended and added to the existing PPC in order to improve its effectiveness in dealing with cases of honour killings.

Even having knowledge of the law has not proved to be very helpful. The role of the police will be discussed below, but suffice it to mention here that the few police officers who do know of the legislation do not necessarily employ it for a number of reasons. Alongside this, there are a number of perpetrators or potential perpetrators who are not daunted by the law. They say that the law does not have control on this issue. They note that due to the involvement of powerful factions of the community in

---

<sup>76</sup> Interview with DSP Legal Islamabad

such crimes, they are not considered 'offensive'. Further, due to the overwhelming social acceptance of the act, action rarely follows. And if it does, they are convinced that money will be sufficient to deal with the issue. Unfortunately, they are not wrong either.

Nevertheless, there is a positive side for those who do know about the law. Firstly, the promulgation of the law removed the barriers to discussing the issue. Hence although a large part of the district media may not know of the law, it has received wide coverage in the national media. This has had the effect of bringing to light a growing social intolerance of honour killings. One primary example is the outrage against Senator Zehri when he defended the tradition of honour killing in his area, and the unanimous passing of a resolution in the Senate condemning the honour killing of 5 women in Balochistan, whereas a few years ago at the time of the infamous murder of Samia Imran in Lahore, a senator from Khyber Pakhtunkhwa (previously North West Frontier Province) had defended the tradition openly and a resolution condemning the act was thrown out of the Senate.

Also, it is not as easy to commit honour killings as it was before, with methods being employed to hide the commission of such crimes, whereas earlier there was no need to do so. Tribal leaders, landlords etc. have also distanced themselves publically from this tradition. Before the promulgation of the 2004 law, honour crimes were committed without any fear, but now these crimes are committed by making some very technical entries in the FIR with the help of the police in order to protect the murderer. So perhaps there has been some positive change!

## **Role of the Community**

It is generally agreed that the community plays an extremely important role in the commission of honour killings. Although society is divided on the acceptance or rejection of honour killings, they are nevertheless involved in a variety of ways.

Attitudes prevailing in the community play the role of instigator. It is according to the standards set by the community that 'honour' is held to be a vital ingredient, and that women are seen as the gateway to men's 'honour'. The community constantly perpetuates the subordinate role of women, and if a woman tries to break out of this role or behaves in a manner not 'acceptable', then it is community who condemns her and thereby condemns her family. It is the community that is intolerant of women behaving any differently, and it is community that expects the misbehaving woman's family to 'handle' her, i.e. remove the stain on their family honour. It is also the community that pressures and taunts men to control their family. Therefore, it can be said that it is the community that places the men under pressure to behave in a certain way.

The community also plays a major role through its passive role in not extending help to the potential victim or the victim's family. The majority of community members remain neutral or silent, and try not to intervene in order to avoid their own involvement. Getting involved could result in becoming part of a family feud or placing them or their own family in danger. This passiveness of the community in a sense encourages the perpetrators to get away with such murders.

Further support is gained from the community's reaction post the commission of an honour killing. The community treats the family of the victim very harshly, socially isolating them. They try to disconnect themselves from the family. In most of the cases it becomes impossible for the victims' family to live with their respect intact in their own

community. The siblings of the victim, especially the girls, suffer because people in the community are unwilling to marry girls belonging to the victim's family.

In contrast to this, the murderers are treated with respect. Some members of the community see them as the custodians and protectors of honour.

Society also has a general disrespect for legal institutions because of the fact that cases taken to court take a long time to get resolved. Usually the matter is settled out of court, sometimes with prior permission from the court. The community generally believes that since this is a matter relating to honour, it would be dishonourable to even bring it out in the public realm. It remains hidden and is covered up. If there is a dispute, the parties prefer to deal with it out of court through *vaderas*, *jirgas* and *panchayats*.

## **Role of the Police**

The police play an important role as the first point of contact. The ignorance of the police relating to the 2004 law has been referred to above. This ignorance is extremely problematic because rather than implementing any of the new procedures or rules laid down in the law, the police follows its own chosen procedures and methods. As a result, justice is not always given according to standards set by the law.

The police have its own problems. For example, there is often little or no evidence available. The police, due to lack of funds, do not always have recourse to modern methods of investigation, nor the training for such investigation. Furthermore, often there is collusion between the perpetrators and victim's families where false witnesses and false complainants are brought forward in order to ensure a weak case for the prosecution; therefore the perpetrators are declared innocent and the case can never be taken back to court. This is because, as said earlier, an out of

court settlement is preferred. Such matters are out of the hands of the police as it is.

The police also have a lack of funds and personnel to deal with these cases. They are often deployed for other priorities, e.g. to combat terrorism or for VIP duty. There is a shortage of staff and personnel with the relevant expertise to deal with such cases. Often when life threats to victims are reported, the police may not have the staff or facilities to be able to get there in time to prevent the crime. Nor do they have the capacity to effectively provide the necessary protection for potential victims.

The police can, and also does, play an extremely negative role in some cases. For example, even when honour killings are reported to the police, by using technical language and entries, they manage to avoid the filing of the case as an honour killing. The cases are entered as murder and deliberately misrepresented, as are other sexual offences, and also cases involving land or inheritance matters. The words 'honour killing' are never actually used, which means that any positive aspect of the 2004 legislation is avoided such as the restrictions on compromise etc. The police is also known to take bribes to change the crime from honour killing to anything else. The law also states that any law under the 'pretext' of honour should fall under this legislation, however, this is not followed.

The FIR and investigation are vital in any criminal case, especially honour killings. If these are not done properly, the entire case collapses. Incomplete or wrong FIRs and inept investigations are common, and are largely responsible for the low rate of convictions. They can be blamed on the lack of capacity of the police, but are also deliberately done to weaken the case and favour the perpetrator.

It is usually difficult for the police to control honour killings because of the prevailing tribal and *zamindar* system in the country. When senior, powerful and, often, political individuals are involved, the police is often stopped from doing their job, and are told by their seniors, who are pressured by influential people, to stop investigating, or to come up with a certain result.

Due to unwillingness to even recognise honour killings, districts such as Nowshera do not have any record of honour killings, despite the fact that a number of such crimes have been committed.

This also results in restrictions on the media, who use the words quoted in the FIRs, which do not mention 'honour'. Therefore, in such districts, without aggressive media attention, there is also a lack of media reporting on the issue.

Also due to the majority of cases ending in compromise, the police involvement becomes redundant. They, in fact, support and try to work towards effecting a compromise sooner rather than later.

## **7. Conclusion and Main Findings**

It is evident from this research that the Criminal Law (Amendment) Act 2004 has not had the desired impact. Nevertheless, one cannot say that it has had no effect at all. The positive and negative impacts of the law are discussed below.

The law has definitely not put an end to honour killings, nor can it be seen to have drastically reduced it. In fact, according to sections of the community, incidence has actually increased instead of decreasing. The community and parts of civil society remain ignorant about the law and its substance, thereby immediately reducing its potential impact. The motives behind honour killings remain the same pre-2004 to post-2004. In fact, seemingly, there has been an increase in the use of the pretext of honour killings because of some exemptions that are available under the honour killing law. This is because the case law has now started using honour killings as a mitigating factor for punishments awarded, thereby one can get a minimum sentence due to the discretion of the court.

There are some positive factors too. While the law may not have had the immediate effect of making the community aware of the evils of this tradition, nor of actually stopping the practice, it has resulted in the issue being taken out from the home, brought into the public realm and onto the front page of the main news. Increasing reporting of honour killings puts the spotlight on this social evil, stating it to be wrong and tragic. This has resulted in creating in the community, to some extent, albeit a small but definite attitudinal change that can be seen in the growing intolerance to such murders. On the national and international level it is understood that these crimes are wrong and are heinous in nature. The mindset is slowly changing to consider honour killings to be wrong. This attitude needs to sink deeper in the mind of the community before any social change can



occur. However, this is the stage where a re-introduction of the law can be pursued in order to ensure convictions of the perpetrators.

### **The Main Findings**

1. The Criminal Law (Amendment) Act 2004 made a number of changes to the existing legislation to include the offence of 'honour killing' and deal with issues which are ancillary matters, such as stating that the murderer cannot be the *wali*, making illegal the exchange of women as *badal-i-sulh*, making changes to police procedures as to investigation, etc.
2. However, the 2004 Act did not remove the option of Qisas and Diyat, leaving one of the biggest loopholes in the law, whereby the majority of perpetrators are allowed to go free.
3. The methodology of recording data is flawed. There is no standardised format used; all the registration and record keeping is done on paper by hand, resulting in data being easily misplaced. Due to lack of resources and capable personnel, there are none or few computers given to the police stations for the recording of data.
4. Storage is another major issue, as all the data is paper-based and filed and placed in drawers and cupboards making it difficult to recover, much less find what one is looking for.
5. There is a lack of consolidated and accurate data on honour killings. Contributory factors include absence of proper reporting, general misreporting as when honour killings cases are filed under another 'motive' etc.

6. There are also problems with the categorisation of FIRs, where the offence is often filed under other categories as simple murder, lesser forms of violence, suicide, domestic violence etc. This contributes to the problems of recovery and collection of data, as well as to the misreporting of cases. On the converse side, a number of cases of domestic violence and domestic homicide were filed under the category of honour killings, revealing a lack of knowledge and understanding of the police officers about the crime of honour killing.
7. Lack of co-ordination and follow-up from different sectors of the justice sector also result in incomplete documentation where there is documentation. For example, if the police register a case, they do not follow up the case in court to arrive at the final result and consequence of the case.
8. An interesting aspect of the study was a comparison between registered FIRs and media reports. This resulted in mixed trends from Nowshera, where there were few media reported cases and even fewer registered cases, but a large number of cases reported word of mouth, to Naseerabad, where the media was shown to be extremely active with regular and accurate reporting.
9. An analysis of the FIRs has resulted in similar motives recorded behind these murders across the nation, which are based on the women's attributes and behaviour, including: bad character; bad morals; bad behaviour; loose behaviour and morals; leaving the house with or without permission; illicit affairs (suspected or real); choosing to marry against the family's wishes/elopement; wandering outside the house too often; running away; being the victim of abduction and being murdered for the shame of her abduction; leaving the husband/divorce; previous marriages

/relationships; revenge; and meeting/friendship/conversation with a man not from the family, etc.

10. The language of the FIRs also reveals a number of problems, e.g. the language is extremely gender insensitive and displays a dismissive attitude towards violence against women. Moreover, there is also lack of relevant information. For example, there is often little or no background information or observations of the reporting officer on details of the incident for effective follow up investigation. The FIR is extremely minimal. The language and reporting of the incidents is surprisingly similar across the nation without anything extra. The police do not seem to ask any further questions, or ask for more information to give a complete holistic report.
  
11. An examination of the reported case law from across the country reveals an interesting contradiction. The Supreme Court has given clear judgments stating that if a crime is committed with premeditation, the plea of grave and sudden provocation may not be available to the accused and, in fact, that mere suspicion of illicit liaisons cannot be an excuse to commit murder and claim mitigating circumstance for lesser punishment. Strong statements were also made that if pleas such as grave and sudden provocation were accepted without any evidence, it would give a licence to kill innocent people. However, ironically, the Supreme Court did set a contrary standard that if the accused is able to prove that he was “deprived of the capability of self-control, or was swayed away by circumstances immediately preceding the act of murder, or there was an immediate cause leading to grave provocation” he may be allowed a mitigation in his sentence. Therefore, the judgments do leave some room for mitigation of sentence, but with a strict standard.

12. These precedents are not necessarily being followed in other courts. In Lahore, specifically, there have been a number of contradictory judgments. There are judgments that clearly state that there is no room for honour killings, and any such killings will be considered as simple murder with no mitigating factors. But there is a large amount of case law available from the Lahore High Court over the years that continues to provide grave and sudden provocation as an acceptable plea to reduce sentences for murder in cases involving ‘honour.
13. The Sindh High Court has specifically given some very positive statements, including focusing on the involvement of the whole family in the conspiracy of murder. Other judgments, however, time and time again allow *ghairat* and ‘honour’ as a mitigating factor allowing perpetrators lesser sentences and, on occasion their freedom! Grave and sudden provocation is being used widely and freely as honour is now considered an extenuating ground for granting a lesser punishment. The term *masoom-ud-dam*, which technically should not be used in cases involving honour crimes, has been used in judgments, laying the blame on the victim, indicating her behaviour has resulted in her ‘rightful’ death, as *‘No religion allowed widespread immorality to destroy the fabric of family life’*.
14. The superior judiciary in Balochistan and KPK does not seem to have any recorded cases involving honour killings. This, along with the above mentioned judgments has resulted in an acceptance of honour killings by a number of the courts, which goes against the spirit of the law and against all human rights.
15. Interviews conducted with the families of the victims and perpetrators resulted in a number of interesting revelations. Firstly, both the families are often the same, and the general

sentiment is that they have lost one family member and do not wish to lose another. Secondly, the cases usually result in a compromise between the families before the case even gets to court. Thirdly, because of compromises between the families and the several gaps that lie within the justice sector, the perpetrators are rarely penalised, which results in a lack of fear amongst the people about being fully punished for the crime. At the most, they have to undergo a minimal period of incarceration.

16. Another issue that has come forward is that many cases which are in fact simple 'murder' are being categorised as honour killings to give it social sanction, and because the murderer has more of a chance of being released, or receiving a mitigated sentence if his claim of *ghairat* or honour is accepted. A variety of different motives behind 'so called 'honour killings' were seen, which included both motives relating to 'honour' as well as others, and were categorised as honour killings to cover up murder. These included murders committed as a warning to other girls who may try to stretch the seams of the cultures and traditions of their community. At the time when the crop is ripening, when the agricultural community is at its most affluent, a number of issues come up, such as money disputes, inheritance, etc. in which women suffer as the victims, as accusations are made and money demanded and paid in compensation.

17. The landlords, the *vadera/zamindar* and *jirgas* and *panchayats* all play an important role in the community as they often deal with community issues as judges and as decision makers. A number of issues arise with these power players. For e.g. cases are often decided at the homes of power holders who are paid a commission. Members of *jirgas* and *panchayats* also often charge a commission and are instrumental in perpetuating their power

hold through these illegal forms of justice. The judgments declared by these men (they are always men) are often arbitrary, patriarchal and very anti-women, such as giving women in exchange, women in revenge, and treating women as bargaining chips and property.

18. There is little awareness of the 2004 law on honour killings. The community at large either does not know of it, or does not know the specifics of the law. But what is far worse is that this ignorance also exists within the fundamental players of the justice sector, including the police, lawyers and even judges. The duty of all of these players is to remain updated on the law, but as interviews reveal, most are unaware of even the existence of the 2004 laws. This is worrying, as without the awareness of the law within the community, it will have no deterring effect. Further, if the justice sector, specifically the police is unaware of the law, they will never correctly charge the perpetrators nor implement any safeguards of the 2004 law, allowing women to be as vulnerable as they were before.
19. The police is often unwilling to implement the law due to the overwhelming social acceptance of the act and the influence of power holders. Often they are reluctant to take the case forward, as mostly the cases are compromised out of court. The police often try to bring about this negotiation themselves, as they feel that it is for the benefit of both parties to avoid the hassle of a court case and settle the matter before taking it to court.
20. Some positive aspects of the promulgation of the law include that it opened barriers to openly discuss the issue of human rights. It has brought the issue into the mainstream and has increased the national and international coverage of the issue. The fact that the

media coverage shows honour killings in a negative light has the effect of building social intolerance for the crime. It is not as easy to commit honour killings as before without facing some consequences, even if it is public humiliation, nor is it openly justified by many as being a 'cultural tradition'.

21. The community plays an important role as instigator to such crimes, especially by perpetuating the subordinate role of women and the attitude that they have to be 'punished' should they transgress this role. In cases of honour killings, it plays a passive role and tries not to get involved, because this could result in a feud against them. The victim's family also suffers as the community isolates them socially.
22. Society in general has disrespect for the judicial system and legal institutions owing to a variety of problems in the system, such as delays in cases, high costs of litigation, etc.
23. The police face a number of problems, such as lack of funds and personnel to deal with the cases, specifically trained men and women. Apart from internal problems, externally too investigating these cases is difficult for the police as they do not have modern knowledge or resources to investigate crimes. Further, often there is collusion between the perpetrators and the victim's family where false witnesses and false complainants are brought forward in order to ensure a weak case for the prosecution, probably because they do not want the matter to be publicized, or they prefer to compromise. Therefore, the perpetrators are declared innocent and the case can never be taken back to court. Such matters are out of the hands of the police.

24. The police can play a very negative role by avoiding or refusing to file cases of honour killings. When they do report them, the FIRs are gender biased and made to sound as if the woman had a 'bad' character; therefore there was justification in killing her. They do not always categorise the FIRs correctly, leading to lost or inaccurate data. The police, unfortunately, is also known for its corruption.
25. Minimal or incorrect facts regarding the incident recorded in the FIRs by the police are often used to shield the perpetrator, as in other types of cases.
26. This also leads to problems with the media, who use the words and language in the FIR without the relevant data being reported. Thus, the media may also convey incorrect findings.
27. With the state not willing to act with a swift, immediate and strict response, but weakly, a message is sent out to society that such murders are acceptable. This 'security' given to murderers and potential murderers is further strengthened when the Government appoints Senators and Ministers who are clearly anti-women and have publically defended honour killings.
28. Murder under the pretext of 'honour' continues with impunity, and all of the above mentioned findings lead to the sad conclusion that it will continue with impunity unless strong, concerted and decisive measures are taken to address the problems identified by the report.





## **8. Recommendations**

There are a number of recommendations to be made. These have been noted below.

Recommendations regarding the law have already been shared earlier.

In terms of evaluating a proper and complete impact of the law, there needs to be greater access to the courts. A study like this one can examine how many people were charged, how many were arrested etc., but due to the lack of proper police records, or accurate information regarding the end result of the registered cases, without accessing the data available in the court many questions will remain unanswered. It is only then that questions such as: How many accused were brought before the court? How many of them were convicted? What were the arguments of the court etc. be answered. In order to arrive at a proper understanding of the whole issue, it is vital to conduct a similar and corresponding study through the courts.

Also, a standardised format for registering FIRs must be decided upon. It should include questions specifically relating to honour killings as well as domestic violence and any or all other forms of violence against women.

There is a need for major education and awareness about the issue and the law. Clearly, current methods have not resulted in the information being spread far and wide. Media plays an important role, and not just to report the latest honour killing, but also providing details about the law and its implications. Children, especially, but also adults, need to be educated about honour killings on some forum or the other. The State needs to take a stronger role to ensure dissemination of information. One suggestion relating to the police could be that the police should hold a meeting with the community every week to discuss different communal issues and different laws.

The police system is in dire need of a major overhaul. Apart from issues of corruption, lack of transparency and monitoring, police also desperately need training on the latest methods of investigation, as well as modern tools and training on how to use them. They need to be strengthened in terms of time management, assessing priorities regarding a heinous crime, such as this, and be updated on different and new techniques, such as forensic investigation. There must also be some system that ensures that all police officers are trained and informed about the latest laws – especially those personnel who record the statements of complainants and register the FIR.

The legal profession has its existing problems of time delays, corruption and transparency, as is generally known, but also it is not always sensitive to the situation regarding honour killings. Finding that honour killing can be used as a method for mitigation of sentences to murderers is one such example. It is necessary to establish in the courts that it is not acceptable to use women for holding the man's honour, and to emphasize that violence against women for any reason should never be condoned in our society in any way.

A community outreach programme needs to be started to provide shelter and protection for women who run away from possible murders. The community cannot stay silent any longer. It is necessary they not only provide input to amend and strengthen the law, but also to take part in the proper implementation of this law. They must also be held liable or be obligated to report a case relating to honour killings, or even a potential case of this nature. The community needs to be engaged in constant and repeated discussion on the heinous nature of the crime of honour killing in order to bring about a meaningful social change within the Pakistani society.



**AURAT PUBLICATION AND INFORMATION SERVICE FOUNDATION**

ISLAMABAD (Head Office): House No. 12, Street No.12, F-7/2, Kohsar Road Islamabad, Pakistan. Tel: 051-2608956-8 Fax: 2608955

LAHORE: House No. 5-6/3, Raja Kamla State Canal Park Gullberg II Lahore 54000, Pakistan. Tel: 042-35959027-9, Fax: 042-35764275

KARACHI: D-3/I,Block-7, KDA Scheme 5 Clifton Karachi 75600, Pakistan. Tel: 021-35874718-35824694 -35830195 Fax : 35864885

PESHAWAR: House No. 42-B,Sahibzada Abdul Qayyum Road, University Town, Peshawar 25000, Pakistan. Tel: 091-5704581-2, Fax: 5704576

QUETTA: House No. 57/4 Meeri Fourt Road off Zarghoon Road Quetta, Pakistan Tel: 081-2821282, Fax 2820957

Information: <http://www.af.org.pk>, Mail: PO Box No. 1105, Islamabad, Pakistan.