

## HONOUR KILLING IN PAKISTAN

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### Abstract

Honour killing means, killing a family person or clan member in the name of family pride or protecting one's family's honour. The male members of a family usually murder the female members against their will, who perceived to have brought dishonor upon the family. A woman can be targeted by her family for a variety of reasons including, refusing to enter into an arranged marriage, being the victim of a sexual assault, seeking a divorce, perceived immoral behavior such as marital infidelity, demanding a divorce even from an abusive husband or committing adultery. Hundreds of women are murdered by their families each year in the name of family honour. A man can kill a woman, claiming that she brought dishonor to the family. In the provinces of Sindh and Baluchistan, the term Karo-Kari has been traditionally employed as a label for the crime of double-homicide. A man or a boy and a woman or a girl are both killed usually by either husband, father or brother when the killer sees or in many cases just hears or blames both victims actively engaged in sexual activity.

**Keywords:** Karo-Kari, Vani and Swara customs in Pakistan, Women Rights Protected in the Constitution of Pakistan, 1973.

### Introduction

Although violence against women has become a social phenomenon that cuts across all social classes, cultures, religions and geo-political situations. Globally, every minute women are killed, most often by men close to them and the perpetrators go scot-free. In our country there are still some vicious men who treat their goats better than their women.

The term "honour Killing" was introduced by Dutch scholar in 1978 to separate such killings from other kinds of killing in the families and communities. Honour crimes defined by Ms Carmen Quintanilla Barba, member of (C.E.E.O.W.M.) as, "crime that it was committed as a consequence of the need to defend or protect the honour of the family", honour Killing is "An act of murder, in which a person is killed for his or her actual or perceived immoral behavior."

Human Rights Watch states, "honour killings are acts of vengeance, usually death, committed by male family members against female family members, who are held to have brought dishonor upon the family". Mr. Austin explained as "exercised in the name of traditional codes of honour. Where the "honour" of the family is at stake, according

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to the family, and the woman suffers the consequences, it is proper to speak of a so-called “honour crime.”

### **Karo-Kari**

Literally, Karo means a black male and Kari means a black female. Karo-Kari is a tradition whereby a man can kill a woman, claiming that she brought dishonor to the family, and still expect to be pardoned by her relatives. It can be defined as acts of murder, in which a woman is killed for her actual or perceived immoral behaviour.

### **Vani**

Vani is a child marriage custom in tribal areas of Pakistan and is widely followed in Punjab. This custom is tied to blood feuds among the different tribes and clans where young girls are forcibly married to the members of different clans in exchange of money or in compensation for crimes and settling of disputes.

### **Swara**

Swara is similar to Vani in which the accused family gives their girl or girls in marriage to an aggrieved family as compensation to settle blood feud.

### **Methodology**

The present study is related to my article has attempted to take a step forward and collect different cases which were reported and highlighted in the news papers and media on honour killings across the country. As the topic is related to my professional field, being an advocate and prosecutor proceeded many criminal cases as well as honour killings cases and during the proceeding and trial I have observed the behavior of the accused persons/perpetrators. I also directly discussed with the accused persons/perpetrators, the families of the perpetrators, the victim's families, the prosecution witnesses and the investigation officers.

### **Research Questions**

1. Is honour killing permitted by Islam?
2. How can honour killing in Pakistan be prevented?

### **Literature Review**

The termed of honour killings not only exist just in Pakistan but in various Arab countries around the world. As per Lynn and Welchman, a number of provisions relating to honour killings exist in different legislations around the world. Those 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. Countries, such as Morocco, have systematically failed to address the issue of honour killings. In countries like Yemen, Lebanon, Jordan, UAE, Iraq, Kuwait, Oman and Syria, the legislation allows for lesser punishment where there is considered to be adequate ‘provocation’ by violating cultural norms.

Article 232 Penal Code of Yemen says as, “If a husband kills his wife and whoever is fornicating with her at the moment of their adultery, or if he attacks them in a manner that leads to death or disability, no option of qisas arises; the husband shall be penalized by imprisonment for a period of not more than one year or by a fine”. Article 340 of the Jordanian Penal Code says as, 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 188 Penal Code 1858 of Ottoman says, “he who has seen his wife or any of his female “mahrams” with another in a state of disgraceful adultery and has beaten, injured, or killed one or both of them will be exempted”. As per article 279 Penal Code 1991 of Algeria, “murder, wounding and beating shall be subject to excuse if committed by one spouse against the other spouse or against his/her partner at the moment of surprising them in the act of adultery”. UAE under article 334 of Law No. 3/1978, Iraq under article 409 of Penal Code 1966, Kuwait under article 153 of Penal Code, Libya under article 375 of Penal Code and Oman under article 252 of Penal Code also awarded lesser punishment.

Article 548 Penal Code 1949 (as amended 1953) of Syria, also provides an exemption from penalty, “he who surprises his spouse or one of his ascendants or descendants or his sister committing adultery or illegitimate sexual acts with another person and he unintentionally kills or injures one or both of them benefits from an exemption of penalty. 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. 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”.

Pakistan amended criminal law, on December 8, 2004; a Criminal Law (Amendment) Act 2004 was passed and subsequently enacted (PLJ 2005 F.S.C P. 207). As per this amendment if any offence committed in the name or on the pretext of honour, of Karo Kari, Siyah Kari or similar customs and prescribes punishments (Pakistan Penal Code 1860, Sections. 299(ii), Section 302 also amended as 302(c) and the punishment enhanced and extend to twenty-five years, if the offence of Qatl-i-Amd is committed in the name or on the pretext of honour and the same shall fall within the ambit of clause (a) or clause (b) of section 302, as the case may be. Section 310 of PPC also amended and as per section 310-A, a female shall not be given in marriage or otherwise in Badal-i-Sulh. “Whoever gives a female in marriage or otherwise in Badal-i-Sulh is punished with rigorous imprisonment which may be extending to ten years but shall not be less than three years”.

Even this amendment could not stop the violation of the human rights as well as honour killings. The enforcement of above said amendment is inadequate, and actually this particular legislation providing protection to survivors and allowing killers to buy their freedom by paying compensation to the victim’s relatives, as in most cases it is the victim’s immediate relatives who are the killers, as they are either the husbands, fathers

or the brothers so inherently the new law is just eyewash. The implementation of the legislation is hindered by the fact that the murderers are given protection and impunity from within the community according to the amendment of PPC 1860, 2004, to bargain with the victim's family, and the State has no further writ on the matter. It is estimated that 80 percent of perpetrators are not punished. Police largely treat honour killings as private and family affairs.

In 2002, in Aba Khela, Mianwali, Punjab a decision was taken that handing over eight girls as compensation to resolve an old dispute. And the Supreme Court of Pakistan took Suo-Motu action on it. In the year of 2006 another incident took place in Kashmore, Sindh where five minor girls were to be handed as compensation to the rival party. Honourable Supreme Court of Pakistan again took Suo-Motu action on it. In June 2001, in a Jirga held in Thatta District of Sindh has given the decision that two young girls from the murderer's family would be given to the victim's family: the eleven year old daughter of one accused was married to the forty six year old, father of the murdered man, and the six year old daughter of the other accused was married to the murdered victim's 8 year old brother. In August 2003, one six-year-old Asma from Sukkur, Sindh in 2000, married a sixty year old man in lieu of an unpaid debt by her family. In 2002 a jirga was held in Meerwala, and announced the judgment of gang rape on a woman whose 14 year old brother was accused of having molested the woman of an upper caste family.

One of the most publicized honour killing case of Samia Sarwar who was murdered by her family in the Lahore office of well-known human rights activists Asma Jahangir and Hina Jilani in April 1999, as she wanted divorce from her husband (first cousin) to marry a man of her choice and her family arranged her murder. The police did not make any arrest or pursue prosecution as her family is highly well known in elite, political circles. Amnesty International reported that on 27 April 2010, ayman Udas, a Pashtun singer from the Peshawar area, was shot to death apparently by her two brothers who "viewed her divorce, remarriage and artistic career as damaging to family honour" and no one was prosecuted. In the year of 2008, three teenage girls were buried alive after refusing arranged marriages.

Another widely reported case was that of Taslim Khatoon Solangi aged about 17 years, of Hajna Shah Village in Khairpur District, as per her father alleged that his eight months' pregnant daughter was tortured and killed on March 7, 2008, by members of her village claiming that she had brought dishonour to the tribe. Taslim's father claimed that it was orchestrated by her father-in-law, who accused her of carrying a child conceived out of wedlock, potentially with the added motive of trying to take over the family farm. On 27 May 2014 a pregnant woman, Farzana Pervin was stoned to death by her own family in front of the Honourable High Court for marrying the man she loved. The investigation officer quoted the statement of her father as: "I killed my daughter as she had insulted all of our family by marrying a man without our consent, and I have no regret over it." The woman's husband had strangled his previous wife in order to remarry, and police said he had been released after that murder when both the parties compromised the matter Under Section 345 (2), (2-A) of Criminal Procedure Code.

Human Rights Commission reported that in 2011 there were 675 honour killings in the country, while Amnesty International cited 960 incidents of women alone who were slain in honour killings that year (HRCPR 2011/2012). Over 4000 cases were reported in Pakistan between 1998 and 2004 and the victims almost 2,700 were women and just over 1,300 were men; and 3,451 cases came before the Courts. The highest rates were in Punjab, followed by the Sindh province. As per annual report of the HRCP 913 girls and women, including 99 minors, were killed in the year 2012, 604 women were killed after being accused of having illicit relations with men, around 191 were reported slain for marrying their own choice of husbands and going against their families' wishes. And in 2013 almost 1095 women were murdered in the name of honour. The age bracket of the female victim was from 15-64 years. In almost all cases of honour killings, the perpetrator is a close family members, the murders can be easily disguised and reported as suicides or accidents. The actual number of honour killing cases is believed to be much higher than reported.

It revealed that honour killing is widespread in all four provinces of Pakistan where the concept of woman as an object or commodity is deeply rooted in tribal cultures. The loose term Karo Kari applies to killing of both males and females. On an average, every day at least three women including victims of rape are reported killed in the name of so-called family honour, once declared Kari, a woman, who survives attempts on her life, constant threats and targeted violence. Many women are hunted down as Kari months, even years after they supposedly shamed their family.

### **The Rights of Woman/Human Protected, under the Constitution of Pakistan, 1973**

Even in the Preamble of Constitution of Pakistan 1973, the principles of democracy, freedom, equality, tolerance and social justice is mentioned.

Article 8 to Article 28 of the Constitution of Pakistan 1973, describe the Fundamental Rights which are to be available to all citizens, women, men as well as individuals currently in Pakistan to enjoy the protection of law and be treated in accordance with law, wherever they may be. It also guarantees the protection of life, liberty, body, reputation & property of an individual. However, the freedoms guaranteed can be curtailed or taken away by the Government on the grounds of the sovereignty or integrity of Pakistan, and the violations of Human Rights can be challenged in the Superior Courts. The executive is bound to implement these rights while the Judiciary can / should take notice of any gross violations of a collective right or in the category of public interest litigation or on individual complaint, direct cognizance by the Supreme Court under Article 184 (3) of the Constitution of Pakistan, 1973 of its own (called 'Suo-Moto' Notice).

As per Article 8 of the Constitution, fundamental rights are supreme and any law or custom or usage having force of law inconsistent with fundamental rights shall be void, Article 9,10,12 and 13 give the right to life and liberty, Articles 15,16,17,18 and 19 gives the basic freedoms of citizens as free to move, live right to assemble peacefully, to join an association / union, freedom of speech and expression, freedom of the Press and freedom of trade, business or profession of his / her choice, Articles 20,21and 22 gives religious freedom to every citizen as per their sects, Article 25 guarantees of equality

and non-discrimination on the basis of sex or other things. The majority of people, especially women, are not aware of their human rights which are protected under the Constitution, due to the lack of legal awareness among the majority of people, not just in the rural areas, but also in the urban areas. Pakistan is a signatory to the Universal Declaration of Human Rights (UDHR) and is duly bound to implement its articles in true spirit.

### **Discussion**

At this stage I would like to discuss and describe the Nikah and essentials of valid Nikah. As per Muhammadan Law Nikah is a civil contract, which is made by parties for the sole purpose and object of benefiting them according to Shariat it is method to legalize the cohabitation of man and a woman and issues out of this union are legitimate. Under Islamic law, contract of marriage, need not to be proved through a written document. Muhammedan marriage is purely contractual; it is considered a religious duty and is an act of Ibadat which is called Sunnat-Muwa-Kkidah. Every Muslim of sound mind, who has attained puberty, may enter into a contract of marriage with his/her own free will and consent is called a valid marriage, a marriage of a Muslim who is of sound mind and has attained puberty, but if the same is conducted without his/her consent is void marriage. These are the essentials of the valid marriage. Offer (Ijab), Acceptance (Qubul), and offer / ijab and acceptance / qubul must be in the same meeting and with free consent and no person can be compelled by guardian to marry. The parties contracting marriage should be major and there must be some consideration in marriage which is dower. Nikah should be solemnized in presence of two witnesses and both should be adult and sane.

According to Islam, there is no vicarious liability and every soul must bear the burden of his/her own actions. As per the last sermon (Khutba Hijjah Tul Wida) of the Holy Prophet Muhammad (P.B.U.H.) "henceforth, the offender himself will be responsible for the offence; no son will be charged for the father's crime and no father will be punished for the crimes committed by the son".

In the shape of Swara or Vani whether this act is done with the consent of both the parties or it is done with the consent of the female herself, as in this way the criminal himself goes free and instead an innocent girl/girls pays the price. "Nikah" is a social contract and consent based on free will and the same is mandatory. Moreover, if a girl herself is not willing to marry someone, then the Nikah or Marriage will be considered void. The key component of any marriage is consent and freewill of the spouses. However, in such marriages, the marriage is forced upon the woman, making it completely unacceptable. In essence, the "Swara" arrangement amounts to women forced to marry.

Under Swara, the personal liberty of a woman is restricted for the rest of her life against all norms of justice therefore contravening Article 9 of the Constitution, which guarantees the freedom of liberty. It is also offends Article 4 of the Constitution that guarantees every citizen the inalienable right to enjoy the protection of the law and to be treated in accordance with law. It is also clear violation of Section 5 of the Child Marriage Restraint Act, 1929, which provides that if a minor girl is given in marriage by

her father or guardian before she turns 16 years of age, she shall be entitled to obtain a decree for the dissolution of marriage before attaining the age of 18 years, provided that the marriage is not consummated.

However, Jirgas and the practice of settling disputes by gifting girls as compensation was recently confronted by the Honourable Supreme Court, when in Kashmore, Sindh a Jirga had decided to give five minor girls in marriage to the opponent side. The girls were to pay the price for the crime committed by their father and uncle. And in the case of Sang Chatti in which five minor girls who were handed over to the opponent party, the Honourable Chief Justice of S.C. freeze the Jirga's verdict and send them into jail, through this decision the Apex Court has sent a clear message to tribal chiefs that customs like Vani, Swara and Karo-Kari are being committed against the women, should not be allowed to exit.

### **Conclusion**

In the light of above discussions and research Honour Killing, Karo Kari, Vani and Sawara customs are not only against the humanity but it is also clear cut violation of Human/Woman Rights and Fundamental Rights which are guaranteed in the Constitution of Pakistan, 1973. As per Article 4 of the Constitution, to enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every person for the time being within Pakistan. It is a violation of Article 8 of the Constitution of Pakistan, Fundamental Rights are Supreme: Any law or custom or usage having force of law inconsistent with fundamental rights shall be void. It is also violation of Article 9 of the Constitution: which gives the Right to Life and Liberty: no person can be deprived of life or liberty. It is also a clear cut violation of Articles 25 of the Constitution: which gives the Guarantee of Equality of citizens, as per Article 25: all citizens are equal before law and are entitled to equal protection of law and there shall be no discrimination on the basis of sex alone.

It is also evident that the (Amendment) of Criminal Law Act 2004 has not had the desired impact. 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. 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.

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