

Honor Killing & Criminal Laws for Plaintiffs: Ethnographic Case Studies of Victims from Khyber Pakhtunkhwa

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Abstract

Killing in the name of honor is a tactic used to maintain or restore family honor by putting an end to or killing females whose actions prompt whispers of unsuitable or inappropriate sexual behavior. However, neither the Holy Qur'an nor Sharia support nor permit the killing of someone for reasons of honor. One of the highest rates of honor killings worldwide occurs in Pakistan. This paper offers a critical evaluation of honor killings in Khyber Pakhtunkhwa and makes the case that the occurrence of these crimes is a result of the dominance of traditional justice over legal principles. By focusing on the actors, this method demonstrates the justifications for honor killings as well as the incapacity of the legal system and the judicial system to hold offenders accountable. More harsh punishment of criminals is suggested in order to overturn conventional justice to prevent honor killings.

Keywords: Honor Killing, crimes, traditional justice, traditions, violence

1. Introduction

Honor killing being a form of honor-based violence has long history, as societies have practice it from the time tracing back to the era before Christ's birth. The subordination of women in social, cultural and political affairs has remained a feature of these ancient societies that resulted in patriarchy. Patriarchy is a phenomenon whereby a male family head or tribal chief controls all the affairs of a family and the tribe without taking into consideration the will of women. The status of woman in patriarchal communities was very low and secondary to man. Minor misdeeds from female side resulted in her death by his guardian man (Alam, 2012). Direct reference of honor killing is associated with the Babylonian emperor named as Hammurabi(Herald, 2016).He had enacted more than 280 laws with severe punishments and under these laws man has been given the authority to kill his wife if found guilty of adultery.

The origin of honor killing in South Asia is linked with the Arab traders who came to Baluchistan in pre-Islamic period (Fateh, 2012). These Arab traders

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used to kill their female family members when they were convicted of illicit relationships and over minor honor issues. From Baluchistan the vice act of honor killing diffused to other areas of modern day Pakistan (Gauhar, 2014).

The origin of honor killing from Baluch area became clear when Israr Ullah Zehri a Pakistani politician defended honor killing in parliament in 2008, over the murder of 5 women belonging to Umrani tribe in Baluchistan. He considered it as long lasted tradition prevailing in Baluchistan (Fateh, 2012).

Not only honor killing but various other form of violence exists here like commoditizing women for money include demanding high bride price by bride's family, asking for high dowry and marrying with Quran are worth mentioning. Women are married with Quran so that their share of inherited property will remain in family. Beside these issues the phenomenon of Vani and Sawara exists in Pakistan whereby young girls are married to aged men so that a feud may be solved (Gauhar, 2014).

Some tribal societies find justification for honor killing in Islam. Here in Pakistan the honor of a man in family is linked with his family woman (Gauhar, 2014). The purity and virginity of female need protection and if these are contaminated with impurity like any extra marital sexual relations, then woman is killed for lost honor. Whole community and family support the killer as he is a champion of honor and strives for lost honor.

2. Social and Cultural justification of Honor Killing in Pakistan

Violence against women and treating her as a secondary material in Pakistani societies is a product of those hereditary customs which have been in practice for years. Even justification for honor killing and ill treatment of women can be deduced from these century old traditions. The conservative and rigid cultural attitudes of communities have adopted honor killing to suppress women. These cultural traits are so entrenched in the minds and deeds of people that they may lose their lives but are not willing to lose their honor.

Patriarchy is fueled inside families in initial times when a baby boy child is favored over baby girl. Continuous discrimination of daughters reduces their morale and discourage them, while over importance reserved for sons induce in them the poison of patriarchy. This male child grows up with patriarchal norms and enforces his will over the female of his family. Inside Pashtun culture the girl's will is so suppressed that just after her birth her knot is tied according to family wishes. Choice making about marriages is strictly prohibited. After her marriage she is given under her husband's surveillance to look after her conduct

because the honor of her father, brother and husband is associated with her, which is a wrong notion.

Khyber Pakhtunkhwa is one of the four provinces of Pakistan having definite traditions. (Alam, 2012). Clear examination of Pushtunwali shows that it is patriarchal in nature. Honor or Nang is highly valued in it. In the name of nang women are subjected to constant torture and humiliation (Ejaz, 2016).

The 2004 criminal law amendment act though was initiated to reduce honor killing and torture against women, failed because all the religious and conservative people in society had reservations over it. The judges and police hesitate in interfering in customs that favor tribal courts. They fear that the local people will come out in support of traditions. Thus the cases of honor killing, violence and the decisions of Jirga and Panchayat go unreported.

3. Social Discrimination against Women in Khyber Pakhtunkhwa

Observance of hereditary practices is keenly seen in one of the provinces of Pakistan, Khyber Pakhtunkhwa. Being highly conservative and religiously orthodox the people in KP have high reverence and affection for the prevailing code of conducts. The area is inhabited by various tribes who came here from adjacent neighboring areas like Pashtuns (majority population), Hazarawal and Chitralis. These tribes have peculiar norms and customs which are considered as legitimate and sacred by the people. The general mind set in KP is patriarchal where men enjoy all luxuries of life and women are forced to stay inside homes. Position of women in KP is generally not equal to men. Both culturally and socially depressed woman is prone to patriarchal cruelties and tortures. Khyber Pakhtunkhwa has highest rate of domestic violence against women than other provinces in Pakistan(Zia Ullah, 2010).

This status of women in KP is the main reason for violence against them as men control all the facilities and use his position to undermine women. In Pakistan especially in KP all prevalent customs favor male in all walk of life(Shah et al., 2012).

Different kinds of violence against women are more prevalent in KP due to rural outlook. Pakistan is included among those countries which have high rate of rape cases(*Violence against Women*, 2017). Thus women are not safe inside their homes and within their state. The precarious situation of women in KP is a product of customs, illiteracy, lack of awareness and loose state writ in remote areas. The tribal belt in KP is absolutely out of state jurisdiction and is under tribal courts.

One of the major forms of Violence against women is honor killing prevalent in KP among various tribes. In violation of the cultural norms, women

are subjected to death by male guardians. Honor killing is more prevalent in Pashto speaking areas, among Pashtuns who have high standard and respect for their honor. Women are killed for violation of traditional norms by choosing spouse independently, elopement or by roaming without man of relative. The dominant traditional code called Pashtunwali guides the way of lives of Pathans which is based on patriarchy, tribal courts and subjugation of women(Saeed, 2012).In KP a term Tor Tora is used for honor killing. Tor is the man and tora is the woman who are engaged in illegitimate relationship with each other (Tabassum, 2016).

4. Legislative Reforms to Eradicate Honor Crimes in Pakistan

There is no illusion about the occurrence and high amounts of cases of honor killing in Pakistan. The curse of honor killing was fueled during 1970s and 1980s with Zia's policies. More cases have been reported as state considered honor killing as private issue. In Pakistan, "honour" killings are explicitly addressed by the Acts of 2004 and 2016, which were created specifically as legal remedies to sexual violence. (Riffat, 2022). Since the Act of 2014 had some serious loopholes so these shortcomings are tried to overcome in the Criminal Law Amendment Act 2016.

4.1 Criminal Law Amendment Act 2016

In recent times Pakistani government passed Anti-honor killing and Anti-Rape Bills to contain the happening of honor related crimes. The act is called Criminal law amendment act 2016 and it repealed and induced some provisions in Pakistan Penal Code 1860 and Code Criminal Procedure 1898 respectively(Zaidi, 2016). The main purpose of the bill is to punish the criminals of honor killing and rape cases severely so, that a deterrence and fear may stop further honor based violence. Previously, the perpetrators used to be free after the family of victim pardons them either under pressure of community or as the criminal is a family member of the victim. This act is a great initiative as it solved two major problems of honor killing and rape.

This act made it compulsory for the courts and police to immediately arrange DNA tests for the rape victim and the rapist(Bilal, 2016). After forensic reports the issue of rape is decided. For honor killing the concept of pardon granting was abolished and a punishment not less than fourteen years, death penalty or imprisonment for life were fixed.

After agitation and opposition from religious groups like Jamit Islami and Jamiyat Ullama Islam and members from Islamic Ideology Council as the act is against Islamic teachings, finally the bill was passed(Bilal, 2016). Beside the

formal and legal judicial systems existing in Pakistan, a second category but highly approached tribal courts do prevail here. The tribal courts are in the form of Jirga and Panchayat. It is a male dominated council with no women participation. The rural areas in Punjab, Baluchistan and KPK are dominated by these courts. Tribal courts decide cases according to the set norms (gondal, 2017). These courts have been biased against women as the position of women in patriarchal societies is low so, to solve the cases women are used to induce balance in community rather introduce justice (Bashir, 2017).

Across countrywide surveillance of human rights protection an independent body is present which examines human rights in all provinces of Pakistan.

4.2 Human Rights Commission of Pakistan (Watchdog for Human/Women rights violations)

Human rights commission of Pakistan (HRCP) is a non-governmental and non-profitable organization established in 1987 as a human rights protection structure. It aims at up gradation of basic human rights, secular democracy, notifying human and women rights violations, abolishing gender based violations and works for rule of law all over Pakistan. (Hasan, 2018).

As a voice for human rights protection, HRCP accesses the various treaties and declarations like UDHR and CEDAW and assists government in implementations and ratifications. (Baig, 2017). Pakistan being developing and patriarchal state has higher ratio of women rights violations than men. Consequently, most of the reports of HRCP are women oriented. HRCP carry out surveys and awareness programs to showcase women rights violations and urges government to take initiatives to stop further sabotage of women rights. In one of its reports, it showed the increasing proportion of honor killing cases in Pakistan from 2004 to 2009 (Zia Ullah, 2010).

HRCP along with UDHR works for providing basic rights to women like the right to choose a spouse.(Zia Ullah, 2010). Women in rural and tribal areas of Pakistan are deprived all the necessary rights and upon claiming for such rights women are killed. HRCP also studies and examines the reports and recommendations of Universal Periodic Review (UPR)(Gazette of Pakistan, 2005).UPR also provides a report to Pakistan about its human rights position and ask it to carryout steps.

HRCP closely observed the reports of UPR along with government of Pakistan and responses back but that report was not satisfactory. From this perspective it became clear that HRCP is an important institute. It also focuses on women position in various parts of Pakistan and uncovers the deplorable status of

women. Honor killing is its main focus as in 2014 HRCP recorded 923 cases of honor killing in Pakistan(HRCP, 2015). It also recommends preventive measures for eradication of honor killing and other women related issues. In 2002 HRCP expressed its dissatisfaction over the Jirga system and the influence of its decisions upon both men and women(Zia Ullah, 2010).

4.3 Convention on Elimination of All Forms of Discriminations against Women (CEDAW) and Position of International Law in Pakistan regarding Women Rights

CEDAW is an international treaty endorsed by United Nations General Assembly for protection of women rights and stop women rights violation via the member states. By observing the precarious situation of women rights and abuses across the world UNGA ratified it. CEDAW make it obligatory for states to carryout necessary steps to eradicate women rights abuses via proper legislation (Abdelhadi, 2016).

As a member of CEDAW the states have to submit reports about the steps taken to improve women's position and also highlight the violation cases, so that CEDAW along with other NGOs could take necessary steps. (Falcon, n.d.). Pakistan is also a signatory to CEDAW and its position is questioned due to huge human and women rights violations. The presences of strong cultural and social customs provide gender discriminations and lack of gender biased laws in Pakistan promotes women rights abuses as the presences of honor killing (S. Khan, 2013).

In Pakistan due to conservativeness of society and presences of orthodox religious class most of international laws remain in theory only. No implementation is possible and Pakistan is not pragmatic about international law. Up till now only three legislative measures have been taken in Pakistan supported by CEDAW about the elimination of biased laws, they are criminal law amendment acts of 2004, 2006 and 2016 respectively. These acts have provided certain legal rights to women and also abolished the compoundable nature of honor crimes. But due to loopholes in judicial system their enforcement is not up to the mark (Zia Ullah, 2010). Pakistan is also a signatory to United Nations Declaration of Human Rights but also fails to abide by its provisions.

Khyber Pakhtunkhwa as a far less developed province is more effected. Highly intermingled with tribal areas it has more conservative culture. Women rights reforms can be introduced with more difficulty due lack of acceptance. So, both government and international organizations have to solemnly deal with this area to control women rights abuse.

5. Cases of Honor Killing from Kp and Motives Behind (Honor Violation)

Studying the cases of honor killing in KP via various sources it became evident that the main reason behind honor killings was the violation of honor.

5.1 Hina Shahnawaz case

Among the many brutal and dreadful massacres done in the name of honor in KP, Hina's case is a glittering example of patriarchal murder. Hina was an educated personality with M. Phil degree and working as a sole breadwinner for her enlarged family. She was killed by her cousin (Mehboob Alam) and co helpers in Kohat KP on 6th February 2017(Akbar, 2017).

Reasons for murder

According to Express Tribune report she was the only financial supporter of her family. The killer argued that their culture (Pushtun) doesn't allow women to do job outside families and it is against their set norms(Farooq, 2017). But the financial conditions of her family compelled her to move and utilize her capabilities as her father died of cancer. Under these circumstances she started working in NGO and was earning eighty thousand salaries(Akbar, 2017). Poor Hina became victim of honor killing as she had violated the so called honor.

5.2 Asma Rani Honor killing case

The case of Asma Rani is another example of women rights violation. Asma was a third year medical student of Ayub Medical College from Kohat who was killed by Mujahid Afridi and Sadiqullah for rejecting marriage proposal(Ahmad, 2018b).

Details of the case

Asma was 23-year-old medical student and she came to her home for vacation when the incident happened. The accused Mujahid had proposed her for second marriage. Mujahid after murdering Asma left to Sharjah and UAE via Umra visa. KP police through FIA (federal investigating agency) and Interpol extradited him(Ahmad, 2018b). DPO Kohat Abbas Majid Marwat arrested Sadiqullah co-accused and said that the criminals have shot Asma with three bullets(Farhan, 2018). This murder is a violation of women basic right and an honor killing issue as marriage proposal has been rejected and the accused man killed her as an honor violation act.

5.3 Father killed his Two Daughters over honor violation

Another honor killing incident happened in Peshawar on 20 September 2017. A person named as Abdul Ghani has killed his two young daughters named as Shamim Bibi 18 years and Noreen Bibi 10 years, accusing them of illicit

relationship(Ahmad, 2018a). The victims are blamed for the bringing dishonor to the family.

Details of the Case

After the happening of the murder Amjad Ali, brother of the sister's lodge FIR (first information report) in local police station against his father. Deputy Superintendent of Police Bala Mani Fazal Wahid said that Ghani has confessed the murder after arrest and said that his daughters have defamed family honor and they used to stay out for hours(Ali, 2017). Upon this pretext the two innocent girls were killed. (A. Khan, 2017). Despite considerable literacy rate and modernization in Peshawar the city is still govern by norms present in the mind of people. (A. Khan, 2017).

5.4 Five women killed for Honor violation in Kohistan

Another honor killing accident happened in Kohistan KP on 30 May 2012 when five women and one man were killed for enjoying local wedding party by clapping and laughing, as the local Jirga ordered their killing for violation of community honor(Shahid, 2012).

Nature of the Case

Kohistan is an area of very conservative people more conscious about their honor, women sexual and moral conduct. The deceased ladies neither were alleged for gross misconduct like adultery or fornication rather they were having a small gathering. Unfortunately, that particular video was leaked in social media along with one man dancing far aside. This situation created havoc and the Jirga ordered the assassination of the women and the video up loader men. (Constable, 2016). The villagers along with the Jirga members denied the killings but an investigation report headed by Farzana Bari confirmed honor killing accident. Afzal Kohistani did his best to highlight the case of honor killing. This issue didn't remain a local problem rather a Canadian filmmaker had created a documentary named as "Unveiled, the Kohistan video scandal" which shows the ugly picture of honor based violence in Pakistan(Journalism Pakistan, 2016).This case of honor killing shows clear picture of the presence of customary laws and illogical verdicts of local tribal courts that proved dangerous and innocent lives were destroyed for petty mistakes.

These are just the few examples where associating honor with the females they were brutally killed. Although the government has passe the in 2016 to control the occurrence of such incidents with women but still government and other institutions associated with the law-and-order situation of the states seems

helpless as such kind of incidence are taking place not only in Khyber Pakhtunkhwa but all around the country.

One of such recently occurred incident was a lady named Nabeela and his alleged friend Gul Taj. The incident took place on February 08, 2022, when the brother of Nabeela killed her sister and his alleged friend in the name of honor.

According to the police sources Inam Bacha slayed her sister and Gul Taj. Police were informed by the deceased Gul Taj's brother that Nabeela was their cousin's widow. She had an argument with her in-laws while she was living with them and as a result, she went to her parents. While lodging FIR he further said, my brother Gul Taj went to see Nabeela to convince her to return to her house and kids, but her brother misconstrued their conversation for an affair and gunned down both of them(Corespondant, 2022).

6. Conclusion

Honor killing is a social taboo and it is a cultural practice. No religion is to be blamed as religions are mostly based on moral values not on homicides. With the progress of societies and power sharing in it between man and woman a disparity created that strengthened masculine characters after subduing female rights. Thus, society was built on patriarchal trends and women were deprived from their interests that could promote their beings and dignity. In male dominated society and control of man over resources women were only treated as child producing agents. This low status prone woman to myriad of issues and mistreatments, and violence against women became common. This violence against women now exists in many forms one of them is honor killing.

Pakistan is among those countries where women are not safe and are subjected to numerous tortures. Violence against women is present here in all its worst forms and honor killing is one of them. Being an Islamic state Pakistan is not fully attaining the status of being a women friendly country. Thousands of women are killed and subjected to domestic violence. The main reason behind the precarious situation of women is the social codes present here which easily overlook legal laws. State writ and jurisdiction is weak in tribal areas and conservative zones. So, Pakistan fails to abide by its own laws to protect women rights due to cultural practices. Compromise on cases of violence against women and honor killing by contending parties is an issue in Pakistan especially in KPK. The social order is based on Biradari system where relations are preferred over legal matters and communal ties and bonds are strenuous enough. The cases of violence against women are resolved within domestic circle prior reaching courts. The victim is forced to pardon the criminal who is her own close relative.

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