

License to kill: Honour killings in Pakistan

Are Knudsen

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Introduction¹

Honour killing is an imprecise term for murder precipitated by the aggressor's loss of "honour" and can provisionally be defined as a "ritualised form of violence usually with male perpetrators and often, but not always, female victims".² This extra-judicial punishment is meted out by private actors according to customary law and there is usually no way to repeal the sentence. The offender is usually killed by close family members, most often a brother, father or husband, on their own accord. Honour killings form part of what has been termed "traditional justice" or "tribal justice", a contested form of private retribution that many find unwarranted and illegitimate.³

¹ *Acknowledgements*: I am indebted to Mohammad Manzar Zarin who assisted in collecting and translating the case material used in this paper. I owe special thanks to the Kohistani men who were interviewed for this study and disclosed details of painful memories and traumatic events. This paper has benefited from comments by Karin Ask, Ivar Kolstad and Farhat Taj. None of them are responsible for the views expressed here which, along with any mistakes, are solely my own. A revised version of this paper is forthcoming in, L. Lindholt, Ed. *Traditional Justice: Human Rights Yearbook*. Kluwer.

² Cees Maris and Sawtiri Saharso. "Honour Killing: A Reflection on Gender, Culture and Violence." *Netherland's Journal of Social Sciences* 37, no. 1 (2001): 52-73.

³ Nancy V. Baker, Peter A. Gregware and Margery A. Cassidy. "Family Killing Fields: Honor Rationales in the Murder of Women." *Violence Against Women* 5, no. 2 (1991): 164-84.

Worldwide honour killings claim the lives of at least 5,000 women although the true figure is probably much higher.⁴ There are no official countrywide statistics for honour killings in Pakistan. The current estimate is 1,000 victims although the true figure is probably much higher.⁵ If this figure is corroborated, Pakistan probably has the highest per capita incidence of honour killings in the world. What is the reason, or reasons that promotes honour killings in Pakistan? In 1999 Amnesty International published a detailed report on honour killings in Pakistan.⁶ The report was based on field visits by Amnesty's local staff who recorded testimonials from victims and their relatives. The report provided graphic details of women and men brutally killed for a range of offensive acts such as defying arranged marriages, marrying a man of their own choice, seeking divorce, being raped as well as fake honour killings, that is, homicide under the pretext of honour. The report concluded that in most of these cases there was no conviction and a concomitant recourse to tribal justice.

In many countries in the Middle East adultery is not only a breach of sexual morale but also criminal offence that carries the death penalty. This is either because they have inscribed Quranic punishments for adultery in the civil penal code or, as in some Gulf-states, fully implemented Islamic law (*Sharia*). In both cases homicide is excused if adultery is proved.⁷ In the case of honour killings,

⁴ UNPA. *Lives Together, Worlds Apart: Men and Women in a Time of Change*: United Nations Population Fund, The State of World Population 2000, 2000.

⁵ HRC. *State of Human Rights in Pakistan 2001*. Lahore: Human Rights Commission of Pakistan, 2002.

⁶ AI. *Pakistan: Violence against Women in the Name of Honour*. New York: Amnesty International USA, www.amnestyusa.org/countries/pakistan/reports/honour/, 1999.

⁷ Abdel Salam Sidahmed. "Problems in Contemporary Applications of Islamic Criminal Sanctions: The Penalty for Adultery in Relation to Women." *British Journal of Middle Eastern Studies* 28, no. 2 (2001): 187-204.

there is hence a convergence between jural laws and customary or “traditional justice” which sanctions homicide according to particularistic notions of honour and revenge.⁸ In order to examine the relation between jural laws and traditional justice in Pakistan, the paper begins with a brief account of the social significance of honour, and then gives an overview of the jural laws governing the prosecution of honour killings. Following an assessment of the scanty national data on honour killings, I examine first-hand accounts of honour killings in the North-West Frontier Province where aggregate data on honour killings are missing. This allows me to investigate details of traditional justice that has received scant attention in the literature on the subject.⁹

Interpreting honour killings

In general, attempts to circumscribe honour killings by attributing it to particular geographical regions (“Middle East”), cultures (“Kurdish” or “Pakistani” culture), faiths (“Islam”) or societies (“tribal”, “Islamic”) have failed because honour killings transcend such one-dimensional attributes. In order to understand why honour killings occur, we need to move beyond simple descriptive labels. As the name “honour killings” implies, most academic research, media coverage and news bulletins assume that homicide is provoked by the perpetrator’s “loss of honour” and a key question is therefore what honour is. In Pakistan honour is a multidimensional term that includes familial respect (*izzat*) and social prestige

⁸ Maris, and Saharso. "Honour Killing: A Reflection on Gender, Culture and Violence."

⁹ CIMEL and INTERTIGHTS. *Preliminary Bibliography: 'Crimes of Honour'*. www.soas.ac.uk/honourcrimes/Bibliography.pdf. London: Centre for Islamic and Middle Eastern Law (CIMEL) and the International Centre for the Legal Protection of Human Rights (INTERTIGHTS), see also, Unni Wikan. *For Ærens Skyld: Fadime Til Ettetertanke*. Oslo: Universitetsforlaget, 2003.

(*ghairat*). Honour can be described as a relation between a person's own feelings of self-worth and that of the peer-group ("honour group") to which he belongs. Because honour bestowed socially it is ephemeral and can be lost.¹⁰ Losing honour invites ridicule and disgrace and subjects the family to "shame". Honour can not only be lost, however, but also regained by returning the offensive act. A wide range of acts are considered shameful, but none more than those that compromise female chastity. Adultery, romance and even flirting compromise female chastity and invites shame on the offender and his/her family. In honour-bound societies, female chastity represents the family's "symbolic capital".¹¹ To protect it, the offending woman must be killed rather than divorced or excommunicated, an act which in itself is considered shameful.¹² Killing her removes the offensive act, redeems family honour and resurrects its prestige.¹³ The murder is therefore a means to an end and used instrumentally to "restore honour" and "remove shame". Nonetheless, the killing of a spouse or a sister is an extremely traumatic event and therefore not possible without psychological distancing that weakens the social bonds between the victim and the aggressor. A striking feature of "typical" honour killings is that the victim's family does not publicly express regret over the murder nor is there any open expression of grief. Instead, close family members condemn her for betraying family loyalty for

¹⁰ Frank Henderson Stewart. *Honor*. Chicago: University of Chicago Press, 1994.

¹¹ Pierre Bourdieu. *Outline of a Theory of Practice*. Cambridge: Cambridge University Press, 1977.

¹² Richard Tapper, and Nancy Tapper. "Marriage, Honour and Responsibility: Islamic and Local Models in the Mediterranean and the Middle East." *Cambridge Anthropology* 16, no. 2 (1992): 3–21.

¹³ It is important to warn against the impression that women accused of adultery are always killed, see, Unni Wikan. "Shame and Honour: A Contestable Pair." *Man* 19 (1984): 635-52. In the Middle East there are institutions which can be used to disprove accusations of infidelity, see Joseph Ginat. *Blood Revenge: Family Honor, Mediation and Outcasting*. Portland, Or.: Sussex Academic, 1997.

personal gratification. This reversal of injury turns male aggressors into victims and female victims into culprits.

The most common cause of honour killings are accusations of female adultery. To understand why, it is not enough to consider the role of honour but also the structural opposition between romantic love and marriage.¹⁴ In Muslim societies marriage, in which romance has no place, upholds social structure and the alliance between families, lineages and clans and the reproduction and creation of offspring. Hence, marriage is instrumental, a means to an end. Romance, on the other hand, is the structural anti-thesis, concerned with personal gratification, always in secret and in contravention of official morals. This structural opposition helps explain why all forms of illicit romance provokes condemnation, ostracism and frequent killing of those involved: it is not only a threat to “personal honour”, but also that of the “honour group” who subscribe to the same honour code.¹⁵ This explains why neighbours and unrelated co-villagers often laud honour killings.

In Pakistan and a number of other countries the Middle East, homicide in the case of adultery is excused because men are gripped by a violent, emotional response beyond their control. The men are considered victims of circumstance and pardoned because the murder is impulsive and passionate. This gendered explanation locates the propensity for violence not in males in general, but in culturally constituted ways of “being a man” which links masculinity and

¹⁴ Charles Lindholm. "Love and Structure." *Theory, Culture and Society* 15, no. 3-4 (1998): 243–63.

¹⁵ Stewart. *Honor*.

aggression.¹⁶ In societies where honour killings are prevalent, we commonly find that masculine virtues include complete control of the women in the family, causing honour killing to be blamed on patriarchy.¹⁷

Honour killings can be considered a typical example of traditional justice, but it is important not to infer that they only take place in “traditional” or “pre-modern” societies.¹⁸ In recent years, honour killings have found their way into modern societies and challenged legal institutions such as the law and the judiciary.¹⁹ In parts of the Middle East honour killings are no longer only a rural phenomenon but also common in urban and peri-urban settings. There are indications that urbanisation spurs honour killings because it offers more opportunities for male-female socialization, less scope for enforcing rigid social segregation of women (*purdah*) and increased peer-group pressure to defend personal honour. In addition, urban settings provide new avenues for social mobility and increased competition for social status and esteem which in turn promote honour killings.²⁰

The argument has also been made that religion itself is the cause of honour killings. This is because religion is the ultimate arbiter of sexual chastity and prescribes harsh punishments for those who compromise it. In Pakistan, the state-sponsored islamization programme that began under Zia-ul-Haq’s regime (1979–

¹⁶ Matthew C. Gutmann. "Trafficking in Men: The Anthropology of Masculinity." *Annual Review of Anthropology* 26 (1997): 385-409.

¹⁷ Mikael Kurkiala. "Interpreting Honour Killings: The Story of Fadime Sahindal (1975-2002) in the Swedish Press." *Anthropology Today* 19, no. 1 (2002): 6-7.

¹⁸ Thor Aase, ed. *Tournaments of Power: Honor and Revenge in the Contemporary World*. Aldershot, Hants: Ashgate, 2002.

¹⁹ Maris, and Saharso. "Honour Killing: A Reflection on Gender, Culture and Violence.", Wikan. *For Ærens Skyld: Fadime Til Ettetanke*.

88) promoted Islamic orthodoxy and made adultery a criminal offence by turning sections of Islamic law (the *Sharia*) into statutory law. The growing orthodoxy made the protection of honour not only a social but religious duty, thereby spurring homicide of men and women.²¹ In sum, this means that honour killings can not be attributed only to “honour”, but must consider the complex cultural, social and political context in which honour is embedded as well as the jural laws which are meant to discourage homicide and punish offenders.

Prosecuting honour killings

In 1996 Pakistan ratified the U.N. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Under CEDAW, Pakistan assumed the obligation to protect women from sexual and other forms of gender-based violence perpetrated by state agents and private actors alike.²² The current president, Pervez Musharraf, has condemned honour killings, instructed courts to investigate incidents as premeditated murder and promised to punish offenders. Work is under way to review the criminal legislation concerning women, but nothing has yet been done to overhaul Pakistan’s legislation concerning women’s rights and repeal jural laws and regulations that discriminate against women and works to their disfavour. Instead, amendments to the criminal legislation during the past decade have disadvantaged women’s legal status and incorporated

²⁰ Gideon M. Kressel. "Sorricide/Filiacide: Homicide for Family Honour." *Current Anthropology* 22, no. 2 (1981): 141-58.

²¹ Lincoln Keiser. *Friend by Day, Enemy by Night: Organized Vengeance in a Kohistani Community*. Fort Worth: Holt, Rinehart and Winston, 1991.

²² Human Rights Watch. "Crime or Custom? Violence against Women in Pakistan." www.hrw.org/reports/1999/pakistan., 1999.

elements of traditional justice into statutory law, thereby reducing the likelihood of punishing offenders.

Pakistani criminal law, the Pakistan Penal Code (PPC), derives from British common law. As part of the islamization of the penal code of 1860, the sections dealing with physical injury, manslaughter and murder were revised in 1990 with the promulgation of the “Qisas and Diyat Ordinance” subsequently passed by parliament in 1997 as the “Qisas and Diyat Act” (“Retribution and Compensation Act”).²³ The amendment had far-reaching consequences for the legal prosecution of homicide in general and honour killings in particular. The law privatizes justice by shifting the emphasis from homicide as a crime against the state to a private offence against the victim. This allows the victim’s legal heir (*wali*) powers to close the criminal investigation, accept monetary compensation (*diyat*) and to pardon the accused at any stage of the prosecution as well as to commute the death sentence. The death penalty (*qisas*, i.e., “death for a death”) can only be imposed if very strict evidentiary requirements are fulfilled. If there is insufficient evidence to award the death penalty or the victim’s legal heir (*wali*) is the direct descendant of the offender, the death penalty is commuted and the maximum sentence reduced to fourteen years imprisonment. In practise, a man who kills his wife on adultery charges is pardoned by her family and escapes legal prosecution. The Qisas and Diyat Act repealed the old penal code provision (Section 300-1) that pardoned homicide due to “grave and sudden provocation” in which case the

²³ AI. *Pakistan: Violence against Women in the Name of Honour.*

murder charge was reduced to manslaughter.²⁴ Nonetheless, provocation is still invoked by courts as a mitigating cause and used to pardon male offenders or award discretionary punishment (*tazir*), usually monetary compensation (*diyat*).

The Qisas and Diyat Act elevates elements of traditional justice to statutory law and encourages 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. The result has been that honour killings seldom lead to conviction and imprisonment and could be an important reason for the subsequent rise in honour killings since the promulgation of the Qisas and Diyat Ordinance in 1990.²⁵

In addition to the imposition of the Qisas and Diyat Act, women's legal rights have been reduced by introducing Quranic punishments for adultery (*zina*) with the passing of the Hudood Ordinance in 1979. The Hudood ("Zina") Ordinance made fornication and rape a criminal offence and punishable by stoning or public flogging for both offences if certain evidentiary requirements are fulfilled.²⁶ The

²⁴ "Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation.", see *Ibid*.

²⁵ Between 1985 and 1994 there was a 55 per cent increase in the number of reported homicides in Pakistan. The homicide rate peaked in 1990 with close to eight deaths per 100,000, see A. Ghaffar, A. A. Hyder, M. I. Mastoor, and I. Shaikh. "Injuries in Pakistan: Directions for Future Health Policy." *Health Policy and Planning* 14, no. 1 (1999): 11-17.

²⁶ The penalty can only be applied if the accused confesses to the crime, or if there are four pious adult Muslim male eye-witnesses to the actual act of penetration. It is important to note that there is no example yet of women being stoned to death in Pakistan. Women convicted of adultery by lower courts, have always had their verdict overturned in higher courts. An example is the case of Zafran Bibi, a woman from Kohat in the NWFP who was charged with fornication after registering a rape case. She was subsequently sentenced to stoning under the Hudood Provisions by a lower court, but later acquitted of the charge by the Federal Sharia Court in Islamabad BBC News Online. "Pakistan Stoning Sentence Overturned.", http://news.bbc.co.uk/2/hi/south_asia/2029020.stm

Hudood Ordinance does not strictly differentiate between rape (*zina-bil-jabr*) and fornication (*zina*) so that a rape victim who cannot prove that she did not consent to intercourse, risks being charged with fornication and punished accordingly.²⁷ This anomaly is a major reason for using rape to defame the victim, her family and relatives.²⁸ Due to the Law of Evidence introduced in 1984, a woman's testimony is not equal to that of a man's, a gender bias that further disadvantage women and reduce their chances of being acquitted.

In 1978 Pakistan instituted a parallel system of justice with the introduction of "Sharia Courts". Their initial purpose was to review whether the existing laws were contrary to the Sharia, the Holy Law of Islam. The Sharia Courts were organised as a parallel judicial system with Sharia Benches located in all the four provinces and the Supreme Court in Islamabad. In 1983 local level courts were introduced, led by an Islamic cleric acting as a religious judge (*Qazi*). Qazi Courts hear cases concerned with Islamic law at the local level.²⁹ While the Sharia Benches have eight-members which include former justices (5) as well as higher ranking Islamic scholars (3), the Qazi Courts are presided over by a low-ranked cleric who has been educated in a religious seminary. The Qazi Courts frequently reach verdicts that punish women while absolve men.

²⁷ See, Sidahmed. "Problems in Contemporary Applications of Islamic Criminal Sanctions: The Penalty for Adultery in Relation to Women."

²⁸ Shahla Haeri. "The Politics of Dishonour: Rape and Power in Pakistan." In *Faith and Freedom: Women's Human Rights in the Muslim World*, edited by Mahnaz Afkhami, 160-74. London: Tauris, 1995.

²⁹ John L. Esposito. "Islam: Ideology and Politics in Pakistan." In *State, Religion, and Ethnic Politics: Pakistan, Iran, and Afghanistan*, edited by Ali Banuazizi and Myron Weiner, 333-69. Lahore: Vanguard Books, 1987.

Not only the legal system is an obstacle to prosecuting honour killings, so are the police in charge of recording the crimes and investigating them. Understaffed, the policemen spend little time and effort in investigating honour crimes and being underpaid they demand bribes to register an offence, known as a First Inquiry Report (FIR) and for closing the criminal investigation. If investigation is carried out, the policemen routinely manhandle suspects during interrogation to force a confession.³⁰ They also beat up men and rape women who file charges. For these reasons, honour crimes are seldom registered with the police and the victim's family left with the option to punish the culprit themselves according traditional justice or suffer the dishonour of leaving the offence unavenged.³¹

Measuring honour killings

Pakistani authorities do not provide official statistics of the number of honour killings. This task has been left to the non-governmental Human Rights Commission of Pakistan (HRCP) which collects data on honour killings in two of Pakistan's four provinces. The HRCP's surveys are based on cases reported by the press or registered with the police. This means that cases neither picked up by the press nor registered with the police go unnoticed. The true figures of honour killings could therefore be considerably higher than current statistics indicate. In addition, there is an increasing number of fake honour killings used to cover up other offences as well as homicide under the pretext of honour which further distort the number of offences and makes true estimates difficult.

³⁰ AI. *Pakistan: Violence against Women in the Name of Honour.*

³¹ In order to encourage women to press charges, Women Police Stations have been instituted in two cities in the NWFP (Peshawar and Abbottabad). Despite having an all-female staff, very few women register offences at these stations (Farhat Taj, pers.comm.).

The most detailed statistics of honour killings are from the southern Sindh province. There the HRCP's survey found that honour killings averaged 412 victims per year during the five-year period 1998–2002.³² The number of victims fluctuates from one year to next something that may reflect inadequate reporting rather than being proof of a “rise or fall” in honour killings.³³ The gender ratio of victims, however, shows little variation throughout this period. About 60 per cent of the victims were women and only about half of the incidents were reported to the police (226 cases).³⁴ There is no information of how many were acquitted of the charge. Most probably the majority of the accused were acquitted due to missing evidence or defective investigation (ibid.: p. 214). In the Punjab province, there is even less information about honour killings. In 2001 honour killings numbered 227 women (22 men), compared to 315 women (35 men) during the previous year.³⁵ Only in a fraction of the reported cases was the charge of adultery based on eye-witness accounts and adultery suspected rather than proved. This is testimony to the fact that protecting honour has become more important and punishing offenders therefore more brutal and widespread.

³² HRCP. *State of Human Rights in Pakistan 2001*, ———. *State of Human Rights in Pakistan 2002*. Lahore: Human Rights Commission of Pakistan, 2003.

³³ Year (victims): 1998 (341), 1999 (452), 2000 (457), 2001 (434), 2002 (376). The figures have been compiled from HRCP. *State of Human Rights in Pakistan 2001*, ———. *State of Human Rights in Pakistan 2002*.

³⁴ The main reason for the many male victims in Sindh is the prevalence of *karo-kari* killings. The offenders are referred to as “black”, a black man (*karo*), a black woman (*kari*), and the murders therefore referred to as *karo-kari* killings. The colour symbolism underlines the gravity of the offence and explains why the victims' bodies are desecrated and disposed of without proper burial, see, Nafisa Shah. *A Story in Black: Karo-Kari Killings in Upper Sindh*. Oxford: Reuters Foundation Paper, No. 100, 1998.

³⁵ HRCP. *State of Human Rights in Pakistan 2001*.

The HRCP survey data shows that there is considerable variation in the magnitude, type and frequency of honour killings in Sindh and Punjab, the two most populous provinces.³⁶ There is no comparable information from the North-West Frontier Province (NWFP) where, allegedly, honour killings first originated as a tribal custom.³⁷ Nonetheless, it is often inferred that due to the patriarchal nature of society in the NWFP, the limited state presence in rural areas in combination with the strict honour code which prevails there such as the Pashtun code of honour (*Pashtunwali*), honour killings are more common and more savage than in the rest of the country. The police records from the province for the period 1990–2002 estimates that about 1,844 women have been killed in the name of honour, the large majority of them (1,383) in the so-called “tribal areas” where powerful ethnic groups enjoy a measure of political autonomy.³⁸ There is reason to believe that that the actual numbers are considerable higher, because of underreporting and the prevalence of traditional (“tribal”) justice in the NWFP.

This means that there is scanty knowledge of honour killings in Pakistan in general, and the NWFP especially, where traditional justice is particularly stern. The reports on honour killings are either based on secondary sources or interviews with the victim’s family or relatives. There are neither first-person accounts with the perpetrator(-s) nor any first-hand information about the legal prosecution of honour killings. Instead, the incidents are sourced from meagre news reports or gleaned from defective police records. Thus, we lack detailed background

³⁶ Ibid.

³⁷ AI. *Pakistan: Violence against Women in the Name of Honour*.

³⁸ HRCP. *State of Human Rights in Pakistan 2002*.

information about individual cases of honour killings which will help us understand not only their instrumental function but also their cultural meaning.³⁹

Traditional justice

In order to fill this lacuna, this section is based on taped interviews with male perpetrators of honour killings collected as part of my own ethnographic fieldwork in District Kohistan.⁴⁰ District Kohistan is located in a remote north corner of the NWFP and is a tribal area under provincial administration. It scores low on all development criteria and suffers from poor infrastructure and government neglect. The ethnic Kohistani villagers are for the most part poor and illiterate and there are frequent conflicts over land, property and women. Here male aggression is an accepted fact and homicide among men common. Any offence that is deemed to involve loss of honour can give rise to lethal conflict (*kané*). The conduct of lethal conflicts conforms to customary law (*dastoor*) stipulating when force can legitimately be applied and revenge exacted. Most conflict resolution is local with only minimal involvement of the police or the judiciary. In recent years the spread of automatic arms such as the ubiquitous AK-47 have increased the number and ferocity of lethal conflicts which claim the lives of men of all ages, and more, recently young women. A strongly patriarchal society, boys and girls are engaged at a young age, which may explain the frequent extra-marital love affairs which, if they become public knowledge, are punishable by death for both offenders. In the case of adultery allegations the

³⁹ It is important to stress that understanding honour killings is not condoning them, but a key to prevention, see Pieter Spierenburg. "Faces of Violence: Homicide Trends and Cultural Meanings: Amsterdam, 1431-1816." *Journal of Social History* 27, no. 4 (1994): 701-16.

male offender is considered a “thief of honour” (*choor*) and can legitimately be killed along with the offending woman. Once adultery accusations become public they cannot be retracted and the aggrieved party under pressure to substantiate the allegations by killing the offending woman and her alleged paramour. Typically, the male offender is killed first to prevent him from escaping, followed immediately afterwards by murdering the offending woman. If unmarried, she is usually killed by male members of her own family or, in case she is married, by her husband or male in-laws. If both are killed, no further proof of illicit relations is needed. In a number of cases, however, the male offender is informed about the threat to his life and helped to escape. Resettling somewhere in the down-country gives only temporary relief and he is often tracked down and killed months or years later by the female victim’s family. The killing of both offenders can conclude the enmity but also intensify it. Usually, local mediators try to convince the parties to settle their differences by payment of money and exchange of marriageable girls. Should the parties to the conflict reject the mediators’ offer, more pressure is applied from local consensual assemblies (*jirga*). Should mediation still fail, the ensuing vendetta can claim a number of male victims. For protection, men under threat of being killed wear magical amulets for protection and seek house confinement that in some cases lasts for years. In the end the weaker party is usually forced to leave or is killed in an ambush. Homicides of men are sometimes registered with the local police to prevent the culprit from escaping and resettling somewhere where killing him is more difficult. The

⁴⁰ Are Knudsen. *Violent Belonging: Land, Love and Lethal Conflict in a Kohistani Community, Pakistan*. Bergen: Book manuscript under review for publication, 2003

murder of women is never reported because disclosing the reasons for her murder would be dishonourable and could incriminate male family members.

Among the migrants who for personal reasons have been forced to leave District Kohistan and resettled in urban and peri-urban parts of the NWFP, adultery allegations also lead to homicide. However, in “settled areas” police inquiry into murder is routine and private justice not commonly accepted. This increases their risk of being apprehended by the police and prosecuted by the courts. Nonetheless, they still commit murder when their honour is at stake. Homicide of men is often registered with the police but the killing of women usually covered up and the victims buried without notifying the police. When honour killings of men are referred to courts, they seldom lead to conviction. Analysing case studies show that the suspects confess to the crime under the threat of being beaten or manhandled by the police. They are offered to escape torture by paying bribes and told that large sums of money can help them escape prosecution. To prevent this outcome, the plaintiffs likewise bribe the police to admit fake evidence which incriminates the suspect. In the courtroom, the defendants retract their confession and plead not guilty as charged. To obstruct the trial, the defendants or their relatives threaten witnesses of the murder to their life so that they fail to appear in court. Lacking evidence that proves the murder charge, the judge is left with the option of awarding the defendant a reduced sentence of manslaughter. To prevent this outcome, the defendants try to make the plaintiffs agree to an out-of-court settlement that involves payment of monetary compensation. The Qisas and Diyat Act instructs the court to heed out-of-court settlements and consequently the court

invokes the *diyat* (“blood money”) provision in the penal code and rules that the defendant pay the agreed monetary compensation to the victim’s family (i.e., the legal heir, *wali*). In some cases, the defendant tries to avoid paying compensation because it contradicts local honour codes. Instead of paying, forged documents testifying that payment is completed is put before the court. Should the judge, members of the jury, the plaintiffs or their lawyer raise objections, threats to their lives make them change their mind. After years of wrangling in court, the legal prosecution is closed and the suspect released. Bringing honour killings to court is locally construed as dishonourable and a breach of tradition. For this reason, co-villagers often laud the defendant while rebuking the plaintiff, who as a consequence stands dishonoured.

Closing the legal case does not end the conflict which is often followed by attacks on the defendant by members of the male victim’s family. In recent years also women have become targets of revenge killings although customarily, women could not be killed in revenge for the murder of a man. Because of the threats to their lives the men frequently seek help from religious specialists to identify their adversaries and gain protection from bodily harm. The former involves reciting passages from the Quran and the latter more elaborate rituals used to invoke divine protection. Nonetheless, many of them are killed in treacherous revenge killings which transform the original honour killing into a lethal vendetta (*kané*). While men frequently escape legal prosecution, some of them are killed in revenge as prescribed by traditional justice.

Interpreting traditional justice

Comparing the details of honour killings in “settled” and “tribal” parts of the NWFP illustrate the complex intertwining between jural law and traditional justice in Pakistan. In a tribal setting the jural law is secondary to traditional justice and police presence is minimal, hence homicide is seldom registered with the police and consequently the perpetrators not prosecuted in court. Instead, the aggrieved party seeks out and kills the murderer themselves. In settled areas, honour killings more often end up in court, partly because private justice carries a higher personal risk of being apprehended by the police and legal institutions are readily available in the form of local courts. Nonetheless, legal prosecution is usually rendered ineffective because of the many ways defendants can obstruct the trial. Even if the court is able to pass a verdict, this does not prevent the aggrieved party from seeking personal revenge. The reason they act like this is that the legal system is unable to provide complete justice for the loss incurred: only traditional justice can do this. This applies not only in revenging a woman or man’s death but also in the first instance, the loss of honour produced by adultery allegations. The loss of honour cannot be redeemed by a jury or judge, nor reinstated through punishment or fines. Only traditional justice demanding that fathers kill their daughters and husbands kill their wives will reinstate honour and redeem the families’ moral worth. Civil courts can make the parties agree to a formal settlement but this is not equivalent to local concepts of justice. Justice in the case of homicide cannot be awarded by the court, but only achieved through adhering to local notions of honour and revenge.

It is often claimed that in Pakistan “honour killings mostly go unreported and almost all go unpunished”.⁴¹ The examples provided here substantiate the first claim, but not the latter. Only the murder of Kohistani men is reported to the police and the offender brought to trial by the victim’s family. The murder of women remains unrecorded.⁴² This underlines that honour killings of women are underreported and much more prevalent than current figures indicate.⁴³ Murderers either escape legal prosecution or receive lenient sentences. At least some of them are killed in revenge by relatives of the victim according to traditional justice. The juror’s verdict closes the lengthy legal case, but does not foreclose the revenge killings that follows in its wake. This explains why honour killings of women often provoke an inter-family vendetta.⁴⁴

Despite being a signatory to CEDAW, Pakistani women and men are killed with impunity. The criminal legislation does not deter would be aggressors and being acquitted of murder charges feasible through the payment of bribes, death threats and token monetary compensation. The Qisas and Diyat Act has made the Pakistani Penal Code subservient to traditional justice. This significantly reduces the courts’ powers and promotes out-of-court settlements that absolve homicide against token monetary compensation. The lenient sentences that are meted out mean that the perpetrators do not fear being apprehended by the police and prosecuted in court. Moreover, the policemen can be bribed to ignore the offence or, conversely, produce fake evidence which incriminates the suspect. In either

⁴¹ AI. *Pakistan: Violence against Women in the Name of Honour*.

⁴² If the murder was registered with police, the family members would incriminate themselves.

⁴³ HRC. *State of Human Rights in Pakistan 2001*.

case, it is money and not misdeeds which decides the suspect's fate. This also explains why the aggrieved party commonly finds that justice is not served through the judicial system, refrains from registering the offence with the police and seeks personal revenge.

The jural system and traditional justice tend to reinforce rather than counteract each other. Traditional justice sanctions homicide of men and women in the case of adultery. Although the burden of proof is greater, the Hudood Ordinance likewise prescribes death as punishment for an adulteress. Similarly, traditional justice sanctions revenge killings, a principle that under certain conditions is also sanctioned in the Qisas and Diyat Act's notion of "just retribution" (*qisas*, "death for a death"). If the evidence for awarding *qisas* is insufficient, the aggrieved party is awarded monetary compensation (*diyat*). Monetary compensation ("blood money") is also part of traditional justice, but accepting it is construed as a sign of weakness and as a rule the aggrieved party seeks revenge because only this can fully restore honour.⁴⁵

Despite areas of convergence between jural laws and traditional justice, there are still important differences that make people in the NWFP resort to the latter rather than the former. One reason is that traditional justice is personalised, unlike the impersonal punishment integral to statutory law where justice is made for you by a third party. Moreover, legal justice is slow, costly and often

⁴⁴ Knudsen. *Violent Belonging: Land, Love and Lethal Conflict in a Kohistani Community, Pakistan*.

⁴⁵ Accepting monetary compensation is interpreted as a sign of weakness and can therefore invite future attacks and incursions, *Ibid*.

ineffectual meaning that only by taking the law into their own hands are people assured that justice is served and the dead avenged. Revenge is locally construed as a “right” (*haq*) which the aggrieved party can legitimately exact from the perpetrator (or close male relatives) at any time. A key to the local code of honour is therefore retaliation, which is different from monetary compensation locally construed as dishonourable and therefore unacceptable. Customarily, the parties to a conflict will only accept arbitration when there is parity in death or injury. At this stage of the conflict, local mediators plead with the parties to end hostilities. The transfer of money and exchange of marriageable girls between the parties will formally conclude the enmity. While the exchange of girls is crucial to making peace according to traditional justice, it is invalid according to the Pakistani Penal Code. This means that statutory law lacks culturally acceptable means for ending enmities and reconciling former adversaries.

Conclusion

This paper has examined first-hand accounts of honour killings from the NWFP, where the weakness of the data is matched by the conviction that honour killings there are more prevalent and savage than elsewhere in the country. A case study approach such as this cannot claim generality beyond the case material itself. Nevertheless, I believe that the pattern described here is applicable beyond the field locality itself and provides new insights into the multiple causes for the prevalence of honour killings in Pakistan. First, traditional justice prescribes homicide in the case of adultery and extra-marital sex and there is a strong peer-

group pressure to kill adulterers. Secondly, the penal code criminalises adultery and absolves homicide if adultery is proved but in practice, adultery accusations suffice as proof. Third, the courts admit fake evidence under duress and the police demands bribes. Fourth, the defendants commit perjury and use death threats against witnesses and prosecutors to force an acquittal. In sum, this means that customary law prevails over jural law, which encourages the offended party to seek private justice. It is worth noting that both lay-people and jurors use traditional justice as the ultimate frame of reference. The lenient punishments that are awarded for honour killings do not deter would-be killers. In more abstract terms it means that universal principles of human rights have become secondary to particularistic notions of honour and revenge.

As shown, most honour killings do not, as is often claimed, “go unpunished”. Murderers frequently escape legal prosecution, but they often become targets of revenge killings that may claim their own life and those of their family and relatives. In most cases of revenge killings the perpetrator’s identity remains unknown. They therefore differ from “typical” honour killings where the murderer publicly admits responsibility for the misdeed and thereby redeems his honour and that of his family. If revenge rather than honour is the primary motive, this suggests that more strident prosecution of honour killings by the state would satisfy the plaintiffs demand for justice and discourage taking the law into one’s own hand.

In the NWFP, both women and men are murdered in honour killings and most are killed simply on suspicion of illicit relations. Still, existing research on the subject tends to focus narrowly on the plight of women and disregards the gendered dimension of honour killings. Both women and men are victims of honour killings, meaning that an examination of honour crimes can not take place simply within the selective study of homicide of women, what has been labelled “femicide”.⁴⁶ Instead, honour killings need to be framed within a gendered perspective that includes both aggressor and victim and the importance of taking revenge that may turn the male aggressor into the next victim. Thus, there is a need to question the dichotomy between “honour killings” of women and “vendetta” affecting men. In addition, there is a need to consider the indigenous aspects of homicide which are often passed over or disregarded in the discussion of honour killings. The honour killings examined here are integrated with religious practices and indigenous beliefs. In a society where treacherous murders are common, divine protection provides the parties to a conflict a symbolic insurance against death and injury. This finding may have wider applicability for our understanding of honour killings in the Middle East and South Asia and therefore also how to prevent them.

In his magisterial work *The Civilizing Process*, the German sociologist Norbert Elias argued that interpersonal violence and homicide rates all over Europe gradually declined from the late medieval times because of an increase in

⁴⁶ Fadia Faqir. "Intrafamily Femicide in Defence of Honour: The Case of Jordan." *Third World Quarterly* 22, no. 1 (2001): 65-82.

emotional control and state monopoly on the use of force.⁴⁷ Applied to Pakistan, Elias' theory suggests that the combination of weak law enforcement coupled with low emotional control promote homicide. The victims of honour killing are murdered according to a preconceived plan and not in a state of shock and affect. The fact that the murder is premeditated, suggests that weak law enforcement, rather than low emotional control, promote homicide in Pakistan. Stricter penal laws and more forceful prosecution of offenders could therefore significantly reduce the honour killing problem.⁴⁸ At present, however, the criminal legislation is subservient to customary justice and has incorporated aspects of it into the Pakistan Penal Code with the passing of the Qisas and Diyat Act. The first step in preventing honour killings is legal reform that revokes the Qisas and Diyat Act. A second priority should be implementing CEDAW fully and repeal the Hudood Laws that provides judicial sanction for Quranic punishments of women charged with adultery. At present, only a minority of the honour killing incidents are reported to the police or picked up by the press. A third step should therefore be instituting a national database on honour killings and gendered-based violence which could determine the magnitude of the problem and make combating it a political priority.

⁴⁷ Norbert Elias. *The Civilizing Process*. Oxford: Blackwell (First published 1939), 1994.

⁴⁸ Legal reform will not alone be enough to end honour killings in Pakistan. Better economic policies and political governance could also lower the homicide rate, as suggested by a recent study of cross-national panel of homicide rates, see, Eric Neumeyer. "Good Policy Can Lower Violent Crime: Evidence from a Cross-National Panel of Homicide Rates, 1980-97." *Journal of Peace Research* 40, no. 6 (2003): 619-40.

Summary

Pakistan has one of the highest incidences of honour killings in the world. This is a major human rights issue that has received little attention outside of human rights groups and women activist networks. This paper provides a critical reassessment of honour killings in Pakistan and argues that the prevalence of honour killings is due to the fact that traditional justice prevails over jural law. Since the late 1970s, aspects of traditional justice have been incorporated in the Pakistan Penal Code, thereby sanctioning homicide of men and women charged with adultery and fornication. In order to analyse the tenuous relationship between jural law and traditional justice, this paper is based on first-hand accounts of honour killings in the North-West Frontier Province (NWFP). This actor-oriented approach shows why traditional justice sanctions honour killings and the inability of jural law and the judiciary to punish offenders. In order to deter honour killings, more strident punishment of offenders is advised to invalidate traditional justice and counteract the private use of violence.

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