



QANDEEL BALOCH'S SACRIFICE – A REVIEW ON PAKISTAN'S ANTI-HONOR CRIME BILL

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ABSTRACT

Honor Killings is the murder of a person accused of “bringing shame” upon their family. It is an unfortunate practice that is deeply ingrained in culture and tradition (not religion) and equally enforced. According to tribal customs, an allegation against a woman that calls into question her reputation is sufficient to tarnish a family’s reputation beyond repair - ‘a life without honor is not worth living.’ The exact number of victims of honor killings is unknown but vast. This article analyzes how the murder of 26-year-old Qandeel Baloch at the hands of her brother triggered an action to put a stop “honor killings” in Pakistan, the Anti-Honor Crime Bill enacted in October 2016, its background, consequences, and whether it has proven to be effective.

Keywords: Honor Killing, Murder, Human rights, Forensic Sciences, Jurisprudence, Victims

“Whoever kills a believer intentionally, their reward will be Hell, to abide therein forever, and the wrath and the curse of Allah are upon them, and a dreadful penalty is prepared for them.”

— Holy Quran, Chapter 4, Verse 93.

INTRODUCTION

On July 15, 2016, Waseem Azeem suffocated his 26-year-old sister, Qandeel Baloch, while she was asleep at her parents’ house in Multan, Pakistan.¹ Azeem confessed the murder on video and expressed no remorse, saying, “I am proud of what I did. I drugged her first, then I killed her.” She brought shame to our “family’s honor”.² Her murder divided the nation, and made her an unlikely political icon.³ According to Pakistani custom, perpetrators of honor killings are safe from punishment if they can secure forgiveness for the crime from the victim’s family member.⁴ In rural Pakistan, the male-dominated

¹*Criminal Defense Trial Attorney. I thank Karina Sartorio and Traci Smith, for comments, suggestions, edits, and encouragement. All mistakes are my own.

**Gabol, Imran, “Qandeel Baloch murdered by brother in Multan: police”. DAWN, July 23, 2016. <https://www.dawn.com/news/1271213> (Accessed April 26, 2017).

²Reilly, Katie, “Pakistani Model Qandeel Baloch Strangled by Brother in Apparent ‘Honor Killing’”. TIME, July 16, 2016. <http://time.com/4409410/pakistani-model-qandeel-baloch-strangled-by-brother-in-apparent-honor-killing/> (Accessed April 26, 2017).

³Mohsin, Moni, “The dishonourable killing of Qandeel Baloch” THE GUARDIAN, July 18, 2016. <https://www.theguardian.com/lifeand-style/2016/jul/18/dishonourable-killing-qandeel-baloch-pakistan-social-media-brother> (Accessed April 26, 2017).

⁴BBC News, “‘Honour killings’: Pakistan closes loophole allowing killers to go free”. BBC NEWS, October 6, 2016. <http://www.bbc.com/news/world-asia-37578111> (Accessed April 26, 2017).

jirga⁵, or tribal council, decides affairs without the participation of the perpetrator and its executive decisions take primacy over state legislation mostly swiftly and in secrecy.⁶ Although horrifying and appalling to most, this is not the exception, but the rule in Pakistan. According to the independent Human Rights Commission of Pakistan (HRCP), nearly 1,100 women were killed by relatives in Pakistan last year in such killings, while many more cases go unreported.⁷ In the summer of 2016, the long-awaited legislation called the Anti-Honor Crime Bill to tackle Pakistan's "loophole" for perpetrators of "honor killings" was finally passed.⁸ As a result, "honor killings" would be considered a crime against the State (being the complainant) carrying a sentence of minimum of 25 years to life imprisonment, relatives can forgive perpetrators in the case of a death sentence, in that case the convict would still have to serve the minimum sentence, but judges no longer have the discretion to allow acquittals via the victim's relatives pardon.

This article analyzes how the events of Qandeel Baloch triggered an action to put a stop to "honor killings" in Pakistan, the background of this law, and whether it has proven to be effective.

WHO WAS QANDEEL BALOCH?

Qandeel Baloch was born Fouzia Azeem on March 1, 1990, in a conservative small town in the feudal district of the Punjab, Pakistan. In a lower middle class neighborhood of Multan, among a row of dilapidated houses, one dwelling stands out.⁹ It's the one she rented for her parents.¹⁰ And this is where she died.¹¹ Inside, the walls are faded, the furniture is scarce.¹² Baloch's father was in an accident and lost his foot.¹³ She brought them to the city, so he could get medical treatment and live better.¹⁴ But her home life paints a picture of a much deeper personal struggle, a long journey from a life of poverty towards the path she carved out for herself.¹⁵

She had six brothers and six sisters. Baloch became a model, an actress, a feminist activist and Pakistan first social media celebrity. Baloch was an unlikely star.¹⁶ She did not come from a wealthy, privileged background, as do many of Pakistan's politically prominent women.¹⁷ She was married off – as many girls are in provincial Pakistan – in her late teens.¹⁸ She should, by rights, have had an unremarkable life marked by serial pregnancies, financial struggle and social oppression.¹⁹ She was not willing to submit to a life of slow, steady suffocation. A year and a baby later, she walked out of the marriage she said had become abusive.²⁰ She wanted, in her own words, "to be able to stand on my own two feet, to do something for myself."²¹

⁵An assembly of tribal elders in Afghanistan or Pakistan. "jirga." Merriam-Webster Online Dictionary. 2017. <http://www.merriam-webster.com> (Accessed April 26, 2017).

⁶Lindholm, Charles. "The Structure of Violence among the Swat Pukhtun" *Ethnology*, vol. 20, no. 2, 1981, pp. 147–156, www.jstor.org/stable/3773062 (Accessed April 26, 2017).

⁷Supra n.5

⁸Ullah, Zahra, "Is Pakistan finally doing something about 'honor killings'?" CNN, July 26, 2016. <http://www.cnn.com/2016/07/25/asia/pakistan-honor-killing-bill/> (Accessed April 26, 2017).

⁹Eitizaz, Saba, "Qandeel Baloch: 'She was a girl just like you'" BBC URDU, July 21, 2016. <http://www.bbc.com/news/world-asia-36856168> (Accessed April 26, 2017).

¹⁰Id.

¹¹Id.

¹²Id.

¹³Id.

¹⁴Id.

¹⁵Id.

¹⁶BBC News, *supra* n.4

¹⁷Id.

¹⁸Id.

¹⁹Id.

²⁰Id.

²¹Zubair, Hanma, "Qandeel Baloch is dead because we hate women who don't conform" IMAGES, July 16, 2016. <https://images.dawn.com/news/1175827> (Accessed April 27, 2017).

Baloch had no minders, no stylists, no publicists, no consultants. She was a one-woman show, operating out of her bedroom on a shoestring budget, posting grainy, homemade videos on YouTube.²² Baloch was an Internet sensation, one of the top 10 most searched people in Pakistan and though there were many who condemned the nature and content of the videos that Baloch shared on social media platforms, there was no denying her popularity in the rather conservative country. Most of her videos – wherein more often than not the model would be in bed, wearing exposing clothes and recording provocative messages – would go viral.²³ Her first foray into the public eye was a disastrous audition on “Pakistan Idol.”²⁴ She was escorted offstage by one of the hosts and ended the segment in tears.²⁵

Baloch thrived on shock value or at least what that means for Pakistan. In a social media stunt, vows to ‘strip dance’ and dedicate the dance to our captain Shahid Afridi if Pakistan defeats India in ICC World Twenty 20 match on March 19, 2016.²⁶ This move was compared to a similar offer by actress Poonam Pandey in 2011. In June 2016 and deemed the controversy queen, Baloch met with Mufti Abdul Qawi, a senior cleric in a hotel room during Ramadan which caused chaos when their photos went viral online.²⁷ A selfie shows Baloch posing with Mufti Abdul Qawi, sitting next to him and a second picture shows Qawi holding a cell phone to his ear and the woman wearing his hat, standing close to him.²⁸ The stunt resulted in Qawi’s suspension from his post on one of Pakistan’s religious committees.²⁹ In addition, the meeting led to Baloch receiving death threats. She asked the government for protection, but the threats were dismissed as insignificant.³⁰

With her increased fame, Baloch began to question and criticize women’s role in Pakistani society. Just the week preceding her death, Baloch had stirred up more controversy by releasing a kitschy music video on YouTube called “Ban,” which mocked some of the restrictions that she had been subjected to.³¹ As long as Baloch limited herself to making an entertaining, if salacious, spectacle of herself, she was just about tolerated, but it was when she started speaking of women’s rights that she crossed into truly dangerous territory.³² Then she became a threat to traditional power structures.³³ In Baloch’s case, her “crime” was posting social media posts that defied cultural norms.

²²BBC News, *supra* n.4

²³Express Web Desk, “Qandeel Baloch murder: This video gives an insight into the Pakistani model’s life” THE INDIAN EXPRESS [P] LTD., July 22, 2016. <http://indianexpress.com/article/trending/trending-globally/qandeel-baloch-murder-this-video-gives-an-insight-into-the-internet-sensations-life-2917727/> (Accessed April 26, 2017).

²⁴Zraick, Karen, “In Death, Qandeel Baloch, Pakistani Social Media Star, Is Celebrated as a Feminist Hero” NY TIMES, July 19, 2016. https://www.nytimes.com/2016/07/20/world/asia/qandeel-baloch-pakistan-murder-social-media.html?_r=0 (Accessed April 26, 2017).

²⁵Id.

²⁶HT Correspondent, “Qandeel Baloch: Pak model to strip if team win WT20 match against India”. HINDUSTAN TIMES, March 18, 2016. <http://www.hindustantimes.com/world-t20/qandeel-baloch-pak-model-to-strip-if-team-win-wt20-match-against-india/story-n2YzcisDp-du7CMCrvQAuGI.html> (Accessed April 16, 2017).

²⁷Hussain, Fayyaz, “What really happened when Mufti Abdul Qawi broke his fast with Qandeel Baloch in a hotel?” DAILY PAKISTAN, June 20, 2016. <https://en.dailypakistan.com.pk/lifestyle/real-story-of-mufti-qawi-breaks-fast-with-qandeel-baloch/> (Accessed April 27, 2017).

²⁸Web Desk, “Qandeel Baloch stirs storm with selfies” THE NEWS INTERNATIONAL, June 21, 2016. <https://www.thenews.com.pk/latest/129556-Qandeel-Baloch-stirs-storm-with-selfies> (Accessed April 26, 2017).

²⁹Saifi, Sophia, “Pakistan social media star killed by brother” CNN, July 17, 2017. <http://www.cnn.com/2016/07/16/asia/pakistan-qandeel-baloch-murder/index.html> (Accessed April 26, 2017).

³⁰BBC News, *supra* n.4

³¹Saifi, *supra* n.29

³²BBC News, *supra* n.4

³³Id.

A PLAN IN ACTION AND IN THE NAME OF HONOR

On the evening of July 15, 2016, Waseem Azeem came to visit his parents as he heard that Baloch was going to be there for Eid holidays³⁴. Azeem was increasingly upset about his sister's social media presence and characterized her behavior as "completely intolerable".³⁵ "Girls are born to stay at home and follow traditions."³⁶ As Azeem prepared to carry out his plan, he put sedatives into his parents' bedtime milk so they would never know about Baloch's last moments.³⁷ In his mind, Azeem was doing it for "honor" and had "no regrets" as he said in a press conference after his arrest.³⁸ "She was on the ground floor while our parents were asleep on the rooftop," he said. "It was around 10:45pm when I gave her a tablet ... and then killed her."³⁹

Baloch's parents were unable to help and ponder over their daughter's last moments. "She must have cried out. She must have called her mother, she must have called out to her father, and we were sleeping like the dead", Muhammad Azeem (Baloch's father) says, beginning to cry. "Do you think we don't live with the pain?"⁴⁰

"HONOR KILLINGS" ROOTED IN RELIGION, TRADITION, OR A MORE SINISTER ORIGIN

The Holy Quran strongly prohibits the killing of any person without lawful reasons. The teachings of the Quran do not allow any person to take the law into their own hands and to commit murder, no matter what justification is used. Although Islam does impose the capital punishment for certain crimes, no one person can act as the accuser, judge and executioner.⁴¹

However, although it is not present in the Holy Quran *per se*, under some "interpretations" of Sharia law the outlook is surprisingly opposite. Such interpretations or distortions are used to justify cruel punishments such as amputation and stoning, as well as unequal treatment of women in inheritance, dress, and independence. The goal, among others, is to exercise complete control on women and their sexuality.

Sharia law is frequently misunderstood as a draconian criminal justice system governing Muslims.⁴² It is instead a broad code of conduct governing all aspects of life - from dietary rules to the wearing of the hijab - which Muslims can choose to adopt in varying degrees as a matter of personal conscience.⁴³ Sharia, meaning "way or path to the water", is derived from interpretation of the teachings of the Quran, the Hadith (the sayings and conduct of the prophet Muhammad) and fatwas - a type of jurisprudence of the rulings of Islamic scholars over many centuries.⁴⁴ Precedents and analogy applied by Muslim scholars are used to address new issues. The consensus of the Muslim community also plays a role in defining this theological manual.⁴⁵

³⁴Eid ul-Fitr (Arabic: *رطلد ادي ع*), often abbreviated as simply Eid, sometimes spelled Eid al-Fitr in the Roman alphabet, is an Islamic holiday that marks the end of Ramadan, the month of fasting. <https://www.thoughtco.com/how-eid-al-fitr-is-celebrated-2004613> (Accessed April 26, 2017).

³⁵Chughtai, Alia, "Qandeel Baloch's brother confesses 'honour' killing" AL JAZEERA MEDIA NETWORK, July 17, 2016. <http://www.aljazeera.com/news/2016/07/pakistan-qandeel-baloch-brother-arrested-regrets-160717081555890.html> (Accessed April 26, 2017).

³⁶Chen, Kelly and Sophia Saifi, "Pakistan passes legislation against 'honor killings'" CNN, October 8, 2016. <http://www.cnn.com/2016/10/06/asia/pakistan-anti-honor-killing-law/index.html> (Accessed April 26, 2017).

³⁷Eitizaz, *supra* n.9

³⁸Chughtai, *supra* n.35

³⁹Id.

⁴⁰Eitizaz, *supra* n.9

⁴¹Penny, Terry, "Honor Killing in Canada or any other place GIVE YOUR HEAD A SHAKE) LINKED IN, March 18, 2016. <https://www.linkedin.com/pulse/honor-killing-canada-any-other-place-give-your-head-shake-penny> (accessed April 26, 2017).

⁴²Stewart, Elizabeth, "Q&A: Sharia law" THE GUARDIAN, February 7, 2008. <https://www.theguardian.com/uk/2008/feb/07/religion.world1> (Accessed May 31, 2017).

⁴³Id.

⁴⁴Id.

⁴⁵Id.

Sharia developed several hundred years after the Prophet Mohammed's death in 632 CE as the Islamic empire expanded to the edge of North Africa in the West and to China in the East.⁴⁶ Since the Prophet Mohammed was considered the most pious of all believers, his life and ways became a model for all other Muslims and were collected by scholars into what is known as the hadith.⁴⁷ As each locality tried to reconcile local customs with Islam, hadith literature grew and developed into distinct schools of Islamic thought.⁴⁸ Given its huge oral tradition, it is conceivable that its translations or interpretations are influenced by the bias and prejudice of those who take part in such process. It would be literally impossible to follow all of interpretations, because plenty of them directly contradict each other.⁴⁹ Then when confronted with a "crossroad" on rules, choices have to be made, and Muslims have been making choices for the last 1,400 years. However, over the past 40 years hard-liners have come to the forefront in certain places.⁵⁰ These hardline interpretations of Islamic law are associated with political consternation and turmoil. There is not a country anywhere in the Muslim world which has been applying Muslim laws continuously for hundreds of years and which is drawing on genuine tradition.

There are five different schools of interpretation of Sharia: one in the Shia tradition of Islam and four in the Sunni tradition.⁵¹ Middle Eastern countries of the former Ottoman empire favor the Hanafi doctrine and north African countries prefer the Maliki doctrine; Indonesia and Malaysia follow the Shafi'i doctrine; Saudi Arabia adheres to the Hanbali doctrine; and Iran follows the Shia Jaafari school⁵². All the schools are similar, but some take a more literal approach to texts while others prefer a loose interpretation.⁵³

The Hanbali school, Islam's most orthodox, which spawned the Wahhabi and Salafi branches, is embraced in Saudi Arabia and by the Taliban. The Hanafi school, known for being the most liberal and the most focused on reason and analogy, is dominant among Sunnis in Central Asia, Egypt, Pakistan, India, China, Turkey, the Balkans, and the Caucasus. The Maliki school is dominant in North Africa and the Shafi'i school in Indonesia, Malaysia, Brunei Darussalam, and Yemen. Shia Muslims follow the Ja'fari school, most notably in Shia-dominant Iran. The distinctions have more impact on the legal systems in each country, however, than on individual Muslims, as many do not adhere to one school in their personal lives.

In Sharia, there are categories of offenses: those that are prescribed a specific punishment in the Quran, known as hadd punishments, those that fall under a judge's discretion, and those resolved through a tit-for-tat measure (i.e., blood money paid to the family of a murder victim). There are five hadd crimes: unlawful sexual intercourse (sex outside of marriage and adultery), false accusation of unlawful sexual intercourse, wine drinking (sometimes extended to include all alcohol drinking), theft, and highway robbery. Punishments for hadd offenses—flogging, stoning, amputation, exile, or execution—get a significant amount of media attention when they occur.⁵⁴

These sentences are not often prescribed, however in reality, most Muslim countries do not use traditional classical Islamic punishments. Vigilante justice also takes place.

⁴⁶Johnson, Toni and Sergie, Mohammed Aly, "Islam: Governing Under Sharia" THE COUNCIL ON FOREIGN RELATIONS, July 25, 2014. <https://www.cfr.org/background/islam-governing-under-sharia> (Accessed May 31, 2017).

⁴⁷Id.

⁴⁸Id.

⁴⁹Kadri, Sadakat, "Interpreting Shariah Law Across The Centuries" NPR, April 16, 2012. <http://www.npr.org/2012/04/16/150560969/interpreting-shariah-law-across-the-centuries> (Accessed May 31, 2017).

⁵⁰Id.

⁵¹Stewart, *supra* n.42

⁵²Id.

⁵³Id.

⁵⁴Johnson, *supra* n.46

The concepts of “tradition” and “honor”, which are not defined by the law and often used interchangeably, are actually two different concepts with two different meanings. Tradition includes “behavioral patterns that arise from social constructs, such as customs and conventions that a society or part of a society adopts, accepts and is compelled to comply with. Traditions consist of habitual, usual behavioral patterns. These behavioral patterns, which are oppressive, effective and coercive forces” are a “compilation of non-written rules”.

Honor, on the other hand, is defined as a “commitment to moral rules and social values of a society, and to chastity, honesty, and truthfulness”. Although the definition is gender-independent, in practice, unfortunately, this concept is discussed in terms of women’s sexuality. So much that the most prominent meaning of “Honor” is the “protection of purity in terms of sexual behavior”, “protection of chastity” from everyone before marriage and the exclusive loyalty of the woman to her husband after marriage. In contrast, it can be stated that a concept of male honor also exists, however both the definition and the protection behavior of male honor is different. The honor that a man must protect is “the honor of women that are dependent on him”, more than his own honor.

In other words, although honor, in terms of definition, applies to both genders, there is a strong tendency in the public opinion that this concept is interpreted as the man’s authority over the woman, the woman’s sexuality and the woman’s body. In short, the protection or tainting of honor is tied to the woman, and the woman is deemed responsible to bear the man’s honor.⁵⁵

Honor killings can be traced to ancient Roman times. The Roman statesman Marcus Cato once said, “If you catch your wife in adultery, you can kill her with impunity; she, however, cannot dare to lay a finger on you if you commit adultery, for it is the law.”⁵⁶ “Wine and women make wise men fall away,” observed Jesus ben Sirach, and ancient Jewish law tried to restrict both as evidence of distrust present in the Hebrew Scriptures dealing with sex.⁵⁷ Honor-based crimes were known in Jewish law by taking a rather harsh approach to adultery mandating death by stoning for an adulteress and her partner while an affair between a married man and an unmarried woman was deemed a civil wrong.⁵⁸ Today, the practice is most commonly associated with regions in North Africa and the Middle East.

While the concepts of honor and tradition, which are not part of human nature, but are invented by humans, are different from each other; the “tradition killings” and “honor killings” that result from the violation of the meanings attributed to these concepts by individuals and the society, are also different. In tradition killings, an act violating the tradition is committed, a family meeting consisting of patriarchs is convened to punish the violating individual. The family meeting decides on the perpetrator, and the perpetrator is required to punish those who violate the tradition with death. Moreover, the execution order and method for this future murder is decided upon. In honor killings, the situation is more individualistic. The perpetrator decides on the act, for the reason that the woman that he believes is his own has violated his conception of honor, and carries out the killing⁵⁹.

⁵⁵FIRAT, S., İLTAŞ, Y. and GÜLMEN, M.K., 2016. Honor Killing A Cultural Issue: Global or Regional? E-JOURNAL OF LAW, 2(1), pp.1-13.

⁵⁶Goldstein, Matthew A. “The biological roots of heat-of-passion crimes and honour killings,” *Politics and the Life Sciences* 21,2 (2002): 28-37.

⁵⁷Brundage, James A., “Law, Sex and Christian Society in Medieval Europe” UNIVERSITY OF CHICAGO PRESS, 1987, 51. <http://hdl.handle.net.ezp3.lib.umn.edu/2027/heeb.01498.0001.001>.

⁵⁸Id at 55.

⁵⁹Firat, *supra* n.55 at 3.

The honor killing emerged in the pre-Islamic era, according to Sharif Kanaana, professor of anthropology at Birzeit University and is “a complicated issue that cuts deep into the history of Arab society.”⁶⁰ He further observes: “What the men of the family, clan, or tribe seek control of in a patrilineal society is reproductive power. Women for the tribe were considered a factory for making men. The honor killing is not a means to control sexual power or behavior. What’s behind it is the issue of fertility, or reproductive power.”⁶¹

In many Arab countries, the practice of honor killing dates back to pre-Islamic times when Arab settlers occupied a region adjacent to Sindh, known as Baluchistan (in Pakistan).⁶² These Arab settlers had patriarchal traditions such as live burials of newly born daughters. Such traditions trace back to the earliest historic times of Ancient Babylon, where the predominant view was that a woman’s virginity belonged to her family.⁶³

There is no mention of honor killing in the Quran or Hadiths. Honor killing, in Islamic definitions, refers specifically to extra-legal punishment by the family against a woman, and is forbidden by the Sharia (Islamic law). Religious authorities disagree with extra punishments such as honor killing and prohibit it, so the practice of it is a cultural and not a religious issue. However, since Islam has influence over vast numbers of Muslims in many countries and from many cultures, some use Islam to justify honor killing even though there is no support for honor killing in Islam.

Traditional interpretations of Islamic law (or Sharia) prescribe severe punishments for zina, or extramarital sex, by both men and women. This is, however, not a new practice; it has been around since ancient times and is common practice in other religions and cultures as well. Under Islamic law, premarital sex could be punished by up to 100 lashes, while adultery is punishable by lethal stoning. The act must, however, be attested by at least four Muslim male witnesses of good character. Punishments are reserved to the legal authorities, and false accusations are themselves punished severely.

Interpretations of these rules vary. Some Arabs regard it as their right under both tradition and Sharia (by the process of al-urf), though this contradicts the views of the vast majority of Islamic scholars (fuqaha). Ayatollah Ali Khamenei of Iran has condemned the practice as “un-Islamic”, though punishment under Iranian law remains lenient for those who commit honor-based killings.⁶⁴

In many parts of Pakistan, tribal codes allow men to take the life of a wife, daughter, or sister if she is caught in a sexual act with a man to whom she is not married.⁶⁵ In practice, women are often killed on mere suspicion (and although the men involved may be killed too, they frequently are not.)⁶⁶ Others are killed for refusing a forced marriage, picking their own spouse, or running away from the family home.⁶⁷

⁶⁰Ruggi, Suzanne. “Commodifying Honor in Female Sexuality: Honor Killings in Palestine.” *Middle East Report*, no. 206, 1998, pp. 12–15. JSTOR, <http://www.jstor.org.ezp3.lib.umn.edu/stable/pdf/3012473.pdf?refreqid=excelsior%3Aa0a8b7b6434892baef3ef7afc3db758e> (Accessed April 20, 2017)

⁶¹Id. at 13

⁶²Women Living Under Muslim Laws, “Karo-Kari, TorTora, Siyahkari, Kala Kali: There is no honour in killing,” NATIONAL SEMINAR REPORT, November 2001. (Lahore, Pakistan: Arqam, 2003). Available from http://www.boell-pakistan.org/downloads/Karo_Kari_Tor_Tora.pdf Findings from the Shirkat Gah ‘Women, Law and Status Programme’ involving broad based and systematic research into honour crimes in Punjab, North Western Frontier Province and Sind.

⁶³Goldstein, *supra* n.43 at 28-37.

⁶⁴Canada Department of Justice, “Preliminary Examination of so-called “Honour Killings” in Canada” December 30, 2016. <http://www.justice.gc.ca/eng/tp-pr/cj-jp/fv-vf/hk-ch/p1.html#a1> (Accessed April 26, 2017).

⁶⁵Nafisa, “Pakistan’s Dishonor Killings” COUNCIL ON FOREIGN RELATIONS, INC., October 30, 2016. <https://www.foreignaffairs.com/articles/pakistan/2016-10-30/pakistans-dishonor-killings> (Accessed April 27, 2017).

⁶⁶Id.

⁶⁷Id.

The particular nature of honor crime is that its architecture is essentially dependent on many more people than the perpetrator himself.⁶⁸ For instance, in Basoch's case, their neighborhood and relatives, Basoch's brother-in-law with whom the murderer Waseem was staying, all of their sons, are all in favor of a pardon. In other words, they all agree that Azeem actions were justified.⁶⁹ With so many involved directly and indirectly in allotting punishments to women they perceive as errant, punishments for single, literal perpetrators are not enough.⁷⁰

Pakistan has been particularly complicit of such crime as for nearly 70 years, everyone has stuck their heads in the sand hoping to feel safer, but in reality, it has not protected anyone from the coming storm. Because of the "forgiveness" law in Pakistan, a surviving victim typically faces intense pressure to pardon her attacker.⁷¹ If she is killed, as in the majority of cases, her family has the right to forgive on her behalf.⁷² Basically, the perpetrator goes unpunished and the crimes continue unchecked.⁷³ The transgressions can be anything from wanting to get an education, to being a victim of rape, to refusing an arranged marriage or dressing in an "inappropriate" manner.⁷⁴

There is significant debate over what the Quran sanctions and what practices were pulled from local customs that predate Islam.⁷⁵ Those that seek to eliminate or at least modify these controversial practices cite the religious tenet of *tajdid*.⁷⁶ The concept is one of renewal, where Islamic society must be reformed constantly to keep it in its purest form.⁷⁷ Though many scholars share this line of thought, there are those who consider the purest form of Islam to be the one practiced in the seventh century.⁷⁸

"Honor Killings" have transcended state boundaries and it has become an "issue" in even the most westernized societies. In 2015, the U.S. Justice Department quoted research that estimates between 23 and 27 honor killings occur each year in the United States and there are 1,500 forced marriages.⁷⁹ But there are no official statistics.⁸⁰ A separate study by the Population Reference Bureau estimates that 507,000 women and girls in the United States are at risk or have already undergone female genital mutilation (FGM), where their genitalia are partially or totally removed for non-medical reasons to control sexuality and "ensure" virginity until marriage, more than twice the number estimated 15 years.⁸¹ FGM is a violation of the human rights of girls and women.⁸² Just as "honor killings", FGM it is designed to exercise control over women's sexuality.

TIPPING POINT & THE ANTI-HONOR CRIME BILL

Recognizing the problem, Parliament in 2004 moved to exclude honor killings from the law that allows victims' families to directly settle with the perpetrators. The violence nonetheless continued—as did the impunity.⁸³

⁶⁸Zakaria, Rafia, "An end to (coercing) 'forgiveness' in honour killings" DAWN, October 7, 2016. <https://www.dawn.com/news/1288591> (Accessed April 36, 2017).

⁶⁹Id.

⁷⁰Id.

⁷¹Stewart, Christa, "No "Forgiveness" for Murder!" EQUALITY NOW ORG, October 6, 2016. <http://www.equalitynow.org/blog/anti-honor-crimes-bill-pass-pakistan-quandeel-baloch> (Accessed April 27, 2017).

⁷²Id.

⁷³Id.

⁷⁴Id.

⁷⁵Johnson, *supra* n.46

⁷⁶Id.

⁷⁷Id.

⁷⁸Id.

⁷⁹Dawson, Stella, "Two girls murdered in Texas taxi: Were they honor killings?" REUTERS, June 18, 2015. <http://www.reuters.com/article/us-violence-women-honourkillings-idUSKBN0OY2UK20150618> (Accessed May 31, 2017).

⁸⁰Id.

⁸¹Id.

⁸²Fact Sheet, "Female genital mutilation" WORLD HEALTH ORGANIZATION, February 2017. <http://www.who.int/mediacentre/factsheets/fs241/en/> (Accessed June 28, 2017).

⁸³Shah, *supra* n.65

In February 2016, a documentary about “honor” killings by Pakistani filmmaker Sharmeen Obaid Chinoy, “A Girl in the River,” won an Academy Award.⁸⁴ The film prompted Pakistan’s Prime Minister Nawaz Sharif to speak out publicly on “honor” killings, stating that he would look into the issue and seek reform, yet he has so far taken no action.⁸⁵

In May 2016, the Council of Islamic Ideology (CII), the highest constitutional religious body in the country, proposed that men should be allowed to “lightly” beat their wives, “if needed,” and prohibited the mixing of genders in schools, hospitals, and offices.⁸⁶ The CII is an advisory body whose recommendations are not binding in parliament.⁸⁷ The CII’s recommendations came in response to the Protection of Women Against Violence Bill 2016, which was passed in the Punjab Assembly earlier last year, and is aimed at providing remedy to women facing domestic abuse.⁸⁸

Baloch’s tragedy helped to push the Anti-Honor Crime Bill to become law addressing not only “honor killings” but also sexual violence. First introduced and passed in the Senate in March 2015, the bill had failed to enjoy political consensus and wasn’t approved by the National Assembly, a necessary step for it to become law.⁸⁹ The Bill passed unanimously in both houses of parliament on October 6, 2016.⁹⁰ Senator Farhatullah Babar seemed enthusiastic and hopeful about this step in the right direction: “A vicious circle has now come to an end, now, a killer will face a minimum sentence of 25 years in prison. No murderer will be able to walk away free even if his parents or family members forgive him for killing his sister, wife or mother in the name of ‘honor.’” Pakistan’s prime minister, Muhammad Nawaz Sharif, has been under pressure to prosecute those who commit violence against women.⁹¹ “Honor killings” typically involve a woman being slain by a relative who believes she has brought shame upon the family.⁹²

Under these two new laws, cases of rape and “honor killings” will be taken seriously as the human rights abuses they are.⁹³ Victims of rape must know that access to justice will be swift and that they will not be re-victimized through the legal system.⁹⁴ The new laws require speedy trials – rape verdicts will now be issued within three months and mandatory sentencing for up to 25 years upon conviction, recognizing the severity of the crime.⁹⁵ Survivors of assault will be informed of their legal rights by law enforcement so the possibility of increased reporting is likely.⁹⁶ Additionally, forensic evidence will be available to support rape victims’ claims as medical examinations and DNA testing will be required.⁹⁷ Under the “honor killing” law, relatives of the victim would only be able to pardon the killer of capital punishment, but perpetrators would still face a mandatory life sentence of twelve-and-a-half years.⁹⁸

The law is by all means a good start in the right direction, but as everything new, changes and improvements must be implemented to fine tune its effects and aimed consequences. The main issues with the current version is that it does not go far enough to contain the violence against women and girls. Although parliament is determined to address these issues, they face constant opposition from religious groups favoring the status quo. Under the current law, if a murder is registered as *fasad fil arz* (the legal category in which honor crimes are placed), then the provisions for blood money and forgiveness are

⁸⁴Human Rights Watch Online, “Pakistan: Prosecute Rampant ‘Honor’ Killings” HUMAN RIGHTS WATCH, June 14, 2016. <https://www.hrw.org/news/2016/06/14/pakistan-prosecute-rampant-honor-killings> (Accessed April 27, 2017).

⁸⁵Id.

⁸⁶Id.

⁸⁷Id.

⁸⁸Id.

⁸⁹Ullah, *supra* n.8

⁹⁰Id.

⁹¹Id.

⁹²Id.

⁹³Stewart, *supra* n.71

⁹⁴Id.

⁹⁵Id.

⁹⁶Id.

⁹⁷Id.

⁹⁸Id.

voided.⁹⁹ The punishment for a crime committed on the pretext of honor will now be life imprisonment, and judges no longer have the discretion to allow acquittals.¹⁰⁰ The language in the law has several pitfalls. It does not define what is considered an honor crime and it falls short from establishing how short of a confession, the perpetrator will be proven guilty, leaving secrecy to be a strong ally for the crimes to continue. But the main unintended consequence of the law is that by carving a separate category for honor killing and making an unnecessary and complicating distinction from what it really is, murder. The killing of one individual by another is murder. The only difference between a plain murder and an “honor killing” is the motivation, which does not change the wrongful act, but it encumbers the enforcement of the law.

Until all murder is treated uniformly in the penal code, as a crime against the state instead of against an individual, acquittals for crimes against women and children will likely continue undeterred.

THE AFTERMATH & REFLECTION

There is nothing honorable about killing. The jury is still out (so to speak) about Pakistan’s attempt to end “honor killings” and deliver justice. However, as recent as April 2017, cases of murder with “honor killing” motivations not only continue to occur, but they are on the rise. The Aurat Foundation’s annual report of 2016 showed 7,852 cases of violence against women¹⁰¹, including 1,100 cases of honor killing were reported, but the Human Rights Commission of Pakistan (HRCPC) estimates at least another 1,000 went unreported.¹⁰² According to the Foundation’s staff, there has been a 70 % increase in honor killings in the past year.¹⁰³ In the meantime, the conviction rate for such crimes remains less than 15 %.¹⁰⁴ Many honor killings go unreported where bodies are secretly buried sealing any chance of prosecution while promoting the practice. Over 40 of honor killings have been recorded since the enactment of the law. This is alarming to say the least.

In January 2017, a Pakistani mother, Parveen Bibi, was sentenced to death for burning her 18-year-old daughter alive, Zeenat Rafiq, as punishment for marrying without the family’s consent and as a result, bringing shame to the family.¹⁰⁵ The court sentenced Rafiq’s brother Anees to life in prison after the evidence showed her mother and brother had first beaten her, before her mother threw kerosene on her and set her on fire.¹⁰⁶ None of her relatives sought to claim her body, leaving her husband’s family to bury her charred remains after dark in a graveyard near the city.¹⁰⁷ In the same month, 20 year-old Hayat Khan murdered his 16-year-old sister by stabbing and deliberately cutting her throat for talking to a boy over the telephone to protect his family’s honor. He had asked her many times to stop, and after his sister refused and finally the same boy came to our door, Khan had enough. Following tribal tradition and goaded by his cousins, the young man was convinced it was his duty to kill her.¹⁰⁸

⁹⁹Stewart, *supra* n.71

¹⁰⁰Id.

¹⁰¹Samoon, Hanif, “Mother of minor shot dead in suspected honour killing in Sanghar” DAWN, March 3, 2017. <https://www.dawn.com/news/1318161> (Accessed April 27, 2017).

¹⁰²Guriro, Amar, “Pakistan honour killings continue despite tough new laws” ABC, January 11, 2017. <http://www.abc.net.au/news/2017-01-11/why-honour-killings-continue-in-pakistan-despite-tough-new-laws/8172756> (Accessed April 27, 2017).

¹⁰³Samoon, *supra* n.101

¹⁰⁴Niaz, Tahir, “Honour killing cases on the rise amid low conviction rate” PAKISTAN GENDER NEWS, April 26, 2017. <http://www.pakistangendernews.org/honour-killing-cases-rise-amid-low-conviction-rate/> (Accessed April 27, 2017).

¹⁰⁵Reuters, “Pakistani mother sentenced to death for burning daughter alive” THE GUARDIAN, January 16, 2017. <https://www.theguardian.com/world/2017/jan/17/pakistani-mother-sentenced-to-death-for-burning-daughter-alive#img-1> (Accessed April 27, 2017).

¹⁰⁶Id.

¹⁰⁷Id.

¹⁰⁸Guriro, *supra* n.102

In March 2017, 21-year-old Leela Chandio, the mother of a child, was gunned down by her husband's cousin. The cousin opened fire on the victim at the behest of her husband after they suspected her of allegedly having "illicit relations" with another man from the same village.¹⁰⁹ The two men, along with their close relatives, have reportedly moved to undisclosed locations to evade capture.

When a video showing four girls (Amina, Bazigha, Sreen Jan, and Begum Jan) clapping while three brothers dance emerges in a remote Pakistani village, it quickly went viral.¹¹⁰ Although a very innocent depiction in many corners of the world, this is not the case in a deeply conservative society where men and women have been killed for less. The girls were rounded up and locked away in a room while the jirga determined their fate. Tribal elders ordered that all involved in the video be killed for bringing shame upon their respective families. However, there is no official confirmation since the locals assert the girls are alive to avoid prosecution. The boys and their families fled the area, but not before three elder members of their families were killed leaving fifteen children as orphans. Although the Supreme Court ordered the girls to be produced and even sent an envoy to identify them, the local elders produced decoys and the officials closed the case without any wrongdoing. The girls have never been seen again.

In April 2017, Sikandar Ali Dasti killed his two wives, 25-year-old Zareena and 35-year-old Leghari, for alleged having separate affairs with two men. Both women were shot by Dasti. This is probably the first incident in which a man has killed two wives for 'honor killing' at the same time.¹¹¹ Dasti fled and has not been apprehended.

Most of the "honor killings" victims have been women, but in reality, even men (or in this case, boys) can be casualties or victims. A 15-year-old ninth-grader was kidnapped, blinded by pricking his eyes and then had his penis chopped off in the name of 'honor', after the man discovered his daughter was the boy's girlfriend.¹¹² The boy was left maimed and for dead, but he survived. A passer-by spotted him took him to hospital where doctors managed to save his life.¹¹³ If the boy had died he would have become another statistic - albeit a rare, male one - in the long list of so-called 'honor killings' in Pakistan.¹¹⁴ All five perpetrators were apprehended.

"Honor Killings" are a very ingrained "tradition" and in order to have any chance of stopping the practice, there has to be a substantial change in the mindset of the Pakistani society. Currently, even if women want to report a crime, they can't go outside without men's approval and without a male chaperone.¹¹⁵ Fundamental grassroots change supported by the government is needed, according to leading voice for women, Dr. Nadia Agha from Shah Abdul Latif University in Sindh.¹¹⁶ We have to empower women through education and employment with the support of men. "The stronger the bargaining position they have, the more capable they are to fight and survive."¹¹⁷

¹⁰⁹Samoon, *supra* n.101

¹¹⁰Ahmed, Brishkay & Sanchez, Elizabeth, "Pakistan: Killing for Honour" ALJAZEERA, March 10, 2017. <http://www.aljazeera.com/programmes/101east/2017/03/pakistan-killing-honour-170310063900465.html> (Accessed April 27, 2017).

¹¹¹Web Desk, "Man kills two wives for 'honour killing' in Jacobabad" ARY NEWS, April 27, 2017. <https://arynews.tv/en/man-kills-two-wives-honour-killing-jacobabad/> (Accessed April 27, 2017).

¹¹²Neelakantan, Shailaja, "In Pakistan, man chops off boy's penis, blinds him, for 'honour'" TIMES OF INDIA, April 16, 2017. <http://timesofindia.indiatimes.com/world/pakistan/in-pakistan-man-chops-off-boys-penis-blinds-him-for-honour/articleshow/58205449.cms> (Accessed April 27, 2017).

¹¹³Id.

¹¹⁴Id.

¹¹⁵Guriro, *supra* n.102

¹¹⁶Id.

¹¹⁷Id.

With the change of times and technology, the clash between old beliefs and modernization in Pakistan has never been so visible. The new generation is in favor of parting ways with what they call “barbaric old practices” in lieu of a more prosper society. With positive figures such as 17-year-old Malala Yousafzai, herself a Pakistani from Swat Valley, and who was shot in the head by Taliban gunmen for speaking up for the right of girls to be educated, the future is a little brighter.¹¹⁸ Malala was barely 11 years old when she began championing girls’ education, speaking out in TV interviews.¹¹⁹ She was critically injured on October 9, 2012, when a Taliban gunman boarded her school bus and shot her in the head.¹²⁰ She survived through luck – the bullet did not enter her brain – and by the quick intervention of British doctors who were visiting Pakistan.¹²¹ The pride of Pakistan lives in the UK and is unable to return to Pakistan because the Taliban remain too great a threat.¹²² However, her advocacy and activism towards education has not been lessened, in fact, quite the opposite. I remain hopeful that this practice can soon be part of a horrific past, but the statistics are not preparing a farewell celebration any time soon.

On her final, July 4 post to her Facebook page, which has almost 800,000 fans, Baloch wrote: “I am trying to change the typical orthodox mindset of people who don’t wanna come out of their shells of false beliefs and old practices.”¹²³ Maybe there is more than hope in the new generation and Baloch knew it.

¹¹⁸Husain, Mishal. “Malala: The girl who was shot for going to school” BBC NEWS, October 7, 2013. <http://www.bbc.com/news/magazine-24379018> (Accessed June 28, 2017).

¹¹⁹Associated Press “Malala Yousafzai Becomes Youngest-Ever Nobel Prize Winner” PEOPLE, October 10, 2014. <http://people.com/celebrity/malala-yousafzai-becomes-youngest-ever-nobel-prize-winner/> (Accessed April 27, 2017).

¹²⁰Id.

¹²¹Id.

¹²²Shamsie, Kamila “Malala Yousufzai: the pride of Pakistan, but she can’t go home” THE GUARDIAN, October 10, 2014. <https://www.theguardian.com/commentisfree/2014/oct/10/malala-yousufzai-pride-pakistan-nobel-peace-prize> (Accessed April 27, 2017).

¹²³Chughtai, *supra* n.35