

An Insight into Criminal Law Reforms addressing Honour Killing in Pakistan

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Abstract: The Constitution of Pakistan guarantees everyone the inalienable right to life, which entails that the government must pass legislation to defend its citizens' right to bodily integrity. The Constitution also guarantees that every person has the inherent right to be treated with respect. The global rise in crimes committed against women is deeply concerning. These crimes are both material and social in nature. One of the most severe forms of violence that males conduct more frequently against women is honour killing. Honour killing is the worst kind of discrimination based on gender, caste, and community, and a gross violation of the right to life. The issue of honour killing undermines the universally acknowledged right to be treated with respect. Unless honour killings are stopped, women will not be able to feel safe in their own homes. In this article, we'll examine recent changes to Pakistan's criminal legislation and judicial system that address honour murders. The effort to change the law is continuing. This study makes use of a literature review approach.

Keywords: Honour killing- Right to life- Reforms-Criminal law- Pakistan.

I. INTRODUCTION

Article 9 of the Constitution¹ provides right to life to every citizen. The word 'life' used in Article 9 contains all the facilities and benefits of a person born in a Free State enjoying with dignity, legally and constitutionally. The concept of human dignity is linked to security against abuse and infringement of undeniable fundamental rights.² The term human dignity is frequently used to ensure the status and respect of an individual without whom an individual can't live on earth. Article 14 provides that dignity

¹Art. 9 of the Constitution

² Arshad Mehmood vs. Government of Punjab PLD 2005 Supreme Court 193

of man is inviolable.³ Every community has its own standards of pride and dignity. Every human life is valued and lovely. The notion of law is, therefore, to defend human life. The right to live with dignity is a natural blessing. The idea of human dignity enlivens the concept of equality. The value of human dignity is recognised by several international human rights documents i.e. United Nations Charter, Universal Declaration of Human Rights and other international Covenants preserving human dignity. Everyone has the right to live in human decency. The same embedded in the guise of basic rights in the Constitution.

Right to life does not only concern human dignity but also directs our concerns to very important issue of honour killing as a social status or the honour status of their family in society that kills those who have brought shame towards their, family or community. Honour killing is extreme form of violence exercised by men against women. The practice of honour killing is an obvious infringement of the privilege to live with human respect and the most noticeably terrible type of prejudice possible on the basis of gender, caste and communities.

Pakistan has about 1,000 honour killings every year. These data solely include incidents reported to the media or police by human rights organisations. In Sindh 108 women were victims of honour killing in 2019.⁴ The legal history of honour killings can be traced back to the promulgation of the Indian Penal Code⁵ to the enactment of the Criminal Law (Amendment) (Offences in the name or pretext of Honour) Act,⁶ but it is only an antidote to such dishonest practices. Law ought to be revised and made tough towards it. A wide scope of balance is required so as to adequately fight against male centric violations against women's in Pakistan.

II. HONOUR KILLING IN PAKISTAN

Honour is valuable in family. It is all the value of the family and is symbolized in the blood; the purity of the lineage gives honour, which explains the burden of chastity on women. Once the honour of the family is darkened, it is imperative that the members restore the honour even through bloodshed. Women are killed for various reasons i.e. unlawful sexual relationship with another man, married with men outside their family, refusing arranged marriage, sexually abused, divorced, or committed adultery.

In the Pakistani social system, male members are the breadwinner and have an influence on the female member of the family and are considered superior to women. Women are responsible for maintaining the honour and dignity of all members of the family. When women or girls violate the code of honour of the family or engage in immoral activities contrary to moral standards, this act will be considered a shame for the family.

Women and girls are particularly victims of honour crimes compared to men. The acts such as improper dressing, committing adultery, victim of sexual violence or rape, pre-marriage pregnancy, seeking divorce without family permission, Love marriage, refusing marriage in family, having sexual relations before marriage, illicit relationship and marriage in outside caste or religion are reasons of honour killing.⁷ To safeguard the honour or reputation of other women of family, many men refuse to marry the sister of the shameful woman, who was not punished by the family in Pakistan.

³Art. 14 of the Constitution

⁴A. Imtiaz, 108 women in Sindh 'killed for honour' in 2019 alone: Dawn, (2020).

⁵Indian Penal Code (1860).

⁶The Criminal Law (Amendment) (Offences in the name or pretext of Honour) Act 2016

⁷Id.

Every year, hundreds of women are killed by their families for family honour. The usual forms of honour killings in Pakistan are karo-kari, vani and sawara. Karo literally means a black man and Kari, a black woman. Karo Kari allows a man to murder a lady and shame the family. It is the murder of a woman for immorality, such as marital infidelity, refusal to marry, divorce, adultery, or rape. The term Karo-Kari is traditionally used to refer to the crime of double murder for honour in Sindh and Baluchistan. A man or boy, woman or girl is killed by their family for involving in sexual activities or sometimes are falsely blamed.⁸

Vani is a practice of early marriages in the tribal areas of Pakistan and is being hounded in the Punjab. This practice involves disputes between different tribes and clans in which women are forcibly married to members of different tribes for money or as compensation for crime and conflict resolution. Under this procedure, members of the offender's family marry in exchange for the victim's family. Under this practise, female members of the male offender's family marry in exchange to the victim's family.⁹ These judgments are often delivered by a *Jirga* or *Punchayat*, a council of elders,¹⁰ and convince an informal court to decide on ways to resolve disputes. *Swara* resembles *Vani*, in which the accused family gives their girl or girls to compensate for the feuds of a wounded family. The hypocrisy is so great that if a man commits a crime, the women of his family must be punished. Honour killings rundown the life of the victim, it is an extreme form of violating victim's fundamental rights. Hundreds of women are killed by their families every year in the name of their family's honour. To make laws for the protection of women is a positive thing. There is a dire need to make new laws for the women's security.

III. CRIMINAL LAW REFORMS ADDRESSING HONOUR KILLING IN PAKISTAN

Criminal law should be designed to protect women against honour crimes. It is the legislature that establishes the sentencing authority of the judiciary. Legislation should be crafted in such a manner where it defines the laws in a specific manner and should be interpreted and applied by the judiciary in a way that reflects the penance that the legislature seeks to achieve. Criminal law should be designed to protect women against honour crimes. It is the legislature that establishes the sentencing authority of the judiciary. Legislation should be crafted in such a manner where it defines the laws in a specific manner and should be interpreted and applied by the judiciary in a way that reflects the penance that the legislature seeks to achieve. The criminal justice system is an important tool in restricting the evils of honour killing in a civilised society. The general objective of criminal law is to prevent certain types of conduct that society recognizes as harmful or possibly injurious to the safety of members of society.

i- Pre-Independence Scenario

While drafting the penal code for India, honour killing was also considered by the first law commission set up by the British government in 1935. The problem has been carefully and favourably studied in the context of sudden and grave provocation. The law commission suggested that if a man finds someone to have sex with his wife, daughter or sister and the male member of the family kills his wife or both wife and her lover, it should not be called murder but it should be reduced to homicide. The law commission suggested that honour killing was not a cultural problem associated with the region of India, nor the socio-religious problem of a particular community but a common practice of killing a

⁸ Bakshs vs. State 2000YLR 1871

⁹M. Arshad, A. K. Ghulam, A. K. (2013). A Social Custom "Vani": Introduction and Critical Analysis, 28(40) AL-ADWA, 37, 38 (2013).

¹⁰ National Commission on Status of Women vs. Government of Pakistan PL D 2019 SC 218.

man who commit adultery with their wives.¹¹When a social value is recognised, acknowledged, and becomes a legal concept, the law validates and sanctifies that honour and allows individuals to pursue what is acceptable, commendable, and valuable in society. Murder is now defined as exception 1 in the IPC and punished under Section 300.¹² Shortly after the IPC was proclaimed, the provision of sudden and serious provocation was entered to reduce the murder charge and get a mitigating penalty.

In *Said Ali vs. The Empress*,¹³ following the promulgation of IPC, the Court examined all the case laws where the Indian High Courts reduced the murder charge to culpable homicide by reason of proof of exception I to section 300. These were the cases in which the accused is killed his wife or both. They were sentenced to only 8 months to 10 years.¹⁴ The bench complained that under no circumstances had a basic explanation been given as to why some varying sentences had been imposed. In another case,¹⁵ the court sentenced the suspect to a year in prison for killing the deceased while he was committing adultery with his married sister. The court ruled that the appellant was under the state of severe and abrupt incitement. In *Bahadur's case*,¹⁶ the deceased sang a provocative song that alludes to his sexual relations with accused's wife; the accused was severely provoked and killed the deceased. The court of first instance punished the accused with life imprisonment. The Court respected his feelings and accepted his request for sudden and serious provocation and reduced the sentence. In another case, the Appellate Court again accepted appellant's statement of sudden and grave provocation.¹⁷

ii- Post-Independence Scenario

After the Independence, Pakistan had adopted almost all laws of British India.¹⁸ Thus, the Indian Penal Code has become the Pakistani Penal Code,¹⁹ and the jurisprudence established under the IPC has kept on giving the fundamental direction to the Judiciary of Pakistan. In *Aziz-ul-Rehman vs. Crown*,²⁰ the Court featured the social characteristic or standard of a specific place and perceived the loss of self-control of a person in a specific culture. The Lahore High Court sentenced a police officer to only three years who killed one apparently outraged the modesty of his spouse.²¹ In *Mewa vs. The State*,²² accused was sentenced to death for killing his brother's wife. The court accepted his request for sudden and grave provocation and reduced the murder charge to culpable homicide penalizing him to three years.

The Honourable Justice Anwar ul Huq has brought up the moral importance of honour in its specific cultural and social setting in *State vs. Akbar*.²³ The court perceived that seeing the moral and religious values of honour and chastity as well as the social norms that apply in our society, especially among the most respected rural families, this should be considered the most serious provocation for a man who witnessed the terrible scene of a woman of her family subjected to an illegal sexual act. When under the influence of such a sudden and grave provocation, he loses control and attacks the person responsible for disgracing his family; his act shows that he must be seen in a different light from that in which this act is considered a common crime. The Court dismissed the State's appeal to increase the sentence

¹¹ National Archives of India, Legislative Dept. Act of 1860 No. XLV - Part II.

¹² Section 300, Indian Penal Code (1860)

¹³ *Said Ali vs. The Empress* Criminal Cases 1890 Punjab Records 15

¹⁴ *Id.*, at 18.

¹⁵ *Fazal Dad Khan vs. The King Emperor* Criminal Case No. 4, 1904 Punjab Records 12

¹⁶ *Bahadur vs. Emperor* AIR 1935 Peshawar 78

¹⁷ *Saraj Din vs. Emperor* AIR 1934 Lahore 600

¹⁸ The Adaptation of Existing Laws Order 1947

¹⁹ The Adaptation of Central Acts and Ordinances Order 1949

²⁰ *Aziz-ul-Rehman vs. Crown* PLD 1972 Peshawar 76

²¹ *Rahmat Ullah Khan vs. Crown* PLD 1950 Lahore 109

²² *Mewa vs. The State* PLD 1958 Lahore 468

²³ *State vs. Akbar* PLD 1961 Lahore 24

against the accused, who had been penalized to death for murdering deceased who has committed fornication with his unmarried sister. In *Shoukat Ali*,²⁴ the appellate court again reduced death sentence of the accused to life imprisonment. The accused had killed his cousin while she was walking with his boyfriend. The appellant stated that he tried to stop her from dishonouring the family, but everything was in vain. The High Court concluded that the applicant believed that his cousin would not stop it, restore her habits and would harm the family honour. In *Kamal vs. State*,²⁵ the Supreme Court unanimously decided that the court's below made an error in granting the accused death penalty under section 302 PPC. The Court ruled that the appellant committed a culpable homicide, which did not amount to murder in the event of a sudden and serious incitement is, therefore, Section 304, Part I, PPC attracted. In *Munir Ahmad vs. State*,²⁶ when appellant murdered his wife's alleged partner while the deceased shouting him a pimp. The Supreme Court converted his sentence under Section 304, Part I, and punished him to the term which he had already undergone. Similarly, in *Shamoon case*,²⁷ appellant was sentenced to the period for which he has already served in prison after reducing his conviction for murder under Section 304, Part I. It was quite unusual because the way judges started to accept to some degree in favour of the offender who had advanced in safeguarding his family's respect by murdering the blamed.

iii- Constitutional Response to Honour Killing in Pakistan

The Constitution²⁸ guarantees the right to equality, the right to freedom and right to dignity of human being. These rights are essential to the development of the human personality.²⁹ Article 9 governs personal security. This article states that the state is obliged to respect all the fundamental rights including the right to life and liberty.³⁰

The constitution provides guidelines for the legislator to enact laws needed to protect its citizens. Article 9 offers a guarantee for life and freedom. Therefore, a person whose life or freedom is threatened in any way can look up this right as a "right of access to justice". The right to life under Article 9 includes the right to livelihood.³¹ The Supreme Court ruled that Article 9 requires the state to protect the lives and property of its citizens from all violations under the law. The Supreme Court also ruled that life means and demands that all necessary conditions for a complete, normal and dignified life, including a healthy environment, be fulfilled.³²

The Constitution guarantees human dignity and protects privacy.³³ It also ensures that no one should be tortured. Article 25³⁴ offers equal rights or equality for citizens. This article contains three clauses. The first clause concerns equality. The second clause prohibits discrimination based on gender. Equitable legal protection means that men and women are treated equally in the rights and obligations imposed by law. Similarly, the law should apply to the whole situation and there should be no discrimination based on usual customs practices. Honour killing is gender violence. Women have always suffered violence inside and outside the home i.e., society, community. Article 25 Clause 2

²⁴ *Shoukat Ali vs. State* 1977 P Cr L J. 690

²⁵ *Kamal vs. State* PLD1977 Supreme Court 153

²⁶ *Munir Ahmad vs. State* 1994 SCMR 80

²⁷ *Shamoon vs. State* 1995 SCMR 1377

²⁸ *Constitution of Pakistan*, 1973.

²⁹ M. Mehmood, *Constitution of the Islamic Republic of Pakistan*, 1973, PLT Publishers, Lahore, Pakistan (2016).

³⁰ *Watan Party vs. Federation of Pakistan P L D* (2011) Supreme Court 997

³¹ *Pir Imran Sajid vs. Managing Director Telephone Industries* (2015) SCMR 1257

³² *Shehla Zia vs. WAPDA* (1994) P L D Supreme Court 693

³³ Art. 14 of the Constitution

³⁴ Id. Art. 25,

provides provisions to improve the status of women. Clause (3) is a special provision for the protection of women. No one should be discriminated against anyone because of his gender, religion, caste and place of birth. Equality of women with men is only an idea in the constitution, but due to customary practices, the whole life of the woman suffers from various forms of honour related violence. The Supreme Court has confirmed that the hypothesis referred to in Article 25 Clause 3, according to which the state must make special provisions for the protection of women and children, means not only the protection of the body but also a broader understanding of the rights of women.³⁵

iv- **Judicial Patronization of Women from Honour Killing**

The Supreme Court has finally taken notice that the accused are overusing the plea of sudden and grave provocation without providing reliable and supportive evidence.³⁶ The Supreme Court affirmed the High Court's judgments rejecting the plea of grave and sudden provocation and held that simple plea of moral negligence without questionable supporting evidence it would not be a serious and sudden provocation. If such allegations were accepted without any proof, it would allow people to kill innocent.³⁷ The Supreme Court has ruled that the normal conviction in murder is death and that should be imposed in such cases. Even pre-partition case laws suggest that it is the accused's responsibility to provide evidence that could alleviate the murder charge, or to prove that his crime is not punishable with death. There are a number of laws asserting that a murder should be sentenced to death if there are no other circumstances. The case embodies the desperate and obvious attempts by the accused to subject their atrocities and affairs to sudden and grave provocations under section 300 of PPC.

In Gul Hasan Khan,³⁸ the Shariah Appellate Bench of the Supreme Court decided the question of section 299 to 338 the PPC of being repugnant to the Holy Quran and Sunnah in 1988. Thus, Section 300 PPC, which exempts certain culpable homicides from being murders, was challenged. The Court affirmed Sections 299 to 338 repugnant to the mandates of Islam. The Criminal Law (Second Amendment) Ordinance³⁹ replaced Section 299 to 338 of PPC

In Muhammad Akram Khan vs. State⁴⁰ the Supreme Court first examined the subject of honour murders from the perspective of the victim. The court ruled that no one has the authority to murder someone in the name of Ghairat. According to the judge, neither the nation nor the religion permit so-called simple honour killings. The court also ruled that the murder violated the victim's basic right to life, as mandated by Article 9 of the Constitution. The Lahore High Court also rejected the uncorroborated plea about appellant's sudden provocation.⁴¹ Pehlwan vs. the State⁴² was a landmark judgment on the issue of honour killings. The Court observed that 'Honour Killing' as explained by learned counsel for appellant who contended that act of appellant was an act under *Ghairat* is not only damned but also shows a lack of knowledge. We are living in a society where horrible crimes such as honour killing are not only committed under the cover of law and customs but also in the name of religion. Victims of domestic violence have been murdered by male family members in the name of

³⁵ Fazal Jan vs. Roshan Din (1992) PLD Supreme Court 811

³⁶ Mohib Ali vs. The State 1985 SCMR 2055

³⁷ Id, at 2057

³⁸ Federation of Pakistan vs. Gul Hasan Khan PLD1989 Supreme Court 633

³⁹ The Criminal Law (Second Amendment) Ordinance(1990)

⁴⁰ Muhammad Akram Khan v. State P L D 2001 Supreme Court 96

⁴¹ Riaz Ahmad vs. State 1996 PCrLJ 43

⁴² Pehlwan vs. The State PLD 2001 Quetta 88

honour and it is all done in the name of customs and law.⁴³The court also ruled that women are treated as property before Islam, but Islam guarantees them the same status. Even in 2001, the men of our society have a special status. Rather than creating a substantial atmosphere, women's privileged treatment is greatly discredited. The Court ruled that, under Pakistan's current constitutional and judicial system, the old term of a suspect's so-called right to lie and mislead the court through wrongful investigation methods cannot be accepted. The court also ruled that while all judicial services should follow the presumption of innocence until proven otherwise, accused cannot be relieved of his duty to assist the court in finding out truth, if necessary, to act as a witness for them and to spread the truth.

v- **The Criminal Law (Amendment) Act**

Although Parliament has passed a law to prevent honour killings, the judiciary adopted a confusing approach which resulted in a lenient treatment to honour killing cases. Certain vagueness, based on the Act, seem to uplift the Courts to ignore the Act in many honour killing cases.

The Criminal Law (Amendment) Act entered into force on 4 January 2005.⁴⁴The law introduced some hypothetically substantial amendments to penal laws addressing murder. First, the law prevented the accused from becoming the heir ("*wali*" means legal heirs of the deceased)⁴⁵ of the victim in case of murder (honour killing).⁴⁶This arrangement is apparently intended to guarantee that the guilty party doesn't concede himself pardon for his own offence.

In any event, as a general rule, it is likely to have a limited impact since only one *wali's* waiver of *Qisas* is required to rescue the accused from death penalty, and in most cases of honour killing, at least one family member is prepared to forgive. Second, under Section 308, the maximum penalty for *Qatl-i-Amd* who are not liable to *Qisas* was raised from fourteen to twenty-five years.⁴⁷

This provision is unlikely to affect because, in such cases of honour killing, judges do not exercise their discretion to award the *Tazir* penalty. Introducing a minimum sentence for honour killings as well as increasing the maximum sentence would make even more sense. Third, Section 311 of the PPC has been modified to extend the definition of *fasad-filarz* to include the murder committed "in the name or excuse of honour."⁴⁸In this context, the maximum sentence was imposed on *Tazir*, which a court can impose after waiving from *Qisas* in the *Qatl-i-Amd* cases liable for *Qisas*, which is punishable under Section 302 (a) has been increased to death penalty or imprisonment for life.⁴⁹This in itself does not do much, because our judges are not prepared to give serious penalties after waiving of *Qisas*. More importantly, however, the provision provides for a sentence of at least ten years in prison as *Tazir* for *Qatl-i-Amd* liable to *Qisas* after waiving of *Qisas* if it was a honour killing.⁵⁰ Finally, the proviso to Section 302(c) means that this clause does not apply to any murder committed in the name of honour."⁵¹

vi- **Lacuna in the Act**

⁴³Id,at 95

⁴⁴ The Criminal Law (Amendment) Act (2004).

⁴⁵ Zahid Hussain vs. State PLD 2015 Supreme Court 77

⁴⁶Id, Sec 4.

⁴⁷Id, Sec 5.

⁴⁸ Id Sec 8.

⁴⁹Id.

⁵⁰ Id.

⁵¹Id, Sec 3.

In spite of the acceptance of honour crime as illegal, some fundamental gaps in the law remains unsolved which make this Act generally ineffectual and not providing assistance to victims, as required by civil society and human rights defenders. Punishment of honour killings is not compulsory under this Act, which makes the adoption of legislation unnecessary. The exemption of waiver and compounding provisions, which unavoidably prepare the way for compromise, most of these crimes are committed against close relatives, remain in force for honour crimes.

Although honour killing was included in the definition of *fasad-fil-arz* with a sentence of 10 years as *Tazir*, the imposition of a term was complete in situations where the right to *Qisas* was waived or left entirely to the court's discretion. This will allow honourable murderers to escape with little penalty.

In case, the punishment of *Tazir* is waived or compounded in murder cases, the only provision is that court approval is required and under the conditions it deems appropriate. In addition to giving the Court complete freedom to impose a sentence on *Tazir*, there is not even a minimum sentence laid down for such cases.

The definition of honour killings can be quite extensive but it contains no words when it comes to grave or sudden provocation. Therefore, the courts are allowed to recognize and cause concessions in situations where they think about a genuine aggravation. The definition also associates honour killings with other crimes e.g. acid throws, burns, nose cuts, etc. that are generally specific to women and are also committed for other motives. It can be counterproductive if, for example, person harms a man through explicit or cruel behavior towards a woman, that person can also be subjected to more severe punishments.

In terms of punishment, the only penalties for honour crimes are (a) the death penalty or life imprisonment up to 25 years under *Tazir*. The intention to impose a higher punishment may be good, but it has proved counterproductive. If the courts are already hesitant to force serious punishments for honour killings can prevent their conviction in these cases. There is no compulsory lowest punishment for honour killing regardless of relationship between culprit and victim. There are multiple punishments for the same offence i.e. death or life imprisonment and in case of waiving of *Qisas* a different penalty which is at the discretion of the Court.

The Act does not provide any guarantee that others e.g. *Jirgas*, *panchayats*, relatives, elders who are generally involved in such crimes and, therefore, primarily responsible for continuing these practices. They are also subject to legal penalties. If it is positive that the question of marriage to a woman other than *badli-sulah* is explicitly prohibited, this must be accompanied by a penalty for all offenders.

The Act does not stipulate that courts that aggravate crimes must first be satisfied that the crime is not a honour killing. It is recalled that if the penalties for such offenses are increased, the perpetrators cannot cite the honour as the motive for the offence. It is, therefore, important that the courts decide the matter correctly before allowing the crime to be compounded.

In spite of the reception of this Act, legal fertility agree that current Act allow enough space for judicial discrimination based on gender to intervene and result in lenient punishments for offenders, protecting criminals from rigorous punishments and awarding offenders with a minimum or allow zero penalties.

These loopholes really get away from the possibility of successfully pursuing honour killings. There are such a large number of lacunas that without due industriousness and legal activism it will be hard to acquire copious convictions for honour killings under this Act.

The Supreme Court established that as indicated by Article 175(2) of the Constitution it is unambiguously certain that a bar, and a restriction has been set that no Court will practice any jurisdiction in any issue brought before it until and unless such jurisdiction has been presented upon it by the Constitution itself or under any law.⁵²

vii- The Criminal Law (Amendment) (Offences in the Name or on pretext of Honour) Act

In order to address the shortcomings in the Pakistan Penal Code, some amendments were introduced to combat honour killing in 2016.⁵³ Section 299, Section 302, Section 309, Section 310 and Section 311 were further amended and the offence of honour killing is termed as *fasad-fil-arz*.⁵⁴ This means that the perpetrator has committed a crime or terror for the crime, which shocks the public's consciousness.

The Karachi High Court observed in *Rehmat Bibi* case,⁵⁵ such other actions of murdering individuals, commonly conducted as a pre-Islamic tradition, were officially outlawed at the beginning of Islam, but they persist under the guise of "Ghairat" or honour killing in today's society. The Court further stated that contracting marriage by two sui juris was not a crime. Women would be free to choose their life partners while still preserving their property and honour. A woman could not be designated 'Kari' and no one could determine her destiny while imposing the death sentence on the pretence of 'Kari.' In *Aziz Ullah vs. State*,⁵⁶ it was held that provision of Section 302 PPC was compoundable but according to Section 345 CrPC. in case of 'Karo Kari' (honour killing) Section 302, PPC was not declared as compoundable. In *Naseer Khan vs. The State*,⁵⁷ it was held that the term '*Fasad-fil-Arz*' embodied in Section 311 PPC was the necessity of socio-cultural arrangement and to maintain law and order to save the civil society from decay.

viii- Formation of Gender Based Violence(GBV) Courts

On October 23, 2017, the first Court on Gender-Based Violence (GBV) was established in Lahore. Because Punjab is the epicentre of gender-based violence in Pakistan, the court has jurisdiction over it. As this is the first GBV Court, specific safeguards have been put in place to ensure that children, women, and other vulnerable witnesses are not harassed. This will result in a high conviction rate in situations of honour murders. Furthermore, the National Judicial Committee (Policy Making) Committee has ordered that special courts be established to deal with incidents of gender-based violence (GBV). At a meeting, the committee resolved that the High Courts would nominate a High Court Judge as the principal judge for the GBV courts on June 24, 2019. Despite the fact that the GBV court is still in the beginning phases of activity there has been satisfying advancement to date, including the conviction rates.

ix- Judicial Response to Honour Killing after Establishment of GBV Courts

The High Court found that murdering or aiding to kill one's own daughter constituted a cruel, severe, or dangerous act and that the father had become cruel. that he murdered a stranger. Killing one's own daughter was a desperate act since a physically disabled daughter could not provide the necessary resistance to preserve her life. What would happen if the father, the most strong pillar holding the safe

⁵² Waseem Ashraf vs. Federation of Pakistan 2013 SCMR 338

⁵³ The Criminal Law (Amendment) (Offences in the Name or on pretext of Honour) Act (2016).

⁵⁴ Naseer Khan vs. State PLD 2019 Balochistan 47

⁵⁵ Rehmat Bibi vs Station House Officer Karan Sharif (2016) PLD Karachi 268

⁵⁶ Aziz Ullah vs. State 2016 PCrLJ 681

⁵⁷ Naseer Khan vs. The State PLD 2019 Balochistan 47

shelter, fell to the ground, annihilating his own daughter?⁵⁸In *Lal Baksh vs. State*,⁵⁹ the Court held that it was a case of honour killing which was a private offence along with the fact that the private object was involved in the matter. In *Snober Khan vs. State*,⁶⁰ the Court held that for the offence being committed in the name of honour killing termed to be non-compoundable. In *Ghulam Yasin vs. State*,⁶¹ the High Court remarked that honour killing was prevalent in society, with innocent persons being slain in cold blood on a daily basis. Section 345(2-A) CrPC provided that in case of honour killing compromise could be allowed only subject to certain conditions, and approval of the Trial Court was also mandatory in that regard.

The Supreme Court ruled that *jirgah* / *panchayats*, etc. did not act in accordance with the Constitution or any other law to the extent that they attempted to govern in civil or criminal matters, but could operate within the legally permitted limits in so far as they served as a forum for arbitration, mediation, negotiation or reconciliation between parties involved in a civil dispute who have voluntarily given their consent, one where tribal or village meetings are organized for arbitration or mediation.⁶²The law prohibits anyone, as part of a body or council called *Jirga* / *Panchayat*, etc., from becoming a community-anointed judge or executor on the pretext of archaic practices. Uncontrolled functioning of informal *jirga* / *panchayats* etc. like the courts, which brought their own barbaric punishments and undisputed methods of serving the sentence is wholly illegal. Resolving honor killings for retaliation and coercion to marry women without their consent, these acts are contrary to the Constitution, which establishes that under the law, it is not possible to apply a practice that departs from a fundamental right.

In *Ali Ahmad vs. State*,⁶³ It was held that in the case of honour killings, the murder of a person is a well thought out, calculated and judged act with deliberate advice, while in the case of a sudden and severe incitement the act was committed without commitment and without planning or deliberation. Family honour may be at the heart of both actions, but both are different acts.

The August Supreme Court of Pakistan ruled in *Muhammad Abbas vs. The State*⁶⁴ that the term '*ghairat*' or '*ghairatun*' were used in the Holy Qur'an and the Holy Qur'an also forbade murdering on the grounds of adultery. The Holy Qur'an also forbade murdering on the basis of adultery, particularly *ghairat* (*ghairatun*). This was also prohibited under Pakistani law. The court also determined that the perpetrator, who claimed to have done the act in the sake of *Ghairat* (honour), intended to justify the murder. It can also increase a criminal's social position for individuals who do not know what Almighty Allah instructs in the Holy Quran. These crimes have nothing to do with honour. Parliament was rightfully worried about the proliferation of these crimes and created legislation to combat them. This was done to prevent the perpetrators from using Section 302(c) of the PPC, which carries a maximum term of twenty-five years in jail but did not describe the minimum sentence. Crimes specified in Section 302 (a) or (b) PC are punished by death or life imprisonment. A lady or girl slain for honour had no hope of regaining her dignity. Her life and reputation had been snatched away from her. Crime was never respectable, and it never should be. It would aid in the prevention of such crimes if we avoided

⁵⁸ *Umer Din vs. State* 2017 YLR 378

⁵⁹ *Lal Baksh vs. State* 2018 PLD Quetta 97

⁶⁰ *Snober Khan vs. State* 2018 PCrLJN 181

⁶¹ *Ghulam Yasin vs. State* PLD 2017 Lahore 103

⁶² *National Commission on Status of Women vs. Government of Pakistan* P L D 2019 Supreme Court 218

⁶³ *Ali Ahmad vs. State* P L D 2020 Supreme Court 201

⁶⁴ *Muhammad Abbas vs. The State* P L D 2020 SC 620

using the term "Ghairat" to describe them. Respect and language were crucial in the good growth of society, and the usage of phrases such as *gajrat* or honour (for murdering) was counterproductive.

Even these amendments in the Pakistan Penal Code could not stop honour killing. The application of these amendments is insufficient. Law enforcement officers are hampered by the fact that these offenders receive protection and impunity during negotiations with the victim's family within the community. The police largely treat honour killing as private and family matter. Police has been conspired with the honour crimes perpetrators to prevent cases being reported or evidence being destroyed in the name of family honour.

IV. NEED FOR PROPER IMPLEMENTATION OF LAWS

After independence, different laws have been passed in Pakistan yet lamentably most laws have been ominous to women. This legitimate system continually endorses compliance of women and controls their conduct just through a male individual from the family. Prevention must be accompanied by protection and caution. Government support is indeed needed to act hostilely to patriarchy or power base of its conventional male leaders, such as women's rights, to prevent oppression. The monitoring of honour-based violence and other harmful practices is considered a priority for the State, especially after a series of "honour killings."

Law reforms and criminal proceedings do not seem to have done much to reverse the situation of honour killing in Pakistan. To ensure effective prevention, laws must be mounted that understand the true nature and severity of the harm. Punishments which should be comparable to this harm are only legitimate if trial and pre-trial proceedings are open to both offenders and victims. The exemplary punishment offered by the courts, which temporarily increases public confidence, is unlikely to have a significant deterrent effect in the long run. Legal reforms have largely responded to fight the crimes against women in Pakistan.

The challenge of successful reform is to discover approaches to keep up and reinforce our responsibility to a reasonable and appropriate punishment and to provide much more effective protection, women need against assault by men. The subject of "honour killing" has gotten conspicuous in the talks of law and the State lately.

It is not the obligation of a criminal statute to define culture. In that sense, a penal code should not be characterizing. However, the conclusion of a law cannot restore historically accepted ideas about masculinity, especially if certain acts are considered permissible and sacred.

When 'honour' is used in Court to justify lessened obligation or to justify the loss of control, the statute itself must make clear the extent of this defence. It very well may be just a legal definition, cherished in statutory law for the motivations behind sentence diminution alone. Operative legislation can go before custom and become instruments of progress where the common morality offers a slanted system of justice. For instance, to characterize honour killings as such and to convert an accusation of murder into culpable homicide, it must meet certain standards and the requirements of the defined defense. Without these base conditions, the suspect will not seek "honour" in the defense of his case.

Ordinarily indictment requires an abrupt and transitory non-appearance of poise in a sensible man, achieved by a demonstration of adequate gravity to excuse criminal behavior. It ought to happen in the warmth of passion. Honour has no such prompt or abrupt signs to warrant loss of self-control.

Therefore, planned murders regardless of whether impacted by vengeance, requital, or straightforward incitement should not to be extended the opportunity of this defense.

This can be done by defining honour as the private concept of the individual, consequently isolating it from entanglements of the family and community, by acknowledging that the law applies in the first place to all individuals, and not to groups per se not together, and therefore, laws in which the crime is based solely on the individual must be protected, or by defining 'homicide' as an independent crime with its own prescribed punishment, which discourages the protection of honour and even as a identifies insurmountable crime, so nothing but the simple vanilla homicide.

Furthermore, State strategy which requires a reform, yet a presentation of another offense inside the acknowledged scope of criminal law. Until further notice, let us fulfil ourselves with investigating a lawful meaning of 'honour'. In the case of nothing else, it may be a more straightforward exercise regarding delay in legislation.

Gradual changes are simpler to embrace and will be more adequate to those involved in the procedure. Because honour killings already have different interpretations in society, the law will simply manifest a custom into the statute. As an interim step to include the social contract in a penal code, only the most obvious and serious violations of personal honour should be eliminated and enshrined in law.

The Gender Based Violence (GBV) Courts will finish the trial within three months. Experienced and committed judges shall be appointed for effective functioning of GBV Courts. Judges shall be appointed for a term of at least one year in these Courts. There shall be two prosecutors relegated to each GBV Court. This course of action gives prosecutors more opportunity to plan trials and consult with witnesses. Same prosecutor shall handle a trial from the start to its end. Prosecutors shall be trained to become specialized prosecutors in GBV cases and must be trained continuously.

The State is to ensure that laws that apply to honour killings, especially criminal laws and murder provisions do not condone honour killing and also do not endorse discriminatory justifications, excuses or defense. Any existing defense of honour or passion must be removed from the law. Wilful encouragement, facilitation or participation in honour killings should also be criminalized.

Positive punitive punishments and correctional authorizations for offenders must be provided by legislation, and all incidents of honour killings must be properly and thoroughly reported, investigated, and prosecuted, with the perpetrators punished. The state must ensure that all victims of attempted honour killing and anybody who has been harmed by honour killing get fast and extensive legal aid.

V. CONCLUSION

The right to live in human dignity is an inalienable fundamental right of every human being. This right is inalienable; no government or system can steal it. This right is a natural right of everyone on earth, guaranteed in various national and international instruments. The dignified life has also been recognized in various international documents. The reflections of these international documents have also led to the recognition of these rights in the Constitution. The Constitution not only ensures social, economic and political justice, but also freedom, equality and brotherhood, and ensures the dignity of the individual. The State is duty bound to protect life and dignity of its citizens, especially women.

Almost all societies have gender bias. Women from generation to generation have been given the secondary status to a man, she has no identity of her own, but is considered the property of the family she belongs to and is restricted in the house in the name of honour. However, the perpetrators of

crimes against women are known or linked to them. Women participated in all areas today, but most of them were limited to their house and their contribution to society or to nation building were somewhat limited. Honour killings are a deadly form of social control and are the result of a broader form of gender-related threat. In addition, gender is a specific type of threat in this context because the perception of immoral behaviour is perceived as anti-social and punishable. Nowadays, honour crimes are a burning issue. The state has the power to control crime by enforcing various laws in society. There are a number of evil customary practices common in Pakistani society. Honour killing is the most heinous crime that is increasing day by day. In the name of current practice, a number of innocent couples are killed by family members and parishioners. Therefore, it is necessary to stop these murders by applying strict laws. Every human being has the fundamental right to live in human dignity. Nobody has the right to deny it. This fact requires better law enforcement to develop the status of women. Procedural law will be amended to combat this evil. It is also imperative not to show any indulgence in order to guarantee the safety of the perpetrators in this type of offense. It is also proposed to establish more GBV courts to decide honour killings cases in order to obtain justice immediately.

The time has come for the Constitution to affirm all fundamental rights to the application of criminal law and to declare that all unexplained rights are subject to legal control. People should not be controlled with "dead hands". The common law must be tested against the living principles of justice and repealed by sovereignty of a State if it does not promote those principles.

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