

**RESEARCH PAPER****Unabated Serge of Honor Killing: Legal Perspective of Superior Courts in Pakistan****<sup>1</sup>Sehrish Neik Ch\*, and <sup>2</sup>Shumaila Jamal**

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**\*Corresponding Author:** [sehrish.law@pu.edu.pk](mailto:sehrish.law@pu.edu.pk)**ABSTRACT**

Honor killings are an invasive type of abuse against gender that occurs in many cultures around the globe. Pakistan continues to experience these phenomena. The research paper examines the State of Pakistan regarding honor killing, its causes, and the efforts undertaken worldwide to lessen such crimes. Due to cultural challenges, discrimination, and brutality against women enforced by the notion of honor dubbed "Izzat," is quite prevalent in Pakistan. As to the Pakistani Constitution, every individual has an unalienable right to life which means the Legislature is bound to enact laws to protect the people's right to physical integrity and respect. Superior courts in Pakistan provided no. of judgments to handle this issue at national level. Still Honor murders are classified by UN as a serious human rights issue that undermines gender equality and is acknowledged as discriminatory towards women's right. To handle this practice, organizations and legislative frameworks to protect women have been established on a national and worldwide basis. However, honor killings continue to occur and calling for further actions.

**Keywords:** CEDAW, Constitutional Laws, Honor Killings, Islamic Laws, Supreme Court, Women's Right**Introduction**

This paper begins by introducing violence against women and discussing its historical context, including honor killing's pervasiveness. It discusses state and cultural perspectives on honor killing in Pakistan in order to put the theoretical framework in context. By emphasizing the instances that are referred, it also looks at the societal attitudes that are influential when it comes to honor killing. The first section is primarily analytical and theoretical. The notions of patriarchy, public/private divide, and cultural globalization are theorized in this section. These ideas examine the factual evidence of "honor killing" during the past ten years based on instances that have been filed and attempt to understand their place in Pakistani culture. The "honor killing" instances in the USA and the UK are also examined in this research. The second part is regarding the research relevant to Islam being official religion in Pakistan in preamble and its relevance in Article 9. This section mostly addresses women's standing in Islam, including their rights to life and the freedom to select who they marry. Additionally, this study aims to dispel Western misconceptions about Islamic beliefs on women. The qualitative technique is mostly used in this investigation. The study report concludes with several conclusions based on the abductive approach and logic.

Honor murders are a pervasive societal problem that still affects communities all over the world, especially in Pakistan. The horrible act of murdering someone—typically a woman—by an extended family or a close relative in the idea of upholding family honor is known as "honor killing." These crimes are typically committed in response to perceived transgressions of cultural or theological standards, such as having relationships with people before marriage, getting married against the desires of one's family, filing for divorce, or claiming one's autonomy (Muzaffar, et. al. 2018; Ramzan, 2021 & Muzaffar, et. al. 2017). Even though these executions are obviously against international law and fundamental human rights, many Pakistani women nevertheless have to live with this terrible reality

(Lari, 2011). The Code of Criminal Procedure 1898 (CrPC) was revised by the Criminal Law Amendment Act 2004 (henceforth referred to as CLAA of 2004), and the Pakistan Penal Code of 1860 (PPC) defines "karokari" (honor killings) as murder with legal repercussions. Not only does Pakistan have a high rate of honor killings, but many other nations do as well. There are a number of laws all across the world that have rules for honor killings (Luopajarvi, 2004). For instance, Morocco addressed the issue of honor killing in their nation and amended their laws. Laws pertaining to honor murders were also put into effect in Yemen, Jordan, Syria, and Lebanon. Honor killing is a crime punishable under Yemen's Penal Code, Article 232 as well (Research Directorate, 2000). Whereas by Jordan's Penal Code in Articles 340, 97, 98 and is covered under Syria's Penal Code, Article 548.

Pakistan's CLAA of 2004 was passed by the government. The government eventually enacted legislation outlawing honor crimes (Mehdi, 2010). The concept of honor crimes was first established by the CLAA in 2004. In addition, Section 305 (Secretariat, 2005) of the PPC was revised under Section. 4 to restrain criminal from being wali in murder trials under honor offence (Secretariat, 2005). The Pakistani Supreme Court and High Courts, among other superior courts, have been heavily involved in deciding instances involving honor killings. These courts are in charge of interpreting and upholding the nation's legal system, acting as guardians of justice. Examining the honor killing cases that these courts have resolved offers important insights into the state of the law pertaining to women's rights and the advancements achieved in their defence. The UNICEF stated honor killings "as an ancient practice in which men kill female relatives in the name of family 'honor' for forced or suspected sexual activity outside marriage, even when they are the victims of rape" (UNICEF).

### **International Perspective Regarding Honor Killing**

The UK government has taken action to increase victim support services, increase public awareness of honor-based violence, and guarantee that law enforcement is adequately prepared to deal with these types of crimes. In order to stop honor-based violence, organizations and activists endeavor to inform communities about their rights as individuals and to encourage cultural transformation. Honor murders are a severe worry that illustrates the conflict between cultural customs and human rights in a varied community, even if they are rather uncommon in the UK when compared to certain other locations. Certain societies experience honor-based violence, due to the prevalence of traditional beliefs and practices that are frequently reinforced by patriarchal standards (Keyhani, 2011). Honor killing is still not well-reported or well-documented worldwide previously. The precise number of honor killings that occur in the UK is clear under the official Statistics of UK government recently. Honor killing instances are reported to the police in the United Kingdom very frequently now. There have only been few cases documented, and they have mostly affected the Muslim community in the United Kingdom. A specialized task force unit of the London Metropolitan Police Force (LMPF) was established in 2003 to look into incidents of honor killings. The task force's estimation, gives data on no. of crimes reported to the police that were determined to be connected to "honor-based" abuse (HBA) (MetropolitanPolice, 2023).

For the third time, these data—which the Home Office has been required to gather from police forces in England and Wales since April 2019—have been made public. In addition to encouraging more victims to come forward and report these acts to the police, the statistics have been made public to throw light on the volume of these offences that the police deal with. (Flatley, 2022). There were a total of 2,887 HBA-related offences reported to the police in England and Wales in the year that ended in March 2022. Compared to the year ending in March 2021 (when there were 2,725 crimes), this represented an increase of 6%. A number of factors could be to blame for the rise in HBA-related offences that the police have been tracking over the past year, including: (i) overall improvements in crime reporting; (ii) the police becoming more adept at defining what exactly qualifies as "HBA";

(iii) more victims coming forward to report these offences to the police; and (iv) a real increase in these offences (Flatley, 2022).

Although numerous people are frequently killed in honor killings in the United States as well, it is still unclear what specific circumstances lead these perpetrators to target additional victims. There is conducted a qualitative analysis of 66 primary and corollary victims of 26 honor killings that occurred in the United States between 1990 and December 2021 using open-source data from the U.S. Extremist Crime Database (Baak, Hayes, Freilich, & Chermak, 2022). Corollary victims were involved in one-third of the instances; in fact, they made up half of all victims. When the offender's (ex-) partner was the principal victim, corollary victims were particularly prevalent. These results contribute to the increasing corpus of research identifying parallels between honor murders and Intimate Partner Homicides (IPHs).

The primary objective of the International Human Rights Law, abbreviated as (IHRL), is to safeguard individuals from being exploited by the government and its representatives. It goes without saying that honor killing violates the victim's right to life. All significant human rights documents guarantee the right to life, which is seen as the foundational right to all other rights (Khan, 2021). Numerous IHRL treaties, including Articles 2 of the ECHR, 3 of the UDHR, 6 of the ICCPR, Article 6 of the CRC, Article 4 of the ACHR, and Article 4 of the AfCHPR, include references to the right to life. In the case *McCann vs. the United Kingdom*, the "it is the obligation for state to protect the right to life, requires by implication that there should be some form of effective official investigation when the individuals have been killed, by inter alios, agents of the state" (*McCann and others v United Kingdom*, 1995). In the case of *L.C. B against the United Kingdom*, to be "Article 2 (1) enjoins the state not only to refrain from the intentional and unlawful taking of life but also to take appropriate steps to protect, ensure and safeguard lives of those people who live and reside within its jurisdictions" (*L.C.B. v. the United Kingdom*, 1998). In a separate and significant case, *Osman vs.* "the court affirmed that article 2 may apply the positive obligation for the state to take preventive operational measures to protect the life of people whose life is at risk from criminal acts of another individual" (*Osman vs. The United Kingdom*, 1998).

"The Istanbul Convention (Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence)" is another significant text. Adopted in 2011, this convention is a comprehensive legal tool that covers several types of violence against women, including assault motivated by honor. It demands that member states take a unified stance in order to stop, defend against, and prosecute crimes against women. Crimes carried out in the sake of alleged "honor" and forced marriage are particularly mentioned in the Istanbul Convention (Luopajarvi, 2004). The Sustainable Development Goals (SDGs) of the UN are also very important in stopping honor killing. The SDGs place a high emphasis on the need to stop violence against women and advance gender equality. Achieving these objectives is hampered by honor killings, which call for authorities to take proactive steps to stop and deal with this kind of violence (Luopajarvi, 2004).

### **Judicial Approach of Pakistan and its impact on fortification of Gender Rights**

Following the subcontinent's 1947 division, Pakistan ratified nearly all of British India's laws. As a result, the Indian Penal Code was adopted into Pakistan and the Pakistani judiciary continued to receive the essential guidance from case laws decided under the Indian Penal Code. Here are few glimpses of cases decided by our superior judiciary in honor killing matters. In a 1950 case (*Aziz-ul-Rehman v. Crown*, 1950), the Peshawar High Court once more made referred to a cultural trait or standard of a certain location when assessing a person's loss of self-control within a given community. The actual act of adultery must arouse emotions that are beyond description in a region of the country where a woman's casual conversation with a stranger is viewed with great disapproval and resentment by her

family, friends, and society at large. This is according to the court's observations. As a result, the accused received a sentence from the court that was shorter than three months.

The husband of a police policeman, RahmatUllah Kahn, was sentenced to three years in prison by the Lahore High Court in 1950. Khan slain the person who allegedly insulted his wife's modesty. About twenty yards from her home, the wife went to her husband while he was on duty and told him that someone had broken into the house, upsetting her sense of modesty. After securing the man inside her home, she hurried to Khan, who was on duty. The constable had the easy option to notify his commanding officer or involve any other police officer, but he chose not to do so. Instead, he raced to his house, lost control, and shot three times at the sick person, who instantly passed away (Rahmat Ullah Khan v. Crown, 1950).

An appeal against the Sessions Judge of Dera Ghazi Khan's ruling, filed by an accused person in prison, was heard by a division bench of the West Pakistan (Lahore) High Court. (Mewa v. The State, 1958) in which the defendant killed his brother's wife, was another significant case. The accused was given a death sentence by the court in accordance with PPC section 302. The accused, witnesses the deceased with an unknown individual. The accused was imprisoned for three years. In a significant instance of (Kalu Alias KalandarBux vs The State, 1968), the defendant murdered the victim in order to protect his honor. But it turned out during the investigation that the victim had accused of snatching his wife. He prayed for her father and brother to bring his bride back to him. The judges in this case disregarded the victim's plea that was submitted at the police station. Since the court relied on decisions rendered by courts in circumstances involving extreme and unexpected provocation, the accused profited. The judge in this case remitted the death punishment for life in prison rather than changing the accusation of murder to culpable homicide.

(Shoukat Ali vs The State, 1977), Without altering the charges to murder to culpable homicide, the appellate court altered the death penalty to a life sentence in prison. The apex court of Pakistan (SCP) has been deliberating on the issue of killings for honor in Pakistan and has brought up the argument of harsh and sudden provocation in connection with it. In the case of (Muhammad Ameer vs. the State, 2006) the judge decided that, considering the specific circumstances and facts of each case, a crime prompted by familial respect or ghairat should be separate from a serious and unexpected provocation. In this instance, a girl was killed at Jirga's command." A jirga between the complaining group and a male named Umar Zahid—who is accused of taking (deceased Mst. Shabnam to her residence during the night—took place on the same day of the occurrence), according to the prosecution. In this case, the deceased was buried without an account on their unnatural passing. Later, an inquiry carried out in compliance with CrPC section 174, it was discovered that the deceased had been hanged. As a result, the decision in this case is predicated on the possibility of a coerced honor suicide. The criminal was cleared of this offense due to legal technicalities. Thus, this decision highlights the biased beliefs about local murderers and killings (Umar Zahid vs. The State , 2009). In this case, the Sindh High Court made the ruling. Justice Shahid Anwar Bajwa said, "The Karo Kari is considered an offense which is a blot not only the fair name of Sindh...it has in the comity of nations, always sullied Pakistan and Muslims community as a whole". Consequently, the SHC in the present instance learned of the family's plan. In an attempt to compel the victim into a marriage of her choosing, the victim's relatives plotted her murder. As a result, the judge in this case issues strong rulings and does wonderful work. The Sindh High Court consequently makes harsh rulings that are appropriate and harsh for people who conduct crimes involving honor killings (Daimuddin and others vs. the State, 2010).

The Lahore High Court (henceforth referred to as the LHC) in Pakistan has rendered a number of verdicts that are in conflict with one another and both denounce and defend the crime of honor killings. In the (Bashir v. The State, 2006), the LHC made a firm stance against the problem of honor killings. It ruled that "while recognizing that the grave and

sudden provocation has been not an accepted motive for the suspension of the illicit/illegal relationship, and therefore the contention of the ghariat as a mitigating circumstance was not sustainable". In this instance, the court further declares that honor killing is prohibited by both national and religious law. Therefore, the crime of honor killings breaks and violates the fundamental rights guaranteed by Articles 8 (I) and 9 of the Pakistani Constitution 1973. The court concluded that "the LHC proved to be vigilant when recognising the issue that an accused person could not prove his plea of ghariat, self-defence, and sudden provocation". In another case of (The State vs. Muhammad Sarwar, 2007) the court (LHC) has regularly permitted a plea of severe and rapid provocation to be recognized in order to reduce murder sentences in situations involving honor, as demonstrated by the instances handled by the SCP (Muhammad Waryam v. The State, 2005)(Mst. Matloob Hussain v. The State, 2008).

In one of most important case (Muhammad Akhtar vs. The State, 2012), after being arrested in case F.I.R. No. 600 of 2011 dated 14-7-2011 for offenses under section 302, 34 P.P.C. lodged at Police Station Bhilthi (Sheikhupura), Muhammad Akhtar (petitioner) requests bail. Specifically, Zulfiqar Ali, the complainant, told the police that his deceased father, Muhammad Shahbaz, was suspected of having an illicit relationship with Mst. Sonia Bibi, the petitioner Muhammad Akhtar's daughter, the accused's maternal grand-daughter, and the accused's maternal niece. Acting on this suspicion, the petitioner deceitfully summoned Muhammad Shahbaz to their home, where they brutally murdered him and killed Mst. Sonia Bibi there as well in name of Honor. Honor killings or murders done under the guise of "ghairat" were not legal. The accused's defense, arguing that he committed the act in response to a severe and unexpected provocation, was examined by the Trial Court following the recording of the parties' testimony—The accused had allegedly committed the crime in cold blood—Witnesses for the prosecution bolstered the case; the offense for which the accused was charged violated S. 497(1), Cr.P.C.; there were no grounds to suspect that the case against the accused qualified as further inquiry under S. 497(2), Cr.P.C.; as a result, the accused's bail application was denied.

According to the prosecution (Zaib Alam vs. The State, 2016), the father of the deceased Mehmood Alam filed a written application for the police to file a formal complaint about the incident at PS Chilas. According to the circumstances described in his application, the complainant set fire to both of them and murdered them. The FIR claims that Mr. Mehmood Alam had extramarital affairs with Miss Rehana as the reason for the incident. The complaint, which is attached to the names of the eyewitnesses in the FIR, claims that the petitioner summoned the two deceased to his house and killed them both by setting fire to their corpses. The FIR claims that Mr. Mehmood Alam had extramarital affairs with Miss Rehana as the reason for the incident. There is no question that the incident involves honor killing. The current petition is mostly based on a compromise between the petitioner and the deceased's legal heirs. The matter of discussion in front of court is whether the petitioner, who is also one of the deceased's legal heirs, can reach a compromise with the petitioner. Petition got dismissed on ground that counsel for petitioner got failed to provide any relevant case law.

On October 6, 2016, the Pakistani Parliament passed anti-rape and anti-honor-killing measures that impose harsher penalties on those who commit these crimes, marking a historic development. Over 700 women were slain in Pakistan in 2014 for the sake of honor, according to records. The potential amendments to the current legislation come in the wake of several assaults on women in just 2016 (Fatima, 2017). The terrible and well-known case of QandeelBaloch represents an example of honor killing in Pakistan. FauziaAzeem, better known online as QandeelBaloch, was a well-known social media personality renowned for her audacious and thought-provoking online presence. Her videos, blogs, and public appearances that questioned traditional values in Pakistani society attracted notice. Model from Pakistan, she was murdered by her brother. Later, following QandeelBaloch's murder, the public outcry prompted the parliament to enact the "Anti-Honor Killing Law" in an effort to curtail and prohibit these acts. With this law, harsher

penalties were added (Parliament, 2016). In this instance, QandeelBaloch's brother WaseemAzeem was taken into custody and accused of killing her. His admission was a major factor in the court case. He claimed during the trial that he had acted alone and had not had any help from family. A court in Multan found WaseemAzeem guilty of killing QandeelBaloch in September 2020 and sentenced him to life in prison. Regarded as a major step toward resolving honor killings and making those responsible accountable, the court's ruling was welcomed (State vs. M. Waseem , 2019).

In another landmark case (Iran Ali vs. The State, 2020) , the deceased woman's body was exhumed in front of a medical team and magistrate. Investigation revealed that three and a half days before the tragedy, SaimaBatoool gave birth to a female child who was then killed and buried by the applicants/accused. In front of the magistrate and other ancillary witnesses, Iran Ali, the accused and petitioner, also indicated the baby girl's burial spot. The FIR makes it clear that "Ghairat" was the reason behind the murder of the late Mst. SaimaBatoool. Honor killing is now a non-compoundable crime, and section 302(b) of the P.P.C. governs the punishment that must be given for the crime. An embargo is imposed under Section 311, which also states that the crime of honor killing carries a minimum 10-year sentence. The definition of the Fasad-Fil-Araz in Section 311 of the P.P.C. covers the way in which a murder is committed in addition to being a habitual offender, a prior criminal, etc. The court sees no merit in revision petition and dismissed the same. Therefore, these high-profile incidents of honor killings, both publicized and undisclosed, have exposed certain basic weaknesses in the criminal justice and criminal code. In Pakistan, honor crimes, or honor killings, are becoming more commonplace on a daily basis, and the country's current laws are both ineffective and inadequate for providing compensation to victims in this situation.

## **Conclusion**

Therefore, it can be said that the CLA Act of 2004 has not had any intended or noteworthy effects. It is inevitable that the law would be misused for the benefit of the offender, despite ongoing efforts to make it more effective. the country's jirga process and its inquiries into honor killings ought to be rejected and disregarded at the national level because they primarily violate the victims' rights. Pakistan has the capacity to enforce the law, punish criminals, and integrate its values, culture, and customs into its legal framework because it is an Islamic state. Fundamental human rights are violated when women are killed or subjected to violence in an act of honor or under bogus pretenses of honor, as per Pakistan's constitution and the international conventions to which it is a state party. Pakistan must so take all necessary measures. As a result, Pakistan must take every appropriate action to stop, look into, and prosecute these criminals. The examination of honor killing cases rendered by Pakistan's higher courts highlights the intricate relationship that exists between legal frameworks, cultural values, and the need to defend women's rights. These stories highlight both achievements and obstacles in the fight for gender equality and justice. While some court rulings have upheld the ideals of accountability and deterrence and created beneficial precedents, others have revealed flaws in the legal system and cultural beliefs that support the continuation of honor killings. The interpretations and applications of pertinent legal acts and precedents by the superior courts have significant significance for the rights of women in Pakistan. In addition to having an immediate impact on the resolution of specific cases, these rulings help mold society norms and the larger legal system. They play a crucial role in outlining the country's commitment to justice, human rights, and gender equality.

## **Recommendations**

The following suggestions are put forth as recommendations:

- It is imperative to persistently enhance and fortify legal measures, guaranteeing that vulnerabilities are tackled and that the consequences for honor killings are both commensurate and deterrent. To guarantee that those who commit honor killings are unable to evade justice by offering monetary compensation or forgiving their families, the government should address legal loopholes in current legislation, such as the Qisas and Diyat laws.
- The government ought to adhere to the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in its entirety, bringing local legislation into compliance with global norms. Comply with international human rights commitments, particularly those delineated in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), when aligning local legal systems.
- Additionally, it is regarded as a breach of the international accords, treaties, and documents that Pakistan has ratified. Pakistan's recently implemented legislative framework features a progressive curve designed to deter honor killings. Reforming the socio-cultural component is required to deter the heinous crime against humanity, the law, and religion.
- Speaking out against honor killing and citing Islamic teachings as support for women's rights, human rights, and the implementation of punishments to deter honor crimes, religious scholars can also effectively and efficiently influence conservatives. Pakistan's responsibility in the face of honor-related violence necessitates taking action to reduce these violent incidents in modern society. Priority should be first devoted to educating the public about the deaths of this kind occurring in the nation. To make the public aware of the reality of such cruelty occurring in the privacy of their homes, the public should be made aware of the cold-blooded killings that are happening. Furthermore, if the general population is informed and exposed to the issue, they can look for coordinated efforts to stop this kind of violence should the circumstance ever come up where they have to witness it themselves.
- Because there are more women than men who are victims of violence, males should make up a substantial section of the audience when denouncing honor killings and speaking out against them in public forums. Additionally, this has the potential to attract more public attention since, in certain patriarchal mindsets—a concept that Mustafa Qadri endorses—a man can communicate his message far more effectively. This serves as more evidence of a man's superior status in Pakistani society.
- The media is also considered an effective pillar of the state and can bring about significant change through promoting Islamic teachings. In addition, actors and actresses from Pakistan's mainstream media and social media should use their platforms and voices to raise awareness of the issue. By doing this, the message would be shared with a sizable audience both domestically and internationally. Comparable to this is the voice of wealthy public and political figures, whose connections and stature enable them to effect social change.
- Individuals should also use the educational system as a forum to question gender stereotypes and spread awareness that violence—even in one's own home—is morally repugnant and unacceptable. Under no circumstances should violence be accepted as routine.

The examination of cases involving honor killings and its implications for women's rights paves the way for Pakistan to have a more diverse and egalitarian future. Through the implementation of these proposals and the promotion of a coordinated effort on several fronts, Pakistan may set the stage for the development of a society that respects the rights, autonomy, and dignity of all of its residents, regardless of gender. Honor killings and women's rights are difficult issues that call for tenacity, cooperation, and dedication; Role of legislators, educational departments, media, police reforms, cultural change, social awareness by religious scholars, opening counseling centers and the legal system are essential in paving the path for long-term reforms in Pakistan.



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