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**HONOUR KILLING AND SILENCE OF JUSTICE SYSTEM IN  
PAKISTAN**

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**Abstract**

This thesis attempts to contribute to our understanding of the problem of honour killing, and more specifically investigates why justice system in Pakistan has been failed to eradicate practice of honour killing particularly in Sindh.

To investigate and analyze the research problem, the study incorporated interview assessments of representatives of ministries of women development, NGOs, and lawyers. It also included three in depth interviews of victims survivors of honour killing to examine their personal cases and perceptions about the practice. The target groups were approached through snowballing in three cities such as Islamabad, Karachi and Jacobabad. The study also dealt with laws formulated so far on HK and feudalists' influence in the legislation. The research analyzed power contest between parallel running justice systems such as tribal and legal. It further discussed and examined cultural construction of honour and its association with power.

Theoretical framework in terms of 'honour, power and gender justice' was applied to investigate failure of justice system combating HK practice.

**Key words:** Pakistan, Sindh, justice system, honour killing, female victims, legal courts, tribal courts, honour, power, legislation, feudal structure

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## **Forward**

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## **Introduction**

The practice of honour killing (HK) is not confined to Pakistani society but its prevalence is evident across the world. It retains a long history and links to the emergence of patriarchal social structures across Europe and Asia in which the honour of family and community came to be bound with the sexuality of women. The control over sources of production such as land, livestock and sources of reproduction as women, was fundamental to the survival of tribal and agrarian societies (Ali 2001: 15). In Pakistan, certain social groups perceive HK, a traditional justified practice that entails different shapes with regard to particular backdrop of four provinces.

Shirkat Gah (2003: 16) attempts to portrait origin of the HK. According to report, majority consensus the custom was primarily stemmed from the border area of Baluchistan in close proximity to district Larkana, Sindh. As people from all over, would come to this area for economic reasons, so the constant thrust of people to this particular region exchanged customs and traditions, which further lead to diffusion of HK to other parts of the country.

Nonetheless, the practice is named differently across four provinces in Pakistan. In Sindh, it is termed as Karo Kari. Karo is associated to a man whereas Kari is professed a woman, who brings shame to her family. Honour killing means the practice in which male members of the family kill a female who is perceived as bringing shame or dishonour to the family. The woman declared as Kari by Jirga (Tribal court), is usually killed by gunshot, burning with oil, acid throwing, flogging and sometimes through blood poisoning.

A report by Amnesty International (1999) significantly overviewed background situation of the practice. Every year hundreds of women are killed in Pakistan on the name of honor, many cases go unreported, and perpetrators of HK are not punished. It is claimed that traditional practices are the manifestations of such acts but state also seems to be failed combating the practice of HK. The negligence by the state and the ineffective justice system gave momentum to mostly remote tribal structures boosting up brutal practices in the country. These tribal structures possess sufficient pretexts to legitimize women killings. Ahmed (2002) enunciated that more than 1000 women were killed during last year in Pakistan. The restitution of honour is still stuck to put an end the life of women. Despite the enormity of the practice, the government, lawmakers and judiciary have demonstrated a silent behavior in this regard.

However, in legitimizing HK, religion is more often misinterpreted with cultural justifications while defending the offence. The laws of ‘Qisas and Diyat’ and provision of ‘grave and sudden provocation’ have tremendously shoved women victims towards violence and oppression. In addition, the assessments made by the legal courts judges under these laws advantaged the offenders of HK to be released without penalty.

The persistence of HK in Sindh has been observed on frequent move because of tribal feudal structure. The spaces left open by the state rule has given momentum to informal dispensation of justice by tribal courts. However, the tribal councils seem to be especially concerned with offences against honour and perceive to be sole executive power where women’s voice often remains silent.

### **Aim of the research**

The research question primarily aims to contribute to our understanding of the problem of HK, and more specifically investigates why justice system in Pakistan has been failed to eradicate practice of honour killing especially in Sindh, the region with the highest incidences of HK.

The material for this study mainly consists of female victims testimonies and assessments made by lawyers, representatives of NGOs and ministries of women development. There is a lack of data on the experiences of female victims as they scarcely ever survive. Since Sindh remains inaccessible to researchers and I therefore have to rely largely on second hand information.

The data will be analyzed by drawing upon the studies on Honour and Power (Aase 2002, Michaud 1975, Foucault 1977) and feminist studies on Gender justice in South Asia (Menon 2004).

### **Literature Review**

There is plenty of literature on HK figured out by NGOs and INGOs reports but the issue lacks research-based studies. However, I have attempted to review possible appraisals on HK with a core concern of honour, power and justice in Pakistan.

Shah (2002: 2) enunciated that honour killing constitutes diverse forms and known with different names across the regional boundaries. In Sindh Province, It is called as ‘Karo-Kari, in Baluchistan as Siyah Kari, In Southern Punjab as Kala Kali and in NWFP as Tor Tora’. In every language,

meaning is the same that the men and women fated by their family and local community as guilty of illicit relations or sexual misconduct.

Faqir (2001: 15) argued “When a feud over sexual misbehavior towards a woman is settled, it is not the chastity or honor of the women that is restored; that can only be removed by killing her, the bearer of shame, which is also often done in some societies”. The work of Faqir mainly focuses the masculine mindsets for the restitution of honour, as they perceive killing is the only way to restore honour of their family or community.

It is imperative to cite here Aase’s observations regarding honour in Tangir community, North Pakistan. Aase (2002: 92) argued that the core meaning of the feud over honour is not mainly concerned whether it is women’s chastity, rap, killing or assault, but to see the family power and ability to revenge the offender’s family and to restore honor by defending its interests. He pointed out that; this is a part of struggle for legitimate power, a key element being one’s ability to defend one’s honor. Akman (2002: 113) argued, “Violations of women’s chastity are a particularly effective way of devaluating an enemy’s honor. Violations like abduction or rape are primarily committed in order to strike the enemy tribe; the abused woman is just an unfortunate victim in the power struggle that is primarily a men’s game”. He has built more or less similar argument like Aase that the women mostly brought into play as a tool in the power game for so-called honour among the masculine dominant groups.

Baker (1999) argued that cultural and personal systems of Honour, which are relative to others behaviour, are imperative part of killing of women by their male family members. The factors behind these rationales are feeling of shame and pressure exerted by the local community and tribe to compensate the honour of the family with the murder of girl. Lesnie (2002) argued that the countries where women are killed if their families believe that their behaviour is threatening the honour of the family. In some countries especially in Middle east, where killing for adultery is authorized by the state in case of suspicion or illegitimate sexual relations. Furthermore, honour crimes are deemed in long cultural traditions in order to control women.

Becker (2004) while discussing HK under human rights perspective argued that the traditional religious practices sometimes violate the rights of women. The practice of HK still contradicts with



International Human Rights Law (IHRL). International Human Rights Law has failed to ensure women rights and eradicating practice of honor killing. Sometimes, it differs with state national laws, which support the perpetrators of honor killing. The researcher also identified the contradiction between universalism and relativism. Universalism advocates killing of women as a crime and human rights violation and, the offender of the case should be punished whereas the relativists' point of view is entirely opposite to universalism. They argued that the honor killing will be a crime for some cultures but it may accord with the norms and traditions of native culture where the practice exists.

Becker has discussed her research in the legal and cultural contexts, and analyzed it under human rights perspective. However, it primarily differs with my research that is proceeding by drawing upon studies on honour, power and gender justice.

Reflecting on religious perspective, Shah (2002: 10-11) argued that Islam forbids brutal practices. He referred an observation by the high court in a case, "Nobody is allowed to take law in his hand in the name of so-called ghairat (honour). This is not only against the injunction of Islam but law and Constitution too. Illegal centuries old customary practice cannot be preferred over the dictates of Allah as revealed in Surah Al- Noor.... Life cannot be taken away in Islam or law on the basis of mere accusation or rumours or otherwise. Siyahkari has nothing to do with the teaching of Islam".

Ali (2001: 26) articulated that, in the demonstration of HK, the role of tribal chiefs cannot be neglected. In tribal communities, they support the practice as an integral part of their traditional structure. Many of these tribal chiefs are well educated and members of parliament, they are well aware about the changing pattern across the globe, but unwilling to change immoral practices like HK in their own society. The work of Ali significantly reflected the role of feudalists and their interests to hold power over their local community. Hussain (2006: 233-234) has observed that the tribal councils are the sole authority and power for people of rural society. These councils are constituted by the influential who inherited power in the tribal sphere. The government is observed as 'limited authority' in these tribal communities. Therefore, the legal courts are entirely ignored by the tribal councils.

## **Theoretical Framework**

Review of the literature reveals that none of the studies has tried to examine HK victims testimonies and power relations between tribal courts and legal courts except Mazna Hussain, who discussed the neglected position of legal courts by the tribal councils but did not incorporate victims' perceptions in her research. How this power contest between these two formal and informal structures contradicts, is imperative part of my theoretical discussion. Primarily, I will proceed this discussion focusing on dominant structures and women's operation by using feminist point of view. "The feminist perspective investigates the feasibility and viability of structures of authority that require both coordination and competition between the group and the state. This perspective allows not only for cultural preservation, but also for dialectical interaction between the two systems, which may result in innovation within each system and the regeneration of both" (Shachar 2005: 86).

This study is inspired by Tor Aase's edition "Tournaments of Power" but deliberately incorporates theoretical discussions by other scientific community to see power contest between legal and tribal courts including socio-cultural construction of honour and power.

Alvesson enunciates three elements to mainly characterize feminism.

"First, gender represents an essential theme in the attempt to understand virtually all social relations, institutions and processes. Secondly, gender relations are seen as problematic since they are associated with conditions of dominance, inequality, stress and conflict. Thirdly, gender relations are regarded as socially constructed, which means that they are not given by nature, nor are they inevitable; rather, they are the result of socio-cultural and historical conditions, and can be radically altered by human action" (Alvesson 2002: 210)

I will apply later two elements of mainstream feminism. In my study while dealing with HK, dominance factor is involved as male domination over female, stress also lies while reflecting on women's oppression or taking into account male family members who kill female victims personally or because of stress by community and tribal structure. Menon (2004: 212), a renowned feminist argued, "It is not only physical force that urges women to be oppressed. There is 'collective pressure' demonstrated through other forms, beliefs and ideologies which legitimize such kind of violent practices". Menon (2004: 209) further argued, "A woman is influenced by different oppressive practices. When she intend to act, but she cannot, to her 'free will'. She is hampered by

two ways. One is that the free will is actively forced by coercion and the second appear as the ‘free will’ is produced by the operation of structures of power that hegemonies notion of right or wrong”. Menon’s argument resembles to case of female victims in Sindh where women do not own their voice and free will. Their roles are even defined by the masculine power structures, which are mostly discriminatory in nature.

The third element leads my discussion on HK as a practice, which is exercised and evolved through ‘socio-cultural and historical conditions’. As I have said earlier, HK was evident in the previous decades with different names and was well thought violence practice among public-private spheres. The multi-cultural scholars (Mamdani 1996, Shafir & Peled 1998, Smoocha 1990) “have long cautioned that any public policy that fossilizes cultural identities- with their fluid and mutable cache of customs, beliefs, and practices into more rigid and unchanging matrices of “difference”, may lead to structural inequality and domination along the lines of essentialized group-based categorizations”. This argument is applicable in case of Sindh where the element of structural inequality is pervasive and, the feudal structure leading to patriarchal structure overwhelms women’s voice against violence practices.

It is significant to reflect theoretical arguments on the contest of power between tribal and legal courts. According to Foucault (1977: 205), “The juridical system is utterly incongruent with the new methods of power whose operation is not ensured by right but technique, not by law but by normalization, not by punishment but by control, methods that are employed on all levels and informs that go beyond the state and its apparatus. We have been engaged for centuries in a type of society in which the juridical is increasingly incapable of coding power, serving as its system of representation”. While, Menon (2004: 205) urged, “At This historical moment, law has limited capacity to pursue justice, that is, social movements may have enhanced the emancipatory potential of law. If injustice is understood as constituted by the unequal dynamics of power, then the law can touch injustice only to the extent that power is juridically derived”.

Foucault and Menon more or less built up similar conception that power and justice have been constituted controversy with each other. In case of Pakistan, justice system has always been affected by uneven power derivation and execution. Foucault’s point ‘not by punishment but by control’ is valid in Pakistani context where the matter is not to put offenders behind the bars but to control the

tribal mechanism, which advocates the practice of HK. The political figures' intrusion in judicial procedures substantially influenced the efficacy and fairness of the legal courts in Pakistan. Aase (2002: 16) argued, "Execution of power in the guise of honor tends to be legitimate in social spaces left open by the state. Such spaces and fields of activity can be found in societies where no effective centralized political power exists".

While drawing upon the socio-cultural construction of honour and its association with power, Michaud (1975: 179) argued that, the power is a central subject of honor conflicts. From this observation, he nearly viewed honor as power. "Acts of violence carried out in the name of honor may always ultimately be seen as moves in the struggle for power and dominance". While case of Sindh differs to Michaud' argument where HKs are occurred only for the restoration of family honour. Michaud argument may be true for Aase's research where honor is put back by testing family power to take revenge. "The core meaning of the feud is found in the ability of a family to defend its interests. It is not really at stake, whether it is women's chastity or something else. But the ability and the courage to stand up and fight for those interests" (Aase 2002: 92). Aase (2002: 10) further observed that there was no central political authority in Tangir community except Jirga as sole political institution. The function of Jirga is to mediate only among the feuding groups. Jirga owns no power to impose its decision. In this situation, 'individual family' is only to defend its honor whereas Jirga in Sindh has supreme authority, which is legitimized culturally instead of state legal system. Similarly, Aase (2002: 8) argued "Power exercised in the guise of honor may be viewed as a culturally legitimize demonstration of power. When honor is at stake, action is called for and the use of power is justified".

## Methodology

Methodology primarily involved interviews based on assessments of a professional group comprising lawyers, Representatives from NGOs and Ministry of Women Development. This group was approached through snowballing in Islamabad and Karachi while semi-structured qualitative interviews were conducted to collect information from the respondents. It further included the perceptions of female victims survived in the cases of HK. Before discussing various aspects of HK, I will introduce the victims first hand experiences.

It is significant to disclose that these cases may not be perceived as representatives of victims (because of the method used in their selection) rather it should be discerned as illustrative of the victims's situation which has been unexplored. Due to sensitivity of the practice, it was difficult to find out female victims because majority of HK victims were killed. During fieldwork in Karachi, I approached NGOs and shelter homes to directly interview the victims but failed to access even a single case. My secondary attempt seeking female victims in Jacobabad was successful. I coordinated with Mr. Khoso, he was member of Fight Against Dowry Network-SACHET (Society for the Advancement of Community, Health, Education and Training) already acquainted with me during my job in SACHET. At present, He was working with an NGO in Jacobabad. I discussed my project with him and inquired the possibility to interview female victims in Jacobabad. He agreed to help me out. There I found three cases, but I was not allowed by the organizations A and B to personally interview female victims. Then, Khoso arranged his female colleague to interview the victims. Names of the organizations and female victims have been used fictitiously.

Division of the respondents by locale and professions can be followed as:

<b>City</b>	<b>MoWD</b>	<b>NGOs</b>	<b>Lawyers</b>	<b>Female victims</b>	<b>Total</b>
<b>Islamabad</b>	04	01	04	0	09
<b>Karachi</b>	01	04	02	0	07
<b>Jacobabad</b>	0	0	0	03	03
<b>Total</b>	05	05	06	03	19

Keeping in view the sensitivity of the issue, I took notes instead of using the cassette recorder because it can influence the reliability of data (respondents may hesitate while sharing information). I used both English and Urdu languages while interviewing professional group whereas interviews of female victims were conducted in Urdu.

As for as validity of data is concerned, the regions with tribal structures and high incidences of HK remain largely inaccessible to researchers in Pakistan. In such conditions, one has to rely on materials provided by NGOs and other professionals who deal with this issue consistently. In order to ensure the validity of data, I have relied on studies on honour and power in other parts of the world. Though, it was very difficult to approach professionals and to find out victims survivors but I gained access to these respondents by the assistance of my former NGO colleagues. In addition, I had worked earlier with gender issues and participated in demonstrations and press conferences on HK cases, therefore it seemed a bit convenient to me to approach the respondents.

### **Ethical Considerations**

The nature and sensitivity of the research problem urge to consider certain ethical codes completing this thesis work. Letter of Authority by the Director of Studies was presented to the respondents while interviewing. Their consent to own their names in the research or should be anonymous was inquired. Majority of the respondents consent, to own their names in the research but their identity will not be disclosed. To ensure confidentiality, the data collected during field will be interpreted generically rather than individually. The information gained by the respondents would only be the part of this academic work instead of using it for other channels. Nonetheless, the second case of female victims is much more sensitive as compared to former one. Therefore, the victims' names including organizations are treated with complete anonymity. After all, the key determinant of this research does not mean to put anyone's life at risk.

### **Disposition**

This research has been divided into four chapters. First chapter incorporates individual cases of female victims, who fortunately succeeded to survive in their HK cases. The chapter also reveals victims' perception about tribal and legal courts including support provided by different formal and

informal social setups such as NGOs, media etc. Furthermore, it also discloses victims' future concerns.

Second chapter deals with the prevalence of HK practice within cultural and religious contexts. It unfolds the laws devised so far on HK and the loopholes in the legal processes and legislation, which give momentum to more occurrences of HKs in Pakistan.

Third chapter attempts to reveal difference between tribal and legal courts. It highlights the motives behind keeping the legal courts ineffective and the role of police while dealing with HK cases. The function of Jirga has been discussed with regard to its primitive and native culture including HK cases. It further demonstrates Jirga as a power structure even in the presence of formal state judicial system.

The last chapter transpires socially and culturally constructed perception of honour and its subsequent association with power. This chapter further highlights the role of family and community regarding the practice of HK and the factors that result in occurrences of HKs in Sindh. Furthermore, it deliberates upon the future of female victims' survival of HKs.

## **Findings**

### **1. Victims' Perceptions**

This chapter details individual cases of female victims, who fortunately succeeded to survive in their HK cases. It further enunciates victims' concerns with tribal and legal courts including support mechanism such as NGOs, media, community etc. Despite this, it also unfolds victims' future concerns. The victims' responses in this research will be taken as illustrative.

#### **1.1 Victim case. 1**

Nasira an illiterate poor woman had been living in community organization A for last six months. Her brothers married her with a handicapped man. However, after a while owing to some family feuds her brothers asked her to be separated from her husband. They wanted her to marry another person. On her refusal, they accused her Kari and tried to shoot her. Although she survived, yet she was seriously injured. A lady councilor of the area took initiative and brought her to the hospital. After recovering from injuries, she approached to community organization A. She told that she was safe and secure there but still feared to be married again as per her mother's will. In her case, the brothers assaulted and attempted to kill her but even then, she was unwilling to complain against them. She even did not try to approach the legal courts. She was observed silent when asked about her perception regarding the tribal and legal courts. However, she appreciated the efforts of lady councilor who rescued her.

In her community, the most common factor contributing HK was accusation and many women as well as men were killed on the name of honour. She further told mere allegation was enough declaring a woman Kari. She suggested that spread of education to change the traditional and tribal mindsets of the men and government should focus on promotion of education at gross root level.

She is now living her life by doing some tailoring work. Her future aspiration is just to be alive for her children.

#### **Observation**

I observed it a very interesting and significant case. Since the victim's brothers accused her Kari and attempted to kill her but even then she retained a soft corner and was unwilling to complain



against her brothers. Though she was injured by her brother and divorced by her husband yet she remained silent. In this case, the victim has not tried to approach legal courts; even she remained silent on inquiring her perception regarding legal and tribal courts. In her community, accusation is a main factor behind occurrences of HK, which is commonly observed in other cases. In this case, the victim has been supported by a women councilor, that scarcely seen in HK cases. Another interesting point appeared in this case was that although the victim was illiterate but she suggested spread of education could change the tribal and traditional mindsets of men. I observed passive and sacrificing attitude by the victim throughout the case.

### **1.2 Victim case. 2**

Zubaida was educated upto primary level and had been living in Community Organization A for one and half year. Three years ago, she left her house and did a court marriage with Ishrat Ali whereas her father and brothers wished to sell her somewhere else. On her refusal, they intended to kill her but she succeeded to escape. She indicated that her father was involved in arresting her husband and calling a Jirga in a Syed's Haweli (spiritual leader house), where they decided her to be divorced. After this decision, she got shelter in another Syed's Haweli in Baluchistan and he sent her to Community Organization A, in Jacobabad. She told that both Jirga and her family were involved in her case. Though she was secure in that organization but was looking frightened. While discussing about the legal courts, she revealed "I am alone and have a baby, then how I can approach legal courts". She further voiced that she did not know about the legal courts but she had heard that they provide justice. She condemned the role of tribal courts as they threatened to sell her off somewhere else.

She admired the support provided by local NGO and media, who rescued her. In her community, a number of men and women had been killed on the name of honour. She described that after killing women, men boasted of their masculinity and perceived it a right act. She wished to go back to her husband as she was married to her own choice.

### **Observation**

In this case, the victim was aware about her rights to some extent but was unable to live her life at her own free will. Even her blood relations threatened and enforced her to sacrifice because of their vested interests. In this case, the victim's husband has been observed as unable to provide her

security. The community also demonstrated a similar traditional mindset as reflected by Jirga. Besides this, it has been examined that the victim has limited knowledge about legal courts, knowing only that they deliver justice. In addition, she enunciates men's nature, how they boast of their masculinity and domination in killing women. The case is similar to second element of feminist analysis. Her wish to live a happy life with her husband seems unfulfilled under masculine stakes.

### **1.3 Victim case. 3**

Nadia owned intermediate education. She had been living in Welfare Organization B since last eight months. Her father took her to this organization. Her husband blamed her having illicit relations with a Wadera (Feudal) in Baluchistan, and intended to kill her while villagers provided her support escaping from killing. Later on, Jirga declared her Kari and decided that children would live with her husband. Her husband kicked her out of his house but she was secure in the organization. With the help of an NGO and media, she appealed to legal district court where she was provided justice and children were handed over to her. She perceived the role of tribal court as unfair and bias. She further revealed that in tribal courts, no one hears the voice of women. She disclosed a case of HK in her community, where a girl was killed two months ago. In her community, the most common factor behind the HK was allegation. Men did not kill women under any external pressure rather wished themselves to get rid of women. In her case, her husband and father in law were involved. While talking about the need for change, she suggested law should be strengthened. Her future intention was to follow her parents but at the same time, she feared of second marriage. Now, she started working as a Lady Health Visitor in Jacobabad.

### **Observation**

I observed this case as distinctive rather than previous two cases. One of the positive factors in this case, is the education of victim. Secondly, she got support from all mechanisms as family, community, media and NGO. I perceive that the victim got justice from the legal court because of support provided by media and NGO. In this case, the role of tribal courts was observed as typical like many other cases. Here the victim revealed an interesting point that men do not kill women with any external pressure but they want to get rid of women. This may leads to men's will for second marriage and denying women's dignity. She suggested that law should be strengthened combating practice in Sindh.

The observations made in this chapter will be taken into account in the discussion in the following chapters.

## 2. Honour Killing Practice and Law

In this chapter, I will discuss the practice of HK in Pakistan. Furthermore, the practice will be observed under religious and cultural contexts. In addition, this chapter will demonstrate discussion on HK laws and the loopholes in the legislation and legal processes. In this and the following chapters, respondents of lawyers, NGOs and representatives of ministries will be referred to as the representatives.

### 2.1 Existence of HK

The existence of HK has been viewed in the whole Pakistan but the practice entails diversity with regard to provincial boundaries. The representatives have observed the practice in rural areas of interior Sindh, Southern Punjab and Baluchistan. They asserted that the practice was salient part of feudal as well as patriarchal structures across the world. However in Pakistan, Sindh is evident for maximum HKs in the last years. Ali (2002: 15) argued that the tradition of HK thus appeared as the central element of regulating social relations among tribal societies. It is still practiced in different parts of the world.

The NGOs' representatives further divulge that it is complex to ascertain the accuracy of statistics on HK as these are mostly generalized based on the cases reported in newspapers. Moreover, there were a large number of HK cases that were never reported and remained invisible.

<b>Sindh</b>	<b>Baluchistan</b>	<b>Punjab</b>	<b>NWFP</b>	<b>Total</b>
632	131	499	87	1349

Source: Madadgaar Research and Documentation Center

The data indicates that Sindh has the highest occurrences of HKs in 2004. The representatives of ministries and NGOs viewed media as one of the sources to highlight HK cases in Sindh as compared to other provinces. Southern Punjab also displays more or less similar scenario. They also

discussed the condition of Baluchistan where the cultural practices and traditions were immensely strong. Despite, people in Baluchistan demonstrate a strapping identity and conservative attitude while sharing the information. The data shows that the North West Frontier Province (NWFP) has least HK occurrences. They viewed that in NWFP, the practice was not culturally deep-rooted as observed in case of Sindh but mostly revenge killings were occurred among different tribes. Aase (2002: 92) has pointed out earlier in the case of North Pakistan where honour is less a question of women's chastity and more a question of demonstrating physical capacity for taking revenge against other feuding parties.

## **2.2 Cultural Context**

The majority of representatives have viewed HK, a traditional practice that has nothing to do with the religion. During interviews, the practice was observed, a result of purely cultural and tribal mindsets, which started with the nomadic migration from Baluchistan to other areas. They assessed the practice was a part of inheritance, which transferred from ancient world. This is similar to Hussain (2006: 227) argument "Honour" is a deep-rooted traditional concept that evolved through ancient culture of desert tribes in pre Islamic eras. The representatives viewed the practice was prevalent in traditional structures that incorporated personal interests of patriarchy and feudalism. They argued that the existing patriarchal structure defined women as men's commodity and their control over women's sexuality. As Ali (2001: 15) revealed earlier that the practice emerged from patriarchal structures which were fundamental to control over women's sexuality.

## **2.3 Religious perspective**

Reflecting on the practice in religious perspective, the representatives disclosed that religion was being used to legitimize practice of HK. It is significant to reveal that none of the representatives viewed HK as a religious practice. They articulated that Islam never dictated the unethical traditional practices like HK. One of the representatives quoted a *Hadith* articulated by Hazrat Saad Bin Hada. He told to Prophet Muhammad "I have seen my wife in illicit condition, what I have to do, the Prophet forbid to punish her". They illustrated that even on proving the condition, the punishment defined was flogging, no one had right to kill the other one.

Rafi Ullah Shahab was a renowned religious scholar and the member of Executive Committee on the legislation and repeal of Hudood Ordinance by the National Commission on the Status of Women, Pakistan. He concludes regarding HK.

“Thus, while killing accused women is not Islamic by any standard, the believers are not even allowed to divorce them without establishing their accusation. We profess our love for Islam and demand its enforcement in the country, but ignore Quranic injunctions about the rights of women. Dozens of innocent women are slaughtered in the name of ‘honour’ in our society. Almighty Allah eliminated the evil of *Jahilliah* (ignorance) period, and thus, no case of so-called ‘honour’ killing was reported in the early period of Islam”.

The representatives identified lack of religious knowledge as one of the factors to misinterpret Islamic injunction into cultural justifications of HK practice.

#### **2.4 Laws on HK**

Looking insight HK laws, the representatives especially lawyers discussed many countries such as Turkey, Lebanon, Jordan, Palestine, Morocco including Pakistan possessed statutory laws sanctioned by customs. In these countries, women are being killed by men in emotionality, often described as ‘Crimes of Passion’ where men claim the killings on the name of honour and gain legitimacy from the state and their native community.

In the case of Pakistan, the representatives enunciated that Law on HK was enacted in 2004 against the Qisas and Diyat Laws, which were promulgated in 1990.<sup>1</sup> According to 2004 Bill, the accused of HK would be treated as accused of murder with life imprisonment or death sentence. The criminal laws, family laws, Hadood ordinance needed to be repealed as they contain flaws which provided enough room to the offenders releasing on lesser punishment.<sup>2</sup>

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<sup>1</sup> Under Qisas and Diyat laws victim heirs reserve right to compromise with offender with or without compensation money.

<sup>2</sup> Hadood ordinance was promulgated in 1979, which enforce women to present four witnesses in case of being raped.

Shah (2002: 11) enunciated that the laws of Qisas and Diyat have made offences to the human body ‘compoundable’ and in a murder case, victims’ legal heirs preserve the right to compromise with the offender under section 309 and 310. In first provision, legal heirs preserve right to forgive the murderer without compensation money in the form of diyat whereas under later provision, the heirs can compromise after getting blood money. In case of Sindh, the representatives also identified that women are also given in marriage as a compensation of a murder. While discussing loopholes in the legislation process, the representatives argued the feudal mindsets in national as well as in provincial assemblies had been reluctant to the legislation on HK and advocated honour as a personal matter. They highlighted that legislator’s lesser access to ground realities including poor people, perpetuated discriminatory laws to a devastative scale. In addition, Hadood Ordinance promulgated during military rule of General Zia-ul-Haq was discriminatory and fundamental in reinforcing women to further violence and injustice.

### **3. Legal Courts v/s Tribal Courts**

In this chapter I will differentiate between tribal and legal courts. I will disclose the performance of legal courts and the role of police while dealing with HK cases. The role of Jirga in HK cases is significant part of this chapter. I will further demonstrate the power of Jirga that is legitimized culturally in spite of state judicial system.

#### **3.1 Legal courts performance**

The role of legal courts dealing with cases of HK has been observed as lenient and weak. Nonetheless, in certain cases of HK, the judges have made fair judgments, but majority of the representatives viewed judiciary as gender insensitive and part of the same traditional culture. Legal courts treat HKs as routine cases instead of taking them seriously. The judges also hold customary mindsets and recognize HK as a community sanctioned violence rather than analyzing it under legal implications. One of the respondents unfolded a judgment made by a Justice (Javaid Iqbal) in 1980. He remarked, “Because the girl wore shining clothes and owned bad character, consequently her husband killed her”. If their judgments were based on such subjective assessments then the victims would be more vulnerable to violence and injustice. The representatives identified that the zero existence of female judges in district courts and their minor presence at upper courts was one of the factors that accelerate the violence practices.

They even argued that delayed judicial process provides enough space to the offenders, influencing judges as well as police through multi socio-political channels. Provision of ‘grave and sudden provocation’ consistently benefited the perpetrators in which the judges viewed as the crime committed in emotional situation. Shah (2002: 7) articulated that the omission of the provision “grave and sudden provocation” seems a bold initiative by the legislation to leave no space for any concession, but law and judiciary are diverse in nature. Even if the law contains zero tolerance for the offenders, some judges of upper courts have tried to apply the previous concept of justified anger (crime of passion). This is similar as Foucault (1977: 205) discussed earlier, where the justice system is entirely opposite to power execution that is ensured by normalization instead of law.

The lawyers enunciated that the justice system in Pakistan lacked legal mechanism, as this system contained a triangular blend of religious, cultural and British laws, therefore it need to be transparent including the prioritization of the cases.

Mostly Muslim countries occupy more secular legal courts system including *Sharia* courts, which govern religious and family laws matters. In addition, the tribal councils devoid of any formal authority, exercise infinite control over the disputes emerging from their tribal communities (Hussain 2006: 233). The representatives have observed that the fault lines usually exist at district courts level where the majority of judges are vulnerable to corruption.

### **3.2 Role of police**

The Police has been viewed as agent of feudal power structures that advocate and legitimize the practice of HK. It is significant to highlight that none of the representatives discussed the role of police at positive ends whereas they argued that police entailed same patriarchal mindsets and morally corrupted. While discussing the role of police regarding HK, Ali (2001: 41) enunciated that, in existing power structure, police is there to enforce ‘dominant ideology’ of the feudal lords. In tribal communities like Sindh where police have failed to take action against the killer even if he commits murder in front of the police.

In majority cases, police seemed to be reluctant registering a case filed by the victims. Even in registered cases, the victim cannot achieve justice because of faulty investigations by the Police. Hussain (2006: 234) argued that during initial investigations, the police often either overlooked honour crimes or conducted faulty investigations that resulted in evidence insufficient for a

conviction. The female victims who complain to police may sometime turned away or harassed by the police officers. The representatives also discussed that the external feudal pressure enforced police to negotiate and make compromise between the two parties.

### 3.3 Tribal councils

All representatives have viewed the structure of tribal councils as illegal and unreligious. In majority cases of HK, judgments are based on the assessment of two tribal heads, which were often partial and incorporated stakes of certain informal groups. They have observed that in tribal areas women are perceived as lower creation and often exemplify as *Aurat par ki juti hai* (women is like a shoe under feet). All tribal councils are manly constructed, no woman has been observed as the member of Jirga except one in NWFP, told by a NGO representative. They assert that the tribal courts are not only supported politically but ineffective justice system has also strengthened their structures. One of the representatives dicussed ‘Shaista Almani case’ in which Shaista was declared as Kari and given back to tribe, even the Chief Minister of Sindh called Jirga.

Another NGO representative highlighted a case of 30 years old women ‘Mukhtaran Mai’ where five persons in front of villagers repeatedly raped her on the decision of Jirga.<sup>3</sup>

The representatives assess that the lack of rule of law and instable political governments have strengthened the power of tribal courts. The conventional styles of ruling and customary laws are still on frequent move and reflecting the mindsets of traditional societies. One of the lawyers enunciated, due to weak legal mechanism, government occupies people with tribal mentalities who oppose legislation on HK. Similar observation made by Aase (2002: 16) where he argues that the power execution on the name of honour can be legitimized in the societies where no “effective centralized political power exist”.

The representatives observe that patriarchy is not only prevailing in feudal structures but also evident in complex judicial system. Though the voice of women never heard in tribal councils, even then the people in Sindh prefer Jirga system instead of pursuing legal courts, as it is speedy and accessible procedure of getting decision. Hussain (2006: 233) argues that the tribal councils are perceived as sole decision-making authority in rural tribal communities.

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<sup>3</sup> On a Jirga’s decision, a 30 years old woman ‘Mukhtaran’ was raped by five persons in front of the villagers, as a compensation of her brother who was accused of having illicit relation with a girl. The case was happened in May 2002, Meer wala Jatoi, Southern Punjab.



Such councils are comprised only of men, who constituted inherited power within tribes. The government has limited authority over the tribal people therefore the state justice system is often neglected as compared to tribal councils. The representatives examine that in HK cases people had to register a report in a police station to pursue the legal courts. However, the police were being observed to follow the decision of Wadero (Feudal) and deliberately neglect the victims' party. Such conditions enforce people to prefer tribal councils' authority in their native communities.

#### **4. Socio-Cultural Construction**

This chapter encompasses discussion on social as well as cultural construction of honour and its relation with power. Furthermore, it unfolds the role of family and influence of community regarding the practice. In addition, it highlights factors surfaced so far behind HKs and future of female victims' survival.

##### **4.1 Honour and power**

Diversity of arguments came out of discussion with regard to construction of honour. One NGO representative argued, "Honour is closely linked with socio-economic status and inferred in society". A representative from ministry viewed "honour is a refined term of shame originated by patriarchal mindsets and strongly associated with family while shame is culturally constructed". The representatives discussed that a Kari woman was viewed a sign of shame or dishonour for her family. This honour would only be retrieved by killing Kari woman. In Sindh, honour is envisaged to women's sexuality and they are considered as private commodity of men. As Menon (2004: 209) argued earlier, "a woman is influenced by different oppressive practices. When she intend to act, but she cannot to her 'free will'. She is hampered by two ways. One is that the free will is actively forced by coercion and the second appear as the 'free will is produced by the operation of structures of power that hegemonies notion of right or wrong'".

As for as the relationship between honour and power is concerned, power is exercised to keep control over women's sexuality and economic resources. Majority of the representatives examined weak association between honour and power because most HKs occurred in poor and middle classes. Both poor and feudal preserve same honour but differ on status. The representatives argued the motive behind the killing of women was not to hold power but to get rid of taunting and pressure

exerted by the surroundings. They kill women in order to stop gossip about female family members, and avoid having fingers raised against their family. In contrast to North Pakistan where honour is about power and physical capacity to strike against the enemy (Aase 2002), honour in Sindh is more of a status game among families within the community, with women as the main victims of the game.

#### 4.2 Role of family

The role of family is greatly imperative while discussing HK practice in Sindh. One of the representatives from ministry viewed family is a basic institution of socialization and if the family head were member of Jirga then the girls would be socialized on the same pattern. In the cases where Jirga declare a girl Kari, the father instead of questioning, feel shame and dishonour for his family. As the practice has gained social as well as cultural conformity, therefore family does not react harshly. The representatives have examined that in majority cases, family preserve less capacity to face the pressure exerted by community and other informal groups. In some cases, mother has been observed a part of planning in killing her daughter but mostly she seems supportive to her daughter. Mother as feminist entity, has been viewed as helpless in the culturally constructed masculine structure. Even in some cases, mother was also killed while supporting her daughter. Parents are rarely involved in killing their daughter whereas husbands, brothers and in laws have been observed as killers in majority cases.

**Table. 3 Perpetrators of HKs in newspapers reported in 2004**

Husbands	Brothers	In-laws	Anonymous	Acquaintances	Fathers	Relatives	Sons
340	208	110	246	182	75	46	29

Source: Madadgaar Research and Documentation Center

The data show that the husbands were killing the majority of women, while brothers were also perpetrators of HK in many cases and often go unpunished because of family support. In anonymous cases, it has been observed that husbands, brothers and other relatives are involved where they do not intend to reveal the killings. The motives behind these killings are diverse in nature, which I will discuss in the following sections.

### **4.3 Influence of community**

Community influences the practice of HK in diverse ways like family. It has been observed that community is a vital element in constructing so-called honour in Sindh province. One of the lawyers expresses HK as a community sanctioned practice that is acceptable by the 90 percent community. In case of girl escape, community insists the victims' family to punish the girl or call a Jirga. In some cases, community has been viewed as supportive and begin to talk about the practice due to awareness raising by media and other public-private institutions. However, in majority cases, they closely link community with family, which seems to be fundamental in raising masculinity and gender biasness. Along with family, community entails homogenous people having similar mindsets and acts as a silent observer in HK cases. Nonetheless, change has come into sight due to educated people but community needs to be sensitized combating HK.

### **4.4 Factors contributing to HKs**

The practice possesses social as well as economic motives behind the various occurrences of HK. Masculine economic interests have been observed as major factor that motivate father, brothers or cousins in accusing and killing the women to save their share of inheritance. In addition, they also gain compensation from the man who is accused as Karo with her. Shirkat Gah (2003: 26) has shown a similar picture in her research where poverty and economic disparity are considered causes of HK. When people become economically weak, they perceive it convenient to declare a woman of their household as Kari and subsequently seek compensation from the co-accused. The research has highlighted another factor, if the people see a woman raising voice against repressive traditions or talking about change, she is labeled as Kari.

The representatives further noticed that in feudal families, girls were even married to 'Quran' in order to prevent division of property. Sometimes, a husband having desire for second marriage accuses and kills his wife having illicit relations with other man. Choice of marriage is also identified as one of the causes, where men kill their daughter or sister violating limits of the family. Two of the NGOs representatives enunciated that the woman who were killed being a Kari, were not buried in the general graveyard while buried in a separate place reserved only for Kari women. They are not given ritual bath before their burial and people do not offer their funeral prayer. It has been examined that mostly HKs are occurred mere on suspicion instead of solid evidence. The perpetrators use different instruments and methods while killing women.

**Table. 4 Methods used for HKs in newspapers reported cases in 2004**

<b>Gunning down</b>	<b>Axing to death</b>	<b>Stabbing to death</b>	<b>Strangulation</b>
800	170	82	66

Source: Madadgaar Research and Documentation Center

The data indicate mostly women are killed through gunshot which is perceived the easiest method of killing. Sometime men also use axe in killing women, while flogging, stabbing and other killing methods are rarely used. It has been observed that in few cases, female victims succeed to escape before the occurrence of HK. The future of these survivors is reflected in the following subsection.

#### **4.5 Victims Survival**

The representatives while discussing future of female victims survivors enunciate that in Sindh, men perceive killing is the true way of retaining and purifying family honour. They inherently perceive killing is the strongest message for the rest of women in their family. The representatives told that 90 percent victims of HK were being killed while the rest of women escaped from their families, even if these victims survivors returned to their native communities after 20 years, they would be killed. Similarly, some of the victims survivors reserve sole choice to seek shelter in the local Wadero's house where they certainly become susceptible to abuse and even be sell off to somewhere else. However, some fortune cases appealed to courts often halt because of intricate judicial procedures.

## Summary

The practice of HK exists in different parts of the world. In Pakistan, it has been observed mostly in Southern Punjab, Baluchistan and interior Sindh while Sindh is evident having maximum occurrences of HK during last years. Honour killing is purely a cultural practice, historically evolved and a salient part of patriarchal feudal structures. There is no concept of HK in Islam while religion is being used to legitimize practice. The biased laws of 'Qisas and Diyat' and Hadood ordinance reinforced women to further violence and oppression. State assemblies constitute people with traditional mindsets who often seem to be reluctant to the effective legislation on HK. Legal courts judges are gender insensitive, hold same customary mindsets and least concerned about analyzing HK cases under legal implications. The absence of women judges at district courts level including complex and delayed judicial process greatly benefited the offenders of HK releasing on lesser punishments. Lack of legal mechanism, ineffective justice system and triangular blend of customary, religious and colonial laws provided enough space for tribal councils to strengthen their power structures. Tribal councils are illegal, unreligious and manly constructed power structures where women voice seems to be dominated by vested masculine interests. The faulty investigations by corrupt police discourage female victims to pursue legal justice.

In Pakistan, Honour is attached to women's sexuality and viewed as a reflection of patriarchal mindsets. While power has a weaker association with honour because the motive behind the killing is to maintain the status of one's family within the community. Family has been observed as bound with coercive forces such as Jirga and community. Honour killing is viewed a 'community sanctioned practice', where community legitimize the practice around its cultural sphere. The common factors leading to HK are property savings, choice of marriage partner, husbands' will for second marriage, alleged acts of illicit relations. Mostly killings are merely occurred on accusation instead of solid based evidence. The women, who are killed after being declared as Kari, are not buried in the general public graveyard and no funeral prayer is offered for them. Some female victims, who fortunately survive, often escape or retain single choice to seek shelter in a Feudal's house where they are more vulnerable to abuse and even sell off as private commodity of feudal.

## Discussion

The discussion involves the comparison between the main findings and Aase's case in Tangir community, North Pakistan.

Aase has observed that feuding has traditionally evolved and revenge killings are occurred as result of blood feud. In sindh, the practice of HK has also been traditionally evolved and incorporates a number of HK occurrences every year. In his case, honour is viewed as power and strongly associate with it. However, in case of Sindh, honour has week relationship with power. In Tangir community, women's chastity or rape is not concerned; it is family honour, which is restored by killing a member from the feuding family. These are occasions where man's power is put to the test. While in case of Sindh, men kill women of their own family to restore family honour. They retain vested interests and even gain compensation money from the co-accused man. Here, the power is not put to trial behind HKs. In Aase's case, Jirga has limited power and unable to impose sanctions on feuding parties. Another trait of the feud is that the families rarely call Jirga whereas in Sindh, Jirga is considered as the supreme authority to make decision about HK cases. In majority cases, it is understood to hold Jirga, which holds more power than the legal courts. Aase has identified that the factors leading to revenge killings have shifted from land-water disputes to women. In sindh, factors contributing to HK have been viewed as choice of marriage, illicit relations, property saving and husband's will for second marriage. Aase while discussing his case of Tangir community articulates the execution of power in the pretext of honour is legitimized in the social spaces left open by the state. Such spaces can be observed in societies where ineffective 'centralized political power exists. This resembles with my findings as well, where the community because of ineffective state justice system legitimizes power of Jirga.

## **Conclusion**

This thesis attempted to investigate the failure of justice system in Pakistan with regard to HK practice especially in case of Sindh. The primary aim of the thesis was to contribute to our understanding of the problem of HK.

Theoretical stances and empirical assessments revealed that the spaces left open by the state justice system facilitated tribal councils strengthening their power structures. Furthermore, the lack of legal mechanism and complicated judicial processes reinforced the power of tribal courts being legitimized culturally instead of legally.

I analyzed that the female victims were disadvantaged of their fundamental rights and justice in Pakistan. In majority cases, killing of women is perceived only mode to reinstate family honour where accusation is mere enough declaring a woman Kari. A few exceptional cases pursued to legal courts and got justice where media and NGOs were involved. The structure of Jirga is illegal and masculine constructed where women victims are being consistently violated. Traditional mindsets in the legislation, judiciary, police and especially the community pushed women victims towards violence and injustice. The laws formulated so far regarding HK practice were biased and discriminatory in nature. Even the bill presented on HK in 2004, did not seem to be effective reducing HK occurrences and scarcely seen in implementation process. The presence of feudalists in state assemblies and their intervention in policy-making greatly influenced the effective legislation on HK

Combating the multitude of factors leading to HK practice needs comprehensive and transparent policies, which target the loopholes in the state justice system, promoting education and mass awareness, compel governments to be accountable and formulate effective laws on women rights.

Regions with high incidences of HK remain largely inaccessible for research. Therefore, the conclusions drawn in my study are of course only tentative.

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## Annex A

### Interview Questions

Name of interviewee: \_\_\_\_\_

Organization : \_\_\_\_\_

City : \_\_\_\_\_

**Topic:** Honour Killing and Silence of Justice System in Pakistan.

**Research Question:** Why justice system in Pakistan has been failed to eradicate practice of honour killing.

**Method** Qualitative

**Type of Interview:** Semi structured

**Questions:** Open ended

**Target Group A:** Government officials from ministries of women development, Lawyers and NGOs representatives (Who have dealt with HK cases)

**Target Group B:** Female victims survivors of HK

#### Part 1.

Questions included in this part would only be asked to Target Group A.

#### Honor Killing

1. Do you think HK is a violence practice?
2. Is it prevailing in whole Pakistan or certain parts of the country?
3. Is it a cultural or religious practice?

#### Honor Killing and Law

4. Is there any state law about HK?
5. Which are the loopholes in the law making process about HK?

#### Honor Killing with Legal and Informal Tribal courts

6. Do you think legal courts are fair in decisions about HK?
7. Fault Lines usually exist at what level (Supreme Court, High Courts or District Courts) of legal courts?
8. Why legal courts seems to be ineffective providing justice to HK victims.
9. How much cases mostly appeal to legal courts
10. How much offenders of HK legally punished by the courts?
11. What is the role of police in this regard?
12. Do you think Tribal Courts are fair while dealing with HK cases?
13. If no, then why not, give any example.
14. Who are usually the members of these Tribal courts?
15. Have you observed any woman as a member of the Tribal Courts?
16. Why Tribal Courts act as more powerful than legal courts while dealing the cases of HK?
17. How much cases of HK usually settled by Tribal Courts?
18. How Tribal Courts react about the cases which get an access to legal courts?

### **Honor constructs and killing of women**

19. What is honour all about?
20. What is relationship between honour and power?
21. What is the role of family in building this so called honour?
22. How community influences the construction of honour?
23. Is killing women, only the way to restore family honour?
24. What are the factors contributing to HK?
25. Which is the most common factor leading to HK?
26. Are these killings happen on solid proof or mere on suspicion?
27. Is this practice increasing or decreasing?
28. Which province witness more cases of HK?
29. How much victims of HK usually succeed to escape from killing?

### **Part 2.**

Questions in this part would be asked to female victims of HK.

### **HK victims' perceptions:**

1. What is your education?
2. Since how long you are living in this shelter home or organization?
3. Why you come here?
4. Who took you here?
5. What happened with you?
6. Are you feeling secure in this shelter home?
7. How did you escape from the killing?
8. Was it the decision of your family member or Tribal court to kill you?
9. Have you tried to approach legal court for justice?
10. If not, then why not?
11. What do you think about legal courts in your case?
12. What do you think about Tribal courts?
13. Is there someone in your community, who was willing to support you?
14. Is there someone else in your community, who had been killed as HK case?
15. Which is the most common factor behind HK in your community?
16. Do the people in your community kill women with any external pressure?
17. Who was/were involved in your case?
18. What is needed for change?
19. What you intend to do in future?

# Annex B

## Maps of Pakistan and Sindh

