

PAKISTAN

Honour killings of girls and women

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Cover photograph: Village women in Pakistan. © Dawn

Introduction

“The right to life of women in Pakistan is conditional on their obeying social norms and traditions.” Hina Jilani, lawyer and human rights activist



Samia Sarwar, aged 29, shot dead for seeking a divorce against her parents' wishes. Lahore, 6 April 1999.

Women in Pakistan live in fear. They face death by shooting, burning or killing with axes if they are deemed to have brought shame on the family. They are killed for supposed 'illicit' relationships, for marrying men of their choice, for divorcing abusive husbands. They are even murdered by their kin if they are raped as they are thereby deemed to have brought shame on their family. The truth of the suspicion does not matter -- merely the allegation is enough to bring dishonour on the family and therefore justifies the slaying.

The lives of millions of women in Pakistan are circumscribed by traditions which enforce extreme seclusion and submission to men. Male relatives virtually own them and punish contraventions of their proprietary control with violence. For the most part, women bear traditional male control over every aspect of their bodies, speech and behaviour with stoicism, as part of their fate, but exposure to media, the work of women's groups and a greater degree of mobility have seen the beginnings of

women's rights awareness seep into the secluded world of women. But if women begin to assert their rights, however tentatively, the response is harsh and immediate: the curve of honour killings has risen parallel to the rise in awareness of rights.

Every year hundreds of women are known to die as a result of honour killings. Many more cases go unreported and almost all go unpunished. The isolation and fear of women living under such threats are compounded by state indifference to and complicity in women's oppression. Police almost invariably take the man's side in honour killings or domestic murders, and rarely prosecute the killers. Even when the men are convicted, the judiciary ensures that they usually receive a light sentence, reinforcing the view that men can kill their female relatives with virtual impunity. Specific laws hamper redress as they discriminate against women.

The isolation of women is completed by the almost total absence of anywhere to hide. There are few women's shelters, and any woman attempting to travel on her own is a target for abuse by police, strangers or male relatives hunting for her. For some women suicide appears the only means of escape.

Abuses by private actors such as honour killings are crimes under the country's criminal laws. However, systematic failure by the state to prevent and to investigate them and to punish perpetrators leads to international responsibility of the state. The Government of Pakistan has taken no measures to end honour killings and to hold perpetrators to account. It has failed to train police and judges to be gender neutral and to amend discriminatory laws. It has ignored Article 5 of the Convention on the Elimination of All Forms of Discrimination against Women, which it ratified in 1996, which obliges states to "modify the social and cultural patterns of conduct of men and women" to eliminate prejudice and discriminatory traditions.

Some apologists claim that traditional practices as genuine manifestations of a community's culture may not be subjected to scrutiny from the perspective of rights contained in the Universal Declaration of Human Rights. Against this, the 1993 World Conference on Human Rights in the Vienna Declaration and Programme of Action stated: "All human rights are universal, indivisible and interdependent and interrelated" and asserted the duty of states "to promote all human rights and fundamental freedoms". The United Nations General Assembly in 1993 adopted the Declaration on the Elimination of Violence against Women which urges states not to "invoke custom, tradition or religious consideration to avoid their obligation" to eliminate discriminatory treatment of women.

While recognizing the importance of cultural diversity, Amnesty International stands resolutely in defence of the universality of human rights, particularly the most fundamental rights to life and freedom from torture and ill-treatment. The role of the state is to ensure the full protection of these rights, where necessary mediating 'tradition' through education and the law.

This report is the fourth in a series issued by Amnesty International on the rights of women in Pakistan; it is the first to look at abuses of women's rights by private actors.

Killings in the name of honour

Ghazala was set on fire by her brother in Joharabad, Punjab province, on 6 January 1999. According to reports, she was murdered because her family suspected she was having an 'illicit' relationship with a neighbour. Her burned and naked body reportedly lay unattended on the street for two hours as nobody wanted to have anything to do with it.

Ghazala was burned to death in the name of honour. Hundreds of other women and girls suffer a similar fate every year amid general public

support and little or no action by the authorities. In fact, there is every sign that the number of honour killings is on the rise as the perception of what constitutes honour -- and what damages it -- widens, and as more murders take on the guise of honour killings on the correct assumption that they are rarely punished.

Everyone has the right to life, liberty and security of the person.

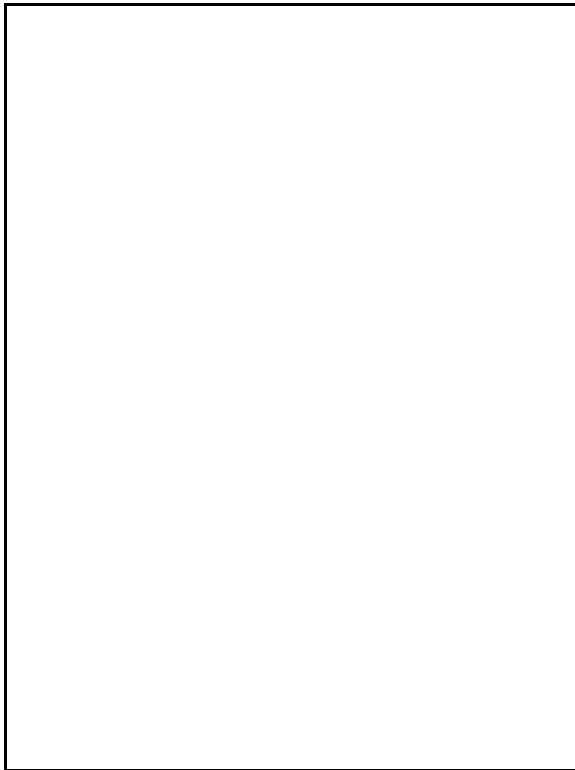
Universal Declaration of Human Rights, Article 3

Often, honour killings are carried out on the flimsiest of grounds, such as by a man who said he had dreamt that his wife had betrayed him. State institutions -- the law enforcement apparatus and the judiciary -- deal with these crimes against women with extraordinary leniency and the law provides many loopholes for murderers in the name of honour to kill without punishment. As a result, the tradition remains unbroken.

The methods of honour killings vary. In Sindh, a *kari* (literally a 'black woman') and a *karo* ('a black man') are hacked to pieces by axe and hatchets, often with the complicity of the community. In Punjab, the killings, usually by shooting, are more often based on individual decisions and carried out in private. In most cases, husbands, fathers or brothers of the woman concerned commit the killings. In some cases, *jirgas* (tribal councils) decide that the woman should be killed and send men to carry out the deed.

The victims range from pre-pubescent girls to grandmothers. They are usually killed on the mere allegation of having entered 'illicit' sexual relationships. They are never given an opportunity to give their version of the allegation as there is no point in doing so -- the allegation alone is enough to defile a man's honour and therefore enough to justify the killing of the woman.

According to the non-governmental Human Rights Commission of Pakistan (HRCP), 286 women were reported to have been killed for reasons of honour in 1998 in the Punjab alone. The Special Task Force for Sindh of the HRCP received



Village woman crying for her son who was killed as *karo*. Although both men and women have become victims of honour killings, more women are killed than men.
© Yousuf Nagori.

reports of 196 cases of *karo-kari* killings in Sindh in 1998, involving 255 deaths. The real number of such killings is vastly greater than those reported.

Pakistani women abroad do not escape the threat of honour killings. The Nottingham crown court in the United Kingdom in May 1999 sentenced a Pakistani woman and her grown-up son to life imprisonment for murdering the woman's daughter, Rukhsana Naz, a pregnant mother of two children. Rukhsana was perceived to have brought shame on the family by having a sexual relationship

outside marriage. Her brother reportedly strangled Rukhsana, while her mother held her down.

Two main factors contribute to violence against women: women's commodification and conceptions of honour. The concept of women as a commodity, not human beings endowed with dignity and rights equal to those of men, is deeply rooted in tribal culture. Dr Tahira Shahid Khan of Shirkatgah, a woman's resource centre worker, explains: "Women are considered the property of the males in their family irrespective of their class, ethnic or religious group. The owner of the property has the right to decide its fate. The concept of ownership has turned women into a commodity which can be exchanged, bought and sold..."¹

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards each other in a spirit of brotherhood.

Universal Declaration of Human Rights, Article 1

Ownership rights are at stake when women are to be married, almost always in Pakistan by their parents. A major consideration is the property or assets that the young woman has a right to inherit one day. A woman is handed over to her spouse against payment of a bride price to her father; sometimes that bride price includes another woman given to the father as a new wife. Some men accept a low bride price on condition that the as yet unborn daughter of the couple will be returned to them to be married off for another bride price. The commodification of women is also the basis of the tradition of *khoon baha* (blood money) when a woman is handed over to an adversary to settle a conflict.

¹Tahira Shahid Khan: "Chained to custom" in: *The Review*, 4-10 March 1999, p.9.

Women are seen to embody the honour of the men to whom they 'belong', as such they must guard their virginity and chastity. By being perceived to enter an 'illicit' sexual relationship, a woman defiles the honour of her guardian and his family. She becomes *kari* and forfeits the right to life.

In most communities there is no other punishment for a *kari* but death. A man's ability to protect his honour is judged by his family and neighbours. He must publicly demonstrate his power to safeguard his honour by killing those who damaged it and thereby restore it. Honour killings consequently are often performed openly.

The perception of what defiles honour has become very loose. Male control extends not just to a woman's body and her sexual behaviour, but to all of her behaviour, including her movements and language. In any of these areas, defiance by women translates into undermining male honour. Severe punishments are reported for bringing food late, for answering back, for undertaking forbidden family visits. Standards of honour and chastity are not applied equally to men and women, even though they are supposed to. Surveys conducted in the North West Frontier Province and in Balochistan found that men often go unpunished for 'illicit' relationships whereas women are killed on the merest rumour of 'impropriety'.

A man's honour, defiled by a woman's alleged or real sexual misdemeanour or other defiance, is only partly restored by killing her. He also has to kill the man allegedly involved. Since a *kari* is murdered first, the *karo* often hears about it and flees.

To settle the issue, a *faislo* (agreement, meeting) or *jirga* is set up if both sides - the man whose honour is defiled and the escaped *karo* - agree; it is attended by representatives of both sides and



Village woman with child. © Yousef Nagori

headed by the local tribal chief (*sardar*), his subordinate or a local landlord. The tribal justice dispensed by the *jirga* or *faislo* is not intended to elicit truth and punish the culprit. Justice means restoring the balance by compensation for damage. The *karo* who gets away has to pay compensation in order for his life to be spared. Compensation can be in the form of money or the transfer of a woman or both.

Official claims that women's rights are not understood in backward rural areas ignore the fact that there are many urban honour killings and considerable support for them among the educated. For example, Samia Sarwar's mother, a doctor, facilitated the honour killing of her daughter in Lahore in April 1999 when Samia sought divorce from an abusive husband (see below). Shahtaj Qisalbash, a witness during the killing, reported that Samia's mother was "cool and collected during the

getaway, walking away from the murder of her daughter as though the woman slumped in her own blood was a stranger."

The frequency of *karo-kari* killings and the unexpectedness with which women are targeted contributes to an atmosphere of fear among young women. The poet Attiya Dawood quoted a pubescent girl in a small Sindhi village: "My brother's eyes forever follow me. My father's gaze guards me all the time, stern, angry... We stand accused and condemned to be declared *kari* and murdered."²

International support for women fleeing abroad when they fear for their lives from their families' death threats has been hesitant. The threat to the lives of women who refuse to accept their fathers' decision relating to their marriages has only recently been recognized as grounds for granting asylum to such women.³

Honour killings for choosing a marriage partner

Expressing a desire to choose a spouse and marrying a partner of one's choice are seen as major acts of defiance in a society where most marriages are arranged by fathers. They are seen to damage the honour of the man who negotiates the marriage and who can expect a bride price in return for handing her over to a spouse.

Frequently fathers bring charges of *zina* (unlawful sexual relations) against daughters who have married men of their choice, alleging that they are not validly married. But even when such complaints are before the courts, some men resort

to private justice. According to local press reports, Sher Bano, for example, was murdered outside a court in Peshawar. She had earlier eloped with a man she wanted to marry but was arrested on charges of *zina*. On 6 August 1997, when she emerged under police guard from the court room after submitting her bail application, her brother shot her dead.

Women who are disowned by a family over a marriage are cut loose from their social moorings and become vulnerable to exploitation. R. [name withheld] told Amnesty International that at the age of 15 or 16 she married a man from another tribe against her family's wishes. Three years later her husband verbally divorced her. Her family had threatened to kill her for marrying a man of her choice, so she had nowhere to go. She took up begging. Eight years later she married another man but one day was recognized by her first husband who wanted her to work for him as a beggar. He threatened to bring charges of *zina* against her for living with another man as he denied having divorced her. She was arrested by police. The local *wadera* (landlord) intervened and had her brought before a magistrate who sent her to the Hyderabad *Darul Aman*, a government-run women's shelter. She does not know what will happen to her next.

- (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- (2) Marriage shall be entered into only with the free and full consent of the intending spouses.
- (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Universal Declaration of Human Rights, Article 16

²Attiya Dawood, "Karo-kari: A question of honour, but whose honour?", in: *Feminista*, 2 (3/4), April 1999.

³See a recent Canadian decision: CRDD M97-06821et al., Michnick, Arvanitakis, July 14, 1998.

Satta-watta marriages, which involve exchange of siblings, put an additional burden on women to abide by their father's marriage arrangements. Shaheen was allegedly set on fire by her husband Anwar in Gujjarpura in December 1998 in a *satta-*

watta context. Their marriage had run into trouble. Anwar wanted to send Shaheen back to her parents, Shaheen's brother, married to Anwar's sister, refused to send his wife home as well. Anwar found no other way to remove his shame than to kill his wife.⁴

Often women choosing a spouse are abducted and not heard of again. At the time of writing this report, the whereabouts of Uzma Talpur who had married Nasir Rajput against her father's wishes in November 1998 were unknown. Police arrested the couple in November on the charge of Nasir Rajput's abduction of Uzma and charges of *zina* [fornication] against both partners despite their being validly married. In December, police handed the young woman over to her family but when her husband filed a constitutional petition in the Sindh High Court for the release of his wife from parental custody, they claimed that she had been abducted by unknown men from the court premises. In June 1999, police stated before the High Court that such an abduction had not taken place. The High Court ordered a general search for her.

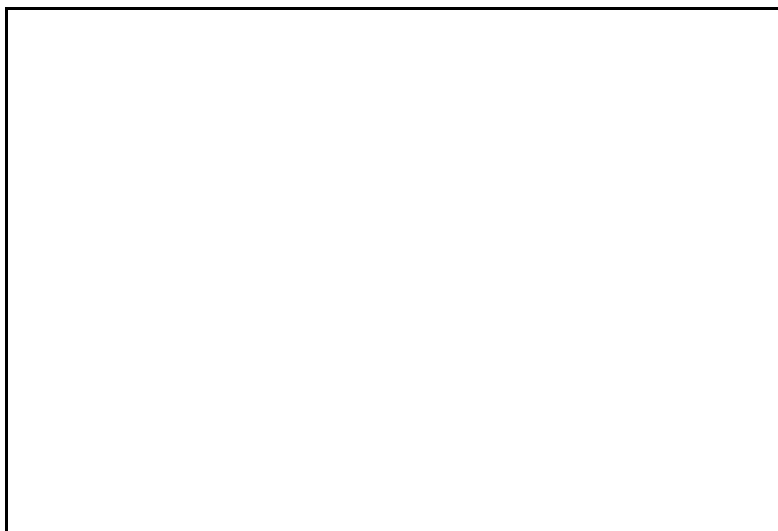
Honour killings of women seeking divorce

Women who have sought divorce through the courts have been attacked, injured or killed. Seeking divorce is seen as an act of public defiance that calls for punitive action to restore male honour within the traditional setting.

On 6 April 1999, 29-year-old Samia Sarwar, a mother of two young sons, was shot dead in her lawyer's office in Lahore. She was murdered

apparently because her mother and her husband's mother are sisters and Samia's attempt to divorce a husband she described to her lawyer as severely abusive, was seen to shame the family. In the 10 years of her marriage, Samia had suffered high levels of domestic violence. In 1995 she returned to her family home after her husband had thrown her down some stairs when she was pregnant.

Samia fled to Lahore on 26 March 1999, seeking help in the law firm AGHS and taking refuge in the



Female activists from various NGOs offer funeral prayers for Samia Sarwar, who was murdered on 6 April for seeking a divorce against her parents' wishes. © Reuters

women's shelter *Dastak* run by AGHS lawyers. The lawyers included Hina Jilani and Asma Jahangir, who is currently UN Special Rapporteur on extrajudicial, arbitrary and summary executions and then chairperson of the HRCP. On 6 April, when Samia Sarwar was at her lawyer's office, Samia's mother arrived accompanied by Samia's uncle and a driver. The driver shot Samia in the head, killing her instantly.

The fact that the killing was carried out in the presence of well-known lawyers indicates that the perpetrators were convinced they were doing the right thing, were not afraid of publicity and felt no need to hide their identity as they felt sure that the

⁴*Dawn*, 16 December 1998

state would not hold them to account. They were right. Despite a First Information Report (FIR, the report filed by the complainants with police which initiates a police investigation) filed the same day, nominating Samia's father, mother and uncle for murder, no one has yet been arrested.

Newspapers in the North West Frontier Province reported that the public overwhelmingly supported the killing, with many arguing that since it was in accordance with tradition it could not be a crime. The Chamber of Commerce in Peshawar, of which Samia's father is President, and several religious organizations demanded that Hina Jilani and Asma Jahangir be dealt with in accordance with "tribal and Islamic law" and be arrested for "misleading women in Pakistan and contributing to the country's bad image abroad". *Fatwas* [religious rulings] were issued against both women and head money was promised to anyone who killed them. In April 1999 Asma Jahangir lodged a FIR with police against those who had threatened her and her sister with death. Simultaneously, she called on the government to set up a judicial inquiry headed by a Supreme Court judge to investigate almost 300 cases of honour killings reported in 1998 in Pakistan. No action is known to have been taken on either issue.

On 11 May, Samia's father lodged a complaint with Peshawar police accusing the two women lawyers with the abduction and murder of Samia. They obtained bail before arrest. A month later, the Peshawar High Court admitted their petition to quash the case and ordered police not to take any adverse action against the lawyers on the basis on this complaint.

Honour killings for rape

For a woman to be targeted for killing in the name of honour, her consent -- or the lack of consent -- in an action considered shameful is irrelevant to the guardians of honour. Consequently, a woman brings shame on her family if she is raped.

In March 1999 a 16-year-old mentally retarded girl, Lal Jamilla Mandokhel, was reportedly raped several times by a junior clerk of the local government department of agriculture in a hotel in Parachinar, North West Frontier Province. The girl's uncle filed a complaint about the incident with police who took the accused into protective custody but handed over the girl to her tribe, the Mazuzai in the Kurram Agency. A *jirga* of Pathan tribesmen decided that she had brought shame to her tribe and that the honour could only be restored by her death. She was shot dead in front of a tribal gathering.

Nafisa Shah reports that women who expose rape and thereby dishonour their men are particularly vulnerable. Arbab Khatoon, raped by three men in a village in Jacobabad district, reportedly lodged a complaint with police. She was murdered seven hours later. According to local residents, she was killed by her relatives for bringing dishonour to the family by going to the police.⁵

Fake honour killings

In honour killings, if only the *kari* is killed and the *karo* escapes, as is often the case, the *karo* has to compensate the affected man -- for the damage to honour he inflicted, for the woman's worth who was killed and to have his own life spared.

This scheme provides many opportunities to make money, obtain a woman in compensation or to conceal other crimes, in the near certainty that honour killings if they come to court will be dealt with leniently. Nafisa Shah speaks of an "honour killing industry" involving tribes people, police and tribal mediators.

In November 1997 Mussarrat Bibi, a mother of three children, pregnant and married for 11 years,

⁵Nafisa Shah: *A story in black: Karo-kari killings in upper Sindh*, Reuter Foundation Paper 100, Oxford, 1998, p. 56.

was beaten to death by frenzied villagers in Chehel Khurd near Qilla Deedar Singh in Sheikupura district after rumours of her immoral behaviour spread. Inquiries revealed that the real reason for her death was that she had refused to work for the local landlords without payment. Two people were reported to have been detained briefly.

Reports abound about men who have killed other men in murders not connected with honour issues who then kill a woman of their own family as alleged *kari* to camouflage the initial murder as an honour killing.

The lure of compensation has in some cases led to publicly known distortions of truth. In Ghotki, a man reportedly vouched for his wife's innocence after she had been attacked by his brother who alleged that she was guilty of an 'illicit' relationship. The husband took her to Karachi for treatment but when told that she would be permanently paralysed from the waist down, he reneged, declared her a *kari* and took a woman in compensation from the supposed *karo*'s family.

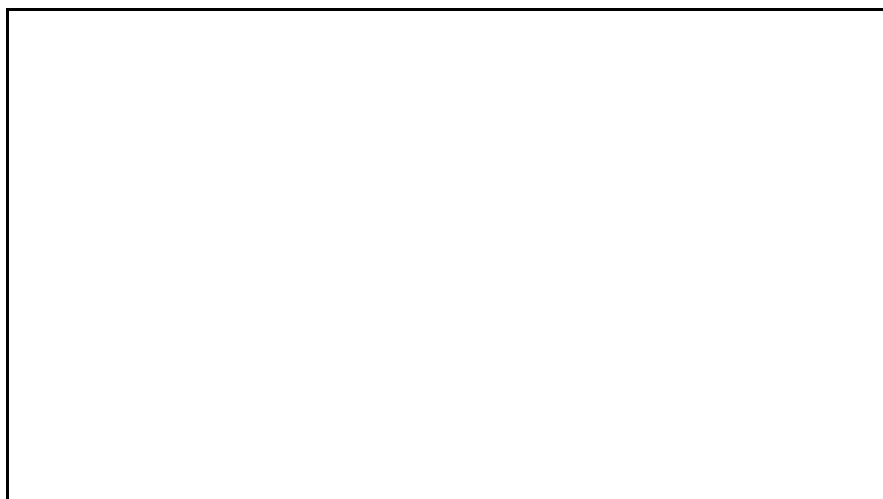
The fact that women are often given in compensation when illicit relations are alleged has led to further perversions of the honour system. If a woman refuses to marry a man, he may

declare a man of her family a *karo* and demand her in compensation for not killing him. In some cases, he may even kill a woman of his own family to lend weight to the allegation. Attiya Dawood cited an incident in Moorath village, related to her by the sister of the alleged *karo*. Her brother Amanullah had married a woman who had earlier

been fond of her cousin Nazir, a married man with eight children. Unable to obtain her family's consent to marry her, Nazir murdered Amanullah, then killed his own innocent sister and declared both *karo* and *kari*. After a brief prison term, he was given Amanullah's wife, now a widow, in compensation for the supposed infringement of his honour.

Punitive domestic violence against women

Honour killings are but an extreme form of violence against women. Domestic violence is also frequently intended to punish a woman for any perceived insubordination supposedly impacting on male honour. Sabira Khan, for example, who was married at 16 to a man more than twice her age, was shortly after her wedding in 1991 told by her



Victim of domestic violence at the *Darul Aman* in Hyderabad, February 1999. © AI

husband that she must never see her family again. When in December 1993 she tried to break this rule, she said that he and his mother poured kerosene over her and set her on fire. She was three months pregnant. Despite 60 per cent burns she survived, badly scarred. She has fought since then to bring charges against the perpetrators -- so

far in vain. The magistrate in Jhelum upheld her husband's argument that Sabira was insane and had set herself on fire. An appeal is pending in the Rawalpindi High Court bench.

Shahnaz Bokhari of the Progressive Women's Association in Islamabad says that since March 1994, when the organization was set up, it has monitored 1,600 cases of women burned in their homes in Rawalpindi and Islamabad alone. These are only the reported cases.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Universal Declaration of Human Rights, Article 5

HRCP's 1998 annual report states bluntly: "Woman's subordination remained so routine by custom and traditions, and even putatively by religion, that much of the endemic domestic violence against her was considered normal behaviour... A sample survey showed 82 per cent of women in rural Punjab feared violence resulting from husbands' displeasure over minor matters; in the most developed urban areas 52 per cent admitted being beaten by husbands."⁶

Few places to hide

Girls and women who fear punishment for alleged breaches of traditional norms of honour have few places to hide. They rarely know their way about in the world outside the home, they are unused to public transport, usually have no money and are vulnerable to further abuse if moving around alone. The high proportion of *karis* killed in relation to *karos* also reflects this sheer inability of women to move in the outside world. Many of the women who run are caught and killed.

All are equal before the law and entitled without any discrimination to equal protection of law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Universal Declaration of Human Rights, Article 7

One of the few places where a *kari* is safe is in the home of a tribal *sardar*, a *pir* (holy man) or in a religious shrine. Here women can obtain protection against murder. However, they are still expected to abide by strict social roles. In many cases, women remain for years as unpaid servants in the house of the *sardars* and are sometimes abused.

A few women reach state-run or private shelters of which there are simply too few. These women often seek to pursue their rights through legal channels -- but may not be aware that by approaching the state system they block their return to their communities. Such shelters have recently become targets of attacks.

Unable to escape violence or forced marriage, some women resort to suicide. Police have not paid attention to family members or the community abetting such suicides. No official figures of women's suicides exist and many women are quietly buried to cover up the possible damage to the family's honour. Occasionally, however, such cases come to light. On 29 March 1999 an 18-year-old college girl, Qaisrana Bibi, committed suicide in Khanpur when her parents put pressure on her to marry a man she did not want. She lay across a rail track and was crushed by a train.

Honour killings and the state

The international understanding of state responsibility for human rights violations has significantly widened in recent years to include not only violations of human rights by state agents but also abuses by private actors which the state ignores. If the state fails to act with due diligence

⁶*The State of Human Rights in 1998, 1999*, p.216 and p.10.

to prevent, investigate and punish abuses, including violence against women in the name of honour, it is responsible under international human rights law. This view of state responsibility is established in all the core human rights treaties. The Declaration on the Elimination of Violence against Women, adopted by the UN General Assembly in 1993 affirmed that states must “exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons”.

The Government of Pakistan has failed to take measures to prevent and end honour killings. It has not sought to eradicate traditions which prescribe honour killings nor ended the virtual impunity of perpetrators of such killings. Discriminatory laws making full redress difficult persist. Police and the judiciary have applied the law in a biased manner as a result of which perpetrators have not been held to account for honour killings and the practice has been perpetuated.

Government indifference to honour killings

The Government of Pakistan has not shown any determination to bring violence against women on grounds of honour to a halt, thus virtually signalling official indifference if not approval of the system.

Government inaction received more public exposure after the honour killing of Samia Sarwar in Hina Jilani’s office in April 1999. A representative of the government condemned the killing before the UN Human Right Commission in Geneva. But in Pakistan, where attitudes need to be changed, the government three weeks after the killing declared it a ‘dishonourable’ act without ensuring that adequate action would be taken. The accused have not been arrested and no action has been taken against those who issued death threats against Asma Jahangir and Hina Jilani for protecting women’s rights.

The government’s disregard for its obligations to take measures to alter public perceptions involving gender bias, to which it committed itself when ratifying the UN Convention on the Elimination on All Forms of Discrimination against Women, is partly responsible for the persistence and indeed increase of honour killings. When the 1998 annual report of the HRCP was released in March 1999, Information Minister Mushahid Hussain reportedly said about allegations of violence against women and of child labour: “These are a feature of Pakistan feudal society, they are not part of any government policy or a consequence of any law...”⁷

State Parties shall take all appropriate measures:
 (a) *To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.*

Convention on the Elimination of All Forms of Discrimination against Women, Article 5

The present government has taken no effective steps to change gender bias in Pakistan with a view to ensuring equality to all citizens. The comprehensive recommendations made by the Commission of Inquiry for Women set up on the direction of the Senate of Pakistan have not been implemented. As long as such inaction goes on, honour killings and other violent abuse of women will continue.

Gender bias in law

The status of women in Pakistan has been described as defined by the “interplay of tribal codes, Islamic law, Indo-British judicial traditions and customary traditions ... [which have] created an atmosphere of oppression around women, where any advantage or opportunity offered to

⁷Reuter, 10 March 1999.

women by one law is cancelled out by one or more of the others".⁸ Traditional norms, Islamic provisions (as interpreted in Pakistan) and statutory law diverge in many areas relevant to women's lives, including control of assets, inheritance, marriage, divorce, sexual relations, rape and custody. The Government of Pakistan has failed to ensure that women are aware of their legal and constitutional rights and to ensure that these rights and freedoms take precedence over norms which deny women equality. The lives of women who are by and large confined to the private sphere do not benefit from constitutionally secured fundamental rights.

Among statutory laws, it is particularly two laws which disadvantage women in Pakistan, both introduced in the name of the Islamisation of law. The 1990 law of Qisas and Diyat covers offences relating to physical injury, manslaughter and murder. The law reconceptualized the offences in such a way that they are not directed against the legal order of the state but against the victim. A judge in the Supreme Court explained: "In Islam, the individual victim or his heirs retain from the beginning to the end entire control over the matter including the crime and the criminal. They may not report it, they may not prosecute the offender. They may abandon prosecution of their free will. They may pardon the criminal at any stage before the execution of the sentence. They may accept monetary or other compensation to purge the crime and the criminal. They may compromise. They may accept *qisas* [punishment equal to the offence] from the criminal. The state cannot impede but must do its best to assist them in achieving their object and in appropriately exercising their rights."⁹

This reconceptualization of offences has sent the signal that murders of family members are a family affair and that prosecution and judicial redress are not inevitable but may be negotiated.

The law of Qisas and Diyat prescribes that the death penalty may not be imposed for murder as either *qisas* [punishment equal to the offence committed] or *tazir* [discretionary punishment, when the evidence is insufficient to impose *qisas*] when the *wali* [heir] of the victim is a direct descendant of the offender. In such cases the court may only impose a maximum of 14 years' imprisonment. Thus, if a man murders his wife with whom he has a child, who then is the victim's heir and the descendent of the offender, he can at most be sentenced to 14 years' imprisonment.

Men who have killed their wives or daughters for bringing shame on them could also in the past find relief under the provision of "grave and sudden provocation". Section 300(1) of the Pakistan Penal Code (PPC) read: "Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation..." The punishment for manslaughter is imprisonment, for murder it is death.

⁸Simi Kamal, Asma Khan: *A study of the interplay of formal and customary laws on women*, vol.I, 1997, p.ii.

⁹*Federation of Pakistan through Sec. Min. of Law vs. S. Gul Hassan Khan*, PLD 1989 SC 633

In its interpretation by the courts, the law provided men who have killed their wives or daughters for allegedly bringing shame on them with mitigating circumstances not available to women. Courts opined that if the provocation - to a man's honour - is grave and sudden as when someone tells him that his wife has an 'illicit' relationship, he loses all power of self-control and is not fully responsible for his actions.

This provision was omitted when the Qisas and Diyat law was introduced in 1990 but judicial practice still allows such mitigating circumstances (see below).



Human rights activists, protesting against government inaction in bringing the killers of Samia Sarwar to justice, are prevented from entering the Punjab Secretariat. © Private (AI use)

(1) State Parties shall accord to women equality with men before the law.

Convention on the Elimination of All Forms of Discrimination against Women, Article 15

The 1979 Zina law has also contributed to restricting women's rights.¹⁰ The gender discrimination inherent in it sent an affirmative signal to those intent on treating women as second class human beings with fewer rights than men. It has also provided a handy tool with which to detain women who take any initiative with respect to their choice of a spouse, as fathers often bring *zina* charges against such women.

Gender bias of the police force

Often police act or allow themselves to be used as guardians of tradition and morality rather than impartial enforcers of the law. Frequently, fathers use police to recover or unlawfully arrest and

detain their adult daughters who have married men of their choice. Despite numerous judgments asserting that adult women have the right to marry without their male guardians' consent, police continue to register complaints of abduction and *zina* against women making use of this right, even though police could easily ascertain if couples were married and thus not guilty of either abduction or *zina*.

When women are seriously injured by their husbands or families, police still discourage them from registering complaints and advise them to seek reconciliation with their husbands or families. In *karo-kari* cases, when husbands appear in police stations declaring that they have killed a girl or woman of their family, police often fail to take action, reflecting their unwillingness to enforce the law over custom.

Financial corruption also seems to contribute to police inaction before such crimes. Nafisa Shah quotes villagers in Kashmore as saying around 1993: "The police in Kashmore charge 7,000 Rupees to keep silent about *karo-kari* murders...

¹⁰For a detailed discussion see: *Women in Pakistan: Disadvantaged and denied their rights*, AI Index: ASA 33/23/95.

They never record cases and so we have a zero per cent crime rate". She reports that "police stations in Jacobabad district are considered goldmines in police circles because of the high incidence of *karo-kari* murders there. A conservative estimate puts the number of *karo-kari* murders in Jacobabad at between 55 and 60 a month." Given the lucrative aspect of honour killings, police are not interested in ending the practice.

Police also appear to cover up fake honour killings. A housewife, Khadeja, and a bank officer were shot dead on 19 January 1999 in Jampur city, Rajanpur district in southern Punjab by Khadeja's husband, Ameer Bukhsh. He then turned himself in, acknowledging the killings and alleging the victims' illicit relationship. Khadeja's brother, Abdul Qadir, registered a complaint of murder against Ameer Bukhsh. Six days later, Abdul Qadir received a copy of the FIR which he said had distorted his complaint. He reported that police threatened to involve him in a murder case if he did not sign a false statement. Abdul Qadir alleged that Ameer Bukhsh had killed the bank officer for some other reason before killing his wife as a cover up and that he had bribed police to distort the complaint.

Everyone has the right to an effective remedy by the competent national tribunal for acts violating the fundamental rights granted him by the constitution or by law.

Universal Declaration of Human Rights, Article 8

Similarly, burn cases are rarely investigated by police. Of the 183 women reported to have died of burn injuries allegedly caused in cooking accidents in Lahore in 1998, only 21 complaints were registered with police and only three people finally arrested, despite a High Court ruling three years earlier that all burn cases be investigated fully by police. The HRC report added that at least 70 of the victims were not even cooking when the supposed accident took place.

Gender bias of judges

Pakistan's judges, particularly at the lower level of the judiciary, tend to reinforce discriminatory customary norms rather than securing constitutionally secured gender equality. For example, women recovered after alleged abductions and women whose marriage to men of their choice was challenged by their fathers are usually placed in the custody of state-run institutions until the courts have decided the issue -- and are treated by the court as "crime property". "Courts have been known to refuse issuance of the writ of *habeas corpus* seeking the liberty of a woman on the grounds that her right to liberty is subject to conformity to social norms, and any suspicion that she may not abide by the standards of morality can disentitle her from receiving relief in equity."¹¹

Parts of the judiciary appear convinced that any interference in the patriarchal structure of society will disrupt society and that it is its duty to guard against such upheaval. However, this attitude ignores that the existing structure of society perpetuates a discrimination on gender grounds which deprives one half of the population of basic rights.

In dealing with honour killings, the courts have usually accepted the mitigation contained in section 300(1) of the Pakistan Penal Code (before its removal in 1990), despite the fact that such killings are usually premeditated, not committed under sudden and severe provocation. Moreover, they continue to place a low threshold on what constitutes provocation.

In some cases, courts have found extenuating circumstances even when the murderer did not claim to have been suddenly and severely

¹¹Hina Jilani, *Human rights and democratic development in Pakistan*, Lahore, 1998, p.143-144.

provoked. Muhammad Younis killed his wife, alleging that he had caught her committing adultery. Although all the circumstances, including medical evidence, spoke against this assertion, the court accepted mitigating circumstances: "The appellant had two children from his deceased wife and when he took the extreme step of taking her life giving her repeated knife blows on different parts of her body, she must have done something unusual to enrage him to that extent."¹²

After 1990, which saw the formal removal of the right to plead mitigating circumstances, the courts have gradually reintroduced this provision in their interpretation of the law and sentenced men charged with crimes of honour to lighter sentences than for similar acts of violence not involving honour.

The Lahore High Court in 1994, while hearing the bail application of Liaqat Ali who had gravely injured his sister and stabbed to death a man he allegedly found with her, was told by the petitioner's counsel that in an Islamic society a person found to indulge in *zina* in public deserved to be "finished" there and then. Indeed, such murder was more of a religious duty than an offence. The judge is reported to have said: "Prima facie, I am inclined to agree with the counsel."

Marriages contracted by women against the wishes of their fathers are perceived by many courts to impact on the father's honour and to justify a man losing control and killing the offender. Mohammad Riaz and Mohammad Feroze were sentenced to life imprisonment for killing their sister who had married a man of her choice. The Lahore High Court reduced the sentence to the imprisonment already undergone -- 18 months -- saying that "in our society nobody forgives a

person who marries his sister or daughter without the consent of parents or near relatives."¹³

State Parties shall....undertake:

....

(c) to establish legal protection of the rights women on an equal basis with men to ensure through competent national tribunal and other public institutions the effective protection of women against any sort of discrimination;

.....

Convention on the Elimination of All Forms of Discrimination against Women, Article 2

Amnesty International believes that penal sanctions commensurate with the gravity of the offence should apply to honour crimes. However, it opposes unconditionally the imposition of the death penalty, which it regards as a violation of the right to life and the ultimate cruel, inhuman and degrading punishment. Accordingly, Amnesty International does not think that men murdering female relatives should be sentenced to death but welcomes all commutations of death sentences. At the same time, it is concerned at the message the judiciary sends when it treats such murders as less serious than other murders. The acceptance of family honour as a mitigating circumstance by judges in Pakistan leading to reduced sentencing of perpetrator of honour killings is by many observers in Pakistan seen to contribute to an increase of such crimes.

¹²*Muhammad Younis vs. the State*, 1989 Pcr LJ 1747.

¹³*Mohammad Riaz and Mohammad Feroze vs. the State*, Lahore High Court, 1998.

Amnesty International's recommendations to the Government of Pakistan

Amnesty International calls on the Government of Pakistan to take urgent measures in the following three areas in fulfilment of its obligation to provide effective protection to women against violence perpetrated in the name of honour and to end the impunity currently enjoyed by its perpetrators.

1. Legal measures

- Undertake a review of criminal laws to ensure equal protection of law to women.
- Adopt legislation which makes domestic violence in all its manifestations a criminal offence. The UN Special Rapporteur on violence against women developed a framework for model legislation on domestic violence¹⁴ which Amnesty International recommends be used when drafting legislation against such crimes.
- Make the sale of women and girls, the giving of women in marriage against financial consideration and as a form of compensation in lieu of a fine or imprisonment a criminal offence.
- Provide women victims of violence with access to the mechanisms of justice and to just and effective remedies for the harm they have suffered.
- Ensure that the provincial home departments, commissioners, deputy commissioners and senior police staff take notice of all reports of honour killings and ensure that every single case is investigated and brought to prosecution.

- Abolish the death penalty and commute all death sentences.

2. Preventive measures

- Undertake wide-ranging public awareness programs through the media, the education system and public announcements to inform both men and women of women's equal rights.
- In particular, provide gender-sensitization training to law enforcement and judicial personnel to enable them to impartially address complaints of violence in the name of honour.
- Ensure that data and statistics are collected in a manner that makes the problem visible.

3. Protective measures

- Ensure that activists, lawyers and women's groups can pursue their legitimate activities without harassment or fear for their safety by providing adequate police protection and pursue all such threats with a view to punishment.
- Expand victim support services provided by the state or non-governmental organizations; they should be run as places of voluntary recourse for women and their purpose should be only protective; they should be available all over the country, adequately resourced, and linked to legal aid, vocational training and with adequate provisions for children.

¹⁴E/CN.4/1996/53/Add.2