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**A STUDY ON HONOUR KILLINGS IN PAKISTAN AND  
RECOMMENDATORY CHECKS THROUGH LAW**

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**From:  
THE OFFICE OF THE CHAIRMAN  
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## INTRODUCTION:

Honour killing defined by UNICEF;

*“An ancient practice in which men kill female relatives in the name of family ‘honour’ for forced or suspected sexual activity outside marriage, even when they are the victims of rape.”*

However, the word honour is not gender specific in itself and has a neutral dictionary meaning. Honour killing is defined under **Section. 299 of Pakistan Penal Code, 1860** as

*“Offence committed in the name or on the pretext of honour means an offence committed in the name or on the pretext of karo kari, siyah kari or similar other customs or practices”.*<sup>1</sup>

Cases of honor killing in Pakistan are on the rise. According to The Human Rights Commission of Pakistan approximately 15222 cases of Honour Killing took place from 2004-2016.<sup>2</sup> In 2014, the number was 837 women including 75 minor.<sup>3</sup>

Honour killing is not specific to Pakistan and historically honour killings have been known since ancient Roman times, when the *pater familias*, or senior male within a household, retained the right to kill an unmarried but sexually active daughter or an adulterous wife.<sup>4</sup> Honour-based crimes were

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<sup>1</sup> Inserted by Cr. Law Amendment Act 2004 (Act I, 2005). PLJ 2005 Fed. St. 207

<sup>2</sup> Media monitoring of human rights violations and concerns in Pakistan, HRCP, <http://hrcpmonitor.org/>

<sup>3</sup> <http://hrcp-web.org/hrcpweb/wp-content/uploads/2015/09/killings-2014.pdf>

<sup>4</sup> Matthew A. Goldstein, "The biological roots of heat-of-passion crimes and honour killings," *Politics and the Life Sciences* 21,2 (2002): 28-37.

known in medieval Europe where early Jewish law mandated death by stoning for an adulterous wife and her partner.<sup>5</sup> An example from Britain can be Catherine Howard the fifth wife of Henry VIII who was beheaded based on allegations of adultery.

*“Honour killings can also be described as extra-judicial punishment of a female relative for assumed sexual and marriage offences. These offences, which are considered as a misdeed or insult, include sexual faithlessness, marrying without the will of parents or having a relationship that the family considers to be inappropriate and rebelling against the tribal and social matrimonial customs. These acts of killing women are justified on the basis that the offence has brought dishonour and shame to family or tribe”.*<sup>6</sup>

In Pakistan Honour killing is known by the Urdu word ‘Karo Kari’ which means a ‘black male’ and a ‘black female’. Honour killing was being practiced in the sub-continent in the form of ‘Sati’ whereby a widow would voluntarily burn herself to death at the time of death of her husband. The same custom was abolished with the arrival of British and a general ban for the whole of India was issued by Queen Victoria in 1861. The Indian Sati Prevention Act from 1988 further criminalised any type of aiding, abetting, and glorifying of *sati*.

The major cause of this heinous and deep rooted custom is to protect the integrity of the family and restore the honour of the family under the influence of stern tribal laws and religious misinterpretations. The motive

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<sup>5</sup> James A. Brundage, *Law, Sex and Christian Society in Medieval Europe*, Chicago: University of Chicago Press, 1987, 55.

<sup>6</sup> Pakistan: Honour killings of women and girls, Amnesty International Report, September 1999

behind most of the reported Honour killing cases are premarital or extramarital sex. Women have most of the times been killed on the mere suspicion of having an affair.

Mr. Saad Rasool, Advocate in his article, "The Qandeel brand of Honour" stated that:

*"To live freely, especially for women, continues to be a crime in this society, where neither the law, nor the people, nor a tainted interpretation of Divine decree, allows or protects this primordial gift of humanity."*<sup>7</sup>

#### **ANALYSIS OF LAW ON HONOUR KILLING IN PRE-PARTITION ERA:**

In the pre-partition era the cases of Honour Killing were tried under Section 300 of Indian Penal Code 1860 devised by the British, however, the same Section and Section 304(I) provided for a partial defence of "grave and sudden provocation" to a husband who had killed an adulterous wife, converting the charge of murder into manslaughter. Sections 300 and 304(1) are reproduced as under:

#### **Section 300 of Indian Penal Code, 1860 defined murder as"**

*"Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death....."*

However, definition of murder was subject to the following Exception 1 which provided a defence for sudden provocation:

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<sup>7</sup> The Nation: "The Qandeel brand of Honour", Saad Rasool Advocate  
<http://nation.com.pk/columns/17-Jul-2016/the-qandeel-brand-of-honour>

*'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 or Causes the death of and other person by mistake or accident",*

**The old section 304 provided:**

*"Whoever commits culpable homicide not amounting to murder, shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death; or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death or by causing such bodily injury as is likely to cause death".*

The applicability of the above-said sections can be seen in the case of **Emperor vs Dinbandhu Ooriya (AIR 1930 Cal 199), Calcutta High Court held that:**

*"It is well established law that if a husband discovers his wife in the act of adultery and thereupon kills her he is guilty of manslaughter only and not of murder.*

**[Paragraph 13]**

**PAKISTAN PENAL CODE**

The same Penal Code was adopted by Pakistan after partition with the said provisions and such provisions were used from time to time by the Courts to award reduced sentences even in cases regarding 'Honour Killing'.

**In Muhammad Saleh versus The State (PLD 1965 SC 366)**, Accused was convicted of murder under Section 300 of Old Penal Code. The facts of the case are that accused woke up late at night and could not find her sister in her cot, he went outside with a hatchet where he found his sister with her paramour in the wheat fields having sexual intercourse. He killed both of them with the hatchet. Mr. Chief Justice Cornelius held that:

*"The taking of a hatchet can be explained by the fact that it was still dark, that is, for self-protection, and it may be the accused expected to have to chastise his sister for mis-behaviour if that was found. But upon the admissible evidence in this case, there is no ground for thinking that the appellant expected to find his sister in an act of intimacy with a stranger. He must be allowed, on the evidence, the benefit of a shock, on making the discovery, such as is fully recognised in law as furnishing grave and sudden provocation within the meaning of Exception I to section 300, P. P. C., sufficient to cause loss of self control."*

It is pertinent to mention here that the Shariat Bench of Honourable Supreme Court of Pakistan in case titled as **Federation of Pakistan v Gul Hassan Khan** cited as **PLD 1989 SC 633** declared Sections 299 to 338 of the Pakistan Penal Code repugnant to the injunctions of Islam. In particular, the court noted that these sections do not provide for retaliation, monetary

compensation, compromise, and pardon, as called for in the Qur'an and Sunnah.

Section 302, was inserted in the Penal Code to account for the omission of the earlier sections which reads as follows;

*302. Punishment of qatl-e-amd:*

*Whoever commits qatl-e-amd shall, subject to the provisions of this Chapter be:*

*(a) punished with death as qisas;*

*(b) punished with death or imprisonment for life as ta'zir having regard to the facts and circumstances of the case, if the proof in either of the forms specified in Section 304 is not available; or*

*(c) punished with imprisonment of either description for a term which may extend to twenty-five years, where according to the injunctions of Islam the punishment of qisas is not applicable.*

In the light of the judgment in Gul Hassan Case (Supra), Legislature abolished the exception of Section 300 which provided for a defence on the basis of grave and sudden provocation and Qisas and Diyat Ordinance, 1990 was enacted which later expired and then Qisas and Diyat Act, 1997 was promulgated.

**JUDICIAL APPROACH REGARDING 'HONOUR KILLING' BEFORE THE CRIMINAL (AMENDMENT) ACT, 2004**

After the re-insertions of penal sections in the light of Gul Hassan Khan Case (supra), the Exception to the old Section 300 of Penal Code which expressly provided a defence on the basis of 'grave and sudden provocation' was abolished from the Penal Code, however, Courts in Pakistan had inconsistent views regarding the defence of loss of self-control and grave and sudden provocation especially in cases of Honour Killing. Following are the different views taken from few of the cases regarding Qatl-e-Amd and Honour Killing:

**Abdul Waheed Vs. State (1992 PCrIJ 1596):**

In this case section 302(a) and (c), P.P.C. as substituted by the Criminal Law (Fourth Amendment) Ordinance XXX of 1991 have been examined and it was held that grave and sudden provocation is not an exception per se and the punishment of Qisas, where QAt1-i-Amd is committed under grave and sudden provocation, can be mitigated only if proof of Zina is produced, which conforms to the required standard of evidence prescribed under the Islamic Injunctions. In other words, Qatl-i-Amd by husband will attract punishment lesser than Qisas only if proof of commission of such Zina exists which satisfies required standard of evidence prescribed under Islamic Injunctions.

**Muhammad Hanif Vs. State (1992 SCMR 2047)**

It was so held for the reason, inter alia, that section 302, P.P.C. after amendment, being substantive law, does not provide any exception to

cover plea of grave and sudden provocation, hence prosecution has to prove whether it is Qatl-i-Amd liable to Qisas or not liable to Qisas or liable to Ta'zir.

**Abdul Haque Vs. State (PLD 1996 SC 1):**

Brief facts of the case are that the appellant alleged that while entering the Court-room the deceased had sworn at him, saying that, if acquitted, he would commit Zina with his wife and with the wives of the other members of the tribe. According to the appellant such abuses by the deceased whose father had been killed by the person uttering the same had cause grave and sudden provocation, hence, he shot the deceased at the spot.

Held: *“In the old law before amendment the appellant could have got away with lighter sentence provided in section 304, P.P.C. In such circumstances, appellant in this case cannot and should not be punished with Qisas. Secondly, proof as demanded under section 304, P.P.C. for Qatl-i-Amd is not available because the appellant has not made confession of Qatl-i-Amd as such before the trial Court. True that there is admission of firing by the appellant at the deceased but that admission is to be read not in isolation of but in conjunction with his specific plea that he was provoked by abuses in respect of his wife and wives of his tribe uttered by the deceased which he could not tolerate. Thirdly, witnesses produced in the trial Court in support of the charge do not fulfil the requirements of Article 17 of the Qanun-e-Shahadat. For such reasons it can be said that section 302(b), P.P.C. will apply in this case and the appellant can be punished by way of Ta'zir. Under the said provision, power given to the, Court is only to*

*punish with death or imprisonment for life as Ta'zir and nothing less than that. We have also taken into consideration the fact that deceased Muhammad Shafique, when fired upon, was in custody and in handcuffs and therefore, helpless and unable ' to save himself We have also considered the fact that the appellant is Pathan and as such traditionally very sensitive about anything derogatory stated about his womenfolk and is expected to react very quickly on account of provocation. In the circumstances, we consider that plea of grave and sudden provocation on account of abusive language can be treated as mitigating circumstance in awarding sentence under Ta'zir even if -this plea as such is not available and; does not get any protection in the new amended law."*

The view taken in the Abdul Haque Case (supra) was rejected by the another bench of Honourable Supreme Court of Pakistan in the case titled as "Ali Muhammad Vs. Ali Muhammad and another" cited as (PLD 1996 SC 274) wherein it was held that:

*"Section 302 of the P.P.C. therefore, itself contemplates plainly clearly a category of cases which are within the definition of Qatl-i-Amd but for which the punishment can, under the Islamic Law, be one other than death or life imprisonment. As to what are the cases falling under clause (c) of section 302, the law-maker has left it to the Courts to decide on a case to case basis. But keeping in mind the majority view in Gul Hassan case PLD 1989 SC 633, there should be no doubt that the cases covered by the Exceptions to the old section 300, P.P.C. read with the old section 304 thereof, are cases which were intended*

*to be dealt with under clause (c) of the new section 302 of the P.P.C”*  
**[Paragraph 22]**

**2003 YLR 3720**

*“But should this man who was enraged over a question of his family honour, suffer imprisonment for life when he was provoked by three youngsters who were passing by his house and even on seeing him armed did not turn back their motor-bike for averting the occurrence. The answer is in the negative. People have a right to protect their family honour and if a killing takes place on provocation, the law affords concession to such killer.”* **[Paragraph 19]**

#### HONOUR KILLING IN THE LIGHT OF QURAN AND SUNNAH

In many cases of honor killing, Islamic teachings, morals and values are given as a justification for committing this crime. However, this is only due to the misinterpretation of Islamic teachings and the Sunnah of the Prophet (PBUH). Nowhere in the Quran or Sunnah, murdering someone is justified and no one, in any case, is allowed to take the law in their own hands.

**Surah Noor Verse 93** reads;

*But whoever kills a believer intentionally - his recompense is Hell, wherein he will abide eternally, and Allah has become angry with him and has cursed him and has prepared for him a great punishment.*

Islam holds every soul in high esteem and does not allow any injustice upon anyone. **Surah Al-Ma'idah Verse 32** reads;

*Because of that, we decreed upon the Children of Israel that whoever kills a soul unless for a soul or for corruption [done] in the land - it is as if he had slain mankind entirely. And whoever saves one - it is as if he had saved mankind entirely.*

Moreover, **Surah Al-Furqan Verse 68** reads

*And those who do not invoke with Allah another deity or kill the soul which Allah has forbidden [to be killed], except by right, and do not commit unlawful sexual intercourse. And whoever should do that will meet a penalty.*

Islam advocates justice, and specially emphasis has been laid on the rights of women. The Prophet in his Last Sermon clearly stated,

*O People, it is true that you have certain rights with regard to your women, but they also have rights over you. Remember that you have taken them as your wives only under a trust from God and with His permission. If they abide by your right, then to them belongs the right to be fed and clothed in kindness. Do treat your women well and be kind to them for they are your partners and committed helpers. And it is your right that they do not make friends with any one of whom you do not approve, as well as never to be unchaste.*

Regarding the act of adultery committed by a woman, Islam has set certain rules and procedures, none of which allow the act of killing in the name of honor. **Surah An-Nisa Verse 34** reads;

*Men are in charge of women by [right of] what Allah has given one over the other and what they spend [for maintenance] from their wealth. So righteous women are devoutly obedient, guarding in [the husband's] absence what Allah would have them guard. But those [wives] from whom you fear arrogance - [first] advise them; [then*

*if they persist], forsake them in bed; and [finally], strike them. But if they obey you [once more], seek no means against them. Indeed, Allah is ever Exalted and Grand.*

In the case of **Gul Muhammad Vs. the State (PLD 2012 Bal 22)** it was held that:

*“Islam has provided rights and safeguards for women, protecting them from injustice. **Surah Noor Verse 4** reads;*

*And those who accuse chaste women and then do not produce four witnesses - lash them with eighty lashes and do not accept from them testimony ever after. And those are the defiantly disobedient*

*The following incident from the life of the Prophet (PBUH) shows honor killing is neither allowed nor justified in any case in Islam;*

*Hilal bin Umaiya accused his wife before the Prophet of committing illegal sexual intercourse with Sharik bin Sahma.' The Prophet said, "Produce a proof, or else you would get the legal punishment (by being lashed) on your back." Hilal said, "O Allah's Apostle! If anyone of us saw another man over his wife, would he go to search for a proof." The Prophet went on saying, "Produce a proof or else you would get the legal punishment (by being lashed) on your back." The Prophet then mentioned the narration of Lian (as in the Holy Book). (Surat-al-Nur: 24)<sup>8</sup>."*

## CURRENT LEGAL STATUS OF HONOUR KILLING IN PAKISTAN

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<sup>8</sup> Sahih Bukhari Volume 3, Book 48, Number 837. (Narrated by Ibn Abbas)

Constitution of Islamic Republic of Pakistan, 1973 accords fundamental rights to every citizen of this nation. Article 4 of the Constitution provides that *“To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan”*.

Chapter 1, Part II, guarantees fundamental rights such as right to life and liberty, equality before law, freedom of expression, association, and religion.

Apex Courts of Pakistan has already hold in different instances that it is the absolute and exclusive responsibility of State through its organs to ensure safety and enforcement of fundamental rights.

Honourable Supreme Court of Pakistan recently in the case cited as **2015 SCMR 1257** has held that:

*“Whole edifice of governance of the society had its genesis in the Constitution and laws aimed at to establish an order, inter alia, ensuring the provisions of socio-economic justice, so that the people may have guarantee and sense of being treated in accordance with law, and that they were not being deprived of their due rights.”*

In the light of Constitution of Islamic Republic of Pakistan, 1973 it is the bounden duty of state to ensure equality of citizens before law and rights of individuals as enshrined in the Constitution be protected in any manner whatsoever.

Keeping in view the fundamental rights accorded to individuals in Pakistan and a strong resentment from International Agencies, Media Reports and Social Organizations, Legislature has enacted a Criminal Law (Amendment)

Act, 2004 with the aim to curb the killings on the pretext of “Honour” and to protect the rights/honour of individuals especially women.

According to the Criminal Law (Amendment) Act, 2004 a proviso in Section 302(c) has been added which provides:

*“Provided that nothing in this clause shall apply to the offence of qatl-i-amd if committed in the name or on the pretext of honour and the same shall fall within the ambit of (a) and (b), as the case may be.”*

Certain other amendments in different sections of Pakistan Penal Code, 1860 (“PPC”) has been made in order to qualify the crime of “Honour Killing” as a heinous crime. For example in Section 305(a) of PPC which provides that: *“Wali shall be heirs of victim, according to his personal law”*, it has been added further that “[but shall not include the accused or the convict in case of qatl-i-amd if committed in the name or on the pretext of honour]”. Likewise in Section 311 of PPC, a proviso has added which is reproduced below:

**“Provided** that if the offence has been committed in the name or on the pretext of honour, the imprisonment shall not be less than ten years.”

Before this Amendment, killing in the name ‘Honour’ was never considered as a heinous crime. The accused were either acquitted or their sentenced were reduced by the Courts by upholding the defence of ‘grave and sudden provocation’. It is pertinent to mention here that, in most of the cases of “Honour Killing” either the brother/father has killed the sister or husband has killed the wife on the pretext of “Honour”. For example, if the brother

has killed her sister then wali of sister will be their father, who would at the end will waive or compound the offence as per Sections 309 and 310 of PPC.

The rationale behind the amendment was that 'Honour Killing' shall either be tried under Section 302(a) of PPC i.e. Qisas or under Section 302(b) of PPC, Tazir which means that if the accused is liable under Qisas (Section 302(a) of PPC) and the charge has been waived by Wali of victim then the state is under bounden duty to try the accused under Section 311 of PPC as per directions of Court. However, compromise is subject to such conditions as the Court may deem fit to impose with the consent of the parties as per Section 345(2A) of Criminal Procedure Code, 1898.

After the enforcement of Honour Killing in the Penal Code and its consequences, Courts still have inconsistent views regarding the aforesaid crime. Following case-law will shed light on the different interpretations made by the Courts in Pakistan regarding the offence of Honour Killing

### **Sajjad Hussain Vs. State ( 2016 YLR 1517)**

In the instant case, the accused after seeing his wife with her paramour in an un-objectionable position, committed murder of his wife, her paramour and his own three children. Trial Court convicted the accused and sentenced him to death on five counts, however, Honourable High Court commuted the sentence and held that:

*"Of course, ambient circumstances, compelled the appellant to get rid of his wife, her alleged paramour and his own children in order to absolve himself from opprobrium life and odium living. These circumstances, have pursued the Court to*

*convict the appellant under Section 302(c), P.P.C. and his sentence of death on five counts is commuted to sentence of imprisonment of twenty five years on five counts, whereas the amount of compensation on five counts is set aside, by extending him the benefit of section 382-B, Cr.P.C. His conviction under section 302(b), P.P.C. and death sentence on five counts is set aside accordingly.” [Paragraph 16]*

### **Aurangzeb Vs. the State (2015 YLR 912)**

In the instant case, accused was charged for committing a murder of his wife’s paramour in the name of ‘honour’ when he found both of them in an un-objectionable position. The High Court while acquitting the accused, held that:

*“The offence, committed on the pretext of Ghairat or family honour as different from that committed on the ground of grave and sudden provocation and rather to be looked into the circumstances of each and every case. A preplanned murder having knowledge of immoral act of deceased, would not be covered under section 302(c), P.P.C. and the same plea attracted in cases where ingredients of Qatl-i-amd 302 A and B are missing. The instant case falls within ambit of section 302(c), P.P.C. as the defence of honour of one's wife falls within the ambit of this provision for the reason that convict/appellant having no intention to take revenge or prepared himself for the commission of offence or received information about the act of the deceased, rather on sudden provocation arrived at his house and saw the deceased in compromising condition with his wife and committed murder of the deceased with axe taken by him for cutting firewood in the morning. The sudden provocation which is one of necessary element and deprived the convict/appellant of the power of*

*control, happening an act without previous notice, cannot be saddled with immorality."*

### **Zulfiqar Ali Vs. State (2006 MLD 1676)**

In this case, High Court again commuted the sentence of an accused from death sentence to imprisonment to life who killed a man on the pretext of 'Honour'. High Court while commuting the offence, held that:

"Family honour killings were to be discouraged, but it did not mean that the benefits of mitigation were not to be given at all to the accused in whose house someone had trespassed and invaded privacy to fulfil his lust."

### **INTERNATIONAL OBLIGATIONS**

Pakistan is under an international obligation to promote and protect the fundamental human rights of every human being without discrimination to gender, race, religion etc. since it has ratified International Covenant on Civil and Political Rights ("ICCPR"), International Covenant on Economic, Social and Cultural Rights ("ICESCR") and Convention on the Elimination of All Forms of Discrimination against Women ("CEDAW").

Article 6 of ICCPR provides everyone an inherent right to life which shall be protected by law. Moreover, Article 23 of the Covenant states that no marriage shall be entered into without the free and full consent of the intending spouses. The same protection is provided under Article 20 of ICESCR. Furthermore, CEDAW provides protection to rights of women without any discrimination regarding gender, granting equal rights to

women in their personal, social, civil, political and economic lives. This allows every woman to marry according to her choice, which is in accordance with Hanafi law as well. Killing women in name of honor due to marriage to someone of their choice is a clear violation of these safeguards provided by law.

#### RECOMMENDATIONS:

Killing in the name of 'Honour' is considered as a practice whereby male members kill the female relatives on the pretext that they have damaged their family honour. Few Islamic countries are of the mistaken opinion that Honour Killing is believed to be an Islamic practice, however, in real it is proved to be otherwise. The above-mentioned Quranic verses and its interpretation by the Courts explicitly declares 'Honour Killing' to be un-Islamic. No individual is allowed to take the law in his own hands. In the case titled as "Federation of Pakistan Vs. Gul Hasan Khan" cited as **PLD 1989 SC 633, Honourable Mr. Justice Shafi-ur-Rehman held that:**

*"If we go by the strict Injunctions of Islam we find that punishment of death is permissible where under Hadd the offence already committed or sought to be committed by the person is one liable to Hadd to death. If this strict view of the Injunctions of Islam is kept in view, then if an unmarried person commits Zina bil jabr with one's wife, the husband will have no right even though the event takes place in his sight, to murder the Zani/accused of that crime because Zina bil jabr by or Zina by itself by an unmarried man is not punishable with death. The other*

*requirement of the law that the person who is done to death must be Maasoom ud Dam is stronger repugnance."*

Now keeping in view the Quranic Verses, judicial interpretation, international conventions and present law, following are the recommendations being proposed to amend the law on 'honour killing' and enforcement of general criminal law in order to curb the aforesaid heinous crime so that rights of every individual whether male or female be protected as enshrined in the Constitution of Islamic Republic of Pakistan, 1973:

1. Proviso to Section 302(c) of PPC regarding Honour Killing be amended in order to treat the aforesaid offence as crime against the State.
2. If for instance, offence of Honour Killing is being tried under Section 302(a) of PPC i.e. Qisas and family of victim waives off/compound the punishment either under Section 309 or 310 PPC then it be made mandatory to try the offender under Section 311 of PPC i.e. Tazeer in view of the principle of 'Fasad-fil-Arz'. Also, punishment under Section 311 of PPC be enhanced from not less than ten years to fourteen years.
3. Grave and sudden provocation in view of the mitigating circumstances shall be not taken into account in offence committed on the pretext of 'Honour'.
4. Section 345 of Criminal Procedure Code, 1898 provides compounding of certain offences. According to Section 345(2A) of Criminal Procedure Code, 1898, if an offence is committed in the name of Honour (Karokari or Siyahkari) such offence may be waived or

compounded subject to conditions as the Court may deem fit keeping in view the facts and circumstances of case. Section 345 of CrPC in its present form is not in harmony with the sections of PPC pertaining to Honour crimes. Waiving/compounding of offence committed under the pretext of 'Honour' can be considered as encouragement for such people because at the end the Wali has the authority to waive/compound the offence in view of aforesaid section. In view of the above, it is proposed that the Honour Killing be tried under Ta'zir only and be taken out of the ambit of Qisas so as to make it crime against the State, hence, in such circumstances State would act as the Wali and the compounding/waiving of offence under Section 345 of CrPC could not take place.

5. Schedule II of Criminal Procedure Code, 1898 provides Tabular Statement of Offences. The aforesaid Schedule shall be amended regarding Honour Killing and the offences regarding such heinous crime be made non-compoundable.
6. There is another view which can be taken into consideration i.e. the Offence of Honour Killing shall be considered as Tazeer (Crime against the State) and be taken out of the ambit of Qisas because in most cases either the Husband/Father has killed his wife/daughter or brother has killed his sister. In case of brother killing his sister, the Father becomes Wali and at the end the offence is either waived or compounded in view of Section 309 or Section 310 PPC and such practice is being carried out in Pakistan. On the other hand Section 306 of PPC states that:

**Qatl-i-amd not liable to Qisas:** Qatl-i-amd shall not be liable to Qisas in the following cases, namely:

- (a) When an offender is a minor or insane
- (b) When an offender causes death of his child or grandchild how low-so-ever; and
- (c) When any wali of the victim is a direct descendant, how low-so-ever, of the offender.

Keeping in view Section 306(b) and 306(c) of PPC, it can be argued that offence of Honour Killing must always be treated as Tazeer i.e. Crime against the State and it must be taken out of the ambit of Qisas so that Wali of victim cannot compound or waive the punishment.

*NOTE: This is a subject which is dynamic and new circumstances keep on emerging calling for logical conclusions based on facts of every case. The NCHR intends going for more profound research on the subject while keeping in mind the injunctions of Islam, the doctrine of Ibahah while suggesting further recommendations for better dispensations through Ijmah (the Parliament).*