

# Confronting Honour Killings

## ACHR Report

29 October, 2004

**Asian Centre for Human Rights**

**T**he Pakistan government bulldozed the Criminal Law (Amendment) Bill 2004 against “honour killings” in the National Assembly and adopted it on 26 October 2004 without any debate amidst opposition walkout. While the Bill has for the first time officially acknowledged the existence of this barbaric practice of honor killings, it is far from addressing the real issue of impunity which encourages the practice. Just when the bill was being presented in the National Assembly, enraged villagers in the hinterland of rural Punjab tied two persons to the railway track for marrying against the will of the family elders and was crushed under the wheels of a speeding train.

Hundreds of women are killed every year for alleged misdemeanors such as adultery, marrying without the family's consent, pre-marital sex or having been raped. According to the Adviser to the Prime Minister on Women Development, Ms Neelofar Bakhtiar, as many as 913 women had been killed in 'honour- related crimes' in the country during the year 2003 with 638 cases of honour crime committed in Sindh, 463 in Punjab, 120 in the North West Frontier Province and 40 in Balochistan. Human Rights Commission of Pakistan recorded honour killings of 329 women in 1998, 303 women in 1999, 315 women in 2000, 227 women in 2002 and 290 women in 2002 based on the press reports. But many incidents are not reported in the newspapers and the vast majority of the victims come from rural areas.

Criminal Law Amendment Act, 2004 and its provisions:

The statement of objects and reasons of the Bill states that the "issue of honour-killing and other honour crimes committed in the name of 'karo-kari, siyah-kari and similar other customs has always been a matter of concern of human rights organizations and the public which has assumed more significance in the recent years".

The Criminal Law Amendment Act, 2004 which proposes amendments of the Pakistan Penal Code (PPC), 1860 enhances punishment for the offence of murders carried out in the name of honour. However, the word 'honour killing' has been replaced with 'honour crime' to make it mild and acceptable to various sections of the society.

Under amended Section 299, Act XLY of 1860 PPC, 'honour crime' will mean an offence committed in the name of 'Ghairat' or honour or for "vindication of Ghairat or honour and includes honour killing and the offence committed on the pretext of karo-kari, siyah-kari or similar other customs". In clause 'm' it seeks to add at the end the words 'other than the person who has murdered the victim'.

Under amended section 302, Act XLY of 1860, honour crimes carry a maximum imprisonment of 25 years and not less than 10 years for the offence. Amended Sections 310 and 331 of the PPC prohibit giving a girl in marriage as 'badla-i-sullah' and any offence under these sections carries maximum punishment of 14 years imprisonment and a minimum of not less than seven years of imprisonment.

Amendment to section 324 seeks to include the hurting of a victim as an honour crime. Similarly 'Ta'zir' shall not be less than one-third of the maximum imprisonment provided for the hurt caused

and shall not be less than half of such imprisonment term if the hurt caused relates to honour crime.

The Bill further provides that for investigation of an offence under section 295-C of PPC for blasphemy, no officer below the rank of superintendent of police (SP) will be eligible. An amendment to section 56B envisaged that no police officer below the rank of Superintendent of Police shall investigate the case of a woman accused of the offence of adultery.

Qisas and Diyat Law prevails:

The Criminal Law (Amendment) Bill 2004 against 'honour killings', however, did not address the real issue of waiver or compounding in which the perpetrators were given the advantage of seeking forgiveness from the heir of the victim. The major flaw in the Qisas and Diyat law, which covers all offences against the human body, is that it makes such offenses compoundable (open to compromise as a private matter between two parties) by providing for qisas (retribution) or diyat (blood-money). The heirs of the victim can forgive the murderer in the name of God without receiving any compensation or diyat (Section 309), or compromise after receiving diyat (Section 310).

Most honour killings are usually committed by close relatives - father, brother, son, or husband of the woman. According to the Human Rights Commission of Pakistan, the persons accused of honour killings between 1998 and 2002 involved 462 persons who were brothers, 395 persons who were husbands, 217 persons who were relatives, 103 persons who were fathers, 60 persons who were involved, 58 persons who were sons and 44 unknown persons. Often, the victims are the most vulnerable members of the family or community. In either case, if and when the case reaches a court of law, the victim's family may 'pardon' the murderer (who may well be one of them), or be pressurised to accept diyat ('blood-money') as compensation. The murderer then goes free. Impunity has been the single most important factor encouraging honour killings. As the Criminal Law Amendment Bill does not address the issue of waiving and compounding, the perpetrators will continue to be able to escape punishment.

The Supreme Court of Pakistan in various judgements reiterated that "Neither the law of the land nor religion permits so-called 'honour' killings and it amounts to intentional murder ('qatl-i-amd')" noting that "such iniquitous and vile" acts violate the fundamental rights as enshrined in Article 9 of the Pakistan Constitution which provides that no person shall be deprived of life or liberty except in accordance with law". Article 8 of the Constitution of Pakistan provides that "Any law, or any custom or usage having the force of law, in so far as it is inconsistent with the rights conferred by this Chapter (Fundamental Rights), shall, to the extent of such inconsistency, be void". The failure to uphold the right to life guaranteed under the Constitution is at the heart of the crisis, not lack of provisions in the Pakistan Penal Code to combat honour killings. Unless the Senate takes measures to amend the Criminal Law Amendment Bill 2004 to ensure that State takes the responsibility for registering, investigating and prosecuting the accused of honour killings without any scope for waiver or compounding under the Qisas and Diyat law, cosmetic gesture is unlikely to be able to curb cultural cruelties.