

Case study developed for
Social Norms and Change Workshop
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**Changing perceptions about the Criminal Law (Amendment) Act 2004,
otherwise known as the *Honour Killing Act*, in Pakistan**

In 1989, Ghulam Sarwar Khan Mohmand, one of the most successful businessmen in Peshawar, capital of Pakistan's North-West Frontier Province, threw a grand wedding for his daughter Samia. This was a modern, successful Pashtun family: his wife Sultana was a doctor, as was the groom, Sultana's nephew Imran. Samia Sarwar studied law; her sister went on to study medicine.

However, despite the marriage's auspicious beginning, the union was not a success. Samia told her lawyer, later on, that her husband was extremely abusive. Her parents eventually accepted that she should leave him, allowing her to move back with them in 1995, when she was pregnant with her second son.

Sometime in the year that followed, Samia apparently fell in love with another man. In March 1999, while her parents were away in Mecca, making the Hajj, she fled to Lahore. She moved into Lahore's only private shelter for battered women, and made arrangements with the Pakistani human rights lawyer Hina Jilani to begin divorce proceedings against her husband.

Samia wanted to divorce her husband – a man from whom she had parted several years before – to marry a man she loved. She had the right to do so under ordinary morality, Islamic law, and the laws of Pakistan. But because the divorce was perceived as threatening the honour of her family, she was gunned down in public, at her lawyer's office, by a hit man hired by her mother, on April 6, 1999. Worse, the fact that the family evidently arranged her murder drew praise as salvaging their honour¹.

Questions to discuss

The Criminal Law Act of 2004, otherwise known as the Honour Killings Act, was passed to do three things: provide protection to citizens, especially women and girls; make illegal and criminalize all murders committed in the name of honour; and punish the

¹ Though her murderer was killed in the melee after her death, there is reason to doubt that he would have been executed for murder if he had survived. Politicians in the national Senate praised her family's "sense of honour", called Samia Sarwar – a married woman of 29 – a *bachi*, or little girl, and described the battered women's shelter where she was staying a "den of prostitution". They sought to shame the dead woman and heaped honour on her family.

perpetrators and enablers of these crimes. However, it seems that the law is not well known and even when known, is not being applied.

1. Do people and communities see the *Honour killing Act of 2004* as just and fair? If not, why?
2. What can governments and civil society do to help change an honour code that continues to view honour killing as acceptable? How can the social and ethical aspects be harmonized with the law?
3. What were the *emotions* that fueled Samia's murder? Shame for damaged family honour? Sense of guilt for non-compliance with a quasi-moral norm?
4. In designing a strategy to change a culture of honour, must you acknowledge that social norms of family honour have been so deeply internalised over generations that they are seen as *moral*?
5. How can collective *shaming* of those who commit honour killing reverse the norm?

Explanatory note: Excerpts from reports relating to lack of public awareness of and perceptions surrounding the Honour Killing Act (Adapted from sources listed below)

The 2004 Act amended the Pakistani Penal Code and the Criminal Procedure Code to define *karo kar²* (honour killings) as murder with penal punishments. The amendments mostly deal with the Qisas and Diyat³ provisions in the Penal Code, but have left some major lacunas, which have, in effect, rendered the law useless.

The Act falls short of providing actual protection to survivors/victims and ensuring punishment for the perpetrators and enablers of this crime. It has been severely criticized by civil society, including eminent legal scholars... "It is shocking to realise that there still remains a large amount of ignorance about the law. This ignorance is not just confined to lay people but also includes lawyers, media personnel, civil society members and even the police! It is felt that there is relatively more awareness in the urban areas, but in rural districts there is little information on the matter.

It has to be considered that with the implicit consent of society, the murderers are given protection and impunity from within the community, which extends to the police, courts and other implementing agents and agencies...there are a number of perpetrators or potential perpetrators who are not daunted by the law. They say that the law does not have control on this issue. They note that due to the involvement of powerful factions of the community in such crimes, they are not considered offensive. Further, due to the

² Sindhi term literally meaning "black", i.e., disreputable man or woman who has brought disgrace to the family or clan, a "social crime" that allows culturally condoned killing of a man or of a woman deemed to have dishonoured the family or clan by engaging in an illicit relationship.

³ Law promulgated by the Muhammad Zia ul-Haq regime (1977-1988) as Sharia law that allows some crimes to be compoundable, including murder.

overwhelming social acceptance of the act, action rarely follows. And if it does, they are convinced that money will be sufficient to deal with the issue. Unfortunately, they are not wrong.

Nevertheless, there is a positive side for those who do know about the law. Firstly, the promulgation of the law has removed the barriers to discussing the issue. Hence, although a large part of the district media may not know of the law, it has received wide coverage in the national media. This has had the effect of bringing to light a growing social intolerance of honour killings⁴. Potential victims may feel a sense of support knowing that they have some sort of legal protection from being murdered under the pretext of honour and victim's family may refer to a law that can assist them in obtaining justice.

Also, it is not as easy to commit honour killings as it was before, with methods being employed to hide the commission of such crimes, whereas earlier there was no need to do so. Some tribal leaders, landlords and others have also distanced themselves publicly from this tradition.

Adapted from:

- ⇒ Kwame A. Appiah, *How moral revolutions happen: the honor code*, Samia Sarwar, *changing the ground of honour*, 2010.
- ⇒ *A Pilot Study on Honour Killings in Pakistan and Compliance of Law*, by Maliha Zia Lari, published under Legislative Watch Programme for Women's Empowerment, Aurat Foundation, 2011.

⁴One primary example is the outrage against Senator Zehri when he defended the tradition of honour killing in his district. Another is the unanimous passage of a resolution in the Senate condemning the honour killing of five women in Balochistan, whereas a few years earlier, at the time of Samia Sarwar's murder in Lahore, a senator from Khyber Pakhtunkhwa openly defended the tradition and a resolution condemning the act was thrown out of the Senate.