Practices of Domestic Violence in Pakistan: An Islamic Perspective

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ABSTRACT:

Violence against women is an important global phenomenon. In Pakistan like other developing countries, women particularly become target of domestic violence. Frequent media reports of violence perpetrated against Pakistani women creates an image of the country as a dangerous place for women to live in. Even though Islam is the official religion of the country, its provisions of justice and equality to protect Muslim women from the domestic tyranny remain ineffective. The prime reason behind this prevalence of violence in the country is the influence of patriarchal norms over the domestic and socio-legal structure of the Pakistani society. Consequently, patriarchal abusive power and control over the lives of women result in the prevalence of varied practices and forms of female domestic violence in the country. However, majority of these victims live in the rural areas of the country where lack of education and resources facilitates the rule of oppre-ssive patriarchal norms and values remotely distant from the teachings of Islam. Among the most popular forms of domestic violence practiced there, honour killing and Vani/ Swara are on the higher scale faced by the females. Honour killing is a form of murder which is committed in order to restore the lost dignity of the aggrieved family. Whereas, Vani/Sarawa is a kind of forced marriage where a female member of the accused family is given to the victim party in order to settle the disputes. Considering the Islamic justifications offered by some Muslim scholars in defense of these two types of violence, the present study challenges the misinterpretation of Quranic verses and Hadith to legitimatize these anti-Islamic practices devised to oppress women. This is done by examining the issue of Honour Killing and Vani (Sawara) through their meaning and historical back ground in the country. Concluding this paper clarifies that Islam condemns killing of mankind and forbids female victimization and the assumed notion of Honor killing and Vani.

Key words: Honor killing, Karo Kari, Sawara, Vani. Violence against women. **Introduction:**

Violence against Women is an important issue prevalent in Pakistani society, not only in rural areas but also in advanced and developed cities like Karachi. In Pakistan, patriarchal customs are very strong and control over women is conside-red an act of nobility likewise many restrictive codes of behavior are imposed on women. Study of literature shows that patriarchal ideology, culture, tribal system, individual character-

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istics are the factors which play an important part in defining the violence against women. And when a woman goes against these factors she has to face many kinds of violence like physical, verbal, psychological and emoti-onal and honour killing is the extreme of this violence. A study conducted in Karachi shows that almost 34% of the women surveyed they reported physical abuse. Another study conducted in Pakistan showed that 99% of housewives and 77% of working women were beaten by their husbands other than physical abuse. ¹

Honour Killing:

Pakistani society is based on customs, traditions and cultures that have been inherited mostly from the various cultures around it. Pakistan is a male-dominated society and the control of women is thought to be a noble act. Generally the family system is strongly patriarchal, and most people live with a large extended family. In a traditional setting, the elderly male of the family is considered the head of the family who holds the decision-making power. The woman's original place is believed to be inside the "house" and is considered secondary to man. The woman stays at home and carries out local work and fulfills the role of obedient wife and mother. The person who kills a "Kari"(woman) is considered an honourable man because he has committed the crime just to regain the lost honour of the tribe and is labelled as "Begairat" if the women of his family are not under his control.² Thereby, he is encouraged and pressurized socially to kill the kari woman.³ Similarly, Honor killing is a kind of gender-based violence against women which is a leading social problem not only in Sindh but in many other areas of Pakistan.

Meaning of Honour killing:

In Urdu language "Karo Kari" means killing in the name of honour or "Honour Killing". 4 In Sindhi, "Karo Karo" means "a black male and a black female" and when a woman is declared as "Kari" male members of her family snatch from her even the right to life. Culturally the killing of a Kari woman is considered as justified among some tribes. This cruel custom of violence against women is known as "Honour Killing". 5 Concept of honour in rural society is very powerful, especially in tribal Sindhi society family relations are very close and the family, community and society are bound in these relations. So, shame for a family is considered as shame for whole community and tribe. Generally, the social norm of shame is used to control the women. It is a well-accepted norm which exists in basis of society. So, when a man kills a woman who commits any immoral action, sometimes but not always, he declares that he did so because of her immoral sexual conduct, then it is considered as honour related crimes. The killing of adulterous female and her illicit partner is done with the intention to erase the shame from tribe and to restore honour and to enforce a social code to control a women's lives is "Honour Killing". There can be many reasons for killing a woman not just for being a kari. The main reason can be a woman's behavior that is unacceptable to other family members. And this reason is more than enough to kill her. One such brutal type of "Karo Kari" is murder of woman after rape. The reason behind that is that she brought shame for her family.⁷

The concept of women as a property and honour is rooted in society. So, honour killing is sometimes accepted by the community by claiming it to be a defensive motive to ensure sexual morality.

Reasons of Honour Killing:

There are many social and cultural reasons for honour killing. Sometimes a tribal chief, who has gained power in traditional culture, supports this practice as a societal tradition. According to Faqir ⁸ in reality it is not the chastity of the women that is restored but it is the feud that is being settled. In fact, it is a trans-cultural issue that is prevailing in Sindhi Society which has many social and cultural reasons behind it. These are some significant causes because of which honour killing is increasing in Pakistan. Firstly, in Pakistani society generally marriages are arranged by the head of the family. The families of bride and groom enter in a verbal contract that they will marry their daughter or sister in other family in future. Such kind of agreements becomes complicated because of many reasons. For example, the boy like another girl or the girl likes another boy and they disobey the decision of their elders, so this becomes the case of honor killing. In certain situations, if a woman owns a property and her relatives want to get this property by legal or illegal ways so they kill her to confiscate her property.

Historical back ground of Karo Kari:

The historic record of Talpur rule in Sindh province indicates the presence of this cruel custom. During the period of "Kalhora" this tradition was common in Kalat state which is the tribal belt of Sindh province. The Historians acclaims that is custom reached in subcontinent in the seventeenth century, when Arab descents came to settle in Baluchistan. The Sindhi culture has adopted this tradition from Baluchi culture. Some tribes like Mazaris, Bughties, Maries, Jakhrasi and Jatoi have adopted this custom and practice it. The concept of Karo Kari arises from the tribal culture, where woman is considered a property of her male family member who decides her fate and property. In case, if she is suspected of any immoral conduct it means she is violating the rights of her husband. Then she is bound to kill because of this disobedience and has no right to question. Therefore, the victims of Karo Kari considers it their fate.

Islam and Honor Killing:

Some scholars and researchers have tried to link the cruel act of honour killing as an Islamic act. They justify and interpret the issue of honour killing in relation to some common sayings of Prophet Muhammad P.B.U.H. The oft-quoted hadith is the one which prescribe that "Who so ever in you see a crime /guilt should stop it with his hands" ¹⁰.

From this saying, it is presumed that forbidding from an evil act is solely the responsibility of every Muslim and justifies honour killing. Therefore, if a man witnesses any sexual deviation does not stop it, then it is interpreted as comprising the sanctity of Islamic injunctions. Similarly, Holy Quran does not deal with this type of killing directly, but it describes two kinds of killings that are known as Qatl-i-Amd and Qatl-i-Khata. Qatl-i-Amd means having intention to kill someone. Whereas, Qatl-i-Amd means having intention to kill someone.

i- Khata means to kill someone unintentionally. Allah SWT says about Qatl-I Khata: "O ye who believe! The law of equality is prescribed to you in cases of murder: the free for the free, the slave for the slave, the woman for the woman. But if any remission is made by the brother of the slain, then grants any reasonable demand, and compensate him with handsome gratitude, this is a concession and a Mercy from your Lord. After this whoever exceeds the limits shall be in grave penalty" (Al-Quran 2:178). This verse discusses the principle of "Qisas" for Qatl-i- Khata. As far as Qatl-i-Amd is concerned Allah SWT says: "If a man kills a believer intentionally, his recompense is Hell, to abide therein (Forever): And the wrath and the curse of Allah are upon him, and a dreadful penalty is prepared for him" (Al-Quran 4:93).

In another verse Allah SWT forbids: "Nor take life - which Allah has made sacred - except for just cause. And if anyone is slain wrongfully, we have given his heir authority (to demand qisas or to forgive): but neither let him nor exceed bounds in the matter of taking life; for he is helped (by the Law)". (Al-Quran 17:33) These verses describe that if someone kills a human being intentionally then his abode is hell and killing of a human being with intention is a sinful act in Islam.So, Islam does not allow a person to kill someone else and considers human life as sacred. Likewise, if someone has committed a serious sin like adultery then only a competent authority or government has a right to punish and no one can take the law in his hands. That is why Islam deals with serious sins like adultery in a distinguished way.

Islam strictly prohibits sexual relations without marriage contract. And "Zina" (Adultery) is considered not only a sin but a crime if someone brings the issue to the court. Then the court has sufficient evidences according to Islamic rules then the offenders will be punished¹². Describing the punishment for adultery Ouran says: "The woman and the man guilty of adultery flog each of them with a hundred stripes: let not compassion moves you in their case, in a matter prescribed by Allah, if you believe in Allah and the last day; and let a party of believers witness their punishment". (Al-Quran 24:2) However, the Islamic law does not allow anybody to implement the law by himself and delegates this authority to the government officials only to judgment against man or a woman who is accused of adultery and the authority to punish-ment lies only with the Islamic Court. And it is evident with the consensus of all the Muslim jurists that the order in this commandment "flog each of them with a hundred stripes", is addressed to the competent authority like judges of Islamic Government and not the common people. 13 A hadith describes that Saad R. asked Prophet Muhammad (PBUH): Saad asked the Prophet: O prophet of God: can I not rebuke the stranger man committing adultery with my wife before arranging four witnesses? The prophet responded "Sure, Not at all". Then Saad said: "First of all I will kill him with my sword." The prophet said; Listen to what your chief says. He is jealous of his honor. I am more jealous than he is and God is more jealous then I"14. It is evident from these ahadith that Islam does not allow killing of a human being even in such a serious condition. However, if a person wants to prove the guilt he has to present the witnesses.

In early era of Islam, some cases were brought to Prophet Muhammad (PBUH) in which the husbands saw their wives in state of adultery with some stranger like the case of Hilal bin Ummaya. Similarly, Owaimar Ajlani, a companion of Prophet Muhammad p.b.u.h also reported the case of his wife. There upon Prophet Muhammad (PBUH) said: "Verses have been revealed concerning you and your wife; so, go and bring her". The narrator says, they both invaded curses and Owaimar divorce her in presence of Prophet (PBUH).

The Ouranic teachings provide the law of "LIAN", in case if a person blames a chaste woman of adultery he has to present four witnesses to prove his blame otherwise he will be considered as liar and the punishment of forty stripes will be imposed on him and his witness will never be accepted for whole of his life. Allah SWT says: "And those who launch a charge against chaste women, and produce not four witnesses (to support their allegations), - flog them with eighty stripes; and reject their evidence ever after: for such men are wicked transgressors" (Al-Quran 24:4). Verse number 6, 7, 8 and 9 of Surah Noor are called verses of lian. These verses narrate that if a man finds his wife committing adultery with someone else, but he cannot prove his argument in the court then the punishment of "Qazf" will not be imposed on him rather he will have to reinforce his statement with specific oaths to assure his truthfulness and the court will issue the separation between the couple. In Islamic terminology, this is known as "Lian". The same course of action was adopted by Prophet (PBUH) in case of Hilal bin Ummayah and his wife. If the women conceived, during separation, the child will be ascribed to his mother. In case of Hilal Bin Ummaya the child was resembled to the accused man so the Prophet (PBUH) said; "If there were no curses (or the book of God not decided) I would have treated this woman rigorously"17. Law of "Qazaf" is introduced for those persons who blame a chaste woman of committing adultery. And if the person blames his own wife; then the Holy Quran describes Law of "Lian". These two injunctions were presented by Prophet Muhammad (PBUH) in honour related crimes. From these examples, it can be concluded that Prophet Muhammad (PBUH) did not allow anyone to charge or punish the persons practicing adultery nor did the companions allowed anyone

Stance of Pakistani Ulema on Honour related crimes:

In Pakistan, Council of Islamic Ideology that is the ruling body for Islamization of the institutions in the country states ¹⁸, that Islam does not permit anyone to take the law in his hands if he catches a person committing immoral sexual act. Getting emotional is natural in such an instance, however he is not allowed to punish anyone during this situation. And if a person kills someone in this situation provoked by his emotions then the court will decide to punish him or to see his crime in light of general exceptions. ¹⁹

A prominent Religious Scholar and vice President of Wafaq ul Madaris, Hasan Jan (late) ²⁰considers honour killing morally, logically and religiously illegal. He believes that after polytheism the second major and heinous crime is the killing of a believer. And allowing someone to kill a person in the name of honour it will create anarchy in

the society, which is very dangerous for an Islamic state. He discussed that except this allowing honor killing has many demerits which make it self-prohibited.²¹

Vani and Sawara:

Vani or Swara is an old tridition of handing over a female to the grieved party in order to resolve a dispute or a conflict between two families or tribes. This inhumane custom is followed in different areas of Pakistan having different names. Mostly Vani is adopted in the cases like murder or kidnapping of women etc. When cases like murder and kidnapping of a female is reported to a jirga, the jirga indicate the offender and announces punishment. In cases of murder the punishment of murder is either revenge or money for blood or Vani. Main sufferer in this tradition is the innocent woman who pays the money of crime which she has not committed. Captain says:" Sawara means a female rider, traditionally it means a girl given to the aggrieved party for blood compensation". 22

History and Background of "Vani":

This is an old age tradition. This custom is a way to resolve different disputes especially of murder and adultery. The roots of this cruel inhuman tradition are found more than 400 years ago when two 'Pathan' tribes of Mianwali fought a war. During this war around 800 people were murdered. At that time Nawab of Tank resolved this bloody dispute. He presented this dispute to the "Jirga" who decided to give the girls in QISAS. They thought it the only way to resolve this dispute and both tribes became one Family with this resolution. With the passage of time this inhumane tradition has passed over generations and became an evil custom of the society. Now, with different names this cruel custom is practiced in neighboring areas of Sindh, KPK and Baluchistan. In these areas it is known as "Sawara". This word is derived from "Persian" language which means "women travelling alone to the enemy camp". People of these areas use women as a bargain commodity, so they use her as compensation for homicide or capital offences.

Meaning of Vani and Swara:

The intense form of this custom can be seen in Mianwali, where this is custom is being practiced with the name of 'Vani'. It is a Pashto word derived from "Vanay" which means" blood"²³. This horrible custom is a common practice in Pakhtoon families. Like other tradition this custom is also developed as a gesture of good will to end bloody disputes between one and other "Biradris".²⁴ On the other hand, in "Pakhtoon" family's girls are given as Vani as compensation for adultery, murder, abduction and crimes like kidnapping. Most of the time these crimes are committed by the male members of their family or close relative. With difference of languages and areas Vani marriages are also known as Khoon Baha. Sakh, Sawara, Sharam, and Sang Chatti. In Punjab it is known as "Vani", Sindh it is known as "Sang Chati", Baluchistan it is known as "Ijai. These are used as instruments of dispute resolution in different areas.

When compromise is desired between the tribes then this tradition is followed to avoid further enmity. The offender tribe offers the nearest unmarried girl to the

aggrieved tribe. The Power balance between the tribes, number of murders, and the length of the dispute are the factors which are taken in to consideration while deciding the conditions of Vani. As it is a forced marriage between the enemies, so no wedding ceremony is celebrated. The girl is made to ride on the back of a donkey, pony or horse and a third party drives that animal to the other side.²⁵ The receiving family takes over the girl as a punishment to the enemy. But the main sufferer in such a case is the Woman. In tribal society, the woman is owned a strange position. She is considered as a man's property. Sometimes she is handed over in Marriage for price that is called walwar. And if it's a Vani case and the affected family cannot pay the money, so the enmity turned in to a severe punishment. The innocent girl is the main sufferer in this situation. Mianwali district is renowned place where this barbaric custom is still in vogue. The victims of this inhumane custom are not only the young girls, but the infants are also used for blood compensation purposes.

Important Features of a "Jirga" in Tribal life:

It seems suitable to discuss here some salient features of a Jirga in Tribal Community. In tribal community Jirga is the place where meetings for discussion and consultation of different disputes is being held. These meetings are known as Jjirga and in Pashto Marakah "Jirga" means a board of elders who are very active and helpful in their consultation. The Jirga system is visible in many societies like "Panchayat" in Punjab. Baluchistan and Sindh provinces also have similar type of Jirgas in their local community. The Jirgas are popular because of their particip-atory and democratic nature. It promotes equality and common folks get the opportunity to involve in the Jirga. Jirga holds importance of a judicial institution of Pakhtoon Society. It comprises of persons who are mainly the family elders while the religious people also attend Jirga. In a specific area, Jirga have both type of judicial and executing powers. However, various problems for example, land disputes, intertribal affairs, blood feuds and money disputes all comes under the consideration of Jirga. A Jirga have different types like Sarkari Jirga, Ulusi Jirga, Loya Jirga and Shakhsi Jirga.

Types of Vani:

There are three different types of Vani. The most common type is the practice of one-sided Sawara. The aggressor party gives a woman as Sawara to the other party. The aggrieved party takes an oath that there will be no bloodshed in future and sometimes they gave some money or a piece of land as a guarantee. And if there is any betrayal by the aggrieved party Jirga will condemn them. Another type is two-sided Sawara when both tribes exchange Sawara to end the enmity and bloodshed. The aggressor party gives a piece of land or some money to the aggrieved party. Thirdly, three sided Sawara is similar to the last two types, as the aggrieved party will receive a woman as Sawara but in addition to that both tribes will exchange their Sawaras to make their relationship strong.²⁷

Reasons for Vani:

Some of the important reasons for which a woman or a girl can be a victim of Vani are following: In case of murder between two tribes the dispute is settled in form of

girl or girls. Most of the time the Jirga is the authority to announce the culprit in case of murder. And the head of Jirga orders the aggressor party to give a Sawara. This is known as "Chatti".

- I. If someone is culprit of rape or sexual assault with the woman of some other tribe then in most of the cases both are murdered. And if the guilty man is saved then he submits a request to Jirga to resolve this issue. So, the issue is settled by Vani.
- II. Financial loss in form of theft or robbery can cause a great destruction between the tribes.so if a tribe gives financial loss to the other tribe then the money or land or a woman as Sawara is given to the effected family.²⁸

Islamic Perspective on Vani/Sawara:

Marriage institution occupies a pivotal position in Islamic the legal system. Muslim Jurists regarded it one among the five basic objectives of Sharia. The Holy Quran elaborates marriage as " ميثاقاً غلظا "which means that it is a sacred and sanctified contract. Marriage in Islam is not only an act of righteousness but also an act of worship "Ibadah". Marriage in Islam has importance of a civil contract, so it has same importance which a civil contract.²⁹ However Muslim Jurists regard marriage not only an act of worship but also a worldly affair. Allah SWT describes marriage as a source of happiness, peace and tranquility. It is evident from above discussion that the basic objectives of a marriage cannot be achieved through Vani, which is a kind of forced marriage. The right to marry free and full consent is given by Islam Allah SWT says in Holy Quran: "Marry women of your choice, two or three or four (Al-Quran 5:3). But unfortunately, in different Muslim states this right has been demolished by traditional practices. Some Parents think that they have the right to decide every matter of their children's life and some time they force the children socially to enter in a marriage contract on gunshot. Forced marriages in form of Vani and Sawara are prevalent in our society. Prophet Muhammad (PBUH) declares marriage as His Sunnah and says: "Marriage is my Sunnah, whosoever turns to my Sunnah, does not belong to me,30

This Hadith discusses the importance of a marriage contract. An important purpose of marriage is to attain, emotional, psychological and spiritual comfort and companionship. This cannot be attained through forced marriage. Likewise, marriage helps a man to lead a life of chastity and it secures a man from immoral sexual acts and creates love and satisfaction among a couple. But in Vani where a woman is considered compensation against a crime which she has not committed, in such cases these basic purposes of a marriage contract are impossible to achieve. There is another Hadith which clearly shows that a woman should not be married without her consent. Once a woman came to Prophet Muhammad (PBUH) and said that her father married her to someone, but she disliked that person. The holy Prophet (PBUH) immediately declared that marriage invalid. 32

Important features of a marriage contract in Islam:

There is significant difference of opinion between Muslim jurists about important

elements of a marriage contract. According to Imam Shafi, offer and acceptance, contracting parties, two witnesses and presence of guardian are four main elements for a marriage contract. While Imam Malik added "mehar" among these basic elements. According to him, guardian, mehar, contracting parties and offer and acceptance are essential. While "offer and acceptance" is the only main element which Hanafi Jurists accepts.³³

The above discussion shows that all the jurists have consensus on one main element that is "offer and acceptance". It means that this is the most important element of marriage contract is offer from one side and acceptance from the other. And in marriages like Vani this essential element is not present, so it is an invalid and an irregular marriage contract.

Conclusion:

In the light of above discussion, we can conclude Honour Killing and Vani are cultural and tribal customs rather than religious/Islamic. There is no room of Honour killing and Vani in Islam. Islam considers a human being's life sacred and does not allow anyone to take this basic right. And if someone is accused of a major sin like adultery, then Islam does not give him authority to punish him and the authority lies with the Govt and Shariah court to punish him if they have proper evidence.

As far as Vani is concerned that is a kind of forced marriage which is against the requirements of a marriage contract. So, because of absence of a basic element which is "offer and acceptance" in a marriage contract. Vani is an irregular and invalid marriage.

Recommendations:

- 1. Government should make proper and effective rules to eradicate the inhumane customs of violence against women like Honour Killing and Vani.
- **2.** True and real Islamic teachings should be publicized. Electronic and print media can be helpful in this regard.
- 3. Human Rights Organization and NGO's should work together with government institutes to implement the legislation to stop the violence against women.
- **4.** Proper measures should be taken against the persons who are violating the rights of women.

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