



MODEL UNITED NATIONS KARACHI II

Pakistan Women's Empowerment Council

Study Guide

AGENDA

**Custom Over Law: Confronting Harmful Traditional
Practices and Enforcement Failures in Women's Legal
Protections**

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Letter from the Secretary-General

Esteemed Delegates,

On behalf of the entire MUNKR II team, it is my privilege to welcome you to this year's conference. Over the course of the next few days, you will be asked to do far more than defend a position. You will be asked to question assumptions, engage with perspectives different from your own and work towards solutions to some of the most pressing issues of our time.

MUNKR II has been designed to place you at the centre of meaningful discussion. Across every committee, you will encounter issues that rarely have simple answers. Whether you are addressing questions of international security, economic development, human rights, environmental policy or domestic governance, the challenge will not simply be to identify what is wrong, but to understand why it persists and determine what can realistically be done about it.

We have not created MUNKR II simply to recreate the debates that take place beyond these walls. We want you to challenge existing approaches, engage with opposing perspectives and explore the political, economic, social and legal realities that shape every decision. The strongest solutions will not necessarily be the most ambitious ones, but those that demonstrate a genuine understanding of the circumstances in which they must operate.

Throughout the conference, I encourage you to approach every discussion with curiosity, confidence and an open mind. Research thoroughly, debate respectfully and never hesitate to challenge an idea simply because it is conventional. Most importantly, remember that MUN is not only about representing a country or defending a position. It is about learning how to listen, negotiate, collaborate and lead.

I hope MUNKR II gives you an experience that extends far beyond the committee room. I hope you leave with new perspectives, meaningful friendships and a greater confidence in your ability to contribute to the world around you.

I look forward to seeing the ideas you challenge, the solutions you develop and the memories you create throughout the conference.

With warm regards,

Zekiel Gulab

Secretary General

MUNKR II

Committee Overview

I. Mandate of PWEC

The Pakistan Women's Empowerment Council is convened as a national policy body tasked with reviewing the legal protections available to women in Pakistan and recommending mechanisms to close the gap between legislation and enforcement. PWEC draws its authority from the constitutional guarantees of equality under Articles 25, 34 and 37, and from Pakistan's obligations as a signatory to the Convention on the Elimination of All Forms of Discrimination against Women. The council is empowered to review federal and provincial legislation for consistency, to recommend harmonised standards where provincial laws diverge, to propose institutional reforms to policing and prosecution and to engage religious, customary and civil society stakeholders whose cooperation is necessary for any reform to take hold. PWEC does not have the power to unilaterally legislate, but its resolutions are expected to carry direct weight with the Ministry of Human Rights and Women Empowerment, the National Commission on the Status of Women and the corresponding provincial commissions.

II. Scope of Debate

Delegates are expected to confine debate to the legal and institutional dimensions of harmful traditional practices and to the mechanisms that permit them to persist despite codified prohibition. This includes but is not limited to customs such as vani, swara and badal e sulh, forced and child marriage, denial of inheritance, honour based violence and domestic abuse where enforcement is complicated by customary or familial mediation. Delegates should also examine the institutions responsible for enforcement, including the police, the prosecution service, the lower judiciary and informal bodies such as jirgas and panchayats, and should consider the interaction between federal criminal law and provincial civil protections. Comparative material from other jurisdictions with strong customary or religious legal traditions is welcome where it illuminates possible reforms.

III. Beyond the Scope

PWEC is not a forum to relitigate matters of religious jurisprudence in the abstract, nor to debate the broader ideological character of Pakistan's legal system. Subjects such as blasphemy law, the structure of the Federal Shariat Court's general jurisdiction outside matters directly touched by this agenda or unrelated areas of family law with no customary practice dimension are beyond the scope of debate. Delegates should also avoid conflating this agenda with the broader question of women's economic or political participation, which, while related, sits outside the specific mandate of confronting harmful traditional practices and enforcement failure.

IV. Introduction to the Topic

Pakistan's legal system carries two competing sources of authority over the lives of women, the formal statutes passed by federal and provincial legislatures and the unwritten codes of custom, kinship and honour that continue to govern large parts of rural and semi urban life. Where these two systems collide custom has repeatedly proven the stronger. Girls are still given in marriage to settle blood feuds under the names of vani and swara despite an explicit criminal prohibition dating to 2011. Women who marry by choice are still deprived of inheritance through informal family pressure that courts rarely intervene to stop before the fact. Killings carried out in the name of honour, technically punishable by mandatory life imprisonment since 2016, still frequently end in acquittal or a family brokered pardon.

The formal record on paper is significantly more progressive than the picture painted by the underlying statistics, a gap that legal scholars have described as the defining feature of women's protection in Pakistan (Oxford Human Rights Hub, 2016). This committee calls on delegates to treat enforcement, rather than the drafting of new prohibitions, as the primary object of debate. Pakistan does not lack laws that name these practices as crimes. It lacks the institutional capacity, and in some cases the political will, to make those prohibitions bind in the villages, courtrooms and homes where the practices occur. Delegates will need to grapple with structural questions, among them why a criminal justice system built around victim or family led compounding of murder is so difficult to reconcile with crimes committed by the family itself, why parallel customary forums continue to operate despite repeated judicial condemnation and why devolution after the Eighteenth Amendment has produced a patchwork of provincial protection that leaves women in some provinces considerably less protected than others.

Part One: The History

I. Customary Foundations and Codified Silence, before 1979

Long before the Pakistani state existed, customs such as *vani*, *swara* and *badal e sulh* functioned as informal mechanisms for resolving blood feuds and property disputes in tribal and rural Punjab, Khyber Pakhtunkhwa and parts of Balochistan, typically by handing a girl or young woman from the offending family to the aggrieved one. Early Pakistani law inherited from the colonial Penal Code of 1860 did not name these customs as distinct offences. Personal status law for Muslim citizens was governed by the Muslim Personal Law of Sharia and later the Muslim Family Laws Ordinance of 1961, both of which addressed inheritance and marriage in principle but left customary practice largely untouched in areas where the state's writ was thin. Inheritance rights for women existed on paper under Islamic principles of succession but were routinely overridden in practice through informal family pressure, a pattern that persists into the present day.

II. Islamization and the Entrenchment of Qisas and Diyat, 1979 to 1990

The Islamization programme pursued under General Zia ul Haq fundamentally reshaped the law governing murder in Pakistan. Judicial rulings in this period, most significantly the Peshawar High Court's 1979 decision in *Gul Hassan Khan*, held that the existing Penal Code provisions on murder were repugnant to Islamic injunctions because they did not allow for *qisas*, meaning retribution in kind, or *diyat*, meaning monetary compensation in place of punishment. The result was the *Qisas and Diyat Ordinance of 1990*, later consolidated into the Penal Code, which made murder a compoundable offence. The legal heirs of a victim, known as the *wali*, gained the power to pardon a killer or to accept compensation in place of prosecution. For most homicides this reform reflected a coherent Islamic legal principle rooted in forgiveness. For honour based killings, where the *wali* and the perpetrator are typically members of the same family, it created a structural loophole that effectively legalised impunity. Fathers, brothers and sons could forgive one another for killing a daughter, sister or wife, and the state had no independent standing to prosecute over that forgiveness.

III. The First Wave of Codified Protection, 1997 to 2011

Civil society pressure through the 1990s and 2000s produced the first generation of statutes naming customary and honour based harms as distinct crimes rather than leaving them to be absorbed into general murder and assault provisions. The Protection of Women, Criminal Laws Amendment Act of 2006 revised the Hudood Ordinances and moved rape prosecutions back under the Penal Code rather than the evidentiary standards that had made conviction almost impossible. The Acid Control and Acid

Crime Prevention Act of 2011 created a dedicated offence for acid violence, disproportionately used against women. Most significant for this agenda, the Prevention of Anti Women Practices Act of 2011 amended the Penal Code to criminalise *vani*, *swara* and *badal e sulh* directly under section 310A, to criminalise the deprivation of women's inheritance under section 498A and to criminalise forced marriage, including marriage to the Quran, under sections 498B and 498C. Passed unanimously by the National Assembly on 15 November 2011 after years of delay, the 2011 Act remains the primary national statute naming these customs as crimes, though subsequent field surveys have repeatedly found that a large share of disputes in affected districts continue to be settled through the very customs the Act prohibits (Punjab Commission on the Status of Women, n.d.).

IV. Provincial Divergence After Devolution, 2010 to 2016

The Eighteenth Amendment of 2010 devolved a wide range of subjects, including much of social welfare and family protection policy, to the provinces. The consequence for women's legal protection has been a patchwork rather than a uniform national standard. Sindh passed the Domestic Violence Prevention and Protection Act in 2013, the first province to criminalise domestic violence directly. Balochistan passed comparable legislation in 2014. Punjab took a different route with the Protection of Women against Violence Act of 2016, which created Violence Against Women Centres, women protection officers and civil remedies such as protection and residence orders, but which, unlike the Sindh law, did not impose criminal penalties on perpetrators. Khyber Pakhtunkhwa has never passed a standalone domestic violence law, leaving women in the province reliant on general Penal Code provisions and the 2011 Act alone. The province did pass the Elimination of the Custom of Ghag Act in 2013, targeting the specific Pashtun custom by which a man could publicly stake an unwanted claim on a woman's future marriage. Azad Jammu and Kashmir and Gilgit Baltistan, both outside the ordinary provincial legislative structure, have lagged further still, largely relying on the extension of federal Penal Code provisions rather than dedicated local statutes. This provincial divergence means that a woman's practical legal protection against the same underlying harm can differ substantially depending solely on where in Pakistan she lives.

V. The 2016 Reckoning and Its Unfinished Business, 2016 to present

The killing of the social media personality Qandeel Baloch by her brother in July 2016, and his subsequent pardon by their own parents under the existing *qisas* and *diyat* framework, produced the most significant wave of legislative attention this agenda has seen. Parliament responded with the Criminal Law Amendment, Offences in the Name or Pretext of Honour Act of 2016, which reclassified honour killing as *fasad fil arz*, meaning mischief on earth, and provided that a court may impose a mandatory sentence of life imprisonment even where the victim's heirs have pardoned the accused under the ordinary *qisas* provisions. The reform closed the most visible loophole while leaving a narrower one

in its place. Whether a killing qualifies as an honour crime at all is left to judicial discretion, and prosecutors carry the burden of proving honour as the motive beyond reasonable doubt, a standard that a sympathetic or under resourced trial court can decline to meet.

The Human Rights Commission of Pakistan recorded some 280 honour related killings in the nine months following the law's passage, a figure widely regarded as an undercount (Newsweek, 2018). Courts, including the Peshawar High Court, have continued on occasion to acquit defendants after finding the prosecution had not proven an honour motive. The pattern has not meaningfully receded in the years since. The commission documented 384 such killings in 2022, including a disproportionate share in Khyber Pakhtunkhwa, and press reporting attributes 405 further cases to the commission's 2024 figures, an indication that legislative reform alone has not translated into a falling caseload (Research Society of International Law, 2025). The years since 2016 have produced incremental judicial tightening, including Supreme Court rulings reinforcing the non compoundable character of honour crimes, but the underlying structure identified by activists at the time, namely a justice system built around family led forgiveness applied to crimes committed within the family, remains substantially intact.

Part Two: The Present Framework

I. The National Legal Architecture

A. Constitutional Guarantees

The Constitution of Pakistan guarantees equality before law under Article 25, prohibits discrimination on the basis of sex and, under Articles 34 and 37, directs the state to ensure full participation of women in national life and to secure just conditions for vulnerable groups. Article 9 guarantees the right to life, a provision increasingly cited by advocates seeking to argue that the compounding of honour killings under the qisas and diyat framework is itself a constitutional violation rather than merely a policy failure. These provisions establish the constitutional basis on which PWEC's mandate rests, but they operate at a level of generality that has not, on their own, produced enforceable protection at the district and village level.

B. Penal Code Amendments and the Prevention of Anti Women Practices Act 2011

As set out in Part One, the 2011 Act remains the principal national instrument naming *vani*, *swara*, *badal* e *sulh*, inheritance deprivation and forced marriage as distinct crimes, with penalties ranging from three to ten years imprisonment and fines of up to one million rupees (Punjab Commission on the Status of Women, n.d.). Its central weakness is not the text of the prohibition but the burden it places on victims and their families to report a crime that is, by definition, being carried out with the involvement or acquiescence of their own kin, in areas where local *jirgas* and police are often more inclined to encourage a private settlement than to pursue prosecution.

C. The Anti Honour Killing Law and Its Persistent Loophole

The 2016 Act, discussed above, remains the primary instrument governing honour based killing. Delegates should understand its two operative features clearly. First, it removed the option for a full acquittal through family pardon in cases properly classified as honour crimes, mandating a minimum sentence even where the *wali* forgives. Second, and this is the loophole that continues to generate debate, classification as an honour crime is not automatic. Where a prosecutor cannot establish the honour motive to the satisfaction of the trial court, a case reverts to the ordinary *qisas* and *diyat* framework, where family pardon can still produce an acquittal or a substantially reduced sentence. Recent judicial commentary has noted some improvement in registration practices and prosecutorial follow through since 2016, but continues to flag classification as the central unresolved question (Research Society of International Law, 2025). Reform proposals before this committee should engage directly with this classification problem rather than treating the 2016 Act as a settled solution.

II. The Provincial Patchwork

A. Sindh

The Domestic Violence Prevention and Protection Act of 2013 was the first provincial law in Pakistan to impose direct criminal penalties for domestic violence, defined broadly to include physical, psychological and economic abuse against women, children and other vulnerable persons in a domestic relationship. Sindh has also passed the Child Marriage Restraint Act, amended in 2014 to raise penalties, which the Federal Shariat Court upheld against a religious challenge in 2023.

B. Punjab

The Protection of Women against Violence Act of 2016 established Violence Against Women Centres intended to function as a single point of contact for medical examination, evidence collection and legal aid, alongside protection, residence and monetary orders issued by family courts and, controversially, GPS tracking of offenders. Unlike the Sindh law, the Punjab Act does not itself create new criminal offences, relying instead on civil remedies and referral to existing Penal Code provisions. The Council of Islamic Ideology formally objected to the Act on the ground that it was inconsistent with the ideology of Pakistan, an objection the Federal Shariat Court rejected on 29 November 2022 in *Muhammad Ibrahim Khan v Province of Punjab*, finding nothing in the Act contrary to the injunctions of Islam and directing the provincial government to extend implementation to every district of the province (Library of Congress, 2023; Oxford Human Rights Hub, 2022; Shaikh Ahmad Hassan School of Law, n.d.).

C. Balochistan and Khyber Pakhtunkhwa

Balochistan passed a domestic violence law comparable to Sindh's in 2014. Khyber Pakhtunkhwa remains the only province without standalone domestic violence legislation, having failed to pass a bill in the face of assembly opposition, leaving women there dependent on the 2011 Act and general Penal Code provisions alone. The province's one significant contribution is the Elimination of the Custom of Ghag Act of 2013, addressing a Pashtun specific practice not covered elsewhere in national law.

D. Azad Jammu and Kashmir and Gilgit Baltistan

Delegates representing or researching the wider federation should note that Azad Jammu and Kashmir and Gilgit Baltistan sit outside the standard provincial legislative framework and have not enacted dedicated domestic violence or anti customary practice statutes of their own. Protection in these territories rests almost entirely on the extension of federal Penal Code provisions and, where applicable, the 2011 and 2016 Acts, a gap that PWEC resolutions may wish to address directly given the absence of any local commission comparable to those operating in the four provinces.

III. Enforcement Failures

A. Parallel Justice: Jirga and Panchayat

Informal customary councils, called jirgas in Pashtun areas and panchayats elsewhere, continue to adjudicate disputes, including those involving violence against women, in significant parts of rural Pakistan, despite the Supreme Court's repeated rulings that such bodies have no standing to hand down punishments outside the formal legal system. These councils are frequently the very institutions that order vani or swara marriages to settle the disputes this committee is tasked with examining, and their continued operation, tolerated by local police and administrations, is one of the clearest examples of a gap between the formal prohibition on paper and the practice on the ground.

B. Police and Prosecutorial Gaps

Field surveys conducted in districts where vani and swara remain common have found that a large majority of marriages are still settled through these customs despite their criminal status, a pattern researchers attribute to local police preferring informal reconciliation over registration of a case, inadequate training of investigating officers and prosecutors in the specific evidentiary requirements of the 2011 and 2016 Acts and a lower judiciary that does not always apply the statutory presumptions correctly (Research Society of International Law, 2022). Free legal aid and in camera trial provisions exist under the Code of Criminal Procedure for victims of sexual violence, but coverage and awareness remain inconsistent across districts.

C. Familial Complicity and the Compounding Problem

The structural core of the enforcement problem, as outlined in Part One, is that Pakistan's criminal law treats murder as a private wrong capable of compounding between the offender and the victim's legal heirs. Where the offender and the legal heirs belong to the same family, as is almost always true in honour based violence, this framework converts what ought to be a matter for the state into an internal family negotiation. The 2016 reform narrowed but did not close this gap. Delegates proposing reform should consider whether the correct response is to expand the definition of fasad fil arz, to shift the burden of proving an honour motive away from the prosecution, to remove compounding entirely for offences against family members or to pursue some combination of these and other approaches.

IV. International Dimension

Pakistan ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1996 and is subject to periodic review by the CEDAW Committee and to the Universal Periodic Review process at the Human Rights Council, both of which have repeatedly flagged the gap between Pakistan's legislative framework and its enforcement record on harmful traditional practices (UN Women Asia and the Pacific, n.d.). Civil society organisations, including the Human Rights Commission of Pakistan and the Aurat Foundation, have submitted shadow reports to these bodies documenting continued prevalence of *vani*, *swara*, forced marriage and honour based violence despite the 2011 and 2016 reforms. Delegates may find it useful to compare Pakistan's approach to jurisdictions with similarly strong customary or religious legal traditions, including India's handling of *khap* panchayats and honour crimes under its own penal code and jurisdictions elsewhere that have separately reformed provisions historically used to mitigate sentences in honour related cases, while bearing in mind that direct transplantation of foreign models rarely accounts for Pakistan's specific federal structure and customary geography.

V. Bloc Positions and Delegate Strategy

Delegates broadly representing federal ministries and national commissions are likely to favour uniform national standards, closing the classification loophole in the 2016 Act and expanded funding for enforcement infrastructure such as women protection officers and Violence Against Women Centres. Delegates representing provinces with weaker existing frameworks, particularly Khyber Pakhtunkhwa, may resist federal encroachment on a devolved subject while facing pressure to explain the absence of protective legislation. Delegates representing religious and customary authority are likely to argue for preserving a role for reconciliation and family led resolution in matters short of murder, while distinguishing sharply between legitimate mediation and coerced marriage or killing, a distinction the Federal Shariat Court itself drew when it found the Punjab Act consistent with Islamic injunctions rather than opposed to them. Civil society aligned delegates are likely to push for the most aggressive reform of compounding and classification rules and for direct funding to legal aid and shelter services. Delegates are encouraged to locate their arguments in specific statutory text and comparative practice rather than general appeals to tradition or modernity.

VI. Policy Solutions and Proposed Reforms

A. Closing the Classification Loophole

Amending section 311 of the Penal Code to shift the burden of proving that a killing was not an honour crime onto the defence once specified factual triggers are present, rather than requiring the prosecution to prove the honour motive from the outset, would narrow the discretion that currently allows courts to route cases back into the ordinary compounding framework.

B. Removing Compounding for Intrafamilial Homicide

Delegates might consider amending the Qisas and Diyat framework so that waiver of qisas by a wali who shares a household or close kinship with the accused no longer results in acquittal or reduced sentencing, addressing the structural conflict of interest at the centre of the enforcement gap without disturbing compounding in cases between unrelated parties.

C. A National Floor for Provincial Legislation

A model law, or a constitutional minimum standard, requiring every province and territory to criminalise domestic violence directly rather than relying solely on civil remedies would close the gap that currently leaves women in Khyber Pakhtunkhwa, Azad Jammu and Kashmir and Gilgit Baltistan, and to a lesser extent Punjab, with weaker protection than their counterparts in Sindh and Balochistan.

D. Restricting the Jurisdiction of Informal Councils

Statutory penalties for police officers and local officials who knowingly refer a criminal matter covered by the 2011 or 2016 Acts to a jirga or panchayat in place of formal prosecution would give the Supreme Court's existing prohibition on informal adjudication of such matters practical teeth at the district level.

E. Investment in Prosecutorial and Police Training

Dedicated training and specialised prosecution units for offences under the 2011 and 2016 Acts, modelled on the Violence Against Women Centres already operating in Punjab, would address the evidentiary and procedural gaps that field research consistently identifies as a primary cause of low conviction rates.

F. Standardised National Data Collection

The persistent divergence between figures reported by the Human Rights Commission of Pakistan, provincial police departments and civil society organisations suggests that any resolution should also consider a single mandated reporting standard across federal and provincial agencies, without which the actual scale of enforcement failure will remain difficult for policy makers to assess with confidence (Research Society of International Law, 2025).

VII. Questions a Resolution Must Answer (QARMA)

Delegates should treat the following as the minimum set of questions that any working paper or draft resolution before this committee must resolve, whether through explicit clauses or through a reasoned decision to leave a given question to provincial or judicial discretion.

- Should Pakistan remove the option of family pardon entirely for homicides committed within the immediate family, or is a narrower reform of the classification standard for honour crimes sufficient?
- How should the balance of federal and provincial authority over women's protection legislation be resolved given the divergence that has emerged since the Eighteenth Amendment?
- What legal standing, if any, should jirgas and panchayats retain, and how should that standing be enforced against local officials who continue to refer cases to them?
- Who should bear the burden of proof in classifying a killing as an honour crime under section 311, and what evidentiary standard is realistic given the resource constraints of Pakistan's lower judiciary?
- How should reform proposals engage religious and customary authorities without conceding legitimacy to practices such as vani and swara that are already criminalised?
- What enforcement mechanisms, financial or institutional, can realistically close the gap between the 2011 and 2016 Acts and their application in rural districts?
- To what extent should Pakistan's approach be shaped by its CEDAW obligations and Universal Periodic Review commitments, and what tension exists between those international commitments and domestic political constraints?
- Should Azad Jammu and Kashmir and Gilgit Baltistan be brought within a national floor for domestic violence legislation, and through what mechanism given their distinct constitutional status?

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- What standard, if any, should govern the collection and publication of national statistics on honour related violence so that future committees and legislatures can measure progress against a common baseline?

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