

HONOUR KILLINGS AND CRIMINAL JUSTICE

SOCIAL AND LEGAL CHALLENGES IN TURKEY

Ferya Taş-Çifçi



Honour Killings and Criminal Justice

Despite recent reforms to the Turkish Penal Code, the country retains a high level of honour-based violence. This book analyses the motives behind honour-based violence in Turkey and examines the criminal justice system's approach to this type of crime. The work takes a socio-legal approach to explore the concepts of honour, patriarchy, and hierarchy, along with the roles of culture and tradition. It also examines how the legal system deals with this phenomenon, focusing on the decisions of the criminal courts in honour killing cases and drawing on prisoner interviews. These analyses show the extent to which the State follows a patriarchal approach when dealing with honour killings and inform recommendations for improving the legal and criminal justice system so as to deter crimes of this nature.

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To my mother Hacer Taş and my father İsmet Taş



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1 Introduction

1. Honour-based violence and honour killings

Honour-based violence (HBV) is a reality in most parts of the Middle East, Asia, the Muslim world, and Western countries. The severity of HBV has been widely realised over the past few decades and the conceptualisation of HBV has been developing. A wide range of definitions have been offered in order to frame and conceptualise the crime, but there is still no definitional consensus on either HBV or honour killings¹ (or so-called honour killings).²

Some of these definitions address HBV as type of violence that is committed either to protect or to restore ‘honour,’³ and any behaviour that challenges

1 For criticism about the term of ‘honour killing,’ see Lynn Welchman and Sara Hossain, ‘Introduction: “Honour”, Rights and Wrongs’ *‘Honour’: Crimes, Paradigms, and Violence Against Women* (London, Zed Books 2005) 8; see also Sercan Tokdemir, ‘Honor Crimes in Turkey: Rethinking Honour Killings and Reconstructing the Community Using Restorative Justice System’ (2013) 4 Law & Justice Review 257, 258.

2 Rochelle L Terman, ‘To Specify or Single Out: Should We Use the Term “Honor Killing”?’ (2010) 7 Muslim World Journal of Human Rights 1, 7; Aisha K Gill, ‘Honor Killings and the Quest for Justice in Black and Minority Ethnic Communities in the United Kingdom’ (2009) 20 Criminal Justice Policy Review 474; Welchman and Hossain (n 1) 4; Joanne Payton, ‘“Honour,” Collectivity, and Agnation: Emerging Risk Factors in “Honor”-Based Violence’ (2014) 29 Journal of Interpersonal Violence 2863, 2864–67; Lindsey N Devers and Sarah Bacon, ‘Interpreting Honor Crimes: The Institutional Disregard Towards Female Victims of Family Violence in the Middle East’ (2010) 3 International Journal of Criminology and Sociological Theory 359, 360–62; Moira Dustin and Anne Phillips, ‘Whose Agenda Is It?: Abuses of Women and Abuses of “Culture” in Britain’ (2008) 8 Ethnicities 405, 412; Karl Anton Roberts, Gerry Campbell, and Glen Lloyd, *Honor-Based Violence: Policing and Prevention* (London, CRC Press 2014) 1–2; Mohammad Mazher Idriss, ‘Key Agent and Survivor Recommendations for Intervention in Honour-Based Violence in the UK’ (2018) 42 International Journal of Comparative and Applied Criminal Justice 321; Gökçe Yurdakul and Anna C Korteweg, ‘State Responsibility and Differential Inclusion: Addressing Honor-Based Violence in the Netherlands and Germany’ (2019) Social Politics: International Studies in Gender, State & Society <<https://doi.org/10.1093/sp/jxz004>> accessed 06 February 2020; İhsan Çetin, ‘Gelenek ve Modernite Arasında Türkiye’de Son Dönem Kadın Cinayetleri’ (2014) 30 Sosyoloji Dergisi 41, 45.

3 Christina Julios, *Forced Marriage and ‘Honour’ Killings in Britain: Private Lives, Community Crimes and Public Policy Perspectives* (Surrey, Ashgate 2015) 7; Nazand Begikhani, Aisha K Gill, and Gill Hague, *Honour-Based Violence: Experiences and Counter-Strategies in Iraqi*

2 Introduction

patriarchal authority or that may be accepted as sexual misconduct by the society are considered as an honour violation.⁴ As discussed in Chapters 3 and 4, this society involvement provides evidence of cultural and traditional norms that create honour codes allowing and sometimes even legitimising different forms of violence. The literature also highlights that HBV as a wider concept encompasses different types of violence, including but not limited to domestic violence, forced marriage, female genital mutilation, and honour killings;⁵ this last is the most severe form of HBV and is committed in order to restore honour.

In looking at the literature, it is evident that individual and/or collective honour and honour/shame relationships form the common ground of concepts of female sexuality, patriarchy, culture, and traditions.⁶ HBV is considered to be a form of gender-based violence in general – violence against women (VAW) in particular – and considers women to be the primary victims of this violence.⁷ Apart from these conceptual definitions, the literature also provides important information about the regions in which HBV is committed,⁸ emphasising that HBV cannot be attributed to one region: It is committed worldwide.⁹

Kurdistan and the UK Kurdish Diaspora (Surrey, Ashgate 2015) 6–8; Welchman and Hossain (n 1) 4–10; Rupa Reddy, ‘Domestic Violence or Cultural Tradition? Approaches to “Honour Killing” as Species and Subspecies in English Legal Practice’ in Aisha K Gill, Carolyn Strange, and Karl Roberts (eds), *‘Honour’ Killing & Violence: Theory, Policy & Practice* (Hampshire, Palgrave Macmillan 2014) 30.

4 Welchman and Hossain (n 1) 5; David Tokiharu Mayeda, Sunmin Rachel Cho, and Raagini Vijaykumar, ‘Honour-Based Violence and Coercive Control Among Asian and Youth in Auckland, New Zealand’ (2019) 25 *Asian Journal of Women’s Studies* 159, 160.

5 Julios (n 3) 7; Begikhani, Gill, and Hague (n 3) 4–5.

6 Anna Korteweg and Gokce Yurdakul, ‘Religion, Culture and Politicization of Honour-Related Violence: A Critical Analysis of Media and Policy Debates in Western Europe and North America’ (United Nations Research Institute for Social Development 2010) Gender Development Programme Paper 12 2; Unni Wikan, *In Honour of Fadime: Murder and Shame* (Chicago, The University of Chicago Press 2008) 70, 73; Aisha K Gill and Avtar Brah, ‘Interrogating Cultural Narratives About “Honour”-Based Violence’ (2014) 21 *European Journal of Women’s Studies* 72, 73; Anna Korteweg, ‘“Honour Killing” in the Immigration Context: Multiculturalism and the Racialization of Violence Against Women’ (2014) *Politikon: South African Journal of Political Studies* 183, 2; Lila Abu-Lughod, ‘Seductions of the “Honor Crime”’ (2011) 22 *Differences: A Journal of Feminist Cultural Studies* 17, 17; Amnesty International, ‘Culture of Discrimination: A Fact Sheet on Honor Killings’ (2005) <https://www.amnestyusa.org/files/pdfs/honor_killings_fact_sheet_final_2012.docx> accessed 06 February 2020.

7 Begikhani, Gill, and Hague (n 3) 6–8; Aisha K Gill, ‘“Crimes of Honour” and Violence Against Women in the UK’ (2011) 32 *International Journal of Comparative and Applied Criminal Justice* 243; Welchman and Hossain (n 1) 4; Korteweg and Yurdakul (n 6) 3; Mohammad Mazher Idriss, ‘Not Domestic Violence or Cultural Tradition: Is Honour-Based Violence Distinct From Domestic Violence?’ (2017) 39 *Journal of Social Welfare and Family Law* 3.

8 Radhika Coomaraswamy, ‘Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women’ (United Nations Economic and Social Council Commission on Human Rights 2002) E/CN.4/2002/83 <<https://undocs.org/E/CN.4/2002/83>> accessed 06 February 2020.

9 ‘So-Called “Honour Crimes”’ (Council of Europe Parliamentary Assembly Committee on Equal Opportunities for Women and Men 2003) 9720.

Some definitions of HBV, especially honour killings, specifically include family members as perpetrators. For instance, one of the earlier definitions of honour killings provided by Abu-Odeh states: "Killing of a women by her father or brother for engaging in, or being suspected of engaging in, sexual practices before or outside marriage."¹⁰ Warrick, Sev'er and Yurdakul, Korteweg, and Khan also highlight in their conceptualisations the involvement of family members in perpetrating these killings.¹¹ As this book analyses in Chapters 4, 5, and 6, court records consider honour killings to be a form of violence committed by family members. Research conducted in the Turkish context by Bağlı and Özensel, Dogan, Onal, and Fındıkçı also underline the fact of family members' involvement in committing these crimes.¹² As Appendix 2.1 shows, the majority of honour killings are committed by relatives; however, it is also evident that non-relative perpetrators (especially intimate partners and ex-husbands) also commit these killings for the sake of honour. Therefore, conceptualising HBV and honour killings by only considering family member involvement places limits on HBV.

The literature also shows some evidence of conceptualising honour killings as premeditated murders, that is, committed with planning in advance.¹³ As discussed in detail in Chapter 6, the Turkish courts aimed to follow this approach in their decisions to criminalise honour killings with using a specific term: customary killings. The Turkish literature also makes this differentiation and considers pre-planning (especially family council decisions) as a condition of customary killings.¹⁴ However, the prison interviews for this research reveal that the majority of perpetrators declared that murdering their victim was a sudden decision, which shows that not all honour killings are pre-planned. This problem is further analysed in depth in Chapter 6.

Another problematic issue related to the conceptualisation of HBV and honour killings is the differentiation between passion and honour killings. Patriarchal violence against women is a global problem and cannot be attributed only to

10 Lama Abu-Odeh, 'Crimes of Honour and Construction of Gender in Arab Societies' in Mai Yamani (ed), *Feminism and Islam: Legal and Literary Perspectives* (Reading, Garnet Publishing Limited 1996) 141.

11 Catherine Warrick, 'The Vanishing Victim: Criminal Law and Gender in Jordan' (2005) 39 *Law & Society Review* 315, 232; Aysan Sev'er and Gokcececek Yurdakul, 'Culture of Honor, Culture of Change: A Feminist Analysis of Honor Killings Rural Turkey' (2001) 7 *Violence Against Women* 964; Korteweg (n 6) 184; Tahira S Khan, *Beyond Honour: A Historical Materialist Explanation of Honour Related Violence* (Oxford, Oxford University Press 2006) 42–68.

12 Mazhar Bağlı and Ertan Özensel, *Türkiye'de Töre ve Namus Cinayetleri: Töre ve Namus Cinayetleri İşleyen Kişiler Üzerine Sosyolojik Bir Araştırma* (İstanbul, Deistek Yayınevi 2011); Aydın Fındıkçı, *Töre Cinayetleri Kürt Kültürünün Bir Parçası Mı: Arama Sonuçları* (Ankara, İmaj Yayınları 2010); Ayse Onal, *Honour Killing: Stories of Men Who Killed* (London, Saqi Books 2008); Recep Dogan, 'The Profiles of Victims, Perpetrators, and Unfounded Beliefs in Honor Killings in Turkey' (2014) 18 *Homicide Studies* 389.

13 Sev'er and Yurdakul (n 11) 964; Korteweg (n 6) 184.

14 Detailed analysis and discussion on the difference between honour killings and customary killings will be provided in Chapter 6.

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Middle Eastern and Turkish societies.¹⁵ As discussed in Chapter 2, the concept of male authority over females exists in every society; any behaviour that challenges this authority and puts men in a position of being less masculine and patriarchal may result in violent reactions. As discussed by Abu-Odeh, the patriarchal roots of these types of violence usually have been formulated in a way that creates Oriental and Occidental distinctions¹⁶ as well as a stigmatised approach to non-Western communities.¹⁷ In this sense, ‘passion’ is used in the West and ‘honour crimes’ in the East to define very similar motivated incidents against women.¹⁸ Certain characteristics are created in the literature to provide differences between honour killings and passion killings, for instance that honour killings represent the orient, barbaric traditions, and backwardness, whereas passion killings represent both the occident and orient and are not necessarily barbaric.¹⁹ Also, while honour killing includes the concept of collective honour and the involvement of different family members, passion killing is more individualised and is committed by the victims’ sexual partners. Lastly, honour killings are premeditated, whereas passion killings are committed with a sudden loss of control.²⁰ As Welchman and Hossain argue, this differentiation creates different legal and social responses to similar incidents committed with motives of patriarchal ideology.²¹

In the Turkish context, it is evident that this differentiation is still considered by some scholars, leading to considerable limitation of the concept of honour killings.²² Instead of considering the concept of patriarchy and the concept of male ownership over women’s sexuality, this approach mainly focuses on the difference between the concepts of customary law and sudden loss of control and makes a distinction between collective and individual honour.²³ As discussed in detail in Chapter 6, the State’s approach to criminalising honour killings also follows this differentiation and limitation in separating customary killings, honour killings, and passion killings. Chapter 6 also highlights how this differentiation creates injustice for the victims of honour killings when the State conceptualises the crime.

15 Ruth Sanberg and Janine HLJ Janssen, ‘The Spectacle of the Feminine Other: Reading Migrant Women’s Autobiographies About Honour-Based Violence’ (2018) 68 *Women’s Studies International Forum* 55.

16 Abu-Odeh (n 10) 141.

17 Terman (n 2) 5–6.

18 Welchman and Hossain (n 1) 10–13.

19 Abu-Lughod (n 6) 18; Purna Sen, ‘Crimes of “Honour”, Value and Meaning’ in Lynn Welchman and Sara Hossain (eds), *‘Honour’: Crimes, Paradigms, and Violence Against Women* (London, Zed Books 2005) 45; Recep Dogan, ‘The Dynamics of Honour Killings: Perpetrators’ Experiences’ (2016) 20 *Homicide Studies* 53, 365.

20 Welchman and Hossain (n 1) 11.

21 Ibid. 12.

22 Bağlı and Özensel (n 12) 55–59; Mahmut Tezcan, *Türkiye’de Tore (Namus) Cinayetleri: Sosyo Kültürel Antropolojik Yaklaşım* (Ankara, Naturel 2003) 15–20; Fındıkçı (n 12) 102–20.

23 Bağlı and Özensel (n 12) 55; Leyla Pervizat, ‘Tackling Honour in the Aftermath with Good Practice’ (United Nations Division for the Advancement of Women United Nations Economic Commission for Africa 2009) Expert Paper EGM/GPLHP/2009/EP .02 7–9.

This book aims to follow a broad definition of HBV and honour killings that avoids ethnic, cultural, traditional, and religious stigmatisation and accepts HBV and honour killings as a form of gender-based violence that is applied in order to protect and/or restore individual and family honour.²⁴ This allows me to consider honour killings as a wider concept that also includes, but is not limited to, customary killings and passion killings.

Based on this, HBV can be defined as a form of patriarchal violence that is used either to protect or to restore honour; honour killings are the most severe form of HBV, used in response to alleged sexual misconduct against male authority and patriarchal social norms.²⁵

2. Main focus of the book

This book makes a distinct contribution to academic and policy analysis by focusing on the gap between the criminalisation of so-called honour killings and the judiciary process in Turkey. Although considerable research has been done and advances made in terms of how HBV is tackled within the context of criminal law regionally (i.e. in the Middle East and South Asia), the area still needs further research, especially in Turkey, considering the Penal Code reforms.

This research aims to answer the following question(s):

How and under which conditions are honour killings committed in Turkey, and how does the Turkish Penal Code deal with them?

Within the context of this question, the research aims to explore the following tentative hypothesis:

Since women's honour is considered to be the honour of the family and society, is violence against women in the name of honour legitimised by society?

Although there have been considerable developments in the Turkish legal system in terms of recognition of gender equality, the existing Penal Code is still insufficient in deterring and denouncing honour killings.

3. Theoretical framework and methodology

Since the study aims to answer how and under which conditions honour killings are committed in Turkey, and how the Turkish Penal Code deals with

24 Gill, 'Honor Killings and the Quest for Justice in Black and Minority Ethnic Communities in the United Kingdom' (n 2) 2; Reddy (n 3) 305, 306; Welchman and Hossain (n 1) 4–10; Fadia Faqir, 'Intrafamily Femicide in Defence of Honour: The Case of Jordan' (2001) 22 Third World Quarterly 65, 69.

25 A similar approach has been taken by Natasha Mulvihill and others in 'The Experience of Interactional Justice for Victims of "Honour"-Based Violence and Abuse Reporting to the Police in England and Wales' (2019) 29 Policing and Society: An International Journal of Research and Policy 640.

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them, it requires a theoretical approach that supports analysis of variable, complex concepts related to HBV and honour killings. Therefore, this book is based on two main theories: hermeneutics²⁶ and feminist theory (the former is discussed in the following section; the latter is explained in detail in Chapter 3). The book also follows the methodological approaches of case study, doctrinal, and socio-legal analysis, including analysis of court cases and interviews.

3.1 *Hermeneutics of HBV as a research method*

The art of interpretation, or hermeneutics, is perhaps a good start for creating a contextual circle around HBV; this leads us to create a hermeneutical circle of HBV. Schleiermacher defines hermeneutics as the “art of understanding, particularly the written discourse of another person correctly.”²⁷ Similarly, Ricoeur defines it as “the theory of operations of understanding in their relation to the interpretation of texts.”²⁸

Although hermeneutics theory was much concerned with theology and philosophy in the 19th century, it gradually became a part of all human sciences.²⁹ Schleiermacher and his follower, Dilthey, were two Romantic German philosophers who analysed the theory of interpretation by focusing on the importance of understanding the relationship between the parts and the whole, the reader and the author, during the process of interpretation.³⁰ Dilthey stressed that knowledge of a person – which has a historical relation – is very much dependent on the success of transforming oneself to occupy the other person’s mental life.³¹ However, this epistemological approach was highly criticised by Heidegger and Gadamer, who discussed hermeneutics within the context of ontology.³² According to Heidegger, we all start to understand and interpret by using our fore-conception; in other words, with our pre-understanding or pre-conception.³³ With this pre-conception, we create the relationship between the subject and the object; it is this relationship that

26 A similar approach in a Pakistan context was followed by Amir H Jafri, *Honour Killing: Dilemma, Ritual, Understanding* (Oxford, Oxford University Press 2008) 36–45.

27 Paul Ricoeur, *From Text to Action: Essays in Hermeneutics, II* (Kathleen Blamey and John Thompson trs, London, The Athlone Press 1991) 63–64.

28 Paul Ricoeur, *Hermeneutics and the Human Sciences* (John Thompson tr, Cambridge, Cambridge University Press 1981) 43.

29 Hans-Georg Gadamer, *Truth and Method* (London, Bloomsbury 2013) 182.

30 Ronald Bontekoe, *Dimensions of the Hermeneutic Circle* (New York, Humanity Books 2000) 24–25.

31 Wilhelm Dilthey, *Hermeneutics and the Study of History*, vol 4 (Rudolf Makkreel and Frithjof Rodi eds, Princeton, Princeton University Press 1996) 230.

32 Ricoeur (n 27) 63–64.

33 Martin Heidegger, *Being and Time* (John Macquarrie and Edward Robinson trs, Oxford, Blackwell 1962) 191; Gadamer (n 29) 280.

determines how we self-understand the subject and how we understand the world/object, and this understanding stands as a circle, which is described as 'vicious.'³⁴

Although this theory was dismissed as an "epistemological failure" by Ricoeur,³⁵ it is the ideal situation that I would like to emphasise during this research. While analysing the hermeneutical circle of HBV, I would like the reader to approach the text without breaking the circle. My aim is, as Heidegger explains, "not to get out of the circle but to come into it in the right way."³⁶ Of course, as Heidegger argues, while coming into the circle people will also bring their prior knowledge or presumptions about the topic/whole.³⁷ Gadamer also focuses on the importance of prior knowledge/understanding during the process of interpretation,³⁸ arguing that in order to avoid misunderstanding and prejudice while interpreting the text, we need to be "sensitive to the text's alterity."³⁹ This leads us to consider the whole text and its parts, and then we need to go back to the whole as if we have a circle,⁴⁰ which reminds us of Dilthey's analysis of the hermeneutical circle.

Taylor also analyses hermeneutics and the hermeneutical circle, adopting a combined approach to dealing with the problem of achieving the correct interpretation. Taylor argues that the parts constitute the whole; he creates the circle based on understanding the parts in order to understand the whole, and vice versa.⁴¹ However, at the same time he talks about how individuals interpret using their pre-knowledge or assumptions. He acknowledges that interpretation exists within a circle, where we constantly refer to the parts and the whole.⁴² In addition, Taylor also stresses the importance of subjective and intersubjective meaning during the process of hermeneutics,⁴³ which I will come back to later on.

Taylor not only refers to the relationship between the parts and the whole but also highlights the fact that every subject's meaning is related to other subjects' meanings.⁴⁴ According to Taylor:

Things only have meaning in a field, that is, in relation to the meanings of other things. This means that there is no such thing as a single, unrelated

34 Heidegger (n 33) 193–94.

35 Ricoeur (n 28) 57.

36 Heidegger (n 33) 195.

37 Ibid. 191.

38 Gadamer (n 29) 305.

39 Ibid. 281–82.

40 Ibid. 302.

41 Charles Taylor, 'Interpretation and the Science of Man' (1971) 25 *The Review of Metaphysics* 3, 6.

42 Ibid.

43 Ibid. 27–31.

44 Ibid. 11.

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meaningful element; and it means that changes in the other meanings in the field can involve changes in the given element.⁴⁵

Taylor's analysis is very much related to my aim in interpreting HBV, not only because it allows us to remain within the right context, Turkey, but also because it shows us the importance of interpreting the parts of HBV. As we will see in the analysis of the hermeneutical circle of HBV, this type of violence contains different elements: the concepts of honour, patriarchy, and hierarchy; culture and tradition; and the law. Guiding the reader to an understanding of these elements requires⁴⁶ fabricating the right hermeneutic circle. Otherwise, the reader may easily interpret these elements as she understands them, which may affect the whole meaning of HBV. Therefore, as I underlined earlier, I am not much concerned that my interpretation of HBV might become a vicious circle, as Bontekoe describes.⁴⁷ Quite the reverse: It is, in fact, ideal for my analysis of HBV, because by using a hermeneutical circle I can be sure that the reader will not have a direct link beyond it, to other HBV circles; also, should any part of my circle's meaning change, the reader can easily modify the whole accordingly. In this way, I can focus the reader within the specific context, which is HBV in Turkey. As Taylor argues, "we have to be within the circle."⁴⁸ By remaining in a certain circle, I am also trying to create a common meaning for my readers when they follow my interpretation. Taylor says that "interpretation lays a claim to make a confused meaning clearer; hence there must be some sense in which the same meaning is expressed, but differently."⁴⁹ And so, by creating a circle that includes its common meaning, I will avoid misinterpretation and misunderstanding.

However, during this interpretation process, the reader may also realise that this common meaning sometimes coincides with their pre-knowledge/understanding of HBV, and if this is the case, they could use this pre-knowledge to make comparisons. Creating this common meaning also enables me to analyse not only the subjective meaning but also the intersubjective meaning of HBV. Taylor argues that intersubjective meaning is usually described beneath the umbrella of consensus.⁵⁰ However, it is actually more than consensus; it is, in fact, about being able to share a common understanding.⁵¹ It requires more than one subject and aims to reach a common meaning between these different subjects.⁵² Therefore,

45 Ibid.

46 Ibid. 6.

47 Bontekoe (n 30) 5–6.

48 Taylor (n 41) 13.

49 Ibid. 14.

50 Ibid. 27.

51 Varun Gauri, Michael Woolcock, and Deval Desai, 'Intersubjective Meaning and Collective Action in Developing Societies: Theory, Evidence and Policy Implications' (2013) 49 *The Journal of Development Studies* 160.

52 Matthew Peter Unger, 'Intersubjectivity, Hermeneutics, and the Production of Knowledge in Qualitative Mennonite Scholarship' (2005) 4 *International Journal of Qualitative Methods* 1, 3.

as Gauri et al. argue, it is impossible to talk about individuals when dealing with intersubjective meaning.⁵³ When applying this to HBV in Turkey, I try to highlight commonalities when considering different subjective elements/different participants. As the following chapters argue, the aim of this study is not to reach a subjective interpretation of HBV. Although my aim is to keep the readers in the circle of intersubjective meaning by analysing the common meanings of HBV, the research also provides some evidence of how HBV has been interpreted by different participants in Turkey, especially by the State.

3.1.1 *Hermeneutical circle of HBV*

In terms of the hermeneutical circle, it is crucial to make references to the whole while trying to read the parts, just as it is crucial to make reference to the parts while trying to understand the whole.⁵⁴ At this point, it is important to ask what constitutes the parts and what the whole is when dealing with the hermeneutical circle of HBV. If we consider HBV as a whole, it contains four different parts: honour; patriarchy/hierarchy/masculinity; culture/tradition; and law. Each part also has its own hermeneutical circle that needs interpretation. The first part of the circle is related to honour, which includes its own parts: *şeref*, *namus*, and chastity.⁵⁵ The second part is related to the linked concepts of patriarchy/hierarchy/masculinity. In order to analyse these within the context of HBV in Turkey, we also need to analyse its constituent parts: person, family, society, and the State. After considering honour and patriarchy, hierarchy, and masculinity, the circle reaches its third part: culture and tradition. The terms ‘culture’ and ‘tradition’ are too broad in themselves, and so, in keeping with the other parts of the hermeneutical circle of HBV, we will focus on the secondary concepts of gender relations and family life. The circle is completed with law, including State and customary law. Analysing the relationship of the parts within the circle enables us to realise how they actually affect each other when dealing with HBV. When we combine the parts, the hermeneutical circle of HBV appears as shown in Diagram 1.1.

Keeping this diagram in mind, one of the aims of this research is to interpret HBV within the depicted circle in order to reach what I call a ‘principled interpretation’ of HBV. What I mean by principled interpretation is not an ‘ideal’ or ‘supportive of women’ interpretation. The principled interpretation has no specific purpose of ‘othering’ certain societies, minorities, cultures, or traditions. What I mean by a principled interpretation is an interpretation that allows readers, especially Western ones, to fully understand the concept.⁵⁶ With this aim in

53 Gauri, Woolcock, and Desai (n 51) 161.

54 Dilthey (n 31) 231.

55 Detailed analysis of these Turkish terms will be made in the next chapter.

56 A similar approach was also supported by Alinia’s consideration of masculinity and manhood (Minoo Alinia, *Honor and Violence Against Women in Iraqi Kurdistan* (New York, Palgrave Macmillan 2013) 53.

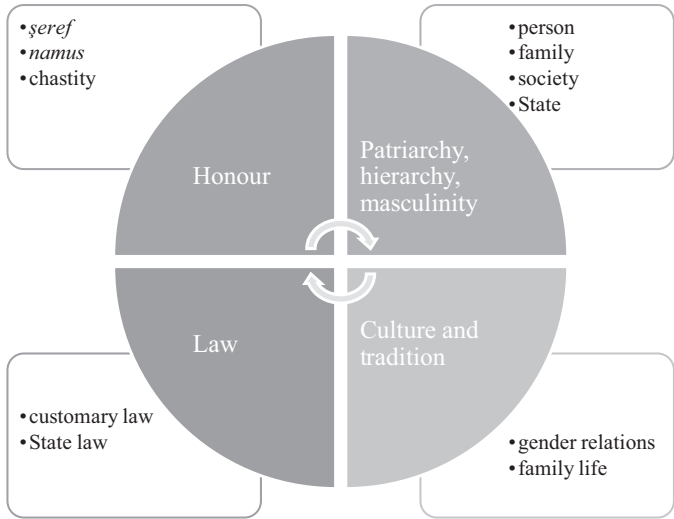


Diagram 1.1 Hermeneutical circle of HBV

mind, it is essential to create both the parts and the whole of a concept of honour and to understand that there is a complex relationship between each conceptual level. As the discussion in the following sections suggests, while ‘honour’ stands as the ‘whole’ in the circle, it also has constitutive parts, which can be defined as *şeref*, *namus*, and chastity. In order to understand and interpret ‘honour,’ we must therefore look at *şeref*, *namus*, and chastity, and vice versa. However, being in the circle of honour will be insufficient for us to reach the right interpretation and conceptualisation of HBV. We also need to realise that honour itself is only one of the parts of the whole. Therefore, it is crucial that we understand the relationship between honour and HBV.

Diagram 1.1 illustrates the hermeneutical circle of HBV and honour’s position in this circle. Abu-Odeh also introduced a similar interpretation,⁵⁷ describing the concept of honour crimes with a triangle that includes “social violence (the crime of honor itself), State violence (the attempt to regulate this crime), and the response by contemporary men and women.”⁵⁸ My use of the hermeneutical circle not only provides visual clarification of HBV but also creates the base for my main research question: *How and under which conditions are honour killings committed in Turkey, and how does the Turkish Penal Code deal with them?* This hermeneutical circle of HBV also provides a guide

⁵⁷ Abu-Odeh (n 10) 287.

⁵⁸ Ibid.

to the sequence in which this research question needs to be broken down into further analytical enquiries focusing on honour, patriarchy, culture and tradition, and law.

It should be also remembered during the process of interpreting the circle that even the hermeneutical circle of HBV can be located within different circles and become part of them. For instance, feminism can include the hermeneutical circle of HBV. In the following chapters, I will use feminism as just such a wider hermeneutical circle, and I will base my interpretation of HBV on certain feminist theories. I emphasise the word ‘certain’ here for a specific reason. Chapter 3, which analyses the theoretical background of VAW within the context of Turkey, aims to reflect the importance of applying feminist approaches.

During the interpretation of the hermeneutical circle, the reader should be aware of the fact that each part of this circle may share common meanings,⁵⁹ both when considering HBV in different contexts and when addressing it as a multinational problem. For instance, although the concept of honour would be completely different when taken out of the circle of HBV, its meaning is common to all the societies that occupy that circle. Therefore, my aim in interpreting honour is to target certain protagonists who are actually located outside this circle. In order to make this interpretation as successful as possible, I intend to tighten the hermeneutical circle of HBV by mainly considering and analysing a particular territory: Turkey and the people who live there. Although Taylor alleges that outsiders can only guess at or imagine actual meaning,⁶⁰ my aim is to provide the reader with a tool to look at the inside of the circle and see what she cannot see from the outside without this tool. Therefore, in the following sections, where I interpret the meaning of honour by considering its parts, the interpretation and conceptualisation of honour will help the reader to understand the subjective meaning of honour depending on which circles it belongs to, and its intersubjective meaning, when considering HBV.⁶¹

Following honour, the hermeneutical circle of HBV involves the interpretation of patriarchy. This includes individual patriarchy and collective patriarchy, family, society, and the State. Chapter 3 specifically deals with the interpretation of patriarchy, excluding State patriarchy, as this is mainly dealt with under the section on legal analysis of HBV. Interpretation of culture and tradition does not have its own section; however, these concepts are also interpreted throughout the research under different sections. It is important to note here that while I use the terms ‘traditional’ or ‘tradition,’ I am not trying to suggest that traditional societies are backwards and barbaric. I agree with the argument raised by Abu-Lughod, Grewal, and Fournier that there is an assumption that

59 Taylor (n 41) 13.

60 Ibid.

61 Ibid. 27.

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Western societies are modern and Eastern/Muslim societies are backwards.⁶² However, I try to emphasise here, by using ‘traditions,’ that the latter are strongly tied up with their ‘cultural norms’ and strictly deny women’s autonomy and rights.⁶³ Although this approach was criticised by Volpp for having a Western (in her context ‘hegemonic’) cultural approach,⁶⁴ I do not consider westernisation as an ideal, or that non-westernised cultures, because they are traditional, ‘lag’⁶⁵ behind and are uncivilised. My intention in using ‘tradition’ and ‘traditional’ is to underline the strong connection with the cultural ‘norms’ that deny that men and women are equals. Yet, I do not follow the path of Gozdecka et al. who argue that ‘culture’ is very much reflected in its attitude to minority women, whose cultural behaviours are consequently bad and need to be changed.⁶⁶ Along with Volpp, I am not suggesting that Western women are developed, secular, and liberated and that Eastern women, ‘the other,’ should achieve this state by following the same path.⁶⁷ I agree that ‘cultures’ and ‘traditions’ that allow and legitimate violence against women in the name of honour need to be changed; however, I do not wish to ‘other’ these societies. As Phillips argues, this would result in a stereotypical interpretation of non-Western cultures.⁶⁸ In other words, my interpretation of culture and tradition during the entire work should not be considered as supporting cultural racism or Orientalism. In the following chapters, I aim to show how the common understanding of terms related to HBV are considered by different actors by looking at their intersubjective meanings. As mentioned earlier, I also aim to provide some evidence as to how the State sometimes takes a culturally racist and Orientalist position when interpreting HBV. My aim in this

62 Lila Abu-Lughod, *Do Muslim Women Need Saving?* (Cambridge, MA, Harvard University Press 2013) 114; Inderpal Grewal, ‘Outsourcing Patriarchy’ (2013) 15 *International Feminist Journal of Politics* 1, 3–8; Pascale Fournier, ‘The Ghettoisation of Difference in Canada: “Rape by Culture” and the Danger of a “Cultural Defence” in Criminal Law Trials’ (2002) 29 *Manitoba Law Journal* 1, 7.

63 Susan Moller Okin, ‘Is Multiculturalism Bad for Women?’ in *Is Multiculturalism Bad for Women* (Princeton, Princeton University Press 2001) 21–22; see also Withaecx and Coene for discussions about conceptualising HBV as a cultural problem (Sophie Withaecx and Gily Coene, “Glad to Have Honour”: Continuity and Change in Minority Women’s Lived Experience of Honour’ (2013) 23 *Journal of Gender Studies* 376, 377–78).

64 Leti Volpp, ‘Blaming Culture for Bad Behavior’ (2000) 12 *Yale Journal of Law & the Humanities* 89, 96.

65 Ibid.

66 Dorota A Gozdecka, Selan A Ercan, and Magdalena Kmak, ‘From Multiculturalism to Post-Multiculturalism: Trends and Paradoxes’ (2014) 50 *Journal of Sociology* 51, 54; Janet Batsleer and others, ‘Domestic Violence and Minoritisation: Supporting Women to Independence’ (Women’s Studies Research Centre, the Manchester Metropolitan University 2002) 94–95 <e-space.mmu.ac.uk/e-space/bitstream/2173/. . . /978-0-954155-01-8.pdf> accessed 8 July 2019.

67 Leti Volpp, ‘Feminism versus Multiculturalism’ (2001) 101 *Columbia Law Review* 1181, 1198.

68 Anne Phillips, ‘When Culture Means Gender: Issues of Cultural Defence in the English Courts’ (2003) 66 *Modern Law Review* 510, 515.

work is to scrutinise tradition using principles of gender equality for a formative understanding, not alleging that tradition reflects backwardness because it shows non-Westernism.

In its last part, the hermeneutical circle of HBV deals with the interpretation of law in the context of HBV. Chapters 5 and 6 of this research analyse the law, considering it as a challenge to women's liberation. I divide the legal challenges into 'customary' and State law in order to show the different degrees of oppression and patriarchy.

3.2 *Methods and design*

3.2.1 *Qualitative method*

When considering the book's question once again – *How and under which conditions are honour killings committed in Turkey, and how does the Turkish Penal Code deal with them?* – the research aims are, first, to understand and analyse the social and legal conditions that pave the way to the committing of honour killings. This requires not only looking at the existing laws on honour killing but also analysing the concept of honour itself, the social environment that exists before HBV is committed, and the cultural norms that trigger this violence; as a result, this research focuses on Yin's first feature of qualitative research: "studying the meaning of people's lives, under real world conditions."⁶⁹ Considering the case study and the deductive approach this study adopts, the best way of conducting this research is to use the qualitative research method, which allows the researcher to deal with a social inquiry in specific conditions while focusing on the real world.⁷⁰ In order to answer the research question using the qualitative method, the research adopts certain approaches to gather the necessary data and to analyse it, which will be explained in the following sections.

3.2.2 *Deductive method*

The book uses to an extent the deductive method, but it does not fully follow the steps explained by Bryman: "theory, hypothesis, data collection, findings, hypothesis confirmed or rejected, and revision of theory."⁷¹ The deductive method aims to answer a research question by using theory or theories to explain a specific hypothesis or hypotheses and research finding(s). The data obtained from the deductive method is collected to test the hypothesis/hypotheses and to revise the existing theory or theories. Unlike the inductive method, which aims

69 Robert K Yin, *Qualitative Research From Start to Finish* (New York and London, The Guildford Press 2011) 7.

70 Robert E Stake, *Qualitative Research: Studying How Things Work* (New York and London, The Guildford Press 2010) 14–17.

71 Alan Bryman, *Social Research Methods* (4th edn, Oxford, Oxford University Press 2012) 24.