



THE EXPLOITATION OF WOMEN AND THE INTERNATIONAL JUSTICE SYSTEM : PREVENTING FORCED MARRIAGES, CONVERSIONS AND RAPE

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in conjunction with the
European Centre for Law and Justice

26 February 2014
European Parliament
Strasbourg, France



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26 FEBRUARY 2014

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**THE ROLE OF THE JUSTICE SYSTEM IN PREVENTING THE EXPLOITATION OF
WOMEN THROUGH FORCED MARRIAGES, CONVERSIONS AND RAPE**

*Ms. Gloria Atiba-Davies**

Mr. President, Honourable Parliamentarians let me first of all express the gratitude of Prosecutor Fatou Bensouda for inviting her to address you in this Forum. The Prosecutor and her Office most certainly appreciate the cooperation and the regular exchanges with the EU, including this Parliament. As she cannot be here today, please accept the Prosecutor's sincere apologies and best wishes for a successful meeting. I am most honoured to speak to you today on her behalf on "The Role of the Justice System in Preventing the Exploitation of Women Through Forced Marriage, Conversion and Rape".

Bringing to justice and ending impunity for sexual violence crimes under which forced marriage, conversion and rape can be categorized has gained momentum within the international community.

Upon taking office in June 2012, one of the principal goals Prosecutor Bensouda set for the Office was to ensure that we pay particular attention to sexual and gender based crimes in carrying out our mandate under the Rome Statute. The Prosecutor made a commitment to enhance the integration of a gender perspective in all areas of our work and has on various occasions since her election in 2011 expressed her desire to pay particular attention to the investigation and prosecution of sexual and gender based crimes and to enhance access to justice through the International Criminal Court ("ICC"), for victims of these crimes.

The UN Platform for Action 1995 describes how girls and women are especially affected by different acts including those of sexual violence because of their sex and their unequal status in society, which is often one of inferiority. Forced marriage and rape occur during peace time but they are more prevalent during times of instability and conflict. Historically, sexual violence especially rape has been trivialized as a domestic affair, an opportunistic incident or an unfortunate, inevitable consequence, or a by-product of war and has not been recognized as a violation of international humanitarian law; neither was it seen as a violation of the victim's human rights. In addition to trivializing these violations, there has also been silence or denial when the victims seek recognition or acknowledgment of wrongs committed against them. Victims are made to suffer from shame, ostracization and guilt, instead of being provided with the support and assistance

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they deserve and need. They face legal and institutional barriers instead of the judicial system taking effective measures to put an end to impunity enjoyed by perpetrators.

The approach of international courts and tribunals is to prosecute those who are most responsible for the commission of sexual violence crimes with the hope that the actual or direct perpetrators are prosecuted by national courts. Sadly, this does not usually happen, leaving victims without any redress or satisfaction that justice has been done. Over the last decades, the international community has taken many concrete steps in response to increasing calls especially from victims' groups and human rights NGOs to recognise sexual and gender based crimes as serious crimes nationally and internationally.

The Statutes of the International Criminal Tribunal for the former Yugoslavia ("ICTY") and the International Criminal Tribunal for Rwanda ("ICTR") include rape as a crime against humanity. However, the Rome Statute of the ICC is the first instrument in international law to include an expansive list of sexual and gender based crimes as distinct war crimes relating to both international and non-international armed conflict. It also expands the list of sexual and gender based crimes as crimes against humanity to include not only rape but various other forms of sexual violence as well as persecution on the basis of gender.

Another *ad hoc* tribunal, the Special Court for Sierra Leone provides some useful experiences when it comes to forced marriage, which was prevalent during the conflict in Sierra Leone which took place between 1991 to 2002. Girls and women forced to serve as 'wives' to rebel soldiers were usually expected to submit to sexual violence including rape and to provide domestic labour to their 'husbands'. Forced marriage was not explicitly listed in the Rome Statute of the ICC although depending on the facts, it can be argued that it may be included in the residual provisions that is "any other form of sexual violence of comparable gravity or any other form of sexual violence also constituting a grave breach of the Geneva Conventions" as war crimes and crimes against humanity.

In the Special Court for Sierra Leone's case entitled *The Prosecutor vs Brima Kamara* it had the opportunity to address, for the first time, the issue of forced marriage as a crime against humanity. Forced marriage involves deprivation of liberty, non-consensual sex and a forced conjugal relationship and responsibility which may result in physical, mental and emotional torture to the girl or woman and an expectation of exclusivity of the victim by the "husband".

In the Appeals Chamber decision in this case, forced marriage was described as "a relationship where the perpetrator through his words or conduct, or those of someone for whose actions he is responsible, compels a person by force, threat of force, or coercion to serve as a conjugal partner resulting in severe suffering, or physical, mental or psychological injury to the victim". The Chamber held that forced marriage in the context of the Sierra Leone conflict therewith properly fell within the meaning of "other inhumane acts" of the Statute, thus establishing an important piece of jurisprudence

because it marked the first time that forced marriage was specifically recognized as such by an international criminal tribunal.

The finding of guilty of crimes against humanity, including forced marriage was also upheld by the Appeals Chamber of the Special Court for Sierra Leone in the case of Prosecutor vs Issa Hassan Sesay, Morris Kallon and Augustine Gbao (sometimes referred to as the RUF case).

Exploitation of women and girls through control and abuse takes different forms one such being conversion. Conversion entails forcibly, through fraud or coercion change of a victim's religion; in most cases the change is from being a non-muslim to islam. It also involves power relations between men and women. Cases of conversion have taken place after abduction or as part of the trafficking of women and girls. This conduct is clearly a violation of fundamental human rights and can be categorized as a crime against humanity as it involves force, fraud, coercion and abuse. In some cases, conversion is followed by forced marriage.

This criminal practice was protested against by Pope Shenouda III, Patriarch of the Coptic Orthodox Church in 1976 when he stated that "There is pressure being practiced to convert Coptic girls to Islam and marry them under terror to Muslim husbands¹. Conversion in my view is a religious and gender-based violence and deserves extensive research coupled with thorough investigation and prosecution of allegation of such conduct. Open source material reveals information of a 16 years old girl who was abducted and forced to marry a wealthy land-owner in Pakistan. The Catholic Church called for justice on behalf of her family as the police failed to free her. A Muslim cleric, however stated that it is "not illegal to abduct and convert non-Muslims". There are other allegations of conversion practice being carried out in other parts of the world.

Rape occurs all over the world during peace time and in conflict situations though it is exacerbated during the latter. Rape and other forms of sexual violence were recognized as being amongst the most serious crimes committed during war and armed conflict thus making the Rome Statute of the ICC one of the most solid documents codifying sexual violence. The Rome Statute Justice system is one of the most progressive frame-work for the investigation and prosecution of crimes.

It extensively codifies acts of sexual violence and requires the organs of the Court to have staff with expertise on violence against women and children. The crimes of rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, gender based persecutions, trafficking and other forms of sexual violence of comparable gravity were for the first time codified as war crimes, crimes against humanity, and in some can constitute genocide. The Rome Statute imposes a special duty on the Office of the Prosecutor to investigate and prosecute gender based crimes in the situations that fall under the Court's jurisdiction. Indeed, in all the situations currently under investigation,

¹http://csi-int.org/pdfs/csi_coptic_report.pdf.

the Office has brought cases before Court which include rape charges. The mandate of the ICC is to go up the chain of command to those most responsible, to those who planned, ordered, financed or encouraged the commission of crimes under the jurisdiction of the Court.

The justice system comprises of both criminal and civil structures. Criminal justice systems whether national, regional or international have the following in common: a judicial arm comprising of judges, a prosecuting authority which in some cases especially in the regional and international arenas also include the investigation division, the defence and entities responsible for correction, e.g. prisons where convicted perpetrators serve their sentence, and rehabilitation centres where offenders are supervised. In addition, national justice systems also have a law enforcement body with responsibility to prevent and control crimes. One of the novel provisions of the Rome Statute is the power given to Chambers to order reparation in favour of victims after conviction of an accused person though in national jurisdictions orders for compensation and rehabilitations are usually awarded by civil courts. I will however focus on the criminal justice system because of the subject of this presentation.

The role of the criminal justice system in preventing crimes particularly sexual or gender crimes is a very challenging one. Historically, justice systems have been more reactive, which is to investigate and punish crimes after their commission rather than proactive, which is to prevent them from being committed at all. One of the roles of the criminal justice system is to deliver justice for all, by convicting and punishing the guilty, while dispensing justice to and protecting the innocent.

The justice system must establish and promote the “Rule of Law” by monitoring and enforcing compliance with specific norms of international law aimed at outlawing and preventing violence against women whether in the domestic sphere or in the public domain, and irrespective of whether the consequences are physical, psychological, mental, or financial. As I have already stated above, sexual violence is a violation of the victims’ human rights and it is the role of the justice system to develop and maintain an effective rule of law to ensure that direct perpetrators or those engaged in aiding, and or abetting the commission of crimes are brought to justice in a timely manner. The law and judicial proceedings are a powerful tool to shed light on these crimes, give a voice to the victims and punish their perpetrators; the law will help to change behaviour.

The justice system must take the lead to end impunity by conducting robust investigation into allegations of the commission of criminal activities including the exploitation of women in any form, bring perpetrators to trial with effective prosecutions based on solid evidence which will lead to conviction. The judicial system should be willing to properly investigate allegations of sexual violence and implement policies which will be effective in protecting potential victims thereby preventing the commission of these crimes. It must deliver an efficient, effective, accountable and fair justice process for the public to feel that their fundamental rights especially those pertaining to their dignity, physical and psychological welfare are protected. Justice systems need to provide an effectively

functioning legal regime guided by a normative legal framework encompassing core principles and practices of the rule of law, human rights and due process.

Apart from a plea of guilty by an accused person to crimes charged, a finding of guilty is only entered by a court of law if the standard and burden of proof for a particular crime are met. Sentences must meet the crime and they can have a deterrent effect on perpetrators, thus stopping them from committing those crimes in the future. Therefore, one of the important roles of any justice system is to deter the commission of conversion, forced marriage and rape by imposing appropriate punishment on convicted offenders which reflect the severity of the violations. This of course should be done on a case by case basis.

The law enforcement arm of a justice system has a direct role in preventing sexual violence crimes as three of its primary functions are to control, combat and prevent crimes. In carrying out these functions, appropriate mechanisms must be put in place to detect and monitor warning signs of sexual violence. These warning signs may include disappearances from home, care or school (for conversion) and certain trends and patterns for forced marriage and rape. Identifying and addressing underlying reasons for the commission of domestic and sexual violence in conflict situations will contribute towards prevention.

As mentioned above, these violations of fundamental human rights appear to be encouraged by the prevalence of inequality and cultural norms and traditions that legitimize violence against women. Justice systems do not operate in vacuum but within the sphere of their jurisdictions which necessitate the engagement of different actors. Building partnerships and relevant networks to raise awareness on fundamental human rights and dispel beliefs/practices which support violence against women are activities which different entities of justice systems should engage in. A change of mind-set is an effective way of preventing forced marriage, conversion and rape.

The Office of the Prosecutor plans to launch its Gender and Sexual Crimes Policy early next month and we hope that it will contribute to advancing a culture of “good practice” in relation to the investigation and prosecution of sexual and gender based crimes and through its implementation, contribute to the on-going development of international jurisprudence regarding sexual and gender based crimes. At the Office of the Prosecutor, in the next years building on the last eleven, our hope, our vision, and actually our plan is to pursue sexual and gender crimes which the Rome Statute defines. As Prosecutor Bensouda has on occasions highlighted, the signal the Office is sending to the world is that the deal is off. Together, through multi-levelled interface, understanding and cooperation, we can and we will transform the public response to sexual crimes worldwide, in and outside zones of conflict.

*THE EXPLOITATION OF WOMEN AND THE INTERNATIONAL JUSTICE SYSTEM:
PREVENTING FORCED MARRIAGES, CONVERSIONS AND RAPE*

**THE NARRATIVE APPROPRIATION OF SAIMA: COERCION AND CONSENT
IN MUSLIM PAKISTAN**

*Ms. Neelam Hussain **

This is absurd, of course, but must, I say, be taken into account. For what reason? Because they are symbolic. Everything is symbolic. There is no such thing as a “thing” per se. It is only symbolic of something else that is itself, and so on.

What do I care for the symbolism of it all? What do I care if the castle’s heart is sound or not? I don’t want to be sound anyway! Anybody can be sound if they’re always doing what they are told. I want to live! Can’t you see? Oh, can’t you see? I want to be myself, and become what I make of myself, a person, a real live person and not a symbol any more. That is my reason.

Mervyn Peake; *Gormenghast*

In February 1996 in Lahore, twenty- two-year-old Saima Waheed married against the wishes of her parents and paved the way for a contentious legal debate. What was unusual about Saima’s marriage was not the fact that it had taken place, but that it opened up a convoluted debate on fundamental questions regarding women’s status in society. As a result, Saima was appropriated by the myriad tongues who told her story, as they interpreted the factual details of her case in accordance with their own diverse needs and sense of identity. In the process Saima, as a desiring subject, was lost under a patina of words and became her own story. Swept along on the trajectories of these narratives, she became a Name. An Event. The traditional Female Body as the terrain across which matters of greater moment were argued.

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The point to be remembered about stories or the act of narration is that the tale varies according to the class, gender and ideological bias of the teller and the listening or reading audience. In this sense, the narrative transforms the factual into a fictional world made up of a multiplicity of voices comprising the narrator and the multiple voices of the *dramatis personae* – in this case those of Saima, the Ropris and their respective councils and the three judges involved – which were then multiplied by the “focuses of reception in the audience” viz. the media, members of women’s groups, the fundamentalist lobby and the general public.¹ The purpose of this paper is to examine this process of narrativisation along with some of the stories that grew around the case in order to find out why this should have happened and what were the reasons that transformed a young woman, who merely exercised a legally sanctioned and fundamental right to make a marriage of her own choice, into an icon of national anxiety.

In a largely segregated society, where customarily marriages are arranged by the family on the basis of class, caste and economic status, such ‘runaway marriages’, as the media calls them, are not unknown.² Nor, when such cases are taken to court, if at all they are, do they excite more than a fleeting interest. Given that at least on paper, Pakistani Muslim women have both religious and legal sanction to contract marriage in their own behalf, judicial decisions in such cases are routinely made, and as long as the contracting partners are of age and there is no other impediment against the law, their validity is upheld.

In itself, the Saima Case, as it came to be known, was fairly straightforward and could have been decided on legal points alone. At the time of her marriage, Saima had attained the age of majority and enjoyed a certain amount of independence in her daily life. She was a graduate of Lahore College for Women – one of the oldest educational institutions for women in the Punjab – and during her time there, had been the college Head Girl as well as an active member of the debating society. Her husband, Arshad Ahmed, held a Master’s degree in English, and was a lecturer at the Pattoki Government College.³

Like many others in the teaching profession in Pakistan, he supplemented his income by giving private tuition, and had been engaged as a tutor to Saima’s younger brother. However, Saima claimed that due to the strict segregation in her home they had never

¹Marie Maclean, *Narrative as Performance*, (Routledge, London and New York, 1988) pp. 5–7.

²Generally speaking, once such marriages have taken place, out of court decisions, in which either one or both families are involved, vary. Given the woman's status as property and the symbol of family honour, the girl's family is traditionally the aggrieved and socially embarrassed party, and can take violent action against their own daughter or the man or both. In this context the man's family, even if they dislike the match, escape embarrassment because they occupy a dominant, ‘victorious’ position in the relationship as they are the ones who ‘bring the girl away’. As a result, their action, if any, is likely to be motivated by class or caste interests rather than by notions of ‘honour’. For the girl’s family, the degree of public knowledge about such matches can also be a deciding factor. The less public they are the greater the chances of rapprochement.

³Pattoki is a small provincial town in the Punjab. As placements in State- run colleges are often made on the basis of class and social clout, a teaching job in a small town provincial college would be seen as a negative indication of class and social status.

seen each other, and had met instead at an inter-collegiate debate where she had represented her college.

She had apprised her family of her desire to marry Arshad and his parents had formally proposed marriage to her family. It was only on their refusal to seriously entertain this proposal, coupled with their intention to solemnize her marriage elsewhere, that she had arranged to meet Arshad at the office of a lawyer who was also his personal friend. The nikah had taken place there in front of the officiating maulvi and the mandatory four witnesses who had also signed the marriage contract.⁴ In accordance with the requirements of the Family Laws Ordinance of 1961, the nikah had been registered at the Union Council Office. Saima had returned home immediately after the nikah – thus hoping to preempt allegations of pre-marital or illicit sex – and some days later, had presented her parents with a *fait accompli*. She had asked them to accept her marriage and, in keeping with cultural norms and the prescribed ritual of Muslim marriage, formally arrange her ‘rukhsati’ and ‘give her away’ to her husband.⁵

Her family had not only refused to comply with this request, her father had subjected her to violence and she had been starved, drugged and locked up in her room. Saima managed to escape and found her way to her lawyer who suggested that she contact Asma Jehangir, a human rights lawyer who, along with her sister Hina Jilani, runs the AGHS Legal Aid Centre for Women. Subsequently, she had been granted refuge in Dastak, a women’s shelter run by women activists and managed through the agency of AGHS. In keeping with routine institutional procedure regarding women seeking shelter there, her family had been apprised of their daughter’s whereabouts and negotiations for a possible reconciliation had been opened with them. During this time, Arshad’s family suffered violence at the hands of the Ropris and, at their instigation, were subjected to police harassment. After failing to convince Saima to return home with them, the family had responded by filing a First Information Report with the police and later, a case with the Lahore High Court, challenging the validity of her marriage.

In the subsequent legal and public debates that developed around the Saima Case, Islamic tradition and cultural norms as ‘authoritative resources’ were selectively manipulated by the prosecuting council and the whole was contexted in traditional male/ female binaries supported by cultural and religious norms which designate the man as the decision maker and woman as the passive object of his desire. Stereotypes of the ‘good’ and ‘bad’ woman were brought into play and the asexual, obedient woman, viewed through the lens of ideologically class-gendered notions of appropriate behaviour, was vociferously upheld as a central marker of morality, decency, shame and national, specifically Muslim, identity. Saima’s exercise of a right, sanctioned by both the law of the land and granted to her under Islam, was seen as a transgressive act and as such, interpreted as a sign of moral degeneracy, shamelessness and loss of cultural purity caused by the combined

⁴The prescribed legal requirements for a marriage under Muslim law.

⁵Quite literally the word means ‘departure’. It is also the term used for the formal ceremony when the father ‘gives away’ the bride who then leaves the parental home for that of her conjugal family.

influences of neo-imperialist designs and the treachery of their local collaborators, viz., the so-called westernized and therefore, degenerate, women.

As stated earlier, Saima's case was straightforward enough and could have been decided on legal points alone. What actually happened was very different. For although the validity of Saima's marriage was finally conceded by a full bench of the Lahore High Court, the case was argued, not within the terms of existing laws regarding marriage, but on the basis of the 'Great Universals' of 'Morality', 'The Family' and 'Filial Obedience' as seen in the context of religious tradition and mainstream views of cultural identity. As these perceptions were highly gendered, the very notion of consent, as subservient to the authority of the wali or father, acquired a dangerous ambiguity and became the centre of a controversy that brought into question not the validity of one marriage, but the very parameters of Muslim marriage as a contract between two consenting adults.

In this paper, I will examine the Saima Case to show how state apparatuses, social institutions and the community colluded in the interests of maintaining both legal and social control over women's sexuality. A textual analysis of the case, as seen in the process of its contextual emergence, will be made to demonstrate the strategic use of morality and notions of the licit and the illicit as a means of establishing and perpetuating the dominance of a masculinist Muslim social order. As Saima's marriage was to become a marker in a wider class struggle, my analysis will also examine its contextual frame of reference based on the East/West, tradition vs. modernity dyad. As part of our colonial legacy this—along with its concomitant binaries of the private and public, the sacred and the profane—is being reformulated today, this time round in response to (i) the deep psychological need of a people struggling to forge a sense of their own identity in a society undergoing rapid and often bewildering change, and (ii) that deals specifically with the power strategies of the socially ascendant fundamentalist classes engaged in forging alliances with the older elite while at the same time seeking to displace them.

While speaking about the wave of fundamentalist conservatism as one of the major trends affecting women in the Muslim world, Fatima Mernissi has argued that

The need for Muslims to claim vehemently that they are traditional, and that their women miraculously escape social change and the erosion of time, has to be understood in terms of their need for self representation [sic] . . . as a psychological need to maintain a minimal sense of identity in a confusing and shifting reality.⁶

Referring to the 'structural dissymmetry'⁷ that runs through and conditions the fabric of social and individual life in post-colonial Muslim societies, viz., the split between acting and reflecting on these actions. She points out that this rupture is manifested in the easy acceptance of western technology and consumption patterns alongside the difficulty experienced by:

⁶Fatima Mernissi, *The Fundamentalist Obsession With Women* (1975), (Lahore: Simorgh, 1987), p.5.

⁷Ibid.

the social fabric... in (having to absorb) anything to do with changing authority thresholds: freely competing women; freely competing political parties; freely elected parliaments; and ... freely elected heads of state who do not necessarily get 99 percent of the votes. Whenever an innovation has to do with free choice of partners involved, the social fabric seems to suffer a terrible tear.⁸

In so far as questions dealing with women's autonomy are concerned – and Saima's marriage clearly falls within this category – the furor that they invariably cause bears witness to the fact that they belong to this uneasy and highly problematic realm of shifting authority patterns. In a country in whose brief history a series of dictatorial regimes have effectively disenfranchised a people, and where a tentative and specious democracy is under siege from the joint pressures of a corrupt ruling class, a heavy debt burden and the blandishments of a predatory consumerism, cultural identity is a contentious issue. In such a context, any act or gesture that threatens the precariously maintained self-image of a people is bound to raise the spectre of moral turpitude and loss of control. When women, the central signifiers of desirer and honour, visibly challenge the thresholds of power to carve out for themselves new areas of control, it is indeed a moment of national crisis.

It is possible that had the issue of Saima's marriage been settled at home or even if it had been less publicised, its outcome would have been different. However, having gained the notoriety that it did, it ceased to be a matter of an individual family's concern, and was perceived as an act that would spearhead a shift in the balance of power within the family. That this was so was evidenced in the concern expressed by one liberal journalist at a meeting with members of the Women's Action Forum, when he stated that while he sympathized with Saima, he was uncomfortable with the idea of his daughter exercising her right to a marriage of her choice. After all, she was young and inexperienced and was bound to make the wrong choice. It was his job to see to it that she didn't do so. Clearly his concern was to do with the power shift in the established spatial and socio-symbolic domain and not just with Saima's or his own daughter's marriage. Hiding behind the mask of paternalistic love was the fear of loss of control in the domestic sphere – the one inviolate area in an uncertain world.

In so far as the reaction of the upwardly mobile religious orthodoxy is concerned, and the Ropri's clearly belong to this group, the situation is a little more complex. For the self-proclaimed defenders of the Faith, whose material success owes much to their political affiliations in the Gulf, Saudi Arabia or Iran, the signifiers of Islamic fundamentalism such as the hijab for women and a particular cut of the beard and style of dress for men, are more than an indication of psychological need with regard to cultural identity. These sartorial signifiers and the lifestyle that they emblematised are both the site and material part of their struggle for power. In their case, religion and the spirituality of Islam have

⁸Ibid. p.5–14.

been subsumed by considerations of worldly enhancement, and in a battle between God and Mammon the two have become interchangeable.

As my analysis locates the Saima Case at the heart of a class and ideological struggle that is being waged in Pakistan today, my theoretical position will be based largely on Dorothy Smith's concept of relations of ruling as expanded and developed by Chandra Talpade Mohanty and, in another context, by Anthony Giddens' analysis of the inherently violent nation state.

While questioning the assumed, coincidence of the standpoint of men and the standpoint of ruling, Smith posits the "everyday world as problematic":

"Relations of ruling" is a concept that grasps power, organization, direction, regulation as more pervasively structured than can be expressed in traditional concepts provided by the discourses of power. I have come to see a specific interrelation between the dynamic advance of the distinctive forms of organizing and ruling in contemporary capitalist society and the patriarchal forms of our contemporary experience.

When I write of "ruling" in this context I am identifying a complex of organizing practices, including government, law, business and financial management, professional organization, educational institutions as well as discourses in texts that interpenetrate the multiple sites of power.⁹

This concept of the "relations of ruling", which Smith applies to advantage with regard to specific relations between the organization and experience of sexual politics and the concrete historical forms of colonialism, capitalism, racism and so on is especially useful. Its pertinence with regard to this paper lies in that it can help us in understanding the sexual politics that came into play during the Saima Case, as a newly emerging fundamentalist elite faced rebellion in their own ranks when a daughter of their 'house' challenged their authority by fighting for her right to participate in her own life. It also provides interesting insights into the orthodox world of fundamentalist Islam as it reaches out for the fruits of modernity while still holding on to the certitudes of traditional structures inherent in female segregation and authoritarian lifestyles. Mohanty claims that by foregrounding "(i) forms of knowledge and (ii) organised practices as well as (iii) questions of consciousness, experience and agency",¹⁰ Smith enables us to escape from the simplistic and ahistorical binaries of colonizer-colonized and female-male. In Saima's case this approach can be applied to the discursive constitution of the fundamentalist tradition vs. modernity discourse and the mutually exclusive stereotypes of the masculine and feminine on which the public/private binary is founded, and which formed the basis of the legal as well as public debates when Saima reclaimed her right to a marriage of her own choice.

⁹Dorothy Smith (1987,3) cited by Chandra Talpade Mohanty; "Introduction"; *Third World Women and the Politics of Feminism* (eds.) Mohanty, Russo, Torres, Indiana University Press, 1991. pp 13-14.

¹⁰Ibid. p.14.

Mohanty's analysis of the relational nature of power is especially pertinent as it privileges no one factor viz. religion, gender difference or class as an analytical category while providing at the same time an insight into the multiple sites of power and the fluid nature of group affiliations and discursive categories. She focuses instead on:

the idea of multiple and fluid structures of domination which intersect to locate women (and men) differently at particular historical conjunctures, while at the same time insisting on the dynamic oppositional agency of individuals and collectives and their engagement in 'daily life'. It is this ...dynamic oppositional agency that clarifies the intricate connections between systemic relations and the directionality of power.¹¹

Mohanty's perception of the 'oppositional agency' of groups and individuals that clarifies the interconnection between contending forces – within the community or state is substantiated by Giddens' notion of the transformative agency of "contextually located actors in the conduct of their day to day lives" with regard to the authoritative discourses and their strategic use by those in power.¹² But while the expression of power or systems of rule are based on the control of both material and authoritative ideological resources by dominant groups who deploy them in their own interests, power is ultimately dependent on the compliance of those who occupy subject positions. As even the most disempowered sections of society mediate their space inside their little spheres of influence which lie within the wider hierarchies, there are always, in any given formation, areas which have the potential of being transformed into contentious or subversive spaces. Consequently, the scope and intensity of the power exercised by the dominant group depends on the extent to which "areas of activities of those subject to their rule"¹³ can be monitored and controlled by them.

In so far as Saima's case is concerned, this subversive and contentious space, engendered by contradictions within the heart of the Ropri household itself, did more than enable just one woman to fight for her right to marry the man of her own choice. It was transformed into a site of a political struggle between an upwardly mobile fundamentalist orthodoxy and women who represented a mix of the old elite and the rising social classes. In a fierce battle over signs and meaning the two groups fought to wrest the symbols of power from their rivals and redefine them in accordance with their own desires. In this sense the case captures a moment in Pakistan's history in which the 'dynamic oppositional agency' of women attempted to re-negotiate their traditional boundaries in their 'engagement in daily life'.

The Saima Case will be used as an instance in a contemporary class struggle, to demonstrate the discursive re-inscription of patriarchal values through a strategic manipulation of the stereotypical binaries of East vs. West, and the sacred and profane, which are being redrafted today in accordance with today's needs. The value of this case

¹¹Ibid. p.13.

¹²Anthony Giddens, *The Nation-State and Violence*, Polity Press, 1991. p.8.

¹³Ibid.

lies in that it does not simply image a conflict that was fought out on another terrain – this time between different classes within the postcolonial state – but that it was itself the material part of a weighty moral debate that opened up a symbolic space within which dialogues were conducted, pacts were made and an ideological battle was waged.

As morality and definitions of licit and illicit behaviour were among the major counters of the debate on Saima's marriage, it is necessary to remember that in so far as power strategies are concerned, morality has always been an important mechanism for regulating and disciplining the social. Nor, for that matter, is the complicity of the state in regulating sex and managing sexuality through moral norms a new dimension of state practice.¹⁴ The only difference lies in the political agendas that inform each instance.

In Pakistan today, these are being determined by the combined ideologies of international capital and fundamentalist Islam. Both operate within the binary divisions of the private/reproductive female space and the public/productive/ male terrain and both, in different ways and for different reasons, legitimize the exploitation of what, for historical reasons, is a predominantly female third world population. In this regard, the family which both symbolically and effectively serves as the overall standard for recognized public morality, emerges as an effective mechanism for the propagation of these distinct though overlapping ideologies.

Heavily patriarchal, the family is discursively organized as a self-enclosed world, structured around the strict power and authority of the father, in which the intense ideological and economic stress on the individual as a basic constituent of the market and its political order is glossed over by the rhetoric of the family as a sacred institution, safe from the innumerable corruptions of the mundane world. In the Saima Case this was done predominantly through notions of morality that drew upon and were diffused through the traditional images of docile and submissive womanhood contexted in the mythical harmony of the altruistic, patrilocal, patrilineal, potentially polygamous family, operative under the benevolent authoritarianism of the household head or wali.

It has been argued that while the exercise of power is at its most alarming when applied as sanction of force, it is most intense and durable when it runs silently through the repetition of institutionalized practices.¹⁵ In Pakistan today, as in many post-colonial societies, the idea of the control and management of female sexuality, fundamental to all patriarchal societies, is still deeply linked to a patrilineal system of descent which places a high premium on premarital virginity for women and equates virtue with an asexual and passive though fertile femininity while investing the male with an active and aggressive sexual drive. The authoritarian rule of the patriarch or male head is considered essential for the preservation of this sacred space and marriage is seen predominantly as an institution that both links families and plays a vital role in the socialization and creation of gendered identities in ways that enable the family and the community to legitimize and

¹⁴ M. Jaqui Alexander, "Redrafting Morality"; *Third World Women and the Politics of Feminism* (eds) Mohanty, Russo, Torres, Indiana University Press. 1991. p. 133.

¹⁵Op. cit. Giddens. p. 9.

reproduce each other. In keeping with this logic, sexual difference and therefore both sexual and cultural identity, are of necessity predicated on clearly demarcated notions of what constitutes male and female roles and behavioural patterns.

Historically, at both national and regional levels, women's conduct has long been used to demarcate the identity and boundaries of the Muslim community. In so far as state institutions are concerned, this perspective has manifested itself through state policies, legislative norms and development strategies that continue to exclude women from decision making and access to resources, while at the private level, there is the entire baggage of nurturing and subservient femininity that is geared to contain women's potential. In the contemporary fundamentalist context these perceptions have been realized in the demands for female segregation and a heavy emphasis on what are defined as Islamic dress codes for women. At the popular level, this 'naturalized' alignment of the feminine with motherhood, marriage and domesticity gives rise to a deep discomfort with the idea of female occupancy of public space and is articulated at multiple levels.

One telling example of this kind of thinking was the taunt cum chant of "*Piplio hya karo, behan da via karo*",¹⁶ that was hurled at People's Party supporters by the opposition in 1986, as they urged party members to get Benazir married. Apart from the fact that this slogan articulated the traditional notion of marriage as the woman's only legitimate destiny, its significance lies in the fact that the responsibility for the marriage of a woman, who was the leader of a major political party, should yet be seen to devolve on her male supporters or putative 'brothers'. Despite all evidence to the contrary, Benazir, as a woman, was still represented as a passive entity in so far as marital/sexual arrangements were concerned. Later, as party political antagonisms became more extreme, this sentiment was translated into scurrilous abuse. From being a potentially dangerous woman when out of power, in her role as Prime Minister she had graduated to the status of a full-fledged fallen woman or prostitute. Benazir's accession to power signified the symbolic crossing of the boundary line, the threshold of power and morality that distinguishes the good, asexual, domestic woman from the *fitna*¹⁷ or the dissident woman, who subverts the established order by laying claims to her own autonomy.

This symbolism is also expressed in the highly gendered terms of the popular debate which posits the East, which despite being poor and underdeveloped is yet represented as the impregnable fortress of traditional pieties and the West, albeit technologically developed and economically dominant, as the Great Satan, riven with sexual permissiveness and self seeking individualism. Given the rifts and tensions created by the dynamics of Third World dependency on the developed West, it is only logical to see the woman who leaves the sanctuary of eastern values as the automatic prey of western promiscuity.

¹⁶Translation, "Have some shame Peoples' Party, get your sister married".

¹⁷Fitna: chaos; anarchy. It also denotes the subversion of the established order through discord. Interestingly, it also refers to the moment of primal undifferentiation out of which order arose and which therefore, is also the source of divine and human creativity.

A wide range of state practices are linked to this world view as they utilize legal and bureaucratic apparatuses to legislate norms and draw up policies that serve the interests of dominant groups. Since the time when Zia ul Haq initiated his Islamisation programme in the 70s, the valorisation of the home as sacred space and instructions to wear the chadar and dress modestly along with the threat of separate women's universities have dogged the lives of women school and university students. While the Zina Ordinance of 1979, which conflates rape with adultery, criminalises all women by declaring them as potentially guilty on both counts. These laws along with the latest television policy¹⁸ asking for 'clean' family oriented entertainment based on minimal bodily movement by women comperes and actors, relegates the woman's body to the clandestine and deviant areas of social discourse.¹⁹

Morality thus has a way of becoming synonymous with sex and sex necessarily involves the question of womanhood. As Stephen Heath has pointed out, though with reference to another patriarchy:

Women *are* 'the sex': fair, gentle, apart, different from the world of men; they are defined by their sex which is the condition of their difference, and hence very quickly they *are* sex, defined entirely and as that.²⁰

A metonymic slide that is fraught with peril as it is not limited to the physiological aspect of sexual identity, but involves a whole number of varied elements, ideas and attitudes about women *per se*. Its danger lies in the fact that it enables the social construction of the 'good' woman as the one who remains within the legitimate boundaries of prescribed sexuality/social space and that of her counterpart, the 'bad woman' or fitna who oversteps them and aligns herself with the illicit. In this sense every woman, simply because she is a woman, is seen as a potential threat to the social order.

As a necessary adjunct to what constitutes the Moral, the boundaries of the licit and the illicit too are variable and can be reformulated to serve the interests of the dominant group, while power strategies are modifiable in accordance with changing cultural and socio-political needs. The Saima Case is an instance that demonstrates the strategic use of morality and the reformulation of concepts of the licit and the illicit as a means of regulating and disciplining the social. It also shows how cartographies of the forbidden and the permissible were charted out in the debates generated by the Saima Case, and new areas of female sexuality were criminalised as both state and family institutions

¹⁸Succeeding governments have attempted to divert attention from issues of greater moment by raising an outcry against the threat of moral corruption. Significantly, women are the main targets of these 'clean up' projects. Zia ul Haq had attempted to 'cleanse' and 'Islamise' the media by insisting that television comperes appear with heads docilely covered and by banning dance programmes etc. In late 1996, the Muslim League government has reverted to more or less the same policy.

¹⁹"Whose Culture Is It Anyway?" *Herald* November, 1997. Prime Minister Nawaz Sharif's directive to television bosses to "bring all programmes in line with Islamic values" has been accompanied by a policy 'avoiding' the unnecessary featuring of females, immodest dresses, swaying, waving hair, touching cheeks etc".

²⁰Stephen Heath, *The Sexual Fix*, Macmillans, 1982. p.8

moved to legitimize a violent masculinist Muslim ethic that is operative through coercion rather than consent.

Located at the intersection of the great ideological apparatuses, viz., the juridical, cultural, religious, political and pedagogic, Saima was appropriated by a multiplicity of voices that sought to rewrite her in their own image. Transformed into the space on which boundaries of the licit and the illicit were redrawn, she became the site and the story of a power struggle between women's groups engaged in a fight for the Pakistani woman's right to participate in her own life and the fundamentalist lobby bent on wresting this right from women in their own class and political interests. I will focus on how the media narrativised Saima and how, in a sense, these narratives directed public opinion and set the stage for the further narrativisation of Saima in the court room and in the terms of reference on which the subsequent judgments of a full bench of the Lahore High Court were based.

On the 19th of April, 1996, the Saima Case entered the arena of public debate with all the flourish that stereotypical images and mediatic representation had at its disposal. For the ensuing twelve months or so, Saima was to become a topic of heated discussion, salacious comment, vehement support and moral indignation in drawing rooms, educational institutions and among women's organizations and fundamentalist groups alike.

Battle lines were drawn up between women's groups and the fundamentalist lobby. There were public demonstrations and exchange of invective. Women's and human rights groups who took up cudgels for Saima and for the women's right to decision making, were ranged on one side. Opposing them were fundamentalists along with large numbers of the general public including liberal men and women – among them erstwhile supporters of women's rights – who shouted themselves hoarse about the equal rights of women and men in Islam, while claiming in the same breath that some, in this case men, were 'more equal' than others viz. women. Given that Saima's was not the first marriage of its kind, one explanation for this vociferous attention to what is not an uncommon phenomenon in Pakistan, was the media hype given to the case.

The Tale Told by the Media

The media not only provided the general public with information regarding Saima's marriage, it also brought into play diverse popular consciousnesses regarding male power and contending notions of women's autonomy and by so doing, widened the arena of the power struggle triggered off by the case.

The media's story, replete with soap opera themes of secrecy, violence, abduction, intrigue, revenge, rich heiresses, impoverished lovers and angry fathers was geared to

catch the public eye: “Attempt to kidnap girl from Asma Jehangir’s office”,²¹ screamed *The News*.²²

The father and uncles of Saima, accompanied by armed men, came to Ms. Jehangir’s office . . . and tried to drag the young girl away . . . attempt foiled by a police party . . . cousin of Saima slapped her twice on the face inside the police station.

Saima sought help from (the) AGHS²³ (lawyers who) . . . offered her legal aid (and) a place to live away from the ire of her family.

Saima (fears) that her family might kill her.

Saima’s father . . . submitted before the court that the daughter of Asma Jehangir had *trapped* Saima and *poisoned* (emphasis added) her against her parents. He alleged that Asma Jehangir had demanded Rs 5 million from him in return of [sic] his daughter.

He also alleged that Asma Jehangir was an exploiter and that besides Saima, she had . . . detained 50 girls. . . . [H]e had resolved not only to rescue his own daughter, but the other girls as well.

Asma Jehangir refutes these allegations before the court. (States) this story could not be possible since her daughter had been studying abroad for the past three years.

In Saima’s own words as quoted by the press:

Her parents . . . were so angry at the marriage that they put her on drugs and took advantage of her condition to get her signature on some papers.

My father Hafiz Abdul Waheed Ropri, uncle Hafiz Abdul Rehman Madni, cousin Hafiz Ayub Ismail got my husband Arshad’s parents arrested with the help of the Model Town police The police detained them for four days . . . and tortured them. They . . . secured Arshad’s signature on the divorce papers at gun point. The paper [sic] was written by my father.²⁴

Corroborating this story and granting it symbolic status was a spate of pictures in the daily press depicting angry men, their faces thrown in stark relief by camera flashlights. Their black out-jutting beards and cavernous eyes drawing aggressive attention to the flattened planes of thin lipped faces. Juxtaposed with this image of fundamentalist misogyny were other stereotypes. This time of Saima, the harem-bound woman, guarding

²¹Asma Jehangir; lawyer, human rights activist and member of Women’s Action Forum.

²²*The Daily News*, Report on the Saima Case by Muhammad Akram and Sarwar Kulachi; 19 April, 1996.

²³AGHS Legal Aid Centre, founded by Asma Jehangir, Gul Rukh Rahman, Hina Jilani and Shahla Zia, lawyers, human rights activists and members of Women's Action Forum. It is currently run by Asma Jehangir and Hina Jilani.

²⁴Op. cit. *The News*, Akram and Kulachi.

her secrets behind the veils of the hijab, and another one of Saima and her lawyer, Asma Jehangir: the modern professional woman, neither veiled nor hidden nor passive. Laden with the baggage of myth and historical representation from two seemingly antithetical sources – the Orientalist’s vision of the Muslim Harem on the one hand and the fundamentalist’s dream of the ‘Perfumed Garden’ including, if you take Asma’s picture into account, his perception of the depths of hottest hell, on the other, these images drew the visual battle lines between the protagonists, namely the ‘guardians of the harem’ and transgressive women. Between the two stood Saima, her hijab an affirmation of male power and the immutability of timeless tradition. Simultaneously absent and present, without honour in her own right, yet archetypal symbol of Honour itself, she represented the woman’s body – the traditional terrain across which the fight was to be fought.

Not only did these images bear out the sensationalism of journalistic representation, the ways in which the press reported the case unleashed the rhetoric of the good/anonymous woman vs. the transgressive woman or fitna. Not unexpectedly, ‘Dastak’, the shelter where Saima had taken refuge, was repeatedly attacked as a brothel and the women who sought shelter there were designated as prostitutes. As value laden symbols, these visual arrangements brought into play the binary divisions of the good and bad woman across and through which Saima’s decision to marry the man of her choice was constructed by the media, received and corroborated by the general public and argued out in court. But while it is necessary to stake out and un-pick the symbols which came into play regarding what the mainstream press called the “Saima Love Marriage Case”, its transformation into an area of contestation involving institutions of the state, the family and the community, cannot be explained away in these terms alone. To do so would be to limit this analysis to the self-referential terms of an essentialist reading of sexual difference contexted in the Male vs. Female, Tradition vs. Modernity dyads subscribed to by mainstream media, the judiciary and popular discourse.

In order to widen the parameters of the debate we need to look at another view of the case, this time from a woman journalist, Beena Sarwar.²⁵ Apart from providing useful insights into the dynamics of the case, her analysis adds depth to the narrative. Although she does not directly question the bipolarity of the private/female-public/male frame of reference, she draws attention to the contending forces in contemporary Pakistani society and highlights the intricate interconnections between knowledge systems, the individual, the family, state apparatuses and what Mohanty has referred to as the ‘directionality of power’.²⁶

According to Sarwar, the reason for the furor created by what was after all just

²⁵Beena Sarwar, “Women’s Rights: The Actual Story”, *Libas International*, 1996. pp. 66–71.

²⁶Chandra Talpade Mohanty, Introduction in *Third World Women*, Mohanty, Russo, Torres (eds), Indiana University Press, 1991.

a typical rich girl-poor boy love story, with the girl's family opposing the union with someone who would not be able . . . to support her in the style to which she was accustomed.²⁷

The fact that the case highlighted the symbolic extremes of Pakistani society:

Saima's family belongs to the highly conservative Ahle Hadees sect of Islam, of which her father Abdul Waheed Ropri and taya (father's elder brother) Abdul Rehman Madni are prominent leaders. The lawyer she turned to is the high profile human rights activist Asma Jehangir, the very mention of (whose name) is anathema to the conservative forces her family symbolises.

Further:

the Ropris are an influential family with strong connections in the 'right places' – the administration, the judiciary, the army and the establishment?²⁸

Arshad, on the other hand, was a lowly lecturer, subsisting on private tuitions and drawing a meagre salary of 5,000 Rupees a month as opposed to Saima who possessed her own car and mobile phone and whose monthly 'pocket money' of 10,000 Rupees was paid her as a director of her father's company. Arshad's 'proposal, she comments, quoting Saima, had been turned down at the prospect of a "more lucrative offer from a wealthy doctor". As members of the Ahle Hadees sect and with all the 'right' connections with the establishment in Pakistan, Saima's family represented the new moneyed elite that had risen to power in the late '70s under General Zia-ul-Haq.²⁹ For a daughter of their 'house' to publicly violate the norms of this new, upwardly mobile orthodoxy was no light matter. For her to associate with the AGHS lawyers and her subsequent flight to 'Dastak', a woman's shelter run by them, was to add insult to injury.

This unstated yet ever-present dimension explains both the Ropri's desire to deny a marriage which was both socially and politically embarrassing for them and the women's groups' defense of Saima's right as an adult, to decision making. It also clarifies why a straightforward case, with legal precedents and defended on the grounds that the marriage had legal, constitutional and religious sanction, should – in a post Zia Pakistan, where the ruling groups are representative of social and political affiliations that had been formed between the fundamentalists and members of the older social elite in the Zia era – elicit such tortuous arguments and take so long to decide.

²⁷Op cit. Sarwar.

²⁸Ibid.

²⁹Zia-ul-Haq: Pakistan's last military dictator and faithful ally and beneficiary of the USA during the Afghan war. He used Islam as a political ploy to ensure the continuance of his regime by drawing attention away from his illicit claim to power. He patronized the fundamentalist right who rose to positions of political and economic power during his tenure in office which lasted from 1977–1988.

Given the Ropri's social status and strong political and religious affiliations in Saudi Arabia and the Gulf, what emerges is that when the prosecuting council valorised filial obedience and sacralised the role of the wali or father as protector and friend, what he was really talking about was male control of the woman's sexuality. When he argued against Saima's right to marry a man of her own choice, what he was ensuring was the safety of an orthodox male order. When he reviled Arshad as an unsuitable marriage partner – "he is only a teacher!" he had stated in response to a query – he was upholding the distinctions of class and economic power.

Obviously, matters of greater moment, than one marriage, were at stake and the argument presented by the Ropri council regarding Saima's refusal to return to her parent's home along with the women's response to it, have a deeper significance than immediately meets the eye.

According to him:

if the only reason [Saima] did not want to go to her immediate family [is] that she [fears] violence from them, she should go and stay with anyone else in the family, like an aunt, uncle or / grandparent. After all, *she cannot be left to roam the Mall at will.*(emphasis added)An argument which was countered by women's rights activists, asking: "*Why not?*"³⁰

This exchange shifts the parameters of the debate to reveal that the point at issue was not just the legality or even the moral aspect of Saima's marriage but the control of women's sexuality within existing authority patterns.

Sarwar's reading certainly widens the parameters of the debate as it draws attention to (i) the no juridical areas of power such as, morality, class and group interests and behavioural norms, thus bringing into focus some of the issues that undergird the arguments put forward by the Ropri's council regarding the moral dimension of filial obedience deriving from the woman's inherent status as legal minor. (ii) It elicits an examination of the dynamics of power relations which go beyond the fictive divisions of social space into the private/passive/female and public/active/male and their subsequent transmutation onto the moral plane. (iii) It draws attention to the signs and symbols which culturally and nationally organize our thinking and enable private interests to acquire a public significance.

Having said all this, are we any nearer to answering to the initial question as to why Saima marriage became a matter of such vociferous public concern. The Ropri's concern is understandable, so too is the women's involvement with the case. But what of the general public? Why did Saima become a matter that engaged whole sections of society in contentious debate. As stated earlier, this was not the first marriage of its kind to take place, nor is the general public inherently averse to tales of 'true love'. Popular fiction and the film industry thrive on loyal stories and romance and our folk epics glorify the

³⁰Op.cit. Sarwar, *Libas International*.

women who risked all for love. Heer, Sohni, Sahiban³¹ — are all legendary names of women who defied familial authority and violated the norms of public morality, yet whose stories, immortalised by Sufi poets³², and folk song alike, form a part of a living cultural heritage.

So what was it about Saima's marriage that so perturbed the judiciary and sent an agitated flutter among the fundamentalist doves? Given that such marriages are not unusual in Pakistan and have rarely been the cause of such widespread concern, was it only the media hype that emblazoned the Ropri's embarrassment to the world? Or was it because the case shed light on other, more disturbing aspects of our social morality?

In order to understand the deeper implications of the case and discover what else was at stake, requires a textual analysis of the case as it was encoded in the enactment of three simultaneous narratives as they were inscribed by the media, the courtroom dynamics and debate and the texts of the three judgments. The common thread that connects the three narratives was the discourse on female agency or female sexuality in the context of: (a) marriage founded on the notions of naturalized, licit sex legitimised by paternal sanction and reinforced by filial obedience, (b) the construction of the illicit through the criminalisation of female sexuality and the concomitant affirmation of hegemonic notions of the patrilineal family and (c) the issue of national, specifically Muslim female identity.

From this perspective, Rahat Dar's³³ photographs, already described earlier, entail a closer examination. As stated before, the news report on Saima was accompanied by a number of photographs. Photographs 1 and 2 depict turbulent, agitated images of the male members of the family: their bodies tensed with barely concealed violence. Anger spills out of these images to scorch the adjacent photograph and fill it with a sense of impending doom. Photograph 3 shows the shrouded Saima. Though markedly different, it is part of the same narrative; a natural corollary to the image of angry men. Together the two present a seamless whole: the sacred space of the harem and its guardians ready to risk all to preserve its sanctity – until the eye moves on and finds Asma. Angry, pugnacious, unveiled – her hand linked with Saima's – and the distinction between harem and world – the sacred and the profane – blurs, becomes indistinct and suffers an erasure. The co-presence of two discursively antithetical images in the same space introduces disorder and ambiguity within order and shatters the rigid bipolarity of the Islamic Symbolic.

So far the mediatic message is clear enough and these images alone would be enough to justify righteous fundamentalist anger and corroborate the Ropri family's allegations of a daughter beguiled and corrupted by the wiles of alien influences. But signs and symbols

³¹These are names of the main female protagonists of the great love epics of the Punjab.

³²Though part of the oral tradition, these women have been immortalised by the major Sufi poets of the Punjab.

³³Press photographer, the daily *The News*. The two photographs: one of Saima's male family members and the other of Saima and Asma Jehangir that accompanied the first news report on Saima's marriage on 19 April 1996.

are inherently treacherous and meaning can seldom be reduced to any one single dimension. If these images tell the story of the indisputably separate spheres of the home and the world, the linked hands of the two women point inexorably to a meeting between the two worlds. Like the tales of Scheherzade these images, when taken in conjunction with the accompanying news reports, have a ‘thousand-and-one’ stories to tell. If on the one hand they represent the sanctity of the harem as preserved by the Ropri, on the other they point to the fact that it was not Asma’s hand that breached its walls and ushered Saima out of the harem-world.

Those walls had already been breached – through the class aspirations of Abdul Waheed Ropri himself. Saima had been a debater and had met Arshad at an intercollegiate debate that she attended. Such functions were no secret from her family. We are told, in fact, that Ropri was proud of his daughter’s achievements. Then again, she owned a car and a mobile phone – products of western technology and symbols of wealth and social status – that gave her access to the world beyond the harem. Nor were the daughters of the Ropri household denied access to other privileges that money can buy, such as swimming and riding – neither of which activities is possible with the hijab. The hidden economic dimension of the domestic sphere is at play here. After all, if a profitable marriage is the chosen destiny of the daughter, then the claims of a timeless tradition must give way, albeit selectively, to the concurrent claims of the marriage market. And today, the socially acceptable ‘match’ comes at a price. And in so far as the dress code is concerned, by Saima’s own admission, they all wore jeans and T-shirts at home and even when going outside, for practical reasons, continued to wear them under the hijab. In fact when Saima first arrived at the AGHS office, she had been wearing jeans. In her own words: “the taxi-wallah was very curious, he thought I was foreign because under my hijab I was wearing jeans”.³⁴

There is nothing aberrant or unusual about these contradictions, nor should they be seen as being specific to one family or even to all fundamentalist families alone. As a post-colonial society where the scarcity of resources and the exigencies of modern life are undermining the traditional controls over women, they still continue to represent the reified, untouched ‘inner’ space; the inviolable repository of a peoples’ cultural and specifically Muslim identity. In this regard, the difference in attitude between the general public in all its diversity, and the fundamentalists is one of degree only. Contrary to western stereotypes and the fundamentalists’ own claim to an exclusivist Muslim identity, it has been consistently demonstrated that the fundamentalist is not averse either to western consumerism or to upper class lifestyles. As Fatima Mernissi³⁵ has argued, in general, the Muslim fundamentalist is neither primarily anti-American nor necessarily averse to modernity. He is, on the contrary, a high achiever bent on staking a claim to the ‘public feast’. His dilemma lies in his desire to partake of the fruits of modernity while yet maintaining the boundaries and spatial arrangements set up by traditional sex roles.

³⁴Op cit. Sarwar. *Libas International*.

³⁵Fatima Mernissi, *The Fundamentalist Obsession With Women* (1985) (Simorgh Publications, Lahore, 1987).

Ropri's tragedy, and for him his daughter's defection was just that, lay in the fact that he had not envisaged that if he bound her to the 'hard rock' of his own implacable will, then Caliban-like, she would take the 'language' he had taught her and curse him instead:

I am not a goat or a sheep to be sold off to the highest bidder, and if they didn't marry me to Arshad, I would marry him anyway ... I had decided to leave home long before I met Arshad, and just wanted to finish my education so that I could [sic] be able to support myself. *I didn't like the way our women are treated and I didn't want to be like them.* (emphasis added).³⁶

So deeply convinced was he of his own authority both as the 'author' of her being, as well as source of bounty, that he had not foreseen, in fact was unable to foresee, that she would exceed his idea of a daughter. That the toys and embellishments of consumerism viz., the education (and for him perhaps her education was no more than an embellishment), the car and the mobile phone, would enable her to become more than a marker of his worldly success, to exceed the boundaries laid down by him. In his view these 'gifts' and his pride in her accomplishments, were not to be taken as a promise of unauthorized freedoms.³⁷ The control over her body, just as the control over the things he gave her, was vested in him. The ultimate authority was his and he expected that she would continue to cede her autonomy to him. From his point of view, Saima's marriage and her continuing defiance were acts of betrayal-attacks on his authority, that merited the harshest punishment. She was *his* daughter, *his* property; the archetypal 'object of exchange' to be given in marriage to the highest bidder as a means of enhancing his economic and political status while still upholding his position as head of the family. Seeing her only as a possession and valuing her as one among his many belongings, he punished her in the only way he knew: by depriving her of the things he had given her and through violence. She was beaten, deprived of food for three days and locked up.

They cut my telephone line, and took away my mobile phone, car keys and money. Then they called the doctor who gave me an injection and made me unconscious.³⁸

During this time she also alleged that her thumb prints were forcibly taken on a statement saying that the marriage had taken place *without her consent.* (emphasis added) The unconscious irony of an act that takes recourse in the legal requirement of the woman's consent in marriage in order to negate consent itself cries but for notice and brings full circle one strand of Saima's story as constructed by the media.

³⁶William Shakespeare: *The Tempest*; Act 1. Sc.II. In terms of power relations Caliban's speeches to Prospero seems particularly relevant here: "For I am all the subjects that you have . . . and here you sty me In this hard rock, whiles you do keep from me The rest of the island. . . . You taught me language; and my profit on't Is, I know how to curse".

³⁷This point was raised by Anita Mir and Samina Rahman in the discussion following the presentation of this paper at the conference, "Engendering the Nation State".

³⁸Op cit. Sarwar. p.67

Except that the story does not end here.

Entirely dependent on audience feedback and authorial second thoughts which are themselves deeply implicated in, indeed inseparable from the wider social discourse, the journalistic text lives only as a function of the commercial market and can never be definitive. Thus if one narrative voice told a tale of coercion and violence that Saima experienced at the hands of the Ropris, other voices aligned her with a prurient and shameful sexuality and justified that violence.

“The Saima Love Marriage Case” was a favourite news caption as was the recurrent use of the term, “Love Sick Saima”. The linkage of love with sickness or disease, with its connotations of a body at war with itself, was a fitting analogy for the daughter at war with the father, and successfully transformed her marriage into a dangerous and deviant act. If at one level the news coverage of the case spoke of a daughter’s outrage at the hands of her family, in the same breath it aligned her with sickness and revolt, intrigue and lies, thus sending out very different messages to the reading public. For where a paternally sanctioned or arranged marriage is a positive act that ensures the perpetuation of a social order, a ‘love’ marriage points at female autonomy and concomitantly to an unbridled female sexuality that threatens that order. Nor were these messages limited to Saima alone. The association of active female sexuality with the illicit was expressed in a news item regarding other marriages made against the wishes of the family.

In one such instance the defining caption announced “Another Girl Runs off with Lover-Husband”. The lover by definition is associated with pleasure and mutuality; the husband, on the other hand, is head of the household; representative of God on earth and guardian of the utilitarian and authorised sexuality of the conjugal bedroom.³⁹ Pleasure smacks of spontaneity and, regardless of sexual difference, hints at independent freewheeling human agency. It cannot go hand in hand with authority which is founded on the obligatory compliance of the other and thrives on subjection. The one undermines and negates the other. Not only does this merger of the illicit with the licit point to the breakdown of the moral order and threatens established authority thresholds, it reveals the presence of the sexual woman in the heart of the family and links her to the surreptitious pleasures of the brothel and illegitimate sexuality. Sensationalized in order to ensure sales, echoing the fears of the reading public, the ‘disease’ of the ‘love sick Saima’ was first constructed and then built up to epidemic proportions. Panic was in order. What Ropri’s daughter had done, everyone else’s daughter might do.

The significance of these narratives is twofold. They reveal the gap between professed fundamentalist belief and the actual fundamentalist reality based on the simultaneous mimicry and rejection of the hated classes, and at the same time they expose to the clear light of day, the very shaky ground that underlies our contradiction ridden reality. Especially when it comes to dealing with what we do, what we aspire to do and the discourses we develop when it comes to self-representation and identity building.

³⁹Michel Foucault, *The History of Sexuality* (Vintage Books, 1980). p. 3.

Having ceded the ‘world’ yet again to powers beyond our control – we fall back on our post-colonial tendency of turning inwards to mediate our time bound realities by valorizing a fast eroding inner space. Echoing an earlier moment of loss, we succumb to the need to transform the home into a reified inner space which along with the women who live there “miraculously escape(s) social change”⁴⁰ and the encroachments of what we define as modernity. In this sense, Saima’s jeans and hijab combination is a complex and heavily loaded signifier of a class struggle where we lay claim to the fruits of modernity while asserting at the same time our claim, as a vehemently Muslim society, that our women are different. Taken together, these self-contradictory positions developed into a ‘revealing-concealing’ game which by simultaneously affirming and denying a reality obfuscated the entire issue of not just Saima’s marriage, or even the issue of an adult Muslim woman’s right to a marriage of her own choice, they also transformed every woman into a potential threat to the established order.

Nor was the media alone in blurring the distinction between fact and fantasy. The same pattern was in evidence in the courtroom procedure and in the subsequent judgments. That this should have happened tells its own tale about mainstream perceptions regarding definitions of the licit and illicit especially when it comes to questions of women’s autonomy.

The Tale of the Court Room

Superficially, the narrative inscription of the Saima Case in the courtroom bore a close resemblance to the tale constructed by the media. The ingredients of intrigue, abduction and sexual transgression were there. The ambiguities stemming from the simultaneous acknowledgment and denial of family violence and manipulation were there. The debate was still about authority thresholds. However, the change of locale brought about a change in narrative focus.

In this move from narration ‘narrative as performance’, the sensationalism of the print media was exchanged for the ratiocination of judicial discourse and the multi-tongued promiscuity of the bazaar and the ‘chai’ shop⁴¹ gave way to the regulated decorum of the courtroom and its carefully ordered hierarchies. The judges on a raised and canopied dais, represented the apex of power; facing them, the lawyers represented its second tier, followed by the Ropri men and, at the bottom of the scale, right at the back of the court room, with a policewoman on either side, Saima, anonymous yet painfully visible behind her hijab. Standing on either side of the room were members of Women’s Action Forum, human rights activists, journalists, security guards, court functionaries and Ropri supporters, clearly identifiable by the cut of their beards and the length of their shalwars.⁴²

⁴⁰Op. cit. Mernissi, *The Fundamentalist's Obsession With Women*. p .5

⁴¹Chai shop: translation, tea shop. The Pakistani equivalent of the roadside cafe.

⁴²Among the orthodox, the shalwar is worn ankle high in the interests of preserving ritual purity.

Replacing the one dimensionality of news photographs with the three dimensionality of the courtroom and the scandal of the ‘Evenings’ with the measured tones of legal debate, the specificities of the Saima Case were universalized and the question whether or not Saima’s marriage, made without the consent or mediation of her father or wali, had legal purchase, was argued within the parameters of the East-West debate. Positing the East, (a term, which in this context, became interchangeable with monolithic Muslim traditionalism) as the sanctum of family values as opposed to the West as equated with the disintegration of the family, the case was argued, not so much with reference to legal points, as with regard to father right and filial obedience.

Echoing and replaying the split within the discursive and visual field across which the mediatic narrative had been structured, the precarious logic of the ensuing legal debate was predicated on a rupture. A rupture engendered by the conflictual claims of the woman’s right to choose her marriage partner as ensured by both Muslim and secular law on the one hand, and the demands of filial obedience in a segregated society, which are potentially inimical to that right, on the other. As both concepts are deeply implicated in the maintenance of the status quo, debates that revolve around them are inherently treacherous and fraught with the perils of ambiguity and verbal sophistry.

In traditional patriarchal cultures – and Muslim cultures are both patriarchal and choose to see themselves as traditional – obedience and modesty in women are cardinal virtues. On the other hand, the concept of ‘consent’ or the right to choose, is conferred on them by Islam, especially with regard to marriage and ownership and management of property. So how, in so far as behavioural norms and practice are concerned, does the notion of consent or decision making fit in with those of obedience and modesty?

Consent, or the right to choose, implies agreement, and agreement implies participation and mutuality. Consenting partners, in any contract, are those who are in a position to consciously and actively consider available options before they agree to accept or reject a ‘deal’. This also holds true of marriage as defined under both Muslim and secular law in Pakistan. As a contract between two consenting adults, the marriage contract implies equality, maturity and mutual knowledge. There is no room for coercion here.

Obedience, on the other hand, is unilateral. It argues a one way relationship between the one who commands and the other who obeys. It is based, not on mutuality and consent but on implicit or potential violence. While modesty, which masks and silences desire, consigns the speaking subject to mute invisibility. Given that all trials and judgments are acts of power as well as of contestation, it was only logical that during Saima’s trial all three terms came into play and that their interaction was negotiated in ways that attempted to ensure the status of obedience as moral and social obligation.

In segregated societies, where traditionally the mixing of sexes is morally suspect and even legitimate spaces like the office or for example, a college debate, can take on the colouring of clandestine space, consent in marriage can easily be reduced to a ritual gesture. Further, as modesty and shame are highly valorised attributes of womanhood,

procedurally the nikah is negotiated by male elders of the contracting partners. In this context, even the three mandatory “yesses” of the female partner, if uttered too audibly at the time of the nikah, can be read as a sign of autonomous agency and an overly active sexuality.⁴³ Thus the woman’s silence becomes her consent and she becomes an absence in her own life.

Given these socio-cultural factors, Saima’s crime and that of the voices who supported her, lay in that they challenged the seamless fiction of mainstream discourse. The judiciary’s dilemma lay in that once women had asserted their autonomy and highlighted the contradictions within the discursive field, order had to be restored; conceptual ruptures papered over, and the status quo maintained. Not surprisingly therefore, the “learned counsel for the father of the girl (Saima Waheed)”⁴⁴ drew attention away from Saima’s assertion of autonomy by foregrounding the following questions as being central to the case:

Whether the parents have a right to be obeyed and their right of obedience is judicially justifiable. Whether marriage in Islam is a civil contract, and whether or not the permission of the Wali is one of the main conditions of a valid Nikah.⁴⁵

The significance of these questions lies in that while they seemingly address persons of either sex, the point at issue, as argued by the Ropri’s counsel, Malik Mohammad Nawaz, was about power thresholds and spatial boundaries. This was evidenced in another question raised in the course of the debate as to whether a “virgin girl stepping out of her house without the consent of her parents can be asked to go back”⁴⁶ or more specifically – could Saima be “left to roam the Mall at will”. The magnitude and complexity of this issue was highlighted by a process which not only whittled down areas of the permissible for women but which converged with the allegations of intrigue, imputed to Asma Jehangir in luring Saima away from her home. Together, they were distorted, transformed and then globalised through the cry of conspiracy and the threat to state sovereignty posed by this break with prescribed norms:

[A]t the moment in Islamic countries [sic] clash of two civilizations is quite prominent because some negligible number of Muslims are playing the role assigned to them by vested interests from the west. The purpose is to shake [sic] foundations of Muslim Society and introduce a moralless [sic] society.⁴⁷

⁴³Judgment Sheet; CrI.M.425-H/96. p.50. Citing Justice Chaudhary: “The girl speaks through her Wakil (lawyer). This is not a restriction on females but the purpose is to preserve their honour. This way it is a *requirement of her protocol*. (emphasis added) She is entitled to this because being [sic] the honour of two families”.

⁴⁴Ibid.

⁴⁵Ibid.

⁴⁶Ibid.

⁴⁷Ibid.

By universalising the debate and setting it up as a contest for power between the “Evil Empire”⁴⁸ of the West and the morally superior Muslim societies and by granting legal and religious backing to the wali as guardian and sole arbiter of consent, the prosecuting council not only attempted to cut the ground from under Saima’s feet, he also criminalised women’s autonomy and circumscribed the limits of permissible sex. That he did so at the cost of what all believing Muslims see as the immutable rights given to women under Islam reveals the critical link between power, morality and political expediency. This not only demonstrates the alignment of morality with the sexually permissible, but also highlights the dependency of moral discourse on the exigencies of time and historical circumstance in the regulation of consent through the selective use of the very discourses which have sanctioned it.

The move away from the rights of the individual and the foregrounding of the rights of the wali or male guardian vis a vis filial obligation, and the presentation of both under the rubric of morality enabled the elision of the violence to which Saima had been subjected and which she still feared at the hands of her family and in the process undermined the very concept of justice itself. That Saima’s council countered these arguments with reference both to the existing laws of the land and schools of Islamic jurisprudence not only points to the necessary mutability of the law but also highlights the fact how the differently located voices of women and men within a gendered power hierarchy experience and articulate the world differently. For where the prosecuting council focused on the defense of male parental rights and the sanctity of the family, Saima’s council spoke of the rights of the individual and foregrounded the masculinised violence which was being granted immunity within the family.

Another point that needs to be scrutinised is the inscription of the religious metaphor in what is essentially a secular debate, as it was this factor above all others which shifted the focus of the case from its legal context and brought it into the emotionally highly charged domain of morality and national identity. The question then is not just of Saima’s marriage but one that is to do with the politics of identity, with a peoples’ sense of themselves; with what Mernissi has identified as the “shaky ground of self-indulging justifications” and the “split between what one does and how one speaks about oneself”.⁴⁹ On this terrain ideologies of women, as carriers of tradition and markers of morality, converge with and are shaped by the deep and abiding fear of female sexuality that haunts all patriarchal cultures, to take on global proportions. Why else would the hurt pride and the subsequent vindictiveness of the Ropri’s find an echo among the wider public?

It has been argued that Muslim societies are especially prey to this fear because, unlike the Christian, the Muslim ethos acknowledges, as fundamental principle, the presence of

⁴⁸Ibid.p.31.

⁴⁹Op. cit. Mernissi, *The Fundamentalist Obsession*. pp. 5–6.

the raw instincts or libido equally for women and men⁵⁰ and the concomitant need for systems of control to channel these instincts constructively and in the interests of wider community. Shaped by the requirements of patriliney and inheritance, the need to set up systems of external control over women is greater than it is for men.⁵¹ This is why, especially in societies where inequality, scarcity, and the degrading subjection of some to others, have undermined the self-confidence of communities and nations, issues concerning female virginity and honour become a matter between men, in which women play the role of silent, though on occasion dissident, inter- mediaries,⁵² and why it was so important to locate the idea of consent with regards a woman within the narrow confines of segregation and filial obedience.

This not only enables an understanding of the logic behind the contention that Saima “[could] not be allowed to roam the Mall at will”, and why the prosecuting counsel strained to prove that the parent’s right to be obeyed was judicially enforceable, it also enables us to understand certain other incomprehensible acts, namely: why Dastak, where the prison like conditions that characterize the more mainstream shelters for women to do not hold, was repeatedly described as a brothel even when the court gave permission to Saima to stay there and, for reasons of her safety vis a vis her own wali or ‘guardian’, placed it under the direct jurisdiction of the President of the High Court Bar. Why the legal debate continued to criminalise Saima and uphold Ropri’s rights as her protector even when the High Court Security Guards found a Ropri supporter in possession of a mauser inside the court room. The strange behaviour of both members of the judiciary and the general public, who while debating the validity of Saima’s marriage within the ambit of the law, were yet hampered by a split in the field of vision regarding female sexuality so that facts could be acknowledged, acted upon and then denied in almost the same breath.

The final decision upheld the validity of Saima’s marriage. It was a two to one decision, and Justice Ihsan-ul-Haq Chaudhary’s was the dissenting voice. Given the legal ‘correctness’ of the nikah, it was an expected judgment. On the other hand, given the current politicisation of religion in mainstream discourse and the coercive power of the fundamentalist lobby, the thrust of the legal debate and the issues at stake, it was also a judgment fraught with ambiguity. The split in the field of vision that had informed both mediatic representation and court procedure regarding the case, was, with the exception of Justice Qayyum’s judgment, in evidence in the judgments of both Justice Ihsan-ul-Haq Chaudhary and Justice Ramday. As a result, these texts, especially the last judgment, precisely because it upheld the validity of Saima’s marriage, were the most problematic. In order to see how male authority thresholds were mediated and strengthened despite the concession to Saima, it is necessary to examine the third narrative of the case.

⁵⁰In their judgments both Justice Chaudhary and Justice Ramday refer to Islam as a ‘natural’ religion and the ‘nature’ of women, hence justifying the need to control women’s sexuality.

⁵¹Fatima Mernissi, *Beyond the Veil*, 1975 (Al Saki Books, 1982). Abdel Wahab Bouhdiba; *Sexuality in Islam*, 1975. (Routledge & Kegan Paul. 1985).

⁵²Fatima Mernissi, “Virginity and Patriarchy” 1979; *Women’s Studies International Forum*; Vol. 5. No.2 1983. P.183.

The Tale of the Three Judgments⁵³

As with the earlier narratives, the shift in narrative voice heralded a shift in perspective. Where earlier it had been Saima's voice, as mediated by the press, that had begun a tale of parental violence and the court proceedings had picked up the narrative thread to enact the petitioner's tale of deception and intrigue as perpetrated by Saima with that of the respondent who predicated her arguments on the law of the land, legal precedence and constitutional rights to show that the mediation and consent of the wali was not a legal requirement for a marriage contracted by two consenting adults.⁵⁴ With the exception of Justice Qayyum's judgment which drew upon both Muslim and secular law to arrive at its conclusion, the judgments of Justice Chaudhary and Justice Ramday also drew upon the different, often oppositional, strands across which the earlier narratives had been woven. This resulted in the inscription of narratives, that despite the gloss of moral and legalistic justification, were not less conflicted, ambiguous and, in the final analysis, dangerous for women.

Given spatial constraints only the main points of the arguments presented in these judgments will be examined in this section.

The First Judgment

The briefest of the three judgments, Justice Qayyum's judgment validated Saima's marriage to Arshad on the grounds that "in Islam a Muslim girl can marry without the consent of her Wali".⁵⁵ While conceding that "runaway marriages are abhorrent and against the norms of our society and must therefore be deplored",⁵⁶ he stated that he had been unable to discover any principle on the basis of which it could be held that the nikah of "*sui juris* muslim [sic] girl without the consent of her Wali would be invalid".⁵⁷

Direct and to the point, the judgment adheres to both the letter and the spirit of the law. It is a confident judgment which, despite the pressures of popular and fundamentalist opinion, refuses to take recourse in legal circumlocution or religious allusion. Its narrative therefore is necessarily brief and free of the ambiguities and contradictions that mark the other judgments.

The Second Judgment

Justice Chaudhary's was the dissenting voice in the two-to-one judgment that declared Saima's marriage to be legally valid. Foregrounding the moral dimension of the case, textual parameters are set by the narrative voice which speaks from a position of institutional authority:

⁵³Unless stated otherwise, all references and quotations in this section are based on the Key Law Reports [K.L.R.]; Postal Redg. No.L-840.Vol.XVI. No.5. May 1997 and the Judgment Sheet in the High Court Lahore/Rawalpindi/Multan Bench Multan; Judicial Department. CrI.Misc.No.425/H of 1996.

⁵⁴Judgment Sheet; CrI.M.425-H/96. pp.20–22.

⁵⁵Key Law Reports [K.L.R.] Sh.C.203

⁵⁶Op. cit. K.L.R. 1997. Sh. C 203.

⁵⁷Ibid.

We are national Judges and as such custodian [sic] of the morals of the citizens.

Recounting the narrative from the petitioner's point of view, the text not only relegates Saima to the outer edges of licit behaviour, the sequence of events, the gaps and the omissions, place the entire narrative on the plane of the absurd and the improbable. The narrative technique establishes Saima's guilt while depriving her story of all logic:

Mst. Saima Waheed...(had) allegedly contracted a marriage on 26.2.96 with Mohammad Arshad, who was a tutor of her brother. The petitioner Abdul Waheed Ropri, her father, came to know of this secret marriage on 9.3.96. He approached the father and other family members of Mohammad Arshad. Nikahnama was returned to him with a note that no nikah had been performed and in any case same is not subsisting and stands cancelled. The detinue continued living in her father's house till 9.4.1996 when she was allegedly abducted and her family came to know on 11.4.1996 that she was being detained in the 'Dastak' managed by respondent No.1 and they started negotiating for the release of the detinue.⁵⁸

The bare facts of the story are close enough to the ones related by Saima to give it credence. However the recourse to police terminology⁵⁹ and the substitution of the term 'abducted' for what, according to all evidence was a voluntary act on Saima's part, is crucial to the production of meaning in this text. The conflation of a voluntary with a criminal act not only blurs the parameters of the case, it also serves to criminalise Saima's agency as an adult woman who voluntarily took the decision to live with her lawfully wedded husband. It also transforms a marriage made without the consent of the parents into an illicit act. The deeper significance of this semantic legerdemain lies in the fact that it reveals what the petitioners and, in this case, the text of the judgment wish to conceal: that legally and morally a marriage between consenting adults is not regarded as a crime. Criminal action in such cases demands that the act first be criminalised. Thus if the point at issue is whether or not a single girl can be forced to return to her parents home, or if Saima is to be prevented from roaming the Mall at will, these acts must first be aligned with immoral and legally prohibited behaviour.

This play on words also obscures the violence that was perpetrated on Saima and on Arshad and his family that led to the return of the nikahnama. Here too, the 'hidden

⁵⁸Op.cit.K.L.R.1997. Sh. C129.

⁵⁹According to popular practice and customary language use in First Information Reports filed with the police, the word abduction is substituted for marriage in elopement cases. By criminalising the marriage, families have initiated legal action to retrieve their run away daughters or sisters. The pitfalls of this semantic substitution were first registered after the passage of the Hadood Ordinances in 1979 which made extra marital sex into a crime against the state punishable by death or flogging. It was this conflation between marriage made without the consent of the parents and abduction or extra-marital sex which led Chaudhry Sardar Ahmed, as Inspector General Police, Punjab, to state that 99% of the women who cry rape are willing participants in the act.

agenda' of the narrative survives on elisions. However, this spate of words is unsuccessful in hiding unpalatable facts. Ironically, the very language of the text draws attention to what it attempts to obscure. As a result, instead of establishing Saima's and/or Arshad's guilt, it elicits the following questions: Why was the nikahnama returned? In any case, if no nikah had been performed then what value could the nikahnama have? Further, if no nikah was 'subsisting', then what was it that needed to be cancelled? In so far as the charges of abduction and detention are concerned, the court itself had given orders that Saima should be removed from the Dar-ul-Aman to which she had been sent at the Ropri's behest, and, on her request, be allowed to remain at Dastak for the duration of the case.

It is indeed a tale of intrigue and violence, and the text deals with it by taking on a high moral tone and moving ahead to set up religious and moral parameters on which the judgment was based. This was done by showing that (i) in Islam, a marriage is not a civil but a social contract, based on divine sanction. (ii) that a nikah without the consent of the wali is not valid as the "beginning (of such a marriage which implies free mixing of the sexes) is not commendable"⁶⁰ and further, that the "Nikah of a female is the duty of the Wali".⁶¹ That this leaves unexplained the fact that Islam gives women the right to own and manage their property and that Hazrat Khadija, the wife of the Prophet Mohammad, peace be upon him, a notable business woman in her own right, not only proposed marriage to him without the mediation of a wali or any male kin, it also fails to take into account the fact that neither business man- agreement nor a proposal of marriage by a woman to a man could not have been possible in strict segregation.

The next argument against a 'runaway marriage' is, that according to Islamic law, a marriage has to be publicly announced. "The Nikah ceremony, Walima and giving of dowry are means adopted by people to make the marriage known".⁶² A runaway marriage, on the other hand is "always kept secret".⁶³ What is not taken into account is the fact that (a) Saima's marriage was performed in accordance with prescribed legal procedure and (b) if women and men are allowed to exercise their right of choice in marriage, then there would be no need for secrecy and elopement. It would appear that rights granted to women by religion have a tendency to be subsumed by social norms that limit them in the interest of established hierarchies.

Be that as it may, having circumscribed the woman's right of choice in marriage, the text makes an assay into modernity and comes to grief yet again. It states unequivocally that Islam broke away from the authoritarianism of pre-Islamic civilizations and "brought democratic pattern [sic] as well as the Society [sic]".⁶⁴ According to what follows, this was done by granting to the parents a judicially enforceable right to be obeyed. Clearly, there are strange notions of democracy at work here, as the text attempts to yoke together

⁶⁰Crl.M.425-H/96. p.12

⁶¹Ibid.p.15

⁶²Op cit. K.L.R.May 1997. Sh.C. 133

⁶³Ibid.

⁶⁴Ibid.

the disparate principles of justice and egalitarianism associated with Islam with the patriarchal edicts of an authoritarian family discourse. According to this logic, if Islam is a democratic religion, then the parental right to obedience cannot be unilaterally or judicially enforceable. And if this can be done, then by implication, Islam is an authoritarian religion – a concession which would go against the basic principles of Islam as a religion for all times based on the principles of justice and equality.

In keeping with the tone set by its beginnings, the text goes on to construct a moral discourse premised on the (i) centrality of female segregation and the concept of family honour in Muslim society, (ii) the subservience of the daughter to the will of the father or wali and the valorization of filial obedience as religious duty, (iii) the evil influence of alien, namely, western or non-Muslim societies and the subsequent disintegration of the moral order and (iv) the role of the family as the bastion of moral norms. A voluminous and quite amazing text based on selective readings of Islamic and western texts, it results in a textual promiscuity or to take recourse in the terminology of the text – a runaway marriage – where the vast medieval scholarship of Imam Ghazali and the reformist pedagogy of Maulana Ashraf Thanvi, to name only a few, rub indiscriminate shoulders with the bourgeois pieties of *Reader's Digest* and the inanities of Hilary Clinton's electioneering speeches. The purpose of this indiscriminate mixing was to ensure the centrality of the family to the human community and at the same time, to compel an imaginative leap that would simultaneously invalidate Saima's marriage and nullify every woman's right to decision making and participation in her own life.⁶⁵

The Third Judgment

The narrative constructed by the Third Judgment is perhaps the most interesting for the purposes of this analysis. In so far as its implications for women are concerned, it is also the most dangerous. The last of the three Judgments which decided the fate of Saima's marriage, its significance lies in that while it conceded the validity of Saima's nikah, its terms and conditions are closer to those of the Second Judgement vis a vis questions concerning women's right to decision making with regard to marriage.

The Second Judgment takes a clear stand that a marriage contracted without the consent of the Wali or of male guardian has no legal or moral purchase in Islam. The Third Judgment concedes its validity while yet maintaining its hold on a moral discourse which places such a marriage on the outer margins of licit space. Characterised by the 'acknowledgment and denial pattern' that marks the earlier narratives, the Third Judgment is also contexted within the binaries of the East -West, male-female world view as it works its way through the entire gamut of female frailty, secrecy, filial duty, parental obligations, western promiscuity, the superiority of Islamic cultures and the sanctity of the family. In the process, not Saima but all women became the ground on which notions

⁶⁵*Reader's Digest* May, 1996. "I thought about the power of a good name when I heard General Colin Powell say that America needs to restore a sense of shame in its neighborhoods." Hilary Clinton's electioneering speech: "[I]n order to raise a family, a happy family, a confident family, it needs a family, it needs a village, it needs society, it needs a president and it needs Bill Clinton." CrI.M.425-H/96. pp.29-30.

of Muslim society, masculinity and the family are argued, sexual difference essentialised and new areas of female sexuality criminalised.

As with the Second judgment, the Third Judgment also sets up the parameters of a moral discourse by charting out a cartography of the licit and the illicit. However, unlike the former, the latter does not begin with the concerned case. It universalises the issue and speaks instead of all (such) cases where:

each young, unmarried girl had managed to establish contact with a man; this contact then developed into a secret liaison and this secret affair then allegedly culminated into [sic] a secret marriage; each girl disappeared from her parental home; apprehending [sic] worst of consequences, the family in each case commenced a frantic search for their daughter/sister to ultimately find out, after weeks in some cases and after months in others, that their dear one had contracted an alleged marriage.⁶⁶

In terms of sheer narrative technique, it is a masterly account. Beginning with the use of the word 'each' instead of the specific 'young girl' – with its implications of 'many' such girls – who first 'establishes contact with a man', it builds up to a climax, as the contact develops into a 'secret liaison' and then grows and expands until it culminates in the 'allegedly' 'secret marriage'. The girls are young, therefore by inference, unwise. The person she/they meets is a 'man'. He has no name, no identity. It is as if, having broken the barrier of moral and familial constraints, an unbridled female sexuality is out on a rampage. The development of the affair, from contact-to-liaison-to-affair-to-alleged secret marriage, implies not an inadvertent error, or even just one instance of deceit. It is indicative of planned subterfuge and treachery that recall, not a young girl with a specific identity, but the wiles of the eternal woman as fitna and temptress in one fell swoop. Nor does the narrative end here. Counterposed with this demonised sexuality, highlighting the criminal selfishness of the act is the anguish of the family. As, crazed with fear, apprehending the worst for their 'dear one', they search for her frantically only to discover, when they do find her, that she has contracted an "alleged marriage". An anti-climactic conclusion that, but for the use of the word 'alleged', which casts doubt on what is after all, as far as daughters in this society are concerned, a consummation devoutly to be wished for.

As stated earlier, it is a clever narrative technique. Where a direct reference to Saima's marriage would limit the case to the concerned individuals and address only one family, the reference to 'each young girl' is a reminder of imminent danger to all families of all young girls. What happened in the Ropri family, could happen in any other family. Therefore all families are vulnerable and all young girls potentially culpable. The need of the hour then is not to do with just one case, but a decision which will ensure the maintenance of control over the fitna of female sexuality in all cases and situations and for all time to come.

⁶⁶Justice Khalil-ur-Rehman Ramday; CrI.Misc.No. 425/H, 1996.pp. 1– 2.

Caught between the oppositional demands of professional integrity, judicial status, the terms and conditions of Muslim marriage on the one hand, and the cultural and social pressures of an ascendant fundamentalist lobby and deep seated practice on the other, the text proceeds to look for answers as to whether

such a nikah (marriage), surreptitiously contracted, by a male or female of his or her own accord and otherwise than through a Wali (a guardian or an elder) (is or is not) valid.⁶⁷

It does so by examining the (i) social and legal status conferred by Islam on women; (ii) the conduct prescribed by religion for men and women and views regarding pre-marital and extra-marital relations between men and women; (iii) the status of the family in Islam and (iv) filial obligations.

Women's status in Islam is established on the basis of their status in pre-Islamic and post-Islamic non-Muslim societies. Given the East-West binary across which Muslim moral superiority is to be established, the text takes recourse, not in pre-Islamic Arabia, or even in pre-Islamic history, but in allusions to the gods and goddesses of ancient Greece. A gesture which conflates myth with history and conversely, mythologises and distances facts or lived history. Pandora's 'box' we are told, was proverbial, for being a collection of evil and mischief (a Freudian slip which takes us right back to the troubled issue of female sexuality) while, "Aphroditus", we are informed

had sexual relations with three gods and a mortal being and Cupid was the product of extra-marital relationship between Aphroditus and said mortal being⁶⁸.

Clearly, if we decontextualise history and strip myth of its symbolic dimension, it emerges that the Greeks despised women, who then as now, need a system of external checks and balances to control and diffuse the fitna that is part of their makeup, or as both the Second and the Third Judgments remind us: the 'nature' of the woman.

Dispensing thus with both women and the so called 'cradle' of western civilization, the text moves into the domain of history and post-Islamic non-Muslim societies to point out that women continued to be discriminated against in western societies. As opposed to Islam, which conferred equal status on women in the seventh century, in England and in America women came to be recognised as independent legal entities only in the nineteenth century and twentieth centuries. It would seem that this initial 'first' absolves contemporary Muslim societies of all further responsibility towards women.

Having dealt with the question of women's status in Islam and the misogyny of western cultures, the text moves on to speak about the family and prescribed codes of conduct for men and women in Islam through literalist interpretations of Quranic texts. A familiar gesture that reduces the cosmological complementarity of the male and female principles

⁶⁷Op.cit.p.2

⁶⁸Op.cit.p.5.

to represent sexual difference essentialised in biologicistic terms. Men and women are then placed within the separate spheres of private and public space and allocated mutually exclusive roles and functions in order to ensure the “smooth and proper running of society”.⁶⁹ In the process, the systemic violence of gender based power hierarchies is glossed over and sexual difference highlighted to mark out men not as ‘superior’, but as the “first among equals”.⁷⁰ A beguiling equivocation that recalls the ‘some are more equal than others’ of *Animal Farm* as it says what it has to say, while claiming to say something else.

Having established these conceptual parameters, it needs only a quick short step to enter the fastnesses of the Muslim Imaginary⁷¹ where licit space is strictly segregated and therefore safe from all harm, all “shameful and indecent deeds”⁷² and everything that lies outside its confines belongs to the illicit, where “contact between men and women (is) liable to lead to undesirable, nay, horrifying results”.⁷³ It is a position in keeping with the one defined by a senior member of the Jamat-i-Islami, who parried a question on segregation by stating that Satan makes a mandatory third in any dialogue between a non-mehram woman and man.⁷⁴ According to this logic, and it is clearly one to which the text subscribes, just as there can be no evil, no domestic violence and no incest within the sacred space of the family, there can also be no ‘safe’ or ‘good’ woman outside it. A comfortable position which contains and stifles the screams of a Zainab Noor⁷⁵ within the four walls of the home and conversely criminalises all women who cross its sacred threshold. This includes students, office workers, teachers, nurses, domestic workers, women in the agricultural sector along with widows and members of female-headed house-holds.

It would seem that having entered the ahistorical fixities of this symbolic space, the text, which is itself contingent on the exigencies of historical time and geographical location, relinquishes its hold on time-bound realities to delineate an atemporal world. A world where contact between single women and men can be equated with the “concept of a young girl or boy... venturing out in search of a spouse”⁷⁶ and be pejoratively defined as “Husband-Shopping”.⁷⁷ But the same “scheme”,⁷⁸ when it devolves on parents, can be

⁶⁹Ibid. p.14.

⁷⁰Ibid.p.16.

⁷¹The term ‘Imaginary’ is here used in the Lacanian sense as a *reconnaissance*, a mistaking of the image for the thing itself.

⁷²Ramday;Cr1.Misc.425/H.1996. p. 21.

⁷³Ibid. Cr1.Misc.425/H.1996 .p. 22.

⁷⁴Ashraf Saleemi in a private interview at Mansoor, 1991. This demonisation of female sexuality results in an unremitting focus on women only as sex objects. Consequently, the very purpose of segregation, which is the regulation of the sex drive, is lost. This argument, borne out by the experience of countless women in post-Islamisation Pakistan, is substantiated by Shahed Amanullah’s article “Is it Temptation?” *The News* 14.12.97. The writer cites an incident where a religious scholar refused to address his wife, a doctoral student of Islamic Studies and in full hijab, because, in his own words, “he had a weak *nafs* and was hopelessly tempted by women, and was scared to look at a married woman directly lest he have impure thoughts.”

⁷⁵In 1993, Zainab Noor was genitally mutilated by her husband on allegations of ‘disobedience’.

⁷⁶Op. cit. Cr1.Misc.425/H.1996.p.47.

⁷⁷Ibid.

seen as a sacred duty. A world where, regardless of ground realities, the text gives daughters the right to take their parents to court either for failing to discharge this duty, or for coercing them into an unsuitable marriage, or where a “girl is being bartered away...the Court shall pass necessary orders including an order absolving the girl from her obligations towards suchlike parents, elders etc”⁷⁹ Having set up this system of checks and balances, the text also proposes legislation that would make “courtships, secret friendships and secret marriages a penal offense”. Carried along on the trajectory of its own rhetoric, what the texts fails to take into account are the realities of women’s lives. A woman being bartered away, or one whose parents or elders are failing in their duty to find a spouse for her, is hardly in a position to take her parents to court. On the other hand, as Saima and many others have found, the woman who does challenge parental authority, is demonised and castigated as a rebel and a whore. Having presented a Catch 22 solution to the point at issue, the text validates Saima’s marriage, not on the grounds that it was her inalienable right under Islam, to make a marriage of her choice, but because “invalidating a marriage entails. ...serious and even penal consequences...”⁸⁰

As stated earlier, the Third Judgment is perhaps the most complex of the three judgments that decided the fate of Saima’s marriage. Caught between the oppositional demands of the rights granted to women under Islam and legal precedence, and professional integrity on the one hand and literalist readings of religious texts informed by masculinist notions of the feminine on the other, it can only resolve its dilemma through a series of elisions based on the systematic conflation of disparate terms. Thus, Saima’s marriage is consistently aligned with the illicit - with extra-marital sex haunted by the recurrent spectre of illegitimate children and the disintegration of moral norms⁸¹ in order to maintain the sanctity of marriage. Coercion and violence are simultaneously glossed over and condoned by ritual gestures of consent. The authority of the wali or father is sacralised through a denial of the violence perpetrated in the family, and the woman’s right to decision making, especially with regard to marriage, subsumed by the father’s right to filial obedience. The outcome is once again, a manifestation of the affirmation and denial pattern which, in different though similar ways, marks the earlier narratives and like them is symptomatic of the rupture within the social psyche.

Conclusion

Semantically a conclusion implies closure. The final resolution of a given debate or story that clearly separates the winners from the losers; the heroes from the villains. Shot through with ambiguity and inner contradictions, neither Saima’s case nor the debates set up by it were conclusive. A court decision which conceded the validity of one marriage

⁷⁸Ibid.

⁷⁹Ibid.p.48.

⁸⁰Ibid.p.46.

⁸¹The Judgments of both Justice Chaudhary and Justice Ramday consistently highlight the dangers inherent in secret marriages by referring to the growing number of children born out of wedlock in the West. As Saima was married and had produced no children – legitimate or otherwise – this refrain becomes intelligible only if contexted in the wider issue of power.

that was made without the consent or mediation of the wali, criminalised whole areas of women's sexuality and jeopardised their future autonomy in matters relating to marriage and choice of marriage partners. The Ropris lost the case but condemned their daughter to a life in hiding. Saima went into exile but in the process shattered the facade of patriarchal invincibility.

At the outset, it was stated that this paper would examine the textual content of the case to understand why it caused the furor that it did. Perhaps, like much of the rhetoric in the narratives that developed around the case, this too was a narrative ploy – a rhetorical gesture. And the initial questions were asked without any real expectation of answers. Not because there are no answers but because the answers are already there, clamouring for recognition. Nor was the purpose of this exercise in writing yet another narrative about Saima only to point out the lacunae in the different narratives about Saima's case, as they played around with the facts of her marriage to criminalise women by reformulating old metaphors in order to validate male dominance in the religio-political context of late twentieth century Pakistan. As I come to the end of this exercise, I make no claims to disinterested authorial objectivity. Just as the different narrative voices shaped Saima's story to fit in with their own definitional categories regarding the issue of women's sexuality, so too have I, by spinning out yet another story, attempted to express a point of view, in the hope that it will draw attention to the inchoate fears that constitute the soft hidden underbelly of patriarchal power as it mediates its relationships with those it attempts to control, especially when it comes to issues of power, identity and female sexuality. In this sense the value of these narratives lies not so much in their adherence to or departure from the facts of the case, but in the process of selection. In what each narrator has chosen to include and exclude from his/her narrative. As these reveal the attitudes, the fantasies and fears of those who have written and passed judgment on Saima's story.

The value of the case also lies in that it allowed us, as women and men, to traverse familiar ground as if it was alien to us. A useful exercise that has the potential of bringing us face to face with the 'strangeness within ourselves' which keeps us hostage to unnamable fears.⁸² Its value lies in that an examination of its constituent narratives highlights the disjunction between the 'reality' of the metaphor within its fictive context and the one that lies, loosely coherent and fluid, outside the text. It also lies in that it can enable us, if we are willing and honest, to confront the limits of our fears and recognize our strengths in order to help us understand what is happening to us at this juncture in our lives, when the dice seem heavily loaded against women, both as individuals, as members of a society and as citizens of a state. Given that stories are inherently Janus faced, and more so than others when they deal with issues of power and dispossession, it seems appropriate to search for a purpose to the narratives about Saima in another story, set in another harem:

⁸²Fatima Mernissi, *Dreams of Trespass – Tales of a Harem Girlhood* (Addison-Wesley Publishing Company, 1994) p. 15.

Then the day came when Samir was thrown out of the *hammam*... That event made me realise that we were both somehow drifting into a new era, may be even adulthood. Suddenly I felt sad for no reason, and I went up to Mina on the terrace and sat by her side. She stroked my hair. “Why are we so quiet today?” she asked. I told her about my conversation with Samir, and also about what had happened at the *hammam*. She listened with her back to the western wall...and when I finished, she told me that life was going to be tougher from now on for both me and Samir. “Childhood is when difference does not matter”, she said. “From now on, you won’t be able to escape it. You’ll be ruled by the difference. The world is going to turn ruthless”.

“But why?” I asked her, “and why can’t we escape the rule of difference? Why can’t men and women keep on playing together even when they are older? Why the separation?” Mina replied by not answering my questions but by saying that both men and women live miserable lives because of the separation. Separation creates an enormous gap in understanding. “Men do not understand women”, she said, “and women do not understand men, and it all starts when little girls are separated from little boys in the *Hammam*. Then a cosmic frontier splits the planet in two halves. The frontier indicates the line of power because wherever there is a frontier, there are two kinds of creatures walking on Allah’s earth, the powerful on one side and the powerless on the other”.

I asked Mina how I would know on which side I stood. Her answer was quick, short and very clear: “If you can’t get out, you are on the powerless side.”⁸³

The purpose of these narratives about Saima lies in that they remind us of a truth we – the powerful and the powerless alike – already know in our most secret hearts, but are reluctant or unable to face. That this cosmic frontier, which splits our world into two, can be breached. Saima’s experience teaches us that transgression comes at a cost. But the outcry and the hysteria subsequent on the act of transgression or the crossing of these imagined boundaries enable us to see that the powerful ones – the custodians of our morality and the guardians of our social norms – are also the fearful ones. That they are as much prisoners of the maps they have drawn,⁸⁴ as those whom they would dispossess and relegate to the edges of licit space.

⁸³Ibid.p.4–15.

⁸⁴Ibid.p.23.

BATTLING A TWO-FRONT WAR: SEXUAL AND GENDER-BASED VIOLENCE AGAINST SYRIAN WOMEN

*Ms. Tiffany N. Barrans**

In the midst of conflict, particularly civil wars, violence is indiscriminate in choosing its victim. But without question women and girls are the most vulnerable members of society when it comes to facing sexual and gender-based violence (SGBV). SGBV in conflict is widespread, and affects a large number of women and children. SGBV in conflict has a number of manifestations, at times used deliberately as a tactic or strategy to destroy or degrade one's political opponent or members of ethnic or religious minorities. At times it is a result of ill-disciplined armed forces where impunity for such actions exists. Yet regardless of the driving force, the result remains the same—a devastating effect on individuals and societies, bringing about the essential collapse of social structures and norms. When victims are plucked from the youngest generations, such violence has a damaging effect on the potential for peace and stability in the society's future.

In August 2013, the International Commission of Inquiry on Syria reported that “[s]exual violence has played a prominent role in the conflict [in Syria] owing to the fear and threat of rape and by the violence committed”¹.

It occurs during raids, at checkpoints and in detention centres and prisons across the country. The threat of rape is used as a tool to terrorize and punish women, men and children perceived as being associated with the opposition. Underreporting and delayed report[s] of sexual violence is endemic, making an assessment of its magnitude difficult².

In February 2013, the International Commission of Inquiry on Syria also reported the conflict in Syria has “become increasingly sectarian, with the conduct of the parties becoming significantly more radicalized and militarized”³. As the violence has increased so have the blatant violations of human rights, including arbitrary arrests and detentions,

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¹6th Report by the Independent International Commission of Inquiry on the Syrian Arab Republic 13 (14 August 2013) (A/HRC/24/46), http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session24/Documents/A_HRC_24_46_en.DOC.

²*Id.*

³4th Report by the Independent International Commission of Inquiry on the Syrian Arab Republic 18 (February 2013) (A/HRC/22/59), www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/A.HRC.22.59_en.pdf.

extra-judicial executions, rape and other forms of sexual violence, abduction, forced disappearances, and various forms of torture. The United Nations Security Council has repeatedly affirmed that sexual violence, when committed systematically and used as a weapon of war, fundamentally threatens international peace and security, and requires an international and judicial response. Sexual violence has been all too commonly used as a weapon of war in Syria, but Syrian women also face other forms of violence, including domestic violence, sexual exploitation, and early marriage.

For the women and girls of Syria, many have found themselves vulnerable on two fronts: first, in their home country as the civil war now marks its third anniversary; and second, as refugees in foreign lands exposed to desperate conditions that lack adequate security structures and resources. With the emotional and physical scars of SGBV, in the highly conservative Syrian culture, SGBV also brings shame and family dishonor. As a culture dominated by religious norms, particularly in rural and southern areas of Syria, when a woman has been or is suspected to have been the victim of sexual violence there is life-changing social stigma difficult to overcome. The cultural norms forbid women and girls from talking openly about sexual violence, making data gathering on the severity of the issue of violence against Syrian women extremely difficult. These cultural norms also create a barrier to providing the necessary psychological and medical care these victims greatly need.

Though accurate data is difficult to collect on the severity of SGBV in the Syrian conflict, numerous reports of SGBV indicate Syrian women are highly vulnerable to SGBV both within Syrian borders and in the neighboring countries to which they flee. This article will outline the present vulnerabilities of Syrian women as they remain in war-torn Syria and as refugees who have sought refuge in neighboring countries. Though the circumstances for women both in Syria and in the neighboring countries are constantly evolving, several disturbing themes of SGBV remain constant that demand the attention of the international community.

First Front: Sexual and Gender-Based Violence in the Syrian Arab Republic

By no means was life perfect for Syrian women before the current war, but Syrian women had relatively reasonable levels of independence in society, especially compared with their counterparts in the Arab world. In 2011, Syria had a female vice president, three female cabinet ministers, 30 of the 250 members of parliament were women, and the President had two high-ranking female advisors. In 2011, female activists played an integral role in calling for government accountability and the removal of the Assad government.

Although the Syrian penal code and personal status laws, which govern matters such as divorce, marriage, and inheritance, contain provisions that are discriminatory to women and girls, the Syrian Constitution guarantees gender equality. Although the government boasted of reduced penalties for honor killings that target females and foreign travel

required women to get permission from a male relative, Syrian women generally participated in public life and were typically free to work outside the home.

But women left behind in the wake of the current civil war have found their independence and freedoms stripped. As the conflict has become increasingly sectarian and armed extremist groups have joined the opposition, such as extremist groups Jabhat al-Nusra⁴ and the Islamic State of Iraq and Sham (“ISIS”), refugees fleeing the violence in Syria have reported major changes in their day-to-day life. These extremist groups have imposed dress codes and have prohibited a woman from venturing outside of her home, even to buy essentials such as food, without a male relative to escort the woman. Women have reported penalties for violating these restrictions; for instance, those who showed up to markets and bakeries without their male escort have been turned away by armed extremists. In some areas in Syria, women have been prohibited from working outside the home and getting an outside education. Reports of beatings and threats of violence against women who did not comply—as well as abductions of women who were found alone in public—have made many women feel they have no choice but to obey the imposed restrictions. With high levels of devastation in Syria, many households are being run by women, left with the sole care of their children. It is estimated that 85 to 90 percent of those who have died in Syria’s civil war are men. Given the number of men who are now absent from the family dwelling, the restrictions on women’s movement and ability to work outside the home are especially damaging. As a practical matter, the ability of women to meet the newly imposed male escort restriction is difficult and, at times, impossible.

Compounding these day-to-day difficulties is the increased threat of sexual violence to Syrian women who have remained in the Republic. In January 2013, the International Rescue Committee cited sexualized violence as the main reason women and girls flee Syria⁵. Reports indicate that rape has been used as a weapon of war by both the Syrian government and its militias and by oppositional forces, but the overwhelming number of reports of rape are attributed to the pro-government forces. Regardless of the aggressor, the women who remain in Syria live in constant fear for their security and, increasingly, their fear of being the victim of sexual violence is equal to or greater than the fear of death from traditional weapons of war.

The most common stories of rape occur during abductions or detentions. Abduction of women has been used by both sides of the conflict as a tool to gain information on the opposition, as a means of retaliation for a prisoner held by the opposition, or even as a means of currency to negotiate the exchange of prisoners. After abduction, women cited

⁴Jabhat al-Nusra is a jihadist Syrian rebel group designated as a terrorist organization by the United Nations, the United States, and other nations.

⁵International Rescue Committee, Syria: A Regional Crisis (Jan. 2013), www.rescue.org/sites/default/files/resource-file/IRCRreportMidEast20130114.pdf. Detention centers and prisons were the locations most often cited for sexual violence, but there are some reports of forced rape between family members. One Syrian girl reported to Syria’s Bright Future, an association working with Syrian women refugees, that her brother had been forced by security forces to rape her.

that they were asked to provide information about the other warring party, assist in negotiating the release of prisoners, and at times were coerced or intimidated with the threat of sexual violence into providing names of non-loyal members within the neighborhood or their family.

According to Syria Deeply, a collective of journalists endeavoring to expose the true stories of Syrian victims, in December 2013, a woman with the alias “Alaa” who lived in Damascus experienced her second brutal rape during detention by government forces. Alaa was reportedly “laid down on an interrogator’s bed, her hands tied and her legs spread apart. He climbed on top of her, his body against her small frame, and whispered in her ear, ‘It’s time for you to redeem your sins. You have done injustice to the motherland.’ And so, she says, she was raped by a 50-year-old interrogator at the Military Security Branch in Homs”⁶. Sadly, Alaa was not a stranger to this type of sexual violence. In 2011, her family relocated from Homs to Damascus, where she volunteered to deliver aid to internally displaced Syrians. As she returned from work on 11 July 2012, government forces detained her. During her initial detention, she reports she was brutally beaten and forced to perform oral sex on her interrogator “until he was satisfied”⁷. On a later occasion during her initial detainment, in August 2012, two interrogators raped Alaa only returning her to her cell when she fell unconscious. Alaa reported she was just one of many women who suffered this ill fate. Alaa was released in January 2013 during a prisoner swap between the government and oppositional forces,⁸ but detained again later the same year.

Like Alaa, Syrian women are increasingly kidnapped with the intent of using the women in the negotiation of prisoner exchanges. Between May and December 2013, the Syrian Network for Human Rights documented 125 women and children who were used as hostages to pressure male relatives to surrender or assist in the exchange of prisoners⁹. According to some human rights groups, the city of Homs and the countryside of Damascus have been most affected by these kidnappings. Lina, a young girl, was reportedly kidnapped outside of Homs in early 2012. Her kidnappers held her for ransom of pro-government prisoners being held by an opposition group¹⁰. During her detention, she reported that her kidnappers tortured her sexually by repeatedly raping her and tortured her physically by using electric shocks and cigarettes to burn her. She became pregnant as a result of repeated rapes by her kidnappers¹¹.

⁶*Twice Raped in Syrian Prisons*, Syria Deeply, <http://beta.syriadeeply.org/2014/01/raped-syrian-prisons/#.Uv0ErWRDt5o> (last visited 10 Feb. 2014).

⁷*Id.*

⁸*Id.*

⁹Euro-Mediterranean Human Rights Network, *Violence against Women, Bleeding Wound in the Syrian Conflict* (Nov. 2013) at 21, available at <http://www.euromedrights.org/eng/wp-content/uploads/2013/11/Doc-report-VAW-Syria.pdf>.

¹⁰*Id.* at 20.

¹¹*Id.*

Tragically, Lina is not alone in her suffering. Kholod, a women from Homs, described threats of sexual violence she faced after being abducted in 2012¹². During her detention, a security officer told her he was holding 17 female prisoners in her home and that he had raped them all in an attempt to humiliate their families. He said he allowed his men to videotape the rapings so he could send the video to her uncle, a well-known cleric and member of the opposition. Kholod also described the stigmatization she felt from her community upon her release who assumed she had been “violated” during her detention¹³. “In Damascus, I was proposed to record my name in a list of supposed ‘rape victim’ in order to be married with a voluntary man. I could not stand the fact that everybody believed that I had been raped during my detention. I even thought of suicide”¹⁴.

According to one human rights group, gunmen abducted a young Syrian woman named Rama Al-Asas on 27 August 2012 in front of her home in Damascus¹⁵. Four men entered, robbing her home and telling her family to prepare a ransom in the amount of two million Syrian pounds. Rama’s parents complied with their demands and met to make an exchange two days later. At the meeting the armed kidnappers took the ransom promising a future return of Rama. Rama was never seen again¹⁶.

Opposition forces have equally used abductions as a war tactic, especially the more extremist elements of the opposition Jabhat al-Nusra and ISIS. Women told Human Rights Watch (HRW) they felt unsafe due to threats of punishment and reports of abductions of women by Jabhat al-Nusra and ISIS, which created a climate of fear in their communities¹⁷. Six men and women also told HRW that Jabhat al-Nusra and ISIS made public announcements in Ras al Ayn, Tel Abyad, and Azaz declaring Kurdish women and property *halal* (acceptable under Islamic law) for their fighters. “The interviewees universally interpreted this to mean that leaders of these groups were giving their fighters freedom to abduct local women without consequence”¹⁸. Two women told HRW they had been abducted by Islamist fighters. “Arwa, 22, said she was leaving Firat University in Hassakeh by taxi in August 2013 when Jabhat al-Nusra fighters abducted her from a checkpoint and held her for several hours”¹⁹. Ghadah, 44, said that an Islamist armed group abducted her from her home in which they killed her husband and nephew. They held her for two days with 10 of her and her relatives’ children. “Eight other

¹²*Id.* at 12.

¹³Syrian women have reported that some families chose to force female rape victims into marriages – sometimes to willing male relatives – in an attempt to put an end to the shame the rape brings to the family.

¹⁴Euro-Mediterranean Human Rights Network, *Violence against Women, Bleeding Wound in the Syrian Conflict* (Nov. 2013) at 12, *available at* <http://www.euromedrights.org/eng/wp-content/uploads/2013/11/Doc-report-VAW-Syria.pdf>.

¹⁵*Id.* at 21.

¹⁶*Id.*

¹⁷Human Rights Watch, *Syria: Extremists Restricting Women’s Rights* (13 Jan. 2014), <http://www.hrw.org/news/2014/01/13/syria-extremists-restricting-women-s-rights>.

¹⁸*Id.*

¹⁹*Id.*

interviewees told [HRW] that Islamist groups had kidnapped or detained women on the road from Aleppo to Afrin and in Afrin, Aleppo, Ras al Ayn, and Tel Aran”.

In an interview I conducted with a Christian clergyman from Damascus, he reported that in various communities, women have been used as spies to point out other women to the fighting forces for a later abduction. He reported that women, desperate for money, would be paid to go door to door, dressed in the *niqab* under the auspices that they were looking for medicine or assistance for an ailing child, when in fact they were providing military forces information on women for abduction. Reported interviews by various human rights organizations have collaborated similar stories.

The problem of female abductions became such common place that several anonymous organizations have worked with both the government and armed opposition to create centers under the auspices of real estate offices in Homs to help facilitate the return of kidnapped women. One activist assisting in the operations stated “[t]he offices solely serve to secure the exchange of money and people. Each kidnapped woman has an exchange value of 5 male prisoners, and each prisoner has an exchange value of 70,000 Syrian pounds. Before these offices existed, the majority of abduction cases would end with the victim being killed during the exchange”²⁰.

The prevalence of rape after a woman is abducted echoes throughout the towns and countryside of Syria, so much so that many women and family avoid letting it be known that they were abducted or even temporarily detained in an attempt to preserve the family name and the woman’s reputation. The increase of abductions of women as a war tactic and the threat of rape during detention or after abduction has created a climate of fear that many refugees report as the primary reason for fleeing Syria to a neighboring country²¹.

Sexual violence is typically indiscriminate in selecting its victim, but as the war has become increasingly sectarian with jihadist elements, there is some evidence that the religious minorities in Syria have become targets for the Islamist militants who have joined the war. These minority women have been subjected to sexual violence by means of forced marriages. Several news sources, some with video evidence, report that Salafi and Sunni clerics allegedly issued *fatwas* endorsing rape committed against any “non-Sunni Syrian woman”. Despite that these named clerics have publicly denounced these *fatwas* as false, stories continue to tell how young minority women in Syria are forced into *halal* marriages and repeatedly raped.

Two Catholic priests reported on the tragic story of a 15-year-old Christian named Mariam from a city near Homs, which had been taken over by the armed jihadist group named Jabhat al-Nusra. Mariam was captured and forced into a *halal misyar* marriage, a so-called temporary marriage or pleasure marriage. After being forced to marry an Islamist militant, he raped her and then discarded her and the marriage. She was passed

²⁰*Id.*

²¹International Rescue Committee, Syria: A Regional Crisis (Jan. 2013), www.rescue.org/sites/default/files/resource-file/IRCReportMidEast20130114.pdf.

off to another man, who again married her and raped her, to only repudiate their marriage shortly thereafter. This abusive trend repeated itself for 15 days by 15 different men. In the end, Mariam became mentally unstable and was eventually killed. Mariam's story is representative of other minority women—an Armenian Bishop from Damascus shared with me a similar story of a woman in his community and reported that the story is becoming more common as the war becomes more sectarian.

In addition to sexual violence, since Islamist militants have entered the Syrian war, religious minority women have also faced forced conversions to Islam or death. There are reports that during the atrocities in 2013 that took place in Maaloula, a historically Christian village in Syria, the armed opposition tried to forcibly convert residents of the town. According to a few survivors in the town who penned a letter to members of the U.S. Congress, Jahbat al-Nusra looted “monasteries and churches, removing sacred images as they went on, ordering residents to abandon their religion, to convert to Islam to save their life”²². After presiding at the funerals of three Catholics killed in Maaloula, Patriarch Grégoire III (Loutfi) Laham, the head of the Melkite Greek Catholic Church, said that “virtually all the Christian inhabitants fled from the village, and he was told by some witnesses that when the rebels moved into Ma'loula they threatened some Christians with death unless they converted to Islam”²³.

Second Front: Sexual and Gender-Based Violence in Places of Refuge

As of February 2014, the United Nations has registered almost 2.5 million Syrian refugees who have sought refuge in neighboring countries, with an estimated 4.3 million internally displaced people inside Syria. The UNHCR projects that the Syrian war could produce 4 million refugees by the end of 2014. The majority of Syrians have fled to Jordan, Turkey, Iraq, and Lebanon, with growing numbers in Egypt. Over 600,000 Syrian refugees are registered in Jordan, an additional 600,000 in Turkey, almost 220,000 in Iraq, 133,000 in Egypt, and a staggering 921,000 in Lebanon. These numbers reflect only “registered” refugees, though the estimated numbers of those who are unregistered far exceed these reported numbers. The demographics of registered Syrian refugees report almost equal male and female refugee numbers; however, in certain localities the number of women and children far outnumber the men, creating environments ripe for exploitation and SGBV. For example, women and children make up 80 percent of Jordan's Syrian refugee population and the refugee camps are rife with reports of exploitation and SGBV.

The demographics, living situations, resources, and vulnerabilities change from host country to host country. Approximately two-thirds of Syrian refugees in Jordan reside outside of camps, in urban and rural communities. The United Nations recently found

²²Ketz, Sammy, *Jihadist Force Syria Christian to Convert at Gunpoint*, Daily Star (11 Sept. 2013), <http://www.dailystar.com.lb/News/Middle-East/2013/Sep-11/230872-jihadists-force-syria-christian-to-convert-at-gunpoint.ashx#axzz2sww7LZs5>.

²³Witnesses report desecrations, forced conversion to Islam in Syrian Christian village, Catholic World News (12 Sept. 2013), <http://www.catholicculture.org/news/headlines/index.cfm?storyid=19021>.

that the displacement of Syrians to Jordan has led to the “breakdown of traditional protective mechanisms and exposed women and children to the risk of gender-based violence and abuse, neglect, exploitation and violence”²⁴. In Turkey, the refugee camps are exclusively controlled by the Turkish government and considered the nicest refugee camps, yet minimal reports of SGBV still emerge. Unlike Jordan, Iraq, and Turkey, there are no refugee camps in Lebanon. Instead, about half of the refugees live in rented housing, while the other half are in nomadic camps or hosted by families of local communities. The United Nations found that unless the international donor community escalates its response the Syrian refugee situation will only get worse.

According to a recent report by Oxfam and Abaad – Resource Centre for Gender Equality, “married Syrian women in refugee camps are facing increasing domestic violence as their husbands struggle to cope and lash out at their wives”²⁵. Many Syrian men refugees feel a sense of failure as they are no longer able to provide for or protect their families. “Greatly reduced employment opportunities mean that families are reliant on humanitarian assistance, such as food coupons and cash support for rent, and men end up feeling they are letting their families down”²⁶.

Many Syrian female refugees fled Syria without their husbands—for these women, the risk of exploitation and SGBV dramatically increases. In attempting to provide for their families, Syrian women have faced sexual harassment and SGBV by employers. For example, a 53-year-old widow and refugee from Damascus told HRW that she cleaned homes in a Beirut suburb to support herself and four children. The Syrian government had reportedly detained her husband. She stated that in 9 of the 10 homes in which she had worked, she suffered sexual harassment or attempted exploitation. She was offered increased wages if she would perform sexual favors or give her 16-year-old daughter’s hand in marriage. Similarly, a 25-year-old refugee in North Lebanon reported that her employer had physically assaulted her and pressured her to have sex. Upon leaving the job, she was sexually harassed again by two subsequent employers. She reported the first incident to the UNHCR but was told there was nothing the United Nations could do to assist her.

In addition to sexual harassment and SGBV, Syrian girls are frequently facing an increased likelihood of being child brides. Child marriage often results in the separation from family and community, causing significant consequences on the young female’s mental and physical well-being. Although early marriage of daughters was common practice in Syria before the conflict began, this practice is reportedly being resorted to more commonly as a new coping strategy, either as a way of protecting young women or of easing pressures on family finances.

²⁴UNICEF, *Shattered Lives 4* (June 2013), http://www.unicef.org/infobycountry/files/Shattered_Lives_June10.pdf.

²⁵Oxfam, *Refugees from Syria struggling for survival as years of conflict take their toll, says new report* (3 Sept. 2013), <http://www.oxfam.org/en/pressroom/pressrelease/2013-09-03/refugees-syria-struggling-survival-years-conflict-take-their-toll>.

²⁶*Id.*

In an interview I conducted with Najla Chahda, the director of Caritas Lebanon,²⁷ she explained that Syrian families in Lebanon are increasingly marrying off their young daughters, between the ages of 13 and 16, to Lebanese men. The cost of living in Lebanon is significantly higher than Syria, and as such, families are quickly exhausting what little resources they brought with them. Without United Nations assisted living, many of the refugee families have formed informal tent settlements, paying rent directly to landowners. With an exhaustion of financial resources, the Syrian families have explained that a child marriage can provide economic security for the entire family, be it through a bride price or an exchange for living quarters. Lebanese men are enticed by the prospect of marrying a Syrian refugee because the bride price for a Syrian girl is far more affordable than the standard bride price for a Lebanese woman. But Ms. Chahda explained that the rising number of child brides in Lebanon is of great concern as they are often at an increased risk of violence, abuse, and exploitation.

One of the most concerning aspects of the child bride situation for Syrian girls is the increase in reports that some of the child marriages are *halal misyar* marriages, or temporary marriages for pleasure. Many reports of such marriages emerge out of the refugee camps in Jordan, where men from the Gulf countries have come to find a bride. Fathers have reported that men from Jordan, Saudi Arabia, and Qatar come into the refugee camps to ask to marry their young Syrian daughters. Because the bride price in the Gulf countries is typically very high, these men are enticed at the inexpensive price of a Syrian bride. One 14-year-old Syrian girl being sold to a 70-year-old Saudi Arabian man for a pleasure marriage said she was sacrificing for her family because the family needed money to survive. Though parents often hope that these marriages will turn into a long-term marriage, the young girls are frequently discarded after only a few weeks or months. Those who are abandoned not only bear the scars of sexual abuse, but return in disgrace and may be forced to turn to prostitution for survival.

Child brides have become so common that it has created a profitable industry for marriage brokers, who themselves are often Syrian refugee women trying to make a living. One marriage broker reported that a 60-year-old Saudi Arabian man approached her for a bride no older than 13. The broker said she turned down this business, but she knew the man may find a more willing broker in a nearby camp. Many brokers admit that the young Syrian girls frequently show up again in the community within a month's time, only to be sold a second or third time. In Lebanon, one broker admitted that it was \$50.00 to view each eligible girl, extra money if the buyer wanted the young girl to remove her headscarf, and even more to get a better look at the young girl's figure.

Kidnapping of Syrian women and children from the refugee camps has also been a problem. In some instances, Syrian girls as young as six have reportedly been kidnapped from the refugee camps and forced into prostitution. Security inside of the camps is low, and despite barbed wires, non-refugee men enter the camps to kidnap Syrian women and girls. According to one Syrian man in a refugee camp in Jordan, the men have set up

²⁷Caritas is the largest migrant aid society in all of Lebanon.

watch groups to protect the Syrian women and children. He reported that they have caught men dressed as women in the camp attempting to kidnap one of the female refugees. He said the men understand these kidnappers take their women, temporarily marry them for pleasure, and then break the marriage within a month or two. One mother explained that a trip at night to the shared toilet within Jordan's camp Zaatari is a terrifying experience. Women and children in the camp will not go to the toilets alone. Some women have fled the refugee camps after relentless intimidation and pressures to marry or give their young daughters for marriage. One widowed Syrian refugee reported that after refusing many marriage proposals, she came back to find that her tent had been burnt to the ground. Some refugees report that predators also lurk in areas where refugees are known to gather looking for humanitarian aid.

Beyond the fears of SGBV, many Syrian refugee women who are left to care for their families have resorted to desperate measures to make an income. Finding it increasingly difficult to provide for the family, women have resorted to survival sex²⁸. Syrian women who have taken up shelter outside of official refugee camps are the most susceptible to taking such desperate actions. The director of Caritas Lebanon explained that many of the religious minority families have taken shelter in the urban cities of Lebanon, where multiple families will share a single-room living quarter. Yet still, the cost of living comes at a great price. Caritas Lebanon is increasingly coming into contact with women who are left with little choice but to prostitute themselves to provide basic food and necessities for their children. One Syrian woman was prostituting herself for the equivalent of \$3 per service.

Recommendations

Combating SGBV in the Syrian Republic and against Syrian refugees in host countries necessitates a diverse response. Within the Syrian borders, it is important that measures against sexual violence be made an integral part of disarmament, demobilization, and the reintegration processes. For this reason, it is crucial that Syrian women sit at the table where decisions are made on peace and ceasefire accords, stabilization, and reconstruction. As the French Foreign Minister so aptly stressed, women should be stakeholders, not subjects. Notably, High Representative of the EU, Catherine Ashton, also emphasized during the Geneva II talks the indispensable role that Syrian women have to play in rebuilding and reconciling the Syrian society—but sadly, Syrian women have yet to sit at the table during any of the Geneva talks.

The European Union can also play a role in breaking the current culture of impunity in Syria towards conflict-related sexual and gender-based crimes. Because of a culture of impunity, the vast majority of victims of conflict-related SGBV never receive justice. Such a culture of impunity serves only to exacerbate conflict, weakening deterrence and breaking down societal stability by destroying the innocence of society and the family

²⁸Anani, Ghida, SYRIA CRISIS - Dimensions of gender-based violence against Syrian refugees in Lebanon, Forced Migration Review (Sept. 2013), available at <http://www.fmreview.org/detention/anani#sthash.y3iShJGP.dpuf>.

structure. Only through visual mechanisms of accountability under the rule of law will stability begin to return to Syria. The European Union and the international community at large should actively pursue mechanisms to replace a culture of impunity with a culture of deterrence and accountability under the law. As part of the ongoing talks for a comprehensive solution in Syria, the European Union should encourage leaders of both sides of the conflict to take a public stance to protect women and children, and profess that any member of their forces caught violating the dignity of a woman will be held accountable under Syrian law.

Throughout my research with those working with Syrian refugees, the number one complaint was that the international aid being given is not reaching the most vulnerable. Rather, a significant percentage of the aid was spent on the internal structure of larger agencies. While there is no doubt that the larger agencies have a role to play in eliminating SGBV in the Syrian conflict and for Syrian refugees, the European Parliament can help ensure that the money from the EU and its member states is tailored to reach the most vulnerable. Two aid workers working with Syrian refugees in Lebanon stressed the need for donor countries to partner with the Lebanon's government and localities hosting Syrian refugees to address the unique and particular needs of Syrian female refugees in Lebanon. Partnering at the local level will help ensure that a donor's money is used in the best manner to reach the most vulnerable refugees.

Another important method by which states can contribute to the refugee crisis is offering resettlement, whereby a country offers either permanent or temporary²⁹ residency and assistance to the most vulnerable refugees. At present, the countries neighboring Syria are bearing most of this burden—a burden that could be lightened by a dedicated response from European states. The European Parliament can encourage individual member states to increase resettlement and humanitarian admission pledges for Syrian refugee women who are highly vulnerable to or have experienced SGBV. The UNHCR has set a goal of securing 30,000 places for Syrian refugees on resettlement, humanitarian admission, or other forms of admission between 2013 to the end of 2014³⁰. By 20 January 2014, the international community has pledged only 18,300 places³¹ for temporary or permanent relocation of Syrian refugees. Of those 18,300 places, EU member states have pledged a total of 14,455 places, 11,000 of which have come from Germany³². While these numbers have seen an improvement since the beginning of 2014, over half of the places remain

²⁹A number of alternatives to resettlement exist, such as private sponsorship visas and humanitarian admission, which offers shorter residency periods.

³⁰UNHCR, Resettlement, Humanitarian Admission, or Other Forms of Admission for Syrian Refugees 2013/2014 Pledges 1 (Jan. 2014), <http://www.unhcr.org/52d565699.pdf>.

³¹*Id.* at 2. This number does not reflect an indefinite number of places pledged by the United States, nor does it reflect an unspecified number of places pledged by the United Kingdom in January 2014. But according to government statistics, the security measures in U.S. policy has made it difficult for Syrian refugees to take advantage of this hospitality. As such, less than 100 Syrian refugees were admitted into the United States between the start of the war and the end of 2013. U.S. President Obama has promised, however, to bring up to 2,000 Syrians to the United States before the end of 2014.

³²*Id.*

*THE EXPLOITATION OF WOMEN AND THE INTERNATIONAL JUSTICE SYSTEM:
PREVENTING FORCED MARRIAGES, CONVERSIONS AND RAPE*

unfulfilled, and less than half of the European Union's 28 member states have committed places thus far.

CONFERENCE AU THEATRE DE NEUILLY LES CHRETIENS D'ORIENT

*Mr. Jean Maher**

Seul pays arabe avec plus 12 millions de chrétiens

Parmi les pays arabes, l'Egypte est le seul pays musulman à avoir un nombre important de chrétiens avec au moins 12 millions de coptes (chiffres qui circulent 15 millions + 3 Millions en Diaspora). Ils maintiennent une partie de la civilisation pharaonique à travers leurs habitudes quotidiennes et de leur langue copte, la dernière version de l'époque pharaonique hiéroglyphes.

Les Coptes sont un obstacle

Les Coptes représentent un obstacle à des islamistes radicaux qui rêvent d'établir la Grande Nation le Worldwide califat islamique. Des plans stratégiques avec un financement du Katar, d'Arabie et pétrodollars ont été élaborés dans le but de se débarrasser d'eux par des moyens différents.

L'enlèvement de femmes et des filles mineures

Un de leurs moyens horribles est l'enlèvement des femmes coptes et de jeunes filles mineures. Un rapport de 2009 de CSI Christian Solidarity International, détaille les interviews avec 50 familles qui ont perdu leurs filles. Un rapport 2012 est en cours de publication. Avant la Révolution, j'avais travaillé ce sujet avec le Parlement européen et avec le congrès américain avec l'espoir d'amener les criminels devant la justice. Les femmes et filles sont enlevées, droguées, violées, converties de force à l'islam, forcées de se marier et obligées et ne plus jamais revoir sa famille: n'est-ce pas de l'esclavage?

Exemple de Engy Adel

Peu de filles ont réussi à s'échapper. Elles racontent leur expérience horrible. À titre d'exemple, le témoignage de Engy Adel circule sur le net dans une vidéo arabophone

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<http://www.youtube.com/watch?v=H97sMYZ9-9M&NR=1>

Engy avait 12 ans quand elle a été enlevée. Voici ce qu'elle enfin raconté à la TV en Octobre 2011, elle avait 16 ans :

Je sortais de l'école et ai été suivie par des jeunes. Ils m'ont poussé dans un taxi et ont utilisé un spray qui m'a fait perdre conscience. En me réveillant je me suis trouvée dans un appartement. Une dame avec deux autres filles m'a présenté à un homme nommé "Sultan". Il m'a emmené dans une chambre, a attaché mes bras dans le dos et m'a violée. Quatre autres hommes m'ont violée, l'un après l'autre. Chacun semblait avoir le désir de couper mon corps en morceaux comme si j'étais son ennemi et me haïssait.

Durant un mois j'ai été battue et ai eu beaucoup de marques bleues. J'ai été incapable de manger, boire ou dormir. Tout ce qu'ils voulaient, c'était de me droguer et me violer.

Pendant deux jours consécutifs, cinq hommes restaient dans la chambre pour me violer. J'étais incapable de dormir et restais éveillé 24 heures.

En pleurant : plus de 50 hommes au cours de ce mois m'ont violée. Puis mon père a réussi à me trouver et je suis rentrée à la maison. La police de sécurité m'a demandé de venir pour m'interroger. Le policier m'a battue si fort avec ses pieds dans mon ventre et mon dos, me tira de mes cheveux et ils m'ont traitée comme une fille de rue. Ils voulaient me forcer à dire que j'ai quitté ma famille par ma propre volonté et que rien de ces histoires n'est arrivé.

Je n'avais que 12 ans quand cela m'est arrivé. Pourquoi tout cela? Seulement parce que je suis chrétienne. **Pleurs**: maintenant tout le monde autour de moi pense que je suis une mauvaise fille.

Le père: j'ai réussi, seul, à ramener ma fille. La police n'a rien fait et n'a été d'aucune aide. Et ils n'ont pas le droit de la battre, elle n'a pas commis de faute.

Et encore d'autres cas de série de kidnapping et de destruction de familles coptes :

http://www.youtube.com/watch?v=JrfnOcW1H2A&feature=youtube_gdata_player

Méthodologie

- Ces actes barbares sont exécutés selon une méthodologie bien élaborée. Par des gens convaincus de faire du bien pour Allah, en ramenant une femme «kafir infidèle» à l'islam. Le nombre de Coptes va ainsi diminuer et le nombre de musulmans augmentera puisque, par la loi, les enfants suivent la religion du père. De plus ils sont récompensés par de l'argent du pétro dollars d'Arabie et pays du Golfe : une fille peut rapporter à la bande jusqu'à 50 000 € à partager par les organisateurs, les ravisseurs, le marié, et la police qui les protège et les couvre.

- Les informations recueillies de différentes sources décrivent la méthode utilisée en 4 étapes:

Groupement de 9 filles mineures entre 12-17 ans dans un appartement où elles sont droguées, endoctrinées, et probablement violées.

Les garder jusqu'à l'âge légal de 18 ans leur autorisant de décider de changer de religion. Elles sont amenées à la Mosquée d'Al Azhar pour se convertir à l'islam, et obtiennent de suite la carte d'identité mentionnant la religion musulmane au lieu de chrétienne dans la case Religion. A noter que le sens inverse est impossible.

Amener des jeunes garçons, ou des hommes, ou des hommes âgés et les forcer à se marier

Gardez la fille loin de sa famille, et entretenir le doute sur la doctrine chrétienne (Dieu ne peut pas se marier et n'a pas de fils), lui inculquer la terreur et la peur qu'elle est devenue la honte pour sa famille qui va la tuer si elle revient. Et comme elle est devenue musulmane, elle ne peut pas revenir au christianisme, sinon elle sera tuée selon la Sharia islamique.

Dans la culture orientale enlever la virginité d'une fille signifie enlever «l'honneur» de toute la famille. Le plan vise l'effet psychologique sur la fille qui se considère comme une honte pour sa famille. La conversion à l'islam devient la solution aux problèmes. Elle perd son identité et sa famille est condamnée par son environnement: les musulmans revendiquant que la fille est venue par sa propre volonté ; et des chrétiens reprochent de ne pas bien garder leur fille. Un processus qui détruit une famille et humilie l'ensemble de la communauté copte face à la suprématie de l'islam.

Le pire des crimes commis par Moubarak?

Le pire des crimes de Moubarak c'est la persécution des Coptes. Persécution ne signifie pas uniquement tuer. «Attaquer, Marginaliser et Humilier" sont les tactiques stratégiques appliquées depuis les années 1970 de Sadate qui a réussi à introduire une ligne dans la Constitution : «la charia est la source principale de la législation". Le pire des crimes de Moubarak et son régime était que durant les 30 dernières années, il a laissé la société égyptienne entre les mains des Islamistes radicaux, les Frères Musulmans (Talibans Egyptiens) et les Salafistes. Il leur a permis de mettre en pratique la charia dans la vie quotidienne lentement durant 30 ans. Moubarak, occupé à protéger son règne et à collecter de l'argent pour remplir ses coffres, a laissé volontairement la société et toutes ses institutions (éducation, justice, médias, armée, police, etc) pour être infiltrées par des fanatiques. Finalement, il nous laisse une société infestée par une culture de haine envers les non-musulmans. Le pire crime de Moubarak, pire que les milliards de dollars qu'il a pris pour lui-même, est sa politique de «Diviser pour Régner". Pour l'Occident, il donnait l'impression qu'il était le meilleur défenseur contre le terrorisme islamiste. Pour les coptes, il dépeint l'image d'être leur protecteur. En pratique, il a encouragé la progression des islamistes et leurs attaques afin de montrer qu'il est «l'homme indispensable», l'homme capable de les arrêter. Outre le pays corrompu qu'il a laissé c'est le principal crime qu'il a commis. Il est aujourd'hui accusé à la cour "seulement" pour la mort des

révolutionnaires, mais malheureusement, pas encore pour ses crimes politiques et ses jeux religieux.

Les Coptes après la révolution (entre janvier 2011 et mars 2012)

Après la révolution, la situation a empiré pour les Coptes.

l'enlèvement de **jeunes filles** se sont multipliées.

Trois églises ont été détruites et aucun des criminels filmés sur Vidéo n'a été arrêté.

Le **monastère (Wadi El Natroun)** a été attaqué par l'armée et un moine a été blessé.

L'armée a ouvert le feu et tué sept coptes lors d'une manifestation pacifique à **Mokatam** contre l'incendie de l'église Atfih / Guiza 's en Février

Les salafistes ont **refusé un gouverneur copte** (à Kena) nommés par le Premier ministre de prendre ses fonctions et arrêté les lignes de train pendant plusieurs jours jusqu'à ce qu'il fut forcé de démissionner et remplacé par un musulman

Sept milliers Salafistes ont encerclé la Cathédrale du Caire avec la fausse prétention que l'église détient une femme chrétienne convertie à l'islam.

Quinze soldats de l'armée ont battu un jeune manifestant qui protestait contre l'incendie de l'église.

Enfin le grand crime de Maspero L'armée a mené une attaque brutale avec des chars et des véhicules blindés et ont écrasé des manifestants pacifiques, tuant au moins 30 personnes et en blessant des centaines, un véritable massacre mené par l'armée. Maréchal Tantawi, le chef du Conseil militaire a été fier de dire lors de Janvier Révolution "nous avons décidé que l'armée n'attaquera jamais les manifestants». L'armée l'a démarré à Maspero contre les Coptes puis un mois après à nouveau à plusieurs reprises sans distinction entre musulman ou chrétien

Un processus de transition anti-démocratique

Les revendications des jeunes révolutionnaires étaient d'avoir sans trop tarder, une constitution qui reflète les belles images des musulmans et chrétiens, main dans la main, réclamant l'égalité, en disant qu'ils en avaient assez de la «religion politique» et du discours religieux. Ils voulaient une constitution basée sur la Déclaration Universelle des Droits de l'Homme qui assure un «Etat non-théocratique», en opposition à la constitution précédente basée sur la charia islamique, «la principale source de législation ». Il était facile de la préparer avant les élections, facile à mettre en œuvre comme réponse aux demandes de la révolution, et facile à imposer aux Islamistes pendant l'euphorie de la révolution. Au lieu de répondre aux exigences de Tahrir, le Conseil militaire, seulement quatre jours après la chute de Moubarak le 11 Février, a nommé le 15 Février une commission composée et présidée par un seul courant islamiste, les Frères musulmans, la seule opposition politique existant à ce moment. La commission avait 10 jours pour

proposer des modifications partielles de 9 articles de la Constitution limitées aux modes des élections législatives et présidentielles pour éviter de ne voter que Moubarak ou son fils. Le Conseil a fixé le 19 Mars 2011 pour un référendum sur les résultats de la commission. Ce comportement a provoqué la suspicion d'une alliance des Militaires avec les Frères. Le temps et l'Histoire nous donneront la réponse. Le 26 Février, la Commission a proposé des modifications. Le Conseil militaire a mis le calendrier qui répond aux demandes des islamistes, très pressés de s'emparer du pouvoir législatif pour être les maîtres de la rédaction de la constitution et imposer un pays théocratique islamique. Tout ceci bien sûr sous couvert de processus démocratique et sous l'applaudissement du monde occidental.

Référendum en Mars 2011 pour avoir les propositions de la Commission légitimée – Résultat : vote religieux – celui qui dit OUI vote pour Allah, celui qui dit NON c'est l'infidèle, l'impie, le pro-occidental pourri, le Kafer

Elections parlementaires et sénatoriaux en Septembre qui ont été repoussés à Novembre – Janvier 2012

Elections présidentielles en Mai - juin

Le Parlement et le Sénat, déjà composés par des élections dites « libres, propres et démocratiques » donc vrais représentants du Peuple, désignent l'Assemblée constituante de 100 membres qui présentent un projet de constitution dans les 6 mois.

Un ordre complètement à l'envers permet alors de remettre le pays aux islamistes, tout en prouvant au monde le "respect" pour la démocratie et des élections libres.

L'avenir d'une Egypte moderne, de la paix dans la région, et par extension l'avenir de l'Europe sont plus que jamais en situation de risque. Le peuple égyptien attend beaucoup aujourd'hui de la France, partenaire de toujours, et de l'Europe afin que sa révolution ne soit pas déviée vers une nouvelle dictature, bien plus dangereuse que les précédentes. La Révolution Egyptienne doit *s'inspirer des valeurs républicaines de Liberté, Egalité et Fraternité.*