Introduction: 'Honour', Rights and Wrongs

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This volume arises out of documentation and reflection by individuals and organisations across diverse regions, communities and cultures on existing and potential strategies of response to 'crimes of honour', seen primarily as a manifestation of violence against women, and a violation of women's human rights. It was catalysed in particular by the murder of two young women, Samia Sarwar in Pakistan and Rukhsana Naz in the United Kingdom, the reported responses of their families and the state, and the growing level of attention, regionally and internationally, to the issue of 'crimes of honour.' It discusses the actual and potential ground-level impact of this attention, which has grown substantially since 1999. It also considers the changing global context of work on 'honour crimes', which is affected by developments such as the attacks of 11th September 2001 in the United States and their aftermath.

This volume is an outcome of a collaborative, action-oriented research project aimed at mapping, disseminating information regarding and facilitating the development of strategies to combat 'crimes of honour'. Initially, the collaboration was between INTERIGHTS,[1] an international human rights organisation based in

[1] International Centre for the Legal Protection of Human Rights, London, of which the South Asia Programme was primarily engaged in the Project.

London, and CIMEL,[2] a research centre in the Law Department of the School of Oriental and African Studies of the University of London. However, it was conceived as, and developed into, collaboration with individuals and organisations in a number of different countries across the world over the five years of its operation.

At the time the project began, it was apparent that while there were interventions being made to combat 'crimes of honour' within many contexts, communities and societies, knowledge and understanding of these were often not shared across different cultures and regions. Thus, increasing regional and international concern with the issue was not necessarily reflected in a growing or shared understanding either of the nature and extent of the crimes, or of the strategies and needs, or even the fact, of locally-placed actors already engaged in working in this area.

Through the project, therefore, we aimed primarily to exchange information regarding and facilitate the development of strategies of response by activists, scholars, lawyers, community workers, policy makers and others committed to the elimination of these and related forms of violence. To this end, we supported locally-based efforts by individuals and organisations to implement strategies of response in their own contexts, some of which are documented in the case studies included in this volume. Key elements of such strategies included interrogating the concept of 'honour' itself, as well as challenging its invocation to justify violence against women.. In parallel, we set out to develop resources, in terms of information and

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analysis of the issue, which were made available initially to our partners, and later more widely through the project's website.[3] They include an annotated bibliography, which has been periodically updated, and incorporates case summaries as well as annotations of books, chapters, and articles.[4] A 'Directory of Initiatives to Address 'Crimes of Honour'' was also compiled to facilitate networking and exchange between individuals and organisations from over twenty countries, and to provide a practical resource for those seeking expert information for legal or other purposes. A comprehensive and periodically updated compilation of the international human rights law materials sets out provisions of various international instruments relating to the rights implicated by 'crimes of honour,' and resolutions and reports of the United Nations, and UN human rights bodies (this includes documents cited by authors in this volume, such as Jane Connors and Purna Sen). In addition, reports of major international or national meetings convened by, and other documents generated through, the project, are available on the website.

The Project's framework is international human rights law, and both CIMEL and INTERIGHTS have a primarily legal brief. In particular, we situate 'crimes of honour' within an understanding of violence against women which, as Coomeraswamy and Kois (1999, 177) point out, 'accepts the fact that structures that perpetuate violence against women are socially constructed and that such violence is a product of a historical process and is not essential or time bound in its manifestations.' Our law-focussed approach finds a certain resonance with various national and regional initiatives combating 'crimes of honour' around the world, as

[3] The website is at www.soas.ac.uk/honourcrimes. One of the dilemmas faced at the time of writing (October 2004) by the project, in common with other such efforts, is whether and how to maintain such resources in a useful (updated) form in the future.

[4] Originally the bibliography was hosted on the websites of two co-operating institutions, the International Women's Heath Coalition and the University of Minnesota's Human Rights Centre.

evidenced by the country-specific papers in this volume. As Jane Connors sets out, international human rights law requires states to exercise due diligence in protecting women from such violations by private actors, while domestic legislation, court practice and informal legal structures vary in the level of protection and remedy they offer women, in particular where family or conjugal 'honour' is invoked. The impact of statutes, and efforts to change their provisions or application, are therefore central features of the research and advocacy efforts documented in this volume. At the level of society, informal codes mandating such conduct may be endorsed, to varying degrees, by some sectors of society, and challenged by others.

In this connection, the operation and hold of 'parallel legal systems' in relation to 'crimes of honour,' is discussed in detail in this volume by Nadera Shalhoub-Kevorkian and Nazand Begikhani, while less 'formal' customary laws and social norms and the way in which the state legal system endorses, accommodates or challenges these latter are a theme in almost all the country-specific contexts. In addition, religious laws, and the attitude of religious authorities, may be critical in forming or reinforcing and also in changing opinion and practice in this area. The role of the religious right – political groupings that invoke religion and religious traditions as justifications for their activities, including those which seek to marginalise or obliterate the rights of women or minorities – is key here, as well as the role of those who challenge the validity of such positions.

It is abundantly clear that a narrowly legal approach, particularly one focussing on 'state law' and state legal systems, as a stand-alone strategy unaccompanied by broader and deeper initiatives and understandings, is unlikely to

change practice or to effectively combat 'crimes of honour.' In this regard we recognise the limitations inherent in the fact that our 'orientation towards circumscribed disciplines or subdisciplines remains strong' (Dobash and Dobash, 1998: 2). In particular, we look to the contribution of anthropologists in seeking to destabilise assumptions about 'honour and shame', sexuality, class, and the gendering process in specific contexts (Lindisfarne, 1993; Joseph, 1999). Nevertheless, by helping to 'surface' data and analysis from partners working in specific contexts, we hope to help dislodge the abstract in the debates on 'crimes of honour,' allowing more thorough examination of context-specific variables and facilitating analysis of the socio-political and economic contexts of 'crimes of honour' and related forms of violence against women. For purposes both of research and of advocacy, the law, whether as articulated in statute or as applied and interpreted by members of the judiciary, or as 'unwritten' law, describes a particular nexus of state, society and family, and gendering of relationships between these fields, and may be instrumental in the structuring of those relationships. Insisting on all these manifestations of the 'law', and those who form it and apply it, as instruments of change, means working on the law itself as an instrument in need of change.

This book reflects the primarily legal focus of most authors. In this introduction, we try to set out some of the themes that have run through the project as a whole, and indeed the ongoing work by project partners within their particular contexts. We look here at the uses and meanings of the phrase 'honour crimes', before proceeding to consider comparisons that are made with 'crimes of passion' and the issue of the partial defence of sexual provocation. We then consider the current popular association of 'crimes of honour' with Muslim majority societies or

communities, depite the widespread incidence of such crimes, and recent struggles to combat them, among Christian majority communities in Latin America or Southern Europe (see Silvia Pimental et al and Bettiga in this volume), as well as more ongoing efforts among Hindu and Sikh communities in India (see the paper by Uma Chakravarti). We also examine the complications that such associations bring for the work of local actors engaging in combating violence against women, and the particular challenges to addressing honour crimes occurring among religious minorities within multicultural societies. We go on to examine the antecedents of such crimes in colonial legislation and the latter's continuing impact. Finally we conclude by raising questions, seeking responses to which informed the beginning of the project, and which we believe are of continuing relevance in the struggle to eliminate violence against women.

'Crimes of honour'

The project uses the term 'crimes of honour' to encompass a variety of manifestations of violence against women, including 'honour killings', assault, confinement or imprisonment, and interference with choice in marriage, where the publicly articulated 'justification' is attributed to a social order claimed to require the preservation of a concept of 'honour' vested in male (family and/or conjugal) control over women and specifically women's sexual conduct, actual, suspected or potential.

The definition of 'crimes of honour' is by no means straightforward, and the imprecision and 'exoticisation' (in particular in the West) of its use are among the

reasons for caution in use of the phrase. At its most basic, the term is commonly used as shorthand, to flag a type of violence against women characterised by (claimed) 'motivation' rather than by perpetrator or form of manifestation. Definitions tend to be by way of illustration; thus, in a highly significant article on 'crimes of honour' and the construction of gender in the Arab world, Lama Abu Odeh explains that:

> A paradigmatic example of a crime of honour is the killing of a woman by her father or brother for engaging in, or being suspected of engaging in, sexual practices before or outside marriage. (Abu Odeh, 1996: 141).

In her 1999 Report, the UN Special Rapporteur on violence against women records receiving 'numerous communications' on the subject of 'honour crimes' against women, 'whereby the family kills a female relative deemed to have defiled the honour of the family.' She continues with information on 'honour crimes' in Lebanon:

> Honour is defined in terms of women's assigned sexual and familial roles as dictated by traditional family ideology. Thus, adultery, premarital relationships (which may or may not include sexual relations), rape and falling in love with an "inappropriate" person may constitute violations of family honour.[5]

Papers in this volume discuss the concept of 'conjugal honour' as well as 'family honour' and document 'honour killings' by husbands and sexual intimates

[5] Report of the Special Rapporteur on violence against women, its causes and consequences, UN Doc. E/CN.4/1999/68 10 March 1999, para.18.

who are not blood relatives of the victim, thus extending the range of 'paradigmatic' perpetrators. It is also argued that in some contexts, the range of female behaviour considered to violate 'honour' goes beyond sexual conduct (actual, potential or suspected) to include other behaviours that challenge male control (Aida Touma-Sliman notes 'staying out late and smoking', for example). At the same time, the contributions by Uma Chakravarti, Dina Siddiqi and Hannana Siddiqui clarify how these paradigms of 'honour' interfere with the right to choice in marriage across South Asia; forced marriage is one result, but other scenarios include being forced to remain in an unwanted relationship, or punished for leaving (or trying to leave) one, or exercising choice regarding whether to marry or not, and whom to marry. As well as the 'honour' invested in control over women and specifically women's sexual conduct, control over economic and social resources and property are often intimately linked in these equations. In addition, papers in this volume (Nazand Begikhani, Aida Touma-Sliman, CEWLA, Nadera Shalhoub-Kevorkian) note the significance attached to female virginity and the resulting imposition (or attempted imposition) of virginity testing on females suspected of having 'violated' family honour, including through having been subjected to rape. 'Crimes of honour' may thus include violations of a range of rights as well as the more 'paradigmatic' 'honour killings.' The role of women family members in instigating or colluding with honour crimes, particularly in enforcing controls over marriage choices, and also in acts of violence, is also brought out in this volume (Dina Siddiqi, Daniel Hoyek *et al.*, CEWLA, Purna Sen) as an issue that requires greater consideration and explanation.

Working on 'crimes of honour' as a form of violence against women does not imply that men also are not subjected to such crimes. For example, in the province of

Sindh in 1998, the Human Rights Commission of Pakistan analysed the deaths of 97 men as well as 158 women in *karo-kari* 'honour killings' (Amnesty International, 1999: 6). Again, in cases of forced marriage or interference with the right of choice whether or not and whom to marry, pressure from older family members over younger members will apply to men as well as to women. In the realm of fiction, the story of the 'honour killing' set by Gabriel Garcia Marquez in a Colombian village, and given legal-sociological analysis by Teubner (1992) is of the murder by two brothers of the male seducer of their sister. However, women remain the majority of victims and survivors of 'crimes of honour', and have fewer available remedies. Therefore development of strategies of support can effectively draw on the existing frameworks established to address all manifestations of violence against women**.** Where necessary, such strategies also involve challenging existing frameworks in order to secure women's rights and liberties; thus women's rights and human rights organisations have questioned the practice of placing women seeking to exercise their right to choice in marriage in 'protective custody' pending a judicial decision (see discussions by Uma Chakravarti and Dina Siddiqi).

Among feminist and rights activists seeking to eliminate such violence, there is deep discomfort over the apparent meaning of the term 'honour' in the construction 'crimes of honour' as this seems to imply that women 'embody' the honour of males. There is also resistance to accepting a notion of honour that endorses and indeed requires violence against women, epitomised in the extreme example of an 'honour killing.' Thus in 1994, Al-Badil ('The Alternative'), established from organisations within the Palestinian community in Israel, called itself the Coalition to Combat the Crime of 'Family Honour' (see further Aida Touma-Sliman in this volume),

encapsulating through quotation marks its own interrogation of the term. In its statement of purpose the organisation observed:

> it is not possible to give the term ['family honour'] a positive understanding, since it attributes all the maladies of society to women's bodies and individual behaviour, giving legitimacy to social conduct restricting women's freedom and development, using all forms of violence, the most extreme being murder.

In a Roundtable convened by the CIMEL/INTERIGHTS project in 1999 (Welchman, 2000: 452), activists, academics, journalists and lawyers from different countries considered the use of concepts of 'honour' in strategies of response and resistance. It was pointed out that in Pakistan, activists have named the killers of women as dishonourable, in an attempt to destabilise the prevailing understanding of 'honour'. In the UK, women's rights activists argued that Zoora Shah, a British Pakistani woman convicted of the murder of a man whom she claimed to have subjected her to years of physical, sexual and economic abuse, had been in effect considered by the Court of Appeal to have no honour left to transgress; more recently, the slogan 'there is no "honour" in domestic violence, only shame' was invoked during the memorial of Heshu Yones (see further Hannana Siddiqui in this volume). Recovering or reclaiming the notion of 'honour' would reformulate it as attaching to women as well as to men, designating qualities of respect, tolerance and inclusivity. However, some participants sounded a note of caution, seeing risks (as exemplified in Zoora Shah's case) in seeking to recover a notion of honour as an attribute of women,

given a context of court processes dominated by prevailing notions of honour as attaching exclusively to men or to male-headed families.

In the search for a better way of naming, the majority of 'honour killings' appear to fit into the understanding of femicide defined by Radford (1992: 3) as 'the misogynous killing of women by men' and as 'a form of sexual violence'. She uses the concept of "sexual violence" as a continuum in a radical feminist analysis:

> The notion of a continuum further facilitates the analysis of male sexual violence as a form of control central to the maintenance of patriarchy.[…] Relocating femicide within the continuum of sexual violence establishes its significance in terms of sexual politics. (Radford 1992, 4).

Further developing this notion, Nadera Shalhoub-Kevorkian (2002) argues for another continuum, in which 'femicide' would indicate a range of acts and situations including not only the physical killing of women because they are women, but also threats and other components of the 'arduous process leading up to the actual death'. Nadera Shalhoub-Kevorkian situates her proposal solidly in the framework of her clinical experience in Palestinian society while recommending it also for analysis of other societies in light of the cross-cultural nature of the phenomenon of femicide.

It is clear that most 'honour killings' fit immediately into both the narrower and wider understandings of femicide proposed above, while other 'crimes of honour' (such as interference with choice in marriage, physical abuse, intimidation, deprivation of liberty) might be covered either by the sexual violence continuum or by

Nadera Shalhoub-Kevorkian's expanded definition of femicide. Such methods of naming have the clear advantage of unpacking the term and indicating the socio-economic and patriarchal frameworks in which such acts are committed and sustained, rather than reproducing the representation of that framework, with or without quotation marks around 'honour' to indicate the user's interrogation of the term. The assimilation of such crimes to a wider framework has the added advantage of avoiding the self-exculpation undertaken by some in the West who view such crimes as a problem of 'the other', risking paternalistic and ineffective interventions and the 'demonisation' of particular communities and, in particular, men within them.

The use of the term 'honour crime', or specifically 'honour killing', has at least two further risks: firstly that it takes the description articulated by the perpetrator; and secondly, that reproducing the term may obscure (as may be the intention on the part of the perpetrator) the "real motivation" (or at least, contributing motivational factors) for the crime or attempted crime. In regard to the latter, sociological investigations of 'family honour' in different contexts indicate that 'the normative claim of honor often is mixed with social, economic, or political motives' (Araji, 2000) – that is, that 'family honour' is tied to social standing and mobility, and economic opportunities. For example, Nafisa Shah quotes Sardar Sultan Mugheri in Sindh as stating that:

> *Ghairat* (what is sacred and inviolable) is *izzat* (honour, dignity) and this comes with money and property. And if *izzat* is violated – then it is justified to kill and die for honour. (Shah, 1998: 239).

Besides the general and familiar association of women with property in the 'honour' paradigm, there are many instances in which the primary motivation for an 'honour crime' is more directly something other than 'honour' – a brother's arguments with his sister over inheritance, for example, or a husband's desire to be rid of a wife, with a murder not so much covered up as proclaimed as a matter of 'honour' in the expectation of a minimal punishment and less disapprobation from at least some sections of society than otherwise would have been the case.[6] The claims of 'honour' may be a contributing factor, but as Nafisa Shah has commented, 'Vested interests… use the excuse of honour as a blanket cover for a multitude of sins.'[7] And mostly, the voice of victim in her own 'defence' is absent, as underlined by studies in this volume.

As to the problem of reproducing, even in quotations marks, the articulated motivation of the perpetrator or sympathisers in the family or society, we come up against the questions posed by Dobash and Dobash (1998: 4) in regard to the source of definitions of violence against women:

> Do we use the perspectives of victims? Of those who perpetrate the acts? Of researchers? Of the law? Of policymakers? Should researchers attempt to develop distinct, abstract, and definitive conceptualizations of these acts?

In this volume, Purna Sen suggests (in relation to the paradigmatic honour killings) six elements that could be used to distinguish 'honour crimes' from other

[6] Journalist Rana Husseini made these points to the CIMEL/INTERIGHTS Roundtable: see Welchman, 2000, 442.
[7] In Newsline, cited in Amnesty International, 1999, 23.

acts of violence against women, moving us away from reliance on the perpetrator's articulation of motive. The CIMEL/INTERIGHTS project has tended to use a less methodical combination of definitions implied in the short-hand of the phrase 'crimes of honour' – those of perpetrators, of policymakers and to a certain extent of law – from the perspective of challenges made to those definitions by advocates of change, including some of our project partners. In this volume, Uma Chakravarti argues against continued use of the term 'crimes of honour' because 'as feminists, we must discard the term in search of another that does not mask the violence in the killings and abuses,' and 'because the violence becomes associated with the 'uniqueness of Asian cultures, with irrational communities and aberrant and archaic patriarchal practices refusing to modernise' (see also Purna Sen in this volume).

Still, problematic though it is, the term 'crimes of honour' has some uses in particular contexts. It is used in the project, as by some activists, to destabilise the notion of 'honour' as a received good when connected with crime. It is also used to extend an understanding of what might be called 'crimes of honour' beyond 'honour killings', one way of demonstrating the continuum of acts of violence on which 'honour killings' stand. It has obvious descriptive implications in its indication of the link that may, in particular contexts, be assumed in law, judicial process and societal practice connecting a 'crime' with a mitigating value, 'honour.' The idea of mitigation or impunity in statute or judicial practice for a 'crime of honour' is most immediately evoked in 'honour killing', but it also arises in other manifestations of crimes of 'honour'.

The most obvious advantage of the use of the phrase 'honour crimes' in an English-language context is the wide recognition of the term, but this is at the same time increasingly problematic. In this volume, Hannana Siddiqui criticises the 'loose use' of the term by the Metropolitan Police in their attempts to address a number of murders within minority communities in the UK. The association of phenomena of 'crimes of honour' with the 'East' (Abu Odeh, 1997 and see Uma Chakravarti in this volume) – and often with Muslim societies in particular – is one of the problematics. In a *Guardian* report (5 July 2004) entitled 'Turkey gets to grips with "honour killings"' the one specific case example given was from an Amnesty International report which 'highlighted the case of a man who had a 24-year prison term for stabbing his partner to death reduced to two and a half years after producing photographs of the woman with another man.' In an explanatory memorandum for the Council of Europe's parliamentary assembly in support of a resolution on 'Crimes of Honour,' rapporteur Ann Cryer (a British MP) included in 'cases of so-called "honour crimes" in Europe' another Turkish case, that of a man who 'cut his pregnant wife's throat with a knife because he suspected that she was having an affair.'[8] On the bald facts, both cases might suggest use of a defence of 'provocation' rather than 'honour', were it not, apparently, for the fact that they happened in Turkey. Ann Cryer's report did include an attempt at definitions, which identified 'honour crimes' according to the claim of the perpetrator, and continued:

> The so-called 'honour crimes' should not be confused with the concept of 'crimes of passion.' Whereas the latter is normally limited to a crime that is committed by one partner (or husband and wife) in a relationship on the

[8] AS/EGA (2002) 7 rev 2, 4 June 2002, para.32.

other as a spontaneous (emotional or passionate) reply (often citing a defence of 'sexual provocation'), the former may involve the abuse or murder of (usually) women by one of more close family members (including partners) in the name of individual or family honour.[9]

Besides the fact that this definition presents 'crimes of passion' as gender neutral (in the face of the facts), it brings us to the issues of the link between 'crimes of passion' and 'crimes of honour'. Different positions have been taken regarding the utility of this comparison (see Purna Sen in this volume) but the juxtaposition at least underlines the argument that both are manifestations of femicide where culturally positive values legally/judicially mitigate the murder of women from, arguably, motivations of male control, whether named as 'honour' or 'passion.'[10]

Crimes of honour, crimes of passion

In her paper, Jane Connors notes that among the disagreements at UN discussions of 'crimes of honour' from the year 2000 was the inclusion of 'crimes of passion' with 'crimes of honour' in resolutions on violence against women.[11] She notes the objection of the representative of Jordan, to the effect that 'How could states possibly exercise due diligence to prevent such crimes, if the crime in question is

[9] Ibid para 3.
[10] Compare, in the 'West', the popular perception of a 'cold blooded killer' to that of a man who kills in a crime of passion; as Leader-Elliott, 1997, 162, describes the latter: 'The ordinary man is a sanguine man, a hot man, whose blood boils when his most vital interests are threatened'.
[11] Note that in the UN General Assembly resolution, 'Working towards the Elimination of Crimes Against Women and Girls Committed in the Name of Honour' (UN Doc. A/C.3/59/L.25) passed on 15th October 2004, reference to 'crimes of passion' was omitted. See further Jane Connors and Purna Sen in this volume.

committed in a sudden spurt of rage?'[12] The significance of this intervention lies in the fact that most defences in criminal cases of 'honour killings' of women in Jordan argue that the crime was committed in a 'fit of fury', or indeed a 'sudden spurt of anger' in reaction to some (alleged) conduct on the part of the woman, allowing the court to rule on 'manslaughter' rather than premeditated murder and to reduce the penalty accordingly. The discussions on Jordan, Lebanon and Iraqi Kurdistan in this volume provide further evidence that it is rare indeed for a defendant to rely on particular provisions in national legislation that are the target of advocacy campaigns by those combating 'crimes of honour' (see Reem Abu Hassan, Daniel Hoyek et al and Nazand Begikhani). These provisions provide for a reduced penalty in the event that a man finds his wife or certain female relatives in the act of extra-marital sex, and kills one or both of them on the spot. As Lama Abu Odeh (1997, 306) points out, in the case of 'honour killings' in Arab countries, 'the legal locus of these crimes is less the immediate legislation and more the general provocation rule found in almost every Arab Penal Code'. Sohail Warraich's discussion in this volume of the use by Pakistani courts of the 'grave and sudden provocation defence' in cases of 'honour killings' provides considerable comparative material.

There is a growing literature on the relationship and differences of crimes of honour and of passion. In the legal field, Abu Odeh (1997, 290) uses her earlier work on 'crimes of honour' in the Arab world in a comparative examination of the judicial treatment by US courts of 'the killing of women in the heat of passion for sexual or intimate reasons.' In focussing on how each legal system justifies its tolerance for the murder of a woman in particular circumstances, she demonstrates that the tensions in

[12] Statement by H.R.H. Prince Zeid Ra'ad Zeid Al-Hussein, Permanent Representative of Jordan, Statement in Explanation of vote, Agenda Item 107: Advancement of Women, 55th Session of the General Assembly Third Committee, New York, 3 November 2000.

each system 'although sometimes defined differently, have been surprisingly resolved in the same way' – in particular this comparison is made between the 'fit of fury' mitigation in Arab penal codes and practice, and the US plea of extreme emotional distress, which builds on the premise that loss of 'self-control' reduces culpability. In-depth work on passion and the provocation defence in Western legal systems, notably Nourse (1997) on the US, whose work is cited by Abu Odeh, but also Leader-Elliott (1997) on English and Australian law, reveals a 'steadily widening conception of provocation' (Leader-Elliott, 1997, 169) away from adultery, as 'the classic source of adequate provocation, enforcing rules of gender relations grounded in an older idea of property' (Nourse, 1997, 1341). The widening concept of sexual provocation in 'the West' appears to afford women (as wives and lovers) less protection even as their legal rights to choose and/or to leave a relationship are increased. In her examination of 'Modern Law Reform and the Provocation Defense,' Nourse finds that:

> Reform has permitted juries to return a manslaughter verdict in cases where the defendant claims passion because the victim left, moved the furniture out, planned a divorce, or sought a protective order.' (1997 1334). [13]

One difference that is often assumed between crimes of 'passion' and of 'honour' is the relationship of the perpetrator to the victim. The difference here lies in the murder of women by those who are or have been their sexual intimates (husbands, lovers) and those who have not been (close blood relatives). Other than the

[13] Leader-Elliott, 1997, 169, in regard to whether sexual provocation should reduce murder to manslaughter, concludes that 'given the disparity between the sexes in the matter of who kills whom, women may be far more likely than men to conclude that this particular claim to compassion is an anachronism.'

documented instances of the murder of women after incestual rape in 'crimes of honour', as noted above, it is the case that not only 'family honour' but also 'conjugal honour' may be cited as a 'motivation' by the perpetrator. The term 'legitimate defence of honour' in Brazil (see Sylvia Pimental, Valeria Pandjiarjian and Julia Belloque in this volume) refers to the wounded honour of a sexual intimate; how far this 'motivation' differs from the 'shame' experienced by a betrayed lover relying on sexual provocation as a defence is not immediately clear. Case studies in this volume indicate different findings as to what proportion of murderers were husbands of the victim. Commenting on research in Lebanon, Serhan posits that the greater number of husbands as perpetrators may reflect 'a change in the conceptualization of family honour' (Foster, 2001, 26). In Pakistan, figures from Sindh province from 1998 illustrate that the husband was the perpetrator in nearly 50% of cases of *karo-kari* killings where the woman alone was killed (Amnesty International, 1996, 6).

Even granted the paradigmatic family (as compared to conjugal) dynamic of 'honour', the response of courts in the 'West' faced with defences of passion or provocation can be examined for similarities with those of courts faced with 'honour' defences, at least in considering the implications of a passion/honour continuum that recognises, at some point, a justification for the use of violence against women as a part of control by family and intimates. As Leader-Elliott (1997, 169) asks in the context of law in the 'West':

> Is it not an unacceptable paradox that the progressive restriction of a husband's power to exert lawful control over his wife has been

> accompanied by a progressive enlargement of a partial excuse for killing her?

The complex background to such developments across the world includes rapid social change among and within different countries and communities, and 'globalizing' cultural dynamics (for example of 'modernity') that, as they are seen to open (some) women's choices, may be experienced by (some) men as threats. Such factors vary in their impact in different communities, but have to be taken into account in an assessment of family violence. Baker, Gregware and Cassidy (1999, 166) argue that 'honor should be part of any current conceptualisation of patriarchy' in comparative and cross-cultural analyses and that 'honor systems are an integral part of the process of killing women by their families or intimates, regardless of where the woman lives' (1999, 164). Their theory includes three comparative areas related to honour systems – the control of female behaviour, male feelings of shame at loss of that control, and community participation in "enhancing and controlling this shame." In an article that draws on a large number of comparative illustrations, they are not arguing for a blanket use of 'honour' to understand 'intimate-perpetrated female homicides' in the US and elsewhere in the English-speaking West, but pointing out that it may apply to some of those murders, despite the general weakness or absence of the community participation element (see Sen in this volume), since it may be understood:

> as an ideology held by those who seek to hold on to patriarchal power in a competitive arena by mandating certain behaviours by others, notably

women. Here, the competitive arena may include the increasing demands for female equality. (1999, 173).

Questioning the stereotypical associations of 'honour' with the 'East' and 'passion' with the 'West' (Abu Odeh, 1997, 289), or 'reason' with the 'North' and 'irrational male violence and female passivity' with the 'South' (Baker, Gregware and Cassidy, 173) is important both to theory and to activism on issues of violence against women. It is important to identify commonalities as well as differences in the structure of violence. It is important to hold the mirror up also in the 'West' to a gendered construction of self involving issues of ownership and control and their role in perpetuating violence; and generally to interrogate, in this regard, the application of the sexual provocation defence. At the most basic level of comparison, whether we are looking at the 'fit of fury' in Middle Eastern states, 'violent emotion' in a heat of passion in Latin America, or 'extreme emotional distress' in the US, it is clear that societies across the world – through their laws and their courts – continue to countenance defences that overwhelmingly benefit males committing violence against women.

Crimes of honour and Muslim and minority communities

Issues of definition and terminology come to the fore in the current international focus on and consequent perceived association of 'crimes of honour' with Muslim societies. At the beginning of the year 2000, Asma Jahangir, United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, included the following careful statement in her annual report:

> The practice of "honour killings" is more prevalent although not limited to countries where the majority of the population is Muslim. In this regard it should be noted that a number of renowned Islamic leaders and scholars have publicly condemned this practice and clarified that it has no religious basis. [14]

The remarkably increased level of international attention being given to 'crimes of honour' (however or whether defined as such) brings with it a risk both of crude stereotypes and associations, and of a reaction that may act (or be used) to undermine counter-initiatives and to complicate domestic strategies of response. Jane Connors notes in this volume the objections made at the UN General Assembly to the association that certain Muslim majority states felt was being made between 'crimes of honour' and Islam. Particularly in the post-September 11 climate, where many largely Muslim communities are under attack from global powers, the potential of such risks is substantial, as discussed by Purna Sen in this volume. This does not mean that 'crimes of honour' cannot or should not be tackled by anyone other than 'insiders', but it does require particularly rigorous attention to the construction of equal and honest engagements and alliances, and conscious efforts to avoid this being or becoming, for the 'West' (frequently self-presenting as the 'international'), a particular and isolated problem of 'the [already hostile] other.' Awareness of ways in which global politics has created a backlash strengthening the forces of the religious right and increasing the spaces for their operation, and sensitivity to the changing geo-

[14] Report of the Special Rapporteur on extra-judicial summary or arbitrary executions, UN Doc. E/CN.4/2000/3, 25 January 2000, para. 78.

political context, must not imply the silencing of the long-standing struggle of women against violence, including violence in the name of 'honour'.

In a number of countries, those investigating and challenging 'crimes of honour' in their domestic contexts have invested effort in demonstrating the fallacy of the idea that there is support for such practices in the bodies of principles and rulings that make up Islamic law (see further Welchman 2005). Members of the *shar`i* establishments in different countries have been invited to make public statements on the issue in efforts to persuade constituents against the idea of religious endorsement, or indeed duty to commit acts of violence in the name of 'honour'. On the other hand, a 'traditionalist' *shar`i* view advocating the implementation by the state of the severe *hadd* punishments for extra-marital sexual relations is not one espoused by civil society groupings currently joining efforts, nationally and regionally, seeking to eliminate 'crimes of honour,' nor by more general human rights efforts. Indeed, civil society groups active in combating 'crimes of honour' tend rather to argue for the de-criminalisation of extra-marital sexual relations (and of same-sex relations) and an end to the state's interest in the intimate relations of its citizens.

The broader referential framework of strict control over sexual relations is present not only in dominant interpretations of Islamic law but at least officially in contemporary Muslim (and other) societies. This is provoked immediately in internal and international debates over 'crimes of honour', demands attention from advocates for change, and entangles issues of culture and tradition with issues of religion. In his contribution to this volume, Abdullahi An-Na`im examines the nature of internal alliances that can and in his view should be sought in processes of intra-community

dialogue aimed at challenging violence against women. His paper here builds on his earlier argument that efforts to eradicate such practices 'must take into account and address not only every and all types of justifications, but also the cultural circumstances and underlying rationales that might cause the practice to continue in the particular community.' (1994, 177). Suad Joseph has also addressed this question of strategies in the context of the Middle East in particular, arguing that

> We must identify, recognize, and understand the different constructs and experiences of rights in order to figure out how we can build the ground on which to stand together to advocate human rights and women's human rights. (1994, 9).

However, for many others writing in this volume, as for many of our Project partners, a key element in their campaigns is to address the negation, through honour codes and the resulting regulation of sexuality, of women's right to control over their body and indeed to sexual liberty (see Dina Siddiqi, Uma Chakravarti and Silvia Pimental et al). Issues that are particularly complex to address include the diversity in social practice in different Muslim societies, and the related and specific contestation of sexuality rights. The chapters in this volume deal almost entirely with heterosexual relations and practice, although the threat or incidence of 'crimes of honour' against members of the lesbian, gay, bisexual and transgender (LGBT) communities was noted by several authors, and is clearly an emerging concern for many. In relation to interference with the right to marry, for example, discussions held under the project's auspices, as well as the process of providing legal advice on such cases to government agencies, surfaced the issue that the interference was in fact with whether as well as

with whom and when to marry, and this articulation created a space for discussion around the total denial of the rights of LGBT individuals in this sphere.[15]

In majority Muslim societies, 'crimes of honour' are found to occur among non-Muslim communities. In a May 2001 conference in Beirut, the organizers invited leading figures from both Muslim and Christian religious establishments to clarify the lack of religious endorsement for 'crimes of honour.' In this volume, Bettiga notes the role of the church in endorsing patriarchal values that lie behind the use of violence in controlling women's (particularly sexual) conduct. In situations where Muslims are a minority community, 'crimes of honour' occur across religions and cultures. In this volume, Hannana Siddiqui advocates the idea of a 'mature multi-culturalism' that neither denies equal protection to women from minority communities nor contributes to the essentialising and 'othering' of minority communities. In a related argument, Bredal critiques immigration-focussed approaches to tackling forced marriage currently being taken in Scandinavian states, both because they involve violations of human rights of men and women from minority communities in particular – to movement and to choice in marriage -- and because they deny agency to women from minority communities (all of this perpetrated in the name of protecting the rights of women). Hannana Siddiqui and Anja Bredal both argue that designing and implementing 'good practice' guidance for police, social support agencies and other authorities (including immigration authorities), and efforts to raise public awareness, must both be pursued in a manner that does not contribute to further violations of human rights.

[15] See report of the 'National Consultation on Women's Right to Choose If, When and Whom to Marry,' organised by the Association for Advocacy and Legal Initiatives (AALI) in Lucknow, India, with support from INTERIGHTS and IWRAW-AP, in 2003; on file with authors and see also the project website.

Colonial laws

Another relevant theme addressed in this volume is the continuing impact of the colonial legal heritage. In Pakistan, Sohail Warraich traces particular challenges arising from the combination of the re-introduction of the partial defence of 'grave and sudden provocation' (derived from nineteenth century British colonial law) with the application of the *Qisas* and *Diyat* Ordinance (enacted as part of late twentieth century 'Islamisation' measures under a military dictatorship). Case studies from the Middle East stress the provenance of the criminal legislation now governing 'crimes of honour' – in particular in regard to defences to charges of murder in cases of 'honour killings' – citing in this regard not only Ottoman penal law but the French Penal Code of 1810 identified as the source of certain Arab states' legislation on these issues.

These efforts are made, *inter alia*, in order to destabilise notions of such provisions being synonymous with 'traditional heritage' and something thoroughly 'indigenous' to particular societies, to be defended as such against outside influence. In Lebanon, the late Laure Moghaizel, as early as 1986, reviewed partial excuses for husbands who surprise their wives in adulterous acts or situations, and in some cases for the parents of daughters under a certain age, as provided in Spanish, Portuguese, Turkish, Italian and French law, either still extant or recently repealed (Moghaizel, 1986, 177). Bettiga's paper in this volume examines Italian legislation on the 'cause of honour,' while the 'legitimate defence of honour' in Brazil and 'heat of passion'

defences (with associated causes of violation of 'honour') in other Latin American states are considered by Silvia Pimental, Valeria Pandjiarjian and Julia Belloque.

Parallels are also found in criminal provisions in countries of the Middle East and Latin America that (broadly) provide for reduced or suspended penalties, or suspension of prosecution, if a man accused of rape or sexual assault marries his victim. In Egypt in 1999 a change made to the law of criminal procedure repealed a provision under which, according to one article in the British press, 'in a case of rape, if the rapist and victim agree to marry then all charges will be dropped' (Negus, 1999). The law in question was rather more complicated, with a focus on the woman's abduction; Dupret (2001) traces the origins of the repealed provision to French law, and variations of it remain in the penal law of for example Jordan and Palestine. Nadera Shalhoub-Kevorkian (1999) examines the subject in her exposition of the dilemmas faced by rape victims in Palestinian society and the clinicians who seek to help them and includes forced marriage to a rapist as within her definition of femicide (2002), giving a powerful illustration from her clinical experience involving a girl raped at the age of ten. The concern of the girl's family was to keep the crime secret and their solution was to have the rapist marry his victim when she came of age – the victim describes her mother speaking in terms of the rapist being forced into this marriage, with the agreement of his parents. Nadera Shalhoub-Kevorkian comments:

> The battle becomes one between families. The power of the idea of "family honour", as well as the need to protect and preserve it, defines the victim's status and rights and frames the options that are open to deal with

the problem – in this case, marrying her own rapist. (Shalhoub-Kevorkian, 1999, 162).

Pimental, Pandjiarjian and Belloque in this volume note variations of this provision in the laws of a number of Latin American states. In Brazil for example, a sexual offender cannot be punished 'when he marries the victim or when she marries a third person.' They find the legal reasoning here to be that 'since the sexual violence has not impeded the marriage prospects of the victim, the crime should be forgiven.' Their paper also shows the similarities between the laws of Latin American and Middle Eastern states in treatment of adultery, whether such penal provisions exist in current legislation or, as is often the case, have been recently repealed or amended.

Playing for the other side

Both the colonial heritage and contemporary global power structures (military, political, economic and other) necessarily complicate strategies of response to violence against women. In addition to the complexities noted above, there are the considerable challenges faced by activists accused of playing for, or at least into the hands of, forces ranged against the country or community by merely raising the issue of 'crimes of honour' as one requiring questioning and reform. For example, during one of the debates in the Jordanian parliament on amending the Penal Code, certain deputies charged that the then recent national campaign and efforts to repeal the relevant law were attempts by the West to infiltrate Jordanian society and make Jordanian women immoral.[16] Such perceptions, first, of immorality being endemic in

[16] *Jordan Times* 23 November 1999.

contemporary Western society and second, of the dissipating potential on local cultural norms of a hostile agenda of cultural imperialism, are widespread within non-Western societies. Activists, particularly women's rights activists, working in their societies on sexuality-related issues are vulnerable to attack by 'conservative' and 'Islamist' groupings on grounds of 'inauthenticity', marginalisation and 'secularism'. On the other hand, as noted by Hannana Siddiqui in this volume in regard to the anti-racist left, they may be criticised by 'progressive' or left groups, as well as by more conservative elements of minority communities, for the proverbial washing of dirty laundry in public. Similar tensions can be read in Aida Touma-Sliman's narration of efforts within the Palestinian community in Israel. Nazand Begikhani describes how the dependence of Kurdish political movements in Iraqi Kurdistan on international support rendered them more responsive to advocacy for change promoted by international human rights groups such as Amnesty International, while at the same time noting significant internal resentment and resistance to the legal changes that followed. Abdullahi An-Na'im's paper addresses this point directly, arguing that different types of advocacy work can and should be done by differently-placed actors, but that these need to include 'agents of social change' located inside their communities engaging in 'intra-community dialogue' to contribute to social change from within, and pondering the development of appropriate discourses and capacities for such work. Strategies – and capacities – differ. As Deniz Kandiyoti notes, in a consideration of the related topic of advocacy on the issues of gender and citizenship in the Middle East:

> Some argue forcefully for the expansion of women's rights as individuals and condemn the stranglehold exercised over them by communal and

> religious forces; others argue for working through kinship and communal structures that may act to empower and disempower women simultaneously. (Kandiyoti 2000, xv).

The activists who have written in this book work within their communities using the human rights framework, and set out, in their different interventions, the use they make of law. Many papers also provide examples of how such groups engage with their societies outside the processes of the law, seeking to challenge and change social attitudes that condone any form of violence against women, joining forces in order to strengthen internal voices of resistance.

As for the use by activists of external publicity and pressure, such as mobilising international public opinion, in many contexts, complex and strategic choices are involved. In 2000, Farah Daghestani told a conference on 'Sexuality in the Middle East' that 'honour killings' of women 'have been responsible for the worst international attention Jordan has received':

> Through the sensationalization of the subject, the Western press has contributed to the issue becoming an even greater challenge for governments and religious leaders, pitting cultural identity and autonomy against cultural imperialism, at the expense of women. (Foster, 2001, 24).

It is of course the case that all types of governments tend to 'blame the messenger,' particularly messengers criticising human rights records. It is also the case that local strategies of response and resistance can be complicated and

undermined by external factors, which can include well-meant interventions as well as hostile (eg Islamophobic, or racist) ones, and of course global events. These challenges have been illustrated recently by the controversy over Norma Khoury's story of an 'honour killing' in Jordan, *Forbidden Love*, withdrawn from sale in Australia by its publishers following challenges by Jordanian women's rights activists to the book's categorisation as a non-fiction 'memoir' (see further Abu Hassan in this volume). Other illustrations come in the particular challenges of combating violence against women in situations of conflict; in this volume, Nazand Begikhani, Nadera Shalhoub-Kevorkian and Aida Touma-Sliman all document the reduced attention that activists are able to give (and to attract) to these issues in times of military hostilities and threats to the particular national entity or community.

Strategising Responses, and Creating Alternatives

Thinking through the concept of 'crimes of honour' is one way of unpicking certain forms of violence against women. At the CIMEL/INTERIGHTS Roundtable, participants agreed on the strategic importance of identifying the value and advantage of, on the one hand, separating out a 'crime of honour' as a particular phenomenon or form of violence against women, and, on the other, campaigning on the various manifestations of 'crimes of honour' solely within the broader spectrum of violence against women. Some felt that caution needed to be exercised in not collapsing too many forms of violence against women into the category of 'honour crimes.' Others felt that while we used the term for tactical reasons, and as a convenient short hand to understand certain forms of violence, we needed constantly to be alive to our central concern, which was not an abstract exercise of disentangling or explicating the notion

as such, but understanding how it contributes to violence and how it violates basic human rights.

The papers in this volume, we believe, provide material that will help in finding answers to a set of questions in regard to the phenomenon of ‘crimes of honour’. Is the term ‘crime of honour’ at all applicable or useful across cultures, languages, legal systems? Are the manifestations of such ‘crimes of honour’ (as defined locally, by perpetrators, courts, police, or survivors) comparable across time and place? What commonalities exist to justify recognition of some crimes of violence against women as ‘crimes of honour’? What variations challenge attempts to do so? Does the use of this category serve to essentialise certain forms of violence against women as being particular to a few cultures, communities or religions, thus facilitating further violations by states concerned of the rights of such women and of other members of their communities? Or does the articulation of such a category, despite the many associated pitfalls, nevertheless assist in understanding the nature of such violence, and further advocacy for the development of legislative, judicial and community-based strategies in response to such crimes? It is perhaps this last question with which the contributors to this volume are most engaged.

In the opening chapter, Jane Connors presents the international legal framework regarding violence against women and in particular developments at the United Nations in regard to ‘crimes of honour.’ Purna Sen then considers the current political context of action against ‘crimes of honour, and the nature of alliances and coalitions that might be constructed around the issues involved. Abdullahi An-Na`im follows with a reflection on the human rights approach and the positioning of

activists, arguing for specific and sustained attention to processes of intra-community dialogue in building consensus against 'crimes of honour.' The book then moves on to a set of context-specific studies from Europe, Latin America, South Asia and the Middle East. These studies analyse primary sources and data (including legislation, cases, court records, interviews) and consider the approaches and impact of advocacy for change in the various specific contexts. We believe that despite definitional and other difficulties in using the term 'crimes of honour', the papers in this study illustrate at least two things: firstly, the entanglement of paradigms of 'honour' in a variety of manifestations of violence against women, and secondly, the willingness of a broad range of individuals and organisations from across the world to join their efforts to an undertaking aimed at presenting voices of resistance in a comparative context.

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