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**CONSIDERATIONS OF HONOR CRIMES, FGM, KIDNAPPING/RAPE,
AND EARLY MARRIAGE IN SELECTED ARAB NATIONS**

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** The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations.*

Gender based violence is widespread in Arab nations today. Efforts have been made to alter laws, or introduce new legislation, and in particular, recent campaigns have targeted FGM in Egypt, with far more support from the government than ever before. At present, as practices such as FGM and honor crimes have already been the subject of major campaigns to introduce new legislation, the latest focus has been on strengthening measures and introducing new laws or legal bills to address family violence which includes both honor crimes, and spousal and other family violence towards women in Egypt, Lebanon, and to some degree in the Palestinian Authority and Jordan. It is the *de facto* situation of honor crimes, FGM, early and non-consensual marriage that we should consider in certain countries and the *de jure* and

marriage is not being challenged and this is pervasive in all countries discussed, and also involves laws affecting kidnapping/rape.

*Saudi Arabia and some other countries' insistence on separation of the sexes leads to other violations of women's rights. There is ongoing discussion about how to address judicial positions seen externally as being very harsh; thus far, intervention from the King impacted one case i.e. the "Girl from Qatif" who was not the victim of an honor crime, but was raped, and yet sentenced to lashing and prison for being in mixed company – she had gone to retrieve a photo from a man she had a telephone relationship with who had threatened her into giving him a photograph. Now engaged, she wanted the photo back; he convinced her to come to his car, then she was gang-raped. She gave a detailed interview to Human Rights Watch, some published in *Sayidati* in Arabic. Her sentence was increased and her lawyer was punished for drawing media attention, until finally, the King intervened. In this instance the Minister of Justice now proposing a child marriage law defended the sentence against the Girl from Qatif because she was "indecently dressed," disappeared "for a time"[while abducted] with the man, and did not reveal details to the authorities for 3 months. .Most recently a 70 year old woman was lashed for supposedly being in mixed company and charged with immorality. Domestic violence has also come into public discussion in Saudi Arabia, but there is no space to discuss that issue in this paper.

Honor Crimes: Background, and Potential for Legislation.

Honor "crimes" invariably involve murder or rarely attempted murder. They stem from the deeply-rooted social belief that male family members (in some cases, mothers and other women are involved in planning or carrying out honor crimes) should control the sexuality of or protect the reputation of women in the family, and that they may contain their movements or kill them for blemishing family honor, even when rumors or false gossip are the reason for public suspicion (Zuhur, 2005, 22-33; Abu Odeh, 1996) A pervasive background of violence against women combines with the suspicion of women's sexual reputations, thus men and women usually do not consider honor crimes to be criminal, rather they perceive the victim as a source of shame.

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In all areas discussed, honor crimes have a mixed legal origin. They go back to the values of honor encoded in tribal or customary law, *`urf*, that reinforces the ties of an individual to clan or extended family. These values are *sharaf* which applies to men and can be attained through family reputation, hospitality, generosity, chivalry, and to some degree, socioeconomic status or political power, and *`ardh* which pertains to women's chastity, virginity at first marriage and sexual virtue. Anthropologists have described the codes of honor as a dynamic pole of honor/shame.¹ They are further perceived within regional ideals of masculinity and femininity.

Clan or family honor was compromised if unmarried women lost their virginity or married women were unfaithful,² especially if a woman gave birth to an illegitimate child. Honor was regained when the offending female was killed by her family. From this principle comes the underlying logic of honor crimes and also forcing or convincing a rape victim to marry her rapist, which was encoded in Ottoman law. Ki

legal category in that both imply ownership of the sexual behavior of women by their families. The distinction – virginity – is unfortunately why young women are valued; their marriages bring a higher price than previously married non-virgin women; so the second element is the issue of

invoke penalties for rape against the male and *zina*, if rape was committed. The problem is that

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him that he is forbidden from marrying them [unlawful] and whose sexual behavior he must control). (However the fact that it offers him an exemption if he murders or injures them cannot be said to be “Islamic” in spirit, and stems from *`urf*).

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women's deaths by battering (or other forms of murder) are due to jealousy, or committed by family members – this combining “honor crimes’ with domestic or family violence. Minors may be delegated to kill their relatives since sentencing may be lighter, and they may be released upon majority.¹³

Another reason for honor crimes is incest and sexual abuse in the family, a taboo subject as we might expect and one that requires special legal handling. Whereas in popular discourse, sexual abuse and incest is NOT a part of Muslim or Arab culture, in fact it goes on and has for

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Muslim men, cross-religious marriages and divorces are fraught with difficulties for the partners who often marry in Cyprus, Zuhur, 2002)

b) due to kidnappings which end in family violence, i.e. honor crimes, (see below) which also involve enforced marriage.

Kidnappings in Lebanon, as in Syria, some parts of Iraq, Jordan, and Palestine are often a form of eloping with a woman so as to avoid one or the other family's disagreement with the marriage. After just one night with the man (whose friends sometimes aid and accompany him), the woman's honor is compromised, just as if, or in other cases, when she is raped. (When in academic discussions of "kidnapping," I have noted that Lebanese in the audience discounted and brushed these aside as if they are always consensual.)

A legal issue arises because a man can take advantage of the actual law in place that gives the rapist impunity if a marriage is concluded; Article 592 of the Lebanese Penal Code. This part of the penal code apparently derives from the late 19th century codification of Ottoman law as it is so similar to articles in Iraq, Egypt and other countries. (Sonbol had argued speculatively that at that time, conditions were insecure leading to great concern about kidnapping/rape (Sonbol in Ilkkaracan, 2000) Historians should probably look instead at the tradition of marriage via kidnapping.). Aside from the law, if the family still object, as when the bride has been pledged to a cousin or the family had totally refused the financial terms offered (the bride price) then there can be a double murder – shooting of the man and killing of the woman by her family. Often, there is a mediation and family council that can result in a *sulha* – a reconciliation, and the marriage is accepted. After a shooting or killing, mediation also has to take place to prevent a longer vendetta. The state often does not play a role; instead leaders of the families do, and even Members of Parliament in their capacity as private leaders, or, beginning in the civil war powerful political parties such as Hizbullah.¹⁵ This illustrates state relinquishing of criminal punishment with regard to matters given over to religious and familial authorities to begin with.

Women activists had challenged this discriminatory article in the Lebanese Penal Code especially when kidnapping-rape is coerced and not as is usually alleged, an elopement of sorts.

A case took place in Tripoli, where a medical student, Suline was kidnapped by Ziad Zuhurmane. He raped her but claimed this was legal as he asked a local Member of Parliament to oversee a marriage. Then he held her hostage. The prosecutor rejected the pleas of the woman's mother to charge him, declaring he had heard she married the rapist and Akkar MP Wajih Bariini and his brother continued to support the rapist. The woman's mother and her lawyers with the help of a woman's NGO, the Lebanese Council to Resist Violence against Women, widely publicized the case and persisted in efforts to get the prosecutor to charge the rapist. (Abdel Sater McCracken, 2005-2006, 45, 46-47) Eventually there was an arrest under charges of kidnapping and enforced marriage.

Iraq has a very similar law to this one, as does the West Bank and Gaza (where the issue of rapists and marriage have not been reformed as in Egypt). Here too, we see a practice of enforced marriages as well as elopements opposed by families who have pledged one of the two to a cousin or a marriage partner of the families' choice. These often result in murders as well as honor crimes.

Family Violence

Proposed legal reforms that should impact honor crimes as well as domestic violence can be found have been made by el-Nadim Centre in Egypt and by Kafa and the Institute for the Study of Women in the Arab World in Lebanon. Kafa explains that their proposed family violence bill applies to married women, but also to unmarried women, or women "related by blood," pertains even when violence is not habitual; calls for family courts and a family unit in the Lebanese Internal Security Forces; obliges witnesses or those who know about domestic violence to report it; includes a restraining order on the abuser; requires the abuser to provide accommodation for a woman and her children or leave the family accommodation for them and also to pay for medical expenses and an allowance. The bill also recognizes marital rape includes violence against domestic workers in the bill (Kafa, 2009). Kafa has sponsored events that commemorate women murdered in domestic violence and in honor crimes, and also television ads, the first of which pertained to domestic violence. The broad nature of the bill, might dilute its effect; and

one problem in honor crimes can be the absence of a complainant; so there should be legislation that requires the police or prosecutor to pursue such cases or face fines.

Specific Responses to Honor Crimes

In Jordan, a very lively campaign to amend Article 340 took place, but met with resistance and backlash. Paragraph 1 of Article 340 of the Jordanian Penal Code had granted impunity to a man who kills or injures his wife or one of his female kin whom he has just caught committing adultery or sex outside of marriage. An amendment championed by the royal family was to drop the impunity clause and replace it with other wording. The campaign ended with the Lower House of Parliament twice defeating the proposed amendment, despite its passage by the Upper House in 1999. (Zuhur, 2008) The campaign was unpopular with many Jordanians and politicians, who pronounced it an attack on the family or Islamic society, accused reformists of being Westernized. Several Islamist parties were staunchly against the reform, seeing it as an encroachment on the *shari`ah*, which is actually a debatable point. Finally, in 2001 by the authority of the king, government cancelled the exemption from the death penalty contained in Article 340. However, Article 98 of the Jordanian Penal Code, as journalist and reformer Rana Husseini has pointed out, is utilized far more frequently for the same purpose, to exempt the killer, so the cancellation of Article 340 has not solved the problem.¹⁶

In addition, it is clear that a lack of shelters for women in Jordan is a major problem; putting them in prison for their own safety is not a viable long-term solution. Women need both a means of earning a living, and a new community of social alliances to draw on, since it is too unsafe to return them to their families, despite changes to the law.

The Palestinian situation involves the use of Egyptian law in Gaza and Jordanian law in the West Bank. Further, honor crimes are committed against Palestinians who live within Israel, and finally, the Palestinian National Authority possesses a Basic Law, however the Hamas-Fatah divisions also make for differing positions on legal reform. When in Egypt, the long-standing law that prevented a rapist from being prosecuted if he married his victim was changed; that did not alter the situation in Gaza, nor has the but the attitudes of police – in Egypt, Gaza and the West Bank – have not. According to Human Rights Watch's detailed study in 2006, the police

women over 50 are not permitted, and the shelter's goal is to reconcile women with their husbands; their location is not necessarily kept confidential (Ammar, 2006).

Iraq, like Egypt, had a history of activism on women's issues, but women's political leadership was limited, and the Ba`th Party promoted certain women's rights through its women's associations. Amal Rassam's analysis of the ambivalence of Ba'ath Party policies concerning women, aiming concurrently for both modernization and "cultural authenticity" helps explain the situation that pertained by the 1990 where women were not better off with regard to legislation of the issues we are concerned with. The Iraqi Penal Code of 1969 has an article very similar to article 340 in the Jordanian Code. Normally murder is punishable by death or imprisonment, but Article 409, IPC No. 111 limited the sentence of a man who killed his wife or female relative to 3 years, and also prohibits 2006).(m)8.7)3((" Tw(Tdefenw(agatistivey sitsoa m)8.use002 ih

wore hijab) took place. Honor killings also targeted some of the survivors of rapes and kidnappings (Zuhur, 2007, ILDP, 2005).

In the West, attempts to control young Muslim (and Arab) women, arrange forced marriages, or prevent women's self-chosen unions have ended in murder.²² Zein Isa, a Palestinian immigrant to the U.S., was recorded on audiotape as he stabbed his 16-year-old daughter Tina to death in November of 1989 in St. Louis while her mother held her down.²³ In 1999, 21-year-old Methel Dayem died of seven gun-shot wounds in downtown Cleveland. Two of her cousins, Musa Saleh, 21 and Yezen Dayem, 20 were arrested and tried. Methel's Islamic marriage to Saleh had been annulled, and he objected to Methel's "American" ways. Despite the admittance while incarcerated by one of the accused that he had committed the murder, one of the young men was acquitted, and the other's case was dismissed for lack of evidence. In this instance the defense attorneys and the local imam formally and strenuously objected to the use of the term "honor killing."²⁴ In the U.S. as in Europe, women who choose to go to shelters for protection face total ostracism from their families and communities of origin.²⁵ Further, prior to the advent of Homeland Security, the U.S. Immigration and Naturalization Service (INS) had refused to grant asylum on the basis of fear of honor killings. When a Jordanian woman appealed a deportation decision because her father had asked her brothers to kill her, the INS Board ruled that her fear of death was "speculative" and derived from a "personal family dispute," not an organized persecution.²⁶ (Now asylum is differently administered but also restrictive.)

When Asiaya Hassan was beheaded by her husband Muzammil Hassan in New York in February 2009, the New York president of the NOW, Marcia Pappas, condemned prosecutors for referring to the death as an apparent case of domestic violence and NOW stated "This was, apparently, a terroristic version of 'honor killing,'" (CBS News, 2/19/ 2009) Muslims asked her to withdraw that label,(LA Times, 4/24/2009) this was "simply" domestic violence. Here, again the point is that both forms of violence are wrong. Follow-up media coverage mentioned that violence against women is a problem in the U.S. Muslim community, and made it sound as if a

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The President's wife, Suzanne Mubarak and the highest Muslim and Coptic officials in Egypt backed a campaign against FGM beginning in 2003. The most recent action to regulate it is part of the new Child Law of 2008, which also permits the registration of children of illegitimate or irregularly married mothers. The amendment also contains a clause allowing the procedure "under medical necessity" which was inserted during the legislative debate. Since the Child Law was passed, a doctor who was circumcising a 12 year old girl who died of the anesthesia has been imprisoned. As with many legal reforms impacting women conservatives opposed the law. Activists know well that legislation without enforcement and a full-front media campaign won't have enough of an impact. They have had momentum for a year, and hope to retain it. But in Egypt, the danger will be non-enforcement, that given the contempt for

clitoris and said that surgery was what

Other practices that greatly harm women were not examined here, but they do impact the treatment of these issues. For example, polygamy was not one of the issues we were asked to examine, but as a threat wielded against women, it discourages many women from seeking better treatment. Spousal abuse and polygamy frequently combine. The high value attributed to virginity is no safeguard for women in some areas where polygamy is more frequent, but since divorced women are so devalued, it is said and believed they more frequently accept being “second wives.” Intense physical violence against women in the family that does not involve matters of sexual honor should also greatly concern international organizations and national governments.

With the specific problems discussed, more coordination with religious officials and preachers could be useful. In Egypt, a man declared that the new Child Law is due to “foreign influence” and vowed to circumcise any of his future daughters despite the law. Even though Gamal al-Banna (the son of Muslim brotherhood leader, Hasan al-Banna), and the Shaykh al-Azhar declared FGM un-Islamic, other Muslim clerics consistently preach that it is an Islamic practice, and many ordinary Muslims disagree with the new legal amendment (Media Line, 2009). This is similar to problem of clerics who preach that men have the right and duty to beat their wives (but just don’t leave any marks, or break bones). The comments of the Saudi pediatric surgeon above, illustrate how difficult it will be to re-label a practice currently thought of as being Islamic. However, there is no good reason to accept sunnah circumcision or intermediate forms; that was the basic logic pursued in Egypt which was ineffective, the best practice for women would be to eliminate all forms of FGM and make sure they are considered as such.

Surveys that give us an idea of men’s attitudes or better yet programs that involve them in more proactively defending their daughters or wives rights would be wonderful, given some of the attitudes and denial of misdeeds that prevail with regard to early marriage, honor crimes, FGM or violence against women in general (Personal interviews, 2008). It is unclear how men’s and families’ participation in programs designed to change attitudes and behaviors will come about if not mandated by governments.

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¹ David Gilmore, ed. *Honor and Shame and the Unity of the Mediterranean*. (Washington, D.C.: American Anthropological Association, 1987); D.G. Bates and Amal Rassam, *Peoples and Cultures of the Middle East* (New York: Prentice-Hall, Inc., 1983), 211-239.

² Sherifa Zuhur, "Honor," *Dictionary of the History of Ideas*. (New York: Charles Scribner, 2005).

³ Women for Women's Human Rights - New Ways, *The New Legal Status of Women in Turkey*, (Istanbul: WWHR, 2002) 56.

⁴ Iranian Penal Code Article 100. The flogging of an adulterer shall be carried out while he is standing

face, head and genitals – with full force. The adulteress shall be flogged while she is seated and her clothing tightly bound to her body. Article 102. The stoning of an adulterer or adulteress shall be carried out while each is placed in a hole and covered with soil, he up to his waist and she up to a line above her breasts. Iranian Penal Code Article 74. Adultery, whether punishable by flogging or stoning, may be proven by the testimony of four just men or that of three just men and two just women. Article 75. If adultery is punishable only by flogging it can be proven by the testimony of two just men and four just women. Article 76. The testimony of women alone or in conjunction with the testimony of only one just man shall not prove adultery but it shall constitute false accusation which is a punishable act.

⁵ Lama Abu-Odeh, “Feminism, Nationalism, and the Law,” (SJD thesis, Harvard Law School, 1993).

⁶ The *mahram*, must control the *maharim*. The *maharim*, a man’s female relatives who are so closely related to him that he is forbidden to marry them – hence, the translation “unlawful.”

⁷ Abu-Odeh, “Feminism, Nationalism, and the Law,” 52-53; Abu-Odeh, “Crimes of Honor and Construction of Gender in Arab Societies.” In Pinar Ilkkaracan, ed., *Women and Sexuality in Muslim Societies* (Istanbul: Women for Women’s Human Rights - New Ways, 2000), 363 – 380.

⁸ As in Syrian Penal Code Article 548.

⁹ More than 400 in 1997, Douglas Jehl, “Arab Honor’s Price: A Woman’s Blood,” *Polyzine*, (June 20, 1999), a “high number” <http://polyzine.com/arabwomen.html> (last visited 3/01/03)

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¹⁷ RCC Order No. 6, 2001. Considering the killing of one's wife or a close female relative (muharam) for reasons of honor a mitigating factor under law. Subject to the conditions of clause (1) of Article 42 of the Constitution, the Revolutionary Command Council decided the following: First: For the purpose of implementing Article 130 of the Penal Code No. 111 of 1969 it shall be a mitigating factor if a man kills his wife or muharam for honor reasons or if one of the relatives of the deceased woman killed the one who imputed dishonor to any of them by making reference to her disgraceful deed which she was killed for. Second: Anyone who intentionally and for the purposes of revenge of the deceased kills the killer specified in the first clause shall be punished by execution. No legal excuse or mitigating factor shall apply to him, and he will not be entitled to any partial or general pardon. Third: Anyone who, in accordance with tribal procedures, issues a ruling or attempts to issue a ruling in relation to the crimes referred to in the first and second clauses of this decision shall be imprisoned for not more than seven years and not less than three years. Saddam Hussein. President of the Revolutionary Command Council. (ILDP, 2005, 35)

¹⁸ Amal Rassam, "Revolution within the Revolution? Women and the State in Iraq." in Tim Niblock, ed., *Iraq: The Contemporary State* (London: Croom Helm, 1982), 98.

¹⁹ Marlyn Tadros, "Like a Match Stick," *Al-Ahram Weekly Online*, Issue No. 573 (14 - 20 February.).

²⁰ Law No. 14, Article 1: It is no longer possible to refer to articles 128, 130 and 131 of Penal Code No. 111 of 1969 as a pretext for the clearance of one's family honour through an act of murder.

²¹ Joshua Kucera, "Political Changes Reduce Kurdistan Honor Killings," July 7, 2002 Womens e-News. <http://www.feminist.com/news/news64.html> (last visited 1/03/04)

²² H. Siddiqui, "The Ties that Bind," In *Index On Censorship*, No.1. (2000): 50-53; "Two Given Life for .fem 7f45ven OIoc[(, No.1.s.6.9(iT]TJ 1 18.3cIL)8.6(u)-1.4(rder.)]TJ/Tth 21.4262 .h TT3 164.htm)8.2(1)-lnl009 Tw[(((64.h

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²⁸ As in Pakistan's Hudud Ordinances Article 16. Compounding of *qisas* in *qatl-l-'amd* (5) *Badal-i-sulh* may be paid on demand or on a deferred date as may be agreed upon by an offender or the convict and the *wali*(legal guardian). Provided that the offer by the accused for the hand of a girl in marriage to the deceased's wali shall not be a valid condition of agreement for the compoundability of the offence. Appendix, "Text of Pakistan's Hudud Ordinances." Tahir Mahmood, "Reform of the Indian Penal Code in Pakistan to Enforce Islamic Criminal Law," In Mahmood et al., *Criminal Law in Islam and the Muslim World*, 471 Qisas is the second category of offense in Islamic law, so this too refers to a payment for a qisas infraction.

²⁹ Tribal Courts Law of 1936 (Palestine). Tribal courts are forbidden to approve the handing over of girls by way of "diya," however the practice continued among some tribes. Hardy, *Blood Feuds*, 86.

³⁰ Amnesty International Press Release, "Pakistan: Tribal Justice System Must Be Abolished or Amended," (19 August, 2002).

³¹ Personal communication from Riyadh, May 15, 2009.