

# Towards a Post-Patriarchal Gender Order: *Confronting the universality and the particularity of violence against women*

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The issues of gender equality and women's human rights have become major spheres of academic debate, policy and activism in virtually every corner of the globe. Violence against women, a relatively late comer to the international gender agenda, has provided a particularly critical entry point in challenging long standing gender ideologies and taboos as well as the gender biased mainstream human rights framework that kept, until recently, the gender specific abuses women experience outside of public scrutiny.

The recognition of violence against women (VAW) as a human rights issue at the 1993 Vienna Human Rights Conference paved the way for the emergence of gender sensitive and inclusive standards in human rights protection. In this regard, the adoption of the Declaration on the Elimination of Violence against Women by the United Nations General Assembly the same year and the creation of the post of Special Rapporteur on Violence against Women, its causes and consequences (SRVAW) in 1994 are milestone developments in expanding the boundaries of human rights and in providing both the standards and the mechanisms with which to respond to the violations of women's rights in both public and private spheres of life.

## Universality of Patriarchal Violence against Women

The 1993 Declaration defines VAW as a universal phenomenon which is embedded in historically rooted unequal patriarchal relations and calls on states to exercise due diligence to prevent, protect, prosecute and provide compensation with respect to the problem. Hence, what distinguishes VAW from other forms of violence is the systematic nature in which it occurs to sustain unequal patriarchal power relations. For instance, within the domestic sphere what constitutes domestic violence against women is not only its private nature nor is it the fact that empirically more women are victims of domestic violence (DV) but rather it is the use of violence for control to ensure women's obedience to a system of institutionalized male power. On the basis of this distinction, Dempsey (2007) offers a disaggregated account of domestic violence where she differentiates between violence in its 'strong' and 'weak' sense, arguing that while the former (i.e. patriarchal violence) can be eradicated, the latter may continue to exist within interpersonal domestic relations.<sup>1</sup>

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1 M. Dempsey. 2007. "Toward a Feminist State: What Does 'Effective' Prosecution of Domestic Violence Mean?" in *The Modern Law Review*. 70(6): 908–935.

Patriarchal power is supported in a latent or manifest manner by societal values, institutions and laws. For instance, most DV legislations tend to be formulated in a gender neutral manner in that they are based on the notion of domesticity of violence alone without distinguishing the structural inequalities that generate systematic as opposed to sporadic or random violence.

The gender neutral approach to the issue stems basically from two inherently patriarchal biases; (i) political strategy that prioritizes the family and denies the link between gender inequality and violence, as is the case in many traditional patriarchal societies (e.g. Turkish law on 'protection of the family' which places emphasis on the marital status of the women who has experienced violence rather than on protecting women from the violence itself); (ii) mainstreaming gender in a fragmented manner, whereby components of gender related issues are defined as the responsibility of different public entities, thus treating violence in isolation from the structural gender inequalities it is embedded in, as in the case of some societies that have achieved significant levels of gender parity where patriarchy is transformed and modernized (e.g. in the Dutch 'domestic violence law' violence in the domestic sphere is seen as a law and order issue under the responsibility of the Ministry of Justice). In this respect, the Swedish VAW law of 1998 (Gross violation of a woman's integrity) is rather progressive as it is based on the perspective of gendered power.

In view of the inherently patriarchal nature of VAW, what does it mean for a state to exercise due diligence to prevent, protect, prosecute and provide compensation in responding to the problem? In my capacity as the SRVAW I attempted to answer this question in my 2006 report (UN Doc. E/CN.4/2006/61) to the Human Rights Council, and operationalized what states must do at different levels of intervention, such as the level of the individual, community, state and transnational arena in order to comply with their obligation.<sup>2</sup> I argued that a state can be said to comply with its due diligence obligation to the extent that it takes measures that would support women's empowerment and disempowers patriarchy, i.e. the degree to which a state tends towards a feminist agenda in its efforts to eliminate VAW. All state apparatuses share this responsibility equally, as exemplified in the following quotation from the report:

Each of the different powers of the State has a role to play in changing patriarchal values. For example, the judiciary and prosecutors working on cases of domestic violence have the potential and the obligation to change the prevailing balance of power between men and women by taking a strong stance to disempower patriarchal notions. Interventions at this level may have both consequential effects in that condemnations of patriarchy can lead to changes in socio-cultural norms, as well as intrinsic effect, in that prosecutors or judges can be considered to be the 'mouthpieces' of society, and

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2 See also Ertürk. 2008. "The Due Diligence Standard: What Does It Entail for Women's Rights?" in Carin Benninger-Budel (Ed.). *Due Diligence and its Application to Protect Women from Violence*. Leiden: Martinus Nijhoff Publishers: 27-46.

strong statements condemning violence against women made on behalf of society through the judiciary or prosecutorial services will make that society less patriarchal (paragraph 90).

## Manifestations of Particular Forms of VAW

While VAW – understood as discussed above – is a universal phenomenon, diverse forms of control mechanisms entailing particular types of violence are observed in the context of alternative patriarchal regimes. The so called ‘crimes of honour’, which have come to occupy increased international attention in recent years, are an example of such particularity. These crimes, as will be discussed further below, rather than being perceived as a particular manifestation of VAW, are treated as a culturally embedded unique crime category most often associated with a specific ethnic group (e.g. in Turkey a close association with the Kurdish population is made) or Islam (e.g. in Europe a close association with Muslim immigrant communities is made). The latter association became particularly pronounced after 9/11, as the woman issue became hostage to the “clash of civilizations” rhetoric and international relations became fundamentally altered around divisive cultural and religious lines.

### *Intersectionality and continuum of VAW*

Understanding the complexities of VAW, in its universal and particular dimensions, is best captured within intersectional and continuum approaches. The latter, helps capture the interconnectedness of different forms of violence, regardless of their particular patriarchal context. For instance, violence in times of war and in times of peace is inherently interconnected, as what happens to women in war is largely a consequence of the status of women in peace and vice versa.

The intersectional approach, on the other hand, is a powerful conceptual tool that allows us to see the particularities in women’s diverse experiences without losing sight of the universality of VAW. This is particularly important in understanding the experiences of women in indigenous, minority and immigrant communities, where gender inequality intersect with other systems of inequality, such as class, ethnicity, warring parties, immigrant regimes and the like, to create multiple forms of exclusion and discrimination for women of different groups, putting them at risk of multiple forms of violence.

### *Clash of civilizations or clash of masculinities?*

Alternative patriarchal systems, which range from the traditional to one that is transformed and seemingly gender neutral, entail alternative structures of hegemonic and subordinate masculine identities.<sup>3</sup> These patriarchal systems co-exist within a uni-

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3 See: R. Connell. 1995. *Masculinities*. Cambridge: Polity Press.

versal regime of patriarchy where alternative masculinities may complement or contradict one another in the course of the global power struggles. Therefore, the current global tensions which have been identified as “clash of civilizations” can, in fact, be perceived as clash between alternative masculine claims for power, in the course of which women are instrumentalized. Illustrative is the “civilizing” intervention in Afghanistan, where women became the ‘war zone’ in the battle between the Taliban and the American military, representing masculinities from two different patriarchal regimes that are at odds with each other; the former claiming to protect women from Western corruption and the latter from Taliban’s “archaic brutality”.

In this sense, women in all societies are subordinated in varying ways and degrees to the requirements of particular systems of patriarchal power. This subordination is sustained through diverse manifestations of violence.

## Crimes in the Name of Honour

The term “honour crime” is a most unfortunate one; there is nothing honourable in these dishonourable acts. Contextualizing the honour in honour crimes may be a good starting point in attempting to understand the specificities of such VAW.

### *Contextualizing the ‘Honour’ in Honour Crimes*

Honour is an important value in many societies. In traditional patriarchal societies the honour code serves to reproduce the status of a family or the entire extended kinship network. The concept of honour has also been associated with medieval codes of chivalry and nobility in Europe. International humanitarian documents adopted the concept of family honour as the basis of the prohibition of rape during war.<sup>4</sup> The various contexts in which honour code had and continues to be upheld demonstrate the centrality of the concept as a cultural value regulating group or individual social standing.<sup>5</sup>

In the usage of the concept with reference to honour crimes, the family’s honour is presumed to be achieved through the conduct of its female members, founded upon their body and sexuality – which is directly related to shame and modesty. In this context, the building block of social relations is commonly the collective entity – i.e. family, tribe, kinship groups etc – as opposed to the individual. Consequently, shame and modesty codes embody the entire group not just the individual who is perceived to have violated the honour code. In this respect, preserving the honour of the collective group requires women to exercise modesty and obedience and men to exercise control over women to ensure their compliance with group norms. This, in fact, is one

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4 See: C. N. Niarchos. 2006. “Women, War, and Rape: Challenges Facing the International Tribunal for the Former Yugoslavia.” In Lockwood (ed.). *Women’s Rights*. Baltimore: The John Hopkins University Press: 270–310.

5 See: P. Sen 2006. “Crimes of honour, value and meaning.” In L. Welchman and S. Hossain (eds). *‘Honour’ Crimes, Paradigms, and Violence against Women*. London: Zed Books: 42–63.

of the essential elements around which the notions of masculinity and femininity are constructed in such settings.<sup>6</sup>

Honour related crimes, the most extreme expression of which is murder, stem from gender power differentials within such a hierarchical structure of communal relations, where the mechanisms of monitoring and approval of honour is positioned beyond the individual. Communal relations and the patriarchal honour code it is associated with have long been perceived as features of pre-capitalist formations, such as feudal tribalism and it was assumed that such formations will disappear with the emergence of the individual citizen in the modern nation state. However, this has not happened, rather these values and relationships have been reproduced within post colonial / modern formations in laws, institutions and every day practices.

#### *Privileging of the honour claim in legal practice*

For instance, some legislative systems have provisions that recognize honour / custom as a mitigating factor to a crime. Such a clause in the law, however, is not a necessary condition for prosecutorial and judicial processes to concede to patriarchal claims of honour in crimes committed against women as demonstrated in both the Turkish and the Swedish legal practices.

Turkey's old criminal code did not have any specific clause addressing this category of crime; however, due to the gender biased nature of the law sexual crimes committed against women were defined as crimes against the family or public morality – rather than against women's bodily integrity. This strong patriarchal orientation allowed honour claims in courts to be accepted as constituting unfair provocation, resulting in reduced sentences.

During the recent criminal code reform process, the women's movement pushed for a provision that would prevent impunity for such crimes against women. While the reformed law (2005) has radically changed the underlying mentality of the law with respect to sexual crimes, the issue of honour remained ambiguous as the new law included a clause ruling out *töre* (custom/tradition) – as opposed to *namus* (honour) – as a mitigating factor in crimes against women, thus preserving in the law the patriarchal right to defend honour. This constitutes a contested area in the new criminal code and feminists are vigilantly monitoring the prosecutorial and judicial responses to specific cases.

The Swedish law, on the other hand, neither has such a clause nor does it provide for pleading one's cultural background as a defence to a criminal charge. However, in the first reported case of an honour killing in 1994, the question of whether cultural background may serve as a basis for reducing the severity of the charge and punishment was raised before the Swedish courts.<sup>7</sup> The honour defence of the father – a

6 See: Y. Ertürk. 2004. "Considering the Role of Men in Gender Agenda Setting: Conceptual and Policy Issues." *Feminist Review*. Issue 78: 3–22.

7 See: J. R. Kabani. "Honour Killings in Sweden: the Need for Intellectual and Institutional Coherence for Working Towards the Realization of Women's Human Rights." <http://www.pagu.unicamp.br/files/colenc/ColEnc4/colenc.04.a08i.pdf>

Christine Palestinian –, who had killed his daughter, was accepted by the court as an excuse for a lesser sentence. The case was later appealed and the man was eventually charged with murder. Analysts have highlighted two aspects of the case as having set the tone for future debates in Sweden on the issue: (i) women's life is trivialized by privileging the father's reasoning; and (ii) the homogenizing of the Arab culture (Elden 1998).<sup>8</sup> It has also been argued that, the stereotypical perceptions and sensationalized reporting of honour crimes brought before the courts in Sweden have impacted on how the courts treated them.

*Reproduction of the "traditional" within the "modern"*

The literature on honour crimes focus mainly on two contexts in identifying how communal relationships are played out in the current era to perpetuate patriarchal control, these are: minority / majority relations in the nation-state building process and in the immigration context.

In the former, the relationship between the state and the members of the minority group that are excluded or remain marginal to the nation building process is said to be mediated through local power structures and ethnic representations rather than directly by the individual citizen. In such contexts, the intrusion of an alien central normative system may provoke the adoption of conservative and rigid representations of culture, tradition and custom by local power blocks to maintain their sphere of authority. In this respect, control over women becomes particularly important.

For instance, in the Turkish experience of nation-state building, the introduction of equal inheritance rights for women in the law at the creation of the Republic inherently posed a threat for the prevailing property ownership patterns, particularly in the land based social structure of the Kurdish populated eastern regions. Contravening such an encroachment was in part made possible by adhering to the traditional marriage practices, including paternal cousin marriages among the Kurds. The norm of honour, as discussed above, rather than easing with social change became firmly coded into what is popularly called *töre* (customary law) to govern everyday life in the region and demarcate the boundaries of identity vis-à-vis the majority society.

It is not surprising that honour code takes a particularly deadly form among the Kurdish population in Turkey when women are perceived as deviating from the norm. Research data analyzed from the perspective of *töre* has reinforced the association made between 'Kurdish culture' and honour crimes, without questioning how this culture is represented and how it may have been distorted or re-configured as a result of the migration, the national integration process, socio-economic deprivations and the ongoing ethnic conflict in the region since mid-1980s. Such culture based perceptions are also normalizing other honour related transgressions on women in Turkey that occur outside the *töre* context.

In the context of immigration, particularly in the European experience where in-

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8 A. Elden. 1998. "The killing seemed to be necessary: Arab cultural affiliation as an extenuating circumstance in a Swedish verdict." NORA, vol. 6, n° 2, Scandinavia University Press.

regation was not a policy option until recently, immigrants confront processes of “ethnification” and “diasporization” (Friedman 2002)<sup>9</sup>, resulting in the formation of ethnic/religious/ national enclaves with strong tendencies for marginalization and bonding with the home culture. This is a highly ambivalent situation for those immigrants/minorities whose survival becomes dependent on a tight knit community which is both the source of identity, security and solidarity in an alien and/or sometimes “hostile” environment as well as the source of monitoring of codes of conduct, which may necessitate greater surveillance of women to prevent them from going “native”. This is further complicated by the fact that men typically lose status when immigrating while women gain new opportunities, thus increasing the domestic tensions. Given the transnational nature of migration, the regulation of women’s behaviour may involve members of extended family living in different geographies and across national borders.

Illustrative is the Pela murder in 1997, which was planned by family members living in Sweden and Australia and executed in northern Iraq. An extraordinary interpretation of the Swedish law enabled two of the uncles involved in the murder to be prosecuted and convicted in Sweden (Mission report on Sweden A/HRC/4/34/Add.3).

#### *Distinguishing Features of Honour Related Crimes:*

As with any concept used to describe complex phenomenon, the ‘honour crime’ concept inherently represents a categorical and frozen reality. It was coined in reference to the honour claims of perpetrators to justify their acts. While, it has served to distinguish elements of a social problem previously unrecognized, its complexities still remain insufficiently understood and the fact that the concept has gained a cultural connotation has made it highly deterministic, with potentially racist implications. Despite its risks, for analytical as well as strategic purposes there is a need to identify the diverging and converging dimensions of crimes committed in the name of honour within the spectrum of VAW.

In this respect, starting from the proto-typical characteristics of the phenomenon can provide a basis from which conceptual ambiguities as well as real life deviations can be identified and a more dynamic understanding can be reached. In this respect, a number of features associated with such crimes derived from recent accounts of the issue in the literature are presented below. Sen’s definition best captures these characterizations.

In summary, crimes of honour are actions that remove from a collectivity the stain of dishonour, both gendered and locally defined, through the use of emotional, social or physical coercion over a person whose actual or imputed actions have brought that dishonour; physical force may involve killing the transgressor of the code of honour (Purna Sen: 50).

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9 J. Friedman. 2002. “Globalization, Dis-integration, Re-organization.” In Friedman (ed.). *Globalization, the State and Violence*. Oxford: Altamira Press: 1-34.

It must be emphasized that none of these features are necessarily exclusive of other forms of VAW but rather their combinations may help to characterize crimes based on the honour motive.

- 1 Honour related crimes are typically claimed by the assailant as an act of retribution against a woman who supposedly committed an act of grave immorality, whether real or mere rumour. Actual proof of the “dishonourable act” is irrelevant, because what is at stake is the public perception and the challenge this entails for the family’s social standing.
- 2 These crimes may not be exclusively committed against females, but they are almost exclusively committed to maintain a rigid heterosexual patriarchal gender order that foresees female subordination to and male compliance with the prevailing norms. In Sweden honour crimes related to same sex relations have been on the agenda for some time. In Turkey, the first case that got coded as such occurred in Istanbul in July 2008.<sup>10</sup>
- 3 Honour related violence tends to be incremental, i.e. it typically begins with emotional pressure, restriction of movement, systematic social isolation and veiled threats of violence before achieving its most extreme form (murder).
- 4 A common feature in killing in the name of honour is attributed to the way it is organized and executed, in that it may involve other family members in the decision, planning, instigating, concealment, destroying of evidence, aiding in and participating in the actual act. The formal convening of what has come to be called a “family council” is not a necessary condition of such crimes. When, how and who will actually be involved in the violence needs to be established within the specificities of the case itself. The convening of a “family council” is not only difficult to prove but it is also superfluous in determining an honour motivated assault on women, furthermore, it may be more of a fiction than reality.
- 5 Reclaiming of honour through killing is validated within the network of the wider collective entity, i.e. in the eyes of the extended family, kinship or community. Cleansing one’s honour carries social advantage of respect and acceptance for the perpetrator(s) within the wider community. In this sense, honour is not only a matter of the cultural domain but it is also of the political domain, thus involving relationships of both public and private regulation.
- 6 There is a tendency to commit such crimes in the open in a demonstrative manner, which serves mainly to cleanse the shame in the eyes of the collectivity and to terrorize women as a group in order to ensure that they “stay in their place”.
- 7 In some instances, the older women in the family who are tasked with policing and monitoring of the behaviour of the younger female members may also be involved in the instigation and planning of the crime. Women who are not an accomplice to the crime may be intimidated and forced into silence.

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10 *Radikal* Turkish daily newspaper, Saturday addition, 3 Oct. 2009.

- 8 Crimes committed with an honour defence may be a cover up for other crimes such as incest, rape or to a feud between two families or groups. Under such circumstances, women are sacrificed to contain conflict among men.
- 9 Dispossession and dislocation of individuals or entire communities, which are associated with but not limited to rapid economic transition; conflict, war and foreign occupation; transgression of alien/central normative-legal system; migration etc., heighten the need to preserve honour, thus the control over women.
- 10 With current migratory patterns, honour crimes are increasingly gaining a transnational character in the way these crimes may be organized and executed across national borders, posing new challenges for police investigation and prosecutorial procedures.

The above characterizations are not prescriptive of what constitutes honour related crimes. As a result of growing gender awareness and changing socio-cultural and legal contexts the legitimacy of the honour claims for crimes against women are being challenged, thus shifting the shame from the victim to the perpetrator. As a result, the honour claim is being denied and the communal and public-demonstrative aspect of these crimes is becoming blurred and taking other forms, including forced suicides.

Perhaps one of the most salient feature of the so called honour crimes is its "...being rooted in collectively monitored and policed codes of behaviour, the policing being in part carried out through killings" (Sen 2006: 51). In other words, there is a context specific socially based pattern operating behind these crimes, this is what needs to be adequately examined and understood in distinguishing the particularities of this type of VAW.

When responding to honour related crimes the history of individual and collective resistance and struggles of women in both countries of the south as well as those in immigrant communities also need to be considered and factored into the analysis. Otherwise, stereotypes about honour crimes and the passive victim image of the women concerned will be reinforced. This will not only undermine efforts to combat such crimes but it will also divide women and empower patriarchal interpretations and representations of culture.

## A Way Forward

Strategies for eradicating VAW must be based on the recognition that it is rooted in a universal patriarchal gender regime, comprised of alternative patriarchies that may complement or contradict one another at any point in history. Therefore, in the final analysis, eliminating VAW in general and honour crimes in particular require ending patriarchy. This is not going to happen tomorrow but what can and is happening is the lessening of the patriarchal nature of societies as patriarchal privileges are challenged, weakened and ruptured. Thus, an effective strategy in responding to the problem must not get entangled in the symptoms of the problem or be lured by popularized cultural fantasies, rather it must be probe into the underlying power dynamics and

contextual specificities with the view to designing interventions that would intensify the ruptures in the fault lines of patriarchy and increase woman's options. This requires feminist engagement in decision making and evidence based contextual understandings of all forms of VAW.

In conclusion, "if violence is interpreted in its gendered cultural context, there is no such thing as ordinary or special forms of violence. There are simply men using different cultural conceptions of gender to control women's life and death" (Elden 2004: 99).<sup>11</sup>

### **Författarpresentation**

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11 A. Elden. 2004. "Life-and-Death Honour: Young Women's Violent Stories About Reputation, Virginity, and Honour In a Swedish Context." In Mojab and Abdo (eds). *Violence in the Name of Honour*. Istanbul: Bilgi University Press: 91–99.