

CRIMES OF HONOR AND THE CONSTRUCTION OF GENDER IN ARAB SOCIETIES

LAMA ABU-ODEH¹

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¹ Lama Abu-Odeh is Professor of Law at Georgetown University.

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This article is a discussion of crimes of honor in the Arab world. A paradigmatic example of a crime of honor 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. On a simple and immediate level, this article calls for an end to these crimes for their obvious cruelty. All Arab laws or judicial practices that legitimize or sanction these crimes should be abolished.

On a more complicated level, an attempt is made here to identify the role that these crimes play in the production and reproduction of gender relations in contemporary Arab life. It contends that these relations are the outcome of a complex triangular interaction between social violence, the crime itself, state violence, the attempt to regulate this crime, and the response by contemporary men and women to the balance between these two types of violence.

The argument of this article is that in the past, the crime had gone largely unregulated, practiced as a means of controlling the violators, punishing them for vice and deviancy from the prescribed sexual rules. However, despite the fact that crimes of honor continue to exist to this day, the article argues that their social function has become different.

The intervention of the Arab nationalist elite in the social field, by desegregating gendered social space, rendered the concept of sexual honor ambiguous. Their intervention in the legal field, through codification, had the purpose of “modernizing” a traditional practice, honor killing, by defining the limits of its practice, i.e., sanctioning it by penalizing the violators in certain cases (rendering it a *crime* of honor). The legal mode of regulation they adopted could be seen as a strategy to contain the practice. Arab judiciary on its part, in adjudicating those killings, tended to serve a double function: contain the practice of honor killings whilst co-opting the emergence of subversive sexual types and practices among men and women. The mushrooming of diverse sexual types and practices could in turn be seen

as a response to the interaction between social violence and its regulation *and* adjudication by means of state violence.honor The end picture has the complicated appearance of the crimes being a response to the new sexual practices, their contemporary function, the state regulation and judicial practice being a response to the violence *and* the sexual practices the resistant sexual types and practices being a response to the balance between the two types of violence, social and official.

If indeed the demand to completely abolish crimes of honor by severely punishing their perpetrators is unrealistic, this article argues that these crimes, in so far as their legal sanction is concerned, should be reduced to those of passion. This is a viable move because the spectrum of codification of crimes of honor already existing within the Arab world has, within its parameters, the legal construct of a crime of passion (see the cases of Algeria and Egypt below). What seems to have prevented the full development of the concept of a crime of passion in these two respective countries is judicial practice which tended to use alternative legal means to reintroduce the idea of a crime of honor.

I. WHAT IS A CRIME OF HONOR?

“Where were you, bitch?” Maria Isa snapped as her daughter, Tina, 16, entered the family apartment.

“Working,” Tina shot back.

“We do not accept that you go to work”, interrupted Tina’s father, Zein.

“Why are you doing this to us?” asked Maria angrily.

“I am not doing anything to you,” Tina bristled.

“You are a she-devil,” hissed Zein, “and what about the boy who walked you home? He wants to sleep with you in bed, don’t you have any shame? Don’t you have a conscience? It’s fornication.”

With that her parents threatened to throw Tina out of the apartment; rebelliously she challenged them to do it.

“Listen, my dear daughter,” her father finally replied, “Do you know that this is the last day? Tonight you’re going to die?”

“Huh?” said Tina bewildered.

“Do you know that you are going to die tonight?”

Suddenly, realizing he was serious, Tina let out a long scream. Then there was a crash, and the girl’s shrieks became muffled, as if someone were trying to cover her mouth. “keep still, Tina,” her father shouted.

“Mother, please help me,” Tina cried.

“Shut up!” Her mother shouted.

“No! No!” Tina shrieked.

“Die! Die quickly!” Her father shouted.

Tina managed to scream again.

“Quiet, little one,” her father said, stabbing her the last of six times.

“Die, my daughter, die!”

A. THE LEGAL CODIFICATION OF CRIMES OF HONOR

The locus of crimes of honor in the Jordanian Penal Code (no. 16, 1960) is article 340. The first Article of three in a section entitled, “Excuse in Murder”, Article 340 states:

He who catches his wife, or one of his female un-lawfuls committing adultery with another, and he kills, wounds, or injures one or both of them, is exempt from any penalty

He who catches his wife, or one of his female ascendants or descendants or sisters with another in an un-lawful bed, and he kills or wounds or injures one or both of them, benefits, from a reduction of penalty.

This Article owes its historical origin to two legal sources that are not unharmonious when it comes to the issue of “crimes of honor”. These two

sources are the Ottoman Penal Code of 1858 and the French Penal Code of 1810.

Article 324 of the French Penal Code (which was abolished by Article 17, Law no. 617/75 issued on 7 November 1975) reads

Pourra bénéficier d'une excuse absolutoire quiconque, ayant surpris son conjoint, son ascendante, sa descendante ou sa sœur en flagrant délit d'adultère ou de rapports sexuels illégitimes avec un tiers se sera rendu coupable sur la personne d l'un ou l'autre de ces derniers, d'homicide ou de lésion non prémédités.

L'auteur de l'homicide ou de la lésion pourra bénéficier d'une excuse atténuante s'il surpris son conjoint, son ascendante, sa descendante ou sa sœur avec un tiers dans une attitude équivoque.

[Whoever takes by surprise his spouse, his ascendant, his descendant or his sister red-handed in the act of adultery or in an illegitimate sexual encounter with a third person and commits homicide or causes injury can benefit from an excuse of exemption. The author of the homicide or injury can benefit by from an excuse of reduction if he catches by surprise his spouse, his ascendant, his descendant, or his sister in "attitude equivoque".]

Article 188 of the Ottoman Code reads:

He who catches his wife or any of his female un-lawfuls with another in a state of "ugly" adultery and then beat, injured, or killed one or both of them will be exempt from penalty. And he who catches his wife or one of his female un-lawfuls with another in an un-lawful bed and then beat, injured or killed one or both of them, will be excused.

From the Ottoman Code, we notice that Article 340 of the Jordanian Penal Code adopts the expression "female un-lawfuls" and that of the "un-lawful bed". From the French Code, the Article borrows the expression "ascendant(e), descendant(e)", and the idea of a reduction of penalty referred to in the second section of the French Article as "une excuse atténuante" (reduced excuse).

Not only does a provision similar to that of Article 340 of the Jordanian Penal Code exist in almost every Arab Penal Code, but this is also the case in the Turkish Code, not to mention many European Codes as well: Spanish, Portugese and Italian (abolished in 1979). As we have seen above, the French

Penal Code did not abolish its own provision until, indeed as late as, 1975 (abolished by Article 17 of the law no. 617/75 of 1975).

Arab Penal Codes, in regulating honor killings, differ among themselves on two issues. Some limit the application of the Article to situations of adultery; the Egyptian, Tunisian, Libyan and the Kuwaiti, and the only excuse they apply is that of reduction, not exemption. While others expand the application of the article to situations of the “un-lawful bed” (Jordanian) or “*attitude equivoque*” (Syrian, Lebanese) and apply to those instances the excuse of reduction while limiting the excuse of exemption to cases of adultery. The Iraqi Code is unique in that it covers both the situation of adultery and what it calls “her presence in one bed with her lover” but it gives them both the same excuse namely that of reduction – three years.

The other issue on which Arab Penal Codes differ is that of “who benefits from the excuse”. The Syrian and Lebanese Codes adopt the French terminology (wife, female ascendants, descendants and sister) so that the husband, the son, the father and the brother benefit. The Jordanian Code uses this terminology in the second section of the Article while in the first section it adopts the Ottoman expression (wife or female un-lawfuls). This expands the beneficiaries of the excuse to a considerable degree since a female un-lawful includes every woman that the man cannot marry either for blood, marriage (in-law) or nursing reasons (according to the Islamic Jurisprudential tradition), which makes the disparity between the first and second section of the article quite significant and almost mysterious. The Iraqi Code uses an expression similar to that of the first section of the Jordanian Article, “his wife or one of his female un-lawfuls” to cover both cases of adultery and “one bed”. The Egyptian, Kuwaiti and Tunisian Codes have only husband as beneficiary, while the Libyan Code expands the list to (husband, father and brother). The Algerian Code is unique in that it treats both husband and *wife* as beneficiaries of the excuse, which it limits to situations of adultery.

Structurally speaking, the Codes seem to be distributed on a spectrum with two opposite poles. The first is best exemplified by the Algerian Code in which both husband and wife benefit from a reduction of penalty when s/he catches the other committing adultery. The other pole is best exemplified by the Jordanian Code which allows men to benefit from both a reduction and an exemption of penalty if they catch one of their female un-lawfuls committing adultery or in an un-lawful bed with her lover. The difference

between these two ends could very well be the difference between the idea of a crime of passion, the former, and a crime of honor, the latter.

1. ARAB CRIMINAL JURISPRUDENCE

Reading Arab criminal jurisprudence commenting on these provisions is an exercise in monotony. On the one hand they write in the civilian formalist tradition of first referring to the text of the Article dealing with honor killings in their own national Code and then analyzing the main legal concepts involved in the legislative text with little reference to actual cases decided in courts. On the other, given the prominence of Egyptian jurisprudence in the Arab world, almost all Arab commentators “borrow” the bulk of what they say on these crimes from Egyptian jurisprudence, reproducing what it says, sometimes word for word, and barely commenting on the difference between the Code of their own country and that of Egypt (which as we have seen above may very well prove significant). Even worse, when they do refer to court decided cases, Arab jurists often use cases decided in Egypt as tools for explaining basic legal concepts, and rarely do we come across a mention of the particular jurist’s home court decisions.. And if the legal decisions made in the jurists’ country are at all engaged with, it is only for the purposes of either confirming what the Egyptian commentators have said about their own Code, or showing the similarity or illustrating the difference between the Egyptian and the given country’s Code. In all of these writings the Egyptian Code/jurisprudence stands as the model/focal point, from which the commentator then sees his task as either to repeat, adapt, or show commonalities with, or differences from, the Egyptian jurisprudence.

I have not seen any trace of a structural analysis such as the one attempted here between the various legislative texts in the Arab world even though one comes across plenty of country to country formal legal comparisons. Nor indeed is there in any one of these publications an instance of a concerted effort to take the mass of court decisions pertaining to this given topic and treat them as an independent historical structure that is ridden with conflicts and contradictions peculiar to itself, thus lending the reader a unique insight into how crimes of honor have been judicially addressed the particular country (such as attempted below).

2. THE CLASSICAL JURISPRUDENTIAL TREATMENT OF CRIMES OF HONOR

The Arab commentator typically starts with stating the provision in his country's Penal Code. Then he proceeds to briefly give us the "wisdom" behind this provision. It usually runs as follows:

The legislature has taken into account the psychological state of mind that hits the husband whose honor has just been violated, the most precious thing that he possesses. At the moment that he catches his wife committing adultery he will no doubt lose his reason and kill his wife and her partner.

No commentator bothers to attack or even examine this rationalization. The only exception is Laure Mughayzil, a Lebanese lawyer, who bases her critique on the purpose-based argument that implementing provisions like these has the effect of continuously reproducing a tribal mentality that is inconsistent with "intellectual and social development". She also argues that these provisions violate the principles of freedom and equality provided for in both the International Charter of Human Rights and the Lebanese Constitution. The call for equality between men and women indeed is what some Arab (male) commentators propose, after giving us the benefit of their explanation of the "wisdom" of these provisions. This demand for equality between men and women is, in their view, met, if women are given equal benefit of the exemptory or reductive excuse. This results in a moving rhetorical argument made for the sake of women:

For isn't this the biggest shock she would have in her life? Isn't it the biggest betrayal by her husband that would injure her pride, integrity and honor? And isn't she, after all, human made of flesh and blood with feelings that could get hurt too?

Following that we are typically provided with the commentator's elucidation of the three conditions that have to be present for the Article on honor killings to apply: firstly, the relationship of the accused to the victim (husband, brother, son), secondly, "catching the woman committing adultery" and lastly, the requirement that the act of killing has to be immediate and impulsive².

² This means that, aside from the "relation" requirement, two elements are necessary and have to be present at the same time: the surprise element (in the killer), and the necessity for the woman to be caught red-handed, in flagrante delicto (the surprise element in the victim).

The commentator then proceeds to cite Egyptian decisions on the interpretation of the second condition. For instance, a given commentator would point out that the Egyptian Court of Cassation decided that if “the husband suspected, but was not sure, that his wife was having sex with another man, and so pretending to go to the market, he hid in the house until the other man came and then killed him when the latter started to touch the wife, then there is still an element of surprise, and the husband can benefit from the excuse”. And continuing, would refer to the same Court’s decision that “a wife is caught red-handed when found by her husband with her underwear placed next to that of her partner, despite the fact that the husband had not witnessed the actual sexual act between them”.

About the third condition the commentator may point out to that if enough time had passed for the accused to have calmed down then he would clearly not benefit from the excuse. Citing, the Egyptian Court of Cassation’s decision that if a man caught his wife and her partner committing adultery and he killed him but the wife escaped to her family,, and two hours later he found and killed her, then he would not benefit from the excuse. This would be in contrast to another case decided by the same court that if the husband, having caught his wife in the act, went to the kitchen to bring a knife as soon as he saw the adulterous pair , and then used it to kill both of them, the husband would indeed benefit from the excuse.

In conclusion, the commentator would proceed to discuss the penalty for the crime once the three conditions delineated above are met, and refer to the debate among criminal jurists, usually French, as to whether the reduction of the penalty affects its classification, from felony to misdemeanor.

The practice of different Arab treaties writers of simply repeating the Egyptian commentary, has inadvertently “fetishized” the Egyptian style of regulating the crime. In fact, and as we will see below, the Egyptian provision adheres more closely to the idea of passion rather than that of honor; limits the beneficiaries to that of husband and only in cases of adultery, granting him merely a reduction. This could hardly be said of the other Codes. The difference is not simply an issue of detail, which seems to be the way the commentators tend to deal with it. For instance, the commentator might note that while the beneficiary in the Egyptian Code is only the husband, in his own national Code, it is the husband and the father. Being formalists, the

commentators fail to see these differences as choices by the difference countries that reflect policy conflicts.

This brings us to the important question of why is it that the Egyptian Code chooses the husband as beneficiary, while the Libyan one chooses father, brother and husband? How are these varied choices inspired? Clearly every choice is an act of “picking”: adopting some elements, dropping others, a simultaneous act of inclusion and exclusion. Let us imagine that the choices in the Codes are taken from a spectrum that has on its two poles, as I suggested earlier, the idea of pure honor on the one end and of pure passion on the other. Then we come to realize that every Code that is situated in between these two poles is a form of compromise between the two ideas of honor and shame each in its pure form. This compromise reflects an attempt by each national legislature to strike a balance between two conflicting ideas, each pulling in an opposite direction.

In order to understand the variations in the Codes we have to come to grips with the ideas of honor and passion. We will take up the idea of honor first. And we will do so by looking at it from an anthropological perspective. The purpose of the discussion is to understand the honor/shame social system that produces the crime of honor. The Codes can be seen as a legal intervention in this universe of honor killings. We will see that their intervention takes the form of legitimizing certain killings and de-legitimizing others. For instance, all Codes seem to make the radical move of de-legitimizing the paradigmatic model of honor killings: the killing of a woman by her father or brother when she is discovered not to be a virgin on her wedding night. We notice that not one of these Codes grants an excuse, exemption or reduction, for such a case. When we understand the prominence of this kind of killing in an honor-dominated world, then we get a sense of the seriousness of the Codes’ intervention.

The following section will consider honor relations in what I will call the “traditional text”: a description of a society in which honor relations prevail with clarity and predictability. In this society, and ideal one by definition, the transgression of boundaries immediately results in a killing of honor. Having identified what this society might look like, I will, by way of contrasting reconstruct one that is based on passion. The point of the exercise is to understand the two conflictual ideals between which each Code tries to strike some balance.

B. AN ANTHROPOLOGICAL DISCUSSION OF HONOR IN ARAB SOCIETIES

1. Virginitly as the regulatory practice of gender

Writings about the importance of women's virginitly before marriage in the Arab world are not lacking. Arab women, according to the ideal model, are expected to abstain from any kind of sexual practice before they get married. The hymen, in this context becomes the socio-physical sign that signifies virginitly and gives the woman a stamp of respectability and virtue. The wedding night, therefore, bears phenomenal importance for Arab women, since it is that crucial time when society is about to make a judgment on their propriety. Some honor crimes are known to occur precisely then, when a woman's failure to bleed as a result of penetration to break her hymen, is taken to have failed the social test. In this classic scenario, she is "taken back" by the groom and his family to her own family, who in turn might kill her for having shamed them. Only her bleeding in death can erase the shame brought about by her failure to bleed in sex on her wedding night.

I would argue that the discourse on gender and the discourse on virginitly in Arab culture crisscross/overlap so closely that they are hardly distinguishable. To be an Arab woman is to engage in daily practices, an important part of which is to be a virgin. A heterosexuality that is honor/shame-based such as the Arab one, demands, under the sanction of social penalty, that the performance of femaleness in Arab culture stylizes the body that is called female as virginal. The hymen, in this context, comes to have the double function of being both a mark of virginitly *and* of delineating the boundaries of the body that is called female. This, indeed, is what distinguishes it from the male body, since the latter can bear no such mark of virginitly. When I say, "can bear no such mark", I do not mean biologically since men do not have a hymen, but culturally, because the culture does not go out of its way to find means of signifying the male body as virginal.

It is almost impossible to list the daily practices that are necessary for the construction of the virgin/female body in Arab culture. One way of doing it would be to look at it in a "regressive" fashion: women need to abstain from any sexual activity before marriage, and from any act that might lead to an act that might lead to sexual activity. The further back we are in the regression, the fuzzier the list of actions involved is. Every prohibitive demand she complies with constructs her simultaneously as female and as virginal.

If you want me to count the dos and don'ts, the list would go on forever. It seems that everything is aid (shame) for girls.

The function of these prohibitive demands is not only the preservation of actual virginity but the production of the *public effect* of virginity. In other words, the physical attachment of the hymen to the body needs to be evidenced and publicized, ie, signified, through an elaborate performance for the benefit of the social audience. Thus, the hymen becomes displaced from its biological vessel, the vagina, onto the body as a whole, "hymenizing" it, and producing it as a body called female. But then it is displaced again onto the social space where the female body is allowed to move/be, encircling it as a social hymen that delimits its borders. Gender female performance covers all three meanings together, so that Arab women are expected to bleed on their wedding night as a result of the breaking of the hymen, and they are supposed to *perform* a "public" virginity with a certain body "style", the body moving within a defined and delimited social space. Each one of the above borders, the vaginal, the bodily, and the social is enforced through a set of regulations and prohibitions that the woman is not supposed to violate.

I am always being told, you can't smoke because you are an Arab woman, or you can't dress that way because you are an Arab woman, and if I sit in a café with a male friend people immediately begin to gossip about me.

A crime of honor can occur when any one of the above borders is crossed. Killing a woman because she fails to bleed on her wedding night is only one possible scenario for an honor killing. Honor/shame-based heterosexuality usually requires "less" as evidence of failure in performance. In certain rural localities, a woman might suffer the violence of honor if she is spotted conversing with a man behind a fence, or, in lower-class urban neighborhoods, if she is seen leaving the car of a strange man. In both these instances, the woman is seen as having "jeopardized" not her vaginal hymen, but her physical and social one. She moved with a body and in a space where she was not supposed to be.

There are, however, sanctions that support this kind of heterosexuality but are designed to *preempt* the honor killing and prevent its occurrence. Through an elaborate system of commands and prohibitions, girls "learn" their gender performance at a very young age. The culture guards itself against possible violations by devising sanctions less violent than death that are meant to preclude it. These include the threat of physical punishment, spacial

entrapment through segregation of gender spaces and the active mobilization of the institution of social gossip and reputation. “Because you are a girl, and people will talk if you do this”, is rhetorically how Arab women come to acquire their gendered subjectivity.

From the time we were very small, my brother and I shared the same friends, nearly all boys, most of whom were the children of our neighbors. The boys remained my companions until I grew up – that is until I was eleven when suddenly I was required to restrict myself to the company of girls and women... Being separated from the companions of my childhood was a painful experience.

Marriage circumvents the performance of biological virginity. Since the absolute majority of women get married and most at a relatively young age, 15 to 18: the poorer the woman the younger she is likely to be when she marries, women are released early in their lives from the burden of the performance of biological virginity. This, however, leaves intact the social demand for performance of bodily and social virginity.

2. What it is to be an Arab man

The man who kills his sister to defend his honor epitomizes in a dramatic way, through his act, the performance of his gender. Virginity, in its expanded sense (the vaginal/the bodily/the social) is also the locus of *his* gender in that he needs to guard, supervise, and defend against incursions, *his* women’s virginity. In other words to be a man is to engage in daily practices, an important part of which is to assure the virginity of the women in your family. In Arab culture, a man is that person whose sister’s virginity is a social question for him.

Ideologically, this is presented for “women’s own good” since they are thought vulnerable to a predatory male sexuality: women *need* male protection and tutelage and their male relatives are invited to do exactly that

Male performance is equally sanctioned by penalties. If a man doesn’t intervene by killing his sister/wife once she has shamed him, he suffers a loss of his gender: he is no longer a man (therefore, castrated, a “bottom”, a woman). His performance has suffered a serious failure.

But even before the situation is such that he has to intervene in a dramatic way, he gives license, supervises, disciplines “his” women’s behavior

so that he experiences his gender rhetorically through statements like, “I will not have my sister do this”, or more magnanimously, “I don’t mind if my wife does that”.

Here’s how one male university graduate put it:

“I wanted to propose to a neighbor of mine of whom I was very fond. But I changed my mind when I saw a photo of her and a male neighbor. I wouldn’t permit my sister to do this, and I would expect my fiancée to act in a similar way.”

Expectedly, inasmuch as the man is the censor of “his” own women, he is also censored in relation to other men’s women. As he is busy cementing the blocks of “his” women’s walls (hymens, in the expanded sense) he is also, simultaneously, bumping into similar walls elsewhere (those cemented by other men). As women have internalized the censoring look of men, so have men internalized the censoring look of *other* men. This has the effect of stylizing the space that men, in general, occupy.

One way of representing this is to think of it graphically. Men throw their arms in their women’s faces, asking them to stay away, and, looking at other men warningly, they signal “Don’t you dare!” But that’s not all that’s going on: as they send their warning looks to each other, they are also trying to steal a look, a touch, a rub of other men’s women. This being the case, it’s always safer for men to talk to, look at, hold hands with and dance with and to other men. Gender peace is thus preserved and male space is in that vein stylized.

More complicatedly, men make implicit deals with other that have the double function of, on the one hand, nurturing their brotherly bonds, and, on the other, creating a certain *camaraderie* between them in their hunt for *other* women. The male bond is nurtured when men promise each other, through their behavior, that their *friends’* women are as *haram* (forbidden) to them as their own women are to their friends. In other words, men make deals with each other that they will not try to “sneak” inside the walls cemented by their friends around their own women. Having made those deals, always implicitly with each other, men are allowed to feel trust for one another that is then exploited for the purposes of trying to “sneak” into the walls cemented by *other* men, ie, those outside the circle of this particular camaraderie. This

would include men who are not their friends or relatives, or neighbors, or countrymen, depending on the social context.

What this means is that Arab men are virgins by default. The culture does not actively seek, stress or demand their virginity. However, it makes it very hard for them not to be, given its stress, demand and invocation of women's virginity. Nothing befalls a man if he is not a virgin, and yet most men find themselves to be so. If they are not, it is only erratically and infrequently: that is they have sexual experiences in an erratic form, infrequently, and as a result of a constant and difficult negotiation within the economy of space in which they live. So much so that they often experience themselves as virgins.

C. CONTRASTING HONOR WITH PASSION

The index of masculine reputation in this moral universe of honor is women's virginity. In this context, honor is derived from the struggle to retain intact the chastity of the women of the family, and this makes male reputation insecurely dependent upon female sexual conduct. So that honor is not only what women must keep intact to remain alive, but what men should defend fiercely so as not to be reduced to women.

The men who are connected to women in this honor bond are many: father, brother, son, husband. The first two are probably the most prominent, since female misbehavior could be remedied by the husband through divorce, whereas father and brother are forced to behave in a more dramatic fashion once the occasion arises. The intervention is necessary for them to avoid being perceived as wimps or women by the public.

We have seen how many Arab Codes reconstruct a similar "moral universe" by showing sympathy for the father, brother, husband: allowing them exemptions from or reductions in penalty. And we have also seen how some of these Codes reflect the social intolerance for any female sexual behavior, seeing it as deeply threatening to men's masculinity, by incorporating the idea of the triple hymenization: "un-lawful bed" and, "*attitude equivoque*".

However, the Codes in fact fall short of legitimizing honor killings as they would occur in an honor-based society. This they do by this in two ways:

First by *excluding* from excuse, whether that of exemption or reduction, two types of honor killings that one would expect to be prevalent in such a society: the killing of a woman because she is found not to be a virgin on her wedding night, *and* the killing of a woman when she is discovered to be pregnant. Not a single Arab Codes *excuses* such conventional honor killings! The exclusion is a very radical move by the codifiers that attempts to hit at the heart of the honor society by barring *these* forms of cruel acts.

Second, the internal construction of the excuse in these Codes is inconsistent with the idea of an honor killing. A) As we have seen above, all Codes require “surprise”, *flagrante delicto*, and that the woman is killed immediately. Presumably, in a purely honor-dominated world none of these considerations would hold. A woman can commit a dishonorable act that is reported through gossip to her family male members, who then meet to deliberate and then decide to kill her. The resultant killing would still be considered socially as one of honor; B) the bifurcation between reduction and exemption in the Codes associated with a legal distinction between adultery and un-lawful bed, (*attitude equivoque*) is in fact foreign to the traditional world of honor . In that world, both cases would be justified and killers exempt from penalty; and C) the parties made beneficiaries in the Codes fall short of those that would be socially allowed to commit an honor killing in a conventional honor society... If we take the “un-lawfuls” as signaling the paradigmatic model of the beneficiaries in an honor-based society, then we find that all Codes without exception exclude one or the other on the list of such relatives, including even the Jordanian, which excludes them from the case of “un-lawful bed”, using instead the expression of ascendants and descendants. Even more, the Algerian Code includes *wife* as beneficiary, which would never be permitted in the traditional honor world.

The question arises: how do we explain these departures from the idea of honor in conventional society in the Arab Codes? How do we explain the legislative exercise of partial de-legitimization? There appears to be, as indicated above, a rival conception also at work in the Codes, which influences in its own right the question of when it is legitimate for men to kill women. This rival conception is that of “passion”.

To the idea of honor, we can now contrast that of passion. We come to see the latter, in its pure form, as a private relationship between a man and a woman, as opposed to a collective one that involves several men related to the

woman deeply engaged in defending the public image of their masculinity. In the model of passion, female sexuality is not “fetishized” as the locus of reputation, but seen more as a libidinal goal and the locus of complicated human emotions. Thus “passion” reduces the relationship to two people who are sexually involved with each other (man and wife), for whom the sexual misbehavior of one is an assault on the other’s feelings rather than public reputation. The passion model excludes all those other men who are not or cannot be sexually involved with the woman (father, brother, son), and the issue becomes less a matter of castrated masculinity and more of passionate jealousy. When a crime of passion is committed, it is the act of one spouse against his/her adulterous spouse arising from feelings of hurt, jealousy and passion. We have seen how the Egyptian and Algerian Codes reflect this kind of relationship: it is only the injured husband (or wife in the Algerian case) who benefits from an excuse and only that of a reduction in penalty when they catch the other *flagrante delicto* committing adultery. Under this model the concept of triple hymenization is irrelevant.

But even here, the passion model is not allowed to dominate in the Codes that incorporate it. Each one of these two Codes makes its own compromises on the idea of passion. The Egyptian Code, for instance, excludes the wife as beneficiary. The Algerian, on the other hand, includes only spouses, excluding lovers (those who are passionately in love with each other) from its list of beneficiaries (lovers are, after all, one would say, the paradigmatic parties to a relationship of passion).

Up to this point, this has been a discussion concerning the Codes that lie closest to the passion ideal. But even those that are found at the other end of the spectrum, say the Jordanian Code which is the closest to the concept of honor, are influenced by the ideal of passion. The Jordanian Code for instance demands the “passion” requirements of in *flagrante delicto*, surprise, and immediacy in killing, requirements that are not part of the traditional conceptualization of honor.

D. CONCLUSION

The various ways in which Arab Codes regulate honor killings can be seen as various attempts by national legislatures to respond to the private violence of honor killings. However, their legal intervention effectively substitutes the honor killing for the honor crime, i.e., for the particular

definition of beneficiaries, acts and excuses that each national Code adopts. In general, while the legal intervention of each Code seeks to de-legitimize certain honor killings, the most paradigmatic model of which are non-virginity and pregnancy, it nevertheless stops short of substituting honor for passion. At the same time, while each incorporates some elements of the crime of passion, namely *flagrante delicto* and immediacy, it stops short of fully adopting the model of passion. What all the Codes seem to have in common is a rejection of both pure honor and pure passion.

II. THE NATIONALIST PROJECT

The question that this section attempts to address is the following: where did the spectrum of honor/passion originate from? Is there an explanation for the variety of ways in which the question of honor killings was resolved in the various Codes? In other words, why does the Libyan Code, as a random example, have a list of beneficiaries (husband, father, brother) that differs from that of the Egyptian (husband only), when they apply to countries that are adjacent to each other and are, generally speaking, not culturally dissimilar? What is the nature of this legislative activity of selection from a pool of different and conflictual elements? Is it peculiar to the issue of crimes of honor or is it symptomatic of the modern phenomenon of codification in the Arab world? Who were the codifiers, and what ideological motivation did they have when they engaged in the activity of legislative selection? What is it that they were trying to do?

I argue that the structure of honor-crime regulation in the different Codes, based on the idea of selection and compromise is a particular mode of regulation that mimics and repeats the approach to wholesale codification adopted by Arab national Elites on the eve of independence from European colonialism. It is simply a localized example of a more general phenomenon of legislation.

These national elites were naturally preoccupied with *modernizing* the institutions of the newly independent states, in particular giving foundation to "the rule of law". To that end, they passed modern Codes regulating different areas of life: Commercial Codes, Criminal Codes, Civil Codes, and Personal Status Codes. But being nationalist, they also sought to reproduce "*tradition*" as the locus of the identity of the new "nation". Striking a balance between "tradition" and "modernity" in the multiple activities of state

building, especially in the area of codification, thus became the mark of the government of the nationalist elites.

Any discussion of codification in the Arab world must refer to Sanhuri, the nationalist jurist *par excellence*. His style of codification gives us a clue as to the reason that various Arab Codes chose different solutions to the crimes of honor issue. Sanhuri attempted to modernize the civil laws of different Arab countries while at the same time incorporated the *shari'a*. This must be distinguished from the various choices made by the judiciary.

A. THE JUDICIAL TREATMENT OF CRIMES OF HONOR IN THE ARAB WORLD

1. The Jordanian Court of Cassation

The locus of the discussion of crimes of honor by Arab jurists, as we have seen above, is the directly applicable provision of their national Penal Code to those killings, which they comment on by borrowing/copying ideas from Egyptian jurisprudence. What is striking is that by looking at the actual court cases; Jordan, for instance, between 1953 and 1982, the Jordanian equivalent of the direct provision, Article 340 referred to above, turns out to be of little relevance to the practice of adjudication (the same will be true of Syria and Egypt, see below). The one that does is a completely different Article, a far more general one, namely Article 98 of the Jordanian Penal Code.

Article 9 provides:

He who commits a crime in a fit of fury caused by an unrightful and dangerous act on the part of the victim benefits from a reduction of penalty.

The Jordanian Court of Cassation (JCC) did not always treat Article 98 as the most relevant one to killings of honor. In fact, between 1953 and 1965 (perhaps even before then, but there is no way of knowing for certain because of lack of criminal case reporting before that period) the JCC resisted strongly this particular way of framing the legal response. During this period, while there was not a single case in which Article 340 was applied, we find many cases in which the JCC is arguing against the application of Article 98. The JCC's resistance took two strands of argumentation.

First, the court tended to reject the argument that the female victim's behavior, seen by the accused as violating his honor, amounted to the commission of an "unrightful and dangerous act" on her part within the terms of Article 98. In fact, the court chose to lay down a very rigorous and precise meaning for this Article by arguing that nothing less than "a minor case of self-defense" would justify applying Article 98. The JCC clearly thought that any dishonorable act that the woman might have committed hardly amounted to a case of "minor self-defense". Thus in a radical decision in 1953 (its radicalism will become shinningly apparent when compared with later cases) the Court decided that a woman's illegitimate pregnancy did not constitute an "unrightful act" within the meaning of Article 98, and accordingly refused to grant the accused a reduction of penalty. In another decision, reported in a vague and ambiguous way, the Court decided:

The shameless behavior of the victim is not considered an unrightful act for the purposes of article 93 [the historical origin of Article 98 before the Penal Code of 1960 was passed], and cannot be seen as calling for a reduction of the penalty, unless the act of killing occurred while the defendant was in a state of surprise at seeing one of his female un-lawfuls in an un-lawful bed

Second, the JCC used³ to treat Article 93 (now 98) as a general provision and Article 333 (now Article 340) as specific. In other words, the Court argued that killings of honor are specific crimes and consequently only the specific criminal provisions dealing with issues of honor killings can be applied to them. When there is a specific provision, the Court argued, you cannot apply a general one, because the specific constricts the general.

In 1964, however, the Court's resistance starts to break down and it reverses its previous position. In that year it arrived at a decision that overturned its previous position by conceding the applicability of Article 98 to killings of honor, thus paving the way to a body of Court decisions that have defined the parameters of the crime of honor until our present day. In one case the Court argued that:

Article 340/2 of the Penal Code provides for a reduction of penalty in a specific case which is that of the defendant catching one of his ascendants, descendants or sisters in an un-lawful bed. While Article 98 is more general, the defendant benefits from a reduction if he has committed his crime in a fit of fury caused by the victim's unrightful and somewhat dangerous act.

³ This starts to become apparent in the above-quoted decision of 1954.

Contrary to its previous position of adhering to the general vs. particular distinction in addressing these crimes, the JCC came to treat Article 98 applied to killings of honor as *complementary* to Article 340, so that if the rigorous conditions laid down by the latter did not apply to a certain case, the court would revert to Article 98 to “save” the defendant. It would do so by latching on to the element of fury always present in honor killings. What used to be a distinction between an assault on the person of the defendant calling for applying Art 98 and an assault on the honor of the defendant calling for Applying Article 340 is now collapsed: the assault on honor is equivalent to an assault on the person.

If the defendant learnt that his daughter had committed adultery at the moment that he killed her, then he is considered to have killed her in a fit of fury caused by the act that she had committed. Her act constitutes an unrightful attack on the defendant’s honor and it is dangerous within the meaning of article 98 of the Penal Code.

The JCC’s clear rejection of what were previously its two most prominent arguments against applying Article 98 is best exemplified by its decision of 1975:

The fact that the Code provides for a reduction of penalty in a specific provision does not mean that the court cannot apply the general provisions of the Code such as Articles 97, 98, as well. The general rules are applied when the specific rules don’t apply to the particular case. The victim’s act of adultery is a material act that touches the defendant’s honor and that is why it is not a violation of the law to grant him a reduction of penalty.

Once the court made the move to apply Article 98 to crimes of honor, we find that its decisions in the aftermath of this radical reversal are preoccupied with addressing three issues:

Firstly, the nature of the act committed by the woman, i.e., does it amount to an unrightful act against the honor of the family?

The victim’s illegitimate pregnancy constitutes an unrightful assault on the family’s honor, an act of extreme dangerous nature according to our society’s traditions. Therefore, the defendant benefits from a reduction of the penalty if he killed his daughter in a fit of fury according to Article 98.

Secondly, the issue of time, i.e., how much time had passed between the defendant’s knowledge of the victim’s unrightful act and the killing?

If the defendant killed his sister the minute he found her, two days after he had learnt that she was caught committing adultery with another, then the killing was done in a fit of fury caused by the victim's unrightful and dangerous act.

The fact that the defendant killed his sister one day after he became certain that the rumors surrounding her illegitimate pregnancy were true, is not sufficient evidence that he committed premeditated murder, since this period is not enough for him to regain his sensibilities and calm down.

Thirdly, the defendant's knowledge of the victim's act.

The fact that the defendant killed the victim after hearing *rumors* that she had committed adultery, does not allow him to benefit from a reduction of penalty according to Article 98, because the victim cannot be said to have committed an unrightful and dangerous act.

If the defendant heard of a *rumor* that his sister had committed adultery and consequently asked her and was confirmed, then killed her immediately, Article 98 applies to him.

The Jordanian case shows how Article 340, the directly applicable provision to honor killings, or "the particular provision", was marginalized by the court and replaced with Article 98 "the general provision" which deals with crimes committed in a fit of fury (self-defense). The historical moment in which Article 340 was displaced to the benefit of Article 98 can be seen as the JCC's adoption of an attitude that tolerated honor killings by expanding the sphere of circumstances under which defendants can benefit from the excuse of reduction. Determining the exact boundaries of this sphere hinged on the way the Court chose to address the three issues enumerated above (victim's act, passage of time, defendant's knowledge) in its application of Article 98. In so far as I can tell, there does not seem to be a pattern in the court's decisions providing us with a clear sense of the boundaries between what would be tolerated and what would not.

I will now move on to review the decisions of the Egyptian Court of Cassation from 1960 till 1987, and the decisions of the Syrian Court of Cassation from 1957 till 1982, and see how they compare with the situation in Jordan.

2. The Egyptian Court of Cassation

As I indicated above, Egypt has one of the more “liberal” provisions dealing with honor killings. What I mean by “liberal” is that the beneficiaries of the excuse (reduction not exemption) are limited to the husband, and the excuse is available to him only in the situation of finding his wife committing adultery *flagrante delicto*. In other words, it is a strict provision that limits severely the pool of beneficiaries and the occasion that warrants such an excuse. Its strictness is reminiscent of the concept of a crime of “passion” rather than of “honor”.

Article 237 of the Egyptian penal Code No. 58, 1937, states:

He who catches his wife committing adultery and kills her and her partner instantly, is punished by prison instead of the penalties provided for in Articles 234, 236.

From a comparative point of view, two things are striking about the Egyptian regulation of “honor” killings: first, the limited application of the Egyptian Article 237 (only in the case of “wife”) compared with the Jordanian one (unlawful/ascendants/descendants). Second, the Egyptian Code does not have a “provocation rule” i.e., the equivalent of Article 98 of the Jordanian Penal Code. Commenting on this issue, an Egyptian jurist writes:

It is noteworthy to mention that the Egyptian legislature did not consider “provocation” as a general excuse. There are specific excuses limited to a specific number of crimes such as the excuse granted to the husband who catches his wife committing adultery *flagrante delicto* under Article 237. This excuse is only a specific kind of provocation rule.

Because the Egyptian Code doesn’t have its own general rule on provocation, the position of the Egyptian courts is not distributed between the rule on provocation and the rule that deals with *flagrante delicto* (Article 237) such was the case with the Jordanian ones. Rather, the residue of cases of honor killings that Article 237, with its strict application, does not cover are dealt with by the courts as cases inviting the judge’s “sympathy”. One example would be the court’s resort to the “extenuating circumstances” consideration provided for in Article 17:

In crimes requiring the sympathy of the court, the judge can replace the penalty in the following way, in place of capital punishment, permanent or temporary hard labor, etc.

Taking “extenuating circumstances” into consideration is left totally to the discretion of the court of fact, and it is up to this court to take it into account for the benefit of the accused even if he didn’t plead for it. The Egyptian Court of Cassation (the ECC) has no jurisdiction over the matter (a court of law) so that an appeal for considering the extenuating circumstances cannot be cause for an action before the ECC

In one case the ECC decided that

Since the defendant did not kill his wife upon catching her *flagrante delicto* committing adultery, rather he had heard rumors about the fact, returned to his village, entered his house and finding a strange man’s clothes in his house, he became furious and killed both his wife and mother-in-law, Article 237 did not apply. This is so because legal excuses are an exception that cannot be analogized to.

In this case, the ECC rejected the defendant’s appeal for “mercy” holding that mercy was solely within the jurisdiction of the lower court of fact.

In another case, a man, who had discovered that his unmarried daughter was not a virgin and killed her instantly in a fit of fury, argued that he was suffering from a temporary loss of sanity according to Article 62 of the Penal Code at the time of the crime. The defendant was trying to use this Article in place of the rule of provocation that was unavailable to him. The ECC rejected this argument:

According to Article 62, the excuse of exemption is granted only to he who loses... choice due to loss of sanity or a defect in his thinking... and since the defendant was merely in a state of excitement and was provoked to commit the act then he could not be said to have been suffering from insanity.....in cases of provocation only a discretionary judicial excuse of reduction is available to the defendant which is totally up to the court of fact over which the Court of Cassation has no jurisdiction whatsoever

The above cases reveal that in the Egyptian case, honor killings that cannot be accommodated within the strict sphere of application of article 237 are typically left to the discretion of the lower courts of fact as cases requiring the sympathy of the judge under Article 17 (extenuating circumstances). As we have no access to the decisions made by these courts (they are not published) it is hard to tell which cases win these courts’ sympathy and which do not. In other words, it is not clear to us how the boundaries of these

crimes are being delimited by the Egyptian lower courts and how differentiation between the cases is being carried out.

3. The Syrian Court of Cassation

The Syrian Penal Code no. 148 of 1949 has in its article 548 (as modified in the Legislative Decree No. 85 on 28 September 1953) the locus of crimes of honor. The Article states:

1. He who catches his wife or one of his ascendants, descendants or sister committing adultery (*flagrante delicto*) or illegitimate sexual acts with another and he killed or injured one or both of them benefits from an exemption of penalty (an absolute excuse).
2. He who catches his wife or one of his ascendants, descendants or sister in a “suspicious” state with another (*attitude equivoque*) benefits from a reduction of penalty.

Article 548 has its historical legal source in the Lebanese Penal Code (Article 562) which it adopts almost word for word. Both articles, the Lebanese and the Syrian, are themselves adaptations of the French Article (see above), the primary historical legal source of the Lebanese Penal Code (Law No. 340, 1943).

In addition to Article 548, the Syrian Code has its own provocation rule, Article 242 (unlike the Egyptian one), which is almost the same as that of the Jordanian Code (Article 98, see above). But what is peculiar about the Syrian Code (a peculiarity that it shares with the Lebanese one) is that it makes provision for what is called the “honorable motive rule”. Article 192 states:

Once the judge recognizes that the motive was clear he will apply the following sentences: life sentence instead of pain of death, life sentence or fifteen-year imprisonment instead of life with hard labor.

It is important to note, that this is not the “extenuating circumstances” rule that exists in the Egyptian Code (as well as the Jordanian one), and which the Syrian Code itself has in Article 243. The Syrian Article 243 provides:

If it falls under the extenuating circumstances, then the court will apply a sentence of 12-20 year imprisonment instead of life with hard labor. The time of hard labor shall not be less than 10 years.

If one were to compare the penalties provided for in the “honorable motive” rule with the one provided for in the “extenuating circumstances” rule, it is hard to tell which is more beneficial to the defendant.

In sum, we see that a defendant in Syria charged with committing a crime of honor has a pool of rules that could be applied to his case (a) Article 548 and (b) Article 192 (the honorable motive rule), (c) Article 243 (the extenuating circumstances rule) and (d) Article 242 (the provocation rule).

If we look at the Syrian cases closely, we see that in the Syrian situation the locus of the struggle is not the relationship between the provisions that directly regulates the crime of honor and the provocation rule, as was the case with the Jordanian courts. It is as if it is taken for granted by the Syrian courts that if the requirements of the direct provision do not prevail, the judge should look to other provisions and there is a whole pool of them. The choice between direct provision versus provocation rule does not come up in court cases in Syria, indeed, the struggle seems to have been displaced to the relationship between the provocation rule and the honorable motive rule. It is an important struggle given the difference in the reduction of penalty between the two: under the provocation rule the reduction is much more significant. In the cases decided in 1957, 1958, 1965, 1966 and 1982 we see the Court insisting on applying the honorable motive rule and refusing to apply the provocation one. In effect it insisted on the harsher penalty. These were all cases where the requirements of Article 548 were not satisfied. However, in a case decided in 1964, and one decided in 1970, the Court seems to have applied the provocation rule instead of the honorable motive one.

In contrast to the Jordanian story of resistance and then, at a particular historical moment, surrender, there doesn't seem to be a historical moment at which the Syrian courts shifted their position from applying one provision (one harsher on the defendant) to applying another (leaner on the defendant). The Syrian Court of Cassation (SCC) seems to vacillate from one position to the other, though ultimately leaning, in the majority of the cases, in the direction of the honorable motive rule (harsher on the defendant).

One can characterize the Syrian courts as manifesting a stronger desire than the Jordanian ones to penalize the offenders, since penalty provided for in the honorable motive rule is greater than that of the provocation rule. Nonetheless, they do share with the Jordanian court the desire to “reconstitute” the crime of honor, by circumventing the application of Article

548. In other words, if the rigid requirements of Article 548 were intended by the codifiers to de-legitimize certain honor killings (for instance, those based on the pregnancy of the victim), the Syrian courts have chosen to thwart that attempt by invoking other readily available provisions to partially legitimize them. So the “story” of the Syrian judiciary is one of an attempt to re-legitimize traditional honor, but only in a relative sense since in cases where censure is found deserving they tend to choose the harshest penalties available in the pool of alternative provisions.

In conclusion, what seems to unite the practice of the judiciary in the three countries of Jordan, Egypt and Syrian is the tendency to introduce other criminal provisions when presented with a killing of honor. In doing so, they seem to mock the nationalist codifiers, who had drafted honor killing provisions that carefully calibrated a balance between passion and honor and struck, what they thought, was a careful balance between the two. The ability of the judiciary to create alternative legal frameworks to interpret honor killings is a statement on the instability of the nationalist regulatory system based on the idea of balancing acts. But what is even more noteworthy is that this subversive practice by the judiciary is going in one direction rather than the other. In other words, they seem to be using their ingenuity to reintroduce the idea of traditional honor, rather than pushing the system to be passion-based. As we have seen, both ideas are inherent in the nationalist compromise. The fact that the judiciary has a tendency to push in one direction (honor) than the other (passion) highlights its own relative cultural conservatism.

One must, however, at the same time note the judiciary’s own ambivalence towards honor killings and its own uniquely crafted attempt to strike yet another balance of its own different from the legislative one. Though the Syrian judiciary, for instance, opts to apply to honorable motive rule in lieu of the direct provision, it nevertheless permits the lower court the power to introduce the extenuating circumstances rule. In other words, though the judiciary reintroduces the idea of traditional honor, it does not do it completely or wholeheartedly. Its practice remains constrained and limited. The nationalist balance seems to have been displaced, through judicial practice, by another balance, equally vulnerable and unstable. This should not surprise us, since the judiciary shares with the codifiers the essential nationalist ideology of striking a balance between tradition and modernity.

B. WOMEN AND THE FAMILY IN THE IDEOLOGY OF THE NATIONALIST ELITE

The post-colonial Arab nationalist elites sought to produce a new (national, post-independence) woman: she is literate and educated in the nationalist curriculum designed by her government at the dawn of independence. She is even, in many cases, employed. Education, and to a lesser degree, employment, quickly became not only respectable undertakings for this woman, but also socially expected. Education was meant to groom her, to refine her with modernity. What *she must never* be is her mother: illiterate, ignorant of the external world and secluded. But just as she was not to resemble her mother, she should also equally resist becoming simply a “Western woman”. Education was meant to help her become a better wife and mother, to enhance and modernize her femininity, not jeopardize it. There must not be, at any point, confusion in her mind, as to her essential difference from men. Though educated, the new woman must not lose sight of the fact that her education is not meant to rob her of her true place, the home. Work and the external world are for men, family and the spiritual world of the home are for her. Through education she raises happier and healthier children, and she is refined to be publicly presentable in the company of her husband. If and when she is employed, she should relegate her employment to a secondary position. Family comes first; everything else is marginal to that.

Through this arrangement, nationalist ideology accomplishes a double feat: on the one hand the new Arab woman is modernized, on the other, the family, the main asset of the nation and the vessel of its national/cultural spirit, is preserved.

How does this nationalist project fit with the earlier analysis of this paper on the performance of gender by Arab women and men? The construction of the new woman had the effect of displacing the previous boundaries of the physical and the social hymens that women used to perform. In the new nationalist context, women begin to look and behave differently, wear Western clothes in contrast to the veiled/”scarved” look of their mothers, mix with their husbands’ friends, and they can leave the confines of the home and gain a noticeable presence on the streets of the cities. The new boundaries, constructed by the nationalist project, however, are no less culturally determinate than the previous ones. The boundaries may have changed, but “fixed” boundaries they remain, or so the nationalists hoped.

The nationalist post-independence moment required, then, of men and women, new gender performances. A new list of licenses and prohibitions came to take shape, slowly and painfully, to accommodate the emergence of the new woman (for example, the new middle-class man does not experience a diminution of his maleness if his sister discussed her course work with a male university colleague). From the “bosom” of traditional patriarchy, a new nationalist patriarchy was created.

The move was not a totally peaceful one. Indeed, expectedly some men find themselves recalling traditional patriarchy with wistful nostalgia. It is generational, of course, with the younger having a more tenuous connection with the older patriarchy than the preceding one. However, these moments of nostalgia could produce erratic and unpredictable incidents of violence: the same new man who does not object to his sister discussing her course work with a university male colleague, may very well threaten to kill her for honor if he saw them having coffee together, interacting joyously in a public place. One might say that these occasional incidents of violence are the way nationalist patriarchy keeps its new list of licenses and prohibitions well-recited and precise. The moment the balance of the “modern Arab woman” is pushed too hard in the direction of “Westernized sexuality”, it is met with the threat of violence. This is the type of violence, the Arab judiciary seems to condone.

C. CONCLUSION

While in general the different nationalist codifiers in the Arab world were engaged in striking a balance between passion and honor, the specific compromise that each country chose is, in all likelihood, simply the function of the eclecticism of the nationalist codifier. The different solutions are, to a great extent, superficial ones. The nationalist balancing system proved to be unstable. Through its attempts to reconstitute traditional honor by effectively dismissing the internal structure of the codified excuse and by creatively attempting to legitimize certain crimes, the judiciary highlights in its practice the superficiality of the nationalist choice.

The nationalist state policies aimed at producing the “modern Arab woman” proved to be also inherently unstable. To modernize women in the nationalist style failed, as I show below, to preclude those erotic and amorous

practices that recall in the minds of many that terrifying thing:” Western sexuality”.

The question that arises now is why is it that the judiciary tends to react conservatively by reconstituting a more traditional version of honor? What is it that they are attempting to address? In the following section I argue that although the members of the judiciary are themselves nationalist and accede to the nationalist project of modernizing women and the family, they are nevertheless faced with the task of remedying the tendency of the nationalist policies to run amuck. The nationalist project, I argue, has had the effect of producing new sexual types and sexual practices that can be seen as both products of the new system but also resistant actors and acts to and within it. These sexual types and practices are the nationalists’ nightmare: they are the products of the nationalists’ own policies, yet ones that nationalist ideology consciously rejects. Unleashing periodic private violence against these types, through the condemnation of the Arab judiciary, is essential to keep these types and practices in check. This then appears to be the new social function of crimes of honor. Rather than representing an attempt to reconstitute traditional society, they are a response to emergent sexual types and practices in the nationalist social regime. This, in turn, explains the judiciary’s attempt to reintroduce traditional honor but only in a limited way. I say limited because judges consciously reject the reinstatement of traditional society. Rather, they are simply engaged in sending cultural messages that subversive sexual practices are not to be tolerated.

III. A SEXUAL TYPOLOGY OF ARAB WOMEN UNDER NATIONALIST PATRIARCHY

In this section I attempt the task of developing a (sexual) typology of Arab women under nationalist patriarchy. I do so by fleshing out the different relationships that different women have come to have and engage with the most popular Arab female dance, the belly-dance, otherwise known in the Arab world as *sharqi*, *baladi*, or *raqs ‘arabi*. In many ways this dance is one of the very few socially legitimate venues, through which modern Arab women express themselves sexually in public. Belly-dancing is widely viewed as a very erotic art especially when performed by professional dancers. However, when performed by Arab women across the classes, the eroticism associated with the dance is continuously re-negotiated, teased out, or, in rare occasions, flaunted.

There are two sides to the belly-dance that one must keep in mind. First, it is a *social* activity, particularly among women in their own segregated social gatherings (parties, weddings, celebrations). Second, it is an *artistic* activity, performed by professional dancers in nightclubs, restaurants, theatres and films. The costume that the belly-dancer wears is very sexy, reinforcing the dance's eroticism, heavy shaking of the hips and the breasts.

Historically, only professional dancers performed the belly-dance in public, i.e., before a male audience. These women typically came from socially marginalized groups: gypsies, minorities, and the poor. Though their performance was sought after, notably by men of all classes, they were nevertheless seen as disreputable and loose – whorish. Very few of these dancers managed to achieve high and respectable social status in their art, some found patrons and providers in rich men, merchants, pashas, kings and sultans.

The situation remains very much the same today: most dancers are seen as socially disreputable and only a few are regarded as artists. Instead of performing on the streets and at the doors of coffee shops and hotels as they did in the past, they now perform in theatres, nightclubs and restaurants. The dance has come to bear a nationalist mark, seen as an *Arab* dance, sought after by foreigners and tourists visiting the Arab world.

As a social practice, however, Arab women have always danced and continue to do so. In the past it was always a private activity performed only in the company of other women. Typically, each woman would step into the middle of the circle and take her turn at dancing, while other women surrounded her clapping their hands and ululating in encouragement. In that setting there was no distinction between performer and spectator: everybody danced, often two or more women danced together, or to each other. Frequently, these performances turned into “bride-choosing” occasions, whereby one woman would report to her son the dancing of a girl that she liked, soliciting in her description his desire for a partner.

An important historical moment took place when these very women started performing before a male audience. The change is virtually simultaneous with the intervention of the nationalist text. The public space progressively ceased to be segregated, with women's education and employment, and social gatherings (mostly familial in the extended sense) coming to include men and women in a desegregated space. I contend that

this was an important moment in the history of Arab women's sexuality that had allowed women, through the belly-dance, to communicate erotically with their male voyeurs. There was no longer a mediator (the mother) who described the dancing girl to the son; the son is now present in person getting his firsthand visual experience. The woman seduces him through her dance, and may very well find herself approached and wooed by the man without a third party. Here, the woman parodies the belly-dancer as the publicly seductive female. By assuming some of the dancer's sexual powers, she captures the heart of her male spectators and solicits their requests to the respectable end of marriage. These mixed celebratory gatherings remain to this day bride-choosing occasions.

But even with the introduction of the nationalist social project, women found that they still needed to do a public performance of virginity. But what the nationalist change achieved was an alteration of the parameters of this performance. In the prenationalist context, spacial segregation signified and assured virginity. Women were simply kept out of men's way, and on the streets they tended to be conservatively clothed. There was hardly any legitimized public interaction between the sexes, and if any exchange occurred between a man and a woman (outside commercial transactions), and the community got wind of it, it would be treated as suspicious.

Granting women education on a mass level, and then later on employment, constituted a serious bombardment of male space. Verbal daily exchange between the sexes came to be tolerated and seen (often grudgingly) as inevitable. Virginity had to "catch up", so to speak, and the gendered actors started to develop a new code of behavior (and dress) that could accommodate interaction between them, and yet also provide a convincing (and necessarily novel) performance of women's virginity. This new behavioral code was particularly tricky to enact given the ambiguity and complexity of the new situation. Some women chose to wear very conservative clothes, were very serious and brief in their exchanges with men, made sure not to be seen alone with them outside the work context, and developed elaborate techniques of fending off potential "behavioral trespasses" by men. Others were a bit more relaxed, allowing a certain shy sexiness in their attire, were slightly flirtatious, friendly, and even playful with men. The ambiguity of the new code of behavior and the constant negotiation of its rules by its gendered actors generated a rich and "confused" institution of gossip. Determining the rules of the sexual code governing the interaction

of men with women in the workplace remains to this day a mystifying task that escapes the grasp of the people involved.

In belly-dancing, there is also the ambiguity and the confusion. Women's performance of belly-dancing in the desegregated public space of social gatherings and celebrations resembles to a large degree women's work in a desegregated workplace. As I indicated above, through belly-dancing women came to communicate with men sexually without the mediation of a third party as was the case in the past. Determining a code of dancing that allows a performance of virginity, given the erotic "stuff" that belly-dancing is made of, is by no means an easy task. And yet, if anything, it testifies to the deep change that the performance of virginity had undergone: from the almost complete shunning of any sexual expression within the confines of the traditional society, to an ambivalent cultural acceptance of such expression in the context of the nationalist social regime,

Repeating the old rituals of belly-dancing within women's gatherings, women still dance with and to each other in the new desegregated public place. However, now their consciousness is besieged with an awareness of the male gaze. It is a gaze that itself is very ambivalent. It appreciates and condemns. It wants to be seduced, yet is harshly judgmental of the propriety of the dancer. Whereas the appreciative gaze of the male voyeur drives women to be more seductive, the judgmental one pushes them to be reserved in their movements. Keeping the balance might be a hard thing to do, but most women have mastered, unconsciously, the act of "walking a tightrope". Women's success in this "acrobatic" act is evidenced by the fact that these party/wedding gatherings are today rich match-making occasions.

Let us begin by calling these women the "sexy virgin(s)". One indication of their lurking virginity is that these women seem to be quite unaware of their sexiness. Virginal sexuality is a unique sexuality that colors the woman's fantasies, relationship to her body and erotic responses in general. There is a certain sexual girlishness and naiveté associated with the state of being a virgin. It makes it difficult for the woman to fully comprehend the extent and nature of her sexualization by the male voyeur. If men's sexual fantasies about the dancing sexy virgin were revealed to her, she would react with embarrassment, shock and shame. Her virginal understanding of men's appreciative gaze is otherwise interpreted by her as an appreciation of her "beauty", "attractiveness" and "cuteness". In no way is she capable of

indulging herself in the complex, “terrifying” world of the male, virgin-buy-default sexuality.

The other striking thing about virginal sexuality is that it has a tendency to turn inward. In other words, the sexual desire for the other seems to transcend itself, in the sexy virgin, and turn into deep narcissism. These same women, who appear not to be fully aware of their sexual powers over men, are at the same time simply in love with their looks. Always adorned with nice clothes, jewelry and heavy make-up, and deeply conscious of how they look, these women continuously exchange admiring looks with each other and have the tendency to develop an obsessive relationship with the mirror. They are much more at home with their reflection in the mirror than with the male gaze, an experience that resonates with the old days of the traditional society where the male space and the female space were segregated.

The violence of the honor universe has serious disciplinary effect on the sexy virgin. She is unwilling to take risks that would make her a potential victim of a crime of honor. She is the virgin of the traditional society who is utilizing the sexual space opened by the nationalist project.

At this point, I wish to introduce the class factor into my analysis in an attempt to explain the second sexual type in my typology: that of the “virgin of love”. In the upper classes of Arab society, belly-dancing as a collective dance has suffered somewhat a diminution of value. Though upper-class folks still invite belly-dancers to celebrate their son’s weddings, the actual practice of belly-dancing among upper-class women has diminished dramatically. So much so that most of these women harbor a certain feeling of contempt for the dance and the people who perform it. The progressive Westernization of this class meant the devaluation of Arab cultural arts such as Arabic music and belly-dancing. Belly-dancing came to be seen by these women as a dance performed professionally by vulgar women, and socially by “common” women.

The contempt these women hold for belly-dancing deprives them of the pleasure of publicly communicating with men at weddings and social gatherings in a sexual way. As they sit in their seats watching other women dance, they experience mixed feelings best described as “envious contempt”. Often, these women are what I have previously referred as the virgins of love. They believe in love and might even commit the revolutionary act of engaging in underground sex with their lovers (mostly precluding coitus, and mostly

with lovers who had spent a long time courting them first), but they remain contemptuous of any public expression of sexuality. Their virginity manifests itself not in their private lives but in their public ones. Whereas the sexy virgin engages in acts of seduction in her belly-dance to attract a potential suitor and is afraid of engaging in the underground secret life of “sexual love”, the virgin of love rejects public acts of sexual attraction and remains glued to her seat: pure, awaiting the fall of love from the sky. The first engages in public sexy acts that she does not have full comprehension of, a statement of her virginal sexual consciousness, while the second engages in secret subversive acts of sex with the man she is madly in love with and dismisses public sexual expression as vulgar, a statement on her own virginal sexual consciousness. The sexy virgin and the virgin of love both reveal the ways in which virginity survives, albeit transformed, in the nationalist context. .

The virgin of love takes more risks than the sexy virgin. Utilizing the mobility and social space that her upper-class environment allows her, she is able to conduct a sexual life, limited though it might be to the underground. Armed with a rhetorical arsenal on love and romance that she developed for herself to justify her conduct; this woman is relatively willing to challenge the codes of conduct of the universe of honor. This is further reinforced by a sense of distance from the practice of the crime of honor which women of the upper classes have. Only women of lower social background are subjected to the threat of this practice.

The third sexual type in my typology is the “coquette”. In a way this woman is an anomaly in Arab culture, and somewhat inexplicable. But she is there, and she has been allowed to exist. Usually this woman is married or divorced. She is flirtatious to various degrees, consciously sexy with men, and appears to the male gaze to be the most skilful in exploiting the eroticism inherent in the belly-dance. In fact, this woman, upper-class or not, is invariably enamored with the dance. She performs it most artistically and is freer in shaking her hips while she keeps an inviting and seductive look on her face. Most of the time she dances in the company of her husband (or brother) giving her a certain social protection from the label of “slut”. This woman is unusually friendly, free, dynamic, and very funny. She cracks jokes continuously, particularly sexual ones, often in the company of men. She is tolerated by her audience because she is married, a fact that explains her sexual savvy. The coquette is deeply desired by men; while being adored, envied and hated by women, often at the same time. Sexy virgins watch her

with shock and glittering eyes. Virgins of love watch her with contempt and resentment. She is a figure to be both instructed by and to avoid. Women's ambivalence towards her is explained by their desire to learn from her, since she seems to enact a style of behavior they were forced to taboo. At the same time she seems to smack so much of the slut they have so much repressed in themselves. That is why they both want her company and run away from her. Her ability to rescue herself socially, as the flirtatious wife of so-and-so (and not the slut) never fails to deeply impress them. Her coquettishness does not seem to particularly doom her socially, though it does doom her husband. He is seen as a wimp, unable to satisfy or contain his wife's sexuality.

The coquette usually plays the role of matchmaker. Her easy access to male company, through flirtation, and women's deep desire to emulate her, gives her leeway in the worlds of both men and women. She matches men and women up for marriage and is considered, given her sexiness and flirtatiousness, as most sophisticated in her understanding of both sexes. Men's sexual desire for her is transferred, in instances of match-making, to the woman she introduces to them. If they can't have her, well then, they will have the woman she recommends, secretly hoping of course that this woman had received some sexual tips from the coquette.

The subversiveness of the coquette's presence in any social setting is not to be underestimated. You see her on the dance floor freely shaking her body, trying to teach other women "how to do it". Her friendly and flirtatious behavior with men can become contagious, giving courage to the women in her company to cross boundaries they never considered crossing before. She is the closest to the artistic figure of the belly-dancer: sexy, flirtatious, sought-after, admired, but secretly suspected of being loose. But as with the belly-dancer, she gives virginal women glimpses of the uncensored world of sex.

The coquette is, relatively speaking, a risk-taker. Her sexual conduct is allowed to exist because of her rather "hung" status. Her family sees her as the responsibility of her husband, in most cases a man who either behaves like or is perceived as a "cuckold". Her hung status, however, is sometimes resolved unpredictably, when the husband/cuckold decides, all of a sudden, to redeem his honor. The coquette then becomes the victim of a crime of honor.

The fourth sexual type that I would like to introduce at this point is what I call the "GAP girl". This girl is an interesting combination of the coquette and the sexy virgin. She shares with the latter some aspects of her virginal

sexuality and with the former her easy and comfortable access to the world of men. I call her the GAP girl because she comes to the dancing floor dressed in jeans, or slacks, T-shirt and sneakers, or low-heeled shoes. She is the die-hard child whose virginity is the product of a prolonged childhood, one she appears to be determined not to relinquish. The GAP girl looks asexual. She is unlike the sexy virgin in that she is not conscious of sexuality, even in the virginal sense, which would entail a great deal of effort in negotiating one's sexual desires out of fear and shame. However, she is similar to the sexy virgin in that she is totally ignorant of the sexual world of men. Her childish look and body; she typically has short hair and wears no make-up, allows her to have a comfortable and friendly interaction with men that could include a great deal of physical contact. She gets away with it because it is all done in "innocence". They are all her "friends". This girl seems to be the product of the desegregated institutions of leisure, such as youth clubs, sports clubs and the like. In fact, she is often the sporty type.

When this girl goes to the dance floor to dance she is usually with a group of male and female friends. She dances with men with the same ease that she dances with women, treating the dance as more of a sporty and fun activity than an erotic and aesthetic one. When this girl grows older, if and when she decides to, she usually develops into the virgin of love. Her intense familiarity with men makes it difficult for her to become the sexy virgin, given the latter's usual estrangement and distance from the world of men. And her delayed sexuality makes it almost impossible for her to become the sexually sophisticated coquette.

The GAP girl does not have to deal with the idea of a crime of honor. The innocence that she displays and that permeates her consciousness dismisses in the mind of the public and those related to her the prospect of illicit sexual behavior.

The fifth type in my sexual typology I call the "autonomous virgin". This woman is "brainy", serious, and career-oriented. She has spent a great amount of time trying to prove to everybody, especially men, that she is both intelligent and competent. She is contemptuous of any sexual expression on the part of women fearing that it would reinforce the idea that women are sexy dolls and empty-headed. She is formal and proper in her dealings with male colleagues, dresses very conservatively and wears no make-up. She avoids casual and non-substantive conversations with men. This woman is

interested in attracting a marriage partner, but only through the traditional venue of the family. That is why she banks a great deal on a reputation for respectability.

The autonomous virgin does not even consider approaching the dance floor. Not out of contempt for the belly-dance, but out of belief that the desegregation of the social space between men and women should only include the respectable institutions of the workplace and education. Erotic communication between the sexes is, to her, outrageous and ought to be banned. In many ways this woman is the old traditional virgin who once lived in the segregated female space, but who is now wearing a suit and going out to work or to get a degree. Though she shares with the virgin of love the contempt for sexual expression, she is similar to the sexy virgin in her refusal to engage in underground love and in seeking a marriage partner through the traditional means of the family. The autonomous virgin is not at risk of a crime of honor simply because she is one of its advocates. Believing in the propriety of honor ethics, she avoids to the best of her ability all kinds of shameless behavior. For her, honorableness in sexual conduct is a moral good.

The sixth type in my typology is that of the “slut”. This woman has the sexual history of the virgin of love. She is one who had engaged in underground sexual practices with one or two men she was madly in love with, but had since dropped the romantic consciousness associated with that type. Her underground life seems to have taught her two precious lessons: one concerning her own sexuality, the other concerning that of men. She had come to like, savor and appreciate sex; she had become nuanced and sophisticated in her understanding of her own sexuality. She had also come to know a great deal about men, shrugging off in the process her fear and apprehension of their sexual world. She is very much like the coquette, except that she is not married and is consciously out there to seduce a potential sexual partner. She is consciously sexy, seductive, and has a knack for sexual experimentation. Her shameless burgeoning sexuality blurs the concept of sexual ethics for her, unlike the sexy virgin (traditional ethics: sex within marriage), or the virgin in love (romantic ethics: sex with the loved one). She could be polygamous, involved with married men, other women, and so on. When this woman takes to the dance floor she is as sexually sophisticated in her dance as the coquette, doing all the “right” moves and body gestures. She is often much more inviting in her dance than the coquette, utilizing to the best of her ability the erotic “stuff” that the belly-dance is made of.

The last type in my typology is the “tease”. This woman is an odd combination of the slut and the virgin. She shares with the slut her sexual savvy, but only through hearsay. In other words this woman is sexually sophisticated, though she has not engaged in underground sexuality. She is usually upper-class and Westernized, which explains the richness and diversity of her sources of sexual knowledge (a temporary life in the West as a student, movies, books, magazines, parties). All this knowledge she uses to seduce, play, flirt and tease men. But like the sexy virgin she insists on remaining a virgin, holding to the social wisdom that preserving her virginity will get her a good marriage and a reputation for respectability. She is hardly naïve or estranged from the world of men (and in that respect she departs radically from the sexy virgin). Her knowledge of the art of sexual seduction is sophisticated and learned. Her interaction with men is erotic, suggestive, inviting and playful. But it stops there. The exact opposite of the virgin of love, who keeps the public rituals of virginity, but engages in private in underground sexuality, the tease behaves publicly like a slut, but remains privately a virgin. She is the virgin slut who is attempting to be loyal to the last vestiges of virginity: the actual physical hymen.

The sexual types that I have explored above are ideal types. The same woman can shift from one type to the other given the context, or have a combination of features associated with different types. Most women have a sexual history that covers more than one type. It is also important to state that women are not necessarily self-conscious about the type of sexuality they embody, and I suspect that many women would strongly resist my typology, preferring to understand themselves in much more reductive and simplistic terms that the types allow.

For the most part, the women embodying the above sexual types are unmarried (except for the coquette). A very significant thing happens to Arab women when they marry: they almost always immediately become mothers. Motherhood seems to have a serious transformative effect on the different sexual types of women, so that, for instance, the narcissism of the sexy virgin is seriously curbed and she starts to develop a more careless disheveled look. The GAP girl loses her lithe girlish body and starts to look more like an older, asexual woman. Whereas the autonomous virgin sustains her asexuality through balancing her double burdens of working and motherhood, the virgin of love, usually upper-class joins the cult of motherhood and drops all her girlish romantic baggage.

IV. A SEXUAL TYPOLOGY OF ARAB MEN UNDER NATIONALIST PATRIARCHY

In this section I would like to offer a sexual typology of Arab men in the context of nationalist social regime. When I refer to Arab men as virgins by default, I mean that the system of honor does not command them to be virginal, rather it made it very hard for them to be otherwise. This, of course, was due to the inaccessibility of women, who themselves were commanded to be virginal.

The first thing that should be acknowledged here is that while being a virgin by command is different from being a virgin by default, the two have a great deal in common. Though the literature is rife with discussions of the virginity of Arab women, the virginity of Arab men is hardly mentioned. I would like to stress this point because I believe that both men and women suffer under the yoke of virginity and the culture of honor and that it is experienced as hardship by men no less than by women. Of course there is no threat to the life of the man if he violates the code of honor. However, that might not prove to be such a great consolation to him as he proceeds to negotiate his sexuality within the not-so-peaceful and often violent structure of honor.

With the intervention of the nationalist project and the accompanying desegregation of the gendered social space, the state of being a virgin by default underwent a certain transformation, without being totally abolished. The basic elements that constitute this state still survive today in a very complex and novel way, shaping the various sexual types of Arab men.

In the traditional prenationalist context, a virgin by default engaged in all kinds of underground sexual practices that were open to him socially, accepted though not openly condoned. This man attained a great deal of his sexual pleasures on the streets (harassment), visiting prostitutes, watching belly-dancers, practicing masturbation, and homosexuality and so on. And yet this same man was very much a virgin (in fact the majority of men seem to have been virgins when they were married) sharing with the female virgin certain aspects of virginal sexuality. These aspects include a sense of estrangement from the other sex, shyness and embarrassment in their presence. Arabic literature and cinema are full of stories of men who could not have sex with their newly wed wives on their wedding night, this being their first sexual experience conducted in the context of a hyped-up social celebration with a great deal of expectations put on the man.

The sexuality of being a virgin by default included two other aspects that might, at first, look paradoxical. On the one hand, there was a strong predatory impulse in the virgin by default. Seeing himself as deprived of sexual pleasures due to the fierce patriarchal fences that surround his objects of desire (in his world women are guarded and threatened with violence by their fathers and brothers for veering from the honor code), this man behaved like a predator whose biggest challenge is to secretively break those fences and obtain access to other men's women. The predator saw women as conquests he could congratulate himself for: they were hard-won victories as far as he was concerned.

But on the other hand, paradoxically enough, this man was also deeply interested in (and feels strongly about) preserving other women's virginity. It is not that he had been terrorized into this position, though that might have been true, but that he very much felt that he had an investment in the institution of virginity. The virgin/whore dichotomy was something he strongly believed in. These contradictory impulses that the predator virgin by default experienced could conceivably have put him in a situation where, having with hard work attained access to his object of desire, he chose not to "blemish" her by having sex with her. In other words, he may very well have voluntarily chosen not to consummate his predatory project.

The desegregation of the gendered social space and the arrival of romantic love on the scene following the nationalist intervention created new sexual types of men who look like the natural "children" of the virgin by default. These types retain aspects of the sexuality of the virgin by default, but those aspects are now present in a looser and rather disintegrated way, i.e., they no longer coexist in a tight embrace producing only one type (the virgin by default), rather, they have decomposed from their source of origin, each aspect producing a type in itself.

The first type in my sexual typology and the one that is most prevalent in the nationalist social regime is that of the "predator". This new predator looks very much like the older one. His life is a sexual pursuit of the new nationalist virgin (recall that according to the above analysis women are now ambivalently virginal as opposed to unequivocally so as they were in the traditional context). However, the modern predator has a much more exciting life than his predecessor: his pool of potential conquests is infinitely bigger. This man is out actively pursuing sexy virgins in the hope of turning them into

virgins of love, as well as already converted virgins of love. He sweet-talks them into joining him in some sort of underground sexual practice in the name of love, leading them to imagine this might ultimately take them to marriage. Life has never been so good for the predator, his list of conquests never so long. He seduces and runs away. He is charming, seductive, slick and a great romance conversationalist.

Usually his success in seduction and predation makes him very suspicious of women and leery of their claim of an honorable sexual past. When this man marries, it is almost never out of love. He seeks the sexy virgin or the autonomous virgin through the traditional venue of the family when he marries, imagining to himself that he had secured a “clean and safe woman who had no experience with sophisticated deceitful predators like himself”. This man usually continues his predatory pursuits shortly after marriage.

The second type is that of the “romantic virgin by default”. This man is deeply unconventional in Arab culture in that he insists on establishing an intimate romantic relationship with the woman he intends to marry. In his more extreme forms he holds deep contempt for the predator whom he sees as an abuser of women’s feelings. For him, love and sex are intertwined and inseparable whether as an underground practice or within the institution of marriage. Equally, he entertains deep contempt for the traditional familiar ways of marriage, seeing them as backward. He varies in his attitude towards women’s virginity. He could either feel strongly about his loved one’s virginity, seeing it as a sign of her honorability, or be totally nihilistic about it. His romanticism could push him to put his loved one on a pedestal, treating her as a romantic object of his fantasies rather than a sexual one. He could also choose to preserve his loved one’s virginity out of a feeling of protection: he does not want to be the cause of her social damnation. There is always a project of marriage in the romantic life of this type of man as the “natural” culmination of his love.

This is the new “feminized” Arab man. The cultural production of this type of man is creating a kind of crisis in the social understanding of masculinity. He tends to be gentle, soft-spoken, and fastidious in his looks, clothes and haircut. The fact that he allows himself to be vulnerable to the agonies, anguish and yearnings of love, greatly challenges the macho image that a man should project: heartless, purposeful, conquering, and a triumphant survivor of the lures of women. Both he and the predator are narcissistic and

conscious of their looks, except that the latter uses it for the purpose of his conquests, lending him the look of the new modern macho man. The narcissism of the romantic, on the other hand, makes him look more like a castrated man.

It is important to point out that a great many men lead a sexual life balanced on the border between the life of the predator and that of the romantic virgin by default. Though they see themselves as occasionally vulnerable to the woes of love, they nevertheless, for the most part lead the life of the predator. In doing so, they seize the opportunity for sexual practice whenever it presents itself which would otherwise be difficult to attain, given the fact that they are living in a world that is full of virgins. For them, predation is sexual opportunity.

The third type in my typology is that of the “virginal virgin by default”. This man is the inheritor of the virginal sexuality associated with the old traditional virgin by default. He is very much like a female virgin. His “proper” traditional upbringing had precluded him from pursuing underground sexual practices, or any predatory behavior for that matter, only to leave him in the uncomfortable position of being an absolute male virgin (that is, he has had no sexual experience with women what so-ever). As much as he might covet it, he finds himself, due o his virginal sexuality, simply unqualified to become either the predator or the romantic virgin by default.

Like a female virgin, he is shy, embarrassed and totally estranged from the world of the opposite sex. His intense discomfort in their presence and his sense of deep insecurity paralyze him and make it impossible for him to communicate with women erotically. He has neither the sense of comfort and ease that the romantic seems to have in the company of women, nor the self-confident conquering approach of the predator. This man senses himself stuck and unqualified for the new modern desegregated life of the nationalist text.

He shares with the old virgin by default the romantic culture of segregated love. He tends to suffer continuous crushes on women, most of whom he had never even spoken to. Love for him is a fantastical fixation on an object of desire that he experiences as unattainable. The predator and the romantic, sometimes his own friends, feel pity for him and the continuously offer him advice on how to summon his courage and approach to his object of fixation. This man entertains mixed feelings towards women. They are

mysterious to him, confusing, puzzling, desirable, but equally feared. They frustrate him, and he feels hatred and resentment towards them for making him feel so helpless.

But he also resents the predator and the romantic, not only for their success with women, but because they make it increasingly difficult for the likes of him to approach women. Their existence is a continuous reminder to him that women are, as a matter of fact, “wooable” and therefore attainable, but only in accordance with rituals and practices that these men themselves have created: rituals that he feels incapable of enacting. He is ashamed to resort to the familial venue to procure him a wife (which he ultimately in desperation and frustrations does) because it is an indication to his more skilful peers that he has failed to romantically seduce a woman.

His resentment is further increased by the fact that he feels that women themselves are rather contemptuous of him for his sexual and social inadequacies. To them, he is not a particularly attractive man or type to be associated with: he is shy, immature, a child. Though they might be impressed with his propriety, they do not find it a particularly inviting trait.

The fourth in my typology is that of the “virgin by default tease”. This man has inherited the traditional virgin by default’s deep respect for women’s virginity, a state he regards as necessary and before which he stands with a sense of awe that he cannot help. But he is neither virginal nor particularly romantic. In fact, he is quite predatory in his sexuality. Oddly and paradoxically enough, this man loves to attract women, and the more the better. He behaves very much like the predator: he dresses nicely, he is gentle, charming, slick and very seductive, and sweet-talks women into his trap. But he is not interested in enjoying the potential pleasures made accessible by his successful conquests, and in this he is different from the predator. Having gained the satisfaction of knowing that the woman has fallen into his trap (she is in love with him or interested in having an underground relationship with him), he swiftly disappears and refuses to pursue the sexual opportunities presented to him. He refuses, because he simply believes that women should be kept respectable and virginal, and their willingness to have a relationship with him would inevitably tarnish them. The erotic pleasures of the tease are derived from his own acts of seduction and conquests, consisting merely of making women cling to and become attached to him.

This man is a predator *manqué*, with a sexuality that lies somewhere between that of the predator and that of the romantic. He could easily become a romantic because his interest in women's respectability makes him very susceptible to their feelings. In other words, for him women are not merely objects to be seduced as for the predator, they are also people with feelings, a view that he shares with the romantic. The tease might easily, therefore, fall in love with one of his conquests and end up marrying her. Or, it is equally plausible that he might use the traditional venue of the family to get for himself a sexy virgin, or an autonomous virgin to marry.

The fifth type in my typology is the "self-interested virgin by default". This man is a combination of the traditional virgin by default and the new nationalist one. On the one hand, he believes strongly that women should remain virginal and feels secure in a world where he is assured of this fact. Yet, on the other hand, he feels seduced by the nationalist modern image of a man coupled with a woman who is educated, employed and looks modern. In many ways, he is like the autonomous virgin, in that he also approves of the desegregation of gendered space only in education and employment, and not in the erotic sexual arena. His attraction to modernity also pushes him to participate in the culture of love because it is more modern.

The contradictory aspects of his sexuality (traditional and modern) are not particularly hard to reconcile. What he does in the end to attain a modern "nationalist" marriage is to allow himself to fall in love with a suitable (socially and economically) sexy or autonomous virgin in his family: a cousin, (near or distant), a neighbor, a daughter of friends of him family, a childhood companion. He usually chooses an educated, rather socially sophisticated, and perhaps even employed woman.

This man may very well have the sexual history of a predator, seeing this as a continuation of the underground sexual practice that the traditional virgin by default had always carried out. But he sees his past as only a sexual phase to which he was entitled and which had given him an insight on who is a whore and who is a virgin in his community; those who have responded to his or his friends' seduction are the whores, and those who haven't are the virgins.

Having said all of the above, I feel I can still assert that the desire for regular sex, rather than romance and love, is the primary reason that most Arab men resort to marriage. This is the case because virginity still survives

strongly in Arab culture. The ambiguity that has befallen virginity made the sexual history of many Arab men much more diverse and complicated than that of their predecessors. But the ultimate need to resort to marriage as a means for obtaining frequent and easily accessed sex remains very much the case today.

A. CONCLUSION

In this section, I discussed the ways in which nationalist patriarchy constructed a new modern sexuality. I argued that the nationalist policies allowed for the proliferation of new and elaborate sexual types and practices. While the autonomous virgin represents the nationalist project in its most secure and balanced state, the other different sexual types express the inherent instability of this project. Some of these new practices give the nationalists a glimpse of what happens to their scheme when it is pushed to its logical end. The existence of an underground sexuality, practiced by some of these new types, is a harbinger of the fact that the nationalist project of modernization may be running amuck. These practices push men but, even more importantly, women in the direction of being more “Westernized”. In their underground behavior, they touch the tip of that evil that must at all costs be avoided – Western sexuality. This is why the types are forms of resistance to nationalist patriarchy, even as they are, at the same time, products of it.

In this light, we can perhaps better understand the behavior of the Arab judiciary with its tendency to tolerate certain forms of traditional honor killings. This tolerance aims to pre-empt subversive sexual practices. Unless certain violence is unleashed against them, then they will flourish beyond control and Arab society will slide into the dark pit of Western sexual life, something to be avoided at all costs. Far from attempting to reconstitute traditional society, these judges are simply interested in maintaining the precarious balance struck by the nationalists between tradition and modernity. The cases presented to these judges confront them directly with the inherent instability of a faltering system that needs to be supported. Now we are able to understand that the forms of resistance engaged in by the sexual types are themselves a response to the balance being struck between two types of violence, the private and the official.

We are, however, thus far presented with an empirical situation that undermines this analysis. According to an informal study I had undertaken

regarding crimes of honor in Jordan, it transpired that almost all the victims of these crimes were women who belonged to tribal, peasant or urban working class backgrounds. So how then, do we explain the behavior of the judges when it is not exactly the “slut” who is getting killed, but more likely a peasant woman who had lost her virginity or got pregnant in the context of a sexual act in which she may very well have been victimized? How are the judges, if our analysis is correct, pre-empting the emergence of new sexual types, by condoning the killing of poor traditional women?

There are many possible answers to this question, all speculative. First, judges are simply delivering the cultural message that there is a limit as to what the system will tolerate. The reminder that private violence is still sanctioned in some forms, holds in check sexualities that might otherwise go overboard; secondly, that judges, as members of the ruling male elite, are making a concession to men in the lower classes, so as not to incur the wrath and resentment that will result if the system is pushed toward a liberalization that the conservative working class will not tolerate; thirdly, this second generation of judges is in fact more conservative in sensibility than the early nationalists. Belonging for the greater part to the middle or lower middle classes, products of mass education, these judges share many of the conservative views of working class men about the proper place of women. They are less interested in modernity than the earlier generation for whom it was a priority.

V: CONCLUDING NOTES

The writing of this paper was driven by the feminist impulse that crimes of honor should be abolished in the Arab world through the withdrawal of all forms of legal sanctions for them. As a first step, the construct of crime of passion, already present in Arab criminal Codes, should be reinforced in order to undermine that of honor. I have argued that the move made in some Arab Codes (Egyptian, Algerian) to incorporate the legal construct of passion, as opposed to that of honor (Jordan, Syria, Lebanon), is a “progressive” one. The sphere of passion appears to be much narrower than that of honor: its range of female victims is narrower (wife only); its potential beneficiaries are fewer (husband only); its tolerance for violence is lower (acceptable only as a result of the passionate heat of jealousy); and its penalties are more severe (permitting only reduction rather than exemption).

Arab feminists...