

Feminism AND **ISLAM**

LEGAL AND LITERARY PERSPECTIVES

EDITED BY
MAI YAMANI

WITH
ADDITIONAL EDITORIAL ASSISTANCE
FROM
ANDREW ALLEN

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CRIMES OF HONOUR AND THE CONSTRUCTION OF GENDER IN ARAB SOCIETIES

Lama Abu-Odeh

This article is a discussion of crimes of honour in the Arab world. A paradigmatic example of a crime of honour is the killing of a woman by her father or brother for engaging in, or being suspected of engaging in, sexual practices before or outside marriage. 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 legitimise 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 of honour 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 has gone largely unregulated, practised 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 honour continue to exist to this day and do so on a significant scale, 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, has rendered the concept of sexual honour ambiguous. Their intervention in the legal field, through codification, had the purpose of "modernising" a traditional practice, crimes of honour, by defining the limits of its practice: sanctioning it by penalising the violators in certain cases. The legal move that they made could be seen as a means of "containing" the practice of crimes of honour.

The mushrooming of diverse sexual types, for example, the sexy virgin, the virgin of love and the slut (see below) and of sexual practices among women and men are a response to the interaction between social violence and its regulation by means of state violence. There is an added complexity resulting from the fact that the judicial practice through the Arab world of judging incidents of honour has served a double function: trying to contain the practice of the crimes, whilst attempting to co-opt the emergence of new subversive sexual types.

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, and the resistant sexual types being a response to the balance between the two types of violence, social and official.

If indeed the demand to completely abolish crimes of honour 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 honour 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 has seemed to prevent the full development of the concept of a crime of passion in these two respective countries is judicial practice which has used alternative legal means to reintroduce the idea of a crime of honour.

I. What is a Crime of Honour?

"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, realising 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.

But her mother would not help. Instead, she held her struggling daughter down as Zein began stabbing Tina in the chest with a seven inch boning knife. "No, please!" Tina cried.

"Shut up!" Her mother shouted.

"No! No!" Tina shrieked.

"Die! Die quickly! 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!"

The Legal Codification of Crimes of Honour

The locus of crimes of honour 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:

- i) He who catches his wife, or one of his female unlawfully committing adultery with another, and he kills, wounds, or injures one or both of them, is exempt from any penalty.
- ii) He who catches his wife, or one of his female ascendants or descendants or sisters with another in an unlawful 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 honour". These two sources are the Ottoman Penal Code of 1858 and the French Penal Code of 1810.²

Article 324 in the French Penal Code³ (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 de 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 a surpris son conjoint, son ascendante, sa descendante ou sa sœur avec un tiers dans une attitude équivoque.

Article 188 in the Ottoman Code reads:

He who has seen his wife or any of his female unlawfs with another in a state of "ugly" adultery⁴ and then beat, injured, or killed one or both of them will be exempt from penalty. And he who has seen his wife or one of his female unlawfs with another in an unlawful 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 unlawfs" and that of the "unlawful bed". From the French Code, the Article borrows the expression "ascendante, descendante", and the idea of a reduction of penalty stated in the second section of the Article as "une excuse atténuante".

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 and many European codes as well: Spanish, Portuguese, Italian (abolished in 1979) and as we have seen above, the French until as late as 1975 (abolished by Article 17 of the law no. 617/75 of 1975).⁵

Arab penal codes 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 use is that of reduction, not exemption. While others expand the application of the article to situations of the "unlawful bed" (Jordanian) or "*attitude équivoque*" (Syrian, Lebanese) and use for them the excuse of reduction and exemption for the 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 used this terminology in the second section of the Article and used the Ottoman expression in the first section (wife or female unlawfs). This expands the beneficiaries to a considerable degree since a female unlawful includes every woman that the man cannot marry either for blood, marriage (in-law) or nursing reasons, which makes the disparity between the first and second section of the article quite significant and almost mysterious. The Iraqi Code used an expression similar to that of the first section of the Jordanian Article, "his wife or one of his female unlawfs" to cover both cases of adultery and "one bed". The Egyptian, Kuwaiti and Tunisian Codes limit the beneficiaries to that of the husband, and the Libyan Code to that of the 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.⁶

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 she 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 unlawfs committing adultery or in an unlawful 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 honour, the latter.

Arab Criminal Jurisprudence

Reading Arab criminal jurisprudence that comments on these provisions is an exercise in monotony. Almost all Arab jurists "borrow" the bulk of what they have to say from Egyptian jurisprudence, reproducing what it says, sometimes word for word, and barely commenting on the differences between the code of their own country and that of Egypt.⁷ Not only that, but Arab jurists often use cases decided in Egypt as tools for explaining basic legal concepts, and rarely does one find a given jurist engaging in a discussion of cases decided in his own country.⁸ 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, 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 in any of these publications 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 honour have been judicially addressed in the particular country.

The classical jurisprudential treatment of crimes of honour

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 honour had 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.⁹

No commentator bothers to attack or even examine this rationalisation. The only exception is Laure Mughayzil, a Lebanese lawyer, who bases her critique on the argument that implementing provisions like this has the effect of continuously reproducing a tribal mentality that is inconsistent with "intellectual and social development in Lebanon".¹⁰ 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.¹¹ 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 that the biggest betrayal by her husband that would injure her pride, integrity and honour? And isn't she, after all, human of flesh and blood with feelings that could get hurt too?¹²

After that we are provided with the commentator's elucidation of the three conditions that have to be present for the Article to apply: firstly, the relationship of the accused to the victim (husband, brother, son). Secondly, "Catching the woman committing adultery" which means that two elements are necessary, the surprise element, and the necessity for the woman to be caught red-handed, in flagrante delicto. Lastly, the act of killing has to be immediate and impulsive.

The commentator then proceeds to cite Egyptian decisions on the interpretation of the second condition. For instance, the Egyptian Court of Cassation has 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. The same Court also decided that a wife is caught red-handed when caught by her husband with her underwear placed next to that of her partner, despite the fact that the husband has not witnessed the actual sexual act between them.¹³

About the third condition the commentator tells us that if enough time has passed for the accused to have calmed down then he clearly does not benefit from the excuse. The Egyptian Court of Cassation has decided that if a man catches his wife and her partner committing adultery and he kills him but the wife escapes to her family, and if two hours later he finds her and kills her, then he does not benefit from the excuse. But if, as the court decided in another case, he goes to the kitchen to bring a knife as soon as he sees them, and then uses it to kill them both, then the husband benefits from the excuse.¹⁴

Having done all of the above, the commentator proceeds to discuss the penalty for the crime once the three conditions are met, and the dispute between criminal jurists, usually French, as to whether the reduction of the penalty affects its classification, from felony to misdemeanour.

The practice of different Arab treatise writers of simply repeating the Egyptian commentary, has effectively "fetishised" the Egyptian style of regulating the crime. As a matter of fact, and as we will see later, the Egyptian provision adheres more closely to the idea of passion rather

than that of honour; it limits the beneficiaries to that of husband and only in cases of adultery, granting him merely a reduction. This could hardly be said of all the other codes. The difference is not simply an issue of detail, which seems to be the way the commentators have dealt 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 different countries that reflect policy conflicts.

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 honour on the one end and of pure passion on the other. Then we come to realise that every code that is situated in between the poles is some compromise on either idea (honour/passion) in its pure form. This compromise reflects an attempt 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 get to grips with the ideas of honour and passion. We will take up the idea of honour first. And we will do so by looking at it from an anthropological perspective. The purpose of the discussion is to understand the honour/shame social system that produces the crime of honour. The codes can be seen as a legal intervention in this universe of honour killings. We will see that their intervention takes the form of legitimising certain killings and de-legitimising others. For instance, all codes seem to make the radical move of de-legitimising the paradigmatic model of honour 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 honour-dominated world, then we get a sense of the seriousness of the codes' intervention.

The following section will consider honour relations in what I will call the "traditional text": a description of a society in which honour relations prevail with clarity and predictability. In this society, the transgression of boundaries almost immediately results in a crime of honour. Having identified what this society is like, I will, by way of contrasting

with the social system of honour, 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.

An Anthropological Discussion of Honour in Arab Societies

Virginity as the regulatory practice of gender

Writings about the importance of women's virginity before marriage in the Arab world are not lacking.¹⁵ 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 both assures, guarantees virginity 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.¹⁶ Some honour crimes are known to occur precisely then, when a woman's failing to bleed as a result of penetration to break her hymen, is taken as a failure of the social test. In the scenario that follows 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 during sex on her wedding night.

The discourse on gender and the discourse on virginity in Arab culture criss-cross so intricately 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 honour/shame-based such as the Arab one, demands, under the sanction of social penalty, that the performance of femaleness be "in conjunction with", "inseparable from", "part of" the performance of virginity. Put another way, the disciplinary production of femaleness in Arab culture stylises the body that is called female as virginal. The hymen, in this context, comes to have the double function of being a mark of virginity 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 virginity. When I say, "can bear no such mark", I do not mean biologically, because men do not have a hymen, but culturally, because the culture does not go out of its way to find means of marking 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 sexual activity, 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 more fuzzy the list of actions involved is. Every prohibitive demand she complies with constructs her simultaneously as female and as virgin.

If you want me to count the do's and the don'ts, the list would go on forever. It seems that everything is *aib* (shame) for girls.¹⁷

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 publicised through an elaborate performance for the benefit of the social audience.¹⁸ Thus, the hymen becomes displaced from its biological vessel, the vagina, onto the body as a whole, "hymenising" 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 supposed 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.¹⁹

A crime of honour can occur when any of the above borders are crossed. Killing a woman because she fails to bleed on her wedding night is only one possible scenario for an honour crime. Honour/shame-based heterosexuality usually requires "less" as evidence of failure in performance. In certain rural localities, a woman might suffer the violence

of honour if she is spotted conversing with a man behind a fence, or, in lower-class urban neighbourhoods, if she is seen leaving the car of a strange man. In both these instances, the woman is seen as having "jeopardised" not her vaginal hymen, but her physical and social one. She moved with a body and in a space where she is not supposed to be.²⁰

There are, however, sanctions that support this kind of heterosexuality and that precede the moment of the honour crime to preclude its happening. Through an elaborate system of commands and prohibitions, girls "learn" their 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, such as physical abuse, spacial entrapment, segregation, the institution of gossip and reputation. "Because you are a girl, and people will talk if you do this", is rhetorically how 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 neighbours. The boys remained my companions until I grew up – that is until I was about 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.²¹

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; this means that they are released early in their lives from the burden of the performance of biological virginity. This, however, leaves intact the social demand for their performance of bodily and social virginity.

What it is to be an Arab man

The man who kills his sister to defend his honour, epitomises 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. Thus, they are seen to be in need of male protection and tutelage.²²

Male performance is equally sanctioned by penalties. If a man doesn't intervene by killing his sister once she has shamed him, he suffers a loss of his gender: he is no longer a man (therefore, a wimp, a woman). His performance has suffered a serious failure:²³

The husband (brother, father . . .) is expected to control his wife. To control means being aware of all her activities, knowing when she goes out and comes back, where she goes, and who she meets. The relationship between the husband's masculinity and his control over his wife is made clear by the following . . . The husband who does not control his wife is not respected; he is not considered a real man, for his wife rules him.²⁴

But even before the situation is such that he has to intervene in a dramatic way, he gives licence, supervises, disciplines "his" women's behaviour 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 sister does this."

A male university graduate narrated this incident: "I wanted to propose to a neighbour of mine of whom I was very fond. But I changed my mind when I saw a photo of her and a male neighbour. I wouldn't permit my sister to do this, and I would expect my fiancée to be similarly conservative."²⁵

But 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 (that is, those cemented by other men). As women have internalised the censoring look of men, so have men internalised the censoring look of other men. This has the effect of stylising 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 say "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.²⁶

This being the case, it's always safer therefore, for men to talk to, look at, hold hands with, dance with and to, other men. Gender peace is thus preserved: male space is in that vein stylised.²⁷

However, men quite frequently make implicit deals with each other which have the double effect of, on the one hand, nurturing their brotherly bonds, and, on the other, creating a certain *camaraderie* between them in their hunt for women. The male bond is nurtured when men promise each other, through their behaviour, that their friends' sisters are as *haram* (forbidden) to them as their own sisters. 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 sisters. Having made those deals, always implicitly, with each other, men are allowed to feel trust for each other and a certain *camaraderie* between them is thus created. This *camaraderie* is then exploited for the purposes of trying to "sneak" into the walls cemented by other men, for example men who are not their friends or relatives, or neighbours, or countrymen, depending on the context, and gain some sort of access to their women.

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).

Contrasting Honour with Passion

The discussion above reveals that there is a "relatively uniform value system based on complementary codes of honour and shame"²⁸ that unites Arab societies in the traditional text. The system has roots in the primordial idea of the integration of the individual in the group, where one becomes deeply sensitive to and threatened by public opinion. The index of masculine reputation in this moral universe is women's virginity. Throughout the Arab world, male honour derives from the struggle to retain intact the chastity of the women in the family, and this makes male reputation insecurely dependent upon female sexual conduct. When a man is shamed in this context, through female misbehaviour, he suffers

a negation of his masculinity: he becomes reduced to a female, a castrated man. So that honour 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 honour bond are many: father, brother, son, husband. The first two are probably the most prominent, since female misbehaviour could be remedied by husband through divorce, whereas father and brother are forced to behave in a more dramatic way 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 this relationship 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 have reflected the social intolerance for any female sexual behaviour, seeing it as deeply threatening to men's masculinity, by incorporating the idea of the triple hymenisation, unlawful bed, *attitude équivoque*.

However, the codes in fact fall short of legitimating honour killings as they existed in the traditional text. This they do in two ways: first, by excluding from excuse, whether that of exemption or reduction, two types of honour killings prevalent in the traditional text. 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, are honour crimes that the construction of the codes simply excludes. The exclusion itself is a very radical move by the codifiers that attempts to hit at the heart of the traditional text by barring such cruel acts.²⁹ Second, the internal construction of the excuse in these codes is inconsistent with the idea of an honour killing. As we have seen above, looking at the commentaries, all codes require "surprise", *flagrante delicto*, and that the woman be killed immediately. Presumably, in a purely honour-dominated world none of these considerations would hold. A woman can commit a dishonourable act, that is reported through gossip to her family male members, who then meet to deliberate and decide to kill her. The killing would still be seen as one of honour. The bifurcation between reduction and exemption in the codes that adopt a distinction between adultery and unlawful bed, *attitude équivoque*, is foreign to the traditional world of honour. In that world, both cases would be excused; and the parties made beneficiaries in the codes fall short of those included by the traditional honour killings. If we take the "unlawfuls"

as the paradigmatic model of the beneficiaries in this case, then we find that all codes exclude some or other members of the unlawfuls from their list, including even the Jordanian, which excludes them from the case of "unlawful 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 honour world. To what, then, can we attribute these departures in the codes from the idea of traditional honour, this exercise of partial de-legitimation? There appears to be, as indicated above, a rival conception also inherent in the codes, which also determines when it is legitimate for men to kill women. This rival conception is that of "passion".

To the idea of honour, we can now contrast that of passion. We come to see it, accordingly, as a private relationship between a man and a woman, as opposed to a collective one that involves several men related to the woman, who are deeply engaged in defending the public image of their masculinity. In the model of passion, female sexuality is not "fetishised" as the locus of reputation, but seen more as a libidinal goal and the locus of complicated human emotions. Thus the passion relationship is reduced to two people who are sexually involved with each other (man and wife), for whom the sexual misbehaviour 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) who will benefit from a reduction when they catch the other *flagrante delicto* committing adultery. Under this model the concept of triple hymenisation is irrelevant.

But even here, the passion model is not allowed to dominate. Each 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 from its list of beneficiaries (lovers are, after all, 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 honour, are influenced by the ideal of passion. The Jordanian code demands the "passion" requirements of in *flagrante delicto*, surprise, and immediacy in killing, requirements that are not part of the traditional conceptualising of honour.

Conclusion

The different Arab codes that regulate honour killings constitute attempts by the different countries to respond to the private violence of traditional honour. However, this legal intervention effectively promotes a different kind of violence. The form of this violence has inherent in it both the ideas of passion and honour in variable "degrees". For while the intervention seeks to de-legitimise certain honour killings, the most paradigmatic model of non-virginity and pregnancy, it however stops short of substituting honour for passion. By the same token, the codes have incorporated many elements of the crime of passion, namely *flagrante delicto* and immediacy, but they have stopped short of fully adopting the model of passion. What all the codes seem to have in common is a rejection of both pure honour and pure passion.

II. The Nationalist Project

The question that this section attempts to address is the following: where did the spectrum of honour/passion originate from? Is there an explanation for the variety of ways in which the question of honour killing was resolved in the various codes? In other words, why does the Libyan Code, for instance, 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 honour 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 shall argue that the structure of honour-crime regulation in the different codes, based on the idea of selectivity between various conflictual elements, is symptomatic of the modern exercise of wholesale

codification in the newly independent Arab states. In the first and second halves of this century, as different Arab countries gained independence, nationalist elites took over.³⁰

These elites were preoccupied with modernising the institutions of the new states, an important part of which was establishing "the rule of law". To that end, they became engaged in the attempt to pass modern codes regulating different areas of life: commercial codes, criminal codes, civil codes, 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" the multiple activities of state building thus became the mark of the government of the nationalist elites. I will first explain how this was the case in the area of codification. After that, I will talk about the nationalists' policies relating to women and the family, in which similar activities of "balancing" were involved.

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 honour issue. Sanhuri attempted to modernise the civil laws of different Arab countries while at the same time incorporating the *shari'a*.³¹ This must be distinguished from the various choices made by the judiciary.

The Judicial Treatment of Crimes of Honour in the Arab World

The Jordanian Court of Cassation

The locus of the discussion of crimes of honour by Arab jurists is the applicable provision of their criminal code, which they comment upon by borrowing the structure of their ideas from Egyptian jurisprudence. But what is striking about all of this, is that by looking at the actual cases decided in Jordan, for instance, between 1953 and 1982, none of this seems to be relevant to the actual treatment of honour killings, or barely so. (This is also true of the Egyptian and Syrian judicial treatment of crimes of honour, see below.) In the case of Jordan the provision that seems to be actually applied to honour killings is not that of Article 340 with its two sections, but a totally different one (Article 98) provided for

under the general provisions of the penal code (as opposed to the particular ones which deal with specific crimes such as murder, robbery and rape). Article 98 states:

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 apply Article 98 to killings of honour. In fact, between 1953 and 1965 (perhaps even before then, but there is no way of knowing for certain because of the lack of criminal case reporting until then) the JCC resisted this idea strongly. During this period, while there is 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.

Primarily, it denied that the female victim's behaviour, seen by the accused as violating his honour, amounted to the commission of an "unrightful and dangerous act" 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-defence" would justify applying Article 98. The JCC clearly thought that any dishonourable act that the woman might have committed hardly amounted to a case of "minor self-defence". Thus in a radical decision in 1953 (its radicalness will become shiningly 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.³² In another decision, reported in a vague and ambiguous way, the Court decided:

The shameless behaviour 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 unlawfully in an unlawful bed.³³

The other strand of argumentation that the JCC used (which starts to become visible in the above decision of 1954) was to treat Article 93

(now 98) as a general provision and Article 333 (now 340) as specific. In other words, the Court argued that killings of honour are specific crimes and consequently only the specific criminal provisions dealing with issues of honour 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 seems to have suffered a backlash. In that year it arrived at a decision that overturned its previous position by conceding the applicability of Article 98 to killings of honour, thus paving the way to a body of Court decisions that have defined the parameters of the crime of honour 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 unlawful 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.³⁴

Contrary to its previous position the JCC now decided that Article 98 applied to killings of honour as complementary to Article 340, so that if the rigorous conditions laid down by the latter did not apply to a certain case, then the court may go ahead and apply Article 98 by latching on to the element of fury always present in honour crimes. Moreover, the Court decided that what dishonourable act the victim had committed did actually amount to an unrightful act against the defendant (or his honour, the defendant and his honour now being seen by the Court as inseparable).

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 honour and it is dangerous within the meaning of Article 98 of the Penal Code.³⁵

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

The fact that the law has provided for a reduction of penalty in a specific case does not mean that the court cannot apply the general rules provided for in Articles 97, 98, as well. The general rules are applied when the provisions dealing with the specific cases do not. The victim's act of adultery is a material act that touches the defendant's honour and that is why it is not a violation of the law to grant him a reduction of penalty.³⁶

Now that the Court has decided to apply Article 98 to crimes of honour, we find that the decisions are preoccupied with addressing three issues: Firstly, the nature of the act committed by the woman: does it amount to an unrightful act against the honour of the family?

The victim's illegitimate pregnancy constitutes an unrightful aggression on the family's honour, and of a 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 98.³⁷

Secondly, the passage of time 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.³⁸

The fact that the defendant killed his sister one day after he became certain that the rumours 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.³⁹

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

The fact that the defendant killed the victim after hearing rumours 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.⁴⁰

If the defendant heard of a rumour that his sister had committed adultery and consequently asked her and was confirmed, then killed her immediately, Article 98 applies to him.⁴¹

The Jordanian case shows how Article 340, under which one would expect to find crimes of honour treated, is marginalised in the judicial process and made irrelevant by the application of the general provision under Article 98 which deals with crimes committed in a fit of fury. The historical moment in which Article 340 was marginalised to the benefit of Article 98 can be seen as the JCC's adoption of an attitude that tolerates honour killings by expanding the pool of the beneficiaries of the excuse. Determining the exact boundaries of this tolerance hinges on the way the Court has tended to address the three issues enumerated above in its application of Article 98. In so far as I can see, there is no pattern in its decisions which can provide a clear sense of the boundaries between what is tolerated and what is not. How the Court will address a certain issue at any given time is up for grabs.⁴²

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.

The Egyptian Court of Cassation

As I indicated previously, Egypt has one of the more "liberal" provisions dealing with honour 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 "honour".

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

He who catches his wife committing adultery and kills her instantly and her partner, is punished by prison instead of the penalties provided for in Articles 234, 236.⁴³

The limited application of the Egyptian provision is appreciated

when compared with the Jordanian one dealing with honour killings (see above Article 340/1/2). But what is more unique about the Egyptian case is that it does not have a "provocation rule", for example what is equivalent to Article 98 in the Jordanian Penal Code.

Excuses are two kinds: general and specific. The general covers all crimes or most of them, and their example in the Egyptian Penal Code is the case of being a minor (between the ages of 12 and 15) which is considered an excuse for a reduction of penalty (Article 66). It is noteworthy to mention that the Egyptian legislature did not consider "provocation" as a general excuse. And 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.⁴⁴

Because the Egyptian Code doesn't have its own general rule of provocation, we do not find the Egyptian courts interpreting honour killings as existing somewhere between the rule of provocation and Article 237, as is the case in the Jordanian situation. Rather, the residue of cases of honour killings that Article 237, with its strict conditions, does not cover are dealt with by the courts as cases inviting the judge's "mercy", for instance, as cases of "extenuating circumstances" 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 labour.

The issue of the extenuating circumstances is one that 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 . . . and the Court of Cassation has no jurisdiction over the matter so that an appeal for considering the extenuating circumstances cannot be a cause for an action before the Court of Cassation.⁴⁵

In one case⁴⁶ the Court decided that since the defendant did not kill his wife upon catching her *flagrante delicto* committing adultery (rather he had heard rumours and when he went home, after he returned to his village, and found 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 because "legal excuses are an exception that cannot be analogised to". And then the Court rejected the defendant's appeal for "mercy" holding that mercy was solely within the jurisdiction of the lower court of fact.

In another case⁴⁷ a man, who had discovered that his unmarried daughter was not a virgin and killed her instantly in a fit of fury, attempted to argue that he was suffering from a temporary loss of sanity according to Article 62 of the Penal Code when 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 Court rejected this argument on the basis that 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". The Court went on to say that "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 honour killings that cannot be accommodated within the strict sphere of application of Article 237 are being relegated 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 adequate sympathy and which do not and therefore at a loss as to how the boundaries of these crimes are being delimited in these decisions.

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 honour. 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 équivoque*) 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. As such, both articles, the Lebanese and the Syrian ones, are in fact adaptations of the French Article (see above) since it is the historical legal source of the Lebanese Penal Code (Law No. 340, 1943).

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 "honourable motive rule". Article 192 states:

Lorsque le juge reconnaît que le motif était honorable, il appliquera les peines suivantes: au lieu de la peine de mort, la détention perpétuelle; au lieu des travaux forcés à perpétuité, la détention perpétuelle ou à temps pour quinze ans . . .

This is not the "extenuating circumstances" rule that exists in the Egyptian and the Jordanian codes and which the Syrian Code itself has in Article 243. The Syrian Article 243 starts with, "S'il se trouve en la cause des circonstances atténuantes, la cour appliquera au lieu de la peine de mort, la détention à perpétuité ou à temps de douze à vingt ans, au lieu des travaux forcés à perpétuité, les travaux forcés à temps non inférieurs à dix ans . . ." and when seen in comparison with the penalties provided for in the "honourable motive" rule it is hard to tell which is actually more beneficial to the defendant.

Thus we see that an accused charged with committing a crime of honour has a pool of rules that could be applied to him under the Syrian Penal Code: (a) Article 548 and (b) Article 192 (the honourable motive rule), (c) Article 243 (the extenuating circumstances rule) and (d) Article 242 (the provocation rule).

If we look at the Syrian cases closely,⁴⁸ we see that, similar to the Jordanian experience, a story unfolds of resistance and withdrawal by the Syrian judiciary. Except that in the Syrian situation the locus of the struggle is not the relationship between the provision that directly regulates the crime of honour and the provocation rule. This issue does not seem to arise in the Syrian cases; as if it has been taken for granted that

if the requirements of the direct provision do not prevail the judge should look to other provisions. Syrian judges have before them a pool of alternative provisions (the provocation rule, the honourable motive rule, and the extenuating circumstances rule). Because the issue of direct provision versus provocation rule does not come up, the struggle has been displaced to the relationship between the provocation rule and the honourable 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 honourable 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 honourable motive one. In contrast to the Jordanian development, there is no historical moment at which the Syrian shift from one side to the other occurred. The Court vacillates from one position to the other, though ultimately leaning, in the majority of the cases, in the direction of the honourable motive rule.

One can characterise the Syrian courts as manifesting a stronger desire than the Jordanian ones to penalise the offenders, since the punishment attached by the honourable motive rule is greater than that of the provocation rule. Nonetheless, they do share with the Jordanian courts the desire to "reconstitute" the crime of honour in the traditional sense, by circumventing Article 548. In other words, if the rigid requirements of Article 548 were intended by the codifiers to de-legitimise certain honour 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 legitimise them. So the "story" of the Syrian judiciary is one of an attempt to re-legitimise traditional honour, 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.

After considering the judicial treatment of honour killings, I have come to the conclusion that the thing that unites the practice of the judiciary in the three countries of Jordan, Egypt and Syria is the tendency to introduce other criminal provisions when presented with a killing of honour. In doing so, they seem to mock the nationalist codifiers, pretension that a balance between passion and honour had been struck via the particular formulation of the direct provision. The ability of the judiciary to

create alternative interpretations 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 honour, 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 seems to be pushing one way rather than the other, highlights its relative conservatism. One must, however, at the same time note its own ambivalence and attempt to strike yet another balance of its own. Though the Syrian judiciary, for instance, opts to apply the honourable motive rule in lieu of the direct provision, it nevertheless resists applying the provocation rule which would provide significant reductions of penalty. And while the Egyptian Court of Cassation insists on adhering to the strict requirements of the direct provision, it nevertheless permits the lower courts the power to introduce the extenuating circumstances rule. In other words, though the judiciary reintroduces the idea of traditional honour, it does not do it completely or wholeheartedly. Its practice remains constrained and limited. The nationalist balance has 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.

Women and the Family in the Ideology of the Nationalist Elite

The post-colonial nationalist Arab elites have sought to produce a new (national, post-independence) woman: she is literate and educated in the nationalist curriculum designed by the respective Arab governments once her country has attained independence.⁴⁹ She is even, in many cases, employed. Education, and to a lesser degree, employment, have become not only respectable undertakings for this woman, but expected of her as well. Education is meant to groom her by refining her with modernity. At any cost, she must not be like her mother: illiterate, ignorant of the external world and secluded. But just as she is not to resemble her mother, she must also shy away from being anything like Western women. Education is supposed to help her to become a better wife and mother, for example it is meant to enhance (modernise?) her femininity,

not jeopardise it. There must not be, at any point, a confusion over 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 is for men, family and the spiritual world of the home is for her. Through education she raises happier and healthier children, and she is refined in order to be socially presentable with her husband. If and when she is employed, she should relegate her employment to a secondary position. What comes first is family, everything else is marginal to that.

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

What does all this have to do with our earlier analysis of the performance of gender? 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. Women can now look and behave differently, wear Western clothes in contrast to the veiled/ "scarfed" 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, 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 post-independence moment requires, then, of men and women, new gender performances. A new list of licences and prohibitions has been slowly, painfully produced to accommodate the emergence of the new woman. (The new middle-class man does not experience a diminution of his maleness if his sister discusses her course work with a male university colleague.) One could argue that from the "bosom" of traditional patriarchy, a nationalist patriarchy was created.

The move is not a totally peaceful one. Indeed, men often recall traditional patriarchy with wistful nostalgia. It is generational, of course, with the younger having a more tenuous connection with the ancient than the preceding one. However, these moments of nostalgia sometimes 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, might kill her for honour if he saw them having coffee alone together in a public place. One might say that these occasional incidents of violence are the way nationalist patriarchy keeps

its new list of licences and prohibitions well-recited and precise. The moment the balance of the "modern Arab woman" is pushed too hard in the direction of "Westernised sexuality", it is met with violence. This type of violence, the Arab judiciary seems to condone.

Conclusion

While in general the different nationalist codifiers in the Arab world were engaged in striking a balance between passion and honour, 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 has proved to be unstable. Through its attempts to reconstitute traditional honour by effectively dismissing the internal structure of the codified excuse and by creatively attempting to legitimise certain crimes, the judiciary highlights the superficiality of the nationalist choice.

The nationalist state policies aimed at producing the "modern Arab woman" proved equally to be based on an inherently unstable structure. To modernise women in the nationalist manner in no way protects them from the wiles of Westernisation.

The question that arises now is why is it that the judiciary tends to react conservatively by reconstituting a more traditional version of honour? What is it that they are attempting to address? In the following section I will argue that although the members of the judiciary are themselves nationalists and concede to the nationalist project of modernising 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 will argue, has had the effect of producing new sexual types and sexual practices that are both products of the system but also resistant actors 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 condonement 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 honour. Rather than representing an attempt to reconstitute traditional society, they are a response to emergent sexual types and practices. This, in turn, explains the judiciary's attempt to reintroduce

traditional honour but only in a limited way. Limited, because judges consciously reject the reinstitution 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 will do so by fleshing out the different relationships that different women have come to have 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 very few venues, if not the sole one, 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 renegotiated, teased out, or, in rare occasions, even flaunted.

There are two sides to the belly-dance that one must bear in mind. First, that 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 (before a male audience). These women came from the marginalised groups in society: gypsies, minorities, and the poor.³⁰ Though their performance was sought after, notably by men of all classes, they were nevertheless seen as disreputable and loose – whorish. Very few of them achieved a high and respectable social status in their art, or had patrons and providers in rich men, merchants, pashas, kings and sultans.

The situation remains very much the same today: most dancers are seen as loose 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, and sought after by foreigners and tourists visiting the Arab world.³¹

But as a social activity 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, where every woman stepped into the middle of the circle and took 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 occasions turned into a "bride-choosing" activity, where one woman would report to her son the dancing of a girl that she liked, soliciting his desire for a partner.⁵²

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 seated in the same room. I contend that this was an important moment in the history of Arab women's sexuality, that has allowed women, through the belly-dance, to communicate erotically with their male voyeurs. There is no longer a mediator (the mother) who describes the dancing girl to the son; the son himself is now there getting his firsthand visual experience. The girl now seduces through her dance, and is often consequently approached and wooed by the man without a third party. Here, the girl 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.

Even with the intervention of the nationalist text, women still needed to do a public performance of virginity. But what the nationalist change achieved was an alteration of the parameters of this performance. During the time of the traditional text one of the important statements of virginity was the segregation of the female space from the male space. Women were simply kept out of men's way, and on the streets they were clad from top to bottom. There was hardly any legitimised public interaction between the sexes, and if any exchange occurred between a man and a woman, and the community got wind of it, it was treated as a scandal.

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 behaviour (and dress) that could accommodate interaction between them, and yet also provide a convincing (and necessarily novel) statement of women's virginity. This new code of behaviour was very difficult for its actors to carry out without an unconscious sense of the ambiguity and complexity of the new situation. Some women wore very conservative clothes, were very serious and brief in their exchanges with men, made sure not to be seen alone with them outside of the work context, and developed elaborate techniques of fending off potential "behavioural 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 behaviour and the constant negotiation of its rules by its gendered actors has generated a rich and "confused" institution of gossip. Determining the rules of the sexual code governing behaviour between men and women in the workplace remains to this day a mystifying task that escapes the grasp of the people involved.⁵³

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 have come to communicate with men sexually without the mediation of a third party as was the case in the past, usually the man's mother. 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 has undergone: from the almost complete shunning of any sexual expression within the confines of the traditional text, to an ambivalent cultural acceptance of such expression in the nationalist text.

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.⁵⁴ Let us call these women the "sexy virgin(s)".⁵⁵ 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 colours the woman's fantasies, relationship to her body and erotic responses in general. There is a certain sexual girlishness and naïveté associated with the state of being a virgin, that precludes the woman from fully understanding the extent and nature of her sexualisation by the male voyeur. Men's sexual fantasies about the dancing, sexy virgin, if revealed to her, would be met by 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-by-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 virgins, 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, jewellery 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 their mirror. They are much more at home with their reflection in the mirror than with the male gaze, an experience that resonates from the old days of the traditional text where the male space and the female space were segregated.⁵⁶

The violence of the honour universe has serious disciplinary effects on the sexy virgin. She is unwilling to take risks that would make her a potential victim of a crime of honour. She is the virgin of the traditional text who is utilising the sexual space opened up 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 sons' weddings, the actual practice of belly-dancing among upper-class women has decreased dramatically. So much so that most of these women harbour a certain feeling of contempt for the dance and the people who perform it. The reason for this seems to be, partly, the progressive Westernisation of this class, a process which has been accompanied by a devaluation

of Arab cultural arts such as Arabic music and belly-dancing. Belly-dancing has come 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 seems to deprive them of the pleasure of publicly communicating in a sexual way with men at weddings and social gatherings. 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 to 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 a full comprehension of, a statement on 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 in the nationalist text.⁵⁷

The virgin of love takes more risks than the sexy virgin. Utilising 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 has developed for herself to justify her conduct, this woman is willing to relatively challenge the codes of conduct of the universe of honour. This is further reinforced by a sense of distance from the practice of the crime of honour which women of the upper classes have. Only women of lower social backgrounds 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 unexplainable. 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 most skilful in exploiting the eroticism inherent in the belly-dance. In fact, this woman, upper-class or not, is invariably enamoured with this dance. She performs it

most artistically, is freer in shaking her hips, and keeps a seductive, inviting look on her face as she dances. Most of the time she dances in the company of her husband (or brother) which gives 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; 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 both to be 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 behaviour they have been forced to taboo, but 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) has always deeply impressed them. Her coquettishness does not seem to particularly doom her socially, but 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 because of her sexiness and flirtation, 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 has received some sexual tips from the coquette.

The subversiveness of the presence of the coquette 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 behaviour 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 honour. The coquette then becomes the victim of a crime of honour.

The fourth sexual type that I would like to introduce at this point is what I call the "GAP girl".⁵⁸ 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, typically has short hair and wears no make-up, which allows her to have a comfortable and friendly interaction with men that could include a great deal of physical contact. She gets away with this because it's all done in "innocence". They are all her "friends". This girl seems to be the product of the desegregated institutions of leisure, as opposed to educational and vocational ones, such as youth clubs, sports clubs and the like. In fact, she is often the sporty type.⁵⁹

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 more as a sporty, fun activity than an erotic, 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 honour. The innocence that she displays and that permeates her consciousness, dismisses in the minds of the public and those related to her the prospect of illicit sexual behaviour.

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, and is rarely caught laughing or having a light and fun exchange with them. 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.⁶⁰

The autonomous virgin does not even consider approaching the dance floor. Not out of contempt for the belly-dance, but out of the 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 honour simply because she is one of its advocates. Believing in the propriety of the honour ethics, she avoids to the best of her ability all kinds of shameless behaviour. For her, honourableness 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 has engaged in underground sexual practices with one or two men she was madly in love with, but has 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 has come to like, savour and appreciate sex; she has become nuanced and sophisticated in her understanding of her own sexuality. She has 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, utilising to the best of her ability the erotic "stuff" that the belly-dance is made of.⁶¹

The slut is a big risk-taker in the world of honour. Her behaviour exposes her to the dangers of a crime of honour; she is continuously pushing herself to the edge. Though mocking of the honour system, and daringly challenging it, she conducts herself with a combination of risk and caution. Most of her sluttishness is, after all, largely lived in the underground.

The last type in my typology is the "tease". This woman is an odd combination of the slut and the sexy 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 Westernised, 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 naive 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 in private engages 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.⁶²

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 than the types allow.

For the most part, 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 dishevelled 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.⁶³

In general, after marriage, Arab women seem to become more relaxed in the company of men, less self-conscious, and feeling less estranged. Some develop, secretly and among themselves, a cynical attitude about men, as if in experiencing sex they came to comprehend the sexual power they hold over men, which in turn, seemed to undermine the social power that men have always held over them. And some come to participate in a sexual sub-culture that is verbally shared between married women who are either friends or neighbours, one rich with exchanged experiences, jokes, shared tips and mutual advice. It is through the medium of this secretive underground sub-culture that many women come to develop and learn about sexuality. It seems, however, to be open only to married women.

IV. A Sexual Typology of Arab Men Under Nationalist Patriarchy

In this section I would like to develop a sexual typology of Arab men in the nationalist text. When I refer to Arab men as virgins by default, I mean that the system of honour 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 are 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 the structure of honour, 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 honour. 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 honour.

With the intervention of the nationalist text and the desegregation of the gendered social space, the state of being a virgin by default has undergone 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.

The sexuality of being a virgin by default, as was the case in the traditional text, included a subset of social and sexual practices, that could look at first glance paradoxical.⁶⁴ A virgin by default usually engages in all kinds of underground sexual practices that were open to him socially, accepted but not openly condoned. This man attains a great deal of his sexual pleasures on the streets (harassment), visiting prostitutes, watching belly-dancers, practising masturbation, 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 virgin woman 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 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.⁶⁵

The sexuality of being a virgin by default includes two other aspects that might, at first, look paradoxical. On the one hand, there is 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 honour code), this man behaves like a predator whose biggest challenge is to secretly break those fences and obtain access to other men's women. The predator sees women as conquests he can congratulate himself on: they are hard-won victories as far as he is concerned.

But on the other hand, paradoxically enough, this man is also deeply interested in (and feels strongly about) preserving other women's virginity. It is not that he has been terrorised into this position, though that might also be true, but that he very much feels that he has an investment

in the institution of virginity. The virgin/whore dichotomy is something he strongly believes in. These contradictory impulses that the predator virgin by default experiences could conceivably put him in a situation where, having with hard work attained access to his object of desire, he chooses not to "blemish" her by having sex with her. In other words, he might very well voluntarily choose not to consummate his predatory project.

The desegregation of the gendered social space and the arrival of romantic love on the scene in the nationalist text have created new sexual types of men who look like the natural "children" of the virgin by default. These types have retained aspects of the sexuality of the virgin by default, but those aspects are present in a more loose and disintegrated way. These aspects 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 text, is that of the "predator".⁶⁶ This new predator looks very much like the old 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 in the traditionalist text). However, the modern predator has a much more exciting life than his predecessor, his pool of potential conquests 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 tends to be charming, seductive, slick and a great romance conversationalist.

Usually his successes in seduction make him very suspicious of women and leery of their claim of an honourable 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 has 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 has 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 honourability, 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 something that might well result in 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 "feminised" 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.⁶⁷

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, at different points in their lives, lead the life of the predator. In doing so they seize the opportunity of sexual practice 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 has precluded him from pursuing underground sexual practices, or any predatory behaviour, only to leave him in the uncomfortable position of being an absolute male

virgin (that is, he has had no sexual experience with women whatsoever). As much as he might prefer it, he finds himself, due to 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 paralyse 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 has 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 they continuously offer him advice on how to summon his courage and his 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 himself a wife (which he ultimately in desperation and frustration 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, embarrassed, immature, a child. Though they might be impressed with his propriety, they do not find it a particularly inviting trait.

The fourth type in my typology is that of the "teaser virgin by default". This man has inherited the traditional virgin by default's deep

respect for women's virginity, a state which 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, sweet-talks women into his trap, he is gentle, charming, slick and very seductive. 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 teaser are derived from his own acts of seduction and conquests, consisting merely of making women cling and be 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 teaser 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 neighbour, a daughter of friends of his 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 has always carried out. But he sees his past as only a sexual phase to which he was entitled and which has 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.

I call him self-interested because he appropriates the best of both worlds, the traditional and the modern: predation, romance, virginity, and a modern wife. By successfully achieving this combination, the nationalist virgin by default spares himself the pits of sexual ambiguity that have inevitably resulted from the intervention of the nationalist text. Being romantically involved with a modern-looking, but socially monitored female cousin, is an assurance to him that virginity and modernity are not particularly irreconcilable. Boundaries for him, as they were for the traditional virgin by default, remain clear and identifiable.

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 has 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.

Conclusion

In this section, I have discussed the ways in which nationalist patriarchy constructs a new modern sexuality. I have argued that the nationalist policies have allowed 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, practised by some of these new types, is a harbinger of the fact that the nationalist project of modernisation may be running amuck. These practices push men but, even more importantly, women in the direction of being more Westernised. In their underground behaviour, 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 behaviour of the Arab judiciary with its tendency to tolerate certain forms of traditional honour killings. This tendency appears targeted to pre-empt subversive sexual practices. Unless a 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 have undertaken regarding crimes of honour in Jordan, it transpires that almost all the victims of these crimes are women who belong to tribal, peasant or urban working class backgrounds.⁶⁸ So how then, do we explain the behaviour of the judges when it is not exactly the "slut" who is getting killed, but more likely a peasant woman who has lost her virginity or got pregnant in the context of a sexual act in which she may well have been victimised? 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, that 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 liberalisation 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 who obtained law degrees in Arab countries, 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 honour should be abolished in the Arab world through a withdrawal of all forms of legal sanctions available 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 honour. 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 honour (Jordan, Syria, Lebanon), is a "progressive" one. The sphere of passion appears to be much narrower than that of honour: 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 feminist activists have rarely treated the issue of honour crimes as political, and it has therefore been considered unworthy of collective mobilisation. These activists have always found themselves in the impossible situation of having to avoid discussing issues that give the impression that they are advocating sex before marriage. Dogged in their pursuit for an audience in their societies, and feeling already marginalised as feminists, Arab feminists tend to shy away from discussing the issue of honour crimes precisely to avoid giving that impression. Not to mention, of course, the vicious social censorship that precludes discussion of this issue, even in the face of a headstrong attempt. The published programme of a Palestinian feminist group, *al-Fanar*, unique in its attempt to openly call for the abolition of honour crimes, tries to respond to this attack by arguing as follows:

The deliberate misrepresentations of feminism employed by enemies of the women's liberation, such as accusing it of being in favour of

immorality and permissiveness, is nothing other than an attempt at malicious deceit, the purpose of which is to perpetuate the oppression of women and the suppression of women's liberation movement. Our feminism is for freeing society from this kind of deceit, hypocrisy, and collective fraud, which amounts to moral bankruptcy of the existing Arab society.⁶⁹

While this might be true, I do not believe that this approach offers a successful rhetorical argument. "If you abolish crimes of honour, Arab women will become promiscuous", is, I believe, a heartfelt argument, to which Arab feminists need to develop their own rhetorical response.

It seems to me that there is more than one discursive avenue open to Arab feminists as a response. First, it is empirically verifiable that almost all victims are poor urban working-class women or peasant women from communities that are very conservative and traditional. To imagine that condoning the murder of these women albeit half-heartedly, as the Arab judiciary tends to do, will change or control the sexual mores of women, is illusory. Even as these women are being killed, the map of sexual relations between men and women in the Arab world, appears, as a result of the nationalist project, to continue a course of irreversible change, unaffected by these deaths. It is tantamount to sacrificing the lives of poor women in a vain attempt to prop up a rhetorical argument about morality that has no basis in reality.

Second, to argue that Arab women will become slutish like Western women if these crimes are totally abolished is ridiculous, no such promiscuous world really exists.

Third, feminists can use the "schizophrenic" structure of nationalist discourse to argue that the society will never be modernised as long as it continues to engage in prehistoric, primitive social practices such as crimes of honour. Besides, "it just does not look good abroad; it simply promotes the idea that we are savage and primitive."

Fourth, feminists can argue that Arab society should be pushed to make the move from shame culture to guilt culture. The argument would be that "proper" sexual behaviour should be promoted through ethical teachings rather than prohibitive violence; that society achieves its goals more successfully by leaving it to the "conscience" of the individual rather than instilling it through fear. The culture of shame is based on the idea that "if I can get away with it in private and nobody catches me, then that's fine." Guilt culture, on the other hand, assumes that one's internalised sanctions work even when no one is watching.

Fifth, feminists can argue that the desegregation of gendered space has created a sub-culture of romance between the sexes which is eradicable. They could then stress the idea that love is not sex; that it is pure, innocent and based on care, and that it requires an interaction between the sexes that the paranoid idea of honour refuses to accommodate. The argument is that there is nothing sexually dishonouring about romance.

The most powerful argument, I believe, is the initial one: the empirical fact that most of the murdered women are poor women, whose deaths are irrelevant to the sexual mores of a society that is changing irreversibly. The only powerful response to this argument, it seems to me, is the present fundamentalist push for a complete re-segregation of the gendered space. The fundamentalist agenda is an answer to all the complexities, ambiguities, and instabilities of the nationalist project. But as I had argued in a previous article,⁷⁰ the fundamentalist agenda itself is not devoid of its own ambiguities. An important question for the Arab world today is: "what is the meaning of gender when the traditional, nationalist and fundamentalist texts intersect?"

NOTES

- 1 *People Weekly*, 20 January 1992. On 6 November 1989, Zein Isa, an Arab immigrant in the US, stabbed his daughter Tina to death "to defend his honour". We have a record of the events that took place the evening of Tina's death, because the FBI, unknown to the Isas, was bugging the apartment, under the pretext that Zein was suspected of being a member of a "terrorist" organisation. Unfortunately for Tina, no one was listening to the tape at the time of her death.
- 2 The Lebanese Penal Code no. 340 of 1943 is considered the most immediate legal historical source of the Jordanian Penal Code of 1960. See Kamel Said, *The General Principles of Crime in the Jordanian Penal Code* (Amman: Naqabat al-Muhamin, 1981). The Lebanese Code itself has its historical origins in the Ottoman Penal Codes of 1840, 1851, 1858, a series of codes promulgated by the Ottomans in the nineteenth century in an effort to "modernise" their empire. While the first two were primarily based on Islamic Law and local custom, the third was deeply influenced by the French Code of 1810. See Mahmoud Nagib Husni, *Treatise on the Lebanese Code* (Beirut: Matba'at al-Naqari, 1968).
- 3 Emile Garçon, *Code pénal annoté* (Paris: Recueil Sirey, 1952) p. 151.
- 4 The word 'adultery' in this context is a translation of the word *zina* which in Islamic Law refers to illicit sexual relations between men and women whether they were married or not.
- 5 Laure Mughayzil, *al-Mar'a fi al-tashri' al-lubnani* (Women in Lebanese Legislation) (Beirut: Mu'assaset Nawfal, 1985).
- 6 Article 562 of the Lebanese Penal Code, Article 548 of the Syrian Penal Code, Article 237 of the Egyptian Penal Code, Article 153 of the Kuwaiti Penal Code, Article 409 of the Iraqi Penal Code, Article 279 of the Algerian Penal Code, Article 375 of the Libyan Penal Code, Article 207 of the Tunisian Penal Code.
- 7 One possible reason for this phenomenon is that most of these jurists have studied in Egypt which they see as the birthplace of Arab jurisprudence and the place where it was most developed. These Arab jurists seem to have the attitude of the child towards the patriarch (the Egyptian jurist) who should be followed and imitated, rather than critiqued and challenged.
- 8 Indeed, one gets the impression that most of these books were produced for the benefit of the nationals of the author's country. A typical writer does that by the sheer act of copying Egyptian criminal commentaries, a practice that would obtain the national author a Ph.D. in law, thereby qualifying him to become a respectable law professor in his own country.
- 9 See Abdul-Hamid Shawarbi, *On Aggravating and Extenuating Circumstances* (Alexandria: Dar al-Matbu'at al-Jami'yya, 1986), p. 36.
- 10 Mughayzil, *al-Mara'a*, p. 191.
- 11 Her two arguments can, on one reading, be seen as contradictory: For if what concerns her is equality and freedom, then it could be argued that positioning "wives" as equal beneficiaries of these provisions satisfies the requirements of equality. This runs contrary to the spirit of her first argument which calls for abolishing these kinds of provisions for their adverse effects of "reproducing a tribal mentality".

- 12 Shawarbi, *On Aggravating*, p. 37.
- 13 Edward Ghali, *Treatise on the Libyan Penal Code* (Tripoli: Manshourat al-Jam'a al-Libiya, 1971), p. 85, citing the Egyptian Court of Cassation Decision No. 409, 1935.
- 14 Said, *The General Principles*, p. 196.
- 15 See in general Nawal Saadawi, *The Hidden Face of Eve*, trans. and ed. by Sherif Hetata (London: Zed Press, 1980); Leila Abu-Lughod, *Veiled Sentiments: Honor and Piety in a Bedouin Society* (Berkeley: University of California Press, 1986); M. E. Combs-Schilling, *Sacred Performances: Islam, Sexuality and Sacrifice* (New York: Columbia University Press, 1989); David Gilmore (ed.), *Honor and Shame and the Unity of the Mediterranean*, (Washington, D.C.: American Anthropological Association, 1987).
- 16 "If they find blood on the bride's *sarwal* (drawers) they make a quivering noise and dance in the room, the bride's sister dances in the room with the trousers on her head. It is then hung up in the yard so that all people should see the marks of virginity. Should there be no such blood, the bridegroom's family would exclaim, "go away from me, you bitch;" and the bride's father, or in his absence, her brother, would shoot her dead in the room or in the yard, besides which, all the money and presents given would be returned." Combs-Schilling, *Sacred Performances*.
- 17 Sana al-Khayyat, *Honour and Shame: Women in Modern Iraq* (London: Saqi, 1990) p. 33.
- 18 I borrow my construction of virginity as performance from the idea that gender itself is performance in Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity* (New York: Routledge, 1990).
- 19 An interview with a Palestinian woman living in Israel published in *Kol Hair*, 28 June 1991. The performance of public virginity through a stylised body and space also covers the woman's speech. Not only is the woman not supposed to smoke in public or wear a short dress (acts associated with "whorish" behaviour), but she is also expected not to engage in talk that transgresses the code of virginity. Talk about sex in general (except between women in their own private space) is considered to be such a transgression. A woman who talks, hints, insinuates, or jokes about sex in public is seen as having committed a disgraceful act that often invites violent reactions from males in her family. Flirtatious behaviour on the part of the woman is perceived similarly.
- 20 Zein Isa killed his daughter Tina simply because she had been walked home by a male friend a number of times before the night of her death. Isa was an American immigrant who had originally come from a Palestinian village where he grew up most of his life. See the *People Weekly*, 20 January 1992.
- 21 Badran and Cook (eds.), *Opening the Gates: A Century of Arab Feminist Writing* (London: Virago, 1990), p. 4.
- 22 Gilmore, *Honour and Shame*, p. 5.
- 23 "When a man is shamed through an erotic defeat or an equivalent social submission he is symbolically emasculated: his physical integrity is dissolved and he succumbs to the ever-present danger of sexual reversal, or feminization. In a sense, he surrenders his own masculine identity and becomes a woman who is victimized and penetrated." *Ibid.*, p. 6.
- 24 Sawsan el-Messiri, 'Bint el-Balad: Self-Images of Traditional Urban Women in Cairo' in Lois Beck and Nikki Keddie (eds.), *Women in the Muslim World* (Cambridge, Mass.: Harvard University Press, 1978).

- 25 *Ibid.*, p. 721.
- 26 "Successful claims on a woman entail domination of other men, both from the point of view of the husband who jealously guards his wife, and of the adulterer who shows himself to be more powerful than the husband." Gilmore, *Honour and Shame*, p. 5.
- 27 One of the most powerful instances of the stylisation of Arab male space, that I have been privy to, happened one day as I was watching a group of men dancing in a Middle Eastern restaurant. Though both men and women occupied the dancing floor, it was immediately clear to any onlooker that women danced with women, mostly in couples, and so did the men. A group of five men danced in a circle. A man occupied the centre of the circle and was shaking his hips doing the belly-dance. Other men were clapping for him and cheering. The men's eyes met frequently, and they would dance to each other, now and then, subverting the attention from the man in the middle. A woman tried to enter the centre of the circle and replace the man shaking his hips and do the belly-dance herself. Every time she did, the circle broke down leaving her dancing alone, as the men recircled again repeating what they had been doing before, without her. She repeated her attempt twice and the same thing happened.
The men in the circle looked self-satisfied. By having a man in the middle belly-dancing, they already had in him the woman that they needed (in a world where women dance with women and men with men). When a real woman intervened and tried to occupy his space, the men instinctively rejected her, since the way in which their public space has been stylised leaves no place for her. Thus, the circle broke down and the men recircled without her.
- 28 Gilmore, *Honour and Shame*, p. 2.
- 29 This is supported in Jordan by the practice of the police who instruct gynaecologists to inform them if they are presented with a case in which the family of a woman wants to verify whether she is a virgin (this was communicated to me in an interview with the Criminal D.A. in Amman). The police in this case arrive at the scene and try to marry the woman to the man who she claims has caused her loss of virginity. Similarly, gynaecologists perform operations called 'hymenorraphy' in which they reconstruct the hymen after it is broken (I have arrived at this knowledge through a series of interviews with Jordanian gynaecologists who prefer to remain unnamed). These practices support the intention of the codes in that they seek to delegitimise traditional honour killings.
- 30 What I mean by the nationalist elites or the nationalists, is the ruling group with whatever pronounced political label, be it FLN, Ba'th, Arab Nationalist, Royalist, Marxist, who took over the government of the nearly-independent states of the Arab world. I call them "nationalists" in the broad sense, for two reasons: first, they all shared "the sentiment/ideology" that Arabs constitute one nation, and the ideal that the Arab world should be united. Second, they were nationalist in the sense that the task they undertook of modernising the institutions of the state, started the historically irreversible process of imprinting on the consciousness of the population of their own particular state a sentiment/ideology of local nationalism. Through government curricula, media, institutional indoctrination, the people of Algeria started to see themselves as Algerians, of Jordan as Jordanians, of Lebanon as Lebanese... etc. This is despite the simultaneously running belief that "we are all Arab" that everybody seemed to share.
- 31 Unfortunately space does not allow a full treatment of Sanhuri here.
- 32 Cassation Criminal 53/53, p. 578, 1953.

- 33 Cassation Criminal 8/53, p. 263, 1954.
- 34 Cassation Criminal 59/64, p. 1036, 1964.
- 35 Cassation Criminal 5/67, p. 221, 1967.
- 36 Cassation Criminal 30/75, p. 1021, 1975.
- 37 Cassation Criminal 11/78, p. 458, 1978.
- 38 Cassation Criminal 19/68, p. 494, 1968.
- 39 Cassation Criminal 58/73, p. 849, 1973.
- 40 Cassation Criminal 90/81, p. 1770, 1981.
- 41 Cassation Criminal 88/70, p. 962, 1970.
- 42 The ratio of honour crimes to all other killings committed in Jordan (according to Jordanian police records) was 33.3% in 1986, 26.5% in 1987, 30.3% in 1988, 32.2% in 1989, 26.2% in 1990, 31.5% in 1991.
- 43 Article 234 deals with the crime of killing somebody "with intent but without premeditation", punishable by permanent or temporary hard labour. Article 236 deals with the crime of unintentionally killing somebody by intending to "only harm or injure them", punishable by temporary hard labour or imprisonment from three to seven years.
- 44 Rauf Ubaid, *The General Rules of the Egyptian Penal Legislation* (Cairo: Matba'at al-Nahda, 1964), p. 863.
- 45 *Ibid.*, p. 864.
- 46 Appeal No. 615 of the Judicial year 46, 1967.
- 47 Appeal No. 71 of the Judicial year 42, 1972.
- 48 Due to lack of space I will not be able to provide a detailed exposition of the Syrian cases I had looked into (from 1957 to 1982). I will, therefore, limit myself to a commentary on the following cases: Cassation Criminal 264, dec. 408, 1957; Cassation Criminal 144, dec. 158, 1958; Cassation Criminal 358, 1963; Cassation Criminal 487, 1964; Cassation Criminal 291, 1965; Cassation Criminal 402, 1965; Cassation Criminal 443, 1966; Cassation Criminal dec. 6, 1970; Cassation 451, December 627, 1982.
- 49 The nationalists borrow their construction of the "modern woman" from writings by Arab renaissance writers and their disciples who believed in some form of Arab nationalism or even Islamic nationalism. Some of those who wrote on women were Butros al-Bustani, 'The Education of Women' [Arabic] in Fuad Afram al-Bustani (ed.), *The Teacher Butros al-Bustani* (Beirut, 1929); Rifa'a Tahtawi, *Guiding Truths for Girls and Youths* [Arabic] (Cairo, 1873); Qasim Amin, *The Liberation of Women* [Arabic] (Cairo, 1899) and *The New Woman* [Arabic] (Cairo, 1901); Tahir Haddad, *Our Woman in Religion and Society* [Arabic] (Tunis, 1930); Salama Musa, *The Woman is not a Man's Toy* [Arabic] (Cairo: Salama Musa lil-Nashr wal-Tawzi', 1953). The general idea in these writings was that women should be educated since this will turn them into an asset for the nation, through their roles as mothers who bring up good sons.
- 50 For my discussion of belly-dancing I have relied on Wendy Buonaventura, *Serpent of the Nile: Women and dance in the Arab world* (London: Saqi, 1989), a unique text that attempts to provide a history of belly-dancing and to theorize it both as an art form and as a social practice. On pp. 39-53, the writer discusses the role played by gypsy, minority and poor women in the Middle East in preserving and developing the dance throughout the ages. This, they did in a social environment that was fiercely ambivalent towards their art, and at certain times openly hostile and violently censoring.

- 51 Under the title 'Cabarets and Clubs', Buonaventura shows that despite the lurking cultural ambivalence towards the dance, belly-dancers have succeeded in turning their dance into an art performed in respectable and sought-after places. Dancers have even become, as in the case of Egypt, a nationalist feature of the country in which they perform, so that the Egyptian government frequently sends dancers as its representatives to perform in other countries and attract tourists.
- 52 *Ibid.*, p. 159.
- 53 For an excellent discussion of the confusion in the code of sexual behaviour that had accompanied the desegregation of the workplace, see Elizabeth Warnock Fernea, *Women and the Family in the Middle East* (Austin: University of Texas, 1985).
- 54 I must say that the sight of these women dancing has often made me feel very nervous. The belly-dancer's "shameless" shaking of the hips and breasts, her lewd immodest erotic movements turn, at the hands of these women, into girlish bashful embarrassed gestures that invite boredom, impatience and restlessness in me as a female voyeur who is enamored with the belly-dance.
- 55 For my sexual typology of Arab women I have relied on several modern Arab novels, interviews I have personally conducted, as well as my own observations of men and women in my life. The novels include: Sahar Khalifah, *Memoirs of an Unrealistic Woman* (Beirut: Dar al-Adab, 1986) and *The Sunflower*; Jabra Ibrahim Jabra, *In Search of Walid Massoud* (Beirut: Dar al-Adab, 1978.) and *The Ship* (Washington DC: Three Continents Press, 1985); Hoda Barakat, *The Stone of Laughter* (Reading: Garnet Publishing, 1995); Ghadah Samman, *Beirut 75* (Beirut: Manshourat Ghada Samman, 1975); Rachid Boujadra, *al-Inkar* (Algiers: al-Mou'assasa al-Wataniyya lil-Kitab, 1984); Ibrahim Aslan, *Malek al-hazin* (Cairo: Cairo Publications, 1993); and Ghassan Kanafani, *And What is Left to You?* (Beirut: Dar Tali'at al-Tiba'ah wal-Nashr, 1977) I have also found very helpful a number of interviews with Lebanese women talking about their sexual lives published in Bouthaina Shaaban, *Both Right- and Left-Handed: Arab Women Talk about their Lives* (London: Women's Press, 1988).
- 56 This situation produces a particular anomaly which is that the consumption by the "sexy virgin" of Western fashion does not necessarily mean that she is aware of the sexual messages that are delivered with this kind of garb, themselves a cultural creation of Western sexuality.
- 57 The virgin of love, often upper class, has the self-image of being a modern woman, which in her mind means belief in romantic love as the only legitimate basis for partnership between the sexes. Her belief, in a social environment that stresses to various degrees the importance of the traditional venues of marriage, could be very radical and subversive.
- 58 This is a reference to the GAP chain store, which sells clothes that are signified by their yuppie practicality (that is, fancy jeans and T-shirts).
- 59 It is important to bear in mind that the sexuality associated with virginity has its deep infantilising effect on its subjects, the GAP girl being a sexual type that is the natural product of this aspect.
- 60 Women who work as civil servants best exemplify this kind of sexuality. Also professional women: lawyers, engineers, doctors, and women who work in academia.
- 61 The slut, as exemplary of fully conscious sexuality is a unique and highly subversive type in Arab culture. Her equivalent in the West should be the thirty-year-old woman who preserved her virginity in protestation against the sexual culture of her own society.

- 62 This type exists in the younger generation (presently in their teens and early twenties) of the upper and upper-middle classes. They could be called the post-colonial, post-modern Madonna generation.
- 63 For an excellent representation of the life of the sexy virgin turn virgin of love turn mother, see an interview with a Lebanese woman in Shaaban, *Both Right- and Left-Handed*, pp. 116–22.
- 64 For a brilliant literary representation of male sexuality in the traditional text, see the novel entitled *al-Inkar* by the Algerian writer Rachid Boujadra, 1969.
- 65 This is best captured in a film entitled 'Wedding in Galilee' by the Palestinian director Michel Khalifeh, 1987.
- 66 For an interesting discussion of the modern predator, see an interview with Egyptian college students published in *Hurriyyati*, an Egyptian weekly, 1 November 1992. The title of the interview is 'This Man I Reject, and the Reason: His Superficiality'.
- 67 See (in Arabic) *The Letters of Ghassan Kanafani to Ghadah Samman* (Beirut: Dar al-Tali'ah, 1992). The publication of the love letters sent by the late Palestinian writer Kanafani to the Syrian writer Samman caused a furore in the Arab world among writers and non-writers alike. Kanafani, a much admired nationalist writer, came out in these letters as the "castrated" romantic who suffered greatly from Samman's rejection of his love; a shock to most of his faithful admirers.
- 68 According to the Jordanian police archives on crimes of honour committed between the years 1986 and 1991, almost all of the men charged with these crimes came from working-class or lower-middle-class backgrounds. They included those who worked as butchers, farmers, soldiers, bus drivers, civil servants, and the unemployed.
- 69 *Kol Hair*, 28 June 1991.
- 70 See 'Post-Colonial Feminism and the Veil: Thinking the Difference', *New England Law Review*, Vol. 26, No. 4 (1992).