

## The crusade over the bodies of women

SONYA FERNANDEZ

**ABSTRACT** Anti-Muslim prejudice finds its roots in the history of the West. Since the time of the Crusades, Islam and its adherents have been cast as the strange and deviant Other, the polar opposite to the reasonable and civilized West. It is suggested, however, that it is only in recent times that we have seen such prejudice become a normalized part of the very *fabric* of society. 9/11, 7/7 and the ‘war on terror’ have propelled Muslims and their faith into the limelight, forcing them to become accountable *en masse* for the sins of the few. Rhetoric—both social and legal—focuses on the barbarity, brutality and oppressiveness that is Islam, and the bodies of women form the battlefield on which this verbal crusade is waged. Starting with this premise, Fernandez suggests that anti-Muslim prejudice is increasingly subsumed and hidden behind a concern for women. She explores the discourse around gender-based practices such as veiling, forced marriages and honour killings to reveal the ways in which expressions of Islamophobia have become normalized and neutralized through the articulation and juxtaposition of traditions of patriarchy and gender inequality within Islam and counter traditions of gender equality in the West. She argues that the effect of this is two-fold. First, it unquestioningly reinforces the idea that *Islam* is oppressive to women, homogenizing and generalizing such oppression as representative of the whole rather than as specific to the few. Second, it allows for the silencing of the voices of Muslim women while simultaneously proclaiming a desire to free them from such silencing. Fernandez suggests that it is this duality hidden behind a facade of concern for gender equality that facilitates the institutionalization of Islamophobic norms.

**KEYWORDS** agency, anti-Muslim prejudice, forced marriage, gender equality, honour killings, Islamophobia, Muslim, veiling, violence against women

In many respects, the legacy of the Crusades infuses and characterizes the current relationship between Islam and the West as one of conflict, violence and *fundamentally* irreconcilable differences.<sup>1</sup> Following 9/11, 7/7 and the so-called ‘war on terror’, Muslims have been increasingly subject not only to acts of overt physical violence, but to subversive forms of epistemic

1 See ‘Remarks by the President [Bush] upon arrival: the South Lawn’, press release, 16 September 2001, available on the Yale Avalon Project website at [http://avalon.law.yale.edu/sept11/president\\_015.asp](http://avalon.law.yale.edu/sept11/president_015.asp) (viewed 16 May 2009).

violence,<sup>2</sup> manifested through the racist appropriation of discourse and the positing of racist stereotypes as 'truth'. Islamophobia has become accepted and even *expected*,<sup>3</sup> and is now so commonplace that there is little awareness of and resistance to what can only be considered to be a form of racism.<sup>4</sup>

The language of good and evil deployed in popular socio-political discourse invokes images of a divine battle against the very forces of darkness: a battle between two civilizations or, rather, one civilization against an (un)civilization.<sup>5</sup> The universal goods of liberal democracy (freedom, equality, rights, liberties and tolerance) are hailed by the West in the fight for moral supremacy against the evils of Islam (barbarism, savagery, oppression and subordination). These polarized constructions are then mapped on to gender-based issues such as veiling, honour killings and forced marriages to evidence the West's promise of liberation and Islam's all-conquering brutality. 'Westernization' offers freedom; Islam offers coercion and compulsion. The problem with this epistemological deception is that it results in seemingly preordained parameters of analysis and interaction that allow for the dichotomous polarization of the world into us/them, Islam/West, savage/civilized, free/unfree. Muslim identity and belonging become dependent on a willingness to transcend these dualisms by picking a side.<sup>6</sup> The effect of this ultimatum is to facilitate and encourage the perpetuation of Islamophobic norms and stereotypes that in turn inform understandings of modern liberal legality.<sup>7</sup>

Muslim women find themselves situated at the heart of this matrix of conflicting morals, norms, values, religions, ideologies, politics and civilizations. The purpose of this article is neither to solve the problems of women nor to deny that, in certain instances, culture and religion can

- 2 Gayatri Chakravorty Spivak, 'Can the subaltern speak?', in Cary Nelson and Lawrence Grossberg (eds), *Marxism and the Interpretation of Culture* (London: Macmillan 1988), 271–316 (281).
- 3 Commission on British Muslims and Islamophobia, *Islamophobia: A Challenge for Us All* (London: Runnymede Trust 1997).
- 4 While some have sought to establish a distinction between racism and Islamophobia, this distinction is arguably misleading and pernicious. Fear (phobia) on grounds of religion and hatred on grounds of racial, ethnic or cultural differences have the same end consequence: 'unfounded hostility' towards a particular group on the basis of particular perceptions, misconceptions and stereotypes. Alleged differences are in many ways purely semantic. Victims of Islamophobia generally tend to experience abuse on grounds of their race; slurs such as 'raghead', 'Paki', the (mistaken) violence against Sikh men, do not occur because someone is (necessarily) visibly identifiable as 'a Muslim' but, rather, at first instance, because their skin colour is perceived as marking them out as potentially Muslim.
- 5 Samuel P. Huntington, *The Clash of Civilisations and the Remaking of World Order* (New York: Simon and Schuster 1998).
- 6 Gary Younge, 'The right to be British', *Guardian*, 12 November 2001; Gary Younge, 'We can choose our identity, but sometimes it chooses us', *Guardian*, 21 January 2005.
- 7 This phrase is used to connote law, 'legal instrumentalities, discourse, and legal consciousness': David Theo Goldberg, *The Racial State* (Oxford: Blackwell 2002), 139.

and do play a role in the oppression and subjection of women. It is undeniable that honour killings, forced marriages and forced veiling are unacceptable practices. However, while much attention has rightly been focused on strategies for preventing violence against women, these critiques sometimes arguably further entrench the problem by reinforcing, consciously or otherwise, particular (racist) stereotypes through the use of essentialist conceptions of culture, religion and gender roles that obscure the workings of patriarchy in majority as well as minority contexts. Thus the aim here is to engage in an analysis of these conceptions in order to offer a means of seeing more clearly effective strategies for tackling violence against women that co-operate with communities rather than demonizing and ostracizing them.

The crusade to save Muslim women from Muslim men obscures the racist binaries that inform polemics about the oppression of Muslim women, and instead plays on some inherent sense of equality and freedom that is perceived as the sole preserve of the West and the (sufficiently) westernized.<sup>8</sup> The focus on gender issues such as veiling, honour killing and forced marriage acts as the perfect prop for justifying the forceful imposition of western values on the cultural Other, by pointing to the oppression of women in Other cultures while simultaneously ignoring the oppression of women within the dominant culture. The construction of these particular practices as particularly *Islamic* has wrought a blend of mistrust, suspicion and hostility towards Muslims fundamentally rooted in racist thought. The effect is to disguise the imperialist motivations and generalizations that demarcate Other cultures as inherently *more* patriarchal, rather than *differently* so, behind a concern for gender equality. It is without question that practices such as honour killings and forced marriages must be eradicated. However, in order to do so, there is a need for a more honest critique of existing attitudes towards them.

Paternalistic interest in the bodies of Other women is as much a part of western liberal tradition as John Stuart Mill and Jeremy Bentham. Exploring the socio-political, legal and historical discourse surrounding gender-based issues such as veiling, honour killing and forced marriage exposes the assumptions and stereotypes that inform discussions and influence perceptions of the body of the female Other. This then enables us to see more clearly how these perceptions are played out in the context of certain gender-based 'Islamic' practices, and so reveal the (not so) latent Islamophobia that

8 See Laura Bush's comments in 'Report on the Taliban's war against women', 17 November 2001, available on the U.S. Department of State website at [www.state.gov/g/drl/rls/c4804.htm](http://www.state.gov/g/drl/rls/c4804.htm) (viewed 16 May 2009); see also 'Remarks by the President at signing ceremony for Afghan Women and Children Relief Act of 2001', press release, 12 December 2001, available on the Yale Avalon Project website at [http://avalon.law.yale.edu/sept11/president\\_117.asp](http://avalon.law.yale.edu/sept11/president_117.asp) (viewed 16 May 2009); Ruth Gledhill, 'Cherie Blair speaks out against the veil', *The Times*, 31 October 2007.

embodies the savages-victims-saviours prism through which such cultural practices are viewed.<sup>9</sup> The aim is to draw attention to the constructed eternal victimhood of the agency-less Muslim woman against the eternal savagery of the Muslim man, which serves to demonize Islam as a religion without examining the socio-political and cultural contexts from which gender-based oppression arises.

Underpinning these narratives is a tendency towards colonial imaginings of the female Other's body. As part of their attempts to civilize the savage, colonial missionaries undertook to eradicate gender-based practices such as sati, polygamy, veiling, female genital cutting and child marriage, with little or no effort made to locate these within their socio-cultural context.<sup>10</sup> Instead, these practices were cited as examples of the controlling barbarism of the colonized male and the oppression of the colonized female, and so designating women's bodies as a key battle site of cultural imperialism, a designation that continues to inform modern western responses to the practices of the Other. Any engagement with, and deconstruction of, the 'racial and religious superiority'<sup>11</sup> that informs modern liberal legality and its encounters with the bodies of Muslim women necessitates an understanding of the racialized meaning that has been imputed on to the Other woman's body.

### **Veiling liberal racism**

Nowhere is this importation of meaning and ignorance of context more apparent than in responses to the veil. Dismissal of the multifaceted motives for veiling derives from a framework that indulges the 'fantasy of a superior nation who must discipline and instruct culturally inferior peoples',<sup>12</sup> maintained and justified on presumptions of the gender inequality intrinsic in the veil. Interestingly, negative attitudes towards and perceptions of the veil as a symbol of inequality appear to transcend socio-cultural contexts, particularly within Europe. In upholding the federal court of Switzerland's

9 Makau Matua, 'Savages, victims, and saviours: the metaphor of human rights', *Harvard International Law Journal*, vol. 42, no. 1, 2001, 201–44.

10 Cynthia Fernandez-Romano, 'The banning of female circumcision: cultural imperialism or a triumph for women's rights?', *Temple International and Comparative Law Journal*, vol. 13, no. 1, 1999, 137–61 (145). For an insightful analysis of colonial attitudes towards the practice of sati, see Lata Mani, *Contentious Traditions: The Debate on Sati in Colonial India* (Berkeley: University of California Press 1998).

11 Ratna Kapur, 'Human rights in the 21st century: take a walk on the dark side', *Sydney Law Review*, vol. 28, no. 4, 2006, 665–87 (674).

12 Sherene H. Razack, 'Imperilled Muslim women, dangerous Muslim men and civilised Europeans: legal and social responses to forced marriages', *Feminist Legal Studies*, vol. 12, no. 2, 2004, 129–74 (132).

decision to prohibit a primary school teacher from veiling while at work, the European Court of Human Rights commented:

The Court accepts that it is very difficult to assess the impact that a powerful external symbol such as the wearing of a headscarf may have on the freedom of conscience and religion of very young children ... In those circumstances, it cannot be denied outright that the wearing of a headscarf *might* have some kind of proselytising effect, seeing that it appears to be imposed on women by a precept which is laid down in the Koran and which ... is hard to square with the principle of gender equality. It therefore appears difficult to reconcile the wearing of an Islamic headscarf with the message of tolerance, respect for others and, above all, equality and non-discrimination that all teachers in a democratic society must convey to their pupils [emphasis added].<sup>13</sup>

This reasoning constructs a formal notion of equality as sameness, whereby veiled women are viewed as different and implicitly unequal. That veiling is seen as discriminatory is somewhat ironic since the practical effect of a prohibition is to discriminate against Muslim women on grounds of their sex, denying them the same freedom to exercise their legal agency as Muslim men. In concretizing the symbolism of the veil in this manner, the court simultaneously denies the voices of women while professing a desire for their voices to be heard. The implicit suggestion is that girls and women who choose to veil do so from within frameworks of coercive constraint. Indeed, one of the key concerns in the infamous Begum case was whether the applicant's decision to wear the jilbab was made entirely freely or whether she had been subject to familial pressure, in particular from her brother.<sup>14</sup> Such concerns appear to ignore the reality of a legal framework that promotes a permissive understanding of adolescent autonomy in the context of consent to medical treatment,<sup>15</sup> or to body piercing.<sup>16</sup> The underlying assumption of a coercive element works to deny the possibility

13 *Dahlab v. Switzerland*, no. 42393/98, ECHR, 15 January 2001, [13]. See also the comments of the court in *Leyla Şahin v. Turkey*, no. 44774/98, ECHR, 29 June 2004, esp. [115–16]. It is not my intention to offer an analysis of the legal issues and arguments but, rather, to highlight the language and rhetoric of the courts.

14 *R (on the application of Begum (by her litigation friend, Rahman)) (Respondent) v. Headteacher and Governors of Denbigh High School (Appellants)* [2006] UKHL 15; *R (on the application of SB) v. Governors of Denbigh High School* [2005] 2 All ER 396; *R (on the application of Begum) v. Headteacher and Governors of Denbigh High School* [2004] All ER (D) 108 (Jun).

15 *Gillick v. West Norfolk and Wisbech Area Health Authority* [1985] 3 All ER 402 (HL). Lord Scarman stated: 'As a matter of law the parental right to determine whether or not their minor child below the age of 16 will have medical treatment terminates if and when the child achieves sufficient understanding and intelligence to enable him to understand fully what is proposed.'

16 According to the Sexual Offences Act 2003, children aged thirteen and above are deemed capable of consenting to nipple and genital piercing. For further discussion

of free choice, so drawing a veil over parallel frameworks of oppression in western society.<sup>17</sup> While there is a very real need to protect women of all races and religions from coercion and oppression, beginning from an assumption that such coercion exists can only result in a framework of analysis and response that obstructs rather than aids in combatting violence against women. As Anne Phillips notes: 'To avoid the trap of treating certain groups of people, particularly women, and particularly women from non-Western or minority cultural backgrounds—as less capable of autonomous choice than others, we have to go primarily by what people say.'<sup>18</sup> In maligning the veil as a symbol of gender inequality, the courts issue judgements from within a framework of a constrained perception that defines the Muslim female in a manner that refuses to permit any degree of idiosyncrasy, and instead offers her up as the symbol of all that is oppressive about Islam. The gradual mutation of the veil from a symbol of religious identity to a contentious marker of difference paves the way for further contamination of the hijab as a sign of inequality, hostility to a democratic society, fundamentalism,<sup>19</sup> as well as the blurred line between Islam and terror, breathing life into the savages-victims-saviours construct.

The idea that there is 'something aggressive about the veil'<sup>20</sup> makes the hijab a tangible embodiment of violence,<sup>21</sup> and ignores the multiplicity of meanings attached to it: as a symbol of identity, personhood, religious and cultural beliefs, nationhood and national identity.<sup>22</sup> In giving life to the tensions surrounding the hijab, arguments based on tolerance, equality and

---

of minor consent to body modification, see Paul Lehane, 'Assault, consent and body art: a review of the law relating to assault and consent in the UK and the practice of body art', *Journal of Environmental Health Research*, vol. 4, no. 1, 2005.

- 17 Sheila Jeffreys, *Beauty and Misogyny: Harmful Cultural Practices in the West* (London and New York: Routledge 2005); Isabelle Gunning, 'Arrogant perception, world-travelling, and multicultural feminism: the case of female genital surgeries', *Columbia Human Rights Law Review*, vol. 23, 1992, 189–248; Kathryn Pauly Morgan, 'Women and the knife: cosmetic surgery and the colonization of women's bodies', *Hypatia*, vol. 6, no. 3, 1991, 25–53; Kathy Davis, 'Remaking the she-devil: a critical look at feminist approaches to beauty', *Hypatia*, vol. 6, no. 2, 1991, 21–43; Kathryn Abrams, 'Sex wars redux: agency and coercion in feminist legal theory', *Columbia Law Review*, vol. 95, no. 2, 1995, 304–76.
- 18 Anne Phillips, *Multiculturalism without Culture* (Princeton, NJ: Princeton University Press 2007), 177.
- 19 *R (on the application of Begum (by her litigation friend, Rahman)) (Respondent) v. Headteacher and Governors of Denbigh High School (Appellants)*; *Leyla Şahin v. Turkey*; *Karaduman v. Turkey*, no. 16278/90, ECHR 3 May 1993, 74 DR 93.
- 20 Jon Henley, 'Something aggressive about veils, says Chirac', *Guardian*, 6 December 2003.
- 21 See, for example, the outrage following the murder of WPC Sharon Beshenivsky and the allegation that the perpetrator escaped wearing a niqab: Paul Stokes, 'Murder suspect fled under Muslim veil', *Telegraph*, 21 December 2006.
- 22 For example, the protest against the French ban on religious and political symbols by French women using the tricolour flag as a headscarf asserting religious and national

the fear of fundamentalism are deployed to justify imposing (mis)conceptions about Islam and the veil on Muslim women, distinguishing those who continue to veil as coerced purveyors of terror. The paradoxical deployment of such notions thus acts to obscure the imperialism within the law, and disables any attempt to unpack the totalizing assumptions surrounding the hijab. Acts of assertion are then translated and interpreted as signs of coercion and brainwashing, subverting the 'defiant' into the 'victim'. The failure to acknowledge the possibility of the autonomy and agency of Muslim women reinforces imperialistic gender and cultural assumptions. It furthermore entrenches dangerous notions of a 'monolithic victim group who are all similarly oppressed',<sup>23</sup> and of an 'essentialised [Muslim] culture and [Muslim] woman',<sup>24</sup> that ensure the continued representation of Muslim women as voiceless victims.

Muslim women's identity is then never more than the experience of their oppression, and their (perceived eternal) victimhood acts as a double-edged sword with which to deny recognition of both sexes' agency and autonomy, so placing the (de)sexualized body centre stage. Within this prism, Muslim men are framed as forever denying Muslim women the freedom to explore and exercise their agency (read: sexuality) and, in so doing, are forever posited as the barbaric controlling Other. Three themes emerge as inextricably intertwined in this gendered construction of race: the equation of sexuality with agency, which, in turn, bolsters the savage construct with which Muslim men find themselves inescapably identified, and the consequent positing of Muslim women as unfree and in need of saving. Images of the acquiescent Muslim woman as victim permeate conceptions of racialized womanhood so that those who are free are those who conform to particular perceptions of (sexual) freedom: provocative dress, cosmetic surgery, ladette culture. Within this framework, those who do not conform to such measures of freedom, by *choosing*, for example, to veil, contract polygamous marriages or engage in female genital cutting, can only ever be seen as constrained in their exercise of free and reasoned choice. This 'constraint' then becomes the justification for the crusade against 'illiberal' Muslims.

Situating Muslim women within such a framework posits western liberal conceptions of freedom and agency, oppression and subordination as 'the primary referent in theory and praxis'.<sup>25</sup> Hence, when Muslim women assert their desire to veil as an expression of freedom, independence or religious identity, their articulations are read through a solipsistic prism that obstructs

---

identity: Samah Jabr, 'Hijab in the West: the railroad starts in Paris', *Washington Report on Middle Eastern Affairs*, April 2004, 36–7.

23 Ratna Kapur, 'The tragedy of victimisation rhetoric: resurrecting the "native" subject in international/post-colonial feminist legal politics', *Harvard Human Rights Journal*, vol. 15, 2002, 1–38 (27).

24 Ibid.

25 Saraswati Raju, 'We are different, but can we talk?', *Gender, Place and Culture*, vol. 9, no. 2, 2002, 173–7.

all *other* epistemological standpoints. This insistence on the victimhood of Muslim women demands their gratitude for the 'blessings' of western liberal legality,<sup>26</sup> which seeks to free them from the victimizing (sexual, physical and mental) violence of their religion, their culture and their men. The effect is two-fold. In the context of veiling and forced marriages, the victim-construct acts to deny the agency of Muslim women. Conversely, in discussions of honour killings, the victim status of Other women is used to legitimate, or at the very least ignore and so implicitly condone, violence against women in the culture of the West. The result is the normalization of the Muslim woman as victim and the legitimization of racist words, deeds and stereotypes, such as Cherie Blair's 'Batman' mime to illustrate the oppression of veiled Afghani women,<sup>27</sup> or Elisabeth Badinter's comment:

The veil is a symbol of the oppression of a sex. Putting on torn jeans, wearing yellow, green or blue hair, this is an act of freedom with regards to the social conventions. Putting a veil on the head, this is an act of submission. It burdens a woman's whole life. Their fathers and their brothers choose their husbands, they are closed up in their own homes and confined to domestic tasks.<sup>28</sup>

Consequently, neither sexism nor racism comes fully into view. Sexism is thus regarded as a problem of uncivilized cultures and religions such as Islam, and of limited relevance to women in the West,<sup>29</sup> while 'concern' for Muslim women disguises the racism that colours the lens through which Other communities are too often viewed. One of the difficulties arising from such a distorted view is that western(ized) women too often remain blind to their own oppression; with their freedom posed as the counterpoint to Muslim women's subordination, the continuing grip of gendered forms of patriarchal control in the western context goes unchecked.<sup>30</sup>

26 Signe Arnfred, 'Simone de Beauvoir in Africa: "woman = the second sex?" Issues of African feminist thought', *JENdA: A Journal of Culture and African Women Studies* (online), no. 3, 2002, at [www.jendajournal.com/vol2.1/arnfred.html](http://www.jendajournal.com/vol2.1/arnfred.html) (viewed 16 May 2009).

27 Josie Appleton, 'Nothing to lose but their burqas', *spiked* (online), 20 November 2001, at [www.spiked-online.co.uk/Articles/00000002D2DB.htm](http://www.spiked-online.co.uk/Articles/00000002D2DB.htm) (viewed 16 May 2009).

28 Quoted and translated in Norma Claire Moruzzi, 'A problem with headscarves: contemporary complexities of political and social identity', *Political Theory*, vol. 22, no. 4, 1994, 653–72 (653). This view has been echoed by, among others, the feminist group Ni Putes Ni Soumises (Neither Whores nor Submissives) who argue against the wearing of the veil on the grounds that those who do not veil are often subjected to gang rapes, verbal and physical abuse, and labelled 'prostitutes'.

29 This is particularly clear in contemporary western social attitudes towards feminism, which is seen as a 'dirty word', outdated and unnecessary. Chilla Bulbeck, "'Women are exploited way too often": feminist rhetorics at the end of equality', *Australian Feminist Studies*, vol. 20, no. 46, 2005, 65–76.

30 As Chilla Bulbeck notes (*ibid.*, 73): 'As my gender studies students and taxi drivers alike are fond of pointing out, Australia is not a country where women are forced to



Religion is increasingly demonized as a key site of oppression and violence. Many feminist scholars have taken pains to enunciate the many ways in which religion can and does act in this way.<sup>31</sup> While religions may provide the means and justification for the subjection of women, many such critiques proffer a distorted view of religion that ignores certain traditions while focusing on and castigating others. Any engagement with liberal legalism must acknowledge the ways in which liberal traditions are purportedly secular, yet very much Christian in thought, nature and character. In this way, liberal legality facilitates the imposition of criteria that are decidedly Christian in character. Modern liberal society's privileging of secularism over traditional beliefs and values, religious and otherwise, lends itself to the social and legal stigmatization of Islam, and castigates any action undertaken in the name of religion as irrational, unreasonable and defiantly different.<sup>32</sup> Liberal discourse then, be it social, political or legal, is replete with stereotypes and preconceived assumptions and presumptions fixated on perceived cultural and religious differences that aid in the maintenance and preservation of the hierarchy that ranks cultures and religions according to their conformity to the liberal norms and values enshrined in a so-called liberal democracy. This conformity is judged through perceptions, judgements and visualizations of the female body: how 'free' is the body of the Other woman to explore her sex and sexuality? And in what ways is the body of the Other woman constrained by the men of her culture?<sup>33</sup> The body accordingly becomes the measure, enshrining both difference and hierarchy.<sup>34</sup> Perception forms the particular identity and meaning ascribed to and imposed on the bodies of Muslim women, as in the issue of veiling. The image of 'a weak and helpless woman who needs to be saved from barbaric customs and a brutal,

---

wear veils, or confined to the home, visibly oppressed by lack of educational opportunities or denial of political rights.'

31 See, for example, Susan Moller Okin, *Is Multiculturalism Bad for Women?* (Princeton, NJ: Princeton University Press 1999).

32 See, for example, David Aaronovitch, 'I don't mean to be rude . . . : Why are we so scared of offending each other? That is what a civilised society should be able to do', *Observer*, 9 January 2005, which offers a response to those who objected to the depiction of rape and murder in the gurdwara as a representation of male oppression within Sikhism in the play *Bezhti*, and the televised version of *Jerry Springer, the Opera* on BBC2 portraying Jesus wearing a nappy. Similar comments were made following the responses of Muslims to the Danish cartoons. The denigration and equation of religion with oppression was enthusiastically received by commentators while religious protesters were deemed 'fanatics' opposed to free speech.

33 The more 'liberated' a woman, the more civilized the society. 'The grid through which we rank the humanity of the area is based on how *we* perceive their treatment of their women-folk': Laura Nader, 'Orientalism, Occidentalism and the control of women', *Cultural Dynamics*, vol. 2, no. 3, 1989, 323–55 (333).

34 Oyèrónké Oyèwùmi, *The Invention of Women: Making an African Sense of Western Gender Discourses* (Minneapolis: University of Minnesota Press 1997), 7.

all-powerful misogynistic group of men' is constantly deployed in discussions of Islam and its treatment of women,<sup>35</sup> entrenching it deeper and more firmly in the public consciousness so that, in times of need, it can be called upon to justify whatever 'interventionist' measure is deemed necessary to save brown women from brown men.

### **Honour killings: yet another victim of the Crusades?**

Nowhere is this image more evident than in the socio-legal rhetoric on honour killings and forced marriages that is framed by comments such as 'the elephant in the room ... is that "honour killings" are largely a Muslim phenomenon'.<sup>36</sup> The figure of the Muslim woman becomes a central point in the battle between liberal and illiberal cultures.<sup>37</sup> Stereotypes of barbaric Muslim fathers murdering their innocent daughters or forcing them into marriages are evoked to justify blaming (Muslim) culture for the bad behaviour of (Muslim) men,<sup>38</sup> rather than the underlying patriarchal norms and the 'male-dominant cultures of impunity' that exists within *all* cultures and societies.<sup>39</sup> The purpose here is not to deny that honour killings are, without question, horrific and unacceptable. Rather, it is to highlight the ways in which existing approaches to honour killings demonize communities, so preventing a more sensitive and nuanced approach.

The crusade to save Muslim women from the twin horrors of gender inequality and violence permeates the discourse on honour killings yet, while these crimes are castigated and held up as yet another example of the horrors in Other cultures, there is an unwillingness to acknowledge parallel forms of violence within dominant society. Indeed, it is possible to suggest that 'the killing of women by close family members throughout the world can in part be explained with reference to underlying honor/shame systems as a subcategory of patriarchal ideology'.<sup>40</sup> Instead, crimes of passion, 'the killing of women in the heat of passion for sexual or intimate

35 Oyèrónké Oyèwùmi, 'Feminism, sisterhood and other foreign bodies', in Oyèrónké Oyèwùmi (ed.), *African Women and Feminism: Reflecting on the Politics of Sisterhood* (Asmara, Eritrea and Trenton, NJ: Africa World Press 2003), 34.

36 Melanie Phillips, 'The lethal reality of Londonistan' (blog), 12 June 2007, at [www.melaniephillips.com/diary/?p=1548](http://www.melaniephillips.com/diary/?p=1548) (viewed 16 May 2009).

37 Uma Narayan, *Dislocating Cultures: Identities, Traditions and Third World Feminism* (London and New York: Routledge 1997), 17.

38 Leti Volpp, 'Blaming culture for bad behaviour', *Yale Journal of Law and Humanities*, vol. 12, no. 1, 2000, 89–116.

39 Oyèrónké Oyèwùmi, 'There she is: Mama Africa!', *JENdA: A Journal of Culture and African Women Studies* (online), no. 5, 2004, at [www.jendajournal.com/issue5/oyewumi.htm](http://www.jendajournal.com/issue5/oyewumi.htm) (viewed 16 May 2009).

40 Nancy V. Baker, Peter R. Gregware and Margery A. Cassidy, 'Family killings fields: honor rationales in the murder of women', *Violence against Women*, vol. 5, no. 2, 1999, 164–84 (180).

reasons',<sup>41</sup> are constructed as aberrations rather than as emblematic of the violence against women that is endemic in western culture. Provocative headlines—such as 'MUSLIM CUT HIS DAUGHTER'S THROAT FOR TAKING A CHRISTIAN BOYFRIEND',<sup>42</sup> 'FATHER GETS LIFE FOR MURDERING DAUGHTER WHO REJECTED ISLAM',<sup>43</sup> 'COUSIN STABBED MUSLIM WOMAN IN HONOUR KILLING',<sup>44</sup> 'HONOUR KILLINGS, AND WHY MY MUSLIM FATHER WANTS ME DEAD'<sup>45</sup>—construct honour crimes as evidence of the violence and misogyny associated with Islam. In the words of MP Ann Cryer:

So-called 'honour crimes' should not be confused with the concept of 'crimes of passion'. Whereas the latter is normally limited to a *crime* that is committed by one partner (or husband and wife) in a relationship on the other as a *spontaneous* (emotional or passionate) reply (often citing a defence of 'sexual provocation'), the former may involve *the abuse or murder of* (usually) women by one or more close family members (including partners) in the name of individual or family honour [emphasis added].<sup>46</sup>

The shift in terminology and language is revealing. While honour crimes are emotively connoted as 'abuse or murder', crimes of passion are neutrally described as 'crimes'. The spontaneity of crimes of passion appears to be a mitigating factor, suggesting that subconscious or unacknowledged beliefs in the male right of ownership over the female body are less of a sin than vocalized acknowledgements of a proprietary interest. I would suggest that they are rather more insidious, as overt misogynistic beliefs are more easily challenged than latent ones. The distinctions drawn between 'honour killings' and 'crimes of passion' obscure the fact that both are acts of femicide, and instead posit 'honour killings' as a violent aberration predicated on misguided notions of honour and female propriety distinctly confined to the (Muslim) Other. What such stereotypes ignore is the similar occurrence of 'misogynous killings of women by men' in a non-cultural context. The phrase 'crime of passion' is used to denote 'the killing of women in the heat of passion for sexual or intimate reasons',<sup>47</sup> and appears to be confined to those killings perpetrated by ethnic majority

41 Lama Abu-Odeh, 'Comparatively speaking: the "honor" of the "East" and the "passion" of the "West"', *Utah Law Review*, no. 2, 1997, 287–308 (289).

42 Sue Clough and Sean O'Neil, *Telegraph*, 30 September 2003.

43 *The Times*, 5 July 1989.

44 Danielle Demetriou, *Independent*, 7 October 2003.

45 Lina Das, *Daily Mail*, 2 October 2003.

46 Council of Europe, Parliamentary Assembly, Doc. 9720, Report, Committee on Equal Opportunities for Women and Men, 7 March 2003, available on the Council of Europe website at <http://assembly.coe.int/Main.asp?link=http%3A%2F%2Fassembly.coe.int%2FDocuments%2FWorkingDocs%2Fdoc03%2FEDOC9720.htm> (viewed 16 May 2009).

47 Abu-Odeh, 'Comparatively speaking', 289.

(in the main) male actors. Once again, the question arises: is the distinction merely semantic or is there a more fundamental difference between honour killings and crimes of passion? In a House of Lords debate on the subject, Anthony Giddens suggested that the compulsions and motivations that underlie honour killings can also be found in western society.<sup>48</sup> Bhikhu Parekh discussed the historical occurrence of race-related killings in the United States, where the law in the southern states took a somewhat permissive view of white men who killed their wives or daughters on suspicion of them having had a relationship with a black man.<sup>49</sup> Parekh built on this scenario, drawing parallels with a situation in which a white racist justifies the murder of a black or Asian man for having a relationship with a white woman on grounds of them having tarnished the honour of his country and race.<sup>50</sup> Meditations such as these highlight the value of reformulating and reconceiving of the notions of honour and shame, facilitating the conceptualization of 'honour' as a synonym for male pride and ego similar to the way in which the law understands 'passion'. Conceiving of honour in this broader sense helps to cut through the colour line that runs through the apparent distinction between honour and passion.

This disparity in conceptualization is simultaneously predicated on, and reinforcing of, stereotypes about the brutality of Muslim men and the subordination of Muslim women, so preventing seeing both kinds of violence as forms of womanslaughter.<sup>51</sup> Exoticizing honour killings instead renders them as part of the racial, religious and cultural savagery of the Other, rather than as one of the cross-cultural sites of male violence against women. Muslim women are accordingly cast as the victims of a cruel religion in a move that fails to acknowledge the concrete reality of the two (non-Muslim) women killed every week by their partners or ex-partners in the United Kingdom.<sup>52</sup> What appears to be a cultural divide is nothing more than a synthetic segregation of the same phenomenon: violence against women based on an underlying belief in male ownership of the female body.

Sexual relations of male dominance and female passivity (enforced or nominal) are arguably seen only in relation to the (Muslim) Other and rarely if ever in relation to the (non-Muslim) Self. The sexual relations of Muslim men and women are conceived in terms of control and subordination. So construed, this particularly patriarchal relationship is often invoked as the

48 Hansard (HL), vol. 676, 15 December 2005, col. 1423.

49 Ibid., col. 1432.

50 Ibid.

51 Jill Radford, 'Womanslaughter: a license to kill? The killing of Jane Asher', in Jill Radford and Diana E. H. Russell (eds), *Femicide: The Politics of Woman Killing* (Buckingham: Open University Press 1992).

52 Amnesty International, 'A global outrage: global and UK statistics', 13 February 2006, available on the Amnesty International UK website at <http://hardy.amnesty.org.uk/svaw/vaw/global.shtml#uk> (viewed 7 May 2008).

justification for ‘forcing’ women to be free.<sup>53</sup> In constructing Muslim women as ‘passive targets of oppressive [and discriminatory] practices’,<sup>54</sup> liberal discourse utilizes sexist stereotypes to reinforce racially imbued conceptualizations of the Muslim Other. The power of liberal thinking to infect the social and normative cosmos with this ‘hegemonic homogenisation’<sup>55</sup> of conceptions of women’s freedom derives from an inherent sense of positional superiority,<sup>56</sup> wherein the liberal West has appropriated the power to construct itself and its values as universal standards.<sup>57</sup> The ‘racing’ of norms and space requires a fixation with the bodies of the Other without a parallel in dominant society. New markers of civilized and uncivilized behaviour have taken the place of the old, but with one key similarity. Gender equality remains the mobilizing force for the contestations around race and religion, implying that both offer little or no opportunity for equality. Thus situated, Muslim women forever lack agency, autonomy and the capability or ability to make free and informed choices, breathing life into the histories of liberal colonial constructions of the unreasonable savage.

### **Forced marriages: consenting to oppression**

As with the discourse on honour killings, norms of gender equality and the need to protect women from ‘cultural’ violence are once again invoked with regard to forced marriages as a means of dehumanizing the Other. Tabloid articles—with headlines like ‘MURDERED FOR LOVING OUR VALUES’,<sup>58</sup> or ‘CORONER SAYS “ARRANGED MARRIAGE” GIRL WAS “VILELY MURDERED”. BUT WILL ANYONE EVER STAND TRIAL?’<sup>59</sup>—identify forced marriages and honour killings with Islam, rather than deconstructing these acts as emblematic of a dangerously patriarchal and proprietary attitude towards women that is manifested in various forms that transcend religion, race and culture. The purpose here, again, is not to deny the unacceptable horror of forced marriages, or the need for effective strategies to stop them. Rather, the aim is to expose the way that concern over forced marriages and the lack of choice and consent is arguably, as in the case of honour killings, one-sided, belying the fact that sexual relations of dominance, control and violence exist within

53 Mojúbàabolú Olúfúnké Okome, ‘What women, whose development? A critical analysis of reformist feminist evangelism on African women’, in Oyèwùmi (ed.), *African Women and Feminism*, 70.

54 Patricia Stamp, ‘Burying Otiena: the politics of gender and ethnicity in Kenya’, *Signs*, vol. 16, no. 4, 1991, 808–45 (845).

55 Leslye Amede Obiora, ‘Feminism, globalisation and culture: after Beijing’, *Indiana Journal of Global Legal Studies*, vol. 4, 1997, 355–64 (358).

56 Edward W. Said, *Orientalism* (London: Penguin 2003), 7.

57 Kapur, ‘Human rights in the 21st century’, 673.

58 Allison Pearson, *Daily Mail*, 21 June 2006.

59 Jaya Narain and James Tozer, *Daily Mail*, 11 January 2008.

'liberal' cultures and societies. The ineffectiveness of socio-legal attitudes towards violence against women in the western context, which is manifested in the 5.6 per cent conviction rate for rape,<sup>60</sup> and the 3.6 per cent conviction rate for domestic violence,<sup>61</sup> is rarely viewed as being symptomatic of a patriarchal culture that condones violence against women. Neither is there recognition of the parallels between a legal system that, through such a low conviction rate, implicitly conveys the impression that women routinely lie about being raped, and the much-demonized *hudoob* laws (enacted in Pakistan in 1979) that required four men as eyewitnesses for a charge of rape. In both systems, the testimony of women is deemed unworthy while the word of men is taken as gospel. The issue here is one of consent, and the ways in which this is understood. A juxtaposition of the ways in which conceptions of choice and consent operate in the context of forced marriage and rape reveals the ways in which modern liberal legality conceals sexist attitudes towards violence against women in a 'non-cultural' context.

Political and legal responses to forced marriage centre on the issue of consent.<sup>62</sup> Recent judgements by the English courts have significantly relaxed the legal construction of duress as a ground for vitiating consent to marriage: from a stringent need to show one's 'will was overborne by *genuine fear induced by threats of immediate danger to his life, limb, or liberty*',<sup>63</sup> to 'threats, pressure or whatever it is, such as to *destroy the reality of consent and overbear the will of the individual*',<sup>64</sup> to the vague and indeterminate offering of 'social expectations which can of themselves impose emotional pressure'.<sup>65</sup> This final construction highlights the difficulty in distinguishing forced from arranged marriages; it also posits the *possibility* of individuals taking advantage of loose definitions and stereotypes of coerced Asian women. Again, the aim here is to tease out the double standards that permeate contemporary liberal discourse. In so doing, a more balanced approach can be effected that might facilitate a more meaningful right of exit that takes account of the importance of consent, but also recognizes that different individuals, groups, cultures and communities conceive of consent in a variety of ways. The label 'forced marriages' evokes images of violence and brutality, and connotes physicality—the exercise of violence—yet what is

60 Liz Kelly, Jo Lovett and Linda Regan, *A Gap or a Chasm? Attrition in Reported Rape Cases*, Home Office Research Study 293 (London: Home Office 2005), 25.

61 Women's Aid, 'Saving lives. Reducing harm. Protecting the public. An action plan for tackling violence 2008-11', 5 March 2008, available on the Women's Aid website at [www.womensaid.org.uk/domestic-violence-articles.asp?section=00010001002200430001&itemid=1548](http://www.womensaid.org.uk/domestic-violence-articles.asp?section=00010001002200430001&itemid=1548) (viewed 16 May 2009).

62 Working Group on Forced Marriage, *A Choice by Right: The Report of the Working Group on Forced Marriage* (London: Home Office Communications Directorate 2000).

63 *Singh v. Singh* [1971] 2 All ER 828, 226.

64 *Hirani v. Hirani* (1983) 4 FLR 232, 234.

65 *Re SK (An Adult) (Forced Marriage: Appropriate Relief)* [2006] 1 W.L.R. 81 (83).

clear is that often the duress is the result of social and familial influence or expectations.<sup>66</sup> In such instances, then, the issue is not force *per se*, but the absence of *consent*. Nowhere is consent more problematic than in rape, where considerations of force and duress feature heavily. The definition of consent—when a person ‘agrees by choice, and has the freedom and capacity to make that choice’<sup>67</sup>—is of little help when one considers the problem of determining what constitutes ‘freedom’ and ‘capacity’. Rather, the concept of consent in the context of rape embodies and reflects a broader socially internalized understanding of consent that plays to particular sexist stereotypical assumptions of women who ‘ask for it’.<sup>68</sup>

Consent within rape is thus very much a gendered concept that perpetuates the gendered nature of law,<sup>69</sup> and reinforces the madonna/whore distinction. The exceptionally low conviction rate suggests, among other things, a blatant gender bias in the law that deploys the concept of consent as its key weapon in discriminating against women. Similar to forced marriages, ‘the gravamen of rape remains the conjunction of force and non-consent’.<sup>70</sup> Consent then, serves a strategic purpose: it legitimizes sexual violence against women through automatic presumptions about the conduct of rape victims, whereas, in forced marriages, the desire to protect Other women from similar violence means the absence of consent is more readily believed. This racist and sexist deployment of consent acts as a double-edged sword, playing to stereotypes of the Other woman as a weak and helpless victim in need of saving from her savage and barbaric culture, while simultaneously condoning or, at the very least, ignoring or downplaying violence against women in the ethnic majority context. This contradiction is partly attributable to the racism that informs the discourse on forced marriages and partly to discursive and definitional confusion surrounding consent, which operates to the detriment of rape victims yet works in favour of women who have been compelled to marry. Rape exists as a gendered harm, another manifestation of male violence against women. In contrast, forced marriages, though seemingly constructed as a gendered harm, are not in fact conceived as such. Instead, forced marriages are viewed as a cultural harm, perpetrated by Other men against Other women, and another weapon in the battle against illiberal Islam. As with crimes of passion, violence against

66 Ibid.

67 Sexual Offences Act 2003, section 74.

68 ICM, ‘Sexual assault research: summary report’, 12 October 2005, available on the Amnesty International website at [www.amnesty.org.uk/uploads/documents/doc\\_16619.doc](http://www.amnesty.org.uk/uploads/documents/doc_16619.doc) (viewed 16 May 2009).

69 Paul Reynolds, ‘Rape, law and sexual consent: the scope and limits to sexual regulation by law’, *Contemporary Issues in Law*, vol. 6, no. 1, 2002/3, 92–102.

70 Donald A. Dripps, ‘Beyond rape: an essay on the difference between the presence of force and the absence of consent’, *Columbia Law Review*, vol. 92, no. 7, 1992, 1780–809 (1784). While it is not necessary for force to have occurred to prove rape, convictions are much harder to establish where the victim displays no signs of violence.

women within a western or non-othered context is tacitly ignored and conceived of as an aberration, while violence within the realm of (Islamic) Otherness is confronted as emblematic of the deviance of Islam as a whole.

### **Bringing an end to the Crusades**

The purpose of this article is not to solve the problems facing women who *are* oppressed by patriarchal norms and modes of practice. Rather, it seeks to reveal the ways in which certain stereotypes and prejudices colour the rhetoric surrounding particular practices that are constructed as being part of Islamic tradition, by custom if not by religion. The constant deployment of Islamphobically informed norms to justify the crusade against Islam on grounds of women's equality works to disguise the operation of similar traditions of violence and inequality within dominant 'white' western liberal culture. The division of the world into polarized factions—Islam/West, us/them, liberal/illiberal—has resulted in gross distortions that negate any attempts at a useful and constructive dialogue about the rights of women in *all* cultures.

Instead, what we are left with is a framework that forces Muslim women into the category of victim. This victim-status is dependent on veiling being seen as a symbol of gender inequality and oppression: a walking *pardah* that symbolizes the control of Muslim men over the sexuality and being of Muslim women. Furthermore, in aligning the veil with hostility to democracy and the fear of fundamentalism, the language of violence weaves its way into the very fabric of the hijab. This insistence on the violence of Muslim men reappears in discussions on honour killings and forced marriages, so linking Islam to brutal thought and action. Contrasting the lenient approach to perpetrators of crimes of passion with the severity with which honour killings are viewed and treated lays bare those particular norms and stereotypes that view religion as a violent and oppressive force that seeks to control and suppress female personhood through the murder of women for perceived transgressions of 'honour'. Accordingly, the concern with violence against Muslim women is revealed as little more than a facade for the demonization and exclusion of the racialized Muslim Other. The consequent effect of this semblance of concern is that violence against women within a 'non-cultural' context becomes an aberration, and that within 'cultural' contexts becomes the norm. Casting honour killings as specifically 'cultural' thus negates any opportunity for formulating credible strategies for dealing with violence against women.<sup>71</sup> The discussion of forced marriages draws out more clearly the ways in which constructions of cultural harm against women have been deployed within the liberal narrative of equality for all as

71 Ratna Kapur, *Erotic Justice: Law and the New Politics of Postcolonialism* (London: Glass House Press 2005), 115.



a justification for homogenization and exclusion. The very use of the term 'force' is arguably a strategic misapplication that brutalizes the Other and posits them as

a violator of rights . . . and the "British" cultural standard as the civilised measure against which the cultural Other must be assessed. Championing women's rights in the subaltern community and family . . . becomes a way of delegitimising the community and its familial structures.<sup>72</sup>

Part of this delegitimization requires the depiction of Other women as agency-less victims. The language of force fulfils this requirement by imagining the female victim as bruised and battered. The articulation of force is thus the language of violence, submission and control over the female body. It is this image of cultural violence and control that permeates the discursive crusade currently being waged.

How then to end the battle? Or, at the very least, to even out the lines of battle? What is needed is a dismantling of the latent racism in liberal socio-political thought so that issues of sexism and gender-based oppression can be considered other than through the prism of racism and Islamophobia. Such a de-racialization of discursive frameworks requires a re-reading of gender-based cultural practices that carves out a space, for example, for viewing veiling in some circumstances as an assertion of identity and resistance to the global forces of homogenization, and even as a form of feminism that resists (male) notions of female sexuality as centred around the body. Creating this space would enable the possibility of viewing these practices through a non-racialized non-coloured lens. In order truly to dismantle the racism inherent within liberal structures, there is a need to create a framework of analysis that enables cultural dissent from within communities without perpetuating the racism from without. Tackling harm against women, as, for example, in forced marriages or honour killings, requires strategies that are free from racial bias and that embody a conception of culture as fluid and ever-changing, rather than the (deliberate) construction of culture as fixed and static that permeates much of the (racist) discourse on multiculturalism. Such a space would thus enable a move away from the logic of paradigm and polarity that permeates western liberal discourse.<sup>73</sup>

To facilitate a genuine end to the so-called 'clash of civilizations', we need to unpack, acknowledge and begin to dismantle the prejudicial stereotypes that have become so much the norm. As long as we continue to play into stereotypes, we miss the opportunity to move forward to a time of true acceptance and recognition that allows *all* voices to be

72 Ibid., 156.

73 Kathi Weeks, *Constituting Feminist Subjects* (Ithaca, NY: Cornell University Press 1998), 48–69.

heard, and *all* religions, cultures and societies to be fairly and neutrally critiqued.

**Sonya Fernandez** is a lecturer in law at Canterbury Christ Church University. Her recent publications include entries on the Other, multiculturalism, multicultural integration, polygamy, forced marriages and honour killings in the *Oxford Companion to Law*. She is currently preparing an article on female genital cutting, and an exploration of constructions of consent in rape and forced marriages.

Copyright of *Patterns of Prejudice* is the property of Routledge and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.