

ACTIVISTS' REFLECTIONS

Current Laws & Recommendations

Once a country makes a commitment to addressing gender-based violence as a serious human rights violation, lawmakers have several choices including:

- 1) Revising existing mechanisms to conduct in-country refugee processing
- 2) Allowing victims to be paroled into a safe country using current immigration laws
- 3) Passing new legislation tailored specifically to addressing these issues.

One issue of concern is that even in the U.S., gender based asylum law remains unclear, as the adoption of key gender asylum regulations and case law are pending.

Despite the legal uncertainty of gender asylum cases in the U.S. and elsewhere, many victims of gender-based violence meet the definition of a refugee and warrant legal protection; individuals have succeeded in securing refugee or asylum status due to gender-based persecution in the U.S., Canada and Europe.

A bill pending in the U.S. Congress would allow for in-country processing of refugees in Iraq.

In addition to expanding the categories of persons eligible for in-country refugee processing to include cases involving gender based violence, States can use existing mechanisms to facilitate transfer to allow for a designated number of persons to enter a country to apply for asylum status.

In the U.S., persons can apply for "humanitarian parole" to enter the United States for various reasons that are humanitarian and often urgent.

States can and should amend their laws to extend protection to victims of gender-based persecution based on internationally recognized humanitarian principals and norms applied in similar situations. The U.S., in coordination with UNHCR, should develop appropriate training and screening mechanisms to officers charged with refugee processing, NGOs and others who encounter victims of violence to prevent misinformation and to mitigate the risk that women seeking protection may be further harmed.

Report by Sherizaan Minwalla, Country Director of Heartland Alliance's Iraq Program, Sulaimaniya, Northern Iraq.

Expanding International Legal Protections for Victims of Gender-Based Violence in Iraqi Kurdistan

The recent public stoning to death of Dua, a 17-year old girl in Northern Iraq, garnered significant international attention due to its brutality, but also because of the behaviour of the men, preoccupied with photographing her killing with their mobile phones instead of helping to protect her.

When women are faced with the threat of honour killing, few are able to escape from their families to seek assistance from women's organizations. Minimal efforts on the part of the authorities in the Kurdish controlled region have had little impact on reducing the number of killings.

At least ten women have been reported killed in honour killings since Dua's death in February 2007.

Investigations into honour killings remain limited. Indeed the reputation of the victims is often at issue, and it is standard procedure to check whether a victim's hymen is intact post-mortem. Many women are burned or drowned, and family members protect each other during the investigation to report that the victims died accidentally.



Sherizaan Minwalla with a client. © WLUML

In Iraqi Kurdistan there are a few shelters able to provide refuge as well as mediation support, legal, medical and social services. Legal recourse for these women is extremely limited and the criminal and personal status laws often condone violence against women. In a significant number of cases, social workers successfully mediate with family members to prevent them from carrying out honour killings.

However in some especially difficult cases the families refuse to cooperate and the women remain stuck in the shelters where they are safe, but unable to leave for fear of being killed.

After travelling to Iraqi Kurdistan for two years I decided to move here to work full time on our program. As part of our legal program, Heartland Alliance's attorneys provide legal assistance and representation to women fleeing various forms of gender-based violence including sex trafficking. As a U.S. licensed attorney, I cannot provide direct legal representation to women inside Iraq and instead work closely with Iraqi lawyers and women's rights advocates.

When faced with cases of desperate women who have no legal recourse inside Iraq, we have tried to determine whether there are any available mechanisms to facilitate transfer out of Iraq to those women who appear eligible to apply for refugee or asylum status.

International legal protections applied to refugees do not extend to internally displaced persons or other suffering from persecution within their own countries, and while there are ways of assisting victims on a case by case basis, the international community has not taken measures to regularize the process for cases involving severe harm.

As the security situation in Iraq continues to deteriorate, violence against women remains a secondary consideration to the widespread sectarian violence and the risk of an expanding civil war. The international community must take concrete steps to confront violence against women, and to extend legal protections not only to the thousands of refugees and internally displaced persons fleeing the violence, but specifically to the victims of gender based persecution.

Why I speak out against 'Sharia'

Soon into my career as a young journalist in Egypt, I learned a disturbing fact about the justice system. It was a fact made even more alarming by the almost complete acceptance of and silence around what seemed to be a blatant injustice.



By Mona Eltahawy
Egyptian-born columnist and public speaker on Arab and Muslim issues.

I learned that in Egypt, like many Muslim countries, the legal system has been completely modernized with the exception of one area that stubbornly remains caught in the web of edicts issued by Muslim scholars who lived centuries ago — Family Law.

In other words, Sharia is used only to govern the lives of women and children. So whose Sharia are we talking about? I learned there wasn't a monolithic, divine text called 'Sharia' but that rather it was the product of those with the power to rule and those they gave the power to interpret religion. For radical groups, for whom women are too often the embodiment of sin, Sharia means nothing more than the "haram" (forbidden) and the "halal" (permissible).

They have reduced what used to mean the moral and ethical underpinning of faith to mean the cold facts of the law — as defined by them, of course. They are all about the letter and never the spirit of the law.

The definition of Sharia as law is based on just 500 verses of the Koran, I learned from liberal Muslim scholar Nasr Hamed Abu Zeid; that is just 16 percent of the Koran. So for those who insist on implementing Sharia, I happily quote Sudanese American law professor, Abdullahi An-Nai'm, who points out the lie at the heart of such calls: the attempt to "protect a patriarchal system"

It is imperative, as a feminist who is also a Muslim and who is also a journalist, that I point out all of the above; I am fed up with the denial and ignorance that surrounds Sharia both within and without the Muslim world. Many Muslims know so little about Sharia that out of guilt they refuse to confront calls for its implementation. For Muslims in the West, that guilt is often mixed with defensiveness and an unwillingness to present a divided stand in the face of *Islamophobia*.

Non-Muslims need to hear the above so they can lay aside a cultural relativism that would overlook the sexist use of 'Sharia' in many parts of the Muslim world. Ultimately, Muslim women must become the loudest voice against the selective use of Sharia, as it is they who pay the price.

Lobbying on Crimes of Honour in the International arena: Is it hazardous to your health?

As a feminist researcher and a women's human rights defender working on crimes of honour for almost 12 years, the issue of playing into the hands of 'outsiders' or 'the enemy' is neither new nor without controversy.

Since I started using the United Nations system to introduce the language on crimes of honour at various human rights instruments within the UN and the EU, I was first ignored by the mainstream actors including the members of the states as well as some human rights organizations.

I was also told that the UN Commission on Human Rights (currently the Council of Human Rights) was not my place to be since I was "diluting the importance of the Commission by bringing this women thing into the agenda".

I was advised that I should go to "New York where they do women" by a Swedish diplomat whose country has a very good record on women's human rights. Then, afterwards, some members of the Organization of Islamic Countries asked me why I was making such a "big fuss out of this woman thing in front of them." Did I not know anything especially in the midst of abuses going on in Palestine? Why was I bringing these kinds of things onto the front page?



Leylâ Pervizat ©WLUML

All these incidents took place in the late 1990s when honour killings were yet to be documented in the international human rights documents as a form of extra judicial execution.

More recently, in an interview with an Austrian journalist I pointed out that the new Turkish Penal Code (effective 01 June 2005) fails to address crimes of honour. Her piece was quoted by Frank Vanhecke, a politician and head of a conservative party, in the EU Parliament and then prompted a written answer from Ollie Rehn, head of EU Enlargement.

All this resulted in a well-meaning Austrian journalist contacting me to say, "We should be very careful about not playing into the hands of the conservatives." By and large, I agree with all of these hesitations, but there is no way I am going to stop talking about it.

So what should we do? My long-standing strategy has been to follow a holistic approach. By this I mean that in conducting my research as well as in my lobbying I tackle the issue from an interdisciplinary and comparative approach.

One way of doing this, in the specific case of honour killings, is to show that crimes of passion occurring in California, and wife murders in Sweden are essentially rooted in the same causes.

Although records on women's empowerment may vary greatly in different cultures and from country to country, hegemonic masculine order is the underlying cause of all these murders. Just remember this: none of us can afford to stay silent on any human rights abuses anywhere in the world.

Leylâ Pervizat is a feminist researcher and a women's human rights defender working on crimes of honour nationally and internationally. Her pioneering doctoral dissertation on the issue is the first ever such study in Turkey.