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Violence, Gender, and Subjectivity

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Abstract

This review examines the interlocking of violence, gender, and subjectivity within the overarching framework of the sexualization of the social contract. Tracking the question of gendered belonging to the nation state, the article discusses the anthropological literature along with feminist and critical theory to shed light on the relation between reproduction and death as a way of giving life to the nation-state. Sexual and reproductive violence are closely linked to the social and cultural imaginaries of order and disorder; and violence, far from being an interruption of the ordinary, is folded into the ordinary.

INTRODUCTION

The ethnographic record shows the concept of violence to be extremely unstable. Instead of policing the definition of violence, this review deems the instability as crucial for understanding how the reality of violence includes its virtuality and its potential to make and unmake social worlds. It also argues that the category of gender is crucial for understanding what connects the national to the domestic, and empires to colonies. The title's third term subjectivity runs through the entire text as we see how the subject comes to be attached to larger collectivities giving expression to an astonishing range of emotions in relation to violence. The centrality of gender in the understanding of violence will show the deep connections between the spectacular and the everyday. The scholarly and popular literature on violence has escalated in recent years as the settled geographies of violence have been questioned. There is an increasing public perception that safe havens no longer exist and that peace-time violence is as debilitating as that of war (Scheper-Hughes 1997, Scheper-Hughes & Bourgois 2003). Sometimes one feels that there is a kind of definitional vertigo in the deployment of the term violence, yet there is merit in the idea that the contests around the question of what can be named as violence are themselves a sign of something important at stake. Therefore, instead of policing the definition of the term violence I hope that by engaging the very instability of this definition, I can show what is at stake in naming something as violence. The title's second term gender has also undergone important conceptual revisions in recent times. The most important of these revisions is that if the category gender was supposed to stand in opposition to sex in the 1960s to show the constructed character of the categories of male and female, today it is the mutual constitution of sex and gender that is considered to be far more productive (Pateman 1990). Certainly in the analysis of violence, I find it much more useful to think of sex and gender as together providing a way to highlight certain aspects of vio-

lence that would otherwise remain obscure. Finally, the title's third term subjectivity indicates the importance of the intersubjective character of experience (Biehl et al. 2007a, Das et al. 2000, Kleinman & Fitz-Henry 2007, Rorty 2007) as providing the ground from which I analyze the phenomena of violence. Reading the ethnographic record in light of the anthropological quest to render the specific practices that come to be named as violence, in conjunction with some key texts in feminist and critical theory, serves to unsettle many issues. And although this unsettling might not help us to reach any firm conclusions on the nature of violence, it has, at the very least, the merit of telling us what we do not yet understand.

The main arguments of the paper are as follows. First, I consider the relation between the social contract and the sexual contract as establishing consent to the political order and the domestic order, respectively. I ask what happens when the social contract is sexualized: Consent is forced, even parodied, and the "social savage" is made to appear in times of disorder. What relation does that bear to masculinity and femininity as social constructs and to our understanding of sexuality? The second set of issues follow from the first. If the idea of consent on which political and domestic order are said to be based is in fact a fragile construction, constantly vulnerable to a founding violence that assigns men to the political community and women to the domestic one, then difficulties of naming certain practices of the home as violence are shown to be at the heart of the question of how violence and intimacy (both political and domestic) are interlocked. Third, some key ethnographic texts on the theme of violence show how different affects, emotions, and dispositions present themselves. How is it that we can find references to courage, sacrifice, heroism, cowardice, despair, grief, angst, anger, suffocation, laughter, parody, longing, love, hate, disgust, horror, fear, pain, suffering—in fact, every conceivable kind of emotion or disposition—as part of the experience of violence? Do these emotions and

dispositions come to be distributed around categories of gender and of sexuality? How do these affects help us to understand what is a central characteristic of violence, as both actuality and potentiality—that it inheres in everyday life and constitutes a flight from it?

THE POLITICAL AND SOCIAL CONTRACT

Recent literature on the nation-state has unearthed the paradox that while modern states claim legitimacy on the grounds that the rule of law established through their agency has led to enduring social peace, in fact terrible atrocities have been committed on populations that threatened existing perceptions of national unity and security by the agencies of the state (Asad 2003, Naimark 2001). Feminist philosophers, such as Ivekovic (2003) and MacKinnon (1991), argue that it is not so much the ideology of secularism, progress, or biopolitics, but the definition of the state as a masculine state that accounts for the gendered violence of the modern state. Whichever adjectives we attach to the idea of the state under modernity—biopolitical, progressive, secular—the route through which violence becomes part of the subject's attachment to the modern state remains a pressing issue. In this context, the foundational or origin stories that are told about the nation-state within liberal philosophy about giving life to the nation and dying for the nation are important because they seem to normalize violence as part of gendered belonging to the nation-state (Meyer 2000, Yuval-Davis 1997).

One of the places to begin an examination of these foundational stories is to consider the place of nature as inherently violent and the role that this idea plays in the creation of the political. The problem, as I see it, is that once the idea of God as the author of nature and time is displaced and the political body under secularism is seen as subject to death and decay, secular means must be crafted to ensure that the sovereign receives life beyond the lifetime of its individual members (Das 2007b). This entails two obligations. The first obligation is that

men should be ready to bear arms for the nation and be ready to die for it (Taylor 2004). The second is that women's reproduction is seen to be rightly belonging to the state (Meyer 2000, Schoenbrun 2003) so that as citizens they are obligated to bear "legitimate" children who will be, in turn, ready to die for the nation (Das 2007b). Thus sex and death, reproduction and war, become part of the same configuration of ideas and institutions through which the nation-state sets up defenses to stave off the uncertainty emanating from dangerous aliens and from the ravages of time. Within this broad picture are, of course, important differences, and historians have shown how ideas about death, preservation, and belonging evolved in specific historical contexts emphasizing regulation in some cases, pedagogy in others (Surkis 2006). Nevertheless, historians and political philosophers demonstrate certain broad agreements about the rights of nation-states to demand different kinds of attachments from their male and female members, which might be usefully delineated here.

Because the state of nature is seen as the point of mythic origin of the state (as in Hobbes), it seems appropriate to begin our own analysis on how Hobbes imagined the emergence of the state as rooted in social contract so that men exchange the perpetual warfare considered normal to the state of nature for the peaceful coexistence within the political community by delegating authority to the state (Hobbes 1981 [1656]). One of the frequently cited passages in Hobbes refers to the mushroom analogy in which we are asked to consider men as sprung out of the earth and suddenly "like mushrooms, come to full maturity, without all kind of engagement to each other." Many feminist scholars have noted the exclusion of the woman from this ordinary imagination of social order. Thus, Pateman (1980, 1988) notes that the invitation to think of men as springing up like mushrooms is designed to obscure the fact that contractual individualism is grounded in the husband's subjugation of the wife who is consigned to the realm of the domestic without any political rights. Although

this line of argumentation is powerful in showing how the profoundly masculine Leviathan is formulated on the explicit exclusion of women, further thinking is required on the conditions under which women come to be included as certain kinds of sexed citizens within the political community.

As many scholars have noted, there is an important shift in Hobbes as compared with Filmer (1991 [1653]) in that consent comes to play an extremely important role in the imagination of Hobbes for the creation of both the political community and the domestic community. Recall that for Filmer, fatherly authority over the family was natural; the father was the head of the family according to the divine law of nature and kingly authority was based on fatherly authority. For Hobbes, in contrast, we have a predication of fatherly authority based on consent rather than something that is natural or ordinary. But, as Severance (2000) notes, the consent of the family to be ruled by the father is, in effect, to neutralize his power to kill. The sexual contract and the social contract are then two separate realms, but the relation between these two is a vexed one. Certainly, as Severance notes, the idea of the state of nature as that in which every man is in a state of war with every other man should be modified to read as that in which every father as the head of the family is in war against every other father. The members of each individual family “consent” not to the sovereign’s but to the father’s absolute rule; they are not parties to the “contract” that brings the commonwealth into existence. Unlike the consent to be ruled by the father, which protects the family against him such that political society stops at the door step of the family, the consent to the social contract protects individuals against each other by vesting power in the sovereign but on the condition that they consent to preserve the nation-state by agreeing to be killed in what comes to be regarded as the sacrificial violence offered for the preservation of the nation.

How do these politico-theological ideas translate into the actual practices of war and

the way heroic masculinity is imagined in the conduct of warfare?

WAR AND THE HEROIC VIRTUES: THE IMPERATIVES OF THE COLLECTIVE

The theme that violence has been “civilized” in modern warfare owing to the mediation of law and technology is in continuity with the theme of the modern state as the guarantor of peace against diffused violence. The state’s monopoly over what Weber called “legitimate” violence does not end violence—it redistributes it (Das & Poole 2004, Weber 1948). The stitching together of the state with the nation makes demands on men to exercise heroic virtues in war to protect the nation. Yet the individual experience of war might be remarkably different from the public celebration of the virtues associated with “civilized” men.

Although philosophers such as Bataille (1957, 1961) think that modern war has lost touch with the passionate visceral experience of hand to hand combat and killing (but see Bourke 1999 for a more historically grounded view), historical and anthropological work reveal that unauthorized massacres, rape, and formation of all kinds of illicit relations on the war front occur in most wars (Karsten 1978, Nordstrom 1997). Thus there is a great disparity between the public celebration of the masculine virtues of heroism and the actual experience of soldiers as they attempt to manage life and death on the war front (Barham 2004). In all major wars since World War I (WWI), processes of censorship have been used to hide from the public and even from the families of soldiers any deviations from the picture of idealized masculinity expected of soldiers (Fussell 1989). An essential element in the contract between the male citizen and the state was the consent to have one’s body altered for the state because consent to kill and to die on behalf of the state was assumed (Humphrey 2002). Until recently, the citizens who were asked to bear arms were men, although participation of women

as soldiers in both formal armies (Sasson-Levy 2003) and other forms of warfare has increased (De Mel 2003, Trawick 2007). A large number of women have also been involved in war efforts in such capacities as nursing or have been coerced in providing sexual services to soldiers, although scholars have only recently begun attempts to theorize the implications of female participation for a wider understanding of warfare and of militarization of society (Enloe 2000, Moser & Clarke 2001, Peach 1994) that has a serious and long-lasting impact on the lives of men and women (De Mel 2007, Waller & Rycenga 2001).

But even as far as male experience is concerned, much evidence indicates that soldiers did not always consent to the state's demands for injuring or being injured (Humphrey 2002). Fussell (1975) has documented how all injury during WWI was assimilated to heroic sacrifice whatever the circumstances of the injury. Ironically this included soldiers who were shot at the front for desertion but were represented as having incurred war related injuries while fighting the enemy. As early as 1918, W.H.R. Rivers reported that patients suffering from "war neurosis" due to the terrible experiences at the war front found it difficult to converse about their war experiences because they felt defeated by the futility of bringing home the experiences to the hearer (Rivers 1918). I do not discuss here the controversies on the treatment of war-related trauma or posttraumatic stress disorder that emerged after Vietnam veterans began to seek help for such symptoms as recurring nightmares, insomnia, and the inability to relate (Young 1995). I note, however, that it is only through medicalization of their symptoms that soldiers found ways of overcoming the obligation to maintain a stoic and heroic view of their war experiences.

Technological shifts have certainly led to a deployment of high-tech weapons on the part of Western powers, which enables remote warfare with minimal casualties to one's own side. The public tolerance for high casualties has declined considerably in the West as evidenced in not only the antiwar movements in the

United States and Europe, but also the disastrous withdrawals from Somalia and the Western refusal to intervene in Rwanda or in Darfur because of the fear of a high rate of casualties. The question of why terms such as courage, heroism, sacrifice, and their opposites continue to circulate in the public arena is a matter of some concern. What functions do these terms perform? In claiming legitimacy for a nation's own wars by demonstrating soldiers' "consent" to pay the ultimate sacrifice on the nation's behalf, such categories, I believe, manage to create boundaries between so-called civilized warfare and savage violence (Ignatieff 1998, Walzer 2004). Such techniques of description and categorization are, of course, not new; they were widely used during colonial wars of pacification (Bley 1971, Colby 1927, Mamdani 2001). What might be new is that techniques of domination have shifted as war becomes more dispersed and all kinds of social groups emerge as mirror reflections of state and empire.

CIVILIZED VERSUS SAVAGE

In relation to the category of "civilized" warfare, I examine two figures that have provoked much reflection in both scholarly and popular literature on what is sometimes characterized as "barbaric"—particularly in Africa—and sometimes as "nihilist" or aimless violence, particularly in relation to the figure of the suicide bomber. At stake in these discussions are the West's assumptions about the legitimacy of its own wars—this much is obvious—but in addition there seem to be unspoken anxieties about what one might call a clash of masculinities.

Harrison's (1993) acute analysis of the transformation of identity in Sepik warfare provides an example of a different model of sociality and masculinity than that described above for the classic case of war in European theories. Harrison makes a case for, what I would call, the incommensurability (not simply untranslatability) of war practices among the Manambu people of the middle Sepik river and the interpretations of these practices by the colonial Australian authorities. For the Australian

authorities, the Manambu were displaying a Hobbesian state of nature when they went into warfare with their closest neighbors with whom they had maintained ties of close sociality. For the Manambu, violence was premised upon preexisting social ties so that warfare was directed toward cutting off social ties. Through the use of body decorations and masks, the warriors converted themselves into dangerous spirits who could kill precisely those with whom they had intimacy that had become unsupportable. In taking on the identities of the spirits, Harrison argues, the men were completely absorbed within the collective—all individual relations were severed. This complex relation between violence and a different kind of sociality was incomprehensible to the Australian colonists who took these kinds of events to be sign of barbarism that had to be eliminated through punitive expeditions. The warrior figure, thus, might draw from different kinds of social and cosmological imaginaries from the ones tied to nation-states described above. For example, rather than emphasizing consent to kill or be killed on behalf of the larger collectivity such as the nation, the warrior might be seen as someone who is waging war not as himself but as an ancestral spirit, as in the Malenesian case. However, as the Australian colonists' response to this form of warfare indicates, such practices came to be measured against the ideas of civilized warfare leading to brutal suppression by colonial authorities. At stake here is the distinction between Western warfare, which was considered rule bound, rational, and masculine, and violence in other places, which was considered anarchic and animal like.

Examples of warfare that deviate from the classical model of war are the so-called low-intensity wars in large parts of Africa, which have some unique features. Mbembe (2000) sees in these wars a crisis of sovereignty and subjectivity, as various kinds of flows of people and weapons, from international organizations, corporations, as well as transborder movements of goods define and remap the region. A defining feature of these wars was the emergence of child soldiers and youth who became fero-

cious fighters, feared for their brutality. For instance, in Sierra Leone, where war raged for more than a decade, child soldiers were made participants in these wars by all sides of the conflict (Hoffman 2006). The enduring images of this and other wars included limbs amputated by young rebels, hunters adorned with magical protection to make their bodies immune to bullet wounds, blood diamonds, drugs, and abduction of young girls for sexual services (Hoffman 2003).

How are gender relations implicated in this form of militarization of society? For many scholars, the emergence of child soldiers and their brutality in warfare signals a crisis of youth indicating a breakdown of generational connections and traditional patrimonial resources (Boyden & de Berry 2004, Hoffman 2005). However, there was also an aspect of experimentation with different kinds of warrior models in these wars, of which Moran (1995) provides an excellent example. She shows that significant changes occurred in the way youth adopted different models of fighters during the civil war in Liberia. Initially after the 1980 coup, it was the cosmopolitan model of soldierly deportment and ethic that was valued, as soldiers embodied the image of idealized masculinity through which they imagined themselves as participating in a universal worldwide military culture. By 1995, the soldier model was discredited and another model, that of the warrior, was adopted with roots in African traditions in which warfare was ritualized and warrior figures were said to have deep connections with elemental forces of nature, especially the forest. What is intriguing in Moran's analysis of this transition from soldier to warrior is the way in which elements of femininity seem to be parodied as part of the rituals enacted. Thus male warriors in the course of performing war dances wear women's clothing such as bras and negligees, wigs, and other items of Western origin. The description suggests that what, to modern armies, were ludic performances involving personification and parodying of the female body seem to have become part of the imaginary of soldier/warrior figures in Africa

even as the cosmopolitan models come under attack.

THE SUICIDE BOMBER AND NIHILISTIC VIOLENCE

The literature on suicide bombing has proliferated since September 11. There seems to be remarkable agreement among scholars that suicide bombing marks a pathology of contemporary Islam and especially of its young men (Benhabib 2001, Bloom 2005, Ètienne 2005, Gambetta 2005, Pedazhur 2005, Strenski 2003; but see Skaine 2006 for a somewhat pedantic survey on female suicide bombers). The typical argument calls such violence nihilist because it assumes that the common motive of the young Islamic militant is to seek a decisive and yet elusive encounter with death. Moreover, suicide bombing is said to evoke horror because the bomber uses his or her own body as a weapon. What is intriguing in such statements is that the internal life of young men who engage in violence of this particular kind is assumed to be transparent. Asad (2007) has persuasively argued that one cannot assume that all men who become suicide bombers, even as jihadists, have the same motives. Surprisingly these theories that talk about the pathology of Islam fail to consider the figure of the female suicide bomber in Sri Lanka, where explanations have ranged from rendering them as engaged in a fight for justice for the cause of Tamil nationalism (Sangarasivam 2003) to considering their participation to be completely coerced by the brutal techniques of Liberation Tigers of Tamil Eelam (LTTE), ranging from abducting youth to forcing families to give at least one child to the militant organization as a form of taxation (Hoglungue 2005).

The distinction between the “just” wars of the West and the nihilist violence of the suicide bombers has enabled some scholars to justify the idea of preemptive war (Benhabib 2001; and for a more nuanced but still problematic view Walzer 2004). Like the defense of colonial occupation in the past as the inevitable burden of the white man, the new wars are also justified

on the grounds that they seek to liberate women of these countries from the oppressive practices of Islamic groups such as the Taliban, who have waged war against the “human rights of their own women” (Benhabib 2001). Although the cruelties of the Taliban are not in question, it is intriguing that the theory of just war manages to define many cruelties committed by soldiers (including those on women) as simply “collateral damages,” regrettable but not crimes at all. The discursive techniques to make certain kinds of violence by dominant groups (colonizers, occupiers, white races, upper castes) disappear have led to agonizing feminist discussions of the post-September 11 scenario because addressing the violence done to women as part of repressive regimes in some parts of the Islamic world is so often used to make the complicity of Western regimes in supporting those very regimes less visible to the public (Abu-Lughod 2002, Charlesworth & Chinkin 2002, Cooke 2002, Eisenstein 2002).

EMBODYING EMPIRE: SEXUALIZED VIOLENCE AND TORTURE

Recent instances of sexualized torture at Abu Ghraib have raised fresh questions about the relation among race, gender, and violence (Greenberg 2006, Strasses 2005). The violence inflicted on Iraqi prisoners by both male and female North American and British soldiers could not be disavowed as only the work of a few “bad apples” as the Army claimed, especially if we take into account not only the actual practices of torture but also the circulation of photographs that recorded these spectacles to friends and family for pleasure (Paur 2004). The theme of humiliating the “enemy” through effeminizing men that has been recorded for many colonial contexts (Krishnaswamy 1998, Sinha 1995) was also witnessed in the Abu Ghraib case. However, the use of women as perpetrators was a new development. The photograph of a young female soldier pointing gleefully at the genitals of a crouching naked Arab man was shocking to many people and especially to feminists who

had long argued that war was primarily an affair among men.

Razack (2005) argues that the Abu Ghraib practices of torture, both visual and corporeal, should be understood in terms of the manner in which individuals are interpellated in the structure of empire so that even when they are not themselves dominant within patriarchal and racist hierarchies, they can claim inclusion within the projects of empire by literally embodying it. Some other writers see Abu Ghraib as an instantiation of a contemporary form of torture and do not see any long history embedded in it. They argue for instrumental explanations in that American intelligence agencies' use of sexualized practices, especially through the agency of a woman, was designed to engineer a collapse of the Arab prisoners who, it was assumed, would yield information more quickly if they were sexually humiliated rather than subjected to physical pain. Certain imaginaries of Arab culture as "homophobic" and "misogynist" are at play here. Still others juxtapose the image of torture with that of the beheading carried out by Islamic militants as instantiations of the category of *homo sacer* (as in Agamben 1998) and argue that the images represent a contest over sovereignty (Caton 2006). We are also left with the question of how the senses were trained so that American soldiers, both men and women, could take pleasure in these kinds of sexual humiliation inflicted on the other. After all, the pictures of torture that were circulated were not of grim soldiers performing a distasteful duty but of men and women taking pleasure in the sexual humiliation inflicted on the dominated other.

There is little doubt that the forms of sexualized humiliation witnessed in Abu Ghraib bear similarity to such practices as lynching (Austin 2004), even if direct connections are difficult to establish. The essence of lynching and burning rituals lay in the sense of power and mastery for white men over black subjects (Brown 1975, Harris 1984), while allowing them to obtain intimacy with what was forbidden to desire (Pinar 2001). Cardyn (2002) provides a catalog of practices in lynching such as whipping of distinctive

sexualized parts, stripping, simulated forced homoerotic sex, which seem similar to practices at Abu Ghraib. Razack summarizes the theoretical argument by saying that sexualized violence accomplishes the eviction of the tortured from humanity, and it does so as an eviction from masculinity (Mehta 2000 and Mookherjee 2004 for a similar argument for South Asia). White men could then claim their own innocence by masking violence as punishment for black crime (and especially the crime of wanting white women), thus making white violence disappear. Unfortunately, similar analysis of the training of the senses to engage in violent acts such as beheadings or amputation of limbs on the part of young people in militant camps or in guerilla warfare or even a genealogical tracking of such images within other cultural contexts has not been undertaken. Hence some caution has to be exercised in making large theoretical claims. Nevertheless, systematic comparison on the question of sexual humiliation and its link with projects of masculine domination might yield important insights into these troubling phenomena.

THE SOCIAL SAVAGE

The pathology of the sexualization of the social contract becomes most visible in the figure of the abducted woman in times of disorder (Das 2007a, Menon & Bhasin 1998, Mookherjee 2001). Feminist scholars writing on ethnic cleansing and genocide have suggested that the fundamental idea underlying both these forms of collective violence is that of social death (Card 2003). One implication of the notion of social death is that a woman who has been abducted and raped becomes dishonored and either chooses death herself or is rejected by the family (Das 1995). However, as Das (2007a) argues, the collective narratives of honor and shame often conceal from public view the efforts families might make to find ways of offering care to daughters or wives, deviating from the collective scripts of honor and shame. At another level, the concept of social death allows us to recognize that genocidal acts

or acts of ethnic cleansing, while often violent, are not always homicidal. Thus forced sterilization of women or men from a targeted group, forcibly separating women from their children for reeducation, as happened to children in indigenous groups in Australia, or even forcibly assimilating them into another group, as has been alleged by Tibet for Chinese policies of forcible assimilation, could all be considered as forms of social death and hence forms of genocide or ethnic cleansing. This would explain why policies of ethnic cleansing or genocide specifically target women and direct both sexual and reproductive violence toward them; women are seen as the cultural and biological repositories of ethnic or religious groups (Fisher 1996). Thus, for instance, sexual or reproductive violence against Bosnian Muslim women was framed by a discourse of revenge and humiliation related to some kind of “Serbization” of the Muslim population. Many feminist scholars have spoken of the “rape regime” in which Bosnian women were forcibly interned in camps and made to carry their pregnancies to term. (Allen 1996, Salzman 2002). Similarly, Pakistani soldiers who raped women during the war for liberation in Bangladesh in 1972 participated in a discourse of the effeminate Islam in Bangladesh, which needed to be invested with more muscular and purer Islam (Mookherjee 2001, Saikia 2004). This situation may be different from the one that prevailed during the partition of India, when there was widespread sexual violence but the discourse of reproductive violence was not in circulation (Das 2007a). Rather, a lot of violence marked the women of the other groups as “spoiled,” and violence, actual and fantasized, treated women’s bodies as means of humiliating the men of the other community. Mass rape of women, reproductive violence in the form of forcible pregnancies, and abduction for forced marriages are different forms in which the complete annihilation of the other as a collective community is sought in projects of ethnic cleansing and genocide. Return to normalcy draws heavily upon ideas of honor and shame at both familial and national levels.

An important question that arises in this context is whether there are any common assumptions made about male and female sexuality in processes of legal adjudication when judges are confronted with cases of mass rape versus rape (individual or gang rape) as a peace-time crime (Baxi 2007). On the surface, one might think that in times of peace when rape is identified as a “crime,” law would function to identify and punish the perpetrator, whereas in the case of mass rapes, which typically take place in times of massive disorder, the problem would be that law itself stands suspended. However, some important structural similarities in assumptions made about male and female sexuality in the functioning of the law show continuity between the peace-time “crime” of rape and the mass rapes, which are taken as the sign of a complete breakdown of law (Baxi 2007).

THE RAPE TRIAL: LAW AND SEXUAL VIOLENCE

Despite differences in the definition of rape in different legal traditions, two ideas seem to be consistently present. The first is that the act of rape consists of some form of penetration of a woman (and, in some cases, a man) and second that this act is forced, without the consent of the woman or man concerned. Whereas some feminist scholars argue that rape is simply an expression of general male violence against women (Brownmiller 1975), others have argued that we need to track more specifically how the legal system functions to authorize male violence against women (Das 2005, Smart 1995). Which kinds of men are punished for the offense of rape, and how does the legal system function to distinguish “good” women from “bad women”? Detailed examination of legal cases and especially what Matoesian (1993) calls “court room talk” reveal that categories of caste, class, and race have a serious impact on the legal decisions on rape. Women are implicitly treated as the property of men so that rape comes to be defined not as an offense against the woman’s bodily integrity but as an offense against the

property rights of the man who is her guardian. The legal reasoning deployed works with the notion that men are sexual savages, “naturally” positioned to take women, and they have to be controlled through an education of sexual desire. Women, however, are divided into good women and bad women; the former are women who are in the custody of fathers or husbands and have no history of sexual promiscuity. The courts are much more likely to place their trust in women who are thus securely bound within the sanctioned structures of marriage. The bad women, such as prostitutes, by their very profession are seen to be incapable of saying “no” to sex (Baxi 2007, Das 2005). Legal reasoning then works to punish those men who have violated the rights of men, especially those who can be placed in a higher position as compared with the alleged perpetrator (Kannibaran & Kannibaran 2002) and to display publicly the distinction between good women and bad women by pronouncing upon whose “no” to sex can be converted to “consent” because of their sexual history.

Although legal reasoning and court room talk have received the most attention in the analysis of rape, one must remember that most cases do not reach the court room even if rape is reported. Scholars are now beginning to pay attention to forms of sociality that are generated in spaces such as hospital emergency rooms and police stations, where a certain set of assumptions about what is private and what is public and what might stand in a court of law and what might not determines how a case proceeds (Hoyle 1998, Merry 2001, Wood 2005). In terms of ordinary life, the threat of sexual violence has a profound effect on the subjectivity of women who constantly have to consider such factors as reputation and safety in determining how life is to be lived. Yet, statistics on sexual violation reveal that in most cases the perpetrator of sexual violence is someone known or even intimate with a woman rather than a stranger (Gavey 2005, Gelles & Straus 1988, Price 2002). So what is intimate violence? The place to consider in addressing this question is the home.

WHAT IS HOME?

Powerful imageries of the home as a haven, a place of intimacy and nourishment, have informed literary and cultural theory (Bachelard 1964). However, the home is the space of not one but several domesticities. Recent research on violence in the home that has tried to document women’s experiences has shown that different people within the home experience it very differently. The home is often the place of masculine dominion in which the man expects the women’s labor to secure the peace he craves (Price 2002). The high prevalence of wife beating, child abuse, and female domestic servant abuse in various societies across class has been analyzed by various scholars and tends to show that the home can be a place of terror for many women who are blamed for not being able to maintain the ideal home. Thus male dominion over the home often translates into wife beating: Testimonies of women who have been battered show that they usually cannot anticipate when the blows will come and for what reason. Many women tend to blame themselves for the beatings they received because they have internalized their husbands’ accusations of failing to create the ideal home. Others find it impossible to leave the abusive relationship because all their social networks derive from their positions as wives (Abraham 2000, Gelles & Straus 1988, Hoff 1990). Help from state agencies is often hard to obtain because policemen tend to treat violence in the home as a private affair between spouses. As awareness of domestic violence has increased and as it becomes framed as a public health issue, various initiatives from the global and national communities have tried to make this a matter of priority. The conceptual issues of defining what constitutes domestic violence, however, have not all been resolved.

First, the discomfort with the state’s intervention into family life is not only a matter of conservative defense of the family. Some feminist scholars have argued that the privacy necessary for intimacy to flourish is deeply compromised by the state’s overseeing panoptical surveillance of the home (Kelly 2003).

Because sexual intimacy generates complex emotions, a definition of domestic violence that includes everything from beating to harsh words spoken can lead to a decline in the possibility of intimacy itself. These scholars suggest a community-based pedagogical model of intervention in many cases rather than a punitive model for controlling violence.

Second, the question of consent is as hard to negotiate conceptually in defining domestic violence as in defining soldier's participation in war. On the one side there are scholars who would argue that separating out battered women from other women or violent homes from peaceful homes is fraught with problems because underlying the ideological grid dividing the social contract and the sexual contract is the ever possible presence of male violence in the home (Pateman 1980, Price 2002). The woman's consent to male violence has a taken-for-granted character, which explains why marital rape has been most difficult to legislate in most liberal regimes. On the other side are those who argue that there are specific conditions under which violence is actualized and that strategies such as the battered woman defense are necessary to capture the fact that a woman who lives in constant fear of violence might perceive a reasonable risk to her safety in ways that deviate considerably from the legal norms of a "reasonable person" (Schneider 2000).

Third, recent research has indicated structural connections between wider political and economic processes and the vulnerability of domestic workers as a category subject to abuse within the home (Goldstein 2005, Rafael 2000, Romero 1992). Research will likely show that the categories of mail-order brides, domestic helps, and sexual workers might share certain common conditions deriving from the place of the domestic within transnational economies.

REMAKING THE EVERYDAY

Research on gender and violence is not only about how worlds are unmade by violence but also how they are remade (Das et al. 2001). How

does time do its work in allowing people to come to terms with the destruction of their social worlds (Jackson 2002)? How can people inherit a divided past, and what is it to imagine and to work for a possible future? Some studies ask if the obligation of women to convert bad deaths into good deaths (Seremetakis 1991) through mourning and lamentation moves from the spheres of kinship to that of politics so that women are seen as specially obligated to contest the forgetfulness imposed by dominant political actors (especially the state) and to demand justice on behalf of the dead (Butler 2004). The various Truth and Reconciliation Commissions established in various countries such as South Africa, Chile, Peru, and Argentina are premised on the idea that, in addition to the operation of the criminal justice system, which can address culpability of individuals, societies that have undergone state-sponsored massive violence over a long period of time need a public forum in which the atrocities enacted on people can be brought to light outside the strict legal protocols of courts of law (Popkin & Roht-Arriaza 1995, Wilson 2001). Anthropologists working on these commissions have found, however, that despite the freedom to narrate their experiences of violence, women often spoke on behalf of their kin but were unable to give voice to sexual violence done to them personally (Ross 2003).

Although public acknowledgment of harm is important and has received enormous attention in juridical and public policy literature, the work done in the recesses of everyday life, within local communities, kinship networks, and families has received somewhat less attention. Lawrence's (2000) work on possession within a temple complex in Batticaloa, Eastern Sri Lanka, gives a detailed analysis of how a priestess in a temple compound addresses the fear, grief, guilt, and shame of survivors and of those whose loved ones have disappeared in the protracted civil war in Sri Lanka. The coming together of a priestess, the goddess Kali, and the women who seek some direction in relation to their disappeared relatives creates a community

of women (though men are not absent from the consultations) who are not necessarily visible to the juridical or public policy communities but whose “work” is nevertheless crucial in that it allows women to move out of their frozen positions and to take other directions in their lives. Other scholars have argued that women might perform private mourning rituals for those killed, often at great risks to themselves, refusing to let a death go unmourned (Das 2007a, Holloway 2003, Walker n.d.).

Whereas the literature on violence and healing emphasizes various aspects of witnessing and memory (Agamben 1999, Bougarel et al. 2007), some innovative work also addresses attempts to keep violence at bay. Argenti-Pillen (2003), for instance, described various linguistic evasion strategies used by women in the home to keep the home insulated from the region’s poisonous politics. Some cultural continuities exist in language (use of euphemisms, refusal of naming, indirect speech) through which ritual dangers to the home are addressed and are also extended for keeping political dangers at bay. Although keeping violence at bay is not a matter of forms of discourse alone; the problem of how women and men try to insulate the home from detrimental politics is clearly a very important area of research (Skidmore & Lawrence 2007, Spencer 2000).

Some authors have contested the centrality of trauma discourse and its emphasis on unmastered experience. Thus Das (2007a) considers the manner in which women engage in repair of relationships through ordinary, everyday acts of caring. She thinks of healing through the metaphor of women digesting “poisonous” knowledge so that they learn to reinhabit the world by dwelling again within internal landscapes devastated by violence (see also Mookherjee 2006). Aretxaga (1998) shows how women maintained networks of relationships through everyday acts of borrowing and lending in the divisive politics of Ireland, thus confronting and crossing the political divides in their everyday acts of mutual recognition (see also Walker n.d.).

VIOLENCE AND AFFECT

One can read the ethnographic record to identify a range of affects in the description of violence. Thus although one might expect that fear and horror and sorrow and grief, would be the appropriate emotions in the context of violence (Feldman et al. 1993), one finds that there are also ludic aspects of violence that pose new challenges to how we understand violence. One of the most striking ethnographic account on youth in the LTTE is the recent book by Trawick (2007), who lived in an LTTE village in Eastern Sri Lanka on the border of the forest. Her work shows how categories of war and play become interchangeable in the lives of young LTTE cadres. In her own preface to the project, she says that the LTTE Tigers represented the battles they fought as “child’s play,” “fully intense, concentrated, and serious, but also elevated above the mundane world, and fun.” (Trawick 2007, p. 13). Trawick’s explicit theoretical formulation makes a sharp break between representation and experience and is therefore problematic, but the power of this book lies in something akin to reading the novelist Kazuo Ishiguro’s novel, *Never Let Me Go*. The novel tells of hopelessness of the lives of clones, bred to be organ “donors”, but we come to sense the affects of hopelessness only through the most ordinary of everyday squabbles and childhood politics staged in a typical British public school environment. Could it be that the reality of killing and being killed, which is openly spoken about among the LTTE youth, is both known and yet never fully comprehended? Yet the theoretical move by Trawick that drives a wedge between representation and experience leaves this author at the point at which I understand neither how she would render the longings for escape from the LTTE, recorded in her ethnography, or how the reader should think about moments of grief, in which the young men and women are simply not allowed to indulge. Although I respect Trawick’s insistence that the “children” do not wish to be fully accounted for in any theory, there is no place in her text for any perspective from those who fled,

for example, from the LTTE. In this respect, the permission given to an anthropologist to work in an area controlled by the LTTE works very much like research visas given by governments who impose strict rules about what can be written about and how it is to be written. These anthropological texts then bear the marks of power in many respects.

Verkaaik (2004), who had worked with the Muttahida Qaumi Movement (MQM) militants in Karachi, also considered the ludic aspects of violence but conveyed the difference between those activists who took the “fun” of militancy as part of their identities and as an escape from the mundane everyday and those who turned back to ordinary lives of careers and marriage and presumably into caring for the next generation. At the opposite end of these affects

is Asad’s (2007) incisive analysis of horror, which he identifies as the spectacle of the disintegration of the human body and the sense of the dissociation between the soul and the body, seen in the act of killing and being killed in suicide bombing. These three texts provide examples of the pioneering contributions anthropology can make to the understanding of the different affects that constitute and are constituted by violence. As a concluding thought, I propose that it is precisely because the reality of violence includes its virtual (and not only actualized) presence in our lives (Jeganathan 1998, 2000)—its potential to both disrupt the ordinary and become part of the ordinary—that the study of violence continues to challenge and channel our disciplinary desires in profound ways.

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The author is not aware of any biases that might be perceived as affecting the objectivity of this review.

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