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The Victimization of the “Muslim Woman”: The Case of Amina Filali, Morocco

By Nima Mesbahi

Abstract

In 2012, Amina Filali, a young Moroccan teenager killed herself after a judge had ruled for her to marry her rapist. Drawing from the story of Amina, this paper will contextualize the event in its broader scope analyzing the international and national discourses surrounding the case, reminiscent of orientalist discourses that constantly portray the “Muslim woman” as a victim of Islam. Through a careful reading of the text of law, I will show that the clause 475 of the penal code is in fact a Napoleonic law adopted in verbatim rather than an Islamic tradition. Through an analysis of a documentary on the story of Amina, I am interested in the untold story that reveals the ways through which the women of the village are able to navigate along power lines within the patriarchal system. I am concerned with a media representation that offers a monolithic representation of these women as victims of their husbands, as companions; as well as the homogeneous portrayals of the societies and the legal system itself.

Keywords: Muslim woman, orientalism, representation of Muslim women, media, women’s rights laws, women’s human rights.

Introduction

Laura Bush said back in 2002: "Because of our recent military gains in much of Afghanistan, women are no longer imprisoned in their homes, they can listen to music and teach their daughters without fear of punishment, the fight against terrorism is also a fight for the rights and dignity of women" (Allen, 2001). Not only does Mrs. Bush enlist women as part of the justification scheme for the war on Afghanistan but by portraying Afghan women as needing to be saved by the mighty Americans, this representation reinforces the dichotomy between the predominantly white and supposed ‘civilized world’ and the rest of the ‘backward uncivilized’ world.

The fascination of the “Muslim women” in the media has been especially acute in times of conflict such as during the Iranian revolution (Sreberny-Mohammadi and Mohammadi, 1994), the Gulf war of 1991 and the “war on terror” in which the supposed liberation of Afghan woman oppressed by the Taliban acted as legitimizing the invasion (Hajri, 2011: 33). The “Muslim woman” became “intensity fetishized in the period following September 11, 2001, serving as a symbolic justification for the ongoing conflict in Afghanistan”. In fact, The Western media has the tendency to denote certain symbols of spirituality or religiosity as signs of ‘Islamic fundamentalism’ (Karim, 2000:182). Western media, news, film, and TV shows depict a simplistic
rendering of what it means to be Muslim and a Muslim woman, as a number of scholars have noted (Jiwani, 2009; Karim, 1997; Razack, 2004).

This paper aims to show the interplay between media depictions and gender politics that have resulted in the systematic victimization of the “Muslim woman”. I explore this interplay, through the story of Amina Filali, a young Moroccan teenager who killed herself after a judge had ruled for her to marry her rapist in 2012, per clause 475 of the Moroccan criminal code. How was Amina Filali represented through by the dominant mainstream media discourses? What were the implication of such depictions?

Such line of questioning is, of course, not abstract from a known and established theoretical framework and as such, I believe it is relevant to approach this matter through two important concepts. On the one hand, I draw on the overlapping concepts of the “Muslim woman” and the “third world woman” that underscore the media discourses surrounding the story of the young Amina Filali. I suggest that the media coverage surrounding the story of Amina Filali systematically portrayed Amina as a victim of her father, the judge, and by extension, the legal system with the underlying implication that the so-called “rape-marry” law is inherent to Muslim societies. However, the clause is not rooted in “Muslim tradition” but is a vestige of colonial laws not only in Morocco but in the entire region. Such portrayal is therefore reminiscent of the orientalist tradition of victimizing the “Muslim woman” but also participates in the production and reproduction of a monolithic image of women in the region in what Chandra Mohanty termed the “Third World Woman” denoting “a certain mode of appropriation and codification of ‘scholarship’ and ‘knowledge’ about women in the third world”. (Chandra Mohanty, 1988: 65-88)

Drawing from the story of Amina, this paper will contextualize the event in its broader scope, analyzing the international and national discourses surrounding the case. Second, basing the analysis on the documentary, the paper will also show the centrality of ‘honor’ in the Moroccan interpretation of law inherited from colonial rule that perpetuates and supports an existing patriarchal system of values. I am interested in the ways through which the women of the village are able to navigate along power lines within the patriarchal system. Women, as social agents, do bargain and negotiate power with the existing patriarchal system.

The tragic event of Amina’s death should be read beyond the dominant narratives and through a more nuanced lens. In Amina Filali’s case, the law is not the only problematic issue. While the law does indeed feed into the deeply entrenched patriarchal system in the country, the complexities of the story reveal how women negotiate within this system in a way that may sustain the patriarchal structure that is supported, legitimized, and legalized by a law inherited from colonial rule. Finally, by drawing from the film 475: When marriage becomes punishment, the paper will highlight the different resistance and activist practices surrounding sexual violence and women’s rights in Morocco.

The gender politics of Amin Filali’s media representation

On May 22nd, 2012, one year after the 2011 protests that swept Morocco and the region in what some called the “Arab Spring”, and five months into the mandate of the first ever Islamic party (PJD) to enter the government, Amina Filali, a young teenager living in the outskirts of Laraach, Morocco killed herself, ingesting rat poison. A judge had ruled for her to marry the man that had allegedly raped her. The little-known provision in the Moroccan criminal law, clause 475 supposedly allowed the perpetrator to escape prison if he marries his victim. The tragedy of Amina Filali spurred immediate national and international outrage. The streets of Rabat, Morocco’s
capital were soon filled with hundreds of people protesting outside parliament demanding the repeal of the law. Naturally, the event attracted wide media coverage of Amina Filali’s tragic story.


Most of the major newspapers’ headlines had an overwhelming tendency to focus on the provision 475 of the criminal law. The overly simplistic coverage of Amina’s case by some international media systematically placed Amina as a victim of her alleged rapist, her father and the law itself. Patriarchy has both been undermined and overlooked as the predominant force shaping laws and attitudes towards sexual violence. The media discourses around this event as well as women’s rights activists, often implicitly equated ‘tradition’ and thus Islam, as the root of problems facing women in Morocco. The media discourses not only essentialized Islam as the origin of misogynistic and discriminating laws and overlooked a deeper patriarchal system of values and practices, but also perpetuated the representation of Moroccan society as ‘stuck in time’, backwards and thus unable to ‘progress’.

Women’s representations act as markers of power relations, and the “politics of representing Muslim Women have been tied to the material and ideological conditions characterizing the relationship between the ‘West’ and Islamic societies” (Jasmin Zine, 2002: 2). Shifts in the balance of power are also reflected in the very representation of women. In fact, the image of the “Muslim woman” has evolved and changed over time beginning with European medieval literature. The “Muslim women” was initially portrayed through images of a noble queen that ‘could enter Europe as an equal- even more than equal- character in a story’ (5). This portrayal shifted in the nineteenth century where women were depicted either as sexual beings waiting for male company or obedient and hiding behind a veil. One of the factors that contributed to this shift in the literary depiction of the “Muslim woman” is the rise of Europe as a political, military and economic superpower expanding its domination. The role of ‘enlightenment’ and the rise of the European cogito and the European man is important in understanding the rise of the Westerner as a “sovereign” subject” (Zine, 2002: 2).

Edward Said’s (1978) well-known work has been critical in deconstructing orientalist portrayals of the so called “East” in colonial literature. The patronizing depiction, of the “East” as backwards and at times dangerous and exotic, has provided, as Said argues, the rationale for European imperialism. The “West” drives and maintains its hegemony over the “Rest” by putting the Western individual in relation to the ‘other’ but in that it is always in a position of superiority. Said writes: “Orientalism depends for its strategy on this flexible positional superiority, which puts the Westerner in a whole series of possible relationships with the Orient without ever losing him the relative upper hand” (9). Therefore, for Said, “ideas, cultures and histories cannot be understood and studied without their force or more precisely their configuration of power, also being studied”. Media representation also accounts for this configuration of power, and is particularly useful in analyzing the implications of the representation of Amina Filali by mainstream media discourses.
Clause 474

The portrayal of “Muslim women” by western media should be studied within the power/knowledge configuration. The media discourses around the case of Amina Filali had the tendency of portraying Amina as a victim of her male counterparts, but also of a law that was associated implicitly (or not) with Islamic tradition. However, a closer look at the law reveals that the much-debated clause 475 of Moroccan criminal law does not employ the words ‘rape’ or ‘honor’. The law reads as follows:

Article 475 Morocco: Quiconque, sans violences, menaces ou fraudes, enlève ou détourne, ou tente d’enlever ou de détourner, un mineur de moins de dix-huit ans, est puni de l’emprisonnement d’un à cinq ans et d’une amende de 200 à 500 dirhams.

Lorsqu’une mineure nubile ainsi enlevée ou détournée a épousé son ravisseur, celui-ci ne peut être poursuivi que sur la plainte des personnes ayant qualité pour demander l’annulation du mariage et ne peut être condamné qu’après que cette annulation du mariage a été prononcée.

Translation:
Anyone who, without violence, threats or fraud, abducts or distorts or attempts to remove or diverts a minor under the age of eighteen years, shall be punished by imprisonment of one to five years and a fine of 200 to 500 dirhams.

When a nubile minor thus abducted or diverted married his abductor, the abductor can be prosecuted only on the complaint of the persons entitled to request the annulment of the marriage and can not be condemned until after this annulment of the marriage been pronounced.

What most newspaper and media reports failed to mention was that the law has no roots in Islamic law, nor does it reflect traditional practices. The controversial clause was in fact adopted ‘verbatim’, in exactly the same words as were used originally, from the Napoleonic law imposed on Morocco in 1963. The same law was abrogated in France back in 1994 and was intended to protect young minor girls from being seduced to marry their suitors. The French law, repealed in 1998, reads as follows:

Celui qui, sans fraude ni violence, aura enlevé ou détourné, ou tenté d’enlever ou de détourner, un mineur de dix-huit ans, sera puni d’un emprisonnement de deux à cinq ans et d’une amende de 500 F à 15000 F.

Lorsqu’une mineure ainsi enlevée ou détournée aura épousé son ravisseur, celui-ci ne pourra être poursuivi que sur la plainte des personnes qui ont qualité pour demander l’annulation du mariage et ne pourra être condamné qu’après que cette annulation aura été prononcée.

Translation
A person who, without fraud or violence, has abducted or diverted or attempted to
abduct or misappropriate a minor under eighteen years old will be punished by imprisonment of two to five years and a fine of 500 francs to 15000 F.

When a (female) minor thus abducted or diverted marries her abductor, the abductor may be prosecuted only on the complaint of persons entitled to request the annulment of the marriage and may be convicted only after the annulment has been pronounced.

While there is no notable difference between the Moroccan law and the French law, it is worth noting one striking difference: both texts of law make the distinction between une mineure nubile (a female minor of marriageable age) and un mineur (a male minor) in the punishment of the perpetrator. The 356 provision of the French law abrogated in 1994 was erected to protect minors from what is known in French rapt de séduction (Leo Duguit, 1988: 547). As such, if an underage male is abducted or divested, the offense is punishable by a fine and two to five years of prison. In the case where a female minor is abducted and married without the consent of her parents, the perpetrator cannot be prosecuted unless an annulment of the marriage is decided by the courts with the consent of the parents.

Adolf Ruolt (1990), the official commentator of the Moroccan Code Penal confirms that the 475 provision is a “rapt de séduction” translated to the “abduction of seduction” that he defines as “an attempt on the authority of the parents in which the perpetrator marries a minor against the will or without the knowledge of the family” (493). He concludes that the “abduction of seduction is the crime of ambition and greed rather than that of passion or temperament” (Ruolt, 1990). As such the clause 475 does not punish rape per se; it is article 486 of the Moroccan that incriminates rape defined as “sexual relationships with a woman without her consent”, of 5 to 10 years of prison and a fine. This law that effectively punishes rape does not contain a marriage clause.

Experts claim that the 475 clause only applies to the non-violent abduction or “corruption of a minor” – "quiconque sans violences, menaces ou fraudes," (Moroccan Criminal Code, Article 486). As such, and contrary to what has been reported in the media, and what has been claimed by women’s rights activists, this provision does not provide for a rapist to marry his victim; rather, it is intended to protect underage minors in the case of abduction, and to protect girls in cases where they have run away or were seduced by a man and deceived into marriage without the knowledge and/or the consent of the legal guardians. In this case, the perpetrator can be prosecuted only once an annulment consented to by her parents has been pronounced.

Going beyond the law

The discrepancies between the dominant discourses around the issue and a deeper examination of the law incited Nadir Bouhmouch a 22-year-old film student, to dig deeper. With a team of young film makers, the crew headed to “Krimda” a village near Laraach where Amina lived with her family. The movie entitled 465: when marriage becomes punishment reveals a complex story and different narratives that were completely ignored in mainstream media coverage. Narrated by Houda Lmqadam, a victim of sexual violence herself, the film starts off by presenting the legal, religious, and political context of sexual violence in the country, with testimonies from experts in the Moroccan criminal law, women’s rights activists and religious specialists. In the second part, film seeks to find answers about Amina Filali herself. The independent documentary does not pretend to bring out the truth about what really happened.
between Amina and Mustafa, her alleged rapist, but it presents a wide array of stories revealing the complexities surrounding the story as well as the culture of rape-marriage that is still present predominantly in rural Morocco.

Different accounts reveal that Amina might have been in a relationship with Mustafa. According to Mustafa’s father, it was well known in the village that the two were involved in a romantic relationship. People from the village had warned Zohra, Amina’s mother, that Amina might get pregnant and would be “ruined”; that it was best to either marry her daughter or sue Mustafa. Amina’s father on the other tells another story. Interviewed by the crew, he adamantly denied that his daughter was involved with her alleged rapist. He claimed that Mustafa had threatened his daughter with a knife, took her to the woods and abused her. When Amina confessed to her mother that Mustafa had raped her, Zohra decided to take matters into her own hands. She confronted Khadija, Mustafa’s mother and demanded her son marry her daughter, claiming he had “corrupted and ruined her daughter”. Khadija firmly refused saying that her son “will never marry Amina because she lost her virginity in the forest”. Upon Khadija’s refusal, Zohra went to the local police and sued Mustafa for kidnapping and rape. The case was taken to the provincial court in Tangiers where the judge asked Amina what she wanted, she answered “I want him to marry me”, says Zohra. Since she had filed for kidnapping and rape of a minor, the judge invoked clause 475 that allows the perpetrator to marry his victim upon the legal guardian’s (in this case her father, Lahcen’s) approval. Lahcen, claimed that his wife had threatened to leave if he opposed the union. She said, according to him: “either you marry her or I leave, my daughter is the laughing stock of the village, I refuse to be the laughing stock of the village. My daughter was raped, no one will want her. Marry her of off or I leave”. Lahcen thus agreed to marry her daughter to Mustafa not knowing that a few days into this new marriage, Amina would be raped and abused once more and ingest rat poison and end her life. While one cannot know what really happened between Amina and Mustafa, the fact remains that she was pressured by her mother, father, her alleged rapist and her community to marry Mustafa in order to escape the shame and dishonor of not only having had a sexual relationship outside of marriage, but also having been raped, the two seemingly being on the same level. It didn’t matter that Amina was raped; the fact remained is that she had lost her virginity and as such her honor, as well as that of her family. Her mother also had been tarnished.

In *Bargaining with Patriarchy* (1992), Denize Kandiyoti argued that women strategize inside patriarchal structures within a set of concrete constraints. Strategizing within the patriarchal society is what she determines as the “blue print of the patriarchal bargain of any society” that may vary according to class, caste, and ethnicity. She used this concept in studying women’s resistance, passive or active within their households in Southeast Asian, sub-Saharan, and Middle Eastern societies (Kandiyoti, 1988: 280). Underlying her analysis, is not women’s ability to see through the discourses and practices of the dominant society, but rather their tendency to fall prey to ‘false-consciousness’. However, this conception seems to rely on an unproblematic assumption of the self-determining individual: Are women’s perception of their gender interests mystified by dominant ideologies, as Sen argues, or are women aware of this mystification but externally constrained from struggling for their interests as Scott (1985) suggests? (Jackson and Pearson, 1998: 14). In *Gender, Power and Contestation: Rethinking 'Bargaining with Patriarchy'* , Kandiyoti (1989) argues that ‘bargaining with patriarchy’ represents an uneasy compromise since it suggests that contestation and resistance are possible, but always circumscribed by the limits of the culturally conceivable (150).

While the term “bargaining with patriarchy” is often deployed in instances where women actively or passively resist a certain gender order that enforces gender inequalities inside and
outside their households, one can perhaps apply this analytical lens in the case of Amina. One might be compelled to argue that Zohra and Amina were forced, to accept the terms available to them and enter willingly into this patriarchal system. However, it should not be assumed that it is because of lack of awareness, education or ‘false consciousness’ as it is frequently advanced, that Zohra chose marrying her daughter to save her from humiliation.

While false-consciousness can definitely be a factor, albeit one that cannot be determined in the present study nor aspired to, perhaps it is possible that was the cost of deviating from what is common, what is familiar, what is socially—and in this case legally permitted—that compelled Zohra to marry her daughter. Amina and Zohra, two women living in a poor village in Northern Morocco, navigated lines of power-relations within their own specific society, negotiating power with the means available to them. Any alternative to marrying Amina off to Mustafa was conceived to be far costlier, because she had lost her value and brought dishonor and shame upon her family. Any changes to the perceived consensus, the unspoken rules of society, might be detrimental to her future and that of her entire family. Molyneux writes, commenting on the patriarchal bargain that “changes realized in a piecemeal fashion could threaten the short-term practical interests of some women, or entail a cost in the loss of forms of protection that are not then compensated for in some way” (Molyneux, 2010: 23).

Zohra and perhaps Amina herself were aware of the costs of not marrying Mustafa after their sexual relationship/rape was made public. Zohra’s attachment this form of patriarchal arrangement might not necessarily derive from false consciousness rather, it is because Zohra and Amina had an actual stake in this system and the promise of certain position of power upon entering a marriage. The marriage would have allowed her to be shielded from the shame of being, sullied, unwanted, an outcast. She entered the marriage with the promise of protection, social status and perhaps the power that comes with being the head of her own household. Sadly, this never came because under the abuse she was undergoing, Amina ended her life.

Cinema as resistance

Combining lyrical poetry and juxtaposition of imagery, 475: when marriage becomes punishment, had the virtue of challenging the dominant and mainstream narratives around the story of Amina Filali. Denouncing the simplistic discourse of media outlets, the movie aimed to inspire outrage amongst its viewers and to give audiences, national and international, an unprecedented and intimate view of relationships and family ties in rural Morocco. The opening credits of the film read: “this film was made illegally, as a form of civil disobedience to call for freedom of expression of the arts in Morocco and as a stand against state regulation of filmmaking through the Centre Cinematographique Marocain”. The young people behind the film used a form of activism they call “artivism”; a form of protest using art and independent filmmaking as civil disobedience, thus taking a stance against the government.

The production team relied on crowdfunding to fund their project. Pledging 7000 U.S. dollars on the website Kickstarter, the core idea for the project as the director says, is that “the law is not entirely to blame. Many forced marriages are pushed upon young couples outside of the legal framework, even when rape is not involved”. They concluded that the article becomes “a legal extension of a governmental endorsement of social and culture pressures which women face in their daily lives” (Kickstarter campaign https://www.kickstarter.com/projects/article475/475-when-marriage-becomes-punishment). “What better way for a filmmaker to express the fact that there is a lack of freedom of expression than by actually exercising it against the law?”
Bouhmouch, the director of the documentary stated: “Documentary film making has a chance of significantly altering people’s lives.” (Guerilla Cinema Official Facebook page, https://www.facebook.com/GuerrillaCinema/?ref=br_rs).

The Guerrilla Cinema movement was born out of this determination bringing together about 30 young independent Moroccan filmmakers. Their official Facebook page reads: “Guerilla Cinema: an artistic resistance for freedom of expression in Morocco. We don’t believe in censorship & Moroccan filmmaking laws. Cameras are our weapons” and has produced 6 films on themes that are often frowned upon by the state-controlled Cinematographic Center. The group took the concept of “Guerrilla Filmmaking,” a term used to describe low-budget films that do not meet the requirements of the government or film studios, and began shooting their own independent documentary films without government permits to expose stories not told by traditional news outlets, which are controlled by the Moroccan government.

Conclusion
Finally, Europe’s brutal colonization of the Islamic world engendered a new political economic order that has roots in a “distinctive ideological context” by depicting the “Muslim woman” as both a forbidden desirable object and a helpless maiden that needs to be rescued. The latter persisted by virtue of media dissemination and is used to justify and legitimize post-colonial military invasion in the name of “saving the women”. In fact, depicting Muslim woman as victims entails that they need saving, “saving from something and to something” (Lila Abu-Lughod, 2001: 787). And as Lila Abu-Lughod (2001) argues, this depiction only reinforces the superiority of the west: “Projects of saving other women depend on and reinforce a sense of superiority by, westerners, a form of arrogance that deserves to be challenged” (789). The western representation of the “Muslim woman”, is paradoxical because it portrays the woman as silenced, abused and overruled by Muslim men and their religion, while at the same time as Muslim are exotified and overly sexualized by virtue of them being “hidden”. As far as the American film industry is concerned, the western rescue fantasy tale represents the backwardness and irrationality of the Orient in contrast with the modernity and rationality of the Occident. The Wester representation of the “oriental other” is complex. The systematic representation of “Muslim woman” as a victim and the white western man as the “savior” superposed with the depiction of the Arab man as a terrorist, or assassin, aim at reducing and essentializing and entire region and people to reassert and perpetuate of “West” as a sovereign subject. Western representation of the “other” is therefore part of the colonial mission civilisatrice that is reinvented to sustain an agenda of political, cultural and economic dominance, supported by a system of knowledge production. The “Muslim woman” does not exists outside of the construction of the West and its perpetuation by the media; these representations are always linked and even based on mechanisms of power operating at intersections of race, nation, gender class and religion.

The tragedy of Amina Filali has shocked the Moroccan public and has compelled hundreds to take action. An online petition called “RIP Amina” called for a reform of the criminal code. A Facebook page entitled “We Are All Amina” was created as well as a twitter hashtag that quickly went viral on the Moroccan twitter network called “twittoma”. A march was called by the Association Marocaine des Droits de la Femme (Moroccan Association for Women’s Rights) as well as other organizations. The protestors marched silently on Mohamed V Avenue holding placards reading “rape me, marry me”, “we are all Amina”, “Clause 457 killed me”. These marches generated public and media interest, and prompted the government to organize a roundtable
bringing together the major feminist organizations, the Minister of Family and Women’s Issues, the Minister of Justice and the Spokesman of the government. But for the film crew, as stated in the documentary, the goal of the documentary was not to change the law, but to start a conversation about women’s rights, patriarchal structures that allow for a rape to go unpunished while challenging the simplistic neo-orientalist discourses of the media.

Two years after Amina’s suicide the House of Representatives of the Moroccan Parliament unanimously adopted, in January 2014, the abrogation of the second clause of the article 475 of the Moroccan criminal code that allowed rapists to marry their victims in favor of a prison sentence of 1 to 5 years and a fine of 200 to 500 dirhams (equivalent of 20 to 50 US Dollars). While this reform of the law was welcomed by national and international women’s rights organizations, it failed to bring about real change as women are still victims of physical, sexual and physiological violence as the country still lacks comprehensive law specifically dedicating to ending violence against women. The tragedy that was Amina Filali’s story gave us a glimpse of the lives of women in rural areas in Morocco, and the hardships they endure.

Through an analysis of the law itself, I have attempted to challenge the simplistic depiction of the story by the media that continues in the neo-orientalist tradition of victimizing the “Muslim woman”, as well as women’s rights organization that channel their practices towards the reform of the Moroccan law. The law is still too flexible regarding sexual violence (including sexual harassment). The patriarchal system is complex and fluid. It produces and reproduces gender norms, behaviors and practices that more often than not result in systematic discrimination and violence in all its form. The law is an important part of this system that feeds into it, informs it and shapes it and as such is an important battleground for activists. An analysis of women’s lived experiences, resistance practices, whether “active” or “passive”, in the streets, in households, and in the workplace might shed light on the inner-workings, the specificities and nuances of a system that should not be understood nor theorized as universal, encompassing all societies, all ‘cultures’, all ‘regions’ that unfolds in the same, monolithic overly simplistic manner.
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