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**The American University in Cairo  
School of Global Affairs and Public Policy**

**THE IMPOSSIBILITY OF ACCESS: AN ANALYSIS OF CHILD  
MARRIAGE DISCOURSE AS AN EMBODIMENT OF  
IMPERIALISM**

**A Thesis Submitted to the  
Department of Law**

**in partial fulfillment of the requirements for the degree of  
Master of Arts in International Human Rights Law**

**By**

**Kiminder Sekhon**

**December 2012**

The American University in Cairo

School of Global Affairs and Public Policy

THE IMPOSSIBILITY OF ACCESS: AN ANALYSIS OF CHILD MARRIAGE  
DISCOURSE AS AN EMBODIMENT OF IMPERIALISM

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*Kiminder Sekhon*

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in partial fulfillment of the requirements for the  
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The American University in Cairo  
School of Global Affairs and Public Policy  
Department of Law

THE IMPOSSIBILITY OF ACCESS: AN ANALYSIS OF CHILD MARRIAGE  
DISCOURSE AS AN EMBODIMENT OF IMPERIALISM

Kiminder Sekhon

Supervised by Professor Hani Sayed

ABSTRACT

Previous literature on child marriage has primarily focussed on consequences, reported reasons, as well as the medical, educational, legal and human rights dimensions pertaining to the issue. Little has been published on attempts to analyze this discourse, especially taking into account the role of imperialism in the construction and maintenance of the ‘poor, colored child bride of the developing world.’ This project, thus, conducts a discourse analysis of child marriage and subsequently analyzes the effects of imperialism embodied therein. It stresses the power possessed by first world elites, who finance and institutionalize “child marriage” projects and research to maintain the status quo. The lack of self-reflexivity of these ‘Subject Watchers’ is clear and therefore, this project speaks to those who speak ‘for’ and about girls like Nujood Ali. Their speaking is purportedly done for the purpose of acquiring knowledge about the monolithic entity of embodied by the child bride and her community, with the intention of eradicating the practice of child marriage. Given this imposition of imperialism, however, the thesis concludes that real access to (the subaltern group of) child brides is impossible.

Keywords: child marriage; early marriage; ethnic profiling; development; discourse analysis; human rights; imperialism; international law; Muslim girls; poverty; representation; stereotypes; Yemen

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## I Introduction & Background

An initial interest in the topic of child marriage was triggered by international media attention given to Nujood Ali's case. This nine-year old girl, unaccompanied, found her way to a courthouse in the Yemeni capital of Sana'a and demanded that the judge grant her a divorce from her thirty year old husband.<sup>1</sup> The global attentiveness to her experience reflects the importance given to issues affecting Muslim girls and women in the "Orient." The repetitive spotlighting of this particular group coincides with post-9/11 U.S. and other foreign military interventions in the Middle East and Afghanistan. American and other international media, while reporting on such (joint) Western<sup>2</sup> military involvement, cover the societal problems within these regions - thereby planting the popular (mis)conception within Western societies that Islam is largely and/or solely responsible for the mistreatment of girls and women there. Based on this fallacy, Western-based or funded efforts aimed at acquiring knowledge, aiding and "saving" this monolithic collectivity (i.e. Muslims girls and women) receive public support.

The 'good' intentions of American-driven child marriage research, projects and media reports, are not only results from this type of intervention, but also balance the negative image of such violent intrusions in the Middle East and Afghanistan. With respect to this, Lila Abu-Lughod, an anthropologist specializing in "women and gender in the Middle East, [asks:] what are the ethics of the current 'War on Terrorism,' a war that justifies itself by purporting to liberate, or save, Afghan women?"<sup>3</sup> She also notes the 2002 radio address made by Laura Bush, who states that, "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."<sup>4</sup>

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<sup>1</sup> The Houston Chronicle, *Yemen's best investment: A 10-year old exemplifies Yemen's best hope for progress* (July 7, 2008), available at <http://www.chron.com/opinion/editorials/article/Yemen-s-best-investment-A-10-year-old-1758901.php>.

<sup>2</sup> Throughout this paper, "West" and "Western" refers to Europe, as well as the United States, Canada, Australia and New Zealand - as the majority of their citizens are of European descent.

<sup>3</sup> Lila Abu-Lughod, *Do Muslim Women Really Need Saving? Anthropological Reflections on Cultural Relativism and Its Others*, 104(3) AM ANTHROPOLOGICAL 783, 783-790 (2002).

<sup>4</sup> Accessed via ABU-LUGHOD, *supra* note 3, at 784, original source: U.S. Government, 2002 Electronic document, <http://www.whitehouse.gov/news/releases/2001/11/20011117>, Accessed January 10.

The foreign attention given to the issue of child marriage in Yemen is an effect of the same American imperialism, as “the U.S. government justifies its military interventions to promote development as a part of the ‘war on terror,’ ‘nation building,’ or ‘regime change.’”<sup>5</sup> As will be suggested in Part III, these ‘good intentions’ of the US government are not concerned with solving the issue of child marriage per se, but rather in solving the issue specifically within the context of Yemen.

Moreover, the material on child marriage is not restricted to the experiences of Muslim girls in predominantly Muslim states such as Yemen - it also largely includes their poor, colored counterparts in other developing countries. This understood (and unsaid) ‘difference’ between developing countries and the First World “allow[s] imperialism to give itself yet another legitimation in its ‘civilizing mission,’”<sup>6</sup> to save child brides. This ‘mission’ operates on the illusion that if the West is able to gain access to and conduct research on child brides and their respective communities, proper programs could be formulated to eradicate this tradition, thereby solidifying “imperialism’s image as the establisher of the good society [as] marked by the espousal of the [child bride] as object of protection from her own kind.”<sup>7</sup>

Efforts made by the development and human rights communities to offer such “protection,” however, have not been without controversy. Unlike issues such as lack of food, shelter, physical and economic security and/or education, child marriage discourse is unique within the discourses about development and human rights law in that it is more likely to be subject to debate and critique with respect to culture and representation. Hence, controversy arises as to whom or what should decide when a girl is ready for marriage: her family?; her religious and/or cultural communities?; the law?; the international development and/or human rights communities?; or the girl herself?

This friction between hegemonic, Western-based, created and controlled development and international human rights discourses, and the “other” - exotic cultural female - is recognized by critics of these cosmopolitan humanist fields, such as Arturo

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<sup>5</sup> WILLIAM EASTERLY, *THE WHITE MAN’S BURDEN: WHY THE WEST’S EFFORTS TO AID THE REST HAVE DONE SO MUCH ILL AND SO LITTLE GOOD* 311 (The Penguin Press 2008).

<sup>6</sup> Gayatri Chakravorty Spivak, *Can the subaltern speak?*, in *REFLECTIONS ON THE HISTORY OF AN IDEA: CAN THE SUBALTERN SPEAK?* 52, (Rosalind C. Morris ed., 2010).

<sup>7</sup> *Id.*, at 52.

Escobar, Karen Engle, Carole Moschetti, Elizabeth Warner, Lila Abu-Lughod, Alexandra Oprea, as well as by the research team of Sharabi, Ibrahim and Nor.

The impetus for Escobar's general critique of development, which he refers to as "modernized patriarchy,"<sup>8</sup> is that it "continues to play a role in strategies of cultural and social domination"<sup>9</sup> as:

[its] discourses and practices had [a] profound impact on how Asia, Africa, and Latin America came to be seen as 'underdeveloped' and treated as such;<sup>10</sup> [its] discursive practice remained largely unchanged;<sup>11</sup> [its] discourse transforms the conditions under which [people] live into a productive, normalized social environment;<sup>12</sup> [and that it] finds support in existing patriarchal structures (both in developed and in developing countries) to organize a particular economy of visibilities.<sup>13</sup>

Part II demonstrates that these critiques are applicable to child marriage discourse, as is Escobar's critique of development's Women in Development (WID) discourse, which

name[s] women in ways that leads us to take for granted certain descriptions and solutions [which have] to be made visible. The WID discourse partakes of all the major practices of development, [such as the] creation of client categories, structured agendas, bureaucrats, and so on.<sup>14</sup>

Engle is also critical of development, as well as human rights discourses and discusses the same struggle for consensus affecting the exotic "other" girl, with respect to female circumcision or female gender mutilation (FGM).<sup>15</sup> She recognizes both those who argue against cultural relativism, such as Riane Eisler,<sup>16</sup> as well as doctrinal

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<sup>8</sup> ARTURO ESCOBAR, *ENCOUNTERING DEVELOPMENT: THE MAKING AND UNMAKING OF THE THIRD WORLD* 177 (Princeton University Press 2012) (1995).

<sup>9</sup> *Id.*, at vii.

<sup>10</sup> *Id.*, at xii.

<sup>11</sup> *Id.*, at 154.

<sup>12</sup> *Id.*, at 156.

<sup>13</sup> *Id.*, at 173.

<sup>14</sup> ESCOBAR, *supra* note 8, at 180.

<sup>15</sup> Karen Engle, *Female Subjects of Public International Law: Human Rights and the Exotic Other Female*, 26 *NEW ENG. L. REV.* 1509-1526 (2002).

<sup>16</sup> *Id.*, at 1519, notes how "Eisler abruptly dismisses the argument that 'the enactments and enforcement of Laws prohibiting genital mutilation would be improper interference with ethnic traditions, constituting merely one more form of 'Western cultural imperialism,' with the following response: 'All institutionalized behavior, including cannibalism and slavery, are cultural traditions. And surely no human rights advocate ... would today dare to justify cannibalism or slavery...on cultural or traditional grounds'" (Riane Eisler, *Human Rights: Toward an Integrated Theory of Action*, 9 *HUM. RTS. Q.* 296

advocates, who are more likely to “recogniz[e] differences among women.”<sup>17</sup> With respect to the latter point, Engle criticizes “the universalizing nature of international human rights doctrine [utilized by] liberal feminists, . . . [whom she states] would also be least likely to acknowledge differences among women.”<sup>18</sup> She also states - with respect to FGM – that “most women’s rights advocates . . . do not recognize that their own pursuit of women’s rights is also marginalizing, [as they] . . . keep the Exotic Other Female at the margins,<sup>19</sup> [rather than engaging her or] finding out why women defend the practice.”<sup>20</sup>

Moreover, and also with regards to child marriage, there is also the criticism lobbed against international human rights laws by Moschetti, who stresses that:

the UN Convention on the Rights of the Child (UNCRC) 1989, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979, and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Pornography 2002, have failed to prevent the sexual exploitation of children in early marriage [and that] this failure is due to the protection of conjugal rights by maintaining the invisibility of the male sex right. [She also notes how] the Optional Protocol [to the CRC] defines child sex tourism and child prostitution as forms of sexual exploitation, but does not include child marriage as a form of sexual exploitation or a human rights violation, unless the marriage is understood to be a forced marriage.<sup>21</sup>

Warner delves further by recognizing the specific limitations of international human rights law in preventing child marriage, as: most conventions stipulating a minimum age of marriage leave this regulation to the control of individual states, as with the age of majority;<sup>22</sup> custom and religion practices are protected under the right of freedom of religion;<sup>23</sup> there is no enforcement mechanism to ensure application of the

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(1987).

<sup>17</sup> *Id.*, at 1521.

<sup>18</sup> *Id.*, at 1512.

<sup>19</sup> *Id.*, at 1525.

<sup>20</sup> *Id.*, at 1515.

<sup>21</sup> Carole Olive Moschetti, *Conjugal Wrongs Don’t Make Rights: International Feminist Activism, Child Marriage and Sexual Relativism*, PhD thesis, Faculty of Arts, Political Science, Criminology and Sociology, The University of Melbourne (2005) (available at: [http://dtl.unimelb.edu.au/R/LX9L5FY5GTA4458FG3LM1M36FRJ84H6UFC792GNXCLH87ILY3U-02513?func=dbin-jump-full&object\\_id=83979&local\\_base=GEN01&pds\\_handle=GUEST](http://dtl.unimelb.edu.au/R/LX9L5FY5GTA4458FG3LM1M36FRJ84H6UFC792GNXCLH87ILY3U-02513?func=dbin-jump-full&object_id=83979&local_base=GEN01&pds_handle=GUEST)).

<sup>22</sup> Elizabeth Warner, Behind the Wedding Veil: Child Marriage as a Form of Trafficking in Girls, 12(2) J. GENDER & SOC. POL’Y & L. 234, 233-271 (2004).

<sup>23</sup> *Id.*

applicable conventions and thus, citizens do not have the right to sue their governments for failing to apply Convention laws;<sup>24</sup> “states may establish reservations against key provisions;”<sup>25</sup> parents and government officials are able to provide consent on behalf of a child bride when her consent is required;<sup>26</sup> a girl’s consent to marriage may be coerced;<sup>27</sup> and as the Marriage Convention contains no monitoring or reporting requirements, making it difficult to ascertain the degree of its effectiveness in preventing child marriages.<sup>28</sup> Moreover, Warner also notes that after a girl marries, “she is usually treated under domestic law as having reached the age of majority, and laws protecting children no longer reach her.”<sup>29</sup>

In addition to those criticizing development and international human rights law discourses in a general context, there are also those who condemn representations of specific communities - such as Muslims and Roma - within these cosmopolitan humanist discourses on the “Exotic Other” female and/or the child bride.

Abu-Lughod is one such critic of human rights discourses with respect to their missionary zeal and representations of Muslim women and girls, questioning “why humanitarian projects and human rights discourse in the 21st century need rely on [certain] constructions of Muslim women.”<sup>30</sup> Sponsored by the French Ambassador to the U.S. and attended by top-level bureaucrats and politicians, Abu-Lughod notes – as an example - the following text present within a February 2002 photographic exhibition honoring humanitarian organization Medecins du Monde (Mdm), entitled, “Afghan women: Behind the Veil:”

For 20 years Mdm has been ceaselessly struggling to help those who are most vulnerable. But increasingly, thick veils cover the victims of the war. When the Taliban came to power in 1996, Afghan Women became faceless. To unveil one's face while receiving medical care was to achieve a sort of intimacy, find a brief space for secret freedom and recover a little of one's dignity. In a country where women had no access to basic medical care because they did not have the right to appear in public, where women had no right to practice medicine, Mdm's

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<sup>24</sup> *Id.*

<sup>25</sup> *Id.*, at 248.

<sup>26</sup> *Id.*, at 236.

<sup>27</sup> *Id.*, at 247.

<sup>28</sup> *Id.*, at 250.

<sup>29</sup> *Id.*, at 236.

<sup>30</sup> ABU-LUGHOD, *supra* note 3, at 789.

program stood as a stubborn reminder of human rights. . . Please join us in helping to lift the veil.<sup>31</sup>

Abu-Lughod then implores development and human rights fields to “leave veils and vocations of saving others behind and instead train our sights on ways to make the world a more just place.”<sup>32</sup>

Joining her in a similar call, are Oprea and the research team of Sharabi, Ibrahim and Nor – both of whom are also concerned about the assumption embedded in human rights and development discourses, that Europeans and/or Westerners are the bearers, purveyors and evaluators of “rights” and “development,” whereas the “Exotic Other” is to be molded and “raised” to an “equal” level of the “civilized” West. Both of their articles are critical of the lack of understanding and in-depth analysis of Romani and Yemeni cultures and hence, the tendency to essentialism found within child marriage discourse on these communities.

Oprea’s article on child marriage within the Roma community censures both human rights and development discourses for their narrow foci on culture and racism as means to comprehend and deal with the issue of child marriage within the Roma population. She is critical of the stance that the “state’s laws embody human rights standards, [whereas the] Romani culture does not,”<sup>33</sup> which is exemplified by Anna Diamantopoulou’s - the-then EU Employment and Social Affairs Commissioner - statement that: “there will be changes too if Roma ideals and principles are to develop hand-in-hand with European - indeed global - concepts of fundamental human rights. When fundamental human rights and certain past traditions collide, it is the traditions that must adapt and the human principles that must prevail.”<sup>34</sup>

Oprea also condemns development discourse, criticizing The Decade of Roma Inclusion for focussing “on equalising the distribution of resources between Roma and non-Roma – a manifestation of the erroneous conclusion that racism is the only barrier to

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<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> Alexandra Oprea, Child Marriage a Cultural Problem, Educational Access a Race Issue? Deconstructing Uni-Dimensional Understanding of Romani Oppression, European Roma Rights Centre, (July 21, 2005), <http://www.errc.org/article/child-marriage-a-cultural-problem-educational-access-a-race-issue-deconstructing-uni-dimensional-understanding-of-romani-oppression/2295>.

<sup>34</sup> *Id.*, obtained from World Bank Roma Conference Speech (2003).

Romani empowerment.”<sup>35</sup> She notes how “the Decade” development discourse fails to include a “multi-dimensional analysis of issues affecting both men and women, education, health, employment, housing and an acknowledgement of oppression specific to Romani women, such as premature marriage, virginity tests, domestic violence, prostitution and access to birth control.”<sup>36</sup>

Finally and with respect to Muslim communities, Sharabi, Ibrahim and Nor conducted a discourse analysis of Nujood Ali’s case as presented in the (English-language) Yemen Times – finding that the publication “aligned Nojoud’s phenomenon alongside ‘women rights,’ the notion of ‘freedom of press,’ and ‘democracy.’”<sup>37</sup> Hamid, a writer with the Yemen Times, is then criticized for using a rights-based lens to present Nujood’s case to the English-speaking world and is described as “a writer with a hetero-cultural background of Arabic and English, [who] may subscribe to a worldview that may be incongruent to Yemeni society.”<sup>38</sup> Moreover, Sharabi, Ibrahim and Nor have also “uncovered that [English language news] texts presuppose many assumptions such as ‘marriage in Islam,’ ‘puberty’ and the ‘age documentation’ in Yemen.”<sup>39</sup>

Thus, most of this previous literature critiquing development and human rights discourses is concerned with: how the third world is represented and dominated; how the “Exotic Other” female is excluded and subject to essentialism within these discourses; and how international laws contain limitations, thereby failing to prevent child marriage and protect child brides. Following, is an analysis of this critical literature - including its commonalities, strengths, weaknesses and gaps – with regards to this thesis.

With respect to commonalities between the literature critical of cosmopolitan humanist fields and this study, Escobar has touched upon the important issue of how Third World regions are viewed as “underdeveloped” and consequently, are dealt with as such.<sup>40</sup> Child marriage discourse also suffers a similar application as the issue is

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<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> Abduljalil al-Sharabi, Noraini Ibrahim, Nor Fariza Mohd Nor, *Representation Of Nojoud’s ‘Early’ Marriage: A CDA Of Online English-Language Yemeni Newspapers*, 11(1) JOURNAL OF LANGUAGE STUDIES 109, 97-123 (2011).

<sup>38</sup> *Id.*, at 110.

<sup>39</sup> *Id.*

<sup>40</sup> ESCOBAR, *supra* note 8, at 173.

primarily presented as one affecting the Third World and/or poor, colored girls and thus, is conceptualized as a problem of the exotic, backwards “other” who is unable to respect human rights and modernize.<sup>41</sup> Both Oprea and Abu-Lughod, too, are critical of this (re)presentation with regards to, respectively, Roma and Muslim girls and women. More importantly, Abu-Lughod is concerned with such representations of Muslim females as she rightfully questions why these are utilized by human rights and/or humanitarian organizations to appeal to the public.<sup>42</sup> Based on this, it comes as no surprise then that Muslim girls like Nujood Ali and Zana Muhsen, become poster girls for child marriage, while their white counterparts manage to escape such representation.

Engle then zeroes in on these “Exotic Other” girls and calls to our attention how they are not engaged in the discourses about them and how the opposing views of women in their communities to hegemonic First World discourses on FGM are also not considered.<sup>43</sup> Similarly, too, child brides are also left “at the margins”<sup>44</sup> as they are only engaged in detailing their suffering,<sup>45</sup> whilst not questioned about the causes and possible solutions to their plight.

Furthermore, Sharabi, Ibrahim and Nor have rightfully pointed out that such a (hegemonic) conversation about the “Exotic Other” child bride has only been viewed through a human rights lens.<sup>46</sup> Moreover, and as noted by Warner<sup>47</sup> and Moschetti,<sup>48</sup> international human rights laws have failed to prevent child marriage. What can then be expected of such discourse directed towards securing the rights of the child bride, when human rights laws have also failed in securing the basic necessities of life for the family of the girl child, who is responsible for her physical and emotional welfare? Unfortunately, Engle, Warner and Moschetti, bypass this discussion on the need for basic necessities and rather, choose to focus on the flaws human rights laws with respect child

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<sup>41</sup> This characteristic of child marriage discourse is discussed in detail in Part II (a).

<sup>42</sup> ABU-LUGHOD, *supra* note 3, at 789.

<sup>43</sup> ENGLE, *supra* note 15, at 1515.

<sup>44</sup> *Id.*

<sup>45</sup> This aspect of child marriage discourse is discussed in Part II (b).

<sup>46</sup> SHARABI, IBRAHIM & NOR, *supra* note 37, at 109.

<sup>47</sup> WARNER, *supra* note 22.

<sup>48</sup> MOSCHETTI, *supra* note 21, at 35.

marriage. In these analyses of the “Exotic Other” girl child or child bride, her poverty is sidelined.

Another weakness of the examined child marriage discourse is that it treats its own various flaws separately, rather than analyzing them holistically. Oprea, for example, is critical of the sole focus on racism and its resulting inequalities in the treatment of Roma and non-Roma, while arguing for a “multi-dimensional analysis of issues affecting both men and women.”<sup>49</sup> What is required is this multi-dimensional analysis – plus a discussion on racism, all of which should be framed with respect to a “worldview [congruent] to the society”<sup>50</sup> under examination.

Thus, this thesis is part of a dialogue, in which “growing numbers of researchers, activists, and intellectuals . . . are heeding the urge to provide alternative understandings of the world.”<sup>51</sup> Escobar, too, notes that within the context of development, “the very categories and uses of knowledge - what and whose knowledge counts in development and for what purposes - have been subjected to increasing pressures from many sides [and yet this is] often unacknowledged.”<sup>52</sup> Child marriage has recently become one of these categories - created by cosmopolitan humanist fields and yet this knowledge production remains largely unexamined and hence, requires critical analysis.

The existing body of literature on child marriage, as noted in the ICRW’s (International Center for Research on Women) report, “has primarily examined the prevalence, consequences and reported reasons for child marriage.”<sup>53</sup> In addition to this, a search for graduate-level research uncovered only five theses on the topic: one discussing the “theory of sexual relativism in order to explain how cultural relativism works in relation to child marriage;”<sup>54</sup> another examining the roots of child marriage through an examination of data from international organizations;<sup>55</sup> one concerned with

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<sup>49</sup> OPREA, *supra* note 33.

<sup>50</sup> SHARABI, IBRAHIM & NOR, *supra* note 37, at 110.

<sup>51</sup> ESCOBAR, *supra* note 8, at xi.

<sup>52</sup> *Id.*

<sup>53</sup> SARANGA JAIN & KATHLEEN KURZ, NEW INSIGHTS ON PREVENTING CHILD MARRIAGE: A GLOBAL ANALYSIS OF FACTORS AND PROGRAMS 1 (April 2007), <http://www.icrw.org/files/publications/New-Insights-on-Preventing-Child-Marriage.pdf>

<sup>54</sup> MOSCHETTI, *supra* note 21.

<sup>55</sup> Katherine Kimball, *Til death do us part: Explaining the Roots of Child Marriage*, Georgetown University (2011) (on file with the Georgetown University Library).

the socio-legal and human rights aspects of child marriage in post-19<sup>th</sup> century India;<sup>56</sup> and two focussing on child marriage in Islamic law.<sup>57</sup>

Little has been published on attempts to analyze child marriage discourse, especially taking into account the role of imperialism in its construction. This study applies a critical lens to cosmopolitan humanist fields which emerged after the Second World War and are the key frames through which child marriage discourse is formulated. This is a necessary exercise given the development industry's<sup>58</sup> role in the "emergence of women as a distinctive category"<sup>59</sup> and the likelihood that it also solidified "fields" for girls, including "child marriage" and "female genital mutilation (FGM)." Hence, this project "insists on marking the positionality [of these Western researchers, academics, development practitioners and ghostwriters] as investigating subjects."<sup>60</sup>

By extending Said's understanding of imperialism to these fields and their discourse on child marriage, a multi-dimensional analysis is possible, which is able to: analyze racist stereotypes of child brides; question the lack of focus on poverty and why the powerful escape criticism; examine the Orientalist gaze; and uncover imperialist agendas purporting to show concern for the issue in the context of the 'war on terror.'

Through such an uncovering (or as imperialists would term, 'unveiling') of knowledge about child marriage discourse, this thesis exposes how it is impossible to hear the voice of those "left at the margins" of the child marriage debate: the excluded and subaltern "other" child bride. Much has already been said about why she marries early, how it damages her physically and psychologically, as well as how it violates her rights. Even when avoiding essentialism, through the examination of various contributing factors to child marriage, such an examination falls into the same trap and

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<sup>56</sup> Jaya Vishnu Sagade, Socio-legal and human rights dimensions of child marriage in India, University of Toronto (2002) (on file with the University of Toronto Library).

<sup>57</sup> Anjum Ashraf Ali, Child Marriage in Islamic Law, McGill University (2001) (on file with the McGill University Library and Collections) and Carolyn Baugh, Compulsion in Minor Marriages as Discussed in Early Islamic Legal Texts, University of Pennsylvania (2011) (on file with the University of Pennsylvania Library, Franklin catalog).

<sup>58</sup> In this context, the development industry includes organizations working at all levels - funding, researching or evaluating "child marriage" as an issue, as well implementing programs for its prevention or eradication.

<sup>59</sup> NAILA KABEER, REVERSED REALITIES: GENDER HIERARCHIES IN DEVELOPMENT THOUGHT 1 (Kali for Women, 1994).

<sup>60</sup> SPIVAK, *supra* note 6, at 48.

hence, the discourse remains the same as it is viewed through the same frames, words, images and understandings. Sometimes, we briefly hear her voice in these conversations – and at other times, the child bride is silent, or is silenced. As Gayatri Spivak aptly asked, “can the subaltern [child bride] speak?”<sup>61</sup> Surrounded in layers of imperially constructed walls, her voice is muted. If ‘we’ cannot hear her voice, then how can ‘we’ presume who she is, how she perceives child marriage and what she needs?

In order to determine the possibility of accessing and understanding the situation of the child bride and her community, Part II analyzes child marriage discourse within programmatic, scholarly and autobiographic genres<sup>62</sup> and reveals four continuities operating therein. Just as Spivak acknowledges the role of the intellectual in “help[ing to] consolidate the international division of labor by making one model of ‘concrete experience,’”<sup>63</sup> this paper – by analogy – shows how child marriage discourse, as created by Western educated elites, presents ‘one model’ of child marriage experience: that of the poor, colored and/or Muslim girl in the developing world. This occludes the same experience of white<sup>64</sup> girls and boys in the developed world, as well as colored boys in developing countries.

The West is able to create a particular understanding of child marriage as it possesses the power to do so. Also, consciously or unconsciously, it abstains from dealing with poverty as a key root cause of child marriage and from criticizing the powerful, so that it can retain both its power to create a field and propose solutions to prevent or eradicate the problems contained therein. Hence, Part III is concerned with how each of these continuities reveals the effects of imperialism when examined through

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<sup>61</sup> *Id.*, at 22.

<sup>62</sup> Due to the limited availability of English materials on child marriage in Yemen, to the necessity of examining the issue within other contexts and perspectives to provide a broader understanding, as well as to the limited scope of this project, this project examines eight texts. Half of these writings explore the topic of child marriage in Yemen and the other half examine the issue in Bangladesh, the United States and globally. In addition to covering a variety of geographies, a range of the following perspectives on the issue are also analyzed: development; international law; socio-anthropological; medical; legal; and autobiographical.

<sup>63</sup> SPIVAK, *supra* note 6, at 28.

<sup>64</sup> The term “white girls” is used, rather than Caucasian, as the latter also refers to people of Arab, Persian and Indian descent. Here, I am speaking of girls who are of European descent, not of those possessing the citizenship within the EU or the United States. Moreover, the same terminology is also utilized by Spivak (SPIVAK, *supra* note 6).

a postmodern, Saidian<sup>65</sup> lens, which exposes how “the very act of construction is a sign of imperial power over recalcitrant phenomenon, as well as a confirmation of the dominating culture.”<sup>66</sup> Moreover, examining this cultural creation and domination of child marriage discourse is important given that “writing on imperialism is dominated by the study of the influence and effects of economics and politics of empires, with little attention paid to the role of culture in the construction of empires.”<sup>67</sup> It is also important to examine the effects of imperialism on child marriage discourse because it “is seldom accorded any serious attention by our academics, media commentators, and political leaders.”<sup>68</sup>

Thus, this thesis aims to find its place within the significant contemporary debate about the residue of imperialism – the matter of how ‘natives’ are represented in Western media [and child marriage discourse – which] illustrates the persistence of such interdependence and overlapping, not only in the debate’s content but in its form, not only in what is said but also in how it is said, by whom, where, and for whom.<sup>69</sup>

As Said observed, the “Orient is watched, since its almost offensive behaviour issues out of a reservoir of infinite peculiarity.”<sup>70</sup> The child bride is similarly observed and the “offensive behaviour” of her community, her religion and her country is researched, recorded, interpreted, problematized, packaged (into a project) and evaluated by the Westerner, who “is a watcher [that remains] detached [and relatively anonymous].”<sup>71</sup> As a self-acknowledged ‘Watcher,’ too, I am not speaking for subaltern child brides, but rather speaking to those who speak about and ‘for’ them. Given this imposition of imperialism, the thesis will then determine whether access to this subaltern group of child brides is possible.

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<sup>65</sup> Saidian refers to the perspective of Edward Said as employed in *Orientalism*.

<sup>66</sup> EDWARD W. SAID, *ORIENTALISM* 145-146 (Vintage Books, 1994).

<sup>67</sup> EDWARD W. SAID, *CULTURE AND IMPERIALISM* 5 (Vintage Books, 1993).

<sup>68</sup> Michael Parenti Imperial Archive, Imperialism 101 (1991-2005), available at <http://www.michaelparenti.org/Imperialism101.html>

<sup>69</sup> SAID, *supra* note 67, at 21.

<sup>70</sup> SAID, *supra* note 66, at 103.

<sup>71</sup> *Id.*, at 103.

## II An Analysis of Child Marriage Discourse

This section analyzes child marriage discourse within programmatic, scholarly and autobiographic genres of literature. Within the programmatic category, the reports of three American or American-based organizations are analysed, including the International Center for Research on Women (ICRW),<sup>72</sup> Human Rights Watch (HRW)<sup>73</sup> and the U.S. Agency for International Development (USAID)<sup>74</sup> - the latter two of which discuss the issue of child marriage in Yemen. Examined within the scholarly category are three journal articles on child marriage approached from international legal,<sup>75</sup> socio-anthropological<sup>76</sup> and medical perspectives.<sup>77</sup> The final genre under analysis is the autobiographical, which includes the experiences of Nujood Ali<sup>78</sup> and Zana Muhsen,<sup>79</sup> both of whom were child brides in Yemen.

An analysis of these texts found the following four continuities within child marriage discourse: the framing of child marriage as a development and/or human rights issue; the dominant message that child marriage is experienced by only colored and/or Muslim girls - and only in poor, developing countries; a lack of recognition and analysis given to poverty as a key cause of child marriage; and the obfuscation of the subject-object relationship, opposition, funding and inequality of access.

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<sup>72</sup> JAIN & KURZ, *supra* note 53, at 43.

<sup>73</sup> NADYA KHALIFE, "HOW COME YOU ALLOW LITTLE GIRLS TO GET MARRIED?" (Dec. 2011), [http://www.hrw.org/sites/default/files/reports/yemen1211ForUpload\\_0.pdf](http://www.hrw.org/sites/default/files/reports/yemen1211ForUpload_0.pdf).

<sup>74</sup> Derek Lee, *Yemeni Communities Unite Against Child Marriage* (March 2011), available at [http://www.usaid.gov/press/frontlines/FL\\_feb11\\_\\_WYemen.html](http://www.usaid.gov/press/frontlines/FL_feb11__WYemen.html).

<sup>75</sup> Ruth Gaffney-Rhys, *International Law as an instrument to combat child marriage*, 15(3) INT J HUM RIGHTS, 359-373 (March 2011). From this point forward, this article will be referred to as the international legal or international law article.

<sup>76</sup> Sarker Obaida Nasrin & K.M. Mustafizur Rahman, *Factors affecting early marriage and early conception of women: A case of slum areas of Rajshahi City, Bangladesh*, 4(2) INT J SOCIOL & ANTHROP, 54-62 (Feb. 2012). From this point forward, this article will be referred to as the socio-anthropological article.

<sup>77</sup> Yann Le Strat, Caroline Dubertret & Bernard Le Foll, *Child Marriage in the United States and Its Association with Mental Health in Women*, 128 PEDIATRICS, 524-530 (2011). From this point forward, this article will be referred to as the medical article.

<sup>78</sup> NUJOOD ALI & DELPHINE MINOUI, I AM NUJOOD, AGE 10 AND DIVORCED (Linda Coverdale trans., Three Rivers Press 2010).

<sup>79</sup> ZANA MUHSEN & ANDREW CROFTS, SOLD: A STORY OF MODERN-DAY SLAVERY front cover (Futura 1991).

This exercise parallels Said’s understanding of the mode of Orientalism, which “from the beginning, was reconstruction and repetition.”<sup>80</sup> These ‘repetitions’ (or continuities) within child marriage discourse which ‘reconstruct’ the world of the child bride will be examined in detail within each genre of child marriage in the subsequent sections. From framing strategies to child bride stereotypes and socio-economic contexts, to rhetorical strategies mediating the difference between object (child bride) and subject (author) – this discourse analysis moves from the general and visible to the specific and hidden.

#### **A. The Structuring of Ideas: Framing the Phenomenon of Child Marriage**

The examined discourse on child marriage oscillates between frames of development and/or human rights, each with its own focus and distinct vocabulary. When represented from the development frame, the discourse on child marriage focusses on programming, the causes of child marriage and/or the medicalization of the issue. In a human rights frame, child marriage is expressed as an issue of: slavery, domestic and/or sexual abuse/violence; and/or infringement of various rights merged under children’s or women’s rights (education, health, consent to marriage and freedom of expression or non-discrimination).<sup>81</sup> The foci of both registers - development and human rights – are detailed below.

Within the frame of development and its focus on programming, two of the examined pieces of literature concern research promoting programmatic efforts. The socio-anthropological article assesses the situation of child marriage within five slum areas of Rajshahi city in Bangladesh - with a view to “raise awareness of the situation to stimulate action.”<sup>82</sup> Also, the medical piece on child marriage in the U.S. concludes that

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<sup>80</sup> SAID, *supra* note 8, at 122.

<sup>81</sup> At times, both disciplines merge in various ways to represent the phenomenon of child marriage. Of the eight examined texts, the breakdown of the representation of child marriage is as follows: three present it in the development frame (ICRW and the medical and socio-anthropological articles - representing, relatively, the programmatic and scholarly genres); three in the human rights frame (the international law article and both autobiographies - representing, relatively, the scholarly and autobiographical genres); and the remaining two in both development and human rights frames (HRW and USAID - representing the programmatic genre).

<sup>82</sup> NASRIN & RAHMAN, *supra* note 76, at 54.

“support for psychiatric vulnerabilities among women married in childhood is required.”<sup>83</sup>

In addition to proposing courses of action, the vocabulary of the programming focus is also concerned with “3 E’s:” efforts, examination and/or the effectiveness of child marriage programs. Hence, after the first paragraph of the ICRW report situates the discussion of child marriage within the development frame,<sup>84</sup> it is immediately followed by the report’s purpose - the focus on preventative efforts, including examining current programmatic efforts and whether they are effective.<sup>85</sup> Moreover, the target audience - whose work concerns these “3 E’s” - is shortly thereafter, identified as “policy makers and development practitioners working on or planning a future program to prevent child marriage.”<sup>86</sup> The same report also devotes an entire section to a scan of child marriage programming, analyzing the location of these efforts,<sup>87</sup> the target audience,<sup>88</sup> and the effectiveness of programs in reducing child marriage.<sup>89</sup> The USAID report also examines the effectiveness of child marriage prevention efforts within its SAM (Safe Age of Marriage) Program.<sup>90</sup>

Also within the development frame, there is an emphasis placed on understanding the risk or causal factors for child marriage, which is expressed in a mathematical vocabulary explaining the relationship between variables. This is found within both the programmatic and scholarly literature. Within the former genre, the ICRW report contains graphs and/or tables displaying: the tipping point and median of marriage in various developing countries;<sup>91</sup> the relationship

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<sup>83</sup> LE STRAT, DUBERTRET & LE FOLL, *supra* note 77, at 525.

<sup>84</sup> The first paragraph of the ICRW report reads as follows: “The international community and U.S. government are increasingly concerned about the prevalence of child marriage and its toll on girls in developing countries. One in seven girls in the developing world married before 15. Nearly half of the 331 million girls in developing countries are expected to marry by their 20<sup>th</sup> birthday. At this rate, 100 million more girls - or 25,000 more girls every day - will become child brides in the next decade” (JAIN & KURZ, *supra* note 53, at 1).

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> JAIN & KURZ, *supra* note 53, at 34-35.

<sup>88</sup> *Id.*, at 37.

<sup>89</sup> *Id.*, at 37-40.

<sup>90</sup> LEE, *supra* note 74.

<sup>91</sup> JAIN & KURZ, *supra* note 53, at 16-17.

between various independent variables and child marriage;<sup>92</sup> the age gap between spouses by prevalence of child marriage across hotspot countries;<sup>93</sup> and the median age gap and age gap ranges by country.<sup>94</sup> The socio-anthropological article on child marriage in Bangladesh also contains tables displaying: the relationship between various variables and child marriage;<sup>95</sup> selected socio-economic and demographic characteristics of respondents;<sup>96</sup> “[the] association between age at first conception and selected socio-economic variables;<sup>97</sup> [as well as] age at first marriage and selected socio-economic variables.”<sup>98</sup> In the scholarly genre, the medical piece also utilizes tables to present: demographic characteristics according to age at marriage;<sup>99</sup> lifetime prevalence of psychiatric disorders according to age at marriage;<sup>100</sup> and the prevalence of various psychiatric disorders according to age at marriage.<sup>101</sup>

Finally, there is also a focus on the medicalization of child marriage within the development frame and this is expressed in a vocabulary of “consequences” and “benefits” within the programmatic genre. The ICRW report focusses on the negative consequences of child marriage on maternal and infant health within its literature review<sup>102</sup> and the HRW report discusses “sexual and reproductive health, maternal and child mortality,<sup>103</sup> as well as other physical and psychological health consequences.”<sup>104</sup> USAID, too, presents child marriage as “a public health problem [with] dire consequences [and reports] train[ing] 40 community leaders on the health benefits of delaying marriage.<sup>105</sup> It is also

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<sup>92</sup> *Id.*, at 18, 20-21.

<sup>93</sup> *Id.*, at 23.

<sup>94</sup> *Id.*, at 24.

<sup>95</sup> NASRIN & RAHMAN, *supra* note 76, at 60.

<sup>96</sup> *Id.*, at 56-57.

<sup>97</sup> *Id.*, at 59.

<sup>98</sup> *Id.*, at 58.

<sup>99</sup> LE STRAT, DUBERTRET & LE FOLL, *supra* note 77, at 527.

<sup>100</sup> *Id.*, at 528.

<sup>101</sup> *Id.*, at 529.

<sup>102</sup> JAIN & KURZ, *supra* note 53, at ii, 6-7.

<sup>103</sup> KHALIFE, *supra* note 73, at 27-31.

<sup>104</sup> *Id.*, at 35.

<sup>105</sup> LEE, *supra* note 74.

concerned about maternal mortality and the health of children born to child brides, as well as repetitive miscarriages suffered by married girls.<sup>106</sup>

In addition to development, child marriage is also presented in a human rights frame, within which it is expressed as several types of abuse and/or an infringement of various rights. Within this framework, the discussion on the child bride is couched in a vocabulary of international law or ‘risks’ posed by her marriage.

As a type of abuse, both the international legal article and Zana Muhsen’s autobiography discuss the issue of child marriage as one of slavery. The former text notes how the 1957 UN Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery “does not explicitly forbid child marriage but implicitly does so, as it requires state parties to abolish certain practices associated with early marriage.”<sup>107</sup> The same article then details that “early marriage contravenes article 4 of the European Convention, article 6 of the American Convention, article 10 of the Arab Charter, article 4 of the UN Declaration and article 8 of the Convention on Civil and Political Rights [-] all of which prohibit slavery.”<sup>108</sup> Likewise, Muhsen’s autobiography also equates child marriage with slavery, as its title reads: “Sold: One woman’s true account of modern day slavery.”<sup>109</sup> The reference to slavery in this case is made as Muhsen’s father “had sold [his daughter - British-born and raised Zana -] as a child bride,”<sup>110</sup> to a family friend in Yemen.

The physically abusive aspect of child marriage is also presented in a human rights frame as domestic and sexual abuse/violence/exploitation. This issue is touched upon within the international legal article, which notes that

the Pan-African Forum considers child marriage to be a form of sexual exploitation [and that] although the [CRC] does not expressly prohibit child marriage, the latter will violate several of its articles that are

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<sup>106</sup> *Id.*

<sup>107</sup> GAFFNEY-RHYS, *supra* note 75, at 363.

<sup>108</sup> *Id.*, at 367.

<sup>109</sup> MUHSEN & CROFTS, *supra* note 79, at front cover.

<sup>110</sup> Amazon UK, Book Description: A Promise to Nadia: A True Story of a British Slave in the Yemen, <http://www.amazon.co.uk/Promise-Nadia-Story-British-Slave/dp/0751543691>

designed to protect children [- including] article 34 [which] provides a right to protection from sexual exploitation and sexual abuse.<sup>111</sup>

All three examined programmatic reports also discuss these aspects of abuse, with the ICRW report stating that “girls who are married young often lack status and power within their marriages and household and so are more likely to experience domestic violence, sexual abuse and isolation from family and community.”<sup>112</sup> The HRW report also examines sexual violence, domestic abuse and abandonment,<sup>113</sup> while the USAID report states that child marriage “enhances [the] risk of domestic abuse.”<sup>114</sup>

Finally and within the human rights frame, child marriage is also expressed as an infringement of various children’s or women’s rights (education, health, consent to marriage, freedom of expression and non-discrimination). With regards to education, both HRW and USAID, respectively, discuss a girl’s “right to education<sup>115</sup> [and] the grim reality that most girls [in the project area within Yemen] will soon be married, without a chance to complete their education or have a career.”<sup>116</sup> HRW, when arguing against patriarchal control exerted over a married girl by her husband and his family, also argues for the “right [of these girls] to health and access to health information.”<sup>117</sup>

With regards to the issue of consent to marriage, the HRW report cites various international legal instruments, such as CEDAW, the Universal Declaration for Human Rights, the International Covenant on Civil and Political Rights and the UN Convention on Consent to Marriage, when framing the discussion on the right of women “to enter into marriage with their full and free consent.”<sup>118</sup> The international legal article also expounds the same right with respect to these international laws and cites the 1953 European Convention on

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<sup>111</sup> GAFFNEY-RHYS, *supra* note 75, at 366.

<sup>112</sup> JAIN & KURZ, *supra* note 53, at 8.

<sup>113</sup> KHALIFE, *supra* note 73, at 31-34.

<sup>114</sup> LEE, *supra* note 74.

<sup>115</sup> KHALIFE, *supra* note 73, at 46-48.

<sup>116</sup> LEE, *supra* note 74.

<sup>117</sup> KHALIFE, *supra* note 73, at 44-46.

<sup>118</sup> *Id.*, at 24.

Human rights and the Arab Charter on Human Rights when discussing the right of women and men of ‘marriageable age’ to marry.<sup>119</sup> The same text also discusses the 1990 African Charter on the Rights and Welfare of the Child with reference to the establishment of “18 as the minimum age for marriage,”<sup>120</sup> while the HRW report pressures the Yemeni government to “set the minimum age for marriage at 18 in accordance with the definition in the Convention on the Rights of the Child.”<sup>121</sup>

Lastly, and with respect to the right of freedom of expression and non-discrimination, the HRW report is most adamant on the protection of these rights for Yemeni girls who are in danger of being wed, as it emphasizes the “right of children to express their views freely<sup>122</sup> [and the] right to non-discrimination.”<sup>123</sup>

These differentiations in framing child marriage as either a development or human rights issue depend on the context and/or the organization or publication for which the piece is produced.

In the examined literature, child marriage is framed as a development issue within a preventative program implemented by USAID in Yemen. The program, known as Safe Age of Marriage (SAM), involved “train[ing] 40 community leaders on the social and health benefits of delaying marriage,”<sup>124</sup> who then disseminated the information amongst their communities. By approaching child marriage from a development perspective, USAID “avoid[s] taking any overtly ‘political’ stance on the issue,<sup>125</sup> especially since it considers Yemen to be “a conservative Muslim nation.”<sup>126</sup> Although this was the on-the-ground approach taken with regards to the issue, USAID stated online, within its (English-only) publication entitled, “Frontlines,” that child marriage is a “human

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<sup>119</sup> GAFFNEY-RHYS, *supra* note 75, at 363.

<sup>120</sup> *Id.*, at 365.

<sup>121</sup> KHALIFE, *supra* note 73, at 49.

<sup>122</sup> *Id.*, at 43.

<sup>123</sup> *Id.*, at 43-44.

<sup>124</sup> LEE, *supra* note 74.

<sup>125</sup> As in the case of the approach of doctrinalists, when dealing with issue of clitoridectomy (ENGLER, *supra* note 15, at 1515).

<sup>126</sup> LEE, *supra* note 74.

rights infringement.”<sup>127</sup> The other programmatic report by ICRW also frames the issue of child marriage as one of development as this report, too, was prepared for USAID - a federal government aid agency.<sup>128</sup> Finally, the medical and socio-anthropological articles, too, frame the issue of child marriage as one of development as the respective publications for which they were written are “Sociology & Anthropology” and “Pediatrics.”

When produced for a human rights publication or organization, the issue of child marriage is framed from a rights perspective. This is the case with the international legal article which was produced for The International Journal of Human Rights, as well as the HRW report, which reflects its organization’s mandate.<sup>129</sup> Child marriage is also framed as a human rights issue within both autobiographies, which were widely published and thus, disseminated among the general populations in the West. These books reveal the suffering of both girls as child brides, as well as their struggles to divorce from their husbands. Nujood’s case is taken up by Shada Nasser, a Yemeni human rights lawyer,<sup>130</sup> while Zana’s account details her experience of ‘slavery’ and how the British press presented her as such.<sup>131</sup>

### **B. Child Marriage: An issue experienced exclusively by poor, colored and/or Muslim girls in the developing<sup>132</sup> world**

Within the introductions and/or bibliographies of all texts under examination, the dominant and highly visible message conveyed is that child marriage is an issue experienced by poor, colored (i.e. non-white/European) girls and only within the developing world.<sup>133</sup> The texts assume that child marriage is embedded within this

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<sup>127</sup> *Id.*

<sup>128</sup> JAIN & KURZ, *supra* note 53, at inside cover.

<sup>129</sup> HRW’s mandate states, “Human Rights Watch is dedicated to protecting the human rights of people around the world. We investigate and expose human rights violations and hold abusers accountable. We challenge governments and those who hold power to end abusive practices and respect international human rights law” (KHALIFE, *supra* note 73, at inside cover).

<sup>130</sup> ALI & MINOUI, *supra* note 78.

<sup>131</sup> The title of Zana Muhsen’s book is *Sold: A Story of Modern-Day Slavery* (MUHSEN & CROFTS, *supra* note 79).

<sup>132</sup> This project uses the term ‘developing’ country or countries as this terminology is also used within the child marriage literature examined.

<sup>133</sup> Only the international law article contains one reference made to child marriage laws in Cyprus and

particular understanding of geography, based on popularly understood binaries of North-South, rich-poor and developed-underdeveloped.

Within the programmatic literature, the second sections of both ICRW and HRW reports and the introduction of the USAID article, tie the prevalence of child marriage to, respectively, sub-Saharan Africa, the Middle East, South Asia, Latin America and the Caribbean;<sup>134</sup> sub-Saharan Africa and South Asia;<sup>135</sup> and Africa, Southeast Asia and Central America.<sup>136</sup> The ICRW piece also promptly states within its introduction that “one in seven girls in the developing world marries before 15 [and that] 331 million girls in developing countries are expected to marry by their 20<sup>th</sup> birthday.”<sup>137</sup> This report also reflects this geographically-based understanding in its selection of the following search terms utilized in its internet-based program scan on child marriage at the global level: “Afghanistan, Africa, Asia, Bangladesh, Egypt, Ethiopia, India, Latin America and [the] Middle East.”<sup>138</sup> Most importantly, one of two key questions investigated by the same report focuses on child marriage in poor states, asking: “what are the current programmatic approaches to prevent child marriage in developing countries, and are these programs effective?”<sup>139</sup> And yet, the report’s title, states that it is a “Global analysis of factors and programs.”<sup>140</sup> Thus, not only do the reports contents fail to address the issue of child marriage in developed countries, but its title is also indicative of the imperial perspective from which a phenomenon like “child marriage” can be observed.

The scholarly articles also express the same relationship between geography and child marriage at the beginning of their texts. Within the international law and socio-anthropological pieces, child marriage is stated to occur, respectively, in: sub-Saharan Africa, Southern Asia, Latin America and the Caribbean;<sup>141</sup> and developing countries.<sup>142</sup>

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Lithuania (GAFFNEY-RHYS, *supra* note 75, at 364).

<sup>134</sup> JAIN & KURZ, *supra* note 53, at 6.

<sup>135</sup> KHALIFE, *supra* note 73, at 15.

<sup>136</sup> LEE, *supra* note 74.

<sup>137</sup> JAIN & KURZ, *supra* note 53, at 4.

<sup>138</sup> *Id.*, at 33.

<sup>139</sup> *Id.*, at 5.

<sup>140</sup> JAIN & KURZ, *supra* note 53.

<sup>141</sup> GAFFNEY-RHYS, *supra* note 75, at 360.

<sup>142</sup> NASRIN & RAHMAN, *supra* note 76, at 54.

The article which examines child marriage in the United States, only briefly mentions that “child marriage is considered relatively low in Western Europe, East Asia and North America, with <6% of women being married before the age of 18 years in the United States.”<sup>143</sup> However, it, too, recognizes that “most research on child marriage has been conducted in low- and middle-income countries.”<sup>144</sup>

The same dominant message is also found immediately following the narrative of Nujood Ali’s autobiography, wherein the reader is informed in the epilogue that child marriage “is a practice that is unfortunately all too widespread in a number of other countries: Afghanistan, Egypt, India, Iran, Mali and Pakistan.”<sup>145</sup> Although it clarifies that “child marriage is hardly restricted to the Islamic world,” it fails to mention any non-developing and non-Muslim countries in which child marriage is prevalent. From Zana Muhsen’s autobiography, *Sold*, its readers are only able to discern that child marriage is an issue in Yemen, as Muhsen states that “during [her] time in Yemen, [she] discovered that [child marriage] wasn’t uncommon, with girls being brought over from countries like America as well as Britain, and being let to lead peasant lives in the mountain villages.”<sup>146</sup>

In addition to linking child marriage to a particular geography within the introductory portions of their texts, all programmatic and scholarly pieces also express the same connection in their selection of reference materials.<sup>147</sup>

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<sup>143</sup> LE STRAT, DUBERTRET & LE FOLL, *supra* note 77, at 525.

<sup>144</sup> *Id.*

<sup>145</sup> ALI & MINOUI, *supra* note 34, at 172.

<sup>146</sup> MUHSEN & CROFTS, *supra* note 79, at 109.

<sup>147</sup> Only the programmatic and scholarly genres contain bibliographies or a list of referenced material. Within the programmatic genre on child marriage, the reference titles in the ICRW report contain the following countries and regions: Bangladesh; India; sub-Saharan Africa; Zimbabwe; as well as the developing world and/or developing countries (JAIN & KURZ, *supra* note 53, at 52-53). The scholarly literature also expresses the same connection of child marriage to the developing world within the bibliographies of all three articles under examination. The journal article discussing child marriage in Bangladeshi slums mentions Bangladesh and “developing countries,” (NASRIN & RAHMAN, *supra* note 76, at 62), while the piece on child marriage in the U.S., contains Cameroon, sub-Saharan Africa and India within the titles of its references and joins these geographies with the following terms: first marriage; early marriage; or child marriage (LE STRAT, DUBERTRET & LE FOLL, *supra* note 77, at 530). One reference in the latter article mentions the U.K. in its title, but links it to the term “forced marriage” and thus, it is indiscernible at what age the group under study is being forced to marry and what the ethnicities are involved (*Id.*). Finally, the international law article contains the following states and regions in the titles of its end notes: Columbia; Ethiopia, Eritrea; India; Mexico; Morocco; Nepal; sub-Saharan Africa; Yemen; as well as the term “the developing world” (GAFFNEY-RHYS, *supra* note 75, at

Moreover and since both the starting and reference points for understanding child marriage are tied to a particularly geography, it is understood that child marriage is experienced by the specific group residing therein – poor, oppressed colored girls. This understanding is made further explicit through the presence or absence of the imagery of these girls, as well as by their silence.<sup>148</sup>

The front covers of all three programmatic reports contain images of nameless, colored girls - one from Africa<sup>149</sup> and two from Yemen.<sup>150</sup> The cover of the ICRW piece contains the smiling face of an African girl. The photographer's name is Sarah Craven,<sup>151</sup> but the girl remains nameless, voiceless and without a country and ethnicity. The remaining two programmatic pieces,<sup>152</sup> which discuss child marriage in Yemen, both show veiled Muslim Yemeni females who, too, are nameless and/or voiceless. Of these two latter reports, the title of the HRW piece is a quote from Reem, a Yemeni child bride.<sup>153</sup> Yet, Reem's image does not accompany her voice and nor is the quote attributed to her on the report's front page.<sup>154</sup> She is later acknowledged as the contributor of the title and quotes from other child brides are also included within the report's narrative. With regards to the inclusion of these voices, it must be borne in mind that their quotes have undergone a process of selection during the course of thirty-one interviews which were conducted by HRW with girls and women who were married prior to the age of eighteen.<sup>155</sup> Since these quotes were provided as a response to research, this affects what is said and selected, vice versa, and ultimately, what remains hidden. Moreover, the HRW report does not include the interview questionnaire utilized in this process.

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370-373). Like the previous article discussing child marriage in the U.S., one of the end notes mentions England and Wales - but does not link these locations with the term "child marriage," but rather to "international law [and] the development of family law" (*Id.*, at 373).

<sup>148</sup> The exception to this statement may be the title of the autobiography, *I AM NUJOOD, AGE 10 AND DIVORCED*, which could be Ali's voice – or may not be, as there is no indication within her book of who selected this title (*ALI & MINOUI, supra note 78*).

<sup>149</sup> *JAIN & KURZ, supra note 53, at 43.*

<sup>150</sup> *KHALIFE, supra note 73, and LEE, supra note 74.*

<sup>151</sup> *JAIN & KURZ, supra note 53, at back cover.*

<sup>152</sup> *KHALIFE, supra note 73, and LEE, supra note 74.*

<sup>153</sup> *KHALIFE, supra note 73, at title page and 2.*

<sup>154</sup> *Id.*, at title page and 2.

<sup>155</sup> *Id.*, at 6.

Within the autobiographical literature, the imagery of child marriage is also linked with Islam as a smiling Nujood Ali appears on her book cover, clothed in a *hijab*<sup>156</sup> and *abaya*.<sup>157</sup> Although the book's title states her age as 10, and thus presents her as a child, it is argued by al-Sharabi, Ibrahim and Nor, that

[her] appearance does not support her image of [a] . . . girl [as] the black hijab worn is customary for adult Yemeni girls when they are outdoors. If she were really a child, she would be without a hijab outdoors. Hence, if this image was shown to foreign readers, who have no cultural notion of the relationship between the choice of dressing, this knowledge is lost. However, to a reader familiar with Yemeni culture, then the status (adulthood) of the subject can be determined.<sup>158</sup>

The other autobiography contains the photo of a nameless, Muslim girl wearing a *niqab*<sup>159</sup> – with the title stamped in bold-red above her. Ironically, however, the image isn't equated with child marriage – but with slavery, as the title reads: “Sold: One woman's true account of modern day slavery.”<sup>160</sup> The message is obvious: colored, Muslim ‘girls’ are not only ‘child’ brides, but also slaves.

The presence of this imagery within the programmatic and autobiographical genres is in direct contrast to its absence within the scholarly genre, in which both images and the voices of child brides are absent. However, and within the medical piece on child marriage in the U.S., it is stated at the beginning of the article that “demographic factors associated with child marriage were black and American Indian/Alaska Native ethnicities.”<sup>161</sup> Even in the West, child marriage is portrayed to be the sole experience of colored girls.

The monolithic entity of faceless, nameless, stateless, muted colored and/or Muslim child brides from the developing world, comes to represent the experience of child marriage to (Western) Anglophone development and scholarly communities, as well as the general public in the West. This visible and written discourse is testimony to

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<sup>156</sup> A *hijab* is the headscarf worn by Muslim women (BBC News, *In graphics: Muslim veils*, available at [http://news.bbc.co.uk/2/shared/spl/hi/pop\\_ups/05/europe\\_muslim\\_veils/html/1.stm](http://news.bbc.co.uk/2/shared/spl/hi/pop_ups/05/europe_muslim_veils/html/1.stm)

<sup>157</sup> An *abaya* is a long, loose black cloak. Priya Kaur-Jones, *Reinventing the Saudi abaya* (May 12, 2011), available at <http://www.bbc.co.uk/news/world-middle-east-13372186>.

<sup>158</sup> SHARABI, IBRAHIM & NOR, *supra* note 37, at 116.

<sup>159</sup> A *niqab* is a veil for the face, which leaves the eyes uncovered. BBC News, *In graphics: Muslim veils*, available at [http://news.bbc.co.uk/2/shared/spl/hi/pop\\_ups/05/europe\\_muslim\\_veils/html/2.stm](http://news.bbc.co.uk/2/shared/spl/hi/pop_ups/05/europe_muslim_veils/html/2.stm)

<sup>160</sup> MUHSEN & CROFTS, *supra* note 79, at front cover.

<sup>161</sup> LE STRAT, DUBERTRET & LE FOLL, *supra* note 77, at 524.

the imperial power of the West to construct and dominate (a biased) child marriage discourse.

### C. Lack of analysis and focus on poverty

Another continuity found within all three genres of literature on child marriage is a particular treatment of poverty, in which it is not analyzed or inadequately analyzed as a key cause of child marriage. Rather, when it is referenced, the following elements are consistent: the treatment of poverty is brief; it is overshadowed by the focus on the relationship between child marriage and education and health, within which it is also ignored; and the solutions suggested to combat child marriage, including a legal approach and the registration of births and marriages to support this approach, also do not take into account the role of poverty.

Firstly, and within the programmatic genre, the brief treatment given to the issue of poverty is reflected in ICRW's program scan, which states that only 14% of child marriage programs address "economic opportunities," while the majority (58%) focused on education for the family and community.<sup>162</sup> The conclusion of the scan also does not make any recommendations to address poverty, but rather suggests the "need for more programs that target child marriage, the need for better communication to share lessons learned and improve the efficiency of interventions, [and] the need for funding program evaluations."<sup>163</sup> This 53-page report, "New Insights on Preventing Child Marriage," only devotes these few sentences to addressing poverty and no further elaboration upon how poverty could be reduced in the long term and what economic opportunities should be provided to unmarried girls upon finishing school.<sup>164</sup> This is odd for a report that is primarily concerned with "preventing child marriage" - as its title states.<sup>165</sup>

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<sup>162</sup> JAIN & KURZ, *supra* note 53, at 36.

<sup>163</sup> *Id.*, at 40.

<sup>164</sup> With regards to recommendations made by the same report, they advise that, "improving a family's economic status [by] . . . reducing poverty in the long term and, more immediately, providing economic opportunities for unmarried girls after they finish school [as] a girl's ability to earn income can help \ alleviate family poverty and provide girls, as well as their families, with the option to delay marriage" (*Id.*, at 41).

<sup>165</sup> JAIN & KURZ, *supra* note 53, at cover page.

With regards to the same issue within the scholarly genre, the international law piece<sup>166</sup> on child marriage states that “poverty is one of the major factors underpinning early marriage as an impoverished family may regard a young girl as an economic burden.”<sup>167</sup> Yet despite this statement, the article allocates only one paragraph to addressing the issue of poverty. The same piece also suggests that “the socio-economic conditions in which girls, adolescents and young women live and marry need to be examined and addressed in order to reduce the number of child marriages” and, yet again, the article provides no such analysis.<sup>168</sup> This pattern of the lack of analysis of poverty is also found within the socio-anthropological article, which states that “early marriage is very much affected by the family’s monthly income.”<sup>169</sup> This link of poverty to child marriage is weak as no related information or statistics are provided on the cost of living, nor on the division of family income to meet various basic needs, such as education, health care, food, shelter and transportation.<sup>170</sup>

The same brevity of treatment is also found within Nujood Ali’s autobiography, where it is neither mentioned, nor questioned how poverty contributed to her early marriage and her family’s problems. The role of poverty in child marriage is not discussed within the narrated portion of her book, nor in its introduction, nor in the *Reading Group Guide* found at the end. Readers are only informed in the epilogue that “poverty, local customs and lack of education play a role [in the decision for a man to marry of his daughter at a young age].”<sup>171</sup> Again, the language connecting child marriage to poverty is weak and there is no further elaboration on the extent of the role of poverty, nor its connection to the ‘lack of education’ vis a vis other listed causal factors. However, the connection between Nujood’s father’s use of *khat*<sup>172</sup> and its contribution to the family’s problems is strongly established. The *Reading Group Guide*, written by Delphine Minoui, states that *khat* is likened to cocaine by U.S. authorities and then asks

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<sup>166</sup> GAFFNEY-RHYS, *supra* note 75.

<sup>167</sup> *Id.*, at 360.

<sup>168</sup> *Id.*, at 361.

<sup>169</sup> NASRIN & RAHMAN, *supra* note 76, at 59.

<sup>170</sup> *Id.*

<sup>171</sup> ALI & MINOUI, *supra* note 78, at 172.

<sup>172</sup> *Khat* is a plant whose leaves are chewed in order to overcome hunger and fatigue (ALI, *supra* note 78, at 179).

the reader: “after reading this book, what effect do you think *khat* has on its users and on Yemen in general? Do you feel that it contributed to Nujood’s father’s problems?”<sup>173</sup> Minoui never questions what effect poverty has on its sufferers, on Yemen and how it contributed to Nujood’s family’s problems and to her father’s decision to arrange Nujood’s marriage at the age of ten.<sup>174</sup> This is despite the fact that Ali’s narrative informs the reader that: Yemeni children beg in the street;<sup>175</sup> that her father was uneducated, couldn’t afford to pay the rent and was, at times, unemployed;<sup>176</sup> that her siblings had to beg; and that her family had to sell their possessions in order to afford food.<sup>177</sup>

Also, and in Muhsen’s autobiography, the role of poverty in child marriage in Yemen is not discussed within the narrated portion of the book, nor in its preface, nor introduction. Readers are only informed in the introduction that “Yemen is one of the poorest nations on earth [and that] Zana Muhsen was taken from her home [in England] and dragged to a world where peasants scratch a bare living from rocky soil.”<sup>178</sup>

In addition to the brief treatment given to poverty within child marriage discourse, the examined literature also does not cite poverty as a key cause of child marriage, but rather diverts the focus to the relationship between child marriage and education and health - and within this discussion, too, poverty remains unaddressed.

Within the programmatic genre, the ICRW report states that “girls’ education is the most important factor associated with age at marriage.”<sup>179</sup> The HRW report similarly asserts that “demographic and fertility studies have shown that the number of years a girl attends school is linked to the postponement of marriage and . . . childbearing.”<sup>180</sup> The same report also emphasizes the importance of education, mentioning hurdles to the access of education for Yemeni girls, but there, too, does not directly address the role of poverty. In its *Access to Education* section, it states that “the majority of women we

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<sup>173</sup> *Id.*, at 188.

<sup>174</sup> Nicholas D. Kristof, (March 3, 2010 *Divorced Before Puberty*), available at <http://www.nytimes.com/2010/03/04/opinion/04kristof.html>

<sup>175</sup> ALI & MINOUI, *supra* note 78, at 52-53.

<sup>176</sup> *Id.*, at 33 and 35.

<sup>177</sup> *Id.*, at 35 and 52.

<sup>178</sup> MUHSEN & CROFTS, *supra* note 79, at vii.

<sup>179</sup> JAIN & KURZ, *supra* note 53, at 41.

<sup>180</sup> KHALIFE, *supra* note 73, at 37.

interviewed could not read or write,”<sup>181</sup> and yet the *Background* does not make the connection between illiteracy and poverty.<sup>182</sup> The same report also states that child marriage “cut[s] short the education and skills needed [by girls] to provide for themselves and their families.”<sup>183</sup> Here, one need only replace “child marriage” in the previous sentence with “poverty” to reflect that this is a key, as opposed to vice versa. Thus, rather than focus on poverty, the HRW report cites the lack of female teachers, the lack of awareness of parents, as well as uniform and school activity fees as hurdles to accessing education within Yemen.<sup>184</sup> The link is never made between poverty and the lack of awareness and school-related costs. This focus on education and its association with child marriage, is despite that fact that the report recognizes that: “child marriage is especially common in countries where the majority of the population live on less than US\$2 per day;<sup>185</sup> [that] Yemen, the poorest country in the Middle East, is beset by high unemployment;”<sup>186</sup> [and that] in 2011, [Yemen] ranked 154<sup>th</sup> out of 187 countries on the Human Development Index of the United Nations Development Program.”<sup>187</sup>

Within the scholarly genre, the international law piece also focuses on education, despite stating that “poverty and traditional gender roles contribute to early marriage.”<sup>188</sup> Rather than discussing how poverty and its effects cause the discontinuation of education, it states that [child] marriage *does* cause discontinuation of education.”<sup>189</sup>

Only the socio-anthropological article, (twice) explicitly states that “poverty is one of the major factors underpinning early marriage [in Bangladesh]<sup>190</sup> and suggests] greater investment in education and employment for the population of slum areas.”<sup>191</sup> Yet, there is no link drawn between the lack of options available for educated girls and the macro-level poverty of the country when the article states that “many parents in traditional societies believed that investment in a girl’s education is wasted, when she is

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<sup>181</sup> *Id.*, at 36.

<sup>182</sup> *Id.*, at 12.

<sup>183</sup> *Id.*, at 2.

<sup>184</sup> *Id.*, at 13.

<sup>185</sup> *Id.*, at 15.

<sup>186</sup> *Id.*, at 1.

<sup>187</sup> *Id.*, at 7.

<sup>188</sup> GAFFNEY-RHYS, *supra* note 75, at 361.

<sup>189</sup> *Id.*

<sup>190</sup> NASRIN & RAHMAN, *supra* note 76, at 57 and 61.

<sup>191</sup> *Id.*, at 61.

simply going to be married and work in another household.”<sup>192</sup> In addition to this, the article also shifts the focus from poverty to education, stating that among the examined variables of a girl’s education, father’s education, husband’s education, family monthly income and religion -“education is the single factor most strongly related to the postponement of marriage.”<sup>193</sup> The article also asserts that “female education has been accorded low priority in Bangladesh due to poverty, social directives for female seclusion and the low value of girls.”<sup>194</sup> It is not, however, directly stated that poverty makes education unaffordable for the poor, but rather implied that because Bangladesh is poor, education is a low priority.

Within the autobiographical genre and in the final section of Nujood Ali’s book entitled, *Girls Like Nujood Need Our Help*, Minoui suggests that readers make a donation to the Girls World Communication Center (GWCC) in Sana’a, Yemen, to help “girls who have been forced to leave school and those who are young victims of early marriage to continue their educations.”<sup>195</sup> Here, too, there is no connection made between poverty and child marriage, and no explanations are offered on why girls are forced to leave school - the reader is left to speculate that this is primarily due to child marriage.<sup>196</sup>

Like education, the health of poor girls and the negative health consequences of child marriage receive more attention than poverty within child marriage discourse and within this discussion, too, the role of poverty goes unaddressed. The HRW report notes that “[Yemeni] girls who are undernourished may be at an increased risk of anemia resulting from deficiencies of vital nutrients such as iron, Vitamin A, or folic acid.”<sup>197</sup> Rather than tie poverty to poor health status, however, the report links household power to their health: “the low social status of young married girls and their lack of empowerment in the household severely limit their ability to make decisions about their own health and the health of their children.”<sup>198</sup> The same report also recognizes “low birth weight as a consequence of [a young] mother’s poor nutritional status while

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<sup>192</sup> *Id.*, at 56.

<sup>193</sup> *Id.*, at 58.

<sup>194</sup> *Id.*, at 59.

<sup>195</sup> ALI & MINOUI, *supra* note 78, at 189.

<sup>196</sup> *Id.*

<sup>197</sup> KHALIFE, *supra* note 73, at 29.

<sup>198</sup> *Id.*

pregnant, [and links this issue with lack of available] information about proper nutrition.”<sup>199</sup> Why these child brides are undernourished and unable to access healthcare information is never questioned - the issue of poverty remains unaddressed.

Another continuity found frequently with the programmatic and scholarly genres are proposals of combating child marriage via a legal approach and through the registration of births and marriages. In advocating these ‘solutions,’ poverty is disregarded as it is not taken into consideration that “the poor face markets, state institutions and local structures of power that discriminate against them . . . [and that the poor] are unable to access public entitlements like . . . goods and services.”<sup>200</sup>

The stance of the international law article is the strongest, expressing that “legislation prohibiting forced marriage and discrimination on the ground of sex and age is required in order to strike out the root causes of child marriage.”<sup>201</sup> The HRW programmatic report also focusses on rights-based solutions, the fulfillment of international legal obligations and the establishment of a legal minimum age of marriage as means to combat child marriage.<sup>202</sup> There is no mention in either article, however, about how poverty is a hurdle to accessing the law as legal representation is an expense and understanding it requires (a high level of) literacy, for which education is a prerequisite. Rather than suggesting ways to assist the poor to overcome such obstacles posed by their poverty, the HRW report solely focuses on the (power of the) law and states that Yemeni parliamentarians agreed in February 2011, that any men marrying girls be penalized with “a fine up to US\$469, [while] any person who witnessed the marriage of children, under the indicated age would also be penalized with a jail sentence of no more than six months and a fine of no more than US\$234.”<sup>203</sup> The poor are penalized, but the system that contributes to their poverty is not. Moreover, and with respect to the effectiveness of minimum age laws, the socio-anthropological article, notes that “few prosecutions are brought against lawbreakers – parents, officiators or spouses.”<sup>204</sup>

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<sup>199</sup> *Id.*

<sup>200</sup> EASTERLY, *supra* note 5, at 137.

<sup>201</sup> GAFFNEY-RHYS, *supra* note 75, at 369.

<sup>202</sup> KHALIFE, *supra* note 73, at Parts II, III and IV and Table of Contents.

<sup>203</sup> *Id.*, at 20.

<sup>204</sup> NASRIN & RAHMAN, *supra* note 76, at 61.

Despite the fact that the same piece specifically examines child marriage in slum areas, it, too, fails to recognize the inaccessibility of the legal system due to poverty.

This lack of accessibility is also not discussed with respect to another of HRW's programmatic solutions, advocating that "birth and marriage registrations are essential components of combating child marriage as they assist in proving the age of the spouses at the time of marriage."<sup>205</sup> The same suggestion is also made within the scholarly genre, as the international law article states that "if improvements are made to the birth and marriage registration system, the number of child marriages should naturally fall."<sup>206</sup> The HRW report also states that "there is a strong correlation between the educational status of women and the registration of births."<sup>207</sup> No correlation, however, is drawn between poverty and the 'educational status of women.' How are the rural (or urban) and illiterate poor to afford the administrative, transportation and other associated costs to register births and marriages? Moreover, if they are able to do so, many may not be able to read the issued certificates, nor comprehend their legal weight.

#### **D. Negotiating difference: Rhetorical strategies obfuscating the subject-object relationship, opposition, funding and inequality of access**

This section analyzes rhetorical strategies of the examined texts, which mediate the difference between author-subject(s) and object of study (child brides) through: objectivity; obfuscating alternative voices on the issue, Western financial sponsorship of their work and the inequality of access to it.

Within the programmatic and scholarly texts, their authors avoid using personal pronouns and rather, utilize anthropomorphism, academic diction and the expert voice to mediate and/or neutralize the difference between themselves and child brides in developing countries.

The most common rhetorical strategy used by the authors of the programmatic and scholarly texts is avoidance of the use of personal pronouns, such as "I," or "we," in the case of multiple authors.<sup>208</sup> The absence of pronouns means, that by association,

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<sup>205</sup> KHALIFE, *supra* note 73, at 22.

<sup>206</sup> GAFFNEY-RHYS, *supra* note 75, at 361.

<sup>207</sup> KHALIFE, *supra* note 73, at 18.

<sup>208</sup> Two out of three examined texts within each of the programmatic and scholarly genres exhibit this

there is no corresponding “you” or “she” and therefore, the child bride becomes an “it,” - or quite literally, an object of study.<sup>209</sup>

Within interviews conducted with child brides, the HRW report uses the plural pronoun “us” or presents the organization as (subject) author. Hence, the text states: “fifteen year-old Sawsan from Hudaida told us,<sup>210</sup> [or] she told Human Rights Watch.”<sup>211</sup> Here, neither Khalife - the author - nor her assistants, self-identify with pronouns or their names and thus, their identity fades into the organization commissioning the report.

Rather than utilizing personal pronouns, authors of the programmatic and scholarly genres anthropomorphize their work, making it the speaking subject - and this strategy is found predominantly within the beginning and closing portions of the texts. Within the executive summary of the ICRW programmatic report, Jain and Kurz,<sup>212</sup> state “the work presented here investigates two key questions . . . ,”<sup>213</sup> while Gaffney-Rhys states in her conclusion that, “this [scholarly] paper argued . . . .”<sup>214</sup> The authors of the socio-anthropological article, Nasrin and Rahman, respectively state in their abstract and conclusion that, “this present study has tried to delineate these issues . . . [and] the study reveals . . . .”<sup>215</sup> Thus, “the work” or “the study” speaks, rather than the author.

Authors of the examined texts also distance themselves from their objects of study by utilizing the rhetorical strategy of academic diction - or the “use of scholarly words or

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quality. These two texts within the programmatic genre include the ICRW and USAID reports, while the two texts within the scholarly genre include the international law and socio-anthropological articles.

<sup>209</sup> Only within the medical article of the scholarly genre, do its multiple authors identify themselves as “we” within the introductory and concluding portions of their article. Within the introduction, the authors state, “Therefore, we estimated the prevalence of child marriage in the National Epidemiologic Survey on Alcohol and Related Conditions, . . . .” (LE STRAT, DUBERTRET & LE FOLL, *supra* note 77, at 5256). In the conclusion, the authors state, “despite its limitations, our study is the first step toward improving our understanding of the impact of child marriage on mental health.” (*Id.*, at 530).

<sup>210</sup> “Fifteen year-old Sawsan from Hudaida told us ‘I only went to school until I was ten years old’ (KHALIFE, *supra* note 73, at 17). Another similar example is the use of “She told us,” on pages 26, 32 and 33 of the HRW Report (KHALIFE, *supra* note 73).

<sup>211</sup> Instances of this statement are found in pages 25, 26, 30, 33, 35 and 36 of the HRW Report (KHALIFE, *supra* note 73).

<sup>212</sup> In the introduction, it states, “the authors believe the information in this report will be useful for policy makers and development practitioners working on or planning a future program to prevent child marriage” (JAIN & KURZ, *supra* note 53, at 5). This is the only instance within the ICRW report where the authors mark their subjectivity. However, this marking is not done while creating or producing knowledge, it is a sentiment shared post-research.

<sup>213</sup> JAIN & KURZ, *supra* note 53, at v.

<sup>214</sup> GAFFNEY-RHYS, *supra* note 75, at 370.

<sup>215</sup> NASRIN & RAHMAN, *supra* note 76, at 51 and 54.

terms.”<sup>216</sup> The ICRW and HRW programmatic reports, respectively, include the following statistical, legal or medical terminology: binomial logistic regression, homoscedasticity, heteroscedasticity and chi-square statistic;<sup>217</sup> and obstetric and multiple cluster survey.<sup>218</sup> Within the scholarly genre, the international legal, socio-anthropological and medical articles, respectively, contain the following terms: decree and obstetric fistula (*sic*);<sup>219</sup> univariate classification, logistic regression model and estimated regression coefficient;<sup>220</sup> and multivariate logistic regression and psychopathological.<sup>221</sup> This specialized vocabulary, in turn, establishes an expert voice and thereby, legitimizes the credibility of the writer and establishes her/his writing as an objective and neutral study of the phenomenon of child marriage or child bride-as-object. With respect to child marriage and as noted by Escobar, this is “the troubling aspect of transcultural knowledge creation - which originates in the objectifying and detached nature of Western knowledge.”<sup>222</sup>

Mediating the difference between author and their object of study is also made possible by obfuscating alternative voices on the issue of child marriage. Thus, two common assumptions operate within the examined programmatic and scholarly texts: that all child brides have a negative experience of child marriage,<sup>223</sup> and that women in

<sup>216</sup> <http://www.nisd.net/jay/la/LitTerms-RhetoricalDev.pdf>

<sup>217</sup> These terms are found, respectively, on pages 15, 16, 17 and 21 of the ICRW report (JAIN & KURZ, *supra* note 53).

<sup>218</sup> These terms are found, respectively, on pages 5 and 18 of the HRW report (KHALIFE, *supra* note 73).

<sup>219</sup> These terms are found, respectively, on pages 350 and 362 of the international legal article (GAFFNEY-RHYS, *supra* note 75).

<sup>220</sup> These terms are found, respectively, on pages 55, 59 and 61 of the socio-anthropological article (NASRIN & RAHMAN, *supra* note 76).

<sup>221</sup> These terms are found, respectively, on pages 526 and 527 of the medical article (LE STRAT, DUBERTRET & LE FOLL, *supra* note 77).

<sup>222</sup> ESCOBAR, *supra* note 8, at 181.

<sup>223</sup> Within the programmatic genre, the ICRW piece launches into reporting the following negative consequences of child marriage immediately following the introduction: “higher rates of maternal mortality; [a] higher risk of obstructed labor . . . [and obstetric] fistulas; [high rates of infant mortality]; lower levels of education and higher rates of poverty; as well as [the increased likelihood of experiencing] domestic violence, sexual abuse and isolation from family and community” (JAIN & KURZ, *supra* note 53, at 7-8). The HRW report also follows the same pattern, delving into the negative effects of child marriage after initially providing a background into the economic, political and social situation of women and girls in Yemen (KHALIFE, *supra* note 73, at Table of Contents). In the beginning of the second section, the report details that: child marriage deprives girls of their childhood and adolescence by burdening them with marriage, childbirth, and other adult responsibilities. It curtails their personal freedom and denies them the opportunity to develop a full sense of identity. It risks harming their physical health including their reproductive and sexual health, and increases their risk of

developing countries do, or would, uniformly oppose child marriage. Within the programmatic texts of HRW and USAID, which discuss child marriage in the context of Yemen, the well-known support of child marriage by some Yemeni women is completely disregarded.<sup>224</sup> Excluding and silencing this opposition, creates the assumed and neutral perspective of the texts. This silencing emboldens common assumptions about representations of “the other,” in which it is understood that: all poor and colored child brides uniformly suffer the same negative experience of child marriage; that every woman in the developing world would naturally oppose such misery; and/or that colored girls and women in the developing world who have alternative experiences and opinions regarding child marriage are silent on the matter.

Authors of some of the programmatic and scholarly texts also mediate the difference between themselves and child brides by obfuscating the western financial sponsorship of their work and the inequality of access to it by their objects of study. This is achieved by creating a diversion with pathos, or an “emotional appeal to an audience’s

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physical and emotional abuse at the hands of husbands and in-laws. Lastly, it often denies them the opportunity to access education, leaving them economically vulnerable, unable to earn a living. The negative consequences of child marriage are not limited to the girls’ childhood, but as this report shows, can persist throughout their adult lives too (*Id.*, at 16). Finally, and prior to providing details on its efforts to curb child marriage, the USAID programmatic piece also informs its audience that child marriage “deprives young girls of a childhood, enhances their risk of domestic abuse, entraps them in a cycle of poverty [and that its] the health consequences are also dire” (LEE, *supra* note 74). The scholarly genre of literature also demonstrates the same swift focus on the negative consequences of child marriage. In the international law article, the section following the introduction is entitled, “Causes and consequences of child marriage” (*Id.*, at 360). Within it, the reader is informed that child marriage “cause[s] the discontinuation of education” and results in a high rate of maternal and infant deaths, a higher risk of contracting HIV, a power imbalance between spouses, as well as obstetric fistulas (*Id.*, at 361-362). After it’s abstract, the socio-anthropological article on child marriage in Bangladeshi slums also highlights the negative effects of child marriage in its introduction, stating that “early marriage has implications for the well-being of families, and for society as a whole [and that it] represents a risk to [the mother and] may bring some physical and mental complexities to the mothers” (NASRIN & RAHMAN, *supra* note 76, at 55). Finally, the medical piece lists the negative consequences of child marriage within its introduction, including “higher rates of sexually transmitted infections HIV, cervical cancer, unwanted pregnancies, and death resulting from childbirth and malnutrition in the offspring” (LE STRAT, DUBERTRET & LE FOLL, *supra* note 77, at 525). Within the autobiographical genre, both Ali’s and Muhsen’s books primarily detail the suffering they experienced as child brides. Six of eleven chapters in Nujood Ali’s book are devoted to the negative consequences of her early marriage, including 1, 3 and 4 to 7 (ALI & MINOUI, *supra* note 78). Fifteen of twenty chapters of Muhsen’s book also do the same, including 4, 6, 7 and 9 to 18 (MUHSEN & CROFTS, *supra* note 79).

<sup>224</sup> Yemeni women protested against the establishment of a minimum age marriage law in front of the parliament and others who opposed this law did the same. CNN’s Fared Zakaria reported on pro-child marriage protests. See: <http://www.youtube.com/watch?v=eQLHBss-YzE&feature=related>.

needs, values, and emotional sensibilities,”<sup>225</sup> or ethos, or an appeal “to conscience, ethics, morals, standards, values [and/or] principles.”<sup>226</sup>

Thus, the USAID piece, reporting the success of the organization’s Safe Age of Marriage (SAM) program, opens with individual voices of Yemeni school girls exclaiming their dreams: “I want to be an English teacher! A journalist! I will be a doctor!”<sup>227</sup> It also concludes with an emotive appeal made by Leah Freij, the-then senior gender advisor of the project, who states, “the girls used to think you had to choose between an education an marriage. Now they see they can have both.”<sup>228</sup> The HRW report also garners audience sympathy by quoting Yemeni child brides, who share their negative experiences of marriage throughout the text.<sup>229</sup>

By utilizing pathos, in arguing against child marriage, the focus remains on the argument hand - on the negative consequences of child marriage and the subsequent need to prevent it - rather than on who is shaping, conducting or financially sponsoring it - or who can read or access it. The same effect is also produced through the use of ethos in the conclusion of international legal article, part of which states that, “this paper argued that setting a uniform minimum age for marriage would be advantageous as it sends a clear message that early marriage is unacceptable.”<sup>230</sup> Appeals to emotions or values keep the focus on the issue, rather than on the author, who is paid to write and has the power to mould arguments, present proofs and select images in their creation of child marriage or child brides.

### III The Effects of Imperialism seen in Child Marriage Discourse

Prior to discussing the effects of imperialism as seen in child marriage discourse, it is pertinent to identify both a working definition of imperialism and the perspective from which it will be analyzed. For the purpose of this study, a postmodern

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<sup>225</sup> <http://owl.english.purdue.edu/owl/resource/588/04/>

<sup>226</sup> <http://www.miracosta.cc.ca.us/home/dperales/NEWRhetorical%20Strategies.htm>

<sup>227</sup> LEE, *supra* note 74.

<sup>228</sup> *Id.*

<sup>229</sup> As an example, one section of this report entitled, “Full and Free Consent to Marriage,” quotes a 16-year old child bride, who states:

I finished seventh grade, and left [school] because of marriage . . . I didn’t want to get married, but my father forced me to. He told me that education won’t do anything for me. He said ‘get married and live in splendour’ . . . I didn’t know my husband beforehand. My father told me that I have to agree [to get married] . . . I had no choice” (KHALIFE, *supra* note 73, at 26).

<sup>230</sup> GAFFNEY-RHYS, *supra* note 75, at 370.

understanding of Edward Said's definition will be utilized.<sup>231</sup> Said defines imperialism as "the practice, the theory, and the attitudes of a dominating metropolitan center ruling a distant territory [which] . . . lingers in a kind of general cultural sphere, as well as in specific political, ideological, economic and social practices - [and therein, its effects are manifest]."<sup>232</sup>

As part of this imperialist Western dominance of the "Orient" or the "Third World," the construction of the child bride acts as a technology of governance, in which the West has conceptualized the issue of child marriage as: one that effects only colored and/or Muslim girls residing in poor, developing countries; one where the treatment of poverty is brief and the focus remains largely on girls' education and health, as well as legal processes; and one that consistently emphasizes the negative consequences or effects of the issue.

A postmodern understanding of Said's definition is applied as this project is concerned with deconstructing knowledge about child marriage and postmodernism is about "deconstruction"<sup>233</sup> [and] advocates 'a new way of looking at the self and the world.'<sup>234</sup> Such a conception is also congruent with Said's definition of imperialism as it takes into account "the attitudes of the dominating center."<sup>235</sup> Hence, "deconstruction" and "adopting a new perspective" are synonymous with the understanding of "attitude," as both concern utilizing a different approach. A post-

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<sup>231</sup> Other definitions of imperialism are not the right fit for the purposes of this study, which is concerned with the construction of representations of the child bride and understandings of the problem of child marriage, which consistently emphasize negative consequences over causation - especially with respect to poverty. Hence the dictionary definition of imperialism is not appropriate as it concerns the "dominion of a nation especially by direct territorial acquisitions or by gaining indirect control over the political or economic life" (Merriam-Webster, Definition: imperialism, <http://www.merriam-webster.com/dictionary/imperialism>). A Leninist understanding of imperialism is concerned with capital and its concentration and export, as well as the creations of monopolies (Brian Jones, Imperialism: The Highest Stage of Capitalism, 44 INT SOCIALIST REV. Nov.-Dec. 2005, online edition at: <http://www.isreview.org/issues/44/imperialism.shtml>). Humanitarian imperialism - with its focus on the justification of the use of force against perceived enemies in pursuit of "freedom, democracy, justice and human rights" - is also not the right fit for this study, which only touches upon the pursuit of development in Afghanistan and Yemen to justify the 'War on Terror' (Noam Chomsky, Humanitarian Imperialism: The New Doctrine of Imperial Right, 60(4) MON REV. Sept. 2008, online edition at: <http://monthlyreview.org/2008/09/01/humanitarian-imperialism-the-new-doctrine-of-imperial-right>).

<sup>232</sup> SAID, *supra* note 10, at 9.

<sup>233</sup> Richard J. Bernstein, *Introduction*, in HABERMAS AND MODERNITY 25 (R.J. Bernstein ed., 1985).

<sup>234</sup> GILBERT RIST, THE HISTORY OF DEVELOPMENT: FROM WESTERN ORIGINS TO GLOBAL FAITH 244 (Zed Books Ltd, 3<sup>rd</sup> ed., 2008) (1997).

<sup>235</sup> SAID, *supra* note 67, at 9.

modern understanding of imperialism is also contextually appropriate, given that we are operating within a “post-modern cultural situation in which Third World feminists find themselves - resisting patriarchy<sup>236</sup> [and the] postmodern world [has seen]. . . a reinforcement of the stereotypes by which the Orient [or developing world] is viewed.”<sup>237</sup>

Hence, this section is concerned with how child marriage discourse shows the effects of imperialism, including: the biased, cultural domination and production of the child marriage “field” by the Western writers and funding agencies.

#### **A. Imperialist Bias: The Power to Create, Omit and Recognize**

Child marriage discourse is constructed by a dominating, Western center, which presents the issue in a development and/or human rights frame. The significance of such an oscillation is that it demonstrates the power and possibility of writers and/or researchers to select the perspective from which they wish to present child marriage. Furthermore, those who adopt the human rights perspective are able to “make a strategic decision about which right to pursue,”<sup>238</sup> as those adopting the development perspective are also able to do the same by focussing on a variety of development-based needs.

Moreover, it is not just about ‘who’ or ‘what’ authors are discussing, but rather to and for whom they are directing their constructions of child marriage - or the target audience. Writing then becomes a performance, wherein the author as director: places the girl child against the backdrop and props of the developing world or human rights; adorns her in a particular costume of representation; directs her to speak or doesn’t take into consideration her views; and selects the villains of the story, which may be patriarchy, patriarchs, poverty, practice, government, religion or lack of education or legal protection. However, in this creation, the targeted audiences of all of the examined texts are never informed how - or if - child brides conceptualize the issue affecting them. The poor, colored child bride, like her circumcised or mutilated counterpart,<sup>239</sup> is “kept at bay”<sup>240</sup> in the discussions about her.

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<sup>236</sup> Lata Mani, *Multiple Mediations: Feminist Scholarship in the Age of Multinational Reception*, in INSCRIPTIONS 5 11, 1-24 (James Clifford and Vivek Dhareshwar, eds., 1989).

<sup>237</sup> SAID, *supra* note 66, at 26.

<sup>238</sup> ENGLE, *supra* note 15, at 1514.

<sup>239</sup> This group includes girls who have undergone circumcision or FGM (female genital mutilation).

<sup>240</sup> ENGLE, *supra* note 15, at 1525.

After establishing the frame or background, the power held by researchers, academics and writers to put forth a particular representation of child marriage, enables them to present it as one experienced solely by colored and/or Muslim girls - and only in poor, developing countries. This understanding is reflected in the introductory and bibliographic portions of the examined texts, which connect child marriage to various states in the “Third World,” or to the “developing world” in general. It is also made further explicit through the presence or absence of the imagery of these girls within the three examined genres of literature.

These uncontested constructions within the examined texts are created and dominated by the West, whose writers engage in a racialised and specific geographical understanding of “child marriage” and the child bride. This is a testament to the power of the West, not only to create such an understanding, but have it largely go unchallenged within this literature. Hence, an expression of imperialism is this cultural hegemony in which “certain ideas are more influential than others.”<sup>241</sup> Thus, Western or Western-based development practitioners, researchers and academics, do not discuss the same issue affecting white or colored girls in Europe - and if they do, it is not done in a similar fashion, nor in detail. This is despite the fact that European countries have “[high] rates of early and forced marriage, with the highest percentages in central and eastern Europe where 2.2 million girls have married before their 18th birthday<sup>242</sup> and in France, where “70 000 persons are estimated to be at risk of forced marriage.”<sup>243</sup>

When child marriage is discussed in the European context, it is limited to listing countries where the phenomenon occurs<sup>244</sup> or, if discussed in depth, the focus is on non-

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<sup>241</sup> SAID, *supra* note 66, at 7.

<sup>242</sup> Tracy McVeigh, *World turning blind eye to 10 million child brides each year, charity warns* (June 26, 2011), available at <http://www.guardian.co.uk/society/2011/jun/26/10-million-child-brides-each-year-charity-warns>

<sup>243</sup> Parliamentary Assembly – Council of Europe, *Forced marriages and child marriages* (June 20, 2005), Available at <http://assembly.coe.int/Main.asp?link=/Documents/WorkingDocs/Doc05/EDOC10590.htm>

<sup>244</sup> When Plan - “a global children’s charity” - discusses child marriage in the European context, it is simply mentioned as an occurrence in Turkey, Georgia, France and Britain - while, in comparison, Africa, is the object of specific focus within the same article ( Plan, *About Plan*, available at <http://www.plan-uk.org/about-us/> and Plan, *Early and forced marriage - facts, figures and what you can do*, available at <http://www.plan-uk.org/early-and-forced-marriage/>). The same brevity is also found within a document of the Parliamentary Assembly of the Council of Europe, which notes that “in industrialised countries, women seldom marry before 18 years of age (4 % in the United States and 1% in Germany), apart from some economically fragile countries of Eastern Europe (Albania and “the

white populations within Europe<sup>245</sup> - or detailed within the context of medieval Europe,<sup>246</sup> ancient Europe through to 1792<sup>247</sup> and in 7<sup>th</sup> century Europe.<sup>248</sup> This pattern is found within eight of the first ten articles<sup>249</sup> listed in a Google-based search, using the terms “child marriage Europe.” The two exceptions to this pattern were both UN-produced reports on child marriage.<sup>250</sup>

Within the literature examined in this discourse analysis, the focus of efforts aimed at exposing child-marriage remains exclusively on non-European states. Both USAID<sup>251</sup> and Human Rights Watch target Yemen for, respectively, a safe age marriage

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former Yugoslav Republic of Macedonia”)” (PARLIAMENTARY ASSEMBLY – COUNCIL OF EUROPE, *supra* note 243).

<sup>245</sup> When discussed in detailed, the issue of child marriage is usually brought to the forefront in French media reports of individual cases of girls of non-European origin, such as” Africans, Maghrebis, Asians and Turks [as] these examples have the merit of attracting attention that appeal to an indiscriminating public.” Also, and even though the document warns against “stigmatising Islam, [it reports that child marriages] often take place in Muslim families [and that] the majority of girls and boys of Turkish origin who have grown up in France fall victim at the age of 18 or 19 to arranged marriages with young Turkish nationals.” In this case of ethnic Turks, their ages indicate that these are not child marriages, but are classified as such (PARLIAMENTARY ASSEMBLY – COUNCIL OF EUROPE, *supra* note 243). Other ethnic communities in Europe, for which detailed articles concerning child marriage are available include the Roma within an NPR (National Public Radio) broadcast in the USA (NPR, *Roma Confront Europe's Ban on Child Marriages*) <http://www.npr.org/templates/story/story.php?storyId=3876837> (August 28, 2004); Muslims (Islam in Europe, *Sweden: Forced/child marriage laws 'not strong enough* <http://islamineurope.blogspot.ca/2011/02/sweden-forcedchild-marriage-laws-not.html> (February 18, 2011); and Kurds in Sweden (BBC News, *Sweden to ban all child marriages* <http://news.bbc.co.uk/2/hi/europe/3267727.stm> (November 13, 2003).

<sup>246</sup> John McLaughlin, *Medieval Child Marriage: Abuse of Wardship?* <http://www.thedigitalfolklife.org/childmarriage.htm> (1997).

<sup>247</sup> Magnus Hirschfeld Archive for Sexology, *History of Marriage in Western Civilization* [http://www2.hu-berlin.de/sexology/ATLAS\\_EN/html/history\\_of\\_marriage\\_in\\_western.html](http://www2.hu-berlin.de/sexology/ATLAS_EN/html/history_of_marriage_in_western.html)

<sup>248</sup> Institutions for Collective Action, *Debates on marriage patterns: What stimulated young unmarried women in Western Europe to work outside their parents' households?* [http://www.collective-action.info/\\_DEB\\_MAP\\_WorkingOutsideParentsHouseholds](http://www.collective-action.info/_DEB_MAP_WorkingOutsideParentsHouseholds)

<sup>249</sup> This is not including the following: Wikipedia entries; a UN Women entry only listing articles on the topic (UN Women, *Forced and child marriage*) <http://www.endvawnow.org/en/articles/187-forced-and-child-marriage.html>); and the Weave entry, for which the article could not be located) - listed in a Google-based search, using the terms “child marriage Europe.”

<sup>250</sup> One of these is a report on early marriage by the Innocenti Research Centre, UNICEF (Innocenti Research Centre, UNICEF, *Early Marriage: Child Spouses*, 7 INNOCENTI DIGEST (March 2001), *at* <http://www.unicef-irc.org/publications/pdf/digest7e.pdf>), which discusses child marriage in Europe in detail, while the other is a report by the United Nations Division for the Advancement of Women detailing child marriage in central and eastern Europe (Cheryl Thomas, *Forced and Early Marriage: A Focus on Central and Eastern Europe and Former Soviet Union Countries with Selected Laws from Other Countries*) [http://www.un.org/womenwatch/daw/egm/vaw\\_legislation\\_2009/Expert%20Paper%20EGMGPLHP%20\\_Cheryl%20Thomas%20revised\\_.pdf](http://www.un.org/womenwatch/daw/egm/vaw_legislation_2009/Expert%20Paper%20EGMGPLHP%20_Cheryl%20Thomas%20revised_.pdf) (June 19, 2009).

<sup>251</sup> LEE, *supra* note 74.

project and a report, whose title asks: “How Come You Allow Little Girls to Get Married?”<sup>252</sup> USAID has no similar programmatic efforts established in Georgia,<sup>253</sup> which has one of the highest child marriage rates in Europe at 17%.<sup>254</sup> Ironically, too, the ICRW report entitled, “New Insights on Preventing Child Marriage: A Global Analysis of Factors and Programs,” - also chose not to focus on Europe in its “global analysis.” This creation-omission of the West is part of the same “masculine-imperialist ideological formation [that] . . . constructs the monolithic ‘third-world woman,’ [while sparing her white counterpart the same fate].”<sup>255</sup> In such imperialist construction, “knowledge no longer requires application to reality; knowledge is what gets passed on silently, without comment, from one text to another.”<sup>256</sup>

Uncovering, dissecting and thus, deconstructing this bias reveals the power of the imperialist West to (un-objectively) create and dominate child marriage discourse, while simultaneously presenting itself as ‘civilized’ and ‘advanced.’

The same hypocrisy is also found with respect to the experiences of child brides in the autobiographical genre. Nujood Ali was recognized as *Glamour* magazine’s 2008 Woman of the Year for her struggle to obtain a divorce at the age of 10 in Yemen.<sup>257</sup> However, *Glamour* magazine, an American publication, did not acknowledge the experience of Elissa Wall - an American child bride “whose testimony led to the conviction of Fundamentalist LDS Church leader Warren Jeffs” in the U.S.<sup>258</sup> - the same year Nujood received her prize. Nujood’s struggle was recognized and awarded, Elissa’s was not.

It is also highly or completely unlikely that Elissa Wall’s experience as a child bride in America will be published in 18<sup>259</sup> or 19<sup>260</sup> languages as, respectively, Zana and

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<sup>252</sup> KHALIFE, *supra* note 73.

<sup>253</sup> No current information on USAID-sponsored programs aimed at preventing child marriage in Georgia were found on USAID’s website (USAID, *Where we work: Georgia*, available at <http://www.usaid.gov/where-we-work/europe-and-eurasia/Georgia>).

<sup>254</sup> McVEIGH, *supra* note 242.

<sup>255</sup> SPIVAK, *supra* note 6, at 48.

<sup>256</sup> SAID, *supra* note 66, at 116.

<sup>257</sup> Paula Newton, *Child bride’s nightmare after divorce* (Aug. 28, 2009), available at <http://www.cnn.com/2009/WORLD/meast/08/26/yemen.divorce/index.html>.

<sup>258</sup> Ben Winslow, *Ex-FLDS bride’s book released* (May 14, 2008), available at <http://www.deseretnews.com/article/700225720/Ex-FLDS-brides-book-released.html?pg=all>

<sup>259</sup> MUHSEN & CROFTS, *supra* note 79, at v.

Nujood's were.<sup>261</sup> This is despite the fact that not only was Walls a child bride, but she was a child bride in a polygamous marriage - Nujood Ali and Zana Muhsen, both Yemeni and Muslim, were not. The West, however, will not expose itself as backward, cruel and primitive - these understandings are reserved for "other" cultures and countries where girls are poor, colored and/or Muslim. This was noted by Sharabi, Ibrahim and Nor - all of whom are female, Malaysian Muslim students - as they conducted a discourse analysis of Nujood's experience, arguing that "international readers notably from the west have imposed their sociocultural norms and practices against that of the Yemeni society. The award bestowed by *Glamour* magazine on Nujood and the book published by the French journalist [(Minoui)] are both testimony of this."<sup>262</sup>

Poor and colored girls - and ideally, veiled Muslim girls - are more worthy of saving and of recognition than their non-Muslim, white counterparts in Europe and the United States. As Said aptly argues, "there is a difference between knowledge of other peoples that is the result of understanding, compassion, careful study and analysis for their own sakes, and on the other hand knowledge - that is what it is - that is part of an overall campaign of self-affirmation."<sup>263</sup> All of the examined texts within three genres of literature affirm to the West that Europeans and Americans of various Christian denominations do not practice child marriage, as poor and colored citizens in developing and largely Islamic countries do.

This bias, however, is not limited to the West-Third World axis, but also exists intra-Third World, between Niger and Yemen, both of which are on the top twenty list of "hotspot countries" for child marriage.<sup>264</sup> If the U.S. government was genuinely concerned about the issue, its resources would best be devoted to Niger,<sup>265</sup> rather than Yemen, the former of which ranks number one for the highest rates of child marriage

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<sup>260</sup> ALI & MINOUI, *supra* note 78.

<sup>261</sup> KRISTOF, *supra* note 83.

<sup>262</sup> SHARABI, IBRAHIM & NOR, *supra* note 37, at 110.

<sup>263</sup> SAID, *supra* note 66, at xix.

<sup>264</sup> PBS, *Child Brides – Child Marriage: What We Know*, available at <http://www.pbs.org/now/shows/341/facts.html>.

<sup>265</sup> There is no indication on USAID's website that the agency performs any development work in Niger. USAID, *Where we work: Africa*, available at See: <http://www.usaid.gov/where-we-work/africa>

under the age of 18 at a rate of 76.5 %.<sup>266</sup> This, however, is not the case as al-Qaeda is highly operative in Yemen and thus, in USAID established its 2009 SAM program in the Yemeni governorate of Amran.<sup>267</sup> This connection is validated by USAID, which states that “USAID/Yemen’s 2003-2009 strategy focused on development initiatives in the five remote, very poor, rural governorates most at-risk of generating political instability and providing possible refuge for terrorists.”<sup>268</sup> [Amran, in addition to the other four governorates was] identified with inter-tribal conflicts, tribe-state conflicts, and an Al-Qaeda presence.”<sup>269</sup> Similarly, Human Rights Watch - an American-based organization - also chose not to report on the issue of child marriage in Niger and not to ask the government and society of Niger - rather than Yemen - “How Come You Allow Little Girls to Get Married?”<sup>270</sup> These are both examples of a “collective itinerary of sadomasochistic representation in a collective imperialist enterprise,”<sup>271</sup> in which America is interested in ‘saving Muslim girls from Muslim men,’ in countries where elements challenge its imperialism.<sup>272</sup>

## **B. Poverty Sidelined**

While child marriage is linked to poor girls in the developing world, their poverty is not addressed in depth and is sidelined in general, as well as in the discussion on issues related to child marriage. Within the examined literature, poverty is never explicitly addressed as a key cause of child marriage, nor is it taken into consideration when discussing factors that place girls at risk of child marriage, nor when recommending solutions related to education, healthcare, legal aid, as well as birth and marriage registration.

With respect to factors that place girls at risk of child marriage, poverty is not explicitly mentioned as one. The HRW report cites a study listing four risk factors that

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<sup>266</sup> PBS, *supra* note 264.

<sup>267</sup> LEE, *supra* note 74.

<sup>268</sup> USAID / Yemen, *2010-2012 Yemen Country Strategy*, [http://pdf.usaid.gov/pdf\\_docs/PDACP572.pdf](http://pdf.usaid.gov/pdf_docs/PDACP572.pdf)

<sup>269</sup> *Id.*

<sup>270</sup> The title of the Human Rights Watch report on child marriage in Yemen (KHALIFE, *supra* note 73).

<sup>271</sup> SPIVAK, *supra* note 6, at 49.

<sup>272</sup> This (analogous) statement is derived from Spivak’s pronouncement of “white men are saving brown women from brown men” (*Id.*, at 48).

make young girls susceptible to child marriage in Yemen, three of which relate to poverty and a family's financial considerations, including:

view[ing] young girls as a financial burden; [viewing] . . . daughters as an economic asset because of the payment of dowry [to the bride's family]; [the desire to protect] girls from pre-marital sex, which would undermine family honour; [and that] girls see marriage as their only option, especially those who leave school at an early age.<sup>273</sup>

Then, in terms of proposed solutions to child marriage, the summary of the HRW report advocates the following: “adopt[ion] and enforce[ment of] a minimum age for marriage; chang[ing] the cultural acceptance of child marriage; promot[ion of] education for girls and women; [the] prevent[ion] and redress[ing of] domestic and sexual violence; and [ensuring] that women and girls have access to adequate reproductive health services [and information].”<sup>274</sup> Only the recommendation of promoting education relates directly to one of the risk factors listed previously - that girls abandon school at an early age as marriage is viewed as their only future option.<sup>275</sup> The remaining three propose improvements to legal, cultural and health fields in Yemen. Again, poverty and financial considerations are not factored into HRW's recommendations, the latter of which suggest the following: the ‘promotion’ of education; the ‘prevention’ of domestic and sexual violence; and ‘access’ to reproductive healthcare.<sup>276</sup> None of these actions - ‘promotion, prevention, nor access’ - address the structural issue of poverty. However, by replacing these terms with ‘financing,’ parents could send their daughters to school without worrying about the costs of uniforms or books, the lack of female teachers, or the lack of washroom facilities for girls in Yemen - all of which are factors cited as reasons preventing parents from sending their daughters to school.<sup>277</sup>

At the end of its report, none<sup>278</sup> of the recommendations made by HRW to the Government of Yemen - including its parliament and the five Ministries of Religious

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<sup>273</sup> KHALIFE, *supra* note 73, at 17.

<sup>274</sup> *Id.*, at 3-4.

<sup>275</sup> *Id.*, at 22.

<sup>276</sup> *Id.*, at 3-4.

<sup>277</sup> CEDAW Committee Recommendations, CEDAW/C/YEM/6, July 1, 2008.

<sup>278</sup> Only one recommendation made to the Ministry of Education suggested providing “incentives for families to keep girls in school and to subsidize the cost of uniforms and textbooks” (KHALIFE, *supra* note 73, at 50.)

Endowments, Health, Education, Justice and Interior - address poverty.<sup>279</sup> When proposals are made within report's "Key Recommendations," which advocate "for programs [involving] subsidies for school-related costs and the provision of safe transportation for girls to schools in rural communities [, as well as] fund[ing] programs offering services to victims of domestic abuse,"<sup>280</sup> they are directed to international donors, not the Yemeni government. This not only removes the spotlight from the Government of Yemen to take responsibility for the cyclical poverty of its citizens, but also maintains the position of Western elites in cosmopolitan humanist fields in their dominant role as the producers and beneficiaries of child marriage discourse via projects and research on the issue. As "patricians at public expense, they thus have the strongest possible vested interest in preserving the status quo in which aid continues to flow through their fingers."<sup>281</sup>

Hence, American and other Western-based efforts are aimed at the oft-repeated recommendations and solutions of educating or training girls and their families,<sup>282</sup> as well as conducting further research into the issue of child marriage - not in dealing with its structural root cause. Moreover, if some claim that they have tried to address this cause - they, too, have failed because

if they were doing a proper job of promoting development in the Third World, then presumably, they should have put themselves out of business by now. Over almost fifty years they should have dealt systematically with the problems that they were established to solve, closed up shop and stopped spending tax-payers' money.<sup>283</sup>

This is both an expression of imperialism, as well as an effect of it. In the first instance, the lack of focus on poverty acts as an exclusion and such, expresses the power held by the West to construct the "other's reality" - not only by including, but also by excluding. The resulting effect is then manifest in the economic practice of human rights and development organizations, which have placed the focus of preventative efforts

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<sup>279</sup> *Id.*, at 49-50.

<sup>280</sup> KHALIFE, *supra* note 73, at 5.

<sup>281</sup> GRAHAM HANCOCK, LORDS OF POVERTY: THE POWER, PRESTIGE, AND CORRUPTION OF THE INTERNATIONAL AID BUSINESS, 74-75 (The Atlantic Monthly Press, 1989).

<sup>282</sup> There is a heavy emphasis on education within the scholarly and autobiographic genres as well. This is detailed within Part II(B).

<sup>283</sup> HANCOCK, *supra* note 281, at 74.

elsewhere. Thus, programmatic and research efforts remain on, or are diverted to, improving education, healthcare and legal avenues to assist poor girls - not on the poverty experienced by their families. There is also no self-reflexivity on this issue within the examined literature. It is never questioned “how we, living in this privileged and powerful part of the world, might examine our own responsibilities for the situations in which others in distant places have found themselves.”<sup>284</sup> As long as the economic control of the poor, and their dependency on international donors, remains - so does their poverty and likewise, child marriage.

### C. The Powerful Escape Criticism

The West continues to collect and disseminate knowledge about the poor colored child bride and within this project, it has chosen not to focus the discussion on her poverty. It is no surprise then that efforts aimed at preventing child marriage have largely failed and this is reported by only one of the examined texts, which provides other critiques as well.

The ICRW report states that existing child marriage programs “are few; . . . [that] communication and collaboration among [them] is limited; . . . [and that] monitoring and evaluation is rare among child marriage programs.”<sup>285</sup> It also importantly notes that “the unique health, social, educational and economic needs of married girls are underserved by existing child marriage programs<sup>286</sup> [and that the authors were unable to] find literature summarizing or analyzing program experience to delay marriage.”<sup>287</sup> Furthermore, and with reference to existing programs seeking to curb the incidence of child marriage, the same report states that “the literature lacks evidence of current practices working to increase the age at marriage, including where programs are and what approaches are being used, particularly in high prevalence countries.”<sup>288</sup>

These points, however, do not address the issue of poverty, allowing the influential to escape criticism. Hence, the power held by the West enables it to avoid self-reflection within child marriage discourse and this, cyclically, also ensures its

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<sup>284</sup> ABU-LUGHOD, *supra* note 3, at 789.

<sup>285</sup> JAIN & KURZ, *supra* note 53, at 3.

<sup>286</sup> *Id.*

<sup>287</sup> *Id.*, at 6.

<sup>288</sup> *Id.*, at 12.

domination of it. Had the examined child marriage literature been self-critical, it would unveil the imperialism of the West's attitude as embodied in its unquestioned economic practices with respect to child marriage and/or development-based research and programming and its maintenance of the status quo of the impoverished. In addition to this, the diversion of economic resources to government military spending also requires further examination.

In the case of child marriage research and development, the power possessed by the West's aid industry - of which USAID is a participant - is immense as it is a "publicly-funded enterprise, . . . that has not only been permitted to wall off its inner workings from the public view but that also sets its own goals, establishes how these goals are to be attained and, in due course, passes judgements on its own efforts."<sup>289</sup> If Western tax payers who fund international aid have no voice in how their hard-earned money is spent, then how much power does the poor and colored child bride possess when foreign (Western) development workers, researchers, consultants and journalists appear at her doorstep to learn about her, to 'inform' the world about her plight and to 'help' her and her community?

Another imperialist economic practice is the maintenance of a power differential in order for the West to maintain its dominance. If poverty was addressed, this power differential would decrease and therefore, it is in the best interest of Western elites and 'experts' to retain their power by maintaining the status quo. Thus, USAID's aim is not, explicitly, to reduce poverty, as it acknowledges that

U.S. foreign assistance has always had the twofold purpose of furthering America's interests while improving lives in the developing world. The Agency carries out U.S. foreign policy by promoting broad-scale human progress at the same time it expands stable, free societies, creates markets and trade partners for the United States, and fosters good will abroad.<sup>290</sup>

The imperialist intentions of the U.S. are clear, as it is primarily interested in the "expansion" of its ideals and economic interests.<sup>291</sup> This echoes the same message made

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<sup>289</sup> HANCOCK, *supra* note 281, at xiv.

<sup>290</sup> USAID, *This is USAID* (November 18, 2011), available at [http://transition.usaid.gov/about\\_usaid/](http://transition.usaid.gov/about_usaid/)

<sup>291</sup> This definition of what imperialism implies is consistent with the one provided at the beginning of Part II, as Said is concerned with the practice and effects of a dominating central power - in this case, the USA - over distant territories (i.e. Third World states) – both with respect to ideological and economic

62 years earlier by Mr. Eugene Black, president of the World Bank.<sup>292</sup> Moreover, and in terms of “improving lives in the developing world,”<sup>293</sup> USAID’s website states that

spending less than one-half of 1 percent of the federal budget, USAID works in over 100 countries to: promote broadly shared economic prosperity; strengthen democracy and good governance; improve global health, food security, environmental sustainability and education; help societies prevent and recover from conflicts; and provide humanitarian assistance in the wake of natural and man-made disasters.

USAID’s downloadable spreadsheet on how its funds are obligated for FY11 and FY12, shows - however - that promoting “economic prosperity” is not a priority.<sup>294</sup> Within a list of twenty program areas, with number one being the area which USAID expenditure is the highest, and twenty the least, education and health were – respectively – numbers one and eight on the list.<sup>295</sup> The program area that was the closest, in terms of addressing poverty, was “economic opportunity” and this placed 19 out of 20 on the list.<sup>296</sup> Again, education and healthcare initiatives outrank poverty alleviation in developing countries in general, and the same is the case with regards to child marriage prevention initiatives as mentioned earlier.

Thus, not addressing poverty also guarantees a demand for Western ‘experts’ to plan, implement, evaluate, research and report on - or ‘for’ - the poor. Working for aid agencies, these ‘experts’ “write reports for each other and for the rich-country media”<sup>297</sup> - not for the illiterate poor.<sup>298</sup> Poverty feeds an imperialist ‘development’ industry and

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spheres, among other spheres.

<sup>292</sup> Mr. Black stated that

foreign aid programmes constitute a distinct benefit to American business. The three benefits are: (1) foreign aid provides a substantial and immediate market for United States goods and services; (2) foreign aid stimulates the development of new overseas markets for United States’ companies; [and that] (3) foreign aid orients national economies towards a free enterprise system in which United States firms can prosper (HANCOCK, *supra* note 281, at 70).

<sup>293</sup> USAID, *supra* note 254.

<sup>294</sup> USAID, *Where does the money go?* (March 31, 2012), available at <http://www.usaid.gov/results-and-data/budget-spending/where-does-money-go>

<sup>295</sup> *Id.*

<sup>296</sup> *Id.*

<sup>297</sup> EASTERLY, *supra* note 5, at 184.

<sup>298</sup> All of the examined authors are writing for Western audiences or those educated in English and French. Thus, vis a vis their objects of study or writing and by virtue of being Anglophone or Francophone, educated at Western universities or under a westernized education system, as well as citizens of Western states and of financial means - most of these authors are in a relatively powerful position.

despite the fads, fancies, ‘new techniques,’ ‘new directions,’ and endless ‘policy rethinks’ that have characterized the development business over the last half [of the 20<sup>th</sup>] century, and despite the expenditure of hundreds of billions of dollars, there is little evidence to prove that the poor of the Third World have actually benefited. Year in year out, however, there can be no doubt that aid pays the hefty salaries and underwrites privileged lifestyles of the international civil servants, ‘development experts,’ consultants and assorted freeloaders who staff the agencies themselves.<sup>299</sup>

With child marriage, too, there is also little proof that young girls have benefited from development interventions and this is supported by a global scan conducted on child marriage programs within the ICRW report, as stated earlier.<sup>300</sup>

In addition to the unquestioned Western control of development aid and preserving the economic status quo, the West has also not been criticized in the examined literature for its military spending and interventions - which maintain its imperial authority and could be diverted to alleviating the poverty of families in Yemen, where two of the programmatic reports examine the phenomenon of child marriage.

The HRW report places responsibility for the prevalence of child marriage in Yemen on the government, stating that it has failed to “protect children from child marriage by not setting and enforcing a clear minimum age for marriage and by failing to provide them with opportunities for redress.”<sup>301</sup> There is no further mention of poverty in this section of the report and no further criticism is lobbed at the Yemeni government for its military spending, which could be averted to address earlier-mentioned financial-based risk factors. Yemen, an ally of the U.S. ‘War on Terror,’<sup>302</sup> supports post 9/11 American imperial ambitions of political and military domination through the maintenance of its own arsenal. Two years earlier, it signed a four billion dollar deal with Russia to purchase weapons and “a report[,] by the Center for Strategic and International Studies issued in 2006[,] noted that Yemen doubled its spending on armament . . . over the [post 9/11] years [of] 2001-2005. The spending on [this]

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<sup>299</sup> HANCOCK, *supra* note 281, at xv.

<sup>300</sup> As stated previously within this section: “the literature lacks evidence of current practices working to increase the age at marriage” (JAIN & KURZ, *supra* note 53, at 12).

<sup>301</sup> *Id.*

<sup>302</sup> CBS News, Yemen, *America’s Uneasy Ally in the War on Terror* (January 19, 2011), available at [http://www.cbsnews.com/2100-18560\\_162-7246211.html](http://www.cbsnews.com/2100-18560_162-7246211.html)

armament was \$482 million in 2001 . . . and 942 million in . . . 2005.”<sup>303</sup> In 2011, Yemen’s military expenditure was 3.8 billion dollars.<sup>304</sup> In addition to this, there was no request made by HRW to the American government, for the seizure of former President Saleh’s assets, which were estimated by Tawakkol Karman, the Yemeni Nobel Prize Winner and human rights activist, to be fifty billion dollars.<sup>305</sup>

The literature review of the other programmatic piece, the ICRW report, cites poverty as a key factor which increases the risk for child marriage and as a result, ICRW recommends “promoting the education of girls at all levels and economic opportunities.”<sup>306</sup> The proposal of ‘promoting’ education and economic opportunities is a weak one and is also ironic, given that ICRW concedes that “the literature indicates that both income-earning activities and education protect girls by delaying marriage, especially of poor girls living in rural areas most at risk of child marriage.”<sup>307</sup> Again, what is not being recommended is the ‘financing’ of education for girls and economic opportunities. These omissions are, perhaps, reflect the precarious position of the authors, who do not wish to bite the hand that feeds them. ICRW, a Washington, D.C.-based organization, had their report funded by USAID and thus, did not recommend the financing of education or economic opportunities because this would place pressure or responsibility on the U.S. government to provide funding for such global initiatives. This expenditure of funds, in turn, is not in the best interests of the U.S. as it maintains its global hegemony via military spending - for which the Department of Defense requested 676 billion for fiscal year 2012.<sup>308</sup> This amount is 45 times more than the funding

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<sup>303</sup> Abdul Hakim Hilal, *Yemen’s Increase in Spending on Weapons Over Last 10 Years* (April 10, 2010), available at <http://www.yemenpost.net/Detail123456789.aspx?ID=3&SubID=380&MainCat=6>.

<sup>304</sup> Global Security, *World Wide Military Expenditures – 2011*, available at <http://www.globalsecurity.org/military/world/spending.htm>.

<sup>305</sup> Rob Hastings, *Tawakul Karman: ‘We brought down a tyrant. Now we need the West to keep him out* (Jan. 30, 2012), available at <http://www.independent.co.uk/news/people/profiles/tawakul-karman-we-brought-down-a-tyrant-now-we-need-the-west-to-keep-him-out-6296584.html>.

<sup>306</sup> JAIN & KURZ, *supra* note 53, at 41.

<sup>307</sup> *Id.*, at 9.

<sup>308</sup> Robert Johnson, *The 2012 Defense Budget is the Highest Since World War II* (July 19, 2011), available at [http://articles.businessinsider.com/2011-07-19/news/30079641\\_1\\_defense-budget-budget-cuts-budget-requests](http://articles.businessinsider.com/2011-07-19/news/30079641_1_defense-budget-budget-cuts-budget-requests).

allocated to USAID. Yemen is also unable to escape from this military wing of imperialism, as the U.S. announced spending \$75 million to double the size of a counter-terrorism unit in Yemen - and an additional \$120 million from the 2012 U.S. budget has been allocated to Yemen, \$35 million of which is marked for military assistance.<sup>309</sup> Moreover, if the remaining funds are allocated for development, “aid agencies have to face reality: is money given to a bad government going to reach the poor? Perhaps the reason the country is poor has something to do with bad government?”<sup>310</sup> This criticism, too, is absent from the examined texts.

Given this military expenditure, it is no surprise then that USAID’s programmatic efforts, as outlined in its report, are aimed at changing cultural norms, rather than addressing the structural cause of poverty in Yemen. Thus, the powerful escape from both criticism and responsibility within child marriage discourse, as the literature chooses to shine the spotlight on issues other than poverty and its possible remedies.

#### **D. The Orientalist Gaze and Voice**

In addition to their imperialist biases, their sidelining of poverty and their lack of criticism of the West’s failure to prevent child marriage and its complicity in maintaining the economic status quo, the authors of the examined literature on child marriage also employ an Orientalist gaze within the programmatic and autobiographical genres to convey the world of the child bride. This imperialist voice and vision, however, “produces its own distorted knowledge of the other [and] reductive images”<sup>311</sup> and the result is the continuation of the Orientalist frame of mind - rather than a break from it.

As discussed in Part II(a), the predominant image conveyed of the child bride is of a nameless, colored and/or Muslim girl from a poor country, who is representative all child brides.<sup>312</sup> This selection of imagery exhibits the cultural domination of child marriage discourse by Western or Western-based writers, who have the power to decide which child bride will be photographed, written about and awarded. Images of fair-

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<sup>309</sup> Reuters, *U.S. to Spend \$75 million on new Yemen military training* (February 14, 2011), available at

<http://www.reuters.com/article/2011/02/14/us-usa-yemen-idUSTRE71D7AQ20110214>.

<sup>310</sup> EASTERLY, *supra* note 5, at 155.

<sup>311</sup> SAID, *supra* note 66, at xxii.

<sup>312</sup> An exception to this is Nujood’s photograph, which appears on her book’s cover.

skinned, European child brides are never shown, their experiences are not written about, nor cross-referenced, and nor are they awarded the “Women of the Year” by *Glamour* magazine. This is because at “the very core of traditionalist Orientalist dogma . . . [is] a well-organized sense that these [poor and colored] people over there [are] not like ‘us’ and [don’t] appreciate ‘our’ values.”<sup>313</sup> Orientalist imagery expresses and creates this difference.

In addition to ‘exotic’ photographs, the Orientalist gaze employs verbal imagery to render the countries of child brides ‘exotic.’ Within the USAID programmatic report, Yemen is described as a “conservative Muslim nation [and] a land of treacherous roads and dust-colored houses.”<sup>314</sup> (This is despite the acknowledgement by the ICRW report, which “found that no one religious affiliation was associated with child marriage across countries.”<sup>315</sup>) This piece associates Islam with child marriage, but makes no mention of poverty or the lack of safety as reasons for why Yemeni parents marry their daughters young.

With the autobiographical genre, the ghostwriter of Nujood Ali’s book, Delphine Minoui, also applies the Orientalist gaze when she introduces Yemen as “a magical land with legends as astonishing as its houses.”<sup>316</sup> She further states that:

Yemen inspires dreams. It is the realm of the Queen of Sheba, an incredibly strong and beautiful woman who inflamed the heart of King Solomon and left her mark in the sacred pages of the Bible and the Koran. It is a mysterious place where men never appear in public without curved daggers worn proudly at their waists, while women hide their charms behind thick black veils. It is a land that lies along an ancient trade route, a country crossed by merchant caravans laden with fine fabrics, cinnamon, and other aromatic spices.<sup>317</sup>

The same gaze is also employed by Andrew Crofts, ghostwriter of the other biography, whose introduction informs the audience that Zana’s story is “a story of a terrible clash between some of the most primitive elements which still survive in our modern world (i.e. child marriage), and some of the most sophisticated people on earth

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<sup>313</sup> SAID, *supra* note 66, at xx.

<sup>314</sup> LEE, *supra* note 74.

<sup>315</sup> JAIN & KURZ, *supra* note 53, at 25.

<sup>316</sup> ALI & MINOUI, *supra* note 78, at 7.

<sup>317</sup> *Id.*, at 7-8.

(i.e. the English).”<sup>318</sup> Crofts also describes Yemen as “a fierce, dangerous, primitive world, where men are completely dominant and the women have to accept their lot in life [and a place where] much of the population still living as they have done for the last thousand years.”<sup>319</sup> All of this imagery echoes Said’s Orient, which is “a place of romance, exotic beings, haunting memories and landscapes [and] remarkable experiences.”<sup>320</sup>

Against this backdrop, the child bride has a role to play within the international development and human rights systems - and like Islam, she “has been fundamentally misrepresented in the West [and] the real issue is whether indeed there can be a true representation of anything, or whether any and all representations, because they are representations, are embedded first in the language and then in the culture, institutions, and political ambience of the representer.”<sup>321</sup> The creation of the category of child bride “also allowed the redefinition as a crime of what had been tolerated [and] known as [tradition.]”<sup>322</sup> Hence, the “third-world [child bride] becomes a signifier for the establishment of a good society.”<sup>323</sup>

In addition to this gaze, the two autobiographies on child marriage are also Orientalist in nature as they involve Westerners speaking for the “Exotic Other.” These books were ghost written by a French journalist<sup>324</sup> and an English writer of popular non-fiction.<sup>325</sup> It is within this genre that one would expect to hear Nujood’s and Zana’s voices. However, one can only assume that Nujood or Zana are telling their stories, but the extent to which their books contain their words, their thoughts and their experiences cannot truly be known.

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<sup>318</sup> MUHSEN & CROFTS, *supra* note 79, at vii.

<sup>319</sup> *Id.*

<sup>320</sup> SAID, *supra* note 66, at 1.

<sup>321</sup> *Id.*, at 272.

<sup>322</sup> SPIVAK, *supra* note 6, at 51.

<sup>323</sup> *Id.*, at 50.

<sup>324</sup> ALI & MINOUI, *supra* note 78.

<sup>325</sup> MUHSEN & CROFTS, *supra* note 79.

While writing her autobiography was Zana's idea,<sup>326</sup> the same cannot be said for Nujood, whose family was aggressively pursued to tell her story by Delphine Minoui, the ghostwriter of her book, who recalls:

first, [Nujood's father] didn't want to listen to me. I had to win his confidence. It took awhile. In his mind, he was certainly wondering why a lady journalist cared about Nujood's divorce. He was thinking that I came to bring more 'shame' to the family, to destroy the "honor" of his family. I decided to write an article about her for my newspaper, *Le Figaro*. Then came the project of a book about Nujood.<sup>327</sup>

The resistance of Nujood's father - a poor, dark-skinned, illiterate and unemployed Yemeni citizen - was not accepted. As the *raison d'être* for writing Nujood's story, Minoui states that the book "would both raise awareness about child brides and also help [Nujood] in her future [as] most of the royalties from the book are saved for her."<sup>328</sup> It doesn't occur to Minoui that Nujood's father knows what is best for his family and in the end, he is proven correct. The publication of Nujood's book brought no socio-economic changes to her family, but brought unwanted publicity to her home, much to the ire of herself, her family and their neighbours.<sup>329</sup>

The feelings of Nujood's father are not respected because he is a poor Arab, who must be made to see the "good" of those wishing to tell their story. When the author and their object of their writing do not possess the same economic, national and social power, the result is that this writing - which, at times, employs an Orientalist gaze and voice - becomes an act of power, wherein the powerful pursues, writes about and speaks for the subaltern other. Escobar, too, has notes this - but within the context of development - as "the production of discourse under conditions of unequal power."<sup>330</sup> Minoui can only apologetically state that she "hope[s that she] did not betray Nujood's story [and that]

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<sup>326</sup> *Id.*, at v.

<sup>327</sup> READ IT FORWARD, *supra* note 158.

<sup>328</sup> *Id.*

<sup>329</sup> The situation of Nujood's family after the publication of her book can be found in the following CNN article: Paula Newton, *Child bride's nightmare after divorce* (August 28, 2009), available at <http://www.cnn.com/2009/WORLD/meast/08/26/yemen.divorce/index.html>; and Part 2 of the following CNN video, which runs after the first part is finished, click on video tab on same website.

<sup>330</sup> ESCOBAR, *supra* note 8, at 9.

when [Nujood] is a grown-up, she will be more than welcome to make an updated version.”<sup>331</sup>

## I. Conclusion

Emerging at the end of the twentieth century, which Roy dubbed as “a new global order of development,” we find the “Third World woman” who has been placed high on its agenda of global gender governance.<sup>332</sup> This monolithic group of colored women and girls is the target of Western-initiated, implemented and funded global campaigns and development projects, and - if they are Muslim - international media attention. Their construction - by Western development experts, academics, researchers, writers and journalists - is not a benign act, as “one does not make discourse at will, or statements in it, without first belonging to - in some cases unconsciously, but at any rate involuntarily - to the ideology and the institutions of an advanced society dealing with a less advanced society, a strong culture encountering a weak one.”<sup>333</sup>

The creation, structuring, support and maintenance of child marriage discourse by the West - within the examined programmatic, scholarly and autobiographical texts - makes visible the effects of this inequality, which involves the cultural and economic control and/or domination of the child bride and her community through control over imagery and understanding, as well as the maintenance of the economic status quo. This imperialist system and project, is maintained by Western ‘experts.’ Under their direction, the discourse on child marriage is packaged to be bought, sold and re-told as a part of an imperialist-based

development tourism, [which] is done not only by experts and consultants but also by all the other prosperous, propertied, healthy, educated and influential people who make their living from portraying, writing about, launching emotional appeals on behalf of, studying and administering the lives of those [child brides and their families and communities] who are penniless, vagrant, diseased, illiterate and politically impotent. Employed to serve the poor, these staff rank ironically amongst the best-paid professionals on earth. Their mission is to work for the deprived – and yet they themselves enjoy an astonishingly rich and diverse range of perks and privileges. Bureaucrats from aid agency headquarters in

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<sup>331</sup> READ IT FORWARD, *supra* note 158.

<sup>332</sup> Ananya Roy, *Millennial woman: the gender order of development*, in THE INTERNATIONAL HANDBOOK OF GENDER AND POVERTY: CONCEPTS, RESEARCH, POLICY 1-2 (Sylvia Chant ed., 2010).

<sup>333</sup> SAID, *supra* note 66, at 321.

Washington, New York, Paris, Geneva, Vienna or Rome, and certain breeds of academic, researcher, journalist, broadcaster and pop star, are amongst those who do very well thank you, who make their fortunes or their reputations - or both - because of the poor and dispossessed. It is outsiders like these who shape the ways in which the poor are seen, define their problems, and formulate the policies, projects and programmes intended to alleviate [their poverty and, in this case, child marriage].<sup>334</sup>

These ‘experts,’ who provide a “rich and detailed system of knowledge of the poor,”<sup>335</sup> remain largely unchallenged in their production of child marriage discourse, which “valorizes the concrete experience of the oppressed, while being – [in this case, completely] uncritical about the historical role of the intellectual.”<sup>336</sup> This, as Spivak states, “helps only the intellectual anxious to prove that intellectual labor is just like manual labor<sup>337</sup> [- and] all the while, the intellectual remains transparent.”<sup>338</sup> In child marriage discourse, the expert (intellectual) is also unaccountable to the ‘objects’ of their research and/or writing. There are no first person pronouns within the three examined genres of writing, thereby guaranteeing the psychological anonymity of all authors, including the ghostwriters of the autobiographies. What is guaranteed always, however, is their paycheck.

These ‘experts’ also surreptitiously ensure their income by never questioning the structural causes which create the “economic conditions of existence that separate [the child bride’s] mode of life [from theirs].”<sup>339</sup> Poverty is never discussed in-depth as the focus of their writing remains on education, health, legal and human rights and the negative consequences of child marriage. In these foci, too, the role of poverty remains neglected, as does the opposing voice of the “Exotic Other,” which supports or defends the practice of child marriage.

Unchallenged also, is their creation of the monolithic group of poor, colored and/or Muslim child brides - which, in turn, creates a disconnection between child brides and child grooms and between colored girls and white girls – all of whom experience the

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<sup>334</sup> HANCOCK, *supra* note 281, at 74-75 and 119.

<sup>335</sup> *Id.*, at 23.

<sup>336</sup> SPIVAK, *supra* note 6, at 28.

<sup>337</sup> *Id.*

<sup>338</sup> *Id.*, at 34.

<sup>339</sup> *Id.*, at 32.

same issue. Western (Disney and fairy tale) culture has taught ‘us’ that girls and women are always in need of rescuing by the (white) male (prince) and that (white) girls are really princesses-in-waiting. Girls like Nujood deserve to be rescued, but can only be princesses for a day - made possible by the power vested in American magazine executives, who award girls like Nujood for an exotic, Orientalist and Yemeni-version of a fairy tale written by a privileged French woman. Supporting the discourse created by the examined genres in our postmodern world, is then “television, films, and all the media’s resources, [which] have [also] forced information into more and more standardized molds.”<sup>340</sup> Thus, there is the danger of “how one explanation and narrative of reality is, or can be in danger of becoming] established as, the normative one.”<sup>341</sup> Nujood becomes ‘the child bride’ and her experience - along with that of her poor, colored counterparts in the developing world - constitutes ‘our’ knowledge about ‘them.’

The knowledge about this monolithic group has purportedly been acquired with the intention of eradicating the practice of child marriage. Given this imposition of imperialism, however, access to (the subaltern group of) child brides is impossible. The child bride ‘can’t speak,’ and like a Russian nesting doll, she is the smallest one encapsulated by four dolls of increasing sizes, which muffle her voice. The largest and outermost of these dolls - and hence, ‘our’ first contact point - is the understanding that she is only a poor, colored and/or Muslim girl from a developing country. This is how she is first seen and then we come to know the negative consequences of her predicament, with a special emphasis on her health, education and legal and human rights. When the third and fourth dolls are reached, we come to know, respectively, about those who create her and the tools they use to accomplish this task.

By the time she is reached, these four layers - all effects of imperialism - have silenced her with: stereotypes; projects, writing and research that she has no control over; and languages she doesn’t understand. Acknowledging this reality does away with the illusion that if one could access her subaltern voice, the issue of child marriage would be resolved. The subaltern child bride cannot speak, nor can she read what is written for ‘her benefit.’ As Spivak “ha[s] been saying all along, ‘I think it is important to

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<sup>340</sup> SAID, *supra* note 66, at 26.

<sup>341</sup> SPIVAK, *supra* note 6, at 36.

acknowledge our complicity in the muting,<sup>342</sup> - [and more importantly, she notes (and hopes):] the case of [child marriage] as exemplum of the [poor, colored] girl-in-imperialism would challenge and deconstruct this opposition between subject (Elite, Western Writers) and object-of-knowledge (repression) and mark the place of 'disappearance' with something other than silence and nonexistence."<sup>343</sup> Escobar, too, advocates for "resistance to seeing the world only through the conceptualizations provided by professional expertise."<sup>344</sup>

This place could be marked with accountability, as aid agencies are currently "rewarded for setting goals rather than reaching them, since goals are observable to the rich-country public while results are not."<sup>345</sup> In a progressive, pro-rights and pro-poor environment, poor girls, boys and their communities

would choose both goods [or services that] they wanted [with vouchers] and the agency they wanted to deliver and would give their vouchers to that agency. The agency could then turn in the vouchers to the voucher fund for real money to cover the costs of providing the development services. The poor would be firmly in charge, giving feedback on what they [received], what they did and did not want from the aid agencies. Any agency that was not delivering what the poor wanted would see its budget go down, as it turned over money to the voucher fund but none of the vouchers came back.<sup>346</sup>

This place could also be marked with an understanding that if you are writing about – constructing - people who cannot afford to feed, shelter and educated themselves, what good does your writing do them? They have already been researched, written about and broadcast on television - and many will continue to profit monetarily or socially from this 'work.' "What might the elite do to watch out for the continuing construction of the subaltern?"<sup>347</sup> Ask yourself - the question is in English and you can read: Nujood cannot.

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<sup>342</sup> *Id.*, at 64.

<sup>343</sup> *Id.*, at 61.

<sup>344</sup> ESCOBAR, *supra* note 8, at 181.

<sup>345</sup> EASTERLY, *supra* note 5, at 185.

<sup>346</sup> *Id.*, at 379.

<sup>347</sup> SPIVAK, *supra* note 6, at 46.