

# Narratives of Afghan Women on the Burden of Keeping a Female “Virgin” Body in a Patriarchal Society

By

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Submitted to

Central European University  
Department of Gender Studies

*In partial fulfilment of the requirements for the degree of Master of Arts in Critical Gender Studies*

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*Budapest, Hungary*

2020

## Abstract

This thesis project studies virginity testing in Afghanistan through the perspectives of Afghan women who have gone through the burden of keeping virgin bodies, or women who have been subjected to virginity testing. Through interviews with five women between the age of 13-40 who belong to Mazar-i-Sharif and Bamyán provinces of Afghanistan, I analyze the importance of having a female virgin body in the patriarchal context of Afghanistan from the perspectives of the interviewees. Through insights gained from the interviews with two women involved in advocacy projects related to virginity testing and gender equality programs I frame my thesis project. To analyze the forms of discrimination against women who lose their virginity before marriage through an *intersectional* approach, this study also presents one case from the Badam Bagh prison documented in the documentary *Love Crimes of Kabul*. I argue that virginity testing despite lacking scientific basis is not an independent practice that can be banned just by a presidential decree, it is rather a complex practice. A complete ban of the test requires deconstructing the problematic nature of marriage which centers in patriarchy and gender hierarchy.

## **Declaration**

I hereby declare that this thesis is the result of original research; it contains no material accepted for any other degree in any other institution and no materials previously written and/or published by another person, except where appropriate acknowledgement is made in the form of bibliographical reference.

I further declare that the following word counts for this thesis are accurate:

Body of the thesis (all chapters excluding notes, references, appendices, etc.): 17,591 words

Entire Manuscript: 19,199 words

Signed: Hakima Afzaly

# Acknowledgement

I would like to express my gratitude to my interlocutors without whom this work would not have been possible. Thank you for sharing your stories with me.

I thank my supervisor, professor Judit Sándor, for her thoughtful feedback and constant encouragement. I also thank my second reader, Professor Francisca de Haan, for her remarks and insightful comments throughout on this thesis.

To my partner and best friend, thank you for everything. You supported me in every possible way.

Albina and Arnold, thank you for being my friends and family. I will cherish our friendship memory forever with me. I hope our paths cross again.

Sahar, thank you for being my *rafīq*. I will always remember your idiom with joy.

Raby and Farishta thank you for the constant love and support.

Lastly, to my family, thank you for encouraging me all along. I really owe everything to my parents.

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# Introduction

“Do not run. Do not jump. Do not ride a bicycle. Do not go in for sports at all. Otherwise you might injure the hymen and then “we will lose our reputation.” Do not speak in a loud voice, eyb-e!<sup>1</sup> Do not sit with your legs apart. Keep your eyes down, do not talk without permission, eyb-e! Do not play with the neighbor’s sons on the street... and so on.”<sup>2</sup>

This thesis explores, through the narratives of Afghan women, the importance given to female virgin body and its consequences in the patriarchal context of Afghanistan. My focus is experiences, thoughts, and feelings of Afghan women who have had endured the burden of keeping their virginity or women who were stigmatized for not keeping their virginity. In the Persian language and the Afghan context, girl (*dokhtar*) refers to virgin and woman (*zan*) refers to non-virgin. However, to avoid repetition, in my thesis I use the word woman to refer to a female human being regardless of their virginity status. I only use the words girl and women when I talk about the cases of my participants in order to distinguish between single girls vs. married women.

This project is based on a series of Skype interviews conducted in January 2020. My motivation behind choosing this thesis project comes from an NGO, Afghanistan Forensic Science Organization (AFSO), I was previously employed at. AFSO is the only NGO in Afghanistan dedicated to promoting the use of forensic science to document and prevent human rights violations. AFSO has been actively advocating to give an end to the practice of virginity testing. AFSO conducts advocacy and awareness raising workshops for the police, prosecutors, judges, defense lawyers, and forensic medical doctors in some provinces of Afghanistan to lay a foundation in banning the test. As a result of AFSO’s constant effort, virginity examination was

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<sup>1</sup> It is shameful.

<sup>2</sup> Shanti A. Parikh, “The political economy of marriage and HIV: the ABC approach, “safe” infidelity, and managing moral risk in Uganda,” *American journal of public health* 97, no. 7 (2007): 47.

announced banned in Afghanistan in 2016 through a presidential decree. However, conducting virginity testing continues to date in Afghanistan despite the ban.

While working at AFSO, I realized that the problem is at the local level and the practice of virginity testing can only be fully stopped if it is approached at the local level. Conducting advocacy and awareness raising workshops with a range of stakeholders including police, prosecutors, and so on can solve the problem only partially. A complete elimination of the test requires working with local community. At AFSO, I also learnt that there has been no project that deals with the local people who practice virginity examination, nor has there been any project that speaks directly with the Afghan women who were forced to undergo the test. Therefore, for my research topic, I decided to interview Afghan women who had one of the following experiences:

1. Women whose lives, including their childhood experiences, were enormously impacted by the necessity of keeping their virginity
2. Women who have gone through virginity examination whether they participated in premarital sex or were accused of having premarital sex which is considered a “moral crime.”
3. Women who were asked to do a hymen surgery to be accepted for marriage

The aim of my thesis project is hearing the voices and personal accounts of Afghan women to analyze the importance of having a female virgin body in the patriarchal context of Afghanistan from the perspectives of women. This project seeks to challenge social taboos surrounding topics, such as women’s virginity, given the highly patriarchal and traditional society of Afghanistan where violence against women is not openly discussed. I am planning to share the findings of this research with civil society organizations in Afghanistan in the hope that it can provide enough



evidence to enable them to address women's issues more seriously and take actions accordingly. In this thesis, I argue that virginity testing despite lacking scientific basis is not an independent practice that can be banned just by a presidential decree, it is rather a complex practice. A complete ban of the test requires deconstructing the problematic nature of marriage which centers in patriarchy and gender hierarchy.

## **Thesis outline**

In the remainder of this introductory chapter, I will give an outline of the thesis structure. In chapter one, I provide an overview of the background context of virginity and virginity testing in Afghanistan. Then, I move into describing my literature review. I examine some of the literature that show lack of science behind the test, literature that address different cultural discourses and the role of patriarchy behind the test in the contexts where the test is conducted. After that, I will talk about the main theories that serve as the framework of my study. They are intersectional feminist theory by Kimberlé Crenshaw, bargaining with patriarchy by Deniz Kandiyoti, the objectification theory by Martha Nussbaum, the theory of fragmentation by Sandra-Lee Bartky, and finally feminist critics of legal institutions' ability to protect women. Each theory will be further explained in the coming chapters. Next, I will describe my research design and method. After that, I will briefly mention some notes of translation. I will conclude chapter one with positionality and some ethical considerations. Chapter two, three, and four will be my analytical chapters. In chapter two, I will elaborate on three interconnected, but also separate, dimensions of marriage arrangements in Afghanistan. The first discusses the importance of marriage for Afghans in general and women in particular. The second, describes the process of marriage with a major focus on the practice of bride price, the money paid by the groom's family to the would-be wife's family. The third singles out virginity as the most important commodity for Afghan men. In chapter

three, I will address the implications of virginity testing on the enjoyment of women's rights by focusing on four areas: right to autonomy, right to dignity, right to equality and non-discrimination and right to privacy. This particular chapter of my thesis relies heavily on a series of interviews I conducted with women who were subjected to virginity testing, anal testing (in cases of married women), and women who were not accepted for marriage until they had a hymen surgery. In chapter five, through a documentary, I will demonstrate how forms of discrimination against women who "fail" to keep a virgin status overlap depending on which ethnicity, tribe, religious group, an Afghan woman belongs to. Finally, I will conclude my thesis with providing some recommendations.

# 1 Chapter 1. Background Context

There are various ethnic and linguistic communities living in Afghanistan. Even though customs and traditions in each community are different from one another, their attitudes toward women is similar. Women are seen inferior to men by all the Afghan communities and patriarchy is dominant in all parts of the country.<sup>3</sup> Women's position in Afghan society is primarily defined by a mixture of cultural and religious principles as perceived by men. While some tribes treat women with respect and puts less limitations on them, this does not deny the fact that patriarchy is dominant in Afghanistan and patriarchal cultural norms control women's moral codes of conduct.<sup>4</sup> The descriptions used for men are brave (*baghairat*), noble by birth (*asl*), and *banamus*, a term used to signify the ability of a man who can discipline well women of his family.<sup>5</sup> I should mention, here women of family refers to a man's wife, sister, mother, daughter, and in case of extended family often also includes female cousins, sister-in-laws and so on.

Whereas, the descriptions used for women are pure (*pakdaman*) and modest (*bahaya*). These characteristics are used for women who are submissive to men.<sup>6</sup> These attributes are particularly used to distinguish girls (unmarried) who are not involved in any kind of sexual misconduct from girls who are involved in such behavior.<sup>7</sup> That is why a girl's virginity is very important, and it is greatly desired. It is considered a symbol of purity.<sup>8</sup> It is expected of Afghan women to keep their virginity until their marriage, and they are subject to severe punishments if

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<sup>3</sup> Hafizullah Emadi, *Repression, resistance, and women in Afghanistan* (Westport, Connecticut, London: Greenwood Publishing Group, 2002), 29.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Indug, "The Forced Virginity Testing of Women in Afghanistan," *UAB Institute for Human Rights Blog*, November 21, 2018, <https://sites.uab.edu/humanrights/2018/11/21/the-forced-virginity-testing-of-women-in-afghanistan/> (Accessed June 1, 2020).

it is found out that they have any pre-marital sexual experience. That is why Afghan women are kept under the constant control of their male relatives in order to make sure that women do not get involved in any sexual relations with any man.<sup>9</sup>

In order to further understand why women's virginity in Afghan society is considered a very valuable asset, it is crucial to understand the Afghan discourse on the concept of honour (*namus*). The concept of honour (*namus*) refers to following the ethnic codes of Afghan society. According to this doctrine, the primary reason why women have been created is to fulfil the needs of men and serve their family.<sup>10</sup> It is important to mention here that *namus* often refers both to honour and women. In other words, *namus* and woman are considered synonym to each other. Accordingly, there is another term created by adding a prefix to *namus* which is *banamus*, which was defined earlier as a term used to signify a man's ability to discipline the women in his family.<sup>11</sup>

Respect (*izzat*), and shame (*sharam*) are another two important concepts that are taught to Afghan girls since their childhood. Through Afghan doctrine, a woman is taught to always behave in a respectable manner, obey men, and never commit any action that goes against the principle of the family and society. Otherwise, it may result in an act of violence against her by male members of her family or even by her society.<sup>12</sup> Additionally, according to this doctrine the role of personal honour (*Ghairat*) is also important. Afghan men maintain their reputation at any cost. It is equally important for Afghan men to defend their reputation from an insult or attack. Any kind of insult to a single member of a lineage is considered an insult to the whole lineage. And an individual is compelled to act irrespective of the cost to himself when there is a fear of shaming his lineage.<sup>13</sup>

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<sup>9</sup> Indug.

<sup>10</sup> Mohammad Ismail Safi, *Honor Killings in Afghanistan Perspective of Sharia and Law* (MA diss., International Islamic University, 2014), 35.

<sup>11</sup> Emadi, 30.

<sup>12</sup> Safi, 35.

<sup>13</sup> Thomas Barfield, "Afghan Customary Law and Its Relationship to Formal Judicial Institutions," *United States Institute for Peace* (Washington, DC June 26, 2003), 8.

The fear to defend the honour of women (*Namus*) is the strongest fear of shaming a lineage. While women cannot acquire honour in their own right, they can lose it by misconduct or by any attacks on them. Any attack on a woman whether verbal or physical is considered as an attack on honour of her father, husband, or brother. Such attacks must be retaliated.<sup>14</sup> Similarly, any sexual improprieties committed by women are considered such serious violation of the honour code that their male relatives should kill them.<sup>15</sup>

Before I delve into further description of women's sexuality and what is considered as sexual improprieties committed by women, it is crucial to know who is considered a virgin in the Afghan context. Fataneh Farhani, Associate Professor of Ethnology and Wallenberg Academy Fellow at Stockholm University, defines virgin as someone who is sexually inexperienced.<sup>16</sup> Considering the fact that there are still many countries in the world including Afghanistan that do not recognize homosexuality culturally/legally, sexual experience primarily applies to heterosexual intercourse.<sup>17</sup> Therefore, based on the heterosexual definition of sexuality, one loses his/her virginity through having a sexual relation with someone of the opposite sex, before that, one is regarded as a virgin.<sup>18</sup> A broken hymen often indicates a sexually active woman and is assumed to be an indicator of differentiating a sexually non-active virgin (a respected woman) from a sexually active (disrespected woman).<sup>19</sup> Virginity testing is carried out in order to check if a woman's hymen is broken or not. The most common virginity testing conducted in Afghanistan is called a "two-fingers" test.

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<sup>14</sup> Barfield.

<sup>15</sup> Ibid.

<sup>16</sup> Fataneh Farhani, "Diasporic narratives on virginity," in *Muslim Diaspora: Gender, culture and identity*, ed. Haideh Moghissi (London and New York: Routledge, 2006), 188.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid., 189.

<sup>19</sup> Ibid., 193.

## 1.1 Virginty/Hymen Testing in Afghan in Afghanistan

A “two-fingers” test, which is purported to be a ‘medical’ test, is a test in which a doctor or medical professional inserts – often with force - two fingers inside a woman’s vagina in order to check if the hymen is intact.<sup>20</sup> In Afghanistan, this test is conducted by female doctors on a regular basis in some clinics and hospitals and in forensic centers also called as the Legal Medicine Directorates (LMD). In the capital city of Kabul, most of the virginty testing takes place in the city’s main forensic center which operates 24 hours a day.<sup>21</sup> This center has allocated one room with one narrow bed for the virginty testing. The room is small and resembles more like a storage place than a testing facility. The room also has a window which is covered by a black cloth.<sup>22</sup>

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<sup>20</sup> Independent Forensic Expert Group, “Statement on virginty testing,” *Journal of Forensic and Legal Medicine* 33 (2015): 121.

<sup>21</sup> Zahra Nader and Mujib Mashal, “Despite Ban, Invasive Virginty Tests Remain Prevalent in Afghanistan,” *The New York Times*, January 6, 2017, <https://www.nytimes.com/2017/01/06/world/asia/despite-ban-invasive-virginty-tests-remain-prevalent-in-afghanistan.html> (accessed May 15, 2020).

<sup>22</sup> Ibid.



*Figure 1: The examination table where female virginity tests are carried out.<sup>23</sup>*

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<sup>23</sup> Nader and Mashal.

In my view, this kind of testing room with such table shows the lack of respect towards women who are sent to this room for the test because this testing room and testing table has no similarity with other rooms that are medically well equipped and used for other patients.

In the first half of 2016, the main forensic medical center in Kabul conducted virginity tests on 42 women.<sup>24</sup> The exact number of the test, however, is surely much higher given the difficulty of tracking down the official records throughout the country.<sup>25</sup> This center also processes the cases that come from other provinces of the country.<sup>26</sup> One police substation in the capital city sent 26 cases of “moral crimes” to forensic medical center in 2015. Most of these cases involved virginity tests.<sup>27</sup>

Two groups are mainly involved in sending women to LMD for virginity testing: first the police if they suspect any women of having premarital sex/extra marital sex. Police often arrest a woman in common situations such as seeing her together with a man in public. The second most common reason why women undergo the test is if the woman fails to bleed in her *Zhafaf*, wedding eve.<sup>28</sup> Following the first night after a woman’s wedding, the groom’s family checks the bedsheets to see if intercourse the previous evening resulted in the woman’s hymen tearing and bleeding. Failure to find blood stains can be used as ‘evidence’ of a woman’s transgression, and the resulting punishment can be severe and life threatening for the woman. In these cases, the groom’s family may insist that the woman must be sent to the LMD for a virginity test. In most cases, this second form of testing results in divorce since the bride’s virginity cannot be verified.<sup>29</sup>

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<sup>24</sup> Nader and Mashal.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> Indug.

<sup>29</sup> Ibid.



Virginity examination was announced banned in Afghanistan in 2016 through a presidential decree.<sup>30</sup> However, police have continued to arrest women suspected of having sex, and take them to clinics and hospitals, where a forced virginity test is conducted on them.<sup>31</sup> The ritual of inspecting marital bed and sending women to LMD also continues to date. Most families in the provinces are either unaware of the ban or they simply do not really care if the test is announced banned. Basically, the presidential decree has been widely ignored. In July 2018, a new policy was announced by the Ministry of Public Health (MoPH) to bar government health workers from conducting virginity test.<sup>32</sup> The MoPH policy has been ignored as well and the test is conducted up to the present time. On 9th October 2019, Afghan Independent Human Rights Commission (AIHRC) made another appeal on complete ban of virginity testing stating that the test should be entirely banned and should not be allowed under any circumstances.<sup>33</sup> AIHRC also stated that such tests are being carried out in Afghanistan although the World Health Organization has announced that virginity testing is scientifically invalid and cannot prove virginity and sexual intercourse.<sup>34</sup>

## 1.2 Literature Review

Following from the background context of virginity testing in Afghanistan in earlier section, this part addresses my literature review. First, I will review some literature that proof lack of scientific, medical, and legal basis of virginity testing.

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<sup>30</sup> Annie Kelly, "Breakthrough Made in Fight to End Virginity Testing in Afghanistan," *The Guardian*, July 5, 2018, <https://www.theguardian.com/global-development/2018/jul/05/breakthrough-fight-to-end-virginity-testing-afghanistan> (accessed May 1, 2020).

<sup>31</sup> Ibid.

<sup>32</sup> Heather Barr, "A Step Toward Ending 'Virginity Exams' in Afghanistan," *Human Rights Watch*, July 10, 2018, <https://www.hrw.org/news/2018/07/10/step-toward-ending-virginity-exams-afghanistan> (accessed May 12, 2020).

<sup>33</sup> *Ariana News*, "AIHRC Calls For Complete Ban of Virginity Test in Afghanistan," October 9, 2019, <https://ariananews.af/aihrc-calls-for-complete-ban-of-virginity-test-in-afghanistan/> (accessed May 23, 2020).

<sup>34</sup> Ibid.

Physicians for Human's Rights (PHR) has prepared a report under the title of "Virginity and Hymen Testing: No Factual, Scientific, or Medical Basis." As evident from the title, this report is important to show the test conducted does not have any scientific and medical basis. The report further explains the anatomy of hymen that how it differs person to person and that there is no one exact anatomy for hymen. Understanding the anatomy of hymen helps understand the false basis of virginity/hymen examination when there is no one particular anatomy for hymen. Additionally, the report thoroughly explains how hymen is an assumed indicator of virginity, not the actual indicator.<sup>35</sup> Afghanistan Forensic Science Organization (AFSO) has prepared a training manual under the title of "Virginity and Hymen Testing: Realities and Assumptions" – with a religious, legal and Scientific Perspective. This manual addresses the medical, legal and religious aspects of hymen and virginity examination and it argues that in all the mentioned three areas, there is no basis for the examination.<sup>36</sup> This manual was originally written in Persian and the English translated version was completed recently.

Second, I will review some previous empirical studies that help us understand the patriarchal element behind the practice of virginity testing in some other contexts. Virginity Testing is happening in at least 20 countries around the world as Afghanistan, Brazil, Egypt, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Libya, Malawi, Morocco, Palestine, South Africa, Sri Lanka, Swaziland, Turkey, United Kingdom, Northern Ireland and Zimbabwe.<sup>37</sup>

Women have been the victim of oppression over the history and thus their lack of control on their bodies and health makes them vulnerable to violence. As the women have to tolerate the harmful consequences of Virginity Testing thus they are subject to discrimination based on their

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<sup>35</sup> Physicians for Human Rights, "Virginity and Hymen Testing: No Factual, Scientific, or Medical Basis," (2015).

<sup>36</sup> Mohammad Ashraf Bakhteyari, *Virginity and Hymen Testing: Realities and Assumptions* (n.p., 2016).

<sup>37</sup> World Health Organization, *Eliminating virginity testing: an interagency statement*, No. WHO/RHR/18.15. (2018), 7.

sex and their right to protection is violated by this test. Patriarchal system has paved the ground for the origins of virginity testing as a result of violence against women and gender discrimination.<sup>38</sup>

Similarly, in Tajikistan women and girls are forced to undergo virginity testing before or after marriage if they do not bleed on the first night of their marriage. People are mostly silent towards women's ill treatment and they do not talk about the virginity testing openly.<sup>39</sup>

Senior Medical Adviser at Physicians for Human Rights, Ranit Mishori, says that many social norms are tied with virginity testing and the need for woman to prove her virginity itself indicates a society's behavior towards determining women's worth. Mishori also added that breaking these social norms and misconception developed throughout the history will need efforts beyond health professionals to stop this practice.<sup>40</sup>

In Western State of India Maharashtra, this practice has been happening for 400 years now. So the woman or girl is expected to bleed on her first wedding night and if she does not bleed she is suspected of having intercourse and that results into her family being fined and excluded from the community, normally practiced in the Kanjarbath community. Minaskhi, a psychological counselor from Pune also raised a question that why men do not undergo this test stressing that it is actually a way to dominate women and control their sexuality.<sup>41</sup>

In Indonesia high school graduates between ages of 18-20 who intend to join army or national police are required to have virginity test. Major Gen Fuad Basya, armed forces

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<sup>38</sup> World Health Organization, 9.

<sup>39</sup> Zebo Nazarova, "In Tajikistan, Women Often Must 'Prove' Their Virginity: Our Correspondent Took The Test Herself," *Current time*, February 7, 2020, <https://en.currenttime.tv/a/30422596.html> (accessed May 15, 2020).

<sup>40</sup> Harmeet Kaur, "Virginity tests are unreliable and invasive, but doctors still get asked to perform them," *CNN*, November 9, 2019, <https://edition.cnn.com/2019/11/09/health/virginity-tests-debunking-trnd/index.html> (accessed May 16, 2020).

<sup>41</sup> Varsha Torgalkar, "'Virginity Test' Still Haunts Some Indian Brides," *Asia Times*, March 13, 2019, <https://asiatimes.com/2019/03/virginity-test-still-haunts-some-indian-brides/> (accessed March 16, 2020).

information chief, said that female recruits in army has to go through virginity test connecting it to national security and that soldiers are the defenders of the country therefore they need to be pure and not involved in bad behavior.<sup>42</sup>

According to Soumaya Naamane Guessous who is expert on studies related to women's sexuality in Morocco said that in Morocco women and girls have to undergo this test before their wedding and often from the request of the female's own family or her in laws. A negative result of the test, proving a girl not being virgin, can get deadly at times resulting in women to be killed by her own family or by committing suicide. Guessous added that honor of the family is associated with women or female's virginity and this is deeply rooted in the social norms which controls women's body and sexuality.<sup>43</sup>

In Turkey, virginity testing is conducted on girls who want to join specialized schools, women who want to join government jobs, female detainees, and woman arrested for political reasons.<sup>44</sup> The Turkish Medical Association officially condemned virginity testing calling it an unethical test. However, 45% of the physicians in Turkey still conduct virginity test for social reasons.<sup>45</sup>

Zahra (Mona) Ghassemi Zavieh, an Iranian feminist, conducted a study on Iranian women living in Montreal. She argues that virginity imperative is a mechanism to police, monitor and

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<sup>42</sup> Josephine McDermott, "Why does Indonesia demand that female military recruits are virgins," *BBC*, May 19, 2015, <https://www.bbc.com/news/world-asia-32748248> (accessed March 16, 2020).

<sup>43</sup> Ibtissam Ouzzani, "What it means that 'virginity tests' are still common in Morocco," *Huffpost*, October 25, 2018, [https://www.huffpost.com/entry/morocco-virginity-testswomen\\_n\\_5bd1ce87e4b055bc94896878?guccounter=1](https://www.huffpost.com/entry/morocco-virginity-testswomen_n_5bd1ce87e4b055bc94896878?guccounter=1) (accessed June 20, 2020).

<sup>44</sup> Amani M. Awwad, "Virginity Control and Gender-Based Violence in Turkey: Social Constructionism of Patriarchy, Masculinity, and Sexual Purity," *International Journal of Humanities and Social Science* 1, no. 15 (2011): 109.

<sup>45</sup> *Ibid.*

classify women's bodies as desirable or undesirable, appropriate for marriage or available for sex.<sup>46</sup>

Farideh Khalaj Abadi Farahani, an Iranian researcher, conducted her study in 2005 on a sample of 1743 female undergraduate students in four multidisciplinary universities in Tehran. Her qualitative findings showed that sexual double-standards limit women, but allow sexual license for men, and owing to men's preference for a virgin woman for marriage. Most relationships which involve premarital-sex are unlikely to result in marriage.<sup>47</sup>

Cuong Manh La, a researcher from Vietnam, conducted his study in 2005 in Hanoi, Vietnam. He examined the social and cultural relationship between masculinity and virginity. His study found that marrying a virgin helps men enhance their social reputation and masculinity.<sup>48</sup>

Some of the literature mentioned above show lack of science behind the test. Some of them address cultural discourse, including a sexual double standard on women's bodies and their virgin status in regard to sex, marriage, and masculinity. The rest of the above literature show the role of patriarchy behind the test in the contexts where the test is conducted. However, what I believe is missing in this literature is the perspectives of women who have gone through the burden of keeping virgin bodies, or women who have been subjected to virginity testing. Therefore, for my research, I aim to focus on the experiences, thoughts, and feelings of Afghan women regarding virginity. My study participants are from Mazar-i-Sharif and Bamyan provinces of Afghanistan and they are between the age of 13-40.

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<sup>46</sup> Ghassemi Zavieh, *Reproducing the Virginity Imperative: Women's Collusion and Men's Complicity among Young Iranians Living in Montreal* (MA diss., Concordia University, 2017).

<sup>47</sup> Farideh Khalaj Abadi Farahani, *Norms, attitude and sexual conduct among female college students in Tehran: implications for reproductive health policy and research* (PhD diss., London School of Hygiene & Tropical Medicine, 2008).

<sup>48</sup> Cuong Manh La, *How Virginity Enhances Masculinity: An Exploratory Study in Hanoi, Vietnam* (MA diss., San Francisco State University, 2005).

### 1.3 Theoretical framework

My studies evolves from the following theories: intersectional feminist theory by Kimberlé Crenshaw, bargaining with patriarchy by Deniz Kandiyoti, the objectification theory by Martha Nussbaum, the theory of fragmentation by Sandra-Lee Bartky, and finally feminist critics of legal institutions' ability to protect women. Each theory will be further explained in the coming chapters.

My understanding of patriarchy is informed by the definition provided by Kate Millett, American feminist writer and activist. According to her, patriarchy is a political institution. By politics, she refers to the power-structured relationships, whereby one group of persons control the other group of persons.<sup>49</sup> I find Millet's concept of patriarchy helpful because her concept will help me explain how Afghan women are controlled by Afghan men.

I will also talk about the World Health Organization's (WHO) position on virginity testing and the discrimination provision in CEDAW to show lack of science behind virginity testing and reinforce the discriminatory nature of the test.

Ebenezer Durojaye is an Associate Professor of Law and Head of the Socio-economic Rights Project at the Community Law Centre, University of the Western Cape, Cape Town. In his text, under the title "The human rights implications of virginity testing in South Africa", Durojaye focuses on three areas: right to autonomy, right to dignity and right to equality/non-discrimination.<sup>50</sup> I will try to address the implications of virginity testing on the enjoyment of women's rights through the analysis of Durojaye by analyzing these three areas in the context of Afghanistan. I find Durojaye's framework particularly useful in my analysis because his

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<sup>49</sup> Veronica Beechey, "On Patriarchy," *Feminist Review*, no. 3 (1979).

<sup>50</sup> Ebenezer Durojaye, "The human rights implications of virginity testing in South Africa," *International Journal of Discrimination and the Law* 16, no. 4 (2016): 236.

understanding of the South African context relates to Afghanistan given the cultural similarity of the practice in both contexts.

## 1.4 Research Design and Methods

I initially wanted to do an ethnographic research and interview at least ten Afghan women in the juvenile detention center Afghanistan who had gone through and “failed” virginity examination, but after contacting AFSO I realized that approaching the women directly in the juvenile detention was not possible for me as a researcher. Only organizations, such as UN Women, can access the juvenile detention center, but in their case with difficulty. Therefore, I decided to contact other organizations, such as Medica Afghanistan, The Afghanistan Independent Human Rights Commission (AIHRC), Voice of Women Organization (VWO), and Women for Afghan Women (WAW). One common response I received from most of these organizations was their concern about their policy of confidentiality. Therefore, except Medica Afghanistan, the rest of these organizations explicitly told me that they cannot help me with my project. Some of the organizations never replied to my emails. Medica Afghanistan<sup>51</sup> promised to connect me with some of their clients for which I had to travel back to Afghanistan and visit their clients in their own provinces. This was difficult for me for three reasons. First, it was not safe for me to travel to Afghanistan and meet the interviewees in their province because of the ongoing attacks by the Taliban and the ISIS. Second, financially I could not afford to travel to meet each participant in their provinces. Third, it was not fully guaranteed that the participants would not change their minds and cancel the interview in the last minute.

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<sup>51</sup> Medica Afghanistan is a non-profit, non-political, non-governmental women’s organization which supports women and girls who survived gender-based violence. For more information, see: <http://www.medicaafghanistan.org/medica/index.php/en/>

One of the local news reporters whom I had contacted to seek his help with my project told me about his experience of setting up meetings with some women in the provinces. He said, “It took me a month to find some women who agreed to speak about their experience of virginity testing. I did my arrangements: booked my flight and accommodation. Once I arrived in the provinces, the women did not show up.”<sup>52</sup> Given the sensitivity of this topic, and the dangers for women if they are found out to be discussing the topic, it is likely that women cancel the interview in the last minute. I could not afford to take this risk. Therefore, I resorted to doing Skype interviews. I intended to approach at least one participant from each province of Afghanistan and draw a comparison of the provinces and their different treatment of virginity testing. However, given the sensitive nature of my research topic and the social taboos surrounding topics, such as women’s sexuality and virginity in particular, I had a very hard time finding participants. That was when I realized that I had a very optimistic expectation to find one girl/woman from each province. Therefore, I decided to find participants regardless of which province they belong to.

I contacted journalists (local and international) and requested their help to connect me to Afghan women whose stories they have published. Similar to the organizations I had contacted, most of these journalists responded that they cannot share any kind of information or contact number of the women because they had promised not to. I continued contacting local journalists hoping that at least some of them might assist me in finding participants for my research. Meanwhile, I also approached Afghan women about my thesis project through Facebook closed groups, such as “Afghan Feminists” and “Afghan Women on the Move”. I also posted about my project on my twitter account. My twitter post was retweeted with my friends to their circle of friends. Within two days, three single girls and two married women contacted me on Facebook

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<sup>52</sup> Nasir Behzad, phone call with the author, January 11, 2020.



messenger and agreed to have an interview. The three girls are from Bamiyan province. One of them had experienced virginity testing and shared her experience. Whereas, the other two girls, did not experience the test, but had unpleasant experiences and trauma related to virginity. To respect the confidentiality these three girls asked for, I will use pseudonyms for them. They did, however, allowed me to write their age, which I will provide when I use their narratives in the coming chapters.

The other two women, Dr. Farzana Akbari and Maryam Popal Zahid, volunteered to have an interview and share their insights because they were involved in advocacy projects related to virginity testing and gender equality programs, respectively. Dr. Akbari was former acting gender director at the Ministry of Public Health of Afghanistan in 2018. Interviewing Dr. Akbari gave me insights on the social challenges of banning virginity testing in the context of Afghanistan. Zahid is a humanitarian and gender rights activist. Dr. Akbari and Zahid agreed to give interview with their actual identities. Therefore, in my thesis they will be referred to with their actual names. Even though, I will not cite anything from Zahid's interview in my chapters, mentioning her interview is important because her insights helped me with my thesis framework and she was the reason I could connect to women in the Facebook group.

As I continued conducting Skype interviews with the mentioned five girls and women who contacted me on Facebook, I kept contacting more Afghan journalists and women's rights organizations. I also remained persistent in contacting Medica Afghanistan because I knew they have access to many cases of women who had to undergo the test. Finally, after a few months, Medica Afghanistan agreed to arrange a Skype interview with two of their clients from Mazar-i-Sharif province. I will be using pseudonyms for these two participants as well. Unlike the interviews with my other participants which were one on one through Skype, the interview with

the clients of Medica Afghanistan was different. The interview arrangement was done by Medica Afghanistan, where they placed each of the two participants in a room with their psychologist and Medica Afghanistan staff. The psychologist was also a member of the Medica Afghanistan. I realized that the presence of their psychologist helped both of the participants open up and talk about their past virginity testing related trauma. The Medica Afghanistan staff helped them with clarifying my questions better when needed. First, I interviewed their first client who was a forty-year-old woman. She left the room when my interview with her was over. Then, the second client who was a thirteen-year-old girl entered the room and talked about her experience. The duration of these two and the five other interviews was one hour and thirty minutes. In addition to the interviews with my study participants, I will also include some cases of women whose experiences are reported in articles published in Afghan newspapers and magazines, and articles publicized in the internet.

Apart from conducting interviews, I also want to analyze one case from the documentary *Love Crimes of Kabul*, directed by the Iranian-American director, Tanaz Eshaghian and released in 2011. This documentary is about Badam Bagh prison and the reason why I picked this documentary is because it is set in a prison. The setting of prison helps my study in two ways. First, it emphasizes on the seriousness of the “crime” of losing virginity before marriage for Afghans. Second, the documentary focuses on the ethnic, tribal, religious or socioeconomic backgrounds of prisoners as well. This will help me analyze the forms of discrimination against women who lose their virginity before marriage through an *intersectional* approach. From this documentary, I picked just one case which I found most relevant to my study.

## 1.5 Note on Translation:

One out of the seven women I interviewed, wanted to have the interview in English. The rest were all conducted in Persian. Therefore, all the interview excerpts I use from these interviews are in translation. I use a lot of italicized Persian terms in order to make sure nothing is lost in translation. For all the italicized Persian terms, I provide the English translation in brackets or an explanation in the footnote when necessary. I also use a few very common italicized Persian proverbs which I felt were helpful in explaining certain situations very well. English translation for the proverbs indeed are also provided.

## 1.6 Positionality

As an Afghan woman growing up in a country different from my hometown country, I consider myself as an external insider. This is because I lived and worked in Afghanistan just for four years, but I grew up among Afghan immigrants who lived in Quetta, the provincial capital of Balochistan, Pakistan. I have found the beliefs behind the virginity of women in both communities similar. During the four years that lived in Afghanistan, I became part of AFSO in 2016. As the Program and Development Director of AFSO, I worked on advocacy to end virginity testing. My colleagues and I conducted training and awareness workshops about the test and collaborated with international organizations, such as Physicians for Human Rights and Open Society Foundation, in advocacy and other related initiatives. Being an ex member of AFSO played a crucial role in getting assistance from Medica Afghanistan.

Besides, my native language is Persian and the women I interviewed also speak in Dari. Therefore, speaking the same language as the interviewees helped me communicate with them better. Had I been a researcher who speaks in a different language, talking to some of my study participants would not have been possible as they only speak in Persian. Finally, I am a graduate

student completing my dissertation in a western academic institution. Researcher privilege helped me get cooperation from organizations such as Medica Afghanistan easier compare to how it would have been otherwise.

## **1.7 Ethical Consideration**

Since my project is an emotionally sensitive one, and interviewing women about the stigma they had faced is not easy, I tried my best to take care of the participants by following the principle of care discussed by Boellstorff et al. Their principle of care includes eight essential areas, such as “informed consent, mitigation of institutional risk, anonymity, deception, sex and intimacy, compensation, taking leave, and accurate portrayal.” In my research, I made sure of all these mentioned areas applicable to my research were maintained. When the process gave any kind of emotional stress to my interviewees, I allowed them to withdraw at any stage. I ensured about the anonymity of my interviewees, the ones who were not comfortable to be identified. In addition to using pseudonyms to their names and their locations, I also made sure not to use any kind of information that makes them identifiable by the readers. I will keep safe my research findings and won’t let anyone else have access to them, so that the interviewees do not get any kind of harm from others who might misuse the information or publish it without the consent of my interviewees.

## 2 Chapter 2. Women's Virginity, Marriage and Patriarchy

Following from the background context discussed in chapter 1, this chapter deals with three interconnected, but also separate, dimensions of marriage arrangements in Afghanistan. The first discusses the importance of marriage for Afghans in general and women in particular. The second, describes the process of marriage with a major focus on the practice of bride price, the money paid by the groom's family to the would-be wife's family. The third singles out virginity as the most important commodity for Afghan men. In this chapter, I argue that marriage in the Afghan context centers in patriarchy and the hierarchy of gender; therefore, it is not an equal relationship between two individuals that unities their lives, rather it is a process where a woman's body gets objectified, "to degrade or demote (a person, class of people, etc.) to the status of a mere object; to treat as an object; to reify"<sup>53</sup> and sold. Afghan men view marriage as an opportunity to buy their preferred commodity, namely a virgin woman or a woman accessible with low bride price. According to the oxford dictionary, commodity is defined as the following:

"A thing produced for use or sale; a piece of merchandise; an article of commerce; in later use frequently spec. a raw material, primary product, or other basic good which is traded in bulk and the units of which are interchangeable for the purposes of trading."<sup>54</sup>

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<sup>53</sup> Oxford English Dictionary, s.v. "objectify," accessed February 19, 2020, <https://www.oed.com/view/Entry/129625?redirectedFrom=objectify#eid>.

<sup>54</sup> Oxford English Dictionary, s.v. "commodity," accessed February 19, 2020, <https://www.oed.com/view/Entry/37205?redirectedFrom=commodity#eid>.

## 2.1 Importance of Marriage for Afghans

In Afghanistan, marriage is considered essential. It is very common to hear from Afghans that “Without marriage, life and faith are incomplete.”<sup>55</sup> Parents are in constant search of suitable partners for their sons and daughters. Besides, unlike some religions that appreciate celibacy, the religion of Islam does not encourage celibacy. Here and throughout my thesis, by the religion of Islam I refer to Sharia law, which is the legal system of Islam and regulates daily life. In fact, Islam states that the followers of Islam have legal rights to have sexual pleasure.<sup>56</sup> Nevertheless, sexual intimacy is only permitted within marriage and sexual activity outside of marriage is considered illicit sex. It is considered adultery (*Zena*) that results in punishment.<sup>57</sup> This is another reason why marriage is essential among Afghan population, who are predominantly Muslims. That is why most Afghan parents try to get their sons and daughters married as soon as they can, so they do not get involved in any illicit sex.

The pressure of marriage, however, on Afghan girls is double than Afghan boys. They are regarded as economic assets. Parents invest in their sons’ health and education, so they can provide for their parents in the future when the parents get old.<sup>58</sup> Girls, on the other hand, are assigned to do the household works and they do not earn money. Thus, they cannot make any financial contribution to their families. Girls are, therefore, considered economic burden.<sup>59</sup> That is exactly why girls are often married off at an early age. After marriage, girls financially depend on their husbands. Therefore, for most Afghan women marriage is vital for their survival. Jean H. Quataert, a professor of women's, gender and global History at Binghamton University, states

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<sup>55</sup> Shaima Khinjani, *Afghan Women: A Guide to Understanding an Afghan Woman's Role in Her Society* (Defense Critical Language/Culture Program, Maureen and Mike Mansfield Center at University of Montana, 2012), 20.

<sup>56</sup> Farahani, “Diasporic narratives on virginity,” 192.

<sup>57</sup> *Ibid.*, 192.

<sup>58</sup> Khinjani, 12.

<sup>59</sup> *Ibid.*

that in poor societies where educational and professional opportunities are limited, marriage is women's only means of survival.<sup>60</sup> Quataert's statement is very well applicable in Afghanistan because poverty is one of the major issues. Therefore, there is a lack of educational and professional opportunities for Afghan women. Consequently, most Afghan women survive through marriage. In some cases, even Afghan women's families survive through their daughter's marriage. I will return to this later, when I talk about the practice of the bride price.

## 2.2 Process of Marriage and the Practice of the Bride Price

Since in the following section, I argue that women's body gets objectified within marriage, I will explain my understanding of objectification first. I use Martha Nussbaum's definition of objectification. According to her, objectification is "seeing and/or treating a person as an object; it involves treating one thing as another: one is treating as an object what in fact is not an object, but a human being."<sup>61</sup> I also rely on Bartky's theory of fragmentation which she believes is one form of objectification because a woman's body and her person are separated from each other, and her body is considered as a representation of the woman.<sup>62</sup>

Nearly all weddings in Afghanistan begin with matchmaking. The family of the groom initiates the proposal and waits until the bride's family accepts the proposal. As soon as the bride's family gives approval for the marriage, the actual negotiations about the wedding and the bride price, the money paid by the groom's family for the bride to her family, start.<sup>63</sup> Pashto

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<sup>60</sup> Jean H. Quataert, *Advocating Dignity: Human Rights Mobilizations in Global Politics* (Philadelphia PA: University of Pennsylvania Press, 2011), 137.

<sup>61</sup> Martha C. Nussbaum, "Objectification," *Philosophy & Public Affairs* 24, no. 4 (1995): 257.

<sup>62</sup> Evangelia Lina Papadaki, "Feminist perspectives on objectification," *The Stanford Encyclopedia of Philosophy* (Summer 2020 Edition), ed. Edward N. Zalta, <https://plato.stanford.edu/archives/sum2020/entries/feminism-objectification/>.

<sup>63</sup> Fazl Rahman Muzhary, "The Bride Price: The Afghan tradition of paying for wives," *Afghanistan Analysts Network*, October 25, 2016, <https://www.afghanistan-analysts.org/en/reports/context-culture/the-bride-price-the-afghan-tradition-of-paying-for-wives/> (accessed June 2, 2020).

speaking regions call the practice of the bride price *walwar* and Dari speaking regions call the practice of the bride price *toyana*.<sup>64</sup> It is a cultural practice with no basis in the Islamic Sharia law. The only payment allowed by the Islamic Sharia law in marriage is *Mahr*, which is an amount fixed during the wedlock by the bride, but only paid to her in the future if her husband divorces her. *Mahr* is meant to provide security for a woman and her children after a divorce.<sup>65</sup> The practice of the bride price does not have any legal framework either because there is no explicit mention of this practice in the present marriage law of Afghanistan. To the contrary, in the marriage laws of 1960, 1971, and 1977, the practice had been prohibited under Decree no.7(1978).<sup>66</sup> The conservative groups of the Afghan society, however, did not accept the decree. Therefore, the decree was implemented unevenly.<sup>67</sup>

The bride price is an enormous burden on the grooms and their families, but it is a very important source of income for the brides' families, especially for the poorer ones. Some families who have more daughters and just one son, usually depend on the bride price as a source of income because what their son earns is not enough for the expenses of the entire family. Some families consider the bride price as the contribution from daughters to their families' economy.<sup>68</sup> For example, a poor man in Ghazni province of Afghanistan, demanded USD 10,000 as a bride price when he married his daughter off. He said that he used this amount of money for nearly four years to feed his whole family.<sup>69</sup> Some of the factors that play a role in the bride price negotiations are the physical appearance of a girl, her crafting skills, and very recently her level

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<sup>64</sup> Muzhary.

<sup>65</sup> Ibid.

<sup>66</sup> Lucile Martin, *Functions and Dysfunctions of Marriage Transactions: Evolutions of Bride Price and Mahr* (n.p., Afghanistan Public Policy Research Organization, 2018), 12.

<sup>67</sup> Ibid.

<sup>68</sup> Muzhary.

<sup>69</sup> Ibid.



of education.<sup>70</sup> The sum of the money given as bride price is supposed to be spent on goods and products that will be used within the household by the newlywed couple.<sup>71</sup>

Once marriage has been approved by the bride's family, the negotiations about the wedding costs, including food and catering usually happen quite fast. However, the negotiations about the bride price are what take longer time and often several sessions of negotiations.<sup>72</sup> As I explain the negotiations of the bride price further in more detail, I am also going to simultaneously explain the seven features that are involved in the objectification of a person according to Nussbaum. Those features are *instrumentality*, *denial of autonomy*, *inertness*, *fungibility*, *violability*, *ownership*, and *denial of subjectivity*.<sup>73</sup> I believe that nearly all these features are also involved in the practice of the bride price due to the following reasons.

In the wedding and the bride price negotiations, the bride plays very little to almost no role. She is usually expected to accept what her family decides.<sup>74</sup> This is *denial of autonomy*, which Nussbaum defines as treating a person as without self-determination and autonomy.<sup>75</sup> *Denial of autonomy* is involved in the practice of the bride price because a woman has no autonomy to be present in the bride price negotiations and have a say in it. Perhaps, some brides do not want to have the bride price practice, or some might not be happy with the decided price in their absence. Usually, it is the male head of the family from the bride's side that determines the amount of the bride price after negotiating with the groom's male head of the family.<sup>76</sup> This is *ownership*, which Nussbaum defines as treating someone as something that is possessed by

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<sup>70</sup> Martin, 16.

<sup>71</sup> Mohammad Zamir Sapai and Wahidullah Omaryar, "Afghanistan: The high cost of Bride Price," *Women Living Under Muslim Laws*, June 5, 2009, [www.wluml.org/node/5229](http://www.wluml.org/node/5229) (accessed March 2, 2020).

<sup>72</sup> Muzhary.

<sup>73</sup> Nussbaum, 257.

<sup>74</sup> Muzhary.

<sup>75</sup> Nussbaum, 257.

<sup>76</sup> Martin, 15.

another (available for buying and selling).<sup>77</sup> *Ownership* is involved in the practice of bride price because the bride is treated as an object that is owned by her male head of the family before marriage and then gets sold to and owned by her husband's head of the family. Once the negotiation is completed, a male representative from the bride side receives the bride price in the form of cash, gold, land, cars, domesticated animals, and household goods.<sup>78</sup> This is *fungibility*, which Nussbaum defines as treating someone as exchangeable with other objects.<sup>79</sup> *Fungibility* is involved in the practice of the bride price because the bride is given in exchange to gold, land, cars, etc. An example of this mentioned in the literature is the case of Nahida.

Nahida, pseudonym, a 20-year-old Afghan girl got engaged, but she does not see her engagement as a joyful event. She wants to commit suicide. "I am being forced to marry a 60-year-old man," she said.<sup>80</sup> "My father beat me until I agreed, and then he beat me again until I stopped crying in front of my fiancé's relatives."<sup>81</sup> Nahida says that her father received USD 10,000 from the old man. With this money, her father bought a car and leased an apartment. "He has sold me, and I do not know what to do!"<sup>82</sup> This is *denial of subjectivity*, which Nussbaum defines as treating someone as something whose experiences and feelings (if any) need not to be considered.<sup>83</sup> *Denial of subjectivity* is involved in the practice of the bride price because the bride's feelings are not taken into consideration. Nahida's example depicts how her feelings were completely disregarded, causing her to feel suicidal. Nahida's case also involves *Instrumentality*, which Nussbaum defines as treating a person as a tool for the purposes of objectifier.<sup>84</sup>

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<sup>77</sup> Nussbaum, 257.

<sup>78</sup> Muzhary.

<sup>79</sup> Nussbaum, 257.

<sup>80</sup> Sapai and Omaryar.

<sup>81</sup> Ibid.

<sup>82</sup> Ibid.

<sup>83</sup> Nussbaum, 257.

<sup>84</sup> Ibid.

*Instrumentality* is involved in Nahida's case because her father treated her like a tool and sold her to an old man, so he could lease an apartment and buy a car. Here objectifier is not only her father who sells her for his own purpose but also the old man who gets a very young wife in exchange of just USD 10,000. Nahida's case also involves *Inertness*, which Nussbaum defines as treating a person as without agency, and maybe in activity.<sup>85</sup> *Inertness* is involved in Nahida's case because her father sold her against her will and treated her as someone who has no agency to choose a husband of her choice and her age, or at least with only a few years of age difference. In short, Nahida's father took advantage of the bride price practice by taking the money which was supposed to be spent on household goods for Nahida.

Based on a report prepared by the Afghanistan Analysts Network in 2016, in some parts of Afghanistan, tribal elder have conducted meetings to 'regulate' the practice of the bride price. For instance, in the Khost province, they agreed on a reduction of the bride price. When people from other provinces of Afghanistan got to know about this reduction in Khost province, they made trips to Khost in order to find brides for their sons for a lower price.<sup>86</sup> People traveling from other provinces of Afghanistan to Khost in order find brides for a lower price further reinforces an underlying assumption that woman is a commodity that can be bought and sold. In my view, here the Khost province symbolizes a market where Afghan girls are put on sale and people from other provinces can visit the sale and pick what seems a more reasonable price for them. I should mention here that it is usually elderly women from the would be grooms' families who go and find brides for their sons. Here we can see that women contribute in the practice of the bride price. Deniz Kandiyoti, a Turkish author and researcher, named it "patriarchal bargain" when a woman

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<sup>85</sup> Nussbaum, 257.

<sup>86</sup> Muzhary.

maintains patriarchal norms that are generally damaging to women but advantageous to her. Kandiyoti also states that the nature of patriarchal bargaining differs in different cultures based on ethnicity, class, and caste.<sup>87</sup> In this example of Khost province, elderly women from the groom's side maintain patriarchal norms by participating in the practice of the bride price and gain financial advantage in return.

One important element of the commodification is when something can be damaged and therefore gets sold for a lower price. An example of this mentioned element can be seen in the narrative of one of my study participants, Fatima, pseudonym, who is 27-year-old. Her narrative will show that a woman, in a similar way to a property, can be damaged and therefore sold for a lower price. Fatima gets engaged with her English language instructor, Ali, pseudonym, in 2018. Right after their engagement, her fiancé goes to Sweden. After a few months, their relationship falls apart over unclear reasons. When Ali returns Afghanistan, he wants to end the relationship and break the engagement. He accuses Fatima of having had affairs when he was away from Afghanistan. When the families get involved, they conduct meetings to make a reconciliation if possible. Meanwhile, Fatima and Ali have their own meetings. During one of their meetings, they end up having intercourse for the first time. This is when, Fatima loses her virginity. Despite causing Fatima to lose her virginity, Ali ends the relationship and returns back to Sweden. Once he gets to Sweden, he calls and tells Fatima that "I am done, I did to you what I wanted to do!"<sup>88</sup> It is only at this stage that Fatima realizes that he manipulated her, and the intercourse was his ill-intended plan. When she discloses to her family the fact that she is not a virgin anymore, Ali denies having had sex with her. She is never treated well by her own family after that. She feels

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<sup>87</sup> Deniz Kandiyoti, "Bargaining with patriarchy," *Gender & society* 2, no. 3 (1988): 275.

<sup>88</sup> Fatima Abbasi, interview by the author, January 15, 2020.

like a burden on her family. Then she starts an online relationship with another man, Jafar, whom she does not know at all. He is also out of Afghanistan. After some time, he tells Fatima that he will come to Afghanistan just to get married to Fatima. When he proposes Fatima, her family immediately accepts the proposal without much thought. He realizes that her family just wants to get rid of her. That is why within a week all the marriage ceremony is completed. Her family does not receive any bride price. After a month of marriage, Fatima and Jafar start fighting. Eventually she realizes that her husband is not mentally stable. However, she does not see any choice left for her.

Her family does not want her to divorce him. Her family expects her to stay with him, no matter what. She is still with Jafar, unhappy and depressed. In Fatima's narrative, there are several key points that prove the underlying assumption of Afghan society that woman is a commodity that can be "damaged" as well, so there is no one to "buy" her for a "good price." By using the word "damage" I am referring to Ali's quote as mentioned above where he said that "I am done, I did to you what I wanted to do." By this quote he meant that he has damaged (devalued) Fatima's body, and therefore her reputation, by causing her virginity loss. By using the phraseno one buys a damaged woman in a good price, I am referring to the absence of the practice of the bride price when Jafar proposed Fatima. Had she not lost her virginity, there would have been the practice of the bride price. Earlier I mentioned that the negotiations about the bride price take longer time and often several sessions. In Fatima's case, however, there were no negotiations about the bride price. Her family agreed to her marriage as soon as Jafar proposed. Her family did not even take some time to make sure, Jafar is a stable man, let alone a suitable husband for Fatima. Lastly, Fatima's family not agreeing with her to divorce Jafar and expecting her to stay with him despite his mental illness is well connected to this proverb, *Aan ki naan*

*dehad, farman dehad*, which translates as “One who feeds, gives the orders”. This is a very common proverb among Afghans, I grew up hearing this proverb frequently from my grandmother and relatives. I have heard this proverb particularly in cases where the Afghan society, especially a woman’s mother or grandmother want a woman to stay with her husband even if he is abusive. Bearing this proverb in mind, Jafar’s abusive treatment of Fatima is justified since he earns and feeds Fatima. What Fatima, on the other hand, wants does not matter because she does not earn or feed anyone.

## **2.3 Virginity as the Most Treasured Commodity for Afghan Men**

The other way that a woman’s body gets commodified in marriage is through the importance put on Afghan women’s virginity and Afghan men’s preference of virgin wives. As mentioned earlier in the background context chapter that a woman’s virginity is considered a symbol of purity, and a woman’s purity is a prerequisite for marriage. As a result, there is a very low or nearly no chance of accepting a non-virgin woman for marriage. This leaves Afghan women with very limited choice; in order to be accepted for marriage, they have to keep their virginity. Women who lose their virginity before marriage, are often not accepted for marriage. An example of this is mentioned in the narrative of one my study participant, Zuhal, pseudonym.

Zuhal is a 27 -year -old Afghan woman who fell in love with a man, Sajjad, pseudonym. After a year of being in a relationship, they decided to get married. At the beginning of their relationship, Zuhal told Sajjad that she was not a virgin and Sajjad was fine with this. However, as they got closer and decided to get married, Sajjad wanted Zuhal to do a hymen surgery. Sajjad told Zuhal that “My family is going to inspect our bedsheet to see if intercourse resulted in my wife’s hymen tearing and bleeding, and for that you have to do a hymen surgery.” Zuhal said, she really believed that Sajjad was fine with the fact that she was not a virgin.

“Sajjad was not even hesitant when he told me to do a hymen surgery. It was more like an order from him that I had to accept if I wanted to marry him”.

(Zuhal, age 27, Afghanistan)

Here we can see that Zuhal’s entire being is identified by a hymen. Sajjad’s family will only accept her if she has an intact hymen. According to Bartky, Zuhal’s experience is an illustration of fragmentation which in her view is also a kind of objectification. She posits, women in patriarchal societies experience a kind of fragmentation because their entire being gets identified by their bodies while their mind and personality are not sufficiently acknowledged. In this way, she believes, a woman’s person is fragmented.<sup>89</sup> According to her, through this fragmentation a woman is objectified because her body and her person are separated from each other, and her body is considered as a representation of the woman.<sup>90</sup> Bearing in mind Bartky’s argument, Zuhal also experienced fragmentation because her body was separated from her personality and her hymen was considered as representing her.

Besides, bearing in mind Farhani’s finding, mentioned in the former chapter, there is gender double-standards in the Afghan culture as well. It is gender double-standard that only Sajjad and his family get the right to expect a virgin bride. Being in a year of relationship means both Sajjad and Zuhal were involved in the premarital-sex, but at the end it is Zuhal to either get a hymen surgery or be rejected for marriage while there are no such consequences for Sajjad.

## **2.4 Concluding Remarks**

In this chapter, I illustrated the problematic nature of marriage which centers in patriarchy and hierarchy of gender. I demonstrated, through the narratives of women, the gender inequality in marriage and even in the process of marriage through which a woman is commodified and

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<sup>89</sup> Papadaki.

<sup>90</sup> Ibid., 130.

sold by putting different prices for her. Through the practice of the bride price and men's preference for virgin wife, a woman's body is fragmented in a marriage by the importance put on her virginity. In the next chapter, I will explain the implications of virginity testing on the enjoyment of women's rights by focusing in four areas: right to autonomy, right to dignity, right to equality and non-discrimination and right to privacy.



### **3 Chapter 3. Human Rights Implications of Virginity**

#### **Testing**

In chapter three, I demonstrated why a girl's body is a commodity for Afghan men and his family including his female family members, girl's virginity being men's most treasured commodity. The chapter that follows discusses, under two major sections, the human rights aspects of virginity testing and the human rights implications of virginity testing on the enjoyment of women's rights. The human rights aspects will be described with a focus on the discrimination provision in The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) against practices like virginity testing. The human rights implications of virginity testing on the enjoyment of women's rights will be addressed by focusing on four areas: right to autonomy, right to dignity, right to equality and non-discrimination, and right to privacy.

This chapter of my thesis relies heavily on a series of interviews I conducted with women who had harsh experiences related to their virginity. Some of them were even subjected to virginity testing or anal testing (in cases of one married women). I will discuss six cases. Except two cases that I will cite from some local Afghan magazines, the other four cases are that of my research participants whom I interviewed through Skype. Two out of these four women were introduced to me by Medica Afghanistan. The other two contacted me on Facebook messenger after I posted about my research on Facebook groups. The reason why I have picked these six cases is because all these narratives depict how the insistence on keeping virgin bodies has severe physical and emotional impacts on women.

### 3.1 Human Rights Aspects

The World Health Organization (WHO) suggests that virginity testing should not be conducted under any condition. This test lacks scientific basis and is a violation of numerous human rights and ethical values including the basic rule in medicine to do no harm.<sup>91</sup> Conducting this test, which requires inspection of women's private part, not only violates women's human rights, but can also causes further pain in cases of rape and imitates the original act of sexual violence, and leads to suffering and re-victimisation.<sup>92</sup> As a result of this test, many women go through harmful short and long-term physical, psychological and societal outcomes; anxiety, depression and post-traumatic stress, to name a few. Additionally, extreme cases also involve attempts of suicide or getting killed in the name of honor.<sup>93</sup>

#### 3.1.1. Discrimination Provision in CEDAW:

There is discrimination provision in CEDAW against practices like virginity testing. CEDAW guarantees women's rights to equality and non-discrimination. Article one of CEDAW defines discrimination against women as the following:

“Discrimination against women includes any distinction, exclusion or restriction made on the basis of sex that has the effect or purpose of impairing or nullifying women's enjoyment of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. This is irrespective of their marital status, on a basis of equality of men and women.”<sup>94</sup>

<sup>91</sup> *Health Europa*, “United Nations agencies call for ban on virginity testing,” October 18, 2018, <https://www.healtheuropa.eu/united-nations-agencies-virginity-testing/88515/> (accessed February 28, 2020).

<sup>92</sup> Indug.

<sup>93</sup> “United Nations agencies call for ban on virginity testing,” *Health Europa*, October 18, 2018, <https://www.healtheuropa.eu/united-nations-agencies-virginity-testing/88515/> (accessed February 28, 2020).

<sup>94</sup> UN General Assembly, Convention on the Elimination of All Forms of Discrimination against Women, Article 1, 18 December 1979, A/RES/34/180, <https://www.refworld.org/docid/3b00f2244.html> (accessed June 1, 2020).

Besides, article 5 of CEDAW declares that “States shall take appropriate measures to eliminate stereotyping, prejudices and discriminatory cultural practices...”<sup>95</sup>

I have referenced the above mentioned two articles of CEDAW to further reinforce the discriminatory nature of the practice of virginity testing. The government of Afghanistan signed the Convention on the Elimination of Discrimination against Women (CEDAW) on the 14<sup>th</sup> of August 1980, however, the convention was only ratified in 2003 due to the ongoing regional war in Afghanistan.<sup>96</sup> Since then, Afghanistan has reviewed its Constitution in order to more clearly define gender equality in Afghan law and to ensure that both sexes are provided with equal rights.<sup>97</sup> Additionally, a law is now enforced for the purpose of eliminating violence against women. Through this law, the sanctions against those who commit any crime that violates women’s rights are toughened. Most importantly, the High Commission for the elimination of violence against women has also been formed.<sup>98</sup> Considering all the above, since signing CEDAW, the Afghan government has made commitments to protect women’s rights and has implemented some laws accordingly. However, bearing in mind the continuation of virginity testing, the government of Afghanistan has failed in several ways to live up to the promise it made by signing on to ratifying CEDAW.

One of the reasons for the failure of the Afghan government is its constitution. There is discriminatory application in the Afghan constitution itself. In 2006, Sharia Law<sup>99</sup> was given a legal framework. During the presidency of Hamid Karzai (2001-2014), a proposal was passed that

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<sup>95</sup> UN General Assembly, Convention on the Elimination of All Forms of Discrimination against Women, Article 5, 18 December 1979, A/RES/34/180, <https://www.refworld.org/docid/3b00f2244.html> (accessed June 1, 2020).

<sup>96</sup> Marie Bertrand, “CEDAW leads way to gender equality in Afghanistan,” *Humanium*, May 7, 2014, <https://www.humanium.org/en/cedaw-leads-way-to-gender-equality-in-afghanistan/> (accessed May 5, 2020).

<sup>97</sup> Ibid.

<sup>98</sup> Ibid.

<sup>99</sup> A religious law forming part of the Islamic tradition. It is derived from the religious precepts of Islam, particularly the Quran and the hadith

the Department for the Promotion of Virtue and Prevention of Vice should be reestablished. It was the same department that the Taliban used to brutally punish Afghan women in the name of religion.<sup>100</sup> Article 22 of the Constitutional Loya Jirga<sup>101</sup> states that “the citizens of Afghanistan- whether men or women- have equal rights and duties before the law.”<sup>102</sup> However, article three of the same constitution states that “no law can be contrary to the beliefs and provisions of the sacred religion of Islam.”<sup>103</sup> Article three contradicts article 22. According to Oxfam, if a woman runs away from her family due to violence, under the Afghan Penal Code she is not considered a criminal. Whereas, according to Sharia law she is considered a criminal.<sup>104</sup> For the Afghan government to live up to the commitment it made by signing CEDAW and protect women’s rights, the conflicts between the Afghan Penal Code and the Sharia law should be removed first, so the Afghan women do not have bear the consequences of these contradictions.

### **3.2 Human Rights Implications of Virginity Testing**

“From the day I learnt what sex is and the fact that a Muslim woman is not allowed to have sex before her marriage, I have hated myself. I always prayed for forgiveness from God. I always prayed to God that take my life through any sort of accident before my family or my society comes to know that I am not a virgin and that I had lost my virginity at the age of five. I always felt that I am not pure, and I am dirty. I have cried every night for 20 years without disclosing it to anyone.”

(Safora, age 25, Afghanistan)

This excerpt is from my interview with Safora, a 25-year-old Afghan woman, who thought that she had lost her virginity when she was just 5-year-old while she was playing with her

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<sup>100</sup> Gunjan Priya, “Achieving Gender Equality in Afghanistan By 2020,” *International Journal of Research* 1, no. 4 (2014): 637.

<sup>101</sup> Loya Jirga which translates as “grand council” is a mass national gathering that brings together representatives from the various ethnic, religious, and tribal communities in Afghanistan.

<sup>102</sup> Priya, 637.

<sup>103</sup> Ibid.

<sup>104</sup> Ibid.

neighbor's sons. This excerpt from Safora's narrative nicely summarizes some of the themes that I want to address in this chapter and throughout my thesis. Safora's commentary is an illustration of the importance a woman's virginity has in Afghan society and the severe psychological impacts losing virginity has on Afghan women.

I will try to address the implications of virginity testing on the enjoyment of women's rights through the analysis of Ebenezer Durojaye, Associate Professor of Law and Head of the Socio-economic Rights Project at the Community Law Centre, University of the Western Cape, Cape Town. In his text under the title of "The human rights implications of virginity testing in South Africa" Durojaye focuses on three areas: right to autonomy, right to dignity and right to equality/non-discrimination.<sup>105</sup> I will analyze these three areas in the context of Afghanistan. I find Durojaye's framework particularly useful in my analysis because his understanding of the South African context relates to Afghanistan given the cultural similarity of the practice in both contexts. After addressing the three areas discussed by Durojaye, I will include the right to privacy as well because in my view the right to privacy is as crucial as the other three areas when it comes to topics such as one's body parts. By addressing the implications of virginity testing, I argue that virginity testing is sexual assault, where the doctor who conducts the test becomes a perpetrator as well by imitating the original act of sexual violence and causing short- and long-term negative physical and emotional effects on women who get subjected to virginity testing.

First, the right to autonomy: according to Durojaye, virginity testing is an attack on woman's privacy. To conduct virginity testing, a tester/doctor inserts their fingers in the "private area" of a woman. This act is an intervention in the sexual autonomy of a woman and her right to

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<sup>105</sup> Durojaye, 236.

bodily integrity.<sup>106</sup> Similarly, as mentioned in the previous chapter, the Legal Medicine Directorate (LMD) doctors in Afghanistan insert their fingers in a woman's vagina, what Durojaye referred to as "private area", without her consent, and usually by force. Thus, this is how the LMD doctors interfere into an Afghan woman's sexual autonomy. The following narrative is from my study participant, Sumaya, pseudonym, who is 13- year-old. She was sexually assaulted and eventually raped by her stepfather numerous times. He threatened her by a gun if she informed her mother about the assaults. Finally, one day her mother caught her husband while he was molesting Sumaya. Her mother then reported to the police. The police insisted that Sumaya had to undergo a virginity test at LMD in order to make sure if she was really raped or not. It is only after the negative result of the virginity testing that the police proceeded with their complaints. When I interviewed Sumaya and asked her about how exactly her stepfather molested her, this is what she replied:

"My stepfather would touch my *sharmgah* ["Place of shame"] and all my body parts and would tell me nasty stuff. He told me that he would kill me if I did not let him touch me or if I inform my mother about it."

(Sumaya, age 13, Afghanistan)

Sumaya used *Sharmgah* "Place of shame" to refer to her vagina. *Sharmgah* is used by majority of the Afghan women when they refer to their vaginas. They use the word vagina itself very seldom. Later in my interview with Sumaya, I asked her how she felt about the doctors who conducted the virginity testing on her, and she replied: "This is not right for the LMD doctors to touch every part of me. It is not good." Sumaya stated in her responses that my "father would touch every part of me" and later she said that "the LMD doctor touched every part of me." Based on Sumaya's narrative, the LMD doctor imitated exactly what her stepfather did to her. Thus, the

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<sup>106</sup> Durojaye, 9.

LMD doctor's act is not any different from her step-father's. Both sexually assaulted her. Therefore, both are perpetrators.

Second, the right to dignity: According to Durojaye, girls who fail virginity testing are rejected by the society, so they live their lives in isolation. This may cause them physical and psychological suffering, thus leading to a violation of the right to dignity of women.<sup>107</sup> Similarly, women who fail virginity testing are not accepted in the Afghan society anymore. They must live their lives in isolation from the rest of the society. First, they will have to stay in prison for committing pre-marital sex, which is considered a 'moral crime' in the Afghan culture.<sup>108</sup> Then after jail, these women will have to face societal penalties. They will be humiliated and expelled from the community. Some women are even subjected to *Qatl-Namosi*, honor killing, which means that they get killed by their male family members for bringing shame to the family.<sup>109</sup> Due to the strong stigma attached to virginity testing, some women commit suicide. An example of a girl, Suraya, having to live a life in isolation is mentioned in Undark magazine.

Suraya is a young teenage from the eastern part of Afghanistan. She was raped by her English teacher. After a few months, she was seen in a public space with her rapist. The police took her to the station and called her father informing him that his daughter has committed adultery. When her father came, he hit Suraya. Her father also insisted that she should be taken to the LMD and a virginity testing should be conducted on her. Suraya has now left the country, but she says that her experience of undergoing virginity testing has ruined her. She had also attempted suicide. She said, "I was a good and a happy girl, but the virginity test killed me."<sup>110</sup> Suraya's

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<sup>107</sup> Durojaye, 13.

<sup>108</sup> Indug.

<sup>109</sup> Ibid.

<sup>110</sup> Ruchi Kumar, "In Afghanistan, Combating the Dubious Science of Virginity Testing," *Undark*, August 21, 2019, <https://undark.org/2019/08/21/against-virginity-testing-afghanistan/> (accessed May 2, 2020).

fleeing the country was not something she chose, she was rather forced to because she knew she would not be accepted by the society or even by her own father. That is why she decided to leave the country. While her life was ruined, as stated by Suraya herself, and she was made to leave the country, her rapist was going about his daily life as usual. At least he was not held accountable for bringing shame to his family or the society. Thus, this is how virginity testing violates Suraya's right to dignity, causing her psychological trauma.

The Afghan society does not treat well a girl who gets subjected to the virginity testing even if the test shows that a girl is virgin. An example of this mentioned in the Persian BBC news is the case of Neda, pseudonym. She talked about her experience of undergoing virginity testing. She was sitting with her male relative inside his car. When a police saw them together, she was caught by police and accused of *Ayashi*, being a libertine. She was sent to LMD to have a test. Her test was negative. She said, "The test ruined her life." She was stigmatized by people in her society and she heard gossips from everyone.<sup>111</sup> Neda's narrative depicts that Afghan women are stigmatized just by undergoing the test, let alone failing the test. Even though the test proved that she did not lose her virginity, she was still stigmatized and humiliated. That is why she said that the test destroyed her life.

Third, women's rights to equality and non-discrimination. According to Durojaye, it is discrimination against women that just women are subjected to the practice of virginity testing, but men are not.<sup>112</sup> Similarly, it is discrimination against Afghan women that just women are expected to keep their virginity and undergo virginity testing while there is no such test for Afghan men. Considering the religious aspect of sexuality, both Muslim men and Muslim women are

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<sup>111</sup> Nasir Bahzad, "The Virginity Test Transforms the Lives of Afghan Girls," (translation by the author) *Persian BBC*, March 21, 2017, <https://www.bbc.com/persian/afghanistan-40997429> (accessed March 22, 2020).

<sup>112</sup> Durojaye, 11.



forbidden from pre- marital sex. In the previous chapter, I cited that sexual intimacy is only permitted within marriage and sexual activity outside of marriage is considered illicit sex. It is considered adultery (*Zena*) that results in punishment.<sup>113</sup> However, in practice, it is just expected of women to stay virgin because there is no such test as virginity testing for men.

In the previous chapter, I mentioned the narrative of one of my participants, Zuhail, pseudonym, who dated a man, Sajjad, pseudonym, for one year. He later asked her to do a hymen surgery to be accepted for marriage by his family. It is discrimination against Zuhail that only she was held accountable for being involved in pre-marital sex, but her boyfriend was not bearing any consequence. It is discrimination against Zuhail that she was expected to pay for losing virginity by getting a hymen surgery, whereas Sajjad did not have to pay in anyway. He could, in fact, demand along with his family for a virgin wife.

Zuhail got into a sexual relationship with someone she considered her would-be husband. Whereas for Sajjad, he knew his family's expectation of having a virgin bride and yet he continued his relationship with Zuhail without mentioning his parents' expectation to Zuhail until they considered getting married. This means he took advantage of her body for sexual purposes. Therefore, it is discrimination against Zuhail whose body was viewed flawless when used for sex, but when it came to marriage consideration, that very same body was regarded as something that needed to be "fixed" by a hymen surgery.

Zuhail's case is also well understood through the argument of Zahra (Mona) Ghassemi Zavieh who conducted a study on Iranian women living in Montreal. She argues that virginity imperative is a mechanism to police, monitor and classify women's bodies as desirable or undesirable, appropriate for marriage or available for sex. Zuhail's experience is an indication that

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<sup>113</sup> Farahani, "Diasporic narratives on virginity," 192.

Zahvieh's argument is very closely applicable in the context of Afghanistan as well. In other words, virginity imperative was used as a method by Sajjad to view Zuhal's body accessible for sex. With the same method, Sajjad and his family classified Zuhal's body not suitable for marriage unless she had a surgery. Later in the interview, Zuhal told me that she broke up with Sajjad. She further added that

“I avoided dating for some time until I met Ali. He was very much interested in me, but I always avoided him. One day, he insisted that I explain to him that why I was ignoring him. I told him, listen Ali, I am not a virgin. I have had relationships in the past.”  
(Zuhal, age 27, Afghanistan)

For Zuhal to inform Ali about that fact the she was not a virgin echoes so much about the burden and responsibility the Afghan society puts on women about keeping their virginity. Zuhal's reaction raises several questions: why was Ali not concerned of informing Zuhal whether he was a virgin or not? Or why was Zuhal not the first to ask if Ali was a virgin or not? It is worth mentioning that none of the women I interviewed were curious to know about virginity of the men they were dating. They were rather more worried of the fact that they were not virgin and might not be accepted by men.

Lastly, the right to privacy: International human rights instruments such as the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights comprise obligations protecting the right to privacy and physical integrity. According to these instruments, the right to privacy is defined as being left alone in solicitude. This obliges states to avoid committing any action that may cause an invasion of a person's home, communication (email) or body.<sup>114</sup> According to General Comment number 16 of the Human Rights Committee (1988), states are obligated not to get involved in interferences and to deliver a judicial framework

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<sup>114</sup> Indug.

to prohibit such acts by natural or authorized persons. In medical term, the right to privacy implies non-consensual medical treatment or experimentation. Bearing in mind the medical definition of the right to privacy and the definition provided by the international human rights instruments, conducting virginity testing is a violation of woman's privacy because virginity testing is a non-consensual test and an invasion of a woman's body. In the context of Afghanistan, most women do not have a say in it, especially in cases where the groom's family insists that the woman undergo a virginity test at LMD, as addressed in the previous chapter. An example of the violation of woman's right to privacy is mentioned in the narrative of my study participant, Zarmina, pseudonym.

Zarmina is a 40- year-old married Afghan woman, who was raped by a man who entered her house. He then ran away and got caught by the people from that community after they heard Zarmina's screaming. The following day when the case was reported to the police, they insisted that Zarmina undergo a test in the LMD in order to make sure whether any sort of penetration had taken place or not. Also, to distinguish whether it was rape or adultery. As Zarmina was explaining the incident to me, she said:

"I wanted to commit suicide, I wanted to set myself and my house on fire. I did not want to live in this world anymore. I did not burn just from one angle, I burned from all the four angles. I was forced to go for a test in the LMD. I did not want to. When I went to the LMD, the doctor inserted her fingers inside me from behind. It was so painful; I could not sit for one day and night. It was so overwhelming I got unconscious in the hospital several times."

(Zarmina, age 40, Afghanistan)

Zarmina's right to privacy was violated in numerous ways. From a legal perspective, a non-consensual test was conducted on her. She said, she did not want to go to LMD for a test, but she was forced to go. In fact, it was not just a non-consensual test, but a very brutal one. From the perspective of the international human rights instruments, her house and her body were invaded. Worst of all, because she was married, which of course means she was a non-virgin, an anal test

was conducted on her to confirm penetration, causing her severe physical and psychological suffering. As mentioned earlier in the section of the human rights aspect, WHO asserts that many women undergo harmful short- and long-term physical, psychological and societal outcomes as a result of this test. The outcome includes anxiety, depression and post-traumatic stress. In addition, the extreme cases also involve suicide attempts or killings in the name of honor.<sup>115</sup> All these impacts mentioned by WHO are seen in Zarmina's case. That is why she said, "I did not burn just from one angle, I burned from all the four angles." The word burning is predominantly used among Afghans to imply torture and suffering. Getting raped and then the brutal anal test resulted in psychological suffering of Zarmina causing her to feel suicidal. Additionally, I also think this kind of test conducted by force is a complete disregard of a woman's right to say no. If a woman is not allowed to reject the kind of test that deals with touching her genitals, then how is this test any different from sexual assault?

On the other hand, Zarmina was subjected to an anal test to distinguish whether she was actually raped, or she committed adultery. This means, her claim was doubted and hence disrespected. The feminists who critique legal institutions' ability to protect women, perceive these institutions as "hierarchical, adversarial, exclusionary, and unlikely to respect claims made women."<sup>116</sup> Zarmina's experience is an indication that the legal institution in Afghanistan where Zarmina went to did not respect her claim and was therefore unable to protect her.

In the previous chapter, I mentioned Fatima's narrative whose fiancé, Ali, divorced her after Fatima lost her virginity with him. When Fatima disclosed to her family the fact that she was not a virgin anymore, Ali denied having sex with her. Fatima's mother took her to a clinic to see

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<sup>115</sup> Indug.

<sup>116</sup> Gayle Binion, "Human rights: A feminist perspective," *Human Rights Quarterly* 17 (1995): 513.

if there was still a possibility that she had not lost her virginity completely. A virginity testing was conducted on her and the result “proved” that she was not a virgin anymore. Fatima's mother then went to the Human Rights Commission to report a complaint against Ali, and seek help for their daughter's case. The Human Rights Commission asked for Ali's presence or someone from his family. Ali's brother appeared to the Human Rights Commission and denied whatever claims made by Fatima and her family. This is what Ali's brother told Human Rights Commission:

“My brother has nothing to do with her [referring to Fatima] virginity loss. She must have been sexually involved with another man. Even if she gets pregnant, it is somebody else's child, not my brother's.”

The Human Rights Commission, instead of supporting Fatima's case, took side of Ali's brother. This is what the Human Rights Commission told Fatima's mother:

“This is your mistake. Why did you let your daughter go and meet her fiancé alone? Why was she careless and had sex with him before marriage? You should not have let your daughter meet her fiancé without a chaperon. Even if the Human Rights Commission file a case, later the judges will also blame you and your daughter.”

As we can see, the Human Rights Commission, was not willing to help Fatima. The Commission put all the blame on Fatima and her family. The Human Rights Commission's failure to protect Fatima is another example of legal institutions' failure to protect women and respect their claim.

In short, considering the mentioned four areas, right to autonomy, right to dignity, right to equality and non-discrimination, and right to privacy, it is a violation of human rights if a woman is getting physically and emotionally tortured through a test that does not even have any legal or scientific basis.

### **3.3 Concluding remarks**

In this chapter, I discussed the human rights aspects of virginity testing. I also addressed how women's right to autonomy, right to dignity, right to equality and non-discrimination, and

right to privacy are violated by the test. Using critiques of feminists on legal institutions' inability to protect women, I explored the failure of the Afghan legal institutions that could not help my research participants with their cases. Besides, through the narratives of the majority of the girls and women (Zarmina, Suraya, and Sumaya) in this chapter, I also tried to explain how women's bodies were investigated for crime scenes. The doctors could instead look for a man's sperm/semen which is more respectable and medically approved. In my view, examining woman's body as a crime scene is gendered and has a patriarchal element. In the next chapter, I will seek to demonstrate how forms of discrimination against women who "fail" to keep a virgin status overlap depending on which ethnicity, tribe, religious group, an Afghan girl/woman belongs to.

## 4 Chapter 4. Documentary

In chapter four, I addressed the human rights aspects of virginity testing. I demonstrated how women's right to autonomy, right to dignity, right to equality and non-discrimination, and right to privacy are violated by the test. I also provided the narratives of women who were discriminated against for "failing" to keep their virginity or women who were subjected to virginity testing. The chapter that follows seeks to demonstrate how forms of discrimination against women who "fail" to keep a virgin status overlap depending on their ethnic, tribal, religious or socioeconomic backgrounds. First, I will explain the documentary and one case from the documentary in details. Then, I will analyze the case through an *intersectional* approach, a term coined by Kimberlé Williams Crenshaw, an American civil rights advocate in 1989 to describe how black women faced discrimination because they were women and black.<sup>117</sup> According to Kathy Davis, intersectionality is "the interaction between gender, race, and other groupings of difference in individual lives, social practices, institutional arrangements, and cultural ideology and the outcome of these interactions in terms of power."<sup>118</sup> Therefore, in this section of the paper, I will analyze how the different identity markers of Afghan women, including being a woman and being from a certain ethnic, tribal or religious group lead them to facing a specific type of discrimination.

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<sup>117</sup> Bell hooks, *Ain't I a woman: Black women and feminism* (Boston: South End Press, 1981), 3.

<sup>118</sup> Kathy Davis, "Intersectionality as buzzword: A sociology of science perspective on what makes a feminist theory successful," *Feminist Theory* 9, no. 1 (2008), 68.

## 4.1 Documentary: Love Crimes of Kabul, 2011

In this 71-minute close footage of Badam-Bagh prison, Eshaghian follows the storyline of select cases of Afghan women imprisoned including for ‘moral crimes.’ Badam-Bagh, a women’s prison in Kabul currently houses over 200 prisoners who have committed various crimes such as, murder, kidnapping, “moral crimes” including adultery and premarital sex, or simply for running away from home. For this study, only one case will be analyzed. It is the case of Kareema who had participated in premarital sex.

### 4.1.1 Kareema’s Case

After describing Kareema’s “crime”, I will explore how forms of discrimination against her overlap with her ethnicity, gender and her economic background. Kareema, a 20-year-old who had premarital sex, got pregnant and turned herself in. She belongs to the Hazara ethnicity while Firoz belongs to Pashtun ethnicity. Both mentioned ethnic groups will be explained in detail in the next section. They are living in the same neighborhood. They start seeing each other without their parent’s knowledge. Firoz promises Kareema that he will ask for her hand. However, after he impregnates Kareema, he refuses to marry her. Kareema then turns herself in to the authorities. After that, the police arrests Firoz and they both are kept in prison for double crimes: sex before marriage and pregnancy before marriage. At the time of creating this documentary, Kareema had been in prison awaiting trial for more than two months. If convicted, she would have been sentenced to 15 years of imprisonment for premarital sex. However, if Kareema and Firoz gets married, they will be freed. That is why Kareema’s family, out of compulsion, wants them to get married but Firoz’s parents do not agree for their marriage because she is Hazara. Therefore, her ethnic belonging plays a major role in her having to stay imprisoned. The role of her ethnicity will be further explained after explaining the role of her gender.



#### 4.1.2 Gender as a Factor

First of all, it is important to note how the most important factor gender plays out in discrimination against Kareema. Unlike Firoz who was defended by his parents, Kareema is not defended or supported by her parents. Just because she is a woman, her body is considered the repository of the family's honour which she was supposed to safeguard and thus all the blame is put on her for not doing so.

The following excerpt is from Kareema's father:

"She has embarrassed me in front of her uncles and all my relatives and in front of my tribe. She has embarrassed herself and she has embarrassed me. When I go out, I cover my face, so the people do not see me and laugh at me. Kareema should have taken the family honor into consideration."<sup>119</sup>

(33:00-33:36)

Kareema's father then continued explaining the reason why he wants Kareema to get married to Firoz. He said:

"We want to fix our bad reputation. We are willing to negotiate to end this nightmare. Hopefully, the gossiping will stop. Firoz is a man. There is no shame in this for him. It is our family that has been shamed"

(36:40-36:57)

This clearly shows the different treatment of women and men in Afghanistan regarding morality and honor. Besides, the following excerpt is from Kareema's mother after Kareema gets married in the prison:

"Whatever happens to them [Kareema and her husband], it is not our business. She got herself into this. You reap what you sow. She chose him, and she has to suffer the consequences."

(59:27-59:42)

The responses from Kareema's parents depict that she is being held accountable for the morality set by the society for women and honor of family which she was supposed to protect as

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<sup>119</sup> Tanaz Eshaghian, *Love Crimes of Kabul* (2011, Kabul).

a woman. The excerpts above project another prevalent trope in the Afghan context regarding virginity which is the virgin/whore dichotomy. Understanding this dichotomy is important in understanding the importance of performing virginity. According to the so-called virgin/whore dichotomy, men and/or societies categorize women into two binary types: virgins and whores. The virgin type refers to women who are “good,” nurturing, and they express their sexualities within the limits approved by their cultural norms. In practice, this means that “virgins” express their sexualities within marriage, monogamous marriage in particular. Whereas, women who express their sexualities out of marriage, fall in the category of “whores,” which means that they are immoral and severely horny.<sup>120</sup> Based on the feminist discourse, the sexual double standards elevate patriarchal institutions where open sexuality is shameful for women and a badge of honor for men. Therefore, the lessons of virgin/whore exist to reinforce the sexual double standards that strengthen patriarchy.<sup>121</sup>

#### **4.1.3 Ethnicity as a Factor: Pashtun vs Hazara**

Before I provide excerpts from Firoz’s parents where they explain why they do not want a Hazara bride, it is helpful to know a brief history of ethnic differences and tensions in Afghanistan. As a major ethnic group in Afghanistan, the Pashtun make up about 38 percent of the population and the Hazara as a minority group only 19 percent.<sup>122</sup><sup>123</sup> The difference however aggravates with the Hazara following a different sect of Islam, Shi’ism, in a country where 80 percent of the country’s population is Sunni Muslims.<sup>124</sup> The Hazara are often labelled as *Kafir* (infidels) or non-

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<sup>120</sup> Jonathan Gottschall, Elizabeth Allison, Jay De Rosa, and Kaia Klockeman, “Can literary study be scientific?: Results of an empirical search for the virgin/whore dichotomy,” *Interdisciplinary Literary Studies* 7, no. 2 (2006): 1.

<sup>121</sup> Ibid.

<sup>122</sup> It is important to note that this percentage is currently reported much lower around 9 to 10 percent; however, an actual percentage does not exist since a census has not been conducted for decades.

<sup>123</sup> “Background Note: Afghanistan,” Bureau of South Asian Affairs, U.S. Department of State, January 2004.

<sup>124</sup> Gottschall et al., 6.

Muslims.<sup>125</sup> Historically, such religious campaigns by Sunni Muslims' religious leaders back in the late 19<sup>th</sup> century legitimized a military campaign by the Afghan king who massacred, enslaved, and seized the Hazaras' lands.<sup>126</sup> Almost 60 percent of the Hazara population were either forced to leave their lands or were massacred by Amir Abdurrahman Khan in a broad brutal military campaign to bring Hazaras under the full control of the central government.<sup>127</sup> The Hazaras have been enslaved for long, their men and women working in Pashtun families as their servants.<sup>128</sup> Even to the present day, the Hazaras are not seen as equal citizens of Afghanistan and are discriminated against on a daily basis. Therefore, the Hazaras have historically been suppressed in the country both for their ethnicity and their religious beliefs. The supremacist view of other ethnic groups about Hazaras in Afghanistan goes back to the history of this country. On the other hand, the political power has been in control of Pashtun ethnic group in Afghanistan.

This Pashtun supremacy over the Hazaras can also be seen in Kareema's case as she was rejected by the parents of Firoz as not worthy enough bride for their son. The following excerpt is from Firoz's mother when she was asked why she did not like to have a bride who belongs to Hazara ethnicity?

“No, no. Why does my bride have to be a Hazara? Everyone should stick to their own people. I did not ask for her hand. My son did not court her. She came after my son. No one wanted her. She forced herself into our family.”

(35:07-35:45)

The following excerpt is from Firoz's father when he was asked why he did not like to have a bride who belongs to Hazara ethnicity?

“My poor son is so naïve. He did not know what he was doing. He was misguided. The Hazara girl forced herself onto him. No one in her own tribe wanted her, so she forced

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<sup>125</sup> Gottschall et al., 6.

<sup>126</sup> Ibid., 7.

<sup>127</sup> Ibid.

<sup>128</sup> A note: The books such as *The Kite Runner* by Khalid Hosseini and *A Vizier's Daughter: A Tale of the Hazara War* by Lillias Hamilton draw on this historical reference.

herself on us. She performed *jado* witchcraft on us. She made him crazy. She is not worth what she is asking for.”

(37:55-38:29)

Blaming Kareema for pushing herself on their son and not that their son would be attracted to a Hazara girl in the first place, another quote from father confirms ethnicity being the reasons Kareema is thought to be less fit for the union. He adds, “There is another girl we had in mind, a great girl. She is an attorney’s daughter... I like the other girl. She is Pashtun. She is dignified. She does not lack a sense of honor (35:55-36:06). The responses from Firoz’s family depict that they do not want to have Kareema as their bride because she is a Hazara building on the same perception that the Hazaras are not ‘dignified’ and ‘honourable’ as the Pashtun are.

#### **4.1.4 Economic background:**

Finally, in addition to Kareema’s gender and ethnicity, her economic background also adds to the discrimination against her. As the excerpt above by Firoz’s father that he prefers the attorney’s daughter hints, being from a poor socioeconomic background is another factor that makes Kareema deserving of punishment in the situation.

The following excerpt is from Kareema’s father:

“After all I did for her, she should have married a man who could support me in my old age. I should have benefited. She had many proposals: guys with cars, houses, jobs, but she did not want to marry any of them. Now she has gone with a penniless guy. My brother just got \$10,000 for his daughter. He got \$10,000 and everyone is happy.”

(33:38-34:18)

Both families, being from poor socioeconomic backgrounds are unhappy with the union because both are somehow going to get ‘stuck’ with each other. Dowry plays a main role in alleviating poverty for many families in Afghanistan and therefore is given much importance especially by poor families. Kareema’s decision to have had sexual relationship with a man from a poorer background deprives the family of a chance to get a better dowry for their daughter. On the other

hand, for Firoz's family too, they are deprived of the chance to benefit from the riches and political affiliations that the union with the attorney's daughter could facilitate. Therefore, the economic factor makes the 'immoral crime' even worse, putting most of the burden on Kareema's shoulders. Therefore, Kareema's case is an example of how forms of discrimination against a girl who "fails" to keep her virginity can overlap with her ethnicity, gender, and economic background.

## 4.2 Concluding remarks

In this chapter, I shifted my focus from women I interviewed to women who were in a different setting, Badam-Bagh prison. The cases from the prison were documented highlighting on the ethnic, tribal, religious or socioeconomic backgrounds of prisoners as well. That is why picking case from the documentary helped me analyze the forms of discrimination against women who lose their virginity before marriage through an *intersectional* approach. Through Kareema's case, from the documentary, I analyzed how the different identity markers of Afghan women, including being a woman and being from a certain ethnic, tribal or religious group lead them to facing a specific type of discrimination.

## Conclusion and recommendation

In this thesis I tried to focus on the perspectives of women who have gone through the burden of keeping virgin bodies, or women who have been subjected to virginity testing. My aim was hearing the voices and personal accounts of Afghan women and analyze the importance of having a female virgin body in the patriarchal context of Afghanistan from their perspectives. I argued that virginity testing despite lacking scientific basis is not an independent practice that can be banned just by a presidential decree, it is a rather a complex practice. A complete ban of the test requires deconstructing the problematic nature of marriage which centers in patriarchy and gender hierarchy.

I will conclude my study with providing some recommendations. Firstly, public awareness should be raised about the ineffectiveness of the test. The NGOs which are working on women empowerment can raise awareness by working with the communities to educate them about the lack of science behind the test and the negative impacts of the test on women's rights and their wellbeing. Besides, religious clergies play crucial role on public awareness. In a predominantly Muslim society of Afghanistan, majority of people have faith and follow the words and preaches of religious clergies. Their words are considered to be rooted in the Quran. Therefore, religious clergies should be hired to raise public awareness. Religious clergies also play a key role in educating local people about the lack of religious basis behind the marriage related practices, such as the practice of the bride price. It could be particularly effective when the clergy man or the scholar perform the Nikah, a ceremony of signing of legal contract between the bride and the groom, because every important individual from both families are present there. Secondly, job opportunities should be increased for women, so women are not financially dependent on men,

this will also help women find several ways of survival, instead of seeing marriage as their sole survival.

Secondly, the doctors in Afghanistan's Legal Medicine Directorate (LMD) should be provided with better jobs and better wages. During my interview with Dr. Akbari, she told me about her experience of the workshops she conducted for the LMD doctors. The workshop was conducted with an aim to convince the LMD doctors to stop conducting the test. Shockingly, a vast majority of these doctors believed that the test lacks scientific basis and when they were asked why they still conduct the test. In response they said they do not want to lose their profession. For these doctors, conducting the test has been their profession for decades now. Thirdly, hiring responsible police chiefs in different districts is essential. For example, in 2017 the police chief of the 9<sup>th</sup> district of Kabul banned the virginity testing in his district soon after he was appointed. He did not allow his junior officers to report women arrested for illegal sexual relationships to the LMD centers for virginity testing.<sup>129</sup> In addition, the police officers have to be trained and informed about the lack of science behind this test as most of the times they are not aware of it and therefore they detain women when suspected for sexual conduct or females who run from their homes due to domestic violence and force the detained females to undergo this test.

Youth can play an active role in banning this test by using social media effectively. Social media has been effective tool in raising awareness and encouraging others to speak. The United Nations should declare an international day for banning and stopping the practice of this test. For

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<sup>129</sup> Zahra Juya, "Virginity Testing in Afghanistan," (translated by the author) *Etilaatroz*, February 14, 2020, <https://www.etalatroz.com/58133/%D8%A2%D8%B2%D9%85%D8%A7%DB%8C%D8%B4-%D8%A8%DA%A9%D8%A7%D8%B1%D8%AA%D8%9B-%DA%AF%DB%8C%D9%88%D8%AA%DB%8C%D9%86-%D8%B2%D9%86%D8%A7%D9%86-%D8%AF%D8%B1-%D8%A7%D9%81%D8%BA%D8%A7%D9%86%D8%B3%D8%AA%D8%A7/> (accessed May 15, 2020).

instance, World Menstruation Hygiene Day on 28 May is a day when women and girls can openly talk about menstruation and break the taboo and stigmas around this topic. Similarly, a day specifically declared for no to virginity testing is a chance for the people to talk about it, raise awareness and demonstrate issues associated with this practice and also talk about the test having no legal and scientific grounds. I also strongly believe that webinars and regular talks shows on the topic of hymen and virginity testing can also be very influential to aware people. TV shows, radios are yet another effective way to spread awareness as mass people are having access to TV and radio and they are more inclined to listen to news circulated through these means of communication. TV advertisements should target famous and mostly watched programs and talk shows for the ads regarding ban of this test to attract more audience. It is very important to choose someone influential to run the ad as any famous artist, sports player, scholar or clergy man can convey the message with effectiveness and their messages can be taken seriously by the viewers. Hospitals and Clinics including the organizations working towards ban to the virginity testing should produce short videos in different local languages through social media, TV and radio to spread the word in various parts of the country, particularly in rural areas. Since the secondary schools in Afghanistan is mainly single-gender education therefore the teachers should be trained and informed to teacher about hymen and virginity testing by including it in their biology classes. It should happen for both female students and male students.

I truly believe, if some serious actions are taken to address the mentioned possible solutions, then there is a hope that Afghan women will no longer have to undergo such cruel tests where they are forced by their very own family members. Unless the problem is approached in the local level, a presidential decree banning the test, or a policy from MoPH, and the global call on banning the test will not do Afghan women much good. International organizations including



CEDAW can only hope to grab attention to the issue but giving an end to such practices is difficult by International organizations alone unless it is dealt with in the local level first.

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