GANG RAPE & THE 'NASTY MIGRANT'

A COMPARATIVE ANALYSIS OF FRENCH & AUSTRALIAN PUBLIC DISCOURSES

Kiran Kaur Grewal

PhD
2009

TABLE OF CONTENTS

ACKNOWLEDGMENTS **5**

ABSTRACT **6**

PART ONE: BACKGROUND **8**

CHAPTER ONE: INTRODUCTION **9**

1.1 BACKGROUND 9
1.1.1 Research Questions *10*
1.1.2 Thesis Structure *10*
1.2 SOME IMPORTANT DEFINITIONS 11
1.2.1 'The Hereditary Muslim': Conflating Race / Ethnicity / Culture / Religion *11*
1.2.2 'Discourse' *12*
1.3 THEORETICAL FRAMEWORK 14
1.3.1 'Discourse': Foucault *14*
1.3.2 'Performativity': Butler *15*
1.3.3 Habitus, Field, Capital and Symbolic Violence: Bourdieu *17*
1.3.4 Reading Foucault, Bourdieu and Butler Together *21*
1.4 METHODOLOGY 23
1.4.1 Critical Discourse Analysis *24*
1.5 SIGNIFICANCE OF THIS RESEARCH 27

CHAPTER TWO: GENDER, RAPE AND THE NATION **29**

2.1 INTRODUCTION 29
2.2 NATION 30
2.2.1 The Nation as Construct *31*
2.2.2. Narrating the Nation, Performing the Nation *34*
2.3 GENDER 36
2.3.1 De-naturalising Gender Identity *36*
2.3.2 The 'Essential Woman' *37*
2.3.3 Masculinities *40*
2.4 GENDERED NATIONALISMS, NATIONALISED GENDERS 42
2.4.1 Regulating the Body/ies of the Nation *43*
2.4.2 Nation as Family *46*
2.4.3 Woman as Body of the Nation *48*
2.4.4 The Heterosexual Nation *49*
2.5 RAPE 52
2.5.1 Rape as violent crime *52*
2.5.2 Rape and Normative Heterosexuality: Telling the Difference *54*
2.5.3 'Battle of the Patriarchies' – Rape as an Act 'Between Men' *59*
2.5.4 Gang Rape *65*
2.6 CONCLUSION 69

CHAPTER THREE: PUBLIC DISCOURSE IN AUSTRALIA AND FRANCE **71**

3.1 INTRODUCTION 71
3.2 AUSTRALIA – 'THE GOOD WHITE NATION'? 72
3.2.1 The White Settler Nation *72*
3.2.2 The 'Ordinary Australian' *74*
3.2.3 From White Australia to Multicultural Australia to 'Australian Values' *77*
3.2.4 The language of 'tolerance' and 'commitment' *78*
3.2.5 'Culture' as the New Race and The Myth of 'Choice' *79*
3.2.6 The 'Nasty Migrant' and the Fantasy of 'Goodness' *82*

3.2.7 "This sun-burned, muscular continent" *86*
3.2.8 The Value of 'Mateship' *88*
3.2.9 Conclusion *89*
3.3 FRANCE 90
3.3.1 The 'Old and Static' Nation *90*
3.3.2 Republican Universalism and the Legacy of Colonialism *93*
3.3.3 "On ne naît pas Français, on le devient": The Myth of Integration *95*
3.3.4 The Banlieue and 'les violences urbaines' *99*
3.3.5 Les Affaires du Foulard: Against Laïcité or Egalité? *101*
3.3.6 Islam, Republican Feminism and La Mission Civilisatrice *105*
3.3.7 Republican Egalitarianism *113*
3.3.8 The Exceptional Heterosexuality of the Republic *115*
3.3.9 Conclusion *121*
3.4 'PUBLIC DISCOURSE' 121
3.4.1 The National Public Sphere(s) *122*
3.4.2 The Role of the Media in Public Discourse *125*
3.4.3 Autobiography and The Testimonial *127*
3.4.4 The Law *129*
3.4.5 Public Intellectual versus 'Ordinary citizen' *132*

PART TWO: **134**

'THE SYDNEY GANG RAPES' **134**

CHAPTER FOUR: BACKGROUND **135**

4.1 INTRODUCTION 135
4.2 THE FIRST TRIALS – *R v AEM SNR, AEM JNR AND KEM* 2001 136
4.3 THE 'SKAF TRIALS' 138
4.4 THE 'K BROTHERS' 140

CHAPTER FIVE: 'FALLEN ANGELS', 'NASTY MIGRANTS' AND THE AUSTRALIAN COURTS **141**

5.1 INTRODUCTION 141
5.2 VICTIMS' DISCOURSES: RESISTANCE AND CO-OPTION 142
5.3 *"THE MAKING OF ME"*: THE TRIAL OF TEGAN WAGNER 145
5.3.1 'Performing the Victim' *146*
5.3.2 'The Fallen Angel' *151*
5.3.3 What 'Real' Rape Looks Like *155*
5.3.4 Violence Against Women: A Game Between Men? *157*
5.3.5 Resisting the 'Law and Order' Rhetoric *161*
5.3.6 The Invisible Marker of Whiteness *162*
5.4 THE JUDICIAL DISCOURSES 167
5.4.1 Reinforcing Normative Gender Identity *167*
5.4.2 Rape Trials: "Pornographic Vignettes"? *179*
5.4.3 The 'Cultural Timebomb' *185*
5.5 PROTEST MASCULINITY AND THE 'NASTY MIGRANT' – THE RAPISTS' DISCOURSE 191
5.5.1 Competing Racisms *192*
5.5.2 The 'Anti-Muslim Conspiracy' *196*
5.5.3 The 'Young Lebanese Muslim Man': (Post)colonial Habitus? *201*
5.5.4 White Man = Racist, Black Man = Sexist *208*
5.6 CONCLUSION 218

CHAPTER SIX: *'TALKING RACE OR RACISM'?* RESPONSES TO THE RAPES **220**

6.1 INTRODUCTION 220
6.2 POLITICAL DISCOURSES 220
6.2.1 Initial Responses *220*
6.2.2 Introducing new legislation: the Crimes Amendment (Aggravated Sexual Assault in Company) Bill 2001 (NSW) *223*
6.3 MEDIA DISCOURSES 228

6.3.1 Initial Reporting *229*
6.3.2 Left Wing Anti-Racist Responses *237*
6.3.3 Left-Wing Feminist Responses *240*
6.3.4 Right-Wing 'Feminist' Responses *242*
6.3.5 Australia: the Feminist Utopia? *245*
6.3.6 'Protecting Our Women': Cronulla 2005 ..... *246*
6.3.7 Conclusion *249*
6.4 *GIRLS LIKE YOU*: PAUL SHEEHAN 255
6.4.1 Introduction *255*
6.4.2 Creating Victims and Villains *257*
6.4.3 The 'Cultural Context' of Rape *262*
6.4.4 Merging Misogyny with Ethnicity *264*
6.4.5 Competitive Racisms and the 'Anti-Muslim Conspiracy' *271*
6.4.6 "Intifada": The 'Nasty Migrant' Strikes Again. *278*
6.4.7 Conclusion *280*

PART THREE: *'LES TOURNANTES'* **282**

CHAPTER SEVEN: GENESIS OF THE TERM **283**

7.1 INTRODUCTION 283
7.2 *LA SQUALE* 283
7.2.1 'Les violences urbaines' *284*
7.2.2 'Hyper-sexual, Violent Blacks', 'Prudish, Uptight Arabs' and the 'Civilised French': Reinforcing Colonial Sexual Stereotypes *287*
7.2.3 Reinforcing the Public/Private Divide of the Banlieue *289*
7.4.4 A 'Feminist Perspective' on the Banlieue? *291*
7.2.5 Reception of the Film *296*

CHAPTER EIGHT: THE (SEXUALLY) LOST *BANLIEUES* OF THE REPUBLIC **297**

8.1 INTRODUCTION 297
8.2 MEDIA RESPONSES 297
8.2.1 Situating Sexual Violence: use of the term 'les tournantes' *298*
8.2.2 The 'Backward Immigrant' versus 'Enlightened France' *300*
8.2.3 'Voileurs et Violeurs': Men of the Banlieue *302*
8.2.4 'Tribal Practices' *306*
8.2.5 "La Misère Sexuelle" and The Exceptional Nature of French Heterosexual Relations *308*
8.3 DISCOURSES FROM THE *BANLIEUE* 312
8.3.1 Binary Understandings of the Banlieue: Site of Racism or Sexism? *313*
8.3.2 Banlieue Habitus *315*
8.3.3 Homosociality in the Banlieue *321*

CHAPTER NINE: THE *'BEURETTE'* AND THE REPUBLIC **324**

9.1 INTRODUCTION 324
9.2 TESTIMONY OF A SURVIVOR - *DANS L'ENFER DES TOURNANTES* 324
9.2.1 'Ma Propre Verité': Self-Narrative as 'Truth' *324*
9.2.2 Testimony and The Role of the Collaborator *328*
9.2.3 'La petite beurette' *334*
9.2.4 Between a rock and a hard place: how to reconcile the 'postcolonial' with the 'feminist'? *345*
9.2.5 Problematising the Authority of Experience *348*
9.2.6 Conclusion *355*
9.3 *NI PUTES NI SOUMISES* – THE NEW 'VOICE OF THE *BANLIEUE*'? 357
9.3.1 Fadela Amara : Providing a Manifesto for Women of the Banlieue ? *358*
9.3.2 The politicisation of 'personal experience' *359*
9.3.3 The Immigrant Woman versus the French Woman *363*
9.3.4 'Liberté, Égalité, Laïcité!' – the Paradoxes of French Republican Values *367*
9.3.5 Ni Putes Ni Soumises – Heterosexist Feminism and the Reinforcement of Normative Feminine Identity *374*

9.3.6 Revisiting Republican Integrationism *377*
9.3.7 Public Reception of Ni Putes Ni Soumises: Reinforcing the Link between Banlieue, Immigrant, Islam and Violence *381*
9.3.8 Woman, Nation and the 'Other' *382*

PART FOUR: CONCLUSION **384**

CHAPTER TEN: CONCLUSION **385**

10.1 INTRODUCTION 385
10.2 PITTING 'WOMEN'S RIGHTS' AGAINST 'ANTI-RACISM': IS A FEMINIST, ANTI-RACIST RESPONSE POSSIBLE? 385
10.3 THE 'NASTY MIGRANT' AND THE 'GOOD (WHITE) NATION' 387
10.4 SUBVERSIVE PERFORMATIVE POTENTIAL AND THE (POST)COLONIAL HABITUS 388
10.5 A FINAL MESSAGE OF HOPE? 390

REFERENCE LIST **391**

LIST OF CASES **423**

ACKNOWLEDGMENTS

This thesis would not have been possible without the support and faith of my supervisor, Professor Murray Pratt. His guidance and belief in me and my topic kept me going even when I was worried I would never finish. I would also like to thank all the people around me who have put up with reading various drafts, listening to me rant and my periods of insanity: my dear friends and family. To Minki Meadows and Piggly Moon whose walkies allowed me time to think and to the new arrival to this world, Giacomo (Babinsk) Midlam who provided the perfect antidote to too much intellectualism and who may one day embark on this process himself (God forbid!). A special thank you goes out to my wonderful volunteer editor, Alison Butler and to Dr Christina Ho and Dr Bronwyn Winter for their very helpful comments and feedback. So too, a big thank you to the two Dis – you know who you are – you both kept me sane and helped me see it was ok not to be perfect! And finally, I dedicate this thesis to the memory of my dad, Balram Singh Grewal who always believed in me and who unfortunately isn't here to see this day.

ABSTRACT

This thesis is a comparative analysis of the public discourses in France and Australia on a series of highly mediatised gang rapes. In the context of Australia, the 'Sydney gang rapes' attracted intense media and political attention in 2001 through reports of a gang rape phenomenon involving gangs of young 'Lebanese'/'Muslim' men targeting and raping 'Australian' girls. Some commentators also identified links between these gang rapes and what they identified as being similar gang rapes involving 'young Muslim men' in France: a phenomenon known as 'les tournantes'.

In France, 'les tournantes' became the source of public attention following the release in 2000 of a film depicting a gang rape involving predominantly men from immigrant backgrounds in a Parisian banlieue. The first widely reported criminal trials involving 'les tournantes' followed in 2001 and in 2002 a victim of 'les tournantes', Samira Bellil published her autobiography, 'Dans l'enfer des tournantes' ('In the Hell of the Tournantes'). Following the murder of a young woman called Sohane Benziane, who was set alight by young men in a cellar in the banlieue in which she lived, a highly publicised women's march under the banner 'Ni Putes, Ni Soumises' ('Neither Sluts Nor Slaves') took place throughout France on 1 February 2003.

Drawing on the theories of Pierre Bourdieu, Michel Foucault and Judith Butler and using a Critical Discourse Analysis methodological approach, this thesis explores the various discourses that circulated in attempts to explain and respond to these rapes. In particular, it asks why the issue of gang rape committed by young men identified as belonging to a particular minority cultural background – namely, 'Muslim'–become such a source of public concern in the two nations in approximately the same period. Are there any similarities in the public discourses on the two instances of gang rape, aside from their contemporaneity? And how

have the two nations' different historical, social and political contexts impacted on public discourses on these gang rapes?

In seeking to answer these questions the central question of this thesis emerges: how have discoures of nation, gender and rape informed the production of public discourse(s) in these cases of gang rape? It is argued that the 'Sydney gang rapes' and 'les tournantes' provide useful case studies for exploring the ways in which dominant discourses of gender, national, ethnic and sexual identity have informed public reactions to gang rape committed by members of ethnic minorities in the two nations. In particular, it is argued that the identification of the 'young Muslim man' as a problematic and sexually threatening figure to the nation provides a useful means for reinforcing dominant gender and racial/ethnic order.

PART ONE: BACKGROUND

CHAPTER ONE: INTRODUCTION

1.1 BACKGROUND

This thesis is a comparative study of two heavily mediatised gang rape 'phenomena'[1] in Australia and France. In Australia in mid 2001 it was reported that during 2000 a group of young 'Lebanese Muslim' men had gang-raped at least seven young 'white' women and were targeting 'Australian'/ 'white' women (hereafter referred to as 'the Sydney gang rapes'). The media also reported that racist remarks were made to the victim during the rapes. Meanwhile certain journalists drew links between 'the Sydney gang rapes' and a phenomenon of gang rape in the *banlieues*[2] in France, known as *'les tournantes'*.[3]

In France *'les tournantes'* appear to have become the subject of media attention after the release of the film *La Squale* in November 2000. This film, set in a Parisian *banlieue*, portrays a gang of young men (mainly from immigrant backgrounds) who lure and gang rape young women (also from immigrant backgrounds). The first widely reported criminal trials involving '*les tournantes*' followed in 2001 and in 2002 a victim of '*les tournantes'*, Samira Bellil published her autobiography, *Dans l'enfer des tournantes* (*In the Hell of the Tournantes*).[4] Following the murder of a young woman called Sohane Benziane, who was set alight by young men in a cellar in the *banlieue* in which she lived, a highly publicised women's march under the banner *"Ni Putes, Ni Soumises"* ("Neither Sluts Nor Slaves") took place throughout France on 1 February 2003.

---

[1] In both national contexts the rapes were reported as being more than just isolated incidents. This thesis will not engage with the question of whether the rapes really were reflective of some broader social phenomenon. It is sufficient to note that within public discourses they were characterised as such.

[2] While the term translates literal as 'suburb' it is often more accurately equated with the term 'ghetto': under-privileged housing estates on the outskirts of cities.

[3] The term literally translates as 'taking turns' or 'passing around' and is most frequently used to refer to the sharing of a marijuana joint within the context of the *banlieue*.

[4] All French to English translations are my own unless otherwise stated.

1.1.1 Research Questions

Aside from the links drawn by certain Australian media commentators, it is puzzling that the issue of gang rape committed by young men identified as belonging to a particular minority cultural background – namely, 'Muslim' (a descriptor interrogated further in a moment) – should become such a source of public concern in the two nations in approximately the same period. After all, the two nations have very different histories of immigration, relations with the Muslim world and have even responded to the Post 9/11 'War on Terror' very differently. So, are there any similarities in the public discourses on the two instances of gang rape, aside from their contemporaneity? And how have the two nations' different historical, social and political contexts impacted on public discourses on these gang rapes?

To answer these questions it is necessary to first identify the central question this thesis sets out to answer: how have constructions of nation, gender and rape informed the production of public discourse(s) in these cases of gang rape? It is argued that 'the Sydney gang rapes' and '*les tournantes*' provide useful case studies for exploring the ways in which dominant discourses of gender, national, ethnic and sexual identity have informed public reactions to gang rape committed by members of ethnic minorities in the two nations. The next two chapters in Part One will provide an overview of these dominant discourses and the particular fields within which they are generated, deployed, reinforced and/or resisted before an actual analysis of the particular forms discourses on the two sets of gang rapes took in the particular national contexts is provided in Parts Two and Three.

1.1.2 Thesis Structure

Chapter two demonstrates how both nation and gender are constructs requiring constant performance, reiteration and narration. In identifying the performative aspects of both gender and national identity, it is argued that the two are inter-linked, mutually reinforcing and informed by particular understandings of normative sexuality. This normative sexuality is a form of heterosexuality that, it is

argued, treats rape not so much as an aberration but rather an extreme manifestation of 'normal' heterosexual relations between men and women. Drawing on radical feminist literature, it is argued that what distinguishes rape from 'normal' heterosexual sex is ultimately its implications in terms of relationships *between men*. This relationship *between men* – explained both in terms of the power struggles which emerge between masculinities and in terms of homosociality, or bonds of affection forged by men – is made even more evident when considering the literature on gang rape.

What also emerges in the course of interrogations of gender, nation and sexuality is a number of underlying assumptions regarding race/ethnicity. However, how exactly discourses of race/ethnicity are structured and deployed varies greatly depending on specific social contexts. Thus, chapter three will examine the particular constructions of Australian and French national identity to identify how they are not only shaped by particular understandings of gender and sexuality but also by discourses of race. Furthermore, analysis of the two nations' historical, social and political contexts allows for some possible conclusions to be drawn regarding how and why particular discourses circulate more prominently in the public sphere in each nation and how these discourses contributed to the generation of one – or multiple – public discourse(s) on the gang rapes.

1.2 SOME IMPORTANT DEFINITIONS

1.2.1 'The Hereditary Muslim': Conflating Race / Ethnicity / Culture / Religion

An immediately noticeable feature of this thesis is the apparently interchangeable use of ethnicity and race. This is intentional and reflects the interchangeable use of the terms within public discourses on the rapes. While generally 'ethnicity' is preferred, it is also noted that scholars in the area have

increasingly rejected the distinction between the two terms as artificial.[5] Originally 'ethnicity' was seen as a means of creating distance from the historically dubious biological conception of 'race'. Ethnicity was also argued as providing the opportunity for choice and mobility. It offered a way for the individual to exercise greater control over her/his constructed identity (Gunew 2004, p21). However, this 'myth of choice' has been demonstrated to be a fallacy (Waters 1990). Moreover, there has been much written in recent times on the new forms racism has been taking, in particular, a move away from biological explanations of difference and inferiority towards 'cultural' explanations (Stratton 1998; Vasta and Castles 1996; Balibar 1991; Guillaumin 1991). As a result, the interchangeable use of the terms is reflective of their underlying commonality.

Having identified the false binary created between race and ethnicity, it is also significant to identify that the term 'Muslim' is frequently employed as an ethnic marker. This reflects the conflating of ethnic, racial and religious markers within both French and Australian discourses. While the specific use in each national context is discussed later in this thesis, it is noted upfront that the terms 'Arab', 'Maghrébin', 'Middle-Eastern' and 'Muslim' often appear alongside - or as substitutes for - specific national identifiers (Moroccan, Algerian, Lebanese, Pakistani). Furthermore, the use of the term 'Muslim' to describe people born in France/Australia and who may not even be practising Muslims is reflective of what Jim House has identified as the construction of "hereditary Muslims" (1996, p224).

1.2.2 'Discourse'

A central feature of this thesis is the concept of 'discourse'. This is a complex term and requires further elaboration, provided in the next section detailing the theoretical framework that informs this thesis. However, before this I wish to point out that I am in fact using the term 'discourse' in three overlapping but slightly different ways. The first use of the term 'discourse' is within the concept of 'public

[5] As Alec Hargreaves demonstrates, both ethnicity and race are in fact largely subjective constructions and used to define the same thing; for example, somatic differences between people (1995, pp28-29) See also Gunew (2004); Anthias and Yuval-Davis (1992); Frankenberg (1993).

discourse'. The final section of chapter three provides a more detailed explanation of how this term is to be understood but it is noted here that 'public discourse' refers to the dominant construction(s)/representation(s) of the gang rapes and their participants that circulated in the national public space and that have provided the basis for establishing the significance – both actual and symbolic – of these acts. There is, within this concept, a further question regarding whether there is in fact *one* public discourse or rather whether there are multiple, sometimes conflicting public discourses: this is an issue that will be dealt with in Parts Two and Three of this thesis when looking at the particular discourses generated on the two sets of gang rapes.

Aside from the concept of 'public discourse', discourse is utilised in two further ways in this thesis. The first draws heavily on the work of Foucault (discussed below): that is, discourse is understood to be a particular, structured form of knowledge. Inherent within this is the concept of power. Thus, when talking about discourses of gender, rape and nation it is not intended that these discourses be understood as neutrally presenting some pre-existing truth. Rather, these discourses serve to construct the identities they presume to explain and in this process reproduce particular relations of power.

The second form of discourse is perhaps most properly associated with the work of French sociologist, Pierre Bourdieu: discourse as a form of embodied social action/interaction. The centrality of the body to this thesis will emerge more clearly in the subsequent chapters but it is argued that in order to understand *who* is able to speak and be heard and *how* they speak, it is necessary to have regard not only to external structures of power and knowledge that shape the individual but also how the individual negotiates these structures, resists them or conforms to them. It is here that Bourdieu's work is indispensable.

1.3 THEORETICAL FRAMEWORK

1.3.1 'Discourse': Foucault

While the term 'discourse' is widely used in a variety of ways within various disciplines (Fairclough 1995), one of the most commonly cited theorists on the concept of discourse in the social sciences is Michel Foucault. Although 'discourse' is a term traditionally used for the purposes of linguistic analysis, one of Foucault's most noted contributions has been his reinterpretation of the concept to describe a social construction of reality, in the form of knowledge (Fairclough 1995, p18). Through his problematisation of concepts of subjectivity and objectivity and his insistence on the link between power and knowledge, Foucault argued that discourse, rather than being a means of representing the "true" state of the object it was describing, was in fact itself responsible for constructing the object. This was done through what he called "discursive practices"; "practices that systematically form the objects of which they speak"(Mills 1997, p17).

In particular, Foucault identified discourses as consisting of highly regulated groups of statements,[6] with specific internal rules (Mills 1997, p48) that provide them with a comprehensibility. As the next chapter will demonstrate, this idea is extremely helpful when considering how gender, nation, rape (and sexuality more broadly) are constructed. Foucault's work was groundbreaking as it allowed for recognition of the socially situated and ideologically charged nature of language: an idea that has been further developed by the Critical Discourse Analysis school to provide both a theoretical and methodological framework for research (Weiss and Wodak 2003, p6; see next section for further discussion). Through recognising the lack of neutrality of language, Foucault's concept of discourse allows for the investigation of how particular social, political and historical contexts shape and are in turn shaped by particular forms of knowledge. It also allows for a consideration of power relations in a less static and more nuanced way, whilst de-legitimating the structuralist approach to language and language-use to invest it with a greater regard

[6] "those utterances which have some institutional force and which are thus validated by some form of authority": Mills 1997, p17.

for social context and inequalities. As Diane MacDonnell identifies, central to various models of discourse proposed within cultural theory, is the understanding of the "institutional nature of discourse and its situatedness in the social", or as Sara Mills succinctly explains; "discourses are not simple groupings of utterances or statements, but consist of utterances which have meaning, force and effect within a social context" (1997, p13).

1.3.2 'Performativity': Butler

A central argument in this thesis is that constructions of gender and constructions of nation are intricately and inextricably inter-connected. Furthermore, they are intimately bound up with heteronormative constructions of sexuality that in fact provide the basis for a normalisation of rape. Central to all of these points is the work of feminist theorist Judith Butler. Drawing on the Foucauldian concept of bodies as produced by discourses and further developing this idea to identify both the implications for gender identity construction and the possible sites of resistance and agency, Butler seeks to problematise the concept of 'sex' through a theory of performativity. Butler originally coined the term 'performativity' in *Gender Trouble* to explain how gender and sex should not be seen as binaries or indeed as reflections of some pre-existing natural state. Rather, for Butler, both are constituted by the discourses that claim to represent them. As a result Butler sees both gender *and* sex as inherently unstable forms of identity that require constant reiteration to produce the subject of which they speak. In presenting this argument, Butler seeks to also identify sites of disruption where the identity performed is done subversively, for example as parody or repetition in unsanctioned ways (Butler 1993, 1999; Salih and Butler 2004).

Although she has been accused of over-abstraction (McNay 2004) and "linguistic universalism"[7] (Bourdieu 2000), Butler's concept of performativity has

[7] Explained by Lois McNay to mean, "a tendency within objectivist theory to annex, and therefore deny the social actor's perspective" (McNay 2004, p181). By over-simplifying or reducing various different forms of structural and material inequality and marginalisation to the one symbolic form of

been a vital contribution to scholarly work on gender and sexual identity. Moreover, it has also been embraced by scholars working on other forms of identity formation including race, racism and ethnicity among others (Salih and Butler 2004, p13; Loizidou 2007). Performativity as a concept has been seen as a useful means of de-stabilising the supposed 'truth' of any identity and uncovering both the sites of reinforcement and rupture. This has been equally true in interrogations of nationalism and national identity, as chapter two will detail.

As well as informing much of the background to this thesis, Butler's theorising of the performative nature of identity and the essential link she draws between gender and sexuality (most specifically heterosexuality) also provide an alternate means for analysing the behaviour and discourses of various actors in the context of the two sets of gang rapes. Moreover, as Sarah Salih observes:

> Butler is fully aware that normative heterosexuality is not the only regulatory regime at work in the discursive production of identity, and she sees racial and sexual imperatives as simultaneously operative in reproductive sexing and gendering practices. Sexual and racial differences are not discrete axes of power, and sex and gender are by no means prior to race. (Salih and Butler 2004, p3)

Butler's reading of race and sex as mutually constitutive is evident in *Bodies That Matter* where, through an analysis of Nelly Larsen's text on race in the US South, she poses a series of questions regarding the inter-relationship of theories of miscegenation and compulsory heterosexuality (1993, pp167-168). It is by taking up her assertion of the need to read traditionally separate spheres of identity formation together, that the central question of this thesis is constructed:

> ...though there are clearly good historical reasons for keeping 'race' and 'sexuality' and 'sexuality difference' as separate analytic spheres, there are also quite pressing and significant historical reasons for asking how and where we might read not only their convergence, but the sites at which the one cannot be constituted save through the other. (Butler 1993, p168)

'abjection', Butler has been accused of failing to see the inherently privileged space for action she is presupposing.

Butler's observation essentially justifies the approach taken by this thesis. Her 'queering' (1993) or 'troubling' (1999) of simplistic notions of identity provide a helpful framework within which to analyse how normative constructions of gender, sexuality and ethnicity/race overlap and reinforce each other.

1.3.3 Habitus, Field, Capital and Symbolic Violence: Bourdieu

As noted above, a distinction has generally been drawn between the term 'discourse' in critical theory (drawing on Foucault) and the use of the term to describe the social action and interaction between people in real social situations: considered to be more 'value-neutral' (Fairclough 1995). In fact Pierre Bourdieu's definition of discourse would seem to combine elements of both approaches. For Bourdieu discourse is the 'outcome' of both the competence of the speaker and the market in which he or she speaks. As he elaborates in detail in *Ce que parler veut dire* (1982), discourse is reliant on the ability of the individual speaker to properly utilise language, his or her perceived authority or legitimacy within the particular field (an aspect, which is influenced by both the embodiment of the appropriate rules of the field *and* the performance itself) and finally by the conditions of the market. While focused on the site of social action/interaction, this definition also points to the significance of relations of power. This, in the context of Bourdieu's work more generally, indicates an understanding of social action that is neither completely free of - nor completely regulated by - existing structures of domination.

Bourdieu has been increasingly recognised as having made a significant contribution to the social sciences and his development of the concept of embodied subjectivity has been embraced in various contexts and across numerous disciplines (Adkins 2004a; Noble and Watkins 2003; Pileggi and Patton 2003). Even as his own work on gender (particularly *La Domination Masculine*) has been the subject of quite intense feminist critique (Krais 2006; Witz 2004; Adkins and Skeggs 2004; McNay 1999, 2004; Butler 1997), feminist theorists have sought to engage with and develop his ideas. In particular they have pointed out that his concepts of habitus, the field, cultural capital and symbolic violence all hold great potential for theorising gender relations (Adkins and Skeggs 2004).

1.3.3.1 'Habitus'

One of the key contributions Bourdieu has made to critical theory has been his detailed account of the process of embodiment. Bourdieu not only rejects the Cartesian 'mind/body' duality common in much post-structural scholarship, he also problematises the 'internal/external' divide by which individuals are seen as either fully autonomous, active subjects or dupes moulded by external structures of power. Instead he prefers a more nuanced account in which external relations of domination are understood as internalised by the individual but not always uncritically reproduced. He develops this idea through his concept of 'habitus':

> The habitus, as a system of dispositions to a certain practice, is an objective basis for regular modes of behaviour, and thus for the regularity of modes of practice, and if practices can be predicted...this is because the effect of the habitus is that agents who are equipped with it will behave in a certain way in certain circumstances. (Bourdieu 1990, p77).

As Richard Jenkins explains: "The power of the habitus derives from the thoughtlessness of habit and habituation, rather than consciously learned rules and principles"(2002, p76) or as James Collins puts it, habitus is "embodied history" or "embodied social structure"(1998, p728). Collins notes, "Bourdieu understands agents as socially inculcated, as significantly constrained in their ways and means, yet as actors who are not automata in a self-perpetuating machine". (Collins 1998, p728). Similarly, Lisa Adkins explains:

> Bourdieu's body is never *only* a body in action. This is because, for Bourdieu, embodied action concerns sedimented or accumulated – but usually forgotten – history. Embodiment is therefore both generative and practical, but is also the product of history: it is an enactment of the past." (2004a, p14)

The significance of this concept is its attempt to explain the relationship between individual experiences of subjectivity and the impact of external power structures that serve to shape this. While much of Bourdieu's work concentrated on class, there have been calls for the recognition of a racialised and gendered habitus to consider the ways in which members of subordinated groups internalise particular ways of interacting, which maintain their subordination (Reay 1995; Adkins and

Skeggs 2004). In seeking to embody the subject, Bourdieu neither completely excludes the possibility of agency nor does he uncritically celebrate a subject's capacity for resistance. The value of this approach will become apparent in Parts Two and Three of this thesis. In particular, this thesis seeks to develop a concept of '(post) colonial habitus', drawing on Bourdieu and Vivek Dhareshwar's (1989) reading of Bourdieusian embodied subjectivity.

1.3.3.2 'The Field'

Another important and related feature of Bourdieu's work is his understanding of the inter-relationship between material and discursive relations: discourses and the agents who produce them are both a product of, and generators of, material relations of power. It is for this reason that Pileggi and Patton argue Bourdieu has frequently been wrongly identified as a 'post-structural theorist' (2003, p314). In fact he is critical of both structuralist *and* post-structuralist approaches, which fail to account for the interdependence of both the material and the discursive.[8] He elaborates on this idea through his development of the concept of 'the field' (McNay 2004, p182).

For Bourdieu, 'the field' is both a site for the exercise of force and a site of struggle (Pileggi and Patton 2003, p317). As Pileggi and Patton identify, 'the field' provides a helpful theoretical device for "articulat[ing] the relationship between social structures and the impulse of individual agents – an articulation between the objective and the subjective…" (2003, pp316-317). The value of this approach is that it allows for both the recognition of the roles played by external structures of domination in the formation of individual subjectivity, whilst allowing room for the individual to adapt the manner in which she or he acts to best suit her or his interests. This in turn draws on Bourdieu's theory of cultural capital, through which individuals are conceived of as accessing power depending on their ability to utilise social structures to their benefit (their ability to 'play the game').

[8] As noted in this section, it is on this basis that Bourdieu's work is differentiated from theorists such as Butler and Foucault. This is also a reason given for why Bourdieu should be read alongside these scholars as his account enriches their work.

1.3.3.3 'Cultural Capital'

For Bourdieu, 'capital' acts, "as a social relation within a system of exchange, and the term is extended to 'all the goods, material and symbolic, without distinction, that present themselves as rare and worthy of being sought after in a particular social formation'." (Harker et al. 1990, p1) Bourdieu elaborates on this concept in *Distinction*, where he considers the implications of class and the social capital associated with particular skills, qualifications, and appreciation of art. To further clarify, Lewis explains 'cultural capital' as, "having a general facility for interacting appropriately in various contexts, a knowledge of and an ability to use the rules of engagement in particular settings" (2003, p170).

In recognising the varying access to capital different players in a given field will have, Bourdieu also develops the concept of 'illusio': "participants in a field's investment in the values of the field, even if they are perpetual 'losers'" (Pileggi and Patton 2003, p320). Not only will an individual's success in achieving her/his desired outcome depend upon her/his ability to 'play the game', it will also depend on the extent to which s/he has the possibility of drawing on capital (economic, cultural or symbolic). Inevitably this will result in some players always emerging as disadvantaged. And yet, social hierarchies and relations of domination only remain possible as long as they are endorsed and naturalised by all individuals involved. Linked to the concept of 'illusio', is 'doxa', which for Bourdieu are what allows us to experience "the social world as natural and self-evident"[9] (Bourdieu 1972, p234). He defines, 'doxa' as "the most fundamental principles of an arbitrary cultural or political construction that is imposed through blinding and imperceptible evidence"[10] (Bourdieu 1972, p230). While recognising the unconscious internalisation of certain arbitrary constructions as self-evident and incontrovertible, it is still fascinating to consider how and why the 'losers' continue to show commitment to the existing order. In order to understand how and why they choose to invest in a system that

[9] « le monde social comme le monde naturel et allant de soi.»
[10] « Les principes les plus fondamentaux d'un arbitraire culturel ou politique... qui s'imposent sur le mode de l'évidence aveuglante et inaperçue.»

constantly reinforces their subordination, Bourdieu goes on to develop the notion of 'symbolic violence'.

1.3.3.4 'Symbolic Violence'

"[T]hey are like blows that are inflicted with the tacit complicity of both those who inflict and those upon whom they are inflicted, to the extent that both sides are unconscious of the violence"[11] (Bourdieu 2004, p11)

Possibly the most comprehensive exploration of the concept of 'symbolic violence' can be found in Bourdieu's analysis of gender relations (*La Domination Masculine*). While (as discussed below) his account has been criticised by many feminist scholars for ultimately foreclosing the possibility of individual agency, his development of a means by which to understand the process of internalisation of external power structures is invaluable to this thesis. As the later discussion will demonstrate, many of the individual discourses generated by the rapists and the victims are strange for their apparent counter-productivity. Drawing on the concept of 'symbolic violence' provides a means by which these actors' subject positions can be rendered more comprehensible. In particular, it allows for greater exploration of how dominant constructions of normative gender, sexual, national and ethnic/racial identity influence individual identity formation.

1.3.4 Reading Foucault, Bourdieu and Butler Together

As noted above, Butler acknowledges the close connection between her work and Foucault's work on the body and sexuality: she sees Foucault's work as her point of departure (Salih and Butler 2004). However, can Bourdieu be read alongside these theorists? Various scholars have suggested that reading Bourdieu can enhance many of Foucault's concepts. For example, Ciaran Cronin argues that Bourdieu adds to Foucault's work through his theory of practice. This is because he demonstrates, through the interactions between habitus and social structure, identifiable social agents and institutions responsible for the problems associated with relations of

[11] « ce sont des coups, en quelque sorte, qui s'exercent avec la complicité tacite de ceux qui la subissent et de ceux qui l'exercent, dans la mesure où les uns et les autres sont inconscients de subir cette violence.»

domination, while Foucault's discussion of power and subjectivity remains too abstract (1996, p56).

Similarly, David Couzens Hoy suggests, "Foucault and Bourdieu can profitably be put on the same spectrum insofar as Bourdieu can be read as deepening Foucault's account of how subjectivity is constructed through power relations by providing a more detailed sociological theory of this process" (2004, p101). While Foucault's theory provides a useful way of conceptualising power and the role of discourse in societal constructions of knowledge, for the purposes of conducting an analysis of discourses on the gang rapes, Bourdieu's theory of *habitus* provides a useful means of re-inserting real-life texts and individuals. In contrast to Foucault's rather deterministic approach to individual agency, Bourdieu's theory of *habitus* provides a more nuanced alternative.

So too, it is argued that Bourdieu and Butler can be read together. Both provide an account of subjective, embodied agency that recognises the inter-play of symbolic and material capital in shaping individual experience.[12] While Butler counters Bourdieu's over-determinative, over-essentialised notion of gender identity (which he seems to largely understand only in terms of domination), Bourdieu explains the importance of not only speaking but also *being heard*. In her comparative analysis of Butler and Bourdieu, Stephanie Lawler (2003) concludes that although dominated groups may appropriate and reinterpret dominant discourse as a means of resistance, there remains the question of the *reception* this resistance receives. In describing a series of protests by working-class women in the UK, she notes how the women were denied authority and their voices invalidated through, "a reassertion of the doxic understandings of their persons that 'forbade' their action in the first place" (2003, p13).

[12] For a detailed comparison of Butler and Bourdieu's understandings of agency, see McNay (2004). Sarah Salih, in writing about Butler's notion of performativity also notes, "This notion of the ritual dimension of performativity is allied with the notion of the habitus in Pierre Bourdieu's work..." (2004, p116, fn3)

As the analyses in parts two and three of this thesis demonstrate, while various traditionally marginalised or subjugated voices attempted to gain access to the public sphere, the extent to which their discourses ultimately demonstrated resistance is very much open to interpretation. Noting the disagreement between Bourdieu and Butler regarding the appropriate approach to understanding agency, this thesis explores the extent to which Butler's vision of resistance through linguistic rupture is viable or whether Bourdieu is correct when he notes, "it is naïve, even dangerous to suppose and suggest that one only has to 'deconstruct' these social artefacts in a purely performative celebration of 'resistance' in order to destroy them" (Bourdieu 2000, p108).

1.4 METHODOLOGY

As this is an inter-disciplinary study, situated broadly within the category of 'cultural studies', this thesis has benefited from various schools of methodological thought. The field of cultural studies provides a critical theoretical and methodological framework for this thesis for a number of reasons. One, in attempting to provide an analysis of discourses across so many different cultural media (political, legal, artistic, literary, media), this thesis bears testament to the assertion of cultural studies scholars that traditional distinctions between academic disciplines cannot do justice to understanding the great diversity of - and interconnection between - cultural and social phenomena. So too, this thesis seeks to demonstrate another central concern of cultural studies as a discipline: the relationship between culture, modes of cultural and knowledge production and power. As Giroux explains:

> ...theorists who engage cultural studies attempt to produce new theoretical models and methodologies for addressing the production, structure, and exchange of knowledge. Cultural studies' commitment to inter/post-disciplinary studies is valuable because it addresses the pedagogical issue of organizing a dialogue across and outside of the disciplines in order to promote alternative approaches to research and teaching about culture and the newly emerging technologies and forms of knowledge. (Giroux 1996, p49)

As will become clear throughout this thesis, not only are dominant constructions of national, gender and sexual identity inter-related, they are also cemented and legitimated in public discourse through their reiteration in various public arenas (or fields, to draw on Bourdieu's term[13]). In recognising this, it becomes evident that to concentrate too heavily on a comprehensive analysis of *one* of these arenas risks failing to see the full significance of how and why these particular instances of gang rape gained the prominence that they did. It is for this reason that critical discourse analysis (CDA) is identified as the preferred methodological framework. This thesis draws on the work of CDA in order to provide a socially situated reading of the public discourses presented in the two national contexts.

It is accepted upfront that this thesis cannot - and does not pretend to - present a comprehensive analysis of all of the various discourses. However, this is not the central concern. Rather, through highlighting *which* discourses did gain access to the public sphere(s) and *how* these discourses were appropriated, deployed, reinterpreted or resisted by the various actors it is hoped that some trends worthy of deeper analysis can be identified.

1.4.1 Critical Discourse Analysis

By incorporating Foucault's conceptualisation of power and aspects of Bourdieu's approach of embodied social practice into the previously value neutral area of linguistic discourse analysis, CDA has emerged as a valuable methodological and theoretical framework for interrogating language and texts within social contexts. Furthermore, CDA is not linked to one particular theoretical background nor is it confined to one particular discipline. This makes it an appropriate approach for a thesis such as this, which itself adopts a multidisciplinary approach.

[13] In fact, it is argued that the approach taken in this thesis would be endorsed by Bourdieu: Bourdieu dedicated significant energy to breaking down the artificial divides between fields ('the political', 'the literary', 'the religious' etc.), which he saw as limiting the potential for engagement and critical reflexivity. It is for this reason Pileggi and Patton (2003) argue, Bourdieu can be seen as making an important contribution to the area of cultural studies.

Prominent CDA scholar Ruth Wodak writes, "CDA regards 'language as social practice', and takes consideration of the *contex*t of language use to be crucial. Moreover, CDA takes a particular interest in the relation between language and power" (Wodak 2001, p1, emphasis added). CDA thus provides a framework for analysing discourses and discursive practices critically through the language utilised and the resultant social inequalities expressed, implied, created or legitimised. Wodak clarifies the distinction to be drawn between CDA and other forms of discourse and textual analysis by stating:

> CL [critical linguistics] and CDA focus not only on texts, spoken or written, as objects of inquiry. A fully 'critical' account of discourse would thus require a theorization and description of both the social processes and structures which give rise to the production of a text, and of the social structures and processes within which individuals or groups as social historical subjects, create meanings in their interaction with texts. (Wodak 2001, p3)

For this reason Wodak identifies three central concepts within CDA: power, history and ideology. She argues that discourse must be seen as constructed in terms of dominance, as having a particular historical and social context through which it is constructed and interpreted and as being legitimated and reproduced according to the ideologies of powerful groups. It is for this reason CDA has been identified as a useful model for interrogating gender inequality and racism (Lazar et al. 2005; Van Dijk 1992, 1991).

Drawing on Fairclough's model of CDA (1995, p57), this thesis is concerned with investigating the various "texts",[14] which seek to provide accounts of the gang rapes, the "discourse practices" within these texts (i.e. which discourses are deployed/generated) and the "social practices", which serve to situate these discourses or which are in turn regulated by these discourses. In his model, Fairclough affirms the value of the Foucauldian approach to discourse as a means of understanding the socially constituted *and* constitutive role of discourse and relations of power. Nonetheless, Fairclough argues that Foucault's analysis is

[14] In using the term, 'text' this thesis relies on both a broad definition as set out by Fairclough, which includes spoken and written language, visual images and sound effects (1995, p17) and the definition of the text as *"the concrete realization of abstract forms of knowledge ('discourse')"* (Weiss and Wodak, 2003, p13).

vulnerable to critique due to his failure to include discursive and linguistic analysis of actual texts (1992, p56). For Fairclough, inclusion of such analysis provides a possible means of overcoming certain weaknesses in Foucault's approach. However he is keen to clarify: "I am not suggesting a reduction of discourse analysis to textual or linguistic analysis. The issue is rather whether analysis should include actual instances of discourse." (1992, p56)

By drawing on Foucauldian conceptions of discourse and applying them to these particular social phenomena ('the Sydney gang rapes' and *'les tournantes'*), this thesis seeks to address Fairclough's concern. A number of specific texts are analysed:

- Legal texts in the form of judgments, public reports of court proceedings and any extra-curial comments by judges, magistrates, lawyers and parties to the cases;
- Autobiographical accounts of gang rape victims, namely Samira Bellil's book *Dans L'Enfer des Tournantes* and Tegan Wagner's book, *The Making of Me;*[15]
- Political commentaries in the form of parliamentary debate, political activism and commentators who emerged as supporters/representatives of the victims; in Australia, media commentator Paul Sheehan's book *Girls Like You*, dedicated to the victims of the 'K brothers' gang rapes. In France the manifesto of the organisation *Ni Putes Ni Soumises* which was established to address the status of women in the *banlieues* and the fictional cinematic presentation of *'les tournantes'* in the film *La Squale*, which claimed to be 'lifting the lid' on a hidden problem;
- Media texts: predominantly in the form of print media such as newspaper articles and editorials.[16]

[15] At this point it is important to note that this thesis only uses the real names of those parties whose identies were already in the public domain. All victims and rapists whose names were supressed are referred to only by the aliases they were given, either by the Courts or media reports.
[16] The decision to limit the scope of media texts is purely for pragmatic purposes: as this thesis purports to provide more than just an analysis of the media it was necessary to place manageable boundaries, which could be equally applied to the Australian and French contexts.

In analysing these texts, first of all the underlying discourses are identified, the order of these discourses and how they are deployed. Then, through this, these texts and the discourses they generate and/or deploy are situated within the specific socio-cultural context in which they occur.

1.5 SIGNIFICANCE OF THIS RESEARCH

While pluri-cultural societies are a reality for the majority of nations of the industrialised West, re-envisaging national identity and addressing issues of racism continue to present. The public discourses on the gang rapes provide just one recent example of tensions between white and non-white residents in France and Australia.[17] It also appears that Australia and France have not been alone in experiencing discourses of ethnicised gang rape. Similar allegations have been made in Germany, Sweden, Denmark and Norway, where the national newspaper *Tagbladet* reported that 65% of rapes committed in 2001-2002 were by non-Western immigrants and a professor from Oslo University sparked public comment by stating that Norwegian women should also take some responsibility and adapt their style of dress which was considered by male Muslim immigrants to be 'provocative' (Steyn 2002, n.p.).

Therefore, this thesis is of significance for two reasons: On the one hand, it looks at a specific discursive event that seems to have a recurring significance in various Western nations. It looks at how the 'Muslim man' and gang rape are constructed as linked and why this particular threat should have such valency. On the other, in identifying and analysing the underlying discourses present in public discourse in France on Australia on these gang rapes, this thesis also aims to uncover the inter-relationship of gender, sexuality and race in the formation of identity.

[17] Other examples include the *'Affaires du foulard'* and the 2005 riots in France and the panic surrounding a series of shootings in South-West Sydney in late 2003, the 'War on Terror' and the Cronulla riots in 2005 in Australia.

A comparison of France and Australia is useful as both these nations have problematised Muslim communities. In both countries the question of the possibility of integration of the 'Muslim' has dominated discourses on immigration and ethnic minorities. In France this has been an issue of contention since the 1980s with such events as '*L'Affaire du foulard*' in 1989 (Winter 1995) and on-going public debate regarding the *hijab*. In Australia the 'Muslim problem', defined in terms of 'Middle Eastern/Lebanese' crime, became one increasing media interest in 1998 following the murder of schoolboy Edward Lee (Collins et al. 2000, p1). The events of September 11th 2001 further compounded the connection of Islam with violence and terrorism in mainstream media discourses.[18]

Furthermore, while, as discussed above, France and Australia have different histories and relationships with their immigrant populations and ideologically opposing immigration and ethnic relations policies, the fact that the phenomenon of ethnicised gang rape has been present in public discourse in both countries is interesting. To compare the similarities and differences in these public discourses allows the this thesis to test more rigorously the analysis of any underlying discourses and the extent to which these discourses are related to each other and to the present gang rapes.

[18] For example, articles such as "Don't turn a blind eye to terror in our midst" *The Australian,* 12 January 2004 and "Middle East gang unit back on agenda" *Sydney Morning Herald*, 19 January 2004.

CHAPTER TWO: GENDER, RAPE AND THE NATION

2.1 INTRODUCTION

A key argument in this thesis is that gender, sexuality, race/ethnicity and nationalism are intricately linked. The construction of each of these identities serves to reinforce the others. In this chapter - through an analysis of the performative aspects of national and gender identity - this inter-relationship will be explored. Recent scholarship in both nationalism and gender studies has increasingly envisioned identity as constructed and unstable, requiring constant reiteration and performance. At the same time - as a result of recent feminist attention paid to literature on nationalism and the construction of nation – national and gender identities have also been recognised to be interdependent and mutually reinforcing.

It is argued that central to both forms of identity is heterosexuality. Through the reinforcement and rearticulation of heteronormative sexuality, binary divisions of gender and gendered forms of citizenship are cemented. Gendered and sexualised forms of citizenship solidify gendered and sexualised hierarchies of power between citizens as well as the relationship between the nation and its citizens. It is through the appropriation of the bodies of the nation's citizens and the inscription of their place within the nation (based on 'accepted,' 'natural' gender and sexual order) that the nation reinforces itself.

Leading on from this, it is also argued that rape can and should be seen not as an example of deviant sexuality but rather an extreme reiteration of heterosexuality. It is through the discourse of rape that male and female sexuality is articulated and these constructions of sexuality in turn shape our understandings of what constitutes 'a man' and 'a woman'. This in turn loops back to reinforce understandings of national identity and citizenship.

It is also important when interrogating constructions of masculinity to recognise how an important feature of relationships between men is the need to establish forms of homosociality that affirm bonds of affection between men while constantly disavowing homosexuality. This is highly visible in nationalist discourses, particularly in the context of the emphasis placed on fraternity and the underlying militarism that frequently provides the symbols of nationhood. In this context, gang rape has a very specific symbolic significance. It provides a means by which bonds between men are affirmed through the expression of domination over women. The parallels between this and the metaphoric value of rape within nationalist propaganda are striking, as this chapter will elaborate.

Although the issue of ethnicity/race will not be dealt with in great detail in this chapter - more attention will be paid to this issue in the specific contexts of Australian and French constructions of national identity - intimate links between ideologies of race, nation, gender and sexuality also emerge through this chapter. In the words of French scholar Etienne Balibar, "racism presupposes sexism" (1991, p48). So too, while ethnic/racial identity is not necessarily of primary importance in the construction of the nation, the fact that the nation is an inherently inclusive and exclusive form of social organisation frequently results in the establishment of hierarchies based on racist ideologies. But to start, if ethnicity/race is not necessarily a feature of the nation what is the foundation of national identity?

2.2 NATION

There continue to be debates within academic scholarship on the extent to which the Nation is a natural entity, reflecting the modern form of the primordial collective identity[19] or a construct historically linked to the emergence of modernity (Gellner 1964, 1983; Hobsbawm 1983; Anderson 1991). However, for the purposes of this chapter it will be accepted that the balance of recent scholarship in this area considers the discourse of nationalism and the nation-state in its current form to be

[19] For example the '*ethnie*' as Smith (1991) terms it; see also Connor (1994).

features of modernity[20] and - in whole or in part - constructed. What this chapter will explore is the *ways* in which the nation is constructed.

2.2.1 The Nation as Construct

In attempting to identify the basis of this relatively recent form of social organisation French nationalist scholar Ernest Renan concluded that the nation was a spiritual principle: a soul.[21] For Renan a nation was constituted of two essential elements: a common legacy and store of memories and a shared desire to live together in the future.[22] The nation could thus be compared to a house, lovingly built and passed on[23] and the people of the nation a "spiritual family" (Renan 1882).[24] This metaphorical construction has since been elaborated on by many scholars of nationalism.

For example, Eric Hobsbawm has suggested that the nation is constructed through the invention and repetition of traditions, which establish certain values and norms of behaviour while creating the illusion of an ongoing connection with the past. This then creates a feeling of "social cohesion or the membership of groups, real or artificial communities" (Hobsbawm and Ranger 1983, p9). Ernest Gellner has argued that nationalism is the cultural form of industrialisation, serving to create a mobile workforce free from traditional ties and also unable to feel a sense of class consciousness with other 'foreign' newcomers who were not bound to them by language and culture, thereby limiting the possibility of class conflict (1964, chapter

---

[20] As Craig Calhoun explains, "...even if nationalist claims to primordial origins, ancient ethnic pedigrees, or hallowed founding histories were all true, thus, and even if every nation had premodern roots (something manifestly impossible in the case of such settler societies as the United States, Australia or South African – at least as defined by their European populations), nationalism would still be a modern phenomenon." (1993, p216).

[21] Chapter three: "la nation est une âme, un principe spirituel".

[22] Chapter three: « Deux choses qui, à vrai dire, n'en font qu'une, constituent cette âme, ce principe spirituel. L'une est dans le passé, l'autre dans le présent. L'une est la possession en commun d'un riche legs de souvenirs ; l'autre est le consentement actuel, le désir de vivre ensemble, la volonté de continuer à faire valoir l'héritage qu'on a reçu indivis... Dans le passé, un héritage de gloire et de regrets à partager, dans l'avenir un même programme à réaliser ; avoir souffert, joui, espéré ensemble, voilà ce qui vaut mieux que des douanes communes et des frontières conformes aux idées stratégiques.»

[23] Chapter three: « On aime la maison qu'on a bâtie et qu'on transmet.»

[24] See chapter two: « Rien de matériel n'y suffit. Une nation est un principe spirituel, resultant des complications profondes de l'histoire, une famille spirituelle, non un groupe déterminé par la configuration du sol.»

seven). Both Hobsawm and Gellner stress the *apparent* 'naturalness' of the nation and the reality of its historical contingency (Gellner 1983, p6; Hobsbawm 1990, chapter one).

By way of contrast, political scientist and widely published scholar on nationalism, Anthony Smith disputes the ability of a nation to be simply 'imagined' or 'invented' without some real basis (1991; 2001). As he explains, "...change is built into the definition of national identity, yet it is change that operates within clear parameters set by the culture and traditions of the nation in question and its distinctive heritage"(Smith 2001, p20). Thus, Smith defines the nation as, "a named human community occupying a homeland, and having common myths and a shared history, a common public culture, a single economy and common rights and duties for all members"(2001, p13).

Ultimately Smith's definition is unsatisfactory for a number of reasons: 'community' implies a certain homogeneity that, as Phillip Schlesinger rightly notes, fails to account for the diversity that exists *within* the supposed community (1991).[25] So too, the concept of 'shared history/common myths' inevitably raises questions of *who decides* the substance of these: an issue that will be explored further in chapters four and five (looking at the specific national contexts of Australia and France). Finally, the term 'homeland' implies a territorial connection between an ethnic group and the nation, which is a far from uncontentious claim: for example, this clearly does not apply to colonial settler nations, such as Australia, New Zealand, Canada and the United States.

An influential recent proponent of Renan's ideas on the nation is Benedict Anderson whose seminal text, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (1991) provides the foundation for much of contemporary scholarship on nationalism. Linking the emergence of nationalist

[25] See also the work of Partha Chatterjee (1986, 1993, 2004) who points to the constant tension between the political concept of the 'Indian people', utilised by both British colonial powers and the anti-colonialist nationalist elite, and the various subaltern movements, which have sought recognition in their own right.

discourses with the decline of religion, the establishment of rational secularism, capitalism and the development of print media, Anderson argues that the nation is a particular kind of "cultural artefact" (1991, p4). Through the dissemination of texts, narratives and symbols members of the nation are able to create an imaginary bond and conceive of themselves as sharing a common purpose even though they are unable to ever know every other member of the nation (1991, p6).

Unlike Gellner, Anderson does not seek to argue that this imagining is equivalent to a falsification. Rather, he is keen to point out that any community larger than a village, which allows face-to-face contact between all members is necessarily imagined (1991, p6). For Anderson, this imagining is essential but it also has its boundaries; "the nation is imagined as *limited* because even the largest of them, encompassing perhaps a billion living human beings, has finite, if elastic, boundaries beyond which lie other nations. No nation imagines itself coterminous with mankind" (1991, p7, emphasis in original). Anderson also points to another essential aspect of this imagined community:

> ...it is imagined as a *community*, because, regardless of the actual inequality and exploitation that may prevail in each, the nation is always conceived as a deep, horizontal comradeship. Ultimately it is this fraternity that makes it possible, over the past two centuries, for so many millions of people, not so much to kill, as willingly to die for such limited imaginings (1991, p7, emphasis in original; see also Giddens 1981, p45).

Thus Anderson argues that the nation is imagined as:

> ...something to which one is naturally tied. As we have seen earlier, in everything 'natural' there is always something unchosen. In this way, nation-ness is assimilated to skin-colour, gender, parentage and birth-era – all those things one cannot help...precisely because such ties are not chosen, they have about them a halo of disinterestedness. (Anderson 1991, p143).

Yet the apparent 'naturalness' of the nation, whilst providing the bond, is also fraught with tensions, as Homi Bhabha points out. Far from being a stable construct, Bhabha sees the nation as a liminal space haunted by ambivalence where the questions of exclusion and inclusion are constantly struggled between (Bhabha 1990,

p1). He argues that this ambivalence, "emerges from a growing awareness that, despite the certainty with which historians speak of the 'origins' of nation as a sign of the 'modernity' of society, the cultural temporality of the nation inscribes a much more transitional social reality" (1990, p1). Certainly, in the context of postcolonial nations and in an era of mass migration and globalisation, these tensions are increasingly coming to the fore as the French and Australian discourses on national identity illustrate.

At the same time it would be too narrow to conceive of this problematisation of the nation as something only of relevance to the current political and social climate. In fact, Ghassan Hage argues that the nation is always, by its very nature, in a state of crisis. This is due to the fact that the satisfaction of the national project is always an unattainable goal. Hage explains: "There is always an other standing between them and 'it'. 'It' is often the impossible goal of a 'totally gratifying nation'." (1996, p121) Using Zizek's psychoanalytic approach to nationalism (which in turn draws on Lacan's work on fantasy) Hage argues for the, "*necessity* of the other" (1996, p122, emphasis in original):

> Nationalists and communalists in general cannot perceive their community without an otherness of some sort standing between them and 'it'. The presence of this threatening other is one of the key elements that provide the structure of communal imagining with a minimum of stability." (1996, p122)

The significance of Hage's theory will emerge later in the thesis, but first to return to Bhabha's argument: if the margins of the nation are always sites of contest and instability how is the nation then secured and made to seem so natural? It is here that we can see the performative aspect of national identity.

2.2.2. Narrating the Nation, Performing the Nation

Craig Calhoun, in attempting to lay to rest the debate surrounding the origins of the nation explains:

> As ideology, it is no doubt effective to claim that a nation has existed since time immemorial or that its traditions have been passed down intact from

> heroic founders. Sociologically, however, what matters is not the antiquity of the contents of tradition, but the efficacy of the process by which tradition constitutes certain beliefs and understandings as unquestioned, immediate knowledge, as the basis for disputing or questioning other claims (Calhoun 1983). The focus is not simply on continuity, but on the reproduction of culture, the process of passing on that is the literal meaning of tradition (Shils 1981). What is reproduced is not simply content, but a 'habitus' or orientation to social action (Bourdieu 1976, 1990). (Calhoun 1993, p222)

Calhoun makes an important point. The accuracy of the *origins* of national culture or identity is largely irrelevant. Rather, it is the effectiveness of their articulation and acceptance that determines their influence. This effectiveness has been understood by various scholars to depend on the successful repetition of the symbols until they become taken for granted at both the national and the individual level (Hobsbawm 1981; Hobsbawm and Ranger 1983, pp11-12; Anderson 1991; Billig 1995; Sharp 1996; Eriksen 2002, p101).

Bhabha in fact dismisses the very existence of an originating point of the nation, arguing that the nation is constituted by the very discourses and narratives that claim to represent it: "To study the nation through its narrative address", he explains, "does not merely draw attention to its language and rhetoric; it also attempts to alter the conceptual object itself". Rather than understanding the nation as an established entity, which can then be interpreted or represented with varying degrees of skill and success, Bhabha re-conceptualises the nation as part of a process of its own creation. The narratives do not simply describe the nation they *perform* and *construct* it (1990, p3).

Similarly, in discussing Geoffrey Bennington's observation that, "at the origin of every nation we find a story of the nation's origin" (1990, p121), Joanne Sharp states; "[t]he nation is created not through an originary moment or culturally distinct essence but through the repetition of symbols that come to represent the nation's origin and its uniqueness". Sharp goes on to suggest a link between the performative aspects of national identity and Judith Butler's work on gender as performance:

> Bennington's definition of national identity shares the same post-structural genealogy as Judith Butler's description of the social construction of gendered identity. She argues that gender is constituted not by 'a founding act but rather a regulated pattern or repetition' (Butler 1990:145). Like national identity, gendered identity takes on its apparently 'natural' presence through the repeated performance of gender norms. In the performance of identity in everyday life, the two identifications converge. The symbols of nationalism are not gender neutral but in enforcing a national norm, they implicitly or explicitly construct a set of gendered norms. (Sharp 1996, p98).

This is a significant point. As the various definitions of nation cited above demonstrate, there is a need to establish a 'naturalness' inherent in the nation. Here Bourdieu's concept of habitus is potentially helpful in exploring the manner in which national myths become 'naturalised'. In using Bourdieu, Craig Calhoun argues:

> Ethnicity or cultural traditions are bases for nationalism when they effectively constitute historical memory, when they inculcate it as habitus, or as 'prejudice' (in Gadamer's 1975, 1977 sense of a precondition to judgment), not when (or because) the historical origins they claim are accurate." (Calhoun 1993, p222).

Recognising that the central feature of 'habitus' is that it is a partly unconscious internalisation of rules, values and dispositions by an individual, an apparently 'thoughtless' establishment of habit (Jenkins (2002, p76), it is precisely this lack of consciousness associated with reiterations or re-enactments of nationalist myths and symbols that results in them seeming natural, ahistoric and apolitical. At the same time, the linking of the seeming naturalness of nation with the apparent naturalness of gender provides an opportunity to interrogate this naturalness further.

2.3 GENDER

2.3.1 De-naturalising Gender Identity

While post-structuralist scholars of nationalism have sought to destabilise the originating myths associated with the Nation, feminist literature has sought to

demonstrate the socially constructed and historically situated nature of gender. Drawing on Simone de Beauvoir's famous line, "One is not born a woman, rather becomes one" ("on ne naît pas femme: on le devient": 1949, p13), feminists have de-naturalised gender roles in an attempt to distinguish between biological pre-determination and socially constituted practices and behaviours. In doing this they have identified not only the socially-constituted nature of many seemingly 'natural' gender differences but how these gender differences have served to justify unequal power relations.

In particular, feminist scholarship has identified the manner in which women have often been reduced to their sexual and reproductive functions ('woman is womb') and thus denied the role of subject within the traditional mind/body dualism which has dominated modern thought: "The traditional Western view…is that women are more closely associated with nature and men with culture, women with the body and men with the mind." (Jaggar 1997, p49). As the next section will demonstrate, the gendered binary of mind/body, male/female has placed a central role in nationalist discourses and concepts of citizenship.

The feminist project was therefore defined as reclaiming a female subjectivity and challenging the apparent gender neutrality of the disembodied, universal human subject, which on closer inspection was more accurately gendered as male. Taking this persuasive and meticulously documented deconstruction of the naturalness of gender as a given,[26] it is important to consider *how* gender identities – like national identities – assume a status of 'naturalness' or 'taken-for-grantedness' in spite of their fundamentally unstable roots.

2.3.2 The 'Essential Woman'

While the notion of 'patriarchy' has played an integral part in structuralist feminist attempts to counter male domination, this approach has increasingly been

[26] See Connell (1995) for an excellent overview.

criticised for its reinforcement of essentialised and reductive gender identities. As Diana Fuss explains:

> Essentialism emerges perhaps most strongly within the very discourse of feminism, a discourse which presumes upon the unity of its object of inquiry (women) *even* when it is at pains to demonstrate the differences within this admittedly generalizing and imprecise category."(1989, p2)

Although the identification of patriarchal structures has provided feminist scholars with ample evidence of the inequality maintained between the genders based purely on idea of sexual difference, this model of analysis does not allow for deeper critical analysis of what it means to 'be a woman'. Yet it is precisely this issue that has emerged as a central site of concern in recent times. Even Sylvia Walby, who maintains the importance of patriarchy as a conceptual tool, notes in her more recent work:

> Gender cannot be analysed outside of ethnic, national and 'race' relations; but neither can these latter phenomena be analysed without gender. It is not a case of simply adding these two sets of analyses together, but rather that they mutually affect each other in a dynamic relationship. (Walby 1997, p195).

This recognition of the mutuality of markers such as race and ethnicity and gender can also be reproduced in relation to class and indeed sexuality. The emergence of strong schools of Marxist, critical race, postcolonial and queer feminist studies has worked to greatly enrich analyses of power relations beyond the simple and simplistic male/female binary promoted by many theories of patriarchy. The significance of this emerges more clearly in the analysis of the Cronulla riots and 'the Sydney gang rapes' where the apparent conflict between 'dominant femininity' (women of the dominant ethnic group) and 'marginalised masculinity' (men who have access to certain masculine privilege but are disadvantaged in other ways, such as through class and/or ethnicity) requires a more complex analysis of how power is accessed, exercised, challenged and resisted between and across genders.

Furthermore, in resisting the use of the term 'woman' as a means of articulating an identity based on oppression, post-structural feminists have

emphasised the contingent, unstable nature of gender. For example, Judith Butler asks:

> Is there some commonality among 'women' that pre-exists their oppression, or do 'women' have a bond by virtue of their oppression alone? Is there a specificity to women's cultures that is independent of their subordination by hegemonic, masculinist cultures? (*Gender Trouble*, p4).

This echoes Donna Haraway's complete rejection of an essentialised form of woman in favour of the cyborg; a construction which rejects the singularity or 'naturalness' of a female identity. In critiquing Marxist feminist approaches to the question of patriarchy, Haraway concludes:

> There is nothing about being 'female' that naturally binds women. There is not even such a state as 'being' female, itself a highly complex category constructed in contested sexual scientific discourses and other social practices. Gender, race, or class-consciousness is an achievement forced on us by the terrible historical experience of the contradictory social realities of patriarchy, colonialism and capitalism. (Haraway 1991, p155).

Not only does Haraway recognise the inter-relationship between different constructions of identity (and the power relations they entail), she also points to the discursive nature of gender.

This is an idea Judith Butler (1993, 1999) has been particularly influential in developing. Returning to Simone de Beauvoir's notion of 'becoming a woman', Butler shifts the focus away from attempting to identify some 'essential experience of womanhood' towards an analysis of *how* exactly one *becomes* a woman. Drawing on Foucault's work on sexuality and the body, Butler explores the manner in which normative constructions of gender and sexuality shape individual experience of gender and sexual identity. In particular, she calls for greater recognition of how the heterosexual paradigm both constructs and is reinforced by the apparent naturalness of 'sexual difference'. Through the regulation of a form of desire that makes love of 'sameness' (homosexuality) taboo and encourages love of 'difference', Butler argues that not only is heterosexuality made compulsory but the need for clearly delineated and different sexes becomes crucial. Moreover, not only does she see gender as a

construct, she ultimately concludes that 'sex' is not a neutral description of biological attributes. Rather, the body is both gendered *and* sexed through the constant performance of sexual difference.

Butler goes on to articulate the concept of "the gender border control" (1999(a), p417) as providing the means by which the created interior essence is maintained through the external performance. In light of the above discussion of Hage, Zizek and Bhabha, the parallels are striking; just as gender identity requires both the fantasy of a 'true essence' and the constant performative reiteration of this 'essential identity' in order to give it the desired (but unattainable) coherence and stability, the very same features have been identified in relation to the construction of nation.

Butler also points out: "The displacement of a political and discursive origin of gender identity onto a psychological 'core' precludes an analysis of the political constitution of the gendered subject and its fabricated notions about the ineffable interiority of its sex or of its true identity" (1999(a), p417). It is through the acts, gestures, articulated and enacted desires of the individual that the fantasy of the "true core" of gender identity is articulated (and, in some instances challenged). This bears a striking resonance with Homi Bhabha's observation that the nation does not exist beyond the narratives used to construct it.

2.3.3 Masculinities

As demonstrated in the previous section, over the course of the last fifty years feminist theory has developed complex and nuanced analyses of constructions of female gender identity, relations of power between genders and the very different experiences of 'being a woman' that depend on intersecting markers of class, race/ethnicity, sexuality and more. At the same time, while a much newer area, there has also been increasing interest in gender studies in the construction of masculine subjectivity and how power operates *between men* (Sedgwick 1985; Brod and Kaufman 1994; Mercer 1994; Silverman 1992; Connell 1995, 2000; O'Sullivan 1998) and in the process have demonstrated that not all men experience masculinity in the

same way. What is more, not all men have equal access to the power encompassed in masculinity, leading to the development of a concept of masculinit*ies* rather than masculinity and to the identification of a specific form of masculinity developed by otherwise disadvantaged or marginalised men: 'protest masculinity' (Connell 1995, pp110-111, 2000; Cossins 2000, p111).

Due to limited space, this thesis will not explore the vast and emerging body of literature on masculinities in detail. Rather, it is important to simply recognise what Anne Cossins (2000) identifies as the paradoxical relationship many men have with the experience of masculinity. Cossins argues that the construction of masculinities is as much about reinforcing hegemonic masculinity in relationships *between men* as about defining themselves in opposition to women. To demonstrate this, she presents her research on perpetrators of sexual violence against children. In doing this she details these men's experiences in terms of their contradictory feelings of power and powerlessness: power in terms of the collectivity of male power in relation to women, powerless in their relationships with other men (Cossins 2000, p110). For Cossins the uniting element to masculinities is ultimately hegemonic heteronormative sexual practice or 'exploitative masculine sexuality': sexual behaviours, which differentiate men from women whilst creating bonds between men.

This seems to elaborate upon the work of Eve Sedgwick (1985) who argues that for women the continuum from homosocial bonding to homosexual desire is uninterrupted and for the most part considered unproblematic. A concern for the social welfare of women, the desire to foster close social relationships with other women and 'woman-loving' are not mutually exclusive or contradictory. However, for men homosociality has been constructed in opposition to homosexuality and indeed many of the main examples of male homosociality - strong affective bonds between men - are centred on the violent disavowal of homosexuality. Masculinist institutions such as the army, sporting teams and elite academic fraternities, while celebrating 'brotherhood' have a history of extreme homophobia and require a hyper-masculine heterosexuality on the part of their members. In the process of

privileging this form of masculine identity not only women but also homosexual men are deprived of access to power: heterosexuality thus emerges as a cornerstone of hegemonic gender identity and power relations. The significance of this will be explored further later in this chapter, in the review of literature on rape and specifically gang rape.

But first, what is the significance of scholars on gender and scholars on nationalism following similar trajectories? It is at this point that we can return to Sharp's comments quoted above regarding the inter-relationship between the performance of nation and the performance of gender. It is important to recognise that not simply are both gender identity and national identity performed, but both performances rely on and enrich each other. As Anne McClintock explains, "[a]ll nations depend on powerful constructions of gender. Despite nationalisms' ideological investment in the idea of popular *unity*, nations have historically amounted to the sanctioned institutionalisation of gender *difference*." (1993, p61, emphasis in original). The next section will consider the specific ways in which this is done.

2.4 GENDERED NATIONALISMS, NATIONALISED GENDERS

In her highly influential essay, "Family Feuds: Gender, Nationalism and the Family", McClintock proclaims, "[a]ll nationalisms are gendered, all are invented, and all are dangerous – dangerous, not in Eric Hobsbawm's sense as having to be opposed, but in the sense of representing relations to political power and to the technologies of violence." (1993, p61) As feminist literature on nations and nationalism have detailed, nationalism is not only an inherently gendered discourse, which cannot be understood without a theory of gender power (McClintock 1997, p90), the construction of the nation is also contingent on a pre-existing system of gender differentiation (1993, p62).

Yet McClintock concludes that, while all nationalisms are gendered, the fact that most nationalist theorists are male has meant the intersections of nationalism and gender power structures have not been adequately investigated (McClintock 2002). In a similar vein to Anne McClintock, Linda Racioppi and Katherine O'Sullivan See perceive gender to be a key dimension of many nationalist discourses and conflicts and also lament the fact that "'mainstream' scholarship on nationalism has not taken up the gendered aspects of nationalism in more than a tangential way." (2000, pp20-21).

It is here that feminist analysis has a great deal to offer. In particular, feminist interrogations of nationalism "[have] revealed multiple meanings of 'the nation' – in terms of membership, boundaries, and origin myths – and the ways in which these meanings are permeated with notions of masculinity and femininity" (Ranchod-Nilsson and Tétreault 2000, p4). Working across various nationalist contexts, feminist scholars have demonstrated that not only are both gender and national identity performed, their performances are inextricably linked. The performance of one inevitably adds to/requires the performance of the other.[27] Moreover, central to these identities is the performative heterosexual imperative.

2.4.1 Regulating the Body/ies of the Nation

An important consequence of this omission (or perhaps the reason for it) is that very limited analysis dedicated to individual corporeal performances of citizenship, which are not only essential to the nation but are also highly gendered. Although the use of 'man' as the generic descriptor of citizens of the nation in many of the significant works on nationalism would be justified as representative of the language used at the time of writing (1960s-1980s) in which the male form was utilised to represent all individuals, it is argued this is no innocent linguistic device.[28] Not only is the citizen framed as masculine, none of these works dedicates any

[27] A point forcefully made by Carver and Mottier (eds.)(1998) in their volume, *Politics of Sexuality: Identity, Gender, Citizenship*. See also Julie Mertus 1999, p172.
[28] See also McClintock (1993, p62) for a similar point.

attention at all to the specific situation of women in the nation. And yet, the roles assigned to different members of the nation *are* gender specific.

For example, in beginning his analysis of the cultural artefacts of nationalism, Anderson identifies the tombs and memorials dedicated to Unknown Soldiers. For Anderson, "[n]o more arresting emblems of the modern culture of nationalism exist..." (1991, p9). He goes on to assert, "...void as these tombs are of identifiable mortal remains or immortal souls, they are nonetheless saturated with ghostly *national* imaginings" (1991, p9, emphasis in original). As Joanne Sharp points out, while Anderson argues that the very anonymity of these soldiers is what makes them symbolic of the nation and ensures their continued significance, "...surely the Unknown Soldier is not entirely anonymous. We can be fairly sure that the soldier is not called Sarah or Lucy or Jane..." (Sharp 1996, p99) So too, Anderson frequently uses the term "fraternity" or various other related terms ("fratricide", "brotherhood", etc.) without seeming to be troubled by the very clear gender this inscribes onto the citizens he is accounting for.

Where women have been able to assert an active role in the construction of the nation, this has not been without significant controversy and contingencies. For example, it has been noted that while women were highly involved in many Third World/anti-colonial nationalist movements, their presence was contingent upon their return to traditional (patriarchal) structures upon the achievement of the nationalist aims (Radhakrishnan 1992; Katrak 1992). For this reason, many feminist scholars have concentrated their critique on the passive roles ascribed to women within discourses on nationalism and citizenship. For example, Zillah Eisenstein notes: "This imagined community is a fantasy world with women present, but silenced. They are absented from the fraternity, which is masculine. They are given no citizen voice, although they often take it. Instead they create the borders for the fraternal order." (2000, p42). Similarly McClintock summarises the argument well when she states: "All too often in male nationalisms, *gender* difference between

women and men serves to symbolically define the limits of *national* difference and power between *men*" (1993, p62, emphasis in original).[29]

In her book, *Tendencies*, Eve Sedgwick (1994) identifies an interesting conceptual framework through which to interrogate this problem. In analysing Anderson's comparison between 'having a nationality' and 'having a gender', Sedgwick suggests parallels can be drawn with Gayle Rubin's (1975) 'sex/gender system'. Sedgwick therefore proposes a 'habitation/nation system' (1994, p147), which she defines as:

> ...the set of discursive and institutional arrangements that mediate between the fact that each person inhabits at a given time, a particular geographical space, and the far more abstract, sometimes even apparently unrelated organization of what has emerged since the late seventeenth century as her/his national identity, as signalized by, for instance, citizenship. (1994, pp147-148)

The significance of this comparison for Sedgwick is that, while she accepts the basic proposition that all citizens will have some form of 'national belonging', this in itself does not assume a shared or equal experience of this national membership. Just as not everyone *has* a gender *in the same way*, similarly not everyone *has* nation-ness or nationality in the same way (1994, p148). For this reason a large number of feminist scholars have sought to identify the very distinct gender roles ascribed within discourses on nationalism and the nation, both implicit and explicit.

In identifying the significance of discourses on sexuality and gender to the process of national construction Terrell Carver notes; "(re) imagining the community is ... an everyday form of cultural work conducted within and between realms that are rather irrelevantly designated political or non-political." (1998, p15). While women may have frequently been excluded from literature on nationalism, their presence has not been completely lacking from nationalist discourses. Aside from the metaphorical linking of family/kinship with the nation (a point that will be discussed further shortly), the regulation of this family/kinship within official policy of the

[29] See also Julia Kristeva's suggestion that women are "boundary subjects" of nationhood (1993, p35).

nation-state suggests citizenship and nationhood are not only implicitly gendered but also explicitly so:

> ...the founding narratives of citizenship, which in popular terms are narratives about 'straight' men, patriarchal households and then hierarchies of disadvantage, marginalisation and exclusion that are supposed to follow, explicitly and/or implicitly. Whether we take the documents and traditional narrations concerning the US Constitution, or various national constitutions, 'basic laws' or public policies, we get much the same tale – though there are important differences. Among these there are founding fathers, husbandly and fatherly authority over women, transitions to adulthood, manhood and wifehood/ widowhood/ motherhood... (Carver 1998, p20)

While literature on nationalism fails to recognise the male-dominant perspective relied upon within nationalist discourses, nationalism itself defines very specific gender roles for men and women. It does not simply exclude women from the process of constructing the nation. On the contrary, it provides them with very specific positions: as mothers, wives, daughters.

For example, Anderson identifies the ability to feel a sense of kinship to the imaginary community as being fostered through an emotional bond, which in turn assumes the status of a certain 'naturalness'. This 'naturalness' he compares with the 'naturalness' of gender; "...in the modern world everyone can, should, will 'have' a nationality, as he or she 'has' a gender..." (1991, p5). The apparent immutable nature of national culture and identity is made possible precisely through its linking with the other apparently immutable identifier; that of gender.

2.4.2 Nation as Family

Alongside the links drawn between gender identity and national belonging another central proposition within literature on nationalism is that that this 'naturalness' is frequently achieved through the metaphor of the family. Smith in fact identifies this metaphor of family as an invaluable trope to nationalist discourses (1991, p79). Similarly, in refuting a purely rational construction of national identity based on representation of historical fact and/or chronology, Connor stresses the emotional and psychological aspects of nationalism built on the idea of kinship and

familial ties; the nation as a fully extended family (1994, pp202-203). Similarly Anderson identifies the "vocabulary of kinship (motherland, *Vaterland*, *patria*) or that of home" as key to conceptions of the nation (2006, p143). Through linking the nation with concepts of the 'naturalness' of family that constructions of nation are seen to be naturalised, de-politicised and de-historicised.

Yet the linking of family with nation appears within most literature on nationalism as unproblematic. This is significant when considered alongside the strong body of feminist literature, which has critiqued the nuclear family as a highly politically charged space, as well as a central site of heterosexual patriarchy (Walby 1990; Eisenstein 1986; Delphy 1984). A notable exception is Frantz Fanon who recognises the link made between these two institutions of central importance to Western liberal nation-states and to the maintenance of patriarchal order (1967, p142). He also goes on the reject this metaphor, disputing its naturalness and instead stating, "the characteristics of the family are projected onto the social environment" (1967, p142). So too, as Anne McClintock identifies, Fanon's analysis raises three issues:

> First, he throws radically into question the naturalness of nationalism as a domestic genealogy. Second, he reads familial normality as a product of social power – indeed, of social violence. Third, Fanon is remarkable for recognizing, in this early text, how military violence and the authority of a centralized state borrow on and enlarge the domestication of gender power within the family: "Militarization and the centralization of authority in a country automatically entail a resurgence of the authority of the father". (McClintock 1997, p93)

In endorsing Fanon's contribution, Anne McClintock elaborates what she sees to be the paradox lying at the heart of most national narratives: "...despite their myriad differences, nations are symbolically figured as domestic genealogies. Yet...since the mid-nineteenth century, at least in the West, the family itself as been figured as the antithesis of history" (1997, p91). Thus she sees this utilisation of familial and domestic imagery as providing very definite ideological purposes:

> The family trope is important for nationalism in at least two ways. First, it offers a "natural" figure for sanctioning national *hierarchy* within a putative organic *unity* of interests. Second, it offers a "natural" trope for figuring national time...
>
> Because the subordination of woman to man and child to adult was deemed a natural fact, hierarchies within the nation could be depicted in familial terms to guarantee social difference as a category of nature. (1997, p91)

Whilst in the most recent revision of his original text Benedict Anderson notes, "it is true that in the past two decades the idea of the family-as-articulated-power-structure has been much written about", he maintains:

> [S]uch a conception is certainly foreign to the overwhelming bulk of mankind. Rather, the family has traditionally been conceived as a domain of disinterested love and solidarity. So too, if historians, diplomats, politicians and social scientists are quite at ease with the idea of 'national interest', for most ordinary people of whatever class the whole point of the nation is that it is interestless. Just for that reason, it can ask for sacrifices (2006, p144).

This may well be true. However, what is of interest here is the sacrifices that are asked for and of whom they are asked. As pointed out above, it is not only in metaphoric terms that the family is utilised to reinforce the nation's stability and coherence. One need only think of the incredible investment of the nation in discourses concerning reproduction and sexuality (i.e. who can/cannot and the circumstances within which they can/cannot) to understand that these questions are of more than tangential concern. This is vividly illustrated within literature dedicated to analysis of various nations' approaches to reproductive control and abortion.[30]

2.4.3 Woman as Body of the Nation

It was also noted in the previous section that the mind/body binary has had very specific gender implications. Discourses on nationalism provide a powerful example. One of the most frequent observations made by feminist scholars investigating nationalism is the tacit acceptance of the citizen as male. For example, Nira Yuval-Davis (1997) argues that 'Woman' has most often been characterised as

[30] See for example Baird (2006) for a discussion of Australian nationalist discourses on abortion. See also Carver and Mottier (1998) for a number of essays on this issue in various national contexts.

the body of the Nation within nationalist discourses. In this way, the woman does not act, she is simply an embodiment: the physical site on which a national or communal identity is inscribed and contested. Using the specific example of Ireland, Alan Finlayson (1998) provides a case study, which demonstrates this point. He identifies the figure of Erin as the embodiment of Ireland, constantly threatened and raped by the bully Britain and protected by the men of the nation. He concludes; "Men can never 'be' the nation – they can only 'have' it – while women can never 'have' the nation, because they 'are' it". (1998, p98; see also Eisenstein 2000; Peterson 2000).

It is also due to this symbolic role that women are also perceived of as constantly in need of policing and protecting (Yuval-Davis 1997, p45). Just as women's bodies are perceived as vulnerable to penetration and violation (an example of the importance of heterosexuality in the construction of normative male and female gender and sexual identity), they reflect the vulnerability of national borders (a point reinforced by Hage's and Zizek's theorising of the nation as a fantasy requiring constant border-creation and policing). It is therefore unsurprising that within many nationalist discourses the strict control and regulation of female sexuality has been a central feature.[31]

2.4.4 The Heterosexual Nation

As many of the above examples suggest, to recognise the significance of gender to the creation and maintenance of the nation is not in itself sufficient. It is not merely as male or female citizens that individuals contribute to the reinforcement of the nation. More than this, it is as *sexual* citizens that they produce and reproduce the nation. As Joane Nagel argues national, ethnic and racial boundaries are not only gendered but also sexual boundaries (2000, p1). She draws on the example of the newly liberated Post World War II France in which women who had collaborated sexually with Nazi soldiers were paraded through the streets

[31] For example, Catriona Elder documents the importance of this discourse in the establishment of a White Australia, as discussed further in chapter four. So too, Ann Laura Stoler has written extensively on the policing of White women's sexuality in the Dutch colonial contexts, as have Vron Ware and Frances Gouda, while Julia Clancy-Smith has written about French colonial sexual and domestic mores

with shorn heads, bare feet and stripped clothing to the taunts of onlookers. This is compared with male collaborators who were executed: "…the differences in the images and the treatment of the women and the man speak volumes about the sexualised and gendered nature of patriotism, treason, betrayal and the relation and relative importance of men and women to the nation." (Nagel 2000, p140).[32]

Aside from the frequent use of the rape trope within nationalist discourses (an issue that will be discussed further later in the chapter), the national preoccupation with reproduction and familial relations (both actual and imagined) mentioned above are based on normative notions of sexuality. Whilst Foucault's analysis of 19th century discourses on sexuality in *The History of Sexuality* (through which he demonstrates the heterosexualisation of desire and the increasing regulation of sexed bodies), has been considered of groundbreaking importance in terms of understanding the relationships between sexuality, gender and power, it has been suggested that he could have gone further in considering how these discourses applied in the nationalist context (Stoler 1995; Sommer 1993).

For example, Doris Sommer, in her work on 19th century Latin American romance novels, suggests that conjugal passion and modern patriotism can be seen as mutually reinforcing concepts (Sommer 1993, p29). Meanwhile Sara Ahmed (2008) argues that - while there are a number of recognised threats to the wellbeing of the nation - three figures emerge as particularly dangerous; the 'melancholic migrant' who does not integrate and draws attention to racism, the gay citizen and the 'feminist kill-joy'. While the 'melancholic migrant' remains an outsider, the gay citizen and the 'feminist kill-joy' – by problematising the heterosexual, patriarchal family, exposing its biases and questioning its 'naturalness' – in turn place the very naturalness of the nation in jeopardy. Moreover, as the discussion of recent French political movements in the next chapter shows, it is precisely the three groups

[32] Similar observations can be made of the Rwandan genocide where it was reported that Hutus were frequently exhorted to kill Tutsi men and sexually violate Tutsi women: see for example the decisions of the International Criminal Tribunal for Rwanda (ICTR) in *Prosecutor v. Jean-Paul* Akayesu, Case No. ICTR-96-4-T (2 September 1998) and *Prosecutor v. Nahimana*, Case No. ICTR-99-52-T (Dec. 3, 2003).

Ahmed identifies that have done the most to disrupt French national myths and values in recent times.

Nagel also considers the problematic position of what she describes as "ethno-sexual adventurers and invaders" (2000, p17): those who engage in sexual encounters within the 'contact zone' (Pratt 1992, pp4 and 7), where different ethnic and/or national boundaries meet. A central feature of postcolonial scholarship has been the role that sexuality played in colonial discourse. The orientalist imagining of the 'Other' man as lascivious, perverted and sexually abnormal (whether through the deficiency of the Asian man or the hypersexuality of the black man) provided a powerful justification for his domination (Saïd 1995). At the same time the process of colonial conquest was frequently represented in sexualised and sexually predatory terms: lands to be seized, ravaged and controlled. This was both metaphoric and actual, with colonised women often perceived as freely available and legitimate 'spoils of war' (McClintock 1994; Fanon 1965). Contrastingly, in the later colonial period when women became a more prominent contingent among coloniser populations, a significant site of concern was the policing of their sexuality to maintain purity and order.[33] All these examples demonstrate important points of convergence between ideologies of race, gender, sexuality and nation.

From what has been said above, what emerges is that it is not simply sexuality that provides the borders and identity of the nation but more specifically heterosexuality. The delimited 'contact zones' are not simply racial/ethnic or national. They are also sexual and gendered. Thus, the taboo of sex across contact zones is as applicable in the context of maintaining national heteronormative gender order as it is in maintaining gendered national order. Going back to Butler's definition of performativity and the not insignificant link between gender and national identity, the significance of heterosexuality should not come as a surprise.

[33] Catriona Elder's work on early nationalist discourses on the position and sexuality of white women in Australia – discussed further in the next chapter - provides an excellent example of this, as does the work done by various feminist scholars on the regulation of sexuality in the context of European colonial enterprises: Stoler 2002, 1995; Clancy-Smith and Gouda (eds.) 1999; McClintock 1994

Aside from the inter-relationship between gender and national identities demonstrated through their mutually reinforcing performative aspects and the specific regulation of sexuality vital to both, there is another commonality. Not only have both constructions of identity been concerned with legitimate sexuality, so too they have both been heavily impacted by illegitimate, unsanctioned acts of sex. In particular, as noted above, nationalist discourses have often employed rape discourses. At the same time, vast quantities of feminist literature have been dedicated to the very specific gendered nature of sexual violence and its impact on the development of female gender identity.

2.5 RAPE

2.5.1 Rape as violent crime

There is a vast body of literature on the ambivalent social and legal responses to rape (Brownmiller 1975; Vance 1984; Estrich 1987, 1986; MacKinnon 1989, 1987; Radford and Stanko 1996; Stubbs 2003) While it is a crime in most (if not all) societies, suggesting it is regarded as an act to be condemned, much attention has been given in recent law and social reform projects to the alarmingly low rate of criminal convictions for rape. As News South Wales' Rape Crisis Centre Director Karen Willis documented; in 2005, of the 9,5000 sexual and indecent assaults reported in New South Wales, less than 500 resulted in successful conviction, not all with custodial sentences. Furthermore, the Australian Bureau of Statistics estimates that the incidents reported reflect only 20% of the actual number of assaults committed (Willis 2006, p1). These statistics mirror those presented in a recent report commissioned by the British Home Office.[34]

Furthermore, the first national survey of violence against women in France estimated the number of rapes to have been committed in 1999 to be 50,000

[34] In the UK report it was found that, while studies suggested approximately 7% of women over the age of 16 in the United Kingdom had experienced a serious sexual assault in her life, there was an attrition rate resulting in only 5.6% of rape complaints leading to conviction (Kelly, Lovett and Regan 2005).

nationwide and concluded that approximately 11% of women had experienced some form of sexual abuse during the course of their lifetimes, with the vast majority being at the hands of men they knew. The French study also noted that for many of the women surveyed this was the first time they had spoken about their abuse: "The *Enveff* survey revealed the extent to which women do not speak out about the violence they suffer. They fear that their testimonies will not be listened to, because they will be held to be in some way responsible." (Fougeyrollas-Schwebel 2005, p298). So too the British Home Office report found that, unlike most victims of violent crime, rape complainants did not automatically receive sympathy but rather were subjected to intense scrutiny and judgement throughout the legal process (Kelly, Lovett and Regan 2005, p1).

While various attempts have been made at reforming legal definitions and procedures for rape crimes,[35] many feminist commentators argue that the problem lies beyond the wording of the law and in the broad social acceptance of stereotypes regarding gender and sexual behaviour, commonly referred to as "rape myths".[36] Some examples are stereotypes regarding the types of rape which constitute 'real rape' (Estrich 1986, 1987)[37] and the causal link between the dress, behaviour or sexual experience of the victim and the attack. Another common rape myth identified within the Home Office report was the continued over-emphasis on the possibility of false rape allegations being made, despite research failing to support this as a high risk (Kelly, Lovett and Regan 2005). Where a prior consensual sexual relationship has existed between the victim and the rapist, the motives of the victim in 'crying rape' are often called into question.

In a book chapter considering the treatment of female rape victims within the criminal justice system, Kirsten Bumiller (1998) provides an analysis of the trials for the (in) famous New Bedford gang rape upon which the 1988 film *The Accused* was

[35] See Jennifer Temkin (2002) for a review of law reform projects in a number of countries, including Australia, United Kingdom, South Africa and Scandanavia.
[36] "Rape myths" have been defined as, "attitudes and beliefs that are generally false but are widely and persistently held, and that serve to deny and justify male sexual aggression against women": Lonsway and Fitzgerald 1994, p134.
[37] Estrich defines "real rape" as rape committed by a stranger using force, usually with a weapon of some sort. Rape within relationships remains a taboo.

loosely based. In her summary of witness testimony she notes the ways in which the conduct of the victim appears to be as much on trial as that of the defendants. Her attire, behaviour and apparent "recklessness" in disregarding suggestions by other women to stop drinking and go home are all the subject of scrutiny. Furthermore, Bumiller identifies a morally disapproving undertone to the evidence of the other female witnesses, which the defence attempts to use to suggest a reasonable belief on the part of the accused rapists that the victim "was asking for it".

2.5.2 Rape and Normative Heterosexuality: Telling the Difference

Feminist theory, in particular radical feminism, has done much to illuminate reasons for this wide-scale acceptance of rape myths and the failure in most societies to consistently and unambivalently condemn rape. By situating sexuality as central to its interrogation of gender and power, radical feminist theory has persuasively argued that rape must be seen in the broader context of gendered power relations. Radical feminist theorists argue that by doing this, it becomes clear that rape performs a central role in the reproduction and reinforcement of gender order. Rape both shapes and reflects normative (hetero) sexual behaviour. It maintains a clear divide between women and men through its influence on the constructions of female and male sexuality. At the same time, through the development of legal definitions and responses that have excluded women's experiences, rape has reflected and reinforced the construction of heterosexuality on which male domination rests.

Earlier in this chapter the inter-relationship between the construction of gender and the construction of normative sexual behaviour was explored. What emerged was that normative heterosexuality and gender identity were in fact mutually constitutive. While radical feminist theory has had little to say about how rape shapes male sexuality (aside from disputing the myth of rape as an act driven by man's natural biological instincts), it has provided extensive analysis on the impact of rape on female sexuality. They argue that through everything from sexual harassment, pornography and rape, sexual violence forms part of a continuum along

which women conduct their everyday lives (Kelly 1988). Both actual instances and the threat of sexual violence under which women are taught to live, are central to the formulation of normative female sexual behaviour. As Susan Brownmiller puts it, "[w]omen are trained to be rape victims" (1975, p309): they are taught to either live in fear of rape or to accept that secretly that is what they desire.

Carole Vance provides a more nuanced but similar analysis. For Vance female sexuality is constructed around the dichotomy of sex as a positive form of physical expression, enjoyment and exploration and as a threatening zone of vulnerability to violence, pain and degradation (Vance 1984, p1). Women are trained to experience sex as potentially dangerous and that they should therefore place security above free sexual expression. Furthermore, they are punished when they fail to do so. As Bumiller comments; "the social conception of rape finds authority in the woman's duty to protect herself" (1998, p47). Many of the rape myths identified illustrate this view of female sexuality as centred on protection above freedom of expression.

Added to this, feminist legal commentators have identified within legal approaches to rape an underlying assumption of women as sexually available unless they expressly demonstrate otherwise (*M.C. v Bulgaria* (39272/98) [2003] European Court of Human Rights 646 (4 December 2003), para.12; Kelly 1988). Once again, the obligation is on the woman to ensure her protection. But this concept highlights something more. Through their analyses of sexual harassment and pornography, radical feminists argue that normative female sexuality is constructed not only as passive and vulnerable (the vagina that is penetrated) but also as representing pleasure in violation and submission. Even within some feminist discourses, the use of terms like 'invasion' (Brownmiller 1975) and 'occupation' (Dworkin 1995) suggest a woman engaging in sex with a man automatically accepts some degree of objectification (which is why for Dworkin, heterosexual sex involves collaboration on the part of the woman in her own domination).

On the other hand, male sexuality is stereotypically associated with aggression and conquest: the penis that penetrates. This is reinforced by rape myths, which

centre on rape as an inevitable (if unfortunate) result of man's natural biological drive (Cossins 2000; Sanday 1990; Vance 1984). It is also validated by legal discourses which entertain the myth regarding women falsely 'crying rape' and the focus in rape laws on protecting men from punishment for 'accidental' rape through a mistaken belief of consent.[38] The mere possibility of arguing 'mistaken belief', aside from demonstrating a failure to fully appreciate the gravity of rape to the victim, suggests that a certain degree of predatory behaviour on the part of men is to be expected and condoned. As Judith Herman comments:

> Feminist theorists have called attention to the social legitimacy of many forms of sexual assault and to the glorification of even extreme sexual violence in the dominant culture. If, as many feminists argue, the social definition of sexuality involves the erotization of male dominance and female submission, then the use of coercive means to achieve sexual conquest may represent a crude exaggeration of prevailing norms, but not a departure from them. (Cossins 2000, p43)

This leads to the second manner in which rape is central to patriarchal order. Not only does the characterisation of rape assist with the shaping of gendered sexual behaviour (women who must be 'on guard', men who must seek conquest), it also serves to reflect traditional constructions of heterosexuality. As Herman observes, whilst on the surface responses to rape and other forms of sexual violence seek to establish a clear boundary between these acts and 'normal' consensual sex, this boundary is blurred. This has also been the argument made by Andrea Dworkin and Catharine MacKinnon in their criticism of the 'violence not sex' approach taken to rape: "The point of defining rape as 'violence not sex' has been to claim an ungendered and nonsexual ground for affirming sex (heterosexuality) while rejecting violence (rape). The problem remains what it has always been: telling the difference." (MacKinnon 1997, p44; see also Dworkin 1995; MacKinnon 1987).

[38] The possibility of 'mistaken belief' as a defence to rape remained the correct law in the United Kingdom until the enactment of the Sexual Offences Act in 2003 as a result of the House of Lords case of DPP v Morgan [1976] AC 182. In that case the woman was woken by her husband and his friends and forced to have sex with them. Despite the fact that she was kicking, screaming and shouting for her son to call the police, the friends argued they believed she was consenting as her husband had told them she liked to resist.

By using the example of pornography, Dworkin and MacKinnon refuse to accept the distinction between normative heterosexuality and sexual violence. Rather, they see male domination and female subjugation and degradation as central to both. So too, Jill Radford and Elizabeth Stanko (1996) argue in their critique of legal and political responses to violence against women, that rather than seeing sexual violence as one of the defining characteristics of patriarchal societies and addressing the gender power inequalities underlying it, the response has been to 'curb the excesses'. In this way, Radford and Stanko view the state response to violence against women as a means of restoring the legitimacy of the central institutions of patriarchal order: the family and heterosexuality.

While these analyses have frequently been criticised for being reductive, disempowering and essentialist,[39] the recognition of rape as a discourse, which is deployed to shape societal understandings of 'normative sexuality' is an important one. In fact criminologist Anne Cossins (2000), from her research on child sexual abuse, concludes that the abuse of women and children cannot be seen as contrary to 'normal behaviour' but rather must be interrogated as practices directly linked to constructions of normative masculinity and heterosexuality.

So how is rape distinguished from sex? While rape is characterised as a criminal act, suggesting it is an act to be condemned, a closer look at the circumstances in which it achieves that characterisation, seem only to support the links made with the normative heterosexuality upon which patriarchy rests. An initial criticism has been that rape laws have focused heavily on vaginal-penile penetration. As Catharine MacKinnon puts it, "Rape is defined according to what men think violates women, and that is the same as what they think of as the *sine qua non* of sex." (1987, p87). For MacKinnon, legal definitions of rape have embodied what concerns *men* about coerced sex, not the experiences and concerns of women. She is not alone in concluding this. The United Nations Special Rapporteur on Systematic Rape, Gay MacDougall in her expert report to the United Nations Human Rights Committee

[39] See for example Kobena Mercer (1994) for a compelling critique of radical feminist readings of pornography that result in them ironically being allied with the conservative moral right.

remarks: "...it is clear that the historic focus on the act of penetration largely derives from a male preoccupation with assuring women's chastity and ascertaining paternity of children."(MacDougall 1998, para. 24).

By placing penetration as the central focus, rape laws have concentrated not on punishing the act of violence or violation suffered by the victim but on controlling the circumstances within which penetration occurs. So too, Brownmiller, in her review of the initial laws criminalising rape points out that the crime of rape was viewed as the violation of a property right through gaining sexual access to a woman to which the rapist had no right. This characterization of rape as a violation of property rights has continued until modern times within international law, where rape was classified as a crime against 'honour' and family rights.[40]

Furthermore, marital rape exemptions continue to exist within many societies and even where this is no longer the case, the amendment of the law is recent and such rapes are infrequently prosecuted (Buddie and Miller 2001, n.p.). Thus, rape laws have not only characterised rape as an extreme form of what is otherwise normative heterosexual behaviour - the assumed male right to sexual access of a woman/women – they have reinforced and legitimised this behaviour by focusing the criminalisation of rape on male sexual access to women not 'belonging' to him. In this way, as Susan Estrich observes, "the law has done more than reflect the restrictive and sexist views in our society; it has legitimised and contributed to them" (1986, p1093).

This leads to another important point. It is not *all* men who are allowed to rape *all* women. Despite the vast majority of rapes being identified as intra-racial (hooks 1990, p60; George and Martinez 2002, p110), the phenomenon of inter-ethnic rape has been a notable exception to the tendency towards rape-tolerance. As Estrich (1986, 1987) details, an analysis of the legal response to rape in the U.S. is incomplete without consideration of the relationship between racism and sexism. Acknowledging its different objectives, by placing the objectification of the woman as

[40] See for example the Fourth Geneva Convention 1949.

the central focus, radical feminism offers little in the way of analysis as to the power dynamic being played out *between the men*. Yet a consideration of other historical and social factors, aside from just the male/female gender dynamic could contribute to a better understanding of the social construction of rape.

2.5.3 'Battle of the Patriarchies' – Rape as an Act 'Between Men'

As noted above, both the threat and the actual use of rape have been powerful ideological weapons in inter-communal conflict. With women constructed as embodying the Nation and men as the guardians of that Nation through their role as protectors of women, it is unsurprising that the threat of rape assists with mobilising individuals and communities to violence against the perceived threatening group. The symbolic value of rape (both real and imagined) within nationalist discourses is a feature that many feminist scholars of nationalism have identified (Peterson 2000; Basu 1993; Eisenstein 1996, 2000; Liu 1994; Ramet et al. 1999). Following the recent conflicts in the Balkans and Rwanda, in which the gendered and sexualised nature of these inter-ethnic conflicts received significant attention for the first time,[41] this argument seems to have gained in strength and perceived legitimacy.

One use rape has been put to is as a means of 'polluting' a community. For example, Susan Brownmiller gives the example of an Indian author who, in decrying the mass rapes in Bangladesh, described them as, "so systematic and pervasive that they had to be conscious Army policy,' planned by the West Pakistanis in a deliberate effort to create a new race' or to dilute Bengali nationalism…" (Brownmiller 1975, p85).[42] This idea of pollution was also identified in the Serbian strategy used in Bosnia of forcibly impregnating Bosnian women with 'little Chetniks' (Serbs) and detaining them until it was impossible for them to abort the foetuses (Seifert 1996,

[41]See the final report of Commission of Experts established by the UN Security Council, Resolution 780 (1992) – available at http://www.his.com/~twarrick/commxyu1.htm (accessed 7/07/2008). See also judgments of UN International Tribunals for Rwanda (ICTR) and the Former Yugoslavia (ICTY) in *Akayesu* (1998), *Furundzija* (1998), *Kunarac et al.* (2001).
[42] Brownmiller, p85.

p40).[43] The rationale behind these acts is comprehensible when considered in light of the above argument that patriarchal constructions of rape have focused on its threat to the family. In the context of inter-communal rape, the threat becomes to the community (MacDougall 1998, para. 15). As Ruth Seifert describes: "the rape of women of a community, culture or nation can be regarded – and is so regarded – as a symbolic rape of the body of that community" (1996, p39).

This use of rape as a weapon in inter-communal conflict is not limited to situations of war. Discourses of sexual domination have also been used as a response to other forms of oppression. To draw on Cossins' (2000) observations, the performance of 'exploitative masculine sexuality' is seen by some men as a means of compensating for their limited access to male power and privilege in other ways. For example, the possession of the white woman as a means of rebellion and liberation from white domination and a re-assertion of black (male) power has a clear place within black resistance discourse, as the infamous passage from Eldridge Cleaver's "Soul on Ice" demonstrates:

> Rape was an insurrectionary act. It delighted me that I was defying and trampling upon the white man's law, upon his system of values, and that I was defiling his women – and this point, I believe, was the most satisfying to me because I was very resentful over the historical fact of how the white man has used the black woman. I felt I was getting revenge. From the site of rape, consternation spreads outwardly in concentric circles. I wanted to send waves of consternation throughout the white race. (Sexton 2003, pp33-34)

While frequently condemned by black feminist activists, Eldridge is not the only black man to assert this claim.

Frantz Fanon also deploys a milder but nonetheless troubling discourse. Whilst contributing to an understanding of how rape was used as part of the colonial enterprise as a means of controlling and oppressing native women,[44] Fanon's conceptualisation of the rape of the white woman is curious. When referring to the

[43] This policy led to the introduction in the Rome Statute of the International Criminal Court of the new crime of forced pregnancy.
[44] See for his example his evocative essay, "Algeria Unveiled" (1965)

popular racist representation of the black man as threat to the white woman, he appears to revert to a version of the old argument of, 'she is asking for it': "Basically does this fear of rape not itself cry out for rape? Just as there are faces that ask to be slapped, can one not speak of women who ask to be raped?" (Brownmiller 1976, p250).

At the same time, the 'threat' of rape has also been used as a means of reinforcing dominant order:

> ...allegations, by the dominant group, of rape and aggression against their women by men of minority communities, an allegation which serves to justify dominant caste/community hegemony, by demonstrating the 'lack of character' of minority men who show scant respect for women (Kannabiran 1996, p33; see also Peterson 2000, p68).

In the context of the United States, William George and Lorraine Martínez, in a study of victim blaming in rape, identified strongly held stereotypes within American culture of the black man as overly virile with animalistic sexual appetites and a propensity towards the rape of white women (George and Martinez 2002, p110). They are not alone. The creation of black masculinity within popular American culture as hyper-sexed, threatening and predatory has been well documented (Sexton 2003; Mercer 1994; hooks 1991; Madhubuti 1990).[45] Furthermore, the rape of the white woman by the black man has long been an integral part of racist discourse in the U.S. Susan Estrich documents the disproportionate use of the death penalty for rapes committed by black men against white women in the U.S. up until 1977 (1986, p1089). A further example is the lynching of black men suspected of raping white women in the South of the U.S., which has its place within the national mythology (Brownmiller 1975).

This intersection of racism and sexism within 'peacetime' discourses of rape is not a phenomenon limited to the U.S. Ian Law (1995), in his review of race and the media in the United Kingdom, dedicates a chapter to the issue of media reporting of rape. Through his content analysis of media news coverage in the United Kingdom

[45] hooks 1991, Ogersby 2001, Evans Braziel 2003.

over a six-month period in 1996-1997, Law found an over-representation of news stories involving non-white rapists. He concludes that sexual violence committed by non-white men serves as a powerful source of reinforcement of racist discourses. In particular, he refers to a highly mediatised gang rape case in 1997 involving eight youths of various ethnicities found guilty of raping a white Austrian tourist. In that case, reference to race was justified by the prosecuting lawyer's reporting of 'racist remarks' allegedly made to the victim, including calling her a 'white bitch'. Law also points to comparisons made in the media between this rape and the U.S. Central Park jogger rape case, which was widely reported as involving a gang of 'blacks and Hispanics' (this was later found to be incorrect) (1995, pp79-80). While Law's findings in relation to the United Kingdom demonstrate a continued characterisation of the black man as more prone to rape, in the Australian context this place has been taken by the 'Muslim' man or the 'man of Middle Eastern appearance' (as elaborated on in further detail in a subsequent chapter). This construction of the Muslim man as sexually predatory also has a long history and extends beyond Australia. As Edward Saïd (1995) demonstrates in his classic text, *Orientalism*, the Oriental is presented as both perverted and sexually aggressive.

In identifying a link between the social significance of the act of rape and the national/political significance, V. Spike Peterson concludes:

> ...rape as a social strategy relies upon (and reproduces) rigid binaries of male-female, masculine-feminine, and self-other in which the domination by the first over the second term is 'justified' by reference to the latter's threatening or destabilizing potential. Rape 'makes sense' as a political-military strategy only under the assumption that men are willing – even eager? – to violate women/the feminine in this way. Similarly, the nation-as-woman trope 'works' only if the imagined body/woman is assumed to be (heterosexually) fertile. (2000, p69)

Thus, rape emerges as pivotal to the maintenance of gender order and - when used against the women of another national, ethnic or other communal group – a powerful means of asserting dominance over another group of men through the violation of 'their' women, 'their' property, 'their' land.

Meanwhile Zillah Eisenstein argues that the reason sexual abuse and torture of men has generally been less widely reported, while war-time rapes of women have been strongly condemned, is because, "it destabilises the very notion of gender that is central to nation-building. The homo-erotic and its relation to masculinist fears and desires is kept silenced while the war rapes of women are sensationalized." (Eisenstein 2000, p48) For Eisenstein rape, particularly in the nationalist, militarist context, "constructs men's domi*nation* and women's subordi*nation*" (Eisenstein 2000, p46 emphasis in original).[46]

This symbolic value ascribed to rape has relevance not only to considerations of how female gender identity is constructed, the relationship between male and female members of the nation but also the relationships between men. By making women symbols, they are also created as a commodity to be traded in a system of exchange between men, as Gayle Rubin (1975) explains. In a feminist reading of Lévi-Strauss' anthropological study of kinship, Rubin notes the ways in which women are transacted like 'gifts'. While she rejects Lévi-Strauss' suggestion that the 'exchange of women' is located within the origin of culture as being too deterministic, she does see merit in an analysis which places the oppression of women within a social and historical rather than biological context. She describes this oppression as based within a system of 'the traffic in women' and identifies the means by which power passes through women but cannot rest with them. She states: "If it is women who are being transacted, then it is the men who give and take them who are linked, the woman being a conduit of a relationship rather than a partner to it." (Rubin 1975, p174)

For Rubin, this accounts for women's disempowerment, as they are not the beneficiaries of the exchange. Instead they provide a means by which power is passed between men. This argument is also put forward by Pierre Bourdieu. Through his theory of symbolic capital and the economy of symbolic exchange Bourdieu also identifies women, not as subjects in the exchange but relegated to the position of

[46] Framing the argument differently, Jasbir Puar (2005) argues that the controversy surrounding the very visible sexual torture and humiliation of inmates at Abu Ghraib also demonstrated a link between racist and homophobic discourses.

'instruments symboliques' in the production or reproduction of symbolic and social capital (1998, p66). By way of elaboration, he cites Anne-Marie Dardigna's image of the circulation of the female body between men as an object with similar status to money.

Furthermore, Eve Sedgwick in her feminist reading of nineteenth century English literature draws on Rubin and Lévi-Strauss' work to argue that the concept of 'chivalry' has been constructed around the 'privileged' place of women as, "the passive, exalted objects of men's intercourse with men" (1985, p124). In this way, with women placed at the centre of power transfers between men but excluded from active participation, it is possible to identify how both power structures between the genders and within the male gender are perpetuated. Rape provides a point of rupture where the 'gift' is taken not given, which destabilises the order of power between men. However, at the same time it upholds the woman's passive role, as the raped object and therefore maintains gender order. Applying this reasoning, it becomes possible to see why the condemnation for rape comes from its impact upon men and male power structures rather than from its impact upon the sexual and social lives of women.

Hence the national significance assigned to who women are given to (and who they are taken from), as well as how they reproduce and with whom. Furthermore, the spectre of rape within nationalist discourses, while being perpetrated against the bodies of women, is essentially a means of asserting power over other men. In the words of V. Spike Peterson: "...implicit in the patriarchal metaphor [of nation-as-woman] is a tacit agreement that men who cannot defend their woman/nation against rape have lost their 'claim' to that body, that land. Hence, 'rape' becomes a metaphor of national or state humiliation" (2000, p68, citation omitted).

Related to this, Carol Cohn also observes:

> An important attraction of the military to many of its members is a guarantee of heterosexual masculinity. That guarantee is especially important because the military provides a situation of intense bonds between men, a much more

> homosocial and homoerotically charged environment than most men otherwise have the opportunity to be in. In that the military guarantees their manhood, men are allowed to experience erotic, sexual, and emotional impulses that they would otherwise have to censor in themselves for fear of being seen (by others or themselves) as homosexual and therefore not real men. They are not only escaping a negative – imputations of homosexuality – but gaining a positive, the ability to be with other men in ways that transcend the limitations on male relationships that most men live under in civilian life. (Peterson 2000, p72)

As noted above, the military is an example of an institution that is renowned for its strong homosociality alongside which there is a need to assert a clear commitment to heterosexuality. The issue of how homosocial relationships between men are sanctioned and enacted is can be explored further through a consideration of the act of gang rape.

2.5.4 Gang Rape

In the introduction to her analysis of the historic use of rape, Susan Brownmiller comments, "...one of the earliest forms of male bonding must have been the gang rape of one woman by a band of marauding men." (1975, p14) Not only does gang rape – as with all rape – provide a means of asserting male power over women (or in the case of male rape, the feminising and thus disempowering of the male victim), it also provides a site for the *demonstration* of male power, for the benefit of other men. In this way gang rape operates both as a means of reinforcing collective (heterosexual) masculine power and also provides a site of competition for men to prove their entitlement to that power. The men become bonded through what Cossins describes as the "promise of male privilege" (2000, p111).

In light of this it is unsurprising that the literature on gang rape evidences its institutionalisation most frequently among groups of men associated with hyper-masculinised, highly patriarchal and homophobic values; the military, American college fraternities, sporting teams and street gangs. Although the relative socio-economic positions of these various groups is highly variable - while fraternities tend to be elite and elitist, street gangs are generally associated with marginalised and disadvantaged men – what binds them are strong homosocial bonds that require the

rejection of not only emotional and affective ties to women but also a complete rejection of homosexuality.

2.5.4.1 Reinforcing 'A Woman's Place'

First of all, gang rape is one of the ultimate means of reinforcing domination over women. As Gayle Rubin demonstrates through reference to ethnographic research on societies in which gang rape has been used by men as a means of disciplining women, "when the ordinary mechanisms of masculine intimidation prove insufficient"(1975, p163). The act of gang rape thus provides a means for putting a woman, 'in her place'.[47]This is supported by Philippe Bourgois in his ethnographic fieldwork on Puerto Rican drug dealers living in East Harlem. Bourgois documents the justification of sexual violence by his study subjects: "They legitimize their sexual violence against young teenage girls, claiming that they are 'teaching them a lesson'." (1996, n.p.)

The men interviewed by Bourgois describe how they view women who choose to stay around them, despite their wild, reckless behaviour as 'fair game'. They distinguish between 'worthy' and 'unworthy' rape victims and explain the use of sexual violence in terms that Bourgois describes as 'patriarchal justice'. Bourgois concludes: "Gang rape is an extension into the public domain of males trying to reassert the anachronistic patriarchal power relations of previous generations that have been undermined by shifts in gender power relations."(1996, n.p.)

This reinforcement of 'the place of women' is not limited to street gangs. In her research on gang rapes committed by American college fraternities, Peggy Reeves Sanday also identifies certain types of women who are considered 'appropriate' victims. These are generally women who fail to conform to the norms of feminine behaviour identified by the fraternity members; women who drink excessively, who act seductively or who consider themselves to be too much like 'one of the boys'

[47] There are of course also examples of gang rapes of men, usually those identified as homosexual. While homosexual rape is not dealt with in this chapter it is argued that much of the analysis could also apply – the relationship between homophobia and misogyny has been discussed by Eve Sedgwick (1985).

(Sanday 1990). Similarly, Chris O'Sullivan citing both his own and various other studies on fraternity gang rapists concludes that one of the ideological elements of gang rape is, "a traditional conceptualization of sex roles and sexuality, under which women are supposed to be sexual gatekeepers who do not enjoy sex, and women who do not conform to these notions are fair game for exploitation (the virgin/whore dichotomy)" (O'Sullivan 1998, p85).

O'Sullivan also argues that gang rapists, as with wife beaters (the other group he studied), "use sex to demean women. They have a preference for sexual activities that the women find painful or humiliating, or that seem so to the men". He describes this as an attitude of 'getting over' sexually on women, which the men view as, "a particularly 'masculine' act of interpersonal dominance" (1998, pp93-94). O'Sullivan's study reveals that gang rapists were able to create a separate category of women whom they considered appropriate as partners and who were not subjected to gang rape or other forms of sexual violence. The proprietal approach to female sexuality and, by extension to female bodies, is reinforced by the act of gang rape, as is the gender order that places men in a position of domination over women.

2.5.4.2 Reinforcing homosocial bonds between men via heterosexual practice

At the same time gang rape also helps to order relations and hierarchies between the men involved. The prevalence of gang rape in institutions known for their emphasis on 'male bonding' (as discussed above: college fraternities and sporting teams, urban street gangs and military or armed groups) becomes understandable when regard is had to these groups' typical attitude to women and gay men. Just as the feminine is devalued among men who assert strong homosocial bond so too homosexuality must be disavowed. Thus the gang rape of a woman can provide an opportunity to strengthen the bonds between the men, through a heterosexual practice (rape) that, as argued above, reinforces male dominance and female subordination.

In one of the most detailed texts dedicated to an analysis of fraternity gang rape, Sanday considers the symbolic significance of the act of gang rape, or 'pulling train' as it is euphemistically known within fraternity subculture in the United States of America. She concludes that the act of the men lining up, penetrating and ejaculating onto the same woman provides an opportunity for the men to demonstrate their masculinity, heterosexuality and loyalty to the group (Sanday 1990). In particular Sanday sees the process of ejaculating onto or in the same woman as a process of strengthening the bond between members of the fraternity (Sanday 1990; see also McCormick 1995, p358).

In her review of Sanday's book, Naomi McCormick draws links between this behaviour and her own research on US servicemen at overseas Rest and Recreation centres (centres where US servicemen are able to take leave from their military service) who perform 'male bonding' exercises through getting drunk and sharing a prostitute (1995, p356). In relation to Sanday's research findings, McCormick concludes:

> The gang bang, along with getting drunk with male buddies, 'beaching', or spying on friends engaged in sex in the fraternity house, seeking multiple casual heterosexual liaisons, and broadcasting all alleged sexual experiences, establishes the men as heterosexual and dominant even though their primary affectionate bonds are with fraternity brothers, not women. (1995, p357)

This conclusion would seem to accord with Gayle Rubin's argument, set out in the previous section, that women often provide a conduit for relationships between men. Similarly, Peter McMillan (1992) argues in relation to pornography that the practice of sharing a woman can be a process that reinforces and strengthens a sense of 'manhood'. The woman is important, to maintain the heterosexuality of the act, but her role is confined to that of an object through which the men establish their relationships between themselves:

> [t] he woman's role in this image is as a medium for our display of potency. It must be a heterosexual act for this to happen; without a woman, neither man would have a totally compliant recipient of his power, and there would be a conflict. With a woman shared between us, we can be intimate with each

other, because we witness and approve each other's manhood. (McMillan 1992, p29)

This 'bearing witness' by the men demonstrates that gang rape is not simply about asserting dominance over women but is also a means of demonstrating the right to male privilege to other men. Returning to Butler's concept of performativity once more, gang rape can be seen as a performative reassertion of the difference between men and women. Moreover, it brings the men together in their shared experience of power. Yet the public performance of an aggressive heterosexual masculinity for the benefit of other men also demonstrates a fragility: the need to constantly 'prove' one is worthy of the privilege derived from dominant heterosexual masculinity. If performativity is a central feature of gender identity then the act of gang rape may be as much about competition between men as a means of creating solidarity against women. After all, it is largely for the benefit of other men that a man must prove his virility. Pierre Bourdieu observes:

> Practices such as certain gang rapes committed by gangs of adolescents – a crude variation on the bourgeois adolescents' group visit to the brothel – aim to place those who are being tested in the position where they can affirm their virility through its capacity for violence in front of the others.[48] (Bourdieu 1998, p77)

As the analyses of '*les tournantes*' in part three of this thesis will show these observations certainly resonate with the French context.

2.6 CONCLUSION

This chapter has attempted to argue that not only is the nation a construct, it is performed. This performance is through the creation and repetition of symbols, rituals, practices and narratives but also through corporeal performance, an aspect that has often been overlooked or under-theorised by scholars of nationalism.

[48] « De pratiques comme certains viols collectifs des bandes d'adolescents – variable declassee de la visite collective au bordel, si présente dans les mémoires d'adolescents bourgeois – ont pour fin de mettre ceux qui sont à l'épreuve en demeure d'affirmer devant les autres leur virilité dans sa verité de violence.»

Through review of the work of feminist scholars on nationalism and literature on nationalism, it becomes clear that gender and sexuality must also be considered when analysing the nation and national identity. Not only do nationalist discourses often draw on gendered and (hetero) sexualised imagery, the performativity of national identity is both closely related to those of gender and sexual identities and inextricably linked with them.

CHAPTER THREE: PUBLIC DISCOURSE IN AUSTRALIA AND FRANCE

3.1 INTRODUCTION

While much of the inter-relationship between gender identity construction and national identity construction seems common across nation states (as the previous chapter demonstrated), the particular forms national discourses take and the symbols employed vary greatly from nation to nation. As a central feature of this thesis is analysing the public discourses on a specific set of gang rapes in two particular nation states (Australia and France), it is important to identify what in fact constitute these public discourses: what are the discursive arenas within which the gang rapes were narrated, discussed or constructed? Why are these particular arenas important? Are they the same in both nations? Through a brief exploration of the historical, social and political contexts that have contributed to the particular constructions of Australian and French national identity specific discourses and discursive forms emerge as more prominent than others in each nation. So too, points of convergence and divergence in the discourses, which dominated each nation's public space become evident.

At the same time, when looking at each of the national contexts the question arises, are *all* discourses within the national public space effectively able to contribute to constructing 'public discourse'? By what process do some discourses emerge as seemingly more legitimate? How do different actors assert their right to structure or contribute to public discourse? And is there in fact *one* public discourse or should there be recognition of many (competing) public discourses? The final section of this chapter will look at the concept of the 'public sphere' and, drawing on Critical Discourse Analysis theory, the relevant discursive sites through which public

discourses on 'the Sydney gang rapes' and *'les tournantes'* were generated and deployed are identified.

3.2 AUSTRALIA – 'THE GOOD WHITE NATION'?

As outlined in chapter two, much of current theory on the nation and nationalism conceives of the nation as a modern construct built on myths of a shared history and common future and tied by the metaphor of family. An analysis of Australian national identity could, in this context, be viewed as providing a useful illustration. The construction of the Australian nation is fraught with ambiguity and contradictions due to its historical status as a settler colony and its more recent emergence as a 'multicultural nation'. This chapter looks particularly at three aspects; the creation and naturalisation of Australia as a 'white nation' with indigenous Australians and migrant groups largely excluded from representation within dominant articulations of Australian national identity. Secondly, the manner in which this Australian identity is built on the affirmation of positive attributes. Finally, as outlined in chapter one, gender and (hetero) sexuality are central features in the construction of the Nation. An examination of the language and imagery employed in Australian nationalist discourses also demonstrates the significance of gender, homosociality and compulsory heterosexuality to the articulation of Australian national identity.

3.2.1 The White Settler Nation

Historically Australia's identity has been conceived of in a variety of ways, which are often in conflict. On the one hand, indigenous identity has been excluded from the construction of the Australian national identity. On the other, 'the immigrant' has been placed in opposition to an 'Australian' core identity. With both indigenous and immigrant groups within Australia cast as the 'Other', it is argued that Australian national identity is built on the notion of the white settler nation. As Ellie Vasta identifies, the dominant national identity has been based on myths of Britishness and of the taming of a 'savage land' (1996, p48). Vasta goes on:

> Since white invasion, Australian national identity has been structured in racist dominance: over indigenous people, through genocide, dispossession and destruction of their cultures; and over migrants, through the White Australia Policy as well as through institutional and interpersonal discrimination against each new group of entrants (de Lepervanche 1975).

Vasta is not alone in making this observation. Much of the literature on Australian national identity and recent immigration policies identifies the significance of the White Australia Policy and the preoccupation throughout Australia's colonial history with preserving Australia as a 'white country'. In their book entitled, *Legacies of White Australia*, Laksiri Jayasuriya et al. (2003) have compiled a wide range of chapters identifying the ongoing impact of Australia's founding racist and colonialist discourses on the national subconscious to the present day. From this it can be see that race - and particularly white dominance - has been central to the construction of Australian identity and colonial ideology is deeply ingrained in many of the founding myths.

Aside from the legal fiction of *terra nullius,* which allowed for Australia to be seen as an uninhabited land denying indigenous peoples any citizenship status until 1967, immigration policies from the time of federation in 1901 were structured around an emphasis on keeping Australia 'white'. The most obvious example of this was the White Australia Policy through which Asian immigration was largely excluded. Further, as Ien Ang has argued, "...while the legal and formal-political structures of the White Australia Policy itself are no longer in place, the mentality it nurtured is still part of the deep structure of Australian culture." (Ang 2003, p52)

Although Brian Galligan and Winsome Roberts in their book *Australian Citizenship* (2004) refute the notion of Australian identity as a construct, arguing that in fact 'being Australian' is something that is lived and experienced by 'ordinary Australians', the individuals they identify as representative of 'ordinary Australians' are telling. So too are the values they describe as 'uniquely Australian': values that rely on mythical connections with the land, identification with values such as

equality, democracy and fraternity[49] which efface the reality of racial and sexual domination while celebrating an essentially positive Australian identity of mateship, hard work and 'fair go'.[50]

3.2.2 The 'Ordinary Australian'

Central to the Australian identity Galligan and Roberts (and others) articulate is the manipulation of the 'past': a feature identified by Immanuel Wallerstein as central to the construction of notions of national identity. Wallerstein argues that the articulation and reiteration of this past is on the one hand highly contingent and subject to constant change. Yet on the other it requires the creation of an impression of permanence (Wallerstein 1991, p78). In the context of Australia these observations are invaluable when interrogating the past that is held up as central to the Australian nation. This past is both associated with the land and at the same time removes completely the connection of indigenous people to the land.[51] Rather it is the image of the 'bush bloke' (Elder 2007) that is privileged and promoted. In referring to David Malouf's definition of Australian-ness based on "that part of our experience as Australians we hold in common" and framed in terms of white colonial settlement (2004, p5), Galligan and Roberts demonstrate the means by which certain experiences are essentialised and the ability of an individual to identify with this experience justifies the extent to which he or she is accepted into the nation

This sleight of hand whereby history is both invoked to privilege Anglo migrants over more recent arrivals and ignored when it serves to validate Indigenous claims to sovereignty creates a sense of a *constant* which is the essence of Australian identity. Yet the vulnerability of this identity remains a source of anxiety: it is recognised as all too easily threatened by greater recognition of competing identities (indigenous or immigrant). As Andrew Jakubowicz et al. point out: "the new myths appear ever more distant from Australia's multicultural and multiracial society as though the

[49] Values that France also claims as central and originating features of the French nation, as the next section of this chapter elaborates.
[50] For a more detailed critique of all of these features of Australian nationalist discourses see Elder (2007).
[51] Aboriginal Australians were seen as occupiers rather than owners of the land: 'terra nullius' was (and is) more than a legal doctrine but a deeply entrenched principle within the national psyche.

bards are not merely unaware of the diversity around them, but urging the suppression of that diversity in favour of a safer and perhaps more monochromatic vision" (1994, p3).

This observation, aside from further highlighting the mythical nature of the Australian national identity and its separation from any sort of reality, also points to another important aspect of Wallerstein's analysis: The relationship between power structures and articulations of the past. It is here that the limitation of Galligan and Roberts' rejection of Benedict Anderson's 'imagined community' in favour of a sense of Australian citizenship based on lived experience is perhaps most clear. They make a reasonable point in their observation that, "[t] he big picture story of Australian nationhood needs to be embellished with the multiple accounts of localised experience of individual Australians" (2004, p5).

However in identifying this they resort to dominant articulations without acknowledging that the accounts presented as representing this 'Australian identity' are about those empowered (or those who feel empowered) to provide this account. The fluidity with which 'ordinary Australian' identity is defined or indeed left undefined seems a perfect demonstration of Balibar's suggestion that:

> ...the racial-cultural identity of 'true nationals' remains invisible, but it can be inferred (and is ensured) *a contrario* by the alleged, quasi-hallucinatory visibility of the 'false nationals': the Jews, 'wogs', immigrants, ''Pakis', natives, Blacks...In other words, it remains constantly in doubt and in danger; the fact that the 'false' is too visible will never guarantee that the 'true' is visible enough. By seeking to circumscribe the common essence of nationals, racism thus inevitably becomes involved in the obsessional quest for a 'core' of authenticity that cannot be found, shrinks the category of nationality and de-stabilizes the historical nation. (Balibar 1991, p60)

For Balibar those who are considered to be the 'truest' nationals are often those who are already an elite by virtue of economic and political inequalities. As Catriona Elder beautifully illustrates, the appropriation of the 'working man' label by former Treasurer Peter Costello to apply to *all* working Australians (thereby removing its class connotations) and its application to millionaire Kerry Packer

(someone otherwise a far cry from the 'battler') suggest that this image of the 'ordinary, every day Australian' is not as innocent as it seems. Elder also demonstrates how the term 'unAustralian' has been deployed to invalidate the perspectives and voices of certain members of the Australian community (2007).

Similarly Jakubowicz et al. in their analysis of the Australian media present an interesting impression of who is permitted to speak for, and/or acknowledged as speaking on behalf of, the 'Australian people' (1994, p33). Elaborating on this idea, Jennifer Rutherford explains, "...the structures and modalities of the codes of reception, ordering and exclusion that dominate public discourse and public practice are framed by white Australian fantasies of nation and national character, and ...other fantasies and imaginaries do not carry the same regulatory weight" (2000, p15). On an individual level, Ghassan Hage describes the figure of the 'white worrier' who not only belongs to the Australian nation but who conceives of the nation as *belonging to her/*him (1998, pp 17-19, pp45-46, p233). Interestingly, Hage and others also demonstrate an internalisation of this concept of white Australia among migrant populations (Hage et al. 2002).

The concept of the 'ordinary Australian' is an important one, as the later chapters analysing the discourses on 'the Sydney gang rapes' will demonstrate. The ability to claim to speak for 'ordinary Australians' has been a powerful rhetorical device in Australian political and media discourses as the success of commentators such as Paul Sheehan, Alan Jones, Miranda Devine, Janet Albrechtsen, as well as members of the former Howard government demonstrate (see also Greenfield and Williams 2001). Catriona Elder argues that this resort to the language of 'mainstream Australia': encompassing the image of the working bloke, the 'battler', the average, working-class Australian (male) provided the platform for the sudden rise to fame of Pauline Hanson's right-wing One Nation Party in the late 1990s (2007, p59). The traditional Left/Right divide has increasingly declined in importance in Australian national discourses and political rhetoric, as has the classical Marxist concept of class divide. In its place, as Elder points out, there has been an increased emphasis on the division between 'mainstream' Australians - defined as battlers, ordinary 'mums and

dads', working hard and 'doing it tough' – and the 'elites' ('bleeding hearts' as Elder identifies, or the derisive reference to the 'Chardonnay sipping intellectuals') who are considered out of touch with the reality of life in Australia.

3.2.3 From White Australia to Multicultural Australia to 'Australian Values'

Nevertheless, the reality of immigration has seen the construction of Australia as a 'white nation' increasingly challenged. As a result, since the late 1970s we have seen the portrayal of Australia as a 'multicultural haven', throwing off (erasing?) its racist past and embracing a more culturally diverse future identity. Certainly its creators spoke of the Australian policy of multiculturalism as a means of recognising the cultural diversity of the Australian population and integrating this diversity into Australian national identity. It was intended as a move away from the White Australia Policy.

However, the extent to which it was intended to challenge hegemonic identity has been hotly debated. Indeed, a persuasive criticism of the policy of multiculturalism is that, despite the impression that it is an embracing of cultural diversity, it is in fact simply a means of managing difference while preferencing a 'core culture' (Stratton 1998; Hage 1998; Gunew 2004). As the explanation of the government policy of multiculturalism on the now defunct Department of Immigration, Multicultural and Indigenous Affairs (DIMIA) website assertively stated: "Multiculturalism does not entail a rejection of Australian values, customs and beliefs" (http://www.immi.gov.au/media/publications/multicultural/agenda/agenda89/abetter.htm).

However, what are these 'Australian values, customs and beliefs'? As set out in the previous section, these have not been associated with indigenous Australian identity (see also Elder 2007, pp118-119). In fact, within the official policy documents on multiculturalism Australian society was split into three groups: Indigenous Australians (who are largely ignored within the rest of the policy document and are seen generally as separate to the issue of multiculturalism), 'Anglo-Celtic' Australians

and Australians of a 'non-English speaking background' (thus containing everyone else as the 'Others'). 'Anglo-Celtic' culture is presented as the base culture that should not be sacrificed: "Our British heritage is extremely important to us. It helps to define us as Australian…It is a potent source of unity and loyalty" (DIMIA 1989). Rather it is simply to be adapted to better accommodate the 'culturally different' ethnic others who also occupy Australian public space.

It is in part for this reason that many critics argue that Australian multiculturalism did not seek to address the racist history on which Australian national identity has been constructed. Instead, it is a means of managing difference which is a reality while reinforcing the primacy of dominant 'Anglo Celtic Australian' identity (Elder 2007; Gunew 2004; Stratton 1998; Hage 1998; Vasta and Castles 1996). As Ellie Vasta points out, multiculturalism can be seen as:

> …simultaneously a discourse of pacification and emancipation; of control and participation; of legitimation of the existing order and of innovation. Multiculturalism is part of a strategy of domination over minorities by the majority but also points beyond this, to the possibility of new forms of social and cultural relations. (Vasta 1996, p48)

Whilst Vasta sees multiculturalism as a discourse as holding great potential, the reality of the Australian policy of multiculturalism has been that it has normalised a hierarchy of cultures which has allowed Australian national identity to simultaneously embrace immigration as a central feature whilst privileging certain immigrant groups over others. This has been done in a number of ways.

3.2.4 The language of 'tolerance' and 'commitment'

An important means of creating a hierarchy of cultures has been through the terminology of 'tolerance' and 'commitment'. As Stephen Castles comments, "[t] he very idea of tolerance for minority cultures implies a belief in the superiority of the dominant one…" In this way Castles argues that multiculturalism can be seen as, "a new and more sophisticated form of racism, in the way it legitimates the power of the dominant group to proclaim and manage hierarchies of acceptable and unacceptable difference" (Castles 1996, p29). Building on this idea, Ghassan Hage (1998) has also

suggested that close examination of the politics of Australian multiculturalism reveals a fantasy of Australia as a 'white nation'.

Hage argues that the ability of white Australians to tolerate and accept non-white residents in Australia (or not to do so) is a fantasy, which forms the basis for both white racist and white multiculturalist discourses in Australia. Thus, he states: "If 'racist violence' is better understood as a nationalist practice of exclusion, 'tolerance', in much the same way, can be understood as a nationalist practice of inclusion. Both, however, are practices confirming an image of the white Australian as a manager of national space" (1998, pp90-91). Meanwhile, the demonstration of an "overriding and unifying commitment to Australia, to its interests and future first and foremost" as required by Australian multicultural policy documents, is only questioned in certain circumstances. As Hage demonstrates, the ability of the 'Anglo-Celtic' Australian to make this commitment is not, in practice, questioned (Hage 1998, p102).

3.2.5 'Culture' as the New Race and The Myth of 'Choice'

Whilst, as argued above, race has been a central feature in the construction of the Australian nation, 'race' is a concept that has been excluded from discourses on multiculturalism in Australia, with 'ethnicity' the preferred terminology (Stratton 1998, p11; Gunew 2004, p20). Yet the actual difference between these terms, as raised in the introduction to this thesis is debatable. Essentially ethnicity was intended to provide a possibility for self-identification for individuals and free them from the biological determinism of definitions of race (which, post WWII were also tainted by their association with eugenics and genocide).

Yet the identification of people of 'Middle-Eastern appearance' in Australian public discourses suggests this possibility for self-identification is limited. Herein the false distinction between race, ethnicity and culture becomes evident: the reference to 'appearance' demonstrates that while the dominant 'mainstream' is able to create its own ethnic and cultural identity (moving from narrowly 'Anglo-Saxon', to 'Anglo-Celtic' to 'European'), minorities will still be identified according to somatic markers

of difference, which no amount of acculturation can eradicate. For this reason Jon Stratton rejects the myth of multiculturalism eradicating race from Australian public discourses (1998, p9). Rather, where in the past biological reasons were given for notions of racial superiority, the politics of multiculturalism have reframed discourses to concentrate on the comparative moral value of cultures. Paradoxically, the very reason why 'ethnicity' and 'culture' were proposed as more appropriate alternatives to discussions of 'race' – the assertion of individual choice - has been appropriated in a way which legitimises certain hierarchies of power.

One of the central myths around 'culture' is that of 'choice': the idea that an individual is able to choose which aspects of a culture they embrace and therefore has greater control than was allowed under the biologically determinant concept of race. In noting this, it is interesting to see how 'Australian culture' is built on those aspects of 'British/Irish/European/Judeo-Christian/Western' culture that are considered appropriate but then adapted to Australia. In his 2001 Australia Day address John Howard exemplified this:

> Late last year, I spoke of values I felt were uniquely part of the Australian character – a desire for self reliance, the willingness to have a go, the capacity to pull together both in good times and in adversity and finally an ethic which demands from each of us and for each of us the giving and receiving of a fair go.
>
> These values developed out of necessity, sometimes bitter experience and the great genius Australians seem to possess in selecting the best from our heritage and other countries, yet rejecting other things unsuited to our needs or character. For instance, we embraced many things from the British including those great principles of the rule of law and parliamentary democracy which are the very basis of our civil society yet rejected European notions of class-consciousness.
>
> In refining our own values, we have likewise selected the best from our past and moved boldly away from attitudes or practices we now feel are unworkable or unjust. (Howard 2001)

Once again, there is a reference to values that are 'uniquely Australian', suggesting that somehow such values could not be found in any other nation. However more importantly, the idea of 'choice' is used to reaffirm the positive

conception of Australian identity; that Australians have chosen only the good and rejected the bad is unquestioned. At the same time, when someone perceived to be of another cultural background commits an act, the link back to a negative aspect of culture will never be the Australian culture. As Scott Poynting et al. have documented in detail, the identification of young men of Lebanese origin as problematic to the Australian community has been a process that has developed since the late 1990s to the point that it is now accepted as a 'given' within Australian popular discourse that the Lebanese community is disproportionately associated with violence and crime. References to the war in Lebanon and Beirut are frequently used when talking about criminality among young Australian citizens/residents of Lebanese origin, despite the fact that many of them are too young to have been associated in any way with the conflict and many have never lived in Lebanon (Poynting et al. 2004; Collins et al. 2000).

In this way, the ability to 'choose the best' in the formation of 'mainstream' Australian culture is to be contrasted with the limited capacity for choice for those from other cultural backgrounds, as will be discussed in Part Two of this thesis in the context of 'the Sydney gang rapes'. Simultaneously, racist discourses are justified by arguments that it is the fault of those who are subject to this racism as they have chosen not to reject the negative aspects of their culture.

While multiculturalism has always provided a source for debate and concern within Australian public space, this debate significantly intensified in the late 1990s and early 2000s through the increased legitimacy given to its critics by the Howard government. There was a marked shift away from the language of cultural diversity towards a reinforcement of 'Australian values' and ultimately the removal of multiculturalism as a policy altogether. A large part of the justification for this came out of events such as 'the Sydney gang rapes', which (as will be demonstrated later in this thesis) were used to evidence the apparent risks associated with tolerating certain groups. The debate around the detrimental aspects of multiculturalism and its relationship to Australian national identity highlights another central feature of the construction of the Australian nation: the unquestioned *positive*. Thus Australia

is not only constructed as a 'white nation' but a 'good white nation'. This goodness is considered vital and all attempts to question it are accused of presenting a 'black armband history' (Blainey 1993). This fantasy of goodness forms the basis for what Rutherford sees as the pervasive nature of dominant white Australian discourses of nationhood and identity.

3.2.6 The 'Nasty Migrant' and the Fantasy of 'Goodness'

In his review of Australian immigration history, political scientist James Jupp remarks, "…one of the stranger features if Australian immigration policy: the consistent denial by officials of something which everyone knows to be true – from 'There is no racial discrimination' to 'Detention centres are not prisons'." (Jupp 1991, p8) In fact, this does not seem so strange when considered in the context of Australia as the fantasy of the good nation. A review of former prime minister, John Howard's speeches demonstrates an almost sacred conception of national identity with all negative or ignoble past events evacuated to the peripheries.

Returning to Rutherford's examination of the One Nation phenomenon, while on the one hand she characterises One Nation supporters as 'defenders of a lost good' (Rutherford 2000, p7), caught in a fantasy of 'defending a beleaguered moral universe' (Rutherford 2000, p9), she also demonstrates that critical responses to One Nation have also drawn on the language of 'neighbourliness' and 'fair go' as (uniquely) Australian values which are compromised by One Nation's aggressive racism. This analysis leads Rutherford to conclude:

> While the aggression of [One Nation members' discourses, particularly in relation to racism and indigenous history] has been identified and analysed in the public domain, what has escaped identification and analysis is the linchpin of this aggression: belief in and defence of the good nation…identification with and defence of the moral code of the good Australian provides a screen through which [the One Nation member] is able to perceive both himself and his nation as quintessentially good…What remains invisible, and yet essential, in the shared discourse of One Nation and its critics is this belief in the good nation (Rutherford 2000, p9).

In this way, Rutherford sees the moral discourse of One Nation as a starting point for considering what she considers a national fantasy, existing across the political spectrum. While One Nation's discourses remain relatively easy to disassemble, Rutherford's interrogation of other discourses across white Australia's history reveals a startling continuity in which, "the good, as camouflage, as point of identification, as authorisation, provides a fantasmatic frame for the enactment and consolidation of white Australian culture at the singular and collective level" (Rutherford 2000, p10).

At the same time, accepting Homi Bhabha's characterisation of the nation as fraught with ambivalence (see chapter two) the need for an antithesis against which the 'goodness' of the Australian nation and its values can be measured and restated cannot be ignored. As Hage (1996) demonstrates in the context of Lebanon, the need for an 'other' against which identity can be constructed is a feature of many nationalist discourses. It is here that the concept of the 'nasty migrant' becomes helpful.

The term 'nasty migrant' draws on an idea of Hage's in his book, *Against Paranoid Nationalism*. In a small section entitled, "nasty things migrants do" Hage asks, "are there such things as nasty migrants?" (2003, p115). In answering this question in the affirmative, Hage explains how a distinction can and should be drawn between racisms to avoid resorting to the 'competitive racisms' discourse he critiques within Australian public discourses. Hage concludes that the difference lies in the institutional power, which gives some racisms greater credibility and the capacity to be activated (Hage 2003, pp116-118). Elder further clarifies: "racism is not about the moral superiority of one group over another, but rather the political power of one group over the other" (Elder 2007, p117). The significance of Hage's and Elder's argument will become clearer in the second part of this thesis when analysing the various discourses deployed on 'the Sydney gang rapes': an essential factor in right-wing critiques of multiculturalism and the specific context of 'the Sydney gang rapes' was the re-casting of white 'mainstream Australia' as the primary victims of racism.

However in discussing the 'nasty migrant' Hage makes another pertinent observation: "when evil is at work, its opposite is always good" (Hage 2003, p116). While Hage was talking about the need to characterise victims of racism as 'good' by virtue of their victim status, this principle could equally be seen to apply in reverse. As 'the Sydney gang rapes' demonstrate, the association of negative values with this 'nasty migrant' has provided an opportunity to not only distance Australia from these values but also to exemplify why hegemonic constructions of the 'true Australian culture' should be reinforced. By claiming moral superiority, the fragility of the monopoly on articulating Australian identity held by dominant groups within the Australian public sphere is to some extent remedied.

By way of example, in a speech in 2004 Peter Costello stressed the importance of Christianity to Australia:

> If the Arab traders that brought Islam to Indonesia had brought Islam to Australia and settled, or spread their faith, amongst the indigenous population our country today would be vastly different. Our laws, our institutions, our economy would all be vastly different.
>
> But that did not happen. Our society was founded by British colonists. And the single most decisive feature that determined the way it developed was the Judeo-Christian-Western tradition.
>
> As a society, we are who we are, because of that heritage (Costello 2004)

While clearly seeking to assert the primacy of Christian values in Australia on the basis of history,[52] it seems this reassertion of the dominance of Christian values in Australia is not sufficient in itself. Instead politicians such as Costello and Howard sought repeatedly to distinguish the 'Christian tradition' of equality from the 'Muslim tradition' of (gender) inequality (Grewal 2007; Ho 2006).

An excellent opportunity for this presented itself in October 2006. It was reported that the Mufti of Lakemba Mosque (predominantly attended by Sydney's

[52] Interestingly, in claiming a "Judeo-Christian-Western tradition", Costello removes the natural link of Islam with the other two monotheistic, religions 'of the Book'. Indigenous Australians and their spiritual practices are not even acknowledged.

Lebanese/Middle-Eastern Muslim population) in Sydney's southwest, Sheik el Hilaly had given a sermon likening scantily clad women to raw meat left out for cats (Kerbaj 2006). In his response to Sheik el Hilaly's comments, Costello explicitly contrasted 'good' Christian values with Islam's misogyny: In an interview on the popular *Sunrise* morning television programme on Channel 7, in response to a comment by one of the presenters, David Koch that "if George Pell[53] or Peter Jensen[54] said this they would be railroaded out of town, quite rightly", the Treasurer stated, "well they wouldn't say it, that's the point, because they don't have that view of women…" (Costello 2006). In this way, Costello managed to both directly link sexism with Islam and disassociate it completely from Christianity and - following on from his comments quoted above about the importance of Christianity to Australia - Australia. The fantasy of the 'Good White Nation' was thus reinforced and perpetuated.

Similarly, in condemning the Sheik's comments Prime Minister John Howard stated: "They are appalling and reprehensible comments…They are quite out of touch with contemporary values in Australia…The idea that women are to blame for rapes is preposterous." ("Cleric's comments condemned" *Sun Herald*, 26 October 2006) This statement is in fact remarkable in light of the prevalence of literature documenting the ongoing acceptance of rape myths across many sectors of Australian society (discussed in chapter two; see also Elder 2007; Willis 2006). Perhaps even more remarkable was the response of then Federal Sex Discrimination Commissioner, Pru Goward who similarly failed to take the opportunity to address broader concerns regarding social tolerance of sexual violence but responded by calling for the Sheik to be deported ("Deport rape comment cleric, says Goward" *The Age*, 26 October 2006).

By situating problems such as sexism, misogyny and racism as features of 'immigrant cultures', they are situated *outside* of Australia. This allows for the perpetuation of the fantasy of the good nation, while reinforcing hierarchies between different ethnicities, cultures and religions within Australia on the basis of not simply

[53] Cardinal of the Catholic Archdiocese of Sydney.
[54] Anglican Archbishop of Sydney.

dominance but asserted *moral superiority*. The nasty migrant provides the antidote to what Rutherford identifies as:

> ...a critical confusion between the desired state – Australia, the multicultural and feminist utopia – and the social and political reality. Different laws, different voices, different fantasies do not have equal regulatory power in Australia, and the fantasy that they do only serves to perpetuate this fact. It does so in a way that is endemic to white Australia, via a fantasy of Australia as the site of a privileged and realised good. (Rutherford 2000, p15).

At the same time, what has not yet been discussed is the specific gender discourses generated and deployed. The emphasis placed on the 'position of women' in Australia by leaders such as Howard and Costello is noteworthy when contextualised by reference to the historical place ascribed to women and the gendered and sexualised dimensions of Australian nationalist discourses.

3.2.7 "This sun-burned, muscular continent"[55]

As detailed in chapter two, the construction of the nation is intrinsically tied to (hetero)normative gender identity. Nationalist discourses rely heavily on gendered language and imagery with men as the active citizens whose duty it is to protect the nation through the protection of women and children and women as the embodiments and biological reproducers of the nation (hence the significance of rape within nationalist and particularly militarist nationalist discourses). Australian nationalist discourses are no exception. The fear of the 'Other' man who threatens white Australia through the sexual threat to white Australian women has been well documented. As Catriona Elder documents, in the past cartoons in magazines such as *Boomerang* and *Bulletin* have depicted the threat of Chinese men, "who desire white Australia and white women and who plan to take over both" (Elder 2003, p225). She explains this by referring back to federation as a process designed to protect white society with the preservation of white motherhood.

[55] W.E.H. Stanner cited in White 1981, p161.

In exploring what she describes as Australia's ambivalent relationship with the 'Other', particularly in relation to the crossing of borders, Elder documents Australian nationalist discourses that employ highly sexualised, racialised and gendered language. From representations of the threat posed by Chinese immigration through the sexual threat of the Chinese man to the white woman to more recent representations of asylum seekers, Elder identifies a, "heteronormative fantasy of border crossings" (2002, p227). In quoting from 1901 Federal Parliamentary debates. Elder concludes that the ambivalent feelings of desire and repulsion for the 'Other' (marginalised or excluded) present within the Australian national imaginary are, "often represented in and through images of inter racial sexual relations. The notion of a white body and a non-white body together is both erotically charged, and represents an assimilative imperative…but also marks a boundary that is not to be crossed" (2002, p227).

At the same time, the threat posed is itself gendered: "male bodies that exist as potential threats to our 'sisters' are more dangerous than female bodies are for our 'brothers'" (Elder 2002, p227). In light of the arguments made in chapter two regarding the centrality of heteronormativity to constructions of gender and nation, this is unsurprising and Elder makes this point: "In discourses that depend on an (often) undeclared heteronormativity these bodies are represented in terms of a heterosexual imperative and an understanding of men's bodies as threatening and women's bodies as vulnerable." (2002, p232) She goes on to relate this specifically to the context of Australian discourses: "One of the key tropes deployed to represent the danger or border crossing is the image of the white woman. The white woman is represented both as that which must be most carefully protected but also as the weak point in the maintenance of white Australia." (2002, p232) Here we see yet another example of the gendered nature of nationalist discourses (as set out in chapter two) in which women are presented as the passive and vulnerable embodiments of a nation who require male protection and policing.

As explored later in this thesis, the current threat to Australia (through the threat to the bodies of 'Australian women') is presented as being from the 'Muslim' -

and particularly the 'Lebanese Muslim' - man. However it is interesting to note, as Trevor Batrouney documents, that at turn of century, Lebanese were considered suitable immigrants and settlers to the new Australia (in comparison with Asians) with one of the reasons given by the Secretary for the Department of External Affairs, Attlee Hunt being, "the high number of female immigrants, with only 62 per cent of the total in 1901 being male, meant that they could not be considered a threat to the safety of Australian women or racial purity" (Batrouney 2002, p43).

At the same time, it is not simply in terms of representing the fragility of Australian national borders through the bodies of Australian women that the imagery of the Australian nation can be seen as gendered and sexualised. The pre-eminence given to the 'digger', the bushman, the lifesaver and the 'larrikin' as representatives of the Australian demonstrates a highly masculinized imaginary (for further discussion see Elder 2007). In interrogating the place given to beer and "the Ocker" in Australian national myths, Dianne Kirkby concludes; "Australian popular culture – its language and activities – is mostly derived from male spheres of activity." (2003, p253; see also Elder 2007) Kirkby also cites a lecture by Sol Encel entitled "A Changing Australia" on ABC radio in 1971 where he described mateship as, "a notion severely restricted in its coverage. It does not apply to Aborigines, to non-European immigrants or to women" (Kirkby 2003, p248).

3.2.8 The Value of 'Mateship'

Aside from the exclusionary, sexist nature of many of Australia's national myths, another notable feature of these myths is the interactions between men. While women are frequently occluded from the national icons and myths, relationships between men are highlighted and celebrated: the classic examples being the ongoing significance of the ANZAC story and the national affirmation of the principle of 'mateship'. As a result, scholars have increasingly called for attention to be paid not just to the relations between genders, which are normalised and idealised in national myths but also the relations *between men*. Many have argued that Australian national myths and discourses on identity demonstrate both an intense homosociality and an intense anxiety regarding homosexuality (Elder 2007;

Rutherford 2000; Lucas 1996; Lake 1992). To overcome this, women are retained as symbols (of the land, of the nation, of sexual desire) but the relationships re-enacted, celebrated and revered are predominantly those between the only active agents: men. Thus we can see that the Australian nation is performed through gender identities based on hierarchies between men and women and interactions *between men*.

This does not, however, mean that all men are considered of equal value to the national space. As noted above, while relationships between men are given pre-eminence their sexuality is necessarily heterosexual. Added to this, through the central position given to sporting icons and war heroes in national mythology male violence and physicality emerge as positively sanctioned traits. Thus the ideal 'Australian' presented, celebrated and promoted in dominant nationalist discourses is the physical, 'outdoors' man: aggressive and virile who has sex with women but whose bonds of affection are primarily with men. As the examples of responses to 'the Sydney gang rapes' and to allegations of sexual violence committed by Australian sporting stars discussed in part two of this thesis will demonstrate, this feature of Australian national identity is important to keep in mind.

3.2.9 Conclusion

As part two of this thesis demonstrates the utilisation of women's bodies as symbolic boundary markers and the heavy emphasis placed on relationships between men in the Australian national space - although not unique to Australia - emerged as important features within various discourses on 'the Sydney gang rapes'. So too, a historical perspective on race and national identity in Australia is necessary to understand the open problematisation of race/culture. As will be demonstrated, this was in stark contrast to the French context where race could only be introduced to discussion of *'les tournantes'* indirectly. The next section will explore how French constructions of national identity both differ from the Australian context and provide some insight into why the discourses in the two nations were constructed differently.

3.3 FRANCE

While race has always played an important part in Australian national identity, in France explicit reference to race has been excluded from discourses on the nation. This has largely been due to the fact that France has constructed a national identity based heavily on humanist universalism. As *le pays des lumières* - the first modern nation-state (Brubaker 1992, p35) - France has long prided itself on being an 'old and static nation'.

3.3.1 The 'Old and Static' Nation

Due to the relatively early establishment of the French state compared with other parts of Europe,[56] the founding myths on which French national identity has been built have pre-dated the major waves of immigration (Hargreaves 1995, pp4-5), and are particularly tied up with an identification of the 'Republican values' of the 1789 Revolution as providing the core of the French nation. As a result, while France has a relatively long history as a receiving country (compared to other European nations such as Italy, which have only recently experienced the transition from being countries of emigration to being countries of immigration), immigration has generally been excluded from France's national mythology (Hargreaves 1995, Wihtol de Wenden 1991, Noiriel 2004). The role of migrants has traditionally been seen only in terms of fulfilling economic needs, in part due to low birth rates in France compared to other European nations (Odmalm 2005, p19) and a shortage of local manpower. These immigrant workers were not seen to form part of the nation and were expected to ultimately return home, (Le Cour Grandmaison 1993, p81); an expectation the immigrant workers often shared (Blatt 1997, p42).

At the same time, through his account of French citizenship and concepts of nationhood, Rogers Brubaker (1992) documents that France's *jus soli* approach to citizenship has also traditionally meant that children of immigrants born on French

[56] Brubaker in fact suggests France can be considered the first modern nation-state (1992, p35).

soil were automatically considered citizens.[57] It was assumed that, through a process of social and cultural assimilation, French citizens could be 'created': a logic that has been prevalent since the early days of the French state and certainly since the Third Republic. As Eugen Weber (1976) details in his seminal text, *Peasants to Frenchman: the Modernization of Rural France, 1870-1914*, the process of assimilation was not reserved for immigrants but used firstly to incorporate regional and peripheral communities within the French metropole into a unified conception of nationhood. Similarly, the colonial rhetoric of '*la mission civilisatrice*' (the 'civilising mission' – discussed further below) also implied that, while French civilisation was superior and therefore justified in asserting itself upon its colonies, these colonised peoples were capable of 'being civilised' (Conklin 1997). Following the same logic, it was assumed that this would also be effective with the incorporation of immigrant groups into the metropole.

As a result, the issue of ethnic relations is one that has largely been ignored by French academia (Rinaudo 1999, p7). There has been a general disdain for 'multiculturalism', which is seen as an Anglo-Saxon import inappropriate to the French context. Instead, great pride is taken in mythologised Republican universalist ideals and, moving from the language of assimilation to the more palatable policy of integration, the prevailing view has been that, "In France, once you're French, you're French and that's it" (Orlando 2003, p398). And certainly, as Brubaker elaborates, in the early days following the Revolution, the first Republic *was* surprisingly cosmopolitan. Even as nationalist, xenophobic discourses began to emerge, the distinction made between foreigners and citizens was not clear-cut:

> As a political epithet, to be sure, "*étranger*" could be used against nationals as well as legal foreigners. Throughout the Revolutionary period, political and legal definitions of *l'étranger* were not sharply distinguished. This fusion - or confusion - is epitomized by Tallien's remark: "the only foreigners in France are bad citizens." This could work to the benefit of legal foreigners. Even at the height of xenophobic nationalism, certain foreigners were exempted from the repressive antiforeigner measures. As Thibaudeau put it, "the working man can be a foreigner in no country; he is naturalized by his work." Conversely,

[57] This is in contrast to the *jus sanguinis* principle of citizenship traditionally preferred by Germany whereby 'German blood' dictated belonging to the nation.

> certain “bad citizens” could be redefined as foreigners, as nonbelongers. “It is characteristic of a revolution,” notes Vida Azimi, “to make things foreign to it, even ‘nationals’ [*de rendre étranger à elle, même des nationaux*].” This logic of exclusion - what Pierre Nora calls “this heavy complex built around the notion of ‘the foreigner’” - dates from 1789, from Sieyès’ definitional exclusion of the privileged orders from the nation, not from 1793. The invention of the nation-state and a national citizenry gave new weight to the political and to the legal concept of *étranger*. And precisely because the two were not consistently distinguished, *étrangers* in the legal sense could be lumped with *étrangers* in the political sense, foreigners with émigrés, refractory priests, rebels, aristocrats, and other political enemies. (Brubaker 1992, p 47).

Balibar also notes the short but significant period of time between which concepts of citizenship and nationality were not seen as synonymous. While this did not last, it did provide the basis on which the *Beur* movement of the early 1980s called for a shift away from citizenship based upon the effacement of all difference to a recognition of equal citizenship regardless of difference (Balibar 1991, p82). Unfortunately, it is through the cooption of this language of ‘*droit à la différence*’ that extreme Right organizations have cemented a ‘clash of civilisations’ discourse within the French public sphere, which seeks to assert the fundamental incompatibility of ‘French’/‘European’[58] culture with other, specifically ‘Muslim’/‘Arab’ cultural traditions.[59]

That is not to say that waves of immigrants prior to recent times did not face difficulties and resentment. While in current discourses it is often argued that the Maghrébin/Muslim immigrants are particularly problematic as they are incapable of integrating (compared with other European immigrants), versions of this discourse have followed the influx of each migrant community into France. Michel-Louis Rouquette (1997), in his book, *La chasse à l'immigré: Violence, mémoire et représentations*, describes events in the late 19th century in Aigues-Mortes, a town in the south of France, which led to rioting and the murder by a mob of approximately 50 Italian immigrant workers, due to the perceived threat they posed

[58] The terms are used interchangeably at different times depending on the interest being promoted as it is worth remembering many of these extreme Right groups also oppose a greater Europe on the basis of protecting French nationalism.
[59] An excellent example of this can be found in public discourses on the issue of Turkey’s possible accession to the EU.

to the local French community (see also Guillaumin 1991, p8).

Furthermore, in the inter-war years anti-immigration discourses focussed on the 'unintegratability' of Italians into France due to their Catholic beliefs (Wihtol de Wenden 1991, p99) and criticism was levelled by many politicians in the 1930s of the Polish immigrant population in France for their failure to integrate and religious practices which were seen as incompatible with the French Christian tradition (Noiriel 2002, p53). So too, the late 1930s saw antagonism grow for refugees fleeing Hitler's Germany and Franco's Spain (Conklin 1999, p65). Indeed, Colette Guillaumin argues that the apparent 'problem of integration' of immigrants is far from new. Just as the history of mass migration has been all but forgotten by official French nationalist discourses, so too has the violence, stereotyping, discrimination and local resistance experienced by each new wave of immigrants (Guillaumin 1991, p8). This has been true for European and non-European immigrants alike.

3.3.2 Republican Universalism and the Legacy of Colonialism

However, the true ability of French universalism and integrationist notions of citizenship to accommodate those of immigrant origin has been most obviously tested following post-war immigration waves from outside of Europe and particularly from former colonies. While not all immigrants to France fall into this category, Christian Jelen observes, "[i]n France, the 'real' immigrants are not so much the Africans, the Turks, the Vietnamese or the Sri Lankans as the Maghrébins" [60](Jelen 1991, p9 ; see also House 1996, p220). Essentially when immigrants are presented as a social problem threatening France, they usually take the form of the Maghrébin and in turn 'Arab'/ 'Muslim', despite the reality of far more complicated identities (House 1996, p220).

More specifically - as both the largest non-European immigrant community and those with the most violent recent history of decolonisation (the reverberations

[60]« [e]n France, les 'vrais' immigrés, ce sont moins les Africains, les Turcs, les Vietnamiens ou…les Srilankais que les Maghrébins.»

of which are still felt in French society) - the Algerians have generally been identified as the most problematic to France (Hargreaves 1995, pp152-159; Stora 2002, 1999; Derderian 2002; Howell 2008). For this reason, a number of scholars have argued that it is only through confronting its colonial legacy and history can France come to terms with its new ethnically diverse population (Dubois 2000; Amselle 1996; Conklin 1998; Howell 2008; Stora 2005; Derderian 2002).

In particular, they call for greater interrogation of the notion of universalism and how this can be reconciled with the French colonial enterprise. According to Dubois (2000), French universalism was in fact, in many very significant ways, a product of the emancipation struggle of slaves in the French Caribbean. He points out that in the early days of the First Republic, officials in the metropole found themselves allied with the non-white Caribbean populations, including the slave insurgents and it was through the latter's assertion of Republican anti-racist egalitarianism that a universalist approach to the relationship between the French metropole and its colonies came about:

> Out of alliances between slave insurgents and Republican officials in the Antilles, a new colonial order emerged, one in which the principles of universalism were put into effect through regimes that applied the same constitution in the metropole and the colony. The actions of slave insurgents, therefore, brought about the institutionalization of the idea that the rights of citizens were universally applicable to all people within the nation, regardless of race. (Dubois 2000, p22).

However, it soon became necessary to reconceptualize this notion of universalism to allow for both the exploitation of colonial labour and the subsequent colonial expansion. As a result, Republican egalitarianism and universalism was reinterpreted to create what Dubois refers to as 'Republican racism' which justified new forms of exclusion.

The 'blindspots' of Republican universalism and egalitarianism, as Alice Conklin (1997) identifies them, have consistently been pointed out through decolonisation struggles and more recently in the 1980s anti-racist and *Beur* movement. All of these movements have drawn on the assertion of France as the home of universal human

rights and formulated their demands in the language of 'Republican values'. However, when the very foundation of these values is contextualised the paradoxical nature of French Republican ideals becomes evident. French republican universalism is juxtaposed with its adherence to the colonial project:

> [t] he ideology of colonial domination was built on the alleged inferiority of non-Europeans. The widespread view that colonized peoples differed from the French to a far greater degree than Europeans helped to underpin the colonial system, and was reinforced by it in turn. (Hargreaves 1995, pp153-154)

Catherine Raissiguier also argues that while there has been a tendency to see the ethnicisation and exclusion of migrants as a new and uncharacteristic feature of French discourses on nationality and citizenship, these processes "far from being anomalies within the French republican tradition...are in fact *constitutive* of that tradition" (Raissigieur 1999, p436, emphasis in original). She cites various influential scholars in this area, including Patrick Weil (1991), Richard Brubaker (1992, 1993), Gérard Noiriel (1994) and Alec Hargreaves (1995), all of whom support her conclusion that, "the republican tradition is filled with contradictions that have shaped France's relationships with foreigners and colonial subjects and delineated the contours of its politics of immigration" (Raissiguier 1999, p442). This has led some sections of French society in recent times to instead reject the language of French Republicanism completely as too flawed by its historic association with colonialism/imperialism and institutionalised racism.[61]

3.3.3 "On ne naît pas Français, on le devient": The Myth of Integration

As Raissiguier (1999) sets out, at the same time as Republican universalism has been challenged and discredited, so too the reality of France's commitment to its policy of integration leading to full citizenship has been called into question. Based largely upon somatic difference, France remains split between '*les Français de souche*' ('native French') and '*les étrangers*' ('foreigners' or 'outsiders'), a term used to include people born in France (and often French citizens themselves) but of

[61] For a discussion of current social movements in France that are attempting to address this issue, see Grewal (forthcoming) on le *Mouvement des Indigènes de la République*.

immigrant origin and French citizens from the DOM-TOM.[62] This use of the term '*étranger*' to describe even French citizens demonstrates an underlying belief that certain residents will always be considered 'outsiders' within French society. Having regard to Brubaker's discussion of the historical use of the term (above) there is also an implication that they can never be seen as 'good citizens'.

So why is there this divergence between the rhetoric and the reality of integration? The most oft-cited reasons for France's failure to integrate its immigrant communities, particularly those from the Mahgreb are the new immigrants' apparent reluctance or even incapacity to integrate due to the incompatibility of their cultures and religion (Islam) with democratic Republican principles. The examples of Islam's opposition to secularism and the negative treatment of women versus Republican egalitarianism are often used to illustrate this basic incompatibility.

This belief in the unwillingness of certain immigrant communities to be integrated is in stark contrast to the findings of sociological research. Various scholars - both within and outside of France - have documented a high level of cultural integration among second and third generation immigrants in France, particularly those of North African origin. They have found that Muslim immigrant communities in France predominantly speak French, are open to inter-marriage, adhere to French cultural values and norms and have birth rates that increasingly mirror white French birth rates (Tribalat et al. 1996; Tribalat 1995; Laurence and Vaisse 2006).

However, it is in terms of social and economic mobility that immigrant communities have had limited success: "If [open policies towards naturalisation] and other aspects of general integration can be seen as tendency toward the goal of 'integration' or acculturation, housing policy seems to totally run counter to this goal. It clearly leads to a marked pattern of segregation." (Heckmann 1999, p11) As the *Beur* movement of the 1980s and subsequent pushes in the area of anti-

[62] French overseas territories: predominantly the French Caribbean (Guadeloupe, Martinique) and Polynesia (Tahiti, New Caledonia, Vanuatu).

discrimination have demonstrated, it is not through active attempts to maintain other cultural or national affiliations that, particularly second and third generation immigrants remain outside French society. Rather, the problem has been the wide-scale social and economic exclusion and stigmatisation of residents of the *banlieue*, particularly (although not exclusively) those of immigrant origin.

While the housing projects of the *banlieue* were initially intended to provide low cost housing which could be used as a springboard for the working classes during a time of great economic growth, the economic downturn in the 1970s and increased unemployment established the *cités* as a permanent reality for their residents. This coincided with the settlement of first or second generation immigrants in these areas, following the dismantling of the *bidonvilles* (shanty towns) and transit centres initially set up for migrant workers who were ultimately expected to return home. As Jocelyne Césari writes, "...immigrant families gained access to government-sponsored housing at the very moment when it became no longer a symbol of progress, but instead a trap for working-class families who did not have the financial means to leave" (2006, n.p.).

Dubois also notes that with the decline of territorial borders to police in the context of Europe, France has instead constructed and policed borders within its national territory. In particular he refers to the increased policing of the *RER*, the major form of transportation for *banlieue* residents into Paris further reinforcing their exteriority and the undesirability of them leaving this site of exclusion. Thus, due to the combined reality of racism against non-European immigrants in France and the stigma associated with the *banlieue*, the opportunities to leave have steadily decreased, creating permanent sites of marginalisation for immigrant communities (2000, p17).

This would appear to lend weight to John Crowley's (2005) argument that, in direct contradiction to popular belief, anti-immigration and racist discourses emerge in response to the integration of immigrant communities rather than their failure to integrate. Crowley argues that it is not the *presence* of immigrants but rather their

place that is the source of insecurity, which fuels these discourses. Similarly Balibar comments:

> I have always thought it extremely paradoxical to speak of the need to 'integrate' people who have been an integral part of the social structure of our country for one, two or even three generations. The question is how to confront or minimize particular conflicts but not how to integrate those who are already inside social structures (1991, p82).

In the French context, while active recruitment of labour from the colonies began in 1916 and particularly following World War II, large numbers of immigrants from France's North African colonies were brought over as manual labour to assist with the extensive post-war re-construction, these migrants were seen as a temporary solution to a labour shortage. In contrast to active attempts to attract European family immigration to boost French demographic recovery, the colonial migrant workers were actively discouraged from bringing their families, through the provision of hostel-type accommodation. It was largely expected that the migrant workers would ultimately return home, similar to the German experience with the *gastarbeiter*, or 'guest workers' and far from attempts being made to integrate them into French society, they were kept external, in a similar manner to during colonial times albeit this time within the metropole.

However, despite various attempts from the 1960s on to ensure this continued externalisation through attempted bans on family reunification (which was deemed unlawful by the *Conseil d'Etat*, the highest administrative court in 1974), a policy of repatriation introduced in 1977 and the declaration of an "end to immigration" in the 1980s, these migrant workers have become a permanent part of the French population. Their geographical and social exclusion was possible while they remained simply a manual labour force, with limited access to or need for French social institutions. With the arrival of families came the first proper contact with the broader French society and an increased visibility within the public sphere, where they were considered to pose a threat through their accessing of French resources and core institutions. This seems to support the argument made by Sonia Dayan-Herzbrun (2000) regarding the problematisation of the *hijab*; it is not so much

whether it is worn by women as its presence and demand for recognition within the French public sphere. The increasing refusal of French of ethnic minority or immigrant backgrounds to continue to be excluded and ignored has led to a period of perceived national crisis. It is perhaps not incidental that alongside this national identity crisis, there has been an increased emphasis on insecurity.

3.3.4 The *Banlieue* and *'les violences urbaines'*

The *banlieue* has historically been a zone on the periphery; firstly separating the working classes and poor from bourgeois *intra-muros* society and later a zone of immigration (Rey 1996). The association of the *banlieue* with juvenile delinquency in media and academic discourse has been present since the 1960s (Lochard 2002, p34). However it was in 1981 and the *'Été Chaud de Minguettes'*[63] that the stigmatization of the *banlieue* became crystallized within media discourse (Lochard 2002, p37; Rinaudo 1999, p30; Peralva and Macé 2002, p18).

At the same time, this image became ethnicised. Christian Rinaudo argues: "During the 'hot summer of the Minguettes', the media described an ethicized universe in which the image of the immigrant and that of the "yob" became superimposed" (Rinaudo 1999, p30).[64] He goes on to quote from an article in the *Nouvel Observateur*,[65] which describes the banlieue of Lyon as, "a hideout for angry young Arabs, unemployed and more or less delinquent"(p31).[66] As Véronique de Rudder points out, ""Not all the youth involved in the urban uprisings are of immigrant origin but amazingly we only see those with tanned skin" (Baudin and Genestier 2002, p114).[67]

Eric Macé and Angelina Peralva, in their analysis of the phenomenon of *'les*

[63] 'The Hot Summer of the Minguettes' – a series of uprisings which took place on the Minguettes housing estate on the outskirts of Lyon. This uprising was most notably marked by the images of cars set on fire by protesters.
[64] « Lors de 'l'été chaud des Minguettes', les médias décrivent un univers ethnicisé dans lequel l'image de l'immigré se superpose à celle du jeune voyou.»
[65] A respected, national mainstream magazine of the Left.
[66] « un repaire de jeunes Arabes en colère, chomeurs et plus ou moins délinquants.»
[67] « les jeunes impliqués dans les révoltes urbaines ne sont pas tous d'origine étrangère, mais fantasmatique ment, on ne voit que des jeunes basanés».

violences urbaines' within media discourse, also note that the Beur movement which rose in the late 1980s to counter the effects of racism on the immigrant population served to further link the *banlieue* with those French residents of (predominantly) North African background within the public imagination (Macé and Peralva 2002, p19). With the fragmentation of the Beur movement due to differences within its leadership and aims, the *banlieue* remained viewed as a site of social unrest with the young French residents of North African origin defined as those largely responsible.

From his analysis of televised representations of the *banlieue* from 1951 until 1994, Guy Lochard concludes that from 1989 on the *banlieue* received increasing media attention and was increasingly associated with Islamic fundamentalism and the 'un-integratability' of certain immigrant groups (Lochard 2002, p39; see also Schneidermann 2002, p28). Thus, within current media and public discourse, the term *banlieue* has become a byword for areas inhabited by minority ethnic groups and particularly by Muslims or 'foreigners', especially 'Arabes'. As Mireille Rosello describes it:

> Those demonized *cités* are the symbolic crossroads where anti-Arab feelings crystallize around issues of housing: images of drug-ridden basements and of vandalized letter-boxes are ethnically encoded. Gradually, amalgams permeate French culture, certain types of housing are equated with violence or even terrorism, and immigration is reduced to a gendered caricature: to the menacing silhouette of armed young male delinquents. (Rosello 1997, p240)

The fear of the *banlieue* has become a fear of the *étranger* in general, and more specifically a fear of the African, the North African/Arab first and foremost (Rey 1996, p11).

Furthermore, as the above quote from Mireille Rosello suggests, the *banlieue* has also been constructed as a highly masculinised space. Women have traditionally for the most part been excluded from representations of the *banlieue*, just as they have generally been ignored in scholarship and political debate on immigration and citizenship (Raissiguier 1999). She notes that through the many waves of immigration, "...recurring debates around the question 'who is/can be a national?' have rarely been discussed in terms of gender" (1999, p440).

When women have in fact been presented in public discourses on immigration, ethnic diversity and the *banlieue* they have generally been seen as 'better integrated' (Raissigieur 1999, p451) and indeed, 'more integratable' (Guénif-Souilamas 2000, 2004, 2007). The one possible exception to this has been the various *Affaires du foulard* that have periodically occupied French public discourse, where the question of young women and girls wearing the *hijab* has become a site for the generation and deployment of discourses on immigration, ethnicity, gender and nationalism. However, what is interesting in much of the debate on the *hijab* – as the next section will demonstrate – is that the women and girls are generally not perceived as the primary threat. Rather it is either the threat of communitarianism that is invoked or the limitations imposed on women's sexuality and femininity that is lamented and identified as being in conflict with the harmonious relationship between the sexes that forms part of *l'exception française* (Scott 2007, 2005, 2003; Ozouf 1995). This supports the assertion of various postcolonial feminist scholars that in recent times the body of the immigrant/postcolonial woman in French public discourse has increasingly been appropriated as the battleground over which questions of identity and ethnicity have been fought (Hamel 2005; Guenif-Souilamas 2000, 2004, 2007; Scott 2007).

3.3.5 *Les Affaires du Foulard*: Against *Laïcité* or *Egalité*?

The *'foulard/voile'* (*hijab)* has emerged as one of the most controversial issues in recent French public discourse. While it in fact only relates to a very small proportion of the Muslim population in France,[68] since 1989 until the passing of a law in 2004, the wearing of the *hijab* in public schools has periodically been a source of intense public attention. Considering this is a debate that has attracted extensive media, political and academic coverage over the last 19 years, the following discussion will not attempt to be comprehensive.[69] Rather, it will concentrate on the more recent debate from 2003 and 2004, with the publishing the Stasi Commission

[68] According to Dayan-Herzbrun (2000), it was around 400 girls, while Timothy Elhami Kaldas (2007) puts the figure at 1200, out of a Muslim population of approximately five million (Basdevant-Gaudemet 2004, p62).
[69] For some excellent detailed discussions of this issue see Gaspard and Koshrow-Khavar (1995) and Scott (2007).

report and the law passed banning *'les signes religieux ostensibles'*[70] from public schools. Essentially the debate was framed in two ways. On the one hand it was argued by many feminists that the *hijab* was a symbol of female oppression and therefore violated the Republican value of equality. At the same time, the fact that the *hijab* had a religious significance led to debate regarding its relationship with the principle of *laïcité*: the strict separation of Church and State seen to be a cornerstone of the Republic.

In December 2003 *Elle* magazine published a petition signed by many prominent feminists[71] supporting the proposed law banning of the *hijab* from schools. The petition was framed around the idea that the *hijab* was primarily a symbol of the submission of women, which had no place in a Republican institution that promoted equality. This petition was later re-published in *L'Express*. The issue of *laïcité* was also mentioned in connection with this position but first and foremost it was asserted that such a measure was necessary to protect young girls from the pressure of male community and religious leaders and, even more so, from young Muslim men who increasingly sought to police the bodies and sexuality of young women in the areas in which they lived (this point became of central importance and is explored in greater detail in Part Three of this thesis, as it relates closely to discourses on *'les tournantes'*).

In December 2003, after receiving testimony from various social actors, the Stasi Commission[72] released its report in which it recommended the government enact the ban. The reasoning employed drew in part on the feminist arguments of equality but concentrated more on the significance of *laïcité* and its role in the integration and protection of all those within the French public sphere. It noted with concern - in attempting to assess the 'real desires' of the girls who wore the *hijab* - that the covering seemed in part to be used as a form of protection against abuse by young men in the *banlieue*: "offering them the protection that ought to be

[70] 'Conspicuous religious symbols': this has basically been interpreted to include anything more visible than a small crucifix or Hand of Fatima worn around the neck.
[71] Including *tournantes* victim Samira Bellil and representatives of the feminist organization discussed in part three of this thesis, *Ni Putes Ni Soumises*
[72] Named after the head of the commission, ex-government minister Bernard Stasi.

guaranteed by the Republic" (Asad 2005, n.p.). Furthermore, the Commission felt that it was required to mediate between the freedom of choice of the minority of girls who wore the *hijab* and the majority who did not.

In the opinion of the Commission it could be accepted that those who did not wear it had demonstrated an active rejection of the *hijab* yet, as Asad (2005) points out, it was assumed on the other hand that those who did wear it were in part either under external pressure or suffering a form of 'false consciousness' (see also Scott 2007). In balancing these two apparently opposing positions, the Commission decided that it must put the protection of the choice of the majority first. It concluded that if the *hijab* were allowed it would place more pressure on those girls who did not wear it to avoid abuse. However, the Commission did not go on to explain how simply imposing the removal of their hijabs within the school grounds would alleviate the apparent pressure experienced by girls. Asad (2005), commenting on an edition of the television programme on France 2, *Cent minutes pour convaincre*, which featured a number of public figures (including Bernard Stasi) discussing the ban (mostly in the context of Muslim patriarchy more generally) observes; "It was not how young women wearing the headscarf *lived* that mattered but what 'the veil' *signified*" (emphasis in original). This point is perhaps even more ironic when considered in light of France's traditional accommodation of aspects of Islamic family law to regulate 'private' matters involving the family life of its North African residents; a position which feminists have long contested as being highly detrimental to the interests of women of immigrant and North African origin.[73]

It could therefore be concluded that while the Commission expressed an interest in promoting equality, its findings were more focussed on protecting the secular and integrationist function of the school as a central Republican institution. In fact, the Commission's official name was, *'Commission de réflexion sur l'application du principe de laïcité dans la République'*.[74] Aside from providing a

[73] France has signed bilateral agreements with Algeria, Morocco and Tunisia which allows these states' marriage laws to apply in France to residents originating from one of these states – Winter 1995, p335; Ticktin (2008).
[74] Commission on the Application of *Laïcité* in the Republic.

historical overview of the conflictual relationship between the Church and the State to explain how the principle of *laïcité* was adopted, the report asserted, "the French Republic is constructed around the principle of secularism".[75] This clearly emphasised the centrality of the principle to the very foundation of French national identity. So too, the report stressed that for all citizens to be equal, there was a need to remove obvious signs of difference that might contribute to the promotion of - what in French terms is considered the most unacceptable threat – a communal identity. The role of the school as a central institution for the integration and creation of 'good citizens' was emphasised as precious and requiring protection.[76]

Joan Wallach Scott in her 2007 book, *The Politics of the Veil*, discusses in detail the various contradictions and assumptions underlying the *hijab* debate in France. It is therefore unnecessary to re-state all the arguments here. However, it is important to note one point she stresses:

> ...the question of national identity has loomed large in Western Europe. Depending on particular national histories, the idealization of the nation has taken various forms. In France it has taken the form of an insistence on the values and beliefs of the republic, said to be a realization of the principles of the Enlightenment in their highest, most enduring form. This image of France is mythical; its power and appeal rests, to a large degree, on its negative portrayal of Islam. The objectification of Muslims as a fixed "culture" has its counterpart in the mythologizing of France as an enduring "republic". Both are imagined to lie outside history – antagonists locked in eternal combat. (Scott 2007, p7)

The 'naturalisation' and universalisation of French national myths and values not only requires a specific construction of Islam as a less advanced (and homogenous) culture and civilisation. It also requires an ahistoricity, in which France's colonial legacy is simultaneously essential and completely effaced. For this reason, the *hijab* debates in France (and in fact France's relationship more broadly with its immigrant/ethnic minority population) can only really be understood when placed in the context of France's colonial history. Both the republican principles raised in relation to the *hijab* - equality (in this case interpreted as being of the sexes)

[75] « La République française s'est construite autour de la laïcité. »
[76] See Senior (2007) for a fuller discussion of the Stasi Commission's report.

and *laïcité* - were regularly invoked in imperial ideology, especially in relation their Muslim colonised populations. However, far from providing universally guarantee and protected rights, these discourses were employed in highly selective and strategic ways.

3.3.6 Islam, Republican Feminism and *La Mission Civilisatrice*

The *parité* movement of the 1990s[77] demonstrated that the idea of equality between the sexes as being central to the establishment of the French Republic was in fact a highly contentious point. As one of the founders of the *parité* movement, Claude Servan-Schreiber noted in an interview with the *New York Times*; "[e]xclusion of women has been part of France's political philosophy since the Revolution" (Scott, 2005, pp3-4). Similarly, throughout its history French feminist activism and literature had been met with resistance and mistrust. While there continue to be fundamental inequalities between the sexes, in recent times feminism has increasingly been dismissed, as "a sort of 'historical epiphenomenon'" (Célestin et al. 2003, p2). So why the reference to feminism and principles of equality in relation to *l'Affaire du foulard*? It is here that the historical context of French Republican feminism becomes important.

While French women have long struggled for recognition of their rights as citizens, the discourse of feminism did form a significant part of the *mission civilisatrice* utilised by colonial administrators and embraced by metropolitan feminists. This idea of 'rescuing' native women from their own misogynist cultures and menfolk was not limited to the French colonial discourse.[78] However, as Alice Conklin documents, "[c] ivilisation is a particularly French concept", with the *mission civilisatrice* providing not just a corollary discourse to colonial projects but in fact its *raison d'être*:

---

[77] A movement seeking an amendment to the Constitution to require equal representation of men and women in all French publically elected offices. This movement was launched at the end of 1993 following the revelation that France was second last out of EU nations in terms of women in decision-making roles with a dismal 4.3% of public officials women. For detailed discussion of the movement and its outcome see Wallach Scott (2005).

[78] See for example, the complex debate surrounding the practice of *suttee* in British colonial India.

> Of course all European powers at the end of the nineteenth century claimed to be carrying out the work of civilization in their overseas territories; but only in republican France was this claim elevated to the realm of official imperial doctrine (Conklin 1997, p1).

An essential reason for the pre-eminence of civilising discourses suggested by Conklin is the very language of Republicanism on which French national identity, particularly since the Third Republic, has been built. On the one hand, the principles asserted by the Revolution served to demonstrate France's advanced position of civilisation, including (or even pre-dominantly) compared to its European counterparts, which it was argued, must be spread throughout the world.[79] However, these principles also imposed a set of values, which at first glance seemed to be in direct opposition to aggressive imperialism.[80] As a result, there was a much stronger need to justify colonial expansion within a democratic framework. It is precisely the benevolent spreading of civilisation, progress and development that provided the language within which to reconcile these two opposing but essential aspects of French nationalism:

> ...republican France invested the notion of a civilising mission with a fairly specific set of meanings that set limits on what the government could and could not do in the colonies. By officially acting within these limits, the French managed to obscure the fundamental contradiction between democracy and the forcible acquisition of an empire. (Conklin 1997, p2)[81]

A central feature of these colonial discourses was Islam. Since the time of the crusades, Islam has been viewed as threatening to Christian Western Europe, so too it has provided the 'Other' against which European civilization has been constructed. The figure of the debaucherous Arab appears often in European colonial literature,

---

[79] Brubaker, in examining the development of French post-revolutionary citizenship cites prominent public figures of the time to conclude, "Liberty, Equality, Fraternity were to be France's gifts to the world: 'it is not for ourselves alone, it is not for that part of the globe than [sic] one calls France that we have conquered Liberty.'"(1992, p44, citation omitted). Similarly, Napolean Bonaparte declared in 1798, "The genie of Liberty, which has rendered the Republic – since its birth – the arbiter of all Europe, wishes to see it mistress of faraway seas and foreign lands" (Conklin 1997, p11).

[80] For example, in 1790 the National Assembly declared: "The French nation renounces to undertake any war of conquest and will never use its force against the liberty of any people." (Conklin 1997, p11).

[81] A similar position is proposed by Laurent Dubois (2000) in considering the contradictions between imperial racism and Republican universalism.

art, political and academic discourse.[82] A vast quantity of these representations came from French orientalist scholars and colonial administrators, which as Frances Gouda and Julia Clancy-Smith point out, is largely a natural result of France (and the Netherlands) establishing an empire containing a widely diverse population of Muslim peoples (1999, p5). France's colonial enterprise brought significant contact with the Muslim world, leading Nacira Guénif-Souilamas to conclude: "Already in the glorious period of the colonial Empire, the Arabs were seen as perverted, a perversion tolerated by their religion, intrinsic in their moral code, transmitted and inherited." (Guénif-Souilamas and Macé 2004, p60)[83]

Furthermore, particular emphasis was placed on issues surrounding Muslim sexuality and Islamic marriage practices, customs and laws (Clancy-Smith and Gouda 1999, p5). There are two aspects suggested to this preoccupation:

> ...by the early twentieth century, colonial authorities in the Dutch East Indies and French North Africa viewed Islam as a political force that could destabilize colonial regimes. At the same time orientalist scholars became deeply interested in Islam as an intrinsically different form of sociosexual organization, due, in large part, to Europeans' growing obsession with the status of women in Islamic cultures.(1999, p5)

The puzzling situation of Muslim women who in some cases had access to certain rights denied to women in Europe (access to divorce, inheritance rights) but who were otherwise considered to be subjugated in a manner quite irreconcilable with European standards is one that occupied extensive attention. Not were the attentions of colonial authorities and scholars on Islam turned, as Clancy-Smith describes it, 'from the battlefield into the bedroom' (1999, p155) but so too were the attentions of European feminists of the time.

For example, in 1935 a bill was proposed seeking to extend citizenship rights to Algerians even if they maintained their Muslim affiliations.[84] However, the Blum-

[82] As detailed by Said (1995) in his classic work, *Orientalism.*
[83] « Déjà, à l'époque glorieuses du centenaire de l'Empire colonial, les Arabes sont vus comme des pervers, une perversion tolérée par leur religion, inscrite dans leurs moeurs, transmise et héritée.»
[84] Which up until this point were considered incompatible with the French Civil Code – see below for a more detailed discussion of the implications of this.

Viollette bill as it was called faced great opposition and was ultimately rejected on the basis that this would legitimise what the majority of French considered to be the atrocious Muslim gender relations. As Paul Cuttoli, mayor of Constantine and a leading opponent of the bill asserted, "the indigenous woman must see the end of this shocking inequality that exists between the man, the male, the lord, and his companion" before the indigenous man could be considered sufficiently civilised to hold French citizenship (Bowlan 1999, p184).

This was of course highly hypocritical in the context of the continued denial of French women's right to vote despite female suffrage having already been introduced in many other European and other Western democratic nations. Yet, it was the general consensus among the French population that their own Christian tradition provided for more civilised and advanced gender relations that those of their Muslim counterparts (Bowlan 1999, p184). As Clancy-Smith explains:

> By 1900 issues of sex and gender, particularly the status of Arab women, came to be privileged in debates over Algerian male suffrage. Manipulated as a political and rhetorical strategy, female status was marshalled to refute the notion that the Arabs' assimilation to Franc was desirable or even possible. Thus, the flood of literature – official pronouncements, popular fiction, pseudoscientific tracts, etc. – ostensibly devoted to Muslim women must be read in another way. The Arab woman, as represented either visually or discursively, functioned as an inverted image or negative trope for confirming the European settlers' distinct cultural identity, while denying the political existence of the other. (Clancy-Smith 1999, pp155-156).

While colonial authorities used the discourse of 'women's rights' to justify the denial of full citizenship rights to colonised populations, French feminists wholeheartedly embraced imperialist discourses in their expressions of concern for their Muslim/Algerian sisters. As Sara Kimble (2006) writes, French feminists were critical of the colonial administrators not for their racist attitudes towards the local populations under their control but rather for their failure to fully enact the 'civilising mission'.

Indeed, the feminists themselves often adopted highly racist and imperialist language in their description of the plight of colonised women. For these feminists,

the only solution was to reduce the sphere of influence of Islam through replacing *Shari'a* (Islamic law), which colonial authorities allowed to govern private matters with full application of the French Civil Code. Somewhat ironically, this promotion of the French Civil Code contrasted with the same feminists' demand for a complete overhaul back in France (Kimble 2006, p116). Yet it was a point of unwavering agreement between feminists and colonists that only through the increased secularisation and westernisation of colonised peoples could they be seen as fit for full French citizenship.

Feminist discourses calling for the emancipation of Algerian and other Muslim women saw the only means of doing this to be a rejection of Islam and the enforcement of secular education and family laws. The famous French Republican feminist Hubertine Auclert[85] dedicated a book to considering the situation of women in Algeria (*Les Femmes Arabes en Algérie* 1900) in which she decried Muslim teachings and practices as reinforcing the segregation and mistreatment of women through forcing them into early marriage, polygamy and denying them access to education (Timothy Elhami Kaldas 2007; Clancy-Smith 1999). She in turn criticised colonial administrators for failing to take steps to limit the influence of Islam and militated for the freeing of Algerian women from the "cages" within which their traditions and religion kept them trapped (Clancy-Smith 1999, pp167-172). Although Auclert was critical of the racism she saw within colonial Algerian society and expressed a strong solidarity for the plight of the women of Algeria, she did not reject the validity of the colonial enterprise; "sisterhood for Auclert was imperial and hierarchical" (Clancy-Smith 1999, p170) and her imagining of the desires of Algerian women built around an envy of and desire to be French.

A central feature of colonial Republican feminist discourse was the specific issue of the *hijab*. It is perhaps not surprising that a review of French colonial North Africa reveals a strong antipathy on the part of the colonisers towards the veil. It has long been seen as both a symbol of the 'backwardness' of the native population (therefore justifying their colonisation and exploitation) and as a deeply disturbing

[85] Founder of the French Women's Suffrage movement.

form of resistance. French colonial administrators and feminists alike saw the covering of women as a visual representation of their downtrodden existence and the symbol of the unequal gender hierarchy imposed by Islamic tradition and faith. While colonial administrators used this as a means of re-asserting their cultural superiority and therefore right to rule, feminists sought to 'liberate' Muslim women from their veiled prisons. For example, French (and other Western) feminists strongly praised Egyptian feminist Huda Sharaawi for removing her headscarf after the 1923 International Alliance of Women conference and many expressed hope that the women of Algeria would follow in the footsteps of their increasingly secularised and unveiled Turkish and Egyptian sisters (Kimble 2006).[86]

Yet even as it was treated as a sign of the backwardness of colonised populations, the *hijab* also became a powerful symbol of resistance to colonial domination. This was both metaphoric - as Fanon (1965) describes in his famous essay, "Algeria Unveiled"[87] - and literal: veiled women became instrumental to the FLN during the Algerian War as a means of smuggling weapons past checkpoints and as a symbol of resistance to French occupation (Mas 2006; Khedimellah 2004, p79; Ardizzoni 2004, p631; see also *The Battle of Algiers* (1966) for a graphic depiction of this).

As a result of this mixed signification, throughout the history of French colonisation of Algeria there were many attempts made to remove the veil from colonised women. As the contemporary French anti-colonialist, feminist movement *des Féministes indigènes de la République*, highlights, the ritual mass-unveiling of women in marketplaces or town squares across Algeria represented a potent symbol of submission to French cultural and physical might (Bouteldja 2006). Whether done in the name of 'emancipation' or to allow the coloniser to see into the 'closed sanctuary' of Algerian intimate familial space (Clancy-Smith 1999 referring to the work of colonial ethnographer General Eugène Daumas), the discourse of the undeniable superiority of 'French civilisation' was ever-present.

---

[86] It is somewhat ironic that Turkish women in fact achieved suffrage before their mentoring French counterparts – a point of some shock to the latter.

[87] See also Clancy-Smith citing the observation of General Bugeaud, conqueror and governor of Algeria in the 1840s; "the Arabs elude us because they conceal their women from our gaze" (1999, p154).

Directly related to this, the Republican principle of *laïcité*, lauded as a fundamental and sacred value of French national identity within contemporary discourses, also requires colonial contextualisation. As Ruth Mas (2006) discusses, for colonial authorities the tool of *laïcité* was drawn on as means of establishing and maintaining colonial order. As mentioned above, Islam was constructed within colonial knowledge as being in direct opposition to secular democratic governance (Mas 2006, p592; Clancy-Smith 1999b; Kimble 2006) despite the fact that it was only from 1905 that this separation of Church and State was legislated in France.[88]

As colonial administrators increasingly abandoned the idea of creating French citizens out of France's colonised populations, Islamic practices became a useful justification for the denial of citizenship rights. While Jewish Algerians were granted full citizenship in 1870 under the Crémieux Decree,[89] Muslim Algerians retained the status of "subjects" and were required to apply to be 'naturalised' upon demonstrating a 'French way of life' (Weil 2003, pp6-7). Similarly, although the position of women in Muslim society had become a central concern within colonial discourses, it is worth noting that colonial authorities in Algeria were at best extremely uninterested in, and at worst actively discouraging of the idea of giving Arab women a modern French education.[90]

While the perceived opposition of Islam to Western secular democracy is not specific to France (as the Danish cartoon controversy has illustrated), as mentioned above Islam emerged as a potent symbol of subversion, resistance and dissent to French colonial domination, particularly in the Algerian war. The fact that the legacy of this war has never been fully addressed (as discussed above) only adds to the problem. Furthermore, France more than other European nations has attempted to eradicate all connection between its Christian tradition and its construction of statehood. Indeed, as Ruth Mas articulates, while great emphasis is placed on the 1905 law secularising the education system and its reduction of the influence of the Catholic Church in France, the various exceptions to and derogations from that law

[88] *Loi du 9 décembre 1905, Loi concernant la séparation des Eglises et de l'Etat*.
[89] *Décret nº 136, 24 October 1870*.
[90] As the illustration in the inleaf to Clancy-Smith and Gouda (1999) neatly reflects.

have generally not been given such primacy. As a result, "[t]he history that brought the Church under state patronage for most of the 19th century and the continuing influence that both this history and the Catholic Church have on public discourse, law and society in France is most often ignored" (2006, p590).

Jim House makes a similar point in his analysis of Muslim communities in France; "[t]he neutrality of this [French] secularism has been contested. Indeed, the State is traversed by Catholicism, since political culture has been imbued with religion" (House 1996, p229). He provides the example of the school year being based around the Roman Catholic calendar to support his assertion that, "the Catholic church in France is very much first amongst 'equals' as regards state and civil society" (p230, see also the state funding granted to Catholic schools – Limage 2000; Asad 2005). Furthermore, the centrality of Catholic ideology to French nationalism is made explicit within the discourses of the extreme Right, with parties like the Front National openly allied with Catholic fundamentalists and utilising discourses of difference as a means of perpetuating religious and cultural stereotypes (House 1996, p223).

Thus, while secularism has provided a central feature in discourses on integration to the point that there has been a strong push within French ethnic minority and immigrant communities to identify themselves as "secular Muslims" (Mas 2006), when analysed historically France's commitment to secularism has not always been so clear-cut nor is it innocent. In his review of the citizenship status of Muslim Algerians during the colonial period, Patrick Weil notes that the categorization of 'Muslim' included not simply those of Islamic faith but was also an ethno-political categorization (Weil 2003, p7). In light of the discussion of the term 'Muslim' in France, this is significant, demonstrating an ethnicisation of this normally religious marker: 'Muslim' emerges as shorthand for all those of 'Muslim backgrounds' (i.e. North Africans and many West Africans), regardless of their personal beliefs and practices (or lack thereof) or as House puts it, they are

constructed as 'hereditary' or "always already 'Muslims'" (House 1996, p224).[91] House's argument that the label of 'Muslim' has more to do with identifying individuals for exclusion than their actual religious practices seems a postcolonial revival of the colonial discourses Weil documents.

3.3.7 Republican Egalitarianism

Combining the colonial history of Republican feminism and *laïcité* with this ethnicisation of religious identity within contemporary French discourses a more complex picture of why the *affaires du foulard* resulted in such a strong public and political reaction emerges. In many ways, it can be seen to mirror the colonial discourses, which overlapped concern for 'women's rights', assertion of a secular Republic, the superiority of French civilisation and the justification of exclusionary citizenship. Indeed Éric Fassin suggests that, "[i]n the Republican motto, 'fraternity' seems to have been replaced by secularism" [92] (2006, para 8). In explaining the significance of this, he refers to the manner in which equality has in recent times been framed not in terms of class or race but specifically as equality between the sexes. He cites a government website which explains the concept of Republican equality:

> The principle of equality between men and women is a fundamental principle of French society. Both parents are equally responsible for their children. Women have the same rights and obligations as men. This principle applies to all, French citizen or foreigner. Women are subject to neither the authority of their husband, their father nor their brother in relation to matters such as, for example, working, opening a bank account or going out. Forced marriage is prohibited and monogamy and bodily integrity are protected by law.[93] (Fassin

[91] This notion of 'hereditary' belonging to Islam has been highlighted and parodied by le *Mouvement des Indigènes* (the broader movement of which *les féministes indigènes* are a part) in an open letter posted on their website addressing 'violence against women in Christian homes'. The letter concludes with the statement that those men of Christian background who refuse to conform to 'French values' should be sent back to the Vatican ironically mimics the tendency to externalise issues involving populations of immigrant origin by blaming them on the supposed 'culture of origin': see Grewal (forthcoming) for further discussion.

[92] « [d]ans la devise républicaine, la fraternité semble avoir cédé la place à la laïcité.»

[93] « Le principe de l'égalité entre les hommes et les femmes est un principe fondamental de la société française. Les parents sont conjointement responsables de leurs enfants. Les femmes ont les mêmes droits et les mêmes devoirs que les hommes. Ce principe s'applique à tous, Français et étrangers. Les femmes ne sont soumises ni à l'autorité du mari, ni à celle du père ou du frère pour, par exemple, travailler, sortir ou ouvrir un compte bancaire. Les mariages forcés sont interdits, tandis que la monogaie et l'intégrité du corps sont protégées par la loi. »

2006, para 8).

These are admirable sentiments that unfortunately serve to mask the reality of gender inequality, which continues to impact on women's lives in France. As both the *parité* movement and broader research regarding violence against women statistics in France (for example, see Jaspard et al. 2001 for the first national study on violence against women), the recognition of women as equal and equally valued citizens is yet to be guaranteed. So what is the significance of these espoused principles? According to a number of scholars this claim for true democratic equality between the sexes, far from being aspirational, serves a very real ideological purpose: a means through which to re-establish dominant order in an increasingly diverse post-colonial France (Guénif-Souilamas 2006, Fassin 2006, Hamel 2005). As Fassin explains:

> …if 'we' are defined by democracy, and first and foremost in terms of sexual democracy, 'they' are defined as the mirror opposite ; the opposing darkness to our enlightenment. The 'others' of our societies – the barbarians who threaten democratic civilisation - thus logically appear in the form of polygamers, violent rapists, prisoners of a culture in which they imprison their women through the imposition of the veil, forced marriage and genital mutilation : *their sexism almost justifies racism…* (2006, para. 7, emphasis added).[94]

France is, once again not alone in this trend.[95] However, it is through the framing of these feminist principles in Republican terms that France sets itself apart from other Western democracies and harks back to colonial discourses, which it appears not yet ready to completely reject. In relation to the former, Fassin explains that '*l'exception française*', while formerly referring to the special complementary relationship between the sexes (in opposition to the Anglo-Saxon war of the sexes) has now been transformed into 'exemplary democracy' (Fassin 2006, para. 9). As for the latter, it is perhaps not surprising that the revival of Republican (colonial)

[94] «…si 'nous' sommes définis par la démocratie, et d'abord dans sa dimension sexuelle, 'eux' se définissent en miroir, comme l'envers sombre de nos lumières. Les 'autres' de nos sociétés, barbares menaçant la civilisation démocratique, apparaissent donc logiquement comme polygames, violents voire violeurs, prisonniers d'une culture où ils emprisonnent leur femmes, entre voile imposé, mariages forcés et mutilations génitales subies: *leur sexisme justifierait presque le racisme*… »

[95] For example, see Prins(2007), which considers to situation in the Netherlands; Bahramitash (2005) looks at the co-option of "feminist" discourses to support neo-conservative, anti-muslim and pro "War on Terror" rhetoric in the US.

feminist discourses should be attempted in a period where France has been increasingly challenged to fully accept responsibility for the violence, racism and exploitation its colonial enterprise caused. With the first official recognition of torture used by the French Army in the Algerian War and the injustice of pension arrangements for *les tirailleurs* in the last 10 years, there was also an attempt in 2005 to pass a law requiring that "positive" aspects of French colonial endeavours be taught in schools,[96] suggesting France has still not reconciled its position in relation to its former Empire.

Sonia Dayan-Herzbrun makes the pertinent observation that, "[a] sign of foreignness and exoticism, the French were not disturbed whilst the headscarves covered silent and discreet heads" (Dayan-Herzbrun 2000, p69). Just as the issue of extending citizenship rights to colonised elites only became perceived as problematic when these elites sought to assert a right to share power (Conklin 1999), it is arguable that the issue of the *hijab* only came to represent a threat to the Republic when those wearing it refused to remain passive subjects of the State but asserted the participatory rights of citizens. In light of the colonial disinterest in Muslim women's education, the position these young girls were placed in - forced to choose between removing their headscarves or face exclusion – the discourses seem somewhat too reminiscent of an unresolved past.

3.3.8 The Exceptional Heterosexuality of the Republic

Aside from providing a link between French colonial and contemporary discourses on cultural difference, the *hijab* debate also demonstrates the link between gender identity, heteronormativity, ethnicity/race and the construction of the (French) Nation. This is further exemplified by the dominant discourses promoted by the *Parité* movement. Even as it demonstrated a crisis in the concept of universalism, the *parité* movement did not seek to abandon the principle all

[96] *loi française nº 2005-158 du 23 février 2005 portant reconnaissance de la Nation et contribution nationale en faveur des Français repatriés*, Article 4 – "...Les programmes scolaires reconnaissent en particulier le rôle positif de la présence française outre-mer, notamment en Afrique du Nord, et accordent à l'histoire et aux sacrifices des combattants de l'armée française issus de ces territoires la place éminente à laquelle ils ont droit." This law passed but was subsequently repealed in January 2006 due to intense public pressure (Howell 2008, p59).

together. On the contrary it in fact embraced republican universalism wholeheartedly. It simply sought to re-imagine this universalism according to what the *parité* advocates argued was the one truly universal difference; sex.

This approach did two things. The positive contribution made by the movement was the de-stabilising of the assumptions behind French Republican universalism. By highlighting the highly gendered and male-biased history of republican citizenship, the *parité* movement assisted the push for the de-mystification of the apparently ideal republican values. While official French nationalist discourses took pride in the Revolutionary spirit of egalitarianism, the denial of full rights to women including the right to vote until 1944 and the continued abysmal record of women in public office served as a strong reminder of a less positive history. It is also worth noting that the denial of access to full citizenship rights to women was justified along the same lines as the denial of these same rights to most of France's colonised populations (who were consequently represented in a feminised manner); both groups were argued to be too prone to superstition and to lack the rationality required to handle the responsibility of full citizenship and the rights this entailed (Conklin 1999, p67).

However, over the course of the movement's history its incorporation of the discourse of universalism also became problematic. In asserting sex difference as belonging to a unique category of difference, many of the most visible *parité* advocates ultimately placed themselves in direct conflict with other progressive movements. The emphasis on sex over other forms of identity markers led to a situation where race/ethnicity, sexuality and other equally significant factors in unequal power distribution were treated as less important. In particular pro-*parité* philosopher (and wife of then Parti Socialiste Prime Minister Lionel Jospin) Sylvaine Agacinski emerged as the primary voice for the movement (Scott 2005).

Unlike some of the original proponents of *parité*, Agacinski relied on a much more essentialist and less radical process of reasoning in her support for the concept of *parité*. Not only did she describe the only one essential, 'truly universal' difference

to be that of sex (dismissing other concerns of ethnicity, religion, amongst other things, as muddying the waters: Agacinski 2003, p18), she also seeks to reclaim the very femininity rejected by Simone de Beauvoir; based on the image of the maternal. It was the devaluing of this role that was the problem she argued (Scott 2004, p117). So too, she celebrated the apparently exceptional French relationship between the sexes, based on complementarity:

> Men and women, here much more than elsewhere, have always sought to understand and to please one another, and they have not scorned borrowing from one another qualities that are flaws in their own sex: a man with no grace or a woman without strength of character bothers us. (Agacinski 1998, p159).

This re-assertion of the mythical *exception française* that has avoided the battle of the sexes attributed to Anglo-Saxon - particularly US culture - shows the ongoing importance of linking concepts of gender identity with those of national identity (Scott 2003; Fassin 1999).

The outcome was a highly diluted re-imagining of both the concept of Republican universalism and the abstract citizen:

> While parité wanted to *sex* the abstract individual as a means of *unsexing* the political body, Agacinski wanted to *sex* the political body, installing the heterosexual couple as the model of perfect complementarity. In this essentialist view of things, *mixité* was not divisive or fracturing, she insisted, but unity, the unity exemplified by the reproductive couple merging to conceive a child. (Scott 2004, p119)

Unfortunately, this approach served to de-legitimise or at least downplay other challenges to /attempts to embody and demystify French universalism. As Éric Fassin writes in relation to the debate over homosexual marriage and PaCS:[97]

> In order to avoid the stigma of Americanization, the inventors of parité in politics were willing to say that it had nothing to do with (American-style) "quotas": women were no minority, since sexual difference was no ordinary

[97] *Pacte Civil de Solidarité* – the legal recognition of civil unions between heterosexual or homosexual couples, granting them similar rights as those previously only available to married couples.

> difference, like class or ethnic differences; it was an essential, universal difference. This potentially essentialist argument served a strategic purpose: at first, it worked powerfully in the direction of equality – between men and women. But in the context of the debate surrounding gay and lesbian couples and families, it could also work, quite powerfully too, against equality – between heterosexuals and homosexuals. (Fassin 2003, p32)

Not only is the *PaCs* debate inextricably linked to the *parité* movement, it also relates to the issue of racism and ethnicity in France. In comparing the debate around gay marriage in France and the US, Fassin (2001) notes that, just as sex difference was an essential basis on which support for a *parité* law could be contrasted with restricting the rights granted to same-sex couples, the issue of 'filiation' was central to both as well as to the other major debate in recent French public discourse: immigration and citizenship. While the reproductive function of women was emphasised to justify why sex should be recognised as the only truly universal difference (see Agacinski 1998, 2003), it was also used to explain why *PaCS* could not extend rights to reproductive technologies and adoption to same-sex couples. At the same time, the increasing pressure placed on the traditional *jus soli* approach to citizenship by the extreme Right in France, has led to the tempering of territorial citizenship with concepts of blood.[98] It is for this reason that Fassin tentatively proposes the hypothesis that, "this debate about same-sex unions, with the sacralization of filiation it reveals, opens onto a wider array of minority issues, including not only feminist but also ethnic politics in France. It is also a debate about the nation" (Fassin 2001, p232).

Catherine Raissiguier presents a similar argument in her article, "The Sexual and Racial Politics of Civil Unions in France". Raissiguer demonstrates how conservative opposition to the introduction of *PaCS* utilised discourses which both symbolically and practically linked homosexuality with immigration and ethnic diversity, presenting both as dangerous threats to the nation. The 'un-reproductive' nature of same sex couples was emphasised as a reason to reject their demand for recognition and equal rights as heterosexual couples. It was argued that not only

[98] See for example the 1993 Pasqua law, which limited the right to French nationality of French-born children of foreign parents: see Brubaker (1992); Raissiguier (1999) for more detail on this.

would this lead to the decline of the 'natural' family (i.e. heterosexual, patriarchal and bourgeois), it would ultimately result in the death of France. The obvious complementary component of this argument was the discourse of the Far Right, which emphasised the threat to French identity caused by immigrants 'out-breeding' the 'real French'.

Raissiguer uses the example of a piece of anti-*PaCS* graffiti which she argues reflects an underlying theme within political debate on *PaCS*: the slogan being 'Islam=SIDA'.[99] The symbolism contained within this slogan is complex. It reflects the conflation of Islam (increasingly treated as synonymous with religious fundamentalism) with immigrant communities from North and West Africa, the racist assumption of Africa as the home of AIDS (and other diseases) and the linking of invasion of the body by pathogens (in the form of disease) with the invasion of the national body (in the form of immigration) (Raissiguer 2002, p77).

Both of these symbolic connections made between race and sexuality provide powerful examples of the argument that gender, race/ethnicity and heteronormativity play essential and interconnected roles in the construction of the Nation.[100] This is both in terms of women providing the embodiment of the borders of a national, ethnic or other community and in terms of the centrality of heterosexuality and the reproductive function of women for the continued existence of the Nation. These points would also appear to support Fassin's hypothesis: the feminist debates on the relationship of sex difference to political gender inequality, the reluctance to accord same-sex couples equal status and recognition due to the threat this is seen to pose to the social and therefore the national order and the panic regarding how to incorporate ethnic minorities within the national body all seem to arise out of similar rhetoric.

As Rassiguier - drawing on the work of Anne Marie Smith – clarifies: "the demonization of homosexuality in 1980s Britain became possible and successful

[99] 'Islam = AIDS'.
[100] As well as reiterating Sara Ahmed's (2008) argument regarding the three biggest constructed threats to the Nation, discussed in chapter two.

precisely because it built on already existing and normalized racist structures within the British state" (Raissiguier 2002, p75). Linking this back to the context of France, she goes on to argue that, "racism and homophobia, rather than constituting anomalies that occasionally come to disturb the progressive republican agenda, are, in fact, a troubling part of that agenda" (Raissiguier 2002, p75). The "deviant" homosexual family, as with the "deviant" post-colonial, immigrant family are constructed as serious threats to the stability of the French Nation. Even as supporters of the *PaCS* celebrated it in terms of a victory for (and another demonstration of the superiority of) the French Republican tradition, Rassiguier points out the overall failure of these supporters to challenge the racist and anti-immigration rhetoric employed in opposition to the law (Raissiguier 2002, p87). So too, she notes:

> While clearly not all forces within republican political circles partake in the demonization of either [Queer or postcolonial immigrant] group, it is important to underscore the problematic ways in which processes of demonization and exclusion rearticulate basic tenets of French republican discourse. An uncritical reliance on the notion of the republican family, for instance, on both sides of the debates contributed to the denial or access to French gays and lesbians to adoption and medically assisted procreation ("PMA"). (Raissiguer 2002, p86)

An interesting point that Raissiguier does not elaborate upon but which emerges in one of the comments of the conservative politicians she cites is the characterisation of *PaCS* as 'homosexual proselytism' (Christine Boutin, quoted in Raissiguier 2002, p80). She does however note that the threat posed by *PaCS* requires a specific conceptualisation of racism and homophobia: "Homosexuality then, like immigration, symbolizes not something dangerous itself but rather by its capacity to infiltrate, invade, and eventually undo the very fibers of French societal order. Homosexuality as a fact does not require combating, buts its propagation and publicity do." (Raissiguier 2002, p82)

This is an important point and the use of the language of 'proselytism' provides even greater strength for her argument that it is not simply the presence of difference (sexual or racial/religious) that is conceived of as problematic but rather

its challenge to the dominant hegemonic order of the Nation. This was made apparent in the *Affaires du foulard*. Through the assertion of a protection of women's interests the validity of exclusionary discourses of national belonging is reinforced. However, the interests being protected are specific. They simultaneously seek to ensure the continued reproduction of the Nation (hence the limits placed on same-sex couples' reproductive rights) and the reinforcement of the Nation's founding myths and values (hence the gendering of the 'immigration problem' with the freedom of immigrant or ethnic minority women recognised and asserted only where it accords with dominant values and conceptions of femininity...)

3.3.9 Conclusion

While Australian constructions of national identity have relied on quite specific concepts of race, in France the language has tended to concentrate on the superiority of French values and civilisation: Republicanism and '*l'exception française*'. However, the rhetoric of 'humanist universalism' has acted to mask the racial and gender hierarchies on which French national identity – especially during and after the colonial period – has been constructed. In particular, the principles of *laïcité* and Republican egalitarian feminism are deeply implicated in the legacy of colonialism as they were principles frequently deployed as a means of controlling or justifying the control of colonised populations. As a result Islam and the situation of Muslim women became the measure against which French enlightenment and civilisation were measured. A review of current discourses on immigration and France's immigrant/ethnic minority populations demonstrates the extent to which these colonial discourses continue to have currency in contemporary France.

3.4 'PUBLIC DISCOURSE'

Having reviewed the specific historical, political and social contexts of the two nations being studied, it is important to elaborate on the concept of 'public discourse'. Aside from some generalities, which can be applied equal to both national contexts, it is also noteworthy that the particular forms the public discourses in the

two nations took bear both similarities and differences. In particular, certain fields (drawing on Bourdieu's term) emerge as more prominent than others in terms of their ability to access and shape the national public sphere.

3.4.1 The National Public Sphere(s)

The concept of the 'public sphere' has been most developed by the work of Jürgen Habermas and his critics. For Habermas, the 'public sphere' is a site of idealised exchange between citizens. While he has moved to an understanding of the modern public sphere as an interlocking site of multiple networks and spaces,[101] he has continued to maintain an emphasis on rationality and consensus. It is in relation to this that significant criticisms have been levelled.

The first major criticism, as John Michael Roberts and Nick Crossley summarise, is that Habermas appears to place too much faith in the public sphere as a site of free and equal access.[102] As the previous chapter demonstrated, the national public sphere is in fact a highly ideologically charged and contested site. Aside from the general exclusion of women's voices – explained by the passive, symbolic or reproductive role ascribed to them in nationalist discourses – what also becomes evident when considering discourses on what constitutes the nation is that the 'imagined community' of the nation does not place equal significance on all members' perspectives. This is clear when looking at the specific articulations of Australian and French national identity in the previous sections of this chapter. Certainly the voices included and excluded in different contexts will be different. However, what is clear from the discussion of how nations are constructed in the last chapter, for the nation to emerge as a coherent, bounded entity what is *excluded* is at

[101] Jürgen Habermas (1992): "The modern public sphere now comprises several arenas in which, through printed materials dealing with matters of culture, information, and entertainment, a conflict of opinions is fought out more or less discursively. This conflict does not merely involve a competition among various parties of loosely associated private people; from the beginning a dominant bourgeois public collides with a plebeian one." (Cited in Roberts and Crossley, 2004, p18).

[102] Indeed, in his 1964 article, "The Public Sphere: An Encyclopedia Article", Habermas starts by saying; "By 'the public sphere' we mean first of all a realm of out social life in which something approaching public opinion can be formed. Access is guaranteed to all citizens." Habermas, translated by Sara Lennox and Frank Lennox 1974, p49.

least as important as what is *included*. This applies not only to forms of remembering and national symbols but also different voices.

As a result there have been attempts to increasingly reconceptualize the public sphere to incorporate its coercive and power-driven features:

> Modern communication techniques are not simply a medium of thought and argument but also a potential source for power, domination and oppression. Some contemporary theorists go as far as to say that the bourgeois public sphere arose as a response to the ambivalent, expressive and effectual practices of the Other; practices which the bourgeois public sphere sought to contain. At the very least this implies that Habermas' sense of wonderment at rational consensus belies a less than pleasant conclusion. Any consensus reached is accomplished through a evolving process of coercion and exclusion. (Crossley and Roberts 2004, p11, references omitted)

It is precisely for this reason that various scholars have sought to abandon the concept of a singular 'public sphere', preferring instead to consider the "manifold of public spheres, counter-public spheres and alternative discursive sites, each with varying relations to particular local and global forces" (Couldry and Dreher 2007, pp79-80). In explaining why this approach is perhaps preferable, Tanja Dreher and Nick Couldry argue, "it is uncertain how much remains at stake in the possibility of a common discursive space through which different publics might speak to each other". For this reason, they prefer to refer to the emergence of counter-publics, "distinguished by 'various degrees of exclusion from prominent channels of discourse and a corresponding lack of practical power' (Asen and Brouwer, 2001, 2-3)." (Couldry and Dreher 2007, p80)

Similarly, Nancy Fraser has called for the recognition of what she calls, 'subaltern counterpublics', being; "parallel discursive arenas where members of subordinated social groups invent and circulate counterdiscourses. Subaltern counterpublics permit them to formulate oppositional interpretations of their identities, interests and needs" (Crossley and Roberts 2004, pp14-15). As parts two and three of this thesis will demonstrate, this concept of 'subaltern counterpublics' is extremely significant in the context of both the two nation's public discourses on their respective gang rapes. Certainly there do appear to be attempts made to open

up these counterpublic spheres: the use made of the user-created, content sharing internet website Youtube in Australia and the creation of the 'grass-roots' *banlieue* feminist organisation *Ni Putes Ni Soumises* in France are striking examples. Yet the extent to which these alternate discourses and discursive arenas provide truly counter public spaces and contest dominant discourses raises very complex issues in both the Australian and French contexts as parts two and three of this thesis will demonstrate.

Another major criticism of Habermas' conception of the public sphere is also relevant. This is his acceptance of an apparently neutral, bodiless citizen participating in rational exchange to build consensus. Joan Alway provides an excellent feminist critique in this regard:

> [Habermas'] is a universalism that depends on a communicatively competent, but disembodied subject. Such a subject leaves us unable to acknowledge the important bodily dimensions of autonomy and self-realization; such a subject limits our ability to understand the ways in which domination and resistance have materialized in and around the bodies of women and members of other oppressed groups; and such a subject inhibits analysis of the concrete, lived and different experiences of embodied actors in their everyday/everynight worlds. (1999, p138)

Alway's quote points to an important link between embodiment and discursive practices, hence why Bourdieu's theory of habitus is central to the theoretical framework of this thesis. As will become apparent, in the context of both the Australian and French public discourses, markers of gender race/ethnicity take on great significance in terms of who is considered able to speak (for the nation, for 'women', for 'communities'), the discursive practices and strategies employed by these actors (through how they 'play the game') and how these discourses are in turn received. It is in order to contextualise how these markers operate that an overview of the different nations' construction of identity is necessary.

So, acknowledging the reality of a multiplicity of public spheres (and with it a variety of discourses and discursive practices) that form part of public discourse, which public spheres/discursive arenas emerge as sites of exchange in the context of

'the Sydney gang rapes' and *'les tournantes'*? And are all assured equal prominence? It is here that reference to Critical Discourse Analysis (CDA) theory and method becomes useful. As the prominent CDA theorist Teun Van Dijk argues:

> [P]olitical, media, academic, corporate and other elites play an important role in the reproduction of racism. They are the ones who control or have access to many types of public discourse, have the largest stake in maintaining white group dominance, and are usually also most proficient in persuasively formulating their ethnic opinions. (1992, p88)

Van Dijk is particularly concerned with racism but it is argued that his comments also have relevance to considering the situation of any marginalised or oppressed group. As Parts Two and Three of this thesis explore, the question of who has access to and/or dominates public discourses has implications not only in terms of (re)asserting racial order but also existing dominant discourses on gender and sexuality.

3.4.2 The Role of the Media in Public Discourse

It is no coincidence that vast quantities of work done using CDA have concentrated on the mass media. Indeed, there is a sizeable body of theory on the role the media plays in producing and shaping public discourse. Jaworski and Coupland observe: "[t]he mass media are the primary contemporary means of disseminating accounts of events and reactions, and in journalistic news reports 'story telling' takes on new characteristics and emphases." (1999, p216). Similarly, Jakubowicz et al. (1994) argue that the media plays a central role in cultural production in Australia and in the relationship between public discourse and racism: "The media are not separate from society, but closely implicated in its core relationships – of women with men, of classes, of ages, of race and ethnic groups. *We conceive of the media as a process of producing meanings*." (1994, p7, emphasis added). In the French context Raymond Kohn notes: "The French media are both the main arteries of a sophisticated system of political communication and major players within that system" (Kuhn 1995, p1).

Norman Fairclough also argues that the power of the mass media should not be underestimated. For this reason, he calls not simply for the recognition of the role played by the media in socio-cultural change, but for greater analysis to be done of the language employed by the media, their discursive practices (1995, p3).

At the same time Myra Macdonald in her book, *Exploring Media Discourse*, looks at some of the ways in which the media is viewed in relation to the reproduction and dissemination of dominant discourses. For Macdonald:

> The media, viewed through a postmodern prism, appear as intertextual pedlars in image, sound and word, concerned less with making meaning than with producing stunning effects. Yet in everyday conversations, and in the thinking of politicians and other opinion-formers, the media still figure strongly as narrative-makers, capable of influencing public perceptions of a 'reality' beyond their borders. (2003, p1)

She advocates caution in exaggerating or isolating the media's role as a key institution in the creation and maintenance of dominant discourses, (2003, p10) but at the same time rejects the characterisation of the media as mere "gatekeepers" transmitting information. As a result she calls for a re-examination of the connections between media discourses and the variety of public discourses which exist in complex multicultural democracies, arguing: "The boundaries around 'public discourse' and 'media discourse' are, then, much less secure than we like to think when we identify the media as the essential scapegoat for society's problems." (2003, p11). It is also worth re-stating Cathy Greenfield's and Peter William's point here that, "[m]edia – from the cooking pages to the world news, from business programs to situation comedies – are potent providers of the materials out of which people take or build their various rationalities" (2001, p34).

As parts two and three of this thesis demonstrate, the media are only one of a number of significant actors who contributed to public discourse on 'the Sydney gang rapes' and *'les tournantes'*. While playing an admittedly central role – even when the media were not in fact generating their *own* discourses on the rapes, they were the main site through which other actors were able to generate and deploy their

discourses – the media provide only one part of the public discourses this thesis seeks to identify and examine.

3.4.3 Autobiography and The Testimonial

Another commonality in French and Australian public discourses on the gang rapes is the emergence of particular victims who became 'representative' of the young women targeted. In the French context this happened early in the development of public interest regarding *'les tournantes'*: Samira Bellil's autobiographical account of her experiences as a victim of multiple gang rapes was in fact one of the texts that first drew attention to the issue. By way of contrast in Australia, although the views of the victims were periodically reported (and one victim did provide an anonymous interview to the commercial current affairs programme *60 Minutes*) from the end of the first trial (the AEM/KEM trial), it was not until the final highly publicised case involving the 'K brothers' that a particular victim was identified and became a figure in the public sphere: Tegan Wagner. Initially Wagner only provided media interviews, however following the completion of the trial and appeals processes and the publication of a book by media commentator Paul Sheehan on the cases (discussed below), Wagner also published her own account of the rapes and her encounters with the justice system.

Autobiography as a form of narrative has been subject to much analysis due to the specific literary conventions it employs. An oft-used definition of autobiography is that provided by Philippe Lejeune in his text, *Le pacte autobiographique* (1975): "a retrospective prose narrative written by a real person concerning his/her own existence, where the focus is his individual life, in particular the story of his/her personality"[103] (Hughes 1999, p2). As Alex Hughes goes on to explain, a central feature of autobiography is an expressed commitment to presenting 'the truth' of the person's life: to accurately represent the facts as they are in a 'reality' which exists beyond the text (Hughes 1999, p2).

[103] "un récit rétrospectif en prose qu'une personne réelle fait de sa propre existence, lorsqu'elle met l'accent sur sa vie individuelle, en particulier sur l'histoire de sa personalité".

In postcolonial feminist and critical race feminist theory the genre of autobiography has increasingly been celebrated as a means by which non-white women have sought to challenge dominant constructions of subjectivity and assert different conceptions of self in a voice which is their own, not to be mediated through dominant discourses: a potential 'subaltern counter-public sphere'.[104] However, as Hughes goes on to explain, the task of representing an extra-textual 'reality' or 'truth' is in fact impossible, and notes that for this reason many of the most notable autobiographies, "posit themselves as proffering, finally a *resemblance* of the truth and an *image* of the real, rather than strict verisimilitude" (Hughes 1999, p2). This point is significant for a number of reasons. The first being the inextricability of the individual author from the social conditions within which he or she is writing: These social conditions will impact both on the response a particular autobiographical text will receive and the various ways in which it can be read. As the analyses of both Bellil's and Wagner's texts demonstrate, the social conditions within which the women are situated and the particular reading promoted by collaborators, editors and reviewers impact heavily on the discourses produced.

At the same time, it is not only the reception of the autobiographical text that is affected by external social conditions. It is argued that these external structures also impact on the manner in which the author chooses to frame and/or come to terms with his/her lived experiences. As Julien Henriques et al. explain; "The subject of discourse, author or speaker, is itself caught in [a] web of calculations. Truth is at once a material, discursive, political and subjective question" (Boulé 2002, p3). Both Bellil and Wagner invoke complex relationships with the concept of 'truth' in explaining the autobiographical writing process. Furthermore – particularly in the context of Bellil's text – the authority and legitimacy given to 'experience' emerges as highly problematic: a point that post-structural and postcolonial feminists have increasingly sought to assert.

[104] For example, see Torres (1991) for a discussion of this in the context of Latina autobiographical works.

It is also worth noting that a number of the other texts analysed also seek to assert a pre-existing 'truth' that they are only representing: the film, *La Squale*, the book written by the president of the organisation *Ni Putes Ni Soumises*, Fadela Amara dedicated to considering the situation of young women in the *banlieues* and Paul Sheehan's account of the background and proceedings in the 'K brothers' case. All of these texts claim to be dedicated to the actual and potential victims of gang rape and all assert an 'insider's account' based on their use of 'factual scenarios' and 'lived experiences'. The attempts to present their accounts as objective are often highly problematic. This is largely due to the failure to admit a particular ideological stance in each of their works; a point explored in detail in parts two and three of the thesis.

3.4.4 The Law

A point of distinction between the Australian and French discourses is the extent to which the legal arena provided a site for discourse generation, deployment and contestation. Although criminal trials were reported in France, they never occupied much public space, with greater attention given to the semi-fictional representation in the film *La Squale* or the discourses of supposed 'representatives' of women of the *banlieue* such as *Ni Putes Ni Soumises*. By way of contrast, in Australia the three sets of criminal trials ('AEM/KEM'; 'Skaf'; 'K brothers') were a focal point of public and political attention. The trials provided a source of intense parliamentary debate, which lead to major law reforms between 2001 and 2006. At the same time, the judges, victims, accused, their families and friends and the lawyers all emerged as players in their own right with their comments and courtroom conduct widely reported in mainstream national media. There are a number of possible explanations for this difference.

Historically the civil law tradition has not placed as great an emphasis on the large, public criminal trial as has been the tendency in Anglo-Saxon common law systems. As Lawrence Friedman argues, "Perhaps the trial was, in a sense, at the ideological core of the common law. It was the trial, and trial procedure, that mostly [sic] sharply distinguished common law from civil law" (2004, p696). Therefore it is

perhaps due to the significance placed on the trial process in the adversarial legal system, that in Australia the criminal trials provided both a central focus for media and political discourses and a site of access to public discourse for other actors; most particularly the victims, the rapists and members of the judiciary.

Furthermore, a common observation by comparative legal scholars is the sharp distinction between the common law system, in which reasons for the decision are a central feature of legal judgments and the civil law system in which judges are not obliged to explicitly set out the reasoning they employed (Duparc Portier 2006). This could explain why the judges in the Sydney gang rape cases gained such prominence in the public debate. The limited discretion available to civil law judges, compared with their common law counterparts perhaps also explains why the judgments handed down in the few French cases that were reported (all sentences of imprisonment a great deal shorter than in 'the Sydney gang rapes') provoked less comment and critique.

Another explanation is that the Republican tradition has generally placed a greater emphasis on maintaining sexuality outside of the public sphere than Anglo-Saxon societies (Ticktin 2008; Fassin 2006, 2003). As a result, sexual violence has generally been less widely-reported than in contexts such as the United States, or in this case, Australia. Unlike the Sydney gang rape trials, it appears most of the trials in France were conducted in closed session *(*Tourancheau 2002b; Robert-Diard 2002; du Tanney 2001; de Langhe 2001; Chambon 2001): a common occurrence for trials involving sexual violence in France (Duparc Portier 2006, pp206 and 209).[105]

Pascale Duparc Portier, in her comparison of media reporting of trials in Ireland and France, notes that while both nations have generally seen media freedom and public trials as important and do report similar types of trials, "[t]he most widely reported cases in France are criminal cases involving politicians" (2006, p225). She

[105] A closed trial is provided as a right available to rape victims under the French Code of Criminal Procedure. It appears many of the men in the French context were also tried as minors in juvenile court. This is in contrast with 'the Sydney gang rapes', where it was decided that the men should be prosecuted as adults despite their youth.

also notes that, unlike in Ireland where parties involved in the proceedings were often interviewed and appeared on television, in France it tends to be left to journalists to comment, without inviting the parties to contribute (2006, p197, fn.2). This could explain why the Sydney gang rapists themselves also established public personae in a way that the men identified as involved in *'les tournantes'* did not in the French context. Although some French newspaper reports did provide detailed accounts of the courtroom, the Australian examples seem to better mirror Kristen Bumiller's observations of the United States:

> ...avid interest in media reports spawned by notable criminal cases is more than a spectator sport, these reports are the means by which symbolic representation of victims and criminals are produced for consumption in popular culture. The messages that are disseminated in democratic societies by the media about the causes and consequences of crime and the behavior of principal actors in courtroom dramas are a prolific source of powerful legal symbols. (Bumiller 1998, p37)

Having noted that a large proportion of the analysis of 'the Sydney gang rapes' is dedicated to the criminal trials themselves, it is important to recognise the role the law has to play in providing a site for both reinforcing and challenging dominant discourses. Mariana Valverde argues that the law should in fact be seen as a key site for the reproduction and contestation of various forms of power relations. She asserts, "[i]f knowledge is power, so, too, are power relations also knowledge relations, truth relations." (2003, p1) Thus in secular, multicultural societies, law provides a privileged site in which people either seek the truth themselves or comment on the truth-seeking efforts of others. The significance of this point emerges clearly when looking at Sydney gang rape victim Tegan Wagner's account of her trial experience (see chapter five).

At the same time, "law has a strong constitutive ability whose effects cannot always be predicted even if we know what the generalized relations of power are in a particular context" (Valverde 2003, p10). Legal discourse does not just reflect dominant societal values but in fact helps to construct particular understandings of events and individuals. Kristin Bumiller explains; criminal trials have a powerful role

in democratic societies as they are often the only source of contact individuals have with the law and its attempt to address social deviance and crime. In this way, highly mediatised criminal trials help shape individuals' understandings of how and why crime is committed, by whom and the extent to which existing legal structures are able to successfully address these problems (1998, p37). Chapters five and six both explore the ways in which this occurred very explicitly in the Australian context. While of less significance in the French context, nonetheless the few descriptions provided of '*les tournantes*' trials also seem to support Bumiller's argument as chapter eight will demonstrate.

3.4.5 Public Intellectual versus 'Ordinary citizen'

In the Australian context great importance was given to the 'ordinary Australian' having a voice in public discourses on the rapes: hence why commentators such as Paul Sheehan, Miranda Devine, Janet Albrechtsen, Alan Jones were able to capitalise on the apparent disjuncture between left-wing intellectual responses to the rapes and the general acceptance of a ethnic/racial element to emerge as the 'voices of mainstream Australia'. This could be explained as related to the construction of Australian national identity in which 'the ordinary Australian' is a central figure of national significance (see also Greenfield and Williams 2001). By contrast, in the French context, while there have been various significant periods of disruption (eg 1968), the role of the 'public intellectual' has generally been held in much higher regard.[106] As noted above, there is generally less room given to the voices of 'ordinary individuals' and their perspectives, particularly in the quality national newspapers; a stark contrast with the situation in Australia in

[106] As Gavin Bowd (2004) details, the intellectual has been a prominent figure in the public space since the Dreyfus Affair of 1898 in which the novelist Émile Zola rallied academics, writers and other intellectuals in support of a Jewish army officer accused of espionage. This intervention of the intelligentsia into public political life became an aspect of *"l'Exception française"* and flourished during the two war periods and the events of May 1968. While Bowd highlights that the discrediting of the figure of the intellectual in more recent times has limited his/her influence within public discourse, at the same time there appears to be a continued role played by intellectuals, even as they are self-critical and the "high intellectuals" of academia are replaced with the "accessible/common intellectuals" whose work is circulated through more journalistic editorial/opinion pieces. The very existence of publications such as *Le Nouvel Observateur,* (a weekly magazine featuring news and current affairs, opinion pieces and discussion of literature and the arts) serve to demonstrate an ongoing role to be played within the public sphere by the liberal intellectual classes.

which the position of the ‘elite’ is frequently denigrated and dismissed (Greenfield and Williams 2001).

PART TWO: ‘THE SYDNEY GANG RAPES’

CHAPTER FOUR: BACKGROUND

4.1 INTRODUCTION

On 29 July 2001 the headlines "70 Girls Attacked by Rape Gangs", "Police warning on new race crime" and "Caucasian women the targets" appeared on the front page of the Melbourne-based tabloid the *Sun-Herald* with details of rapes that had been committed approximately a year before in Sydney. While, as Poynting et al. (2004; see also Warner 2004) note, the story of gang rapes involving young men from Lebanese backgrounds who had interrogated their victims on their nationality and ethnicity prior to raping them had been leaked to the media by police informants back in 2000 it had been overshadowed by the Sydney Olympics and not been considered sufficiently newsworthy. By mid 2001 this was no longer the case. With media and political-induced public concern regarding waves of asylum seekers arriving from the Middle East, the climate was one where issues of immigration and the future of Australian multiculturalism were given central attention.

Although the apparent 'rape spree' by young Lebanese men in the South-West of Sydney was presented as involving one gang, in fact what have now come to be known as 'the Sydney gang rapes' involve three separate groups of men; the gang rape of two young women by three young men known as AEM Snr, AEM Jnr and KEM in 2001, the 'Skaf rapes' involving up to 14 men on different occasions and apparently orchestrated by a young man identified as Bilal Skaf during 2000 and a series of rapes perpetrated in 2003 by four Pakistani brothers known as the 'K brothers'.

4.2 THE FIRST TRIALS – *R v AEM SNR, AEM JNR and KEM* 2001

The first of the 'Sydney gang rape' cases involved three young men convicted of raping two 16 year old women after having lured them away from a train station back to the house of two of the men. Due to the accused entering pleas of guilty and there being an agreed set of facts submitted by both the Defence and Prosecution, the trial took place in relative anonymity. A plea-bargaining arrangement was entered into and the victims were not required to testify, although one of the victims chose to submit a victim impact statement. It was only following the sentencing judgment that this case sparked controversy.

Prison sentences of six years, 18 months and five years seven months respectively were handed down on 23 August 2001. In sentencing the accused, District Court Judge Megan Latham remarked that based on the case law she did not consider the case to fall into the 'worst category' of sexual offence and referred to a number of mitigating factors including the accuseds' guilty pleas and their expressed contrition. Furthermore, while there appear to have been allegations of racial motivation made by one of the victims in her victim impact statement Judge Latham commented:

> There is no evidence before me of any racial element in the commission of these offences; there is nothing said or done at any stage by any of the offenders which provides the slightest basis for imputing to them some discrimination in terms of the nationality of the victims. The circumstances giving rise to the offences have all the hallmarks of an opportunistic encounter... (*R v AEM (jnr) and AEM (snr) and KEM*, unreported judgment, District Court of New South Wales, 23 August 2001)

She equally dismissed the claim by KEM that he was not aware he had done anything criminally wrong, as he was unfamiliar with the laws of Australia, imputing this instead to be another attempt to excuse or minimise his behaviour.

What followed was intense media and political discussion, which centred around two issues; the first was the apparent trivialisation of the seriousness of gang rape reflected in Judge Latham's comments and the sentences handed down. The other was Judge Latham's insistence on erasing all racial/ethnic aspects, which contrasted with the various statements subsequently made by the victims to the media and with the apparent attempt to introduce a cultural defence by at least one of the rapists.

So intense was the media and public outcry that a NSW Parliamentary Library briefing paper specifically looking at the response to the AEMs and KEM case was issued in September 2001. In reviewing the debate, the conclusion reached by the authors of the briefing paper was that the case highlighted an ongoing divide between the judiciary and society in relation to sentencing procedures and lengths but also that it further provoked an area of increasing concern; the relationship between ethnicity and crime (Johns, Griffith and Simpson 2001, p18).

Unfortunately, the two issues became inextricably intertwined due in part to the fact that a new gang rape trial involving young men of Lebanese origin was about to begin; the 'Skaf trials'. With this new trial due to start in late 2001, the AEMs and KEM case had the effect of pushing hastily drafted legislation through the NSW Parliament which introduced a new offence: "aggravated sexual assault in company" – commonly referred to in the media as gang or pack rape. With this new offence the available sentence was increased from 20 years to life imprisonment.

Before moving to consider the Skaf case, it should be noted that the Director of Public Prosecutions appealed the sentences of AEM and KEM (as well as that of MM, the fourth perpetrator identified later). On appeal the Supreme Court stated that the sentences imposed by Justice Latham were "manifestly inadequate given the high degree of criminality involved in the commission of the offences". As a result the Appeal Court increased the sentences to a total of 13 years, with a nine-year non-parole period for AEM Snr, 14 years with a ten-year non-parole period for KEM and 13 years with a non-parole period of ten years.

4.3 THE 'SKAF TRIALS'

After the AEM and KEM case came the most notorious trials: those involving brothers Bilal (identified as the ringleader) and Mohammed Skaf. It was alleged that Bilal Skaf had orchestrated numerous gang rapes involving up to 14 men at a time. Through intercepting mobile phone messages and calls between the men, police were eventually able to link the rapes back to Bilal Skaf and he was brought to trial for his involvement in three separate incidents on 10, 12 and 30 August 2000.

Ultimately Bilal Skaf made New South Wales and Australian history by being the first to be convicted under the new legislation and sentenced to 55 years; the harshest sentence ever handed down for a crime other than murder. Through various appeals this sentence was reduced to 31 years but by this stage Bilal Skaf had become cemented in Australian public imaginary – as his own defence lawyer commented – he had become the 'brand name for a gang rapist' ("Skaf: 'Brand Name' for gang rapist", *Sydney Morning Herald*, 22 June 2008).

He also remained a figure of public interest both during and after his criminal trial. In Court it was alleged and widely reported that Skaf made threatening gestures to a co-accused (running his finger across his throat in a cutting action). His demeanour was also commented upon extensively by both the media and Justice Finnane in his sentencing remarks: the fact that he showed no remorse and seemed to be amused throughout the trial ("conducted himself as if the proceedings were a joke"). Following his conviction he has remained in the news. In July 2003 the *Sun Herald* newspaper printed cartoons he allegedly drew depicting a gang rape scenario involving his ex-fiancée with the caption, "Hurry up, man, there's 50 others waiting" (Mitchell and Sutton 2003).

Prior to this incident, in March 2002 he was charged with sending a threatening letter to Corrective Services Commissioner Ron Woodham which was quoted in the media as stating, "Don't take this as a threat but if all Muslims aren't released by January 2003 Australia and citizens will be in danger of bombing" (Gibbs

2003). His mother was banned from visiting him for two years following an attempt to smuggle letters to his fiancée out of the prison and his father was accused of bribing prison officers $100 to speak to Skaf on the telephone. The most recent scandal emerged in September 2008 when it was reported in the *Sun Herald* that there had been an attempt to smuggle in a mobile phone to Mohammed Skaf, sparking a wave of measures to tighten security in New South Wales' jails (Carty 2008).

Alongside the various appeals and re-trials that have ensued from the original convictions of Skaf and his co-rapists, these stories of the Skaf family's antics have assured Bilal Skaf a permanent presence in the Australian media and even a profile in parliamentary debates. As the Melbourne newspaper, *The Age* noted in 2003; "If Skaf thought he would be left to rot quietly for the next four decades, he was wrong. Public scrutiny of his thoughts and actions have, if anything increased…" The article goes on; "The Crown Prosecu0tor at his trials, Margaret Cunneen, said Skaf's crimes had left an indelible stain on the psyche of the citizens of NSW". It was also reported in January 2007 that a film on the Skaf gang rapes was in pre-production stages and had received Federal and New South Wales funding, although whether the film should in fact be made was the source of renewed public and political debate (Connolly and Moran 2007; Chesterton 2007; "Misgivings over gang rape film" *Sydney Morning Herald*, 29 January 2007; "Be sensitive to rape victim filmmakers urged" *Sydney Morning Herald*, 28 January 2007).[107]

However it has also been suggested that it is not only the horrific nature of Bilal Skaf's actions that has led to his ongoing public profile: "Eleven months [after his conviction] Skaf is still a useful political tool. His presence was felt during the March 22 [2003] NSW election campaign and he mentioned [sic] in any debate about sentencing and prisons" ("Rapist out of sight but not out of mind", *The Age*, 2 August 2003). The political responses to 'the Sydney gang rapes' will be discussed

[107] The film has not yet been released and there has been no more recent media coverage on its progress.

later in this chapter. However, first it is necessary to describe the final set of gang rape trials to dominate public, media, legal and political discourses: the 'K brothers'.

4.4 THE 'K BROTHERS'

In mid 2003 the trials of four Pakistani brothers accused of having conducted three separate gang rapes involving four girls over the course of the previous year began. This set of trials reflected the final in the 'Sydney gang rape' series but also gained its own notoriety due in part to the conduct of two of the brothers who refused legal representation in favour of representing themselves. The two brothers repeatedly argued that they were the victims of an "anti-Muslim" conspiracy and utilised various well-publicised and often highly dramatic delay tactics (including one of the brothers announcing to the jury that he had already been convicted of gang rape to force a mistrial, throwing fruit at the jury, attempting to physically attack the Prosecution lawyers and two of the victims' mothers in court and seeking to assert a defence of mental incapacity by claiming Satan spoke to him), which resulted in the trials taking three years to complete. Ultimately the brothers were convicted on various counts in a number of separate trials, receiving cumulative sentences of 26 years, 22 years and 19 years respectively. Their cases have since been the focus of two books; the first by media commentator Paul Sheehan entitled, *Girls Like You,* in 2006 and the second by one of their victims, Tegan Wagner entitled, *The Making of Me* released in 2007.

CHAPTER FIVE: 'FALLEN ANGELS', 'NASTY MIGRANTS' and THE AUSTRALIAN COURTS

5.1 INTRODUCTION

As noted above, socio-legal scholars have demonstrated the symbolic value large public criminal trials have in shaping societal understandings of criminal activity and victims and perpetrators of crime (Coates et al. 1994; Bumiller 1998; Lacey 2001; Ehrlich 2001; de Carvalho Figueiredo 2004). In particular, heavily publicised trials involving sexual violence serve an important role in clarifying in the public's mind what constitutes rape and sex and the distinction between the two. As Nicola Lacey has argued:

> One of the most powerful aspects of criminal law in this field [is] its reflection and reinforcement of certain ideas of the sexually normal, including the sex/gender roles and stereotypes which any informed reader of the research, or observer of practice, knows make a decisive difference to the implementation of sexual offences. (Lacey 2001, p11; see also Smart 1989)

Similarly, in writing about symbolic, heavily mediatised trials for crimes of sexual violence, Bumiller notes the extent to which dominant constructions of identity and dominant understandings of what causes male violence against women are reinforced within legal discourse and convention: "Despite ostensibly promoting justice in individual cases, [these trials] may actually reinforce dominant preconceptions about women, men and crimes of sexual violence" (Bumiller 1998, p37). While Bumiller recognises some scope for particular actors to disrupt convention and, as a result, resist dominant constructions of their identity and/or experience, she is doubtful about the extent to which victims in particular in rape trials are able to assert their own narrative and the extent to which they must conform to the language adopted by the law. They must 'fit words to deeds' (Danet 1980, p189) and at the same time, the words they choose to employ will impact

heavily on whether or not their experience is understood and addressed by the legal system: to draw on the language used by Coates et al., they must fit their experience within the appropriate 'interpretative repertoire' (Coates et al. 1994, p197). According to Coates et al., these interpretative repertoires are only able to conceive of classic 'stranger rape' scenarios (violent acts by strangers on women who resist physically and to their utmost) or consensual sex. The fact that most women's experiences of rape fall somewhere in between means that there will always be a discrepancy between their subjective experience and the language available to them through the legal process to describe this experience.

In this section, through an analysis of the discourses employed by the victims, the accused and the judges, the extent to which courtrooms provide a site of potential coercion and/or resistance will be explored. As Susan Ehrlich observes in her book dedicated to a sociolinguistic analysis of rape trials, "Sexual assault adjudication processes are a rich and fertile site for investigation of the gendered ideologies that pre-exist and 'coerce' many performances of gender" (Ehrlich 2001, p9). At the same time race/ethnicity should not be excluded from this analysis. It is also well documented that race has often had a significant impact on the outcome of cases involving sexual violence, particularly where the crime is inter-racial (see chapter two). Thus, in exploring these discourses the relationship between constructions of gender, race and ethnicity will also be interrogated.

5.2 VICTIMS' DISCOURSES: RESISTANCE and CO-OPTION

"I am not merely who you want – or need – me to be... I am not only the victim that white society has made out of me" (Sykes 1991, p33)

A starting point for exploring the extent to which the outrage regarding 'the Sydney gang rapes' truly reflects an increased 'feminist sensibilisation' of Australian society and the Australian justice system is the manner in which the victims themselves re-told their experiences of the rapes. As discussed in chapter two, there

has been general consensus among feminist scholars that societal and legal understandings of what constitutes 'real rape' have frequently resulted in the perpetuation of dominant stereotypes regarding female and male sexuality and gender identity. However, the appropriate site to challenge these stereotypes has been a subject of contention. While some feminists have consistently called for law reform and improvements in court processes and criminal justice system responses to victims, others have disputed the extent to which these reforms are in fact effective.

For example, criminologist Julie Stubbs (2003) has rejected the criminal justice system as the appropriate primary site of intervention in response to sexual violence, arguing that myths about gender and sexuality remain too entrenched for the legal system to be able to provide the ultimate site of remedy and redress:

> Reforms of criminal laws and procedures concerning sexual assault remain vital but insufficient. They have an important symbolic value but are likely to be limited in effectiveness.... one source of the failings of law reform efforts to date has been the resilience of cultural mythologies about women and about sexuality.... Real changes in the level of sexual assault ultimately may be dependent upon significant changes in social values and understandings of gender and sexuality. (Stubbs 2003, p23)

In Australia (unlike France) criminal prosecutions were a focal point in all the discourses on the gang rapes. Clearly there was an assumption that the justice system was the most appropriate, or perhaps the only, site of redress available to the victims. However, the extent to which this proved to be true can be seen in the efficacy of the victims' attempts to assert agency, the extent to which they were able to utilise dominant constructions of their identity and sexuality to their advantage and the extent to which their narratives were co-opted or limited by dominant understandings of what had happened to them and why.

As a striking parallel to the emergence of Samira Bellil as a public figure in France, in Australia one of the Sydney gang rape victims in particular has stood out as 'representative': Tegan Wagner. Not only has Wagner been the most publicly vocal

of the Sydney gang rape victims, she is also the author of an autobiography released in 2007 in which – similarly to Bellil – she describes both her experience of rape and her subsequent attempts to overcome its legacy. Aside from the obvious parallel with Bellil, which makes for a useful site of comparative analysis, this section will focus much of its consideration of the victims' discourses on Wagner for two reasons. The first is, in order to remain within the scope of 'public discourses' on the gang rapes, Wagner must be seen as providing the most consistent representation of the public 'victims' discourses'. She is one of the only victims who allowed herself to be publicly named and she is the only victim who was prepared to be identifiable. She has provided the most interviews and is the only one of the victims to have written her own account of the rapes.

Furthermore, it is not only practical but also appropriate to focus on her. As already described, 'the Sydney gang rapes' have remained a source of intense public attention and condemnation. Yet the majority of the victims have chosen to maintain their anonymity and have expressed little desire to participate in the ongoing debate.[108] Paul Sheehan, in his book on the 'K brothers', while detailing the cases of all the victims was only able to name Wagner and 'Cassie' as they were the only victims to give their permission. While their decision to maintain their anonymity may itself be worthy of analysis and some reference will be made to the limited interviews that they did provide to the media, this thesis will not seek to further interrogate the other gang rape victims. They have already endured sufficient attention without the need for further attempts to identify and analyse them in the context of this thesis. Instead, the focus will be on Wagner's public representation of her experience.

[108] One of the victims in the Skaf gang rapes did participate in an interview with the filmmakers currently working on the film version of the gang rapes. However, the New South Wales rape crisis centre, having reviewed the script, has expressed concern about the graphic nature of the re-enactment of the rapes and the potential for re-traumatisation of the victims. In mid 2007 they asked that the script be revised to focus more on the impact of sexual assault on victims and less on entertainment and suggested a consultation process (Chesterton 2007) but it is not known whether this suggestion was adopted by the filmmakers.

5.3 "*THE MAKING OF ME*": THE TRIAL OF TEGAN WAGNER

While for French gang rape victim Samira Bellil her encounter with the criminal justice system forms a relatively minor feature of her book,[109] the majority of Wagner's narrative concentrates on her experience of the initial reporting of the rapes and then the trial process itself. In detailing this aspect of her experience, Wagner provides an excellent means of testing the ongoing contemporaneity of feminist research on the rape trial process. In comparison with Bellil, Wagner's assessment of the justice system in her book is relatively positive. Although she is deeply critical of some aspects of the criminal trial process, overall she identifies the criminal prosecutions and ultimately the convictions as providing her with a sense of closure and justice:

> I was able to move on because I took the power back. I took those boys to court, I saw it through and I stared them down. It really is the best feeling, and that's why I tell every victim to come forward. Do something about it. Take back the power. Make them pay. Because once you have, you can move on. (2007, p242)

She notes that submitting herself to the justice system had its risks but also asserts the value of having the 'truth' on her side and even advocates for other victims to also make use of the process. This provides a stark contrast with the remarks of 'Debra', also a rape victim who went through the legal process in relation to a rape she suffered at the hands of an unknown stranger:

> That the legal system offers an avenue of justice is one of the greatest misconceptions and myths of sexual assault. Too often the legal system treats the crime as if it is an acceptable social interaction. This legitimises the crime and in doing so causes the victim to suffer further impact of the crime. ('Debra' 2003, p53)

It is somewhat surprising in the context of all the research done on the damaging effects of rape trials to victims (often referred to as a 'second rape') that

[109]Discussed in chapter nine.

Wagner should ultimately express such optimism about the justice system's ability to protect and serve her interests. However this anomaly becomes less surprising when read in the context of the rest of Wagner's reflections. First of all, Wagner's assertion of confidence in the 'truth' winning out throughout the book seems to contrast with her own observation that various versions of the 'truth' were presented during the trial and that throughout the process she was far from confident as to which version was being accepted: "I spent a lot of time trying to work out what the jury were thinking….Every so often I'd see one of them jot something down and I'd start racking my brains about how I'd acted, how I'd behaved, wondering if they were thinking that I was this little snot-nosed brat that just deserved everything she got." (Wagner 2007, p178)

5.3.1 'Performing the Victim'

In fact, Wagner is very astute in identifying the role required of her and utilising this to achieve the desired outcome (the conviction of her rapists). In her concluding chapter she notes:

> When you're the victim in a rape trial, what you're experiencing is an argument about what kind of person you are: whether you're a naïve fourteen-year-old who let herself get drunk and was preyed upon by a group of guys who'd done this before and would do it again in the most ruthless manner. Or whether you're a slutty fourteen-year-old who couldn't wait to offer a sexual smorgasbord to a bunch of guys she'd just met and whose only concern was that she might get pregnant. That may not be how the lawyers or the judge see it, but that's how I saw it. It was an argument about who Tegan Wagner really was. It was an argument I had to win. (2007, p239)

Yet even as she asserts the need to demonstrate 'who Tegan Wagner really was', she also recognises the need to perform a particular identity in order to win:

> Theatre made going to court every day just about bearable, because it helped me detach myself and stay focused on what the trial process was really about – presenting my case in the best way I could – and not letting myself get so swept up in the emotions that I broke down or started screaming obscenities at the boys or did any of the other things I would have loved to do, but which wouldn't have helped me win.

> But we did win. I told my version of the story, and a jury of twelve people agreed I was telling the truth. (2007, p241)

Her reference to utilising the skills she learnt in her theatre classes provides a wonderful parallel to post-structuralist accounts of the courtroom as a performative arena. Far from being a neutral site in which the 'truth' is uncovered through a process of rational, unbiased reasoning, the courtroom has become increasingly seen as a site of intense ideological struggle in which participants must compete to have their voices and perspectives heard and understood.[110] Furthermore, in order to have their voices heard, participants are often required to fit within the traditional repertoires already established and understood by the Court. Janet Galbraith provides a particularly vivid description of the experience of a victim in the rape trial process in writing about her own court case:

> In the courtroom they put me into a box and placed stories upon me, told stories of me. They were searching for their truth *in* me. How were they to find this (in) me? Well, the night before I entered the witness box I was told by the police informant, 'It's all up to you Janet, it's all up to how you perform in the witness box, you just have to prove your innocence'. What performance was I to give and of what did I have to prove myself innocent? Innocent of making up a story? Every time I spoke, or was spoken, a story was being told; and, yes, the story/ies told were the stories already performed and which I would re-perform in an arena where the representations of rape and myself were limited by the discourses available. The script had already been written upon my entry into this room. (Galbraith 2000, p71)

In this description Galbraith identifies both the struggle between truths that emerges in the trial process and her feeling of being limited in the discourses she could utilise to perform her truth. This would seem to fit with the argument of Débora de Carvalho Figueiredo (among others) that judicial discourses on rape rely heavily on certain categorisations of men, women and sexuality (2004, p219). As a result, in order for the victim to achieve the desired outcome (presumably, successful prosecution and strong judicial censure of the accused), she must as much as

[110] Since the 1960s the schools of Critical Legal Studies, Critical Race Theory and Feminist Theory have all contributed excellent analyses of how power relations operate in the context of the court process as well as identifying the embodied subjectivity which impacts on the actions and language of all the participants in the court room from judges and lawyers to jury members and the parties to the case.

possible adhere to the normative categorisations of 'woman' and 'rape victim' set out in judicial discourses. It has been identified that this is one reason why many women do not report their experiences of forced sex: either because they themselves are unable to view their experience as 'rape' due to its failure to fulfil certain conditions (for example, the use of force, by a stranger, against which they demonstrated strong resistance) or because they fear the ambiguity of their situation may mean others will not categorise their experience as 'real rape' (Wood and Rennie 1994, p145).

Throughout the book Wagner describes a torturous process whereby she is forced to conform to certain constructions of the 'ideal victim' and indeed the 'ideal young woman' in order to gain sympathy and support. She also demonstrates that not only was this support far from unconditional, it was also not immediately forthcoming. While arguably slightly less unpleasant than Bellil's experience, Wagner's description of the initial reporting process also depicts an ordeal in which she was offered very limited sympathy/empathy:

> The whole process was pretty intimidating [reporting the rapes to the police]. I was still in shock, and I was completely exhausted, and the way they were questioning me made me doubt myself even more than I already had been. I really needed someone to reassure me that what I'd experienced *was* rape, because in spite of everything I still wasn't completely sure....
> ....I needed someone to say to me, 'Yes, Tegan, you were raped, and you've done the right thing by coming here and talking to us.' But no one said it. (2007, p58)

Ultimately Wagner does establish a strong relationship with a number of legal figures involved with her case - one of the initial investigating officers, the solicitor assigned to her case and the victim support representative assigned to her in court – but she also points to incredible inadequacies in the counselling services offered to her. In a startlingly similar encounter to Bellil[111], Wagner details an attempt to utilise a children's telephone counselling service immediately following the rapes:

[111] Detailed in chapter nine.

> …I rang the Kids Help Line and told my story, and when I'd finished, the lady on the other end said, 'You sound very calm for someone who's just been raped.'
> When bad things happen to me, once the worst is over I've always been able to calm down and think logically and process my thoughts thoroughly – and that's what I'd started doing. But the lady on the phone gave me the impression she didn't believe a word I was saying. (2007, p49)

This initial failure to find support impacted heavily on Wagner:

> …I was starting to doubt myself. What if I was wrong and Kerry was right? What if what had happened to me wasn't really rape? The lady at Kids Help Line hadn't sounded too sure. And the more I thought about it, the more I started to convince myself that it must have been all my fault. After all, I was drunk, and I'd kind of let the first one kiss me, and maybe if I'd really really tried I could have fought them off…The only reason I thought it might be rape was because the last guy, Mustapha, had slapped me across the face a few times and pushed me on the couch. If it wasn't for that one incident, I would've had myself convinced that it wasn't rape at all. I was fourteen and a virgin, I had no sexual experience, and I didn't even have a very clear idea about what rape was. And that night, all I could think about was how it must have been all my fault. (2007, pp49-50)

This description seems to fit within the broader findings of rape victims' feelings following rape. As Wood and Rennie (1994) discovered in their interviews with women who had experienced rape but had not reported them to the police, of the various constructions adopted by the women to make sense of their experience, self-blame featured prominently. Furthermore, the fact that Wagner not only worried about her own degree of culpability but associated rape as only 'real' when some other form of physical violence was involved (the slap from Mustapha), seems to evidence the frequent complaint by feminist theorists that the law maintains an ongoing understanding of rape in which, "the real crime is the extrinsic violence rather than sexual intercourse without consent in itself" (Heath 1998, p22). [112]

Even as Wagner appears confident through the course of the book about the validity of her claim, her concluding chapter suggests that some of this may in fact be the result of hindsight, following the vindication she felt she received from the Court:

[112] For a detailed discussion of this in the context of Australian law reform which has created a graded definition of sexual assault see Temkin (2002).

> I spent a lot of years having people tell me I couldn't have been raped, I was lying. I made the whole thing up. Now I've got a judgment in the Supreme Court of New South Wales proving that what I said was true. I *was* raped. I'm not lying. And now the whole world knows it. (2007, p242)

Her choice of wording is significant. The Court's judgment is not ancillary to the veracity of her rape claims; it becomes *the proof itself*. Thus, even as Wagner asserts a rightful sense of personal victory in having overcome the difficulties she encountered and achieving the outcome she desired, the extent to which the legal process was responsive to her needs is highly debatable. The fact that Wagner is ultimately successful does not turn so much on her ability to express her subjective experience on her own terms but rather the extent to which she is able to make it 'fit' within the dominant legal discourses on rape. Throughout the trial process she expresses her desire to fight back, whilst simultaneously acknowledging a need to 'play the victim' in order to achieve the desired outcome.

Even as she is disgusted by the unfairness of the process, she realises the importance of not throwing off the victim role completely and is careful in her choice of dress, her attitude in court[113] and her responses to questions.[114] Just as Bumiller (1998) details how the gang rape victim's testimony in the infamous 1984 New Bedford gang rape trial in the US both conforms to legal ways of understanding violence and yet embodies resistance to accepted modes of expression, so too the struggle between resistance and conformity can be identified in Wagner's actions and language.

---

[113] She attempts to maintain her composure despite expressing repeatedly the desire to lash out and express her anger; in describing the evidence of Kerry, her former friend who had been at the K brothers' house the night of the rape she writes, "I wanted to get up and shout at the jury, 'She's a liar! Don't listen to her!' But I couldn't. I wasn't allowed to show any emotion or argue or do any of the things I was desperate to do….I really just wanted to get up and abuse the crap out of her, but I knew that if I did that the whole case would have to be restarted and I would've had to go through everything all over again. So I had to just suck it up." (2007, p174).

[114] Generally restraining herself to bare minimal responses, the most she allows herself in response to a series of aggressive questions is, "If you don't mind me saying,' I said, 'that's complete bullshit!'" (2007, p163). Otherwise she maintains her composure and resorts to a sarcastic tone when attempting to resist the imputations put to her by the defence lawyers.

5.3.2 'The Fallen Angel'

It is well documented that for rape prosecutions to be successful it is necessary for the victim to emerge as someone as 'unblameworthy' as possible.[115] Thus, a central feature of the trial process remains the testing of the extent to which the victim 'deserves' sympathy, depending on her actions in the lead up to the rape and whether her prior sexual and personal life conforms to that of an 'ideal' chaste femininity. As Bumiller explains, even as she may seek to resist legal conventions and their construction of her identity, the rape victim is always required to demonstrate a certain type of 'innocence' in order to demonstrate her worthiness of protection:

> The trial turns on her 'innocence of experience' or 'freedom from guilt'; this has powerful symbolic consequences, for it reinforces the presumption that punishing violent men is justified to the extent that women are worth of trust and protection.... The symbolic message is, in some degree, an expression of the legal system's high tolerance for violence against women and its low threshold for the measure of her unworthiness. (Bumiller 1998, p39)

In all of Wagner's attempts to explain the causes, circumstances and subsequent impact of the rapes she demonstrates an ongoing need to assert her blamelessness. It is perhaps not insignificant that the image on the front cover of Wagner's book is a close up of her face, innocent-looking, big blue eyes, strands of hair to frame her face and a bandana tied discreetly across her head: an image of virginal innocence with more than a passing resemblance to standard images of the Virgin Mary within Western iconography. This would seem to fit with Bumiller's (1998) theory that for rape victims to elicit sympathy they need to emerge as 'fallen angels'; virginal, asexual beings whose innocence has been violated.

A two-page spread in the *Sun Herald* on Wagner in late 2007 seems to further exemplify this point. The opening paragraph provides a description of an innocent, potentially religious young teenager; "Six years ago, a school photograph of Tegan Wagner shows her as a young, naïve teenager, with a cross laced around her neck". This is the contrasted with an image of her following the rapes; "A school photograph

[115] As detailed in chapter two.

taken of the following year captures a startling difference: heavy black eye make-up, dark clothes, and hair pulled tight into corn rows. A marijuana leaf had replaced the cross" (O'Dwyer 2007). While the intention of these descriptions seems to be to demonstrate the emotional toll the rapes and the subsequent legal process took on Wagner, it is also noteworthy the extent to which they endorse a certain image of the rape victim; innocent to begin with, deprived of this innocence and suffering subsequently. It is through adopting this classic narrative of the young woman 'despoiled' that sympathy for Wagner is built.

In the context of the criminal trials, she describes a feeling of panic in preparing for her initial court appearance:

> The date for my trial had been set for 25 October 2004. I was both excited and anxious about going to court. I'd never been to court before and the whole thing was pretty scary. I had no idea what I should wear. I asked the police, and they joked, 'Don't wear anything that shows cleavage'....
> ....I spent a lot of time worrying about how I should present myself. What shoes should I wear? How should I have my hair? Should I wear make-up? Should I try to seem older than I am, mature and reliable? Or should I go in my school uniform, to remind the jury that I'm still a schoolgirl? (Wagner 2007, pp146-147)

The need to present the 'right' image seems to reinforce the assertions of feminist scholars that the trial process is a site of coerced gender performance. Similarly she describes the process of cross-examination as an ordeal, which required all her strength to maintain composure and remain within the character of the 'ideal' victim and woman:

> Morison [one of the defence barristers] made me feel like a little piece of dirt who'd decided to tell a whole lot of lies about a nice bunch of boys because I was such an evil, lying, filthy little slut. It felt like the defence could say whatever they liked about me, and I couldn't do anything to hit back or even show how I felt, because it might harm my chances. I had to be sweet and nice and good and patient while the defence barristers made me out to be something I am not... (Wagner 2007, p159)

Having identified that she must 'play the game' she decides not to confront and directly challenge the dominant legal discourses and structures, she opts for a

more subtle strategy of resistance. She cherishes brief moments of subversive satisfaction in her visual confrontation of her rapists,[116] her ability to hold off tears during cross-examination[117] and identifying mistakes made by the defence lawyers.[118] While the trial process she describes is far from an empowering experience, Wagner continually refuses to allow it to break her or diminish her sense of agency: while noting the particularly difficult cross-examination she endured at the hands of Mr Morison (involving 856 questions in total), she states:

> I felt so much better knowing I'd just stood up to him in front of the three people I will always hate. Morison had asked me the foulest questions and I'd been able to stand up to him. Knowing I'd made it through gave me a real sense of strength and accomplishment. (2007, p167)

Wagner does not choose the identity assigned to her of victim but she is forced to adopt it in order to win the law's approval. Just as her initial sense of self worth is destroyed by the male violence of rape, her only means of re-asserting worth is through acceptance within the male violence of legal discourse. She is not unaware of the violence being perpetrated against her again but chooses strategically to endure this violence in order to emerge with a renewed sense of agency that she can then assert in her own words through her book. So too, Wagner expresses a feeling of regaining some agency and dignity not through the trial process but as a result of it:

> By the time Mustapha's barrister had finished cross-examining me I felt great. The ordeal was finally over and I was the happiest girl in the world. I was so ecstatic, I felt like doing cartwheels. It was finished. I'd come to court wanting to make the boys feel powerless, to make them feel that no matter what they tried, or what they threw at me, I was always going to be around and I was never going to let them get away with it. I was the reason they were in court, and I was the reason they were going to be made to pay for what they'd done. They'd made me feel powerless, but now I had the power, and I'd used it to bring the full weight of the law down on their heads. And I was so proud of the fact that I'd actually done it. (Wagner 2007, p169)

---

[116] "I turned to look at the boys just to see if they could feel my telepathic waves of hatred" (2007, p160).
[117] "I wasn't going to cry in front of them, I was going to win" (2007, p160).
[118] "I couldn't help but chuckle as I watched him [Morison, the defence barrister] make a fool of himself. I just looked at him with a small grin and went, 'Mmm.' He'd avoided my question and he knew it. It was a little moment of revenge." (2007, p161).

This seems to suggest that while she is aware of the unjust aspects of the court process, she sees the strategic adoption of the victim identity as the only means for her to achieve a sense of (re)empowerment. One of the central feminist critiques of rape trials has been the overemphasis on interrogating and evaluating the victim's conduct. As a result, victims simultaneously emerge as key figures in the trial and as severely limited in the discourses available to them to express their subjective experience. Wagner's frustration at being cross-examined on matters which called her character and her sexual behaviour into question and not being able to respond as she would have liked seems to provide a poignant example of this critique.

At the same time, in her analysis of the linguistic and discursive features of rape trials Susan Ehrlich (2001) identifies an institutional coerciveness within the legal process, which requires certain performances of (gender) identity. Furthermore, Ehrlich argues that the resources available for describing rape tend to be the same for men and women. As a result women are often left without the appropriate words to express their perspectives or their experiences. Developing this point, Nina Philadelphoff-Puren suggests that this silencing or limiting process cannot be seen as simply a linguistic problem. Rather, it is a discursive problem, which arises as a result of the 'rape as romance' discourse so readily accepted by the law and society more generally (2005; 2003).[119] Due to the difficulty in separating the discourse of rape from the discourse of romance, women are often left literally without the words to resist the rape or explain their actions in the aftermath. In an attempt to prevent the rape they seek to maintain the discourse of romance (not resisting, not running away, trying not to offend their attacker) but this is then used against them in the subsequent criminal trial, as it provides the means for defence lawyers to argue at the very least 'ineffective resistance'.

Ultimately it is the legal system's incorporation of dominant constructions of 'normal' male and female sexuality and behaviour that implicitly inform its understanding of what rape 'looks like'. As Naffine explains, "the dominant tale of

[119] See also Coates et al. (1994) who identify the discourse of romance as a common feature of judicial descriptions of rape, particularly where the accused is known to the victim.

coercive heterosexuality-as-natural is a powerful one" (1994, p103). This is perhaps exemplified by a particular discussion in the 'K brothers' trial of the injuries of one of the victims, 'Kelly'.

5.3.3 What 'Real' Rape Looks Like

In her expert report tendered by the Prosecution, Dr Eva Jackson, a gynaecologist who had examined 'Kelly' following the rapes, commented that of the 1700 clinical vaginal inspections she had conducted, 'Kelly's' injuries were, "probably the worst I have seen". This led to lengthy legal debate during which it was argued by the Defence lawyers that these injuries could have been the consequence of consensual sexual intercourse (a scenario Dr Jackson stated was extremely unlikely). Paul Sheehan provides the following quoted passage from the interaction between Justice Sully and the Crown Prosecutor based on his trial observation and reference to the transcript:

> *Judge:* What troubles me is that, as soon as she is permitted to say the type of injury is more commonly [in rape], a jury will say that is good enough for us, it must follow that those injuries are caused by non-consensual intercourse. But that is fallacious reasoning...In so far as consent is an issue, it has to be proved beyond reasonable doubt. That is one thing she can't do.
>
> *Crown [clearly exasperated]*: No, she can't but, surely in the Crown's submission, the girls are entitled to be supported by a doctor who says that, in cases of non-consent, injuries such as this are much more likely to occur...When a very severe injury is present, it must point more conclusively to a lack of consent because, surely, when pain begins to present itself, a person having sexual intercourse, if it is consensual, will stop.
>
> *Judge*: I don't think that necessarily follows at all.
> (Sheehan 2006, p99)

In light of the law's position on other forms of harm - that a person cannot consent to any form of injury that involves actual bodily harm or greater, a point which has resulted in the prosecution of various voluntary participants of sado-

masochistic activities,[120] the refusal by the judge to allow evidence that might support the victim's claim that she was not consenting appears perverse. However, it is also reinforces a version of female sexuality, which has often been accepted by the law: a sexuality that is at the very least understood to be passive, at most masochistic and within which the line between pleasure and pain remains constantly ambiguous.

While Sheehan's commentary throughout the book generally provides little in the way of feminist analysis,[121] his reporting of this incident and his critique of the approach allowed by the Court in which it was suggested that the level of injury could also have been the result of sexual inexperience (which still does not explain why either party would have persisted in the sexual intercourse when it would have involved a great deal of pain) provides an excellent example of the ongoing failure of the law to revise traditional conceptions of female sexual identity and agency. Even though, in the eyes of the law, it is generally considered unreasonable for a person to consensually allow harm to be inflicted upon them, female sexuality is unproblematically constructed on just that principle. Rather than being sexual subjects in their own right, women are still understood as sexual objects upon which the acts of (heterosexual) sex are performed.

Even in the aftermath of the rapes (perhaps as a result of them) Wagner seems to struggle between asserting her own sexual agency and being trapped in a discourse, which associates certain aspects of (female) heterosexual behaviour with disempowerment and degradation. For example, she notes:

> That's one of the things people want to know about after you've been raped, but they're afraid to ask: what does it do to your relationships? Are you still interested in boys? Can you still have sex? I can't answer for everyone, but in my case the answer is definitely yes. Everybody has to learn how it's done. I had to learn too – I'm a normal girl, it's just that I had this horrible early experience to get past before I could enjoy it. There's stuff I won't ever want to do (which is why it was so ridiculous that Sabir [one of the K brothers] tried to

[120] *R v Brown and Others* [1993] 2 All ER 75. Although see also *Wilson* [1996] 3 WLR 125 in which the consensual branding of a wife by her husband was permitted leading commentators to question why a distinction has been drawn between the activities of a heterosexual married couple and those of equally consenting homosexual adults.
[121] See the next chapter for a detailed discussion.

> pretend I'd offered to do it 69-style with him – is there any woman who really likes to do that? I mean, *really?*). But I don't think the rapes have scarred me for life. (2007, pp214-215)

On the one hand she demonstrates the resilience and strength Wood and Rennie (1994) allude to in their research on rape victims by rejecting the permanent victim status. On the other (again possibly due to her experience of the rapes and the legal process) she describes her own sexuality in relation to a particular normative version of female sexual identity. The fact that she suggests no woman could enjoy certain sexual acts demonstrates an essentialised attitude to female sexuality and sexual identity, as well as potentially stigmatising those women who do not conform to these norms. It also reinforces dominant constructions of female sexuality against which women's sexual behaviour is measured to determine the extent to which they are deserving of protection from sexual violence or coercion.

5.3.4 Violence Against Women: A Game Between Men?

At the same time, Wagner does at one point provide an intuitive critique of gender identity construction. She notes:

> Gang-rape seems to be turning into a trend now – 'Let's get all my buddies together and show them how manly I am.' Whatever happened to the days when they'd just show each other how manly they are by decking each other? They might break a bit of furniture but it's replaceable, it's not going to cause some woman a lifetime of trauma. Gang-rape is like the latest fashion for criminals and we've got to stamp it out before it gets any worse. (2007, p225)

Although her comments regarding gang rape as a 'new phenomenon' are unsubstantiated and not supported by feminist scholarship on the subject, Wagner does show a perceptive insight into the relationship between normative (albeit problematic) masculinity and sexual violence and the centrality of the relationships 'between men' in the act of gang rape. She also problematises female socialisation arguing it is through pressure to conform to 'appropriate' modes of feminine behaviour that women's vulnerability to rape is created:

> As girls, we're taught that the most important thing is to make other people like us, so in group situations we're all so busy being nice we actually do things to hurt our own interests. We let guys take advantage of us, dominate us, bully us, and rape us because we're too afraid to stand up and say, "You're a creep. I'm out of here." (Wagner 2007, p240)

This is remarkably similar to Sharon Marcus' assertion that, "[w]omen's noncombative responses to rapists often derive as much from the self-defeating rules which govern polite, empathetic feminine conversation as they do from explicit physical fear". For Marcus, it is the 'script' that men have the power to rape and women are inherently rapeable that makes rape possible. Hence Marcus concludes that for rape to actually be prevented, the rejection of these 'self-defeating' notions is as imperative as the development of physical self-defence tactics (1992, p389). Unfortunately this is a response that flies in the face of female socialisation as Wagner so accurately observes.

It could be argued that as well as being a site of coercion, the legal process may also provide a possible site of resistance and ideological struggle (Ehrlich 2001, p95). Even as victims are severely constrained in the identity they are forced to perform and the agency they are imputed, they may also potentially be able to utilise certain tools and reclaim a form of agency in their strategic performances of the identity of 'rape victim'. This is not to suggest that they can be seen to be completely empowered and autonomous legal agents (as dominant legal discourses would seek to assert) but it is to recognise that nor should they be read as mere passive victims. Instead, within the 'rigid regulatory frame' (Butler 1990), it is possible to identify attempts to co-opt and reinterpret dominant stereotypes in a way that creates the possibility for a positive outcome.

In Wagner's case, not only does she demonstrate exceptional strength of character and an intuitive astuteness for 'playing the game' throughout the trial but she also manages to force recognition of herself as an individual rather than a mere symbol. A demonstration of this is her choosing to be named publicly. This can be read on the one hand as an act of revenge against her attackers whose names remained suppressed, demonstrating a greater strength on her part and a refusal to

accept humiliation (2007, p224). However, it can also be read as containing a message to broader society. In choosing to be publicly identified Wagner not only seeks to reject the stigmatisation associated with being a rape victim ('the fallen angel' whose innocence is irretrievably lost, as Bumiller describes it), she also rejects the general trend to treat rape victims as passive objects of comment. Once again, this is exemplified in Kristin Bumiller's analysis of the New Bedford gang rape case where she notes:

> For the most part, references to the victim ignored her as an individual who had her own specific responses to rape. Either the victim was named by her formal legal status and demographic qualities (eg. the "complainant", "young woman", "21 year old city woman"), or more elaborate discussion of the victim was carried out through references to "generic" victims of rape (eg. antirape activists' statements of solidarity with the victim and special reporting features about rape crisis centers' efforts to respond to the psychological trauma of victims). (Bumiller 1998, p40)

Wagner's act of defiance is thus not only directed at the rapists but also at the broader community, from whom she has also suffered extensive negative judgment:

> That night I was on every TV news service, and I was on the front page of all the newspapers the next day. I was glad, because it meant that my message was getting out there. But if I'm honest, it was pretty satisfying for me personally, too. For one thing, I knew the boys would be watching from jail, and knowing it was me who put them there. For another, I'd had to put up with people calling me a liar for so many years, and now, finally, I'd been vindicated in the most public way. I'd won my case. It was in all the papers. Anyone who didn't believe me could read the reports and what the judge said. It was sweet revenge. (2007, pp227-228)

Although she was forced to endure so many negative institutional and social responses to her rapes, the fact that she ultimately experiences the court case as a source of vindication and justice could be seen to provide a glimmer of hope in the face of feminist critiques that have dismissed the legal process as holding any possible advantages to women who have survived sexual violence. Certainly Wagner seems to consider it as unfortunate that she was forced to comply with rules she saw as unfair and disempowering to her but ultimately asserts a sense of victory. However, in many ways her ultimate conclusion is tragic. The fact that she was only

able to confirm her rape through the judgment of the court demonstrates the continued fragility of women's words in and of themselves.

Further, the limitations placed on her throughout the legal process, which forced her to comply with dominant constructions of the ideal 'rape victim' (whilst successfully negotiated in her case) hardly present a desirable position for women attempting to gain redress for sexual violence committed against them. Even as she achieved a reasonably satisfactory outcome, far from the trial process being an empowering experience, much of what Wagner describes seems to reinforce Bumiller's conclusion in her analysis of the New Bedford gang rape trial: that ultimately major rape trials "illustrate the vulnerability of the woman as an accuser in contemporary legal culture" (1998, p39).

One is also forced to question the extent to which Wagner's story was capable of being heard and endorsed due to the very specific characteristics of these particular rapes. As Janet Galbraith notes "[t]he discourses which circulate around bodies constituted in relation to race, sexuality, gender and class condition the meaning of rape as well as the possibility of the event itself" (2000, p76). Thus, it is not only dominant constructions of sexuality and gender identity that emerge in legal discourses on rape. Race and class also emerge as informative categories within which the rape can be contextualised and understood.

As noted earlier, Susan Estrich (1987, 1986) has demonstrated how the law differentially treats rape depending on the extent to which rapists and victims conform to normative constructions of 'real' rapists and 'real' victims. The fact that it is well-documented that the majority of rapes are committed by people the victim knows,[122] is then to be contrasted with the rapes that are most frequently reported, prosecuted and convicted: those involving strangers, preferably black or of a minority ethnic background and where violence is evident.

[122] Such as husbands, lovers, dates, acquaintances, family members: see chapter two for further discussion.

Similarly, Ehrlich notes that, "[w]hile inter-racial rape cases make up a minority of rapes committed and brought to trial, when white women are raped by black men (especially strangers) they are much more likely to obtain convictions than in cases where the perpetrator is white" (Ehrlich 2001, p19). This has the consequence of exaggerating the problem of inter-racial/stranger rape while simultaneously underplaying the magnitude of the problem of coerced sex that most frequently affects women's lives but is not seen as 'real rape':

> If only the aggravated cases are considered rape – if we limit our practical definition to cases involving more than one man, or strangers, or weapons or beatings – then 'rape' is a relatively rare event, is reported to the police more often than most crimes and is addressed aggressively by the system. If the simple cases are considered – the cases where a woman is forced to have sex without consent by only one man, whom she knows, who does not beat her or attack her with a gun – then rape emerges as a far more common, vastly underreported, and dramatically ignored problem. (Estrich 1987, p10)

In the case of 'the Sydney gang rapes' we see that, contrary to the political, legal and media suggestions that their aggressive prosecution and harsh convictions demonstrated progress in institutional responses to sexual violence, in fact the outcome was as many feminist scholars would expect. Just as Catharine MacKinnon (1987) suggests in the context of the United States, the fact that the Sydney gang rape victims came forward, reported their rapes and were able to gain prosecutions and convictions depended heavily on their ability to establish themselves as victims of 'real' rapes: victims of gang rape, by non-white men they did not know and involving some level of violence.

5.3.5 Resisting the 'Law and Order' Rhetoric

It is for this reason that Julie Stubbs (2003) is sceptical about the value of 'law and order' approaches to rape law reform. This rhetoric tends to encourage harsher sentences and tougher policing but does little to challenge dominant understandings of the reasons for and causes of rape in the first place. In fact she has 'the Sydney gang rapes' in mind when she comments:

> Law and order rhetoric… also often draws on images of dangerous, unknown 'others' and is implicated in reinforcing a view of sexual assault that is atypical, obscuring the level of violence by offenders who are known to the victim, and the level of sexual violence that occurs within the home (Stubbs 2003, pp20-21, references omitted).

As will be demonstrated in the next chapter, the exceptionally horrific nature of 'the Sydney gang rapes' makes it easy to mobilise majority outrage and condemnation. However, the fact that these gang rapes are exceptional and not reflective of the vast majority of situations within which women suffer sexual violence means that to focus on them detracts from the larger and (arguably) more pressing problem. Sherene Razack adds, that emphasis on situations such as these serves to make violence against women understood as the preserve of particular cultural groups: "Once the violence becomes a property of immigrant culture, it cannot easily be uncoupled from debates about how to manage foreigners" (2004, p155). The analysis of political and media responses to 'the Sydney gang rapes' later in this chapter would seem to evidence this point.

5.3.6 The Invisible Marker of Whiteness

This is not to say Wagner herself subscribed to this conceptualisation of rapes. In fact she specifically rejects the significance of culture or ethnicity: "The whole cultural issue wasn't an issue to begin with. With me, it wasn't. This was not about culture; this was about abuse against women." (2007, p227) She also demonstrates a keen awareness of the possibility of her words being manipulated to support other agendas when she writes about refusing to do interviews on issues related to the Cronulla riots or the comments of Lebanese Australian imam, Sheik el Hilaly:[123] "…I didn't want people to look at what I've been doing and start saying, 'it's all about race' as opposed to 'It's all about assault'. I didn't want people to think I was motivated by racism, because I'm not. I've never bought into the anti-Muslim thing. Australian guys rape women too." (2007, p235)[124]

[123] See chapters three and six for details on these two events.

[124] Following these remarks it is noteworthy that Wagner was in Cronulla the day of the riots. Her presence suggests either she is being disingenous in her book or that the events at Cronulla were more complicated than the 'moral panic'/ 'Islamaphobia' accounts presented by some left-wing academics (for example Poynting 2006). See the next chapter for further discussion.

Yet, to what extent were the victims' personal attempts to make sense of their experiences reflected in the public sphere? And to what extent were the victims in fact placed in a position where their ability to obtain sympathy and support became contingent on subscribing to other discourses? As explored in the next chapter, an important aspect of media reporting on this case was the identification of the victims as 'ordinary, young (white) Australian girls'. This identification was in turn taken up by a number of commentators to create a symbolic significance of the girls as representative of Australia more generally.[125] While Wagner, in choosing to be named and have her image made publicly available seems to attempt to reject this symbolic function of 'just any Australian girl', she struggles to achieve this. Even as she seeks to protect her discourse from manipulation, she is unable to guard against being appropriated as a symbol to support other agendas, as the analysis of Paul Sheehan's book in the next chapter will demonstrate.

Furthermore, other victims have found it harder to reject this dominant formulation of the rape script in which race/ethnicity became a central factor. In the context of 'the Sydney gang rapes' Wagner was not the only victim to seek to speak out about her experience. Victims in the AEM/KEM rapes also gave interviews to the popular current affairs programme *60 Minutes* in which they described their anger and frustration at what they perceived to be an inadequate legal response to their suffering. In particular they expressed resentment at the fact that an "accepted statement of facts" was presented to the Court, agreed to by both Prosecution and Defence lawyers but which the victims felt inadequately described their experiences (Channel Nine, "Life Sentence", *60 Minutes*, 21 September 2002). A central feature of this was the removal of all references to racist motivations or abuse expressed by the rapists. One of the victims addressed the media outside the courtroom and reported the racist taunts of one of her attackers during the rapes (Brearley 2002; Albrechtsen 2004).

[125] For example – as discussed later in this chapter - right-wing media commentator Miranda Devine (2002) characterised the rapes as reflecting, "a hatred for Australia's dominant culture and contempt for its women".

The extent to which the victims were able to mobilise support and sympathy due to the added dimension of race remains an unresolved question. To put it as Janet Galbraith has, "[w]ith this struggle of re-membering and re-telling, the practices, and particularly the racialising processes which produce a legitimised authentic raped and rapeable subject are shown to be constitutive of this subject according to a white supremacist, phallocentric and heterosexist legal economy." (Galbraith 2000, p72) In her article, "Processes of Whiteness and Stories of Rape", Galbraith explains her reason for writing about her own experience as a rape victim to be a means of re-writing the stories told in court in the way she would have told them given the opportunity.

While Galbraith details the many factors that worked against her as a rape victim in the criminal justice system (in particular her failure to live up to the expected standards of ideal bourgeois femininity) she does recognise herself as in a relatively privileged position by virtue of being white. She contrasts this with the experience of Aboriginal scholar Roberta Sykes. For Galbraith, "whiteness was a 'valuable property', an asset in my interactions with the effects of rape and the white legal system" (2000, p88). She contrasts this experience with that of Roberta Sykes, as an Aboriginal woman and rape victim: "In opposition to dominant notions of white womanhood she was constructed according to racist constructions of Aboriginal women's sexuality and availability" (Galbraith 2000, p88).

Significantly, Galbraith writes of how Sykes's ability to access whiteness (through her mother's presentation of herself as a white woman) became a valuable means through which Sykes was able to gain access to the white legal system. In the context of 'the Sydney gang rapes' this poses interesting questions. A central feature of much of the mainstream discourse on the gang rapes was the characterisation of the victims as 'Australian'/'white'/'Caucasian'/'Anglo-Celtic' girls. Certainly among many of the right-wing commentaries on the rapes these two terms were used interchangeably (see the next chapter). However, it also seems to be something that others, including the victims themselves, were keen to assert.

An article which appeared in the *Sydney Morning Herald* on 14 September 2002 which seeks to present a reasoned discussion of the racial aspects of the cases (in relation to both racism against the victims and the perpetrators) notes, "In the space of two months, seven teenage girls who identify as Australian – though two have Italian parents, one has Greek parents and one is part Aboriginal – were abducted and pack raped…" (Crichton and Stevenson 2002). The significance of stating "though" when discussing the ethnic origins of these young women (especially in the context of the part-Aboriginal woman) re-affirms an impression that they are not 'typically' Australian. In a similar way to Jon Stratton's (1998) identification of how the marker 'Italian Australian', 'Greek Australian', 'Vietnamese Australian' serves to render Australians of Anglo-Celtic heritage as the invisible norm,[126] here the certainty of the victims' Australianness seems in question when their particular ethnic origin is known.

At the same time the victims seem to realise the significance of 'being white' in their assertion of their 'Australianness', as if, like Sykes, they see this as their way of obtaining access to some standing within the dominant white legal institutions. In the *Sydney Morning Herald* article mentioned above, one of the victims is quoted as saying, "The world isn't what I thought it to be - it isn't safe and females are punished for being Australian". The fact that she structures her indignation in line with dominant discourses of the rapes as an 'attack on Australia' rather than in terms of a violation made possible by the misogyny which exists in Australian society (within both minority and majority ethnic communities) could be read as a strategic choice in order to situate herself as a 'believable rape victim' (MacKinnon (1987, p81), deserving of sympathy.

This need to be read as 'white/Australian' could have even greater significance for the victim of part-Aboriginal origin and for 'Kelly' (who is Maori). It has been argued by various postcolonial feminist scholars that in considering the different experiences of rape suffered by white and black women, consideration must be given to the different stereotypes that have traditionally circulated about black

[126] For a fuller discussion see chapter two.

(particularly indigenous) women's sexuality compared to white women (Behrendt 1993; Razack 1998, writing about the Canadian context; hooks 1994, 1992, 1990). As discussed in chapter three, Australian national identity has been built upon a history of specific constructions of white and black female (and male) sexuality. Through looking at the descriptions used both by and about the Sydney gang rape victims, we can see the ongoing legacy of this specifically racialised and sexualised national history.

Paul Sheehan, in discussing the 'K brothers' trial involving 'Roxanne' and 'Kelly' notes, "Kelly's arrival on the stand brought a shift in tone, clarity and ethnicity. She was more given to slang. Her voice kept trailing off. And she was Maori, while Roxanne was pale-skinned and Anglo" (Sheehan 2006, p84). This description in which 'Kelly's' ethnic origin, clarity and strength of character are all listed alongside each other seems to reinforce Galbraith's observation that race, gender, class and other power differentials cannot be read separately in the trial process but are intimately intertwined in producing a normative ideal of white heterosexual gendered identity.

In conclusion, the public discourses of the Sydney gang rape victims, while demonstrating points of resistance ultimately succumb to dominant discourses frequently utilised to explain rape. Rather than representing a progressive approach by the legal system and society more generally to addressing the impact of sexual violence, the victims are ultimately coerced into performing standard victim roles, which do little to challenge the sexist and racist underpinnings of dominant legal and societal constructions of rape. Sharon Marcus could almost be referring to 'the Sydney gang rapes' when she notes; "white women often obtain legal victories at the cost of juries' giving currency to racist prejudices and to patronizing ideologies of female protection….[t]hese biases fabricate and scapegoat a rapist of color and implicitly condone the exploitation and rape of women of color" (1992, p388). The validity of this observation emerges more clearly through a review of the official judicial discourses on 'the Sydney gang rapes'.

5.4 THE JUDICIAL DISCOURSES

This section proposes an analysis of the written judgments in the Sydney gang rape cases. As Coates et al. observe: "The language used in legal judgments is not merely a reflection of individual thought; it is important in and of itself." (1994, p189) Reading the written legal judgments as discursive texts provides an opportunity to explore the common understandings drawn from both legal and broader societal discourses that serve to shape judges' comments and choice of language. This is important as, "[l]anguage affects events and creates versions of reality" (Coates et al. 1994, p189) and nowhere is this more evident than in the language used in the context of law.

5.4.1 Reinforcing Normative Gender Identity

Justice Latham's Remarks in AEM/KEM

Of the three cases, the sentencing remarks, which produced the greatest outcry were those of Justice Megan Latham in the AEMs/KEM case. This was largely due to Her Honour's comments – mentioned above – that the case did not fall into the most serious category of rape cases. But perhaps the most unfortunate aspect of Justice Latham's comments was her characterisation of the rapists' behaviour as, "an opportunistic encounter between a number of adolescent males, who had gone for a drive because they were bored... and two adolescent females, who found themselves stranded at night without transport home". Yet this received no comment within the general media responses. The fact that Justice Latham puts the rapes down to acts of opportunism and boredom is deeply troubling as it could be read as suggesting that *all* young men, given the chance and with nothing better to do, could or would engage in sexual violence.

Furthermore, Her Honour paints a typical scenario of feminine vulnerability (stranded young women) at the mercy of young men who retain the power to choose how they treat these women. Her Honour ultimately condemns the men for their behaviour noting that they "indulged in a gross display of sexual misconduct,

adopting a pack mentality whereby they exploited the victims' fear, vulnerability and isolation from each other" and also recognises the degree of humiliation encountered by the victims. However Her Honour concludes by stating, "these young men placed their reputation for sexual conquest above the standards of ordinary human decency" (Unreported judgment, District Court of New South Wales, 23 August 2001).

Aside from this being a highly disempowering presentation, it also provides a disturbing depiction of normative male sexuality. The fact that Justice Latham could be read as failing to question the legitimacy of what she terms "a reputation for sexual conquest", Her Honour potentially reinforces male sexuality as inherently predatory. Yet this is not an unusual way to present the sexual interactions between men and women as the remarks of Justice Finnane and Justice Sully, discussed below, also attest.

Appeal Court Judgment: *R v Aem; R v Kem; R v MM* [2002] NSWCCA 58 (13 March 2002)

Overall Justice Latham provides a fairly matter-of-fact summary of the circumstances within which the rapes took place and provides little in the way of additional commentary. This can be contrasted with the remarks of the Appeal Court judges upon re-sentencing AEM Snr and KEM and the trial judges in both of the other Sydney gang rape cases. A possible explanation for this is the intense media and public interest in the cases required a clearer and stronger statement from the Courts. However, the way they chose to frame their discussion about the seriousness of the crimes raises problems of their own.

It is assumed that the decision by the Appeal Court to include further information regarding the circumstances of the rapes was considered necessary to justify the increased sentences.[127] However, the added detail is disturbing in its

[127] It has frequently been observed in feminist analyses of rape cases that the seriousness of the violation is usually interpreted based upon the "aggravating factors" of physical violence, increased vulnerability of the victim (essentially her age and sexual experience) and lack of prior relationship

graphic nature. For example, not only are the sexual acts re-described but the Appeal Court also quotes at length the remarks of the accused men to their victims:

- "[KEM] made [victim] JH massage his shoulders saying, "you're good at that" (para. 16)
- "MM entered the bathroom and he and KEM simultaneously forced their penises into JH's mouth whilst she was on her knees in the bath, saying to her 'lick it' forcing her to perform fellatio on them at the same time. MM was berating her saying '[y]ou're a sick bitch,...enjoying this, see I told you, you would have fun" (para. 17)

The relevance of these comments is unclear. After all, they contribute little to assessing the violence or the victim's lack of consent necessary to establish the offence. The accuseds' subjective enjoyment or otherwise is not relevant to assessing their criminality. Furthermore, it is unlikely that in any other form of assault there would be reference to an accused's apparent pleasure in inflicting the injury (as noted in the previous section, even where there is evidence of a victim consenting and apparently enjoying the harm inflicted this has been insufficient for the court to condone the accused's actions). The only other possible effect of reproducing the accuseds' comments is to demonstrate the level of deviance of the accused. Thus, their comments can only be viewed as either representing a communicative deficit (which fits within the standard script of miscommunication between the victim and accused in a consensual sexual encounter) or as further evidencing their depravity (which allows them to be classed as beyond the scope of any "normal" man, reinforcing the belief that rape is an act reserved for perverts and sexual deviants; an interpretation which flies in the face of the research as chapter two details). This would seem to fit with Wood and Rennie's suggestion that:

> [m]en want rape to stay in the realm of the reprehensible, a realm peopled by the deranged and the sick. This categorization is a useful accounting device. It effectively shifts attention away from the man; further *it denies the continuity*

---

between the victim and the accused: see for example Débora de Carvalho Figueiredo's (2004) analysis of legal decisions in the United Kingdom.

> *between date and stranger rape, and between rape and acceptable sexual conventions.* (1994, p145, emphasis added)

The picture presented of the rapists in the Appeal Court judgment is certainly one of sexually depraved individuals. Their simultaneous performance of forced oral sex presents a particularly deviant image of their sexuality and, through the homoerotic undertones, calls into question their relationship with each other. Through this, the reader is left with no doubt that these are not 'normal' men, which allows for the rapes to be classified as aberrations. In a manner similar to that identified by Michael Awkward's (1995) analysis of the responses to the Mike Tyson/Desiree Washington rape trial, the broader societal implications of the rapes is completely erased through the pathologisation of the individual rapists.

Justice Sully: *R v MAK; R v MSK* [2004] NSWSC 319 (22 April 2004)

However, of all of the Sydney Gang Rape judgments Justice Sully's closing suggestions are perhaps the most vivid example of the law's constitutive role in gender/sexual identity. In a section of his judgment entitled, "Two matters collateral to sentence", aside from critiquing the legal reform, which removed the right of the accused to cross-examine their victims, Justice Sully also suggests an 'educational' initiative:

> The second matter which I wish now to raise concerns the triple O call made by [victim] LS in the immediate aftermath of her dumping [by the K brothers following the rape], in company with [victim] HG, at Campsie. The call was taped...
>
> What can be heard on the tape is chilling in its depiction of what it really means to be a rape victim. From the moment when I first heard the tape, I thought of it as an ideal educational aid warning young people, boys and girls alike, of the need to take care not to become in the one case a perpetrator, and in the other case a victim, of any form of sexual offence. To that end I invited the learned Crown Prosecutor to take up that idea in the appropriate quarters. (paras. 140 and 141).

His Honour goes on to note that this proposal was received favourably by the NSW Police force and as a result recommends that steps be taken as soon as possible to incorporate the tape into the existing child protection package sent out to schools. Aside from this seeming a rather extreme way of making a point, the assumptions contained within Justice Sully's comments are significant. He goes on to explain how exactly he sees the tape being useful:

> In that connection, I venture the suggestion that the stark horror of what can be heard on the tape might be supplemented usefully by putting to an audience some simple propositions of fact.
>
> For boys, the propositions might be to the following effect:
>
> [1] Forced sex of any kind with any woman or girl is not a game, or a prank, or a practical joke, or part of becoming or of being a man. It is, quite simply, a crime.
>
> [2] If you commit such a crime the high odds are that you will be found out, tracked down, and sent to gaol. Police experience and expertise, and scientific advances, are constantly making detection and punishment increasingly likely.
>
> [3] It is no excuse for a serious sexual crime that it was carried out by someone who was young; or weak-willed; or easily led; or drunk; or on drugs. Even in such cases a gaol sentence of some kind is practically certain.
>
> [4] If you do go to gaol for such a crime, then you will be as much at risk from others as your victim was at risk from you...
>
> And then, perhaps, this simple question:
>
> How would you ever think, and how could you possibly think, that it was worth your while to take risks like those?

These suggestions provide a fascinating insight into how Justice Sully conceptualises the issue of rape. For a start, his first proposition is interesting for his failure to discuss how or why anyone could/would think forced sex was a 'game'/'prank'/'joke'/'rite of passage' in the first place. Implicit in this statement is that there is a pre-existing, albeit erroneous in his Honour's opinion, assumption which many men/boys (according to Justice Sully) are drawing upon which is leading them to rape.

Justice Sully's choice of language in his final warning to boys is also intriguing. In asking the question, how young men could see it as 'worth their while' to take such risks, Justice Sully does not seem to ask the question of what the value of forced sex is in the first place. Instead, he takes it for granted that such sex could be pleasurable and desirable, were it not for the fact that it carries a risk of punishment. He does not ask, 'why would you possibly want to force a woman/girl to have sex?' Rather, he suggests it is simply not worth the risk involved. Does that mean if the man/boy evaluates the situation and decides the risk of detection is limited, it *could* be worthwhile? In light of the research, which demonstrates the majority of coerced sex is performed within relationships, this comment is troubling. After all, it is precisely these instances which feminists have demonstrated are infrequently prosecuted and convicted, suggesting there is in fact little risk involved. We need only look to the fact that rape within marriage was only deemed capable of criminal prosecution in 1992[128] to see why feminist critics remain sceptical of the law's ability to truly address the violence and violation experienced by women.

Finally, the 'logical' conclusion that His Honour draws - that to rape means to take the risk of punishment and the possibility of becoming a victim of rape oneself - seems to re-articulate the logic presented in *La Squale*, discussed in the next part of this thesis. Essentially, this discourse states that what dissuades someone from rape is the possible risk of rape against themselves. As it is only men who are seen as capable of rape, it remains for men to avenge violence committed against women (who will only ever emerge as passive victims). Just as in *La Squale*, Toussaint, the gang leader is punished for his gang rape of Leila by her cousin in turn raping him so too Justice Sully envisages a system within which rape is repaid with rape. Justice Sully does not envisage male rape as a 'fact of life' in the way he seems to envisage female rape. This is evident in the highly gendered warnings he provides to young men (not to rape) and young women (not to be raped). Instead, male rape is only possible for Justice Sully in a context where there are no women (i.e. Prison). The act of rape becomes itself a feminising act for, as the above reference to MacKinnon

[128] *R v L* (1992) 174 CLR 379.

elucidates, to submit and be penetrated is the very nature of femininity (1989, p130; Awkward 1995; de Cavalho Figueiredo 2004, p223).

This seems to exemplify the continuum between normative heterosexuality and rape discussed in chapter two, with the latter simply an extreme manifestation of the former rather than an aberration. Justice Sully is not the only one to legitimate this: NSW Director of Public Prosecutions, Nicholas Cowdery QC made this extraordinary remark in a 2005 article: "The sexual urge ensures the survival of the species and it is strong. The criminal law steps in when it is misdirected in certain ways – typically against the unwilling or the vulnerable: against those capable (at law) of consenting who do not consent and against those whom society has decreed must be protected from such abuse." (Cowdery 2005, n.p.).

In this narrative women remain sexually passive and objectified: the bodies upon which heterosexual masculinity is performed. At the same time, the risk of rape to men is not one that is ever-present but, when it does occur, it represents a simultaneously feminising and disempowering act. In this way, normative heterosexual gender identity is reinforced through the construction of masculine gender identity as that of action, aggression and sexual subjectivity, whilst feminine gender identity remains passive and vulnerable.

As Sharon Marcus (1992) points out, it is through the discourse of rape that women are in fact *made* inherently rapeable: through the socially constructed scripted interactions, which inscribe men with the power to rape and women the inherent vulnerability to rape. As Marcus has argued, this script not only constructs gender identity, it also formulates a normative heterosexuality in which female and male behaviour is always linked to potential violence (a view which can only be seen to be supported in the courtroom exchange regarding Kelly's injuries, noted above).

She also highlights that both traditional legal and feminist responses to rape have taken the fact of rape as a given. The failure of many feminist critiques to challenge the conception of there being an inherent vulnerability associated with

'being a woman' results in little being done to challenge the underlying assumptions of what constitutes normative sexuality or gender identity. As a result, the identity of 'woman' is constructed around this apparent vulnerability. Rape – and women as already raped or inherently rapeable – becomes a process of feminisation; another way for women to be recognised as women:

> The language of rape solicits women to position ourselves as endangered, violable, and fearful and invites men to position themselves as legitimately violent and entitled to women's sexual services. This language structures physical actions and responses as well as words, and forms, for example, the would-be rapist's feelings of powerfulness and our commonplace sense of paralysis when threatened with rape. (Marcus 1992, p390)

This does little to challenge the 'taken for granted' nature of rape. A society in which rape does not occur is unenvisagable and unrealistic. Instead, Justice Sully simply subscribes to the classic language identified by Sharon Marcus (1992, p388) whereby men are dissuaded/persuaded/threatened to resist the desire to rape. Even more remarkably, in Justice Sully's suggestion this is done through the threat of feminisation (and thus, disempowerment) through the threat of potential rape! He envisages no manner in which women could themselves disrupt the apparent male monopoly on power in rape situations.

This lack of agency imputed to women is perhaps even more evident in Justice Sully's suggested propositions to girls listening to his 'educational' tape:

> For girls, those propositions [accompanying the tape] might be to the following effect:
>
> [1] If you get into or onto any vehicle with any man whom you do not know, or whom you barely know, then without more you are at risk.
>
> [2] The risk is hugely increased if you join up in that way, not with one stranger but with a group of strangers.
>
> [3] The risk can take various forms. You might be robbed. You might find yourself the object of a sexual advance that is unwelcome and sleazy but at least non-violent. You might find yourself the victim of an indecent assault stopping short of forced sexual intercourse. You might find yourself, if things

> go badly wrong, the victim of forced sexual intercourse with one, or with more than one, attacker.
>
> [4] You should not think that a mobile phone is some kind of guaranteed protection against those risks. The two girls whom you can hear on the tape had mobile phones; and the phones did not protect them at all.
>
> [5] Do not let anyone tell you that there is anything glamorous, or exciting, or 'cool' in any other sense about risking sexual assault of any kind. Any kind of forced sex is dirty and degrading. It is frightening, as you can tell from the tape. It can easily cause physical damage and will certainly cause emotional damage.
>
> And then exactly the same question as that earlier suggested [to the boys].

Again, Justice Sully's comments suggest an interesting understanding of normative female sexuality; does His Honour really think that young women need to be told that forced sex is not pleasurable? His construction of female sexuality appears to conform to exactly that which feminist scholars have so long critiqued; a sexuality that takes pleasure from objectification. It is for precisely this reason that Catharine MacKinnon concentrates so much of her work on pornography and the relationship between pornography and sexual and gendered violence. For MacKinnon the central question that pornography raises is, "the question of social causation by which pornography *constructs* women and sex, defines what 'woman' means and what sexuality is, in terms of each other" (1987, p161, emphasis in original).

MacKinnon and Andrea Dworkin (with whom much of her work on pornography was conducted), have been accused of over-essentialising the category of 'woman', reinforcing a lack of female agency and - through their calls for tighter censorship- assisting the discourses of the conservative right which seek to link open sexuality with sexual violence (thus preserving the dichotomy between the innocent female victim and the promiscuous, sexually available woman who is 'asking for it'). Yet if we read MacKinnon's analysis less literally and stress the *discursive* function of pornography (as many feminist scholars have done) it would seem to hold some merit when considering Justice Sully's choice of language. In this reading, pornography contributes to the sexualisation and eroticisation of female domination

and objectification. These images in turn come to represent women generally within everyday discourses, limiting their potential to that of sexual objects (MacKinnon 1989; Coward 1987; Smart 1989; Eckersley 1987; Brown 1981; Awkward 1995).

In this context, Justice Sully's comments can be read as complementing those of Justices Latham and Finnane and the Appeal Court judges in the AEM/KEM/MM appeal hearing. All appear unable to articulate the severity of the damage done to the victims without resort to highly eroticised images of violation. Even Justice Latham's attempts at an unemotional description of the rapes cannot escape the need to detail the exact moment of ejaculation, a point that would seem to be irrelevant if the focus of the law was indeed punishing the experience of violation the individual woman experienced at losing the right to decide when and how she engages in sexual activity of any sort. It seems these judges - to draw on Carol Smart's analysis - remain trapped within a phallocentric (legal) culture which is unable to understand women's pleasure and thus either effaces its possibility completely or defines it according to what is pleasurable to (heterosexual) men.

While Justice Finnane and the Appeal Court judges in AEM/KEM indulge in an extensive and graphic description of the rapes in which they seemingly unconsciously parallel scripts of some of the more violent and degrading pornographic tropes identified and condemned by feminists, Justice Sully and Justice Latham re-assert the construction of a normative dominant and dominating male sexuality. At no stage do they envisage a world in which female sexuality does not require policing or protecting. Their comments seem to conform to what Carol Smart identifies as a central feature of rape trials; a celebration of the "category of Man" (1989, p42) in which women cannot be seen as either citizens or sexual subjects (Heath and Naffine 1994, p34, drawing on the theories of Irigaray).

Furthermore, Justice Sully's comments also demonstrate not only the reflective but also the *constitutive* nature of legal discourse. While his assumptions regarding female sexual behaviour and sexuality appear on the one hand to be

reflective of broader societal discourses,[129] his suggestion that young women require further education to prevent them from 'taking risks' helps to reinforce and re-articulate a feminine identity based around sexual vulnerability. He also ignores the position adopted by experts in the area (such as rape crisis centres) who refuse to use rape horror stories in law reform and legal education campaigns for the very reason that they see the practice as treading a fine line between allowing the woman to tell her story and "its use as a kind of pornography which is damaging to women" (Smart 1989, p48).

His statement that young women accepting lifts from strangers is immediately 'risk taking behaviour' is not only clearly gendered (while he notes robbery is one of the risks he does not suggest that young men should also be wary, nor does he foresee any situation within which young men could place themselves in a situation of sexual vulnerability, except in gaol) it also resorts to the common response of victim-blaming in rape cases. He does not question the logical and linguistic leap that remains unexplained between a woman accepting a lift from a stranger to her appearing to be consenting to sex. In fairness, His Honour does add:

> all relevant social institutions, the Courts not least among them, [should] make it crystal clear that any girl or woman who associates with any boy or man in circumstances which put her at risk of sexual assault, does not become thereby nothing more than an available sexual object. In our society, to force a woman, any woman, to have sexual intercourse is, always and everywhere, at once a base act and a major crime. It is not, ever or anywhere, a defence that the woman was flighty, flirtatious or simply foolish. (para 48)

Yet his absolute condemnation of rape is diluted by his acceptance that women cannot expect to exercise the same freedom of movement as men without it being the height of foolishness or, as he describes the actions of victims LS and HG, 'breathtaking imprudence'. For His Honour it is for men to benevolently refrain from raping for the power ultimately resides with them. Once again this seems to highlight the need for there to be a fundamental shift in understanding of normative and acceptable male and female behaviour, sexual and otherwise.

[129] As discussed above and in chapter two.

That being alone with strangers is, in itself, accepting a degree of risk leaves open the possibility for imputing a certain amount of responsibility to the victim, even as Justice Sully seeks to deny this. Arguably this would suggest the legal response to rape has still not come far from the heavily criticised comment by Judge Bertrand Richards in 1982: "It is the height of imprudence for any girl to hitch-hike at night. That is plain, it isn't really worth stating. She is in the true sense asking for it." (Smart 1989, p35). The question Carol Smart posed back in 1989 remains unanswered; "how is it that for a woman to say yes to a lift means she is saying yes to something completely different (eg. sex)?" (Smart 1989, p36).

His Honour's passing comment regarding why the victims chose to accept the lift from strangers in the first place is also suggestive; "I observe parenthetically that the evidence does not explain why either or both of the girls could not have made a telephone call to home in order to get help" (para. 15). It would seem to conform to Philadelphoff-Puren's (2003) findings that frequently rape judgments demonstrate their reprobation of victims by identifying other actions the victims might have taken to avoid their rapes. She argues that this is a highly disempowering strategy as it requires the victims to operate as if they already knew they were going to be raped. His Honour's comments also seem to evidence the argument made by Susan Griffin in her 1971 essay, "Rape: The All-American Crime", in which she notes, "[t]he fear of rape keeps women off the streets at night. Keeps women at home. Keeps women passive and modest for fear that they be thought provocative" (Griffin 1971, p35).

It is also worth returning to Carol Smart's comment that the repetition of rape horror stories can in themselves be seen as a form of pornography that is damaging to women. As discussed in chapter two, the threat of rape has played a vital role in shaping female sexuality and at the same time, the eroticism of rape has been consistently reinforced and recreated in popular culture and particularly pornography. For this reason, a number of feminist scholars have argued for rape trials to also be seen as contributing to a blurring of the line between rape as violence and rape as sex.

5.4.2 Rape Trials: "Pornographic Vignettes"?

Aside from the need for victims to assert an 'ideal victimhood' in the face of highly damaging legal discourses, feminist legal scholars have also argued that the trial process provides for the re-degradation/violation of women by the eroticised and sexualised narratives developed and proposed. Through the re-telling of the rape women are forced to accept and utilise sexualised language to describe their experience. Through being forced to speak publicly of their breasts, their vaginas, their anuses and the injuries inflicted on these body parts by the perpetrator, rape trials turn into what Carol Smart describes as 'pornographic vignettes': "It is not just that they [victims] must repeat the violation in words, nor that they may be judged to be lying, but that the woman's story *gives pleasure* in the way that pornography gives pleasure" (1989, p39). In support of this argument Smart discusses the work of Anna Clark (1987) who has traced the emergence of the rape trial as 'pornographic spectacle' (Smart 1989, p40) with greater and greater emphasis placed on the victim providing a detailed account of every aspect of her violation, which is then widely reported to the public through the media.

Appeal Court – *R v Aem; R v Kem; R v MM* [2002] NSWCCA 58 (13 March 2002)

In relation to this it is noteworthy that the Appeal Court in AEM/KEM/MM noted in its judgment: "JH was menstruating at the time of the mutiple assaults. As a result of the repeated offences of forcible penile vaginal intercourse, the tampon she had inserted prior to the offences was forced up into her cervix and had to be removed by a doctor" (para. 20). While it is assumed this was mentioned in order to stress the level of violence experienced, it also provides an example of the 'pornographic nature' of the rape trial in which the most intimate details of a woman's body and bodily functions are presented in a public forum (MacKinnon 1987; Clark 1987; Smart 1989; Ehrlich 2001). As Susan Ehrlich points out: "It is perhaps only in pornography that the intimate details of a man removing a tampon from a woman's vagina…would be expressed in a public forum" (Ehrlich 2001, p20). Similarly, the

public restatement of such an intimate aspect of the victim's body as the fact that she was menstruating and wearing a tampon is something that would normally be considered completely outside of the scope of 'decent' public discussion. For it to be the source of judicial comment is not only humiliating for the victim, it reinforces her 'tainted' status due to its immodesty (Ehrlich 2001, p21).

Furthermore, this example seems to lend support to Jennifer Temkin's critique of legislation that provides a graded approach to sexual assault on the basis of seriousness (as is the case in New South Wales): By emphasising the increased seriousness of the assault based on the level of extrinsic violence one is left with the impression that the real crime is the extrinsic violence rather than the sexual intercourse without consent (Temkin 2002, p98; see also Heath 1998, p23). The seriousness of depriving a woman of sexual agency, autonomy and subjectivity becomes a secondary issue, if it is considered at all. Instead, the law once more conforms to a conceptualisation of female sexuality in which a certain degree of coercion is considered 'part and parcel of a woman's sexual life' (de Carvalho Figueiredo 2004, p223).

Justice Finnane: *R v Chami, M. Skaf, Ghanem, B. Skaf*, unreported judgment, District Court of New South Wales, 15 August 2002

In the context of the Bilal Skaf trial, this identification of the potentially pornographic nature of rape trials emerges even more clearly. Even as Justice Finnane condemns the horrendous sexual violence of the rapes, his sentencing remarks simultaneously conjure images often associated with standard heterosexual pornographic films. In establishing the horrific nature of the crimes he considers it necessary to go into explicit detail of exactly how each assault was carried out. A few examples from the sentencing judgment follow:

- In explaining the second assault on the victim, 'Miss A' he states: "He then had oral sex with her for the second time. He ejaculated in her mouth and she spat out the semen on the ground";

- With reference to the second gang rape incident involving a victim identified as 'Miss D', Justice Finnane states: "...she was forced on to the ground. The men surrounded her, pulled her clothes off and put their hands all over her body, some of them penetrating her vagina with their fingers";
- In relation to the third gang rape incident, involving the victim identified as 'Miss C', Justice Finnane notes:

> Chami [one of the accused] then got in the back seat, unzipped his pants, sat next to her, pulled his penis out and put a condom on it. She said: 'You're not going to do it too?" To which he replied: 'Fuck me.' He then pushed her on her back, pulled up her skirt, pulled down her underwear completely and spread her legs as far as possible and had vaginal intercourse with her. (viewed 12 October 2008, http://www.abc.net.au/4corners/stories/s675775.htm)

The choice of language by Justice Finnane to describe the rapes is significant. In their linguistic analysis of Canadian rape judgments, Coates et al. remarked on the continued use by judges of terms most frequently associated with (and more appropriate to) consensual sex (1994, p191). In particular, they seek to problematise the use of the term 'intercourse', arguing, "its [intercourse's] dictionary definitions emphasize mutuality and communion of this act" (1994, p 193). This has the effect of placing the acts in the interpretative framework of sex first and foremost, rather than in the interpretative framework of assault.

Furthermore, His Honour's descriptions can be juxtaposed with Catharine MacKinnon's definition of pornography:

> We define pornography as the graphic sexually explicit subordination of women through pictures or words that also includes women dehumanised as sexual objects, things, or commoditites; enjoying pain or humiliation or rape; being tied up, cut up, mutilated, bruised, or physically hurt; in postures of sexual submission or servility or display; reduced to body parts, penetrated by objects or animals, or presented in scenarios of degradation, injury, torture; shown as filthy or inferior; bleeding, bruised, or hurt in a context that makes these conditions sexual. (1987, p176)

While it is not suggested Justice Finnane intentionally seeks to portray the rapes in pornographic terms, reading his sentencing judgment alongside

MacKinnon's definition of pornography suggests the dividing line between condemned violation (in the form of rape) and eroticised violation (in the form of pornography) is less than clear. Unsurprisingly MacKinnon rejects the straightforward characterisation of 'rape as violence' and insists on the importance of identifying the sexualization/eroticisation of certain types of violence. The fact that Justice Finnane's description of rape could so easily be re-configured to provide the plot for pornography suggests a disturbing inability on the part of the law to fully conceptualise the nature of the violation and violence experienced by victims of rape.

This, MacKinnon would argue, is due to the fact that dominant scripts of heterosexuality are constructed on the eroticisation of (male) dominance (over women): "Dominance eroticized defines the imperatives of its masculinity, submission eroticized defines its femininity" (1989, p130; see also Griffin 1971; Awkward 1995 and chapter two for more on this). Also noteworthy, in each of the judges' sentencing remarks they specify the moment and circumstances of ejaculation. This further reinforces MacKinnon's argument that the nature of the violation experienced by women who have been raped becomes overlaid with what has been considered by men to be the nature of sex: penetrative intercourse and male orgasm (MacKinnon 1987, p87).

It is for this reason that an increasing number of feminists working on the relationship between rape laws and women's experience of rape have argued that law reform in itself cannot provide an answer. Rather, through analysing the discourses and narratives utilised by the law to understand and explain rape it becomes clear that it is the very constructions of female and male normative sexuality that require revision. Equally, the law cannot be seen as simply expressing existing constructions but must be seen as directly implicated in their constitution.

Not only do Justice Finnane's sentencing remarks demonstrate a disturbing graphicness, they also demonstrate the stereotypical tropes he relies on in ascertaining the motive for the rapes. In a very detailed editorial piece in the *Sydney Morning Herald*, Sarah Crichton and Andrew Stevenson note:

> Court transcripts show Judge Finnane, in sentencing one of the rapists, feeling for the light switch that might illuminate the offences. Misogyny, contempts, drunken parties or even mass rapes by Japanese soldiers in Manchuria spring to his lips. The Bankstown rapes, he mused, are events "you hear about or read about only in the context of wartime atrocities" (Crichton and Stevenson 2002).

The linking these acts of rape with those committed in wartime is not inapt. As has been demonstrated in earlier chapters, the rape trope is not only common in inter-ethnic conflict situations, it is also frequently invoked as a means of mobilising nationalist sentiment.[130] As has also already been discussed, there has also generally been a (false) distinction drawn between rape in 'conflict situations' and rape in 'peacetime'. In the former context (war), rape has traditionally been treated as a serious offence when it can be shown that it constituted an attack on a community or a nation (as in the case of the former Yugoslavia and Rwanda), and as an unfortunate reality of war when it is characterised as an 'individual' act of sexual violence. Until very recently, the definition of rape as a war crime was a 'crime against honour' (*Geneva Convention No. IV (1949)*, Article 27). In the context of 'peacetime', sexual violence has historically been ignored and/or trivialised unless it involves an identifiable group: inter-racial rape or the rape of women from higher-class backgrounds being the most problematised.[131] For this reason, the distinction between 'war rapes' and 'peacetime rapes is false. In both contexts that the fundamental issue is not the extent of the violation experienced by the individual woman or her denial of sexual autonomy, integrity and agency. The central feature in both war and 'peace-time' rapes has been the extent to which constitutes a threat to the community.

This is made even clearer in what *The Daily Telegraph* reported to be Justice Finnane's ultimate conclusion: "These cases concern one of the greatest outrages, in criminal terms, that has been perpetrated on the community in Sydney…military

[130] See chapter two.
[131] A detailed discussion of these issues is provided in chapter two.

organised gang rape involving 14 young men" (Connolly 2008).[132] These comments by Justice Finnane are perhaps the closest judicial endorsement of the discourses that expressed the strongest sense of outrage: those for which – as the later section on media responses will demonstrate - the central concern in these rapes was their potential to represent an attack on Australia. It is perhaps for this reason that of all the judges, Justice Finnane handed down the severest sentences. It is acknowledged that the alleged military metaphors employed by His Honour during the trial proceedings do not ultimately appear in his sentencing remarks. However His Honour does draw a rather alarming distinction between these gang rapes and other instances of similar crimes:

> As I have earlier remarked these crimes were carefully planned and coordinated. The degree of planning and coordination distinguishes these crimes from other cases of gang rape which have been reported from time to time, which are often, if not usually, perpetrated by intoxicated men who have seized an opportunity, which has been presented to them. (viewed 12 October 2008, http://www.abc.net.au/4corners/stories/s675775.htm)

This, as with Justice Latham's categorisation of the AEM/KEM rapes as 'opportunistic', seems to suggest that it is the intention of the rapists that determines the seriousness of the crime, *not* the feeling of violation experienced by the victim. The complete erasure of the women from this discussion (they become 'an opportunity, which has been presented' to the men) means that once again only men emerge as active sexual agents. It also reinforces a troubling understanding of 'normative' sexuality through its acceptance of the notion that a group of men whose inhibitions were lowered could potentially be expected to engage in sexually violent behaviour. This is a problematic assumption for both men (they are all constructed as potential rapists, given the right circumstances) and women (their presence in the company of inebriated men could be interpreted as invoking some personal responsibility to protect themselves from rape).

[132] It is acknowledged that *The Daily Telegraph* is not necessarily a completely reliable source (for reasons explained further in a later section).

5.4.3 The 'Cultural Timebomb'

Justice Hidden: *R v MAK; R v MSK* [2006] NSWSC 237 (5 April 2006)

While the other judges all dismissed attempts by both sides to assert some cultural specificity to the cases,[133] Justice Hidden does explore the issue in some detail in his written judgment. This was largely due to the submission by one of the defence teams of an expert report by anthropologist Professor Michael Humphrey. The report provided background information on the area of Pakistan the accused came from as well as a summary of Professor Humphrey's analysis of normal gender relations in that cultural context.

In particular His Honour quotes Professor Humphrey's opinion that, "...a gathering with unrelated teenage girls, unaccompanied by a male guardian would have been inconceivable in the offender's area of origin. He would seen [sic] them as 'immoral or loose', and would have interpreted their very presence as sexually provocative" [para. 36]. His Honour also noted:

> [Professor Humphrey] added that the proposition, "that a girl in this situation could take control by asserting her rights – ie. saying no – would be very difficult in a patriarchal tribal culture where women are treated as dependents and legal minors". In the case of [victim] CH, he noted that she had had consensual sexual intercourse with MMK [one of the accused]. Given the cultural requirement of chastity prior to marriage, he said that the offender's knowledge of her intimacy with his brother "would have, at the very least, created enormous expectations that she might be also available to him," [Para 35]

[133] Although Dagistanli (2005) does make a significant point when she identifies Justice Sully's use of language in rejecting a cultural defence. His Honour stated in his judgment: "In our society to force a woman, any woman, to have sexual intercourse, is always and everywhere a base act and a major crime. It is not, ever or anywhere, a defence that the woman was flighty, flirtatious or simply foolish. That latter comment is especially to the point with boys and men from foreign ethnic cultures. The status of women in foreign countries is, in the end, a matter for the law and culture of those countries. The status of women in Australia is a matter for the law and culture of Australia" (*R v MSK; R v MAK; R v MMK; R v MRK* [2004] NSWSC 319, at paras. 48 and 49). This could be read as suggesting – as Dagistanli argues – a certain backwardness in respecting women's rights associated with specific cultures, that is not at all applicable to Australia. The Appeal Court appears to have recognised this: In rejecting the cultural defence, Justice Grove (Hall J and McClellan CJ concurring) stated "there was, and is, not the slightest basis for concluding other than that in both places, all women are entitled to respect and safety from sexual assault. The expression 'cultural time bomb' was, to say the least, inappropriate and inapt. It would understandably be regarded as offensive by those who fell within the scope of its insult." (*R v MAK; R v MSK; R v MMK* [2005] NSWCCA 369 at para. 61).

His Honour notes that the Prosecution objected to the evidence on the basis that it was too generalised and was not based on actual knowledge of the particular accused's personal circumstances [para 36]. Yet he sees this objection negated by the accused's testimony that Professor Humphrey's description was accurate and, "he saw both victims as promiscuous and believed they had no right to repel his sexual advances" [para. 36]. This leads His Honour to conclude, "[t]he argument that a cultural background such as that disclosed in evidence in the present case might bear upon sentence for sexual assault is unpalatable, but it is worthy of measured consideration and cannot be peremptorily dismissed" [para. 38].

Ultimately His Honour gives little weight the cultural considerations on the basis that the accused had not raised his cultural background earlier in the trial process and, " he was no stranger to this country" [para. 45]. As a result, His Honour was of the view that, "[the accused] must have had sufficient exposure to the Australian way of life to be aware that the place occupied by women in the traditional culture of his area of origin is far removed from our social norms" [para. 45]. Although ultimately unsuccessful, the "cultural defence" proposed and considered highlights another interesting and disturbing aspect to the 'K brothers' case. Not only did it provide support for right-wing commentators' linking of these rapes with broader questions of immigration and multiculturalism (as the later section on Sheehan's book will demonstrate), it also raises some difficult questions about the relationship between feminism and multiculturalism.

One of the central critiques of official policies of multiculturalism such as those adopted in many Anglo-Saxon nations is that they provide the opportunity to justify or excuse the further denial of women's rights. In her seminal essay, "Is multiculturalism bad for women?" Susan Moller Okin (1999) argues that all too often 'respect for cultural difference' has been used to justify or legitimate male control over women. As she points out, the majority of cases in which culture is cited as a defence or a justification for differential treatment involve issues of gender, "in particular, with male control over women and children" (1999, n.p.). In demanding, "[w]hen a woman from a more patriarchal culture comes to the United States (or

some other Western, basically liberal, state), why should she be less protected from male violence than other women are?", Moller Okin presents a compelling argument. However, the simplistic division between 'gender' identity and 'cultural' identity is problematic as many post-colonial and black critical race feminists have pointed out (Razack 2004, 1998; Moorti 2002; Yegenoglu 1998) and indeed, as responses to 'the Sydney gang rapes' demonstrated.

In attempting to articulate an appropriate response to 'the Sydney gang rapes' the pitting of feminist discourses against those of 'recognition'/'tolerance' of cultural difference and diversity has emerged as a key problem for many commentators. Ultimately neither response is able to escape the problematic dichotomisation of the discourses of 'women's rights' and 'respect for culture'. As many non-white feminist scholars have argued, this approach has had the highly detrimental outcome of leaving women of minority ethnic backgrounds in an in-between space, forced to choose between the 'identity' of woman and the 'identity' of their cultural, ethnic or religious background. It also excludes any possibility of challenging patriarchal structures from *within* cultural groups.

In accepting the evidence of Professor Humphrey, the court tacitly accepts an essentialised reading of 'true' Western Pakistani culture. It is not disputed that there is evidence of extremely patriarchal values and customs, which impose severe limits on women's lives and provide them with few avenues of redress. However, to accept this as a fundamental aspect of the ethnic culture suggests that Australian society *does not* have a tradition of patriarchal customs and values, that Australian women have always experienced great freedom and autonomy and that the legal system has traditionally been highly receptive to the needs of women. There has been enough evidence provided in previous chapters of this thesis to demonstrate the debatable nature of any of these propositions. The association of misogyny with particular ethnic groups or cultural contexts serves to mask the ongoing culture of misogyny, which unfortunately pervades most, if not all, societies. Instead of the central issue being the culture of impunity which has allowed men in many different contexts the unrestricted right to control women's bodies and lives, it becomes a question of a

particular ethnic culture: to utilise Sherene Razack's (1998) term, we see 'the culturalization of sexism'.

As noted in the previous section, gang rape victim Tegan Wagner seeks to challenge this process when she states that it is the culture of violence against women she blames rather than a specific ethnic or religious tradition adding, "Australian guys rape girls too" (2007, p235). Yet, while Australian society and the Australian legal institutions accept that Australian men also commit rape, they are deemed to be acting as independent subjects who make individual (albeit bad) choices. By contrast, Muslim men are not considered sufficiently developed individuals who *could* actively decide on their actions. They are completely at the mercy of their culture, which is itself understood as one based upon violence against women, misogyny and lack of respect for individual autonomy. This conforms with typical colonial and orientalist discourses, which ascribed non-Western populations to a permanent state of pre-modernity due to their incapacity to reason and progress: a point amply substantiated and evidenced by Edward Saïd in his classic text, *Orientalism* (1995).

At the same time, once the problem has been identified as one simply of culture, no other response from *within* that cultural context seen as possible. There could be no such thing as a 'feminist' Pakistani perspective as the two become mutually exclusive. Rather, there becomes a need for the more civilised, 'feminist' Western legal institutions to impose a higher standard of behaviour. Making a similar point in relation to Norwegian responses to forced marriage, Razack writes, "[u]nassimilable, duplicitous, tribal and prepared to sell their daughters into marriage a life of continual rape, Muslim communities require the force of law to bring them into modernity" (2004, p138). In the context of 'the Sydney gang rapes' the various judgments conform directly to this discourse. They do not seek to problematise the claim that the accused's culture would condone such behaviour, they simply assert the pre-eminence of their own (more civilised) standard of behaviour.

Once again the problem identified with the Australian policy of multiculturalism (see chapter three), also emerges here: the extent to which there can be one view of a culture. The fact that the 'expert' is not of the cultural background being discussed is an issue in itself. Following Talal Asad (1986, p163) the inevitable power relations (professional, national, international) involved in the process of 'cultural translation' cannot be dismissed, even as they remain unacknowledged by the Court in accepting the professor's report. It is not insignificant that the evidence accepted by the Court came from a professor of anthropology: postcolonial scholarship has long pointed to the centrality of knowledge production through disciplines such as anthropology, to the colonial project (Dirks 2001; Kuper in Lindberg et al. 2003; Dudley Jenkins 2003).

But perhaps more importantly for the purpose of this analysis is the question of why is the dominant 'male' view of Pakistani culture the only one presented? Is it to be accepted that Pakistani women would consider it an unproblematic suggestion that if they were to find themselves alone with men they did not know that rape would be inevitable? Furthermore, the suggestion that due to the conservative nature of Pakistani society, once a woman had had sex outside of marriage with one brother she would instantly be deemed available to the other is a far from logical conclusion to draw. After all, sexual conservatism is also a cultural value accepted for men. The accuseds' actions in picking up women they did not know, drinking with them and proposing sex were hardly in keeping with their cultural norms. Yet there is no discussion at all of this. This seems to demonstrate a far too simplistic approach to what cultural tolerance actually means.

Razack explains this as being a means of declining any ongoing institutional responsibility for racism; "If we live in a tolerant and pluralistic society in which the fiction of equality within ethnic diversity is maintained, then we need not accept responsibility for racism. We can conveniently forget our racist past..." (1998, p60). It also demonstrates the significant links to be made between normative gender identity and constructions of cultural/ethnic identity. It is only through the two being

inter-linked that such assumptions about what is 'acceptable' and 'accepted' behaviour become possible.

The 'misogynist Muslim' provides a useful counterpoint to the 'feminist Australian'. Not only does this reinforce the inherent inferiority of 'Muslim' culture by contrasting it with the 'enlightened' values of Australia (a point the later analysis of the rapists' discourses and political and media discourses will further explore), it also removes the requirement for any deeper interrogation of constructions of gender and (hetero)sexual identity within Australian society and legal institutions. White patriarchal order remains essentially unchallenged. Finally, as the political and media discourses analysed later in this chapter will demonstrate, the linking of questions of ethnicity and minority cultures with acts of sexual violence provides the opportunity to link social problems of crime with concerns regarding immigration control, challenges to dominant constructions of national identity and demands of recognition and equality by ethnic minorities.

In conclusion, a reading of the sentencing remarks in the three sets of gang rape trials does seem to present a rather bleak outlook for the possibility of the law adequately addressing and reflecting the experiences of rape victims. Even in the context of cases that attracted extreme public condemnation the legal actors demonstrated themselves to be remarkably incapable of challenging the dominant norms and rape discourses, which have been so long subject to critique. This would suggest Carol Smart's observation that, "[w]e should not make the mistake that law can provide the solution to the oppression that it celebrates and sustains" (1989, p49) remains depressingly accurate. Ultimately the Sydney gang rape trials seem to exemplify Sharon Marcus' argument that, "courtroom trials assert first and foremost their own legitimacy and power to judge events, and only grant power to the vindicated party on the condition that the court's power be acknowledged" (Marcus 1992, p388). This theory can be fully tested when considering the behaviour and narratives presented by the gang rapists themselves.

5.5 PROTEST MASCULINITY and THE 'NASTY MIGRANT' – THE RAPISTS' DISCOURSE

Having noted the trial process' potential for reinforcing hegemonic discourses on sexuality, gender and ethnicity, it must also be acknowledged that the resort to culturalised language is not solely the domain of dominant discourses. The rapists themselves, both during the rapes and during the subsequent trials (and even after in some cases) sought to assert a cultural component to the rapes. Unlike the French context in which the "gang rapist" of *'les tournantes'* remained a nameless, faceless threat, in Australia a number of the rapists themselves gained a certain level of personal notoriety. As mentioned above, 'Bilal Skaf' has become a name associated with gang rape within Australian media discourses if not broader public discourses. So too, the 'K brothers' - whilst remaining unnamed - sought to assert their own voices throughout the trial process. The identity of the 'Leb gang rapist' is not one that has solely been imposed by dominant representations but one that was apparently embraced by some of the rapists themselves and a minority of young Sydney men of Middle-Eastern origin who subsequently paid tribute to the gang rapists in the form of online videos.

In particular this section will focus on two specific features of the rapists' performed masculine identity, which emerged as central to both their own public discourses and the responses (both celebratory and critical) to their actions. The first is the alleged racial motivation behind their selection of victims and their racist taunts to the victims during the rapes. The second is their refusal to acknowledge any wrongdoing. This was reflected in their continued defiance and attempts to disrupt the trial process and - particularly in the context of the 'K brothers' - their attempts to present themselves as victims of racism or at least cultural misunderstanding.

Seeking to analyse the rapists' discourses - indeed including them in this chapter – is potentially a task fraught with danger. To begin with it is necessary to stress from the outset that this is not an attempt to *explain* the rapists' behaviour or actions, to *justify* their actions through resort to portrayals of the men as victims themselves of racism, social exclusion, economic marginalisation. All of these things

may be true but these men are not alone in facing such hardships and yet not all men (or women) in this situation resort to violent and degrading attacks on others. It must also be stressed that, in seeking to analyse these men's discourses, no claim is made regarding their representative value. To assert that these men were representative of anyone other than themselves would be to fall into the very trap of essentialism I am seeking to critique. However, to simply ignore the men on the basis that their behaviour is "beyond the pale" is unhelpful. It is true, their acts and their subsequent lack of remorse do not create an image that easily invokes sympathy or a desire to engage. But as various writers who have sought to address acts largely considered "plain evil" have noted, the dismissal of certain acts as simply inexplicable due to their abhorrence seems a weak excuse (Sereny 1995).

In stating these observations, it is not intended to undermine the subjectivity of the victims or the very real harm they experienced. Rather, it is to demonstrate that gang rape – and, as it will also be argued, the widespread condemnation of it in the context of gang rapes committed by 'ethnic others' - cannot be understood without closer interrogation of how the rapists' articulation and performance of their masculinity both contrasts with and adheres to dominant understandings of 'normative' masculine behaviour.

5.5.1 Competing Racisms

One of the most provocative aspects of 'the Sydney gang rapes' in media and political discourses was the allegation that in each of the cases, the victims had been targeted on the basis of their nationality (as "Australian" girls) and been subjected to racial slurs during the rapes. As will be discussed in the next section of this chapter, it was this fact that served to justify in the eyes of many the linking of the crimes with questions of immigration, ethnicity and multiculturalism. After all, as NSW Premier Bob Carr reportedly told a journalism student writing for an Arabic newspaper, "...what these violent rapists said when they committed the crime – they projected race into this argument." (ADB 2003, p61; see next chapter).

It should be noted that there was also evidence of violence and misogynist remarks against women of the same background as the rapists: as discussed above, following her ending of her engagement to Bilal Skaf his fiancée was the subject of graphic drawings by Skaf depicting gang rape. So too, Paul Sheehan notes a number of instances involving violence against women within the K family including the physical assault of their sister which provided the title for Sheehan's book.[134] However, this was only referred to in support of the characterisation of the rapists as pathological and did not dismiss the alleged racist overtones of their rapes. This was reinforced by statements reported by the victims made during the rapes and by a number of comments made by family and friends of the rapists during the trials.

As noted above, following the AEM/KEM trial one of the victims informed media outside the court that one of her rapists had told her, "you deserve it because you are Australian" (Brearley 2002; Janet Albrechtsen 2004). Similarly, victims in the Skaf rapes reported being called 'Aussie pigs' (Mazzocchi 2002; Sutton and Duff 2002), 'sluts' and told they would be 'fucked Leb style' (Albrechtsen 2004).

At the same time, the term 'cultural time bomb' which was widely reported in the context of the potential for cultural defences to be argued in rape cases was the result of a submission on behalf of one of the accused in the K Brothers rape trials. A similar submission was attempted by KEM in the AEM/KEM case, although it was summarily dismissed by Justice Latham (*R v AEM (jnr) and AEM (snr) and KEM*, unreported judgment, District Court of New South Wales, 23 August 2001). In the context of the K Brothers' case, their father did not assist their case when he was reported as having told one journalist, "What do they [the victims] expect to happen to them? Girls from Pakistan don't go out at night" (Devine 2005; Sheehan 2006) and asserted in court that his sons were not aware of the cultural norms of Australia (Wallace 2004(a); Wallace 2004(b)).

[134] *Girls Like You* does not in fact refer to the rape victims but was a comment made to Ms K by her brother just prior to his physical assault on her and reported in legal proceedings against him: Sheehan 2006, p1.

It was also widely reported that the K Brothers were asserting an 'anti-Muslim conspiracy', calling for the jury to be made up of Muslim jurors and claiming unfair bias on the part of both prosecution and defence lawyers as well as the judiciary. While there may have been grounds for arguing a certain racial bias on the part of the legal system, the manner in which the K brothers sough to make their point resulted in their argument becoming enmeshed with general defiance and 'bad behaviour' in the courtroom on the part of many of the Sydney gang rapists in the various trials.

While AEM/KEM pleaded guilty to the charges against them, most of the men in both the 'Skaf' and the 'K brothers' rapes refused to do so[135] and remained defiant and openly aggressive throughout the court process. In particular, two of the 'K brothers' consistently argued a racist motivation to their prosecutions and convictions. The refusal to admit guilt is not that surprising. Research on the attitudes of accused rapists has demonstrated they infrequently plead guilty and often present a lack of understanding as to the seriousness or criminality of their actions (Bowker et al. 1998; Cossins 2000).

However, what makes the behaviour of the Sydney gang rapists remarkable is the extent to which they actively sought to disrupt the legal process and adopted strategies of behaviour, which were undoubtedly damaging to their cases. In both the Skaf and the K brothers rape trials, court reporters consistently reported the demeanour of the men as lacking contrition and appearing to be amused by the process. In the context of the Skaf case, Justice Finnane noted in his sentencing remarks the fact that Bilal Skaf "had conducted himself as if the proceedings were a joke" (*R v Chami, M. Skaf, Ghanem, B. Skaf*, unreported judgment, District Court of New South Wales, 15 August 2002; "Rapist out of sight but not out of mind", *The Age*, 2 August 2003). Cindy Wockner of the tabloid newspaper, *The Daily Telegraph* published this account of the trial, which is worth reproducing in its entirety for the insight it provides into the 'Skaf' trial process:

[135] None of the K Brothers pleaded guilty and of the 9 men charged in the Skaf cases, only 3 pleaded guilty.

> Early this month, when the final in a series of gang rape trials involving two brothers was getting under way, Judge Michael Finnane was moved to say this to the young men: "I am not going to have the place [court] turned into a three-ring circus."
>
> It was one of many times the judge was forced to admonish the rapists - and sometimes their family supporters - over their in-court behaviour.
>
> In this instance, he was referring to a complaint about one of the brothers laughing and smiling while the victim was testifying.
>
> Throughout the four gang rape trials, which began in November last year and ended this month, the youths sometimes acted as though the whole court process was some sort of sick joke.
>
> The family of two brothers who featured in both trials this year had, throughout the trials, professed their sons were innocent, victims of a police set-up and of racism within our legal system.
>
> Indeed, the mother of these two males was herself charged with perverting the course of justice in relation to the horrific August 30 six-hour rape of an 18-year-old woman. The charges were later withdrawn.
>
> At the end of one trial, late last year, one family member professed loudly in Arabic that it was not a crime to f... a white slut.
>
> As well, in one of the trials, while Crown Prosecutor Margaret Cunneen was cross-examining one of the accused men, his family members sat in the back of the court, reacting angrily to the questions and referring loudly to Ms Cunneen as a "slut".
>
> Because the trial was held in a court where the court body and the public gallery are separated by thick glass, these unsavoury comments, and others like them, were not audible to those inside the court - a great pity, because Ms Cunneen and the judge deserved to hear them, said in the sneering and derogatory tone in which they were uttered.
>
> Many of the utterances, followed by loud laughter, were in Arabic, meaning most of us were unaware of the full extent of the commentary. (Wockner 2002).

Through this description of the court cases, Wockner evokes images of anti-social behaviour, misogyny and disrespect which are designed to shock the reader and simultaneously overlays them with a specific racial/ethnic context through the various references to the perpetrators speaking Arabic.

5.5.2 The 'Anti-Muslim Conspiracy'

So too, in the context of the K Brothers case, the accuseds' assertions of an 'anti-Muslim conspiracy' merged with the various court reporters accounts of the young men sniggered and behaved inappropriately during the proceedings. It was reported that the accused frequently interrupted the judges, at one stage threw fruit at the jury and shouted and attempted to physically attack prosecution lawyers and two of the victims' mothers (Sheehan 2006).

A journalist with the *Sydney Morning Herald* who covered the trial, Natasha Wallace wrote:

> The men [the K Brothers] treated the trial as a joke – mocking investigators and giving family members the thumbs-up when they testified in their favour. They demanded six Muslim jurors. They laughed out loud when found guilty. Their father, a doctor who brought them here from Pakistan, told the court they should be pardoned because they "did not know the culture of this country"(Wallace 2004b).

Similarly, Paul Sheehan in reporting on the proceedings in both newspaper columns and subsequently in his book[136] noted various claims and behaviour exhibited by the 'K Brothers', which appeared highly inflammatory. For example, he quotes the response of one of the brothers to his conviction: "*Sami*: We did not commit this crime, your honour. This crime was committed against us. The police set us up because we are Muslims, your Honour" (Sheehan 2006, p161; see also Sheehan 2004). Sheehan also notes the behaviour of two of the brothers to the testimony of their father, Dr K: "...Sami and Amir spent much of their time buckled over with laughter. For the reporters in the court, it was an extraordinary spectacle, so the impact on the jury would have been considerable" (Sheehan 2006, p146). Recounting the same incident in a newspaper article following Dr K's death, Sheehan quotes at length from the court transcript:

Crown: "Who wrote this [statutory declaration]?"

[136] Analysed the next chapter.

> Dr K: “Who? You wrote it, maybe”
>
> This was greeted with great hilarity by the two defendants, MSK and MAK.
>
> Crown: “Everything you have said about the night, from start to finish, is a pack of lies, isn’t it?”
>
> Dr K: “It’s the truth… but we don’t always remember. Can you put machine in my brain to recollect it?”
>
> This caused his sons to double up with laughter.
>
> Justice Sully directed a long-suffering gaze at them: “Mr K. has something he would like to contribute?”
>
> They could not respond, such was their mirth… (Sheehan 2006c)

All of these actions would seem to have been highly counter-productive to the men’s causes. It certainly did little to challenge the stereotypical image of the pathological deviant widely presented in media reports on the cases (as the next chapter will demonstrate) and made it very difficult for those who felt there were racist motivations behind focussing on these particular rapes to maintain much sympathy for them. So why did they behave in this way?

One possible reading of the rapists’ behaviour in court is a refusal to submit to the inherent violence of the law’s discourse. The outrage their conduct elicited was largely based around the apparent acceptance of the neutrality and justified authority of the courtroom which demanded respect of all those before it. And yet, the legitimacy of the courtroom is based completely on the effacement of its implicit violence:

> All who enter this legal system are constructed according to its normative and violent discourses. This ‘domination of the existent (a relationship of knowing) enacts a suppression or possession of the other’ (Pugliese 1996, p23). The violence of this is rewritten as reason and law. (Galbraith 2000, p74).

Arguably, the rapists were aware of the racial imperative - which alongside the highly damaging evidence accumulated by the police - would work strongly against

them. Certainly, by the time the 'K brothers' trial began, the general public sentiment was one of limited sympathy for young men of immigrant origin accused of raping 'Australian' girls. Moreover, the outrage at the rape of 'our women' is a fairly standard nationalist trope (as outlined in chapter two) so it is unlikely the men would have been completely oblivious to the symbolic value of their actions. Can the disruptive conduct of the rapists therefore be understood as them rejecting that which is already understood in the law to be known about them? To accept the authority of the courtroom would be to endow it with a legitimacy, which it perhaps does not deserve in light of its historical inability to counter the racist, classist and sexist structures, which have shaped both the law and society more generally.

As discussed above, two of the 'K brothers' were particularly vocal about their feeling of disadvantage in the legal process: not only did they assert repeatedly that there was an 'anti-Muslim conspiracy' which included their defence lawyer leading to them defending themselves (Sheehan 2006, p62; Dagistanli 2005) they also argued that the procedural amendments that denied them the right to cross-examine their victims were racially motivated. As Selda Dagistanli documents from her observation of the trial, MSK told the Court:

> The government wants to play games with us. The government wants to enjoy this trial. This is not a fair trial. These laws were made because we are Muslim. This is racial discrimination from the government. This is not a fair trial because we cannot cross-examine the complainants who are very important to our case. (2005, p90)

They also stated that the law had, "only been changed for us…They change the laws because we are Muslims. To them we are not human beings" (Pelly 2003). Thus, could their actions be understood as a refusal to grant legitimacy to an institution they felt would fail them? Yet the perception of disadvantage was not limited to the accused in each of these trials. As seen in the analysis of Tegan Wagner's description of the trial process, she too baulked at the extent to which she was forced to re-frame her narrative and subjective experience into a form comprehensible to judicial discourse. Yet Wagner ultimately did just that. She strategically conformed to the image required of her in the courtroom in order to gain support for her cause. In

drawing on Bourdieu's work on habitus and the field, it would seem Wagner's strategic adoption of the role of 'ideal victim' displayed a good understanding of the 'rules of the game'.[137] Thus, in exercising her agency she both recognised the structural limitations imposed upon her and adjusted her behaviour accordingly to achieve the best possible outcome.

In contrast to Wagner, the rapists seemed to demonstrate *no* clear sense of the game and did little to aid their cause. Throughout the trial process the men in the 'Skaf' and 'K brothers' cases and their family members, friends and supporters did little to dispel the allegations of their racist attitude to broader Australian society. Rather than rebelling against the hegemonic categorisation of 'Muslim' as terrorist in the aftermath of 9/11 (a stereotype which many nations of the developed West have tacitly accepted and which has been repeatedly problematised by liberal, anti-racism activists and academics alike), Bilal Skaf in fact sought to draw upon 'War on Terror' discourses linking Muslims with violence and terrorism when he threatened Corrective Services Commissioner Ron Woodham (see above).

The 'K brothers' even affiliated themselves with a 'Lebanese' identity, despite being Pakistani. Their victims reported that the brothers told them they were Lebanese and in fact referred to the Skaf rapes.[138] One of the victims, 'Roxanne'[139]reported that she had asked the K brothers their nationality when she met them and had allegedly been told, "Lebanese. We're all Lebanese" (Sheehan 2006, p40).

Another of the victims ('Kelly'), in her evidence to the Court testified to a conversation between the men in the car following her rape:

---

[137] See chapter one for an explanation of these concepts.
[138] Although the veracity of this may be questionable: One of the victims, "Roxanne" also testified that she had overheard the K brothers talking in the car about the Skaf rape trials and how Bilal Skaf had received a 55 year sentence. However on cross-examination it was pointed out that this was impossible as her testimony pertained to an incident, which occurred in July 2002, and the judgment in the Skaf gang rape trial was not handed down until August 2002 (Sheehan 2006, p80).
[139] Both "Roxanne" and "Kelly" are the aliases used by Sheehan (2006) as the two victim's real identities were suppressed.

> *Crown:* What did the driver [of the car – MAK] say?
> *Kelly*: They was, like, he wanted to kill us.
> *Crown*: Can you remember what he said? If you can, try to say the exact words he said or as close as you can remember.
> *Kelly:* Umm, he said, "We have to kill them because", oh, like, he said, "Okay, we have to get rid of them. We have to kill them", and Mohammed said, "No, let's not kill them because the other boys are in prison".
> *Crown*: Did you know what they were talking about?
> *Kelly*: Yes, I knew what they were referring to.
> *Crown*: How did you know what they were referring to?
> *Kelly*: Because at that time there was a lot of publicity abou these other rapists [the Bilal Skaf gang-rape trials] (Sheehan 2006, p88)

Paul Sheehan reported that in asserting his claim of an 'anti-Muslim conspiracy', the oldest K brother (MSK) told the prison psychologist that the Skaf gang rape trials had been to promote the careers of the police and prosecutors involved and to discredit young Muslim men in Australia. MSK apparently also alleged that the evidence against Skaf had been fabricated. (Sheehan 2006, p62). In a separate incident involving indecent and physical assault by MRK, the victim alleged he had pushed her against a wall and told her, "If a Leb wants to fuck you, you fuck them" (Sheehan 2006, p160).

Sheehan adds to this the following description of the young men's physical appearance:

> The K brothers certainly affected Lebanese-style haircuts. [MSK]'s head was shaved at the sides and back and he had a very short cut on top, with a bleached-blond fringe at the front.
> [MRK] had a variation on this: shaved hair around the sides and curly hair on top, streaked with blond. He, too, had a fixation with the Lebanese street culture. (2006, p40)

Tegan Wagner also described the men as 'Lebanese looking' and gave a similar description of MMK's haircut (2007, p18). What Sheehan means by a 'fixation with the Lebanese street culture' is not clear and he does not provide specific examples. There are of course reasons why identifying the K brothers as adopting a 'Lebanese youth' identity could possibly be expedient for Sheehan (discussed in the next

chapter). However, the description of the K brothers' appearance, dress and car[140] do seem to suggest an affinity for dominant stereotypes of 'Leb youth culture'.

5.5.3 The 'Young Lebanese Muslim Man': (Post)colonial Habitus?

What emerges from the reports of the three sets of gang rape trials is that the men themselves seemed to embrace (or at least did not seek to challenge) the identity of the violent, misogynistic and racist young Muslim man. Moreover, they are not the only men who appear to have done this. As also mentioned above, in 2006 and 2007 various videos were discovered on the user-created content sharing internet website Youtube depicting young men of 'Middle-Eastern' ethnic origin in Sydney's West paying homage to Bilal Skaf as a hero and disseminating violent, racist messages threatening Australia. In all of these videos the counter-identity presented is that of the 'Leb', while the flag of Lebanon provides a backdrop, alongside the assertion of south-west suburbs of Sydney (specifically the Bankstown area) claimed by the men as their territory.

Noble and Tabar (2002) have also reported, from their own field research, that the adoption of a 'Lebanese' identity by young men who in fact come from a diverse range of backgrounds. They see the adoption of this identity as "conjunctural and positional. It features mostly as a cultural marker when the youngsters speak about their group boundaries and when they are targeted as 'Lebanese wogs' by others who belong to the dominant Anglo culture" (2002, p136). They quote one young man, himself of Syrian descent explaining the appropriation of this identity as follows:

> Around here, it's more like you have to be Lebanese or something. Lebanese is sort of like slang for Arab. You know what I mean? That sort of makes my fear easier. Like in Mount Druitt [where he used to live], because over there, there are not a lot of Lebanese. So Lebanese are nothing. Like here [Bankstown] it's made my life sort of better. To me it has done something for me.

[140] The K brothers drove a Subaru WRX Impreza: a car frequently associated within popular representations of 'gangsta' culture both within Australia and elsewhere. See for example Shand 2006.

> I find here because I'm Lebanese, they stick by you more. If you have a fight, they wouldn't watch you getting bashed or you winning. They'll jump in for you. They are always by your side, no matter what circumstances. They will always jump in for you. (2002, p136; see also Poynting, Noble and Tabar (1998) discussing similar sentiments in relation to men of Greek and Italian heritage).

This strategic adoption of an identity, which he perceives to provide him with greater protection and support is understandable. As Noble and Tabar remark, "[i]t is the racism which Ahmed and his friends encounter which provides a common experience to anchor this new 'Lebanese' identity. The broader community perceives Ahmed and treats him as a 'Lebbo'" (2002, p136). This analysis certainly explains why the 'K brothers' and those featured in the Youtube videos may choose to identify themselves as 'Lebanese': it may provide a sense of community and solidarity in the face of racism they may experience due to their 'Middle-Eastern appearance'.

However, this does not explain why the 'Lebanese' identity adopted by these particular men is based upon all the worst stereotypes perpetuated in the media and popular representations of 'Lebanese men'. The 'K brothers'' ironic choice of number plate ('ON DOLE') - which became known during a separate criminal trial regarding a road rage incident which resulted in the death of another 'K brother' – could be read as a form of social commentary, if it were in fact the case that the men were economically disadvantaged. Yet, this does not seem to have been the case: their father was a doctor who had practised in Australia and two of the brothers initially came to Sydney to study, the elder with $10,000 to enrol in medicine at university (Sheehan 2006, p14). In fact the 'Lebanese' identity the 'K brothers' (and the men in the later Youtube videos) sought to appropriate and re-enact was that associated within popular media not only with a particular mode of dress, hairstyle and choice of car but also with unemployment, aggression, anti-social behaviour, and sexism.

There are various potential readings of this behaviour. However, one approach would be to consider the work of post-colonial scholars on issues of identity construction in post-colonial subjects alongside Bourdieu's work on habitus: in other words, to attempt to articulate a '(post)colonial habitus'. The term 'colonial

habitus' was coined by Indian scholar Vivek Dhareshwar. In discussing the literary work of Indian postcolonial author, V.S. Naipaul, Dareshwar asserts:

> The attempt, to which Edward Said's *Orientalism* belongs, to show that particular "legitimized" pieces of knowledge about ourselves are an *imposition* is not enough to help us break out of the subjectification constituted by other kinds of knowledges and practices, which are not as easily pinned down as academic or missionary discourses. A far more difficult task is to deconstruct the (self)representations of colonial subjects. (1989, p76, emphasis in original)

As a means of overcoming this difficulty, Dhareshwar suggests that Naipaul should not be read as simply and uncritically adhering to dominant colonial discourses in his subject narratives but as employing the technique of mimicry celebrated by Homi Bhabha.[141] This mimicry, Dhareshwar argues, represents the antinomy of the 'colonial habitus' (1989, p85).

Drawing on Bourdieu's (1977) definition of habitus, Dhareshwar goes on to explain: "The practices produced by the *habitus* appear 'natural,' not amenable to thematization by the agents participating in it, although their participation is what sustains it. The specific form of colonial domination is, to a great extent, inseparable from this *habitus*." (1989, p85). For this reason he argues:

> I think the hypothesis of a specifically colonial *habitus* is an extremely productive one for historians/anthropologists/sociologists. The works of Frantz Fanon and Albert Memmi and a few others can be seen as the programmatic exploration of the *habitus* as the site of colonial encounter and the cluster of power relationships which semiotize everyday behaviour in a particular fashion. Bhabha's psychoanalytic framework, methodologically refined and delimited, would be relevant in this context." (1989, endnote 20)

This is a revolutionary idea and one that seems to hold great potential in attempting to reconcile the apparent contradictions in the rapists' own identity construction and articulation. Can their discourses be read as resisting or conforming to dominant constructions of 'Muslim male youth' identity in Australia?

---

[141] A practice whereby the colonial subject appropriates the coloniser's practices, modes of behaviour and mannerisms but in the reiteration of these, enacts a site of subversion and resistance: see Bhabha, (1983).

Why do they seem frequently to emerge as such caricatures? And how can we conceptualise the function of stereotypes when they are not simply imposed by external discourses but are adopted and performed by the rapists themselves? For Dhareshwar this can be understood in the following way:

> The stereotypes that emerge out of the *colonial habitus* simplify the subject's relationship with himself/herself and with others not because they falsify reality, but because they impose "an arrested, fixated form of representation that, in denying the play of difference...constitutes a problem for the *representation* of the subject in the significations of psychic and social relations" (Bhabha "The Other Question" 1983, p27). (Dhareshwar 1989, pp85-86)

While Dhareshwar is mainly concerned with the ways in which colonial habitus operates to impose feelings of inferiority on the colonial subject and to internalise the belief in the cultural superiority of the coloniser, I would argue it is equally relevant (when explained as a '(post)colonial habitus') to the articulation of an identity that conforms to that described and explained in dominant discourses. It cannot be coincidental that the gang rapists' performance of their 'Lebanese Muslim' identity fits so neatly within the Orientalist representations of the "perverted, misogynist, barbaric Arab" critiqued so powerfully by Said (1995) and others (Guénif-Souilamas and Macé 2004, p60).

As discussed above, there is little doubt gang rape victim Tegan Wagner demonstrates a remarkable astuteness for how she must construct herself in order to achieve the outcome she desired. However, as also noted in an earlier section of this chapter, she was also aided by her racial advantage: the 'unmarkedness' of her whiteness (Frankenberg 2001). This racial advantage provided a means of helping to balance the disadvantage experienced by women in their encounters with the sexist institutions of the law. In itself it was not sufficient to guarantee her status and her credibility (as evidenced by the cross-examination ordeal she details) but it did provide a certain power, which she could capitalise on. While the other victims were not universally 'white', the relativity of 'whiteness' emerges clearly in 'the Sydney gang rapes' context. Despite their ethnically diverse backgrounds, the media discourses which served to 'render them white', also provided them with access to

the power and privilege that whiteness brings albeit at the expense of neutralising the harmful racist and sexist assumptions contained in the process.

In contrast, the rapists' 'ace' of masculinity (Galbraith 2000) was heavily countered by their racial profile and the inter-racial nature of their crimes. Furthermore, in a post 9/11 world where discourses on terror have cemented a link in the popular imaginary between Islam, violence and misogyny, the rapists conformed to powerful stereotypes. Perhaps they realised this and felt it pointless to passively accept what they already knew would be the outcome of their prosecution: harsh condemnation. Or, on the contrary, could their actions be read as them performing exactly the role expected of them?

In a very similar account to the 'colonial habitus' suggested by Dhareshwar, Stuart Hall, in "Cultural Identity and Diaspora" suggests the following ongoing relationship between colonial domination and the construction of identity of former colonised peoples:

> They [the West] had the power to make us see and experience *ourselves* as "Other"...It is one thing to position a subject or set of peoples as the Other of a dominant discourse. It is quite another thing to subject them to that "knowledge," not only as a matter of imposed will and domination, but by the power of inner compulsion and subjective conformation to the norm. (hooks 1992, p3).

Connolly (1991) and Gutterman (1994, p222) similarly argue that, "specific facets of personal identity can be discursively inscribed on individuals so forcefully that an individual may have very little power or space in which to discursively challenge or reshape that particular aspect of his or her social persona." Gutterman goes on: "In the United States, where gender, racial, and sexual identities are so emphatically marked on individuals, there is often little discursive space to challenge these aspects of one's identity." (1994, p223). Here Gutterman draws on the Foucauldian notion that the individual must be seen as an 'effect of power' (Gutterman 1994, p219) or that the subject is in fact produced from within relations of power (Gutterman 1994, p220). Gutterman's solution to this relies on the idea of

performativity. In a similar manner to Butler, Gutterman believes this provides an answer to the frequent critique of post-structuralist theory that its emphasis on the discursive construction of subjectivity ultimately provides little scope for agency. Yet, how does this relate when the performance in fact conforms to the very discourse that has constructed and dominated it?

It is here that a Bourdieusian analysis is helpful. In particular, the concept of 'symbolic violence' allows Bourdieu to explain how it is that certain unequal power relations are maintained through their apparently 'common sense' or 'taken for granted' nature. Ciaran Cronin explains: "[t]he shared schemes of perception and evaluation incorporated in the habitus mask the arbitrariness of social divisions by inculcating belief in their legitimacy or naturalness" (1996, p65; see also Bourdieu's definition of 'doxa' in chapter one). While Cronin (and others) have argued that this understanding of human subjectivity seems to provide very limited scope for agency, the influential feature of Bourdieu's analysis is its recognition of the inter-relationship between history, social structures and the individual subject's identity construction and performance:

> [W]hile dominant agents have a vested interest in upholding the principles of 'vision and division' of the social world that legitimate their position of dominance, symbolic power also depends on the complicity of the dominated in the form of an immediate, unreflective, bodily adherence to these same principles. (Cronin 1996, p66)

Just as Bourdieu is concerned with the implications of class and gender on the embodied subjectivity of individuals, a '(post)colonial habitus' recognises the ongoing implications of colonialism on the identities of both the former colonised and coloniser. The social structures and relations of power created by colonial discourses continue to be embodied in individual subjectivity. Yet this is also a circular practice for, at the same time, the continued reiteration of these discourses through the embodied practices of individuals serves to re-legitimate time and again the very power structures on which they are based.

This possibly provides a way to understand how it is that the rapists can seemingly fail so completely to adapt to the rules of the 'field' within which they are being required to operate. If habitus provides one with the capacity to adapt one's behaviour to maximise capital, then the rapists' actions in the context of 'the Sydney gang rapes' seems to demonstrate a complete inability to play the game. Yet if we are to accept that external discourses on racial hierarchies have the capacity to impact deeply on the identity formation of those deemed 'inferior' to the point that they themselves absorb images of themselves that are negative and disempowering then the strategic adoption of a 'Lebanese Muslim' identity of violence, terrorism and disrespect for women and authorities, while still counterproductive, becomes more comprehensible.

In the context of France some efforts have been made to assert this point in relation to the problematised representation of Muslim male identity: following the emergence of *Ni Putes Ni Soumises*, a rival organisation calling itself *Ni Proxo Ni Macho* (Neither Pimps nor Machos) was established.[142] This organisation sought to reject the representation of Muslim men that both *Ni Putes Ni Soumises* and dominant French discourses utilised and to argue for a non-racist intervention against sexism. Unfortunately, this organisation received very limited support or public interest. In Australia it seems we have yet to even begin this task: the recent controversies involving Muslim religious figures such as Sheik el Hilaly (see chapter three) have done little to challenge the doxic understanding of Muslim masculinity as culturally and inherently sexist. Furthermore, the comments of family members and friends of the rapists have concentrated on attacking racism without ever addressing the underlying sexism not only in the rapists' actions but in their own tacit (and sometimes express) blaming of the victim. Whilst clearly the sexism of the rapists, their supporters and people such as Sheik el Hilaly is not solely the product of a (post)colonial habitus – unfortunately sexism and misogyny seems to be found in indigenous forms in most if not all societies – the apparent inability to challenge this

[142] See also le *Mouvement des indigènes* as a more recent example: discussed in Grewal (forthcoming).

sexism *outside* of racist structures has allowed for this sexism to become understood as an inherent feature of the rapists' culture/ethnic origin.

5.5.4 White Man = Racist, Black Man = Sexist

As discussed in the next chapter, many of the public responses from Left-wing academics and media commentators, while condemning the sexist nature of the violence, refused to engage with the suggestion that the attacks were racially motivated or influenced. And yet, the rapists themselves do not seem to have expressed the same hesitation about drawing on racialised and racist stereotypes of both themselves (as discussed further below) and the women they raped. Even if the racist comments made to the victims can be discounted as simply further proof of the desire to humiliate them (an explanation, which in itself does not satisfactorily dismiss the concern that the rapes must be seen as acts of sexism *and* racism which cannot be separated), the resort to racialised (and racist) stereotypes about normative female behaviour espoused by both the rapists and those attempting to explain their behaviour warrants interrogation.

For example, the suggestion that the men chose victims from outside of their community on the basis that they were 'easier targets' (Brearley 2002) does not discount their racist assumptions about white women as more sexually available and promiscuous than Muslim girls. Furthermore, the 'K brothers' and at least one of the AEM/KEM rapists attempted to suggest there was an issue of 'cultural misunderstanding' created by the victims' behaviour. The racist and sexist assumptions within these statements *cannot* simply be labelled the responsibility of either white or Muslim society.

The fact that these men actively promoted an image of their society and its values as inherently sexist draws on the very heavily racialised stereotypes that women of the west are sexually liberated but as a result promiscuous and sexually available (further demonstrated by the rapists' alleged comments regarding the victims in particular and white girls in general, being 'sluts' and having 'loose pussies': Dagistanli 2005, p93) and that women of the East are to be respected and

protected but as a result are asexual, submissive and passive. It is precisely this logic that women in France have attempted to reject, albeit frequently with negative consequences (as the next part of this thesis will demonstrate).

Bell hooks in her book, *Black Looks* invokes the field of representation as a 'place of struggle' (1992, p3). For hooks, the failure to address the ongoing legacy of colonialism has resulted in many former colonised people trapped within representations of themselves that they have not chosen, nor have any control over but that are sufficiently internalised that they seem impossible to resist. This sounds remarkably similar to the definition of the 'colonial habitus'.

In writing about black masculinity in the context of the US, hooks (1992) critiques the resort to homosocial bonding and the sexual objectification of women that has informed many young black men's assertion of a masculine identity. In particular she notes, "contemporary black males espousing a masculinist ethic are not radicalized or insightful about the collective future of black people. Public figures... and a host of other black males blindly exploit the commodification of blackness and the concomitant exotification of phallocentric black masculinity" (hooks 1992, p102). Hooks refers to this as 'the internalised colonisation' of young black American men whose promotion of stereotypical self-images in rap music and film does little to resist or challenge the dominance of white supremacist patriarchy. For hooks herein lies the tragedy: the uncritical acceptance of dominant constructions of black masculinity and sexuality. Not only does it provide little scope for resistance, it has resulted in far too little attention being dedicated to those black men who *do* challenge patriarchy – black or white – and seek to assert an identity that not only rejects white supremacy but also does not construct women as the enemy.

This critique of black masculinity can be translated into the context of 'Lebanese Muslim masculinity' in Australia due to the fact that much of the 'Leb identity' promoted by not only the rapists but also the young men involved in 'the

Soldiers of Granville High' video[143] and the 'Bass Hill Boyz'[144] draws on gangsta rap cultural iconography and behaviour. For example, in a discussion programme on the independent, community-based television channel SBS in 2006 the links drawn between 'US gangsta identity' and that of young men of 'Middle Eastern' origins were endorsed by the men themselves. A former US gangsta rapper, Napolean, appeared on the programme, discussing his involvement with community projects in Sydney designed to dissuade youth from getting involved with 'gang culture' ("True Colours: Middle Eastern Youths in Sydney", *Insight, SBS*, 15 August 2006). Further, a local youth worker, himself of Lebanese origin, asserted that Lebanese youths' experience of a combination of racism, marginalisation and disenfranchisement had led to them adopting a 'gangsta' identity (see also Wakim 2004).

Another example is the Youtube video identified on Channel Nine's *A Current Affair* Programme, on 11 December 2006. It was reported the rap group 'Bass Hill Boyz' who claimed to be 'Lebs' and came from the south-west of Sydney were calling for mass violence against "Australians". An example of Bass Hill Boyz lyrics demonstrates a bold invocation of anti-Australian, anti-nationalist violence:

> You'll witness war, you'll see
> Scattered all over the beach, your family
> Just like that war in Gallipoli
>
> All you Aussies from Cronulla
> Get your fists fucking down
> Gonna take over your fucking town
> This is our town now, you dirty fucking Aussies
> (video available at http://www.youtube.com; lyrics available at http://pommygranate.blogspot.com/2007_01_01_archive.html)

In a subsequent newspaper article detailing both 'The Soldiers of Granville High' Youtube video and the 'Bass Hill Boyz', further examples of lyrics were reproduced. Aside from generally ridiculing 'Aussies' for their lack of visible symbols

[143] An amateur video apparently made by male students at Granville High, which uses symbolic images, photos and music to glorify the actions of Bilal Skaf as well as acts of terrorism and ethnic crime.
[144] A local hip hop group comprised of young men identifying as 'Lebanese' and named after a suburb in the South-West of Sydney.

of wealth (sports cars and jewellery), the following reference to 'the Sydney gang rapes' was reported: "I don't give a f... what you say about us Lebos ... they didn't get gang-raped bro, I swear it wasn't us, those Aussie chicks wanted it, bro" (McIlveen 2007). In the context of the 'Soldiers of Granville Boys', the focus of concern seemed to be the image of Bilal Skaf posing with a gun and the depiction of the map of Australia covered with a Lebanese flag and the words 'Under new management'. As a result, the significance of the gang rapes to the rapists themselves, their supporters, their critics (and in some instances even the victims) appears to have an expressly nationalist component.

Yet these 'protest masculine' identities seem highly unfortunate for all involved, not least the men themselves. Bell hooks points out: "The very images of phallocentric black masculinity glorified and celebrated in rap music, videos and movies are the representations that are evoked when white supremacists seek to gain public acceptance and support for genocidal assault on black men, particularly youth." (hooks 1992, p109). As noted in the previous chapter on *'les tournantes'* in France, the elision of race, gender and violence in public discourses on criminality has significant consequences. It creates a common-sense link between the figure of the 'young Muslim man' and misogyny and violence, which are then disassociated from dominant French/Australian male identity. Similarly, various scholars have identified the media attention dedicated to 'gangsta rap culture' in the US has resulted in "the emergence of crime as a racially coded word for associating black youth with violence" (Giroux 1996, p28; hooks 1994; Mercer 1994).

In the Australian context, the 'Soldiers of Granville Boys' and 'The Bass Hill Boyz' assert a solidarity and identity of resistance, which in fact seems to liberate them from neither racist nor sexist structures of domination. They play completely into the classic orientalist representation of Muslim masculinity as inherently violent, barbaric and misogynist: a representation which constructs white masculinity as civilised, enlightened and 'feminist' by comparison thus justifying white superiority. At the same time, they continue to struggle to be recognised as

'men': as chapter two details, masculinity is a far from power-neutral identity but in fact establishes a clear hierarchy *between men*.

Non-white men, particularly those from lower socio-economic backgrounds have traditionally experienced masculinity as both empowering (over women) and a source of domination (from hegemonic masculinities). By rewarding racist characterisations of Muslim men through a performance of exactly this identity they also have the extremely unfortunate result of forestalling any attempts at alternate articulations of masculinity. Kobena Mercer, in writing about the film *Boyz n the Hood* could equally be describing the masculine identity articulated by the gang rapists and their supporters:

> Just as the incessant dissing of "bitches", "ho's" and "fags" in rap betrays a vulnerable ego whose existence can only be confirmed by the degradation of others, the monotonous macho-narcissism and male bonding glorified in these cinematic coming-of-age stories unwittingly discloses that black masculinities are actually rather similar to white ones. (1994, p167).

In many ways an analysis of the rapists' discourses presents an image of how they are both constituted and constitutive of dominant discourses on non-white masculinity. It seems, as bell hooks notes in relation to black masculinity, the Sydney gang rapists have, "passively absorbed narrow representations of [non-white] masculinity, perpetuated stereotypes, myths and offered one-dimensional accounts" (1992, p89). At the same time, their conformity with - and embodiment of - the dominant construction of non-white, 'Muslim' masculinity seems to legitimate the perpetuation of the myths and stereotypes on which this construction is based. This effectively functions to not only justify the ongoing marginalisation of these men but also to enforce a type of masculinity against which *all* young Muslim men are measured: the 'Soldiers of Granville High' and their hero Bilal Skaf become the sole representations of young men of Lebanese, Muslim origins in Australia.

Pierrette Hondagneu-Sotelo and Michael Messner, in their work on displays of masculinity among Mexican immigrant men in the US note that hegemonic masculinity has slowly been transformed into the image of the 'New Man' and it is

against this model that 'traditionalist, sexist, macho' masculinity associated with immigrant, working-class and non-white men (1994, p200) is measured. The 'New Man' is "a white, college-educated professional who is a highly involved and nurturant father, 'in touch with' and expressive of his feelings, and egalitarian in his dealings with women" (p202). As the counter-image, many of the traits traditionally associated with hegemonic masculinity and the source of intense feminist critique, have been displaced onto the 'Other' man: usually those in less privileged positions. Hodagneu-Sotelo and Messner ultimately reach this conclusion:

> Marginalized and subordinated men, then, tend to overtly display exaggerated embodiments and verbalizations of masculinity that can be read as a desire to express power over others within a context of relative powerlessness. By contrast, many of the contemporary New Man's highly celebrated public displays of sensitivity can be read as a desire to project an image of egalitarianism within a context where he actually enjoys considerable power and privilege over women and other men. (1994, p214).

They note that while many Mexican immigrant men do engage in public displays of bravado and machismo, this is often in contrast to the (slow but steady) increase in actual gender equality within Mexican immigrant homes. Meanwhile, the espoused desire of the 'New Man' to be more actively involved in the raising of his children and to support his female partner has not resulted in more than a small increase in the actual equality in division of household labour and child-rearing duties. The significance of this research is that it problematises not only the relationships of power between men and those between men and women but it seeks to emphasise the interconnectedness of racial, class, sexual and gendered structures of domination.

While clearly the rapists' misogyny is not reserved to their public performances of masculinity, the extent to which they have emerged as figures against which 'dominant white Australian masculinity' is either celebrated (by dominant society) or denigrated (by certain groups of marginalised youth) is interesting. On the one hand it serves to reinforce the association of sexism with only certain cultural groups, justifying hierarchies *between* men. On the other, through an articulation of power over women it can provide a feeling of empowerment among

men who otherwise experience an identity based on economic and social disadvantage and marginalisation. Christelle Hamel (2007) makes a similar argument in relation to *les tournantes* (see chapter eight).

As Mercer and Julien observe: "Black men subjectively internalise and incorporate aspects of dominant definitions of masculinity in order to contest the conditions of dependency and powerlessness which racism and racial oppression enforce" (1988, p112). Similarly - as discussed in chapter two - the lack of access to (or failure to achieve) the markers of hegemonic masculine success can also lead to the affirmation by marginalised men of alternate models of masculinity, which carry their own rewards and sources of privilege (Connell 2000, 1995). Among these, sexual conquest, aggression and exaggerated machismo are frequently cited (Connell 1995; hooks 2004, 1994; Mac An Ghaill 1994; Staples 1982; Mercer 1994; Bourgois 1996).

Alvin F. Poussaint (1972) argues that the root of intra-communal violence in US African-American communities is the feeling of disempowerment and the broader acceptance in American society of violence as a means of asserting power. Noting the detrimental effect of black violence on attempts to bring about positive change, he states, "[i]t is an ugly fact that the American cultural experience has taught us that crime and violence is a way to success and manhood" (1972, p71). This statement may well provide an interesting insight into the relationship between violence and legacies of colonialism. After all, colonial domination and expansion was premised on the use of violence. We only need to look to the justifications and rationales employed in France for the extreme force used to conquer Algeria (Kohn 2008; Tocqueville 2001) and those used in Australia to authorise the systematic destruction and genocide of indigenous peoples for proof.

Furthermore, the specific symbolism of sexual violence in the colonial enterprise has been well-documented by various feminist scholars (MacClintock; hooks; Stoler; See also chapter one). In both the French and the Australian context there has been increased recognition of the scale of sexual violence used by colonists

against the women of the colonised populations. Is it therefore a sad fact that the legacy of this violence, until acknowledged and resolved will continue to provide a mode of behaviour to be appropriated by marginalised and disempowered men as a way to assert resistance and claims for power?

Highlighting the discursive power of rape to colonial conquest, bell hooks characterises it as:

> ...the terrorist act re-enacting the drama of conquest, as men of the dominating group sexually violate the bodies of women who are among the dominated. The intent of this act was to continually remind dominated men of their loss of power; rape was a gesture of symbolic castration. Dominated men are made powerless (ie. impotent) over and over again as the women they would have had the right to possess, to control, to assert power over, to dominate, to fuck, are fucked and fucked over by the dominating victorious male group." (1990, p57).

When seen in these terms – and bearing in mind the interpretations of the gang rapes and the gang rapists in the subsequent youtube videos - 'the Sydney gang rapes' do seem to have a particular national significance. The gang rapists are not only asserting their right to access the women of the supposedly dominant community, they are also asserting their own domination of that community. This seems to be an understanding suggested by some commentators (as discussed in the next section) and is often the focal point of their outrage.

It should go without saying that the use of rape as a tool for resisting domination is an abhorrent idea. Similar discourses of 'rape as liberation' within the black civil rights movement have not only been completely rejected but also the subject of intense critique and condemnation by black feminist scholars (hooks 1990, 1994, 2004; Mercer 1994). Yet as bell hooks observes:

> Sexism has always been a political stance mediating racial domination, enabling white men and black men to share a common sensibility about sex roles and the importance of male domination. Clearly both groups have equated freedom with manhood, and manhood with the right of men to have indiscriminate access to the bodies of women. (hooks 1990, p59)

As noted in the previous section analysing judicial discourses – and as will also be observed in the analysis of media and political discourses in the next section – the inevitability of violence against women is largely unchallenged. Rather, the emphasis is placed on the role of men to benevolently protect women or at least refrain from exercising their uncontested sexual power. The fact that the rapists do not is read in a number of ways: as an affront to the rights of men of the dominant community, a sign of rebellion or as a defective masculinity that is unable to keep itself 'in check'. Yet nowhere is the very fundamentality of gender roles and sexual behaviour called into question. This is equally true of the rapists and those who subsequently commented on, condemned, celebrated, sought to explain or retaliated to their actions.

At the same time the truly 'subversive' nature of these rapes also emerges as problematic. In a similar manner to that discussed above regarding gangsta rap culture, it has been observed that attempts at resistance by subordinated models of masculinity, when reliant on violence or aggression, frequently have the paradoxical effect of further entrenching their subordinated status. For example, Mac An Ghaill identifies the counter-productivity of aggressive articulations of 'protest masculinity' in his study of the Rasta Heads (young English-born black adolescents). He notes the Rasta Heads' overt sexism towards young women and female teachers and their aggression towards male students who did not adopt similar models of masculine behaviour. In particular he identifies their homophobia and vindictiveness towards more academic students of Afro-Caribbean heritage. Drawing on the work of Mercer and Julien (1988), he notes that the Rasta Heads' adoption of a hypermasculine heterosexual identity that distanced them from the other Afro-Caribbean students as well as the racist school structures added further barriers to their possibility of achieving academic success and improving their status through access to middle-class employment and the incumbent model of middle-class masculinity (1994, pp194-195).

Mac An Ghaill also notes in the context of the school students and teachers he studied: "The misogyny and homophobia that were pervasive throughout the school

circumscribed the teachers' and antischool students' masculine bonding" (1994, p196). This served the double purpose of on the one hand creating a commonality between the two groups of men based around patriarchal, phallocentric structures of dominance and on the other reinforcing the hierarchies of masculinities experienced on the basis of race, class and educational ability.

An analysis of the discourses on 'the Sydney gang rapes' demonstrates not only conformity with the symbolic objectification of the women but also the reinforcement and legitimation of hierarchies of racial power between the men involved (rapists, supporters and critics). As the next section will further illustrate, the striking feature of the rapists' discourse is not that it is a rebellion or rejection of existing power structures but that it in fact conforms to many of the stereotypes on which positions of dominance are constructed and legitimated: both racial and sexual. There is a striking commonality between the discourses of the rapists and many of their (predominantly but not exclusively male) critics (discussed in the next chapter).

Both groups appear aware of the symbolic significance of the rapes (if not during, the rapists certainly seem to realise this afterwards) and both remain within the logic of 'inter-ethnic conflict and conquest' as they battle to dominate the public sphere. The gang rapes provide a means for the (male) 'Other' to communicate his resistance to (male) Australia, through the wrongful appropriation of bodies seen to both belong to and symbolise the nation of Australia. As a result, the punishment of the rapists becomes a means of reasserting white Australian masculine power just as the acts of rape and the defiance of the rapists appear to seek (unsuccessfully) to de-stabilise and challenge this dominant model of masculinity. In any event, the women emerge as passive objects of exchange. Not only is the act of gang rape an act 'between men' (see chapter two), so too the subsequent interactions between the Sydney gang rapists and their critics emerges as a battle of masculinities.

In this context Tegan Wagner's comment (quoted above) in which she links gang rape with other 'masculine displays' of violence emerges as highly insightful.

The feeling of exclusion and disempowerment she and a number of the other victims express becomes comprehensible. Just as their positions as victims in the gang rapes is suggested to be ancillary (merely a vehicle through which a process of homosocial bonding becomes possible through a heterosexual act: see chapter two for further explanation), so too their voices in the subsequent discourses on the rapes are treated as being of less importance than the symbolic function the violation of their bodies performs for a communication between two groups of men.

5.6 CONCLUSION

In attempting to analyse the discourses of the rapists the central issue of interest is their choice of language and their modes of attempted resistance to the dominant public and judicial discourses that 'explained' or responded to their behaviour. Their personal motivations are largely irrelevant and it is accepted that these men represent a particularly disturbing and repugnant but also a marginal model of masculinity. Having unequivocally accepted the misogynist, criminality of their actions, in this section a possible reading of their discourses has been proposed which reinforces the argument that 'the Sydney gang rapes' must be read as acts in which sexism, racism and nationalism are all intertwined.

As will be seen in the next chapter, some commentators reflected on the rapes as a form of resistance to domination: through an attack on the women of the dominant community, the men were seeking to assert their own power and perhaps even to demonstrate vulnerability within existing hierarchies. However, closer analysis of the rapists' discourses and behaviour provides perhaps the most tragic insight into the deeply entrenched racist and sexist structures, which continue to dominate Australian society. Setting aside their obvious criminality, the gang rapists' assertion of an identity composed of the worst stereotypes perpetuated within popular representations of 'Muslim men' (misogynist, violent, anti-social, terrorists) reflects a situation of complete abjection.

So deeply internalised are these discourses – the very discourses which allow for the maintenance of white male privilege and power – that the men appear completely incapable of resisting them or articulating anything close to an independent identity. By focussing their efforts at resistance on an assertion of aggressive hypermasculinity, they do little to de-stabilise dominant power structures or the discourses that allow these power structures to remain intact. At the same time, as will be explored in the next chapter, the fact that these men were in turn held up as 'representative' of 'Lebanese Muslim masculinity' dismissed the possibility of any other articulation of a non-sexist, non-racist masculine identity.

CHAPTER SIX: *'TALKING RACE OR RACISM'?* RESPONSES TO THE RAPES

6.1 INTRODUCTION

The previous chapter provided an analysis of the discourses on the rapes by those directly involved: the victims, the judges who heard the cases and the rapists themselves. This chapter will conclude part two of this thesis on public discourse(s) on 'the Sydney gang rapes' with an analysis of the political and media discourses. As discussed in chapter two, 'public discourse' is understood to incorporate various spheres of influence and voices in the public space. Often the media is identified as the primary creators of a space for public discourse to emerge. Certainly a review of the creation of 'the Sydney gang rapes' as a national and ongoing point of concern reflects the influence of a number of key media commentators, not least Paul Sheehan who has written a book dedicated to the 'K brothers' gang rapes (discussed in detail later in this chapter). However, political, institutional and academic discourses have also contributed to public understandings of 'the Sydney gang rapes' and their implications for Australian society.

6.2 POLITICAL DISCOURSES

6.2.1 Initial Responses

As noted in the previous chapter, the sentences handed down in the AEM/KEM case provoked a strong public reaction. Justice Latham's perceived leniency re-opened public debate about judicial disregard for community expectations. It also instigated the proposal of new legislation in the NSW Parliament on 4 September 2001 seeking to create a new offence of "aggravated sexual assault in company", carrying a maximum life sentence (Johns, Griffith and Simpson 2001).

Initially race/ethnicity did not seem to be the focus of official responses to the gang rapes. Rather the emphasis was on the inadequacy of judicial sentencing[145] and the need for a tougher stance on crime. This second response (known as the 'law and order' discourse) was one that had played a central role in political and public discourses for a number of years, as chapter three discusses. In particular, various scholars have placed responsibility for this discourse on then NSW Premier Bob Carr (Collins et al. 2000; ADB 2003; Poynting et al. 2004). In this context Bob Carr provided the following response to the AEM/KEM case, quoted in the *Sun Herald*:

> As Premier I am committed to seeing judges get the message. Gang rape is a dreadful crime. The worst offenders should be in jail for life...We want to send a clear message from NSW families [to the judiciary] that judges must take a tougher attitude to people convicted of serious crimes. It is clear we need tougher legislation and a guideline judgment that the courts can follow for these terrible crimes. (Johns, Griffith and Simpson 2001, p19)

The sentiment appears admirable; a real attempt to address the traditional legal failure to treat sexual violence with sufficient seriousness. Yet Carr's deployment of the 'law and order' discourse raises a number of issues. The first is the focus on *gang rape* as a particularly horrendous crime. As previously discussed, rape as a crime has traditionally been under-condemned. When it has been prosecuted, it has been for instances considered the 'most damaging' (attack by a stranger accompanied by violence). This has been based not upon women's subjective experiences of rape but on what the justice system and society more generally has deemed to be 'real rape'. An underlying implication is that forced sex is more detrimental and repugnant when committed by a man the woman does not know or have a relationship with; a notion which reinforces a proprietal understanding of women and their sexuality (see chapter two).

---

[145] For example, Ian Ball the President of the NSW Police Association was quoted in an opinion piece in the Sydney broadsheet *Sydney Morning Herald* as stating, "If the courts don't start to reflect community views and the views of the Parliament then at some point they're going to forget their right to judicial independence..." Similarly, then NSW Premier Bob Carr was quoted as saying, "We need judges to be aware of the public's expectations in sentencing, especially in the serious categories of crime such as sexual assault and aggravated sexual assault. We also want a justice system sensitive to the concerns of the victim and the victim's family." (cited in Johns, Griffith and Simpson 2001, pp19-20).

Carr's limiting of his condemnation to gang rape, while clearly relevant to the particular case, misses the opportunity to open up a broader discussion of rape. As has also been discussed in chapter two, gang rape not only reflects a relatively small proportion of rapes committed, it is also more likely to fit the dominant characterisation of 'real rape' as it generally does involve strangers and is associated with an extended ordeal including degradation of the victim (Franklin 2004). Thus, the concentration on condemning gang rape in fact does little to challenge the broader issue of impunity, which has led to ongoing, normalised levels of violence against women.

The second issue raised by Carr's framing of the problem of gang rape within the rhetoric of 'law and order' is its implicit racial/ethnic context. As various scholars have detailed, the political and media emphasis on the need for stronger judicial responses to crime in NSW has frequently been tied up with debates surrounding ethnicity as a factor in crime and backlash against immigration and multiculturalism (see Collins et al. 2000; ADB 2003; Poynting et al. 2004). In the context of the gang rapes, Bob Carr's initial response was later explicitly ethnicised/racialised when he reportedly told a journalism student writing for an Arabic newspaper, "...what these violent rapists said when they committed the crime – they projected race into this argument." (ADB 2003, p61). Thus, the 'law and order' responses to 'the Sydney gang rapes' began to follow a similar trajectory to that identified by Sherene Razack in the context of Norwegian institutional responses to forced marriages: "Once the violence becomes a property of immigrant culture, it cannot easily be uncoupled from debates about how to manage foreigners" (2004, p155).

While (or perhaps because) the original trial judge in AEM/KEM had sought to dismiss any racial/ethnic element to the case, this became increasingly difficult as media, political and general public attention to the issue of gang rape grew. So too, criticisms of the justice system became increasingly entangled with the race/ethnicity debate surrounding the AEMs/KEM case. What followed was an oscillation between attempts to quell the rising wave of racially motivated and frequently xenophobic

mainstream public and media responses to the rapes and blatant capitalisation of these very sentiments.

6.2.2 Introducing new legislation: the *Crimes Amendment (Aggravated Sexual Assault in Company) Bill 2001* (NSW)

An excellent example of the equivocality of political discourses can be found in the parliamentary debate following the introduction of the proposed gang rape legislation. Immediately following the AEM/KEM trial and prior to the commencement of the Skaf trials, a bill was hurried through parliament proposing an additional crime be added to the *Crimes Act 1900* (NSW) specifically dealing with rapes committed concurrently and by multiple perpetrators. While NSW Attorney-General Bob Debus tried to distance the legislation from the 'Muslim gang rape' panic in his Second Reading Speech,[146] the subsequent parliamentary debate became a struggle between those who sought to concentrate on race/ethnicity and those who sought to concentrate on gender.

A particularly pertinent contribution to the debate is made by Ms Allen, member for Wentworthville. While initially commenting on the accepted problematisation of the relationship between the judiciary and the broader community, Ms Allen goes on to address the much more sensitive issue of the 'cultural context' of gang rape:

> ...The related ethnic issue continues to arise and is now thrust in our faces as to the relevance of culture and the problems of pack-rape. At present there is an enormous amount of hysteria in the community relating to the perception that these rapes have been perpetuated by ethnic boys who hang around in ethnic gangs. One of the previous speakers in this debate referred to the crisis relating to the asylum seekers. In my opinion, it is a great tragedy that issues relating to ethnic communities already living in Australia and those seeking to

[146] "...This offence will apply to all offenders. It does not recognise the race, religion or sex of the offender or the victim; it simply recognises the heinous behaviour committed in groups in these worst category cases and makes available the maximum punishment in this State in appropriate cases": Hansard, NSW Parliament, 4 September 2001, viewed 10 July 2008, http://www.parliament.nsw.gov.au/prod/parlment/hansart.nsf/8bd91bc90780f150ca256e630010302c/ca256d11000bd3aaca256acb002261e8!OpenDocument

> relocate to Australia are currently running in tandem in the media. Rape is not a cultural problem. It is sad that in the current debate we are not reading about the continued incidence of pack-rape by, for example, Anglo-Celts in our community at the same time as we are reading about the problems involving supposedly ethnic gangs. It is not a cultural problem but a gender problem. Men have oppressed women for many thousands of years, and in some instances, unfortunately, that oppression takes the form of violence and physical assault.

Aside from attempting to shift the focus away from the race aspect and onto the gender aspect, Ms Allen bears witness to the media trend whereby the rapes were linked with broader immigration debates. Her condemnation of this trend is insightful, as is her identification of the more pressing problem; the ongoing impunity for violence committed against women. Unfortunately, while other MPs do reject the racialisation of the crimes and seek to defuse the intense negative attention focussed on the Lebanese/Muslim population, Ms Allen is one of the few voices to emerge that really problematises broader Australian conceptions of women's sexual and bodily integrity. In particular she refers to a disturbing and sexualised email she received attacking her stance on the AEM/KEM rapes:

> I found that email threatening. Ms Megan Fay Latham, the relevant judge, presumably has received similar emails, and I am sure she also would find that threatening. I cannot fathom why a person who is so concerned about rape in the community would send such a violent email to me. It is illegal to send this sort of material in the email system and I am happy to refer it to the police because although it is not a direct threat against me, as it is against Megan Fay Latham, I still find it offensive and threatening. The words that I have deleted are quite sexual. This person has quite a problem. He is not simply a father who is concerned about the welfare of his daughters but is a man who is literally getting his rocks off by sending this type of email through the system, and I hope no-one in this Chamber would condone that sort of activity.
>
> This is part of a culture that oppresses women. I am not suggesting that Mr Dowling is a rapist, but because of the vicious and sexual nature of the email that was sent to me as a public office holder, particularly in reference to Megan Fay Latham as a judge, one could almost extrapolate that this is part of a spectrum of violence and views on women that exist in our society. None of these problems will be turned around overnight, certainly not by this legislation. We have struggled since the dawn of civilisation to do something about this problem. Mr Dowling will certainly not give the Government any acknowledgment for the legislation, but I will because I think it will help. It

> will certainly mean that people who engage in vicious pack-rapes will receive their just deserts, and it may act as a deterrent to future rapists. I hope it does.

Ms Allen's ultimate statement of support for the legislation dilutes the potency of her message by conforming to the dominant 'law and order' rhetoric. However, by placing Mr Dowling's email in the public domain Ms Allen does present an attempt to address the broader issue of sexual and sexist violence.

By way of contrast with Ms Allen's intervention, Mr Fraser the member for Coffs Harbour provided this commentary:

> The fact that a female judge handed down such a sentence makes it even more abhorrent to many people in the wider community. Also of concern is the plea bargaining entered into by the prosecution and defence counsel in which important facts were omitted, with the result that the girls were perceived by the court to have entered the vehicles willingly, when evidence has since shown that to be incorrect. Also, details of the ethnic nature of the crime were omitted and, despite what was said by the honourable member for Wentworthville, we need to look at those cultures...
>
> ... We do not excuse our electorates for ethnic-based crimes because we have a high ethnic population. Instead we say to them, "We are Australians. This is the way we treat our women in Australia and this is what we would like to see you do." There is evidence that there was an ethnic tinge to this crime. I am not saying it happens in every case, but let us not hide or excuse it, because it is totally unacceptable.

Not only does Mr Fraser fail to address the issue of discrimination and violence against women across cultures, he contributes to gender stereotyping by suggesting that female judges should be expected to act differently to male judges. This is noteworthy when we consider the general legal feminist consensus that the very possibility that women judges could behave differently from their male counterparts has frequently been used to justify their exclusion through the suggestion of judicial bias.[147]

[147] In a classic example of 'damned if you do, damned if you don't', female judges who have been identified as holding 'feminist' positions have frequently been mistrusted and subjected to scrutiny regarding their ability to be truly impartial (something which is generally assumed in the context of their male counterparts): see Rackley (2007). A poignant example of this is the attempt by a defence team in the International Criminal Tribunal for the Former Yugoslavia (ICTY) to appeal the decision of Justice Florence Mumba on the basis that her former membership of a UN expert group on gender

Furthermore, in making the statement regarding, 'the way we treat our women', Mr Fraser does not in fact explain what indeed that treatment is or the 'we' he is seeking to represent. Instead he reinforces an androcentric vision of citizenship in which 'Australians' are men and the women within the Australian national territory merely belong to these male citizens ('our women'). The member for Coffs Harbour is not the only participant in the debate to adopt this approach. (see also the comments of the member for Oxley).

At the same time there were also those, like Mr Lynch member for Liverpool who sought to dismiss the racial aspect, while highlighting the resulting racism such discourses produce:

> Another consequence of linking crime with ethnicity is that it affects a whole range of people in the community. There is no doubt that the Arabic and Islamic communities in Sydney, including those in my electorate, are absolutely horrified at the demonisation they have been subjected to by the tabloid press and some politicians who ought to know better....
>
> ... a series of threats have been directed at individual Islamic and Arabic families. Certainly a very serious threat was made against one large fairly well-known Islamic school in south-western Sydney that a gang of bikers was going to trash the school and rape most of the female students there. They are some of the consequences of the racist allegations that have been continually, regularly and persistently made.

Mr Lynch goes on to report the receipt by his office of letters filled with racist abuse. In doing this, Mr Lynch makes some pertinent points and his attempts to draw attention to the wider context of rape within Australian society are helpful. However, what is perhaps most interesting from his observations is the vast number of public responses he evidences which did seek to focus on the gang rapes as racial attacks. Most specifically, the fact that the retaliatory threats made also frequently

---

and her statement that rape should be a war crime suggested the possibility of bias. Similarly, Canadian Supreme Court Judge Claire L'Heureux-Dubé's overturning of the lower court's decision to acquit in the *Ewanchuk* rape case and her express rejection of the negative stereotypes that still plagued rape complainants in court, sparked mass public debate in which it was suggested, "[w]e shouldn't have to pay the salary of a radical feminist who sits on the bench and uses her position to promote her own personal agenda" (Backhouse 2003, pp172-173).

drew on the threat of sexual violence is once again a demonstration of the centrality of nationalism and ethnicity to the characterisations of these crimes.

In light of the discussions in chapter two regarding the inter-relationship between rape and nationalism, this should emerge as unsurprising, however it has very particular implications on the ability to formulate a truly non-racist feminist response to the rapes. As Mr Ashton, the member for East Hills also adds:

> Honourable members might have seen a *Four Corners* retrospective that was televised a few weeks ago. It depicted some very Aussie blokes with some very interesting hairstyles in the late 1960s talking about gang-rape and how it came about. This crime was not invented a few months ago in the south-western parts of Sydney. Rape was considered a prize for the victors of war. Victors would rape the wives or girlfriends of the vanquished enemy. Honourable members will recall the unfortunate rape of members of some of the different ethnic communities during the war in Bosnia. Rape was regarded as a means of offending or outraging communities defeated in war.

By framing his intervention around the language of rape as one of the 'spoils of war', Mr Ashton provides powerful support to the proposition that 'the Sydney gang rapes' must be read as symbolising something more than horrendous acts of individualised violence. Utilising the logic espoused in the findings of experts in the former Yugoslavian wars, Mr Ashton proposes that the rapists' actions must be read as much further-reaching: it is an assertion of victory or an attempt to destroy or demoralise an enemy, in this case the Australian community. Again the victims become symbols rather than individuals whose rights have been violated. As the property of (male) Australia, their rapes are not personal attacks. They are attacks on the nation. Thus, regardless of how well-meaning and well-justified attempts to dismiss race/ethnicity from the debate may have been, this became not only impossible but in fact counter-productive as a discussion on Right-wing media commentators' discourses will demonstrate.

6.3 MEDIA DISCOURSES

As discussed in chapter two, the public sphere is a highly contested site of struggle. The mass media has been identified as playing a central role in both the dissemination of different discourses and the validation of certain voices and perspectives over others. An analysis of media responses[148] to 'the Sydney gang rapes' provides an excellent example of this. In this section the media's reporting of 'the Sydney gang rapes' will be considered, with particular focus on *which* perspectives emerged as most prominent and *the terms of reference* within which the debate was framed. In doing this it becomes clear that there are various discourses circulating in the debate but few, if any, commentators were able to grapple with all the issues at play to present a completely adequate response. The four key groups can be summarised as follows:

- Those who sought to concentrate on the sexism and misogyny of the rapes and in doing so, removed the emphasis on race;

- Those who used the language of 'women's rights' and claimed they were responding to the problem of 'violence against women' but drew on racialised stereotypes and generalisations in order to do so;

- Those who condemned the media and particularly right-wing commentators for racialising the crimes unnecessarily;

- Those who sought to link the rapes with broader issues such as terrorism, Islamic fundamentalism, immigration and multiculturalism by arguing it was the rapists that were racist

From this, two broad trends emerge: 'anti-sexist' and 'anti-racist', each with a left and right wing angle. This polarisation of the debate is unsurprising when we

[148] It is noted that the majority of media sources relied upon are examples from national, mainstream print media. This is as a result of space limitations and an attempt to maintain consistency with the French media sources analysed in the next part of this thesis.

consider that sexism and racism have frequently been read and treated as two separate issues: a concern postcolonial and critical race feminists have increasingly drawn attention to. However, the problem in 'the Sydney gang rapes' was that it became virtually impossible to propose a response to the rapes that condemned the sexism and racism espoused by members of both the dominant and dominated groups without justifying the re-establishment of hierarchical power structures of gender and race. As British journalist David Fickling astutely put it: "...those who care equally about misogyny and racism are left in an invidious position by the gang rapes of 2000: attack the racists, and you risk defending the rapists; attack the rapists and you risk siding with the racists" (Fickling 2002).

6.3.1 Initial Reporting

As noted at the beginning of part two of this thesis - unlike the hesitation in most of the judicial responses and at least some of the political responses to the gang rapes - the mainstream media wasted little time in identifying a 'racial' aspect to the crimes. It was widely reported that the rapes had been committed by men who were 'Lebanese'/'Muslim' or 'of Middle Eastern extraction' (ABC 2002) against 'white'/'Australian'/'Caucasian' women and alleged racist remarks had been made during the attacks. For example, a *Lateline* report on the ABC on 22 August 2001 stated, "Reports of Lebanese men preying on young Caucasian women, gang-raping them in planned, horrific attacks, has caused an outcry, leading all the way to the highest levels" (ABC 2001). In a lengthy article on the Skaf rapes, journalists Sarah Crichton and Andrew Stevenson reported:

> Three sets of brothers account for half of those caught. Five are related by marriage. All were born, raised and educated in Australia and identify as Lebanese Muslims, or just "Lebs", although two had mixed parentage.
>
> Some chose to add racial abuse to their rampage. The teenager raped on August 30 was called an "Aussie pig", told she would be raped "Leb-style" and asked "does Leb cock taste better than Aussie cock?" by three of her assailants. (Crichton and Stevenson 2002)

Herein lay a major difficulty in attempts to dismiss race as an issue in these rapes: the fact that the victims, the police and the rapists themselves all seemed to endorse if not a racist motivation, a racist element to the attacks. In a report on the ABC in 2002, journalist Jo Mazzocchi noted:

> The case revealed the workings of the gang who operated in Sydney's South west and clearly identified themselves as being of Lebanese Muslim backgrounds. Gang members used mobile phones to alert other gang members to come and join in the rapes and their victims were referred to as Aussie pigs. (Mazzocchi 2002).

Similarly on the ABC's news and current affairs program, *The 7:30 Report*, it was reported:

> TRACEY BOWDEN: The victims were all Caucasian women aged between 13 and 18, those convicted all Lebanese Muslim youths.
>
> BOB CARR, PREMIER (AUGUST 2001): The incidents had a similar MO, in that males of Middle Eastern appearance aged between 15 and 19 years old would operate in this fashion, that is entice girls into the car and effectively, in some cases at least, kidnap them.
>
> TRACEY BOWDEN: These were not spontaneous attacks.
> Once a woman was lured to a suitable location, the ringleaders would call their mates to the scene on their mobile phones.
> In evidence one young woman revealed that during the ordeal she was called an Aussie pig and told, "I'm going to (bleep) you Leb style....
> .... While some members of the young men's Lebanese Muslim community resent the focus on their ethnicity, others acknowledge the problem and the need to address it. (ABC 2002).

Mazzocchi went on to report that, "[e]ven the police admit it was one of the worst cases they'd ever seen", and quotes Detective Inspector Kim McKay:

> KIM McKAY: In terms of frequency, in terms of the number of victims involved and number of offenders involved, and the quite serious nature of the violence that was levelled at these women, and the length of time they underwent their ordeal – yes it is definitely the most serious I have been involved in.
> ...

> MAZZOCCHI: …The Salvation Army court chaplain who supported the victims, Major Joyce Harmer says the women will never forget what they've been through. (Mazzocchi 2002).

It is true that the police had done little to establish their reputation as impartial commentators, with Police Commissioner Peter Ryan having already been accused of enflaming racial tension through his ethnicising of crime in Sydney's south-western suburbs.[149] So too, as noted above, Premier Bob Carr had previously been accused of capitalising on racialised explanations (Poynting et al. 1998), which served to undermine his credibility. However, the fact that individual police officers, court support officers, crown prosecutor Margaret Cuneen (Devine 2003) and the victims themselves spoke of the horrific (and racialised) nature of the attacks resonated with the Australian public as did the apparent lack of contrition and defiance of the rapists and their supporters.[150]

Cindy Wockner's article on the rapists' outrageous behaviour in court [151] was shocking because it revealed a division between white Australian society and the Arabic speaking community behind the gang rapists that was *not* only the product of dominant discourses *but also* the product of the rapists', their families' and their friends' own behaviour. So too, the erratic, contemptuous and disrespectful behaviour of the K brothers in court did little to build sympathy for their case. This does not of course justify the generalisation that such behaviour is attributable to *all* Australians from Lebanese/Muslim/Middle Eastern backgrounds. However, it became clear that to exclude a discussion about race was potentially whitewashing an important and arguably relevant issue. This point is convincingly made in an editorial, which appeared in the national broadsheet, *The Australian* on 24 August 2001. In the piece, entitled "Culture must be aired in rape debate", it was noted:

---

[149] In particular his comment following a shooting attack on Lakemba police station in 1998 that it was the work of, "the sons of the people who reduced Beirut to rubble" (Brearley 2002) provoked justifiably angry responses from the community. See Poynting et al. (2000) for a more detailed discussion.
[150] Detailed in the previous chapter.
[151] Reproduced in the previous chapter.

> The argument is not that Lebanese culture necessarily promotes rape. Or that Islam is inherently misogynistic. Or, indeed, that immigration breeds crime. The issue is the community's right to have a frank public discussion of a disturbing series of crimes and how to punish the perpetrators, and tackle the underlying causes. (cited in Johns, Griffith and Simpson 2001, p27).

In response to this, it was proposed that there was a need for sensitive, balanced discussion of the racial issue in a number of Australian newspapers. Similarly, in an editorial piece in the *Sydney Morning Herald* on 23 August 2001 entitled "Taboos, stereotypes" it was argued:

> There should be no taboo in discussing crime occurring in any particular ethnic community. Equally, there must also be great care to avoid stereotyping, which can slip easily into racial denigration…The problem of ethnic crime gangs has not gone away… But it is disappointing that the experience of the years of confronting such crime honestly while not inflaming hatred and division by careless stereotyping has not prevented the latest ugliness…Terrible though they are, these assaults by young Australian men of Lebanese background have been hardly distinguishable from any number of others by packs of other young men over the years. To suggest otherwise is to cross the line from proper, open discussion of social problems to dangerous, racial stereotyping. (cited in Johns, Griffith and Simpson 2001, p27)

The extent to which the subsequent media comment on 'the Sydney gang rapes' succeeded in presenting a 'balanced' analysis of the significance of race to the rapes has been well documented (Grewal 2007; Gleeson 2004; Poynting et al. 2004; ADB 2003) and does not need to be reproduced in detail here. Suffice to say, the resort to racial stereotypes, over-generalisations and provocative references to war metaphor did little to present 'the Sydney gang rapes' in a way that allowed for sensitive exploration of their causes and consequences. The reports from reputable news agencies and journalists added weight to claims by the more openly right-wing commentators that these were, "racist crimes. They were hate crimes. The rapists chose their victims on the basis of race" (Miranda Devine, cited in *7:30 Report*, 15 July 2002). It also established as 'known' the ethnic identity of both the rapists and their victims (even as in the case of the latter at least, this turned out to be false: ADB 2003, p82, note 87).

Some commentators also picked up on reports of a phenomenon known as *'les tournantes'* in France (discussed in part three of this thesis) and utilised them to demonstrate a cultural specificity to the crime of rape, based on its connection with Muslim immigrant populations (Priest 2004; Albrechtsen 2002; Brearley 2002; Sheehan 2001). Janet Albrechtsen went as far as to quote 'French experts' to support her claim that this was a problem of culture and religion. She was ultimately exposed by the media watchdog programme on the ABC, *MediaWatch*, as having doctored her quotes.[152] However, by this stage the link had already been made. A proliferation of weblogs and articles appeared suggesting that the events in Australia must be seen as part of a broader mode of behaviour exhibited by Muslim men.

Those who attempted to play down the racial element of the crimes or to dispute the legitimacy of placing the blame on a whole community were accused of allowing misplaced multicultural sentiments and political correctness to 'morally blind' them, as it was the gang rapists who were the racists and had failed to show tolerance and respect. As Associate Editor of *the Age* Pamela Bone put it; "...multiculturalism requires the goodwill not only of the dominant culture but of all cultures. Tolerance of difference is a two-way street" (Bone 2002; see also Priest 2004; Albrechtsen 2002; Devine 2001; Sheehan 2001). Many of the responses from the left which sought to critique the racism inherent in many of the stronger condemnations of the rapes were rejected in favour of, 'telling it as it is' and 'bringing it out into the open': "Talkback radio commentators and callers are speaking the truth, and any attempt by a minority community representative to put an alternative view is portrayed as attempting to cover up that 'truth'" (ADB 2003, p63). Similarly the refusal of Justice Latham to acknowledge any racial/ethnic element in the AEM/KEM rape cases was used by Miranda Devine (2002) and Paul Sheehan (2001) to demonstrate a left-wing conspiracy to cover up 'the truth' about ethnic crime.

When Campbell Reid, editor of *The Daily Telegraph* tabloid newspaper was accused of fear-mongering and racial stereotyping, he responded, "It could be fear-

[152] For full details see the Media Watch website - http://www.abc.net.au/mediawatch/rassial.htm, accessed 26/08/03.

mongering and racial stereotyping if no-one had been attacked" (ADB 2003, p60). The fact that there were a number of rapes, within a short space of time and they were linked (all made reference to being 'Leb' and the K brothers' adopted personae, which drew on reports of the Skaf rapes) added weight to Reid's argument and recast those seeking to underplay the racial/ethnic element as the irresponsible ones. Attempts by the Left to argue that the only reason why these cases had attracted so much attention was due to the ethnicity of the perpetrator and racism within white Australian society appeared to underplay the truly horrendous nature of the attacks and to over-simplify the problem. After all, the gang rapes and murders of Anita Cobby and Janine Balding had also been the source of intense public attention and outrage and in both those cases the perpetrators had been white. Former Sydney detective, turned *The Australian* columnist Tim Priest capitalised on this to attack not only the 'Lebanese gangs' responsible for the majority of Sydney crime but also multiculturalism and the Left more generally. In a remarkable reappropriation of the language of anti-racism, Priest comments:

> I wonder whether the inventors of the racial hatred laws introduced during the golden years of multiculturalism ever contemplated the possibility, that we, the silent majority would be the target of racial violence and hatred. I don't remember any race-based charges being laid in conjunction with the gang rapes of southwestern Sydney in 2001, where race was clearly an issue and racial slurs were used to humiliate the victims. (Priest 2004).

In response to this, the commentary provided by the Left was unable to provide a satisfactory critique due to its apparent reluctance to engage with the issue of racism on the part of the rapists. Instead it allowed commentators such as Priest to construct a new victim of racism: the white majority. In the same opinion piece, Priest launches a vitriolic attack on the NSW Anti-Discrimination Board:

> Unbelievably, a publicly funded document produced by the Anti-Discrimination Board, titled The Race for the Headlines, was then circulated. It sought to not only cover up race as a motive for the rapes but to criticise any accurate reporting on this matter in the media as racially biased. It worries many operational police that organisations such as the ADB, the Privacy Commission and the Council for Civil Liberties have become unaccountable and push agendas that don't represent the values that this great country was built on. (Priest 2004).

Priest does not elaborate on which values he is talking about. Perhaps those of the White Australia Policy or the attempted genocide of Indigenous Australians but this is unlikely. However, his comments seem to appreciate in value and insight with the inability of the Left to articulate a response that manages to address the apparent racism of the rapists while explaining why the focus must remain on combating institutional racism and racism in the dominant mainstream community (something Ghassan Hage does attempt to do in his 2004 book, *Against Paranoid Nationalism*).

The reporting of the alleged racist remarks made by the rapists in fact provided the ideal opportunity for various right-wing commentators to link the gang rapes with broader anti-immigration and anti-multiculturalism discourses. It also provided the opportunity for radio commentators like John Laws to transfer the responsibility for racism onto the rapists and away from white society. According to Laws:

> This is our country. This is a country that we have worked hard and our forebears have worked hard to create. We've created it with strength of character. We've created it with goodwill, and we've created it with hard work, and we don't want people who have different points of view, to the point of view we have in Australia in relation to how we live our lives coming here and simply destroying it. And that's why I really want somebody to come clean. I want somebody to be brave enough to ring me up and say, yeah that's the way it is. We just hate white women. We just hate, or the reverse. But somebody's gotta come clean about this... (quoted in ADB 2003, p63).

In fact, the Sydney gang rapists and their supporters seemed to offer Laws exactly what he was asking for. It is interesting that the two groups (of rapists?) seemed to share a common understanding of what constitutes 'Australian'. The young men *did not* identify themselves as Australian, despite the fact that many of them were born in Australia and/or are Australian citizens. The rejection of the label

of 'Australian' was thus not only the product of dominant discourses, it was a product of the rapists' own discourses as well.[153]

Unfortunately right-wing discourses on the issue emerged as persuasive because of this and because of the refusal of much of the Left to even entertain suggestions that issues of race might be relevant, unless it was to condemn white racism. Attempts by the Left to minimise the rapists' own racist behaviour were in fact highly counter-productive: On the one hand, it further justified the commentaries of those on the Right who had long asserted the blind political correctness of the Left as the reason for its irrelevance in Australian public discourse. On the other, it diminished the very real feelings of grievance that the individual victims and other members of the Australian community had.

One of the approaches taken by Poynting et al. (2004) in seeking to de-legitimise media discourses on the gang rapes was to point to the 'alleged' nature of the racist remarks; suggesting that these remarks had not been proven and may not in fact have been made (see also Poynting and Mason 2007, p78). This was an unsatisfactory response as it seemed to fly in the face of a number of the rapists' own comments and those of their families/friends/supporters. This only further supported claims by the Right that preoccupations with 'political correctness' were leading those on the Left to hide the truth. Similarly, Paula Abood's statement that rape is, "about control and violence against women – against women of all backgrounds. So, I actually reject the notion that ethnicity really has anything to do with it" (ADB 2003, p61), while clearly seeking to emphasise the misogynistic element that risked being lost, fell into the trap of attempting to deny any racial element: a position that ran counter to the expressed experiences of the victims and the behaviour of the rapists.

As Andrew Lattas (2007) and Judy Lattas (2007, p330) have also pointed out in relation to the events at Cronulla in 2005 (discussed further below), the tendency

[153] See previous chapter; See also Noble and Tabar (2002) for a discussion of the strategic performance of 'Australian' and 'Lebanese' identity.

within responses from the Left to the gang rapes to dismiss the furore they caused as 'moral panic' (see below) was unhelpful as it served to diminish a very real feeling of grievance experienced. Just as the previous chapter documenting Tegan Wagner's experience demonstrates, in considering some left-wing academic responses to the Cronulla riot, Judy Lattas highlights that the 'moral panic' account presented a far too homogenising impression of the situation by portraying racism as the only issue at stake. Her conclusion from interviews conducted with various young Shire residents is telling:

> It is not only gangs of Middle Eastern youths who carry the threat of sexual harassment, of course; this is recognised readily by the Shire people I spoke with. Nevertheless, the problem presented at Cronulla by their [the young 'Lebanese' men] specific forms of 'protest masculinity' remains for these schoolies [recent school leavers]; and while they reject the riotous 'protest' that the nationalist Right is celebrating, they clearly do not accept the Left's contention that it was all just a racialised scare mongering of the media. (Lattas 2007, pp330-331)

In the context of the Sydney gang rape trials, the judicial and left-wing academic and political attempts to remove race completely from consideration of the cases was contrasted with both the continued reference by the rapists and the victims to the specific racial context within which they understood the rapes to have happened. This served to reinforce claims that the judiciary was out of touch with community values and fed the argument proposed by right-wing commentators that this was yet another example of 'political correctness gone mad'. For example, right-wing columnist with *The Australian*, Janet Albrechtsen argued that this was a legitimate debate as it was, "talking race not racism" (Albrechtsen 2002).

6.3.2 Left Wing Anti-Racist Responses

In the meantime, while trying to re-focus the debate, many academic and left-wing media responses were unable to overcome the limitations of the highly polarised positions presented and assert a non-racist feminist response. For example, significant academic commentators on issues related to immigration, migrant populations and masculinity in Australia, Poynting et al. sought to draw on their already rich body of work (discussed in chapter three) documenting how 'Out-

of-control Ethnic gangs' and the 'Lebanese'/'Muslim'/'Middle-Eastern man' have been successfully used to both justify the maintenance of dominant hegemonic conceptions of Australian identity and externalise problems existing within Australian society over the last decade (Collins et al. 2000; Poynting et al. 2004). However, by treating 'the Sydney gang rapes' as simply representing a new incarnation of this pre-existing discourse albeit in a sexualised form, Poynting et al. ran the risk of minimising the extreme sexism and the element of racism on the part of the rapists. Academic Paul Tabar expressed this concern:

> It is a shame that we have to be racist in order to recognise the rights of raped women. It seems to me the fact the rapists are an 'ethnic other' explains both the exceptional space given to the rape victims and the magnified outrage manifested by the dominant culture (ADB 2003, p61).

But he seemed unable to propose an alternative, which would not simply return to the trivialisation of rape and the mistreatment of victims. While none of the Left-wing commentators went as far as the Afro-American civil rights characterisation of rape as primarily a problem of racism,[154] the attempt to argue the significance of social and economic marginalisation to the rapists' display of 'protest masculinity' began to sound dangerously like a suggestion that the rapists were the victims. For example, the Anti-Discrimination Board of NSW in its response to the media reporting of 'the Sydney gang rapes', cited Professor Andrew Jakubowicz:

> …Yes it is inevitable that we would notice cross-cultural violence. What's interesting is, what sort of cross-cultural violence we notice and what we don't notice. When it's 'our women' being attacked by 'their men', we notice it deeply. When it's their young men being failed by the education and employment systems, we don't notice and we don't care. (ADB 2003, p59)

It is not suggested that it was the intention of either the Anti-Discrimination Board or Professor Jakubowicz to diminish the significance of the violence committed against the women themselves and indeed they emphasise this point in various other comments. Yet this attempt to counter an extreme act of sexualised and

[154] As Susan Brownmiller reports in her seminal text, *Against Our Will* (1975), she was told by a black librarian when researching sexual violence committed by Black men, "to black people, rape has meant the lynching of the black man".

gendered violence with an argument relating to racism and social marginalisation does seem to dichotomise the two: as if sexism and racism are two evils to be measured against each other, rather than intimately connected concepts.

An editorial piece by David Brearley in *The Australian* in 2002 further demonstrates the points of conflict. As a means of countering the perceived ethnic relationship between crime and 'the Sydney gang rapes' especially, Brearley quotes both Ghassan Hage and Scott Poynting, scholars considered experts in the area. Yet once again, the arguments presented are dominated by the 'moral panic' and 'protest masculinity' frameworks in which the economic disadvantage of the Western suburbs of Sydney and the alienation of the populations in these areas are emphasised.

While these issues are important, the issue of gender is all but excluded from the equation. In citing Hage's comment that, "[t]he culture of social rejects is *always* a violent masculine culture", the article does not go further to consider the implications of this to women both within and outside of these areas. Just as in the French context, where commentators onthe disadvantages of life in the *banlieue* focus on the limitations placed on the lives of *banlieue* men, so too this analysis normalises a state of marginality for the women who not only experience similar economic and social exclusion but are subjected to the added discrimination of gender and sexual violence. Through identifying the acts as demonstrations of 'protest masculinity' and attempting to highlight the issues of economic and social disadvantage experienced by men of ethnic minority origins in the South-West suburbs of Sydney, the feminist imperative was once again relegated to secondary importance.

Furthermore, it failed to come to terms with the inter-connected nature of racial and sexual identities that were relevant to the victims' experiences. By focusing on the rapists these discourses re-inscribed the invisibleness of whiteness (by only considering racialisation in the context of the rapists, the victims emerge in Left wing discourses as without a racial marker) *and* inadequately responded to the racist and sexist construction of white female identity as sexually available: a construction that

is as offensive and reductive as the discourses of the Right on the oppressed and repressed Muslim woman.

6.3.3 Left-Wing Feminist Responses

At the same time, left-wing feminist responses did not fare much better. In an attempt to reclaim the debate to focus on the issue of violence against women, a number of commentators and experts working in the area of sexual violence publicly rejected the racialisation of these rapes and the risk of rape generally. On 22 August 2001 the New South Wales Bureau of Crime Statistics and Research issued a press release stating that sexual assault figures for the Bankstown area had remained stable since 1995, aside from a period of one month in 1999 when 70 rapes were reported, all of which were believed to have been committed by the same person. The press release also named this person to demonstrate that he was in fact an Anglo-Australian (ADB 2003, p58).

Similarly the NSW Rape Crisis Centre sought to downplay the racial aspect and instead utilise the heightened public interest to further its own demands for reform and greater sensitivity to rape victims (Duff 2002). The *Lateline* episode referred to above, while noting the ethnic element of the crimes, went on to quote various politicians and community representatives rejecting the reference to race/ethnicity as an excuse and calling for harsh condemnation of the rapists as criminal individuals (ABC 2001). Kate de Brito also attempted to recontextualise the debate in *The Sunday Telegraph* by pointing out, "It serves no one to generate fear about gang rapes in a particular part of Sydney when rape is happening under our noses, everywhere, every hour, every day..." (Brito 2001).

Unfortunately those who sought to concentrate on the issue of sexism, risked having their message appropriated for other agendas. For example, Karen Willis of the NSW Rape Crisis Centre and gang rape victim Tegan Wagner have both frequently been cited to justify the position of right-wing commentator Paul Sheehan (see next section for examples and discussion). In a 2008 article on the potential release of one of the Skaf gang rapists, Mahmoud Sanoussi, Willis was quoted as

saying that she was "concerned about his release. The victims of the gang rapes would also be in fear. 'It was a vicious, appalling crime,' Ms Willis said" (Connolly 2008). While this is a fairly generic statement, which one would imagine Ms Willis frequently makes, its use in an article which once again refers to the allegations that the rapists asked a victim, "if she liked it 'Leb style'" potentially undermines her broader message. Just as the condemnation of Justice Finnane's delivery of a 55-year prison sentence to Bilal Skaf risked reverting to traditional legal discourses, which have underplayed the violence of rape, anti-rape activists have seen their message appropriated for application to the specific situation of 'Lebanese/Muslim gang rapes' to the detriment of attempts to challenge *all* instances of violence against women.

Another article in January 2003 in *The Sun-Herald* reported Ms Willis as being enthusiastic about apparent increases in the rates of rape reporting. She was quoted as stating: "With what happened last year, with the publicity surrounding the gang rapes, women feel they may get a fairer go. And they feel they are being honoured and treated with respect, which hasn't always happened in the past" (Keogh 2003). While she does attempt to contextualise the gang rapes, noting, "[g]ang rapes did not first happen last year", the fact that she draws on the Skaf gang rape trials as an example of victims being treated better may in fact translate into victims who are able to draw on racial (racist) stereotypes faring better but not necessarily the vast majority of victims who do not fall into this category. It is understandable that Ms Willis would seek to draw out a positive message for rape victims but the extent to which the media reporting of the Skaf rapes really constitutes "good" for victims of sexual violence is debatable.

In an article in *The Daily Telegraph* reporting the reduction of Bilal Skaf's sentence by an Appeal Court on the basis that the rapes were "not in the worst case category", one of the victims was described as being, "bewildered at how the justice system has let her down. 'How can they get lenient sentences? What's the top of the range, how do you grade these things?' she asked her father" ("Gang rape victims betrayed", *The Daily Telegraph*, 17 September 2005). Similarly, the *Sydney Morning*

Herald reported the reaction of Women's Health NSW executive officer, Denele Crozier to the reduced sentence: "'How many times do women have to be constantly let down and disappointed by the legal system?'...The 'extreme' reduction in Skaf's sentence would confuse the community about the way rapists are dealt with by the law, she said" (Gibson 2005). In principle these are valid criticisms. As discussed in the previous chapter, all too often the gravity of the rape is based on the actions and intentions of the rapist rather than the experience of the victim.

Yet the suggestion in both of these articles that Skaf's reduced sentence was to be considered "lenient" is misleading: whilst significantly less than the 55 years he was initially given by Justice Finnane, the 28 year prison term remains a great deal longer than the majority of rape convictions: According to the Australian Bureau of Statistics in 2006, the average sentence for a sexual assault and related offences was 7.6 years (Clark 2007, p18). The statements by both the NSW Attorney-General, Bob Debus and the Opposition legal affairs spokesperson Andrew Tink that the Appeal Court's decision should be appealed to the High Court (Gibson 2005) seems remarkable in the context of the NSW Rape Crisis Centre's statement that only 1% of rapes result in the perpetrator serving time in prison (NSW Rape Crisis Centre Annual Report 2004, p5[155]). This would seem to suggest that there are other, more pressing cases than one where the accused is already serving a significantly longer sentence than most. So why the intense concern in these rapes?

6.3.4 Right-Wing 'Feminist' Responses

An illuminating contribution is offered by Miranda Devine, columnist for the *Sydney Morning Herald*:

> Yes, it is unfair that the vast bulk of law-abiding Lebanese Muslim boys and men should be smeared by association. But their temporary discomfort may be necessary so that the powerful social tool of shame is applied to the families and communities that nurtured rapists, gave them succour and brought them up with such a hatred of Australia's dominant culture and contempt for its women...(Devine 2002).

[155] According to the Australian Bureau of Statistics 2005, of the estimated 47,500 rapes committed each year, only 9,500 get reported and only 450 of those result in successful conviction.

Devine's characterisation of the problem certainly points to some important contextual aspects in these gang rapes. When identifying communities and families who have 'nurtured rapists', she clearly does not envisage this including Australian families and the Australian community. This is striking as it suggests that rape is not a social problem within Australian culture. In a manner similar to that identified by Sherene Razack in the Canadian and Scandinavian context (1998, 2004), the problem of sexual violence becomes a cultural problem.

Devine was not alone in this.[156] Then Prime Minister John Howard and Treasurer Peter Costello subsequently added weight to this conceptualisation of the problem through various remarks regarding Muslim immigration and integration in Australia (Grewal 2007; Ho 2006; Albrechtsen 2006a). Similarly, in an opinion piece in 2006 long time critic of feminism, Janet Albrechtsen expressed her disgust at the 'moral blindness' of feminists, which she saw as caused by multiculturalism. For Albrechtsen, feminists had chosen to concentrate on 'banalities' such as unequal pay, glass ceilings, unequal distribution of domestic and childcare workloads while ignoring the significant problem of "oppression meted out to Muslim women at the hands of Muslim men in Australia" (2006a; 2006b).

However in her detailed accounts of violence against Muslim women committed by Muslim men in various European contexts, Albrechtsen does not explain why her concerns are limited to the oppression "at the hands of Muslim men". While Muslim women are often held up as 'proof' of an inherent misogyny in Islam through representations of them as 'veiled victims' of their men, their culture and their religion, there has been little attention given to racist and gendered violence committed against Muslim women in Australia, despite it being widely documented by academics and human rights organisations (HREOC 2004, para. 1.5.1; Browning and Jakubowicz 2004, p7; ADB 2003, pp75-76). Following the media coverage of 'the Sydney gang rapes' the ABC news programme *Lateline* reported that

[156] See also the next section for a detailed discussion of Sheehan's contributions in this regard.

there had been threats of retaliatory rapes against women of Middle Eastern origin (Grewal 2007).

Equally, during the 2005 Cronulla riots an attack on a 14 year old Muslim girl provides an interesting contrast to the justification that the riots were a result of anger regarding the lack of respect for women and sexually threatening behaviour of 'Lebanese Muslim' men at the beach (see below). The *Sydney Morning Herald* reported on 12 December 2005; "A bare-chested youth in Quiksilver boardshorts tore the headscarf off the girl's head as she slithered down the Cronulla dune seeking safety on the beach from a thousand-strong baying mob" (Murphy 2005). The symbolism of "deveiling" the Muslim woman invokes imagery used by Frantz Fanon in reference to French colonial violence in Algeria; "the rape of the Algerian woman in the dream of the European is always preceded by the rending of the veil. We here witness a double deflowering" (Fanon 1965, p45). In his essay dedicated to the issue of the veil and its significance to the anti-colonial struggle, Fanon equates the unveiling of Algerian women with the rape of Algeria.

As these examples suggest, the appropriation of 'violence against women' as an issue by right-wing commentators had an extremely detrimental effect. Not only did it add to the already heightened racist, anti-immigration and anti-multiculturalism sentiment within mainstream Australian society, it also undermined the claims of women from both the dominant and dominated communities in Australia that violence against women was a broader issue of concern. In the context of non-white women, violence perpetrated against them was neglected: when it was violence committed within the community it was utilised – as the above article by Albrechtsen exemplifies - to further demonstrate the inferiority of their culture and when it was violence committed by men of the dominant community it was ignored or downplayed.

However, it also placed women from the dominant community in a difficult position: Through the placing of 'gender equality' in opposition to 'cultural tolerance', an anti-racist, feminist response to sexual violence by members of a

marginalised group became impossible, while attempts to highlight and challenge the violence committed against women by men of the dominant group became subsumed in issues of race. As Raminder Kaur notes in her research on white women's experiences living in the pre-dominantly non-white London suburb of Southall, all too often literature on whiteness has failed to account for the differences between male and female subjectivities (2003, pp201-202). In fact Kaur provides an extremely interesting insight into how white women living in this area attempt to negotiate an identity and a lifestyle, which is affected by both their visibility as a white minority *and* the doxa of white women as independent, sexually available and somewhat lacking in moral principles. In doing this, Kaur highlights how gender and racial identity *cannot* be separated and how attempts to analyse one to the exclusion of the other provides a distorted picture.

6.3.5 Australia: the Feminist Utopia?

An interesting counter-point to 'the Sydney gang rapes' is the spate of scandals associated with various Australian sports teams that have periodically been reported over the five years. As Nina Philadelphoff-Puren (2004) demonstrates, these rapes have also employed significant nationalist rhetoric but this time usually as a means of asserting masculine victimhood and silencing the female victims.

A remarkable justification for drawing a distinction is provided by Janet Albrechtsen (2004) when she states:

> There is a frightening misogyny behind the alleged gang rapes by footballers. But beneath the gang rapes by the Lebanese Muslim boys, their family members who say they have done nothing wrong and the perpetrators still at large, is not merely misogyny but racism. Spot the difference.

Thus *mere* misogyny is to be contrasted with racism. This comment appears to suggest that the protection of 'our women' has less to do with the significance of violence against women than to do with the threat of racial attack. Furthermore, the earnest refusal by then Prime Minister John Howard to, as he stated, 'put the boot in' on the basis that it was 'quite unfair' on players who had not been accused of

anything to be subjected to 'generalizations' (Wakim 2004; Marks 2004) is to be contrasted with his comments regarding the problematic integration of Muslims due to their lack of respect for women (Grewal 2007). The insistence of women such as Karen Willis, Tegan Wagner, Paula Abood, Kate Gleeson and many others that violence against women was a topic worthy of serious attention in its own right, regardless of the racial context were effectively drowned out. Instead, the battle became once more a battle between men: as the events of Cronulla in 2005 demonstrate.

6.3.6 'Protecting Our Women': Cronulla 2005

While the events at the Sydney beach suburb of Cronulla are deserving of detailed analysis in their own right,[157] they do require brief mention in this chapter due to the connections drawn between these riots and 'the Sydney gang rapes'. By way of background, on 4 December 2005 it was reported that two lifesavers had been beaten up by a 'gang' of four men following a dispute. Over the course of the next week the attack took on mythical proportions. A further attack on lifesavers was reported in the middle of the week and stories of 'Lebanese'/'Middle Eastern'/ 'Muslim men' disrupting Sydney's beaches abounded. A demonstration was organized for the following Sunday, in what Steve Price of 2UE called 'a community show of force'. At the same time, express links were made between 'the Sydney gang rapes' and the events at Cronulla. For example, in a response to a caller on his talkback radio programme suggesting racism went both ways, Alan Jones was clear; "Let's not get too carried away, Berta. We don't have Anglo-Saxon kids out there raping women in western Sydney" (Marr 2005). This tied in well with his earlier comments on the gang rapes where he had described them as, "first signs of Islamic hate against a community which has welcomed them…" (Fickling 2002).

This response perhaps most clearly demonstrates the symbolic value of 'the Sydney gang rapes' to a number of conservative commentators. In Jones' formulation, the rapes ceased to be the abhorrent actions of individuals and became

[157] See the special edition of the *Australian Journal of Anthropology*, 2007 for some excellent contributions.

the responsibility of an entire community (indeed an entire religion) whose members were all implicated. Simultaneously, the rapes are not violations of individual women but are an attack on the Australian community. Utilising similar language to that identified in chapters two and three, we see the transformation of the victims from individual women into symbolic boundary markers of the Australian community and nation and the reiteration of the classic nationalist trope of rape as a violation of national borders.

Interestingly, in interviews conducted by the ABC programme, *Four Corners* with rioters, Islam's 'lack of respect for women' and the gang rapes were cited as motivating factors for their participation. 'Mark', one rioter, told the journalist:

> I don't know if you remember, but when they [Bilal Skaf and others] were being tried in the court, they were...they wanted him to be tried in an Islamic court – do you remember that? Yeah, 'cause they wanted him to be tried under Islamic law. Because they were saying that that's ok to do that [rape] to a woman. (ABC 2006)

While recognising the need for rioters to seek to excuse or justify their behaviour, this comment provides an excellent example of the extent to which the image of the 'Muslim gang rapist' has permeated Australian popular discourses. These comments were paralleled in headlines such as, "Terrorism, gang rapes behind riots: MP" (*Sydney Morning Herald*, 12 December 2005), which appeared in the media in the days following 11 December. Paul Sheehan in his book *Girls Like You* - analysed in detail in the next section – dedicated an entire chapter to the Cronulla riots and their apparent relationship to 'the Sydney gang rapes'. Through this characterisation the events of Cronulla were re-written from an act of white racism to a legitimate retaliation.

Furthermore, it was not only members of the public or even the media commentators who forged this link. The Cronulla riots seem to have provided an opportunity for members of both the New South Wales and the Federal government to also provide their perspectives and interpretations on 'the Sydney gang rapes' and

the implications to be drawn more generally on young 'Lebanese'/'Muslim' male identity in Australia. For example, in discussing the causes of the Cronulla riots, the New South Wales Police Minister was reported as stating, "I am concerned a small number of Middle-Eastern males have a problem with respecting women and I think that was an underlying current…" (Ho 2006). By specifically referring to the issue of "respect for women", following such intense public interest in the Sydney gang rape cases over the previous four years, there emerges no possibility of *not* seeing the events as linked.

Then Treasurer and deputy leader of the Liberal Party, Peter Costello also contributed to this discourse a year after Cronulla. In this intervening period another major 'scandal' involving the Lebanese community in Sydney became a source of intense media, political and public outrage. In October 2006 it was reported that the Mufti of Lakemba Mosque (predominantly attended by Sydney's Lebanese/Middle-Eastern Muslim population) in Sydney's south-west, Sheik el Hilaly had given a sermon likening scantily clad women to raw meat left out for cats (Kerbaj 2006). In an article on the front page of the *Sydney Morning Herald* on 31 October 2006, the treasurer Peter Costello was reported to have accused the Muslim community, through its continued support for the controversial Mufti Sheik Taj el-din al Hilaly, of having led to the gang rapes and Cronulla riot: "These kinds of attitudes have actually influenced people…So you wonder whether a kid like Bilal Skaf had grown up hearing these kinds of attitudes and you wonder whether kids rioting at Cronulla have heard these sorts of attitudes." (Hartcher, Coorey and Braithwaite 2006). This provided a re-affirmation of the connection between Islam, the 2005 events in Cronulla and the gang rapes. It also reinforced the Right's suggestion that political correctness had blinded the Left. As Miranda Devine saw it, Sheik el Hilaly's, "sermon of ignorance has done Australia big favour" (Devine 2006(c)). According to Devine, "by revealing so unequivocally his primitive views of women, Hilaly destroyed the claims by cultural relativists that Sydney's series of gang rapes by Muslim men had nothing to do with culture or religion". To reinforce this point, Devine referred to a speech by another Muslim cleric, Sheik Feiz Mohammad who allegedly told a congregation at Bankstown Town Hall that a rape victim had no one

to blame but herself for 'display[ing] her beauty to the entire world'. Through linking 'the Sydney gang rapes', with outrageous comments by two Muslim clerics, Devine succeeded in calling into question the Left's commitment to women's rights and anti-racism.

6.3.7 Conclusion

As noted in the previous chapter's analysis of Justice Hidden's judgment, the acceptance of 'culture' as a homogenous, uncontested and essential concept has been a central source of attention for postcolonial and other non-white feminists. They have frequently argued that 'culture' is both a justification for ongoing racism and the means by which patriarchal structures - both within the 'minority culture' and the dominant 'mainstream' – are maintained. Drawing on the submissions of a group of African women in Toronto seeking to address violence against women in ethnic minority and immigrant communities, Sherene Razack writes, "culture is a 'cocoon in which people, especially men hide, and which is used to oppress others'" (1998, p84, reference omitted). The issue of who has 'culture' and how able they are to resist it becomes central.

Various scholars have problematised the tendency to see an 'Australian' rapist as simply a deviant individual, while the 'Lebanese Muslim' rapist as a creature eternally trapped in the backward, misogynist traditions of his culture and religion. Equally, while 'Lebanese Muslim' culture emerged as homogenous, essential and unchanging, 'Australian culture' remained undefined, unknown, unmarked. As Joseph Wakim (2002) argued, "The media's obsession with race sheds no light on crime". Similarly in an attempt to counter the emphasis on culture and ethnicity/race in discourses on 'the Sydney gang rapes', academic Andrew Jakubowicz stated in an interview on ABC Radio National:

> There are two questions then about whether these are racial rapes…Is there something about the general Lebanese Muslim culture that drives young men to rape Anglo Australian women? The answer to that is quite clearly no, there's nothing specifically cultural about it. Is it the case that adolescent thugs, looking for easy targets to play out their stuff on would pick women

> from outside their own community? The answer is yes, they clearly would. (ADB 2003, p62)

Both of these comments raised the importance of rejecting uncritical racial/cultural generalisations. Unfortunately, in failing to mention the racist taunts that the rapists were alleged to have made, both Wakim and Jakubowicz – as with almost all left wing commentators - avoided a central concern of many members of the public: why were these men not only committing these rapes but specifically utilising racial insults towards their victims? The fact that the young men themselves did not seek to deny their disdain for 'Australian' culture and the subsequent embracing of the rapists' racism by a small but very vocal minority in the form of the Youtube videos and rap music seemed to justify the argument that there was something more pervasive than just individual criminality. Added to this, Sheik el Hilaly's comments and those of various other Muslim religious figures apparently defending the gang rapists made it even trickier for those who tried to erase race/ethnicity as a consideration.

Furthermore, they failed to address the tragic fact that the gang rapists and their supporters have reinforced this dichotomy and the resulting power structures by performing the exact role prescribed to them. This not only served to entrench discrimination against all men of this background (including those who did not subscribe to this identity), it placed women in an impossible situation. Perhaps the most exceptional media attempt at a nuanced analysis of the issues is an article by *Sydney Morning Herald* journalists Sarah Crichton and Andrew Stevenson. In discussing the Skaf gang rapes, Crichton and Stevenson present the opinions of the victims, the police, the defence lawyers, media commentators, academics and members of the Bankstown Lebanese community. Whilst not without its limitations,[158]the article does identify two very important contributions. The first is that made by UWS criminologist, Kerry Carrington who is quoted as saying:

[158] For example, the tendency to reify notions of what is 'Australian', reflected in the statement, "seven teenage girls who identify as Australian – though two have Italian parents, one has Greek parents and one is part-Aboriginal" and the lack of clarity as to exactly who the members of the Lebanese community interviewed were and to what extent they could be considered 'representative' of generally held views.

> Look at [the pack rape and murder of] Anita Cobby. Her attackers weren't represented as part of the human species but as entirely outside of its moral boundaries. Therefore the whole community can see the crime as a violation of them [moral boundaries], not just of the victim. But this crime [the Skaf rapes] is a signifier for not just a violation but an invasion, an invasion of their moral boundaries: 'they come here and they rape our women.' (Crichton and Stevenson 2002)

This provides one of the clearest statements regarding the national significance of 'the Sydney gang rapes'. It is only by conceptualising the attacks as going beyond simple questions of sexism and racism but looking at how these relations of domination and power are entwined and essential to constructions of nation that 'the Sydney gang rapes' become capable of contextualisation in all their complexity. As argued in the previous chapter, Justice Finnane's attempt to assert a distinction between peace-time rape from war-time rape is misguided as it seeks to distinguish rape as a nationalist trope from 'everyday' rape when in fact rape is always intimately implicated in nationalism through its role in reinforcing gender identity, normative sexuality, which are in turn central concerns of all nationalist projects. The fact that only right-wing commentators openly utilised the language of inter-ethnic conflict and war does not mean it is irrelevant to more intellectually rigorous and socially conscious discussions of 'the Sydney gang rapes'.

Added to this, the article quotes another excellent intellectual contribution to properly addressing the true complexity of 'the Sydney gang rapes', Dr Gail Mason:

> Were they sex crimes or race-hate crimes? Finnane is not the only one unsure. Dr Gail Mason, of the University of Sydney's department of gender studies, decries the tendency to slot such crimes into single categories. "Either it's gang rape, sexual assault or it's a hate crime. We need to talk about the way gender and race might be working together in these kinds of assaults. But whenever we try to talk about them, people's biases come out…It encourages people to say this proves we should have less migration, which is complete crap because we all know that white men rape, too. We have to ask the questions. It's just that often the answers are poor or not thought out. People won't grasp the complexity." (Crichton and Stevenson 2002)

Dr Mason's contribution provides perhaps the most sensitive and lucid explanation of the difficulties posed by 'the Sydney gang rapes'. It also echoes the

concerns of critical race feminist, bell hooks in her investigations of race and gender issues in the US context. In writing about the infamous 'Central Park gang rape' in the US (allegedly involving a group of young non-white men[159] and a white female victim), hooks laments:

> Public response to the Central Park case reveals the extent to which the culture invests in the kind of dualistic thinking that helps reinforce and maintain all forms of domination. Why must people decide whether this crime is more sexist than racist, as if these are competing oppressions? (1990, p62)

It is impossible in fact to separate the racial and gendered aspects of such crimes: regardless of the Sydney gang rapists' motivation in selecting the victims they did, the inscribed significations of white female bodies cannot and should not be erased. And yet in the context of 'the Sydney gang rapes', this is precisely the dichotomy that was created. Structural responses repeatedly stumbled at how to reconcile what they treated to be the separate problems of racism and sexism. As a result the language of 'women's rights' was taken up by unlikely voices, while the Left frequently sought to concentrate on simultaneously erasing any racial motivation on the part of the rapists *and* reasserting the inherent racism within dominant Australian discourses: a position which made it very difficult for the articulation of a truly anti-racist, feminist response.

Regardless of the veracity of racist claims made to the victims, there were clearly racialised and racist stereotypes of 'white women's availability' expressed by the rapists. This requires condemnation by all feminists, white and non-white, in a manner similar to the violence committed against non-white women has been. However, the reluctance of the Left to confront the ugliness of the rapists' behaviour (both in terms of sexism *and* in terms of racism) meant that their response appeared either 'out of touch' or too caught up in political correctness to be relevant.

Once again the problem comes down to representation, as many scholars have articulated: the questions of who acts as 'representative' of a community and who is

[159] This later turned out not to have been the case, as noted earlier in this thesis.

granted the right to self-represent have been the subject of extensive critique in the context of Australian multiculturalism. While it was possible for the then Prime Minister John Howard, in the face of clearly racially motivated attacks by white youths at Cronulla to state he did not want to make generalisations,[160]it was not possible for those who sought to critique the generalising of the rapists' behaviour to all young men of Lebanese/Muslim origin to do so while recognising the racism within the racists' behaviour. This demonstrates a clear stalemate in race relations in Australia. As Ghassan Hage has argued (1998, 2004), despite Australia's apparent multiculturalism, the position of the non-white Australian can never be seen as entirely secure. Either they must consistently demonstrate complete loyalty to Australia and constantly behave in an obedient manner, or they must reject any claim to being Australian. The inability of the rapists to themselves articulate an Australian identity and the left-wing anti-racist responses to recognise the rapists as themselves capable of racist behaviour seems to demonstrate the dilemma of the 'nasty migrant' clearly.

Yet at the same time, the Left's response demonstrated how, regardless of the intellectual rhetoric circulating regarding the inter-relationship of race and gender ultimately there was an inability to articulate a response, which addressed the two simultaneously. Sexism emerges as the preserve of the non-white man, while racism the preserve of the white man. This fails to recognise that the two cannot be separated: as the racialised sexualised images of 'independent, sexually available white women' and 'oppressed, submissive Muslim women' given such currency in both white and non-white communities would attest.

This also limits possibilities for people within and outside of communities to speak out and criticise the racism and sexism experienced both inside and outside

[160] In his response, the Prime Minister John Howard stated that he refused to use the "racist tag" which he believed was "flung around sometimes carelessly" and instead preferred to characterize the riots as fuelled by the large numbers of people and the over-consumption of alcohol. ("PM refuses to use racist tag", *Sydney Morning Herald,* 12 December 2005). While he condemned the violence, Howard was quick to add, "I think that it's important that we do not rush to judgement about these events. I do not accept that there is underlying racism in this country".(Howard 2005).

the community.[161] In the context of France, while *Ni Putes Ni Soumises* as an organization is fraught with contradictions and ideological difficulties that will be elaborated on later in this thesis, they arguably at least opened the space for anti-colonial, anti-racist feminist responses to become possible (as the example of *Les féministes indigènes* demonstrates). In Australia, the impossibility of even openly critiquing racism or sexism in marginalised communities has left the domain solely in the hands of the Right whose agenda is frequently far removed from addressing concerns of inequality and social justice.

The extreme difficulty experienced by all those who sought to comment on, explain or respond to 'the Sydney gang rapes' can only be understood by recognising the essential inter-relationship between sexism and racism and the significance of both to the construction of national identity. Throughout this thesis repeated reference has been made to the vast body of academic literature, which now exists demonstrating the inseparability of constructions of nation, sexuality, gender, class and ethnicity.

Ultimately reporting of 'the Sydney gang rapes' served to further exemplify Jennifer Rutherford's argument (detailed in chapter three) that central to the construction of Australian national identity is the fantasy of a tolerant, feminist utopia that must constantly be defended and reiterated. For this reason, the 'Australian culture' extolled cannot be that of the misogynist footballer, nor the aggressive masculinity of surf culture, which provided an interesting juxtaposition to the alleged motivation of 'protection of women' claimed by the Cronulla rioters. Instead, the figure of the 'Muslim gang rapist' provides a perfect contrast against which the good, tolerant, feminist values of white Australia can be measured.

As the only commentators who did explore the racial aspect of the rapes tended to be commentators on the right, they were able to utilise the rapes as a means of reinforcing their pre-existing anti-immigration, anti-multiculturalism and

[161] I use the term 'community' hesitantly, recognising its hotly contested and contestable implication of homogeneity.

nationalist positions. By suggesting they were the only ones 'brave enough' to tackle the issue, right-wing commentators were able to capitalise on the public outrage that had already been fuelled, not only through the creation of a 'moral panic' but also by the horrific nature of the crimes and the rapists' continued anti-social behaviour. At the same time, they were able to appropriate the issue of 'protecting women against violence', generally only considered to be of concern by feminist/women's rights activists and academics and manipulate it to serve their more conservative, nationalistic and frequently xenophobic agendas.

An excellent example of a conservative commentator who capitalised on the divisions outlined above is Paul Sheehan. In detailing the case of the 'K brothers' Sheehan was able to draw on the language of 'women's rights' and not only justify his identification of race/ethnicity as central to the gang rapes but also utilise the actions of the accused in support of this. His portrayal of the rapes provides a fascinating narrative of the benevolent non-racist multicultural Western nation betrayed and violated by the barbaric 'Other'.

6.4 *GIRLS LIKE YOU*: PAUL SHEEHAN

6.4.1 Introduction

As a columnist with the *Sydney Morning Herald*, Paul Sheehan emerged as a particularly prominent commentator on 'the Sydney gang rapes'. This is largely due to his detailed coverage of the final set of trials considered in this thesis: the 'K brothers'. Sheehan personally attended many of the court hearings and – alongside many editorial pieces - published a book, which provides an in-depth account of what transpired both in the lead up to and during the trials. Published in July 2006, shortly after the final sentences were handed down in the 'K brothers' trials *Girls Like You* presents a part factual account, part polemic. Sheehan provides a detailed exploration of the rapists' background, the rapes and the subsequent trials using official court transcripts, interviews with the rape victims, their families and legal representatives as well as his own observations.

Aside from the fact that his book provides one of the most detailed and widely referenced analyses of the 'K brothers' trials,[162] Sheehan also provides an interesting parallel to Fadela Amara discussed in chapter nine. Both present themselves as knowledgeable but objective bystanders in relation to the gang rape phenomena they are commenting upon. At the same time, they are situated very differently: While Sheehan appears to sets himself up as a representative of 'mainstream Australia', Amara is keen to emphasise her authenticity as a 'woman of the *banlieue'*. The relative impact that has on their narratives will be examined through the course of this section and chapter nine.

It is nonetheless worth noting at this stage that while Sheehan's text is presented as a positive effort to redress the current inadequacies of the legal system's handling of rape victims, arguably this is far from the outcome it achieves. Rather, through its use of highly stereotypical gendered and ethnicised imagery Sheehan manages to reinforce many of the dominant conceptions of rape that feminists have long sought to dismantle. What makes Sheehan's text worth deeper analysis is the very telling insight it provides into why the rapes attracted so much attention. An analysis of some of the narrative techniques employed throughout the book seems to reinforce the central argument of this thesis. As the rest of this section will show, Sheehan's description of the victims, their lawyers, the rapists and their family provide excellent examples of how dominant constructions of gender identity, sexuality, nationalism and ethnicity played significant, overlapping and mutually reinforcing roles in the symbolic significance of the gang rapes.

[162] In October 2006 the NSW parliament was presented with the Criminal Procedure Amendment (Sexual and Other Offences) Bill, introduced to improve the protections available to victims of sexual assault in criminal proceedings. Sheehan's book was referred to by a number of speakers in the parliamentary debate. The honourable Chris Hartcher, MP in fact stated, "I commend the excellent book by Paul Sheehan, which in a very readable fashion draws the public's attention to the many problems associated with such trials" : Parliament of New South Wales, Hansard 25 October 2006, http://www.parliament.nsw.gov.au/prod/PARLMENT/hanstrans.nsf/V3ByKey/LA20061025It is unclear why Mr Hartcher should have chosen to recommend Sheehan's book above the extensive range of publications already in existence that demonstrate these issues and are frequently the work of specialist organizations like the New South Wales Rape Crisis Centre or the Australian Centre for the Study of Sexual Assault. What it does demonstrate is the extent to which Sheehan has emerged as an 'expert' in the area of sexual assault and the criminal justice system.

6.4.2 Creating Victims and Villains

A common observation within feminist critiques of the legal process in rape cases is the need to construct clear victims and villains in order for the prosecution to be successful (Estrich 1987, 1986; Wood and Rennie 1994; Carvalho Figueiredo 2004). As already discussed in the previous chapter, Tegan Wagner acknowledges this and describes her attempts to perform an 'ideal' victimhood, which she sees as necessary to secure the conviction of her rapists. Yet while Sheehan seems to be attempting to critique the Australian courts' treatment of rape victims, he makes a limited attempt at challenging these dominant narratives in his description of the various actors. Rather, he employs many of the standard rape tropes (outlined in chapter two) to build sympathy for the victims and outrage against the perpetrators and the legal system. This results in the perpetuation and reinforcement of the very myths long-identified as being the cause of inadequate legal responses to rape.

6.4.2.1 Description of the Victims

Throughout the book Sheehan dedicates considerable attention to describing the victims, with much made of the fact that they were "innocent girls". Their dress, behaviour and limited sexual experience are all commented upon in constructing his narrative. For example, the fact that many of the girls identified themselves as virgins is emphasised. In particular, Sheehan paints an emotive impression of Tegan Wagner as a shy girl who had not even kissed a boy before:

> [Tegan] was very inexperienced in dealing with older boys and she'd never had a boyfriend. She was a virgin; in fact, she had never even kissed a boy. She was fourteen, barely into adolescence, a big, broad girl and self-conscious about her size. She'd also never drunk alcohol before... (2006, p24)

This description appears designed to ensure a sympathetic response from the reader; the very response Wagner admits she was afraid she might not receive.[163] So too, he comments on some of the young women's dress at the time of the rapes, remarking: "Neither ['Roxanne' nor Cassie] was provocatively dressed: it was winter, and they both wore trousers and zipped jackets" (2006, p39). Even more explicitly,

[163] See chapter five.

he describes their underwear; “Amir reached under her denim skirt and pulled off her underpants. They were not low cut or a g-string, just a normal pair of girl’s undies.” (2006, p25) The significance of this information suggests that greater sympathy is owed to rape victims who were not sexually provocative or promiscuous, once again conforming to the traditional discourse on rape and the ‘ideal’ rape victim (Rennie and Wood 1994; see the discussion in the previous chapter).

In relation to the young women who did not fit the image of the ‘virgin’ victim either due to the fact they had had sex before or engaged in consensual sex with one of the ‘K brothers’, Sheehan considers it important to emphasise their naivety. In doing this he seems to attempt to counter any possible claims that the young women were inclined to engage in casual sex as if to admit this would devalue their role as victims in the subsequent rapes (adhering to the ‘fallen angel’ trope discussed earlier in this thesis). In the chapter dedicated to Cassie’s experience, Sheehan begins by addressing what he considers to be an important issue in establishing Cassie’s victimhood: “You might wonder what a thirteen-year-old girl was doing out at 11.30 at night with four men, and having consensual sex with one of them. Where was her mother, or her father?” (2006, p31)

The inference the reader is invited to draw is that such questions impact on how much sympathy Cassie can be afforded depending on how much blame she must be attributed for what happened subsequently. As discussed in chapter two, this reflects the classic interrogation rape victims must endure in establishing their right to ‘victim’ status. Sheehan goes on to build the reader’s sympathy (and apparently his own) through a detailed narrative setting out Cassie’s relationship with Mustapha K:

> Cassie had known Mustapha for eight months… He told Cassie he was starting to fall in love with her. Strong words for a thirteen-year-old to hear from a handsome seventeen-year-old guy…
>
> …Mustapha was whispering sweet nothings to Cassie. ‘I love you’, he told her. They repaired to his bedroom and, for the first time, they had sex…

> ...Cassie was hysterical. She began screaming at him. The man who said he loved her had used her as meat, not just for himself but for other guys. She was thirteen, the softest of targets. (2006, p32-33)

This utilisation of the classic script of the young woman being lured into sex under romantic pretences demonstrates Sheehan's conformity with dominant rape narratives. For Sheehan the necessity for the victim to be 'pure' and 'innocent' remains a fundamental feature in establishing their right to sympathy.

6.4.2.2 Description of the Rapists

The romanticised descriptions of the victims as 'innocent' and 'pure'[164] also provide an excellent contrast to the dehumanising description Sheehan provides of the rapists. From the outset the book's highly emotive language leaves the reader in little doubt that the rapists are not 'ordinary young men'. Their criminality, deviance and moral repugnance are evident from their initial descriptions. For example, in the opening chapter describing an incident of road rage involving two of the 'K brothers' (not involved in the gang rapes), the contrast between the Anglo-Australians 'boys' who Sheehan describes as acting with the, 'honesty of inebriation' (2006, p5) and the violent, menacing 'K brothers'[165] is stark. The reader is left with the first impression of young men whose anti-social conduct makes them appear virtually subhuman. Added to this, the detailing of the brothers' criminal behaviour prior to the rapes clearly separates them as deviants.

As discussed in chapter two, this creation of rapist as 'deviant' has served a very clear purpose: according to many feminist scholars it has helped perpetuate myths of 'real' rape such that it can never be understood as an act of a 'normal', socialised man (hence why relationship rape is so frequently ignored or justified). Furthermore, Sheehan's descriptions seem to mirror those adopted by many of the judges (detailed in the previous chapter). In fact Wood and Rennie seem to hit the nail on the head when they note:

---

[164] This is not intended to suggest that the victims were not worthy of the sympathy they received: rather, it is to highlight the very specific roles they were required to play in order to obtain this sympathy.

[165] Described as emulating, "the most lawless tribal subculture in Sydney's ethnic mosaic, the Lebanese gangs" (2006, p5) and contextualised by an account of their criminal histories.

> It is usually men who name the woman's experience, and they name it from their perspective. Thus, the situation in which a college boy rapes a woman whom he is dating is thrown into the realm of 'grey area stuff', and milder sounding names and descriptors are attached to this experience than the harsh-sounding word *rape*. In order for an experience to qualify unequivocally as rape, it has to be violent, perpetrated by a stranger (the acceptable villain), and acted upon a woman who is not dressed provocatively and if possible is a virgin (the acceptable victim). (Wood and Rennie, 1994, p145, emphasis in original, citations omitted)

As argued throughout this thesis, the discourse of rape has been a vital feature in the construction of national identities and gender identities. This has led to a paradoxical situation. One the one hand male and female sexuality and sexual identity are structured around the potential to rape/be raped and in turn this has impacted upon their relative status within the national space. On the other, there has been a disavowal of rape as a social phenomenon requiring a re-interrogation of gendered structures of power. Instead, rape has been relegated to the domain of deviance and criminality: a domain, which does not include the coerced sexual encounters of 'normal' men and women.

In relying on standard rape discourses, Sheehan's book is far from progressive. For example, he makes the following pertinent observation:

> Sexual assault is a crime for which the majority of those victimised are never going to be able to get justice, no matter what reforms are made, because the majority of attacks involve partners, friends, spouses, family members, and most of the time it is one person's word against another's. (Sheehan 2006, p331)

This seems to reiterate the literature on the area and highlight a central problem within societal and legal approaches. Unfortunately, this paragraph appears alone towards the end of the book. It is not explored or elaborated upon and the fact that Sheehan has chosen to place his emphasis on rape scenarios that do not involve these complexities but are in fact examples of the types of rape that *do* result in conviction makes this statement appear rather token.

At the same time, Sheehan adds an extra dimension to the 'ideal' villain through his unashamed use of classic orientalist language. For example, while describing the appearance of one of the K brothers he notes, "[h]is boiling eyes and hooked nose terrified Cassie" (2006, p33).[166] Aside from this physical description, he describes with clear sarcasm the displays of emotion of various male members of the K family:

> Soon after Dr K began giving evidence, he began to cry. He broke down when he described coming to Australia from Pakistan, hoping for a better life, and later, hoping for a better life for his sons.
> This prompted the questioner, Sami, the doctor's son, also to begin crying. Then Amir began crying. So much nose-blowing was going on that the judge instructed a court officer to bring two boxes of tissues to the bar, one for the witness and one for the accused. (Sheehan 2006, pp145-146; see also p256 for another description of Sami crying)

The scene emerges as farcical. It also invokes reference to *The Arab Mind*[167] in which Raphael Patai (1973) dedicates an entire chapter to what he describes as the 'proclivity' of the Arab to exaggerated emotional responses. Sheehan's reporting of the male members of the K family's public displays of emotion are made to contrast strongly not only with the unemotional rationality of the courtroom but also the greater self-control demonstrated by rape victim Tegan Wagner during her testimony (2006, pp216-236). Further employing the well-established tropes used historically by the Western powers to justify colonial domination, Sheehan goes on to constructs an image of the 'K brothers' as not only morally degenerate but sexually unrestrained,[168] cowardly[169] and subhuman[170]

Sheehan also provides vivid accounts of the two self-represented brothers' behaviour throughout the trials, observing, "[e]verything the brothers did was

---

[166] See also his reference to Cassie calling Sami "Hook Nose" (2006, p260) and his description of the "wild-eyed accused rapist, shouting over the judge" (2006, p123).
[167] A 1973 text, previously been discredited, which has regained some prominence in the context of the "War on Terror" with media reports alleging that it has been used by US military personnel as a training manual for dealing with Arab prisoners (Hersh 2004; Qureshi 2004)
[168] He refers to a prison visit by one of the K brother's girlfriends during which she was filmed masturbating him (2006, p189).
[169]Sheehan states three times that one of the brothers when confronted by the police lost control of his bladder; "He promptly wet his pants": (2006, p21, p61 and again at p135).
[170] "the [K] house was squalid" (2006, p21).

counterproductive" (2006, p134). Aside from the almost comical incident involving one of the K Brothers throwing fruit at the jury, Sheehan documents every gesture, facial expression and submission to create a picture of not only morally reprehensible but imbecilic personalities. In Sheehan's words these were 'bullies and cowards', a 'pack of liars' and 'smirking morons' whose 'witless arrogance and ignorance' had worked against them in court (2006, p149).

A reading of Said demonstrates how true to orientalist literary convention Sheehan remains: "[Arabs] are *only* capable of sexual excitement and not of Olympian (Western, modern) reason" (Said 1995, pp313-314). One could be forgiven for confusing Sheehan's construction of Amir or Sami K with Said's description of the 'Arab Oriental' as, "that impossible creature whose libidinal energy drives him to paroxysms of over-stimulation – and yet, he is as a puppet in the eyes of the world, staring vacantly out at a modern landscape he can neither understand nor cope with." (Said 1995, p312).

6.4.3 The 'Cultural Context' of Rape

In fact, Sheehan's depiction of the entire 'K family' consistently reinforces an image of disorder that permeates every aspect of their lives. In the opening chapter he provides a background to the K family's home city in Western Pakistan: "The K boys had grown up in a village not far from the border with Afghanistan. They spoke Pashtu, or Pashto, a language which ignored the border and was one of the two official languages of Afghanistan…" (2006, p16). In this description even their native language is presented as unruly and unpredictable: refusing to be restrained by neat national or even linguistic borders (hence the two names). Furthermore, the linking of the K family with Afghanistan is important. In the context of the War on Terror and the events of 9/11, Afghanistan has come to represent violence, terrorism and Islamic fundamentalism in the Western imaginary. Sheehan draws on this imaginary as a means of situating the K brothers within a culturally predestined paradigm:

> Violent history flowed through the city where the Ks were educated – Peshawar, the gun-running capital of the Middle East, a city of arms dealing,

> drug trafficking, political intrigue, Islamic fundamentalism and Taliban sympathies. Peshawar was basically a Pashtun city.
>
> The ethnic Pashtuns were the wellspring of the Taliban, the most extreme of Islamic fundamentalists, who took power in Afghanistan by force during the late 1990s, then harboured Osama bin Laden and his organisation as it planned the attacks of September 11, 2001. (2006, pp16-17)

In providing this information, Sheehan sets the scene for the K brothers' behaviour as if their cultural and ethnic background is enough to explain something about their subsequent acts. Sheehan's discussion of Pashtun culture is limited to emphasising the link between Pashtun culture, lawlessness and the Taliban (read as Islamic fundamentalism and terrorism). His concluding remarks regarding the 9/11 attacks is a remarkable leap that allows the gang rapes to emerge as but one example of a violent and barbaric culture.

This 'cultural context' emerges even more clearly when considered in the context of his opinion pieces. For example, in an article in the *Sydney Morning Herald* entitled, "Cold-blooded law heats up cultural war", Sheehan (2005) presents his as being of the judicial process. However, the inclusion of the term 'cultural war' and the specific examples he cites provides a limited context within which his comments can be read. It becomes difficult to see whether it is the legal culture he is referring to or 'Muslim' culture, with the majority of his examples being associated with the various 'Sydney gang rapes' and the express naming and detailing of Bilal and Mohammed Skaf's trial involving the gang rape of a young woman in Greenacre.

Similarly, in a piece entitled, "Rough, slow justice for rape victims", published in the *Sydney Morning Herald* on 10 April 2006 he provides a detailed list of "recent cases where judges have treated rape victims as cannon fodder" suggesting a judicial disregard for the subjective experiences and rights of the victims. However, as he later acknowledges, he limits his description of the inadequacies of the legal system to cases involving Muslim defendants and non-Muslim complainants which he suggests, "represent the apex of thousands of instances of sexual harassment, or worse, in Sydney". His statement that, "recalling the worst excesses because they help explain why only one in 10 of the 7000 sexual and indecent assault incidents

reported to NSW Police each year results in someone being found guilty in court" is misleading in the extreme, when contextualised only through reference to cases involving Muslim perpetrators and non-Muslim victims. It does not reflect the reality documented by experts in the area; that the reason rape is so under-reported, under-prosecuted and under-convicted is precisely because the majority of rapes do not fall within the category of 'real' rapes but are seen as merely examples of "private relationships" gone wrong.[171]

Finally, Sheehan's particular agenda emerges most clearly in an opinion piece in the *Sydney Morning Herald* in October 2006. In commenting on the Sheik el Hilaly scandal, Sheehan entitles his piece, "Sheik's views show up the wider problem with Muslim men". This title leaves little doubt of the general problem of misogyny and racism within the Muslim population in Australia. Further, he reports individual Muslim Australians expressing racist and sexist views to support his generalisations. Unfortunately, as discussed above, a central problem that has emerged in the Left's discourses on racism and multiculturalism is that there has been no safe space within which to critique racism and sexism by ethnic minority communities. The risk of providing further ammunition to the Right's attack on immigration and multiculturalism has led to a marked silence when the allegations of racism and sexism are directed towards communities also the subject of 'mainstream' Australian racism. It is this very silence that has provided the space for commentators like Sheehan to take the floor.

6.4.4 Merging Misogyny with Ethnicity

So too Sheehan's use of the term 'culture' throughout the book must also be situated within his apparent adherence to classic colonial and orientalist discourses. Alongside his description of Pashtun culture as inherently lawless, violent, barbaric and linked to terrorism, he also seeks to identify a specific gender context by observing, "Pashtun culture was not noted for its embrace of feminism" (2006, p17). To support this he draws on Christopher Kremmer's journalistic account of the

[171] See chapter two.

Pasthun tribal code as allowing honour killings (2006, p16). This contextualisation allows him to reach the conclusion that, "[i]t was as if the Ks could not comprehend that Australian law applied to them or that Australian girls were not there for the taking" (2006, p29). This is an interesting comment in light of the general disregard demonstrated towards violence against women as potentially criminal behaviour. So too, it is noteworthy in light of the highly sexualised descriptions he provides of the two Australian prosecution lawyers, Sheridan Goodwin and Margaret Cunneen (discussed further below). It raises the question, are Australian girls *never* 'for the taking' or are they simply not 'for the taking' of these 'Other' men?

Part of the answer may lie in Sheehan's subsequent re-statement of Islam as significant to the equation. Admittedly, the significance of the family being Muslim emerges primarily as a result of the 'anti-Muslim' defence the elder two K brothers attempted to present:

> These men were Muslim, however dubiously they practised their faith, and the father, Dr K, and the two eldest brothers, Sami and Amir, were convinced that the state machinery now working against them was anti-Muslim. They saw themselves as the victims of a racist society and a corrupt legal system. They regarded their actual victims as sluts. (2006, p59)

However it is the link Sheehan draws between the 'K Brother's' allegations of racism with their apparent opinion of their victims that is strange. A possible explanation for it could be to reinforce the 'multiculturalism gone mad' argument discussed above in which a simplistic binary is created between 'cultural tolerance' and 'women's rights'. Sheehan appears to suggest that the 'K brothers'' claims of racism have to do with their belief in a right to free access to women's bodies: represented here as a feature of their culture. In this characterisation, the only thing that stands between women and their potential 'Muslim rapists' is the 'state machinery' of the Australian nation: a mirror of the physical encounter between Sami K and the Australian prosecution lawyers in the courtroom. As a result, both female vulnerability (upon which gender order is built) and the 'national goodness' (upon which the hierarchy of ethnic groups is built) are maintained.

Added to this, not only does he make ample use of orientalist imagery in his description of the 'K brothers', so too his descriptions of the 'K women' woven with classic orientalist tropes. Part I of the book is introduced by a quote from the youngest of the K brothers and an explanation of its context: "'Shut up, you bitch, you slut. Girls like you, I know how to fix them up.' – one of the K brothers, prior to an assault on his sister, 3 January 2004, after she had failed to make him dinner"(2006, p1). Aside from this reference to the 'K sister', she is only mentioned again once when she is called to give evidence in defence of her brothers. The description is minimal; we are told she is 16 year-old school girl, she testified in English and she is ultimately presented as a passive victim:

> Rather than attempt to grill the schoolgirl, the Crown merely established that ZHK [the sister] was in the thrall of the male culture in which she lived. When Cuneen [the Crown Prosecutor] asked why she had gone straight to her bedroom when someone had knocked on the front door, ZHK replied: 'Because... if someone comes to our house, we just go to our bedrooms because my dad told me to go...Because in my religion, we don't [meet], like, other boys or something.'
> The sister was relegated to her room for the purposes of the trial. The Crown had bigger fish to catch. (Sheehan 2006, p145)

This description of the 'K sister' as a 'small fish' is patronising and belittling. In fact, the references to women in the 'K family' throughout the book are few and tend to convey an image of faceless, objectified non-agents as well as, often, victims of the 'K family' men. Aside from the reference to ZHK being assaulted by her brother, Sheehan also reports an allegation by another journalist, Lee Glendinning: "She [Glendinning] also saw evidence of ongoing violence against the women in the family. 'In one of [Sami]'s applications for bail, his wife arrived with a black eye and told the court through an interpreter that one of the brothers, [Junior], had hit her.'" (Sheehan 2006, p133).

Sheehan also notes that 'Dr K' – who he identifies as the 'Patriarch' at 36 married a 17 year old Pakistani woman. The only other mention 'Mrs K' receives is towards the end of the book where she is described and placed in direct contrast to rape victim Tegan Wagner:

> Mrs K had finally arrived from Pakistan. She was wearing the distinctive veil, half-sari and leggings favoured by traditional Pakistani women.
> Mrs K looked stone-faced when Tegan, with her shock of long curly hair and summery dress, walked to the well of the court to begin reading her victim's impact statement... (Sheehan 2006, p301)

This description is evocative but unoriginal in its metaphoricity. In light of the discussion in Part One of this thesis regarding the appropriation of female bodies to embody the nation, the use of these two women and their attire as a means of setting a clear visual division between 'Pakistani' and 'Australian' culture is unsurprising. Equally, the imagery of the veil versus the free-flowing hair draws on the common Western trope of Muslim womanhood as based on oppression and submission that can be contrasted with the liberty and equality enjoyed by Western women.

This is not the only place where the physical appearance of the women associated with the K family is a source of comment. In describing Sami K's wife, Sheehan notes, "She spoke Pashtu, like everyone else in the family, and would testify via interpreter. She wore a headscarf and a long skirt" (Sheehan 2006, p139) and again at a later date; "Mrs K was a round-faced woman, veiled, with an ankle-length dress that barely revealed silver high heels" (Sheehan 2006, p208). However, at this stage it is interesting to note the focus placed on her having a covered head and at the same time, in the second description, the ironic reference to her shoes; positioned to suggest a contradiction, possibly hypocrisy within Muslim identity. Meanwhile, a description of Yusef's widow and Mrs Sami K's sister, Musarat Gull is also given, noting: "She wore Western clothes. No headscarf. Tight jeans. She was pretty" (Sheehan 2006, p178).

Sheehan also uses the opportunity of describing the victims to reinforce the 'Clash of Civilizations'[172] emphasis:

[172] The term 'clash of civilizations' of course refers to Samuel Huntington's 1993 theory, which has subsequently been employed in various contexts to explain the increasingly problematic relationship between the West and the Arab/Muslim world. For more on this point in the context of France and Australia see chapter three.

> If there were any doubts about the cultural subtext of these rape trials, they were removed when one of the victims, Roxanne, arrived to see the judgment handed down by the Court of Criminal Appeal in the appeal by Sami and Amir against their convictions.
>
> Roxanne arrived early. She waited outside Court 13A in the Supreme Court building, before the court was open.
>
> Around her bare neck hung a large diamanté-encrusted crucifix. (Sheehan 2006, p165)

This is not the only reference Sheehan makes to the victims[173] and their legal team being Catholic/Christian. The characterisation of the K brothers' cultural and ethnic background impacting on their actions can also be contrasted with his ethnicised and gendered description of the Australian prosecuting lawyers: "Two women now faced the K brothers, two blondes, and they presented an immediate and significant threat" (2006, p57). Sheehan clearly considers the lawyers' appearance and identity important as he goes on to dedicate some time to describing them.

Writing about DPP[174] lawyer Sheridan Goodwin, Sheehan notes, "She was also a surfer chick. She lived by the sea and her long blonde hair was bleached by the sun – not by peroxide" (2006, p58). Aside from being a highly sexualised description,[175] the reference to a frequently deployed and stereotypical representation of the 'ideal Australian' (discussed in chapter three) suggests a nationalist significance is attached to Goodwin's appearance. When read in the context of Sheehan's discussion of the Cronulla riots in 2005, this significance emerges even more clearly: by reinforcing this 'beach identity' as quintessentially Australian, Goodwin becomes the embodiment of Australia. So too, her placement in opposition to the rapists secures their place *outside* the national space.

Added to this, the description of Crown Prosecutor Margaret Cunneen, makes even more explicit use of dominant Australian nationalist imagery:

---

[173] See also; "[Tegan] was in school uniform – blue, Catholic – and sat in a corner" (2006, p242).
[174] Department of Public Prosecutions.
[175] The reference to Goodwin being a "surfer chick" is noteworthy for its replication of an identity Kathy Lette and Gabrielle Carey (1979) problematise for its sexualised and demeaned status within the surfing community at Sydney's southern beaches.

> Margaret Cunneen was the antithesis of the Ks, a conservative Catholic. She was one of seven Irish-Catholic girls named Margaret Mary in her graduating class at Santa Sabina College. She still went to Mass every Sunday. Her three sons attended a Catholic school. She had a salty tongue, a black belt in tae kwon to and a fondness for beer. (2006, p59)

Through this description Sheehan on the one hand reinforces the Irish-Catholic identity as typically Australian (he also links it with the image of 'the battler' through his description of Cunneen's toughness and the ever-present trope of the Australian beer drinker) and on the other distances the K brothers from the possibility of being Australian. Sheehan goes on to also add a sexualised element to Cuneen's identity: "Cuneen was a particular favourite of the police, but not a favourite of the judges, in part because she was an industrial-strength flirt who could appear in court in high heels and sheer stockings, showing plenty of leg." (2006, p59). The relevance of this comment is left unexplained. Aside from presenting an impression of judges as overly conservative, it paints an image of Cunneen as a sexualised, feminine but independent woman: an image that sits in stark contrast to the dominant representation of the Muslim woman as veiled and oppressed.

Sheehan's preoccupation with gender and his sexual judgment of women appear time and again throughout the book. For example, in describing an incident in court where Sami K is holding a knife he notes, "The two women Crown lawyers, sitting nearby, both rolled their chairs away from him. A court sheriff moved up to the bar table. Everyone noticed" (2006, p150). The added detail of the Crown lawyers being women (something we have already been told) seems largely irrelevant to this description until it is read in the context of a later incident. Sheehan records how Sami K at one stage jumped out of the dock and charged at the bar table:

> Sami rushed across to the Crown's side of the bar table, to where the Crown solicitor, Sheridan Goodwin, was sitting. He grabbed the nearest implement he could find - a glass. As he raised his arm to throw, Goodwin ducked under the table. Sami ran past the empty jury box toward the public gallery. His targets were two women in the public gallery – the mothers of two of the rape victims.

> He threw the glass at the women, who ducked. The glass smashed just above their heads on the back wall. He grabbed the water carafe from the bar table and smashed the top of it against the table. As he did so, the Crown prosecutor, Ken McKay, grabbed him from behind in a bear hug. Two seconds later, a sheriff's officer helped restrain him... (2006, p252)

The conclusion Sheehan is able to draw from this incident is, "Sami's true nature – he was a coward – had proved useful. Instead of physically attacking his closest antagonist, Ken McKay, he went for the women. As usual." (2006, p253). Aside from being a rather patronising and paternalistic representation of the women involved (their vulnerability assumed on the basis of gender), this comment highlights the extent to which race and gender are indivisible in Sheehan's account. The image of the Australian male court officers intervening to rescue Australian women from the cowardly and crazed attack of the Arab reads like a classic nationalist, orientalist script.

Similarly, the following highly emotive and melodramatic statement, which appears early in the book provides a remarkable insight into how Sheehan conceptualises the significance of these rapes:

> The first trial was set to commence on 15 September 2003. More than a trial was about to begin. The proceedings would turn into cultural warfare. Parliament had already intervened. Public passions would be inflamed. Women had been raped. And men were going to die" (Sheehan 2006, p68).

Just as feminist scholars of nationalism have pointed to the very different relationship imputed to the nation and its male and female citizens (see chapter two), Sheehan's highly gendered imagery suggests that the outrage surrounding these rapes cannot be understood without consideration of the symbolic function rape has been demonstrated to serve in militarist, nationalist propaganda. This seems to reinforce the argument that constructions of national and gender identity are interlinked and rationalised through particular models of normative (hetero)sexuality.

It can be concluded that for Sheehan the particular rapes that concern him have a very specific contemporary cultural context. Having examined the way in which Sheehan describes various actors, what emerges is the extent to which his descriptions draw on both dominant discourses of gender and ethnicity to the point that the two are completely intertwined. This entangling of concerns relating to the protection of women's rights and the place of migrants in Australia is not incidental but seems to be cultivated by Sheehan in his selective and fluid use of the term 'culture'. His account of the rape trials emerges as not just *any* example of a broader problem within the Australian legal system – regardless of how he attempts to frame it – so much as the result of a highly specific cultural context. Sheehan frequently makes ambiguous use of the term 'culture' to allow himself to move freely between a critique of the Australian legal system and directed attacks on specific ethnic groups.

This is evident from the subtitle featured on the front cover of the book; "Four young girls, six brothers and a cultural time bomb". The full significance of the 'cultural time bomb' will be discussed shortly but its inclusion within the title of the book provides the first indication of the angle the book intends to take. Similarly, despite the assertion on the cover of the book that it is dedicated to detailing the experiences, "four teenage girls encountering a legal system loaded against rape victims", the back cover also specifies that these are not the victims of just any rape: "Their [the rapists'] crimes took place against the backdrop of a violent cultural clash between young Muslim men and young western women" (Sheehan 2006, back cover). By explicitly referring to 'Muslim' men and "Western" women on the book's cover the issue of the legal culture's disregard for rape victims is overshadowed by - or at least tied to – questions of ethnicity.

6.4.5 Competitive Racisms and the 'Anti-Muslim Conspiracy'

As noted above and in chapter five, two of K Brothers were themselves instrumental in racialising/ethnicising their trials. Throughout the process they alleged that they were the victims of a racist conspiracy aimed at all Muslim men. In documenting these allegations Sheehan presents the most extreme conspiracy claims

put forward by the brothers. The result is that the brothers' claims appear ridiculous and this allows Sheehan to completely dismiss any claim of racism. When Sheehan makes the comment, "[Sami and Amir] were determined to make this a political trial" (2006, p129), he removes all politicisation from other sources and lays the responsibility solely on the accused. At the same it seems to be Justice Sully's refusal to countenance political considerations (reflected in the legislative changes brought in just prior to the K Brothers trial that denied them the opportunity to cross-examine their victims directly) that allows Sheehan to conclude, "[Justice Sully's] outburst allowed a glimpse of the Olympian grove from which judges look down on our representatives in parliament" (2006, p133). In this context he appears to lament the failure of the Courts to adopt a more 'politically savvy' approach, even as he totally denies the K brothers' allegation of external political pressure impacting on the legal process.

At the same time, Sheehan suggests a possible conspiracy theory of his own:

> When the media learnt that two Muslim men, charged with multiple counts of gang-rape, intended to defend themselves and cross-examine their victims, it was a hot story. When they heard the reasons – because the defendants argued the Australian legal system was biased against Muslims – the impact was felt all the way to state parliament.
>
> Muslim men raping young non-Muslim women in significant numbers – dozens – was an emotive subject for the public, so much so that sections of the government, police, civil rights bureaucracies and the media, notably the ABC and SBS, sought to put a lid on the subject (2006, p63).

Sheehan thus not only dismisses the K brothers' claims of racism but presents an image of an overly tolerant society allowing its own anti-racism to be used against it.[176] As noted in the previous section, this was a common theme among many right-wing commentators and was only enflamed by the attempts by certain news sources and commentators to play down the racist/ethnic aspects of the rapes, which the rapists themselves never sought to deny.

[176] Once again reinforcing the myth of the 'Good White Nation', discussed in chapter three.

In noting that Sami and Amir K sacked their legal-aid barrister, Sheehan writes:

> Sami and Amir sacked their legal-aid barrister, claiming he had said that all Muslims were rapists. What the barrister, Joe Busuttil, had actually said, unwisely, was that many Australians believed all Muslims were rapists. (2006, p62)

The fact that Sheehan merely characterises this comment as "unwise" rather than offensive, leaves an impression with the reader that perhaps Busuttil's remark was not without some merit. This is further supported by his later statement contextualising the 'K brothers' case: "[a] clear pattern of sexual assault and sexual harassment by Muslim men was beginning to register in the legal system and the public consciousness" (2006, p64). His remark that, "[t]here were also reports of rape and sexual assault increasing while other crimes declined", when read in the context of the previous paragraphs suggests a correlation between the increasing Muslim population and sexual violence; a claim that reflected similar suggestions by other right-wing commentators (discussed in the previous section).

This would appear to endorse Leti Volpp's analysis of discourses on cultural diversity in the United States. In looking at the ways in which cultural identity has been used historically in the United States to justify the exclusion of certain groups or individuals from citizenship, Volpp argues:

> If we consider this together with the fact that the perception of cultural behavior is subject to a kind of selective recognition – so that problematic behavior is thought to be characteristic of the culture of entire nations, rather than the product of individual deviants – we can see the perversity of current configurations of the relationship between citizenship and culture. One's cultural identity constitutes a predictor of problematic behavior. To be a citizen, one must not engange in problematic behavior. Both the cultural norms underlying citizenship and the problematic behavior of those who are already recognized as citizens are made invisible. (Volpp 2007, p582).

Thus, not only is the 'K brothers'' behaviour to be understood as culturally determined, the 'K brothers' case provides a useful means of reinforcing who does

and does not belong to the nation. The linking of rape with 'Muslim' culture sets it apart from 'Australian' culture (which is constructed as tolerant, egalitarian and pro-feminist) and also justifies the continued exclusion of certain groups and individuals from holding a legitimate place in the Australian national space. Sheehan's argument regarding the cultural aspect of the K brothers' behaviour is reinforced when he discusses the final submission made on behalf of Sami K by his barrister on appeal, Stephen Odgers. Alongside the ongoing claim that Sami was suffering from a psychiatric condition, Odgers also sought to raise a cultural defence:

> 'The new evidence [of psychiatric disorder offered by his father, Dr K] does tend to establish he suffered from a disorder which, combined with his cultural conditioning, having essentially come out of Pakistan, a society with very traditional views about women, combined with his use of alcohol in parties where excessive drinking occurred, combined with his personality traits, which was clearly a factor in the commission of these offences, that in a sense the applicant [Sami] was a cultural time bomb.
>
> 'He was a man who came into a situation where it was almost inevitable that something like this would happen, I am not excusing what he did. The different perspective on what he did shows that his culpability was not as severe as the sentencing judge believed it to be... (Sheehan 2006, pp291-292)

When asked by the appeal judges to further explain what the relevance of the expression 'cultural time bomb' was, Sheehan reports that Odgers added, "'If a person is transplanted from one culture to another with very little time to appreciate the norms of this culture...'", but does not go on to quote the full explanation, claiming "His [Odgers'] response occupied more than a page of court transcript and said nothing" (Sheehan 2006, p293).

The presentation of a 'cultural defence' is not new within the Australian criminal law and has been the subject of ongoing debate by legal scholars. Some scholars have argued its necessity in order to provide greater substantive equality to ethnic minorities faced with the generally monocultural discourse of the law. However, many feminist legal theorists have argued that aside from allowing judges to draw on essentialist stereotypes of cultures they do not belong to, 'cultural defences' are most frequently employed in ways which are detrimental to women. In

her seminal essay, "Is Multiculturalism Bad for Women?" Susan Moller Okin (1999) asserts that not only are most cultures patriarchal and built largely around the subordination and control of women, but the instances in which culture has most often been invoked as a defence have involved male violence against women and children.

The identification of a straightforward dichotomy of 'feminism' versus 'multiculturalism' has frequently led to the claim that the two cannot exist alongside each other. However, as the discourses on 'the Sydney gang rapes' (and, as set out in the next part, *'les tournantes'*) demonstrate, the juxtapositions of 'recognising of cultural diversity' against 'protecting women's rights' are formulated in ways that erase or under-emphasise the fundamental inter-connectedness of racism and sexism. As a result, one is left with the impression that any attempt to reconcile both interests is doomed to fail. By focusing on the ethnicised aspects of 'cultural defence' claims, many scholars have failed to fully make the link with what has been recognised to be a general failure by the law to condemn violence against women and its implicit endorsement of dominant heteronormative gender stereotypes.[177]

In any event, in this case it appears the judges were extremely reluctant to grant any validity to Odgers' 'cultural time bomb' defence (2006, p292). Yet, Sheehan, while critical of Odgers for raising the issue, is less inclined to completely reject Odgers' argument:

> Even though Odgers' argument about cultural conditioning was torn apart by the judges, and by the media the next day, he was right about one thing – Sami K was a cultural time bomb.
>
> The big question that hung over these proceedings was how many other cultural time bombs were ticking amid the Muslim male population living within the liberality of Australia? ...In the previous five years, there had been a dozen proven gang rapes involving young Muslim men in Sydney. There had also been thousands of acts of sexual harassment or intimidation by young Muslims involving young women on or near beaches (2006, p294).

[177] For example there has been extensive work done by feminist legal scholars on the ways in which the provocation defence has allowed for a tacit condoning of male violence against women: for example see Tyson 1999; Coss 2006.

In referring to the beaches, Sheehan makes the necessary link to justify his final chapter, entitled "Intifada". He also presents an image of the 'K brothers' as representing not an aberration but an accurate representation of many other young Muslim/Middle Eastern men, while completely eliminating non-Muslim men from any consideration in terms of sexual violence and/or harassment. To reinforce this point he also links the widely reported and outrageous remarks of an Islamic fundamentalist preacher, Sheikh Faiz Mohammed:

> Speaking to a packed crowd in the Bankstown Town Hall in Sydney on 18 March 2005, not far from where all the gang rapes involving Muslim men had occurred, Sheikh Mohammed left no doubt he believed young Western women invited the violence and humiliation that had befallen them. 'A victim of rape every minute somewhere in the world? Why? No one to blame but herself. She displayed her beauty to the entire world. She degraded herself by being an object of sexual desire and thus becoming vulnerable to man who looks at her for gratification of his sexual urge… Strapless, backless, sleeveless, nothing but satanic skirts, slit skirts, translucent blouses, miniskirts, tight jeans! All this to tease man and appeal to his carnal nature.'

It is interesting that Sheehan should quote this passage. After all, he himself dedicates a fair amount of attention to the attire of the young women when they were raped suggesting he is not completely immune from prejudice against rape victims who are dressed 'provocatively'. In fact looking closely at the narrative employed throughout the book it is possible to say that Sheehan, the sheik and the Australian legal system seem to share a number of common understandings of gender identity and normative (hetero)sexuality. Aside from the rape victims' sexuality, behaviour and dress being a notable feature for each, the understanding they each employ of a female sexuality based on objectification, passivity and emotionality compared with the more carnal, aggressive male sexuality fits within standard constructions of normative heterosexuality (which in turn have been demonstrated to be central to the construction of both gender and national identity – see chapter two).

Admittedly, Sheehan does make a greater attempt than the sheik at problematising the assumptions associated with rape. He dedicates space to the views of Karen Willis of the NSW Rape Crisis Centre and cites her comment:

> 'I think the way the criminal justice system treats women who make complaints of sexual assault is appalling', she [Willis] said. 'The system is misogynist, embedded with myths about sexual assault, and it intimidates, degrades and mistreats women who are brave enough to come forward' (Sheehan 2006, p 166)

He also provides some important statistics, emphasising the inadequacies of the legal system's approach to rape: "'**Less than 1 per cent of sexual assaults lead to conviction**'" (Sheehan 2006, p167 emphasis in original). This leads him to conclude, "[t]his was the cultural context of all the K trials and the legal guerrilla warfare surrounding them" (Sheehan 2006, p167). Yet, this appears within a chapter entitled "Roxanne's Crucifix'' in which he asserts at the outset that it is her wearing of this symbol that provides the 'cultural subtext of these rape trials' (2006, p165)! By merging the two references to culture (one ethno-religious, the other socio-legal) Sheehan capitalises on a genuine feminist critique but seems to link it to other agendas.

Equally, his description of the Court's rejection of medical evidence of severe vaginal injuries as necessarily evidencing lack of consent[178] provides an example of a genuine problem within the criminal justice system's approach to sexual violence. He appears to be demonstrating a point made by many feminist legal scholars: the tendency within legal discourses to accept a construction of female sexuality as necessarily one of passivity and masochism.[179] Yet ultimately this is not the issue he is concerned with. By detailing the cross-examination of Dr Jackson, in which it appears the defence is attempting to argue the injuries were the result of anxiety and inexperience on the part of Kelly rather than violence, Sheehan does not necessarily problematise the linking of female sexuality with pain. His final rather facetious comment, "Virgins beware. In a court of law, vaginal injuries can be represented as evidence of inexperience, not violence", (2006, p101) adds little by way of critique but simply reasserts his belief in the inadequacy of the law. It also misleadingly suggests that rape victims who are virgins are in fact further disadvantaged in court:

[178] The exchange between the Bench and the Crown Prosecutor is set out in detail in chapter five.
[179] See chapter two.

a proposition in complete opposition to the bulk of feminist literature on the topic. If anything, this comment demonstrates Sheehan's resort to traditional conceptions of rape, reflecting male preoccupations with chastity (MacDougall 1998, para. 24).

Furthermore, it appears that for Sheehan the sheikh's remarks are significant not primarily for their misogyny. In noting that the sheikh was speaking at Bankstown Town Hall, Sheehan comments:

> It was the same hall where Paul Keating, the champion of multiculturalism who declined to live among the melting pot of his own electorate, had greeted election victory and defeat. It was near the sites where, within a year, hundreds of young Muslim men would gather to form violent attacking raids on eastern beach suburbs, when this cultural time bomb would finally go off.

The threat posed by these 'cultural time bombs', is a national one. Through the introduction of an official policy of multiculturalism, which Sheehan suggests does not affect the lives of those advocating it (reinforcing the alleged divide between the 'ivory towers' of the elites – academics, judges, left-leaning politicians and media commentators - and the lived reality of 'mainstream Australia'), Australia has become vulnerable to penetration by violent outsiders in the same way as Australia's women have become vulnerable to sexual assault and harassment.

6.4.6 "Intifada": The 'Nasty Migrant' Strikes Again…

If the reader is left in any doubt as to Sheehan's belief in the culturally determined nature of the 'K brothers' gang rapes, this is settled by the final chapter. The title in itself says a great deal: "Intifada". In fact, this chapter deals with the events in Cronulla in 2005 in which white Australians congregated following a text message/talk-back radio campaign to "reclaim the beach" from unwanted immigrant groups (for more on this see chapter three). Aside from the fact that Cronulla was an unrelated event to the 'K brothers' case (except insofar as 'the Sydney gang rapes' were used by white protesters as one of the justifications for their violence), titling the chapter with such loaded imagery of Arab violence is misleading in the extreme. It presents a further example of the re-writing of Cronulla away from an act of white

racism towards a Muslim/Middle Eastern male threat to Australia. With the Muslim/Middle Eastern/Arab man once again positioned as the agent of violence, his position as the 'nasty migrant' against which Australian national goodness can be measured is assured.

In explaining the events in Cronulla in 2005, Sheehan – like a number of other right-wing commentators – succeeds in making 'common sense' links to the gang rapes:

> Sexual aggression was a subtext, as it always had been. During the rampage, a parked car with three girls inside was approached, the door pulled open and the girls told, 'We are going to rape you, you Aussie sluts.'
>
> Where was this coming from? There was a tension between two cultural worlds, between a male-dominated society that constrained the freedom of women, and a Western culture saturated with the imagery of sexuality and sexual promise. (Sheehan 2006, p368)

This explanation connects the Cronulla riots with the gang rapes, reinforces the spectre of the 'young Lebanese/Middle Eastern/Muslim man' as gang rapist and generates a discourse in which feminism is understood as a Western virtue. When Sheehan refers to a 'male-dominated society', he seems to clearly be suggesting that Australia is *not* such a society. Yet, Sheehan's focus on an instance of sexist violence by men we are led to believe are 'Middle-Eastern/Muslim/Lebanese' (we are not told anything about their nationality or ethnicity), serves to mask the sexism and indeed sexual violence of white Australian beach-goers. Not only has Sydney male beach culture long been associated with (hetero)sexism and frequently violent hyper-masculinity,[180] but the attack by a surfer on a young woman wearing the *hijab* recounted earlier in this chapter provides a striking contrast with Sheehan's narrative. Unsurprisingly, this instance of violence against women is not commented upon by Sheehan.

[180] One only needs to look at Kathy Lette's and Gabrielle Carey's 1979 book, *Puberty Blues* documenting teenage gender relations in the Sutherland Shire (within which Cronulla is situated) and the 2007 documentary on the Maroubra surf gang known as "The Bra Boys" for vivid examples in popular Australian culture.

Perhaps the most telling quote Sheehan uses to explain his anger comes from Dr Michael Kennedy:

> 'We got north Lebanese, mostly peasants, mostly uneducated, mostly Moslem, who didn't want to be here in the first place,' Dr Michael Kennedy told me. He had worked with the Lebanese community for more than 20 years, first as an undercover cop, then as an academic sociologist He liked them, but he harboured no illusions. 'They come from a very patriarchal culture. They don't go in for the greater good. They are tribal. They are aggressive, they are in your face. And they are not grateful.' (Sheehan 2006, p368)

Not only does this quote serve to homogenise and essentialise an image of a 'Lebanese community', it reinforces what Hage (2000; 2003) has frequently argued underlies Australian nationalism whether in its right-wing, conservative, xenophobic or more liberal, multiculturalist guises. For the migrant to be accepted in Australia it is necessary to not only demonstrate commitment to Australia in a way which is not expected or assumed to already exist in certain Australians (ie. Those of the dominant ethnic group), it is also expected that gratitude be shown.[181] By stressing a communal/tribal/familial loyalty existing between individuals of minority ethnic or migrant backgrounds, their ability to demonstrate loyalty to the family of the Australian nation is called into question. This is a recurring theme in Sheehan's book, where he repeatedly notes the tendency of the K family to 'stick together', in a manner which is presented as beyond reasonable.

6.4.7 Conclusion

Capitalising on the apparent disjuncture between judicial and left-wing intellectual responses, which sought to play down or erase the racial/ethnic aspect of the rapes and the public and media focus on precisely this feature, Sheehan has positioned himself as a consistent and vocal critic of the legal process, its treatment of rape victims and the rapists themselves. In doing this he frequently utilises the term 'culture' to mean - interchangeably - legal culture (drawing on the 'law and order' rhetoric noted above, which present the justice system as too lenient and out of touch with community values) and ethnic culture.

[181] For further discussion of this idea see chapter three.

While Sheehan attempts to present his book as a defence of rape victims, his is a far from 'feminist' account. Despite the overwhelming quantity of literature dedicated to dispelling the myth of the 'real rapist' and seeking to draw attention to the need to reconceptualise societal understandings of 'normal' male and female sexuality which allows most rapes to remain unpunished and often unrecognised,[182] Sheehan settles for the easy stereotype of the 'rapist as sexual deviant'. Furthermore not only does he not challenge the classic conception of what rapist and rape victims should look like, he adds the 'cultural' criteria which further limits the possibility of a full exploration of why rape occurs. As one reviewer of the book commented all too presciently, "It would be disappointing, however, to see it [the book] used as evidence that only certain kinds of men are rapists, and only certain kinds of women victims" (Humphrey 2007, p19).

Yet how is a feminist and anti-racist response possible in a situation like 'the Sydney gang rapes'? Should the severity of the rapists' punishment be seen as a desirable end in and of itself, regardless of some of the potentially dubious motivations underlying it? And is it really such a serious concern that these individuals who themselves displayed so little compassion or respect for their victims should receive little by way of sympathy for their assertions of racism directed against them? Many of these questions also arise in the context of *'les tournantes'*, which the next part of this thesis will now explore.

[182] See chapter two.

PART THREE: *'LES TOURNANTES'*

CHAPTER SEVEN: GENESIS OF THE TERM

7.1 INTRODUCTION

Whereas in Australia it was a series of highly mediatised criminal trials that provided the reference point for media, political and other public discourses, in France much of the discussion of *'les tournantes'* centred around a film depicting a gang rape released in 2000, an autobiography by a gang rape victim and the emergence of the feminist association *Ni Putes Ni Soumises*. The fact is, large-scale, highly mediatised criminal trials were not a feature of the French public discourses on *'les tournantes'*. In some cases this is because the publicised cases - such as Samira Bellil's rapes - actually occurred years earlier and so legal proceedings had already been finalised prior to *'les tournantes'* emerging as a significant issue of public concern. Furthermore, there was no major law reform campaign like in Australia: the gang rapes were simply tried under the existing penal code which allowed for gang rape to be treated as an aggravated sexual crime. Aside from the temporal differences between the particular rapes discussed in France and 'the Sydney gang rapes', the different legal traditions may also have contributed to this difference (see chapter three).

7.2 *LA SQUALE*

The catalyst for the emergence of discourses on the so-called *'tournantes'* was a film released in 2000 entitled *La Squale ('The Tearaway')*. The film was heralded for presenting the *banlieue* from a 'female' or 'feminist' point of view (Barthe 2000; Lalanne 2000) and, while it was not widely viewed,[183] it did receive critical acclaim[184]

[183] David-Alexander Wagner (2006) states that only 40,400 people went to see it in Paris and 58,000 in the whole of France.

and provoked intense media interest through its opening scene, which is a depiction of a gang rape. It was proclaimed that this film had finally lifted the veil of silence on yet another form of violence commonplace in the banlieue[185] (Chambon 2001(a)). Furthermore, its narrative was presented as part fact, part fiction (Barthe 2000; Chambon 2000). As a result, the film provides the first indications of how the phenomenon of '*les tournantes'* was contextualised and explained.

7.2.1 '*Les violences urbaines*'

"pathology has become a characteristic of the racially marginal space of the urban city, a space of gruesome violence that threatens to spread outward to the 'safe' confines of middle-class America." (Giroux 1996, p57)

Although the above quote refers to the US context, when read alongside *La* Squale some remarkable parallels emerge. While the film's director, Fabrice Génestal does assert that the film is not intended to further stigmatise *banlieue* residents nor to capitalise on the already catastrophised issue of the *banlieue* and '*les violences urbaines*'[186] (Chambon 2000), from the outset, *La Squale* does little to challenge dominant discourses. The viewer is thrown into a chaotic, animalistic world in which senseless criminality, insults and physical violence are part of the quotidian. If the claim by Génestal and his cast (Barthe 2000) that the film's aim is to confront issues of racism and sexism in the *banlieue* is accepted, it is unfortunate that it ultimately falls victim to a similar fate to many US films on black urban youth:

> ...complex representations of black youth get lost in racially coded films that point to serious problems in the urban centers, but do so in ways that erase the accountability of the dominant culture and racist institutions on the one hand, and any sense of viable hope, possibility, resistance, and struggle on the other.(Giroux 1996, p45)

However, in noting this possible explanation, the expressed intentions of those involved in making the film should not be endorsed uncritically:

---

[184] It was nominated for a *César* – the French equivalent of the Oscars.
[185] « Après la sortie – en novembre 2000 – du film *La Squale*, en partie consacré à la question des tournantes, le phénomène est sorti de la confidentialité. »
[186] Explained in chapter three.

> In both pedagogical and political terms, the reigning films about black youth that have appeared since 1990 may have gone too far in producing narratives that employ the commercial strategy of reproducing graphic violence and then moralizing its effects. Violence in these films is tied to a self-destructiveness and senselessness that shocks but often fails to inform audiences about either its wider determinations or the audience's possible complicity with such violence. The effects of such films tend to reinforce for white, middle-class America the comforting belief that violence as both a state of mind and a site of social relations is always somewhere else – in that strangely homogenized social formation known as "black" youth. (Giroux 1996, p43)

This criticism could equally be levelled at *La Squale*. If the expressed intention of the film's director is taken at face value, then it is a tragic indictment that the film loses much of its deeper critical edge and settles for cliched stereotypes of life in the *banlieue*. Yet more importantly, the apparent commitment to presenting a 'real' account of the *banlieue* and *'les tournantes'* is undermined by Génestal's own interpretation of this 'reality'. Despite sociological research to the contrary (Muccheilli 2004), Génestal's identification of the issue of gang rape as somehow specific to the *banlieue* was a central feature in newspaper coverage of the film. Firstly, he was situated as an expert on the *banlieue,* having both lived and worked as teacher in various Parisian *cités*.[187] Then his perspective is provided:

> According to him [Génestal], the phenomenon of gang rape is related to the establishment of a 'macho and reactionary order' which makes the practice a 'rite of passage' for certain adolescents in disadvantaged suburbs. 'It also happens in other places, aside from the *cités* but not in such a ritualised and extreme manner. There [in the *cités*] gang rape has become banalised and valourised', laments Fabrice Génestal.[188] (Chambon 2000)

The suggested banality associated with gang rape by residents of the *banlieue* on the one hand shocks and reinforces the barbarity of these areas. On the other, it implies that sexual violence in general French society *is* understood as serious and worthy of condemnation, suggesting *banlieue* behaviour is once again out of touch with broader French values of civilisation. This links back well to the reinterpretation

[187] « La Banlieue. Fabrice Génestal connaît bien » (Chambon 2000).
[188] « Selon lui [Génestal], le phénomène du viol collectif relève d' 'un ordre macho et réactionnaire, qui fait de cette pratique "un rite d'initiation" pour certains adolescents des quartiers difficiles. 'Ça existe ailleurs que dans les cités mais pas de manière aussi rituelle et extrême. Là, le passage à l'acte est banalisé et valorisé', déplore Fabrice Génestal. »

of French values as including gender equality as central (discussed in chapter three) and erases any association with prior (or current) acts of misogyny or sexism from dominant discourses of French identity.

Adding weight to this account, an interview with one of the lead actors, Esse Lawson was published in left-wing newspaper *L'Humanité* on 2 December 2000:

> The scenario is inspired by real events. I have friends who have been the victims of gang rape. We call it *'la tournante'*. Young people speak about it a lot amongst themselves. It has become unexceptional. But outside of that context no one knows anything and no one says anything. Through this film, we hope to lift this taboo. That doesn't mean that if you go to Sarcelles [Parisian *banlieue*] you will be beaten and raped.[189](Barthe 2000)

By linking the events in the film with her own life experience, Lawson reinforces an impression that *La Squale* goes beyond mere fiction. Similarly, in an article in *Le Monde*, the film is described as a "testimonial: somewhere between fiction and documentary" [190](Chambon 2000). The implications of framing this film as a 'testimonial' will emerge more clearly in light of the discussion of Fadela Amara's book in the next chapter. However, even if the political commitment expressed by Génestal and his actors is genuine, as Henry Giroux argues in the context of black American 'ghetto films', many of the films that have been most successful have been so not only for their realistic depiction of urban violence and deprivation but for their ability to reinforce popular perceptions of the mutuality of black urban life and violent crime (1996, p56). His point that, "[r]eal life and celluloid images blur as the representations of race and violence proliferate more broadly through the news media's extensive coverage of youth violence" (1996, p56), seems to hold resonance with *La Squale* as the assertion that it reflects reality allows its images to merge with the everyday news footage of burning cars and rioting youths generally used to depict

[189]«Le scénario s'inspire de faits réels. J'ai des copines qui ont été victimes de viol collectif. On appelle ça la tournante. Les jeunes en parlent beaucoup entre eux. C'est devenu banal, mais au-dehors on ne sait rien, on ne dit rien. Avec ce fim, on veut soulever un tabou. Mais ça veut pas dire que si tu passes à Sarcelles tu vas te faire frapper et violer. »

[190] « un premier film témoignage, entre fiction et documentaire ».

life in the *banlieue*. Added to this, a particularly unpleasant feature of the film is the racialised and sexualised stereotypes it seems to draw on and perpetuate.

7.2.2 'Hyper-sexual, Violent Blacks', 'Prudish, Uptight Arabs' and the 'Civilised French': Reinforcing Colonial Sexual Stereotypes

7.2.1.1 The Black Characters

The image of the hyper-sexual black man or woman has frequently been identified and critiqued by critical race and postcolonial scholars (Mercer 1994; hooks 2004, 1994, 1992, 1990). And yet in *La Squale* both of the primary sexual(ised) characters are black: Toussaint, the 'rapist villain' and Desirée the 'rebellious heroine'. Both are represented as having an easy and 'animalistic' sexuality, largely devoid of emotion. Even their physical appearance is noteable: their taut, muscular bodies fitting uncomfortably well with the racialised accounts of the black body so frequently problematised in critical race scholarship.[191]

The film is also populated with images of black female aggression and sexual availability (and potential promiscuity). Although the local nightclub is overwhelmingly male, the few women present are almost only black women. So too, the 'bad girls' ('*les cailleras*') who Desirée befriends are all black women except for one woman of South-East Asian appearance. These young women behave aggressively, preying upon the quieter, more timid North African girls and the younger boys. Added to this, both Desirée's and Toussaint's mothers are single parents and Toussaint's older sister also has a baby and appears not to have a partner. Desirée's mother is extremely violent and hard. She ultimately confides that, after what seems to have been a gang rape in her adolescence she became highly promiscuous leading to her being unsure who Desirée's natural father was. This association of black women with the stigmatised image of the 'poor, single mother' does little to challenge dominant constructions of black female identity or sexuality.

[191] See for example Mercer's (1994) critique of representations of the black male naked form within photography and pornography and hooks'(1992) essay, "Selling hot pussy" on the commodification of black female sexuality.

7.2.1.2 The North African Characters

Meanwhile, the North African characters are also presented in highly stereotypical ways. The family structures depicted mirror the classic representations of North African immigrant homes: over-bearing brothers, weak, ineffectual mothers, absent fathers and oppressed sisters/daughters. The main male North African character, Anis, is complicit in the gang rapes but is teased for being unable to perform (contributing to the somewhat paradoxical orientalist image of the Arab as both sexually repressed and perverted). He, Leila's cousin and Yasmine's brother are all represented as uptight and controlling. Their masculinities emerge as fragile and dependent on their ability to police the women of their family. While Anis befriends Desirée and claims to 'respect women', he remains Toussaint's accomplice and stands by and watches the rapes apparently either incapable of seeing it as completely wrong or of resisting the pressure to be involved. Although he ultimately kills Toussaint, this is not in response to the latter's treatment of women. Rather, it is an act of revenge for what Anis believes to be Toussaint's betrayal in stealing the group's drugs. Moreover Anis, like Yasmine's brother and Leila's brother and cousin, conforms to the image of the possessive, patriarchal young *banlieue* man in the way he is fiercely protective of his sister who he infantilises.[192]

The figures of the two main female North African characters, Leila and Yasmine, are those of virginal, naïve young women who are prey to the charming Toussaint. They are coy and easily flattered but essentially do not assert an active autonomous sexuality. Instead they are portrayed as prey. Moreover, both manifest classic stereotypical traits of '*beurette*' identity (discussed further in the next chapter). Yasmine is presented as the 'good *beurette*': hard-working, obediant, virginal and intent on using the school system as a means of escaping the *banlieue*. Meanwhile, Leila's fate following her rape reflects the standard narrative of woe deployed in dominant discourses: as 'soiled goods', she is rejected by her family and forcibly sent

[192] He buys his sister a pink bunny for her birthday which he gives to Desirée to comfort her after Toussaint has beaten her up

back to the *bled* ('the village' presumably somewhere in North Africa) to be married off.

7.2.1.3 White Characters

There are some white male faces within the film, which appear to attest to the ethnic mix of *banlieue* but aside from Steve (the resident drug dealer) they do not emerge as significant characters in the film. For the most part the white members of the *banlieue* community remain nameless and we are given no insight at all into their family lives, sexuality (although one of them does take part in the *tournante*) or gender relations. There are no white *banlieue* women portrayed at all. As a result, the inclusion of white *banlieue* residents seems superficial and adds little to re-conceptualising the *banlieue* as a site of economic and social marginalisation *without* a particular racial/ethnic identity.

The main role played by the white characters tends to be as representatives of 'mainstream' (read 'civilised') France: the teachers who seek to maintain order within the Republican school, the well-spoken and polite shop assistants on the Champs Elysées who are terrorised by Desirée and her group of friends, the ticket inspectors on the bus who catch Touissant and his friends fare evading, the doctor who informs Desirée that she is pregnant. In many ways these characters mirror Génestal's own relationship with the *banlieue*: while he claims to understand it well, he also situates himself *outside*, refusing to identify himself as one of the *banlieue* community. If the *banlieues* emerge as extra-territorial sites of control (Dubois 2000, discussed above in chapter three), then Génestal and his white characters are the colonial adminstrators.

7.2.3 Reinforcing the Public/Private Divide of the *Banlieue*

Through the *Beur* movement and the emergence of the *banlieue* as a notable site of cultural production, it has been argued that *banlieue* cinema and music provide an opportunity for re-opening debate on French society, relations of power and identity (Orlando 2003). In this regard, *La Squale* has frequently been compared with an

earlier example of *banlieue* cinema, *La Haine*.[193] As *La Haine* sought to reflect the complex realities of men in the *banlieue* and highlight the impact of racism, poverty and discrimination, *La Squale* was presented as the 'female follow-up'. Yet while *La Haine* situates its narrative between the *banlieue* and the idealised 'authentic French' space of central Paris, virtually all of *La Squale's* narrative is confined to the *banlieue*.[194] Thus, unlike *La Haine*, there is little by way of social commentary on the social and economic marginalisation faced by *banlieue* residents nor the racism they may face. Without providing the opportunity to see how the men and women of the *banlieue* are received by the State or 'mainstream' French society, it is impossible to establish the extent to which their disadvantaged status is the result of institutional failure or simply their own lack of desire to become 'good citizens'.

Ironically the two films also conform to the traditional public/private divide, identified by feminists as central to the maintenance of patriarchal order (see chapter two): while in *La Haine* the young men are shown to maintain complex relationships both inside and outside of the *banlieue*, it has been noted that women are largely absent from the world portrayed. As the 'sister film', *La Squale* does little address this; the women remain relegated to the *banlieue* and their lives revolve almost solely around the male characters.

The only real exceptions to this are the final scene when Desirée and Yasmine are shown holidaying together in England and one of the final scenes involving Desirée and her mother are the only two within which women demonstrate any real connection with each other. Even then, in both cases the relationships are mediated through relationships with men. Desirée and her mother are openly hostile to each other throughout most of the film and Desirée holds onto the belief that her father is the key to her happiness. She refuses to relate to her mother in any way, instead insulting her for not being good enough for Desirée's father to want to stay. In return, Desirée's mother throws back that it was rather because of Desirée that no

[193] Discussed further in the next chapter.
[194] There are only three scenes which take place outside; of the two in France, one is when the girls raid a perfumerie on the Champs Elysées and the other when Desirée assists with a drug deal in a park which appears to be outside the *banlieue* and which goes wrong. The final scene takes place in England where Desirée and Yasmine have gone to procure Desirée an abortion.

man has stuck around. Equally, Yasmine and Desirée only bond through their relationship with Toussaint. It is only after their rivalry is finished and Toussaint is dead that they are able to share any sort of friendship and then it is centred on the fact that Desirée rescued Yasmine from being raped and in return Yasmine pays for a trip to England for Desirée to abort the baby she is carrying by Toussaint.

The public/private divide thus remains unchallenged, with the men struggling to assert their patriarchal privilege outside of the *banlieue* and, failing that, asserting it more violently within the *banlieue* through strict territorial demarcation of both their particular *cités* and the women within these *cités*. Meanwhile the women are relegated to the role of survival within the *banlieue* but do not seem able to search for any relief from their oppression either inside or outside of the *banlieue*. Instead they must adopt whatever means they can to survive. They do not challenge the status quo, they simply attempt to find a way to exist within it.

The most rebellious act is that of Yasmine who erupts at the breakfast table after having been subject to an attempted rape the night before. She throws the breakfast patisseries at her brother and pours coffee on the tablecloth. When her brother slaps her she lashes out back at him and shouts that he will never touch her again before storming out. The fact that at the end of the film she is also in England with Desirée apparently alone suggests she has asserted some greater degree of freedom but in order to do this we have been clearly shown that she has played the dutiful, virginal daughter and sister up until this point. She is also shown to be actively participating in school, which reinforces the dominant myth of the good young '*beurette*', who unlike her male counterpart, integrates and performs well within the education system. She is even shown to participate in basketball at school, demonstrating a strong commitment to the societal ideals of achievement.

7.4.4 A 'Feminist Perspective' on the *Banlieue*?

Considering the film was presented as a 'feminist' view of the *banlieue* (see below), it is startling that the female characters in fact show very little gender consciousness. Ultimately when the women do rebel it is not in solidarity or out of a

political or social consciousness but due to their personal grievances; Desirée because she has been rejected by Toussaint, Leila because she feels betrayed by Toussaint. Otherwise the women show no solidarity and in fact are highly competitive with - and contemptuous of - each other (this is particularly well-reflected in the relationship between Desirée and her mother).

This is contrasted with the male relationships: the sharing of not only Toussaint's rape victims but the subsequent sharing by the men of the tape recording of the rape outside the school gates provides a powerful example of the homosocial bonds between men of the *banlieue*. As noted above, it takes Toussaint's alleged betrayal of the group of men for Anis to take action against him. Otherwise, the men stick together and protect each other wherever possible: the distraction of Leila's cousin by Toussaint's group of friends to allow him to be alone with her is but one example. Even as Anis is disgusted by Toussaint's assault on Desirée, this is not sufficient for him to actively protest. And yet when it appears Toussaint has cheated him he is willing to resort to murder.

At the same time, *La Squale* also exemplifies the argument made in chapter two: throughout the film sex is identified as a tool of domination, used both by men over women (the collective celebration of patriarchal privilege, Anne Cossins (2000) writes about) and, in certain circumstances, by men over other men. For example, the punishment handed out to Toussaint following his rape of Leila is his own anal rape by Leila's brother. He experiences this as a fundamentally humiliating attack, which leads him to be aggressive towards Yasmine (who witnessed the rape) and to demand that she swear not to tell anyone.

For an apparently 'feminist' engagement with the issue of sexual violence in the *banlieues*, *La Squale* also does little to trouble dominant stereotypes of appropriate 'victims' and 'villains' (discussed in chapter five). Yasmine is clearly constructed from the outset as an innocent, obedient and chaste girl. Her compassion for her mother and for Toussaint and her modesty set her up as the 'ideal victim' promoted by the rape myths feminists have long fought hard to reject.

Futhermore, the division of women in the film according to their relative connections to powerful men does little to dispel proprietal constructions of female bodies or sexuality.

For example, Desirée is only able to initially establish a standing within the group through her claim to be the daughter of the mythical patriarch of the banlieue, Suleiman. Later, she is able to maintain this status through her connection with Toussaint who himself seeks to emulate the *caïd* ('boss') identity.[195] It is also interesting that, once he establishes a relationship with Desirée, Toussaint does not suggest that she be made sexually available to other members of his group of friends. While he ultimately betrays her, this is done in a typical 'bad, cheating boyfriend' manner, as opposed to the intentional enticement and entrapment of the young women he flirts with. He is also fiercely possessive of her; when she dances with Leila's cousin in a nightclub it is not clear whether he reacts so angrily, shouting and shoving Leila's cousin because of his recent rape of Leila which he realises the male members of Leila's family will seek to avenge, or whether it is in asserting his proprietal right to Desirée as 'his woman' ('ma meuf'). In any event, the two possible reasons for his reaction can in fact be read together and both conform to proprietal notions of female belonging.

At the same time, it is interesting to contrast the sexual relationship Toussaint has with the young women he lures and gang rapes with his sexual relationship with Desirée. With her they appear as equals and in fact, the final time they have sex it is Desirée who asserts dominance by sitting on top of him and holding him down by the neck. When he attempts to kiss her or take charge in any way she pushes him down again. By this time she has already come up with her plan to frame him and is in fact in his room to plant the drugs she wants the others to believe he has stolen. Thus while she appears to use sex as a tool for asserting dominance, it is in fact her inability to take revenge on him herself that leads her to resort to tricking him, using her body.

[195] He wears a ring shaped as an 'S' and uses this to brand the young women he rapes.

Desirée on the one hand asserts a fierce independence (rejecting the sentimental offer to exchange necklaces with Toussaint) and yet on the other is repeatedly subjected to Toussaint's insults and physical assaults. Even though she and her friends are presented as aggressive and independent, they are constantly placed in second place to the men around them. Desirée is intended to be a forceful character and yet she ultimately only acts in response to the two men in her life; her mysterious father and Toussaint. We are not shown what she herself desires out of life, except when we discover that she is pregnant and she dreams of having babies with Toussaint thereby conforming to a stereotypical construction of femininity.

Similarly, while Yasmine does shown signs of resistance to the patriarchal and sexist demands of her family and while she seems bright enough to be aware of the insincerity of Toussaint's courting, she continues to perform her daughterly/sisterly duties, while at the same time ultimately succumbing to Toussaint's charms. As mentioned previously, she does increasingly fight back at home and even appears to gain a certain independence. However, we are not given any insight into what it is she seeks out of her life. Similarly, while her tenderness for Toussaint emerges after she witnesses his rape, we are never really clear as to the extent to which she is genuinely attracted to him and why. In the early parts of the film she appears to both recoil from and be flattered by his advances. When he touches her, we are not sure if she is consenting or too afraid to resist. She giggles and looks shy when he corners her against a tree on her way home from school. Other times, such as when they encounter each other on the bus, she looks ill at ease. Once they do begin to spend time together her feelings are still very unclear. She remains with Toussaint even though he is very rude to her. She also seems to be attracted to him and is only unwilling to enter into further intimacy out of fear of being discovered by her brother. For a young woman who otherwise presents herself as intelligent and aware of the dangers the *banlieue* holds, this complete reversal in her interactions with Toussaint seems to make little sense. Instead, it seems almost to play into the 'rape as romance' narrative in which the line between sexual attraction, fear and revulsion are increasingly blurred. Thus, even the more assertive female characters are shown to have little agency and even less subjectivity.

The women also require the men to perform the acts of revenge on their behalf – either through having a brother/cousin who will stand up for them (even at the beginning when the tough girls encounter Desirée and she refuses to be afraid of them, they suggest that her attitude derives from having a big brother who will protect her). Leila is avenged by Samir and her cousin but no sympathy or love is shown to her as a victim. Rather, the attack is seen as an attack on the family and the family's honour. Otherwise, even though Desirée masterminds the plan to destroy Toussaint, she is unable to carry it out herself but requires the active intervention of other men.

When the girls are discussing Desirée's impending abortion whilst lying on the beach in England, Desirée laughingly says that if it is a boy she will abort and if it is a girl she will keep it. This seems to reinforce a belief that the violence, misogyny and criminality shown in the *banlieue* are a problem of masculinity. It also essentialises this masculinity as Desirée does not suggest that she would seek to bring her son up differently but simply accepts as a fact that by the very nature of his being male, he will be a problem. This essentialist vision of *banlieue* masculinity and the fact that there are no decent men portrayed in the *banlieue* (the closest is Anis and he is a drug dealer and complicit in the gang rapes) seems to fit a little too neatly with the hegemonic discourses which have defined the problems in the *banlieue* as caused by a hyper-virile masculinity.

Heralded as presenting a 'female/feminist perspective' on the *banlieue*, *La Squale* in fact presents some very disturbing images of not only the *banlieue* but of its residents. Through the recreation of racialised and sexualised stereotypes that hark back to colonial discourses, *La Squale* does little to disrupt dominant constructions of the *banlieue* as a site of criminality, violence and ethnic difference. Nor does it in fact challenge the construction of the *banlieue* as a masculine/masculinised space. By placing all the female characters in positions of dependence on the male characters, the construction of *banlieue* (read 'immigrant') women as 'victims' or 'dupes' of *banlieue* men is in fact reinforced.

7.2.5 Reception of the Film

Despite its problematic, sensationalist and reductive representation of the phenomenon of *'les tournantes'*, *La Squale* was embraced within mainstream French discourse for its presentation of what was understood to be a serious social problem. It is here that the significance of the film's asserted 'factual' basis becomes apparent. Just as Giroux notes with concern the "expanding culture of violence" in the US within which, "the relationship between fact and fiction becomes more difficult to comprehend as real life crimes become the basis for television and movie entertainment and newscasting becomes increasingly formulaic, sensational, and less neutral and objective" (1996, p65), *La Squale*'s blurring of the line between 'documentary' and 'fiction' allowed its version of the 'reality' of '*les tournantes'* to become crystalised as a 'true representation' in public imaginings of the gang rapes and life in the *banlieue* more generally.

One example of this crystalisation is hasty adoption of the slang *banlieue* term *'les tournantes'* into mainstream discourse and its frequent use, even in quality print media such as *Le Monde* and *Le Figaro*.[196] What followed was an intense period of media interest in which '*les tournantes'* were reported as occurring in *banlieue* across the country at levels unimaginable and immeasurable due to the 'law of silence' associated with them. By way of a quantative analysis of the main print media in France between 1998 and 2003, Laurent Mucchielli documents that this film both launched the previously unused term (he notes it had never been used prior to 2001) and led to it becoming a fairly regularly occurring term, along with mention of '*viols collectifs*' in the next 3 years (Mucchielli 2004, p17).[197]

[196] This did not pass without comment as an outraged letter to the editor of *Le Monde* by one reader, Sidonie Christophe demonstrates (*Le Monde*, 6-7 May 2001, p15).
[197] By way of example, centre-left newspaper *Le Monde* held an online forum specifically dedicated to the subject of *'les tournantes'*. See also 2008 web forum for television station TF1 entitled "*Tournante*" – viewed 12 November 2008, http://forum.tf1.fr/secret-story/tournante-42829-2.html

CHAPTER EIGHT: THE (SEXUALLY) LOST *BANLIEUES* OF THE REPUBLIC

8.1 INTRODUCTION

In this chapter both media discourses and those of *banlieue* residents themselves will be identified and explored. In considering media discourses, the analysis will be limited to examples of national newspapers to allow for a comparison with the Australian sources considered. In particular, the articles considered reflect three broadsheets from across the political spectrum: *le Figaro* as an example of a centre-right newspaper, *Le Monde* as centre-left and *Libération*, an example of a more progressive but still 'mainstream' publication. The decision to include *banlieue* resident discourses is to allow for a comparison with the discourses of the Sydney gang rapists themselves and the young men featured in the Youtube video 'Soldiers of Granville Boys' and 'Bass Hill Boyz' discussed in chapter five. As noted in the previous chapter, whereas some of the individual rapists themselves asserted a place in the Australian public sphere, in France the rapists have remained nameless and faceless.

8.2 MEDIA RESPONSES

As Mucchielli (2004) has already provided a detailed analysis of media reporting of *'les tournantes'*, I will not seek to re-cover this ground. Rather, in this section I will look at specific examples of some of the discourses generated and deployed in media responses to *'les tournantes'.* In doing this, I am interested in how they compare with the Australian discourses on 'the Sydney gang rapes' and - if there are similarities or points of convergence - what (if any) broader implications can be

drawn from this. I will also limit my analysis to national print media due to time and space restrictions.

A review of coverage of *'les tournantes'* reveals a number of approaches:

- Those that drew on issues of ethnicity/religion/culture
- Those that suggested *'les tournantes'* were some sort of initiation rite or ritual
- Those that focused on the poverty/social marginalisation of the *banlieue*
- Those that identified *'les tournantes'* as a result of "affective deficit" and "la misère sexuelle" (sexual deprivation) of the *banlieue*
- Those that saw it as simply another manifestation of '*les violences urbaines*'

Many of these discourses are inter-linked. However, first of all it is worth commenting on the use of the term '*tournante'* a little further.

8.2.1 Situating Sexual Violence: use of the term *'les tournantes'*

It is interesting to consider the implications of the gang rapes being specifically identified according to a *banlieue* slang term rather than the more generic '*viol collectif*' or '*viol en réunion*', both of which were also utilised but less frequently or alongside '*tournante*'. It is argued that this is not incidental. By calling the gang rapes in question '*les tournantes*', they became specifically located. As noted in chapter three, the term '*banlieue'* is a highly charged one in French public discourse: It is associated simultaneously with criminality, anti-sociality, aggressive masculinity and immigrant communities. As a result, the media use of a term originating in the *banlieue* is likely to immediately evoke a particular social context for readers. This is important as, unlike the Australian context - and attempts by unscrupulous right-wing commentators like Janet Albrechtsen and Paul Sheehan writing about the French context - race/religion/ethnicity were generally not *explicitly* identified as a factor in the rapes within quality media even as discourses of race/religion do emerge on closer examination.

It should also be noted that the acceptance of *'les tournantes'* as a specific and serious problem of the *banlieue* has not been completely uncontested. For example, Françoise-Marie Santucci in *Libération* cites two local government workers who question the true extent of *'les tournantes'* and assert the broader nature of the issue of youth sexuality and violence beyond simply the *banlieue* context (Santucci 2001(a)). There is also one example of an attempt to employ the term *'tournante'* outside of the *banlieue* context: In an article appropriately subtitled, "Les cités ne sont pas seules concernées" ("The *cités* are not the only ones implicated") in *Le Figaro* in 2001, Philippe Motta reports on a series of gang rape trials involving 15 accused. Yet he notes the setting is nothing like a *banlieue*. Rather, he describes a bourgeois French town of 3,000 "in which two thirds live very well"[198] implying that a simplistic account of poverty or ethnicity as causal factors could be insufficient. Motta also quotes the victims' lawyers linking these rapes committed by local "bourgeois" children with the phenomenon of *'les tournantes'*: "the social context is different but the state of mind is identical"[199](Motta 2001). Unfortunately, these attempts to open up the issue for broader interrogation seem sporadic and isolated.

While the director, Fabrice Généstal, asserted that the film was intended to present a female perspective on life in the *banlieue* and highlight the specific difficulties faced by young women,[200] the feminist perspective also appears to often get lost in subsequent discourses on *'les tournantes'*. Instead, as Christelle Hamel has argued, the rapes have often added weight to the asserted need for a stronger 'law and order' response to the *banlieue* : an issue which dominated the 2002 elections and reinforced the links drawn between urban unrest, ethnic minorities and immigration (Hamel 2003, p85).

Herein lies the first parrallel - aside from temporal – with the emergence of public discourses on 'the Sydney gang rapes'. As already discussed earlier in the thesis, 'law and order' featured heavily throughout political and media discourses in

[198]« "Immeubles hussmanniens, parcs napoléoniens pour 3,000 habitants, dont les deux tiers vivent plutôt bien…»
[199] «Le contexte social est différent mais l'état d'esprit est identique. »
[200] « 'C'est un parti pris féministe et engagé. On est du côté des victimes, des filles qui souffrent', affirme Fabrice Génestal » (Lalanne 2000).

the Australian context, as did issues of inter-ethnic relations and immigration. The linking of immigrant populations and crime is not unique to Australia and France but both have had a very intense recent history with vast amounts of public discourse dedicated to the issue: the *banlieue* in France and 'the Middle-Eastern gangs in Australia. At the centre of both of these discourses, the young Muslim man has been identified as representing the antithesis of the two nations' values and identities.

Having identified this similarity, it is also necessary to add that in the French context, the standard orientalist tropes employed in the Australian context (discussed in the previous part of this thesis) are further enhanced by France's particular colonial connection with the Muslim world (a point also relevant to the analysis of *La Squale*); more specifically, North Africa. Although no trials in France assumed the status of the Sydney gang rape trials, the trial of eighteen (including two young women) residents of the Parisian *banlieue* of Argenteuil did attract a fair amount of attention in mid 2002, particularly in print media of the Left. The descriptions of the participants and the background context are illuminating. This is not only due to some possible parallels with Australian discourses on 'the Sydney gang rapes', but also because they potentially demonstrate the ongoing significance of France's historical colonial relationship with its largest immigrant communities (namely from the Maghreb).

8.2.2 The 'Backward Immigrant' versus 'Enlightened France'

In her coverage of the Argenteuil gang rapes for *Le Monde*, Pascale Robert-Diard provides a vivid image of the *banlieue*: a site she describes as a 'parallel' and closed-off world into which the Court had to venture:

> [The Court] followed them [the *banlieue* residents] into the stairwells of filthy basements, into underground 'squats'. It emersed itself in their daily life, punctuated by scholastic failure and the constant movement between middle school, care [temporary housing provided by social services] and the police station. The Court listened to their fathers, Algerians or Morrocans for the most part, throwing up their arms in a demonstration of their powerlessness or incomprehension at the acts their sons were accused of. The Court tried in

> vain to get the mothers to speak, women often veiled who stated, 'I agree with my husband...'"[201](Robert-Diard 2002)

This evocative description is layered with images of decay, failure, delinquence: all fairly classic images of the *banlieue* (see chapter three). It is also heavily gendered and ethnicised to the point where all these issues become merged. The classic image of criminality and scholastic failure[202] frequently associated with the *banlieue* is reinforced in this description. So too, the specific reference to Algerians and Moroccans reinforces the findings of scholars that the *banlieue* is coded with specific ethnic markers and linked to immigration.

Yet added to this specific ethnicisation of the *banlieue* and the crimes associated, it is also noteworthy that the problem of *'les tournantes'* is identified as predominantly associated with North Africans in France. This is done both implicitly; through reference to mothers wearing headscarves[203] or the reproduction of names with particular ethnic affiliations and origins (Tourancheau 2002(a); Santucci 2001(b); du Tanney 2001; Geisler 2002)[204] and, on occasion, explicitly; through reference to the parents being of 'immigrants'/'Moroccan'/'Algerian'/'North African'/'Arab' (Robert-Diard 2002; Durand 2002; Tourancheau 2002(a); Pech 2002(c)) or the rapists themselves being described as *'Beur'* (Tourancheau 2002(a)) or "Maghrébins" (d'Arrigo 2001).

As detailed in chapter three, the problems associated with French integrationist policies, immigration and urban crime have all been linked, implicitly or explicitly, with ethnic communities perceived to be the most problematic: Algerians and North Africans more generally. Picking up Giroux's argument that,

---

[201] « Elle [la Cour] les a suivi de cages d'escalier en souterrains crasseux, de caves en "squats". Elle s'est immiscée dans leur quotidien, ponctué d'échecs scholaires et de va-et-vient entre le collège, le foyer d'accueil ou le commissariat de police. Elle a entendu les pères, Algériens ou Marocains pour la majorité, levant les bras en signe d'impuissance ou d'incompréhension devant les faits reprochés à leurs fils. Elle a tenté, vainement, de faire parler les mères, la tête souvent couverte d'un foulard: "Je dis comme mon mari... »

[202] And by implication, the failure to integrate into the French civic community: as the school is the means by which this is done - discussed in chapter three.

[203] Immediately associated with Islam as a result of the 'headscarf affairs', even though this is not the only reason headscarves may be worn.

[204] Examples include; 'Moustapha', 'Karim', 'Ousmane', 'Mouloud', 'Kader'.

"media culture is the central terrain on which the new racism has emerged" (1996, p58), it is unsurprising that links between already problematised ethnic/immigrant communities and further examples of anti-social and criminal behaviour would present easy story opportunities. Furthermore, as Giroux observes: "In the mass-mediated cultural spheres that shape individual and social consciousness, social and political causes of violence are often elided" (1996, p67). The consequences of this are not only the uncritical reproduction of racist stereotypes but the racialisation of 'law and order' discourses which call for tougher approaches to crime. This has already been well documented in relation to the broader discourse of '*les violences urbaines*' (Peralva and Macé 2002).

8.2.3 '*Voileurs et Violeurs*': Men of the *Banlieue*

Yet, aside from the standard racist tendency to link crime with an 'Other', through the contextualising of *'les tournantes'* as a problem associated with North Africans, these representations are also able to draw on a wide array of well-established colonial and orientalist tropes. The example of Robert-Diard's above-cited description of the women as subservient (unwilling to express their own opinions, agreeing with their menfolk) and veiled far from subtly demonstrates this through its evocation of the traditional Orientalist and colonial image of the oppressed, hidden Muslim woman. Further, the reference to their headscarves serves to link *'les tournantes'* with the other issue that has frequently dominated contemporary French media and public discourses, particularly in relation to Muslim/North African immigrants and their children: the issue of the *hijab*. In an especially explicit example in *Le Monde*, an article on *'les tournantes'* by Pascale Krémer and Martine Laronche is accompanied by a cartoon depicting a young woman exclaiming, "Ni Voile! Ni Viol! Que ça vous plaise ou non!" (Krémer and Laronche 2002).

While the linking of violence against women with Islam and particularly the *hijab* has been a feature of discourses on violence against women in various Western contexts (as highlighted in the discussion of the Australian context; see also Razack

2004), the particularly controversial and problematised place of the *hijab* in France – as well as its specific colonial implications - adds further weight to this image. As discussed in chapter three, gender relations formed an extremely important feature of French 'civilising mission' discourses in the colonial period. In particular, the identification of Islam as a site of female oppression was a feature of both official colonial authorities' discourses and well-meaning French feminists of the métropole. It is therefore unlikely to be incidental that issues such as the *hijab* and sexual violence committed by men of North African origin become not only inter-linked in French mainstream media discourses but also central sites of public attention and concern.

In another article - this time in the left-wing newspaper *Libération* - journalist Jacky Durand reports on the family of one of the young men convicted of the Argenteuil gang rapes. The picture she presents is one of 'cultural divide': the life inside the family home, which remains built on tradition and the life outside in which the young men are confronted with sexuality that they cannot understand or manage:

> In the parents' account there is an 'inside' and an 'outside', a sort of border which informs the contours of familial relations in the *cité*. Between the apartment and the street... "Some parents still see the street as it was when they were children in North Africa; that is to say, where the older [kids/adults] watched over and took care of the younger [kids]. They don't seem to realise that this form of social control has disappeared in the *banlieues* of today", explains one social worker of Val-d'Oise...
> ...After the trial one of the accused's parent confidered his surprise: "They asked me if I had taught my son about sex. I replied that there was enough on the radio, television in the newspapers. I have never known a Muslim who speaks to his children about sex. It is a question of respect" (Durand 2002).[205]

[205]« Dans le récit de ces parents, il y a le "dedans" et le "dehors", une sorte de frontière qui dessine le contour des rapports familiaux dans la cité. Entre l'appartement et la rue... "Il y a des parents qui se représentent encore la rue comme ils l'ont vécue quand ils étaient enfants en Afrique du Nord, c'est-à-dire avec des anciens qui surveillaient et mataient les jeunes. Ils n'ont pas conscience que ce contrôle social a disparu dans les banlieues d'aujourd'hui", explique un animateur du Val-d'Oise...
...Après le procès, un parent d'accusé a confié son étonnement: "On m'a demandé si j'avais appris la sexualité a mes fils. J'ai répondu qu'ils avaient assez de la radio, de la télé, de la presse et de leurs mauvaises frequentations. Jamais je n'ai vu un musulman parler de sexualité avec ses enfants. C'est une question de respect. »

While apparently attempting to understand the problem, Durand in fact characterises the problem in a very similar manner to Republican feminists and administrators in colonial Algeria: The inability to speak openly about sex is portrayed as a reflection of the repressed and repressive sexuality of Muslims, which in turn demonstrated their backwardness in comparison with 'enlightened France'. Durand is not the only journalist to be concerned with the apparent 'sexual repression' of North African immigrants residing in France.

Marie-Estelle Pech, writing in centre right newspaper *Le Figaro* is even less coy in making the link between cultural and religious practices and the problem of *'les tournantes'*. In an article dedicated to the *tournantes*, Pech quotes a teacher working in les Yvelines:[206]

> 'A young girl who follows the teachings of Islam cannot sit next to boys,' remarks Stéphanie, a middle-school French teacher in les Yvelines. 'My class is divided in two like in the middle ages with girls on one side and boys on the other...'" (Pech 2002(a)).[207]

This description raises two issues. The first is the problematic assumption of the ability of a French – and one assumes non-Muslim – outsider to speak authoritatively on Islam.[208] Her generalised statement does not suggest any room for differing interpretations nor for recognition of Islam as a diverse and diversely practised religion. The second issue is the missing link between the seating arrangement of boys and girls and sexual violence. There appears in this explanation a taken-for-granted understanding that sexual conservatism, and more particularly Islamic practices, lies at the heart of sexual violence.

In another article published on the same day, Pech adds to this portrayal. She quotes a young woman who she states, dated a high school student of 'Moroccan origin':

---

[206] A *banlieue* of Paris.

[207]« Une jeune fille qui respecte les enseignements de l'islam ne peut pas s'asseoir à côté des garçons, remarque Stéphanie, professeur de français en 4e dans les Yvelines. Ma classe est divisée en deux comme au moyen âge, les filles d'un côté, les garçons de l'autre... »

[208] Just as it was noted that the use of Professor Michael Humphrey as an 'expert' on Pakistani muslim culture raised problematic links with the past collection of colonial knowledge: see chapter five.

> They were quite pious people but more than that they were very polite (conservative/prudish), both verbally and physically. I made sure I always wore skirts to my ankles so as not to shock them. Last year I spent a couple of days in the village with them. On returning to France I was also shocked. Over there, anything to do with sex and sensuality is controlled, censored. The contrast is violent when one returns. (Pech 2002(b)).[209]

While in this case it seems we are to assume the family and the young man were 'decent', we are left with little doubt that the problem of *'les tournantes'* is a result of this uptight, repressed sexuality being confronted with the sexual freedom of French society. Equally, in the description of the first day of the trial, Patricia Tourancheau, writing for *Libération* quotes the victim's lawyer stating that the parents in the audience were organised according to sex: "the mothers, veiled with religious symbols, up at the back, in the last row and, further away the old Arab fathers well integrated into France".[210] This is paralleled with the description of the code of the *banlieue* in which, "the 'chicks' don't mix with the 'guys', under threat of finishing up in the basement, treated like a 'whore' [ie. raped]"(Tourancheau 2002(a)).[211] Through this description an implicit link is drawn between what is seen as the traditional Muslim/Arabic practice of segregation of the sexes, the *hijbab* and the young men's dysfunctional sexuality.

Thus, even as the explicit resort to racialised arguments is rejected, the apparent 'affective deficit' described among young people of the *banlieue* becomes intimately connected with the traditional background of their parents. Similarly, the repetition of the idea, "a girl who is seen [hanging out] in the street, is a slut" (Santucci 2001a)[212] – by both media commentators and young men and women of the *banlieue* themselves, it must be noted - evokes traditional colonial images of the women of North Africa and the Orient more generally, cloistered in harems: an

---

[209] « C'étaient des gens assez pieux mais surtout très pudiques, tant verbalement que physiquement. Je faisais très attention à mettre des jupes jusqu'aux chevilles pour ne pas les choquer. L'année dernière, j'ai passé quelques jours au bled avec eux, pendant les vacances d'été. En revenant en France, j'ai moi-même été choquée. Là-bas, tout ce qui touchée au sexe et à la sensualité est contrôlé, censuré, le contraste est violent quand on revient. »

[210]« Les mamans voilées avec la marque religieuse, en haut, au dernier rang, et, plus loin, les vieux pères arabes bien intégrés en France. »

[211]« Les 'meufs' ne se mélangent pas aux 'keums', sous peine de finir à la cave, traitée comme une 'pute'. »

[212]« Une fille qu'on voit dans la rue, c'est une pute. »

image both erotic and submissive (Alloula 1987). The constant reiteration of the mother/whore dichotomy in articles explaining the attitudes of *banlieue* men and women towards female sexuality and identity seems to suggest that such a dichotomy has no place within French society. Just as in Australia rape myths were deflected onto the Sydney gang rapists, Sheik el Hilaly – and, by implication, Muslim men more generally - in France rape myths emerge as the sole possession of *banlieue* (immigrant/Muslim) men. By contrast, the Republic is envisaged as an enlightened and sexual egalitarian space (Fassin 2006, discussed in chapter three)

By implying that the *banlieues* are 'far from the Republic' the latter is constructed as a site of law and order in which women's rights are protected. This characterisation – as also discussed in the context of 'the Sydney gang rapes' - allows for the prevalence of rape across society to be erased, to the detriment of *all* women: in the *banlieue* and outside. France – as with many nations – has a far from admirable history in addressing violence against women, as numerous scholars have documented (Fougeyrollas-Schwebel 2005; Jaspard et al. 2001; Mucchielli 2005, pp55-58). Equally, the official recognition of personal status laws of North African nations for immigrant communities living in France has been critiqued for legitimating gender inequality in migrant women's lives (Ticktin 2008; Winter 1995).

8.2.4 'Tribal Practices'

Aside from the invocation of Islamic practices as contributing to the problem, there are also frequent references to 'tribal practices'. For example, Marie-Estelle Pech (2002(a)) explains that in the *banlieue*, "girls and boys are contained within well-defined spaces and roles, all influenced by ancestral codes [of conduct]"[213] This reference to 'ancestral codes' evokes images of traditional, tribal peoples: an image often associated with the Orient. Similarly, Robert-Diard refers to the *banlieue* residents as resentful of attacks on 'their clan' ('leur clan'). Once again the tribal imagery cannot be removed from its colonial implications: the backward, native savage. Even more remarkably there are references to sexual violence as a problem in

[213] « [f]illes et garçons sont cantonnés dans des espaces et des rôles bien definés. Tout cela sous l'influence de codes ancestraux... »

the *banlieues* dating back to the 1980s and 'Zoulou' gangs (Geisler 2002). The explicit reference to African tribes adds to the image of *banlieue* residents as primitive, uncivilised natives; just as African tribes were seen by colonial administrators. Equally, Robert-Diard's reference to the law of the Republic being re-instated, even in the *banlieues* in opposition to their 'law of silence' disturbingly unself-consciously harks back to the language of the colonial 'civilising mission'.

As is also evident from the reference to 'Zoulous', the colonial imagery is not reserved for the North African individuals described. We are also told in the Argenteuil case that 'Fathia' - one of the young women accused of being an accomplice in the rapes - is a "belle Africaine moulée dans sa minijupe" who was responsible for injuring a policeman and hitting a cameraman (Tourancheau 2002(a)). In another article, she is described as a 'tigress' (Robert-Diard 2002). These images - as with that of Desirée in *La Squale* – conform all too easily with the image of the hyper-sexualised, aggressive black woman (hooks 2004, 1994, 1992, 1990).

The tribal imagery can also be found in suggestions that *'les tournantes'* be seen as 'initiation rituals/rites'. While completely discredited by sociologists working in the area (Hamel 2003), this explanation did gain some currency through repetition (Chambon 2001(a)). Once again, this invokes images of African tribal rituals and practices, traditionally associated with primitive, uncivilised people in Western discourses.

At the same time, the source of salvation and liberation is also not left in much doubt: "...these young girls, according to [sociologist] Caroline Vaissière, 'imagine a prince charming who will inevitably be from outside the *cité*'" [214](Santucci 2001(a)). As further illustrated in the next chapter, the idea of a man of the *banlieue* (and thus a man of immigrant/ethnic minority origin) being capable of truly respecting gender equality is seen as an impossibility. At the same time, the 'feminism' of France is never called into question. Furthermore, the fantasy of the 'Prince Charming' from

[214] « ...ces jeunes filles, continue [sociologist] Caroline Vaissière, 'imaginent le prince charmant, qui sera forcément extérieur à la cité' »

outside 'rescuing' these young women has in fact been argued by some scholars to be a prevailing fantasy within *dominant* French national discourses (Hamel 2005).

8.2.5 "*La Misère Sexuelle*" and The Exceptional Nature of French Heterosexual Relations

Along with representations of *banlieue* youth as segregated and lacking in sexual education, frequent reference is made to pornography as providing the only source of knowledge in relation to sex. This, as a result it is explained, warps young peoples' opinions of what 'normal sex' is. In many ways this seems to be presenting the perspective adopted by radical feminist scholars such as Andrea Dworkin and Catharine MacKinnon: a position which is not without its limitations due to its inadvertent replication of conservative, right-wing discourses on sexuality and censorship (Mercer 1994, p133). However, there may be some value in opening discussion of how men, women and sexuality are constructed and represented in pornography[215] for interrogating discourses on normative sexuality. Unfortunately, this is not the direction the discussions on pornography in the *banlieue* seem to take. Instead, it is suggested that the problem lies in the discrepancy between the pornography watched by young people of the *banlieue* which they see as 'normal' and the 'excessively prudish' ways of their parents.

For example, Marie-Estelle Pech (2002(a)) of *le Figaro* quotes nurse Benoît Félix asserting that these adolescents are not able to clearly understand the difference between sexual violence, paedophilia, rape and normal sexuality. This implies that within broader French society these distinctions are unproblematic: an assumption, which, in light of all the research discussed in earlier chapters of this thesis, seems misguided to say the least. And yet, the function of stating this distinction is that it reserves sexual deviance, perversity and violence as traits of *banlieue* society. By linking back to the ethnic/religious/cultural explanations set out above, what emerges is a picture of young *banlieue* (Muslim/North African/immigrant) men uncritically digesting violent pornographic images without the benefit of the more sophisticated and mature sexual education received by

[215] As discussed in chapter two of this thesis.

'mainstream' French society. Once again we are presented with the image of the 'perverted Arab' described by Guénif-Souilamas and Macé as existing during the height of the colonial period (2004, p60).

Complementary to this representation of the 'perverted Arab' is the 'enlightened Frenchman'. As discussed in chapter three, France has prided itself on having cultivated a special relationship between the genders based on mutual admiration rather than competition: this has been the justification for rejecting the 'war of the sexes' language derogatorily associated with Anglo-Saxon feminist politics. And yet in the context of the *banlieue* it is precisely the 'war of the sexes' that is identified in interactions between *banlieue* men and women. The tacit suggestion within this explanation is that while French men are capable of reconciling degrading pornographic images with more healthy and respectful attitudes towards women, the men of the *banlieue* are not.

Moreover, the reason for this inability is that these men are not party to *l'exception française* in which the genders interact in a relation of complementarity. By contrast, interactions in the *banlieue* are violent, lacking in subtlety and romance and by extrapolation, 'unFrench': "no one flirts, no one knows how to get to know the opposite sex anymore, how to experience desire for the opposite sex. To openly pursue a romantic relationship, for the boys is a demonstration of weakness, for the girls is to be perceived as 'sluts'".[216] (Krémer and Laronche 2002) Once again, the interconnections between gender and national identity emerge through the discourses on rape and sexuality.

This characterisation of the problem as retarded or incomplete sexual development is disturbing for two reasons. On the one, it conforms to the orientalist image (discussed in previous chapters) in which Western sexuality is constructed as superior: restrained, civilised and mature in the face of the brutality and perversity of the Orient thus reinforcing raical hierarchies. On the other, the suggestion that it is

[216] « On ne flirte plus. On n'apprend plus à connaître l'autre sexe, le désir de l'autre. Afficher une relation amoureuse, c'est pour les garçons, se montrer en situation de faiblesse, et, pour les filles, passer pour des 'putains'. »

simply 'mis-education' and an inability to flirt/engage in romantic liaisons with the opposite sex diminishes the possibility of sexual violence existing in broader, mainstream French society. Rape is an aberration and a sign of deviance, not associated with the 'normal sexuality' of enlightened, civilised France. This allows the very phallocentric power structures central to rape *and* normative constructions of gender and sexual identity (problematised in chapter two) to remain unchallenged. It also makes the commitment of the nation to gender equality almost beyond question.

While the framing of this discourse is situated within the very specific parameters of French national identity, this oppositional account of 'immigrant man's sexism/misogyny' versus 'mainstream man's greater feminist commitment' does have some points of convergence with the Australian discourses. For example, *Libération* journalist Patricia Tourancheau (2002(a)), provides this description of one of the accused in the Argenteuil gang rapes:

> Accused of at least six rapes, Mouloud, the youngest of seven children, affected by a speech impediment, 'shy and easily influenced', has been delinquent since his arrival in the ZUP [an administrative title for the housing estates] of Argenteuil [suburb of Paris] at age 13 in 1995. His psychiatric report described 'an adolescent stuck between a strict and religious familial culture which he seeks to respect, and the culture of the street, where an individual gains respect from other members of the group through acts of delinquence.[217]

This description of the accused bears a striking resemblance to the assertion of the eldest K brother's lawyer in 'the Sydney gang rapes' that MSK was a 'cultural timebomb' (see chapter six). The presentation of non-white men as 'victims of their culture' has been repeatedly critiqued by postcolonial and critical race feminists: the resort to cultural explanations for misogynistic and sexist violence has been rejected as reinforcing both racial and gender hierarchies in which non-white women always

[217] « Accusé de six viols au moins, Mouloud, benjamin de sept enfants, perturbé par un défaut de prononciation, 'timide et influençable', a versé dans la délinquance à son arrivée dans la ZUP d'Argenteuil à 13 ans, en 1995. Son examen psychiatrique montre 'un adolescent écartelé entre une culture familiale religieuse et rigoriste, qu'il s'efforce de respecter, une culture de la rue, òu chaque conduite délinquante apparaît comme un fait d'armes valorisant son auteur au regard des autres membres du groupe. »

emerge at the bottom (Razack 2004, 1998; hooks 1992, 1990; Crenshaw 1991; Ammons 1995).

Further, this 'aberration/improper education' explanation reinforces the dominant heterosexual paradigm as neatly as the judges in 'the Sydney gang rapes'. The natural tendencies of heterosexual men and women are not interrogated: a fact which emerges even more clearly in the cited explanation of the problem provided by a nurse: "On the one hand we have the young girl who wants to remain a virgin, on the other there is the boy who wants to have penetrative sex".[218] In the context of the girls, the image presented is of someone desperate for affection and romance (hence her resort to images of 'Prince Charming', mentioned above). In the context of the boys, they are sexually voracious and in need of physical sexual gratification. This uncritical reproduction of normative female sexuality (based on emotionality and passivity) and male sexuality (physical and assertive) does little to present a complex and complicated picture of relationships between men and women of the *banlieue*. And yet this is the closest point of convergence between those discussing *'les tournantes'* from 'outside' the *banlieue* and those seeking to either explain or protect young people of the *banlieue* from further stigmatisation. An example of this can be found in the comment by rapper Dadoo in an interview on the stigmatisation of the *banlieue* and *'les tournantes'* in particular in *Libération*: When asked what could be done to improve the situation between men and women in the *banlieue*, he responds that the solution is letting guys into clubs so they can pick up each weekend: "When they are locked in the banlieue for a month and then suddenly see a chick in a miniskirt they lose it"[219] (Binet 2001).

This characterisation of the problem as associated with the men not getting their sexual needs met is highly problematic for the heterosexist, phallocentric assumptions it incorporates: assumptions which have been demonstrated in chapter two to link rape with constructions of normative heterosexuality. Christelle Hamel

[218] « Avec d'un côté la jeune fille, qui veut rester vierge, de l'autre le garçon, qui veut avoir un rapport sexuel avec pénétration. »
[219] « Laissez entre les mecs des quartiers en boîte. Faites des lois là-dessus: que tous puissent draguer chaque week-end, et tout changera, direct. Des mecs qui ont tourné dans leur quartier pendant un mois et qui, tout d'un coup, voient passer une meuf en minijupe, ils ont les crocs. »

makes a similar observation in her analysis of media and rapists' discourses on *'les tournantes'*:

> The 'sexual deprivation' discourse [to explain the rapes] is inappropriate. Its use reveals the wide-spread the construction of normative male sexuality as insatiable. Moreover, it allows for the justification or at least the explanation of rape as simply the result of male sexual needs not being sufficiently met.[220] (Hamel 2003, p91).

In rejecting the 'misère sexuelle' explanation, Hamel points to the convergence between 'mainstream' discourses and those of the rapists themselves regarding what is seen as 'normal' male sexuality.[221] Added to this, she notes from her interviews with young men who have participated in gang rapes that the men adhere to a construction of their sexuality as 'particularly developed' and their having greater needs than other men. The conformity of this self-representation with orientalist representations of the over-sexed, predatory, perverted, deviant Muslim man is noteworthy: not because it is suggested that the orientalist representation is thus proved true but because it seems to point to a similar '(post)colonial habitus' as that identified in the context of the Sydney gang rapists.

8.3 DISCOURSES FROM THE *BANLIEUE*

In France there have been sociologists who have sought to conduct ethnographic fieldwork in an attempt to identify the young men's perspectives and reasoning behind *'les tournantes'* (Hamel 2003; Coutant 2005). They have frequently uncovered discourses that provide little additional information or resistance to dominant public discourses. Parisian sociologist Isabelle Coutant expresses her dismay when, in conducting field research to challenge dominant

---

[220] « Le discours de la misère sexuelle est donc inapproprié. Son emploi révèle surtout que l'abondance de l'activité sexuelle masculine est une norme largement partagée. En outre, il permet de justifier ou tout au moins d'excuser le viol en le présentant comme le résultat de l'insatisfaction des besoins sexuels masculins. »

[221] Hamel's argument would also seem to be further supported by the Australian discourses set out in Part Two of the thesis: similar convergences between the discourses of the judiciary, commentators, the rapists and sometimes even the victims themselves emerge in relation to 'normative' male sexuality. Added to this is of course the implicit ethnic/racial element that has served to reinforce notions of the inferiority of the 'Other' man based on his sexual appetite and behaviours.

representations of *banlieue* youth, she was presented with young people expressing similar points of view to those she set out to disprove: "I had thought I was going to cast doubt on the image the media and politicians gave of suburban youth and I ended up realizing that in certain ways, I was on the contrary going to confirm and even approve that image" (Coutant 2007, p4).

In relation to *'les tournantes'*, she notes how she initially ignored the issue in her interviews, believing it to be more evidence of media sensationalism. When she changed her mind and asked her interviewees their opinion on the way in which the law and the media had approached the issue, she was alarmed to discover that their responses conformed to dominant public discourses. In particular, she remarks:

> ...both boys and girls felt that such practices [*'les tournantes'*] were relatively widespread. One of them had even got their sexual initiation that way...neither the boys nor the girls I spoke with interpreted these '*tournantes*' as being rape. According to them, the girls more or less agreed to participate, either because the wanted to please their boy-friend, or had agreed to go down into the basement, etc. (2007, p4).

Teacher and activist, Richard Moyon describes similar sentiments among his students when he raised the issue of *'les tournantes'* (2002). This, alongside the testimonies of women like Samira Bellil and others associated with *Ni Putes Ni Soumises*[222] would seem to suggest that the issue of *'les tournantes'* and the incumbent misogyny associated cannot be dismissed as simply a 'moral panic' created to further stigmatise the *banlieue*.[223]

8.3.1 Binary Understandings of the *Banlieue*: Site of Racism or Sexism?

At the same time, the attempt to explain the young men's behaviour has too often reproduced the unhelpful sexism versus racism binary, critiqued in the context of 'the Sydney gang rapes' (see also Moorti 2002). For example, Pech cites sociologist Daniel Welzer-Lang characterising the hyper-masculinity displayed by young men in

[222] See next chapter.
[223] As Mucchielli 2004 seeks to, in a similar manner to Australian left-wing critics of 'the Sydney gang rapes' discussed in chapter six.

the *banlieue* as a collective defensive mechanism, "in response to the fear of unemployment, racism, a state of disenfranchisement and the lack of the possibility of exhibiting other attributes of virile masculinity"[224] (Pech 2002(a)). Broader reference to his theoretical work demonstrates Welzer-Lang's analysis of the significance of *'les tournantes'* is much more complex: he identifies the importance of French colonial history and representations of 'native' masculinity, the failure of the French education system to provide sex education to adolescents resulting in many of them – within or outside the *banlieue* - resorting to pornography for information and constructions of normative masculine and feminine (sexual) identity (Dhoquois 2003). However this is not reflected in the simplistic equation cited above, which reflects many mainstream media representations of issues of socio-economic marginalisation, gender and violence.

Moreover, while Welzer-Lang's explanation as cited in Pech may have some valency, to adopt it uncritically is to reinforce the even further marginalisation of women and men who do not subscribe to this role but who also experience similar socio-economic disadvantage. Similarly, Laurent Mucchielli's structural account of economic disadvantage, scholastic failure and social exclusion as behind the rapes and his frequent reference to the imprudence of the victims risks re-affirming certain highly problematic stereotypical and essentialist understandings of masculine and feminine identity and sexuality.

In an illuminating example, *Libération* journalist Marie-Joëlle Gros (2003) provides an account of a meeting at a local high school between members of *Ni Putes Ni Soumises* (NPNS) and students and *banlieue* residents on the question of violence against women in the *banlieue*. What emerges is an impasse between those who concentrate on the risk of further stigmatising *banlieue* residents (in particular the young men) and those who assert that they are compelled to speak out against the misogyny and/or violence limiting the lives of women in the *banlieue* (a point which becomes clearer in the context of the next chapter).

[224] « en réponse à la peur du chômage, du racisme, à l'état de non-droit, à la souffrance de ne pouvoir exhiber d'autres attributs de la virilité. »

This dichotomisation has pitfalls for both sides: a point also identified in the Australian context. Those who are concerned about the risk of racial/social stigmatisation seem (intentionally or not) to almost downplay the violence against women in a similar manner to bell hooks' description of the US black civil rights movement: the demand for community solidarity is once again seen to be of greater importance than the individual women's protection of their rights. Meanwhile, those who assert their feminist message also risk cooption (willingly or unwillingly) through focussing on one of arguably many concerns affecting the lives of *banlieue* residents, including women.

The clash is perhaps best captured in an exchange between a woman Gros describes as 'a mother of immigrant origin'[225] who is reported as arguing, "we've had enough of our children being caricatured. Why do we always have to talk about what is going wrong?"[226] and one of the women with NPNS who responds, "we have to condemn things that are bad, even if it is painful"[227] (Gros 2002). Trapped in this seemingly irreconcilable binary of racism versus sexism, the question which remains is how can the violence and misogyny of '*les tournantes*' be confronted *without* further demonisation of *all* men of the *banlieue*?

8.3.2 *Banlieue* Habitus

The attempts made by sociologists to conduct interviews with young people of the *banlieue* have equally provided little in the way of assistance. The explanations offered by the individuals themselves have tended to provide little insight that could easily be used in an anti-racist feminist response. Returning to Coutant's explanation of her research, she notes:

> One might think their [the interviewees'] words reflect the fact that they had internalised the public discourse: from that point of view, they were saying what they thought they were expected to say, given they knew how the subject was dealt with in the social arena. That hypothesis would have led me to keep quiet about what they told me (2007, p4).

[225] « Une mère d'origine étrangère ».
[226] « Y en a marre qu'on caricature nos enfants. Pourquoi on parle toujours de ce qui ne va pas? »
[227]« Il faut dénoncer ce qui ne va pas. Même si ça fait mal. »

Her justification for this approach was that she had no desire to support the further stigmatisation of an already disadvantaged population. She ultimately concludes it is important to discuss the issue, albeit in a sensitive manner. However, the concern the she raises poses significant questions about how such controversial and sensitive issues should be dealt with by the academy. This has particular resonance with the Australian context where, as noted in the previous part, there was a general reluctance on the part of academics on the left to even engage with the suggestions of racial motivation, which dominated mainstream media commentaries.

The difficulty with this approach was that, in refusing to acknowledge race and instead concentrating on issues of economic and social disadvantage, left-wing academic commentators seemed to be contradicted by the discourses of the rapists themselves (who *did* assert a racial/ethnic aspect). This provided fuel for the already well-established argument (Greenfield and Williams 2001) that left-wing academia existed in an 'ivory tower' and was incapable of relating to 'real life' social phenomena. As left-wing intellectuals became seen as increasingly irrelevant and 'out of touch', this added to the apparent persuasiveness of conservative commentators who presented themselves as 'brave enough' to tackle the issues, albeit through reference to simplistic, racist explanations.

Similarly, the conformity of young *banlieue* residents with the same negative stereotypes also used to justify their stigmatisation is both troubling and interesting. For this reason Coutant's dismissal of the importance of her interviewees' opinions if based only on internalised public discourse is curious. If this is the case, it seems even more important that the reasons *why* and *how* this discourse, which is essentially damaging to the young people reiterating it, is internalised. How and why do people endorse versions of themselves and their identity that are counter-productive? By refusing to engage with this question Coutant seems to reinforce an impression of *banlieue* residents as passive dupes suffering from false consciousness, when in fact their articulation of identity provides an interesting insight into the relationship between individual subjectivity and structures of power. Central to this

is the issue of how structures of sexism and racism inter-connect such that resistance to one without reference to the other is often counter-productive and self-defeating.

This also draws back to what I have described in an earlier chapter as the '(post)colonial habitus' and how this impacts upon the manner in which young people in the *banlieue* are able to assert agency and/or resist dominant power structures which construct them as naturally deviant, violent, uncivilised and inferior. So too bell hooks presents a similar problematisation of what she terms the 'internalised colonisation' of young black men in the US that may provide a useful framework for analysing the constructions of identity articulated by both men and women of the *banlieue*.

As discussed in 'the Sydney gang rapes' context, hooks has argued that the promotion of stereotypical self-images in rap music and film by young black American men does little to resist or challenge the dominance of white supremacist patriarchy. And yet it is this model of masculinity, which has frequently provided the basis for the 'protest masculinity' espoused by many of the young men who either participated in the rapes or sought to justify them. The influence of US 'ghetto culture' through rap/hip hop music and popular culture on the formation of (male) *banlieue* identity has received extensive scholarly attention. With France responsible for the second largest hip hop culture after the US (Mitchell 2001), the 'ghetto pimp' identity promoted in much of US hip hop culture finds its French counterpart within many of the most successful French hip hop acts: a notable example is NTM, one of the oldest and best established rap acts whose name itself ('Fuck your Mother'[228]) reflects the misogyny embedded in much of their music.

Furthermore, while in 'the Sydney gang rapes' context the assertion of some sort of 'masculine resistance' to racist domination by white Australia – as offensive as it is – may have been plausible, such an explanation is impossible in the context of *'les tournantes'*. As Abdel-Illah Salhi writes in an opinion piece in *Libération*:

[228] 'Nique Ta Mère'.

> It is a bad time for Arabs. When they are not being hassled by the police, killed by racists or sullied by the likes of Azedine Berkane [attempted assassin of Paris Mayor Betrand Delanoë], they are the primary victims of their fellow Arabs: exemplified in the case of Sohane [burnt alive by young men in the *banlieue*] and the emerging phenomenon of *'les tournantes'* in the basement of the tenement blocks.[229] (Salhi 2002).

Salhi makes a number of significant points here. In addressing not only external violence committed against 'Arabs' in France but also acts of violence by 'Arabs', most often against other 'Arabs', he identifies how these acts not only injure the victims but reinforce dominant negative stereotypes circulated linking 'Arabs' with violence. Stereotypes, which in turn contribute to the reinforcement and legitimisation of anti-Arab racism:

> The only thing left now is an automatic link between Arabs and delinquence, the *banlieue* and the scumbag. Because how can one not think of the incomparable [author] Houllebecq's reflection in *Des Particules Elémentaires* [*Atomised*], in which he suggests that violence is in fact inscribed in the genes of Arabs.[230] (Salhi 2002)

This seems to parallel the situation critiqued by black scholars of black-on-black violence in the US. This leads Poussaint (1972) to conclude, "...it becomes safe in the minds of many blacks to abuse their own people, while they remain internally fearful of confronting the white man" (1972, p74).

In the French case, this has particular resonance when one refers back to suggestions made anti-colonial scholar Frantz Fanon regarding violence and crime in the context of French colonial occupation of Algeria. In *Les damnés de la terre* ('*Wretched of the Earth*'), Fanon notes differences in criminality of Algerians in France and those resident in colonised Algeria. He remarks, "in Algeria, criminal conduct by Algerians operates within a practically closed circle. They rob, destroy

---

[229] « Sale temps pour les Arabes. Quand ils ne sont pas malmenés par les flics, assassinés par les racistes ou souillés par des Azedine Berkane, ils ou elles sont les premières victimes de leurs compatriots, comme l'indiquent le cas Sohane et le phénomène grandissant des 'tournantes' dans les caves des HLM. »

[230] « Il n'a manqué plus que la preuve de l'existence d'un lien automatique entre Arabes et délinquance, banlieue et racaille. Car comment ne pas penser à cette profonde reflexion tirée des *Particules Elémentaires* de l'intraitable Houellebecq qui suggère que la violence est inscrite dans les gênes des Arabes. »

and kill each other. In Algeria, the Algerian rarely attacks the French and avoids taking any risks involving French people. In France on the other hand, the immigrant creates an inter-communal/inter-societal form of criminal behaviour" (Fanon 1970, p220).[231] For Fanon, the nature of colonisation is to divide, break, and instil internalised feelings of inferiority in colonised subjects. Thus, in the context of the French gang rapists it seems possible to argue the French colonial mission has succeeded: these men do not seek to rape white French women from the outside community, which has discriminated against them. Instead they express their rage and hatred on the bodies of 'their own' women: fellow colonised subjects.[232]

In any event, it seems that reference to the concept of the 'colonial habitus' is once more relevant: the internalisation of colonial discourses which devalue the bodies and subjectivities of colonised subjects seems one of the only means through which the actions of the gang rapists can be understood: their disregard for the bodies of non-white women mirroring the white disregard and violence condoned by the racialised, gendered and sexualised colonial order. Further it is significant that the victims Salhi identifies are women (and the perpetrators are men), suggesting that racism and social and economic marginalisation are not the only factors that require consideration and condemnation.

This is not to suggest that the misogyny is *only* a product of colonisation. If anything (as noted earlier), research on violence against women demonstrates the alarming (near) universality of sexist, patriarchal and phallocentric power structures albeit redefined and constituted according to different cultural contexts. However, what reference to colonial power structures does allow for is an understanding of how discourses on the nation, gender, sexuality and race/ethnicity must be seen as convergent and mutually reinforcing. It is only through recognising this that both the

[231] «en Algérie la criminalité algérienne se déroule pratiquement en cercle fermé. Les Algériens s'entre volaient, s'entre-déchiraient, s'entre-tuaient. En Algérie, l'Algérien s'attaquait peu aux Français et évitait les rixes avec les Français. En France par contre, l'émigré créera une criminalité intersociale, intergroupes. En France la criminalité algérienne diminue. Elle s'adresse surtout aux Français et les mobiles en sont radicalement nouveaux.»

[232] An interesting parallel that could be open to future exploration might be a consideration of intra-communal violence in Indigenous Australian communities, such as the reports which led to the Northern Territory intervention in 2007.

significance of events like *'les tournantes'* and 'the Sydney gang rapes' becomes clearer and the reason why the formulation of adequate responses emerges as so difficult.

To further demonstrate this point it is helpful to refer back to cinematic attempts to represent the *banlieue*. The 1995 film *La Haine* is frequently invoked as the classic example of the emergent genre of *banlieue* cinema (Orlando 2003). Unsurprisingly, the film's narrative revolves around the homosocial bond of three marginalised young men of the *banlieue* in a world replete with racism and sexism. The *banlieue* is represented as devoid of any female agents (only mothers and carefully policed sisters make fleeting appearances) and the only interaction the men have with women is their botched attempt to flirt with white French women at an art exhibition they have gate-crashed in central Paris. After failing to convince the women of their charms, the 'heroes' become aggressive and hostile. They rampage through the exhibition, destroying glasses and causing chaos before running off into the night.

This equation of social marginalisation with masculine aggression may hold some merit. However, it also paints too simplistic a picture for the same reasons identified above. Equally, attempts to read *La Squale* as the 'female equivalent' of *La Haine* (assisted by the fact that hip hop artist Cut Killer provided parts of the soundtrack for both) ultimately fail because, as discussed in the previous chapter, while *La Haine* is focussed on the racism and social exclusion experienced by *banlieue* residents in the outside world*, La Squale* remains predominantly situated within the *banlieue* space and makes few comments on racism or socio-economic factors of exclusion, concentrating instead on gender relations (as discussed in the previous chapter).

The reproduction of the public/private, male/female binary in these two films is notable as is the relevance of race to male lives and sex to female lives. It cannot be incidental that the markers of race and gender have frequently been demonstrated as resulting in unequal enjoyment of citizenship in nationalist discourses. Through

difference being characterised as a problem of ethnic minorities and women, the stability of dominant white male national identity remains unchallenged. As a result, these films inadvertently offer a perceptive explanation for the significance of the rapes to both the rapists and dominant French society by reinforcing existing stereotypes regarding normative gender identity and 'nasty *banlieue* men'.

8.3.3 Homosociality in the *Banlieue*

In summaring her fascinating interviews with young men of the *banlieue*, many of whom had participated in a *tournante*, Christelle Hamel notes, "gang rape demonstrates how much male sexuality is structured by a hierarchy between the sexes and solidarity between men"[233](2003, p91). This seems to mirror Anne Cossins' (2000) argument in relation to perpetrators of sexual violence against women and children, elaborated on earlier in this thesis. Hamel includes excerpts of her interviews in which the men refer to 'sharing' a woman as being simply an extension of their fraternal bond in which *everything* is shared. This, as Hamel points out, is a common feature of groups of men who place great value on homosocial bonding. She invokes the example of the US American fraternities, also discussed in chapter two of this thesis. The controversy surrounding a 'gang bang' tradition associated with Australian sporting teams also comes to mind. Indeed the parallel is striking between Hamel's quote from 'Marouane' (one her interviewees) that the fraternal relationship between the men means, "tu fais tourner tout c'que t'as" ("you share everything you have") and the comment by St Kilda Saints coach Grant Thomas:

> There's a sense of camaraderie about a gang bang where you have a good mate and you will share a woman with a good mate. It's a very binding act with you and your friend, with you and your mate. The sense of camaraderie would probably be the biggest aspect of it. You do everything together (Philadelphof-Puren 2004, p44).

In all of these articulations, the woman is represented as a: an object to be possessed, exchanged, offered or taken by male agents. In the context of the discussion in previous chapters on the construction of nation, gender and normative

[233]« [l]e viol collectif révèle combien la sexualité masculine est structurée par la hiérarchisation des sexes et par la solidarité entre homes.»

sexuality, this is unsurprising: all of these discourses rely on the objectified passivity of the female body. It is also here that similarities with the Australian media discourses can once again be identified: while in both France and Australia the bodies being violated are those of women, the significance of the rapes in public discourses seem to suggest that outrage regarding these rapes has more to do with regulating relationships between groups of men. Whether it is the need to 'protect our women' (as in the case of Australia) or the need to 'liberate their women' (as in France), the women themselves appear to serve more a symbolic role than to be considered active agents.

The construction of sexism as a cultural problem has not only been the result of dominant discourses of the Right, but is too frequently endorsed by responses either from within the ethnic community or of the Left that appear to make excuses for existing gender orders and relations in ethnic minority/immigrant communities (often based on sexism and misogyny) under the guise of cultural tolerance. In fact, this tolerant, 'anti-racist' approach itself often makes resort to racialised (and racist) stereotypes of normative female and male identity and sexuality in order to articulate its position.

As a result, these positions not only fail to take into account the power structures operating within minority communities - where sexist interpretations of culture and tradition legitimate male domination but do not necessarily go unchallenged by women within the communities - it also justifies and legitimates racial hierarchies on the basis that white society *is* superior due to its greater commitment to gender equality. The inability of those seeking to oppose both racism *and* sexism to articulate a position which allows for the two forms of discrimination to be understood as mutually reinforcing means they remain unable to articulate a position that is not already set out within hegemonic discourses and which does not seek to privilege one identity (gender/race) over the other: an approach which only leads to the undermining of both.

That this normative view of sexuality is reproduced within both critics and defenders of the *banlieue* provides little opportunity for greater exploration and deconstruction of the categories of race or gender. The acceptance of a certain (sexist) sexual order as an essential characteristic of ethnic minority cultures by both dominant 'mainstream' French society and the communities themselves suggests that the sexual agency and autonomy experienced by French women is an inherent feature of French culture and civilisation. As discussed in part one of this thesis, this conceptualisation of feminism as the exclusive domain of Western European women was frequently used as an example of European superiority throughout France's colonial period.

This negates all examples – past and present – where women of dominant French society have been subject to discriminatory, sexist structures, practices and attitudes. Meanwhile, the endorsement of this view by ethnic minority communities serves to reinforce male patriarchal order within these communities, denies any possibility of a culturally-contextualised feminist politics to emerge and leads to women such as those affiliated with *Ni Putes Ni Soumises* being forced to straddle a space in which they must conform *either* to their ethnic identity *or* a (white) feminist identity. In writing about the first *affaire du foulard*, Etienne Balibar's remarks seem equally applicable to the issue of *'les tournantes'*: "Fatima, Leila and Samira were taken as hostages and became pawns between two antagonistic phallocracies" (*Libération*, 3 November 1989, cited in Lloyd 2003, p105). Again the battle becomes one 'between men'.

CHAPTER NINE: THE '*BEURETTE*' AND THE REPUBLIC

9.1 INTRODUCTION

In spite of the conclusion in the previous chapter - that the issue of *les tournantes* can be characterised as a battle 'between men' - some female voices have emerged and claimed prominent positions in the French public sphere. In particular this chapter will explore the discourses of gang rape victim Samira Bellil and the *banlieue* women's organisation she was associated with, *Ni Putes Ni Soumises* (NPNS).

9.2 TESTIMONY OF A SURVIVOR - *DANS L'ENFER DES TOURNANTES*

Released in 2003 the book is narrated in the first person by Bellil as she details her experience of surviving a dysfunctional and abusive childhood, three gang rapes and an adolescence struggling to come to terms with her trauma without support. It provides a useful point of comparison with the autobiography of Sydney gang rape victim, Tegan Wagner (discussed in chapter five).

9.2.1 '*Ma Propre Verité*': Self-Narrative as 'Truth'

As noted in chapter three, a central feature of autobiographical writing is the concept of 'truth'. The attempt to present 'the truth' of the author's lived reality is both an objective and ultimately an impossibility. In her discussion of the writing process, Bellil provides an excellent example of this point. While there do seem to be attempts by both her collaborator left-wing journalist Josée Stoquart and the publishers to frame *Dans l'enfer des tournantes* as having broader significance (discussed below), Bellil is in fact quite explicit in her explanation of the book as a personal voyage. Having attempted various means of achieving a sense of closure of her past, she states that she finally came to the conclusion that, "my salvation would

be [writing] a book"[234] (2003, p296). Bellil situates her book as a means by which she seeks to come to terms with her trauma and anger arising from both her experience of gang rape and the subsequent lack of support she received from family, friends, community and state institutions alike:

> I didn't want my story to remain a secret, locked in Fanny [her psychologist]'s office. To get myself out of my misery it took me many years of hard work and a lot of suffering. Would it be fair that those responsible for this waste be allowed to sleep easily at night ? That K and his mates [the perpetrators of two of her gang rapes], the lawyer, the children's advocacy service [that did not help her], social services and my parents should sleep easily ? It would be too easy for me to just shut up, to appear happy, have children and never speak of it again. No I wanted to share the cost. There was no reason why I should have to pay for this all myself. So nobody had ever wanted to listen to me, well they would have to read me instead![235] (2003, p299)

She thus frames her book as an attempt to hold to account her rapists and the many individuals and organizations she sees as having failed her. She rejects the implication that her book as an act of revenge. Rather she identifies it as an attempt to finally make others aware of the personal suffering she perceives as having been ignored, played down and/or ridiculed. In this way her book bears a close resemblance to Wagner's text discussed in chapter five.

However, while Wagner's text is framed as a personal account of one individual,[236] Bellil's is presented as emblematic of the broader experience of women of the *banlieue*: her experience just one example of, "sexual violence that has become

---

[234] «ma délivrance sera un livre.»

[235]«Je ne voulais pas que mon histoire reste au secret, dans le bureau de Fanny. Pour sortir de mon malheur, il m'a fallu des années d'efforts et beaucoup de souffrance. Serait-il juste que les responsables de ce gâchis dorment tranquilles? Que K et ses potes, que l'avocate, que l'association et les services sociaux, que mes parents eux aussi dorment tranquilles? Ce serait trop facile pour tous que je me taise, que je parvienne à être heureuse, que je fasse des enfants et qu'on n'en parle plus! Non, je veux partager la facture. Il n'y a pas de raison que je la paye seule. Puisqu'on n'a jamais voulu m'écouter, on va me lire! »

[236] The backcover of Wagner's book reads: "On June 14, 2002, Tegan Wagner, then 14 years old, thought she was going to a party with friends. Instead, she found herself trapped in a house with a group of older boys she had never met before. She was gang-raped that night by three brothers.
What followed forms the basis of Tegan Wagner's riveting story as she struggled to cope with the fallout from that horrific night…Chilling, unforgettable and ultimately inspiring, this is both a cautionary tale and a story of heroism in the face of unimaginable violation and anguish."

instutionalised and normalised in the *cités* (housing estates) and *banlieues* (working-class suburbs)"[237] (Bellil, back cover).

This could be seen as an attempt to draw on the testimonial tradition – discussed later in this chapter – which has been used particularly by Latina and Chicana writers as a form of political activism. Yet, unlike the text by Fadela Amara discussed below, which seems to consciously invoke this comparison, in the case of Bellil this seems to be more something imputed to her text by Stoquart and the publishers. As noted above, Bellil is very explicit in identifying her text as a personal account of her own experience. She goes on to explain the process by which this was done:

> Everything was expelled and written, clarified by Josée [Stoquart – her collaborator and mentor], reflected on again and then, finally, digested and integrated. Then the process would all start again, fed by new elements that had emerged. It was necessary to take the time to allow things to mature inside me and every stage had its meaning.
>
> Progressively, everything was set out and put in place, like a puzzle being pieced together. I recovered my memory and was able to situate events in my life that I had not been able to reconcile at the time. Horrible memories that I had suppressed came back to me. Memories which I was able to imbue with new meaning over the course of my evolution.[238](2003, p302)

In this way, Bellil's account becomes a form of therapy in itself; an attempt to make sense of her experiences rather than simply re-telling them. In expressing her aims in writing this testimony, Bellil asserts:

> I have been honest and lucid, as much as I could be. I wanted to show the extent of the negligence of my family, those around me, my lawyer, social

[237] « la violence sexuelle qui s'est institutée et banalisée dans des cités et des banlieues.»

[238]« Lorsque tout avait été extirpé et écrit, clarifié par le regard de Josée, réfléchi de nouveau puis, enfin, digéré et intégré. Ensuite, tout recommençait, alimenté par de nouveaux elements. Il a fallu installer du temps pour que les choses mûrissent en moi et toutes ces étapes avaient leur sens. Progressivement, tout s'est délié et s'est remis en place, comme un puzzle que l'on reconstitue. J'ai retrouvé la mémoire et j'ai pu replacer des passages de ma vie que je ne situais pas dans le temps. J'ai ressorti des souvenirs terribles que j'avais occultés. Souvenirs auxquels j'ai donné un nouveau sens, à la lumière de mon évolution. »

> services who abandoned me as well as the traumas of the rapes. This book is about presenting my truth.[239] (2003, p300)

In this statement she both accepts that her account cannot ultimately be a disinterested recounting of her life (hence her proviso, 'as much as I could be') but also asserts a certain essential truth behind her narrative: *her truth*. The fact that she identifies this as 'her truth' situates this autobiography as not simply a factual statement of events but a discourse of identity. In attempting to read Bellil's truth, the reader is presented with an amazing insight into her habitus: her embodied subjectivity, her attempts at agency and the external structures of domination against which she struggles and which she also internalises.

However, before considering the truth Bellil seeks to assert, it is important to situate her text. As also noted in chapter three, autobiography is marked not simply by the relationship of the individual author and their text. After all, the author and the text exist within a particular social context, which impacts on *which* voices are heard and *how* their texts are read. Bellil's status as a postcolonial French subject is significant here.

Postcolonial scholar Gayatri Spivak writes:

> ...if one looks at the history of post-Enlightenment theory, the major problem has been the problem of autobiography: how subjective structures can, in fact, give objective truth. During these same centuries, the Native Informant [was] treated as the objective evidence for the founding of the so-called sciences like ethnography, ethnolinguistics, comparative religion, and so on. So that, once again, the theoretical problems only relate to the person who knows. The person who *knows* has all the problems of selfhood. The person who is *known,* somehow seems not to have a problematic self. (Suleri 1992, p123)

Thus Spivak points out that not only is the concept of 'objective truth' in autobiography problematic, but added to this relations of colonial domination create further difficulties in how the truth of the former-colonised subject can and should

[239] « J'ai été sincère, j'ai été lucide, le plus que j'ai pu. J'ai voulu montrer à quel point la negligence de ma famille, de mon entourage, de l'avocate et des services sociaux m'a délinguée, en plus des traumatismes des viols. C'est de ma propre vérité qu'il s'agit dans ce livre.»

be read. For this reason, Spivak argues that the struggle of the subaltern to be heard in the post-colonial world must be positioned within this historical context of colonial relationships of power whereby gathering information from and of the 'native' provided a means of knowing and controlling the colonised. It is thus not insignificant that Bellil should be of Algerian origin.

9.2.2 Testimony and The Role of the Collaborator

In the context of testimonies of North African immigrants in France, Bellil's is not the first. As Hargreaves documents, the publishing of testimony of the North African experience in France is a genre that has been around since the 1970s (2006, p43). The first of these kind of narratives to emerge were texts like "Journal de Mohamed" and "Une vie d'Algérien, est-ce que ça fait un livre que les gens vont lire?" which sought to provide an insight into the lives of North African male immigrants living in France. With the case of the former text, "Le Journal de Mohamed", while it was presented as providing Mohamed the opportunity to voice his experience to the broader French society, it was done through the medium of a sociologist, Maurice Catani, who transcribed and edited the transcripts of Mohamed's oral testimony and an introductory remark was provided by the series editor to situate the text by giving some government statistics on immigrant workers (Hargreaves 2006, pp43-44).

Hargreaves goes on to trace the developments in these forms of narratives since the 1970s to identify a recently emerged group of testimonies, this time from the perspective of young women of immigrant origin. He documents five such testimonies published by second-generation Maghrebi women since 1990. Each of these has been with explicit collaborators, mainly journalists from the left (Hargreaves 2006, pp46-47). Bellil's book is one of these. Hargreaves problematises this process of collaboration, questioning whether this echoes too closely colonial relations of domination through the reinforcement of stereotypes passed off as 'personal experiences' (therefore legitimate and authoritative) that have in fact been appropriated, regardless of the author's intentions.

Hargreaves' article provides a useful overview of the ways in which testimonies by immigrants have been co-opted in France, however he ultimately distinguishes Bellil's experience to others who he sees as more dispossessed. Yet it is argued that a closer reading of Bellil's text and the social context within which it is situated suggests Hargreaves' dismissal may be premature. While it is true that Bellil does claim control and ownership of her narrative, she is not spared Stoquart's asserted role as the intermediary through which she must speak to be heard. The very fact that Stoquart's remarks appear as a preface which will be read prior to Bellil's own narrative means the testimony has already been positioned.

Furthermore, Stoquart maintains a position of dominance in her explanation for how the book came to be written:

> I could have chosen to interview Samira and written her story myself but I preferred to let her write it. This was firstly because she has an intense and evocative style of expression. Secondly – and more importantly – because she already had a place to speak and to write provided her with another way to work on herself".[240] (2003, p15)

In this way, she positions herself as the benevolent overseer, allowing Bellil to express herself in her own words but (implicitly) telling a story that Stoquart endorses. This is very clever. As Julia Watson and Sidonie Smith point out, "[r]eaders also have expectations about who has the cultural authority to tell a particular kind of life story, and they have expectations about what stories derived from direct, personal knowledge should assert." (2001, p30)

Thus, it is not necessarily as an act of empowerment that Bellil is allowed to tell her story but the perceived increased authoritativeness the story has when told through the voice of someone directly implicated. A similar example of this is Paul Sheehan's use of transcripts of Tegan Wagner's words to provide authoritativeness to his 'common-sense' linking of the gang rapes with problematic Muslim

[240] « J'aurais pu choisir d'interviewer Samira et d'écrire moi-même son histoire. J'ai préféré la laisser écrire. D'abord parce qu'elle a un mode d'expression intense et imagé, ensuite et surtout parce qu'elle a déjà un lieu de parole et qu'écrire est un autre travail sur soi. »

masculinity.[241] Ultimately in Wagner's case, she is able to assert her voice through her own autobiography and in doing so expressly rejects the link proposed by Sheehan (see chapter five). Bellil, as the later analysis will demonstrate, is less effective in this regard thus increasing the impression of her role as one of the problematic "native informant" identified by Spivak (above).

It is also important to reconcile the tone of the book which gives the impression of Bellil presenting an unadulterated self-narrative (it is written in a conversational style and draws heavily on slang) and the fact that it is presented as, 'avec le soutien et la collaboration de Josée Stoquart'. In the words of Bakhtin: "Language is not a neutral medium that passes freely and easily into the private property of the speaker's intentions; it is populated – overpopulated – with the intentions of others." (Bakhtin 1981, p294). In this case Bellil's personal account and attempt to come to terms with incredible suffering must be read within the framework of the preface written by Stoquart:

> It seems that within these areas, euphemistically called, "sensitive", where the majority of the families are of immigrant origin, it is difficult to situate a place for the woman. Certain young men are pulled between the strict discipline of their cultural origins (religious fundamentalism, the untouchability of the woman, polygamy) and a cultural environment which is heavily eroticised...These adolescents have no point of reference and are not conscious of the gravity of their actions. For them, "la tournante" is a game and the girls, the objects.[242] (2003, pp12-13)

Through the positioning of Bellil's testimony within this broader social context, Stoquart reframes the book away from being an individual process of Bellil expressing her anger and seeking recognition of her suffering. *Dans L'enfer des tournantes* becomes emblematic of the situation of women in the *banlieue* and, more specifically, the problems associated with immigrant communities and their cultures.

---

[241] Discussed in chapter six.

[242] «Il semble que dans ces quartiers que l'on dit pudiquement 'sensibles', où la majorité des familles est issue de l'immigration, il soit difficile de donner sa place à la femme. Certains jeunes sont pris entre le rigorisme de leurs origines culturelles (intégrisme religieux, intouchabilité de la femme, polygamie...) et un environnement culturel très fortement éroticisé....Ces adolescents n'ont plus aucun repère et ils n'ont pas conscience de la gravité de leurs actes. Pour eux, la "tournante" est un jeu et les filles, des objets.»

Furthermore, Stoquart's passing references to religious fundamentalism, polygamy and the situation of women contains a less than subtle implication of an ethnic/religious cultural context within which Bellil's abusive childhood and *'les tournantes'* should be read.

In her celebration of Bellil's achievement, Stoquart promotes an image of individual liberation from the otherwise pitiful existence of young women in the *banlieue*: "Ce livre lève le voile sur la condition insupportable de certaines jeunes filles qui y vivent, tiraillées entre deux servitudes: obéir en restant enfermées à la maison ou risquer, dans la rue, devenir la proie des bandes et de leur sauvagerie sexuelle."(2003, pp11-12) The imagery evoked fits nicely within the dominant stereotype of the 'average Third World Woman', Chandra Mohanty identifies as central to Western (feminist) discourses:

> This average Third World woman leads an essentially truncated life based on her feminine gender (read: sexually constrained) and her being "Third World" (read: ignorant, poor, uneducated, tradition-bound, domestic, family-oriented, victimized, etc). This, I suggest, is in contrast to the (implicit) self-representation of Western women as educated, as modern, as having control over their own bodies and sexualities, and the freedom to make their own decisions. (Mohanty 1997, pp258-259)

The particular terminology of 'lifting the veil' is not only evocative of the *affaires du foulard* that are read alongside – and linked to - the instances of sexual violence but also of the colonial preoccupation with the *hijab* discussed in chapter three. This image is cemented in the preface to Bellil's book with Stoquart presenting a self-congratulatory and patronising account of her role in 'liberating' *'la petite beurette*', an experience which gives Stoquart a own personal sense of achievement; "it is a great opportunity to help in the liberation of a being" [243] (2003, p16). The echo of colonial Republican feminist rhetoric of liberation detailed in chapter three is striking. One is left with the impression that once again this poor 'Third World Woman' was incapable of freeing herself but required rescuing, just as the colonised woman required the colonial 'civilising mission'. As Valerie Amos and Pratibha

[243] « c'est une grande chance que de participer à la libération d'un être»

Parmar explain: “Feminist theories which examine our cultural practices as ‘feudal residues’ or label us ‘traditional’, also portray us as politically immature women who need to be versed and schooled in the ethos of Western feminism. They need to be continually challenged.” (Mohanty 1997, p260)

Yet Bellil’s ability to challenge this relationship with Stoquart is questionable. As discussed above, Bellil states that writing the book was her idea: she explains the process as a form of self-therapy and notes that she was solely responsible for the first draft. However she goes on to add that her psychologist put her in contact with journalist Josée Stoquart who acted not only as her collaborator but her mentor throughout the writing process.

While Stoquart apparently did not take an active role in writing the book, she was not completely uninvolved in the process: “She decided that I alone should do the writing and she took responsibility for restructuring my drafts and shaping the text. She assured me she would support me throughout the writing process, through asking questions, challenging me and encouraging me.”[244] (2003, p301). Thus, throughout the writing process - from Bellil’s description - Stoquart played a role in shaping the form Bellil’s narrative took. Bellil describes a feeling of apprehension experienced each week when she presented her writing to Stoquart (2003, p303) and how the latter’s interventions and comments impacted on both her own self-perception (“How she listened, her questions and her reactions slowly changed my perception of myself”[245]: 2003. p303).

Bellil is not unconscious of the risk of co-option. For example, she recounts an incident when she was asked to appear on a popular television programme and refused on the basis that she did not want to pour out her heart for the benefit of audience ratings and in support of people whose interests were not the same as her

[244] « Elle décida que c’était à moi seule d’écrire et qu’elle se chargerait de restructurer mes textes et d’en reprendre la forme. Elle m’assura qu’elle me soutiendrait tout au long de l’écriture, par ses questions, ses confrontations et ses encouragements.»
[245] « Son écoute, ses questions et ses réactions ont petit à petit changé ma vision de moi-même»

own.[246] Yet, while Bellil expresses a desire to confront not only the gang rapists and her family but also the public institutions which she also feels let her down, Stoquart's message is far narrower: "We have seen, since the 1980s, the rise in power of the phenomenon of the gang with the central figure of the little *caïd* for whom the number of gang rapes, 'the trapping of a slut', as they call call it, are a mark of status."[247] (2003, p11) There is no mention of the failings of the justice system or the institutions and social services in this preface. Instead, Stoquart provides statistics of the number of reported gang rape cases involving minors, which can only be described as alarming, allowing her to conclude that Bellil's story is far from unique. The figure of the '*petit caïd*' [248] serves as the symbol of the suffering Bellil and many other young women in the *banlieue*, have had to endure.

This description can be contrasted with an incident Bellil recounts, following her first television appearance to talk about her book:

> I crossed a young guy : dressed in baseball cap, baggy tracksuit and sneakers, typical of one of those the media call 'the young *caïds* [thugs] of the *banlieue*. He knocked into me in the [train] carriage ! I think ok, all the open arms and smiles I had been experiencing were too much. I prepare myself straight away with my guns blazing, ready to shoot down his words. But timidly and discretely he says to me, 'You spoke brilliantly yesterday !' I frankly admit that in the space of a fraction of a second, I felt very stupid! And unfortunately the time it took me to realise, the doors of the carriage had already closed. I only just had time to give him a smile of thank you. Because coming from *one of those we frequently demonise too quickly*, it touched me deeply.[249] (2003 p306, emphasis added)

---

[246] « sa seule préoccupation à lui, c'est l'audimat»(2003, p282)

[247] « On assiste, depuis les années 80, à la montée en puissance du phénomène de bande, avec une idéalisation de la figure du petit caïd pour lequel le nombre de viols en réunion, les 'plans pétasse', comme il les nomme, est un titre de gloire.»

[248] The term caïd is frequently employed in the context of young men of the *banlieue*, to signify the 'gang leader'. It is interesting to note that the term was used in the colonial context to identify the North African colonial officer who was charged with enforcing the colonial regime over local people and answerable to the French. When considering the evolution of the use of this term in French, one is left wondering whether the underlying idea of the caïd as the intermediary and ultimately the fallguy for France remains.

[249]« ...j'ai croisé un jeune mec: casquette-survêt-basket, typiquement l'un de ceux que les médias nomment 'les jeunes caïds de banlieue'. Il me bouscule dans le tram! Je me dis alors que tous les bras ouverts vers moi et tous les sourires étaient trop beaux! Je m'apprête déjà à sortir mon 'lances-flammes' pour l'incendier en paroles, Mais timidement et discrètement il me dit: ' Eh! T'as parlé mortel hier!' J'avoue franchement que l'espace d'une fraction de seconde, je me suis sentie très conne! Et malheureusement, le temps que je réalise, les portes du tram s'étaient déjà refermées. J'ai à peine

In recounting this anecdote Bellil seems to understand the risks associated with publishing her story as anything other than a personal testimony. This risk of stigmatisation and the need to move beyond stereotyping does not appear to affect Stoquart or perhaps, as Hargreaves (2006, p50) notes, the commercial and/or other ideological value of creating this clear enemy is too strong.

However, returning to Bellil's encounter with a television reporter, Bellil explains:

> she 'advised' me not to talk about '*les tournantes'*, or the reality of life in the *cités*, or the failed trial, or the organisation that is supposed to help children but in fact helps no one, because it risked being too shocking for the viewers. She also didn't want me to mention my difficulties with the [first, female] lawyer. I began to ask myself why I was even there. Sure, I wanted to tell my story in front of the whole country but not at any cost.[250]

Bellil's anger about having to 'sanitise' her account is understandable. Furthermore, it adds weight to the question, why were 'l*es tournantes'* at one stage considered too shocking or provocative to talk about publicly and only a few years later a topic of national concern and debate? Perhaps part of the answer to this question can be found in Stoquart's reference to Bellil as '*la petite beurette*' (2003, p16).

9.2.3 'La petite beurette'

The label '*beur*', while initially a self-referential term used by young people in France of North African origin has increasingly been appropriated in mainstream public discourses, leading to its rejection by those it is meant to describe. As

---

eu le temps de lui faire un sourire pour le remercier. Parce que, venant *d'un de ceux que l'on stigmatise souvent trop vite*, cela m'a profondément touché.»

[250] «elle me "conseille" de ne pas parler des "tournantes", de la réalité des cites, du process loupé, de l'association d'aide à l'enfance qui n'aide personne, car cela risquerait de choquer les téléspectateurs. Ell ne veut pas non plus qu'on mentionne mes déboires avec l'avocate. Je commence à me demander pourquoi je suis là. Certes, j'ai envie de témoigner devant la France entière, mais pas à n'importe quelles conditions. » (2003, p281)

Hargreaves notes in relation to the comments of journalist Sophie Ponchelet who collaborated on another published testimony of a Maghrebi woman:

> Ponchelet notes that many second-generation Maghrebis hate to be referred to as 'Beurs', but this does not prevent her from labelling Benaïssa as 'une jeune Beur'....For Ponchelet and the publisher of the book, Payot, the commercial value of the 'Beur' label clearly outweighs sensitivity towards those who resent being designated in this way. (2006, p50, citations omitted)

By drawing on this commercial value associated with '*beur*' identity, situating Bellil's account as that of a '*beurette*' could be seen as capitalising on the economic interest. However, it is also significant that the specific feminine form carries a particular ideological weight. As noted in chapter three, postcolonial feminists have pointed to the increasing appropriation of young Muslim women's bodies as battlegrounds in French public discourse on immigration, ethnicity and national identity. The *'affaires du foulard'* provide one example of this and, it is argued *'les tournantes'* provide another. But even aside from these two particularly mediatised events '*la beurette*' has emerged as a highly ideologically charged figure within the French public sphere: a point further elaborated upon in the next section on *Ni Putes Ni Soumises*.

It is worth noting that the increased concern with the condition of immigrant women in both mainstream and more right-wing conservative political discourses is a trend that has emerged throughout Europe since at least the 1990s,[251] as well as in the developed West more generally.[252] However, in the French context the '*beurette*' has been particularly significant due to her compatibility with the language of Republican values. In her book, *Des Beurettes*, Guénif-Souilamas (2000) explores the emergence of three central themes in discourses on women of North African

[251] For example, for a discussion of this in the context of Norway and the Netherlands see Akkermann and Hagelund (2007); see also Razack (2004). The emergence of Dutch politician and Somali refugee Ayan Hirsi Ali as an internationally recognised figure is also a powerful example: her criticism of Islam has provided the justification for many right-wing, anti-immigration political campaigns in the Netherlands and the US where she now resides.

[252] See Razack (1998, 2004) for Canadian egs; the Australian context has already been discussed in Part Two of this thesis.

origin in France; the eroticisation of Arab girls' bodies,[253] the portrayal of their successes in school suggesting the triumph of integration (even when indicators point to the contrary) and the idea of a greater loyalty among young North African women to the French Republic than their male counterparts.

In contrast to *l'exception française,* which has been associated with a harmonious relationship between the sexes (see chapter three), the constructed relationship between men and women of immigrant origin in France has tended to conform to the 'war of the sexes' rhetoric associated with the Anglo-Saxon world as the review of media discourses in the previous chapter demonstrates. While '*Français et Françaises de souche*' are conceived of in complementarity (Agacinski 2002), *'le garçon arabe'* (Guénif-Souilamas and Macé 2004) and '*la beurette'* have been constructed as adversaries. *'Le garçon arabe*' – like the 'Lebanese Muslim man' in the context of Australia - is constructed as a 'nasty migrant'; one who disrupts the national order and at the same time provides justification for the reinforcement of nationalist myths. As discussed in chapter three, this construction is one that has been increasingly employed in French public discourses to justify the racism and social exclusion experienced by many multiple generation migrants in France and the increasing anti-immigration discourses. Yet, while '*le garçon arabe*' represents all that is threatening to Republican France, '*la beurette*' has been heralded as the symbol of Republican integration's success. As a result, while the place of men of North African origin is problematised through discourses of the *banlieues* and '*les violences urbaines'* (discussed in chapter three), '*la beurette'*, "is courted by French intellectuals who are prone to binary explanations and selective generosity" (Guénif-Souilamas 2006, p34).

It is therefore not incidental that Stoquart should describe Bellil as, '*la petite beurette'*. Through this, Bellil is placed in the position that Guénif-Souilamas identifies as common to those young women categorised as '*beurettes*' who are, "put

[253] Adding to Guénif-Souilamas' research, a cursory review of the internet seems to support the view that the label *'beurette'* has become a highly eroticised and sexualised term. While a Google search for the term 'beur' delivers results associated with ethnic minority radio, arts and anti-racism projects, the term *'beurette'* delivers almost solely pornographic and sex sites. See also Hamel 2005, pp97-98.

at the forefront of a reactionary movement that now has a single enemy: the macho suburban *garçon arabe*"(2006, p35). While Bellil attempts to resist this binary construction (see below), Stoquart's preface places Bellil's narrative within a very constrained space through which she must negotiate her identity and her relationships with fellow French subjects of immigrant, specifically North African origin.

This is significant for two reasons. The first is that an analysis of Bellil's narrative reflects her struggle between race consciousness and gender consciousness, positions constructed as oppositional by the *garçon arabe/beurette* paradigm. The second is, Bellil's positioning as 'representative' of the situation of young women of immigrant origin in the *banlieue*. Based on research conducted by Nacira Guénif-Souilamas, Bellil's struggle to identify a place within which to frame her desire for freedom and equality is shared by many young women of North African origin in France. In fact Guénif-Souilamas details what she describes as the struggle between 'subjection and subjectivity' (2006, p34) young women of North African immigrants remain caught in; on the one hand seeking to establish a degree of independence and freedom the restrictive patriarchal structures of their parents' home cultures, on the other struggling to find a place for themselves within 'mainstream' French society:

> I showed how they had interiorized the obligation to distance themselves from tradition to thus be seen as 'integrated' into French society. I stressed the fact that they were experiencing a double bind compelling them to express loyalty to two institutions normatively defined as opponents: their immigrant family and their assimilative nation-state. (2006, p34)

This 'interiorisation' invokes reference to the concept of *habitus* again but this point will be discussed later. First of all, in considering the 'double bind', Bellil's experience is illustrative. Close analysis of Bellil's narrative demonstrates, the ability to articulate a thorough class, gender and race consciousness cannot simply be implied by virtue of the woman's marginalised position. As Honor Ford-Smith notes in relation to gender and class consciousness in the context of 'grass-roots' women's organisations, there is a tendency to confuse class and sex origins with class and sex consciousness (Ford-Smith 1997, p257). In seeking to articulate her frustration and

sense of injustice, Bellil frequently struggles in terms of both her race consciousness and her gender consciousness.

Race consciousness

As Paula Stewart Brush describes in relation to the difficulties experienced by black women in post-civil rights US:

> By assuming that women of color always know and everywhere resist racial oppression, we short-circuit activism and ignore the need to raise consciousness – to identify, name, and strategize resistance to racial oppression. In sum, if the assumption of race consciousness is not deconstructed, it will be left behind in theory and practice, to the detriment of both feminism and progressive race politics. (2001, p195)

In looking at a description of racism experienced by a black female autobiographer, Brush argues the woman is, "without a discourse to explain her situation, to explain that and how this interpersonal situation is political. Indeed, she is without the words to name the kind of racism she experiences. Finally, she has no concerted form of resistance to offer." (2001, p187) Brush uses this and other examples found in the writings of post-black rights/civil rights US black women to question why the race consciousness of coloured women has been treated as a given. On the contrary she argues, just as black feminists have sought to question white women's assumptions of white privilege, there is a need for race consciousness to be cultivated among coloured women to provide them with a response to the everyday racism and effects of race that they experience.

While Bellil is highly critical of the state institutions she encountered following her rapes, she never frames this in terms of racism. For example, following her lodging of an official complaint with the police, Bellil describes an encounter with an association, which defends the rights of children. She records her interview with the woman assigned to her case whom she finds to be cold, unsympathetic and critical. After telling the woman her age, she is met with more criticism ("At fourteen

there is no reason to be out at such an hour!":[254] 2003, p84) and notes: "When I think that she had done years of study, that she defended children who had been sexually assaulted and yet her comments were at the same level as those of my parents, it kills me"(2003, p85).[255] She goes on to add: "the organisation which she represents is very well-known. There is even a famous French actress who did the advert... After this incident, I can't watch that ad without feeling the desire to vomit" (2003, p85).[256]

This passage is noteworthy for her relating of the similarities in response received from this educated woman from the 'French establishment' to that of her parents, uneducated, working class migrants. This passage alone would suggest that her condemnation of the gang rapes and her subsequent treatment is not limited to those within migrant communities but constitutes a wider problematisation of the treatment of victims of sexual violence. On the other hand, in concluding her description of her third rape in Algeria she notes:

> I realised that in this shit country, there was no justice because the police worked on *bakshish* [bribes]. I had already understood, from the policeman's eyes, that it wasn't worth insisting, there was nothing to hope for. I left it all there. The two thousand kilometres which separated me helped me not to think about it again, to try and forget what I could feel. I consoled myself by thinking, that at least in France there was a functioning justice system (2003, p136).[257]

Even as she subsequently relates negative experiences with the French justice system and questions whether there is in fact such a thing as justice, this does not lead her to reject the French system altogether. She perseveres and ultimately does achieve a small victory through a victim's compensation claim. While she dismisses

---

[254] «Mais à quatorze ans on a rien à faire dehors à cette heure-là!»
[255] «Quand je pense qu'elle a fait des années d'études, qu'elle defend les enfants aggressés sexuellement et que ses commentaires ne dépassent pas le niveau de ceux de mes parents, ça me tue.»
[256] «L'association qu'elle représente est super connue. Il y a même une grande actrice française qui en fait la pub...Après cet episode, je ne peux plus regarder cette pub sans avoir envie de vomir.»
[257] «J'ai compris que dans ce pays de merde, il n'y a aucune justice, car la police fonctionne au bakchich. J'avais déjà compris, dans les yeux du flic, que ce n'était pas la peine d'insister, qu'il n'y avait rien à espérer. Je laisse tout là-bas. Les deux mille kilometres qui m'en séparent m'aident à ne plus penser, à tenter d'oublier ce que je peux ressentir. Je me console en pensant que, au moins en France, il y a une justice. »

Algeria as holding nothing for her, she continues to struggle in France for recognition and justice. In this way, she demonstrates what Hargreaves (1997) has identified as 'incorporation'; while she is not oblivious to the racism and sexism existing in France, she recognises it as her place and seeks to assert herself as belonging to France, in the same way that France belongs to her, giving her the right to continue to struggle to claim a public voice.

However it is not only Algeria she rejects as holding any significance to her life. In describing her childhood she draws sharp distinctions between the traditional and violent culture of her parents and the loving, peaceful and 'civilised' environment of the Belgian host family:

> My parents are very Europeanised immigrants. However the after-effects of their upbringing have remained with them. They always went back to these methods : slaps and punches to make oneself understood and a kick up the ass to ensure it had gone in! I am the product of two traditions : two completely contradictory modes of living. From my parents I received a traditional education in which nothing was ever explained to me without slaps or screams or spitting. At the same time I received a more European education as a result of my childhood in Belgium with the foster family where my mother placed me…There life was peaceful and gentle. Papa Jean and Mum Josette were well-balanced, well-meaning people who gave me confidence and love.[258] (2003, p58)

Aside from this idealised family life she associates with her 'more European' upbringing in her host family, in referring to a period when she was taken into state custody as a result of parental abuse she states, "I was happy to be there, with the 'French', as they told me"[259] (2003, p108). In explaining why she became increasingly rebellious as a young adolescent she notes: "How was I supposed to understand what was being imposed on me here [with her birth parents]: this

[258]« Mes parents sont des immigrés, très européanisés, pourtant des séquelles leur sont restées de leur education. Il fallait agir comme avec eux: faire comprendre à coups de taloche, à coups de poing et à coup de pied au cul pour que ça rentre bien dans la tête! Je suis le fruit de deux traditions, de deux modes de vie complètement contradictories. J'ai reçu de mes parents une éducation traditionelle que l'on ne m'a jamais expliquée autrement qu'avec des coups, des cris ou des glaviots. J'ai reçu aussi une éducation plus européene, issue de ma petite enfance en Belgique, dans la famille d'accueil où ma mère m'avait placée…Là-bas la vie était douce et tranquille. Papa Jean et maman Josette étaient des personnes équilibrées et bienveillantes qui m'ont donné amour et confiance. »

[259] « j'étais heureuse d'être ici, chez des 'Français' comme on me disait. »

education of slaps and interdictions, this inequality between boys and girls, these invasive taboos – after what I had known with papa Jean and mama Josette ?"[260] (2003, p67). While understandable in the context of her personal experience, when framed as a narrative representative of the broader experience of '*la beurette*', Bellil's simplistic dichtomisation of violence, inequality and misery in her North African family and happiness, love and respect in her European (Belgian) family is highly problematic. It seems to adopt exactly the binary between the 'backward' colonised women and the 'enlightened' Metropolitan women of colonial Republican feminist discourse. So too, it reproduces what Mohanty (1997) and other postcolonial feminists identify to be the tendency among many contemporary schools of Western feminist thought: the 'backward' Third World that requires the intervention of the 'advanced' West.

The result is that Stoquart is not alone in her characterising and stereotyping of the 'average Third World woman'. In explaining her upbringing it is remarkable that Bellil draws on very similar imagery to that identified in chapter three, used by colonial Republican feminists. As she sees it, it is her rebellion against the cultural background of her parents and her attempt to gain access to the freedom and independence of a French ('Western') woman that is the cause of her problems: a point also relevant to the later analysis of Fadela Amara's text. Bellil remarks:

> In fact, my mother would have liked to have raised me as she had been raised in the village [in Algeria], the tough way. That's how it is with my people : the girls get it smack in the face, without flinching. I know my mother has had a tough life, that she has been the victim of a culture that treats women like dogs.[261] (Bellil 2003, p105)

Bellil sees her rejection of this role and her constant questioning of her position as a woman within the context of her immediate environment, populated for the most part with other people of immigrant (North African predominantly) origin

[260] « Comment comprendre ce qu'on m'imposait ici, cette éducation faite de taloches et d'interdiction, cette inégalité entre les garçons et les filles, ces tabous envahissants, après ce que j'avais connu chez papa Jean et maman Josette?»

[261] «En fait, ma mère aurait voulu m'élever comme elle avait été élevée au bled, à la dure. Chez nous, c'est comme ça, les filles s'en prennent plein la gueule sans broncher. Je sais que ma mère a eu la vie dure, qu'elle a été victime d'une culture où la femme est traitée comme un chien.»

as placing her in direct conflict with her family and the *banlieue* community. In describing the misery she experiences in her long-term relationship with Lyes, she exclaims:

> I don't want a life spent waiting for my man with the fear that one day he'll just pack up and leave. I don't want to prepare couscous while he lives his life in the outside world. I don't want to have kids in this disgusting *banlieue*. I don't want to reproduce my mother's life, 20 years on.[262] (2003, p224)

In rejecting the life of her mother and the women of the *banlieue* she sees around her, she largely places the blame on what she associates as North African culture and in particular North African men. While on the one hand she recognises that it is wrong to stigmatise *all* men of the *banlieue* (as her description of her encounter with the '*petit caïd*' following her first television appearance demonstrates), at the same time she remarks, "In this fucking *banlieue*, the guys are all made with the same mold. Lyes [her boyfriend] is the standard model. 'Good guys' are the exception"(2003, p225).[263] Similarly, while she is quoted in one article rejecting any link between her negative experiences with men and Islam (see Hargreaves 2006, p52), in another, when asked if she would ever enter into a relationship with a North African man, she exclaims, "With anyone in the world sure, but not someone of my culture! He'll either be a [religious] fundamentalist or a scumbag!" (Le Vaillant 2002)[264]

Gender Consciousness

It is not only in terms of race consciousness that Bellil struggles without a clear framework. Equally her experience of gender inequality and oppression is something she resists without being able to frame her position in a larger political or theoretical discourse. For example, her struggle to address dominant rape myths and

---

[262] « Je ne veux pas d'une vie à attendre mon mec, avec la hantise qu'il se fasse coffrer un jour ou l'autre. Je ne veux pas preparer la tchout-choucka pendant qu'il vit sa vie dehors. Je veux pas faire des mômes dans cette banlieue pourrie. Je ne veux pas reproduire ce qu'a fait ma mère, avec vingt ans d'écart. »

[263] « Dans cette putain de banlieue, les mecs sont tous fabriqués sur le même moule. Lyes est un modèle courant. Les 'gars biens' sont des exceptions.»

[264] «Avec toute la terre d'accord, mais pas avec quelqu'un de ma culture! C'est soit un religieux soit une racaille!». It is also worth noting that she uses the term 'racaille', as used by Nicholas Sarkozy, then Minister for the Interior in his controversial 'cleaning the *banlieue*' statement.

her own negative self-judgment is evident in her description of the rapes. She insists on her level of resistance and describes the violence meted out to her by K, the initiator of the first gang rape and the rapist in the second: "He didn't have any pity for me, he continued to hit me until I understood that there was no alternative for me other than to follow him if I wanted to stand a chance of staying alive." (2003 p30)[265]

Similiarly to Wagner,[266] in saying this she seems to feel the need to justify why she submitted and conform to the dominant conception of what constitutes "real rape"; that being a sexual act perpetrated by use of physical force.[267] Her rage is palpable when she notes:

> How many people would later say to me : 'I would have done this in your place...One should always defend oneself... Surprise the attacker, give him a kick in the balls...' etc. How many times have I heard these killer little sentences which filled me with guilt, these pitiless commentaries offered by people who have never been crippled by true fear. (2003, pp30-31)[268]

Yet while she sees this attitude as wrong, she also admits that a large part of her struggle to come to terms with her rapes was overcoming her own feelings of culpability:

> I thought I deserved what I had suffered because I wasn't a virgin anymore. For Muslims, to not be a virgin as a young girl is sacrilegious and I knew my father could kill me for this. I had slept with Jaïd. Plus I was a runaway and a thief. I didn't listen to either my parents or my teachers... I therefore didn't have the right to complain about being raped. I deserved it. That was definitely what people around me were saying, but it was also what I thought myself.(2003, p69)[269]

---

[265] «Il n'a aucune pitié pour moi, il continue à me frapper jusqu'à ce que je comprenne qu'il n'y a pas d'autre issue pour moi que de le suivre, si je veux garder une chance de rester en vie.»
[266] See chapter five.
[267] For further discussion of this see chapter two.
[268] «Combien de personnes me diront plus tard: 'Moi, j'aurais fait cela à ta place...On peut toujours se défendre...Suprendre l'agresseur, lui metre un coup de pied dans les couilles...', etc. Combien j'en ai entendu de ces petites phrases assassins qui me trouaient de culpabilité, de ces commentaries sans pitié faits par les gens qui n'ont jamais été sous l'emprise de la vraie peur.»
[269] «Je pense mériter ce que j'ai subi parce que je ne suis plus vierge. Chez les musulmans, ne plus être vierge pour une jeune fille est un sacrilege et je sais que mon pere pourrait me tuer pour cela. J'ai couché avec Jaïd. De plus, je suis fugueuse et voleuse. Je n'écoute ni mes parents ni mes profs...Je n'ai donc pas à me plaindre de m'être fait violer. Je l'ai cherché. C'est bien sûr ce qui se dit autour de moi, mais c'est aussi ce que je pense de moi.»

In writing the book she confronts this self-image and seeks to reject it but at the same time feels the need to stress both that she had only slept with Jaïd [the man responsible for her first gang rape] once and that she had been very much in love with him. She seeks to rebut the dominant Madonna/whore dichotomy within which rape victims are situated, yet at the same time cannot go as far as to assert a truly liberated position within which her own sexuality is not at all *en jeu*. Similarly, while she instinctively rebels against the stereotypes of gender behaviour imposed upon her, she struggles to articulate another conception of her subjectivity. She is critical of the restrictions placed on women of the *banlieue* and in particular those of North African origin:

> I felt trapped between the arbitrary obligations of my environment and my dreams of freedom. I wanted to be free, not to live as a submissive, not cloistered up at home, like those women I saw around me. I wanted the same freedom as a guy : to breathe, live life to the full, what could be more natural ? (2003, pp24-25)[270]

However she simultaneously appears to seek status and acceptance within those models of behaviour. For example, in her description of the beginnings of her relationship with Lyes she tells herself, "I didn't hold any illusions. A chick like me was just for fun, smoke a joint with. With the baggage I carried, I wasn't a chick with whom to stay, to plan a future with, to marry" (2003, p153).[271]

In asserting her ultimate desired relationship she conforms easily with standard heteronormative constructions of gender identity, the idealised form of sexual and familial relationship on which the nation is premised[272]: [w]hat I want is a normal guy, who comes home in the evening, speaks to me, finds me beautiful, is interested in the education and upbringing of his children. Just a regular guy, You

[270] «Je me sentais tiraillée entre les obligations arbitraires de mon milieu et mes rêves de liberté. Je voulais être libre, ne pas vivre soumise, ni enfermée à la maison, comme celles que je voyais autour de moi. Je voulais la même liberté qu'un mec: respirer, croquer la vie, quoi de plus naturel?»
[271] « ...je ne me fais pas d'illusions. Une meuf comme moi, c'est pour rigoler, taper un joint. Avec le lourd dossier que je traîne, je ne suis pas une meuf avec qui on reste, on projette un avenir, on se marie.»
[272] Elaborated in chapter two

know!" (2003, p226).[273] Her happiest description of a relationship is with a younger man she meets while completing a training course to work as an entertainer/activity organiser (*animatrice*) at holiday resorts: "With him I was a woman, I was beautiful, even when I slept. He would wake me with breakfast in bed, kisses, bouquets of roses. He would take me to a restaurant and under my napkin I would find a little surprise." (2003, p228)[274]

This conformity with all the dominant stereotypes of 'romance' is touchingly personal but also demonstrates an unconsciousness of the problematic nature of this construction of femininity and gender roles. Of course Bellil is under no obligation to do this in the context of describing her own personal sentiments. However, it is important to remember that she has been presented as providing a 'feminist voice' (especially in her role as one of the figureheads of *Ni Putes Ni Soumises*). In reality Bellil's struggle with the restrictions, violence and injustice she experiences are unaided by feminist discourses. Ultimately she struggles to articulate her experience and fight for subjectivity within the boundaries of dominant discourses of race, ethnicity, gender and sexuality.

9.2.4 Between a rock and a hard place: how to reconcile the 'postcolonial' with the 'feminist'?

It would seem that the situating of Bellil – both through her own narrative and how her book is positioned - within the confines of the 'average' young woman of North African origin in France could be seen as evidencing Gayatri Spivak's argument that women as subordinated groups are limited in expression to the language of those who have subordinated them. In this way, Spivak (1988) argues that it is not that the subaltern cannot speak at all but rather that she is constrained by having to use the discourse of the dominant. It becomes impossible for her to construct an experience or an act of resistance in anything other than the very language that placed her in the subordinated position in the first place.

---

[273] «[c]e que je veux, c'est un mec normal, qui rentre le soir, me parle, me trouve belle, s'intéresse à l'éducation de ses enfants. Un mec normal, quoi! »

[274] «Avec lui je suis femme, avec lui, je suis belle, même quand je dors. Il me réveille avec des petits déjeuners au lit, des bisous, un bouquet de roses. Il m'emmène au restaurant et sous ma serviette, je découvre parfois une petite surprise.»

As Susheila Nasta puts it:

> In countries with a history of colonialism, women's quest for emancipation, self-identity and fulfilment can be seen to represent a traitorous act, a betrayal not simply of traditional codes of practice and belief but of the wider struggle for liberation and nationalism. Does to be 'feminist' therefore involve a further displacement or reflect an implicit adherence to another form of cultural imperialism? (Nasta, 1991, pxv)

In this way, the ethnically identified 'postcolonial woman' exists in a liminal space, torn between loyalty to an ethnic identity and that of being a 'woman'. As Trinh Minh-Ha (1989) explores in her book *Woman, Native, Other*, women are frequently forced to choose their loyalties based on hierarchical approaches to race and gender. In either case they are forced to adopt discourses, which have been used to legitimate or reinforce their subordinate positions, either on the basis of gender or ethnicity/race.

Bellil is not alone in facing this difficulty. As the prominent documentary maker of Algerian origin Yamina Benguigui described in reference to a negative response from the North African community to a documentary looking at the condition of Muslim women in France:

> There is a certain complex among men which is that we should show the positive side of the community. If we reveal problems we should accuse the political system; that is, we should show how France is treating immigrants and denounce the system. But to look at ourselves and to show what's happening to outsiders, that's going too far (quoted in Derderian 2004, p153).

This serves to create divisions among young North Africans in France, which Guénif-Souilamas identifies as placing the women within a trap of various irreconcilable positions. So too, "[p]itting [of] postcolonial children of immigrants against each other maintains a latent racism in the society at large and a self-hatred among the young" (Guénif-Souilamas 2006, p36).

Black critical race feminist bell hooks has written extensively about the perception that black women were not supposed to speak out against their own

oppression to show solidarity with black men. It would seem that the colonial violence described by Frantz Fanon by which colonised turns on colonised in desperation and a sense of disempowerment instead of challenging the coloniser (1970, pp215-228) remains a position that is far from reconciled in the context of discourses of gender and race. Not only is that true in the context of the discourses of young *banlieue* men but it also emerges in Bellil's discourse as well as that of *Ni Putes Ni Soumises,* discussed shortly.

A comparative example can be drawn from hooks' discussion of the Anita Hill sexual harassment case in the US (1992, p83). Hill, a black woman was pitted against her alleged harasser, Clarence Thomas, a black male candidate for appointment to the Supreme Court:

> ultimately, the nature of the hearings suggest that there is still no place within white supremacist capitalist patriarchy for a discussion of black gender relations that would enable black women and men to confront questions of power and domination, of black male sexism and black female resistance. For, to a grave extent, the spectacle of the Thomas hearings had little to do with any desire on the part of the American public to determine whether or not Thomas was a worthy candidate for the Supreme Court or to truthfully examine his coercive relations with black female subordinates. (1992,p83)

Hooks draws this conclusion from the ways in which the cases were made by both sides. In particular, she notes:

> Hill was never disloyal to patriarchy, or, for that matter, to the institution of white supremacy. Instead she expressed her loyalty consistently by the manner in which she appealed to the system for justice. By appropriating her as a feminist hero, women, and white women in particular, show that they are more interested in positioning Hill in support of a feminism that she never espoused. (1992, p83)

Similarly, Bellil's positioning as a figurehead for a feminist association and a representative of young women of the *banlieue* is done largely without her having asked for such a role. As she explains in detail, her speaking out was an act of personal vindication. To position her as an authoritative voice on gender and race relations is not only to place a great burden on her but also – through her ultimate

inability to negotiate the two roles without contradiction and resort to generalisation, she is co-opted to promote other ideological agendas.

9.2.5 Problematising the Authority of Experience

For this reason the emphasis placed on 'lived experience' within some postcolonial and critical race feminist theory must be problematised. Even as power structures and dominant discourses may be challenged within that lived experience, without the theoretical framework and the situating of this narrative within the broader social, historical and political context, ultimately the power of the challenge is lost, subsumed within the dominant understandings and discourses. The privileging of 'lived experience' in the form of autobiography as authoritative and existing as a 'truth' outside of the text normalises and masks a series of power dynamics and relationships.

For this reason Suleri urges caution in the promotion of the 'lived experience' as providing the ultimate authoritative and legitimate source upon which postcolonial feminist discourse should be built: "While lived experience can hardly be discounted as a critical resource for an apprehension of the gendering of race, neither should such data serve as the evacuating principle for both historical and theoretical contexts alike." (1992, p119) In light of the above discussion of the ideological weight given to '*la beurette*', Suleri's comments seem prescient. While Bellil's account may be an attempt to express her own lived subjectivity, it still exists within a broader social and historical context as does Bellil herself.

Sara Suleri goes on to explain: "Lived experience, in other words, serves as fodder for the continuation of another's epistemology, even when it is recorded in a 'contestatory' position to its relation to realism and to the overarching structure of the profession." (1992, p123) In recognising this the uncritical privileging of the postcolonial woman's voice by virtue of her postcolonial status becomes highly problematic, both in terms of the reduction of the various possible voices and positions that this woman may assert, and in the responsibility it places on the individual woman to demonstrate a complete race/gender consciousness. In this

way, the postcolonial female identity becomes a double-edged sword. On the one hand, as Sidonie Smith and Julia Watson point out:

> ...identity confers political and communal credibility. In such cases, a previously 'voiceless' narrator from a community not culturally authorized to speak – the slave, the nonliterate, the child, the inmate of a mental hospital, the formerly colonized, for instance – finds in identification the means and the impetus to speak publicly. Richard Wright, for example, in narrating his autobiography *Black Boy (American Hunger): A Record of Childhood* and Youth, explicitly situates himself vis-à-vis racialized communities, both black and white, inviting his reader to accept his narrative as authoritatively representative of an African American 'boy'. Similarly, James Baldwin negotiates his identity as a 'native son' in *Notes of a Native Son*... (2001, p28)

However, they also note: "As the cases of Wright and Baldwin suggest, not all 'experience' is accorded social and cultural recognition or legitimacy." (Smith and Watson 2001, p28)

Moreover, the recognition or legitimation of a 'lived experience' remains outside of the control of the subject himself/herself. As Jean-Pierre Boulé documents in relation to his review of AIDS literature, "the texts were framed as part of the dominant discourse of social and sexual regulation aiming to preserve the dominant form of monogamous heterosexual relationships" (2002, p143). Thus, following Guénif-Soulimas's insightful identification of the centrality of the figure of '*la beurette*' as a model of French integration and her male counterpart, '*le garçon arabe'* as the antithesis, Bellil's utility becomes clear. It is only through subscribing to a model of normative heterosexuality and a commitment to Republican values that her voice is legitimated. As Henriques et al. observe: "Particular discourses set parameters through which desire is produced, regulated and channelled" (Boulé 2002, pp143-144).

This selective recognition of 'authenticity' is not limited to the French context. As Kadiatu Kanneh, discusses in her article, "Marketing Black women's texts: the case of Alice Walker", the identification of black women as marketable authors has been tied up with their positioning within the promotion of certain discourses:

> The marketing of Black women's texts in the late twentieth century is reliant on the particular and continuing viability of Black women as political subjects, on specific cultural and critical notions of Black female literary identity....
>
> There are specific reasons why Black women as authors occupy a significant, even radical imaginary. The packaging of texts by Black women writers in contemporary terms relies on the foregrounding of authorial identity, on emphasising the race and gender of the author to signal authenticity... (Kanneh 1998, p145)

Thus it can be concluded that as the privileging of the postcolonial woman's 'lived experience' opens the possibility for manipulation to reinforce dominant hegemonic discourses and epistemologies, not all 'lived experiences' can or will be recognised. In engaging with Gayatri Spivak's question of whether the subaltern can speak, it seems in Bellil's case, as Peter van der Veer comments in relation to controversial Dutch Somali author and former member of Parliament Ayaan Hirsi Ali, "[t]he subaltern can speak, but in order to be heard she has to express the feelings of the dominant community" (van der Veer 2006, p121).

At the same time, as Mohanty (1997) identifies, the figure of the 'average Third World woman' is constructed as a singular, monolithic subject. While this works to reduce subaltern women's status to that of an object of Western discourses (feminist or other) making generalisations possible, so too it positions any subaltern woman who does speak as speaking on behalf of *all* subaltern women. Thus Bellil, in seeking to assert her own personal struggle is forced into a position of representation. As Laurent Mucchielli describes in his book looking at media treatment of the *tournantes* phenomenon; "the media quickly made this individual story the symbol of a whole nation"[275] (p2005, 22) She no longer speaks from her own point of view but *on behalf of* all other young women of the *banlieue*. This is made clear from both the preface to her book and the reception her book received.

Yet, just as Bellil is not alone in negotiating this difficult position caught between loyalty to an ethnic identity, a national identity and a gender identity, nor is her response the only possible way in which this problem is negotiated. Yet it is the

[275] «La presse...fera rapidement de cette histoire individuelle le symbole de tout un pays.»

one that is ultimately privileged over others in that Bellil is allowed a public space within which to voice her struggle while others are not. So why is this? And why, when the rapes she survived happened 14 years before and in between she had generally experienced rejection, dismissal and blame from family, friends and state institutions alike, did she suddenly emerge as a national figure: the 'representative *beurette*' *par excellence*?

As Mohanty point outs, through the process of homogenising different groups of Third World women, all marginal forms of resistance are erased. This has been the major criticism of Bellil's book and *Ni Putes Ni Soumises* more generally; that, through their representations of North African/Muslim/immigrant women as oppressed and providing French Republican feminism as the solution, they have excluded the possibility for any other form of resistance. Indeed, it has further stigmatised women who do not conform to this ideology.

Furthermore, through its attempts to promote the liberation of the voice of the 'Third World Woman', postcolonial feminism has become complicit in a simplification of non-white female identity. As a 'native informant', Bellil's account seems to reiterate some of the worst orientalist stereotypes that justified colonial violence and domination and ongoing racism. As a result Bellil's text poses significant difficulties for postcolonial feminist scholarship. Much of the literature of this school of thought has concentrated on the nature of Western feminism and its complicity with colonialist or racist discourses in attempting to speak for or understand the experience of the subaltern or 'Third World Woman'. Writers such as Chandra Mohanty and Trinh Minh-Ha have thus asserted the importance of the postcolonial woman reclaiming the right to speak for herself. However, as Sara Suleri (1992) points out, postcolonial feminism's insistence on asserting who has the right to speak for who leads to what she sees as an artificial emphasis on 'authenticity', calling for only she who is in the position to speak; thus only black can speak for black etc. This uncritical legitimation of an 'authentic' voice is not without its problems, as Bellil's text suggests. As Suleri goes on to explain:

> The coupling of *post-colonial* with *woman*…almost inevitably leads to the simplicities that underlie unthinking celebrations of oppression, elevating the racially female voice into a metaphor for "the good". Such metaphoricity cannot exactly be called essentialist, but it certainly functions as an impediment to a reading that attempts to look beyond obvious questions of good and evil. (1992, p758)

In over-privileging the postcolonial/subaltern woman's voice, postcolonial feminists are placed in an impossible position when dealing with a text like Bellil's. To critique her is to counter the very foundation of their assertion that she must be allowed to speak in her own voice, without the intervention of either Western feminists or non-Western elites. However, to unquestioningly accept her narrative is to reinforce the very discourses they have been so critical of in Western feminist thought

While it is of course of interest to promote the right of the subaltern/'Third World Woman' to assert her own voice, this promotion should not be done uncritically. It is necessary to recognise that within dominant hegemonic discourses a 'Third World Woman' who does claim a voice and speaks, will often become responsible for not only the manner in which her own personal experience is understood and situated but as a *porte-parole* for *all* non-white women, as if there could only be one manner in which their identity can be experienced. With this comes a responsibility for the individual woman to demonstrate a highly developed and sophisticated sense of both class and gender consciousness. In failing to recognise that this may often not be the case postcolonial feminist theory is left incapable of responding to positions and forms of resistance, which may not in fact be of benefit to their broader struggle or theoretical aims. It is here that the concept of '(post)colonial habitus' becomes useful once more.

In her essay, "Experience", Joan Scott also highlights the problem with over-privileging experience as an authoritative answer to the question of difference. Instead she argues the experience is, in fact, the question that needs to be explored. We are already aware that difference exists. What remains to be concluded is how subjects are positioned and their experiences produced through discourse. "It is not

individuals who have experience", she writes, "but subjects who are constituted through experience" (1992, pp25-26). Consequently, evidence of experience becomes less a means of contesting ideological systems than a means of reproducing them (1992, p25). Applying Scott's analytical framework, it becomes imperative to not simply accept Bellil's experience as a self-evident truth but to situate it and interrogate what her assertions tell us about how she constructs her identity, her knowledge and her experiences: her '(post)colonial habitus' (see also McNay 2004 for further justification).

As already discussed,[276] in the context of the Sydney gang rapists and the men of the *banlieue*, Bourdieu's concept of habitus can be meaningfully linked with postcolonial theory in an attempt to understand how the violence of colonialism and its legacy continues to affect the postcolonial subject. This is not to present this subject as a mere passive victim: a construction critiqued and rejected above. Bourdieu's theory of habitus is dynamic. As a result, it takes into account both the external structures and relations of domination that become internalised by the individual subject *and* the methods deployed by that subject to assert his or her agency and resist these external power structures.

Unfortunately, as the previous interrogations of the (post)colonial habitus have demonstrated, the outcomes of this habitus and the action it engenders have unfortunately been far from liberating. Yet it is only through reading Bourdieu alongside postcolonial scholarship that the ongoing significance of colonial relations of power is intelligible. Attempts to resign colonialism to a relic from the past become problematic when we consider how the identity of postcolonial subjects is not only still represented through resort to colonial tropes and stereotypes but also sometimes (and not uncritically) constituted by the subject *herself/himself* in these terms: an example of the discourse of the (post)colonial subject in fact constituting this (post)colonial subject.

[276] Chapters five and seven.

In much the same way that the Sydney gang rapists' discourses reflect an internalisation of both racist and sexist power structures, which ultimately lead them to perform an identity that frees them (and others) from neither, so too Bellil's habitus reflects the colonial dichotomisation of 'women's rights' (associated with Europe) and 'backward tradition' (associated with colonised cultures). It seems she has internalised the 'civilising mission' language to such an extent that she cannot articulate an identity that embraces both her ethnicity and her gender.

Again, as stressed in the analysis of the gang rapists' discourses, the intention here is not to extrapolate this to a more generalised explanation of the identity of women of immigrant origin in France. However, herein lies the problem. Even as the essentialisation of identity is critiqued, called into question and challenged, in the context of both the Sydney gang rapists and Bellil the fact that they emerge as the strongest voices means they become the figures against which *all* they supposedly represent (as articulated by dominant discourses) become measured. Paradoxically, while the suggestion that the rapists reflect the attitude of all young Muslim men is generally rejected within left-wing academic commentary, the question of how to both acknowledge the validity of Bellil's account of her own experience, while questioning its broader applicability remains a tricky one.

Part of the difficulty Bellil's book produces for postcolonial feminist theory is that to critique her is to comply with patriarchal modes of anti-racism (as bell hooks and Benguigui describe it, the need to demonstrate loyalty to 'her menfolk') while to endorse her voice leads to an embracing of, to borrow and slightly reframe Spivak's (1988) comment, the 'brown women needing to be saved by white men from brown men' type discourses. In either case, Bellil's voice is not heard as that of an individual subject struggling to find a position of agency between the misogyny, racism and marginalisation she experienced but becomes emblematic of something wider; the voice of the 'Third World Woman' which is either to be ignored or valued without question.

Furthermore, the pitting of 'good white feminist France' (albeit despite Bellil's intention and even at times contrary to her narrative) against 'bad, backward, traditional, violent and misogynist Algeria' has left many women of immigrant background stuck in a no-man's land. By associating Bellil's experience of sexual violence and gender oppression with the culture of the *banlieue* (which is ethnically coded) her testimony conforms to a discourse that is counter-productive both in terms of addressing sexual and gender-based violence and racism in France. Her individualisation of her suffering allows this to occur in a way that it claims to be legitimate and 'authentic' as her lived experience and therefore unquestionable. However, the selective reading she is given and even at times her own apparent emphasis on one aspect of the injustice she experienced; that being the lack of support she receives from her family and the *banlieue* (read immigrant/ *Maghrebi*) community more generally over the injustice she faces due to institutionalised racism and sexism would suggest that race consciousness cannot be implied simply based on the colour of her skin.

9.2.6 Conclusion

Although Bellil's book at first glance provides an excellent parallel to the autobiography of Sydney gang rape victim, Tegan Wagner (discussed in chapter five), in attempting to analyse the two books Bellil's seems to pose more complex theoretical problems than Wagner's. While as noted above, Wagner's account is framed as a personal narrative of an exceptional situation, Bellil's account is characterised as representative of life for young (North African) women of the *banlieue*. Perhaps this is because, even though 'the Sydney gang rapes' have taken on a mythology of their own, the fact that there is no specific term for these rapes means Wagner's tale is not automatically linked to the discourses, which emerged on 'the Sydney gang rapes'. However a more disturbing reading of this difference would be that, whereas Wagner's account is presented as individual, Bellil's can only be read as collective. The individual subject space is once more reserved for those who – as part of the dominant group, namely white - are unmarked by difference.

While Wagner, as a white woman, experiences limits on her ability to assert independent agency, she is still seen as a person in her own right. Meanwhile, Bellil is positioned in the doubly disadvantageous position of woman *and* of ethnic minority origins. As a result, she is *prima facie* seen as a passive, voiceless entity. This impression is perhaps added to by the fact that there is no apparent intermediary in Wagner's recounting of her story: her story is presented as her own. Yet in Bellil's case, her is framed by a preface by journalist Josée Stoquart, in which a cultural context is provided to her story and she is situated as but one of many whose experiences are reduced to being the same.

Bellil's apparent disempowerment and marginalisation, thus calls into question the efficacy of many of the assumptions underlying both feminist and anti-racist activism in contemporary France. As discussed in chapter three, the mid 1980s marked a period of increased anti-racist activism with the emergence of the Beur generation who sought to assert their place in contemporary French society. While the Beur movement centred its claims around the discourse of *'droit à la différence'*, the focus of their activism was the discrepancy between the official rhetoric of integration and the reality of social exclusion experienced by ethnic minority communities in France.

Closely aligned with the *Parti Socialiste*, the leaders of the most prominent anti-racism organizations such as *SOS Racisme* remained loyal to the language of 'Republican values'. It is therefore unsurprising that Bellil's indignation and anger concentrate on the denial of these principles of equality she understands as owed to her as a French citizen. Race to her is a reason for this denial but, while she is critical of the lack of institutional support and protection she receives, she remains unable to fundamentally challenge the Republican principles which are supposed to provide her with equality and justice but which so clearly fail her. Even at the end of her book she draws on the symbolic significance of the *Marche des femmes contre les ghettos et pour l'égalité* organised by *Ni Putes Ni Soumises* in 2003 in which she is a

figurehead finishing at Place de la République in Paris (2003, p308)[277] as a way to restate her commitment to official French national myths and principles and situate her protest within these without ever calling them into question. This issue emerges even more clearly in the discourse of *Ni Putes Ni Soumises* and it president, Fadela Amara.

9.3 *NI PUTES NI SOUMISES* – THE NEW 'VOICE OF THE *BANLIEUE*'?

Samira Bellil's book was released shortly prior to a nationwide march entitled, *"Marche des femmes contre les ghettos et pour l'égalité"* in which she participated as a figurehead. This march was organised by - and marked the emergence into 'mainstream' French public space of - the *banlieue* feminist organisation *Ni Putes Ni Soumises*. Also in this year (2003), a text bearing the same name as the organisation was published by the organisation's president, Fadela Amara in collaboration with left-wing journalist, Sylvia Zappi.

This text, written in a style that is both memoir and political manifesto provides an overview of Amara's life, her analysis of the situation of women in the *banlieue* and the history of *Ni Putes Ni Soumises*. While many of the critiques of Bellil's book and subsequent reception are also relevant to Amara's book, Amara's text as a more overtly political document also raises a number of other issues. Furthermore, *Ni Putes Ni Soumises* has emerged as a highly publicised organisation and is frequently represented in French public debates on issues associated with the *banlieue*, sexism, immigration and Islam. It is therefore of importance to look at how the organisation presents its message to identify why has become so prominent in recent times.

[277] « J'ai alors terminé ce qui n'est qu'une première étape place de la République – tout un symbole – avec toutes mes copines du collectif 'Ni putes ni soumises" à côté de moi. »

9.3.1 Fadela Amara : Providing a Manifesto for Women of the *Banlieue* ?

Amara's text is presented as an 'insider' account of the situation of women in the *banlieue* (see Amara 2003, back cover). As has already been outlined in the previous section in relation to Bellil's testimony, Amara's recounting of her experiences cannot be read in a vacuum. It requires an interrogation of the social context within which she writes; or as Spivak describes, there is a need to 'make visible' her subject-position. Elaborating on this concept, Joan Scott writes:

> Subjects are constituted discursively, but there are conflicts among discursive systems, contradictions within any one of them, multiple meanings possible for the concepts they deploy. And subjects have agency. They are not unified, autonomous individuals exercising free will, but rather subjects whose agency is created through situations and statuses conferred on them. Being a subject means being "subject to definite conditions of existence, conditions of endowment of agents and conditions of exercise." These conditions enable choices, although they are not unlimited. Subjects are constituted discursively, experience is a linguistic event (it doesn't happen outside established meanings), but neither is it confined to a fixed order of meaning. (1992, p34, references omitted).

For this reason Scott argues that it is essential to reject any easy separation between 'experience' and language. Instead, an interrogation of the stated subject identity and experience creates possibilities for identifying features within the discursive framework through which certain positions are more achievable and/or acceptable than others. In the context of both Amara and Bellil, their articulations of their ethnic and gender identities and the paradigm within which they situate their struggles provides an invaluable insight into the fundamental assumptions underpinning French national identity and its relationship with constructions of ethnicity, gender and sexuality. Both women's narratives are historical and contextual. They constitute, as Scott explains, "productions of knowledge of the self, not reflections either of external or internal truth" (1992, p36).

Just as Scott explains in her analysis of Samuel Delany's autobiographical text, Amara and Bellil's narratives are both (and inextricably) personal and public.

Their experiences can be read neither as wholly autonomous acts of agency nor as wholly determined acts of historicity. In fact, it is the tension that exists between these two extremes in both cases that provides a fruitful site of exploration. Once again, reference to the concept of '(post)colonial habitus' is helpful. In Scott's words; "[e]xperience is at once always already an interpretation and is in need of interpretation" (1992, p37). Having already analysed the specificities of Bellil's text, it is now appropriate to examine Amara's narrative.

9.3.2 The politicisation of 'personal experience'

While there are many similar concerns raised by Bellil's and Amara's texts, in the case of the latter the significance of adopting Scott's critical approach to experience would seem even more pressing. This is due to Amara's apparently conscious and intentional positioning of her narrative as authentic, legitimate and authoritative. She does this by explicitly linking her political and theoretical analysis with her own personal lived experience (2003, p13).[278] The first chapter in which she describes her childhood and personalises her account of the problems of the *banlieue* with reference to her family members, blurs the line between this book being a form of memoir and a political manifesto.

In doing this she seems to consciously position her text as a form of political testimonial; a genre which has been widely used within Latina and Chicana literature as a means of, as Lynda Marín explains, 'writing from the margins' (1991, p51). In distinguishing testimonial literature from other forms of self-narrative, George Yúdice provides the following definition:

> an *authentic* narrative, told by a *witness* who is *moved* to *narrate* by the *urgency* of a situation (eg., war, oppression, revolution, etc.). Emphasizing *popular oral discourse*, the witness portrays his or her own *experience* as a *representative* of a *collective memory* and *identity. Truth* is summoned in the cause of *denouncing* a present situation of exploitation and oppression or

[278] « Mon histoire personnelle a sans doute beaucoup pesé dans ma manière d'analyser la situation des filles. »

> *exorcising* and *setting aright* official history (Gugelberger and Kearney 1991, p4, emphasis in original).

Through its immediacy and resistance to political marginality, the testimonial genre has been adopted as a popular form of resistance for indigenous peoples in Latin America against state-sanctioned violence. Through their recounting of their own life experiences, they have sought to situate and affirm the struggle of a people. While essentially autobiographical, testimonial literature has been characterised as a genre in its own right due to the positions of power, both available to, and within which, the giver of the testimony is situated. Marín contrasts the testimonial with other traditional narrative and literary forms in the following way:

> Those privileged to belong to the dominant class, race and/or gender write Scripture, literature, autobiography, or ethnography. From the point of view of privilege, the testimonial has been seen as the means by which those who are not privileged tell about themselves and particularly about their struggle against the powers that claim privilege over them. (1991, pp51-52)

Certainly the appeal to a collective identity can be seen within both Bellil and Amara's work. However, while Bellil explains her reasons for writing her account in terms of a personal struggle to address and overcome her experiences, Amara's book is more in the tradition of Latin American women's testimonial literature. These testimonies have generally talked in terms of personal experience, while always making clear the extent to which their stories and experiences are interchangeable with so many others to whom they feel a sense of solidarity. Marín provides the example of the testimonial of the Mayan activist Rigoberta Menchú, in which Menchú states:

> I'd like to stress that it's not only my life, it's also the testimony of my people...The important thing is that what has happened to me has happened to many other people too: My story is the story of all poor Guatemalans. My personal experience is the reality of a whole people. (Marín 1991, p52).

In relation to Amara's text, the reader is also given the impression that Amara speaks not only of her own experience but of the experience of women in the *banlieue* more generally. This is enhanced by reference to her work with the

Fédération Nationale de la Maison des Potes[279] and her summaries of conversations and anecdotes relating to the young *banlieue* residents she has worked with.

This linking of the personal with the broader public and political sphere is pertinent. Much of the academic analysis and commentary on the testimonial genre as used by Chicano/as and Latino/as has celebrated it as a political tool whereby the disadvantaged, marginalised and forgotten groups are able to assert a voice and be heard. Yet, as with Bellil's book, Amara's narrative highlights some problematic assumptions underlying the discursive paradigm within which she situates both her identity and her experiences. While Gugelberger and Kearney assert that, "[t]estimonial literature is emerging as part of a global reordering of the social and economic contexts of power/difference within which 'literature' is produced and consumed" (1991, p6), the issue remains whether in fact only certain voices can be heard.

Doubtless, testimonial literature has provided a source of liberation and agency for both colonised peoples broadly and women specifically.[280] So too, the existence of such a genre, which as Yúdice elaborates is now studied in various disciplines, is in itself a powerful challenge to hegemonic discourses and structures of power. However an uncritical celebration of the testimonial as being that not of one speaker but rather, 'an allegory of the many, the people' (Gugelberger and Kearney 1991, p8) raises the question; do 'the people' all want to be represented in this way?

The very distinction being drawn between the individualism of the Western writer, as an author who speaks for him or herself and the collective voice presented by the 'Third World' writer of testimony would also seem to create problematic binaries which serve to remove the agency of many who may choose to frame their stories differently, while imbuing the provider of the testimony with the immense responsibility of representation. Yúdice appears aware of this risk when he seeks to distinguish between representation and an exercise of what he calls 'a means for

[279] An anti-racism activist education and training centre that works with young people in the *banlieue*.
[280] Some scholars going so far as to argue that as a genre it is specifically female (Gugelberger and Kearney 1991, p8; Marín 1991).

establishing solidarity' (1991, p27). However, it is highly debatable whether this helps overcome the difficulties raised by testimonies which, while acting as sources of agency and bearing witness, are read in a way that justifies other forms of oppression or the reinforcement of hegemonic discourses. Yúdice's insistence that this representation takes place in 'the absence of domination through instrumental rationality' (1991, p27) does not address how the narrator of the testimonial is able to both utilise aspects of Western literary form and at the same time reject it.

Whatever Amara's intentions may be in providing her testimonial, the context within which she is read remains that of the French (Western) literary tradition. She appears to explicitly seek to engage this audience through the explanations she provides and the language she employs (stopping to clarify Algerian/*banlieue* culture and expressions throughout). This is not a book by an 'insider' written for an 'insider' (something which perhaps arguably could be the case for Bellil based on her unclarified use of *banlieue* terminology).

So too, Yúdice's celebration of the role of politically sympathetic editor/collaborator who works with the subaltern witness to destabilise the concept of the author fails to consider the implications when this editor is themselves from the Western institutional tradition. Or when this editor is politically sympathetic to some of the concerns of the subaltern witness and maintains a position of power in how the concerns are framed. In the context of Amara's text, we are told that it is written in collaboration with Sylvia Zappi. However, unlike Bellil's text where the collaborative relationship is explained in detail, it is unclear what role Zappi played in the production of Amara's text. Furthermore, aside from the fact that Zappi is a member of the editorial team of *Le Monde*, we are given no more information regarding her position on these issues and her motivation for becoming involved in the *Ni Putes Ni Soumises* project.

As Scott explains, privileging experience as a form of evidence, existing outside of any discursive construction ironically leads to a reproduction rather than a contestation of ideological systems:

> When experience is taken as the origin of knowledge, the vision of the individual subject (the person who had the experience or the historian who recounts it) becomes the bedrock of evidence upon which explanation is built. Questions about the constructed nature of experience, about how subjects are constituted as different in the first place, about how one's vision is structured – about language (or discourse) and history – are left aside. (1992, p25)

She concludes: "The evidence of experience then becomes evidence for *the fact of difference* rather than a way of exploring *how* difference is established, how it operates, how and in what ways it constitutes subjects who see and act in the world." (1992, p25, emphasis added). Whether the assertion of experience as evidence is intentional, as appears to be the case with Amara, or less conscious, as Bellil's book suggests, both are imputed an autonomous and reified agency. They are attributed an ahistorical race and gender consciousness which masks, or at least neutralises, the reality of the many conflicting claims and subject positions they negotiate both internally and externally. Similarly the extent to which, in adopting particular political and personal subject positions Bellil and/or Amara are read as speaking on behalf of all women of the *banlieue*/North African women points once again to the dangers in postcolonial theory of too wholeheartedly embracing the authentic and therefore 'good' postcolonial subject.

Many of these concerns have already been raised in relation to Bellil's book and will therefore not be elaborated upon further again. Instead, taking experience as both an interpretation and a representation requiring interpretation, it becomes interesting to analyse how Amara frames her calls for redress of the economic and social marginalisation of *banlieue* residents and her feminist message. By doing this not only do significant underlying assumptions contained within understandings of citizenship, gender, sexuality and ethnicity become apparent, but so too the vital importance of reading experience and the constitutive identity it entails within a historical and social context hopefully becomes more apparent.

9.3.3 The Immigrant Woman versus the French Woman

As noted in the previous section, a major criticism of Western feminist theory by postcolonial feminist writers has been its tendency to place in juxtaposition the

'backward' and traditional 'Third World woman' with the 'liberated', modern woman of the West. As was also discussed, this critique is rendered difficult when it is the 'Third World woman' herself who voices this approach. While Bellil's narrative appears to do this quite unselfconsciously, Amara is more cautious in her acceptance of the binary between the 'backward Third World woman' and the 'liberated modern Western woman'. Instead she appears to oscillate between recognising similar experiences of patriarchal oppression across ethnic groups and situating her own struggle for freedom within the confines of Kabyle/Algerian culture.

In her introductory chapter, when describing her father she expresses a sympathy with him despite his strict, authoritarian approach to her. She frames this by positioning him as living in France in terms of geographical location only. Otherwise, due to the closed nature of the immigrant community she states:

> My father had a fairly simple conception of each person's place: men and women were certainly equal before the law but men outside and women at home ! This was his vision of the world, inherited from his Kabyle education. A very common viewpoint among immigrant workers. When my father arrived in France, how could he understand that this model was no longer the approach of the modern society which welcomed him – where women could go out, work, organise their lives. – when he moved into a housing estate almost exclusively inhabited by other immigrant workers from the Maghreb ? Kabyle fathers, like him, came from a patriarchal and macho society where men had the obligation to take care of the needs of women.(2003, pp15-16)[281]

While characterising Kablye society as patriarchal and macho, she does not problematise the situation of women in French society. On the contrary, she situates the traditional and patriarchal society of Algeria in direct contrast and opposition with 'modern' French society in which women are emancipated. Considering her father arrived in France in the 1950s,[282] this lack of interrogation of the situation of

[281] «Mon père avait une idée assez simple de la place de chacun: les hommes et les femmes étaient certes égaux devant la loi, mais les hommes dehors et les femmes à la maison! C'était sa conception du monde, héritée de son éducation kabyle. Une vision très courante parmi les travailleurs immigrés. Quand mon père est arrivé en France, comment pouvait-il se rendre compte que ce modèle n'avait plus cours dans la société moderne qui l'accueillait – où les femmes pouvaient sortir, travailler et organiser leur vie - puisqu'il s'est installé dans une cité abritant presque exclusivement des travailleurs immigrés originaires du Maghreb? Les pères kabyles comme lui venaient d'une société patriarcale et machiste où les hommes avaient l'obligation de subvenir aux besoins de la femme.»
[282] He arrived in 1955 (Amara 2003, p17).

women in French society is strange. After all, women had only been granted the right to vote in France in 1944 and the *Trentes Glorieuses* with the emphasis on re-population led to a period of increased attention on women's role within the family and the re-affirming of patriarchy.[283]

Amara does note that the lack of freedom experienced by herself and her sisters was the same as many women of her generation, immigrant or not (2003, p15).[284] However by providing an explanation in terms of her parents' cultural traditions, Amara appears to reinforce the dichotomy often drawn in Western discourses on immigration between the 'backward' tradition of immigrants and the 'modern' enlightened (in this case French) State. This impression is reinforced later in the book when she describes the inequality of treatment of boys and girls within the family unit. While again, she notes that this is not limited to families of immigrant origin (2003, p41),[285] she first of all qualifies her critique of her parents with: "One can't blame them, they were conditioned this way by their culture "(2003, p41).[286] This same explanation is not offered for French families; rather their patriarchal structures are situated in the context of the increased patriarchialisation of the *cité* (2003, p41). This, in the context of the slippage in popular French discourse between *banlieue* and *étranger/maghrebin* (as discussed in chapter three), does little to challenge dominant discourses which problematise immigration and ethnic minorities on the basis of an espoused 'feminist' concern.

Furthermore, while Amara asserts that the patriarchal domination of all women in the *banlieues* is her concern she provides an explanation for the rage of young men of immigrant origin only:

> They live in a veritable state of schizophrenia : kings within the family and non-existent nothings outside. This lack of appreciation outside constributes

[283] See Claire Duchen's 1994 book, *Women's Rights and Women's Lives in France 1944-1968*, Routledge, London and New York for an excellent overview of this topic, in particular chapter three.
[284] «Mes sœurs et moi, nous ne pouvions pas sortir comme nous voulions. Situation à laquelle étaient confrontées nombre de femmes de ma génération, immigrées ou non. »
[285] «J'ai été étonnée de constater que ce fonctionnement se retrouve à l'identique dans des familles de souche française.»
[286] « [o]n ne peut pas leur en vouloir, ils ont été conditionnés ainsi par leur culture ».

> heavily to their feeling of being excluded, rejected. They experience an intense feeling of injustice, which translates for those of immigrant origin into a feeling of not belonging to the Nation. (2003, p42)[287]

By framing this exclusion in terms of immigration and the Nation, Amara's analysis does not provide an explanation for the behaviour of the *français de souche*. This is interesting to note alongside to the depictions of inter-personal relationships in the film, *La Squale*, discussed in the previous chapter. Here also, while there are a few white male characters included to demonstrate the ethnic mix of the *banlieue*, they are not substantial and there is no exploration of their family relationships and gender dynamics (aside from the fact that one of them does participate in the gang rapes) in the film, unlike the black and North African characters.

So too, Amara provides the platform on which considerations of patriarchy and female oppression are tied up with immigration and national identity. Through feeling excluded from the Nation, she explains, young men of immigrant origin in the *banlieue* must assert their authority over the women of the *banlieue*. Therefore, the implicit solution to this is acceptance within the Nation, where, by giving a male sense of worth, respect and equality between the sexes becomes possible. This appears to echo the rhetoric of the Black Power movement in the US in which anti-racism was framed within the assertion of black male patriarchy. As bell hooks has repeatedly argued (1994, 1992, 1990), this approach holds little benefit for women and in fact reinforces traditional constructions of heteronormative gender and national/ethnic identity. However, a look at the broader contemporary social and political context within which Amara asserts her feminist message provides some clues as to why she would frame her discourse in this manner.

[287] «Ils vivent de fait une véritable schizophrénie: rois au sein de la cellule familiale et inexistants, niés, dehors. Cette absence de reconnaissance extérieure contribue fortement à leur sentiment d'être exclus, rejetés. Ils éprouvent un sentiment d'injustice majeure, qui se traduit pour ceux issus de l'immigration par le sentiment de ne pas appartenir à la Nation ».

9.3.4 'Liberté, Égalité, Laïcité!' – the Paradoxes of French Republican Values

In terms of both feminist and anti-racist struggles in France, there has been an increasing division between those who continue to situate their discourses within the rhetoric of Republican values (emphasising the value of the principles and contrasting these with a reality which does not properly apply them) and those who have in fact increasingly questioned the very foundation of Republican values; arguing that in fact it is the values themselves that have been used to legitimise and normalise inequality and hierarchies of power. As discussed in chapter three, members of the *parité* movement problematised Republican universalism and equality by highlighting the historical exclusion of women from the public sphere. Similarly, *le mouvement des indigènes*, through raising awareness of the situation of soldiers from the colonies both during World War I and II (most famously in the 2004 film, *Indigènes*, which was also a commercial success) and subsequently, has called into question the foundation of France's claim to universal recognition of human rights and equality.

However, many authors have also pointed to the failure of anti-racist and feminist movements to profit from their interconnected challenge to dominant hegemonic discourses. While both have sought to challenge the universal abstract citizen, they have tended to do so by concentrating on only one aspect: the race or gender of this citizen. Moreover, it would seem that this lack of unity is more than merely an opportunity missed. As also noted in chapter three, the *parité* movement – the most successful and prominent feminist campaign in recent French history – while adopting innovative ways of challenging the gender bias underpinning French universal abstract citizenship, it ultimately came to base its argument on the indivisibility of two mutually dependent sexes as the only truly universal difference.

Aside from the obvious heteronormativity of the *parité* movement, the staging of 'sexual difference' as the only truly universal and therefore recognisable difference allowed for the pitting of feminist discourses against anti-racist discourses, a fact

attested to by much of the public debate surrounding the 1989 and 2004 *affaires du foulard*. Utilising Pierre Bourdieu's expression, *les affaires du foulard* served to, "place the prophesies of liberation at the service of new forms of domination" (Bourdieu 2003, p23) by placing Republican feminism in direct conflict with other forms of resistance to dominant hegemonic order.

Nevertheless, parallel to the *parité* debate, the 1990s and early 2000s have been marked by an increasing pressure for France to face its colonial and racist legacy, through the actions of both male and female postcolonial French and Francophone subjects. Discussing a book released in 1999 entitled *Françaises* and profiling six women from diverse ethnic backgrounds, Mireille Rosello points to a, "changing relationship between a historically universalist French tradition and two categories (gender and ethnicity) that challenge, in different ways, the utopian ideal of a genderless and, even more persistently, raceless Republican subject" (Rosello 2003, p97). While Rosello notes the difficulties in establishing exactly *how* concerns of gender, ethnicity and nationality intersect (2003, p99), she argues that a subconscious racialising and gendering process has begun to take place in recent times within the French public sphere. Similarly, David McMurray noted back in 1996 "a very high level of Arab content in all aspects of French popular culture" (1997, p27). From footballers to literary figures, comedians to media personalities, hybrid cuisines, films and music, the influence of different ethnic minorities, especially those from the former French colonies have increasingly made themselves felt in French contemporary society.

Alongside, or perhaps as a consequence of, this increased visibility of diversely ethnicised and sexualised Republican subjects within the French public sphere, there has also been an increasing shift within academic scholarship towards considering the inter-relating power structures of gender, race, ethnicity, sexuality and class. Explicitly citing the influence of Latina, black and postcolonial feminism, Patricia Roux, Lavinia Gianettoni and Céline Perrin in the introduction to their recent article in *Nouvelles Questions Féministes* recognise the socially and politically constructed

nature of gender, heterosexuality, class, race and nationality (2007, p92) and go on to stress the interconnected nature of these systems and structures of power.[288]

Equally, it is precisely the eurocentric/white/classist/heterosexist understandings of power relations and experiences of domination expressed by Republican feminism and typified by Agacinski's essay,[289] that have been increasingly problematised by veteran French feminist theorists such as Christine Delphy. As Delphy writes in her 2001 book, *L'ennemi principal*: "The smallest common denominator, the 'universal' feminine condition on which the feminist movement based its analyses, has too often been that of the prototypical woman who was often implicitly white, explicitly heterosexual, and some would add 'bourgeois' (Rosello 2003, p97)."

Agacinksi's celebration of apparently universal "female traits", in particular motherhood, highlights this point all too well. So too, historian Mona Ozouf's book, *Les mots des femmes* celebrates the lives of ten exceptional French women as representative of a broader tendency in French society towards a "belief in love" which "prevents the relationship between men and women from being interpreted as a war between sexes" (Ozouf 2003, p234), suggesting both a greater degree of understanding between the sexes in French society and the centrality of heterosexuality in achieving this.

It is therefore unsurprising that, while Amara claims to seek reform of both the racist and sexist structures impacting negatively on the lives of women of immigrant origin, she struggles to achieve this through her reliance on Republican feminist principles. This is precisely because the concerns of 'feminism' and 'women's rights' have been pitted in direct opposition to 'tolerance of cultural diversity' within dominant discourses. The 2004 *affaire du foulard* provides an excellent example. Fadela Amara, Samira Bellil and many other prominent members of *Ni Putes Ni Soumises* joined the petition signed by Republican feminists and

[288] « les mécanismes par lesquels les rapports de sexe, de race et de classe se renforcent mutuellement » (2007, p93).
[289] Discussed in chapter three.

published in *Elle* magazine in December 2003 supporting the proposed law banning the *hijab* from schools.

Subsequently, in March 2004 *Ni Putes Ni Soumises* published the following manifesto on their website to accompany their nationwide demonstration:

> 6th March 2004 is the occasion in Paris and the whole of France to see march all those who wish to say loud and clear that without equality between men and women, the whole spirit of the Republic is in danger. To tolerate inequalities between the sexes is to cede to those who want to break France up through divisive communitarianism It is now more than ever important to continue to fight for equality because we want to live together ! Living together is only possible if and when we ensure respect of this fundamental right, which belongs to every human being, woman or man. The right to live in equality, dignity and respect. We denounce all forms of oppression and discrimination against women. At the same time, our feminist mission is also a fight for secularism : gender equality cannot be achieved if secularism is abandoned. Our movement, throughout France, has been trying for the last year to organise resistance to all forms of sexism, violence against women, obscurantism, fantaticism, which precarity and exclusion make more possible. So Saturday 6 March, let Paris be the capital of the Enlightenment, of feminism, of secularism and social progression (NPNS 2004).[290]

The threat of 'communautarianise' – the ultimate act of treachery - is once again displaced from the feminist agenda onto the question of ethnicity and race in France. So too, feminism is inextricably tied up with French Enlightenment, modernity and secularism. The parallels between this discourse and that of the 'civilising mission' discourse central to the French colonial project are stark. As detailed in chapter three, feminism as an export of the West was a central feature of the 'civilising mission' used to justify the colonial enterprise. Similarly, in the

[290] «Le 6 mars 2004 est l'occasion, à Paris et dans toute la France, de voir défiler fraternellement toutes celles et tous ceux qui veulent dire haut et fort que sans égalité entre femmes et hommes, c'est tout l'esprit républicain qui est en danger. Tolérer les inégalités entre sexes, c'est abdiquer devant ceux qui veulent faire basculer la France dans le morcellement et le repli communautaire. Il faut plus que jamais continuer le combat pour l 'égalité parce que nous voulons vivre ensemble! Vivre ensemble n'est possible que si nous obtenons le respect de ce droit fondamental, dont dispose chaque être humain, femme ou homme, de vivre dans l'égalité, la dignité et le respect. Nous dénonçons toutes les formes d'oppression et de discrimination faites aux femmes. Dès lors, notre combat féministe est aussi un combat laïque : l'égalité femme/homme ne peut pas progresser si la laïcité recule. Notre mouvement, partout en France, essaye depuis plus d'un an d'organiser la résistance à toute forme de machisme, de violences faites aux femmes, d'obscurantisme, d'intégrisme, que la précarité et l'exclusion favorisent. Que le samedi 6 mars prochain, Paris soit la capitale des Lumières, du féminisme, de la laïcité et du progrès des consciences.»

postcolonial context, the 'clash of civilisations' discourse that has dominated French (and other Western) encounters with Islam has increasingly drawn on the language of sexual equality as its justification. While this co-option of the language of 'women's rights' in response to the West's relationship with Islam and Muslims within and outside of Western nations is not specific to France,[291] the manner in which this discourse is framed relies heavily on the specificities of the French Republican tradition. The demonised figure of '*le garçon arab*e' is juxtaposed against the idealised figure of '*la beurette*' who is seen as the model of successful integration, whose only obstacle to full modern Enlightenment is the patriarchal and misogynist traditions of her culture of origin.[292]

In framing their claim to be '*insoumises*' around the issue of the *hijab*, *Ni Putes Ni Soumises*, however unconsciously, has promoted a discourse alarmingly similar to that used in Algeria in relation to the liberation of Algerian women through the removal of the *hijab*. In the context of France's historical relationship with Islam and the *hijab* in particular (detailed in chapter three), the manner in which Amara and *Ni Putes Ni Soumises* more generally condemn the *hijab* is illuminating. In asserting her rejection of the *hijab* as a symbol of female oppression, Amara begins by stressing her commitment to secularism: "I, who place great value on fundamental freedoms, think that the religious practice is legitimate when it is freely chosen, without pressure or constraint, but above all when it is done in accordance with respect for the communal rule which is laïcité" (pp.47-48).[293]

She goes on to discuss three reasons why the *hijab* is worn in the context of the *banlieue*. The first is the affirmation of a religious identity; the girls and women who wear the *hijab*, "like a standard/banner"(2003, p48).[294] Her dismissal of this group is made clear by her statement that, in declaring their Muslim identity (also described as communitarian, with all the negative connotations contained in this

[291] See for example Bahramitash 2005, pp223-237 for a discussion of the US context; Razack (2004, 1998)
[292] For a full discussion see Guénif-Souilamas and Macé (2004).
[293] « Moi qui suis très attachée aux libertés fondamentales, je pense que la pratique religieuse est légitime quand elle est librement choisie, sans pression ni contrainte, mais surtout quand elle s'inscrit dans une démarche de respect de la règle commune qu'est la laicité ».
[294] « comme un étendard ».

term) these girls and women, "have the impression through this of being appreciated and respected".[295] The implication is that this impression is, at best, misguided. Her description of the second and third groups of women and girls wearing the *hijab* is less subtle. She describes those who wear it as doing so, "like an armour designed to protect them from masculine aggression ", and goes on to add, "under their 'armour', they wear tight-fitting, revealing clothing, but these must not be seen in the *cité*. It is terrible to conceive of in a country of freedom" (2003, p48).[296] This un-nuanced analysis does not sit well with observations such as that made by Hanifa Cherifi, a national mediator on issues related to the *hijab*. In an interview with *Le Monde* in 1999, Cherifi expressed her surprise when at one mediation she was called to act in the young women of Morrocan origin told her that in wearing the *hijab* they were disobeying their parents but obeying God and the Koran (Interview with *Le Monde,* 10 January 1999 cited in Dayan-Herzbrun 2000, p73).

In conforming to dominant representations of the *hijab* and the dichotomous position of the women who wear it as either victims or pawns, Amara reinforces a static and disempowering version of Muslim female agency. Yet as Trinh Minh-ha observes, "If the act of unveiling has a liberating potential, so does the act of veiling" (1997, p416). An example can be found in the context of revolutionary Iran when educated, middle-class, westernised women, rebelling against the banning of the *hijab*, adopted it as symbol of resistance to the Shah and in solidarity with those promising a new, less corrupt regime (Tohidi 1991; see also Paydar 1995).

Amara however is completely dismissive of the third group of women wearing the *hijab*, who she refers to as the "green (Islamic) fascists" ("les soldates du fascisme vert"). She is scathing of their assertion of liberation through wearing the *hijab* and argues that these women are in fact "dangerous to democracy" (2003, p48). In fact, the threat the *hijab* poses appears to be less to democracy than to French

[295] «ont ainsi l'impression d'être reconnues et respectées».
[296] « comme une armure censée les protéger de l'aggressivité masculine...[s]ous leur 'armure', elles portent des vêtement moulants, des décolletés, mais il ne faut pas que ce soit vu dans la cité. C'est terrible à imaginer dans un pays de liberté».

conceptions of national identity, as Sonia Dayan-Herzbrun observes (2000, pp69-70: see chapter three).

The unacceptability of the *hijab* thus cannot be explained in terms of offending French feminist sensibilities. Rather it is the challenge it poses to normative constructions of French female identity that seems to be central to the opposition to the *hijab* and in particular the colonial legacy which continues to shape both Republican feminism and discourses on women of immigrant origin, especially those of former French colonies. In a manner similar to the events of 13 May 1958 during which the public unveiling of many Algerian women was staged in town squares across Algeria as a sign of their approval of colonial power (Dayan-Herzbrun 2000, p78; Bouteldja 2006), the veiling or unveiling of women of immigrant and ethnic minority origin has been a means of demonstrating commitment to the French nation. Thus, while *Ni Putes Ni Soumises* has demonstrated this commitment through its endorsement of Republican feminism, other women of immigrant and ethnic minority origin have found themselves further marginalised. Activist with the association *"Femmes françaises et musulmanes engagées"* ('French women and active Muslims') and co-author of the book, *L'une voilée, l'autre pas* ('One veiled, the other not'), Saida Kada describes how in the national left-wing newspaper, *Libération* she was accused in wearing the hijab of being, "an accomplice to masculine domination and thus to gang rapes and other acts of barbarism" (Bouzar and Kada 2003, p145).[297] She also quotes a journalist from the local left-wing feminist newspaper, Lyon Femmes who stated, "the headscarf and the gang rapes come from the same contempt for women" (2003, p145).[298]

The banning of the *hijab* appears to have resulted in an outcome which is beneficial neither in feminist or anti-racist terms. As Roux et al. (2007), Hamel (2003; 2005) and Delphy (2006) have all demonstrated, through concentrating on specific forms of sexism identified as belonging to a particular ethnic, racial or religious group, there is what Delphy (2006) calls a "processus d'altérisation"

[297] « complice de la domination masculine et donc des viols collectifs avec actes de barbarise. »
[298] « le foulard et les viols collectifs relèvent du meme mépris pour les femmes. »

("process of othering"), which serves to hide hierarchies and power imbalances within society and, "Which favours the stigmatisation of and discrimination against, not only people of immigrant origin but also women, the lower classes, homosexuals and perhaps even all subordinated groups"(Roux et al. 2007, p107).[299] It is paradoxical that in the name of protecting their rights, the ultimate victims of the 2004 law were the young women who, for whatever reason, wore the *hijab* and were therefore excluded from the opportunity to participate in the education system.

9.3.5 *Ni Putes Ni Soumises* – Heterosexist Feminism and the Reinforcement of Normative Feminine Identity

Returning to Amara's strong condemnation of the *hijab* and any form of feminine or feminist identity that adopts it, this leads to a consideration of the sort of feminine identity she promotes instead. It is also significant to consider the name of the association as it gives a deeper insight into the construction of femininity being celebrated. The first problem is in the affirmation that they are not *"putes"*. This feminist message is therefore limited. It is not a revolutionary claim for complete sexual autonomy that they are asserting. Rather, it is necessary to affirm a normative conception of femininity, which does not advocate complete sexual freedom and does not seek to promote solidarity with a female sexuality which does not comply with dominant discourses that assert the centrality of heterosexual relationships and result in the propagation of the (patriarchal) family.

As Bellil demonstrates in her expression of her ideal relationship, the desire is simply one for a degree of respect and a lack of violence. *Ni Putes Ni Soumises* certainly does not seek to challenge the very structures of sexuality and family relations which many feminists argue require critical re-evaluation if the gender order is to really be disrupted. As Fassin observes in relation to the proponents of *parité*, sexual equality was reserved for gender equality only and based not on a recognition of the socially constructed nature of gender but rather, a biologically

[299] « qui favorise la stigmatisation et la discrimination non seulement des personnes d'origine étrangère, mais aussi des femmes, des classes inférieures, et des personnes homosexuelles, peut-être meme de tous les groupes dominés. »

determined role primarily promoted through motherhood (Fassin 2003, p32: he refers to Agacinski's article in support of this point).

If Amara asserts a rejection of a submissive female identity, she also endorses a certain type of femininity as 'authentic' and unproblematic. The nature of this femininity is perhaps particularly evident in her description of the various approaches adopted by girls in the *banlieues* to counter male aggression. In a section entitled, *"les 'soumises', les masculines et les transparentes"* ("the 'submissives', the 'masculines' and the 'invisibles'": 2003, p43) Amara briefly explains how each of these categories of girls and young women survive life in the *banlieue*. The first and the last are characterised by a lack of presence. They are seen as conformist and present little in the way of an identity according to Amara. The middle group are identified as the girls who choose to adopt male forms of behaviour and dress, which Amara clearly finds highly problematic:

> ...dressed in tracksuits and sneakers, inconspicuous clothing to not appear feminine, and who use violence as a form of expression. These girls are very violent in their manner of speaking and their behaviour. They deal [drugs], fight – including with men – and don't hesitate to insult, to hit. Without ever showing an tenderness, which would be perceived as a sign of weakness. They are often worse than the men because when they attack they can prove to be harder and more sadistic. They have the same way of thinking and living as the worst machos: they act as if they had to 'come to the table'. To survive, to be respected, they believe it is necessary to always hit harder than the guys around them.(2003, p45)[300]

There are a number of noteworthy points in this description. The first is Amara's assumption that these young women's choice of clothes is a rejection of their femininity. In making this argument, Amara seems to demonstrate what Butler has identified as the requisite disavowel of sexual 'sameness' central to the maintenance

[300] «...habillées en jogging et baskets, tenue passe-partout pour ne pas assumer leur féminité, et qui utilisent la violence comme expression. Ces filles sont très violentes dans leur parler et dans leur comportement: elles rackettent, se bagarrent – y compris avec les hommes – et n'hésitent pas à insulter, à frapper. Sans jamais un geste tendre, qui serait perçu comme un signe de faiblesse. Elles sont parfois pire que les hommes, car quand elles agressent, elles peuvent se montrer beaucoup plus dures et sadiques. Elles ont la même façon de penser et de vivre que les pires des machos: elles font comme si elles les "posaient sur la table". Pour exister, être respectées, elles se croient obligées de frapper encore plus fort que les mecs qui sont autour d'elles. »

of dominant gender identity (see chapter two). Secondly, in critiquing their behaviour, Amara notes a number of times that these women or girls are worse than the men; more sadistic and tougher, more macho, more violent. It is possible to feel her disgust at this behaviour and her simple conclusion is that these women respond in this way as a result of their relationship to men of the *banlieue*. In doing this, she firstly reinforces the undesirability of this behaviour generally but also specifically as a feminine trait.

Secondly, she imputes a lack of agency onto these women and a falseness to their identity which is highly questionable. While it does seem to accord with Samira Bellil's explanation of her behaviour (as discussed in the previous section), it seems somewhat reductive to assume that were these women to be allowed to express their femininity they would do so in a way that was not violent or aggressive. The very fact that she describes these women as *'les masculines'* reinforces the binary heteronormative constructions of gender identity discussed in chapter two; men as the aggressors, women as passive recipients. A similar critique has been made of 'feminist' positions taken on the *hijab*, whereby it is assumed that in choosing to wear the *hijab*, the women or girls are demonstrating that they are ashamed of their femininity and seeking to cover up their attractiveness, instead of as a means of asserting a different sort of female identity which does not conform to the dominant gender stereotypes which require women to ascribe to certain fashion and roles of seduction (Scott 2007; Dayan-Herzbrun 2000, p79).

Perhaps this articulation of normative gender identity perhaps provides a clue in answering the question; why have *Ni Putes Ni Soumises* been so successful? As Joan Wallach Scott comments in France, "republicanism and certain styles of heterosexual interaction are so intertwined that a critique of one is taken as an assault on the other" (Scott, 2003, p9). *Ni Putes Ni Soumises* appears to challenge neither. Similar to other prominent Republican feminists, such as Mona Ozouf mentioned above and public intellectual Elizabeth Badinter (also a vocal advocate for the *hijab* ban) they instead celebrate a form of feminism that embraces *l'exception française*. In this form of feminism there is no battle of the sexes, associated with the

US feminist tradition, but rather a relationship of mutual dependence and appreciation. Their emphasis on the Republican mythology of *l'exception française* as the foundation for their feminist statement highlights both the inextricability of constructions of national identity with constructions of gender identity in France and the centrality of heterosexuality to both.

Similarly, the concentration of *Ni Putes Ni Soumises* on the issue of sexual liberation has also been problematised. In doing this, they have contributed to an eroticisation of the image of '*la beurette*' (see Guénif-Souilamas 2004) and to the creation of a sexual hierarchy between men, which Christelle Hamel explains as follows:

> Sexuality is thus a means of comparing people of immigrant origin to 'native' French men. The ethnicisation and racialisation of sexual and sexist violence, reinforces the inferiority of the former by stigmatising them and transforms the latter into more the more desirable man. As a result, the decision of women of a minority group to chooe a partner from their own or the other group is interpreted respectively as an invalidation and a validation of the assumed desirability of 'Arab' men. This message transforms every young woman of immigrant origin into an eroticised object of male sexual competition in which categories of 'ethnicity' or 'race' drawn upon to symbolically situate the men involved.[301] (Hamel 2005, p97-98)

The body of '*la beurette*' is appropriated and turned into an erotic object over which the struggle for power between men is fought. Far from being a liberating discourse, this discourse reinforces traditional gender and national hierarchies.

9.3.6 Revisiting Republican Integrationism

So why have these women of North African origin adopted a form of feminist discourse so heavily implicated in racist and colonialist language of the past? It is

[301]« La sexualité est donc le lieu d'une evaluation des descendants d'immigrés à l'aune des hommes français dits "de souche". L'ethnicisation et la racialisation des violences sexuelles et sexists infériorisent les premiers en les stigmatisant, ce qui transforme les seconds en hommes plus désirables. Dès lors, la décision des femmes du groupe minoritaire de choisir pour partenaire un homme de leur group ou de l'autre groupe est interprétée respectivement comme l'invalidation et la validation de la prétendue moindre désirabilité des hommes dits "arabes". Ce message transforme chaque fille d'origine immigrée en objet erotisé d'une concurrence sexuelle masculine mettant en jeu des hommes symbolisant des categories dites "ethniques" ou "raciales". »

informative to consider Amara's assertion of her 'Frenchness' and the extent to which this has framed her political message. From the outset Amara distinguishes clearly between Algeria, which she sees as the country of her parents (they chose to remain Algerian citizens) and as unfamiliar[302] and France, which she identifies as her country. As she states in beginning her book:

> I am very attached to the region of my birth and if, one day, in the current debate about the withdrawal into communities (*repli communautaire)*, someone asks me to define myself, obliging me to fit within a certain category, well at the end of the day I would define myself as an Auvergnate ! (pp13-14)[303]

In stating this, she appears to seek to demonstrate her loyalty. However her sense of belonging is not done with complete confidence. While she asserts that she felt no problem of identity as a child, ("Yes, my name is Fadela, but i was born in France, at Clermont-Ferrand in 1964"[304]: p18) the 'Frenchness' of her childhood is something she is at pains to establish:

> Like many kids, my childhood was filled with the classic fairytales, by the stories and legends where ogres occupied a prevalent place. Like many primary school students I read *Poil de Carotte* [French children's story], *the Little Prince*, I loved listening – on audio cassette – to the story of Peter and the Wolf, recited by the marvellous voice of Gérard Philipe [very popular French actor of the 1950s], with whom I was in love for a long time. Christmas was an equally important celebration for us ... and every year I waited impatiently for Father Christmas to arrive with presents and candies... Easter was the same... (pp18-19).[305]

Similarly she is at pains to repeat her love for French literature and culture, claiming that this was her sole inspiration during her school years. Her being born in

---

[302] « c'est un pays que je connais mal » (2003, p17).

[303] « Je suis très attachée à ma région d'origine et si un jour, dans le débat actuel sur le repli communautaire, on me demandait de me définir, en m'obligeant à entrer dans une certaine catégorie, et bien, au bout du bout, je me définirais comme Auvergnate! »

[304] « Certes, je m'appelais Fadela, mais j'étais née en France, à Clermont-Ferrand, en 1964 ».

[305] « Comme beaucoup de gosses, mon enfance fut bercée par les contes de fées classiques, par des histoires et légendes où les ogres avaient une place prépondérante. Comme beaucoup d'écoliers, je lisais Poil de carotte, Le Petit Prince, j'avais adoré écouter – en cassette audio – l'histoire de Pierre et le Loup, racontée par la merveilleuse voix de Gérard Philipe, dont je fus longtemps amoureuse. Noël était également une fête importante pour nous...et chaque année, j'attendais avec impatience la venue du Père Noël pour les cadeaux et les friandises...Pour Pâques, c'était pareil... »

France and holding nationality is not sufficient for her to feel she can convincingly assert that she is French. Rather, it is necessary for her to also demonstrate a cultural incorporation of what it is to be French. This is unsurprising in light of her subsequent description of the disjuncture between her own experience of her identity and her realisation that this was not necessarily reflective of others' perceptions. She describes shock when considered to come from "elsewhere" and gives an insight into a feeling of living in-between; unconnected to the culture of her parents and yet not allowed to feel completely at home within the culture of her birth. A particularly striking anecdote she recounts provides a powerful demonstration of this marginal and ambiguous position she finds herself in:

> It was in the cradle of the Republic, the primary school of my childhood that I truly felt like a foreigner for the first time. The day when a well-meaning teacher, wanting to count the foreign children in the class, asked me to raise my hand. And yet, according to the Evian Accord, I had French citizenship (2003, p19).[306]

Amara is very conscious in pointing to the ironic fact that it should be within the principle institution responsible for creating the French citizen (Weber 1977) that she first experienced exclusion. The Third Republic (1871-1940), drawing on the principles of Enlightenment philosophy placed great emphasis on the creation of a sense of civic national citizenship, "[d]etached from parochial origins, belonging to no gender, race or nation, and guided by a blind faith in the connection between reason and civilization, the new 'Man' (the 'Superman')became the image of humanity itself"(Silverman 1999, p128) and this was conceived of as possible only through a highly centralised and freely available public education.

In recounting her experience of this institution, Amara appears to question the reality behind the myths of civic nationalism and Republican integration. She highlights an important tension between the apparent civic nature of French citizenship and the ethnic conception of nationalism and belonging. Yet, rather than

[306] « ...c'est dans le creuset de la République – l'école de mon enfance -, que j'ai véritablement senti pour la première fois que j'étais une étrangère, le jour où une institutrice voulant recenser les élèves étrangers, et pensant certainement bien faire, m'a demandé de lever la main. Et pourtant, selon la loi issue des accord d'Évian, j'avais la nationalité française. »

rejecting these myths, she in fact draws on the language of Republican values in her defence:

> Deep inside myself, I knew with certainty that this wasn't France. My France – shared by many people of immigrant origin – is Enlightenment France, Republican France, France of Marianne, the Dreyfusards,[307] the Communards [members of the 1871 Paris Commune] and the Maquisards [members of the WWII resistance]. In short, the France of liberty, equality and fraternity. A secular France where the only principle which prevails is the development of consciousness and nothing else (2003, p19).[308]

There are a number of ways in which to read this reclaiming of French Republican values and nationalist myths. This could potentially be an empowering position; by calling on the state institutions to act true to their founding principles. However, as numerous critics have pointed out (and the subsequent mediatisation of Ni Putes Ni Soumises appears to attest to) this commitment to Republican values may not serve the desired purpose. As set out in chapter three, the Republican myths of freedom, equality and solidarity have historically been used as a means of justifying incredible state violence both within the Hexagon and throughout France's colonial empire. Similarly, the WWII myth of resistance has been used in an attempt to wipe clear the realities of the Vichy regime and the anti-Semitic violence committed independently of the Nazi occupation. It is therefore curious that Amara centres her political statement around upholding the 'true' Republican values on which *l'exception française* is built. It seems one of the central paradoxes of Republican integration becomes apparent; Amara both represents the reality of cultural integration of a whole generation of French citizens of immigrant origin (something also discussed in chapter three) and the rejection by the Republic of these citizens based not on their cultural affiliations but their visible racial difference.

[307] Intellectuals who protested the anti-semitic treatment of French soldier Alfred Dreyfus.
[308] « ... au fond de moi, je savais avec certitude que ce n'était pas cela la France. Ma France à moi – partagée par bon nombre de personnes issues de l'immigration – c'est la France des Lumières, la France de la République, la France de Marianne, des dreyfusards, des communards, des maquisards. Bref, la France de la Liberté, de l'Égalité et de la Fraternité. Une France laïque où le seul principe qui prévaut est le progrès des consciences et rien d'autre. »

9.3.7 Public Reception of Ni Putes Ni Soumises: Reinforcing the Link between *Banlieue*, Immigrant, Islam and Violence

The intense publicity *Ni Putes Ni Soumises* has received has had two major consequences. The first is the further association of Islam with the *banlieue*, through the conflation of *banlieue* women and Muslim women. In one of many examples, a discussion on Muslim women's sexuality on the French television channel *Arte* on 8 February 2005 featured representatives from *Ni Putes Ni Soumises* as *banlieue*/Muslim women. Furthermore, the most visible faces of the organisation are women of Mahgrebin origin; in particular Bellil, the now deceased patron of *Ni Putes Ni Soumises* and famous victim of gang rape, Loubna Mélaine who has also published a co-authored testimonial about her mother, and Amara, the President of the Association all of whom are of Algerian descent. The second has been, through the association's often highly critical stance on Islam and its vocal support for the *hijab* ban, a reinforcement and perpetuation of the links currently drawn within French popular discourse between sexism, violence, Islam and the *banlieue*.

As a result, a number of academics and activists have been deeply critical of the association. Guénif-Souilamas and Macé argue *Ni Putes Ni Soumises* has done little to challenge the racist and stigmatised representations of the *banlieue*. Instead, the association has further justified colonialist and racist discourses on the "Arab"/Muslim and reinforced French patriarchal order. Certainly, the association seems to have done little to address the fact that representations of *banlieue* women are reduced to one of two positions; that of victim or of pawn of male domination.

By remaining within the paradigm of Republican values, *Ni Putes Ni Soumises'* attempts to address the issue of discrimination and violence against immigrant/*banlieue* women has been limited to that perpetrated by "their own" men. The *banlieue* is re-affirmed as a site of intersection between violence, misogyny, immigration and Islam thereby justifying its residents' continued marginalisation. So too, the blind adherence to Republican values without situating them within the context of France's colonial and racist past, the continued pre-

eminence of dominant patriarchal order and current anti-immigration and Islamaphobic trends allows for the reinforcement of dominant hegemonic identity and power structures.

In her critique of US feminist and civil rights movements which have concentrated on equal access to state structures and institutions without actually challenging the system itself, Angela Gilliam writes; “Neither movement has as its basis the transformation of the system at its roots” (1991, p216). This criticism seems to also capture the problems with *Ni Putes Ni Soumises*. Neither Amara nor the organisation more generally question the validity of Republican values but simply claim greater access to them. As a result NPNS can hardly be seen as reflective of calls for radical change. In fact it remains very neatly within the confines of dominant public discourse.

As detailed in chapter three, the 1980s and 1990s in France have been marked by a series of crises of representation and challenges to the Republican model. The *parité* law represented a significant - if so far largely symbolic - victory for the feminist movement. The *Beur* movement in the 1980s, the revisiting of issues such as the use of torture in the Algerian War, improved pension arrangements for World War I and II soldiers from the former colonies and the increasing visibility of ethnic minorities in many areas of French social, cultural and political life have all impacted on the traditional French construction of its national identity. So too, with the PaCS, the heterosexual order on which Republican order has implicitly rested has also been destabilised. It is therefore arguable that the re-assertion of a heteronormative Republican national identity by an association embodied by immigrant women provides a useful means of re-establishing dominant order.

9.3.8 Woman, Nation and the ‘Other’

While the particular language used both by *Ni Putes Ni Soumises* and about them has tended to focus on the exceptionalism of French Republican values, it is argued that the discourses have a broader resonance. As Joan Wallach Scott notes in relation to the feminist *parité* movement, there is a certain specificity in the

terminology employed in French debates on difference, marginalisation and discrimination but it provides an interesting example of trends which seem to have emerged in many Western capitalist democracies. Although the particular language of Republicanism is specific to the French context, when read alongside Part Two of this thesis some interesting parrallels do emerge with Australian discourses. So too, in both contexts discourses of gender, race/ethnicity and nation can all be identified as contributing to doxic understandings of the rapes.

PART FOUR: CONCLUSION

CHAPTER TEN: CONCLUSION

10.1 INTRODUCTION

In Bodies that Matter, Judith Butler ponders, "How is race lived in the modality of sexuality? How is gender lived in the modality of race? How do colonial and neo-colonial nation-states rehearse gender relations in the consolidation of state power?" (Butler 1993, p117). This thesis has sought to explore and answer these questions. By analysing French and Australian public discourses on certain highly mediatised and problematised instances of gang rape, in which an ethnic/racial element was extrapolated, discourses of gender, nation, ethnicity/race, sexuality and rape have all been identified an investigated. Moreover, the ultimate conclusion drawn confirms Butler's argument nicely: "What appear within … an enumerative framework as separable categories are, rather, the conditions of articulation *for* each other" (Butler 1993, p117, emphasis in original). As has been demonstrated, a central feature of both nations' public discourses was the oppositional placement of 'women's rights'/'feminist' discourses and 'anti-racist' discourses.

10.2 PITTING 'WOMEN'S RIGHTS' AGAINST 'ANTI-RACISM': IS A FEMINIST, ANTI-RACIST RESPONSE POSSIBLE?

In the context of Australia this has resulted in 'the Sydney gang rapes' remaining an unresolvable and highly contentious issue. Responses on the Right have emphasised the ethnic aspect of the rapes and have utilised a 'protecting women's rights' discourse that has little to do with the rhetoric of feminism but rather allows for the reinforcement of anti-immigration and nationalist agendas. Most particularly, 'the Sydney gang rapes' – alongside the War on Terror rhetoric post 9/11 – have played a significant role in justifying a return to (white) Australian values and an increasing rejection of the language of multiculturalism. Meanwhile the Left has sought to refute any ethnic element as racist scaremongering, using the

'moral panic' model. This approach falls down when it is pointed out that race/ethnicity was introduced by the rapists themselves as a factor in both the rapes and their subsequent defences. Furthermore, efforts at highlighting the marginalised and stigmatised situation within which many young men identified as 'Leb'/ 'Muslim'/'Middle Eastern' risk trivialising or downplaying the extreme misogyny at the root of the rapists' behaviour. At the same time the victims themselves and the issue of sexual and sexist violence become vehicles through which certain positions are promoted but with the women constantly reduced to objects (even as they attempt to regain some agency). A condemnation of the rapists' sexism and racism, that does not further marginalise already disadvantaged sections of the Australian community, remains elusive.

In France the placing in opposition of young men and women of immigrant/ethnic minority origins has created a similar divide: the language of feminism being pitted against the language of anti-racism. While it has increasingly become evident that France's policy of integration, and indeed its founding myths, are marred by contradictions, the blame for its failure to deliver its promise of equal citizenship has tended to be placed more and more on the attitudes and behaviours of the marginalised immigrant communities of the *banlieues* rather than structural inequality and racism. Whether consciously or unconsciously, attempts to raise awareness and condemnation of *'les tournantes'* has aided this discourse immensely. While there are various organizations which have sought to draw attention to gender and race issues in the *banlieue*, the women who have emerged as 'representative' of women in the *banlieue* and particularly victims of male violence have situated their claims firmly within the language of Republican feminism. The problem with this has been the uncritical acceptance of a discourse which is deeply implicated in French colonial history, leading to a reproduction of the 'Enlightened Republic's' 'civilising mission' rhetoric.

10.3 THE 'NASTY MIGRANT' AND THE 'GOOD (WHITE) NATION'

Although the public discourses in the two national contexts do take different forms, a commonality exists in terms of the interplay of constructions of nation with discourses on the gang rapes. In Australia, the discourse is less subtle: it conforms to traditional nationalist discourses in which women are constructed as boundary markers of a nation and the threat of rape is constructed as a threat to the nation rather than a violation of individual and autonomous subjects. In the context of Australia's historical preoccupation with racial purity, its highly masculinist and militaristic foundational myths and its strict policing of female sexuality (both white and indigenous), this discursive framework is rendered more comprehensible.

Furthermore, while the threatening 'Other' man has not always been a Muslim, the combination of localised (the 'ethnic crime' discourse in New South Wales), national (debates surrounding Australian obligations in relation to asylum seekers) and international (the War on Terror and Australian involvement in the occupation of Iraq) discourses problematising Islam and people of the 'Muslim world', have contributed to the construction of this new 'nasty migrant'. Not only is this 'nasty migrant' presented as a threat to the Australian nation, he also provides the standard against which white Australian 'goodness' can be measured. By constructing the 'nasty migrant' as the antithesis of 'Australian values' the fantasy of the 'Good White Nation' is maintained and the destabilised dominant national identity re-secured.

In France, while framed differently, there is also a nationalist underpinning to discourses: the discursive account is one of a 'battle of the sexes'. This, in the context of a harmony between the sexes being increasingly espoused as a central feature of *l'exception française* indirectly places the men and women involved in *'les tournantes'* as *outside* the nation. Furthermore, in light of France's approach to immigration as a question of integration and civic citizenship, the possibility of demonstrating a failure on the part of young men of immigrant origins to internalise this supposed equal and respectful approach to women and sexuality allows for the

justification of their ongoing marginalisation. At the same time, the women become the objects of concern: the passive victims requiring rescue from men who seek to control or punish them for embracing French Republican values. The parallels between these contemporary discourses on *'les tournantes'* and the colonial 'civilising mission', especially its appropriation of the language of feminism, are striking.

10.4 SUBVERSIVE PERFORMATIVE POTENTIAL AND THE (POST)COLONIAL HABITUS

While this thesis embraces Butler's conception of performativity, it is concluded that the radical and subversive potential Butler seeks to assert is not supported in these case studies. In both national contexts the rapists and the victims themselves appear to frequently perform identities that conform to dominant discourses. Even their attempts at disruption seem to operate to re-affirm their subordinate status. Perhaps this further supports Bourdieu's (2000) criticism of Butler for failing to sufficiently differentiate and account for different forms inequality (McNay 2004, p181). As McNay elaborates: "the ability to participate in a performative politics presupposes a relatively privileged access to certain economic resources and cultural capital that is occluded in the blanket use [by Butler] of the term abjection" (2004, p181).

For example, it is noteworthy that the rapists in both France and Australia, and the French victims, appear particularly unable to subvert dominant understandings of their identity and subjectivity. It is argued that it is not incidental that these actors are also those marked by ethnic/racial difference. While racism and sexism are (unfortunately) features of most if not all societies, the particular discursive practices adopted by the rapists and by young men who seek to identify with/support the rapists, are remarkable for their conformity with dominant stereotypes of 'non-white' male sexuality. Moreover, it is these stereotypes, which in turn justify the further stigmatisation of not only the rapists but also their families and the 'communities' to which they are asserted to belong. Rather than disrupting

dominant discourses of national belonging, these rapes seem to have re-affirmed the national order as not only pre-eminent but morally preferable.

Meanwhile, the victims struggle to articulate a sense of agency that does not incorporate racist and sexist stereotypes. While in the context of Australia Tegan Wagner appears more able to situate herself as an autonomous agent, Samira Bellil struggles to do so in the French context. Not only does Bellil's own account draw heavily on simplistic and essentialised binaries of 'good, civilised European society' and 'backward, brutal, traditional North African society', but her narrative is constrained by the intermediate collaborator and her voice appropriated as but one example of many. By way of contrast, Wagner exposes a performative identity that is not completely free of external power structures – both material and discursive – but an identity she is able to adapt to achieve her desired outcome. She is also allowed to position herself as an individual, representative of no one but herself, and to distance herself from other agendas, even as she is on occasion co-opted by commentators like Paul Sheehan.

In light of these observations it is concluded that for the purposes of these case studies Bourdieu's theory of *habitus* provides a more compelling account of identity, subject construction and the negotiation between individual agency and structural conditions. In particular, by reading Bourdieu alongside postcolonial scholarship a '(post)colonial habitus' can be identified. It is argued that this concept not only allows for an account of how existing external conditions impact on the identity constructed by an individual but also the effect that the symbolic violence of colonialism continues to have on the postcolonial subject. Without this, the adherence by the rapists and other young men who seek to identify with them to the worst orientalist constructions of their sexuality and identity remain incomprehensible. So too the colonial history of Republican feminism makes clearer why the endorsement by Bellil and *Ni Putes Ni Soumises* of this brand of feminism in their calls for equality are not only problematic but also self-defeating.

Essentially it is asserted that without sufficient regard for the ongoing implications and legacy of colonial discourses and relations of power, an anti-racist, feminist response to the two gang rape scenarios remains impossible. So too, it is only through the recognition - and troubling (to use Butler's term) - of the mutually constituting and reinforcing constructions of nation, gender and normative sexuality that the true significance of these rapes can be understood. It is only by recognising the role of the gang rapes in re-affirming dominant constructions of national, gender and sexual identity, that a re-articulation of each of these identities becomes possible. Until then, the public discourses on these rapes will continue to offer little in the way of hope to victims of sexual or racist violence.

10.5 A FINAL MESSAGE OF HOPE?

While the overall findings of this thesis suggest a depressingly fatalistic reinforcement of existing structures of power through not only external forces but the very actions and practices of the actors themselves, there may still be cause for hope. As Lisa Adkins points out in her application of Bourdieu's concept of reflexivity to gender identity in the late modern age, there is an inevitable time lag between changed and changing social conditions and re-articulations of habitus and the field (2004, p199; see also McNay 1999, p103). As both the French and Australian examples demonstrate, while the two nations have had very different historical trajectories the underlying legacies of colonialism, racism and sexism continue to haunt both. Moreover the inherent instability of the concept of Nation – made worse by mass migration and globalisation – in fact becomes more visible once the contradictions contained within many of the discourses on the two sets of rapes are uncovered. It is therefore possible that events such as 'the Sydney gang rapes' and *'les tournantes'* ultimately do provide points of disruption – where the rules of the game are no longer clearly visible – that in the long term will lead to social change.

REFERENCE LIST

Australian Associated Press (AAP) 2008, "Skaf: 'Brand Name' for gang rapist", *Sydney Morning Herald*, 22 June 2008

- 2007, "Misgivings over gang rape film", *Sydney Morning Herald*, 29 January 2007

- 2007, "Be sensitive to rape victim filmmakers urged", *Sydney Morning Herald*, 28 January 2007

- 2006, "Cleric's comments condemned" *Sun Herald*, 26 October 2006

- 2006, "Deport rape comment cleric, says Goward" *The Age*, 26 October 2006

- 2005, "Terrorism, gang rapes behind riots: MP" *Sydney Morning Herald*, 12 December 2005

Australian Broadcasting Corporation (ABC), *Four Corners*, 13 March 2006 , viewed 31 October 2006, http://www.abc.net.au/4corners/content/2006/s1590953.htm.

- "Criminal Gang or Islamic Gangs?" *MediaWatch*, 9 September 2002, viewed 3 November 2006, http://www.abc.net.au/mediawatch/transcripts/090902_s2.htm.

- "Ethnicity Linked to brutal gang rapes", *The 7:30 Report*, 15 July 2002, viewed 28 September 2007, http://www.abc.net.au/7:30/content/2002/s607757.htm

- "Ethnic crime under Sydney scrutiny", *Lateline*, 22 August 2001, viewed 28 September 2007, http://www.abc.net.au/lateline/stories/s351038

Adkins, Lisa and Skeggs, Beverley (eds.) 2004, *Feminism After Bourdieu*, The Sociological Review, Blackwell

Adkins, Lisa 2004(a), "Introduction: Feminism, Bourdieu and after" in Adkins, Lisa and Skeggs, Beverley (eds.) *Feminism After Bourdieu*, The Sociological Review, Blackwell

- 2004(b), "Reflexivity: Freedom or habit of gender?" in Adkins, Lisa and Skeggs, Beverley (eds.) 2004, *Feminism After Bourdieu*, The Sociological Review, Blackwell

Agacinski, Sylvaine 2003, "The Turning Point of Feminism" in Célestin et al. (eds.) *Beyond French Feminisms: Debates on Women, Politics, and Culture in France, 1981-2001*, Palgrave MacMillan, New York and Basingstoke

- 1998, *Politique des sexes*, Seuil, Paris

Ahmed, Sara 2008, "The Politics of Good Feeling" *ACRAWSA E-journal*, Vol. 4, No. 1 (2008)

Al-Shahi, Ahmed and Lawless, Richard (eds.) 2005, *Middle East and North African Immigrants in Europe*, Routledge, London and New York

Albrechtsen, Janet 2006(a), "Heed the PM's call for women's rights" *The Australian*, 6 September 2006

- 2006(b), "Human rights can no longer be sacrosanct" *The Australian,* 13 September 2006

- 2004, "Let us not overlook the race factor" *The Australian*, 17 March 2004

- 2002, "Talking race not racism" *The Australian*, 17 July 2002

Aldrich, Robert 2005, *Vestiges of the Colonial Empire in France*, Palgrave Macmillan, Basingstoke and New York

Alexander, M. Jacqui and Mohanty, Chandra Talpade (eds.) 1997, *Feminist Genealogies, Colonial Legacies, Democratic Futures*, Routledge, New York and London

Alloula, Malek 1987, *The Colonial harem* (translated by Myrna Godzich and Wlad Godzich, introduction by Barbara Harlow) Manchester University Press, Manchester

Alway, Joan 1999, "No Body There: Habermas and Feminism" *Current Perspectives in Social Theory*, Vol. 19, pp117-141

Amara, Fadela 2003, *Ni Putes Ni Soumises*, Éditions La Découverte ('Cahiers libres'), Paris

Ammons, Linda L. 1995, "Mules Madonnas, Babies, Bathwater, Racial Imagery and Stereotypes" *Wisconsin Law Review*, Vol. 1995, No. 5, pp1003-1080

Anderson, Benedict 2006, *Imagined Communities: Reflections on the Origins and Spread of Nationalism*, Third Edition, Verso Press, London

- 1991, *Imagined Communities: Reflections on the Origins and Spread of Nationalism*, First Edition, Verso Press, London

Anti-Discrimination Board of New South Wales, *Race for the Headlines: Racism and media discourse*: Report launched 13 February 2003, viewed 1 April 2004, http://www.lawlink.nsw.gov.au/adb.nsf/pages/raceheadlines

Ardizzoni, Michela 2004, « Unveiling the Veil : Gendered Discourses and the (In)Visibility of the Female Body in France » *Women's Studies*, Vol. 33, pp629-649

d'Arrigo, José 2001, « 'Tournante': le calvaire d'une jeune handicapée » *Le Figaro*, 25 May 2001, p8

Asad, Talal 2005, "Reflections on Laïcité and the Public Sphere", keynote address at the *Beirut Conference on Public Spheres*, October 22-24 2004, *Social Science Research Council: Items and Issues*, Vol. 5, No. 3, viewed 3 February 2008, http://publications.ssrc.org/items/v5n3/index.html

Awkward, Michael 1995, *Negotiating Difference: Race, Gender and the Politics of Positionality*, University of Chicago Press, Chicago and London

Backhouse, Constance 2003, "The Chilly Climate for Women Judges: Reflections on the Backlash from the *Ewanchuk* Case" *Canadian Journal of Women and the Law*, Vol. 15, No. 1, pp167-193

Bahramitash, Roksana 2005, "The War on Terror, Feminist Orientalism and Orientalist Feminism: Case Studies of Two North American Bestsellers" *Critique: Critical Middle Eastern Studies*, Vol. 14, No. 2(Summer 2005), pp223-237

Baird, Barbara 2006, "Maternity, Whiteness and National Identity: The Case of Abortion" *Australian Feminist Studies*, Vol. 21, No. 50 (July 2006), pp197-221

Bakhtin, Mikhail M. 1981, "Discourse in the Novel" in Holquist, Michael (ed.) *The Dialogic Imagination: Four Essays* (translated by Carly Emerson and Michael Holquist), University of Texas Press, Austin USA

Balibar, Etienne and Wallerstein, Immanuel 1991, *Race, Nation, Class: Ambiguous Identities*, Verso, London and New York

Balibar, Etienne 1991, "Race, nation and class" (interview, translated by Clare Hughes) in Silverman, Maxim (ed.) *Race, Discourse and Power in France*, Avebury, Aldershot, Brookfield USA, Hong Kong, Singapore, Sydney

Banton, Michael 2001, "National Integration in France and Britain" *Journal of Ethnic and Migration Studies*, Vol. 27, Issue 1 (January 2001), pp151-168

Barthe, Benjamin 2000, "Banlieue, les meufs contre-attaquent", *L'Humanité*, 2 December 2000

Basdevant-Gaudemet, Brigitte 2004, "Islam in France" in Aluffi, Roberta and Beck Peccoz and Zincone, Giovanna (eds.) *The Legal Treatment of Islamic Minorities in Europe*, Peeters, Leuven

Batrouney, Trevor 2002, "From 'White Australia' to Multiculturalism: citizenship and identity" in Hage, Ghassan (ed.) *Arab-Australians today: citizenship and belonging*, Melbourne University Press, Carlton South, Victoria.

Baudin, Gérard and Genestier, Philippe (dirs.) 2002, *Banlieues à Problèmes: La*

construction d'un problème social et d'un thème d'action publique, La documentation Française, Paris

Beauvoir, Simone de 1949, *Le deuxième sexe*, Gallimard, Paris

Behrendt, Larissa 1993, "Aboriginal Women and the White Lies of the Feminist Movement: Implications for Aboriginal Women in Rights Discourses" *Australian Feminist Law Journal*, Vol. 27, No. 1 (August 1993), p27

Bellil, Samira 2003, *Dans l'enfer des tournantes*, Denoël Impacts, Paris

Benabdessadok, Chérifa 2004, « Ni putes ni soumises: de la marche à l'université d'automne» *Mouvements*, Vol. 1248 (Mars-Avril 2004), pp64-74

Bhabha, Homi K. 1994, "The Other Question: Stereotype and the discourse of colonialism" in Bhabha, Homi K. *The Location of Culture*, Routledge, London and New York

- 1990, *Nation and Narration*, Routledge, London

Bigo, Didier and Guild, Elspeth (eds.) 2005, *Controlling Frontiers: Free Movement Into and Within Europe*, Ashgate, Aldershot, England and Burlington, USA

Billig, Michael 1995, *Banal Nationalism*, SAGE, London and Thousand Oaks, CA

Binet, Stéphanie 2003, « Des rappeurs et rappeuses face aux propositions des Ni putes ni soumises : 'Ça devrait être une cause nationale' » *Libération*, 4 October 2003

Blatt, David 1997, "Immigrant Politics in a Republican Nation" in Hargreaves, Alec G., and McKinney, Mark (eds.) *Post-Colonial Cultures in France*, Routledge, London and New York

Bloul, Rachel 1998, "From Moral Protest to Religious Politics: Ethical Demands and Beur Political Action in France" *Australian Journal of Anthropology*, Vol. 9, No. 1, pp11-30

- 1994, "Veiled objects of post-colonial desire: Forbidden women disrupt the republican fraternal space" *Australian Journal of Anthropology*, Vol. 5, Nos. 1/2, pp113-124

Bone, Pamela 2002, "Rape: the debate we have to have" *The Age*, 24 July 2002

Boulé, Jean-Pierre 2002, *HIV Stories: The Archaeology of AIDS Writing in France, 1985-1988*, Liverpool University Press, Liverpool UK

Bourdieu, Pierre 2003, “Symbolic Violence” in Célestin et al. (eds.) *Beyond French Feminisms: Debates on Women, Politics, and Culture in France, 1981-2001*, Palgrave MacMillan, New York and Basingstoke

- 2000, *Pascalian Meditations* (translated by Richard Nice), Polity Press and Blackwells, Oxford

- 1998, *La Domination Masculine*, Seuil, Paris

- 1982, *Ce que parler veut dire : l’economie des échanges linguistiques*, Fayard, Paris

- 1977, *Outline of a Theory of Practice*, (translated by Richard Nice), Cambridge University Press, Cambridge

- 1972, *Esquisse d’une théorie de la pratique*, Librairie Droz, Gencve

Bourgois, Philippe 1996, “In search of masculinity: violence, respect and sexuality among Puerto Rican crack dealers in East Harlem” *British Journal of Criminology*, Vol. 36, No. 3 (Summer 1996), pp412-428

Bouteldja, Houria 2006, « De la cérémonie du dévoilement à Alger (1958) à Ni Putes Ni Soumises: l’instrumentalisation coloniale et néo-coloniale de la cause des femmes », 18 June 2006, viewed 1 June 2007, http://www.indigenes-republique.org/spip.php?page=imprimerandid_article+152

Bouzar, Dounia and Kada, Saida 2003, *L'une voilée, l'autre pas*, Éditions Albin Michel, Paris

Bowd, Gavin 2004, “The End of the Affair? Intellectuals in Contemporary France” in Royall, Frédéric (ed.) *Contemporary French Cultures and Societies* Peter Lang, Oxford and New York

Bowker, Lee H. (ed.) 1998, *Masculinities and Violence*, SAGE Publications, Thousand Oaks, London, New Delhi

Brearley, David 2002, “Ethnicity and bad publicity a volatile mix” *The Australian*, 9 May 2002

Brito, Kate de 2001, “Rape is not an issue of ethnicity”, *The Sunday Telegraph*, 26 August 2001

Brod, Harry and Kaufman, Michael (eds.) 1994, *Theorizing Masculinities*, SAGE Publications, Thousand Oaks, London, New Delhi

Browning, Julie and Jakubowicz, Andrew 2004, “Respect and Racism in Australia: Discussion Paper No. 2” *Racism Monitor*, University of Technology, Sydney, viewed 3 November 2006, http://www.fairgo.net

Brownmiller, Susan 1975, *Against Our Will: men, women and rape*, Bantam Books, New York and Toronto

Brubaker, Rogers 1992, *Citizenship and Nationhood in France and Germany*, Harvard University Press, Cambridge Massachusetts

Brush, Paula Stewart 2001, "Problematizing the Race Consciousness of Women of Color" *Signs*, Vol. 27, No. 1 (Autumn 2001), pp171-198

Buddie, Amy M. and Miller, Arthur, G. 2001, "Beyond rape myths: A more complex view of perceptions of rape victims" *Sex Roles: A Journal of Research*, Vol. (August 2001), pp139-161, viewed 15 August 2006, http://www.findarticles.com/p/articles/mi_m2294/is_2001_August/ai_82782443

Bumiller, Kirsten 1998, "Fallen Angels: The Representation of Violence Against Women in Legal Culture" in Daly, Kathleen and Maher, Lisa (eds.) *Criminology at the Crossroads: Feminist Readings in Crime and Justice*, Oxford University Press, New York and Oxford

Butler, Judith 1999, *Gender Trouble*, 10th edition, Routledge, New York

- 1999(a) "Bodily Inscriptions, Performative Subversions" in Price, Janet and Shildrick, Margaret (eds.) *Feminist Theory and the Body: A Reader*, Edinburgh University Press, Edinburgh

- 1997, *Excitable Speech: A Politics of the Performative*, Routledge, New York

- 1993, *Bodies that Matter: on the Discursive Limits of 'Sex'*, Routledge, London and New York

Butler, Judith and Scott, Joan W. (eds.) 1992, *Feminists Theorize the Political*, Routledge, New York and London

Caeiro, Alexandre 2004, "Muslim Youth in France", Paper presented at the International Conference Muslim Youth in Europe: *Typologies of religious belonging and sociocultural dynamics*, Edoardo Agnelli Centre for Comparative Religious Studies, Turin 11 June 2004

Caldas-Coulthard, Carmen Rosa and Coulthard, Malcolm (eds.) 1996**,** *Texts and practices: readings in critical discourse analysis*, London and New York, Routledge

Calhoun, Craig 1993, "Nationalism and Ethnicity" *Annual Review of Sociology*, Vol. 19, pp211-39

Carty, Lisa 2008, "Rapist sparks jail alert", *Sydney Morning Herald*, 14 September 2008.

Carvalho Figueiredo, Débora de 2004, “Representations of Rape in Discourse of Legal Decisions” in Young, Lynne and Harrison, Claire (eds.) *Systemic Functional Linguistics and Critical Discourse Analysis: studies in social change*, Continuum International Publishing Group, London and New York

Carver, Terrell and Mottier, Véronique (eds.) 1998, *Politics of Sexuality: Identity, gender, citizenship*, Routledge, London and New York

Carver, Terrell 1998, “Sexual citizenship: Gendered and de-gendered narratives” in Carver and Mollier (eds), *Politics of Sexuality: Identity, gender, citizenship*, Routledge, London and New York

Célestin, Roger, DalMolin, Eliane and Courtivron, Isabelle de (eds.) 2003, *Beyond French Feminisms: Debates on Women, Politics, and Culture in France, 1981-2001*, Palgrave MacMillan, New York and Basingstoke

Cesari, Jocelyne 2005 “Ethnicity, Islam and les banlieues: Confusing the issues”, *Social Science Research Council (US) web forum*, 30 November 2005, viewed 15 November 2006, http://riotsfrance.ssrc.org/

Chambon, Frédéric and Laronche, Martine 2002, « ‘Pour les garçons, celle qui fume dans la rue ou qui n’est plus vierge, c’est une pute’ » *Le Monde*, 25 October 2002

Chambon, Frédéric 2001, « Dix jeunes gens comparaissent aux assises pour une ‘tournante’ » *Le Monde*, 26 April 2001, p10

- 2001(a), « Les viols collectifs rélèvent la misère affective et sexuelle des cités » *Le Monde*, 24 April 2001, p10

- 2001(b), «‘Une fille qui se fait “tourner” dans le quartier, c’est elle qui l’a cherché’ » *Le Monde*, 24 April 2001, p10

- 2001(c), « À Besançon quatre mineurs soupçonnés d’avoir violé une jeune fille de treize ans » *Le Monde*, 24 April 2001, p10

- 2000, “‘La Squale’, une fiction militante pour alerter l’opinion” *Le Monde*, 29 November 2000, p33

Chandra Talpade Mohanty, Ann Russo and Lourdes Torres (eds.) 1991, *Third World Women and the Politics of Feminism*, Indiana University Press, Bloomington and Indianapolis

Chatterjee, Partha 1993, *The Nation and its Fragments: colonial and postcolonial histories*, Princeton University Press, Princeton New Jersey

Chesterton, Simon 2007, “Plea for change to rape script” *Daily Telegraph*, 7 May 2007

Christophe, Sidonie 2001, “Tournante”, letter to *Le Monde*, 6-7 May 2001, p15

Clancy-Smith, Julia and Gouda, Frances (eds.) 1999, *Domesticating the Empire: Race, Gender and Family Life in French and Dutch Colonialism*, Virginia University Press, Charlottesville and London

Clancy-Smith, Julia 1999, “Islam, gender, and Identities in the Making of French Algeria, 1830-1962” in Clancy-Smith, Julia and Gouda, Frances (eds.) *Domesticating the Empire: Race, Gender and Family Life in French and Dutch Colonialism*, Virginia University Press, Charlottesville and London

Clark, Haley 2007, “Judging rape: Public attitudes and sentencing” *Aware: Australian Centre for the Study of Sexual Assault Newsletter*, No. 14, June 2007, Australian Institute of Family Studies, pp17-17-25

Coates L., Bavelas, J. and Gibson, J. 1994, “Anomalous language in sexual assault trial judgements” *Discourse and Society*, Vol. 5, p189-206

Collins, James 1998, “Language, Subjectivity, and Social Dynamics in the Writings of Pierre Bourdieu” *American Literary History,* Vol. 10, No. 4 (Winter 1998), pp725-732.

Collins, Jock, Noble, Greg, Poynting, Scott and Tabar, Paul 2000, *Kebabs, kids, cops and crime*, Pluto Press, Annandale NSW

Commission of Experts on the former Yugoslavia established by the UN Security Council, Resolution 780 (1992), “Final Report”, UN Doc. S/1994/674 (27 May 1994), viewed 7 July 2008, http://www.his.com/~twarrick/commxyu1.htm

Conklin, Alice L. 1999, “Redefining ‘Frenchness’: Citizenship, Race Regeneration, and Imperial Motherhood in France and West Africa, 1914-40” in Clancy-Smith, Julia and Gouda, Frances (eds.) *Domesticating the Empire: Race, Gender and Family Life in French and Dutch Colonialism*, Virginia University Press, Charlottesville and London

- 1997, *A Mission to Civilize: The Republican Idea of Empire in France and West Africa, 1895-1930*, Stanford University Press, Stanford CA

Connell, Robert, W. 2002, *Gender*, Blackwell Publishers and Polity Press, Cambridge UK and Malden USA

- 2000, *The Men and the Boys*, Allen and Unwin, St Leonards, NSW

- 1995, *Masculinities*, Allen and Unwin: St Leonards, NSW

Connolly, Ellen 2008, “Evil rapist back on the street” *The Daily Telegraph*, 15 June 2008

Connolly, Ellen and Moran, Jonathon 2007, “Film outrage”, *Daily Telegraph*, 28 January 2007

Connor, Walker 1994, *Ethnonationalism: The Quest for Understanding*, Princeton University Press, Princeton, New Jersey

Conversi, Daniele (ed.) 2002, *Ethnonationalism in the Contemporary World*, Routledge, London and New York

Coss, Graeme 2006, “The Defence of Provocation: An Acrimonious Divorce from Reality” *Current Issues in Criminal Justice*, Vol. 18, No. 1 (July 2006), pp51-78

Cossins, Anne 2000, *Masculinities, Sexualities and Child Sexual Abuse*, Kluwer Law International, Boston and The Hague

Costello, Peter 2006, “Solar rebates, solar energy, Muslim cleric’s comments on women”, Interview with Melissa Doyle and David Koch, *Sunrise,* Channel 7, 26 October 2006, viewed 1 November 2006, http://www.treasurer.gov.au/tsr/content/transcripts/2006/157.asp.

- 2004 *Address to National Day of Thanksgiving Commemoration*, Scots Church, Melbourne, 29 May 2004, viewed 3 November 2006, http://www.treasurer.gov.au/tsr/content/speeches/2004/007.asp?pf=1.

Couldry, Nick and Dreher, Tanja 2007, “Globalization and the public sphere: Exploring the space of community media in Sydney” *Global Media and Communication*, Volume 3, Number 1, pp79-100.

Coutant, Isabelle 2007, “The sociologist, the juvenile delinquent and the public arena: an ethnographic investigation in the Parisian suburbs of the early 2000s, paper presented at Ethnofeast III: Ethnography and the Public Sphere Conference, Instituto Superior de Ciências do Trabalho e da Empresa, Lisobon, 20-23 June 2007, viewed 10 December 2008, http://ceas.iscte.pt/ethnografeast/panels.html#icoutant

Cowdery, Nicholas 2005, “Current Issues in the Prosecution of Sexual Assault” *University of New South Wales Law Journal*, Vol. 12, viewed 12 December 2008, http://www.austlii.edu.au/au/journals/UNSWLJ/2005/12.html

Crichton, Sarah and Stevenson, Andrew 2002, “Crime and Prejudice”, *Sydney Morning Herald*, 14 September 2002

Cronin, Ciaran 1996, “Bourdieu and Foucault on power and modernity” *Philosophy and Social Criticism*, Vol. 22, No. 6 (November 1996), pp55-85

Crossley, Nick and Roberts, John Michael, 2004, *After Habermas: New Perspectives on the Public Sphere*, Blackwell Publishing, Oxford and Malden, Massachusetts

Crowley, John 2005, “Where Does the State Actually Start? The Contemporary Governance of Work and Migration” in Bigo, Didier and Guild, Elspeth (eds.) *Controlling Frontiers: Free Movement Into and Within Europe*, Ashgate, Aldershot, England and Burlington, USA

Dagistanli, Selda 2005, “Consent, the ‘lascivious Arab’ and standards of reasonableness in legal and official discourses” *Conference on Racism in the New World Order*, Southern Cross University, Hyatt Regency, Coolum, Queensland, December 8-9 2005, viewed 10 November 2008, www.usc.edu.au/NR/rdonlyres/EBFE0A88-2291-4CEF-AF83-735E11E494A4/0/RacismsConf2revised.pdf

Danet, Brenda 1980, “’Baby’ or ‘fetus’? Language and the construction of reality in a manslaughter trial’ *Semiotica*, Vol. 32, pp187-219

Dayan-Herzbrun, Sonia, “The Issue of the Islamic Headscarf” in Freedman, Jane and Tarr, Carrie (eds.) *Women, Immigration and Identities in France*, Berg Publishers, Oxford and New York

‘Debra’ 2003, “The self-confessed perpetrator and the Australian legal system that sanctioned a crime” *Women Against Violence*, Issue 14 (July 2003), pp53-61

Department of Immigration, Multicultural and Indigenous Affairs, Commonwealth of Australia (DIMIA) 1989, *National Agenda for a Multicultural Australia*, viewed 3 March 2004, http://www.immi.gov.au/media/publications/multicultural/agenda/agenda89/abetter.htm

Derderian, Richard L. 2004, *North Africans in Contemporary France: Becoming Visible*, Palgrave MacMillan, New York and Basingstoke

- 2002, “Algeria as a *lieu de mémoire*: Ethnic Minority Memory and National Identity in Contemporary France” *Radical History Review*, Issue 83 (spring 2002), pp28-43

Devine, Miranda 2006, “How a vile sermon of ignorance has done Australia a big favour” *Sydney Morning Herald*, 29 October 2006

- 2003, “Betraying the rape victims” *The Sun-Herald*, 30 November 2003

- 2002, “Racist rapes: Finally the truth comes out” *The Sun-Herald*, 14 July 2002

Dhareshwar, Vivek 1989, “Self-fashioning, Colonial Habitus, and Double Exclusion: V.S. Naipaul’s *The Mimic Men*” *Criticism: A Quarterly for literature and the arts*, Vol. XXXI, No. 1 (Winter 1989), pp75-102

Dhoquois, Anne 2003, « Les rapports de sexe dans les banlieues » *Comme la Ville*, (Ministère délégué à la ville et à la rénovation urbaine), No. 10, pp30-32

Dubois, Laurent 2000, "*La République Métissée*: Citizenship, Colonialism, and the Borders of French History" *Cultural Studies*, Vol. 14, No. 1, pp15-34

Duchen, Claire 1994, *Women's Rights and Women's Lives in France 1944-1968*, Routledge, London and New York

Duff, Eamonn 2002, "Crisis centre says gang rape a problem across all races" *Sun-Herald*, 21 July 2002

Duncan, Nancy (ed.) 1996, *Bodyspace: destabilizing geographies of gender and sexuality*, Routledge, London and New York

Durand, Jacky 2002, « La 'tournante' d'Argenteuil et l'incompréhension des parents: 'Pas mon fils, il n'a pas pu faire ça », *Libération*, 5 November 2002, pp22-23

Dworkin, Andrea 1995, *Intercourse*, Free Press Paperbacks, Simon and Schuster, New York

Easteal, Patricia (ed.) 1998, *Balancing the Scales: Rape, Law Reform and Australian Culture*, The Federation Press, Sydney

Ehrlich, Susan 2001, *Representing rape: language and sexual consent*, Routledge, London and New York

Eisenstein, Zillah 2000, "Writing bodies on the nation for the globe" in Ranchod-Nilsson, Sita and Tétrault, Mary-Ann (eds.) *Women, States and Nationalism: At home in the nation?* Routledge, London and New York

- 1996, *Hatreds: Racialized and Sexualized Conflicts in the 21st Century*, Routledge, New York and London

- 1986, *The Radical future of liberal feminism*, Northeastern University Press, Boston

Elder, Catriona 2007, *Being Australian: Narratives of National Identity*, Allen and Unwin, Crows Nest NSW

- 2003, "Invaders, Illegals and Aliens: Imagining Exclusion in 'White Australia'" *Law Text Culture* Vol. 7, pp221-250

Elhami Kaldas, Timothy, "French Feminists to the Rescue: A Centenary of Metropolitan Discourses on the Salvation of the 'Distressed Muslim Woman', 1900 and the Present", *Perils of Empire, Islamophobia, Religious Extremism and the New Imperialism: Association of Muslim Social Scientists of North America (AMSS) 36th Annual Conference*, University of Maryland, 26-28 October 2007, viewed 5 February

2008, http://www.amss.org/Conferences/AnnualConferences/36thAnnualConference.aspx#Final%20Papers

Eriksen, Thomas Hylland 2002, *Ethnicity and Nationalism* (2nd Edition), Pluto Press, London and Sterling, Virginia

Estrich, Susan 1987, *Real Rape: How the legal system victimizes women who say no*, Harvard University Press, Cambridge MA

- 1986, "Rape" *Yale Law Journal*, Vol. 95, No. 6 (May 1986), pp1087-1184

Fairclough, Norman 2003, *Analyzing discourse: textual analysis for social research*, Routledge, New York

- 1995, *Critical discourse analysis: the critical study of language*, Longman, London and New York

- 1995(a), *Media Discourse*, E. Arnold, London and New York

- 1992, *Discourse and Social Change*, Polity Press Cambridge Massachusetts

Fanon, Frantz 1970, *Les damnés de la terre*, François Maspero, Paris

- 1967, *Black Skin, White Masks*, (translated by Charles Lam Markmann), Grove Press, New York

- 1965, "Algeria Unveiled" in *A Dying Colonialism*, (translated by Haakon Chevalier) New York: Grove Press

Fassin, Éric 2006, "La démocratie sexuelle et le conflit des civilisations" *Multitudes*, Vol. 26, No. 3, pp123-131

- 2003, "The Politics of PaCS in the Transatlantic Mirror" in Célestin, et al. (eds.) *Beyond French Feminisms: Debates on Women, Politics, and Culture in France, 1981-2001*, Palgrave MacMillan, New York and Basingstoke

- 2001, "Same Sex, Different Politics: 'Gay Marriage' Debates in France and the United States" *Public Culture*, Vol. 13, No. 2, pp215-232

- 1999, "The Purloined Gender: American Feminism in a French Mirror", *French Historical Studies*, Vol. 22, No. 1 (winter 1999), pp113-138

Fickling, David 2002, "Racially motivated crime and punishment" *The Guardian*, 23 September 2002, viewed 29 August 2003, http://www.guardian.co.uk/elsewhere/journalist/story/0,7792,797463,00.htm

Finlayson, Alan 1998, “Sexuality and Nationality: Gendered Discourses of Ireland” in Carver, Terrell and Mottier, Véronique (eds.) *Politics of Sexuality: Identity, gender, citizenship*, Routledge, London and New York

Ford-Smith, Honor 1997, “Ring Ding in a Tight Corner: Sistren, Collective Democracy and the Organization of Cultural Production” in Alexander, M. Jacqui and Mohanty, Chandra Talpade (eds.) *Feminist Genealogies, Colonial Legacies, Democratic Futures*, Routledge, New York and London

Fougeyrollas-Schwebel, Dominique 2005, “Violence against women in France: the context, findings and impact of the Enveff survey?” *Statistical Journal of the United Nations*, ECE 22 (2005), pp289-300

Fowler, Roger 1991, *Language in the News: Discourse and Ideology in the press*, Routledge, London and New York

Frankenberg, Ruth 2001, “The Mirage of an Unmarked Whiteness” in Brander Rasmussen, Birgit and Nexica, Irene J. (eds.) *The Making and Unmaking of Whiteness*, Duke University Press, Durham USA

- 1993, *White women, race matters: the social construction of whiteness,* Routledge, London

Franklin, Ruth 2004, “Enacting Masculinity: Antigay Violence and Group Rape as Participatory Theater” *Sexuality Research and Social Policy*: *Journal of the National Sexual Research Centre (San Francisco State University)*, Vol. 1, No. 2 (April 2004)

Freedman, Jane and Tarr, Carrie (eds.) 2000, *Women, Immigration and Identities in France*, Berg Publishers, Oxford and New York

Friedman, Lawrence 2004, “The Day before Trials Vanished”, *Journal of Empirical Legal Studies*, Vol. 1, No. 3 (November 2004), pp689-703

Galbraith, Janet 2000, “Processes of Whiteness and Stories of Rape” *The Australian Feminist Law Journal*, Vol. 14, pp71-89

Galligan, Brian and Roberts, Winsome 2004, *Australian Citizenship*, Melbourne University Press, Carlton VIC

Gaspard, Françoise 2002, « Où en est le féminisme aujourd’hui? » *Cités*, Vol. 9, pp59-72

Gaspard, Françoise and Koshrow-Khavar, Fahrad 1995, *Le Foulard et la République*, La Découverte, Paris

Geisler, Rodolphe 2002, « Sordides ‘tournantes’ dans le XVIIIe arrondissement » *Le Figaro*, 3 August 2002, p9

Gellner, Ernest 1983, *Nations and Nationalism*, Basil Blackwell, Oxford

- 1964, *Thought and Change*, Weidenfeld and Nicholson, London

George, William H. and Martínez, Lorraine J. 2002, "Victim blaming in rape: effects of victim and perpetrator race, type of rape, and participant racism" *Psychology of Women Quarterly*, Vol. 26, pp110-119

Gibbs, Stephen 2003, "Rapist out of sight but not out of mind", *The Age*, 2 August 2003

Gibson, Jano 2005, "Sentence slashed: gang rapes not 'worst category'", *Sydney Morning Herald*, 16 September 2005

Gilliam, Angela 1991, "Women's Equality and National Liberation" in Mohanty et al. (eds.), *Third World Women and the Politics of Feminism*, Indiana University Press, Bloomington and Indianapolis

Giroux, Henry A. 1996, *Fugitive Cultures: Race, Violence and Youth*, Routledge, New York and London

Gleeson, Kate 2004, "From Centenary to the Olympics, Gang Rape in Sydney" *Current Issues in Criminal Justice*, Vol. 16, No. 2(November 2004), pp183-201

Gould, Carol (ed.) 1997, *Gender,* Key Concepts in Critical Theory, Humanities Press International, Atlantic Highlands, New Jersey

Greenfield, Cathy and Williams, Peter 2001, "'Howardism' and the media rhetoric of 'Battlers' vs 'Elites'" *Southern Review*, Vol. 34, No. 1, pp32-44

Grewal, Kiran 2007, "'The Young Muslim Man' in Australian Public Discourse", *Transforming Cultures eJournal*, Vol. 2, No. 1, viewed 25 October 2008, http://epress.lib.uts.edu.au/ojs/index.php/TfC/article/view/59

Griffin, Susan 1971, "Rape : The All American Crime" *Ramparts*, Vol. 10 (September 1971), pp26-35

Gros, Marie-Joëlle 2003, « Ni putes, ni soumises, ni comprises » *Libération*, 6 March 2003

Guénif-Souilamas, Nacira 2006, "The Other French Exception: Virtuous Racism and the War of the Sexes in Postcolonial France" *French Politics, Culture and Society*, Vol. 24, No. 3 (Winter 2006), pp24-41

- 2003, « Ni Pute, ni soumise ou très pute, très voilée? » *Cosmopolitiques*, Vol. 4 (Juillet 2003), pp53-65

- 2000, *Des Beurettes : aux descendantes d'immigrants nord-africains*, Bernard Grasset, Paris

Guénif-Souilamas, Nacira and Macé, Éric 2004, *Les féministes et le garçon arabe*, Éditions de l'aube, Paris

Gugelberger, Georg and Kearney, Michael 1991, "Voices for the Voiceless: Testimonial Literature in Latin America" *Latin American Perspectives*, Vol. 18, No. 3, Part I. (Summer 1991), pp3-14

Guillaumin, Colette, "'Race' and discourse" (translated by Clare Hughes) in Silverman, Maxim (ed.) *Race, Discourse and Power in France*, Avebury, Aldershot, Brookfield USA, Hong Kong, Singapore, Sydney

- 1992, *Sexe, Race et Pratique du pouvoir*, Côté-femmes, Paris

Gunew, Sneja 2004, *Haunted Nations: The colonial dimensions of multiculturalisms*, Routledge, London and New York

Haase-Dubosc, Danielle 1999, "Sexual Difference and Politics in France Today" *Feminist Studies*, Vol. 25, No. 1 (Spring 1999), pp183-210

Habermas, Jurgen (translated by Sara Lennox and Frank Lennox), "The Public Sphere: An Encyclopedia Article (1964)" *New German Critique*, No.3, Autumn 1974, pp49-55

Hage, Ghassan 2003, *Against Paranoid Nationalism: Searching for hope in a shrinking society*, Pluto Press, Annandale, NSW

- (ed.) 2002, *Arab-Australians today: citizenship and belonging*, Melbourne University Press, Carlton South, Victoria

- 1998, *White Nation: Fantasies of White supremacy in a multicultural society*, Pluto Press, Annandale, NSW

- 1996, "Nationalist Anxiety or the Fear of Losing Your Other" *Australian Journal of Anthropology*, Vol. 7, No. 2, pp121-140

Hamel, Christelle 2005, « De la racialisation du sexisme au sexisme identitaire » *Migrations Société*, Vol.17, Nos. 99-100 (May-August 2005), pp91-104

- 2003, « 'Faire tourner les meufs': Les viols collectifs: discours des médias et des agresseurs » *Gradhiva*, No. 33, pp85-93

Haraway, Donna 1992, "The Promises of Monsters: A Regenerative Politics for Inappropriate/d Others," in Grossberg, Lawrence, Nelson, Cary and Treichler, Paula A. (eds.), *Cultural Studies*, Routledge, New York, pp. 295-337

- 1991, *Simians, cyborgs and women: the reinvention of nature*, Free Association, London

Hargreaves, Alec G. 2006, "Testimony, Co-authorship, and Dispossession among Women of Maghrebi Origin in France" *Research in African Literatures*, Vol. 37, No. 1 (Spring 2006), pp42-54

- 1995, *Immigration, 'Race' and Ethnicity in Contemporary France*, Routledge, London

Hargreaves, Alec G., and McKinney, Mark (eds.) 1997, *Post-Colonial Cultures in France*, Routledge, London and New York

Hartcher, Peter, Coorey, Philip and Braithwaite, David 2006, "Sheik falls on his sword" *Sydney Morning Herald*, 31 October 2006

Heath, Mary 1998, "Disputed Truths: Australian Reform of the sexual conduct elements of common law rape" in Easteal, Patricia (ed.) *Balancing the Scales: Rape, Law Reform and Australian Culture,* The Federation Press, Sydney

Heckmann, Friedrich 1999, "Integration Policies in Europe: National Differences and/or Convergences?" European forum for migration studies ('efms') Paper 33, University of Bamberg, presented at European Research conference, *European Societies or European Society? Migration and Inter-Ethnic Relations in Europe*, Eurovillage d'Obernai, France, 23-28 September 1999, viewed 13 February 2005, http://web.uni-bamberg.de/~ba6ef3/pdf/efms_p33.pdf

Ho, Christina 2007, "Muslim women's new defenders: Women's rights, nationalism and Islamophobia in contemporary Australia" *Women's Studies International Forum*, Vol. 30, pp290-298

- 2006, "Cronulla, conflict and culture: how can Muslim women be heard in Australia?" UTSpeaks Public Lecture, 5 September 2006 – transcript viewed 10 November 2006, www.uts.edu.au/new/releases/2006/September/images/utsspeaks_dr_ho.pdf

Hobsbawm, Eric J. 1990, *Nations and Nationalism since 1780: Programme, Myth, Reality*, Cambridge University Press (reprint)

Hobsbawm, Eric and Ranger, Terence 1983, *The Invention of Tradition*, Cambridge University Press, Cambridge UK

Hondagneu-Sotelo, Pierrette and Messner, Michael 1994 "Gender Displays and Men's Power: The 'New Man' and the Mexican Immigrant Man" in Brod, Harry and Kaufman, Michael (eds.) *Theorizing Masculinities*, Sage Publications, Thousand Oaks, CA

Hooks, bell 2004, *We Real Cool: Black Men and Masculinity*, Routledge, New York and London

- 1994, *Outlaw Culture: Resisting representation*, Routledge, New York and London

- 1992, *Black looks: race and representation*, South End Press, Boston MA

- 1990, *Yearning: race, gender, and cultural politics*, South End Press, Boston MA

House, Jim 1996, "Muslim Communities in France" in Nonneman, Gerd, Niblock, Tim and Szajkowski, Bogdan (eds.) *Muslim Communities in the New Europe*, Ithaca Press, Reading Berkshire

Howard, John 2005, Press conference, Phillip Street, Sydney 13 December 2005, viewed 3 November 2006, http://www.pm.gov.au/News/interviews/Interview1723.html.

- 2001, "Australia Day Address", 25 January 2001, viewed 3 March 2004, http://www.pm.gov.au/news/speeches/2001/speech670.htm.

Howell, Jennifer 2008, "Reconstituting Cultural Memory through Image and Text in Leïla Sebbar's *Le Chinois vert d'Afrique*" *French Cultural Studies*, Vol. 19, No. 1, pp57-70

Hughes, Alex 1999, *Heterographies: Sexual difference in French autobiography*, Berg Publishers, Oxford

Human Rights and Equal Opportunities Commission (HREOC) 2004, *Isma – Listen*, report of national consultations on eliminating prejudice against Arab and Muslim Australians, HREOC

Humphrey, Michael 2007, "Culturalising the Abject: Islam, Law and Moral Panic in the West" *Australian Journal of Social Issues*, Vol. 42, No.1 (Autumn 2007), pp9-25

Inathèque de France (INA), 2004, *Pierre Bourdieu et les medias: rencontres INA/Sorbonne, 15 Mars 2003*, L'Harmattan, Paris

Jaggar, Alison M. 1997, "Human Biology in Feminist Theory: Sexual Equality Reconsidered" in Carol Gould (ed.) *Gender,* Key Concepts in Critical Theory, Humanities Press International, Atlantic Highlands, New Jersey

Jakubowicz, Andrew, Goodall, Heather, Martin, Jeannie, Mitchell, Randall and Seneviratne 1994, *Racism, Ethnicity and the Media*, St Leonards, NSW, Allen and Unwin, St Leonards NSW

Jaspard, Maryse et al. 2001, « Nommer et compter les violences envers les femmes: une première enquête nationale en France » *Populations et sociétés*, Volume 364, pp1-4

Jaworski, Adam and Coupland, Nikolas (eds.) 1999, *The Discourse Reader*, Routledge, London

Jayasuriya, Laksiri, Walker, David and Gothard, Jan (eds.) 2003, *Legacies of White Australia: Race, Culture and Nation*, University of Western Australia Press, Crawley WA

Jelen, Christian 1991, *Ils feront de bons Français: Enquête sur l'Assimilation des Maghrébins*, Éditions Robert Laffont, Paris

Jenkins, Richard 2002, *Pierre Bourdieu (Key Sociologists Series)*, Routledge, London and New York

Johns, Rowena, Griffith, Gareth and Simpson, Rachel 2001, "Sentencing 'Gang Rapists': The Crimes Amendment (Aggravated Sexual Assault in Company) Bill 2001" *NSW Parliamentary Library Research Service*, Briefing Paper No. 12/2001

Jupp, James 1991, *Immigration*, Sydney University Press and Oxford University Press Australia, Sydney

Kampmark, Binoy 2003, "Islam, Women and Australia's cultural discourse of terror" *Hecate* Vol. 29, No. 1, pp86-106

Kanneh, Kadiatu 1998, "Marketing Black women's texts: the case of Alice Walker" in Simons, Judy and Fullbrook, Kate (eds.) *Writing: a woman's business – Women, writing and the marketplace*, Manchester University Press, Manchester and New York

Katrak, Ketu H. 1992, "Indian Nationalism, Gandhian'Satyagraha,'and Representations of Female Sexuality" in Parker, Andrew, Russo, Mary, Sommer, Doris, Yaeger, Patricia (eds.) *Nationalisms and Sexualities*, Routledge, New York and London

Kaur, Raminder 2003, "Westenders: Whiteness, Women and Sexuality in Southall, UK" in Andall, Jacqueline (ed.), *Gender and Ethnicity in Contemporary Europe*, Berg, Oxford and New York

Kelly, Lovett and Regan 2005 "A gap or a chasm? Attrition in reported rape cases" Home Office Research Study 293, viewed 3 March 2006, http://www.homeoffice.gov.uk/rds/pdfs05/hors293.pdf

Keogh, Kylie 2003, "Finally, some good news comes from a terrible crime", *The Sun-Herald*, 12 July 2003

Kerbaj, Richard 2006, "Muslim leader blames women for sex attacks", *The Australian*, 26 October 2006

Khedimellah, Moussa 2004, "Corps et inconscient collectif voilés: Enjeux de la similitude et de l'alterité" *Cosmopolitiques*, Vol. 6 (Mars 2004), pp75-93

Kimble, Sara L. 2006, "Emancipation through Secularization: French Feminist Views of Muslim Women's Condition in Interwar Algeria" *French Colonial History*, Vol. 7, pp109-128

Kohn, Margaret 2008, "Empire's Law: Alexis de Tocqueville on Colonialism and the State of Exception" *Canadian Journal of Political Science*, Vol. 41, No. 2 (June 2008), pp255-278

Krémer, Pascale and Laronche, Martine 2002, « La condition des jeunes filles s'est dégradée dans les quartiers difficiles » *Le Monde*, 25 October 2002

Kuhn, Raymond 1995, *The Media in France*, Routledge, London and New York

Lacey, Nicola 2001, "Social policy, civil society and the institutions of criminal justice" *Australian Journal of Legal Philosophy*, Vol. 26, pp7-25

Lalanne, J.M. 2000, « La Banlieue vue des meufs » *Libération*, 29 November 2000
Langhe, Anne-Charlotte de 2001, « Violences: sept jeunes juges à Versailles pour des abus sexuels perpétrés en groupe sur une adolescente – Viols collectifs: l'odieux rituel des 'tournantes' » *Le Figaro*, 2 May 2001

Lattas, Andrew 2007, "'They Always Seem to be Angry': The Cronulla Riot and the Civilising Pleasures of the Sun", *The Australian Journal of Anthropology*, Vol. 18, No. 3, pp300-319

Lattas, Judy 2007, "Cruising: 'Moral Panic' and the Cronulla Riot" *The Australian Journal of Anthropology*, Vol. 18, No. 3, pp320-335

Laurence, Jonathan and Vaisse, Justin 2006, *Integrating Islam: Political and Religious Challenges in Contemporary France*, Brookings Institution Press, Washington D.C.

Law, Ian 2002, *Race in the news*, Palgrave, Hampshire and New York

Lawler, Steph 2004, "Rules of engagement: Habitus, power and resistance" in Adkins, Lisa and Skeggs, Beverley (eds.) *Feminism After Bourdieu*, The Sociological Review, Blackwell

Lazar, Michelle M. (ed.) 2005, *Feminist Critical Discourse Analysis: Gender, Power and Ideology in Discourse*, Palgrave MacMillan, Basingstoke Hampshire and New York

Le Cour Grandmaison, Olivier and Wihtol de Wenden, Catherine 1993, *Les étrangers dans la cité: expériences européenes*, Éditions la Découverte, Paris

Lemke, Jay L. 1995, *Textual Politics: Discourse and Social Dynamics*, Critical Perspectives on Literacy and Education Series, Taylor and Francis, London

Lépinard, Eléonore 2006, " Identity without Politics: Framing the Parity Laws and their Implementation in French Local Politics" *Social Politics: International Studies in Gender, State and Society*, Vol 13, No. 1 (Spring 2006), pp30-58

Lépinard, Eléonore 2004, "Gendered Identities, Gendered Politics? Framing Difference in the French Parity Debate" in Cobble, Dorothy Sue, Hutchison, Beth and Chaloupka, Amanda B. (eds.), *Femininities, Masculinities, and the Politics of Sexual Difference(s)*: *Working Papers from the 2003-2004 Seminar*, Institute for Research on Women, Rutgers State University, New Brunswick, New Jersey

Limage, Leslie J. 2000, "Education and Muslim Identity: the case of France", *Comparative Education*, Vol. 36, Issue 1 (February 2000), pp73-95

Lloyd, Cathie 2003, "Women Migrants and Political Activism in France" in Andall, Jacqueline (ed.), *Gender and Ethnicity in Contemporary Europe*, Berg, Oxford and New York

Lochard, Guy 2002, « La question de la banlieue a la television francaise: mise en place et evolution d'un conflit de representations », in Amorim, Marilia (dir.) *Images et Discours sur la Banlieue: Questions vives sur la banlieue*, Éditions érès, Paris

Loizidou, Elena 2007, *Judith Butler: Ethics, Law, Politics*, Routledge-Cavendish, Oxon UK and New York

McCaughan, Edward J. 1993, "Race, ethnicity, nation, and class within theories of structure and agency. (Rethinking Race)" *Social Justice*, Vol. 20, Nos 1-2, (Spring-Summer 1993), pp82-104

McClintock, Anne, Mufti, Aamir and Shohat, Ella (eds.) 1997, *Dangerous Liaisons: Gender, Nation, Postcolonial Perspectives*, University of Minnesota Press, Minneapolis and London

McClintock, Anne 1994, *Imperial Leather: race, gender and sexuality in the colonial conquest*, Routledge, New York

- 1993, "Family Feuds: Gender, Nationalism and the Family" *Feminist Review*, No. 44 (Summer 1993), pp61-80

McCormick, Naomi B. 1995, "Book review – Fraternity Gang Rape: Sex, Brotherhood and Privilege on Campus by Peggy Reeves Sanday" *Archives of Sexual Behaviour,* Vol. 24, No. 3 (June 1995), pp355-359

McIlveen, Luke 2007, "High school pupils linked to race hate images", *The Daily Telegraph*, 24 January 2007

McMillan, Peter 1992, *Men, Sex and Other Secrets*, The Text Publishing Company Pty Ltd, Melbourne

McMurray, David 1997, "La France Arabe" in Hargreaves, Alec G. and McKinney, Mark (eds.) *Post-Colonial Cultures in France*, Routledge, London and New York

McNay, Lois 2004, "Agency and experience: gender as a lived relation" in Adkins, Lisa and Skeggs, Beverley (eds.) *Feminism After Bourdieu*, The Sociological Review, Blackwell

- 1999, "Gender, Habitus and the Field: Pierre Bourdieu and the Limits of Reflexivity" *Theory, Culture and Society*, Vol. 16, No. 1, pp95-117

Mac An Ghaill, Martin 1994, "The Making of Black English Masculinities" in Brod, Harry and Kaufman, Michael (eds.) *Theorizing Masculinities*, Sage Publications, Thousand Oaks, CA

MacDonnell, Dianne 1986, *Theories of Discourse: An Introduction*, B. Blackwell, Oxford and New York

MacDougall, Gay J. Special Rapporteur of the Working Group on Contemporary Forms of Slavery 1998, "Systematic rape, sexual slavery and slavery-like practices during armed conflict", *Final Report to the Sub-Commission on the Promotion and Protection of Human Rights* 50th session, 24 June 1998 – E/CN.4/Sub.2/1998/13, viewed 3 March 2006, http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/3d25270b5fa3ea998025665f0032f220?Opendocument

MacKinnon, Catherine A. 2006, *Are Women Human? And Other International Dialogues*, The Belknap Press of Harvard University Press, Cambridge MA and London

- 1997, "Rape: On Coercion and Consent" in Conboy, Katie, Medina, Nadia and Stanbury, Sarah (eds.) *Writing on the body: Female Embodiment and Feminist Theory*, Columbia University Press, New York

- 1989, *Towards a feminist theory of the state*, Harvard University Press, Cambridge MA

- 1987, *Feminism unmodified: discourses on life and law*, University of Harvard Press, Cambridge MA

Macdonald, Myra 2003, *Exploring Media Discourse*, Arnold, Abingdon

Madhubuti, Haki R. 1990, *Black Men: Obsolete, Single, Dangerous? Afrikan American Families in Transition: Essays in Discovery, Solution and Hope*, Third World Press, Chicago

Marcus, Sharon 1992, “Fighting Bodies, Fighting Words: A Theory and Politics of Rape Prevention” in Butler, Judith and Scott, Joan W. (eds.) *Feminists Theorize the Political*, Routledge, New York and London

Marín, Lynda 1991, “Speaking Out Together: Testimonials of Latin American Women” *Latin American Perspectives*, Issue 70, Vol. 18, No. 3 (Summer 1991), pp51-68

Marks, Kathy 2004, “And they call it a British disease” *The Independent on Sunday*, 7 March 2004 , viewed 1 November 2006, http://www.findarticles.com/p/articles/mi_qn4159/is_20040307/ai_n12751183

Marr, David 2005, “Alan Jones: I’m the person that’s led this charge” *The Age,* 13 December 2005.

Mas, Ruth 2006, “Compelling the Muslim Subject: Memory as Post-Colonial Violence and the Public Performativity of ‘Secular and Cultural Islam’” *The Muslim World*, Vol. 96 (October 2006), pp585-616

Mazzocchi, Jo, “Final gang member in Sydney rape case gets sentenced”, AM, ABC online, 12 October 2002, viewed 30 September 2003, http://www.abc.net.au/am/s699823.htm

Mercer, Kobena 1994, *Welcome to the Jungle: New Positions in Black Cultural Studies*. Routledge, New York and London

Mertus, Julie 1999, “Women in Kosovo: Contested Terrains – The Role of National Identity in Shaping and Challenging Gender Identity” in Ramet, Sabrina P. (ed.) *Gender and Politics in the Western Balkans: Women and Society in Yugoslavia and the Yugoslav Successor States,* Pennsylvania State University Press*,* University Park, Pennsylvania

Mills, Sara 1997, *Discourse*, Routledge, London and New York

Minh-ha, Trinh T. 1997, “Not You/Like You” in McClintock, Anne, Mufti, Aamir and Shohat, Ella (eds.) *Dangerous Liaisons: Gender, Nation, Postcolonial Perspectives*, University of Minnesota Press, Minneapolis and London

-1989, *Woman, Native, Other*, Indiana University Press, Bloomington USA

Mitchell, Alex and Sutton, Candace 2003, “Gang rapist’s horror drawings of girlfriend” *The Sun-Herald*, 20 July 2003

Mitchell, Tony (ed.) 2001, *Global Noise: rap and hip hop outside the USA*, Wesleyan University Press, Middletown CT

Mohanty, Chandra Talpade 2003, *Feminism without Borders*, Duke University Press, Durham and London

Mohanty, Chandra Talpade, Russo, Ann and Torres, Lourdes (eds.) 1991, *Third World Women and the Politics of Feminism*, Indiana University Press, Bloomington and Indianapolis

Moorti, Sujata 2002, *Color of Rape: Gender and Race in Television's Public Spheres*, State University of New York Press, Albany USA

Motta, Philippe 2001, « Violences. Sept jeunes jugés à Versailles pour des abus sexuels perpétrés en groupe sur une adolescente: Les cités ne sont pas seules concernées » *Le Figaro*, 2 May 2001, p7

Moyon, Richard 2002, « Tournantes, je vous hais ! » *Mouvements*, No. 20, pp66-69

Mucchielli, Laurent 2005, *Le scandale des 'tournantes': dérives médiatiques, contre-enquête sociologique*, La Découverte, Paris

Murphy, Damien 2005, "Thugs ruled the streets, and the mob sang Waltzing Matilda", *Sydney Morning Herald*, 12 December 2005
Nagel, Joane 2003, *Race, ethnicity and sexuality : intimate intersections, forbidden frontiers*, Oxford University Press, New York

Nasta, Susheila 1991, *Motherlands: Women's Writing from Africa, the Caribbean and South Asia*, Women's Press Ltd, London

Ni Putes Ni Soumises (NPNS), "Manifesto", March 2004, viewed 12 May 2007, http://www.niputesnisoumises.com/mouvement.php?section=historique_2004.

Noble, Greg and Watkins, Megan, "So, How Did Bourdieu Learn to Play Tennis? Habitus, Consciousness and Habituation" *Cultural Studies*, Vol. 17, No. 3, pp520-539

Noble, Greg and Tabar, Paul 2002, "On being Lebanese-Australian: hybridity, essentialism and strategy among Arabic-speaking youth" in Hage, Ghassan (ed.) *Arab-Australians Today: Citizenship and Belonging*, Melbourne University Press, Carlton South, Victoria

Noiriel, Gérard 2004, *Gens d'ici venus d'ailleurs*, la France de l'immigration, de 1800 à nos jours, Éditions du Chene, Paris

- 2002, *Atlas de l'Immigration en France: Exclusion, intégration*, Éditions Autrement, Paris

O'Dwyer, Erin 2007, "Post-traumatic Strength" *The Sun-Herald*, 28 October 2007

O'Sullivan, Chris 1998, "Ladykillers: Similarities and Divergences of Masculinities in Gang Rape and Wife Battery" in Bowker, Lee H. (ed.) *Masculinities and Violence*, SAGE Publications, Thousand Oaks, London, New Delhi

Odmalm, Pontus 2005, *Migration Policies and Political Participation: Inclusion or Intrusion in Western Europe?* Palgrave MacMillan, Basingstoke, England

Orlando, Valérie 2003, "From Rap to Raï in the Mixing Bowl: Beur Hip-Hop Culture and Banlieue Cinema in Urban France" *Journal of Popular Culture*, Vol. 36, No. 3 (Winter 2003), pp395-415

Ozouf, Mona 1995, *Les mots de femmes: essais sur la singularité française*, Fayard, Paris

Parker, Andrew, Russo, Mary, Sommer, Doris, Yaeger, Patricia (eds.) 1992, *Nationalisms and Sexualities*, Routledge, New York and London

Paydar, Parvin 1995, *Women and the Political Process in Twentieth Century Iran*, Cambridge University Press, Cambridge UK

Pech, Marie-Estelle 2002(a), « Tournantes: de l'injure sexiste au viol collectif, jamais les rapports entre garçons et filles n'ont été aussi agressif: La grande misère sexuelle des adolescents des cités » *Le Figaro*, 21 June 2002, p8

- 2002(b), « Ils ont leurs codes et font souvent preuve d'une anachronique pudeur, source des pires dérapages: 'Une fille en jupe, c'est une taspé, une fille facile » *Le Figaro*, 21 June 2002, p8

- 2002(c), « Les désolants enseignements d'une tournante ordinaire » *Le Figaro*, 27 May 2002, p12

Peralva, Angelina and Macé, Eric 2002, *Médias et violences urbaines: Débats politiques et constructions journalistiques*, La Documentation française, Paris

Peterson, V. Spike 2000, "Sexing political identities/ nationalism as heterosexism" in Ranchod-Nilsson, Sita and Tétreault, Mary-Ann (eds.) *Women, States and Nationalism: At home in the nation?*, Routledge, London and New York

Philadelphoff-Puren, Nina 2005, "Contextualising Consent: The Problem of Rape and Romance" *Australian Feminist Studies*, Vol. 20, No. 46 (March 2005), pp 31-42

- 2004, "Dereliction: Women, Rape and Football" *Australian Feminist Law Journal,* Vol. 21, pp35-51

- 2003, "The Right Language for Rape" *Hecate*, Vol. 29, No. 1, pp47-58

Pileggi, Mary and Patton, Cindy 2003, "Introduction: Bourdieu and Cultural Studies" *Cultural Studies*, Vol. 17, No. 3, pp313-325

Poussaint, Alvin F. 1972, *Why Blacks Kill Blacks*, Emerson Hall Publishers, New York

Poynting, Scott and Mason, Victoria 2007, "The Resistible Rise of Islamophobia: Anti-Muslim Racism in the UK and Australia before 9/11," *Journal of Sociology*, Vol. 43, No. 1, March 2007, pp61-86

Poynting, Scott 2006, "What caused the Cronulla riot?" *Race and Class,* Vol. 48, No. 1, pp85-92

Poynting, Scott, Noble, Greg, Tabar, Paul and Collins, Jock 2004, *Bin Laden in the Suburbs: Criminalising the Arab Other*, Sydney Institute of Criminology Series, Sydney

Pratt, Mary Louise 1992, *Imperial Eyes: Travel Writing and Transculturation*, Routledge, London and New York

Priest, Tim 2004, "Don't turn a blind eye to terror in our midst" *The Australian*, 12 January 2004

Prins, Baukje 2007, "Sympathetic Distrust: Cultural Diversity and the Sexual Autonomy of Women", paper presented at the Multiculturalism and Human Rights workshop, University of Toronoto, 27 April 2007, viewed 1 December 2008, http://philosophy.eldoc.ub.rug.nl/root/BPrins/Sympathetic/

Puar, Jasbir 2005, "On Torture: Abu Graib" *Radical History Review*, Vol. 93 (Fall 2005), pp13-38

Radford, Jill and Stanko, Elizabeth 1996, "Violence against women and children: the contradictions of crime control under patriarchy" in Hester, Marianne, Kelly, Liz and Radford, Jill (eds.), *Women, violence, and male power: feminist activism, research, and practice*, Open University Press, Buckingham UK and Philadelphia USA

Radhakrishnan, Rajagopolan 1992, "Nationalism, Gender and the Narrative of Identity" in Parker, Andrew, Russo, Mary, Sommer, Doris, Yaeger, Patricia (eds.) *Nationalisms and Sexualities*, Routledge, New York and London

Racioppi, Linda and O'Sullivan See, Katherine 2000, "Engendering nation and national identity" in Ranchod-Nilsson, Sita and Tétreault, Mary-Ann (eds.), *Women, States and Nationalism: At home in the nation?* Routledge, London and New York

Rackley, Erika 2007, "Judicial diversity, the woman judge and fairy tale endings", *Legal Studies*, Vol. 27, No. 1 (March 2007), pp74-94

Raissiguer, Catherine 2002, "The Sexual and Racial Politics of Civil Unions in France", *Radical History Review*, Issue 83 (spring 2002), pp73-93

- 1999, "Gender, Race and Exclusion: A New Look at the French Republican Tradition" *International Feminist Journal of Politics*, Vol. 1, No. 3 (Autumn 1999), pp435-457

Ramazanoglu, Caroline (ed.) 1993, *Up Against Foucault: Explorations of some tensions between Foucault and feminism*, Routledge, London and New York

Ranchod-Nilsson, Sita and Tétreault, Mary-Ann (eds.) 2000, *Women, States and Nationalism: At home in the nation?* Routledge, London and New York

Razack, Sherene H. 2004, "Imperilled Muslim Women, Dangerous Muslim Men and Civilised Europeans: Legal and Social Responses to Forced Marriages" *Feminist Legal Studies*, Vol. 12 (2004), pp129-174

- 1998, *Looking White People in the Eye: Gender, Race and Culture in the Courtrooms and Classrooms*, University of Toronto Press, Toronto

Reay, Diane 1995, "They employ cleaners to do that: Habitus in the primary classroom" *British Journal of Sociology of Education*, Vol. 16, No. 3, pp 353-371

Redmond, Anthony 2007, "Surfies versus Westies: Kinship, Mateship and Sexuality in the Cronulla Riot" *The Australian Journal of Anthropology*, Vol. 18, No. 3, pp336-350

Rey, Henri 1996, *La Peur des Banlieues, La Bibliothèque du Citoyen*, Presses de la Fondation Nationale des Sciences Politiques, Paris

Rinaudo, Christian 1999, *L'Ethnicite dans la Cite: Jeux et enjeux de la categorisation ethnique*, L'Harmattan, Paris and Montreal

Robert-Diard, Pascale 2002, «Les auteurs du viol collectif d'Argenteuil condamnés à des peines allant de 5 à 12 ans de prison » *Le Monde*, 29-30 September 2002, p11

Rosello, Mireille 2003, "New Gendered Mosaics: Their Mothers, the Gauls" in Célestin et al. (eds.) *Beyond French Feminisms: Debates on Women, Politics, and Culture in France, 1981-2001*, Palgrave MacMillan, New York and Basingstoke

- 1997, "North African Women and the Ideology of Modernization: From *bidonvilles* to *cités de transit* and *HLM*" in Hargreaves A.G, McKinney, M. (eds.) *Post-Colonial Cultures in France*, Routledge, London and New York

Rotman, Charlotte 2003, «La longue marche des femmes des cités » *Libération*, 31 January 2003, p17

Rouquette, Michel-Louis 1997, *La chasse à l'immigré: Violence, mémoire et représentations*, MARDAGA, Paris

Roux, Patricia, Gianettoni, Lavinia and Perrin, Céline 2007, "L'instrumentalisation du genre: une nouvelle forme de racisme et sexisme" *Nouvelles Questions Féministes*, Vol. 26, No.2, pp92-108

Rubin, Gayle 1975, “The Traffic in Women: Notes on the ‘Political Economy’ of Sex” in Reiter, Rayne R. (ed.) *Toward an Anthropology of Women*, Monthly Review Press, New York and London, pp157-210

Saadaoui, Linda, « Autour des ‘Tournantes’: Traitement journalistique du fait divers sur le viol collectif en France. Des représentations européennes d’une immigration », seminar paper presented at 1er séminaire transfrontalier de l’Association des Jeunes Chercheurs, Centre de Recherche sur les Médiations (CREM), Metz, France, 29 May 2007, viewed 29 February 2008, http://ajc-crem.univ-metz.fr/upload/publi/Article_seminaire_Saadaoui.doc

Said, Edward W. 1995, *Orientalism*, Penguin, London

Salhi, Abdel-Illah 2002, “Sale temps pour les Arabes en France” *Libération*, 23 October 2002, p5

Salih, Sarah (with Judith Butler) (ed.) 2004, *The Judith Butler Reader*, Blackwell Publishing, Malden MA, Oxford UK, Carlton Vic

Sanday, Peggy Reeves 1990, *Fraternity gang rape : sex, brotherhood and privilege on campus*, New York University Press, New York

Santucci, Françoise-Marie 2001(a), « Dans les cités, les clichés ont la dure » *Libération*, 9 March 2001

- 2001(b), « Viols: la spirale infernale de la ‘tournante’ » *Libération*, 9 March 2001

Schlesinger, Philip 1991, *Media, State and Nation: Political Violence and Collective Identities*, SAGE Publications, London, Newbury Park, New Delhi

Schneidermann, Daniel 2003, *Le Cauchemar Médiatique*, Éditions Denöel: Paris

Scott, Joan W. 2007, *The Politics of the Veil*, Princeton University Press, Princeton New Jersey

- 2005, *Parité!: sexual equality and the crisis of French universalism*, University of Chicago Press, Chicago and London

- 2003, “Vive la difference!” in Célestin et al. (eds.) *Beyond French Feminisms: Debates on Women, Politics, and Culture in France, 1981-2001*, Palgrave MacMillan, New York and Basingstoke

- 1992, “Experience” in Butler, Judith and Scott, Joan W. (eds.) 1992, *Feminists Theorize the Political*, Routledge, New York and London

- 1991, “The Evidence of Experience” *Critical Inquiry*, Vol. 17, No. 4 (Summer 1991), pp773-797

Sedgwick, Eve Kosofsky 1994, *Tendencies*, Routledge, London

- 1985, *Between Men: English literature and male homosocial desire*, Columbia University Press, New York
Seifert, Ruth 1996, "The Second Front: The Logic of Sexual Violence in Wars" *Women's Studies International Forum* Vol. 19, Nos. 1/2, pp35-43

Senior, Nancy 2007, "The Muslim Headscarf Controversy in French Schools: A Sign of Inclusion or of Exclusion" *Rhetor: Journal of the Canadian Society for the Study of Rhetoric*, Vol. 2, viewed 2 November 2008, www.cssr-scer.ca/rhetor

Sereny, Gitta 1995, *Albert Speer: His battle with truth*, Macmillan, London

Sexton, Jared 2003, "Race, Sexuality and Political Struggle: Reading *Soul on* Ice" *Social* Justice, Vol. 30, No. 2, pp28-41

Sharp, Joanne P. 1996, "Gendering Nationhood: A feminist engagement with national identity" in Duncan, Nancy (ed.), *Bodyspace: destabilizing geographies of gender and sexuality*, Routledge, London and New York

Sheehan, Paul 2006, *Girls Like You*, Macmillan, Sydney

- 2006(a), "Sheik's views show up the wider problem with Muslim men" *Sydney Morning Herald*, 27 October 2006

- 2006(b), "Rough, slow justice for rape victims" *Sydney Morning Herald*, 10 April 2006

- 2005, "Cold-blooded law heats up cultural war" *Sydney Morning Herald*, 7 February 2005

- 2004, "Ass of a law means the rights of rapists override those of their victims" *Sydney Morning Herald*, 6 September 2004

- 2001, "Tolerant, multicultural Sydney can face this difficult truth" *Sydney Morning Herald*, 29 August 2001

Silverman, Kaja 1992, *Male Subjectivity at the Margins*, Routledge, New York

Silverman, Maxim 1992, *Deconstructing the nation: Immigration, racism and citizenship in modern France*, Routledge, London and New York

- (ed.) 1991, *Race, Discourse and Power in France*, Avebury, Aldershot, Brookfield USA, Hong Kong, Singapore, Sydney

Silverstein, Paul A. 2005, "Immigrant Racialization and the New Savage Slot: Race, Migration, and Immigration in the New Europe" *Annual Review of Anthropology*, Vol. 34, pp363-384

Simons, Judy and Fullbrook, Kate (eds.) 1998, *Writing: a woman's business – Women, writing and the marketplace*, Manchester University Press, Manchester and New York
Smart, Carole 1989, *Feminism and the Power of Law*, Routledge, London

Smith, Anthony D. 2001, *Nationalism*, Polity Key Concepts, Cambridge UK

- 1991, *National Identity*, University of Nevada Press, Reno US

- 1986, *The Ethnic Origins of Nations*, Basil Blackwell, Oxford

Smith, Sidonie and Watson, Julia 2001, *Reading autobiography: a guide for interpreting life narratives*, Minneapolis University Press, Minneapolis

Special Broadcasting Service (SBS) 2006, "True Colours: Middle Eastern Youths in Sydney", *Insight,* 15 August 2006

Spivak, Gayatri C. 1988, "Can the Subaltern Speak?" in Nelson, Cary and Grossberg Lawrence (eds.) *Marxism and the Interpretation of Culture*, Macmillan Education, Basingstoke UK

Steyn, Mark 2002, "Beware Multicultural Madness" *Chicago Sun-Times* 25 August 2002, viewed 28 August 2003, http://www.atrueword.com/index.php/article/articleprint/13/-1/7/

Stoler, Ann Laura 2002, *Carnal Knowledge and Imperial Power: race and the intimate in colonial rule*, University of California Press, Berkeley CA
- 1995, *Race and the Education of Desire: Foucault's History of Sexuality and the Colonial Order of Things*, Duke University Press, Durham USA

Stora, Benjamin 1999, *Le transfert d'une mémoire: De l'"Algérie française" au racisme anti-arabe*, La Découverte, Paris

Stratton, Jon 1998, *Race daze: Australia in identity crisis*, Pluto Press, Annandale NSW

Stubbs, Julie 2003, "Sexual assault, criminal justice and 'law and order'" *Women Against Violence*, Issue 14 (July 2003), pp14-26

La Squale 2000, motion picture, Ciné Nominé/M6 Films, Paris

Suleri, Sara 1992, "Woman Skin Deep: Feminism and the Postcolonial Condition" *Critical Inquiry*, Vol. 18, No. 4 Identities (Summer 1992), pp756-769

Sutton, Candace and Duff, Eamonn 2002, "Rapist's loving family: Where did we fail our son?" *Sydney Morning Herald*, 8 September 2002

Sykes, Roberta 1991, "Identities – Who Am I ?" *Hecate*, Vol. 17, No. 2, pp32-35

Tanney, Philippe du 2001, « Une bande de violeurs aux assises » *Le Figaro*, 25 April 2001

Temkin, Jennifer 2002, *Rape and the Legal Process*, Second Edition, Oxford University Press Oxford

Ticktin, Miriam 2008, "Sexual Violence as the Language of Border Control: Where French Feminist and Anti-immigrant Rhetoric Meet" *Signs: Journal of Women in Culture and Society*, Vol. 33, No. 4, pp863-889

Tocqueville, Alexis de. 2001, *Writings on Empire and Slavery*, (Edited and translated by Jennifer Pitts) Johns Hopkins University Press, Baltimore USA

Tohidi, Nayereh 1991, "Gender and Islamic Fundamentalism: Feminist Politics in Iran" in Mohanty et al. (eds.) *Third World Women and the Politics of Feminism*, Indiana University Press, Bloomington and Indianapolis

Torres, Lourdes 1991, "The Construction of the Self in US Latina Autobiographies" in Mohanty et al. (eds.) *Third World Women and the Politics of Feminism*, Indiana University Press, Bloomington and Indianapolis

Tourancheau, Patricia 2002(a), « Seule face à se dix-huit violeurs et ses deux entremetteuses: Victime de 'tournantes' à Argenteuil, la jeune fille était manipulée par deux 'copines'. Procès à Pontoise » *Libération*, 23 September 2002

- 2002(b) « Un long calvaire et le deni des violeurs: Procès après un hiver de 'tournantes' à Argenteuil » *Libération*, 17 September 2002

Toy, Naomi and Knowles, Lorna 2001, "Pack rapists' racial taunts" *Sydney Morning Herald*, 24 August 2001

Tribalat, Michèle, Simon, Patrick and Riandey, Benoît (eds.) 1996, *De l'immigration à l'assimilation: enquête sur les populations d'origine étrangère en France*, La Découverte/INED, Paris

Tribalat, Michèle 1995, *Faire France. Une grande enquête sur les immigrés et leurs enfants*, La Découverte, Paris

Valverde, Mariana 2003, *Law's Dream of a Common Knowledge*, Princeton University Press, Princeton, New Jersey

Van der Veer, Peter 2006, "Pim Fortuyn, Theo van Gogh, and the Politics of Tolerance in the Netherlands" *Public Culture*, Vol. 18, No. 1, pp111-124

Van Dijk, Teun A. 1992, "Discourse and the denial of racism", *Discourse and Society* 3(1), pp87-1180

- 1991, *Racism and the Press*, London: Routledge, London

Vance, Carole (ed.) 1984, *Pleasure and Danger: Exploring Female Sexuality,* Routledge and Kegan Paul: Boston, London, Melbourne and Henley

Vasta, Ellie and Castles, Stephen (eds.) 1996, *The teeth are smiling: the persistence of racism in multicultural Australia*, Allen and Unwin, St Leonards NSW

Vigarello, Georges 2001, *A History of Rape: Sexual Violence in France from the 16th to the 20th Century* (translated by Jean Birrell), Polity Press and Blackwell Publishers, Cambridge UK, Oxford UK and Malden MA

Villechaise-Dupont, Agnès 2000, *Amère Banlieue: Les gens des grands ensembles*, Éditions Grasset, Paris

Volpp, Leti 2007, "The Culture of Citizenship" *Theoretical Inquiries in Law*, Vol. 8, No. 2 (July 2007), pp571-601

Wagner, David-Alexandre 2006, « 'La squale' et 'Samia' : une rencontre de cultures de choc » *Lianes*, Vol. 1, viewed 10 December 2008, http://www.lianes.org/-La-squale-et-Samia-une-rencontre-de-cultures-de-choc_a72.html

Wagner, Tegan 2007, *The Making of Me: Finding my future after assault*, Pan Macmillan Australia, Sydney

Wakim, Joseph 2004, "Gang rape, sport, power – and prejudice" *The Age*, 9 March 2004

- 2002, "The media's obsession with race sheds no light on crime" *The Age*, 24 July 2002

Walby, Sylvia 1997, *Gender Transformations*, Routledge, London and New York

- 1990, *Theorising Patriarchy*, Blackwell, Oxford UK and Cambridge USA

Wandel, Torbjörn 2001, "The Power of Discourse: Michel Foucault and Critical Theory" *Cultural Values*, Volume 5, Number 3 (July 2001), pp368-382

Warner, Kate 2004, "Gang rape in Sydney: crimes, the media, politics, race and sentencing" *Australian and New Zealand Journal of Criminology*, Vol. 37, Issue 3, pp344-362

Waters, Mary C. 1990, *Ethnic Options: Choosing Identities in America*, University of California Press, Berkeley CA

Weber, Eugen 1976, *Peasants to Frenchman: the Modernization of Rural France, 1870-1914*, Stanford University Press, Stanford CA

Weil, Patrick 2003, “Le statut des musulmans en Algérie coloniale: une nationalité française dénaturée” *EUI Working Paper* HEC No. 2003/3, European University Institute Florence, Department of History and Civilisation, viewed 13 December 2008, www.iue.it/PUB/HEC03-03.pdf

Weiss, Gilbert and Wodak, Ruth 2003, *Critical Discourse Analysis: Theory and Interdisciplinarity*, Palgrave Macmillan, Basingstoke, Hampshire and New York

White, Richard 1981, *Inventing Australia: images and identity 1688-1980*, George Allen and Unwin, Sydney

Wihtol de Wenden, Catherine and Daoud, Zakya (eds.) 1993, *Banlieues: Intégration ou explosion?*, Panoramiques-Corlet, Diffusion Le Seuil, Paris

Wihtol de Wenden, Catherine 1991, “North African immigration and the French political imaginary” (translated by Clare Hughes) in Silverman, Maxim (ed.), *Race, Discourse and Power in France*, Avebury, Aldershot, Brookfield USA, Hong Kong, Singapore, Sydney

Willis, Karen 2006, ‘The Legal System’s Response to Sexual Assault’, presentation to the Institute of Criminology, University of Sydney, 5 September 2006, viewed 13 December 2008, www.nswrapecrisis.com.au/.../KarenWillisSpeech-5.9.06.pdf

Winter, Bronwyn 1995, “Women, the Law, and Cultural Relativism in France: The Case of Excision” in Laslett, Barbara, Brenner, J. and Arart, Y.(eds.), *Rethinking the Political: Gender, Resistance and the State*, Chicago University Press, Chicago,

Wittig, Monique 1992, *The Straight Mind and other essays*, Harvester Wheatsheaf, New York

Wodak, Ruth 2006, “Mediation between discourse and society: assessing cognitive approaches in CDA” *Discourse Studies*, Vol. 8(1), pp179-190

- 2001, “What CDA is about – a summary of its history, important concepts and its developments” in Ruth Wodak and Michael Meyer (eds.), *Methods of Critical Discourse Analysis*, London: Thousand Oaks: New Dehli, SAGE Publication

Wodak, Ruth and Meyer, Michael (eds.) 2001, *Methods of Critical Discourse Analysis*, London: Thousand Oaks: New Dehli, SAGE Publications

Wood, Linda A. and Rennie, Heather 1994, “Formulating rape: the discursive construction of victims and villains” *Discourse and Society*, Vol. 5, No. 1, pp125-148

Yegenoglu, Meyda 1998, *Colonial fantasies: Towards a feminist reading of Orientalism*, Cambridge University Press, Cambridge

Yúdice, George 1991, “Testimonio and Postmodernism” *Latin American Perspectives*, Vol. 18, No. 3, Voices of the Voiceless in Testimonial Literature; Part I (Summer 1991), pp15-31

Yuval-Davis, Nira 1997, *Gender and nation*, SAGE Publishers, London

LIST OF CASES

M.C. v Bulgaria (39272/98) [2003] European Court of Human Rights 646 (4 December 2003)

Prosecutor v. Jean-Paul Akayesu, Case No. ICTR-96-4-T (2 September 1998)

Prosecutor v. Nahimana, *Barayagwiza and Ngeze* Case No. ICTR-99-52-T (Dec. 3, 2003).

R v L (1992) 174 CLR 379

R v AEM (jnr) and AEM (snr) and KEM, unreported judgment, District Court of New South Wales, 23 August 2001

R v Aem; R v Kem; R v MM [2002] NSWCCA 58 (13 March 2002)

R v Chami, M. Skaf, Ghanem, B. Skaf, unreported judgment, District Court of New South Wales, 15 August 2002

R v Bilal Skaf; R v Mohammed Skaf [2004] NSWCCA 37 (6 May 2004)

R v Chami, M. Skaf, Ghanem, B. Skaf [2004] NSWCCA 36 (7 April 2004)

R v MAK; R v MSK [2004] NSWSC 319 (22 April 2004)

R v MSK and Mak [2004] NSWCCA 308 (6 September 2004)

R v MAK; R v MSK [2006] NSWSC 237 (5 April 2006)

R v Mak; R v MSK [2006] NSWCCA 381 (30 November 2006)