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HEADLINE: BAGHDAD ON THE PLAINS

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HIGHLIGHT:
A melting pot meltdown.

BODY:

There are many ways to become an American, some more arduous than others, but this, surely, was one of the hardest. They came from Iraq, where they had lived in the southern city of Nasiriyah. The father fixed cars, and business was so good that he one day opened his own mechanic's shop, and built a house for his family of four daughters. They prospered, but they prospered in the shadow of Saddam Hussein. The father hated Saddam, and when the U.S. and its allies laid siege to Iraq, he refused to join the army. Instead, he drove his family through the desert, east to Safwan, a city then controlled by the U.S. military. With 30,000 other men, women and children, they were packed into a refugee camp near Rafha in Saudi Arabia, a dusty, dismal compound where there was never quite enough to eat or drink.

Nearly two years passed, and when they finally got word that the United States would take them in, it hardly mattered to them where in America they went. When their destination turned out not to be New York or any other place they'd ever heard of, but Lincoln, Nebraska, they said, so be it. On the drive to Lincoln, with the oldest girl chattering and the next oldest quiet as always, her breath filigreeing the window, the father thought that maybe they'd come, at last, to the right place. The sky in Nebraska was vast and scattered with spun-sugar clouds. On the road between Omaha and Lincoln, a thin band of Hardee's drive-thrus and U-Store-it signs (the oldest girl sounded out the strange words) gave way to miles and miles of corn and wheat fields, a soft ochre fabric stippled by cottonwoods.

Lincoln itself was clean and quiet, and in the well-stocked shops people smiled at you as they counted out your change. When a reporter from the newspaper came to interview him, the father was nervous--the habit of fear ingrained in Iraq ran too deep for him to be otherwise--but he told the reporter that he liked America: you could curse Saddam all you liked here.

Still, at times the father felt crushed by everything around him that was not Iraq, and not Islam. Even in Lincoln--which was not, he knew enough to be thankful now, New York--he saw girls who dressed in tight, bright

clothes and entertained boys unchaperoned, though surely someone here must know that when a man and woman were alone together, Satan was their third.

All the teachers and the social workers told him how clever his oldest girl was, how quickly she'd learned English, how easily you might mistake her now, at 14, for an American teenager. But, to the father, that was no compliment. The girl was rebellious like an American teenager, too, and he suspected her of running around with boys. He asked the younger girl, who was 13, if her sister had a boyfriend, and when she couldn't answer, she would later say, he threatened her with a knife. He hit both girls, they claimed, with fists, shoes, a curling iron and a cord. He threatened to send them back to Iraq if they didn't behave. And, after a few weeks, he decided that what he would do was to get them married.

He knew two Iraqi men in town, Latif and Majed, who were also Shi'a from southern Iraq, also veterans of the Rafha camp. One was 34 years old and one was 28. They were good Muslims. And since both had jobs--one cooked in a restaurant, the other worked in a factory--they could afford a bride price.

So, on a bleary November day, there was a wedding in the family's living room. The cleric flew in from Ohio. The men slipped rings on the girls' fingers, and then the father and mother took them to the men's apartments and said to them: you live here now. The new husbands wanted to have sex with the girls right away to make sure they were virgins, and they did, though the older girl said that she begged the man not to touch her, and that he had to pin her down. On the third day, she ran away, to the home of a guy who used to hang out at her junior high school. His name was Mario; he was 20 years old, Mexican-American and very much interested in her.

When her father and husband came looking for her at school, somebody called the police, and the girls told the officers their story, which started the machinery of the law in motion. The girls were immediately placed in foster care. The father and mother were arrested, the father charged with child abuse, the mother with contributing to the delinquency of a minor. Since the father was initially ordered to stay away from anyone under 16, he could not return home with his wife and younger children, who ranged in age from four months to 9 years old. One evening, he shuffled up to his own doorstep and stood outside while his wife gathered up some clothes for him and stuffed them into a plastic bag. Latif and Majed were charged with sexual assault of a minor. Mario, with whom the girl had consensual sex in the days that she hid out with him, was charged with the same crime.

Through their lawyers and interpreters, the father and the grooms said they didn't know they had done anything illegal; that arranged marriage, even for very young girls, was the custom of their country, sanctioned by their faith; that it was all a terrible misunderstanding. To which the deputy county attorney, a woman named Jodi Nelson, replied: "You live in our state, you live by our laws."

At a juvenile court hearing that was to decide the family's fate, the mother wept openly. The younger girl wept softly. The father, who still doesn't speak much English, was heard to say that his life was over. They were, all of them, Americans now, and their story a kind of parable.

But a parable of what? Ever since the case of the arranged marriages first came to light last November, it has been attracting exegetes of various stripes. There were those who saw in it an ugly example of ethnocentrism. Why couldn't the family have been left to settle the matter on its own? And there were those who said that the law was the law. To treat the Iraqi defendants leniently would be to tell these girls, and other immigrants, they were not entitled to equal protection. In a way, it was an old, old story of immigration--the Americanizing rebellion of the second generation, the doomed intransigence of the first. And, in a way, it was new--a case that belonged to a thoroughly contemporary discussion about the proper limits of multiculturalism.

In April, the parents in the case, Salem and Salima Al-Saidy, pleaded no contest to child neglect charges in Lancaster County Juvenile Court. Since then, they have been required to take "parenting" and "anger control" classes, and when they complete them the court will decide whether their daughters can be sent back home. (The other child abuse charges against them will also be dropped if they make it through these programs.) The first of the two grooms,

meanwhile, is scheduled to go to trial July 28. "An open trial for these guys is going to be a trauma for Lincoln," says one local man who works with refugees. "There's just no consensus on who's in the wrong and how or whether they should be punished, and this whole thing has been such a culture shock here."

Indeed, there is something more than peculiar about parking 500 to 1,000 Shi'ite Muslims from traditional southern Iraq in a small, ethnically homogeneous American city--the kind of town whose reigning passion is college football. But in recent years it has been the explicit policy of the U.S. government to resettle refugees in rural areas and towns like Lincoln, rather than in traditional gateway cities like Los Angeles or New York. If the newcomers aren't glommed together, the thinking goes, it's easier to absorb them into American society. And Lincoln, an amiable college town of about 200, 000, had church groups willing to sponsor the Gulf war refugees as they had some 3,000 Vietnamese before them. "For us here in Lincoln, there's a lot of pride about taking these people in," says Patsy Vinogradov, who coordinates language training for refugees in Lincoln. "And I think that a lot of the refugees are happy to be here instead of Los Angeles or New York precisely because English is the dominant language here and because this is such a typical American city."

What Lincoln did not have, however, was an Arabic-speaking population, a beachhead of established immigrants to help the new arrivals ashore. Even the dedicated American volunteers working with the refugees had difficulty anticipating, as a compatriot might, where the blanks in their understanding of American culture might be. Vinogradov, for example, had to comb the Internet for information on Islam. "Arranged marriage was certainly not something I'd ever had contact with," she says. "I mean, it wouldn't have occurred to me."

And these particular Muslim immigrants were not even much like earlier waves of Muslim immigrants--the educated, Westernized Lebanese and Iranians who came to the United States in the '50s and '60s, for example, and assimilated with relative ease. "Now the Muslim immigrants we're getting-- Afghans, Iraqis, Kurds--are likely to be war refugees. And, in general, they're less educated and more conservative religiously and socially," says Yvonne Haddad, a University of Massachusetts professor who is co-author of *Islamic Values in the United States*. "Nobody asked me, but I think these Iraqi refugees might have been better off going to a place like Dearborn, Michigan, where you already have a lot of Muslims, other war refugees, even, who would have been able to tell them what's what here."

Most of the 10,000 Iraqi refugees accepted into the United States after the Gulf war were either Kurds from the north or, like the Al-Saidys, Shi'a from the south, the center of a 1991 uprising against Saddam Hussein and a bastion of traditional Muslim values. So, for example, while the legal marriage age in Iraq is, in fact, 18, "people in the south routinely ignore that," says Haddad. "They think it's too old, and they want to protect their daughters from temptation."

Still, this cultural distance might not have mattered so much if the Gulf war refugees had gotten a more extensive orientation to the United States. When the first Vietnamese refugees arrived in the U.S. in 1975, most had spent at least six months in resettlement camps at various Army bases across the country--camps complete with schools for the kids, English classes and vocational training for the adults. (Indeed, some refugees even felt they were being unduly pressured into adopting American values. A number of the Vietnamese parents were particularly offended when their teenagers were given lists of current American slang words for, among other things, drugs.) Generally speaking, the Vietnamese rode in on a wave of sympathetic public opinion and generous government spending, recognized as fellow sufferers in a long and traumatic war that had, in one way or another, touched the lives of most Americans.

The aftermath of the Gulf war was different. Few of the Iraqi refugees came out of the camp at Rafha speaking much English, let alone knowing anything reliable about America. "My clients had no preparation or orientation," says Terrell Cannon, the lawyer representing the would-be husbands, Latif Al- Hussein and Majed Al-Tamimy. "And it's really pathetic because they were in that camp for four years, enough time to get a bachelor's degree. We would have been better off enlisting them in the U.S. military for four years. It would have been great PR for them, and they would have come out speaking English, even if every adjective began with an f." Once in the United States, the refugees got help with the practical stuff--getting a driver's license, finding a job, renting an apartment--from Catholic Social Services and other church groups, which also provided stipends for the first months. But it's not clear how much the

Iraqis learned about American law or culture in the process, and even the church groups are wondering now if they did enough. "We in the resettlement agencies clearly need to do a better job orienting people," says Jerry Heydenberk, refugee coordinator for the Nebraska branch of the Church World Services. "Especially when it comes to American law."

With this kind of entry into American society, the real question may be why more of these roughly transplanted refugees haven't run afoul of American laws and customs, especially when it comes to family matters. And the short answer is they probably have; we just haven't heard about it. Phebe Marr, an Iraqi expert at the National Defense University, says, for example, that she knows of Islamic families in the U.S. who advertise for husbands for their young, sometimes underage, daughters. "I have a friend in Washington who had actually heard through the Iraqi grapevine that these girls in Lincoln were available," she says. "He was quite interested and sent his picture to the parents. Lucky for him, they picked someone else."

In Lincoln, a man named Mohammed Nassir, a kind of de facto spokesman for the Iraqi community, tells me something similar. "These kind of marriages happen all the time in our community," says Nassir. "Generally, the government doesn't care. Why should it? After all, young teenagers are getting pregnant all the time in this country, and the government is actually rewarding them--paying them with Food Stamps, and so on."

Nassir himself did not come here as a refugee but as a doctoral student in the physics department at the University of Nebraska. He speaks excellent English, professes to love Lincoln and is married to an American woman, a convert to Islam. Yet even he seems to miss the amenities of an old-country enclave. In his spare time, when he's not doing physics research or defending Iraqi marriage customs, Nassir has been trying to start a little grocery store that would sell Middle Eastern foods--the first of its kind in Lincoln. "I will try this market, and then, eventually, the community will establish other activities for itself--maybe a coffeehouse, maybe schools of our own, maybe a newspaper," he says wistfully.

In fact, these kinds of institutions--the Yiddish newspapers, the German schools, the Scandinavian churches--have always played a vital part in assimilating immigrants, softening and making sense of the transition to American life. It's easy to forget this, and easy in this era of renascent tribalism, to feel suspicious of any ethnically insular institution. Partly in response to the multiculturalist denigration of the melting pot, a kind of nostalgia has arisen about the golden age of assimilation--a sentimental conviction that when our great-grandparents came to these shores they happily unshackled themselves from the world of their fathers and immediately began burbling in English.

But the path, of course, was never that smooth, and many never traveled its full distance--just read Willa Cather. Of the Nebraska county where she grew up in the late nineteenth century, Cather wrote, "On Sunday we could drive to a Norwegian church and listen to a sermon in that language, or to a Danish or a Swedish church. We could go to the French Catholic settlement in the next county and hear a sermon in French, or into the Bohemian township and hear one in Czech... In Nebraska our Czech settlements were large and very prosperous. I have walked about the streets of Wilber, the county seat of Saline County, for a whole day without hearing a word of English spoken."

Immigrant enclaves have been like comfort stations on the road to assimilation, the places where you learned from your own kind about the new kind you were bound to become. "Indeed," writes Jon Gjerde in *The Minds of the West*, a history of immigration to the rural Midwest, "a political environment that permitted immigrants to maintain their religious beliefs and converse in their home language worked to augment loyalties to the American nation. Newspapers and printed tracts instructed non-English speakers in the precepts, responsibilities, and rights inherent in the Republic." More recently, Vietnamese and Cuban refugees have proven this point again by moving away from the scattered locations where they were initially resettled and, like iron filings, clumping together again in places such as Los Angeles and Miami. The government can put immigrants where it likes; the loneliness of strangers, and especially of refugees, will impel them to find each other again.

In the past, though, self-contained immigrant communities coexisted with a generalized faith in what Peter Salins has called the assimilation contract-- the idea that in exchange for tacit permission to retain much of their own culture,

especially in the short term, immigrants would sign on to a kind of long-term project of Americanization. At a minimum, that entailed respecting American laws. But, in recent years, even this basic precept has been undermined by the increasing use, in courts across the country, of a kind of cultural defense for immigrants accused of crimes from child abuse to murder. If a crime here is not a crime in the defendant's own country, the thinking goes, then he should not be held as accountable for it as an American-born defendant would be.

Even if immigrants are aware of the law, argue some theorists of this defense, their cultural conditioning may be too powerful to allow them to comply with it. Other legal scholars, more radical in their embrace of subjective standards--more Cochranized, you might say--argue that not only immigrants, but also "marginalized sub-cultures" such as African Americans should be exempt from the full weight of the law, and indeed that the very notion of a uniform rule of law is ethnocentric.

Starting in the late '80s, the cultural defense produced a string of rather spectacular exonerations. At a 1989 trial in Brooklyn, for example, a Chinese immigrant named Dong Lu Chen admitted to bludgeoning his wife to death with a claw hammer after she told him she'd had an affair. It looked bad for the defense lawyers until they produced an anthropologist who testified that, in Chinese culture, the shame a husband felt when his wife cuckolded him was onerous enough to legitimate his killing her. Dong never served time; he was sentenced to five years probation on a reduced manslaughter charge. The verdict angered many women's groups, but Margaret Fung, the head of the Asian-American Defense and Education Fund, stood up for it at the time. Banning this kind of defense would, she said, "promote the idea that when people come to America they have to give up their way of doing things. That is an idea we cannot support."

In several cases involving the Hmong, Laotian hill people who came to the United States as refugees in the '70s and '80s, defendants accused by their victims of rape and abduction have, for reasons of cultural relativism, also received light sentences. In one such case, a young Laotian woman claimed she had been kidnapped from her office at Fresno City College and forced to have sexual intercourse with her alleged abductor, a man named Kong Moua. But after his lawyers presented testimony that in Hmong-style marriage-by-capture, the woman is supposed to put up a fight, Moua was charged with false imprisonment, rather than kidnapping or rape, and sentenced to a perfunctory 120 days in jail.

Often, such cases involve male defendants and female victims who have strayed outside their own culture's constraints on women. But not always. In California in the late '80s, for instance, it was lawyers for several Japanese women who, wielding cultural arguments, won more lenient treatment for their clients. In 1985, for example, a housewife named Fumiko Kimura drowned her two small children in the ocean at Santa Monica, but was saved before she could drown herself. Her arrest elicited letters from some 4,000 Japanese-Americans arguing that, in Japan, a mother-child suicide pact would be considered an honorable response to a husband's infidelity. Kimura was allowed to plead guilty to manslaughter and placed on five years probation. (By contrast, Susan Smith, the woman who drowned her two children in a South Carolina lake, was punished with life in prison.)

These are the notorious cases, and they are still rare. But critics of the cultural defense say that it has seeped into the justice system in other, subtler ways--for example, by discouraging prosecutors from filing charges in the first place, especially where contested practices like female circumcision are invoked. And they say that cultural evidence is increasingly offered in lower-profile family court cases involving child abuse or wife-beating.

In the Nebraska case, lawyers for both the parents and the grooms have deployed cultural arguments from the beginning. "Nobody ever told my client what the criminal laws were here in the United States, much less the state of Nebraska, much less the city of Lincoln," says Sanford Pollack, the lawyer for Salem Al-Saidy. "And nobody ever informed him about the differences in morals and customs." Pollack knows that simple ignorance of the law has never been considered sufficiently exculpatory, so he goes on, with anthropological zeal: "This whole situation transpired because this is how their parents did it, and their parents did it and their parents did it. Mr. Al-Saidy's wife was 12 when they got married. That was the norm."

The defense for the grooms is a little trickier. Since Nebraska's statutory rape law defines the crime as any sexual intercourse between a person 19 or older and a person 16 or younger, motive and intent don't matter; age alone makes the crime. In the last few months, Cannon, the lawyer for the grooms, has been talking about ordering age testing for the girls, pointing out that plenty of refugees have been assigned the wrong age, even the wrong name, by overworked bureaucrats. But, if that fails, he can still use cultural evidence to argue for more lenient sentencing. And here the leeway is considerable: if the men are convicted, they could be given anything from a one-year suspended sentence to fifty years in prison.

American views on men and women and marriage "put us in the minority position in the world," says Cannon. "You can say that without making a value judgment. That's just a fact. And it puts the American liberal in a classic quandary. On the one hand, he doesn't want to impose his views on other people--he's big on that--and, on the other hand," says Cannon, "he really does."

Which is true--liberals (and honest conservatives) are tortured by cases like these which seem to pit respect for other cultures and sympathy for miserable refugees against a belief in a certain autonomy--personhood, really--for women and children. And, given that, it comes as something of a relief to talk to Michelle Chaffee, whose indignation on behalf of the two girls she represents has a kind of blinkered, bull-headed purity. Chaffee, an ex-schoolteacher and a mother of four young sons, has worked on a number of child abuse cases. She can't help seeing the Iraqi case as more or less like those others and the cultural arguments as so much static on the line. "To me," she says, "if there's any cultural relevance to this, it's that child abuse is crosscultural. When people abuse and neglect and terrorize children because it makes them feel better, it doesn't matter where they come from or what they do. At some point, the system has to come in and protect those who are too vulnerable to protect themselves."

What Chaffee says on behalf of her clients, a Duke law professor named Doriane Lambelet Coleman has been saying on behalf of a whole class of crime victims like them. Coleman, who is writing a book on the cultural defense, has lately emerged as one of its most eloquent critics. In the first place, she argues in a recent *Columbia Law Review*, the cultural defense is unnecessary, since the criminal justice system already allows defendants to raise "established, nondiscriminatory arguments," such as diminished capacity or provocation. More importantly, Coleman writes, "the use of cultural evidence risks a dangerous balkanization of the criminal law, where non-immigrant Americans are subject to one set of laws and immigrant Americans to another. This is a prospect that is inconsistent not only with one of the law's most fundamental objectives, the protection of society and all of its members from harm, but also with the important human and civil rights doctrines embodied in the Equal Protection Clause."

There was a time in this country when we accepted a separate standard of justice for whites and blacks, and a time when we rarely bothered to prosecute an immigrant so long as his crime was committed against one of his own kind. Whatever they did in Chinatown or Little Italy on a Saturday night-- whatever they did to their wives and daughters, in particular--was their business. As a society, we gradually turned against that approach, accepting, in the name of fundamental fairness and our common humanity, the notion that a black American, or a Greek, or an Irish or a Chinese immigrant who falls victim to a crime is entitled to the same safeguards as a native-born white. At some fundamental level, the cultural defense is just a return to that old order under the voguish rubric of cultural "sensitivity."

In the Nebraska case, the girls deserved the protection of American law, even if it embodied a notion of rights that had no place in the world of their father. Besides, the same American legal system that he now sees as persecuting him would protect him in other circumstances; that, too, is part of the contract the immigrant makes with his adopted society. That's not to say that if it comes to sentencing the two would-be husbands, their status as raw, new refugees shouldn't be taken into account; only that charging them in the first place was reasonable and just.

What the cultural relativists among us have never been able to answer is how to proceed when the minority cultures whose autonomy they defend are at odds not just with the majority, but with themselves. Yet, for immigrants in particular, deep, even tragic conflict--about what to hold on to, what to discard--is the condition of life. Salem Al-Saidy is a Muslim refugee from Iraq. So are his daughters. But what that identity entailed meant something very different to

him than it did to them. Whose side are we on?

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