

Muslim women and the challenge of Islamic fundamentalism/ extremism: An overview of Southeast Asian Muslim women's struggle for human rights and gender equality

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Synopsis

The ascendancy of political Islam since the 1960s and 1970s throughout the Muslim world has spawned a variety of 'Islamist movements and activism'. They range from those that engage in political violence (often referred to as 'militant Islam' or 'jihadic Islam') to those with peaceful but politicized missionary, proselytizing and social reform projects (also known as 'dakwah or da'awa' Islamic movements) and also to those seeking complete social change or revolution through the establishment of an 'Islamic state'. The first part of this article identifies the issues and major challenges confronting Muslim women in Southeast Asia in the face of increasing religious extremism within the region's Islamist movements. The second part of the article describes what strategies women's groups in Southeast Asia have employed to engage with these movements and surmount the challenges they posed to women's rights and women's access to justice under the law, particularly Muslim family laws and the state's administrative policies and procedures relating to religion. It argues that in order for Muslim women to advocate reforms and change of laws that are detrimental to them, there is a need for Muslim women's groups to form broad coalitions and alliances and to work with progressive and democratic Muslim intellectuals and scholars. In order to reclaim their rights and justice in Islam and under its laws, Muslim women must also be actively engaged with the project of interpretation of texts and laws.

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Introduction

Muslim women in most contemporary Muslim societies face many challenges and dilemmas especially with the rise of Islamic conservatism or extremism globally. The use of Islam as a political ideology and the use of Islam as a source of law and public policy within the context of these societies have had a particularly discriminatory and oppressive impact on women. Given the importance of *shari'ah*, not just as a system of law but also as part of Muslim culture, the power and influence it has over a Muslim society cannot be underestimated.

However, the only interpretation that dominates society is still a traditionalist (non-historicised) interpretation that often discriminates against women. Muslim

women cannot reject *shari'ah* as it would be seen as rejecting their heritage, their identity, and often, when they question some aspects or dimensions of *shari'ah*, they will be accused of rejecting their religion. Adopting feminism, meanwhile, is regarded as betraying their religious, political and nationalist identities. Many Muslim women regard this as a false dichotomy and think that there are other choices that Muslim women can make (Anwar, 2004, p. 2).

It must be noted that religious extremism is not confined to Islam alone, but what is unique to Islam is that codified Islamic law or *shari'ah* prevails in almost all contemporary Muslim societies and in recent times there have been greater demands for more Muslim laws to be implemented in all areas of life. Unfortunately, the

codified Islamic laws in many of these countries are also problematic, being frequently contradictory to contemporary notions of rights and equal legal status of men and women. With global Islamic resurgence since the 1970s and 1980s throughout the Muslim world, most governments in most Muslim countries – whether modern or secular-oriented – all have to respond to these demands of their Muslim constituencies. The compromise made by these governments have allowed for more and more Muslim laws that are retrogressive for women to be adopted and implemented as *shari'ah* laws.

There is therefore a real need for contemporary Muslim women constantly to engage with Islamic issues, mount a challenge against the monopoly of interpretation and constantly maintain their struggle against the control by patriarchal religious authorities. Contemporary Muslim women also need to change the terms of the Islamic discourse in their respective countries and at the same time try to build bridges between secular and progressive Muslim feminists and human rights activists.

The pressure on many ruling governments of Muslim states to democratise also poses a particular dilemma to Muslim feminists. In many Muslim countries today, a democratisation agenda is being promoted within societies without any or much democratic political culture in the first place. Thus the opening up of spaces for political participation and the one person-one-vote principle have brought into the power structure various politicised Islamist groups, as well as tribal and conservative leaders who do not believe in equality or reformist Islam. As a consequence, during the decades since independence from colonial rule and with post-colonial modernisation of their countries, women tend to lose whatever gains were made in terms of their rights in the institution of marriage and also in their personal status.

Some specific issues or questions that are addressed in this article are:

- What are the social and political changes demanded in the name of Islam?
- What is the impact of Muslim politics and Islamic fundamentalism/extremism on women, woman's body, rights, identity and status?
- In what ways do Islamist political movements and religious fundamentalism affect the prospect for human rights or democratisation in the nation-state?
- How can the implementation of laws or amendments to laws, public or social policy, and the imposition of *fatwa*¹ that discriminate against women be addressed?

For some of the issues, I shall also attempt a comparison between the experience of Muslim women in

Southeast Asia and some of the Muslim Middle-Eastern countries.

To understand fully how Muslim women's human rights are constrained or opposed, detracted from or derailed, stymied and sometimes nullified by individuals, groups or parties in predominantly Muslim countries, we need to examine the ideologies, practices and politics of both state and non-state actors in Muslim states and societies. It must be noted that contemporary Muslim women also sometimes participate in the kind of 'oppositional politics' that unwittingly support or result in the curtailment of rights or social equality of Muslim women.

The general or common pattern among Muslim states seems to be that women and women's groups/organisations are often caught up in the middle of political or social forces competing for state power and control. In many cases, these are the 'westernised' or 'secular' elites on the one hand and traditional Islamist/Islamic parties or movements on the other. For example, in the late 1970s in Egypt, Sadat attempted to use Islam as a means of gaining much-needed political and popular support. The Sadat government began to fund the construction of new mosques, utilised Islamic rhetoric in their public statements, and promoted the formation of Islamic student organisations in schools and universities nationwide. But economic problems, such as the rise in the cost of living and increasing rates of unemployment resulted in much discontent among the general populace and created a backlash against the government. The Islamist opposition parties and groups were able to seize the opportunity of mobilising grass-root support from this disaffection. It was a combination of the government's expedient policies in using an 'Islamisation agenda' and the oppositional politics of the other political parties or groups that created specific contexts for the emergence and/or spread of Muslim politics that almost always tend to focus on the control of women in competing for political and Islamic legitimacy.

In Iran during the late 1970s and the summer of 1981, i.e. with the Islamic Revolution and ascendancy of the clerical forces, hundreds of women's groups surfaced all over the country, in mosques, government offices, factories, schools, and so on. Two women's groups, the Women's Society of the Islamic Revolution and the National Union of Women, for example, are major players in taking over the pre-revolutionary, state-sponsored Women's Organisations of Iran whose offices and communications facilities were appropriated during the Islamic Revolution. But soon after, with the onset of the war with Iraq, radicals within the Islamic groups gained the upper hand, while the left, national and liberal Islamists were repressed. A process of Islamisation of state institutions and society began together with

implementation of reforms that discriminated against women.

While women kept their suffrage rights, a large part of the pre-revolutionary legal reforms giving women their rights was abolished. Men's rights to unilateral divorce and polygamy were re-instituted, women's rights to divorce and child custody were limited, women were forbidden to study certain subjects like mining and agriculture, to serve as judges, and to appear in public without hijab. As in Pahlavi Iran, the state continued to define women's problems and assert its control. Women's organisations were staffed by women related to the male political elite, by blood or marriage. Many women who at the beginning genuinely, although naively, believed that under an Islamic state women's position would automatically improve, became increasingly disillusioned. These include, for example, early activists such as Zahra Rahnavard, Azam Taleqani and Monir Gorji — who had played instrumental role in discrediting secular feminists and destroying women's press and organizations (Mir-Hosseini, 2003, pp. 4–5).

In the case of Malaysia, an 'Islamisation agenda' was implemented along with the somewhat successful economic development policies under the administration of Dr. Mahathir Mohammad during the slightly more than two decades of his premiership (1981–2003; see explanation below esp. pp. 6–8). It was the BN (*Barisan Nasional* or National Front — a coalition party led by Dr. Mahathir's party UMNO or United Malays National Organization) government's need to legitimise itself with the majority Muslim constituents and in the context of its competition with the main opposition political party of PAS (*Parti Islam seMalaysia*), that its 'Islamisation' policies were formulated and implemented. As elaborated below, a number of these policies and many of its newly-created 'Islamic laws' resulted in curtailing human and citizenship rights of contemporary Muslim women in Malaysia (see Othman, 1997). As the contestation for power between UMNO and PAS escalates, issues such as the Islamic state, enforcement of *hudud* law, discrimination against women, freedom of expression, freedom of religion, freedom within religion and freedom from religion has now entered the public sphere and into the consciousness of many of Malaysian civil society organisations. And since the 1980s, the continuing demand for an Islamic social order in Malaysia has led to various levels of conflict — at the political and social levels, between various segments of the religious authorities and women's groups. It is ultimately a struggle in defining 'what Islam and whose Islam is the right Islam'.

Patriarchal discourse and ideology: the Malaysian experience

The Islamic fundamentalist or political Islamist movements in Malaysia are no different, either in their ideological constructs or in their social or political aspirations, from most other Islamic movements in Arab countries. These movements strive to Islamise society by imposing a collective enforcement of Islamic public morals. They seek to organise (or re-organise) the practices of social life, including the minute details of family life, through the implementation of what they deem as 'truly Islamic' or 'authentic Islamic values'. Their targets for this project of 'Islamisation' are first and foremost women — women's rights and status in the family and society — and woman's body. The control of women, their social roles, movements and sexuality form the core of the Islamic fundamentalist's view of gender roles and relations in the 'pristine Islamic society and state' which they seek to establish. The common or shared ideology of Islamic fundamentalism throughout the Muslim world lies in their ideas and notions of gender rights, roles, and sexuality of women as well as their belief that 'Islam is the solution' to all social ills and problems of contemporary or modern society.

Veiling, gender segregation and sexuality: rhetoric, discourse and public policy

The covering or veiling of women and promoting a policy of gender segregation are the first two objectives of most Malaysian Islamic movements — be they the political party PAS or Islamic revivalist movements such as *Darul Arqam* (popularly known as *Arqam* a Muslim NGO promoting an Islamic communitarian way of life; *Darul Arqam* literally means 'The Abode or House of Arqam'), ABIM (*Angkatan Belia Islam Malaysia* or Islamic Youth Movement) or JIM (*Jamaah Islah Malaysia*). The wearing of the *tudung*,² the *mini telekung* or the more severe *jubah* (or *jilbab* type of dress) are variations of an Islamic mode of dressing promoted by these Malaysian Islamic movements. In the late 1970s and throughout the 1980s one of the characteristic features of all *dakwah* or Islamic revivalist movements in Malaysia was their adoption of head covering and a loose and long type of *baju* (dress or tunic) or *jubah* for all Malaysian Muslim women (see Anwar, 1987).

In all Muslim countries both in Southeast Asia and the Middle East, the question of veiling or donning the *hijab* is a particularly sensitive and controversial issue. The debate among Muslims (women, men, and religious authorities) has always focused on the question of the

woman's 'authentic' Islamic identity and the depth of her faith or piety is often equated with the act of covering. As a consequence, whether there exists a ruling to force women to cover or to prevent them from donning a head-covering or scarf, the impact on their human rights is still the same in that it takes away the right or freedom of a Muslim woman to choose for herself. The mere insistence of the *hijab* on women by many traditionalising *ulama*³ and militant or activist Islamists challenges the moral autonomy of the individual and reduces the personal independence of Muslim females.

In 1990 when PAS came into power in the north-eastern state of Kelantan, one of the regulations they immediately put in place was a dress code for all Muslim women in public spaces. They also introduced practices of gender segregation which are all alien to traditional Malay Muslim culture. For example, apart from requiring separate spaces or seating arrangements for women at all public events, religious and social activities of Muslim communities, the PAS government also instituted separate payment counters for women in supermarkets. They banned or closed down all 'unisex hair dressing salons' in the state. The Chief Minister of Kelantan, the executive head of the state government, also publicly discouraged Muslim women from holding certain types of employment that would require them to work on night shifts, e.g. in the electronics factories, the police force and the hospitals. He also made a proposal for the government to consider the ultimate possibility of banning women from such employment as these jobs, he went on to claim, may cause disruption and instability in the Muslim family life. Since 1990 under the PAS government in Kelantan, women political party members of PAS are not allowed to stand for political office. Instead women Senators are appointed to the Upper House of Parliament. However, PAS was forced to concede to public opinion recently [in the Malaysian general elections 2004] on the question of Muslim women's representation in elected office as free and voluntary political participation of women has never been an issue or perceived as a problem in Malaysian society since independence or even earlier in pre-colonial Malay states and kingdoms.

Similar to other types of patriarchal conceptions of gender roles, Malaysian Islamists claimed that the need to protect women is the main justification and rationale for such restrictive views. Suffice to say this typical mind-set is based upon the belief that uncovered and uncontrolled women in society and the public sphere are the cause of social problems such as moral decadence among members of society. The way women dress has also been blamed for the increase in the incidence of rape in Malaysian society.⁴

This is also the same mind-set that produces the popular discourse that the main or primary role and responsibility of women are in the family — as obedient wives and dutiful mothers and daughters. Women's primary or priority responsibilities are as care-givers, nurturers and service-providers for the needs of the male members of her family whose only role seems to be as head or breadwinner of the family. The most benign or liberal form of this rhetoric claims that a woman may be allowed to fulfill other social aspirations (e.g. having a career outside the home) only with the explicit permission of her husband. In fact some of the discourse by traditional Malaysian *ulama* is that a wife always requires the permission of her husband before she can undertake any activity outside the home. This includes going shopping, going out with her friends, or even visiting her parents or relatives.

Such a position on women's status and role is characteristic of most Islamic fundamentalists throughout the Muslim world. It is a position based on their widely held assumption that in Islam a woman is considered secondary and inferior or subordinate to men and therefore men are charged with the religious responsibility of protecting and taking care of her in every way — her basic needs, her life, morality and chastity. Therefore a Muslim wife must be obedient and must not commit *nushuz* (rebellion of the wife against her Muslim husband's authority) (Mernissi, 1996).

Such gender-biased discourses on women are manifested in public rhetoric, policy formulation, the media, and public education programmes organised or promoted by individual Islamists and religious authorities — both state and non-state. For example, in most of the pre-marriage training courses provided and implemented by state and non-state religious authorities and organisations, one will always find such teachings about gender relations, roles and responsibilities of an ideal Muslim marriage. Therefore in these pre-marital courses, young Muslim couples are taught and socialised to accept this biased, discriminatory and unrealistic view of gender relations. Similarly in the printed and electronic media the same discourse is reproduced often in the name of the good of the Muslim *ummah* (community) and for its benefit. Thus in a majority of the Islamic authoritative and 'agony' columns in Malaysian newspapers and magazines, in popular religious booklets (for example the 'guide' booklets for the '*solehah* [good and ideal] wife'), in religious *ceramahs* [public talks or fora] and in Islamic counselling programs and divorce arbitration sessions, similar versions of discrimination and misogyny are continually produced and reproduced (see, for example Hassan et al., 1997). Even some of the local commercial advertisements play into this notion of the 'ideal' image of

gender relations — further normalising and reinforcing such patriarchal perspectives. Thus, an advertisement (in Malay) on all local TV stations in 2003 portrayed a veiled beautiful Muslim Malay woman who in order to please her husband groomed her hair with the shampoo being advertised. The advertisement never showed her unveiled head, only a frame of her husband supposedly admiring her beautiful recently shampooed hair! The actress was a popular well-known local actress who recently decided to put on the *mini-telekung* (a Malaysian style *hijab*).

Not surprisingly, deeply embedded in this fundamentalist view of the secondary or subordinate status of women is the implicit assumption of her inferior and unstable moral being. The regulation and control of woman's body, her presence in the public space and thus her social roles, are also based on the notion of her as a constant sexual threat to men. Women are believed to be sexually active, if not aggressive — i.e. within the concept of the *femme fatale* — who cause men to lose their self-control, rationality and succumb to temptation and disorder (*fitna*) (cf. Mernissi, 1985; Sabah, 1984). Yet at the same time — in contradiction to this *fatana*⁵ and somewhat aggressive or active image of women — one also finds the fundamentalist's belief that a woman is also sexually vulnerable and morally weak and therefore requires the supervision and protection of male members of her family and society.

Discourses of Islamic fundamentalism, Islamist 'feminism' and the politics of cultural identity

This primitively patriarchal conception of women, women's status and women's rights is pervasive in most of the Islamic fundamentalist movements throughout the Muslim world. Yet women themselves may readily share this view or are willing to support or submit to it. There are many reasons why contemporary Muslim women, even among the younger generation, may themselves support, accept and promote such views about women and gender relations. Among these factors is the outcome of the dynamics of what social scientists have called the 'politics of cultural identity and authenticity'. We find in Muslim and other developing societies, which were once under western colonial rule, a common post-colonial phenomenon of the reassertion of an 'authentic cultural identity'. This assertion of 'going back to one's cultural roots' that are claimed to have been suppressed or unduly supplanted by western ideas and practices since colonial days seem to characterise many post-colonial social movements especially when they are led, inspired or dominated by traditional or religious elites. Intrinsic in Muslim politics to reclaim their 'lost' cultural identity is the restoration of the 'ideal' identity of an Islamic woman. The Islamic notion of

the ideal woman became the indigenous and authentic model to be reaffirmed and restituted. Both male and female contemporary Islamists often share such cultural politics.

Islamist women — not unlike secular and other feminists — strongly reject the influences of westernisation and the sexual images of women that they say are produced by modern capitalism and popular consumerist culture. The objectification of woman's body — whether in popular aesthetics or subliminal and explicit sexual terms — is offensive to both the secular and Islamist women. An example here might be the recent debate in Pakistan between Riffat Hassan and two other women activists — one labeled an 'Islamic feminist' and the other a 'secular feminist' — on the rights of Muslim women in Pakistan (Hassan, 2004). Islamist women who claim to be liberated and feminists suggest that the *hijab* or covering of woman will protect her from being disturbed or from the common sexual harassment that a woman often faces in the anonymous and alienating urban space. They argue that the Islamic mode of dress would ultimately enforce societal respect for a woman especially when she is in a public space (Hassan, 2004).

This notion has now pervaded the conventional and conservative Muslim attitude in Malaysia. Therefore discrimination against Muslim women through the mechanisms of *hijab*, gender segregation and social control is sustained and reinforced in contemporary society because quite often it coincides or intersects with the postcolonial politics of cultural identity and the demand to reclaim tradition or cultural roots.

In the case of Malaysian Muslims, the imposition and importation of Islamic fundamentalist ideology and practices is also coterminous with the delegitimation of Malay or local culture and tradition. The Malay indigenous cultural identity has been gradually displaced and replaced with 'Arabised' cultural modes and codes. The irony here is that traditional Malay customs are gradually being replaced by these politicised versions of an Arabised Islamic identity. Even though classical *fiqh* or Islamic jurisprudential thought allowed for cultural diversity in interpreting many Islamic principles, most of the contemporary Islamist movements promote an Arabic version as the preferred or 'truly Islamic' rule.

In countries where Muslims are minorities, such as the Philippines and Singapore, a deepening sense of Islamic identity has led many Muslims to advocate conservative Islamic values including the requirement of donning the tudung or mini-telekung even for very young pre-pubescent girls, and a greater emphasis on authentic Islamic education (especially for female children) to be given in

the *madrasahs* or Islamic/religious schools rather than the national secular schools.

State laws, regulations, and fatwas that discriminate against women and directly or indirectly result in their control or oppression

The Malaysian state, under the administration of Dr. Mahathir Mohamad, began to embark on an Islamisation project in the 1980s. Fearing the challenge of Islamic revivalism from the opposition Islamic party, PAS, and other emerging Islamic social movements, the governing party of UMNO under Dr. Mahathir decided to prove the Islamic credentials of UMNO as a political party to Malaysia's majority population of Muslims. From 1982 onwards, the government embarked on several policies to Islamise society and state laws in Malaysia. One of them was instituting procedures and government agencies aimed at bureaucratising the potential role of Islam in the economy through organisations such as the *Badan Perunding Islam* (Islamic Consultative Body) which by 1983 was the coordinating policy maker involving community, economic and social development under the Prime Minister's office. One of the tasks of this body was to find ways of drawing up strategies to ensure that the government's development projects were in line with Islamic precepts (Nair, 1997, p. 101).

Within the context of Islamic revivalism and the attendant debates in Malaysia over the role of Islam in modern Muslim society, the Mahathir administration responded with the project of rationalising and bureaucratising administrative and legal institutions as well as centralising the functions and authority of *ulama* at the federal level. In fact by 1982 the Federal Government had over 100 *ulama* in the Department for Islamic Development in the Prime Minister's office (known locally as JAKIM or in Malay *Jabatan Kemajuan Islam Malaysia*) and some 715 in the Ministry of Education itself in its employment (Nair, 1997, p. 103). The penetration of such human resource personnel within the Malaysian bureaucracy has played a key role in spreading and normalising an Islamic neo-traditionalist or extremist worldview among Malaysian Muslim society.

At the same time, the federal government launched a process to upgrade, systematise and bureaucratised the Islamic judicial and legal system. This was done through the establishment of a federal-level Technical Shari'ah and Civil Law Committee, chaired by the late Prof. Ahmad Ibrahim, a noted Law Professor at the International Islamic University. Within the last two decades, this Islamisation policy has resulted in the further expansion of the syariah⁶ legal system and jurisdiction in Malaysia

thus leading to several areas of 'conflict' and overlapping jurisdictions between *shari'ah* and civil laws and the Federal Constitution.

One of the products of this Technical Committee was the introduction of an amended and expanded *Syariah Criminal Offences Enactments*, designed to further regulate moral as well as gender and sexual behaviour of Muslims in all states according to the precepts of Islam (Othman, 1999). With the enforcement of these religious criminal laws, Islam in Malaysia has extended itself further into the private sphere of Muslim subjects while the collective enforcement of public morals based on a particularly narrow Muslim perspective is gradually becoming embedded in the everyday life of all Malaysians.

Not surprisingly most of the amendments or new regulations pertaining to Muslim family laws are also gender-biased in nature. Amendments made in the past decade have eroded further the sphere of rights given to Muslim women. Polygamy and divorce have been made easier for men and men's financial responsibility towards women has been reduced or overlooked. Gender bias and discrimination is normalised within the attitude of policy makers, the law drafters, Islamic religious authorities and judges in the *Shari'ah* courts (Sisters in Islam, 1997a,b).

The overall impact on Muslim women has been both negative and oppressive.⁷ Muslim women who are divorced, abandoned, beaten up or neglected by their husbands often complain of injustice and discrimination in their search for redress through the Malaysian *Shari'ah* legal system. Even when gender bias does not exist in the laws, quite often the attitudes or actions of Muslim courts and officials have resulted in injustice towards women. Muslim women in particular face inordinate delays in getting a divorce should their husbands object to their divorce petition. It is often easy for Muslim men in Malaysia to contract a polygamous marriage, or irresponsibly divorce their wife or wives, or neglect their children's maintenance or abandon their wives and children. The force of the law is often not available to women either because of gender bias or by deterring court procedures that force women to give up in pursuing their rights under the law.

Conception of an Islamic state: impact on women's status and rights

In the conventional conception of an 'Islamic state' or 'Islamic government' the crucial role expected of a ruler or government is as a guardian of the moral code, who therefore must oversee the adherence to its stipulations. It is therefore not surprising that calls for the installation of an Islamic State or an Islamic government always

seem to pay overwhelming attention to the family as a social unit and to issues such as veiling, gender segregation, polygamy and the imposition of *Hudud*⁸ laws.

Seldom in the debate for the pursuit of an 'Islamic state' does one hear Islamists seriously pondering over issues of a realistic endeavour to fulfill and manifest the principles of equality, justice and fairness for all citizens in their model or blueprint of an 'Islamic state'. Rather Muslim practices seem to lay more emphasis on external rather than on internal moral enforcement — on precautionary safeguards and punitive laws rather than on 'internal prohibitions' and spirituality or engaging with social realities. In the case of Muslim family laws and regulations of gender relations the result is that, rather than expecting the man to be socialised and trained into self-control, the solution would be to hide the woman's body, to regulate her role and behaviour and to seclude her as much as possible from men (except of course within the marriage and kinship relationships). As a consequence, these Islamists often require the enforcement of historical and outdated *hudud* laws, implementation of retrogressive family laws and creation of more undemocratic public laws as the basic requirements for the establishment of their idea of an Islamic state.

Furthermore the approach and practice of these contemporary Islamisation initiatives in Malaysia are mediated through a traditional Arab-centric (especially of Wahhabism⁹) interpretation of Islam. Consequently one finds that the ideologues of Islamic fundamentalism have anachronistically and deceptively projected the meaning of various modern political concepts (such as state, sovereignty, legislation, democratic rights, constitutionalism and citizenry) onto the past, while simultaneously importing many archaic social and political ideas from a largely imagined or idealised Islamic political past into the present. In doing so they are thereby seeking to legitimise their mandatory institutionalisation within the order of modernity, which is itself a set of laws and regulations which are narrowly-defined and do not take into account contemporary social realities and simply ignore vast social changes in all modern societies.

The Islamist party PAS in Malaysia, for example, has not clearly or succinctly made public their Islamic state blueprint, but judging from their policies in government and the implementation of their conception of *Hudud* laws in Kelantan and Terengganu thus far, it does not give us any encouragement to expect that their idea of an Islamic state will be so benign as to promote gender equality or women's rights. Neither should one expect that the kind of Islamic state that they plan to establish should they come to power in federal government to be sensitive to issues of

fundamental liberties and the democratic rights of other religious communities.

Legislative use of fatwa and the practice of criminalising religious 'immoral behaviour': their impact on women's rights, civil liberties and constitutionalism in Malaysia

The provisions of many of the Shari'ah Criminal Offences Enactments in all the 14 states within the Federation of Malaysia are concerned with maintaining the religious parameters of moral conduct and sinful behaviour premised on the principle of forbidding wrong in an Islamic society. Accordingly, there are specific provisions for the criminal punishment of Muslims found guilty of consuming alcoholic beverages in public places, eating in public during the month of *Ramadan*¹⁰ and committing the 'sexual offence' of *khalwat* ('close proximity between a male or female who are not *muhrim* [a relative or kin whom one cannot marry] and not legally married'). The record of prosecution of Muslims under such 'religious offences' seems to be 'biased' against those in the working class (men and women), students and young Muslim women, in particular for offences such as close proximity, indecent dressing, and indecent behaviour.

The case of the 'Fatwa Controversy' in the months of July to September 1997 is one example that clearly demonstrates the problem of the interpretation of foundational texts into criminal laws and their implementation and codification in contemporary Muslim societies generally or in the Malaysian modern nation state specifically. The 1997 'Fatwa Controversy' began with the arrest and immediate prosecution of three Muslim young women who were contestants in 'The Miss Malaysia Petite' beauty pageant.

Letters written to the editors of some newspapers and public comments in the print and electronic media by leading members of women's groups and human rights groups questioned the basis for the offence and the manner of the arrest. Also at issue was gender discrimination in implementation of the law. Just a few days after the arrest, a 'Mr Selangor' body-building contest had taken place. That event involved many Malay males exhibiting their well-toned bodies in the most brief underwear, and therefore exposing much more of the male *aurat*¹¹. The male body-building contest, however, was never interrupted, nor were any of the Muslim male participants arrested for a similar breach of the prevailing *Syariah* laws requiring modesty and banning Muslims from exposing their *aurat*.¹²

The Selangor State Islamic Affairs Department (or JAIS — *Jabatan Agama Islam Selangor*) had cited Section 12 (c) and Section 31 of the *Selangor Syariah Criminal Offences Enactment 1995* as its basis for the arrest and

prosecution. These sections make ‘indecent dressing’ and the violation or mere questioning of a fatwa into criminal offences. Thus of paramount concern to the women’s groups and human rights groups was their discovery that over the past two years (i.e. between 1995 to 1997), most of the Malaysian states had quietly (and therefore surreptitiously) adopted the federal government’s model Shari’ah Criminal Offences Act or Enactment which contained several provisions that had little basis in the textual sources of Islam and conflicted with basic democratic principles and the fundamental liberties guaranteed by the Federal Constitution of Malaysia (see *Sisters in Islam*, 1997b for full details of issues of concern surrounding this legislation).

With that enactment, *Fatwa* in Malaysia is now given the automatic force of law upon the procedure of merely gazetting them and at the same time it also became a criminal offence for any person to give, propagate or disseminate any opinion contrary to any [official] *fatwa* for the time being in force. According to the states’ *Syariah Criminal Offences Act* or Enactment adopted between 1995 and 97 in almost all of the 14 states of the Federation of Malaysia, it is also an offence for any person to act or behave in an indecent manner in any public place — though what constitutes ‘indecenty’ here remains largely undefined and therefore subject to the exercise of arbitrary discretion (often of male enforcement officers). Section 36 (1) of the *Administration of Islamic Law (Federal Territories) Act*, 1993 for example grants the state *Mufti*¹³ the sole power to amend, modify or revoke a *fatwa* issued earlier by him or by any previous *Mufti*: a huge discretionary power entrusted to his keeping but again a massive exclusion of the public, including many Muslims of good faith, from any say in major matters affecting them.

No less ominously, soon after the women were charged, the local newspapers reported that JAIS had recently hired 70 new contract officers to further the full enforcement of the Selangor *Syariah Criminal Offences Enactment*. This intensified enforcement only highlights an obsessive, even prurient, determination on the part of the religious department to treat punitively breaches of religious ethics, which its officers consider ‘criminal behaviour’. It also initiated a state-sponsored body of ‘religious vigilante’ vested with the duty of ‘religious policing’.

The whole controversy over the arrest of the beauty queens under the one of the *shari’ah* criminal laws brought out the ominous reality of the process of law-making in the name of Islam in Malaysia. How could such provisions in law be sanctioned by the *Syariah* Technical Committee, State Legal Advisors and the Attorney General, the Executive Council and the Federal Cabinet and then passed as legislation by the elected representatives without

so much as a demur or any discussion of the legitimacy or wisdom of casting such an undemocratic scheme into law?

More important questions of governance and constitutionalism also arise here. Foremost among them is whether in a democratic modern society matters of religion can ever be the exclusive preserve of a narrowly based religious estate, the *ulama*. Open discussion, debate and the decision-making process must be participatory and must reflect the tolerance of pluralism in Islam and diversity of Malaysian society. However, there are several impediments to engendering such an open discussion on religion in Malaysian society today.

First, the *ulama* and many in authority, who hold the mainstream view that the doors of *ijtihad* (independent and innovative legal reasoning) have long been closed, believe that those not traditionally educated in religion do not have the right to speak on or question any matter of religion.

Second, very few Muslims in Malaysia have the courage to question, challenge or even discuss matters of religion, even when they do doubt teachings that appear unjust or inappropriate to the changing times and circumstances of their own lives. They have been socialised to accept that those in religious authority know best what is Islamic and what is not, or they feel ignorant about Islam compared to the *ulama*; ashamed of their ignorance, they therefore believe that they should not proffer any opinion but only concur.

Third, for these reasons, few Malaysian elected representatives (at either the federal or state levels) are willing to debate at length the details of any bill put forward in the name of Islam, and certainly not to question its declared purposes. Their inner constraint is compounded by an overriding pragmatic concern, fatal to politicians, that they might be seen or accused of being against Islam if they so much as question the wisdom of any of the provisions set out in any Shari’ah bill.

Fourth, many Malay Muslim political leaders use Islam to gain political mileage and therefore are quite unwilling to act in the public interest if their personal ambition and popularity would be affected by speaking up on any Islamic issue.

Fifth, without going through the democratic process of open debate in the legislative bodies, *fatwa* and Islamic laws that govern so many aspects of the private and public life of Muslims are imposed on the *ummah*¹⁴ without their knowledge and consent.

Hence a pernicious state of silence — the shroud of secrecy, fear and ignorance in matters of religion — seems to pervade every locus of authority in the administrative and legislative processes of the Malaysian government. At all these levels those placed in positions of trust and responsibility have often failed to consult, to question, to

open their minds to critical views or alternative interpretations that are more appropriate to our times and specific circumstances.

Here, again, we find that the underlying problem is the same. Malaysians have, in effect, mindlessly delegated total and absolute responsibility for the interpretation and implementation of Islam to a tiny, often authoritarian, minority whose views and values are often contrary to the vision of Islam held by some Federal leaders and by the silent majority of Malaysians, as well as what is best in the rich legacy of Islamic civilisation. Yet to resent in silence the power which has passed into the hands of this unrepresentative minority is to regret, often without recognising the fact, the popular acquiescence in its claiming that undue power. This abdication of civil courage and responsibility by both Muslims and Malaysian citizens of other faiths and religious affiliations has encouraged the fostering of an incipient Islamic theocracy in Malaysia and the authoritarian rule of a minority in matters of Islam.

Summary

In their push for further and greater Islamisation of state and society both state and non-state actors are wittingly and unwittingly calling for the implementation of rules, laws and policies that are deeply influenced or inspired by the ideology of Islamic fundamentalism.

Thus the struggle of contemporary Muslim women in Malaysia for equality and non-discrimination requires an analysis of the influence of various social and political Islamist fundamentalist movements and actors that have emerged in Malaysian society. These Islamist movements have engendered among those in the state's religious authorities and bureaucracy and also among ordinary faithful Muslims a patriarchal and misogynist mind-set and social attitudes. The silent majority of Malaysian Muslims has allowed the authoritarian and theocratic-minded among the government religious authorities to introduce regulations and laws that actually contradict some of the principles in the Malaysian Constitution.

The struggle for Muslim women's rights, equal treatment and the eradication of discrimination and social bias against women now has to be fought on two main and broad fronts. The first is against the biases or discrimination emanating from a universal legacy of patriarchy entrenched in society generally (what we can call 'secular patriarchy'). The second struggle is against the injustice and oppression that emerged from the recent adoption or amendments of some Islamic ideology, laws and rulings that are often gender-biased or discriminatory and misogynist in nature (in short: contemporary Muslim patriarchy).

How do women negotiate their rights in economic, legal, political and social structures at individual and familial levels, community, regional, national and global settings?

Muslim women have learnt to adopt various strategies in coping with or confronting discriminatory practices and negotiating their rights in their respective countries. Women's groups in all Muslim countries face major challenges in reforming laws to promote their rights or eradicate any discrimination or bias in the law. Such action, which often involves organising or mobilising their numbers and energy in advocating for change or reform, means that Muslim women have to seriously reflect on the role of Islam and the use of Islamic knowledge in their project of reclaiming the space for substantive democracy and justice regardless of gender. To be effective Muslim women also have to find a dynamic language of protest and resistance to religious and state authoritarianism.

In Malaysia and Indonesia, for example, the challenge to structural injustices has been founded both on Islam-based and secular and social-science-based discourses. Sources of resistance to religious extremism or to state authoritarianism are diverse and may provide women's groups or movements with different strengths depending upon with whom they can form alliances or from whom they can acquire cooperation and support. Among them are: progressive Muslim scholars and intellectuals, civil society groups such as other NGOs or non-Muslim women's groups, human rights groups or movements, inter-faith coalitions, and to a limited extent political parties. In Indonesia, for example, women have been active in religious institutions, and major social movements within Indonesian history have benefited from a strong presence and participation of women. Within the *Nahdatul Ulama*, the traditionalist Muslim organisation, and *Muhammadiyah*, the modernist Muslim organisation, special women's bodies have been established. These bodies have relative autonomy and lately have been successful in raising awareness of gender issues in Islam among ordinary Muslims and some traditionally trained religious scholars or *ulama*.¹⁵

Progressive Muslim scholars and intellectuals are often needed to help develop new religious interpretations and new bodies of knowledge as the foundation for building democratic culture, and promoting pluralism and social justice in one's society. Democratic and gender-sensitive interpretations of religious texts and Islamic legal jurisprudence (*fiqh*) form an important resource for Muslim women to promote their rights and equality agenda within the framework of Islam. Muslim women activists must

also learn to develop strategies for the opening up of dialogue with politicians and sometimes with some members of fundamentalist groups and/or Islamist political parties. Establishing broad-based coalitions, cooperation with strategic civil society and political alliances may be of help in pursuing those dialogues that will enable women's democratisation agenda. At the same time it is also useful for Muslim women to network and explore cross-regional alliances for issues and problem solving beyond national borders.

In terms of negotiating and creating a discursive space, Muslim women's groups have played key roles in initiating and leading a public discussion or debate on problematic traditionalising interpretations of religious texts and interpretations of laws that are codified by their respective state or government. In Malaysia and Indonesia, for example Muslim women's groups have led, persuaded and encouraged other Muslims – activists, intellectuals and independent scholars – to voice their concerns with issues relating to problems of injustice incurred due to religious interpretations that are not gender-sensitive or women-friendly. See footnote 15. These are done through various kinds of activities as explained below.

Muslim women activists who are struggling for gender equality have also recognised that their objective has to be achieved within a wider project seeking for democratisation for all members of society and all citizens of the state. The rights of other faith communities as fellow citizens are crucial in the struggle for the rights of Muslim women. Freedom of religion is paramount in any multi-ethnic and multi-religious country such as Malaysia. What is also crucial is the protection of freedom within a religion for any faith community. Any state or non-state actor/actors seeking to curtail freedom within religion of certain individuals or groups of Muslims (or for that matter of any other faith communities) in the state will surely also undermine the citizenship rights of all within that particular state.

For example, whenever a state policy or a law that it implements has the impact of undermining or narrowing the freedom of belief or the rights of Muslim women as citizens of the Malaysian state then this erosion will have a discriminatory effect on Muslim women. However, if other Malaysian citizens of other faith communities allow this erosion in the status of Muslim women reducing them to second class citizens, as it were, then the state is by default given greater potential power to act on any of its other citizens. The rights of Muslim women in Malaysia must not be seen in isolation from the rights of other citizens. The erosion of rights and freedom of one religious category of citizens by the state or any political actors will potentially also have dire consequences or

implications for the rights and freedom of all citizens within the other faith communities.

It is for this reason that *Sisters in Islam* (often referred to as SIS — short for its officially-registered name *SIS Forum Malaysia Berhad*) as a Muslim women's group has also involved itself in other activities relating to citizenship rights, democratic principle and procedures relating to the rights of other women or other faith communities within the constitutional framework of the Malaysian state. Through a range of activities in research and advocacy, public education, publications, and networking nationally and globally, SIS has raised public awareness of developments in Islam in Malaysia. In doing so they also challenged the monopoly of the *ulama*, the religious authorities and the Islamist groups over Islamic matters. At the same time, through establishing their own training programs, they are slowly building the capacity of an expanding core group of people who have begun to acquire the knowledge and strategies to speak out publicly on Islamic issues.

As a case study, I shall outline here the strategies adopted by *Sisters in Islam* (SIS) as they negotiate rights for Muslim women specifically and women in general in legal, political, economic and social structures both at the national and regional levels (Othman et al., 2003).

Advocacy

SIS began as a small research and advocacy group with a focus on interventions in the law and policy making process on matters of religion. Their advocacy work has taken two forms: as memorandums or letters to the Government on law or policy reform and as letters to the editor on current issues to educate the public and build a constituency that would support a more enlightened interpretation of Islam on specific issues that are in contention.

Central to all of their advocacy work is their research into the interpretation of the *Qur'an* as that work feeds into their writing and press statements on contentious issues where the conservative religious authority or the Islamic movements are pushing for laws and policies that discriminate against women or violate fundamental liberties. This work is important, because as Muslim women, SIS is able to fight for change from within their religion. The knowledge they derived that the *Qur'an* supports the universal values of equality, justice and a life of dignity for women is also empowering them to stand up and argue with those who claim, also using the interpretations of the *Qur'an*, that women and men are not equal in Islam. SIS has been able to speak out in public on alternative views on the subject and challenge the obscurantist view which discriminates against

women and which is detrimental to the best interest of a modernising, industrialising multi-racial and multi-religious society.

In recent years, SIS advocacy and research work has expanded from the area of women's rights to issues of democracy and fundamental liberties. This is a natural progression as it becomes increasingly clear that without that democratic space and right to speak out and offer alternative views, and without any respect for the fundamental liberties of citizens in a democratic society, the space to speak on women's issues will eventually disappear. Thus, SIS has taken public positions on critical issues such as freedom of religion, freedom within religion and freedom of expression as well.

Advocacy through memoranda to the government

As part of SIS's effort to influence law and policy making, the group has submitted several memoranda and letters to the Government on issues such as the appointment of women as judges in Malaysian Shari'ah courts, the right of Muslim women to equal guardianship, the Domestic Violence Act (1994) and its application to Muslim women. Some of the memoranda they submitted were: Reform of the Laws on Polygamy specifically, Reform of the Islamic Family Law as a whole and the Administration of Justice in the Shari'ah System, Reform of the Shari'ah Criminal Laws and Conflict with Fundamental Liberties, the Hudud Law and Discrimination against Women.¹⁶

SIS submits these memoranda to the targeted minister in charge of the subject and then follows up with consultations on the matter, at the ministerial level and also through the press. The results have been mixed. While most ministers are responsive initially to begin a process of negotiation and consultation, there has been no staying power to deliver on the demands made. It is much more difficult to reform existing laws than to stop new laws from being introduced. For example, SIS was successful in getting the Government to withdraw its effort to provide for a one-year mandatory detention for rehabilitation of those who want to leave Islam, and in getting the Domestic Violence Act (DVA) to apply to Muslims in the face of attempts by members of the Malaysian *ulama* and other religious authorities to keep the DVA exclusive to non-Muslims, insisting that Muslims involved in cases of domestic violence should be dealt under the Islamic Family Law.

SIS's efforts in trying to push for reform of the discriminatory provisions of the Islamic Family Law is however still stuck at the negotiation stage with the Ministry of Women, the Islamic Development Department, and the Attorney General's Chambers. They only

managed to delay the passage of a new draft Islamic Family Law Bill with amendments that further discriminate against women.

Advocacy through Letters to the Editor

SIS's memorandums to the Government have often, though not necessarily, been accompanied by letters to the editor, sent to the major Malay and English newspapers in the country. The objective was to create public awareness about alternative positions in Islam on a particular issue. It was also done in the hope that the letters would engender a more informed public discussion on the issue and build a constituency that would support SIS's advocacy for a more enlightened and progressive Islam to take root in Malaysia.

This is a very important strategy because SIS is not a grassroots group and the fastest and most effective way for them to reach a wide audience with their alternative position is through the newspapers. The major newspapers in Malaysia have been very supportive of SIS work and have given much valuable space to print some of their very long letters, which sometimes run to half a page of a broadsheet.

As a strategy, too, some of the letters to the editor and to the government are submitted jointly with other women's and human rights organisations to show that their voice is not an isolated voice and that the women's movement and human rights groups are speaking in one voice on a particular issue.

For example, when the *Ulama Association of Malaysia* tried to charge six individuals (including Zainah Anwar, the Executive Director of SIS) who frequently comment on Islamic issues for insulting the religion in January 2002, SIS mobilised the NGO movement and prominent individuals to sign a press statement to condemn the action. In a campaign against the Hudud law of Terengganu, SIS mobilised eleven other women's groups to submit a letter to the editor to condemn the law, held press briefings with input from Shari'ah and constitutional lawyers to educate journalists on the issues at stake and provided the Minister for Women with arguments and cases in Nigeria and Pakistan to assist her publicly to support SIS's position.

While the Hudud bill was still adopted by the Terengganu State Assembly with some unsatisfactory amendments, the debate that SIS generated and the bad press it received served as notice to the Terengganu government and its supporters that the Hudud law that they seek to enforce is simply untenable.

The important lesson SIS learnt from all these years of advocacy is that change cannot happen behind closed doors. They need always to mobilise public opinion and

win media support. Political leaders respond best to public outrage and press coverage of a particular issue.

Public education and public awareness

Another important strategy used is public education to build the core group of activists and ensure that opinion-makers such as journalists, policy makers, lawyers, human rights activists, and political party activists are exposed to ideas in progressive Islam.

Seminars and workshops

SIS regularly organises such forums to discuss issues of significance to Islam, nationally and regionally. This includes issues such as 'Islam, Islamic Laws and the Modern Nation State', 'Islam, Culture and Democracy', 'Islam, Reproductive Health and Women's Rights', 'Islamic Family Law and Justice for Muslim Women', 'Muslim Women and The Challenge of Religious Fundamentalism'.

These workshops bring together activists, progressive Islamic scholars, intellectuals and policy makers from the region and all over the world to develop solutions and best practices to address the challenges faced in each issue area.

Public lectures

SIS's Public Lecture Series aims to expose the general Malaysian public to alternative progressive thinking in Islam by eminent progressive Islamic scholars. Among the notable scholars who have been invited to deliver these lectures are: Fathi Osman on 'Islam and Modernity', Amina Wadud on 'Islam, *Qur'an* and the Female Voice', Abdel Rahim Omran on 'Contraception, Abortion, and Reproductive Genetic Engineering', and Abdullahi an-Naim on 'Human Rights, Religion and Secularism' While these scholars were in Malaysia, SIS identified key journalists to interview them on issues relevant to the Malaysian context. The group also organised additional meetings or talks with other activist groups or government officials such as JAKIM. The intent here is to expose more and more Malaysians to progressive thinking in Islam.

Training on women's rights in Islam

SIS has developed a module on the subject and is intensifying its training program (monthly) targeting young women and men, students and professionals, journalists, human rights lawyers, young political leaders and grassroots service providers. The response has been quite encouraging as the participants often say that this was the first time they were exposed to the complexity of the Islamic textual and legal heritage and the process of law-

making in Islam and its impact on women's rights and human rights.

The interest in SIS's training module comes as well from non-Muslims who wish to understand Islam and Islamic law better, and there is now a demand for SIS to conduct the workshops in other states in Malaysia. Through this strategy they hope to build a pool of better-informed activists who will have the confidence to speak out on Islamic matters, if not at the public level, at least to change the mind-set among their family members, friends and colleagues.

Resource centre

SIS has also built a modest resource centre containing of about 2000 books, journals and articles on Islam, with a particular focus on writings on progressive Islam, women's rights, human rights and on Islam and politics. SIS also maintains a newspaper cuttings service. This resource is invaluable to researchers and journalists who want to do work on Islamic subjects from the perspective of rights.

Networking

As an advocacy group, SIS's success and ability to mobilise support and influence laws and policies made in the name of Islam is very dependent on an effective networking strategy.

The network is formed at four levels with the following persons:

- key state actors, including the Ministry of Women, the Ministry of Law, the Islamic Development Department, and the Attorney-General's chambers.
- NGOs, especially women's groups and human rights groups. In the past few years the non-Muslims in Malaysia have begun to realise the impact of Islamisation and Islamic laws on their rights as citizens of this country and have been more willing publicly to take positions on Islamic matters which in the past they saw as sole preserve of the Muslims. Many non-Muslim activists have begun regularly to attend study sessions, public lectures and training programmes that SIS organised.¹⁷
- traditionalist women's groups and Islamist groups. As the SIS voice is increasingly recognised, these two sectors, which earlier have been hostile have begun to engage with SIS, especially in areas of common concern. SIS was therefore able to mobilise conservative women's groups such as the Association of Police Wives, the Muslim Women's Welfare Board, and the Association of Women Public Servants to join them in

the Monogamy Campaign launched in March 2003. Some of these women's groups remain a part of the coalition researching the impact of polygamy on the family institution. A few key members from two Islamist groups, ABIM and JIM, now attend SIS study sessions on a regular basis. For the first time ever, the Islamic party PAS officially invited SIS to its general assembly in 2003.

Backlash

Of course, SIS achievements have come at a cost. The work that they do is often considered controversial. SIS and some of its leading members are often attacked and condemned by the Islamic party PAS and Islamist activists and others in government and in the media who do not agree with what they deem as 'liberal Islam' or 'a feminist perspective' on religious issues. They have often criticised these ideas as alien western values that women in SIS are trying to impose on Islam. The attacks usually take three forms:

The Islamist activists and their spokespersons undermine the right and legitimacy of some women to speak on Islam by questioning their credentials to speak on religion. They say SIS members have no right to speak on Islam because they are not traditionally or fully educated in religious schools, do not have a degree in Islam from a recognised Arab university, do not speak Arabic, and they do not cover their heads. They say SIS consists of western educated feminists representing an elite stratum of society who are trying to impose western values on Islam and the *ummah*. To them, the discourse on Islam is exclusive only to a certain group of Muslims, i.e. the *ulama* with the proper Islamic education, status, and position. Others do not have the right to express their opinions on Islam.

On certain issues they also accuse SIS of having deviated from true faith. They equate any questioning and challenging of their obscurantist views on women and fundamental liberties and their interpretations of the *Qur'an* as questioning the word of God. Consequently, SIS is often accused of being against Islam or un-Islamic. Allegations are also made about SIS locating their arguments on an incorrect and unsystematic methodology of interpretation of the *Qur'an*. They also accuse SIS of using only their brains, logic and reason (*akal*) instead of referring to classical exegetical and jurisprudential texts of the early centuries of Islam. They claim that these texts by the great theologians and jurists of centuries past have perfected the understanding of Islam and the doors of *ijtihad* should therefore remain closed.

At the same time they contend that that it is dangerous to offer alternative opinions and interpretations of the

religion as this could confuse the *ummah* and lead to disunity. There can only be one interpretation to be decided upon by the *ulama* and all Muslims must abide by this interpretation. They assert that alternative views that differ from the mainstream views are an insult to the *Qur'an*, inculcate hatred against Shari'ah, and degrade women.

Yet many of those who criticise women's groups such as SIS do not speak Arabic and have not been traditionally schooled in Islamic studies¹⁸. Their right to speak out, however, is never questioned by the *ulama* or religious authority. The issue is not so much the right or freedom to speak on Islam, for the religious authority really does not have a concept of freedom of speech. Neither is it an issue of credentialed religious scholarship. Rather it is the exercise of authority and censorship by the *ulama* group. For example, if a person supports the death penalty for apostasy, the hudud law, and the Islamic state and imposition of Shari'ah law, then it seems he or she will always be allowed the freedom and space to speak on Islam despite not having the 'right' religious education. Attempts by segments of the religious authorities to ban those with 'no in-depth knowledge' of Islam from expressing themselves publicly on Islamic issues are usually exercised only upon those individuals who differ from or challenge the established opinions. While some may recognise the validity of SIS's concerns, they have felt that it was best that these issues are raised privately with them (as religious authority) behind closed doors so as not to cause disharmony, alarm and confusion.

SIS has publicly resisted such attempts to silence 'lay' Muslim scholars and activists from engaging publicly in the discourse on Islam in Malaysia. In one letter to the editor, SIS posed the question: why should the right of those who preach hatred, misogyny, intolerance and extremism be recognised and protected, while the right of Muslim women such as SIS to challenge them and to preach an Islam that stands for justice, equality, tolerance and moderation be denied?

In addition the silence of many moderate Muslim scholars who are reluctant to speak out in public for fear of being embroiled in controversy or accused of being anti-Islam by colleagues in the fraternity is another problem confronted by Muslim women's rights activists in Malaysia.

Conclusion

The greatest impact upon the human rights of Muslim women throughout the Muslim world has been the consequence of the rise of Islamic movements and their political and gender discourses. Foremost among them are

the traditionalising and politicised or religious fundamentalist types of movements which seek to impose their religious view of gender relations and rights of Muslims. The state itself even if it is not controlled or under the administration of an Islamist party or government is also responsible for the infringement and erosion of rights of Muslim women as it adopts various kinds of 'Islamisation' policies in order to shore up its 'Islamic' identity or legitimacy. Women's rights have become a battleground for these competing political forces for most Muslim countries since the second half of the 20th century as these countries gained political independence and in their own respective trajectories attempted to modernise and at the same time strengthen the 'Islamic' character of their societies.

A major challenge for Muslim women is working towards the repeal, reform or reviewing of certain types of Muslim family laws which are detrimental to women's rights which are often already recognised in Islam but not granted in practice. Hence, advocacy programs in the domain of laws are indeed crucial. The advocacy work needs to be supported by the participation of women activists, progressive Muslim intellectuals and scholars (both female and male) in the domain of religious knowledge through discourse, debate and scholarship, particularly in the interpretation of texts and laws. To what extent this internal debate among Muslims can help to constitute and re-constitute women's rights and gender equality in Islam depends on the democratic space or culture that exists in Muslim societies.

As is so often the case, Muslims are not encouraged to debate the religious interpretations provided by the ulama and mullahs. Ordinary faithful 'lay' Muslims are routinely advised that they must accept without much question the religious authority of the *ulama* or Islamic scholars regardless how insensitive, outmoded and narrow their interpretations and perspectives of Islam and its teachings.

Ultimately, it is essential that Muslim women speak out, claim the right to speak and create the public space to engage with Islamic matters at all levels. In countries where there are no alternative voices in the public sphere, Islamist and extremist groups have (and will continue to) set the agenda and to define what is Islamic and what is not. Progressive and moderate Muslims – male and female – simply cannot afford to ignore the need for encouraging and establishing a democracy movement in their respective countries. This must be a movement that allows for freedom of religion, freedom within religion and freedom from it, and one that also does not accept religious compulsion through the force of punitive laws. It is also a movement that seeks substantive democracy

based upon the recognition and acceptance of diversity, pluralism and social justice among all its citizens — Muslims and people of other faiths.

Endnotes

¹ Fatwa: a legal opinion by a religious authority.

² Tuduing: (Malay) a headscarf or cover. Mini telekung: A form of head covering like the Catholic nun's wimple. Jubah: (Malay, from Arabic *jalladabah*) a long dress or tunic.

³ Ulama (also ulema): religious scholars.

⁴ Blame on the way women dress has been coming out from public statements, parliamentary debates (by both PAS and UMNO parliamentarians) and also in general public discourses as reported in the media (mainstream newspapers such as *New Straits Times* and *The Star*; and also the newspaper of political party PAS i.e. *Harakah*), religious leaders. Since 1985 until last month (in an April "Sunday Interview" of the *New Sunday Times*) an UMNO parliamentarian said that there has to be more laws governing "indecent behaviour" and he said that of the reason for the increase in number of rapes of the past few years was due to "the way women dress...". I also refer to various newspaper reports and articles in my 1993 Norani Othman and Cecilia Ng Choon Sim (eds.) book *Gender, Culture and Religion*; Kuala Lumpur: Persatuan Sains Sosial Malaysia publications; this very same point (in the preface of the book).

⁵ Fatana (fitna-singular): internal discord within Muslim community.

⁶ Syariah (Malay spelling for Arabic term *shari'ah*): Islamic law.

⁷ Source: Muslim women's complaints to Sister in Islam or SIS's Syariah Legal Clinics and also to letters to SIS column that have been published every Friday in *Utusan Malaysia* (local Malay daily) in years 1004–2005.

⁸ Hudud: Islamic penalties or Islamic criminal punishment.

⁹ Wahhabism: the Islamic creed which originated with the eighteenth century revivalist movement of Muhammed Ibn Abd al-Wahab (1703–1787) and become a state ideology via Abd al-Wahab's alliance with a central Arabian tribal chieftain, Muhammed Ibn Saud. Today it is the official creed of the Saudi state, though its adherents would rarely define themselves as Wahabist, preferring the term *salafi* or *muwahhidoon* (a reference to the emphasis placed by the creed on *tawhid* — unity of god and faith). Wahabim is a salafi movement par excellence, and Saudi Arabia has contributed immeasurably to the spread of salafism internationally. But not all salafists are Wahabists, nor are all salafists oriented toward Saudi Arabian religious scholars.

¹⁰ Ramadan: (Arabic) fasting or Islamic fasting month.

¹¹ Aurat: rule of modesty (i.e. what part of a Muslim's body – male and female – that should be covered up).

¹² See Othman (1993), *Sisters in Islam* (1997a). See also the several letters to the editor from members of the public in the two main Malay-language newspapers concerning the respective articles by *Sisters in Islam*. SIS made a decision not to respond to these letters because, as in earlier times, most of the letters in response to articles or letters by the group simply questioned the 'Islamic status or credential' of SIS in daring to discuss the issue of interpretation by the established *ulama* and religious authorities. The arguments provided by SIS in the article were not critically addressed in these responses. All SIS letters to the editor are available on its website, www.sistersinislam.org.my.

¹³ Mufti: jurisconsult i.e. a specialist in religious law who is qualified to give an authoritative legal opinion (*fatwa*).

¹⁴ Ummah: the community of Muslims.

¹⁵ Source: my own fieldwork notes and observation and as active member of SIS in SIS advocacy activities, in creating alliances and in networking for every advocacy project that SIS undertakes.

¹⁶ In these memoranda and letters, Sisters in Islam expressed its concerns on provisions in the law or policy that discriminate against women in substance or implementation, or violate fundamental liberties, offered a justification for why they should be amended and then provided specific wordings or position to make clear the changes that they want to see take place. SIS uses sources in the *Qur'an*, the juristic heritage, and the real life experience and documented cases of abuse to justify the reforms proposed. All SIS memoranda to the government are available on its website, www.sistersinislam.org.my.

¹⁷ For example the “Joint Action Group for Violence Against Women” (or JAG now renamed JAGGE or “Joint Action Group for Gender Equality”) formed by a few key women’s organizations in 1995 (i.e. SIS, WAO or Women’s Aids Organizations, WCC (Women’s Crisis in Penang now renamed Women’s Centre for Change, and AWAM the Association of Women’s Action Malaysia) have always experienced some difficulty in getting non-Muslims (community, religious leaders and politicians to give open public support to our work in the 1990s but since 2000 there has been gradual changes where these other organizations and NGOs have now come out publicly to voice their support to JAGGE’s work.

¹⁸ This again refer to my own experience in SIS’s projects, advocacy work and activities. Criticism often came from key PAS ulama and religious leaders such as Nik Aziz and Hadi Awang, the PAS women leaders in PAS Dewan Muslimah, other Muslim NGOs such as the “Forum of Muslim Professionals”, etc. Criticism are expressed in the seminars or forums they organized, in articles published in their newsletters are very often in “Letters to the Editor” in Malaysian dailies — both Malay and English.

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