

Ausschuss für
Menschenrechte

Sitzung am: **22.10.**

öffentliche Anhörung

Ausschuss für Menschenrechte

15(16)0103

Aussch.Drucks. 15. Wahlperiode

Muslim Women Challenge Fundamentalism: Building Bridges between Southeast Asia, West Asia and the Middle East
Bellagio 29 September – 3 October 2003

Country Paper: Malaysia
By Norani Othman, Zainah Anwar, Zaitun Kasim,

PART I: THE SOCIO-POLITICAL CONTEXT

Malaysia is a multi-ethnic, multi-religious federation of 13 states and the Federal Territories. Eleven states are on Peninsula Malaysia while the other two on the island of Borneo. The Federal Territories cover the capital city of Kuala Lumpur and island of Labuan off the North Borneo coast. Of the total 23 million people, 65 per cent are classified as *bumiputera* (lit. 'children of the soil' and comprise a Malay-Muslim majority and a smaller percentage of indigenous population), 26 per cent are Chinese and approximately 8 per cent Indians. Of the Muslim population in the country, the overwhelming majority are Sunni Muslims, with a very small group of Shiah Muslims.

The legal system in Malaysia

The Federal Constitution guarantees freedom of religion and provides that Islam is the official religion of the federation and that other religions may also be practised. While this may appear to suggest that Muslims and non-Muslims can profess, practice and propagate the religion of their choice, in practice however, it is near impossible for a Muslim to actually do so. Muslims in Malaysia are subjected to many religious restraints due to the power of the States to punish Muslims for offences against the precepts of Islam.

The legal system in Malaysia is comprised of two sets of laws - one set, the civil law, derived from the British common law tradition (applicable to all), and the other based on its own legal and cultural tradition, the Islamic or Shariah laws (applicable to Muslims only). The delineation of jurisdiction powers between these two sets of laws are contained in the Federal Constitution - essentially, the civil system is administered at the Federal level, while Syariah laws (primarily Shafie school with some aspects of customary laws) governing "matters related to Islam" are formulated and administered at the state level, each state with its own institutions and implementing agencies. What this means is that Malaysia is veritably the only country in the world that has 14 different sets of Shariah laws covering 14 separate jurisdictions! This has major implications; for example, a court order in one state is not automatically enforceable in another. It also means that a person can choose the state that offers them most 'favourable' conditions (for example in cases of polygamy). Legal reform is also consequently more complex as it involves advocacy at 14 states.

In spite of a delineation of jurisdiction, what has in effect been taking place is a quiet 're-definition' of what is considered "matters related to Islam". This 'redefining' has seen the scope of Shariah laws in the country being widened from its jurisdiction over personal status law on marriage, divorce, custody and maintenance to matters related to the individual's personal piety, practices and preference (such as fasting, Friday prayers, sexual orientation, consumption of alcohol, etc). The Shariah laws have also found their way into municipal laws, subsidiary legislation and regulations and policy directives.

This delegation of powers to the State level has also been used by two states in the country (which are led by the Parti Islam Se-Malaysia, PAS, or the Islamic Party of Malaysia) to enact their own versions of 'hudud' laws, over and above the Syariah Criminal Offences laws which provides *takzir* punishments for crimes against the "precepts" of the religion. The adoption of the hudud laws is being challenged in the Federal Court on constitutional grounds as crime comes under federal jurisdiction in the Federal Constitution. The two states, however, interpret state jurisdiction over Islam to mean all matters relating to Islam, including the hudud punishments.

Islamic Revivalism

Along with many other parts of the Muslim world, Malaysia also experienced the impact of the Islamic revivalism movement which began in the 1970's. It started in Malaysia as a da'wah movement aimed at Islamising society from the bottom by promoting Islam as a comprehensive way of life – to make Muslims become better Muslims. The Malaysian Islamic Youth Movement (ABIM), led in the 1970's by the ex-Deputy Prime Minister of Malaysia, Anwar Ibrahim, was at the forefront of this da'wah movement.

The impact on Malaysian society has been tremendous as the lifestyle and value system of the Malay-Muslims, in particular, began to adopt more 'Islamic' and 'Arabic' way of life. The majority of Muslim women in Malaysia today don some form of *tudung* or head cover. A significant proportion also wear the Arab-style long loose robe (*jubah*) to hide the shape of the body. There is greater public obsession with morality, especially of women and the young. There is increased segregation between men and women, and between more secular oriented Malays and Islamist Malays. There is also increased segregation among the Malays, Chinese and Indians as values and lifestyle increasing diverge. Malay traditions, such as the wedding ceremony, cultural dances and rituals on auspicious occasions were labeled 'unIslamic' and have come under pressure to be abandoned in favour of what are deemed 'Islamic' practices.

What began as the Islamisation of society was transformed into a radical political movement with the return of Malaysian students from Britain and the United States who were exposed to the political Islam of the Muslim Brotherhood and Jamaati Islami. Their unambiguous struggle for an Islamic state and denunciation of the secular, westernized governments in Muslim countries, provided a powerful ideological appeal to the young uprooted Malaysian students studying in the West. PAS, became the political party of their choice to pursue their struggle for an Islamic state and Shariah law.

Islam and Politics

The politicization of the da'wah movement fuelled a radical change in the politics of the country; political parties wooing the Malay vote began to base their political legitimacy on Islam. PAS was invigorated by this, and the dominant Malay-based party in the ruling National Front coalition, i.e. UMNO responded by embarking on its own Islamisation programme. The man chosen to spearhead this task was the ABIM leader, Anwar Ibrahim, who was enticed into UMNO in a sensational political coup just before the 1982 general elections. Over the years, UMNO has tried to underline its religiosity by introducing Islam-based banking, insurance, tertiary education and legislation. While this may seem in synchrony with the vision of a modern, Islam-based nation, the 'Islamisation race' in fact moved the discourse on Islam and political Islam towards greater conservatism.

Today, the discourse on Islam is highly monopolized by certain groups, in particular the ulama, the Islamic party, PAS and Islamist activists. Non-Muslims, who already have to contend with communal politics in the country, generally shy away from the discourse on Islam, and view the battle between the two Malay parties as a 'storm in the Malay-Muslim teacup'. Moreover, those who have ventured into the debate - whether individuals, political parties or non-government organizations - have been berated by some Muslims for attempting to enter the discourse.

Within the Muslim public itself, there is a general relinquishing of power to the 'ulama' - almost exclusively male - as being the 'proper vanguards' of the religion. Political parties that court the Malay-Muslim vote have remained vague on their opinions related to Islam, presumably so as not to 'radically' rock the comfort zone of the Malay-Muslim population. Parties such as the National Justice Party or even UMNO for that matter, will straddle a middle ground; for example, they may not outrightly reject hudud or the Islamic State, but will say that they reject certain manifestations of hudud or Islamic State.

Partai Islam Se-Malaysia (PAS, Islamic Party of Malaysia)

One of the more vivid expressions of conservative Islam in Malaysia today can be seen in the politics of PAS. The party, which for the first 30 years of its existence was more a conservative Malay party rather than an Islamic party, was radicalized in the early 1980s. In 1982, the religious Young Turks in PAS, educated in Islamic theology, jurisprudence and philosophy from Arab universities, in particular al-Azhar in Cairo, ousted the Malay nationalist leadership of the party turning it into a radical Islamic party that stridently and unequivocally called for the establishment of an Islamic state with the Qur'an and Sunnah as the Constitution and the enforcement of Shariah laws. It discredited UMNO as a party of infidels for subscribing to a secular (read 'unIslamic') Constitution. Over the last four decades or so, PAS has steadily gained a strong following amongst the Malays in Malaysia. Its 'pull factor' appears to be the image it projects as a party concerned with morality, spirituality, religiosity, as well as promoting social welfare.

As the party prepares for the forthcoming general elections, it is trying to project a more moderate image. It has overturned its earlier decision not to field women as candidates. It has announced that it will not amend the Federal Constitution which it had earlier denounced as an infidel constitution, but will instead redefine the place of Islam in the constitution. This of course could have wider implications as it could mean in effect a fundamental reordering of the state.

The UMNO 'response'

Eager to maintain its credibility vis-à-vis an increasingly religiously-conscious electorate, the ruling National Front coalition embarked on an Islamisation policy in 1982 where it worked on asserting an Islamic image and also introduced and amended a range of Islamic laws in the 1990s that was to govern the lives of Muslims in the country. PAS's conservatism, however, does not suggest that UMNO is somehow the more progressive party. When taunted to prove its Islamic-ness, UMNO appears to invariably rise to the bait. The laws passed under the UMNO-led government have manifested themselves as only mildly less oppressive and anti-women than that of PAS'. The 'one upmanship' between UMNO and PAS was evident during the Islamic State debate in 2001 - while the Prime Minister declared that Malaysia was already an Islamic State (much to the chagrin of the opposition Chinese-based party, the DAP, which asserted that Malaysia was secular by virtue of the Independence Constitution of 1957), PAS argued that the state was nowhere near the 'ideal Islamic State'.

The Government uses its control of the media to disseminate its own 'brand' of Islam and is able to influence mainstream public opinion. This, however, is a double-edged sword; on the one hand it provides a vehicle for UMNO to, for example, cast doubt on the role of the ulama in the country (which by proxy casts doubt on PAS capacity to govern as it is led by the ulama class). At the same time, however, the tight controls also mean that the Malaysian public is 'buffered' from bold debate on Islam.

Other Islamist social forces

Islamist movements and non-government organizations (NGOs)

There are several Islamist movements and NGOs in Malaysia. The larger, more organized NGOs are involved in a variety of activities - from running religious schools, crisis centres, Islamic clinics and hospitals, to providing outreach programmes for the poor. They try to project an image of professional, middle-class Muslims aspiring to a 'moderate' application of Islam in the country but carry with them the ultimate view of creating an Islamic State. They may, for example, promote women in leadership but will nevertheless assert that in the private sphere, women are still second and require consent from male members of their family before they can participate in the public sphere. These groups actively participate in party politics in order to advance their Islamist agenda - two of the larger Muslim NGOs, ABIM and the Jemaah Islah Malaysia (JIM) are members of the National Justice Party. ABIM used to actively support UMNO, but

following the arrest of their one-time leader, Anwar Ibrahim, made a decision to move their support to the newly-formed party.

Of note also is the Persatuan Ulama Malaysia (PUM, Malaysian Society of Muslim Scholars). In 2002 it appointed itself to monitor the work of groups and public intellectuals and together with seven other Muslim-based organizations lobbied the Council of Malay Rulers to take action against several writers and individuals for having allegedly 'insulted Islam and ridiculed holy verses' in the Qur'an and Hadith, and for challenging the position of the ulama.

Apart from this, there are also groups that organize themselves around economic activities, 'Islamic' communal lifestyles or in pursuit of 'inner power excellence' (*ilmu batin*). Some of these movements are not necessarily interested in political power but see themselves as asserting the supremacy of Islam. One such group was the Darul Arqam which was said to have had some 100,000 followers in Malaysia alone. It was later declared heretical, its activities banned and its charismatic leader and many of his followers were detained under the Internal Security Act which provides for detention without trial.

Some groups have been accused of using violence in order to advance their political agenda. In 2001 several members of a group called the KMM were also arrested under the ISA for allegedly planning to wage a *jihad*, possession of weaponry, bombings and robberies, the murder of a former state assemblyman, and planning attacks on foreigners. It is reported that some of the members were trained in Afghanistan. However, the fact that several members of this group were PAS members fueled suspicion that the threat had been concocted by the state. Post-September 11, several alleged members of Jemaat Islamiyah (JI), allegedly with links to Al-Qaeda have been detained under the ISA as well.

There are also the smaller and low-profile tabligh or da'wah groups which run alternative schools and institutions; the youth and children from these madrassas are often seen selling 'Islamic' paraphernalia as part of fundraising for these groups. Generally, Government authorities have usually cracked down when these groups draw a significant following. However, banning these groups serves to only underscore that there can be only one Islamic Truth and shrinks the space for debate and discourse. A more constructive approach may be to give them enough space to exist without breaking the law, and to engage and challenge their doctrine so as to create a more thinking Muslim population.

Schools and Student movement on campus

There is a distinct 'Islamic' flavour on campuses in Malaysia. One of the upshots of the New Economic Policy, Malaysia's affirmative action policy, is the quota system in government universities, which has led to the Malays forming the majority of the student body on campus. This in turn influences on-campus politics, activities, dress codes and social interaction. Both PAS and UMNO, as well as politically-aligned NGOs have their on-campus allied groups which have a big influence on both students and academic staff. Though their alliances may not be explicit, most students are aware of the political

leanings of the various on-campus Islamic groups. Many of these groups actively organized and participated during the 1998 political events. Noting the rising discontent amongst students, university and Government authorities have come down hard on the groups.

Religious schools in the country comprise those that are funded or part-funded by the Government and those that are privately-run. While the modern religious schools offer both academic as well as religious studies, the traditional *madrassa* or *sekolah pondok* place disproportionate emphasis on reciting the Qur'an and religious studies alone. While the Government has more control over the curriculum within schools funded by the state, it has begun to clamp down on the privately-run ones, citing concern that some of these schools act as 'incubators' for conservative and extremist-prone students. Earlier this year the government withdrew state funding to the privately-run *madrassas* which resulted in the loss of students and teachers who were then offered placement in government-owned religious schools.

The pervasive impact of the Islamic revival movement is also seen in the secular government school system which, like the university campuses, have become more 'Islamic'. This has led to many non-Muslim parents to send their children to private schools or to Chinese schools.

Pervasive ambient 'conservatism' and self-appointed vigilantes

The growing conservatism in the country has also given rise to self-appointed 'vigilante' Islamist groups or individuals in the universities, the workplace, and also in public spaces who have taken it upon themselves to harass Muslim women who leave their heads uncovered, who mix with non-Muslims and who take part in activities where men and women interact. There have been cases of women and men being reprimanded by security guards for holding hands on campus grounds. Even non-Muslim women have been affected. The notion of Muslim dress is so pervasive that that non-Muslim women have been denied entry into public buildings for the way they dress. Some of these are in fact in-house directives.

Summary

Over the last 30 years or so, there has been a marked leaning towards greater conservatism in the country, paving the way for various Islamist parties and groups to rigorously lobby for what they term an 'Islamic State'. Critical debate on Islam is glaringly missing, and the use of repressive laws and state apparatus in the country has only added to the shrinking of democratic space in the country. If there is to be any mitigation of the growing conservatism, it is imperative that the democratic space be widened so that the Malaysian public can engage itself in the discourse on Islam and in the socio-political development of the country. This has only just begun as more and more Malaysians become aware of what is at stake and claim their right to speak on Islamic matters.

PART II. ISLAMIC EXTREMISM (FUNDAMENTALISM) AND ITS IMPACT ON MUSLIM WOMEN

Discourse and Ideology

The Islamic fundamentalist 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 organize (or re-organize) 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 often the first two objectives of most Malaysian Islamic movements—be they the political party PAS or Islamic revivalist movements such as Darul Arqam, ABIM or JIM. The wearing of the *tudung*, 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 Zainah Anwar, 1986).

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 is alien to traditional Malay Muslim culture. For example, apart from requiring separate spaces or seating arrangements for women in 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 electronic factories, the police force and 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 female candidates are also 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 on the question of Muslim women’s representation in elected office as free and voluntary political participa-

tion of women has never been an issue or perceived as a problem in Malaysian society since independence.

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 “male protection racket” mind-set is based upon the belief that uncovered and uncontrolled women in society and the public sphere is the cause of social problems such as moral decadence among members of society. The way women dressed has also been blamed for the increase in the incidence of rape in Malaysian society.

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 “male protection racket” rhetoric claims that women may be allowed to fulfil other social aspirations (e.g. having a career outside the home) only with the explicit permission of her husband.¹ 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, life, and chastity.

Such gender-biased discourses on women are manifested in public rhetoric, policy formulation and public education programmes organized by individual Islamists and religious authorities—both state and non-state. In most of the “pre-marriage training courses” provided and implemented by state and non-state religious authorities and organizations, 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 socialized 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* 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* wife”], in religious *ceramahs* and Islamic counselling programmes and divorce arbitration sessions, similar versions of discrimination and misogynism are produced and reproduced. Even some of the local commercial advertisements also played into this notion of the ‘ideal’ image of gender relations—further normalizing and reinforcing such patriarchal perspectives.

Not surprisingly, deeply embedded in this fundamentalist’s 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 1989).

Yet at the same time--in contradiction to this *fatana* 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 and women's social status is pervasive in many 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 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 they claimed have been suppressed or unduly supplanted by western ideas and practices seem to characterize many post-colonial social movements especially when they are led, inspired or dominated by traditional or religious elite. Intrinsic in the 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 ‘westernization’ and the sexual image of women that they said are produced by modern capitalism and popular consumerist culture. The objectification of woman's body--whether in popular aesthetics or subliminally and explicit sexual terms--is offensive to both the secular and Islamist women.

Islamist women who claim to be liberated and feminist also believe 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 argued that the Islamic mode of dress would ultimately enforce societal respect for a woman especially when she is in a public space. The factual evidence of this belief, notwithstanding, this notion has now pervaded the conventional and conservative Muslim attitude in Malaysia.

Therefore the discrimination of 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.

In the context 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 “Arabized” cultural modes and code.

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

The Malaysian state, under the administration of Dr. Mahathir Mohamad, began to embark on an Islamization project in the 1980s. Fearing the challenge of Islamic revivalism from the opposition Islamic party, PAS and also 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 "Islamize society and state laws" in Malaysia. One of them was instituting procedures and government agencies aimed at bureaucratizing the potential role of Islam in the economy through organizations 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: 101).

Within the context of Islamic revivalism and their attendant debates in Malaysia over the role of Islam in modern Muslim society, the Mahathir administration responded with the project of rationalizing and bureaucratizing administrative and legal institutions as well as centralizing 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 and some 715 in the Ministry of Education itself in its employment. The penetration of such social type of human resource personnel in the Malaysian bureaucracy has played a key role in spreading and normalizing Islamic neo-traditionalist or extremist *Weltanschauung* or worldview among Malaysian Muslim society.

At the same time, the federal government launched a process to upgrade, systematize and bureaucratize the Islamic judicial and legal system. This was done through the establishment of a federal-level Technical Shariah and Civil Law Committee, chaired by the late Prof. Ahmad Ibrahim, then a noted Law Professor at the International Islamic University. Within the last two decades, this Islamization policy has resulted in the further expansion of the syariah 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."ⁱⁱⁱ 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 are gradually embedded in the everyday life of 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. Gender bias and discrimination is normalized within the attitude of policy makers, the law drafters, Islamic religious authorities and judges in the *Shariah* courts.

The overall impact on Muslim women has been negative and oppressive. 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 *Shariah* legal system. When gender bias does not exist in the laws then quite often the attitude or action 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 deterring court procedure 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 seems 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* laws. In the debate for the pursuit of an 'Islamic state' seldom does one hear Islamists seriously pondering over issues of a realistic endeavour to fulfil and manifest the principles of equality, justice and fairness for all citizens in their model 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. 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).

Furthermore the approach and practice of these contemporary Islamization initiatives in Malaysia are mediated through a traditional Arab-centric (especially of Wahhabism) 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 idealized Islamic political past into the present. In doing so they are thereby seeking to legitimize their mandatory institutionalization within the order of modernity itself a set of laws and regulations which are narrowly-defined and do not take into account contemporary social realities.

The Islamist party PAS has not 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 ex-

pect that their idea of an “Islamic state” will be so benign as to promote gender equality or women’s rights. Neither should one also 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.

Fatwa and the criminalization of religious ‘immoral behaviour’: its impact on women and constitutionalism in Malaysia

The provisions of many of the Shariah Criminal Offences Enactments were 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* 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 “bi-ased” 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 another 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 a 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*. 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*.ⁱⁱⁱ

JAIS 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 of a fatwa criminal offences.

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 adopted the federal government’s model Shariah 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.^{iv}

Fatwas had been given the automatic force of law upon gazetting and it became a criminal offence for any person to give, propagate or disseminate any opinion contrary to any *fatwa* for the time being in force. It is also an offence for any person to act or behave in an indecent manner in any public place - though what constitutes "indecent" here remains largely undefined and therefore subject to the exercise of arbitrary discretion. Section 36 (1) of the Administration of Islamic Law (Federal Territories) Act, 1993 grants the *Mufti* 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 Shariah criminal laws, brought out the ominous reality of the process of law-making in the name of Islam. How could such provisions in law be sanctioned by the Shariah 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 socialized 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 by 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 Shariah 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* without their knowledge and consent.

Hence pernicious 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 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 civilization. Yet to resent in silence the power which has passed into the hands of this unrepresentative minority is to regret, often without recognizing 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 struggle for Muslim women's rights, equal treatment and the eradication of discrimination and social bias against women 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”).

Part III: Strategies

Trends and Counter Trends

The tendency to interpret and practise Islam in a restrictive manner, the discrimination against women, the amendments to existing laws or new laws made that further restrict women’s rights and fundamental liberties, the obsession with morality, the intolerance displayed towards interaction between Muslims and non-Muslims, the readiness with which Muslims with differing views are condemned as infidels, at worst, or as those who have deviated from their faith, at best, are changes in Malaysian society that alarm and challenge the very fundamentals of liberalism, tolerance, understanding and the spirit of accommodation that have been the historical hallmark of Malaysia’s plural society.

As the contestation for power between UMNO and PAS escalates, issues such as the Islamic state, the *hudud* law, discrimination against women, freedom of expression, freedom of religion, enter the public sphere for debate like never before.

This continuous demand for an Islamic social order in Malaysia has led to various levels of conflict, at the political level, at the governmental level, at the societal level and between segments of the religious authorities and women’s groups on what Islam, whose Islam is the right Islam.

September 11, the bombings in Bali, Riyadh, Casablanca, have ironically been positive for those of us engaged in this debate. One important impact in much of the Muslim world today has been the opening of the public space for debate, for discussion, for a diversity of opinion on Islam and Islamic issues to be heard in the public sphere. There is greater engagement by ordinary citizens – Muslims and non-Muslims, civil society, and intellectuals in the shape and direction of Islam in their own country. There is greater awareness that if Islam is used as a source of law and public policy to govern the public and private lives of citizens, then the question of *who* decides what is Islamic and what is not is of paramount importance.

There is now an awareness that in Malaysia, a small group of people--the *ulama*—is given the right to interpret the Qur’an, and codify the text; and their interpretive approach very often isolates the text from the socio-historical context of its revelation, isolates classical juristic opinion especially on women’s issues from the socio-historical context of the lives of the founding jurists of Islam. They thus isolate our textual heritage from the context of contemporary society.

Increasingly in Malaysia today, in many small ways over the past two years, women’s groups, human rights groups, NGOs, the media, and concerned individuals are beginning to speak up to engage publicly in a debate on these issues. Questions are now raised about the shape of the nation state and the role of religion in it. What is the role of religion in politics? Is Islam compatible with democracy? Who has the right to interpret

Islam and codify Islamic teachings into laws and public policies? How do we deal with the conflict between our constitutional provisions of fundamental liberties and equality with religious laws and policies that violate these provisions? Should the state legislate on morality? Is it the duty of the state, in order to bring about a moral society, to turn all sins into crimes against the state? Can there be one truth and one final interpretation of Islam that must govern the lives of every Muslim citizen of the country? Should the massive coercive powers of a modern nation-state be used to impose that one truth on all citizens? How do we deal with the new universal morality of democracy, of human rights, of women's rights, and where is the place of Islam in this dominant ethical paradigm of the modern world?

The search for answers to all these important questions on the role of Islam in today's modern nation state cannot remain the exclusive preserve of the religious authorities, be they the *ulama* in government or in the opposition parties or Islamist activists pushing for an Islamic state and Shariah law. Muslims and all citizens have to take responsibility for the kind of Islam that develops in their societies. The fact that Islam is increasingly shaping and redefining our lives means all of us have to engage with the religion if we do not want it to be hijacked by those who preach hatred, intolerance, bigotry and misogyny.

If Islam is used as a source of law and public policy to govern our private and public lives, then all citizens have a right to express their opinions and demand participation in the process of decision-making in the name of Islam.

Responses to Growing Conservatism

In a climate of intense religious-political contestation for power as in Malaysia, the production of knowledge, laws and rulings in the name of Islam is guided more by political ideology and expediency to win support among an increasingly pious electorate. Islam is used and abused for purposes of political mobilization while Islam as a faith and source of ethical and spiritual values are secondary. In such a situation, more than ever, civil society groups such as women's rights and human rights NGOs play a crucial role to change the terms of public engagement on religion and participate in the definition and codification of laws in the name of Islam.

In Malaysia, Sisters in Islam has been at the forefront in creating and expanding the space for public discussion on laws and policies made in the name of religion that discriminate against women and infringe constitutional provisions on fundamental liberties and equality. Women and human rights activists and ordinary citizens, Muslims and non-Muslims who are not traditionally trained in religion now regularly comment on all kinds of Islamic issues. The growth of an uncensored Internet media, in particular, has provided a safe, open and free environment for public comments on matters of religion. There is now no turning back the clock as citizens claim their right to engage in the discourse on Islam in Malaysia.

Human rights groups such as the advocacy groups Suaram, Aliran and ERA Consumer which conducts human rights training, all dominated by non-Muslims now engage with issues in Islamic law that violate human rights principles. Young professional groups such as Promuda invite Sisters in Islam to give talks on Islam and politics and women's rights. Concerned individuals are beginning to attend SIS study sessions and one group

of young Muslims have formed a study group called *Iqra' 101* to read and understand the message of the Qur'an for themselves. Individuals in that group are also frequent writers and commentators on Internet sites.

Given the pivotal role played by SIS in confronting the challenge posed by religious conservatism, this section will focus on SIS strategies.

SIS strategies

With our first letter to the editor published in 1990 in all the major newspapers in the country questioning the interpretation and practice of polygamy, SIS paved the way for the lay public to question, challenge, criticize and offer alternative views on laws, policies, pronouncements made in the name of Islam. We justified our right to have our voices heard, our concerns considered on the following grounds:

- We asserted that given the use of Islam as a political ideology and a source of law to govern our lives, Islam can no longer remain the exclusive preserve of the *ulama*.
- We pointed out that there exists in the rich and complex Islamic juristic heritage a diversity of positions and interpretations on a whole range of issues in Islam. Therefore, the one position taken by the religious authorities, either by state or non-state authorities, may not necessarily be the only “authentic” Islamic position.
- We stressed at every opportunity possible that there is a difference between what the revealed word of God is and what human understanding of the word of God is. The former is divine; the latter is fallible and changeable in accordance with changing times and circumstances.

Through a range of activities in research and advocacy, public education, publications, and networking, we have raised public awareness on developments in Islam in Malaysia and broken the monopoly of the *ulama*, the religious authorities and the Islamist groups over Islamic matters. At the same time, through our training programmes, we 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.

1. Advocacy

SIS began as a research and advocacy group with a focus on interventions in the law and policy making process on matters of religion. Our advocacy work takes 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 our advocacy work, is our research into the interpretation of the Qur'an as that work feeds into our 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 first, we are believers, and as believers we want to fight for change from within our religion. Second, the knowledge that the Qur'an supports the universal values of

equality, justice and a life of dignity for women is so empowering and liberating to us that it gives us the courage and conviction 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. It is this knowledge that gives us the confidence and conviction 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, then the space to speak on women's issues would eventually disappear. Thus, SIS has taken public positions on critical issues such as freedom of religion and freedom of expression as well.

Advocacy through Memoranda to the Government

As part of our effort to influence law and policy making, SIS has submitted several memoranda and letters to the Government on issues such as the appointment of women as judges in Shari'ah courts, the right of Muslim women to equal guardianship, the Domestic Violence Act and its application to Muslim women, 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.^v

SIS submits these memoranda to the targeted minister in charge of the subject and then follow-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. In our experience, it is much more difficult to reform existing laws than to stop new laws from being introduced. We successfully got the Government to withdraw its effort to provide for a one-year mandatory detention for rehabilitation of those who want to leave Islam. We were successful in getting the Domestic Violence Act to apply to Muslims in the face of attempts to keep it exclusive to non-Muslims while Muslims involved in cases of domestic violence would be dealt under the Islamic Family Law.

Our efforts in trying to push for reform of the discriminatory provisions of the Islamic Family Law is stuck at the negotiation stage with the Ministry of Women, the Islamic Development Department, and the Attorney General's Chambers. At this stage, we 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

Our memorandums to the Government are often, though not necessarily, accompanied by letters to the editor which we send to the major newspapers in the country to educate the public about alternative positions in Islam on a particular issue and hopefully, through this process, to help engender a more informed public discussion on the issue and build a constituency that would support our 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 us to reach a wide audience with our alternative position is through the newspapers. The major newspapers in Malaysia have been very supportive of SIS work and have given us much valuable space to print our very long letters, which sometimes run to 4-5 pages single spacing.

As a strategy, too, some of our letters to the editor and to the government are submitted jointly with other women's and human rights organisations to show that our 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 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 11 other women's groups to submit a letter to the editor to condemn the law, held press briefings with input from Shariah 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 to publicly support our position.

While the Hudud bill was still adopted by the Terengganu State Assembly with some unsatisfactory amendments, the debate we generated and the bad press it received served as notice to the Terengganu government and its supporters that it enforces the Hudud law at its own peril.

The important lesson learnt from all our years of advocacy is that change cannot happen behind closed doors. We need to mobilise public opinion and win media support. Political leaders respond best to public outrage and press coverage of a particular issue.

2. Public Education and Public Awareness

Another important strategy used is public education to build that core group of activists and opinion-makers such as journalists, policy makers, lawyers, human rights activists, and political party activists to be 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 and the Modern Nation State, Islam, Culture and Democracy, Islam, Reproductive Health and Women's Rights, Islamic Family Law and Justice for Muslim Women.

These workshops bring together activists, progressive Islamic scholars and policy makers from the region to come out with solutions and best practices to the challenges faced in each issue area.

Public Lecture: Our Public Lecture Series aims to expose the general Malaysian public to alternative progressive thinking in Islam by eminent progressive Islamic scholars. We've had Fathi Osman talk 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 are in Malaysia, we identify key journalists to interview them on issues relevant to the Malaysian context, we organise additional meetings or talks with other activist groups or government officials. 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 programme (monthly) targeting young women and men, students and professionals, journalists, human rights lawyers, young political leaders and grassroots service providers. The response has been very encouraging for us as trainees say 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 our training module comes as well from non-Muslims who wish to understand Islam and Islamic law better and there is now demand for us to conduct the workshops in other states. Through this strategy we 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 of centre of about 2,000 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. We also maintain 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.

3. Networking

As an advocacy group, SIS's success and ability to mobilize support and influence laws and policies made in the name of Islam is very dependent on an effective networking strategy. We network at four levels with:

- 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 to publicly take positions on Islamic matters which in the past they saw as sole preserve of the Muslims. Many non-Muslim activists have begun to attend our study sessions, public lectures and training programmes regularly.

- traditionalist women's groups and Islamist groups. As the SIS voice is increasingly recognised, these two sectors which have been hostile to SIS have begun to engage with SIS, especially in areas of common concern. SIS was able to mobilise traditionalist 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 us in our Monogamy campaign in March this year and they 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 our study sessions. For the first time ever, the Islamic party PAS officially invited SIS to its general assembly this year.

Backlash

Of course, SIS achievements have come at a cost. The work that we do is often considered controversial. We are often attacked and condemned by the Islamic party PAS and Islamist activists and others in government and in the media who don't agree with what they see as our liberal Islam or our feminist perspective on issues. They say these are nothing but alien western values that we are trying to impose on Islam. The attacks usually take three forms:

First, they undermine our right and our legitimacy to speak on Islam by questioning our credentials to speak on religion. They say we have no right to speak on Islam because we are not traditionally educated in religious schools, we do not have a degree in Islam from a recognised Arab university, we do not speak Arabic, and we do not cover our heads. They say we are western educated feminists representing an elite strata of society who are trying to impose western values on Islam and the *ummah*. To them, the discourse on Islam is therefore exclusive only to a certain group of Muslims, the ulama with the right education, status, and position. Others do not have the right to express their opinions on Islam.

Second, they accuse us of having deviated from our faith. They equate our 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, we are accused of being against Islam. They allege we locate our arguments on an incorrect and unsystematic methodology of interpretation of the Qur'an. They also accuse us of using our 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.

Third, 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. Alternative views that differ from the mainstream views are an insult to the Qur'an, inculcate hatred against Shariah, and degrade women, they assert.

Yet many of those who often criticise us do not speak Arabic and have not been traditionally schooled in Islamic studies. Their right to speak out, however, is not questioned. The issue therefore is not so much about who has a right to speak on Islam, but what one's position on various issues in Islam is.

If one supports the death penalty for apostasy, the hudud law, and the Islamic state and imposition of Shariah law, then one will enjoy the freedom and space to speak on Islam even if one is only a third rate engineering graduate from a third rate American university. But if one does not believe in the death penalty for apostasy, does not agree to an Islamic state and hudud law, then one is demanded to have the right credentials before one can speak out because what is being said does not serve the political agenda of those who use Islam as a tool to mobilize public support for their political cause.

Ever so often, there are attempts by segments of the religious authorities to ban those with "no in-depth knowledge" of Islam from expressing themselves publicly on Islamic issues. While some of them recognize the validity of our concerns, they however felt that it was best that we raised these issues privately with them behind closed doors so as not to cause disharmony, alarm and confusion.

We have 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, we questioned why should the right of those who preach hatred, misogyny, intolerance and extremism be recognised and protected while our right to challenge them and to preach an Islam that stands for justice, equality, tolerance and moderation be denied? We also challenged the deafening silence of many moderate Muslim scholars who are reluctant to speak out in public for fear of being embroiled in any controversy or accused of being anti-Islam by colleagues in the fraternity. Others just prefer to remain detached and isolated in their ivory tower where they lead privileged and protected lives.

Conclusion

If Malaysians, as citizens of a democratic country, have the right to participate fully in the economic, social and political development of the country, why is it when it comes to religion, we must suddenly shut up and be denied the right of public participation? We pose this challenge to those in the vanguard of the Islamic movement that wants to turn Malaysia into an Islamic state: Why would Malaysians support the concept of an Islamic state which asserts different rights for Muslim men, Muslim women and non-Muslims and minorities, rather than equal rights for all? Why would those whose equal status and rights are recognized by a democratic system support the creation of such a discriminatory an Islamic state? If an Islamic state means an authoritarian theocratic political system committed to enforcing andocentric doctrinal and legal rulings, and silencing or even eliminating those who challenge its authority and its understanding of Islam, then why would those whose fundamental liberties are protected by a democratic state support an Islamic state?

These are real dilemmas that must be dealt with by those who want to create an Islamic state in multi-ethnic and multi-religious democratic societies. If as believers we want to live a life according to the tenets of our faith, a simplistic call to return to an idealised golden age of Islam that have little bearing to the realities of today's world cannot be the

answer. And yet the answers can be found within our faith--only if we have the intellectual vigour, the moral courage, and the political will to strive for a more enlightened and progressive interpretation of the *Qur'an* in our search for answers to deal with our changing times and circumstances. For us in Sisters in Islam, this is not heretical, but an imperative if religion is to be relevant to our lives today

Endnotes

ⁱ 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.

ⁱⁱ See Norani Othman, "Islam and the State in Malaysia: A Problem of Democratization and Pluralism" paper written for the German Institute for Federal Studies, University of Hannover, 19 December 1999.

ⁱⁱⁱ See Norani Othman, "Hukum Aurah" in Sisters in Islam, (eds.) *Islam, Gender and Women's Rights: An Alternative View*. Kuala Lumpur: SIS Forum Berhad, 1993. See also "Modesty According to the Qur'an" by Sisters in Islam (SIS) in the "Saturday Forum" page in the Malaysian newspaper the *New Straits Times*, August 9, 1997; the Malay version of the same article also appeared in the Malay media: entitled "*Kesopanan dalam Islam: al-Qur'an dan kesederhanaan*" in *Berita Harian*, 5 Aug. 1997; and "*Pakaian: Tafsiran JAIS Sempit*" in the 'Forum Hujung Minggu' [Weekend Forum] page of *Utusan Malaysia*, 9 Aug. 1997; 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.

^{iv} For full details of issues of concern surrounding this legislation, see Sisters in Islam Memorandum to the Government on the Syariah Criminal Offences Act and Fundamental Liberties, 1997 at www.sistersinislam.org.my.

^v 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 we 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.