

Women living under muslim laws
النساء في ظل قوانين المسلمين
Femmes sous lois musulmanes

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Women and Islam: What are the Missing Terms?

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Most commentary on the condition of women in the Middle East assigns a central place to the role of Islam. In fact, there have been important variations, as well as persistent similarities, in women's conditions in Muslim societies. To make sense of the varieties of women's real, concrete historical experience, we must avoid confusing analytic and polemical goals.

Current writing on women in the Middle East exhibits two equally vigorous, but so far divergent trends. One proliferating effort attempts to establish Islam's compatibility or otherwise with the emancipation of women, using the Qur'an, the Hadith and the lives of prominent women in the early period of Islam as sources. (p 161) There is another expanding body of scholarship which locates women as historical and political actors firmly in the temporal processes of socio-economic transformation that accompany the region's incorporation into the world economy. (p 162)

It would be simplistic to put these divergences down to lingering Orientalism or even to clashes of idealist versus materialist paradigms. Some feminists are strategically attempting to recuperate Islamic dogma and reclaim history for their own purposes. Their own project for liberation requires an indigenous language and role models. The fact that feminists and traditionalist alike seem obsessed with the "true" meaning of Islam with respect to women simply acknowledges that it is seen as the only available ideological terrain on which to debate the woman question. One leading feminist suggests that this state of affairs is likely to persist until Muslim countries experience the total secularization of the political sphere and an extensive democratization of society. (p 163).

Still, the political merits of engaging with conservative ideologues on their own terrain are contestable. Not surprisingly, "secular" feminists have interpreted this stance as a loss of nerve, a capitulation to the notion that feminist demands are contaminated by Western cultural imperialism. (p 164). For their part, scholars working on the contemporary and more material aspects of women's lives in the Middle East dismiss the preoccupation with Islam as purely polemical, or as a hangover from the heavily idealist literature of the past.

This conjuncture has left us without sufficiently sophisticated and historically grounded treatments of Islam's place in determining women's subordination in existing Muslim societies. Kinship systems, class structures and state apparatuses mediate the dictates of Islam and their effects on women, in both law and practice, but thus far there have been few systematic treatments of these social structures and their evolving roles. These have become the missing terms of a potentially fruitful but currently impoverished debate. (p 165).

State-Building and Nationalism: Contemporary Parameters of the Woman Question

So-called Islamic societies embody widely differing histories of state and class formation. The relationships between state and religion have correspondingly varied as they have evolved. Some

emerged from peripheralized, decaying empires (the Ottoman in Turkey, The Qajar in Iran), others from direct colonial domination (Egypt, Algeria). All have had to grapple with the problems of establishing "modern" nation-states. This meant forging notions of citizenship, and finding new legitimizing ideologies and power bases.

These assorted modern political projects had evolving consequences for both women and Islam, and transformed the relationship of each to the other. The nature of legal systems, women's degree of access, (at least in formal terms), to education, paid employment and social benefits, the extent of their political participation - all these flow directly from identifiable state-building projects. (p 166) Each instance reveals the politically strategic nature of the 'woman question'. The place accorded to the formal emancipation of women, far from being a peripheral attribute in defining the nature of the state, is on the contrary quite central to it.

Although most Muslim countries have experienced a gradual process of secularization, starting from the mid-19th century, there are critical differences in the scope and outcomes of their secular reforms. It is in Turkey that we find the earliest and most uncompromising measures for the formal emancipation of women. The Turkish Civil code, outlawing polygamy and granting equal rights to women in matters of divorce and child custody, dates from 1926. Women's enfranchisement came in 1934. In this case, the shift from a multi-ethnic empire to an Anatolian-based Turkish nation, involved a progressive distancing of Kemalist republican ideology from Islam, and a search for alternative legitimizing ideologies. This search crystallised around Turkish cultural identity coupled with a western orientation as major ingredients in the definition of the new Turkish nationalism. This process invested the woman question with great symbolic and strategic importance, making it one of the pawns in the Kemalist struggle to dismantle the theocratic remnants of the Ottoman state, particularly the abrogation of the Shari'a in favor of secular legal codes. (p 167)

The nationalist-statist stance of Reza Shah in Iran, despite its avowed similarity to the Kemalist project, fell short of radically transforming the organisation and structure of the Shi'a clergy (with profound implications for the shape of things to come). Neither did it produce a powerful state ideology. Despite superficially drastic measures, such as the 1936 ban on veiling, the Iranian reforms remained limited in content. Najmabadi argues that Reza Shah's break with Islam was partial and tenuous. He put the army, rather than the creation of a politically structured state, at the center of his political project, and fell back on Islam as an anchor of legitimacy. (p 168) His modernizing strategy nevertheless required the transformation of his subjects, both men and women, into diligent soldier-citizens fully equipped to serve the state, thus inscribing changes in women's status on Iran's modernization agenda.

For Pakistan, the category of 'Muslim' itself came to serve as a national identity marker. In pre-partition India, Islam was constitutive of nationhood itself. It subsequently became instrumental as a legitimizing, if tenuous, ideology for Pakistani unity in the face of ethnic diversity and factional interest. Most recently, Zia ul-Haq has crudely used Islam to rally support for his corrupt regime. His favoured means of signalling his "Islamicness" has been to introduce retrogressive legislation on women's rights issues.(p 169)

Thus, the position of Islam in the diverse nationalist histories of modern states has an important bearing on the woman question.

Expanding State Control

The ways in which the new states incorporated and tried to establish control over kin-based primordial communities, tribes, extended families and different ethnic collectivities, have an important bearing on state policies relating to women and the family. In both the capitalist West and in socialist states, the state has intervened in family legislation as part of the process of subordinating the family to the state, expanding the control of the state over the socialization of its citizens and, especially in revolutionary situations, freeing citizens from the shackles of "backward" social customs and practices.(p 161)(p 160).

Suad Joseph's excellent comparative study of Iraq and Lebanon clearly illustrates the intimate

interconnections between family, religion and the state. In Iraq, women have had a two-fold importance for the Ba'th agenda for state construction: first as the state-party strives to wrest away the allegiance of the population from the large family/tribe/ethnic groups; and second as it confronts the need to mobilize labour for economic development in the face of continuing labour shortages. State and party recruited women into state-controlled agencies and resocialized them through general, vocational and political education for participation in the formal economy and polity.(p 161)(p 161)

An important aspect of this resocialization involved the rapid expansion of public schooling. Even in Iraq, though, the legislative reforms of 1978 remained modest, since the secularization of personal status laws would present too severe a challenge to religious conservatives and clerics.(p 161)(p 162) In addition, the party's attempts to undermine the allegiance of the population to traditional kin-based groups came up against widespread mistrust of the state instilled by the pervasive climate of political repression. Another complicating element has been the regime's own pro-natalist policies, stressing the value of marriage and large numbers of children.

In Lebanon, by contrast, where the state incorporated the religious/ethnic heterogeneity of society into its formal structure, the government relinquished matters of family and personal status to the religious authorities of the various communities. The socialization of individuals was placed in the hands of the private sector, through subsidising private education rather than by attempting to build a cohesive system of national education. The appropriation of control over issues related to women and the family by the "communities" was part of a strategy by the ruling elite to maintain the balance of sectarian power in the state, and was consistent with the reproduction of a minimalist state.(p 161)(p 163)

The People's Democratic Republic of Yemen stands apart in the Arab world with its experience of socialist rule which, unlike "Arab socialism" made reference in its official doctrine to Marxism-Leninism rather than Islam. It used legal reforms as a vehicle of change, aiming to extend central legal authority into rural areas where religious, customary and tribal law prevailed. With respect to women, this meant a challenge to traditional kin control and the creation of new possibilities for their emergence as economic and political actors in the service of the nation's economic development.

The 1974 Family Law incorporates important steps to loosen traditional controls over marriage (such as encouragement of free-choice marriage, restrictions on brideprice) and to restore greater equality between wife and husband (with respect to divorce, monogamy and child custody). Even this legislation, though, made concessions to Islamic codes and local customs, both in the formulation and in the application of the law.(p 161)(p 164) However radical the intent of the central authorities might have been, they had to accommodate the relative strength of traditional communities and the disparities between regions and between urban and rural locations.

A comparative study of family legislation in Tunisia, Morocco and Algeria finds significant variations in the balance of power between the national state and the locally based communities at the point when the three countries achieved independence. Tunisia is where primordial communities appear to have had the least degree of political autonomy and leverage. The tendency towards centralization, incipient in the pre-colonial period, was reinforced through the colonial era and culminated in a nationalist

movement led by a powerful party that did not have to rely on kin-based communities. Algeria, the most segmented of the three societies prior to colonisation, experienced a severe dislocation of its local communities under French rule but witnessed a revival of local particularism. During the war of national liberation and after independence, segments of the leadership could mobilize their ties with kin-based communities in the struggle for power at the centre. In Morocco, where the French adopted a strategy of indirect rule, primordial communities were least affected and the nationalist party least able to penetrate rural areas. At the time of independence, the monarchy emerged both as a symbol of national unity and as the arbiter among competing local groups.

It is in Tunisia that we find the most progressive family legislation - indeed the first attempt at extensive reform among Arab-Muslim countries - with the 1957 Personal Status Law. In Algeria,

family legislation remained a hotly contested area and produced a perplexing mixture of Islamic law and secular codes, leaving many aspects of women's rights unresolved. The Moroccan code essentially reiterates the Maliki Islamic code, with very minor attempts at systematization. (p 161)(p 165)

We should thus not assume that the action of modern states necessarily results in greater secularization of the personal status sphere or undercuts the power of religious authorities. This clearly depends on the nature of the state and the representation of clerical and other sectoral interests within it. The case of Iran amply illustrates this point. Nonetheless, to the extent that any central state mobilizes its subjects to further its own strategic objectives rather than tolerate alternative foci of loyalty, it will introduce important novelties in its discourse and practice to control its citizens. The khaki-clad, gun-toting women of Qaddafi's Libya and the veiled, militant women of the Iranian Republic attest to this fact.

Maintaining a judicious balance between the exigencies of economic life (the need for female labour in a war situation, financial pressures in low-income families, etc.) on the one hand, and the sensibilities of ideological purists and traditionalists on the other, often represents a difficult political tightrope act. In Iran this produced an oppressive ideology of domesticity, backed up by extensive legislation, which negates the everyday needs of working women. Women are not free from the burden of making a living while caring for children; they simply must carry on without any form of state assistance.(p 161)(p 166)

These general features of state building are by no means specific to modern states in the Middle East and North Africa. Yet it is very hard to escape the notion that the control of women and the representation of this control at the level of state ideology is a more pressing and enduring concern in Muslim societies than elsewhere. What accords this sphere such prominence? Is this how the specificity of Islam manifests itself across a multiplicity of settings and situations? Part of the answer, I think, resides not in Islam per se but in the relationship in which Islamic societies have found themselves vis-à-vis the West.

The Hidden Injuries of Foreign Domination

Most Muslim states have failed to generate ideologies capable of coping realistically with social change. This, and their histories of dependence vis-à-vis the West, let them to rely on Islam not only as the sole coherent ideology at their disposal but also as a symbol of their cultural identity and integrity.

This reliance has had serious repercussions for women, who became the ultimate repositories of this identity. For instance, many administrative and legal codes (such as taxation and business law) had to be reformed either under direct colonial pressure or in order to adapt to the exigencies of the world economy. Laws pertaining to the family and personal status, by contrast, were last to change, if they changed at all. "Islamic" modesty markers such as the veil became symbols of anti-imperialist resistance in the Algerian war and, more recently, in the Islamic Republic of Iran.

The halting and piecemeal nature of Ottoman legal reforms, starting with the Tanzimat period in 1839, indicate something of the cultural crisis triggered by mounting Western encroachment. The Ottoman Civic Code (Mecelle) represented a compromise between a European code and the Shari'a. A religious opposition, headed by the Seyh-ul-Islam, persuaded Sultan Abdulhamit II to disband the commission which had completed only the legislation concerning commercial transactions, thereby blocking any further changes in the fields of personal status, family and inheritance laws. This led to a dual juridical system: secular courts functioned under the aegis of the Ministry of Justice, while religious courts remained under the jurisdiction of the Seyh-ul-Islam. Only after the promulgation of the Turkish republic in 1923 was the legal system fully secularized.

It is not surprising that the ulema, whose powers in Ottoman society were severely restricted by the Tanzimat reforms, claimed the sphere of personal status and family legislation as their own. The more significant point is that this was the area where conservatism could create the broadest

possible consensus. The technical and military superiority of the West had forced Ottoman recognition that in these areas emulation was not only desirable but inevitable if the empire were to survive at all. The division among the ideologues of the time was rather on whether the material culture of the West could be made compatible with Ottoman mores and values. It is against this background that the Ottoman family was deemed to be in "crisis" and that the woman question became extensively politicized. The Westernist progressives denounced Islamic practices (polygamy, unilateral divorce and segregation of the sexes) as a blot on the face of civilization, whereas Islamists decried imported Western mores as the total corruption and subversion of the Islamic moral order. The cold facts of Ottoman economic and political dependence decisively restricted the arena in which the traditionalists could raise the banners of cultural integrity and relative autonomy.

Most interpretations of Egypt during the first half of the 19th century attribute the prevailing conservative social climate to a backlash of the colonial encounter with the French. (p 161)(p 167) Boudhiba eloquently expressed the reactive nature of such conservatism: "The response to colonization was to be significantly double: sexual and religious; indeed with each supporting the other. Outside, men could compromise themselves with the new order of things as much as they wished. But, once he was at home, the Arab man rediscovered an atmosphere steeped in the past, one in which yesterday was an eternal beginning." (p 161)(p 168) Minces also comments on the recurring contradictions in the Algerian regime between modernism and tradition; the regime offered women's modesty to the masses as a restoration of their "Algeriennes" and their Muslim way of life. (p 161)(p 169)

Imperialist meddling frequently generates a deep xenophobia. This finds expression in a radical populism which turns its hostile attentions to the various internal collaborators with Western infiltration. Islam has been a consistent vehicle for popular classes to express their alienation from "Westernized" elites. It marks the big cultural divide between the beneficiaries and losers of changing socio-economic orders, of the traditional middle-classes vis-à-vis bureaucratic interests. In the populist discourse of the Khomeini regime, Islam represents the ideology of the "people" confronting the corrupt, "Western-struck" (gharbzadegi) elite of the Shah era. The deportment and dress of women became laden with great symbolic significance. The new regime explicitly singled out women as the most dangerous bearers of moral decay ("the painted dolls of the Shah"). This opened up, among other things, the possibility of expressing class antagonisms in moral and cultural terms while diverting attention from inequalities and cleavages in a society deeply riven along regional, ethnic and class lines.

Parallels and precedents to this discourse abound, from depictions of the Western-aping elite in the post-Tanzimat novel in Turkey to the manifestos of the Muslim Brotherhood in Egypt. Suffice it here to point out that the flexible language and symbolism of Islam serves in each instance to articulate worldly disaffections and spell out alternative political projects.

The International Nexus

If the colonial or post-imperial histories of modern nation-states are crucial to an understanding of their present situation, the contemporary international and regional context creates additional novel complications. Cleavages between oil-rich and resource-poor states have had an important effect on migration, aid and political influence in the region, prompting diverse accommodations with Islam in countries as varied as NATO member Turkey, the (Marxist-Leninist) People's Democratic Republic of Yemen and impoverished Bangladesh. This has served to strengthen the cultural and political prominence of local forces and parties representing an Islamist platform.

At the same time, the deepening of capitalism in the region has resulted in more intensive international monitoring than ever before, from the structural adjustment packages of the World Bank to stabilization measures by the IMF and development projects sponsored by a wide variety of donor agencies. Ever since International Women's Year in 1975 and the following UN Decade for Women, the "women and development" lobby has put pressure on national governments to recognize the role of women in combating poverty, illiteracy and high birth rates. In 1973, the Percy Amendment to the US Foreign Assistance Act required that US bilateral aid "be administered

so as to give particular attention to those programs, projects and activities which tend to integrate women into the national economy of foreign countries, thus improving the total development effort." Modest monitoring bureaucracies were set up within the US Agency for International Development and in the foreign aid departments of all the main European and Scandinavian donor nations. The implications of these cross-currents for state policies relating to women have been bewildering and often totally contradictory.

The case of impoverished Bangladesh is instructive. The coup that brought Zia ur-Rahman to power coincided with the 1975 declaration of the United Nations Decade for Women. Zia built up considerable political capital by championing the causes of the women-and -development lobby. But Zia also needed the support of local right wing elements, including in the army, in order to counter the opposition of the Awami League. Besides, oil states like Saudi Arabia had joined the ranks of major aid donors. Zia embarked on a progressive dismantling of state secularism and his successor Ershad finally declared Bangladesh an Islamic state in 1988. The full implications of this move are as yet unclear.

Both Zia's and later Ershad's strategies constituted an overt balancing act between the conflicting gender ideologies implicit in different aid packages. Thus the development projects encouraged women's participation in the labour force and the public sphere while aid from richer Muslim countries strengthened the madrassahs (religious schools) and those religious parties advocating stricter controls on women. The government finances the Islamic Foundation -which publicised tracts condemning family planning- while supporting UN-funded attempts at population control. (p 162)(p 160) Parallels to this case undoubtedly exist in other countries where economic development policies intersect with Islamist currents and gender ideologies. (p 162)(p 161)

Which Islam?

Women's subordination in Muslim societies occurs in a multiplicity of locations: in kinship structures; in policies that harness women to state-building projects; in anti-imperialist and populist ideologies which fetishize women; in national and international development policies that instrumentalize them. Although some may argue that these ultimately represent different facets of patriarchal domination, it is quite clear that their operations may be antagonistic as well as collaborative. Thus, the central state may loosen the patriarchal control of kin-groups, and international development agencies may wish to bypass "local" controllers and harness women directly to their vision of a more efficient international economic order.

Women themselves are not merely passive victims. They are fully-fledged social actors, bearing the full set of contradictions implied by their class, racial and ethnic locations as well as their gender. Women's movements, to the extent that they exist and exercise autonomy, may favour strategic alliances with different factions in these structures of national and international domination. They may attempt to further gender interests by playing them off one another, or they may subordinate gender interests to attain certain political objectives or accommodations.

In this fluid and complex landscape, Islam may be involved and evoked at all sorts of levels - in the cultural practices of kin-based communities, in state ideologies incorporating coherent legislative practices, in a more privatised religious conviction, in organized and militant social movements, as a nod in the direction of Muslim aid donors or internal political allies, or as a more diffuse discourse on national and cultural authenticity. The meaning and daily reality of Islam can be so diverse as to justify the question, which Islam? Simply positing or refuting the inherently patriarchal nature of Islam can no longer serve any useful analytical or political goal.

References

1 Nawal Al-Saadawi, "Women and Islam," and Aziza Al-Hibri, "A Study of Islamic History" in *Women and Islam*, edited by Al-Hibri (Oxford: Pergamon Press, 1982), are good examples of this genre. For a more analytic and nuanced account see Leila Ahmed, "Women and the Advent of Islam, *Signs*

XI (1986), pp. 665-91. A forceful statement on the inherently patriarchal nature of Islam may be found in Fatna Sabbah *Women in the Muslim Unconscious* (New York: Pergamon Press, 1984).

2 "Women and Work in the Middle East," *MERIP Reports* n°95 (March- April 1981); "Women and Labor Migration," *MERIP Reports* n°124 (June 1984); "Women in Politics," *MERIP Reports* n°138 (January-February 1986).

3 Fatima Mernissi, "Women in Muslim History: Traditional Perspectives and New Strategies," forthcoming in *Women in History: Changing Perceptions* (London: Berg Publications).

4 As examples of such critiques see: Azar Tabari, "The Women's Movement in Iran: A Hopeful Prognosis," *Feminist Studies* 12,2 (1986), pp.343-60; May Ghoussoub, "Feminism - or the Eternal Masculine - in the Arab World," *New Left Review* 161 (January-February 1987), pp. 3-13.

5 Important questions concerning the construction of gendered subjectivity in Muslim societies will not be dealt with here. On this question, see Deniz Kandiyoti, "Emancipated but Unliberated? Reflections on the Turkish Case," *Feminist Studies* 13,2 (1987), pp. 317-37.

6 For a useful comparative analysis of the relationship between legal reforms and general indicators of women's status see: Elisabeth H. White, "Legal Reform as an Indicator of Women Status in Muslim Nations," in Lois Beck and Nikki Keddie, eds., *Women in the Muslim World* (Cambridge: Harvard University Press, 1978).

7 Deniz Kandiyoti, "Women and the Turkish State: Political Actors or Symbolic Pawns," forthcoming in Nira Yuval-Davis and F. Anthias, eds., *Woman-Nation-State* (London: Macmillan).

8 Afsaneh Najmabadi, "Hazards of Modernity and Morality: Women, State and Ideology in Contemporary Iran," paper presented at the Workshop on Women, Islam and the State, London, May 15-16, 1987.

9 Ayesha Jalal, "The Convenience of Subservience: Women and the State in Pakistan," paper presented at the Workshop on Women, Islam and the State, London, May 15-16, 1987.

10 Jacques Donzelot, *The Policing of Families* (London: Hutchinson, 1982); Maxine Molyneux, "Family Reform in Socialist States: The Hidden Agenda," *Feminist Review* 21 (Winter 1985), pp. 47-64.

11 For details on the mechanisms of mobilization see: Suad Joseph, "The Mobilization of Iraqi Women into the Wage Labor Force," *Studies in Third World Societies* n° 16 (1982).

12 This is a prevalent feature of personal status and family legislation in the Arab world. For details of the tensions and compromises around Egypt's 1979 Personal Status Law see: Aziza Hussein, "Recent Amendments to Egypt's Personal Status Law" in Elizabeth W. Fernea, ed., *Women and the Family in the Middle East* (Austin: University of Texas Press, 1985). See also note 14.

13 Suad Joseph, "Family, Religion and State: Middle Eastern Models," in R. Randolph, M.N. Diaz and D.M. Schneider, eds., *Dialectics and Gender* (Boulder, Co: Westview Press, in print).

14 Maxine Molyneux, "Legal Reform and Socialist Revolution in Democratic Yemen: Women and the Family," *International Journal of the Sociology of Law* 13 (1985), pp. 147-172.

15 Mounira Carrad, "State Formation and Women's Rights: The Case of North Africa," paper presented at the conference on Family Law and Change in the Middle East, SSRC-ACLS Joint Committee on the Near and Middle East, Tuxedo, New York, October 1983.

16 Haleh Afshar, "Women, State and Ideology in Iran," *Third World Quarterly*, 7,2 (1985), pp. 256-278.

17 Mervat Hatem, "The Politics of Sexuality and Gender in Segregated Patriarchal Systems: The Case of 18th and 19th Century Egypt," *Feminist Studies* 12,20(1986), pp. 251-74.

18 Abdel Wahab Boudhiba, *Sexuality in Islam* (London: Routledge and Kegan Paul, 1985), p.232.

19 Juliette Minces, "Women in Algeria," in Lois Beck and Nikki Keddie, eds., *Women in the Muslim World* (Cambridge: Harvard University Press, 1978).

20 Naila Kabeer, "Subordination and Struggle: Women in Bangladesh," *New Left Review*, n°168 (April-May 1988).

21 For an interesting attempt in the case of Egypt see Fadna El-Guindy, "Veiling *Infitah* with Muslim Ethic: Egypt's Contemporary Islamic Movement," *Social Problems*, 8 (1981), pp. 465-85.