

Dossier 14/15

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

About the Dossiers

Dossiers are an occasional publication of the International Solidarity Network of Women Living Under Muslim Laws. The Dossier is seen as an informal networking tool with the aim of providing information about lives and struggles and strategies of women living under diverse Muslim communities and countries the world over.

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Layout: Crayon & cie, Montpellier.

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Registration of copyright 1st quarter 1991

ISSN Number: 1018-1342

The Dossier is produced on non-profit basis and its production has been possible with donations and grants. Till now we have distributed our Dossiers freely to women and women's organisations in different countries. Each Dossier - printing and distribution - costs 60 F. Francs. We appeal to readers to send us donations to meet the production and postage costs. Any donations however small are extremely welcome. Make your donations to:

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Crédit Lyonnais, Agence 3040, Bank Account No. 79460E, 30 B cours Gambetta, 34000 Montpellier, France.

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Introduction

Your regular Dossiers finally reappear and in a new format. In the meantime, we have devoted our energies to urgent cases requiring urgent actions. We have been producing two Special Dossiers, on "Women in wars and conflict situations - Initiatives in their defence" (one on ex-Yugoslavia and one on Algeria). These publications were linked to broader activities of the WLUML international solidarity network in initiating actions in defence of women in wars and conflict situations; our concern and activities were voiced at a special workshop held during the NGO Forum of the UN Conference on Women in Beijing.

Dossier 14/15 presents articles on Algeria with special reference to women and the state - women who are till today murdered as a preferential target of fundamentalists -, and to intellectuals whose decimation will leave Algeria without their guidance to avoid the traps of nationalism, obsurantism and forced islamization.

Dossier 14/15 also analyzes the legal situation of women in Iran and the proposed amendments in the law in Bangladesh. We have devoted a special publication to the question of fatwas against women in Bangladesh, which is being released now.

The question of blasphemy which has arised in several countries, and very seriously so in Pakistan last year, is here illustrated with a case in Egypt, which our network has closely followed.

Finally we have included a paper on Mauritius, where there is a demand for a separate Personal Law for Muslims.

Readers of the Dossiers who also participate in the WLUML solidarity activities will note that Algeria, Bangladesh, Pakistan, Egypt and Mauritius which cases are analyzed in this publication are the very countries where Alerts for Action have been launched recently.

In the resource section, we reproduce an Alert for Action in Chad, together with its present outcome.

We have also introduced themes that will be further developped in the coming Dossiers: migrant women (here confronted to cultural relativism in Europe) and the construction of Muslim identity, and, like in ex-Yugoslavia, growing fascisation through nationalism, glorification of motherhood and wars.

Last but not least, a feminist statement from a woman's court held in Lebanon, to give us hope and inspiration. And most significantly a declaration from the women's movement in Pakistan.

Editor's note:

In 1947, independence from British rule led to the partition of India into two countries based on religious affiliation India and Pakistan. Pakistan consisted of two parts West Pakistan and East Pakistan (what is now Bangladesh). These two parts geographically separated by more than a thousand kilometers, were linguistically and culturally quite different. Lack of representation of East Pakistanis in the national political processes and the economic and social control by a military regime, provoked a major movement for democratic assertion. Attempts to violently suppress this movement led to a full scale war of independence of Bangladesh. Amongst the many honours of this genocidal war, ... several hundred thousand women faced the wrath of the occupying troops from Pakistan and then from the neighbouring India. Early 1996 marked the 25th anniversary of the Independence of Bangladesh.

Women's Action Forum apologises to women of Bangladesh

In a statement issued on Monday, the date which marks the start of the Army action in the former East Pakistan, the Women's Action Forum (WAF¹), in a statement, have apologised to the women of Bangladesh for the violence used against them during the events of 1971. The statement reads:

"As Bangladesh celebrates its 25 years of independence, the state and the people of Pakistan must reflect on the role played by the state and the Pakistani military in the unprecedented and exceptionally violent suppression of the political aspirations of the people of Bangladesh in 1971. Continued silence on our part makes a mockery not only of the principles of democracy, human rights, and self determination which we lay claim to, but also makes a mockery of our own history.

The comity of nations has now not only recognised that even in cases of war, and other forms of conflict, there are certain parameters beyond which violence cannot and must not be condoned, and further that those perpetrating and responsible for such violence should be held responsible. In view of this, and in the larger interests of our own

¹ Womens Action Forum (WAF) is the single largest women's movement formation in Pakistan.

WAF Declaration from Pakistan

humanity as a nation, we must condemn the repression by the state of its own citizens in 1971. As Pakistanis who stood silently by, we must also judge ourselves as history has already judged us.

WAF would like to use this opportunity to build public awareness on the issue of state violence and the role of the military in 1971. At the same time there is a need to focus on the systematic violence against women, particularly the mass rapes. While we try to focus the nations attention towards a period in our history for which we stand ashamed, Women's Action Forum, on its own behalf, would like to apologise to the women of Bangladesh that they became the symbols and the targets in the process of dishonouring and humiliating people".

The statement has also been endorsed by a number of other organisations, including ASR, SAHE, Shirkatgah, Institute of Women's Studies, Lahore, Simorgh Collective and Pattan. - PR

Statement of Rights from an Independent Women's Court

We, the women participating in the Arab Court of Women, held in Beirut, June 28-30, 1995, as testifiers and audience to those testimonies; we, who had the opportunity to take part in this great event, jointly assume the responsibility of what we heard of words of truth which broke the ring of silence that had long stifled our voices and sufferings of women. We commit ourselves and pledge to the world to raise our voices with unequivocal rejection of all forms of violence practiced against women in the Arab region, the third world and throughout the world in general.

We pledge to cut the strings of silence which covers such violence, to rob the sleep of this world which accepts silence and ignores violence, to fight against this and all kinds of violence as long as we live, to put a hand of solidarity in the hands of all those who help us in our fight throughout the world, especially in the third world and more particularly in the Arab world, in order to confront all those who abuse our rights within the family, at the levels of despotic Arab governments, the political reactionary trends led by the political Islam and of the new world order which nurtures that trend in our Arab region through imposing a relationship of dependence and political, economic and social oppression. We reject violence because it is an abuse of the women's rights, which are part of human rights, because it violates women's human dignity and because it is the worst of all forms of discrimination against them. It should be dealt with in the same way as all other forms of discrimination included in the international treaties and in the declaration on eliminating violence against women;

- We reject such a violence and will fight it in all fields, local and international, no matter how well it is disguised and how justified it is;
- We reject it regardless of how it is categorized political, economic, within the family, psychological, moral or sexual;

- We reject it whatever the entity carrying it out against us may be father, brother, husband, son, governor, occupation, or the new world order for the preparation of which we were absent; whether it is signed by states, religious institutions, local, regional or international bodies;
- We reject it regardless of where it occurs in the baby crib, at home, in the street, in the place of work, at the refugee camp or in prison;
- We reject it whenever it occurs during our childhood, youth years or adulthood;
- We reject it in circumstances of war or peace;
- We reject it no matter what it is called or how it is covered honor, traditions, laws, prevailing practice or national priority;
- We reject it whether it is individual or affecting groups; whether it is contained in a law or whether it occurs out of it. We reject it because it is an abuse of our rights and because we do not give up these rights. We are working and will continue to work to take control of them at all levels.

On the Political Level

It is our right and that of our peoples to live free in an independent homeland we own and build in a way that would protect human rights. It is our right to organize ourselves in an independent and free way, to work together on building a democratic, egalitarian civil society on all parts of our land. It is our right not to be oppressed, arrested or tortured for our opinions and fight for freedom and equality. It is our right not to be made, along with our children, hostages for our husbands, brothers, fathers and other men in the family, who are chased for political and other reasons.

It is our right to resist the oppression of our governments, which use us, bodies and souls, as a bargaining chip in carrying out their oppression. It is our right to resist the fundamentalist institutions for using religion to subjugate us. It is our right to hold the opinion we want and to express it with no fear or intimidation. It is our right to reject to be the fuel for wars we did not ignite, political conflicts we did not choose and policies we did not participate to define.

On the Family, Social Level

We are half the world and provide the other half. It is our right to live in it as human beings enjoying all our rights, where our body, personality and person are respected. It is our right to fully own our body, without

having it impaired by circumcision under the pretext of honor and chastity as defined by a masculine society. It is our right to choose our opinions and pick up from our heritage, without being assigned to frozen molds and punished if we reject them or try to destroy them. It is our right to choose whom to marry, when and where or even not to marry at all without being disgraced by society.

It is our right to define our understanding of honor and to refuse that this honor be limited to a part of our body, which is abused by men then we pay the cost by our lives on their hands. It is our right not to be humiliated at home, in the street or at the work place. It is our right not to be beaten, insulted or humiliated.

On the Legal Level

It is our right to be fully equal before the law, to participate in writing and implementing that law. It is our right to be judges and fully qualified witnesses. It is our right to legislate against those who use violence against us. It is our right to annul crimes relating to our sex and to call crimes their real names. There is no killing for honor but there is killing with premeditation. Rape is not a sexual issue; it is a crime of violence.

It is our right to have a civilian law which treats us as equals of men. We have the same right in marriage, divorce, testimony, inheritance, in having our citizenship granted to our children and in taking full care of ourselves and our children. It is our right to be fully citizen with no pretext or justification of impairment.

These are our rights. We do not accept their impairment or abuse. Abusing them either totally or partially is a violence we will fight.

The above statement was drawn up by participants at a Women's Court against and political and social violence against women. The court was organised by Al-Taller (A Tunisia based coalition of independent NGO's) and other groups. This event was organised in preparation to the NGO World Conference on Women in Beijing.

Source:

This document has been reproduced from a posting on Usenet newsgroup on the Internet.

Gender, Civil Society and Citizenship in Algeria

Boutheina Cheriet

Women in Algeria must negotiate their access to the public sphere in a society torn between the residual patriarchal reflexes of the modern state and Islamist revivalism. Feminists in Algeria, while critical of the patriarchal nature of the state, continue to call for its intervention to halt the Islamist upsurge and to implement social policies based on a model of universal citizenry.

In 1993, I attended a ceremony of trance dancing called "Benga", organized by the only group still performing in the town of Tebessa where I then lived¹. The Tidjania group of Tebessa is a residual branch of the larger African Islamic sect that has practiced trance dancing for healing purposes, in particular as therapy in exorcising "bad spirits". The Benga dance relies on a highly organized drumming team, accompanying religious litanies celebrating the prophet Muhammad, which leads the dancer to fall into a "liberating faint".

Most striking about the Benga performance was that attendance was mixed: men and women, young and old together, faced the drummers, whose leaders included a veteran elderly woman reciter of the religious litanies. The men and women dancers performed in turn, falling into trances in front of the assembly. The position of their bodies expressed total abandonment (although women's and girl's thighs were promptly covered), unusual in such a predominantly patriarchal local society with strong beduin underpinnings.

Charmed by the intensity of drumming, I stood to dance, albeit prudishly, closely watched over by my husband and sisters-in-law whose glances discreetly reminded me that I bore the status and prestige of their name in the local community! A typical petty bourgeois family with small business and professional profiles acquired over four generations, they

perceived themselves as the ideal family, combining traditional and modern value systems - typical of a neo-patriarchal micro-society². I was welcomed on the basis of respecting this eclecticism - that is, watching the Benga as a folkloric manifestation but not participating. I was bound to display attitudes and behavior informed by the puritanism and self-discipline of both scripturalist Islamic education and modern rationalism.

The end of the Benga spectacle restored the prevailing order, with its gender separation, class boundaries and linkages. Today, this image of the Benga strikes me as a powerful reflection of gender debates in Algeria within a problematic of nation-building and New State legitimacy, hypothetically at odds with traditional allegiances and local kin loyalties. Discussing the position of women in Algerian society today amounts to summoning the "demons" of patriarchy and neo-patriarchy. In this invocation, we will call upon the demons of kin, society and state in their gender "trances", so as to gauge the limits surrounding women's access in Algeria to individuality and citizenship in the process of nation-state building in the form of *res publica*.

For more than a decade and a half, the state's populist measures coopted various popular trends thanks to economic efficiency and social egalitarianism. The most notable cooptations were around the agrarian reforms; the trade union movement; women, who were integrated into education, health, and the national labor market, and religious conservatives, whose endorsement of socialist policies were offset by the promulgation of Islam as state religion. The establishment of religious colleges and institutes by the state would harbor the later more translucent fundamentalist movement of the 1980s.

The technocratic nature of state and nation-building during that period produced the notion of citizenship as a "commodity". Within a dynamic of rapid social change, from a pre-industrial to a dependent post-colonial formation, universal enfranchisement could not be incorporated as a gratuitous right. Rather, it was brandished as a "barter good" in exchange for carefully tailored allegiances. This is where universal access to the public sphere was negotiated against the preservation of ascriptive allegiances regarding women's limitations as individual decision-makers in the domestic space.

State and the Specter of Kin vs. Women

I have previously referred to feminism and fundamentalism as comprising Algeria's rites of passage to democracy³. The eclectic and populist official ideological discourse melds socialism and Islam (Article 2 of the Constitution stipulates that Islam is the state religion), as well as traditional communitarianism. As such it has provided a thriving source of legitimacy for later conservative claims against the modern ideal of citizenry.

The 1982-1984 National Popular Assembly (NPA) debates on a family code delineating the "ideal woman" in Muslim societies have helped to expose the demons of conservatism in civil society, long repressed by a technocratic neo-patriarchal state. The Algerian case demonstrates that state and kin are not necessarily at odds when it comes to limiting women's legal status as domestic decision-makers.

There is a widely held belief that Arab women, marginalized in the public arena, exercise authority in the domestic boundaries of the family⁴. In fact, it is not in relation to women's limited access to the public realm that the hesitations of the state are most apparent, but rather in restrictions it places on them as individual decision-makers in the domestic realm of the family. In this cloistered space, the state has supported resurgent Islamist attempts to construct a handicapped citizenship for Algerian women. In the early 1980s, the Family Code bill relegated women to a "minority" status⁵. In order to ensure that their access to citizenship did not affect the familial sphere, women were asked to sacrifice their full-fledged status within the family.

The process of enacting the Family Code shows all too clearly that the male political elite perceive greater women's involvement in the management of family matters as a factor threatening domestic stability and social cohesion. Paradoxically, an active role for women in the domestic arena would entail a fuller citizenship for them but would undermine the ideal harmony of an Islamic universe on the one hand, and patriarchal potency, on the other.

Our story begins with the legislative session of 1982. This followed the so-called Berber Spring of 1980 and the detention of feminist and Islamist leaders alike, which marked the first expressions of civil disobedience and made visible the plurality of Algerian civil society⁶. The NPA adopted a personal status bill regulating domestic relationships and delineating women's status as wives and mothers under the guardianship of husbands and fathers. The bill expressed the intent to preserve a dominant patrilineal familial structure and the subsidiary status of women within it. The bill also introduced limits on women's participation in the public arena by conditioning their right to work on husband's permission - a provision nowhere to be found in the *shari'a* and its official schools of interpretation but abundantly manifest in Algerian customs of women's effacement and dependence on male kin⁷.

During the NPA debates, some ten delegates tried in vain to remind their peers of constitutional provisions on gender equality and the universalization of citizenry to both sexes. But they faced staunch conservatives who opposed the faintest idea of equal legal status for men and women. The Minister of Justice, in his introductory remarks, left no doubt as to the position of the modernizing state builders: to construct

"the legislative reference, within the framework of Islamic principles, which ought to guarantee the rights of a woman, and her position as partner of man and mother in society". The chair of the Assembly's Administrative and Legislative Commission clarified the matter: "Marriage is based on equality between husband and wife, except in legal responsibility, and familial authority, a natural prerogative of the husband".

Some conservative delegates considered the bill to be "a counter-strike against those impregnated with secular views". Others affirmed that the bill represented an opportunity to "reject secularism because it has made women into merchandise"⁸. Fear of secularity eloquently encompasses a fear of individuality and the sexual and social empowerment of women. To counter this, conservatives stressed not only marriage but its polygamous form as the best guarantor of male control. "Polygamy is a humanitarian action which helps reduce the rate of divorce", said one, "and has a *raison d'être* in case the wife is either sterile, seriously ill, or the husband fears marital discord".

The bill, not enacted during the 1982 legislature, was discreetly withdrawn in the face of the onslaught of conservatives, marches organized by independent women from professional circles, and the protests of a few war veterans concerned about the promulgation of such retrograde provisions. These dissents were early highlights in the annals of "civil disobedience" in post-independence Algeria.

Ten years later, on the eve of the first multi-party legislative elections scheduled for January 1992, the Islamist parties headed by the Islamic Salvation Front (FIS) pronounced the end of secularism in Algeria and the establishment of the Islamic Republic⁹. The organic ties binding the nostalgia of "specific socialism" to the puritanism of the Islamists was brought into the open. The process was helped by the so-called representatives of civil society - the NPA delegates. The primary catalyst remained the issue of legislation and women's status, in a word: gender.

Although the 1982 Personal Status bill was withdrawn, pressure soon mounted from conservative quarters to issue family and personal status legislation in accordance with *shari'a* injunctions and traditional mores, especially those pertaining to the predominance of kin over individual, in particular over individual females. On June 9, 1984, the *Qanun al-Usrah* (Family Code) was enacted as Law no. 84-11. All its provisions, without exception, confine women to a relational model of dependence, be it in marriage or divorce, in legal representation, or in matters of succession¹⁰. Of particular relevance to a discussion of women's marginalization from domestic decision-making was the desperate maneuvering of conservative delegates during the 1984 debates on polygamy as an unconditional provision in the Code. Polygamy is far from widespread in

Algeria. Both local customs and the growing atomization of family structures under the pressures of commercialization and urbanization have discouraged polygamous unions. In fact, advocates introduced polygamy in the Assembly in order to enforce social control by ensuring the durability of the extended family and the primary role and status of women as reproducers.

Family Code, Reproduction and Jihad

The 1984 Family Code merely reproduced provisions of the *shari'a* as elaborated between the eighth and twelfth centuries by Muslim legal scholars. In one deviation, though, the government bill would have made polygamy conditional upon the consent of the first wife as well as the second. This was sufficient to provoke an uproar that turned the debates into a conference on polygamy. According to Article 8 of the proposed Code:

It is permitted to contract marriage with more than one wife within the limits of *shari'a* if the motive is justified, the conditions and intentions of equity provided, and after the consultation of the preceding and future wife. Either wife may take judicial action against the husband, or request divorce should he ignore her refusal to consent.

This constituted a departure from the more permissive original Qur'anic verse, (chapter 4, verse 2):

If you fear that you cannot treat orphans with fairness, then you may marry other women who seem good to you: two, three or four of them. But if you fear that you cannot maintain equality among them, marry one only or any slave girl you may own. This will make it easier for you to avoid injustice.

Conservative delegates swiftly and violently denounced the Article as "heretic". The minutes of the official journal disclose no trace of interventions by secularist members. Out of 60 interventions reported in the minutes, 45 opposed placing conditions on polygamy. Some delegates thought it unrealistic to allow a judge to decide on conditions of equity, and that the matter should be left to the husband's conscience¹¹. According to the Arabic version of the clause on divorce (Article 53), women can only "request to be made divorced" by husbands, through a judge (hence *tatleeq* and not *talaq*). For some delegates, even this ought not be granted to wives: "Polygamy cannot possibly be invoked as a reason for *tatleeq*, since it is legitimized by *shari'a*".

Perhaps the most startling intervention held that:

Polygamy is not to be disputed, whatever the case, for a Muslim state is one based on *Jihad*, and this calls for the involvement of

men alone. To whom will women be left in the case of Jihad, and how will society be protected from subsequent depravity, if widows cannot find parties to marry? Polygamy is therefore a must¹².

The idiosyncratic logic of patriarchal conservatism, however, was not the last word. Despite the hysteria of intransigent conservatives over the adoption of conditional polygamy, representatives of the neo-patriarchal elite managed to outmaneuver them and include the government-proposed article. The chair "scientifically" explained that "... since Algeria's population is comprised of 48 percent males and 52 percent females, four girls out of 52 would remain unmarried, and would fall prey to non-Muslim unions or even depravation; therefore polygamy is justified in a statistical sense"¹³.

This illustrates the state's recourse to science as a legitimating discourse. The state inserts itself as the "knower", relying on technocrats and experts whose competence cannot be easily disputed by lay people. The crux of neo-patriarchy in Algeria is that it relies both on transcendental worldviews to confront radical and secular opinion, and on technical, rational "proof" to dissuade conservatives. This typical maneuvering of Algeria's political class - the military and bureaucratic elites - went unnoticed as long as the processes of state-building concerned the infrastructural public arena - industrialization, mechanization of agriculture and, above all, systematic socialization via extended schooling.

A Durkheimian model of "social cohesion", within a framework of seemingly "organic solidarity" was promoted as the dominant mechanism for coping with social change. The enchantment of change stopped on the doorstep of the domestic familial arena where mechanisms of "mechanical solidarities" stood firm against the state incursions. In Algeria, family confines are, by and large, designated as "horma" (sacred intimacy), a term that stems etymologically from "haram" (forbidden). "Horma" also refers to the wife or, invariably, all the women of the family. Where other spheres of social organizing remained docile and even welcoming, gender has stood up to the confusing eclecticism of the state's legitimation discourse.

Our understanding of social change has long been under the spell of conceptualizations born out of the positivist and evolutionist approaches of 19th century European thinkers who were themselves deeply influenced by changes which took place in the industrial and colonial stage of capitalism. Such social theorizing has all been done in the absence of gender analysis. Women are subsumed as "man", which not only occludes their particularity but subverts social thinking. How are we to address the mimetism of so-called developing societies, their docility

concerning structural integration into an international capitalist system and their fierce opposition to "modern" normative conceptualizations of gender roles as well as secular knowledge? How can we explain the relapse of complex societies whenever women attempt to attain some kind of self-decision-making and individual empowerment?

At this point social theorizing needs to include a more subtle conceptualization of the various patterns of social reproduction, within what I call the "resilience of patriarchal reflexes". Although the scope and concern of this article does not allow for more detailed considerations of the analysis of "patriarchal reflexes", it is essential to point out that the occultation of women as makers of history, and as central actors in the dynamics of both reproduction and social reproduction, has certainly affected perceptions of social change thus far.

The fears of the Algerian delegates concerning the "dilution" of gender roles and status are comparable to the fears of their American conservative counterparts. Without elaborating, there are interesting similarities between the panic of Algerian MPs when confronted with the possibility that Algerian women might take control of the process of reproduction, and by extension social reproduction, and the forceful fight by conservative members of the US Congress to deny American women, as individual decision-makers, access to abortion. Such outcries principally express a protectionist reflex of women's reproductive role, and implicitly reject their sexual empowerment as a menace to reproductive statuses as wife and mother. Women's access to citizenship is jeopardized by the problematic of reproduction.

Albeit superficial, the comparison of Algeria and the US hints at the residual patriarchal reflexes of the modern state, be it in its advanced capitalistic phase or dependent formation. Its legitimation hinges on the preservation of the private familial arena, and its basic reliance on women's reproductive role and domestic status.

In Algeria, women's access to the public arena - that is, to citizenry - holds sway within a clientelist dynamic. Consider the generally favorable integration of women in public processes, such as education, health and services. The state offers these packaged as "constitutional rights", but uses them as "favors". The majority of women, facing a very reluctant if not hostile social context, perceive them as such. In exchange, women are expected to endorse a weak and inadequate status as citizens by accepting their effacement from major decision-making processes, especially those pertaining to personal status and family legislation.

Algeria's female citizens look upon the state as a liberator, despite the formidable regressions it has engendered in matters related to personal status. Today, feminists in Algeria continue to call upon the intervention of the state to halt the Islamist upsurge and implement a model of

universal citizenry within the framework of a democratic republic. But state legitimation has been seriously undermined by the more universal appeal of the pan-Islamic revolution. One might expect that, in a last bid to hold political power, the dominant nationalistic elite together with the army will continue to maneuver within the clientelist relations it has established with feminists and democrats alike. Yet the de-legitimation process seems irreversible. The contention for power will, sooner or later, have to stem from civil society at large, discarding the state as the omnipotent decider/protector in Algeria. It is then that the bid for citizenry will be open for all to construct. For women, this means a long and painful process.

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Notes:

1. I propose here a maverick use of anthropological observation, whereby the observer is thoroughly embedded in the processes as actor. I enjoyed seemingly ideal conditions of liberation, individualization and professionalism, guaranteed by my status as a public employee, a university professor. My marriage into an influential family of Tebessa, a small town (approximately 700 km southeast of Algiers) with residual tribal configurations, returned me to statuses, roles and behavior expressive more of kin constraints and allegiances than of a free and autonomous individual directly relating to state institutions and structures. My status as wife led me to play along two contrary registers: appear as a professional, efface as a wife.
2. See Hisham Sharabi, *Neo-Patriarchy*, (New-York: Oxford University Press, 1988).
3. See Boutheina Cheriet, "Feminism and Fundamentalism: Algeria's Rites of Passage to Democracy", in J.P. Entelis and P.C. Naylor, eds., *State and Society in Algeria*, (Boulder, CO: Westview Press, 1992), pp. 171-215.
4. See Fatima Mernissi, *Beyond the Veil: Male-Female Dynamics in Modern Muslim Society*, (London: Al Saqi Books, 1985).
5. The official reference for personal status in Algeria is al-*Qanun al-Usrah* (the Family Code). The documents cited here include "Law no. 84-11", *The Official Journal of the Algerian Democratic and Popular Republic*, (Algiers, June 9, 1984); Parliamentary Debates no. 126, 1982; nos. 46, 47, 48, 52, 1984, *The Official Journal of the National Popular Assembly (JOAPN)*, (Algiers). These latter represent the minutes of the 1982 and 1984 debates on the family code. All documents are in French. Translations by the author.
6. Between 1980 and 1983, various movements of civil disobedience characterized the Algerian political scene for the first time since independence in 1962. Three types of contestation manifested themselves almost simultaneously: the ethnic Berber demands for official recognition of the Berber Amazigh language and culture; the Islamists' demands for the total Islamisation of Algeria and feminist demands for full implementation of women's constitutional citizenship rights,

- threatened by the then Personal Status legislation. This diverse opposition to state monolithism heralded the October 1988 riots marking the delegitimation of the one-party system.
7. For an insightful account of Qur'anic verses pertaining to the religious, social and legal position of women, see Abdel Hamid al-Shawaribi, *Al-Huquq al-Siyassia lil-Mar'a fil-Islam* (Women's Political Rights in Islam), (Alexandria: Mansha'at al-Ma'arif, 1987).
 8. *JOAPN* 126, p. 3. One might mistake this remark for a Weberian observation on secularism and the transformation of social relations.
 9. *Ibid.*, pp. 10-11.
 10. See Boutheina Cheriet, "Specific Socialism and Illiteracy amongst Women: A Comparative Study of Algeria and Tanzania", (PhD dissertation, University of London Institute of Education, 1987), p. 195.
 11. The plenary sessions of 23-24 April, 1984 (*JOAPN*, nos. 46, 47 and 52).
 12. *JOAPN* 46, pp. 19-21.
 13. Abdel'aziz Sa'ad, "Nidham Ta'adud al-Zaujat fi-Qawa'id al-shari'a wal-Qawaneen al-Wadh'iyya" (Polygamy in the Rules of the *shari'a* and Positive Laws), *al-Thaqafa* (Ministry of Culture Review) 95, September-October 1986, pp. 197-211. Translation by the author.

Reproduced from:

Middle East Report, January-March 1996, pp. 22-26.

Middle East Report Information Project (MERIP)

1500 Mass Ave., N.W.,

Suite 119, Washington DC 20005, U.S.A.

Algeria : In Defense of Intellectuals

Marie Chaumeil

Today, in Algeria, the execution and murder of women, foreigners and intellectuals by Muslim extremists have become systematic. Such typically fascist acts have given rise to feelings of outrage. Logically, therefore, one would expect that the most lucid would rally around a struggle against such a political vision or, at the very least, in defense of the memory of the victims. Instead, in the French left-wing press it is not uncommon to read harsh criticism about the role of those intellectuals who remain in Algeria and their assassination evokes little compassion.

Two Lines of Argument Underlie the Attitudes of Such Critics

1) By working in their country, especially in the institutions of the state, these men and women, journalists, professors, school principals and deans of universities, lawyers and physicians, have put themselves at the service of a system which is brutally repressive, unjust and corrupt. By accepting to be functionaries they are deemed to have joined the category of 'the enemy of the people', and therefore, their physical elimination seems justifiable.

2) In addition these intellectuals live cut-off from the people, no longer sharing the lifestyles or values of the people, nor do they represent any real social force.

Whereas to me, an ordinary witness of events since 1962, these arguments, which are presented as being self-evident, appear to be highly debatable and, in my opinion, there is an urgent need to question them.

In response to the first set of accusations, a simple historical contextualization will help us analyze the concept of 'serving the state'. In 1962 when, after eight years of war, Algeria gained independence, the

Algerians deeply desired to serve their country; i.e., to breathe life into the state for which they had fought.

Even though the state rapidly turned out to be undemocratic, the majority of educated citizens desired to participate in the process of building up the country - to open schools, to provide health care for the people, to build what was necessary - in short, to fight against the misery and ignorance inherited from the colonial period. While there is no doubt that the initial enthusiasm provided an alibi for an abusive power, this too needs to be seen in perspective. The Algerian government did not always have the negative image it possesses today; in the eyes of the people, certain proposed projects did enjoy legitimacy (in particular, the mass literacy and free health care programmes).

To the second series of accusations, one can respond with the following: it is true that by nature intellectuals are attracted to values which are not dependant on religion but is this reason enough to conclude that they are alienated from people's concerns and incapable of mobilizing support as the Islamist fundamentalists do?

How is an Algerian intellectual different from a Japanese intellectual, or from his Russian or Canadian counterpart? To be an intellectual requires a conscious breaking away from social norms. Conducting research in archaeology, working in molecular biology, unravelling the mysteries of the manuscripts of the 12th century mathematicians of Bajai'a, all imply an existence devoted to the disciplined pursuit of rational and systematic knowledge and this life is not the life of the male peasant, nor that of the woman worker assembling television sets. Are we comfortably and passively resigned to the division of labour? How? The division of labour - an old debate - is outrageous if it is not based on the principle of competence. What is deplorable here is not that there are intellectuals in laboratories but that all those who could have moved up the ladder, because of their intrinsic ability and their willingness to work, did not have the opportunity to do so. However, over the last thirty years, despite facing difficulties of all sorts, some people did nevertheless emerge with minds open to the problems of knowledge, to those of the world, to those of their country. Thankfully they did not disappear into the peasantry, much to the vexation of the anachronistic Maoists. Bravo to the doggedly determined generation of first teachers who shattered the ignorance into which the people were plunged during the colonial period. Let us not become party to the process directed against intellectuals under all darkened skies. Finally, by what right have certain confused minds appropriated the people's question in order to condemn the vital and lifesaving exercise of intelligence!

Let us denounce, and quickly so, another aspect of this criticism: that is that the finer sensibilities of the intellectuals find the simplicity of the

people intolerable. How does this classification function here? Let us examine the concept. We come up with three possible variations:

- a) The people are simple just as childhood is simple (oh Freud!) and they are becoming good little people - unpolished and naïve; or else,
- b) The people are simple, as in simple-minded, and naturally they show themselves incapable of any understanding, in short they are simpletons. If an intellectual is the one who writes and publishes his ideas, who could have written this sinister and paternalistic nonsense? Do we find these in the texts of sociologists like Liabes, or psychiatrists like Boucebci?
- c) Thirdly, it is possible that the people are simple in the sense of possessing a deep rustic simplicity that intuitively (Ah, long live intuition! Down with reasoning!), senses the real values, those which one can immediately trust; values rooted in the land, in race, in blood and in implicit identity. Well there, yes, we are up against a dangerous simplicity as it has its roots in popular superstition and serves as a refuge for the ideas of the extreme right. Since Spinoza, we can no longer ignore the fact that populist thought flirts with superstition; the mode of prejudice swayed by its passions, clinging to symbols or to effects rather than focusing on root causes. The Algerian people are no less susceptible than others to this chimera and Algerian intellectuals must guard the people against such spontaneity.

Let us ask a first question. How would putting the intellectuals on trial change the historical situation? How would it help in comprehending the continuum of reality, the singular depth of the use of violence (of all types - physical, political and symbolic) in Algerian society?

And now let us ask a second question: what is in fact the relationship between Islamist fundamentalism and the people and how do we define the symbiosis between the FIS and the people? It is true that the bulk of the FIS cadre and supporters - consisting of all those who were left alienated and excluded at the fault of the education policies in the 70s - live close to the people, but we are never told about the nature of this union nor how it functions. They make us believe in a political idyll and if we doubt it, we become agents of the government, a part of the nomenklatura. Let us try instead to understand the basis of the relationship between FIS and the people.

The essential factors which drive this relationship are physical violence (it is pointless to describe this, it is dazzlingly clear), corruption (oh yes!) - hidden but nonetheless real (buying votes at elections, 150 dinars for a pro-FIS vote, the equivalent of a day's work; the use of positions in the administration for distributing favours), and finally through prohibitions -

the royal way of hijacking minds - a method which is best implemented in the mosques, schools, colleges and universities; wherever the youth are.

In a religion of purification such as Islam, it is easy for a threatening preacher to manipulate the licit and the illicit (the 'yadjouz' and the 'la yadjouz'). Let us consider a few practical examples of these injunctions. From now on, going to the *hamman* (public baths) is unworthy of believers because it involves nudity. This is no minor injunction. It means that personal hygiene becomes impossible. How do you clean yourself properly in our overcrowded apartments, where the people are too poor to install a water tank to overcome the frequent cut-offs in the water supply? This ban has also abolished a centuries-old tradition of community living. The joyous and occasionally steamy promiscuity of the *hamman* was like a party, a respite from life's daily worries. Even the most secluded woman had the inalienable right of having a bath once a month in order to purify herself but henceforth the *hamman*, a secular place of purification, has been converted into a source of impurity.

In the same context of day to day living women have been forbidden to wear makeup. This strikes at the heart of popular Arab culture. Which women, no matter how poor, would like to come out without her eyes made up, without a hint of perfume? The sophisticated tradition of personal care and beauty that the people managed to preserve in their daily lives - how has it been affected by Islamist fundamentalism?

Of course, there is a ban on songs, especially the songs of those who have no voice, who only have access to brothels and dives, raï music. The suffering of the wretched does not have the right to make itself heard - that voice which, having nothing to lose, dares express the oppression suffered in an inhuman society. For the people, Islamist fundamentalism represents the mourning of their own history.

While these bans distort the meaning of life, others are blatantly criminal, like the one in the summer of 1990 when there was a typhoid epidemic in one of the regions of the country. The doctors recommended that people chlorinate water before drinking it. The Islamist fundamentalists spread the rumour that this practice was not permissible as it would prevent them from having children. From the sterilization of water to genital sterilization! That's great logic.

There will of course be retorts to these examples: we will be told that the Islamist fundamentalists are playing an important role by helping the deprived, by helping all those whom the exploitative state neglected; that one cannot deny. Huge amounts of foreign financial aid, immense amounts of money from the bazaars¹, and corruption have enabled the establishment of a network for social aid. But shouldn't one ask whether this is an act of charity as preached in Islam or a medium-term political investment? I am inclined to side with the second hypothesis as these do-gooders seem to me to be quite selective: they do not embrace all those

who are marginalised. They especially ignore those whose destitution questions the restrictions and taboos of Algerian society (abandoned children, unwed mothers, women who end up on the streets because of divorce, AIDS). This solicitude defines for itself what it considers to be social priorities and can therefore transform a child care center into a mosque (it happened in the district of Asphodeles in the city of Algiers).

Islamist fundamentalism has no intention of resolving the enormous problems facing Algeria (demographic problems, the chronic shortage of water, the foreign debt...). It is manipulating the desire for justice, for the introduction of morality in public life, only to further its own game and further confuse the issues.

One must therefore have the courage to draw two conclusions:

- a) The symbiosis of the Islamist fundamentalists and the people is comparable to what students of ecology study in the relationship between a parasite and its host organism, the former lives off the strength of the latter which it exhausts slowly but surely until the host dies; we are dealing here with a malignant relationship.
- b) If this political trend indicates the state of misery to which the Algerian people have been reduced, it can in no way represent the alternative that so many are hoping for.

Let us therefore refuse to become party to the latest mystifications propagated by the populists and demagogues who are galvanised by questionable motives; let us refuse to share space with those who shoot at any who dare to learn and think; let us say no to this form of bigotry; this criminal vision of God and of the world.

September 1994

Note:

1. i.e., the trader class.

Women's Rights Activist Assassinated in Algeria

Human Rights Watch

February 17, 1995

Human Rights Watch's Women's Rights Project and Middle East division today deplored the assassination by suspected Islamist militants of Algerian women's rights activist Nabila Djahnine. Ms. Djahnine, a thirty-year-old architect who led an organization called the Cry of Women, was killed on February 15 in Tizi Ouzou, the capital city of the Kabyle region. According to a February 16 El-Watan report, she was gunned down by two men in a car as she walked to work. No one has claimed responsibility for the murder, believed to have been committed by Islamist militants. The killing follows other attacks by extremists on well-known activists, intellectuals and others opposed to the political goals of the Islamist opposition.

Ms. Djahnine, a well-known activist in Tizi Ouzou since she was a student, helped start a magazine called the Voice of Women in 1990. In her writing, she defended Algerian women's right to participate in the civil and political life of their country. Despite escalating attacks on activists known for their opposition to the agenda of the armed Islamist militants, Ms. Djahnine remained an outspoken advocate for women's rights. Ms. Djahnine's organization has called for the elimination of discriminatory provisions from Algeria's family code, which governs marriage, divorce, child custody and inheritance. The code has been denounced by women activists in Algeria for denying women their rights and making them minors under the law regardless of their age.

Since the cancellation of parliamentary elections in 1992, fighting between the Algerian government and the armed Islamist opposition has led to a severe deterioration in human rights conditions in Algeria.

Suspected Islamists have been detained and subjected to torture and mistreatment in detention. Islamist militants have targeted civilians from all walks of life - including prominent intellectuals, public figures, journalists and foreigners - in their armed struggle.

Increasingly, women have been the targets of such violence. Women who work outside the home - including shop-owners, teachers, journalists and magistrates - have been threatened and killed by Islamist militants. Women have been threatened with violence if they refuse, or, in other cases, if they choose, to wear the veil. Other women have been threatened with death by extremists because of their own or family members' identification with the government or security forces. Algerian defenders of women's rights believe that the armed Islamist groups target women as important cultural symbols: by driving women from the streets, the Islamist militants demonstrate their power to impose the culture they envision for Algeria.

Source:

Middleast Watch, Feb 17, 1995

Human Rights Watch

Middle East Human Rights Watch Women's Rights Project,
485 Fifth Avenue,
New York, NY 10017-6104, U.S.A.

More Crumbs for Women?

Hameeda Hossain

Farida Rahman MP's Private Member's Bill on a proposed amendment to section V1 of the Muslim Family Laws Ordinance 1961 has become a much-talked-about subject because of its unconventional and contentious nature. Particularly, various women's activist groups have shown tremendous interest in it. The subject of the bill raises the whole issue of women's rights of general interests. Therefore, we are publishing a critical article today and welcome more pieces for and against the motion.

Editor, Women On the Move.

It is not often that legislation in Bangladesh concerns itself with women's rights. This explains why Farida Rahman's Private Member's Bill to amend the procedure for polygamy under clause 6 of the Muslim Family Laws Ordinance 1961 (MFLO) has created such a ripple. Procedural objections raised by the Law Ministry and by members in the committee may lead to further amendments. Outside the house, women have expressed their concern on two counts: that the proposed amendment, as it stands, is not likely to realise its intention of "restricting polygamy in order to alleviate violence against women"; that the bill was not drafted through consultation with women's groups and organisations involved in the women's movement, to make this impact more comprehensive. There is a strong feeling that the bill is offering us crumbs when we need bread.

Farida Rahman's bill does not address the issue of polygamy. As long as a man's superior rights in marriage and divorce are not challenged, women will remain vulnerable to oppression and violence. What we need to question is the effectiveness of procedural laws stop far short of delegitimising polygamy. If such laws are meant to be a deterrent, how effectively can women use the court system, given their social and economic dependency? And is the woman expected to abdicate her marital decisions to the Court?

The proposed amendment to section 6 of the MFLO requires a man contemplating a second marriage during the life time of his first wife, to seek the permission of the Court (the Assistant Judge) instead of that of the Arbitration Council (constituted by the Chairman of the Union Parishad or Municipal Ward, Mayor of Municipal Corporation). The bill seeks to deter violence against women merely by allowing her the right to appeal to court, if her husband marries without her permission.

Although the MFLO may have been a step ahead of existing laws, it did not meet all of women's demands, which included a ban on polygamy. It was meant to discourage rather than delegitimise polygamy. Therefore the practice continued unabated. Loopholes in the laws itself allowed men to violate its intent. To recall, section 6 requires a husband contemplating a subsequent marriage to apply for permission to the Arbitration Council "where his previous wife is resident". It is assumed that a nearby location would increase access by the women plaintiff or her representatives; it envisages mediation to permit the woman or her family to be heard. It has been argued that the Arbitration Council, being inefficient and susceptible to influence and power, concedes permission all too easily and sometimes without proper reasons. The grounds for permitting remarriage, included a wife's inability to have children, her physical handicap, mental derangement and her refusal to maintain conjugal relations.

The MFLO requires a written application to be made by the husband confirming that he had obtained his previous wife/wives' consent has been open to abuse. There are grounds to believe that wives are coerced to give their consent. In other cases they pretend to have obtained consent, in the full confidence of woman's reluctance to create a public scandal. An affidavit or direct statement from a wife is not a current requirement. The man's liability in marrying without permission has not been a sufficient deterrent, being restricted to financial measures (immediate payment of dower and fine) or imprisonment of one year. Since there was no stipulation for annulment of the marriage, both marriages remained operative. It became a continuing cause for gender violence.

Farida Rahman in an interview with Bhorer Kagoj on 19 July has rationalised her amendment on several grounds: first, the need to modernise society; second that the court's jurisdiction would act as a greater deterrent against polygamy. Third, it would stop marital violence provoked by a wife's refusal to give permission for her husband's remarriage. Fourth, it would lead to the realisation of full equality in the public sphere as articulated in the Constitution of Bangladesh.

The methods by which the proposed amendment is likely to fulfil its professed intention is unclear. If modernisation presumes equal rights for

women and men, the Bill does not even question the inequality inherent in polygamy. The argument that recourse to a formal judicial structure is likely to provide a greater deterrent to polygamy may seem appealing, but the social reality needs to be examined before partial changes are introduced. If a woman's subordination is based on systemic inequalities, will it make a world of a difference to change the forum for obtaining permission from an Arbitration Council to an Assistant Judge? For middle class women and their families this may indeed be possible, but how will the overwhelming number of poor rural and urban women find access to courts? The cost incurred in travelling to distant courts is in itself discouraging. If the court appears a forbidding institution for a man, it is even less approachable for a woman whose life is circumscribed by her neighbourhood and her village. In spite of its susceptibility to power and influence it could be argued that the local arbitration council located in the place of residence of the first wife, would be more accessible to both parties. Weak enforcement mechanisms are evident in all levels of governance not only in local government. What surety is there that a formal structure could be more effective in detecting deviations, unless proper procedures are instituted to ensure the woman's participation at the hearings.

Many marriages in Bangladesh are not registered (a proper census would indicate the frequency) in ignorance of the requirement of the Muslim Marriage and Divorces (Registration) 1974 or even in full awareness. Without registration it may be difficult even to trace the number of marriages a man may have entered into. Desertion is more common by men when the marriage is unregistered because it makes it more difficult for the wife to sustain charges of desertion against him. Yet there is no machinery to guard against this.

The third argument that obtaining permission from Court would deter violence against women is hypothetical. Violence is perpetrated for more than one reason, and what logic suggests that men would not beat their wives if the court refuses permission? For that matter there are frequent reports to suggest that polygamous men are also violent. Violence implies more than physical injury and women are frequently exposed to neglect, both physical and emotional, threats, oppression, whether it is over the triviality of a pot of unsalted rice or over more serious matters such as property or maintenance.

Legislators must realise that this exploitative situation has prevailed because of the economic dependence of women, added to their lack of awareness. Ignorance and lack of social support has led to a non-application of the law, both in registering their marriage or in filing objections against the husband's second marriage. Would they be more likely to appear before the court than an Arbitration Council?

Farida Rahman asserts that her bill conforms with the equality provision of Article 28 of the Constitution of Bangladesh. The sanction of polygamy and arbitrary divorce by itself violated this principle. As long as men are able to enter into polygamous relationships, with or without permission, as long as their subsequent marriage remains valid, and women have no means to assert their independence, the equality clause will remain ineffective.

The member of Parliament has spoken as the representative of the women of Bangladesh. If this is so, she should consult with women's organisations, lawyers and other activists who have been engaged in the struggle to defend women's rights. If she can elicit their opinion she will realise that a major plank of her struggle for legal equality is the abolition of polygamy and enactment of a uniform personal code for all communities.

Tunisia, Turkey and Iraq as Muslim countries have not hesitated to abolish polygamy. Even when it proposes to deal with only a particular aspect of the MFLO, the Bill needs to be far more rigorous, particularly by incorporating protective clauses relating to maintenance, payment of dower, a woman's unilateral right to divorce in polygamous marriages.

Farida Rahman may have done a service by drawing the attention of the parliament to the glaring inadequacies of the MFLO. The answer, however, does not lie in cosmetic changes alone. What we need is a more serious and collective consultation to eliminate the sources of gender discrimination. A National Commission for Women needs to be established to identify the bases of inequality and exploitation of women more comprehensively, rather than referring to only one single aspect of their lives; constitutional guarantees should extend to all citizens. The present amendment is applicable only in the case of Muslim women, and makes no pretence of extending its provision for women of other communities. It is high time that the government set up such a commission, perhaps as part of their Law Reform Commission.

To be meaningful it should not remain an exercise in partisan politics. It should draw upon women activists, lawyers, researchers and others who have had years of experience in working with women. Affirmative efforts need to be made to hear the voices of women at the grass-roots, both urban and rural. The purpose of these consultations with women of all classes and religious communities would allow for more representative participation in formulating the principles of law as well as the means for their enforcement. This is the true test for democracy.

The process needs to be more participatory and at the same time more specific. There are indeed precedents for popular methods of evaluation in other countries, from which we can learn. Before it enters the statute books the Bill needs to be expanded and discussed both in and out of

More Crumbs for Women?

parliament. Unfortunately women lack effective representation in the parliament. Therefore, it is all the more necessary for women to articulate their concerns through the press, through meetings and other forums. The women's movement is also on test here to stop accepting crumbs and then complain that little has changed in their lives.

The writer is a freelance writer and member of Ain O Salish Kendra, a legal aid and mediation centre. The views expressed here are those of the author alone.

Reproduced from:

Women on the Move Section Daily Star (Dhaka), 22 August 1993.

From Confiscation to Charges of Apostasy

The Implications of the Egyptian Court Decision Ordering the Divorce of Dr. Nasr Hamed Abu-Zeid from his Wife, Dr. Ibthal Younis

The Center for Human Rights Legal Aid (CHRLA)

Freedom of Academic Research

CHRLA is greatly alarmed by the Cairo Court of Appeals ruling of June 14, 1995, which ordered the divorce of Nasr Hamed Abu-Zeid (the Cairo University professor) from his wife, Dr. Ibthal Younis, on the grounds that he was an apostate because of the opinions contained in his published research.

The argumentation of the ruling raises problems related to freedom of thought, religious interpretation and belief, and the privacy of family relationships. It also brings into question issues regarding the constitutional framework, the existing laws of the country and the rulings and principle of independence of the Court of Cassation (the final court of appeal), and how these comply with the international human rights agreements to which Egypt is a signatory. Lastly, it raises the question as to what extent any official or unofficial party has a legitimate claim in bringing a case of apostasy against any individual on the basis of his or her opinions and personal beliefs. CHRLA believes that before discussing these issues, we should briefly review the facts surrounding this crisis which is now threatening the future and development of Egyptian society.

The crisis began within the walls of Cairo University while members of the Standing Committee of Academic Tenure and Promotion were debating Abu-Zeid's candidacy for promotion to full professor. It was at this point that charges of apostasy were first leveled against him. This resulted in the court case calling for the divorce, and finally culminated in the issuing of a *fatwa* by the armed Islamic group, *Jihad*, calling for Abu-Zeid's blood. We hope that Nasr Hamed Abu-Zeid is not subjected to the same fate as the intellectual, Farag Foda, who was assassinated in 1993, nor the Nobel laureate, Naguib Mahfouz, who survived an assassination attempt last year. We expect the Court of Cassation to settle this point of contention in order to overcome the beasts of darkness who issue death threats at those who dare to think or advocate freedom of opinion or religious belief.

1. Events from the committee report to the divorce case

The events of the crisis began in May 1992 when Dr. Abu-Zeid presented his academic publications to the Standing Committee of Academic Tenure and Promotion for advancement to the position of full professor. These publications included the books, *Imam Shafai and the Founding of Medieval Ideology* and *The Critique of Religious Discourse*, in addition to eleven other studies published in several Arab and foreign journals. The committee prepared three reports on Dr. Abu-Zeid's research, two of them in favor of his promotion based on his obvious efforts to propel the Islamic community forwards and his ability to productively interact with the Islamic tradition. However, the third report, submitted by Dr. Abdel-Sabur Shahin, resembled those of the Spanish Inquisition. The report was not based on an intellectual critique of the contents of Dr. Abu-Zeid's research, but rather on an investigation into his intentions by which it sought to establish the illegitimacy of Abu-Zeid's application for promotion on the basis that his research consisted of "clear affronts to the Islamic faith". The report also criticized the orthodoxy of Abu-Zeid's faith.

Basing its decision solely on the negative report, the Committee ruled seven votes to six that Abu-Zeid's publications did not justify promotion. The Council of the Arabic Department prepared a report stating its objection to the committee's decision. The Council of the Faculty of Arts also submitted a report detailing its procedural concerns regarding the Tenure and Promotion Committee report. However, the Council of Cairo University, in a meeting on 18 March 1993, adopted the Committee report.

At that point, the case was completely transported outside the confines of Cairo University and provoked intense debate among intellectuals. It is understandable that in the prevailing climate of religious fanaticism, the tenure battle would lead to charges against Abu-Zeid of apostasy, and

consequently to threats against his life. An escalation of the crisis occurred when a lawyer brought in a suit before the Giza Lower Personal Status Court calling for the divorce of Abu-Zeid from his wife, Dr. Ibthal Younis, on the grounds of his alleged apostasy. Attempts were begun to involve al-Azhar in the ongoing battle. However, on 27 January 1994, the Giza Personal Status Court ruled against accepting the divorce suit because the plaintiff had no direct, personal interest in the matter.

It should be noted that on 31 May 1995 - two weeks before the divorce ruling - the Cairo University Council decided to promote Abu-Zeid to full professorship after the matter was reviewed by the Academic Committee which said:

After reviewing the works submitted by Dr. Abu-Zeid in his application for promotion, examining them both individually and as a whole, we have reached the following conclusion: his prodigious academic efforts demonstrate that he is a researcher well-rooted in his academic field, well-read in our Islamic intellectual traditions, and with a knowledge of all its many branches - Islamic principles, theology, jurisprudence, Sufism, Quranic studies, rhetoric and linguistics - He has not rested on the laurels of his in-depth knowledge of this field, but has taken a forthright, critical position. He does not attempt to make a critique until he has mastered the issues before him, investigating them by way of both traditional and modern methodologies. In sum he is a free thinker, aspiring only to the truth. If there is something urgent about his style, it seems from the urgency of the crisis which the contemporary Arab-Islamic World is witnessing and the necessity to honestly identify the ills of this world in order that an effective cure be found. Academic research should not be isolated from social problems, but should be allowed to participate in current debates and to suggest solutions to current dilemmas by allowing researchers to investigate and interpret as far as possible.

This report appears to put a finger at the core of the current crisis, a crisis whose danger extends further than the ruling of apostasy and divorce, but which also threatens to drag civilization backwards by denying the community's need for free and creative intellectual work and by establishing the domination of inflexible and fanatical ideas. Abu-Zeid's only crime is that he used his mind, giving free rein to his intellect, and undertook critical interpretation in an age which does not tolerate critical interpretation.

2. The general climate in which the ruling was made

The ruling was made in a general climate of armed violence and intellectual terrorism, unknown to our country for decades. It expresses a

situation of intellectual and cultural retreat from the values of enlightenment and progress. The ground is being paved for a flood of values of intolerance, fanaticism, and intellectual inflexibility which attempt to rehabilitate interpretations by material scholars of jurisprudence and subject society to their concepts.

Closing the door on critical interpretation grants a sacred quality to these interpretations and commentaries and prevents personal interpretations suppressing, the freedom to doubt the opinions of ancestors. This is a basic freedom for scientific, intellectual, and cultural advancement. Thus, the realm of "rationalism" gives way to the domination of uncritical "transmission" of tradition, leaving Muslims no choice but to conform to tradition. This imitation leads to fanaticism and inflexibility whereby Muslims are declared apostates.

What befell our ancestors many years ago in the times of cultural backwardness, happened also at the turn of the twentieth century and is happening now at the end of the century. Although a certain trend to make Islam in keeping with the spirit of the age was introduced by many religious innovators and reformers such as Gamal al-Din al-Afghani, Mohamed Abduh, Rashid Rida and others, it was not accepted by nor encouraged by Islamic jurists.

In the 1920's, there was a heated controversy over the freedom of intellectuals. Sheikh Ali Abdel-Razek was taken to court on the basis of his book *Islam and the Principles of Government*, one of the rare books that managed to influence the intellectual atmosphere in the first half of the twentieth century. Abdel-Razek was accused of being a heretic and he was dismissed from al-Azhar University and never attempted to publish another edition of his book.

In 1932, Taha Hussein was dismissed from the University after a dispute that lasted for six years over his book *On Pre-Islamic Poetry*. A group of extremists reported him to the Public Prosecutor demanding the book destroyed, the author was to be prosecuted, and that he be dismissed from the university. Hussein was accused of apostasy on the basis that he dealt with the case of Ibrahim and Ismail in the Quran, the seven readings, and the lineage of the Prophet Mohamed.

Having examined the case, the prosecutor, Mohamed Nour, who was assigned to question Hussein reported that: "the objective of the author, Taha Hussein, was not to merely challenge religion. The core sentences in the book dealing with religion are there for the sake of enhancing the academic research. Since the criminal intention is not valid, the case is dismissed". (Abdel Latif Mohamed, *Political Jurisprudence in Egypt*, Part III, 1927 Edition, p. 1067-1073).

Compared to the cultural climate of the 1930's, the 1980's and the 1990's are characterized by chaos and extremism. Dr. Ahmed Sobhy Mansour

was dismissed from al-Azhar University and imprisoned for six months. This was based on a verdict reached by the university itself on the grounds that he rejected a fundamental tenet of Islam in his research of truth of some of the Prophet Mohamed's sayings, or *Hadith*.

Chaos and extremism have acquired an incredible force in the 1990's. The climax of the denial of freedom of thought was reached when the court ruled Abu-Zeid an apostate and that he must be divorced from his wife, although he announced his adherence to the creed of Islam.

CHRLA is concerned that this ruling might lead to the strengthening of extremism and intellectual inflexibility, a climate that threatens the values of religious tolerance, freedom of thought, and expression. Such a climate could lead to further rulings of apostasy by Egyptian courts, which, in turn, could be damaging to Egyptian society. Most significantly, these accusations serve only to legalize extremism.

3. The legal basis of the ruling

CHRLA believes that this ruling causes severe dilemmas and challenges with regard to juristic and legal principles:

a. Invalidating the legal principle of crimes and penalties

The court ruling stated that apostasy was a crime punishable in accordance with "Quranic punishments" and that it may be the grounds for a case brought before the judiciary. This is contrary to Article 66 of the Constitution which states that "penalty is personal and there may be no crime established nor penalty inflicted except on the basis of the law". The Egyptian Penal Code does not recognize apostasy and, hence, it has no legal definition that might assist the judiciary in deciding whether or not apostasy may form the grounds of a legal court case.

Even in Civil Law, the Court of Cassation has ruled that apostasy could only be proved through specified ways: either a certificate from a specialized religious institution certifying that the individual has converted to another religion or a confession by the individual that he has converted.

"Since a Muslim inherits his/her religion from his/her parents, he/she does not need to re-announce his/her Faith". (Court of Cassation, 5/11/1975 - Court decisions 1926, p. 137).

"It is stated that for a person to be a Muslim it is enough that he articulates his belief in Allah and the Prophet Mohamed. The judge may not look into the seriousness of incentives behind the confession. It is not necessary to make a public confession". (Justice Azmy El Bakry, *The Encyclopedia of Jurisprudence and the Judiciary in Personal Status*, 3rd Edition, p. 234)

Concerning the same issue, the Court of Cassation adds that "In accordance with the established course of this court, religious belief is considered to be a spiritual matter, and consequently is to be judged only by what is explicitly declared. Therefore, a judge is not to investigate the sincerity nor the motive of such declared statement". (Cassation 44, judicial year 40, session 26 January 1975). It has further ruled in another incident that "this court has always taken the course established by the law that religious belief is among matters in which the judgment should be based on declared statement and by no means should the sincerity or motives of this statement be questioned". (Cassation 51, judicial year 52, session 14 June 1981) (Both rulings in Azmy al-Bakry, p. 125)

Apostasy and its punishment of death are controversial issues among Islamic scholars; some deny that such a crime exists in the first place, while others insist that it does. It is established that penalties must be defined precisely in order that a judge may implement them in the cases brought before him.

Article 2 of the Egyptian Constitution, stating that "the principle of Islamic *Sharia* is the main source of law" may not be used as a basis for the ruling. The Constitutional Court has ruled that "Article 2 of the Constitution stipulates that this clause has no legal force in and of itself. Instead, it is a discourse aimed at urging the legislator to amend new and existing legislation in accordance with the principles of Islamic *Sharia*. Thus, Article 2 addresses no other, not even the Judiciary, but the legislator. Consequently, the principles of Islamic *Sharia* do not have the power of law unless a legislator makes such a law. Outside of this, Article 2 is no more than a source of legislation".

The Constitutional Court adds that "if the Constitutional legislator had wanted to make the principle of Islamic *Sharia* a part of the Constitution specifically, or had intended that these principles be enforced by the courts regardless of particular legislation and procedures defined by the constitution, he would have stipulated this explicitly". (Ruling of the High Constitutional Appeals Court, Appeal session 1/20; 4/5/1985)

b. Contravention of the ruling established by fiqh and the judiciary

The court refused to acknowledge the fact that "Dr. Nasr Hamed Abu-Zeid is a Muslim". The Judge's understanding of his books, opinions and research, in the end, was a "human understanding", or is a subjective interpretation, which may be right or wrong. From the established principles of law it is not permitted to deny what is absolutely certain in favor of what is subjective. The court has overlooked the fact that an individual who entered Islam with his/her own convictions may not be deemed a non-Muslim except under his/her own volition, so that no doubt remains.

The ruling of the Appeals Court on the apostasy of Dr. Nasr Hamed Abu-Zeid is contrary to the Court of Cassation ruling which states that questioning people's beliefs is not a matter for discussion. The court established that "religious belief is a spiritual matter which no judicial body may judge unless it has been explicitly stated by the person himself".

c. Legal implications of a lawsuit based on the principle of hisba

The principle behind *hisba* grants Muslims the right to file lawsuits in cases where, in their opinion, an exalted right of God has been violated. It came about as a human interpretation and innovation by Muslim *fiqhs* (jurists), influenced by people's lawsuits under Roman law and in accordance with the formation of a nation-state based on religion.

Article 89 and 110 of the Regulations Governing *Sharia Courts* include legal support for *hisba* lawsuits, but Law 462 of 1955 abolished this legal tradition and decided to subject Personal Status disputes to the rules of the Civil Procedures Code to free it of these regulations.

The Egyptian Civil Procedures Code does not give legal support to private *hisba* lawsuits if we take into account changes made to the legal structure by the Constitution of 1971 in which Article 40 noted a principle of equality between citizens and forbade discrimination on the basis of religion since it was necessary to interpret conditions (of status and interest of the individual bringing the case against the defendant) according to Article 3 of the Criminal Procedures Code. Thus, the *hisba* lawsuits are contrary to the Constitution because they discriminate between citizens on the basis of religion by granting Muslim citizens the right to file lawsuits while non-Muslim citizens are not granted the same right.

The implication of the ruling on *hisba* lawsuits is that it creates sectarian divisions within society; specifically concerning legal rights. Thus, it violates the concept of contemporary citizenship since most modern societies, including our own, base the rights of citizenship not on religious criteria but on that of belonging to a nation regardless of the religious tendency of the individual. Not only is the acceptability of *hisba* lawsuits incompatible with Article 40 of the Constitution, but it is also in contravention of several international agreements, including: Article 2 Section 7 of the International Declaration of Human Rights; the values of equality and citizenship stipulated in Article 2 Section 2 of the International Covenant on Civil and Political Rights, whereby all signatory states are obligated to take necessary legislative and non-legislative measures, in accordance with constitutional procedure, if their existing legislative or non-legislative measures do not provide effective application of the rights granted by this Agreement; and Article 4 of the

International Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, which states that:

1. All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.

2. All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.

The basing of this ruling on the acceptability of *hisba* lawsuits also constitutes an invalidation of women's rights and dignity, in that it permits a woman's divorce without regard to her wishes and at the request of individuals without any relation to the parties of the marital relationship. It is thus in contravention of Article 12 of the International Declaration of Human Rights which stipulates that:

No one shall be subjected to arbitrary interference with his/her privacy, family home or correspondence, nor to attacks upon his/her honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

d. Hisba lawsuits and the suppression of freedom of thought

Perhaps the most dangerous legal problem raised by this ruling is the degree to which *hisba* lawsuits are appropriate in cases regarding freedom of opinion, thought, and belief, in so far as such cases require an examination of the consciences of writers, intellectuals, and researchers. In the prevailing climate of fanaticism and extremism, these provide a justification for extremist Islamic groups to assassinate those who differ in their opinions or interpretations. Egyptian courts are now witnessing a great number of these lawsuits being brought against intellectuals, journalists, and university professors like Atif al-Iraqi, Ragaa al-Naqash, Mahmoud al-Tohami, Yousef Chahine, and others.

e. Judges and intellectual conflicts

The role of a judge is not to impose opinion, nor are the courts an arena for settling intellectual matters. The case of Dr. Abu-Zeid must be considered within its proper framework, for in reality the true essence of this case is the issue of the freedom of academic research. Dr. Abu-Zeid's only crime is that certain individuals have refused to accept the legitimacy of his academic research, and, instead of refuting or criticizing his opinions within a framework of intellectual and academic debate,

they have done so within the legal framework of the Egyptian courts. The same course of action was taken in the case of the film "The Emigrant" (*al-Muhajir*), whereby the courts were called on to judge a matter considered to fall in the realm of aestheticism.

f. The unconstitutionality of Article 280 of the rules regulating the Sharia Courts

Article 280 stipulates that "rulings shall be made in accordance with the Articles contained in these rules and the majority of accepted doctrines of the Abu Hanifa school of jurisprudence, except in cases governed by the rules of the Law on *Sharia Courts* that stipulates that rulings on such cases shall be made in accordance with the same rules". This Article is contrary to the constitutional principle of the separation of the legislative and judicial estates. Judges are assigned the task of searching for the legal rule in the Abu Hanifa school; if this rule is clearly acceptable there is no fault in this process and no unconstitutionality, but if the acceptability of the rule is unclear the work of the judge in this instance exceeds that of a search for the rule - which is essentially his task - to enter into the realm of legislating the rule, which is the jurisdiction of the legislative, not the judicial estate.

4. The ruling with regard to basic human rights

a. The violation of freedom of belief and expression

The level of progress reached by civilized societies is measured by the degree of freedom of thought enjoyed by individuals in those societies. Freedom of thought is a basic guarantee for future advancement as well as the ability for creativity and innovation. International human rights standards have established that no power may interfere with this basic human right.

The ruling on Dr. Nasr Hamed Abu-Zeid is contrary to Article 46 of the Egyptian Constitution which stipulates that "the State guarantees freedom of conviction and freedom to practice religion". It is also contrary to Article 47 which states that "freedom of opinion is guaranteed whether expressed orally, through writing, through art or through any other means of expression". Finally, the ruling is contrary to Articles 18 and 19 of the International Covenant on Civil and Political Rights. Since the issue of apostasy is not dealt with by domestic law; therefore, it becomes necessary for Egyptian judges to work within the framework of International Law which discusses freedom of opinion, expression, and belief. In this regard, we find that the Court of Cassation has ruled that International Law is a part of Egyptian domestic law without exception, in accordance with the fact that Egypt is a member of the international community. Therefore, an Egyptian judge is obliged to

impose these standards in matters not dealt with by domestic law. (Appeals 259 and 300 of 1951, Session 3/25/82 - Laws including 3 bis. 168)

The Court of Cassation has written in a number of its rulings the duty of applying international covenants, which Egypt has signed along with other nations, and has expressed their preeminence in local law. (Review of laws from Session 39 to 52 bis. 164 and afterward)

b. The ruling threatens freedom of scientific research

The world today is witnessing rapid scientific developments. Cooperation is a necessary condition for progress and development, and this is only possible by increasing scientific research and protecting it from restrictions. Recent progress in modern science, such as genetic engineering and organ transplants, provide all societies with potentials that would not exist in the presence of suppression of scientific research. As stipulated by Article 3 of the Lima Declaration regarding academic freedom:

Academic freedom is a necessary precondition to pedagogical functions, research, administration, and other services upon which universities and other higher institutions of learning are founded. All members of the academic community have the right to pursue their jobs without discrimination of any kind or fear of any interference or compulsion coming from states or any other sources.

The ruling that Dr. Nasr Hamed Abu-Zeid is an apostate has created an atmosphere of blindness, tension, and intolerance which stunts the growth of thought in scientific research. As a result, academics and intellectuals may avoid undertaking research that might anger non-specialists and lead to a fate similar to that of Dr. Abu-Zeid. This opposes the spirit of Article 6 of the Lima Declaration which states that "members of the academic society who undertake research projects have the right to carry out their research without any interference. They also have the right to publish the results of their research in the utmost freedom and to publish it without censorship".

Furthermore, *fatwas* accusing researchers of apostasy are not limited to the social sciences, but also extend to the natural sciences, as in the case of the well-known *fatwa* issued by the Saudi Mufti, Ibn Baz, who accused all those who believed that the world was round as being apostates. The same accusations have been made with regard to genetic engineering... etc.

c. The ruling destroys the concepts of citizenship

The ruling states that: "the defendant's proposition that the requirement of Christians and Jews to pay *jizya* (tax) constitutes a reversal of

humanity's efforts to establish a better world is contrary to the divine verses on the question of *jizya*, in a manner considered by some, inappropriate, even for temporal matters and judgments not withstanding its inappropriateness when dealing with the Quran and Sunna, whose texts represent the pinnacle of humane and generous treatment of non-Muslim minorities. If non-Muslim countries were to grant their Muslim minorities even one-tenth of the rights accorded to non-Muslim minorities by Islam, instead of undertaking the mass murder of men, women, and children, this would be a step forward for humanity. The verse on *jizya*, verse 29 of Sura al-Tawba, which the defendant opposes, is not subject to discussion". (p. 16 of the judicial opinion)

The appeal ruling judged this kind of talk to be apostasy and a sufficient reason to declare Abu-Zeid an apostate on the grounds that "he has refused to accept what is religiously proven without doubt". This destroys the basis of citizenship rights by denying non-Muslim citizens such rights. Such an idea is unacceptable to contemporary human conscience, regardless of the cloak under which it lies.

d. The ruling denies women's dignity

The Court objected to Dr. Abu-Zeid's denunciation of the permissibility of the ownership of slave girls. The ruling states that the rejection of this principle considered "religiously proven without doubt" is "contrary to all the divine texts which permit such provided that the required conditions are met". (p. 16 of the judicial opinion). There is no doubt that this diminishes a woman's dignity by making her a mere sexual object to be owned, and represents a return to concepts of bondage and enslavement rejected by humanity in its path to justice, freedom, and equality. The ruling may, in this respect, be considered a violation of Article 4 of the International Declaration of Human Rights and Article 8 of the International Covenant on Civil and Political Rights, as well as a violation of the convention on the abolition of slavery, the slave trade, and institutions and practices similar to slavery.

e. The ruling is contrary to the concept of inherent rights

The forced separation by law of Dr. Nasr Hamed Abu-Zeid and Dr. Ibtihal Younis, is a violation of the most fundamental human rights, the most important of which is the right to have a family without aggression or interference in its affairs. This is a violation of Article 50 of the Civil Code and Article 45, clause 1 of the Egyptian Constitution. The lawsuit and the subsequent ruling have constituted an arbitrary infringement on the personal life of Dr. Nasr Hamed Abu-Zeid and Dr. Ibtihal Younis. This is a violation of Article 12 of the International Declaration of Human Rights and Article 17 of the International Covenant on Civil and Political Rights, the latter which affirms that:

1. *No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation.*

2. *Every person has the right to protection of the law against such interference or attacks.*

Finally, CHRLA calls on all institutions of civil society and the State to act. For this ruling is, in fact, not a charge of apostasy against Dr. Nasr Hamed Abu-Zeid only, but also against the Egyptian Constitution, all institutions of civil society, and the State itself. Furthermore, it has dangerous consequences for human rights organizations, on the grounds that adherence to the concept of citizenship based on factors other than religion is deemed by this ruling a denial of a religious truth, and thus is apostasy. Moreover, the Egyptian Constitution guarantees the right of citizenship and equality between citizens and opposes such concepts as *jizya*. Therefore, may it be considered a heretic constitution? This judicial ruling plunges the whole of civil society into a very dangerous situation.

Therefore, CHRLA declares its solidarity with Dr. Nasr Abu-Zeid and Dr. Ibtihal Younis and calls for the institutions of civil society to work together to bring about:

1. An end to all legislative loopholes which permit such rulings to be made and, in particular, the passing of legislation that clearly stipulates the abolition of hisba lawsuits;
2. The alignment of Egyptian legislation with established international criterion on human rights;
3. Legal immunity for scientific research;
4. Necessary safeguards to protect the dignity and rights of women and to prevent any intervention in their private lives by calling for the implementation of legislation concerning the abolition of all forms of discrimination against women.

July 1995

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Birth, Nationalism and War

Stasa Zajovic

In late eighties, with the consolidation of nationalism as the state ideology in Serbia, the propaganda directed against women grew stronger. It is well known that in periods of acute crisis, economic repression or marked repression, women are called to turn back to "home and family"; they are referred to as "the angels of the home earth", as ideal mothers, as faithful wives... Such propaganda, among other things, aims at postponing or preventing social tensions, outburst of social discontent caused by mass lay-offs of working men and women. Women are the first to be fired; it is demanded that they hand their jobs over to men. At the end of eighties and the beginning of nineties, when over a half of enterprises were suffering severe economic losses, preparations started for mass lay-offs, mostly of employed women.

For that reason, in early 1990, demographers and physicians, wholeheartedly supported by regime-sponsored mass media and institutions, offered some "very interesting legal proposals concerning women". Although these false promises lacked any realistic basis, some of these "projects" must be singled out for their cynicism and underestimation of women.

Projects Devoted to Wives and Mothers

In February 1990, Ivan Knajter, a physician and self-proclaimed demographic expert, proposed "legal innovations designed to help the reaffirmation of the family". He suggested the imposition of taxes on unmarried or divorced men and women over the age of thirty. According to the explanation of the project author, the tax would consist of 10 percent of the salaries of these unfit persons. The goal of the project was to "prevent the disastrous decline in birth-rate in Serbia"; it is not clear why it would be so important whether children are born within or outside marriage. The said "expert" suggests that "persons who refuse to accept voluntarily matrimonial duties should be forced to do so". This

idea never occurred even to Stalin! In his times, the model of the "woman-hero of maternity, under the benignant moustaches of uncle Joseph" was launched. Hitler required German women to place their bodies at disposal for the renewal of the Aryan race. And both of them considered themselves collective fathers, either of the working class or of the nation.

In order to avoid suspicion as to his own "moral-political pedigree" and due to the necessity of choosing among the possible collective fathers of the nation in Serbia (the president of the Republic, the head of the Church or the commander-in-chief of the Army), Knajter wished above all to win the favor of women. He states: "Once she is married, the wife would be considered employed, with all the social security benefits. The marriage would be her working place"¹. He forgot just a trifle: who would provide the salary? Social security, special state funds, labor unions, the husband, a provider, or perhaps the father of the nation? In the end, he reveals another argument to justify the project, apart from the "prevention of the disastrous decline in birth-rate": "This proposal would have opened many new working places". Of course, working places for men, who would only later be mobilized and sent to the front to defend the mother-nation, while she, in the meantime, would give birth to cannon fodder. In Nazi Germany, on April 7, 1943, the "cleansing women" started, that is, mass firing of employed women. Fathers and sons of the nations everywhere agree with Hitler in his idea that, "in politics, one has to win the support of women, since men spontaneously follow them". Unfortunately, this is not true; as a matter of fact, exactly the opposite holds, particularly in militarized societies.

Maternal Mobilization - Saving the Nation from Extinction

The development of this propaganda may be divided into two phases, although they are constantly intertwined. The first phase started as early as the middle of eighties. It consists of the preparation of various projects aimed at the "suppression of the white plague". The second phase is the propaganda about childbearing for patriotic reasons, that is, for the enhancement of national security.

At the beginning of the "first phase", demographers followed territorial principles, asserting that in central and eastern Serbia, as well as in Vojvodina, the birth-rate was dropping at an alarming rate, while in Kosovo it was rising disturbingly. At this time, demographers had not yet introduced the ethnic criterion. The imbalance of the demographic development was explained instead either by economic factors or by changes in the system of values. As a solution, mostly administrative measures were offered, the model "ideal family - three children" was popularized, etc.

The demographic discourse - in accordance with the expansion of the nationalist ideology - soon acquired a repressive, racist character. Starting with January, 1990 to this day, all draft bills resort to the "ethnic principle". The January 1990 Resolution on the Renewal of the Population, as well as the May 1990 amendments, suggest a double population policy - pro-natality for Serbia and Vojvodina and anti-natality for Kosovo. It was immediately clear that different demographic situations were used, on the one hand, in order to spread nationalist hatred, and on the other as another instrument of patriarchal separation of and discrimination against women on the ethnic basis. Feminists of Belgrade expressed their protest and indignation: "Coercive measures of population policy are applied in countries where human rights are violated daily, where the state deliberately encourages ethnic and racial intolerance. The introduction of coercive managements in the already poor network of gynecological facilities in Kosovo is impermissible, since the right to medical services is a civilizational, not an ideological issue. Such repressive measures fail to bring about the 'desired' results, nor can they serve as the substitute for changes in the economic, social, and educational spheres. If women really enjoyed the opportunity and the right to choose, the population problem would not exist. Instead of administrative measures of population policy, the differences in demographic development should stimulate the creation of conditions where women will win their reproductive rights"².

Official documents started multiplying - for example, the resolution on the Renewal of the Population - among which "The Warning" should be singled out for its neo-Malthusian, racist character. Nine "significant" national institutions composed this document. The ruling party, the Socialist Party of Serbia, adopted "The Warning" at its congress as one of the three official documents. "The Warning" openly points to the "threat" that minority peoples pose to the majority, that is since "Albanians, Moslems and Gypsies, with their higher birth-rate, deviate from national, humane reproduction, [they] threaten the rights of other peoples"³. That is to say, women of the above-mentioned nations (and not men, who still do not bear children!) participate in the "general conspiracy against the Serbian people"; they bear children out of separatist, fundamentalist reasons, and thus Serbian women should bear children out of patriotic and moral reasons: "The will to bear children should be mobilized"⁴.

The newly formed parties joined the appeals of demographers, physicians and state institutions to maternal mobilization. In relating to women, almost all the parties failed the democracy test; their ideas are imbued with militaristic language. The program of the Association of All Serbs of the World, for example, published before

the first multiparty elections, the following proclamation: "In these difficult times for our state, not bearing children, as a national behavior, will be considered treason". In the same vein, the Serbian Popular Renewal suggested the foundation of a fund for Serbian women who have four or more children. In the style of all nationalist moralizing babble, the party's leader Mirko Jovic also urged: "To equalize children born out of marriage with those born in it constitutes a form of special war against the Serbian people". Nationalist are fond of speaking about honesty, going back to the roots, and medieval idyll; thus, the 1990 program of the Serbian Renewal Movement provides that one of the goals of its policy is "the restoration of the family, the return to customs, the ensuring of conditions for an honest living. The Serbian Renewal Movement will place its capabilities at the service of the renewal of the Serbian character, striving for the flourishing of those virtues of the Serbian man that will soon become a part of the Serbian moral code". Feminists replied to these Serbian politicians worried about the extinction of the nation with the following: "To all the guardians of the Serbian morality we suggest that they examine the model of parthenogenetic procreation (conception without sin) and to clone themselves into innumerable Serbian copies. We suggest cooperative financing of this genetic engineering. It may be assumed that young Serbian fetuses will be immediately christened, then incited and trained for hatred and war against the numerous enemies of the Serbian people"⁵.

Moral condemnations: the Extremely Misogynous Character of the Propaganda

Generally speaking, this propaganda is imbued with strong moral condemnations and hatred against women. "The Warning" accuses women of not having children out of "conformism and selfishness". Marko Mladenovic, an official demographer, in one of the famous pathetic statements about the "biological death, the gangrene, the tragedy", reveals the time-old desire of men to usurp women's procreative power: "Our man does not have children because happiness for him means having fun, a car, or a summer cottage. This is egoism"⁶. Then this enraged militarist joins cradles and guns together: "How to save Serbia! In 15 or 20 years there will be nobody to work, give birth and wage war"⁷.

The Church enthusiastically joined the expansion of this "emotional plague of fascism", as Virginia Woolf termed it in 1940: "Those who care for enjoyments, fun, summer holidays or furniture are more numerous than those who care for having children"⁸. Or, "today many Serbian women kill their children by abortion. Feminists are in

favor of killing unborn children. Fortunately, they have nothing to do with the being of the Serbian people"⁹. Some are particularly furious because, in spite of all the obstacles, the connections between the feminists from Belgrade and Zagreb still exist, and these latter are "gravely" accused: these feminists from Serbia are very well connected with feminists from Zagreb, who "propagate the extinction of the Serbian people"¹⁰.

Apart from hatred and condemnation, the Church also envisions natural punishments for women who do not bear children: "Women who bear children seldom get cancer. And the more children they have, the more they are immune to this horrible disease. Spinsters and women who prevent childbirth are by 40 percent more often afflicted by cancer, particularly breast cancer, than women who have children"¹¹.

Patriotic Mobilization

The father of the nation (this time embodied in the president of the Republic), Slobodan Milosevic, in his "historical speech" at Kosovo Polje in June, 1989 declared: "If we are not very good at working, we are excellent at fighting". This was the beginning of actual preparations for the war. He had chosen the right place - "the cradle of the Serbian people", but also the place of the great collective defeat. The offended honor of the fatherland will be revenged by military raids, since "we must not forget that once we used to be an army - large, brave, proud. Nowadays, six centuries later, once again we are fighting and more battles are ahead". At the same place, and after the Battle of Kosovo, the cult of the heroic Jugovic mother was born, the mother who offers her sons to the death. War trumpets are heard all over the country, while nationalists demand that maternity hospitals become recruitment centers: "For each Serbian soldier who fell in Slovenia, Serbian mothers must give birth to a hundred new soldiers"¹².

It is no longer enough to bear children in order to prevent the extinction of the nation, but sons are now needed for the defense of the fatherland and the struggle with "enemy peoples". Nationalist demographers, linking childbearing to war, accurately calculate the pace of the enemy's advancement: "The last Serbs will defend themselves from the Kalemegdan fortress, in the year 2091. But this last battle may also happen earlier, having in mind pessimistic prognoses"¹³. Later on, the same demographic "mathematician" has come to an even more precise calculation, with an unmistakable admixture of racism: "In the Balkians there are nations multiplying at rabbit's rate, with 10 or 15 children per family. In fifty years they will reach Belgrade"¹⁴. The similarity with Nazi Germany is no

coincidence: "It must be made possible to each German woman to have as many children as she likes, since, if not, in 20 years the Third Reich would be left without the divisions necessary for the survival of our people"¹⁵.

The racist and militarist logic that "we must be more numerous than them" is also followed in Montenegro: "Eastern Orthodox population lives in the municipalities with low birth-rate, while where Albanians and Moslems are in the majority the birth-rate is high. The issue of birth-rate is all the more important having in mind that Montenegro's neighbors are three states whose intentions are suspicious"¹⁶.

The propaganda is not restricted to mass media. Institutions, lavishly supported by the state, with nothing to offer but repressive measures, keep springing up every day (councils, boards, commissions, committees for the population renewal). Some of them, like the Fund for the Protection of Mothers and Offspring (founded in Belgrade in January, 1993) insist most on financial help, that is, membership fee as the best means to "supress the white plague". This makes one think that out of this fund "all the Serbian people will arm itself so that finally all Serbs may live in the same state"¹⁷.

Some of them have a more "modern" point of view and consider the problem in terms of the laws of the market: "Bearing children is like any other industry: the quantity of output is proportionate to the amount of capital investments"¹⁸. Since for this "eminent" expert, the woman is a body that is possessed, and the man is the owner of the belly and the children, in his misogyny he forgets about the laws he refers to: "Although pregnancy was brought about by the sexual intercourse between the woman and the man, talking in the capitalist sense, we would say the following: at the moment of conception, the foetus is in 50 percent the property of the woman and in 50 percent of the man. But as the pregnancy progresses, man's investments decrease, since all the invested capital is the property of the woman"¹⁹.

The misogynous attitude of the majority of demographers, physicians and politicians even makes them forget the official opinion of the regime that "the unjust sanctions are to blame for everything": "Poverty and the sanctions are not to blame. We used to be even poorer than we are, and still our predecessors had 7 or 8 children"²⁰.

A colleague of this demographer, afforded enormous space in official media, wrote: "The sanctions and the war cannot be an excuse. Earlier, birth and marriage were the most sacred act to every woman. And nowadays mothers advise their daughters not to marry, not to have children, to be egoists. During our 35th Gynecological Week we ascertained that the reasons why women do not have children are 85

percent egoistic, 26 percent masked egoism, and only 8 percent genuine economic reasons"²¹.

But this was too much for the President of the Republic, who corrected them, reminding them that in their national and misogynous trance they must not forget that "the sanctions are killing our unborn babies"²². Since in militarist societies it has always been assumed that "maternity is the counterpart of war, or war is the symmetrical complement of maternity" (E. Badinter), all this is accompanied by the appropriate language and rituals. Nicole Laroux illustrates by the example of Sparta how "delivery is associated with war, the infantry-man with the woman in childbirth. The word *ponos*, denoting "pain", is used both for a young man training in strengthening his body and for a woman suffering labor pains. Maternity is seen as similar to battle"²³.

In Nazi Germany, medals were awarded to "good, fertile mothers" who gave birth to and reared the castle of warriors. In Serbia, in Kosovo Polje, since June, 1993, the Church gives medals to warriors and mothers with four or more children: "We have established the Jugovic Mother decoration in order to encourage bearing more children in our people". Last year they awarded 16 golden and 14 silver medals. Since they were not satisfied with the "performance", they admonished: "In earlier times, mothers were able to send as many as nine sons to the emperor's army, so that they could fight for freedom of their country and of their Orthodox faith. We have such mothers today, too, but very few"²⁴. Since in June, 1994 "only" 27 medals were awarded. Serbian women bear increasingly less children, and Serbian men are increasingly unwilling to go to war.

Notes:

- 1 "Borba", "Politika", March, 1990.
- 2 Open letter to the public from the Second Session of the Women's Parliament, June, 1991.
- 3 "The Warning", June 30, 1992, p. 2.
- 4 Ibid, pp. 5 and 2.
- 5 The Belgrade Women's Lobby, October, 1990.
- 6 "Politika", March 5, 1993.
- 7 Ibid.
- 8 "Borba", June 30, 1993. The statement is by Artemije, the episcope of Rasa and Prizren.
- 9 "Politika", March 27, 1993. The statement of Vasilije, the Orthodox bishop of Zvornik and Tuzla.

- 10 S. Adasevic, in the Radio-Belgrade II Channel program "Reserved for...", April, 1994.
- 11 "May God Help Serbs to Unite, Believe in God, and Multiply", the message by the bishop Nikolaj, placed as posters in the streets of Belgrade, October, 1992.
- 12 Rada Trajkovic, the president of the association "Homeland", July, 1991.
- 13 M. Mladenovic, "Politika", March 5, 1993.
- 14 M. Mladenovic, in the Radio-Belgrade program "Reserved for...", April, 1994.
- 15 Rita Thalmaum, "Être femme sous le III^e Reich", p. 137.
- 16 "Politika", July 20, 1993. A statement by Radovan Bakovic, professor of the Faculty of Philosophy in Niksic.
- 17 "Vreme", May 31, 1993.
- 18 M. Mladenovic, radio program, "Reserved for...", April, 1994.
- 19 Frances Kissling "Yo aborto, tu abortas, todos callamos", feminist paper "Voz de la mujer", Mexico, May, 1990, No. 4, p. 24.
- 20 Radmilo Jovanoc, physician, in "Politika", May 10, 1994.
- 21 S. Adasevic, in the radio program "Reserved for...", April, 1994.
- 22 S. Milosevic, in the text of the abolition of Danica Draskovic and Vuk Draskovic, July 1993.
- 23 Nicole Lraux, "Le lit et la guerre", in the journal "L'homme", Jan./Mar., 1981, XXXI.
- 24 "Borba", June 30, 1993, A statement by Artemije, the episcope of Rasa and Prizren.

Editor's comment:

From Ethnic Fundamentalism to Religious Fundamentalism

The article of Stasa Zajovic from the Women in Black-Belgrade rings a bell to all of us who live in multi ethnic, multi religious, multi cultural countries, threatened by growing nationalism- or communalism-, where the hatred of the Other closely entwined with population policies (as a mild form which can evolve into its drastic form of ethnic cleansing) put women at the forefront of these policies. Women in Black - Belgrade is a pioneering organisation which has maintained throughout the war in Ex-Yougoslavia the much needed links between women of different communities and has assisted all multicultural multiethnic and multireligious initiatives of women as well as worked with refugees from all origins in camps. They were the first ones to denounce the atrocities committed by the Serbian regime and the prostitution camps installed for the regime as well as the atrocities committed by the other communities and the brothels installed by the UN peace keeping troops. They also pointed out at the close link between the increase in war violence and domestic violence, thus showing war as an effective brutalisation of the whole society. Needless to say that Women in Black have faced repression within Serbia.

In this piece, Stasa, one of the leading figure of Women in Black -Belgrade, stresses the similarity between ex-Yugoslavia and Nazi Germany in their involvement of women in a form of motherhood which serves best the interests of a bellicous, expansionist, nationalist and racist regime. It appeared interesting to us to juxtapose to her article two pieces which were distributed at the Beijing NGO Forum at the UN Conference on Women, by women affiliated with fundamentalist groups. The first document, unsigned, reproduced in extenso, shows the proposed model of the Muslim woman in relation to morality and glorification of motherhood. The second document is a statement of the Islamic Research Academy Al-Azhar Al-Sharif, published by the office of the Grand Imam, addressed to the Beijing Conference. We have excerpted from it the paragraphs on women and morality, as well as motherhood and war. They illustrate, in the context of religious fundamentalism - the model analyzed by Stasa in the context of ethnic fundamentalism.

Document 1

Muslim women of the world:

Keep to your own religion and culture for your own health; reject the disease-ridden proposals of the UN!

Day after day, Muslim doctors all over the world are discovering the great prescriptions for good health in Islamic teachings given to us by our Merciful Creator, Allah. Medically, it has been concluded that all orders and lawful acts in Islam make you healthy, while all acts deemed unlawful and prohibited in Islam make you sick and ill. Allah has said in Al-Qur'an: "We send down in the Qur'an that which is healing and a mercy to the believers". (Chapter 17, verse 82)

The prescriptions for the good health of women in Islam are comprehensive, including the physical, psychological, social, spiritual and occupational sides of life.

For women only

Islam prescribes breast-feeding (lactation)

Women expose themselves to the risk of cancer of the breast and ovaries if they don't breast-feed their children. Also, their children can suffer from a large number of physical and psychological diseases if they are not breast-fed.

Islam prescribes pregnancy in marriage only

If a woman never has a pregnancy in her life she has an increased risk of contracting cancer of the womb.

Islam prohibits abortion

A woman can get cancer of the breast if she kills her baby through abortion, in addition to the many psychological and medical diseases and problems she may have.

Islam prescribes modesty by covering the skin and body parts in public

Women today develop skin cancer (malignant melanoma) through exposure to the sun while "sunbathing" naked or half-naked. In Britain alone there are over 40,000 cases of skin cancer each year, many of which are linked to nakedness and exposure to the sun.

Islam prescribes sex only with one man within marriage

Having many sexual partners can cause cancer of the cervix, especially if the male partners are uncircumcised. The risk is increased if the woman also smokes.

Islam encourages femininity, womanhood and motherhood

When women are prevented from being women they develop hormonal changes, psychosomatic diseases, stress, male diseases (especially when trying to compete vigorously with men). Many disturbed children and delinquents will result from the lack of true motherhood.

Islam prescribes a healthy, safe pregnancy

In most pregnancies harm to the mother and baby occurs through alcohol, smoking, drugs and sexually transmitted diseases, which are all prohibited and prevented by Islam.

Islam discourages contraceptive pills and devices

People taking contraceptive pills can develop blood clots, thrombosis and other health problems.

Islam optimises the physiology of the body of every woman by utilising all of her organs and not disrupting or interfering with them, as many women do today through a lack of breast-feeding, avoiding pregnancy and lack of motherhood. Islam encourages natural conception, pregnancy and birth free from health hazards.

Document 2

Source:

Excerpts from Office of the Grand Imam Statement of the Islamic Research Academy Al-Azhar Al Sharif: Pertaining to the 4th International Conference on the Status of Women to be held in Beijing, September 1995. Cairo: MWL Press, 1995, pp. 4-7.

'Plan of Action' refers to the main discussion and policy document for discussion and adoption by the government representatives at the Fourth International Conference on Women and Development at Beijing in September of 1995.

"...In their relentless and massive attempts to destroy the family structure, the promoters of the Plan of Action were not content to stop with casting doubt and confusion on the belief that the family is the basic unit and norm of society, urging parents to close their eyes at the perverse sexual practices of teenagers out of wedlock, considering these practices as individual and private matters, that neither of the parents has the right to interfere. They have the blazing audacity to declare that the concept of family in the sense stipulated by religion is nothing other than a lame concept according to them, because it does not accept or sanction free and unrestricted sexual relations between people of different age groups, lays condition that it should only be between male and female within the framework of Islamic Sharia, does not give these horrible libertines the right to set up families within their own circles. Al-Azhar completely adheres to the traditional forms of fatherhood, motherhood, and matrimony, while the Plan of Action considers these as a mere set of rules to which people are accustomed all through the ages, so they demand that their practice should be abolished to institute a society free of moral restriction and family ties.

Indeed, the promoters of the Plan of Action went even further than this in pursuit of their whims asking for radical changes in male and female relations by sharing out equally the functions between them, including the right of men to maternity leave, like women, and the same equality in inheritance insisting upon changing the laws which present an impediment to that no matter its origin...

...Islam has never known what has come to be called woman's problem, which is a secretion of an alien civilization founded upon exploitation and discrimination which is completely incompatible with the teaching of Islam, that men and women were created from a single soul, ordaining equality of rights and duties between them.

With regard to sexual relations, the promoters of the Plan of Action did not find it enough to give liberty to free sex for teenagers, male and female, to indulge in, but they proclaim it loudly in obscene, degrading, abhorrent jargon, which implies that it is the right of women and adolescent girls to choose the type of person she wants to assume, whether as a female or male, or in any other shape, that teenagers have the right to indulge in sex with whom they want, whether a man or woman, and that it devolves upon governments and governmental organizations to allow all such practices without let or hindrance, considering that prostitution presents no harm, nor is it illegal unless it is done by force.

By this way, the promoters of the Plan of Action have exposed their shameful contradiction to the teachings of all revealed religions, including Islam, which does not permit any sort of sexual relations except inside legitimate wedlock, between a man and a woman, and that is because Islam forbids adultery, fornication, homosexuality and lesbianism, and all what may lead to it, such as immoral gathering between a man and a woman, establishing equity between male and female without confusion or mixing up their entities, or casting a slur on the nature of either of the two parties.

Anyone scrutinizing the Plan of Action will clearly see a more dreadful violation of the human rights of all nations, and unacceptable tutelage upon states, and this can be clearer still in what the promoters of the Plan of Action have strictly taken religion as an impediment in the way of achieving complete equality between men and women, or can stand as a stumbling block on the way of implementing any aspect of their repugnant aims and objectives, and they force countries to plan educational programs and urge youth to shoulder sexual responsibility, according to their own vision and to satisfy their own ends, forcing governments to cut down military expenditure, reallocating the funds spent on buying weapons to the implementation of their own objectives. They demand governments to forward compulsory periodical reports on the weapons which they possess, whether they are nuclear, chemical, or biological under threat of the rich and developed countries to cut the assistance offered by them converting it instead to the funding of implementation of their objectives. The Plan of Action urges the International Monetary Fund, the World Bank, and many other funding organizations to actively strive towards achieving this goal, and granting non-governmental organizations including feminist activist movements and among them notorious feminist, the ability to exert powerful authority in supervising and reviewing whatever reservations governments may have against the Plan of Action prior to its cancellation whatever its source may be..."

Editor's note

The Hidden Politics of Cultural Relativism

Women migrants in Europe or North America have long started to denounce the dangerous softness with which oppressive laws, customs and practices against women, imported from our countries and cultures, are tolerated or encouraged in the host countries, - in the name of tolerance, of respect of the Other, of the right to difference, of putting at par different cultures or religions, etc...-

Like our own governments, governments of the countries of immigration are prepared to sell out the well being, the human rights and the civil rights of women, for the sake of giving in to the migrant community, solely represented, everywhere in the world, by its male members.

The collusion of patriarchies transcend most of the bones of contention between migrants and hosts.

This is why, amongst the many laws and customs that could have been imported from the migrants' culture, only those pertaining to women, the family and the private sphere are viewed with such tolerance.

For instance, no host country will tolerate the amputation of the limbs for thieves (as is the law in countries such as Sudan, Pakistan and the Gulf countries), while, a few years ago, the Dutch Parliament went so far as discussing the possibility of allowing female genital mutilation on the Netherlands' soil for those migrants who practice it in their home country! FGM has been tolerated and performed in hospitals in Italy and in Britain.

One of the major problems women face in their country of immigration is that liberals and progressive people, for fear of being accused of racism and of imposing their own cultural values, fail to take a feminist and human rights stand on such issues - thus unwittingly participating in the construction of Otherness (in our case "Muslimness"). By doing so they fit perfectly in the agenda of fundamentalist forces whose major task at the moment is the construction and imposition of a single uniform (be it religious, ethnic or cultural) identity amongst the migrants.

We present here two pieces: a declaration by Iranian women in Sweden which is an outcry against cultural relativism in Europe. It is followed by a short ironical piece, starting as a tale, in response to a special issue on racism of a German feminist journal published in 1993.

Their Culture, Our Culture

Muslim Migrant Women in Europe

Condemn Cultural Relativism

A thirteen-year old girl is murdered by her parents in Egypt because she did not wear the veil properly. A teenage girl was killed by her muslim father and brother in Sweden because she would not marry the man chosen by her family. Taking into account the cultural background of the family, the Swedish judicial system gives the offenders a milder punishment. A girl is beaten to death by her mother, sister and brother in Britain because a Muslim witch-hunter decided that she was possessed by evil spirits. The British court ruled that the family of the girl did not intend to kill her, they wanted to help her! There are many such horrendous events happening against women all over the world daily.

The issue is not that people do not know about them. The news of atrocities of all kind, from war, starvation, mass murder to suppression of most basic human rights reaches homes every day through the mass media. Who does not know that women in Iran, for example are forced to obey Islamic rules which mean suppression, humiliation and lack of rights for them?

Who does not know that women are less than second class citizens in Islamic countries?

The issue is not even feeling sorry and sad for the people subjected to these atrocities. The issue under question is the attitude that accepts these crimes as part of today's reality and further justifies them by saying that "these people have chosen *their own* destiny"; "This is how they want to live"; "It is *their* culture"; "We have our *own culture* and they have their own"; "We should respect their culture and do not interfere in their affairs". In other words they say women in Iran enjoy not having the right to divorce, the right of custody of their children, or having to wear the veil, or getting permission from

their husbands or fathers to get a job or travel abroad! They are thrilled about the law which punishes them with stoning or execution if they do not obey the anti women laws!

The Islamic Republic of Iran sends its representatives to China to tell the world that 1) women in Iran are as active and equal, if not more, as women in other parts of the world; 2) even if there are some issues that show a view contrary to the former, it is because of tradition and culture of the country. The question here is who benefits from respecting different cultures? Is it the woman who do not have rights or the State which relies on it medieval laws for survival? Is it the 9 year old girl who, according to this "culture", is mature enough to marry, or the representatives of the respecting government who sit in the conference hall right now? We need not go further. Let us look at the issue from another angle. If we are not supposed to interfere in other people's affairs, it means that for example, when the government of a European country closes nurseries or lowers wages, we should not protest and should accept it as their business and culture! Who benefits from this passivity? Have you ever seen parents of these kids cheer for the government or the workers thanking it for less income? Obviously not.

Introducing and defending any reactionary and suppressive measure against people in any circumstances and especially under the name of respecting different cultures is condemned because it is against humanity at large. One can not regionalize basic human rights. One can not have thousands of sets of standards for women's rights. One can not approve the provision of maternity leave as a progressive demand and right in one country and believe that such right does not suit the people of another country. One can not say war is bad but as long as I and my family are not involved, the warring parts can fight as long as they want. One can not say wearing the veil is a terrible thing but if these people want their little girls wearing them, it is their business. Human rights and in its light, women's rights, are international and character and substance. Why is it that technology, spread of business and capital soon find their international role and place even in the most backward tribal village but welfare, high standard living, education etc. linger on for many years if introduced at all? When some people in Europe are treated differently and excused because of their "culture" not to follow general norms on non-segregation at schools and swimming classes, then one can expect that women's rights are trampled on in their countries of origin as a matter of routine. The victims of such policies are not restricted to those who are involved directly, it is offensive to the whole humanity. In this sense, violation of women's rights in Iran is a blow to women's rights internationally.

It is in this spirit that we:

- Condemn cultural relativism and demand universal rights for women in Iran and all over the world;
- Condemn the Islamic Republic of Iran for its systematic harassment of women. So long as this government is in power women are denied any rights in Iran;
- Demand separation of religion from the State.

*International Campaign for the Defence of Women's Rights in Iran
Beijing, September 1995*

Source:

International Campaign for the Defence of Women's Rights in Iran
KFKI,
Box 3162,
145 03 Norsborg, Sweden.

The Original Sin and Internationalism

Marie-Aimée Hélie-Lucas

Once upon a time there was a people called North which was white and rich, and a people named South which was non-white and poor. The people North exploited, attacked and killed the people South according to their needs. This was because the Northern people was bad, terrible, and had (almost) all the vices, and it was born so: such was its nature.

Even "Those who tried to cleanse themselves of the original sin" (one of their tribes) were sad because of their impotence to free themselves of the curse which operated potentially, and was rooted ontologically in them, even when they were very wise.

All their dreams were directed to the poor people South, so exploited, so courageous, so oppressed, so rebellious, so wise, etc... This was because the people South had (almost) all the virtues - also by nature (Or was it due to geographical location? Could one gain their virtues by emigrating to their lands? That was one of the dreams)... "Those of the North who tried to cleanse themselves of the original sin" sometimes followed their dreams to the South; there they were beating their breasts, demanding publicly (as publicly as possible) pardon for the faults of the people North, and begging the people South to aid them to change. (Such processions of penitents were sometimes cut short by the poverty, the filth, the mosquitoes and the other things that ate up the Southern people. And, when one is not accustomed to such things, madam, well it's tough! But those people there are so good, so gentle, they give you the shirt off their backs, etc).

Sisters, stop telling yourselves tall tales and believing in fairies! A dichotomic vision of the world is an obstacle to internationalism. It settles

you comfortably, yes, comfortably in a position of impotence - and this despite the state of your soul concerning your original sin and the colour of your skin. You are not, however, impotent. Because you analyse, think, and organise yourselves against imperialism and racism.

The only thing lacking amongst you is a demystification of the 'South', the 'Third World': whatever term you rig us out in, it is equally inadequate. Because it confirms the idea of a world in which the good and the bad are geographically determined. Racism is not your monopoly, far from it. And we, we don't talk about our racism, we hide it: therefore we do not analyse it, organise ourselves against it and fight it - either in ourselves or in the civil society.

Look, you have a major advantage over us. Heaven could be praised if we had anti-racist organisations at home. I have travelled a bit and neither at home nor elsewhere in 'the South', have I found these. Yet, our countries are racist, very racist, perhaps amongst the most racist in the world, just because racism feels at ease here, has no finger pointed at it.

It deploys itself under the protection of concepts you have contributed to spreading, to theorising, blinded by your white guilt, and which comforts the little crooks who, within our countries and our highest bodies, exploit racism to their own profit.

1. Firstly there is anti-white, anti-Western racism, which you are always ready to understand and excuse as a legitimate response to imperialism. This is a scandal! Are you prepared, in your own countries to tolerate racism against immigrants on the grounds that your proletariat or sub-proletariat suffers so severely from the economic crisis? Are we, in your eyes, too primitive to have demanded from us the taking of political positions in response to specific economic and social situations?

Why do you tolerate this, our basic but level racism? Are the Westerners, the whites, an undifferentiated and atomised mass of similar and equal individuals - all imperialists - or do you also have classes, races and sexes, within which our allies struggle? Are we similarly an undifferentiated and atomised mass of individuals, without classes, races and sexes? Do you not see amongst us our national bourgeoisies, - comprador, or contenting themselves with the crumbs their master throw them in passing - allied to imperialism, to which they throw our gates wide open?

We cannot identify ourselves with anti-democratic regimes in our countries, any more than you who struggle withing the 'North' can carry the banner of your imperialist states. If your governments (not you), produce and sell arms, despite your courageous opposition, it is because our governments (not us, against whom they are used) buy them. Just as they buy for their own benefit the ruinous equipments and myths of 'development'.

Stop denying the fundamental role played in the South by our bourgeoisies, our feudal castes, our military and our bureaucrats, in the expansion of imperialism, and the complicity of anti-democratic powers amongst them (from North to South and vice versa). Stop beating your breasts about what your leaders do in your name and despite your struggles. Identify your allies in the South: they are in a minority, just as you are, but nothing will be achieved without our coming together - free of scoria of your guilt and that of our good conscience as the long defeated, as the ex-colonised, which feeds our present basic racism.

The official dogma of national unity, favoured in all our countries, conceals xenophobia and allows it to flourish - a weed, a devouring parasite, a nursery of Hitlers and Le Penists. Whilst opening wide their arms to 'your' multinationals, arms and development, 'our' governments favour the expression of popular discontent, in the form of a racism toward you - individuals, whites, Westerners - thus preventing up from making the necessary alliances.

2. Once released, the racist snake does not satisfy itself with just one prey. All our countries exercise their xenophobia against our national minorities as well as toward non-white foreigners. You never speak about this. Neither do we.

You quite rightly use the word racism for the rise of anti-semitism in your countries, or about the laws and practises discriminating against minorities or immigrants. When similar phenomena appear in our countries, you cover them with justificatory exoticisms such as 'inter-ethnic' or 'tribal' conflicts. Those who govern us are neither stupid nor crazy, so they adopt these excuses for themselves.

Meanwhile, right-extremist Hindus massacre Muslims, just as right-extremist Christians massacre Jews, and the right-extremist Jews massacre Muslims just as the right-extremist Muslims massacre all those who differ from, or do not submit to, them.

In Algeria, my own country, the whites of the North throw stones at the Blacks of the South. (Here is a brand new North and South for you: everyone has their own Souths). But we have neither an SOS Racism nor MRAP (Movement against Racism and for Friendship between Peoples or Rock Against Racism), so that blacks can organise protest and be protected. Official ideology denies this rock in the garden of national unity. And the democrats, the liberals, the progressives, the women, do not have the courage to betray the myth and proclaim the truth, of which every visitor from Sub-Saharan Africa has experience - just as do the Southern Algerians. This concealment of our own racism smothers us, prevents our advance.

Sisters, don't participate in this lie. Although you are doing a good job in denouncing your own racism and that of your own country, nothing will change till we do the same.

Your present definition of internationalism is a one-way one, running from you - the Rich White North - to us, whom it is necessary to 'aid' or 'develop'. Understand this: that we are hand in glove together at a quite different level and that internationalist practice can only develop on a basis of equality; that - beyond all guilt and myth, and considering history here and now - our struggles reinforce each other's. When we write on our racism the kind of articles you write on yours, you will have a more global, less 'white', vision of the situation. And so will we.

A liberatory process, to our common benefit. Unfortunately, back at home 'in the South', we still have a long way to go.

The Campaign for Women's Emancipation in an Ismaili Shia (Daudi Bohra) Sect of Indian Muslims: 1929-1945¹

Rehana Ghadially

Introduction

At the beginning of the women's emancipation struggle among the Muslims of the Indian sub-continent access to education and the campaign against *Purdah* were the main points. The late nineteenth and the first half of the twentieth centuries were characterized by considerable debate on these issues in the Muslim community, throughout India. The reform effort by men on behalf of women was sparked by the considerable progress made by other communities in India and was inspired by changes taking place in Muslim countries of the Middle East. Beginning from the early nineteenth century the status of women was an issue of concern to male upper caste and class Hindu reformers. Their early efforts were directed against certain customs such as sati, and sanctions against widow-re-marriage that were detrimental to the status of women. Later, they tried to educate women and bring them into public life. In South India the campaign was on to suppress the *devdasi* (temple prostitution) system. By the second decade of the twentieth century, reform efforts were not exclusively confined to men and several all-India level women's organization run by women emerged to champion women's rights. The kind of reforms they advocated were female education, the franchise and changes in the Hindu Personal Law

affecting marriage, family and property rights. Following 1930-32 when women made a tremendous impression through their involvement in nationalist agitational politics, all petitions requesting legislative changes or other moves to improve the status of women were prefaced with reference to what women had done in the nationalist movement (Everett, 1978).

In the post World War I era, changes were occurring throughout the Muslim Middle East. The pressure of many forces such as rapidly extending network of communication, expansion of world knowledge through the press, Western material goods, new forms of amusement, Western impact of secularism and nationalism, etc, loosened the control of Islam as an iron clad system of rules and traditions giving way to a more individual interpretation of Islam. The most debated point in orthodox Islam was its social system, based on the seventh century, and since the central fact of this social system was the position assigned to women, the re-interpretation of religion sought to harmonize the emancipation of women with the spirit of Islam. Education, veiling, polygamy, divorce, age of marriage, etc, were topics of intense debate. The problem resolved itself along two lines. One exemplified by Turkey which chose to repudiate the inviolable authority of religion over the state and society and engaged in the pursuit of progress as a single goal. The rest of the Muslim world followed the second course set by Egypt which attempted to keep all social reforms within the spirit of the law. This new spirit of liberalism deeply affected the lives of women and a small minority began to question the relationship between the accepted teachings of Islam and the demands of the modern world (Woodsmall, 1936).

In India, although the Muslim orthodox influence was dominant, two movements in Northern India represented a liberalizing influence through a re-interpretation of the Koran - the Aligarh and the Ahmadiyah movements. The educational influence of the Aligarh movement radically changed the Muslim outlook. The Ahmadiyah movement, on the other hand, was concerned primarily with the social teachings of Islam in terms of modern progress. Both had an effect on the gradual emancipation of Muslim women. Sir Sayyad Ahmad Khan (1817-1898) - the pioneer of the Aligarh movement while in favour of Western education for men was only modestly reformist when it came to women. Although he argued that *Purdah* was not sanctioned by Islam nor was the denial of female education, it was his view that women's education was to emphasize moral and spiritual values. He opposed higher education for women along Western lines and acted as a break on the more radical reformers in the Mohammadan Educational Conference established in 1886. A more spirited advocate of women's rights in Islam was Sayyid Mumtaz Ali. He waited until the death of Sir Sayyid Ahmed

Khan in 1898 to publish his book *Huquq al Niswan* (women's rights). The all-India Muslim Ladies Association an off-shoot of the Mohammadan Educational Conference founded in 1914 and controlled primarily by North Indian Sunni Muslim, in its meetings between 1914 and 1920 passed resolutions centering around the promotion of women's education, relaxing *Purdah* rules and abolishing polygamy. Despite these resolutions little was accomplished in actuality (Minault, 1981; Mumtaz & Shaheed 1987).

The little that was accomplished was in the area of education. By the early twentieth century schools for Muslim girls with some Western content opened in a number of cities (Mumtaz & Shaheed, 1987). The opposers of higher education for girls were influenced by *Purdah* considerations. The struggle to modify upper class *Purdah* practices is best depicted in the writing of Rokeya Sakhawat Hossain (1880-1932) described by her biographer as "the first and foremost" feminist of Muslim society in Bengal. "Avarodhbashini" one of her publications linked forty-seven incidents. As *Purdah* excesses into a denunciation of the oppression of women (Jahan, 1988). Coming out of *Purdah* had begun in the upper class and by the law of imitation was working down. Begum Hamid Ali in Baroda, Mrs Tyabji in Bombay, Lady Shafi and Lady Abdul Qadir in Lahore, were pioneers and because they represented wealth and prestige they invited imitation. (Woodsmall, 1936).

In the South, Iqbalunnisa Hossain spoke and wrote against the *Purdah* system. By the 1930's *Purdah* was a subject of intense discussion in almost all the Ladies Associations, anti-*Purdah* resolutions were passed but with no satisfactory results (Hussain, 1940).

Methodology and Objective

This paper focuses on the campaign for women's reforms in the Daudi Bohras² - the largest Ismaili Shia sect in Western India, as carried out in their reformist journal titled *Aagekadam* (A Forward Step). Between 1936 and 1944 under the editorship of Adamali Jiwajee, this Gujarati monthly was published under the auspices of the Young Men's Bohra Association from Karachi. Women from elite, progressive families with a modicum of education, some awareness of the world around them and a commitment to social reforms were invited to contribute to it. These women had received secular education in missionary schools, schools managed by Gandhians and the Parsi community. Some reforming *sethias* had chosen to live away from Bohra *mohallas* (locality) and had encourage the family women to give up the *Purdah* (Ghadially, 1993).

Aage-Kadam provided a forum to present and discuss progressive ideas and was devoted to discussing community issues especially the

ongoing conflict between the reformists and the clergy. For the first time a Bohra reformist journal besides focussing exclusively on the conflict carried not one but two special section on women. One was *Stree Vibhag* (Women's Section) edited by a woman - Ms. Shireen Shirajee. It consisted of articles written by Bohra men and women, and Hindu and Muslim women of other communities. The other section *Stree Jagat* (Women's World) carried news about women around the world and India on topics of health, political participation and issues debated in women's gatherings especially gatherings of Muslim women. In addition, some news about women was carried in *Jagat Darshan* (World News). The target audience for the three sections was both women and men.

In addition to examining *Aage-Kadam*³, the paper also looks at the debate generated by the campaign. And published in the widely read, Parsi managed, Bombay based, Gujarati newspaper called *Bombay Samachar*. (The newspaper carried a special column titled *Mukbire Islam* (Islamic news) where letters written by the Muslim castes (Bohras, Memons, Khojas, Konkani, Muslims, etc...) of Western India were published. Later a special column was run specifically for the Bohras and was called *Vohra Vartman* (Bohra News)⁴. While the paper had a distinctive progressive stand it nevertheless presented the views of both the orthodox and progressive stand section of the respective communities). For the purpose of this article, the newspapers of the 40's and 50's decades have been examined.

The extremely meagre work (Minault, 1981; Jahan, 1988) focusing exclusively on the Muslim campaign for women's reforms in India centers around the North Indian Sunni sect and the Bengali women. Minault (1981) theorizes that movements are heterogeneous in nature and the Indian women's movement must be broken down in order to be fully understood. By focusing on the prodding for reforms among the Daudis this article will add to the understanding of the Indian women's movement and highlight the multiple feminist tradition in the same country. She further states that until recently scholarship on the Indian Muslims has been particularly prone to a monolithic approach, but the Muslim community in India is ethnically, linguistically, doctrinally and politically diverse. The paper will highlight the fact that within the same religious tradition the major issues confronting women were similar but there were also some differences. Lastly, the data here will supplement the existing meagre literature on the topic. The paper will address itself to the pioneers of the movement, the kind of reforms advocated, the justifications offered, the new women they hoped to construct and the debate generated by such efforts.

The Shia Sects⁴ and Daudi Bohras of Western India

By the end of the nineteenth century, it was apparent in Western India that much of the reform work of the last three decades had been forced into communal channels. The Parsis, the Hindu Gujaratis and Maharashtrian communities had established their respective societies and reformist papers which among other things championed the cause of women such as female education, widow remarriage, raising the age of marriage, etc; and settled disputes between the reformists and the caste leaders/orthodox section by appealing to an external authority viz; the British courts (Dobbin, 1972). As a result of this campaign, the world of women was extended to encompass two new segregated institutions, the girl's school and the ladies association (Pearson, 1990). However, those Gujarati Hindu castes which had been converted to Islam still retained a highly centralized form of caste organization, generally complicated by the addition of an Islamic head.

Unlike the Parsis and even the Hindus, the Muslims possessed no order of priesthood which could be completely separated from the social organization of the community or from the authority pertaining to its headship. Nor could they separate their communal life into secular and religious compartments. But as some of these Muslim castes⁵ migrated from Gujarat to Bombay in the early nineteenth century, they left many of their traditional loyalties behind. The reforming *sethias* (male elite) among the Ismaili Shia Khojas were the first to challenge the cast leadership and push a head with their efforts to enlighten the community. By the end of the century the younger generation of reformers attacked the community's ignorance in which the Agha Khan, the caste leader undoubtedly acquiesced. They said the following of him.

“He should also himself sincerely encourage education, male and female, as well as true Mohammedan religion among the Khojas whose position, both secular and spiritual, as it stands even at present is a very dubious one in the eyes of civilized Mohammedan world” (Dobbin, 1972 ; p. 120).

The Agha Khan was quick to move and besides education, he relaxed *Purdah* rules and he writes in his memoirs “I have abolished it, nowadays you will never find an Ismaili woman wearing the veil” (quoted from Papanek, 1982; p.16)⁶. Among the Ismaili Shia Bohra sects, the Sulaimanis and Mahdi Baghs discarded the practice of *Purdah* by the late nineteenth century (Singh, 1987). The Tyabji women of the Sulaimani sect emerged from *Purdah* in 1890s, a development of which the family was immensely proud. Badruddin Tyabji as the first Indian barrister in Bombay, mixed professionally

almost entirely with Europeans. He first encouraged his wife to introduce *zenana* parties made up of ladies of various communities. Then she learned some English and began meeting European women. The distinction of first discarding the veil altogether went, however, to one of the judge's nieces, Mrs. Ali Akbar Fyzee who went to England in 1894. Then in 1898 another niece, Mrs Hydari followed suit in Bombay itself at a party given by the Parsi, Jamshetji Tata. As a pioneer of modernization and westernization, Badruddin Tyabji presented a spirited attack on *Purdah* and early marriage in Bombay at the Mohammadan Anglo-Oriental Conference in 1903 (Wright, 1976).

A lead in various emancipations had been by other Shia sects such as the Khojas, Sulemanis and Mahdi Baghs in western India, but the Daudis were considerably slower in challenging the authority of their religious head known as the *dai* or *Syedna*⁷. They seemed to have remained peaceful throughout the century and were completely, submissive to him. They gave him one fifth of their income and accepted his decision on both religious and civil questions (Dobbin, 1972). While the sister Khoja community was challenging the religious leadership the leading Bohra *sethia* - Sir Adamjee Peerbhoy strengthened the clergy by his various contributions and philanthropic activities and not contesting the clergy's authority (Wright, 1975). As a result reform efforts were considerable slower in taking off. This despite the fact that the Daudi sect being a business community had established trading contacts with the British and were exposed to European influence at an early date.

It was only in the early 40's that the clergy relaxed *Purdah* rules and accepted higher education for girls. Writing on competitive modernization among the Daudis, Wright (1975) observes:

"the impact of the second world war was felt, young women had begun to come out of *Purdah* to take jobs, young men began to resist the traditional requirement that they grow a beard before marriage and wear the Bohra gold turban. Taher Saifuddin (the high priest) was showing himself reluctantly willing to move in the direction of social change but the reformists were probably correct in their claim that his concession came from their prodding them from any initiative comparable to that of Aga Khan III of the Khojas" (p. 161).

A Beginning

The progress made by other communities did not go unnoticed and by the turn of the twentieth century some Daudi *sethias* initiated a campaign for vernacular education for boys and girls, Anglo-

vernacular education for boys and sought political autonomy and financial accountability from the clergy. By the turn of the 20th century in towns where Daudis were in substantial numbers *madresas*, where, Arabic, the prayer and Koran were taught were extended by reforming *Sethias* into vernacular schools for boys and girls. Efforts to get Anglo-vernacular education for boys off the ground and demands for financial accountability met with stiff opposition for the clergy and the orthodox section, resulting in lengthy and expensive court cases⁸. (Added to this was the constant pressure, which the *sethias* tried in vain to fend off viz; to seek permission from the clergy for starting community welfare ventures such as running a library or opening a dispensary. To keep the reforming *sethias* in check discipline was enforced by fines, social boycott threat of excommunication or excommunication. In a small tightly knit community, this was devastatingly effective. The religious leaders ultimate sanction - the right to excommunicate recalcitrant Daudis was challenged in the court in the 1930's (Engineer, 1980). To pay for the costly litigation, the religious leader centralized his financial power over the community by compelling wealthy Daudi Trustees to deed over to him their religious endowments under the threat of excommunication and by the turn of the century in addition to the traditional spiritual power the clergy assumed a growing power over secular/temporal matters over the followers (Wright, 1975).

In these early reform efforts, with the exception of vernacular education for girls, women's issues per se received no attention. Shirajee (1937) the editor of the 'women's Section' of *Aage-Kadam* accused the early reformers for not having taken up the issue of women's rights and independence. The aim, she stated, was to champion boys education, men's rights and independence from priestly authority. She exhorted that unless male editors make an effort for the advancement of women, men's progress will remain elusive. With regard to Khanbai Amiji - an early pioneer of modern education and editor of a reformist journal *Bage-E-Momin* she complains:

"What has Kaka Khanbhai done for women? Kaka Kanbhai was a champion of women's right and *Bage-E-Monin* was published for the rights and freedom of men. In this fight for freedom I wonder if he ever thought about women. Could he not recognize that until women are slaves men will not be free" (*Aage-Kadam* Aug. 1937 p. 83).

The only exception was Tayabali Alavi - a leading *sethia*, philanthropist and educationist in Karachi who championed the cause of Anglo-vernacular education for girls in 1920, met with opposition from the orthodox section and had to abandon the idea. He met with

success only in 1930⁹ (Female Institutions of the Hasani Academy Society, 1947).

After thirty years into the century it was quite clear that the reformers efforts had produced little or no results. Their work and the issues raised by them were sustained by the next generation of reformers. In December 1929, at Karachi, seven young, radical, elite men got together to discuss the commercial downfall of the community, came to the conclusion that educational backwardness was the major cause of it. They formed "The Young Men's Bohra Association" (YMBA). (Also known as "The Bohra Youth Association" and within a short time almost all the educated Bohras in Karachi were on its role). The main purpose of the YMBA was to promote education and other necessary reforms and thereby pull the community to a level at which other sister communities were. Women's emancipation was perceived as an essential prerequisite for both the community's progress and state building and emerged in the context of the sect's drive for greater political autonomy from the clergy and national liberation (The Excommunication and After, undated 1935). The leading member among the younger generation of reformers - Hatim Alavi - the son of Tayabali Alavi was described as an intellectual and liberal in his politics and had traveled extensively to Europe, Turkey and Persia in 1924. He had been drawn into the Home Rule movement and was one of the leaders of the agitation in Karachi against the Rowlatt Act.

Both generation of reformers came from urban, elite background, had been influenced by Gandhi's nationalist agitation but whereas the previous generation focused on Western education for boys and the political repression by the clergy, the younger group, in addition, concentrated on enlightening the sect members and sought to emphasize Anglo-vernacular education for girls and related issues for women's emancipation. A more important difference was that unlike the early reformers, they had taken advantage of Western education available both inside and outside the community, recognized the need for involving the emerging female intelligentsia to speak, write and organize on women's behalf and clearly saw the link between women's progress and the success for wider reforms in the sect. *Aage-Kadam* begun in 1936 became the mouthpiece of the YMBA and continued to be published until the end of World War II.

Women's organizations play an important role in the struggle for women's rights and at the time that *Aage-Kadam* the organ of the YMBA was started, it also started "A Daudi Bohra Women's Association" in Karachi. It had as many as sixteen aims among which were encouragement of Anglo-vernacular education for girls, learning of domestic and childcare skills, holding seminars,

encouraging thrift, inviting women to contribute funds for the wider reform cause and arrange for the inclusion of articles in the women's section of *Aage-Kadam*. It had initiated income generating projects for poor and widowed women. On request it issued guidelines to start similar associations in other parts of the country. However, in the one and a half years of its existence it had achieved little by way of reform¹⁰.

The Campaign and the Debate

With the exception of a privileged few, the life of a Bohra woman was likened to that of a "slave" "owned by a man" "too ignorant to exercise her rights granted in Islam" and her condition described as "pitiabile" "suffocated" and "paralysed". Learning Arabic to recite the prayer and Koran passed off as education. She had to depend on a student of a different community to read and write a letter to her husband. The low position of women, the various traditions existing in the community were variously attributed to men but more importantly to the clergy's version of Islam. An article translated by Ms. Nargis read:

"There is the Islam of the prophet and that of the clergy. The difference between the two is that between chalk and cheese. Clerics Islam is full of customs and old traditions. Clerics Islam tells people to sport a beard and keep women in the homes. The clergy's Islam is strong in society and this explains the low position of Muslim women in society today" (*Aage-Kadam* Apr.-May, 1937, p. 53).

At another place Ms. Shirajee, the editor of the "Women's Section of *Aage-Kadam*" states:

"Due to men's stupidity women are crushed. Men think of women as a tool of entertainment. They have deprived women of their rights and trampled on them. Because of men's domination, she sticks to customs, tradition and shariat and allows herself to be crushed" (*Aage-Kadam* Oct., 1937 p. 25-26).

What kind of issues were addressed to pull women out of this backwardness? What arguments did they put forward to justify their demands? What kind of women did the young band of reformers - men and women - sought to create? Did the campaign challenge women's traditional role and male authority? How did it define emancipation - well-versed in domesticity or individual autonomy? Did the campaign generate debate in the sect members and what was the nature of this debate?

The campaign for reforms centered around education and abolishment of the custom of *purdah*. *Purdah* here refers to both

giving up the veil and expanding the public space for women. These demands were justified on religious and rational grounds. In pre-Islamic Arabic the status of women was low but Islam gave women, a high status, granted equal rights to men and women and accorded women rights which were not granted in other religions. These rights were gradually eroded over time. The most important rational justification was that the winds of progress and modernisation were everywhere and it was important for the community to emulate the progress made by women of other communities in India so as to raise the status of the sect in the eyes of sister communities. Another argument centered around changes made in the role and status of women in Muslim countries. The underlying theme was the community's progress and women's emancipation became the symbol of that progress.

Across the board the arguments put forward to encourage new activities among women were traditional. The prophet's Islam made it incumbent on every Muslim - man or woman - to seek knowledge. Not to give woman education would be anti-Islamic. The purpose of education was to perfect her traditional role as wife, mother and home-maker and thereby improve the tone and quality of domestic life. Mothers were perceived as important socializers of children and an educated mother would instill the importance of education in children. Mother's education meant the education of entire mankind. Education was also perceived as instilling certain qualities in her such as bravery and independence - qualities which she would then encourage in her children. An educated woman would also be thrifty and would not spend money on costly clothes, ornaments and dinners. Besides, an educated woman would ensure domestic peace and harmony. An uneducated woman indulged in petty quarrels which set a bad example for the children. These quarrels also kept men away from homes and in the cinemas, bazaars and clubs. An educated woman would understand her domestic and wifely rights and this would ensure love and happiness in the home. Mr Akbar writes:

"An educated and lovable woman is a precious ornament for a man and gives more relaxation and happiness to a man than precious stones at the bottom of the sea. As you approach closer to a reformed home you will get the smell of *mogra* flowers" (*Aage-Kadam*, Aug. 1938, p. 33).

If one were to go by the articles and letters of the 40's and 50's decade in the *Bombay Samachar* it is quite evident, as will be elaborated later, that unlike the fierce and prolonged debate aroused by the campaign to give up *purdah*, higher education for girls did not arouse similar passion. This was because by the early 40's higher

education for girls was not only officially accepted but actively encouraged by the clergy class. The *Sydena* on the occasion of his golden jubilee celebration announced the starting of funds to build a high school for girls in Bombay and in the meanwhile parted with his own property to run the school temporarily in a building at Bhendi Bazaar. There was considerable praise for the *Syedna* and of all the issues confronting the community, his acceptance of female education was perceived as constituting the biggest shift in his thinking. The reformists alleged that it was their campaign and the successful running of a high school for girls by the reforming *sethias* in Karachi that had pushed the clergy to finally act. While this is true, at the same time, it cannot be denied that sweeping changes were occurring on the Indian sub-continent and the clergy's inaction on the matter of female education would have made him look positively archaic. For example among the Parsi and Hindu castes female education was no longer a matter of debate and as early as the 20's Parsi and Hindu girls were attending college and going on to the University. Besides, chapter meetings of two All India Women's Congress were held in Bombay at this time and while female education was still on their agenda, it was concerned less with acceptance and more with its expansion. The all India level women's organizations had moved to issues considerably closer to women's hearts viz, equal rights with men in matters of divorce, inheritance etc.; (Everett, 1978). Also at this time the issue of higher education for girls was being discussed and encouraged by other Muslim sects in Bombay. The news on the progress made by the women of these castes was carried in the *Bombay Samachar* of this period. It must also be mentioned that despite the clergy's fatwas against English education, throughout the early part of the twentieth century, Bohra girls of elite and reformist families had attended schools managed by missionaries and other communities and later well to do Bohra families were sending their daughters to these schools. To counteract this trend a community managed high school for Bohra girls was necessary (Ghadially, 1993).

The 50's decade saw the starting of high school for girls in small towns. But indifference was still the order of the day. A high school in the town of Shidpur ran into financial difficulties and no *sethia* was willing to come forward and prop it up. When the high school in Bombay started operating there were allegations of mismanagement and indifference. It is also pertinent to note here that while there was euphoria and enthusiasm in the sect, higher education for girls was considerably diluted by reminding the sect of the purpose of female education.

The purpose was to prepare her to execute her traditional roles in a better way and not to encourage the pursuit of a career or autonomy. A quote from one of the letters will suffice:

"But what should be the nature of this education? This is also problematic. The fact is that they should be given such an education that they become adarsh wives, adarsh mothers and adarsh domestics. They must always be kept away from loose education. Otherwise they will become fashionable women who want to become filmstars. They should stay within the limits drawn by God". (*Bombay Samachar* 28th Dec. 1940).

The practice of *pardah* was seen as the most important barrier blocking the progress to women's education and preventing their participation in public life. In 1936, Ms. Shireen Mandviwalla, an educated *pardah-observing* woman and a member of the local Muslim ladies association in Karachi delivered a public address which ran thus:

"...and many of us yearn for the day when life behind the *pardah* will be an event of the past" (*Age-Kadam*, 1st issue, 1937, p. 81).

Six months later when her father sought permission for her *nikkah* (marriage) there was delay and the clergy explained in a letter to her father that the delay was due to the daughter's many activities against the holy shariat. The marriage would be solemnized provided she recant her views on *pardah*. She challenged the clergy to show if *pardah* was sanctioned in the Koran and when this was not forthcoming she refused to apologize and was subsequently excommunicated. Among the reformists, the debate on *pardah* was fuelled by the excommunication and the argument ran that *pardah* was not sanctioned in the Koran but was introduced at a later date. If it was sanctioned, the prescription was less solidly grounded than it appeared and was usually the subject of intense controversy. Lookmanji highlights the controversy in the following way:

"Those who favour *pardah* are themselves divided as to when this custom started and how much of a woman's body was it expected to cover. After scrutinizing the same texts commands and laws, there is difference of opinion as to whether *pardah* is sanctioned by religion or not. We must not take a religious view but judge a custom in terms of the progress it brings to mankind". (*Age-Kadam*, Apr-May, 1937, p. 25).

The gist of the rational argument was that the spirit of changing times demanded that freedom be given to women and also sought to highlight the ill effects of the custom. *Pardah* censored religion, curtailed righteousness, damaged health, blocked knowledge and affection. The perceived fears of unveiled women viz; "women would disobey and be free of all restrictions", "start earning money", "do immoral things" and "go astray" - were attacked as baseless and examples were drawn from Hindu women. The same author writes:

"Brahmin women in Maharashtra have relaxed *pardah* rules. Are they free of all restrictions? Have they become prostitutes"? (Aage-Kadam, April-May, 1937, p.26).

The work of the reformers was not limited to writing and debating. Whenever the opportunity for action arose they were quick to seize it. The campaign for swadeshi goods, engineered by Gandhi had mobilized women across the country and Hatim Alavi, the Governor of Karachi wanted Bohra women to participate in this historical moment. For the first time in the history of Karachi, special arrangements were made for a few hours every Friday to keep the All India Industrial Exhibition open exclusively for the advantage of *pardah-observing* women. On the surface of it, the action seemed to contradict the campaign for the abolishment of the veil. The main purpose, however, was to get women to come out of their homes, mingle with women of other communities in public places and be exposed to new developments in the country in this case an appreciation for indigenous textiles. The women were assured that the only men present would be the shopkeepers and the volunteers. Some orthodox men questioned this and announced in the mosques that no *pardah-observing* woman should go to the exhibition. Ignoring the order and spurred by a national spirit a large number of women attended the exhibition and the orthodox men agitated outside the hall. A few among them were blind-faith women and they even carried money ready to pay a fine for breaking the *pardah* rule.

According to the reformers the agitation only served to highlight the arbitrariness of the observance of the custom in the community. Monpuri focuses on the arbitrariness of the clergy and the orthodox section in the following way:

"Some asked whether there will be men inside and then how will *pardah* be observed? I ask them when hawkers come to their houses then how do *Purdahnasheen* (*Purdah-observing*) women negotiate with the cloth merchant? To sit in the back of the car and peep outside the window. That is ask what kind of *pardah*? In mosques during *wahez* (sermon) and *majlis* (shite dirge) women look down from balconies without *pardah*. What kind of *pardah* is that? Women look at the processing on the road and what kind of *pardah* is that? Lastly, the women go to see the Syedna and what kind of *pardah* is that"? (Aage-Kadam May, 1939. p. 10).

The reformers alleged that the clergy was not consistent in its enforcement of *pardah* practices and religious proscriptions were mere pretexts to prevent her from engaging in activities that would enlighten her, kindle the spirit of freedom in her and bring progress.

In the case of Ms. Mandviwalla's speech it was stated that the mere act of delivering a speech by a Bohra girl in public would be too much for the priestly class to tolerate. Such a woman would be less amenable to priestly authority and control.

Even as Ms. Mandviwalla was delivering her speech, women from several elite and or reformist families had already given up the *pardah* especially in Bombay and Karachi. By the late 30's and early 40's women from traditional homes were giving up the veil¹¹ and the trend gradually became visible in smaller towns as well. While the reformists carried on their debate in the issues of their journal the orthodox section expressed their views and objections in the issues of Bombay Samachar. As many as twenty-seven letters¹² written by Bohras and published between 1940 and 1956 highlight the debate generated by Ms. Mandviwalla's speech. The letters were written by men and were highly critical of the trend of women giving up the veil and increasingly being seen in public places. This trend was attributed by the orthodox to a variety of influences such as the impact of cinemas, the indifference of the clergy and the reformists campaign. Ironically the brunt of the criticism was directed not towards the reformists but towards the clergy. The orthodox like the reformists charged that the clergy was not consistent in its approach on the practice of *pardah*. While the reformist advocated its abolishment the orthodox advocated its re-establishment as in earlier times.

At the time the letters were written the public space for Bohra women had considerably expanded and the veil among women was on its way out. Women were seen without *pardah* at picnics, at wedding reception, at railway and tram stations, near entertainment houses and markets but the bulk of the letters highlight the increasing tolerance of women without *pardah* in the presence of the clerical men themselves. One letter alleges (Bombay Samachar Dec. 25, 1944) that in the early 30's the volunteers, who maintain order and discipline during social and religious functions where the clergy is present, entered buildings in various Bohra *mohallas* (localities) and invited the women to come to the main mosque at Ehendi Bazaar in Bombay to listen to the high priest's *wahez* (sermon). In order to generate enthusiasm special buses were arranged for the purpose. The letter further alleges that it was during this time that the volunteers also encouraged women to come out on the streets to see the high priest as he went around in the Bohra *mohallas* in a procession. These processions were often at night and women were encouraged to stay up late in the streets. Crowds of women came out on these occasions and soon they were coming out without *pardah*¹³. While the volunteers may have encouraged women, it was also becoming increasingly clear that the clergy class itself was ignoring the presence

of unveiled women in their midst and other strange men who were present. It had become commonplace to have *majlis* (Shiite dirge) without proper *pardah* arrangements, to pay their respect women visited the clergy class at their main residence at Saifee Baug and Badri Mahal and were seen among men without the benefit of *pardah*, *misaq* (oath of allegiance) of pubertal girls was taken by the clergy and after *misaq* these girls stood in line for their blessings without the benefit of *pardah*. The contradiction in the clergy's attitude was pointed out viz; on the one hand excommunications Ms. Mandviwalla for not apologising for her speech against *pardah* and on the other ignoring instance of *pardah* violation by orthodox women.

The orthodox based their opposition predominantly on religion principles and reminded the clergy that in the past it had upheld Islamic practices and had frequently quoted the Hadits on the matter. To make their point, the orthodox reminded, the clergy class often narrated incidences related to Fatima - the daughter of the Prophet and her strict observance of *pardah* and how her exemplary behaviour has pleased the prophet. While the reformist highlighted the evils of *pardah*, the ultra conservatives highlighted the negative consequences that followed from giving up the *pardah* and more often than religious principles, these were actuated by a feeling of protective possession of women, the moral insecurity of the unveiled woman and the need to maintain the status quo as this preserved their authority. Proponents of *pardah* insisted that only the most stringent controls would preserve the sect from social and moral chaos. A few quotes from the letters will serve to highlight the point. "The fun of going on picnics is spreading even among the lower class and one cannot visualize where it will stop". "They take a lot of knocks in trams, buses and outside entertainment houses". "And many go to cinema houses and roam around and even the family men cannot stop them". "I saw Bohra girls being teased on the railway platform. The girls were being coy and the boys followed them". "As long as the men are at home the doors are closed but the minute he leaves the doors are thrown open". "Religious thoughts have stopped entering and women should give some thought as to how they will appear at the door of paradise". "A time will come when clothed women will look naked. We have reached that stage. A woman who has no shame, her faith cannot be strong".

There was considerable pressure on the high priest to take action and in 1944 in the month of Ramzan the Syedna lectured the people on the importance of the *pardah* at the main Saifee mosque in Bhendi Bazaar and his *amils* (deputy) did the same in every mosque after prayers. A similar exercise was conducted by the Syedna with young

girls who came for *misaq*. The clergy's agents and volunteers distributed a pamphlet extorting women to wear *pardah* when coming to the mosque or their prayers will be invalidated, a meeting chaired by an agent of the clergy was held to debate on the matter. In some towns secret associations were formed to curb the practice though some lamented that these quickly disappeared. As these produced no effect on the women the orthodox section demanded sterner measures from the clergy class to curb the practice. These included charging a fee to the women, not permitting *pardah* less women to come to his residence, showing his disapproval by turning his face away from them, making proper *pardah* arrangements for *majlis* (dirge), bus arrangements for girls attending the clergy managed high school, building a colony exclusively for Daudi Bohras where greater social control was possible and traditional practices could be enforced. There were twenty-nine Anjuman committees in Bombay and it was suggested that the member give thought to fighting this trend. However, the impact of modernizing influences all around was too strong, that even in a small town like Patan where the Syedna was due for a visit, it was alleged that unless women are permitted to see him without *pardah* his popularity would take a knock. The clergy skillfully ignored the issue but never officially sanctioned the giving up of *pardah* and by the mid 40's the practice of *pardah* was a thing of the past.

Mandviwalla's speech and reformist efforts notwithstanding there were other influences at work which facilitated women to leave the confines of their homes and give up the veil. The national agitational politics of Gandhi of the early 30's had brought large numbers of women into the streets. In this struggle Muslim women including Bohra women had participated. The end of World War I had already seen the beginnings of the debate on *pardah*, both among Hindu and Muslim women and the Muslim effort was sustained throughout the 30's and the 40's. A number of Muslim women pioneers such as Iqbalunnisa in the South and the young band of reformers in Bengal inspired by the work of Kamal Ataturk in Turkey and the work of Rokeya against *pardah* were speaking out (Jahan, 1988). The movement away from *pardah* had begun in Turkey, Egypt, Iran, Syria, and the Asian part of the Soviet Republic. Some countries chose the path of gradual social evolution whereas other passed decrees against the wearing of the veil. The whole atmosphere was so permeated with modern ideas that the passing of seclusion was inevitable. As highlighted by some letters in the Bombay Samachar in the rest of the Muslim World on the West coast of India there were changes occurring as well. One Shia writer for example did not take too well to the speeches given against *pardah* by Shia women during the annual *moharram* celebrations at Noorbaug. While it was acceptable

for women to celebrate *moharram* the speeches were not justified. There were complaints by Alvi Bohra men that their women had become fashionable and were seen in the markets without the benefit of *purdah*. While the Shia community had taken lead in Western India to abolish this practice, the Sunni sects soon followed suit. A few letters in the early 50's show the debate among the Sunni Memon community and letters express general disapproval of women moving around with their husbands with the *burkha* in their hands.)

Another purpose of emancipating Daudi Bohra women was to strengthen their traditional role to serve not only the family and kindle the spirit of nationalism but also serve the community a more direct way. (The ideology of wider economic and political reforms within the community proved a potent force in directing activities of the female intelligentsia to beneficent ends). The reformers realized the relationship between political and social reforms. From 1917 onwards the work of reform in the community had been done by the Peerbhoy and some other families but despite almost three decades of intensive effort very little had been accomplished due to lack of education among women. Women's education and their coming out of seclusion was perceived as a necessary precondition for them to take their proper place beside the family's men in the community's wider reform battle against the clergy. Women were being educated, taught new skills or encouraged to come out of seclusion not for their own betterment but to fit them to use their benevolent power for community's end. Kapasi argues:

"Men may attend conference, congresses and pass reform resolutions but until such time that the women move forward and the curtain hanging on their bodies and on their minds is broken until such time all efforts will be in vain" (*Aage-Kadam*, 1938. p.23).

At another place Talajawalla states :

"They do not walk along with the reformist men, they create obstacles and break the courage of a man. So along with the reformist propaganda there must be emphasis on education among women" (*Aage-Kadam* Apr-May, 1994 p. 52).

Women however, were not encouraged to take leadership positions and serve on decision-making bodies rather a supportive role was envisaged for them. They were encouraged to support resolutions passed at the conference, contribute financially to the cause, keep informed of the happenings and disseminate information by word of mouth and by writing in community publications.

For the Bohras, like the rest of the Muslim world, education and abolishing the veil remained critical for progress. But whereas

polygamy, unilateral divorce, age of marriage etc; were hotly debated in the rest of the Muslim world and on the Indian sub-continent such was not the case among the Daudi Bohras. The All India Muslim Ladies Association for example passed a resolution against polygamy at one of its meetings. Polygamy while theoretically sanctioned was a rare occurrence in the Daudi sect as historically it had been curtailed by the clergy, sanctioned only in case of a childless marriage and the male right to unilateral divorce is not recognized by the Shia Fatimid law which the Bohras follow. As far as the age of marriage was concerned, it was the general practice among the Bohras to marry girls after puberty, the common age being between fourteen and sixteen years.

Voices of Dissent in the Young Men's Bohra Association (YMBA)

While the campaign for women's reforms were carried out in a sustained manner, there were differences of opinion and level of involvement among members of the YMBA. It did not go unnoticed that an emancipated woman would be less amenable to not just priestly but male control in general and hence emancipation of women was encouraged only to the extent that it brought benefit to the family the community and the nation. Those who opposed women's emancipation feared that an independent woman would be a "nuisance" and "go on the wrong path" and this would result in "loosing support for the reformist cause". Shirajee laments over the division in the following way:

"For the men's independence from the clergy there is unity but on the question of women's independence there is disunity. Those who oppose women's emancipation have complicated reasons. I narrate a personal example of this. I was at a zoo and a young reformist man showed sympathy for a caged animal. When I suggested that women are similarly caged at homes, he retorted that there was no need to confuse matters and that each subject matter should be dealt with separately. He then changed the subject" (*Aage-Kadam* Oct. 1937, p. 25-26).

Unlike the women reformers, not only was there a lack of solidarity with regard to women's emancipation, but it was also alleged that the men who had taken the initiative were too busy trying to get ahead that they failed to encourage and support the new woman and by criticizing and labelling her as weak hampered her progress. Besides, the women alleged that the men were willing to grant only those rights which did not hinder their own comfort and progress. Two women accused the men for making contradictory and ambiguous demands by encouraging them to be "co-partners" on one hand and "dutiful wives" on the other.

Support and Role Models

The struggle for emancipation and self-determination was sought to be speeded up and inspired by the progress made by Muslim women in Middle Eastern countries, highlighting the achievements of European women and the role of Hindu women in public leadership.

Other Muslim countries were of interest only as pathfinders for social reform. The thought of progressive Muslims on the Indian subcontinent was concentrated on nationalism and not on the unification of the world of Islam (Woodsmall, 1983). For the Daudi Bohra reformers Turkey presented an ideal model to emulate both from the point of view of political autonomy and the women's question. The Turkish approach deliberately tried to destabilize the authoritative socio-religious system of Islam. In doing so they did not attempt to discredit it as a personal belief. The editor of the "Women's Section" while writing a eulogy to Khanbhai Amiji, one of the earliest champions of secular education had this to say:

"Could he not see that Turkey's progress is built on women's advancement and the pace at which women have been given back their rights"? (*Aage-Kadam* Aug. 1937, p. 83).

Short news items were carried on protective laws passed by the Turkish government for its working women, the first Turkish women pilots, etc. Report and articles were carried on compulsory education for girls in Lebanon, giving up of *purdah* among the Muslims of Soviet Russia, etc...

The kind of future envisaged once women were educated and had come out of seclusion was exemplified by some Indian - Hindu and Muslim and European women. These role models emphasized both traditional roles and public participation in a variety of occupations including political and military. The political participation of Hindu women such as Vijaya Lakshmi Pandit, Hansa Mehta, Leelawati and Muslim women such as Begum Shah Nawaz and Rashida Lateef were highlighted. While acknowledging the public and political participation of Hindu women, the editor alludes to the Deshmukh Bill¹⁴ granting Hindu women property rights already given to Muslim women in the seventh century. European progress itself was attributed to the conquest of Spain by the Moors but Daudi women compared to European women were found woefully wanting as highlighted in the following quote:

"Young Spanish women full of beauty, married with children alongside the men they wear uniform, carry a gun and fight for their country. Where are these women and where are our women! Believe me these are not Bohra women!" (*Aage-Kadam* April, 1938, p.25).

At another place assuring them:

“Miss Nora K. Smith, a school teacher, won a prize of a thousand pounds for a story titled “A Stranger and a Sojourner”. Do Bohra women still believe that women are less intelligent?” (*Aage-Kadam Idd Ank*, 1938, p. 100).

Success of the Campaign and Concluding Remarks

After almost a decade of struggle the campaign began to pay dividends. The increase in enrollment of girls at the reformist managed Anglo-vernacular school in Karachi, the disregard for the *pardah* ordinance at the industrial exhibition, the attendance of women at the first All India Daudi Bohra Conference in January 1944 and speeches delivered by two women at the Conference were seen as signs of progress and awakening among the women. The overwhelming impact of modernizing influences and the spirit of national independence had brought women out of seclusion and in this context the clergy blessed the construction of a high school for girls and on the question of *pardah* while verbally maintaining that it was obligatory, the clergy on the other hand chose to ignore its violation. With this, first wave feminism among the Bohras ended. Unlike the Sunni Muslims, modernization came earlier to the Shias, being a highly organized sect, a gesture from the high priest was sufficient to set the wheels of progress in motion.

The campaign by stressing the ideas of male/female complementarity rather than equality left unchallenged women’s dependence on men in social, legal and economic matters. It never sought to redefine women’s sphere but only sought to extend it. Whether these two critical reforms led to challenging patriarchal power within the family needs to be studied. In the attempt to widen women’s space, women were not just recipients of social change but alongside the men they were makers of history too. Overall equal emphasis was laid on both religious and rational reasons for justifying these changes. Due to the force of the wider reform movement in the community, it seems in retrospect almost inevitable that while the question of women’s rights was raised, it was subsumed under the larger struggle for emancipation of the entire community from the power of the clergy. The reformers were convinced that lack of education and veiling hindered the progress of “real” reforms in the community and limited women’s participation in the ongoing nationalist struggle. It was assumed that with the accomplishment of both these demands, women would become aware of the rights granted to them in Islam and the floodgates to further emancipation would become wide open. The campaign especially the one aimed at giving up the veil generate a backlash among the orthodox and again religious and

moral arguments were put forward for its perpetuation however the all round spirit of independence, impact of modernizing influence, the progress made by women of other communities and the clergy's need for public acceptance all made such a reversal impossible.

Notes:

1. An earlier version of this paper was presented at the fourth annual conference on "Women in Asia" at the University of Melbourne, Melbourne. Australia - 1-3rd Oct. 93.
2. For a detailed note on the Daudi Bohras see Engineer, A; (1980) *The Bohras* N. Delhi: Vikas.
3. The various sects among the Shias viz; the Khojas, Bohras, Sulaimanis, Mahdi Baghs, Alyas (Alvi), arose over differences in the question of succession regarding the legitimate representative of the sect.
4. In all, thirty issues of Aage-Kadam have been examined. These include February to August, October, December 1937; January to September 1938; January to May 1939; August and September, 1941; October to December, 1943 and March and April 1944.
5. These include the Khojas, the Bohras and the Memons.
6. H. Papanek in her writing on purdah has raised the question whether or not veiling was ever practised among the Ismaili Khojas.
7. For a review of the wider reform movement in the Daudi sect see Engineer, A. (1980) *The Bohras* N. Delhi: Vikas.
8. The two well known ones include the Burhanpur Dargah case of 1913 which centered on the amount of English medium education to be permitted in the school at Burhanpur and the other was the Chandabhai Gulla (alms Box) case of 1917.
9. For a comprehensive review of the beginnings of modern education among Daudi Bohra girls see Ghadially, R. "Ismaili Bohra Women and Modern Education: A Beginning" *Indian Journal of Gender Studies* (forthcoming).
10. Except for one article on the Karachi Bohra Women's Association nothing was further mentioned about its activities in the thirty issues of Aage-Kadam examined.
11. At the turn of the century, Daudi women wore a *burkha* - a tent like garment, black in colour, worn from head to ankle with nets on the eyes. Evidently the *burkha* was not given up in toto but was gradually relaxed into what came to be called a *khais* - of black or some dark color such as brown or blue and worn from the neck to ankles. The face and hands were visible. By the early or mid 40's this was also discarded by the women.
12. Letters in the Bombay Samachar 1940: a) 6/7/; b)13/7/; c) 27/7/; d) 22/6/; 1943: a) 22/11/; 1944: a) 25/9/; b) 21/10/; c) 28/10/; d) 11/11/; e) 18/12/; f) 25/12/; g) 7/10/; 1945: a) 13/8/; b) 1/1/; c) 8/9/; d) 22/9/; e) 8/10/; f) 14/11/; 1946: a) 3/8/; 1947: a) 12/5/; b) 11/10/; 1949: a) 14/3/; 1952: a) 29/12/; 1955: a) 4/7/; b) 28/11/; 1956: a) 17/9/.
13. It is my conjecture that this public adulation of the clergy was encouraged because of pending cases in the court that challenged the high priest's power over the sect members. The two well known cases of the period were a legal challenge to the religious leader's ultimate sanction: the right to excommunicate recalcitrant Daudi

and the other challenged the high priest's exemption from the Mohammedan Wakf Act for the regulation of religious and charitable trusts.

14 The Deshmukh Bill later known as the Hindu Code Bill was eventually passed by the Indian parliament in 1956.

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Women in Iranian Civil Law 1905-1995

A. Mehrdad

Only the blind overlook the worsening condition of women under the Islamic regime. The separation of religion and state is incomplete until the Iranian Civil Code is totally secularised.

The facts are more or less known: women are legally barred from governing, acting as judges and executive posts in politics; forbidden from taking part in many social and economic activities; barred or discouraged from many jobs.

With a few exceptions the Islamic state - the largest employer - gives employment priority to men, excludes women from much of art and virtually all of sport; deprives them from higher education in practice by pushing them into legalised premature marriage; and denied them the right to even chose the colour of their veil.

In civil law a woman is officially a second class citizen - and the few reforms introduced in 1968 have been withdrawn. Gender inequalities have been introduced into the Criminal Code such that women have greater punishment for many similar crimes than men. Less rights on one side and more punishment on the other correctly describes the algebraic "equality" of sexes under Islamic regime.

Shah and sharia'a

In this article we wish to dig deeper and look at the place of women in Iranian civil law since the latter was introduced after the Constitutional Revolution of 1905. We believe that the answer to the question of the inequality of women in Iran, and even broader issues like how to evaluate the real democratic potentials of socio-political currents with claims on Iran of today and tomorrow, will be uncovered by similar analyses which take the much broader perspective.

The Civil Code of the Islamic regime, save for some important changes, was taken over intact from the previous regime. This apparent anomaly has a simple explanation: civil law, and in particular the laws relating to ownership and personal affairs, were originally written on the basis of Sharia'a (religious) law under the supervision of senior clerics. Unsurprisingly, therefore, the family order these laws represent was lovingly and painstakingly extracted from the yellowing pages of religious texts written several centuries ago. The debt to these texts extends to preserving their archaic language - which makes it particularly difficult to translate.

The role of women in the Civil Code is best observed in the laws relating to inheritance, marriage and divorce. The Code defines four "means of gaining ownership": revitalising barren land and taking possession of objects belonging to no one; contracts and commitments; obtaining the right of preemption; inheritance (Article 140: Book 2). Inheritance is the only real means for women to come to ownership. The others are closed to her, since any wealth, even if acquired through the labour of women, belongs to the family and hence is the property of the head of the family: the father.

Let us examine how this unique source of property and wealth fares with regards to women.

Inheritance: sexual apartheid

The share of the mother and grandmother is always half, or less, than the father and grandfather:

Article 906: If the deceased has no offspring of any kind, the whole inheritance goes to the parents. If both parents are alive the mother gets 1/3 and the father 2/3. If the mother has a *hojab* (a relative who reduced her share, Article 886) she receives 1/6th, the remainder going to the father.

Article 923: Where there are a number of grandparents, if they are all on the father's side, the male get twice the female; and if all on the mother's side it will be divided equally. If the deceased has brothers and sisters, although they will not inherit, this will reduce the share of the mother (who now has a *hojab*) to 1/6.

The sister's share is half that of the brother

Article 920: If the inheritors of the deceased are brothers and sisters of the parents or of the father the share of the male is twice that of the female.

The wife's share is half that of the husband

Article 900: the share of the wife, or wives, on the death of the husband in a childless marriage is 1/4, (the husband's share in similar circumstances is one half: Article 899).

Article 887: If the [deceased] wife had children the husband's share is reduced from 1/2 to 1/4 and if the [deceased] husband has children the wife's share is reduced from 1/4 to 1/8.

Article 946: The husband can inherit from all his wife's possessions but the wife only from (a) any moveable possession (b) houses and trees. (ie the wife cannot inherit land, cattle, water and other means of production).

Article 947: The wife inherits *the price* of trees and houses not the actual. The valuation is made on the assumption of the right of the trees or buildings to remain standing. (The women will have no share in the legacy if the building or trees have no right to remain and have to be destroyed).

Article 943: In case of multiple wives, the share of the wife is divided equally between the wives and is reduced to 1/4, 1/8, 1/16 depending on the number.

Article 949: When there are no legatees other than the spouse, the husband inherits the whole of his wife's estate, while the wife inherits half the husband's estate, the remainder of the legacy is dealt with as in Article 866 [given over to the judge].

Inheritance by the woman does not arise from her role in the family but is payment for sexual favours

Article 945: If a man is ill when he marries and dies without consummating the marriage, the woman will inherit nothing, but she will inherit if he had entered her, or if he dies after recovery from his illness.

The husband inherits all his wife(s) wealth on her death. The legal basis for this is that on marriage wives become the *property* of the family. The husband's derives his wealth, which is synonymous with the wealth of the family, partly through inheritance, and partly through the labour of members of the family including the women. Yet when it comes to dividing up this wealth the wife cannot take more than a clearly defined share of this wealth, even when she is the sole inheritor. A wife is only a limited inheritor.

The daughter inherits half or less than the son

Article 907: In case of multiple children the male inherit twice the female.

Article 911: Between grandchildren the legacy is divided in the ratio of 1:3 between male and female.

Article 899: If the daughter is the only child she inherits half the estate [if the only child is a son his inheritance is not fixed. Deducting the fixed share (*farz*) of the parents (1/3), he inherits the remaining 2/3)].

Article 902: In the absence of a son, if there are two or more daughters they take 2/3 of the legacy [ie two or more girls are equal to one boy].

If inheritance laws define a system, the family order in Iran is defended by the inheritance laws which are focused on the male and defined by blood linkage. In Iran of today, and yesterday, these laws are rooted on relations between two completely different and unequal genders which cannot be merged in any way - there operates a total legal sexual apartheid.

Proposing, dowry

A woman, regardless of age, and particularly if a virgin, has not the right to chose her husband except in exceptional circumstances.

Article 1034: It is possible to seek the hand in marriage of any woman free of any obstacle to marriage [ie the choosing of a marriage partner is a male prerogative].

Article 1043: The marriage of a girl, even if over 18 years, is dependent on the permission of the father or paternal grandfather. If the father or the father's father refuse this permission *without an acceptable reason*, the girl, by introducing the man she wishes to marry, and the conditions of marriage and dowry they had agreed among themselves, can apply to a marriage office. The office can perform the marriage ceremony five days after it had informed the father or paternal grandfather, [what constitutes and who decides on the unacceptable reason is unclear].

Dowry (*mahr*) promised by the *husband* to the wife is nothing but a price paid for sexual possession of her body:

Article 1080: Both parties must decide on the amount of *mahr*.

Article 1082: A woman will gain possession of the *mahr* on marriage and can do what she will with it.

Article 1085: A wife can refuse to fulfil her duties towards the husband until the *mahr* is handed over to her - on condition that the *mahr* is halal (legitimate from a religious angle).

Article 1088: (In a permanent marriage - as distinct from "temporary marriage" - the amount of *mahr* is not stated or its absence stipulated) if one of the couple dies before the marriage is consummated the woman is not entitled to any *mahr*.

Article 1092: If the husband divorces his wife before consummating the marriage she receives half her *mahr*. If he had already paid more than half the *mahr*, he can ask her to return the excess either in kind, in cost or symbolically.

Article 1093: If *mahr* was not stated in the marriage contract, and the husband divorces his wife before consummating the marriage and determining the amount of *mahr*, she can only claim the *mahr* due to temporary wives (*marh el-mottae'h*). If divorce occurs after consummating the marriage she is entitled to *marh el-mesl* (estimated depending on her social origin).

The relations described in these and similar Articles are those of a commercial transaction with sexual favours as the commodity being exchanged. There are no trace of inter-human relations in these lines.

Marriage and divorce

In return for subsistence she surrenders to her husband her right to home and job

Article 1106: In a permanent marriage the husband must give subsistence (*nafagheh*) to his wife. Article 1107 defines this as housing, clothes, food, and furniture in keeping with her stature and includes servants if she is accustomed to these or needs it because of illness or bodily defects.

Article 1114: Unless otherwise specified [in the marriage contract] the wife must live in the house determined by her husband.

Article 1115: The husband can ban his wife from pursuing a trade or industry which conflict with the interests of the family or the station of the woman herself.

A woman sells herself for her mahr and can buy herself back by paying more or less that amount

Article 1133: A man can divorce his wife any time he wishes.

A woman does not have this right except in very exceptional circumstances and with permission from the court. She can incorporate various clauses into the marriage contract which allows her to apply to the court for divorce. (Thus *legally* she does not have divorce rights - it is a contract with her future husband).

Article 1146: A "compensation divorce" (*talagh-e khale'*) is one when a woman, because of distaste for her husband can obtain divorce in return for money she gives to him, regardless of whether this sum is equal, greater or less than the agreed *mahr*.

Here the commodity feature of a woman in her relationship with a man is at its most succinct: she has been sold in return for the *mahr* and can buy herself back by returning (more or less) the same. Moreover, the man is not compelled to divorce her, and is free to chose, his choice being authorised by *sharia'a*.

Children

Here too the male dominance is central

Article 1158: A child born to marriage is the responsibility of the father (provided no less than 6, and no more than 10 months have elapsed since sexual intercourse).

Article 1159: A child born after dissolution of marriage is the responsibility of the father provided the wife has not remarried and the child was born less than 10 months from the divorce (unless it is proven that less than 6, or more than 10 months have elapsed from sexual intercourse to the birth of the child).

Article 1167: A child born from adultery does not belong to the man (that is an *illegitimate child has neither a religious nor a legal father*. It is stated in another part that such a child will not inherit from the father).

Article 1168: The care of children is both the right and the duty of the parents.

Article 1169: The mother has priority until two years, and for girls seven years, after birth; thereafter fostering is with the father.

Article 1180: An under-age child is under the natural guardianship (*velay-at*) of the father and the father's father, as is a stunted child or an idiot provided the stunting or idiocy is related to under-age.

Article 1181: Either father or paternal grandfather have the right of guardianship of their children.

Article 1183: The guardian is the legal representative on all matters relating to financial rights, ownership of the ward.

Article 1184: Guardianship will never pass to the mother or the grandmother. If the natural guardian (father or paternal grandfather) does not have the ability to control the wealth of the ward... the court will appoint a just guardian.

Article 1233: Even when there is need to find a carer (*ghayem*) and not a guardian for "under-age children, idiots, and stunted persons" the mother is not the choice: A wife cannot care for her young children without the permission of the husband.

Thus after the father and his father, the guardianship of under-age children and idiots is given over to the courts and not to the mother unless her husband gives permission.

Article 1251: If an unmarried woman who has been given the right to care for children remarries, even if she is the mother of the wards, she must inform the court within one month. The judge or his representative can, with consideration of the new conditions of the woman, chose a new carer for the children or someone to supervise her care.

Owning the wife

The picture given of women in Iranian civil law, even before the Islamic regime came to power, is thus:

Half a person, traded and owned as a commodity, the exchange value being set by her social standing, at the behest of her father or paternal grandfather. Like any commodity moving from the realm of exchange to the realm of use she comes under the care and use of the husband.

While she remains obedient and fulfils her function she has the right to demand a living standard commensurate with her social standing. She must continue with this service for whatever time her husband wills. When he divorces her she has no other claim on him than the agreed *mahr* - the rental agreed on the marriage contract. She has no right on the children bar the duty to care for them.

Regardless of how much she gives of herself for the material and spiritual gain of the family, she has but a small and fixed share of the family fortune. On the other hand, the man has total ownership of the woman which includes her physical and sexual self (a woman must agree to sexual intercourse whenever her husband wishes while his reciprocal *obligation* to her is once every four months).

He, as the owner and possessor of the woman, can enjoy all the rights due to any owner of an asset, while any reciprocal demand or wilfulness on her part is taken as disobeying the man, the owner of the household. He can take also into his possession any other woman. The wife functions in effect as the private property of a landowner who can at any moment possess other private lands. In keeping with ownership rights a woman is punishable by law for disobeying the

rules of ownership (marriage). He, however, is only punished if he transgresses the ownership right of another man. Otherwise he can do what he pleases provided he performs some trivial acts (temporary marriage needs no more than an agreement between the two parties, the exchange or promise of a gift and the undertaking by the girl not to re-marry for 100 days).

What the Islamic regime added was to make an already unequal relationship even more unequal by removing the reforms introduced through Family Laws of 1958 and 1968: Reducing the age of marriage for women once again to 9, removing the woman's right to divorce in exceptional circumstances, barring women from leaving the house without permission from her husband...

Sharia'a then and now

It is easy to allow the appalling state of women under the reign of the present regime in Iran to deflect us from appreciating that resuscitating the 1968 Family Protection Law will not end sexual apartheid or the semi-slavery of Iranian women.

The whole legal system underlying the family needs a major overhaul if formal gender equality were to be achieved, and if the political systems, which in different guises, lean on this inequality to sustain the enslavement of both men and women, is to be demolished.

Yet both the *possibility* and *need* for fundamental changes in the family law encoded in the Iranian civil code exist today and can be argued for:

This order is incompatible with current economic realities. This system is one founded on a father-centred family, an independent economic unit, which sustained a semi-nomadic semi-agricultural society. In this order the legal status of the family derives from its socio-economic role where the father acts as the guarantor of the unity and oneness of the elements of the family, land and other means of production, thereby creating the external conditions which guaranteed the survival and reproduction of the family.

For some time now these condition have disappeared in Iran. The family as an independent unit of production has collapsed and large sections reorganised in new economic units. These new economic units, whether factory, farm or small service enterprises, rely on the *free* labour of individuals. Gone are any traces of the *family in its totality*. Exceptions apart, the equality of its components, in the legal-formal sense, have been accepted. In this equality, men and women are unconnected to each other, and as individuals independently enter into exchange or are objects of exchange.

In this new order, the right of being master is not with the father of the family but with the management of the enterprise or institute. The sex of the manager is, in the legal sense, immaterial to the economic unit, and a woman is as free to leave the job as the man, and has as much choice of taking another job - assuming one exists - as her male counterpart.

Of course modern capitalism continues to resurrect and reproduce pre-capitalist modes, alongside modern forms of production. This intermixing of several modes of production is particularly marked in peripheral capitalist states. Among these is the use of domestic labour of various kind including domestic housework.

Yet, at least for those professing democratic credentials, it would be totally anachronistic to support such archaic forms of exploitation. These persons need to ask themselves how compatible is the existing legal system with this productive and economic unit, and how long is it defensible in the name of cultural, moral and whatever values?

Democracy is impossible to construct on the current civil law. A democratic system, no matter how unradical and irresolute, cannot ignore two principles: that of formal-legal freedom and that of formal-legal equality of all elements of society.

The preservation of sexual, ethnic or religious apartheid, of any second and third class citizenship and the formal and legal acceptance of various forms of slavery have little affinity with democracy. Only a non-democratic, domineering and paternalistic order can be constructed on a system based on male domination. While the psychological, cultural and legal basis of the family is on authority, guardianship and centrality of the father it is not possible to escape a political order dependent on a shah, a *velayate faghih* (absolute rule of the knowledgeable cleric on civil and political society), a leader, or a furher. The removal of the *chador* (Islamic covering from head to toe) may hand over the rule of the ayatollah to an authoritarian shah, but cannot reorganise a non-democratic political order into a democratic one.

While this legal order persists religion and state remain inseparable. There is no place in a secular state, one where religion and state have been separated, for substituting *sharia'a* for law, quotation for rationality and Koranic text for decision.

Notwithstanding the belief current among much liberal and even left opinion, to remove the clergy from the levers of power is not synonymous with a secular state.

For this the *law* must be released from the prison of *sharia'a*. To the extent that *sharia'a* rules over the legal framework of the state, to

that extent religion rules over that state, and one cannot speak of a democratic government, or even of the rule of law. To accept *sharia's* laws is to accept the right of the religious jurist to extract these laws. No matter how limited or proscribed that right, you cannot stop the religious law-maker from calling into question secular laws, and ultimately their legitimacy. Such societies are marked by dual (and even multiple) laws, laws characterised by their impermanence.

The fact that women were given the vote in the years leading to the revolution and other gains are important achievements of the women's movement in Iran. But let us not lose sight of the fact that, from what has been achieved, to what must be reached, there is a huge gulf.

You cannot get the right to vote, and consolidate it, in the political sphere, and surrender to its opposite at home. The freedom of women in the socio-political setting and their slavery at home are not compatible. To deny the right of self-ownership on a woman's body is inconsistent with a society based on equal and free citizens.

The legal framework that our Civil Code provides for women is that of a society glued to barbarism, far from civilization. A society where women are "honourable ladies, sacrificing mothers and wives, under whose feet paradise grows": but have not the right to own, to travel, to marry, to work, to study... that society cannot escape the guardian, the master, the dictator, the demagogue, the ayatollah, the shah...

In today's Iran, the many self-proclaimed defenders of democracy and disengagers of religion and state are at a historic cross road. They must confront squarely the question of the need for the legal-civic equality of sexes. When paying lip service to the principle of the equality of men and women, what family order and what legal framework do they accept? When speaking of *political realism* how committed are they to their principles? Will they once again in a "virile manner" vault over the short wall of women? Recent history has been less than edifying.

Spring 1995.

Reproduced from:

Iran Bulletin,
Spring 1995, pp. 23-26.
ISSN: 0969-7462
BM Iran Bulletin,
London WC1N 3XX, U.K.

Islam and Women's Rights: A Case Study

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Given the rising tide of Islamisation in Muslim countries and its call for wider recognition of Shari'a as the primary legal basis of Muslim nations, concerns about Shari'a's conflict with human rights standards must be addressed. Such conflict and tension between historical formations of Shari'a and modern standards of human rights is readily illustrated by the situation of women in Muslim countries today.

The status and rights of women are a major human rights concern in all parts of the world: women are consistently oppressed, discriminated against, and denied their rightful equality with men. Although the situation has recently improved in some developed countries, I believe that it is by no means satisfactory anywhere in the world today.

The present focus on Muslim violations of the human rights of women does not mean that these are peculiar to the Muslim world. As a Muslim, however, I am particularly concerned with the situation in the Muslim world and wish to contribute to its improvements.

The discussion is organized in terms of the status and rights of Muslim women in the private sphere, particularly within the family, and in public fora, in relation to access to work and particularly in public affairs. This classification is recommended for the Muslim context because the personal law aspects of Shari'a, family law and inheritance, have been applied much more consistently than the public law doctrines. The status and rights of women in private life have always been significantly influenced by Shari'a regardless of the extent of Islamization of the public debate.

A. Shari'a and the Human Rights of Women

This part begins with a brief survey of the general principles and rules of Shari'a which are likely to have a negative impact on the status and rights of women. This includes general principles which affect the socialization of both men and women and the orientation of society at large as well as legal rules in the formal sense. The most important principle of Shari'a influencing the status and rights of women is the notion of *qawama*. *Qawama* has its origin in verse 4:34 of the Koran which states that:

"Men have *qawama* (guardianship and authority) over women because of the advantage they (men) have over them (women) and because they (men) spend their property in supporting them (women)".

According to Shari'a interpretations of this verse, men as a group are the guardians of and are superior to women as a group, and the men of a particular family are the guardians of and are superior to the women of that family.

This notion of general and specific *qawama* has had far reaching consequences for the status and rights of women in both the private and public domains. For example, Shari'a provides that women are disqualified from holding general public office, which involves the exercise of authority over men, because, in keeping with verse 4:34 of the Qur'an men are entitled to exercise authority over women and not the reverse.

Another general principle of shari'a which has broad implications for the status and rights of Muslim women is the notion of al-hijab, the veil. This means more than requiring women to cover their bodies and faces in public. Several verses can be quoted to illustrate how Islam controls women's dress mode, movement and life outside the home. Verse 24:31 of the Qur'an states that:

"And say to the believing women that they should lower their gaze and guard their modesty; that they should not display their beauty and ornaments except what (must ordinarily) appear thereof; that they should draw their veil over their bosoms and not display their beauty except to their husbands, their fathers, their sons, their husbands's sons, their brothers or their brothers's sons or their sisters's sons or their women..."

Furthermore, verse 33:33 states that:

"...And stay quietly in your houses, and make not a dazzling display, like that of the former Times of Ignorance; ..."

Verse 33:59 requires women to:

"...cast their garments over their persons (when abroad): that is most convenient, that they should be known (as such) and not molested".

According to the interpretations of the above, women are supposed to stay at home and not leave it except when required to by urgent necessity. When they are permitted to venture beyond their home, they must do so with their bodies and faces covered. Al-hijab tends to reinforce women's inability to hold public office and restricts their access to public life. They are not supposed to participate in public life, because they must not mix with men even in public places.

In addition to these general limitations on the rights of women under Shari'a, there are a number of specific rules in private and public law that discriminate against women and highlight women's general inferiority and inequality. In family law for example, men have the right to marry up to four wives and the power to exercise complete control over them during marriage, to the extent of punishing them for disobedience if the men deem that to be necessary. In contrast, the co-wives are supposed to submit to their husband's will and endure his punishments. While a husband is entitled to divorce any of his wives at will, a wife is not entitled to divorce, except by judicial order on very specific and limited ground. Another private law feature of discrimination is found in the law of inheritance, where the general rule is that women are entitled to half the share of men.

While a husband is entitled to divorce any of his wives at will, a wife is not entitled to divorce, except by judicial order on very specific and limited ground.

In addition to their general inferiority under the principle of *qawama* and lack of access to public life as a consequence of the notion of *al-hijab*, women are subjected to further specific limitations in the public domain. For instance, in the administration of justice, Shari'a holds women to be incompetent witnesses in serious criminal offenses regardless of their knowledge of the facts. In civil cases where a woman's testimony is accepted, it takes two women to make a single witness. *Diya*, monetary compensation to be paid to victims of violent crimes or to their surviving kin, is less for female victims than it is for male victims.

The private and public aspects of Shari'a overlap and interact. The general principles of *qawama* and *al-hijab* operate at the public as well as the private levels. Public law discrimination against women emphasizes their inferiority at home. The inferior status and rights of women in private law justify discrimination against them in public life. These overlapping and interacting principles and rules play an extremely

significant role in the socialization of both women and men. Notions of women's inferiority are deeply embedded in the character and attitudes of both women and men from early childhood.

This does not mean that the whole of Shari'a has had a negative impact on the status and rights of women. Relatively early on, Shari'a granted women certain rights of equality which were not achieved by women in other legal systems until recently. For example, from the very beginning, Shari'a guaranteed a woman's independent legal personality to own and dispose of property in her own right on equal footing with men, and secured for women certain minimum rights in family law and inheritance long before other legal systems recognized similar rights.

These theoretical rights under Shari'a, however, may not be realized in practice. Other Shari'a rules may hamper or inhibit women from exercising these rights in some societies. According to one author, Pastner, "while legally recognized as economic persons to whom property is transmitted, Muslim women are constrained from acting out economic roles because of other legal, as well as ideological, components of Muslim female status". Customary practice in certain rural Muslim communities denies women their rightful inheritance under Shari'a. While strict application of Shari'a would improve the status and rights of women in comparison to customary practice in these situations, the position of women under Shari'a would nevertheless fall short of the standards set by international human rights instruments.

This is Shari'a doctrine as it is understood by the vast majority of Muslims today. Significant possibilities exist for reform, but to undertake such reforms effectively, we must be clear on what Shari'a is rather than what it can or ought to be. Some Muslim feminists emphasize the positive aspects of Shari'a while overlooking the negative aspects. Others restrict their analysis to the Qur'an, and select only verses favoring the status of women while overlooking other parts and failing to take into account the ways in which the parts they select have been interpreted by the Shari'a jurists. Neither approach is satisfactory. Shari'a is a complex and integrated whole and must be perceived as such.

The status and rights of Muslim women are affected by the negative as well as the positive aspects of Shari'a. In fact, its negative aspects may receive greater emphasis than its positive aspects in some Muslim societies today. Moreover, Shari'a jurists have developed specific jurisprudential techniques which control and limit the prospects of reform within the framework of Shari'a.

As will be explained in the final section on Islamic reform and human rights, modernist Muslims may need to challenge and change those techniques before they can implement significant reforms.

B. Muslim Women at Home

The human rights of Muslim women have been directly and continuously affected within the family by Shari'a, because its relevant aspects have remained in force under the legal systems of the vast majority of Muslim countries. This control which Shari'a exercises over the private realm of the home and family is so entrenched, and its violation of human rights so clear, that it may explain in part why some Muslim countries refuse to ratify the relevant human rights instruments or at least enter reservations on their obligations under certain human rights treaties.

For example, Egypt is one of the very few Muslim countries to have ratified *the Convention on the Elimination of All Forms of Discrimination Against Women of 1979*. It entered, however, a reservation to Article 16 of the Convention which provides for the equality of men and women in all matters relating to marriage and family relations during the marriage and upon its dissolution. The Egyptian reservation specifically stated that since these matters were governed by Shari'a, Egypt had to derogate from its obligations under the Convention.

The Shari'a personal law enforced in Iran is not significantly different from that prevailing in Sunni countries like Egypt except for the additional affront to the human dignity of women and the serious violation of their human rights caused by the institution of mut'a or temporary marriage, peculiar to Shi'a jurisprudence. According to this type of marriage, a man is entitled to take as many "temporary wives" as he can afford in addition to his four "permanent wives". In contrast to regular marriage which is contracted theoretically for life, mut'a marriage is contracted for a specific period of time, in terms of years, months, days or perhaps even hours.

In addition to the discrimination and humiliation this type of "marriage" causes to the unfortunate temporary "wife", it demeans all women and degrades the institution of marriage itself. Despite these and many other extremely serious social and human rights implications of this type of "marriage", it is still practiced in Iran today.

Some Muslim countries have introduced limited reforms in the family law field. These appear to be more likely to survive traditionalist and fundamentalist backlash than the Iranian ones discussed above, because of their modest nature. The 1979 amendments to the personal law of Egypt "were carefully formulated to forestall any unnecessary confrontation with conservative religious elements. These amendments maintained the husband's rights of unilateral divorce and polygamy while seeking to balance those rights by some procedural and financial guarantees for the wife. In Pakistan, the Muslim Family Laws Ordinance of 1961 introduced some reforms. Among other measures, it instituted a network of Arbitration Councils to deal with divorce, polygamy and

maintenance of wives. Now, the written permission of the Arbitration Council is required before a married man can take another wife.

These reforms are only small steps toward redressing human rights objections to the status of women under Shari'a, and yet they are criticized by traditionalist and fundamental groups as un-Islamic. The repeal of the Iranian reforms and the threat of revision of the Egyptian and Pakistani reforms suggest (to one author) the need to use legitimate Islamic methodology in rendering such reforms. I agree with this recommendation and add that the reforms must also go far enough to guarantee the full human rights of women in family and inheritance law.

C. Muslim Women in Public Life

A similar and perhaps more drastic conflict exists between reformist and conservative trends in relation to the status and rights of women in the public domain. Unlike personal law matters, where Shari'a was never displaced by secular law, in most Muslim countries, constitutional, criminal and other public law matters have come to be based on secular, mainly Western, legal concepts and institutions. Consequently, the struggle over Islamization of public law has been concerned with the re-establishment of Shari'a where it has been absent for decades, or at least since the creation of the modern Muslim nation states in the first half of the twentieth century. In terms of women's rights, the struggle shall determine whether women can keep the degree of equality and rights in public life they have achieved under secular constitutions and laws.

In Pakistan, for example, the 1973 Constitution dealt with fundamental questions in relation to the role of Islam in constitutional and other public affairs. However, such issues are rarely finally resolved by constitutional provisions. In fact, constitutional guarantees clearly did little to settle questions pertaining to the status and rights of women in Pakistan.

Article 25 (2) of the 1973 Constitution prohibits discrimination based solely on gender. Article 27 (1) outlaws discrimination against qualified candidates for federal service solely on the basis of gender. Among the Principles of State Policy, Article 34 states that:

"Steps shall be taken to ensure full participation of women in all spheres of national life".

The 1973 Constitution also provides for universal adult suffrage and reserves a certain number of seats for women in the National Assembly and regional assemblies in addition to their right to compete for non-reserved seats. Unfortunately these provisions have been contested and their practical value diminished in variety of ways.

The Council of Islamic Ideology was one of the institutional mechanisms that tended to diminish the value of constitutional protections for women's rights. According to Article 230 (1) (c) of the 1973 Constitution, this Council is authorized to "make recommendations as to the measures for bringing existing laws into conformity with the Injunctions of Islam and the stages by which such measures should be brought into effect. This mandate was taken seriously throughout the Zia ul-Haq period during which the Council played an active role in the implementation of policies of Islamization.

One component of the new Education Policy adopted by Zia's regime in 1978 was the progressive segregation of men and women in higher education and the establishment of separate women's universities. As one observer commented:

"Such an eventuality could not but have disastrous repercussions on both women's higher education and their career opportunities. At a time when women were breaking ground in new fields - for instance, engineering, town planning, architecture, aeronautics - a women's university could not possibly offer these subjects to the few pioneers then undertaking them in a co-educational institution". (Hussain, *The Struggle of Women in the National Development of Pakistan*, in *Muslim Women* 198, 210-211)

Pakistani women have been concerned with the implications of the policy of Islamization for their careers and successfully have protested against encroachments on their role in public life. Zia ul-Haq's regime did show some sensitivity to protests and demands by women's organizations. He appointed the first female cabinet secretary in Pakistan's history, and later appointed a female minister of state.

In 1979 he established a Women's Division within his cabinet whose activities included co-sponsoring of a conference which recommended the elimination of stereotyping of women in textbooks, the projection of a more responsible and positive image of women in national life, and greater representation of women in educational administration and policy-making. In response to protests by the All Pakistan Women's Association and seventeen other women's groups against instructions by the Minister of Information restricting the appearance of female models in commercial advertising, Zia's regime declared that it "had no intention whatsoever to debar them (women) from taking an active part in national affairs".

With the election of Benazir Bhutto as the first female Prime Minister of Pakistan, one expected more action in support of women's right to public life. Nevertheless, one must not underestimate the power of the proponents of Shari'a in Pakistan or any other Muslim country. Neither

women's organizations nor politicians can afford to disregard or downplay the Islamic factor. Numerous studies show that a variety of economic and social factors contribute to the current status and rights of women in the Muslim world and to their own perceptions of and reactions to their situation. But these studies also emphasize, in one way or another, the Islamic dimensions of these same factors.

The Islamization slogan appears to have aroused considerable excitement and enthusiasm in Pakistan. Even the Pakistan People's Party, presently in power after the death of Zia ul-Haq, has declared its commitment to Islamization policy and continues to compete with the Islamic parties in this regard. But there are problems, as one observer noted:

The matter, however, becomes complicated and contentious when an attempt is made to translate the slogan into actual policies. Not much imagination is required to realize that the vision of an Islamic social order entertained by the Ulema (Ulama, traditional religious scholars) differs radically from that envisaged by educated and articulate women. But even Sunni politicians of the religious-oriented parties are by no means unanimous in their conception of an Islamic state.

This comment applies throughout the Muslim world, including Iran where differences exist among Shi'a politicians. Educated women and other modernist segments of society may not be able to articulate their vision of an Islamic state in terms of Shari'a, because aspects of Shari'a are incompatible with certain concepts and institutions which these groups take for granted, including the protection of all human rights. To the extent that efforts for the protection and promotion of human rights in the Muslim world must take into account the Islamic dimension of the political and sociological situation in Muslim countries, a modernist conception of Islam is needed.

Islamic Reform and Human Rights

I have referred several times to the need for Islamic reform to protect and promote human rights in the Muslim world. Such reforms must be sufficient to resolve human rights problems with Shari'a while maintaining legitimacy from the Islamic point of view. On the one hand, it is futile to advocate reforms which are unlikely to be acceptable to Muslims as satisfying the religious criteria of Islamic reform.

Islamic reform needs must be based on the Qur'an and Sunna, the primary source of Islam. Although Muslims believe that the Qur'an is the literal and final word of God, and Sunna are the traditions of his final Prophet, they also appreciate that these sources have to be understood and applied through human interpretation and action. As I have pointed

out above, these sources have been interpreted by the founding jurists of Shari'a and applied throughout Muslim history. Because those interpretations were developed by Muslim jurists in the past, it should be possible for modern jurists to advance alternative interpretations of the Qur'an and Sunna.

An Adequate Reform Methodology

I have elsewhere argued extensively for this position and advanced a specific reform methodology which I believe would achieve the necessary degree of reform. The basic premise of my position, based on the word of the late Sudanese Muslim reformer Ustadh Mahmoud Mohammed Taha, is that the Shari'a reflects a historically-conditioned interpretation of Islamic scriptures in the sense that the founding jurists had to understand those sources in accordance with their own social, economic, and political circumstances.

In relation to the status and rights of women, for example, equality between men and women in the eighth and ninth centuries in the Middle East, or anywhere else at the time, would have been inconceivable and impracticable. It was therefore natural and indeed inevitable that Muslim jurists would understand the relevant texts of the Qur'an and Sunna as confirming rather than repudiating the realities of the day.

In interpreting the primary sources of Islamic in their historical context, the founding jurists of Shari'a tended not only to understand the Qur'an and Sunna as confirming existing social attitudes and institutions, but also to emphasize certain texts and "enact" them into Shari'a while de-emphasizing other texts or interpreting them in ways consistent with what they believed to be the intent and purpose of the sources. Working with the same primary sources, modern Muslim jurists might shift emphasis from one class of texts to the other, and interpret the previously enacted texts in ways consistent with a new understanding of what is believed to be the intent and purpose of the sources.

This new understanding would be informed by contemporary social, economic and political circumstances in the same way that the "old" understanding on which Shari'a jurists acted was informed by the then prevailing circumstances. The new understanding would qualify for Islamic legitimacy, in my view, if it is based on specific texts in opposing the application of other texts, and can be shown to be in accordance with the Qur'an and Sunna as a whole.

For example, the general principle of qawama, the guardianship and authority of men over women under Shari'a, is based on verse 4:34 of the Qur'an quoted earlier. This verse presents qawama as a consequence of two conditions: men's advantage over and financial support of women.

The fact that men are generally physically stronger than most women is not relevant in modern times where the rule of law prevails over physical might. Moreover, modern circumstances are making the economic independence of women from men more readily realized and appreciated. In other words, neither of the conditions - advantages of physical might or earning power - set by verse 4:34 as the justification for the *qawama* of men over women is tenable today.

Neither of the conditions or advantages of physical might or earning power-set by verse 4:34 as the justification for the *qawama* of men over women is tenable today.

The fundamental position of the modern human rights movement is that all human beings are equal in worth and dignity, regardless of gender, religion, or race. This position can be substantiated by the Qur'an and other Islamic sources, as understood under the radically transformed circumstances of the day. For example, in numerous verses the Qur'an speaks of honor and dignity for "humankind" and "children of Adam", without distinction as to race, color, gender, or religion. By drawing on these sources and being willing to set aside archaic and dated interpretations of other sources, we can provide Islamic legitimacy for the full range of human rights for women.

Similarly numerous verses in the Qur'an provide for freedom of choice and non-compulsion in religious belief and conscience. These verses have been either de-emphasized as having been "overruled" by other verses which were understood to legitimize coercion. Women's and human rights organizations could therefore rely on those verses of the Qur'an which extol freedom of religion rather than those that legitimize religious coercion. For example, verse 9:29 of the Qur'an was taken as the foundation of the whole of *dhimma*, and its consequent discrimination against non-Muslims.

Relying on those verses which extol freedom of religion rather than those that legitimize religious coercion, one can argue that the *dhimma* system should no longer be part of Islamic law and that complete equality should be assured regardless of religion or belief.

The same argument can be used to abolish all negative legal consequences of apostasy as inconsistent with the Islamic principle of freedom of religion.

Reference has been made to the possible need to challenge some jurisprudential techniques of Shari'a in order to implement the necessary degree of reform. One of the main mechanisms for development and reform within the framework of Shari'a is *ijtihad*-independent juristic reasoning to provide for new principles and rules of Shari'a in situations on which the Qur'an and Sunna were silent. By virtue of its rationale and

textual support, *ijtihad* was not supposed to be exercised in any matter governed by clear and categorical texts of Qur'an and/or Sunna because that would amount to substituting juristic reasoning for the fundamental sources of Islam. According to the prevailing view in Shari'a, *ijtihad* should not be exercised even in matters settled through *ijma*, (consensus).

Some of the problematic aspects of Shari'a identified in this Article, however, are based on clear and categorical texts of Qur'an and Sunna. To achieve the necessary degree of reform, I would therefore suggest that the scope of *ijtihad* be expanded to enable modern Muslim jurists not only to change rules settled through *ijma*, but also to substitute previously enacted texts with other, more general, texts of Qur'an and Sunna despite the categorical nature of the prior texts. This proposal is not radical as it may seem because the proposed new rule would also be based on the Qur'an or Sunna, albeit on a new interpretation of the text. For example, the above-mentioned categorical verse 9:29 regulating the status of non-Muslims would be superseded by the more general verses providing for freedom of religion and inherent dignity of all human beings without distinction as to faith or belief.

I believe that the choice of texts to be implemented as modern Islamic Shari'a is systematic and not arbitrary; it is based on the timing and circumstances of revelation as well as the relationship of the text to the themes and objectives of Islam as a whole. Moreover, I maintain that the proposed reinterpretation is consistent with normal Arabic usage and apparent sense of the text. It is neither contrived nor strained. The ultimate test of legitimacy and efficacy is, of course, acceptance and implementation by Muslims throughout the world.

Prospects for Acceptance and Likely Impact of the Proposed Reform

In addition to this methodology's own Islamic legitimacy and cohesion, at least two main factors are likely to affect the acceptance and implementation of this or any other reform. It must be timely, addressing urgent concerns and issues facing Muslim societies, and it must be disseminated and discussed in Muslim countries. I believe that my proposal will be acceptable to Muslim peoples if offered in an effective and organized manner. Paradoxical as it may seem, I suspect that the proposal may face difficulties of dissemination and discussion precisely because it is timely.

This proposal is timely because Muslims throughout the world are sensitive to charges that their religious law and cultural traditions permit and legitimize human rights violations; hence the efforts of contemporary Muslim authors to dispel such allegations. Governments of Muslim countries, like many other governments formally subscribe to

international human rights instruments because, in my view, they find the human rights idea an important legitimizing force both at home and abroad. Moreover, as explained earlier, many emerging women's organizations and modernist forces are now asserting and articulating their demands for justice and equality in terms of international human rights standards.

Nevertheless, the proposed reform will probably be resisted because it challenges the vested interests of powerful forces in the Muslim world and may upset male-dominated traditional political and social institutions. These forces probably will try to restrict opportunities for a genuine consideration of this reform methodology. It is equally likely that they will attempt to obstruct its acceptance and implementation in the name of Islamic orthodoxy. Proponents of Shari'a will also resist it because it challenges their view of the good Muslim society and the ideal Islamic state.

Consequently, the acceptance and implementation of this reform methodology will involve a political struggle within Muslim nations as part of a larger general struggle for human rights.

I would recommend this proposal to participants in that struggle who champion the cause of justice and equality for women and non-Muslims, and freedom of belief and expression in the Muslim world. Given the extreme importance of Islamic legitimacy in Muslim societies, I urge human rights advocates to claim the Islamic platform and not concede it to the traditionalist and fundamentalist forces in their societies. I would also invite outside supporters of Muslim human rights advocates to express their support with due sensitivity and genuine concern for Islamic legitimacy in the Muslim world.

As I have tried to show throughout this Article, the problematic aspects of Shari'a are not the sole underlying causes of human rights violations in the Muslim world. Other extra-Islamic structural and socio-economic factors also contribute to human rights problems. But the primary objectives of this Article have been:

- (1) to address the extent to which Shari'a-related factors contribute to human rights violations in the Muslim world; and
- (2) to propose a way of overcoming that particular dimension of the status of human rights in the Muslim world.

Conclusion

This Article began with the general premise that human rights violations reflect the lack or weakness of cultural legitimacy of international

standards in a particular society. In accordance with this premise, because Shari'a, as the accepted version of the law of Islam, is inconsistent with certain human rights, those rights probably will be violated in the Muslim world, regardless of formal participation in international human rights instruments. This is likely to occur even if Shari'a is not constituted as the formal legal system of the country in question. As a religious and ethical code, Shari'a has far-reaching political and social influence, irrespective of its official legal status in Muslim countries. The evidence reviewed above from case studies of several Muslim countries illustrates Shari'a's extensive influence under very different cultural and legal conditions.

Therefore, because Muslim countries are more likely to honor those human rights standards which have Islamic legitimacy, human rights advocates should struggle to have their interpretations of the scriptural imperatives of Islam accepted as valid and appropriate for application today. Authority for this reinterpreting activity comes from the fact that contemporary majority perspectives on Shari'a are not necessarily the only valid interpretations of the scriptural imperatives of Islam, a fact which was recognized by some modernist Muslim reformers. Unfortunately, little has been done so far to develop a comprehensive reform methodology. In terms of human rights concerns there has been little effort to reconcile Islamic law with fundamental human rights, especially in relation to women and non-Muslims. Reform efforts have so far been confined to the family law area, and even there they have tended to be inadequate and open to reversal. A much more comprehensive and effective reform methodology is required to provide genuine and lasting Islamic legitimacy for human rights in the Muslim countries.

In the final part of this Article, I have explained briefly what I believe to be an adequate Islamic reform methodology aimed at achieving greater legitimacy for human rights in the Muslim world. As indicated in that section, however, this methodology does not offer an easy or quick solution to all human rights problems. In fact, strong resistance can be expected not only from those with vested interest in the status quo, but also from some of the beneficiaries of the proposed reforms. For example, some educated women are Islamic fundamentalists. Nor do I suggest that reformulating Shari'a alone will alleviate all human rights violations. Economic and other factors and forces must also be addressed. Yet, the extent of observance of human rights standards in any country is affected by prevailing attitudes and conceptions regarding who is a human being entitled to the full range of human rights. In the Muslim context, these attitudes and conceptions are significantly influenced by commonly held views concerning the scriptural imperatives of Islam.

Rethinking these scriptural imperatives is therefore one critical strategy for advancing human rights in Muslim countries. Human rights advocates have few allies in most parts of the world, including almost all Muslim countries. They need to enlist the support of powerful cultural and religious forces. Support will come if they look for it in an intelligent and sensitive manner.

Reproduced from:

WILDAF News, Issue No. 6, 1994, pp. 1-25

(First published in Harvard Human Rights Journal 13, 52 (1990), pp. 36-52)

Women in Law and Development in Africa (WILDAF)

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Multi-Fundamentalism in Mauritius

Lindsey Collen

The attacks by Muslim fundamentalists against Mr. Namassiwayam Ramalingum and against *L'Indépendant*, the newspaper he is editor of, were accurately described and rightly denounced in Index 3/1995. But Mr. Ramalingum has not provided a clear enough picture of what was going on in general in Mauritius. This is a pity, because knowing about the context helps towards a more thorough condemnation of all the attacks on free speech in Mauritius.

Mauritius has seen vast changes over the past fifteen years. Since 1979, Mauritius has started becoming one of the IMF and World Bank's first "success stories", as they like to refer to it. They have to talk about it a lot because they've only got a few "success stories".

But, in truth, everything in Mauritius has become tense.

A road accident in May on the main motorway just outside the capital, Port Louis, for example led to six hours of rioting. Rioting which was directed against any form of authority in sight, and which the police had difficulty quelling, even when they opened fire on the people there. Rioting which, within hours, showed signs of producing communal dynamics.

After Cyclone Hollanda in February last year, when the electricity was down, there was an outburst of mass hysteria. It was about an imaginary being called "Naked at Midnight" or "Minnwi Tuni" in our language, Kreol. He was a modern werewolf, collectively imagined as shining black and silver, sometimes dog and sometimes naked man, who drove a four-wheel-drive and used a cellular telephone. Here and there, the odd Catholic priest and Hisbullah leader set themselves up as defenders of the people against the imaginary intruder, and

bands of men armed with pangas started to roan the streets of Port Louis in search of "him". "He" was, inter alia, held responsible for making women feel shining light between their legs, then faint, and then fall pregnant. Women were "therefore" locked up at home.

The hysteria lasted some three weeks, and disappeared along with Minnwi Tuni after the electricity came back.

But in the meantime, the communal dangers inherent in this type of hysteria had become all too clear.

All this to say that the very country usually held up to all other countries as the IMF and World Bank's "Mauritian Miracle", and a living proof of the wonders of structural adjustment programmes, is in fact a society showing increasing signs of internal stress just under the surface and ready to break out in hysteria.

It is this background of hysteria which can give way to communal tensions, specially when it is cruelly made use of by communalists of all ilk.

The communalism in Mauritius, because of its overlap with religion, is increasingly taking on fundamentalist traits. In Mauritius, the particular form it's taking can be called multi-fundamentalism.

This multi-fundamentalism has been further exacerbated recently by a number of things.

First, the visit in June of the Leader of the Opposition in India who is also leader of the fundamentalist Bharatiya Party (BJP), Mr. Atal Bihari Vajpayee. His official tours of state institutions were interspersed with visits to a number of religious organizations, a fundamentalist combination previously unheard of for an official visitor from India. The Mauritian government was involved in planning this.

Second, after the growth of a fundamentalist party, the Hisbullah, in turn, Maulanas have grouped together to hold political meetings with political demands of a general nature, as well as to denounce the supposed attacks on the prophet by *L'Indépendant* and to threaten violence against the editor, as well as calling for the liberalization of meat imports, a rather more economic demand.

Third, there is the continued role of the hierarchy of the Catholic Church of Mauritius, one of the few institutions in the world never to have taken a stand against apartheid even until today, and where the Bishop's lent message took a stand against the government tax on the sugar barons. The hierarchy has recently point-blank refused to accept anti-discrimination regulations for intake of students (the Government Notice 114) and for recruitment of teaching staff into the schools that they control but that public funds finance.

Underneath the hysteria, underneath the communalism and the multi-fundamentalism, lie rather more crude conflicts.

The ideological swing towards privatization, whether in Yugoslavia or Rwanda, whether in India, Mauritius or South Africa, mean public or collective ownership being converted into private ownership. And "private" means somebody gets, somebody doesn't get. And those in the line for "getting" are different sections of a ruthless bourgeoisie.

Whichever of the main parties you vote for, whatever programme they put up, you get the IMF and World Bank's politics of privatization. And privatization means conflict as to who will get the capital.

In Mauritius, like in many other countries, privatization means it is "old money" that "gets" the bulk of this shifting capital. Goods and services recently owned and controlled by the state are handed over to a few private families - usually the same ones that owned and controlled them "before", and "before" tends to mean "before Independence", "before universal suffrage".

Other aspiring "getters" can succeed only to the extent that communalism and fundamentalism can be stirred up. And that's the scramble. The "scramble" for the capital going private. It means an all-out fight. It means sudden enrichment of different fragments of the few.

For the many, privatization means being reduced to the level of an expendable productivity robot.

Then, what with all the propaganda about how Mauritius is a success, a "model" for Africa, the "tiger of the Indian Ocean", "paradise islands", etc., most Mauritians look around and wonder what's going on. All we can see around us is the spectre of increasingly insecure jobs, sweatshop conditions, compulsory overtime and low-paid workers in free zone factories (\$100 a month), prices not controlled any more, sugar mills closing down, a housing shortage, threats of privatizing health, education, electricity and water - and all this is called "the Mauritian miracle"?

This clash between what Mauritius is supposed to be, and what it, in fact, is, is the material that hysteria is made of. It's hard to stay rational in the face of such insufferable lies being so generally swallowed.

Where does *L'Indépendant* fit in?

L'Indépendant is a newspaper that was supporting some small section of the bourgeoisie in the general scramble for newly "privatizing" capital, some clans who wanted a political say in who should be

future Minister of Finance. According to the IMF and World Bank, the future Minister of Finance is king of the temporary realm called "privatization". It is not clear exactly which clans are behind *L'Indépendant*. But it is clear that whoever the people behind *L'Indépendant* are, they were prepared to use Hindu communalism and Tamil communalism, in their bid for the political power that would help them get access to economic stakes.

L'Indépendant, while it was coming out, was a newspaper that combined scurrilous rumours with some genuine exposure of important financial scandals - both of which led to an increase in its circulation. From its first number it had a backdrop of communalist articles, openly defending what it called "Hindu power". It was generally felt that some of the victims of its character assassination campaigns were chosen because they were of Muslim faith. The newspaper, incidentally, carried scurrilous attacks against me and my novel, The Rape of Sita. When the threats got really bad, I gave a statement to the police.

But, of course, the nature of the newspaper is no reason for public burnings, public threats, or fire-bombing the printers. These reactions are a sign of how bad the times are. And curiously, no-one could give an explanation as to what was offensive in the particular articles that were used as an excuse for the violence.

Just one week after the disturbing spectacle of the public burning of *L'Indépendant* by Muslim fundamentalists, we saw the equally disturbing spectacle of orators defending *L'Indépendant* burning three other newspapers, *L'Express*, *Le Mauricien* and *Le Mag* for being "anti-Hindu"; the mainstream press is still effectively owned and controlled by a Euro-centred Catholic elite. This burning of newspapers took place at the celebration of a religious festival at a new building called "Hindu House" and in the presence of official advisers to the Prime Minister. Interestingly, one of the first organizations to be associated with this new Hindu House was a newly created one: the Hindu Business Council.

Other attacks against free expression have included the imprisonment of two journalists, Alain Gordon-Gentil and Harish Chundusing of *Le Mag* news magazine, under the Official Secrets Act. The new Police Commissioner, Raj Dayal, a military man with fundamentalist tendencies, is responsible for this arrest.

Communalism and fundamentalism represent very clear economic interests for the few. At the same time, they represent the politics of despair for the many.

In direct opposition to the politics of despair, in March this year a new movement called "Movement Against Communalism" (MAC) was born.

It is potentially strong, including the whole of the trade union movement, consumers' groups, environmentalists, the women's movement, almost all musicians in the country, pre-school playgroup organizers, adult literacy groups, a health co-operative, an agricultural organization, and an organization of the blind - as well as a number of individuals. MAC is characterized by its emphasis on the rejection of all forms of classification or categorization of people along communal, ethnic, religious lines - whether by the state, by politicians, by academics or by anyone. It is also exposing institutionalized communalism - in laws, in organizational forms - and opposing all links between organized religions and politics, and between religions and the state. And defending freedom of expression.

One thing that is clear is that so long as political parties have programmes that only aim, to re-distribute inequality, then communalism, racism, religious strife will continue to constitute a constant danger; as long as there is privatization of public goods and services, then there are vested interests in communalism, racism and religious strife; and it is our experience here that these forces of obscurantism are, amongst other things, the enemies of free expression.

June 16, 1995

N.B.:

An earlier version of this article appeared in *Index on Censorship*, Vol. 24, No. 4, July-August 1995

Index on Censorship

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