

Discussions from the  
international meeting  
*Towards Beijing:*  
*Women, Law and Status*  
*in the Muslim World,*  
December 11-15, 1994  
Lahore, Pakistan

**WOMEN  
LAWS  
INITIATIVES  
IN THE MUSLIM WORLD**

# **WOMEN LAWS INITIATIVES IN THE MUSLIM WORLD**

From December 11 to 15, 1994, over 100 women from different Muslim communities and countries - from Indonesia to Senegal, from South Africa to Uzbekistan - met in Lahore to exchange experiences of conducting research-action projects relating to women and law in the Muslim world. This largest ever - and most diverse - gathering of women under the aegis of WLUML, saw an intensive and energising exchange of ideas and analysis, successful and less successful strategies, creative brainstorming and soul-searching. Women shared their hopes and humour, and in the interface of diversity found a sense of solidarity.

Dispelling the distorted image of Muslim women as silenced and inactive, this publication also celebrates the dynamism, courage, and creativity that women in Muslim societies have displayed - often in extremely difficult and adverse situations and in the face of recent trends within their communities to rescind women's rights.

## **ACKNOWLEDGEMENT**

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And lastly, we would like to thank all those who were with us - whether in body or in spirit - at the December meeting and who shared their experiences in the hope of enriching and strengthening our struggle.

## CONTENTS

|  |    |
|--|----|
| THE FRAMEWORK                          | 5  |
| The Multiple Sources and Forms of Law  | 7  |
| Family, Patriarchy and Laws            | 11 |
| The Culture of Violence And Women      | 17 |
| Nationality, Identity and Women        | 21 |
| Political and Social Dynamics of Power | 26 |
| STRATEGIES                             | 30 |
| Direct Actions for Change              | 30 |
| Consciousness-raising                  | 32 |
| Lobbying                               | 33 |
| Mobilising and Public Support          | 34 |
| Networking for Change                  | 36 |
| Linking Research to Activism           | 37 |
| Legal Reforms                          | 39 |
| Supports Systems for Women             | 43 |

The international meeting, Towards Beijing: Women, Law and Status in the Muslim World, was organized by Shirkat Gah Women's Resource Centre, Lahore, and the international network of solidarity and support, Women Living Under Muslim Laws (WLUML).

**The meeting had a number of purposes:**

- ▶ To enable groups and potential groups involved in the WLUML Women and Law Programme to share experiences and suggest strategies for future research and action.
- ▶ To identify priority areas for women in Muslim societies, whether they live in Muslim majority countries or constitute a religious minority, whether they are governed by laws premised on Islam or by secular laws.
- ▶ To provide a forum for sharing and devising strategies on prioritized issues.
- ▶ To prepare inputs from the Muslim world for the 1995 World Conference on Women in Beijing and for the Social Summit in Copenhagen in March 1995.

The women who participated had diverse backgrounds: grassroots and NGO activists, lawyers and academicians, development workers, consultants and trainers. The few active male participants were all affiliated with advocacy groups. Geographically, participants came from: Algeria, Bangladesh, Egypt, Fiji, Gambia, Indonesia, India, Malaysia, Mali, Morocco, Nigeria, Pakistan, Philippines, Senegal, Sudan, South Africa, Singapore, Sri Lanka, Turkey, USA, Uzbekistan, Yemen and Zimbabwe.

## THE FRAMEWORK

The basic concern of the international meeting, Towards Beijing: Women, Law and Status in the Muslim World, was to examine how laws govern women's lives and define what is possible, improbable and impossible for individual women in any given context. The contours of a woman's life are determined by a combination of formal statutory provisions and informal customary practices, either of which can be based on religion, customs traditional to the area and other sources such as colonial rule or global trends. Thus, the laws under discussion were not limited to formal statutory provisions and included the customary practices and traditions of a community that are as (sometimes more) important as the formal legal system.

By highlighting the actual diversities in laws and women's lives, the network hopes to:

- ▶ deconstruct the myth of one homogenous world of Islam where only one definition of womanhood is possible;
- ▶ to demystify the sources of laws and customs that try to immobilize women in servitude; and
- ▶ provide women an information pool of the multiple strategies evolved by women (and also some men) to counter patriarchal norms, laws and systems, so that each woman and group can take inspiration from one another and evolve strategies and positions most suitable to their needs and context.

The meeting focused on five central themes integral to the status of women in Muslim communities. However, there was no attempt to rigidly maintain the artificial division of 'themes', and if the issues are separated here, it is solely for the purpose of focusing the reader's attention.

- I. **The Multiple Sources and Forms of Law** The laws applicable and customs practiced in any given society depend on historical experience (notably colonialism), structures of power, and cultural specificity. But all too frequently, women are made to believe that these laws are 'natural' and therefore immutable. Women rarely have information concerning the statutory laws or the sources of either formal or informal laws governing their lives. Internalized customs and attitudes combine with external pressures as barriers

to women's activism and self-actualization. And, although there is diversity in the contents and sources of laws throughout the Muslim world, women are invariably unaware of this diversity and believe therefore, that the only way of being is the definition of womanhood imposed on them in their particular context.

- II. **Family, Patriarchy and Laws** Against this background, the new trend towards 'Islamisation' of laws is of particular concern, especially in view of the emphasis placed on family and personal status laws which directly regulate gender relations. This trend reinforces, and tries to give divine invincibility to, patriarchal structures.
- III. **The Culture of Violence and Women** Throughout the Muslim world, states or groups aspiring to political power are increasingly using religion to condone or even justify violence against women when, in fact, the aim is to strengthen patriarchal control and prevent women from exercising their autonomy. This attack on women's right to define the parameters of their own identity is coupled with what appears to be an abdication by the state of its responsibility to protect its citizens. This is particularly evident in the state's perpetuation of the dichotomy between public and private spheres, with the state condoning or refusing to intervene in instances of violence within the private domain, especially within the family.
- IV. **Nationalism, Identity and Women** Either as state policy or as a demand by militant groups, identity is increasingly being equated with religious identity. In the process of challenging laws, women are forced to challenge the identities imposed on them as Muslim women. Where women are part of a minority Muslim community, the pressure to retain religious identity through the application of 'Islamic' laws is even greater.
- V. **Political and Social Dynamics of Power** Laws and customs continue to restrict women's access to the political and economic spheres, their freedom of movement and their right to control their own bodies.

## **THE MULTIPLE SOURCES AND FORMS OF LAW**

**1. The diversity of Laws** Neither 'Islamic' law nor the shariah is an homogenous entity. Both depend on interpretations influenced by cultural and ethnic differences, historical contexts, colonial pasts, the sect or school of jurisprudence that a particular community subscribes to, as well as political policy. Equally, laws and customs inevitably assume a shape dictated by those in

power - a category from which women, almost by definition, are excluded. A very few examples of the tremendous diversity in the sources and contents of Muslim personal and family law are:

- ▶ In countries following the Hanafi tradition, a woman's consent to her marriage is at least theoretically mandatory. In others that follow a Maliki or Shafi school of thought, a woman is denied the right to enter into a marriage at will and must be 'given away' through a contract arranged by her guardian - or wali.
- ▶ In some countries (Senegal), Muslim men must go to court to seek divorce from their wives. In many other Muslim countries, the verbal talaq pronounced three times is a valid form of divorce. In yet others (India, Pakistan) the status of oral repudiation is a matter of debate.
- ▶ While Tunisia and Turkey have banned polygamy altogether, some countries have tried - with varying degrees of success - to restrain the practice (Bangladesh, Pakistan, Indonesia, Singapore), and others provide the option of marrying under Muslim or civil laws with polygamy disallowed in the latter (Senegal, Philippines, India). In many other Muslim communities, however, a Muslim man has the unrestricted right to marry up to four wives.
- ▶ Reproductive health policies vary from a virtual banning of contraceptive information and a total ban on abortion that carries heavy penalties, to free access to abortion (Uzbekistan) and aggressive campaigns to reduce population growth (Bangladesh), with most situations falling in between these two poles.
- ▶ The concept of muta or sigheh marriage, which permits Muslim men to contract a marriage for as short a period as one hour, has recently been introduced in Sudan (and has traditionally existed in Iran), although it is illegal or invalid and certainly without legal cover in most countries.
- ▶ Despite a culturally uniform environment, different histories and political frameworks can yield divergent practices as in the former North and South Yemen (now unified). In the south, men cannot contract a second marriage except under strict conditions, e.g. if their first wife cannot bear children, yet the north has no restrictions on polygamy; while in the north the legal age for marriage is at puberty, in the south it has been fixed as 18 years.

Consequently, 'Islamic' law or even shariah cannot simply be 'introduced', as is so often and glibly either proposed by governments or demanded by militant groups in the Muslim world.



These moves are in fact demanding or proposing a particular group's vision of Islam and shariah - a vision that, not infrequently, draws inspiration from the systems adopted by the political regimes in Saudi Arabia and Iran.

**2. The Role of Custom and Tradition** Customs are equally, if not more important than formal laws in determining the space, rights and self-actualization of women. For example, kinship is an important concept for African families because it is both social and biological. While in cities kinship patterns have broken down, an ideological reference to the concept remains and when women in Africa demand a greater share of power within the family, they are accused of betraying the African tradition, and of undermining a traditional family pattern that, in reality, has already started to change.

The tremendous influence of custom is found across the board: in secular states such as Turkey and Uzbekistan; in states where the law is supposedly based on Islam, such as Pakistan; and in those countries where Muslims constitute a minority, such as Fiji, India, and South Africa. In most of the Muslim world, patriarchal customs - rather than state law - restrict women's mobility, severely limit their access to public spaces, certain occupations, and information, and deny women equal access to economic resources, health facilities, judicial processes and to educational and job opportunities.

Customs can override formal legal or religious provisions so that, for instance, state legislation on a minimum age for a girl's marriage is frequently ignored or women are refused their share of inheritance despite Islamic injunctions. In many contexts, customs rather than law or religion preclude a woman's consent being obtained for her marriage (Pakistan, India, Senegal). In other places (the Maghreb countries and amongst the Shafi school of jurisprudence in Asia), a woman's right to decide who she marries is denied through religious law codified either into the general law or as part of the minority law.

The fact that a custom is unrelated to, or even directly contradicts religious tenets, does not deter communities from adhering to practices that, more than anything else, serve to maintain patriarchal control over women. One example is female genital mutilation; a practice certainly unrelated to Islam that continues despite being declared unlawful in some places (Sudan). Another is the unswerving observance of dowry among South Asian Muslims - a practice unknown in Islam. The guiding principle in these practices is obviously not religion, even though that may be the justification sometimes forwarded.

**3. Limited Participation in Judicial Systems** A rapid review of existing judicial systems (qazi/shariah, civil and customary) underscores the many ways in which women's participation in the judicial process is either prohibited or restricted. Most traditional adjudication systems of 'elders' exclude women, while the induction and promotion of women in the state court systems has been slow and continues to be obstructed.

- ▶ Indonesia has a female judge but her decision has to be approved by the Shariah Court headed by a man.
- ▶ After the establishment of family courts in Algeria, the serving minister tried to prevent women from becoming judges. Eventually a compromise was reached with women being allowed to become judges but denied the right to deal with personal status law.
- ▶ In Morocco, women serve as magistrates but cannot preside over penal sessions; women judges cannot hear cases of personal status law, nor head a tribunal; and women lawyers cannot be judicial prosecutors.
- ▶ In Nigeria, female judges exist in magistrate courts and high courts but no woman sits in the Supreme Court. There are no women qazis because the Constitution states that anyone who wants to become a qazi must study shariah law and be called to the bar, and must have served in any sector of the country for ten years. While this does not exclude women, women were not allowed to study shariah law until after women had protested and campaigned for admission in the 1980s.
- ▶ In Pakistan, though a ruling of the Federal Shariat Court holds that there is no bar to women becoming qazis, no woman has yet been appointed. Women do serve as magistrates in Family and High Courts, but none has reached the highest appellate courts (Supreme and Federal Shariat Court).
- ▶ In Yemen (where all courts operate as Islamic courts), women serve as judges in the southern part of the country that, until reunification, had a socialist regime. But in at least two cases town mayors have recently stopped women from carrying out their judicial duties, and there seems to be some attempt to post women judges to districts where it is prohibited for them to serve in this capacity.

Whether a country has parallel legal systems or one uniform legal system, and whether women are debarred from participating in the judiciary by formal or other means, inevitably women have limited participation in the legal system - especially with respect to issues which relate directly to their everyday lives and discrimination i.e. the family and personal law. Further, in most

countries, the legal system is far removed from people's real lives who commonly adjudicate and make decisions without recourse to the formal, codified law that may exist in the land.

## **FAMILY, PATRIARCHY AND LAWS**

**1. The Prevalence of Patriarchy** The domestication of women in the family, which is common to most cultures of the Muslim world, is instrumental in their subordination. Though domestication varies across Muslim cultures, societies and states, they all bear the imprint of strong patriarchal systems and structures that are reinforced by the use of Islam as a tool of control over women's bodies, women's rights, women's culture.

Patriarchy cuts across all cultures, boundaries and religions and exists even in secular structures. Thus, in Turkey which has secular laws, the husband is the official head of household; men therefore decide the place of domicile, and a woman cannot have an abortion without her husband's consent.

However, across much of the Muslim world, the rules governing family and personal matters are said to be, or are, in fact, derived from Muslim laws. Customary practices interlock with formal laws to keep women oppressed, and either one or the other is almost inevitably labelled 'Muslim'.

- ▶ In Turkey and Uzbekistan, the formal laws may be secular, but customary practices refer to Islam.
- ▶ Senegal has three distinct legal systems: two formal courts, one civil and the other Muslim, as well as traditional customs.
- ▶ In some countries (Philippines, India, Senegal), Muslims can choose to marry under civil law or Muslim family law. But when the choice is presented in a manner suggesting that only one option is 'Muslim' most people opt for that labelled 'Muslim', irrespective of its content.

**2. Trends in Islamisation** For women in Muslim societies, the most alarming recent development that serves to reinforce the patriarchal system (and claims the divine right to do so) is the increasing trend of 'Islamising' laws.

Most Muslim communities, whether majority or minority, have introduced some 'Islamisation' measures, either as the policy of an obscurantist regime (Sudan), or as an expression of 'identity' (India). Almost inevitably the first step towards Islamisation or even 'religious autonomy', is the

adoption of Muslim personal (family) laws, invariably interpreted to strengthen the man's position as head of household and the guardian of children. It usually also gives men the right to indulge in polygamy, divorce their wives through oral repudiation, and not be liable to pay any maintenance to their wives after divorce. Given the negative repercussions 'Islamisation' has had for women, there is an urgent need to deconstruct the whole concept.

Many Muslim communities are currently witnessing campaigns for an 'Islamisation' of laws either as a part of government policy, or as a demand of aggressive pressure groups, or as a response of governments to the latter. Nevertheless the dynamics of 'Islamisation' may differ significantly and need to be understood.

In Malaysia, Islamisation is occurring side by side with a free market economy, privatisation and industrialisation. While head-scarves for Muslim women are promoted, places of entertainment thrive - including those that serve alcohol, and there are no restrictions on women's right to education or to work. And although hudood laws are on the anvil in Malaysia's Kelantan state, the main Islamist political group in the country has been banned. The government is using Islam both as a modernising vehicle - through arguments emphasising e.g. that Islam extols the virtues of hard work and enterprise - as well as a buffer against the adverse social and moral consequences of industrialization and urbanization. At the popular level (as opposed to government policy), people appear to be turning to Islam due to genuine dissatisfaction with the type and bewildering pace of development taking place.

A different face of Islamisation is visible in Sudan where it is being promoted by an authoritarian regime with much more brutal effects. Women's job and promotion opportunities in the government have been severely restricted; their mobility made dependent on male and state approval at various levels; their rights to land ownership curtailed; and even their dress regulated. Girls and women enrolled in educational institutions are formally subject to a dress code and may be expelled in the event of violation of this code. Further, various state-instituted bodies have been established to patrol streets to ensure appropriate behaviour.

In Pakistan, even though the present government does not subscribe to a religiously conservative viewpoint, a number of laws passed earlier during the Islamisation drive of the military dictator, General ZiaülyHaq, are still on the statute books. These include the Hudood Ordinances, which amongst other things: prescribe penalties of lashes and stoning to death for adultery; fail to distinguish between rape and extra marital intercourse; protect rapists from maximum punishment and discriminate against women's evidence for such cases but award them punishment on a par with men.

In most cases, the Islamisation of laws has undermined women's rights and further eroded their social status. Where Muslims are a majority, non-Muslims have become victims of oppression (Pakistan). Where Muslims are a minority, Islamisation has denied Muslim women rights enjoyed by non-Muslim women (India, Sri Lanka), though this can also work the other way around: in Malaysia, Muslim women cannot get restraining orders against violent husbands - even though this remedy is available to non-Muslims - because of a constitutional provision giving supremacy to shariah law in matters of conflict.

At the same time, the Islamisation trend has given rise to a response from within: a new wave of Islamist feminists with unconventional and women-centered interpretations of Islam. A movement now visible in Iran and Malaysia (and emerging in other situations: Sudan, ex-Soviet Central Asia, Turkey), Islamist feminists are challenging and reforming Islamic doctrine from within, rather than advocating a secular model of gender equality. In contexts where conceptualisation outside the framework of Islam is difficult, this shift has already encouraged women to distinguish between patriarchal tradition and 'Islam'.

In Iran, opposition to the move to rescind women's legal rights has come not only from the secular and 'westernised' classes of Iranian women. Many Islamist women activists who have had religious education disagree strongly with the state's vision of women's role and its attempt to return to what the religious leaders call 'old Muslim ways'. These women point out that much of what is presented as 'Islamic' is only patriarchy in Islamic garb. One of their first successes was the introduction of a new family law which is one of the most progressive marriage laws in the Middle East, although it does not deviate from any of the major conventional assumptions of 'Islamic' law.

**3. The Struggle for Secular Laws** When a particular government seeks to restrict the individual's autonomy in a specific area, it often uses religion, culture, or ethnic identity as a justification for denying, putting into abeyance, or rescinding a particular right. The experience of groups struggling to bring about secular laws has been that where principles of religion, culture and tradition are invoked, the obstacles to change appear immutable. Autocratic and oppressive tendencies of religion and culture, that allow no scope for either dissent or diversity, are on the rise and are being promoted with militant zeal, increasingly threatening and isolating women's rights. But communalism and fanaticism cannot be successfully overcome under the influence of identity politics. To counter these forces, there is a need to assert a choice for laws that rise above the narrow boundaries of religion, culture and identity, and are therefore secular in nature.

In the face of this onslaught, the question is how to conduct a struggle for secular law and what this will achieve. While it is agreed that all legal systems - secular, religious or customary - are patriarchal, a majority feel that secular laws are preferable if for no other reason than because they are easier to challenge. However, the struggle for secular laws is not without complications since it intersects issues of community identity. Where some women feel that no amount of interpretation would change the patriarchal foundations of Muslim jurisprudence, others feel it necessary to 'reclaim' religion and interpret it in a manner favourable to women. As a network, WLUML accepts women will have different viewpoints and maintains that each group of women, even when they choose a different option for themselves can, nevertheless, learn from the other.

**4. Fundamentalism** There is continuing debate over how politics, religion and law come together at different periods, and in this context what is actually meant - and understood - by 'fundamentalism'. Some women differentiate between 'fundamentalism' which does not necessarily have an extreme view and 'fanaticism' (or 'extremism') that rejects any dynamism in Islam and traces its origin to roots which sometimes differ from Islam. Others are uncomfortable with the western media term 'fundamentalism' because in local languages it is translated as 'those who return to the origins' or 'who love Islam' (e.g. buniyaad parast or Islam-pasand in Pakistan). Muslims often feel comfortable defining themselves as fundamentalists, because they see this position as going to the roots of what Islam should be, yet groups referred to as 'fundamentalist' invariably do not have a return to the roots of the religion on their agenda. (In some countries, such groups are referred to as obscurantists or simply the religious right.)

The general understanding of the term is a group of people belonging to a particular religion or ethnic group that claims not only to have divine authority, but uses that claim to secure political power and impose its vision on everybody else. Far from being confined to one religion alone, fundamentalist tendencies are visible throughout the world in all religions. 'Fundamentalist' groups can belong to a majority community (religious or ethnic) as well as to a minority. The presence of such groups and their aggressive determination to monopolize the social and political discourse has pushed many other political actors into adopting a similar framework; often as a means of advancing their own agenda.

The real issue is one of politics. In the context of identity politics, what is important is that the space available to individuals and groups within a society or country to define their lives for themselves is being reduced, whether it is done by fundamentalists, obscurantists or ethnic extremists. The right-wing political groups who claim to be the mantle-bearers of Islam are not trying to bring about a new Muslim society; they are trying to seize political power and in the

process, the power to define women's lives. In Gambia for instance, the practical manifestations of 'fundamentalism' are women veiling themselves and not going into areas dominated by men. However, women are not the only ones affected since, by de-legitimizing secular politics, the religious Right has actively tried to eradicate the space for any secular self-definitions.

There is a need to identify the people using this ideology, and to discover how women relate to them. Does the popular support for the agendas of the religious Right stem from a desire for an alternative system? Are such movements (whether in Malaysia, Gambia or elsewhere) trying to provide an alternative socio-economic system? Is this the reason that men and women dissatisfied with the present system respond so positively to such movements? If so, a major challenge for the women's movement is to evolve the vision of an equally attractive system that responds to the socio-economic and spiritual needs of people but is egalitarian in nature. Women should define what kind of world and society we want to live in, what we define as politics and our own role in it.

## **THE CULTURE OF VIOLENCE AND WOMEN**

**1. The Changing Context** The use of socially sanctioned violence to relegate women to their socially defined places is not a new phenomenon but it has taken on new manifestations. Today, significant transformations in the economic and political fields have produced their own set of issues. With the end of the Cold War, economics has replaced politics in directing national and international policies, at the same time that religious extremism has assumed dramatically new dimensions. As nations come under pressure to show rapid economic growth, the market instead of the state has become the target of development assistance with the emphasis shifting from the state sector to the private sector. In an environment of acute competitiveness, market performance is dictating largely profit-driven state policies.

These developments have related to women in a specific way. A vast unorganized female industrial working force has emerged. More and more women are joining the work-force thereby 'destabilizing' the traditional family structure, with serious implications for gender relations. Women's socially dictated role has been bent out of shape or entirely replaced and men are having to deal with the new role assumed by women. If men are uncomfortable with the social implications of this change they are, nevertheless, reluctant to forgo the economic benefit derived as a consequence of women's breakthrough into the market economy. There is, therefore, a

conflict of interest between patriarchal interest on the one hand and the private and economic interests in the family on the other with at least two visible consequences:

- ▶ Religion and custom (and often custom disguised as religion) are increasingly being (mis)used by men to maintain control over women and to justify acts of violence against them. Violence is being used by family members, by extremist groups, or by the state, to strengthen or maintain patriarchal control in changing circumstances.
- ▶ In its new role, the state appears to be willfully abdicating responsibility for its essential role of providing protection to its citizens, even of ensuring their physical survival at the same time that various pressures are reducing its powers of governance. Women are not therefore, getting the expected assistance and protection from the state in terms of economic, social and political security. Challenged in their role of governance, weak states are trying to mitigate their lack of popular authority by claiming a divine right, promoting religious extremism.

**2. Violent Customs** Female Genital Mutilation (FGM), one example of institutionalised customary violence against women, is routine practice in a number of Muslim communities. Women from Sudan, Gambia, and Sri Lanka explained how FGM, which began as a custom, has been elevated to an integral part of Islam in the popular imagination. Social norms and beliefs are so strong that even though the practice has been illegal in Sudan since 1964, no significant decline has been registered. However, in Burkina Faso, an active government programme over the past ten years has led to a dramatic decline in FGM, practised among Christian, animist and Muslim communities alike.

In South Asia and some countries of the Middle East, 'honour killings' of women on suspicions of illicit sexual relations cuts across religious divides. In some areas of Pakistan, the practice known as karo kari is institutionalised to the point that innocent female relatives can be murdered on the pretext of being a kari simply to avoid prosecution for murdering a male enemy.

**3. The State, Laws and Islam** In several countries the state's legal system fails either to give women adequate protection, for example against rape and domestic violence, or is itself responsible for perpetrating acts of violence against women through brutal punishments or sexual abuse at the hands of state agencies. While even secular laws are patriarchal and biased against women, the trend of so-called Islamisation of laws is often to blame for an increase in 'legalised violence' through provisions stipulating whipping, amputation, stoning to death, etc.



- ▶ In Pakistan and Malaysia, under the zina (extra-marital intercourse) laws, if an unmarried Muslim woman becomes pregnant she has to prove rape or else face prosecution for zina. In Pakistan women are also liable to the so-called 'Islamic' punishments of floggings and stoning to death for zina. Rape victims who cannot prove absence of consent (e.g. if there are no marks of violence on their bodies, or if they fail to produce witnesses) risk being prosecuted for zina.
- ▶ In Sudan, 'popular committees' and 'public outlook supervisors', as well as the regular police force, are empowered by the state to take women to court for immediate punishment (usually whipping or fine) for not dressing or behaving in an 'appropriate' manner. What may be considered inappropriate is entirely at the discretion of the official; one woman was taken to court for chewing gum in public.

**4. Violence by Social Groups in the Absence of State Intervention** Much of the Muslim world was colonised in its recent past and has not grappled very effectively with the task of creating modern nation states. Colonial political and administrative structures have virtually disintegrated without being replaced by effective alternatives. This has led in some countries to a breakdown of law and order with weak governments whose only interest is to stay in power. Extremist groups have capitalised on this situation to promote their ideology through violence, and in some cases have erected what are effectively parallel judicial systems.

- ▶ In Bangladesh, village arbitration councils (salishes) comprising of 'elders' have assumed the power to act as judge and jury in criminal matters although they have no legal power to do so. A number of 'Islamic' punishments have been carried out by these councils, while the state looks on. Their targets are usually women. For example, a 14 year old girl was raped by an influential village leader and became pregnant. Since there were no witnesses, the influential man was set free while the young girl was sentenced to 100 lashes. Her mother was also sentenced to 100 lashes for accusing the elder in front of the council. The fatwas (edicts) of the elders are also being used to intimidate women who either work for NGOs or take advantage of the facilities provided by them.
- ▶ In Afghanistan, the state is, at present, virtually non-existent and warring factions rule over their own fiefdoms. In the general state of lawlessness - where each dominant group improvise ad hoc and arbitrary laws - women have been forced to live secluded lives for fear of rape and abduction by rival gangs.

- ▶ In Indonesia, the state has, so far, failed to intervene in the trafficking of women to be used as sex workers in Europe and Japan, nor has it prevented women from being forced into marriage and being used as 'mail order brides'.

**5. Violence as a Political Weapon** A new form of violence has been unleashed by militant obscurantist groups to bring into line 'errant' women, i.e. those who are actively engaged in creating an identity other than the one defined for and imposed on them by such groups.

- ▶ In Algeria, women living alone or pursuing an independent lifestyle are targeted for attack by militant groups and even killed. Militants commit acts of violence against women as part of their 'battle' for political power, to demonstrate their strength and their rivals' impotence. Young women are abducted by gangs associated with the militant groups and raped while older ones are forced to work as servants as a display of power by the militant groups.
- ▶ In Afghanistan, the militant group holding power in a particular area has been known to imprison, torture and rape women belonging to rival factions or ethnic groups.
- ▶ In India, rape is used as a weapon in communal conflicts exploited by groups in their pursuit of political power. Muslim women have been subjected to mass rape (for example, after the Ayodhya incident) and, even more shocking, video tapes were made of mass rapes of Muslim women and distributed as an act of celebration.

## **NATIONALISM, IDENTITY AND WOMEN**

**1. The Politics of Identity** It is a matter of concern that amongst Muslims in so many countries, identity is being reduced to and equated with religious identity. In some countries the state is instrumental in promoting religious identity as the primary identity, in others, militant political groups are trying to promote their brand of conservative, obscurantist Islam, often through undemocratic and violent means (Egypt, Algeria, Pakistan). In some countries where Muslims are in a minority (India, South Africa) the desire to be ruled by Islamic laws is even more closely linked to the group's notion of identity. In India, for example, in response to the rise of Hindu fundamentalism (or fanaticism), the culturally diverse Muslim communities have begun to cling to Muslim personal law as the symbolic embodiment of their community identity.

In South Africa, the question of personal law poses an interesting dilemma. Here, the white supremacist regime denied legal recognition to all community-specific laws so that Muslim

personal law has never been codified. Nevertheless, by and large, Muslim communities continued to adhere to the informal Muslim personal law in preference to the general law. During the anti-apartheid movement, the African National Congress promised all communities the right to their own laws. The problem is that the customary law is not necessarily egalitarian and women may be deprived of rights granted in the general provisions of South African law. The dilemma for women activists is whether to demand the codification of Muslim personal law -- and how, then, to guarantee Muslim women the equality provided for in the South African Constitution -- or to reject codification, the strong demand for which flows from a desire to provide recognition and space for communities to affirm identities so long denied under apartheid. Rejecting codification also leaves open the issue of regularising all marriages conducted under Muslim customary laws that had no legal status in the previous state laws.

Caught between their community's genuine desire for self-assertion and the generally negative implications of identity-based politics, women find themselves in a difficult position. First, almost all efforts at imposing an Islamic identity focus heavily on restricting women, their rights and mobility, and their very visibility. Second, where identity and religion are linked, a rejection of right-wing religious policies and programmes is often condemned as a betrayal of the nationalist cause, and a capitulation to western imperialism. Where Muslims constitute a minority in their country the pressure to conform is greater. A woman demanding rights granted under the secular laws, such as the right to maintenance after divorce (the Shahbano case in India) is likely to be ostracised by her community. Fears of being cast out of one's collective identity function as a powerful control mechanism on women (and others), discouraging dissent and contributing to the silence we impose on ourselves.

Religious and ethnic identity is also increasingly being used to divide people - including women - by those interested in mobilising popular support for their political agendas which ignore intra-community disparities of, for example, class and gender. Equally, in this context, the use of international linkages and influence by economically more powerful states to actively pursue an agenda for international hegemony or leadership cannot be ignored.

While the role of identity and identity politics is undoubtedly critical, the issues involved are complex and need to be further explored. Factors intervening in the process of developing collective identities need to be identified and the problem conceptualized in all its dimensions before workable strategies can be devised.

**2. The Concept of Identity** Women have a number of identities: religious, ethnic, class and gender, to name just a few. Not all identities are given, some are assumed (education, profession,

etc). One or another identity may be prioritised depending on the particular historical and political context; for instance, national identity may take priority over gender during a freedom struggle. But while women are often used in these struggles they are rarely supported by 'colleagues' when it comes to women's rights issues (Iran, post-independence Algeria).

The content of identities is not static, and the contours of identity develop over time in response to changes at local, national and international levels. Thus what marks an individual's identity as a good Muslim can change.

- ▶ In the pre-colonial and early colonial period, to be considered a good Muslim in Nigeria it was sufficient to say one's prayers five times a day. In the last ten years this is no longer considered adequate. Now, individuals must say their prayers loudly and in a place where they can be seen; ideally they should wear a gown brought back from Mecca.

The formation of identity defines both self and 'the other'. Today, there is greater rigidity in the boundary of what one is, with groups that lack (or perceive themselves as not having) access to political power, economic resources, and social opportunity becoming increasingly exclusivist.

The consequent focus on identity or communal politics ignores intra-group exploitation and discrimination. For example, the focus on a Muslim identity conveniently ignores that a Muslim landowner may be exploiting Muslim peasants. It equally ignores that some people are men and some women, and that, by and large, women do not have access to rights and opportunities, to land and other resources as men do. Women are used as symbols of community boundaries. To maintain the unity of the group, a woman often forgoes various rights (to divorce, to education, etc.) when demanding such rights is presented as a threat to the group as a collective or community.

Across many different groups the idea of what womanhood should be, is actually very similar. Women are expected to be quiet, obedient, docile and restrained and women are supposed to be repositories of tradition. Yet tradition is dynamic rather than remaining static for thousands of years, meaning that the choice of what is tradition can be selective. Too frequently, the aspects of tradition which restrict women are recorded while examples from history where women were dynamic and had power are lost.

Transgression of the socially approved markers of identity and specifically of the patriarchal concept of 'ideal womanhood' bring ostracism through the lack of opportunities for education or work; through banning, or fatwas where people are stoned and put to death (Bangladesh).

The state also helpsto maintain, perpetuate and sometimes create new forms of identities, which may be superficially contradictory.

- ▶ In pre-independence Nigeria, the protection of minority rights was considered unimportant when the minority was women, and the British colonisers accepted the independence of Nigeria without granting women the vote in predominantly Muslim north Nigeria.
- ▶ Some states while pursuing modernisation, are also retaining and enforcing patriarchal structures in the family (Malaysia, Pakistan, Senegal).

Nor has the dichotomy between women's roles as citizens and as members of a religious community been resolved at an international level. The United Nations Charter (1945) and the Universal Declaration of Human Rights (1948) provide for both religious and women's rights but neither document foresees a potential conflict between the two kinds of rights.

The essential issue is who has the power to define what women's identities should be. Collective identities are politically constructed divisions imposed by people with vested interests. In each case the primary identity promoted is one which has enabled a group to be exclusivist, and that, by focusing on elements such as ethnic and religious ties, frequently pretends to be primordial.

As the boundaries of identity become increasingly exclusivist, authoritarians are giving people less opportunity to define who they are, what their needs are, and how those needs should be met. It is time to challenge - both politically as well as personally - those who define what the identity of women should be as Muslims, as Nigerians, Fijians, Uzbeks, Bangladeshis, etc. Looking beyond national and sub-national identities, women need to be aware of who is claiming the power to define our primary identities and who stands to benefit from this definition.

**3. Veiling and Identity** Closely linked with the issue of identity is the subject of veiling, although the basic questions remains of what is meant by veiling: whether full or partial covering; whether compulsory or voluntary; and whether headscarves are solely for religious reasons. Notably, men are socially permitted a wide range of activities - they can be money lenders, abusers of women and children, etc. - but are still good Muslims, as long as their wives are veiled and secluded.

Although veiling is a pre-Islamic custom in many countries, it has now come to be identified with the Islamic dress code.

- ▶ In Gambia, women have traditionally worn head scarves but these are now seen as part of Muslim dress and imposed on women.
- ▶ In South Africa, veiling does not always flow from religious considerations. The custom is that women should wear the headscarf to show they are married.
- ▶ In Mali, veiling is not compulsory and until recently Muslim women did not veil. The practice was introduced with the first women pilgrims returning from Mecca and now women who veil are those who dream of going to Mecca.

For some Muslim women veiling is a voluntary act, while for many others it is the imposition of a dress code on women and a suppression of women's sexuality. Refusing to veil would lead to social boycott, or worse, and some women choose to wear a scarf for safety's sake. While women's choice to voluntarily wear a veil must undoubtedly be respected, the question remains of what is 'voluntary' choice. Usually veiling is one half of the institution of purdah, the other half being the seclusion of women to certain spaces defined as female. Symbolically, veiling - whether it means being covered from head to toe or wearing a pin on one's shoulder - invisibilises women. To whatever extent veiling is mandatory - whether it is for religious or traditional reasons - it is not voluntary. If the choice to veil is made under circumstances in which women feel safer doing so, it is difficult to call this a voluntary act since the 'choice' is imposed externally. Importantly, there needs to be a greater measure of tolerance displayed by those wearing the veil towards those who do not.

The issue of veiling must be seen in the context of the prevailing socio-political atmosphere. An often over looked aspect is that the type of veils currently gaining popularity in many Muslim societies are completely unrelated to local women's traditional dress. Indeed veiling, as it is understood today, was previously absent from many Muslim societies and has emerged in the wake of modernisation and the global game of power politics. (Migrant women may adopt the veil, or a style of dress, as a reaction to the racism they confront as a community.) While there may be popular support to assert a Muslim identity distinguishing the community in either the national or the global contexts (often from the ruling elite or the industrialized west), the dynamics of power - whether global or within the Muslim world - are invariably accompanied by bids for cultural hegemony. Under the cover of asserting indigenous identity, it is quite often a new invention of identity that is being presented.

## **POLITICAL AND SOCIAL DYNAMICS OF POWER**

**1. Economic Rights** Reflecting a worldwide trend, even where women's economic participation is high in Muslim communities, social institutions and state policies both continue to undervalue women's contribution and to exclude women from decision-making.

- ▶ In Africa, for example, agriculture is a predominantly female occupation. Nevertheless in patrilineal societies, decisions are made by fathers or husbands and land controlled by men. In matrilineal communities, maternal uncles and cousins take the decisions. In neither case do women benefit from their labour.
- ▶ In Indonesia's matrilineal communities, women may own the land but have no decision-making powers over sales and purchase or even the crops planted.

However, given Malaysia's current thrust towards modernisation, the government-sponsored Institute of Islamic Studies is promoting the idea that Islam encourages women's participation in the economy.

Migration of males in search of work has also impacted on women in Muslim communities.

- ▶ In Yemen, men from a cash-crop producing area migrated to find work in the Gulf States. But due to Yemen's failure to take an anti-Iraq stand during the Gulf War, they were expelled by Saudi Arabia and other Gulf States. In the meantime the women of the area had taken control of economic decision-making and on their men's return they refused to hand back control. Many of the men had to migrate to other cities, leaving the women to continue with their economic activities.

The control over women's mobility has a critical impact on women's economic rights, impeding access to economic resources and decision-making. Women's seclusion is implied in a number of ways. In some countries women require permission from their husbands to work, to join a club or an association.

- ▶ In Morocco, women require permission from their husbands to go out to work.
- ▶ In Sudan, women must obtain permission from the Ministry of the Interior and from their husbands to travel abroad.

**2. Political Participation** Under-represented in the political processes in most of the Muslim world, women's ability to participate effectively is hampered by restrictions on mobility. In Senegal, there is the assumption that political participation is a matter only for women working in the formal sector outside their homes.

Equally, even in those countries where women have been elected, few changes are visible. Women political leaders rarely seem to take up women's issues presumably because of the compromises they have to make to get to the top.

- ▶ Pakistan, Bangladesh and Turkey have female heads of government but none has - so far - taken any substantive steps to significantly improve the lot of women.
- ▶ In Sudan, there is a female Commissioner of State and there are women's wings in all political parties including the Islamist parties; women's issues are being put on political party agendas, but discrimination is, if anything, increasing.
- ▶ In Nigeria, a female Presidential candidate was strongly supported by women's groups, leading the government to finance her. Subsequently, there was widespread propaganda by religious leaders against her.

While more women should undoubtedly enter the political process at all levels, this may not be enough. Given the nature of the political process, women will have to change the political system itself if they are to make effective changes at the structural level.

**3. Rights Over Our Bodies** Women frequently find themselves asking who their bodies belong to. Both history and recent experience have shown that in most societies, women's bodies effectively belong to their families, their husbands and to the state, i.e. to everyone except themselves. The state exercises control by determining the woman's right to maternity leave, granting or refusing her opportunities (or rights) to work and also to produce children. What about the man, does he own himself or do the family and state own him too?

The control over women's sexuality is almost universal. Virginity is strictly enforced in many places with deviations resulting in swift death at the hands of family members. The honour of men is culturally linked to the behaviour of female relatives, specifically to their sexuality. Women are denied sexual self-expression and the taboo is so strong that sexuality has received little, if any, attention from women's groups in Muslim communities. In contrast, matters of health, and reproductive policies vs rights; and related violence have mobilised greater activism.

**4. Reproductive powers** Both state policies and social institutions deny women rights over their own bodies through controlling women's reproductive powers. Social control was epitomised through a Turkish saying "A woman's back should not be left without a stick and her womb should not be left without a foetus", meaning that in order to subjugate them, women should be left continuously pregnant.



States seeking to control population growth have instituted measures promoting family planning. Others seeking to promote fertility have banned the use of (sometimes even information about) contraceptives. In both situations, states have justified policies by reference to religion and have mobilised public statements of support by religious figures. Women's rights to contraception and abortion are often severely restricted. In Mali and Gambia, contraceptives are only provided to women with the husband's permission.

Similarly, policies on abortion vary. In a few Muslim societies (Uzbekistan, Kazakhstan) women have the right to legal abortions, but in many societies abortion is either illegal, or only available on restricted grounds or/and with the husband's permission.

The diversity in Muslim societies on issues of population and contraceptives are a clear proof that there is no one 'Islamic' position. The policies adopted by states are obviously guided by considerations other than religion. Nevertheless, in country after country justifications for state policies and societal norms make reference to religion or custom.

## STRATEGIES

At the international meeting, *Towards Beijing: Women, Law and Status in the Muslim World*, women shared experiences of strategies used in different countries at different levels. These have ranged from direct action that any woman can adopt to national lobbying, from instituting legal test cases (to highlight lacunae in the law) to collective efforts for legal reforms, awareness and social change at the regional and international levels. Apart from sharing past experiences, women also brainstormed for strategies on three priority themes: violence; family laws; and questions of identity.

## DIRECT ACTIONS FOR CHANGE

While women consistently devise local strategies of direct intervention, these rarely receive publicity nor are they documented. We hear of them only in casual conversation. We feel the need to share our creativity and therefore present a few examples. Many of these strategies have received popular support, yet require neither formal organizations, infrastructural resources nor expertise.

**Challenging the male monopoly of public spaces at night-time:** In Turkey, women decided to challenge this by going in groups late at night to coffee shops that until then had no female clients. Their behaviour shocked the men who asked them what they were doing, told them to go home and even threatened them. However women persisted in this campaign and were joined by other women who adopted the same tactic. Eventually, this direct intervention succeeded in breaking the male monopoly of night-time socializing.

**Countering sexual harassment in public spaces:** In Turkey, women took to wearing a purple pin and used this in self-defence if they were harassed. A similar tactic has also been used by Iranian women.

**Using notions of shame:** One suggestion for future action was inspired by an experience in South America, where in cases of domestic violence the notion of shame is used to pressurize men to stop violence against their women. South American women had a massive letter campaign addressed directly to the man in question and accompanied this with demonstrations/pickets outside the couple's house. Similar tactics have been used in India where the aim is to encourage the community to play a positive role in reducing violence against women.

**Defying social pressures:** In Algeria, women defy social pressures and continue to go to colleges, universities and work without headscarves despite constant threats to their lives by militants. In Iran defiance can be the colour of your scarf or coat, the style in which it is draped, the amount of discrete lipstick women put on. In both instances, such defiance can lead to death and must be seen as a courageous assertion of self-will.

**Document our experiences:** Even quickly jotting down what we have done, learnt and achieved can lead to change. Often what seems like old-hat to one group may in another context be of inspirational value to others who may not have considered such actions.

**Supporting women's education:** Showing that creativity is not a female prerogative a group of young men living in a peri-urban locality in Pakistan supported women's education by declaring they would refuse to marry an uneducated girl. And if, in five years time, there were no women high school graduates in their own community, they would break community strictures and marry city women. Community elders hastened to ensure education up to that level.

**Discouraging men from monopolising community development while encouraging women to be active:** In an even more creative solution to this problem, these young men came up with a brilliant scheme: they held a baby competition. The fathers naturally decided to receive the awards on stage, little realizing that the steps leading to the stage had deliberately been made unsteady. As the men tottered on the steps, the audience - half of which was female - was in fits of laughter. After this event, the men happily left the stage to women.

## **CONSCIOUSNESS-RAISING**

Consciousness-raising has been a strategy of all feminist groups, both within and outside the Muslim world. The multiple methods used have included: conducting small group and focus-group discussions; printing posters, stickers, pamphlets and newsletters; holding press conferences, seminars, and meetings. In Fiji and in Mali, in Uzbekistan and in Palestine, women have used some, or all, of these methods.

**The electronic media:** In conditions allowing women access, awareness campaigns have been aired on television and radio stations. In some African countries radio plays have been used as have radio phone-in programmes where listeners call in with questions or suggestions.

**Counselling and training programmes:** An important method of altering attitudes and raising awareness is to lobby for - and develop - gender training programmes for government

development workers, policy makers, NGOs, women social workers, researchers, media persons, and the police.

**Women's magazines:** In Iran activists used women's magazines, including those sponsored by the government, to expose the injustices suffered by women in the name of creating a 'just Islamic society'. Stories documenting real-life cases were printed, while open letters were addressed to religious leaders asking them to explain how the government intended to restore the respect Islam and the Islamic Republic had promised women. Since the religious leaders of Iran had recognised women as a politically important constituency, the government was obliged to respond to these demands.

**The formal education system:** Given the religious Right's extensive and manipulative use of formal education systems, another recommendation for action was that wherever possible women should intervene to counterbalance this influence (either on an individual basis or at a more formal level).

**Alternative video films:** Confronted with extremist elements who, in the name of religion, are taking the law into their own hands and promoting violence, especially against women, Bangladeshi women have produced a documentary video film as a vehicle for consciousness-raising and initiating discussion. In Turkey videos have been used for consciousness-raising on the issue of domestic violence.

**Using all forms of media and communication:** Alternative theatre, street plays, cassettes and songs have been produced by women and human rights advocacy groups. In countries with strong oral traditions, poems and songs, skits and plays can reach audiences who otherwise have little access to women's discourses.

During martial law in Pakistan, women defied the ban on demonstrations, pickets, posters and meetings. Denied access to state controlled electronic media, women turned to the written press and came up with the idea of a jalsa: a meeting in which humorous skits (to highlight the absurdity of laws proposed and passed) were interspersed with songs, speeches and poems.

**Public demonstrations:** Women have staged demonstrations under extremely adverse conditions (under authoritarian regimes or in defiance of armed militant groups) e.g. in Algeria, and, earlier, in Iran; as well as in more favourable conditions such as in Turkey. Demonstrations are powerful consciousness raising tool for they:

- ▶ take the issue to the public,

- ▶ demonstrate women's willingness to stand up and be counted (whether in adverse or favourable circumstances);
- ▶ ensure media coverage of the issue; and,
- ▶ build a sense of solidarity amongst the participants.

## LOBBYING

Women have used a variety of techniques to lobby with governments, political parties and institutions of civil society e.g. trade unions and the media. Women activists have lobbied with decision-makers and the mass media regarding the portrayal of women; with agencies of the state (e.g. administration and law-enforcing agencies) on the treatment of women; with trade union leaders and with political parties, on their agendas for women.

**Formal and informal lobbying:** In many countries delegations of women have formally and informally met representatives of concerned ministries and have consciously interacted with public representatives and bureaucrats both. In Malaysia, women successfully lobbied legislators, behind the scenes, to table a new bill on domestic violence (enacted as the Domestic Violence Act, 1994). Their campaign was carried out over several years and included large conferences, documentation of cases and mobilising public support. Women's groups have elaborated independent manifesto agendas for women and circulated these for adoption by political parties. (Pakistani groups have met with significant levels of success.)

**Systematic monitoring and lobbying campaigns:** With respect to violence against women, one suggestion was to use such campaigns to force local authorities to be accountable for the safety of women in the neighbourhood.

**Signature and letter campaigns:** Women have used direct methods such as mobilizing large numbers of signatures or initiating postcard, telegram and fax campaigns. In Morocco, a large number of women have jointly petitioned the King, requesting him to institute legal reforms.

## MOBILIZING AND PUBLIC SUPPORT

While strategies vary according to situational context, the organising group and the issue at hand, almost all groups have used face-to-face discussions, seminars, workshops and conferences to create awareness and mobilise public support.

**Legal awareness programmes:** Programmes have been launched that, unlike legal literacy, have gone beyond informing people of existing laws to discussions of the sources of law and creating awareness about potential legal reforms. Legal awareness and consciousness-raising have also been integrated into on-going development schemes and projects (Bangladesh, Nigeria, Sri Lanka).

**Using theatre and training others:** Through the W&L Pakistan country project, alternative theatre groups are transferring/upgrading skills among community based groups enabling them to write and produce their own plays in their own languages.

**Consolidating support and shows of strength:** In Morocco, in 1993, women activists from all the Maghreb country came together to collectively discuss the issue of family laws.

Between 1964 and 1980 in Algeria, under pressure from intellectuals three drafts of the Family Code were prevented from being presented before the Assembly. When in 1980 the fourth and last draft was secretly discussed at the Assembly and Council of Ministers, women stole a copy and began campaigning, mobilising the very first women's demonstrations in the streets since independence. Within one week, the numbers of women demonstrating in Algiers rose from one hundred to several thousands and discussion of the draft was suspended by the President.

In Pakistan over 40 NGOs came together in March 1994 in a high profile Convention on Legal Reforms held in the capital city. Prior to the Convention, separate initiatives were consolidated into a list of demands for reforms in personal status law and repeal of discriminatory legislation. Consensus-building efforts were undertaken from the grassroots up and amongst all religious communities.

The Convention brought together grassroots development organizations, and national advocacy and women's groups from all provinces and religious communities - many of them meeting for the first time. The Convention allowed more than 250 persons to directly interact with high-level government officials (Federal Law Minister and Special Advisor on Social Affairs) as well as with the Secretary General of the main opposition party. The Convention was given wide coverage in both the electronic and print media.

**Organise tribunals:** This can be done at all levels to hear the voices of women who have, for example, experienced violence (here, care should be taken to be sensitive to the survivors' needs which must be the foremost consideration).

**Where public activity is illegal and dangerous:** In such situations, women have mobilised support by slipping pamphlets into mailboxes (Algeria); plastering the town with posters at night

(Pakistan); and where the dangers are extreme, by sharing information on a person to person basis by word of mouth and informal meetings (Iran and Sudan).

**Dialoging with 'the other':** In Sri Lanka, women have started dialogues with qazis, a first exchange of ideas with the hope of gentle persuasion following. In Turkey and Yemen attempts are being made to initiate interaction between women from different political tendencies who have generally differing points of view but who may be allies on certain specific issues.

## **NETWORKING FOR CHANGE**

**Women Living Under Muslim Laws:** The WLUML strategy is to use networking and linkages within the Muslim world and outside it, to encourage women to construct their own identities and determine what they want their societies to be like. A major constraint to a reconstruction of identity by Muslim women is the notion of there being one universal and homogenous Muslim world. Networking, by breaking the isolation, exposing the multiplicity and diversity of women's situations and experiences, and offering support systems, can facilitate this reconstruction - while not imposing any single solution or identity.

**Collectif '95:** In the Maghreb, the Collectif '95 (a mixed group of women and men) goes beyond national boundaries to struggle for women's rights, with groups in Algeria, Morocco and Tunisia working in unison for change. Their proposal for an alternative code of family laws has been collectively formulated and focuses on the use of international instruments and international forums. However, each country group is left to formulate its own specific strategy for lobbying and implementation at the national level.

## **LINKING RESEARCH TO ACTIVISM**

While all activism has some elements of research or, at least documentation, in some initiatives the linkage is a conscious strategy rather than just necessary background. Today many projects on Women and Law attempt to integrate these elements. Here we just want to mention .

Two of the older initiatives, the WLUML network's *Women and Law in the Muslim World Programme* (covering 22 countries) and the Women and Law in Southern Africa (WLSA) project (operative in six countries) share a number of commonalities; the essential one being to link research to advocacy and change.

**Women and Law in Southern Africa** - an older initiative - has developed a cycle of research-action-research. Research focuses on documenting legal provisions, customary practices and the implementation of both i.e. the living law in between. Research identifies blockages, lacunae and contradictions. Awareness is spread through multiple methods in which mass electronic media campaigns are complemented with WLSA-led discussions at the grassroots. WLSA has also developed linkages with different groups and resource persons including: lawyers, activists, students, academicians. This linkage facilitates the process of monitoring the implementation of legal provisions, the drafting of recommendations, and lobbying activities to modify the ground situation.

A major lesson learnt by WLSA is that simple awareness is not enough, access to law is a key factor in establishing the kind of society one wants.

To elicit opinions, in one of the six countries WLSA has produced and circulated a white paper on existing laws and proposed changes so as to expand the base of discussions on the law.

**The WLUML Women and Law (W&L) Programme** too, is interested in the living law that falls between, or is a combination of statutory provisions and customary practices; i.e. the rules that, in reality, govern women's lives and determine the space within which they strategise for their survival and well-being. Like WLSA, the WLUML W&L Programme consciously links research to advocacy and ground-change and includes a basic component of networking. However, unlike WLSA, the 22 countries in which the W&L Programme is currently being carried out (as Country Projects) are not geographically contiguous. They are spread from Indonesia to Senegal, from South Africa to Uzbekistan; with immediate implications for coordination and synthesising.

Further, a conscious effort in the W&L Programme is to deconstruct the myth of one homogenous Muslim world, and one single definition of Muslim womanhood. By documenting and making available the diversities in the Muslim world to all those linked through the WLUML network, the W&L Programme seeks to encourage women to question the laws and identities imposed on them; to analyse the source of customs and laws; and, to redefine their lives with the help of support systems and networks.

Finally, within a collectively elaborated research framework each country project is free to prioritise and strategise in the light of local concerns and situations. (Women & Law Country Projects or inputs exist in: Fiji, Indonesia, Malaysia, Singapore, Philippines, Bangladesh, India,



Sri Lanka, Pakistan, Iran, Turkey, Uzbekistan, Afghanistan, Yemen, Sudan, South Africa, Nigeria, Mali, Gambia, Nigeria, Senegal, Algeria, Morocco and Tunisia).

**Research as activism:** Research can sometimes become activism. In Algeria a group of women and men started working on reproductive rights in the sixties. When the group's application for registration was rejected, the group demanded - and obtained - permission to set up an applied research center for contraception in Algiers Main Hospital (no mention being made of abortion). By calling it 'research' instead of family planning services, the group was able to bypass legal prohibitions. Women from all over Algeria travelled up to 1000 kms just for a consultation at this 'research' clinic, overcoming the 1920 French law which forbade any information about, or use of, contraception and abortion. In fact, midwives were jailed while the 'research' centre continued functioning.

In the meantime, underscoring the divisions amongst women, the Union Nationale des Femmes Algeriennes - affiliated to the only officially permitted ruling political party, the FLN - demanded that access to the experimental research centre and to PME (Protection Maternelle et Infantile) clinics be conditional on: being married, a mother of at least four children, and producing the "livret de famille" (family book) - a document normally in the husband's possession. This was tantamount to making access dependent on a husband's prior approval.

Based on the information collected in research, the group informally (and without legal cover) produced a brochure on the need for such an advisory centre and succeeded in persuading a government institute to launch a widespread KAP (knowledge, awareness and practice) survey across Algeria. In the years that followed, while for reasons of safety the group dissolved, more and more health professionals took up the issue.

Contraceptives unofficially became part of the services offered by the 700 PME clinics, until the 1976 Health Code finally legalized contraceptives and 'therapeutic' abortion. Nevertheless, until the late eighties, IUDs could only be obtained from the research centre or the PME clinics, and it was very difficult to find pills or condoms in pharmacies, effectively meaning a ban on contraceptives had been imposed.

## **LEGAL REFORMS**

Reforms in personal status laws are a priority in almost all countries, whether it is a matter of secular laws (Turkey, Senegal), state laws (Malaysia, Nigeria, Pakistan, Mali, Gambia, Bangladesh, Iran) or minority community laws (South Africa, India, Philippines).

In almost every country, women and general advocacy groups have pressed for legal reforms or acted to prevent the enactment of legislation detrimental to women's rights.

**In Sri Lanka**, on learning of a Committee being established to review Muslim Personal Laws, the Muslim Women's Research and Action Front (MWRAF) publicised this in the press and successfully lobbied to have women lawyers included in the Muslim Personal Law Reform Committee. Working in close collaboration with these women members of the Committee, MWRAF was able to formulate and forward positive legislative reforms in personal status law. Recommendations now being forwarded to the government include:

- ▶ a provision to have the written consent of the woman in the marriage contract;
- ▶ improvements in divorce rights of Muslim women;
- ▶ reform of the qazi system (responsible for family matters amongst Muslims); and
- ▶ introduction of an appeal on qazi court decisions.

**In Turkey**, women activists successfully lobbied for several important changes that include: the right to divorce through mutual consent after one year or more of marriage, a woman's right to abortion with the consent of her husband, and the removal a discriminatory penalty clause allowing those guilty of raping prostitutes to receive a lesser punishment.

**In Malaysia**, for years women's advocacy groups had been active on the issue of domestic violence. After a campaign lasting several years, in 1994 they succeeded in having the Domestic Violence Act passed, which amongst other things: makes domestic violence a cognizable offence; covers all long-term residents in the household; allows the court to order the expulsion of the perpetrator of violence from the household for a year (an order that can be extended at the end of the term). Malaysian women are now actively pursuing the enactment of enabling legislation for an effective implementation of the Act.

**In Iran**, Islamist women activists launched an unconventional campaign, basing their arguments on Islamic texts supported by the Qur'an, for a law providing 'wages for housework'. They argued that women, like all other Muslims, are entitled to the fruits of their labour; and equally that in Islamic tradition a woman is not required to work in her husband's home, to the extent that if she breastfeeds her child she is entitled to payment from her husband. Therefore, since in reality all

women work in their husband's homes, they are entitled to a salary. Conservative religious leaders who had strongly resisted the bill were forced to concede that this was an Islamic right and a law was passed in 1991 under which a man divorcing his wife must first pay her housework wages.

**In South Africa**, women are involved in the finalisation of the Constitution and the formulation of community-specific personal status law. As said earlier, the main question facing South African Muslim women is whether or not to press for the codification of Muslim personal law. If this is codified, how to ensure that Muslim women enjoy the equity clauses of the general law, and if codification is rejected, how then to regularize all the marriages, divorces, etc. carried out under the informal and therefore legally un-recognized Muslim personal laws.

**In Gambia and Mali**, women's groups are active on the issue of women's bodily rights with a focus on female genital mutilation and a woman's right to control the number and spacing of her children.

**In Pakistan**, during the martial law period women vociferously resisted the passing of legislation that, in black and white, stated that the value of a woman's life was only half that of a man's, and that in all legal matters, a woman's testimony was only worth half that of a man. Even though an ordinance was eventually passed, the blood money for women is the same as for men, while unequal weightage in testimony has been limited to very specific circumstances. They also successfully prevented the repeal of penal code clauses permitting abortion in the event that the woman's life is endangered. While women continue to lobby for the repeal of all discriminatory laws supposedly premised on Islam, they have also initiated a move to reform the personal laws of all communities in the country, as a first step towards a uniform code for all citizens.

**In Bangladesh**, women's groups have been exploring the issue of one uniform civil code for several years, and advocacy initiatives have been premised on two principles:

- ▶ To work for equal laws for women across religious/ethnic boundaries. With three communities living in Bangladesh, each governed by its own individual religion, there is a need to press for a uniform civil law for all communities.
- ▶ To work towards creating an enabling condition for implementation of good law because no matter how good the laws are, without an enabling environment women cannot benefit from these laws.

As the first step towards a uniform civil code, a draft section relating to marriage has been widely circulated among NGOs and to government and opposition persons, and the issue is being discussed at multi-disciplinary seminars - both at the national as well as the district levels.

**Collectif '95** that brings together activists from Algeria, Tunisia and Morocco has elaborated a 100-point proposal for personal status law. Catalysed in response to a state-level initiative proposing to unify family law in all Arab countries, the Collectif's suggestion is for a secular code based on principles of gender equality and that draws on the Nairobi Forward Looking Strategies, the Copenhagen Convention and the Convention for the Elimination of all Discrimination Against Women (CEDAW).

One of Collectif '95's strategies is to highlight the contradictions between the principles of equality contained in most constitutions and particular state laws that deny women equality. Another is a review of existing international instruments that promote women's equality, to see which instruments have been ratified, and whether state parties are complying with these; where states have not signed to lobby for ratification; and where states have ratified with reservations, to lobby for their withdrawal. The Collectif has also documented the contradictions in the posture that countries like to adopt at the international level of supporting gender equality compared to the actual provisions of laws.

**Challenge laws that discriminate against women through legal action:** In Turkey, where statutory provisions consider the man the head of household, some 30 couples went to court asking for a divorce on the basis that they could not live together if the man continued to be head of household. Where lower courts accepted their grounds and granted divorce, couples appealed to the superior courts arguing that this was not a sound reason for a divorce. Where courts had refused divorce, the couples likewise appealed against the decision. In both cases, the purpose was to highlight the issue and bring it to the notice of both the legal system and the population.

Such action can and should be taken even when there is no chance of 'winning' simply in order to publicise the issue.

**Draft legislation:** As seen in the campaigns for legal reform in Malaysia, Sri Lanka and the Collectif '95 initiative, it is not enough to protest against existing laws, alternatives need to be drafted that can then be formally taken up in parliaments.

**Challenge specific laws on constitutional grounds:** This has been done in India where a Muslim woman challenged Muslim personal law on the grounds that these denied her rights otherwise guaranteed by the Constitution to all female citizens. (The case, unfortunately led to an

exemption of Muslim personal law from the constitutional provision, but the legal battles continue.)

## **SUPPORT SYSTEMS FOR WOMEN**

Experience has shown that providing women information is often not enough and when awareness leads to frustration, it can in fact be counter-productive. When mobilising support and attempting to change attitudes, we must ensure that support systems exist or are created. An awareness of this need has meant that while health clinics and income generation assistance are traditional areas of women's activism, these are changing in nature; more recently, women's and general advocacy groups have initiated new support systems.

**Resource Centres:** Multi-faceted resource centres that act as documentation and information centres, do research and interventions have existed in many places. Recently, in Uzbekistan and Kazakhstan, women have formed autonomous women's groups. In Algeria permission to register groups in 1990 saw a veritable mushrooming of women's groups all over the country. While many are affiliated to newly formed parties, others are autonomous.

**Shelters:** In Turkey, Fiji, Malaysia, Pakistan, and Algeria, for example, support groups have created shelters and crisis centres for women victims of domestic violence and women who are generally shelterless.

**Legal Aid:** Through specific centres, or rosters of helpful lawyers, women have mobilized to provide women legal assistance and counselling in, e.g. Bangladesh and all the above mentioned countries. In Mali, legal clinics have been established by the state.

**Solidarity Work:** It is often impossible for women to break through barriers imposed by their family or community without tangible support from others. Further, the position of women fighting against violations of their basic human rights (e.g. they do not want to be forcibly married off, their children are abducted by their fathers, their physical survival or well-being is in danger; new proposed laws and directives seek to undermine or rescind their rights) may be strengthened if they are supported by others.

Many women's groups carry out solidarity action almost instinctively. National women's rights groups hold press conferences, arrange for shelter, lobby with concerned authorities, etc. But equally important for women who usually struggle in isolation is the need to have visible support

from outside their own contexts. When women from the Muslim world support each others' actions, it strengthens their own local struggles as well as the general women's movement.

One of the most important activities of the WLUML network is providing such support when those affected request it. Each of us linked through the network can call upon the collectivity to write letters, faxes and telegrammes to concerned authorities; to publicise the issue in their own countries. In cases where an individual's rights are violated (or in danger of being violated) the network is a means for mobilising support and facilitating linkages with lawyers, shelters, and other groups best placed to help. It can refer those in need of advice to the right groups/resource persons. The solidarity and linkages extend beyond the Muslim world and have consistently been supported by feminist and human rights groups all over the world.

**Networking for change:** Although the importance of networks is often underestimated, in cases of a general proposal to change laws, networks can, for instance, support local initiatives by providing required information on similar laws and issues elsewhere (e.g. the case in the Reform Committee action in Sri Lanka) as well as strategies employed by others in a similar situation.

There is a need to extend and strengthen networking at all levels: within our countries, regions, the Muslim world and beyond this; between women's advocacy groups and development initiatives, human rights associations and other institutions of civil society. As part of this, expertise must be identified at the local and international levels, and a talent pool created that can be shared as and when needed.

## **A Women's Parliament**

From the Collectif '95 comes the idea of a world parliament of women where women's issues will receive the attention they deserve, where progress can be monitored, and where women can formally file complaints of violations of their human rights. The argument is that if there can be world bodies on virtually every other aspect, surely women need a specialised forum too.

## IDENTITY AND WOMEN

### Let's create our own identity by:

- ▶ asking ourselves and analyzing who is imposing new dress codes on us and why;
- ▶ emphasizing those aspects of tradition and our culture that favour women;
- ▶ by breaking the male monopoly of religious interpretations (women's groups exist in Malaysia, the U.S.A., the Middle East);
- ▶ but most importantly by functioning as alternative legitimising reference points for each other.

**Initiate dialogues to understand the other's point of view.** A women's group in Sri Lanka dialoguing with qazis, found to their surprise pockets of support. In Palestine, women working in the area of reproductive health have also been surprised at the support extended by the *ulema*.

**Let's leave space for each other:** and not assume the dichotomous logic of male dominated discourse that insists that everything is black or white. We know perfectly well that our world is full of colours, shades and tones. We each of us have the right to make our own decisions, and must allow other women to be equally autonomous in their decisions. Let us admit that what is the right decision for me may not be the right one for another, because I am not only a woman but so many other things as well.

## What is Women Living Under Muslim Laws (WLUML)?

The network Women Living Under Muslim Laws was formed in 1984 in response to a number of incidents all of which related to women, laws and Islam. These incidents reflected a trend throughout the Muslim world in which political forces, whether in or out of power, are increasingly formulating legal, social and administrative measures that militate against women's autonomy and self-actualization. These measures are all being justified with reference to Islam.

The view commonly held in the Muslim World today, even by many of its most learned scholars, is that Islam provides a complete 'code of life' the rules of which are encompassed in 'The Shariah'. An essential qualification of being a Muslim, it is said, is to follow the rules of the shariah. Although these rules vary according to sect, culture and ethnicity they share one common ground: all embody and promote patriarchal structures and values.

The formulation of the network's name is an acknowledgement of both the complexity and diversity of women's realities in the Muslim world. A less obvious concern that went into the choice of name is that women affected by Muslim laws may not be Muslim, either by virtue of having a different religion or by virtue of having chosen another marker of political or personal identity. The emphasis in the title and in the network is therefore on the women themselves and their situations and not on the specific politicoreligious option they may exercise. The network has a horizontal structure, respects women's separate identities, and believes in allowing space to each to decide the path they choose, keeping in view their national and local context.

### **Thus, WLUML extends to:**

women living where Islam is the state religion, as well as women belonging to Muslim communities ruled by minority religious laws;

women in secular states where a rapidly expanding political presence of Islam increasingly provokes a demand for minority religious law;

women from migrant Muslim communities in Europe, the Americas, and across the world; and

non-Muslim women who may have Muslim laws applied to them directly or through their children.

## **What is Shirkat Gah?**



Shirkat Gah started as a women's collective in 1975 and developed into a full-time women's resource and documentation centre in 1984, with offices in Karachi and Lahore.

### **Aims and Objectives:**

- ▶ To increase women's autonomy, access to resources and decision-making;
- ▶ To bring about an attitudinal change transforming the current socio-cultural perspective that regards women as inherently inferior to one which is premised on gender equality at all levels; and
- ▶ To lobby for women-appropriate development in programmes, policies and laws.

### **Strategy:**

Shirkat Gah believes that:

- ▶ development and rights are equally important to progress;
- ▶ to change policies, concepts and attitudes towards women, and to improve the quality of life and gender relations, requires an integrated approach, incorporating research, advocacy and institution building;
- ▶ sustainable change requires a participatory approach at all levels and in all aspects including the identification of critical areas of interventions, innovative schemes, methodologies and materials.

Flowing from this, Shirkat Gah is a women's resource centre and not a service delivery organisation. Its areas of activity include: documentation, networking, research, publications, training, dissemination of information, facilitation, advocacy, and lobbying.

### **Current Programmes and Projects include:**

- ▶ Women and Law Pakistan Country Project for the network WLUML, of which Shirkat Gah is the Asia Region Coordination point.
- ▶ Women and Sustainable Development, in which Shirkat Gah is working in partnership with the IUCN to develop itself as a focal point for women and environment activities.
- ▶ Women's Economic Autonomy, an on-going project of marketing hand-woven cloth made by women in an urban squatter settlement.

- ▶ Training for Community Development Workers; Gender Awareness Training of Trainers; Popular Education Programme in squatter settlements.