

**Fighting for Women's Rights in an Islamic  
context**

**-A Case Study of Malaysia**

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**Frank Martela**

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*“Women and men who understand the universality of human rights – who understand injustice – change the culture from within.” -Freeman 1993 p.95*

## 1 Introduction

In the first part of this essay I examined the position of women within Islamic societies. The focus was on what challenges *Sharia* – the Islamic law – creates for equality of women within the societies. This is because many forms of discrimination against women in Islamic countries are claimed to be based on *Qur’an* and *Sunna*, therefore being unalterable will of God. This forms a major challenge for feminists and women working for equity as challenging the Sharia could be seen as rejecting the Islamic heritage and faith (Othman 2006 p.339). I specifically concentrated on Malaysia and the recent Islamic revivalism there. It was shown that this revivalism has in general lead to more inequality and less rights for women. What makes the Malaysian movement towards a more strictly Islamic society interesting is the fact that it has taken place through a relatively democratic government. This makes the case for cultural relativism even stronger and the discriminatory practices harder to refute as they have taken place in a society where women have full voting rights and thus a change to participate in the politics.

In this second part of the essay I will essentially try to answer two separate questions. Firstly, do we have the right to interfere and try to improve the position of women? This is the challenge from cultural relativism. Is the position of women in Islamic countries nowadays an essential part of their culture which should not be challenged by notably Western discourse of human rights? Should the more collectivist and group rights based approach override too individualistic notions of rights? First we will discuss the instruments of human rights discourse and the legitimacy they give in the struggle for women’s equality in Islamic countries and Malaysia. Secondly the challenge of cultural relativism to this legitimacy will be dealt with.

The second question is about strategy. If we want to improve the position of women, what would be the best strategies? In Islamic context this usually means a choice between criticizing Islam from a secular viewpoint, usually utilizing universal human rights discourse or, alternatively, trying to influence Islamic society from inside by, for example giving new, more liberal interpretations to the texts of *Qur’an*. Additionally women’s question is not separated from the other crucial questions of the society and thus some space is dedicated to the development of society as such as a strategy for women’s liberation.

Both of these questions are handled in both a larger perspective and in a specifically Malaysian context. This is because the real-life situations where women live are “messy, contradictory, often unstable and thus far

from straightforward” (Winter 2006 p.382). Therefore no universal answers or solutions can be given to address all women in all countries. Instead the struggle for women’s rights must be solved on local soil using the opportunities and answering the challenges the specific situation in a certain country provides.

## **2 Women’s claim for rights**

In the first part of this chapter we take a look at different international human rights instruments and consider what base for improving women’s position they will be able to provide. However many Islamic scholars claim that these human rights instruments are essentially Western and don’t suit the traditions and customs of Islamic countries. The relevance of this challenge of cultural relativism will be dealt subsequently. In both these cases the special focus will be kept on the contemporary situation in Malaysia.

### **2.1 International Human rights instruments**

Through the continuous work of United Nations a number of human rights instruments have emerged during the last 50 years. Of these the most influential and well-known is the Universal Declaration of Human Rights (UDHR) which comprehensibly lists rights that every human being is entitled to despite their race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (UN 1948). In 1966 countries of UN reached a consensus in translating its principles into international treaties that protected specific rights giving birth to International Covenant on Economic, Social and Cultural Rights (CESCR) and the International Covenant on Civil and Political Rights (CCPR). When they entered into force in 1976, the two International Covenants made many of the provisions of the Universal Declaration effectively binding for States that ratified them. These two International Covenants, together with the Universal Declaration and the Optional Protocols, comprise the International Bill of Human Rights (UN 2006a). As International Covenant on Civil and Political Rights is ratified by 160 countries and International Covenant on Economic, Social and Cultural Rights by 155 countries they provide a powerful and almost universal legal instrument for the enforcement of human rights (Wikipedia 2006a, 2006b).

Of special relevance for women and thus for this article is a newer convention adopted year 1981 by the United Nations, namely Convention on Elimination of All Forms of Discrimination against Women (CEDAW) (UN 2006a) which up to date has been signed by 185 countries (UN 2006c). Its basic premise is women’s equality with men which implies “full enjoyment of human rights and fundamental freedoms”

(Freeman 1993 p.93). By concentrating specially on women's discrimination it answers the critic to traditional human rights instruments being built up from a male perspective and "develops the legal norm from a sex neutrality norm that requires equal treatment of men and women, usually measured by how men are treated, to recognize that the distinctive characteristics of women and their vulnerabilities to discrimination merit a specific legal response" (Cook 1993 p.43). It is considered to be a powerful instrument for the delivery of development with justice. (Freeman 1993 p.93)

In addition to these United Nations provides a large number of other human rights conventions and other documents of which of relevance for women might be for example Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriage, Convention on the Rights of the Child, Declaration on the Elimination of Violence Against Women or Beijing Declaration and Platform of Action.

As we look at Malaysia, however, we notify that its willingness to take part in these conventions has been very selective. In fact it belongs to those rare countries which have not ratified the international bill of human rights. Only instruments it is part of are in fact the CEDAW and Convention on the Rights of the Child (CRC) (UNHCHR 2006). This means that both in the level of rhetoric and in the level of political action the CEDAW provides the best human rights instrument for those willing to struggle for a better future for Malaysian women. As Malaysia has stated its public commitment to this article it gives human rights activists a rationale to hold it accountable for its obligations. Therefore we will in this section concentrate mostly on it.

It has been stated that CEDAW "is a powerful instrument for the delivery of development with justice." (Freeman 1993 p.93) "It defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination" (UN 2006b). Its power lies firstly in the fact that ratified or acceded countries are legally bound to put its provisions into practice. Secondly countries are committed to submit national reports at least every four years and an international committee will thereafter review the report and engage in a dialogue with the government of the country to ensure its commitment. (UN 2006d)

One of the strengths of CEDAW is that it not only prohibits the government itself to discriminate against women but also demands active participation from it to ensure that no other actor is discriminating against women. As state parties are required to "take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise" (CEDAW 1979 2e) it means that the "state may well be obliged to prevent and deter private acts of discrimination, to investigate and negate their harmful

consequences and to provide for compensation or sanctions for the performance of such acts, for instance by penalties of a civil or criminal nature” (Cook 1993 p.44)

Another peculiarity of CEDAW is the fact that it makes a state also responsible for eliminating stereotypes and discriminatory attitudes from its citizens. Article 5 States: ”Parties shall take all appropriate measures: To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women” (CEDAW 1979). This is a very powerful promise as many forms of discrimination rest not on laws as such but on legally tolerated customs and practices (Cook 1993 p.46). If these customs and attitudes could really be eliminated it would mark a huge step in the direction of equality.

Article 7 provides women equality in the political sphere, articles 10 and 11 in education and work (CEDAW 1979). Of special importance is article 16 which gives men and women same rights in marriage, a matter of controversy in many countries. This family law together with article 15 which gives women equal legal capacity are identified as being usually the most difficult parts to fulfill as they are often governed by strong customs or religious laws (Freeman 1993 p.96).

But how powerful is CEDAW in effect. Although it is supposed to be legally binding no sanctions are introduced in the agreement. Enforcement of the convention at the international level consists only of a reporting procedure and ‘constructive dialogue’ with representatives of the reporting country (Freeman 1993 p.94). Often, this is not enough and the feeling is that many countries only pay lip service to this kind of agreements while at the same time continuing the discriminatory practices against women without any visible intentions of changing them. As they are lacking in enforcement capacity “treaties such as CEDAW operate primarily as benchmarking instruments that can be used in support of local rights claims” (Winter 2006 p.384). Or as Cook (1993 p.47) puts it: “Treaties offer an architecture of rights, but the realization of treaty goals requires further construction.”

According to these researchers treaties as CEDAW operate more in the level of rhetoric than in any legislative enforcement level. Their role here can also be contested: As CEDAW is so widely agreed upon and ratified around the world it offers an “articulation of universal norms” (Freeman 1993 p.95). Problem is that in practice human right issues involving women are so meshed with issues of culture that they cannot be solved from a universal perspective but are resolved largely at the country level (Freeman 1993 p.95). According to Freeman (1993 p.100) culture is so essential to human identity and woman’s role is so central

element of this identity that universal norms relevance on this level is very limited. "Protection of a particular immutable view of women is identified as protection of ethnic or national identity" (Freeman 1993 p.100) and in this situation international treaties are treated as intruders from outside trying to mess with the core identities of people.

After these considerations about the effects of CEDAW let us now turn to Malaysia's relation to this international treaty. Before year 1995 Malaysia wasn't part of any of UN's convention. In 1995 it finally accessed (but has not ratified up to date) both CEDAW and CRC (UNHCHR 2006). However, in accessing the CEDAW it held reservations for some articles of the convention. In 1998 it lifted part of these reservations but still hold reservations for articles 5a, 7b , 9-1, 16-1a, 16-1c, 16-1f, 16-1g and 16-2. In addition to the reservations it also stated in its official accession that "the provisions of the Convention do not conflict with the provisions of the Islamic Sharia' law and the Federal Constitution of Malaysia". (UNHCHR 2006) This statement along with the reservations has led to some countries raising official objections against Malaysia's parttaking in the agreement. Finland, for example stated that "reservations of such unspecified nature may contribute to undermining the basis of international human rights treaties" (Salbiah 2002).

Looking more specifically into these reservations we see that article 9-1 refers to the women's equal right with men to the nationality of their children. 7b concerns the right to perform all public functions at all levels of government. In rejecting 5a Malaysia rejects the aforementioned duty to eliminate discriminatory prejudices and customary practices from society. Article 16 concerns marriage and family relations and not-surprisingly Malaysia holds reservations on several points, namely 'the same right to enter into marriage', 'the same rights and responsibilities during marriage and at its dissolution', the guardianship to children and 'the same personal rights as husband and wife'. It also rejects the specification of a minimum age for marriage (16-2). (CEDAW 1979) As family laws are one of the major area of conflict in Malaysian women's struggle for rights, governments regulations carefully makes sure that no additional claims for women's rights can be based on Malaysia's accession to this international treaty.

Gathering these viewpoints about human rights instruments it can be concluded that as of now, although theoretically legislative, they still lack the force of law and international community is unable to use them effectively to enforce countries to apply to them. Countries that violate these rights can be condemned by other countries or international bodies but this denouncement hardly has a direct effect as effective methods to make them comply are absent. Malaysia, not being part of the International bill of human rights can be

made responsible only for their assessment into CEDAW but even there they hold reservations on most of the issues that might be raised against them.

On the other hand, although these instruments lack the enforcing mechanisms, they still can be considered to legitimate the battle for women's rights. Universal Bill of Human Rights has been signed by 160 nations and CEDAW by impressive 185 countries. This gives them an almost universal status and a heavy justificatory role in women's claim for equal rights in all spheres of life. They are perhaps the strongest authorization that women have on their side for a universally equal status with men. It is therefore not wrong to claim that although Malaysia has not signed all the relevant treaties it can be criticized based on their universal appeal. These treaties authorize women's groups both inside and outside Malaysia to engage in a dialogue and criticize Malaysian laws and practices that are discriminatory and to work for a less discriminatory society where women would deserve the equality they are entitled to. These international conventions provide perhaps the most solid base where to ground on these arguments.

This view is naturally much contested by voices arguing for cultural relativism. Therefore we turn next into this debate to find out how much relevance do these claims carry.

## **2.2 Qur'an vs CEDAW – the challenge of Cultural Relativism**

For many people there is a tension between two different sets of rights – Islamic and international (Marcotte 2003 p.160). Cultural relativism is the principle that an individual human's beliefs and activities should be interpreted in terms of his or her own culture (Wikipedia 2006c). There is a supposed conflict between Western individualism and more collective and social orientation of Islamic societies (Hilsdon & Rozario 2006 p.334). This gives raise to the claims that the human rights instruments are largely based on Western conceptions of individuality and therefore not suitable to the more collectivist Islamic countries. In Islam individuals are more tied to social context and its welfare and cannot be abstracted out of it. This has led many Islamic cultural and religious communities argue for a relativistic approach to defining human rights. (Hilsdon & Rozario 2006 p.334)

Another way to denounce the applicability of human rights instruments in Islamic countries is to claim that they go against the Qur'an. As a transcendent law it has higher authority than any positive law and is above any argument (Winter 2006 p.382; Ahmed 1988 p.4, 17). This line of argument was seen in Malaysia's reservations in CEDAW quoted before and for example in Egypt's reservations to Article 9 of UDHR that

excluded everything related to marriage. The officially stated reason for Egypt's reservations was that rights "cannot go against the dispositions of the *shari'a*" (Mernissi 1992 p.93).

The Islamic argument goes that there is equality between men and women in Islam. It just manifests itself in a different way compared to the western notion of equality. Therefore in the abovementioned statement Egypt argues that *shari'a* guarantees "the wife rights equivalent to those of her spouse, in order to ensure a just equilibrium between them" and praises "complementarity that realizes true equality" (Mernissi 1992 p.93). Thus, men and women have both their specific rights and duties in Islam but they are in equal balance and therefore guarantee the functioning of their more collective-oriented society and at the same time, "true equality".

Islam views thus women as "different but equal, not inferior". This claim gains more credibility in the fact that many Islamic women are satisfied in their traditional roles inside the family (Othman 2006 p.342). Many women have fully internalized the Islamic view on women (Marcotte 2003 p.162) and are opposed to any changes that would lead them to a more public role, in work life for example (Moghadam 1994 p.9). Many Islamic women even believe that Islam "improves their social status and gives them more rights" and is additionally a "means to greater liberation" (Marcotte 2003 p.163). In fact nowadays in many countries the younger generation is more Islamic than their parents or grandparents have been (Hilsdon & Rozario 2006 p.331).

This general support for Islamization and the following weakening of women's position seems to hold true also for Malaysia (Othman 2006 p.344). Islamization has happened within the democratic system and largely because government is pressured by the growing general support for more radical Islamic opposition parties (Stivens 2006 p.355). The campaign for a more 'Islamic' and 'traditional' family values holds a wide support in contemporary Malaysian society (Stivens 2006 p.354).

Additionally for conservative thinkers Islamic societies are built very strictly around religion. In their view "the concept of human rights is fundamentally secular, and therefore outside of – and even antithetical to – religion" (Shuib 2005 p.190). This all makes a strong case for cultural relativism and provides sense to the Islamic claim of having their own culture and own notion of equality between men and women. International human rights instruments are just not applicable in Islamic societies as their more collective nature and different notion of equality would require different notions of human rights.

Now that the case for cultural relativism inside Islamic countries has been set up let us have a closer look at these arguments to see how strong they are after all. In answering these claims the central question, which was already raised in the first part of the essay, is: who defines a culture?

Cultures are not closed, static or immutable (Winter 2006 p.382) and “there is no such thing as a monolithic Islamic law” (Marcotte 2003 p.154). Instead cultures are historical constructs which are constantly being redefined through the interaction and agenture of its members. Culture is a process, both constituted and constitutive of human relations and experiences and thus indispensably bound up with power relations (Winter 2006 p.382). Religions are an essential part of cultures and thus “also constituted and constitutive of social relations, including power relations” (Winter 2006 p.382). There is not one Islam but many Islams (Ahmed 1988 p.4) and there is a constant dialogue inside a culture of “what islam and whose islam is the right Islam” (Othman 2006 p.341). Additionally, “position of women has been negotiated and renegotiated throughout the history of Islam.” (Marcotte 2003 p.154) This makes us understand that the dominant interpretation of Islam in a certain country in certain time, is only one possible interpretation and under constant renegotiation from influences coming both from outside and inside that country.

This holds true also for Malaysia. Thus the struggle for women’s right is not a struggle against one immutable and final truth of Islam but rather against a now predominant but constantly changing and negotiable interpretation of Islam. The interpretation held by Mullah’s at the moment is only one historical interpretation of Islam and as there are also continuous disputes between Mullah’s themselves the dominant view is not as united as might be indicated. For example the newly-minted mufti (a religious authority with the right to introduce a fatwa) Dr Mohd Asri Zainul Abidin speaks against more conservative religious authorities of the freedom of public to speak about religion: “Among the religious conservatives are those who seek to stuff the mouths of the public and tell them, ‘Don’t speak of religion. Religion is our (exclusive) right’” (Malaysiakini 2006).

As we have understood that there is no one unjustifiably right interpretation of Islam the question turns to who is the one holding the power to define dominant cultural paradigm of a society. Unfortunately, “the will of the collective is often the will of those sectors (usually male) who have managed to assert and maintain control over critical institutions at a particular point in time” (Joseph 1998 p.365). Those in power often use Islam according to their own needs to reassert their own power (Ahmed 1998 p.11-12).

Myth of a unified culture reinforces the current power relations and thus serves those in power (Joseph 1998 p.365). For those speaking in the voice of Islam oppressing all diverging voices is therefore a benefit. “Most

cultures have as one of their principal aims the control of women by men” (Okin 1999 p.13) and the current interpretations of Islam are discriminatory against women (Othman 2006 p.339). This leads one to doubt if the function of these interpretations is precisely that, control of women by men. The dominant cultural values in Islamic countries are invariably masculine (Winter 2006 p.383) and the religion itself carries a strong patriarchal element (Hilsdon & Rozario 2006 p.332). It is also peculiar to note that in Islamic claims for own conception of human rights other articles in UN human rights documents have not given rise to accusations of Westernization but almost exclusively those related to women (Winter 2006 p.385). “In fact, the overwhelming majority of high-profile cases of assertion of ‘group cultural rights’ concern the treatment and behaviour of women” (Winter 2006 p.385).

Many feminist theorists are of the opinion that cultural practices themselves don’t carry any intrinsic value just because they are currently practiced. Nussbaum (2000 p.51) famously argues that “traditional practices [...] are not worth preserving simply because they are there, or because they are old; to make a case for preserving them, we have to assess the contribution they make against the harm they do.” Therefore when we assess conflicts between women’s or universal rights on the one hand and cultural or religious rights on the other hand “the question that must be asked are always: who benefits? And who is harmed?” (Winter 2006 p.391). Winter (2006 p.391) argues that “If the rights of a group, usually defined according to what men within the group want, are upheld to the detriment of individuals, or a subgroup (who usually are women, or some women) within that group, then to what extent can we claim that the rights of the group have validity?”

In today’s world Islam is never a matter of spiritual choice but remains a legal and political system and as such always discriminatory (Hilsdon & Rozario 2006 p.333). Women in many Islamic countries simply have no opportunity to opt out from it. If religious rights undermine women’s human rights, we should see them as “an attempt to undermine religious freedom (including freedom *from* religion), rather than to protect it” (Winter 2006 p. 391) Religious freedom means “freedom of religion, freedom within religion and freedom from it” (Othman 2006 p.352). Islamic women cannot choose not to be Islamic and have significantly less power to define what Islamic culture is like. This all lead Freeman (2003 p.101) to conclude that women are “for all practical purposes prisoners of culture.”

Turning our eyes again into Malaysia we see that despite the more or less generally pro-Islamic atmosphere, there are many differing voices also. The main problem seems to be that the religious authorities, ulama, have been able to shut the public discussion about questions of faith. “Very few Muslims in Malaysia have the courage to question, challenge or even discuss matters of religion” and even the elected representatives

are afraid to debate any bill put forward in the name of Islam in fear of being labeled anti-Islamic (Othman 2006 p.346; Shuib 2005 p.200). This has led to a situation where tiny minority has the authority and silent majority cannot challenge them (Othman 2006 p.347). Characteristic of making of Islamic law in Malaysia is “the silence that shrouds the whole process” (Shuib 2005 p.199). Elected representatives and people with knowledge about Islam are often “reluctant to speak out if their views do not coincide with the mainstream orthodox view” (Shuib 2005 p.200). Othman (2006 p.347) sums the current situation elegantly: “Malaysians have, in effect, mindlessly delegated total and absolute responsibility for the interpretation and implementation of Islam to a tiny, often authoritarian, minority whose views and values are often contrary to the vision of Islam held by some Federal leaders and by the silent majority of Malaysians.”

One characteristic of Malaysia is also the fact that women and people in general don't have the opportunity to choose not to be Islamic. Ethnic Malays are defined as Muslims under the Constitution and Shari'a is usually very strict against apostates. International Religious Freedom Report states that “in practice Muslims are not permitted to convert to another religion” (US Bureau of Democracy 2006). Highest civil courts of Malaysia have ruled that it is up to Shari'a courts to decide in matters of conversion in or out of Islam. There have been several high-profile cases surrounding the matter in recent years (Wikipedia 2006d). This restriction on religious freedom has led to a situation where many de facto Christians live a double life, practicing their religion in secret as officially denouncing their Islamic belief would lead to huge problems (New York Times 2006; Wikipedia 2006d). For women the situation means that they have not the option to choose to be ruled and judged under Islamic rules but must remain formally Islamic despite of their true commitments. “Muslim women cannot reject Shari'ah” (Othman 2006 p.339). This is a clear violation of the UNHR article 18 which grants everyone “freedom to change his religion or belief” (UN 1948). It is also against article 11 of Malaysian constitution which gives Malaysians freedom to choose their religion (US Bureau of Democracy 2006).

Therefore although on the surface Malaysia seems to be relatively democratic the dynamics of religious authority make situation very complex. People want in general to support Islam but might be against certain recent developments inside it. However, they lack any channels to influence or contest the way the proper way of being Islamic is presented to them. By Ulama's increased power inside the country's legal system and narrowing down of the public sphere to discuss interpretations of Islam the religious leaders have gained a disproportional amount of power inside a democracy. Sisters in Islam consider these attempts to limit writing, talking and debate about Islam as an “attempt to create a de facto theocratic dictatorship inside the alleged democracy” (Shuib 2005 p.201).

If there would be great unity about a culture or a religion there would be no need to shut down the opposing voices, as they would not be able to challenge the popular dominant culture. The attempts of religious authorities to restrict open discourse – as for example in 2002 when the Ulama Association of Malaysia tried to charge six writers for insulting Islam (Shuib 2005 p.200) – are an indication that their way to interpret religion is not as generally supported by people as they like to think. Additionally a truly appealing religion would have no need to prevent its members of choosing another religion. These attempts reveal that the ruling interpretation of Islam is partly upheld by power dynamics.

Therefore, in conclusion, it can be stated that in the current situation the arguments of cultural relativism do not hold. As cultures are formed in the constant dialogue between its members every member of the culture should have the right to reinterpret the culture. “Cultures change because people change and make demands on their culture” (Freeman 1993 p.95). Because of the power differences this is usually not the case but a leading group – usually male – has the authority to define the cultural standards women must submit to. This gives the rationale to advocate the liberation process of women inside Malaysia and other societies. As members of a culture women are entitled to equal right to specify the cultural norms and customs. As of now they are in a subjugated position and therefore helping them to achieve their goal of equality is legitimate.

## **2.3 Conclusion**

The wide international appeal of United Nation’s human rights instruments makes them perhaps the most powerful ally in women’s battle for equal rights. Especially CEDAW – which also Malaysia is a member of – should and has been used by Malaysian women and international organizations in challenging the discriminatory laws and practices of the country. The fact that majority of countries of world have signed these conventions provides also a legitimacy for the fight for their realization in countries which have not officially submitted into them.

This legitimacy can be questioned by cultural relativism which holds that every society has its own standards and they should not be challenged from outside. Many Islamic restrictions on rights of women have been justified by the notion of them being an essential part of the Islamic tradition. Problem with this view is that cultures are not static, but changing processes of interaction influenced by power relations. As men usually have the power they also define the culture. As leader of Sister of Islam, Zainah Anwar (2006) states about current interpretations of Islam in Malaysia: "These verses have been interpreted by men, living in patriarchal societies who wish to maintain their superiority and control over women."

It might be held true that in the name of cultural relativism an external intervention to challenge the values of certain culture is not justified. But cultural practices which harm some of its members lack internal validity and are thus challenged from the inside. Usually the oppressed don't have the voice, courage or channels to express their dissatisfaction with the dominant cultural norms and therefore assisting them to achieve a position where they can speak for themselves is justified.

Now that the rationale for the battle for women's right has been set up, the next thing is to look at the different strategies available to advance women's cause in general and in Malaysia.

### **3 Strategies for advancing the rights of women**

As we look at the women's movements in Islamic countries essentially two opposed strategies emerge. There is the secular feminism which argues essentially from a Western-derived secular perspective and often uses human rights as a major instrument. Then there is the Muslim feminism trying to change the Muslim society from inside by engaging in a critical and constructive dialogue with religious authorities about the interpretations of Qur'an and Shari'a. (Hilsdon & Rozario 2006 p.332; Marcotte 2003 p.163) This division into two major movements holds also true for Malaysia (Othman 2006 p.347).

#### **3.1 Secularist feminism**

Of these two movements the secularist feminism is considered to be the older one (Marcotte 2003 p.163). As stated this movement draws its inspiration largely from West and the discourses on women's rights from there. It aims at the same kind of equality as women in the western countries are eligible to and is opposed to any Islamic position that justifies restrictions on women's autonomy and rights in terms of cultural relativism (Hilsdon & Rozario 2006 p.333). Through using the human rights perspective they are often able to highlight the oppressive character of local laws and customs.

Many international organizations work from this perspective. The rationale is that "it is possible to address the issue of culture at the international level" (Freeman 1993 p.95). Global awareness campaigns and other efforts alert governments that violations of women's human rights are noticed and condemned on international level. (Freeman 1993 p. 95) In this work it is important to support research that shows that international women's rights are not incompatible with local customs and religion (Freeman 1993 p.96).

At the same time Freeman (1993 p.95) admits that many of the women's right issues are so meshed with culture that they must largely be resolved on national level. However he gives few insights into how this change should take place in the national level. Educating women to know their rights and giving them resources to improve their position are the two national-level strategies suggested (Freeman 1993 p.101-102).

Secularist feminism has its limitations. Firstly taking this position is not available for many Muslims inside their countries. Adopting feminism can easily be regarded as betraying their religious, political and nationalist identities" (Othman 2006 p.339). Additionally most of the women in Islamic countries are religious and are not willing to give up their faith. Therefore, although they might view some of the aspects of Islam as discriminatory they are not willing to give up their religion as a whole. This makes secularist viewpoint less attractive to them.

Finally the effectiveness of this strategy is not always clear in highly religious countries. Separation of religion and society "is simply not an option in the foreseeable future [---] in practically all Muslim countries at this point in time" (Winter 2006 p.382). In this context secularist arguments might be too far removed from the realities of Muslims and therefore have no practical impact in the Islamic society. Working only from a secularist viewpoint has therefore heavy limitations when applied in a country where in general secularism is not an option and religious authority is strong.

### **3.2 Muslim feminism – changing Islam from within**

The main idea in Muslim feminism is challenging fundamentalism and changing the Muslim society to more equality from within (Shuib 2005 p.192; Othman 2006 p.348). There are many approaches in different Islamic countries that focus on the reinterpretation of the Islamic texts, notably the Qur'an, and on the reform of the Islamic law as enshrined in the shari'a." (Hilsdon & Rozario 2006 p.332). They see emancipatory possibilities in this indigenous feminist approach that does not derive its inspiration from the West (Hilsdon & Rozario 2006 p.333). This perspective has also been called "Pragmatic feminism" (Shuib 2005 p.192), perhaps to highlight its more realistic path to equality.

This approach can be seen as having many advantages. Freeman (1993 p.102) emphasizes the importance of "Research on the living law and on the uses and misuses of custom and religion with respect to women's human rights." As secular perspectives carry often little weight in discussions about Islamic culture and religion through this approach women might have their voice heard better. By not challenging the religion itself but only trying to reinterpret some of its customs this alienates not women from their religion which

still is important for most of the women of Islamic countries. As this perspective works on the same rhetoric level as traditional Islamic perspectives – using religious scriptures and language – those in power might feel less threatened and more willing to accept these new perspectives.

Also this perspective has its limits though. By engaging in a purely Islamic debate it makes recourse to international conventions such as CEDAW difficult, if not impossible (Hilsdon & Rozario 2006 p.333). Therefore “feminist Muslims [...] view documents such as CEDAW in light of their relevance to Muslim women in the context of the ‘various strategies for postcolonialist identity development’” (Marcotte 2003 p.163).

In Malaysia this approach is most visibly represented by Sisters in Islam, an Muslim women’s organization that holds clear “that the principles of equality, justice, freedom, and dignity contained in the Qur’an are congruent both with Islamic principles and with the universal discourse on human rights” (Shuib 2005 p.190). Their strategy is thus clearly changing the Islamic perspective itself without challenging Islam as a religion. In their mission statement (SIS 2006) they state that Islam itself “does not endorse the oppression of women and denial of their basic rights of equality and human dignity.” However “religion has been used to justify cultural practices and values that regard women as inferior and subordinate to men”. This is so because men have had the exclusive control over the interpretation of the text of Qur’an. (SIS 2006)

To give an example how SIS works let us take up the question of polygamy. Here SIS has made some arguments strongly based on Qur’an and scholarly reading of its verses that the “Qur’anic revelations relating to polygamy are clearly restrictive rather than permissive” (Shuib 2005 p.195). Their argument is largely based on two Qur’anic verses on polygamy of which the latter states that “If you fear that you shall not be able to deal justly with the orphans, marry women of your choice, two, or three or four; But if you fear that ye shall be able to deal justly, then only one... That will be more suitable, to prevent you from doing injustice.” (Surah Al Nisa 4;3 [translation by Abdullah Yusuf Ali]) Putting this together with verse 4;129 which states “You are never able to be fair and just as between women. Even if it is your ardent desire” (Surah Al Nisa’ 4;129) they hold that Qur’an is clearly restrictive rather than permissive towards polygamy. They see therefore polygamy more as a responsibility to ensure that justice was done to widows and orphans after a battle rather than an unconditioned right. (Shuib 2005 p.195) Towards the dress code their attitude has been that “modesty arises out of one’s own God consciousness, and that others cannot impose that God consciousness by enforcing or coercing women to wear or remove the *tudung*.” (Shuib 2005 p.198).

As their approach is much based on their right to challenge dominating interpretations it is also strongly dependent on the amount of open discourse allowed. Not surprisingly they have received much official and unofficial pressure to limit their attempts. For them, these attempts to limit writing, talking and debate about Islam are seen as an attempt to create a de facto theocratic dictatorship (Shuib 2005 p.201).

The essential question regarding this Muslim feminist approach is how much it is possible to change Islam in the end? Qur'an can be interpreted in new ways but as the original text is static the possibilities for new interpretations are still limited. Many researchers are of the opinion that in the end regardless of the interpretation literal readings of the Qur'an and hadith are incompatible with equality of men and women (Hilsdon & Rozario 2006 p.332; Moghissi 2000 p.140-141). "Regardless of the interpretation of the Qur'an and Shari'a, if the Qur'anic instructions are taken literally, Islamic individuals or societies cannot favour equal rights for women in the family or in certain areas of social life" (Moghissi 2000 pp.140-141). Thus, although new interpretations can substantially help women in their contemporary situations in Islamic countries, gaining full equality through this strategy can show itself to be impossible. In order to not be too hard on Islam it is appropriate to notice that also most of the other religions' holy texts include a clear element of patriarchy. Still if it is true that "the Shari'a is not compatible with the principles of equality of human beings" (Moghissi 2000 p.141) then full equality might need at least some degree of secularism or distancing away from the literal interpretations of religious text.

### **3.3 Development as a strategy for women**

In level with this two more direct strategies to advance women's position I would like to lift one indirect method as I see it also as quite central in the process towards equality. This could be called the development approach. Women's situation in a country is usually to a certain degree tied up with the general condition of the country. Therefore in most of the situations supporting the general development of a country is an indirect way of supporting the women's development in the country. The development operates on many fronts including at least the general structure of the state (democracy, stability, liberalism), education level of the country or the economic development of a country.

First of all a stable country which is able to look after its citizens and enforce the laws is usually a positive thing for women. "States are critical to implementing norms" (Jaquette and Staudt 2006 p.44) and many times country's laws are more progressive than the local customs. Therefore women benefit of a government which can enforce its laws. Situations of war also often lead to more masculine values and eroding in women's situation. For example in Iran the Islamic revolution of 1979 itself was not in the first

place so discriminatory against women. In fact many women “believed that under an Islamic state women’s position would automatically improve” (Mir-Hosseini 2003 p.4-5). But after the “onset of the war with Iraq, radicals within the Islamic groups gained the upper hand” (Othman 2006 p.340) and this led to the decrease in women’s position which before the revolution had been one of the best in Islamic countries.

Women’s fight for their rights is also tied up with the development towards a more democratic and liberal society. “Muslim women activists who are struggling for gender equality have also recognized that their objective has to be achieved within a wider project seeking for democratization for all members of society and all citizens of the state” (Othman 2006 p.348). In Malaysia Sisters in Islam have recognized this general truth and are thus nowadays involving itself in other activities in areas such as citizenship rights or democratic principle (Othman 2006 p.348).

Freedom of speech is especially important here. Analyzing the recent developments in Malaysia “it becomes increasingly clear that without that democratic space and right to speak out and offer alternative views, and without any respect for the fundamental liberties of citizens in a democratic society, the space to speak on women’s issues will eventually disappear.” (Othman 2006 p.349) The lack of these possibilities to speak out against religious authorities is one of the main mechanisms explaining the current situation in Malaysia. Therefore, to advance women’s position in Malaysia, negotiating and creating a discursive space is one of the essential steps (Othman 2006 p.348).

Additional lesson from the Malaysian experience is that the freedom of religion is “paramount in any multi-ethnic and multi-religious country such as Malaysia”. (Othman 2006 p.348) For women, the possibility to choose to opt out from Islam or to decide in what kind of Islam they want to believe in is non-existent. Therefore working towards religious freedom would also create empowering possibilities for women more able to find a religious belief suiting their personal beliefs.

A rather controversial issue towards the rationality of development as beneficial for women also appears from the Malaysian perspective. Democratization without any or much democratic political culture opens up spaces for various politicized Islamist groups and tribal and conservative leaders who do not believe in equality or reformist Islam (Othman 2006 p.340). Through democratic one-person-one-vote principle they have been able to gain so large support and power that it has had a significantly negative impact on women’s situation. This shows that democracy itself is not always beneficial for women. Liberalization of society, freedom of speech and guaranteed citizenship rights work for women’s good and are therefore important in

building up equality for women. With democracy the issue is more controversial; it can work either for or against women.

The issue with women and economic development of countries is much debated and different schools of thought have emerged during last decades (Jaquette and Staudt 2006). The many debated questions and different perspectives available make it impossible to summarize the current thinking in here. Unpaid housework, land reforms, unequal property rights, impact of privatization, global capitalism and endless number of other issues make the dynamics of the situation too complex for a brief summary. In general the situation seems to be that economic development might usually be good for women but there are also many issues and situations where the reverse is true. Therefore supporting economic development is usually a good thing for women but great care has to be taken to choose the forms of development which really benefit women.

The importance of education in women's empowerment and emancipation is significant. Freeman lists five types of programme approaches to meet the goal of development with justice for women. Three of the five items emphasize the need for education, namely "human rights education for women", "projects to develop women's understanding of government and civil society" and "rethinking and reforming education [...] to address the fundamental problem of gender stereotyping" (Freeman 1993 p.102). One level of this education is making women better aware of their rights and their current situation. "Women cannot make effective claims to rights in development if they do not have adequate information on human rights and on development programmes and projects. They cannot participate effectively if they are not adequately educated for responsibility." (Freeman 1993 p.101) Also Sisters in Islam include creating public awareness as one of their major strategies (Shuib 2005 p.192).

Additionally education as such also helps liberate women. General education is able to give women a wider perspective on the world and more means to rise above their own specific situation to understand the underlying structures that construct it. By starting to see the ways they are oppressed and on the other hand by understanding that there are alternatives to this situation subjugated women who before have internalized their discrimination are able to start to improve their own situation

The universality of this perspective on education also has its limitations. In Iran the relatively good public education system has made the current generations of women more educated than ever before. But "even if Iranian women became the most highly educated in the Muslim world, with strong workforce participation, this did not mean that they were 'liberated' – far from it" (Winter 2006 p.387). In general it is seen that while

development usually leads to improvement in women’s situation the real situations are so complex that they do not always go necessarily hand in hand. Still it holds true that usually most forms of development are beneficial for women.

### 3.4 Example of strategies: Sisters in Islam

To give an example of how women’s cause can be sought after through various strategies I will give a brief account of major strategies of Sisters in Islam, Malaysia’s perhaps most famous women’s group. The outline of the strategy is given in table 1.

<b>Outline of the strategies adopted by Sisters in Islam (SIS)</b> Adopted from Othman 2006 p.348-351		
<b>Advocacy</b> Research into the interpretation of Qur’an Memorandums or letter to government on law or policy Letters to editor to educate public	<b>Public education and Public Awareness</b>  Seminars and workshops  Public lectures  Training on women's rights in Islam Resource Center	<b>Networking</b>  Key state actors  NGOs Traditionalist women's groups and Islamist groups

**Table 1 Outline of the strategies adopted by Sisters in Islam (SIS) Adopted from Othman 2006 p.348-351.**

As Sisters in Islam is an organization that works 'from within' an Islamic perspective a major strategy of them is working with Islamic scholars to work new interpretations of Qur’an and other religious texts to show that they are more tolerant towards women than now-dominant interpretations would suggest. These new perspectives are then communicated to government actors like the relevant ministers to influence them on women-related issues. SIS also follows closely government’s current agenda and when some women-related questions are discussed there they have been able to organize influential campaigns to advance their cause. They were successful for example in getting the Domestic Violence Act to apply to Muslims instead of Muslim cases being dealt in Islamic courts (Othman 2006 p.349).

Public education is another central theme in SIS work. This is achieved through many channels including letters to editors of newspapers to educate the general public, seminars and workshops, public lectures, a resource center and training on women’s right in Islam. The latter training module has been successful in educating young women and men, students, journalists, human rights lawyers, some political leaders and

grassroots service providers to build up a pool of better informed activists who will have the confidence to speak out on Islamic matters (Othman 2006 p.350).

Importance of networking is also essential for success in SIS strategy. By inviting and including other groups in their campaigns they have gained increased political leverage. As SIS voice is increasingly recognized inside Malaysia they have been able to build up contacts even with more traditionalist women's groups and Islamist groups. Even the Islamic party PAS invited SIS to its general assembly in 2003. (Othman 2006 p.350-351).

As stated in previous chapter SIS also has increasingly involved itself in other activities in areas such as citizenship rights or democratic principle (Othman 2006 p.348).

### **3.5 Conclusion**

Two major strategies towards women's empowerment and emancipation were discussed here, secularist feminism and Muslim feminism. Secularist feminism has as its advantage the possibility of full equality for women and the power of internationally recognized human rights instrument and backup support from the international community. Muslim feminism on the other hand made it possible to keep up the faith and was considered by some to be a more realistic perspective. Both have their shortcomings also. Secularist feminism is considered by many to be impossible to realize in Muslim countries highly religious atmosphere. Muslim feminism on the other hand cannot easily rely on universal human rights and there are limits of how equally Qur'an can be interpreted. This situation leads easily to skeptical conclusions: "Is there any point in holding out for secularism in a context where the separation of religion and State is not even admissible as a concept? Is the ostensibly more 'realistic' strategy of working within the confines of a religious-bound State ultimately any more useful for women?" (Winter 2006 p.387)

In real life women's situations are very messy, even contradictory, changing and in general far from straightforward (Winter 2006 p.382) and women's rights are neither fixed, nor given, nor absolute "they are negotiated and changing cultural constructs, produced in response to lived realities, through debates" (Mir-Hosseini 2000 p.6). Many women are in a situation where a general fight for better rights is simply not possible for them as they "have to engage in 'considerable strategic planning' just to keep themselves safe" (Winter 2006 p.388). Therefore supporting of these ordinary women who may not regard themselves as feminist when they challenge Islamic family laws within public and domestic space is essential in any effort to advance women's situation (Mir-Hosseini (1996b p.143 in Hilsdon & Rozario 2006 p.334).

Both of the general feminist schools might have their shortcomings but both of them are needed in the long run (Winter 2006 p.388). No single strategy itself is sufficient for women. Instead the fight for women's rights have to be fought on many fronts at the same time, both from within and from outside the boundaries of Islam. In this situation it is essential that "Muslim women need to network" and start building up broad-based coalitions through which more leverage for their cause can be achieved (Othman 2006 p.348). Some positive cases of Muslim feminists forming alliances with secular feminists to protest against the gender biases of law derived from the *shari'a* have already occurred (Mir-Hosseini 1996a p.318 in Hilsdon & Rozario 2006 p.334). Fronts of the battle might be many but to win the war a unity and co-operation is of paramount importance.

Methods to work with are many. "Advocacy work in the domains of law is indeed crucial" (Othman 2006 p.352) and involvement in interpretations of Qur'an can have significant benefits for women. Dialogue with politicians and even fundamentalists is possible and can be of great value (Othman 2006 p.348). Awareness building, pressure both from inside the country and from international community all have their functions. Of central importance in this situation is that the practices and policies are not "out of touch with the realities experienced at the grass-roots level" (Newland 2006). Change should not be brought from outside but made in collaboration with local women and on their conditions. Even though they might be seen as oppressed, most of the women of Malaysia want to remain Islamic and are therefore reluctant to a change that would mean a challenge to their faith.

Seeing the women's struggle for gender equality in a wider perspective including democratization and liberalization of a state, freedom of speech, education, economic development and other aspects is also crucial (Othman 2006 p.348). "Ultimately, it is essential that Muslim women speak out, claim the right to speak and create the public space to engage with Islamic matters at all levels." (Othman 2006 p.352) Fight for freedom of speech is tightly connected with fight for women's rights. Freedom of religion is also an important freedom for women (Othman 2006 p.352).

Although these are general conclusions they all hold true for Malaysia as well. The battle is fought on many fronts. Local women "have learned various strategies in coping with or confronting discriminatory practices" and "sources of resistance to religious extremism or to state authoritarianism are diverse and may provide women's groups or movements with different strengths" (Othman 2006 p.347). In the dynamics of a complex situation many different approaches are needed and cooperation between different actors and dialogue with even the religious conservatives is crucial. In the current situation negotiating and creating a discursive space is one of the essential steps (Othman 2006 p.348). One additional thing is that despite the

authoritarianism of religious leaders, Malaysia still is a democracy. Actors working for women's liberation "need always to mobilize public opinion and win media support. Political leaders respond best to public outrage and press coverage of a particular issue (Othman 2006 p.350). Ultimately, to gain equality of rights for women of Malaysia, convincing the majority of Malaysian's themselves of the importance of this development is the most important issue.

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