

Vol. 3, No. 3, September 2015

p-ISSN: 2338-8617

e-ISSN: 2443-2067

Jurnal Ilmiah

PEURADEUN

Media Kajian Ilmiah Sosial, Politik, Hukum, Agama dan Budaya



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JIP

International Multidisciplinary Journal
OAJI: 745/1396982282-2014/R-6.465
ORCHID iDs: 0000-0001-8492-315X
Thomson Reuters: RID-F-6135-2014

ISI Impact Factor Value 2014 ICR: 0.479
Copernicus ICV 2013: 4.05
Google Scholar Index-h3, i10: 3
IBI Factor 2014-15: 3.26

 Copernicus Publications
The Innovative Open Access Publisher



SCAD Independent
IAO Accreditation
4-8362/387/IAO/2014



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Received: August 11, 2015

Accepted: August 28, 2015

Published: Sept 20, 2015

Article Url: <http://www.scadindependent.org>

Abstract

In this article, I address paradoxes and ambiguities that result from this double oppression, and discuss some of the questions that arise from the formulation of this dichotomy, which forces women to choose between feminist and nationalist agendas. I discuss who formulates this dichotomy, who identifies nationalism and feminism, and who benefits from this identification. To address these topics, I discuss two specific examples: Muslim women in India and Palestinian women within Israel. The reformulation of nationalist/religious identity in such a way as to make it compatible with a feminist perspective is a very important project. Such a project must be built on changing the dominant culture from within. Such a process is long-term, however, and until it is achieved, women will continue to suffer. We cannot demand that oppressed women wait until the rebuilding of the dominant culture is completed. In reality, there is the possibility that utilizing secular courts will force national/ religious institutions to make positive changes.

Keywords: *Feminism, Nationality, Identity, Leadership, Women, Muslim*

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A. Introduction

The role minority women play in the national or religious project of their respective communities is rich in ambiguity and often paradoxical. The foremost difficulty these women face is the double oppression leveled against them. They are members of a minority group oppressed by the majority, and they are oppressed within their own societies. This fact presents a myriad of complicated questions for feminist movements operating in these minority communities.

According to Kandiyoti (1991: 42): it may well be argued that there is no particular reason to single women out as prisoners of the discourse they share with men. However, their gender interests may, at times, indicate their own demands and produce divided loyalties with men of their class, creed or nation. Women may choose to either openly express or to suppress such divergences of interest, which they generally do at their own cost in both cases.

In this article, I address paradoxes and ambiguities that result from this double oppression, and discuss some of the questions that arise from the formulation of this dichotomy, which forces women to choose between feminist and nationalist agendas. I discuss who formulates this dichotomy, who identifies nationalism and feminism, and who benefits from this identification. To address these topics, I discuss two specific examples: Muslim women in India and Palestinian women within Israel.

B. The Experience of Muslim Women in India

The Muslim minority in India numbers 100 million or 11.5% of India's population. The majority of the country's population is Hindu, and other, smaller minority groups include Christians and Jews. The Muslim Hindu clashes that led to the partitioning of India placed the Muslim minority in a precarious position:

The decision of partition in India and the creation of the state of Pakistan in 1947 were accompanied by the worst communal riots the world has ever witnessed. Yet all over India, Hinduism was rising with an ugly, violent, revengeful and aggressive face immediately after 1947. Muslim life and property were placed in great danger. Their number had

been reduced and the community had been weakened in all respect by the emigration of the Muslim professionals, bureaucrats and the wealthy, and was virtually falling prey to Hindu chauvinism (Ali Ameer, 1992).

Muslims in India are governed by their own personal status laws, codified by Britain in 1937 and protected by India's constitution. The constitutional commitment to secularism in India does not imply a separation of religion and state, however, but has meant the co-existence of various religions under the supervision of the state.

Muslim women in India suffer from double oppression: as part of a patriarchal community in which women are discriminated against and as part of a minority community subjected to discrimination by Hindu fundamentalism. The Muslim population feels insecure and threatened, and thus clings tightly to its own customs and practices. These traditions have become an important symbol in the struggle of Muslim groups against attempts by the Hindu majority to assimilate and destroy their Muslim identity.

The ghettoization of Muslims in India has meant that Muslim women fighting for their rights are disarmed from the beginning. Any struggle to improve their condition is not only seen by Muslim fundamentalists as undermining the community, but is actually used by the Hindu pluralists to do precisely that (Hensman, 1985: 103).

The Shahbanu case is the example I shall examine. In 1978, Shahbanu, a 70-year-old Muslim woman from India, filed an appeal to the judicial magistrate under Section 125 of the Criminal Code, demanding alimony from her wealthy husband, Mohammed Ahmed Khan, who threw her out of her home after 43 years of marriage. While the application was pending, Shahbanu's husband divorced her, paid her Rs3,000 as mehr(dowry), and claimed she could no longer demand anything from him. The magistrate, however, ordered him to pay Rs25 per month, and Shahbanu got the sum raised to Rs179.20 in the High Court.

Shahbanu's husband appealed to the Supreme Court, arguing that under Muslim Personal Law, he had no responsibility to pay maintenance to his divorced wife, and therefore Section 125 did not apply to him. In April 1985, the Supreme Court ruled in favor of Shahbanu.

The Supreme Court's ruling created a furor among the Muslim population. Muslim fundamentalists were disturbed by what they perceived as the Hindu homogenizing influence, which they believed would lead to the assimilation and destruction of Muslim identity. Muslim leaders denounced the decision as the beginning of government attempts to interfere in the personal issues of the Muslim minority. These leaders declared that "Islam is in danger," and protests erupted throughout the country, with demonstrators demanding that Section 125 not apply to Muslim women. Shahbanu herself endorsed this demand, condemning the court's judgment in a public letter addressed to all Muslims, despite the fact that it supported her claims (Shahbanu, 1985).

The Muslim Personal Law Board intervened in the case on behalf of Shahbanu's husband and, unsuccessful in the Supreme Court, carried the battle to the Parliament. A Muslim member of Parliament introduced a bill entitled the Muslim Women (Protection of Rights in Divorce) Act, which was passed in May 1986. According to this new act, divorced Muslim women fall outside the purview of Section 125 of the Criminal Code. Under the law, the divorced woman's husband is only obligated to return the *mehr*, and pay alimony during the period of *iddat* (three months following the divorce). If the divorced woman is unable to maintain herself after the *iddat* period, her children, parents or relatives entitled to inherit her property upon her death are responsible for her maintenance. If she has no relatives, or if they have no means to pay her alimony, the magistrate may direct the State Waqf Boards (administrators of Muslim trust funds) to pay whatever alimony is determined by the court.

The women's movement found itself paralyzed by the fact that all discussion concerning the decision was communal. Some groups found it difficult to be enthusiastic about the Court's judgment because Hindu leaders utilized it to undermine the Muslim minority. Others felt compelled to support the judgment against those Muslim leaders opposed to rights guaranteed for women. Other groups criticized Section 125 itself, pointing out that while the decision was not ideal, it should be used as a last option for Muslim women.

C. The Experience of Palestinian Women in Israel

Palestinians in Israel are the minority that remained on their lands following the 1948 war and the establishment of the state of Israel. Members of this group were eventually granted Israeli citizenship, and currently account for 18.3% of Israel's population. Like Muslim women in India, Palestinian women in Israel suffer from discrimination as women living in a patriarchal, traditional Arab society, and as part of a national minority suffering from discrimination by the Jewish state.

In Israel, issues involving personal status matters are generally decided by religious courts and laws. While in some personal status matters citizens have the right to apply to the state "family court," marriage and divorce remain exclusively within the jurisdiction of religious courts. In some cases, Jews, Christian, and Druze individuals can choose to bring their conflicts before the newly-established state "family courts," as long as these disputes are not pure marriage and divorce matters.

Until November 2001, Muslims did not have the option to choose between the state family courts and Muslim religious courts as the latter retained exclusive jurisdiction over personal status matters. Similarly, Christian courts retained exclusive jurisdiction over issues concerning wife maintenance. This presented Palestinian feminists with the challenge of balancing their struggle as women with their struggle against the state. This dilemma was highlighted when a group of Palestinian women activists proposed a bill in 1996 to the Israeli Knesset (Parliament) giving Israeli civil courts the authority to adjudicate personal status matters of Arab Muslims and Christians.

The judges of the Muslim religious courts and some national and religious leaders immediately opposed the bill. They saw it as a serious threat to the "Palestinian National Project," which aims to achieve autonomy, or at least limited autonomy, for Palestinians in Israel. They argued that intervention of Israeli civil courts in personal status matters of Palestinians contradicts the aims of this Project and weakens the identity of the Palestinian minority, and also that it is difficult to support such legislation since the state is defined as a Jewish state, and thus is not

secular. The religious authorities argued that the intervention of civil courts in the personal status matters of Muslim women is against Islam, since the laws applied in those courts are not “Islamic” laws.

Muslim women in India and Palestinian women in Israel face a common dilemma: struggling for their rights as women while attempting to retain their minority (national or religious) identity. Formulating the dilemma in this way, as a dichotomy, forces women to choose between the feminist and the national/religious struggle, therefore ignoring women’s multiple identities. This dichotomy has the effect of eliminating all feminist perspectives from the national/religious struggle of the minority group, even pitting feminism against this struggle.

D. The National/Religious-Feminist Dichotomy

The fact that the national/religious-feminist debate was presented as a dichotomy to Muslim women in India ultimately undermined feminist efforts. This was demonstrated by Shahbanu’s signature on the petition against the court decision in her favor. She had little choice, having been accused of responsibility for the extensive communal bloodshed that followed the court’s decision. It was also very difficult for some feminist groups to enthusiastically support the Shahbanu judgment when they saw that Hindu groups used it to harm the Muslim minority.

The experience of the Palestinian minority followed a similar process but produced different results. Palestinian women have been forced to choose between the nationalist and the feminist as two separate projects. In reality, though, they have not been given any choice, because in either case they will be accused of compromise at the least or betrayal at worst.

It is clear that if the dilemma is perceived as a dichotomy, women will lose. The question is: Who does this dichotomy serve, and on what is it based? Before trying to answer these questions I will outline some non-feminist attempts to resolve this struggle that have apparently attempted to combine the national/religious with the feminist but have frequently harmed both.

E. The Legitimacy of the Courts

In the Indian case, the Muslim Women Act was portrayed by the government as a means of protecting Muslim minority rights, as well as Muslim women's rights by presenting new alternatives rather than forcing women's dependence on their former husbands. The bill, however, encourages women's dependence on family members instead of providing them with income. The new bill failed to resolve what Muslim leaders claimed to be its primary flaw: preventing the majority from interfering in the internal issues of the minority because the bill infringes on the authority of the State Waqf Boards by obligating them to pay alimony.

The *sharia* court judges in the Palestinian case had argued that the religious courts, defined by them as Arab national associations, could provide protection for Arab women's rights from within the community and without any fundamental changes. They claimed to achieve both goals simultaneously: protecting Palestinian women and protecting the national identity of the Palestinian minority. The courts' actions, however, demonstrate that there has been no real attempt to formulate a new interpretation of religious law, or to protect the Palestinian minority's identity in a progressive way. Any claims concerning the protection of Palestinian women's rights has been general, without deep analysis of religious law or new interpretations.

The word "protection" itself is problematic, as it carries with it an implicit hierarchical relationship between the "protector," who has authority, and the "protected." Using this terminology only provides camouflage that hides true intentions and power politics, and harms feminist interests. Presenting the religious courts as an expression of the national and cultural identity of the Palestinians is also problematic. It is difficult to see judicial institutions based on religion as an alternative to necessary, Arab national institutions. This is not to say that Arab culture must be devoid of Islamic influence, but the Islamic presence in Arab secular culture is a cultural presence, not a religious one. The bases of the religious project in India and the Palestinian Project in Israel have not been examined in any serious way or with a feminist perspective. To do

so, there is a need to re-think and revisit several questions: what is group identity, who defines it, and who defines the interests of the group.

In the case of India, fundamentalist Muslims defined the identity and interests of Muslims as a whole, without considering the opposition from within the group. Arif Mohammed Khan (in Hensman, 1985: 103), who resigned as Minister of State when the Muslim Women Act was introduced to Parliament, said: "The state is imposing a form of religion as interpreted by a particular group of people, and they are asking every Muslim, if you are Muslim you have to accept this form". An article in the *Urdu Times* demanded that "if some Muslim women oppose Muslim personal law in the name of the Shahbanu case or want changes in it, or if they desire that a common civil code be imposed on the entire country, then such women, though their names be Muslim, should renounce Islam if they do not agree completely with the Islamic Shariat." A similar process took place in Israel, where religious judges and nationalists defined Arab national identity on behalf of all Palestinians, directly relating this identity to the use of the religious courts.

This one-dimensional interpretation of identity requires a more general analysis of identity as a concept. For example, if we analyze the actions of Shahbanu, we see that she possesses multiple identities. Her identity as a woman is what caused her to apply for alimony under Section 125, while being a member of the lower class allowed her to ignore the comments of upper-class women who accused her of lacking respect. Later, her identity as a Muslim made her sign against the court decision when she was told that "Islam is in danger." This call, in fact, ignored the other dimensions of her identity.

In all the discussions surrounding the Shahbanu case, which was interpreted as a discussion of the religious identity of Muslims in India, Shahbanu the woman—her personal story, suffering, difficulties and interests—were lost in the discourse of religious identity. The discussions surrounding Shahbanu and the resulting Muslim Women Act provide a vivid demonstration of the way in which the discourse of national/religious identity is used to control women and to further personal,

political power. In Israel, attempts to block the Palestinian women's bill provide a similar example.

F. Conclusion.

In this article, I discussed religious/nationalist and feminist identity, and attempted to dismantle the dichotomy that necessitates choosing between the two. Such tension distracts the focus of the feminist struggle. The most important question remains the same: what projects should feminist activists undertake in order to initiate social changes and justice for women?

The reformulation of nationalist/religious identity in such a way as to make it compatible with a feminist perspective is a very important project. Such a project must be built on changing the dominant culture from within. Such a process is long-term, however, and until it is achieved, women will continue to suffer. We cannot demand that oppressed women wait until the rebuilding of the dominant culture is completed. In reality, there is the possibility that utilizing secular courts will force national/religious institutions to make positive changes.

This perspective raises another, parallel question: Is it possible to force a religious identity (even if it is an enlightened one) on secular women who do not accept religious authority? Is it possible to find a space for secular identity in the collective one? All these questions, and many others, must be critically investigated in order to advance feminist interests. As such, there is a tremendous need for women's participation in attempts to rebuild the dominant discourse.

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