



***WOMEN LIVING UNDER MUSLIM LAWS:
STRUGGLES AGAINST FUNDAMENTALISM
IN EUROPE AND NORTH AMERICA***

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Algeria

9th Annual Dame Nita Barrow Lecture

Toronto, November 2005

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**DAME NITA BARROW
(1916-1995)**

*“Lost is a true daughter of the soil”
- Erskine Sandiford, Former Prime Minister of Barbados*

The late Dame Nita Barrow, former Governor-General of Barbados, studied nursing at the University of Toronto from 1944 to 1948.

She served at various times as the world wide President of the Young Women’s Christian Association, the World President of the International Council for Adult Education, President of the World Council of Churches, and Barbados Ambassador to the United Nations. A member of the Global Fund for Women’s Board of Directors, Dame Nita was also a member of the Commonwealth Eminent Persons Mission to South Africa in 1986 and the Convenor of the NGO Forum for Women at the United Nations World Congress on Women in Nairobi in 1985. In all these capacities Dame Nita championed the causes of justice, equality, peace, and the empowerment of women. With high government office, diplomacy, and statescraft, she linked grass roots initiatives and loyalties and was a tower of strength to local and world-wide movements inspired by her spirit of activism, compassion, brilliance, common sense and joy.

Dame Nita’s life was an outstanding example of dedication, commitment and selfless service to women, men and children, especially the poor, dispossessed and disadvantaged.

Dame Nita Barrow Lecture

Women Living Under Muslim Laws: Struggles Against Fundamentalism in Europe and North America

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1. Situations

Canada has just been the battlefield for Muslim fundamentalists trying to impose state sanctioned religious arbitration in family matters. This did not happen in a vacuum. European countries have also recently witnessed initiatives with a similar focus on women. This is the way Muslim fundamentalists successfully have imposed their reactionary practices in our traditionally Muslim countries. Patriarchy is universal and western governments—like our own governments—will be happy and relieved to trade women’s rights for keeping social unrest at bay.

Now that the Ontario government has decided to outlaw religious arbitration, women have indeed won a battle—an important one. But they have not won the war.

There are two lessons that we can learn from this encounter.

One lesson is that, despite the large mobilization of Canadian women, the voices of those who supported Muslim religious arbitration in the name of equity between all religions—regardless of the probable content of such an arbitration and regardless of which forces were pushing for it—were well-heard and well-received by the political authorities.

Marion Boyd’s infamous report, *Dispute Resolution in Family Law: Protecting Choice, Promoting Inclusion*,¹ 2004 testifies to this. Indeed discrimination against the religion of Islam is indecent and unacceptable and must be resisted. However, human rights advocates and feminists who defended equal rights between ‘communities’ should also have defended equal rights between men and women. They should have questioned the potential discrimination against women that was most likely to take place under such arbitration—not only in the ‘Muslim’ community but in other communities too. In this case, an international letter writing campaign and demonstrations were necessary for national protests of concerned Canadian women to be given consideration. The women from

¹ Report for the Ministry of the Attorney General of the Government of Ontario 2004.
< <http://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/boyd/> >

Muslim countries among the protesters in Canada and abroad, knew what they were talking about having themselves suffered under such religious laws. The Canadian government was *shamed* publicly for its eagerness to sacrifice women's rights on the altar of community rights and it knew that this sacrifice would not pass unnoticed by the international community. Women have to recognize that more and more our national struggles need to be backed internationally if we want to have a chance to succeed.

The other lesson that is clear to me is that the battle will go on and that Muslim fundamentalists in Canada will challenge the decision of the Canadian government, legally and otherwise, nationally and internationally. They will go on to mobilize part of the Left and part of the human rights movement by using human rights concepts, human rights law and international treaties and devising other demands and strategies to pursue and enhance their reactionary political agenda. Already tested in Europe, this demand for religious arbitration of family matters in Canada happens in a global political context where the Right and Extreme Right political forces are on the rise—the demand for religious rights by various creeds, including Muslim fundamentalism, is a key element in this.

At this stage, it is important to make a clear-cut distinction between Islam, Muslims and fundamentalists. *Islam* is a religion, a philosophy, and an ideology. It pertains to the realm of ideas. Hence, like other ideas, never on earth will we see it realized and concretized. *Muslims* are the people who claim that they are followers of these ideas. They are found on all continents, the vast majority in Asia and Africa with a minority in the Middle East where Islam originated. However, there is a growing diaspora everywhere, especially in Europe and North America. *Fundamentalists* are a political Right and Extreme Right force that present themselves as Muslims and use Islam as a cover for their political work.

Muslim fundamentalism is **not** a religious movement as it pretends to be. In my country, Algeria, as well as in many others, fundamentalists are totally ignorant of religion and hardly willing to reflect and learn about it. When confronted by progressive religious interpretations and interpreters, they show no interest and no inclination to debate. They use religion simply to legitimize their political ambitions.

Muslim fundamentalism is a political movement of an Extreme Right nature that seeks political power either directly or indirectly depending on the country. It is a coalition that ranges from hard core conservatives to fascists. For them, Islam is both a religion and a political system that should govern the land. It is also a transnational political movement. This makes it different from most other religious Rights that also use religion for political purposes but are more geographically located.

I am here discussing neither Islam nor Muslims as believers of a faith. I leave it to theologians to discuss which practices are Islamic and which are not. Here we are in the domain of sociology and politics and will discuss 'Muslims' only as they intersect with Fundamentalists as defined earlier.

'Religious' demands made in Europe and North America to give visibility and specificity to 'Muslims' have all been done under the control of fundamentalists with an exclusive focus on the control of women. In France, Muslim fundamentalists demanded the following:

- the end of co-educational schools;
- separate swimming pools for men and women, or different days for men's and women's use;
- entirely female wards in public hospitals including all female personnel (doctors, nurses, helpers and cleaners) for female patients (while France is now short of male and female doctors);
- a different curriculum for girls in state schools that includes a banning of sports, music, graphic arts, biology (like Christian fundamentalists in the US, they refuse Darwinism and want creationism to be taught—at least to girls!);
- the 'right to veil' for girls under age (much discussed around the world).

It is important to note that fundamentalists have already succeeded in some French cities in obtaining from Mayors and other local authorities sex segregation in swimming pools. They have had similar success in the UK where they have won a different curriculum for girls in Muslim schools despite the fact that these may be funded by the state. Demands for separate religious laws in family matters have been made in most European countries. They are close to being won in the UK, and elsewhere where decisions are pending. This is not a new strategy. Already some thirty years ago, the Dutch Parliament debated whether or not to allow female genital mutilation on the soil of the Netherlands for the 'concerned sections of the population.' This was done in the name of cultural rights.

Let us examine for a minute the much debated question of the so-called Islamic veil in France. On the one hand, this cannot be separated from the aforementioned other demands that are made by Muslim fundamentalists. On the other hand, the French government position has been wrongly constructed as an exclusive attack on Muslim freedom of religion. In his defense of French secularism the progressive Muslim theologian Soheib Bencheikh rightly argues that secularism and the law of separation between religion and the state is precisely what guarantees him the right to freely practice his religion in France.²

This important commitment to secularism is little known and often decried outside France and so must be clarified. It is often understood to mean equal tolerance of all religions by the State. However, to me, this is hardly secularism, especially if one considers the UK (where the Queen is both Head of State and Head of the Anglican church) or Germany (where the Landers collect religious taxes for financing the various churches as part of general taxes) or the U.S. (where one testifies in court by swearing on the Bible) or Canada (where God is mentioned in the Charter of Rights). The French concept of secularism must not be confused with this tolerance of religions.

Since the beginning of the 20th century, the French state has stepped totally out of religious matters. The State will not interfere in, nor fund, any religion, and the institutions of the Republic reflect this ideological stand. Religion and State are now separate.

² See his *Marianne et le Prophète - l'Islam dans la France Laïque*, Grasset, Paris, 1998.

Henri Pena Ruiz, renowned French philosopher and expert on secularism, explained in a recent article³ that the Act of Separation of Church and State of 9 December 1905 opens with two indivisible articles grouped under the single heading *Principles*:

Section 1: the Republic shall ensure freedom of conscience. It shall guarantee free participation in religious worship, subject only to the restrictions laid down hereinafter in the interest of public order.

Section 2: the Republic may not recognise, pay stipends to or subsidise any religious denomination. Consequently, from 1 January in the year following promulgation of this Act all expenditure relating to participation in worship shall be removed from State, region and municipality budgets.

Grouped under the same heading, the two articles of the law are obviously inseparable and are clearly referred to as principles. Religious freedom is but one version of the freedom of conscience (Section 1) and is viewed only as a particular illustration of the freedom. Having to coexist with the freedom of choosing to be an atheist or an agnostic, the freedom of opting for a religion obviously belongs to a more general category which is the only one mentioned by the law. Insisting on ‘religious freedom’ is in fact preserving the privilege of a spiritual option when the law actually rejects all such privilege. This is why Section 1 is inseparable from Section 2 which stipulates that the Republic does not recognise any religious denomination. This strictly means that it has passed from recognising certain selected denominations (before 1905—Catholicism, Lutheran and Reformed Protestantism and Judaism) to renouncing all recognition. It is not passing from a recognition of some to a recognition of all, as a multireligious or communitarist interpretation would have it, but from a selective recognition to a strict non-recognition.

This principle of non-recognition is to be understood in its legal sense which confirms the fact that no stipend or direct subsidy may be paid to any religious body by the State. It does not entail, of course, that the social existence of different denominations or that the atheistic or agnostic forms of conviction are ignored. Equality of all is a key issue for such legal provision as it is likely to remind one that the State is only concerned with the general good. The 1905 Act does not just stipulate that all churches are henceforth legally equal. It extends this equality to all spiritual choices, whether religious or not, by dispossessing the Churches of any public law status. Assigning religions to the private sphere entails a radical secularization of the State. The State henceforth declares itself incompetent in matters of spiritual options, and therefore not able to arbitrate between beliefs or to let them encroach on the public sphere to shape common norms.

As to the essential principle of respect for religious neutrality, Section 28 of the 1905 Act stipulates:

It is henceforth forbidden to build or affix any religious sign or emblem on public monuments or on any place whatever, with the exception of religious buildings, burial places in cemeteries, funeral monuments as well as museums or exhibitions.

³ *France: Secularity and the Republic*, [News and Views](http://www.wluml.org/english/newsfulltxt.shtml?cmd[157]=x-157-406385), Women Living Under Muslim Laws, June 27 2005. < [http://www.wluml.org/english/newsfulltxt.shtml?cmd\[157\]=x-157-406385](http://www.wluml.org/english/newsfulltxt.shtml?cmd[157]=x-157-406385) >

This is the logic behind forbidding any sign of political or religious affiliation in the schools of the Republic and in public administration when the civil servant is in contact with the public in his/her professional capacity of representing the Republic in France. I grew up under this law in colonized Algeria, and despite the discriminatory colonial context, Christians were no more allowed to wear crosses inside the premises of state schools, than were Jews allowed to wear a kippa or Muslims to wear a veil. Children were there as citizens and freed from representing a 'community.' Yet all these signs were allowed, in the name of freedom of conscience, as soon as one had gone beyond the doorstep of locations that both belonged to and represented the Republic.

This law clearly speaks to a tension between two fundamentally opposed visions of society: citizenship by choice versus communities by birth. Pena Ruiz (2005) discusses it as follows:

The secular recasting of the state, initiated in France with the acts of 1881 and 1886, then the Act of separation of Church and State of 9 December, 1905, corresponds to the meaning enclosed in the very etymology of the word Res Publica which addresses everybody, believers, atheists and agnostics alike and cannot therefore favor anybody. What pertains to some cannot be imposed on all or even privileged. The unity of a population is then based on the fundamental correlation between freedom of conscience and the equality of the rights of all men, whatever their spiritual choices. The French word for secularity, laïcité, is derived from the Greek word laos meaning population and therefore refers to a principle of union of the population grounded on values or requirements, ensuring that nobody will be the victim of pressures on his conscience, or of discriminations because of their spiritual choices

In that sense, secularism is akin to *universalism*, which is the essence of the republic. But it could not occur spontaneously. There had to be a movement to emancipate the existing law from submission to any specific religious persuasion. Hence, the republic is now legally neither atheistic nor religious. It no longer arbitrates between beliefs but arbitrates between actions to be assessed only terms of the general interest. This evolution puts an end to the confusion between the temporal and the spiritual, and in a way liberates them from the corruptions each inflicts on the other.

At the same time, the ethical liberty of the private sphere is guaranteed. No conception of what 'the good life is' can monopolize law or illegitimately extend the normative function of the law beyond the interest of the community of citizens. The law tends to evolve from prescription to proscription. The respect of the private sphere as independent from the public sphere places limits on the state in order to preserve the autonomy of each person from supervision—whether of one's life ethics or religious choices. The effect is to protect people's inner life from any intrusion of the state which emancipates religious as well as atheist spirituality.

Kant argued that the paternalist figure of the prince trying to dictate to his subjects how to be happy was the worst type of covert despotism. Making people childish in this way proves in fact that they are considered as neither free and autonomous nor lucid. And who

is to decide on this but a self-proclaimed authority which stands purposely apart from the people it dominates? The republic is not made up of subjects. They are not subjected to anyone or anything. The republic is composed of citizens who, as Rousseau pointed out, are both the authors of the laws and the people who must obey them. The two meanings, both active and passive, of the word 'subject' become reciprocal in a democratic sovereignty—the collective form of political autonomy. The people themselves promulgate their own law and must obey it. Such an autonomy, with all its variety of forms for the individual as well as for society, raises the individual to the status of a 'subject of rights' while setting the people up as 'the sovereign authority.'

The type of union formed on that model cannot be interpreted in terms of communities, for it would mean that some people had a right over a community's members just as the king had a right over his subjects—that would be unilateral domination instead of reciprocal sovereignty belonging to each and to all.

It follows that the demand for the 'right to veil' for girls under 16 in secular French schools was a straightforward attack on the very principles of the Republic and a step towards reintroducing religion as a way to govern. It is at the roots of the fundamentalist agenda to impose theocracy. Thanks to the growing ideology of multiculturalism that leads to communalism, a minority of Muslim fundamentalists have successfully labelled this wonderful and respectful law on secularism 'a law against the veil' and it is now considered discriminatory against Muslims. We will discuss later the enforced identity that 'communities' may represent versus secular citizenship.

It is because of such widespread, deliberate and coordinated entryist policies in Europe and North America that I can say with some certitude that Canadian women have won a battle but not the war and that they should be ready for further attacks from Muslim fundamentalists.

2. Reactions

Let us now examine the reactions of the various social actors to fundamentalist demands in Europe and North America. And let us first note that these demands always concern primarily women through their position within the family. It is always family laws that are claimed first as the preferential symbol of Islamic identity. Other specificities of so-called Muslim Laws such as the Huddud laws (the laws concerning punishment), that condemn thieves to the amputation of limbs and adulterers to be stoned to death, have not yet been proposed or demanded as legitimate symbols of Islamic identity in Europe and North America—although we may be getting there.

At the time of the heated discussion on the veil in state schools in France, a fundamentalist preacher who manages to pass himself off as both an intellectual and a theologian, and as a 'moderate Islamist' (this terminology will be discussed later), Tariq Ramadan refused to condemn publicly the stoning to death of adulterers during an interview on French TV. The most he could envisage was 'a moratorium.' Governments (as already mentioned) are preoccupied with keeping 'communities' at peace with each other and with themselves. They are fully prepared to trade away women's rights unless a strong social movement forces them to reconsider their position. This is the reason why the crafty strategic entry

points of fundamentalists in their policy of de-secularization of the State are measures that affect primarily women.

Why is it that women from the Muslim community sometimes find it so difficult to take a clear-cut position against fundamentalists' demands against women's human rights? We cannot ignore here the double bind in which they are caught. Religiously minded or not, they see (just as we all do) the growing racism, discrimination, exclusion, and marginalisation that so-called Muslims face, especially since 9-11. (*Note: a critical discussion of the descriptor 'Muslim' follows below*). As members of this community, they face these difficulties themselves, as well as being sensitive to what their male folks face. When they stand up in defense of women's human rights, they are immediately labelled traitors: Traitors to their community, to their family, to their culture, to their religion, but also, and not less excruciating, traitors to the oppressed of the world, to the revolution, etc.

For those of us who are atheists and come from social movements, condemnation comes additionally from a larger and larger section of the Left and from human rights organizations that give precedence to the defense of communities over the defense of women.. For those of us who are religious, condemnation comes additionally from authorities of a faith that is dear to their hearts. This is why we should collectively praise women of 'Muslim' descent in Canada who have allied in fruitful coalition among themselves and with other Canadian women, from the faith based Canadian Council of Muslim Women⁴ to the secular 'International Campaign Against Shari'a Court in Canada.'⁵

This is a very difficult situation indeed, but no different from that of battered women or incest survivors who stand up against their aggressors and denounce a husband, a father or a brother. They too are often seen as betraying their folks, and it is definitely equally hard on them. Those who take this courageous position should indeed be supported by other women in a careful and respectful way. I do not include as respectful support the totalizing and homogenizing condemnation of 'Islam' and of 'Muslims' (rather than of fundamentalists) by ethnocentric westerners who are convinced that they are more civilized and a model for all. Support as well as criticism should clearly be political, based on shared values rather than communities.

The growing ambiguity toward fundamentalists, of mainstream international human rights organizations in a large section of the Left and even of a vocal current within feminism, should be a matter of concern to us all. Some months ago, a group of us from Muslim countries and communities around the world visited Montreal and Ottawa in support of the coalition against religious arbitration in Canada. I was struck with the way women from the Canadian Coalition of Muslim Women (CCMW) spoke up against the proposed legalization of arbitration, while some of the women who were obviously not from 'Muslim' descent worded their concerns carefully and sheepishly as if 'Muslims' were under attack rather than fundamentalists. Marion Boyd herself was considered a feminist 'til her report proved that she too was prepared to trade women's rights for the rights of minorities to oppress their women.

⁴ Canadian Council of Muslim Women. < <http://www.ccmw.com/> >

⁵ International Campaign Against Shari'a Court in Canada. < <http://www.nosharia.com/> >

This sends me back to memories of the seventies when some feminists in Europe defended female genital mutilation in the name of minority cultural rights. It took, in France for instance, the courage of women ‘traitors’ from communities where FGM is practiced to send perpetrators to jail and to stop FGM from taking place on French soil. The fact that these fighters for girls and women’s rights were women made it easier for them to be condemned as ‘traitors.’

Similarly, human rights organizations have repeatedly taken misguided positions on the question of women’s rights. Feminists have questioned their exclusive focus on state responsibility for over twenty years, pointing out that non-state actors (fundamentalists) are increasingly important in inciting or fomenting wars and armed conflicts, imposing non-chosen identities, and curtailing basic freedoms and women’s rights. We have insisted that it is time to demand direct accountability from non-state actors. The mainstream human rights stance, on the other hand, is that the State should use due diligence to enforce human rights and control non-state actors. But as soon as states attempt to do so, these same human rights organizations denounce them for infringing upon minority rights, cultural rights, religious rights, etc.! There is absolutely no doubt in my mind that this will happen again in Canada when Muslim fundamentalists challenge (in Provincial, National and/or International courts) the Ontario government’s decision to refuse religious arbitration in family matters. Human rights organizations now more than ever have to be confronted with their own contradictions.

Finally, we need to point out the alliances that are built between Muslim fundamentalists and various political forces of the Right and the extreme Right. One expects religious fundamentalists to support each other beyond religious difference. And of course that is the case. After the attack on French secularism through the question of veiling girls in state schools, known Jewish and Christian fundamentalist organizations took positions in support of demands from ‘Muslims’ and ignored the outcry from the progressive scholars of Islam and many women of Muslim descent who went public in the media to defend French secularism. Feminists had their first taste of these unholy alliances in 1994 during the Cairo World Conference on Population where the Vatican and El Azhar University (considered the highest Muslim religious authority) colluded in actions against the freedom to use contraception and undergo abortion. Even clearer is the approval of Muslim fundamentalists by fascist political parties. Le Pen, as the Head of National Front in France, and Haider, as the Head of the Freedom Party in Austria, both spoke more than once in support of the Islamic Salvation Front, the first fundamentalist party in Algeria. This was a Party which among other things condemned to death and often executed (with the help of AIS,⁶ GIA,⁷ etc.) those they called ‘unbelievers’ because they did not share the Party’s views of religion. The logic behind such support from openly racist organizations is their shared recognition of ‘difference’ (a notion that we will re-examine later). Le Pen also recently went public in support of Muslim fundamentalists who are demanding the law on secularism be reconsidered.

These alliances should point to the political nature of Muslim Fundamentalism. However, this is not enough to ensure the support of those who should be natural allies of the

⁶ Arme Islamique du Salut (Islamic Salvation Army in English).

⁷ Group Islamique Arme.

progressive and democratic opposition to the theocratic fundamentalist project. When they fail us, we should realize the extent to which they find themselves in a double bind caused by their biggest fear—their fear of being accused of Islamophobia and racism. We can help free them from this trap—this dead end, this *cul-de-sac*—if we revisit and challenge a number of concepts that are currently used as if there is a consensus about their meaning.

3. Revisiting concepts

Far from it, these concepts are disputed political territories, the location of social struggles between diametrically opposed forces. They are also concepts that can easily be, and in fact are, manipulated.

I will first challenge the term *Islamophobia* which is a triumph of fundamentalist strategy. They have persuaded far too many of the social forces that should be on our side in this struggle to believe that being against their medieval views of religion can be equated with being against Islam. This is why, despite my personal secular opinions, I think it is important to support the work of progressive and feminist theologians (men and women) and their attempts to build the equivalent of a liberation theology in Islam, and to make respectful alliances with them. The more visible we make this trend, the more chances we have to break the monopoly over Islam that fundamentalists have managed to build for themselves in today's world - where religions have acquired a status of sanctity regardless of the politics they promote.

For we must insist that Islam, like any other religion, is not homogeneous. Islam gives birth to various interpretations of the texts that founded it, from the most progressive to the most fundamentalist. The least one can say is that, at this moment in history, fundamentalism prevails and progressive interpreters, including feminist theologians', are in danger. In our countries most male theologians who read texts that allow freedom (in various degrees) for women, for non-Muslims and for non-believers are threatened and many have been executed. So far no women theologians have been murdered - but many are under threat.

Muslims (here understood as believers) are not homogenous either. Among them there are progressive and conservative people, as well as political forces that use religion as a cover for their political agenda. Among the latter group are some plain fascists. This is the version of fundamentalism that terrorized Algeria (without yet totally controlling the state) and is currently in power in some Muslim countries.

I am aware of the epistemological and methodological problems that arise from using the term 'fascisms' here and that I may be challenged by historians. However, I maintain that we are witnessing new forms of fascism (more closely related to those found in Nazi Germany than Italian fascism) and that Muslim fundamentalism is one of them.

Like fascists, Muslim fundamentalists of the brand we had in Algeria reject democracy (the law of the people that can be changed by the people) and they promote theocracy (the 'Law of God'—their interpretation of it—the divine law that cannot be changed and is ahistorical).

Like fascists, they have god on their side ('Gott mit uns' as was carved on the buckle of the belt of the SS). Ali Belhadj, number two in the Islamic Salvation Front (FIS) in Algeria, on

the eve of the 1991 elections said: “If we have the law of God, why should we have the law of the people? One should kill all these unbelievers.” Consistent with this statement, he also announced that should FIS win these elections, there would be no more elections in Algeria.

Like fascists who believed in a superior race, Muslim fundamentalists believe in the superiority of Islam over any other religion. This, they believe, allows them to dominate and dictate the life and death of those who do not share their creed.

Like fascists, they turn to a mythical past. It is not the Aryan race, nor the glorious past of Rome but it is the Golden Age of Islam, a ‘return to’ which justifies medieval practices, especially but not exclusively over women.

Like fascists, they condone the physical elimination of all opponents, not just political opponents but all those that they, like fascists, label infra-humans, sub-humans, ‘untermensch’, ‘kofr’ (i.e. unbelievers in their eyes, apostates, blasphemous, etc.), communists, Jews, gay people and so on. J. Senac, a famous Algerian gay poet was assassinated in the mid-seventies because he was a gay artist. This assassination prefigured the numerous assassinations of artists in the nineties by fundamentalist armed groups.

Like fascists, they are expansionist, they seek to convert the whole planet to their interpretation of Islam. Like fascists who limited women’s role to the domestic sphere of ‘kinder, kirche und kuche’ (children, church, and kitchen), Muslim fundamentalists seek ‘separate development’ for women—a concept that, under the name of apartheid, sparked a worldwide protest when it separated blacks from whites, rather than men from women.

Like fascists, they are pro-capitalist. Social justice for Muslim fundamentalists can be dealt with through charity (zakkat).

Considering these politics, it is a mystery to me that such people could be supported by a fraction of the antiglobalization movement and by a fraction of the political parties of the Left just because they oppose the state. Feminists need to address the contradictions within the Left as well as within human rights organizations. There is no denying that Islam bashing, racism, discrimination and Islamophobia do exist. One should be very careful in making the distinction between rejection of a religion per se and rejection of what people may do in the name of this religion. And one should stand for one’s right to criticize what people do, without being intimidated by such labels such as ‘Islamophobe.’ For silence allows fundamentalists to claim that they represent Islam and Muslims and whoever they like to force to be Muslims. This claim must not be accepted.

The second term that I want to revisit with you is *Sharia*. ‘Sharia’ in Arabic means the way to God, the path to God. Progressive scholars use the word in that sense. But for fundamentalists it means The Divine Law—the one and only law as interpreted by them. When you hear about Sharia Law in Canada, it is the fundamentalists’ meaning that is referred to.

If neither Islam nor Muslims are homogenous, then neither is so-called ‘Muslim law.’ There is no such thing as Sharia (The Muslim Law—singular). There are Muslim Laws which are diverse and give very different space and options to women. The very existence

of this diversity proves, if need be, that these laws are man-made, not god-given. Diversity among Muslim laws stems from various elements that concur to inform and shape laws. The first factor that comes to mind is, of course, different interpretations of religious texts. But it is far from being the only one and we will see that other factors can be just as, if not more, important.

Let me take the example of two neighboring countries in the Maghreb. Both countries celebrate Maleki ritual, have a common culture, language and border. One, Algeria, allows polygyny 'in the name of Islam.' The other, Tunisia, forbids it 'in the name of Islam.' How come? The Algerian legislators used the verse of the Qu'ran that says that a man is allowed four wives and as many concubines as he can provide for. Tunisian legislators used the other half of the verse that says that a man is allowed four wives—provided he can treat his wives perfectly equally. For the Tunisian legislators, a man can give the same amount of money to several women and the same dresses and the same house. But beyond material goods he will not be able to give them equal affection. Hence for the Tunisian legislators, this is a clear indication that the Qu'ran does not favor polygyny and that it should be outlawed.

Disregarding the existence of different approaches and different readings of religious prescriptions that translate into very different situations and different rights for women, European countries do not hesitate to side with fundamentalists in the name of respect for 'Muslims.' In an article *Polygamy All Over the Place* by Paul Belien,⁸ we learn that:

In Britain legislators have chosen to adopt a liberal approach, amending existing laws in an effort to accommodate the needs of the local Muslim population. Last year the Sunday Times reported that Muslim second wives will get a tax break: "The Inland Revenue is considering recognising polygamy for some religious groups for tax purposes. Officials have agreed to examine 'family friendly' representations from Muslims who take up to four wives under sharia, the laws derived from the Koran. Existing rules allow only one wife for inheritance tax purposes. The Revenue has been asked to relax this so that a husband's estate can be divided tax-free between several wives.

Only last week (November 11) the Norwegian newspaper Aftenposten reported statements from Norway's Directorate of Immigration (UDI) that there are an increasing number of men with multiple wives in Norway. "The reason is married men travel to countries where polygamy is legal and then add a wife." Though polygamy is illegal in Norway, "this is something that Norwegian authorities cannot prevent," said UDI spokesman Karl Erik Sjøholt. The question is whether the authorities should encourage it. The Islamic Cultural Center Norway (ICCN), an immigrant organisation subsidised by the Norwegian state, advises Muslims in Norway to take several wives because polygamy "is advantageous and ought to be practiced where conditions lend themselves to such practice...There are also hundreds

⁸ *The Brussels Journal*, Thursday, November 17, 2005. < <http://www.brusselsjournal.com/node/480> >

of polygamous families in Britain, Germany, the Netherlands and other countries.”

Alongside religious interpretations, one can explain the differences from one ‘Muslim’ law to another by looking at the fact that Islam absorbs local cultures. For instance, one will find castes among Muslims in India, although this is not seen in other parts of the Muslim world and is obviously inspired by the dominant Hindu culture. Similarly, FGM is practised as a cultural tradition by Christians, Muslims and Animists in some African countries (roughly speaking those within the sphere of influence of ancient Egypt), but it is largely unknown outside this geographical area.

Moreover, when it is in the interest of patriarchy, modern ‘Muslim’ states do not hesitate to incorporate and codify into legislation ideas that they pass off as Muslim—not only pieces that pertain to local traditions but to colonial laws as well. For instance, at the time of independence in 1947, Pakistani women found themselves totally deprived of all rights to inheritance. Muslim inheritance laws usually give women half of the share of their male relatives, certainly not less! Nevertheless, Pakistani legislators saw fit to adopt Victorian legislation that gave British women no rights to inheritance. At times of newly won independence and praise of nationalism, it is educational to see that patriarchy has no border and no nation.

However, the thing that accounts for most differences in ‘Muslim laws’ is the political use of religion. Let me provide a blatant example from Algeria. At independence in 1962, after a bloody war of seven years against French colonialism that cost two million lives, Algeria was progressively changing colonial laws into national ones. A group of men and women approached then-President Ahmed BenBella, asking for a swift change from the French law that still criminalized not only the practice but even the knowledge of contraception and abortion. BenBella objected that this would be against Islam. Not discouraged, the group went to the highest religious authorities, the High Islamic Council, which promptly delivered a fatwa, stating that contraception was indeed allowed in Islam and that there could be many grounds for abortion, including the physical and mental health of the mother. This was quite an enlightened view at a time that large parts of Europe under the Vatican’s influence were still struggling to obtain less than that. However BenBella filed this fatwa away and ignored it. His intention was obviously to use women’s reproductive power to replenish the decimated population.

In the mid-seventies, the Algerian birth rate was one of the highest in the world. Women had an average of 7.9 living children and the number of pregnancies was close to natural fecundity. As a result, the mass of youth could not be accommodated in schools any longer and came unequipped to a labour market that could not absorb them. The new bourgeoisie, born out of the ‘socialist’ bureaucracy, was feeling the threat of this huge lumpen proletariat. In an attempt to protect their interests, they exhumed the fatwa issued in 1963 and women suddenly had access to contraception and abortion. The same religious opinion had been hidden and then used to cynically serve different political interests and priorities at different moments in history—always ignoring women’s needs and rights.

All these varied laws have been called ‘Muslim laws.’ None can be called ‘Sharia’ with more legitimacy than the other. Using the word ‘Sharia’ supports the false claims of

fundamentalists to monopoly over religion and legitimate power over a whole community based on this. I urge you not to use this term any longer but to replace it by the plural ‘Muslim laws.’ This term recognizes the religious common ground that nurtures laws just as Christianity nurtures laws in Europe and North America, while also taking into account the plurality of sources of the laws, thus acknowledging its man-made character and challenging its God-given nature.

No Muslim country and community has a complete set of laws that are beneficial for women. But many have *some* good laws for women. For instance:

- Divorce by mutual consent (hard won in some European countries and considered ‘modern’) exists in Algeria, Tunisia, Senegal, and Malaysia;
- Financial settlements upon divorce that take into account the input of domestic work into family wealth and give equal rights to ex-spouses over family property exist in Iran, Singapore, Malaysia, and Central Asian Republics;
- Spouses have equal rights and responsibilities in marriage in Turkey, Fiji, Indonesia, Tunisia, Lebanon, and Central Asian Republics;
- The man is not the head of the family and therefore the obedience of wives is not required in Bangladesh, Sri Lanka, and India;
- Polygyny is forbidden in Tunisia, Fiji, India, Gambia, Turkey, Lebanon, and Central Asian republics. Permission of legal authorities is required in Indonesia, Malaysia, Bangladesh, Pakistan, the Philippines, and Singapore, and the authorization of the co-wives is required in Senegal, Cameroon, Algeria, Morocco, and Yemen;
- Parents have equal rights in matters of custody and guardianship of children upon divorce in Indonesia, Gambia, Senegal, Turkey, and Tunisia. It is a judge that decides ‘in the best interest of the child’, not the father.

This is a far cry from the image of the uniformly ‘poor and oppressed Muslim woman’ that is generally propagated in the West. True enough, depending on the country/community, women can also be forcibly married, secluded, sexually mutilated, given no right over family property, or over children upon divorce, and they can be unilaterally repudiated. As everywhere, the rights listed above are the outcome of long hard struggles by progressive social movements—including the women’s movement—against reactionaries.

Even though access to the law is unequal for different classes, we can say that if women were accorded all these rights under so-called Muslim laws, they would be well-off. Unfortunately, the fundamentalist trend is exactly the opposite. Not only do fundamentalists pick and choose religious interpretations and cultural practices from around the world that are most unfavorable to women, they label them Islamic regardless of the school of thought that produced them or their geographical and cultural roots.

For example, in North Africa the Maleki ritual does not acknowledge a woman’s coming of age. She is never recognized as an adult by the law and she needs a wali (a matrimonial

tutor) to enter into a marriage contract. She has to be given in marriage by her wali. Pakistani fundamentalists learned about this reactionary practice from Algerian djihadis they met in Afghan training camps and attempted to import it to Pakistan. In several cases that came to our attention, fathers who had murdered or attempted to murder daughters for wanting to marry of their own choice, based their defense on a claim of wali status towards their disobedient daughters. This, in a country where the law grants women adult status and the role of wali has been unknown.

Through the same channel of Algerian djihadis (who learnt the practice from their Iranian instructors in Peshawar training camps) muta'a marriages (temporary marriages) have been introduced in Algeria. Yet they are specific to Shia Islam and unknown in the Maleki Islam that is practised in Algeria. In the nineties, Islamic Armed Groups raided villages, slaughtered men and children and kidnapped women into their camps for domestic and sexual slavery. Much to the horror of progressive imams, they called it muta'a marriage, and told the raped women that this unilateral forced 'marriage' was perfectly Islamic.

Finally, about a decade ago, Sri Lankan women from the Muslim community alerted us to the attempt to introduce FGM in Sri Lanka in the name of Islam. Women did not know exactly what it was, since the practice is not traditional in South Asia. After learning from women loaded with statistical, medical, religious, graphic and video material from the anti-FGM movements in Gambia, Mali, and other countries, Sri Lankan women were able to understand FGM and successfully combat its introduction in Sri Lanka by fundamentalist groups.

In the present political context of a rising fundamentalist Extreme Right, any reference to Muslim Law singular or to 'Sharia' indicates that practices unfavorable to women are being proposed. It is a clear sign that women should scrutinize the proposal through the filter of women's rights and will most probably have to mobilize against it.

Let us now also revisit the notions of *religion* and *culture*. Who defines religion? Who defines culture and traditions? Who speaks for the 'community'? We should be careful with the concepts of tradition and modernity. Tradition of today is but what was yesterday's modernity, and what is modernity today will be tradition tomorrow. They are not fixed ahistorical stages. Mores are in constant fluid evolution, including when there is a 'going back to our roots' as is the case at present. Both tradition and modernity are transitory stages and are the location of many social struggles. When a demand is presented in the name of tradition, it is worth asking in which century the tradition was produced.

On the other hand one should also question who defines and represents culture or religion. It is generally self-appointed old male religious leaders. This can, and should, be challenged from various standpoints. Where are the women and why are they not entitled to define religion and culture for themselves? Why are younger people not represented? Why can certain types of non-elected men, self-appointed, self-proclaimed as 'leaders' be seen as the only legitimate representatives of the community? How can such an undemocratic process be blessed by democratic governments? How can religious people alone represent a whole population of believers, atheists, and agnostics alike?

This leads us to question the use of the word 'Muslims' to encompass a whole population. For these 'Muslims' may not be Muslims. It is totally inadequate to brand with a religious

label whole groups of migrants coming from Asia, Africa, and the Middle East as if religious affiliation were not a free spiritual personal choice. This is an insult to believers, to their commitment and to their faith. It is an insult to free thinkers, to their freedom of conscience, and to their integrity. Everywhere in the world, there are atheists, free thinkers, agnostics or simply people who do not choose religion as the main marker of their identity. They think that faith and spirituality belong to the private domain. Among these are so-called ‘Muslims.’ Not only is ‘Muslim’ a forced identity, it is a single forced identity taking precedence over other concomitant identities such as nationality, gender, color, class, and political affiliation, among others.

It is frightening to witness this curtailing of our freedom of thought which is symbolically taken away from us by the quasi general use of the label ‘Muslim’ to identify whole populations. ‘Muslims’ themselves—believers and unbelievers—together with antifascist forces of Europe and North America should see that this conceptual confusion aids fundamentalists’ attempt to make us religious beings with or without our consent. It comforts racists in their homogenization of the ‘Other’, and religious leaders in their claim to represent us all.

Since we are all ‘Muslims’, why challenge the representativeness of the most ‘Muslim’ of us all, the most religious, the most vocal, the most different—in short, the most fundamentalist of us all. For if you look at who actually, in practice, these ‘representatives’ are, you will never find either atheists of Muslim descent or truly progressive theologians, as representatives of the ‘Muslims.’ Progressive voices among migrants of Muslim descent are made invisible. We—the feminists, the unionists, the Lefties, and others—are not ‘Other’ enough. We are too similar to be seen as legitimate.

The last concept I want to discuss here is *difference* and the ‘right to difference.’ Progressive people advocate tolerance vis-à-vis others, their mores, their culture, and their differences. Feminists celebrate diversity between women. Human rights organisations speak up for the rights of minorities. It is now time for us, without renouncing these generous ideas, to realize that other forces are manipulating them too.

These ideas are undoubtedly rooted in a liberal ideology that considers all opinions and all ‘cultures’ should be equally respected or at least tolerated. We need to stand against this inadequate apolitical position. Not all opinions should be respected and not all customs should be tolerated. The ‘final solution’, whether it was for Jews or is now for ‘kofr’, is not an opinion that can be tolerated. Sexual mutilation of girls, stoning people to death, and veiling minors are not cultural practices and traditions that can be tolerated. We should never forget that difference has been the battle cry of segregationist Southern states in the US, and of supporters of apartheid in South Africa too. Different, therefore unequal is the underlying assumption. When the ‘right to difference’ leads to the oppression of women, it should not be supported.

This ‘right to difference’ has major consequences. It results in conflicts opposing minority or community rights to women’s rights—with the corollary of instituting a hierarchy of rights in which women’s rights come last. It legitimizes self-appointed religious leaders taking positions on social problems which have nothing to do with their supposed cultural expertise. It leads to the privatisation of social problems when the defense of rights and

justice is put into the hands of communities. Muslims defend Muslims and First Nations defend First Nations as if it were not the task of all citizens to stand against injustice, discrimination and abuse—as if this were no more the Res Publica, the prerogative and duty of us all.

In conclusion let me say that there is a need to give visibility to progressive forces among migrants of Muslim descent and non-Muslims, to feminists, to unionists, and others in order to break the monopoly of fundamentalists over Islam and their domination over so-called 'Muslims.' There is a need to denounce the fake and forced homogenization of a whole population. This is a task for recent migrants and third or fourth generations of Muslim background and for those who have nothing to do with Muslim countries or communities. It is not a struggle to 'aid' poor oppressed 'Muslim' women, but a struggle to prevent Extreme Right forces gaining a foothold in Canada, something deeply detrimental to us all, Muslim or not. This is the two-way process of solidarity. For we are all in the same boat. The loss of women's rights here will backlash on women elsewhere. The protection of women's rights here will enhance the chances of other women gaining similar rights.

BIOGRAPHY

MARIEME HÉLIE-LUCAS is a long time feminist activist, political theorist and leader. She is founder and former International Coordinator of *Women Living Under Muslim Laws* (WLUML), a radical and visionary international solidarity network linking women in all the many diverse Muslim countries and communities around the world and in Asia and Africa in particular. Members of WLUML work for women's rights and against male domination in alliance with feminists everywhere. Since its inception in 1984 the network has been an inspiring example and formative presence in the growing international feminist movement.

Marieme Hélie-Lucas' influential writing and lectures focus on religious fundamentalisms, women's human rights, violence against women, feminist theory, strategy and vision. Her extensive publications include such articles as: *Bound and Gagged by the Family Code* 1987, *Women's Struggles and Strategies in the Rise of Fundamentalism in the Muslim World: From Entryism to Internationalism* 1993, *L'internationalisme dans le mouvement des Femmes; les reseaux internationaux des femmes* 1994, *The Original Sin of Internationalism* 1996, *What is your tribe? Women's struggles and the construction of Muslimness* 2001, *Algeria: Ordinary Facism, Fundamentalism and Femicide* 2001.

She earned her D.E.S. from Algiers University and taught epistemology in the social sciences there from 1962-66. From 1967-80 she was in charge of education and training for the new industries and gas. More recently she has been a research fellow at the Institute of Social Studies in The Netherlands and is currently resident in France.