

“Muslim Women in Western Societies”
Trudeau Foundation Annual Conference, 16-18 Nov. 2006 Vancouver
Constance Backhouse¹

The perception of civilizational conflict is nowhere more persistent than in debates over the roles, life choices, and rights of women. Why? Should states in the West accommodate the gendered practices and preferences of immigrant communities, including Muslim immigrant communities? How might those preferences be identified and expressed without succumbing to monolithic constructions of both community and “values”? If dialogue around these issues is possible, who must be involved? How should Islamic law be viewed and treated in Western societies?²

Stephen Toope’s discussion paper notes that there is no single unified “Islam” or “West.” Similarly, “Muslim women” is also a misleading expression, in that it suggests a homogeneity of female interests and experience. In fact, Muslim women come from many different countries of origin, have been racialized in diverse ways, and hold many different religious, political, and cultural beliefs. Muslim women are also frequently in conflict with one another. This is no different from the situation of “Christian women” or “Jewish women” or “Western women” or “feminists.” Within the constraints of the discussions framed for this conference, however, I will attempt to offer some preliminary comments, with the caution that we must recognize that without a much more complex analysis, we are probably “essentializing” Muslim women from the outset.

Equally important, as most feminists will insist, is the vantage point from which the commentator speaks. I am not Muslim. I was born into a Christian family, but for decades I have defined myself as fiercely secular, an atheist. Born in Canada to parents whose ethnicity was British and Polish, I have been racialized as “white” in our society. I describe myself as a feminist, but I am far from expert on Islamic cultures or Muslim gender relations. In answer to the question of who should be involved in dialogue on these issues, I believe Muslim women are better situated to identify their own problems relating to gender and race discrimination.

The limited expertise I can offer is based upon my historical research into the situation of women in Canada. This knowledge is the impetus for a message of caution in response to the issues presented for this panel. In decades and centuries past, “Westernized” Canadian women

¹ Professor of Law and University Research Chair, University of Ottawa, and Trudeau Fellow.

² Issues set out for discussion in the Panel on “Women in Muslim Societies” by Stephen J. Toope, President, Trudeau Foundation, on 30 June 2006.

who have tried to influence public policy on issues relating to Muslims have been anything but helpful to Muslim women. Canadian feminists have lobbied for racist immigration policies to resist the admission of Muslim peoples. They have worked towards a “missionary” indoctrination of Christianity in Islamic communities at home and abroad. Canadian feminists have historically been quick to spot “sexism” within foreign cultures, and to use this to show how white Canadian women are more “civilized.” Occasionally, by contrast, they have also used the alleged “backwardness” of foreign cultures to bootstrap their own campaigns for improvements in the status of women, insisting that laws and practices needed to be changed in Canada to demonstrate that we were indeed more “civilized.” Sherene Razack has described how Canadians have employed the notion of the “imperilled Muslim woman” needing rescue from the “dangerous Muslim man” to the detriment of Muslim communities, noting: “We cannot forget for an instant the usefulness of her body in the contemporary making of white nations and citizens. Her imperilled body has provided a rationale for engaging in the surveillance and disciplining of the Muslim man and Muslim communities.”³

The problem came into stark relief recently with the debate over the legality of applying Sharia law in family disputes under private arbitration mechanisms. This became a flashpoint for feminist/anti-racism controversies in Ontario. Private arbitration has long been a preferred dispute-resolution mechanism in Canada, as labour unions, commercial organizations, landlords and tenants, and many others chose to select their own consensual decision-maker and remove their issues from the general courts. Decades ago, the government recognized this with a statute designed to facilitate private arbitration, the *Arbitration Act*. Many religious communities have been operating under this Act. For example, Jewish arbitration tribunals, or *Beis Din*, have been resolving disputes privately for some time. But the issue flared up when some sectors of the Muslim community and the Canadian feminist movement complained that allowing religious groups to apply their own family law would create parallel legal systems that failed to protect the legal rights of religious women. The “No Religious Arbitration Coalition,” which included many Canadian feminist organizations and some Muslim organizations that identified themselves as moderate and/or secular/cultural Muslims, formed to lobby the provincial government to prohibit all religious-based arbitration in family law. While many of the critics made valiant attempts to couch their complaints in language that was not explicitly racist, media commentators were quick to latch on to the controversies, and often used terminology that was

³ Sherene Razack “Imperilled Muslim Women, Dangerous Muslim Men and Civilized Europeans: Legal and Social Responses to Forced Marriages” (2004) 12 *Fem. Legal Stud.* 129 at 168-69.

openly derogatory of Muslim ways and culture. At the time, I was struck by how familiar this seemed to one who studies Canadian women's history.

From the vantage point of hindsight, my own view is that the Sharia issue might have been treated in ways that would have been more sensitive to the dangers of allowing feminist arguments to be used for racist purposes. Indeed, some feminist commentators expressed concern about the feminist lobby campaign at the time. Natasha Bakht of the Faculty of Law, University of Ottawa, recognized that Sharia law might create injustice for Muslim women, and that some interpretations of Sharia law might privilege male entitlements over more egalitarian versions of family law. But she argued that it was the gender discrimination, rather than the religion, that should be attacked. Bakht argued that to insist that all arbitration based upon religion be prohibited was to do a disservice to religious women who may want to live a "faith-based life." She argued persuasively that this position "assumes that religion is necessarily bad for women" and "precludes any of the progressive possibilities that religious arbitration may entail for some women, undermining the work of many feminist religious scholars and reformers who have argued that their religion can and indeed does support women's rights." She added that religious law was "mutable and that custom and practice can assist in modifying religious traditions over time." She advocated permitting religious-based arbitration, so long as these were modified with certain statutory minimum protections. Bakht concluded that it was a strategic error to attack gender discrimination indirectly through religious prohibition:

By setting up the secular against the religious, Canadian feminists perpetuated the Orientalist dichotomy between the modern enlightened West and the pre-modern backward Islam. In a post-9/11 world where the surveillance and control of Muslims and those perceived as Muslims has been justified under the guise of national security, feminist endorsement of an exclusively state run apparatus has failed to understand the legitimate resistance to government policies that perpetuate punitive and stigmatizing measures against people of colour.⁴

Sherene Razack has raised similar questions in her characteristically penetrating fashion: "How is it possible to acknowledge and confront patriarchal violence within Muslim migrant communities without descending into cultural deficit explanations (they are overly patriarchal and inherently uncivilised) and without inviting extraordinary measures of stigmatisation,

⁴ Natasha Bakht "Were Muslim Barbarians Really Knocking on the Gates of Ontario: The Religious Arbitration Controversy – Another Perspective" forthcoming in the Ottawa Law Review.

surveillance and control?”⁵ Razack cautions that as the level of racism directed against Muslims in Western states continues to grow, this potentially exacerbates the conditions under which Muslim communities “become even more patriarchal and violent towards women.” She concludes that “you can’t fight violence against women with racism, because racism is likely to strengthen patriarchal currents in communities under siege.”⁶ Like Bakht, Razack is no apologist for sexism within Muslim culture or elsewhere. She does not shy away from recognizing that some Muslim communities engage in forced marriages, honour killings, inequalitarian divorce rules and other practices that are detrimental to women. But she is clear that strategies for change that provoke more racism will cause more damage than good, and urges instead that we avoid further polarization and work toward fostering a “positive climate” in which more progressive Muslims can “internally contest patriarchal narratives.”⁷

Jasmine Zine has also noted that the war on terror has tended to depict Muslim women as “victims of their anachronistic faith, lacking agency and voice.” She points out that through the pervasive force of the media, such constructs legitimize neo-colonial practices of war and domination, in the guise of bringing civilization and modernity to the “wretched of the earth.” Zine does not contest that the conditions for Arab women under the Taliban regime were “deplorable,” but expresses concern that their plight only became “prime-time worthy” during the violent war on terror, to “engender sympathy for the military campaign.” She adds that such depictions also tend to erase the many other factors that contribute to Arab women’s situation, such as poverty, internal displacement, and lack of health care, which the military campaigns have only exacerbated. She adds:

Muslim women’s bodies continue to be disciplined and regulated by both oppressive laws mandating veiling under authoritarian theocratic regimes in Iran, Saudi Arabia and Afghanistan as well as by the laws denying their freedom to wear head scarves in western democratic societies like France, Germany, and Turkey. In either case, the fact that their bodies are made subservient to the decrees of patriarchal state authorities is an anti-feminist move. [...] Entangled within these binaries, Muslim feminists battle not only

⁵ Sherene Razack “Imperilled Muslim Women, Dangerous Muslim Men and Civilized Europeans: Legal and Social Responses to Forced Marriages” (2004) 12 *Fem. Legal Stud.* 129 at 131.

⁶ *Ibid.* at 132.

⁷ *Ibid.* at 161.

both these fronts, but also the often-conflicting ideological positions they hold among themselves.⁸

During the public debates over Sharia law, I was also struck that there was little controversy within the mainstream media over the designation of “Westernized” Canadian family law as the “preferable” law. The undisputed premise seemed to be that Canadian law had been promulgated first, before the Muslim immigration brought different legal perspectives to our shores. “Westernized” Canadians were assumed to be the “original citizens” whose claims rested upon their natural entitlement. Razack describes this as a “familiar hierarchy of citizenship: on the one hand, original citizens whose values must be respected (and whose values, it goes without saying, are superior) and on the other, foreigners whose alien values have the potential to contaminate the body politic and who must be purged.”⁹ Again, my history background reminds me of a much earlier time, when European colonizers arrived in the new world, bringing their own legal frameworks in tow. They quickly displaced Aboriginal legal regimes that had functioned for centuries for the truly “original” inhabitants. Sadly from feminist perspective, we now know that many of the indigenous understandings of family law were, and may remain, substantially more egalitarian than the European laws that replaced them.

Even today, when Canadian law has undergone decades of reform, some of it inspired by feminist struggle, Canadian feminists know that women’s rights are **not** fully protected under the Canadian family law, **nor** under the *Charter*. “Western” law is anything but egalitarian in family law or elsewhere, as thoroughly documented by a large number of critical law reform briefs, law review articles, unsuccessful litigants’ claims before the courts, and battered women’s shelters. Our workforce remains extensively segregated by gender, and most women’s jobs continue to have lower status and less pay. Unpaid child-rearing and domestic tasks are still predominantly relegated to women, to the detriment of their paid careers and leisure opportunities. Violence against women including sexual assault, domestic battering, femicide, sexual harassment, child sexual abuse, prostitution, and pornography continue to suffuse our culture to an appalling degree. Our media, entertainment and consumer cultures infantilize and sexualize women and girls. While patriarchal practices may vary between cultures and religions, Westernized

⁸ Jasmine Zine (2006) “Between Orientalism and Fundamentalism: The Politics of Muslim Women’s Feminist Engagement” *Muslim World Journal of Human Rights* v.3, n.1, article 5; <http://www.bepress.com/mwjhr/vol3/iss1/art5>.

⁹ Razack, note 5 at 155.

Canadian culture is anything but immune. Both secular and theocratic states have been and continue to be oppressive to women.

Yet oppression always inspires resistance. This is the optimistic hope that feminist and anti-racist communities cling to when the landscape seems most bleak. Muslim individuals and communities have, and will continue, to respond to inequities with courageous critique and activism. The most promising direction for “Westernized” feminists, it seems to me, is to think about how we can empower Muslim women who wish to resist sexist and racist influences in their lives. At the moment, unfortunately, Muslim women may be forced to choose whether to battle sexism within their own communities, or racism and religious intolerance directed at them by the wider Canadian society.

In my view, one of the most effective strategies that Canadian feminists could pursue would be to join forces with anti-racist advocates to diminish the level of discrimination currently directed at Muslim peoples. I would recommend that “Westernized” Canadian feminists consider redirecting their critique from the gender dynamics within Muslim cultures to a critique of the racism and level of intolerance that other Canadians have demonstrated towards Islamic communities. We could contribute enormously by investigating how racism has diminished the status of Muslim women. We could document more fully the racist and religious hatred that has been promulgated in our media and public venues. Canadian feminists could examine the measures that we should be taking to respond to the discrimination that Muslims in Canada experience in terms of employment, housing, education, immigration, security procedures, harassment and violence, and social interaction. We could ask to what extent Canadian researchers, social agencies, and government bodies have identified what has happened "on the ground" in terms of the experience of the Islamic community in Canada historically, and post 9/11. We could aid Muslim women who seek to resist sexism by advocating their right to obtain suitable housing, shelters, education, job-training, and racially-sensitive public services. We could ask what Canadians are doing internationally to counter the dislocation and forced migration of large numbers of Muslims due to war.

To the extent that anti-racist activities marshaled by wider Canadian society can promote greater economic, political, and social equality for Muslim women, this may enable them to advocate their own greater gender equality, in ways that are uniquely sensitive to their own cultural needs. This would be a positive step that poses less risk of allowing racist forces to marshal feminist activism, to the ultimate detriment of Muslim women.