

FUNDAMENTALISMS IN ASIA-PACIFIC:

TRENDS, IMPACT, CHALLENGES AND STRATEGIES ASSERTING WOMEN'S RIGHTS



APWLD

Asia Pacific Forum on Women Law and Development

FUNDAMENTALISMS IN ASIA-PACIFIC: TRENDS, IMPACT, CHALLENGES AND STRATEGIES ASSERTING WOMEN'S RIGHTS

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Asia Pacific Forum on Women, Law and Development (APWLD)

APWLD is an independent, non-government, non-profit, regional organization.

It emerged out of dialogues between women activists, lawyers and academics during and after the Third World Conference on Women in Nairobi, Kenya (1985). APWLD is committed to enabling women to use the law as an instrument of social change and to promote women's human rights for equality, justice and development.

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APWLD will be grateful for members and other readers to engage in our discussion on the subject by sending in comments, papers and other relevant information.

Foreword

Fundamentalisms in this paper refers to monolithic approaches adopted by movements in their quest for hegemony and political power, particularly through deployment of cultural, religious, ethnic and nationalist discourses. These movements are distinct from other movements in that the power they seek is absolute and hegemonic in nature, in opposition to plurality, difference, debate or dissent. In the context of culture/ religious based fundamentalisms, power is inevitably and most easily exercised by targeting women, through regulation of their bodies, roles, freedoms and rights. As the paper discusses, while women may be the first and most easy targets, fundamentalist forces move on to target minorities and dissenters by demonizing and stigmatizing all difference, gradually leading to the erosion of democratic polity and respect for human rights.

The concerns of culture/ religion/ ethnicity based fundamentalisms have been part of discussions within APWLD from the early 1990s. The earlier discussions within the network were primarily in respect of culture and religion based fundamentalism, as well as its relationship with the State and political power – combining context specific manifestations with commonalities across countries in terms of trends, politics and impact on women. The context was one of religion based family laws, and in some cases religion based penal laws subordinating women's rights; as well as the secondary status of minorities. Historically, the background was of a shared colonial heritage that eclipsed Constitutional rights in the private domain and politicization of religion by right wing political formations.

By the onset of the 21st century, it became evident that religion was not the only site of hegemonic politics. The national security, terrorism and neo liberalism, more visibly in the post-September 11 era, have shaped fundamentalisms in the civil, political and the economic spheres – premised on a 'single truth' approach that is intolerant of diversity, difference and dissent. The national fundamentalisms in the region began to mirror international politics, creating identity based divisions of 'us and them' from the community to the transnational levels. The hardest fallout of these developments has been in the sphere of human rights compliance, which in relation to women's rights is particularly complicated. Women's rights have always been undermined in laws regulating sexuality and the family, but the post-September 11 period has witnessed an escalation in the legal and extra legal violations of women's rights by non state actors. Non state actors ranging from transnational economic actors to cultural/ religious identity based formations have trampled upon hard won gains in women's rights – in relation to fulfillment of basic needs, labour and employment securities, as well as fundamental freedoms and rights in the public and private spheres.

The discussions within APWLD were revived in 2001 through a dedicated process of dialogue and sharing of different forms of fundamentalisms and identity based politics in the region; consciously preferring the term fundamentalisms to describe the plurality of forms in which hegemonic trends

manifested in the civil, political, economic, social and culture spheres. As part of this process, a workshop was organized in 2002 by APWLD on '*Gendered Identities, Identity Politics and Related Intolerances*' in collaboration with Indonesian organisations: Komnas Perempuan, Solidaritas Perempuan, Koalisi Perempuan Indonesia and RAHIMA in Bali. From 2005, the discussions consciously sought to make connections of cultural identity politics with militarization and neo-liberalism, to examine inter-connections between these and State complicity in this regard.

This paper was initiated to map the trends in the region, surface the interconnections between different forms of fundamentalism, its impact on women and to map the diverse strategies adopted by progressive movements and organizations to address these trends. The paper evolved through a two year process of interactive dialogue and discussions at the programme and governance bodies within APWLD. The country contexts were developed through contributions and inputs of the APWLD members from the respective countries covered who had to keep pace with rapidly changing political scenario of coups, interim and military governments that the region witnessed from 2005-2007, and the changing impact of these developments on women's rights and democracy. Versions of this paper were discussed in each of the Task Forces, theme based programme bodies of APWLD, as well as in the Regional Council and the General Assembly, the governance bodies of the network. A later version of this paper was presented at the Women, Law and Development Conference organized in celebration of the 20th anniversary of APWLD in November 2007 in Bangkok. Comments and inputs at each stage were recorded to revise each of the drafts. This version too is not definitive, but rather, is part of a growing engagement and discussion on the theme within the network as well as in the women's movements regionally and globally.

There are far too many people who contributed to this process and the paper, making it difficult to acknowledge each by name. It is fair to say that each member and staff within APWLD contributed to the development of this paper. In particular I would like to acknowledge the continuous engagement and enrichment by my colleagues in the Women's Human Rights Working Group that sustained the paper through the two year process. The contributions of the Task Forces have helped strengthen the economic and political dimensions of the paper; and the inputs during the Women, Law and Development Conference drew attention to the inter-connections of fundamentalisms with sexuality. The support by the APWLD secretariat, and Partners for Law in Development, New Delhi and research assistance by Renee Chartres must also be acknowledged. While this paper is collectively owned, the responsibility of all errors and omissions rest with me alone. Feedback on this paper is not just welcome but actively invited in keeping with the spirit of engagement and discussion that this paper has evolved from.

Madhu Mehra

Women's Human Rights Working Group

Introduction

Asia-Pacific Forum on Women, Law and Development (APWLD) situates its understanding of women's realities in the context of neo-liberal globalisation, militarisation and fundamentalism. These three major global trends have fused with patriarchy to constitute new patterns of subordination and oppression of women in the region. The last two decades, roughly marking the onset of neo-liberal globalisation in Asia-Pacific, have seen the emergence of islands of affluence and privilege alongside large-scale displacement of rural and forest dwellers, environmental harm, loss of traditional livelihoods and habitats, large-scale cross-border and intra-national migration, trafficking and impoverishment. The model of the state that has facilitated these developments is one that has been rolled back to give primacy to the market, generally through the medium of transnational corporations, while stepping up its powers over people in the name of internal security, development, terrorism, law and order. APWLD's positioning on women's rights is located in relation to these developments and their gendered impact on women.

Women's rights activism in the region has faced additional and competing challenges from fundamentalisms post-September 11. This period is marked by increase in state power and international influence in domestic arenas to fight terrorism and facilitate globalisation, alongside the emergence of transnational non-state actors promoting culture/religion based fundamentalisms. At the international level, the Othering of communities along race and religious lines in the post-September-11-generated 'War on Terror' has given rise to a curious focus on status of women in 'traditional societies', contributing to further stigmatising select cultures. At the national level, women's movements face renewed threats of being labelled as western agents, anti-national or anti-culture when protesting violations of rights. Similarly, the unequal power relations between majority and minority communities within nations have shrunk spaces for women to debate and contest cultural and other forms of domination within minority communities. Such challenges have compelled the women's movements in the region to take stock and re-visit approaches to women's rights; approaches that speak to the growing national and international challenges brought on by fundamentalisms, its intersection with globalisation and militarism, and its impact on democracy and plurality.

APWLD initiated this paper to develop its understanding of fundamentalisms, their impact on women and their relationship with contemporary political and economic developments. The first part of this paper maps the manifestations of fundamentalisms in the region through country overviews to call attention to the ways in which women's rights and democracy are targeted. The second and third parts of this paper take stock of the impact of fundamentalisms on women as well as on democracy and politics in general. Finally, in its last part, the paper documents the strategies adopted by women's groups and progressive movements to resist these developments.

Part I: Contextualising Fundamentalisms

For APWLD, it was important to look at the similarities in fundamentalist movements that use identity politics based on religion, ethnicity and nationalism – separately or in combination with each other. In light of Islamophobia and the ‘War on Terror’, we felt it was particularly important to bring out the similarities of all forms of cultural identity politics, whether based on religion, race, ethnicity or nationalism in respect of their mobilisation, intent, politics and impact. While the coalescing and forging of communities along ethnic, religious or race lines is not new, fundamentalist identity projects are different because they construct static, homogenous and exclusionary identities for a political purpose. Its political agenda is to forge absolute sources of power through assertion of such identities, to enforce compliance and close spaces of debate and dissent. Its construction of identities therefore is always in opposition to a rival Other: with attributions to the self that contrast it from the rival Other.¹ There are two kinds of fundamentalisms that are evident: one, where there is domination by the majority within a state over minorities (usually relying upon nationalism); the second, the domination of the minorities (usually relying upon notions of ethnic and religious authenticity and purity) to mark its boundaries as a community and exercise complete control over the community.

We need to distinguish between fundamentalist identity politics projects and identity politics movements that have challenged exclusion and discrimination based on class, race, sexuality and gender. The latter sought to challenge dominant ideologies and structures by asserting difference and diversity, so as to create a more inclusive society. In contrast, cultural identity politics projects have often been hegemonic and exclusionary – positing one aspect of identity as defining of the entire community irrespective of the differences within or the commonalities with others. Although seemingly revivalist, cultural identity projects that fuel fundamentalism are not an assertion of tradition, religion or culture. Rather, these are political projects that use all available modern resources (such as law and media) while using the language of culture or religion, to serve its hegemonic goals.²

Contemporary fundamentalist identity projects must be viewed in the context of the fallout of the global neo-liberal market economy in the region. The heightening of conflict over natural resources/land, large-scale displacement, migration and environmental degradation has further impoverished those already at the margins of economic, social and political life. The resulting ‘long-term economic deprivation, political bankruptcy, cultural alienation, psychological depression and spiritual emptiness’ make people vulnerable to the simple and populist answers provided by militant fundamentalists and powerful governments.³

¹ For discussion on fundamentalism and its identity politics, see Nira Yuval-Davis, ‘The Personal is Political: Jewish Fundamentalism and Women’s Empowerment’, in Courtney W. Howland (ed), *Religious Fundamentalisms and the Human Rights of Women* (New York: St Martins Press, 1999), pp. 33-45.

² Nira Yuval-Davis, *Gender and Nation*, (London: Sage, 1997), pp. 39-66; Marie-Aimée Hélie-Lucas, ‘What is Your Tribe: Women’s Struggles and the Construction of Muslimness’, in Courtney W. Howland (ed), *op. cit.*, p. 23.

³ Saporinah Sadli, ‘Gendered Identities, Identity-Politics and Related Intolerances’, opening address at the Gender and Identity Based Politics Workshop organised by APWLD in collaboration with Komnas Perempuan, Solidaritas Perempuan, Koalisi Perempuan Indonesia and RAHIMA, 30 July-1 August, 2002, Bali, Indonesia. The report from the workshop is available at <http://www.rockmekong.org/pubs/lab-pubs/final.pdf>.

At the global level, Islamophobia and the 'War on Terror' have created ideological conditions for polarising communities and nations into 'us and them', and constitute the political conditions conducive to militarisation and the erosion of democracy. The political economy of these developments, however, rests on transnational control of natural resources (through war or economic cooperation), profit from transnational arms trade/military cooperation, and the transnational channelling of financial and human resources to fuel identity projects. These global trends must be factored into understandings of why fundamentalisms in the region have gained ground in this period. Equally, it underscores the need to take on board all these issues as part of the women's rights agenda to combat fundamentalisms.

APWLD views cultural identity based fundamentalisms as being similar to neo-liberal globalisation and militarisation in that each of these are intolerant of plurality, difference, debate and dissent. Each of these is fundamentalist in that they are premised on absolute monolithic approaches and responses. The country overviews below show that these trends erode democracy at every level, although they may use democratic spaces to carve political power and expand. The impact on women is similar – both market and cultural identity politics are premised on the construction of an 'ideal' woman and a normative sexuality as a means to impose hegemonic politics that stigmatise and exclude those who fall outside the dominant paradigm. This is manifested through the privileging of an ideal role model for women, an ideal body for women, as well as the regulation of sexuality. It results in discrimination and violence against those women who do not conform, as well as members of minority communities and lesbian, gay, bisexual and transgender people (LGBT). The denigration of 'Other' communities through sexual violence against 'their' women and the criminalising/labelling of LGBT as perverse sexualities (or unnatural in law) are also consequences of such politics.

Part II: Country Overviews: Mapping Trends in the Asia-Pacific

The country overviews contextualise different kinds of fundamentalisms in several countries in the region. The overviews have been compiled from contributions made by the members of APWLD and highlight the contexts in which fundamentalisms have grown in each of the countries and the ways it is manifesting itself in the region, its approaches to women and the role of the state and the law. The countries are selected to represent different forms of fundamentalisms, and do not represent a comprehensive picture of all the fundamentalisms competing for dominance in the region.

Malaysia

Malay Muslim women have been one of the biggest casualties in the 'holier than thou' race between the political parties to outdo each other in demonstrating superior Islamic credentials. In the 1980s and 1990s a slew of legal, social and political changes weakened the position of Muslim women.⁴ The originally progressive Islamic Family Law was amended to make divorce and polygamy easier for

⁴ Zainah Anwar, 'Religious Fundamentalism and its Impact on Women's Rights', address at the Gender and Identity

men, simultaneously reducing their financial responsibilities towards women⁵ while the criminal laws were amended to ensure compliance with Islamic observance in relation to food, ritual fasting, moral/sexual conduct and dress, with punitive measures for non-compliance. Two of the states introduced the Hudood laws prescribing draconian punishments, disqualification against women witnesses and reduction of rape to illicit sex.⁶ While the Guardianship Law was amended in 1999 to give non-Muslim mothers equal right to guardianship of their children,⁷ Muslim mother's rights in this area remain unequal as no corresponding amendment was made in the Islamic Family Law that governs guardianship for Muslims.

At the social level, the pressure on women to display Islamic piety has manifested in increasing pressure to conceal themselves and further, to standardise the length, colour and style of their headdress and finally, to replace the Malay sarong with the Arab style jubbah.⁸ That this process of 'Islamisation' is Islam is highly debatable.

Since 2001 religious fundamentalism has co-existed with an increasingly compressed political environment. The Malaysian government has used the pretext of counteracting terrorism to stifle all forms of political dissent and to justify encroachments on civil liberties.⁹ The Internal Security Act, which allows detention for up to two years without trial, has been used to mute the rising voice of ethnic Hindu and Chinese minorities protesting against their marginalisation in the political spectrum.¹⁰

Based Politics Workshop organised by APWLD in collaboration with Komnas Perempuan, Solidaritas Perempuan, Koalisi Perempuan Indonesia and RAHIMA, 30 July-1 August, 2002, Bali, Indonesia. The report from the workshop is available at <http://www.rockmekong.org/pubs/lab-pubs/final.pdf>

⁵ Previous to these amendments the Islamic Family Law required court permission to be obtained before contracting a polygamous marriage and a condition that the living standards of the existing wives and children be not lowered. The amendment allowed polygamous marriage to be contracted now without prior permission of the court upon payment of a small fee and had waived the condition on maintaining the same living standards of all existing dependants. Similarly, the law as it stands unamended required divorces to be effected through the court but the subsequent amendment allows the court to register out-of-court divorces upon satisfaction of their validity.

⁶ Hudood laws were introduced in Terengganu and Kelantan in 2002 and 1993 respectively. In addition to punishments such as flogging, amputation of limbs and stoning to death and crucifixion, these include the condition that women produce four pious male eye witnesses to prove rape and, on failure to do so, be liable to the offence of slander which is punishable with 80 lashes. It also imputes *zina* or illicit sex to any unmarried woman with a baby, and disqualifies all female and all non-Muslim males as witnesses in Hudood cases.

⁷ Guardianship of Infants Act of 1961.

⁸ Anwar, 'Religious Fundamentalism and its Impact on Women's Rights', above, n4.

⁹ See, for instance, 'Malaysia: Investigate Use of Force Against Peaceful Rally', Human Rights Watch (HRW), November 15, 2007, available at <http://hrw.org/english/docs/2007/11/15/malays17345.htm>; Carolyn Hong, 'KL Cracks Down on Street Protests', The Straits Times (Malaysia), December 10, 2007.

¹⁰ 'Malaysia's Ethnic Indian Activists Accused of Terror Links', Channel News Asia, December 7, 2007.

Meanwhile, the judiciary in Malaysia has been the subject of influence by government forces, undermining its potential to render justice against government excesses.¹¹ These anti-democratic developments, carried out in the name of protecting democracy from terrorism, have legitimated other non-democratic and non-participatory civil movements, in particular fundamentalist groups who can now coalesce with state-driven Islamic nationalism to reduce the space for internal cultural and religious dialogue.¹² Notably, gender and sexuality have acted as critical rallying points for this national social transformation, whereby the state is eroding the freedoms of women and minorities.¹³

Bangladesh

Bangladesh was founded as a secular democratic country in 1971. Religion-based political parties were banned in view of their role in collaborating with Pakistan during the liberation war. In 1977, following the regime change, the Constitution was amended to replace secularism in the preamble with the phrase 'absolute faith and trust in Almighty Allah' and amending Article 8 which now provides as a Fundamental Principles of State Policy that 'absolute trust and faith in the Almighty Allah shall be the basis of all actions'. By a further constitutional amendment in 1988, Islam became the state religion, with freedom for other religions so long as they are practiced in peace and harmony with Islam.¹⁴ The changes that accompanied these constitutional amendments have on the one hand been symbolic, such as commencing state functions with recitations from the Qur'an. On the other hand some changes have been highly insidious, involving the marginalisation of minorities, alteration of the multi-religious composition of Bangladesh, as well as intimidation and attacks on secular, progressive and dissenting voices. *Fatwas*, although declared illegal by the judiciary, are now used to attack women on grounds of morality, employment outside the home, development work and education, suppressing their freedoms and leadership in rural areas.¹⁵

¹¹ 'Restore Public Trust in the Judiciary', Women's Aid Organisation, September 25, 2007, available at <http://www.wao.org.my/news/20070110LingamVideo.htm>

¹² For instance court decisions and executive action have upheld conservative interpretations of the Qur'an and expanded the jurisdiction of state-sanctioned religious organisations to adjudicate personal disputes, for instance, by denying the right of a non-Muslim mother to nullify the conversion of her two children to Islam without her agreement in the secular courts: *Shamala Sathiyaseelan v Dr Jeyaganesh C. Mogarajah* 2 CLJ 416 [2004], and by requiring an individual to seek consent from Islamic religious authorities to convert from Islam to Christianity before his or her choice of religion would be recognised in civil law: see *Lina Joy v Majlis Agama Islam Wilayah Persekutuan* [2007] Case no.: 01 – 2 – 2006 (W).

¹³ In Kelantan state, for instance, 120 Muslim women were fined in 2002 for not adhering to the dress code; while in 2000, the Terengganu state government introduced a dress code for government employees designed to "protect the image of Muslim women and to promote Islam as a way of life": Audrey E Mouser, 'Defining Modern Malay Womanhood and the Coexistent Message of the Veil', *Religion*, vol 37 (2007), pp. 164-174.

¹⁴ This was inserted into Article 2A of the Preamble to the Constitution.

¹⁵ In recent years Muslim leaders at the village level have been increasingly critical of developmental programmes related to women, which they see as introducing inappropriate concepts of women's rights. They have attacked

The 1990s saw a rise not just in *fatwas* to humiliate and punish women but also in the use of penal provisions concerning 'offences against religion' and offences against 'public tranquillity', designed to target and censor religious plurality, difference and dissent, particularly within Islam. Legislation declaring Ahmadis non-Muslims and creating the offence of 'insulting the Koran and the Prophet', punishable with life imprisonment or death, were also put forward, aimed at closing the space for religious debate and plurality within Islam. Notably, both legislative efforts failed due to strong resistance from secular and progressive groups across the country. Nonetheless, law enforcers remain slow to take action against cases of extra-judicial violence and are apathetic to open re-confirmation by the religious right of calls for public execution of individuals.¹⁶

On the face of an inevitable violent conflict between the two rival political alliances aimed at guaranteeing as many seats as possible in the national election, the ruling caretaker government,¹⁷ backed by the military, imposed emergency rule in January 2007 and a total ban on political activities in March 2007. Although initially welcomed to combat corruption, the political environment created by the emergency rule has substantiated the position of religion within the state and thereby resulted in the further shrinking of women's space and cultural identity dialogue.¹⁸ Law-enforcement agencies and paramilitary groups, such as the Rapid Action Battalion and the Bangladesh Rifles, now use the impunity guaranteed in the emergency ordinance and its suspension of the fundamental guarantees contained in the Constitution as a licence to suppress democratic opposition movements, in particular those seeking justice and equality.¹⁹

In this volatile environment the situation for ethnic minorities in the outer regions, particularly in Chittagong Hill Tracts, the subject of illegal plains settlers and repression of the Jumma indigenous

family planning NGOs and the bicycle riding female health visitors introduced by People's Health Centre: S Rozario, 'The New Burqa in Bangladesh: Empowerment or Violation of Women's Rights?', *Women's Studies International Forum*, vol 29 (2006), p. 370; Ain o Salish Kendra, 'Attack on Fundamentals', *Sangalp*, vol 4 (August 1995); Sreerandha Datta, 'Islamic Militancy in Bangladesh: the Threat from Within', *Journal of South Asian Studies*, vol 30, no 1 (December 2007), p. 148.

¹⁶ Sara Hossain, 'Apostates, Ahmadis and Advocates: Use and Abuse of Offences Against Religion in Bangladesh', in Ayesha Imam, Jenny Morgan and Nira Yuval-Davis (eds), *Warning Signs of Fundamentalisms*, (London: Women Living Under Muslim Laws, 2004), p. 92.

¹⁷ In Bangladesh, a caretaker government is appointed after the retirement of the elected government and is responsible for ensuring that national elections are held in a free and fair manner. The current caretaker government took over from former Prime Minister Begum Khaleda Zia in October 2006 under the leadership of Dr Fakhruddin Ahmed. It promised to clean up corruption before the elections scheduled to take place at the end of 2008.

¹⁸ Under emergency rule the press is prohibited from publishing anything deemed "provocative", while holding a political meeting outdoors is punishable by up to five years in prison. Tens of thousands of people, perhaps as many as 250,000 according to some reports, have been arrested without any proper judicial oversight: 'Protecting Rights as Vital as Ending Corruption' HRW, August 1, 2007, available at <http://hrw.org/english/docs/2007/08/01/bangla16556.htm>.

¹⁹ At least 148 people have become the victims of extra-judicial killings by members of law enforcement and security forces in the last ten months of the emergency; the killings have been deemed a competition between armed

population, has worsened.²⁰ Since the emergency rule, women belonging to these groups have found themselves more frequently victims of assault and rape at the hands of the military, which is currently viewed as an indispensable means to control ethnic regions and destroy the communal life of these cultures.²¹ The militarisation of these outer areas, alongside changing legal and social demands on women's dress, harassment of Hindu, Christian and other minority groups in urban centres signifies a definitive shift from a secular Bengali identity, the original basis of Bengali nationalism, to a unidimensional Islamic identity.

With the imposition of emergency rule, the risks associated with activism and dialogue concerning women has increased markedly, with woman human rights defenders threatened with attack and targeted for speaking out against government excesses.²² As a result human rights defenders, civil society and women's groups have united around the goal of reinstating democratic political processes, seen as a prerequisite for any progress in regards to human rights compliance and women's issues in Bangladesh.

Indonesia

In religiously and ethnically diverse Indonesia, a myriad of fundamentalisms have flourished since the beginning of the political transition to democracy following the end of three decades of authoritarian military-backed rule. The economic collapse followed by the 1998 May riots led not just to the end of Suharto's regime but also opened democratic spaces for diverse interests to shape a 'new Indonesia'. The very process of democratisation has become a channel by which radical Islamist aspirations disseminate and take root. Both regional autonomy and a free press, two elements defining democracy, have contributed to the enactment of Shariah laws at the local level and the projection of a single voice, that of radical Islam, while obscuring diversity and debate.²³

forces, police and paramilitary forces: 'The State of Human Rights in Eleven Asian Nations in 2007: Bangladesh', Asian Human Rights Commission, December 2007, p. 10, available at <http://material.ahrchk.net/hrreport/2007/Bangladesh2007.pdf>

²⁰ 'Bangladesh: Indigenous Peoples Living on the Edge of Riots', Asian Centre for Human Rights, August 29, 2007, available at <http://www.achrweb.org/Review/2007/182-07.htm>. Note that the CHTs continued to remain one of the most militarised zones in the world. Approximately one-third of the Bangladesh military had been deployed in the CHTs and the government reportedly spends an estimated US\$125 million per year for the continued presence of the military in the region.

²¹ 'Indigenous Women Raped in Naogaon', Human Rights Commission for Bangladesh Minorities, February 3, 2007, available at http://www.hrtribune.com/report/investigative_report_02-07.html.

²² On 3 July 2005, the executive director of Ain o Salish Kendra, Sultana Kamal, was threatened by an anonymous caller hours after the organisation held the publication ceremony of a book titled, 'Rapid Action Battalion: Uprooting Terrorism or Terrorism by the State'. Ms Kamal was threatened not to write anything against the RAB. Posters have also been put up in different parts of Dhaka criticising Ain o Salish Kendra.

²³ Kamala Chandrakirana and Yuniyanti Chuzaifah, 'The Battle over a 'New' Indonesia: Religious Extremism, Democratisation and Women's Agency in a Plural society', paper presented at the Muslim Women Challenge Religious Extremism conference at the Rockefeller Centre, 30 September – 2 October, 2003, Bellagio, Italy.

The devolution of powers from the central government has ignited the politicisation of religious, ethnic and racial identities for mass mobilisation and electoral success. In areas which broke down into armed conflict, communities have responded to the failed state by establishing militia, *jihad* and crusade troops – along religious and ethnic lines – to attack each other in what amounts to local civil wars. For instance, Aceh, which has witnessed thirty years of armed conflict, adopted the Islamic Shariah law in 2002 as a mark of its autonomous governance status.²⁴ Stringent enforcement of Shariah law, however, only began in the post-Tsunami period, designed to protect women from outside influences in wake of the influx of international aid organisations.²⁵

Women are the biggest losers in this volatile mix of fundamentalism, militarism and political opportunism. Women are forced to represent the ideal Indonesian woman, as codified through recent laws that aim to regulate, amongst other things, their dress and mobility.²⁶ This ideal on the one hand serves to celebrate those women who embrace the cause of radical Islam and, on the other, serves to punish the deviants.²⁷ In the name of law enforcement, state-sponsored campaigns target women who are not 'properly' clothed. Cases of domestic violence and sexual assault in this period of political and economic insecurity have begun to be resolved by local leaders using traditional mechanisms of dispute resolution that disregard the victim's interests and the principles of gender justice.²⁸

The current notions of the ideal woman, the practice of Islam and that of 'new Indonesia' have no resemblance to the past.²⁹ In fact, Aceh, considered to have the most devout Muslim population, has never followed Hudood law until its adoption of the Shariah law in 2002. The widespread violent enforcement of this law since the Tsunami by the so-called Shariah police, or vigilante groups, has

²⁴ In 1999 Law No. 44 called for the implementation of Shariah law for Muslims but also gave protection for inter-religious relations. By 2001 the Aceh Autonomy Law (Law no 18/2001) allowed for the creation of Shariah courts, with jurisdiction not just over family and property issues but also criminal cases; 'Islamic Law and Criminal Justice in Aceh', International Crisis Group: Asia Report No 117, July 31, 2006. Available at http://www.crisisgroup.org/library/documents/asia/indonesia/117_islamic_law_and_criminal_justice_in_aceh.pdf

²⁵ Titi Soentoro, 'Achenese Women under the burden of Patriarchy, Militarism and Religious Fundamentalism', in *Forum News*, vol 18, no 2 (APWLD, May-Aug, 2005).

²⁶ Citing religious doctrines, local regulations and district governments are sanctioning gender-based segregation in public institutions, such as schools and pools; regulating women's dress and their mobility after dark; and restricting their proximity with men who are not their spouses or guardians.

²⁷ Chandrakirana and Chuzaifah, 'The Battle over a 'New' Indonesia', above, n 23. It has also been reported that women are targeted more frequently by the Wilayatul Hisbah ('vice and virtue patrol police') for not wearing jilbabs than men who failed to attend Friday prayers: 'Islamic Law and Criminal Justice in Aceh', above, n 24, p. 9.

²⁸ Inputs from Kamala Chandrakirana.

²⁹ "The Islam represented by the militant jihads, the Javanese represented by corrupt bureaucrats, and the Indonesia represented by our military and political elites is not the Islam I believe in, the Javanese culture I practice nor the Indonesia I used to know." Sadli, 'Gendered Identities, Identity-Politics and Related Intolerances', above, n 3.

seen women being attacked, punished and detained for not wearing headscarves, even in private places,³⁰ and for venturing out at night without a male escort.³¹

The state has also come to use the September 11, 2001 bombings and the bombings in Bali in October 2002 as a justification for the suppression of community views that differ from those of larger society and as a means to increase the power of the state.³² For instance, the state has responded to the low-level armed separatist insurgencies in Papua and West Irian Jaya with the deployment of a mass military presence, leading to a climate of mutual suspicion and fear, where the criminal law is readily applied to punish individuals who peacefully advocate for independence in those regions.³³

In Aceh the situation is far worse. Martial law followed by emergency rule reigned for over two years between 2003 and 2004, resulting in over 48,000 police and military personnel on the island.³⁴ In this militarised environment, human rights defenders were consistently subject to attack from both sides of the conflict. Women tend to bear the brunt of this repression, with men generally leaving conflict areas for urban centres in search of better economic conditions. Data from 1999 onwards indicates that the number of female heads of households living under the poverty line is increasing, particularly in conflict areas, with the rate of poverty in households headed by men significantly decreasing.³⁵

The application of force to achieve the aims of the state is not restricted to conflict areas – force is also applied in urban precincts to undermine obstructions to the state's neo-liberal development agenda. For instance, in Jakarta mass evictions of the urban poor in the name of beautification, development, infrastructure or property market forces have become commonplace, carried by the police, public order officials, the military or even gangs of private individuals using excessive force.³⁶ Little notice, due

³⁰ See for instance reports on the arrest of 3 activists at Hotel Sultan, February 19, 2006, attending a UNDP workshop on Peace and Socialisation, from their rooms at 11.30 pm for not wearing headscarves. They were forced to sign statements admitting their guilt and then obliged to listen to a forty-five minute lecture on the need to live according to Shariah principles: 'Islamic Law and Criminal Justice in Aceh', above, n 24, p. 9.

³¹ Joe Cochrane 'Taliban Style Islamic Police Terrorizing Indonesia's Aceh', *Monster and Critics News*, March 10, 2006.

³² Pieter Ell, defence lawyer and coordinator for the Papuan branch of Kontras, a national human rights NGO cited in 'Protest and Punishment: Political Prisoners in Papua', *Human Rights Watch (HRW)*, February 2004, p. 2.

³³ In Papua in May 2005 two independence supporters were jailed for 10 and 15 years respectively for organising peaceful celebrations and flying the Morning Star flag. The Indonesian Criminal Code allows for 'crimes against the security of the state' to be punished with up to twenty years imprisonment: *Ibid*.

³⁴ Australian Broadcasting Authority, 'Timeline Aceh Conflict', August 17, 2005, available at <http://www.abc.net.au/ra/news/timelines/s1436620.htm>

³⁵ Nani Zulminarni, 'Combating Poverty without a Gender Perspective' in *Social Watch: Country Report Indonesia 2005*. (Montevideo, Uruguay: Third World Institute, 2005.) Available at <http://www.socialwatch.org/en/informesNacionales/434.html>

³⁶ 'Condemned Communities: Forced Evictions in Jakarta', *HRW*, September 2006, available at <http://hrw.org/reports/2006/indonesia0906/index.htm>

process or compensation is given to the inhabitants, in blatant defiance of Indonesia's Constitution.³⁷ Evictions of the poor from slums situated on prime development land takes place against the backdrop of legislative measures privatising key social services, such as education and health, ensuring a permanent divide between rich and poor.

The economic dominance of transnational corporations has disproportionately affected women, leading to the demise of small- and micro-business sectors, many of which employed or were run by women and poor people.³⁸ These women have now been compelled to work in the newly-established free trade zones or industrial zones, where large companies profit from their cheap labour. Meanwhile the female contribution to the national economy continues to be disregarded, with over 33.5% of women carrying out unpaid work to ensure the survival of their family and three times as many women as men working overseas in countries such as Saudi Arabia, Malaysia, Singapore, Brunei, Korea and Hong Kong as domestic helpers. These female migrant workers receive virtually no protection from either the host country or the Indonesian Government during their time away and every year cases of violence against women migrant workers are reported.³⁹

As the gap between the rich and poor expands in Indonesia and the government continues to refuse to clamp down on even the most visible signs of corruption within its ranks, support for radical vigilante movements such as the Islam Defenders Front and the more insidious Jemaah Islamiyah, responsible for the Bali bombings continues to increase, albeit incrementally. Evidence of extremism was demonstrated in late December 2007 when a mob attacked and burned a prayer house in West Java belonging to Ahmadiyah, a sect deemed heretical by some mainstream Islamic scholars, and when in the same month ten Muslim militants were jailed for attacks on Christians on Sulawesi Island, including the beheading of three schoolgirls.⁴⁰ State militarisation concurrent with the systematic erosion of the rights of the poor diminishes the persuasive power of progressive voices advocating for the peaceful resolution of social conflict and increases the appeal of radical groups with utopian visions that incite violence against the state and other communities.⁴¹

³⁷ Article 28H(1) of the Constitution guarantees that every person shall have the right to live in physical and spiritual prosperity, to have a home and to enjoy a good and healthy environment. Yet, Governor Sutiyoso of Jakarta has been reported as saying that 'these evictions are to give people a lesson to respect the law, as legal certainty is one of the major concerns of investors in the capital.' Jakarta Post, December 19, 2003: *Ibid*.

³⁸ Zulminarni, 'Combating Poverty without a Gender Perspective', above, n 35.

³⁹ *Ibid*.

⁴⁰ Furthermore, in early January the country's Christian leaders complained that Muslim radicals, helped by local officials, had carried out a string of attacks on churches; 'Where 'Soft Islam' is on the March', The Economist, January 10, 2008 pp. 21-22, available at http://www.economist.com/world/asia/displaystory.cfm?story_id=10497396

⁴¹ Sadli 'Gendered Identities, Identity-Politics and Related Intolerances', above, n 3, p 16.

India

Although the Hindu Right has existed since the independence struggle, it only rose to political power in the 1990s. Its rise to power in a secular, multicultural, multi-religious and multi-linguistic country like India must be understood in the context of the changes unleashed by globalisation and the failures of the single major national party, Congress, since independence. This environment enabled the dissatisfaction to be directed towards the minority Muslim population while simultaneously mobilising pride in Hindutva, a nationalist Hindu identity. Its ascendance to power in the 1990s and subsequent electoral victory at the central and the state levels legitimised the anti-minorities public discourse, polarised communities and institutionalised communal ideology in state structures.⁴² Most notably, attacks on Christians to achieve short- and long-term political goals have regularly taken place since the electoral victory in March 1998 of the Hindu nationalists, the Bharatiya Janata Party (BJP) as well as the carnage targeting Muslims in Gujarat in 2002.⁴³ The official response of the BJP to the targeting of Christians and Dalits has been to open the validity of religious conversions to debate rather than condemnation of the perpetrators.

Women and sexuality have also taken centre stage in the Hindutva discourse. The 1990s witnessed the emergence and rise of vigilante attacks, vandalism and moral policing in urban towns by Hindu right-wing groups to impose compliance with a Hindu nationalist construction of culture, particularly in relation to sexuality. There have thus been increased attacks on choice/inter-community marriages, often with state inaction/support,⁴⁴ attacks on persons and commercial property to protest Valentine's Day celebrations,⁴⁵ the targeting and persecution of lesbian and gay persons⁴⁶ and attacks on debate and information concerning sexuality.⁴⁷

⁴² For a fuller discussion on how the Hindu Right has operated, see Chayanika Shah, 'Hindu Fundamentalism in India: Ideology, Strategies and the Experience of Gujarat', in Ayesha Imam, Jenny Morgan and Nira Yuval-Davis (eds), *Warning Signs of Fundamentalisms* (London: Women Living Under Muslim Laws, 2004), pp. 61-70.

⁴³ For instance the violence against Christians in Dangs and Orissa, and the brutal killing of Australian missionary Graham Staines and his two sons in their car in 1999. See 'Anti-Christian Violence on the Rise in India', HRW, September 30, 1999, available at: <http://hrw.org/english/docs/1999/09/30/india1626.htm>. Most recently over 40 churches were burnt in Orissa at the time of Christmas celebrations in December 2007: 'India: Stop Hindu-Christian Violence in Orissa', HRW, December 29, 2007, available at <http://hrw.org/english/docs/2007/12/28/india17668.htm>.

⁴⁴ See Association for Advocacy and Legal Initiatives, 'Crimes of Honour' in India: the Right to If, When and Whom to Marry, A View from Uttar Pradesh and Rajasthan' (Lucknow, 2004); People's Union for Democratic Rights, 'Courting Disaster: A Report on Inter-Caste Marriages, Society and State' (Delhi, 2003); and Uma Chakravarti, 'From Fathers to Husbands: of Love, Death and Marriage in North India', in Lynn Welchman and Sara Hossain (eds), *Honour: Crimes, Paradigms and Violence Against Women* (London: Zed Books, 2005).

⁴⁵ The protest by Hindu Right groups, the Bajrang Dal, Shiv Sena, and Vishwa Hindu Parishad, against Valentine's Day in many towns of North India and Maharashtra have been a regular feature for nearly a decade now.

⁴⁶ See for instance the violent demonstrations by the Hindu Right against the film *Fire* in December 1998; the use of the anti sodomy law, Section 377 of the penal code, in July 2001 to witch hunt and persecute NGO staff of Bharosa Trust and Naz Foundation International, in Lucknow, for outreaching safer sex education to men having sex with men. Most recently in January 2006, 4 gay men were arrested in Lucknow on a trumped up case to intimidate and persecute the wider gay community.

⁴⁷ Some examples are the arrest and detention of staff of the NGO, Sahyog in Almora under the National Security

While controlling the sexuality of the 'Hindu Indian Woman' has been one agenda of the Hindu Right, the other has been to 'liberate' the 'Muslim Woman' from the clutches of discriminatory Muslim family law. Although three provisions of Muslim law are routinely targeted – the exemption to Muslim men from the duty of maintaining a divorced wife, triple talaq and polygamy – the solution proposed is not to work with reform processes within the community but to develop instead a uniform civil code on family. This call is based on the need for uniformity rather than gender justice, a means of subsuming the Muslim community to a code that resembles Hindu personal law. As a result, the uniform civil code has been rejected by the women's movement that prefers to work towards gender justice within personal laws.⁴⁸

The false concern of the Hindu Right towards women – or more specifically Muslim women – is evident from the apathy towards women's issues generally and particularly towards disadvantages experienced by Muslim women in areas other than family law. The lack of concern of the Hindu Right regarding the poverty and marginalisation of the Muslim community, the impact of which is disproportionately borne by Muslim women, is a case in point, as is their disregard for the sexual brutalisation of Muslim women during the Gujarat carnage in 2002 by the Hindu Right.⁴⁹

The above developments have taken place alongside an unrelenting pursuance of a neo-liberal industrialisation agenda by the states of India, despite overwhelming evidence of its massive social costs. In the states of Orissa, Andhra Pradesh, West Bengal and Chattisgarh groups who resist compulsory land acquisition and the creation of Special Economic Zones (SEZs)⁵⁰ are frequently described as members of the violent Naxalite political movement⁵¹ and thereby subject to harassment, intimidation

Act in May 2000 for publishing a study: 'AIDS aur Hum' (AIDS and Us) that discussed local sexual practices to contextualise information on AIDS.

⁴⁸ See Flavia Agnes, *Law and Gender Inequality: The Politics of Women's Rights in India*, (Oxford: Oxford University Press India, 1999); see also Gandhi Nandita and Shah Nandita, *Issues At Stake: Theory and Practice in the Contemporary Women's Movement in India* (New Delhi, Kali for Women, 1991).

⁴⁹ 'The Survivors Speak: How has the Gujarat Massacre Affected Minority Women? Fact Finding by a Women's Panel', Citizen's Initiative (Ahmedabad, April 2002); 'Threatened Existence: A Feminist Analysis of the Genocide in Gujarat', International Initiative for Justice in Gujarat (Mumbai, December 2003).

⁵⁰ Special Economic Zones (SEZs) are havens for export-driven industry, with light taxation and other perks. The government hopes that, as in China, SEZs will boost the development of infrastructure and manufacturing. Since it passed a law offering improved terms for investors in the zones last year, 63 have been approved, 237 have been all but approved and over 400 are being considered: 'A Peasant's Surprise: India's Special Economic Zones', *The Economist*, January 27, 2007, p. 43.

⁵¹ The Naxalites claim to represent the most oppressed people in India, those who are often left untouched by India's development and bypassed by the electoral process. Invariably, they are the Adivasis, Dalits, and the poorest of the poor, who work as landless labourers for a pittance, often below India's mandated minimum wages. The criticism against the Naxalites is that despite their ideology, they have over the years become just another terrorist outfit, extorting money: <http://www.rediff.com/news/2003/oct/02spec.htm>

and violence through repressive state laws,⁵² by both paramilitary and state military forces who side with the developers.⁵³

Despite the election of a national coalition government drawn from the political centre in May 2004, militarisation and dramatic increases in state power continues to characterise the executive response to both public dissatisfaction with the SEZs and communal violence. This is most readily evidenced by the proposed Communal Violence Bill of 2005, drafted against the backdrop of the impunity and state collusion and complicity of the Gujarat communal violence of 2002. Instead of addressing these concerns the Bill strengthens the position of the state, makes prosecuting public servants more difficult, and fails to develop new crimes, such as mass gender-based violence, that characterise communal violence.

Burma

Amid ethnic-nationalist tensions, the Burman-lead independence movement managed to gain independence from the British in 1948. The dominance of this group in the new government was partially counteracted by the democratic vision of nationalist leader Aung Sun who proposed that non-Burman states could join the Union with the option of seceding ten years later. However Aung Sun and many members of his cabinet were assassinated before the new constitution could come into effect, resulting in widespread conflict and internal struggle. Constitutional disputes and persistent division among political and ethnic groups ensured that Burma only ever experienced the most fledgling kind of democracy in this period. In 1962 General Ne Win led a military coup, abolishing the constitution and establishing a xenophobic military government with socialist economic policies. Since then the military has developed a highly centralised government with socio-economic, political and territorial goals that are implicitly dominant-group and nationalist orientated.⁵⁴

In March 1988, student-led disturbances broke out in Rangoon in response to the worsening economic situation and evolved into a call for regime change, uniting all ethnic groups in opposition of the junta. Despite repeated violent crackdowns by the military and police, the demonstrations increased in size as many in the general public joined the students. During mass demonstrations on August 8, 1988,

⁵² See Disturbed Areas Act in Andhra Pradesh which allows for arbitrary detention and arrests and the Chattisgarh State Special Public Security Act 2005 which allows for detention up to three years for 'unlawful activities': India: Draconian Response to Naxalite Violence', HRW, April 27, 2006, available at <http://hrw.org/english/docs/2006/04/27/india13279.htm>.

⁵³ Sometimes state involvement is more direct. For instance on March 14 2007, 14 protesters from the Bhumi Uchhed Pratirodh Committee (Land Eviction Resistance Committee), were shot dead by the state police in Nandigram, West Bengal. On November 16, 2007, the Calcutta High Court declared the police killings as "unconstitutional", unjustified" and awarded compensation. See also 'Fact Finding Report on the Salwa Judum, Dantewara District', PUCL Bulletin, December 2, 2005, available at <http://www.pucl.org/Topics/Human-rights/2005/salwa-judum-report.htm>.

⁵⁴ Curtis Tomson 'Political Stability and Minority Groups in Burma', *The Geographical Review*, vol 85, no 3 (July 1995), pp. 280-281.

military forces killed more than 1,000 demonstrators. At a rally following this massacre Aung San Suu Kyi, the daughter of General Aung San, made her first political speech and assumed the role of opposition leader. Finally the party declared that an election would take place in 1990. Aung San Suu Kyi's party, the National League for Democracy, won by a significant percentage of votes. The ruling party subsequently refused to recognise the result and Aung San Suu Kyi has spent most of her time since then either in jail or under house arrest, where she is today.

The militarisation of Burmese society has seen notions of masculinity and femininity being played out on the battlefields and in the villages, with soldier's bodies used as weapons and women's bodies as targets. Impunity for military sexual violence has become an integral part of the Burmese civil war. This is indicated by the fact that there were over 600 incidents of reported rape in Shan ethnic state by the Burmese military between 1996 and 2001.⁵⁵ Sexual violence is said to serve the multiple purpose of not only terrorising the local community into submission, but also flaunting the power of the dominant troops over the enemy's women.⁵⁶ State sponsored violence has also been prominent in Chin State, where rape during forced labour and rape at army camps has been recorded, often accompanied by severe brutality.⁵⁷

In addition, to dilute and eradicate Christian religious practices in Chin, the regime has made extensive efforts to convert Christians to Buddhism through aggressive conversion drives and forced conversion campaigns. SPDC soldiers have been offered incentives to marry and convert Chin women.⁵⁸ Women therefore are the forefront of efforts towards 'Burmanisation', the way in which the regime aims to create a Burma of "One Race, One Language, One Religion."⁵⁹

The military has also deliberately deployed troops of different ethnicities in the various ethnic states to perpetuate the cycle of assault on the culture of the communities in these areas. Such has been a long-term tactic of control, with many documented incidents of the military destroying mosques, churches and non-Buddhist religious icons in areas belonging to ethnic nationalities.⁶⁰ Religious divisions have also been exploited by the military in order to deflect attention from its poor management of the national

⁵⁵ 'License to Rape: the Burmese Military Regime's Use of Sexual Violence in the Ongoing War in the Shan State', Shan Human Rights Foundation, Shan Women's Action Network, (May 2002).

⁵⁶ *Ibid.*

⁵⁷ 'Unsafe State: State Sanctioned Violence against Chin Women in Burma', The Women's League of Chinland (March 2007), available at <http://www.chinwomen.org/media/UnsafeState.pdf>

⁵⁸ 'Freedom of Belief and Religion', National Council of the Union of Burma (2005), available at http://www.ncgub.net/data/2005HYearbook/Freedom_of_Belief_and_Religion.htm

⁵⁹ *Ibid.*

⁶⁰ There has also been a systematic and persistent effort, including the murder of preachers by the military regime, to prevent the propagation of non-Buddhist religious teachings in these areas. Because Christianity is integral to the identity of the majority of the Chin people, the junta has been particularly heavy-handed with implementing a campaign of Burmanisation in Chin State.

economy. As early as 1962 the authorities posing as bogus Buddhist monks attacked Muslims and their property in an attempt to promote anti-Muslim sentiment amongst Buddhists.⁶¹ The ensuing racial riots gave the generals enough time to cope with a chronic rice shortage problem. More recently, the widespread perception that the junta is pro-Buddhist has led to disenchantment and resentment by Muslims at the Buddhist population who they (falsely) believe are getting richer while they continue to live in poverty.⁶²

Significantly, the exploitation of women's bodies and their cultural identity has been an integral part of the success of this strategy of religious/ethnic divide and rule. In 2005 in central Burma, riots broke out between Muslims and Buddhists because of a rumour that a group of Muslim men raped a Buddhist woman. The military junta deliberately allowed the riots to blow out of control, with the aim to divert people's attention from the economic problems and worsening conditions of health care and education services. This strategy was reapplied by the military as recently as February 2006.

The dire economic situation across the country became a catalyst for the monks and nuns to take to the streets in protest against the junta rule in August 2007, allowing for the loose unification of opposition groups and women's groups in Burma to march under the banner of Aung San Suu Kyi, leader of the National League for Democracy (NLD), against the power of the military government. The subsequent ruthless clampdown, detaining up to 3,000 protesters, and the use of mass violence to stifle dissent seems to have only strengthened the resolve of the Burmese to work towards democracy, the absence of which is perceived as the key impediment to the development of human rights dialogue in Burma and specifically to the achievement of human security, particularly for women and women's human rights defenders. Indeed, women activists played a significant role in the pro-democracy protests and many were arrested. These women are vulnerable to sexual assault and harassment from the police and also from the military. Women have been forced to admit on camera that they had sexual relations with monks.⁶³

Bowing to international pressure, Senior General Than Shwe announced in February 2008 that it was a 'suitable time to change from a military government to a democratic civilian administration', starting with the building of a new constitution and establishing multi-party elections in two years.⁶⁴ Yet there have been no real efforts to implement true democracy, with the main opposition, the NLD, excluded from the formulation of the Constitution, which was made in secret. Even if a democratic Burma was to emerge in the future, the difficulties in creating a women's voice able to overcome the ethnic and religious divisions entrenched by the junta cannot be underestimated.

⁶¹ Similarly in 1967, when there was critical rice shortage in Burma, the generals took advantage of the Red Guard movement in Burma, a spillover of the Cultural Revolution in China, to start an anti-Chinese riot.

⁶² 'Burmese Maze', *The Economist*, December 22, 2007, p. 50.

⁶³ 'Courage to Resist', Women's League of Burma (November, 2007), available at <http://www.womenofburma.org/>

⁶⁴ Andrew Harding 'Stakes High for Burma's 'Roadmap'', BBC News, February 13, 2008.

Pakistan

Pakistan⁶⁵ was founded on the need for a separate identity on the basis of religion. Yet although Islam was constitutive of nationhood, its role was not self evident in successive constitutions but evolved as a result of political expediency of its military and civilian regimes.⁶⁶ It was only in 1973 in the third Constitution that Islam was explicitly declared the state religion, a concession to Islamic leaders by President Zulfikar Ali Bhutto in exchange for their support for his socialist development project. Later Islamisation was used to legitimise the usurpation of power by the chief of the army, General Zia-ul-Haq in 1977. This tactic was supported by the US, which embraced General Zia as an indispensable ally in their proxy war against the Soviet Government via the *mujhideen* insurgents in Afghanistan.

As a consequence of this political environment, the Hudood Laws, the Qisas and Diyat Law and the Law of Evidence were passed - regressive laws that were extremely discriminatory to women as well as minorities.⁶⁷ This period also saw the introduction of a parallel judicial system, the Shariah Courts. These changes reflected the state's construction of a homogenous "Muslim" identity, an imperative unifying force to avoid the conflict resulting from feudalism and provincialism - and the structural inequalities within and between the culturally and linguistically diverse provinces.

The 'Islamisation' package introduced by General Zia centred on women's bodies, rights and freedoms. It gave legal sanction to crude forms of sexual discrimination, in addition to reinforcing and exacerbating the existing feudal and customary controls over women's sexuality, roles and lives. The overlapping of feudalism with Islamisation has made the exercise of choice and freedoms by women not only a wrong against the family but also against her tribe or ethnic group.⁶⁸ Defiance of feudal and patriarchal controls by women and girls typically results in the family using the state machinery and legal system to enforce compliance with familial norms. The high number of complaints of the offence of *zina* (unlawful sexual intercourse) registered by parents against daughters who married of their free will are an example of this trend. The Laws of Evidence also denied to women the fundamental right of equality guaranteed by Article 25 of the Constitution by eliminating the difference between rape, consensual sex and adultery and thereby imposing punishment on a woman in all cases.⁶⁹ Meanwhile the stranglehold of customary values and feudal systems over women remained unchallenged by the

⁶⁵ Thanks are due to Azra Sayeed for inputs on the political economy of militarisation and its linkages with fundamentalism in Pakistan. Research assistance by Poulomi Pal for this section is also acknowledged.

⁶⁶ Shaheed Farida, 'Constructing Identities - Culture, Women's Agency and the Muslim World', Women Living Under Muslim Laws (October, 2004).

⁶⁷ Hudood Ordinance of 1979 sanctioned flogging for adultery and rape, with little to distinguish the two; a Law of Evidence reduced a woman's evidence to half that of a man; and a proposed Shariat Bill.

⁶⁸ Rana Rizvi, 'Women in Muslim Societies Pay High Price to Fundamentalism', Iran Press Service, August 19, 2000.

⁶⁹ The rape law requires evidence of four male witnesses. Failure to produce such witnesses amounts to legal admission that the woman has consented to *zina*. Pregnancy resulting from rape is construed as a proof of consensual sex. For instance in July 1993, a blind girl, Safia Bibi, was raped by her employer and a case registered. Since she could not identify him, the victim was held for adultery under the Hudood Ordinance and sentenced to three years imprisonment and five lashes. After a strong protest by women's organisations, the flogging was set aside.

state. Old customs, such as marriage with Qur'an,⁷⁰ karo kari⁷¹ and crimes in the name of honour continue to be practiced.⁷² Throughout the process of Islamisation, women and minorities have suffered the most, with their human rights constantly abrogated.⁷³

The subsequent democratically elected civilian governments – that of Benazir Bhutto and of Nawaz Sharif could not reverse these discriminatory legislations for women. On October 12, 1999, the army under General Musharraf assumed charge. In 2006, President Musharraf proposed the reform of the Hudood Ordinance and on November 15 2006, the Women's Protection Bill was passed in Pakistan's National Assembly, allowing rape to be prosecutable under civil law.⁷⁴ Although the new law is a commendable development, its formation is a hollow victory for women's groups as it was developed almost entirely without consultation with such groups and is widely considered the result of pressure from external allies, such as the US, as opposed to a genuine interest by the current government in advancing and protecting women's rights.⁷⁵ This lack of political will to deal with the root causes of violence against women has ensured that implementation of the new law has been lacklustre and that the changes for women in practice have been minimal.

The above legal developments have taken place against the backdrop of increasing authoritarian rule in Pakistan, peaking with General Musharraf's declaration of emergency rule on November 3, 2007, which he was only to lift on December 15, 2007. The emergency rule was partly fuelled by the President's long held opposition to pressure from the judiciary to step down from his position as Chief of the Army

⁷⁰ According to a custom of Sindh, a province in Pakistan, in some families, especially Syed families (an upper caste of Muslims), members of the families search for proposals for their daughters and sisters. If they do not find any suitable matches they cover the head of the girl and teach her the Holy Qur'an in a ceremony. The girl's life subsequently remains with the Qur'an.

⁷¹ According to a custom of karo kari, if a woman is having an illicit liaison with any man, she is declared kari (black) and the man involved in the relationship is called karo. It becomes a must for any relative of a "kari" woman to kill both her and her partner, as the murderer would escape punishment because he has killed in the name of honour.

⁷² The brutal gang rape of Mai, a 30-year-old woman in Meerwala in June 2002 on the orders of a *jirga* (village court) is a case in point. Mai's then 12-year-old brother Abdul had been seen walking with a girl from a higher tribe, leading to the demand for Mai's rape as a means of avenging the honour of the higher tribe.

⁷³ Ihsan Fatiman and Yasmin Zaidi, 'The Interplay of CEDAW, National laws and Customary Practices in Pakistan: A Literature Review from Conceptualising Islamic Law', in Shahen Sadar Ali (ed), *CEDAW and Women's Human Rights in Plural Legal Settings: A Comparative Analysis of Applications of CEDAW in Bangladesh, India and Pakistan* (New Delhi: UNIFEM, 2004). The Human Rights Commission of Pakistan has reported that at least 438 Pakistani women were gang raped and 270 killed in the name of honour in 2005.

⁷⁴ This act also removes the right of police to detain people suspected of having sex outside of marriage, instead requiring a formal accusation in court. Under the changes, adultery and non-marital consensual sex is still an offence but now judges would be allowed to try rape cases in criminal rather than Islamic courts, doing away with the need for the four witnesses and allows convictions to be made on the basis of forensic and circumstantial evidence.

⁷⁵ Indeed, women's groups see the law as not going far enough to protect rape victims and those who engage in consensual sex, and these groups continue to lobby for the abolition of the entire Hudood Ordinance.

while President, in conjunction with his desire to avoid the challenge from the Supreme Courts to explain the numerous state-sanctioned disappearances and extra-judicial killings that had been taking place in the separatist regions of Baluchistan and Sawar. Officially, however, emergency rule was called to fight terrorism and extremism, while in practice it has been used to crack down on Pakistan's civil society, in particular lawyers, judges and human rights activists who have been petitioning for genuine respect for the independence of the judiciary and the rule of law, as well as to intimidate separatist movements in the north-west frontier provinces.

Fiji

The political and social co-existence of multi-ethnic and multi-religious society in Fiji has faced serious challenges in the past, the residual undercurrents of which continue to shadow the present. The majority of the indigenous Fijian population are Methodist Christians, while the Indians, brought to Fiji between 1879 and 1914 as indentured labour to work on the sugar cane plantations, are largely non-Christian. Colonial history introduced not just diverse religions and ethnicities, but also a separateness in the economic roles of the two communities, perpetuated by subsequent governments, leading to mutual suspicion.⁷⁶ This segregation is reinforced by religious divisions, with indigenous Fijians mostly Christian and Fijian Indians mostly Hindu or Muslim. The overlapping religious and ethnic differences lent themselves to political manipulation by Fijian communalists, comprising of sections of traditional Methodists and the Chiefly Fijians, who use religion to reinforce their divine right to rule.⁷⁷ Their rhetoric conflates nationalism with ethnic and religious domination of Fiji by Christian Fijians. As a result Fiji witnessed two coups in 1987, an attempted coup in 2000 and a coup in 2006, all a blow and a test of resilience to its fragile democracy movement.

Although the 2000 coup was unsuccessful and the Constitution was amended to give equal rights to indigenous and Indo-Fijians, race based seats and the interests of ethnic Fijians remained paramount.⁷⁸ Tensions between those seeking reduced rights for Indian Fijians and those seeking greater equality came to a head in December 2006 when the government refused to withdraw a parliamentary bill designed to pardon those who participated in the 2000 coup attempt, as demanded by the military. As a result a military coup took place on December 6, 2006, which remains in place to this day.

⁷⁶ The tensions underlying indigenous Fijian nationalism arises from the domination of Indo-Fijians in the economic, educational and health sectors. In contrast, the indigenous Fijians dominate the government and the military, fearing electoral or constitutional developments that include Indo-Fijians in their areas of control: see Kevin J Barr M.S.C, *The Church and Fijian Ethnocentrism: An Adventure in Religious History and Sociology* (Suva: Ecumenical Centre for Research, 2004).

⁷⁷ *Ibid.*

⁷⁸ P. Imrana Jalal, 'Gender Issues in Post-Coup d'état Fiji: Snapshots from the Fiji Islands', paper presented at the Townsville International Women's Conference at James Cook University, 3-7 July, 2002, Townsville, Australia.

The current interim government has repeatedly attempted to impede negative publicity of its actions. Two prominent women's and human rights advocates who criticised the takeover reported receiving rape threats by telephone, believed to have come from members of the army.⁷⁹ Activist NGOs are also vulnerable to deregistration which severely obstructs further work toward equality,⁸⁰ while foreign journalists critical of the regime face deportation or intimidation.⁸¹

Mobilising for women's rights in a state manipulated by politics presents immense challenges. Each political crisis directly results in widespread violence, including sexual violence against women and destruction of property, targeting primarily Indo-Fijians.⁸² Apart from direct violence, the absence of democracy forces women to prioritise race over gender concerns. Indigenous Fijian women, for example, see race as enmeshed with religion and nation, making a 'women only' choice difficult. This difficulty is enhanced by the loud voice of anti-feminist nationalist forces who accuse feminist campaigns as being 'anti-(indigenous) Fijian'.⁸³ Meanwhile for Indo-Fijians constitutional discrimination and racial subordination make it difficult to ally on gender concerns alone.

The coup cycle in Fiji also results in either setbacks or reversals of hard-fought gains in the path towards substantive and formal equality for women. As a result of continued political instability, reform bills and other efforts towards gender equality have been obstructed or neglected, while judicial processes become more chaotic, impeding the capacity of women to enforce their rights in a court of law. At the same time poverty, particularly amongst women, is on the rise, as political parties concentrate on holding onto or seizing power, as oppose to formulating long-term socio-economic goals.

These setbacks to the women's agenda are all the more severe in the context of Fiji, since the majority of the women's groups in Fiji are ethnicity-cum-religion-based welfare groups and very rarely multi-ethnic in composition or feminist in outlook. The arduous history of drafting, advocacy, consensus building and compromises leading to the enactment of the Family Law Act 2003 illustrate the challenges

⁷⁹ 'Fiji: Country Reports on Human Rights Practices, 2006', US State Department, Bureau of Democracy, Human Rights and Labour, March 6, 2007, available at <http://www.state.gov/g/drl/rls/hrrpt/2006/78773.htm>.

⁸⁰ Theresa Koroï, 'Paradoxical Snapshots in Post-Coup Fiji', address at the Gender and Identity Based Politics Workshop organised by APWLD in collaboration with Komnas Perempuan, Solidaritas Perempuan, Koalisi Perempuan Indonesia and RAHIMA, 30 July-1 August, 2002, Bali, Indonesia. The report from the workshop is available at <http://www.rockmekong.org/pubs/lab-pubs/final.pdf>

⁸¹ *Fiji Sun*-published Russell Hunter was deported to Sydney because of articles which allege that former Prime Minister, Mahendra Chaudhry, was corrupt; 'DFAT Protests Journalists Deportation from Fiji', Australian Broadcasting Corporation News, February 26, 2008.

⁸² The situation has worsened since the 2006 coup with the head of the Fiji Women's Rights Movement reporting that following the coup soldiers forcibly took a battered wife who had fled to her parents' home back to her husband: Koroï, 'Paradoxical Snapshots in Post-Coup Fiji', above, n 81.

⁸³ *Ibid.*

and stigmatisation that women confront when mobilising for feminist agenda in a deeply divided multi-ethnic state.⁸⁴ Democracy and racial equality are therefore prerequisites to even mobilising women around feminist goals.⁸⁵

Philippines

The Constitutional Republic of the Philippines has enjoyed a turbulent relationship with democracy since gaining independence in 1946. Showcased as the first democratic state in Asia, its leaders have nonetheless recurrently eroded the country's democratic credentials by deploying the military and suspending Constitutional guarantees when politically expedient.⁸⁶ The use of the army as an instrument of internal repression was first initiated in 1972 when the government of Ferdinand Marcos declared martial law. In what the President labelled 'constitutional authoritarianism' the military served for the next nine years as a private army to the government and its supporters. As it came to assume more and more governmental functions, the military found itself increasingly ill-equipped to deal with the growing power of the Communist and Muslim insurgencies taking place across the country. These resistance groups had been formed in response to the deliberate decision by Marcos and his economic planners to exclude the peasants as well as the ethnic minorities in the south from enjoying the fruits of the country's economic growth.⁸⁷

This political instability along with rising discontentment amongst the middle class ensured that power was eventually seized from Marcos in 1986 in a popular revolution that demanded the return of democracy. Nevertheless adjustment to democracy has not been easy in the Philippines, with rampant

⁸⁴ The Family Law Bill removed all forms of discrimination against women and granted them rights to enforce custody and financial support for them and their children, while removing fault-based divorce and giving women a share in property post-divorce. Every patriarchal objection to this bill was made, including that it wanted to destroy the institution of marriage. For details see P Imrana Jalal, 'The Campaign for Gender Equality in Family Law: the Passage of the Controversial Fiji Family Law Act 2003 into Law', *Women Living Under Muslim Laws* (December 2005), available at [http://www.wluml.org/english/pubsfulltxt.shtml?cmd\[87\]=i-87-531764](http://www.wluml.org/english/pubsfulltxt.shtml?cmd[87]=i-87-531764)

⁸⁵ Jalal 'Gender Issues in Post-coup d'état Fiji: Snapshots from the Fiji Islands', above, n 74.

⁸⁶ The corrupt dictator President Ferdinand Marcos was the first to declare martial law in 1972, in an attempt to retain political power. Marcos, ruling by decree, curtailed press freedom and other civil liberties, closed down Congress and media establishments, and ordered the arrest of opposition leaders and militant activists, including his staunchest critics in the Senate. Many political opponents were forced to go into exile. When Marcos was forced to leave office in 1986, elements in the military found difficulty in adjusting to the requirements of the democratic system restored by Corazon Aquino. To assist in this process, military personnel were subjected to instruction in democratic principles and the role of the military in a democracy. Yet Aquino had to endure seven attempts by the military to seize political power.

⁸⁷ The economic development of Mindanao, in the south, for instance, was and continues to be neglected compared to the predominantly Christian regions, which have better roads, buildings, markets and schools. The indigenous people of Mindanao or the Lumads are particularly vulnerable and are isolated in scattered settlements with few social services. Recently, levels of development and welfare have also been impacted by the long-running conflict which disrupts agricultural production, economic activity, livelihoods, and also acts as a disincentive to investment: Progressio, 'Faith Communities and Conflict in Mindanao', available at http://ciir.live.poptech.coop/interfaith/AssociatesInternal/92092/mindanao_philippines/

corruption and nepotism frequently threatening to undermine the country's democratic institutions as leaders continue to present themselves as representatives of the poor, fighting injustice and poverty.⁸⁸

The inauguration of the presidency of Gloria Macapagal-Arroyo in 2001 witnessed a dramatic militarisation of Filipino society alongside a blatant dismissal of the democratic freedoms and human rights principles guaranteed by the Constitution. Initially President Arroyo restricted the deployment of authoritarian measures to the southern regions, using the 'War on Terror' and American military support to brutally quell the secessionist movement in the southern island of Mindanao. However, unpopular neo-liberal market reforms, alongside evidence of electoral fraud and graft forced the President to use the unyielding civil unrest in the southern parts of the Philippines as a pretence to apply 'anti-terrorism' measures to target all political opponents, as well as human rights activists, religious leaders, political activists, journalists, peasants and people serving the needs of the poor.⁸⁹

The number of extrajudicial killings and enforced disappearances of such individuals has become systematic and widespread.⁹⁰ This sets the backdrop for the extraordinarily high number of political prisoners in the Philippines, many of whom have experienced abduction, inhumane treatment in prison and prolonged incarceration under baseless accusations and charges by the military.

The culture of impunity runs deep in the government forces. Excessive violations of civil and political rights occurred following the government's declaration of Presidential Proclamation 1017 and General Order No 5 directing the Armed Forces of the Philippines to 'maintain public peace, order and safety and to prevent and suppress lawless violence' in February 2006. Several months later the Supreme Court declared both orders partly unconstitutional because they allowed people to be detained and arrested on the basis of 'terrorism', which involved acts undefined and not yet punished by the legislature. Nonetheless, the Court upheld the President's power to declare a state of emergency.⁹¹ On March 3, 2006 the President called off the State of Emergency.

⁸⁸ Former President Joseph Estrada was a popular actor who gained fame portraying poor characters forced by circumstance to fight against injustice. Estrada won election by a decisive margin in 1998, riding a platform short on policy and heavily padded with generic promises of justice and sympathy for the poor majority. Once in office, he set aside the interests of the poor and satisfied his own appetites and those of the cronies and political hacks who rose to power alongside him. The formal cabinet was virtually ignored, with real power vested in a "midnight cabinet" of cronies, who made key decisions in the midst of drinking bouts. He was removed from the Presidency in 2000 in a move supported by the middle class: Steve Rogers, 'The Philippines: Democracy in Turmoil', Open Democracy, 15 August, 2005, available at http://www.opendemocracy.net/democracy-protest/philippines_2759.jsp, <http://material.ahrchk.net/hrreport/2006/AHRC2006HRRReport.pdf>

⁸⁹ 'SAARC Human Rights Report: Philippines, 2006' Asian Centre for Human Rights (December 2005), pp. 225-226, available at <http://material.ahrchk.net/hrreport/2006/AHRC2006HRRReport.pdf>

⁹⁰ See the findings of the Hong Kong Mission for Fundamental Human Rights and Peace in the Philippines: July 23-28, 2006, which reports that there have been 704 extrajudicial killings between 2001 and 2006, including 290 members or leaders of progressive party organisations. They also report that 10 judges and 15 lawyers have been killed since Arroyo took office; Mission Report, November 14, 2006, p. 4.

⁹¹ A copy of the case is available at <http://www.supremecourt.gov.ph/jurisprudence/2006/may2006/G.R.%20No.%20171396.htm>

Rather than work to reduce the number of killings and finding and prosecuting the perpetrators, the government has instead invested its resources in denial and counter criticisms.⁹² In response to international criticism it has blamed separatist movements for perpetrating the killing against ‘enemy spies’ and ‘counter revolutionaries’ while it has denounced human rights groups seeking to expose the truth of the killings as promoting ‘propaganda.’⁹³ In 2007 the government relented on this hardline response by passing the Human Security Act in April and agreeing to hold a National Consultative Summit on Extrajudicial Killings and Enforced Disappearances in July. Although there been a reduction in the number of deaths and enforced disappearances, the reality remains that, for the main part, none of those responsible have been identified or convicted. Their continued anonymity and immunity remain a continuing threat to lives of activists in the Philippines. It leaves a deep psychological effect, fear and trauma, not only in the activists, but in every Filipino of the extent of their insecurity.⁹⁴

Simultaneous with the militarisation of Philippine society, President Arroyo’s regime has increasingly rolled back the secularism that characterised the Filipino state. Despite the Constitutional position and regardless of its diverse (although in minority) indigenous, ethnic and Muslim population, state laws and policies continue to impose Roman Catholic-influenced norms on all its citizens. In fact, it is claimed that the strongest outreach of the Catholic Church is not through its sermons and schools but through laws and policies that directly limit women’s sexual and reproductive rights.⁹⁵ In December 2001, the Department of Health banned emergency contraceptive pills which enjoyed legal approval since 1999 and which were available in cases of sexual abuse, to women and girls in government-run clinics, on the grounds that the pill was an abortifacient. In protest, many women’s groups intervened to reopen the matter and the final adjudication remains pending.⁹⁶ To influence the outcome of the decision, the President has made public statements against family planning, oral contraceptives and indeed, any form of modern contraception.⁹⁷

The defeat of the Reproductive Health Care Bill introduced in 2003, reflects a similar approach.⁹⁸ The Bill aimed to enact a health care policy that included post-abortion care and set standards for the humane treatment of women with complications from unsafe abortions in public health services. Despite the backing of a cross-section of society – the Reproductive Health and Advocacy Network, a national

⁹² ‘Philippines: Killings Leave Deeply Entrenched Fear and Distrust’, Asian Human Rights Commission, January 9, 2008.

⁹³ Police Superintendent Rodolfo Mendoza, deputy director of Directorate for Investigative and Detective Management, PNP, July 26, 2006; *ibid*, p. 226.

⁹⁴ ‘Philippines: Killings Leave Deeply Entrenched Fear and Distrust’, above, n 93.

⁹⁵ For a full discussion on the subject, see Caroline S Ruiz Austria, ‘The Church, the State and Women’s Bodies in the Context of Religious Fundamentalism in the Philippines’, *Reproductive Health Matters*, 12.24 (2004), pp. 96-103.

⁹⁶ *Ibid*, p. 98.

⁹⁷ DR Jimenez, ‘Interview with President Arroyo’, Philippine Daily Inquirer, July 7, 2002, p.7.

⁹⁸ House Bill 4110 tabled in the 12th Congress in 2003.

network of activists, NGOs, community workers and service providers – the Bill was rejected after the President termed it as “the abortion bill” when in fact it did not seek to legalise abortion. The defeat of these legislative attempts to soften the consequences of abortion have resulted in a backlash against women in hospitals, with one woman who sought post-abortion care reportedly forced to wear a sign that said ‘I tried to get an abortion’⁹⁹.

Challenging this alignment between state and church is an ongoing struggle for women's groups and progressives in the country. Yet this struggle is now placed in the wider context of the battle for accountability, democracy and social justice. The onslaught of globalisation has left many Filipino women working as domestic workers overseas, subject to little or no protection, despite their massive contribution to the national economy.¹⁰⁰ Alternatively, they often work in the informal sector, which in 2006 comprised of approximately 49% of the labour force.¹⁰¹ Working either overseas or in the informal sector increases the poverty levels in a Filipino family as the national social security provisions do not recognise such work. As it is women who are given the sole responsibility for the health care needs of their family in Philippine society, it falls to poor women to crowd government hospitals and beg for services they cannot afford. Women's groups in the Philippines are therefore forced to respond to multiple intersecting issues, including, *inter alia*, the disproportionate impact neo-liberal reforms have had on women as well as the divisionary and retrogressive impact of the government's attempts to implement Catholicism as the *de facto* state religion, amidst an environment of severely restricted civil liberties.

Thailand

The last five years have witnessed the application of brutal state violence to address alleged crimes, in particular drug trafficking and insurgency in southern Thailand. This period has seen the state-sanctioned extra-judicial killings of thousands, with official figures of the dead much lower than those from independent sources. The trend marks the end of tolerance and peaceful coexistence between communities in Thai Buddhist society, with the state labelling all peaceful protests, including those from the Thai Muslim community, human rights groups, and even the National Human Rights Commission as anti-national or unpatriotic.

The propaganda against Muslims and separatists has in turn perpetuated the cycle of separatist violence directed at state officials - leading to prejudice amongst Thai Buddhists against Thai Muslims.

⁹⁹ Sylvia Estrada-Claudio, message delivered at the international meeting on Amnesty International's Sexual and Reproductive Rights Policy, London, June 10-12, 2005.

¹⁰⁰ US\$10.7 billion was sent back to the Philippines in 2006, representing 12% of the country's GDP: Dr Eduardo Gonzalez, 'Social Watch: Philippines', *Social Watch Report 2007* (Intituto Terco Mundo, Montevideo, Uruguay, 2007).

¹⁰¹ *Ibid.*

Meanwhile repeated targeting of Thai Muslims and impunity for state violence against them has alienated Thai Muslims, who have begun to sympathise with the southern separatist movements and to assert symbols of their distinctive identity, with, for instance, more Muslim women now choosing to wear the *hijab*.

Several examples of state violence in the southern provinces demonstrate the extent of state brutality and persecution of Thai Muslims. In January 2004 Muslims suspected of being involved with the robbing of a military camp in Pattani were subject to large scale arrests, killings and enforced disappearances, while twenty-eight Muslims were shot by state forces in a mosque in Pattani in April 2004.¹⁰² Seventy-eight Muslim protesters, from the over 1300 protesters packed on top of each other in army trucks, suffocated or smothered to death in the trucks transporting them from Narathiwat to a military camp after being arrested by the police in October 2007.¹⁰³ More recently, a Muslim human rights lawyer from Bangkok disappeared after revealing that torture was inflicted by the police on his clients, four Muslim leaders.¹⁰⁴ In this volatile environment Muslim families have been pressured to support insurgent activities, whether providing supplies and sanctuary or giving up their children to the youth wing (*pemuda*) and guerrilla units of the National Revolution Front-Coordinate in order to take part in the uprising against Thai authorities.¹⁰⁵

In response to the intensification of hostilities in the south, the government of Prime Minister Thaksin Shinawatra created an atmosphere of fear, labelling all those who sought state accountability for state actions as anti-national. This gave rise to a resurgent Thai nationalism and suspicion towards all those critical of state actions. It also created the backdrop for legislating draconian amendments on terrorism into the criminal law in 2004 and enacting the Emergency Situation Law of 2005 that offered the Prime Minister extraordinary powers for countering violence in southern states, including the power to search and arrest without warrants and new press censorship rules. The emergency law has also been criticised as a license for soldiers and police to kill and be protected from criminal liability for murder in at least three provinces in the south.¹⁰⁶

Appealing to heightened public dissatisfaction with the levels of corruption within the Thaksin government, the military instigated a coup on September 19, 2006. Within hours of taking power, the military had not only abrogated the 1997 Constitution, which had been written with widespread public

¹⁰² Police shoot outs also took place in two mosques in Yala and Narathiwat districts on the morning of April 2003.

¹⁰³ According to the Prime Minister, however, they had died because of weakness from the Ramadan fast, despite forensic reports indicating otherwise.

¹⁰⁴ 'ICJ Marks the Three-Year Anniversary of the Disappearance of Prominent Muslim Lawyer', International Commission of Jurists, (March 12, 2007), available at http://www.icj.org/news.php3?id_article=4135&lang=en.

¹⁰⁵ 'Thailand: Insurgents Must Stop Targeting Civilians', HRW, November 16, 2006: <http://hrw.org/english/docs/2006/11/16/thaila14610.htm>

¹⁰⁶ See comments by Professor Philip Alston, UN Special Rapporteur on Extrajudicial Killings, 'The Emergency Decree Makes it Possible for Soldiers and Police Officers to Get Away with Murder'; *ibid*.

involvement, but had also abolished the constitutional courts. With the promise of elections at the end of 2007, Thai civil rights under this form of militarised democracy suffered severe setbacks. The new constitution drafted by the military is widely viewed as less democratic than the one the military tore up, because it restricts the power of elected politicians.¹⁰⁷ The interim government, not satisfied with retaining martial law in dozens of provinces and setting aside peoples' right to assemble and other fundamental rights, introduced the Internal Security Bill, which was approved by the cabinet in October 2007. The legislation, which emulates the US Homeland Security Act, equips internal security units with vast authority through its broad definition of national security.¹⁰⁸ The authoritarian militarism that it authorises shows no respect to the letter and spirit of the newly-voted-for constitution which the military itself gave approval. Although in effect this acts as a form of permanent martial law,¹⁰⁹ scrutiny and submissions on the bill by activists was not permitted. In the name of fighting terrorism, this act promises only to undermine some of the fundamental tenets of democracy.

Meanwhile, in the context of declining democratisation and increased militarisation, with the armed forces budget sharply increased, new laws premised on the vague grounds of national security enforce discriminatory measures against migrant workers, such as bans on public assemblies of more than five persons without prior permission, control on the use of mobile phones, motorcycles and cars, and a curfew for migrant workers from 8pm to 6am.¹¹⁰ The military appears intent on returning the 1980s model of authoritarian control, getting all necessary institutions firmly under its command before it steps down from its caretaker role.¹¹¹ As such certain categories of persons are beyond the law. Soldiers, police and other officials acting under emergency regulations in the south, or martial law that remains in effect in over half of the country, are protected from prosecution for acts that would otherwise be considered criminal. The coup leaders have also had an immunity clause for themselves inserted into the interim constitution, which will be carried over in some form or another after their reign expires.¹¹²

The impact for women on the rising militarisation, terrorism and counter-terrorism has been an increase in reports of intimidation, with women deterred from and deprived of enjoyment of basic human rights - economic, social, cultural and political. Women human rights defenders have been abducted, sexually abused and even killed at road check-points, villages and homes in the south. In addition

¹⁰⁷ Jonathon Head, 'Thailand Sour over Coup One Year On', BBC News, September 19, 2007.

¹⁰⁸ Viranda Somswasdi, 'Militarisation and Terrorism and Counter-Terrorism Measures in Thailand: Feminists and Women Human Rights Defenders', paper presented at public event on Women Human Rights Defenders' organised by APWLD and Forum Asia, 28 November, 2007 (Bangkok, Thailand).

¹⁰⁹ 'Thailand: ICJ Recommends Thai Government withdraws Internal Security Bill' July 12, 2007, available at http://www.icj.org/news.php3?id_article=4193&lang=en

¹¹⁰ 'Thailand: Government Urged to Withdraw Laws against Migrants', Asian Human Rights Commission, August 30, 2007, available at <http://www.ahrchk.net/pr/mainfile.php/2007mr/476/>.

¹¹¹ Editorial, 'The Struggle for Thailand's Constitutional Survival', *Article 2 of the International Covenant On Civil and Political Rights*, vol 6, no3 (June 2007).

¹¹² *Ibid*, p. 8.

hundreds of widows, whose husbands were killed or have disappeared in the troubled areas, have been living under the threat of violence from the presence and operations of military forces and Islamic extremists. Many women do not dare report rapes by soldiers patrolling the southern areas. In the context of both state violence and Muslim fundamentalism, the NGOs, pacifists, academics, women's, human rights and progressive groups have sought to come together to resist state impunity and breakdown within Thai society.

The Thais expressed their dissatisfaction with the direction of Thai society under the military at the polling booths on December 23, 2007, when they voted overwhelmingly to return power to the party of the ousted Prime Minister Thaksin Shinawatra, the People's Power Party. Samak Sundaravej, a supporter of the ousted Thaksin, defeated his closest rival by 310 votes to 163 to become Prime Minister. With the military gone, there remains a long road back to where Thailand was before September 19, despite the massive damage done by the then Thaksin government.¹¹³ The restoration of constitutionalism, rule of law and democracy is the major challenge ahead and a necessary precondition to security for women in Thailand.

Japan

In the early 1990s, right-wing nationalism emerged as growing force in Japan. The collapse of the Soviet Union eroded the support base for the democratic progressive forces in Japan that were aligned with the left; the economic pressures of globalisation resulted in unemployment, retrenchment, suicides, breaking the hold of the conservative liberal force that had dominated post-war Japan. The economic fragility also turned attention to Japan's social problems and weakened self-esteem.

Against this backdrop the pre-war right-wing nationalists gained ground, targeting peace, justice and equality. Its nationalism took the form of distorting history to glorify Japanese aggression, using text books and media, blaming social problems on women's movements, and reversing Japan's constitutional prohibition against waging war.¹¹⁴ The War Cooperation Law introduced in 1999 gives the country the right to go to war, requiring it to cooperate with the US. The government's policies include: following the neo-liberal market economy systems; ethnocentric nationalistic view of Japanese history denying Japan's war of aggression in World War Two, including the denial of the Nanking massacre and the issue of "comfort women"; racist policies on migration; exclusive statism based on military forces; and anti-feminism, anti-gender equality including highlighting the public-private dichotomy and family values.

¹¹³ *Ibid*, p. 10.

¹¹⁴ For extensive examples of each see, Yayori Matsui, 'The Rise of Right Wing Nationalism in the Era of Globalisation – Japanese Women Resist Revisionism, Militarism and Sexism', address at the Gender and Identity Based Politics Workshop organised by APWLD in collaboration with Komnas Perempuan, Solidaritas Perempuan, Koalisi Perempuan Indonesia and RAHIMA, 30 July-1 August, 2002, Bali, Indonesia. The report from the workshop is available at <http://www.rockmekong.org/pubs/lab-pubs/final.pdf>.

The decline in marriage and birth ratios in Japan is blamed on feminism rather than the economic system in which irregular work, uncertain income and gendered unequal social norms on housework and child-rearing, make it hard to found a family. The nationalist appeal has gained ground with those demoralised by the neo-liberal market economy. Those with low income and part-time jobs are easy prey for promises of job opportunities in the Self-Defence Forces (SDF). The US has put pressure on the Japanese government to set up war contingency legislations and militarise particularly since September 11 and the demonisation of North Korea, a member of the so-called 'axis of evil'. Business communities welcome the re-militarisation of Japan because of their interests in Asian and Middle Eastern regions for markets and oil. They also feel that the economy is more stable when backed by military power.

In this environment women are encouraged to stay at home, support their husbands and produce SDF soldiers to sustain militarisation and the neo-liberal economy. The state, which relies on the neo-liberal market economy and military for its power, needs to suppress feminist ideologies to sustain and strengthen those beliefs. Thus the state and media attack progressive movements, dissidents and women's groups. For example, anti-war activists have been arrested and detained for several months for distributing flyers and drawing graffiti, while women seeking to inform the public about rape and to undermine its occurrence have been denounced by the media. Similarly the television programmes that reported on the Women's International War Crimes Tribunal on Japan's Military Sexual Slavery [2000] of comfort women were censored and manipulated to misinform the public. In addition to continued denial of Japanese rape of Nanking and war time sexual slavery of comfort women, there is intimidation and labelling of women's activists as anti-national. The NGO offices working on anti-militarisation and violence against women receive verbal harassment through phone calls and faxes almost on a daily basis.

Part III: Women and Fundamentalisms

Women are central to all of the fundamentalist projects in Asia-Pacific as also elsewhere. As markers and custodians of community honour, they are particularly vulnerable in cultural identity projects based on fundamentalist approaches. Their bodies, their sexuality, gender roles and relations become the softest and often the first target of establishing control – moving thereon to target other arenas, freedoms and groups of people.

Typically, nationalist, cultural and religious agendas define themselves through women, constructing an 'ideal woman' that incorporates not just gendered notions of womanhood but also distinctive elements of culture, nationalism or religion that distinguishes 'their' women from those of the 'Other'.¹¹⁵ While not

¹¹⁵ See Hanna Papanek 'The Ideal Woman and the Ideal Society: Control and Autonomy in the Construction of Identity', in Valentine M. Moghadam (ed), *Identity Politics and Women – Cultural Reassertions and Feminisms in International Perspective* (Westview Press, 1994).

all women may in fact conform to the stereotype, it serves to construct the group's identity and thereby pressurise women to conform alongside sanctioning formal/informal regulation and surveillance. Besides evoking a symbol to cohere diverse, heterogeneous and unequally situated members of the community, the notion of the 'ideal woman' becomes a tool of exercising control in the following ways:

- It sharply draws the public/private dichotomy – delineating the boundaries of what may be 'respectable' reasons for public participation of women, and what may not be. Progressive nationalist movements, such as the Indian freedom struggle, promoted women's education not for empowerment of women but as a tool for modernising the Indian family to aid nation building.¹¹⁶ Similarly, in Aceh, women may participate to promote political Islam but not debate it; in Fiji where Fijian women may work for women's development but not on democracy. Therefore, women do not uniformly experience oppression in fundamentalist projects. Adherence to the ideal woman facilitates conditional public participation and acclaim for some women.
- The construction of an ideal simultaneously creates an alter image of that which is not ideal, the 'Other'. The creation of an ideal helps construct the deviants, and sanction discrimination, stigmatisation and violence against them. In parts of Malaysia and Indonesia, the headscarf has begun to mark the good Muslim woman from the bad; and with that, sanctions harassment and violence to the bad women. In other contexts, where the headscarf/veil is symbolic of an Othered minority as in India, or of the anti-modern terrorist-supporting community, as in Western Europe today, it is a subject of contentious debate.
- Mass sexual crimes against the women of the 'Other' community are an extension of the same ideology. The ideology that sees women as custodians of community honour, that sanctions punitive action against deviant women to maintain the honour of one's community, is that which underlies mass sexual brutalisation of the women from the 'Other' community. Targeting minority women – the Chin women in Burma, the Muslim women in 2002 carnage in Gujarat and the Indo-Fijian women in the aftermath of the coup in Fiji in 2000 – are symbolic of the ways women's bodies and sexuality become battle grounds for denigrating and humiliating the rival community.

The rigidly stereotypical gender roles and relations in fundamentalist projects close spaces for diversity, dissent and choice that exist even in patriarchal societies. They roll back advances made in all our societies, slowly through the independence struggle and by actions of progressive groups, in particular, the women's movements. The controls on women coalesce around sexuality across cultures, ethnicity and religions, although they manifest differently in each.

¹¹⁶ C.S. Laxmi 'Bodies Called Women – Some Thoughts on Gender, Ethnicity and Nation', in Selvy Thiruchandran (ed), *Women, Narration and Nation – Collective Images and Multiple Identities* (Delhi: Vikas Publishing House, 1999).

Part IV: Dimensions beyond Gender and their Impact on the Women's Rights Agenda

Carving a women's rights agenda in the context of fundamentalisms is not easy, for it requires addressing the politics on which fundamentalism is founded. An understanding of some of the attendant dimensions of fundamentalisms that impact the women's rights agenda is therefore necessary and briefly listed here:

Recognising the interplay of external with internal factors

Fundamentalisms or fundamentalist views exist in all societies, as part of the spectrum of opinions held or voiced. However, not always do such views find popular support or gain political power. The war of liberation in Bangladesh was an assertion of a secular nationalism over a religious one; in India the Hindu Right has existed for years without political support; in Aceh, considered more religious than other regions of the country, political Islam did not always exist. It is a conjunction of events and factors that in the history of each of the countries set the conditions for cultural identity politics to gain ground. The factors that combine to make the last decade more fertile for cultural identity projects to gain ground are a combination of the internal realities with external influences. Globalisation, its economic fall out and the polarisation of communities post-September 11 and the 'War on Terror' have spawned similar patterns of fundamentalisms and linkages between different forms that serve to mutually strengthen each rather than undermine each other.

Populism, false unity and cultural identity politics

Fundamentalisms seek to make invisible the hierarchies arising from class, sexuality, disability, caste within the collectivity so as to represent the collectivity with a single voice. Such invisibling does not enhance culture or cultural interests, but rather serves political ends – in that it enables the community to be used as a constituency for political power play. Further fundamentalisms arise and flourish within political projects that manipulate cultural, religious, ethnic and nationalist feelings – to mobilise deeply personal and populist support. It seeks to restore identity, status and dignity lost as a result of marginalisation, disenfranchisement and the erosion of traditional sources of power as during transitions. It offers a cause beyond the personal, touching the spiritual, as a result playing upon faith and belief of people – although the project is in fact wholly political. Such projects provide populist solutions, unlike social justice processes that target structural inequalities and systems for long term change but without immediate or quantifiable results. Large scale charity, relief services combined with a simple ideology that constructs a false unity and directs blame and hate at a weaker target – are some of the reasons for the success of fundamentalist identity projects. In contrast, progressive movements based on seemingly complex ideological analysis and abstract goals are not as attractive.

Impact on women in minority communities

The majority-minority dynamics in cultural identity projects – communalism/racism/ nationalism and structural discrimination results in ghettoisation of minorities, which in turn imposes greater burden on the women from the minority communities to conform and exhibit the symbols of identity and honour of the community. The external climate of prejudice and hate results in exclusion of the minorities by the dominant communities and a closing in by the minorities. Such ghettoisation inevitably reduces spaces for women within minorities to resist or dissent within their community, for fear of rupturing their community already under attack, in addition to the fear of seeming to side with the dominant community. It also makes solidarities amongst women across communities more challenging – for unless they address the external and more dominant forces of prejudice, the attention on minority fundamentalism alone amounts to reproducing the prejudice.

Part V: Responses and Strategies to Counter Fundamentalisms

The complex dimensions of fundamentalisms make any single response or strategy unviable. Similarly, the interplay of forces external with internal to communities, its transnational and intersecting dimensions, have led to a range of strategies employed by women's groups, progressive movements and progressive faith-based groups to combat fundamentalisms. The common thread in these strategies is debate on democracy, multiculturalism and secularism, asserting democracy through law and calling to account state institutions. In the private arena of culture and religion similar initiatives to promote democracy are taking place, by initiating debate and encouraging plurality of opinions and practices. These diverse strategies can be broadly collapsed into the following categories:

Asserting democracy, peace and universality of human rights

While democracy remains a contentious and much debated term, in the context of electoral endorsement to fundamentalists it remains one of the main pillars of resistance. In Bangladesh, India, Philippines, Burma, Thailand and Fiji, democracy continues to be the ethical and legal basis of the progressive movements despite the occasional setbacks. The constitutional principles of democracy and secularism have been the basis for evolving multiculturalism in these jurisdictions and served to resist identity politics rhetoric and regressive legislative developments. Law and the superior judiciary have been important sites of contestation – for both the fundamentalists and the progressive movements. Given that many of the progressive and the women's movements in South Asia have their roots in the independence struggle and its principles of dignity, equality and freedom, they continue to use these as their inspirational and ethical principles for mobilisation even today. The Women's League of Burma, for example, continues to advocate non-violence, accountability and democracy in its resistance to fundamentalisms.

The women's movement in Pakistan saw inequality as the first signs of erosion of democracy and have mobilised strongly for women's rights as well as democracy, with one leading proponent noting

that 'it is unreasonable to expect that a regime that suppresses the rights of the bulk of the population will grant them to women'.¹¹⁷ They therefore paved the way towards non-sectarianism and showed that despite Zia's repressive environment, mass organising is not only possible, but necessary. According to Hina Jilani, over the years, women have been engaged in the debate on regional insecurity and instability and its links to critical domestic issues like poverty, economic and social disparities, discrimination, and development. The need for peace was never a mere slogan for women and other peace activists, but one rooted in the impact on women of militarisation of Pakistan by the US to serve its ends in Afghanistan and the increasing violence unleashed by the ultra right in the name of Islam.

Similarly in Fiji, democracy and racial equality are fundamental to the work of the women's movements that were instrumental in peacefully defending the 1997 Constitution. The National Council of Women (NCW) sponsored daily multiracial peace and prayer vigils that later grew into the Fiji Blue Ribbon 'gender and identity-based politics' Campaign which eventually took the form of the Fiji Blue Democracy Campaign. The Democracy Campaign was initiated by the NGO Coalition on Human Rights and Democracy made up of mostly women's NGOs and other groups such as the Citizen's Constitutional Forum. This coalition of NGOs harnessed its enormous intellectual resources to challenge the abrogation of the 1997 Constitution.¹¹⁸ Organisations such as Fiji Women's Rights Movement (FWRM) assert that they cannot improve the status of women unless they rally for a multiracial democracy, emphasising the strong relationship between democracy, recognition by the state of human rights and the attainment of women's rights.

Rule of law, constitutionalism versus culture-based plural legal systems

Assertion of rule of law and rights for many activists has been firmly rooted in secularism. Hina Jilani explains in relation to Pakistan that this approach has nothing to do with the potential of Islam to offer equality or gender justice, rather it stems from the conviction that laws have to be clear and unambiguous.¹¹⁹ The administration of justice can be severely hampered if laws emerge from different understandings or perceptions of religion, making their application uneven and contingent upon the religious, moral and social beliefs of those administering the laws. Islam, like many other religions, has sectarian and denominational differences. If a national polity is founded on religion, these differences will be manifested in political tensions as well as oppressive restraints on dissent. Those able to gain power enforce their brand of Islam, whether liberal or orthodox, which is not conducive to creating a stable foundation for the promotion and protection of human rights or of democratic norms in the Pakistani context.¹²⁰

¹¹⁷ Shahnaz Rouse, 'Women's Movement in Pakistan: State, Class, Gender', *South Asia Bulletin*, vol. 6 (Spring 1986) p.15.

¹¹⁸ Koroï, 'Paradoxical Snapshots in Post-Coup Fiji', above, n 81, p. 70

¹¹⁹ Interview with Hina Jilani by Nermeen Shaikh of *Asia Source* July 28, 2007, available at http://www.asiasource.org/news/special_reports/jilani.cfm.

¹²⁰ *Ibid*.

Hina Jilani also questions the common assumption that social change rather than the law should lead the social transformation. The centrality of legal assertions by the women's movement in Pakistan, to challenge culture based defence to violence against women has overturned this assumption. Although honour crimes enjoyed wide social support in Pakistan, putting women human rights defenders like her to additional risk, the campaign mounted at the national and international levels on Samia's killing, finally impacted judicial outcomes. Assertion of rule of law to defend women's human rights cannot be made contingent upon social change. Despite lack of explicit law on the subject, the campaign was able to considerably change court verdicts and public opinion against honour crimes.¹²¹ Although the courts by and large have accepted the plea of 'provocation' to mitigate honour crimes on the belief that family or male honour lies in controlling the sexuality of women he is related to, this has begun changing.¹²²

Dr. Faustina Pereira, advocate of the Supreme Court of Bangladesh and a member of the women's rights organisation, Ain o Salish Kendra (ASK), has noted that NGOs, legal aid organisations, women's and human rights groups, in Bangladesh continue to play a significant role in utilising the law and legal process to help women and men adopt strategies to address, challenge and confront harmful cultural or religious interpretations.¹²³ For example, they have taken up, with a high degree of success, specific issue-based interventions in courts to address harmful cultural practices and violence against women. Although in 2005, 46 *fatwas* were reported, only four of these were prosecuted.¹²⁴ In January 2001 two high court judges took *suo motu* cognisance and issued a judgment declaring it unlawful for any authority other than the courts to proclaim *fatwas*. Lobbying for legislative reform has also brought success in regards to the permissible marital age and other important legal loopholes for women's rights in Bangladesh.¹²⁵ Other women's rights activists continue to advocate the return of secular constitutionalism.

¹²¹ Mehra Madhu, 'APWLD's Advocacy at the UN Human Rights Council', *Forum News*, vol 20, No. 3 (January- April 2007).

¹²² See the case of Abdul Zahir vs The State, and Mohamman Akram Khan vs the State, as discussed in Sara Hossain and Lynn Welchman (eds), *Honour Crimes, Paradigms and Violence Against Women* (London: Zed Books 2005).

¹²³ Dr Faustina Pereira, 'Addressing Harmful Cultural Practices through the Law: Experiences from Bangladesh', presentation before UN Special Rapporteur on Violence against Women: Session 4: "Protecting Rights, Preventing Abuses: Strategies for Addressing Culture and Violence Against Women", Mongolia (September 12, 2006).

¹²⁴ *Ibid*.

¹²⁵ After much lobbying with the Government by women's groups, changes to the Law on Suppression of Violence Against Women and Children (2000) was brought in 2003 and raised the age of statutory rape outside marriage from fourteen to sixteen years. Recognition of women's consent to be taken into 'safe custody' was given as well as specific recognition of, for the first time, 'sexual harassment' and 'sexual assault'.

Due to increasing activism and pressure from women's movements, the government has reviewed legislative policies, introduced institutional support and health services and used the media to promote awareness. Legal steps taken to address gender based violence include the Child Marriage Restraint Act, 1929, the Muslim Marriage and Divorce Registration Act, 1974, the Cruelty to Women (Deterrent Punishment) Ordinance, 1983, the Muslim Family Laws Ordinance, 1961, the Family Court Ordinance, 1985 (Ordinance No. XVIII of 1985) and the Prevention of Repression of Women and Children Act, 2000 and the Promulgation of (Amendment) Ordinance inserting the new section 326-A in the Penal Code (which provides capital punishment for acid throwing). Periera, 'Addressing Harmful Cultural Practices through the Law', above, n 118.

In Malaysia, women's groups such as Sisters in Islam have strongly resisted legislative proposals that seek to exempt Muslims from the application of criminal laws in relation to women, thereby curtailing the expansion of Islamic law to new areas. In 1994, they successfully lobbied to ensure that the newly introduced Domestic Violence Act was applicable to all Malaysians, including Muslims.

In Japan despite growing sexism, stigmatisation and intimidation, women's activists have nationally and through regional and global solidarity persevered with accountability on each retrogressive interpretation of Japanese history – holding the War Crimes Tribunal that indicted the Emperor of Japan in Tokyo in December 2000, repelling the adoption of historical revisionist text books through citizen's movement, and advocating for the adoption of legislation on gender equality.¹²⁶

Reinterpretation of texts – working from within

Not all progressive groups or movements are driven by constitutional ethics alone, but rather have organised around religious and cultural identities. Some because that is their primary identification within which emancipatory agenda is derived, others as a strategic response to the totalitarian threat posed by fundamentalist projects to their faith and tradition. Many women's and faith based groups have responded to the real challenge posed by the hegemonic usurpation of religion and culture by fundamentalists. They establish their cultural and national citizenship by asserting their right to contest and debate the unitary textual readings of fundamentalists, thereby challenging their monopoly over religious texts and culture. Such responses, located within the fold of faith – assert democracy and plurality, and thereby question the power inequalities that static and homogenous representations are based on.¹²⁷

Islam, in particular, has seen transnational networks and solidarities that challenge transnational political Islam. One such example is that of Women Living under Muslim Laws, which is an international solidarity network providing information, support and a collective space for women whose lives are shaped, conditioned or governed by laws and customs said to derive from Islam. Similarly Sisters in Islam in Malaysia has led nationwide protests against every legal, social and political change towards 'Islamisation', with a measure of success in stalling the pace of roll back and very successfully in opening and expanding spaces for debating the interpretations within Islam. They assert that Islam in a modern democratic society must search for solutions facing the *ummah* through *ijtihad*, an *ijtihad* that is neither the monopoly of a few nor under conditions that are exclusive, restrictive and intimidating. Their advocacy is directed towards informing, inquiring, dissenting and debating issues openly – through memorandums to the government on policy reform, media campaigns and letters as well as public education campaigns to build a constituency that would support the development of an understanding

¹²⁶ Yayori Matsui, 'The Rise of Right Wing Nationalism in the Era of Globalisation', above, n 108.

¹²⁷ Madhu Mehra, 'Women's Equality and Culture in the Context of Identity Politics', 2007 Journal of Comparative Law [JCL 2:2]

of Islam that upholds the principles of justice, equality, freedom and dignity within a democratic nation-state.¹²⁸

Central to the advocacy work of Sisters in Islam is the research into the interpretation of the Qur'an which feeds into writing and press statements on contentious issues where the conservative religious authority or the Islamist movements are pushing for laws and policies that discriminate against women or violate fundamental liberties. The organisation was able to enjoy success in its campaign against the T'gganu Hudood Bill by generating widespread debate within newspapers as well as contacting the minister of women with detailed arguments suggesting that the cabinet take a position against the bill. By opening up the public space for debate, all kinds of women's groups, political leaders - both in government and in opposition -, and Islamic scholars spoke up against the bill. It eventually forced the Terengganu state government to backtrack and propose amendments to the discriminatory provisions against women.

Similarly in Bangladesh, given the punitive use of blasphemy laws, and threats of violence by the religious right to those who criticise their monolithic religious pronouncements, have compelled several progressive groups to shift the basis of their public discourse from the promotion of secular and liberal values, to the engagement within and about religion. The shift has been necessitated because those seeming to challenge religion based politics are at risk of death threats, violence or legal action, reducing the space for asserting secular values. These changes have made engagement with religion and expression of diverse views within religion a more palatable way of resisting the religious right.¹²⁹

Finally, located within the dialogue on the 2000 coup in Fiji, unlike its predecessor, was Methodist and Christian groups debating, and articles in the media emphasising, the humanist and spiritual dimensions of their faith, in effect contesting the Fijian nationalist version of Christianity. The significance of this approach lies not just in the potential for emancipation through religion, but also in the challenge it poses to the self-appointed male religious leadership and their political interests.

Women's empowerment/ building capabilities

Another approach, commonly pursued, is to focus on building women's capabilities through better health care, education, and livelihood opportunities. The focus is to empower women, by creating enabling conditions that build their decision making capacities, making available more choices, rather than directly asserting rights and freedoms. This is a particularly common strategy in post-conflict situations or where poverty and social marginalisation combines to create conditions for fundamentalism to gain ground. The strategy helps mobilise women for livelihood and rehabilitation – with a long term

¹²⁸ Nora Murat, 'Sisters in Islam: Advocacy for Change within the Religious Framework', in Ayesha Imam, Jenny Morgan and Nira Yuval-Davis (eds), *Warning Signs of Fundamentalisms* (London: Women Living Under Muslim Laws, 2004), pp. 141-146.

¹²⁹ Sara Hossain, 'Apostates, Ahmadis and Advocates', above, n 16, p. 95.

strategic eye on empowerment, creation of capacities and spaces to develop and strengthen women's leadership.

The Women's Aid Foundation in Pakistan has, for instance, been conscious to initiate discussions on topics of immediate concern to women: child labour, growing narcotics use, scarcity of public services and crimes against women. They have conducted serious research on the status and condition of women in order to concretise their position and activities. By setting up legal, publicity and research cells to provide information and infrastructural backup support they seek to not merely let the government set the agenda, but rather allow women to be informed of and educated on their suppression and take action on that matter.¹³⁰ The assertion on being non-political has served the organisation well in empowering women through information.

Interfaith dialogue

Dialogue across faith, religion and cultures to agree upon commonalities in traditions, principles and values has been a powerful way of challenging divisions and separations of cultural identity projects. Examples of this are common across nations, such as in India, Indonesia, Thailand and Fiji. In Indonesia notably, such dialogue has been initiated by women's groups, to challenge the notions of cultural separateness projected by fundamentalist assertions of monolithic cultures existing in opposition and hostility to each other. It also serves to develop truly universal values shared across religions and cultures, particularly those of dignity, tolerance, coexistence and non-violence, thereby developing support and consensus for human rights.

Likewise in Thailand, interfaith meetings between Thai Buddhists and Thai Muslims, common prayers, seminar discussions and documentation have helped cultural exchange and appreciation between the two communities and bridge the polarity between them. Women's groups also formed the Women for Peace Network in May 2004 to offer relief, support and crisis services for Muslim women affected by violence, especially from the three southern provinces. Intensive advocacy and human rights monitoring nationally and internationally have drawn attention to each of the cases and eventually, pressured the government to agree upon constituting an independent reconciliation committee to counter the deteriorating condition in the South. Their work includes fact finding, peace initiatives and activities for youth and women that promote reconciliation.

¹³⁰ Rouse, 'Women's Movement in Pakistan', above, n 118.

Multiculturalism

In India, secularism is defined by the Constitution as absence of state support to religion and respect for all religions – laying the framework for multiculturalism. Its practice, interpretation and boundaries in most situations remain a subject of debate - in particular, when does multiculturalism gets shaped by the ideology of the dominant culture and when does it get used to appease minority fundamentalism.¹³¹ Multiculturalism is a concept contentiously debated in Western Europe and North America – proposed as an expression of acceptance or assimilation of other/immigrant cultural values by liberals but contested by those who see it as a route of sanctioning traditional practices and values on women from immigrant communities.¹³²

In the context of multiculturalism and identity politics, Isis International, based in the Philippines, has applied strategies within the media for combating intolerance. They note countless examples of how false reportage has inflamed ethnic, religious and nationalist sentiments, and resulted in brutal conflicts and even genocide (in Rwanda). The organisation advocates that media institutions must develop self-imposed ethics and codes of conduct, to be monitored by an autonomous media monitoring body which does not allow for governments to further develop their censorship codes.¹³³

Syncretism

Progressive artists, cultural groups and women's groups have focused on recovering and celebrating shared faith, practices to call attention to syncretic traditions that have historically existed within societies to counter the forced separation of communities advocated by cultural identity politics. In South Asia in particular, songs, festivals, shrines and practices from the Sufi and Bhakti traditions that have continued through time and continue to flourish have become valuable spaces for progressive groups to assert the fusion of faiths. These powerful examples of how boundaries of religion merge to form regionally unique expressions of faith and fused practices are testimonies to the tradition of composite cultures rather than conflicting cultures in our histories. Reviving and celebrating these are seen as an important challenge to the current intolerance, fundamentalist and divisive representations of culture.

¹³¹ Gita Sahgal, 'Two Cheers for Multiculturalism', in Ayesha Imam, Jenny Morgan and Nira Yuval-Davis (eds), *Warning Signs of Fundamentalisms* (London: Women Living Under Muslim Laws, 2004), pp. 51-661; Samia Bano, 'Muslim and South Asian Women – Customary Law and Citizenship in Britain', in Nira Yuval-Davis and Pnina Werbner (eds), *Women, Citizenship and Difference* (London: Zed Books, 1999), pp. 162-177.

¹³² For debates on the subject, see Joshua Cohen and Mathew Howard (eds), *Is Multiculturalism Bad for Women? Susan Moller Okin with Respondents* (Princeton: Princeton University Press, 1999).

¹³³ Susanna George 'Strategies to Challenge Identity-Based Intolerance', address at the Gender and Identity Based Politics Workshop organised by APWLD in collaboration with Komnas Perempuan, Solidaritas Perempuan, Koalisi Perempuan Indonesia and RAHIMA, 30 July-1 August, 2002, Bali, Indonesia. The report from the workshop is available at <http://www.rockmekong.org/pubs/lab-pubs/final.pdf>



While women may be the first and the softest target of cultural identity politics within which fundamentalisms grow, it expands its frontiers beyond women to erode democracy by closing spaces for debate, dissent and political participation. Women's rights agenda must therefore go beyond the actual violations to address intersecting concerns. Engagement with cultural identity projects in the region demonstrates and highlights the need to challenge dimensions that fuel fundamentalisms such as majoritarian democracy, social exclusion and stigmatisation of communities as well as militarism. Most critically, women's rights agenda must mobilise on democracy – not just in relation to political processes and the state but, also, in relation to the so-called private arena of culture and religion where the hegemonic trends get emotively established.