

Comments and Discussion

“Looking at the Whole System”

The complex interpenetration of civil and religious authority in Southeast Asian nation-states means that the question of what is discriminatory—whether a particular practice subjects women or protects them—is at the center of debates about the legal regulation of family life. The comments here by Sulaiman Abdullah provide a helpful starting point for understanding this debate. His comments discuss the status of women in an Islamic society, responding to points raised by Juree Vichit-Vadakan on the Buddhist prohibition against women touching monks and by Omas Ihromi on exclusive male inheritance among the Toba Batak. Sulaiman Abdullah describes at some length a perspective that he characterizes as “looking at the whole system.” As we will see in the exchanges that are produced in later sections of this symposium, understanding the context of gendered rules is all-important. Exchanges among conference participants were often about which context, among several that might be perceived, is most meaningful for understanding the effects of rules.

SULAIMAN ABDULLAH

When Juree Vichit-Vadakan mentioned that women may not touch monks because of the issue of pollution, I was reminded of what Yoneo Ishii said yesterday about equating Muslims with monks. In the Muslim tradition men and women are not supposed to touch each other. For many Malaysians the Western custom of shaking hands causes a lot of emotional pressure. The king himself found this to be true. The king is the chancellor of the University of Malaya, and traditionally when the king gives out degrees during convocation, he shakes the hand of the graduate, hands the scroll over to the graduate, and automatically puts out his hand. But the king found that many of the Muslim women who were coming forward did not take his hand because of this religious prohibition against touching a strange man. The Muslim position is that there are no halfway measures. If you want to touch a woman, you have to marry her. So the question of polygamy can be seen in a new light: if a man wants to have anything to do with any other woman [than his wives], then he has to marry her. Anything short of that, which may be allowed in other societies—a man can have concubines, he can joke with women, and so on—is not available in Muslim society. Polygamy, which is so often seen as some sort of incentive or gift for men, may not be so in the sense that if a man wants to do anything

with another woman, he has to assume the enormous consequence of marrying her and supporting her.

What I found particularly interesting in Omas Ihromi's paper was the question of the inheritance of property to perpetuate the line of descent. Among the Muslims in Malaysia the Islamic law of inheritance is followed, though some people may not understand it. For example, I had a woman client who was a doctor; she was married to a doctor, and they had a daughter. The marriage had broken down, and she was talking to me about ensuring that her daughter got something out of the marriage. I said: "Look, aside from everything else, that you and your husband are divorced does not alter the fact that this girl is your husband's daughter and your daughter, and she is going to inherit from both of you. When your husband dies, she is going to inherit from you." And she said, "No, she cannot, because she is a girl." I said that according to Islamic law, whether she is a girl or a boy she has the right to inherit. The shares are different, but the right to inherit is guaranteed.

Traditionally, within the same class, the man has two shares and the woman has one. Looked at from one perspective, that can be seen as discriminatory. But the Malaysian government has taken the stand that you must look at the whole system before you decide that a particular law is discriminatory. According to Islamic law, the wife has no obligation whatsoever to contribute a single cent to the household. Whatever she earns is entirely her own. Whatever the man earns goes toward supporting himself, his wife, and the children. The woman has no responsibility to support the children, she has no responsibility to support the household, she has no responsibility to cook or clean. Whatever she does is a bonus for the husband. If you look at inheritance from this perspective of the responsibilities and obligations of the man, then what seemed discriminatory seems to be evened out. People look at rights with regard to inheritance, but they don't look at obligations with regard to maintenance. And this is what the Khadi has always emphasized. A man might be divorced, his wife might have guardianship of the children, but maintenance of the children is his duty until they are able to support themselves.

Construction and Implementation of the Law

The complexity of interpreting what is discriminatory and the notion of perspective (looking at the whole system and the gendered assumptions that drive it) are tied to the question of how abstract goals (equality, nondiscrimination) that are agreed to in principle may be achieved in practice. The question is taken up in the following exchange between Sulaiman Abdullah and Omas Ihromi and in a comment made later in the day by Mehrun Siraj regarding strategies for bringing about desired changes in the status of women.

SULAIMAN ABDULLAH

Omas Ihromi's presentation raised the question of using law as an instrument for social change. One of the governments that uses law most effectively this way is that of Singapore, because it is in a position to implement its desires very rapidly and very efficiently. For example, in 1961, when the People's Action Party government introduced the Women's Charter, they introduced the concept of monogamous marriage among

non-Muslims and made a very strong and effective law. But there seems to be a difference in the perceptions of the Singaporean and Malaysian governments, on the one hand, and other governments in the region, on the other. Franz and Keebet von Benda-Beckmann mentioned that Supreme Court decisions are sometimes ignored or just treated as a bargaining counter in Indonesia. But in Singapore and Malaysia this concept would be very difficult for the people in power to accept. As far as they are concerned, if a law is passed, it has to be implemented. If a decision is given by the court, it has to be implemented, and contempt of court powers are very extensively invoked in Malaysia to ensure that court decisions are followed. Perhaps in Indonesia law is used as an instrument of social change in the sense that it is put there as an expression of the national aspirations that the community or the people are supposed to work toward. In Malaysia and Singapore the approach is to change people's perceptions first, to prepare them for the law, then pass the law, and, if the law still has not got general acceptance, then to defer the implementation of the law; the law is not brought into force until such time that the government is convinced that there is sufficient community acceptance to implement it successfully. Thus, for example, Omas Ihromi mentioned that the Convention on the Elimination of All Forms of Discrimination against Women has been accepted and signed by the Indonesian government, and Myrna Feliciano says it has been accepted by the Philippine government. The Malaysian government, as far as I know, still has not accepted it, and neither is sex discrimination mentioned in the Malaysian Constitution. Article 8 of the Malaysian Constitution, which addresses equality in the law and equality before the law, mentions other aspects of equality, such as race, descent, and residence, but does not mention sexual equality.

OMAS IHROMI

But perhaps the style in Malaysia and Singapore—especially in Singapore (population 2 million), which is a fifth the size of Jakarta—differs from the style in Indonesia. For us it is very difficult to ensure that when we introduce a law, it is enforced. Because of our 180 million people, some still living in the hills, some very modern and with different needs, we need this convention. But there are certain limits for those who would like to make laws work for them. They can go to court, you see. And people's behavior will be more or less affected because the case is publicized. But governments and people who study law must be aware that there are subtle processes going on when they would like to make people accept laws that touch on deep-seated values. Unless that is understood, I think it is a little bit difficult to ask people to act according to the law.

MEHRUN SIRAJ

Since 1975, which was the International Women's Year, we have been very conscious of the laws that discriminate against women and doing research into those areas of the law. I suppose in that sense the United Nations' declaring certain years the woman's year, the child's year, and so on, has been a catalyst for law reform in Malaysia. But the Convention on the Elimination of All Forms of Discrimination against Women has not been accepted by our government, and I think it is not likely that the government will want to accept it. As a sort of substitute, the government has adopted a national policy on women, which was, in fact, drafted by the women themselves through a series of workshops and seminars held throughout the country. These were small groups to which women came to say what they wanted, what was wrong with their lives—for example, the

right to inherit under customary laws in east Malaysia. Such things were brought up at the workshops and incorporated into this national policy, which is going to be the basis for action in Malaysia. So although we don't have the convention, I think that we will be eliminating discrimination against women through our own national policy. And I think probably that will be a more acceptable way of doing things insofar as the government is concerned. I think the government doesn't like being told from outside what to do in the country. But if your own people are saying, "This is what we want," then it is easier for the government to accept it and to bring about changes.

All this is tied up with strategy—something I realized because since 1975 we have done a lot of research, we have put up a lot of recommendations, but our suggestions haven't come about because basically it was we against them. It is as though we were in confrontation, and I realized that this strategy would not work. So we changed our ways and said, "It is all of us together, working together." Particularly in relation to Islamic law, we worked with the Islamic religious department, with religious officials themselves, getting them to discuss what their problems were and what our problems were. Getting together was a more effective way of bringing about changes, because then they saw what our problems were, and we could understand why they were doing things, and we could tell them, "Well, maybe if we change things a bit, it would work out better."

Gender Equality as Westernization

The discussion about the practices and laws that should be considered discriminatory and about strategies for change led into a lively exchange about what the source of concerns about discrimination was and whether legal efforts directed toward the rights of women were specifically Western—"a virus creeping in from the West that leads to this kind of panel even happening" (Robert Kidder). Participants pointed to the ways that local cultural patterns and practices intersect with translocal influences to create new movements and values.

ROBERT KIDDER

When Juree Vichit-Vadakan said that Thai women would not even think about being prime minister, it occurred to me that the reasons are very similar in Indian society and perhaps in Sri Lanka, Indonesia, maybe even the Philippines. Yet India has had a woman prime minister, and so has Sri Lanka; the Philippines has a woman president, and there are women in high positions in India. Why is Thailand different? This is an important question to ask. To talk about Western influence seems superfluous, or perhaps labeling what we are talking about as Western is irrelevant. What we are talking about is what is going on in societies driven by economic changes, driven by urbanization, driven by other factors. Why call that Western?

MYRNA FELICIANO

I think Western concepts came into the International Convention on the Elimination of Discrimination against Women, making them international concepts. All of us who were signatories to the convention tried to see what laws in our society should be amended to conform to such an

international norm. But instead of saying, "There is Western influence," we should ask, "How do our precolonial customs come in?" Nobody has done research on that.

ROBERT KIDDER

But where are the boundaries of what you—and others—are calling Western? You said that an international standard has been set up. Where did it come from? Some people would say that it came from Western influences, that it is based on concepts that are basically Western. But what does that mean? Thousands, millions, of people in the United States disagree with these so-called Western concepts for being too liberal. And there is disagreement in the West about what we are calling Western values and Western concepts here. What part of what we are talking about is Western, and what part is something else? It confuses the issue to identify these things as Western.

JUREE VICHIT-VADAKAN

Westernization has influenced the concept of beauty. In that sense, what I meant by Western was the commercialization of beauty products, of activities related to beauty, including the concept of beauty. To be pretty a woman has to be slim; she has to starve herself to death, to have no wrinkles on her face, and so forth. Those are Western notions in that they have been imported into the East, but the concern for beauty, as I said earlier, has been a lifelong, a century-long preoccupation of the Thai people. Women had to fill a role that required them to be ever pleasing to men. There is nothing Western about that. But westernization as we may have used it in the last two days in fact relates to the commercialization of products, the influence of new ideas, even feminism, which began in the West, though we might be practicing it differently in Thailand. But the idea of a critical examination of the male-female relationship really started in the West.

KEEBET VON BENDA-BECKMANN

It would be a mistake to think that the particular values we are talking about are shared by all people in the West—that is not the point. The point is whether a particular norm and a particular way of dealing with the norm, for instance, in antidiscrimination matters and feminism—a particular way of dealing with the norm in legal terms and enhancing antidiscrimination through legal means—originated in the West. This is not to say that this way of thinking is shared by all people in the West, nor is it to say that criticism of male-female roles has never occurred in the East.

OMAS IHROMI

In analyzing social change you often need a term that is more or less an abbreviation, and "Western influence" is a stenographic way of depicting all the various matters that come from the outside and are impinging on traditional cultures. So although I agree that we should be more cautious in using the term, sometimes it is very easy to say, "Oh, from the West," and "It's a little bit bad. We were very good before they came." I would like to give an example of a concept that did not exist in pre-Indonesian cultures: the concept of the unity of a family. The colonial government made us more or less accept that when a family deals with the outside world, then there should be one financial spokesperson. This has created much misery for women. It denies all the functions of their existence before then, when there was economic duality in the family unit.

The Remaking and Undoing of Tradition

The essays by Juree Vichit-Vadakan and Omas Ihromi generated considerable discussion about the flexibility and persistence of traditional family forms and values in urban settings. On the one hand, the traditional family was seen as a buffer for people experiencing the dislocation of migration to the city; on the other, it was seen as a barrier to rights claims, binding women to traditional forms and relationships even as these were being remade through wage labor and a market economy. As in the exchanges about westernization, there was concern about the negative impact on women and the family of absorption into a market economy and into a system of “Western” values that was simultaneously liberating and oppressive as women became the objects of new forms of exploitation.

FRANZ VON BENDA-BECKMANN

Regarding the increasing importance of kinship relationships and fictive kinship relationships under the new urban conditions, a point that Juree Vichit-Vadakan made, the question is, Have the normative implications of kinship relationships changed, becoming less coercive, less based on traditional obligations of kinship?

JUREE VICHIT-VADAKAN

The main point was that fictive kinships have proliferated under circumstances of social dislocation. Kinship relationships and family have been strengthened, but on different grounds, as you have said. The family itself is no longer a productive unit. Children have independent sources of income through wage earning, and so forth. In the interviews that I have conducted with migrants, young women who came to work in the city said they feel proud when for the first time in their lives they give money to their parents instead of asking for money from them. As a result, the strain in family relationships is eased by independent sources of income. At the same time, extended families have declined in the urban setting, which is extremely alarming to me as an anthropologist, because the extended family, for all its faults, did give children comfort and alternative sources of role models within the family. If children were not loved by their father or mother, they had an uncle who loved them, a grandmother who favored them. Children could get psychological stability and comfort and love and nurturing from a variety of adults in an extended family. But with the decrease of extended families in the urban setting and the increase of women in the work force, children are becoming—I can see the future trend—very much like displaced, unhappy, unsatisfied Western children.

MEHRUN SIRAJ

In Malaysia, because of the industrialization program, a lot of women are leaving the villages and going to the industrial centers to take up employment. This has resulted in more women in the work force, which on the one hand is looked upon as a great development for women, great progress in the sense that instead of working on family farms, where they are unpaid, they now work in factories, where they earn money. But it has also given rise to exploitation of women. Employers prefer to employ only women in a section, and because there are no men, they can avoid the

equal pay for equal work principle and pay them very poorly and provide very poor working conditions. Although we have labor laws to protect women, enforcement is not too good, so women are treated very badly. Recently we have realized that they are paying costs in other ways as well. In electronic factories, for example, because the women use microscopes constantly, they are losing their eyesight. In other factories, textile factories particularly, they are losing their sense of hearing because of the noise level; and the dust and fibers that are being inhaled are creating a lot of lung problems, and so on. These are costs; but we want to industrialize and modernize, so we tend to play down these issues as being not too important; we talk about letting women develop to their full potential and allowing them into the work force.

Another difficulty is that when women leave the villages, those left behind are the elderly and the very young. Farm work, especially rice planting, used to be done by women. That is hard work, and the young women did it. Since the young women are not there, a lot of paddy land is idle. Now we are importing rice, and I am not sure whether that is good for the country. One way of overcoming this migration-related difficulty has been to set up industrial centers in the villages themselves so that the families can stay together. The extended family is also breaking up in Malaysia.