

# The Struggle for Women's Rights in Malaysia

## A Review and Appraisal of Women's Activism in the Eighties and Nineties

by *Shanthi Dairiam*

*Cet article se penche sur l'origine des luttes des femmes en Malaisie et l'auteure met en relief tout ce que les Malaisiennes ont accompli pendant les années quatre-vingt et quatre-vingt dix. À cause d'une*

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*nouvelle conscientisation sur la violence faite aux femmes, ces décennies ont vu des groupes d'activistes émerger pour dénoncer cette violence. En fait, l'adoption d'une nouvelle politique nationale malaisienne sur les femmes et son intégration dans le Sixième plan malaisien est l'une de leurs plus grandes victoires.*

The first mobilization of women in Malaysia took place in the interests of the nationalist struggle in the forties (see Ng and Yong; Ng and Mohamed). The struggle, however, was organized along ethnic lines.<sup>1</sup> Gender was never an issue. Women's participation in bringing about change in Malaysia has thus to be seen in the context of the ethnic plurality of Malaysian society. To this day women's participation in politics is restrained because of the structural ethnic divisions of the party politics system.

In pre-independence days, women in the right wing tradition played supportive roles, facilitating the success of men. There was no question of power sharing. It was in the left wing tradition of the anti-colonial struggle that women began to raise issues of gender oppression. They mobilized around issues of women's representation, the suffrage, and women's eman-

icipation from oppressive tradition and culture. With the banning of all left wing political groups by the then British government, Malaysian politics lost both left wing and gender perspectives. Today women's organizations in Malaysia range from wings of political parties to government sponsored groups to non-governmental organizations. Some are welfare or service oriented, others have middle class affiliations and engage in activities that suit their interests, and some are based on professional interests.

Since the sixties, women's groups have been responsible for a substantial level of legal and administrative reforms on a variety of issues pertinent to women. Foremost in advocating these reforms has been the National Council of Women's Organizations (NCWO), an umbrella organization formed in 1963 with a current affiliation of 76 women's organizations.

Among the reforms brought about are equal pay for women in the public sector, entry of women into the civil, diplomatic, and legal service, reforms in income tax and pension laws, the implementation of a uniform civil marriage and family code for non-Muslims, and administrative reforms pertaining to Muslim Personal Laws. The NCWO has also successfully advocated for the appointment of women as jurors and as members on State Islamic Boards and the National Islamic Council.

The eighties has seen the emergence of activist groups galvanized into action as a result of a new found consciousness around the issue of violence against women. In 1982, the first shelter to help women with the problem of domestic violence was set

up in the capital city by a group called the Women's Aid Organization (WAO). Gradually there was a growing awareness among other women's groups as well as individuals that women faced various forms of violence which were tacitly condoned by society and which never surfaced as an issue of social concern. In 1985, WAO, the Association of Women Lawyers, the Women and Media Program of the Selangor Consumers's Association, the University Women's Association, and the Women's Wing of the Malaysian Trade Union Congress formed a coalition called the Joint Action Group Against Violence Against Women (JAG), and a campaign on all forms of violence against women was launched on March 15, 1985.

Over the past ten years (1985-1995), this campaign drew in almost the entire spectrum of women's groups in the country, and eventually focused on two forms of violence against women: rape and domestic violence. This campaign resulted in the reform of laws pertaining to rape in 1989 and the enactment of a domestic violence bill in 1994. A major achievement has been the adoption of the Malaysian National Policy on Women by the government, and its subsequent integration into the Sixth Malaysia Plan.

### **Strategies to combat violence against women**

Initially the JAG campaign raised public consciousness about the complex ideological, social, economic, and institutional arrangements that contributed to the prevalence of violence against women. The public workshops of the campaign addressed various aspects of male domination such as the value systems that subordinate women, legal discrimination and ineffectiveness of law to protect women against violence, female poverty and

unemployment, lack of minimum wage legislation, abuse of women in the media, the failure of male dominated unions to address the sexual harassment of women workers, the lack of support services for victims of rape and domestic violence, etc. (JAG.)

One of the strategies used for the campaign was extensive media publicity. At first, attention was focused on all forms of violence and their root causes as well as the search for holistic solutions including the repeal of all discriminatory laws (see NCWO). However, as the media started to highlight individual acts of rape that were particularly violent, the campaign began to centre around rape and on promoting legal reform to punish the rapist. The climax of the media blitz came in 1987 when over a period of five months five brutal child murder-rapes occurred. Public attention was riveted by these individual acts of rape against children and punishment through the law was aggressively promoted.

This was the turning point in the campaign. The media thrives on sensationalism for profit-making. By reducing complex social phenomenon to the simplicity of individual events, it drew attention away from the systemic nature of violence, delinking it from its cultural, social, and economic contexts. Although the trauma of individual acts of violence cannot be underestimated, it is even more critical that the dynamics of gender based violence be studied for its significance over time and the manner in which it is used by men to exert authority and control over women on a day-to-day basis (Dobash and Dobash). The JAG campaign permitted the media to take over and dictate what the focus would be. A word of caution about working with the media is therefore necessary (see Dairiam).

Any campaign to bring about social reform must contain messages that are both contradictory and competing if they are to bring about social change. The messages must contradict the existing ideology and must compete with other proposals

for consideration (Dobash and Dobash). The Malaysian women's campaign against violence should have carried messages such as "equal rights for women" or "an end to male domination." These would have contradicted the existing ideology of male domination and would have presented a comprehensive framework of proposals for change that would have competed with the national mainstream agendas. By confining ourselves to the very specific demand for legislative reforms to address the crime of rape and by neglecting the issue of domestic violence we lost the opportunity to critique male dominance. It is not difficult to rouse public censure over rape which is seen as deviant behaviour of individual men, more so when the victims are children. Such a stand does not, however, contradict the existing social order. Also, the demand for legislative reforms to punish rapists, once achieved, could not lead to other changes. Such short term goals should be part of a larger framework for social change.

#### **The enactment of the domestic violence bill**

Although the campaign for the enactment of the domestic violence bill was not as publicized, women worked very hard to participate with the relevant authorities, primarily the

erned by the Syariah<sup>2</sup> in all personal matters. There was therefore a great deal of debate as to whether the civil courts could have jurisdiction to try perpetrators of spousal abuse if they were Muslims. The women's groups had carried out some research on experiences of other countries in the enactment of a domestic violence bill and had concluded that women needed to have the option for civil remedies if they did not wish to invoke the criminal proceedings available in the bill. The experience in other jurisdictions around the world had generally shown that there were tremendous social and cultural impediments in the way of women if they were to have their husbands prosecuted. It was felt that women would really benefit from the availability of workable protection orders and easy access to the courts for civil remedies pertaining to compensation, divorce or separation, obtaining custody of children, and other ancillary claims for maintenance, etc.

While there was a symbolic value in having spousal abuse categorized as a crime, the conclusion, borne out by experience, was that criminalizing the act would have to be accompanied by creative and progressive interpretations of the crime and provisions for its implementation. Under the existing provisions of the penal code, most instances of spousal abuse

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Attorney General's Chambers and the Department of Women's Affairs, in the drafting of this bill. Understandably, this bill is much more contentious than the reform of laws pertaining to rape and the women's groups had to be prepared for a long haul.

In Malaysia, it is particularly contentious because of the plurality of the legal system as Muslims are gov-

could not be classified as such. This means that the police could not prosecute the alleged assailant and the onus would be on the victim to institute criminal proceedings. In turn, this exposes the victim to severe social approbation and very few women would have the courage to take that course of action.

The draft of the domestic violence

bill formulated by the women's groups which the Attorney General's Chambers was working in consultation with, took all of this into consideration and had provisions for both civil and criminal proceedings under which, for example, protection for victims of spousal abuse could be obtained. Nevertheless, this proposal took us into troubled waters where the Syariah is concerned and there was a conflict of jurisdiction where the civil nature

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of the bill was concerned. The final solution was to make the domestic violence bill a subsidiary bill of the current penal code. This would avoid any conflict in jurisdiction as under the constitution, the penal code is a federal law and therefore completely out of the jurisdiction of the Syariah courts which are controlled by individual states in the country.

What we have gained by this move is legislation that categorizes domestic violence as a crime and takes domestic violence out of the Islamic religious courts. One of the major strengths of the act is the provision for a protection order in which weaknesses of protection orders under the penal code have been rectified. For example, the protection order contains provisions for evicting the perpetrator from the matrimonial home even if he owns it, and powers of arrest for the police are attached to the protection order. In practical terms, however, women have not gained much. Since the procedure is dictated by the penal code, women will not be able to obtain protection from abuse if they do not set in motion criminal proceedings.

At the start of this process in 1989, women were quite clear about the implications of various ways of formulating the bill. There were several

meetings among the women's groups and all implications were studied with the help of experts. As the negotiations progressed, extending to a period of five years, there was no continuity in the membership of the women's negotiating team and as a result no memory of the history of why certain things had been originally proposed. The team was unable to justify its original stand in a rigorous manner. Secondly, the team was "war weary" and, as time went by, failed to regroup after each negotiating session to study the implications of proposed changes before agreeing to the changes.

The working group did not maintain a record of the discussions at each meeting or what the consensus was. As a result there were occasions when decisions pertaining to the draft were not adhered to but there was no way of checking it. The final fatal flaw was that the women's negotiating team did not maintain an accountability to the mass base of women. There was no attempt to educate the broad membership on the progress of the negotiations with the intention of obtaining fresh mandates from the membership when major changes from the original proposals were being made. The unfortunate result was that critical decisions affecting the lives of all women in Malaysia were being made by a small group without a process of consultation.

### **The National Policy on Women**

As early as 1983, the NCWO advocated the need for a comprehensive national policy on women which would aim to eradicate all forms of discrimination against women and ensure equitable sharing of resources as well as access to opportunities and benefits of development. But advocacy around this demand did not really take off until 1987. In that year, NCWO conducted nine work-

shops for women in various parts of the country to establish the problems and needs of women. The findings from these workshops were formulated into a memorandum to the government outlining a proposal for a National Policy on Women. The proposal was submitted to the government through the Department of Women's Affairs. The Department in turn submitted a memorandum to the Malaysian cabinet based on NCWO's recommendations. The National Policy for Women was approved in December 1989. The government, in acknowledging the Policy, included a chapter on women in the Sixth Malaysia Plan (1991-1995). This chapter, however, has no clear guidelines as to how to move beyond the rhetoric of the policy statements. In fact, the chapter hangs by itself with no linkages to the rest of the plan.

Up until early 1993, there was no attempt to implement the Women's Policy. The responsibility for this had been handed over to the Department for Women's Affairs and although the NCWO had submitted some ideas regarding its implementation, they were not accepted as the Department felt it had to come with its own plan. Although the government had allocated 20 million *ringgit* for the implementation of the Policy, there was no progress made in this direction and none of the allocated money had been spent.

It was at this time that the author and another colleague presented a proposal to the Department of Women's Affairs for a consultancy process with relevant government departments which resulted in an action plan being drawn up by mid-1994. The Department for Women's Affairs is currently trying to integrate this action plan into the Seventh Malaysia Plan.

No one knows at present how much of the action plan, which was drawn up also in consultation with the women's groups, is being integrated into the Seventh Malaysian Plan. There does not seem to be any accountability back to the women's groups. The

Department for Women's Affairs does not keep them informed of the process and the developments taking place in this regard, nor do the women's groups take the trouble to track these developments and make any demands for accountability.

Once a policy or law is in place a sort of complacency sets in among everyone including the women, and the barriers are harder to break after that. The NCWO which played such a critical role in the formulation of the Women's Policy has been unable to force accountability from the relevant government divisions with regard to the implementation of the Policy. Policy makers such as Ministers at the cabinet level have been more accessible to women, but we have not been able to influence the implementors.

Again, there has been no further attempt to educate Malaysian women on the significance of the Policy and its contents. Many women do not even know that a Women's Policy is in place.

Attempts should have been made to raise women's awareness of the rights that the Policy guarantees and to provide them with skills necessary to make demands on the government on the basis of an approved policy. This would have kept the issue alive and visible and any democratic government that needs the vote of its people would hesitate to ignore these demands.

We have not been able to translate policy statements into concrete short term actions that will effectively address our problems as women in the context of current national development plans. It is easy to agonize about inequality and gender discrimination, but not that simple to formulate solutions to the problem of discrimination. After the Women's Policy was adopted in 1989, the Economic Planning Unit responsible for preparing the Sixth Malaysian Plan asked for input from the women's groups to

operationalize the Policy. But the NCWO to whom that request was addressed was unable to respond. In my opinion they were intimidated by the idea of analyzing the government's development plans with regard to their impact on women and making suggestions that would render the plans more gender sensitive. It was a question of both a lack of skills and a lack of human resources.<sup>3</sup> Since the Department of Women's Affairs did



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not have any ideas either, the chapter on women in the Sixth Malaysian Plan was written by economists in the Economic Planning Unit.

Affecting policy change has been relatively easy, working with bureaucrats is something else. We have to raise (initiate) awareness of the bureaucrats at all levels through gender sensitization training. This training has to occur at different levels depending on the persons concerned. With some all that would be required is awareness raising. With others, we would have to develop skills in gender sensitive programming. We also have to learn how to make sense of the irrationalities of bureaucratic procedures and to form allies at all levels who will help us find our way through the bureaucratic mire. At the same time we have to learn to keep a certain distance from the government so that we are not immobilized because we do not wish to offend our "allies."

## Where the problems lie

At one level, the achievements of the women in Malaysia over the past decade or so has been considerable. The consciousness raised around the issue of violence against women spurred the formulation of new groups who consider themselves as autonomous and as functioning on feminist principles. WAO, the All Women's Action Society (AWAM), the Women's Crisis Centre, Penang, the Sabah Women's Action Resource Group (SAWO), the Women for Women Society in Sarawak along with the NCWO worked very hard to bring about the legal and policy reforms described earlier. The NCWO has also successfully advocated for administrative reforms in hospital and police procedures dealing with rape. Current procedures are more sensitive to the needs of rape survivors and police investigative procedures have been sharpened.

However, by restricting the solution to legislative and institutional reform, there was no further inspiration, once these reforms were in place. If the campaign had been able to maintain its focus on addressing the complexities of male dominance as manifested in violence against women, then legal reforms would have been only part of the answer and there would have been room for a myriad other demands. As matters stood, the campaign almost ceased once the reforms were in place. There wasn't even an attempt to monitor the implementation of the new laws or to assess the needs and problems of rape survivors or victims of spousal abuse in utilizing the law.

There has been a tendency to seek separate remedies for rape and domestic violence. What might have been more effective would have been to identify the common threads in the various forms of violence against women and to have addressed them cohesively and comprehensively.

It is more difficult to mobilize

community resources for support for rape survivors than it is for victims of spousal abuse. While support services for battered women such as shelters were established in the eighties, there have been no support services set up for rape survivors. The environment is definitely more hostile to rape survivors who are seen as somehow having invited the assault through their "loose behaviour." As a result, while there are effective laws pertaining to rape, the lack of support services prohibit women from benefiting from these reforms. In the context of a hostile environment, rape survivors cannot openly acknowledge their victimization. Through their own action and inaction, women's groups have contributed to this contradiction.

In order to de-legitimize the use of violence against women, we have to move beyond the stage of punishing individual perpetrators and to shift responsibility for containing the violence away from the victim to the community and to the social institutions that bring about change. Multi-pronged solutions have to be sought at the level of the family, the community, and the state and its agents (see Schuler).

Sustained activism is the key to bring about change and for this women's groups need to formulate short and long term strategies to address the subordination of women. We need to recognize subordination in all its forms and manifestations. My experience within WAO and NCWO shows that the members see themselves as a separate category from abused or battered women. They do not work on the premise that all women are oppressed, but experience that oppression differently. Violence is seen as the problem of the individual woman and solutions are sought at the individual level. The more complex problem of the subordination of women is not addressed as it is not recognized. This is especially true in Malaysia where affluence may mask gender inequality which is manifested on a day to day basis in personal relationships.

A further weakness is that we have failed to build ourselves up in organizational terms. That is why we have not developed the management capacity and the sophistication needed for sustained activism and the fulfilment of long term goals. The fact that we were unable to move on the operationalization of the National Policy on Women to date testifies to this weakness.

### Some thoughts for the future

The mobilization of women in Malaysia has several implications. Religious revivalism in the country has further contributed to ethnic polarization. If women's activism is to gain legitimacy, the mobilization has to take place across ethnic and class boundaries. This is no mean task given the political and socio-economic situation in Malaysia. Issues that provide common grounds on the basis of gender need to be identified to unite the women of all ethnic groups.

The link between patriarchal concerns and other forces such as the free and liberal market needs to be understood and addressed. Malaysia aims to be fully industrialized by the year 2020. Some critical features of Malaysia's development strategies are industrial restructuring, technological upgrading, an intensification of the role of science and technology in development, enhanced human resource development, increased labour productivity, and a greater role for the private sector as engines of growth and in human resource development. In Malaysia, as in any other developing country, women have been facing the tensions brought on by a tug-of-war between being profitably used by capitalism and, at the same time, being subject to cultural interpretations of what should be the "correct women's role in society." Existing gender hierarchies and inequalities have been incorporated into the labour process, thus serving the interests of capitalism and its agenda of profit maximization (Ng and Yong).

As women we have to learn how to

politicize our issues taking into consideration the constraints of our political context. We have to learn how to create political space and how to use existing space for lobbying to our advantage and to link up with larger movements for social change. For this we have to understand what moves the state at a given period in time, what other pressure groups are making demands, where women figure in the political equation, and what we should be doing to give ourselves more political clout. The state is always seeking to legitimize and preserve itself. In order to do this it has to maintain internal order and compete with other states in the international socio-economic and political order. To sustain itself the state tries to control political processes, expand state institutions, and promote a defined socio-cultural preference (Charlton). In carrying out these functions the state can become repressive, redistributive, or selectively supportive of demands made by various elements such as capitalism, labour, women, private patriarchy, or religious and communal forces.

Women in Malaysia have to acquire the sophistication to analyze the interlocking interests of the state, capitalism, and religious and communal groups to understand the complexity of the forces that could militate against them. We have to move from advocacy to the mobilization of women and the development of women's constituencies.

### Conclusion

Since the sixties, considerable legal and administrative reforms to bring about equality and justice for women have been effected through the activism of women Malaysia. Such reforms have to be seen as short term goals which should be accompanied by long term strategies for addressing male dominance and privilege and female subordination at all levels. Strategies and mechanisms should also be in place to monitor the effectiveness of the implementation of such reforms.

Any legislative reform has its advantage even if the substance of it does not seem to be relevant to all women. The legal dimension of gender subordination should not be underestimated, as the law has been a mechanism through which male privilege and women's inferior status has been institutionalized historically. Positive laws and policies do play a vital role in securing for women the prerequisite for gaining power and the space to fight for their rights.

The existence of positive laws and policies alone, however, are not enough as there are other larger discriminations that prevent women's access to rights. It is a political act when a woman makes an assertion of her rights and there are many oppressive mechanisms that militate against this such as kinship dependency, economic and material constraints, insensitivity of the legal structures, and communal resistance. Women, therefore, cannot fight for their rights as individuals. Group formation and the mobilization of women on self identified commonalities is critical.

The mobilization of women and the formation of constituencies across ethnic and class boundaries in Malaysia is also critical to draw accountability from the state and its agencies. But this has to be done with a sophisticated understanding of state society relationships. The issues for mobilization have to bridge both gender issues and the broader interests of socio-economic development. Finally the mobilization of women is essential to sustain the efforts of the women's movement and to preserve its integrity.

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*moting rights for women through law and policy.*

<sup>1</sup>Malaysia is a multi-ethnic country, the predominant indigenous group being the Malay Muslims who form about 55 per cent of the population. The other major ethnic groups are the Chinese and the Indians who form around 28 per cent and nine per cent of the population respectively.

<sup>2</sup>"Syria" is the common Southeast Asian spelling of "Sharia."

<sup>3</sup>I was closely involved with the NCWO during the formulation of the National Women's Policy and helped run the workshops at which needs were identified and on which the substance of the Policy was based. I was also associated with them when the Economic Planning Unit made a request for more concrete input and was witness to the inability of the NCWO at that time to give such input.

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