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THE 'SHARIA LAW DEBATE' IN ONTARIO: THE MODERNITY/PREMODERNITY DISTINCTION IN LEGAL EFFORTS TO PROTECT WOMEN FROM CULTURE

ABSTRACT. The normative figure in Western feminism remains the liberal autonomous individual of modernity. 'Other' women are those who have their freedom to choose restricted. Typically, 'other' women are those burdened by culture and hindered by their communities from entering modernity. If we remain in the terrain of thinking about women as vulnerable or imperilled, and some women as particularly imperilled, as we generally do of Muslim women, we remain squarely within the framework of patriarchy understood as abstracted from all other systems. A modernity/premodernity distinction will continue to invade any projects intending to help Muslim women. This paper shows the persistence of the modernity/premodernity distinction in contemporary debates around applying Sharia law to the settlement of family law disputes under the Arbitration Act in Ontario, Canada. I argue below that in their concern to curtail conservative and patriarchal forces within the Muslim community, Canadian feminists (both Muslim and Non-Muslim) utilized frameworks that installed a secular/religious divide that functions as a colour line, marking the difference between the modern, enlightened West, and tribal, religious Muslims. I suggest that feminist responses might have helped to sustain a new form of governmentality, one in which the productive power of the imperilled Muslim woman functions to keep in line Muslim communities at the same time that it defuses more radical feminist and anti-racist critique of conservative religious forces. I end by exploring how this effect could have been restricted.

KEY WORDS: Canadian feminists, culture, modernity, Muslim women, Sharia law

What politics are promoted by the notion that the world is *not* divided into modern and non-modern, into West and non-West? (Asad 2003, p. 17)

ENTRY POINT: DEAD BODIES AND DEAD SUBJECTS

In June 2004, I attended a keynote lecture on honour killings in Europe by Unni Wikan, a Norwegian anthropologist who specializes

in Muslim cultures. I was interested in Wikan because she had an impact on the debates concerning Muslim women in Norway and I had written an article on Norwegian legal approaches to forced marriages. Professor Wikan was introduced as someone who had rescued people in great need, particularly young Muslim girls. I learned that she had just received a Free Speech award for showing great courage in working for social justice. Her courage in this case was daring to speak up against Muslim cultures and on the evils of both multiculturalism and a too soft approach to immigrants.

Wikan's presentation began with power point slides of the funeral of Fadime Sahindal, a Kurdish woman murdered by her father (an immigrant to Sweden) when she decided to leave home to live with a non-Kurdish man. Sahindal received a state funeral in Sweden, broadcast live on Swedish television. She had expressed a wish to be buried in a church and Wikan showed slides of the Bishop who called her a martyr, the six women who carried her coffin, a practice Wikan speculated that the Muslim men in her community agreed to ''probably because they realised they didn't have a choice'' (Wikan 2004). The keynote presentation continued with many pictures of the beautiful Sahindal, long, curly hair flowing. There were even pictures of her grave.

Throughout this somewhat macabre visual journey, I wondered why Fadime Sahindal's dead body had to be so prominently displayed for the benefit of the three hundred or so, mostly white, Western academics attending a conference of the Jean Piaget Society. My discomfort reached an apex in the question period that followed when members of the audience, some of the women on the verge of tears and with voices quivering with anger, expressed their outrage at the barbarous Muslim men to whom Wikan often referred. A palpable warmth and white group solidarity suffused the audience as they collectively contemplated what might be done to save the Muslim woman and to keep the dangerous Muslim man in line.

On this June morning, the productive power of the idea of the imperilled Muslim woman and the dangerous Muslim man, ideas that install the civilized European and enable practices of surveillance and regulation, was not the only thing to worry about. Fadime Sahindal was murdered by her father. How do we keep her murder in mind at the same time that we remember what it can mean to those who are anxious to draw a line in the sand between barbaric Muslims and civilized Europeans? As I have written elsewhere, strategies to

confront violence against women, of the kind Fadime Sahindal died from, fail if they mostly work to install the colour line between modern white subjects and pre-modern non-white subjects, between those who help and those who require assistance. Strategies born of such evangelical impulses seldom undermine the structures and practices that both give rise to and sustain violence against women for the simple reason that such structures are not even acknowledged. If the violence Sahindal experienced is thought to come out of her culture, pure and simple, then there is little chance to confront the multiplicity of factors that produced and sustained it (Razack 2004a).

The eternal triangle of the imperilled Muslim woman, the dangerous Muslim man and the civilized European, is fully in evidence in the context which is the topic of this paper: Canadian feminist and state responses to the prospect of the introduction of Sharia law as an option for Muslims settling disputes in family law. In the French-speaking province of Quebec, faith-based legal options in the realm of family law have been rejected outright. In the English-speaking province of Ontario an option had long existed through the *Arbitration Act* that enabled individuals to hire third parties to privately adjudicate their conflicts using any agreed upon rules or laws.[1]

This option was mostly used to settle commercial disputes although Jewish groups had used it in matters of divorce. When a Muslim group proposed to use the *Arbitration Act* to settle disputes in the family law arena using Islamic principles (which they described as the application of Sharia law), feminists expressed a vociferous opposition to faith-based arbitration. Despite feminist protest, and following an inquiry, the government initially found no compelling reason to deny faith-based arbitration in the settlement of family disputes to Muslims while Jews and indeed all other groups retained the right under the Arbitration Act. However, a few short months later, after intense public debate, the government reversed its position, announcing on September 11, 2005 that it intended to introduce legislation that would eliminate all faith-based arbitration (Yelaja and Benzie 2005). The debate about faith-based arbitration in Ontario, a public discussion that took place for most of 2004–2005, is the focus of this paper.

As this debate progressed, I was sometimes asked by concerned Muslim feminists if I had anything useful to contribute to the "Sharia debate", as faith-based arbitration came to be called. Like the women

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[1] Arbitration Act, S.O. 1991, c.17.

who approached me, I worried deeply about the rise in fundamen-
talism worldwide and felt sure that Sharia law through the Arbitra-
tion Act was not a good idea for women. At the same time, I had
grave misgivings about how feminists had so far responded to the
threat of Sharia, reinstalling the modernity/pre-modernity distinction
apparently without hesitation. Informed by my work in the European
context and elsewhere, I considered it risky for feminists to work with
ideas of the secular over the religious, the modern and the pre-
modern, in short with strategies that deployed the three figures I had
come to know so well from the European context. Such constructs fit
so neatly into the contemporary Western project to mark Muslims as
suspect bodies and to limit their citizenship rights, that it seemed to
me a considerable amount of caution was in order. On the other
hand, it also seemed likely that those feminists who took an anti-
Sharia position did so out of the conviction that Muslim women were
at risk of losing their rights under faith-based arbitration, particularly
if conservative Muslim interpretations of women's rights in Islam
were to prevail. Feminists were concerned that private dispute
mechanisms were unlikely to operate in women's interests and that
Muslim women could be pressured into accepting faith-based arbi-
tration. The 'Sharia law debate' highlighted that Muslim women were
caught between the proverbial rock (a state likely to use their rights as
a means to police Muslim populations) and a hard place (patriarchal
and conservative religious forces within their own communities).

  I argue below that in their concern to curtail conservative and
patriarchal forces within the Muslim community, Canadian feminists
(both Muslim and Non-Muslim) utilized frameworks that installed a
secular/religious divide that functions as a colour line, marking the
difference between the white, modern, enlightened West, and people
of colour, and in particular, Muslims. This colour line is a particu-
larly pernicious one in a post 9/11 world when, in the name of anti-
terrorism, Western states have won support for a variety of punitive
and stigmatizing measures against Muslims and other groups of
colour. Such measures are often defended as civilizing measures,
necessary in order to bring democracy, human rights and women's
rights to Muslim countries. I suggest that feminist responses helped to
sustain a form of governmentality, one in which the productive power
of the imperilled Muslim woman functions to keep in line Muslim
communities at the same time that it defuses more radical feminist
and anti-racist critique of conservative religious forces. Drawing from

Talal Asad's idea that secularism is one way in which the modern state secures its own power and actively produces the citizen whose loyalty is first and foremost to the state, I explore how ideas about women's rights and secularism are part of the neo-liberal management of racial minority populations who are scripted as pre-modern and requiring considerable regulation and surveillance. Secularism as a policy regulating the conduct of citizens produces and requires a normative citizen who is unconnected to community, a figure who achieves definition only in comparison to racial Others, the latter presumed to be trapped in the pre-modern by virtue of their particularist tendencies.

We are in a historical moment in which feminism can be easily annexed to the project of empire. It is, as I and others have shown, often through the language of human rights and gender equality that empire is accomplished today (Grewal 1999; Razack 2004b; Rajagopal 2003). The West is understood as culturally committed to the values of the enlightenment while the non-West remains incompletely modern at best, or hostile to modernity at worst. Within this conceptual framework, one often described as a clash of civilizations, it is the duty of modern peoples to bring pre-modern peoples in line. When the occupation of Afghanistan by American forces can be justified as necessary in order to save Afghan women from the Taliban, feminists must necessarily pay attention to how their demands serve the interests of imperialism and white supremacy. As Inderpal Grewal has persuasively argued, human rights discourses, among them women's rights as human rights, are productive discourses. They install "free subjects who can save those suffering from human rights abuses" and sustain "rescue from culture" as the main rationality (Grewal 2005, p. 152). It is in the interest of asking what such discourses and the rationality of rescue erase and what they produce that I write this article.

THE SHARIA DEBATE IN ONTARIO: "FROM BRITANNIA TO SHARIA"

The Ontario 'Sharia debate' began life as a moral panic. That is to say, a small event came to stand in for a crisis of giant proportions, one on to which was projected social anxieties about Muslim bodies. Parenthetically, it is noteworthy that such media orchestrated panics are traceable in every Western country since 2001. For example, widespread condemnation of bodies marked as 'Muslim', and

heightened support for punitive measures against them, followed the media-fore-grounded gang rape of a white Australian woman by Lebanese males in Sydney Australia. As Binoy Kampmark has shown, the rape cases became a point of departure for public commentary on the dangers of multiculturalism and on the evil Islam posed for the West, in spite of the fact that the rapists were Christian (Kampmark 2003). We can see the same kind of media spectacle around the banning of the hijab in various countries, notably France, a context to which many Canadian social commentators referred when discussing faith-based arbitration. In each of these 'panics', Muslim women's bodies become the ground on which nations and citizens are made as civilized and modern, while Muslims and immigrants remain trapped in the pre-modern, a process not unlike the one I described with respect to Fadime Sahindal. The polarization successfully pre-empts examining how the state and institutions are implicated both in the marginalization of communities of colour and in the oppression of women.

In late November of 2003, Syed Mumtaz Ali, a retired lawyer, announced to the media that a new organization, the Islamic Institute of Civil Justice (I.I.C.J.), had been established. The organization planned to apply Islamic principles of family and inheritance law to resolve family law and inheritance disputes within the Muslim community in Canada, services he described as the application of Sharia law. The Arbitration Act already permitted the resolution of private disputes in this way and had done so for a decade, but Ali's announcement created the impression that something had changed in law that now made it easier to apply Sharia. The panic that ensued, that Sharia law (with its associated images of women stoned to death) had now come to Canadian shores, was of such a magnitude that the government, pressed to set up an inquiry into the Arbitration Act, was ultimately obliged to clarify that it had not changed the law and that it had not collaborated with the newly formed I.I.C.J. (Boyd 2004).

The tracks for making Syed Ali's announcement into a moral panic were well-worn ones. Headlines on the barbarism of Sharia itself were appearing as early as 2001, and media reports of the story of Amina Lawal, the Nigerian woman sentenced to death by stoning, prepared the ground for the now familiar theme of a 'Clash of Civilizations' between Islam and the West. The events of September 11, 2001 simply escalated the clash. The November 2003 headlines on Sharia that announced the Islamic Institute's plans alerted Canadians

that they were on the brink of their own fateful encounter between Islam and the West, a swift descent from the ideals of the British Empire to a barbaric multicultural present, in short, from "Britannia to Sharia" (Warren 2003). The headlines warned of "Legal Apartheid" (Elgert 2003) and suggested ominously that "Religious Law undermines loyalty to Canada" (Singh 2003). Sharia was above all "un-Canadian" (Harris 2003).

Canadian feminists believed that there was a great deal to fear from Mumtaz Ali and his small group. The Canadian Council of Muslim Women met with the government to discuss their concerns. An International Campaign Against Sharia, headed by a Canadian of Iranian origin, was formed. Various feminist organizations, among them the Women's Legal Education and Action Fund (L.E.A.F.), the National Association of Women and the Law (N.A.W.L.), the Metropolitan Toronto Action Committee on Violence Against Women (M.E.T.R.A.C.), the National Council of University Women, added their voices to the general feminist alarm. Feminist lobbying succeeded to the extent that the Ontario government responded by appointing a Member of Parliament, Marion Boyd, a long-time feminist who was well respected by feminists in the mainstream anti-violence movement, to explore the "use of private arbitration to resolve family and inheritance cases, and the impact that using arbitrations may have on vulnerable people" (Boyd 2004, p. 5). Boyd met with over 50 individuals and organizations from July to September 2004, releasing a report that left feminists dismayed by her recommendation that the Arbitration Act remain unchanged. Boyd also concluded that the safeguards recommended by feminists worried about vulnerable Muslim women were not necessary.

Canadian Feminist Positions

The figure of the imperilled Muslim woman stood at the core of feminist responses to the idea of faith-based arbitration advanced by Ali and the Islamic Institute. As they sought to make clear to the government, extremely vulnerable and at risk in family and community, Muslim women were best protected by the state, a protection achieved through the absolute separation of religion and law. The Canadian Council of Muslim Women, for example, armed with statistics from the 2001 census, declared that even though Muslim women were among the most highly educated in the country, they

tended to work part-time and in low-paying jobs. Quoting statistics indicating that fewer separated Muslim women sought divorce than do separated women in the Canadian population, and that marriage breakdown for Muslim women between the ages of 18 and 24 is higher than for other women of the same age group, the Council opined that these patterns could be attributed to higher than usual "cultural and economic pressures" (Canada Council for Muslim Women n.d.). Muslim women may in fact be persuaded to agree to arbitration under pressure and the Arbitration Act did not contain safeguards to protect them from their families and communities. Rejecting outright any position that would involve strengthening women's position *within* faith-based arbitration (the government had proposed education materials informing women of their rights under religious and family law), the Council insisted that since there was no consensus about Sharia, and no accountability for how it was interpreted, conservative and patriarchal interpretations were likely to prevail. The answer, then, had to lie in secular law. Without it, women would be left at the mercy of their communities (Canada Council for Muslim Women n.d.).

If secularism offered women shelter from community, however, then the state became women's chief protector, an entity conceptualized as a neutral power, uncontaminated by conflicting loyalties to kin or community, and offering equal protection to all its citizens regardless of race or gender. Feminists appealed to the state on the basis of its universalism. The Canadian Council of Muslim Women received strong support from the international group Women Living Under Muslim Laws (W.L.U.M.L.). Echoing the sentiment that family and community were dangerous places for women, and that a fully secular state was women's best protector, W.L.U.M.L. warned that the proposal on the part of the Islamic Institute amounted to "the political manipulation of culture and identity". Such moves were global, suggested W.L.U.M.L., and had already jeopardized women's autonomy in France and the United Kingdom. W.L.U.M.L. described the European situation as

an unholy alliance between some progressives and the fundamentalists who then sought to take advantage of state policies of multiculturalism and the realities of continuing racial discrimination to demand special rights for the 'Muslim community'. But these special rights inevitably involve anti-women practices and highly regressive interpretations of Islam. They also unquestioningly presume that all migrants from Muslim contexts identify with 'Muslim' (Women Living under Muslim Laws 2005).

Concluding that "any victory for conservative forces among communities in Europe and North America will in this globalized world automatically reinforce fundamentalist groups in Muslim countries and elsewhere", and reminding Canadians that giving power to conservative movements will not address the problems Muslim communities have in Europe and North America, the organization stated its views boldly: "Obscurantist men" cannot speak for Muslim women (Women Living under Muslim Laws 2005). Linking the rise in fundamentalism elsewhere to the Canadian situation both provided Mumtaz Ali and his small group with a profile and power they did not seem to possess, and it sustained the idea that the state remained beyond reproach as the protector of women. If the community could be kept from contaminating the state, through such policies as multiculturalism, then women's rights would remain secure.

In installing an opposition between multiculturalism and women's rights, W.L.U.M.L. repeats an argument that has raged in Western feminist circles for some time. Its academic form, for instance, is discernable in the position taken by Susan Moller Okin that multiculturalism is bad for women, and her critics who suggest that once feminism is put in opposition to multiculturalism, racism quickly pervades what becomes efforts to save non-Western women from their cultures. Many scholars have pointed out these dilemmas and suggested complicating the issues beyond the simple assertion that multiculturalism is good or bad.[2] As Floya Anthias suggests, to navigate between the poles of feminism and multiculturalism, two things must be borne in mind: relationships between dominant and subordinate groups "and the need to attack this unequal relationship

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[2] For example, Leti Volpp has responded to Susan Moller Okin's polemical essay in which Okin argues that multiculturalism is bad for women, (an argument that relies upon the case example of forced marriages, among other practices). Okin's position reinstalls the West as superior in a number of ways, Volpp points out. First, the West is represented as more advanced and less patriarchal than Muslim societies and the immigrant/Muslim woman is represented as a victim of her culture and devoid of agency in contrast to her freer Western sister. Second, the free, autonomous Western woman and her oppressed Third World sister who is mired in tradition "elides the level of violence intrinsic to the United States". Third World cultures are essentialized and static and feminist liberation means a life somehow lived outside of culture, or at least outside Third World culture. Within such dichotomies, it is difficult to complicate culture, understanding for example the forces that influence cultural practices and identifying practices that would strengthen women's contestations within culture (Volpp 2001; see also Honig 1999).

at national and global levels'' and similar relationships of inequality within groups (2002). Key to keeping these things in mind is remembering that women are agents with multilayered identities who need to resist class exploitation, racial domination and freedom from violence and gender inequality. Anthias stresses that we must avoid homogenizing and totalizing cultures just as we must avoid treating gender as a unitary category that stands apart from all other things. Further, all ''practices that serve to subordinate and oppress are to be attacked and these practices are tied to a range of structural processes which include the State apparatus, the socio-legal framework and the dominance of Western capitalist and cultural forms'' (Anthias 2002). Similarly, in *Dislocating Culture*, Uma Narayan argued that feminists must ''insist that there are many ways to inhabit nations and cultures critically and creatively'', pushing for a more historical and political understanding of tradition (1997, p. 33).

Following the line of argument expressed by W.L.U.M.L. some Canadian feminists opposed to faith-based arbitration articulated a fervent belief in secularism and a commitment to the position that multiculturalism was bad for women. For instance, they spoke glowingly of the French context where the hijab was recently banned in schools. (The presence of French speaking feminists in some of the more vocal feminist organizations may have accounted for the multiple references to the French context.) Secularism in France was represented as historical progress, the triumph of universalism over class and religious conflict. Writing a research report for the Canadian Council of Muslim Women, Pascale Fournier wrote admiringly of the French decision to ban the hijab and connected it to France's revolutionary tradition.

The most important feature of current French politics is its neo-republican discourse of French identity, in which membership in the national community involves an absolute commitment to the Republic and to its core values of egalité (equality) and laïcité (the separation of state and religion). This republican model was forged in the context of the 1789 French Revolution, as a direct reaction to the historical French struggle against its own Monarchy, ruling aristocracy and religious establishment (Fournier 2004, p. 3).

Sharing this faith in secularism, the National Association of Women and the Law elaborated that if faith-based arbitration were allowed, ''freely chosen'' arbitrators will be the new judges of women, imposing their own principles as the law of the land. While arbitrators chosen by Muslim communities could not be trusted, judges were

deemed a better option for women. In view of the likelihood that judges would be of European origin, N.A.W.L. proposed cultural sensitivity training to augment the latter's capacity to protect Muslim women from their cultures and communities.

Only one feminist organization, the Women's Legal Education and Action Fund (L.E.A.F.) initially supported the use of religious principles when they do not conflict with Canadian law. L.E.A.F. acknowledged that the use of arbitration was attractive because it was an alternate and cheaper form of dispute resolution. Further, they noted that some Muslim women were in favour of using Sharia. Believing that there was contemporary "negative stereotyping of Muslims", but seeking as well to heed women who were concerned about conservative religious influences, the organization recommended that a number of safeguards be built into the Arbitration Act to protect women from being coerced into arbitration. L.E.A.F. later reversed its position announcing that it now believed that the government should prohibit the use of the Arbitration Act to protect women from being coerced into settling their disputes in accordance with religious law. It is possible that this reversal emerged from the realization that the government refused to consider building in safeguards into the Act (Women's Legal Education and Actual Fund 2004). On the whole, then, although Canadian feminist organizations did not all adopt the dramatic tones of Homa Arjomand of the International Campaign to End Sharia that Sharia was a "barbaric act" and that permitting the use of the Arbitration Act to settle family law disputes would "escalate all the slavish obligations of the wife towards the husband under the Islamic Laws and ancient traditions", feminist organizations remained opposed categorically to religious legal options.

Feminist rejection of faith-based arbitration left no room to stand for women seeking to live a faith-based life, a schism that was clearly in evidence at a community forum to discuss Sharia. At a public meeting sponsored by Arjomand and the International Campaign to End Sharia, a group of young veiled women from a Somali Youth group repeatedly asked questions relating to the need for religious tolerance arguing that their Muslim faith and their Muslim youth group was a refuge from the racism they experience in high school. Speaking of teacher and principal surveillance, police surveillance, and the media demonizing of Muslims, the young women argued that Sharia would be more applicable in their lives should they choose to

use it for family issues. Most of their remarks were dismissed by the speakers on the platform on the basis that the young women did not know how fundamentalism operated. Dismissed as naive, and told that they had been coerced into wearing the veil, some of the young women chose to leave the meeting (Public Meeting 2004).

It is not surprising that at least initially the government refused to endorse a staunch secularist position. To do so would have meant, in the first instance, treating Muslims differently from other groups, most notably Jews. The Boyd report also quickly zeroed in on the weaknesses in feminist arguments, exploiting these to defend its position that faith-based arbitration should continue. Noting that feminists and others appeared to be misinformed as to the extent to which arbitrations could contravene Canadian law, the Report made clear that if the principal objection to faith-based arbitration had to do with the specific vulnerabilities of Muslim women, then one option was to educate this group about their religious and secular options (the former suggestion was roundly rejected by the Canadian Council of Muslim Women). Responding to the repeated feminist argument that family and community were particularly perilous places for Muslim women, and for women at risk of domestic violence in particular, the Report quotes a critical feminist scholar, Liisa Hajjar, that a more complex assessment of women's lives was "an important rejoinder to cultural stereotypes that Muslim women are uniquely or exceptionally vulnerable" (Boyd 2004, p. 100). Rebuked in this way for offering an overly simplistic analysis of vulnerable women and dangerous men, the Boyd Report also suggested that minority rights (under multiculturalism) versus individual rights was an equally simplistic way of describing what was at issue (Boyd 2004, p. 89). Thus, feminist criticisms, including important arguments for inserting safeguards into the Act, were, in the end dismissed.

The government's reversal of its position in support of faith-based arbitration came several months after the Boyd Report. The reversal was greeted in the press by an even more solidly entrenched set of dualisms involving the secular progressive West and brutal Islam. Journalists such as the *Toronto Star's* Rosie Dimanno reminded Canadians that the "time has come for Canadians to be weaned off the teat of multiculturalism as a primary source of sustenance and self-identity". Adding that we should not be labelled racist for "daring to champion the secular over the infantalizing religious", she noted that the government's move is clearly aimed at "circumscribing

Islamic authority'' (Dimanno 2005). Others were more subtle, defending the women who had opposed Sharia as women who were in a position to know its dangers (Hurst 2005). Only Haroon Siddiqui, a journalist at the *Toronto Star*, suggested what the long-term impact of the decision to abolish faith-based arbitration might be. Siddiqui wrote that the government had ''bought into fear-mongering that Muslim barbarians are knocking on the gates of Ontario'' and were ''engendering an atmosphere of fear and mutual hostility'' (Siddiqui 2005).

Towards Rupturing the Dichotomy

When gender is placed in opposition to culture, and women's status becomes linked to the triumph of the individual over the group, two categories of women are brought into existence: those who have successfully made it out of community and culture, and others who are to be assisted into modernity. We are, once again, on the emotional terrain I introduced with the Unni Wikan story where community stands in the way of women's entrance into modernity, and where civilized Europeans must discipline non-Europeans in order to secure the modern state.

Women who tell a narrative of rescue can forget their own class position and histories and secure their own innocence, a politics many scholars have shown. For example, in her critique of the liberal feminist internationalism of Martha Nussbaum, Sangeeta Ray draws on an article by Anupama Rao on elite Indian feminist responses to Dalit women (Ray 2003). Upper caste feminists understood patriarchy in Dalit women's lives in a way that enabled them to inhabit a non-caste position, Rao showed. The forgetting of their own caste dominance was enabled by an exclusive focus on what Dalit men did to Dalit women. Understanding the complex ways in which Dalit women's oppression is structured requires more critical self-reflection than is evident in Nussbaum and other liberals, Ray argues, and it will require something other than positivist methodology in which we simply ask Indian women how they feel and either take the words at face value (as Nussbaum does when she asks Indian feminists and Dalit women how they feel) or accuse them of false consciousness or immaturity, as Arjomand does. Addressing the same issues as Ray, Carol Quillen commented:

If we really want to further the cause of justice, we need to understand how dis-
cursive and material structures—race, capitalism, nation-states, orientalism, family,
and liberalism itself—shape our very emergence as differentiated ''human'' by
establishing and then occluding hierarchical relations among us. We need, in other
words, a view of the human that focuses on the social and psychological processes of
self-formation in a context that acknowledges, as Chow states, how we can be ''at the
mercy'' of broad ideological and social structures that in many ways ''speak and act''
us. (Quillen 2001, p. 138)

What do the discursive and material structures look like in the con-
text of the Canadian Sharia debate and how were feminists at the
mercy of broad ideological and social structures, as Chow suggests?
Certainly ideological and social structures ''speak'' us as though we
are autonomous individuals who simply contract with each other. If,
as Inderpal Grewal reminds us, feminist activism constructs a variety
of gendered subjects (Grewal 2005, p. 27) how might feminists have
avoided being drawn into the framework of superior, secular women
saving their less enlightened and more imperilled sisters from religion
and community and still responded to the dangers at hand? Finally,
what should feminist politics look like in the Canadian context given
the dangers of both white supremacy and patriarchy and the
exigencies of a post 9/11 world as they operate in the West?

Feminists who have considered the discursive and material
structures operating in the lives of women who find themselves
confronting the forces of Muslim fundamentalism in the Middle East
(or more properly Islamization) have sometimes concluded that
women do indeed need to turn to the state as arbiter and to stake
their claims on universalist ground, as Canadian feminists did. For
example, attempting to move beyond the tradition-modernity divide
and to pay attention to the ways that ideological and social structures
''speak'' us, Amina Jamal explores how Pakistani feminists in the late
1980s and 1990s resorted to liberal notions of citizenship and gender
neutral notions about rights and the universalism of the public sphere
to defend women's rights within a context of an intense Islamization
and a corresponding oppression of women (Jamal 2005). Jamal
argues that the perils of liberalism notwithstanding, for Pakistani
women confronted by the Islamic state's proposal to change the laws
of evidence so that two male witnesses would be required for every
crime, or the government's disregard for the murders of women
accused of sullying the honour of their communities, it made eminent
political sense to insist that the state act as a neutral arbiter over
various tribal customs and that it respect fundamental human rights.

Simultaneously, women's groups also argued their position from within Islam, maintaining that the proposed law of evidence, for example, was both anti-discriminatory and anti-Islam. It is, however, principally in their appeal to the idea of a "transcendent citizen-subject" that Jamal finds the counter hegemonic potential of Pakistani feminist strategies against the evidence rule and the state's tepid response to 'honour' killings (Jamal 2005, pp. 75–76). She identifies one central rhetorical strategy of Pakistani feminists. Rather than stress that women were particularly vulnerable, they stressed women's rights as citizens, underlining that what was at issue was the meaning of citizenship itself.

Jamal is very careful to assess the social and political context of feminist activism that makes Pakistani feminist political choices comprehensible. She notes, for instance, the rising power of religious parties during this time period. Religious parties stepped in to fill the void left by the mainstream parties' oscillation between a pro U.S. position with its promises of membership in the world community, and an anti-imperialist position that often translates locally as pro Islamic militancy. Allied sometimes to the military government of General Musharraf, and sometimes against it, the strength of religious parties, coupled with Musharraf's attention to U.S. security concerns at the expense of democratization, have meant bad news for women's rights. Reminding us that Islamists are not fundamentalists with a fixed set of beliefs but rather individuals engaged in a political project with a particular vision, and noting their practice of deriding critics as "westernized" and "westernized women" as disloyal to the nation, Jamal suggests that we understand the feminist struggle in Pakistan as a struggle between two competing versions of modernity, and two competing sections of the middle class. Feminists, she maintains, simply had no other choice but to frame their responses in liberal terms and we must understand their appropriation of modernity as a strategy. Their approach was not without its perils. To argue, as Pakistani feminists did, for the separation of religion and state was to engage in a battle over the meaning of secularism. As in the Canadian context, where Mumtaz Ali and the Islamic Council insisted that the only true Muslim was one who opted for Sharia law, Pakistani feminists found themselves having to defend that they were still pro Islam, and that there were other ways of being Muslim. The call for secularism can mean many things, Jamal insists, including a

separation of religion and state or a regulation of religious options within the state. In choosing the options they did, Pakistani feminists simply calculated the odds, understanding what they were up against as the eviction of women from citizenship.

I want to suggest that, unlike the Pakistani context, the appeal to the idea of a transcendent citizen subject carries with it some risks that are specific to the local and global context of white nations in the post 9/11 context. As Jamal herself sees, Pakistani feminists opposing Islamic law do so from a context where such laws affect everyone. Canadian feminists rejecting faith-based arbitration do so in a white settler state, one anxious to control its minority populations and to gain membership in the family of white nations. Being tough on Muslims, as many European scholars have observed, is one significant way in which contemporary Western governments secure their own domestic base (through appealing to the right and consolidating the idea that there is one white national culture) and their international stature (through appearing to be active participants of the 'war on terror'). To consider the material and discursive structures in our own context, Canadian feminists had to be worried by the growing resonance of the idea of a clash of civilizations and the intense regulation in the West of those scripted on the Muslim side of the divide. When Canadian feminist strategies unhesitatingly invoked the idea that Islam and Muslim men were intrinsically threatening, and a secular state was the only way to safeguard women's rights, they provided grist for an already powerful mill: as the antithesis of Western civilization, Muslim populations in the West have to be watched and regulated, a surveillance that begins at the border. The companion idea installed by the notion that a secular state provides the best protection is the idea that the normative citizen is one without group-based loyalties, a figure for whom communitarian identities are best kept at home. This "unbiased liberal subject", as Gokariksel & Mitchell argue, is extremely important for neo-liberal state formation and economic development, effects Canadian feminists needed to consider more seriously than was evident during the 'Sharia debate' in Ontario (Gokariksel & Mitchell 2005). That the unbiased liberal subject achieves definition through comparison to the racialized subject (viewed as communitarian, hence biased) should give us greater pause when we invoke the idea of a free-floating citizen.

Secularism as a Form of Governmentality

In the West, feminist faith in the state and in secularism sits uneasily alongside of current legislative and policy moves to restrict the rights of immigrants and racial minorities in the name of anti-terrorism and the protection of Western civilization as secular and modern. The Anti-Terrorism Act, with its suspension of fundamental rights, for instance, has created a perilous situation for Muslims or those who are taken to be Muslims, a situation often defended as the West's need to protect itself from a barbaric Islam. For another, the use of security certificates under the Immigration and Refugee Protection Act to detain Muslim men who are not citizens, and to deport them after a secret trial in which they are not allowed to hear the evidence against them suggests that the post 9/11 era has not offered much evidence of Western states' commitment to universalism. How might we reconcile the actions of a state prepared to deprive Muslims of the right of Habeas Corpus and to hold them in solitary confinement for years without due process with the same state's protection of Muslim women from the men of their communities?

The state's central conceptual tool in suspending the rights of those suspected of involvement in terrorism or considered to have the potential to be terrorists has been the idea that Islam breeds a particular pre-modern subject, one who possesses a violent hatred of the West and who is not committed to the rule of law, respect for human rights and women's rights or democracy (Razack 2006). The Western subject, in contrast, is one who has progressed into modernity, a progression marked principally by his entrance into the secular, the religious personality of leaders such as George W. Bush notwithstanding. Thus one place to begin to delineate the conditions under which Canadian feminists engaged in the debate over faith-based arbitration is to consider how modern states secure their power through the idea of secularism.

Secularism is popularly understood in the way that the philosopher Charles Taylor describes its origins. As Talal Asad discusses in his book *Formations of the Secular*, Taylor argues that the modern state has to make citizenship the primary principle of identity because this is the only way that it can transcend the conflicts that emerge from different identities. But secularism does not simply provide peace and toleration, as Taylor imagines. Secularism secures the power of the state as neutral arbiter. For Taylor, the state resolves the quarrels among different groups through persuasion and negotiation.

Asad sees a less benign state that exercises force to guarantee the
social arrangements it wants. At its inception in Europe, secularism
as political doctrine guaranteed the peace between warring religious
factions by shifting the site of violence from within Europe to outside
of it. Secularism's triumph as political doctrine is closely connected to
colonialism and to the rise of a system of capitalist nation-states. Of
all the things that secularism can mean, it has not always meant
tolerance. Those who do not fit the public personality of the state are
simply defined as religious minorities and find themselves in a
defensive position. Asad's arguments suggest that we examine what
contemporary notions of secularism secure for Western states and
that we abandon the romantic idea that secularism simply represents
progress from the pre-modern to the modern.

   Asad's comments on the hijab or headscarf affair in France are
perhaps most pertinent here (Asad 2004). As in the Sharia debate in
Ontario, the vast majority of French intellectuals of both the left and
the right felt "that the secular character of the Republic is under
threat because of Islam, which they see as being symbolized by the
headscarf". In France the secular character of the Republic is cap-
tured in the concept of *laicité* which most people trace to the end of
the 19th century. Asad reminds us of its earlier foundation. In the
16th century wars of religion, European Christian states adopted the
principle that the religion of the ruler is the religion of the state. What
is significant here is that a political principle replaced a religious one
and "transcendent power and authority were now given to the state
to decide not only on who was deserving of religious tolerance but on
what precisely religious tolerance was". In Europe, we then see
French Protestants getting the right to practice their religion in
Catholic France at the same time that Spain is expelling its Muslim
converts. By the time of the French revolution, when religion comes
largely to mean personal belief and the Church simply appears as a
rival for political power, there is bitter conflict between Church and
state, a conflict that the state wins in the name of the revolution's
ideals of humanity and progress.

   Public schools at the end of the 19th century became a way in
which the state schooled its citizens to take on their new role as
secular citizens without conflicting loyalties. A significant amount of
France's imperial conquests took place at this time. Anti-clerical
schooling at home, unequal agreements with the Church, and impe-
rial expansion abroad were the pillars on which *laicité* was established

under the Third Republic. Today in France, Asad advances the interesting argument that the 16th century political rule (that the religion of the ruler is the religion of the state) is the principle that is still operating and what continues to be significant is the following:

It is not the maintenance or interdiction of a particular religion by the state that is significant in this principle but the installation of a single power drawn from a single source and facing a single political task: the worldly care of its population regardless of its beliefs (Asad 2004).

The state takes it upon itself to determine signs of religion's presence (rather than who is and is not of the religion of the ruler) and in this way manages various populations through its activities, populations marked as 'religious' *for one reason or another*. One way to regulate Muslim populations in France is to formally mark them as populations that must be forcibly brought into the modern through secularism. So seductive is this vision of a modern people civilizing a pre-modern one that few considered what else has been achieved by the banning of headscarves and how the power of the state and its management of a subordinate population is manifested in the French context.

I would offer the French rather than the Pakistani situation as the one that Canadian feminists should consider for lessons in how secularism operates as the management of the conduct of populations in the West today. As Asad clarifies, the "headscarf worn by Muslim women was held to be a religious sign conflicting with the state's secular personality" (Asad 2004). The Stasi commission appointed to investigate headscarves in schooling interpreted the wearing of headscarves as the "will to display" Muslim identity (Asad 2004). Since the state was owed exclusive loyalty in the public sphere, the wearing of headscarves had to be banned. Both the interpretation of what the headscarf meant to its wearers and the state's decision to insist that citizens have a public identity that is exclusive must be understood within a context of profound suspicion of Muslims.

Asad concludes that important questions were not asked about the state's reasons for finding the headscarf in schools incompatible with the practice of French citizenship. First, everyone who lives in France is not equal before the law. A number of Muslims from France's former colonies live, work and pay taxes in France but do not enjoy full citizenship rights. A focus on the veil as a practice antithetical to citizenship marks Muslims as undeserving of full citizenship rights (as

incompletely modern peoples) and it obscures the legitimate griev-
ances that French Muslims have concerning their unequal treatment.
Second, the French state is ceding some of its national autonomy to
the European Union as a result of the exigencies of a global economy.
The control of migrant populations is a central aspect of these largely
hidden manoeuvres as is the installation of a citizen subject who is
autonomous and without group loyalties or claims. Finally, the cir-
culation of media images and narratives across borders profoundly
shape "the direction of fears, longings, resentments towards peoples
and places" (Asad 2004). These factors suggest that we are a long way
from the uncomplicated idea of a majority of citizens deciding that
the social contract requires the banning of the wearing of headscarfs.
If these unasked questions were engaged with, we would have to
consider how the public sphere might be negotiated creatively given
citizens' transnational loyalties and the fact that they do not live their
lives in a strict separation of politics and religion, nor are they
autonomous subjects freely contracting with each other.

Why is it important to deconstruct the secular and inquire into its
productive function? Here again Asad is clear that the important
point is to ask what the secular/religious, modernity/pre-modernity
distinction secures.

Modernity is a *project* – or rather, a series of interlinked projects – that certain people
in power seek to achieve. The project aims at institutionalizing a number of
(sometimes conflicting, often evolving) principles: constitutionalism, moral auton-
omy, democracy, human rights, civil equality, industry, consumerism, freedom of the
market– and secularism. It employs proliferating technologies (of production, war-
fare, travel, entertainment, medicine) that generate new experiences of space and
time, of cruelty and health, of consumption and knowledge. The notion that these
experiences constitute "disenchantment" – implying a direct access to reality, a
stripping away of myth, magic, and the sacred – is a salient feature of the modern
epoch (Asad 2003, p. 13).

The categories of secular and religious are the

terms on which modern living is required to take place, and nonmodern peoples are
invited to assess their adequacy. For representations of "the secular" and the
"religious" in modern and modernizing states mediate people's identities, help shape
their sensibilities, and guarantee their experiences (Asad 2003, p. 13).

The implications of taking seriously these ideas are, I believe, that
feminists can no longer simplistically assume that the secular is a
haven for women, and religion a dangerous place. Lest the point

about how the power of the state is mediated be missed, it should be abundantly clear that a reversal strategy, where religion is safe for women and the state is not, would interrupt neither empire nor patriarchy. Instead, keeping a steady eye on their productive function, we, as feminists, would have to consider what we achieve and what we sustain by our strategies as they feed into the state's personality and its particular version of the secular and the religious, as well as into the specific patriarchies of Muslims and non-Muslims in Canada. We should remember that patriarchies themselves are not only cultural practices but systems interlocked with capitalism and white supremacy.[3] Finally, we need to keep our eye on the transnational effects of our strategies, something those against faith-based arbitration understood clearly but only in the context of the spread of fundamentalisms and not in the context of a global white supremacy manifesting as the American bid for empire. Canadian feminists did not consider fundamentalism's mirror image, the spread of the idea that a family of white nations must wage war on terror and religion through the institution of Western law and secularism.

The Neo-Liberal Subject

Gokariksel & Mitchell have usefully clarified how secularism produces the neo-liberal subject. Understanding global neo-liberalism as "a political philosophy of governance that upholds an active achievement of a *laissez-faire* economic system", they note:

The concept of neo-liberal governance concerns the ways in which individual 'subjects' are regulated and disciplined through various institutions and processes in society so that they come to understand their own positions and personhood in ways that are compatible with neo-liberal trends towards individual autonomy and entrepreneurship and away from a more social understanding of the world and of the relationship between the state and its citizens (Gokariksel & Mitchell 2005, p. 149).

The idea of a monocultural, secular state works to consolidate who is understood as the ideal citizen. Since the ideal citizen is an individual without any sort of group-based identity, a non-citizen is someone who remains trapped within group-based identities. The terrible danger of the autonomous individual as citizen is the closing down of the possibility of acknowledging group-based harm, as well as group-based privilege. If, as Lauren Berlant has shown, property, privacy

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[3] I am grateful to Sedef Arat-Koc for reminding me of this point.

and individuality become "the only ground for the true practice of nationhood" and the ideal citizen is unanchored in history, time and concrete social relations, then specific harms such as racism disappear as do specific entitlements enjoyed by colonizers (in this case the right to be seen as the normative autonomous citizen) (Berlant 1997, p. 192). Reparations or strategies designed for specific groups come to seem like "catering to the unique sensitivity of a small group" and not as part of an answer to a highly structured inequality (Delgado & Stefancic 1996, p. 773). It is this logic that enables so many to easily dismiss Black focussed schools and affirmative action as encouraging narrow tribal identities rather than the redressing of contemporary and historical injustice. Why don't we all just assimilate is the plaintive response to historical injustice increasingly heard whenever racial minorities press their claims for justice.

The call for assimilation and the idea that the nation must be a single, unified, homogeneous body is one that is highly compatible with a white supremacist agenda and with the surveillance of Muslims. The Stasi commission, as Ezekiel observed, believed that the "concern with oneness prevails over all expression of difference, perceived as a threat" (Ezekiel 2005, p. 233). If Muslims are unassimilable, then the state is justified in keeping them out or limiting their citizenship rights. Monoculture readily collapses into anti-immigrant sentiment, as Sivanandan argues referring to the British context. Assimilationist discourses are not only the basis to anti-immigrant positions but are eminently productive for the 'war on terror'. Multiculturalism, the argument goes, "has been instrumental in breeding terrorists by steeping them in their own culture and so alienating them from British society" (Sivanandan 2006, p. 3). The best anti-terrorist move, then, is to forcibly integrate citizens, a logic that conveniently ignores the role that injustice, occupations and racism play in producing terrorists.

As Liz Fekete documents, the citizen subject without ties to community is the conceptual underpinning for a number of repressive measures across Europe:

Assimilation is being forced through by the adoption of a number of measures, which include the recasting of citizenship laws according to security considerations; the introduction of compulsory language and civics tests for citizenship applicants; codes of conduct for the trustees of mosques; a cultural code of conduct for Muslim girls and women who, in some areas of Europe, will be forbidden to wear the hijab in state institutions (Fekete 2004, p. 4).

It is impossible, Fekete concludes, to divorce the current debate on a single unified national culture from the war on terror. Fekete asks where the ban on the headscarf will end, noting that in France the government is considering extending its ban to other public spaces and producing in the process a stigmatized and humiliated Muslim population. The French public has already understood the banning of the hijab as license to do just that, as Ezekiel reports. Although the ban applies to schools, Muslim women wearing headscarfs have found themselves prevented from doing a wide number of things (working, volunteering, receiving medical services, registering for a marriage, etc) as citizens take it into their own hands to manage public space, as Ghassan Hage insightfully shows for the Australian context as well (Hage 2000; Ezekiel 2005, p. 231). The banning of the hijab made clear who rightfully belongs in public space. The banning of faith-based arbitration in Ontario, coming as it did with all the attendant discourses about modernity and pre-modernity and the normative citizen as someone without ties to community, may well have the same effect.

In Canada, it was very quickly evident that the categories of the secular and the religious as oppositions were enabled by, and simultaneously productive of the idea of a world of civilized Canadians at risk of Muslim terrorists and unassimilable immigrants. Sharia law became an issue of the importation of immigrants' feudal and pre-modern values into a civilized land. Quebec's international relations minister expressed this view succinctly:

We must rework the social contract (for immigrants) so that the people, Muslims who want to come to Quebec and who do not respect women's rights, or rights, whatever they may be, in our civil code, at that moment, then they stay in their country and do not come to Quebec, because its unacceptable (De Sousa 2005).

The real threat, however, lay not with the importation of feudal values, but more directly, in the presence of dangerous Muslims. A journalist spelled out these connections in a popular women's magazine by writing about Mumtaz Syed Ali that the retired Toronto Lawyer was "linked to a 'self-described fundamentalist'" who is the cleric at a mosque attended by the grandparents of a young man who has admitted his connections to Al Qaeda. Terrorist by association (and a long one at that), to stop Syed Mumtaz Ali and the Islamic Institute was to take on terrorism itself (Armstrong 2004). Ariane Brunet of the human rights organization Rights and Democracy

chided Canadians that a civilized nation with a well-known commitment to peace could not possibly tolerate Sharia: ''Here is Canada, the peacemaker, the mediator. We have an image here. And here we're adopting the Sharia law'' (Brunet 2005). In Canada, the state seeks to show its membership in the family of civilized nations through its participation in ''anti-terrorism'' activities. Through peacekeeping, as I have argued elsewhere, Canada secures its reputation as a nation that is not implicated in the crises that befall the Third World. Rather, our role is simply one of mediator, assisting the Third World out of the morass into which it has mysteriously fallen. Feminist narratives about saving Muslim women through the imposition of secularism rely on the same omissions that underpin the national narrative of a peacekeeping nation. That is, they obscure how the state manages its minority populations and produces neo-liberal subjects, sustaining the very conditions in which fundamentalisms thrive – conditions of social and economic marginality.

To avoid sustaining the colour line between tribal Muslims and a modern state, feminists must complicate the simple frames available for understanding how and where patriarchy operates. While for Nobel prize winner Shirin Ebadi, it may be understandable to consider secularism the only appropriate response to the idea of Islamic tribunals (Peritz 2005), from the perspective of a state where fundamentalists have *not* achieved anything like the power they achieved in Iran or Pakistan, and in view of the state's compelling interest in marking Muslims and indeed all Third World immigrants as pre-modern and confined to the realm of the culturally marked, perhaps the best response to Syed Ali and his small group might well have been to flood the market with alternative stories of culture, rather than to grant the conservative religious narrative the legitimacy it won by feminists opposing it outright in the name of secularism. It is by no means evident that this strategy would have ruptured the secular/religious, modern/pre-modern divide but equally, the possibility exists that by re-inscribing so completely these dualisms, feminist gains were at too great an expense.

Conclusion

Azizah Al-Hibri once warned: ''If Western feminists are now vying for control of the lives of immigrant women by justifying coercive state action, then, these women have not learned the lessons

of history, be it colonialism, imperialism or even fascism" (Al-Hibri 1999, p. 45). Making another related point, Abdullahi An-Na'im noted that a human rights strategy based on gender alone is disastrous. Such a strategy inevitably depends upon, even as it sustains the idea that "unmarked" cultures and people (dominant groups are thought to have values while subordinate groups have culture) are already in the modern while "marked" groups remain in premodernity. As An-Na'im put it, the minority culture is required to clean up its gender act, while the majority culture can take all the time it wants. The argument for gender equality, he insisted, has to be made within culture, and the polarity of gender versus culture has to be undermined. What might Canadian feminists have done to mitigate the power of the state to use feminist concerns to stigmatize and police Muslims and to produce the normative citizen as unconnected to community? How could arguments for gender equality have been made within culture rather than in opposition to it?

The 'Sharia law debate' developed into a spectacle very quickly. Those advocating the use of Sharia garnered attention which only grew as more feminists came on board to denounce them. Here we might consider strategy. Knowing that a full-scale moral panic is entirely likely given today's geopolitics, did feminist groups sufficiently consider the conditions of communication as they immediately embraced the position of the secular over the religious? I wonder what would have been the outcome had Muslim feminists in particular, regardless of their own misgivings, expended more energy on the question: what is needed to safeguard faith-based arbitration for women? The Council of Muslim Women did in fact consider this question, inviting those in favour of faith-based arbitration to a discussion. In the end, however, the dangers posed by faith-based arbitration were considered too great to risk pursuing faith-based alternatives. This was perhaps a strategic error. Perhaps it would have been possible to get more of the safeguards within the Arbitration Act that would have protected Muslim women who use it, or who are coerced into using it, although the government seemed unwilling to consider this option as the Boyd Report demonstrated. At the very least, the circulation of ideas about alternative ways to be Muslim might have tempered the production of the neo-liberal subject as citizen.

It is easy in hindsight to see how there could have been more discussion about the racist dangers present in a modernity

/pre-modernity distinction. For example, there could have been a feminist conference on what post 9/11 conditions have meant for Muslim communities. In other words, could the power of conservative Muslims have been diffused through rhetorical strategies that emphasized that there were other ways of being Muslim? Other dangers? To point out that Syed Mumtaz Ali and his new organization had not consulted widely in Muslim communities and to emphasize his group's limited base of support might not have worked as a strategy, however, given the dominant group's investment in the idea that Muslims are an undifferentiated pre-modern people. As Sivanandan and Ezekiel both point out, Western states have been willing to foster separatist religious enclaves providing such groups restrict their claims to culture. In Britain, the anti-racist basis to multiculturalism (responding to specific group claims of injustice) lost ground as the state began to be more willing to respond to cultural demands for separate spaces rather than to demands that required redistribution (Sivanandan 2006, p. 3). In France, the French government concurred with the creation of the French Muslim Council made up of representatives of mosques. The larger the mosque (measured in square footage) the greater the number of representatives, a regulation that facilitated the domination of mosques funded by the Gulf States. Muslim women have little chance of being heard either within community or outside of it as conservative men become the legitimized representatives of community (Ezekiel 2005, p. 233). Finally, in Canada, the Ontario government has resisted the demand for Black focussed schools, a measure intended to counter the dropout rate of African Canadians, a national commitment to multiculturalism notwithstanding. Under these conditions, it would not have been easy for Muslim women to contest the meaning of what it means to be a Muslim and a citizen of a modern state. If feminists had few tools with which to confront the strategies of governance in neoliberal and white supremacist states, however, at the very least we could have refrained from deliberately invoking the spectre of a clash of civilizations and the necessity of keeping pre-modern peoples in line.

I do not have answers for negotiating the currents of contemporary neo-liberalism and empire, only suggested strategies to interrupt the powerful deployment of the imperilled Muslim woman as the means to make a colour line between the modern and the pre-modern. My suggestions concern subjecting the state to

as much scrutiny as we do conservative religious groups. Where I run aground, however, is in the perception of risk. Many of my good friends breathed a sigh of relief when Premier McGuinty announced the end of faith-based arbitration. These are friends who know the power of fundamentalism and how much it oppresses women. They are women who insist that Sharia always works in favour of men and that for it to work otherwise requires considerable resources which Canadian Muslim women do not have. Equality arguments within Islam is certainly a long term strategy.

As it stands, Canadian Muslim communities will continue to use Islamic principles informally and women remain unprotected in this arena. However, should a woman be able to turn to common law, something that requires resources and a willingness to live without community, the possibility exists that she may be able to secure her rights under Western law. But here too, we must note that Muslim women's experiences of Canadian law have not been entirely positive and that our secular state is a racist state complete with patriarchal and racist judges. At the end of the day, something positive may have been achieved in that the plans of a small conservative religious faction may have been upset, but it has been achieved through reinforcing some rather terrible dualisms (women's rights versus multiculturalism; West versus Muslims; enlightened Western feminists versus imperilled Muslim women) which, in a post 9/11 era, has tremendous utility for states seeking to regulate Muslim populations. Was it worth it? Only time will tell but my guess is that the way is paved, if it wasn't before, for the kinds of laws we are seeing in Europe, which are enacted in the name of protecting Muslim women but which are thinly disguised methods of putting Muslim populations under heavy surveillance while relieving the state from scrutiny about its practices towards both Muslims and all women. As in the narratives of rescue with which I began, it seems likely that Muslim women won some protection but only at the cost of increasing anti-Muslim/anti-immigrant racism and consolidating the idea of civilized Europeans. When the war on terror in the West requires imperilled Muslim women and dangerous Muslim men as a central part of its conceptual apparatus, as anti-imperial feminists we become obligated to pursue anti-patriarchal strategies within rather than outside our communities, the difficulties of doing so notwithstanding.

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