

**Women living under muslim laws
النساء في ظل قوانين المسلمين
Femmes sous lois musulmanes**

DOSSIER 3

June – July 1988

Muvman Liberasyon Fam

Support our campaign for one law for all women

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Dear Sisters,

Everyone has the right to legal protection through law. The law should protect everyone. There should not be a law which gives people the "choice" to have less right than everybody else: it is senseless. However senseless it may sound, there is actually a law in existence called the "Muslim Personal Law" which does precisely this: gives people the "choice" to have less rights. A very important bill is to be proposed in Parliament. This bill aims to repeal the "Muslim Personal Law". The "Muslim Personal Law" means that all women do not have the same rights. You probably know that the law says that all marriages that it recognises are civil marriages. However, an exception is made in law: those who get married under the "Muslim Personal Law" cannot enjoy as many rights as everybody else married under civil law.

Usually, if we women contract a civil marriage, and, if for instance, after marriage our husband beats us up, we can petition the Court for a divorce: the law recognises our right to divorce in this case. But not all of us have this right: those amongst us who have not contracted a civil marriage do not have this right. According to the "Ansari Report", a draft code of the "Muslim Personal Law" prepared in 1981, those amongst us who have married under this law, have almost no rights at all: a husband has the right to "physically torture" his wife (to "correct" her behaviour), a husband has the right to marry several women, a husband has the right to divorce his wife for any reason, without even stating a reason, a wife cannot go out of the house without her husband's permission, a woman has to submit to her husband's sexual urges whenever he wants it, a wife has no right to work without the husband's permission.... The whole philosophy of this law is based on the absolutely false and sexist assumption that men are "physically and mentally superior" to women. Under this law, women become the slaves of men entirely.

The law is supposed to protect everyone, specially those people who are "weakest" in society. What woman or woman's family would accept a marriage that would give the woman less rights than everybody else? Most people choose to contract civil marriages so that they get their full rights. But a woman and her family have to be in a strong position to insist on getting a marriage contract where the woman will be able to have certain rights. It is particularly families who are economically poorer than the bridegroom's family who find themselves in a position where they cannot insist on a civil marriage. When the bride's family is economically stronger than the bridegroom's family, a civil marriage is easier to get. On top of that, the law allows 16 year old girls to get married if the parents accept (or push for it). You can surely appreciate how hard it is for a girl of 16 years to insist on a civil marriage. How could a girl of 16 years even get the chance to know about the legal options in marriage? Those who do not get a civil marriage cannot obtain protection by law if ever problems arise after marriage.

Instead of protecting the "weak", the law lets them down.

Once you get married under the "Muslim Personal Law", there is no getting out. You are not allowed to change your marriage contract. Then, if problems come up after marriage, you cannot petition the Court because magistrates/judges are not given the authority to judge the case. Only a special committee of Muslim jurists can judge the case. And it is the principles such as those outlined in the "Ansari Report" which guides them in this task.

Recently, the government has declared its intention to present a bill which would mean that the state would only recognise civil marriages. "Muvman Liberasyon Fam" says yes to this:

ALL women would then enjoy the same rights.

Civil marriage is a fundamental right.

Why should there be one law for some women and another law for other women; one law

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guaranteeing less rights?

We, in the MLF, are launching a campaign so that all MP s vote in favour of "one law for all women"; so that the law does not allow some women to be made into slaves.

This is why we have launched the campaign.

But there is also another important reason: we do not believe that a separate law should be made just because a few religious leaders ask for it. If this was allowed to happen, what would stop them from asking separate laws affecting all aspects of our lives. What would stop them from demanding separate Courts, separate laws? And then, why not separate Parliaments, separate schools, separate land for each religion, for each communal group, even for each caste? As you can see, this kind of law will constitute a recipe for destructive division between people. It will divide us women; we are all part of women's associations which aim to unify women and which aim to construct solidarity amongst women for women's liberation. We say that religion and law should be kept separate. We are against the whole principle of a law which allows women to have less rights than others. It is precisely this kind of law which will discriminate against women on the basis of religion. We refuse the pretext of religion to allow this kind of discrimination.

The government's bill proposing that all marriages be civil will be accepted only if we all make our voices heard. The MLF is asking you to take a stand in favour of civil marriage for all women who choose to get married. It is important that you do this as soon as possible. Woman, irrespective of communal grouping, religion, age, have struggled hard to get certain rights within civil marriage:

All women must reap the benefits of this struggle now.

The bill is being presented in Parliament this week. We must make haste and make our voices heard before MP s take a vote. There are many things your association can do immediately:

- Send a solidarity message to us to say that you support our campaign (See form enclosed).
 - Organise meetings in your association and invite the MLF to send speakers to talk on this matter.
- Whatever you do, remember to keep the MLF informed of what's happening on your side.

If you want more information on this issue, or if you just want to discuss it with us, come and see us at our centre opposite the UBS garage in Forest-Side, or write to us at: Sant Fam, Lakaz Ros, Celicourt Antelme St, Forest-Side.

Women's solidarity for women's rights

K. Lallah For MLF.

Muvman Liberasyon Fam

Presents

Women's minimum program

1. Amendment of the Constitution of Mauritius, Section 16(3) so as to make unconstitutional all laws which discriminate on the grounds of sex.
2. Amendment of the Constitution of Mauritius so as to declare illegal any discrimination in any field on the grounds of sex, race, place of birth, political opinion, colour or religion.
3. The organisation of all technical training so that women and men have the same rights, and boys and girls have the same rights.
4. The provision by Government health facilities of "menstrual regulation" by aspiration up to 14 days after menstruation date for all who choose, and the immediate repeal of the law making abortion illegal, and that making sterilisation illegal.
5. Prosecution in cases of wife-beating, and not the usual reply of it's a "domestic problem" which does not concern the police.
6. Amendment of the law so that no labour law for a particular sector can give less rights than the general "Labour Act".
7. Creation by Government of permanent employment, and not the relying on the private sector to create jobs which are here today and gone tomorrow.
8. Legislation to give equal wages for equal work, and to guarantee a minimum wage for all.
9. The setting up by government of crèches, public laundries and canteens in worker's areas.
10. Amendment of the rape laws, so as to include all sexual aggression, and so as to prohibit the investigation of supposed "provocation", of the victim's private life, or of the technicalities of penetration.
11. Granting divorce on mutual consent or after definitive separation.
12. The granting of equal rights to all men and all women under the law; in practice, this means the abandoning of the proposals for "Muslim Personal Law", which means discrimination against women.
13. Legislation to once again bring legal marriage age up to 18, the age of majority.
14. Legislation to prohibit the employment of labour under the age of 18 years of age; and as long as work age is less than 18 years, we demand that the right to unionise be the same as the age at which one has the right to seek employment.
15. Full-time education for all up to the age of 18.
16. For cow-keepers, the generalisation of the Pilot Project (guaranteed price for milk, silo, etc..) to the whole of Mauritius and Rodrigues.
17. The buying by the Marketing Board of all agricultural and fishing produce in Rodrigues, for those who choose to sell to the Marketing Board.

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18. Price control in Mauritius and Rodrigues and subsidy on the transport costs of produce sent to Rodrigues so as to keep prices equal throughout the country.
19. The repeal of the Industrial Relations Act and the Public Order Act so as to allow the right to strike, and the right to hold peaceful demonstrations.
20. The staggering of factory hours to alleviate the rush-hour transport problem.

The implementation of the SOLIDARITE FAM 1987 demands around their theme:

"One Third of our Lives are on the Work Site; We wish to live well during this time!"

- Break time to be increased to 20 minutes - 30 minutes and 20 minutes
- Provision of sufficient good toilets with running water throughout all shifts in factories, and the setting up of chemical toilets on work lorries for agricultural labourer, and the provision of an adequate toilet for all domestic workers.
- A worker's mess to be set up in all factories, and a tarpaulin be suspended next to work lorries for agricultural workers to have meals in shelter from rain and sun, and a decent place for domestic workers to take their meals.
- Uniforms for all workers
- Lockers for all factory workers and domestic workers to keep their own things.

This Minimum Program for Women was prepared by the Muvman Liberasyon Fam of Lakaz Ros, Antelme Street, Forest-Side, MAURITIUS for the 8th March, 1987 on the occasion of International Women's Day, and has been sent to all the major political parties in Mauritius, the MSM, MMM, RTM, Labour Party, PMSD, FTS, LALIT, UDM and OMT.

Muslim Personal Law revoked today at 00.30 hours (Tuesday 10th November 1987).

M. Anerood Jugnauth:

All equal before the law

Mr Aziz Asgarally creates surprise at the time of voting.

"Muslim Personal Law was revoked at 00.30 hours today in the Parliament. A surprise at the time of the voting: Member of Parliament. Aziz Asgarally, of the governmental majority, abstained while all the parliamentarians of the alliance present in the Chamber supported the motion of the Prime Minister, Mr. Anerood Jugnauth.

The opposition in its entirety vigorously fought this governmental project of law aiming at the elimination of Muslim Personal Law. As expected yesterday's session which began at 14.00 hrs and ended early morning was particularly turbulent. The different speakers had to contain themselves in order to avoid tension, given the sensitive nature of the proposed law. Nevertheless several speakers defended their respective views in excellent speeches. On the side of the ruling majority, the dominant idea was that "the country needs to keep in step with the times, and it is imperative to assure that in a society such as ours, all citizens be treated in an equal manner, in particular women of this country". The Prime Minister in person came out openly to emphasize that contrary to the affirmation by the opposition this amendment of the civil code would consolidate national unity by protecting in the same manner the rights of all citizens. Mr. Jugnauth at a certain moment in his speech recognised that there exists a certain problem concerning couples who married under Muslim Personal Law between 1982 and up till now, because of this law being revoked. "All together we'll work towards finding a solution to any problem which will surface."

The opposition affirmed that the revocation of this law is not justified, taking stock of the fact that those who desired to be governed by this law did so voluntarily and in conformity with the prescription of the Qur'anic law to which they attach great importance. Many in the opposition were of the opinion that "rights acquired by the citizens are taken away by this measure". The project of law proposed by the Prime Minister was voted after the leader of the opposition Dr. Prem Nababsing sought a "division of vote".

Summarising the debate at about 12.30 in the night, the Prime Minister immediately stated that there should not be any ambivalence around the Muslim Personal Law. "A lot of confusion has been generated by the opposition which pretended that the proposed amendments hide some religious and political allusions".

Here is the essence of the declaration made by the PM in the Parliament yesterday evening. "I fear that this simple project of law which concerns nothing but civil marriages, was an occasion for the opposition to twist minds and make believe that the debate is discriminatory and concerns religion, and wanted to make people believe that I am Anti-Muslim. This is not the case, and there is no political motive behind what we are debating this evening". "I know that religion is a sensitive theme and I have great respect for these things. Since we are in power, we did everything to promote through our policies of unity of the Mauritian Nation, and unity through religion. I would not take any lesson from anybody. Why would I do certain things to push 20% of the population against me and have all the members of the Muslim community against me ? What did I say and what did I do, that I am accused of misleading the Muslim community ?

During the election campaign and on the occasion of private meetings I explained to my sisters from the Muslim community that those who marry under under the Muslim Personal Law will be at a clear disadvantage compared to other Mauritian Women. I was sincere and I still am, and I explained these things bluntly during the election campaign. I studied the problem and after reflection, I arrived at the conclusion that this law was not advantageous to women of the Muslim community. After having heard their version of the facts, I consider that they themselves judge the

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Muslim Personal Law as being detrimental to them. The men have all the rights".

"Today it is incorrect to say that I am against the Koran and that the campaign is directed towards these ends. Personally I know that there is a disparity between our sisters of the Muslim community and our sisters of the other communities of Mauritius. We will do everything to improve the lot of Mauritian women. We live in a secular state and cannot permit that a section of the population live in a ghetto. "There is no malice and no political motive. We act in sincerity. I know whatever be the threats, that I am sincere and I am afraid only of God. He will stand by me". I Mauritius there is no question of being a majority community or of being a minority community. I cannot understand how such an aberration has emerged. If we change the law, it is simply a means for us to change a situation where the lot of a section of the population is not defined".

"I know that there are problems but we will do everything to find a solution, particularly in the case of marriages which took place between 1981 to the present, but with the amendments proposed this evening, these problems will not occur again. Out of 16,000 marriages that took place between 1981 and today, only 15% had opted for the Muslim Personal Law. Would that mean that 85% which were governed by the civil codes were infidel ?". "In fact if we look at the constitutional issue, in this case too we could say that each community in Mauritius could demand a Personal Law. In fact what we propose this evening is to meet the judiciary. In what sense are we restricting religious freedom in Mauritius? We do not practice any discrimination vis-à-vis anybody, all we want to do is to put an end to a situation which till now was not clear".

Even if at a certain moment in my life, I was of another opinion concerning Muslim Personal Law, it is not a sin if today I feel and I am convinced that the proposed changes are in the interest of everybody'.

Extracts from the Experts

Report on *Muslim Personal Law* (Mr. Masud A. Ansari).

Terms of Reference (See Page 1) (Govt Printers 1981)

"1. The Government of Mauritius is proposing to introduce the Muslim Personal Law in Mauritius in respect of marriage, divorce and devolution of property.

"2. The expert (Mr. Masud A. Ansari) should carry out a survey and prepare a draft code on Muslim Personal Law

"3. The term of reference for the expert would be to prepare a Code on Muslim Law for Mauritius, having regard to the heterogeneous population in Mauritius".

Theory of Marriage (page X) "the law decides in favour of the husband because, generally speaking, he is mentally and physically superior of the two".

Consent (in marriage) Page 2: "When a girl who is virgin is consulted before her marriage or informed of such marriage after its conclusion by a near relation or his agent, and of her own accords remains silent, after having been made aware of the husband to whom she has been united and of the amount of dower that has been settled on her or when she smiles, laughs, weeps without sobs then her silence, smile, laugh, or tears will amount to ratification".

Witnesses to a marriage (Page 3): "The witnesses must be adult, sane and profess Muslim faith. At least two male or one male and two females persons should be made to witness the marriage.... Under Islamic law of evidence testimony of an infidel or non believer is inadmissible in evidence against a Muslim".

Exception to capacity to enter into contract of marriage:

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Certain schools "maintain that if the performance of such a contract is committed to a woman, either for herself or any body else, she may not be able to acquire or procure the full benefits which a marriage produces. Being of weak reason, and open to flattery and deceit, she can be made to suffer without even realising that some harm has been done to her".

Equality in Marriage "In order that a marriage may bear the character of a suitable union in law, the husband must be the equal of the women. Or the contrary the woman's inferiority does not render the marriage invalid".