Islamic Law, Women's Rights, and Popular Legal Consciousness in Malaysia

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[illegible]

In most Muslim-majority countries throughout the world, the laws governing marriage, divorce, and other aspects of Islamic family law have been codified in a manner that provides women with fewer rights than men (Na'im 2002; Mayer 2006). Yet despite this fact, the Islamic legal tradition is [illegible] inherently incompatible with contemporary notions of liberal rights, including equal rights for women (Wadud 1999; Na'im 2008; Souaiaia 2009). This divergence between Islamic law in theory and Islamic law in practice is the result of how Islamic family law was written into state law in the nineteenth and early twentieth centuries throughout the Muslim world. A growing body of scholarship suggests that the process of legal codification was both selective and partial (Tucker 2008; Hallaq 2009a). Far from advancing the legal status of women, legal codification actually narrowed the range of rights that

advanced through secular frameworks through most of the twentieth century, efforts to effect change in family law [illegible] have gained increasing traction in recent years. To varying degrees, women have pushed for family law reform within the framework of Islamic law in Egypt (Singerman 2004; Zulficar 2008), Iran (Mir-Hosseini 2008; Osanloo 2009), Malaysia (Badlishah 2003, 2008; Othman 2005), Morocco (Dieste 2009), and many other Muslim-majority countries, opening up a new terrain for popular discourse and, in some cases, producing concrete and progressive legal reforms (Moghadam 2002; Singerman 2004; Mir-Hosseini 2008).

When women's rights organizations push for the reform of family law codes, however, they almost invariably encounter stiff resistance due to the widespread but mistaken understanding that Muslim family laws, as they are codified and applied in Muslim-majority countries, represent direct commandments from God that must be carried out by the state. As leading Muslim women's rights activist Zainah Anwar explains: "Very often Muslim women who demand justice and want to change discriminatory law and practices are told 'this is God's law' and therefore not open to negotiation and change" (2008b, 1). For many lay Muslims, the state's selective codification of Islamic law is understood as the faithful implementation of divine command, full stop. As a result, rights activists cannot easily question or debate family law provisions without being accused of working to undermine Islam. As a further result of this dynamic, the laws concerning marriage, divorce, child custody, and a host of other issues critical to women's well-being are effectively taken off the table as matters of public policy. Popular (mis)understandings of core conceptual issues in Islamic law therefore have a tremendous impact on women's rights.

This difficulty faced by women's rights activists is symptomatic of a larger problem with which scholars of Islamic law have been concerned for quite some time. Specialists in Islamic jurisprudence and Islamic legal history are often dismayed by the disjuncture between Islamic legal theory and popular understandings of Islamic law. In its classical form, Islamic legal theory ([illegible]) was marked by its flexibility, its commitment to pluralism, and, most notably, the fact that Islamic law was not binding as state law (Weiss 1992; Jackson 1996; Abou El Fadl 2001; Peters 2005; Kamali 2008; Hallaq 2009a). Yet in contemporary political discourse, large segments of lay Muslim publics are swayed by the notion that Islamic law is uniform and static, that it should be enforced by the state, and that neglecting such a duty constitutes a rejection of God's will. These informal obstacles to family law reform underline the

Sunnah.[2] In this dichotomy, God is considered infallible, while humankind's attempt to understand God's way is imperfect and fallible. Islamic legal theory holds that humans can and should strive to understand God's way, but that human faculties can never deliver certain answers; they can merely reach reasoned deductions of God's will. This distinction between God's perfection and the fallibility of human understanding is of critical importance because recognition of human agency serves as the basis for a strong normative commitment within classical Islamic legal theory toward respect for diversity of opinion as well as temporal flexibility in jurisprudence (Abou El Fadl 2001). Since the vast corpus of Islamic jurisprudence is the product of human agency, scholars of Islamic law recognize Islamic jurisprudence as open to debate and reason, and subject to change as new understandings win out over old.[3]

This foundational principle is taken for granted among those experts trained in Islamic jurisprudence, but the conceptual distinction between [illegible] and [illegible] is not always so clear to lay Muslims without a background in Islamic legal theory. For lay Muslims, it is all too easy to conflate the two, particularly when political and social actors work to obscure such distinctions. When such conflation occurs, the implications are far reaching because it extends sacred authority to human agents. The flexible, plural, and open nature inherent in Islamic jurisprudence is replaced by singular and fixed understandings of God's will (Abou El Fadl 2001). Debate and deliberation are discouraged, and both state and nonstate actors can more easily claim fixed interpretations of Islamic law.

This disjuncture between fundamental principles in Islamic legal theory and popular understandings of Islamic law among lay Muslims has long been assumed by specialists in the field.[4] To date, however, there have been no attempts to systematically assess popular understandings of core conceptual principles in Islamic law by way of survey research.[5]

among lay Muslims in Malaysia. The study then illustrates the practical implications of these findings through grounded examples of efforts by women's rights activists to reform family law codes. The examples demonstrate how popular misunderstandings of core principles in Islamic legal theory limit the possibilities for political mobilization for some political trends while facilitating political mobilization for others. Popular legal consciousness is thus shown to be a critical constitutive element of the broader political environment.

This article proceeds in three parts. In the first section, I provide a brief overview of core principles in classical Islamic legal theory for readers without a background in Islamic law. Next, I examine the transformation of Islamic law in Malaysia. I argue that codification and institutionalization undermined the flexible, plural, and dynamic nature of classical Islamic legal theory by collapsing the crucial distinction between [illegible] and [illegible]. In the third part, I present the findings from an original survey of Islamic law in popular legal consciousness, conducted in Malaysia in December 2009. By way of specific examples, I then show how popular legal consciousness works against the efforts

eventually leaving four central schools of jurisprudence in Sunni Islam that have continued to this day: the Hanafi, Hanbali, Maliki, and Shafi'i.[8]

The engine of change within each school of jurisprudence was the private legal scholar, the [illegible], who operated within the methodological framework of his or her [illegible] to perform [illegible], the disciplined effort to discern God's law.[9] The central instrument of incremental legal change was the [illegible], a nonbinding legal opinion offered by a qualified [illegible] in response to a question in Islamic law.[10] Because [illegible] are typically issued in response to questions posed by individuals in specific social situations, they respond to the evolving needs of particular Muslim communities in their own specific contexts.[11] In this sense, the evolution of Islamic jurisprudence was a bottom-up, not a top-down, process (Masud, Messick, and Powers 1996, 4).

The Muslim legal community maintained unity within diversity through a critical conceptual distinction between the [illegible] (God's way) and [illegible] (understanding).[12] Whereas the [illegible] was considered immutable, the diverse body of juristic opinions that constitutes [illegible] was acknowledged as the product of human engagement with the textual sources of authority in Islam. In this dichotomy, God is infallible, but human efforts to know God's will with any degree of certainty are imperfect and fallible. This norm was so deeply ingrained in the writings of classical jurists that they concluded their legal opinions and discussions with the statement [illegible] ("And God knows best"). This phrase acknowledged that no matter how sure one is of her or his analysis and argumentation, only God ultimately knows which conclusions are correct. This distinction between God's perfection and human fallibility required jurists to acknowledge that competing legal opinions from other scholars or from other schools of jurisprudence may also be correct. As Hallaq relates, "for any eventuality or case, and for every particular set of facts, there are anywhere between two and a dozen opinions, if not more, each held by a different jurist . . . there is no single legal stipulation that has monopoly or exclusivity" (2009a, 27). The resulting disagreements and diversity of opinion ([illegible]) among jurists

human understanding of God's will was recognized as unavoidably fallible, religious authority was not absolute. A [illegible], by definition, merely represented the informed legal opinion of a fallible scholar; it was not considered an infallible statement about the will of God. Following on this, some scholars contend that lay Muslims are obliged to seek out the guidance of learned religious scholars, but they must, to the best of their ability, evaluate a jurist's qualifications, sincerity, and reasoning.[13] If an individual believes that the reasoning of another scholar or even another school of jurisprudence is closer to the will of God, that individual is obliged to follow his or her conscience, as he or she alone must ultimately answer to God (Abou El Fadl 2001, 50–53). Most classical jurists, on the other hand, held that lay Muslims are religiously obliged to follow fatwas through the principle of [illegible]. In both views, however, the [illegible] of the religious scholar is not directly binding on the individual as a matter of state law.[14]

The plural nature of Islamic jurisprudence and the conceptual distinction between the [illegible] and [illegible] provided for the continuous evolution of Islamic law (Weiss 1992; Johansen 1999; Abou El Fadl 2001; Hallaq 2009a). Whereas the [illegible] was understood by Muslim jurists as immutable, [illegible] was explicitly regarded as dynamic and responsive to the varying circumstances of the Muslim community across time and space.[15] According to Hallaq, "Muslim jurists were acutely aware of both the occurrence of, and the need for, change in the law, and they articulated this awareness through such maxims as 'the fatwa changes with changing times' . . . or through the explicit notion that the law is subject to modification according to 'the changing of the times or to the changing conditions of society' " (2001, 166).

Conspicuously absent from this brief synopsis is any mention of the state. This is because the modern state, as we know it, did not exist for roughly the first twelve centuries of Islam. While specific forms of rule varied across time and place, as a general principle there was no administrative apparatus that applied uniform legal codes in the way that we have become so thoroughly accustomed to in the modern era (Jackson 1996). This is not to say that Islamic law was never applied by rulers in the preodernsogiousdidderr

between [illegible] and [illegible] helped distinguish divine will from human agency, the distinction between [illegible] and [illegible] helped preserve the integrity of Islamic jurisprudence as an independent sphere of activity, separate from governance.

Perhaps more important than what Islamic legal theory had to say on the matter were the more practical realities of premodern governance. [illegible] had thrived, in all its diversity, largely due to the limited administrative capacity of rulers. This would soon change, however, as rulers built modern bureaucracies and expanded their ability to project state power.[18] Beginning in the late eighteenth century, legal codification and administrative reforms enabled the state to regulate daily life in a far more systematic and disciplined manner.[19] As we will see in the following section regarding the specific case of Malaysia, the conceptual distinctions between [illegible] and [illegible] and between [illegible] and [illegible] were blurred as a result of the rapid expansion of state power, the formalization of Islamic legal institutions, and the codification of Islamic law.

THE INSTITUTIONALIZATION OF ISLAMIC LAW IN MALAYSIA

Although Islam spread throughout the Malay Peninsula beginning in the fourteenth century, the institutionalization of Islamic law as state law is a far more recent development.[20] As in other parts of the Muslim world, the colonial period was the key turning point for the institutionalization of religious authority in Malaysia (Roff 1967; Hooker 1984; Horowitz 1994; Hussin 2007). With British assistance and encouragement, [illegible] was formalized through a process of legal codification. [illegible] court administration was "rationalized," expanded, and later placed under the direction of new, state-level religious councils ([illegible]) and departments of religious affairs ([illegible]). According to one of the most important histories of this period, the institutional transformations under British rule produced "an authoritarian form of religious administration much beyond anything known to the peninsula before."

> A direct effect of colonial rule was thus to encourage the concentration of doctrinal and administrative religious authority in the hands of a hierarchy of officials directly dependent on the sultans for their position and power. . . . By the second decade of the twentieth century Malaysia was equipped with extensive machinery for governing Islam. (Roff 1967, 72–73)

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18. In the Ottoman Empire, legal codification and a variety of administrative reforms were introduced to face the rising threat of emergent European powers. In other cases, such as that of Malaysia, the processes of legal codification and state building were intimately related to colonial rule.

19. This process is examined in great detail by Hallaq (2009, 371–498).

20. The form and nature of Islamic law in the precolonial period are matters of debate, but we have precious little empirical research on the matter. Islamists who wish to see an expanded role for (a conservative) Islam in the Malaysian legal system have adopted the narrative that Islamic law must be "brought back in" to reverse the impact of colonial rule. However, scholarship on the matter suggests that "despite the references to Islamic law that exist in fifteenth-century texts such as the [illegible], there is little if any solid evidence to indicate widespread knowledge or implementation of such laws in the Malay Peninsula prior to the nineteenth century" (Peletz 2002, 62). To the extent that Islamic law was practiced in the precolonial period, it was thoroughly intertwined with and informed by customary ([illegible]) law. Its practice was radically different from the highly institutionalized form that prevails in contemporary Malaysia. See Horowitz (1994) for more on the nature of Islamic law in the precolonial Malay Peninsula.

design. For example, Article 28 of the Act declares: "The proceedings of the Majlis shall be kept secret and no member or servant thereof shall disclose or divulge to any person, other than the Yang di-Pertuan Agong [Supreme Head of State] or the Minister, and any member of the Majlis, any matter that has arisen at any meeting unless he is expressly authorized by the Majlis." In other words, the Administration of Islamic Law Act subverts not only basic principles of Islamic legal theory, but also the foundational principles of liberal democracy that are enshrined in the 1957 Constitution, by denying public access to the decision-making process that leads to the establishment of laws.

The Act also establishes a hierarchy of judicial authority in the court system akin to the institutional structure that one would find in common law and civil law systems. Articles 40 through 57 establish Shari'a Subordinate Courts, a Shari'a High Court, and a Shari'a Appeal Court. Finally, the Administration of Islamic Law Act establishes a monopoly on the administration of mosques, including the trusteeship and maintenance of all existing mosques (Articles 72 and 74), the erection of new mosques (Article 73), and appointment and discipline of local imams (Articles 76–83).

The Shari'a Criminal Offences Act (1997) further consolidates the monopoly on religious interpretation established in the Administration of Islamic Law Act. Article 9 criminalizes defiance of religious authorities.

> Any person who acts in contempt of religious authority or defies, disobeys or disputes the orders or directions of the Yang di-Pertuan Agong as the Head of the religion of Islam, the Majlis or the Mufti, expressed or given by way of , shall be guilty of an offence and shall on conviction be liable to a fine not exceeding three thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Article 12 criminalizes the communication of an opinion or view contrary to a .

> Any person who gives, propagates or disseminates any opinion concerning Islamic teachings, Islamic Law or any issue, contrary to any for the time being in force in the Federal Territories shall be guilty of an offence and shall on conviction be liable to a fine not exceeding three thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Article 13 criminalizes the distribution or possession of a view contrary to Islamic laws issued by religious authorities.

> (1) Any person who ( ) prints, publishes, produces, records, distributes or in any other manner disseminates any book, pamphlet, document or any form of recording containing anything which is contrary to Islamic Law; or ( ) has in his possession any such book, pamphlet, document or recording, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding three thousand ringgit or to imprisonment for a term not exceeding two years or to both.
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> (2) The Court may order that any book, pamphlet, document or recording referred to in subsection (1) be forfeited and destroyed, notwithstanding that no person may have been convicted of an offence connected therewith.

The Shari'a Criminal Offences Act also criminalizes a number of substantive acts, including failure to perform Friday prayers (Article 14), breaking one's fast during Ramadan (Article 15), gambling (Article 18), drinking (Article 19), and "sexual deviance" (Articles 20–29).

The Shari'a Criminal Procedure Act (1997) and the Shari'a Civil Procedure Act (1997) borrow extensively from the framework of the civil courts in Malaysia. The drafting committee literally copied the codes of procedure wholesale, making only minor changes where needed. Placed side by side, one can see the extraordinary similarity between the documents, with whole sections copied verbatim. Abdul Hamid Mohamed, a legal official who eventually rose to be Chief Justice of the Federal Court, was on the drafting committees for the various federal and state [illegible] procedures acts in the 1980s and 1990s. He candidly described the codification of [illegible] procedure as follows.

> We decided to take the existing laws that were currently in use in the common law courts as the basis to work on, remove or substitute the objectionable parts, add whatever needed to be added, make them Shari'ah-compliance [sic] and have them enacted as laws. In fact, the process and that "methodology," if it can be so called, continue until today.
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> The provisions of the Shari'ah criminal and civil procedure enactments/act are, to a large extent, the same as those used in the common law courts. A graduate in law from any common law country reading the "Shari'ah" law of procedure in Malaysia would find that he already knows at least 80% of them . . . a common law lawyer reading them for the first time will find that he is reading something familiar, section by section, even word for word. Yet they are "Islamic law." (Mohamed 2008, 1–2, 10)[27]

It should be noted that Abdul Hamid Mohamed and most other legal personnel involved in the codification of [illegible] court procedures [illegible] have formal education in Islamic jurisprudence. Mohamed's degree was from the National University of Singapore where he studied common law, yet he was centrally involved in the entire process of institutionalizing the [illegible] courts. The "Islamization" of law and legal institutions in Malaysia was, ironically, more the project of state officials who lacked any formal training or in-depth knowledge of Islamic legal theory rather than the traditional '[illegible]. The relative lack of familiarity with Islamic legal theory was likely one reason why these officials were able to subvert Islamic legal theory, perhaps unknowingly, with the conviction that they were serving Islam.

In line with this extensive program of formalizing [illegible] court functions, family law was similarly codified, narrowing the scope of rights that women could claim in classical Islamic jurisprudence. The Islamic Family Law Act of 1984 (Federal Territories)[28] makes it far more difficult for women to secure divorce than men, places women

27. Abdul Hamid Mohamed related the same details in a personal interview on November 17, 2009.

28. Because the administration of Islamic law is organized at the state level, there are thirteen separate Islamic family law enactments and one additional act for the Federal Territories. However, as with other legislation touching on Islam, the Federal Territories Act is the law upon which most state enactments are modeled. Divergence from the Federal Territories Act is more prominent in PAS-controlled Kelantan.

in a weaker position in the division of matrimonial assets, and provides women with fewer rights in terms of child custody and maintenance (Badlishah 2003; Anwar and Rumminger 2007). For example, Article 13 of the Islamic Family Law Act requires a woman to have her guardian's consent to marry (regardless of her age) while men have no similar requirement. Article 59 denies a wife her right to maintenance or alimony if she "unreasonably refuses to obey the lawful wishes or commands of her husband." Articles 47–55 make it simple and straightforward for a husband to divorce his wife (even outside of court), while a woman is faced with lengthy court procedures to earn a divorce without her husband's consent. Article 84 grants custody to the mother until the child reaches the age of seven (for boys) or nine (for girls), at which time custody reverts to the father. Moreover, Article 83 details conditions under which a mother can lose her limited custody due to reasons of irresponsibility, whereas no such conditions are stipulated for fathers. Malaysian women's groups operating within the framework of Islamic law face the challenge of explaining how the specific codifications of the Islamic Family Law Act have closed off many of the legal entitlements that women could legitimately claim in classical Islamic jurisprudence (Badlishah 2000, 2008; Othman 2005; Anwar 2008a).

In sum, between the beginning of British colonial rule in 1874 and the late twentieth century, Islamic law was transformed almost beyond recognition in Malaysia. Although the codification of personal status law was common in most Muslim-majority

Execution of the telephone survey, including the sampling of respondents, was conducted by the Merdeka Center for Opinion Research, the leading public survey research group in Malaysia. The survey was nationwide in scope and used appropriate sampling techniques to ensure that respondents represented the composition of the Muslim community in Malaysia across relevant demographic variables including region, sex, and urban-rural divides. The sampling population was drawn from the national telephone directory, which comprises all households with fixed-line telephones. In Stage 1 of the sampling, a random number generator was used to produce a sample of 3 million fixed-line telephone numbers from the national directory. The resulting list was then checked to ensure that it was proportional to the number of Muslim residents in each state according to 2006 Malaysian census figures. In Stage 2, a randomly generated

These misconceptions are not merely significant in a religious sense. Because Islamic law is used extensively as an instrument of public policy, popular misconceptions about basic features of Islamic jurisprudence have significant implications for democratic deliberation on a host of substantive issues, of which women's rights is just one important example. When the public understands the [illegible] courts as applying God's law unmediated by human influence, people who question or debate those laws

[illegible]

questions, this finding has deep implications beyond private religious belief. Because important matters of public policy are legitimized through the framework of Islamic law, the vision of Islamic law as code rather than Islamic law as method narrows the scope for public debate and deliberation.

This dynamic is again illustrated in concrete terms by the challenges faced by women's rights advocates in Malaysia. The nongovernmental organization Sisters in Islam works to advance women's rights within the framework of Islamic law by drawing on the rich jurisprudential tradition within Islam. Rather than accepting the specific codifications of *fiqh* that have been enacted as state law, Sisters in Islam examines the variety of positions in Islamic jurisprudence on any given issue, in the context of the core values of justice and equality that Islam affirms. For example, Sisters in Islam has lobbied the government to permit women to stipulate, in their marriage contract, the right to a divorce should their husband marry a second wife. While the Shafi'i *madhhab* does not afford women the opportunity to make such stipulations in the marriage contract, the Hanbali *madhhab* does (Badlishah 2008, 190). Why, Sisters in Islam asks, must Malaysian family law conform to the Shafi'i *madhhab* on this point of law when the Hanbali *madhhab* affords a more progressive opportunity to expand women's rights?[33] These women's rights advocates highlight the fact that *fiqh* is not a uniform legal code. Rather, it is a diverse body of jurisprudence that affords multiple guidelines for human relations, some of which are better suited to particular times and places than others. In a state where Islamic law has been codified as an instrument of patriarchal public policy, Sisters in Islam thus engages conservatives on their own discursive terrain. The common response to women's rights activism that "this is God's law" is thus challenged by the powerful rejoinder that, on most questions of law, Islam simply does not provide a single legal opinion.[34]

Unfortunately, this approach is again stymied by popular misconceptions of Islamic law. To the extent that Islamic law is understood as a fixed and uniform code, with only one correct answer for any particular issue, women's rights advocates face an uphill battle in convincing the public about the possibilities for legal reform, even within the framework of Islamic law. The fact that 78.5 percent of lay Muslims in Malaysia believe that each of the laws and procedures applied in the [illegible] courts is clearly stated in the Qur'an, which Muslims consider the direct word of God, indicates the public's weak grasp of Islamic legal principles as well as their weak knowledge of the basis of Malaysian public law. The collapse of the distinction between [illegible] and *fiqh* in popular legal consciousness makes it extremely difficult to propose alternative interpretations, even when they are equally legitimate in Islamic law.[35]

33. Most codifications of *fiqh* in Malaysia are drawn from the Shafi'i *madhhab*, but the Malaysian government has drawn material from other *madhahib* on some points of law based on the concept of *maslaha* (public interest) in Islamic law. There are also whole areas of law, such as Islamic banking, which are not based on the Shafi'i madhhab.

34. Women's rights advocates have fielded similar arguments within the framework of Islamic law in a number of diverse contexts, sometimes with successful results. For examples, see Singerman (2004), Zulficar (2008), Osanloo (2009), and Tucker (2008).

35. Sisters in Islam has been labeled "Sisters Against Islam" on more than one occasion in the popular press, despite the fact that its advocacy campaigns operate within the framework of Islamic law.

Religious Authority in Popular Legal Consciousness

The next pair of questions was designed to assess how lay Muslims understand

the guidance of those knowledgeable in religion, they are not to follow blindly, as they alone are answerable to God.

Despite the apparent willingness of most Malaysian Muslims to accept religious authority without questioning, most survey respondents also recognized that the [illegible]

between [illegible] and [illegible]. Whereas Islamic jurisprudence is marked by diversity and fluidity, Islamic law is understood among most Muslims in Malaysia today as singular and fixed. Implementation of a codified version of Islamic law through the [illegible] courts is understood as a religious duty of the state, and indeed it appears that most Malaysians believe that the [illegible] courts apply God's law directly, unmediated by human agency. Likewise, unquestioned deference to religious authority is assumed to be a legal and religious duty among most Malaysians.

Given the nature of popular legal consciousness in Malaysia, it is no wonder that women's rights activists have encountered such difficulty in mobilizing broad-based public support in their efforts to reform Muslim family law codes. It is also not surprising that they often find themselves on the losing end of debates with conservatives, regardless of the strength of their arguments. Women's rights activists, even those operating within the framework of Islamic law, are easily depicted by their opponents as challenging core requirements of Islamic law, or even Islam itself. Conversely, the discursive position of conservative actors is strengthened by popular misunderstanding of epistemological commitments in Islamic law. Religious officials, political parties, and other groups wishing to preserve the status quo can easily position themselves as defenders of the faith, given popular understandings of Islamic law as singular and fixed.

Of course, Islamic law is also deployed as an important instrument of public policy in other issue areas beyond women's rights. Popular legal consciousness therefore has far-reaching implications for a variety of other substantive public policy issues. Islamic law has been used in Malaysia as the pretext for outlawing "deviant" sects,[37] policing public morality (Liow 2009, 128–31), and curtailing freedom of expression (SUARAM 2008, 69–71). In each of these areas, Islamic law is not only cast in a conservative vein—perhaps more significantly, Islamic law is consistently deployed in a manner that closes down public debate and deliberation.

This vision of Islamic law as being exclusively divine in origin, void of human agency, and therefore singular, fixed, and binding is encouraged by the government, the growing religious bureaucracy, the Islamic Party of Malaysia ([illegible], or PAS), and Islamist organizations such as ABIM, the Malaysian Islamic Youth Movement (Liow 2009; Mohamad 2010).[38] Such rhetorical positioning is regularly deployed in public policy debates because "speaking in God's name" repeatedly proves to be the most effective and expedient avenue for conservative state and nonstate actors to undercut their opponents. More generally, popular legal consciousness constitutes the underlying sociolegal context that fuels the rhetorical battles and one-upmanship regarding the place of Islam in Malaysia that occur regularly between the ruling UMNO (United Malays National Organization) and its Islamist party challenger, PAS.[39] It is beyond the scope of this article to examine and document the formal and informal sites where public understandings of Islamic law are shaped, but any analysis would need to

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37. The Malaysian government has outlawed fifty-six "deviant" sects, including the Shi'a.

38. ABIM, the Malaysian Islamic Youth Movement ([illegible]), is the strongest and most organized Islamist civil society organization in Malaysia.

39. UMNO has ruled Malaysia since its independence. PAS is the main challenger to UMNO, at least among the ethnic Malay vote. For more on the rivalry between the two parties and the use of Islam by each, see Liow (2009).

account for the many sites of socialization controlled by the state itself, including religious education in public schools, religious programming on state radio and television programs, and Friday sermons in state-run mosques.

These survey results may leave one with the impression that the reform of Muslim family law is a difficult, if not impossible, objective to achieve. Indeed, when the survey results were presented to Sisters in Islam in December 2010, the activists gathered

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