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How do SISTERS IN ISLAM struggle with perception of Muslim women in Malaysian society?

Introduction

Ethnic diversity in Malaysia could not deny big impact of Islam in politics and economic sphere but also in life of society. Country stayed open for religious and cultural influence from Middle East (Jelonek, 2015: 12). The conversion of Malay sultans on Islam increased impact of religion over most aspects of life and acceptance among subjects took place at the beginning of the 14th century. From then on every part of life in the country acquired religious meaning (Fatimi, 1963: 101). Islam as a tool of politicians generated many social and economic inequalities and created different forms of violence against Muslim women. Islam as a religion sets out specific lifestyle where women frequently are afraid to challenge the misogynistic nature of the religion and speak freely about lack of control over their own bodies. Malaysian women's issues are rooted deeply in the history when country was British colony and women's equality was blend in the main goal which was regaining independence of the country (Ariffin, 1999: 417-418). The biggest help women get from activists who form groups and create organizations which fight against inequality and lack of justice in the Islamic society.

1. Origins of Sisters in Islam

Despite that Malaysia ratified Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1995, few articles were removed. This action was explained by the claim of them being contrary to the Federal Constitution of Malaysia and Sharia law. Status of women in the country depends on religion and partly on place of residence because every state has independent approach to legal issues. Equality of women and their fundamental rights stem from ideological discrepancies between the liberal interpretation of Islam and secular laws in the country (Alston, Alamgir, 2012). The dual system, where is a civil law to which relatively everyone should comply and Sharia law that all Muslims are obliged to follow, indeed excludes needs and opinions of women. All of this mean that civilly banned polygamy or child marriage can be just

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simply annulled (Sipiński, 2018). One form of fighting for the women's rights is the work of organization called Sisters in Islam (SIS), where a group of specialists disseminate women's rights and fight against inequality among all Muslims in accordance with the legal framework of Islam. The main mission of the organization is to bring gender equality, justice, freedom, and dignity in Islam together with opening the path that leads to change among the Muslim women's society. Sisters in Islam want to be a progressive and democratic community that keep up with the times. Goal of the organization is to be recognized in the international area as a leader in following the principle of freedom of expression and social justice for all participants of Islam (Alston, Alamgir, 2012).

The origins of the organization date back to 1984 when a new family Islamic law was changed and passed. A certain group of women did not support the changes that came into force in Sharia courts, because they believed that the applicable laws in the courts in Malaysia are prejudiced and discriminating against Muslim women. Situation of that time showed how much women were repressed by their husbands and succumbed to the constant pressure of men. It was a clear signal to act, because soon after that SIS made effort and attempt to reform some legal regulations in Sharia courts to ensure protection of women under the law. Since 1989, SIS has devoted time and resources to firmly note how much injustice happens to women under Sharia law. They believe that a critical reading of the Koran and hermeneutic approach will help create a world where woman will be treated fairly and equally in family, social and religious life. Sisters in Islam mainly work in the local field of problems in Muslim families but also are active on global scale with issues such as Islamization, nation building, authority, and most importantly taking up challenges by introducing modern changes. In order to achieve this goal, Sisters in Islam organized the first international conference about the importance of the influence of a modern state on the umma in the early 1990s, called "The Modern Nation State and Islam". In 1994, organization made a memorandum to the Malaysian government caused the Domestic Violence Act, where the issue was the exclusion of Muslim women, based on religious and legal aspects. The following years brought many changes – at the end of the decade organization dealt with huge problem related to the observance of democratic principles and fundamental freedoms guaranteed by the Federal Constitution of Malaysia, conventions and treaties on human rights. Sisters in Islam entered the public sphere in favour of freedom of religion and freedom of speech (Kamaruddin, Yunus, Embong, Afiqah Hashim, 2018: 551-558). In recent years, Sisters in Islam have set two major trends that affect the organization's activities in Malaysia, but also future actions. Firstly, thanks to experience in working on the reform of Muslim law, in particular family law, Sisters in Islam try to resist activism of actions correlated with academic progress. Thanks to relationship of interaction with scientists and activists, organization realized that most of the legal reforms taking place in the second half of the 20th century were not comprehensive and cover only individual property regulations in the area of polygamy and divorce. The changes attempted to minimize

the discrimination and difficulties faced by women and sought to add important points to marriage contracts to protect women's rights. Having established these facts, Sisters in Islam set goal of introducing comprehensive legal reforms, citing Islamic principles of justice and equality, which should be the only factor that govern the relationship between a women and a man. Secondly, Sisters in Islam activists understood the need for massive changes in Muslim women's rights, seen only through the religious framework, not only in Malaysia but globally. It has been studied that this need comes from people who sincerely believe in the justice and equality paradigm, but do not know how to resist resistance, opposition and demonization by Islamic groups (Sisters in Islam, 2022).

2. Organization interventions

Sisters in Islam operate in several areas, mainly focusing on Muslim family law and the legal system, violence against women, the impact of extremism on women and international human rights. Category of violence against women is the essence of the organization's activities. Over the years of operation, Sisters in Islam have taken steps to issue many statements on major and minor issues. Every memorandum and statement published by Sisters in Islam deals with problem of Muslim women, which they thought was important enough for the internal and external environment to hear about.

In 2015, Sisters in Islam supported the appeal of the Association of Women Lawyers (AWL) to the decision of Minister YB Nancy Shukri, which confirmed in a parliamentary letter the exception of Article 375 of the Criminal Code of Malaysia regarding rape in marriage. In practice, this means that sexual intercourse between husband and wife without her consent is not considered rape in Malaysia. This decision contradicts the 2006 CEDAW recommendation for Malaysia which reads as follows: "The Committee requests the State to pass a law criminalizing marital rape based on the wife's disagreement"¹. The stance on the marital rape of the Malaysian state is in stark contrast to 52 other countries that have established the right to criminalize marital rape. Data collected by religious authorities in Selangor state indicate that one of the main reasons for divorce among Muslim couples is precisely the trend of sexual violence. This problem also appears in the 2013 police statistics, which show that over 31% victims experienced sexual violence by their partners or ex-partners, including boyfriends, fiancées and ex- husbands.

In 2018, Sisters in Islam published the case of five-year-old schoolgirl who had been molested by her religion teacher. Mohd Redzuan Zakarian, a Qur'an teacher, was found guilty and sentenced to 3-month imprisonment as well as fine of 6,000 RM for refusing to accept a conviction on 6-month imprisonment. The organization's appeal in this case resulted from too lenient punishment for the offense of the convict. Pursuant to Arti-

¹ Committee on the Elimination of Discrimination against Women: Malaysia, Thirty-fifth session 15 May – 2 June 2006, Supplement No. 38 (A/61/38)

cle 354 of the Criminal Code, there is a penalty up to 10-year imprisonment, a fine or a flogging. According to Sisters in Islam, the penalty imposed by the judge did not reflect the seriousness of the infringement. In addition, Sisters in Islam believe that religious teachers should educate in the field of spirituality to the best possible effect, and judges should guard justice, especially in cases that are threat for children's rights and protection from harm and violence in Malaysia. The organization called for justice, especially since victim was traumatized at such a young age and the effects of these events may be reflected in the future of the girl. Sisters in Islam announced this to general public, because activists believed that such vile actions should bear the appropriate legal consequences (Sisters in Islam, 2022).

In July 2019, activists from Sisters in Islam became involved in advancing the work on the Sexual Harassment Act. The Ministry of Women, Family and Community Development reported on the progress at an organized press conference. Sisters in Islam supported the JAG's by signing the request with twelve other organizations that need consideration by political actors. The first point highlighted by the organizations was delay in the bill. The government has committed to submitting the Sexual Harassment Act in 2019, but bill has not been submitted. Neither has a new deadline been announced, and in that case, organizations were calling on the government to commit to a clear timetable, including the Sexual Harassment Act. The next point relates to the content of the Sexual Harassment Act. As the government finetuned the details of the bill, organizations called for a clear definition of sexual harassment based on international best practice and civil standards for sexual harassment. Without these details, the bill will not make a significant addition to existing sexual harassment laws. The third and final point concerned the government's proposed changes to the Malaysia Code of Criminal Procedure. The proposed change by the government addressed the very essence of the lawsuit, which is intended to be more sensitive to victims of sexual crimes. The change itself is positive and understandable, but has little to do with sexual harassment, namely rape, domestic violence and sexual assault. Therefore, while this amendment should be further recognized, the organization stressed that these changes cannot be considered substitutes for the actual Sexual Harassment Act, and steps should be taken to uniformly define the problem of sexual harassment. Sisters in Islam remain involved in the government's work on the bill and constantly monitors progress (Sisters in Islam, 2022).

In 2020, Sisters in Islam invoked the federal court's decisions on *bin Abdullah* case with apparent concern. The activists look with great anxiety and fear when the father's surname is not part of the child's name. Sisters in Islam hoped for a decision that would solve the case by addressing the fundamental problem of stigmatizing Muslim children born out of wedlock. The members of organization are grateful that Malaysia has leaders such as the Penang Mufti and the Persil Mufti who show compassion by addressing this sensitive issue and considering the welfare and best interests of the child. Activists also support the Child Affairs Commissioner in of the Malaysian Human Rights Com-

mission (SUHAKAM), who called for a revision of the Birth and Death Registration Act of 1957 and application equally to Muslims and non-Muslims. The use of the word *bin Abdullah* for born out of wedlock Muslim children carries with it a social stigma as these children are often ridiculed, attacked and intimidated. The federal court's decision to remove the child's prefix and refuse to bear the father's surname will only lead to a new kind of stigmatization of the children. Moreover, it left the question of what the correct name of the child should be. The 2003 Islamic Family Law Act deals solely with the question of a father's paternity or *nasab* over his child. The definition of a child born out of wedlock and the requirement to call these children *bin Abdullah* or *binti Abdullah* is included in the two Majlis Kebangsaan fatwas. So, it is clear that naming *bin Abdullah* is not mandated by law but by fatwa. Sisters in Islam have often criticized the far-reaching effects of fatwa, which often have more severe consequences than law itself. The use of fatwa in this way should be carefully analyzed and subject to appropriate consultations and checks, including balance, especially when it has a serious impact on the child's life. Various states in Malaysia have issued their own fatwas on this matter. The Perlis state government issued a fatwa in 2013 which allows children born less than six months after their parents wedding date to bear their father's name, provided the father recognizes the child. However, the father does not have paternity rights over the child. Respected Islamic scholar Wahban Zuhili stated that it is permissible for a child to bear the father's name if he agrees. This argument is in line with the defense of the best interests of the child. Sisters in Islam's activists have repeatedly called for greater balance in the promulgation of Islamic laws and fatwas. The most important principles of Islam are justice, compassion, harmony – they must be a guiding factor in life. Activists take it for granted that this fatwa concerning illegitimate children does harm and is not beneficial to the child's welfare and best interests (Sisters in Islam, 2022).

During a conference conducted by Sisters in Islam about Undefeated: Women Against Extremism, the topic of the urgent need comply with the state's international obligations regarding the rights of Muslim women was raised. It has been recognized that women's rights are crucial to development because half of humanity cannot be left behind to develop on their own. It was emphasized that in the international world, Islamic values, dignity and compassion, are well represented in many documents, in particular the International Declaration of Human Rights. Thus, the erroneous notion of dissonance between Islam and human rights is a misconception that must be rejected based on the common good for human values. Jerald Joseph, commissioner of the SUHAKAM started the topic of the similarities between the work of Sisters in Islam and SUHAKAM on the rights of Muslim women. He emphasized the importance of "breaking out of the majority-minority trap advocated by the Malaysian state, defending the Rohingya and Kashmir", and stressed that the state itself is an outside hero that avoids defending women and minorities in its own country. Referring to Malaysia's non-ratification of the International Convention on the Elimination of All Forms of Racial Discrimination,

following citizen-led protests, Joseph said that shortcomings in the national education system made it easy to spread disinformation for the vast majority of Malaysian Muslim. He also focused on the need to recognize violence against the unnoticed, including disadvantaged women in prison, suffering from poverty and immigrant women experiencing abuses of power, often by corrupt authorities. Additionally, the Senior Adviser on Social and Cultural Development at the United Nations Population Fund presented a less explored perspective of supporting collective action against misogyny and extremism. He explained the need to involve religious leaders as influential and valuable in the process of complying with the state's international obligations towards the rights of Muslim women. Raising awareness through verbal discourse is an instrument for reclaiming the narrative of faith, religious jurisprudence and women's rights, especially for international governments, as there is now a well-coordinated and multi-religious opposition to discrimination that is emphasized worldwide in the public sphere. The synergy between understanding human rights and the rights of Muslim women has never been stronger than it is now. Working with women of all faiths who are under the influence of extremism will change the game in developing a strategy for the rights of all women. Another participant in the debate, Mary Shanthi Dairiam, legal advisor for human and women's rights and founder of IWRAW-Asia Pacific, an international NGO based in Malaysia that monitors the global implementation of CEDAW, the UN convention, presented the origins of the convention. She noted that the Malaysian government's objection to Articles 2 and 16 of the CEDAW 24 are inconsistent with local cultural and religious sensitivities seen as problematic. In fact, Malaysia attended and agreed with Gobar Assembly at the 1993 Vienna Human Rights Conference that "the rights of girls and women are an inalienable, integral and indivisible part of universal human rights"². She also pointed to the CEDAW project at the UN, which came from members of the Women's Status Commission consisting mainly of women from India, Egypt, the Dominican Republic, the Philippines and the USSR. It concluded that Malaysian and world governments must commit to, plan and develop benchmarks to achieve universal human rights not only for Muslim women but for all women, as collective development will not exist if women cannot develop in parallel. Sisters in Islam express their solidarity with the need to hold governments accountable for international obligations of states. Activists call for the pursuit of international human rights not only for Muslim women, but also for every woman living in Malaysia and the world (Sisters in Islam, 2022).

² Declaration and Programme of Action adopted by the World Conference on Human Rights in Vienna on 25 June 1993.

3. Legal advice for women

One of the key pillars of Sisters in Islam's operations is Telenisa's free advocacy clinic, whose services have helped more than 10,000 clients since 2003, most of them was women who made better decisions based on facts and law. The services help with several issues in practical and legal sphere. The first one is forensic observer, whose aim is to monitor court proceedings and identify problems faced by women to find out the true weakness of the legal system applied to gender inequality. This is done with the help of free listener, usually a trainee, who hears at lawsuits. Another form of services offered is the mobile legal aid clinic, which has been operating since 2008, initially in Kuala Lumpur, successively expanded to the states of Selangor, Kedah, Kelantan and Melaka. Mobile assistance is establishing cooperation with organization working for women's rights, as well as other legal aid centres to provide the most effective and reliable help to people in need. The third aspect of the activities is the Nik Noriani Nik Badlishah Aid Fund, offering financial assistance to make payments to those in need. The fund is open to anyone who is in a situation requiring intervention in a Sharia court as well as some civil cases. Over the years of functioning, Telenisa has received hundreds of cases ranging from the level of public opinion to issues related to Islamic family law, Sharia law and criminal offenses (Sisters in Islam, 2019: 9-33).

The operation of Telenisa in 2021 provided key information on the biggest problems in Malaysia. First, the main reason for divorce is the breakdown and poor communication in the marriage, which occurred in 25% of people using the clinic's support. Second, Telenisa recorded 2021 as the year with the highest property claims in marriage. The number of cases increased by 13 percentage points compared to 2020, where it was 17%. Third, it has been observed that Telenisa is a key service that provides legal information for 75% of women in the B40 group, with a gross monthly income per household of less than 40%. The clinic helped 426 clients in 2021, 221 of whom returned to get further services or advice in connection with the resumption of lawsuits. Most of the clients (92%) are women, 8% of men have used the services. Contact with those in need is made by phone or via the Internet – there were no direct consultations in 2021. Data collected by Sisters in Islam show that 99% of customers lived in Malaysia, the remaining 1% contacted from abroad. As many as 90% of those seeking help asked for legal advice, while 5% sought a legal representative, 4% needed an interview and 1% sought a haven. Of all the clinic's clients, 37% were support workers, 19% were homemakers, 13% were specialists, 12% were self-employed, 8% were all other professions, 7% were unemployed and 4% were students. It was not surprising that the relative majority were those in the lowest income group – it is considered that the income for people with B40 does not exceed RM 4,850 per month. Most of the lowest income seekers are support staff and housewives who found it difficult to afford legal fees. Telenisa has initiated steps to bring clients to the Malaysia Department of Legal Aid (JBG) under the National Le-

gal Aid (YBGK). However, due to long waiting lists or the urgency of cases, clients have often resorted to self-representation in Sharia courts, which is allowed, however, poor knowledge of the scope of the law, lack of experience in court proceedings and applicable laws usually put them at a disadvantage. This situation shows that, despite the obvious access to justice, there are obstacles to ensuring a fair treatment. The marital status data collected by Telenisa clearly shows that as many as 58% of clients were divorced and another 16% were in the process of divorce, 8% were separated and only 12% were married, the remaining 6% identified as single or widowed. In 2021, 12% of clients were involved in polygamous marriages, including 8% as first wife and 4% as second wife. The main concerns of women in their polygamous marriage were that their husbands did not provide sufficient support for their wives and that they committed themselves to a polygamous marriage without their consent. There was also information about unregistered polygamous marriages and a sudden failure to provide child support payments by the father and husband of women. The three most common divorce investigations are *fasakh*, *ta'liq* and *talaq*. *Fasakh* has remained the largest number of divorce inquiries since 2016. This is the method of divorce suggested by the wife, especially when husband refuses to divorce through *talaq*. Divorce by *ta'liq* takes place when the husband breaks the *ta'liq* conditions and leaves his wife but does not provide maintenance for a period longer than 4 months. In such a situation, the wife may file for divorce in a Sharia court. On the other hand, divorce by *talaq* can take place in two situations. The first is when the *talaq* is announced out of court, at home or even over the phone. It is a crime under Article 124 of the 1984 Islamic Family Law Act. This form of divorce is punishable by a fine up to 1000 ringgit or a term of imprisonment up to 6 months. An application for *talaq* verifications that has been declared out of court must be filed in a Sharia court. The second situation is the announcement of the *talaq* in front of the judge. This procedure usually takes place when both parties agree to divorce together or when the husband insists on divorce. The most common reasons for divorce in 2021 were disagreement, domestic violence, lack of financial resources and infidelity. Telenisa has reported that the most common for several years in a row were those of domestic abuse. Mental or emotional abuse was the most common form of abuse, followed by physical abuse, financial abuse and sexual abuse. Research has shown that psychological abuse takes form of intimidation, insults, guilt and manipulation. Many clients told activists that facing psychological abuse made them feel scared, stressed, depressed and anxious. Telenisa's clients often struggled with the problem of violence for several years before deciding to seek help from the organization. Psychological abuse was often associated with other types of domestic abuse, such as physical abuse, sexual abuse or financial intimidation. The long period of inertia of battered women was mainly due to the fear of filing for divorce and the difficulty of proving that they had experienced psychological abuse by their husbands. The organization was asked about the type of documents that need to be presented to prove emotional abuse in court, what is the likeli-

hood that a Sharia court will authorize a divorce on the grounds of psychological abuse, whether emotional abuse will affect their custody claims or if the court rejects their request and if they will still have a relationship with the abuser and have to return to the same house. Telenisa informs women what to do and how to acquire one of the most important documents to be delivered to the court, that being medical certificate drawn up by a psychiatrist at the hospital. Furthermore, talking about psychological abuse for the purpose of divorce will not affect a custody claim, unless the doctor shows that the psychological and emotional abuse has caused irreparable damage to the mother, and she will not be able to look after her child. In order to assess the likelihood of being allowed to divorce due to emotional abuse, one should rely on an individual judge's opinion. If the court rejects the application for divorce, it means that the woman is still married to the perpetrator of the violence committed against her, so it is important that the victim reports to the police about each incident and applies for an interim protection order. These documents will be a solid basis in court. There is a misconception in society that violence takes only physical form – the aim of Sisters in Islam is to educate the public to recognize the forms of violence, in particular psychological abuse and sexual exploitation in a marital relationship.

Ta'liq is a contract concluded by a husband after he entered marriage. In Malaysia, *ta'liq* is recited by husband immediately after the pronouncement of *Akkad*. The *ta'liq* certificate is printed on the back of the marriage certificate. In a situation where the *ta'liq* is violated, wife may make a complaint with the Religious Department and file for divorce based on the *ta'liq* saved in the marriage certificate (Sisters in Islam, 2021: 3-17). From year to year, women become more and more aware of their rights and try to include additional provisions in their standard *ta'liq*. The two most common additional rules required by women are as follows: husband cannot enter into a polygamous marriage without the knowledge and consent of his wife and he cannot impede his wife's further education or work. Interestingly, asking a civil registrar to register additional *ta'liq* often resulted in ridicule and rejection. Even after bride and groom themselves agreed to additional provisions on *ta'liq*, the official refused in many cases and only maintained the standard provisions. Officials explain the refusal by saying that the change should be reported to a Sharia court and consented to additional words in *ta'liq*. The truth is that under the law there is no requirement that any application be made prior to registration of *ta'liq* with the registry office. And by law, the person dealing with the marriage registration is required to record any additional provisions that have been agreed by the spouses. Islam and Islamic Family Law in Malaysia allow extra lines in *ta'liq*. In line with section 22 of the Islamic Family Law Act 2003, it is stated that immediately upon marriage the official enters the required data, basic *ta'liq* and if there is additional *ta'liq*. Then the entry is certified by both parties and at the end of marriage ceremony contract is signed by the secretary who, after being paid the expected fees, issues a certificate of *ta'liq* to husband and wife. Activists of the Telenisa clinic have noticed that

there is a misconception in society that the inclusion of additional *ta'liq* laws is wrong or illegal in Islam. Nevertheless, statistically, more and more women are trying to include additional *ta'liq* provisions to protect their rights in marriage, so the organization ensure that the possibility of modifying *ta'liq* is available to everyone and is not prohibited without legitimate reasons (Sisters in Islam, 2021: 18-19).

Conclusions

The fundamental principles of Islam do not allow negative behaviour among Muslim society. Therefore, the problem of equality and respect for other people should be solved, although these actions must be careful and prudent to avoid skeptical emotions towards activists dealing with this sensitive sphere. An important factor is the provision of relevant knowledge that will allow the Muslim community to understand the situation of women in the country. The basis of Sisters in Islam is to spread knowledge that educates Malaysians and provides a repressed group of Muslim women with key facts about how to act. The activists fight against the discriminatory nature of implemented policies on a local and international scale and provide material legal assistance to people in particular need. There is still a long way to go to achieve a satisfactory level of respect and equality in Muslim society and Sisters in Islam contribute to awareness-raising, which is the most important factor for change.

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Abstract: Sisters in Islam are the most thriving organization working for the rights of Muslim women in Malaysia. The main activities that have been undertaken by the activists over the years are publicity and clear opposition to cases of injustice among the extremely sensitive environment such as inequality of women in Muslim society. This article aims to raise awareness and show the importance of the problem to the society addressed by Sisters in Islam referring to the fundamental principles of Islam. The effectiveness of an organization is determined by the achievement of their goals and Sisters in Islam meet certain assumptions not only with their attitude, but also with the actions they take on local, national and international scale.

Keywords: Malaysian women, women's equality, Sisters in Islam, human rights

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