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Ignominious end

By **MARINA MAHATHIR**

What an ignominious way to end the year! The Government admits that it got Parliament to pass a law that was unjust and discriminatory to half the population. As a member of that particular half, I am gobsmacked.

How could this have happened? The Women, Family and Community Development Ministry claims to have found even more flaws in the new law than even the women's groups. And they kept quiet? All because they wanted to keep a promise to standardise the Islamic family laws? Does that make sense? Why risk looking like fools by rushing to pass a seriously flawed law? Why not make sure it is clear of the kinks before presenting it to anyone?

The NGOs that protested that the laws were unjust had presented 42 pages of objections to the new amendments way back in January 2002. It will be interesting to see how many more pages of flaws the Ministry came up with, and then still allowed the laws to go through Parliament unchanged. If they knew it was discriminatory to women, how could the Ministry, set up to ensure that women are treated justly in this country, have let it pass? Was someone sleeping on the job? Or did political expediency triumph once again?

And how easy will it be to amend flaws in an already passed law? (It makes you wonder whether this episode is typical, that in fact numerous flawed laws are passed through Parliament each year.)

Let us get it straight what this new law means. In its zeal to be "gender-neutral" in a field that was never level in the first place, whoever drafted this law amended it in such a way that rights that originally were given to women are now also given to men. This, mind you, on top of the many more rights that men already enjoyed.

Previously whatever a Muslim woman brought into a marriage remained hers and whatever husband and wife acquired together during the marriage could be divided between them if the marriage was dissolved. Thus whatever she owns in her own name remains hers. But with the new amendments, if he should, say, pay for some renovations, then he can claim the property as his as well. What's more he can

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claim any gifts he gave her as also his. Thus if the marriage fails, he can demand that all this supposedly joint property be sold and the proceeds shared between them. And then he can merrily use the proceeds for his own use, including marrying someone else. Great!

If that's not bad enough, in the good old days, if a Muslim man wanted to marry someone else, he had to justify it as just and necessary. Meaning that he could not, by marrying another person, be unjust to his first wife and his children with her. The new law, however, has amended this to say "just OR necessary". Which means if he says that it is really imperative for him to marry another (perhaps because he's knocked her up), then he can. So forget the justice part, let's make it easy to get married, and married, and married.

And get this: already Muslim men can divorce their wives anytime they want for whatever reason they want, while women used to have to rely on 12 conditions husbands don't fulfil to get the court to consider telling them to free their wives. Now they get those 12 conditions as well. Great! I used to be able to complain if he didn't provide me with household help, now he can divorce me if I don't get him someone to polish his shoes!

If anyone wants to argue that this is Islamic law, then it implies that Islamic law is unjust and discriminatory. Yet Islamic law upholds women's rights. How to explain these contradictions then? What has this done to the image of a religion based on equality, justice and compassion?

How to rectify this? First the law must not be gazetted until all these flaws are corrected. There is precedent for this. The Domestic Violence Act was not gazetted for two years after it was passed by Parliament because some people objected to it. (In that case, they put on hold a law that was actually beneficial to women. Do we detect legislative misogyny at work here?).

In the meantime, a new law that upholds the principles of justice and non-discrimination for women should be drafted. It should be subject to widespread consultation and public scrutiny and debate. After all we are supposed to be a democracy.

This whole episode just shows what happens when women are riled. They cannot simply be bulldozed into accepting laws that disadvantage them. I feel proud of the 19 women Senators who stood up against this law even though they were finally forced to pass it anyway. And I thank Sisters in Islam and the other women's groups for waking the Senators and the public up. But shame on the Women, Family and Community Development Ministry for letting it through the Lower House, and shame on Members of Parliament for letting down half their constituents. If only we could withdraw our votes for them.

Here's to a 2006 that treats women with more respect.



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