

**WOMEN AND THE FREEDOM OF REINTERPRETING THE
HOLY TEXT: A STUDY OF SISTERS IN ISLAM AND THEIR
REINTERPRETATION OF QUR'ANIC VERSES AND HADITH ON
MARITAL ISSUES**

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Abstract: This article discusses the reinterpretation effort of the Muslim feminist movement in Malaysia, Sisters in Islam (SIS). The article looks at the effort of the group in reinterpreting some verses of the Qur'an and hadiths on the issue of women in marital relationship which in their view had been misinterpreted by Muslim male exegetes. Using the textual analysis method, the article examines some of the works written and commissioned by the association and its authors on this issue. In four sections, the article explores four works of the association on the following issues, namely (i) Are Muslim men allowed to beat their wives?, (ii) Guardianship law and Muslim women, (iii) hadith on women in marriage, and (iv) Islam and family planning or Muslim women's reproductive rights. While the first and second parts discuss the issue of wife beating and guardianship law and Muslim women, the third and fourth parts examine hadith on women in marriage and Islam and family planning. Through its analysis of these works, the article concludes on the note that these works were mostly influenced by the works of Muslim feminist scholars such as Amina Wadud and Fatima Mernissi and as such contain controversial reinterpretations of the verses of the Qur'an and hadiths.

Keywords: Reinterpretation, Qur'an, Hadith, Sisters in Islam, Muslim Women, Marriage, Family, Muslim Law

Introduction

In 1987, some women – professional lawyers, activists, academics and journalists – came together to found a movement that will be responsible for looking into the problems that Muslim women in Malaysia have with the Shari'ah court and ways by which these problems could be overcome.¹ By 1988, however, this movement has crystallized into an association under the name Sisters in Islam (SIS) and it was registered as such in 1993 as a Non-Governmental Organization under the name SIS Forum (Malaysia) Berhad while retaining Sisters' in Islam as its authorship name.² The main aims and objectives of the association are:

1. To promote and develop a framework of women's rights in Islam, which takes into consideration women's experiences and realities;³
2. To eliminate injustice and discrimination against women by changing practices and values that regard women as inferior to men;⁴
3. To create public awareness, and reform laws and policies, on issues of equality, justice, freedom, dignity and democracy in Islam.⁵

In achieving these aims and objectives above, these sisters have set the following mission for themselves and this is, “to promote an awareness of the true principles of Islam, principles that enshrine the concept of equality between women and men, and to strive towards creating a society that upholds the

¹ See http://www.sistersinislam.org.my/index.php?option=com_content&task=view&id=198&Itemid=164 accessed 15 January 2010.

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

Islamic principles of equality, justice, freedom and dignity within a democratic state.”⁶

This group of Muslim sisters’ professionals hold that they were inspired to undertake this mission of theirs because of “the active participation of women in public life during the time of Prophet Muhammad (s.a.w.)”⁷ which saw to the “biographical collections devoted to the Companions (*Sahabah*) of the Prophet included the biographies of over 1,200 female Companions”⁸ and among these female companions “were transmitters of hadith, saints and sufis, martyrs, liberators of slaves and heroic combatants.”⁹ A pointer, they believe, to the fact that females were not secluded and excluded from active life during the time of the Prophet (s.a.w.).

These women believe that “for the Ummah (Islamic community) to grow and flourish, everyone must have the opportunity to fully participate in all spheres of life. The participation of Muslim women as full and equal partners in the ummah's socio-economic development and progress is the need of the day.”¹⁰ Thus, they “conclude that it is imperative that the female experience, thought and voice are included in the interpretation of the Qur’an and in the administration of religion in the Muslim world.”¹¹

Although they uphold the revolutionary spirit of Islam, a religion which they believe “uplifted the status of women when it was revealed 1400 years ago”,¹² they are, nonetheless, greatly saddened by the sudden turn in this revolutionary spirit which they believe has now led to the enslavement and oppression of women in Muslim societies due to the exclusive male dominated

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

interpretation of the revealed holy text (the Qur'an) in a manner which portrays women as second class citizens and inferior human beings.

We uphold the revolutionary spirit of Islam, a religion which uplifted the status of women when it was revealed 1400 years ago. We believe that Islam does not endorse the oppression of women and denial of their basic rights of equality and human dignity. We are deeply saddened that religion has been used to justify cultural practices and values that regard women as inferior and subordinate to men and we believe that this has been made possible because men have had exclusive control over the interpretation of the text of the Qur'an.¹³

Thus, in founding this association, according to Zainah Anwar – who was the executive director of the association until recently when she steps aside for Dr. Hamidah Marican to take over – these professional Muslim women in Malaysia feel aggrieved that Muslim men and *ulama* (Islamic scholars) in particular were treating Muslim women in a way "...as if in Islam, women don't have any rights at all."¹⁴ In fact, to buttress her point, she says "...one woman asked, if the house were on fire would she then have to seek her husband's permission to flee!"¹⁵ In the light of this, Zainah points out that, women are being treated in a way which suggests that they "...cannot even use their common sense to save their (own) lives"¹⁶ and this, she concludes "cannot be Islam"¹⁷ because "Gods is just"¹⁸ and "Islam is just."¹⁹ Therefore, for these women, neither God nor Islam as a religion has shackled women to such an extent and it is, rather, the mere interpretation of Muslim male scholars which

¹³ Ibid.

¹⁴ http://en.wikipedia.org/wiki/Sisters_in_Islam accessed 21 January 2010.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

have deprived Muslim women of their basic rights as equal members of the community.

In the light of the above, these founding sisters “turned to the Qur’an to find out for themselves what the verses say, as opposed to various interpretations.”²⁰ In going about this and in passing their findings to their fellow female folks in the society, the sisters’ through this association are engaged in many activities in order to pass, educate and touch the lives of other Muslim women in the society especially concerning their rights in marriage and under the Shari’ah law.

Part of the activities of the association includes organizing workshops, study sessions, legal clinics, campaigns for women’s rights and public lectures. Likewise, in furtherance of their commitment to this cause, they are engaged in publication and recommendation of books to be read and digested by all women, especially those that concern the issue of women and women’s right in the Muslim societies. Among these books are the ones which talk about issues such as *Sexual and Health Rights*, *Violence against Women*, *Women’s Rights in Islam*, *Muslim Family Law*, *Muslim Criminal Law* and *Islamic Legal Theory* etc.²¹

Research is also an area that the SIS considers to be very important and in this regard, it has committed itself to some project which it hoped could help reform the Islamic Law, Family Law to be precise, which it hoped will address issues such as the abolition of polygamy, equal right to marriage and divorce, the equality of the wife and husband in the home, since the present situation and condition of living in the 21st century have changed – in the sense that the husband is no longer the sole provider for the family and the fact that no man can meet the condition set by the Qur’an on the issue of polygamy – thus, the

¹⁹ Ibid.

²⁰ Ibid.

²¹ See Publications & Resources on www.sistersinislam.org.my accessed 6th February, 2010.

Islamic Law, being dynamic, needs to reflect these changes in human condition by reform.²²

The activities of SIS are also widely reported in the media as they are also engaged in giving press statement on issues that concern women as well as their opinion on a wide range of issues in the society. In this respect, the immediate past executive director, Zainah Anwar, has columns in prominent English newspapers in Malaysia such as *The Star* and *The New Straits Times* which she used as a medium to pass across the views of the association on a wide range of issues affecting women in the society.²³

On the social level, SIS encourages women and all lovers of women's rights and equality to take action through campaigning against all forms of injustices against women and their rights such as the amendment of the Islamic family law 2005 in Malaysia which they believe further took away the rights of women and put them at the mercy of their husband thus incapacitating them – even in dire situation when they may want to end their relationship with the husband. The campaign against moral policing in the society, as a result of the activities of the Religious Department, which tried to enforce moral laws by clamping down on youths who are engaged in social vices, especially in the night clubs. The campaign against gender violence and polygamy all of which are meant to pass their message across to the authority and to show that women are dissatisfied with the trend of things and the way they are being treated as inferior to the male sex. Finally, the SIS is also engaged in protesting and raising awareness about the banning of their books and others by the Home Affairs Ministry. In this regard, they have collected signatures against this banning of their book and have also taken the government to court where this book has been unbanned by the court.²⁴

²² See Research on www.sistersinislam.org.my accessed 6th February, 2010.

²³ See Media in www.sistersinislam.org.my accessed 6th February, 2010.

²⁴ See Take Action on www.sistersinislam.org.my accessed 13th February, 2010. Also see M. Mageswari, *Ban Lifted on Sisters in Islam Book*,

As for the SIS project of reinterpreting the holy text from a feminist point of view, there have not being a substantial work by them on this issue. But in their own micro level, they came out with some interesting reinterpretations and put forth arguments for reform based on their point of view which is against the traditional point of view in Islam. However, for most part, they have referred to and supported the works of Islamic feminists' especially female Muslim scholars such as Amina Wadud and Fatima Mernissi. Like these Islamic feminist scholars, the method of SIS is to go deep into the Islamic knowledge heritage, hadith, history, language etc. in order to support their argument for the need to reform the Islamic Law and reinterpret the holy text to suit the contemporary modern and post-modern time keeping in mind the different international human right treaties and laws to which Malaysia is a signatory.²⁵

In the light of the above, in order to seriously analyze and do justice to SIS endeavors in this regard, we shall do a topical discussion of the SIS quest for the reinterpretation of the holy text, Qur'an and hadith and reform of the Islamic Law so as to better understand its stand on this issue of reinterpretation.

In this part one of the research, we focus on four books of SIS which discuss four different issues related to women in Islam, and they are as follows: (i) Are Muslim men allowed to beat their wives?, (ii) Guardianship law and Muslim women, (iii) hadith on women in marriage, and (iv) Islam and family planning or Muslim women's reproductive rights.

The Reinterpretation Efforts of Sisters in Islam

The quest for the reinterpretation of the Muslim Holy Book, the Qur'an, and the Sunnah of the Prophet of Islam, Muhammad (s.a.w.), has become very popular in the contemporary time especially among educated Muslim women

<http://thestar.com.my/news/story.asp?file=/2010/1/25/nation/20100125154150&sc=nation> accessed 13th February, 2010.

²⁵ See www.sistersinislam.org.my

and activists who believe that the interpretations so far done by Muslim men have been skewed against them and their rights as members of the Muslim *Ummah*. Thus, they argued that there is an urgent need to have a reinterpretation of the Qur'an and its supporting Sunnah from a feminist perspective especially on issues that mainly refers to the female. This, they believe is in order because the females feels the pinch most on these issues and are therefore best placed to interpret these verses based on their experiences as women. Moreover, they argued that the process of the interpretation of the Qur'an should not be an exclusive endeavour of the Muslim men especially in this age and time when women are more educated and enlightened.

In the light of the above, there has been some attempt at reinterpretation by Muslim female scholars such as Amina Wadud and Fatimah Mernissi. Amina Wadud, in her own attempt wrote a book entitled *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective* where she reinterpreted some of the Qur'anic verses pertaining to women and women rights in Islam. In her submission, she holds that the problem that women face in the Muslim communities is not the making of the Qur'an but the patriarchal readings of the Qur'an by Muslim men who were Qur'anic exegetes.

This assertion above was also the submission of Fatima Mernissi who did a thorough research on the issue of veil and the question of women as a leader in her work entitled *The Veil and the Male Elite: A Feminist Interpretation of Women's Rights in Islam*. In her research, she posits that the enforcement of the veil on Muslim women is an imposition of the patriarchal Muslim societies and the assertion that women are not allowed to be leaders in a Muslim society was a misinterpretation of the Qur'an and the Hadith of the Prophet by the male exegetes of the Qur'an as all rules of hadith and interpretation of the Qur'an were violated by those who gave this interpretation.

In the same vein, Asma Barlas throw her effort into un-reading the patriarchal interpretation of the Qur'an by Muslim male exegetes through her

work entitled *Believing Women in Islam: Unreading Patriarchal Interpretations of the Qur'an*. Taking the historical analysis approach, she analyses the concept of religious authority and knowledge. She shows how Muslims came to read patriarchy and inequality into the Qur'an thereby justifying the existing religious and social structures. She also demonstrates that the patriarchal meanings ascribed to the Qur'an depend on who is reading it, how, and in what context. From here, she then goes on to reread the Qur'an's and explain its position on a variety of issues in order to argue that its teachings do not support patriarchy and inequality. In her final submission, Barlas asserts that the Qur'an affirms the complete equality of the sexes, thereby affirming the belief that it is the patriarchal reading of the Qur'an by the Muslim male exegetes that has led to the inequality that is observed in most of the Muslim societies today.

Apart from these writers mentioned above, there are other works by Leila Ahmad, Irshad Manji, Huda Shaarawi, Kecia Ali etc. all of which are based on the concept of rereading the Qur'an in the light of Muslim feminist thought which queries most of the submission of the Muslim male exegetes as it concerns women issues in the Qur'an and hadith. Their main focus is on emancipating women from the clutches of the Muslim patriarchal societies which, in their view, have eroded the rights of the Muslim women immediately after the death of the Prophet (s.a.w.). Thus, in view of the above, the project embarked upon by SIS is a continuation of this tradition by those mentioned above and as it shall be seen, SIS depends a lot on the research of these writers in going about their own effort of reinterpretation in the Malaysian society.

Are Muslim Men Allowed to Beat their Wives?

In the early 1990s when the government of Malaysia was mulling idea of enacting a law that will make domestic violence committed by men against women a punishable crime under the law through the Domestic Violence Act, there was a debate as to whether to include Muslim men in the category of those

that will be liable to punishment under the law since it was believed that Muslim men are allowed to beat their wives under the Islamic law and to include them under the new law will mean to go against the law of the Qur'an. Thus, the government was in a dilemma as to how to go about implementing this law in a way that will not conflict with the tenets of Islam. The other option was to leave the Malay Muslims out of the category of those to be affected by the law and make it operative in case of the Chinese and Indian citizens alone.²⁶

It was in the throes of this heated debate that SIS came out with a book entitled *Are Muslim Men Allowed to Beat their Wives?* The book, written by SIS and Yasmin Masidi, probes into the Qur'an and hadith in order to justify the stand that Muslim men should be included in the Domestic Violence Act because, according to their findings, Muslim men have no justification to commit violent acts against their wives and in fact, there is no injunction that says they have a right to beat their wives.

In order to arrive at this conclusion, however, SIS had to do a reinterpretation of the Qur'anic verse 4:34 which says:

...Therefore the righteous women are devoutly obedient [*qanitat*] and guard in (the husband's) absence what Allah would have them guard. As to those women on whose part ye fear [*nushuz*] disloyalty and ill-conduct admonish them (first) (next) refuse to share their beds (and last) beat them (lightly) [*wa-dhibubunna*]; but if they return to obedience [*'aĪĒnakum*] seek not against them means (of annoyance): for Allah is Most High Great (above you all).²⁷

Likewise, the hadith that is used to back this verse up and which is used to argue for the absolute obedience of the wife to her husband commands and

²⁶ Sisters in Islam & Yasmin Masidi, *Are Muslim Men Allowed to Beat their Wives?*, (Petaling Jaya, Selangor: Sisters in Islam, 2nd ed., 2009), p. 2 – 3.

²⁷ Abdullah Yusuf Ali, *English Translation of the Meaning of the Holy Qur'an*.

wishes, to SIS, is not authentic as its genuineness is a subject of controversy among scholars. The hadith in question says:

It is not lawful for anyone to prostrate to another. But if I could have ordered any person to prostrate to another, I would have commanded wives to prostrate to their husbands because of the enormity of the rights of husbands over their wives.²⁸

But contrary to the above, according to SIS, Islam has not given the husband any right to physically beat or mentally harass his wife. This, they say is so because of the verses that talk about the relationship between a man and his wife which, according to their interpretation of these verses, is a relationship based on love and mercy and not one of superiority of one sex over the other. They quote these verses as follows, to support their point of view:

And among His Signs is this that He created for you mates from among yourselves that ye may dwell in tranquillity with them and He has put love and mercy between your (hearts); verily in that are Signs for those who reflect. (Qur'an 30:21)

O ye who believe! ye are forbidden to inherit women against their will. Nor should ye treat them with harshness that ye may take away part of the dower ye have given them except where they have been guilty of open lewdness; on the contrary live with them on a footing of kindness and equity. If ye take a dislike to them it may be that ye dislike a thing and Allah brings about through it a great deal of good. (Qur'an 4:19)²⁹

In addition to the above, they support their argument with the following hadiths of the Prophet which say as follows:

²⁸ Quoted in Sisters in Islam & Yasmin Masidi, *Are Muslim Men Allowed to Beat their Wives?*, p. 9.

²⁹ Abdullah Yusuf Ali, *English Translation of the Meaning of the Holy Qur'an*.

“The best of you is he who is best to his wife.”

“Aisha (*ra*) narrates that the Messenger (*saw*) never hit a servant or a woman, and he did not hit anyone with his own hand, i.e. physically.”³⁰

“Could any of you beat your wife as he would a slave and then lie with her in the evening?”³¹

Therefore, based on all the above, SIS holds that Muslim husbands have no ground or right to abused their wives physically and psychologically as this is contrary to the concept of the Qur’an on marriage and the practice of the Prophet who is the best interpreter of the commands of Allah and a model for all Muslims in their daily affairs and life.³²

However, concerning verse 4:34 and the hadith, both quoted above, which are used to justify the stand that Muslim husbands have a right to beat their wives and are superior to their wives, SIS points out that this verse has been misinterpreted and that the hadith which is used to justify it is not authentic as its genuineness has been questioned by scholars.

The verse, 4:34, has been misinterpreted, in the view of SIS, in two ways and these are that:

- i. A wife must obey her husband;³³
- ii. If she does not obey, the husband can beat her.³⁴

But contrary to this misinterpretation, according to SIS, the Qur’an, nay this verse in particular, “does not order women to obey their husband. It says good women are *qanitat* (have *qunūt*).”³⁵ And in SIS understanding, since “*Qunūt* is used for both women and men (Surah al-Imran 3:17, Surah al-Ahzab 33:35)

³⁰ Sisters in Islam & Yasmin Masidi, *Are Muslim Men Allowed to Beat their Wives?*, p. 5.

³¹ Ibid., p. 15.

³² Ibid., p. 4 – 5.

³³ Ibid., p. 8.

³⁴ Ibid.

³⁵ Ibid.

and non-humans (Surah az-Zumar 39:9, Surah al-Baqarah 2:117)”,³⁶ it (*Qunut*), therefore, does not mean nor “refer to the obedience of a wife to a husband or any human to another”,³⁷ rather, it means or “refers to the spirit of humility before Allah.”³⁸ In other words, the word “*qanital*” as used in the verse does not mean that “... righteous women” are women who obey their husband, but, rather, it means that, “... righteous women” are women who are “humble before Allah.”

Likewise, SIS says when “the verse goes on to say ‘if they obey you’, the Qur’an uses the term *ta’a*, which means for one human to follow the orders of another, referring not just to women obeying men, but men following orders as well (Surah an Nisai’ 4:59).”³⁹ In other words, for SIS, the *ta’a* that was used here was not used “in the command form for women”⁴⁰ and cannot therefore mean that women should obey men or their husband. Contrary to this, SIS says, rather than the Qur’an commanding women to obey men, it “places a firm admonishment on the men”⁴¹ by saying “If they (female) obey you (male) seek not a way against them.” (4:34) Therefore, SIS concludes by saying:

“If they obey you’ does not mean that women have an obligation to obey men. Nor does it mean that if a woman disobeys, a husband can beat her. The focus is on the responsibility of men to treat women fairly, especially when women follow their suggestions.”⁴²

As for the use of the word, *Nushuz* in the verse, SIS holds that, the word “is used for both women (4:34) and men (4:128)”⁴³ and cannot, therefore,

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid., p. 9.

⁴³ Ibid., p. 10.

“mean then a woman’s disobedience to her husband as is sometimes assumed.”⁴⁴ Rather, SIS holds that Syed Qutb explanation of the word, *nushuz*, as a disruption of marital harmony is more correct and in accordance with what the verse was talking about. And in the case of a disruption of matrimonial harmony, three steps have been outlined in the Qur’an to be followed in their order of preferences which are:⁴⁵

- i. *Shura* or consultation: that is the two parties sitting down together to discuss their problem and find solution to it. If necessary, some people could be included to aid in finding solution to their problem.⁴⁶
- ii. Time out: “a phrase to denote a separation in time and/ space between two people or two groups.” If the above method fails to yield a fruitful solution, then the spouses can separate from each other for some time. And in SIS views “It can be for an immediate cooling off period only, or could presumably continue indefinitely, which in the context of marriage can only mean divorce.”⁴⁷
- iii. *Daraba*: which means to strike and SIS, quoting Syed Qutb, says this should be a single strike. But, they hold that if the first two methods above have been used to the fullest extent possible, there will be no need for this last method.⁴⁸

However, talking about the last method, *daraba*, and its proper meaning and implementation, SIS says, there are many opinions about the meaning of the word and since the word is ambiguous, it has lend itself to many interpretations which may not necessarily mean a violent act or conduct. Thus,

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

in this sense, SIS points out that *daraba* (a single strike) “should not be confused with a second form of the verb, *darraba*, which means ‘to strike repeatedly or intensely’.”⁴⁹

According to SIS, the ambiguity of the word, *daraba*, is clear in the sense that it “can be used when someone ‘strikes out’ on a journey, and the word has also been used in the Qur’an to mean ‘gives or sets as an example’.”⁵⁰ They give the following examples of how the Qur’an has used the word to mean different things in different places:

- i. Surah Al ‘Imran 3:156: “O you who believe! Be not like those who disbelieve and who say about their brethren when they travel through the earth (*izā darabu fil ardi*) or go out to fight...” In this instance, “*darabu*” means “they travel”.⁵¹
- ii. Surah al-Nisa’ 4:101: “And when you travel in the land (*izā darabtum fil ardi*), there is no sin on you if you shorten *as-salaat* (prayer)...” In this instance, “*darabtum*” means “you travel”.⁵²
- iii. Surah al-Anfal 8:12: “... I will cast terror into the hearts of those who have disbelieved, so strike them (*fadbribu*) over the necks...” In this instance, “*fadbribu*” means “strike them”.⁵³
- iv. Surah al-Zukhruf 43:58: “And say: Are our gods better or is he (Jesus)? They quoted not (*ma darabuhu*) the above example except for argument...” In this instance, “*darabuhu*” means “they quoted not that”.⁵⁴

Therefore, in the view of SIS, with the diverse interpretations and possibilities of meanings that can be given to this word (*daraba*), “it is strange to

⁴⁹ Ibid., p. 11.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

insist that in the context of 4:34, only one meaning should be used, i.e. “*wadhribuhunna*” to be taken to mean ‘beat them’.”⁵⁵

Moreover, SIS observes that some scholars, like Rafi Ullah Shahab and Ahmed Ali of Pakistan, have said that *daraba* does not mean to strike or beat but rather it means “to prevent” thereby rendering the reading of the verse (4:34) as “leave [the wives] alone in their beds and prevent them from going outside of houses”.⁵⁶ Likewise, in another interpretation, SIS says the word could also be understood in the sense of “strike her out” that is, “move her out from the house or marriage, or for the husband to move out of the house, as the Prophet (saw) once did when there was some tension between him and his wives, to give them some space for reflection.”⁵⁷

But, according to SIS, even if one is to accept the meaning of *daraba* as to strike, a study of its historical context will reveal that it is not a permission to beat one’s wife. This is so because if one is to consider the Qur’an as an integrated whole and how it calls for the prohibition of certain things, such as alcohol, it will be realised that the last verse to be revealed concerning the relationship between a man and a woman (husband and wife) is Surah at-Taubah 9:71 – which says women and men are “each other’s protective friends and guardians” – therefore it will be the verse to follow and implement, as it would have override all others and cancel them out.⁵⁸

Finally, SIS points out that if *daraba* is, however, insisted on as being to strike or beat, the strike should only be “symbolic such as a strike with a toothbrush or a folded handkerchief”⁵⁹ without causing harm to the woman according to classical Muslim jurists’ interpretation.

⁵⁵ Ibid., p. 12.

⁵⁶ Ibid.

⁵⁷ Ibid., p. 11.

⁵⁸ Ibid., p. 13.

⁵⁹ Ibid.

As for the hadith, which is used to justify the beating of women, SIS says, “there are questions expressed over the authenticity of this Hadith:

- i. There are many versions, the authenticity of which ranges from *da'if* (weak) to *hasan gharib* (fairly good) according to scholars.⁶⁰
- ii. The reliability of a number of the narrators cannot be entirely established.⁶¹
- iii. It is inconsistent with Qur’anic verses on marriage such as Surah ar-Rum 30:21 and Surah al-Baqarah 2:187, which describe husbands and wives as garments for each other.⁶²
- iv. Finally, it is inconsistent with the Prophet’s (saw) own conduct with his wives.⁶³

Therefore, based on all these explanations, SIS hold that Islam has not given Muslim men the right to beat their wives and whoever does so should be liable to prosecution as he would have committed a punishable offence under the law. In other words, Muslim men are not allowed to beat their wives in Islam!

Guardianship Law and Muslim Women

This is a project that was undertaken by SIS in order to advocate for amendments to the Islamic Family Law Act in Malaysia especially as it concerns the issue of guardianship of children after divorce.⁶⁴

The book, *Guardianship Law and Muslim Women*, was written by Noraida Endut for Sisters in Islam. The work seeks “to find out and understand Islamic jurisprudential provisions pertaining to the issue of this guardianship of children. In doing this, it seeks to discuss the differences the Syariah law may

⁶⁰ Ibid., p. 9.

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid.

put on the meanings of custody and legal guardianship. It also attempted to find out the reasons for the disparities, if any, between the rights of male and female adults to guardianship of their children. The study also considers and discusses how Syariah law views the issue of the interest of the child in relation to guardianship of minor children.”⁶⁵

However, keeping in mind the subject matter of this research, the most significant and relevant aspect of this work to this research is the issue of guardianship of the child and whether the mother who, for example, has been given the right of custody or *badanah* (that is, “the right and responsibilities of parents or rightful adults to fosterage and physical guardianship of children while they are young”)⁶⁶ has a right to exercise the power of guardianship or *walhya* (that is, “carrying through of a decision affecting a third person whether the latter wishes or not”)⁶⁷ on the child when it comes to decision making – marriage of the child for example.

It is generally agreed among Muslim scholars that the right of *badanah* should be that of the female – mother, grandmother etc. – because it is believed that they are more suitable to take care of the child till he/she reaches certain age – in the Shafi’i school, “until the child reach the age of *mumaiyiz* (age of discernment) or the age where she/he can physically take care of herself/himself.”⁶⁸ To some Hanafi jurists, however, they “determine the age as seven for boys and nine for girls.”⁶⁹

But, since the jurists’ decision is based on the hadith in which the Prophet was reported to have said to a divorced wife that “You have the first right to look after [your child] unless you marry”, the jurists, SIS observes, have

⁶⁴ Noraida Endut, *Guardianship Law and Muslim Women*, (Petaling Jaya, Selangor: Sisters in Islam, 2002), p. 1.

⁶⁵ Ibid.

⁶⁶ Ibid., p. 5.

⁶⁷ Ibid., p. 6.

⁶⁸ Ibid., p. 9.

⁶⁹ Ibid.

interpreted the hadith to mean “that the mother automatically loses her rights to custody if she marries a man who is not within the prohibited degree of relationship (*mubrim*) to the child, and that custody immediately reverts to the father, regardless of whether he has remarried or not.”⁷⁰

In the view of SIS, the interpretation given to this hadith is wrong as it places the woman in a disadvantageous position. To them, it should have been interpreted as “conferring a prior right upon the mother before her marriage, and if she remarries, [then] the mother and the father would stand on equal terms as to the rights to custody, and the case should be considered on its individual merits.”⁷¹

In other words, the first right given to the mother should be taken as a natural right while after she remarries, the judge should then decide who is best suited to take care of the child without and not basing his/her decision on her marriage. At the same time, the fact that she has remarried should not be a basis to give the husband automatic right to custody as the jurists, in SIS view, mistakenly interpreted the Prophet’s hadith to mean.

Concerning the issue of guardianship, which is generally believe to rest with the father – as jurists used it as a mechanism to guaranteed the continued financial maintenance of the child by his/her father, and, since *nafaqah* is a responsibility of the father as the Qur’an itself explicitly states – SIS holds that where the father shrink in this responsibility or is not able to do it as required, the mother or whoever is saddled with the responsibility of *hadanah* should have the right to act as the child’s guardian.⁷²

However in a wider context and considering the modern day period, SIS believes that women who are vested with the right of custody or *hadanah* should also have the right of guardianship or should share this guardianship with the

⁷⁰ Ibid., p. 5.

⁷¹ Ibid.

⁷² Ibid., p. 9.

father because *hadanab* “must be seen in a wider context than mere physical fosterage of a child.”⁷³ It says, *hadanab* “includes emotional and mental development of the infant which, in modern terms, includes the provision of proper education and training of the child.”⁷⁴ And since this “provision requires the *hadinab* to deal with various legal and administrative processes for which she/he has to act either as a *wali* (guardian) or a representative of the minor person, therefore, a *hadinab* must also be vested with the sole or shared rights to guardianship.”⁷⁵

SIS quotes this Qur’anic verse to support their submission above: “O ye who believe! Save yourselves and your family from a Fire whose fuel is Men and Stones, over which are (appointed) angels stern (and) severe, who flinch not (from executing) the Commands they receive from Allah, but do (precisely) what they are commanded”⁷⁶ (Qur’an 66:6) and points out that:

The verse indicates that both men and women are responsible for guarding members of their family from committing sins that will lead them to be punished in the Hereafter. Thus, the upbringing of a child to become a good Muslim entails physical and spiritual guidance and education in which both parents must play a role.⁷⁷

This mutual role, SIS points out, is further buttressed by the hadith reported by al-Bukhari which says: “Every child is born in the *fitrah* [nature] (that is clean and free from taint or sin), it is its parents who bring it up to become a Jew, a Christian or a Fire-worshipper.”⁷⁸

Based on the above, SIS holds that since it is the two parents who are responsible for guarding and executing the welfare of the family, the issue of

⁷³ Ibid., p. 8.

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Ibid., p. 7.

⁷⁷ Ibid., p. 7.

guardianship must also be seen as an issue of mutual responsibility between the husband and the wife in a wider sense according to the Qur'an and hadith quoted above and should not be the exclusive right of the husband alone.

Hadith on Women in Marriage

This is a project that was under taken by SIS in order to enlighten women and the general public about the questionability and authenticity or otherwise of some of the Hadiths that are quoted in media, publications and talks to degrade women and the status of women in the society and concerning their rights in relationships with the opposite sex – especially in marriage.

The book, *Hadith on Women in Marriage*, was written by Nik Noriani Nik Badlishah and Norhayati Kaprawi for Sisters in Islam. The first part explains what the Qur'an, Sunnah and hadith means and their relationship as sources of Islamic law. It also looks at the criteria for determining the authenticity or otherwise of Sunnah and hadith and explains the intricacies and complexities involved in it. The second part of the book discusses some of the hadiths that are used to degrade and oppress women by looking at their authenticity in relation to the commands or saying of the Qur'an and the questions that scholars of hadith have raised concerning their truthfulness etc.⁷⁹

However, since some of these hadiths have been used and discussed in some of the books already analyzed above, what will be done here is to go over some of this hadiths briefly – especially the ones that have not been explained before – and see how SIS understands them or reinterprets them.

On the hadith which says:

No human may prostrate to another, and if it were permissible for a human to prostrate to another I would have ordered a wife to

⁷⁸ Ibid.

⁷⁹ Nik Noriani Nik Badlishah and Norhayati Kaprawi, *Hadith on Women in Marriage*, (Petaling Jaya, Selangor: Sisters in Islam, 2004), pp. iv – v.

prostrate to her husband because of the enormity of his rights over her. By God, if there is an ulcer excreting pus from his feet to the top of his head and she licked it for him, she would not fulfill his rights.⁸⁰

Or to quote another version which says:

It is not lawful for anyone to prostrate to anyone. But if I would have ordered any person to prostrate to another, I would have commanded wives to prostrate to their husbands because of the enormity of the rights of husbands to their wives.⁸¹

To SIS, this hadith is spurious and false since there are many variations of the hadith and their authenticity is questionable due to the following reasons:

- i. Their authenticity ranges from *da'if* to *hasan gharib* and none of the hadiths reached the level of *sahih* (considered authentic). Added to this is the fact that all of them are *ahadi hadiths* (that is, with a singular chain of transmission) and do not reach the level of *tawatur* (that is, several chains of transmissions).⁸²
- ii. The credibility of some of the narrators is in question as some scholars considered them to be unreliable transmitters of hadiths who are prone to mistakes.⁸³
- iii. The question that was asked and which led to the hadiths have nothing to do with the issue of woman and it is unconceivable that the Prophet will give a pronouncement such as this concerning women, which has social, moral and theological implications. For example, it will mean that socially and morally, a wife must live like her husband's servant, submit to his sexual desires even on the back of a camel in the open

⁸⁰ Quoted in *Ibid.*, p. 15.

⁸¹ *Ibid.*

⁸² *Ibid.*, p. 16.

⁸³ *Ibid.*

place and lick his pus-filled ulcer if he so wishes.⁸⁴ Theologically, it will conflict with the Qur'anic injunction that says: "they (women) are like garments unto you as you are like garments unto them" (Qur'an 2:187) and "women who are virtuous are obedient to God and guard the hidden as God has guarded it." (Qur'an 4:34)⁸⁵

- iv. Moreover, the interaction of the Prophet with his wives and the way he handles his domestic affairs negate the wordings of these hadiths as the Prophet's wives do argue with him and disagree with him when the need arises.⁸⁶
- v. There are at least four historical backgrounds for the single events where the Prophet (saw) was reported to have uttered these hadiths. And in addition to this is the fact that the hadith has several additional but variant concluding phrases.⁸⁷

Therefore, based on all the above and more, SIS holds that this hadith (and all its variations) is false and spurious and cannot be used when talking about the relationship of the wife and husband in a marriage because marriage, in the Qur'anic conception, is all about compassion and co-operation between the spouses and not servitude as the hadith will have us believe.⁸⁸

On the hadiths which are used to justify the conception that a woman must not refuse her husband sexual advances even if she is tired or not interested in having sex herself, SIS says these hadiths are related to the first one above and are weak hadiths while some of their narrators are also unreliable.⁸⁹ Some of the hadiths are:

By God, a woman cannot fulfill her obligations to God until she fulfills her obligations to her husband and if he asks for her (i.e.

⁸⁴ Ibid.

⁸⁵ Ibid., p. 18.

⁸⁶ Ibid.

⁸⁷ Ibid., p. 17.

⁸⁸ Ibid., p. 18 – 19.

⁸⁹ Ibid., p. 19.

for sex) while she is on a camel's back, she cannot deny him (his pleasure).

... a woman cannot fulfill her obligations towards God unless she fulfills her obligations towards her husband. (In fact), if he desires her while she sits on a saddle (or an upright seat for birthing), she should submit.⁹⁰

According to SIS, these hadiths cannot be taken to be true because:

- i. Among their narrators is al-Qasim al-Shaybani or Qasim ibn 'Awf and Ibn Abi Layla both of which are considered by hadith scholars to be weak and unreliable narrators of hadiths.⁹¹
- ii. The phrase "*if the husband desires sexual intercourse on the hump of camel she must accept his demand*" contradicts another hadith which admonishes Muslims to have sexual intercourse in private, hidden away from people, and not to behave like animals that have sex in the open. Therefore, SIS says, "it is doubtful to think that the Prophet (s.aw.) would have said otherwise." That is, the Prophet would not contradict his moral or ethical admonition concerning where sexual intercourse should take place.⁹²
- iii. Since the Qur'an is unequivocal about the Islamic concept of Tawhid and seeking only the pleasure of Allah and His Prophet, to equate another person to this status and rank is to contradict this concept and any hadith that says something similar to this, like the hadiths quoted above, is suspect and should be placed under a heavy burden of proof. Moreover, it is an accepted norm that "if a tradition is suspect because of a contextual or structural defect, then there should be a presumption against its

⁹⁰ Ibid.

⁹¹ Ibid., p. 20.

⁹² Ibid., pp. 20 – 21.

authenticity, unless the evidence supporting its authenticity is conclusive.” Thus, in “the case of the above traditions, the evidence suggests that they cannot be relied upon because we cannot conclusively assert that the Prophet (s.a.w.) played the primary role in the authorial enterprise that produced those traditions.”⁹³

- iv. Finally, these traditions “are inconsistent with the Qur’anic discourse on marriage”⁹⁴ as the Qur’an says: “Among God’s signs is that He created for you spouses from among yourselves, that you may dwell in tranquility with them, and has ordained love and compassion between you. Lo, herein indeed are portents for people who reflect.” (Surah ar-Rum 30:21)

On the stand that a married woman should not go out of her house without the permission of her husband and that she is bound to obey her husband standing order not to go out even if her parents are sick or dying, as the Prophet was reported to have once forbidden a woman from going out to see her sick father who eventually died. But, because of her obedience to the Prophet advice that she should obey her husband command not to go out, even to see her dying father, the Prophet was reported to have said, after report reached him that her father died, “God has forgiven her father’s sins” for obeying her husband.⁹⁵

However, SIS says this incident was based on a hadith “related by al-Tabarani in *kitab al-Mu’jam al-Amsath* from Anas with a weak (*da’if*) *sanad*, and without the words ‘God has forgiven her father’s sins’.”⁹⁶ In addition, apart from the fact that the hadith has a weak *isnad*, SIS says, its text (*matn*) contradict the Qur’an concerning the relationship between parents and children, as the

⁹³ Ibid., p. 21.

⁹⁴ Ibid.

⁹⁵ Ibid., p. 25.

⁹⁶ Ibid., p. 26.

obligation of enjoining kindness and goodness to parents comes next after worshipping the One True God, Allah.⁹⁷ For example, SIS quotes the Qur'anic verses that say:

Thy Lord has decreed that you worship none but Him and that you be kind to parents. Whether one or both of them attain old age in thy life, say not to them a word of contempt, nor repel them. But address them in terms of honour ... and say "My Lord! Bestow on them Thy Mercy even as they cherished me in childhood. (Surah al-Isra' 17: 23 – 24)

Moreover, SIS says, "Taking care of one's mother is especially stressed as"⁹⁸ the Qur'an further says: "... his mother bore him by bearing strain upon strain." (Surah Luqman 31:14). Furthermore, SIS points out that: "Kindness to parents is enjoined even if the parents are non-Muslims as Surah Luqman 31:15 states to the effect that:"⁹⁹

Revere thy parents yet should they endeavour to make thee ascribe divinity, side by side with Me, to something which thy mind cannot accept (as divine), obey them not; but (even then) bear them company in this world's life with kindness...

In the light of the above, SIS points out that:

If the above tradition is to be accepted, it would mean that a woman loses all her personal rights upon her marriage. Such a violation of human rights could not be part of the teachings of the religion that has been brought by the Prophet (s.a.w.) as *rahmatun lil 'alamin* (a mercy to all the worlds).¹⁰⁰

SIS therefore concludes that although most classical jurists have dismissed this tradition as unreliable, it nonetheless

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Ibid.

¹⁰⁰ Ibid., p. 27.

exemplifies the immoral and absurd logic that is inherent in the principle of blind obedience to any human being. Moreover, it is very strange that a tradition that has been dismissed by most classical jurists is now being popularized in our present day society to emphasise the wife's submission to her husband.¹⁰¹

On the hadith, reported by Abu Dawud, al-Tirmidhi, Ibn Majah, Ibn Hibban and al-Hakim and attributed to Umm Salamah, the Prophet's wife, which says, the Prophet was reported to have said: "Any woman who dies while the husband is pleased with her enters heaven."¹⁰² SIS says concerning this hadith:

- i. It carries the same degree of authenticity as the ones discussed above concerning the prostration of the wife to the husband and is therefore not reliable.¹⁰³
- ii. It does not take into consideration the piety or impiety of the wife and that of the husband. The fundamental questions here, according to SIS are:

Does it mean that even if the wife is not pious, as long as she obeys her husband, she will enter heaven? And what if it is the husband that is impious and commands her to do impious things? Will she still enter heaven if she obeys? Or what if the wife is more pious than the husband? Will God's pleasure to her still be contingent upon the husband's pleasure?¹⁰⁴

According to SIS, since these fundamental questions are difficult to tackle and since the hadith address a very fundamental issue which has theological implications, it has to have a very high degree of authenticity, which

¹⁰¹ Ibid.

¹⁰² Ibid., p. 24.

¹⁰³ Ibid.

¹⁰⁴ Ibid., p. 24 – 25.

in this case it did not have. Therefore, in the view of SIS, the hadith is unreliable and it should be disregarded.

On the agreement of the school of jurisprudence that a woman cannot lead the congregational prayer when a man is present in the congregation based on the hadith related by Ibn Majah from Jabir that says: "...women cannot be imam for men, the A'raby cannot be imam for the Muhajir, and the Fajir cannot be imam for the Mu'min."¹⁰⁵ SIS says there are dissenting voices to this stand such as that of Abu Thaur (d.240H / 854C.E) who is an acknowledged *mujtabid*, Ibn Jarir al-Tabari (d.310H / 923C.E) and Imam al-Muzanni, a pupil of Imam Shafi'i and this stand of the four Sunni school of jurisprudence cannot be the final say on the issue.¹⁰⁶

The above scholars' dissenting view, SIS says, is based on the hadith reported by Abu Dawud from Abdul Rahman ibn Khallad which says that: "...the Prophet went to her house, and gave her a muezzin, and appointed her (Umm Waraqah), as the imam for her household. Abdul Rahman said: 'I saw that her muezzin was an elderly man.'"¹⁰⁷

In evaluating these two conflicting hadiths, SIS says the first hadith narrated by Jabir in Ibn Majah is a weak hadith because it has Abdullah ibn Muhammad al-Adawi as one of its narrators, who many hadith scholars, such as al-Bukhari, Abu Hatim al-Razi and Ibn Abdul Thaur, considered to be unacceptable, unknown and a liar respectively.¹⁰⁸

As for the second hadith reported by Abu Dawud, SIS says among its narrators was al-Walid ibn Abdullah ibn Jumaiyyi al-Zuhri al-Maliki who many hadith scholars such as Abu Dawud, Ahmad and Abu Zu'rah have no problem with. Even Ibn Hibban considered him to be a trustworthy person just as he

¹⁰⁵ Ibid., p. 27.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid., p. 28.

¹⁰⁸ Ibid.

considered the final narrator of the hadith, Abdul Rahman al-Khallad, to be among the *al-thiqat* (that is, trustworthy persons).¹⁰⁹

Based on the evaluation of the two hadiths above by SIS, SIS says that, “the appointment of Umm Waraqah as *imam* illustrates the equality of men and women before God. It should be recognized that women’s eligibility to be *imam* existed during the time of the Prophet (s.a.w.).”¹¹⁰ Therefore, SIS concludes that, “it should be acknowledge that a woman is not automatically disqualified from leading the prayers, including in certain circumstances when there are males in the congregation. At the very least, the practice of mothers leading the prayers with their sons and daughters should be encouraged.”¹¹¹

Other issues that were discussed in the book, such as wife beating, polygamy and divorce etc., have been dealt with above in other books by SIS that are specifically based on these issues.

Islam and Family Planning or Muslim Women’s Reproductive Rights

Finally, one other topic which is of interest to SIS is the issue of the reproductive rights of Muslim women discussed in the twin books entitled *Islam and Family Planning* and *Islam and Women’s Reproductive Rights*. While the first book was written by Zainah Anwar and Rashidah Shuib (both representing SIS and Kelantan Family Planning Association respectively) and co-published by SIS and Kelantan Family Planning Association, the second book was written by Masdar F. Mas’udi and solely published by SIS.

Both books discuss what is generally accepted by Muslim scholars concerning family planning and the acceptance of contraceptives as a way of planning and timing the number of children that one can have and when one can have them based on the fact that the Prophet himself sanctioned coitus

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

¹¹¹ Ibid., p. 28 – 29.

interruption (*al-azl*) practiced by the people during his time as a form of birth control.¹¹² However, in addition, the second book on the other hand deals with most of what had been discussed above concerning equality, sexuality, divorce, choosing a spouse etc. in a question and answer format and how they relate to women's reproductive rights.¹¹³

Generally, both books are meant to enlighten the Muslim women concerning the use of contraceptives and other birth control methods and also to explain to them that family planning is not against the law of Islam – as well as to showcase the rights of Muslim women when it comes to the issue of reproduction. But what seems to be controversial in these books is the advise that women can go ahead and use contraceptive on their own and without the husband's permission especially when he behaves indifferently to her suggestion to use it or when he cares less whether she uses it or not or also when he disagrees and she feels she needs to use it for her own safety and health.¹¹⁴

The writers of the first book, Zainah and Rashidah, affirm the right of the woman to do what is best for her in this situation because, according to them, she ultimately bears the brunt of childbirth and she only knows what is best for her in this situation.¹¹⁵ This position of theirs was justified by the Hanbali School of jurisprudence which holds that “a wife can bypass consent of the husband in extraordinary situations, for example, for the welfare of the family.”¹¹⁶

However, Masdar Mas'udi, on his part, presents the different views of Islamic scholars and schools of thought on the issue and points out that, under

¹¹² Zainah Anwar & Rashidah Shuib, *Islam and Family Planning*, (Kuala Lumpur: Sisters in Islam, 2003), p. 2.

¹¹³ See Masdar F. Mas'udi, *Islam & Women's Reproductive Rights*, (Kuala Lumpur: Sisters in Islam, 2002).

¹¹⁴ Zainah Anwar & Rashidah Shuib, *Islam and Family Planning*, p. 10 – 11, also see Masdar F. Mas'udi, *Islam & Women's Reproductive Rights*, p. 29 – 70.

¹¹⁵ *Ibid.*, p. 11.

¹¹⁶ *Ibid.*

normal circumstances, the husband and the wife should be the ones to decide on the issue – just as they are both responsible for deciding when to have a child or not.¹¹⁷

An Analysis of Sisters' in Islam Reinterpretation Effort

From the analysis of the books of SIS above, it is apparent that, as it was pointed out at the beginning, SIS is one of the Islamic feminist insiders, who want to uphold the religion of Islam and, at the same time, claim their full right as women who are on equal footing with their male counterpart as members of the Muslim community.

From the discussion above, it is apparent that SIS, like most Muslim feminists, situates all its argument for the emancipation of the Muslim women within the Islamic tradition by pointing out the possibility of the many interpretations that could be given to some of the verses that are used to place women as being subordinate to men and the weaker sex in the society, marriage or relationships involving the two sexes – that is male and female. For SIS, the fact that there are many possible ways of interpreting these verses and hadiths of the Prophet and the fact that some of the hadiths could not be said to represent the true words of the Prophet give a lot of chances to the fact that these interpretations were deliberately done to favor the male sex in a male dominated society, or patriarchal society as it is used in their discourse, which sees women as part and parcel of their property. Moreover, the fact that virtually all the exegetes were male, to them, further lend credence to this stand belief of theirs and hence the need to re-examine some of the possibilities that the verses of the Qur'an and words of the hadith could mean and point to. Likewise, to them, it opens the door to further reinterpret these holy traditions in ways that could suit the present circumstances in which women have now become vocal and are now speaking out for themselves and occupying positions which are,

¹¹⁷ Masdar F. Mas'udi, *Islam & Women's Reproductive Rights*, pp. 58 – 61.

hitherto, that of the exclusive preserve of men. Added to this is the opening of the gate of education to women who are now able to compete with their male counterparts and even surpass them in some circumstances, thus, conferring on them the power and authority to look into the Islamic traditions through their own feminist prism and interpret them based on their own understanding and from their own point of view.

It is with all this that SIS, therefore, upholds its own right too to look once again into the Islamic tradition and come out with its own understanding and interpretations as explained in the section above. However, the question here is, how plausible, credible and true are these reinterpretations?

Well, looking at the analyses of their books above, on the issue of Muslim men beating their wives, one agrees totally with SIS that, as the Prophet admonishes Muslim men in the hadiths quoted on this issue, it is fundamentally wrong for a husband to just decide to beat or maltreat his wife or wives either physically or psychologically. No sane human being will raise his hand to beat someone that he professes to love and who is an equal partner of importance with him in a relationship that goes beyond them but include their families, friends and sometimes children. For the question here will be, what kind of example such a man is setting for others and most importantly his children. This is not only cruel but also diminishes the man's status in the society as he will be view with contempt by all responsible and respectable people.

However, having said the above, it should be understandable that human beings are unpredictable and human character can sometimes be ambivalent hence the provision of this injunction in the Qur'an which recognizes the fact that the woman can also go out of control and misbehave just as the man is also capable of misbehaving. But, since the man is the head of the family, he has been given authority to take certain action with beating (taking into consideration the way it should be done, which will not cause harm to the woman, as explained by the Prophetic hadiths quoted on this issue) as the

last resort. Nonetheless, it should also be noted that the woman also has rights to seek redress when the man treats her cruelly although she has not been given the right to beat the husband¹¹⁸— and this is sensible because Allah has taken into consideration the physiological make of the man and that of the woman. That is, generally, men are stronger physically than the women and it will be insensibly to ask the women to engage in fighting with the men knowing this very well.

Meanwhile, concerning the interpretation given to some of the words used in verse 4:34 by SIS, such as *nushuz*, *ta'a*, *daraba* and *qanitat*, it is obvious that this interpretation of SIS is spurious, insincere and totally out of context with what the verse is saying.

First it is a known fact that the meaning of a word could differ, especially the Arabic language where a single word could carry as many meanings as possible, depending on the context in which a particular word is used. To say that the meaning of a word should be constant no matter the context in which it came is to place a limitation on such a word and to render it useless in other contextual instances that it is used. Therefore one can say that SIS is right to hold that these words could mean different things and could be interpreted in different forms. However, if the maxim is accepted that *context* determines the real meaning of a word and it is within a particular context that one could read a proper meaning into it, then SIS will be totally wrong to have taken these words out of their context and try to give them meanings which will twist and disrupt the meaning of the sentence in which they occurred in this particular verse.

When the word *nushuz* is used in the verse 4:34, it means nothing but disloyalty and disobedience. And even if one is to accept it as a disruption of matrimonial harmony as Syed Qutb says, a further rationalization of matrimonial disharmony will point to the fact that there was disobedience on

¹¹⁸ See Qur'an 4:35 & 4:128.

the part of the woman because there cannot be a disharmony without a cause, which in this sense means a misunderstanding between the spouses. But since the verse is specifically referring to the woman, it will mean the wife's disobedience of her husband, thus, a reason for matrimonial disharmony.

On the use of the same word, *nushuz*, for men in verse 4:128, again the context will determine how it is understood and in this sense, it points to the husband's dissension, contempt or dislike for his wife hence the reason why the verse goes further to talk about them, husband and wife, taking steps for settlement so as to return harmony to their matrimonial home. This is particularly so because the husband, being the head of the house, and the woman being physically weaker than the husband, under normal circumstance, the verse could not ask her to beat the husband as this could lead to further injury to her hence the admonition for settlement between them.

As for the word, *qanitat*, again one has to look at the context. SIS wants us to believe that the word does not mean obedience, yet in both instances 3:17 and 33:35, in which the word has been used for men and women in the Qur'an, it means obedience and translators of the Qur'an have used both obedience and devotion.¹¹⁹ But it should be pointed out that devotion itself connotes obedience, hence it still carries the same meaning. Thus, it is spurious for SIS to say that it does not mean obedient women in this context.

The same goes for the word, *ta'a*, which SIS says does not mean that women should obey their husband. In all the places where the word is used in the Qur'an, Muslims understand it to mean obey. Even in the instance cited by SIS, in which it is used for men and women, 4:59, it means "obey Allah and obey the Messenger..." Although, it should also be noted that the word also carries the meaning of "follow", but as explained earlier, context has a lot to do

¹¹⁹ In *English Meaning of the Qur'an* (revised and edited by Saheeh International), and M. Pickthall translation, the word was translated as "Obedience" and in Yusuf Ali's translation, he used "Devout". However, it should be understood that there cannot be devotion without obedience, hence invariably, the word still connotes obedience.

in the way a word is understood. Therefore, even if we subscribe to the word “follow”, could it also not mean “obey” when placed in this context? It is certainly clear that SIS is merely trying to mislead its average readers and this is fundamentally wrong!

One could accept and concur to the fact that the word, as it occurs in this sentence is an admonition to the husband also. But then, this admonition is based on the wife’s obedience to her husband in which case he must not seek a way against her, by way of vengeance, if she obeys him and there is harmony in the house again. Thus, women should obey their husband as the head of the house just as one is bound to obey his/her ruler in the wider society. SIS’s conclusion, that women are not under obligation to obey their husband, is an invitation to chaos and a call for matrimonial disharmony which is very, very unfortunate!

Concerning the word, *daraba*, one is inclined to accept the opinions of scholars on this issue that it should be resorted to as the last option in a matrimonial discord and even if it should occur at all, it should be merely symbolic without causing harm to the wife.

However, on SIS’s interpretation that it is wrong to say the word means beat because it is used elsewhere to mean “to travel”, “to give example” etc., one only needs to point out that the word when used in these ways mentioned by SIS it is usually qualified with another word such as *darab-tum fi l-ard* or *daraba mathalan*. They did not occur singly as it does in the way it is used in 4:34 as “*wa-dbribubunna*”. And even where it does occur in a single form such as in 8:12 “*fa-dbribu*” it still connotes beat because strike, in this context, has no other meaning but to beat.

Thus, from all the above, one finds it disturbing that what SIS is actually doing is to turn these words upside down in an acrobatic fashion thus misleading its readers and audience since this attitude of misinterpreting and misrepresenting the holy text will not lead to any good in the home of an

average reader who depend on SIS for her information and this is like, unwittingly, sowing the seed of discord in the homes of Muslims.

On the issue of the custody of the child after divorce and the interpretation of SIS that the hadith which says women cease having the right to be custodian of their children once they remarried is wrong, one can only say that SIS did not take into consideration the fact that the new husband is not a *mubrim* of the child, especially if the child happens to be a female child, and human beings are unpredictable when it comes to dealing with children – even their own children. This, perhaps, explains why scholars have followed the words of the hadith to the letter. Thus, in this situation, the best option is for the child to revert to his/her father as he stands in the best position to decide what is best for his son/daughter in this circumstance. It does not mean that the child must live with him at all cost, he could even decide that the child stays with his/her mother and the new husband if he thought it best for the child. However, what will be clear is that whatever happens, it would have been a decision he took himself and the blame will not be on the woman only should anything go wrong afterwards.

As for the guardianship of the child and the need for the woman to be given the right to act as a guardian for the child, especially in the contemporary time where many things need to be done concerning the child's future, one can just chip in by saying that since the man has the guardianship right under the law and it is for a purpose – which is to be part and parcel of the child's growing up and to discharge his responsibility as a father – the decision for the woman to be given this right should not be a thing of legal argument as this may alienate the man completely from his child. Rather, it should be left to the discretion of the two parents to decide what is best for them and the child in this circumstance putting into consideration the child's welfare. The man should be carried along as much as possible, while he should be flexible enough to allow the woman to act as the child's guardian especially in cases where he could not

be immediately present. And with the advancement of technology, he could be briefed when necessary and he should be magnanimous enough to give the woman the go ahead to take necessary action for the welfare and interest of the child. So, in essence, this should not be a case of legal tussle, rather it should be a case of understanding and humanity based on the Qur'anic verse which says (to divorced spouses) that "...And do not forget liberality (kindness, graciousness) between yourselves. For Allah sees well all that ye do." (Qur'an 2:237).

Last but not the least, on SIS analysis of the many hadiths which it believes are used to degrade women and undermine them in the society, especially in marriages, one can point out that as SIS itself has found out many of these hadiths do not meet the standard of authenticity of a reliable hadith and should therefore not be reckon with when it comes to the relationship between a man and his wife or wives.

However, having said the above, it is also possible for one to point out that many of these hadiths could be simply symbolic in the sense that they are merely meant to show the kind of respect that is due to one who is the head of the family. Their wordings should not and could not be taken literally as reported in the hadiths since no rational human being will ask his wife to lick his pus or ask her to have sex with him in the public place not to talk of the back of a camel! As SIS points out, worship is due to God only and an average Muslim understands this so the issue of the woman worshipping her husband does not arise. Likewise, considering the position of the child to his/her parents, no sane man will ask his wife not to go and visit her dying father or mother on the pretext that he does not want her to go out. Moreover, if the woman takes her own initiative to do what is right, that is go out against his order in this circumstance, the hadith has not prescribe any punishment for her and one can therefore infer that it is left for the woman to take the initiative in this case and do the right thing.

Second, some of the questions raised by SIS concerning these hadith are genuine and one is inclined to agree with SIS that some of these hadiths leaves many questions unanswered when it is taken to a logical conclusion.

For example, could a man or woman who is a hard core sinner or even an unbeliever be expected to enter heaven simply because his/her daughter, who happens to be a Muslim, obeys the order of her husband not to visit him/her on his/her death bed? Could a woman who is pious be expected to go to hell because she disobeys her husband? Could a woman who obeys her husband be expected to go to heaven even though she is impious? These are fundamental questions which the hadiths could not answer and as such, it is better to follow the opinions of hadith scholars who hold that the hadiths are questionable as they are weak and unreliable.

On the issue of women's reproductive right and the conclusion reached by SIS that a woman could go ahead and plan on how to use contraceptives without the consent of the husband if he is indifferent or if he is not in agreement with it, one can say this is another extreme advise which is capable of bringing disharmony into the home of Muslim women who abide by it. As couples, even if the husband does not see issue from the angle of the wife, it is the duty of the wife to try to persuade him and if possible involve those she knows he will listen to so as to persuade him and make him reason along with her. This is what marriage is all about and not about one person taking unilateral decision on issue which concerns both parties in a marriage. This is important because in Islam, the spouses are seen as partners in progress. This is why on the issue of voluntary fasting for example, which is a religious duty, Islam encourages the spouses to inform each other and specifically for the wife to seek the permission of her husband before doing it so as not to deny him access to her and for him to be informed ahead so as not to cause matrimonial disharmony in their home. Thus, when it comes to the use of contraceptives, the decision should be jointly taken by the partners and if there is discord between them on the issue, they

should involve those who know better than them and the wife, who is most affected in this case, should make all necessary effort in convincing her husband and make him reason along with her. With patient and prayer, nothing is impossible between spouses.

Finally, going through the entire work above, one can commend the effort of SIS in certain aspect – such as providing support for women and enlightening them on their rights etc. – but looking at their approach, one could find it to be problematic especially when it comes to their effort at reinterpretation of the Qur'an and hadith.

One, SIS is committing the fundamental mistake of twisting the words of the holy book by giving it spurious meanings which it does not carry in its context thereby misleading its average readers and audiences.

Second, a critical look at SIS approach shows that it is confrontational. It like SIS is asking the female folks to take up their male folks and not to compromise on what it thought is the rights of the female.

Third, SIS seems to forget that the issue of marriage goes beyond rights, privileges and rules. SIS has not taken time to show that marriage is an institution that is based on understanding, mercy and love between the spouses; hence it has resulted to calling the women to arm against their husband instead of preaching understanding and settlement on the basis of love.

Fourth, SIS also seems to forget that marriage is a process of growing up and that as human beings, both spouses are bound to make mistakes; hence the reason why the Qur'an has been systematic in outlining the course of action to be taken by the spouses in resolving their marital discord and should this be difficult, an amicable way to separate from each other peacefully.

Fifth, although one commends the fight of SIS for equality and in seeking to bring the cause of the female folks to the fore-front in the society, however, in fighting for this, there is a need for SIS to always remember that the family, like the society, being an institution cannot be without a head of its own

as there cannot be two captains in a ship. Therefore it is better for SIS to be pragmatic in its approach by taking this into account when talking about equality.

Sixth and this is important, because of the non-pragmatic approach of SIS, it has invited serious criticism against itself as many are not pleased with the way it admonishes women to behave especially in their marital relationship. This in fact has become a worrying issue among intellectuals as SIS is seen in a negative light and as a disruptive force in the society, especially in Muslim matrimonial homes.

Finally, SIS needs to know that Allah has different functions for everything that He has created and that to achieve equality the women folks need not become like the male folks. A woman cannot gain respect by becoming a man or behaving like a man. A woman can be respected only if she sticks to her natural self while seeking to be respected as such, as a fundamental right and as an equal member of the human race with an important role to play in the home and society.

Conclusion

This study finds out that this endeavor of reinterpretation by SIS, is not without its problem because it was observed that they have been very much influenced by the radical thoughts of the Western feminist tradition as their approach tends to be confrontational at times; just as their reinterpretation effort is, at times, spurious and dangerous to the understanding and, in fact, intended meaning of the holy book – the Qur'an. This in fact has led to a situation in which many people have come to view the organization in a bad light and as an aberration to the religion of Islam. The people see its confrontational attitude as a bad omen to the Muslim homes or marriage institution and its reinterpretation efforts as a threat, a misinterpretation and a misrepresentation of the religion of Islam.

Likewise, it is observed that SIS has been largely influenced by the writings of Islamic feminists, such as Amina Wadud, Fatima Mernissi and others

as mentioned above, which explains some of the conclusions that one observed in their books and their approach and stand on issues which tends to be very controversial. Although SIS itself admit this borrowing of ideas from these scholars, but one would have expected that SIS, in writing its own book be more objective and less confrontational as they are not only involve in producing scholarly work but also in carrying out social work and what they write tend to influence their work and acceptance in the society. This is important because the less controversial they are, the more and wider would be their acceptance and influence in the society. But since their approach is similar to that of these controversial scholars from whose writings they have borrowed a lot, they have attracted negative publicity to themselves and it is apparent in the rejection of their activities by a very large segment of the society – especially the Muslim scholars – which is a minus for an organization involve in social work.

Nevertheless, this is not to say that the association is useless, on the contrary, its effort could be commendable if it focuses its attention on helping Muslim women and fighting for their cause within the known and accepted norms of Islam by discarded its confrontational approach and advise to Muslim women and focusing less on its effort of reinterpretation which, as is apparent above, is more of a distortion of the words of the holy book – the Qur'an.

Finally, in conclusion, it is apparent that the reinterpretation effort of SIS is not a successful one as it is a mere regurgitation of what some other controversial Islamic outsider feminist scholars have been going about teaching and writing. This explains the reason why a large segment of the Muslim population in Malaysia – both male and female – have either rejected this effort of SIS or rejected it altogether as an association that wants to protect the rights of Muslim women, as they see SIS more as a destabilizing force than a force which has come to better the lot of Muslim women in the Malaysian society.

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