



## ENCYCLOPEDIA OF WOMEN AND ISLAMIC CULTURES

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Citizenship: Southeast Asia

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### The Southeast Asian cultural matrix

Islam reached Southeast Asia many centuries later after it had reached China. The exact time of its arrival in Southeast Asia is still debated, with dates ranging from 1100 to the 1300s (Reid 1993a, Ricklefs 1981). Despite its relatively late arrival, as compared with China, it was in Southeast Asia that Islamic sultanates emerged – for example, Pasai in north Sumatra (ca. 1297), Melaka on the west coast of Malaya (ca. 1400), Demak in west Java (ca. 1478), and many others (Milligan 2003, Federspiel 2002). Islam was thus a political force in the region long before modern nation-states emerged there.

Islam came into a region dominated by bilateral kinship patterns, in which both sexes have relative equality. This indigenous egalitarianism was altered by the arrival of Hinduism and Buddhism, which inspired the formation of states ruled by god-kings who mediated between heaven and earth. The political hierarchy was believed to mirror a hierarchy of unequal souls – an idea legitimated by the concept of karma (Wolters 1982).

The Southeast Asian sultanates that subsequently emerged were transformations of these earlier “Indianized” kingdoms. Consequently, the Islamic rulers needed to reconcile the implicit egalitarianism of Islam with the Indic hierarchical conception of the god-king (Milner 1988). Islam thus came as an equalizing force which impacted on an earlier Indic hierarchy but resonated with an even earlier indigenous egalitarianism between the sexes.

The implicit egalitarianism of Islam is shared with other monotheisms in that all believers are supposedly equal before God. With this as a point of departure, Islam has been variously adapted and adopted, particularly in relation to the different schools of thought that came to the region, including schools that favor gender equality, as well as those that do not. Muslim women in Southeast Asia are thus part of an Islam that is plural and dynamic. Southeast Asian adaptations of Islam and their gender implications

Conversion to Islam in Southeast Asia was gradual. While conversion tended to occur among certain ruling elites in port cities, peasants and tribals tended to retain earlier religious traditions. Even among converts, it was (and still is) common to find religious syncretism fusing Islam with other beliefs (Bentley and Ziegler 2003).

Islam came in the context of an Islamicate civilization brought by mystics and merchants. The former are associated with Sufi Islam and the latter with a more ritualistic, Sharī‘a-based Islam of the Sunnī Shāfi‘ī school of jurisprudence (Lapidus 1991). Sufi Islam accommodated pre-Islamic practices, as well as indigenous ideas of gender equality. But even Sharī‘a-based Shāfi‘ī Islam did not entrench patriarchy.

As a result, Muslim women in Southeast Asia have always enjoyed a relatively high status. Historically, among many Muslim populations in the region, women have owned property and dominated local markets as traders (Reid 1988,

146–64). Culturally, the Muslim Minangkabau people of West Sumatra continue to be matrilineal up to this day (Blackwood 1997, 1999, NationMaster.com 2004).

Religion was (and in Indonesia, still is) no hindrance to marriage between Muslim women and men of other religions. The fifteenth-century Arab navigator, Aḥmad Ibn Majīd, observed the following practices among Southeast Asian Muslims: “The infidel marries Muslim women while the Muslim takes a pagan to wife” (Ibn Majīd 1462, 206, Pires 1515, 268, quoted in Reid 1988, 155).

Women's political leadership in Southeast Asia further indicates relative gender equality. The sultanates of Patani (in the Isthmus of Kra) in 1584 and Aceh (in north Sumatra) in 1641 came to be ruled by sultāna s (female rulers). Their reign lasted a century in Patani and 58 years in Aceh. During the reign of the third queen of Aceh, the ‘ulamā’ (theologians) mounted a campaign against her after obtaining a fatwa (legal pronouncement) from Mecca declaring women's rule illegitimate (Reid 1993b, 265–6).

Despite the controversy over female political leadership, the sultāna s' relatively long reign shows that women's right to rule was accepted to a significant degree. There are different interpretations in Islam about women's right to govern. Although tradition states that a ruler is an imam and that no man should pray behind a female as an imam, there is nevertheless a sect that declares that any capable woman who can fight the enemy can become an imam and lead the umma (congregation of believers).

More recently, at the end of the nineteenth century, the Riau sultanate was also ruled by a self-described “Sultan Fatimah,” who eventually bequeathed her throne to her son (Wee 1985). Women's right to rule continues to be a contested issue among Muslims three centuries later, as exemplified by Indonesia's President Megawati Sukarnoputri, who became the country's first female president in 2001, after initial Muslim opposition to her appointment (Mahmood 1 January 2004). Megawati is the daughter of Sukarno, the first president of Indonesia, and her case implies a persisting belief in an older right – that of a son or daughter to inherit the father's position. The postcolonial modern nation-state

In Southeast Asia, the transition from premodern kingdoms to modern nation-states was mediated through European colonialization. Southeast Asian nation-states did not evolve through a metamorphosis of indigenous systems. Instead, the postcolonial Asian nation-state has been superimposed on at least four layers of earlier political history – that is, colonial states, Islamic sultanates (and their equivalents), Indianized kingdoms, and indigenous tribalism. None of these has completely supplanted previous layers.

The result is a dynamic plurality of different social realities, which may be complementary, competitive, or conflicting. For example, the nation-state and the umma may coexist in complementarity, or they may compete with each other for the allegiance of their citizens/members, or they may conflict with each other in what they demand of their citizens/members. Muslim women (and also men) thus have to negotiate their way through a complex situation of multiple interacting realities.

A historical example of the complementarity of nationalism and Islam is Sarekat Islam (Islamic Union), a reformist movement that arose in Java in 1911, regarded as Indonesia's first nationalist movement (McVey 1965). Sarekat Islam and other such movements promoted women's political participation as equal members of a modern Islamic nation (Petrus Blumberger 1931). Another such movement in Indonesia, Muhammadiyah, set up in 1914 a separate women's organization called Aisyiyah (after an influential wife of the Prophet) and built women's mosques (allegedly unique to the Indonesian archipelago), kindergartens, and women's Islamic schools, thereby encouraging women to be active agents of change (Overview of world religions). Women's political participation in modern nation-building thus began in the context of these Islamic reformist movements.

### Sharī‘a, adat , and civil law

Many Muslims in Southeast Asia are subject to three bodies of law – Shari‘a (Islamic law), adat (customary law), and secular civil law. Under British indirect rule, the sultans were allowed to administer only Shari‘a and adat. This divided jurisdiction was formalized in the Treaty of Pangkor in 1874 (Wee 2003) and continues in contemporary Malaysia, where Shari‘a and adat are still administered separately by the local governments of the nine sultanates (now called states). The result is “a lack of uniformity of laws among [the Malaysian] states” (ADB 2002, 62).

Shari‘a and adat differ in that the former is administered formally through the Shari‘a court, while adat is administered informally through social practice. In some cases, Shari‘a takes precedence, while in other cases, adat prevails. For example, in the Malaysian states of Negeri Sembilan and Melaka, local Muslims follow matrilineal adat laws in matters of inheritance and divorce, even when these contradict Shari‘a injunctions (Hooker 1984, Kamali 1998, 158–79).

Although Muslims in Southeast Asia are subject to three bodies of laws, they come under the jurisdiction of only two courts, Shari‘a and civil courts. Dual jurisdiction for Muslim citizens applies not only to Malaysia with its surviving sultanates and the Brunei sultanate, but also to Singapore, Thailand, and the Philippines, where Muslims constitute minorities. The Shari‘a court usually has jurisdiction only over cases related to marriage, divorce, betrothal, nullity of marriage, judicial separation, division of property on divorce, payment of bride-price, maintenance, compensation for a divorced wife, and inheritance (Chandrasegar 2000).

Dual jurisdiction has gendered consequences, because the status of women differs in civil law and in Islamic law. Muslim women subject to dual jurisdiction tend to be less than equal to Muslim men and to non-Muslim citizens. For example, in Malaysia and Singapore, a Muslim man is legally permitted to have up to four wives, whereas a Muslim woman can have only one husband. In contrast, non-Muslims in Malaysia and Singapore are guaranteed monogamous marriages by the civil law of the state, with polygamy deemed a crime (ADB 2002, 62).

The limitation of the Shari‘a to family law in Malaysia and Singapore was inherited from colonial administrative practice, where criminal law and civil law, apart from family law, came under the purview of British common law (Jayasankaran 1999, Economist 1993, Ong 1999, Hor 2001). The Islamic state government of Kelantan in Malaysia enlarged the scope of the Shari‘a on 25 November 1993, when it enacted the Syariah Criminal Code (11) Enactment 1993. This expanded scope covers *hudud* and *qisas* offences. *Hudud* law deals with mandatory punishment for theft, robbery, illicit sex, alcohol consumption, and apostasy, with such punishment being mostly corporal in nature, while *qisas* (law of retaliation) deals with bodily injury or loss of life, where the punishment is death or imprisonment, but with the proviso that financial compensation can be given if the victim's guardian forgives the offender.

However, the federal government of Malaysia has stated that criminal law comes under its jurisdiction. Not only has it refused to ratify these locally adopted *hudud* and *qisas* laws, the federal government has also warned that legal action will be taken should any state government implement local laws that contravene federal laws (Aljazeera. net 28 October 2003). As a result, despite the Syariah Criminal Code (11) Enactment 1993 in Kelantan, no Muslim criminal law has ever been implemented there (or elsewhere in Southeast Asia).

In countries with a single jurisdiction, such as China and Australia, civil law applies to Muslim and non-Muslim citizens alike. However, under both single and dual jurisdictions, Muslim women find themselves in a bind. If they seek to be full citizens, subject only to civic law, other Muslims may consider them as being un-Islamic in their behavior, even if the outcome of this is relative gender equality. On the contrary, if they seek to be subject to Islamic law, thereby demonstrating their Islamic identity, they may find their status reduced by certain gendered injunctions of the Shari‘a. To transcend this bind, feminist Muslims promote a vision of Islam that upholds “equality, justice and freedom,” to quote the Malaysian group called Sisters in Islam (SIS). Women's “citizenship” in Kelantan – heartland of a proposed “Islamic state”

The Islamic Party (Parti Islam SeMalaysia or PAS) of Malaysia has formed the state government of Kelantan since 1990. PAS has long been known to have an agenda to establish an Islamic state in Malaysia (Beatrix 1994). PAS released its Islamic State Document on 12 November 2003 (PAS 2003), which has a section called “Policy on Women,” declaring the following objectives:

1. To empower women in accordance to their nature and potentials [sic];
2. To present a comprehensive policy on Women Development [sic];
3. To encourage healthy competition of women alongside men within the limits of the Shari'ah;
4. To eliminate the exploitation of women in all aspects of life;
5. To prepare a new strategic plan for women in the new millennium;
6. To encourage cross-cultural women integration irregardless [sic] of race and religion (PAS 2003).

The Democratic Action Party, an opposition party, criticized this Islamic State Document, asking what constitutes the “limits of the Shari'ah” for women (Lim 2003). It is worth investigating what women's “citizenship” means in PAS-ruled Kelantan. In the 1990s, the PAS state government introduced certain Islamic policies, such as the following:

1. compulsory hijāb (Islamic dress code) for all Muslim women and all working women in the state, including non-Muslims: this entails covering the head with a headscarf;
2. banning of all forms of public entertainment, including traditional performing arts, as well as modern forms of entertainment, such as discos and fun fairs;
3. banning of liquor and gambling;
4. sex-segregated check-out lanes at supermarkets;
5. cinemas to keep the lights on during screenings.

Tourists and visitors (Phillion 22 March 2000), and the queen (that is, the wife of the sultan of Kelantan) are exempted from the compulsory Islamic dress code. However, PAS leaders frequently criticize the wife of former Prime Minister Mahathir Mohamad and top women officials because they do not wear headscarves.

No woman with uncovered head is allowed to enter the office of the chief minister of the Kelantan state government. Yet a portrait of the non-veiled queen hangs in his office. In 1992, when Asma Beatrix interviewed the chief minister about hierarchy and equality in his vision of the Islamic state, he admitted that the royalty has “a very special place.” This implies the persistence of an Indic hierarchy that exempts the queen as royal ruler from the compulsory Islamic dress code to which lower-ranking women are subjected (Beatrix 1999).

Apart from the compulsory covering of their heads, there has been no evident withdrawal of women from public space. The street markets of Kelantan continue to be dominated by women traders. While they too wear headscarves, they take care to choose bright colors and to match them with appropriate long dresses and make-up.

What is more significant is the political participation of Kelantan women in electoral politics. Like other women in Malaysia, Kelantan women enjoy universal suffrage. While PAS had no women candidates in the 1999 general elections, it fielded ten women candidates in the 2004 general elections, with two of them winning a parliamentary seat at the federal level and a state seat (Koshy 25 March 2004). Their wins are particularly notable, since PAS lost disastrously overall in the 2004 elections.

Therefore, despite the imposition of Islamic policies and the proposal of an Islamic state, as long as all citizens are able to participate freely in political life and to vote for their representatives, women can continue to shape their political future through the ballot box. They can choose to seek in Islamic parties a sense of belonging that is akin to family ties and a position from which to resist secular dominance; they can affirm their citizenship in non-religious terms; or they can blend Islamic identity with citizenship, as feminist Muslims are trying to do.

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