



The Gender Studies Programme at ISEAS was established in 2005 to contribute to the literature on gender research, publishing and policy consultations. The programme, headed by Dr Theresa Devasahayam, covers two areas: women and politics; and health and social vulnerabilities of marginalised women, including chronically poor women, low-skilled women, migrant workers, sex workers, older women, trafficked women, and internally displaced and refugee women. These areas are explicitly chosen to fill a gap in the research in the region, and are explored from a diversity of theoretical perspectives and disciplinary approaches.



The Role of UN Women in Asia and the Pacific Region

IN A HISTORIC MOVE, the United Nations General Assembly voted unanimously in July 2010 to establish UN Women with the aim of accelerating progress in meeting the needs of women and girls worldwide. The establishment of UN Women is a result of years of negotiations between UN Member States and global women's organisations.

UN Women merges and builds on the work of four agencies in the UN system that focus exclusively on gender equality and women's empowerment: Division for the Advancement of Women, International Research and Training Institute for the Advancement of Women, Office of the Special Adviser on Gender Issues and Advancement of Women, and the United Nations Development Fund for Women (UNIFEM).

UN Women begins operations on 1 January, 2011. It will maintain the objective of a dynamic and strong champion for women and girls, providing them with a powerful voice at the global, regional and local levels. The Executive Director of UN Women, Michelle Bachelet, will hold the position of Under-Secretary-General and will report directly to the Secretary-General. The Executive Board is made up of 41 countries from across the world that will serve on a rotating basis.

Voluntary contributions will fund the operations of UN Women, while the regular UN budget

The establishment of UN Women sends a clear message that gender equality and women's empowerment are priorities on par with other development priorities... This is another milestone in the long march toward gender equality .

– Michelle Bachelet, Executive Director of UN Women, in Hanoi, Vietnam, in October 2010.

will support its normative work. At least US\$500 million – which is double the current combined budget of the four agencies – has been recognised by Member States as the minimum investment needed for UN Women.

On her first official country visit to Vietnam as UN Women Executive Director, Ms Bachelet outlined the opportunities for UN Women saying that: "The establishment of UN Women sends a clear message that gender equality and women's empowerment are priorities on par with other development priorities, and are central to the achievement of all eight Millennium Development Goals. This is another milestone in the long march toward gender equality ... There is agreement that much more needs to be done to close the gaps between women's rights in the law, and their enjoyment in practice; between existing policies and strategies for women's empowerment and their actual implementation; between commitments and concrete actions to level the playing field and empower women to take full advantage of ►

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rights, opportunities and resources; and to contribute as equal partners to all aspects of development."

Ms Bachelet went on to emphasise that the transition to UN Women builds on the work of the four existing gender agencies and all other UN agencies to create an organisation that can change the landscape for addressing the gaps and challenges to ensure gender equality. Ms Bachelet also reaffirmed that UN Women is committed to strengthening the response of the entire UN system to assist Member States to advance gender equality: "The role of UN Women is one that works across the UN system, not to take on the mandate for women of all agencies, which is essential to maintain strength for each agency in and of itself, but to provide assistance in coordinating, and catalysing".

Member States' support will be crucial in enabling UN Women to deliver these priorities and Ms Bachelet emphasised that she is "eager to reach out to Member States to build new innovative partnerships to secure resources so that the necessary investments for gender equality and women's empowerment can be made and so that we can turn aspirations into change for women and girls".

According to a briefing paper prepared by UNIFEM East and Southeast Asia Sub-Regional Office on the transition to UN Women, the creation of UN Women is a political moment in the history of gender equality and women's empowerment, providing significant opportunities to reflect, reframe and relocate the work of the UN on gender in ways that will make meaningful and sustainable change to the lives of millions of women in the region. Riding on the commitment of Member States and building on the tireless advocacy of the women's movements and groups, UN Women is poised to play a strategic leadership role. Coupled with that, the social capital catalysed by UNIFEM (part of UN Women) together with the many gender equality advocates and institutions in Asia and the Pacific region will only create more opportunities and possibilities for advancing women's rights in the region. It is aimed that UNIFEM (part of UN Women) will have an increased and strengthened country presence in the region, and will also be strategically positioned to play a stronger coordination role for gender mainstreaming within the UN family.

The overarching focus of UNIFEM (part of UN Women) in East and Southeast Asia is to support gender responsive democratic governance reform by bolstering the implementation of national commitments to gender equality and enhancing state and public accountability on women's issues. UNIFEM (part of UN Women) will also be at the forefront in the region in supporting capacity development of duty bearers to uphold the international norms for gender equality and the empowerment of women as articulated in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), United Nations Security Council Resolution (UNSCR) 1325 on women, peace and security, and of rights holders in demanding accountability of their governments.

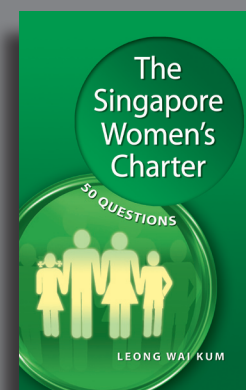
UNIFEM (part of UN Women) will support governments and civil society gender advocates in constitutional and legislative reform processes to remove discriminatory laws by putting laws and policies in place to address violence against women, addressing the gendered impact of macroeconomic and trade policies in relation to women's migration, and building skills for gender responsive budgeting to address the gaps in implementation of various national gender commitments. UNIFEM (part of UN Women) will also work in conflict and post-conflict areas (for example, Timor Leste, Aceh and Mindanao) to support the promotion and implementation of UNSCR 1325, and address discriminatory and harmful traditional practices through developing partnerships with male and youth networks and religious leaders.

Another focus for UN Women in Asia and the Pacific region will be the implementation of the regional component of the United Nations Secretary-General's Campaign, UNiTE to End Violence against Women. The campaign aims to raise public awareness and increases political commitment and action to end violence against women and girls in Asia and the Pacific region by 2015. UNiTE calls on governments, civil society, women's organisations, young people, the private sector, the media, and the entire UN system and individual women and men to join forces in addressing the global pandemic of violence against women and girls.

With a strengthened country presence and reinvigorated commitment from partners to UN Women in Asia and the Pacific region, many opportunities for the advancement of gender equality and women's empowerment lie ahead.

By Alice Ruxton, Communications and Advocacy Support Officer, UNIFEM (part of UN Women) East and Southeast Asia Sub-Regional Office, Bangkok. She can be reached at alice.ruxton@unifem.org.

THE SINGAPORE WOMEN'S CHARTER: 50 QUESTIONS



BY LEONG WAI KUM
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The Women's Charter was enacted 50 years ago through a process that began in the Legislative Assembly of the State of Singapore in 1960. Of all the statutes that apply in the Republic of Singapore, the Women's Charter may be even more important for members of the public to become familiar with as it regulates us in some of the most important events in our lives and of our relationships with our closest relatives. To celebrate the 50th anniversary of the enactment of this statute, Leong Wai Kum presents answers to 50 questions one might ask of the Women's Charter.

"The author affirms the primacy of the Women's Charter as a radically progressive legislation ahead of its time in the ideals that guided the drafters in regulating family law in Singapore. It provides thoughtful, practical suggestions and invaluable insights, rationalises the provisions of the Charter, and commends on its many strengths and some of its shortcomings. Perhaps the most valuable and appealing insight that the author highlights is that the Charter offers a moral message that calls on men and women to treat each other as equal partners, discharge their obligation jointly and generally behave with consideration towards one another."

Constance Singam *Writer, Social Activist,
Past President of AWARE*

Women Judges in Islamic Courts: Comparing Indonesia and Malaysia

BY MARK CAMMACK



Mark Cammack is Professor of Law at Southwestern Law School in Los Angeles, California. His research focuses on Islamic legal institutions in Indonesia. His most recent book is an edited volume (with Michael Feener) entitled *Islamic Law in Contemporary Indonesia: Ideas and Institutions* published in 2007 by Harvard University Press.

The presence of women in the courts influences decision-making not because women are “biased”... but because women have different life experiences, and those life experiences often have a direct relevance to the task of judicial decision-making.

ONE OF THE MOST EXTRAORDINARY but least recognised achievements of the Prophet Muhammad is the impact of his teachings on the status of women. The Quran is not primarily a law book, and fewer than ten percent of its more than 6000 verses have an explicit legal content. But while the overall legal content of the Quran is not great, a significant portion of express Quranic legislation relates to the rights of women, and the reforms introduced by Islam had the effect of dramatically enhancing the position of women in society. The Quran elevates women to the status of full legal subjects—as owners and heirs to property rather than the inherited property of others, and as contracting parties in marriage rather than the property involved in a transaction contracted by their fathers. The founder of Islam is today not generally remembered as a pioneer of women’s rights, but I would venture to say that in all of human history, no individual had a greater impact in improving the status of women during her or his lifetime than the Prophet Mohammed.

Muslims have embraced the reforms introduced by the Quran but have not generally embraced the reformist spirit that characterised Islam’s founding era. For the most part, the Islamic legal tradition has been dominated by an interpretive approach that emphasises the letter of the text rather than a search for its deeper meaning. At the beginning of the Muslim era, Muslim women enjoyed greater rights than women in Europe. But the reforms introduced by the Quran came to be understood as expressing timeless truths rather than as part of a process, and a legal regime that was ahead of its time in the seventh century is anything but that 1400 years later.

The same attitudes that have prevented the evolution of legal doctrine in accordance with changing social conditions have also inhibited changes to Islamic courts. It should come as no surprise that the majority opinion among medieval Muslim jurists limited the judicial function to men. But rules regarding the qualifications for appointment to the position of judge, developed more than one thousand years ago, are widely regarded as out of touch with contemporary circumstances, and Islamic judicial institutions are beginning to open their doors to women judges.

Indonesia was among the first Muslim countries to appoint women as Islamic court judges, and women have now served in Indonesia’s Islamic courts or *Pengadilan Agama* for more than 50 years. Women gained admission to Indonesia’s Islamic courts earlier than most other places in part because of the particular make-up of Indonesia’s courts. Historically, Islamic tribunals consisted of a single judge called a *qadi*. Indonesia’s Islamic courts, however, like the parallel civil courts, consist of a panel of three judges – one judge who acts as chair and two member judges. Although the rules governing decision-making by the court were not formally specified, many judges took the position that the chair of the panel had the sole power to decide the case, and the member judges were mere advisers. When women first began to serve on Islamic courts in the 1950s, they acted in the capacity of member judges only. This permitted those who opposed the use of women judges to rationalise their presence on the Islamic bench by insisting that they were not strictly speaking judges.

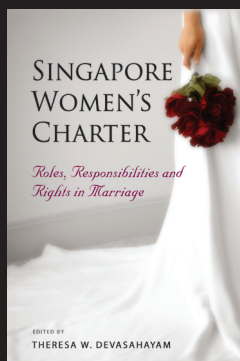
The number of female Islamic judges remained small during the 1950s and 1960s. Women began to be appointed to the Islamic courts in significant numbers beginning in the mid-1970s as part of an expansion and restructuring of the Islamic judiciary, following the passage of the National Marriage Law. As part of the restructuring, the prior practice of using part-time or honorary judges to serve as member judges was phased out, and large numbers of new full-time judges were appointed to the courts. This resulted in a dramatic increase in the number of regular full-time judges. As the number of judges grew, the number of women judges also increased, both in absolute terms and as a percentage of the entire judiciary. In 1983, 34 of 680 or five percent of Indonesian Islamic court judges were women. By 2009, the total number of Islamic court judges exceeded 3400. Of these, 678 or 20 percent were women.

Of course, 80 percent of the judges on Indonesia’s Islamic courts are men, and men are disproportionately represented in the higher echelons of the judiciary. But while the goal of equal participation of women in Indonesia’s Islamic courts is far from being realised, the trajectory of developments over the past half century point in that direction. The belief that women were advisers rather than judges persisted long after the reality was clearly otherwise, and in the mid-1980s male judges in some regions continued to insist that women would never be permitted to serve as court chair. But today, woman regularly chair court sessions, and it occasionally happens that the court consists of a panel of three women. In some courts now, women serve as chief judges, and in that capacity, they supervise the work of the other judges in the court, including male judges.

Women have only recently begun to serve on Malaysia’s Shariah courts. In July of 2010, Malaysian Prime Minister Najib Razak announced that two women had been appointed as judges in the Shariah courts in the Federal Territories of Putrajaya and Kuala Lumpur. Under Malaysia’s federal system, the Shariah courts are organised at the state rather than the federal level, and the power to appoint judges to ►

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IN THE SPOTLIGHT

SINGAPORE WOMEN'S CHARTER: ROLES,
RESPONSIBILITIES AND RIGHTS IN MARRIAGE

THE CHAPTERS IN THIS BOOK are an assembly of commentaries by a distinguished team of specialists on the social impact of the Singapore Women's Charter – the main legislation protecting women's rights in the context of the family in Singapore – on women and men. Highlights of this book include the reasons for the significance of legislation to protect women's rights in marriage and how these legislations came about with case studies from Southeast Asia; how the Singapore Women's Charter evolved and became established; how the Charter goes beyond protecting women's rights by reinforcing men and women's obligations and duties in a marital partnership; how the Charter has come to be perceived by men and women especially in its enforcement in the context of divorce; and the social repercussions of the Charter on the family in its application.

There has been ongoing discussion on the implications of the Charter on the lives of Singaporean women and men for some years since its implementation. The purpose of this book is to enrich our understanding of this legislation further – its objectives, efficacy and shortfalls.

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state Shariah courts belongs to state governments. It is anticipated, though, that the placement of women in the Shariah courts in the Federal Territories will provide encouragement to the states to do the same.

The appointment of women to Malaysia's Shariah courts did not come without a struggle. Sisters in Islam and other women's groups had been pressing for the appointment of women judges for decades. Success seemed at hand when in 2005, Malaysia's National Fatwa Council issued a ruling declaring the permissibility of women serving as Shariah judges. Despite the Council's approval, however, it was another five years before the first female judges were appointed. Moreover, it initially appeared that female judges appointed to the Shariah court would not be permitted to exercise the same powers as their male counterparts. Shortly after the appointments were made public, an official from the Department of Syariah Judiciary announced that a committee of (male) legal scholars had been assigned to determine the scope of the new judges' powers. Specifically, the committee was tasked with deciding whether women judges should be disqualified from deciding cases involving divorce and morals offences. When the committee's decision was announced, female judges were given the same powers as other judges.

The presence of women in Islamic courts is important symbolically since it carries a message about the position of women in society generally. But the inclusion of women on the judiciary also affects the work of the courts. Women bring a different perspective to the judicial function that affects the manner in which the law is applied. The presence of women in the courts influences decision-making not because women are "biased", as was argued by some opponents of the appointment of women to Malaysia's Shariah courts, but because women have different life experiences, and those life experiences often have a direct relevance to the task of judicial decision-making.

The importance of life experience to the task of judging was illustrated by an issue that arose during the US Supreme Court's consideration of the case of *Safford Unified School District v. Redding* in 2009. The case presented the question whether school officials violated the rights of a 13-year-old school girl when they required her to disrobe in order to investigate suspicions that she had concealed drugs in her underwear. During argument on the case, some of the male members of the court indicated that they did not regard the search of the girl as particularly troubling. One justice drew laughter from the audience and his fellow judges when he recounted locker room pranks he and other boys engaged in while changing for gym class. Justice Ruth Bader Ginsburg, the only woman in the court at the time, was not amused by the comment, and later took the unusual step of speaking out publicly about the case. She pointed out that none of her eight male colleagues on the court had gone through the experience of being a 13-year-old girl. "It's a very sensitive age for a girl," Justice Ginsburg said, "I didn't think that my colleagues, some of them, quite understood."

In most cases, the experience of being male or female does not have the kind of direct bearing on the issues that it did in *Safford*. But the cases that fill the dockets of Islamic courts are those in which perspectives that have their source in gender are most often relevant. The majority of the cases that come before the Islamic courts revolve around the conduct of family life. These cases require judges to assess the conduct of the parties as husbands and wives, fathers and mothers. In making those assessments, judges inevitably consult their own understanding of those roles, and that understanding is inevitably shaped by the judges' experiences. Neutrality in the sense of a blank slate is simply not possible. ■

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