

De Jure: Jurnal Hukum dan Syar'iah

Volume 16 Issue 2, 2024, p. 501-530

ISSN (Print): 2085-1618, ISSN (Online): 2528-1658

DOI: <http://dx.doi.org/10.18860/j-fsh.v16i2.29965>

Available online at <http://ejournal.uin-malang.ac.id/index.php/syariah>

Islamic Nations' Approaches to Combating Gender Discrimination against Women: An Examination of the Southeast Asia Region

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Received: 22-11-2024	Revised: 25-12-2024	Published: 30-12-2024
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Abstract:

Gender-based discrimination remains a pervasive issue despite gender equality being recognised as a fundamental human right. In Southeast Asia, where over two hundred and forty million Muslims reside, the challenge of gender discrimination continues to affect women, although Islam serves as the predominant religion. This study examines the policy and legal reforms adopted by Islamic nations in Southeast Asia—Specifically Malaysia, Brunei, Indonesia, Thailand (Southern Thailand), and the Philippines—in their effort to combat gender discrimination. This research mainly aims to assess the effectiveness of these reforms in addressing both legal frameworks and cultural practices that contribute to the marginalisation of women. Through qualitative analysis of policy documents, legal texts, official reports and academic reports, this study explores the reforms in key sectors such as employment, healthcare, family law, and political representation. Key findings highlight significant reforms, such as Brunei's national action plan for women's empowerment, Malaysia's comprehensive public sector measures for gender equality, Indonesia's gender mainstreaming policies, and Thailand's legal protections against gender discrimination. Despite these efforts, the study reveals persistent challenges, including limited political representation of women, cultural barriers, and inconsistent enforcement of legal reforms. The findings indicate that while progress has been made, the full realisation of gender equality requires continued legal reform, stronger policy implementation, and greater societal transformation. This research contributes to the broader discourse on Islamic legal perspectives and policy-making, offering insights into the

intersection of religion, law, and gender equality. The study also provides recommendations for enhancing legal frameworks to achieve greater gender equity in the region.

Keywords: human rights; gender discrimination; gender equality.

Introduction

The Organisation of Islamic Cooperation (OIC) reports that there are 57 Muslim countries worldwide, with 49 having a majority Muslim population.¹ These nations, which range from the bustling cities of Southeast Asia to the deserts of North Africa, each possess unique Muslim-majority cultures. These countries, spanning from the Atlantic to the Pacific, share diverse cultures, languages, and traditions, all unified by Islam. Despite their varied political systems, social practices, and economic conditions, they are connected by a shared Islamic heritage. Collectively, they play a significant role in shaping geopolitics, history, and culture. Prior studies have highlighted that discrimination against women predominantly occurs in Muslim-majority countries. This discrimination is often evident in unfair education and labour market systems, as well as in electoral participation.² Islam leads us to rethink gender equality in a more thorough and enriching manner.³ Due to the issues arising today, the Muslim feminists gave some critique for gender inequality through the lens of Islam and Muslim culture. They also lead initiatives for development and policy reform, specifically discussing gender discrimination within Islamic law and Muslim culture.⁴

¹ Tajwar Ali and Haseena Sultan, 'Emerging Role of the Organization of Islamic Cooperation in the Global Governance since 1969', *Cogent Arts & Humanities* 10, no. 1 (31 December 2023): 2202052, <https://doi.org/10.1080/23311983.2023.2202052>.

² Jaya Addin Linando, 'A Relational Perspective Comparison of Workplace Discrimination toward Muslims in Muslim-Minority and Muslim-Majority Countries', *International Journal of Cross Cultural Management* 23, no. 1 (1 April 2023): 31–57, <https://doi.org/10.1177/14705958221120990>; Feryal M. Cherif, 'Culture, Rights, and Norms: Women's Rights Reform in Muslim Countries', *The Journal of Politics* 72, no. 4 (October 2010): 1144–60, <https://doi.org/10.1017/S0022381610000587>; Dipak K. Midya and Md. Mohidul Islam, 'Gender Discrimination in Education among the Muslims: A Case Study in an Indian Village for Identifying the Key Factors', *Journal of Asian and African Studies* 59, no. 1 (1 February 2024): 274–91, <https://doi.org/10.1177/00219096221106079>; Susi Susilawati et al., 'Manifestations of Gender Injustice in Divorced Marriages: The Kabalutan Tradition', *Jambura Law Review* 5, no. 1 (30 January 2023): 136–55, <https://doi.org/10.33756/jlr.v5i1.17722>; Ramadhita Ramadhita, Mahrus Ali, and Bachri Syabbul, 'Gender Inequality and Judicial Discretion in Muslims Divorce of Indonesia', *Cogent Social Sciences* 9, no. 1 (31 December 2023): 2206347, <https://doi.org/10.1080/23311886.2023.2206347>.

³ Mohamed Sulthan Ismiya Begum et al., 'Gender Equity in Muslim Family Law: Modern and Contemporary 'Ulamā's View', *Al-Ahkam* 34, no. 2 (31 October 2024): 221–56, <https://doi.org/10.21580/ahkam.2024.34.2.20773>; Mudofir Abdullah, 'Marriage In Islam and the Problem of Gender Equality: A Philosophical Perspective', *Ulumuna* 22, no. 1 (15 August 2018): 57–76, <https://doi.org/10.20414/ujis.v22i1.333>; Pitrotussaadah Pitrotussaadah and Eva Fadhilah, 'State, Islam, and Gender : Dynamics of Marital Rape Law in Indonesia', *Al-Qadha : Jurnal Hukum Islam Dan Perundang-Undangan* 10, no. 1 (7 June 2023): 19–33, <https://doi.org/10.32505/qadha.v10i1.4805>.

⁴ Muhammad Rikza Muqtada et al., 'Fiqh Contestation on Women's Public Leadership in Indonesia and Malaysia: Reproducing Qur'anic and Hadith Interpretations', *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 19, no. 1 (30 June 2024): 221–48, <https://doi.org/10.19105/al-lhkam.v19i1.13163>; Suud Sarim Karimullah and Siti Rutbatul Aliyah, 'Feminist Criticism of Traditional Understanding



The emergence of Islamic feminism seeks to address these issues by exploring ways to reconcile gender equality with Islamic principles. Islamic feminists advocate for a reinterpretation of Islamic texts to promote gender equality—a perspective generating discussions on how gender equality can be achieved within an Islamic framework.⁵ This often involves challenging both patriarchal interpretations of religious texts and socio-cultural practices that perpetuate gender discrimination.⁶ Another important consideration is the issue of intersectionality. Some previous studies have revealed that gender discrimination does not merely stem from gender itself; it is also influenced by ethnic diversity⁷. The experiences of women can differ significantly based on their socio-economic background and ethnicity, complicating the efforts to achieve gender equality.⁸

Therefore, many scholars argue that these intersecting factors must be taken into account when formulating policies and legal reforms to combat gender discrimination. It is important to note that achieving gender equality and eradicating all forms of discrimination against women are core human rights principles, as outlined in several key international frameworks such as the Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the ASEAN Declaration on Human Rights (ADHR), the Beijing Declaration and Platform for Action, the Convention on the Rights of the Child (CRC), and the 2030 Agenda for Sustainable Development Goals (SDGs).⁹ These instruments collectively highlight the global commitment to promoting the rights of women and eliminating gender-based disparities. It is evident that Islam has a rich tradition of providing guidance on gender equality, which has been practised in Muslim societies since the beginning of Islam. For instance, Islam acknowledges women's full property rights before and after marriage, allows them to

of Women's Roles in Islam', *An-Nisa Journal of Gender Studies* 16, no. 2 (27 December 2023): 195–214, <https://doi.org/10.35719/annisa.v16i2.177>.

⁵ Abdul Wahab Fahrub, Dewi Alhaa, and Muhammad Wasith Achadi, 'Gender Equality In Women's Jurisprudence According To Husein Muhammad And Its Relevance To The Goals Of Islamic Religious Education', *AL-WIJDĀN Journal of Islamic Education Studies* 8, no. 1 (30 January 2023): 124–49, <https://doi.org/10.58788/alwijdn.v8i1.1604>; Mohd Anuar Ramli et al., 'The Quest for Third Gender Equality: Challenges and Implications for Islamic Law and Muslim Women's Sustainability in Malaysia', *AHKAM: Jurnal Ilmu Syariah* 24, no. 2 (25 December 2024): 295–310; Abu Bakar, 'Women on The Text According To Amina Wadud Muhsin in Qur'an and Women', *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 13, no. 1 (31 July 2018): 167–86, <https://doi.org/10.19105/al-lhkam.v13i1.1467>.

⁶ Dadan Rusmana, Nabilah Nuraini, and Yayan Rahtikawati, 'Gender Relations on Quranic Interpretation in Indonesia (Interpretation Analysis on Turjuman Al-Mustafid's Tafsir, Al-Azhar's Tafsir, and Al-Misbah's Tafsir)', *FOKUS Jurnal Kajian Keislaman Dan Kemasyarakatan* 8, no. 1 (31 May 2023): 1–12, <https://doi.org/10.29240/jf.v8i1.3893>.

⁷ Mari Teigen, Arnfinn H. Midtbøen, and Rune Karlsen, 'Elites on Equality: Room for Gender Balance and Ethnic Diversity in Leadership Positions?', *Acta Sociologica* 66, no. 2 (1 May 2023): 119–35, <https://doi.org/10.1177/00016993211070192>; Amit Kaplan et al., 'Differences in Economic Consequences of Union Dissolution across Gender and Ethnic Groups in Belgium and Israel', *Journal of Family Studies* 0, no. 0 (n.d.): 1–30, <https://doi.org/10.1080/13229400.2024.2441929>.

⁸ Asim Iqbal et al., 'Gender Equality, Education, Economic Growth and Religious Tensions Nexus in Developing Countries: A Spatial Analysis Approach', *Heliyon* 8, no. 11 (1 November 2022): e11394, <https://doi.org/10.1016/j.heliyon.2022.e11394>.

⁹ Gloria Novovic, 'Gender Mainstreaming 2.0: Emergent Gender Equality Agendas under Sustainable Development Goals', *Third World Quarterly* 44, no. 5 (4 May 2023): 1058–76, <https://doi.org/10.1080/01436597.2023.2174848>.



inherit wealth, and permits their participation in warfare. Women in Islam are also granted the right to seek education, engage in trade, and play significant roles in both family and society.¹⁰

The Prophet Muhammad (Peace be upon him) himself emphasised the importance of treating women fairly and with respect, as reflected in many hadiths.¹¹ These practices demonstrate that Islam has laid the foundations of gender equality from the start to eliminate discrimination and enhance women's roles in all aspects of life. This is not surprising because, in the Islamic narrative, equality between the sexes has been affirmed since the creation of humanity, with human beings originating from a man and a woman, as stated by Allah in Q.S al-Hujurat 13: "People, we have created you male and female, and appointed you races and tribes, that you may know one another. Surely the noblest among you in the sight of God is the most God-fearing of you."¹² Nevertheless, there are numerous troublesome gender beliefs and standards within Muslim communities and societies currently. At times, gender inequality is prolonged through the use of religion. Hence, it is crucial to examine the past to comprehend the development of gender roles and to imagine a future where societies are thriving and have more balanced gender equality. This study examines the policy and legal reforms adopted by Islamic nations in Southeast Asia—Specifically Malaysia, Brunei, Indonesia, Thailand (Southern Thailand), and the Philippines—in their effort to combat gender discrimination.

The main aim of this research is to assess the effectiveness of these reforms in addressing both legal frameworks and cultural practices that contribute to the marginalisation of women. Through qualitative analysis of policy documents, legal texts and official reports. This study explores the reforms in key sectors such as employment, healthcare, family law, and political representation. Key findings highlight significant reforms, such as Brunei's national action plan for women's empowerment, Malaysia's comprehensive public sector measures for gender equality, Indonesia's gender mainstreaming policies, and Thailand's legal protections against gender discrimination. Despite these efforts, the study reveals persistent challenges, including limited political representation of women, cultural barriers, and inconsistent enforcement of legal reforms. The findings indicate that while progress has been made, the full realisation of gender equality requires continued legal reform, stronger policy implementation, and greater societal transformation.

There are several contributions this study makes: (1) it examines how Islamic nations in Southeast Asia address gender discrimination, considering their cultural, socio-political and religious context; (2) It offers a comparative analysis of the effectiveness of gender equality strategies across different nations, highlighting common challenges and best practices; (3) It explores the intersection of Islamic principles and international human rights frameworks, offering insights into how

¹⁰ Ziba Mir-Hosseini, 'Islamic Law and the Question of Gender Equality', in *Routledge Handbook of Islamic Law* (Routledge, 2019).

¹¹ Radwan Jamal Elatrash, Sri Tuti Rahmawati, and Ziyad Alhaq, 'Women Empowerment from Quranic Perspective', *AL-BURHĀN: JOURNAL OF QUR'ĀN AND SUNNAH STUDIES* 7, no. 2 (10 December 2023): 73–88, <https://doi.org/10.31436/alburhn.v7i2.291>.

¹² Nadia Syifa, Ermita Zakiyah, and Abdul Fattah, 'Understanding Gender Equality in the Perspective of Surah Al-Hujurat Verse 13 And Bukhari Hadith No. 4787' (The 2nd International Conference on Islam, Science, Language, Law, Education, Economics, and Humanity, Malang, 2023), 374–86, <http://conferences.uin-malang.ac.id/index.php/ICOLESS/article/view/2633>.



these can co-exist in promoting gender equality; (4) It provides recommendations for policy reform initiatives aimed at addressing gender discrimination within Islamic law and local customs. These recommendations are designed to promote inclusive policies that respect cultural diversity while advancing gender equality; and last but not least, (5) As a critical examination, the study contributes to academic discourse on gender studies, Islamic studies, and Southeast Asian studies. It enriches scholarly understanding of the complexities surrounding gender dynamics in Muslim-majority countries and offers new insights into the evolving nature of gender roles and rights within these societies.

It is important to recognise that individuals possess spiritual equality—the highest form of equality—ensuring that no distinctions are made based on gender, race, or social standing. Men and women are seen primarily as individuals, acknowledged as whole beings with the responsibility of fulfilling their physical, emotional, intellectual, and spiritual needs while remaining focused on their ultimate purpose from both personal and collective perspectives.¹³ The message conveyed in the Quranic narrative emphasises human prosperity, regardless of gender expectations, in both this world and the afterlife. However, the evolution of gender roles from the pre-Islamic era to the present has been shaped by various languages, religions, economies, and political cultures, leading to complex dynamics in gender relations. While these changes have often favoured women, they have also placed Muslim women in a unique dilemma, particularly in countries that have adopted Western or secular legal systems despite having majority Muslim populations. In these contexts, many Muslim women find themselves striving to defend the belief that Islam honours, protects, and grants full rights to women. This defence is frequently rooted in cultural perceptions and personal convictions rather than in a profound understanding of Islamic religious principles or scholarly interpretations. This tension underscores the ongoing challenge of reconciling traditional Islamic values with contemporary societal norms.¹⁴ This disconnect highlights the tension between traditional Islamic principles and contemporary societal norms, underscoring the critical role of law in upholding the Quranic vision of equity and justice. Therefore, this study is crucial for offering insights to guide future reforms and promote a balanced, inclusive approach to gender equality in diverse Muslim-majority societies.

Method

This study adopts a socio-legal research approach, recognising the law as a tool of social control that originates and functions within society.¹⁵ The socio-legal framework is operationalised by examining the interplay between legal provisions, societal norms, and cultural practices to understand how Islamic nations in Southeast Asia address gender discrimination. This approach explores contextual factors such

¹³ Arego Mitchell, 'The Islamic Tradition and the Human Rights Discourse', *Atlantic Council* (blog), 5 September 2018, <https://www.atlanticcouncil.org/in-depth-research-reports/report/the-islamic-tradition-and-the-human-rights-discourse/>.

¹⁴ Tamara Kharroub, 'Five Things You Need to Know about Women in Islam: Implications for Advancing Women's Rights in the Middle East', Arab Center Washington DC, 6 June 2024, <https://arabcenterdc.org/resource/five-things-you-need-to-know-about-women-in-islam-implications-for-advancing-womens-rights-in-the-middle-east/>.

¹⁵ Nehaluddin Ahmad, Arman Haji Asmad, and Masnooraini Haji Mohiddin, *Introduction to Legal Research Methodology* (Brunei Darussalam: Universiti Islam Sultan Sharif Ali Press, 2011), 11.



as economic conditions, access to education, political structures, and religious interpretations that influence the development, implementation, and enforcement of laws. By integrating these dimensions, the research provides a holistic understanding of the legal frameworks and the social dynamics shaping gender equality in the region. A qualitative research design was adopted, as it is particularly suitable for exploring complex and minimally studied phenomena. The inductive nature of this approach allows for the development of insights based on patterns emerging from the data. The study focuses on five key Islamic-majority or significantly Islamic-influenced nations in Southeast Asia: Malaysia, Indonesia, Brunei Darussalam, the Philippines, and Southern Thailand. These nations were selected due to their diverse approaches to integrating Islamic principles with national legal systems, providing a rich foundation for comparative analysis.

Data collection was carried out using three primary methods. First, document analysis involves reviewing legal texts, policy documents, official reports, and academic literature to identify laws and policies addressing gender equality, their enforcement mechanisms, and their alignment with Islamic principles and international human rights standards. Second, semi-structured interviews were conducted with legal-socio scholars from Brunei, gathering insights into the challenges and successes of implementing gender equality measures. Third, field observations were undertaken during public forums, workshops, and community events to capture how societal norms and community dynamics influence perceptions of gender equality and the implementation of reforms. Triangulation was employed to operationalise the socio-legal framework, combining the three data collection methods to ensure comprehensive analysis and cross-verification of findings.¹⁶

For instance, legal frameworks were examined not only through document analysis but also by contextualising them within the social practices observed in community settings. Interviews provided insights into gaps between the law's intent and its practical outcomes, particularly in enforcement and societal acceptance. Observations allowed the researchers to connect theoretical understandings with lived realities, capturing nuances not evident in documents or interviews. The collected data were analysed thematically,¹⁷ identifying patterns and themes that illustrate the effectiveness and challenges of combating gender discrimination. This analysis focused on how religious, cultural, and socio-economic factors intersect to influence the implementation of laws and policies. The thematic approach also facilitated comparative analysis across the five countries, highlighting shared challenges and unique successes. By employing this socio-legal framework and qualitative methodology, the study provides a nuanced exploration of how Islamic nations in Southeast Asia navigate the complex interplay between law, society, and religion in addressing gender discrimination.

Results and Discussion

¹⁶ Lisa A. Guion, David C. Diehl, and Debra McDonald, 'Triangulation: Establishing the Validity of Qualitative Studies', *EDIS* 2011, no. 8 (26 August 2011): 3, <https://doi.org/10.32473/edis-fy394-2011>.

¹⁷ Muhammad Naeem et al., 'A Step-by-Step Process of Thematic Analysis to Develop a Conceptual Model in Qualitative Research', *International Journal of Qualitative Methods* 22 (October 2023): 16094069231205789, <https://doi.org/10.1177/16094069231205789>.



Historical Context and Cultural Foundations

While significant progress has been made in improving the status of women, particularly through Islam and subsequent reforms, gender inequality remains widespread in many societies, especially in Southeast Asia. Islam played a vital role in granting women rights such as inheritance, property ownership, and financial independence, challenging pre-Islamic patriarchal norms. However, despite these advances, deeply ingrained cultural, religious, and patriarchal structures continue to restrict women's rights and freedoms, particularly in Muslim-majority countries. While colonialism, Western education, and reformist Islamic movements have provided new opportunities for women, the struggle for gender equality remains. Women's participation in the economic, social, and political spheres has increased, but challenges such as polygyny, limited access to divorce, and restrictions on political and economic freedoms remain.

Today, the quest for gender equality in Southeast Asia reflects a complex interplay of traditional beliefs, religious teachings, and modernising forces, with ongoing efforts from women's movements to address these challenges. During the pre-Islamic period in the Arabian Peninsula, women did not have significant rights, and all forms of greatness and virtue were reserved for men.¹⁸ The past evidence shows that gender discrimination has distorted and perverted women's talents and lives in numerous life aspects.¹⁹ Before the rise of Islam, the status of women varied widely based on tribal laws and cultural customs. In nomadic Bedouin tribes, women had very limited legal rights. Fathers could arrange marriages for their daughters, husbands had the sole authority to end marriages, and women had few property or inheritance rights. However, women from higher social classes sometimes had more rights, including property ownership and the ability to inherit from family members. Despite their restricted legal rights, women played vital societal roles, such as bearing children, cooking, milking animals, making butter and cheese, spinning wool, and weaving tents.²⁰ During this period of *Jahiliyyah*, Arabian society was mainly patriarchal, with women often lacking essential rights and freedoms. Practices like female infanticide, inheritance through the male line, and restricted social and economic roles for women were common. Women were generally seen as possessions of their male guardians, and their status relied heavily on their relationships with men.²¹

However, the advent of Islam brought significant reforms to these gender norms. The Quran introduced new rights and privileges for women, fundamentally altering their status in society. Islam recognised women's rights to inheritance,

¹⁸ Nasim Akhtar, 'Historical Contribution of Muslim Women in the Construction of Islamic Society at Medina During the Early Period of Islam', *AL-HIDAYAH* 3, no. 1 (30 June 2021): 91–99, <https://doi.org/10.52700/alhidayah.v3i1.47>.

¹⁹ Syed Muhammad Shahid Tirmizi et al., 'Gender Equality in Islam and Gender Biased Discrimination in Global Muslim Societies: Analytic and Critical Evaluation', *Humanities & Social Sciences Reviews* 9, no. 3 (1 May 2021): 30–36, <https://doi.org/10.18510/hssr.2021.934>.

²⁰ Niaz A. Shah, *Judicial Resource Book on Violence Against Women for Asia: Combating Violence against Women and Girls for Cambodia, India, Pakistan and Thailand* (United Kingdom: Commonwealth Secretariat, 2018).

²¹ Muhammad Mumtaz Ali Khan, Mazher Hussain, and Zil E Huma Rafique, 'Status of Women in Pre-Islamic Civilizations: Analytical Study of the Dark Ages -From the Ancient Greek to the Jahiliyah', *STATISTICS, COMPUTING AND INTERDISCIPLINARY RESEARCH* 3, no. 2 (31 December 2021): 263–76, <https://doi.org/10.52700/scir.v3i2.119>.



property ownership, and financial independence. The Quranic injunctions promoted the spiritual, moral, and social equality of women, challenging the deeply ingrained patriarchal norms of pre-Islamic society.²² For instance, the Q.S an-Nisa: 32 states, "To men is allotted what they earn, and to women what they earn", which emphasises economic independence and equal opportunities.²³

The active participation of Muslim women is crucial for the stable construction of an Islamic society, as they play a vital role in its social development. Khadija, the first wife of the Prophet Muhammad, before she married the Prophet, she already had a thriving business as a merchant in Mecca. Upon receiving Prophethood, she not only accepted Islam but also gave all her riches for the benefit and preservation of the faith, providing a notable model in the community of Mecca.²⁴ Safiah binti Abdul Mutalib, in addition, participated in the Battle of the Trench in 627 AD when Madinah was under attack. Muhammad had instructed that the women be gathered in a safe place with Hassan bin Thabit responsible for their security. When an enemy combatant breached their area, Safiah urged Hassan to confront the intruder. Hassan, admitting he was a poet and not skilled with weapons, did not act. Consequently, Safiah took matters into her own hands, killing the enemy with a piece of wood and a knife. When Muhammad learned of this incident, he affirmed Safiah's actions. Such instances highlight the crucial and recognised role women played even in wartime situations.²⁵

Ummu Ammarah, also known as 'the Lioness of Uhud' After Hijrah, participated in numerous battles, including Uhud, Hudaibiyah, Khaibar, Umratul Qadha, Hunain, and Yamamah. At 43, she accompanied her husband and two sons to the battle of Uhud in 625 AD, providing water to wounded and thirsty individuals. Despite initial victories, enemy forces eventually defeated her, and she suffered twelve wounds, including a serious one.²⁶ Aisha, another Muhammad's wife, was a scholar who transmitted many hadith and advised the early Muslim community.²⁷ Fatima, Muhammad's daughter, was a respected figure who fought for women's rights.²⁸ These examples show that Islam has brought significant reforms to gender

²² Melanie P Mejia, 'Gender Jihad: Muslim Women, Islamic Jurisprudence, and Women's Rights', *Kritike: An Online Journal of Philosophy* 1, no. 1 (8 September 2008): 1–24, <https://doi.org/10.3860/krit.v1i1.547>.

²³ Musaab Alkhazaali, Husam Rashid, and Fatimah Shaheed, 'Women Rights in the Glorious Qur'an: A Sociolinguistic Study', *Kufa Journal of Arts* 1, no. 46 (2020): 739–52, <https://doi.org/10.36317/kaj/2021/v1.i46.674>.

²⁴ Akhtar, 'Historical Contribution of Muslim Women in the Construction of Islamic Society at Medina During the Early Period of Islam'.

²⁵ Norfadhilah Mohd Ali et al., 'When Civilians "Cross The Line": The International And Islamic Law Perspectives', *International Journal of Humanities and Social Science*, 2011, <http://www.ijhssnet.com/journal/index/708:vol-1-no-21-si-december-2011abstract22&catid=16:journal-abstract>.

²⁶ Bahar Davary, 'The Image of Woman in Islamic Tradition: A Study of Its Formation in Language and Tradition' (Doctoral Thesis, Washington, The Catholic University of America, 2001), <https://philpapers.org/rec/DAVTIO-35>.

²⁷ Musferah Mehfooz, 'Women and Hadith Transmission: Prolific Role of Aisha in Validation and Impugnment of Prophetic Traditions', *Al-Bayan: Journal of Qur'an and Hadith Studies* 19, no. 2 (19 October 2021): 200–227, <https://doi.org/10.1163/22321969-12340099>.

²⁸ Adele K. Ferdows, 'Women and the Islamic Revolution', *International Journal of Middle East Studies* 15, no. 2 (May 1983): 283–98, <https://doi.org/10.1017/S0020743800052326>.



norms.²⁹ However, women's unequal status in Muslim-majority countries is due to the prominence of religion or patriarchal structures. Women are limited in their rights to initiate divorce, inherit property, gain custody of children, and enjoy unrestricted freedom of movement. Religious norms are seen as factors that hinder women's political participation.³⁰ This has led to the rise of Muslim feminism, which formulates various critiques and leads initiatives for development and policy reform, specifically addressing gender discrimination in the contemporary Muslim world.³¹ Gender dynamics in Southeast Asian Muslim-majority countries have been influenced by a variety of religious, cultural, and historical factors.³² Even with various languages, religions, economies, and political cultures present in the region, it has been suggested that gender relations have typically been favourable to women.³³ This is evident from historical records dating back to the sixteenth century, a period marked by significant global exploration and the subsequent spread of religions such as Islam and Christianity. During the early centuries, Southeast Asia saw the influence of Hinduism and Buddhism from India and the arrival of Buddhism, Confucianism, and Daoism from China. These religions introduced various concepts of gender relations. Hindu beliefs emphasise power dynamics in the union of deities like Shiva and his female consorts while also honouring the male role in creation. In the same way, Chinese belief systems frequently portrayed women as being more connected to material possessions and less able to attain high spiritual status, but in reality, women in Southeast Asia played important roles in the community.³⁴

The spread of Islam in the region, however, has brought about substantial changes. By the sixteenth century, Islam had gained a strong foothold, particularly in the Nusantara archipelago, where its adoption by major trading ports like Melaka influenced surrounding regions. Islam introduced specific gender norms, such as the allowance for polygyny, the emphasis on premarital chastity, wifely obedience, and male authority. However, this did not entirely negate the role women played in society. Women continued to be economically active, working in fields and markets, and maintained a degree of independence that sustained perceptions of marriage as a partnership. Elite Muslim women, although more confined to domestic spaces, still wielded significant influence behind the scenes, sponsoring religious education and gaining reputations for piety.³⁵ In Vietnam, influenced by Chinese Confucianism, women were often viewed through the lens of subservience, but Vietnamese law allowed for certain flexibilities. For example, in the absence of sons, the eldest daughter could perform ancestor worship rituals. This blending of indigenous

²⁹ Karimullah and Aliyah, 'Feminist Criticism of Traditional Understanding of Women's Roles in Islam'.

³⁰ Benjamin G. Bishin and Feryal M. Cherif, 'Women, Property Rights, and Islam', *Comparative Politics* 49, no. 4 (2017): 501–19.

³¹ Mitchell, 'The Islamic Tradition and the Human Rights Discourse'.

³² Barbara Watson Andaya, *The Flaming Womb: Repositioning Women in Early Modern Southeast Asia* (University of Hawai'i Press, 2006), <https://www.jstor.org/stable/j.ctt6wqwjx>.

³³ Anthony Reid, *Southeast Asia in the Age of Commerce, 1450-1680: Volume One: The Lands below the Winds* (Yale University Press, 1988), <https://www.jstor.org/stable/j.ctt1cc2k66>.

³⁴ Barbara Watson Andaya, 'Women, Globalization, and Religious Change in Southeast Asia', in *Women of Asia* (Routledge, 2018).

³⁵ Andaya, *The Flaming Womb*.



practices with external religious influences created a unique gender dynamic where women retained a notable degree of social and economic autonomy.³⁶

Colonialism, modernisation, and globalisation have had impacts on gender roles in Southeast Asia. The arrival of European powers in the sixteenth century marked the beginning of significant socio-religious changes. The Portuguese and Spanish missionaries brought Christianity, which often clashed with local beliefs and practices. Christian missionaries targeted women for conversion, emphasising virtues such as chastity and piety, which led to the establishment of religious houses for women. However, these institutions often relegated women to secondary roles, focusing more on manual labour than spiritual growth.³⁷ It is important to note that the colonial era has brought Western education systems, which opened up new opportunities for women. By the early twentieth century, colonial governments began establishing secular schools that admitted girls, challenging traditional gender roles and expectations. Educated women started to express their views on gender equality, marriage, and nationalism through various platforms, including newspapers. For instance, in British-ruled Myanmar, the rise in female enrolment in schools led to increased participation of women in public discourse.³⁸

Whereas, in Muslim-majority countries, the influence of reformist Islamic teachings from the Middle East during the early nineteenth century introduced new ideas about gender roles. Reformist leaders called for the elimination of practices considered un-Islamic, such as child marriage and polygyny, advocating for the emancipation of women as a means to advance Muslim societies. These ideas found resonance in Southeast Asia, where educated Muslim women began to advocate for their rights. For instance, prominent figures like Kartini of Indonesia became national icons for their support of female education and opposition to polygyny.³⁹ In addition, the impact of World War II and subsequent independence movements has further influenced gender roles. Women participated actively in resistance movements, both as combatants and in supportive roles. The post-war period saw renewed debates about women's roles in the new nation-states. Despite constitutional commitments to gender equality, traditional patriarchal attitudes persisted, making it challenging to achieve substantive changes in gender relations.⁴⁰

Today, cultural attitudes towards gender equality in Southeast Asia are shaped by a complex interaction of traditional beliefs, religious teachings, and modern influences. While significant strides have been made in terms of women's education, political participation, and economic involvement, deeply ingrained patriarchal norms continue to pose challenges. In Muslim-majority countries, debates around issues such as polygyny, women's rights, and education reflect broader struggles between traditional values and modernising forces. For instance, in Indonesia, the tension between secular and religious views on gender roles is evident in ongoing

³⁶ Catherine Churchman, review of *Review of Việt Nam: A History from Earliest Times to the Present*, by Ben Kiernan, *Journal of Vietnamese Studies* 14, no. 1 (2019): 97–103.

³⁷ Andaya, 'Women, Globalization, and Religious Change in Southeast Asia'.

³⁸ Tharaphi Than, *Women in Modern Burma* (London: Routledge, 2013).

³⁹ Kathryn Robinson, *Gender, Islam and Democracy in Indonesia* (London: Routledge, 2008).

⁴⁰ Susan Blackburn and Helen Ting, eds., *Women in Southeast Asian Nationalist Movements* (Singapore: NUS Press, 2013).



debates about marriage laws and women's rights.⁴¹ Despite these challenges, women's organisations and movements continue to advocate for greater gender equality, highlighting issues such as domestic violence, reproductive rights, and political representation.⁴²

In the Philippines, the Catholic Church has played a significant role in shaping cultural attitudes toward gender roles, particularly influencing social issues such as contraception and divorce. While the conflict between Christians and Muslims has not been a constant feature throughout history, tensions between the two religious groups, particularly in the southern regions, have contributed to periods of instability and economic, political, and legal inequalities. In an effort to address these tensions, the Philippine government adopted the Code of Muslim Personal Laws (CMPL) in 1977, providing a legal framework for Muslims in the country that aligns with their religious beliefs, particularly in family law. Despite significant progress in women's education and political participation, traditional views on family and gender roles continue to persist, influenced by both the Catholic Church and cultural practices. These views continue to shape public policy, creating tension between modernising forces and entrenched traditional beliefs.

Contemporary Challenges and Issues

Gender-based discrimination remains a prevalent issue in society today, even though gender equality is a fundamental human right.⁴³ Discrimination based on sexual orientation is the underlying cause of gender inequality.⁴⁴ The expression of this inequality differs depending on elements like religion, social organisation, political beliefs, geographical location, and economic situation. Gender bias arises from the fact that both genders are integrated into distinct aspects of societal attitudes. Gender bias occurs because both genders are part of different components of social mindset. Gender inequality is also often considered a major cause of social problems and contributes to violence against women. Although there are situations where gender equality exists for both sexes, the pervasive global issue remains the prejudice against women.⁴⁵

This issue has gained significant attention on global platforms from organisations such as the United Nations, the World Bank, and the Organization for Economic Cooperation and Development (OECD) of developed nations.⁴⁶ Not to mention, there are various types of gender inequality, spanning from overt (direct) to covert (subtle) discrimination, which occurs on formal (e.g., promotion, performance) or interpersonal (e.g., social isolation) scales. Overt discrimination is

⁴¹ Rachel Rinaldo, 'Muslim Women, Moral Visions: Globalization and Gender Controversies in Indonesia', *Qualitative Sociology* 34, no. 4 (1 December 2011): 539–60, <https://doi.org/10.1007/s11133-011-9204-2>.

⁴² Andaya, 'Women, Globalization, and Religious Change in Southeast Asia'.

⁴³ Mitchell, 'The Islamic Tradition and the Human Rights Discourse'.

⁴⁴ Alfitri Alfitri, 'Women's Rights and Gender Equality Issues in Islamic Law in Indonesia: The Need to Re-Read Women's Status in the Islamic Religious Texts', *Mazahib*, 2014, <https://doi.org/10.21093/mj.v13i1.349>.

⁴⁵ Ramadhita, Ali, and Syabbul, 'Gender Inequality and Judicial Discretion in Muslims Divorce of Indonesia'.

⁴⁶ Damian Grimshaw, 'International Organisations and the Future of Work: How New Technologies and Inequality Shaped the Narratives in 2019', *Journal of Industrial Relations*, 8 April 2020, <https://doi.org/10.1177/0022185620913129>.



the blatant mistreatment based on prejudice towards a certain group. An instance at work could involve the use of disrespectful or provoking language targeting a person's gender. On the other hand, hidden bias is not easy to detect, as it may seem harmless or impartial. It can manifest in everyday interactions, such as harassment, jokes, incivility, or avoidance. A common example of such discrimination is choosing a male candidate with less qualifications instead of a female candidate with more qualifications simply because of their gender.⁴⁷ Formal discrimination refers to unjust decisions in hiring or promotion based on factors like gender, and legal protections are in place to prevent this.⁴⁸ Interpersonal discrimination, on the other hand, involves disrespect, harassment, ill-behaviour, and hostility within social situations, such as making inappropriate remarks related to someone's gender because they could not immediately provide assistance.⁴⁹ The distinction between overt and covert, and formal and interpersonal discrimination lies in the delivery and scale of discrimination, respectively.

It is also important to note that in Southeast Asia, Islam is commonly referred to as the “Muslim Archipelago,” home to more than 240 million Muslims, making up around 42 per cent of the residents and roughly 25 per cent of the worldwide Muslim population of 1.6 billion. Most Muslims in Southeast Asia follow the Sunni branch and observe the Shafi'i school of law. Islam is recognised in Malaysia and Brunei, and it is also officially acknowledged in Indonesia, Thailand, and the Philippines.⁵⁰ Despite Islam being the most common religion in Southeast Asia, women still experience gender discrimination.⁵¹ For instance, Muslim women face restrictions on their freedom of movement once they are married.⁵² To leave the house, secure employment, or advance their careers, they require the permission and willingness of their lawful husbands and if they want to travel or go somewhere without their husbands, they must accompany themselves with their mahram.⁵³ This situation often creates difficulties for women in achieving their full potential in both

⁴⁷ Alex Lindsey et al., ‘When Do Women Respond against Discrimination? Exploring Factors of Subtlety, Form, and Focus’, *Journal of Applied Social Psychology* 45, no. 12 (2015): 649–61, <https://doi.org/10.1111/jasp.12326>.

⁴⁸ Ciarán McFadden, ‘Discrimination Against Transgender Employees and Jobseekers’, in *Handbook of Labor, Human Resources and Population Economics*, ed. Klaus F. Zimmermann (Cham: Springer International Publishing, 2020), 1–14, https://doi.org/10.1007/978-3-319-57365-6_35-1.

⁴⁹ Davina Cooper, ‘What Does Gender Equality Need? Revisiting the Formal and Informal in Feminist Legal Politics’, *Journal of Law and Society* 49, no. 4 (2022): 800–823, <https://doi.org/10.1111/jols.12393>.

⁵⁰ Khairudin Aljunied, ‘Islam in Southeast Asia’, in *Oxford Research Encyclopedia of Religion*, 2019, <https://doi.org/10.1093/acrefore/9780199340378.013.658>.

⁵¹ Michael G. Peletz, ‘Hegemonic Muslim Masculinities and Their Others: Perspectives from South and Southeast Asia’, *Comparative Studies in Society and History* 63, no. 3 (July 2021): 534–65, <https://doi.org/10.1017/S0010417521000141>.

⁵² Syahrul Mubarak Subeitan, ‘Forced Marriage: Implementation of the Mandatory Provisions of the Bride’s Consent in Indonesia’, *JURIS (Jurnal Ilmiah Syariah)* 21, no. 1 (10 June 2022): 77–87, <https://doi.org/10.31958/juris.v21i1.5581>; Alicia Izharuddin, “‘Redha Tu Ikhlas’: The Social–Textual Significance of Islamic Virtue in Malay Forced Marriage Narratives”, *Religions* 12, no. 5 (May 2021): 310, <https://doi.org/10.3390/rel12050310>.

⁵³ Niebal Mohammad Ibrahim Al Etoum et al., ‘The Requirement of a Mahram for a Woman’s Travel under the Contemporary Developments and Fatwas’, *International Journal of Religion* 5, no. 5 (23 April 2024): 842–54, <https://doi.org/10.61707/7qrm0e68>; Muhd Imran Abd Razak et al., ‘Analysis of Woman Fiqh Jihad Based on Selected Malaysian Woman Extremism Cases’, August 2022, 170–82, <https://doi.org/10.37231/jimk.2022.23.2.648>.



their professional and personal lives. These restrictions not only hinder their ability to interact freely within society but also impede their career development, which may necessitate travel or flexible time commitments.

Furthermore, married women do not have the full right to initiate a divorce unless there is a pronouncement of divorce (*thalaq*) by their husbands. This means that even in situations where the marriage can no longer be salvaged or is causing harm to the woman, they cannot easily terminate the marriage. They can only seek divorce with their husband's consent or through his pronouncement of divorce.⁵⁴ In more serious cases, such as domestic violence or when the husband fails to fulfil his responsibilities as a husband, the woman must undergo a more complicated process. They need to apply to the court for a *fasakh* divorce.⁵⁵ This process can be lengthy and challenging, requiring substantial evidence and testimony.⁵⁶ This adds further emotional and mental stress to women who are already in a distressed situation.⁵⁷ While the system aims to ensure justice, it often becomes a barrier for women to obtain the freedom and safety they need.

In addition, Muslim women in Southeast Asia face gender discrimination in nationality laws. These laws are essential in avoiding individuals being without a nationality and in guaranteeing access to social protection, education, employment, and voting rights, among other socio-economic and political rights. Someone who is not officially acknowledged as a citizen of a nation is classified as stateless, greatly affecting their access to these rights.⁵⁸ In October 2013, the United Nations High Commissioner for Refugees (UNHCR) called on the global community to commit wholeheartedly to eradicating statelessness. However, the Global Action Plan, which aimed to eliminate statelessness by 2024, seems to have failed. This shortfall is largely due to the persistent issue of statelessness, primarily resulting from discriminatory nationality laws. One of the most glaring deficiencies in these laws is the failure to grant women equal rights to men in terms of passing nationality to their children.⁵⁹

Despite the existence of several international legal instruments, such as Article 15 of the 1948 Universal Declaration of Human Rights (UDHR),⁶⁰ Article 18 of the ASEAN Declaration of Human Rights,⁶¹ and Article 9 of the Convention on the

⁵⁴ Javaid Rehman, 'The Sharia, Islamic Family Laws and International Human Rights Law: Examining the Theory and Practice of Polygamy and Talaq', *International Journal of Law, Policy and the Family* 21, no. 1 (1 April 2007): 108–27, <https://doi.org/10.1093/lawfam/eb1023>.

⁵⁵ K. H. Abdul Majeed Maideen Majeed Maideen, 'A Study of Muslim Divorces and Procedures in Syari'ah Court Singapore', *Jurnal Pengajian Islam* 14, no. 1 (31 May 2021): 194–214.

⁵⁶ Zulfakar Ramlee and Normi Abdul Malek, 'Methods of Proof and Evidentiary Requirements in Divorce Cases: An Islamic Perspective', *IJUM Law Journal* 16, no. 2 (2008), <https://doi.org/10.31436/iiumlj.v16i2.52>.

⁵⁷ Javeria Waseem et al., 'Psychosocial Determinants of Divorce and Their Effects on Women in Pakistan: A National Review', *International Journal of Human Rights in Healthcare* 13, no. 4 (1 January 2020): 299–315, <https://doi.org/10.1108/IJHRH-09-2018-0059>.

⁵⁸ United Nation, 'As Women Worldwide Still Struggle to Achieve Basic Rights, Third Committee Emphasizes Importance of Access to Citizenship, Education, Work, Justice | Meetings Coverage and Press Releases', 2023, <https://press.un.org/en/2023/gashc4375.doc.htm>.

⁵⁹ Kristy A. Belton, 'Ending Statelessness Through Belonging: A Transformative Agenda?', *Ethics & International Affairs* 30, no. 4 (January 2016): 419–27, <https://doi.org/10.1017/S0892679416000393>.

⁶⁰ UNHCR The UN Refugee Agency, *Global Action Plan to End Statelessness 2014-2024* (Switzerland: Division of International Protection, 2019), 33.

⁶¹ UNHCR The UN Refugee Agency, 37.



Elimination of All Forms of Discrimination against Women (CEDAW),⁶² which affirm the right of everyone to a nationality and prohibit arbitrary deprivation of nationality or denial of the right to change nationality,⁶³ twenty-four countries including Brunei Darussalam and Malaysia (the only ASEAN nations), are known to maintain reservations about these specified legal instruments. Despite Brunei Darussalam fully adopting and Malaysia partially adopting Islam as their official religion,⁶⁴ These countries, although predominantly Muslim, do not fully comply with international legislation regarding children's rights. Islam mandates that every child should have a proper name, be registered with authorities, determine their nationality, and know their parents and family from birth. Countries are required to protect children's identities, address issues of statelessness, and provide care and supervision without necessarily resorting to adoption. Therefore, gender-based discrimination remains a significant contemporary challenge despite global efforts towards equality. Addressing these issues requires comprehensive legal reforms and societal changes to achieve gender parity and ensure that all individuals can fully participate and thrive in their communities.

Intersection of Islamic Principles and International Human Rights

The idea of human rights is essential in modern law, ethics, and politics due to legal and moral considerations. The UDHR is frequently referenced as the foundation of human rights. Centuries ago, Islam offered a vastly improved proclamation.⁶⁵ The fundamental principles of Islam regarding human rights are centred on equality, dignity, and respect towards all individuals. As inferred from the Qur'an, mankind has been bestowed with the highest rank among all beings by Allah.⁶⁶ These rights seek to bestow respect and integrity on humanity while eradicating exploitation, oppression, and injustice.⁶⁷ Human rights acknowledge individuals' independence and offer helpful measures to safeguard them.⁶⁸ The UN General Assembly declared that the UDHR should be used as a uniform guideline to encourage respect for the rights and freedoms outlined in the declaration. According to Article 2, all individuals have the right to all the rights and freedoms listed in this declaration, regardless of factors like race, gender, language, religion, political beliefs, or social status. Additionally, no discrimination should be based on the political, jurisdictional, or international status of a person's country or territory, whether it is

⁶² UNHCR The UN Refugee Agency, 14.

⁶³ Laura van Waas, Zahra Albarazi, and Deirdre Brennan, 'Gender Discrimination in Nationality Laws: Human Rights Pathways to Gender Neutrality', in *International Human Rights of Women*, ed. Niamh Reilly (Singapore: Springer, 2019), 193–207, https://doi.org/10.1007/978-981-10-8905-3_13.

⁶⁴ Muh Arif Royyani and Muhammad Shobaruddin, 'Islam, State, and Nationalism in Brunei Darussalam, India, Indonesia, and Malaysia: A Comparative Perspective', *International Journal Ihya' Ulum al-Din* 21, no. 2 (2019): 182–91, <https://doi.org/10.21580/ihya.21.2.4832>.

⁶⁵ Muhammad Ali Alkhuli, *Human Rights in Islam* (Jordan: Dar Alfalah, 2000), 1.

⁶⁶ Shaheen S. Ali, *Gender and Human Rights in Islam and International Law: Equal before Allah, Unequal before Man?* (Netherland: BRILL, 2021).

⁶⁷ M. Berween, 'The Fundamental Human Rights: An Islamic Perspective', *The International Journal of Human Rights* 6, no. 1 (March 2002): 61–79, <https://doi.org/10.1080/714003742>.

⁶⁸ Nazar Hussain et al., 'Islam and International Standards of Human Rights: An Analysis of Domestic Implementation of International Human Rights in Islamic Culture', *Assyfa Journal of Islamic Studies* 1, no. 1 (24 June 2023): 01–12, <https://doi.org/10.61650/ajis.v1i1.150>.



independent, a trust, non-self-governing, or under another form of sovereignty limitation.⁶⁹

The declaration addresses the issue of gender equality for both men and women. It is commonly interpreted practically as gender equality. The UDHR confirms that gender discrimination is not acceptable. It declares that every human being is born with freedom and equality in dignity and rights. Remembering that discrimination against female individuals goes against the principles of equal rights and dignity for all humans, discrimination hinders women from participating on an equal footing with men. This impacts the political, social, economic, and cultural fabric of their nations. It inhibits the development of both society and the family's prosperity. Therefore, it becomes more challenging for women to fully develop their potential. This ultimately hinders their ability to serve their countries and humanity.⁷⁰

Article 2 of the CEDAW details the duties of State Parties to eradicate all forms of discrimination against women.⁷¹ It calls on states to implement laws and other actions against discrimination and to ensure that public authorities and institutions comply with this principle. It is also the responsibility of the States to ensure that necessary actions are taken to eradicate discrimination against women by any individual, group, or business and to guarantee that government entities and organisations adhere to this principle. Islamic teachings, based on the Quran and Hadith, serve as the foundation for comprehending human rights in the Islamic system. Therefore, the different viewpoints within Islamic teachings have a significant influence on worldwide human rights debates concerning Islam and its connection to global human rights.⁷²

In the Qur'an, Allah declares that women have the same rights as men. It states that women also possess rights over men that are comparable to men's rights over women.⁷³ Equality can be provided based on the merit of each individual member. This is the reason for the Qur'an acknowledging equality in rights for men and women while also recognising the inherent differences between them.⁷⁴ Islam does not oppose equal rights between men and women, but it opposes identical rights. This suggests that because men and women have different natures, their needs may vary. Interpreted in a progressive way, Islamic teachings support the rights of women and minorities. Although historical and cultural factors have at times restricted these rights, contemporary understandings of Islam advocate for gender equality and the safeguarding of minority rights in accordance with human rights norms. Nevertheless, it is difficult to reconcile religious norms with universal human rights.

⁶⁹ Aderomola Adeola, 'Article 2 – Non-Discrimination', in *The Universal Declaration of Human Rights* (Brill Nijhoff, 2023), 36–55, https://doi.org/10.1163/9789004365148_004.

⁷⁰ Etienne Lwamba et al., 'Strengthening Women's Empowerment and Gender Equality in Fragile Contexts towards Peaceful and Inclusive Societies: A Systematic Review and Meta-analysis', *Campbell Systematic Reviews* 18, no. 1 (8 March 2022): e1214, <https://doi.org/10.1002/cl2.1214>.

⁷¹ Rr Kunti Dewi Adriane Kusumawardono, 'Elimination of Discrimination Against Women & CEDAW: To What Extent Is It Jus Cogens?', *Yuridika* 38, no. 1 (1 January 2023): 191–202, <https://doi.org/10.20473/ydk.v38i1.41663>.

⁷² Gonda Yumitro, 'Islam and Western Debates on Human Rights', *Journal of Integrative International Relations* 1, no. 1 (23 November 2015): 1–14, <https://doi.org/10.15642/jiir.2015.1.1.1-14>.

⁷³ Begum et al., 'Gender Equity in Muslim Family Law'.

⁷⁴ Nailatul Khalishah and M. Fairuz Rosyid, 'Feminism and Gender Equality in Islam Perspective of Al-Qur'an Tafsir (Study of Qur'anic Verses on Term Nafs Wahidah)', *International Conference on Islamic Studies (ICIS)*, 5 August 2023, 377–87.



Yet, some interpretations of traditional Islamic jurisprudence stipulate varying legal statuses and rights for men and women, specifically in marriage, divorce, and inheritance. Global human rights norms highlight the importance of gender equality, posing difficulties in reconciling these conflicting perspectives.⁷⁵

Various levels present challenges in the compatibility of Islamic teachings with human rights due to diverse interpretations and cultural practices. Different understandings of Sharia Law and cultural customs have led to its application in violation of human rights, particularly concerning women's rights, freedom of speech, and methods of punishment. This necessitates a nuanced perspective on comprehending the context of Islamic teachings and their significance in discussions about human rights. This requires embracing modern interpretations of Islam that support human rights while acknowledging obstacles from certain traditional Islamic and cultural practices that contradict human rights. More insight into the intricacies of the connection between Islam and human rights can be gained through open discussion and learning.

Its rampant abuse is commonly observed in family legal matters, particularly in divorce situations where women face discrimination, shame, and violation of their fundamental rights. According to the Quran, the husband should not misuse his complete authority to pronounce talaq. Even the courts of law have not fully grasped the fact that Islamic teaching may clash with international norms on children's rights, specifically concerning child marriage and the minimum marriage age. Protecting children from being married off early and exploited is a fundamental aspect of contemporary human rights principles.⁷⁶ The idea of divorce and its various forms or approaches are described as gender discrimination. The most frequently mentioned example to support this statement is that under Islamic laws, a man has unchecked and one-sided power to divorce his wife for any reason he chooses, causing extreme injustice to the woman. The Islamic policy has never allowed husbands to have absolute authority to misuse the power of divorce. Regrettably, the unregulated authority of talaq has been misunderstood and Islamic guidelines for it have been disregarded by both society and the judiciary. The end result is that there is no legal restriction on a Muslim husband's unrestricted ability to end a marriage with a few words. The husband must pay the dower if the marriage ends, which indirectly limits this right.⁷⁷

Men who abuse the option of divorce outside of the court system tend to overlook Prophet Mohammad's (Peace be upon him) teachings that divorce is the most detested decision permitted by God's divine law. They fail to comprehend that in Islamic jurisprudence, it is permitted only as a last resort in dire circumstances when efforts to reconcile between spouses have proven almost infeasible, leading to an inability to maintain harmony. Various types of divorce in Muslim Law are seen

⁷⁵ Muneeb Ahmad, 'Human Rights in Islam: Compatible and Incompatible Aspects', *International Journal of Psychosocial Rehabilitation* 24, no. 8 (31 October 2020): 133402–11, <https://doi.org/10.61841/9k2a2j89>.

⁷⁶ Arne Huzaimah et al., 'Disregarding the Reproductive Rights of Women in Child Marriage in Indonesia', *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 2 (10 June 2023): 1097–1120, <https://doi.org/10.22373/sjhk.v7i2.17392>; Qodariah Barkah et al., 'Abandonment of Women's Rights in Child Marriage; An Islamic Law Perspective', *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 17, no. 2 (31 December 2022): 383–411, <https://doi.org/10.19105/al-lhkam.v17i2.6725>.

⁷⁷ Sylvia Vatuk, 'Extra-Judicial Khul' Divorce in India's Muslim Personal Law', *Islamic Law and Society* 26, no. 1–2 (1 January 2019): 111–48, <https://doi.org/10.1163/15685195-02612P06>.



as biased against women despite clear Quranic verses emphasising the negative impacts of divorce and disobeying Allah's boundaries. Men are advised not to choose divorce impulsively and should follow the waiting period (*iddah*) accordingly. It is a common belief that women can only divorce their husbands using one of three methods: *khulu* and *mubarat* (both requiring mutual agreement), and *talaq-i-tafweez*, a wife's delegated right specified in the marriage contract.⁷⁸

Historical evidence also indicates that women did not have sufficient political and social rights prior to the Islamic Revolution, and they were confined to a limited and inactive role in terms of social standing and political influence. They lacked the ability to vote and even make basic demands. All Muslim jurists agree that women have the potential to be great minds in traditional Islamic sciences. Out of all these, their biggest contribution has been to Hadith studies. Because of this, the scholars consider the fatwa given by female scholars to be equal in importance to those given by male scholars. Indeed, women's recitations of Hadith are equivalent to men's recitations. It is strange that while scholars may permit a woman to serve as a mufti and consider women's fatwas equal to men's fatwas, they still refuse to allow women to be judges.⁷⁹

Furthermore, it has been observed that in numerous countries, customs and societal norms hinder or prevent women from exercising their right to vote and engage in public life. This is due to the fact that in Islam, women are prohibited from interacting openly with men in public spaces and beyond their own families. Most scholars view the idea of public space being perceived as male-dominated as problematic. This opinion suggests that women are kept out of leadership roles due to a perceived lack of experience in public life or a reluctance to promote their participation in public affairs. Another explanation for scholars rejecting women in leadership roles is the connection between leadership, especially in the government and military leadership. This involves guiding troops into war and guiding the community in worship. Scholars argue that women should not be permitted to participate in either of these endeavours. While many scholars limit women's opportunities for leadership with various justifications, there is a multitude of viewpoints on the circumstances in which women can take on leadership roles. Ibn Salah, Abu Hanifa, and Ibn Hazm all contend that being masculine is not a necessary condition for being appointed to a judicial role. Abu Hanifa emphasises the importance of women serving as witnesses in specific types of cases. Therefore, in legal contexts where women's testimony is deemed valid, they could also be appointed as judges.⁸⁰

Yet, in the present day, the ambitions of women in Southeast Asia to be in leadership roles are now being acknowledged on a global scale. This is because the

⁷⁸ Hasanuddin Hasanuddin, Muhammad Syukri Albani Nasution, and Imam Yazid, 'Analysis of Waiting Period for Men after Divorce Perspective of Jamaluddin Aṭīyah's Maqāṣid Sharia Theory', *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 8, no. 2 (1 April 2024): 341–55, <https://doi.org/10.29300/mzn.v8i2.2818>.

⁷⁹ Achmad Kholiq and Iim Halimatusa'diyah, 'Does Gender Blindness Improve Gender Equality? Female Judges and the Glass Ceiling Effect in the Islamic Judicial System in Indonesia', *Social & Legal Studies*, 13 April 2022, 09646639221094153, <https://doi.org/10.1177/09646639221094153>.

⁸⁰ Noor Mohammad Osmani, Mohammad Omar Farooq, and Abu Umar Faruq Ahmad, 'Women Empowerment and Leadership in Islam between Myth and Reality', SSRN Scholarly Paper (Rochester, NY: Social Science Research Network, 2020), <https://papers.ssrn.com/abstract=3863246>.



UDHR philosophy believes that there is no justification for excluding women from the public sphere and involvement in public matters. Political matters are not exclusive to one societal group, just like science is not either. Similar to men participating in political matters and governing their own community, women must also engage in social and political events alongside men.⁸¹ For example, in Indonesia, the Nahdlatul Ulama issued a pivotal fatwa in 1957 permitting women to join legislative bodies, followed by granting them eligibility for village head positions in 1960.⁸² Brunei marked a significant milestone in 2009 with the appointment of Hayarti Salleh as the first female Attorney General and High Court Judge in the Supreme Court,⁸³ and in 2024, Nur 'Azizah Ahmad became the first female president of the Law Society, marking a watershed for gender inclusivity in Brunei's legal and societal landscape.⁸⁴ At the ministerial level, Adina Othman became Brunei's first deputy minister at the Ministry of Youth, Culture, and Sport in 2010,⁸⁵ followed by Romaizah Mohd Salleh's appointment as the first Minister of Education in 2022, underscoring women's pivotal roles in Brunei's governance and development.⁸⁶

In Malaysia, Nenny Shuhaidah Shamsuddin achieved a historic milestone in 2016 as the nation's first female Syariah High Court Judge, a rare distinction in the state of Selangor, where such positions were traditionally held by men.⁸⁷ Meanwhile, in Singapore, Halimah Yacob broke barriers as the first female Muslim president in 2017, a culmination of her earlier achievements as the first woman to serve as speaker of parliament from 2013 to 2017. Her ascent marked a significant advancement for women in Singaporean politics, emphasising the increasing diversity and inclusion in leadership roles across Southeast Asia.⁸⁸ Therefore, the history of women's political rights reflects a complex interplay of cultural norms and religious interpretations, which historically restricted their participation in leadership roles before the Islamic Revolution. Despite their significant contributions to Islamic scholarship, women were often excluded from judicial and political positions due to prevailing societal beliefs. However, recent developments in Southeast Asia, particularly in Indonesia and Brunei, highlight a shifting landscape where women have increasingly attained key leadership positions, marking significant strides towards gender equality and

⁸¹ Ali Hasannia and Zahra Fazeli, 'Socio-Political Rights of Iranian Women before and After the Islamic Revolution; a Comparative Study', *Contemporary Researches on Islamic Revolution* 1, no. 1 (1 September 2019): 73–92.

⁸² Nor Ismah, 'The Increasing Role of Women's Fatwa-Making in Indonesia', *Melbourne Asia Review* 2024, no. 18 (20 April 2024), <https://www.melbourneasiareview.edu.au/the-increasing-role-of-womens-fatwa-making-in-indonesia/>.

⁸³ Shaun Hoon, ed., *50 Bruneian Women Who Shape Our Future: Inspire Apr-Jun 2014* (Brunei Darussalam: AEWON, 2014), 28.

⁸⁴ Faley Faisal, 'Brunei Welcomes First Female Law Society President', *Brunei Welcomes First Female Law Society President* (blog), 4 February 2024, <https://borneobulletin.com.bn/brunei-welcomes-first-female-law-society-president/>.

⁸⁵ Hoon, *50 Bruneian Women Who Shape Our Future: Inspire Apr-Jun 2014*, 29.

⁸⁶ Ain Bandial, 'Brunei Urged to Raise Minimum Age of Marriage', *The Scoop*, 6 August 2018, <https://thescoop.co/2018/08/06/brunei-urged-to-raise-minimum-age-of-marriage/>.

⁸⁷ Tania Jayatilaka, 'Malaysia's First Female Syariah High Court Judge On Tough Decisions & Gender Equality', *Tatler Asia*, 2024, <https://www.tatlerasia.com/the-scene/people-parties/first-female-syariah-high-court-judge-in-malaysia-nenny-shuhaidah-shamsuddin>.

⁸⁸ Jason Dasey, 'Singapore's First Female President Changed Perceptions of What Asian Leaders Should Look Like', *ABC News*, 19 September 2023, <https://www.abc.net.au/news/2023-09-20/singapore-president-halimah-yacob-female-muslim-end-term/102874778>.



inclusivity in governance and legal sectors across the region. These advancements underscore a growing recognition of women's capabilities and rights in public life, challenging traditional barriers and fostering greater gender parity in leadership roles.

Policy and Legal Reforms in Combating Gender Discrimination

As discussed earlier, in Southeast Asia, Islam is the official religion in Malaysia and Brunei and is officially recognised in Indonesia, Thailand, and the Philippines.⁸⁹ Some of the national policies and reforms were officially implemented. For instance, Brunei will be set to implement its first national plan of action on women, which aims to ensure equitable development for women, enabling them to actively participate in achieving Brunei Vision 2035. The plan's strategic objective is to develop women's optimum potential through gender equity, capacity building, and self-development. Key areas of focus include the promotion and protection of women's rights, healthcare, economic empowerment, employment, and work-life balance. In Southeast Asia, Brunei has the highest proportion of women in middle management and senior managerial roles in the private sector, at 37 per cent. In the government sector, over 50 per cent of permanent secretary roles are held by women, and the judiciary and diplomatic service also see a high proportion of women in senior positions. Despite this, Brunei has the lowest representation of women in politics in Southeast Asia, with only 9 per cent of parliamentary seats held by women, according to the ASEAN Gender Outlook.⁹⁰

Brunei also provides protection for women and girls through various acts, including the Women and Girls Protection Act (Chapter 120), the Islamic Family Law Act (Chapter 217), and the Penal Code (Chapter 22). The Women and Girls Protection Act criminalises acts that harm or endanger women, such as commercial sex exploitation, prostitution, and trafficking. The Islamic Family Law Act deals with marriage, divorce, maintenance, guardianship, and other matters related to Muslim family life. The Penal Code criminalises acts that cause hurt or grievous harm to any person, such as rape, incest, insulting women's modesty, and voluntarily causing a woman with a child to miscarry. In 2012, the Penal Code was amended to strengthen protection for the young and vulnerable from sexual exploitation, introduce a wider range of sexual offences, and provide compulsory education for all, including girls. Other than that, the Old Age and Disability Pensions Act also aims to provide pecuniary payments for blind persons, Hansen's disease sufferers, and mentally disabled individuals and their dependents.⁹¹

Malaysia has taken significant steps to combat gender discrimination through policy and legal reforms, particularly within the civil service. Measures include the introduction of staggered work hours under Service Circular Number 2, Year 2007, which provides flexible attendance options for civil servants to accommodate diverse needs. Additionally, the government extended paid maternity leave by four weeks to a total of 90 days via Service Circular Number 14, Year 2010, with a cumulative limit of 300 days throughout service. In 2015, an amendment allowed female civil servants

⁸⁹ Imtiyaz Yusuf, 'The Historical Influence of Persia on Islam in Southeast Asia and the Need for Muslim Unity Today', *Media Syari'ah: Wahana Kajian Hukum Islam Dan Pranata Sosial* 15, no. 1 (30 August 2017): 1–20, <https://doi.org/10.22373/jms.v15i1.1760>.

⁹⁰ Bandial, 'Brunei Urged to Raise Minimum Age of Marriage'.

⁹¹ Asean Commission on the Promotion of the Rights of Women and Children, *Progress Report on Women's Rights and Gender Equality* (Jakarta: ASEAN, 2016), 23–40.



to opt for one year of unpaid childcare leave, applicable for both biological and non-biological children. The government also offers seven days of paternity leave for public sector civil servants and provides a child care fee subsidy of RM180 per child for public sector parents earning a household income of RM5,000 or below per month, alleviating financial burdens on low-income families. The Public Works Department and the Attorney General's Chambers introduced flexi-space programmes in 2010 and 2012, respectively, enabling work-from-home arrangements.⁹² Furthermore, Malaysia enforces equal pay for men and women performing the same work in the public sector, a policy attributed to a female Cabinet Minister's advocacy. This reform corrected historical pay disparities, ensuring that women in the judicial and legal services receive equal pay to their male counterparts. Through these comprehensive measures, Malaysia demonstrates a strong commitment to reducing gender discrimination and promoting gender equality in the workforce.⁹³

In 1972, Indonesia launched the Family Welfare Empowerment Program in rural areas under the slogan Panca Dharma Wanita, highlighting five key roles for women: (1) partners to their husbands, (2) homemakers, (3) mothers and educators, (4) contributors to household income, and (5) engaged citizens. This initiative, though adapted to modern conditions, remains active today. Over time, stricter regulations have been introduced to uphold women's rights, significantly reshaping societal perceptions of gender roles during the reform period. A landmark development was the issuance of Presidential Instruction Number 9 of 2000 concerning Gender Mainstreaming, requiring the incorporation of women's experiences and viewpoints into the creation, implementation, and evaluation of all laws, policies, and programs. This policy aims to eliminate gender disparities and foster equality, with a profound impact on the recognition and protection of Muslim women's rights within Indonesia's broader gender equality framework.⁹⁴

It is important to note that Aceh holds a unique position as the first region in Indonesia to adopt Islam and the birthplace of the nation's earliest Islamic kingdom. Following Indonesia's independence in 1945, Aceh became part of the Republic of Indonesia but was initially integrated into North Sumatra Province without recognition of its special status. This oversight led to political unrest within the Acehnese community, culminating in Aceh being granted "Special Region" status in 1959. This designation provided Aceh with considerable autonomy over religious, cultural, and educational matters, reintroducing the application of Sharia law and preserving local traditions in governance. The legal framework for Sharia implementation in Aceh is established through Law No. 44 of 1999 concerning the Special Administration of Aceh Province, supplemented by Law No. 18 of 2001 concerning Special Autonomy for Nanggroe Aceh Darussalam. Additional autonomy was granted in 2002 under Law No. 18, allowing for a more comprehensive application of Sharia law, encompassing areas like criminal law, family law, banking, and social affairs.

To safeguard the rights and welfare of women, children, and adolescents, the DP3AP2KB (Office for Women's Empowerment, Child Protection, Population

⁹² Asean Commission on the Promotion of the Rights of Women and Children, 119.

⁹³ Asean Commission on the Promotion of the Rights of Women and Children, 119.

⁹⁴ Asean Commission on the Promotion of the Rights of Women and Children, 119.



Control, and Family Planning) plays a critical role in Aceh.⁹⁵ Legal protections against violence towards women and children are outlined in Aceh Qanun No. 9 of 2019, which specifies measures including prevention, services, protection, empowerment, and rehabilitation. These are detailed in Articles 6 (Part II) and 20 (Part III), offering a comprehensive framework to address and prevent violence while ensuring support for victims.⁹⁶ In addition, the Aceh Government also formed the Integrated Service Center for the Empowerment of Women and Children (P2TP2A) as part of the policy of the Indonesian Ministry of Women's Empowerment. The establishment of this centre was approved on February 3, 2003, and confirmed through the decision of the Governor of Aceh on 22 July 2003.⁹⁷

Thailand is making significant efforts to address gender discrimination, including for Muslim women, through national plans and legislation. The 20-year National Strategic Plan and the National Reform Plan on Social Affairs aim to achieve long-term development goals and address inequality and injustice. This strategy includes the Women Development Plan (2017-2021) and the National Human Rights Plans. The Gender Equality Act B.E. 2558, enacted in 2015, explicitly prohibits gender-based discrimination and establishes mechanisms for addressing complaints and providing compensation to victims. Additionally, the Gender Equality Promotion Fund was created to finance initiatives promoting gender equality. The Labour Protection Act (No.7) B.E. 2562, enacted in 2019, ensures equal pay for equal work and extends maternity leave. Measures to prevent and address sexual harassment have been mandated for both public and private sectors, with regular reporting to the Committee for the Promotion of Gender Equality. Thailand is also focused on protecting victims of domestic violence through the forthcoming Act on the Promotion of Family Institution Development and Protection. The National Committee on the Policy and Strategy for the Advancement of Women plays a pivotal role in promoting women's participation in policy-making. The National Women Assembly, which is organised annually, serves as a platform for women's organisations to provide recommendations and feedback, shaping national policies and strategies for gender equality in Thailand. Through these coordinated efforts, Thailand is steadily progressing towards a more equitable society for all genders.⁹⁸

As previously discussed, in the Philippines, the government enacted the CMPL in 1977 to address the marginalisation of Muslims. This code reinforced the man's role as the head of the family and an authority figure. This implementation coincided with a period when Filipino women were advocating for their rights and greater public roles, with some Muslim women serving as heads of households. Muslim women in the Philippines still live under the CMPL today, despite the fact that their nation placed first in Asia and the Pacific and sixth worldwide in 2013 for gender

⁹⁵ Jepriadi Berutu, Nashriyah Nashriyah, and Cut Zamharira, 'The Office of Women's Empowerment, Child Protection and Family Planning: Are They Responsive?', *Gender Equality: International Journal of Child and Gender Studies* 9, no. 1 (31 March 2023): 110–23, <https://doi.org/10.22373/equality.v9i1.17430>.

⁹⁶ Aini Jannah, M. Nazaruddin, and Dahlan A. Rahman, 'Implementasi Qanun Aceh Nomor 9 Tahun 2019 Tentang Penyelenggaraan Penanganan Kekerasan Terhadap Perempuan Dan Anak', *Jurnal Transparansi Publik (JTP)* 2, no. 1 (28 June 2022): 10–18, <https://doi.org/10.29103/jtp.v2i1.7716>.

⁹⁷ Jannah, Nazaruddin, and Rahman.

⁹⁸ Montakarn Chuemchit et al., 'Prevalence of Intimate Partner Violence in Thailand', *Journal of Family Violence* 33, no. 5 (2018): 315–23, <https://doi.org/10.1007/s10896-018-9960-9>.



equality. The CMPL, a law applicable only to Muslims, legitimises Qur'an practices in the Philippines, including marriage, divorce, guardianship, inheritance, and women's rights. It establishes sharia courts for adjudication. The government aimed to uphold the Constitution's provision on considering cultural communities' customs, traditions, beliefs, and interests in state policies.⁹⁹

It is also important to note that Southeast Asia countries have actively engaged in various international and regional initiatives aimed at promoting gender equality and women's empowerment. These include the Convention on the CEDAW, the Beijing Declaration and Platform for Action (BPfA), and the 2030 Agenda for Sustainable Development. Regionally, under the ASEAN framework, they have adopted significant instruments such as the Ha Noi Declaration on the Enhancement of Welfare and Development of ASEAN Women and Children, the ASEAN Regional Plan of Action on the Elimination of Violence against Women (EVAW), the ASEAN Declaration on the Gender-Responsive Implementation of the ASEAN Community Vision 2025 and Sustainable Development Goals, and the Joint Statement on Promoting Women, Peace and Security in ASEAN. These international and regional standards guide policy-making, development planning, and legislative amendments in Southeast Asia to advance gender equality and women's empowerment.¹⁰⁰

Conclusion

It is undeniable that Islamic and non-Islamic countries with a majority or minority Muslim population in Southeast Asia do not fully comply with international law, even though they use international legal approaches such as the UDHR, ASEAN DHR, and CEDAW as standards to protect women's human rights. While there have been changes in the participation of Muslim women in politics, this does not protect some women who face discrimination under national law. This also includes the rights of their children, which can lead to statelessness and difficulty in obtaining socio-economic and political rights such as access to social protection and education. To prevent this, it is hoped that these countries will comply with international commitments such as the Covenant on the Rights of the Child in Islam, the SDGs, and other conventions and agreements related to the protection of women's rights. Although men and women have physical, biological, and psychosocial differences, Islam never looks down upon or is biased against any gender. Instead, Islam recognises every birth, whether male or female, disabled or physically perfect, as the best creation of Allah. He has elevated the dignity of humanity, yet some people strive to undermine this dignity. Therefore, this paper also explores the intersectional concept of gender equality according to Islam and international human rights. This study also faced challenges and difficulties in obtaining up-to-date data due to limited literature. Therefore, we hope that future researchers will continue this study to provide ongoing developments in protecting women's human rights, which may not be limited to national law but can extend to various aspects of discrimination, such as access to education, employment, and

⁹⁹ Vivienne Angeles, "“Paradise Lies at the Feet of the Mother”: Muslim Women’s Rights, Gender Roles, and Philippine Laws”, 17 June 2014, <https://berkeleycenter.georgetown.edu/posts/paradise-lies-at-the-feet-of-the-mother-muslim-women-s-rights-gender-roles-and-philippine-laws>.

¹⁰⁰ Asean Commission on the Promotion of the Rights of Women and Children, *Progress Report on Women’s Rights and Gender Equality*, 119.



politics. Although there are many studies on gender equality from an Islamic perspective, discrimination still exists because there is no comprehensive awareness to effectively protect women's rights. It is also hoped that stakeholders from all countries in Southeast Asia can work together to achieve existing national and international objectives to protect women's human rights, especially in combating any form of discrimination.

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