

Internal Space and International Law: Introduction

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All the papers presented during the two conference sessions on women, family, and law juxtaposed “custom,” “customary law,” “culture,” or “tradition” in areas related to women and the family, on the one hand, and “rights” defined by state law or by international convention and directed at transforming custom by altering discriminatory practices relating to women, on the other. Rights and custom were assumed to be in tension, the latter sometimes impervious to the former, sometimes bending to it, sometimes transformed by it. This juxtaposition of law and custom, according to a perspective that most Southeast Asian participants seemed to share, suggests an intellectual and political stance different from recent Western scholarship (e.g., Clifford 1988); there, custom, or “tradition,” is seen as a construct that may emerge in and through law.

Law and rights were at times collapsed into the concept of westernization. This concept was discussed at some length and was at times used synonymously with what one participant (Chupinit Kesmanee) described as internalized internationalization—a term that implies a superimposition of state or international legal codes on customary practices and recalls Boaventura Santos’s discussion (1987:297–98) of “interlegality.” Interlegality is an approach to legal pluralism in which different legal spaces are “superimposed, interpenetrated, and mixed” and legal life is constituted “by an intersection of different legal orders,” rather than by separate orders coexisting in the same political space. Interlegality seems a particularly appropriate concept when considering the Southeast Asian situation. When Haji Sulaiman Abdullah, a discussant for three of the papers on women, family, and law, spoke of the need to “look at the whole system” before deciding whether a particular customary practice did indeed discriminate against women, he was, in effect, suggesting a shift in

legal-religious space—a shift away from individual rights and the individualism of Western law to a perspective that encompasses the individual in a broader set of family relationships defined by Islamic law. These comments point to the tension surrounding the complex intersection of rights with custom as local family relationships and domestic spaces become arenas in which different kinds of internationalization (religious law, Western secular law) are in contest. The contests are particularly heated because they concern institutions and practices (for example, polygamy) seen as fundamental to the very definition of what custom means among peoples experiencing radical social transformations and dislocations in Southeast Asia.

The juxtaposition of custom and rights echoes themes taken up in Part I of these proceedings, in the discussion of subject and citizen, and points to the complex interpenetration of religious and civil authority in the nation-states of Southeast Asia. Religious and civil authority may coexist comfortably in some areas of everyday life, but the potential for contradiction was highlighted in the papers and discussions on women, family, and law.

Of the four articles in this part, those by Juree Vichit-Vadakan of Thailand and by Omas Ihromi of Indonesia focus on the intransigence of custom in the face of legislation directed at family relationships and the emancipation of women. By contrast, Myrna Feliciano of the Philippines focuses more specifically on legislation that encodes and aspires to transform the legal and cultural place of women, although Feliciano notes the barriers to transformation of gender relations through legislation alone. Finally, Mehrun Siraj, drawing on her experience working to improve the situation of Muslim women in Malaysia, examines what it means to talk about legal change and how legal change might be accomplished. She brings the tensions and contradictions of civil and religious authority, in areas related to women and the family, into close dialogue, describing the need to codify religious law (Shari'a) so that women can find their rights in the Quran, as well as the need to educate women so that they will know to seek their rights.

Mehrun Siraj thus addresses both the deeply embedded nature of gender hierarchies and the possibility of changing these hierarchies through interpretive political work. This view suggests, as has been argued in recent literature in anthropology (Clifford 1988), that law is a tool with which, and a forum through which, culture can be shaped and tradition found. At the same time, as Juree Vichit-Vadakan's essay implies, Mehrun Siraj's presentation points to the ways the quest for a social order that is less discriminatory to women is shaped in the context of gendered hierarchies that are simultaneously religious, political, and economic. These hierarchies define contemporary psychological realities for both women and men, constraining the

claims that they make in the context of existing law and in the context of the worlds, and laws, that they envision for the future.

The four essays are presented in two sections. The first, "Family Relationships & the Status of Women," includes the essays by Juree Vichit-Vadakan and Omas Ihromi, followed by excerpts from the ensuing discussion. The second, "Family Law & Women's Rights," includes essays by Myrna Feliciano and Mehrun Siraj, followed by excerpts from the discussion of the essays.