

## **B. MAJOR FINDINGS**

## **CHAPTER 3:**

### **LEGAL AND INSTITUTIONAL FRAMEWORKS**

#### **3.1 Introduction**

This chapter reviews the legal frameworks of Indonesia, Malaysia, the Philippines, and Thailand. Such frameworks provide an important context for assessing women's sociolegal status. The information provided on each of the four countries was current as of the date of the relevant country report. In addition, the chapter considers women's status in these countries in terms of the international conventions, declarations, and platforms affirmed by their governments. The information provided on treaty ratifications and reservations was current as of July 2001.

#### **3.2 Legal and Institutional Frameworks**

Indonesia, Malaysia, and Philippines are each characterized by long periods of colonization, each by a different European power; the Philippines was also more briefly a US colony. This colonial heritage had a profound effect on the present legal system of each of these countries. Thailand is the exception here, and the monarchy enjoyed absolute rule until it was transformed into a constitutional monarchy in the early twentieth century. Because of their different colonial experiences and influences, each country has evolved its own legal and judicial system.

All four countries are constitutional democracies. The Constitution is the highest law in all four countries and all other laws must adhere to it. Inherent in this system is the superiority of State or legislated law over all other laws such as indigenous laws and practices. At times this brings State law into direct conflict with the laws of the indigenous peoples, notably on the issue of land use and ownership in Malaysia and the Philippines, where—due to colonial influences—the constitutions declare that all land belongs to the State. This has paved the way for governments and private

entities to lay claim to ancestral lands which, in turn, has led to the massive dispossession and displacement of indigenous peoples.

In Indonesia, Malaysia, and Philippines, the Supreme Court is the highest court. Thailand has both a Constitutional Court and a Supreme Court of Justice. Courts may be called on to interpret traditional or customary laws, including changes in these laws over time. These judicial interpretations have the effect of “formalizing” what was originally informal and unwritten law.

Customary law still prevails and governs many aspects of life in Indonesia, Malaysia, Philippines, and Thailand, but it is strongest in Indonesia and in indigenous communities within Indonesia, Malaysia, and Philippines. Customary law refers to the proper way of behaving within a group or community. It covers the proper way of performing rites; of acting as mothers, fathers, in-laws, grandparents, and neighbors; of behaving as tenants, landlords, and traders. Customary law is also used to ensure the legality of certain actions or transactions. Customary law traditionally has mirrored the local way of life and behavior of indigenous peoples, and has incorporated the religious values of local regions.

Religious influences are also evident in the legal systems of the four countries. The values that underlie Islam have defined the status of Muslim women in Indonesia, Malaysia, and parts of the Philippines, particularly in the areas of family and personal law. Recent Islamic resurgence throughout the region has resulted in renewed efforts by Muslim activists to bring about greater Islamization of the State and its legal systems. This trend has been noted by many women’s organizations in the region, which discern a direct relationship between growing Islamic resurgence and greater discrimination against women, particularly in the areas of family and personal law. In contrast, the influence of Buddhism in Thailand has introduced a relatively enlightened view of the role and status of women in society. In the Philippines, the influence of the Roman Catholic religion is exemplified by the absence of a divorce law.

### **3.2.1 Indonesia**

Indonesia’s system of laws is highly complicated, due in part to its colonial history. When the Dutch colonized Indonesia, they classified the population into three different groups for legal purposes: Europeans,

Natives, and Foreign Orientals. Dutch legal policy differentiated the population based on racial criteria that coincided with the respective group's economic roles. Fifty years after independence, this differentiated legal system is still in place in Indonesia, and many colonial regulations have not yet been replaced. In effect, this means that except for some matters for which written laws were promulgated, indigenous Indonesians are subject to customary law or *adat*. More recently, *adat* has been refined or expanded to include *adat* law. *Adat* law is customary law to which legal consequences are attached. Nineteen regions in which *adat* is in force have been identified in Indonesia. They are remarkably diverse and the *adat* prevailing in each varies greatly in accordance with the type of kinship system.

The impact of *adat* law on and its consequences for women varies enormously from one area to another. In patrilineal societies (Batak, South Sumatra), descent occurs through the father's line. A daughter upon marriage is transferred from her father's home to her husband's patrilineal group and is not entitled to inherit land or property from her father. In matrilineal societies (Minangkabau) daughters provide the links in the line of family descent. They remain in their mother's house and village, while in general sons are expected to move to their wife's family home and village. In both cases, the head of the clan exercises considerable authority over individuals. By contrast, individuals in a bilateral kinship system (Borneo, Java) have considerably more freedom and autonomy to act. They are deemed to be affiliated both with the mothers' and the fathers' families, and both daughters and sons may inherit parental property, although the actual portions may differ according to gender.

Because of prevailing *adat* law, no civil laws on inheritance for indigenous Indonesians have been enacted. Inheritance law reform has not been incorporated into a draft law forwarded to Parliament. Some recent Supreme Court decisions have established that daughters in patrilineal societies have the right to inherit their fathers' property on the basis that "when daughters are excluded from such rights, it... is contrary to justice and humane values." Thus a conflict exists between patrilineally-based *adat* law and the Constitution and Supreme Court. Ultimately, law reform will need to untangle the web of conflicting laws and legal decisions and create laws that are consistent with each other and are effectively implemented and enforced.

Defenders of the current system argue that adat law is dynamic and can change to reflect changes in policy and in the norms of the community. It is argued that judges are able to perceive such changes and to rule accordingly. This gives the judges, especially those in the Supreme Court, wide latitude for issuing precedents. Nevertheless, concerns have arisen as to the suitability of adat law to cope with modernization. In particular, a number of legal areas still governed by adat law—and often concomitant patriarchal attitudes—are seen as in conflict with the Constitution and with Supreme Court decisions that promote women’s equality.

The Indonesian judicial system is divided into four jurisdictions, each with three levels with the Supreme Court constituting the fourth level, as shown in Figure 2.

**Figure 2. Levels of the Judicial System in Indonesia**

Supreme Court : Mahkamah Agung ↓			
1. Courts of General Jurisdiction	2. Administrative Courts	3. Military Courts	4. Religious Courts
Operating at the following levels:	Operating at the following levels:	Operating at the following levels:	Operating at the following levels:
Appellate Courts	Appellate Courts	Appellate Courts	Appellate Courts
↓	↓	↓	↓
District Courts	District Courts	District Courts	District Courts

**Source:** Adapted from Sociolegal Status of Women in Indonesia, Final Report. March 1998.

### 3.2.2 Malaysia

Malaysia attained independence from British rule in 1957. The federal Constitution defines Malaysia as a parliamentary democracy with a constitutional monarch. A remaining vestige of British colonial rule is the application of principles of English law in instances where local statutes are absent; only that part of English law is used that is suited to local circumstances. Each of the 13 states has its own legislature. *Syariah*<sup>1</sup> laws and land laws are under the jurisdiction of these state governments. In some states of Peninsular Malaysia, this has led to the introduction of more conservative interpretations of Islamic law principles. Feminist and other groups such as Sisters in Islam have argued vocally against the introduction of *Hudud* law in Kelantan and Trengganu, asserting that such fundamentalist interpretations of Islamic law doctrines are oppressive to Muslim women in these states and against the spirit of the Quran.

Syariah laws, administered through the syariah courts, are applicable only to Muslims in the area of family law, inheritance, and certain matrimonial and religious criminal offences. Native, Malay, and Chinese customary laws are minor sources of law in East and West Malaysia. In Sabah and Sarawak, there are various forms of customary law administered by the native courts. Native courts have jurisdiction only in cases arising from native law or custom and where the parties are natives. There are considerable similarities between syariah law in Malaysia and adat law in Indonesia, particularly in the area of indigenous or native laws.

Malaysia has a Federal judiciary, which administers both federal and state laws throughout the Federation. The only state courts are the syariah and native Courts. In addition there are courts with specific jurisdictions:

---

<sup>1</sup> The Arabic word referring to rules of conduct derived from the Koran (also spelled Quran) and other authentic Islamic sources has been transliterated in several ways, including *shari'a* or *shari'ah*. This report contains different spellings, reflecting the spellings found in the underlying country reports. The different spellings also signal a more significant point, which is that statutes, case law, and informal laws derived from Islamic rules and principles can vary substantially from country to country and, in the case of Malaysia, even from state to state; they may also be influenced by other sources, such as colonial civil laws and local norms and practices. For this reason, groups and networks such as Women Living Under Muslim Laws have suggested that, in the context of a particular country, it would be more appropriate to refer to "Muslim laws," to emphasize both the diversity of laws based on Islamic sources, and their culturally specific context. (Shaheed 1995: 308-311)

Juvenile Court, Court Martial, and Special Court. The hierarchy of the judiciary is set out in Figure 3.

**Figure 3. Levels of the Judicial System in Malaysia**

1. Federal Judiciary	2. State Courts	3. Special Courts	4. Administrative Tribunals
↓	↓	↓	↓
Civil ↓ Superior Courts – High Court – Court of Appeal – Federal Court  Subordinate Courts – Sessions Court – Magistrates’ Court – <i>Penghulu’s</i> (religious) Court	Criminal ↓ Superior Courts – High Court – Court of Appeal – Federal Court  Subordinate Courts – Sessions Court – Magistrates’ Court – <i>Penghulu’s</i> Court	(a) Syariah (b) Native  (a) Juvenile (b) Court Martial	(a) Industrial Court (b) Special Commissioners for Income Tax (c) Public Services Disciplinary Boards
<p><b>Source:</b> Adapted from Sociolegal Status of Women in Malaysia, Final Report. March 1998.</p>			

### 3.2.3 Philippines

The legal system of the Philippines is a result of various influences. Muslim Malays migrated to the Philippines from other parts of Southeast Asia and introduced the Islamic religion and way of life to the inhabitants. When Spain colonized the Philippines, the Roman Catholic religion was introduced. Spanish colonizers claimed all lands in the name of the King of Spain and imposed their own laws in the country. This regalian doctrine is still enshrined in the present Constitution, which states that public land and natural resources are owned by the State. During Spanish colonization, the pre-Hispanic equality and high social status enjoyed by Filipino women was replaced with legalized inequality. Under the Spanish Civil Code, the Filipino woman was treated as a minor under the protection of her father or, upon marriage, her husband. In the late 19th

century, the Philippines came under American domination. During American colonial rule, women's oppressed status eased somewhat. However, there still remain to this day laws that discriminate against Filipino women.

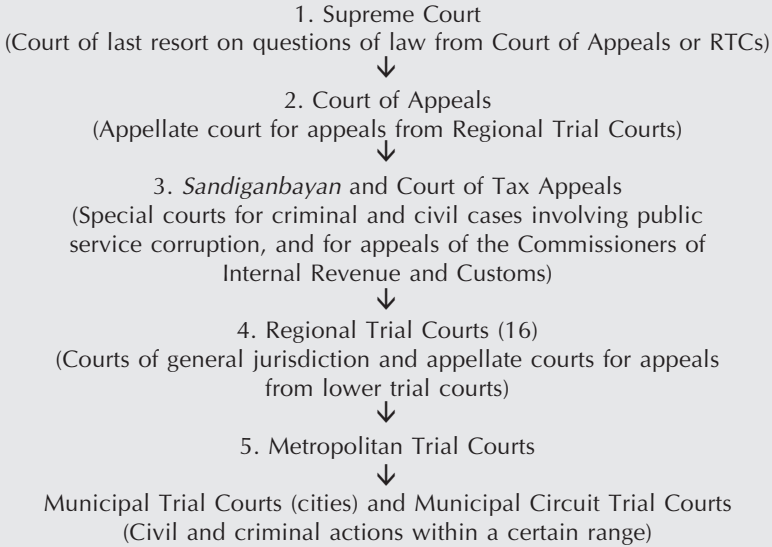
In spite of the Philippines' long colonial history, there were areas like the Cordillera in the North and the Muslim areas in the South that were never under the effective control of the colonizers. The people in these areas continued to practice their own customs and traditions.

These historical factors resulted in a legal system that combines elements of these influences, that is, a blend of customary law, Roman civil law, and Anglo-American common law. Civil law operates in such areas as family relations, property, succession, and contract and criminal law, while statutes and principles of common law origin are evident in such areas as constitutional law, procedure, corporation law, negotiable instruments, taxation, insurance, labor relations, and banking and currency. Islamic laws are observed in some areas of the South and Muslims continue to honor the *shari'a* and traditional laws based on Islamic principles. Shari'a courts have been established to try cases involving offences under the Code of Muslim Personal Laws and communal property disputes. In recognition of its distinct political and legal system, the Autonomous Region for Muslim Mindanao was recently established.

Customary law is part of the Filipino legal heritage and system. The 1987 Constitution (Article XIV(17)) provides for the recognition, respect, and protection of the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institutions. It also advocates the consideration of such rights when forming national plans and policies. The Civil Code acknowledges the existence of customs. Judges may apply customs to a controversy or dispute in the absence of any governing statute. This recognition of customary law is a source of conflict between the Government and indigenous communities, especially in the area of landownership, where it comes into conflict with the regalian doctrine enshrined in the Constitution.

The judicial system of the Philippines consists of a hierarchy of courts (Figure 4), with the Supreme Court at its apex and a series of lower courts established by law. Parallel with this judicial system is a judicial system for the minority Muslim communities in Mindanao. Shari'a district

**Figure 4. Levels of the Judicial System in the Philippines**



**Source:** Sociolegal Status of Women in the Philippines, Final Report. March 1998.

and circuit courts have been established in five special judicial districts. These courts have jurisdiction over cases involving offences under the Muslim Code of Personal Laws, as well as the settlement and disposition of deceased Muslims' estates. These courts have a significant impact on women, their children, and their lifestyles and livelihoods.

### 3.2.4 Thailand

The Thai people originated as a nation more than 2,000 years ago. Foreigners were welcomed. Thai culture blends Indian and Chinese culture with animist, Hindu, and Buddhist elements. During the last century, Western culture has also been an influence.

In the Sukhothai period, women enjoyed religious freedoms, such as the right of public worship, and could participate fully in community life. This situation changed in the middle of the Ayutthaya period (1424–

1448) when the King welcomed Brahma (the supreme essence of the Hindu universe) to support his authority. Women's status was then changed to make it in line with Brahmanic society. They were not permitted to engage in public activities, or in study. This situation continued until the reign of Rama IV (1851–1868), who encouraged Buddhism as well as certain elements of Western culture.

Thailand is a quasi-matrilineal society, with matrilineal residence rules. Thai women have traditionally been able to rely on their own kin, and return to their parents' or mothers' home, and have not been dominated by or been reliant on men, husbands or, on their in-laws. Nevertheless, sexual inequality and exploitation of women do exist. In Thai society, men are generally assumed to be the family, community, and country leaders, while women are expected to assume full domestic and child care responsibilities. However, this division of labor is gradually changing because of economic, social, and cultural developments.

Thailand has been a constitutional monarchy since 1932. Under the Constitution, the monarch is the Head of State, and due to the great esteem in which the monarchy is held, it is common for the monarch to offer informal guidance on the political development of the country. Thailand has a parliament composed of an elected House of Representatives and an appointed Senate. Thailand's government has been characterized by short periods of electoral democracy and long periods of military rule following coups d'état.

Between 1932 and 1997, Thailand had 15 constitutions. The latest was enacted in 1997 following public consultations in which women's groups lobbied actively to include provisions favorable to women and to some extent succeeded (Section 4.2.1). The 1997 Constitution provides for a Constitutional Court, three levels of Courts of Justice (Courts of First Instance, a Court of Appeal and a Supreme Court of Justice), as well as administrative and military courts.

### **3.3 International Treaties and Other International Commitments**

The international treaties and other undertakings to which countries commit themselves ideally serve to shape their domestic

policies and legislation. All four countries in this study have ratified or acceded to<sup>2</sup> many of the international treaties that pertain to the rights and status of women, and have participated in the major international conferences addressing women's concerns. However, the countries vary substantially in the degree to which they have implemented these international commitments, including steps taken to bring their domestic laws and regulations into compliance with their treaty obligations (Box 1).

**Box 1. CEDAW**

One human rights instrument, the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), is explicitly intended to secure rights for women. Adopted in 1979 by the UN General Assembly, it specifically acknowledges the extensive discrimination against women that continues to exist. CEDAW provides a comprehensive framework for challenging the various forces that have created and maintained discrimination based on sex.

Despite the value and merit of CEDAW and its ratification by 111 governments [to date], it has received little active support. Eighty countries have lodged substantive reservations on it—the highest number for any international convention. This means that while a country may have signed the agreement, it may have excepted itself from so many clauses in the Convention that women's rights are rendered meaningless and unenforceable.

**Source:** CIDA, 1995.

The Philippines is the only one among the four countries to provide in its Constitution that generally accepted principles of international law are considered part of the law of the land (Article II.2). Such principles thus have the same authority as enacted legislation. Nevertheless, under international law, all of the countries are obliged to comply with the international treaties they have ratified. Of the four countries, the Philippines has also ratified the largest number of treaties pertaining to

---

<sup>2</sup> The distinction between ratification and accession is technical, and indicates only whether a country was an original signatory to a treaty, and subsequently took the necessary steps to ratify its acceptance of the treaty's terms, or whether the country joined (acceded to) the treaty after the initial period for signatures had closed. For simplification, this report uses the term "ratification" to mean either ratification or accession.

women's status, and is the only country of the four to have ratified them without reservation.

It is problematic when a ratifying country exempts itself from key provisions of a treaty, since valid reservations narrow the scope of the country's obligations under the treaty, and broad reservations call into question the country's commitment to the treaty's objectives. Human rights treaties, in particular the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), discussed further below, has been especially susceptible to reservations and "interpretive declarations" (Charlesworth and Chinkin 2000: 103).

Furthermore, the international treaties most relevant to women's status have very limited enforcement mechanisms, consisting mainly of review by an expert committee of periodic reports submitted by the State parties to the treaty. A few of these treaties, including CEDAW through its new Optional Protocol, go farther and empower the expert treaty committee to investigate allegations that a State party is not meeting its obligations under the treaty. In all these cases, however, the treaty committee can only make recommendations based on its review, and require follow-up reports by the State party in question. The treaty committee cannot compel a state party to comply with the terms of the treaty or its recommendations.

In contrast to treaties such as CEDAW and other international covenants and conventions, "soft law" commitments, such as declarations and program documents negotiated at United Nations (UN) conferences, are not intended to be legally binding on countries, although they do express the intentions and expectations of their signatories regarding their own future conduct and that of other states and other actors (including international institutions) (Charlesworth and Chinkin 2000: 66; see also Chinkin 1989).

Despite their weaknesses in terms of compliance and enforcement, international treaties and other commitments are not without effect. They establish international norms of conduct for countries and international institutions. Groups within countries also use them as a basis for promoting changes in domestic law and policy, and for challenging existing laws and practices that are inconsistent with a country's international commitments. It is relevant therefore to consider the positions of Indonesia, Malaysia, Philippines, and Thailand in relation to

the international treaties and other commitments that seek to eliminate discrimination against women and further women's full participation in their societies.

As shown in Table 1, one or more of the four countries have ratified these treaties, which expressly or implicitly address the status of women:

- International Covenant on Economic, Social and Cultural Rights
- International Covenant on Civil and Political Rights
- CEDAW
- Convention on the Rights of the Child
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Political Rights of Women
- Convention on the Nationality of Married Women
- Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages
- Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery
- Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others
- Convention and Protocol Relating to the Status of Refugees.

In addition, all four countries have ratified several ILO Conventions—discussed in more detail in Chapter 4—that seek to improve women's status in the workplace. As of July 2001, two of the countries have also signed, but not yet ratified, new protocols relating to the smuggling of migrants and trafficking in persons.

The most comprehensive treaty relating to women's status is CEDAW, which was adopted by the UN General Assembly in 1979 and entered into force in 1981. Now ratified by close to 170 countries, including all four countries in this study, CEDAW provides a comprehensive framework for challenging the various forces that continue to discriminate against women and girls. Women and women's organizations in the four countries tend to concentrate on this Convention and use it as a tool for encouraging their respective governments to introduce, implement, and enforce laws to improve the status of women. CEDAW is also important because it requires all State parties to report

periodically on their progress in implementing its provisions. Of the four countries, only Malaysia has not yet submitted a report under CEDAW.

**Indonesia** ratified CEDAW in 1984, with one reservation: to an article on the settlement of disputes between State parties by the International Court of Justice (ICJ), which it maintained was a constraint on its national sovereignty. Indonesia filed its most recent progress report in 1998.

**Malaysia** acceded to CEDAW in 1993, with a general reservation that its accession assumed there was no conflict between CEDAW, on the one hand, and Islamic syariah law and the Malaysian Constitution, on the other. In this regard, the reservation specified several articles of CEDAW to which Malaysia did not consider itself bound. Malaysia subsequently withdrew reservations to some of these articles, but still maintains reservations to CEDAW provisions that it deems incompatible with syariah inheritance law, the appointment of men as syariah court judges and religious officials, Malaysia's nationality law, and different marriage age limits for women and men. Several other State parties to CEDAW have objected to Malaysia's reservations, on the ground that they are incompatible with the object and purpose of the convention.

Consistent with its position on other treaties, the **Philippines** ratified CEDAW in 1984 without reservation. Its latest progress report was submitted in 1997.

When **Thailand** acceded to CEDAW in 1985, it lodged reservations to seven articles. However, by 1996, Thailand had withdrawn five of the seven reservations. The office of the National Commission on Women's Affairs (NCWA) strongly advocated the withdrawal of the last two reservations—to Article 16 (on marriage and family relations) and Article 29 (on dispute settlement by the ICJ)—but despite nationwide debate, they remain. Thailand submitted its most recent progress report in 1999.

The Optional Protocol to CEDAW, which entered into force in December 2000, gives women in countries that ratify the protocol the right to notify CEDAW's expert committee about violations of their rights under CEDAW. If the communication is admissible, the committee will review it together with the country's response, and then issue its views and any recommendations. On its own initiative, the committee can also investigate reliable information about grave or systematic violations of rights under CEDAW, and issue findings and recommendations.

**Table 1**  
**Summary of the Legal Frameworks**  
**(unless otherwise stated, dates**

	Indonesia
<b>A. International Treaties</b>	
(i) International Covenant on Economic, Social and Cultural Rights	—
(ii) International Covenant on Civil and Political Rights	—
(iii) (a) CEDAW	1984
(iii) (b) Optional Protocol to CEDAW	2000 (signature)
(iv) Convention on the Rights of the Child	1990
(v) International Convention on the Elimination of All Forms of Racial Discrimination	1999
(vi) Convention on the Political Rights of Women	1958
(vii) Convention on the Nationality of Married Women	—
(viii) Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages	—
(ix) Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery	—
(x) Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others	—
(xi) Convention and Protocol Relating to the Status of Refugees	—
(xii) (a) United Nations Convention against Transnational Organized Crime (not yet in force)	2000 (signature)
(xii) (b) Protocol against the Smuggling of Migrants by Land, Sea and Air (not yet in force)	2000 (signature)
(xii) (c) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (not yet in force)	2000 (signature)
(xiv) ILO Conventions	See Chapter 4

**Relevant to the Status of Women  
indicate treaty ratification or accession)**

Malaysia	Philippines	Thailand
—	1974	1999
—	1986	1996
1995	1981	1985
—	2000 (signature)	2000
1995	1990	1992
—	1967	—
—	1957	1954
1959	—	—
—	1965	—
1957	1964	—
—	1952	—
—	1981	—
—	2000 (signature)	2000 (signature)
—	2000 (signature)	—
—	2000 (signature)	—
See Chapter 4	See Chapter 4	See Chapter 4

	Indonesia	Malaysia	Philippines	Thailand
<b>B. National Constitutions</b>	<ul style="list-style-type: none"> <li>Women not mentioned specifically in 1945 Constitution. "All citizens" and "every citizen" in Article 27 implicitly include women.</li> </ul>	<ul style="list-style-type: none"> <li>Constitutional monarchy with a parliamentary democracy</li> <li>Constitution implicitly includes men and women</li> </ul>	<ul style="list-style-type: none"> <li>Men and women are mentioned in the 1987 Constitution. Rights detailed in Bill of Rights.</li> </ul>	<ul style="list-style-type: none"> <li>Constitutional monarchy</li> <li>Mentions both men and women in the Constitution</li> </ul>
<b>C. Religious Laws and Practices</b>	<ul style="list-style-type: none"> <li>1945 Constitution guarantees "freedom for every citizen to embrace their own religion..."</li> <li>Implicitly, this freedom applies to women. However, in practice this freedom may be somewhat restricted by the 1989 Act No. 7, which gives Religious Courts jurisdiction over Muslims in the areas of: marriage; inheritance and bequests; <i>wakaf</i> or the setting aside of possessions for religious or community interests; and <i>shadaqah</i> or alms. No women serve on the religious courts and</li> </ul>	<ul style="list-style-type: none"> <li>Islam is the official religion of Malaysia, but all citizens may practice their own religion. Islamic law applies only to Muslims, and only in the areas of family law, inheritance, and some matrimonial offenses.</li> </ul>	<ul style="list-style-type: none"> <li>The Philippine Constitution declares the separation of Church and State to be inviolable. The Philippine legal system recognizes an Islamic personal law as embodied in the Code of Muslim Personal Laws. Divorce is illegal.</li> </ul>	<ul style="list-style-type: none"> <li>Thailand is a Buddhist country that has traditionally practiced religious tolerance. In the four southern provinces, people tend to practice Islam and adhere to Muslim tenets.</li> </ul>

	Indonesia	Malaysia	Philippines	Thailand
	<p>Islamic law tends to be interpreted by male clerics from a male perspective. Women's religious freedom is at times curtailed.</p>			
<p><b>D. Customary Laws and Practices</b></p>	<ul style="list-style-type: none"> <li>Indonesia's legal system, encompasses Islamic religious law; <i>adat</i> or customary law; civil law based on the European model; and patrilineal and matrilineal systems with respect to inheritance.</li> </ul>	<ul style="list-style-type: none"> <li>Adat law</li> <li>Also native customary laws and Chinese laws</li> </ul>	<ul style="list-style-type: none"> <li>Customary law forms part of the Filipino legal heritage and system. The 1987 Constitution (Article XIV [17]) provides for the recognition, respect, and protection of the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institutions.</li> <li>The 1987 Constitution also advocates that such rights should be considered when forming national plans and policies. The Civil Code acknowledges the existence of customs. Judges may apply customs to a</li> </ul>	<ul style="list-style-type: none"> <li>Matrilocal residence rules</li> </ul>

	Indonesia	Malaysia	Philippines	Thailand
<b>E. Relevant National Policies and Institutional Implementation Mechanisms</b>	<ul style="list-style-type: none"> <li>• 1993 GBHN included Role of Women in nation-building, putting major responsibility for family and children on women</li> <li>• PKK continues to be major program area</li> <li>• REPELITA IV has a separate chapter on women</li> <li>• REPELITA V to be prepared in 1998</li> </ul>	<ul style="list-style-type: none"> <li>• Malaysia formally adopted a National Policy for Women (NPW) in 1989, which promotes women's full participation in development and sets forth an action plan. The NPW is part of Malaysia's overall framework of national development policies, including Vision 2020 and five-year development plans. Both the Sixth (1991–1995) and Seventh (1996–2000) plans contained chapters on policies on women.</li> <li>• The Women's Affairs Department (HAWA) (now upgraded from a division) within the Ministry of National Unity and Social</li> </ul>	<p>controversy or dispute in the absence of any governing stature.</p> <ul style="list-style-type: none"> <li>• Has approved and adopted the Philippine Plan for Gender Responsive Development (1995–2025)</li> <li>• Ensures women and men will participate equally in and benefit from development</li> <li>• NCRFW given major responsibility for drafting and implementing policies and activities related to women</li> </ul>	<ul style="list-style-type: none"> <li>• Thailand's Four Plan (1977–1981) focused on women's development in rural areas: the Fifth Plan (1982–1986) advocated poverty eradication in 38 of the poorest provinces and emphasized women's development activities, organizations and revenue generation. The Sixth Plan (1987–1991) continued the Fifth Plan's thrusts, without targeting women specifically as a group and without drawing up a specific women's plan of action. Thailand's Seventh (1991–1996) and Eighth National Development Plans (1996–2001) have emphasized human development, but have</li> </ul>

Indonesia	Malaysia	Philippines	Thailand
	<p>Development is concerned with women's integration into development, including coordination, monitoring, evaluation, planning, policy and reporting. The upgrading of HAWA, as a result of an ADB-funded institutional assessment of HAWA in 1996, is expected to remove serious constraints on its actions within government.</p>		<p>not targeted women. The Government's policy is to treat women's activities as mainstream.</p>

ADB = Asian Development Bank; GBHN = Broad Outline of State Policy; NCRFW = National Commission on the Role of Filipino Women; PKK = Family Welfare movement; REPELITA = Five-Year Development Plan.

**Sources:** UN and UN High Commissioner for Human Rights websites, <http://www.un.org> and <http://www.unhchr.org>, as of 1 August 2001; final country reports for this RETA, March 1998.

Indonesia and the Philippines have signed (but not yet ratified) the Optional Protocol, while Thailand has signed and ratified it, which is an extremely promising development for Thai women.

Beginning in 1975, with the UN Declaration of International Women's Year and the first international conference on women held in Mexico City, countries and international organizations have also expressed their collective commitments to improve the status of women through a number of declarations and program documents. These include the Beijing Declaration and Platform for Action from the Fourth World Conference on Women in 1995, as well as program documents from the International Conference on Environment and Development (Rio, 1990), the World Conference on Human Rights (Vienna, 1993), the International Conference on Population and Development (Cairo, 1994), and the World Summit on Social Development (Copenhagen, 1995). Although the degree of follow-up by individual countries on these commitments has been mixed, a general trend in all four countries in response to the international conferences on women has been the establishment and strengthening of national committees or other bodies designated to monitor and promote women's status in society.

In **Thailand**, for example, a Sub-Committee on Women and Youth Development Planning was established under the auspices of the National Economic and Social Development Board. Its purpose is to review data on women, draw up 5- and 20-year plans for women's development, and identify indicators to measure and monitor women's progress. The significance of the subcommittee's work was enhanced when it was moved to the prime minister's office in the mid-1990s. In 1989, Thailand also established the NCWA, as a result of its participation in the Third World Conference on Women held in Nairobi in 1985.

The Fourth World Conference on Women in Beijing in 1995 was especially influential in encouraging governments' commitments to improve women's status. For example, in **Indonesia**, then-President Suharto endorsed the Beijing Declaration and Platform for Action by establishing Women's Day. In his first Women's Day speech in December 1995, he called for a "national movement to reaffirm equal partnership between women and men." Other responses included translation of the Beijing Platform for Action into Indonesian and a workshop in March 1996 organized by the Office of the State Ministry for the Role of Women

that reaffirmed the “equal partnership between women and men as the implementers of the results of the Fourth Conference”.

In the **Philippines**, former President Ramos issued an executive order in response to the Beijing Declaration and Platform for Action, which adopted a long-term “Philippine Plan for Gender-Responsive Development (1995–2025).”

Similarly, the **Thai** Government set up a committee to ensure that the provisions of the Platform for Action were incorporated into Thailand’s Eighth National Development Plan (1996–2001).