

**Contemporary Issues
in**

Islamic Law

Abdul Haseeb Ansari



Serials

CONTEMPORARY ISSUES IN ISLAMIC LAW

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Woman in the *Shari'Ah* Courts: A Study of Malaysia and Indonesia

Ramizah Wan Muhammad

Introduction

The function of the judiciary is to dispense justice to the parties involved in cases. To ensure justice, the courts must be independent of executive and legislature so that the decisions are made by them without fear or favour. The most important element in judicial institution is to give rights to whom it is due without looking at whether the parties involved are rich or poor, adult or child, man or woman.

In Islamic literature, there are quite a number of discussions pertaining to woman as dispenser of justice; and most of them are pessimistic. In other words, for them, woman is not qualified to hold the post of a judge and to sentence the accused accordingly. There are various reasons given by the classical Muslim jurists. However, their *dalil* or authority from the *sunnah* of the Prophet (*s.a.w.*) is ambiguous, as such open to varying interpretation. The Holy Qur'an is silent on that issue.

This paper attempts to understand the Islamic stand on this issue and to empirically verify the status of women vis-à-vis the court in two Southeast Asian countries, Malaysia and Indonesia. The first part of the paper analyses the status of women pertaining to dispensation of justice based upon the Qur'an, *Sunnah* and the precedent of the companions of the Prophet (*s.a.w.*). Next two