

Musawah advocates equality and justice in the Muslim family

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ON February 13, 2009, a global movement called 'Musawah' ('Equality' in Arabic) was launched in Kuala Lumpur, Malaysia, at a five-day conference hosted by Sisters in Islam (SIS), a Malaysian NGO committed to, among others, the advancement of women's rights in the Muslim family.

About Musawah

The launch of Musawah was a culmination of two years of work with academics and activists around the world, which resulted in the international conference that brought together 250 people from 47 different countries representing majority- and minority-Muslim contexts.

Musawah is not the beginning of Muslim women's struggles for equality in the family. Rather, it is a huge stride forward in the right direction. It offers recognition of past struggles, motivation for future struggles and solidarity in the cause of our struggles.

Musawah calls for equality and justice in the Muslim family. Musawah believes that equality and justice is not only necessary in the Muslim family, it is also possible. The organisation asserts that the time for the realisation of these values is now.

The vision of Musawah emphasises equality in the family, due to the untenable aspects in family law as well as its indefensibility from an Islamic perspective. Furthermore, Musawah declares that equality in the family is possible "through a framework that is consistent with Islamic teach-

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ings, universal human rights principles, fundamental rights guarantees, and the lived realities of women and men.

As a global movement, Musawah encompasses numerous international rights-based networks comprised of NGO leaders and grassroots activists who focus on Muslim family law reform. These networks include Women Living under Muslim Laws (WLUML) and Women's Learning Partnership (WLP).

WLP was established in 1984 by women from eight countries namely, Algeria, Morocco, the Sudan, Iran, Mauritius, Tanzania, Bangladesh and Pakistan. Today, WLUML has networks from many more countries than the original eight, including South Africa.

WLP was formed in the aftermath of the 1995 Beijing Fourth World Conference for Women. It represents a network of 18 organisations in the Global South, particularly in Muslim-majority societies. These international networks offer support, solidarity and avenues for sharing information among activists who work for reform at the local level, and

to empower women to transform their families, communities and societies.

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For example, Karamah in the USA addresses "oversimplification and misunderstanding of the status of women in Islam, and the increasingly negative stereotypes being propagated about Muslim women [in the West]".

Baobab for Women's Human Rights is a Nigerian organisation whose mission is "to promote women's human rights principally via improving knowledge, exercise and development of rights under religious laws, customary laws and statutory laws".

Baobab operates from a national office in Lagos with outreach teams in 14 states across Nigeria.

Sisters in Islam (SIS) is a group of Malaysian Muslim women committed to promoting women's rights within an Islamic framework. Their efforts to promote

Muslim women's rights are based on the "principles of equality, justice and freedom enjoined by the Qur'an".

The organisations listed above are only three of hundreds of organisations that work in the interests of Muslim women's rights in Muslim countries and communities across the world. Their efforts are expansive.

In the past few years, they have made great strides in bringing justice and equality to Muslim women's lives.

Equality and justice is necessary and possible

In Iran, a man's arbitrary right to divorce and polygynous marriages created financial and emotional havoc for women and their children. In response, women campaigned for law reforms to provide them with relief at the end of the marriage.

Amendments to the Iranian Divorce Law in 1993 now allow wives to request payment for household work performed outside of their religious responsibility.

If the divorce is at the husband's request and the wife is not at fault, the sum is based on the length of time the couple lived together, the activities that the wife performed and the husband's financial situation.

In 2000, following extensive advocacy and activism by Muslim women in Egypt, the law finally recognised a woman's right to obtain a khul' divorce without her husband's consent.

The law was challenged in 2002, but women's groups advocated to ensure that their hard-won gains were not eroded. The

courts confirmed that khul' without the husband's consent does not violate the Shariah because there are definitive Qur'anic verses supporting it.

In 2003, Nigerian women's rights activists made crucial interventions in the Amina Lawal case. Lawal was charged with adultery. She was found guilty and sentenced to death by stoning by a judge of the Lower Shariah Court in Bakori.

Her appeal was vindicated when the Katsina State Shariah Court of Appeal held, among others, that "her rights of defence had not been properly recognised in the lower courts".

African and minority South caucuses

One of the outcomes of the Musawah conference was the establishment of different caucuses. Of particular significance to South Africa was the formation of the African and Minority South Caucuses.

The African Caucus includes representatives of Burkina Faso, Gambia, Kenya, Mali, Mauritania, Niger, Nigeria, the Sudan, South Africa and Tanzania. The Minority South Caucuses is represented by India, Philippines, South Africa and Sri Lanka.

The caucuses were a point of information sharing, coordination and solidarity for women's groups to address the particularities attendant to the practice of Muslim family laws on the African continent and within the context of the Global South.

Relevance for South Africa

As a result of non-recognition of Muslim marriages, Muslim women especially are prejudiced because:

- They are unable to access civil law benefits.
- They are unable to legally enforce benefits under Muslim family law such as mahr and spousal maintenance.
- Although there have been some court decisions that have been favourable for Muslim women, they do not always apply to all

women throughout South Africa. Each time a Muslim woman wishes to assert a benefit that is available to her under Muslim family law or is being denied to her as a result of the non-recognition of her marriage, she must approach the courts for judicial relief. This process is time-consuming and expensive. Consequently, indigent Muslim women are denied access to justice in most instances.

The formation of Musawah is significant for the struggle of Muslim women in South Africa. There is no law to protect Muslim women against discriminatory

interpretations of Muslim family law such as the practice of instant talaq.

Other problem areas include the difficulty Muslim women experience in obtaining faskh, non-payment of mahr, failure to recognise the contributions that women make in the home, secret marriages, polygyny (especially without the existing wife's consent) and the failure to provide an ex-wife with a residence when the minor children are in her custody, etc. Therefore, equality and justice in South African Muslim family law is necessary. The good news is that equality and justice is also possible because the South

African Constitution allows for laws to be enacted to recognise religious personal laws or religious marriages provided the laws are consistent with gender equality. Women-friendly interpretations of Muslim family law are possible and are already in use in some cases. Precedent exists within customary marriages for polygyny to be strictly regulated. It is against this background that the establishment of Musawah is a welcome initiative. It signals recognition of the work that has been ongoing for several decades and provides solidarity for us to continue our struggles for recognition and promotion of women's

rights in Muslim family law.

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Further information about Musawah can be obtained at <http://www.musawah.org/>