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## Seeking Equality and Justice in Muslim Family Law

# Musawah Movement

BY AZZA BASARUDIN

*In Saudi Arabia, a female lawyer was banned from practicing law because of her gender. An advocate of women's rights in Afghanistan laments that women are the property of males in their family from infancy to death. A young British Muslim woman reflects how fatawa passed in Muslim majority countries govern the lives of Muslims in her home country despite differing social realities. In Gambia, a woman activist explains how Female Genital Mutilation is a primary source of gender inequality since clerics argue that it is an injunction of Islam.*

THESE PERSONAL STORIES from Saudi Arabia, Afghanistan, Britain, and Gambia, among others—signifying the contention between law, lived realities, and experiences, and illuminating the need for equality and justice—emerged in Kuala Lumpur during the launch of the Musawah (“equality” in Arabic) movement. Between February 13 and 17, 2009, Malaysia bore witness to the courageous and necessary search for equality and justice in Muslim Family Law through the meeting of a transnational network of activists, academics, NGOs, grassroots organizations, policy makers, and those committed to reclaiming Islam for themselves in their struggle to (re) envision the role and meaning of their faith in the twenty-first century. No longer the nameless, faceless, and voiceless Muslim women that permeate Orientalist literatures and popular culture, this select group of believers and their allies claims that Islam promotes gender justice, though the realization of equality remains elusive due to authoritarian and unjust interpretations of Islam.



### Global Movement for Equality and Justice in the Muslim Family

مساواة : حركة عالمية من  
أجل تحقيق العدالة والمساواة  
داخل الأسرة المسلمة

Mouvement mondial pour  
l'égalité et la justice dans  
les familles musulmanes

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United by personal and professional concerns for a contextualized understanding, interpretation, and legislation of sources of Islamic tradition, the proponents of this movement argue that the foundation and legislation of Muslim Family Law are rooted in universal principles of human dignity, justice, and equality. The Musawah movement encourages Muslims to actively participate not only as believers, but as citizen-believers in defining faith for themselves rather than leaving it in the hands of religious experts. The group calls the monopoly of Islamic knowledge production and women's exclusion from interpretive and faith communities into question, and asserts that women's ways of knowing and their lived realities, whether in Muslim majority or minority countries, need to be accounted for in the legislation of laws and public policies.

The five-day meeting was coordinated by Sisters in Islam (SIS), an organization of Muslim professional women in Malaysia dedicated to "empowering voices for change" by working from within their religious and cultural frameworks. Registered as an NGO in Kuala Lumpur in 1993, SIS's research and advocacy raises public awareness on the rights of Muslim women and reforms discriminatory family laws that impact

women's lives and realities. I conducted field research with SIS for 9 months from 2006 to 2007, and I am currently writing my dissertation on feminist political engagement of religious and cultural transformation in Southeast Asia and the Middle East. During my fieldwork, Musawah was still in its early stages of conceptualization. While conducting the Egyptian portion of my field research in December of 2007, I was invited by SIS to one of the planning meetings in Cairo and have since integrated a significant analysis of Musawah into my dissertation. As such, I was delighted to receive an invitation to the launch of this ambitious event, an opportunity that did not disappoint.

The idea for the Musawah movement materialized in 2006 in Kuala Lumpur, Malaysia, during SIS's International Consultation on "Trends in Family Law Reform in Muslim Countries." Scholars and activists from Southeast Asia, West Asia, Morocco, the United States, and Britain shared best practices strategies and cited successful family law reform campaigns in Turkey and Morocco as models for ensuring equality without exception. Conceptualized across national borders and inclusive of the diversity in the lives of Muslim believers, this initiative suggests that "women's demands for equality and justice are



**Sisters in Islam is an organization of Muslim professional women in Malaysia.**

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neither alien nor a threat to Islam, but are rooted in the Islamic tradition.”<sup>2</sup> The objectives of Musawah are:<sup>3</sup>

*To introduce the movement, its principles, processes, objectives, resources, tools, and conceptual framework*

*To empower women’s groups, activists, and practitioners through the sharing of knowledge and experience*

*To build support and alliances*

*To agree on the way forward for Musawah*

Musawah is made up of committee members from Egypt, Qatar, the United States, Turkey, Morocco, Iran, Britain, Pakistan, Gambia, Nigeria, and Indonesia. The organization is committed to the diversity of Muslim practices, beliefs, and laws in localized realities. As a space of solidarity, alliance building, and comparing/sharing strategies, the gathering brought together various spectrums of religiosities and was characterized by vibrant discussions on the meanings of non-discriminatory struggles within the entanglement of Islamic principles and constitutional and international human rights law. This meeting showcased renowned intellectuals at the forefront of dynamic scholarship in gender in Islam, Islamic law, and history. Participants

included Qur’anic scholar Dr. Amina Wadud, historian Dr. Amira El-Azgary Sonbol, legal anthropologist Dr. Ziba Mir-Hosseini, and Dr. Muhammad Khalid Masud, head of the Islamic Ideology Council of Pakistan.

For five days, the multilingual movement (English, French, and Arabic) featured wide-ranging discussions consisting of panels, caucuses, and breakout sessions with more than 200 participants from 49 countries. Topics included “Genesis of Muslim Family Laws,” “Family Law in Contemporary Muslim Contexts,” “Islam Beyond Patriarchy Through Gender Inclusive Qur’anic Analysis,” “Fiqh as Social Construction,” “Towards Gender Equality: Muslim family laws and Shari’ah,” “Moroccan Moudawana: Marriage as Partnership of Equals,” “Impact of Polygamy in the Family,” “Resisting and Challenging Fundamentalisms,” “Faith and Freedom,” “Tensions between Constitutional Guarantees of Equality and Family Laws,” and “Culture and Inequalities: International Human Rights Instruments as a Tool for Change.”

It was thrilling to listen to participants discuss changes that have taken place in their local legal systems. For example, Morocco has a family law describing marriage as “an equal partnership”; Turkey has amended its civil and penal code to ensure women are treated as equals in the law; and Afghanistan, despite the country’s unstable

environment, has managed to pass a law allowing women the right to contract their own marriage rather than through male relatives. However encouraging these changes are, the fact remains that equality in the law does not automatically translate into equality in lived realities. Questions of who is equal in the eyes of the law must also be balanced with who has access to the legal system. The hard work to reform laws is not only tied to exclusive knowledges, but also to entrenched normative attitudes of male superiority and patriarchal control.

Another interesting panel was an interfaith session where Jewish, Catholic, Buddhist, and Hindu women shared their stories of gender-based discrimination within their religious traditions, casting a wider net over the struggle for rights from within.

The chosen term “Muslim”—as opposed to “Islamic”—Family Law is intended to foreground the notion of human agency and fallibility in the processes of interpretation and codification of laws. The aim of Musawah is also to contest the notion of “expert,” which is often taken for granted and sustains religious monopoly, betraying human need for active and continuous engagement with sources of Islamic tradition. Agency imbued with principles of justice is necessary if individuals are to take control over the meaning of faith in their lived realities.

This was exemplified at the opening of *Musawah* by one of the movement's core initiators, Zainah Anwar, who stated "we are all experts here" with the authority "to think, to feel, to question what it means to be Muslim in the 21st century." The movement's vision of a responsible citizenry is consistent with Sudanese legal scholar Abdullahi An-Nai'm's conception of human agency: "to call on people to take responsibility for the relevance and meaning of their religious beliefs to their own lives, instead of perceiving themselves as passive objects of manipulation by forces beyond their control."<sup>4</sup>

While celebrated as groundbreaking, the Musawah movement is not without controversy. Datuk Seri Shahrizat Abdul Jalil, the former Malaysian Minister for Women and Social Development Affairs and currently the special advisor to the Prime Minister on Muslim women's issues, opened Musawah on February 13, 2009. She was slated to chair a panel on the third day but pulled out due to criticisms that she put her stamp of approval on the meeting before consulting with state religious agencies. Objections to Musawah were raised by the Pulau Pinang branch of the Ulama Association of Malaysia (PUMPP) on the grounds that such an initiative challenges basic principles of Islam in the areas of Shar'ia laws related to women and family that have found consensus and are accepted by



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renowned Ulama. The Musawah movement is accused of painting a negative perception of Malaysia as a country that practices discriminatory laws against women. Moreover, Malaysian authorities have been encouraged to investigate funding for Musawah on the grounds that it originates from “Western” donors intending to “liberalize” Islam.<sup>5</sup>

Musawah ended on February 17, 2009, with a constructive proposal for a way forward, which includes refining principles, processes, and objectives. SIS will remain the Secretariat for the next two years. An edited collection entitled, “Wanted: Equality and Justice in the Muslim Family Law” featuring scholarly articles from a broad range of disciplines that support the movement’s theoretical foundation was launched alongside a booklet, “Home Truths: A Global Report on Equality in the Muslim Family,” containing a summary of family laws in 30 countries. The Musawah website, which contains tools and resources on family law reform, personal narratives, and advocacy strategies from over 30 countries, was also launched.

The historic meeting in Kuala Lumpur concluded appropriately with a session evoking the struggles and sacrifices of notable female figures of monotheistic religion (Eve/Hawa, Sarah, Hager/Hagar, Mary/Mariam and Aisha) by asking the divine to grant the participants and their

allies the strength, perseverance, and intellectual capacity to lead the struggle for gender equality and justice in Muslim families. As I reflect on five inspiring and educational days in Kuala Lumpur, reminiscing with old friends and connecting with new ones, I also look forward to the possibilities that this movement for justice and equality has to offer in inspiring family law reforms in Muslim societies.

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#### Notes

1. An authoritative but non-binding legal opinion on an issue of Islamic law issued by a recognized religious authority or scholar
2. Musawah Framework for Action.
3. Musawah Framework for Action

4. Abdullahi Ahmed An-Na’im, “The Future of Shari’a and the Debate in Northern Nigeria,” in Philip Ostien, Jamila Nasir and Franz Kogelmann, eds., *Comparative Perspectives on Shari’a in Nigeria* (Ibadan: Spectrum Books, 2005), 327–357.
5. “PUMPP Selar Musawah” (PUMPP Criticize Musawah). See: [pumppp.wordpress.com/2009/02/12/pumppp-selar-musawah](http://pumppp.wordpress.com/2009/02/12/pumppp-selar-musawah). Translated from Bahasa Malaysia by the author.