



**BARAZA!**  
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Empowering Voices For Change  
SIS FORUM (MALAYSIA) (266561 W)

## Why Musawah

When SIS began to speak publicly of finding equality and justice in Islam 20 years ago, a common response was “why bother?” Muslim feminists told us it was a waste of time because religion is inherently patriarchal: for every alternative interpretation SIS could offer to justify equality, mullahs could counter with 100 others. The secularists said it was dangerous as SIS was giving legitimacy to the position of religion in the public sphere. And human rights activists thought it was a losing battle. A feminist working within the religious structure, they argued, would never be recognized as having any authority to speak on Islam. For them, justice and equality could only be fought through a human rights framework.

This decision of so many activists to ignore religion has had undesirable consequences. It has left the field wide open for the most conservative forces within Islam to define, dominate and set parameters of what Islam is and what it is not. They decide what a good Muslim is, they dictate how to be a good Muslim woman, wife and daughter, and then prescribe laws and policies that keep us shackled as second-class Muslims, indeed, second-class citizens. When we protest, they shut us up saying we have no authority to speak about Islam.

Yet, Islam, in their own words, is a way of life. Islam has all the answers. But how can Islam be all this when those who question the orthodoxy are far too often intimidated into silence? How can it be a tenable solution when some quarters are persecuted in the name of religion?

We’ve had enough. This was boldly declared by some 250 activists and scholars from 47 countries gathered in Kuala Lumpur at the 2009 launch of Musawah (‘equality’ in Arabic), the global movement for equality and justice in the Muslim family. The groundbreaking global meeting brought together feminists working with religion, those working within a human rights framework, scholars of Islam and the Muslim world, lawyers, journalists and grassroots activists. All came sharing a common mission to collectively and publicly break the monopoly that authoritarian governments and religious leaders have over how Islam is understood and used to govern their lives.



*February 2009, Kuala Lumpur – Zainah Anwar delivering her welcome speech at the global launch*

At the international level, conference participants served notice to the United Nations and to Muslim governments saying that there would now be an alternative global force led by Muslim activists and scholars. The movement would make it its business to challenge the use of religion and culture to undo advances in human rights and women’s rights language.

For Sisters in Islam, Musawah was in some ways a vindication of a long and difficult struggle to find liberation within our faith and to translate into collective action our belief in a just God. This is the last frontier in the feminist movement – to break the theological stranglehold of the patriarchs that prevent Muslim women from enjoying equal rights.

The message is simple and clear: for justice to be realised in the 21<sup>st</sup> century, there must be equality.

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For too long, Muslim women who demanded reform to discriminatory laws and practices have been told, “This is God’s law,” and therefore not open to negotiation and change. To question, challenge or change would supposedly be against Shari’ah (God’s revealed way), weaken our faith, and lead us astray. We have been accused of being Westernised elites, anti-Islam, anti-Shari’ah, and people who have deviated from our faith. Reports are regularly made against us to the menfolk in our families to keep us under control, to the police and to religious authorities to charge us for insulting Islam and to ban our groups.

To all this we’d like to say: when Islam is used as a source of law and public policy, then all citizens must have the right to speak on the subject whether they are Muslims or non-Muslims, secularists or Islamists, experts or non-experts. Public law and policy must necessarily be open to public debate, and pass the test of public reason.

Oddly, no one demands that you have a degree in political science or economics or social studies before you can talk about politics, economics or social ills. We are deemed qualified to comment simply because we live these realities. But when it comes to talking about Islamic laws, qualifications suddenly become indispensable. We must hold a degree in Islamic studies and we must be able to speak Arabic. Once you’ve jumped through these hoops, a new condition is set: the hijab. And when we wear the hijab, their masterstroke is delivered – they say our ideas are against Islam. We are labeled, “the devil in hijab”.

In a world where women’s rights are considered part of human rights, where modern constitutions of Muslim countries hold up equality and non-discrimination, where the reality is that many women are the providers and protectors of their families – the relentless discrimination found in many Muslim family laws today is unacceptable.

There is a clear disconnect between reality and the family laws that govern us. In most Muslim countries, a man can divorce his wife at will. He can have four wives, whom he can beat with impunity. Women cannot marry without a male guardian’s approval, and they must obey their husbands or lose their right to maintenance. They are not entitled to guardianship of their children even if they have custody over them and act as their sole provider and protector. The list goes on and varies from country to country.

But in 2004 a corner was turned that ushered in new energy and hope. Morocco introduced comprehensive reform of its Islamic family law, changes founded solidly on Islamic teachings and the realities of life today. Marriage is now regarded as a partnership of equals, with equal rights given to men and women. So why can’t other Muslim governments do the same?

Evidently, the problem is not with Islam. It is with the *position* that men in authority take in order to preserve their privilege. Naturally, the easiest and most effective way to safeguard this position is to employ the divine sanctity of God’s will. To conflate patriarchal laws and practices with Islam is nothing more than tactical power play.

While all Muslims accept that the Qur’an is one, it must be recognised that the interpretation of the Qur’an is a human effort and has thus led to diverse opinions. Hence, in Pakistan and Bangladesh, a woman can marry without permission from her father or male guardian, but not in Malaysia or Indonesia. In Malaysia, a women’s role as a wife and mother entitles her to a share of the matrimonial assets, but not in most other countries. In Indonesia, Gambia, Morocco, Senegal, Tunisia and Turkey, men and women have equal rights to custody and guardianship of their children, but not in most other Muslim countries.

What Musawah brings to the table is a rich and diverse collection of interpretations, juristic opinions and principles which make it possible to read equality and justice in Islam, and construe these twin values at national and international levels. It is a vital contribution at a time when democracy, human rights and women’s rights constitute the modern ethical paradigm of today’s world.

With its emphasis on knowledge building, Musawah intends to bring to international attention that there is already a deep shift in perspective in Muslim theological and jurisprudential scholarship. The reform movement is hardly alien to the Muslim tradition, in which family laws have long been adapted to social standards of the time.

This time, however, the leading bearers of much-needed change will be Muslim feminists, working with progressive Islamic scholars. This last frontier will be conquered.

#### **Zainah Anwar and the Editorial Team**

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*BARAZA!* is a resource primarily  
for activists; policy makers;  
academics and students of law,  
Islamic and gender studies;  
and SIS funders and supporters.

It provides:

- \* a focus on contemporary matters affecting Muslims today, especially women's rights in Islam
- \* resources for reference

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## Building Bridges for Musawah

**Juana Jaafar**

It took two years of intensive planning but the launch of the Musawah movement at its first Global Meeting in February far exceeded anyone's expectations. As Musawah Project Director Zainah Anwar said during her welcome speech, "Nothing is more powerful than an idea whose time has come."

About 250 women and men from 47 countries convened in Kuala Lumpur for the event. From varying backgrounds, the participants – activists, policy makers, legal practitioners, scholars and academics – all contributed to the success of the Global Meeting and making the launch of the movement possible.

Organised with careful attention to the spirit of democracy, open discussions took place and diverse views were given space. Feedback from participants was overwhelmingly positive, in particular on the range and depth of the issues covered and the incredible networking opportunity it provided for Muslim women to meet like-minded activists from all parts of the Muslim world, all fighting for equality and justice. The local and international media also gave the event wide coverage.

For years, women's organisations around the world have felt the need to join hands to deal with the resistance and challenge posed by conservative forces within their societies in resisting family law reform or in rolling back the progress made in terms of Muslim women's advancement. In 2003, SIS organised its first international meeting to document and analyse the impact of Islamic extremism on women's rights. The meeting in Bellagio, Italy, brought together activists from Southeast Asia, the Middle East, Iran and Turkey to discuss the legal and social impact of political Islam and the strategies adopted by women's groups to deal with this challenge against women's right to equality and justice.

As Zainah Anwar explained, "At Bellagio, we explored the idea of a 'mini-Beijing' to create an international platform for Muslim women to assert an empowered cultural identity and demand for equality and justice. We felt the need to bring everyone together and create a visible international presence. We also recognised the need to train more women activists on progressive thinking in Islam in the areas of Qur'anic interpretation, jurisprudence and hadith, to better equip them to deal with the use of Islam to resist women's demands for equality."

But it wasn't until 2006 that Musawah started to take shape. In March that year, SIS organised an international consultation in Kuala Lumpur on "Trends in Family Law Reform in Muslim Countries." It was here that SIS' idea for a global initiative was

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first proposed and endorsed by a range of activists and scholars from different countries and contexts.

The participants from nine countries all agreed on the urgent need for organisations around the world that were already working on family law reform to come together to share their knowledge on Islamic family law, women's right to equality in Islam, successful campaigns for law reform and strategies to deal with resistance against equality in the family. The trigger was the success of the Moroccan women's movement in 2004 in pushing for a new Muslim family law that regarded marriage as a partnership of equals. "If they could do it, why couldn't we," asked Zainah. The *Guide to Equality in the Family* produced by the Collectif 95 Maghreb network of women's groups in Morocco, Tunisia and Algeria also provided a

reform with about 100 participants. But by the second day of the meeting, the members realised that what they were actually talking about was building a movement.

"We looked at the Violence Against Women movement as a model, and how some 25 years after it began, more than 60 countries in the world today have laws that make domestic violence a crime. How as an international movement, it developed the analysis to understand all forms of violence against women and gave support to national groups to provide shelter services and share strategies in law reform and awareness raising."

Similarly, the planning committee wanted Musawah to be able to provide theoretical concepts, resources, tools and an

**“Musawah has allowed us to compare our different realities and to celebrate our diversity. What we have done here is to stress our commonalities.**

- Maha Zeinalabdin,  
PeaceWomen Across the Globe, Sudan

model of a holistic four-level approach to family law reform: how to justify equality and non-discrimination at the Islamic, constitutional, human rights and lived realities levels.

Work then officially started for Musawah, though the name itself and the direction of the movement were not conceived until much later. SIS initially felt that this project should be led by an international network for it to be a successful global initiative. But this did not work out, so SIS decided to take responsibility to initiate the movement. As there was universal support for such an initiative from everyone consulted, Zainah and the SIS team set things in motion. A proposal to start organising the first global meeting was sent to Oxfam Novib, which gave SIS a small grant to form and convene an international planning committee for this purpose.

"Because SIS is not an international organisation, the first thing we did was to form an international planning committee of 12 members representing the diverse Muslim world. We invited a mix of scholars and activists SIS had worked with over many years. We knew from the start it was important for us to combine scholarship and activism for this movement to be successful, and for the planning committee to be as inclusive as possible," said Zainah.

The international planning committee comprised members from Egypt, Qatar, Nigeria, the Gambia, Indonesia, Turkey, Morocco, the United States, Pakistan, Malaysia, Iran and the United Kingdom. They had their first meeting in Istanbul, Turkey, in March 2007. Zainah said the initial idea was just to organise an international conference on Muslim family law

action plan to those advocating women's rights in the Muslim family. The approach needed to be a nuanced one, tenable for women living in both Muslim-majority and Muslim-minority countries, women pushing for family law reform and women resisting the backlash against advances they have made.

"We were also clear from the start that we would not prescribe a model Muslim family law. That would be left to the groups at the national level to decide. What we wanted to provide were concepts, tools and arguments that make equality and justice possible within the Muslim family," says Zainah.

The committee members spent almost two years building a foundation for the initiative. They commissioned theoretical papers to provide the basic grounding to understand why reform is possible; developed a Framework for Action and principles to guide Musawah's work; consulted scholars, activists and practitioners from over 30 countries in this process; built a website to promote the principles of Musawah and substantive arguments for family law reform; and planned and organised the Global Meeting to bring activists, scholars and decision-makers together in a common demand for equality and justice.

Like the Violence Against Women movement, Zainah said the idea of promoting justice and equality in the Muslim family was not any one person's idea and is not a monopoly held by one person or group. The work for equality and justice in Muslim family laws and practices has been done for years by organisations and activists around the world, and Musawah is building on this legacy.



The planning committee envisioned a movement that would build knowledge and offer a holistic approach to law reform, with arguments at the Islamic, human rights, legal and constitutional and lived realities levels. Those who have past experience in working on family laws and practices can share their successes, failures and strategies, and anyone with a common mission to uphold justice and equality for Muslim women can adopt and adapt this knowledge to support their work on the ground at the local and national levels.

As a movement, the committee felt it was important that there was a Framework for Action to guide its work, and that this should be drafted in consultation with a wider group of stakeholders. Toward this end, the Global Fund for Women funded a meeting of Qur'anic and *fiqh* scholars and activists in December 2007 in Cairo, Egypt, to develop the theoretical concepts, principles and justifications for why equality in the family is necessary and why it is possible. The scholars presented commissioned papers on why equality is possible through a re-reading of the Qur'an and rethinking of *fiqh* principles to deal with contemporary challenges, and together with the activists developed the principles and ideas for the Framework for Action.

Throughout the following year, 2008, this document was shared with national and international women's organisations, scholars and activists for feedback and further input.

There were challenges of course, Zainah said, as Musawah wanted to be an inclusive movement that would attract both feminists who work with Islam and those who work only with international principles of human rights and women's rights. Some secular feminists were initially apprehensive about the idea of supporting a global movement that engages with religion. They feared their members and networkers would think they were straying from their secular principles and civil society goals.

"There are many women's organisations in Muslim countries that do not see religion and human rights as compatible. But SIS and the planning committee felt it was important for Musawah

to open new horizons for rethinking the relationship between Islam and human rights, and to build knowledge that Islam can be a source of empowerment, not a source of oppression and discrimination. We do not have to choose between religion and women's rights. We can be Muslim and feminist at the same time," says Zainah.

Within the Musawah context, members of the planning committee managed to bridge differences in views between those who chose to advocate human rights within a religious framework and those who were more comfortable with a secular approach.

"Ultimately we are united in wanting the same thing, that is equality and justice for Muslim women. That reason alone was enough to draw support from our secular friends," says Zainah.

Another challenge was the issue of language. As a global movement, Musawah needed to operate in three international languages: English, Arabic and French. Zainah says that part of the reason it took two years for Musawah to formalise was because the major documents and communications had to be carefully translated into Arabic and French so that all women's organisations involved could understand the Framework, theoretical concepts and principles of the movement.

The result was undoubtedly worth the wait. Musawah took off successfully with an unprecedented gathering of Muslim women activists from all over the world. It launched three key publications: the Framework for Action, which was translated into five languages; a book called *Wanted: Equality and Justice in the Muslim Family*, which includes groundbreaking writings by scholars and activists on the possibility and necessity of equality and justice in the Muslim family; and *Home Truths: A Global Report on Equality in the Muslim Family*, which contains summaries of reports from 30 countries on the status of their family laws and practices, the challenges faced and the possibilities for reform. The five-day Global Meeting provided an exciting and stimulating intellectual journey of possibilities for equality and justice with discussion on a wide range of issues from the Qur'an to *fiqh* to gender and human rights, from text to context, from theory and concepts to practice and strategies.

## Framework for Action

Sisters in Islam, together with the 12-member Musawah planning committee comprising activists and scholars from 11 countries, worked for over a year to develop a Framework of Action that would guide the work of the Musawah movement. The Framework is rooted in the principles of Islam, which are held to be a source of justice, equality, fairness and dignity for all human beings. In the course of their discussions, the group consulted with Islamic scholars, academics, activists and legal practitioners from some 30 countries.

### Equality and justice in the family are necessary

The Musawah Framework declares that equality in the family is necessary, as many aspects of current Muslim family laws and practices are unjust and do not reflect the lived realities of Muslim families and individuals.

Most family laws and practices in today's Muslim countries and communities are based on theories and concepts that were developed by classical jurists (*fuqaha*) in vastly different historical, social and economic contexts. In interpreting the Quran and Sunnah, classical jurists were guided by the social and political realities of their age and a set of assumptions about law, society and gender that reflected the state of knowledge, normative values and patriarchal institutions of their time. The idea of gender equality had no place in, and little relevance to, their conceptions of justice.

As the idea that equality is intrinsic to justice began to take root by the early 20<sup>th</sup> century, the world inhabited by the authors of classical jurisprudential texts (*fiqh*) had begun to disappear. But the unequal construction of gender rights formulated in their texts lingered in colonial and postcolonial family laws, merging with colonial influences and negative aspects of local customs. Most of the current Muslim family laws were created through this process, and are therefore based on assumptions and concepts that have become irrelevant to the needs, experiences and values of Muslims today.

Because family laws and practices are interconnected with all other aspects of society, injustices within the family affect women in many other areas, including dignity, personal security, mobility, property, citizenship, nationality, labour rights, criminal laws and political participation.

Many aspects of our family laws, as defined by classical jurists and as reproduced in modern legal codes, are neither tenable in contemporary circumstances nor defensible on Islamic grounds. Not only do they fail to fulfil the shariah requirement of justice, they are now being used to deny women dignified choices in life. These elements lie at the root of marital disharmony and the breakdown of the family.

### Equality and justice in the family are possible

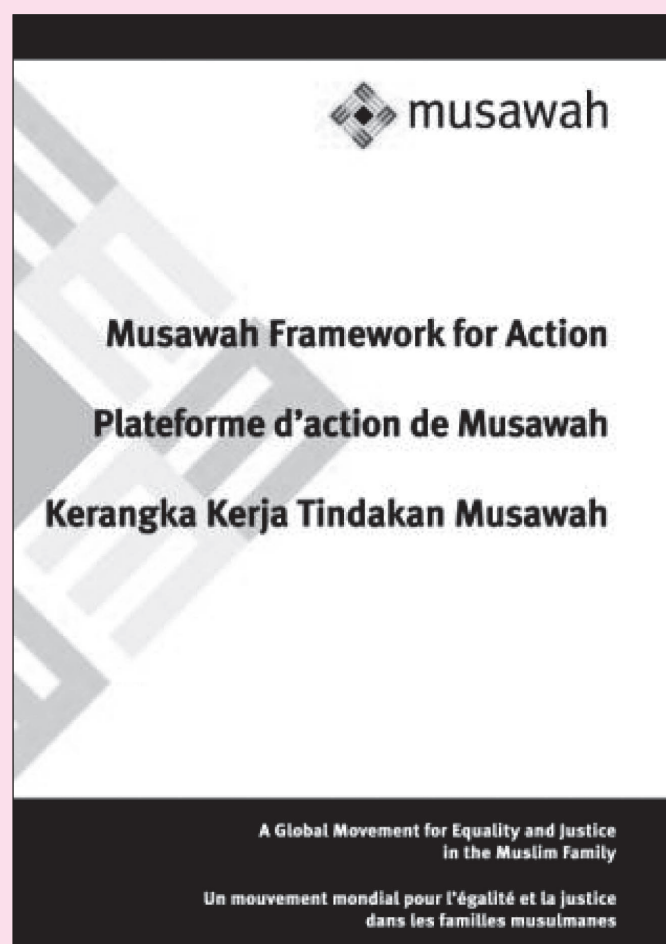
The Musawah movement believes that equality is possible through a holistic approach that incorporates Islamic teachings, universal human rights principles, fundamental rights,

constitutional guarantees, and the lived realities of men and women today.

Quranic teachings encompass the principles of justice (*'adl*), equality (*musawah*), equity (*insaf*), human dignity (*karamah*), love and compassion (*mawaddah wa rahmah*). These principles reflect universal norms and are consistent with contemporary human rights standards. These key Quranic values can guide further development of family laws and practices in line with the contemporary notion of justice, which includes equality between the sexes and before the law.

### Why change is possible?

The possibility of ensuring equality and justice in the family is borne out by several basic concepts in Islamic legal theory:



The Musawah Framework is available to download in five languages via [www.musawah.org](http://www.musawah.org)

- There is a distinction between Shari'ah, the revealed way, and *fiqh*, the science of Islamic jurisprudence. In Islamic theology, Shari'ah (lit. the way, the path to a water source) is the sum total of religious values and principles as revealed to the Prophet Muhammad to direct human life. *Fiqh* (lit. understanding) is the process by which humans attempt to derive concrete legal rules from the two primary sources of Islamic thought and practice: the Quran and the Sunnah of the Prophet. What many commonly assert to be Shari'ah laws are, in fact, often the result of *fiqh* – juristic activity – hence human, fallible and changeable.
- There are two main categories of legal rulings: *'ibadat* (devotional/spiritual acts) and *mu'amalat* (transactional/contractual acts). Rulings in the *'ibadat* category regulate relations between God and the believer, and therefore offer limited scope for change. Rulings in the *mu'amalat* category, however, regulate relations between humans, and therefore remain open to change. Since human affairs constantly evolve, there is always a need for new rulings that use new interpretations of the religious texts to bring outdated laws in line with the changing realities of time and place (*zaman wa makan*). Rulings concerning the family and gender relations belong to the realm of *mu'amalat*, which means that Muslim jurists have always viewed them as social and contractual matters which are open to rational consideration and change.
- Laws or amendments introduced in the name of Shari'ah and Islam should also reflect the values of equality, justice, love, compassion and mutual respect among all human beings. These are values and principles on which Muslims agree and which Muslim jurists hold to be among the indisputable objectives of the Shari'ah. In the words of Ibn Qayyim al-Jawziyyah, the seventh century AH / 14<sup>th</sup> century CE jurist, "Shari'ah embraces justice, kindness, the common good and wisdom. Any rule that departs from justice to injustice, from kindness to harshness, from the common good to harm, or from rationality to absurdity cannot be part of Shari'ah, even if it is arrived at through individual interpretation."
- Diversity of opinion (*ikhtilaf*) is a basic concept that has always been a part of *fiqh*, even after the formal establishment of schools of law. There is not now, nor has there ever been, a single, unitary "Islamic law". The very existence of multiple schools of law, let alone the dozens of Muslim family laws in different countries today, attests to the fact that no one person, group or country can claim there is a unified, monolithic, divine Islamic law over which they have ownership. Within the context of the modern state, we must recognise and engage with this diversity of opinions to determine how best to serve the public interest (*maslahah*) and meet the demands of equality and justice.

## Musawah Global Meeting

The Musawah Global Meeting was more than just a forum of ideas – it was also a multi-dimensional five-day celebration of the arts, activism and collaborative discourse.

On the evening of 13 February 2009, scholars and activists from around the world gathered in Kuala Lumpur for a "Feast of Equals" gala dinner that opened the inaugural Musawah Global Meeting. Over the next five days, the meeting would prove to be a forum of provocative ideas and debate, a fact that was hinted at by the memorable events of the gala dinner.

The night kicked off with a stirring musical performance by Rhythm in Bronze, a largely female and multi-ethnic *gamelan* group from Malaysia. Musawah Project Director Zainah Anwar followed with a speech that contextualised the need for the Musawah movement, after which the Advisor to the Malaysian Prime Minister on Muslim Women and Social Development, Dato' Sri Shahrizat Abdul Jalil, warmly welcomed everyone who had come to participate in the landmark meeting.

Shahrizat then launched the movement's first three books: *Framework for Action*, which provided an overview of Musawah's principles; *Wanted: Equality and Justice in the Muslim Family*, which made a stand for equality in the family using Quranic, jurisprudential, historical and sociological arguments; and *Home Truths: A Global Report on Equality in the Family*, which collated news and information about equality in the family from 30 countries.

As the night drew to a close, the lights in the ballroom darkened to set the stage for a shadow play and spoken word performance entitled "From Darkness to Light". Silhouettes danced across the walls as the voices of men and women told stories about the challenges that Muslim women must face every day. Led by creative director Ann Lee, the performance then segued into an uplifting six-minute video that explored recent developments in family law around the world, and how the contemporary fight for gender justice is rooted in Islam's progressive stand on women's rights.

That empowering opening night energised everyone for the next four days of intense learning, sharing and discussion of new ideas and new strategies, which were spread out over eight plenary sessions and four breakouts offering a total of 18 parallel workshops and group work.

At the first plenary session on 14 February, entitled "Equality in the Family is Necessary", the proceedings began with an opening speech by Zainah that introduced the Musawah movement and the objectives of the global meeting. Yakin Ertürk, the United Nations Special Rapporteur on Violence Against Women, then delivered a keynote address that focused on how culture enriches our lives, but is also used to undermine the rights of women, particularly in Muslim communities. To establish a global context for Musawah, Kamala Chandrakirana (Indonesia) presented on why equality in the family is necessary given the growing disconnect between the realities of women's lives today and the discriminatory laws that govern us.

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In her opening speech to introduce Musawah as a global movement to the participants, Zainah Anwar said what Musawah hopes to bring to the larger women's and human rights movement is this:

- An assertion that Islam can be a source of empowerment, not a source of oppression and discrimination.
- An effort to open new horizons for rethinking the relationship between Islam, human rights, and equality and justice.
- An offer to open a new constructive dialogue where religion is no longer an obstacle to equality for women, but a source for liberation.
- A collective strength of conviction and courage to stop governments and patriarchal authorities, and ideological non-state actors from the convenience of using religion and the word of God to silence our demands for equality, and
- A space where activists, scholars, decision makers, working within the human rights or the Islamic framework, or both, can interact and mutually strengthen our common pursuit of equality and justice for Muslim women.

In a departure from convention, the plenary ended with a lively talk show [discussion] entitled "What Injustice?", moderated by Rafidah Abdullah (Malaysia). The panel of speakers – Rangina Hamidi (Afghanistan), Amal Abdel Hadi (Egypt), Isatou Touray (Gambia), Nani Zulminarni (Indonesia), Maha Yamani (Saudi Arabia), Shaista Gohir (United Kingdom) – collectively examined how and why Musawah is needed to address the absence of equality in the Muslim family in the modern world.

The second plenary session focused on the theme of "Equality in the Family is Possible", and featured presentations by Cassandra Balchin (United Kingdom) and Amira El-Azhary Sonbol (Egypt) on the strategies that women's groups have used to fight for justice and equality in the family across the world and the historical development of personal status codes in Egypt and countries in similar legal and social contexts.

Amina Wadud (United States), Muhammad Khalid Masud (Pakistan) and Ziba Mir-Hosseini (Iran), three key Musawah scholars, were featured in the third plenary session where they collectively explored why equality in the family is possible from an Islamic perspective. Through a discussion moderated by Norani Othman (Malaysia), the speakers also provided a contextual understanding of how social, cultural and political factors have influenced the interpretation of religious texts and the development of Muslim laws. Once the session was opened to the floor for questions, a spirited and occasionally heated debate ensued over the tension between Islamic feminism and secularism, giving participants a clearer insight into the many perspectives that have to be engaged in the quest for gender justice.

Also featured in the schedule was the global meeting's first breakout session, which was an opportunity for participants to

meet in smaller, more informal groups, and exchange views on the role that Musawah could play in their respective countries.

This was also the first day the Musawah Young Women's Caucus met over the lunch period, which they continued to do during the remaining days of the Global Meeting. The Caucus, made up of a group of young women who sought to further their involvement and knowledge of an Islamic and human rights-based approach to equality and justice in the family, discussed a range of issues such as freedom of choice, identity politics, and how they should position themselves within a feminist/women's rights activist and Muslim framework.

A number of events also unfolded outside of the meeting's already packed schedule – in the evenings after dinner, for example, many participants chose to attend informal screenings of an international slate of films which touched on themes relevant to Musawah, including two award-winning films, *Divorce Iranian Style* and *Berbagi Suami*, an Indonesian film on polygamy. More than one night was also marked by impromptu dancing, in hastily-arranged spaces in the hotel for participants to celebrate new alliances and the breadth of their cultural backgrounds.

The second breakout session opened day three's proceedings, providing participants with a choice of seven simultaneous workshops that provided an avenue for more in-depth engagement with scholars on issues related to the Quran, *fiqh*, *tafsir*, and women's rights. With provocative and stimulating titles such as *Beyond Text: From Misogyny to Equality*, *The Legal and Social in Shari'ah, Text and Context*, and *The Quran and Ideology of Revelation*, participants had a tough time deciding which session to attend and which scholar to engage with.

The proceedings continued with a fourth plenary session, entitled "Religion and Feminism", featuring Madhu Mehra (India), Deena Hurwitz (United States), Bhikkhuni Dhammananda (Thailand) and Frances Kissling (United States). Each speaker addressed the issue of gender discrimination and women's activism from their respective faith traditions – Hinduism, Judaism, Buddhism and Catholicism – and there was much laughter in the hall as some of the women related personal stories and anecdotes to illustrate their points. It was empowering for the Muslim women to know that their struggle for gender equality and the frustrations they faced were shared by women of others faiths as well. Frances drew loud applause and laughter when she likened the work of women activists to the oyster and the pearl. A pearl, which is a precious, beautiful thing, is created as a result of irritation – the sand getting into the shell and itching and rubbing for 20 years. "So we are all the millions of grains of sand who are creating the future," she said.

The fifth plenary session centred on the theme of "Successful Campaigns and Strategies for Reform". Amina Lemrini (Morocco), Pinar Ilkcaracan (Turkey), Roya Rahmani (Afghanistan) and Imrana Jalal (Fiji) shared the experiences of groups whose efforts to achieve gender equality within



conservative contexts led to groundbreaking legislative reform in their home countries. The ensuing discussion with the audience also touched on the strategy of working with allies within the State and the challenges of implementation and changing mindsets in the wake of law reform.

To develop the global perspective further, the sixth plenary session reviewed the work of international networks and organisations to promote women's right to equality in Muslim families. Participants listened to the case histories of the Women's Islamic Initiative for Spirituality and Equality (WISE) from Daisy Khan; Women Living Under Muslim Laws (WLUML) from Zarizana Abdul Aziz; Women's Learning Partnership (WLP) from Rakhee Goyal; the Coalition on Sexual and Bodily Rights in Muslim Societies (CSBR) from Pinar Ilkharacan and Ahlem Belnadj; and the United Nations Population Fund (UNFPA) from Azza Karam.

That night, Datuk Seri Ahmad Zahid Hamidi, Minister in the Malaysian Prime Minister's Department in charge of religion, hosted a dinner at the nearby Seri Melayu restaurant. With its featured buffet of Malay cuisine and a traditional dance show, the dinner was an opportunity for all participants to catch a glimpse of their host country's diverse cultural identity.

A third breakout session opened the fourth day of the Global Meeting, giving participants a selection of 11 roundtable discussions to choose from. Ranging from exploring a holistic approach to justifying equality and justice in Muslim family law advocacy, to using information technology as a tool for social change, the roundtables offered a more intimate space in which participants could share diverse strategies and experiences in pursuing gender justice.

In between sessions, many in the gathering would spend a few minutes huddled in the corners of the foyers to network with one another over a cup of coffee. Others chose to visit the marketplace where stalls were set up to sell items such as books, shawls, and handicrafts from Asia, Africa and the Middle East. One of the more popular outlets was Gerai OA, which carried Orang Asli and Orang Asal or indigenous craft from ethnic groups in Malaysia. All money from the sale of these handmade works were redirected back to the communities they were sourced from.

When the gathering reconvened after lunch, a new slate of speakers presented ongoing research projects that groups around the world were pursuing in the area of family law. Masjaliza Hamzah of Sisters in Islam (Malaysia) spoke about a national study on the impact of polygamy on the family, while Mohammed El Ayadi of the Association Democratique des Femmes du Maroc (Morocco) discussed a survey on how people have circumvented Muslim inheritance rules. Vivienne Wee of the Women's Empowerment in Muslim Contexts (WEMC) shared the research methodology and structure that WEMC is using to learn about and promote women's empowerment in Pakistan, Iran, Indonesia, and China. Finally,

Shareen Gokal from the Association for Women's Rights in Development (AWID) discussed the group's research into resisting and challenging religious fundamentalisms.

The day ended with the meeting's eighth plenary session, which revolved around a panel discussion of the relationship between religious and customary laws and guarantees of equality and non-discrimination in constitutions and international human rights law. The panel, which saw presentations from Mahnaz Afkhami (Iran), Rashida Manjoo (South Africa), Alia Hogben (Canada) and Shanthi Dairiam (Malaysia), also discussed the different dimensions of secular versus religious approaches, religious freedom and the conflict between the CEDAW convention and conservative understandings of Islam that discriminate against women.

On the last day of the meeting, participants began by breaking up into 11 groups to discuss the Musawah movement, how it can be developed and sustained in different regional contexts and make an international impact, and how it can meet the needs of activists on the ground. Representatives from each group then met to collate the participants' responses to these questions, which were then presented and discussed in plenary.

The Global Meeting's closing session began with a report on the way forward for the movement, synthesised from the feedback of all 11 groups from the day's earlier breakout session. An array of suggestions were presented for an action plan to move Musawah forward in the areas of knowledge-building, movement building at the national and regional levels, awareness raising, alliance building, and international advocacy of UN treaty bodies and regional groupings. The organisers also officially launched the resource-rich Musawah website and screened a closing video which captured comments from participants and highlights from the events of the historic five-day Global Meeting.



*February 2009, Kuala Lumpur – Members of the Musawah Community enjoy song and dance*

## Muslim Family Law Reform Worldwide

### BAHRAIN

1. The July 2009 family law, also a guideline for the Shari'ah courts, outlaws forced marriage and allows women to prohibit their husbands from taking additional wives. It also enables women to escape abusive marriages by not requiring witnesses to prove cases of domestic violence.

2. Women from the majority Shi'ite community, however, still face discrimination as community leaders have refused to allow the law to be applied to them for fear that civil law might supersede Shari'ah law. Thus, Shi'a women may only divorce their husbands at a heavy financial price.

### PAKISTAN

1. There have been various attempts to amend the Muslim Family Laws Ordinance 1961. Under the Ordinance, a man who fails to secure his wife's approval to marry another faces only weak punishment, and the marriage remains valid even without the wife's consent.

2. The 2002 amendments to the Family Courts Act, however, make *khul'* (divorce initiated by women) easier.

3. These amendments and the 2006 Protection of Women Act demonstrate that civil society activism can encourage the Government to initiate change. (I'm not sure if you'd want to include this or not, but the latest we reported about Pakistan was an amendment to the criminal law: The Prevention of Anti-Women Practices Act 2011 was passed unanimously by the National Assembly in November 2011. It deals with issues such as depriving women their inheritance and forcing them into marriage to settle disputes.)

### MOROCCO

1. The Moroccan Family Code (Moudawana) was comprehensively reformed in 2004. It set the minimum age of marriage at 18 for both women and men, stipulated that spouses have equal rights and duties (including financial rights and marital properties), abolished women's duty to obey their husbands and introduced new types of divorce to allow women to instigate divorce cases. Polygamy is allowable only upon judicial agreement that the case meets the Code's conditions.

2. However, ambiguities within the code have left women vulnerable to the rulings of traditionalist judges reluctant to support women's rights. Some reports reflect the continuation of underage marriages, particularly in rural areas.

Constitutional reforms passed in 2011 included greater recognition of gender equality and prohibition of gender-based discrimination.

### MALI

1. In August 2009, the Government adopted a progressive family code which women's groups had campaigned extensively for. It sets the minimum marriage age for men and women at 18, grants inheritance rights to girls and removes women's duty to obey their husbands.

2. However, after violent nationwide protests by traditionalists who saw the code as a betrayal of "African values", President Amadou Toumani Touré refused to sign the bill and sent it back to Parliament for further review. The latest on this is that the parliament struck down the bill. Women's groups are concerned about regressions in relation to women's rights and equality and intensifying forces of traditionalists.

3. Mali's 1962 Code of Marriage and Guardianship, which allowed women to object to a polygamous relationship and to own property, was fairly progressive for its time. However, it fails to address a vast number of issues, such as widow inheritance and domestic abuse, which the Malian Penal Code does not account for.

### NIGERIA

1. The Women's Rights Advancement and Protection Alternative (WRAPA), a non-governmental organisation (NGO), drafted a Bill to encourage a fuller implementation of CEDAW. They also engage both progressive and conservative religious leaders to ascertain the needs of Muslim communities and tackle issues in Muslim family law, such as forced marriage and post-divorce maintenance.

2. Some signs of progress are: in Yola, a judge annulled a child marriage after accepting that the child's consent had not been obtained, and in Jigawa, the state government decided to fund training sessions for the judiciary to broaden their knowledge of Muslim women's contemporary needs.

### UNITED KINGDOM

1. Married Muslims enjoy the same rights as other married couples, provided that they wed in a mosque registered as a place of civil ceremony.

2. However, many Muslim marriages are unregistered *nikahs* which do not provide Muslim women with the same legal rights as other married women, particularly with regards to polygamy (which is banned) and divorce. Many Muslim women in the UK believe these marriages to be "more Islamic" than official marriages.

3. The Forced Marriage (Civil Protection) Act of 2007 allows courts to prevent forced marriages, punish the perpetrators, and intervene to help those already in forced marriages.

In 2008, leading UK Islamic organizations and clerics adopted a Shari'ah law-based marriage contract that guarantees women equal rights in marriage and divorce and allows for stipulating enforceable terms and conditions.

### TURKEY

1. In its original form, the Turkish Civil Code banned polygamy and granted women equal rights in divorce. However, it also defined the man as the head of the union between husband and wife.

2. Campaigning by more than 120 women's groups led to amendments in 2001, after which the Code defined the family as an entity based on an equal partnership between spouses. Article 41 of the Constitution was also amended that year to redefine the family as an entity "based on equality between spouses".

3. These amendments, along with changes made to the Penal Code protecting against domestic abuse, demonstrate that family law reform in Turkey has been fairly comprehensive compared to other Muslim-majority countries. Further review is needed, however, to address discrimination on the basis of gender, honor killing, and virginity testing, which are yet to be criminalised.

Lately, there was a bid by the government to restrict abortion that resulted in national and international protests and the bid was then dropped.

## INDONESIA

1. Indonesia's 1974 Marriage Law has various stipulations which discriminate against women, such as a lower minimum marriage age.
2. The Government is considering changes to family law in the form of the Draft of the Substantive Law of the Religious Courts – Marriage Section. However, this does not sufficiently address gender discrimination in the family. For example, *khul'* would still be subject to men's approval, and the courts could continue to grant polygamous marriages without the wives' consent.

3. The *Kompilasi Hukum Islam* (Compilation of Islamic Laws), as a guideline for religious courts, stipulates among other things that marriage is a contract between the groom and the father of the bride.

At the 52<sup>nd</sup> CEDAW Session in July 2012, the CEDAW Committee expressed its disappointment with the lack of progress in Indonesia since its last review session. The Committee's recommendations included: 'Repeal, within a clear time frame, all discriminatory laws against women... and repeal, in particular, discriminatory provisions of Marriage Law No. 1/1974'

## IRAN

1. After the 1979 Revolution, many provisions under the Family Protection Law 1967 which protected women, such as by restricting polygamy and increasing the minimum age of marriage, were repealed.
2. The Guardian Council resisted Parliament's approval to ratify CEDAW, and a Bill that would have improved women's rights during Mohammad Khatami's presidency (1997–2005) was not presented to Parliament.
3. In 2008, Mahmoud Ahmadinejad's administration proposed a Family Protection Law that eliminated the requirement for wives to consent to their husband's subsequent marriage and the requirement to prove sufficient financial resources. Unprecedented opposition eliminated this provision. Strong opposition has repeatedly delayed consideration of this Act.
4. Significant changes in favour of women have taken place, such reforms giving automatic custody of children under the age of seven to mothers and inheritance law reforms entitling widows to a share of their husband's immoveable property. However, these reforms have been piecemeal and limited.

Lately, there's been international uproar as a result of a controversial proposal to decrease women's minimum age of marriage to 9 years old. The number of child brides under age 15 is already increasing. The Expediency Council ruling of 2002 allows girls below 13 and boys below 15 to wed with their father's consent and the permission of a court.

## TUNISIA

1. Tunisia is widely considered to be a standard-bearer for women's rights in Muslim countries, with laws that prohibit polygamy and unilateral divorce by the husband. Women are allowed to initiate divorce, and are equal marriage partners to men.
2. Many women, however, still experience injustice due to inheritance laws that adhere to the Quranic injunction stipulating that males receive twice as much as females. Stop-gap measures allowing married couples to hold properties jointly have not addressed the problem fully, prompting women's groups to campaign for reform.
3. In 2010, however, a public debate erupted over a call to re-legalise polygamy as an "Islamic solution" to social problems such as extramarital affairs and unhappy spinsterhood.

Currently, the post-revolution committee that's reviewing the constitution spurred wide protests against the language used in the draft constitution (e.g. the use of 'complement' to describe the relationship between women and men rather than 'equal' the way it was in the previous constitution). Women's groups and individuals oppose regression on women's rights and full equality in the suggested language of the draft constitution.

## EGYPT

1. The most notable reforms of Egyptian Muslim family law took place in 2000 when the Procedural Personal Status Law was passed and granted women the right of *khul'*, and in 2004 when a court system specifically for family matters was established.
2. The nationality law reform in 2004 also granted Egyptian nationality to children whose Egyptian mother is married to a foreigner.
3. CEWLA, a Cairo-based women's NGO, has trained over 70 religious leaders on issues with the current personal status law, proposed changes in the draft law, and the need to allow *ijtihad* (independent reasoning) to develop a more just law reflecting contemporary realities in Egyptian society.

The post-revolution constitutional committee is currently drafting a new constitution and the draft includes new language that may be problematic such as a clause guaranteeing women's equality except where it violates Shari'ah.

Also, after the revolution, some groups called for the repeal of the *khul'* law and for changes in custody laws that would favour men.

## SINGAPORE

1. Singapore has two separate laws that govern marriage and divorce: the Muslim Law (legislated under the Administration of Muslim Law Act (AMLA)); and the Women's Charter (civil law) for non-Muslims. With regards to issues of maintenance during marriage for the wife and her children and protection from domestic violence, a Muslim woman has the choice to either apply to the Shari'ah Court or to the civil Family Court. In divorce settlement cases, a Muslim woman can apply for leave from the Shari'ah Court to have her case settled at the Family Court, unless her husband also agrees to have the matter settled at the latter then a leave from the former is not required.
2. At CEDAW's 49<sup>th</sup> session in July 2011, Singapore's report reflected several positive developments in relation to Muslim women and Shari'ah law. The developments included raising the minimum marriage age from 16 to 18 years for Muslim females. Several women were appointed to top Islamic authority positions such as the Syariah Appeal Board, the Registrar of the Syariah Court, and Islamic Religious Council of Singapore. Moreover, fatwas were issued to help align Shari'ah law with civil law such as fatwas on joint tenancy and marital properties. However, shadow reports called for more measures to ensure equality such as banning polygamy and unilateral divorce and repealing the requirement of the consent of a *wali* for women to marry.



## Musawah Young Women's Caucus: Same Issues, Different Battles

Hadil El-Khouly

The Musawah Young Women's Caucus (YWC) is a group of young women from the ages of 18 to 35 who attended the 2009 Musawah Global Meeting to further their activism, knowledge and interest in an Islamic and human rights-based approach to equality and justice within the family.

The objective of the Caucus is to shape the movement into an intergenerational one, where the integration of young women becomes an across-the-board, long-term approach adopted by NGOs participating in Musawah. The Caucus also works to ensure that young women are visible and strong participants in Musawah, seeing it as a place where they can contribute and gain knowledge and skills.

During the Global Meeting, 30 young women representing the Middle East and North Africa, Central/West Asia, South East Asia, South Asia, and Sub Saharan Africa met for a full-day pre-meeting and daily over lunch to discuss Musawah, various sessions and topics that arose in the Global Meeting, and, most of all, their lives and experiences as young Muslim women. Musawah planning committee members were also invited to share information about Musawah or stories from their own personal and professional experiences.

The daily discussions explored the personal and professional struggles of young women in promoting women's rights in Muslim contexts. Issues included freedom of choice, identity politics and how these young women position themselves within a feminist/women's rights activist, Muslim framework. Caucus participants also reflected on how this affected their activism, whether externally or within the women's rights movement.

When talking about the relation between their activism and personal lives, a number of young women explained that increased polarisation in religious discourse – between and among activists and in society in general – has led them to develop multiple selves. Given the diversity of people they are involved with, they often keep their activist identity outside their social circles. To carry out their work and yet continue with their activism and their place in the general women's movement, they were choosing the right information about themselves to share with others.

Some participants also touched on the experience of being a young activist and the implication it had on their work. The intensity of issues they deal with already made them feel old at heart, particularly in war contexts. Gaining recognition also proved a challenge – as one participant explained: “Sometimes I wish I had white hair because this seems the only way for a woman to get respect for the work she is doing”.

Many also talked about the effects of their activism on their families and how their family lives featured in their activist work. For many, championing women's rights in Islam was a natural development of their personal struggles at home, which also led them to question what was religious and what was cultural. Participants spoke about how issues they dealt with at work would mirror their home situations, especially with regard to freedom of choice, marriage, guardianship and divorce. A few described how their families stood up bravely to support their daughters' activism and personal choices, even if it meant censure from the community – some fathers, for example, insisted on having their daughters sign their own marriage contracts instead of signing on their behalf as their guardian, as is usually the practice.

But other participants noted that family support had its limits, especially if it had to do with marriage. As one young woman said: “My father supported me, but was never proud of me until I got married and unless I got married.”

Throughout the Caucus, young women also reflected on how they became activists, the philosophy behind their choice, and how Islam featured in it for them. Countering imposed perceptions of Muslim women and Islam influenced many in their activism and personal choices. A Lebanese woman explained: “It became a mission for me to change the perception that Muslim girls must stay home; instead I wanted to emphasise the perception that Muslim women can practise her religion and work. In my career I have a duty to show the real image of my religion”.

The discussion also went into imposed perceptions *within* the women's rights movement. Some felt that a woman's freedom of choice was conditional: certain positions were only endorsed if they were generally perceived among feminists as “acceptable choices”. Hence, a participant argued: “We should not discriminate against those who wear hijab in the same manner as we should not discriminate against those who do not veil”.

### Other topics discussed were:

#### Fighting against oppression

Some saw this not just as a catalyst for activism, but as a duty for Muslims. One woman said, “While I'm tired of people telling me that I'm a bad Muslim, I think I would be an even



“We have many women leaders but the problem is that their interpretation of the Qur’an is what the religious men tell them. This has got to change first.

- Djingarey Maiga,  
‘Femmes et Droits Humains’, Mali

”

worse Muslim if I didn’t fight for the rights of Muslim women. By default, I have become an Islamic feminist.”

### Islam features in our lives – therefore it features in our activism

A number of women also said that Islam could not help but feature in their activism because their lives and the lives of so many women are invested in Islam. Equal rights, they argued, needed to be guaranteed for women who believe in Islam as a purely secular approach would risk isolating them.

### Understanding the spirit of Islam

Some participants rejected a dogmatic view of Islam. They felt far more able to exercise their activism in a Muslim context by applying a different understanding of Islam, that of discerning the *spirit* of the religion. A participant cited a well-known hadith which states that “there will be a time for women to travel without fear”. She took this to mean that the right to travel changed according to historical circumstances and timing.

### Education

For a large number of participants, education played a key role in locating their activism within a Muslim context. Young women advocated strongly for education to reduce the problem of child marriages. Some had, conducted higher academic studies to learn more about Islam, while others explained they felt empowered in their activism through the exposure they enjoyed when studying abroad. Caucus attendees were also keen on interacting with Musawah participants and making their feedback known.

### Women interpreting the sacred text

A number of young women felt the conference helped break the taboo of a woman’s engagement with the Quran. One said that women were always made to feel inferior when interpreting

the Quran, but the Musawah Global Meeting reclaimed that right and so helped ensure justice and equality for women.

### Interfaith panel

Participants valued the interfaith panel. They appreciated the opportunity to learn about the reconciliation of women’s rights with other faiths and to find out more about other religions

### Social aspect of discrimination versus legal discrimination

An important perspective that emerged was balancing social discrimination against Muslim women with the legal discrimination theme of the conference. Many young women felt the need to discuss discrimination that started in the family, society, the workplace and educational institutions. As one participant said, “Not all of us are directly influenced by the law, but all of us are affected by discriminatory practices and traditions”.

### Acknowledgments:

The idea of having a young women’s caucus in Musawah came out of the 2008 Association for Women’s Rights in Development (AWID) Forum, at a meeting between Musawah and AWID’s Young Feminist Activism (YFA) programme managers. Musawah recognised that young women’s voices and unique experiences needed to be present in a global movement that addressed women’s rights to equality and justice in Muslim contexts. AWID’s YFA programme provided technical support with regard to organising strategies suitable for young women.

As Musawah’s Young Women’s Caucus coordinator I would like to thank the following for their invaluable input and support: Sanushka Mudaliar (AWID), Asma’u Jouda, Jana Rumminger, Zainah Anwar, Kamala Chandrakirana, Cassandra Balchin, Marwa Sharaffeldin, Andrei Xydas, Sufiah Mansuridin, Nazreen Nizam, Sulaf Taha, and Engy Ghozlan.

To learn more about the Musawah Young Women’s Caucus contact the YWC via [musawah@musawah.org](mailto:musawah@musawah.org).

# The Musawah Journey

Meghana Bahar

## Voices rising

**M**usawah seeks to reclaim the spirit of equality and justice within Islam. This we observe to be compatible with international human rights standards. We reveal the injustices that arise from patriarchal customs and laws. These we consider to be based on interpretations that serve to benefit an influential minority. We highlight Muslim women's lived experiences and help amplify their voices. This we believe is important towards legitimising women's perspectives. We offer alternatives developed through new understandings of Muslim jurisprudence, laws and practices in ways that are responsive to women's needs. These we confirm are in harmony with Islamic teachings and human rights standards.

The women that are part of our movement are free to locate their activism, their feminism, and their demands for equality and justice in Islamic and/or human rights frameworks. They can choose how to emphasise different approaches in their advocacy strategies based on their specific needs and contexts. The women, and men, that commit to Musawah passionately believe and urgently call out that the time for equality and justice is now.

## An organic process

It has been over three years since the official launch of Musawah at the first Global Meeting in February 2009. As a movement of groups and individuals from diverse and changing contexts, our collective understanding of Musawah is an organic process. We have opened up spaces where activists, who we call Musawah Advocates, can interact, exchange information, and mutually strengthen a common pursuit of equality and justice in the Muslim family. We have provided support for national, regional, and international women's rights initiatives by raising their visibility and strengthening the voices of all those who have been marginalised. Led by Muslim women, but open to women and men from all religions and beliefs, Musawah continues to build a supportive constituency of Muslim women and citizens with the knowledge and confidence to participate in and shape the discourse on Islam and women's rights in public and private spaces. Our sense of unity and common purpose makes us a dynamic, unstoppable force for equality and justice in Muslim families in all of their multiple forms.

## The Musawah community

While women and men of all religions and beliefs have joined the movement, Musawah is led by Muslim women. This is a reflection of women's particular need for equality and justice in the family and highlights Musawah's efforts to show that this is possible within Islam. The Musawah community consists of Musawah Advocates, allies, Affinity Groups, Working Groups, the International Advisory Group and its Steering Committee, the Musawah Secretariat, and everyone who has a stake and

is actively involved in Musawah's work. Together, we seek to provide knowledge resources, information, and links that can support those working to ensure equality in family laws and practices in diverse contexts. This includes contexts in which laws and practices are codified or uncoded, secular or religious, whether they apply only to Muslims or affect people of different religions and beliefs. Musawah is a movement for all who share Musawah's principles and vision for change – a world where equality, non-discrimination, justice and dignity are the basis of all human relations.

## Is Musawah growing?

As a movement, Musawah is still in its early stages. In order to keep ourselves on the right track in the long, challenging but exciting journey towards equality in the family, we identified some key indicators at our Strategic Direction Meeting in February 2011, three of which are outlined here:

### ***1. Musawah language and concepts are used more frequently in mainstream discourses.***

At the launch of Musawah in February 2009, we unveiled the Musawah Framework for Action (in English, Arabic, French, Persian and Bahasa Malaysia), *Wanted: Equality and Justice in the Muslim Family* (in English and French), *Home Truths: A Global Report on Equality and Justice in the Muslim Family* (in English and Arabic), and the Musawah website. In October 2009, the Communications Advisory Group met and developed the Musawah Communications Strategy and a list of key messages. In October 2010, Musawah resource persons conducted seminars on the Musawah Framework and on Islam and women's rights for the CEDAW Committee, OHCHR staff, and Geneva-based human rights NGOs in Switzerland. Our groundbreaking report, *CEDAW and Muslim Family Laws: In Search of Common Ground* (in English) was launched in January 2011. A one-day seminar for members of human rights and women's commissions in Asia and for staff of United Nations regional offices took place in Jakarta in July 2011, again, introducing Musawah and our work on Islam and women's rights. A two-week Short Course on 'Understanding Islam from a Rights Perspective' was held in Malaysia and was attended by 24 women leaders and activists from 17 countries. This was followed by a three-day compressed version of the Course held in Egypt for activists involved in family law reform. In March 2012 a new Musawah website, stronger and more robust than the previous one, was launched and is on its way to become the resource hub for all things related to Muslim family law.

To this day, the Framework for Action and Musawah Key Messages tend to be the most quoted in promoting the message that equality is necessary and possible. They are extensively used by activists on the ground towards strengthening their

advocacy efforts. *Wanted and CEDAW and Muslim Family Laws: In Search of Common Ground* are now available in Arabic because of a growing demand by activists working in the MENA region. *Wanted, Home Truths*, and the CEDAW report are available on the Musawah website and are the three resources that are subjected to the most number of downloads on a frequent basis. Musawah Advocates also quote from our resources at meetings with policy makers and funders, include our resources in academic reading lists and spread our key messages at public events. Musawah has also been quoted and referred to in speeches by public figures such as Mary Robinson (former President of Ireland), Navanethem Pillay (UN High Commissioner for Human Rights) and Yakin Erturk (former UN Special Rapporteur on Violence against Women). Slowly, but surely, heads are turning.

## ***II. Musawah Advocates are empowered to speak out and can publicly uphold strong positions in the face of resistance.***

The effective use of Musawah language, advocacy strategies, and support continue to assist Advocates to speak out publicly on family laws and practices that discriminate against women. Advocates who are already speaking out are able to maintain their positions in spite of tough resistance and opposition by state actors and religious authority figures. They are being recognised for their efforts locally and internationally. Musawah Advocates in Gambia, GAMCOTRAP and the visionary Isatou Touray, who is also a member of the Musawah International Advisory Group (IAG), continue to fight fearlessly against female genital mutilation and other discriminatory practices. Dr Touray has won the Africa Gender Award 2011 by FAMEDEV for her tireless commitment toward women's human rights. In Malaysia, Musawah Advocates Sisters in Islam (SIS) continue to make waves in challenging patriarchal authorities and their use of Islam to justify discrimination against women. Recently, SIS was awarded the Casa Asia Award by the Spanish government in recognition of its efforts to promote women's human rights within Islam. SIS co-founder and Musawah Director Zainah Anwar was named by DailyBeast and Newsweek as one of 150 women who 'shake the world' (2011), whilst also being in Women Deliver's 100 most inspiring people list (2012).



*November 2011, Barcelona – Ratna Osman and Zainah Anwar accept the Casa Asia Award on behalf of SIS*

Musawah Advocate, Alia Hogben, of the Canadian Council of Muslim Women (CCMW) recently received the Order of Canada, the highest accolade from her nation, for her dedication in upholding the rights of Muslim women in her community. She has been outspoken in challenging the terminology 'honour killings' during the high profile Shafia murder trials in Kingston stating that the correct term would be 'femicide'. Egyptian-American journalist Mona El-Tahawy, who is a former member of the Musawah Communications Advisory Group, has always been an outspoken and daring critic of Egyptian authorities, including the military and the new Islamist government. The former head of the Indonesian Women's Human Rights Commission (KOMNAS-Perempuan), Kamala Chandrakirana, also a member of the Musawah IAG, is currently the first Chair of the United Nations Working Group on Discrimination against Women in Law and Practice.

## ***III. The Musawah community is strong, active and recognised.***

Musawah's refreshing and vital stance on how equality is already enshrined in the Qur'an has propelled the movement into the limelight as a Muslim women's renaissance. Since the 2009 global launch, the work of the movement and its Advocates have been covered by a wide range of media outlets and websites such as Time, Newsweek, openDemocracy, Daily Observer (Gambia), ResetDOC, Jezebel, AltMuslimah, Muslimah Media Watch, Washington Post, BBC News, New York Times and International Herald Tribune. We have found allies in international organisations like AWID, WLP, WISE, WLUMI, WURN, ASEAN, MWNUK, Violence is not our Culture, Peace Women, One World, and MPV-USA. Recently, Musawah Advocate Marwa Sharafeldin spoke at TEDxCairo on removing the boundaries between the social, the political, the artistic and the radical. As the youngest member of the Musawah IAG, Marwa continues to draw attention as an active human rights defender, a charismatic speaker and a poet.



*May 2011, Cairo – Marwa Sharafeldin takes the stage at TEDxCairo*

## ***What next?***

Author Isobel Coleman recently mentioned Musawah as an example of "using Islamic arguments to overturn repressive laws and to push for a fuller role for women in society" in her article 'Feminism in the Muslim World' which was run by the Washington Post and carried on the website for the Council for

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Foreign Relations. This underpins what many of the women who are part of our movement constantly grapple with on a daily basis – to be recognised as shapers of laws and policies that affect their own lives. It is women's lives oppressive laws and regressive customs mess with. It is the futures of young girls religious leaders meddle with. Women can be knowledge-makers too. Women can be movers and shakers too. If Muslim women living centuries before us can do it, then let us continue that enlightening tradition with God's grace. Musawah is a movement of fear-less women. We will not stop till family laws, policies and practices in Muslim societies embrace equality and justice. These egalitarian principles, are not just human rights principles, they are also Qur'anic.

**Note:** Descriptions on the structure of the movement are standard references taken from the booklet 'Musawah Strategic Direction: Setting the Foundations for a Dynamic Movement' (2011).

**“Islam does not speak. People speak for Islam. You cannot have a democratic society unless there is a democratisation of religious knowledge.**

- Ziba Mir-Hosseini,  
Member of Musawah IAG, Iran/UK

## Decoding the 'DNA of Patriarchy' in Muslim Family Laws

**Ziba Mir-Hosseini and Zainah Anwar**

**W**hy and how did verse 4:34, and not other verses in the Qur'an, become the foundation for the legal construction of marriage? Why are *qiwamah* and *wilayah* still the basis of gender relations in the imagination of modern-day jurists and Muslims who resist and denounce equality in marriage as alien to Islam? How can we Muslim women reconstruct the concepts?

Contemporary Muslim family laws and practices are increasingly under attack for their unjust treatment of women. At the heart of unequal gender rights in Muslim laws lie the twin concepts of *qiwamah* and *wilayah*, which are commonly understood as having mandated men's authority over women, and as justifying and institutionalising a patriarchal model of the family. The Qur'anic verse (4: 34) from which the concept of *qiwamah* is derived reads (in a new translation by Kecia Ali):

**“Men are *qawwamun* [protectors/maintainers] in relation to women, according to what God has favored some over others and according to what they spend from their wealth. Righteous women are *qanitat* [obedient] guarding the unseen according to what God has guarded. Those [women] whose *nushuz* [disobedience] you fear, admonish them, and abandon them in bed, and strike them. If they obey you, do not pursue a strategy against them. Indeed, God is Exalted, Great.**

We have added translations to the three highlighted words; Ali does not translate them, pointing out that any translation is an interpretation in itself.

It is no exaggeration to say that the entire edifice of family law in Muslim legal tradition is built on the ways in which classical



jurists understood this verse and translated it into legal rulings. To define conjugal relations, and notions of gender justice and equity, they used the three terms highlighted above, focusing on the first part of the verse and the notion that men are women's *qawwamun*, protectors and maintainers.

Yet this is the only appearance in the Qur'an of the word *qawwamun*. The abstract term *qiwamah* (protection, maintenance) based on it does not appear at all. In relation to marriage and relations between spouses, two other terms appear over twenty times: *ma'ruf* (good way, decent) and *rahmah wa muwadah*, (compassion and love). Why did the jurists choose not to translate these two terms into legal rulings? The closely related term *wilayah* does occur in the Qur'an, in the sense of friendship and mutual support, but never as endorsing male authority over women, which is the interpretation of the term enshrined, alongside *qiwamah*, in juristic rulings on marriage.

Why and how did verse 4:34, and not other verses in the Qur'an, become the foundation for the legal construction of marriage? Why are *qiwamah* and *wilayah* still the basis of gender relations in the imagination of modern-day jurists and Muslims who resist and denounce equality in marriage as alien to Islam? How can we Muslim women rethink and reconstruct the concepts in ways that reflect our own notions of justice? Can Shari'ah-based laws accommodate gender equality?

### Musawah's mission

These questions, central to the ongoing struggle for an egalitarian construction of Muslim family laws, are the focus of a new project undertaken by Musawah, a global movement for equality and justice in the Muslim family. Musawah ('equality' in Arabic) was initiated in 2007 by the pioneering Malaysian women's group, Sisters in Islam, and was launched in Kuala Lumpur in February 2009.

This project, initiated in 2010, has three related components: the production of new feminist knowledge that critically engages with classical jurists' interpretations of *qiwamah* and *wilayah*, a Global Life Stories Project to document the life stories of selected women and men in 11 countries, focusing on how *qiwamah* and *wilayah* are experienced, understood, and contested in their lived realities, and the use of quantitative and qualitative data to show the disconnect between law and the socio-economic realities of Muslim women today.

In critically engaging with the tradition in Islamic legal thought, we hope to understand the construction of male authority by Muslim jurists, as manifested in family law, and as embodied in the concepts of *qiwamah* and *wilayah*. We intend to argue that *qiwamah* and *wilayah* as sanctions for male authority over women are not Qur'anic concepts but juristic constructs, and that laws based on these constructs no longer reflect the justice of Islam. Our intention is to promote other interpretations that are both possible and more in tune with contemporary lived realities.

This rethinking is framed in two related contexts. The first context is that of the current encounters between two systems of values and two modes of knowledge production. The first mode is rooted in pre-modern conceptions of justice, gender and rights, which allow discrimination among individuals on the basis of faith, status and gender as found in classical *fiqh* rulings. The second mode is shaped by the ideals of universal human rights, equality and personal freedom, as found and advocated in international human rights documents such as CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women). The second context is that of 20th-century shifts, both globally and locally, in the politics of religion, law and gender, and the changed relationship between Muslim legal tradition, state and social practice in Muslim contexts.

The Musawah approach takes a critical feminist perspective, but most importantly it also works within the tradition of Islamic legal thought, by invoking two of its main distinctions. The first distinction is between Shari'ah as revelation, and *fiqh* - the science of Islamic jurisprudence. This distinction underlies the emergence of various schools of Islamic law and within them a multiplicity of positions and opinions. In Muslim belief, Shari'ah, literally 'the way', is God's will as revealed to the Prophet Muhammad. *Fiqh*, jurisprudence, literally 'understanding', is the process of human endeavour to discern (formulate) and extract legal rules from the sacred sources of Islam: that is, the Qur'an and the Sunnah (the practice of the Prophet, as contained in *Hadith*, Traditions). In other words, while the Shari'ah is sacred, eternal and universal, *fiqh* is human and – like any other system of jurisprudence – mundane, temporal and local.

The second distinction, also based on Islamic legal tradition, is that made between the two main categories of legal rulings (*ahkam*): between '*ibadat* (ritual/spiritual acts) and *mu'amalat* (social/contractual acts). Rulings in the first category, '*ibadat*, regulate relations between God and the believer, where jurists contend there is limited scope for rationalization, explanation and change, since they pertain to worship and the spiritual realm. This is not the case with *mu'amalat*, which regulate social relations and remain open to rational considerations and social influences, and to which most rulings concerning women and gender relations belong.

Musawah argues that, for classical jurists, the validity and inviolability of men's superiority and authority over women was a given, a '*qiwamah* postulate' based on their understanding of Qur'an verse 4: 34. Following Carol Gilligan, who identified the "gender binary and hierarchy as the DNA of patriarchy", we suggest that this *qiwamah* postulate has been the DNA of patriarchy in Muslim legal tradition.

We see the workings of this postulate in all areas of Muslim law relating to gender rights, but its impact is most evident in the laws that the jurists devised for the regulation of

marriage. They defined marriage as a contract, patterned after the contract of sale. The contract makes sexual relations between a man and woman lawful, and establishes a set of default rights and obligations for each party, some supported by legal force, others by moral sanction. Those with legal force concern sexual access and compensation and are embodied in two legal concepts: *tamkin* and *nafaqah*. *Tamkin* – obedience or submission – specifically sexual access, is the husband’s right and thus the wife’s duty; whereas *nafaqah* – maintenance, provision of shelter, food and clothing – is the wife’s right and the husband’s duty. The wife loses her claim to maintenance if she is in a state of *nushuz* (disobedience). The husband has the unilateral and extra-judicial right to terminate the contract by *talaq* (repudiation); a wife cannot terminate the contract without her husband’s consent, or the permission of the judge if she produces a valid reason. There are numerous moral injunctions that could have limited men’s power to terminate marriage; for instance, there are sayings from the Prophet to the effect that *talaq* is among the most detested of permitted acts, and that when a man pronounces it, God’s throne shakes. Yet classical jurists made no attempt to restrict a man’s right to *talaq*. He needs neither a reason nor his wife’s consent.

There were, of course, differences between and within the classical schools of law over what constituted and what defined the three interrelated concepts – *nafaqah*, *tamkin* and *nushuz* – but they all shared the same conception of marriage, and the vast majority linked a woman’s right to maintenance to her obedience to her husband. Whether these rulings corresponded to actual marriage practices and gender relations is another area of inquiry, one that recent scholarship in Islam has started to uncover.

The *qiwamah* postulate justified other legal inequalities, such as men’s right to polygamy. In addition, because men provide for their wives, justice requires that men be entitled to greater shares in inheritance. Similarly, since women are under their husbands’ authority, they cannot occupy positions that entail the exercise of authority in the family, such as guardians of the children, or in society, such as judges or political leaders. These inequalities in rights were further rationalized and justified by other arguments, based on assumptions about innate, natural differences between the sexes: women are deemed to be weaker and more emotional by nature, qualities inappropriate in a leader; they are created for child-bearing, a function that confines them to the home, which means that men must protect and provide for them.

### New questions

In this and other projects, Musawah’s objective is to insert women’s concerns and voices into the production of religious

knowledge and legal reform in Muslim contexts. We do this by linking scholarship with activism and by bridging two gaps in the Muslim family law debates and in Muslim legal tradition. First, a majority of Muslim religious scholars are gender blind (gender biased and misogynist is probably more correct); they are ignorant of feminist theories (some genuinely and others more willfully) and unaware of the importance of gender as a category of thought. Secondly, many women’s rights activists and campaigners in Muslim contexts, in line with mainstream feminism, have long considered working within a religious framework to be counter-productive; they want to work only within a human rights framework, and avoid any religion-based arguments. But they tend to overlook how feminism’s epistemological heritage can be put to use. We examine how we know what we know about women in all branches of knowledge, including religious knowledge. This not only sheds light on laws and practices that take their legitimacy from religion but also enables a challenge, from within, to the patriarchy that is institutionalised in Muslim legal tradition.

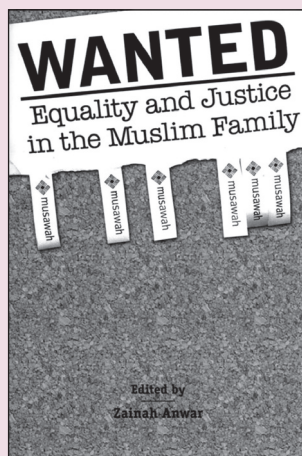
Applying the insights of feminist theory and gender studies to Islamic studies also enables us to ask new questions. For example, the *maqasidi* approach – i.e. going beyond legal rulings and focusing on the objectives and spirit of the Shari’ah – has captured the imagination of many reformist Muslim thinkers; what does it have to offer to those seeking gender equality? Does the concept of *qiwamah* have positive elements that should be retained? What does protection mean, where does hierarchy come in, how does control fit in, how can care come in? Should the link affirmed by classical jurists between maintenance and obedience be redefined or broken? What kind of family do Shari’ah-based laws aim to protect? What do equality and justice mean for women and the family?

The search for answers to these questions takes us to realms outside the Muslim legal tradition, to human rights law, feminist legal theory, experiences of family law reform in other legal traditions, and the lived realities of today when so many women are providers and protectors of their families. This journey helps us to reveal the intimate links between patriarchy and sexuality and to separate patriarchy from Islam’s sacred texts. Ideological dichotomies such as ‘secular’ versus ‘religious’ feminism, or ‘Islam’ versus ‘human rights’ are both misleading and arbitrary; yet they are commonly invoked to mask the real battleground, which is that between despotic and democratic forces, to which Muslim women’s struggle for equality and dignity remains a hostage.

Note: This article stems from a panel on deconstructing the notion of male authority in Muslim family laws, held at the AWID 2012 Forum in Istanbul. It was first published in Open Democracy website.

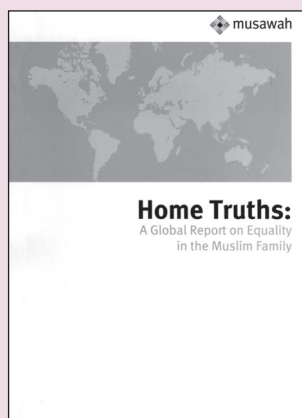
## Resources

### Books



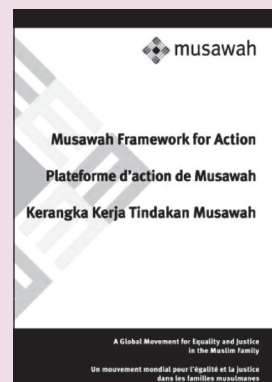
*Wanted: Equality and Justice in the Muslim Family*, edited by Zainah Anwar, 2009. Petaling Jaya: Musawah (an initiative of Sisters in Islam), 264p.

This collection of analytical papers contains the arguments supporting Musawah, the Global Movement for Equality and Justice in the Muslim Family. These resource materials look at why equality and justice are possible within an Islamic framework, and why they are necessary given the socio-economic realities of today's Muslim societies. Its strength is that it brings together analysis from a remarkably broad range of disciplines to support rights-based reform of Muslim family laws and the protection of existing rights.



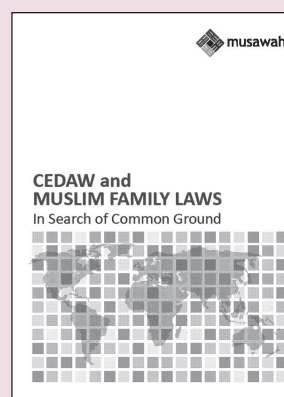
*Home Truths: A Global Report on Equality in the Muslim Family*, 2009. Petaling Jaya: Musawah (an initiative of Sisters in Islam), 62p.

This compilation of reports submitted by national level organisations and activists in 30 countries provides background information about the family laws and practices in these countries, including details of why equality in the family is necessary and the opportunities available that make equality in the family possible. It comes in two languages i.e. English and Arabic.



*Musawah Framework for Action*, 2009. Petaling Jaya: Musawah (an initiative of Sisters in Islam), 70p.

The Framework was developed by a group of twelve Muslim activists and scholars from eleven countries. It was developed through a series of meetings and discussions with Islamic scholars, academics, activists and legal practitioners from approximately thirty countries, coordinated by Sisters in Islam (Malaysia). It is a working document that guides the work of Musawah. It is published in five languages i.e. English, Arabic, French, Bahasa Melayu and Farsi.



*CEDAW and Muslim Family Laws: In Search of Common Ground*, 2011. Petaling Jaya: Musawah (an initiative of Sisters in Islam), 80p.

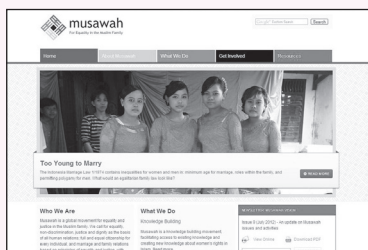
This report documents the trends identified in the Musawah research project on the Convention on the Elimination of All Kinds of Discrimination against Women (CEDAW), which examined States parties' justifications their failure to implement CEDAW with regard to family laws and practices that discriminate against Muslim women. This book presents Musawah's responses to these justifications based on Musawah's holistic Framework for Action. It includes recommendations to the CEDAW Committee for a deeper engagement and more meaningful dialogue on the connections between Muslim family laws and practices and international human rights standards.



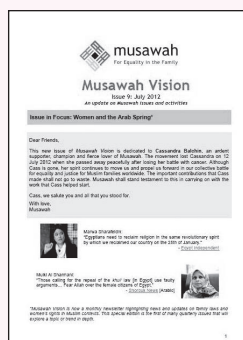


*Musawah Strategic Direction: Setting the Foundations for a Dynamic Movement, 2012.* Petaling Jaya: Musawah (an initiative of Sisters in Islam), 23p.

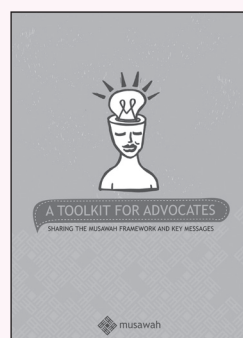
In this booklet the movement revisits and reaffirms Musawah's vision and objectives, reviews progress in its key work areas, and sets its strategic direction for the next few years.



Musawah's website makes accessible a range of resources and tools that Musawah Advocates and public can use in their work at local and national levels.

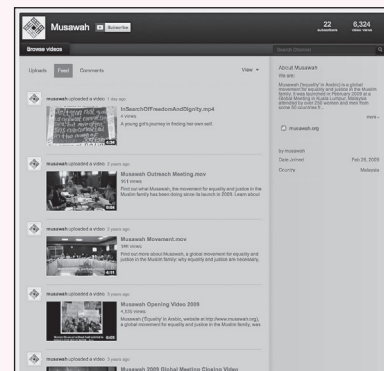


*Musawah Vision*, a quarterly e-newsletter, builds a sense of community and common purpose through regular reports on trends and developments in family laws, new resources, and activity updates. Contributions to this e-newsletter come from Musawah Advocates, Affinity Groups, Working Groups, and the Secretariat.

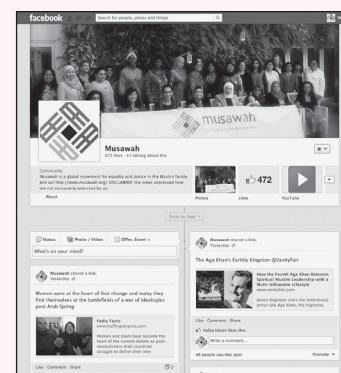


*Sharing the Musawah Framework and Key Messages* is a toolkit to help Musawah Advocates to introduce Musawah and its Framework to our own constituencies.

The Musawah movement is an accessible network. Find us on the following social media platforms.



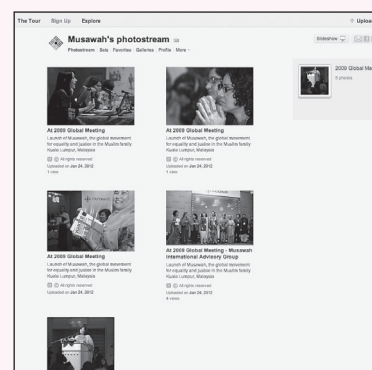
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