

## MUSAWAH EQUALITY AND JUSTICE *BEFORE ALLAH*, IN THE MUSLIM FAMILY

### INTRODUCTION:

As part of the global movement towards achieving equality and justice for the woman in the family a round table discussion was held in Abuja on Wednesday 29<sup>th</sup> October 2008. The meeting was organized by the Nigerian National Consultation Committee for the Global Movement of Equality and Justice in the Muslim Family. The committee was made up of 5 women from 5 different organizations i.e. 1) a private legal practitioner, with records for being the Women and Children Special Rapporteur at the Nigerian National Human Rights Commission, an advocate for the Child Rights Bill who lives in Abuja; 2) a journalist who is also a member of FOMWAN (Federation of Muslim Women Association in Nigeria) Kaduna/Abuja; 3) an activist working with BAOBAB for Women's Human Rights Lagos; 4) the Secretary General of WRAPA (Women's Rights Advancement and Protection Alternative) Abuja and 5) the founder of the Centre for Women and Adolescent Empowerment Yola.

The 20 participants at the National Consultation were carefully selected from every corner of the country that had Muslim communities i.e. from "Sharia States" i.e. Kano, Borno, Katsina and Kano States to areas that had majority Muslim communities i.e. Lagos and Oyo States to areas where there was a significant but minority community i.e. Auchi in Edo State in the South-South(SS) geopolitical zone of the country and even a state where Muslim's were hardly heard of i.e. Cross River State in the Niger Delta and also SS.

The focus of the consultation was on the pivotal issue of the name of the organization i.e. Musawah Equality and Justice in the Muslim Family. The initial discussion of this by the committee members centered on the discomfort of some of its members on the use of the word EQUALITY as the Ulama (men) would not accept this word under the guise that in Islam it was impossible. An agreement was reached that the first national consultation would be to ask "**What do Women in the Muslim Community in Nigeria Want?**" At the introduction of the consultation the discussion centred around the task to find out what women actually wanted for themselves. It was emphasized that the space was for "us" and it was a safe space. "We could come up with what we want and then strategize on "acceptable" language to use i.e. women will go into discussions knowing what they wanted and using the "right" language to open up doors and not women starting from a position of using words that could set them back.

Participation in the movement was aimed at reaching every woman that belonged to this community and to empower her to interpret the religion to her advantage. Another function the movement seeks to serve is to equip women with the skills

and knowledge to be able to input into the process of law making so their issues were taken on board and their rights were protected. At the end of the consultation, the majority of the participants decided it was strategic to rename the movement in Nigeria: MUSAWAH EQUALITY AND JUSTICE BEFORE ALLAH, IN THE MUSLIM FAMILY

### **EQUALITY AND JUSTICE ARE NECESSARY:**

It is absolutely necessary to pursue Equality and Justice in families in Muslim communities. Although there are both civil and Sharia laws/codes that could be used to pursue justice for women and children in the Nigerian case, these are usually not followed and neither justice nor equality are the norm. There is the claim by the ulama and traditional leaders that Islam states that women are not and cannot be equal. Although no-one claims that justice is not guaranteed; as a matter of fact they insist that justice is guaranteed by Islam; yet they are able to use patrichal and what they term as biological arguments to prove that men and women are not equal using such verses as "men are a degree above women". Arguments become heated and women are seen as impudent if they quote other verses that say that the best in front of Allah is the one that observes their religion best.

The reality on ground is that women in Nigeria today are increasing becoming the breadwinners of the families and men still feel they have the divine right/privilege to be "in charge and even make crucial decisions". This has affected negatively the:

- 1) **Right of women to work:** men believe they have the religious right to stop their women from working and unfortunately women have been socialized to believe this and also believe if they disobey their husbands they are going against the dictates of their religion. Thus even in cases where husbands do not bring enough home and their wives are able to work and supplement their income, they feel the women will not respect them if they contribute economically and also feel that the community will look down upon them if they are not the sole breadwinners.
- 2) **The right of women and girls to education:** again fathers and husbands believe it is their right to allow or disallow their daughters and wives to seek education and knowledge. Believing that women and girls who are educated: would not:
  - a. Would not respect their husbands and fathers
  - b. Would challenge their husbands and fathers authority

- c. It was a waste of time and money as the right place for the woman was in the home and the kitchen and she didn't need so much resources spent on her, this especially in poor families
- 3) **The reality on ground** today is that women and girls are assuming economic responsibilities for the family. When this reality hits the family the girl/woman is sometimes expected to go out and work e.g.
- a. To do housework to supplement the income of the family, as she has no skills
  - b. She ends up selling her body or being put into a position where she has to sell her body or being thrown out of a job if she refuses sexual advances etc amongst other issues
  - c. The mother and wife has to make ends meet and cuts into the food money to make little things to sell through her daughter(s). This exposes women and girls to long hours and stunted growth
  - d. For the professional woman if she is not employed, it becomes a major hurdle. Most wives are expected to run the house and have babies etc, so it seems a better idea to set up outside a formal work system and work from home.
- "A successful Female Architect, when asked to contribute funds to the consultation immediately sent N50,000 (US\$435) as she felt this was a necessary discussion. She said that as a well established architect (graduated in 1980) she was still regarded as a "prostitute" when she went out to seek for work. She felt equality in access to work was necessary".*
- e. Freedom of expression: is not guaranteed to women in Nigeria especially in the traditional and Muslim family, where they insist the woman is not to be heard as "her voice was her al awra i.e. her voice was not to be heard by other men, as it could attract them, thus she has no freedom to express herself.

*"A participant at the consultation HB related her recent experience. She had gone for her sons Parent Teachers Association (PTA) meeting and the sitting had been separate i.e. women on one side and men on the other. The women were given pieces of paper so they can write their issues and contributions, she threw a fuss and challenged this, as it was parents and not fathers that were invited to the meeting and she would not be able to represent her children equally... as a result the PTA meeting was cancelled".rather than allow women to participate equally*

- f. **Child and forced marriages:** are commonly practiced and justified as a practice of the Holy Prophet. Nigeria follows the Maliki School of Thought and picks and chooses the harshest of his and his followers recommendations. Refusing or ignoring the call by Maliki not to use his teachings as a basis to judge without seeking other opinions. Thus the provision that the consent of the bride must be sought is ignored unless a

real fuss is made and the girl/woman had the support from a strong family member or NGO etc.

g. **Access to justice:** many women lack the knowledge that they have the right to access justice. Where they are aware, some do not know how to access justice. Even where they access justice they don't necessarily get the justice because of the dearth in knowledge of the administrators of justice.

h. **Freedom to own property and wealth without prejudice:** even though in Nigeria Muslims affirm the right of women to own property and earn a living, the belief that husbands, brothers, fathers control women's properties, makes families disinherit women of assets, especially landed property.

*"A story was related of a female scholar who told a participant of her son inheriting cattle and property from his dead uncle who didn't have sons, as daughters were not allowed to inherit such... this jangirde(Quranic school/ madrasa) teacher did not have the knowledge that Islam did not make that pronouncement..."*

4) Nigeria has multiple legal systems. In the north and before the advent of the introduction of Sharia (between 1999 - 2002) in 12 states in the north of the country and still in 6 non Sharia states in the north, Muslims access the penal code and non Muslims the customary courts and share the same court premises with the customary courts. In the south-west only customary laws are available even in Muslim communities. The penal code and Sharia follow the Maliki school of thought and usually the strictest form without taking the provisions that make it human. Here the major problem is the conflict between the code and the implementation, where the Alkali (Khadi's) have not been reoriented to look at the provisions and think

- a. it is alright to always give the man the right to do as he pleases with impunity thus a man divorces a woman without reason and she remains divorced and if the man wants her back he can take her back within the iddah period without compensation and women are not expected to refuse
- b. it is alright to punish the woman because she is a woman i.e.

*in the case of Bariya Magazau a teenage girl that got pregnant as a result of rape and was sentenced to lashings because the alkali decided that it was less severe to flog her than to find the 3 men she accused guilty. As finding the men guilty would have resulted in their being stoned to death for zina! And their families would have been left without the heads of their families*

A participant concluded that it was thus necessary to have justice and equal access to just and fair laws. She also felt the Nigerian Muslim Scholars were lazy and

rejected ijihad, so laws could be made that were fair and justified taking the reality of people on ground and for them to insist on following laws that were passed in the time of Malik. One of the infamous incidents with the introduction of Sharia was the spate of finding women such as Bariya Magazau, Amina Lawal and Safiya Hussaini guilty of committing zina on the basis of pregnancy and refusing to use DNA to find out who were their partners and in the act to be brought to the book, on the basis that DNA wasn't available at the time of the Prophet and thus giving way to the unscientific provision by Imam Malik of the "concept of sleeping embryo", which was used to free Amina and Safiya from the punishment of death.

### **EQUALITY AND JUSTICE ARE POSSIBLE:**

Equality and justice are possible in the Muslim community in Nigeria. The cases mentioned above of Amina and Safiya were fought and won by the women's human rights organizations such as Baobab, WRAPA and others. Nigeria women and human rights community engaged lawyers and experts in Islamic law and jurisprudence, using information of similar cases in countries such as Pakistan and their international links such as WLUML to search for relevant information and strategies to fight the cases and won. The Sharia system is today a lot more careful and not a single case of zina has succeeded in being implemented at the second level of appeal.

Women in Muslim communities are part of the larger Nigerian women's movement that is seeking to make sure women's human rights are protected. In July 2008 such organizations as Baobab for Women's Human Rights, Centre for Women and Adolescent Empowerment, WRAPA joined the Nigerian Feminist Forum (NFF) to fight against a Bill aimed at stopping Indecent Dressing in the Public tagged the **Indecent Dressing Bill**. These and other organizations came together to fight and they succeeded in getting the bill thrown out. WRAPA has done extensive work in harmonizing 8 bills; some from the previous national assembly to produce a bill that the coalition against the indecent dressing bill, accepted as a good step towards domestication of CEDAW and the African Women's Protocol.

A lot of work is going on i.e. researches and trainings are going on within the Muslim communities, which include working with both the conservative and progressive ulama. In work being done by WRAPA an equal number of conservative and progressive ulama's were engaged in research, which involved interviewing and talking to the community. The results were fed back to them and they had to accept it... one of the Ulama members Sheikh Ibrahim Khaleel of Kano has made a public challenge on the gross neglect and abuse of the rights of women in the Muslim family. The Jigawa State Governments is funding the training of members of judiciary to upgrade and broaden their knowledge making available relevant and

recent literature to ensure that they meet the contemporary needs of Muslim women.

Advocates for change are seen as being paid by Israel as in the case of the Women and Law Research Project conducted by WLUML. The Gongola State team thus decided to start the research by doing an in-depth interview with one of the Ulama to allay their worries. WRAPA in its Islamic Family Law Project was accused of being paid by the "west" to cause havoc and shift people away from Islam and a member of the Ulama told them to fear Allah and refused to give them audience. An increasing number of Judges/Alkali's are daring to rule against the norm within their societies and in a case pursued by the CWAE a case of child marriage was annulled because the Juvenile Judge accepted that the consent of the girl was not sought and thus the marriage was null and void.

Inheritance laws are a no go area in Nigeria and discussions are rejected by both men and women, but ironically in some communities fathers give their daughters assets saying they know that their sons or male relatives will not treat them well if they died. Such assets as land and property are written in the names of their daughters. A more traditional gift which cannot be disputed by male members of the family is gold and jewelry.

In a recent case of a woman who had not had any children within the marriage and the husband had no living relative, he willed all his property to his her. Upon his death attempts were made by age long family friends and associates saying she did not have a right to inherit everything as a wife who had no children for the man. But members of the society curiously recognized that the will was permissible and she won and retained the assets.

Other arguments used against feminist and activists (both Muslim and non Muslim), often even more dangerous is the accusation that feminists are lesbians. This has caused suspicion especially amongst religious women's NGO's, this even came up at the Nigerian Feminist Forum January 2008. The presence of women working with both groups and calling upon the common problems of women, has often made some members of the religious body participate in mainstream women's rights ngo and even identify themselves as feminists. This is an uneasy truce but the walking of the walk and the talking of the talk usually keeps the work flowing. The national consultation brought this up, clearly. There is a desire for more fundamental work to be done and an agreement that radicalism of the feminists is essential in the protection of the rights of women in the Muslim community.