



musawah

For Equality in the Family

Musawah Vision

an update on Musawah issues and activities
Vision 2: March 2010

I. Trends in Family Law

1. Challenging polygamy in Southeast Asia through collective organizing and research

Indonesia: “A number of men have formed a group to counter the controversial launch of a Bandung branch of a Malaysia-based ‘polygamy club’.

“Speaking at a news conference at the Commission for Missing Persons and Victims of Violence (Kontras) in Jakarta on Sunday, Wawan Suwandi, a member of the Men’s Coalition to Reject Polygamy, said the failure of a growing number of men to consider women’s perspectives on polygamy had forced them to act”.

For the complete article go to:

<http://thejakartaglobe.com/home/indonesian-mens-group-takes-stand-against-polygamy-branding-it-discriminatory/339053>

Malaysia: “A large-scale study currently underway across Malaysia uncovers proof that polygamy harms everyone involved: from emotionally scarred children, to wives who think they’d be better off as single-parent households, and even husbands who admit ‘I wouldn’t recommend it for my son; it’s quite stressful’.”

For the complete article go to:

<http://www.opendemocracy.net/5050/norami-othamn-masjaliza-hamzah/stress-quarrels-and-neglect-normal-polygamous-family>

2. Setting a minimum age of marriage: The debate continues

Yemen: “A bill passed in parliament in February 2009 setting the minimum age for marriage at 17 was rejected by the Islamic Shari’ah Codification Committee which said it was un-Islamic, according to local women’s rights organizations. So, for now, there is no law protecting children against early marriages in Yemen.”

For the complete article go to:

<http://www.irinnews.org/Report.aspx?ReportId=88138>

Saudi Arabia: “For the first time, the Saudi Arabian state has intervened in the marriage of a preteen girl to an older man, leading some campaigners to speculate that the kingdom could be about to ban the cruel and archaic practice of child marriage.”

For the complete article go to:

<http://www.aolnews.com/world/article/saudi-arabia-shifts-course-on-child-marriage/19350486>

Azerbaijan: “Officials in Azerbaijan are so concerned by the number of women getting married under-age that parliament is discussing raising the minimum age for marriage to 18.

Women’s rights activists say corrupt religious officials are prepared to conduct Islamic ceremonies for couples when the woman is too young for a state service, leaving her unprotected if her husband leaves her, uneducated and vulnerable to medical complications.”

http://www.iwpr.net/?p=crs&s=f&o=357288&apc_state=henpcrs

3. Making unregistered marriages illegal

Indonesia: “The Ministry of Religious Affairs on Tuesday said it would stand by its proposed draft bill on marriage, which includes controversial articles, but said it was open to reconsidering some points.

“The bill, which has been included in the House of Representatives’ list of priority bills for this year, proposes a maximum fine of Rp 6 million (\$648), or six months imprisonment, for marrying without either the proper documents or the presence of an authorized religious official.”

For the complete article go to:

<http://www.thejakartaglobe.com/home/changes-to-indonesian-marriage-bill-possible/359127>

4. Forced divorce on grounds of incompatibility (kafa'ah) is void

Saudi Arabia: "Over four years after a judge in Jouf annulled the marriage of Fatima and Mansour at the behest of Fatima's half brothers, the Supreme Judiciary Council in Riyadh on Saturday overruled the decision and ordered that the couple be reunited in matrimony."

For complete article go to:

<http://archive.arabnews.com/?page=1§ion=0&article=132179&d=31&m=1&y=2010>

5. Other legal developments related to families and family law

Saudi Arabia: "Saudi Arabia is planning to bring in a new law to allow women lawyers to argue cases in court for the first time. Justice Minister Mohammed al-Eissa said the law was part of King Abdullah's plan to develop the legal system.

"The law - to be issued 'in the coming days' - would allow women to appear in court on family-related cases, including divorce and child custody. At the moment, they can only work behind the scenes in government and court offices."

For complete article go to:

http://news.bbc.co.uk/2/hi/middle_east/8526862.stm

Egypt: The Supreme Constitutional Court has approved the right of women to be appointed as judges in the State Council. This follows the news in February 2010 when 334 out of 380 members of the General Assembly refused to allow judges of the State Council (Administrative Courts) the option to appoint women to judiciary positions. Egyptian women activists emphasized that Article 40 of the Constitution states "All citizens are equal before the law. They have equal public rights and duties without discrimination between them due to race, ethnic origin, language, religion or creed." The General Assembly's position was despite a fatwa issued by Dr. Ali Gomaa, the Mufti of Egypt approving the appointment of women as judges or president, and despite Egypt's ratification of the UN Covenant on Civil and Political Rights and CEDAW, which prohibit non-discrimination on the basis of gender.

For details see

(English): http://ecwronline.org/index.php?option=com_frontpage&Itemid=1&lang=english

(Arabic): <http://ecwronline.org/index.php>

Bahrain: "Bahraini women activists have welcomed the decision by the leadership to provide health, education and other services for stateless children. But they say the battle

for the nationality rights for children and foreign husbands married to Bahraini women is only half won.”

<http://www.womengateway.com/enwg/Women+Issues/Family+Law/familyRights1.htm>

II. Building Our Knowledge

1. Muslim Family Law: A Women's Rights Perspective

In January 2010, in collaboration with Musawah, the Networking for Women's Rights Organizations in Egypt project (NWRO) held a seminar and a three-day training on 'Muslim Family Law: A Women's Rights Perspective'.

The training, led by Musawah scholars, Dr. Ziba Mir Hosseini and Dr. Muhammad Khalid Masud, was attended by 27 women activists from 11 NGOs. This was preceded by a seminar at the American University in Cairo organized by NWRO and the Social Research Center at the AUC where Musawah director Zainah Anwar presented on the Musawah Framework of Action. Dr. Mir Hosseini also spoke on the "Construction of Gender in Islamic Legal Thought" and Dr. Masud on the "Social Construction of Shari'ah".

The participants felt that the training would strengthen their work towards equality and justice in the family. One said "The resource persons were more than excellent. The facilitation and diverse exercises and tools extremely useful in broadening our perspectives when working on law reform".

Another was inspired to deepen her questioning. "This training taught me that I have to think about everything and use my mind. I realized that this makes my faith even stronger because if we research the Qur'an and Sunnah of the Prophet (pbuh) we will find a sea of knowledge and ideas that were misused and wrongly attributed to Islam."

2. Musawah research on qiwamah: Towards equality and justice

A research planning meeting was held in Cairo in January 2010 to plan Musawah's research on qiwamah and wilayah. These Qur'anic concepts which are understood as mandating men's authority over women, lie at the core of the unequal construction of gender rights in Muslim practice. It is through them that women's subjugation is rationalised, sustained and operationalised. Classical jurists treated them as overriding principles, and saw them as the natural and just order of relations between men, and justified them as necessary and protective measures for women. The Musawah research team will focus its work within the context of family law. It will develop a Musawah framework for a new contextual understanding of the concept of qiwamah and wilayah relevant to women's realities and demands for equality and justice in the 21st century.

A wider conceptual meeting will be planned for early 2011 to discuss the research findings and develop tools needed for advocacy and public education to reform Muslim family laws and practices.

The research team will be in touch with Musawah Advocates for inputs and involvement in this exciting research project.

3. Resources for campaigning for equality and justice in the family

- **Islamic Family Law: Possibilities of Reform Through Internal Initiatives**

Emory University project

Although dating back to a 1999 project, this project website continues to provide a useful global survey of the status of Islamic Family Law (IFL) around the world, including existing studies as well as reform initiatives and their outcomes. It provides regional socio-cultural profiles as well as country-specific legal, institutional and other aspects of the theory and practice of IFL; and two pilot case studies of Egypt (as a leading predominantly Islamic country) and the United States as a liberal secular state where Muslims are a clear minority.

<http://www.law.emory.edu/ifl/>

- **Knowing Our Rights: Women, family, laws and customs in the Muslim world**

Women Living Under Muslim Laws

"This third and completely revised version of the "Knowing Our Rights" handbook is an essential resource for those taking a critical and questioning approach to rights, laws, and constructions of womanhood in Muslim countries and communities and beyond. "Knowing Our Rights" forms part of the international synthesis of the Women & Law in the Muslim World Programme and is based on some 10 years of field experience, research and analysis by multi-disciplinary teams of networkers in over 20 countries across Asia, Africa and the Middle East."

The full text of the handbook can be downloaded from: <http://www.wluml.org/node/588>

- **Guide to Equality in the Family in the Maghreb**

Collectif 95 Maghreb-Egalité / Women's Learning Partnership (WLP)

The first in WLP's Translation Series, *Guide to Equality in the Family in the Maghreb* is an innovative advocacy tool for reform of the family law in Muslim-majority societies. In each thematic module, the *Guide*, produced by the Collectif 95 Maghreb-Egalité, presents the current state of the law, then proposes religious, human rights, sociological, and domestic legal arguments for reform, well-supported by relevant data.

<http://www.learningpartnership.org/en/publications/other#guidetoeg>

- **Alternative views on early marriage within the Islamic perspective**
Sisters in Islam

This site on the Sisters in Islam website contains several useful articles and arguments, and campaigns to advocate for an end to child marriage and set a minimum age of marriage in domestic legislation. The articles include:

http://www.sistersinislam.org.my/index.php?option=com_content&task=view&id=575&Itemid=298

- [Hakim Niyaz Ahmad summarized by Muhammad Khalid Masud: Could Aishah be 19-years-old at the time of her marriage to Prophet saw Muhammad? An Examination of Hadith Collections.](#)
- [Ghulam Nabi Muslim Sahib: Aishah's Age of Marriage](#)
- [Hameed Agberemi: Violence Against Girl Children in a Rights Paradigm: Deconstructing Child Marriage from Islamic Perspectives](#)

(Please note: the author recommends 15 years as a minimum age of marriage in the socio-economic context in Nigeria. While Musawah regards 18 years as an appropriate minimum age of marriage, the paper contains many useful arguments regarding other aspects of child marriage.)

- **Report addresses human rights and family laws based on culture or religion**
International Council on Human Rights Policy

A new report highlights the human rights impacts and challenges for rights activists in situations where multiple state and non-state laws co-exist, such as family laws based on religion, customary laws, and Alternative Dispute Resolution mechanisms. Drawing on examples of such situation from around the world, it proposes principles and a framework to guide human rights activists and policy-makers.

The report has a strong gender focus and argues that international human rights standards and mainstream human rights organisations have not paid sufficient attention to family law issues. It calls for culture to be recognised as internally diverse, and for states, human rights organisations and donors to ensure that women's voices are always included in assessing the interaction of culture and law.

The full report *When Legal Worlds Overlap: Human Rights, State and Non-State Law* can be downloaded from http://www.ichrp.org/en/zoom-in/when_legal_worlds_overlap

- **Promoting Gender Equality and Women's Rights**
Promoting Gender Equality and Women's Rights Programme of GTZ/ German Federal Ministry for Economic Cooperation and Development

One of the programme's topics is women's rights in Islam which is the basis for GTZ support for a project by the Yemeni NGO, Women's Forum for Research and Training" (WRFT). The *Raising Awareness on Women's Rights in Islam project* trains women in women-friendly

interpretations of the Qur'an and Sunnah as well as working with male religious authorities as social change agents.

- The Arabic-language training manual produced by the project is intended to support the women in their future work. Additionally it contains significant verses of the Qur'an and sayings of the prophet regarding aspects of women's rights.
Download: <http://www.gtz.de/de/dokumente/ar-handbuch1-frauenrechte-islam-2004.pdf>
Download: <http://www.gtz.de/de/dokumente/ar-handbuch2-frauenrechte-islam2006.pdf>
- Another WRFT publication from the same project is: *Citizenship and the Issue of the State in Islamic Thought*.
Download: <http://wfrt.info/downloads/en/En-citizenship-and-issue-of-state.pdf>
- Other GTZ publications about Women's Rights in Islam include:
Women's Rights in the Arab World: Overview of the status of women in family law with special reference to the influence of Islamic factors.
Download: [http://www.gtz.de/de/dokumente/en-womens-rights-arab-world-2004.pdf\(EN\)](http://www.gtz.de/de/dokumente/en-womens-rights-arab-world-2004.pdf(EN))
- GTZ Factsheet on Gender & Islam: The factsheet demonstrates the potential of Islam as a positive resource for the promotion of women's rights.
Download: [http://www.gtz.de/de/dokumente/gtz2009-en-gender-and-islam.pdf\(EN\)](http://www.gtz.de/de/dokumente/gtz2009-en-gender-and-islam.pdf(EN))

4. Recommended readings

These articles do not indicate our endorsement of any author. We are merely highlighting articles that are part of current debates on Islam and women, including some that are useful for background information and others that provide analyses and opinions based on various social, political and cultural frameworks. We are continuously adding to this list and appreciate comments and suggestions.

- **Amira Sonbol: Ta'a and Modern Legal Reform**
In this paper Amira Sonbol argues that the 19th century reform of laws did not necessarily bring about an improvement in women's lives. Focusing on marriage contracts and the issue of the wife's duty of obedience to the husband, she proves that the policies applied and the conditions laid down for marriage by the state were very different to the application of Shari'ah during the Ottoman period, and were instead part of a process of nation-state building. (Attached as PDF)
- **Interview With Ziba Mir Hosseini: Understanding Islamic Feminism**
http://www.theamericanmuslim.org/tam.php/features/articles/interview_with_ziba_mir_hosseini_understanding_islamic_feminism/0017908
- **Interview with Zainah Anwar: Zainah Anwar on Islam and Muslim Feminism**
http://www.ummid.com/news/October/17.10.2009/zainah_anwar_on_islam.htm