



musawah

For Equality in the Muslim Family

Musawah Knowledge Building Initiative on *Qiwamah* and *Wilayah* January 2015

Musawah has undertaken a long-term, multi-faceted knowledge building initiative on the concepts of *qiwamah* and *wilayah*, which are commonly understood as sanctioning men's authority over women. As interpreted and constructed in Muslim legal tradition, and as applied in modern laws and practices, these concepts play a central role in institutionalising, justifying and sustaining a patriarchal model of families in Muslim contexts.

This Knowledge Building Initiative links scholarship with activism to build a fresh perspective on *qiwamah* and *wilayah*. The project seeks to show how laws based on these interpretations no longer reflect the justice of Islam, and that other interpretations are both possible and more in tune with contemporary lived realities. The main objective of the initiative is to:

Produce new feminist knowledge and a rethinking about the idea and realities of qiwamah and wilayah that can empower Musawah Advocates to ensure that laws and practices promote equality and justice in the family.

The Knowledge Building Initiative has three elements:

1. Commissioning background research on the role of *qiwamah* and *wilayah* within historical and present-day Muslim legal tradition;
2. Conducting participatory research through the Global Life Stories Project to document women's and men's life stories in relation to *qiwamah* and *wilayah*; and
3. Opening spaces for scholars and activists to discuss and forge new understandings of *qiwamah* and *wilayah*.

Musawah's understanding of knowledge building

Musawah is a knowledge building movement, facilitating access to existing knowledge and creating new knowledge about women's rights in Islam. We seek to apply feminist and rights-based lenses in understanding and searching for equality and justice within Muslim legal tradition. Such lenses help reveal the tension between the egalitarian and hierarchical voices in the tradition, and uncover women's voices that were for so long silenced in the production of religious knowledge, so that their concerns and interests can be reflected.

We believe that the production and sharing of knowledge should be participatory, should recognise non-traditional forms of expertise, and should begin from contexts rather than texts. In this way, the knowledge produced will be grounded in the lived realities of women and men, with such realities informing the approach to the issues and the questions being asked. We aim to produce knowledge in a collective, democratic and open manner, in which women's experiences and women's ways of knowing are valued and given voice.

Background on *qiwamah* and *wilayah*

This initiative begins from the premise that equality in the family is possible through a holistic approach that brings together Muslim jurisprudence, universal human rights principles, national

laws and constitutional guarantees of equality, and the lived realities of women and men. Musawah believes that equality in the family is the foundation for equality in society. Families in all their multiple forms are central to our lives, and should be safe and happy spaces, empowering for all.

Despite the complexity and diversity of families in modern society, patriarchal interpretations of *qiwamah* and *wilayah* impact women and men within families in many areas of Muslim laws and practices. Marriage, as defined by classical Muslim jurists and applied in many contemporary laws and practices, places a wife under her husband's *qiwamah*, a mixture of protection and domination. The marriage contract, which may have legal and/or moral force, prescribes or presumes that *tamkin* (obedience or submission by the wife) is the husband's right and the wife's duty and *nafaqah* (maintenance – e.g., shelter, food and clothing) is the wife's right and the husband's duty.

This theoretical relationship, which still underlies many family law provisions in Muslim contexts today, results in inequality in matters such as sexual access, financial security, the right to divorce, custody and guardianship, choice and consent in marriage, inheritance and nationality laws.

In reality, men are often unable or unwilling to protect and provide for their families. Women often serve as the protectors of their families. Increasing numbers of women also provide essential income for their families, and their unpaid labour also contributes to family maintenance. The disconnect between the theoretical construction of the family and today's reality demands fresh perspectives on marriage and family relations in line with Islamic and human rights principles.

Elements of the Knowledge Building Initiative

(1) Background research on qiwamah and wilayah in Muslim legal tradition

Musawah commissioned a series background papers covering jurisprudential (Qur'an, *fiqh*, *hadith*), historical, philosophical, sociological, and legal aspects of *qiwamah* and *wilayah*. The papers have been published as an edited volume entitled *Men in Charge? Rethinking Authority in Muslim Legal Tradition* (Oneworld, 2015). The chapters are:

- **Muslim Legal Tradition and the Challenge of Gender Equality** – Ziba Mir-Hosseini
- **The Interpretive Legacy of *Qiwamah* as an Exegetical Construct** – Omaira Abou-Bakr
- **An Egalitarian Reading of the Concepts of *Khilafah*, *Wilayah* and *Qiwamah*** – Asma Lamrabet
- **Producing Gender-Egalitarian Islamic Law: A Case Study of Guardianship (*Wilayah*) in Prophetic Practice** – Ayesha S. Chaudhry
- **Islamic Law, Sufism and Gender: Rethinking the Terms of the Debate** – Sa'diyya Shaikh
- ***Qiwamah* and *Wilayah* as Legal Postulates in Muslim Family Laws** – Lynn Welchman
- **Islamic Law Meets Human Rights: Reformulating *Qiwamah* and *Wilayah* for Personal Status Law Reform Advocacy in Egypt** – Marwa Sharafeldin
- **'Men are the Protectors and Maintainers of Women...': Three Fatwas on Spousal Roles and Rights** – Lena Larsen
- **Understanding *Qiwamah* and *Wilayah* through Life Stories** – Mulki Al-Sharmani and Jana Rumminger
- **The Ethics of *Tawhid* over the Ethics of *Qiwamah*** – Amina Wadud

(2) Global Life Stories Project

Musawah Advocates in 10 countries (Bangladesh, Canada, Egypt, Gambia, Indonesia, Iran, Malaysia, Nigeria, Philippines, and United Kingdom) spent two years documenting life stories within their contexts to better understand how current patriarchal notions of *qiwamah* and *wilayah* impact the lived realities of women and men. This was feminist and participatory movement building and a knowledge building process, with activists and scholars committing to a mutual learning endeavour that values women's experiences and women's ways of knowing.

A team comprising members of Alimat, an Indonesian coalition of NGOs and individuals working on family law issues, undertook a pilot documentation project from February 2011 to January 2012 to develop and test the methodology.

Teams from the 10 countries met in Indonesia in April 2012 to develop a common framework for undertaking this project based the Indonesian pilot study. After this workshop, each country team worked together to better understand the concepts and research instruments; map the laws and policies that relate to *qiwamah* and *wilayah* in their contexts using a legal mapping tool developed by Musawah; identify resource persons who can be interviewed from among their networks; conduct interviews; share information with the resource persons who gave the interviews; write up the interviews; and collectively analyse the results.

The teams met again for a mid-term progress workshop in December 2012 to further develop the framework for analysis. Final reports, which include information about the socio-economic context in the country, results from the legal mapping process, instruments they used in documentation, and the stories themselves, were submitted in 2014. The stories and information from each country are being compiled into a global publication that will be completed in 2015.

The research methodology was shared across contexts, but each team tailored its project to local contexts and needs. Moreover, each team geared some of the activities and outputs of their projects towards facilitating and contributing to specific advocacy and legal reform agendas and goals that are currently being debated and/or pursued in their national context.

(3) Opening spaces for new understandings

Workshops and discussions were held throughout the initiative, including a planning meeting in Egypt in January 2010; a research design meeting in Indonesia in July 2011; a conceptual workshop in Jordan in November 2011; a Methodology Workshop for the Global Life Stories Project in Indonesia in April 2012; a Mid-Term Progress Workshop for the Global Life Stories Project in Malaysia in December 2012; the launch of *Men in Charge? Rethinking Authority in Muslim Legal Tradition* and a public seminar in the United Kingdom in March 2015; and ongoing Skype and email discussions throughout the five-year initiative. These interactions, which all included participants with a variety of backgrounds, experiences, and expertise, enabled integration of the elements and collective development of the final outputs.

Outputs

Final outputs from the Knowledge Building Initiative include:

- *Men in Charge? Rethinking Authority in Muslim Legal Tradition* (Oneworld, 2015), which brings together the background research commissioned for the project, including an analysis of the methodology used in the Global Life Stories Project.
- A Musawah Viewpoint Document on *Qiwamah* and *Wilayah*, which will synthesise the new feminist knowledge and rethinking on the idea and realities of *qiwamah* and *wilayah*. This document can be the basis for local, national and international advocacy for laws and practices that promote equality and justice in the family.
- A global publication developed from the Global Life Stories Project, including stories and legal and socio-economic contextual information from each of the 10 participating countries, as well as processes and tools for conducting participatory documentation on Life Stories.

These outputs will be shared with Musawah Advocates and on Musawah's website with the goal of strengthening local and national initiatives for equality and justice in Muslim families.

QUESTIONS? MORE INFORMATION? Contact us at musawah@musawah.org