



# musawah

For Equality in the Family

## Change is Possible: Strategies for Family Law Reform

Kuala Lumpur, February 14 – Strategies such as exposing the failings of current family laws and mobilising public opinion are crucial to overcoming the many obstacles that stand in the way of reforming Islamic family law.

Other key strategies include lobbying with lawmakers and having strong communications and public advocacy, all of which are needed to combat current legal systems that do not meet the needs of women's lived realities.

“Focusing on procedural amendments in particular is a useful strategy when the political environment limits substantive legislative reform,” said Cassandra Balchin of the UK-based Muslim Women's Network.

Balchin said that although some laws may be deemed to protect women, it was the actual process within judicial and legislative systems that perpetuate negative discrimination.

“Many of the social issues do not necessarily have a legal solution. It is not a question of reform, but of changing attitudes and mindsets. Even if efforts towards law reform do not appear successful, they can be successful in other ways, such as galvanising women towards a shared goal and increasing public awareness.”

Balchin was speaking at “Equality in the Family is Possible”, the second plenary session of the Musawah global meeting being held here.

Legislation that is relevant to families in Muslim societies is based on diverse sources of law – including the Quran, colonial common law, and the Napoleonic Code – resulting in a range of legal systems and practices, and varied levels of rights for women in Muslim families.

As such, these sources must be scrutinised and deconstructed in order to understand where the laws came from and how they came to be, and if indeed they abide by the *shari'ah*, said fellow speaker Amira El-Azhary Sonbol from Egypt.

This is because *shari'ah* is often confused with *fiqh*, the latter being the products of deliberation of men to derive concrete legal rules from the Quran and the Sunnah. *Fiqh* is therefore not the law, she said.

“Today's *shari'ah* in law and practice has little to do with what was practised in the *shari'ah* courts of the pre-modern era,” Amira said.

She advocates that any challenge to current family laws must reveal the true origins of these laws and the processes through which they were established. The practice of law must be compared with the development of *fiqh* across time and place, and new laws developed through methods that were used before the modernised era.

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