

# Parental Care and the Best Interests of the Child in Muslim Countries

Nadjma Yassari · Lena-Maria Möller  
Imen Gallala-Arndt  
Editors

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ASSER PRESS



Springer

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Max Planck Research Group: Changes in  
God's Law—An Inner Islamic  
Comparison of Family and Succession  
Laws

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and International Private Law

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ISBN 978-94-6265-173-9

ISBN 978-94-6265-174-6 (eBook)

DOI 10.1007/978-94-6265-174-6

Library of Congress Control Number: 2016960773

Published by T.M.C. ASSER PRESS, The Hague, The Netherlands [www.asserpress.nl](http://www.asserpress.nl)

Produced and distributed for T.M.C. ASSER PRESS by Springer-Verlag Berlin Heidelberg

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Printed on acid-free paper

This T.M.C. ASSER PRESS imprint is published by Springer Nature

The registered company is Springer-Verlag GmbH Germany

The registered company address is: Heidelberger Platz 3, 14197 Berlin, Germany

# Preface

This volume compiles selected contributions to the workshop ‘Parental Care and the Best Interests of the Child in Muslim Countries’, which, under the auspices of the Max Planck Research Group ‘Changes in God’s Law—An Inner Islamic Comparison of Family and Succession Laws’, was convened at the Centre Jacques Berque pour les Études en Sciences Humaines et Sociales au Maroc in Rabat, Morocco, 1–5 April 2015. The workshop brought together the members of the Max Planck Working Group on Child Law in Muslim Countries that was established in 2014 to conduct comparative studies on various fields of child law in Muslim countries.

The first project of the Working Group focused on the principle of the best interests of the child and parental care. In recent years, legislatures of many Muslim countries have revised the conventional Islamic rules on child custody. Whereas in the past, rules were oriented on fixed age brackets and the gender of the parent and child, they have increasingly been formulated in favour of the principle of the best interests of the child and/or in favour of the mother through an extension of the custodial time period afforded to her as a matter of law.

Against this background, the principal goals of the workshop were to: (i) trace the incorporation of the principle of the best interests of the child into domestic law; (ii) analyse the reasons for establishing the concept as a fundamental principle in child law; and (iii) identify the ways in which each jurisdiction under review perceives and interprets the best interests of the child in the field of parental care. The overriding research aim was to determine the impact made by the inclusion of the principle of the best interests of the child in Muslim legal systems and, in a second step, to compare the respective results and draw more general conclusions about the dynamics of legal developments in Muslim countries.

Each of the ten chapters collected herein contains a historical perspective on the evolution of domestic rules on parental care and on the introduction and development of the notion of the best interests of the child. Further, the chapters consider social and cultural factors and discuss the particular characteristics of each country before analysing the policies and agendas of national legislatures and other stakeholders which have led them to amend law in a specific direction.

Finally, significant attention has been given to legal practice and the role of the judiciary in interpreting the principle of the best interests of the child.

In addition to the country-specific analyses collected herein, a thematic chapter by Shaheen Sardar Ali and Sajila Sohail Khan explores the public law dimension of children's rights by assessing Muslim state party practice in light of responses to the UN Convention on the Rights of the Child. Moreover, a comparative analysis of the themes explored is presented in the Synopsis at the end of this volume.

The editors wish to thank Baudouin Dupret for hosting the workshop at the Centre Jacques Berque as well as Global Affairs Canada for their valuable support in making those chapters originally written in French accessible to a wider English-speaking audience. We also would like to express our deep gratitude to Tess Chemnitzer, Michael Friedman, Jocasta Godlieb and Shyam Kapila for their continuous assistance in editing and formatting this volume.

Hamburg, Germany  
September 2016

Nadjma Yassari  
Lena-Maria Möller  
Imen Gallala-Arndt

# Contents

|          |   |    |
|----------|---|----|
| <b>1</b> | <b>Egypt</b> .....  | 1  |
|          | Jasmine Moussa  |    |
| 1.1      | Introduction .....  | 2  |
| 1.2      | General Legal Framework .....   | 3  |
| 1.3      | Egyptian Legislation on Guardianship and Child Custody .....  | 6  |
| 1.3.1    | Guardianship .....  | 8  |
| 1.3.2    | Child Custody .....   | 11 |
| 1.3.3    | Visitation Rights .....   | 14 |
| 1.3.4    | Some Special Applications: Children Born Out<br>of Wedlock and <i>Kafāla</i> .....  | 15 |
| 1.4      | Notable Legislative Developments .....  | 17 |
| 1.5      | The Role of the Judiciary in Interpreting and Enforcing<br>the ‘Best Interests of the Child’ Principle .....                              | 18 |
| 1.5.1    | The Jurisprudence of the Court of Cassation .....   | 18 |
| 1.5.2    | The Jurisprudence of the Supreme Constitutional<br>Court .....  | 20 |
| 1.6      | Conclusion .....  | 25 |
|          | References .....  | 26 |
| <b>2</b> | <b>India</b> .....  | 29 |
|          | Jean-Philippe Dequen  |    |
| 2.1      | Introduction .....  | 30 |
| 2.1.1    | Historical Setting: Muslim Personal Law Within<br>the Indian Legal Order .....  | 31 |
| 2.1.2    | Internal Conflict of Laws Between Muslim Personal<br>Law and Indian Legislative and Constitutional Provisions<br>in Relation to BIC ..... | 35 |
| 2.2      | Guardianship and Custody Under Muslim Personal Law<br>and the Guardians and Wards Act 1890 .....  | 40 |
| 2.2.1    | Powers of the Guardian in Relation to the Marriage<br>of a Minor .....  | 41 |

|          |   |           |
|----------|---|-----------|
| 2.2.2    | Powers of the Guardian in Relation to the Property and Person of the Minor . . . . .                                  | 42        |
| 2.3      | The Integration of the Notion of the ‘Best Interests of the Child’ Within Litigation Amongst Indian Muslims . . . . . | 51        |
| 2.3.1    | Adverse Effects of MPL Under the GAWA Relating to the ‘Best Interests of the Child’ . . . . .                         | 52        |
| 2.3.2    | The Changing Nature of the Notion of the ‘Best Interests of the Child’ Within Muslim Disputes . . . . .               | 54        |
| 2.4      | Concluding Remarks: The ‘Best Interests of the Child’, a Foreign Notion to Muslim Personal Law in India? . . . . .    | 59        |
|          | References . . . . .  | 61        |
| <b>3</b> | <b>Indonesia</b> . . . . .  | <b>63</b> |
|          | Euis Nurlaelawati   |           |
| 3.1      | Introduction . . . . .  | 64        |
| 3.2      | Parental Care and the Introduction of the Notion of the Best Interests of the Child . . . . .                         | 65        |
| 3.2.1    | Overview of the Rules on Parental Care in the Marriage Law and the Kompilasi Hukum Islam . . . . .                    | 65        |
| 3.2.2    | The Introduction of the Notion of the Best Interests of the Child. . . . .  | 68        |
| 3.3      | The Best Interests of the Child in Custody Rulings: Judicial Discretion and Procedural Reforms . . . . .              | 69        |
| 3.3.1    | Custody Regulations: Which Parent ‘Deserves’ Custody? . . . . .   | 69        |
| 3.3.2    | Loss of the Right to Custody . . . . .  | 70        |
| 3.3.3    | Parental Agreements on Custody and the Best Interests of the Child. . . . .   | 73        |
| 3.4      | Enforcement of Custody Decisions . . . . .  | 74        |
| 3.4.1    | General Aspects . . . . .   | 74        |
| 3.4.2    | Financial Support for Children Under Mothers’ Custody . . . . .   | 75        |
| 3.5      | Guardianship: Can Women Be Guardians? . . . . .   | 76        |
| 3.6      | Procedural Aspects in Parental Care Cases . . . . .   | 77        |
| 3.6.1    | The Engagement of Children in Court Hearings . . . . .  | 77        |
| 3.6.2    | Settlement of Custody Through Mediation . . . . .   | 78        |
| 3.6.3    | Lawyers and Appeals in Guardianship and Custody Cases . . . . .   | 78        |
| 3.7      | Conclusion . . . . .  | 78        |
|          | References . . . . .  | 79        |
| <b>4</b> | <b>Iraq</b> . . . . .   | <b>81</b> |
|          | Harith Al-Dabbagh   |           |
| 4.1      | Introduction . . . . .  | 82        |
| 4.2      | Historical Perspectives . . . . .   | 83        |
| 4.2.1    | Family Law in Iraq . . . . .  | 84        |

|          |  |     |
|----------|--|-----|
| 4.2.2    | The Emergence of the Concept of the Child’s Best Interests . . . . .   | 86  |
| 4.2.3    | The Consolidation of the Child’s Best Interests as a Principle Derived from the CRC . . . . .  | 88  |
| 4.3      | The Legislative Framework in Force . . . . .   | 89  |
| 4.3.1    | Child Custody ( <i>Hadāna</i> ) . . . . .  | 90  |
| 4.3.2    | Visitation Rights ( <i>Mushāhada</i> ) . . . . .   | 96  |
| 4.3.3    | Guardianship ( <i>Wilāya</i> ) . . . . .   | 99  |
| 4.4      | Court Practice. . . . .  | 102 |
| 4.4.1    | The Legal Nature of Custody . . . . .  | 102 |
| 4.4.2    | The Assessment of the Child’s Best Interests . . . . .   | 105 |
| 4.4.3    | Course of Proceedings and Procedural Aspects . . . . .   | 111 |
| 4.5      | Conclusion . . . . .   | 117 |
|          | References . . . . .   | 117 |
| <b>5</b> | <b>Jordan</b> . . . . .  | 121 |
|          | Dörthe Engelcke  |     |
| 5.1      | Introduction . . . . .   | 122 |
| 5.2      | Historical Setting of the Jurisdiction . . . . .   | 122 |
| 5.2.1    | The Introduction of the Concept of the Best Interests of the Child. . . . .  | 123 |
| 5.2.2    | The Impact of the Convention on the Rights of the Child (CRC). . . . .   | 124 |
| 5.3      | Regulations on Parental Care . . . . .   | 128 |
| 5.3.1    | Custody Provisions. . . . .  | 128 |
| 5.3.2    | Visiting Rights . . . . .  | 131 |
| 5.3.3    | The <i>wilāya</i> and <i>wiṣāya</i> Provisions. . . . .  | 133 |
| 5.3.4    | Parental Agreements on Parental Care . . . . .   | 135 |
| 5.4      | Judicial Practice . . . . .  | 136 |
| 5.4.1    | The Court System. . . . .  | 136 |
| 5.4.2    | An Evaluation of the Concept of the Best Interests of the Child in Custody Cases . . . . .   | 137 |
| 5.4.3    | An Evaluation of the Concept of the Best Interests of the Child in <i>wilāya</i> and <i>wiṣāya</i> Cases . . . . .                           | 139 |
| 5.4.4    | An Evaluation of the Concept of the Best Interests of the Child in Relation to Visiting Rights Since the Enactment of the 2010 Law . . . . . | 141 |
| 5.5      | Conclusion . . . . .   | 141 |
|          | References . . . . .   | 143 |
| <b>6</b> | <b>Lebanon</b> . . . . .   | 145 |
|          | Marie-Claude Najm  |     |
| 6.1      | Introduction . . . . .   | 146 |
| 6.1.1    | Specific Features of the Lebanese State as Compared to Muslim Countries. . . . .   | 146 |
| 6.1.2    | Islamic Law in Lebanese Positive Law . . . . .   | 147 |



|          |   |            |
|----------|---|------------|
| 6.1.3    | Purpose of the Chapter . . . . .  | 149        |
| 6.2      | The Impact of the UN Convention on the Rights of the Child (CRC) . . . . .  | 149        |
| 6.3      | Religious Laws’ Frames of Reference and Their Implementation by Religious Courts . . . . .                                | 151        |
| 6.3.1    | Custody ( <i>Haḍāna</i> ) . . . . .   | 152        |
| 6.3.2    | Guardianship ( <i>Wilāya</i> ) . . . . .  | 159        |
| 6.4      | The Interference of Civil Laws and Civil Court Practice. . . . .  | 162        |
| 6.4.1    | The Application of Foreign Civil Laws in International Relations. . . . .   | 163        |
| 6.4.2    | The Impact of Lebanese Civil Law on Juvenile Protection . . . . .   | 164        |
| 6.5      | Conclusion . . . . .  | 167        |
|          | References . . . . .  | 167        |
| <b>7</b> | <b>Pakistan . . . . .</b>   | <b>169</b> |
|          | Ayesha Shahid and Isfandyar Ali Khan  |            |
| 7.1      | Introduction . . . . .  | 170        |
| 7.2      | Historical Overview of Custody and Guardianship Law in Pakistan . . . . .   | 171        |
| 7.3      | Constitutional and Legislative Reform in Pakistan . . . . .   | 175        |
| 7.3.1    | The Creation of Pakistan: Constitutional Framework and the Quest for Muslim Identity . . . . .                            | 175        |
| 7.3.2    | Pakistan’s Commitment to International and Regional Human Rights and Child Rights Instruments. . . . .                    | 177        |
| 7.3.3    | The UK/Pakistan Judicial Protocol and Child Abduction . . . . .   | 179        |
| 7.3.4    | Foreign Orders . . . . .  | 182        |
| 7.3.5    | Institutional and Legislative Measures at Federal and Provincial Levels under the 18th Constitutional Amendment . . . . . | 182        |
| 7.3.6    | Legislative Measures at Federal and Provincial Levels . . . . .   | 183        |
| 7.4      | Parental Care and the Principle of the Best Interests of the Child in Pakistani Law . . . . .                             | 185        |
| 7.4.1    | Features/Characteristics/Duality of the Pakistani Family Law System . . . . .   | 185        |
| 7.4.2    | The Guardians and Wards Act, 1890 (Act VIII of 1890) . . . . .  | 189        |
| 7.4.3    | Law of Guardianship in Pakistan . . . . .   | 192        |
| 7.4.4    | Judicial Decisions in Custody and Guardianship Cases in Pakistan . . . . .  | 194        |
| 7.5      | Conclusion . . . . .  | 203        |
|          | References . . . . .  | 204        |

|           |  |     |
|-----------|--|-----|
| <b>8</b>  | <b>Qatar</b> .....   | 205 |
|           | Anver M. Emon  |     |
| 8.1       | Introduction .....   | 205 |
| 8.2       | Islamic Law, the Constitution and the Culture of (In)Equality:<br>Between the Formal and Informal .....  | 206 |
| 8.3       | The Qatar Family Law of 2006 .....   | 207 |
| 8.3.1     | General Considerations .....   | 207 |
| 8.3.2     | Child Custody .....  | 210 |
| 8.3.3     | Best Interests of the Child .....  | 212 |
| 8.4       | Conclusion .....   | 216 |
|           | References .....   | 216 |
| <b>9</b>  | <b>South Africa</b> .....  | 219 |
|           | Najma Moosa  |     |
| 9.1       | Introduction .....   | 220 |
| 9.2       | Historical and Demographic Setting .....   | 221 |
| 9.2.1     | General Setting .....  | 221 |
| 9.2.2     | Children in South African Law .....  | 222 |
| 9.2.3     | Impact of Marriage Laws on Child Law in a South<br>African Pluralistic Legal System .....  | 225 |
| 9.3       | The Best Interests of the Child as a Determining Factor<br>in South African Law .....  | 230 |
| 9.3.1     | Judicial Analysis of the Application and Evaluation<br>of the Provisions Pertaining to the Best Interests<br>of the Child in South African Legislation ..... | 230 |
| 9.3.2     | International and Regional Instruments .....   | 234 |
| 9.3.3     | Parental Responsibilities and Rights in the Children’s<br>Act .....  | 237 |
| 9.3.4     | Parental Responsibilities and Rights in the Muslim<br>Marriages Bill (MMB) .....   | 245 |
| 9.4       | Conclusion .....   | 254 |
|           | References .....   | 256 |
| <b>10</b> | <b>Tunisia</b> .....   | 259 |
|           | Souhayma Ben Achour  |     |
| 10.1      | Introduction .....   | 260 |
| 10.1.1    | The Relationship Between Islamic Law<br>and Positive Law .....   | 260 |
| 10.1.2    | The Integration of International Standards .....   | 262 |
| 10.2      | Aspects of Domestic Law .....  | 264 |
| 10.2.1    | The Award of Custody and Guardianship .....  | 265 |
| 10.2.2    | The Organization of Custody and Guardianship .....   | 269 |
| 10.3      | Aspects of Private International Law .....   | 273 |
| 10.3.1    | Direct Instances .....   | 274 |

|           |   |            |
|-----------|---|------------|
| 10.3.2    | Exequatur Instances: The Foreign Decision<br>in the Face of Public Policy . . . . .   | 279        |
|           | References . . . . .  | 283        |
| <b>11</b> | <b>Evolving Conceptions of Children’s Rights: Some Reflections<br/>on Muslim States’ Engagement with the UN Convention on the<br/>Rights of the Child . . . . .</b> | <b>285</b> |
|           | Shaheen Sardar Ali and Sajila Sohail Khan   |            |
| 11.1      | Introduction . . . . .  | 286        |
| 11.2      | Islamic Law, Sharia, Human Rights Discourse, and the CRC:<br>Backgrounds and Contexts. . . . .  | 288        |
| 11.2.1    | Sources of a Plural and Dynamic Islamic<br>Legal Tradition . . . . .  | 288        |
| 11.2.2    | Human Rights in Islam and International Law:<br>Some Observations on Ongoing Contestations . . . . .  | 290        |
| 11.3      | ‘Constitutional Islamization’ as Public Expressions<br>of Plural Muslim Identities. . . . .   | 292        |
| 11.4      | Reservations to the CRC by Muslim States: ‘Islamic’<br>Interpretative Plurality or Autonomous State Practice? . . . . .   | 295        |
| 11.5      | Article 14—Freedom of Religion, Thought, and Conscience:<br>Balancing the Rights of Parents, States, and Children? . . . . .  | 311        |
| 11.6      | Fossilized in History but Lost in Translation? <i>Kafāla</i><br>and Adoption in the Islamic Legal Traditions and the CRC . . . . .                                  | 316        |
| 11.7      | Concluding Reflections . . . . .  | 320        |
|           | References . . . . .  | 323        |
| <b>12</b> | <b>Synopsis . . . . .</b>   | <b>325</b> |
|           | Nadjma Yassari, Lena-Maria Möller and Imen Gallala-Arndt  |            |
| 12.1      | Introduction . . . . .  | 326        |
| 12.2      | The Best Interests of the Child. . . . .  | 326        |
| 12.2.1    | Custody . . . . .   | 327        |
| 12.2.2    | Guardianship . . . . .  | 331        |
| 12.3      | Legal Presumptions in Custody Provisions . . . . .  | 333        |
| 12.3.1    | The Best Interests of the Child and Its Impact<br>on the Legal Nature of Custody . . . . .  | 333        |
| 12.3.2    | Evolution of Custody Rules . . . . .  | 334        |
| 12.3.3    | Comparative Analysis of Custody Regulations:<br>Presumptions, Myths and Realities . . . . .   | 336        |
| 12.3.4    | An Incomplete Change of Paradigm . . . . .  | 343        |
| 12.4      | Parental Care in Cross-Border Disputes . . . . .  | 345        |
| 12.4.1    | The Gap between the Hague Conference System<br>and Muslim Jurisdictions . . . . .   | 345        |
| 12.4.2    | Can the Gap Be Bridged? . . . . .   | 349        |
|           | References . . . . .  | 352        |

# Editors and Contributors

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