

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

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# 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

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Indonesia: Legal Position of Women and Children in Banten and West Java, in Islam, Politics, and Change: The Indonesian Experiences after the Fall of Suharto, Leiden University Press, 2016, and the Legal Fate of the Indonesian Muslim Women at Court: Divorce and Child Custody', in Law, Religion and Intolerance in Indonesia, Routledge, 2016.

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