

# Filiation and the Protection of Parentless Children

Nadjma Yassari · Lena-Maria Möller ·  
Marie-Claude Najm  
Editors

# Filiation and the Protection of Parentless Children

Towards a Social Definition of the Family  
in Muslim Jurisdictions



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# Preface

This volume marks the completion of the second project of the Max Planck Working Group on Child Law in Muslim Countries. It compiles selected contributions presented at the workshop “Establishing filiation: Towards a social definition of the family in Islamic and Middle Eastern Law?”, which, under the auspices of the Research Group “Changes in God’s Law—An Inner Islamic Comparison of Family and Succession Law”, was convened in cooperation with the German Orient-Institut and the Centre of Legal Studies and Research for the Arab World (CEDROMA) at the Saint Joseph University in Beirut, Lebanon, from 8 to 11 November 2017.

While the Working Group’s first project focused on the principle of the best interests of the child and parental care, the second project phase explores existing social and legal structures providing for the care and protection of “parentless” children. Parentless children, in this context, are defined as either children of unknown filiation, such as foundlings, children who lack permanent caretakers due to their parents’ death or inability to provide care, and, finally, children who lack paternal filiation due to the oftentimes strict rules regarding the legal status of children born out of wedlock in contemporary Muslim jurisdictions.

In order to understand how different concepts of alternative care and protection of parentless children function, it is crucial to first explore how filiation operates so as to identify those children potentially facing difficulties in instances where their legal filiation is somehow flawed, or where their biological parents are absent. Accordingly, the eleven country reports collected herein engage in an initial analysis examining (i) how maternal and paternal filiation is established (either by operation of law or by an autonomous party act, e.g. acknowledgement) and (ii) the legal and social status of children that are not covered by these legal schemes. In a second step, structures in place for the care and protection of parentless children are presented and discussed with a view to identifying their legal implications and their potential to recreate a full parent–child relationship.

In addition to the country-specific analyses collected here, the contributions authored by Robert Gleave and Ahmed Fekry Ibrahim explore the subject matter from the perspective of pre-modern Shiite and Sunni legal doctrine, respectively.

Further, Bélih Elbalti discusses questions of filiation in the private international law regimes of contemporary Arab countries. Finally, a synopsis at the end of the volume provides a comparative analysis of the encompassed themes.

The editors wish to thank the former Orient-Institut director Stefan Leder, the current director Birgit Schäßler and the former deputy director Astrid Meier as well as Olaf Dufey, Hussein Hussein and Caroline Kinj for hosting the Working Group's day-one session at the German Orient-Institut Beirut and Zeina Risha and Hiba El Ahmadié for their support in organizing the day-two workshop session, as well as a public lecture programme, at the Saint Joseph University of Beirut. We also would like to express our deep gratitude to Tess Chemnitzer, Michael Friedman, and Jane Yager for their continuous assistance in editing and formatting this volume.

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Beirut, Lebanon  
January 2019

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