

AHMED FEKRY IBRAHIM:

Child Custody in Islamic Law: Theory and Practice in Egypt since the Sixteenth Century.

(Cambridge Studies in Islamic Civilization.) ix, 266 pp. Cambridge: Cambridge University Press, 2018. £75. ISBN 978 1 108 47056 8. doi:10.1017/S0041977X19000491

Ibrahim's second book presents a detailed and fascinating case study of an important topic in Islamic legal practice, that of child custody. This new work builds on the theoretical and historical framework developed in Ibrahim's first book, *Pragmatism in Islamic Law* (New York: Syracuse University Press, 2015). The process of "pragmatic eclecticism", through which jurists and muftis selected from a range of opinions both within their legal school and from the other schools re-emerges in the area of child custody law as it evolved in Egypt from the early modern period. Ibrahim demonstrates in practical terms how jurists considered a range of factors when making child custody decisions. When considering the particulars of a certain case, jurists might depart from school doctrine and established precedent in order to serve the best interests of the parties involved, including the interests and welfare of the child. Also, as in his earlier work, Ibrahim favours a contextual and *longue durée* perspective on key questions in the history of legal change within Islamic thought, such as the alleged opposition between independent legal reasoning (*ijtihād*) and adherence to precedent (*taqlīd*).

Through careful documentation and extensive archival research, Ibrahim shows that Ottoman-era judges in Egypt employed a flexible blend of formalist and pragmatic approaches when making decisions about child custody. Both the basic welfare and the best interests of the child were taken into account, thus creating "strange parallels" (p. 6) between early modern Islamic legal discourse and practice and the Euro-American language of the best interests of the child as formulated in the Convention on the Rights of the Child. Ibrahim's comparative and descriptive approach brings to light instances in which some jurists were able to bypass the letter of the law demanded by *taqlīd* (for example, the presumed guardianship right of the father) to approve private agreements that allowed women much more control, on the condition that the arrangement did not compromise the child's welfare. These private separation deeds produced between 1517 and the mid-seventeenth century provide a fascinating case study within a case study (Ibrahim discusses these agreements in detail in the third chapter of the book).

In the first part of the book, Ibrahim applies his comparative and descriptive approach to look at how Western legal traditions in England, France, and America handled issues of child custody and guardianship, paying special attention to how the best interests standard became hegemonic in this discourse. The progression towards a best interest standard is shown to occur in a slow and nonlinear fashion facilitated by the changing status of women and children in those societies. Turning to early modern Egypt in the second chapter, Ibrahim outlines a complex "matrix of rights and responsibilities" in which the right of the ward, the right of the custodian, and the right of the guardian each play a role (p. 60). Eight main themes shaped the theory and practice of the Sunni legal schools: "age and gender, the mother's marital status, the custodian's lifestyle, the custodian's religion, visitation rights, relocation of the custodian with the ward, child maintenance, and guardianship" (p. 63). Ibrahim's discussion of the opinions of Mamluk and Ottoman-era jurists indicates that individual jurists occupied positions on a spectrum

ranging from more rigid formalists like Tāj al-Dīn al-Subkī (d. 1370) to those who took a more expansive view of the law's intent such as Ibn Taymiyya (d. 1328) and Ibn Qayyim al-Jawziyya (d. 1350). Although the rules agreed upon by the author-jurists in relation to the themes mentioned above were generally assumed to be mandatory, Ibrahim shows with reference to real cases, in chapters 3 and 4, that judges often treated these rules more as default guidance and would, in fact, endorse agreements that contradicted them. In such instances, judges treated the welfare of the child as "a contextual question to be handled on a case-by-case basis" (p. 91). Court documents from Mamluk and Ottoman-era Egypt suggest that women had a considerable amount of leeway in making contracts, like private separation deeds, that protected their own interests and needs.

The pragmatic and diverse Sunni legal discourses on child custody and guardianship featured in the second part of the book give way to increased rigidity with the transition to modernity in the third section. In nineteenth-century Egypt, a new family ideology took root in which the mother of a nuclear family was responsible for the domestic sphere, including the upbringing, education, and nurture of children. At the same time, the relative flexibility of the Egyptian legal system succumbed to a process of "Ḥanifization" as well as to the gradual weakening of the *sharī'a* courts (p. 172). After 1929, the situation would change again as sweeping legal reforms were introduced. Again, progression towards the best interests approach was "uneven and nonlinear" in the Egyptian context much as it was in Euro-American jurisprudence (p. 212). By the second half of the twentieth century, the best interests language of the CRC was formally adopted in secular Egyptian legal statutes, though the practice has remained "piecemeal" (p. 227).

Ibrahim's study of child custody law is nuanced, well grounded in archival documentation, and wide-ranging in historical scope. The book would be useful reading for courses in Islamic law (chapters 3 and 4 being of particular interest) as well as in courses dealing with family law and legal history beyond the specialized subject of Islamic legal discourse.

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SALOUMEH GHOLAMI (ed.):

Endangered Iranian Languages.

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Endangered Iranian Languages edited by Saloumeh Gholami constitutes the proceedings of the Second International Symposium on Endangered Iranian Languages, held in Paris on 8–9 July 2016. It was published in 2018, just two years after the conference, but offers only five of the 16 contributions presented at the conference. The book begins with a summary (p. 5), followed by the editor's preface (p. 7–8), and then the articles, which are classified by their (decreasing) number of pages.

The first article, by Mohammad Dabir-Moqaddam (pp. 9–40), is both an impressive, detailed synthesis of previous debates on the origin of the Middle Iranian ergative construction (pp. 12–20), and a discussion using modern data from many endangered Iranian languages (pp. 20–32). The author then uses the standard Old