

Child Custody in Islamic Law

Premodern Muslim jurists drew a clear distinction between the nurturing and upkeep of children, or “custody,” and caring for the child’s education, discipline, and property, known as “guardianship.” Here, Ahmed Fekry Ibrahim analyzes how these two concepts relate to the welfare of the child, and traces the development of an Islamic child welfare jurisprudence akin to the Euro-American concept of the *best interests of the child* enshrined in the Convention on the Rights of the Child (CRC). Challenging Euro-American exceptionalism, he argues that child welfare played an essential role in agreements designed by early modern Egyptian judges and families, and that Egyptian child custody laws underwent radical transformations in the modern period. Focusing on a variety of themes, including matters of age and gender, the mother’s marital status, and the custodian’s lifestyle and religious affiliation, Ibrahim shows that there is an exaggerated gap between the modern concept of the *best interests of the child* and premodern Egyptian approaches to child welfare.

Ahmed Fekry Ibrahim is Assistant Professor of Islamic Law at McGill University. He has been writing about the theory and practice of Islamic law in the premodern and modern periods by examining both juristic discourse and court records. His research has been supported by numerous bodies, including the Berlin-Brandenburg Academy of Sciences and Humanities, the Social Sciences and Humanities Research Council of Canada, the Max Planck Institute for Comparative and International Private Law, the American Research Center in Egypt, and the School of Foreign Service at Georgetown University in Qatar.

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Child Custody in Islamic Law

*Theory and Practice in Egypt since the
Sixteenth Century*

AHMED FEKRY IBRAHIM
McGill University



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To my mother, Nabawiyya Naji
To my children, Alya and Zayn
To their mother, my friend, Sara Nimis

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