

## **Shari'a Law Courts in Israel: On Patriarchal Liberalism**

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In contrast to western countries, where personal status issues are part of civil law, in Israel, similarly to other middle-eastern countries, personal status affairs are managed according to the religious law of the different sectors through special courts. This idea emerged from the Millet system that was followed all through the Ottoman Empire, with significant changes in Israeli practice on the legal level, on the organizational level of the religious sector, and on the jurisdiction of religious courts. In the State of Israel, legally defined as a Jewish and democratic state, the democratic element affects in favor of diminishing the patriarchal within religious law. However, the Jewish element, at least in its religious sense, calls for the continuity of the status-quo concerning the connections of state – religion. These two contrasting processes- liberalism and religious conservatism- simultaneously affect the Muslim minority and the Shar'ia law system applied by this minority. This research paper resumes previous researches concerning Muslim law in Israel, in the frame of which I attempted to explore the substantive islamic law starting with women's alimony, child maintenance laws and child custody laws, reaching more global procedures that occur at courts, such as the dialectics of islamization vis-à-vis israelization. On the institutional level, I have been exploring the juridical activism of Shari'a Law Court of Appeals and the anomaly of the shari'a field compared to other shari'a fields. This paper aims at examining the normative aspect regular to the Law-person (which might sound ambiguous for non- lawyers), in relation to the equality principle and the literature on Law and Gender, mainly concerning the issue of children maintenance.

In this paper, I would like to explore the patriarchal as reflected in Muslim shari'a books, based on which I shall trace the influences of Israeli law when integrated in the legislations of shari'a courts on the elimination of such patriarchal characteristics. Following this the paper examines the penetration of the husband and father's duties as opposed to the wife and mother. The main claim here is that the limitation of the authorities of the Patriarch within the Muslim family has not lead into gender equality, since there are limits to the extent in which the patriarchal was limited. These duties have merely accumulated unequally. The patriarchal shift, through the emphasis on women's rights and the expansion of the duty of the husband, leads into gender relationships which I would like to call "patriarchal liberalism". My claim is that the existing legislation as to children maintenance is not convenient because it violates the equality principle. Moreover, the existing legislation is not up to date with transformation and evolutions of other religious communities, such as the Jews. Influenced by Rabbinic courts, there have been some reforms concerning this issue in the legislations of family affairs courts, in order to soften the ultimate compulsion of the father according to Hebrew law. Islamic law, as adapted in the issue of children maintenance by Shari'a Courts, is not adequate to the law adapted in some Arab countries. As I will show, some of these countries oblige the mother to maintain her children under certain conditions. The last part of the article will be dedicated to provide an interpretation of islamic law, which is authorized to impose children maintenance on the mother too.