



# musawah

For Equality in the Muslim Family

## **Islamic Law Meets Human Rights: Reformulating *Qiwamah* and *Wilayah* for Personal Status Law Reform Advocacy in Egypt** **Marwa Sharafeldin**

In this chapter, Marwa Sharafeldin investigates the complexities involved when non-governmental organizations (NGOs) attempt to develop and promote new understandings of *qiwamah* and *wilayah* in contemporary Muslim family laws. Through an analysis of extensive field data on the advocacy efforts of a network of Egyptian NGOs that mobilized for reforming the personal status law (PSL) in the period from 2006 to 2010, Sharafeldin examines how the activists understand and navigate Islamic law and human rights norms, and how they formulate arguments and propositions that can neither be neatly classified as egalitarian nor as patriarchal and discriminatory.

Sharafeldin begins by describing the context in which a reform proposal was developed by a network of eleven NGOs over a four-year period. She points out that Egyptian personal status laws, reflecting the *fiqh*-based construction of marital duties and rights, are disconnected from the complex realities of married couples and are creating injustice for women in particular due to the unequal spousal and parental legal rights of husbands and wives. Motivated by the goal to address these challenges, the network drafted substantive reform proposals in a number of areas linked to the concepts of *qiwamah* and *wilayah*: spousal maintenance, obedience, husband's unilateral divorce, child custody and shared wealth. Sharafeldin traces the discursive process through which the network developed first a position paper then a manual with specific propositions for legal reform.

Through a close analysis of the two versions of the *Guiding Manual*, Sharafeldin shows how the encounter between the frameworks of human rights and Islamic law shaped the arguments and propositions formulated by the activists. She highlights how the very different notions of equality and equity/complementarity (drawn from human rights and Islamic jurisprudence respectively) coexisted in these reform proposals. She reveals the compromises, challenges, and opportunities presented by this eclectic approach. Sharafeldin also traces how compatibility with human rights is becoming part of new, yet contested, criteria that are being used by the NGOs to recognize a certain type of 'Islamic' knowledge as legitimate and authoritative.

Sharafeldin also probes into the multiple factors that shape the interpretive process undertaken by the activists as they develop their understandings of *qiwamah* and *wilayah*. The most significant of these factors are the necessities of the lived realities of women as well as the personal beliefs and relationships and engagements that individual activists have with their religious tradition. These factors also affect the way they engage with the human rights discourse.

Sharafeldin concludes that the activists' complex negotiation between the two discourses of Islamic law and international human rights law entailed innovation as well as compromises, which led to mixed results for the activists' reform agenda.