

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	542
Land:	Iran
Kilde:	Sveriges Ambasad, Teheran, Iran
Titel:	Vårdnad om barn – Iran
Udgivet:	9. september 2013
Optaget på baggrundsmaterialet:	2. januar 2014



Datum: 2013-09-09

SVERIGES AMBASSAD

Teheran, Iran

Vårdnad om barn – Iran

Migrationsverket har i en skrivelse från 2012-09-27 ställt en förfrågan gällande vårdnad om barn. I bifogat dokument hittas Migrationsverkets frågor, en översättning av frågorna till engelska samt svaren på engelska.

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Custody Issues

The answers to your questions are provided in chronological order:

- 1- According to the Iranian Civil Law, the parents of a child are responsible for up bringing and maintenance of the children (Article 116 of Civil Law). The parents are not allowed to refrain from supporting the children.

The parents are under obligation for training and education of children and should not let them to live an idle life.

The parents are allowed to punish their children but such punishment should not exceed the reasonable manner for training.

- 2- The parents are generally responsible for brining up the children.

The children are registered on the ID Card of the parents and details of the parents are also recorded on the ID Card of the children.

In case of divorce, then the court determines to give the custody of the child to any of the parents, then, the judgment will serve as an official document which implies the responsibility of the respective parent concerning the child, under the Law.

- 3- In case the parents refrain from performance of their statutory obligation in respect of their children, the state prosecutor will make decision in respect of the custody at the expenses of the father or mother (Article 1172 of the Civil Law), the State Prosecution Office will register.
- 4- In case of a divorce, the mother will have the priority right for the custody of the children upto the age of 7 years.

In any case, the parent who is given the custody, will be responsible for general up bringing.

The financial support in general is the responsibility of the father unless it is ruled otherwise by the court when t he court decides the issue of custody.

- 5- The father and mother can mutually agree between themselves as to the manner of fulfillment of their joint responsibilities and contribution of each one.

Such arrangement is not subject to any formal requirement and a simple written agreement between the parties will be sufficient.

The document can be registered in a Notary Public or recorded in the Family Court.

- 6- According to the Iranian Practice, the parents refer to the clergy of area (local imam) or the trustworthy person among the relatives.
- 7- The court rules regarding the general custody affairs of the child and will not rule on very specific matters.
- 8- The parent who has been given the custody right by the court, can decide on all matters except the issues related to the family ethics, which must be approved by the other parent.

The parent who has the custody, is required by law or by the respective court verdict to observe the right of the other parent to visit the child, therefore, the parent can not move abroad with the child without the consent of the other parent.

In the same way, a parent residing abroad, can not keep the child with him or her without the other parent's consent.

- 9- The sole custody means the full responsibility of bringing up the child unless the financial support has been assigned to the other parent.
- 10- For any matter relating to the custody, the Family Court or Prosecution Office is the competent authority to decide.
- 11- A written complain or a formal petition must be completed by the applicant party. For urgent case, the petition must include a request for extraordinary prompt order.
- 12- The issue of custody and parental responsibilities can be appealed to the Higher Court.
- 13- According to the Law concerning the adoption of children, the adoption of children is allowed.

For adoption, the applicant party must refer to the Family Court and obtain authorization according to the Law.

Custody issues

1. Does the term parental responsibility exist in Iran? If yes, which legal meaning has this in reality? What rights and obligations are tied to this responsibility? Which laws are applicable?
2. Who are in general legally responsible for a child? Are parents registered?
3. Can someone else be appointed to take care of a child if the parents are unable or unwilling to take responsibility for their child? Which law is applicable? Which governmental body registers these issues?
4. How is the parental responsibility settled when the parents get a divorce or live separately?
5. Can parents agree between themselves on how to settle the parental responsibility? Which formal requirements have to be met for such an agreement to be legally binding? Should these kind of agreements be registered somewhere?
6. Are there any other options for parents to settle disagreements regarding parental responsibility without going to court?
7. Which issues does a court have the right to give a ruling regarding children if the parents go to court?
8. If a parent is granted sole custody by the court, can the appointed parent then decide on all issues related to the child or does he/she has to consult the other parent before? Can the parent who has sole custody move abroad with the child and still keep custody? Can a parent who lives abroad and claims to have sole custody of a child allow the child to reside with him/her without the other parent's consent?
9. What does sole custody mean in reality (if appointed by court)?
10. Which court or governmental body should a parent refer to if he/she wants to apply for parental responsibility?
11. Which formal criteria have to be fulfilled? Is there a special procedure for urgent cases?
12. Can the concerned parties appeal a decision about parental responsibility?
13. Can you adopt children in Iran? Which procedure do you have to follow in order to do a legally binding adoption?