

A Comparative Study of Custody in Iranian and American Law with an Emphasis on the Theory of Joint Custody

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Abstract

According to the laws of Iran, the mother has priority in custody of the child until the age of seven, after which custody shifts to the father. However, after the child reaches puberty, there is no explicit rule in this regard, and the prevailing practice of the courts is to avoid any intervention. The jurisprudential approach to custody before puberty and maturity is different. The age at which custody ends is also debated in jurisprudence. While some consider it ends at puberty, others believe it ends at the child's maturity. However, a careful examination of jurisprudence texts reveals that those who regard puberty as the end of custody mean puberty with maturity. Iranian courts have not addressed this matter, and it seems necessary to determine the legal framework and discuss the custody issue from both jurisprudential aspects and the legal theories of various countries. Custody in America has had many ups and downs in the historical context. Initially, custody of the children was exclusively granted to the father, except in cases such as sensitive ages. This procedure was replaced by giving custody to mothers in childcare. Gradually, the courts decided to appoint a guardian based on the best interests of the child, and this theory, due to its ambiguity and scientific studies suggesting that the involvement of both parents in child-rearing leads to greater growth and development of children, gave way to the more comprehensive theory of joint custody, which has countless benefits.

Keywords: Custody; Joint custody; Termination of custody; Custody after divorce.

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