



" THE ABU DHABI CIVIL FAMILY COURT ISSUED A HISTORIC ORDER GRANTING SOLE CUSTODY TO THE FATHER

An Overview

In a landmark ruling, a non-Muslim expatriate father has been granted full custody by Abu Dhabi's specialized family court. The court, established in December 2021, was created to cater to the needs of expatriate residents in family-related matters such as marriage, divorce, and child custody. Typically, custody is awarded to the mother until the child reaches puberty. However, the recent ruling granted sole custody to the father, which is rare when the mother is present in court and has requested sole custody while being able to provide care. Nonetheless, the mother may see the child in the UAE with the father's agreement.

The recent Court order can be referred to as a historic achievement for the UAE's legal system. The decision upheld the non-discriminatory principle on which the new court was founded: to consider the rights of both parents equally and avoid giving preferential treatment based on gender. Typically, it's uncommon for fathers to be granted custody as mothers are usually preferred due to their ability to provide care. This ruling is a positive example of how fathers are treated under the new civil family court system, which aligns with international legal practices.

Background of the Case

The case concerns an expatriate family residing in the UAE for several years. The father filed for custody of a boy under 11 years old after the mother left the Country following their divorce. The father cited the mother's prolonged absence in the Country and neglect of the child as grounds for custody. The court's decision, in this case, demonstrates the court's approach to custody cases and how they handle fathers under the new regime. Specific details about the family have not been revealed to protect their privacy.

Law Relating to Child Custody in the UAE

Article 9 of Abu Dhabi Law No. 14/2021 on Personal Status for Non-Muslim Foreigners in the Emirate of Abu Dhabi states about joint custody. It mentions as follows:

1. In the event of divorce, both parents have an equal right to custody of their children. It is in the best interest of the children to be raised and cared for by both parents, rather than one of them exclusively, to protect the child's mental health and minimize the impact of the divorce.

2. The general principle is that custody should be shared between the mother and father unless one of them waives their right to custody in writing or the court determines that joint custody is not in the child's best interest due to legal capacity issues or potential risks associated with sharing custody.
3. If the father and mother disagree on any aspect of shared custody, either party has the right to request court intervention using the appropriate form or seek resolution through court proceedings.

Court overturned long-established accomplished Fact.

The case has garnered attention because, historically, custody has been awarded to mothers in the Emirates. However, under the new civil law introduced in 2021, non-Muslims can now marry and divorce using a non-Sharia process. The Abu Dhabi, Civil Family Court, allows for equal and joint custody of children after a divorce, with the child's best interests being the primary consideration in custody disputes. Previously, custody was automatically granted to the mother until the child reached puberty at 11 years old for girls and 13 for boys, after which the father could claim custody.

In this case, the court determined that the father had demonstrated his ability to care for the child, and therefore the mother could not simply demand custody. This decision is significant because, in the past, mothers have typically been presumed to be the primary caregivers. Still, there is no longer a presumption in favor of the mother. The court recognizes that there may be cases where the father is more capable and available to care for the child, and in such cases, the child may be granted custody to the father.

A Positive Step for Fathers

The Abu Dhabi, Civil Family Court, has made a strong statement with the new family law that aims to support expatriates in the emirate and provide equal legal rights for men and women. This move is an excellent example of non-discrimination on gender in action, which is positive for fathers. Fathers would no longer have to worry about convincing a judge why it's essential for them to spend time with their children. Additionally, mothers can trust that the court will support an active father-child relationship and ensure that it continues.



The court conducts its proceedings in English and Arabic and handles various cases, such as marriage, custody, divorce, paternity, and inheritance. In case of dissatisfaction with the court's ruling, the order can be contested in the Court of Appeal in Abu Dhabi. As of now, no appeal has been filed in this particular case.

How may HHS Lawyers assist you?

It can be beneficial to consult with a family lawyer to understand your legal rights and options if you are dealing with family matters, such as child custody. HHS Lawyers in Dubai is a law firm that offers legal services in various areas, including family law. They have a team of experienced family lawyers who can provide legal advice and represent you in court if necessary. In particular, if you are facing a child custody dispute, a family lawyer from HHS Lawyers can help you understand the legal principles and procedures involved. They can help you negotiate with the other parent or represent you in court to protect your rights and your child's best interests.

Overall, consulting with a family lawyer such as HHS Lawyers in Dubai can help you navigate the legal complexities of family matters and protect your rights and interests.