

DISCLAIMER: This document was produced in 2005 and is a summary of the laws of Algeria that appertain to international parental child abduction, contact and relocation as they were at that time. **reunite** International Child Abduction Centre cannot vouch for the accuracy of this information for use in litigation and it is not intended to provide case specific advice.

## **QATAR**

### **Overview**

The basis of law in Qatar is the Sharia. The legal system has been influenced to some extent by Egyptian legislation. Previously family law in Qatar was uncodified, however a draft personal status code was produced in 2004. The information in this text concerning custody and guardianship is based on this draft, however, at present we do not have confirmation that this draft was enforced.

Law 23 of 2002 established the Supreme Council for Family Affairs. The role of this body is to promote the role of the family in society, protect and promote familial ties, ensure the implementation of treaties that impact on the family, enable women to play a role in social, political and economic life and improve working women's rights.

Islam is the official religion of Qatar and the majority of the population are Sunni Muslims following the Hanbali School of Islamic Law.

### **Foreign Orders**

Foreign orders are not enforced if they will violate public order.

### **Court Structure**

Law 6 of 1999 reorganized the judicial structure by unifying the civil and sharia court systems. It also created a High Judicial Council. The court structure in Qatar is based on a three-tiered system. At the first level are the Courts of Justice, dealing with civil, commercial and criminal matters and

the Sharia Courts of First Instance, which hears personal status matters. Cases from these courts may be appealed to the second level, which is made up of the Appeal Court of Justice and the Sharia Court of Appeal. At the highest level is the Court of Cassation.

### **Filiation**

Children are legitimate if born within a valid marriage.

### **Custody**

The mother has the most right to custody of young children as long as she fulfils the legal requirements. The conditions are that the custodian should be adult, sane, trustworthy, able to raise the children and provide for their welfare and be free from contagious or terminal illness. A female custodian may not marry someone who is not related to the child within the prohibited degree. A male custodian must be of the same religion as the child and must be able to provide a female carer, such as his wife or his mother, who is able to help fulfil the nurturing aspect of the custodial care of a young child.

If the mother is absent or unable to meet the requirements for custody then custody is awarded according to a strict order. This order is: The mother, the father, the maternal grandmother, the paternal grandfather, great-grandmothers, the full sister, the uterine sister, the consanguine sister, maternal aunts, paternal aunts, maternal aunts of the parents, father's paternal aunts and then nieces.

The period of custody ends when a male child reaches eleven lunar years and a female child reaches the age of thirteen lunar years. The court has discretion to extend this, in the best interest of the child, until puberty for a male child and marriage for a female. When awarding custody the court will take into account the place of residence, religion, income and marital status of each candidate. A non-Muslim mother may have custody of her Muslim children until they reach an age when they are able to discern in matter of religion, which is usually considered to be seven years of age. She must raise the children as Muslims in order to retain custody.

### **Guardianship**

The father is the natural guardian of the person of his children. He is also the financial guardian. If the father is absent or unable to fulfil the duties of guardianship then the paternal grandfather will be the guardian. The guardian must be of the same religion as the child and be capable of fulfilling the duties of guardianship.

### **Access**

The place of custody is considered to be the country of the guardian's residence. It is unlikely that the court would permit custody to be exercised outside of Qatar since the guardian must be guaranteed access to the child. If the mother removes the child without permission of the guardian she will lose custody. Both parents have the right to have contact with the child. If an agreement about access cannot be reached a court order can be sought that will fix the time and place of contact visits.

### **Nationality**

According to Article 2 of the Qatari Nationality Act of 1961, the children of Qatari fathers automatically acquire Qatari nationality, whatever their country of birth.

### **Leaving the Jurisdiction**

A minor needs the permission of the father to travel abroad. Normally the guardian will look after the minor's passport but he must give the passport to the custodian in time of need. If he does not the court can order the guardian to hand the passport to the custodian.

If the divorced woman is a foreign national it is the responsibility of her ex-husband to ensure her sponsorship for residency in Qatar is transferred to a suitable person. Her sponsorship may not be cancelled while her children are under the age at which the mother's custody ends. If a foreign mother seeks to travel outside of Qatar she must have a valid reason and if the father feels she may not return the court can examine any evidence and has the power to prevent her from travelling.

### **International Law**

Qatar ratified the UN Convention on the Rights of the Child in 1995 with a general reservation against all aspects of the treaty that are incompatible with the principles of Islamic law.

### **Child Abduction**

Article 318 of the Penal Code No.11 of 2004 states that a person convicted of kidnapping, arresting or detaining a person is to be punished by up to ten years imprisonment. This is increased to fifteen years if the victim of the crime is a woman or a minor. A kidnapper can be exempted from punishment if the abductee is returned to competent authorities or aids the authorities in finding the victim unharmed.

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