



# CHILD CUSTODY STANDARDS IN ISLAMIC JURISPRUDENCE

(An analytical study)

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## Abstract

The research seeks to define custody and the criteria required to establish who deserves it. These criteria fall into three categories: broad criteria shared by men and women, including seven criteria on which jurists agree and four on which they disagree. The second set of criteria is special to women and consists of four criteria, one of which is agreed upon by jurists and the remaining three criteria are controversial. The third type includes two requirements for men, one of which is debatable and the other is subject to consensus. The research was then concluded with a number of study findings and some suggestions, and sources and references were appended.

**Keywords:** standards, non-Muslim, Muslim, Custody, Child, Right

## Introduction:

Praise be to God, Lord of the Worlds, who says in His decisive and clear Book: {Neither mother nor father should be made to suffer on account of their child, and the same duty is incumbent on the heir.} [Al-Baqara: 233], and prayers and peace be upon our Prophet Muhammad, his family and companions altogether, and whoever follows them with kindness until the Day of Judgment, as for after:

Islam placed a high value on family stability and provided guidelines for how to achieve it, including adopting a divine perspective at all stages of family life. For example, if a couple separates and has one or more children in need for custody, one of the spouses must take custody of the children in accordance with established rules in order for the children to be happy. Praise and thanks be to Him because He provided these requirements in the most complete and lucid manner.

Therefore, and due to the significance of these standards, I prayed to God for guidance and followed the path of scholars in studying them, and researched them under the title (Child Custody Criteria in Islamic Jurisprudence, "An Analytical Study"). I used the inductive and analytical approach in my study by extrapolating the scholars' attitudes in the criteria for the requirements for custody eligibility through examining the approved jurisprudential schools.

## Previous studies:

I came across some studies related to this topic, including:

**First:** Dr. Abboud bin Ali bin Daraa, "Reasons for dropping child custody and their impact on Islamic jurisprudence," a master's thesis at Imam Muhammad bin Saud University - Riyadh, 1414 AH.

**Second:** Dr. Ashraf Mahmoud Bani Kenana, "The abuse of the right to custody," Deanship of Scientific Research - University of Jordan, Studies, Sharia and Law Sciences, Volume 23, Appendix 2, 2016.

**Third:** Dr. Nayef bin Dakhil Al-Anazi, "The validity of the Marriage of a Muslim Woman to a Non-Muslim for the sake of being a muslim," Journal of Sharia Sciences and Islamic Studies - Umm Al-Qura University, Makkah Al-Mukarramah, Issue (81-C2) Shawwal 1441 AH.



**Fourth:** Dr. Aqeel bin Abd al-Rahman bin Muhammad al-Aqeel, “The Rulings of Custody”, Journal of the Saudi Fiqh Association - Riyadh, Issue: 37, 1437 AH.

**Fifth:** Dr. Naifah bint Khamis Ashwi Al-Anazi, “Conditions for Eligibility to Custody,” Journal of Contemporary Fiqh Research - Saudi Arabia, Issue: 111, 1439 AH.

### **The research problem:**

The child's custody is one of the factors that determines whether the person is righteous or corrupt, so it is necessary to answer the following problems: What is meant by custody? And what are the necessary criteria for it? Is it shared by men and women, or is it specific to one of them?

### **The analytical framework:**

#### **First: Definition of Custody:**

The cuddle (Hudn): The side, and the custodian (Alhaadin or Alhaadina): the two entrusted with the child who protect and raise him. “Alhawadin” plural of “Haadin” (The custodians): as the educator and the breadwinner include the child in his cuddle, and from this derives the “Haadina” (baby sitter) as she is the one who raises the child and the custody is the act of doing it. (Al-Jawhari, Al-Sihah: 5/2101, the article “Hudn”, Ibn Manzoor, Lisan Al-Arab: 13/123, the article “Hudn”).

In the terminology of the jurists, custody has been defined by several definitions, including:

**First: The definition of the Hanafis:** They defined it as the upbringing of a child by the person who has the right to custody (Ibn Abdeen, Radd Al-Muhtar: 3/555).

**Second: The definition of the Malikis:** They defined as protecting the child and carrying out his interests (Al-Dardir, Al-Sharh Al-Kabeer: 2/526).

**Third: The definition of the Shaafa'is:** They defined it as the protection and the upbringing of the one who is not independent of his own affairs from what harms him, (Al-Sherbiny, Mughni Al-Muhtaaaj: 5/191).

**Fourth: The definition of the Hanbalis:** They defined as the protection of the young, the insane, and the loony from what harms them, and their upbringing by achieving their interests (Al-Bahuti, Kashshaf Al-Qinaa: 5/496).

**As for the topic and the objectives of this research, the chosen definition** is the definition of the Hanafis and the Malikis because it makes the concept of custody limited to the young, male or female, which is the general and absolute meaning that comes to the mind.

#### **Second: The child custody criteria:**

Custody is established only for those who meet the eligibility criteria for custody, which are of three types:

First: General criteria for both men and women.

Second: Criteria specific for men.

Third: Criteria specific for women.

And in each of these types some are subject of agreement and others are subject of disagreement and controversy. Thus, we will review, discuss, and weigh between them.

#### **The first type: The general custody criteria:**

Let's start with the seven agreed upon general criteria:



1. Puberty, as there is no custody by a minor because he needs custody himself.
2. Sanity as no custody is assigned to the insane or the loony due to their lack of care for themselves.
3. Good conduct, as there is no custody assigned to a sinner because he is not trusted.
4. The ability to conduct custody, as there is no custody for one who is incapable of it.
5. The custodian should not have a contagious or repulsive disease so that the child subject to custody would not be harmed (Al-Kasani, Bada'i Al-Sana'i': 4/43-44, Ibn Abdeen, Radd Al-Muhtar: 3/555-457, Al-Dardir, Al-Sharh Al-Kabeer: 2/527-528, Al-Sherbiny, Mughni Al-Muhtaaaj: 3/454-458, Al-Bahuti, Kashshaf Al-Qinaa: 5/498-500).
6. The place of custody is the region or country in which the father of the child resides because he has the right to see his child and supervise his education, and this is not possible unless the custodian resides in the same region or country as the father. Ibn Taymiyyah said: "They all agreed that if the mother wanted to travel with a male or a female from the region or the country in which the marriage contract was held, then the father has more right to it... And it is known that they agreed that the father's side is preferable when it is not possible to bring them together" (Al-Mustadrak on Majmoo' Al-Fatawa : 5/86).
7. Achieving benefit and avoiding harm. Ibn Taymiyyah said: "The scholars are unanimous that neither of them would be absolutely weighed, as with aggression and negligence, the one who is like that does not take precedence over the one who is kind, just, charitable, and fulfilling duty." (Ibn Taymiyyah, Majmoo' al-Fatawa: 34/132).

As for the four general criteria on which there is disagreement, they are:

**The first criterion:** Being a Muslim, and they differed in it on two attitudes:

The first attitude: There is no custody of an infidel over a Muslim, which is the attitude of the Hanafis if the custodian is a male, except that they said that the male relative has no right in the child unless he is on his religion because this right is only established for the agnate, and the difference of religion prevents agnation, and they said in the two brothers, if one of them is a Muslim and the other is a Jew and the boy is a Jew, the Jew is more worthy of him because it is an agnate, not a Muslim, and it is the Shafi'i and Hanbali doctrine in the custodian in general. (Al-Kasani, Bada'i Al-Sana'i': 4/43, Ibn Abidin, Radd Al-Muhtar: 3/556, Al-Sherbiny, Mughni Al-Muhtaaaj: 3/455, Al-Bahuti, Kashshaf Al-Qinaa: 5/498).

And what is meant by the agnation: male kinship (Fayoumi, Al-Misbah Al-Munir: 2/412).

They cited evidence, including:

*The first evidence:* the Almighty's saying: "And Allah will never give the disbelievers a way over the believers." [An-Nisa: 141].

The point of evidence is that the custody in this case gives a way for a non-Muslim woman over the child, which is prohibited by Sharia (Mawardi, Al-Hawi Al-Kabeer: 11/503).

It is discussed from two sides:

The first is that what is meant by the verse is domination and appropriation (Tafsir Al-Saadi, p. 210), and custody is nothing of that.

The second is that it is a useless evidence because it is general, and the topic of the chapter is specific (Al-Shawkani, Neil Al-Awtar: 6/392).

*The second evidence:* The saying of the Prophet, peace be upon him, "I am innocent of every Muslim who resides among the polytheists" (Reported by Abu Dawud in his Sunan: Book of Jihad, Chapter on

the Prohibition of Killing Those Who Adhere to Prostration, Hadith No. (2645), and Al-Tirmidhi in his Sunan: Book of Siar, Chapter What came about the dislike of standing among the most prominent polytheists, Hadith No. (1604), and Al-Hafiz Ibn Hajar said: “Al-Bukhari, Abu Hatim, Abu Dawud, Al-Tirmidhi and Al-Daraqutni authenticated it by relating it back to Qais bin Abi Hazim.” (Al-Talkhees Al-Habeer: 4/308)

The point of evidence is that the custody by a non-Muslim mother of a Muslim child is included in the general context, so it is forbidden (Al-Mawardi, Al-Hawi Al-Kabeer: 11/503).

It is discussed that it is to be understood as referring to the one who is not secure in his religion (Ibn Hajar, Fath Al-Bari: 6/39), and there is no harm in that for the young to the age of discernment.

*The third evidence:* Since custody is guardianship, so it is not established for a non-Muslim over a Muslim, like the guardianship of marriage and money. (Al-Mawardi, Al-Hawi Al-Kabir: 11/503, Ibn Qudamah, Al-Mughni: 8/238).

And it is discussed in that this guardianship is benefited by mothers, and the Muslim woman and the infidel woman are equal in that; Because the right to custody is based on compassion, and this does not differ according to religion (Al-Babarti, Al-Inayah Sharh Al-Hidaya: 4/369).

*The fourth evidence:* If custody is not established for the immoral, then the infidel is more appropriate for not establishing custody because his harm is greater as he seduces him out of his religion. He drives him away from Islam by teaching him disbelief, beautifying it for him, and raising him according to it, and this is the greatest harm, and custody is established only for the best of the child, so it shouldn't be legislated in a way that leads to his destruction and the destruction of his religion (Ibn Qudamah, Al-Mughni: 8/238 ).

This is discussed in that the immorality that prevents custody is subject of controversy (Ibn Abdeen, Radd Al-Muhtar: 3/557, Al-Dardir, Al-Sharh Al-Kabeer: 2/529, Al-Sherbiny, Mughni Al-Muhtaj: 3/455, Al-Bahooti, Kashshaf Al-Qina': 5/498), and the harm of the child being subject to the custody of an infidel until the age of puberty is acknowledged, but as for the age of breast-feeding until discernment, it is not acknowledged.

The second attitude: It is not required for the custodian to be a Muslim, which is the attitude of the Hanafis when the custodian is a female, except that they excluded infidelity by apostasy because it is a reason for her imprisonment, so she is not able to conduct custody, which is the well-known attitude of the Malikis regarding the custodian at all, except that they said in the custodian that she should join Muslims if there is fear of corruption from her on the child subject to custody, such as feeding him with pork or wine. In this way, Muslims have oversight over her, but custody should still remain with her, which is the attitude of Abu Saeed Al-Istakhari from the Shaafa'is, and it is the attitude of Ibn Hazm, except that he said that “The infidel mother has more right to the two young children for the period of suckling, so if they reach the age and the self-sufficiency levels of understanding, then there is no custody of the infidel.” (Al-Sarkhasi, Al-Mabsoot: 5/210, Ibn Abidin, Radd Al-Muhtar: 3/556, Khalil, Al-Tawdhih: 5/177, Al-Dardir, Al-Sharh Al-Kabeer: 2/529, Al-Mawardi, Al-Hawi Al-Kabir: 11/503, Al-Shirazi, Al-Muhadhdhab: 3/164, Ibn Hazm Al-Muhalli: 10/143).

They cited evidence, including:

*The first evidence:* The Almighty's saying: {Mothers suckle their children for two whole years} ([Al-Baqarah: 233]).

The point of evidence is that the little child is in the hands of the mother because he is in her womb and then in her lap for the period of breastfeeding, so it is not permissible to move him or her from a place where God Almighty made them without a clear text (Ibn Hazm, Al-Muhalla: 10/143)

*The second evidence:* on the authority of Rafi bin Sinan, may God's prayers be upon him: "He embraced Islam and his wife refused to convert to Islam, so she came to the Prophet, may God's prayers and peace be upon him, and said: "My daughter", and Rafi' said: "My daughter". And the Prophet, may God's prayers and peace be upon him, said to Rafi': Sit on one side, and to her mother: Sit on one side, and have the girl sit between them and said: Call her. The girl inclined to her mother, and the Prophet, peace be upon him, said: Oh God, guide her. So she inclined to her father, so he took her" (Abu Dawud included it in his Sunan: The Book of Divorce, Chapter If one of the parents becomes Muslim, with whom will the child be, No. (2244), and Imam Ahmad in his Musnad No. (23757), and al-Hakim in al-Mustadrak 2/225, No. (2828), and he said: "This hadith has an authentic chain of narrators, and they did not bring it out." Sheikh Al-Albani said: "Its chain of transmission is authentic according to the conditions of Imam Muslim, and it was authenticated by al-Hakim, al-Dhahabi and Ibn al-Qattan." (Sahih Abi Dawood: 7/13).

And in a narration on the authority of Abd al-Hamid bin Salamah al-Ansari, on the authority of his father, on the authority of his grandfather: "He converted to Islam and his wife refused to become Muslim, so a young son of theirs who had not reached puberty came, so the Prophet, may God's prayers and peace be upon him, seated the father here and the mother there, then he gave him the choice, and he said: Oh God guide him." So he went to his father. (Narrated by Al-Nisa'i in Al-Mujtaba: Book of Divorce, Chapter on One of the Spouses' Converting to Islam and Choosing the Child, No. (3495), and Ibn Maajah in his Sunan: Book of Rulings, Chapter on Choosing a Child Between His Parents, No. (2352), and authenticated by Sheikh Al-Albani (Sahih Sunan Al-Nisa'i: 2/ 502).

The point of evidence from both of them is that if the non-Muslim mother did not have the right to custody, the child subject to custody would not given the choice between her and his Muslim father (Al-Juwayni, Nihaayat Al-Muttalib: 15/545).

It is discussed at two levels:

The first level is that the report is weak according to the people of hadith, as it was narrated in a way different from this, and the people of transmission do not prove it, and there is a deficiency in its chain of transmission, and the story was ambiguous as it was narrated that the child who had the choice was a girl, and it was narrated that he was a boy. However, if it was authentic, the answer would be from three aspects:

A-: What is meant by it is the appearance of a miracle by answering the prophet's call.

B -: She was weaned, and the weaned is not given the right to choose.

A-: The Prophet, may God's prayers and peace be upon him, prayed for her guidance to the convenient custodian, not to Islam because her conversion to Islam was proven by her father's Islam, and if the mother had a right, he would have approved it, and he would not have prayed for her guidance to the one who deserves it (Al-Mawardi, Al-Hawi Al-Kabir: 11/503, Ibn Qudama, Al-Mughni: 8/238, Ibn Al-Qayyim, Zad Al-Ma'ad: 5/411).

And the reply to this is that this Hadith with its chains of transmission and methods is suitable for invoking it, and confusion is forbidden considering the case of the argument, which is the blasphemy of the mother and the affirmation of choice, and these two elements are what the ruling revolves around (Al-Nawawi, Al-Majmoo': 18/324).

And the second level is that the Hadith was abrogated because the nation unanimously agreed that a Muslim boy should not be handed over to an infidel (Al-Sherbiny, Mughni Al-Muhtaaaj: 3/455).

This is discussed in that the Hadith was inferred by those who said that the custody of the infidel mother was established, and the majority held that there is no custody of the infidel woman over her Muslim child (Nawawi, Al-Majmoo': 18/324), so the alleged consensus was denied. Al-Hafiz Ibn Hajar

said: “Sheikh Abu Ishaq exaggerated, as he claimed the consensus that the child shouldn’t be surrendered to the infidel” (Al-Talkhees Al-Habeer: 4/34).

*The third evidence:* The right of custody is for the mother for pity on the child, and this does not differ according to religion (Al-Sarkhasi, Al-Mabsoot: 5/210).

*The fourth evidence:* that the infidel is religious in his belief, so he was trusted with his son (Al-Mawardi, Al-Hawi Al-Kabir: 11/503).

This is discussed in that if he is safe in his body, then he is not safe in his religion, and his right in religion is stronger (Al-Mawardi, Al-Hawi Al-Kabir: 11/503).

*The fifth evidence* is that the young in the age of breastfeeding and beyond it - by a year or two - has no understanding, nor knowledge of what he witnesses, so there is no harm for him in that (Ibn Hazm, Al-Muhalla: 10/144).

The most correct opinion - and God knows best - is that a non-Muslim mother is more entitled to the custody of her child, but it is restricted to what Ibn Hazm mentioned that if they have reached the age and the self-sufficiency levels of understanding, then there is no custody for her because it is a saying that is not included in the generality of his saying, peace be upon him: “Whoever separates a mother from her son, God will separate him from his loved ones on the Day of Resurrection.” (Reported by Al-Tirmidhi in his Sunan: Kitab Al-Seer, chapter on the hatred of separating captives, No. (1566), and he said: “This hadith is good (Hasan) unfamiliar (Gharib).” Imam Ahmad in his Musnad, No. (23499), and Al-Hakim in Al-Mustadrak, No. (2334), and he said: “This is an authentic hadith according to the conditions of Imam Muslim, and they did not take it out.” Sheikh Al-Albani approved it authentic (Sahih Al-Jami’, Hadith No.: 6412).

This is a middle attitude between the absolute prohibition of custody, and those who permit it until the age of puberty or the age of discernment, which is seven years. Ibn Taymiyyah said: “I have contemplated What Allah Wills from the issues in which the dispute differs in negation and affirmation..., and I found in many of them the correctness resides in the middle.” (Majmou Fatawa: 21/141).

Assuming that there is a harm by staying with her, removing him from her is the greatest harm, especially with regard to Muslim minorities in the countries of the West. Among the legally established rules is that “If two evils conflict, the one that causes the greatest harm should be taken into account by committing the lesser of them.” (Al-Suyuti, Al-Ashbah wa Al-Nazaer, p. 87).

**The second criterion:** freedom, and they differed in it at two levels:

The first level: Freedom is a condition for custody, so it is not proven for those who are subject to slavery, and it is the view of the majority of Hanafis, Shafi’is, and Hanbalis (Ibn Abdeen, Radd Al-Muhtar: 3/557, Al-Sherbiny, Mughni Al-Muhtaaj: 3/454, Al-Bahuti, Kashshaf Al-Qina’: 5/498 ).

The second level: Freedom is not required for custody, which is the attitude of the Malikis (Ibn Shas, Akd Aljawahir Athamina (the necklace of precious jewels): 2/609, Al-Dardir, Al-Sharh Al-Kabeer: 2/530).

Ibn al-Qayyim said: “As for the condition of freedom, there is no evidence that the heart will be satisfied with, and the companions of the three imams stipulated it. Malik said in a free man who had a son from a slave-woman: The mother has more right to him unless she is sold and moved, so the father is more entitled to her, and this is the correct attitude.” . (Zad al-Maad: 5/412).

**The third criterion:** adulthood, so there is no custody of a prodigal so that the money of the child subject to custody is not destroyed, which is a condition according to the Malikis and Shafi’is (Al-Dardir, Al-Sharh Al-Kabeer: 2/529, Al-Sherbiny, Mughni Al-Muhtaaj: 3/456).





**The fourth criterion:** travel, and they differed in two attitudes:

*The first attitude:* The husband has the right to prevent the custodial mother from going out to another country as long as she is in her waiting period. If her waiting period expires, she may go out with the subject to custody child in two cases:

The first case is when she goes out to a nearby region that should not be less suitable than the place where she is staying so that the child's morals are not affected, and his father can see him, back in his daytime.

The second case is when she goes out to a remote place, provided that:

- The country to which she moved is her homeland.
- The husband may contract his marriage to her in this country.
- The place to which she moved is a land of peace, not a land of war, if the husband is a Muslim or a Dhimmi (a non Muslim under a Muslim rule), which is the view of the Hanafis (Al-Kasani, Al-Bada'i': 4/44, Ibn Abdeen, Radd Al-Muhtar: 3/569-570).

*The second attitude:* If the travel of one of them is a travel of moving to live, then the one with the child subject to custody is the father, whether he is the resident or the one who is moving, provided that the road is safe, and the place to which he is moving is safe for the young, and if the travel is for a need such as trade and a visit, then the child subject to custody is with the resident until the traveller returns back, which is the attitude of the mainstream, but they differed in determining the distance of travel (Al-Dardir, Al-Sharh Al-Kabeer: 2/531-532, Al-Sherbiny, Mughni Al-Muhtaj: 3/458-459, Al-Bahooti, Kashshaf Al-Qinaa: 5/500).

Ibn al-Qayyim al-Jawziyyah said: "The right thing is to consider for the child to be on the safe side in what is best for him and more beneficial either to be residence or moving, so whichever is more beneficial to him and more protective and preserving should be selected as there is no effect of residency or moving, this is all as long as one of them does not want the move to harm the other and to take the child away from him, and if he wanted so, he wouldn't be given this right. (Zaad al-Ma'ad: 5/414).

***The second type: the custody standards for men:***

If the custodian is a male, he must meet the following two criteria:

First, he must be a mahram for a desired female child subject to custody, and this is the subject of agreement among the jurists (Al-Kasani, Bada'i' Al-Sana'i': 4/43, Al-Dardir, Al-Sharh Al-Kabeer: 2/529, Al-Sherbiny, Mughni Al-Muhtaj: 3/454, Al-Bahuti, Kashshaf Al-Qina': 5/496 ).

Second, he should have females who are fit for custody, such as a wife, a slave-girl, or a tenant for that, which is the attitude of the Malikis (Al-Dardir, Al-Sharh Al-Kabeer: 2/529).

***The third type: the criteria of custody for women:***

Custody for the female is established by four criteria:

First, she should not be married to a foreigner from the child in custody, and this is the subject of agreement among the jurists (Ibn Abdeen, Radd Al-Muhtar: 3/557, Al-Dardir, Al-Sharh Al-Kabeer: 2/530, Al-Sherbiny, Mughni Al-Muhtaj: 3/455, Al-Bahuti, Kashshaf Al-Qina': 5/ 499).

Second, she must be of a kinship relative to the child in custody, such as his mother and sister, so there is no custody of the cousins (daughters of the uncles or aunts). This is the view of the Hanafis and the Malikis, and the most correct according to the Shaafa'is is that it is not a condition until the male child in custody reaches the age of being desired (Al-Kasani, Bada'i' Al-Sana'i': 4/41, Al-Dardir,



Al-Sharh Al-Kabeer: 2/530, Al-Nawawi, Rawdat Al-Talibeen: 9/110, Al-Sherbiny, Mughni Al-Muhtaj: 3/453).

Third, she shouldn't live in a house that hates or abhors the child in custody, which is the view of the Hanafis, and the well-known of the views of the Malikis (Ibn Abdeen, Radd Al-Muhtar: 3/556, Al-Dardir, Al-Sharh Al-Kabeer: 2/527).

Fourth, she should not refuse to breastfeed the child in custody if she has milk, and if she refuses, then she has no custody, which is the most correct view according to the Shaafa'is, and for the Hanbali's if she asks for more than the equivalent fee (al-Nawawi, Rawdat al-Talibeen: 9/101, al-Sherbiny, Mughni al-Muhtaj: 3/455 -456, Al-Bahooti, Scouting the Mask: 5/487).

#### **The conclusion:**

Praise be to God, Lord of the Worlds, and prayers and peace be upon our Chosen Prophet, our Chosen Messenger, his family and companions, and those who followed them in goodness until the Day of Judgment.

God Almighty has blessed me with the completion of this research, and I came out with many results, the most important of which are the following:

1. Custody is to protect the child and take care of his interests.
2. If the spouses separate, and they have a crippling child, then the people who care for him and his custody are the ones with whom the interest of the child is achieved and the harm is removed.
3. The custody is established for those who meet its criteria, which are general criteria for both genders, criteria specific to women, and criteria specific to men, and in each of them there is what is agreed and disagreed upon.
4. The most controversial criteria among jurists is the Islam of the custodian, and that a non-Muslim mother is more entitled to custody of her child, as long as he needs her until he reaches the age of dispensing with her and understanding the matters of his religion.

Finally, to end this research, I would like to make some recommendations and suggestions, stemming from the nature of this research and my experience with it, namely:

First, a Muslim who wants to marry a non-Muslim woman must stipulate in the contract that he has the right to custody in the event of separation, whether the country is Muslim or not.

Second, a Muslim in his country must - according to the law of his country - not allow his non-Muslim wife to travel with her children in custody to avoid the risk of falling into conflict with the law of her country.

Third, in the event that the father of the child becomes Muslim and his wife refuses to become Muslim, and she requests separation, then he must agree with her on custody of the child as he is the responsible for his dependents, and keeps him with her for a period of time as long as he needs her - if they agree about this -, then the custody devolves on him, and all that is according to a judicial order in her country, to avoid the consequences of the violation.

And our last prayer is that praise be to God, Lord of the worlds, and may God's blessings and peace be upon our Prophet Muhammad, his family and all his companions.

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