



This is your father, and this your mother, so take whichever of them you wish by the hand

Abu Maymūnah Salma, who was a truthful man and a freed slave from among the people of Madīnah, reported: While I was sitting with Abu Hurayrah, a Persian woman came to him along with a son of hers. She had been divorced by her husband, and they both (the father and mother) claimed him. She said: "O Abu Hurayrah," speaking to him in Persian, "my husband wants to take my son away." So Abu Hurayrah said: "Draw lots on this," saying it to her in Persian. Then her husband came and said: "Who is disputing with me regarding my son?" Abu Hurayrah said: "O Allah, I do not say this, except that I heard a woman who came to the Messenger of Allah (may Allah's peace and blessings be upon him) while I was sitting with him, and she said: 'My husband wants to take away my son, Messenger of Allah, and my son draws water for me from the well of Abu 'Inabah, and he has been helpful to me.' The Messenger of Allah (may Allah's peace and blessings be upon him) said: 'Cast lots for him.' Her husband said: 'Who is disputing my son with me?' The Prophet (may Allah's peace and blessings be upon him) said: 'This is your father, and this your mother, so take whichever of them you wish by the hand.' So he took his mother's hand, and she went away with him."

[Authentic hadith] [Narrated by Ibn Majah - Narrated by At-Termedhy - An-Nasaa'i - Narrated by Abu Daoud - Narrated by Ahmad]

This Hadīth indicates the obligation of realizing the child's interest. A woman was separated from her husband and kept the child with her. It was as if something occurred that prevented the woman from keeping the child in her custody, despite of her need for him and of his need for her care and protection, something that the father could not provide. In response to this case, Abu Hurayrah narrated what he had heard from the Prophet (may Allah's peace and blessings be upon him). Custody is a kind of guardianship that is meant to raise the child and fulfill his interests. Before the age of discernment, the child remains with his mother unless she gets married. If the child attains the age of discernment and is capable of managing some of his affairs independently and does not need external help in many things, then the mother and the father have equal rights to the child's custody. The child is then given the choice of joining either of them.

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