

**Dr. Sayyid Jaafar Fadlallah**

## Child Custody in an Open Approach

### **ABSTRACT:**

The issue of child custody after divorce raises many questions in jurisprudence. It is often the case that these questions are related to some fatwas that do not speak to the common sense of people nowadays. For instance, the child's age is a decisive factor in child custody. Some fatwas state that custody is given to the mother if the boy is less than 2 years of age and the girl is below 7 years of age, after that, the custody is given to the father. Other *fatwas* state that custody is given to the mother if the child is younger than 7 years, regardless of gender.

Many questions arise in this topic of which I aim to answer and develop:

1. Is this issue related to *ta'abbod*? In other words, are we restricted to the limitation of the narrations?
2. What about real-life complications as well as the parents and children's circumstances?
3. What is the role of courts when it comes to child custody in Islam?
4. What role should be given to different scientific disciplines such as psychology and sociology, etc.?
5. Is it possible to derive a flexible base that can accommodate to the variations when it comes to child custody?
6. If so, how can we derive supporting evidence from the narrations as they are clear on the issue of the child's age as a decisive factor in child custody?
7. In other words, what methodology should be followed to overcome these issues?



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### **BIO:**

Dr Sayyid Jaafar Muhammad Husayn Fadlallah, born in Beirut in 1974, is a lecturer of jurisprudence at the Islamic Shar'ī Institute in Beirut, Lebanon. He is also a lecturer at Al-Mahdi Institute in Birmingham, UK on Qur'ānic *fiqh*. He holds a Ph.D. in sociology from the Lebanese University (2015) and is currently a part-time faculty member at the Lebanese University faculty of Social Sciences. He is also currently the supervisor of Religious Affairs at Al-Mabarrat Association.