



CUSTODY DISPUTE BETWEEN MALDIVIAN AND FOREIGN NATIONAL

In 2014 a child custody dispute took place between a Maldivian man, Ahmed Sharaan, and a German woman, Tanja Sharaan. The two had met in 2013 whilst both were working in a Maldivian resort and had subsequently become romantically involved, getting married later in the same year.

Following their nuptials, the two moved to Switzerland, where they had a daughter. When the daughter was 5 months old, the father, unhappy with having to live abroad took forced custody of the child and travelled back to the Maldives without the mother's knowledge, whilst she was at work.

Tanja subsequently returned to Male' to try and find her daughter and Ahmed went into hiding with the child. Availing herself of legal counsel at a local firm, Tanja filed a case at the Maldives Family Court to take back custody of her daughter.

The initial difficulty in proceeding with the trial was locating Ahmed, whose lawyer appeared in court in his stead. Ahmed's lawyer's chief argument against granting custody to Tanja was that she would raise the child as a non-Muslim, despite Tanja having formally converted to Islam in 2013.

In February 2014 the Family Court ruled in favour of Tanja and ordered Ahmed to give Tanja practical custody of the child within 24 hours. Ahmed remained in hiding and, through his lawyer, appealed the decision to the High Court, which issued an injunction temporarily halting the Family Court order until the matter was deliberated upon

by the Superior Court. This was done without the mother being given any prior notice.

The High Court ordered Ahmed to attend court in person and he subsequently came out of hiding to become involved in the court proceedings. During the proceedings, Tanja, who cannot speak Dhivehi, was not provided an interpreter by the state, as is constitutionally required.

On 20th March however, the High Court upheld the decision of the Family Court, granting Tanja custody of the child, on the condition that she could not leave the Maldives as this would contradict the visitation rights of the father. Tanja was subsequently able to overturn the court imposed limitation on her freedom to travel and has since moved abroad and filed for divorce.

It should be noted that despite the case being resolved in the mother's favour there were serious issues with how the trial preceded that detrimentally affected the quality of justice she received. That an important injunction affecting her case was issued without giving her any notice was highly problematic. Also of concern was that Tanja was not given an interpreter despite her inability to speak in Dhivehi, which was a serious impediment with regard to her ability to access justice in the Maldives as a foreigner. Article 51 of the Maldivian constitution delineates an interpreter as a right to be afforded to a party to a dispute in the event that that party does not understand the language in which proceedings are being conducted.