

## Introduction

- In child custody cases where the parents disagree regarding the religion their children should be raised with, religion becomes one of the variables that must be considered by the court.
- Courts may shy away from ruling which religion a child should be raised with due to the separation between church and state mandated by the First Amendment (Fitzgerald, 2017).
- If the court would refuse to give a clear ruling on this matter, the child would be caught between two quarreling parents, being enjoined by each one to choose their religion. In being forced to make this choice, the child would in effect be forced to choose between parents, a situation that would doubtless cause much emotional distress (Kendall v Kendall, 1997).
- The court is obligated to make a decision that is in the best interests of the child (Fitzgerald, 2017; Luftman, Veltkamp, Clark, Lannacone, & Snooks, 2005; Warburg, 2018).

## Factors for Consideration

### Stability

- A stable home is a major contributing factor to a child's emotional well-being (Wallace & Silverberg Koerner, 2003).

- Keeping the child's life as familiar as possible will minimize the feeling of instability generated by the divorce (Brand, Howcroft, & Hoelson, 2017).

### Support System

- Religion provides adolescents with a support system comprised of religious friends, role models, and of course, G-d (Bjorck, Kim, Cunha, & Braese, 2019).
- The beneficial effects of religion on adolescents' emotional well-being is independent of their receiving support from their parents (Bjorck, Kim, Cunha, & Braese, 2019).

### Attachment to Religion

- Children who are raised with religion form real religious beliefs that influence their perspectives on the world (Cherney & Shing, 2008).
- Religious beliefs contribute to children's sense of identity (Hemming & Madge, 2012).

### Rights of the Parents

- Parents have the right to raise their children unless proven unfit for the task (Cherney & Shing, 2008; Warburg, 2018).
- Parents have the right to teach their children religious beliefs and practices (Kendall v Kendall).

### Rights of the Child

- Children have the right to protection and fair treatment (Humanium, n.d.).

- A child's right to fair treatment is protected in child custody cases by the court's obligation to rule in the best interests of the child.
- Children are included in the First Amendment right which allows people to practice the religion of their choice (Bielefeldt, 2015; Humanium, n.d.).

## Opposing Claims

**Both parents have the right to teach their own religious beliefs to their children.**

Parents have the right to teach their own religious beliefs to their children only where the children do not have pre-existing beliefs or where the children are receptive. In this case, the children have pre-existing religious beliefs and introducing them to new beliefs would cause them distress.

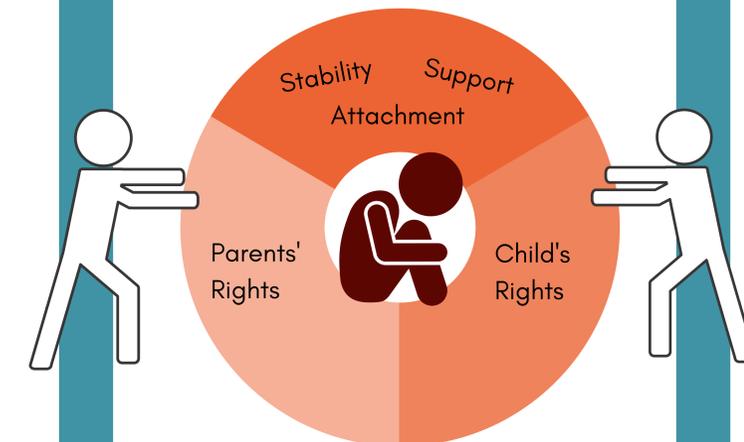
**It is not harmful for children to be exposed to multiple sets of religious beliefs.**

Because religions are exclusive, each consisting of fundamental claims which cannot coexist with the fundamental claims of other religions, being taught two religions' beliefs would cause children emotional distress due to their lack of identity and their feeling forced to choose between parents.

**The First Amendment prohibits the court from ruling on matters involving religion.**

The court must make a decision that is in the best interests of the children. The children's religious upbringing has a direct impact on their wellbeing.

**Figure 1: Relevant Factors**



## Conclusion

Taking all of these factors into consideration, it becomes clear that children who were raised during the marriage with a specific religion should not be required to change their religious beliefs or practices following their parents' divorce. In cases where divorcing parents disagree regarding the religion their children should be raised with, the children should continue to be raised with the same religion they were previously. This will increase the children's sense of stability and respect their right to freedom of religion. Providing a clear ruling on this issue will prevent a scenario where the children are forced to choose between their parents. This solution is in the best interest of the children since it will contribute to their emotional well-being and prevent sources of emotional distress.