

Question 1763) - If there are no women of the child's family to take custody of the child and the men fight over it, who will receive custody?

A: The closest in terms of Asabiyah is most entitled.*

* First will be the father, then the father's father and ascending thus. Then a full brother, then a brother with a common father. Then the son of the full brother. Then the son of the brother with a common father. And thus all their descendants. Then a full brother of the father. Then a brother of the father who has a father in common. Then cousins, first is the son of a full brother of the father; then the son of a brother of the father who has a father in common. The cousins will not get a girl's custody because they are not Mahram. Also she will not be given to an untrustworthy mother or sinful relatives; nor to the owner who set the slave free; in order to avoid trouble.

~ al-Quduri ~