

Adoption

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Adoption is one of the most common options for infertile couples. Many are too quick to say that adoption is *haram* when in fact the reality is that Allah on many occasions calls for Muslims to take care of orphans:

"It is not piety that you turn your faces towards the east or west; but piety is the one who believes in Allah, the last day, the angels, the book, the Prophets, and gives his wealth, in spite of love for it, to the kinsfolk, to the orphans, and to the poor who beg, and to the wayfarer, and to those who ask" [Qur'an 2:177]

"They ask you what they should spend. Say: whatever you spend of good must be for parents and kindred and orphans and the poor who beg and the wayfarers, and whatever you do of good deeds, truly Allah knows it well." [Qur'an 2:215]

"Worship Allah and join none with Him in worship, and do good to parents, kinsfolk, orphans, the poor who beg, the neighbor who is near of the kin, the neighbour who is a stranger, the companion by your side, the wayfarer, and those whom your right hand possess. Verily Allah does not like such as are proud and boastful." [Qur'an 4:36]

The prophet himself was an Orphan:

"And did He (Allah) not find you (Muhammad) an orphan and gave you a refuge? And he found you unaware and guided you? And He found you poor and made you rich? Therefore treat not the orphan with oppression." [Qur'an 94:6-9]

What Islam does in the case of adoption, as well as in other things, is regulate the practice and correct what is wrong. In adoption before the restrictions were made it was much like the system of adoption that is known to most of us now. Where a child assumes the identity of an actual biological child of the adopters. Assuming all rights as a child proceeding from the couple naturally. The children's names would be changed to the family

name of the adopters, inheritance would result as in the case of a natural child and the natural parents and family of the adopted would be cut off from the child. Barriers of marriage would be assumed and non-related people would walk around in a relaxed way as if they are related.

This was the case of Zayd the adopted son of Prophet Muhammad (s.a.w.) Zayd was captured as a child during a raid, which was a norm before Islam. Khadija's nephew had brought him to her, and after she married Muhammad (s.a.w) she gave Zayd to him. At some point Zayd's actual family found out where Zayd was and went to Muhammad (s.a.w) to demand Zayd's return. (Bear in mind that all this took place before Messengership and regulations.) Zayd was given a choice and Zayd chose to stay with Muhammad (s.a.w.) and it was after this that Zayd was adopted and became known as Zayd Ibn (son of) Muhammad.

Zayd was one of the first to accept Islam. Muhammad (s.a.w.) arranged a marriage between Zayd and Zaynab bint Jash, the Prophet's cousin. This marriage was not a happy one, because Zaynab treated Zayd as if he were still a slave. Zayd came to Muhammad (s.a.w.) on several occasions voicing his unhappiness, but Muhammad (s.a.w.) advised him to stay in the marriage.

Then Allah decreed the following:

"Nor has He made your adopted sons your (real) sons; that is simply a saying of your mouths. But Allah speaks the truth and guides you to the (right way). Call them by their fathers names, that is more just in the sight of Allah. But if you do not know their fathers, they are your brothers in faith and your ward." [Qur'an 33:4-5]

It was after this revelation that Zayd was no longer known as Zayd ibn Muhammad. But was given the proper name; Zayd ibn Harithah. Yusuf Al Qardawi says of the above verse:

Let us ponder the Qur'anic words, *"He has not made your*

adopted sons your (real) sons: that is simply a saying of your mouths." This signifies that the declaration of the adoption consists of words having no corresponding objective reality. A mere pronouncement does not change realities, alter facts, or make a stranger a relative, or an adopted individual a son. A mere verbal expression or figure of speech cannot make the blood of a man run in the veins for the adopted son, produce feelings of fatherly affection in the man's heart or filial emotions in the heart of the boy, or transfer either the genetic characteristics or physical, mental, or psychological traits.

Then came a huge step that would not only shatter the taboos of the Jahaliyya but also the taboos of today. Allah decreed:

"And when thou didst say to him who had received the favor of Allah and they favor. Retain thy wife and fear Allah thou didst hid within thy self what Allah was made about to manifest; thou didst fear the people, but it is more fitting that thou shouldst fear Allah. Then when Zayd had dissolved (his marriage) with her, with the necessary (formality). We joined her in marriage to thee in order that (in future) there may be no difficulty to the believers in marriage with the wives of their adopted sons, when the latter have dissolved with the necessary (formality) with them. And Allah's command must be fulfilled." [Qur'an 33:37]

After this revelation, the marriage between Muhammad (s.a.w.) and Zaynab was completed. The lead of the Prophet (s.a.w.) was once again established in the abolishment of old practices. Enemies of Islam have in the past and presently harped on this issue of the Prophet's (s.a.w.) life, because they still remain practicing the ways of Jahaliyya. It is hard for many to comprehend how such a marriage can take place when the wrongly establish boundaries that do not exist. Although a marriage between a father and his son's ex-wife is forbidden in Islam, adopted sons are not true sons. They do not hold the same blood line as true biological children. Once people begin to understand this fact, it will be easier for them to comprehend the allowance of a marriage between an ex-wife of one's adopted son.

In Islam inheritance has been strictly laid out, so as to avoid family arguments and battles over money and properties of the deceased. Unfortunately the greed of people causes disruption in such matters. By promoting peace and strong ties within the family Islam has settled the dispute forever. Allah says:

"Allah directs you as regards your children's (inheritance) to the male, a portion equal to that of two females: if only daughters, two or more, their share is two thirds of the inheritance; if only one her share is

half." [Qur'an 4:11]

Our intention here is not to get into the reasons of why one gender's inheritance is more than another's, but rather the specifications of inheritance. As we have seen already, **the Qur'an is clear that those whom you adopt are not your true children**, this is something that your mouth says. So with regards to inheritance, an adopted child will not inherit the amounts of one's natural children. This will automatically cut out any jealousy on behalf of any of those involved. What can be done, however, is that 1/3 of one's assets can be divided as one chooses, so an adopted child could have this portion of inheritance, but no more can be given because it would upset the balance of what is to be divided and how.

One would start to wonder exactly how an adopted child would live in the household. Seeing that it is not one's child so the natural limitations are not imposed, so must be other issues such as covering. It is an established practice of muslim women to cover, per Qur'anic order. Women are to cover in front of everyone except for the following:

". . . their husbands, their fathers, their husband's fathers, their sons, their husband's sons, their brothers or their brother's sons, or their sisters sons, or their women, or the slaves whom their right hands possess, or male servants free of physical needs, or small children who have no sense of the shame of sex." [Qur'an 24:31]

As soon as a child attains maturity, female children are to cover their bodies in such a way as prescribed in Qur'an in front of everyone except for the exceptions given. So if a couple brings an orphan in to their homes, say a male child, as soon as this male child reaches maturity every mature woman in the house would have to cover in front of him. For he is not Mahram (someone with whom marriage is forbidden, or is in a marriage with) and is to be treated as such. No female in the household is to be alone with him, and this includes the woman who is raising him. It makes for a very awkward situation to say the least. Unless a family is set up with a home which can seclude one section of the house from another, it may pose as a problem for many to say the least.

While discussing adoption with Muslims, the usual comment arises "this is the nineties, we don't have to cover nor do we have to be so strict when raising orphans." I am not about to debate the ordinance of proper covering at this point, but will, Insha'Allah, at another time and place. But Islamic standards do not change with time. Allah has simply put it *"It is (Qur'an) nothing but a reminder for all mankind."* [Qur'an 12:103] Muslims, as submitters to Allah, are to follow the laws and guidelines

established in Qur'an and through His Prophet (s.a.w) in the '90's' as they were to be followed over 1400 years ago when first given. The question would now become is there a way around any of the formalities? The answer is YES. Allah has given allowances to make the caring of orphans a bit easier. Through the means of suckling a child by the woman care-giver a mahram relationship is formed between her, her immediate family i.e. mother, father, brother, sisters, daughters, and sons whatever the case may be. If a child is suckled by the woman until the child has gotten his full while he/she is under the age of two years old than a mahram relationship is established. This is based on the Qur'an and sunnah (way) of the Prophet (s.a.w.).

" . . . (prohibited in marriage are) . . . foster-mothers (who gave you suck), foster sisters; . . ." [Qur'an 4:23]

Narrated Aisha: Once the Prophet came to me while a man was in my house. He said, "O 'Aisha! Who is this (man)?" I replied, "My foster brothers" He said, "O 'Aisha! Be sure about your foster brothers, as fostership is only valid if it takes place in the suckling period (before two years of age)." (Sahih Bukhari)

Narrated Aisha: 'Prohibited to you (for marriage) are: ...your foster-mothers (who suckled you).' (4.23) Marriage is prohibited between persons having a foster suckling relationship corresponding to a blood relationship which renders marriage unlawful. (Sahih Bukhari)

Narrated 'Aisha: (the wife of the Prophet) that while Allah's Apostle was with her, she heard a voice of a man asking permission to enter the house of Hafsa. 'Aisha added: I said, "O Allah's Apostle! This man is asking permission to enter your house." The Prophet said, "I think he is so-and-so," naming the foster-uncle of Hafsa. 'Aisha said, "If so-and-so," naming her foster uncle, "were living, could he enter upon me?" The Prophet said, "Yes, for foster suckling relations make all those things unlawful which are unlawful through corresponding birth (blood) relations." (Sahih Bukhari)

In Imam Malik's Muwatta we find the following fatwa (legal ruling):

"Yahya related to me from Malik that Ibrahim ibn Uqba asked Said ibn al-Musayyab about suckling. Said said, "All that occurs in the first two years, even if it is only a drop, makes haram. Whatever is after two years, is only food that is eaten.

Ibrahim ibn Uqba said, "Then I asked Urwa ibn az-Zubayr and he told me the same as what Said ibn al-Musayyab said."

Yahya related to me from Malik that Yahya ibn Said said that he heard Said ibn al-Musayyab say, "Suckling is only while the child is in the cradle. If not, it does not cause flesh and blood relations."

Yahya related to me from Malik from Ibn Shihab that he said, "Suckling however little or much, makes haram. Kinship by suckling makes men mahram."

Yahya said that he had heard Malik say, "Suckling, however little or much when it is in the first two years, makes haram. As for what is after the first two years, little or much, it does not make anything haram. It is like food."

For infertile couples one would automatically assume that because the woman is unable to get pregnant than she is unable to produce milk for suckling. This is untrue, the breasts of a woman can be stimulated to make milk. How amazing Allah has created a woman's body that basically on demand she can produce milk, with a bit of help of course. More information on how a woman can stimulate milk to suckle their adopted child please read the information provided by the La Leche League.:

<http://www.lalecheleague.org/FAQ/FAQadopt.html>

The act of suckling a child under the age of two will set up a mahram relationship making marriage prohibited, and also make for a comfortable atmosphere within the home. A woman can uncover in front of her suckled adopted child as well can her female children she naturally has or also adopts and suckles.

RESOURCES:

Qur'an translation by Yusuf Ali

The Lawful and the Prohibited in Islam by Yusuf Al Qardawi

La Leche League <http://www.lalecheleague.org/> Breast feeding support and education

Bukhari Sahih translated by Dr. Muhammad Khan

Malik's Muwatta translated by F. Amira Mataraji