

Adoption and its effects

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of Allaah, the Most Merciful, the Bestower of Mercy

Question: A man and his wife adopted a girl among the children that the State takes care of by recording her in the personal status and attributing her to themselves. This girl is now adult. A man who knows her situation asked for her hand. We would like that you explain the following points in detail if possible, and may Allaah bless you:

Is it permissible to marry this girl while she is attributed to this couple by adoption? Should the girl and the couple deny this adoption? Is it enough for the girl and the couple to repent of the adoption to deny it by their heart and before people, or they should try to annul it at the authorities? What about if the girl accepts to annul the adoption at the authorities and the couple refuses that, whether under the pretext of loving the girl and considering her a daughter, though they do not approve of the term "adoption", and that they were only constrained to record her in their official family record book due to what the laws require in terms of children care, or under the pretext of the administrative hindrances faced in the courts? We ask Allaah to reward you abundantly.

Answer: All praise is due to Allaah, the Lord of the Worlds. Peace and blessing be upon whom Allaah sent as a mercy to the Worlds, upon his Family, his Companions and his Brothers till the Day of Resurrection.

It is not valid for anyone to ascribe his lineage to any other person by adoption. Adoption used to be applied during the pre-Islaamic era and in the beginning of Islaam. It is used to consider the adoptive child a real child, in addition to the other effects resulting from adoption. Islaam has abrogated the adoption and annulled all its effects. This is stated in the following verse:

مَا جَعَلَ اللَّهُ لِرَجُلٍ مِنْ قَلْبَيْنِ فِي جَوْفِهِ وَمَا جَعَلَ أَزْوَاجَكُمْ اللَّائِي تَظَاهَرُونَ مِنْهُنَّ أُمَّهَاتِكُمْ وَمَا جَعَلَ
أَدْعِيَاءَكُمْ أَبْنَاءَكُمْ ذَلِكَ قَوْلُكُمْ بِأَفْوَاهِكُمْ وَاللَّهُ يَقُولُ الْحَقَّ وَهُوَ يَهْدِي السَّبِيلَ

[Allaah has not made for any man two hearts inside his body. Neither has He made your wives whom you declare to be like your mothers' backs, your real mothers. [az-Zihaar is the saying of a husband to his wife, "You are to me like the back of my mother" i.e. You are unlawful for me to approach] nor has He made your adopted sons your real sons. That is but your saying with your mouths. But Allaah says the truth, and He guides to the (Right) Way.]¹

In fact, the words do not change realities and truths. They do not make the adoptive child a real son. They make neither the strange person a relative nor the outsider a native. So the

¹ Soorah al-Ahzaab[33:4]

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child should be attributed to his real father if it is known. If it is not possible to know his father, he should be considered among the brothers in faith and freed slaves, because there is indeed in allegiance and brotherhood in faith a substitute for what he missed in lineage. Allaah تعالى says:

ادْعُوهُمْ لِآبَائِهِمْ هُوَ أَقْسَطُ عِنْدَ اللَّهِ فَإِنْ لَمْ تَعْلَمُوا آبَاءَهُمْ فَاِخْوَانُكُمْ فِي الدِّينِ وَمَوَالِيكُمْ وَلَيْسَ عَلَيْكُمْ جُنَاحٌ
فِيمَا أَخْطَأْتُمْ بِهِ وَلَكِنْ مَا تَعَمَّدَتْ قُلُوبُكُمْ وَكَانَ اللَّهُ غَفُورًا رَحِيمًا

[Call them (adopted sons) by (the names of) their fathers: that is more just with Allaah. But if you know not their father's (names, call them) your brothers in faith and Mawaaleekum (your freed slaves). And there is no sin on you concerning that in which you made a mistake, except in regard to what your hearts deliberately intend. And Allaah is Ever Oft-Forgiving, Most Merciful.]²

This being said, though Islaam has forbidden adoption and annulled it, it does not prevent those who can take care of orphans, foundlings and children whose lineages are unknown to do it, to educate them and being beneficent towards them. Rather, it recommended taking care of them in a way to reform them by looking for them physically and educating them religiously and morally until they become adult and responsible. Indeed, anyone who does that will be rewarded.

However, in Islaam the person who takes charge of the child should not give him his surname whatever his excuse may be. He should not do that even if he joins to that excuse the pretext of being merciful and compassionate towards him and educating him, or even to satisfy the paternal and maternal instinct in case the wife or the husband is sterile. These reasons or others do not make the adoptive child a real child.

Moreover, adoption does not imply the rulings of the real sonship due to the bad effects resulting from it such as falsehood, lies, fraud, mingling and confusion in lineages, the alteration of the division in inheritance in a way to deprive the one who deserves it of some of his share and give it to the one who does not deserve it, in addition to making illicit things licit, such as the fact of being [in this case] in isolation with the son(s) of the adoptive parent and revealing one's attire to them...etc. and making licit things illicit such as prohibiting the marriage of the biologic son with the adoptive girl or vice versa , in addition to the other causes of transgression of the limits of the Sharee'ah and the things that Allaah has prohibited.

In the context of considering the strange adoptive child like the biologic and real child and ascribing him to other than his real father or master, we mention the hadeeths of the Messenger صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ which warn against this major sin, disapprove of lies and falsehood and prohibit transgressing the limits established by Allaah تعالى. The Messenger صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ says:

² Soorah al-Ahzaab [33:5]

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- "Whoever claims to be the son of anyone other than his real father - knowingly - he will be deprived of paradise."³ He says also:
- "If somebody claims to be the son of anyone other than his real father knowingly, he then disbelieves."⁴ And he says:
- "If one claims to be the son of anyone other than his real father, or if a slave claims to belong to other people than his real masters, will incur the curse of Allaah continuously till the day of resurrection."⁵ Also:
- "If one claims to be the son of anyone other than his real father, or if a slave claims to belong to other people than his real masters, will incur the curse of Allaah, the angels, and all the people, and Allaah will accept from him neither repentance nor ransom on the day of resurrection."^{6 7}

This being said, the surname of the adoptive girl should be changed and should be given her original and real lineage by resorting to the registers of the official nurseries and orphanages. Therefore, if she is an orphan, having lost her father, she should be attributed to him. If she comes from fornication, she will be attributed to her mother, who gives birth to her. However, the adoptive person who takes charge of her should strive as far as possible to correct his mistake. If it is not possible to correct it due to legal or administrative impediments, then he chooses for her a convenient name such as Amatullah (the servant of Allaah) or Amaturrahmaan (the servant of the Merciful)...etc.

In her turn, the girl should deny her affiliation to the adoptive person, while being grateful to him and recognising his favours and good things upon her. On the other hand, the parent should deny her attribution to him. He should repent of his act if he knows the ruling regarding adoption and transgresses the limits of Allaah. Indeed, Allaah accepts the repentance of his servants. The All-Mighty says:

³ Reported by Al-Bukhaaree in As-Saheeh, chapter of "Conquest", concerning the conquest of At-Taa'if (hadeeth 3982) and Muslim in As-Saheeh, chapter of "Faith", concerning stating the situation of the faith of one who claims to belong to anyone other than his real father knowingly (hadeeth 220) on the authority of Sa'd Ibn Abee Waqqaas and Aboo Bakra رضي الله عنهما.

⁴ Reported by Al-Bukhaaree in As-Saheeh, chapter of "Merits", concerning the attribution of the people of Yemen to Ismaa'eel (hadeeth 3317) and Muslim in As-Saheeh, chapter of "Faith", concerning stating the situation of the faith of one who says to his brother in faith: O disbeliever! (hadeeth 217) on the authority of Aboo Dharr رضي الله عنه.

⁵ Reported by Aboo Dawood in As-Sunan, chapter of "The good manners", concerning one who claims to belong to anyone other than his masters (hadeeth 5115) on the authority of Anas Ibn Maalik رضي الله عنه. This hadeeth is judged authentic by Al-Albaanee in Saheeh Al-Jaami` (hadeeth 5987).

⁶ Reported by Muslim in As-Saheeh, chapter of "Hajj", concerning the superiority of Madeenah and the Prophet's invoking blessing upon it (hadeeth 3327), At-Tirmidhee in As-Sunan, chapter of "Allegiance and donation", concerning what is reported about one who claims to belong to anyone other than his masters (hadeeth 2127) and Ahmad in Al-Musnad (hadeeth 616) on the authority of `Alee Ibn Abee Taalib رضي الله عنه.

⁷ See An-Nihaaya by Ibn Al-Atheer (3/24).

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قُلْ يَا عِبَادِيَ الَّذِينَ أَسْرَفُوا عَلَىٰ أَنفُسِهِمْ لَا تَقْنَطُوا مِن رَّحْمَةِ اللَّهِ إِنَّ اللَّهَ يَغْفِرُ الذُّنُوبَ جَمِيعًا إِنَّهُ هُوَ الْغَفُورُ
الرَّحِيمُ

[Say: "O 'Ibaadee (My slaves) who have transgressed against themselves (by committing evil deeds and sins)! Despair not of the Mercy of Allaah, verily Allaah forgives all sins. Truly, He is Oft-Forgiving, Most Merciful]"⁸

Besides, it is permissible to marry this girl. The ruler will be her guardian, or someone who replaces him (the judge). If not, an official Imaam can be her guardian. Otherwise, the person who takes her in charge can marry her (to somebody) while observing the other conditions of marriage.

The perfect knowledge belongs to Allaah عَزَّ وَجَلَّ. Our last prayer is all praise is due to Allaah, the Lord of the Worlds. Peace and blessing be upon our Prophet, his Family, his Companions and Brothers till the Day of Resurrection.

Algiers, Jumaadaa Al-Oola 28th, 1429 H Corresponding to June 3rd, 2008

⁸ Soorah az-Zumar [39:53]