

# SPECIAL CONCERNS ON ADOPTION

## NAMING

Naming practices differ across the world in terms of adoptions. Frequently, in situations where the lineage of the adopted child is unknown, the surname of the adoptive family has not been attributed to the child. However, many Muslim-majority countries allow for the transference of the family name of the guardian to the child if the child is of unknown heritage. According to article 92 the bylaws of the Child Law No 12 (1996) in Egypt, for example, “an orphan or a child of unknown parentage, male or female, carries the surname of the guardian family to be attached at the end of his/her first name...”

The Shura Council advises against hiding the adopted child’s familial background. The knowledge of biological lineage is also important in protecting the child’s right to inherit from his or her biological parents’ estate. In cases where the child’s background is not known, parents should adhere as closely to open adoption practices as possible under the circumstances, integrating the child to the fullest extent into the adoptive family.

## INHERITANCE

According to both Sunni and Shi’i fiqh scholars, a person can bequeath a maximum of one-third of their property to anyone who is not related to them by blood. Yet, the individuals can bequeath more than one-third to the adopted child and the adopted child can inherit whatever amount is bequeathed, if the mandatory heirs consent. The laws also do not prevent a person from making a gift from their assets to anyone during his or her lifetime. There are no restrictions on the size of the gift, unless the intention is to harm legal heirs.

The Shura Council recommends that adoptive parents keep up-to-date wills in order to ensure that their property is distributed according to their wishes and make provisions for all of their children (biological and adopted), making sure that consent is sought from biological children. Adoptive families can also choose to use alms (zakat) and charity (sadaqah) as instruments for the transfer of wealth in favor of the adopted child if consent is not received.

## CONCLUSION: TRANSPARENCY, JUSTICE, COMPASSION

According to Islamic and universal standards of children’s rights, all children have the right to:

- grow up in a nurturing environment where their spiritual, emotional, intellectual and familial needs are met;
- know their lineage and celebrate their unique national, cultural, linguistic, and spiritual identities; and
- a safe, supportive environment, in which their dignity, education, and talent will be fostered and respected.

This is in accordance with the broad recommendation in the Qur’an regarding orphans: “Making things right for them is better.”

Open and legal adoptions can be an acceptable to improve the condition of orphans. “Islam” literally means making whole, sound, safe, and peaceful. Therefore, making orphans well, safe, whole, and at peace is absolutely integral to Islam.



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## THE MUSLIM WOMEN'S SHURA COUNCIL FINDS THAT THE BEST INTERESTS OF THE CHILD SHOULD BE THE PRIMARY CONSIDERATION IN ALL DECISIONS RELATING TO ADOPTING CHILDREN

### Adoption is supported by the Principles of Islamic Law (Maqasid al-Shari'ah)

The six objectives and principles of Islamic law (*Shari'ah*) include the inviolability of life (*al-nafs*), mind (*al-aql*), family (*al-nasl*), wealth (*al-mal*), dignity (*al-'ird*), and religion (*al-din*). The adoption of orphaned children can be considered as supporting each of these principles.

- **The Protection and Promotion of Life:** Adoption can create a nourishing environment for orphan children, providing the necessities of food and care, as well as the emotional support necessary for human development.
- **The Protection and Promotion of Family:** Adoption can provide orphans with a family model that they can reproduce if they choose to become parents. Additionally, adoption can provide a child with a sense of family lineage and community.
- **The Protection and Promotion of Religion:** Adoption can encourage spiritual growth due to guidance provided by a stable maternal or paternal figure, which is preferable to haphazard spiritual development and education provided in unstable environments.
- **The Protection and Promotion of Mind:** Adoption can mitigate the experience of neglect and abuse, severe emotional and behavioral problems, and setbacks in cognitive and physical development suffered by many children who grow up in institutional care.
- **The Protection and Promotion of Wealth:** Adoption aims to develop a child into a productive member of society by providing them the necessary support to pursue their professional goals, contributing to personal financial stability.
- **The Protection and Promotion of Dignity:** Adoption can provide a safe haven and promote secure attachment ties, providing children a recognized social unit that encourages their self-esteem.

### Adoption is supported by the Qur'an

The Quran repeatedly emphasizes the importance of taking care of orphans and those in need (2:67; 2:147; 4:36). The Quran tells believers that it is a duty to treat orphans with equity (4:127) and a sin to wrong them (93:9). The rejection of orphans is considered a sign of rejection of all moral law, as expressed by Sura Al-Ma'un (107:1-7). In fact, God is depicted as the ultimate caretaker of orphans in the Quran: "Found He you not an orphan and He gave you refuge?" (93:5-6).

### Adoption is supported by the Example of the Prophet (Sunnah)

The Prophet Muhammad himself was orphaned at a young age and always paid attention to the needs of children and orphans. The Prophet was highly critical of individuals who were not compassionate towards children: "Anyone who does not show mercy to our children, nor acknowledge the rights of our old people, is not one of us."

The Prophet asked believers to provide for orphans, regardless of the orphan's circumstances, lineage, and heritage. According to *hadith*, heavenly rewards await those who take care of orphans. The Prophet is said to have noted, "I and the *kafil* [supporter, one who spends on and raises] of an orphan will be together in heaven like this," placing his middle and index fingers side by side.

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## FREQUENTLY ASKED QUESTIONS

Q

Do the teachings of Islam forbid adoption?

A

After examining Islamic texts and history alongside social science research, the Muslim Women's Shura Council finds that adoption can be acceptable under Islamic law and its principle objectives, as long as important guidelines are followed.

Q

What type of adoption practice guidelines should be followed?

A

Instead of banning adoption, Islamic sources suggest that dissimulation, especially through name-changing, should be avoided and that compassion and transparency should be foregrounded. These suggestions most closely resemble the practice of open adoption.

Q

Who does this statement concern and who should read it?

A

This statement aims to address the concerns of Muslims interested in adopting children; to act as a resource for activists, law-makers, and agencies working on adoption; and to identify what it means to serve the "best interests of the child" according to Islamic principles.

To read the entire "Adoption and Care of Orphan Children: Islam and the Best Interests of the Child" Digest and to see the current list of Muslim Women's Shura Council members, please visit the WISE Portal:

<http://www.wisemuslimwomen.org/about/shuracouncil/>