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Muslim orphans caught between Islam and the West

By Rachel Zoll

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Helene Lauffer knew that Muslim children - orphaned, displaced, neglected - needed homes in the United States. She knew that American Muslim families wanted to take them in. But Lauffer, associate executive director of Spence-Chapin, one of the oldest adoption agencies in the country, couldn't bring them together.

The problem was a gap between Western and Islamic law. Traditional, closed adoption violates Islamic jurisprudence, which stresses the importance of lineage. Instead, Islam has a guardianship system called *kafalah* that resembles foster care, and has no exact counterpart in Western law.

The differences have left young Muslims with little chance of finding a permanent Muslim home in America. So Lauffer sought out a group of female Muslim scholars and activists, hoping they could at least start a discussion among U.S. Muslims about how adoption and Islamic law could become compatible.

"At the end of the day, it's about trying to find families for kids," Lauffer said.

She isn't alone in raising the issue. As Muslim communities become more established in the United States, pressure is building for a reexamination of Islamic law on adoption.

Refugee children from Afghanistan, Iraq and elsewhere are being resettled here. Muslim couples who can't conceive want to adopt but don't want to violate their faith's teachings. State child welfare agencies that permanently remove Muslim children from troubled homes usually can't find Muslim families to adopt them because of the restrictions in Islamic law.

"I get all kinds of families who come to me for fertility issues. They want to adopt, and they want to adopt Muslim children, and I'm thinking this is a crime that they can't," said Najah Bazzy, a nurse and founder of Zaman International, a humanitarian service group in Dearborn, Mich. "No one is going to convince me that

Islam makes no allocation for this. Either somebody is not interpreting it right, or it needs to be reinterpreted."

Meant to end abuses

The prohibition against adoption would appear contrary to the Koran's heavy emphasis on helping orphans.

The prophet Muhammad's father died before his son was born, so the boy's grandfather and uncle served as his guardians, setting an example for all Muslims to follow.

But Islamic scholars say the restrictions were actually meant to protect children by ending abuses in pre-Islamic Arabic tribal society.



A group of Iraqi orphans who lost their parents in sectarian violence in Iraq. As refugee children from Afghanistan, Iraq and elsewhere resettle in the United States, pressure is building for a reexamination of Islamic law on adoption. (Khalid Mohamed/agence France-presse Via Getty Images)

Ingrid Mattson, a professor of Islamic studies at Hartford Seminary in Connecticut, said adoption in that period had more in common with slavery. Men would take in a boy, then erase any ties between the child and his biological family. The goal was to gather fighters as protection for the tribe. Orphans' property was often stolen in the process.

As a result, Muslims were barred from treating adopted and biological children as identical in naming or inheritance, unless the adoptee was breast-fed as a baby by the adoptive mother, creating a familial bond recognized under Islamic law.

Regarding marriage

When an orphan reaches puberty, the Islamic prohibition against mixing of the sexes applies inside the home of his or her guardians. Islamic law sets out detailed rules about who believers can and cannot marry, and an orphan taken in from another family would not automatically be considered "unmarriageable" to his siblings or guardians. Muslim men cannot be alone with women they could potentially marry, and women must cover their hair around such men.

For these reasons and others, Muslim countries only rarely allow international adoption.

"There hasn't been a concerted push to open doors for Muslim orphans because the expectation would be that those efforts would fall flat," said Chuck Johnson, chief executive of the National Council for Adoption, a policy group in Alexandria.

Advocates for a new interpretation of Islamic law are more hopeful, at least about the prospect for a different approach to the issue in the United States. Mattson argues that the flexibility in Islamic law for accommodating local cultures and customs can lead to a solution.

Hope for open adoption

Open adoption, which keeps contact between the adoptee and his biological family, is seen as one potential answer. In New South Wales, Australia, child welfare officials created an outreach program to Muslims emphasizing that Australian adoptions are open and adopted children can retain their birth names.

The program is the only well-known adoption campaign targeting a Muslim minority population in a Western country.

The female Muslim scholars Lauffer consulted in New York, who meet annually as a shura (advisory) council, tackled the complexities of modesty rules inside the home. They debated whether Muslim adoptees in the West could be considered Islamically "unmarriageable" to their siblings or guardians, since Western governments classify adoptees the same as blood relatives.

The shura council will soon release a statement on the issue through its organizing body, the Women's Islamic Initiative in Spirituality and Equality.

It's unclear how successful their efforts can be. There is no central authority in Islam to hand down a ruling on adoption. Muslims consult individual scholars, or, in the United States, seek an opinion from an imam at their local mosque.

Catherine England, a Muslim who teaches in the Seattle area, adopted four children after she and her husband learned they could have no children of their own. One of her children is an orphan from Afghanistan. Two others are biological siblings.

"I felt that my understanding - and this is entirely my understanding - is that what is forbidden in Islam is closed adoption," said England, who converted to Islam more than three decades ago. She consulted a Muslim scholar who she said affirmed her view.

Lauffer hopes to hear more stories like England's soon.

<http://www.washingtonpost.com/wp-dyn/content/article/2010/12/31/AR2010123103723.html>