



# Islamic Adoption jurisprudence

التبني بالرضاعة في الفقه الإسلامي

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



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# Adoption in Islam



## Definition

- ✓ Transplantation of a son from the family of his birth into another family who is known as “ **Adoptive Parents**”
- ✓ **Adoption in its legal form is prohibited in Islam**

# Adoption in Islam



- ✓ Islam **allowed** persons “ **Fostering** “ to cover needy namely orphaned children with **protection and financial support**
- ✓ Can give the parental care and affection to a child **without granting him any legal obligations such as inheritance rights or change child's family name and without the severing of family ties**

# Islamic Encourages Adoption

- ✓ Several Hadith encourage adoption & Fostering the Orphans (Kafalat yatim)
- ✓ Prophet Muhammed Peace be upon him says: “ **whoever takes care of an orphan will be side by side with him in Paradise**”
- ✓ **The best household among the Muslims is a household wherein an orphan is treated well.** And the worst household among the Muslims is a household wherein an orphan is ill-treated” (Ibn Majah).

# Evidence of Islamic Ethics in Adoption

The concept of Islamic ethics in Adoption is different based upon Quran evidence – **NOT TRUE SON**

قال تعالى سورة الاحزاب اية 4: ..... وَمَا جَعَلَ اَزْوَاجَكُمْ اَلْيَ تَظْهَرُونَ  
مِنْهُنَّ اُمَّهَاتِكُمْ وَمَا جَعَلَ اَدْعِيَاءَكُمْ اَبْنَاءَكُمْ ذَلِكُمْ قَوْلُكُمْ بِاَفْوَاهِكُمْ وَاللَّهُ يَقُولُ الْحَقَّ  
وَهُوَ يَهْدِي السَّبِيلَ

Allah has **not made your claimed [i.e., adopted] sons your [true] sons**. That is [merely] your saying by your mouths, but Allah says the truth, and He guides to the [right] way

# Evidence of Islamic Ethics in Adoption

- ✓ The adoptive parents should leave the names of the Orphans as it is
- ✓ They are NOT allowed to change or alter the given names

✓ سورة الاحزاب اية 5 : ادْعُوهُمْ لِآبَائِهِمْ هُوَ اَقْسَطُ عِنْدَ اللّٰهِ ۚ فَاِنْ لَمْ تَعْلَمُوْا اَبَاءَهُمْ فَاِخْوَانُكُمْ فِي الدِّيْنِ وَمَوَالِيكُمْ ۚ

- ✓ Call them by [the names of] their fathers; it is more just in the sight of Allah . But if you do not know their fathers - then they are [still] your brothers in religion and those entrusted to you



# Islamic Ethics in Adoption

- ✓ **Forbidden robbing a child of his/he identity**
- ✓ **The Adopted Child is NOT the couple Son**
- ✓ **No Legacy - No Inherit**
- ✓ **After Puberty, Child Mature  
NOT Mahram to couple**



# What is “Mahram “

- ✓ The term ‘**Mahram**’ is used to denote a level of relationship between close family members; those with whom the Hijab does not have to be observed.
  - Father & daughter
  - Mother & Son
  - Sister & Brother
- ✓ Not allowed to married from her / his Mahram

# Summary Islamic Ethics in Adoption

- ✓ The adoptive parents are **NOT the biological parents**
- ✓ **NOT permitted to hide the identity** of the Child's biological family to anyone by keeping his /her original name
- ✓ The tie of the child with his biological parents is **never severed**
- ✓ Once the adoptive child grown up (mature), Both the adoptive family and the Orphan needs to follow the Islamic role of Hijab
- ✓ Islam adoption means '**Kafalat Yatim or Orphans**' It means 'to Freed' - to Foster parent relationship

# kinship in Islam

## Islamic kinship Relationship

### Blood

Sisters & Brothers

### Marriage

Wife & Husband

### Milk

Wet nurse +/-

**Induced Lactation**

Son & Daughter

Sisters & Brother

# Evidence of Milk Kinship in Islam - Quran

The concept in milk kinship is Based on Quran & Sunnah

Holy Quran Alnissa 4: 23

سورة النساء اية 23 : حُرِّمَتْ عَلَيْكُمْ أُمَّهَاتُكُمْ وَبَنَاتُكُمْ وَأَخَوَاتُكُمْ وَعَمَّاتُكُمْ وَخَالَاتُكُمْ  
وَبَنَاتُ الْأَخِ وَبَنَاتُ الْأَخْتِ وَأُمَّهَاتُكُمُ اللَّائِي أَرْضَعْنَكُمْ وَأَخَوَاتِكُم مِّنَ الرَّضَاعَةِ ✓

- ✓ Prohibited to you [for marriage] are your mothers, your daughters, your sisters, your father's sisters, your mother's sisters, your brother's daughters, your sister's daughters, your [milk] mothers who nursed you, your sisters through nursing

# Evidence of Milk Kinship in Islam- Sunnah

قال صلى الله عليه وسلم : "يُحْرَمُ مِنَ الرِّضَاعِ مَا يُحْرَمُ مِنَ النِّسْبِ " ابن قدامة

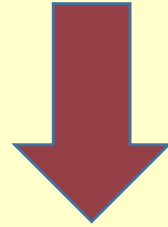
Prophet's Mohamoud peace be upon him says:

**"Milk kinship relationship is forbidden exactly as what is forbidden from lineage (Ibn Quadamah)"**

## **Adoption Encouraged**

**To continue the support and being in a family**

**To avoid any psychological trauma to the  
mature Orphans**



**Established Milk Kinship with the family  
before he/she completed 2 years**

**Become their own Son / daughter**

**Creating a restriction against marriage**

**between siblings who were nursed by the same mother**



**Adoption By  
Breastfeeding  
Induced Lactation  
Milk Kinship**



# Milk Kinship Rule in Islam

**If a baby (boy or girls ) is lactating from a women (In the first 2 years of life & 5x breastfeed) Mahram Relationship Established**

**Wet nurse become her / his mother by lactation and all children of that mother will become her sisters and brother .**

**It will be prohibited from marriage of any of that offspring of that women (wet nurse)**



# Induced Lactation for Milk Kinship

- ✓ From the earliest times, including the time of Hippocrates, it has been thought that lactation may occur in virgins
- ✓ Method of stimulating the production of breast milk in **women who have not gone through the pregnancy process (nulligravid , nulliparous and non puerperal women)**

## Amount of Breastfeeding to be considered as one BF session

- ✓ Based on the Fatwa of Sheikh Dr. Abdullah al-Musleh, the **satiating** milk breastfeeds (الاشباع) : **120ml of Breast Milk consider as satiating**
- ✓ **Direct BF from the mother's breast, will be calculated by sucking the breast and then leaving it 7 taking the breath (considered as one breastfeeding session)**

**Bottle feeding of the expressed BM ,  
well be considered as direct breastfeeding  
Exclusive or partial breast milk**

# **Advantages of Adoption By induced Lactation - Milk Kinship**

- ✓ **Some cases of infertility particularly those with no hopes e.g (Azospermia) – Absent uterus, may seeking adoption to fulfill the need to start or expand their family.**
- ✓ **To create a real secured family & stable life for the adopted Muslim children (NO known Parents) to have a new secured life & Support in the communities**

# Legible couples for Adoption by milk kinship SA

- ✓ The family should be Saudi's and consist of two spouses
- ✓ Wife < 50 Years
- ✓ Priority for childless families
- ✓ If family has children NOT > 3 below 6 years
- ✓ Passing medical tests
- ✓ Matching skin color as well as facial and body features
- ✓ Research's should prove the validity of the foster family from the **Psychological, Social and Economic** aspects for the care of the orphan child, through the use of special criteria
- ✓ **Breastfeeding is must and main condition**  
baby has to be **< 2 years to be legible for milk kinship**

**A prerequisite as a right of an orphan child who lacks parental care**

# Fatwa from the President of High Scholars to Alwedad Associations 1439H - 2018

1<sup>st</sup> try induce Lactation from the wife of the couples planning the adoption

If Failed



Use wet nurse

(Relatives of Husband or wife )  
Depends on sex of the Orphans  
Couple Need to be Mahram for the baby (orphan)

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الرئاسة العامة للبحوث العلمية والإفتاء  
لأسئلة العامة لهيئة كبار العلماء  
رقم المعاملة: ٣٩٠١٩٩٤٧  
التاريخ: ١٤/١٠/١٤٣٩  
المرفقات:

السلم عليكم ورحمة الله وبركاته .. وبعد :

فأشير إلى كتابكم المقيد في الأمانة العامة لهيئة كبار العلماء برقم (٣٩٠١٩٩٤٧) وتاريخ ١٤٣٩/٧/٣٠هـ الذي تسألون فيه عن القرابة للمرضعة التي تحقق شرط المحرمية للزوج ، إذا كان الطفل المحتضن أنثى ، وللزوجة إذا كان الطفل المحتضن ذكرا ، إذا تعذر رضاعه من الزوجة سواء كانت المرضعة من عائلة الزوج ، أو من عائلة الزوجة .

وأفيدكم بأن اللجنة الدائمة للفتوى درست الموضوع وأصدرت بشأنه الفتوى رقم (٢٧٥٩٨) وتاريخ ١٤٣٩/١٠/١٣هـ المرفقة .

وفق الله الجميع لما فيه رضاه ، وأعاننا وإياكم على الخير .

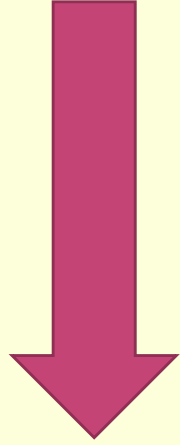
والسلام عليكم ورحمة الله وبركاته . ، ، ،

المفتي العام للمملكة العربية السعودية  
رئيس هيئة كبار العلماء والرئيس العام للبحوث العلمية والإفتاء

جمعية الوداد الخيرية  
رقم الورد: ١٢٢  
تاريخه: ١٠/٢٠١٢  
المرفقات:

جمعية الوداد الخيرية  
Wedad Charity Foundation

If wet nurse was from  
**Husband origin relatives**  
Mother / sisters /  
Grandmother



Baby Mahram (boy/girl) to  
**Husband ONLY**

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

المملكة العربية السعودية  
الرئاسة العامة للبحوث العلمية والإفتاء  
الأمانة العامة لهيئة كبار العلماء  
( ٢٤١ )  
الرقم :  
التاريخ :  
المرفقات :

فتوى رقم ( ٢٧٥٩٨ ) وتاريخ ١٣/١٠/١٤٣٩هـ

الحمد لله وحده والصلاة والسلام على من لا نبي بعده .. وبعد :

فقد اطلعت اللجنة الدائمة للفتوى على ما ورد إلى سماحة المفتي العام من مستشار جمعية الوداد الخيرية بجدة ، والمحال إلى اللجنة من الأمانة العامة لهيئة كبار العلماء برقم (٣٩٠١٩٩٤٧) وتاريخ ٣٠/٧/١٤٣٩هـ وقد سأل سؤالاً هذا نصه : ( نفيد سماحتكم بأن جمعية الوداد الخيرية جمعية مرخصة من وزارة العمل والتنمية الاجتماعية ، بترخيص رقم (٤١٥) ، وهي أول جمعية متخصصة في المملكة لرعاية الأطفال الأيتام مجهولي الأبوين ، لمن هم دون السنتين . وذلك بتسهيل إسناد كفالتهم إلى أسر سعودية كريمة ، تحتضنهم بشرط الإرضاع . فينشأ اليتيم نشأة طبيعية في أسرة تربطه بها قرابة شرعية من الرضاع .

وفي حال عدم قدرة الزوجة على الإرضاع يتم الاستعانة بمرضعة من عائلة الزوج ، أو عائلة الزوجة ، وذلك لتحقيق شرط المحرمية .

نرجو من سماحتكم إفتاءنا في شأننا بخصوص درجات القرابة للمرضعة التي تحقق شرط المحرمية للزوج إذا كان الطفل المحتضن أنثى ، وللزوجة إذا كان الطفل المحتضن ذكراً ، سواء كانت المرضعة من عائلة الزوج ، أو من عائلة الزوجة ( ٩ ) .

وبعد دراسة اللجنة للاستفتاء أجابت : بأنه إذا تعذر الإرضاع من الزوجة ، وتم إرضاع الطفل أو الطفلة قبل تمام الحولين من ولادتهما من إحدى قريبات الزوج من أصوله : كأمه ، أو جدته ، وكذلك إذا رضع من إحدى أخواته ، وكان الرضاع محرماً ، وهو خمس رضعات فأكثر في الحولين الأولين من عمر الطفل - فإن المرتضع يكون من محارم الزوج دون الزوجة .

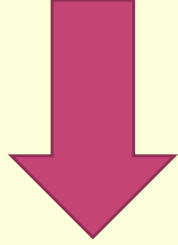
أما إذا رضع الطفل من فروع الزوج : كبناته أو بناتهن أو بنات أبنائه أو زوجات أبنائه من زوجته أو زوجات له غيرها ، فإن الرضاع يكون محرماً لزوجته ؛ لأنها زوجة جده من الرضاع .



جمعية الوداد الخيرية  
Wedad Charity Foundation

❖ If wet nurse was from  
wife origin relatives

Mother / sisters / Grandmother



Baby Mahram (boy )  
to wife ONLY

❖ If wet nurse was from  
Husband relatives  
& the wife relatives  
Mahram for both couple

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

المملكة العربية السعودية  
الرئاسة العامة للبحوث العلمية والإفتاء  
الأمانة العامة لهيئة كبار العلماء  
( ٢٤١ )

رقم :  
التاريخ :  
المرفقات :

تابع الفتوى رقم ( ٢٧٥٩٨ ) وتاريخ ١٣/١٠/١٤٣٩هـ

وإذا رضع الطفل ذكراً أو أنثى رضاعاً محرماً من محارم الزوجة أصولها كامها وجدتها ، وكذلك أخواتها وبنات أخواتها - فإنه بذلك يكون محرماً لها دون الزوج .  
أما إذا رضع الطفل من فروع الزوجة ؛ كبناتها وبنات بناتها أو بنات أبنائها أو زوجات أبنائها من زوج أو أزواج سابقين - فإن زوجها يكون محرماً للراضع إذا كان أنثى ؛ لأنها تكون من الريائب للزوج .  
أما إذا رضع من قريبات الزوج رضاعاً محرماً ومن قريبات الزوجة رضاعاً محرماً فإنه يكون من محارمهما جميعاً .  
وصفة الرضعة : أن يمسك الطفل الثدي فيمص منه لبناً ويبتلعه ، فإذا تركه لنفس أو انتقل لثدي آخر حسبت رضعة ، وهكذا ، حتى تتم خمس رضعات .  
وبالله التوفيق .  
وصلى الله على نبيينا محمد وآله وصحبه وسلم ، ، ،

اللجنة الدائمة للفتوى

عضو  
عبد العزيز بن عبد الله بن محمد آل الشيخ

عضو  
صالح بن فوزان الفوزان

عضو  
أحمد بن علي سير المبارك

عضو  
عبد الكريم بن عبد الله الخضير



# Summary of kinship ( baby & Adopted Family)

1- Best Option **wife** breastfeed baby **5x** (+/- IL ) **Milk kinship to couple**

2- Husband origin relatives

A- Mother/ Grandmother/sister

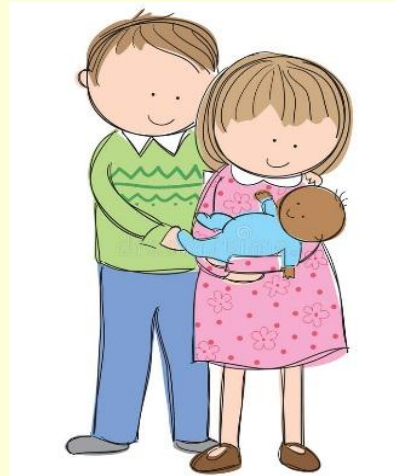


Baby Mahram (boy/girl)  
to **Husband ONLY**

B- Husband Daughters / grand daughters  
or daughter in law from same wife or  
other wife's



Baby Mahram to both  
**WIFE & HUSBAND**  
**BOY**



3- Wife's Relatives

A-Mother/Grandmother  
/ Sisters/ niece

Baby Mahram (boy/ girl)  
**Wife ONLY**



B- Wife's daughters/ niece/  
daughters in law from same  
husband or previous husband



Baby Mahram to both  
**wife & Husband (girl)**



## **Wife's origin Relatives**

**Mother/Grandmother/ Sisters**

## **Husband origin relatives**

**Mother/ Grandmother/sister**

**Husband Daughters / grand daughters or daughter in law from same wife or other wife's**

**Husband Daughters / grand daughters or daughter in law from same wife or other wife's**

**Wife's daughters/ niece/ daughters in law from same husband or previous husband**

**Wife's daughters/ niece/ daughters in law from same husband or previous husband**

Fatwa		
<b>IBN BAZ</b>	<b>yes</b>	Breast-feeding was five times or more, if the breast-feeding satiating and the child was within the two years
<b>Permanent committee</b> لجنة الإفتاء	<b>yes</b>	Woman produced milk after Hormonal stimulant, and she breastfed a child five times or more in the first two years
<b>Al- Azhar Alshareef</b>	<b>yes</b>	It is forbidden by Islamic law to adopt a child but permissible to take care of another child Kafalat
<b>National fatwa council for Islamic religious affairs in Malaysia</b>	<b>yes</b>	Muslim adoptive mothers should feed her adopted child with her breastmilk to make that child a full member of her family
<b>National council for Islamic affairs</b>	<b>yes</b>	Use of artificial method to stimulate breastmilk is permissible

# Recommendations

- ✓ Mandatory to **educate Islamic families & to implement the Fatws regarding Adoption & Milk Kinship**
- ✓ Islamic countries need to have their **own legalization to implement the Adoption & Milk Kinship Fatwas**
- ✓ Islamic Fiqh jurisprudence regarding adoption & milk kinship has to be included in all **postgraduate lactation curriculum**
- ✓ All fatwas regarding Breastfeeding and Milk Kinship to be published at **IBFAN website**

# References

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Thank You for Listening

