

# Islamic Guidance on the Contemporary Practice of Adoption and Fostering in the UK

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Author: Shaykh Zuber Karim

Editors: Shaykh Haitham Tamim  
Imam Abdullah Hasan  
Dr Asim Yusuf  
Tay Jiva  
Dr Bilal Hassam  
Aamer Naeem

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## Penny Appeal's Adoption and Fostering project

Penny Appeal's Adoption and Fostering service offers a range of interventions to support children who have experienced the care system. In addition to the production of this document, since its inception in early 2016, the service has:

- Recruited adopters and foster carers from across the UK, particularly from British Muslim backgrounds
- Supported and referred applicants to adoption and fostering providers
- Commissioned academic research by the Centre for Trust, Peace and Social Relations at Coventry University
- Provided anti-discriminatory practice training to children's sector professionals
- Presented at over 100 community based events, promoting fostering and adoption

In early 2017, Penny Appeal convened a series of gatherings with renowned Muslim scholars, community leaders and social care sector experts, to explore Islamic guidance on the contemporary practice of adoption and fostering in the UK.

This paper outlines the findings from those discussions

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# Chapter 1: Introduction

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There is a growing number of Muslim children in the UK entering the care system; however, a disproportionately lower number of foster carers and adopters are from Muslim communities themselves.

The lack of provision of placements that reflect the cultural heritage of children in care can, as research as shown, negatively impact the development of a child (Verkuyten and Yildiz, 2017). Evidence from professionals, foster carers and adopters indicates that one of the barriers in the recruitment of carers from Muslim communities is the confusion about the Islamic position on adoption and fostering.

In Barnet, London, for example, Kausar Tai and Ahmad Thomson (2016) report there were forty-four Muslim children in care, but only four registered Muslim foster carers. Hence, most Muslim children in foster care in Barnet were looked after by non-Muslim families. A Freedom of Information request made to 149 of the 152 local authorities, (Jiva, 2017<sup>1</sup>) revealed during 2015 at least 3,000 Muslim children were in care and with over half of them having spent time living in non-Muslim homes.

The Refugee Council reported that in 2016, 3,175 separated children claimed asylum in the UK, although religious data is not recorded, given the countries experiencing conflict and seeking asylum in the UK<sup>2</sup>, it's likely that a significant number of these children are in fact also Muslim.

This increase of unaccompanied Muslim children seeking asylum in Britain has generated fresh concerns across diverse British Muslim communities as to what extent religious identity is considered, by local authorities, when placing children in care. Currently it is not a legal requirement to record the religion of children in care, leaving a third of local authorities reporting no data on faith at all (Jiva, 2017<sup>3</sup>). The University of Coventry is in the process of compiling information in this area, however, as of the date of this publication, there are no official government statistics reporting on the faith of children in care.

Given that under representation of Muslim foster carers and adopters can result in 'disproportional' disadvantages and 'disparity' in a Muslim child's journey out of care (Selwyn and Wijedesa, 2011) it becomes imperative, on all concerned parties to act. Kausar Tai and Ahmad Thomson (2016) argue one of the main reasons why Muslims are not inclined towards adoption and fostering is because of a lack of understanding that leaves many to believe that it is not permissible in Islamic law to adopt or foster. This is not correct and thus this paper seeks to reconcile Islamic guidance with the contemporary practice of adoption and fostering within the UK.

This document is expected to be of interest to all members of the Muslim community, as well as community facing institutions such as Muslim charities and mosques, fostering and adoption agencies, academics and relevant government bodies.

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<sup>1</sup> Jiva, T. (2017) Unpublished Freedom of Information Returns. Wakefield: Penny Appeal

<sup>2</sup> The Refugee Council. Accessed on the 5th of February 2018, from: <https://www.refugeecouncil.org.uk/myview>.

<sup>3</sup> Ibid.

## Methodology

Over 60 UK based imams, scholars and muftis were engaged in the production of this document, which culminated in them coming together for two symposiums. These were also attended by practitioners, social workers, academics, adopters and young adults who had been through the care system. The symposiums involved group discussions, workshops and a thorough review of the Islamic positions on fostering and adoption. A draft of this document was also peer reviewed on both days. This paper aims to provide guidance and advice on adoption and fostering that is grounded in the foundational Islamic sources – the Quran<sup>4</sup> (Book of God) and the Sunnah<sup>5</sup> (traditions of the Prophet Muhammad<sup>6</sup>) and supported by the ijma<sup>7</sup> (consensus) of British Muslim scholars. In order to enable continued cultural relevance in any given field, the Islamic legal system (Shariah<sup>8</sup>) requires the consultation of relevant specialists in said field. Thus, in order to develop a contemporary understanding of the Islamic perspectives on fostering and adoption, the British Muslim scholars who worked on this paper engaged adoption and fostering professionals to develop a thorough understanding of the current state of this sector in the UK. In the end, a plethora of adoption and fostering professionals, organisations and care experienced adults were consulted, thus ensuring a comprehensive representation of the realities of adoption and fostering. Six main themes emerged during the course of the work between the Islamic scholars and sector professionals: The emphasis in Islam on caring for orphans; definitions and terminology of adoption and fostering; preservation of the child's identity; managing familial relationships with a child who is not biologically related; formation of parent-child relationships; and cross-religious placements.

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<sup>4</sup> Muslims believe the Qur'an to be the unadulterated word of God revealed to the Prophet Muhammad, peace and blessing upon him, through the angel Gabriel over a 23-year period. It is the first primary source of the religion.

<sup>5</sup> The Sunnah refers to the sayings, actions and that which was approved through silence, of the Prophet Muhammad. It is the second primary source of the religion.

<sup>6</sup> This Arabic symbol ﷺ often appears after the name of the Prophet and reads as 'sallal lahu alayhi wa salam' and translates as 'peace and blessings upon him' it is a phrase of honour and praise which Muslims say upon the mention of the Prophet Muhammad.

<sup>7</sup> Ijama refers to the consensus of orthodox, qualified Muslim scholarship and is considered a secondary source of religion and utilised for matters not definitively addressed in the primary sources.

<sup>8</sup> Shariah refers to the Islamic jurisprudential tradition, which in addition covering all aspects of Islamic worship, also considers, having its own apparatus to understand contemporary issues, every aspect of how human beings may live.

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# Chapter 2: The emphasis in Islam on caring for orphans

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## The definition of orphan in Islam

The Qur'ān and the Sunnah (Prophetic tradition) use the Arabic word Yatīm to denote the word 'orphan' and encourages taking care of them. Linguistically, the word Yatīm describes a child who has lost his or her father. Classically, the loss of the father essentially equated to the loss of the breadwinner, carer and maintainer. Hence, the innate vulnerability and weakness of a Yatīm in traditional society was implied in their title. The Qur'ān and the Sunnah also implicitly indicate other kinds of vulnerable children who enter under the umbrella of a Yātīm; for example the Arabic word Latīm, meaning a child who has lost both of their parents, are far worse off and more vulnerable than a Yātīm, yet the primary Islamic texts do not explicitly address them, rather they are considered under the umbrella term Yātīm.

There are also a plethora of terms used to describe many other variants of vulnerability: Children who are abandoned, street children, children belonging to parents with complex disabilities, children whose parents are imprisoned, unaccompanied asylum-seeking children, abused and neglected children, foundlings etc. All are vulnerable and are particularly dependent on others for care and survival. This thus qualifies them to the same legal pronouncements reserved for Yātīm. Legally, they are classed as Yātīm Ḥukmī ('jurisprudential' Yātīm, as opposed to a Yātīm Ḥaqīqī<sup>9</sup> a 'true' Yātīm).

## The status and treatment of the orphan in Islam

The Prophet (peace and blessings be upon him) was himself an orphan, having lost his father before his birth and then his mother, when he was only six-years old. In his adult life, the Prophet also adopted Zayd bin Ḥārithah (see later), and looked after his cousin ' Alī bin Abī Ṭālib. Furthermore, the Prophet's wife ' Āishā, took into her care the children of her deceased brother, Muhammad bin Abī Bakr.

Looking after orphans and vulnerable children is an honourable and benevolent act which is undoubtedly commendable in Islam. Islam is replete with teaching and direction to treat orphans well, a few examples are provided here:

The Qur'an offers specific advice about how one should interact and live with orphans:

وَيَسْأَلُونَكَ عَنِ الْيَتَامَىٰ قُلْ إِصْلَاحٌ لَهُمْ خَيْرٌ مِّمَّا وَإِنْ تُخَالِطُوهُمْ فَإِخْوَانُكُمْ ۗ وَاللَّهُ يَعْلَمُ الْمُفْسِدَ مِنَ الْمَصْلِحِ ۗ وَلَوْ شَاءَ اللَّهُ لَأَعْنَتَكُمْ ۗ إِنَّ اللَّهَ عَزِيزٌ حَكِيمٌ.

**"They ask you about orphans: say, 'It is good to set things right for them. If you combine their affairs with yours, remember they are your brothers and sisters: God knows those who spoil things and those who improve them. Had He so willed, He could have made you vulnerable too: He is Almighty and Wise.'"(2:220)**

Interpreters of verses like these use them to offer guidance to adoptive and fostering parents, addressing cultural reservations that may result in vulnerable children feeling unwelcome or burdensome. This verse teaches us to welcome them and treat them as members of one's family.

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<sup>9</sup> A Yātīm Ḥaqīqī is a 'true' Yātīm, which classically meant one who has lost their father. Their counterpart is a Yātīm Ḥukmī, a child who holds the same jurisprudential status as a Yātīm Ḥaqīqī.

Caring for orphans not only benefits the child, but Islam teaches that it brings great benefit to carers also. For example, it is narrated the Prophet (peace and blessings be upon him) stated,

عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ "أَنَا وَكَافِلُ الْيَتِيمِ، فِي الْجَنَّةِ هَكَذَا." وَقَالَ بِإِصْبَعَيْهِ السَّبَّابَةِ وَالْوَسْطَى" (رواه البخاري)

**"I and the person who looks after an orphan and provides for him, will be in Paradise like this," (putting his index and middle fingers together) (Sahih al-Bukhari, 6005)**

This hadith outlines the incredible reward that an individual looking after an orphan or vulnerable child will receive; not only paradise but companionship with the Prophet, this is amongst the highest of honours for a Muslim.

The blessings for carers are also in this life:

وعن أبي الدرداء رضي الله عنه أنه أتى النبي صلى الله عليه وسلم رجل ٌ يشتكى قسوة قلبه فقال له : " أتحب أن يلين قلبك وتدرک حاجتك؟ ارحم اليتيم ، وامسح رأسه وأطعمه من طعامك يلين قلبك وتدرک حاجتك" . (رواه الطبراني)

Abū ad-Dardā' narrates that a man came to the Prophet complaining about the harshness of his heart. The Prophet asked him, "Do you like that your heart softens and that your need is fulfilled? Then show affection to an orphan, stroke their head and feed them from your food, then your heart will soften and your need will be fulfilled" (At-Tabrānī, graded as authentic)<sup>10</sup>.

A Fatwā, issued by the acclaimed British Muslim Mufti, Muhammad ibn Adam, of Darul Iftaa, Leicester asserts

"Adopting someone else's child, bringing them up, seeing to their education and training and being kind and good towards him/her is very virtuous and a commendable act. If the child is an orphan and has no support, then the reward is much more"<sup>11</sup>

However, for those who treat orphans unfairly or unkindly, they are severely rebuked in Islam:

"كَلَّا بَلْ لَا تُكْرِمُونَ الْيَتِيمَ"

**"No! But you do not honour the orphan" (89:17)**

The verse is a Divine rebuke, linguistically in the strongest terms, against those who falter and fail to fulfil their duties towards orphans. Another verse reads:

فَأَمَّا الْيَتِيمَ فَلَا تَقْهَرْ

**"Therefore, as for the orphan, do not oppress them" (93:9)**

Ibn Kathīr<sup>12</sup> explains that the above verse instructs us not to belittle, humiliate or rebuke an orphan, rather one should be good and kind to them. Qatādah<sup>13</sup> says, "(this verse) implies to act with an orphan like a merciful parent"<sup>14</sup>.

This relatively small sample of Qur'anic verses and other Islamic texts clearly explain the expectation that all Muslims will do justice to orphans by ensuring they have loving and stable homes with carers who value the adopted or fostered children as much as they should be valuing their own children.

<sup>10</sup> Both At-Ṭabrānī and Ahmad albeit with a different chain of narration have reported this Hadith. Following the footsteps of his Sheikh, al-Zayn al-'Irāqī, al-Haythamī branded it as authentic and so has al-Albānī classified it the same in his work, Sahih al-Jāmi', Hadith number 80.

<sup>11</sup> The Fiqh of Adopting a child, <https://www.central-mosque.com/index.php/Relationships/the-fiqh-of-adopting-a-child.html>

<sup>12</sup> A famous 14th Century Qur'anic exegete

<sup>13</sup> A very early 7th Century scholar born a few decades after the Prophet

<sup>14</sup> Tafsīr Ibn Kathīr, vol.8, p.427

Throughout Muslim history communities have always taken great pride in supporting orphans and vulnerable children, helping them reach their potential and facilitating their ability to make their mark on history. These include:

Abu Hurayrah, a renowned companion of the Prophet, who mentions about himself, "I grew up as an orphan and emigrated while I was destitute"<sup>15</sup> and today he is remembered as one of the most esteemed personalities of Islamic history.

Other orphans include the prominent compiler of Prophetic traditions, Imam Bukhārī as well as the famous commentator of the former's book (Sahīh al-Bukhārī), al-Hāfidh Ibn Hajar al-Asqalānī. Among the famous jurists, Imams Mālik, Shāfi'ī, Ahmad, Sufyān ath-Thawrī and al-Awzā'ī were orphans. Some have also claimed that the famous student of Imam Abū Hanīfah, Abū Yūsūf was an orphan and that Imam Abū Hanīfah educated and paid maintenance to help Abū Yūsūf continue with his studies until he became a great Imam.

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<sup>15</sup> Abū Nu'aim, Hilyah, vol.1, p.389.



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# Chapter 3: Definition and terminology of adoption and fostering

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## Removal of children into the care system

Children enter the care system for various reasons: Sometimes children are 'relinquished' (voluntarily handed over) to social services because their parents do not feel they are able to care for the children; other times the children are forcibly removed from carers because the parents have been found to present a risk of 'significant harm' to the child (this is the threshold for removal of the child stated in The Children Act 1989<sup>16</sup>). Whilst 'significant harm' is not defined in legislation, in practice it is high levels of physical, emotional or sexual abuse or neglect against a child, which is likely to have long term damaging effects on the child.

New-born or very young children who are permanently removed from their birth parents (whether voluntarily or by force) are likely to be adopted within the first few months of life. The number of new-born or very young babies waiting to be adopted or placed into foster care is relatively low, given the preference of carers for younger babies. The need for more carers of older children is much higher. Other children who may struggle to find foster placements include children with disabilities, sibling groups and ethnic minority groups.

Unaccompanied asylum seeking and refugee children are offered the same levels of support as British children; however, unaccompanied children often have complex emotional issues intertwined with histories of loss and violence. This can lead to an increased risk of post-traumatic stress disorder amongst other complications. With limited familial ties in the UK, it follows that maintaining cultural and religious connections are crucial to the welfare of the child (Newbigging and Thomas, 2011).<sup>17</sup>

There are a range of care provisions available for children depending on their needs. This document focuses on two specific types of provision; fostering and adoption.

## Adoption in the UK

Adoption is the permanent transfer of parental responsibility from biological parents (or other guardians) to adopters, making them the child's legal parent. The Children Act 1989 defines parental responsibility as 'all the rights, duties, powers, responsibilities and authority which, by law, a parent of a child has in relation to the child and his property'<sup>18</sup>. It is important to note that the intent of transfer of parental responsibility is to enable the adoptive parents to make decisions for the child which would only be available otherwise to a birth parent: for example, the permission to take children on holiday, change their surname or give consent to non-emergency medical treatment. Furthermore, adoption marks the permanent placement of the child within the adoptive home. Parental responsibility in no way negates the biological link between the child and their birth parents, however it does remove all of the biological parent's (or other previous guardians) legal rights and responsibilities over the adopted child.

It is good social work practice for adopted children to be given a 'Life Story Book' when they join their adoptive family. The book is produced by the child's social worker and, where possible, will have pictures of the birth family and some limited,

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<sup>16</sup> The Children Act 1989, s.47 (1)

<sup>17</sup> Newbigging, K., Thomas, N. (2011), 'Good Practice in Social Care for Refugee and Asylum-seeking Children', *Child Abuse Review* 20(5): 374–90.

<sup>18</sup> The Children Act 1989, s.3 (1)

age sensitive information about the birth family. The adoptive parents would also be given a 'later life letter', which should be given to the child when they are 16 (or earlier if the adoptive parent feels it is appropriate to do so). The later life letter outlines further age appropriate information about the circumstances under which the child entered care.

Many children who are adopted have 'letter contact' with their birth parents, which is supervised and monitored by a social worker. Some children may also maintain occasional face to face contact with their biological siblings (who are also likely to have experienced being in the care system). However, it is rare for adopted children to have face to face contact with their birth parents since this may risk destabilising the adoptive placements and also because the biological parents may present a risk of harm to the child.

Once the child is old enough, they may wish to check if their biological parents have entered their details onto the Adoption Register, which indicates that the biological parents would be open to contact from their child – the adopted child can then take steps to make contact if they wish to.

It can be particularly challenging to find adoptive homes for children with disabilities, sibling groups and ethnic minority groups. White British children are the most likely to be adopted from care and Black children and those of Pakistani and Bangladeshi origin the lowest (Owen and Statham, 2009)<sup>19</sup>.

## Fostering in the UK

Fostering is essentially the temporary care of a child; in practice it can last for as little as one night, to potentially several years (until the child is 21 years old). Foster carers never have full legal parental responsibility for the children in their care and parental responsibility resides with either the birth parents and/or social services. Nonetheless, fostering placements are expected to offer stable and loving homes which meet the needs of the children. Other key features of fostering include: a maintenance allowance and fee is given to foster carers for each child; carers are expected to attend regular training and supervision; foster carers have less choice over the age, ethnicity, religion and other demographics of children they wish to care for; and there are strict 'safer caring' policies in place which place boundaries around the relationship between the foster child and carers. Safer caring guidance includes expectations that foster carers should never be alone in a locked room with the child, foster children should bathe themselves if they are able to and physical touch between carer and children is limited.

Foster care is suitable for children who are waiting for adoptive placements, have not been able to find adoptive placements, or are not suitable to be placed into adoptive placements (for example older children who do not want to be adopted). Foster placements are also needed in instances where social workers have to remove children from their parents/guardians in order to ensure the children are safe while parenting capacity assessments are carried out.

It is not uncommon for children to return to their birth families or guardians after a period of time in foster care. This will happen if the original assessment finds the family to be suitable carers, or if the family have engaged positively in work to improve their parenting capacity. Indeed, a quarter of children from Pakistani, Indian and Bangladeshi ethnic groups in care return to their biological homes (Owen and Statham, 2009)<sup>20</sup>.

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<sup>19</sup> Owen, Charles and Stratham, June. (2011). 'Disproportionality in Child Welfare'. University of London: Thomas Coram Research Unit, p.1.

<sup>20</sup> Cited by Baginsky, M., et. al. (2017). 'The Fostering system in England: Evidence review'. London: King's College London & Quest Research and Evaluation Ltd, p.152.

## The Islamic terminology related to adoption and fostering

### Tabannī

The classical Arabic word Tabannī is often mistakenly translated as adoption. The term refers to the pre-Islamic<sup>21</sup> practice of taking a child into the home and negating the biological link between the child and their birth parents. This transference and negation of the biological link through adoption is a direct contravention of one of the primary objectives of Islamic law; the preservation of lineage. Biological lineage is considered sacred, with every child bestowed the right in Islamic law to know their parents and their ancestry, thus any negation of this is strongly prohibited by both classical and contemporary scholars.

This mistranslation of Tabannī to adoption has confused many Muslims, resulting in the pervasive understanding that adoption is prohibited in Islam. Thus confusing 'parental responsibility' with denying the child knowledge of their lineage. Section 39 of the Adoption Act 1976 (1) states that the adopted child will be treated in law "as if he had been born as a child of the marriage (whether or not he was in fact born after the marriage was solemnized)" and paragraph 2 of the same section states "An adopted child shall, subject to subsection (3), be treated in law as if he were not the child of any person other than the adopters or adopter". The key words of the Act, in terms of understanding the relationship to Tabannī are 'as if', meaning that there is no denial of lineage, only that the child should be treated equitably with the carers biological children. In fact, these aspects of the law are in line with Islam, which teaches that children who are adopted or in foster care should be treated as well as biological children.

### Kafālah al-Yatīm

The classical Arabic term Kafālah al-Yatīm, denotes the looking after and caring of a Yatīm, and can be found throughout Islamic jurisprudential texts when discussing the need to look after vulnerable children.

As noted earlier, adoption denotes caring on a permanent basis, whereas fostering can be a short, medium or long-term arrangement, likewise, the expression of Kafālah al-Yatīm can take on a similar range of realisations. It has also been established that adoption in the UK does not negate the child's knowledge of their lineage and adoption status. Furthermore, children entering the British care system can be termed, according to Islamic law, Yatīm Hukmī, that is to say that whilst they are not 'true' orphans (Yatīm Haqīqī), they share an analogous legal standing given their vulnerability. Thus, when understood within the framework of this wider meaning of Yatīm there is no doubt that Kafālah al-Yatīm is broadly synonymous with the contemporary expression of adoption and fostering in the UK. Thus, advocating for adoption and fostering within the context and constraints of the UK is in keeping with spirit of the Islamic tradition.

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<sup>21</sup> Pre-Islamic refers to the civilisations prior to the advent of Islam, marked by the beginning of Muhammad's prophecy in the early 7th Century when the Prophet was aged forty.

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# Chapter 4: Preservation of the child's identity

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## Preservation of the child's surname

In the pre-Islamic period as well as in the early days of Islam, prior to the prohibition of this practise, adopted children were attributed to their adoptive fathers. A well-know example of this is the Prophet Muhammad's adopted son, Zayd bin Hārithāh. The people of that time would often be confused about his lineage and call him Zayd bin Muhammad, meaning Zayd 'the son of' Muhammad. The Qur'ān sought to put this matter right and clarify the legal status of adopted children in Islam:

ادْعُوهُمْ لِأَبَائِهِمْ 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.

**"Name your adopted sons after their real fathers: this is more equitable in God's eyes—if you do not know who their fathers are [they are your] 'brothers-in-religion' and protégés. You will not be blamed if you make a mistake, only for what your hearts deliberately intend; God is most Forgiving and Merciful." (Quran, 33:5)**

Further insight into this verse is given in the hadith:

وَكَانَ مَنْ تَبَيَّنَ رَجُلًا فِي الْجَاهِلِيَّةِ دَعَاهُ النَّاسُ إِلَيْهِ وَوَرِثَ مِنْ مِيرَاثِهِ حَتَّى أَنْزَلَ اللَّهُ {ادْعُوهُمْ لِأَبَائِهِمْ} إِلَى قَوْلِهِ {وَمَوَالِيكُمْ} فَرُدُّوا إِلَى آبَائِهِمْ، فَمَنْ لَمْ يُعْلَمْ لَهُ أَبٌ كَانَ مَوْلَى وَأَخًا فِي الدِّينِ.

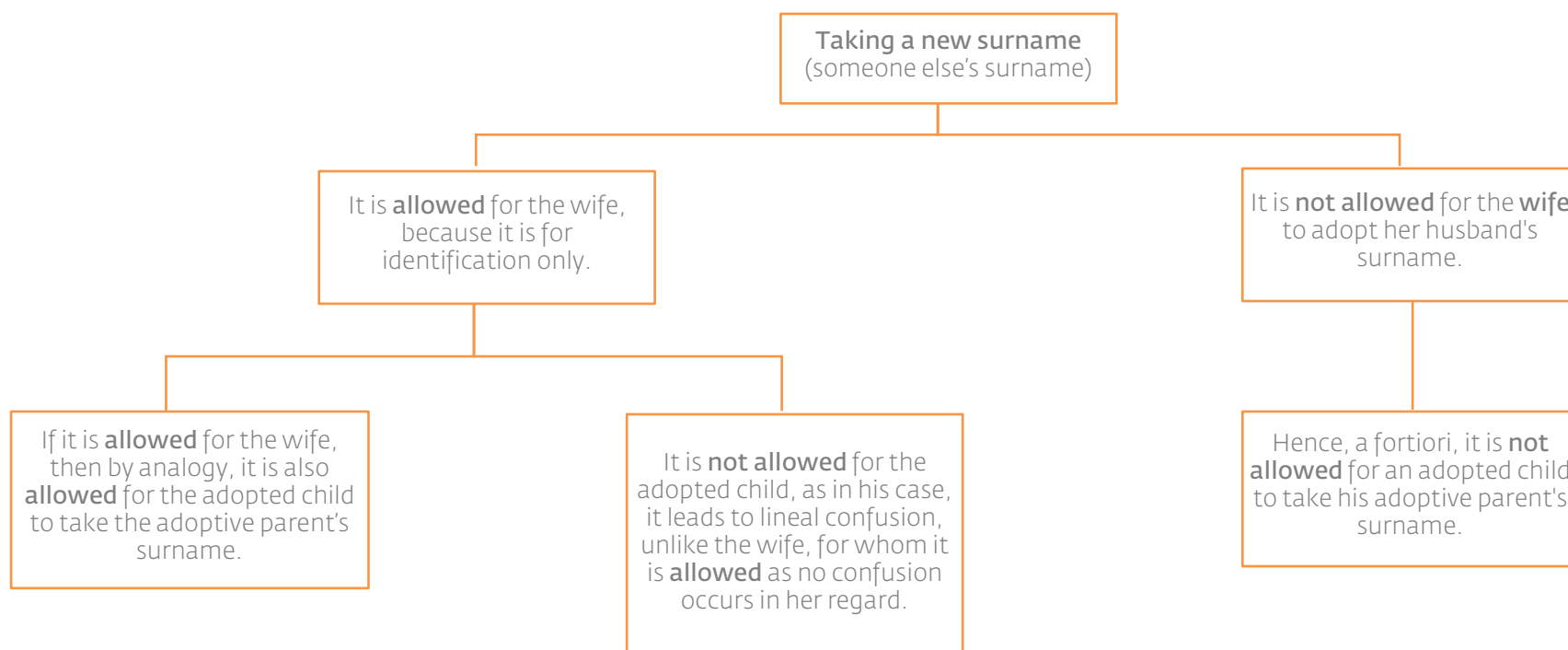
It was custom in the pre-Islamic period that if somebody adopted a boy, then people would call him the son of the adoptive father and he would also be the latter's heir. But when God revealed the [Qur'anic Verses] "Call them by [the names of] their [biological] fathers" up till "they are your friends" (33:5), the adopted persons were re-attributed to their [biological] fathers. As for the one whose father was not known, he would be regarded as a friend and brother in faith. (Bukhārī, Vol. 7, Book 62, Hadith 25)

Children who are placed into foster care do not change their surnames (unless in exceptional circumstances when it is essential to change the surname to safeguarding the child); however, when a child is adopted, an amended birth certificate can be issued, which replaces the names of the biological parents with those of the adoptive parents. This is not a compulsory aspect of adoption and (with the permission of the judge making the adoption order) it is possible to retain the child's original surname, or chose a different surname altogether.

Scholars who interpret the Qur'anic verse literally consider a change in surname to be problematic. However, there are other Muslim scholars who say this is permissible. Those Muslim scholars who consider it permissible to give an adopted child the adopting father's surname, reason that just as women are allowed (although not required) to take the surnames of their husbands, likewise, so too can an adopted child. They argue that the change in name is for identification purposes and does not establish a lineal link nor negate the biological link to the birth father and therefore it presents no contradiction to Islamic law.

There is also another group of scholars, who allow for women to take their husbands' surnames and disallow it for adopted children. They argue that the former does not create lineal confusion but the latter does, and therefore it is impermissible.

Diagram 1, below, depicts the positions of the scholars in this regard.



It is important to note that whilst it is possible (but not compulsory) to change the child's name on the birth certificate at the time of adoption, the original birth certificate continues to be stored at the General Register Office where the child is adopted. The original birth certificates can be accessed after the adopted child turns 18 (Gov.uk, n.d.<sup>22</sup>).

Nevertheless, in everyday life the child will be referred to using the adoptive parent's surname, leaving some scholars still adamant over its prohibition. Note, it is commendable in Islam to attempt to reach a consensus in opinion that all or at least most scholars can agree upon, hence this discussion.

One possible solution that satisfies the majority of jurists is to give the child a hyphenated surname. In this case, the adopted child retains his birth surname as well as take on the adopters' surname. For instance, Zaid Amr-Bakr, where Zaid is the adopted son, Amr is his adoptive father's surname and Bakr is his lineal (birth) surname<sup>23</sup>. This naming procedure removes the hurdle of identification, clarifies the child's natural lineage in the surname and resolves the concerns of even the most stringent of Islamic jurists.

In exceptional cases it may be determined that it is necessary to change the child's surname to that of the adopters; for example, if there is a risk to the child's emotional health or safety. In these cases, there is no contradiction with renaming the child to the adopters name and this still falls within the boundaries of legal acceptability according to Islamic law. Furthermore, the amount of information given to the child should be commensurate with their understanding and age: Adopters are tasked with balancing the stability of the placement and the emotional welfare of the children against the right for adopted children to know about their heritage. Support and guidance is provided by children's social workers before adoption and if required, support can also be offered following adoption.<sup>24</sup>

<sup>22</sup> Gov.uk. (n.d.). Adoption records. [online] Available at: <http://www.gov.uk/adoption-records> [Accessed 3 Jan. 2018].

<sup>23</sup> Leicestershire City Council. Changing a Child's name: Young people who wish to Change their Surname. (Leicester City Council, p.2). Accessed 12/12/2016. [http://www.leics.gov.uk/changing\\_a\\_childs\\_name\\_doc..pdf](http://www.leics.gov.uk/changing_a_childs_name_doc..pdf)

<sup>24</sup> Organisations such as CoramBAAF (CoramBAAF, n.d. ) also offer advice and a range of literature to support adopters.

## Preserving lineage

Another view from some scholars about the decree to 'call them by their names' is that the decree was actually in relation to ensuring the child is aware of their lineage.

As has been discussed in detail in the above sections, when an adopted child is aware of their adoption status and is given a suitable amount of information about their lineage and heritage, the adoption is also fully compliant with Islamic law.

With regards to foster care, legal parental responsibility of children placed into foster care is retained by the birth parents and/or with the Local Authority on behalf of the biological parents. Not only is the child fully aware that their foster carers are not their biological parents, but it is illegal for the foster parents to attempt to change the child's surname from their biological surname. Children in foster care remain in regular contact with social workers and other professionals who will support them through their care journey, so there is no opportunity for foster carers to mislead the child into thinking they are the biological parents. Also, a large proportion of children in foster care remain in regular contact with their parents, either face to face, via telephone or by letter; the level of contact is determined by the risk posed to the child and (sometimes) on the practicalities of arranging contact. Foster care, according to UK practice, is thus fully compliant with Islamic law (Shariah) and is also a commendable means to care for a vulnerable child.

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# Chapter 5: Managing familial relationship with a child who is not biologically related

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## Hijab and privacy issues

Islam has precise rules with regards to how men and women should interact with each other, most of which pertains to those who have reached the age of puberty whereupon they are considered adults in Islamic law. After this age, a man and woman (who are not closely related) should not be alone together in private. They should also guard their nakedness; this is broadly determined by Islamic law for men as what is between the navel and knees, and for women, as their whole body (including hair) and excluding their hands, face and some jurists also exclude the feet.

These rules however do not apply to those determined by Islamic law to be one's Mahram. One's Mahram includes, amongst others, siblings, parents, grandparents, parent-in-laws and children-in-laws. Therefore, the rules of gender interaction remain in place, in principle, between parents and their adopted children and between adopted children and their step-siblings.

Because of these rules, many Muslim foster carers and adopters worry about the prospect of children in their care reaching the age of puberty with some refusing to adopt or foster adolescent children. Some adopters may feel that they are only able to adopt very young children who will become mahram to them (via the processes described below) and some foster carers may choose to limit their criteria for foster children to pre-adolescent children. This rigid implementation of the law leaves many children without adoptive or foster homes, therefore it is harmful and can often cause serious emotional damage to children, directly contradicting the objectives of Islamic law.

Whilst observing appropriate decorum is considered to be a fundamental aspect of the Muslim faith, Islamic scholars involved in the production of this document have agreed that this should not act as a barrier to fostering or adoption with an approach taken on a case by case basis and in consultation with local scholars acquainted with this topic.

Furthermore, it is recognised that covering of the body is only one component of hijab, and in fact the greater observance of hijab is in terms of behavior, interactions and intentions. Foster carers are expected to adhere to comprehensive 'safer caring' policies in respect of children in foster care: For example, foster carers should never be alone in a locked room with the children; the children should never be in the foster carers bedroom and if the children are able to do so, they should bathe themselves and clean their own bedrooms. These policies (in addition to the factors discussed above) further confirm that fostering is compliant with Islamic guidance. With regards to adoption, it is noted that many of the expectations of foster carers naturally fall into place with all children when they reach puberty, in that parents should not be bathing adolescent children who are able to bathe themselves; there is no need for adolescent children to enter the bedrooms of their parents and it is not necessary for parents to enter the bedrooms of children who are able to maintain the cleanliness of their own rooms. Therefore, it is also possible to maintain adequate decorum and Islamic etiquette towards all adolescent children (whether in foster care, adopted or birth children).

On a final note, as discussed above, with regards to treatment of children in care, they should never feel that they are lesser in their relationship to their adoptive or foster parents in comparison to birth children. Therefore, when considering how to dress or behave with children who are adopted or in foster care, there should be parity (as far as possible) in terms of treatment with birth children.



## Marriage between children in care and others within the carer's home

It is forbidden in Islam for there to be sexual interactions outside marriage and Muslims are expected to adhere to the law of the land they live in. The legal age for marriage in the UK is 18 (or 16 with parental consent); therefore, marriage (and any form of sexual relations) with any child in care is impermissible. Furthermore, it is illegal in the UK for an adoptive parent to be married to their adopted child (regardless of age).

However, there are other situations, where marriage is legal, but may be considered to be socially inappropriate. An example of this is marriage between adoptive or fostered siblings. As outlined below, where a process of milk-suckling (or physiological bonding) has occurred, Islamically the child is considered to be a member of the family in the same way as a birth child; therefore, marriage between close family members is not permitted.

In the case where milk-suckling has not occurred and there is an absence of any physiological link between the adopted child and his adoptive parents (as discussed below), it is technically within the boundaries of Islamic law for an adopted child to marry their adoptive-siblings. This may occur when an older child enters a foster or adoptive home. Social workers take these factors into consideration before matching children to foster homes.

It is critical that conversations of this matter are dealt with sensitively with emotions fully explored, perhaps even facilitated by a professional relationship coach or therapist. Families with adopted children go through a range of exceptional feelings and experiences and these can sometimes be misinterpreted or misdirected by young people.

## Requirement of the guardian's consent for women to marry

It is possible that a female who has been adopted, or is in foster care, will not have had contact with her birth father or any other men from her birth family. This may become problematic when she chooses to marry. According to a majority of scholars it is obligatory for fathers (or other closely related men if the father is absent) to act as Wali (legal guardian) for a woman to marry. Other scholars argue that a woman can decide to marry herself (without her Walī) as long as the marriage is not a mismatch. Their argument is that an adolescent girl has the legal capacity to enact contracts, and given that marriage is essentially a contract, she is able to marry without parental consent. In agreement with this position, is the following tradition which states that:

"الْأَيُّمُ أَحَقُّ بِنَفْسِهَا مِنْ وَلِيِّهَا" (رواه مسلم، ومالك، والترمذي وأبو داود)

**"An unmarried woman is more rightful to herself than her Walī" (Muslim, Mālik in his Mu'aṭṭā, Tirmidhī and Abū Dawūd)<sup>25</sup>.**

Given that there is some disagreement amongst Islamic scholars on this subject, women who are not in contact with their biological parents (or are in contact with them but the parents are not able to give responsible advice and support) are encouraged to consult with a trustworthy local Imam or Muslim judge who will act as their Walī for this occasion. The function of the guardian is to assess whether or not the proposed marriage serves the interest of the woman and that she is not being taken advantage of. The Imam or Muslim judge also has the legal power to make the adoptive or foster parents his agents to enact the marriage on their behalf.

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<sup>25</sup> Muslim, in-book reference: Book 16, Hadīth 78; Mālik in his Mu'attā, Arabic book referencing: Book 28, Hadith 1097; and Abū Dawūd, in-book reference: Book 12, Hadith 53.



## Distribution of inheritance

Re-establishing the lineal link following the Qur'anic abrogation of the pre-Islamic practice of Tabannī resulted in a change in the legal relationship between the adopter and the adopted. This in turn had a number of consequences in Islamic law, for example the abolishment of bilateral rights of inheritance between the adoptive parents and their adopted children and the re-establishment of defacto inheritance rights between the newly reconnected biological relatives.

Since adopted and fostered children are not the biological relatives of a deceased adoptive or foster parents, the Islamic laws of inheritance does not include them by default. Instead, according to Islamic law, adoptive parents may bequeath a portion of their wealth to non-inheriting parties or give them a gift whilst alive. The following verse of the Qur'ān alludes to the process of bequeathing at the time of one's death,

وَإِذَا حَضَرَ الْقِسْمَةَ أُولُو الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسَاكِينُ فَارْزُقُوهُمْ مِنْهُ وَقُولُوا لَهُمْ قَوْلًا مَعْرُوفًا.

**“If the relatives (who are not heirs) and the orphans and the needy are present at the time of distribution, give them some of it, and speak to them in fair words” (4:8)**

Jurists conclude it is commendable to help adopted and fostered children through the process of bequeathing (up to a third of one's wealth can be distributed as such)<sup>26</sup>. The process must be done actively and discussed in advanced when considering long term financial planning.

Currently, English law does not recognise Muslim personal law, hence an estate left by a British Muslim who fails to make a will is divided according to English Law intestacy rules, which prescribe different shares to the ones detailed under the Islamic laws of inheritance. This means anyone who wishes a Sharī'ah<sup>27</sup>-compliant distribution of their wealth after their demise, should draw up a will based on Islamic law which ensures the inclusion of all those relatives who are entitled to their specific percentage or portion. Thus an adoptive parent (or indeed an adopted child) will need to ensure they have included their desire to bequeath up to one third of their estate in their Islamic Will (Mufti Yusuf Shabbir (2017)<sup>28</sup>.

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<sup>26</sup> See Fatwā issued by Mufti, Yusuf Shabbir, released on the 23rd of Jumādā al-Thāniyah 1438, corresponding the 22nd of March 2017 and approved by Mufti Shabbir Ahmad Sahib, accessed on the 6th of February 2018 from: <https://nawadir.org/2017/03/28/adoption-and-inheritance/>.

<sup>27</sup> Sharī'ah refers to Islamic law

<sup>28</sup> See Fatwā issued by Mufti, Yusuf Shabbir, released on the 23rd of Jumādā al-Thāniyah 1438, corresponding the 22nd of March 2017 and approved by Mufti Shabbir Ahmad Sahib, accessed on the 6th of February 2018 from: <https://nawadir.org/2017/03/28/adoption-and-inheritance/>.

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# Chapter 6: Formation of parent-child relationships

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## Wet-nursing adopted children

A route that some adoptive parents may wish to take to completely resolve the Hijāb and gender interaction issues is through Radā‘ah (wet-nursing). Whilst peculiar to modern British society, the culture of women other than the mother breastfeeding a child was common practice historically and remains so in many societies across the world today. In the Islamic tradition wet-nursing establishes a sacred type of kinship.

Just as one is not obliged to follow the rules of gender segregation with their Mahram (close relations, not eligible for marriage), the bond established through wet-nursing repeals the rules of gender-segregation between the recipient child and the family of the breast-feeding mother. This is established in the Prophetic tradition:

عَنْ ابْنِ عَبَّاسٍ - رَضِيَ اللَّهُ عَنْهُمَا - قَالَ قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فِي بِنْتِ حَمْرَةَ " لَا تَجُلُّ لِي، يَحْرُمُ مِنَ الرَّضَاعِ مَا يَحْرُمُ مِنَ النَّسَبِ، هِيَ بِنْتُ أُخِي مِنَ الرَّضَاعَةِ " . (رواه البخاري)

Ibn ‘Abbās (may God be pleased with him) narrates that the Prophet stated concerning the daughter of Hamzah, “She is not permitted for me (in marriage), because milk-suckling prohibits all that which the lineage prohibits. She is the daughter of my milk-suckling brother” (Bukhārī)<sup>29</sup>.

The scholars of all the established Islamic legal traditions agree that the breastfeeding must happen in childhood to establish the status of Mahram, and thereby also completely resolving the issues around gender-interactions. Most classical scholars determined that the time period for breast-feeding a child is exactly two years, with others arguing for more of an approximation of two years, rather than the exact number. A handful of other jurists extend this to two and half years and a few as far as three years of age.

Hence, as long as an adopted or fostered child is breastfed within the time period described above, they are regarded as Mahram (sacred kinship).

We also take note that stimulating milk production through any way that causes harm to one’s body is not acceptable in Islamic tradition. There are alternative solutions that can encourage lactation, however these should not be taken unless one has consulted with an appropriate medical practitioner.

In the case of foster placements, it should be noted that wet-nursing can only lawfully occur when the person/people with parental responsibility give consent. It is extremely unlikely that birth parents and/or social workers would give such consent.

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<sup>29</sup> Hadīth 2645; and in-book reference: Book 52, Hadīth 9.

## Physiological bonding between parents and children

A scientific research study has demonstrated in humans (and animals) that a 'strong sexual aversion to individuals with whom they have lived closely with in infancy and in early childhood' occurs, the phenomenon is called the Westermarck Effect<sup>30</sup>. Therefore where an adopted or fostered child has spent a significant portion of their infancy/childhood growing up with an adopted or fostering family, some scholars (at the symposia) argued the rules of gender interaction can be considerably diminished as the rationale behind the rules no longer apply. Furthermore, they cite verses in the Qur'an (24:31) that can support this argument.

قُلْ لِلْمُؤْمِنَاتِ يَغْضُضْنَ مِنْ أَبْصَارِهِنَّ وَيَحْفَظْنَ فُرُوجَهُنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا مَا ظَهَرَ مِنْهَا وَلَا يَضْرِبْنَ بِخُمُرِهِنَّ عَلَى جُيُوبِهِنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا لِبُعُولَتِهِنَّ أَوْ آبَائِهِنَّ أَوْ آبَاءِ بُعُولَتِهِنَّ أَوْ أَبْنَائِهِنَّ أَوْ أَبْنَاءِ بُعُولَتِهِنَّ أَوْ إِخْوَانِهِنَّ أَوْ بَنِي إِخْوَانِهِنَّ أَوْ نِسَائِهِنَّ أَوْ مَا مَلَكَتْ أَيْمَانُهُنَّ أَوْ التَّابِعِينَ غَيْرِ أُولِي الْإِرْبَةِ مِنَ الرِّجَالِ أَوِ الطِّفْلِ الَّذِينَ لَمْ يَظْهَرُوا عَلَى عَوْرَاتِ النِّسَاءِ وَلَا يَضْرِبْنَ بِأَرْجُلِهِنَّ لِيُعْلَمَ مَا يُخْفِينَ مِنَ زِينَتِهِنَّ وَتُوبُوا إِلَى اللَّهِ جَمِيعًا أَيُّهَ الْمُؤْمِنُونَ لَعَلَّكُمْ تُفْلِحُونَ.

“And tell believing women that they should lower their glances, guard their private parts, and not display their charms beyond what [it is acceptable] to reveal; they should let their headscarves fall to cover their necklines and not reveal their charms except to their husbands, their fathers, their husbands' fathers, their sons, their husbands' sons, their brothers, their brothers' sons, their sisters' sons, their womenfolk, their slaves, such men as attend them who have no sexual desire, or children who are not yet aware of women's nakedness; they should not stamp their feet so as to draw attention to any hidden charms. Believers, all of you, turn to God so that you may prosper”.

Other scholars still insist on following the established precepts of Islamic law, which includes pubescent children not being left alone with a member of the opposite sex (including adoptive parents) and to cover parts of their bodies as described above, this would include a wearing a head covering for women. However, some scholars maintain a more pragmatic and thus relaxed position given the extent of interaction that happens in the home.

It is crucial that these matters are dealt with on a case by case basis and referred to a local scholar well versed with the issues of adoption and fostering to advise on the specific details for a family<sup>31</sup>.

<sup>30</sup> An experimental test of the Westermarck effect: sex differences in inbreeding avoidance Ursula M. Marcinkowska Fhionna R. Moore Markus J. Rantala Behavioral Ecology, Volume 24, Issue 4, 1 July 2013, Pages 842–845, <https://doi.org/10.1093/beheco/arto28>

<sup>31</sup> To obtain more clarification you may wish to contact a scholar via Penny Appeal at [info@pennyappeal.org](mailto:info@pennyappeal.org)

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# Chapter 7: Cross-religious placements

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## Looking after non-Muslim children

It is clear from the evidence presented that both Qur'anic verses and Prophetic narrations emphasise the merits of looking after orphans and vulnerable children in absolute terms, without any limitations on the religious background of the child. Therefore, it is important that Muslim communities understand that, according to Islamic law, taking care of vulnerable children, whether Muslim or non-Muslim, is not only permissible, but in fact, is a praiseworthy endeavour.

It would be contrary to both Islamic and UK social work guidance for an adopter or foster carer to treat children in their care differently, other than that required to meet the needs of the child. A non-Muslim child is not more or less worthy of love and attention from their carers than a Muslim child; indeed, all children are entitled to love, respect and devotion from their parents and carers.

Muslim adopters and foster carers may find it easier, in terms of day to day living and knowledge about religious beliefs, to care for Muslim children. For fostering applicants, refusing to care for non-Muslim children may exclude the applicants from becoming foster carers; this would impact on both Muslim and non-Muslim children waiting for foster homes. Where local authorities already have Muslims who are approved adopters and waiting to be matched to Muslim children and where these authorities are not assessing any more Muslim applications, it would be better for applicants to be open to caring for non-Muslim children, thereby increasing the benefit to all children in care.

Whilst looking after a child from a non-Muslim background is religiously permitted, rewarding and greatly beneficial; it is important to note that one is not allowed, both legally and religiously, to force one's own religion on a child. God states in the Qur'an,

لَا إِكْرَاهَ فِي الدِّينِ ۗ

**“There is no compulsion in religion” (2:256)**

If a child makes their own personal choice as they grow up with a Muslim family and chooses to adopt the religion of their adoptive or fostering parents, without being compelled by them, then their choice should be supported.

## Non-Muslim adopters and foster carers looking after Muslim children

As outlined earlier, there is a great shortage of Muslim adopters and foster carers, meaning many Muslim children are placed with carers who have little knowledge of their faith or culture. The reasons for the lack of Muslim carers could include the lack of awareness, weakness in mobilising and motivating the Muslim community for this purpose, as well as misinformation or misunderstanding on the Islamic perspectives on fostering and adoption, which this paper has sought to address.

Having a carer that does not reflect the heritage of an adopted or fostered child can impact negatively on the self-development of that child, as ethnicity and religion are powerful markers of identity (Verkuyten and Yildiz, 2017).

Given the current situation of the lack of Muslim adopters and foster carers, this gives rise to significant concern, especially given this negative impact further compounds other trauma that the child may have experienced, adding to the chaotic identity of an already vulnerable child. Scholars are concerned that amongst all these challenges, many adopted or fostered children may lose their connection to their faith altogether. The Muslim community must assist non-Muslim carers to support these children through Islamic awareness and sensitivity training and capacity building.

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# Chapter 8: Recommendations for Muslim communities and their leaders

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It is clear from the information provided above that there is considerable work to be done in order to involve Muslim communities more fully in adoption and fostering: This would benefit Muslim children, non-Muslim children, the carers and society in general. The following recommendations are made for the consideration of Muslim scholars and community groups:

**1. If you are able to, become adopters or foster carers, in the tradition of our Prophet Muhammad (peace and blessings be upon him), to act as role models to our communities.**

Applicants may approach their local authority, or voluntary adoption providers or independent fostering providers. These are listed on the Ofsted website (<https://reports.ofsted.gov.uk/>), along with their respective Ofsted rating. The charity Penny Appeal ([www.PennyAppeal.org](http://www.PennyAppeal.org), 03000 11 11 11) also offers a free service whereby advice is offered to applicants and a referral is made to all fostering/adoption providers which operate in the applicants area. Penny Appeal also advises applicants about Ofsted ratings, contract levels of independent providers with local authorities and allowances.

**2. Join the collaboration of scholars who will continue to work together to develop this guidance. Involvement may be via local working groups or remotely.**

Logistics and further development of this guidance will be coordinated via the charity Penny Appeal. Imams and scholars who wish to further develop their understanding of this subject are encouraged to join the network who are developing the learning on this subject further and to disseminate the information to local community groups.

**3. Hold regular Friday sermons on the topic of adoption and fostering**

A template for a khutba is provided as Appendix II, Imams are asked to deliver this khutba at least twice a year (please check the Penny Appeal website for updated versions). It is suggested that fostering and adoption providers and/or advisory services are also invited to hold a workshop after the khutba. The support services should be willing to provide support with promoting the workshops beforehand.

**4. Invite sector professionals and/or Islamic scholars who are involved in this work to your mosques and local community centres**

In addition to inviting professionals to run workshops after khutbas, meetings can be held to update the Imams, scholars and community leaders about the needs of Muslim adopters, foster carers and children in care.

**5. Direct applicants to local and national fostering, adoption and/or independent advisory services**

Information regarding the need and process to becoming adopters and foster carers should be made readily available in all Muslim community centres. This can be done by putting up posters, leaving flyers in an easily accessible location and holding regular recruitment events.

## **6. Disseminate this guidance to your contacts and communities**

This guidance is available electronically, both via email and via social media and also in paper format. Contact Penny Appeal for copies in copies and support the cause by disseminating this guidance widely.

## **7. Form local working groups**

Islamic leaders and the local authority are encouraged to come together regularly to discuss the needs of Muslim children who are currently or were previously in care.

## **8. Provide access to education and community support for Muslim children in care (or who have left care), in order to mitigate the risk of the child growing up feeling rejected, isolated and/or confused about their faith or cultural identity.**

There are various levels of support which could be offered to children who are in foster care or have been adopted (as well as for those who have left care). At a basic level, local authorities may need information about existing classes and lessons which are available to all children in the community. Some children may require more specialist support; for example, children who are suffering trauma or other challenges, may need the support of a trained Imam. In order to put these provisions in place, local community groups are encouraged to strengthen their relationships with local authorities, who will provide support and training.

## **9. Support professional and experienced social care training providers, who educate children's sector professionals in how to work with Muslim children and families.**

Penny Appeal delivers training nationally. Community groups can assist by becoming involved in the training and by sharing contacts with local authorities. Community groups may also be able to provide suitable venues for the training (such as mosque training rooms).

## **10. Ensure Muslim children in care, their adoptive or foster parents, and (if necessary) professionals who work with them, feel welcome and supported in your mosques and community centres, regardless of their gender, race, religion, culture or any other demographics.**

In addition to providing support for children who are in care (or were once in care), community centres and mosques are encouraged to consider what provision they have for the carers of these children. In order to make sure the provision offered is suitable, community leaders are encouraged to speak to carers directly, or via the local authority. This provision would be available to all carers of Muslim children, regardless of the faith of the carers.

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## Chapter 9: Conclusion

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Muslim communities have an ethical duty to ensure that homeless and parentless children have guardians and families to look after them. The matter can thus be defined, according to Islamic Law, as a '**communal obligation**' (Wājib 'alā al-Kifāyah), whereby a group within the Muslim community must fulfil this responsibility on behalf of the others. If the Muslim community as a whole fails to fulfil a communal obligation then the whole community can be considered blameworthy. Other examples of 'communal obligations' include the provision of Friday prayers, arranging funerals for the deceased and producing religious scholars.

It is evident that as a community, Muslims are failing in the obligation to take care of vulnerable children from amongst them.

The guidance in this document seeks to demonstrate the importance of caring for vulnerable children as outlined by the Islamic tradition as well as address possible challenges in the contemporary practice of adoption and fostering in the UK. This paper has emphasised the praiseworthy nature of this venture and has clarified how adoption and fostering is almost analogous to the well documented Islamic concept of Kafālah.

The paper has highlighted viable solutions in overcoming the challenges faced by prospective adoptive parents and foster carers. If this guidance is followed, we are certain it can help address barriers.

## Appendix I: Contributors

### Professional contributors

- Dr. Sariya Cheruvallil-Contractor: Research Fellow, Centre for Trust, Peace and Social Relations, Coventry University. Dr. Sariya is also an adopter. Savita De Sousa: BME Consultant, CoramBAAF
- Sonia Hamdani: Care experienced Muslim and ambassador for Penny Appeal.
- Tim McArdle: Head of Placement and Recruitment, UK Fostering.
- Anita Earl: Fostering and Adoption Recruitment Team Manager, Birmingham City Council
- Bilal Shaikh: Local Authority Social Worker
- Jo Lee: Business Development, Adoption Focus
- Claire Shepherd: Adoption and Fostering Recruitment Team Manager, Birmingham City Council
- Javid Iqbal: Foster carer, Birmingham City Council
- Jennifer Dear: Active Care Solutions
- Karen Nock, Social Worker
- Manjeet Bassi: Fostering Manager, Birmingham City Council
- Mohammed Bashir: Registered Manager, Active Care Solutions Fostering
- Paul Yusuf McCormack: Foster carer and care experienced adult, Warwickshire local authority and Father Hudsons Fostering.
- Rob Finney: Deputy Head of Family Placement (Fostering), Manchester City Council
- Sajid Hashmi MBE: Foster carer, Rochdale local authority.
- Shiv Pattni: Development Manager, Ikon Fostering



## Appendix II: Jumu'ah Khutba on Adoption and Fostering

"All praise is for Allah, Lord of the Worlds.

Peace and blessings upon His final messenger, Muhammad (ﷺ) his family and companions, everlastingly.

I bear witness that there is no one worthy of worship except Allah, the Lord of the Worlds, and I bear witness that our master, Muhammad (ﷺ) is His final prophet and messenger.

Know oh Muslims, the role of the Sunnah of the messenger of Allah (ﷺ) is to teach us not only about disciplining our own selves, but about living together as members of functioning societies, in the best and most righteous way- the way of RasoolAllah ﷺ. We therefore have a duty of care to our own selves, families, neighbours and in reality the whole of our communities, both within the ummah and outside of it. We have a duty to be mohsineen, doers of good to all.

As Allah (azzawajjal) says in the Quran al-Kareem:

"Those who believe and do righteous good deeds, there is no sin on them for what they ate, if they have Taqwa and believe and do righteous good deeds, and they (again) have Taqwa and believe, and then (once again) have Taqwa and perform good. And Allah loves the good-doers."

A large part of that responsibility is towards vulnerable people who are in need of our help, and those, sadly, include many children in the UK. Many of these vulnerable children are often removed from their families due to abuse, or lack of safety. With the increase of unaccompanied minors seeking asylum (many of whom are Muslims) from war-torn countries all around the world, the number of children within the care system in the UK continues to increase. In the Midlands alone, there are hundreds of Muslim children in the care system, often going into non-Muslim homes for care.

Children end up being removed from their homes and from their biological families for a variety of reasons. Sometimes due to the high level of abuse they experience at the hands of their birth families, sometimes this abuse is physical, sometimes psychological and sometimes emotional. Other times it is due to neglect and sometimes to severe behavioural issues and parents being unable to care properly for their children. It is up to us as a community to target these issues. We must unite in understanding that this cannot continue and we must offer safe homes for these vulnerable children. Allah has ordained that these children have a right to be cared for and the right falls upon us as members of the Ummah.

We know directly from the Sunnah of the messenger (ﷺ) about the importance of kindness, through his actions towards vulnerable people. Whether that be orphans, slaves or the victims of abuse. The messenger (ﷺ) famously stated;

"Whoever fails to show mercy to our children and honour to our elders is not one of us."

Fostering and adoption is the only way in which children can be placed into safe homes and gain stability after often huge disruption and detachment from their families and homes and being placed in the care system in the UK. Often times though, Muslim children are matched with families who can care for them and provide a safe home, but not people who can instill within them Muslim values and identity. It is our duty to be ambassadors of the prophetic way (ﷺ) and that is a way of kindness, love and servitude to the orphans and any vulnerable child or person.

The Messenger of Allah (ﷺ) himself taught us the way to adopt. In the way, he raised, nurtured and cared for Sayyiduna Zayd bin Harithah. Allah ordained that an adopted child must be connected to his lineage too, but Allah did not forbid the care of vulnerable children by other members of the Ummah. In fact, this was encouraged by the Sunnah, and is in line with the Quranic values.

Besides, was the beloved Messenger of Allah (ﷺ) not an orphan himself? Was he not left without parents at a young age himself? There is a lesson to learn from this. RasoolAllah (ﷺ) taught us not to return to the times of jahilliyah whereby orphans were abused and neglected by the communities they belonged to. RasoolAllah (ﷺ) taught us against this. His orphanage is a sign that orphans are amongst the most beloved people to Allah (azzawajjal)! Look at the Quran, look what Allah (azzawajjal) says about the orphans. Was Musa (alayhi salaam) not an orphan? Musa (alayhi salaam) too was removed from his family and cared for by a believing woman. A woman later whom we know is from the women of Jannah, according to RasoolAllah (ﷺ). Do we not want to be amongst those who Allah bestows His infinite Mercy and Blessings upon because we too helped the orphans and vulnerable children?

In this time of great fitna, and our children are suffering. It is now time that we unite in goodness (ihsan) as Allah and His messenger have taught us to do. It is time we step forward to make a difference in the lives of the most vulnerable people in our communities. By becoming a registered foster carer or adoptive parent in the UK, the Muslim community could help many young people in care; so many of whom are Muslims. Not only for the benefit of children, who are in need of our help and support, but also for the betterment of ourselves resulting in the pleasure of Allah (azzawajjal) in sha Allah.

Know, oh Muslims, that life is very short. Just an accumulation of good deeds and the attempts you make to strive in the way of Allah. One day, perhaps soon, we will be asked of what service (khidmah) we did upon the earth and who can vouch for the good we did that reached them. By taking care of vulnerable children today, perhaps there will be someone

for you who can bear witness on the day of Qiyamah, stating that you lived on this earth well and served Allah's creation the way He wanted.

Wa'alaykum as'salaam warahmatullahi wa barakatuhu.

In order to find out more about Adoption and Fostering, Penny Appeals Adoption and Fostering team will be holding events throughout the UK. These events aim to give anyone interested in this topic more information and knowledge about the issue of vulnerable children in care and how we can help them. These events aim to educate and inform and allow the public to get involved through learning, supporting the project or starting the process to becoming a foster carer or adopter."

# About Penny Appeal

Penny Appeal is a multi-award-winning international and domestic humanitarian charity founded and based in Wakefield, West Yorkshire. With over 200 staff across the UK and hundreds more across the world, Penny Appeal works in over 30 crisis-hit countries providing sustainable life-saving relief and development as well as working across the UK offering a range of welfare solutions for those most in need.

## Contact information:

[Pennyappeal.org](http://Pennyappeal.org)

03000 11 11 11

Cross Street Chambers, Cross Street, Wakefield WF1 3BW

Charity number: 1128341

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