Conference, Symposium, and Panel Reports

IIIT-FCNA Fiqh Forum on Adoption and Orphan Care

On April 13, 2017, the International Institute of Islamic Thought (IIIT) and the Fiqh Council of North America (FCNA) brought jurists, scholars, and professionals in the field to share their latest research on the topic of adoption and orphan care. The day-long forum, held at the IIIT headquarters in Herndon, VA, featured one concept paper and five panels.

The opening session featured Zainab Alwani (vice chair, FCNA; program director, Fiqh Forum on Adoption and Orphan Care; founding director, Islamic studies, Howard University School of Divinity), who spoke on "Orphan Care in the Qur'an and Sunnah: Critical Reading on Adoption and Kafala." Stating that she is providing a framework – not a solution – grounded in the Qur'an and Sunnah, she discussed why the number of orphans and abandoned children has reached an all-time high; why Muslim Americans are reluctant to adopt them; and such concerns as the un-Islamic nature of the American legal system and the ensuring legal, cultural, and linguistic problems. She stressed that taking care of these children is an ethical/moral issue and reminded the audience of the biographies of Musa, Yusuf, Muhammad, and Maryam, all of whom were raised by people who were not their biological parents, and the importance of the family structure. In closing, she recommended that Muslims revive the collective spirit of caring for orphans, work with lawyers to derive Sharia-compliant solutions, integrate these children into our communities, and reconsider some traditional *fiqhī* concepts (e.g., brother and *mawlā*). Abubaker Al-Shingieti (executive director, IIIT) chaired.

Panel 1, "Voices from the Field," opened with Ranya Shbeib (co-founder, Muslim Foster Care Association; https://www.muslimfostercare.org), who focused on meeting orphans' immediate needs and provide family support. Her organization works hard to achieve these twin goals and to raise local community awareness by a four-step process: making a presentation, providing the relevant orientation, giving practical training, and actually receiving the child. After each step, unfortunately, the number of interested people declines.

She then explained the difference between domestic and refugee foster care, saying that the latter is far more challenging because it usually involves men aged sixteen to seventeen who have experienced trauma, have little formal education, and are not readily accepted by the community.

Tanveer Mirza (FAITH; https://faithus.org) stated that FAITH was set up in 1999 to deal with the influx of Bosnian refugees. Its primary goals are to help its annual 750 clients with such immediate needs as finding a job, pursuing their education, and supporting the family. The organization, which promotes self-sufficiency, relies on the *tarbiyah* framework and encourages Muslims to be aware of on-the-ground realities (e.g., their homeland models will not work here). Zillehuma Hasan (executive director, Wafa House; www.wafahouse.org), a specialist in domestic violence and supporting families, focused on the lack of Muslims licensed to serve as foster families in northern New Jersey. Wafa House annually serves around 1,000 families both here and abroad. She dealt with the misperception of some Muslim families that the government wants to take away their children, the identity crisis of children who are adopted by nurturing families who know nothing about Islam, cases of forced "de-Islamization," and the obligation for the community to take care of its own.

Wafa Bennani's (founder and advisory board member, New Star Kafala; www.newstarkafala.org) organization grew out of her wondering why Moroccan children end up in orphanages and why local families or the larger community do not take them in. After explaining New Star Kafala's goals – to develop a central hub of information services and advocacy, as well as to secure Muslim scholars' input, encourage others to become an orphan ambassador in their local community, and to convene forums – she mentioned several roadblocks, among them political issues, *fiqh*-based misunderstandings, legitimate vs. illegitimate children, and breastfeeding concerns.

Khalid Iqbal (ICNA Relief; http://icnarelief.org) thanked the organizers for recognizing the need for action by letting the activists speak before the scholars. After overviewing ICNA Relief's accomplishments, he asked Muslims to open their homes to orphans and refugees so that they can learn how to live independently and, at the same time, have some adult supervision. In addition, he recommended that the community be educated about what it can do, the formulation and distribution of an information packet that explains the existing system and what they can expect, and the setting up of a portal to disseminate the relevant data. He closed by stressing that this long-term discussion needs to be replaced by action. Muzammil Siddiqi (chariman, FCNA) moderated.

Panel 2, "Adoption and Foster Care," led off with Jasser Auda's (FCNA; www.fiqhcouncil.org) video presentation of "Issues at Hand in the Fatwas of Orphan Care and Adoption." He approached the issue from the viewpoint that "the small issues and rules" should not deter the community from the bigger picture: the obligation to take care of and adopt these orphans legally. Making his case that a method(s) of legal adoption (e.g., open instead of closed adoption) can be formulated, he cited the options of permanent guardianship or foster parenting. In other words, the child would grow up as a special child of the family, as opposed to a "foreigner," perhaps based upon local custom (*'urfī*). The development of a legal agreement/template, as opposed to a fatwa, would inform the community of these children's status and would help them be accepted and integrated.

He was followed by Muzammil Siddiqi's (FCNA) detailed research into "*Al-Raḍā'ah* as a Solution for Orphan Care in Islam," which outlined the conditions for establishing the detailed prohibitions that exist among children who have been breastfed by the same woman. Hatem Al-Haj (Assembly of Muslim Jurists of America; www.amjaonline.org/en) and Abdullah bin Hamid Ali (Zaytuna College; www.zaytuna.edu) spoke on "Filiality through Bloodline and Breastfeeding: An Inquiry into the Possible Solutions to Facilitate Care for Orphans" and "Orphans, Abandoned Children, and Adoption: Reading in the Fiqh Literature," respectively. Their papers dealt with protecting the family structure, the need for transparency (open adoption) so that the children will know their lineage, the practical issues associated with legal adoption, that we can think beyond the "Four Imams' rulings" because they did not attain consensus in the literal sense, and how American-style adoption has a lot in common with the pre-Islamic Arabs' practice. Ermin Sinanović (director of research, IIIT) moderated.

Panel 3 focused on "Orphans and Abandoned Children." Amr Abdullah read Imam Hassan al-Qazwini's (Islamic Institute of America; www.iiofa.org) "*Laqīṭ* in the Shia School of Thought." He was followed by Imam Mustafa Umar (FCNA), who spoke on "*Laqīṭ*," and Ossama Bahloul (FCNA), who discussed "The Concept of Adoption and Its Reality." All speakers discussed the traditional reasons for *laqīṭ* (foundling), namely, abandonment for various reasons (the main one today seems to be war) and for fear of being accused of adultery. Definitions were proposed – a lost or deserted child who cannot take care of himself/herself or one who has no caretakers and has been abandoned – but the scholars never reached any consensus on any particular definition or what the cut-off age was (many said seven years) They discussed whether caring for such children was obligatory, recommended, or optional;

the caretaker's motive and/or intention and if witnesses are required to verify it; who is granted final responsibility; if the child can be moved to another location or enslaved; and so on. Also stated was that idea that the community is obliged to care for such children, because adoption is "halal, but with conditions"; that preserving their religion is more important than preserving their lineage; and that institutes need to be set up to resolve all such issues. According to Bahloul, "the Sharia can't be in our way because it is perfect. If the scholars can't find a solution they must blame themselves, not the Sharia." Amr Abdulla (senior advisor, IIIT) moderated.

Panel 4 dealt with "Family and Institutional Care." Shaikh Abdur Rahman Khan (FCNA) spoke on "*Kafālat al-Yatīm.*" He remarked that the Qur'an mentions orphans twenty-six times, a figure that is exceeded only by prayer and zakat. These children have the right to be taken care of until they can look after themselves and live independently. Once adopted, they are entitled to be treated as the couple's biological children are treated. However, this obligation also extends to taking care of their spiritual, social, psychological, and other needs as well.

During his "The Orphan Support Program (OSP) of Helping Hand for Relief and Development: A Unique Orphan Care Model from an Islamic Perspective," Zahid Bukhari (www.helpinghandonline.org/Orphan_Support.html) outlined this ICNA-affiliated program's activities, all of which are funded by the American Muslim community. As half of the program's 15,000+ orphans live in Pakistan, he presented them as a case study. The essential elements are education health, food and subsistence, and social grooming (i.e., character building, social engagements, intellectual growth, physical development, leadership development, and "Shining Stars" societies). Working directly with the children, mothers/guardians, and government officials, this program has been assessed as very effective in terms of reaching its goals.

Salma Abugideiri's (Peaceful Families Project; www.peacefulfamilies.org) "Orphan Care: A Mental Health Perspective," stressed the need for assessing the mental health of the adopted children and the adoptive parents. Interestingly, she pointed out that approximately two-thirds of Muslims are immigrants, many of whom have already been traumatized to some degree, and asked whether empty nesters are really able to raise these children. The orphans' contexts also need to be analyzed: What did they see, how did they lose their parents, have they been tortured, what is the possibility of their acting out, and so on. If the going gets tough – which it will – will the adoptive parents try to return the orphans, thereby re-abandoning them and unleashing new traumas (e.g., issues of trust, "It was something I did," "I'm a bad person"). Ways need

to be found to let the children work through their emotions, overcome any con-
flicts of loyalty, ensure that they go into a positive and nurturing environment,
and that spirituality is made part of their mental health help (e.g., God is testing
you, God is always with you, and change is never easy).

Nermeen Mouftah's (Northwestern University) "Guardians of the Faith:
Orphans and the Remaking of the Muslim American Family," approached this
issue from an anthropological perspective. She presented her case study of a
Muslimah, herself a child of South Asian immigrants, who has adopted two
nominally Christian African-American sisters. This woman is somewhat am-
bivalent toward the relevant *fiqh*, which she sees as sometimes standing in the
way of what she is trying to do. She is concerned with foreign refugees being
"prioritized" over Muslims already in the country, constantly has to deal with
race (e.g., as she is neither white nor black, the children were confused over
her identity), and does not see their different religions as a stumbling block.
However, Christmas is a rather stressful time, for the children's relatives make
it a very materialistic event, whereas she is trying to focus it on Jesus' early
life. Zainab Alwani moderated.

Panel 5, "Recommendations," was moderated by Ranya Shbeib and Ab-
dullah bin Hamid Ali and followed by "Concluding Remarks," moderated by
Al-Shingieti and Alwani.

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