

Child Protection Regimes: An Islamic Perspective

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Who is a child?

What are the Rights guaranteed for
a Child?

What is the Role of Hisbah?

INTRODUCTION

- The term child attracts variety of definitions from different scholars.
- This ranges from the religious, secular & statutory definitions.
- The Focus of this paper, however, dictates the adoption of the religious deconstruction of the term “child”.
- *Shari'ah* the Islamic Law adopts a pragmatic approach to the question who is a child?
- This led the Muslim Jurists to trace the origin of a child to its conception stage.

INTRODUCTION...CONT

- Hence, the Jurists categorized a child according to its developmental stage into six (6) classes, viz:
 - ❑ Foetal Stage from conception to delivery (*Janeen*)
 - ❑ Infantile stage from delivery to weaning (*Radee'*)
 - ❑ Early childhood stage from weaning to seven years (*Sabiyy Ghayr Mumayyiz*)
 - ❑ Advanced childhood stage from 7 years up to 14 years (*Sabiyyum Mumayyiz*)
 - ❑ Adolescence stage from 14 years to the maximum of 17 years (*Muraahiq*)
 - ❑ Age of Majority & Puberty (*Bulugh & Rushd*)

INTRODUCTION...CONT

- Each of the above stages has some specific rights attached to it commensurate to the needs of the moment.
- One key right that cut across all the stages of child development is the right to proper upbringing.
- The right to proper upbringing entails taking adequate care of the child through out the stages of the childhood.
- Muslim Jurists even go to the extent of tracing this right to pre parental marriage stage.

Right of child to Proper Upbringing

- The right of a child to Proper Upbringing is embedded in the legal duty imposed upon parents by *Shari'ah* towards their children.
- Thus, this right of a child is a correlative legal obligation of its parents.
- Hence the Qur'anic injunction: “*Yaa ayyuhal Ladheena amanu Quu Anfusakum wa Ahleekum Naaran....*” (*Attahreem* verse 6)

Right to Proper Upbringing

- The right of a child to proper upbringing as earlier noted cut across all the developmental stages of a child.
- This right even extend to pre – marital stage.
- Thus, prior to marriage, parents are enjoined to make a good spousal choice to give their children good parental background.
- *Shari'ah*, therefore, enjoins men to go after religious lady for marriage (*Alayka bi dhatid Deen...*) on the one hand.

Right to proper upbringing...Cont.

- On the other hand, guardians of ladies were advised to marry off their daughters to a religious & morally upright person (*man tardauna deenahu wa Khuluqahu....*)
- The above laid the foundational rights for a child as identified by Sheikh Uthman Bn Fodio in his *Masaalihul Insaan*.
- Beside the spousal choice, it is also the child right to observe the etiquettes of mating in *Shari'ah* in order to have an upright and God fearing child.

Conception Stage

- The right of a child to proper upbringing at the conception stage includes but not limited to the followings:
 - ✓ Taking good care of its mother in terms of feeding and medication to safeguard her pregnancy.
 - ✓ Giving her adequate rest to enable her nurture the pregnancy in the best possible way.
 - ✓ Refraining from doing anything that will cause her to miscarry, such as putting her to excessive fear, anger, etc.
- Whoever causes a pregnant woman to miscarry is liable to payment of *Ghurrah* as a *diyyah*.

Delivery to Breast feeding

- At a point of delivery it is the right of the child on his father to do the followings:
 - ❑ Skillful birth attendant to receive its delivery
 - ❑ Making *Khutba* to it for divine protection from the accursed devil. (*Inni U'izuha bika wa zurriyataha minas Shaitanir Rajeem...*) *Ali Imraan* verse 36 in part.
 - ❑ Choosing a good name for the new born baby. The Prophet (SAW) had cause to change a number of names of his companions when they are not good enough. For example Sa'ab was changed to Sahlu and the like.
 - ❑ The best of the names given to a child is the one attached to the name of Allah such Abdullahi or AbdurRahaman & then those bearing the Prophet's name such as Muhammad or Ahmad

Weaning Stage

- Child's breastfeeding is recommended to cover the first two years after its delivery. (*Wal waalidatu yurdi'ina aulada hunna hawlayni kaamilayni liman arada an yu timma radaa'ah...*) *Baqara verse 233*
- Thereafter the weaning process commenced. At this point the baby should be made to be listening to Qur'anic recitation and other simple *ad'iyah*.
- The parent should avoid engaging in anything inimical to the proper development of an infant at this stage.

Sabiyyun Ghayr Mumayyiz

- This is usually between the weaning and the age of seven years.
- A child at this stage is considered as *Sabiyy Ghayr Mumayyiz*, ie unintelligent minor.
- Formal training & schooling ought to start from this stage. Hence the prophetic instruction: “*Muru aulaada kum bis Salaati li saba’in....*.)
- At this stage a child imitates whatever it sees taking place around it. Parent should, therefore, be mindful of their conducts in front of their children at this stage.
- Islamic Education is one of the key rights of a child at this stage.

Sabiyyun Mumayyiz

- This is a period between the age of seven to fourteen years.
- It is categorized as the stage of intelligent minority because a normal minor ought to acquire some intelligence at this stage.
- This explains the reason why the prophet (SAW) directed parents to beat their children if they are neglecting prayer at this stage of their childhood.
- Parents should, therefore, focus on the intellectual development of the child at this stage.

Adolescence

- Adolescence period is known as *Sinnul Muraahaqah*.
- This is the most critical stage in the development of a child both mentally and physically.
- Hence *Shari'ah* sources accorded this stage a spectacular care.
- We will study *Luqmanul Hakeem* approach to *Tarbiyya* at this juncture.
- We will, therefore, turn our attention to *Suratul Luqman* i. e. chapter 31 of the Qur'an.

Luqman Upbringing Model

- The Qur'anic stories are meant to serve as a source of knowledge and inspiration to the entire humanity.
- From this perspective we will briefly study the Upbringing Model set out by *Luqmanul Hakeem*.
- The Qur'an in the most beautiful manner teaches us how to prioritize issues in the course of upbringing a child.
- *Luqman* begins with the ideological issue “*Ya bunayya laa tushrik bil Lah. Inna shirka la dhulmun adheem.*) Q 31:13

Luqman Model ...cont

- That is *Tauheed* paradigm where the oneness of Allah takes its rightful position as the topmost priority.
- Thereafter comes the obligatory prayers and *hisbah* work “*Ya bunayya aqimis salata wa amur bil ma’aruf wanha anil munkar*) Q31:17
- Then comes exhortation for patience, tolerance and accommodation “*Wasbir ala maa asabak in dhaalika min azmil umur*” (ibid)
- Immediately thereafter comes good manners: “*Wala tusa’ir khaddaka lin naas wa laa tamshi fil ardi maraha*) Q31:18 - 19

Conclusion

- Attempts have been made in this paper to present the key and the most critical right of a child upon its parents.
- Proper Upbringing was identified as that paramount right of a child since without it a child grows up as a nuisance to itself and a big menace to the society.
- *Luqman* Model of Upbringing gives the most excellent pattern of achieving a balanced method of upbringing where the child will be God fearing, Conscious of the rights of others & fully prepared to face the challenges of life.

Luqman Model...cont.

- With this excellent prioritization in Luqman Upbringing Model as set out in the Qur'an parents can bring up their children in the best manner.
- It is *Tauheed*, then *Ibadat* followed by *Mu'amalaat*. And this is what life is all about.
- This is a model of *Tarbiyyah* in which a child's character is developed in such a way to equip him with the necessary skills of actualizing the purpose of his/her creation without losing the goodies of this life.
- It is in essence a balanced approach to a child upbringing.

Role of Hisbah in Promoting & Protecting Child

- Al – Amru Bil Ma’arufi
- An – Nahyu Anil Munkari
- Al – Hikmah fee Zalika
- Hadeeth “Man ra’aa minkum Munkaran....”
 - Bi yadihi
 - Bi lisaanihi
 - Bi Qalbihi
- Wa dhalika adh’aful Imaan.

Stages of Izalatil Munkar

- Izalatil Munkari bil Munkari akbaru minhu
- Izalatil Munkari bil Munkari Mithlihi
- Izalatil Munkari bil Ma'aruf
- The Juristic views regarding the above stages
 - The first is not permissible (Admul Jawaaz)
 - The Second is not encouraged
 - The Third is fard alal kifaya
- As members of the hisbah corps we need to acquaint ourselves with the above juristic views.

Conclusion

- Finally, I must thank all of you for the attention and audience. It is really a privilege for me to share my thoughts with you on this important subject – thank you for your seminar.
- *Wa aakhiru da'awana anil hamdu liLahi Rabbil aalameen.*

Kaffarah

- *Subhaanakal Lahumma wa bi hamdik!*
- *Asshahadu an laa ilaha illa ANT!!*
- *Astaghfiruka wa atubu ILAIK!!!*
- *Wassalamu Alaikum wa rahmatullah*