

A guide to adoption

By Shanaz Ramzi



Much has been written about the psychological impact on a family that adopts a child. But rarely is relevant information - such as its legal and Islamic implications and the steps required to be taken - made available to facilitate those who might be interested. In this article, TR offers a complete run down on the pros and cons of adopting a child in this country, writes Shanaz Ramzi.

Childlessness can be an agony for couples who are not able to have a baby for one reason or another. Many feel that life is incomplete for them if their homes lack the sights and sounds which only the presence of a child can bring. So it is not surprising when many married couples go for the next best option. They adopt a child. But the wait can sometimes be a long one as there are not many babies available for adoption, and also because the rules set by the adoption facilities follow a strict procedure.

Adoption facilities

There are two major and respected adoption facilities in Karachi - Kashana-i-Atfal's Naunihal Baby Centre and the Bilquis Edhi Foundation. While the former has been in existence for the last 40 years, the latter has officially been operating since 1970, when the organization discovered that the jhoola left outside their centres were no longer home to just one or two infants a year but to at least one every month. Today, the Edhi Centre gets the maximum number of abandoned infants - anywhere between ten to twenty children a month - mostly girls or premature babies who do not survive beyond a few weeks.

By and large, the identity of the parents of the abandoned child is unknown to Bilquis Edhi. However, even if she does have some knowledge of who the child's mother is, she does not disclose it to the foster parents. The modus operandi of the Edhi Centre is such that interested couples are made to fill in a detailed application form in which particulars - such as name, father's name, grandfather's name, education, caste, age, occupation - of both the spouses have to be specified. The form also asks for personal information such as monthly income, number of children, if any, duration of marriage, whether the home the applicants are staying in is rented or personally owned and in the case of owning property, the property survey number. Once the form has been submitted, the couple is called for an interview during which assesses their eligibility. Edhi claims that her preference is for couples who live on their own property and do not have a track record of constantly moving, as it is disturbing for the child. Preference is also shown to couples living abroad, particularly in the US and Canada, as Edhi feels the governments of these

countries monitor the progress of adopted children very well, alleviating her responsibility considerably and the children also get a chance of a brighter future.

According to Edhi, although couples without kids who have been married for a number of years are definitely given priority, there have been many occasions when couples who have only been married a year or two have also been granted a child, provided they have medical reports to support that they cannot have children.

Surprisingly, Edhi claims that men with more than one wife are also shown preference, as more wives signify better care for the child and greater affordability. Moreover, Edhi does not have a problem giving a child to a couple that already has children as long as they are educated and affluent. Unless there is an emergency scenario, such as repeated stillborn deliveries or a sudden death of a child, when it is believed that the mother's life or sanity could be at risk, Edhi prefers to bide time as a rule and gauge the interest and perseverance of the couple over a few months.

A register is maintained of the couples who keep calling to inquire about children or personally visit the centre, and those with frequent entries find themselves in a better position than those who decide to quietly wait out the period specified by the foundation at the interview. This is in marked contrast to the fact that one of the conditions on the adoption form stipulates that the applicants should not keep calling or visiting. Of course, sometimes the waiting period applicants are made to undergo is genuine, as most adopters want a boy while Edhi tends to get a greater number of girls.

Once the family has been approved by Edhi and the child handed over to them, Edhi's link with the child does not end. The family is monitored by Edhi volunteers for up to four years, and Bilquis claims that there have been one or two cases when she has taken the child back after finding that the care meted to the child was not to her satisfaction. In the event that an adoptee couple undergoes a divorce Edhi is very clear about her stance. The child is either taken back by the foundation or its custody is given to the mother. It is never given to the father.

While one of the oldest charitable facilities in the city, Kashana-i-Atfal is doing commendable social work, its adoption centre, known as Naunihal Baby Centre, has become considerably less active over the years, thanks to Edhi's growing popularity and efficient transport and volunteer system which enable it to immediately collect abandoned infants from hospitals, clinics, wayside, etc. Hence, while there was a time when all 25 of Naunihal's beds would be occupied by newly-borns, today it has only one child to offer. On an average, it gets as few as two to three children over a period of six months, while the list of waiting prospective adoptee parents stretches to almost a hundred.

Naunihal has a similar, if more detailed adoption application form to that of Edhi's, in which questions related to sleeping arrangements for the child, hobbies of the applicants and their medical history, and provisions for the child in case of the death of one of the parents, are also asked.

Understandably, with such few children at their disposal, Naunihal is even more selective in deciding which couple to give custody of their kids to, than Edhi. Hence, according to Begum Ghamar Ispahani, founder president of Kashana-i-Atfal, couples already having kids are not entertained by them. They prefer couples who are not too young or too old, and ideally opt for those who have been married five to six years and have a letter from a doctor certifying that they cannot have kids of their own. They also prefer couples that are settled abroad as they feel that the children would be able to get a better education. All the legalities entailed in sending the adopted child abroad are taken care of by their office.

Once an application has been approved, the couple has to come to the centre for a week, during which period the nurses at Kashana train them in the art of feeding, bathing and taking care of the baby. There is a probationary period of six months during which Naunihal's social workers have the right to visit the baby, and if not satisfied by the care offered to the child, can take the child back. If within the probationary period the real parents of the child appear to claim their offspring, the child is handed back to them, and if desired, Naunihal gives the foster parents another baby. Unlike Edhi Foundation, after the probationary period is over, Naunihal has no system whereby the child's progress can be monitored, and in the unfortunate instance of divorce, do not step into the picture.

Islamic law and adoption

If a person adopts a son or a daughter, the adopted person will not have the status or rights of a natural son or daughter. The prohibition has been ordained to protect the rights of the adopted, the adopter, natural parents, other individuals affected by the adoption and society as a whole.

The Holy Quran clearly states: "... Nor has He made your adopted sons your (real) sons; that is simply a saying of your mouths. But Allah speaks the truth and He guides you to the (right way). Call them by (the names of their fathers; that is more just in the sight of Allah. But if you do not know their fathers, they are your brothers-in-faith and your wards... " (Quran 33:4-5).

However, if one wants to raise, educate and treat an orphan or an abandoned child as one's own, without giving him or her the rights reserved for natural children, Islam regards this as a meritorious and commendable act. There are many Quranic revelations that advocate the care of orphans, leaving one in no doubt of the merits of such a deed:

"They ask thee concerning orphans. Say: 'The best thing to do is what is for their good; if ye mix their affairs with yours, they are your brethren,'" (Quran 2:220). Also see Quran 4:2, 6, 10, 127; 17:34.

Hence, according to Islamic law, adopting a child essentially entails treating him/her as one's own and offering them love, protection, food, clothing and education, but without changing the child's lineal identity and denying parenthood to the natural parents. The

adopted child cannot partake in inheritance of the adoptee parents, just as the adoptee parents cannot inherit the property of the adopted. They can marry their foster siblings as they remain 'na-mehram' for the foster family. It is also permissible for a foster father to marry the divorced wife of an adopted son (Quran 33:37-40). He or she can inherit property from their natural parents and their rights will subsist even after adoption by the other family. The adopter, can however, make out a will bequeathing one-third of their estate to the adopted child, as indeed to any stranger. They can also, during their lifetime, gift property to their adopted child.

Existing laws

The above cited explicit Islamic code explains the lack of solid legislation in the existing laws regarding adoption in Pakistan. However, transfer of custody of a child is allowed by courts of law under the Guardians and Wards Act of 1890 to private individuals, humanitarian and welfare organizations, orphanages, etc. Some of these institutions raise orphans and deserted children themselves, while others make placements in suitable foster homes.

It is unclear as to whether an adopted child has maintenance rights or not. However, the rule of equity is likely to tilt in favour of the right to maintenance, as long as the person remains adopted. The other question that sometimes arises is whether adoption can be annulled by the adoptee parents. Again, equity would demand that once a person is called 'daughter' or 'son', that person should remain in the custody, protection and guardianship of the foster parents irrespective of whims, fancies, change of mood or minor altercations and bad behaviour. However, irreprehensible behaviour entitles the father to disown even his real child, and that would apply to an adopted child as well.