

Financial Sponsorship for an Orphan in Islamic Law

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To Link this Article: <http://dx.doi.org/10.6007/IJARBS/v12-i11/12895> DOI:10.6007/IJARBS/ v12-i11/12895

Published Date: 23 November 2022

Abstract

The financial guarantee for an orphan crosses the cornerstone on which Benin orphan care institutions are based. The material factor is important in providing the basic needs of the orphan. Therefore, providing financial support to orphan care institutions is one of the most important problems facing orphan care institutions in order to achieve the goals entrusted to them. For this reason, the Islamic law attached great importance to the issue of financial sponsorship for orphans that would achieve the desired goals of orphan care institutions. The research came in three sections and a conclusion. The first topic: the call of Islamic law to treat orphans well, and Islamic law has been keen to preserve the right to sponsor orphans. And it raised the Muslims' concern to compete in charity to the orphan, and one of the features of the Muslims' sponsorship of the orphan child in Islamic law. The second topic: The call for financial care for the orphan in Islamic law. Islamic law called for the good treatment of orphans and the provision of financial support in order to promote the orphan so that he becomes an effective element in society, and does not become a burden on others. The third

topic: the ruling on the behaviour of an orphan in his money. Accordingly, it is not fit to abide by rights and perform duties.

Keywords: Financial, Sponsorship, Orphan in Islamic

Introduction

Praise be to God, Lord of the Worlds, and prayers and peace be upon the most honourable messengers, our prophet Muhammad and all his family and companions, and those who follow them until the Day of Judgment.

The true Islam came to preserve the orphan a decent life, and gave the orphan who lost his parents special care to compensate him for what he lost in the care of paternity. Then, came the Quranic verses, and the hadiths of the Prophet urging the sponsorship of orphans and their care. God Almighty has made it clear in the Quran that the Holy Prophet was guaranteed under the care of his grandfather and uncle. Allah SWT said, which means: "Did He not find you an orphan and then gave you shelter?" (al-Dhuha, 6). And God Almighty commanded His Noble Messenger to be kind to the orphan, which means: "Therefore, be not harsh with the orphan" (AL-Dhuha, 9). The meaning: Treat him with the same as I treated you (Al-Razi, 31/200).

As God Almighty commanded to reform the conditions of orphans by providing everything that is good for them. "They question you concerning orphans. Say: "To deal with them in the way which is to their good, that is best" (AL-Baqarah, 220).

The Holy Prophet also wanted to sponsor the orphan by saying: ((I and the one who looks after an orphan in Paradise like this) and he pointed with his index and middle fingers, and he separated the two of them with something different (Bukhari, 953).

Hence, the need to study the financial sponsorship of the orphan, and to explain its effects in achieving balance within the human society. This is what we are trying to explain in this research by presenting and discussing the financial guarantee for an orphan in Islamic law.

Research Problem

The financial guarantee for an orphan crosses the cornerstone on which the statement of orphan care institutions is based. The material factor is important in providing the basic needs of the orphan. Therefore, providing financial support to orphan care institutions is one of the most important problems facing orphan care institutions in order to achieve the goals entrusted to them. That is why Islamic law has given great importance to the issue of financial sponsorship for orphans that will achieve the desired goals of orphan care institutions.

The Importance of Research

Providing financial support to orphan care institutions has a major role in promoting and preserving orphan's care. Hence, the importance of research in showing the vital role of financial sponsorship for orphans and providing financial support to orphan care institutions and a statement of the keenness of Islamic law to provide financial support to sponsor an orphan. This research comes to clarify the means of Islamic Sharia in achieving the financial guarantee for the orphan.

Research questions: The study aims to answer the following questions:

- What is the reality of financial sponsorship for an orphan?
- What are the means to achieve financial sponsorship for an orphan?
- How did Islamic law deal with the issue of financial support for orphans?
- What is the society's role in achieving financial sponsorship for an orphan?

Research Objectives: The study aims to achieve a set of objectives, including:

- Providing full care for orphans.
- Calling the community with all its institutions to cooperate in sponsoring the orphan.
- Demonstrate the extent of the interest of Islamic law in sponsoring an orphan. Study Methodology: The study relies on the inductive approach and the analytical approach, by collecting information and analysing data that serve the subject.

Research plan: The research consists of an introduction to three sections and a conclusion.

The First Topic: The Call of Islamic Law to treat Orphans Well

Islamic law has been keen to preserve the right to sponsor an orphan, and it has raised the Muslims' concern to compete in charity to the orphan. Among the features of Muslims sponsoring an orphan child in Islamic law

a- Treating him well and warning against abusing or offending him

The Holy Quran urges kindness to the orphan and to provide him with kindness, care and tenderness in order to relieve him of what has befallen him. The Almighty said: "Serve Allah and ascribe no partner to Him. Do good to your parents, to near of kin, to orphans, and to the needy" (AL-Nisaa , 36). He also forbade abusing an orphan in any form of abuse, "Therefore, be not harsh with the orphan" (AL-Dhuha , 9). The Almighty considered abuse of the orphan signs of denial of religion. The Almighty said, "Did you see him who gives the lie to the Reward and Punishment of the Hereafter? Such is the one who repulses the orphans away, and urges not the feeding of the needy." (AL-Ma'uun , 1-3).

b- Urging to sponsor an orphan

The Prophet, may God's prayers and peace be upon him, urged and desired to sponsor an orphan, and this is clarified in several honourable prophetic hadiths, including:

- It was reported in Sahih Al-Bukhari on the authority of Sahl, may God be pleased with him, who said: The Messenger of God, peace and blessings be upon him, said: "I and the one who takes care of an orphan will be in Paradise like this, and he pointed with his index and middle fingers and separated something..." (Bukhari: Sahih).
- On the authority of Malik bin Al-Harith, may God be pleased with him, that he heard the Prophet, may God's prayers and peace be upon him, say: "Whoever joins an orphan between two Muslim parents to feed and drink him until he dispenses with him, and Paradise will be spared for him at all" (Ahmad, 4/344).
- The Prophet SAW said: "The best house in the Muslims is in which an orphan is treated well, and the worst house in the Muslims is in which an orphan is treated badly" (Bukhari, 61).

Islam, as is well known, paid great attention to the orphan, and gave it special care. Taking into account his difficult circumstances by losing his father, because by losing his father, he will suffer some humiliation and break. Therefore, God Almighty has urged the able Muslims from among the people of righteousness and charity to sponsor the orphan, be kind to him and be sympathetic to him and made their sponsorship of the orphan one of the medicines that treat the diseases of the human soul.

Sponsoring an orphan is considered one of the greatest chapters of righteousness that the Islamic law urges, and what confirms Islam's care for the orphan, and its continuous emphasis on taking care of him, preserving him and being kind to him, is the inclusion of the word orphan and its derivatives in twenty-three verses of the Holy Quran. We cite some verses, for example:

" وَإِذْ أَخَذْنَا مِيثَاقَ بَنِي إِسْرَائِيلَ لَا تَعْبُدُونَ إِلَّا اللَّهَ وَبِالْوَالِدَيْنِ إِحْسَانًا وَذِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسَاكِينِ وَقُولُوا لِلنَّاسِ حُسْنًا " وَأَقِيمُوا الصَّلَاةَ وَآتُوا الزَّكَاةَ ثُمَّ تَوَلَّيْتُمْ إِلَّا قَلِيلًا مِّنْكُمْ وَأَنتُمْ مُّعْرِضُونَ " (AL-Baqarah , 83)

In this noble verse, the Blessed and Exalted reminds the Children of Israel of what He commanded them to do, and took their covenant on that, and turned away from all that, intentionally and deliberately, and they know Him and remember Him, so He commanded them to worship Him and not associate anything with Him. By this he commanded all his creation, and that is why he created them as the Almighty said:

{ وَمَا أَرْسَلْنَا مِنْ قَبْلِكَ مِنْ رَسُولٍ إِلَّا نُوحِي إِلَيْهِ أَنَّهُ لَا إِلَهَ إِلَّا أَنَا فَاعْبُدُونِ }

(AL-Anbiyaa ,25)

{ وَلَقَدْ بَعَثْنَا فِي كُلِّ أُمَّةٍ رَسُولًا أَنْ أُعْبُدُوا اللَّهَ وَاجْتَنِبُوا الطَّاغُوتَ }

(AL-Nahl, 36)

And this is the highest and greatest of the rights, and it is the right of God Almighty, to be worshiped alone without partner, then after him the right of the created.....etc. (Ibn Katheer, 1/315).

It came in the keys to the unseen by Al-Fakhr Al-Razi: "The Almighty's saying: {*Al-yataama*} and there are two issues:

The first issue: the orphan whose father died until he reached the age of puberty and his grouping of orphans and orphans, as they say: He is repentant and repentant (*Nadim* and *nadaama*), and one whose mother has died is not said to be an orphan.

Al-Zujjaj said: This is in the human being, but in other than man, it is completed by his mother. The second issue: the orphan is as follows to take care of the rights of relatives, and that is because he is young and does not benefit from him, and he is an orphan, and he is free from anyone who takes care of him. He needs someone who will benefit him, and a person rarely desires companionship like this, and if this task is hard on the soul, there is no offense, then it will be a great degree in religion" (Al-Razi, 2/201).

In another place in his book, God urged the wise to be kind to orphans; and he made it clear that among the reality of righteousness after belief in God Almighty is kindness to orphans.

" لَيْسَ الْبِرَّ أَنْ تُوَلُّوا وُجُوهَكُمْ قِبَلَ الْمَشْرِقِ وَالْمَغْرِبِ وَلَكِنَّ الْبِرَّ مَنْ آمَنَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَالْمَلَائِكَةِ وَالْكِتَابِ وَالنَّبِيِّينَ وَآتَى الْمَالَ عَلَىٰ حُبِّهِ ذَوِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسَاكِينِ وَابْنَ السَّبِيلِ وَالسَّائِلِينَ وَفِي الرِّقَابِ وَأَقَامَ الصَّلَاةَ وَآتَى الزَّكَاةَ وَالْمُوفُونَ بِعَهْدِهِمْ إِذَا عَاهَدُوا وَالصَّابِرِينَ فِي الْبَأْسَاءِ وَالضَّرَّاءِ وَحِينَ الْبَأْسِ أُولَئِكَ الَّذِينَ صَدَقُوا وَأُولَئِكَ هُمُ الْمُتَّقُونَ " (Al-Baqarah, 177)

The Almighty mentioned that it is righteousness to spend money while loving it and desirous of it. This was stated by Ibn Masoud, Saeed bin Jubayr and others from the predecessors and successors, as transmitted in the two Sahihs from the hadith of Abu Hurairah, with a chain of transmission traceable back to the Prophet: "The best charity is to give charity while you are authentic and scarce, hope for riches and fear poverty." Abd al-

Razzaq also said: We were informed by Muammar ibn Juwaiber, on the authority of Ad-Dahhak, on the authority of al-Nazal ibn Sabrah, on the authority of Ali, on the authority of the Messenger of God, may God's prayers and peace be upon him, who said: "A dream does not come true afterwards" (Ibn Katheer, 1/144), and we also find that God Almighty has repeated that in other Quranic verses:

" فِي الدُّنْيَا وَالْآخِرَةِ وَيَسْأَلُونَكَ عَنِ الْيَتَامَىٰ قُلْ إِصْلَاحٌ لَهُمْ خَيْرٌ وَإِنْ تُخَالِطُوهُمْ فَإِخْوَانُكُمْ وَاللَّهُ يَعْلَمُ الْمُفْسِدَ مِنَ الْمُصْلِحِ
 وَلَوْ شَاءَ اللَّهُ لَأَغْنَتْكُمْ إِنَّ اللَّهَ غَزِيرٌ حَكِيمٌ "

(AL-Baqarah, 230)

Al-Imam Al-Qurtubi mentioned in his interpretation of what it says: "The Almighty's saying: {They ask you about the orphans} to His saying "Wise" has eight issues:

The first: Abu Dawood and an-Nasa'i narrated on the authority of Ibn Abbas, who said: When God Almighty revealed:

{ ولا تقربوا مال اليتيم إلا بالتي هي أحسن }

(AL-An'aam , 152)

{ إن الذين يأكلون أموال اليتامى ظلما }

(AL-Nisaa' , 10)

Whoever was with an orphan goes and separates his food, so it is confined to him until he eats it or it spoils, and that became severe for them, so they mentioned that to the Messenger of God, may God bless him and grant him peace, so God Almighty revealed

{ ويسألونك عن اليتامى قل إصلاح لهم خير }

So, they mixed their food with his food and their drink with his drink, the wording of Abu Dawood, and the verse is related to the previous one, because it was associated with the mention of money and the command to preserve the orphans' money.

Second: When God Almighty authorized the mixing of orphans with the intention of reform by looking at them and them, this was evidence of the permissibility of disposing of the orphan's money, the guardian's disposal in selling, dividing and other things at all for this verse. Accordingly, because the verse is absolute and the guarantee is a general guardianship, it did not affect any of the caliphs that he presented someone to an orphan while they were present in their times, but they were limited to being with them." (Al-Qurtubi , 3/60)

" فلا اقتحم العقبة وما أدراك ما العقبة فك رغبة أو إطعام في يوم ذي مسغبة يتيما ذا مقربة...."

(AL-Balad , 10:15)

As for the Sunnah of the Prophet SAW, we find that the Messenger, may God bless him and grant him peace, took great care of orphanhood through his actions and hadiths, honourable and instinctive. On the authority of Abu Hurairah, may God be pleased with him, on the authority of the Prophet SAW, may God's prayers and peace be upon him, he said: "The one who strives for the widow and the needy is like the one who strives in the way of God, and I think he said: And like the one who rises he does not break, and like the fasting person who does not break his fast" (Al-Qastalani: 10/440), and what is meant by the one who earns them for their provisions. In Sunan al-Nasa'i from the hadith of Abu Shureh Khuwailah bin Omar al-Khuza'i, may God be pleased with him, that the Messenger of God, may God's prayers and peace be upon him, said: "I deprive the right of the weak, the orphan and the woman..." (Hassan, 195).

The second topic: The call for financial care for the orphan in Islamic law

Islamic law called for the good treatment of orphans and the provision of financial support in order to promote the orphan so that he becomes an effective element in society, and does not become dependent on others. The manifestations of Sharia's interest in financial support for orphans are as follows

1) *The right of the orphan to live from the Muslim treasury:* The orphan is obligated to spend from his own money, if he has money that he owns, but if it is non-existent, then his alimony must be paid to the closest, the one closest to him from his guardians. The Prophet, may God's prayers and peace be upon him, said: "I am the heir of the one who has no heirs who are wiser than him and his inheritance, and the maternal uncle is the heir of the one who does not have an heir who has no heirs, who is wiser than him and his inheritance" (Ibn Majah , 2634).

2) *The orphan's right to alimony:* Islam considers spending on an orphan one of the best expenses that a Muslim can spend, as the Almighty says:

"يسألونك ماذا ينفقون قل ما أنفقتهم من خير فللوالدين والأقربين واليتامى والمساكين وابن السبيل وما تفعلوا من خير فإن الله به عليم..."

(AL-Baqarah, 215)

The maintenance of the orphan is obligatory in his money if he has it, and if he is poor, has neither money nor ability to earn because of his young age, weakness, or if he is female, then his alimony must be paid by his guardian.

"وعلى المولود له رزقهن وكسوتهن بالمعروف..."

(AL-Baqarah, 231)

We also find that the Messenger, may God bless him and grant him peace, urged spending on orphans, even if he was not a relative. He, peace and blessings of God be upon him, said: "The one who strives for the widow and the needy is like the one who strives in the cause of God..." (Al-Qastalani, 10/440).

The orphan's maintenance is estimated by the sufficiency of bread, food, drink, clothing, treatment, nursery, and breast-feeding, according to the amount of the spender's money, and the custom of the country, because it is obligatory for the need, so it is estimated according to its value (Ibn Qudamah, 9/230), and the maintenance continues for the orphan until he reaches maturity and is guided.

3) *The right of the orphan to the voluntary charity:* The Holy Quran considers charity as one of the doors of goodness and happiness for the believers in both worlds, and urges them to give alms to the orphan. The Almighty said:

"وَأْتَى الْمَالَ عَلَى حُبِّهِ ذَوِي الْقُرْبَى وَالْيَتَامَى وَالْمَسَاكِينَ وَابْنَ السَّبِيلِ وَالسَّائِلِينَ وَفِي الرِّقَابِ..."

(AlAnfaal, 41)

The third topic: the ruling on the behaviour of an orphan with regard to his money

The orphan enjoys an incomplete capacity to perform due to his smallness, and accordingly is not fit to abide by rights and perform duties.

The actions of the orphan are divided into three categories:

Pure beneficial behaviour; Beneficial actions are valid purely for the benefit of the orphan directly, that is, they result in the entry of something into his possession: such as a gift and a will.

Pure Harmful Behaviours: An orphan may not act in a manner that causes him harm, and the guardian or custodian may not perform any act that causes harm to the orphan's money.

Behaviours hesitating between benefit and harm: The orphan may not engage in all actions that hesitate between benefit and harm, such as selling and leasing, for example, except with the approval of his guardian. According to the public opinion.

The age at which an orphan surrenders his money: Based on the Almighty's saying:

"وابتلوا اليتامى حتى إذا بلغوا النكاح"

(Al-Nisaa', 6)

The verse stipulated that; three things be fulfilled until the orphan surrenders his money.

1- The test of orphans: Al-Zamakhshari said about the meaning of the test: "Examine their minds, taste their conditions, and know how to act before puberty" (Al-Zamakhshari, 2/315). As for Al-Alusi, the affliction, according to him, is the test, his opinion. "Test the orphans among you by following their conditions in being guided to the control of money and the proper disposal of it, and try them in what suits their condition" (Al-Alusi, 3/267). The choice is to know his maturity or not. The owner of the book "*al-Mughni*" indicated by saying: "He knows his rationality by choosing, and testing him by delegating the actions in which the likes of him are involved. Her experience with *Al-Mughni*: "The woman delegates to her what is delegated to the housewife, such as renting spinners, and assigning her to buy linen and the like.

2- Puberty orphan marriage: Puberty is considered a condition for the delivery of money through what the noble verse came with, the Almighty said:

"وابتلوا اليتامى حتى إذا بلغوا النكاح..."

What is meant by puberty here is a wet dream, Ibn Abbas and Mujahid said: It is the dream, and the attainment of marriage money from a wet dream (Al-Jassas 5/34), and puberty is one of five things. There are three things that men and women have in common: wet dreams and germination, and the completion of fifteen years, and two things that are specific to women: menstruation and pregnancy.

Coming of maturity: Rightness is the guidance in controlling money and the proper disposal of it. There are many exegetes' sayings about maturity. We mention between them the following:

Al-Zamakhshari and Ibn Katheer said: "Righteousness is righteousness in religion and money" (Al-Zamashiri, 2/189).

Abu Hanifa and Malik said: "Righteousness is the rightness of money and the faces of actions" (Ibn Qudamah, 4/532).

Most of the scholars are of the view that adulthood does not come until after puberty, and if a boy reaches maturity, he is reforming what he has without extravagance or extravagance, his money is paid to him.

4- The obligation of documenting the payment of the orphan's money: If it becomes clear to the guardian that the orphan has reached maturity, he must hand him his money, and the payment should be documented, in compliance with the Almighty's saying:

"فإذا دفعتم إليهم أموالهم فأشهدوا عليهم وكفى بالله حسيباً"

(AL-Nisaa , 6)

This is the command of God Almighty to the guardians to bear witness to the orphans when they reach puberty and hand over their money to them, lest some of them fall into denial and denial of what they received and received (Ibn Katheer , 1/121). The guardian must attend just witnesses at the moment of handing over the money to the orphan. The Almighty said:

"وأشهدوا ذوي عدل منكم..."

The guardianship contract for the orphan is considered a trust borne by the trustee, and the principle in it is to document and indicate the amount and type of money to pay off suspicion, because it is more secure to know the right in the event of disagreement.

Conclusion and the Most Important Recommendations

Islamic law was concerned with achieving the financial guarantee of the orphan through the legislation of zakat money and made it a share given to the poor and needy, and it is known that if the orphan does not have money, then he falls under the two categories of the poor and the needy. The Islamic law also preserved the orphan's money and prohibited any attack on this money in any way. I also instructed those in charge of the orphan to keep his money in full until he reaches the age of majority, so that his money is paid to him. And Islamic law gave the right to dispose of his money that he owns if he reached the age of majority and showed signs of good behaviour in managing money, so it gave him an independent financial treasury by which he manages all his money.

References

- Al-Qurtubi, Abu A. M. bin A. Al-A. (1964). Al-Jami' Li ahkam al-Quran. First Edition. Dar al-Kutub al-Misriah – Cairo .
- Ibn Katheer, Abu A. I. O. K. (1999): Tafseer al-Quran al-Adzim, Dar Taibah li al-Nashr wa al-Tauzi' .
- Al-Razi, A. M. O. H. R. (2009) : Mafatih al-Ghaib, Dar Ihya' al-Turah al-'Arabi - Beirut, Publisher: Dar Al-Resala Al-'Aalamiyah .
- Shalaby, S. M. (1997) Ahkam al-Ushrah fi al-Islam, Dar Al-Nahdhah Al-'Arabiya lil al-Nashr wa al-Tauzi'.
- Ibn Majah, Ibn M. A. Y. Q. (2001) . Al-Sunan, investigation, Dar Ihya' al-Kutub al-'Arabiyah - Faisal Issa Al-Babi Al-Halabi.
- Al-Bukhari, M. bin. I. (2001). Sahih al-Bukhari. Beirut: Al-Maktabah Al 'Asriyyah.
- Muslim, M. A. N. (1986) Sahih Muslim, Investigator: Muhammad Fouad Abdel-Baqi, Publisher: Dar Ihya' al-Turah al-'Arabi – Beirut.
- Al-Qastalani, A. M. B. Q. (1994) : Irshad Al-Sari, al-Mathba'ah al-Kubra al-Amiriyah, Egypt,.
- Al-Assaf, S. A. (2008): Tarbiah al-Atfaal Mujhuli al-Hawiyah, The Arab Center for Security Studies and Training, Riyadh.
- Al-Zamakhshari, J. A. Z. (1997) al-Kasyaf 'an Haqa'iq al-Tanzil, Al-Zamakhshari. Dar al-Kitab al-Arabi – Beirut.