

Children's Death or Divorce Originated from the Holy Qur'an and Sunnah of the Holy Prophet (SAW)

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Abstract: *The child abuse menace is as old as the birth of the first child, until very recently child maltreatment has never been seen as a social problem. It was falsely assumed that such physical punishments are supposed to correct bad behavior and ensure conformity. But the consequential distorted personality of the child disproves the assumption. This study aims at showing that it is only through the care of children will one gain experience and develops interest in finding out more about the affliction of the Nigerian child. In addition, the researcher hopes that who are able to read this will get to know and pray that the past experiences of these silent sufferers will serve to prevent tomorrow as children from similar fate.*

Keywords: *Children, Death, Divorce, Qu'ran, Sunnah, Holy, Prophet.*

Introduction

The study of children death or divorce is originated from the Holy Qur'an and Sunnah of the Holy prophet (S.A.W).

In the Holy Qur'an, Allah said:

*“and say, my lord, bestow on them (mother and father)
thy mercy do thy cherished.”*

Furthermore, besides the Holy Qur'an of children has an origin from the sunnah of the Holy Prophet (S.A.W). According to Hadith of Amr. B. Shuaibu, on this father's authority, said that his grandfather Abdullahi B. Amir reported: a woman said to Apostle of Allah (S.W.A), my womb is a vessel to this son of mine, my breast is a water skin for him, and my lap is a quad for him, yet his father has divorced me, and want to take him away from me: The prophet (S.A.W) said:

“you have more right to him as long as you do not marry”

Therefore, this hadith is the prophetic authority on the origin of “hadith” as a mother’s right as long as she didn’t marry. This is held by Malik, Hanifa, and Shafi’f, Ahmad B. Hanbal also maintained that if the woman is married to her relatives, they can retain the child. The right of custody of a child is vested in both parents when they are living together in matrimonial home. However, if the mother leaves apart from the father, the right of the custody of child is vested on her.

In the above absence of the mother, the child’s custody passes to the maternal relatives of the child. These people should have priority over paternal relatives of the child. But in the maternal side or relatives of the child will care of child on ground that they are all bloodily related to the child.

Based on the principles explained above, the sharia scholar of Maliki school in respect of this gives preference to the mother in the custody of her child, while the father retains the financial responsibilities for the custody.

The right of the mother to the custody of the male child extends up till puberty and in the case of the female child, until she is married and her marriage is actually consummated, and no male has the right to custody of female child, unless he is “Muhrim” (that is, she is in within the prohibited degree of marriage to him) or she is minor.

The custodian of the child must be of sound mind, trustworthy and of suitable character: he or she is of age which qualifies him or her is to bestow on the child the care to which he or she need they should live in a place where the child may not undergo any risk, morally or physically.

Furthermore, if the right of Hanada is lost involuntary through for example illness, or the further moving to another place or residence, the right will revive to soon as the illness is cured or the father returns to his former place or she moves to the father’s new place of residence.

However, despite the fact that Islamic law provided the general principles of hanada as outlined above, but the practice of contemporary Muslim Ummah differs from the provision of sharia, whereby, wives are denied for their right to custody of their child or children as the case may be by treat or actual use of force. Some women do not pursue their right to custody fir fear that their former husbands will not provide maintenance to support the children, often those fears are real. However, few women do have resource to court where eventually they obtain custody and an order for maintenance of the children.

STATEMENT OF THE PROBLEM

Looking at what is happening in the contemporary society where mother’s or the right person in order of priority entitled to the custody of a child in case of separation of marriage. Islamic law in generally complete system of law which covers all aspects of life and has solved every problems that exist and yet to come, but with practice of Muslim ummah, and manmade law i.e child right Act in existence which makes Muslims today with the effectiveness of the application of sharia law and resulted in denying mother’s or other relations that are entitled to have the custody of their child.

Objectives of the study

The aims and objectives of the study are as follows:

1. To bring out the relevant laws as both contained in both the holy Qur'an and Hadith of the holy prophet (S.A.W) as relate to custody of children after divorce.
2. High desire to educate people about the study of child after divorce after sharia.
3. To make contributory avenue for more enlightenment on the benefit of application of sharia.
4. To show the distribution that exists between the relevant provision both in sharia and in common law.

Research Questions

The following research questions were answered in this study:

1. What are the effects of children death or divorce originated from Holy Qur'an and Sunnah in Borno State, Nigeria?
2. What are the sources of funding of the children death in Borno State, Nigeria?

Hypothesis

The following null-hypotheses were tested in this study:

HO₁: There is no significant relationship between children death and divorce originated in Borno State, Nigeria.

HO₂: There is no significant relationship between divorces and politics in Borno State, Nigeria.

Methodology

Design: The study adopted survey research design that identified the effects of children death or divorce originated from Holy Qur'an and Sunnah in Borno State, Nigeria

Population and Sample: Target population of the study comprised of Maiduguri Metropolis in Borno State, Nigeria. However, 2000 citizen of Maiduguri selected from the area formed the sample.

Subjects and Selection Procedure: A stratified random sampling technique was adopted in selecting subjects from the volunteered respondents for the study. The stratification was based on gender, age, highest educational qualification, local government area of origin, occupation and marital status.

Instrument for Data Collection: Researchers' self-authored open ended Structured Interview Schedule (S.I.S) was used to elicit data for the study. The instrument was divided into two parts. Part "A" sought information on demographic characteristics of the respondents such as age, sex, marital status, occupation, home town and highest educational qualification while Part "B" elicited data on the children death or divorce originated from Holy Qur'an and Sunnah in Borno State, Nigeria

Validity of the Instrument: Face and content validity of the instrument was .80 as determined by 4 experts in the fields of Islamic orienteer from the University of Maiduguri. Items in the instrument with less than 90% acceptance by the experts were removed. The experts' views were appropriately and adequately incorporated.

Reliability of the Instrument: Reliability of the instrument was established through pilot-testing among 85 citizen of Metropolis under study. The test-re-test method adopted using Cronbach alpha yield a reliability coefficient value of .80 which was considered suitable, adequate and adjudged appropriate for what the study purports to achieve.

Procedure for Data Collection: Copies of the instrument were administered by the researchers and two research assistants selected from amongst the Bulama officials at each of the sampled area. Purpose of the study was explained to the beneficiaries officials at each of the sampled camps prior to the commencement of data collection and that participation was voluntary thereafter, the responses were collected.

Data Analysis: The data collected from the subjects were analyzed using frequency counts and percentages. The responses were further ranked to give a pictorial view of the respondents' rating of each item on the instrument while t-test statistical method was used in testing the null-hypotheses at 0.05 alpha level. Two research questions and two null-hypotheses guided the study and the findings are presented.

Results

1. **Research Question One:** What are the effects of children death or divorce originated from Holy Qur'an and Sunnah in Borno State, Nigeria?
- 2 Table 1: What are the sources of funding of the children death in Borno State, Nigeria?

S/No.	Statement	Responses	Rank
1.	Divorces	377 (18.85)	1 st
2.	Loss of children	377 (18.85)	1 st
3.	Psychological Trauma	377 (18.85)	1 st
4.	Social Disintegration	243 (12.15)	4 th
5.	Agricultural Trouncing	243 (12.15)	4 th
6.	Cultural Dislocation	198 (9.9)	6 th
7.	Educational Disruption	101 (5.05)	7 th
8.	Exposure to Ecological Hazards	84 (4.2)	8 th
Total		2000 (100.0)	

Note: All responses in parentheses are percentages of the raw scores.

1. Table 1 revealed that depopulation, loss of children, psychological trauma and social disintegration ranked as the major children death or divorce originated from Holy Qur'an and Sunnah in Borno State, Nigeria? while agricultural trouncing, cultural dislocation, educational disruption and exposure to ecological hazards ranked as the minor children death or divorce in the study area.
- 2 **Research Question Two:** What are the sources of funding of the children death in Borno State, Nigeria?

S/N	Sources	Responses	Rank
1.	External Financial Support	527 (26.35)	1 st
2.	Adulteration	381 (19.05)	2 nd
3.	Child abuse	381 (19.05)	2 nd
4.	Transport Businesses	381 (19.05)	2 nd
5.	Membership Dues	208 (10.4)	5 th
6.	Donations	97 (4.85)	6 th
7.	Farming	25 (1.25)	7 th
Total		2000 (100.00)	

Note: All responses in parentheses are percentages of the raw scores.

Table 2 indicated that external financial supports, Adulteration child abuse and transport businesses ranked the major sources of finance for the insurgents while membership dues, donations and farming ranked the least sources of finance for the children death or divorce in Borno State, Nigeria.

Hypotheses

HO₁: There is no significant relationship between children death and divorce originated in Borno State, Nigeria.

Table 3: There is no significant relationship between divorces and politics in Borno State, Nigeria

Group	N	X	SD	DF	t-cal	t-crit	Decision
Male	800	5.24	0.37	126	2.69	1.42	NS
Female	1200	8.91	2.12				(0.05)

NS= Significant, $P \geq 0.05$

Table 3 indicated that significant relationship exists between divorces and youths' social exclusion by gender in Borno State, Nigeria. This is evident because the calculated t-value (2.69) is greater than the critical t-value (1.42) at 0.05 alpha level. Hence, the null-hypothesis is not endorsed.

HO₂: There is no significant relationship between children death and divorce originated in Borno State, Nigeria.

Table 4: The t-test analysis on the relationship between divorce and politics in Borno State, Nigeria

Group	N	X	SD	DF	t-cal	t-crit	Decision
Children	800	6.17	0.43	124	1.31	0.64	NS
Politics	1200	9.77	2.62				(0.05)

NS= Significant, $P \geq 0.05$

Table 4 revealed that significant relationship exists between children death and Politics in Borno State, Nigeria. This is evident because the calculated t-value (1.31) is greater than the critical t-value (0.64) at 0.05 alpha level. Thus, the null-hypothesis could not be upheld.

CONCLUSION

In conclusion, it is pertinent to state that the rightful person to custody of the child is the mother and her relatives in priority, however before father and his relatives.

However the moment the child reaches the stage which he can cater himself, then it is the right of the father to either receives his son back or leave him with the mother.

Furthermore, women have more right to custody of child or children than men this because mothers are naturally fir and better qualified to cherish a child during his infancy so that committing the care to her is of advantage to the child. In recognition of infant's need for female care, all the juristic schools give first preference to a mother's claims to physical custody of her young child provided that she satisfied all the requirements for a female custodian. After divorce

during the period of the mother's custody, she is entitled generally to receive custody wages from the father to help her maintain the child

However, a lot of misconceptions about the custody of child under sharia, many people thought that the mother has no right to custody of her child which absolutely wrong.

However, a true-Muslim is therefore, one withhold his tongue, hand or influence from cheating other and should attempt to correct any acts of corruption by others.

To achieve those divine objectives Muslim must change their attitudes towards education and observance of the essential discipline of Islam and improving their conduct.

Sharia is more than law; it is a complete way of live which is government signifies must a service in which the functionaries are the servants of the people. According to Shariah, it is the duty of every individual (Muslim) to make a constant effort for spreading the good and prevent evil and God judges us according to our acts and intension.

RECOMMENDATIONS

I recommended that law should be made or enacted which will bring to end the issue of custody of children and who has priority over s custody in Nigeria or some part of the country, even through, laws regarding custody of children are clear and unequivocal under the sharia, some judges still try to refrain from the provision of the law. The courts always encourage disputes management amongst couples, solution between disputing persons will reduce the issue of divorce, because divorce usually create problems from the child/children.

“Amongst all the (things or Act) the most hateful is divorce (Talaq)”

Therefore, we should try as much as possible to do away with such an influence or act. Tolerance and patience should our philosophy of life.

Therefore, we should try as much as possible to understand our responsibilities for being a parent, because the primary duty towards their children is both physical and emotional care and if child comes of age, it at is then the father claims his child, the father should not run away from his responsibilities of financial support;

Moreover, a mother is naturally not only tender, but also better qualified to cherish a child during infancy so that committing care to her is of advantage to the child.

It should also be recommended that women should be enlightened for their right under Islamic law as to their right to custody of their children. The Ulama's in conjunction with our judges in their discretion and decision should try and make public to understand their basic rights. They should avoid making or concluding their decisions without any backing from relevant legal authorities of Islamic laws.

SUGGESTIONS FOR FURTHER STUDIES

A very crucial problem related to the custody of children is the issue of divorce. The family relation of the spouses should try as much as possible to settle dispute that tend to lead to divorce.

We should also suggest that the Islamic custody in this country should look into the issue of custody (Hadanah). It is a very vital issue because the matters that affected the children and child rearing which is very important because children are the hope of every family, societies, nation for being leaders and ambassadors in future. It is on record that (charity begins at home) that is to say every child socialized with his childhood parents, for character behaviours and sound knowledge. Good conduct and devotion to religious obligation should be taken into consideration.

However, likewise, the beneficial welfare and the interest of the child should also be considered, even through Islamic law has given some guideline to this effect which is comprehensive, but in practice customs usually prevails over unknown to the Muslim Ummah for such guide.

Finally it should be observed that proper care is to be given to a child or children in custody no matter under whose custody they may be. The aspect of custody is very important because the main essence of custody of custody in generally is to aspect the welfare and interest of the child in accordance with the principles of sharia. Therefore, emphasis should be made in proper of upbringing care of a child or children so as to safeguard them from deviating to juvenile delinquency which is currently the order of practices of children today in Nigeria. It is undoubtedly true that children of good moral background. Islamic body should address this issue, courts also should do their part to achieved good result and build good societies and nation.

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