

PREGNANCY OUT OF WEDLOCK AND ABANDONED BABIES: IS ADOPTION ABLE TO SAVE THE BABIES?

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ABSTRACT

This article discusses the issue of pregnancy out of wedlock which has become a great social challenge that needs to be tackled immediately. Getting pregnant out of wedlock leads to the risk of babies being abandoned or left to die which will affect our generation. The purpose of this article is to discuss pragmatic steps that can be taken so that the babies have the rights to live. One of the steps is the creation of baby hatch, shelter for affected teenagers, and adoption. Adoption seems like an appropriate solution to let the illegitimate child grow within a family but there are challenges that need to be tackled such as legal issues, psychological issues, Islamic rules and breast feeding of adopted children.

Keywords : *Pregnancy out of wedlock, Abandoned babies, Adoption, Breastfeeding, Wet nursing, Islam.*

1.0 PREFACE

The National Registration Department (NRD) statistic for the year 2000 until July 2008 recorded more than 257,000 birth certificates without the fathers' names [1]. This is a staggering figure which, coupled with statistic from 2005 to 2015, revealed a drastic increase of 532,158 births out of wedlock that were registered [2]. For the same duration, there were 526 cases of abandoned babies while cases of teenage pregnancy out of wedlock for the years 2012-2015 were 16,270. Based on the Health Department's statistic of Teenage Pregnancy for 2012-2015, three states which recorded the highest number of teenagers aged 10 to 19 who were pregnant are Sarawak (5,246 cases), Johor (2,427 cases) and Selangor (1,603 cases) as reported by Bernama [2].

Islam from its teaching has reminded its believers of the coming of the Judgment Day. As a Muslim who believes in the Six Pillars in Islam, the Judgment Day has to be believed sincerely. Prophet Muhammad (PBUH) always reminded us about the signs of the the Judgment Day. One of the signs is the spread of adultery as related in the Hadith narrated by al-Bazzar Ibn Hibban below:

“The Judgment Day will not happen before people perform sexual act on the street like a donkey”. I asked: “Is it true and will it happen?” And Rasulullah said: “Yes, that situation will really take place.”

Hadith narrated by Abu Ya’la, from Abu Hurairah, the Prophet says:

“...these people will not ruin until there is a man standing behind a woman, and they have intercourse by the roadside. The best of people among them on that day are those who ask: “why didn’t you cover or hide it behind this wall?”

In the Quran, Allah has sternly reminded about the danger of adultery in Al-Isra’, verse 32:

“and don’t you go near adultery, (adultery) is really a horrendous act and it is a very bad action.”

Having illegitimate children/babies is the result of moral decay and moral decline which has to be faced by Muslim community in this modern era. The phenomenon has been difficult to be tackled which has resulted in the abandonment and death of these babies in many places as reported almost every day in the mass media. What is more worrying is that the abandonment of illegitimate babies happened among under aged female teenagers and the majority of them are Muslims. There are a lot of factors that started this prohibited relationship which lead to adultery and the birth of illegitimate babies. Among the factors are lack of attention given by parents, lack of religious knowledge, and non-conducive environment. Statistic has shown a sharp increase in the birth of illegitimate babies over the years.

A question that needs to be asked is that, is Muslim community just waiting for the signs of the Doomsday, believe in it but not doing anything until the day comes? Thus, this article discusses the issue of illegitimate children from the perspectives of the factors contributing to it, risk associated with it, and intervention to solve the problem. This article focusses on adoption as an intervention option which requires awareness from different quarters, while considering important aspects of legal, psychological and *syariah* (Islamic law).

2.0 FACTORS CONTRIBUTING TO THE INCREASING NUMBER OF OUT OF WEDLOCK PREGNANCY

Out of wedlock pregnancy refers to being pregnant before marriage which indicates that there has been sexual intercourse between unmarried couples. Teen pregnancy out of wedlock

happens among those between 13-18 years old. According to UNICEF report in 2008, teenagers who are found to be pregnant out of wedlock are from this 13-19 years of age [1]. The term 'sex out of wedlock' is looked at in the context of religion and studies into this show that the term is understood by Muslims and Christian teenagers [3].

However, in practice, awareness about the risk of having sex out of wedlock is preached by all religions because having sex without getting married can cause many social problems such as getting pregnant, abortion and health problems [4]. Various factors lead to the birth of illegitimate babies such as parent-factor, peer influence, puppy love, media influence and ignorance about religious teaching/knowledge.

2.1 Parent-factor

Dropping out of school, parents monitoring, and involvement in education, family stability, busyness factor, and modern lifestyle have somehow affected family relationship which in turn cause family disunity [1]. Studies also show that teenagers are more inclined to have sex when there is no monitoring after school hours [5]. The risk of having sex decreases when there is monitoring by parents [6]. In Malaysia, a study on 102 teenagers who were pregnant out of wedlock showed a correlation between teenagers' pregnancy with unmonitored after-school-activities [7].

Therefore, parents' role towards their teenage children should be more of a guiding and monitoring rather than teaching and telling teenagers what to do. At present, parents need to provide support in terms of physical, emotional and sexual changes faced by teenagers. Communication is important however, most parents do not discuss sexual health and reproductive system with their teenage children, but instead, leave them to find out and understand those critical subjects on their own [8].

In addition, Sarnon *et. all* [4] discovered that the more time/frequency a family have meal together can reduce/decrease risky behavior of their children, but parents did not pay attention to this fact [9]. Parents should be wise to give support to their teenage children when it is needed especially in providing information [4].

2.2 Peer Influence and Pressure

Peer influence is one of the main reasons why teenagers are involved in out of wedlock pregnancy. During early teen, teenagers are at a stage where they are still looking for their own identity and they are easily influenced by their peers. Unfortunately, being among peers who are inclined to do negative activities can result in them getting involved in activities that are against religious teachings and community ethics [1].

For example, frequenting entertainment outlets such as disco, drinking too much alcohol, and involving in free sex and changing partners. All these negative activities contribute to the

problem of out of wedlock teenage pregnancy which can result in abortion and abandonment of the new born babies.

2.3 Puppy Love

Rafidah [10] states that puppy love is one of the factors which influences teenagers to be involved in sexual misconduct. The finding is parallel with the Psychology of love theory proposed by Sternberg & Barnes [11] which states that there are three stages i.e. being horny, getting intimate and taking responsibility. Puppy love will go through the first and the second stage but will not reach stage 3 because they could not commit to looking after other people. This resulted in the teenagers finding ways to destroy evidence of their action such as taking abortion pill without thinking of the long term risk to their health [12].

2.4 Media Influence

The mass media is one borderless medium which also contributes to social ills such as sexual misconduct among teenagers. They have easy accessed to the websites which are not proper [1]. For example, x-rated materials can be access easily and this adds to their curiosity and challenges them to try which can lead to out of wedlock pregnancy [13].

2.5 Ignorance About Religious Teachings

Parents play a significant role in making sure that their children are equipped with religious knowledge [14]. Unfortunately, what happens now is that parents prioritized their careers without emphasizing religious education of their children. This resulted in a situation where teenagers are easily overcome by their lust to the point that they cannot differentiate between good or bad. Hence, they are easily involved in social problems such as being involved in forbidden relationship that leads to the birth of illegitimate children.

3.0 RISK OF OUT OF WEDLOCK PREGNANCY

There are four risks of getting pregnant before marriage such as acceptance, adoption, abortion and abandonment.

3.1 Acceptance

Getting pregnant out of wedlock among teenagers gives a certain amount of pressure which is not expected before and thus resulted in disappointment, while the family facing a difficult situation which ends up in crisis. It is also difficult for families to accept this teenage pregnancy and it is a shame to the family. Having children at a very young age is considered a mistake and it indirectly affects the family members. In reality, the pregnant teenager herself is still not able to solve her own problems and still requires family support. Therefore, family members must give moral support and help to these teenagers [15].

3.2 Adoption

There are some teenagers who plan to give away their unborn babies to other people through adoption. This is because most parents could not accept their wrong doing of engaging in sexual misconduct before getting married since it is the culture of the society that sees getting pregnant out of wedlock is a sin [4].

3.3 Abortion

The term abortion refers to the deliberate termination of a human pregnancy, which is done illegally while abortion is done because of medical situation, the term used by doctors is termination of pregnancy [16]. In Malaysia, more than 300 Malay children and Malay teenagers, from 13-25 years of age were found to be involved in sexual misconduct and free sex which resulted in pregnancy and ended up in abortion [17].

There are various methods used to do abortion following modern medicine. Abortion through suction is one method used for foetus before reaching a month old. At this time, the foetus is still soft and easy to be sucked [16]. Besides that, abortion can also be done easily using modern medicine. Taking these medication which have chemical substance such as antiprogesterin and prostaglandine, embryo will be pushed out from a woman's womb due to the lack of the production of progesterone hormone in a woman's body [16].

3.4 Abandonment

Freedom to socialize among teenagers can lead them to be involved in adultery which can lead to abortion [13]. In Malaysia, getting pregnant out of wedlock is the major reason for abandonment of new born babies [2]. As a result of this widespread phenomenon, Malaysia has taken a stricter punishment by enabling baby abandonment cases to be investigated as murder (Section 302 of punishable by death) or attempted murder (Section 307 with a maximum of 20 years jail) compared to before. Previously, all baby abandonment cases were investigated under Section 31 Child Act which carries a lighter punishment of a maximum RM20,000 fine or 10-year jail or both, if convicted [4].

4.0 INTERVENTION STEPS TO OVERCOME BABY ABANDONMENT ISSUE

In Malaysia, the government has provided shelter to teenagers who are pregnant out of wedlock in government's shelter home or non-government organizations. Besides that, to overcome the baby abandonment problem or issue, teens are encouraged to pre-register their soon-to-be-born children for adoption or they are placed under their parents' care at home [4].

Baby abandonment is an irresponsible and inhumane action. Thus, to overcome this problem, there are many interventions as well as prevention problems initiated by the Ministry for Women, Family and Community (MWFC) such as Baby Hatch and Teenagers Shelter Home.

4.1 Baby Hatch

MWFC has started collaboration with OrphanCARE in trying to curb the baby abandonment problems and save those babies from being abandoned through Baby Hatch. Based on OrphanCARE record for 2010, 22 babies have been placed at Baby Hatch, and 120 babies have been adopted which was managed by Baby Hatch [18].

4.2 Teenagers Shelter Home

The Ministry for Women, Family and Community development through Social Welfare Department (SWD) has provided Teenagers' Shelter Home which provides shelter and care to pregnant teenagers out of wedlock. There are other institutions through SWD which also gives shelter to those teenagers such as *Taman Seri Puteri* and *Pusat Jagaan Sinar Kasih*. *Taman Sri Putri* gives shelter and recovery for female teenagers below 18 years old who are pregnant or give birth to illegitimate babies. On the other hand, *Pusat Jagaan Sinar Kasih* provides shelter and immediate care to women aged 18 and above who are of the same boat. MWFC also provides 149 children activity centres which accept any babies who need shelter [18].

4.3 Adoption

Adoption generally means 'formal or informal care of children outside their family home when the parents could not afford, or are not allowed to care for them [19]. The statistic reported by SWD in 2008 shows that one of the policies in the Children Protection Action Plan is through adoption/fostering of orphans and abandoned babies for 2 years. This means that protecting children through adoption is more suitable for children with no families due to the fact that adoption concept is more permanent than care [20].

Under the Malaysian law, there is no definition for care for adopted children or foster children. However, Children Act 2001 defines foster parents as people who care for the child, but they are not the parents or relatives to the child [21]. Based on SWD's practice in Malaysia, care for adopted children is defined as a replacement for the children in terms of raising care and control by adopted parents under the Child Act 2001, Section 30 (1)(e) [20].

5.0 ISSUES AND CHALLENGES IN ADOPTION

These are a few issues and challenges in adoption:

5.1 Legal

There are two types of adoption: fosterage and adoption. Fosterage means raising other people's child whether the term starts since the child is small or when the child is older without naming the child after the foster father. On the other hand, adoption means raising other people's child whether taken since the child is small or when the child has grown up. This child

carries the name of the adopted father and registered according to the law which falls under Adoption Act 1952.

Based on the adoption practice mentioned above, it is clear that the first practice is permissible in Islam whereas the second is prohibited by Syarak. Islam does not recognize the concept of adoption but instead accept fosterage. Fosterage is permissible because it has the *takaful* concept that is, helping fellow Muslim brothers in looking after adopted children until the children grow up to become good offspring, perfect and independent. When the children are able to be on their own, the responsibility of the foster parents is completed [23].

Meanwhile, adoption as stated in the Adoption Act 1952, Muslims are prohibited from accepting adopted children legally as their own children. This means that the adopted children are released from their original family tree, adopted children are able to the wealth of the adopted parents, free to mix around with their adopted family members and assumed to have blood ties that prevent marriage among them.

In short, there are four provisions of law in Malaysia with regard to a child adoption which are Children Act 2001, Adoption Act 1952, Registration of an Adoption Child Act (1952) and Muslim Family Act (Federal Territory, 1984).

5.2 Psychology

Theory of Attachment is one of the theories that explains behaviours of parents and their children and it is a popular theory among professionals involved in children's social care service [26]. This theory is the work of John Bowlby and Mary Ainsworth. Bowlby has formulated the foundation of this theory based on a few concepts such as ethology, cybernetics, information processing, development of psychology and psychoanalysis. He then created a revolutionary thinking by linking children with their mother, and looking at relationship interference by separation, loss of rights and mourning. Furthermore, Ainsworth has developed a basic security where babies can explore the world by formulating the sensitivity of a mother based on the baby's signal in developing mother-baby relationship [27].

The basic principle of this theory is mental health. To achieve a good mental health, this theory states that a baby or a child has to feel a relationship which is intimate and lasting with the mother (or a permanent substitute to a mother) for both to feel satisfied and happy. When a child does not get a relationship as expected, he/she will experience maternal deprivation. Children can also experience this even though staying in the same house with the mother (or substitute mother) who does not give love and care as needed by children. Besides that, children can also feel maternal deprived if they are moved from the care of their mothers. This situation might not be serious if the caretaker in place of the mother is someone who is already known, but it might be difficult if the adopted mother is someone who is a stranger to him/her, although the caretaker is a loving person [28]. Thus, this theory states that the feeling of interdependency between a mother and a child can nurture love to guarantee the child's healthy growth and the mother's stable emotion.

The Care for Adopted Child Model has been introduced by Gribble [29] in A Model for Caregiving of Adopted Children after Institutionalization. This model was developed based on the Attachment Theory which suggests guidelines for the care of adopted children. It is based on a baby's early experience by copying the physiology of a new born baby. For a new born baby, when the expected physiology care takes place, the baby will feel connected to the mother. This will give a positive effect to the baby and the mother as well as encourage responsive caregiving and attachment development.

Since the separation of mother and baby creates effects on the baby, this model suggests physiological care that is harmonious such as physical relationship between the mother and the baby through regular breast feeding. A specific care for adopted children on the other hand, includes close physical relationship, physical touch, co-sleeping, breast feeding and responsive care.

5.3 Islamic Law (Syariah)

At present, adoption does not stop at adopting and looking after a child only but a mother, especially a Muslim tries to breast feed the adopted child. This is because according to the Islamic teaching, breast feeding if done according to the specific guidelines, can make the adopted child a *mahram* with the adopted family members.

According to the Islamic Family Law Section 2, 'kinship' is defined as breast feeding a baby by a woman who is not the biological mother at least five times, until the baby is full, when he/she is below 2 years of age [25].

However, Islam does not prohibit the act of adopting another person's child to care and love. If adoption is done to ensure that the abandoned babies are looked after, given shelter and a good education, loved without carrying the surname of the adopted father, then adoption is encouraged (*harus*) [30].

وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَىٰ وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ

شَدِيدُ الْعِقَابِ ﴿٢﴾

Translation:

“...And cooperate in righteousness and piety, but do not cooperate in sin and aggression. And fear Allah; indeed, Allah is severe in penalty.”

(Al-Maidah:2)

عَنْ أَبِي هُرَيْرَةَ قَالَ : قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَنْ نَفَّسَ عَنْ مُؤْمِنٍ
كُرْبَةً مِنْ كُرْبِ الدُّنْيَا نَفَّسَ اللَّهُ عَنْهُ كُرْبَةً مِنْ كُرْبِ يَوْمِ الْقِيَامَةِ وَمَنْ يَسَّرَ عَلَيَّ
مُعْسِرٍ يَسَّرَ اللَّهُ عَلَيَّ فِي الدُّنْيَا وَالْآخِرَةِ وَمَنْ سَتَرَ مُسْلِمًا سَتَرَهُ اللَّهُ فِي الدُّنْيَا
وَالْآخِرَةِ وَاللَّهُ فِي عَوْنِ الْعَبْدِ مَا كَانَ الْعَبْدُ فِي عَوْنِ أَحِيهِ.

Translation:

“From Abu Hurairah, he said: Rasulullah SAW says: “Whoever releases a *Mukmin* from one difficulty on earth, Allah will free him from another difficulty during the *Kiamat*. Whoever provides ease to someone who is in trouble, Allah will free him during life and after life. Whoever hide the wrongdoings of a Muslim, Allah will hide his wrongdoings in life and after life. Allah will always help his servants as long as they help their fellow Muslim brothers”.

(Sahih Muslim, no. 4867)

النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ أَنَا وَكَافِلُ الْيَتِيمِ فِي الْجَنَّةِ هَكَذَا وَقَالَ بِإِصْبَعَيْهِ
السَّبَّابَةِ وَالْوَسْطَى

Translation:

Rasulullah SAW says: “I and people who care for the orphans will be close in heaven like this.” He shows his pointing finger and the middle finger”.

(Sahih Bukhari, no. 5546)

Even though breast feeding of an adopted child will bring about a few laws that permits family relationship, this relationship is still not the same with *nasab* relationship. *Nasab* is defined as family relationship which is based on blood relationship [25].

6.0 BREASTFEEDING AN ADOPTED CHILD

Breastfeeding an adopted child or adoptive nursing is a form of wet nursing practices from modern contextual. According to Zilal *et. all* [22], the purpose of wet nursing practices has experienced evolution from the functional aspect as a form of occupation to a form of welfare practice and also religious goal. According to a research by Zilal [23], a model to be used as a guideline to breast feeding of adopted children from Fiqh and science perspectives has been developed to guarantee *Maqasid al-Syariah* in the adoption issue. This model was developed with a design of a house that reflects a shelter for adopted children who have been accepted into the adopted family. The design of the house also symbolizes a new life for the foster mother and the adopted child who originally do not have blood ties. This model of a house encompasses four levels which is explained in a tier-construct as follows:

- Tier 1: Fiqh requirement for breast feeding of adopted baby
- Tier 2: Implementation of breast feeding of adopted baby
- Tier 3: Fiqh implication of breast feeding of adopted baby
- Tier 4: Aim of breast feeding of adopted baby

An adopted child who has been accepted as a family member receives the same status as the biological child more so after he/she is being breast fed by the adopted mother. The status and right that have been outlined by Islam is recorded and reported by Wahbah Al-Zuhayli [31] and Zaydan [32]. Since Islam is a complete religion, the boundaries for family relationships have been specified to protect *maqasid al-syariah*.

Figure 1 illustrates the Fiqh implication of breast feeding of an adopted child to protect the wellbeing of the family and the religion [23].

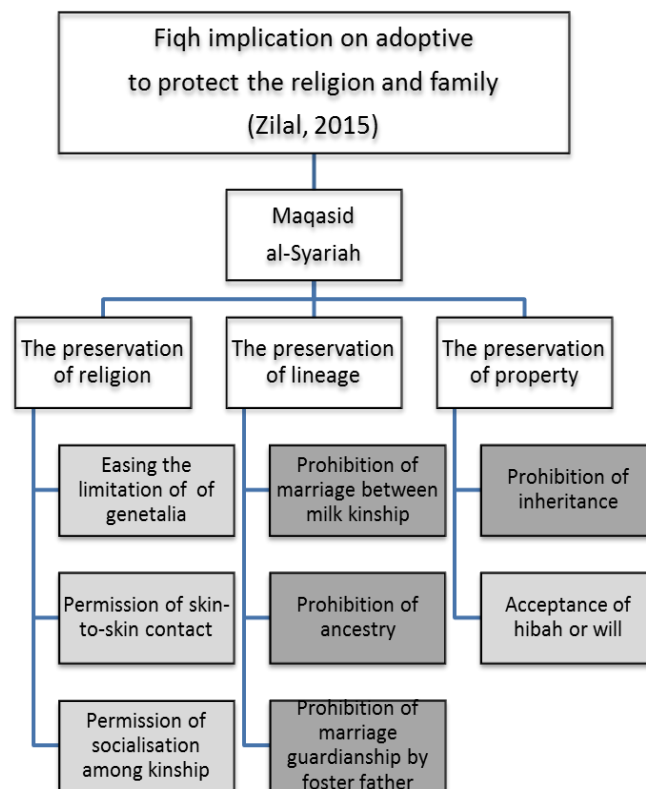


Figure 1. Fiqh implication of breast (The light coloured boxes are things that are permissible and the dark coloured boxes are things that are prohibited).

7.0 CONCLUSION

This article discusses the social problems that are becoming more serious that is, the increase in teenage pregnancy and the birth of illegitimate babies. This problem does not stop here but it will be more serious when an easy way out is taken such as abortion, or abandoning the

babies once they are born. In spite of that, there is one initiative to save the babies from being abandoned or left to die, by providing baby hatch, a shelter home for teenage girls and also adoption. Adoption is seen as one way of giving a chance to the baby to live and experience the love of parents. However, the challenges that need to be faced by foster family is not easy. Aspects such as legal, psychological, and breast feeding of adopted children are also discussed in this article. Cooperation from various quarters are needed so that human life is sustainable, and it follows the teachings of the religion. Support and parenting education need to be provided for foster families especially those who adopt illegitimate babies so that this generation is able to be educated properly so that they will not go into the same cycle of vice.

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