

While the majority of humanity has shown their genuine concern and compassion towards the plight of the earthquake survivors, criminal elements devoid of any humanity have been active in preying on their helplessness. Considering the long-term support needs of the survivors and also considering the dangers to which they are exposed because of the terribly repulsive and repugnant crimes of the criminal elements, many sensible people and welfare organisations are seriously thinking about the best ways and strategies to provide the survivors support they require and deserve. The concern is acute for the most vulnerable of the victims -- children and women without adult family males to protect them. And we should all be concerned because it is their rights that the Prophet Sall Allaahu 'alayhi wa sallam was always concerned about and emphasised the most. For example, it was reported that he said:

O Allaah, I hereby sanctify the rights of two vulnerable groups: orphans and women. Nasaai reported from Khuwailad in 'Amr

Many ideas are being proposed to deal with their situation. These ideas are mainly based on the concepts of putting them into institutions such orphanages (Daarul-Atfaal), safe houses or shelters.

Unfortunately, putting them into institutions, or institutionalising them, will give rise to many problems of its own. These problems are inherent in the concept and operation of the institutions and they occur regardless of how fantastic the people are who establish the institutions and run them. Here a few problems to think about:

- Lack of warmth and closeness afforded by the family environment;
- Lack of a father/mother figure who can act as confidante, provide protection and suitable personalised advice on the basis of love and closeness of relationship, instead of a counsellor who is there to do a job;
- Dehumanising effect of the institutions, like animals in a barn;
- Institutional environment continuously reminds them that they do not have a family to call their own; they just have a place to stay with other deprived persons like them.
- Chances of developing behaviour problems as a result of the above;
- Open to abuse, exploitation and manipulation.
- Institutions need funds, which they then raise by using their residents for that purpose. Using them to raise funds hurts their self-respect and their self-esteem.

Considering that survivors of the earthquake are already traumatised by the horror they have seen, they are the most in need of a personal touch, family environment and warmth and they are most vulnerable to develop the behavioural problems that the barn environment of the institution creates.

So what is the alternative?

Allaah Subhānahu wa Ta'aalahas has given us a beautiful, most practical and the most healing method of treating such victims, if only we learn from the wisdom of the Qur-aan and put it into practice with proper spirit and Taqwa. Following are some points for guidance from the

Qur-aan and Hadeeth in this matter:

1. Considering that orphan's assets were the most common target of misappropriation by the powerful people of the Arab society, Allaah SWT started emphasising from the early days of revelation:

Do not go near the assets of an orphan except for looking after them in the best manner until the orphan attains full maturity. Al-An'aam 6:152 and Banees Israaeel 17:34

2. Spending one's own money and precious assets to take care of orphans and the needy, even preferring their needs over one's own family needs only for the pleasure of Allaah. (Ad-Dahr 76:8 and Al-Baqarah 2:177)

3. Although the rights of those widows who are poor are well taken care of in the Qur-aanic commands about poor, some of their chores of daily living may not be attended to because of a lack of a male member in the household. To ensure that people do not ignore that aspect, the Prophet Sall-Allaahu 'alayhi wa sallam said:

The person who runs around for the needs of a widow or a poor person will be rewarded like a Mujaahid who dedicatedly strives in Allaah's cause. Reported by Aboo Hurayrah who also added: I think the prophet also said, "like a person who continually spends his nights worshipping Allaah and his days fasting."

4. The Noble Qur-aan also expects that helping the orphans must be done in a manner that affords them respect and honour, and it condemns those who do not treat orphan with respect:

But you do not treat the orphan with respect... Al-Fajr 89:17

It commands believers to treat them in an excellent manner:

... Excel in your dealings with parents, the near relatives, the orphans, the needy ... Al-Baqarah 2:83 and An-Nisaa 4:36

Putting them in institutions is neither respectful nor excellent. There is always some sort of stigma attached to it.

5. In Soorah Al-Balad, it gives another hint as to who should preferably take care of an orphan, when it describes the responsibility of feeding:

An orphaned relative Al-Balad 90:15

6. In Soorah Baqarah, when spending for the poor and needy was emphasised in verse 215, taking care of orphans was listed right after close relatives. Taking care of orphans includes providing them a good living environment as well as handling their assets and finances in a prudent manner. {footnote} An orphan may have inherited a house in which the family was living in, goats or cattle, money, etc. For earthquake survivors, there may be the land where their house used to stand, bank balance, etc.

{/footnote} These objectives may best be achieved if their living is integrated with one's own

family especially through marrying their mothers and if their financial affairs are integrated with one's own especially if their interest is fully protected through proper accounting and paper work. However, the sincere believers were very scared of dealing with orphans' assets because of Allaah's commands not to touch orphans' property. For the sake of precaution, people who had orphans living with them had segregated even their groceries and food completely separate from their own family's. Such caution caused extra hardships to the sincere believers. The following verse answered the concerns and questions arising from these concerns.

They also ask about orphans{footnote}An orphan, in Arabic terminology, is a child whose father has died.

{/footnote}. Say: Whatever improves their lot is better. If you mingle them with yourselves, they are your brethren; and Allaah knows who means corruption from the one who means improvement. Had Allaah wished, He could have made it difficult for you; surely Allaah is Mighty, Wise. 221 And do not marry women who equate others with Allaah, until they believe. Certainly a believing slave woman is better than a woman who equates others with Allaah, no matter how attractive she may seem to you. Similarly, do not give your women in marriage to those men who equate others with Allaah, until they believe. Certainly a believing slave is better than a free man who equates others with Allaah, no matter how attractive he may seem to you. Those (who equate others with Allaah) invite to the Fire, while Allaah invites by His grace to the Garden and to forgiveness. And He explains His commands to people that they may be mindful.

### Al-Baqarah 2:220-221

First of all, by saying "*If you mingle them with yourselves, they are your brethren*" Allaah Subhānahu wa Ta'aala encourages people to make them socially part of their household, instead of treating them as different from the family. Secondly, it indicated that as long as the orphans' best interests were kept in focus, their assets and finances could be managed as convenient because the purpose of Allaah's commands is for us to protect their interest, not to create undue hardship for people. However, people should remember that if under that pretext someone practiced dishonesty, Allaah Subhānahu wa Ta'aala will know it.

Note that right after encouraging intermingling, Allaah Subhānahu wa Ta'aala starts talking about not marrying Mushrik women. What does that have to do with orphans? One effective way of making the orphans mingle with the family is to bring them into the family by marrying the orphans' mothers. It provides them a safe home environment along with a father figure to take care of them and their own mother watching for their interests. However, even for this noble goal, a Muslim must not marry Mushrikah -- one who equates others with Allaah. Although the issue came up in reference to the welfare of orphans, the rule has been given as a general rule applicable to all situations.

7. Soorah An-Nisaa is the Soorah of social reforms. It was revealed after the Battle of Uhad in which 70 Muslims were martyred. That was a huge number for the small Muslim community of Madeenah at that time. Their children and widows needed appropriate care. Hence, the Soorah gives the top preference and prominence to protecting the rights of orphans and then those of their mothers and women in general.

In pre-Islamic society, many of the orphans' guardians who were supposed to look after their interests used to take over the custody of their inherited assets under the pretext of managing them on their behalf; however, it ended up slowly becoming the guardians' property, while the orphans were neglected and their needs were not appropriately met. Islam commanded extreme scruple in this respect and put a high value on being kind, generous, and charitable in looking after the needs of orphans. It transformed those people from being usurpers into being the protectors of orphans so much so that they would go out of their way to preserve the assets belonging to orphans and to be extra kind, gentle and caring for their needs, even if it meant giving from their own pockets.

And give to the orphans their assets, and do not substitute worthless things for their good ones, and do not consume their assets by adding to your own assets; that would surely be a great crime. And if you fear that you on your own shall not be able to deal equitably with orphans<sup>{footnote}</sup>Some people assume that orphans in this verse refer to orphan girls only; but that is an invalid assumption. The points about injustice that started with the preceding verse pertain to all orphans in general and not any particular section of them. The subject of remediation of those issues continues in this verse without any explicit or implicit indication that the emphasis has shifted from orphans in general to a specific group of orphans. Thus, there is no indication in the text about the shift from all orphans to orphan girls only. In addition, neither Allaah Subhānahu wa Ta'aala nor His Messenger, Sall Allaahu `alayhi wa sallam has ever indicated the change in the definition of the term from one verse to the next. Hence, the idea of limiting the general word "orphans" in this verse to girls only is baseless and invalid.

<sup>{/footnote}</sup>, then marry such of their mothers<sup>{footnote}</sup>Although the word used here is "women" in general, the context requires that the women mentioned here must be those whose marriage can help alleviate injustice to orphans. "Women" here cannot be any women because of the following: Firstly, there was no reason to prescribe more than one wife in general because that was already a prevalent practice. The established rule was that existing practices were allowed unless and until explicitly disallowed by the Qur-aan or the Prophet, Sall Allaahu `alayhi wa sallam. Secondly, the verse clearly mentions the purpose of proposing extra marriages in this context to be the fair treatment of the orphans. Marrying women in general does not help with that objective at all, rather it may hinder it as will become clear in the discussion that follows. Lastly and most significantly, there was no context here to bring up the issue of polygamy in general while addressing the issues related to orphans. It has been brought up only as a viable alternative to help the guardians appropriately fulfil the guardianship responsibility towards the orphans. Thus, the context requires that the women being referred to in this verse have to be those who have some specific relationship with orphans – the mothers of the orphans, marrying whom will help in the better treatment of their orphan children. The suggestion is that to minimise any chances of compromise in looking after the well-being of the orphans under your guardianship, you can use the existing practise of polygamy to marry their mothers and jointly look after the orphans' affairs more appropriately and effectively. In his Tafseer Tadabburul-Qur'aan, Amin Ahsan Islahi has strongly presented this view. Maudoodi has also expressed this as one of the valid opinions.

<sup>{/footnote}</sup> as are happy to do so, are legally allowed to you and you like

them<sup>{footnote}</sup>Mufasssireen (exegetes) have indicated that the phrase used in the verse can have any or all of the three meanings. Hence, I have included all three meanings because they altogether represent the message of the verse fully.

<sup>{/footnote}</sup>, two or three or four; but if you fear that you will not be able to treat all wives equally, then marry only one or what your right hands possess; this way it is more likely that you will not deviate from justice.

### An-Nisaa 4:2-3

Considering the exploitative practices of unscrupulous people in dealing with the inheritance and assets of the orphans, these verses warn Muslims of the heinous nature of this crime and command that the guardians of the orphans must ensure that:

- Any assets belonging to the orphans are duly assigned to their name, spent only for their care and given to them when they grow up;
- They are not substituted in any way, shape or form resulting in the reduction of their value; and,
- They are not mixed up with the assets of their trustee or guardian such that they could not be accounted for fully and accurately.

Being kind to people, when Allaah Subhâanahu wa Ta'aala gives commands, He also ensures that measures are taken that will make it easy for people to fulfill the objectives of the commands. Therefore, this command was accompanied by a multipurpose, effective and tactful use of an existing institution of the society. Polygamy was a well-established and accepted practice all around the world including Arabia. Many people had multiple wives. In fact, there was no limit to the number of wives a person could have. Some people had a dozen or more wives, just like most of the Biblical personalities had many wives. It was suggested to men that to take care of the orphans, you should use this existing, established practice and marry the mothers of the orphans -- if they would like to do so, if you like them and if it would not result in an un-Islamic relationship.<sup>{footnote}</sup>Some people may disagree with the meaning of the verse or its explanation given here. They are welcome to see detailed discussion and strong evidence on this topic in the Urdu Tafseer of this Soorah in the second volume of "Tadabbarul Qur-aan" by Maulana Amin Ahsan Islahi. Those who do not know Urdu can refer to my series of "Teachings of the Qur-aan" for Soorah An-Nisaa.

<sup>{/footnote}</sup>

How was this going to achieve justice to orphans? The idea was that instead of putting orphans in orphanages, or leaving them under a loose relationship with a guardian for whom it may not always be possible to be fully attentive to the needs of the orphans under his care (even if the guardian had the best intention to do so), provide those children with a stable, inclusive, integrated home and family environment by marrying their mothers. This way, the widowed women will also be cared for. In addition, under this relationship, where the mother of the orphans is also the spouse and participant in the family affairs, the interests of her orphan

children will be better served and any chances or opportunity for abuse or neglect would be minimised.

Thus, in brief, the message of these verses is that: to alleviate worries about properly fulfilling their guardianship responsibilities, people should use the existing practice of having multiple wives and should team up for that purpose with the orphans' mothers by marrying them -- if they are legally eligible to marry each other and they mutually like the idea -- so that both can help each other in providing the children the most appropriate level of care.

- Thus, as evident from the above-mentioned point, the Noble Qur-aan has repeatedly emphasised the importance of taking care of the orphans, especially by integrating them into one's family. It wants people to bring orphans into their homes and keep them in a dignified manner like their own children, where the orphans feel themselves at home as a part of the family, not outsiders. This point is further clarified by the Prophet ﷺ 'alayhi wa sallam:

The best home of all Muslim homes is that where an orphan is being treated with excellence (kindly and respectfully); while the worst home is that where an orphan is being ill-treated. Ibn Maajah and Bukhaaree from Aboo Hurayrah

Anyone who takes an orphan includes him/her on his dinner table (makes them a part of the household), Allaah Subhānahu wa Ta'aala allocates Jannah for him, unless he commits an unpardonable crime. Tirmidzi From Ibn 'Abbaas

Whoever passes his hand affectionately over the head of an orphan only for the pleasure of Allaah Subhānahu wa Ta'aala, he will be rewarded for every hair his hand passes over. And whoever excellently treats an orphan boy or girl living with him, I and he will be like this (he joined his two fingers to show the closeness) in Jannah. Ahmad and Tirmidzi from Aboo Umaamah

A person who undertakes the guardianship and living expenses of an orphan whether he/she is his own (such as a nephew, niece or grandchild) or not his own, I will be like this in Jannah – he showed his two fingers with a little bit of separation between them. Bukhaaree from Sahl Ibn Sa'd

- The Noble Qur-aan also wants people to marry the widows, especially if they have children, so that both mother and children can be provided a good home environment and their interest can be served in a decent manner. If marriage of a widow is not warranted, then the believers should pay special attention to ensure that her matters are well-looked after.

### **Course of Action for Long term care for Children and women:**

From these teachings, then, we learn that the Islamic welfare organisations such as HCI, Al-Khidmat, etc. should serve the long-term interest of the vulnerable survivors (women and children) by finding and screening appropriate people; arranging formation of relationships and

providing resources to ensure the following:

1. People should take orphans without any parents to their homes, make them a part of their household{footnote}That does not mean to adopt them or change their identity. Their true identity must be preserved linking them to their real father.

{/footnote}, treat them and bring them up like their own children in the most excellent manner.

If any of their relatives are alive, they should take them to their homes. If those relatives need help, they should be helped financially, morally and by counselling.

If they do not have close relatives, other people with true fear of Allaah Subhâanahu wa Ta'aala and desire to be with the Prophet sall-Allaahu 'alayhi wa sallam in Jannah should take them to their homes and bring them up with excellence.

2. It will be a good idea to marry widows and widowers to each other bringing their children, if any, together to form a new family. Again, they must be helped financially, morally and by counselling.

3. If there are widows with children and they are willing to re-marry, believers with Taqwa and fear of Allaah should marry them (if they both like and agree) and bring them and their children home to provide them a good environment and love. That is the most important cause for which Allaah Subhâanahu wa Ta'aala specifically mentioned marrying two, three or four wives. If the women prefer to live alone with their children, then their wish should be respected and they must be helped financially, morally and by counselling.

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