

A Critical Study to the Marriage of the Head of Family with an Adopted Child in Imami Jurisprudence and the Iranian Legal System

Amir Barani Beiranvand*¹
Zakeh Fallah²
Abdullah Mokhtari³

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Abstract

Adoption is a legal relationship that leads to the adoption of a child by a man or a woman as his/ her child; without the child's adoptive parents being the child's real and bloody parents. One of the most important tasks of governments towards children deprived of family blessings, as well as abused children and adolescents, is to provide conditions so that neglected or unaccompanied children, like other children and adolescents, can benefit the special support and care in the shadow of having a family. Unaccompanied children do not have a natural relationship with their adoptive parents and only have a legal relationship, so that there is no confident between them, and this is one of the problems of adoption. Hence, jurists have tried to resolve the problem of the confident of adopted child through religious means such as Mosaharah (the marriage of couples with their relatives) and breastfeeding. But practically the problem remains in many cases; And because of the lack of confident and legislative affinity, the legislature has prescribed marriage of the guardian with the adopted child. This paper with analytic- descriptive methods ties to challenge this type of marriage because this kind of marriage according to the philosophy and the object of legislator in order to protect orphaned and abused children and adolescents, good morals, public order, not meeting the spiritual needs of children and adolescents, opposition to the purposes of Sharia and maintaining the privacy and dignity of the family, etc is not allowed as international conventions have not been accepted such marriage.

Keyword: adoption, guardian, marriage, confident, marriage with an adopted child, adoptive

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1. *Corresponding Author:* MA. in Law, Jurisprudence and Private Law Department, University of Motahari, Tehran, Iran
a.barani1990@gmail.com
 2. MA. in Law, Private Law Department, Islamic Azad University of Tehran, Tehran, Iran
z70.fallah@yahoo.com
 3. Ph.D. Student in Jurisprudence and Criminal Law Department, University of Motahari, Tehran, Iran
AbdullahMokhtari123@yahoo.com