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Illegitimate Children in Islam

Question

From the logical (*‘aqlī*) and Islamic legal (*shar‘ī*) perspective, why is it that children born out of wedlock (illegitimate children), despite the fact that they may be good people, are not allowed to lead congregational (*jamā‘at*) prayers?

Answer

The religious scholars (*‘ulemā*) and the Muslim jurists (*fuqahā’*) have stated that: “The individual who leads the congregational prayers must possess certain traits and characteristics, and one of these is that they must be from legitimate birth.”¹

¹ Ḥillī, Muḥaqqiq al-, *Sharāyī‘ al-Islam*, Printed in 1415 AH, Second Print, Ismā‘iliyān, p. 114, v. 1; *Al-Mukhtaṣir al-Nāfi‘*, Muḥaqqiq al-Ḥillī, Mu’assisa Maṭbū‘āt Dīnī, p. 47; *Tahrīr al-Wasīla*, Āyatullāh Khomeinī, v. 1, p. 274; *Tawḍhi al-Masā’il* of the grand scholars, ruling 1453, v. 1, p. 790.

In summary, we will mention some of the proofs for why this is the case.

1. **Consensus** (*ijmā'*)²: All of the scholars from the Shī'ā tradition have stated that the congregational prayer leader (*imām*) must be one from legitimate birth³ or in the minimal, it should not be obvious that such a person was from an illegitimate birth.⁴ Therefore, offering one's prayers (*ṣalāt*) behind someone, who a person is certain is from an illegitimate birth, is not permissible.⁵
2. **Precaution** (*iḥtiyāt*): Shaykh al-Ṭūsī رحمته الله, in his book, *al-Khilāf*, in his second position for the conditions required to be a congregational prayer leader states that one prerequisite is to be from legitimate birth, and has listed that this is based on precaution (*iḥtiyāt*).⁶ His meaning behind this precaution (*iḥtiyāt*) goes back to the jurisprudential principle of *al-Ishtighāl*⁷ which states that if a

² In the book, *al-Khilāf*, p. 121 in the section on the congregational prayers, the late Shaykh al-Ṭūsī رحمته الله states: لا يجوز امامة ولد الزنا و دليلنا اجماع الفرقة

³ Yazdī, Muḥammad Kādhim Ṭabā'ṭabā'ī, *al-'Urwah al-Wuthqā*, Maktaba al-Islamiyya Tehran, v. 1, p. 797, Section on the conditions for the congregational prayer leader.

⁴ Kho'eī, Sayyid Abū al-Qāsim Mūsawī, *Mustanad al-'Urwah al-Wuthqā*, Nāshir Luṭfi, Qum, 1412 AH, v. 5, p. 400; Muḥammad Ḥasan Najafī, *Jawāhir al-Kalām*, Dar al-Kutub al-Islamiyya Tehran, 7th Printing, 1435 AH, v. 13, p. 324.

⁵ *Mustanad al-'Urwah al-Wuthqā*, v. 5, p. 400; *Jawāhir al-Kalām*, v. 13, p. 324.

⁶ Ibid.

⁷ *The Principle of Precaution* is the principle that we must act according to precaution, which means that we must act in such a way that if a duty actually exists as a law, we have performed that duty.

Sometimes the Jurist remains unable to deduce the law of the Shari'ah and is unable to trace a particular necessity and remains in a state of doubt, and it might be that the doubt is linked to some general or broad knowledge like, for example, it is doubted whether, in this era of the physical absence of the infallible Imam, is it the special congregational prayer which is obligatory on Fridays or is it the normal

person has certainty concerning a specific juristic ruling - for example the *ṣalāt* being an obligation on that specific individual, and then that person has a doubt as to whether praying behind the prayer leader who is not from legitimate birth would negate the need to perform the *ṣalāt* or not, then in order to gain the level of certainty of the religious responsibility which one has at this stage (if the *ṣalāt* is required to be performed or not), when it comes to the leadership of the congregational prayers by one who is from illegitimate birth, one must practice precaution (*iḥtiyāt*) and not perform one's prayers behind such an individual [thus, the *ṣalāt*

noon prayer? Here, the obligation of both the Friday prayer and the noon prayer is in doubt, while we have the general information that one of the two is definitely obligatory - or it might be the doubt is not linked to some general knowledge, like a doubt as to whether, in the era of the infallible Imam's absence, the prayer of *ʿEid al-Fiṭr* in congregation is obligatory or not. In this second case our doubt is a "primary doubt" (*shak badwi*) and not a doubt bordering on something that is known.

Thus, the doubts of the Jurist about an obligation are either linked to some general knowledge or are primary doubts. If they are linked to some general knowledge, it is either possible to act in accordance to precaution, meaning that it is possible for both possible duties to be performed, or it is not possible to act in precaution. If precaution is possible, it must be acted in accordance with, and both of the possible duties must be performed, and such an instance calls for the *Principle of Precaution*. Sometimes, however, precaution is not possible, because the doubt is between an obligatory action and a forbidden action. We doubt, for example, in this period of the infallible Imam's absence, whether the performance of certain duties are particular to the Imam and forbidden for us or whether they are not particular to the Imam and are obligatory for us. Here it is self-evident that in such instances the way of precaution is closed, so here is an instance that calls for the *Principle of Option*, and we can do whichever of them we choose. (Extracted from: <https://www.al-islam.org/jurisprudence-and-its-principles-ayatullah-murtadha-mutahhari/principles-jurisprudence-usul-al-fiqh> - last accessed on December 12, 2017 - Tr.)

must still be performed, but it cannot be performed - based on precaution - behind someone who is of illegitimate birth].

3. We have multiple statements from Prophet Muḥammad ﷺ and his infallible successors ؑ which state that it is not permissible for an individual to perform the *ṣalāt* behind someone of illegitimate birth.
 - a. It has been narrated from Imām ‘Alī ؑ that he said: “Do not perform your prayers [behind a prayer leader] who is mentally unstable or one who is from an illegitimate birth.”⁸
 - b. It has also been narrated that Imām ‘Alī ؑ said: “There are six groups of individuals who do not possess the competency to be the leader of the congregational prayers: an individual who is of illegitimate birth; the one who has reneged and left Islam (*murtad*); one who has become an *a‘rābī* [an individual who has returned back to the ways of pre-Islamic ignorance – the era of *jāhiliyyah*] after having come into true Islam [known as *ta‘arub ba‘d al-hijra*]; one who drinks alcohol; the individual who has had the Islamic punishment meted out to him [due to a violation of the Islamic legal code]; and one who has not been circumcised.”⁹

⁸ The *ḥadīth*, found in *Wasā’il al-Shī‘a* of Shaykh Muḥammad b. Ḥasan al-Ḥurr al-‘Āmulī, 5th Edition, Printed by Maktaba al-Islamiyya Tehran, 1404 AH, v. 3, p. 397, trad. 10,785 from the Commander of the Faithful ؑ states:

لَا يُصَلِّيَنَّ أَحَدُكُمْ خَلْفَ الْمَجْنُونِ وَوَلَدًا الرِّثَا

⁹ The *ḥadīth* states:

مَعْرُوفٍ عَنْ أَبِي جَمِيلَةَ عَنْ سَعْدِ بْنِ طَرِيفٍ عَنِ الْأَصْبَغِ بْنِ بُنَاتَةَ قَالَ سَمِعْتُ أَمِيرَ الْمُؤْمِنِينَ ؑ يَقُولُ سَنَّهُ لَا يَنْبَغِي أَنْ يُؤْمُوا النَّاسَ وَوَلَدَ الرِّثَا وَ الْمُرْتَدُّ وَ الْأَعْرَابِيُّ بَعْدَ الْهَجْرَةِ وَ شَارِبُ الْخَمْرِ وَ الْمَحْدُودُ وَ الْأَعْلَفُ الْحَدِيثُ

- c. It has been narrated that Imam Muḥammad al-Bāqir عليه السلام said:
“There are five groups of people who are not permitted to be chosen as the leader for a congregational prayer ... one of them is a person who was of illegitimate birth.”¹⁰

As for the philosophy and wisdom behind why this juristic verdict exists, we state the following:

1. The word “*imām*” literally means “one who is followed” and someone who others are shadowing. It is an individual who, in all of his/her own personal actions, is a role-model for others.¹¹ In addition, the *imām* of a congregation (*jamā‘at*) is someone who the rest of the community take as their own role-model. It is for this reason that one who oversees this position must be an individual who has no blemishes [in his/her character and conduct] - although the individual did not do anything oneself to develop this [negative] mark [that is upon them].

To further explain this point, we state that the prohibition of taking on certain societal responsibilities and spiritual tasks such as a leader of the congregational prayers, being a point of reference in terms of Islamic jurisprudence (*marja‘iyyah/taqlīd*) and other positions whose details have been specified in some of the traditions,¹² for one who is of an illegitimate

¹⁰ *Man lā Yadhuruḥu al-Faqīh*, v. 1, p. 378.

¹¹ *Mufradāt Rāghib*, p. 20; *Ṣiḥāh al-Lughā*, v. 5, pg. 1,875; *Lisān al-‘Arab*, v. 12, pg. 26; *al-Munjid*, p. 17.

¹² A *ḥadīth*, mentioned in *Wasā’il al-Shī‘a*, v. 8, p. 321, states:

خَمْسَةٌ لَا يُؤْمُونَ النَّاسَ عَلَى كُلِّ حَالٍ وَ عَدَّ مِنْهُمْ الْمَجْنُونُ وَ وَكَدَ الزَّانَا

Also see *al-Kāfī*, v.3, p. 375; *Man lā Yadhuruḥu al-Faqīh*, v. 1, p. 378; *Tahdhīb al-Aḥkām*, v. 3, p. 26; *Al-Istibṣār*, v. 1, p. 422.

child - is due to the specific qualities that are required of such positions. However, this does not mean that such individuals will be deprived of salvation on the Day of Judgement!

For example, if a blind person cannot take on certain roles in society; or a person who suffers from extreme memory loss is not permitted to become a Judge - even though in their own personal lives, such people have not performed even the smallest of crimes or offenses - however as a person who wishes to be appointed as a Judge, they must possess a good memory [or someone who is blind needs to have perfect eye-sight to carry out certain positions], we must appreciate the fact that such people being banned from holding these positions has no correlation to their other worldly felicity or damnation.

Thus, the same can be said for one who is an illegitimate child - and the proof of this is that which is seen in the traditions in regards to the illegitimate child and them being mentioned alongside those who are mentally unstable, or those who suffer from leprosy and other human conditions - as no one can say that those who are mentally unstable or have leprosy or any other ailment are to be blamed for their own conditions.

2. From the societal point of view, those who are of illegitimate birth are looked at as having some type of flaw within them and are usually not spoken of in honourable terms [although it is not their fault for being born out of wedlock]. From one angle, the person born out of wedlock [whether we like it or not] is considered as being the consequence of a dishonourable union between a man and a woman. From another angle, all throughout history, [in many cases] illegitimate children have been shown to have a negative track record in their daily lives.

Therefore, it is clear that when it comes to taking on certain important roles [in society], it is imperative that the individual possesses such traits and characteristics which would ensure that the people are not driven away from such an individual – even if those traits are things which that individual had no choice in and were imposed upon him.

3. If it is said that, “What sin has such a person done that he is now deprived of reaching to certain positions?!” The response we offer to this question is: “The world of creation has been built upon the basis of certain causes and foundations.” For example, a person who is born blind is without a doubt, born that way due to certain genetically inherited traits or something in the physical environment which rendered them blind from birth. The same can be applied to anyone born with another type of birth defect. In most cases we can say that whatever the reasons were for them being born that way, they were all out of the scope of their own doing, and they did not have any way to interfere or change in their own outcome. We must realize that there are many causes which result in both the deficiencies and perfections which affect children at their birth and some of these have been mentioned in medical text books which are related to this subject. In addition, in Islam as well there are many regulations which have been mentioned to prevent a child from being born with types of physical deficiencies or other types of challenges – for example there are points mentioned in the relevant books in regards to the time and place of conception, what foods the mother should eat at the time of pregnancy, and other such issues [all of which have an impact on the growth and development of the fetus].

It has been mentioned in a *ḥadīth* from Imām al-Ṣādiq عليه السلام that he said:

الْمِمْرَازُ لَا يَطِيبُ إِلَّا سَبْعَةَ آبَاءٍ. وَ قِيلَ لَهُ: وَ أَيُّ شَيْءٍ الْمِمْرَازُ؟ فَقَالَ:
الرَّجُلُ يَكْتَسِبُ مَالًا مِنْ غَيْرِ حِلِّهِ

Al-Mimrāz is not spiritually purified [nor is it removed from a person's lineage] until seven generations pass.” It was asked of the Imām: “What is *al-Mimrāz*?” The Imām replied: “A person who gains illicit wealth [and through this unlawful wealth, marries lawfully however produces a child with wealth which was forbidden].¹³

In the specific section in books of *aḥādīth* which speak about the effects which impermissible food have on the spirit of an individual, there are numerous traditions and historical stories narrated which also speak about this issue [about a child which is produced and one of the parents had gained and used illicit wealth on something for themselves before conception of the child] – one of which is an interesting event that is related to Sharīkh b. ‘Abdullāh Nakha’ī.¹⁴

¹³ *Al-Kāfi*, v. 5, p. 225.

¹⁴ Sharīkh b. ‘Abdullāh Nakha’ī was from the Jurists (*fuqahā*) of the 10th century of the Islamic calendar and accepted the responsibility to be a Judge, and also a teacher for the children of Mahdī b. Manṣūr, the ‘Abbaside caliph.

He responded to the invitation by the caliph to go to Shām (the Levant) and to have a dinner with him and it was this same impermissible food which he ate [eating food prepared by the illegitimate caliph of the Muslims] that led him to both accepting the responsibility of being the Chief Judge in the unjust and oppressive ‘Abbaside government, and also to be a teacher for the children of Mahdī al-‘Abbāsī. Refer to *Muruj al-Dhahab*, v. 2, Section on the life of Mahdī al-‘Abbāsī. This story is also related in *Dastān-e Rastān* of Āyatullāh Murtaḍā Muṭahharī, v. 1, p. 129 and is noted below:

However it must be noted that absolutely none of the things which we have mentioned up until this point are the complete and final reason for why people born out of illegitimate relationships are not permitted to hold such positions.

By this we mean that: In no way are we saying that such a person is at a dead-end in their life and that someone who was born illegitimately has no

It was the during the rule of Mahdī b. Manṣūr - an 'Abbasid caliph. He wanted Sharīk b. 'Abdullāh to accept an appointment as a Judge because he was among the most learned and pious men. However Sharīk had declined the offer because he thought it was unwise to associate with an unjust ruler.

Then one day, the Caliph proposed to him to take up tutorship for his own sons. Again, Sharīk refused the proposal, trying to maintain his independence in spite of poverty and a meagre means of living.

Resorting to his usual tactic of intimidation, Mahdī summoned Sharīk to the Court and said: "I have three proposals, one of which you must accept: You either accept being the judge, tutorship of my children, or accept my invitation to have lunch with me today."

Sharīk thought the third option was the easiest and so he accepted the invitation.

The Caliph arranged for the most sumptuous meal to be prepared and when the lunch was laid, Sharīk found himself partaking in the most palatable food that he had ever tasted. He ate wholeheartedly and to his fill. As he finished eating, the butler whispered in the ear of the Caliph: "You have travelled to his head through his stomach!"

Within a few days, it was seen that Sharīk had assumed both being the judge, as well as the tutorship of the Caliph's sons. A substantial sum of money was allocated to him from the Public Treasury.

One day, when his stipend was delayed, he came to the manager of the Public Treasury, imploring him for his payment.

The manager was insolent and said: "Why do you beg and plead so much? Have you sold any wheat to me [that I should be paying you back immediately]?"

Sharīk replied: "I have sold something more valuable than that. I have sold my faith."

way to receive redemption because if this was the case, then the concept of a religious responsibility (*taklīf*) would have absolutely no meaning - whereas we see that a child born from illegitimate means is still accountable for following the roots (*uṣūl*) and branches (*furūʿ*) of the faith. Rather, as we have stated that it is the environmental circumstances which a person lives within, the rule of genetic inheritance and other such factors which play a huge role in determining the specific traits and actions [of an individual].

However at the same time, an individual has not been created to be compelled to perform a specific action, and this same human being who in each and every stage of one's life, is able to break free from the genetically and environmental traits and characteristics which one may have inherited, and walk on the correct path of life, and through such a life, one will be able to through acts of obedience earn a Divine reward, and [if one performs any sins], then one will get a punishment based on one's own acts of transgression.¹⁵

In reality, these types of religious rulings and in addition the traditions¹⁶ which are in the various books, are meant to express to us the abomination

¹⁵ Turkhān, Qāsim, *The Blaming and Rebuking of an Illegitimate Child Due to the Actions of their Parents and Forefathers*.

¹⁶ The text of the *ḥadīth* reads as follows:

عَنْ أَبِي عَبْدِ اللَّهِ عَلَيْهِ السَّلَامُ قَالَ قَالَ لَا تَغْتَسِلُ مِنَ الْبُئْرِ الَّتِي تَجْتَمِعُ فِيهَا غُسَالَةُ الْحَمَامِ فَإِنَّ فِيهَا غُسَالَةَ وَكِدِ الرَّثَا وَهُوَ لَا يَطْهَرُ إِلَى سَبْعَةِ آبَاءٍ وَ فِيهَا غُسَالَةُ النَّاصِبِ وَ هُوَ شَرُّهُمَا إِنَّ اللَّهَ لَمْ يَخْلُقْ خَلْقًا شَرًّا مِنَ الْكَلْبِ وَ إِنَّ النَّاصِبَ أَهْوَنُ عَلَى اللَّهِ مِنَ الْكَلْبِ قُلْتُ أَخْبِرْنِي عَنْ مَاءِ الْحَمَامِ يَغْتَسَلُ مِنْهُ الْجُنُبُ وَ الصَّبِيُّ وَ الْيَهُودِيُّ وَ النَّصْرَانِيُّ وَ الْمَجُوسِيُّ فَقَالَ إِنَّ مَاءَ الْحَمَامِ كَمَا تَنَهَّرُ يَطْهَرُ بَعْضُهُ بَعْضًا.

Abi ʿAbdillāh (Imam al-Ṣādiq (peace be upon him) has said:

of sexual relationships outside of the boundaries of marriage, and are meant to fight against the act of adultery from all angles; and one way is to reveal and explain the ugliness of this act within the society for all to see so that [through realizing the ramifications of their actions on the potential child which may come about through this illicit sexual encounter], the roots of this sin can be completely eliminated.



O Allāh! Send Your prayers upon Muḥammad and the family of Muḥammad!

Do not take a bath in the well where bath water (of others) is collected, for [it is possible that] in there, there is water in which there is a person who is from an illegitimate birth [who had taken a shower] and such an individual would not remain spiritually clean until seven generations [of his pass by in which there are no illegitimate children from his lineage]. In such a place [the well], there is also water which has been used by the *nāṣib* [they are individuals who claim to be Muslims however not only show hatred to the family of the Prophet Muḥammad, his Ahlulbayt, but also to their followers – the Shi‘a], and they, the *nāṣib*, are even worse than the person who is of illegitimate birth. Indeed Allah did not create any creation which is more evil than the dog and without a doubt, the *nāṣib* are even lesser in status than the dog in the sight of Allah.”

I [the narrator of this tradition] then said to Imam al-Ṣādiq ﷺ: “Inform me of the water of the public bath house which is used by the one who has become junub (a state of ritual impurity), the child, the Jew, the Christian and the Zoroastrian [can we use this water to bathe in?]”

The Imam replied: “Indeed the water of the public bath houses is just as the water of a flowing river – it cleans and purifies the other part.”