175523 - If the zaani (fornicator) admits to paternity of his illegitimate child, should the child be attributed to him?

the question

My father accepted Islam before my birth but my claims he did not have the correct understanding of the deen and was not practicing, him and my mother were not married nor was my mother Muslim when they had me so I was born as a result of zina. My question is that since my father recognizes me as his child and he is the only male muslim in my family does that make him my wali? And if not is the choice mines to appoint whom I like to handle my affairs?.

Detailed answer

Praise be to Allah.

If the zaani acknowledges and admits paternity of his illegitimate child, should the child be attributed to him and regarded as a legitimate child of his, with all the attendant rulings on parents and offspring, or not?

There is a difference of opinion among the scholars concerning this issue.

The majority of scholars are of the view that the illegitimate child is not to be attributed to the zaani, even if he acknowledges him and wants to attribute the child to himself; rather the child is to be attributed to his mother only.

Some of the scholars are of the view that if the zaani wants to attribute his illegitimate child to himself, then the child should be attributed to him. This is also the view of some of the salaf (early generations) and was narrated from Imam Abu Haneefah.

This difference of opinion has been discussed previously in the answer to question no. 33591

The view that the illegitimate child is to be attributed to the zaani if he wants to acknowledge him and if the mother was not married to any other man, is more correct, and Allah knows best. It was

the view favoured by Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) and his student Ibn al-Qayyim. See: al-Ikhtiyaaraat al-Fiqhiyyah (p. 477) and Zaad al-Ma‘aad (5/374).

Ad-Daarimi narrated in his Sunan (3106) that Sulaymaan ibn Yasaar said: If a man claims that a boy is his son and that he committed zina with his mother, and no one else claims that boy as his, then he may inherit from him.

Ibn al-Qayyim said: Rationally speaking, the father is one of the two parties involved in the act (of zina), and as the child is attributed to his mother and she may inherit from him and he may inherit from her, and the blood relationship is established between him and the mother’s relatives, even though she bore him as the result of zina and the child was the product of the water of both parties and they both agreed that he is their child, why shouldn’t the child be attributed to him if there is no other man who claims to be this child’s father. This is based purely on rational thinking.

End quote from Zaad al-Ma‘aad, 5/374

Based on this opinion, your father is your shar‘i guardian and in that case you do not need to choose someone else to be in charge of your affairs when he is still present.

And Allah knows best.