

The child of a non Muslim Mistress

Q: Janaa'iz-20: A man committed adultery with a non-Muslim mistress and the child they had passed away in his house. Will Janaazah salaah be performed for the child and will the child be buried in a Muslim graveyard or will it be necessary to hand the child over to the non-Muslims for burial?

Answer: There exists a difference of opinion in this matter. According to the research of Aliaama Ibnul Aabideen RAH. (author of Shaami), such a child will be treated as the (biological) father is treated and will therefore be regarded as a Muslim. The Janaazah salaah will be performed because according to the Hadith of Rasulullaah SAW. every child is born a Muslim. It is seen that in the Hanafi Madh'hab, the daughter of an adulterer is Haraam for him to marry and he may also not give zakaah to his illegitimate child. Furthermore, the testimony of an illegitimate child in favour of his/her father will not be admissible in court. Since the paternity of the father is taken into consideration in all of the above cases. the same consideration will be taken into account in this case of the Janaazah salaah as well. However, it is with? vision to discouraging adultery that paternity is not considered in the case of illegitimacy when it comes to inheritance and maintenance.

This is substantiated by a narration from Ibn Shahaab Zuhri RAH. quoted in Bukhaari. In the light of the above, it is clear that the Janaazah salaah will be performed for the child in question, that he will be buried in a Muslim graveyard and that his body will not be handed over to the non-Muslims. And Allaah knows best what is most correct.

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