

Guardianship and Adoption in Ferdowsi's "Shahnameh": A Legal and Social Analysis in Comparison with International Standards

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Abstract

The legal culture of citizens is one of the fundamental factors in strengthening the foundations of family life and the development of modern society, which has been the subject of research and investigation up to the present day. Guardianship and adoption are two legal terms and institutions. In this context, while the concept of guardianship in the case of adoption encompasses additional meanings, it can be viewed as a form of childcare, where the relationship between the parents and the child is established through legal and social frameworks between individuals who have no biological connection. In this regard, a third person is referred to as an adoptive parent, the legal guardians, and the biological parents of the child. The adoption of orphaned children has historically been a common and established practice in human societies. The ancestors of the Tajik people, particularly the Zoroastrians, considered an adopted child to be equivalent to a biological child, and this practice held a special place, governed by particular customs and conditions. According to this, an adopted child was entitled to all the material and moral rights of a biological children, including the "right to inheritance," and therefore, the adoption process was subject to strict regulations.

Keywords: orphaned child, adoption, guardianship, Convention on the Rights of the Child, Ferdowsi's "Shahnameh", parents.

An orphan child – is the one, who, because of limited reasons or deprive of both parents, only father or mother of their parental rights, or is declared missing, or passed away, or is declared incompetent (incapable), or is in places of restricted freedom, evade parents in bringing up a child, protect of his rights and profits especially in cases of being abandoned in educational, upbringing and medical establishments, or in other case of abandonments [3].

Adoption and guardianship are two terms of legal entities that mean child adoption, where the relationship between parents and the child is compulsory and social relations are established between people who are not related to each other by birth [7, p. 9].

In this article, we have researched the legal questions of adoption and guardianship in Hakim Ferdowsi Tusis's "Shahnameh", particularly the orphan children mentioned in his literary work and have studied it from this point.

1. What are the most important and effective factors of adoption and guardianship in "Shahnameh"? 2. What aspects of the adopted children are stressed and what aspects are not expounded by the author? 3. What are most common views described in the Convention on the rights of the child and Ferdowsi's "Shahnameh"? The problem of adoption is one of the problems that are marked in many literary works, however we can say that even in classic and modern literature there was no research on this question. Here is, we have studied the "Shahnameh's" children due to jurisprudence and pointed out some crucial of them: 1. The problem of the adoption and guardianship in "Shahnameh". 2. The figure of the child in

Ferdowsi's "Shahnameh" 3. Consideration of the place of child in the Persian literary works of late seventh hijri century. 4. The problem of adoption in the Convention on the rights of the child (1989y) and its comparison with the Tajik state law of Protection of Children's rights (2018y).

Guardianship and Adoption of children in the "Shahnameh"

Adoption and guardianship in "Shahnameh" is an initiative on protection of children, who because of the poverty of parents are deprived of the family and need to be guarded by others until their physical and mental majority. Meanwhile, the 7th article of the "Convention on the Rights of the Child" claims, that supplement and protection of the child is parents' duty and this statement is discussed in "Shahnameh", of course except Mehraki Nushzod's daughter others have got father and mother, or at least one of them. In this article, we have divided the children into 3 groups: 1. The guarded children that are given under the control of the family and relatives: for example Faridun, Kaykhusrav, Shaghod, Siyovush and Bahromi Gur. 2. The adopted children, that don't know about their own identity, but are taken away of life blessing by the family, for example Mehraki Nushzod's daughter. As well, in this article we mentioned carelessness or negligence of some parents and relatives in Shahnameh:

Here, one point should be mentioned, that adoption and guardianship in "Shahnameh", except one case, is described about boys and girls are out of adoption. The only case of girl adoption – Mehrak is given to the head of the village.

Bring me a young lamb to nourish and care,

Then place the seed of destiny in my trembling hand, to bear [4, c. 209].

Perhaps Ferdowsi's lack of attention to the issue of accepting girls for adoption or guardianship in the "Shahnameh" stems from the influence of Islamic thought and perspective that prevailed at the time. Although, during the Sassanian period, in the Mazdean tradition, girls were also accepted for adoption.

We should point out that children in "Shahnameh" are adopted not only by human kinds, also in some cases even animals and mythological creatures play an important role, from the cow, that was Faridun's nurse, to Simurgh – the most wonderful creature in "Shahnameh" that brought Zal up, serving him during all period of his life even when his son Rustam was born. Nevertheless, wise thought, that giving a child to adoption was held because of economic difficulties in the family or having no own children. In "Shahnameh" we face this truth that Ferdowsi doesn't express these factors as the reasons for leaving children, but wrong thinking, poverty at that time and political suppress that cause "power protection" "fortune telling and prediction" "disgrace and shame" and "absence of father's competency". Fariduni Kaykhusrav and Dorob were the boys, who were separated from the family, when they had tried to defend the power of such kings as Zakhoki Afrosiyob and Humoy. Shaghad was also a child, who was aware of his fate and planned in future to destroy Iran and Som's dynasty. His behavior made his father to be in an inevitable situation. To Siyovush's fortune, Kaykovus felt into such condition, that accepted Rustam's assumption.

The power and influence of reputation and shame in the "Shahnameh" cannot be ignored. How often do children like Zal, who, solely due to their albinism, are subjected to the cruelty of their families? This genetic anomaly, known today in medical science as albinism, represents a societal stigma directed towards such children. In the past, due to a lack of understanding, there was a prevailing negative view of such individuals in society. These children were sometimes seen as the offspring of Ahriman, and thus, were considered impure and cursed. As Som states:

What can I say, this child is a demon,
A creature of two colors, though he is born of a noble lineage.
[4, p. 166].

The absence of the father's moral authority is another factor that leads to the child being entrusted to another for guardianship. Elders, deeply concerned about the potential negative influence of a bad father on the child after Bahram's birth, were convinced:

This little child will not inherit his father's nature,
He will become a king of justice.' [4, p. 364].

If we consider the content of the Convention on the Rights of the Child and compare it with the legal status of children under guardianship or adoption in the "Shahnameh", we can observe the following similarities:"

Guardian's competency

The material and spiritual right of the child is the guardians' competency and choosing of him is significant in the question of child's rights. As it mentioned on the third point of the 7th article of the Convention on the Rights of the Child: "Guarantee in the child adoption by the competent people is a form of guardianship and beware of the child" Ferdowsi also paid much

attention to this point, so that in most cases he tried to rank the internal condition and the future of such children to the influence of the guardians.

Faridun is the first child to be placed under the guardianship of another. To protect her son, Faranak entrusts him for three years to the care of a shepherd, who watches over a cow that gives milk. Ferdowsi does not elaborate on the identity of this individual, but Faranak's full trust in him is made clear by Ferdowsi's use of the term "as father", a word that reflects the guardian's virtuous nature, character, and his suitability for raising Faridun:

For three years, the "fatherly" one gave him milk from the cow,
A guardian of wisdom, vigilant and wise." [4, p. 63].

Faranak's subsequent choice for her son's guardian, now three years old, is a wise elder who lives atop a mountain. The suitability of this man is revealed through Ferdowsi's use of the term "mardi dini" (religious man), and his dwelling is described as being on Alburzkuh [11, 373]. The poet places him atop the mountain not only because of the purity of this location but also to affirm the moral and spiritual authority of Faridun's teacher. In ancient times, mountains were regarded as sacred places of worship for the divine and ascetics, symbolizing a realm of higher vision and divine insight. As the scholar Karshi states, "In ancient Hindu and Iranian societies, mountains were considered comparable to plants in terms of vitality and knowledge... The purity of the mountain and its sacredness is reflected in Firdausi's "Shahnameh" as well" [6, 164-165]. On the other hand, it can be said that the "religious man" represents the embodiment of the wise elder, or "philosopher," who historically serves as a mentor and a source of knowledge.

According to this occasion we come to know, that Ferdowsi hasn't informed much about that "religious man", but he has marked his character as a competent teacher of Faridun. The influence of these two features the nurse-cow and the wise man made Faridun the fair king with pure soul.

Alternatively, the Simurgh, too, plays a distinctive role in the "Shahnameh", where it manifests as a guardian, even a mother, beautifully embodying this role. This legendary and sacred bird possesses a "feminine" aspect [10, 41]. The care and nurturing of Zal in the mountains, alongside its chicks, reflects the maternal, motherly nature of this sacred Iranian bird. The Simurgh, in turn, imparts its own motherly essence, as it conveys:

Under your wings, I have been nurtured,
Moreover, your children I have brought into the world [5, p. 172].

Thus, since Zal is under the guardianship of a divine and spiritual being such as the Simurgh, throughout the "Shahnameh", he emerges as a loyal companion to kings and heroes in critical moments, perhaps this is why Ferdowsi refrains from depicting Zal's death, intending to portray the Simurgh's offspring as unique and extraordinary, much as Zal himself is represented as a figure of remarkable stature. Even in the tale of "Siavash" within the "Shahnameh" we find Rustam the hero taking on the role of a protector.

In this regard, Rustam requests the guardianship of Siavash directly from Kaykavus, the child's father:

He said to him, this tender child,
Must be nurtured by me, for I am his protector.

Your own means cannot provide for him,
I shall be the one to raise him, for no one else can. [5, p. 207].

In analyzing this thought, it can be said that Rustam, after the death of Suhrab, feels an inner need for emotional comfort, perhaps as a means to heal the wound in his heart. Rustam's proficiency in nurturing Siyavush becomes evident as Siyavush receives abundant love and affection from him and his family, and scholars have referred to him as the "witness of the Shahnameh."

Ferdowsi in "Shahnameh" described the character of Shaghod as a nasty boy and the reason of it was his being adopted by an evil man-the king of Kobul. It shows the absence of competency and immoral nature of the guardian. Nevertheless, the king of Kobul tried a lot for physical education of Shaghod. The poem below proves this fact:

You arrived, like a breeze anew,
For no star shone above you, nor was there any reproach [4, p.443].

Thus, in "Shahnameh" there are a lot of arguments, that prove the competency of the guardians towards adopted children. For example, Kaykhusrav's guardianship by a shepherd, Mehraki Nushzod's guardianship by the "wise man" or "head of the village", who at least married him, Dorob's guardianship by Gozar and his wife, show, that Ferdowsi has paid much attention to this question, because it has not only educational characteristics also provision for better life.

The question of food security, particularly healthy nourishment, for children under guardianship or care in the "Shahnameh" is harmoniously aligned with the essence and spirit of the Convention on the Rights of the Child. At times, this theme is portrayed through symbolic forms or mythological imagery, imbued with artistic expression. In the "Shahnameh", the first child whose nutrition is compromised by scarcity is Faridun, the son of Abitan and Faranak. He is separated from the loving embrace of his wise and compassionate mother, driven by the fear of Zahhak's cruelty, and is forced to suckle from a cow's milk:

The same cow, known as Barmoya,

Among cows, it held the highest rank [4, c. 62].
Yet, no child in the "Shahnameh", not even Zal, faces a true deprivation of nourishment. Ferdowsi speaks clearly on this matter:

From the earth's pure grains and the nurse's care,
His body free from rags, his lips untouched by milk [4, c. 167].

Simurgh, a symbolic representation of the ideal mother, nourishes Zal with the blood of a delicately chosen hunting prey: The hunt, chosen with great care,
Fed him until it reached his lips [4, c. 167].

Kaykhusrav also was one of those children, who on the admonition of his grandfather Afrosiyob was separated from his mother from the birth and had been sent to a shepherd. The poet noted that a nurse was sent with them to look after the child: The shepherds were granted much,
And with him, a nurse was sent as well [4, p368]

However, Kaykhusrav appealed Afrosiyob, because of being away from mother's care, he remembered that period of his childhood and said, that he was fed with goat's milk:

We sent him to the shepherd,
And fed with goat's milk [4, p.249].

Thus, the question of food supplement of adopted children in "Shahnameh" can be understood from various verses. For example, food supplement of Dorob is described in the distich below:

She gave him quickly the sweet pistons of milk,
And the child rejoiced, his heart filled with delight [4, p 492].
Or in the situation of Bahromi Gur, the given distich proves, that he has been fed by four nurses:
Two Arabians, two peasants of Kayanian,
Tied up their girdles for nursing [4, p.367].

The analyses presented provide evidence that, due to the previously mentioned social, political, and cultural factors, the role of mothers in breastfeeding these children has been obscured.

One of the main questions of the child's right is the protection of his individuality and family identity. Right for individuality is one of the rights, that is noted in the Convention on the rights of the child.

According to the provisions of the Constitution of the Republic of Tajikistan, the rights of every individual and citizen of the country are protected by the state, with guarantees for their rights and freedoms, including the inviolability of personal identity and freedom [1]. In Articles 7th and 8th of the Convention on the Rights of the Child, of which the Republic of Tajikistan is also a member, the protection of identity, including nationality, name and family surname, is established by law and without interference [2].

Father's and grandfather's names were important in identifying a person in the tradition of our ancestors. This point is also mentioned in Ferdowsi's "Shahnameh". For example, it is shown in the process of life of such children like Faridun, who hasn't seen his father from birth.

According to Ferdowsi, after reaching the age of sixteen (or two eights), Faridun returns to his mother and wishes to reveal his identity to her. Similarly, Zal, while under the care of Simurgh, remains unaware of his own identity until, following a dream of Som, Simurgh, in accordance with her duty, reveals his lineage. Shaghad is one of those children whose identity and the names of his parents are known, but because his mother is a slave-born, the people around him are not entirely convinced of his association with Zal. Dorab, the son of Humay, who is raised in the household of Gozar, after reaching maturity, begins to feel numerous contradictions and discomforts within himself regarding his ties to this family. This causes him to become increasingly curious, and he asks Gozar to reveal his true identity. However, receiving no satisfying answer, he grows angry in Gozar's absence and forces his wife to divulge the truth. If I am to be, what use is a pearl?

What purpose do I serve near Gozar, by his side? [4, p. 496]

By these arguments Ferdowsi expresses the right of the child for own identity and original background, and in case of not providing it, it would have bad consequences, as in the example of Dorob:

Locked Doro the door with anger,
Took out his sword in danger [4, p.496]

One of the main human rights, especially children's is the right for ethical and spiritual education. The specifics of child adoption are numerous, but one of the most important of them is education. Because the base of the self-personality is formed in the childhood and it impresses his further life. The Convention on the rights of the child also notes this question and claims about adopted children: 1. Aware of food and clothes supplement in the childhood; (introduction) 2. Full and complete development of the child's personality around the family. (in the 6th article); 3. Reinforcement and development of the person, his talent, his physical and mental ability (in the 29th article); 4. Aware of traditions and culture of the ancestors during the education (in the 29th article); 5. To prepare the child to the life in the free society and in the sense of peace and unity. (in the 29th article) [2].

This point is also mentioned in Ferdowsi's "Shahnameh". For example, Faridun's education by his mother is shown completely. So, four important points of this education are noted: 1. Being fed with milk of the holy Auro-cow; 2. Being brought up in the natural world; 3. Having a wise guardian; 4. Inhabitation on the mountains;

Another case, Zal, who was guarded by Simurgh. However Ferdowsi's didn't mention his education, Zal's spiritual and ethical education had been proved. Because he was on the right way as Simurgh. Or in the case of Siyovush's guardianship by Rustam we can also notice the process of education:

He learned the arts, though burdened with toil,
Endured much sorrow and emerged with skill [4.p.208]

That why, Siyovush's parting from the family assisted for his life skills and physical education. So, Ferdowsi paid much attention to the education of the children especially, those who were adopted or guarded.

For example, about the Dorob's education Ferdowsi emphasized that he hadn't got his primary education by his assumed father Gozar and himself asked him to pay attention to his education, as it had been laid in his family genetics. Also, Dorob insisted to be taught by teachers:

Give me to the educated men first,
To learn to work at least[9.p.162].

Here should be mentioned, that Ferdowsi in his masterpieces "Shahnameh" also reminds about the child's right for being free in returning to his family or in restoring connections with them.

Since all the children adopted in the "Shahnameh", except for the daughter of Mehrak and Nushzad, either had both parents and at least one of them, the right of these children to freely choose their connection with their biological families is more prominently discussed. This issue is also addressed in the Convention on the Rights of the Child, which designates it as "the reunification of family members" and formally recognizes the child's right to maintain personal and direct contact with their biological family.

This point is observed by all guardian in "Shahnameh" as it is the children's requests. Simurgh suggests Zal to return in order to be aware of his identity. Also Rustam after Siyovush had asked him to bring him to his father uninterruptedly did so, or Mahzar brought Bahrom to Iran when he had asked:

I rose to fulfill my father's wish,
As I became steadfast, my heart awakened [6, p.79].

Although most of the guardians do their duties well, the very parents and relatives of the child are poor and short-armed. We have witnessed the bitter truth, that in "Shahnameh" the poor children being left alone, are deprived by the family's protection and care. To such an extent, these children can't bear the separation and eager to meet. Ferdowsi's mention about Kaykovus's meeting with Siyovush proves this truth:

"Thus, in astonishment, he remained with him,
And many great praises were sung for him."4, p209]

Although most guardians fulfill their duties well in this regard, it is the parents and close relatives of the child who often fall short. In the "Shahnameh", we witness this harsh reality, where orphaned children, after being left to their own devices, are seemingly abandoned by their families, deprived of attention and support until the end of their childhood years. These are the children who, despite being separated, long for connection and yearn for reunion. Ferdowsi's reference to the meeting between Kaykovus and Siyavush reflects this truth:

So astonished, he remained in fear,
Many of the great ones called out in awe [4, c. 209].

Conclusion: having researched this problem, we can summarize, that adoption and guardianship in "Shahnameh" is generally started from the mammal period of the childhood. Most of the children are adopted in order to overcome the poverty, their education and provision of their profits, because of social, political and cultural reasons. Also we have researched the interpretation of the material and spiritual rights, as right for life, social protection, right for freedom and choice etc. The future of the adopted and guarded children in "Shahnameh" surpasses the guardians' availability over the family and relatives. In the same way, the guardians in this literary work do their duties well, but we also have noticed some carelessness of the families and relatives. Additionally, in this work, the guardians fulfill their duties well, but we also witness the mistakes of certain families and relatives of these children.

Here should be mentioned, that the analyzed questions are legalized in the Convention on the rights of the child, current legislations of the Tajik Republic, particularly the Law of the Republic of Tajikistan "On protection of the rights of the child". It is important and urgent for researching, especially in "Shahnameh" the masterpiece of the genius poet of the Tajik and Persian literature Hakim Ferdowsii Tusi. The distinguishing part of the poet's teaching is that he emphasizes the spiritual rights of the child as the main and crucial point, however this problem has not been completely solved in the Convention on the rights of the child.

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