

Press Release

Supreme Court Ruling Rewards Adultery (Evil) in Equal Terms to Marriage

The Supreme Court has ruled that children born out of wedlock to Muslim fathers are entitled to inherit from their father's estate, marking a significant development in the interpretation of Islamic personal law in Kenya. This is after the apex court on Monday, 30th June, dismissed an appeal by Fatuma Athman Abud Faraj, who had sought to exclude the children of her late husband, Salim Juma Hakeem Kitendo, from his estate on grounds that they were born outside a recognized Islamic marriage

In this regard Hizb ut Tahrir / Kenya wishes to expound the following:

Kenya being a secular state, the ruling is not a surprise at all, since secularism— a Western creed that entails separation of state and religion hence gives man an absolute sovereignty. In this context, the court of apex is not a moral institution, rather upholds secular-liberal ideas and values. Rewarding children born out of wedlock, in other words rewarding adultery (evil) in equal terms to the marriage institution is a creedal manifestation of secularism that glorifies personal freedom over morality.

The anchoring and the protection of “rights” of children born-out of wedlock are only a part of an intense campaign being waged by major Western powers against Islam. Legal assurance and propaganda are being carried out in all layers of society to normalize adultery thus raising the number of abandoned children left to the street has become a menace in urban centers. Notably, street children in Kenya face a multitude of burdens, including poverty, lack of access to basic needs, health problems, and vulnerability to various forms of abuse and exploitation. However, these challenges are exacerbated by family failure in undertaking its full responsibility compounded in the state negligence and absence in looking after affairs of the people.

In contrary, Islam demands looking after affairs of children upon the family members and the state likewise. As for inheritance, Islam rewards children born only in wedlock to inherit while those born out of wedlock and destitute children upon the state: The Prophet (saw) said: «أنا أولى بالمؤمنين من أنفسهم، مَنْ تَرَكَ مَالًا فَلِأَهْلِهِ، وَمَنْ تَرَكَ دَيْنًا أَوْ ضِيَاعًا، فَالِيَّ، وَعَلَيَّ» **“I am more closer to the believers than their own selves, so whoever (among them) dies leaving some inheritance, his inheritance will be given to his 'Asaba, and whoever dies leaving a debt or dependents or destitute children, then I am their supporter.”**

Finally, we urge Muslims not to be oblivion on this matter as it is part and parcel of global war on Islam. This ruling will be taken as precedent in other judicial institutions across the world to undermine inheritance law in Islam. We therefore, call upon all Muslims of influence in Kenya including Muslim legal fraternity and those in political positions to rise above the occasion in defending Islam.

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