

Adopted Children and Their Relationship with Legacy: Perspectives of Ulama and KHI

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Abstract

Raising children in Islam is mandatory, the right to care for children has a degree based on the benefit of the child. Starting from the mother and the immediate family of the mother, then the father's family according to the order of inheritance rights or the person given the mandate to maintain it. Today many children are cared for by non-biological parents, the problem is that most of them adopt equate children with biological children in terms of lineage, inheritance, mahram, and guardianship. This paper examines adopted children and their relationship with inheritance in Islamic law. The study employs an empirical juridist approach. The result of this research is that adopted children do not inherit assets from their adoptive parents, and vice versa. Adopted children can get the inheritance of their adoptive parents from the will or grant, and vice versa. The maximum amount of wills is 1/3 of the assets left if the deceased has an heir. If the deceased does not have an heir, it can be completely inherited.

Keywords: *inheritance, adopted children, KHI*

Introduction

Among the problems related to family matters that are being studied and researched in several Islamic societies, including in Indonesian society, is the problem of adopted children, which is a social problem that exists in reality and needs to be found for a solution. In Arabic, an adopted child is called *tabanna* (تبنى) or in the Qur'an the word أَدْعَاء (ad- iya'i) is the plural form of دَعَى (As-Shobuni, 1981), which is taken from the word اِدْعَى which means to confess. Adopted children during the Jahiliyyah era meant that someone was assigned to their adoptive father, not their biological father. Nowadays, adoption is defined as a process in which someone gives or transfers all the rights and responsibilities of the original parent to another person, we can find this understanding in the western world today. This process requires social recognition, whether from law or religion, so that it is fairer and avoids greater harm. In reality, several communities have done this customary law. In adopting children, there are those who adopt them through informal methods, such as verbally, through handwriting, or selling them for adoption. However, in the 20th century, the adoption process has become something that is regulated by law and must go through the courts.

Long before modern law was formed, Islamic law has cared for children, protecting their rights and guaranteeing their happiness, protecting them from damage and exploitation, and preparing children for a legitimate life, namely through their father's lineage, in order to save this child from ruining his life. After that, children have the right to obtain custody and guardianship. When the child grows up weak and unable to earn a living, he needs other rights such as the right to education, protection and guidance, and provisions for managing money.

The Law of the Most Wise has guarded the lineage and has regulated it, and has established its rules and regulations, to protect it from harm or exploitation, and chaos. As Allah SWT says in QS Al- Furqan verse 54 *"And He (also) created man from water then made him (have) offspring and mushaharah (kinship) and is your Almighty God. 'Children, through adoptive parents can find love, compassion and tenderness to ensure good care for them, so a set of provisions is needed that form a fence so that it cannot be penetrated and protects them from oppression and exploitation, and ensures that it can protect them from destruction. Therefore, Islam in protecting descendants only provides two accesses to obtain lineages, namely first; through marriage which makes the lineage clear and consistent in maintaining the dignity of the Children of Adam, namely coming into contact with women through a marriage contract, and he does not indulge his desires and does not accept the desires of many people. Second; through adultery (Usamah, 2021).*

Nasab is one of the strong foundations in supporting the establishment of a family, because lineage binds family members by blood ties. Maintaining one's lineage is one of the five *maqashids of sharia*. Without lineage, a family's ties will easily be destroyed and broken, therefore lineage is a great gift from Allah SWT. Therefore, Islam strictly forbids parents denying their own child's lineage, Sharia strictly prohibits parents denying their own child, and vice versa. As in the Hadith from Rasulullah Sallallahu Alaihi Wa Sallam, he said, *"any woman who adds someone to a family but is not actually a member of that family, Allah will not put her into heaven. and any man who denies his own child even though he knows it will be hindered by Allah on the Day of Resurrection, and Allah will humiliate him in front of many people* (HR. Abu Dawud, An- Nasa'i, Ibn Majah, Ibn Hibban, and al Hakim from Abu Hurairah)."

Lineage is one of the rights of children in Islamic law, because it is one of the most important goals and interests regulated by law in marriage, birth and descent contracts. Nasab is the child's first right, with which he defends himself from humiliation and exclusion. This is also a right for parents, with which the father protects his child from being seen as neglecting his obligations. Otherwise, society will bring shame and accusations to him (Shalabi, 1983).

Apart from that, sharia also prohibits a child from claiming that someone else is his father even though he is not the father. As the hadith of the Prophet SAW said, *"Anyone who claims to be a father other than his own, even though he knows, it is forbidden for him to enter heaven* (HR. Ahmad, Bukhari, Muslim, Abu Dawud, and Ibn Majah from Sa'ad bin Abi Waqash and Abu Bakrah). Then where is the position of adopted children in family relationships and is it halal or haram to adopt children if you look at the existing customs in Indonesia, as well as how the inheritance of adopted children is distributed in practice in society and Islamic law. This question is the main aim and reason for preparing this paper assignment, where later we will clarify the habits of society by positioning Islamic law in it. Then we can explain how Islam offers the right alternative and solution to this social problem. This theme led the researcher to explain a little about the right to care for children (*hadhonah*) in Islamic law to complete the picture about the importance of paying attention to children, so that it becomes clear and complete for every reader.

Research methods

This study employs a combined normative and empirical legal research methodology. The normative aspect uses library research methods to analyze legal texts and principles, while the empirical aspect involves collecting primary data through observations and interviews with relevant stakeholders. The approach taken includes

both conceptual and legislative analysis to understand the theoretical underpinnings and statutory regulations, alongside an empirical approach to see how these laws are implemented in practice. The primary legal materials consist of fiqh books, which provide foundational Islamic legal principles and interpretations, while secondary legal materials include journals, articles, and other related literature offering supplementary insights and contemporary perspectives. The empirical data is gathered from interviews with parents, children, and religious leaders, as well as observations of community practices. Data analysis is conducted through qualitative methods, interpreting and correlating both normative legal texts and empirical data to provide a comprehensive understanding of the legal norms and their application in real-world contexts.

Results and Discussion

The Reality of Adoption Today

If we talk about the current reality in the adoption process of adopted children, there are at least two types of child adoption models, namely *first*: adopt a child by transferring all rights and obligations from the biological father to the adoptive father, including the transfer of lineage, guardianship, inheritance, mahram, and so on. *second*: adopting a child by transferring custody rights (education, living, etc.) from biological parents to adoptive parents without transferring lineage, guardianship, mahram and inheritance. Many Indonesians do not know the provisions for adopted children according to Islamic law. So treat adopted children as your own biological children. Sometimes to protect the feelings of adopted children, many words and practices are exaggerated. However, Allah strictly forbids excessive actions.

Reasons why a husband and wife adopt a child, namely *first*: they have been married for a long time but do not have children. *Second*: helping children whose parents live alone or because their biological parents cannot afford it. Couples who have no children other than adopted children usually prioritize their adopted children in terms of inheritance and even say they will give away all their assets. By saying “*whatever happens, the child is still my child, and I will give him all my assets*.” (Interview, 2022)” Adoptive parents argue that the property they have sought and collected is for their child, so when they die, the child will inherit it. If the adoptive parents then have biological children, then their assets will be divided equally. Regarding the issue of marriage guardians, adopted children who are related to their adoptive father are usually guardians themselves, while adopted children who are distantly related usually use a guardian judge, there are also those who are determined to make themselves guardian judges because they are to protect the feelings of their adopted child or hide the child's status.

Adopted children often receive hurtful words regarding themselves, and that hurts more than any other words. For an adopted child to become an adopted child is something that is undesirable. If they could choose, they would prefer to live with their biological parents. Therefore, when the adopted child is mumayyiz or 7 years old, it is best to be introduced to his biological family. This is to prevent bad words from happening to the child.

The method used in adopting children in society is based on custom and through a court order. Adopting a child through community customs is usually more of a family affair, that is, only the adoptive family and biological family are involved, there are no

witnesses or reports to community leaders. This is also usually known by local people and is considered normal. The adopted child is included in the Family Card and has a Birth Certificate. The ease of making birth certificates and family cards regarding the status of children in the family has increased the number of cases of adopted children like this.

In our society, it is common for children to be adopted without going through a court decision mechanism. With the motive for adopting a child as mentioned above, the adoptive parents immediately look after, care for and take over their responsibilities as parents without going through the procedures as regulated in the statutory provisions. There are even those who register their adopted child in the Family Card as a "child" with the names of the adoptive father and mother listed in the column for the names of the father and mother, and then the adopted child is issued a birth certificate as the biological child of his or her adoptive parents. In this way, there has been manipulation of population data which of course is contrary to Law No. 24 of 2013 concerning Amendments to Law Number 23 of 2006 concerning Population Administration, especially article 94 which states that anyone who manipulates elements of population data is threatened with imprisonment for a maximum of 6 (six) years and/or a fine of a maximum of Rp. 75,000,000,-.

Many parties may have contributed to the issuance of Family Cards and Birth Certificates with inappropriate data. Based on existing provisions, additions to family members due to birth events on the Family Card must be based on a Birth Certificate made by the birth attendant, both medical and non-medical. In this case, it is hoped that the issuer of the Birth Certificate will include correct data, especially the names of the baby's parents. Don't list the names of the adoptive parents as the baby's biological parents.

For the issuance of a child's birth certificate, currently procedures have been simplified through Minister of Home Affairs Regulation Number 9 of 2016, where the applicant does not need to attach an RT introduction and a Birth Certificate from the Village Head when processing the birth certificate. In fact, the Minister of Home Affairs Regulation also regulates that if the requirements for a Birth Certificate from a birth attendant are not available, then the applicant can fill out a Statement of Absolute Responsibility (SPTJM). Birth data filled in and signed by the parent/guardian/person in charge of the child with the knowledge of 2 (two) witnesses. The basic data contained in the SPTJM include: name and NIK, place and date of birth of the child, order of birth of the child, and name of the biological mother. The correctness of the data in the SPTJM is entirely the responsibility of the statement maker. However, the convenience of the SPTJM is sometimes misused by individuals by filling in incorrect data, especially in the birth mother's name column. Things like this make it possible for data manipulation to occur so that illegal adoption can take place.

Families who apply for adoption to the Religious Court are safer in terms of sharia law, but there are still a small number of people who are willing to submit a request for an adopted child to the Religious Court. Of the four people the author used as references, not a single person adopted a child through the Religious Courts. It is our collective duty to monitor, remind and report each other if illegal adoption practices occur in society, because what is most worrying is the consequences of illegal adoption, such as the practice of child trafficking, child neglect, and violence against children.

Zaid bin Haritsah, the adopted son of the Prophet Muhammad

Zaid bin Haritsah was originally an independent person, one day he and his mother, Syu'da bint Tsa'labah, went to visit his mother's village in Bani ma'an. Suddenly troops from Bani al-Qin attacked and succeeded in defeating Bani Ma'an. They took property and captured children, one of whom was Zaid Bin Haritsah. Meanwhile, his mother managed to return to Zaid's father (Basya, 2010). The captive children were made into slaves to be sold, at that time slavery had become a habit in world communities, such as Athens, Greece, not to mention Arabia itself (Khalid, 2016). Zaid bin Haritsah and several other children were then bought by Hakim bin Hizam bin Khuwailid and then taken to Mecca. Upon arrival in Mecca he gave a gift to his aunt Khadijah bint Khuwailid to choose one of the children, after choosing Khadijah bint Khuwailid decided to take Zaid bin Haritsah. At the start of living with Khadijah bin Khuwailid, he felt sad because he felt abandoned, painful because he was far from his parents, isolated, and now he was a slave. When she married Muhammad bin Abdullah, Khadijah presented Zaid bin Haritsah to Rasulullah Saw, then Rasulullah Saw freed him and educated him with tenderness like his own son so that Zaid bin Haritsah liked the family and felt at home.

One day a pilgrimage group from Bani Ma'an came to Mecca, and accidentally met Zaid, he recognized them and they recognized Zaid. Then the group reported this to Haritsah (Zaid's father) who at that time was the chief of the tribe. Hearing the news about Zaid, Haritsah and Uncle Zaid came to Mecca to meet Rasulullah Saw. Long story short, Zaid didn't want to go home with his father and chose to live with Rasulullah Saw. Then the Messenger of Allah went to the Kaaba and shouted "I testify that Zaid is my son who will be my heir and I will be his heir." Hearing this, Zaid's father felt happy because his son had become an independent child and had been adopted as a son by the famous and honest (Su'ban, 1991) Quraish tribe at that time.

Since then, Zaid bin Haritsah has been called Zaid bin Muhammad. This call was considered normal at that time, Arabs were used to adopting children and relating them to their lineage. However, after going on for some time, the lineage status was then canceled by QS Al – Ahzab verses 4-5.

مَا جَعَلَ اللَّهُ لِرَجُلٍ مِّن قَلٍ مُّهْتَكَمًا وَمَا جَعَلَ أَدْعِيَا \$ هُوَ يَهْدِي السَّبِيلَ ؕ دَعْوُهُمْ لِأَبَائِهِمْ key فِي الَّذِينَ وَمَوْلَاهُمْ وَلَيْسَ عَلَيْكُمْ جُنَاحٌ ف above أَنْ اللَّهُ غَفُورٌ رَّحِيمٌ ؕ

Meaning: (4) Allah never creates for a person two hearts in his cavity ; and He did not make your wives whom you were zihar your mothers, and He did not make your adopted children your (own) biological children. That's just what it is only your words are in your mouth. And Allah tells the truth and He shows the (right) path. (5) Call them (the adopted children) by (using) the names of their fathers; that is fairer in the sight of Allah, and if you do not know their fathers, then (call them as) your brothers in religion and your maula-maula. And there is no sin against you in what you make a mistake about, but (there is sin in) what your heart intends. And Allah is Most Forgiving, Most Merciful. After this verse was revealed, Zaid bin Muhammad was again called Zaid bin Haritsah, referring to his biological father, Haritsah. This was then followed by other friends, all adopted children were attributed to their respective biological fathers.

The existence of Zaid bin Haritsah was not sudden, everything was a design or scenario created by the All-Knowing to be a lesson for his faithful servants, Zaid's story is a guide to eliminating jahiliyyah cultures that do not have a strong foundation, so that

they are replaced with the law of the Most Perfect. One law that Arab society usually applies regarding the lineage of adopted children to their adoptive fathers has been erased through this legality.

Then Zaid bin Haritsah had several children and several wives, one of Zaid's wives was Zainab bint Jahsy, this marriage became popular after a verse in the Koran revealed the marriage of Zaid bin Haritsah and Zainab bin Jahsy. At first, many people rejected this marriage, including Zainab bint Jahsy herself and also her brother, Abdullah bin Jahsy, because it was considered an unfair marriage, namely between a former slave and a noble woman of noble descent, the cousin of the Prophet Muhammad. Because this scenario was designed by Allah so that there would be no distinction in matters of marriage, then Allah revealed a verse regarding this matter,

Meaning: And it is not appropriate for men who are believers and not (nor) for women who are believers, if Allah and His Messenger have decreed a decree, there will be for them (another) choice regarding their affairs. And whoever disobeys Allah and His Messenger has indeed gone astray, truly gone astray.

Finally, Zainab bint Zahsy wanted to marry Zaid bin Haritsah, but their household was not going well. Because Zainab still cannot forget her status as a blue-blooded nobleman, Zaid suffers greatly from Zainab's rejection (Abdurrahman, 2013). So he complained to Rasulullah SAW, Rasulullah also ordered Zaid to be patient and restrain himself and defend his household. Rasulullah was afraid that there would be a divorce between Zaid bin Haritsah and Zainab bint Hasyi, the fear here was that he was worried that his aunt's family would feel embarrassed because they failed to maintain Zainab's marriage. He also looked for a way to prevent his cousin's marriage from ending, but Allah's decree was different, the gap The separation between Zaid and Zainab widened and became unsustainable, and finally a divorce occurred. After Zainab's Iddah period ended, a verse came down confirming Zaid's decision and ordering the Messenger of Allah to marry Zainab;

Meaning: And (remember), when you say to the person to whom Allah has bestowed favors and you (also) have bestowed favors on him: "Continue to restrain your wife and fear Allah", while you hide it in your heart what Allah will reveal, and you fear humans, while Allah is the one you have more right to fear. So when Zaid had ended his need for his wife (divorced her), We married you to him so that there would be no objection for the believers to (marry) the wives of their adopted children, if the adopted children had finished their needs with their wives. And it is God's decree that it will come to pass.

History from Anas bin Malik ra he said, this verse was revealed after Zainab's Iddah period had finished, what Rasulullah hid in his heart was that he did not want a divorce between Zaid bin Haritsah and Zainab bin Hasyi, so that Allah saw the divorce as a decree and made Zainab as a wife to eliminate the Jahiliyah custom of not being allowed to marry the widow of an adopted child. This is to differentiate between adopted (adopted) children and biological children, and to position adopted children according to their actual position. The Messenger of Allah willingly accepted this decree, then revealed the verse;

Meaning: There was no objection to the Prophet regarding what Allah had ordained for him. (Allah has established this) as His sunnah for the prophets who have

passed before. And it is God's decree that is a decree that will definitely come into effect (Al-Ahzab: 28).

During the battle of Uhud Hamzah bin Abdul Muttalib made a will to Zaid bin Haritsah during the Battle of Uhud if anything happened to him. It was on the basis of this will that Zaid demanded to be responsible for Hamzah's daughter, and in the end this sparked a debate between Zaid, Ali bin Abu Talib and Ja'far bin Abu Talib, each of whom also wanted to support Hamzah's daughter. Then the Messenger of Allah Sallallahu' alaihi Wasallam resolved the debate by handing over the mortgage rights to Ja'far because Aunt Asma' bint Umais (Hamzah's daughter) was Ja'far's wife. After that the Messenger of Allah said to Zaid: "As for you, Zaid, you are my master, my rights and responsibilities, and the person I love from that people."

Abu Bakr bin Abi Syaibah narrated from Aisyah, he said: *"The Prophet never sent Zaid bin Haritsah to a group of war troops unless he made him the leader of that army. If he were still alive, the Prophet would have made him his caliph (successor) after his death."* In the Qur'an, the name of no one from among the companions is ever mentioned except Zaid, and this is reflected in the story of his marriage to Zainab bint Jahsy. Rasulullah love him and help him, elevate him spiritually and morally, and give him his rights in the form of appreciation and respect. Truly the Messenger of Allah Sallallahu' alaihi Wasallam loved him very much, while Zaid really deserved this great love because of his incomparable love for the Messenger of Allah, the nobility of his soul, the purity of his conscience and the preservation of his hands and tongue. All these and other qualities increasingly adorned Zaid bin Haritsah's position, as the Prophet's friends nicknamed him "Beloved Zaid" (Khalid, 2014).

From the story of Zaid bin Haritsah, we can conclude several laws, namely, firstly, you cannot separate an adopted child from his adoptive father. Second, adopted children are not the mahram of their adoptive families. Fourth: The adoptive father may marry the former wife of the adopted child. Fifth: Zaid remains in the responsibility of the Prophet even though his lineage has returned to his father, and is still loved so much that he is nicknamed Beloved Zaid.

Relationship between adopted children and inheritance

The reasons why a person can obtain an inheritance consist of four reasons, namely bloodline or kinship (*an-nasab al-hakiki*) based on QS Al-anfal verse 75 *"People who are related, some of them have more rights towards each other (than those who are not relatives) in the book of Allah. Indeed, Allah is All-Knowing of everything."* The wala' relationship (*an-nasab al hukmi*) is based on the hadith of the Prophet Muhammad *"Wala' is kinship like blood kinship"* (HR. Ibn Hibban and Hakim). Marital relations (husband-wife relationship) (An-Nisa:12), and Baitul Mal.

If we look at these four reasons, we can find that there is no inheritance for the adopted child, however, the assets inherited from the adoptive father can be given through the provisions of a will or gift, and vice versa. Muslims can still inherit through the Baitul Mal route, if no one inherits through the three reasons above (Zuhaili, 2007).

If a person takes care of an adopted child (cares for someone else's child), because he does not have children or because he has a lot of assets, then he treats the adopted child like a biological child in terms of providing love, educational support and other needs, while according to lineage and the law of the child is not rested upon him. Things

like this are noble deeds recommended by religion and receive great rewards. *As Rasulullah SAW said, "I will be with the person who takes care of orphans, like this while he points his index finger and middle finger and he stretches them apart."* (HR. Bukhari, Abu Daud and Tarmizi).

If we map it out, there are still several main problems in this case, namely (1) related to adopted children from relatives (such as children from younger brothers or sisters), (2) adopted children from other people who are not family but are known to the father and mother, and (3) adopted children whose father and mother do not know. Regarding the first and second children, the children receive inheritance according to inheritance law from their biological father and mother, and vice versa. However, the reality in society is not like that, most people treat their adopted children as biological children. Even though this is strictly prohibited by Allah, and people who do it receive serious threats as stated in the hadith of the Prophet Muhammad, he said: *"From Abu Dzar Ra. In fact, he heard the Apostle say: "No one admits (prides himself) to someone who is not his real father, while he knows that it is not his father, but he has already disbelieved"* (HR Bukhari and Muslim). And also the hadith *"And Abu Zar Ra. Indeed, he heard the Apostle say: "No one admits (prides himself) to someone who is not his real father, while he knows that it is not his father, but he has already disbelieved"* (HR Bukhari and Muslim).

Adoptive parents may not intentionally divide inheritance equally between adopted and biological children. Moreover, giving all inherited assets to adopted children. Because that would take away other people's rights. However, the adoptive father and mother can receive the child's inheritance through a mandatory will or gift, and vice versa. As stated in the KHI, assets left by adopted children are divided according to the provisions in Articles 176 to 193 of the Compilation of Islamic Law, *"The assets left behind by adopted children are divided based on Articles 176 to 193 above, while adoptive parents who do not accept the will are given "The obligatory will is a maximum of 1/3 of the inherited assets of the adopted child."*

During the Jahiliyyah period, people made wills for other people as a matter of pride, but they left their relatives in poverty and poverty. Then Islam came and confirmed the perspective of wills which is based on the principles of rights and justice. Islam requires people who own property to make a will to their parents and relatives, namely before the order regarding inheritance is given. In the early days of Islam, it was obligatory for bequests to distribute all assets to parents and relatives. As Allah SWT says in QS Al- Baqarah verse 180 which means, *"it is obligatory upon you, if death is about to overtake someone among you, if he leaves behind wealth, to make a will for both parents and close relatives in a good manner, as an obligation for those who God-fearing person"* (Zuhaili, 2007).

After revealing the verse in Surah An- Nisa regarding the legality of inheritance law in detail, wills are limited to two, namely *first*: There is no will for heirs, unless there is permission from the other heirs, as the Messenger of Allah said in the hajj wada *"Indeed, Allah has given every owner the right to his rights, so there is no will for heirs"* (Mutawatir Hadith narrated by Abu Daud , Tirmidhi , Ibn Majah , BAihaqi , and ' Abd bin Humaid in their sanad). *Second*: limiting wills to only one-third of assets.

The basis for scholars in determining mandatory wills is Surah An- Nisa verse 8, which means *"And if relatives, orphans and poor people are present during the*

distribution, then give them (just enough) of the property and say good words to them."After Allah explains the obligatory things in inheritance in the previous verses, then Allah determines something that is recommended. Muhammad Sayyid Thanthawi believes that this verse is addressed to all parties, anyone, because everyone is ordered to act fairly (Shihab, 2001), the verse which orders to give part of the inheritance to relatives and weak people does not have to be contradicted with the inheritance verses, because this is a recommendation and inheritance is a right that cannot be reduced or exaggerated.

One opinion says that what is meant is if when the inheritance is distributed there are relatives who are not heirs, orphans and poor people, then give them a share of the inheritance. And this was an obligation in the early days of Islam. One opinion says this is sunnah. Scholars differ in their opinions regarding whether this verse has been in the manuscripts or not? In this case there are two opinions; *Firstly*, narrated by Al-Bukhari from Ibn Abbas, he said: "He is a muhkamaat verse (the law remains valid) and is not dinasakh. *Second*, there is the opinion that the verse has been denominated (Ibnu Katsir, 1994).

Wills for relatives are made according to the number of ulama, including the imams of the fourth school of thought. A will is not obligatory for someone but because of haq, whether it is shown to Allah or to fellow servants (humans). Some fiqh scholars such as Ibn Hazim az-Zhahiri, ath-Thabari, and Abu Bakr bin Abdul Aziz from the Hambali group are of the opinion that a mandatory will is an obligation that is in the nature of a debt and its fulfillment is for parents and relatives who cannot inherit. Because they are prevented from being able to inherit or because there is something that prevents them, such as religious differences. So, if the deceased does not leave a will for the relatives, the heir or *washi* must issue something of an unlimited size, which is taken from the corpse's inheritance, then give it to the parents who are not heirs.

The laws of Egypt, Syria and Indonesia seem to use a second opinion regarding mandatory wills. These laws require wills for people who are prevented from inheriting, namely grandchildren whose fathers died while their grandparents were still alive. Or their father died at the same time as their grandfather or grandmother. The Egyptian state requires this will only to male descendants (even downwards) and to the first generation of female descendants. Meanwhile, in Syria it is only for male children (both male and female). Meanwhile, in Indonesia, this mandatory will is given to adopted children and adoptive parents. Wills take precedence over inheritance. The deceased's inheritance is given to the heirs after caring for the corpse, paying debts and carrying out the will, after which it is distributed according to the inheritance provisions to *the ashabul furudh* then the *ashabah*, and so on. It is not permissible to prioritize the will of an adopted child over the people who are entitled to inherit if the will of the adopted child is more than a third, and vice versa. It is not permissible to give priority to the adoptive parents of the people who are entitled to inherit if their will is more than one third (Zuhaili, 2007).

Jumhur ulama are of the opinion that if someone gets more than a third of the inheritance, the remaining assets will be returned to Baitul mal, except with the permission of the heirs. Hanafiyyah is of the opinion that a person who gets a will has more than a third of the blessings of getting tirkah if the deceased has no heirs, nor is there anyone whose lineage is recognized by others. Egyptian and Syrian laws adopted Hanafiyyah opinions (Zuhaili, 2007).

Regarding adopted children from found children whose heirs are not known or whose heirs are known but all of them have died, most scholars agree (except for the history of Ahmad and Ibn Taimiyyah) that the assets of found children who do not have heirs are for Baitul mal, based on the principles of *al- Ghurum bill Ghunum* (results are with wages). However, the condition is that Baitul Mal has been formed and Baitul Mal is responsible for his living expenses, education and teaching. Therefore, his *tirkah* for Baitul Mal is like lost property whose owner is unknown. This is different from Ahmad's history and this is Ibn Taimiyah's opinion The heir is the right of the person who finds it. This is if the person who raises and fulfills their needs is the person who finds them. In this way, the child's assets can be given to the adoptive parents in their entirety through a will.

Before there was clarification in the Qur'an regarding this matter, Arab people called their adopted children according to the lineage of their adoptive fathers, and obtained inheritance rights from their inheritance. As hadith from Aisyah ra:

That Abu Hudzaifah, one of the people who took part in the Badr war with the Prophet sallallaahu'alaihi wa sallam, made Salim his adopted son and then married him to his brother's daughter, Hindun bint Al Walid bin'Utbah. He was a former slave of an Ansar woman like the Messenger of Allah sallallaahu' alaihi wa Sallam made Zaid his adopted son. In the past, during the Jahiliyyah era, whoever made someone their adopted child, people called the adopted child's father by the name of his adoptive father and received inheritance rights from the inheritance (of his adoptive father) until Allah Ta'ala sent down His word { id'uuhum li aabaa-ihim } (Call them (your adopted children) by the names of their biological fathers) (QS. Al- Ahzab: 5) Then Sahlah went to the Prophet sallallaahu' alaihi wa greetings. Then the narrator narrates this hadith (HR. Bukhari).

However, after God's decree regarding adopted children came down, the inheritance of this line was abolished. If it is found that the parents treat the adopted child as the same as the biological child in terms of mahram, lineage, inheritance and marriage guardian. So, Allah's threat is very serious as in the following hadith: *"Any woman who adds someone to a family but is not actually a member of that family, Allah will not enter her into heaven."* and *any man who denies his own child even though he knows about it, Allah will hinder him on the Day of Resurrection, and Allah will humiliate him in front of the people".*

Conclusion

Things are prohibited and some are not forbidden. What is forbidden is equating adopted children with biological children in terms of lineage, inheritance, mahram and guardianship. What is not prohibited is taking care of children but not changing the child's lineage and religion, then it is done with a sense of responsibility to care for, educate and care for these children with love like their own children. This is a commendable act and includes pious deeds recommended by the Islamic religion. Parents who adopt children should pay attention to the laws of *hadhonah* and submitted through the Religious Court so that no Islamic rules are violated. Regarding the inheritance of adopted children and adoptive fathers, Islam does not provide inheritance by way of inheritance adopted children and adoptive parents, but Islam gives inheritance to both through wills and bequests. A will is a maximum of 1/3 of the assets left behind, if there are still heirs from *the ashabul furud* and *ashobah*. If there are none,

then all the assets can be given through a will, provided that there is no Baitul Mal or other person who has the right.

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