

## ADOPTED CHILDREN AND THE RIGHT OF CIVILIZATION ACCORDING TO THE QUR'AN<sup>◊</sup>

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### ABSTRACT

Child adoption is a social phenomenon that occurs in the community for generations since long. His position in the family differs from one region to another depending on customs and adoption systems embraced by the local community. In Islamic view, the adoption of a child may be justified insofar as it is done for parenting, not linking the *nasab* (blood relationship) and inheritance between the child and the adoptive parent. This study, in addition to revealing the typology of adopted children according to the Qur'an, reveals the rights of the child adoption in the family, especially related to the property rights of foster parents. The approach used is the *tafsir maudhu'i* method, by collecting all the Qur'anic verses relating to adopted children and their civil rights.

**Keywords:** *Adopted Child, Civil Rights, Property Rights, According Quran.*

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## 1. INTRODUCTION

The practice of adopting children in societies in different parts has been institutionalized and has become a living and growing tradition. Since ancient times the community has adopted in different ways and motivations, in accordance with the customary law system developed in their respective regions. The adoption of children has become a necessity of society that is increasingly growing in number (Soedaryo Soimin, 2004: 28).

In addition to getting care, the adopted child is also given some treasure by the adoptive parents. There are two forms of giving of wealth to adopted children in society depending on the area and legal system used in the practice of appointment. In some areas the adopted children are given wealth in the form of inheritance and some other areas in the form of grants or testaments. In areas where customary law is affected by Islamic law adopted children are given property in the form of grants, whereas in areas where applying pure customary law of adopted children is given an inheritance, which is the adopted child's position is the heir of the adoptive parent as the biological child.

In principle according to customary law, the adopted child may receive the treasures of the adoptive parents, since his position is considered as like biological child, so he has the rights of a natural child. As a stranger in the family, he is not entitled to inherit, but there are also parts of the area according to customary adopted children inherited from their adoptive parents. So in terms of receiving inheritance or not receiving for adopted children depends on how the form of appointment (Iman Sudiyat, 2002: 159).

The granting of property to adopted children according to customary law is final, in which the adopted child will obtain the treasures of his adoptive parents, even though in practice there is still disparity between one area with another. But the gift of treasure to the adopted child has not found a special formulation, so need to rethink the shape of it. The author believes that Al-Quran and Hadith have a conception of the arrangement of foster and adoptive parents, as there are many verses and traditions that contain the adoption of children. So this research is a critical study of the texts to formulate the formulation of inheritance rights of adopted children. The approach used in this research is the method of *tafsir maudhu'i*.

## 2. DEFINITION OF ADOPTED CHILD

According to Iman Sudiyat, the adoption of a child is the act of picking up or lifting a child from the outside into a relative, thus establishing a social bond similar to that of a biological nationality (Iman Sudiyat 2000: 102). According to Hilman Hadikusuma, the adoption of a child is the child of another person who is considered to be a son himself

by an adoptive parent officially according to local customary law, due to the purpose for continuity of descent and or maintenance of household property (Hilman Hadikusuma, 2000: 43).

In Islamic literature, the term adoption is called *tabanny*. According to Muhammad Muhyiddin Abdul Hamid: *Tabanny is the taking of the son of a man who is clearly the linkage of his blood, then the child is doomed to him.* (Abd Aziz Dahlan, 2001: 29). According to Muhammad Thaha Abu Ela Khalifah, *Tabanny is to legitimize the legitimate son of others to him, both male and female* (Ela Khalifah, 2007: 649). According to Muhammad Ali As-Says: *Tabanny is an adopted son of another person, so apply to the child all the laws that apply to the natural child* (Muhammad Ali As-Says, 2002: 7).

Based on the definitions that have been mentioned above can be concluded that there are two kinds of understanding of adoption of children, there are:

1.1 Adoption of a child in which a person takes the child of another person then makes him or her as a natural child under customary and statutory provisions. In other words the adoption of a child is the process of transferring the child's blood relation/relationship with the biological parent to the adoptive parent in ways that are governed by customs and legislation. So with the adoption of this child the nasab relationship of the child with his biological parents is cut off, and the child has become a legitimate child of another person. In the context of the customary law of the adopted child, he will be positioned equally biologically and socially in the foster parent's family.

1.2 Adoption of a child who is taking the child of another person for the purpose of parenting, financing life and giving love like a child, without connecting the blood relation the child to him/her. Thus adopted child is a child who has switched responsibilities of providing livelihood and others from parents of origin to foster parents. While the status of children's blood relation still stay connected with their parents origin.

### 3. TYPOLOGY OF ADOPTION ACCORDING TO THE QUR'AN

To understand the essence of the adopted child, his division and his position in the family based on the Qur'an, it is necessary to trace the verse relating to the adopted child, the verse is collected in chronological order and chronologically derived (since, time and place) then discussed systematically and comprehensively, which is called *tafsir maudhu'i*, which is a theme based interpretation by choosing a theme in the Qur'an and then collecting all verses of the Qur'an relating to the theme and then interpreted to explain the meaning of the theme.

This method is a method of interpretation that seeks to answer the Qur'an by collecting Qur'anic verses that have a single purpose, which together discuss a certain topic or title and discipline it in accordance with the period of descent in harmony with the causes descend, and then pay attention to those verses with explanations, descriptions and relations with other verses then take the laws from him (Nasruddin Baidan, 2000: 151). This method is very suitable to understand the nature or typology of adopted child according to Al-Quran.

In the Qur'an there are at least four verses that speak of the adopted child, namely QS. Al-Ahzab (33): 4, 5, 37 and 40. Thus an explanation of the contents or content of these verses. Allah says QS. Al-Ahzab (33): 4, that is; *"and He does not make your adopted sons as your own sons. That is just what you say in your mouth. and Allah tells the truth and He shows the way (the right)"*. The above verse was revealed regarding Zaid bin Harithah, the adopted son of Prophet Muhammad SAW. The Meccans at that time used to call him by Zaid bin Muhammad (linking Zaid to the Prophet Muhammad), then Allah sent this verse to rebuke those who connect the adopted child to the adoptive father, in fact it is a mistake, for the adopted son is just lawful linked to his own real father (Al-Sayuthi, 2001: 724). Foster children can not be attributed to adoptive parents, the adoption of a child does not result in migration of the nasab, but the child's remains connected to his/her parents. This verse is revealed to abrogate the habit of the jahiliyyah community that connects the adopted child to the adoptive parents and sever the blood relation with their parents (Ibn Katsir, 2001: 203).

Allah does not adopt an adopted son as a natural child for a person who adopts solely on the child's call, but is essentially a child to his own fathers. The adoption of a child to make it his legal child is haram (forbidden) and such practice has been canceled (Wahbah al-Zuhaili, 2009: 257). In the time of jahiliyyah and the beginning of Islam the Arabs Rasulullah SAW used to adopt Zaid bin Harithah, Huzaifah adopted Salim and Umar bin Khatab adopted Abi 'Umar. Then the verse which abrogates it goes down, explaining that the adoption of the child at that time is considered to be a lie (twisting fact), because it has nurtured the adopted child to himself or regarded the child of another person as his biological child ('Ali al-Sayis, 8).

Ibn 'Arabī in *Tafsīr al-Ahkam al-Qur'ān al-Sughra* explains that this verse is revealed in relation to a person who calls the child to his slave, as if the slave is his son, then Allah rebukes the person through this verse that the call is merely an expression, in essence the slave is by no means his son, and will not be his son by calling and treating the slave in such a way. Allah SWT has rebuked and straightened some statements that transcend the bounds spoken by mankind to reveal the truth, among others, the statement of the Christians that Prophet Isa son of God, and the declaration of the Meccans that Zaid son of Prophet Muhammad SAW, they called him Zaid bin

Muhammad. So Allah swt denied these statements and straightened them out, actually the statement and the phrase is a lie that is contrary to the actual facts and the transgressors. These statements are acts of twisting the true facts into wrongs and the light becomes vague, so it needs to be straightened out to avoid man from lost (Ibn 'Arabi, 2006: 451).

Based on that description it can be understood that the adoption of a child who connects nasab to an adoptive parent is an act of lying that violates fact or reality. In essence the adopted child is the child of his own real father who is related to him, while the adoptive father has absolutely no blood relation to the adopted child, so raising a foster child to the adoptive father is a lie and unrealistic.

By mere expression can not change the existing reality, a far away can not be close, which is not a relative to be a relative, adopted child into a biological child. The phrase can not drain the blood into the veins and can not form the feelings of the fatherhood into a person's heart, nor does it flow in the heart of the adoptive child as a child's child, he can not inherit the special features of his adoptive father and family characteristics, both physical, intellectual and psychological (al-Qaradawi, 2000: 198).

To clarify the position of adopted son and how to treat it in the family, Allah asserts in QS. Al-Ahzab (33): 5 which reads: *"Call them (adopted sons) by (the name of) their fathers: that is fairer in the sight of Allah, and if you don't know their fathers, (call them) your brothers and sisters in your religion and maiden, and there is no sin against you that which ye mistaken of him, but what is deliberate of your heart, and Allah is Forgiving, Merciful"*. This verse contains the command that adopted children be called by connecting to their own fathers, because in the previous verse it has been stated that connecting adopted children to the adopting parents is a lie / not according to fact. Through this verse Allah (swt) teaches a truth about the provision of calling the adopted child by connecting to his own real father. If it is not known who his biological fathers are he is called to his fellow believers if they have faith or are called with "maula", that is more true in the sight of Allah (swt) in calling and raising an adopted son (Ibn 'Arabi, 2006: 257).

Ibn Umar said: We call Zaid with the call of Zayd ibn Muhammad until the decline of this verse. After the verse, the Prophet said to Zaid: *"O Zaid; You are Zaid bin Harithah bin Syarahil"* (Bukhari, 2008: 234). Said ibn Muhammad also narrated from Abdullah that the Companions summoned Zaid bin Harithah with Zayd ibn Muhammad until the descent of QS. Al-Ahzab (33): 5. (Abi Hasan 'Ali, 2005: 197). Both of these narrations indicate that the adoption of the child before the passage of this verse still connects to the adoptive parent, then after the verse comes down the change in which the adoptive son is connected to his own real father. Under the provisions of the verse, the adopted son must be linked to his biological father, if it is not known who his biological father is called as a brother or a maula, so there is no justifying reason for

connecting a foster child to an adoptive father, even when his biological parent is unknown though. This reality also shows that the *syara* 'strongly upholds the position of the *nasab* (blood relation), and prohibits any action that leads to the deception or disappearance of the *nasab*.

The prohibition of connecting a person to a non-biological father is also alluded by *ḥadīths* narrated by Bukhari, which reads: "*A person who connects other people to his fathers inadvertently, then it is forbidden to enter heaven.*" This *ḥadīth* threatened not to go to heaven for anyone who deliberately linked himself or anyone to other than his natural father, the threat of not entering heaven necessitates that person entering into hell, for there is no place in the Hereafter other than heaven except hell. But someone who does not intentionally do it, like assuming that it is the real father of a person, or not knowing the prohibition of connecting *nasab* to other than the real father, then why not because it was done accidentally and Allah will forgive him.

Allah tolerates and forgives the negligence and oversight of someone who inadvertently has connected another person or himself to other than the real father, this is as understood from the provisions of QS. Al-Ahzab (33): 5. But Allah is very cautious and forbid if it is done intentionally. Allah is knowing every act of his servants either intentionally or unintentionally (Al-Sayuthi, 2009: 726-727). Mentoring yourself or others to other than the real father is not a simple matter, the act can obscure the person's *nasab* so no longer known who the real father is. While the religion of Islam highly upholds human *nasab*, and ordered that *nasab* maintained. To keep the *nashe* Allah's order marriage to ensure the marital relationship of husband and wife and clarity *nasab*.

Abdul Karim Zaidan mentions that *nasab* is a kinship relationship based on blood ties as one result of a legitimate marriage, a *fasid* marriage, or sexual intercourse *syubhat*. *Nasab* is an acknowledgment *syara* 'for the relationship of a child with his father's lineage so that the child becomes one of the family members of the offspring and is entitled to get the rights as a result of good *nasab* relationships inheritance, guardianship and so forth. *Nasab* is also a relationship between humans that result in the prohibition of marriage between people who are bound by this relationship. The conditions for the occurrence of *nasab* are: a). A child born of a woman is indeed the result of deeds with her husband; b). When a woman is pregnant, her time is not less than the time of pregnancy in general; c). The husband does not deny or deny the child born of his wife (Abdul Karim Zaidan, 2000: 321).

Based on the requirements it is understood that the adopted child is not qualified to be connected to the adoptive father, as he is not born through the wives of the adoptive father's wife, but through his own mother's womb that is fertilized by his natural father through legitimate marriage. So the adopted child legally connects the *nasab* to his own real father, whereas to the adoptive father is not at all connected *nasab*

and is not legally considered as a child to him. In connection with the nasab, chronologically Allah swt mentions in QS. al-Furqan (25): 54 which reads: *"And He who created man from water, and made man a hereditary and marriage, and is your Lord Almighty"*.

Allah Almighty has created man from the semen (seed/blood) of a man, then between the male proprietor of the seed and the child formed from the seed is made into a relationship called nasab (blood relationship) (Al-Sayuthi, 2009: 195). Nasab created by Allah only among people who have a blood relationship, that is between a man who flows his blood into the veins of a child through a legitimate marriage, then between the two are established nasab relationship. While in adopted children is not found such a process that it is impossible to connect nasab to foster father. This fact is the reason Allah swt prohibits connecting adopted children to foster father in QS. Al-Ahzab: 4 above, since the adopted child and parent have absolutely no nasab relationship, any expression or statement that connects a foster child to an adoptive parent is an expression of a lie that is inconsistent with the facts.

The nasab relationship raises a number of rights, including guardianship and inheritance, among people who have an illegal nasab relationship married to each other, and can inherit each other. If the adopted child is connected to an adoptive parent, then automatically between the two are forbidden to marry and both of them can inherit each other. Of course this is impossible and has exceeded the limit (al-Qaradawi: 199). In the days of jahiliyyah and the beginning of Islam ever apply provisions like this, haram (prohibited) to parents married with adopted children or former wives of adopted children. The people at that time assumed that the adopted child was the child of the person who raised it, so it was haram to marry her and also his ex-wife. Rasulullah SAW had been ridiculed for marrying Zainab bint Jahsy who is none other than the former wife of his adopted son Zaid bin Harithah.

His marriage to Zainab bint Jahsy is enshrined in the QS. Al-Ahzab (33): 37, which reads: *"... So when Zaid has put an end to the need of his wife (divorce her), We marry you with her so that there is no objection for the believers to marry the wives of their adopted children, when the adopted children have completed their needs than their wives. and it is the ordinance of Allah that must be done"*. This verse explains that after the 'iddah (waiting period) of Zainab from Zaid, then Allah commands the Prophet Muhammad to marry Zainab, then he does so. The marriage of both got complaints and scorn from the people of Mecca at that time. They said: *"Muhammad has married his wife's former wife"* (Al-Sayuthi, 2009: 53-54). Then Allah sends down QS. al-Ahzab (33): 40: *"Muhammad is not the father of any man among you, but he is the Prophet and the seal of the prophets, and is Allah All-knowing all things"*.

Allah swt down this verse to clarify Mecca's complaints and mockery of the Prophet's marriage with Zainab bin Jahsy, that the Prophet Muhammad was not the father to Zaid but only the adoptive parents, so there was no obstacle for him to marry Zaid's ex-wife. Through this verse Allah affirms that the adoption of the child does not result in a nasab relationship, so that the prohibition to marry his adopted son or ex-wife by an adoptive parent (Al-Sayuthi, 2009: 40). Marriage Rasulullah SAW with Zainab is a scenario of Allah SWT to undermine the belief of the people at that time regarding the prohibition of adoptive father married his adopted wife's. Allah abrogated the belief in a surprising way that is through the practice of the Prophet himself who is none other than their role model then by itself the belief is faded (Ibn Hajar al-Asqalani, 2002: 198).

The event of the Prophet's marriage with Zainab bint Jahsy contains an important wisdom, which is to remove doubts and obstacles for Muslims marrying the adopted wife's ex-wife. And convince them that the halal thing is something that has been permitted by Allah, on the contrary the forbidden thing is something that has been forbidden by Allah. Man has no authority to forbid a halal, and vice versa (al-Qaradawi: 198).

From the above explanation it can be understood that the Qur'an prohibits the adoption of children that cause nasab relationship, inherit and also the mahram between the child and the adoptive parents. While the adoption of children who do not cause these relationships are justified, such as raising orphans or neglected children to be raised and maintained so that adults and independent. Or a person who has no offspring and then raised the child to against the sorrow, or just a lure so soon to have children themselves can also be justified.

Appointment of children in the form of care or nurture in accordance with the wishes of Islam, in the Qur'an and Sunnah many found a suggestion to pay attention to the fate of orphans and abandoned children. In QS. Al-Maun (107): 1-3 Allah says: "*Do you know (people) who deny the religion? That is the one who rebukes the orphans, and does not advise the giving of the poor*". The above verse mentions the characteristics of religious liars, those who withhold or disregard the rights of orphans and are not happy to provide food for the poor. Al-Thabarī interprets the phrase *الدين* in verse with the law of Allah, while al-Harīs narrates from Ibn Jurayj that the meaning of the phrase *الدين* is the day of vengeance (Al-Thabari, 2001: 657). Abdul al-Razak narrated from Qatadah that the religious liars are the ones who blackmail and oppress the orphans (Al-Sayuthi, 2009: 686). So through that verse it can be understood that Allah Almighty has commanded everyone to care about the fate of the orphan and the needy, everyone is forbidden to oppress the orphans in a state of weakness, thirst and hunger. Those who



are not sensitive to the fate of the orphans and the poor, or even tyrannize and waste them fall into the liars of religion, those who deny Allah's law and the Day of Judgment.

Another verse in QS. Al-Nisa (4): 36 Allah says: "*Worship to Allah and do not associate Him with anything, and do good to both parent, relatives, orphans, the poor, near neighbors and distant neighbors, and your peers, travelers and servant of your peers. Allah does not love the proud and boastful*". This verse contains a prohibition to associate Allah with anything, and enjoined people to do good to their parents, relatives, orphans, the poor, neighbors, peers, travelers and servants. The notion of doing good here is to caress them with compassion, courtesy, advise, give or donate food, and all other good deeds.

Orphans or neglected children should be the concern of every Muslim by caring for and nurturing them, they are vulnerable groups that need the attention and helping hand of the benefactors to grow healthy and achieving like other children. Everyone who is willing to help the orphan will gain a glorious position and a great reward from Allah. Rasulullah Saw in a hadith narrated Bukhari said: "*From Sahl bin Sa'd from the Prophet Saw, he said: I and the caregiver orphan in heaven like this. He showed two fingers; forefinger and middle finger (to indicate proximity)*" (Ibn Hajar Al-Asqalani, 2002: 345). This Hadith illustrates how noble the degree of people who care and willing to bear the orphans. They will gain a seat in paradise beside Prophet Muhammad. The position of the person who cares for orphans and he is very close like the index finger and middle finger. Imām Ibn Bathal suggests that anyone who hears and knows ḥadīths is obliged to practice it, in order to become the Prophet's best friend in heaven, there is no more prime position in the afterlife than staying side by side with the Prophet in heaven. Ibn Hajar also pointed out that this ḥadīth hinted at the closeness of the relationship between the custodian and the caregiver of the orphan with the Prophet. No fingers are closer or that separate the index finger with the middle finger, the two are close together and there is no barrier at all (Ibn Hajar Al-Asqalani, 2002: 345).

From the above description it can be concluded that the adopted child typology based on Qur'an there are two, namely; *first*, adopted child, a child raised by others by connecting the nasab to himself, while the adopted child's relationship with his biological father is cut off. The adopted son of this model is forbidden and has been abolished by the Qur'an and Sunnah, for violating the provisions of Islam; *Second*, foster children, a child who was raised by someone to be cared for and nurtured like a child of his own, without adding frills nasab, mahram and inherit. Such adopted children are not forbidden, even highly recommended especially against orphans and abandoned children, with the aim of helping their lives. Whoever does it will gain a great reward in the sight of Allah.

The adoption of a second model is a good deed done by capable and caring people, but has no children of their own. They are determined to get closer to Allah by educating abandoned children who escape the attention and affection of their parents. This kind of endeavor is a practice that Allah Almighty loves. The community is in charge of caring for orphans and neglected children as a consequence of fraternity. The Muslim family can take and care for any of the abandoned children, whichever family it is that is able to nurture and educate and bear its livelihood, so that the child will grow up and need no more nurturing. With the notes add no frills blood relation and inherit, thus causing the adopted child to be a *mahram* for the family of adoptive parents, entitled to inherit as a child and so forth. In fact the adoption of children according to Islam is none other than for the welfare of the child, it can be achieved by the procedure of adoption of a child which is regulated by Islamic law. Islam establishes its legal obligation to take and care for abandoned children, it is the responsibility of all people to do so it can be carried out by some people and freed the duties of other members of society in *fardhu kifayah*. But this law can become a *fardhu 'ain* when one discovers a wasted child in a place that might perish if left for granted. The soul of man must be preserved and nurtured, the child not responsible for the sins done by others, although his mother and father (Al-Barry, 2000: 58).

#### 4. RIGHT OF CHILD'S PROPERTY ADOPTION ACCORDING TO THE QUR'AN

The Qur'anic verse on the adoption of the child mentioned above does not explain explicitly the right of the adopted children of the adoptive parents, only the adopted child is prohibited from inheriting from the adoptive parents. But whether he is entitled to the treasures of foster parents in another form, this is no direct explanation of the verses. With regard to the adopted child's right of his adoptive parent, it can be understood from another verse, namely QS Al-Nisa (4): 33 concerning the faithful promise that also implies the recommendation of the testament to the adopted son, Allah says: "... and (if any) those whom you have sworn allegiance to them, So give them a share. Allah watches all things." This verse was revealed regarding the events of Abū Bakr who swore would not give inheritance to his son who was unwilling to convert to Islam. And after the child converted to Islam, Abū Bakr was ordered to give his inheritance. (Saleh, Dahlan, et.al, 2000: 136).

Al-Sayuthi in the book of *Al-Dūr al-Mansūr fi Tafīr bi al-Ma'tsūr* contains eight pieces of commentary on this verse; First, the story of Bukhari from Ibn Abbas that at the beginning of the hijra between the Muhajirin and the Ansar inherit each other, the Prophet Muhammad gave them the promise of faithfulness and made each other inherited from each other, while the womb's relatives were not inherited. The provisions are subsequently

annulled, each person inherited by his own heirs of relatives nasab. While the faithful brother of faith is limited to moral relations only in the form of help-help, advice-advise, and inherit property to each other.

*Secondly*, Ibn Jarir story from Ibn Abbas that two men made a faithful promise, if one of them dies, the other will inherit from him. *Third*, the story of Ibn Munzir and Ibn Abi Hatim from Ibn Abbas, who that before the advent of Islam someone made a pledge of allegiance to others, he said: *"You inherit from me, and I inherit from you"*, when both life swear to it. Prophet Muhammad said: *"Any oath of allegiance during the time of jahiliyyah, or the agreement of the Muhajirin-Anṣar in the early days of Islam is a transcendent act, in Islam not knowing loyal oaths and faithful promises. Rasulallah Saw breaks the bond of faithful promise that creates a relationship of mutual inheritance done in the jahiliyyah and the beginning of Islam between the Muhājirin and Anṣar, he considers the act is a habit that exceeds the limit and not be maintained.*

*Fourth*, the story of Said bin Mansur, 'Abd bin Humaid and others from Said bin Jabir that someone binds a promise of faithfulness to others, and the two inherit each other. Abu Bakr ra also once binds the promise of faithful to someone, and he inherits from him. (Al-Sayuthi, 2009: 377-379). This history shows that the promise of faithfulness is commonplace in Arab society, even as Abu Bakr Assidiqa never did, and inherited from the faithful promise brother.

*Fifth*, Ibnu Munzir's story from Ibn Abbas that this verse is related to the faithful promise prevailing in the time of jahiliyyah, when they bind the faithful promise of one individual to another, one with another tribe, and one tribe to another. With such a loyal promise has spawned a deep emotional connection between those who require mutual help, defending each other when needed, and inheriting each other. The promise of faithful promise they usually make a statement: *"You will inherit from me, and I will inherit from you"*. By merely the revelation between them is a relationship of mutual inheritance to each other. Tradition or custom is then canceled by Rasulallah Saw, he said: *"Oath of faithful is the custom of jahiliyyah society, in Islam there is no such tradition"*. (Al-Sayuthi, 2009: 32-33).

*Sixth*, the story of Abd bin Humaid from Qatadah about the vow of the loyalty of the jahiliyyah people: *"My blood is your blood, my enemy is your enemy, you inherit from me and I inherit from you, you will ask for my help, I will also ask for your help"*. The statement is a confession of loyalty to each other that creates a brotherly relationship between the two, then the points of agreement that have been made they will carry out.

The *seventh*, the story of Abu Daud of Ibn Abbas that at the time of the jahiliyyah ordinary people took an oath of loyalty to each other in the form of mutual inheritance relations, but among them have no nasab relationship, then the habit is canceled by QS. al-

Ahزاب (33): 6 which states that brother is more deserving to inherit than a brother of faithful promise. Since then inherited relationships are only valid among people with blood relations (nasab), whereas the faithful brothers are entitled to the estate of the testator by will.

*Eighth*, the history of Ibn Jarīr from Saīd bin Musayyab that QS. al-Nisa (4): 33 is revealed concerning the adoption of a child in a jahiliyyah society that creates a relationship or the cause of mutual inheritance. In Jahiliyyah society there is a tradition in the form of adoption, usually raised is a boy from another tribe with the aim to continue the offspring and establish fraternity between tribes, the adoption of the child at that time became the cause of mutual inheritance between the child and adoptive parents. Then Allah lowered QS. Al-Ahزاب (33): 6 to abrogate the custom, that the inherited relationship is only valid among relatives of the blood relation with the heir, while the adopted child is not allowed to inherit from his adoptive parent, but he may be given the treasure in another way in the form testament (Al-Sayuthi, 2009: 380).

From the narrations above it can be understood that the fraternity of the faithful promise and the exploitation of children is part of the customs of the Arab community at the beginning of Islam, the two relations become the cause of mutual inheritance, they get one-sixth of the relics of the faithful and adoptive fathers. The provision is then canceled by QS. al-Ahزاب (33): 6 which contains provisions that inheritance rights apply only among blood relatives, whereas relatives of faithful and adopted promises are given property in other forms of grants or wills.

In the book Tafsīr al-Jalalain mentioned, that at the beginning of Islam the loyalty of appointment is still valid, one can inherit one-sixth of his brother's property because of the faithful promise, and the rest is divided to the heirs. This provision was then canceled by QS. al-Ahزاب (33): 6 which contains other provisions, namely the relationship of inheritance only applies between relatives of blood (nasab) (Jalaluddin Mahalli and Jalaluddin Al-Sayuthi: 287).

Al-Tabari explains that in the time of jahiliyyah and the beginning of Islam between individuals and groups of people bind each other faithful promises through the vows to help each other, defend and defend inherit each other. Allah Almighty does not forbid it, it can even be the cause of mutual inheritance, and for everyone who has made a solemn oath to fulfill his brother's right of inheritance. But the provisions are then canceled by QS. Al-Ahزاب (33): 6 which establishes that blood relatives are more entitled to inherit than their relatives by faithful promises (Al-Thabari, 2001: 671), then the brotherhood of faithful promises no longer inherits, but al-Tabari does not explain right after they no longer inherit.

The next verse that implies the adopted child's property rights is QS. Al-Nisa (4): 8 which reads: *“And when the division is present relatives, orphans and the poor, Give them*

from the treasure (standard value) and speak to them Good words". Ibn Abi Syaibah, Ibn Jarir and others narrated from Ikrimah and Ibn Abbas that the position of the verse is muhkamat (valid/not canceled). Thus the substance of the verse is still in the form of recommendations to provide property to relatives, orphans and the poor who are present at the time of division of inheritance. Said ibn Mansur, 'Abdu ibn Humaid and others narrated from Abu Daud and Mujahid that the giving of the property is a duty to the heirs, but the value given is repatriated to their willingness. In addition to giving the treasure, the heirs should also treat them well by not issuing words that may offend them (Al-Sayuthi, 2009: 244). Wahbah al-Zuhaily in *Tafsir al-Munir* explains the intent of this verse, that relatives, orphans and the poor who have no inheritance, but are present when the division of inheritance, the heir's duty is to glorify them and set aside a portion of their inheritance if the number is many (Wahbah al-Zuhaily, 2009: 602).

From that all it is understood that there is a provision that applies when the division of inheritance, if there are other parties besides the heirs who were present then from among the relatives, the poor, the orphans, they should be glorified and given a little treasure. If in a family there is an adopted child, of course he will be present or considered present in the division of inheritance of the adoptive parents, because he has become part of the family. So the heir's obligation is to glorify the adopted child and give him a little treasure, if previously he never received a grant or testament from the heir (the adoptive parent).

## 5. CONCLUSION

From the text above description of the adoption of children and the right of property according to the Quran it can be concluded that the Quran does not prohibit the adoption of the child as far as done for the nurture motive, but the Quran forbids if the adoption of the child is done to connect the adopted child nasab to the adoptive parents and decide nasab relationship with his biological parents. This practice was once held in the days of jahiliyyah and early Islam, but was later annulled by the Qur'an because it was considered incompatible with Islamic values that upheld one's noble. The adoption of a child with a nurturing motive to help abandoned and poor children is strongly recommended. With the nurturing is expected they get a decent life.

In relation to the giving of wealth to adopted children, the Quran strongly prohibits if done through inheritance mechanism, but is recommended through other mechanisms such as grants and wills. The adopted child may be granted a treasure derived from the parent's relic of as many as 1/3, the amount allowed for the grant and testament. The point grant or testament to the adopted child according to Al-Quran is allowed, even also recommended as far as done ma'ruf (not beyond 1/3 of the treasure). The giving of wealth to adopted children is recommended when the division of inheritance is distributed,

at that time the relatives who are present, the poor and adopted children are given little treasure. The heirs should treat them well, not say anything offensive to them.

## REFERENCES:

- ‘Ali, Abi Hasan, (2005). *Asbâb al-Nuzûl*, Beirut: Dar al-Fikri.
- ‘Arabi, Ibnu. (2006). *Ahkam al-Qur`an Al-Sughra*, Beirut: Dar al-Kutub al-‘Ilmiyah.
- Ahmad Al-Barry, Zakariya. (2000). *Hukum Anak-Anak Dalam Islam*, Jakarta: Pradnya Paramita, Cet. 9.
- Al-Asqalani, Ibnu Hajar. (2002). *Fathul Barî Syarah Sahîh Bukharî*, Jilid 8, (Riyadh: Maktabah Darusaalam, 1997), Cet. I.
- \_\_\_\_\_, *Bulughul Maram Syarah Sahih Bukhari*, Jilid. 10.
- Ali As-Says, Muhammad, (2002). *Tafsir Ayat Al-Ahkam*, Mishr: Mathba’ah Muhammad Ali Shabih wa Auladiah, Juz IV.
- Al-Sayuthi, (2005). *Al-Dûr al-Mansûr fî Tafsîr bi al-Ma’tsûr*, Kairo: Markaz Hijr li al-Buhûs wa al-Dirâsah al-Arabiya wa al-Islamiyah.
- Al-Thabari, (2001). *Tafsîr al-Thabari*, Juz. 6, Kairo: Markaz al-Buḥûs wa al-Dirasah al-‘Arabiyyah wa al-Islamiyyah, Cet. 1.
- Baidan, Nasruddin. (2000). *Metodologi Penafsiran Al-Qur`an*, Yogyakarta: P. Pelajar.
- Bukhari. (2008). *Sahih al-Bukhari*, Juz 5, Beirut: Dar al-Fikr.
- Dahlan, A. Aziz. et.al. (2000). *Ensiklopedi Hukum Islam*, Jakarta: Ichtiar Baru Van Hoeve.
- Ela Khalifah, Muhammad Thaha Abul. (2007). *Pembagian Warisan Berdasarkan Syariat Islam*, Solo: Tiga Serangkai.
- Hadikusuma, Hilman. (2001). *Hukum Perkawinan Adat*, Cet. I, Bandung: Alumnî.
- Irsan, Koesparmono. (2009). *Hukum dan Hak Asasi Manusia*, Jakarta: Y. Brata Bhakti.
- Katsir, Ibnu, *Tafsîr Al-Qur`an al-‘Azhim*, Jilid, 12, (Semarang: Toha Putra, tt.
- Mahalli, J. & Al-Sayuthi, Jalaluddin, *Tafsîr al-Jalalain*, Vol.1, Indonesia: al-Haramain, tt.
- Qaradhawi, Yusuf. (2000). *Halâl wa al-Haram fî al-Islam*, Beirut: M. Wahbah, Cet. 22.
- Setiady, Tolib. (2013). *Intisari Hukum Adat Indonesia*, Bandung: Al Fabeta, Cet. III.
- Shaleh, K.H.Q, Dahlan, H.A.A. et.al, *Asbabun Nuzul*, Edisi Kedua, Bandung: Diponegoro, 2000, Cet. 10.
- Soimin, S. (2004). *Himpunan Dasar Hukum Pengangkatan Anak*, Jakarta: Sinar Grafika.
- Sudiyat, Iman. (1981). *Hukum Kewarisan Sketsa Asas*, Yogyakarta: Liberty.
- Wingjodipuro, Surojo. (2004). *Pengantar Azas-Azas Hukum Adat*, Jakarta: UI Press.
- Zaidan, A. K. (2000). *Al-Mufassal fî Ahkam al-Mar`ah*, Juz 9, Beirut: Muassasah ar-Risalah, Cet. Ke-1.
- Zaini, M. (2000). *Adopsi Suatu Tinjauan dari Tiga Sistem Hukum*, Jakarta: Sinar Grafika.
- Zuhaily, Wahbah. (2009). *Tafsîr al-Munîr*, Jilid 11, Damsyiq: Dar al-Fikr.