

**THE RELATIONSHIP BETWEEN MAHRAM ADOPTED  
CHILDREN IS REVIEWED FROM ISLAMIC LAW AND  
GOVERNMENT REGULATION NO.54 OF 2007 CONCERNING  
ADOPTION OF CHILDREN IN INDONESIA**

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**Abstract**

*For every married couple, the desire to have children is a human nature and instinct and basically the children are entrusted to the husband and wife on the commission of Allah SWT. Every parent has high expectations for the child he cares for, seeing him as a gift that can improve his status and dignity as an adult. Facts prove that many families are beautiful and harmonious, but many rifts are caused by having to separate because they do not have children. In social life, the family is the smallest foundation of society. The writing of this article is carried out using normative juridical and empirical juridical methods where normative juridical is carried out by basing on applicable laws and regulations while empirical juridical is based on the implementation of laws and regulations that apply to society. Government Regulation No. 54 of 2007 concerning Child Adoption also states that, the relationship between children is not broken with the existence of child adoption institutions as stipulated in Article 4 of the Child Adoption Regulations that, the adoption of children does not break the blood relationship between the adopted child and his biological parents, Then Article 6 of the Child Adoption Regulation states that, adoptive parents must inform their adopted children about their origin and biological parents. Notification of the origin and biological parents is carried out with due regard to the readiness of the child concerned. What is meant by child readiness if psychologically and psychosocially it is estimated that the child is ready. This can usually be achieved when the child is close to the age of 18 years.*

**Keywords:** *Adopted Children, Mahram, Islamic Law*

**1. INTRODUCTION**

For every married couple, the desire to have children is a human nature and instinct and basically the children are entrusted to the husband and wife on the commission of Allah SWT. Every parent has high expectations for the child he cares for, seeing him as a gift that can improve his status and dignity as an adult. Facts prove that many families are beautiful and harmonious, but many rifts are caused by having to separate because they do not have children. In social life, the family is the smallest foundation of society, consisting of father, mother and child. However, these three components are not always fulfilled, because it is not uncommon to find families without offspring due to various factors that cause the desire to adopt children. The adoption process involves the lawful transfer of the child from the care and power of his or her biological parents or legal guardians to new parents who have been granted the right to nurture, educate, and raise the child through a decision made by the Adoption District Court. This act basically involves someone taking responsibility for a child whose family situation is clear and formally assigning the child to himself. Please note that in Islamic law, an adopted child is not entitled to inheritance because the

adoption of the child does not change the child's lineage. It is based on the teachings of Q.S Al-Ahzab:4-5 which affirms that adopted children cannot be considered as biological children and hence should not be given equal rights. It is important to call them by the name of their biological father, as this is in line with the truth and instructions given by God. The act of adopting children is common in our society for various reasons. Some individuals choose to adopt because they cannot have children of their own, while others do so out of a desire to help those in need. However, there is a significant lack of understanding among many Muslims regarding the laws pertaining to "adopted children", which causes many problems and concerns. One such problem is the tendency to treat adopted children as if they were biological children, ignoring the boundaries of the mahram and assuming they are entitled to inheritance rights. This act is a violation of religion and requires attention. The comprehensive and clear Islamic Shari'ah has provided a comprehensive explanation of the regulations regarding adopted children. It is very important for Muslims to seek religious guidance from Allah the Exalted to avoid the above mentioned mistakes by familiarizing themselves with these laws (Fadillah, 2022).

The family plays an important role in human society because it is a fundamental unit consisting of father, mother, and children. However, it is important to note that not all families are made up of all three elements, and there are cases where a family does not have children. As a result, the absence of offspring in a marriage can give rise to emotional reasons for individuals wanting children. Thus, the act of adoption aims to extend one's lineage when biological offspring is not present in a marriage. It is a legitimate motivation and vent that can serve as a positive and humane alternative to the instinct to have a child in the arms of a family that has not been fortunate enough to have children for many years. One of the legal consequences of adoption is the adoption child's status as the heir of the adoptive parents, a status that often causes problems for families. Issues often raised in litigation are usually about the legality of adoption and the status of adopted children as heirs of adoptive parents (Verdiantoro, 1967).

The custom of raising someone else's child as a child is known in Arabic as "Tabanni", while the concept of adoption is known in the Staatsblad 1917-129 as adoption, which comes from the Dutch word "adoptie". term, or adoption in English, the Indonesian Dictionary states that adoption of a child is "the lawful adoption (adoption) of another person's child into one's own child. In Indonesia, child adoption has a different name. However, adoption applies to Western traditions, where the identity of the child changes. According to Sharia law, which is embraced by most Indonesians, it is not natural to have children and enjoy the rights and obligations of a child.

Adoption according to Sharia law is essentially an extension of Hadana law and does not change the legal, blood and Islamic relationship between an adopted child and his parents and his or her family of origin. The only change that occurs is the transfer of responsibility for caregiving, supervision and education from the original parents to the adoptive parents. The concept of adoption in customary law varies according to each customary region, as well as the terminology used and the legal consequences of adoption in customary law, which means that customary law in one region may differ from another. Indonesia's legislation is hobbled. The reality of a pluralistic society (bhinneka) and the existence of a plural legal system are obstacles and challenges for the Indonesian legal development system, making it difficult to obtain a single and comprehensive legal system, including regulations on child adoption. The existence of multiple legal systems in Indonesia that cause different perceptions of an object makes this article interesting to see how the Islamic legal system, BW and customary law status work to raise children in adoptive families. In addition, legal comparisons are made to meet the needs. In this context, Sorowski quotes Soenarjati (1986: 4 et seq.), that if someone does something, it is certainly because of a need, both mental and physical. According to Supreme Court Circular No. 2 of 1979 concerning Child Appointment, which among others states: "The adoption of an Indonesian citizen child can only be carried out after a District Court decision and if it is done by notarial deed. authorized by the District Court

The adoption of the child is unnatural." Therefore, every child adoption case must go through the District Court(Sucika Wibawa et al., 2023).

According to Article 39 of Law No. 39, adoption of children is for the benefit of adopted children No. 23 of 2002 concerning Child Protection, that adoption of children can only be done in the best interests of children and is carried out based on local customs and applicable laws and regulations. To implement the provisions on the adoption of children as stipulated in the Child Protection Law, the Government enacted Government Regulation Number 54 of 2007 concerning the Implementation of Child Appointment. With the enactment of this Government Regulation, it is intended that the adoption of children is carried out in accordance with laws and regulations so that irregularities that occur in the community can be prevented from implementing child adoption, such as adoption of children carried out without proper procedures, falsification of data, and so on. Prevention of these deviations can ultimately protect and improve the welfare of the child, for the sake of the future and the best interests of the child. The problem is, how is the legal position of adopted children in terms of Islamic law and Government Regulation Number 54 of 2007 concerning Child Adoption(Hanin Hamjah et al., 2022).

Similarly in the case of comparative laws, people do Comparative Laws out of necessity. It consists of scientific needs and practical needs. Related to scientific needs, Law Comparison<sup>5</sup> leads to several things, namely: 1. Shows the existence of points of similarity with points of difference rather than various legal systems being compared. 2. Show that for the same problem, different solutions can be achieved. 3. Sometimes, however, different and far-flung societies can solve the same needs in the same way, even if there is no visible cultural connection between the members of the community. But what is certain is that this comparative legal study will add insight and horizons of understanding, especially about child adoption in Indonesia(Rahbari, 2020).

## **2. IMPLEMENTATION METHOD**

The writing of this article is carried out using normative juridical and empirical juridical methods where normative juridical is carried out by basing on applicable laws and regulations while empirical juridical is based on the implementation of laws and regulations that apply to society. Secondary data source. This investigation was conducted through extensive examination of various literary sources, including journals, books, and current articles. Research methodology uses literature research, which involves collecting data and theoretical frameworks by studying relevant books, scientific papers, previous research findings, relevant journals, articles, and other sources related to the research subject. After all the necessary data is obtained, both primary and secondary data are analyzed qualitatively and then presented descriptively. This descriptive approach includes explaining and elaborating on the issue of adopted children in Islamic law (Sugiyono, 2018).

## **3. RESULTS AND DISCUSSION**

### **3.1 Adoption of children according to Islamic Law**

In terms according to Wahbah al-Zuhaili, the definition of adoption of a child (tabanni) is the taking of a child who is clearly nasabnya done by someone, then the child is nasab-kan for himself. In other terms, tabanni is a man or woman who intends to inflict a child on himself even though the child already has a clear message to his biological parents. The adoption of children with the above understanding is clearly contrary to Islamic law, therefore sabbating a child to another person who is not his intention must be canceled, (Kamil, 2010)

Allah (swt) confirmed the issue of adopted children to the Holy Prophet, he was instructed to turn away from the polytheists. This was conveyed after stating that the Qur'an is a divine revelation originating from Allah Almighty the owner of the universe, and so that he is consistent,

not doubting the revelation of Allah Almighty. Fear Allah Almighty, disobey infidels and hypocrites, and follow seriously the revelation from Allah Almighty. Then Allah Almighty sent down a strict law regarding adopted children that was already known among the Arab Jahiliyah, with the appellation "al-tabanni". At-tabani is the same as adoption, and adopted children are treated exactly the same as biological children, (Imran et al., 2020).

In Islamic law, adoption carries no legal consequences in terms of blood relations, guardian relationships and inheritance relationships with adoptive parents. He remains the heir of his biological parents and the child retains the name of his biological father. According to Islamic law, adoption of a child can only be justified if it meets the following conditions (Zilal & Farahwahida, 2016):

1. Does not sever blood relations between the adopted child and biological parents and family.
2. Adopted children do not have the position of heirs of adoptive parents, but remain as heirs of their biological parents, nor do adoptive parents have the position of heirs of their adopted children.
3. Adopted children may not use the name of their adoptive parents directly except as an identification / address.
4. Adoptive parents cannot act as guardians in the marriage of their adopted children.

In principle, in Islamic law, the main thing in inheritance is the existence of blood relations or arhaam. However, an adopted child can inherit by way of a compulsory will in accordance with the provisions of Article 209 of the Compilation of Islamic Law that an adopted child is entitled to 1/3 (one-third) part of the estate of his adoptive parents as a mandatory will. Regarding the issue of mandatory wills or grants given to adopted children whose amount is a maximum of 1/3 share, the adoptive parents with their heirs may give to the adopted child in the form of property exceeding 1/3 part provided there is an agreement from the heirs and the agreement is made and recorded in front of a notary, this is also in line with article 183 KHI which reads: The heirs can agree to make peace in the division of the estate, after each realizes his share. According to Islamic law, adopted children are not recognized as the basis and cause of inheritance, because the main principle in inheritance is blood relationship or arhaam (Rizvi, n.d.).

Based on the perspective of Islamic law regarding the adoption of children, that the adoption of children should not break the relationship between the child and his biological parents, this will be related to the inheritance and marriage system. The government has accommodated and responded to the issue of adoption by passing a marriage law and the Compilation of Islamic Law to meet the needs of the community. Regarding the rights of adopted children that must be fulfilled regarding responsibility, education, and affection are the consequences of adoptive parents to meet all the needs of the child. In the case of inheritance, adopted children do not get inheritance rights from adoptive parents, but adoptive parents may give a will of no more than one-third (1/3) of the property left behind (Madrah et al., 2022).

Adoption in Islam in no way changes the relationship between the law, nasab and mahram between the adopted child and his parents and family of origin. The adoption of children in Islam does not change the status of adopted children to biological children and the status of adoptive parents to biological parents, who can inherit each other like their own biological children. It's just that there is a transfer of responsibility for maintenance, supervision, and education. Sayyid Sabiq, stated that caring for an abandoned child without deciding the fate of his biological parents is his legal obligation because society is responsible for carrying out the duties of kifayah, but the law can turn into fardlu'ain if someone finds an abandoned child in a place that endangers the child's life, and the child will be converted to Islam if he is found in the land of the Muslims and whoever recognizes the child's fate, Whether he is a boy or a girl, then the child is attributed to him, as the

existence of the child is possible because in it there is a benefit of the child without harming others. If the child is recognized by more than one person then his fate is fixed for the person who shows evidence of his confession, if they show evidence then the child is faced with a nasab who knows the human nature through likeness, and when the nasab has determined his nasab then this decree is accepted if he is a man who is converted, just, and has proven his determination, (Sayyid Sabiq 2007).

No one commits himself to other than his father when he knows he is not his father unless he has been an infidel." (HR. Bukhari and Muslim). Based on the above verses and hadiths, the law of adoption by declaring a child adopted by adoptive parents is haram in Islam. And there is actually no relationship between the adopted child and the adoptive family, and the adopted child must be told by the real biological parents if it is known.

And based on the description above, it can also be concluded that in the KHI the granting of inheritance to adopted children using mandatory wills, based on the humanitarian considerations of heirs to give part of the inheritance to adopted children, even though shari'i it includes zhanniyy al-dilalah. So that the adopted child gets an inheritance of 1/3 of the estate by using a mandatory will.

The legal consequences of adoption of children according to Islamic law are pertama, Status of nasab Adoption of children in Islam only aims to provide maintenance and protection to adopted children without any transfer of nasab. So that the existence of children in their nasab status does not become damaged because they do not mix with descendants who are not their fate. Second, Inheritance Adopted children are not one of the relatives or one family with their adoptive parents, therefore parents and children are prohibited from inheriting each other. The inheritance system in Islam is very concerned about the aspect of maslahat in its application, so that in the Islamic view, the heirs who are entitled to inheritance property are only people who have kinship (nasab).<sup>9</sup> Therefore, between adopted children and adoptive parents do not inherit each other. The right of mutual inheritance only applies between adopted children and their biological parents on the basis of blood relations.<sup>10</sup> Islam that pays great attention to the relationship between marriage and marriage in determining heirs, meaning that anyone who is not related by blood cannot become an heir, so adopted children who do not fall into the category of nasab and marriage are not entitled to inheritance (Utami, 2019).

In the Compilation of Islamic Law Article 29. It is said that an adopted child who does not receive a will is given a mandatory will equal to one-third of the adoptive parents' property. The compilation of Islamic Law confirms that there is no inheritance relationship between an adopted child and his adoptive parents, but in recognition of the institution of adoption of the child, the relationship between the adopted child and his adoptive parents is confirmed by the intermediary of a will or compulsory will. A compulsory will is an act carried out by a ruler or judge as a state apparatus by coercing, or giving a compulsory judgment of a will for a deceased person, which is given to a particular person under certain circumstances. Islamic marriage requires marriage to be to keep nasab from confusion and it is maqasid al-sharia in Islam so that with marriage halal remains halal and haram remains haram. The non-inclusion of an adopted child as a mahram of his adoptive family is so that his status as a halal person does not become vague and does not turn into a mahram, the adopted child is still not included as a person who has blood relations and marital relations, so that he remains ajnabi (foreign). This provision is to avoid slander in the future so that it remains clear what is lawful on Allah's side and what is haram on His side. That is, the provision is to avoid misunderstandings that are halal and haram. This usually happens because the adopted child is considered as his own child in a family, as if he became muhrim. Even though he is actually another person who is haram to touch, even haram to be seen. Guardianship Guardianship of a child consists of guardianship of property, of him, of property and himself at once. Children who are still unable to do a good job (not yet legally capable) need to get guardianship in every matter. This is to prevent children from fraud (for example in spending property). Being a marriage

guardian is essentially just a person who is related by blood. The guardian of a female adopted child is her biological parents not her adoptive parents, unless the adoptive parents represent to the adoptive parents. 5. Livelihood Adoption advocated by Islam is adoption of children in a broad sense, not only limited to the adoption of children by a family that has no children, but the interests of children must also be considered (Masykur, 2022).

Providing a living is expected to be able to provide welfare and benefit for every child. This means that providing can help children meet their needs and interests until they are adults and able to be independent. Providing for adopted children is actually not an obligation of the adoptive father, but the adoption of children carried out by a family causes a shift in responsibility in providing for providing from biological parents to adoptive parents, especially biological parents are not economically capable. The existence of this reciprocal relationship is because adopted children will also contribute to the family, namely as a complement to families that have no children. The juridical consequence of adoption is the creation of a relationship of affection and the shifting of responsibility in providing for themselves. In addition, the adoption of children in the sense of educating and nurturing children who are neglected their rights due to poverty and poverty can also be used as a means of getting closer to Allah SWT.

Jurisprudence scholars put forward several requirements for the property in the will, namely: first, the property / object that is willed is something that is worth property in sharia (al-mutaqawimah). Therefore, if the bequest is not worth property according to shara', such as liquor, then the will is invalid. By birth liquor is a treasure, but Muslims the treasure is not a halal treasure so it cannot be used as a testamentary property. Second, a testamentary property is an estate that can be made into property, both in the form of material and benefits. For example, testifying a piece of land, or testifying the use of agricultural land. Jurisprudence scholars allow testifying something that exists, even if the contract made in the material to be testified does not yet exist. For example, testify the fruits of a garden plot. When the will is made, the tree is just pistiled. If the owner of the garden wills, "when I die the fruits in this garden I will the fulan," then his will is valid. Third, the testamentary property belongs to the almusi, when the will takes place. Fourth, something that is willed does not contain immoral elements, (Kamil, 2010: 136). As for the conditions related to shighat, basically the testament shighat is only required in the form of a clear word or lafads that show the meaning of giving a will to someone or more, both orally and in writing. In addition, it can also be conveyed openly or sarcastically as long as it has shown the meaning of the will. Wahbah ALZuhaili asserts that the majority of scholars agree that new wills are valid using ijab and qabul, and may also use sign language and writing among them: first, jurisprudence scholars stipulate that the shighat ijab and kabul used in the will must be clear, and kabul and ijab must be in line. For example, if someone in his ijab states "I will to you 1/3 of my property," then the kabul of the person receiving the will must be in line. Both sayings of kabul that are given a will while the testator is still alive, do not apply. However, according to scholars of the Hanafi School, kabul both is pronounced before or after the testator dies. Scholars also agree that if someone has testified to Fulan, then Fulan dies after Al-Musi dies but has not declared his kabul, then the kabul is replaced by Fulan's heirs. Third, kabul must be expressed by a person who has reached puberty and is intelligent. If the beneficiary of the will is a minor or a lunatic, then the kabul though represented by his guardian. Fourth, jurisprudence scholars agree that kabul is not required if the will is intended for public use, such as for mosques, orphans, whose identity is not explained in the will. Fifth, wills are allowed through understood gestures, according to the Hanafi School and the Hambali School this provision can only be accepted if the testator is mute and cannot read and write then the sign is invalid. On the contrary, according to scholars of the Shafi'i School and the Maliki School argue that the will remains valid because the gesture can be understood by the testator despite being able to speak and write. Sixth, kabul according to the

number of scholars, must be expressed through oral or legal actions that show the willingness of the recipient of the will, such as acting legally on the goods testated, (Kamil, 2010).

From the description above, it can be concluded that the adoption of children is a commendable act and is recommended by religion, collecting, nurturing, maintaining, and educating abandoned children for the benefit and benefit of children by not deciding the fate of their biological parents. Even in those circumstances where no one else is to take care of him, then for the economically and psychologically capable person who finds the abandoned child the punishment is mandatory without having to break the relationship with his biological parents and the child is taken and nurtured like his own biological child.

### **3.2 According to Government Regulation No.54 of 2007 concerning Adoption of Children**

Not all parents have the full ability and ability to meet the needs of children's trees. Unfavorable economic conditions have an impact on the level of child welfare. The reality that we encounter daily in society is that there are still many children living in unfavorable conditions, where many street children, abandoned children, orphans and children with disabilities are encountered with their various complex problems that require handling, guidance and protection both from the community and from the government. The Government's commitment to provide protection for children has been followed up by the enactment of Law Number 3 of 2002 concerning Child Protection. This law regulates various efforts made in the context of child protection, fulfillment of rights and improvement of child welfare. One solution to manage the child's problem is to provide opportunities for parents who are able to carry out child adoption. The adoption of children must be based on applicable laws and regulations, to prevent deviations that can ultimately protect and improve children's welfare. For this reason, the Government issued in the form of a Government Regulation, namely, Government Regulation Number 54 of 2007 concerning the Adoption of Children.

Adoption of a child according to Article 2 point 2 of the Child Binding Regulations, is a legal act that transfers a child from the sphere of power of parents, legal guardians, or other persons responsible for the care, education, and upbringing of the child into the environment of adoptive parents. Meanwhile, what is meant by adopted children according to the same regulation is a child whose rights are transferred from the family power environment of parents, legal guardians, or other persons responsible for the care, education, and upbringing of the child, into the family environment of his adoptive parents based on a Court Decision or Determination. Starting from the definition of an adopted child, it can be understood that guardianship of an adopted child has passed from his biological parents to his adoptive parents. So adoptive parents have the right and responsibility of guardianship of their adopted children, including guardianship of property. Adoption aims to be in the best interest of the child in order to realize child welfare and child protection, which is carried out based on local customs and the provisions of applicable laws and regulations (Article 2 of the Adoption Regulation).

Government Regulation Number 54 of 2007 concerning the Implementation of Child Adoption can be used as a guideline in the implementation of child adoption which includes general provisions, types of child adoption, requirements for child adoption, procedures for child adoption, guidance in the implementation of child adoption, supervision of child adoption and reports. With the enactment of this Government Regulation, it is also intended that the adoption of children is carried out in accordance with the provisions of laws and regulations so as to prevent deviations that can ultimately protect and improve children's welfare for the future and best interests of children. Regulations regarding the more complete process regarding the application for adoption of children based on Government Regulation Number 54 of 2007 concerning the Implementation of Child Adoption are described in the Guidelines for the Implementation of Child Adoption issued

by the Ministry of Social Affairs of the Republic of Indonesia, Directorate General of Social Services and Rehabilitation Directorate of Child Social Services Development as follows:

- a. Application for adoption of children is submitted to the District/City Social Agency by attaching: 1) Letter of submission of the child from his/her parents/guardians to the social institution; 2) Letter of submission of children from Provincial/District/City Social Agencies to Social Organizations (CSOs); 3) Letter of submission of children from Social Organizations (CSOs) to prospective adoptive parents; 4) Certificate of approval for the adoption of children from the prospective adoptive parents' married family; 5) Photocopy of birthmark of prospective adoptive parents; 6) Photocopy of marriage certificate of prospective adoptive parents; 7) Certificate of physical and spiritual health based on information from a Government Doctor; 8) Certificate of mental health based on the information of the Doctor; 9) Certificate of income from the place where the prospective adoptive parents work
- b. The application for permission to adopt a child is submitted by the applicant to the Head of the Social Service/Social Agency of the Province/District/City with the following conditions: 1) Handwritten by the applicant himself on sufficient stamped paper; 2) Self-signed by the applicant (husband and wife); 3) Include the name of the child and the origin of the adopted child.
- c. In the event that the prospective adopted child is already in the care of the prospective adoptive parent's family and is not in the care of a social organization, the prospective adoptive parent must be able to prove the completeness of the letters regarding the handover of the child and his legal parents/guardians to the prospective adoptive parents authorized by the local district/city level social institution, Including a police certificate. in terms of doubtful background and data of the child (the child's domicile originated).
- d. Feasibility Research Process.
- e. Regional Child Adoption Permit (PIPA) Consideration Team Session.
- f. Decree of the Head of Social Services/Social Agencies of Provinces/Districts/Municipalities that prospective adoptive parents can be submitted to the District Court to obtain determination as adoptive parents.
- g. Court Determination.
- h. Submission of Court Determination Letter.

Furthermore, the conditions for the child to be adopted are as follows:

- a. Not yet 18 (eighteen) years old
- b. Is an abandoned or abandoned child
- c. Being in family care or in a childcare institution
- d. Requires special protection.

Children who are not yet 6 (six) years old, are the top priority, children aged 6 (six) years to not yet 12 (twelve) years old as long as there is an urgent reason. What is meant by "as long as there is an urgent reason" such as children affected by disasters, refugee children and so on. Children aged 12 (twelve) years to not yet 18 (eighteen) years old as long as the child requires special protection. Children who need special protection are children in emergency situations, children who face the law, children from minority groups, and isolated, children who are economically and/or sexually exploited, children who are trafficked, children who are victims of narcotics, alcohol, psychotropic, and other addictive substances (drugs) abuse children victims of kidnapping, selling and trafficking children, children victims of physical and/or mental violence, children with disabilities, and children who are victims of legal treatment and neglect. According to Article 13 of the Child



Adoption Regulations, prospective adoptive parents must meet the following requirements (Djawas et al., 2022):

- a. Physically and spiritually healthy
- b. Be at least 30 (thirty) years old and at most 55 years old
- c. Religion is the same as the religion of prospective adopted children
- d. Be of good conduct and have never been convicted of a crime
- e. Married status for at least 5 (five) years
- f. Not a same-sex couple
- g. Not or have no children or have only one child
- h. Able to be economic and social
- i. Child consent and written consent of the child's parent or guardian
- j. Make a written statement that adoption is in the best interest of the child, the welfare and protection of the child.
- k. Social reports from local social workers
- l. Have taken care of prospective adopted children for at least 6 (six) months, since the parenting permission was granted.
- m. Obtain permission from the Minister and/or head of social institutions.

Adoption of children can also be done by foreign nationals to Indonesian children. Article 5 of the Child Adoption Regulation states that, the adoption of an Indonesian child by a Foreign Citizen can only be done as a last resort, provided that it gets written permission from the Government of the applicant's home country through the Embassy or Representative of the applicant's country in Indonesia, obtains written permission from the Minister, and through childcare institutions and is carried out through a Court Decision. In addition to meeting the requirements mentioned above, prospective adoptive parents of Foreign Nationals have resided in Indonesia legally for 2 (two) years and report in writing the child's development to the Ministry of Foreign Affairs of the Republic of Indonesia through the local Representative of the Republic of Indonesia. An application for adoption of a child under Islamic Law is submitted to the Religious Court. Based on Law Number 3 of 2006, Religious Courts have absolute authority to receive, examine and adjudicate cases of applications for adoption of children based on Islamic Law. The adoption of a child under Islamic Law by a Religious Court does not sever legal relations with his or her biological parents. Adopted children are still legally recognized as biological children of their biological parents (Umar et al., n.d.).

Government Regulation No. 54 of 2007 concerning the Adoption of Children also states that, the relationship between children is not broken with the existence of a child adoption institution as stipulated in Article 4 of the Child Adoption Regulation that, the adoption of children does not break the blood relationship between the adopted child and his biological parents, Then Article 6 of the Child Adoption Regulation states that, adoptive parents must notify their adopted children about their origin and biological parents. Notification of the origin and biological parents is carried out with due regard to the readiness of the child concerned. What is meant by child readiness if psychologically and psychosocially it is estimated that the child is ready. This can usually be achieved when the child is approaching the age of 18 (eighteen) years.

In general, the adoption of children must be based on the ability of prospective adoptive parents to be able to meet the needs of children, both physical and spiritual, will not neglect and will treat them equally well as biological children. Adoption of children must be oriented towards the happiness of children, so that in Article 39 of Law Number 23 of 2002 concerning Child

Protection it is stated that adoption of children can only be done in the best interests of children and is carried out based on local customs and the provisions of applicable laws and regulations.

#### **4. CONCLUSION**

Adoption in Islam in no way changes the relationship between the law, nasab and mahram between the adopted child and his parents and family of origin. The adoption of children in Islam does not change the status of adopted children to biological children and the status of adoptive parents to biological parents, who can inherit each other like their own biological children. It's just that there is a transfer of responsibility for maintenance, supervision, and education. Sayyid Sabiq, stated that caring for an abandoned child without deciding the fate of his biological parents is his legal obligation because society is responsible for carrying out the duties of kifayah, but the law can turn into fardlu'ain if someone finds an abandoned child in a place that endangers the child's life, and the child will be converted to Islam if he is found in the land of the Muslims and whoever recognizes the child's fate, Whether he is a boy or a girl, then the child is attributed to him, as the existence of the child is possible because in it there is a benefit of the child without harming others. If the child is recognized by more than one person then his fate is fixed for the person who shows evidence of his confession, if they show evidence then the child is faced with a nasab who knows the human nature through likeness, and when the nasab has determined his nasab then this decree is accepted if he is a man who is converted, just, and has proven his determination, (Sayyid Sabiq 2007).

Government Regulation Number 54 of 2007 concerning the Implementation of Child Adoption can be used as a guideline in the implementation of child adoption which includes general provisions, types of child adoption, requirements for child adoption, procedures for child adoption, guidance in the implementation of child adoption, supervision of child adoption and reports. With the enactment of this Government Regulation, it is also intended that the adoption of children is carried out in accordance with the provisions of laws and regulations so as to prevent deviations that can ultimately protect and improve children's welfare for the future and best interests of children. Regulations regarding the more complete process regarding the application for adoption of children based on Government Regulation Number 54 of 2007 concerning the Implementation of Child Adoption are described in the Guidelines for the Implementation of Child Adoption issued by the Ministry of Social Affairs of the Republic of Indonesia.

Government Regulation No. 54 of 2007 concerning the Adoption of Children also states that, the relationship between children is not broken with the existence of a child adoption institution as stipulated in Article 4 of the Child Adoption Regulation that, the adoption of children does not break the blood relationship between the adopted child and his biological parents, Then Article 6 of the Child Adoption Regulation states that, adoptive parents must notify their adopted children about their origin and biological parents. Notification of the origin and biological parents is carried out with due regard to the readiness of the child concerned. What is meant by child readiness if psychologically and psychosocially it is estimated that the child is ready. This can usually be achieved when the child is approaching the age of 18 (eighteen) years.

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