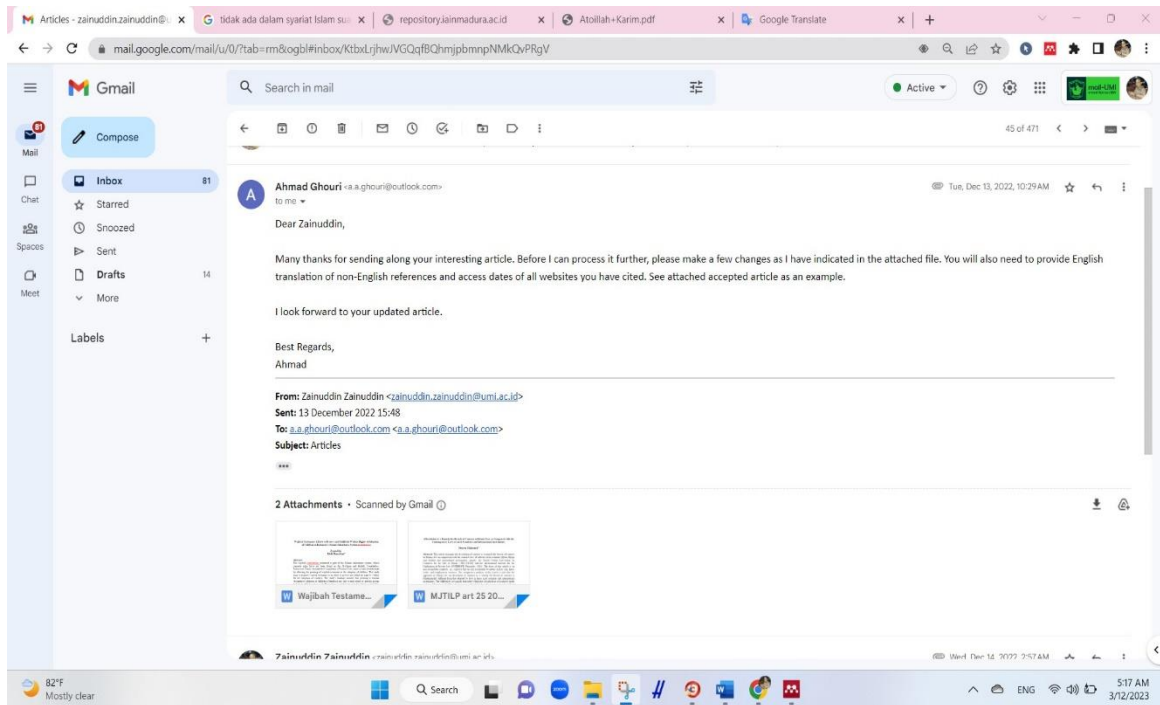
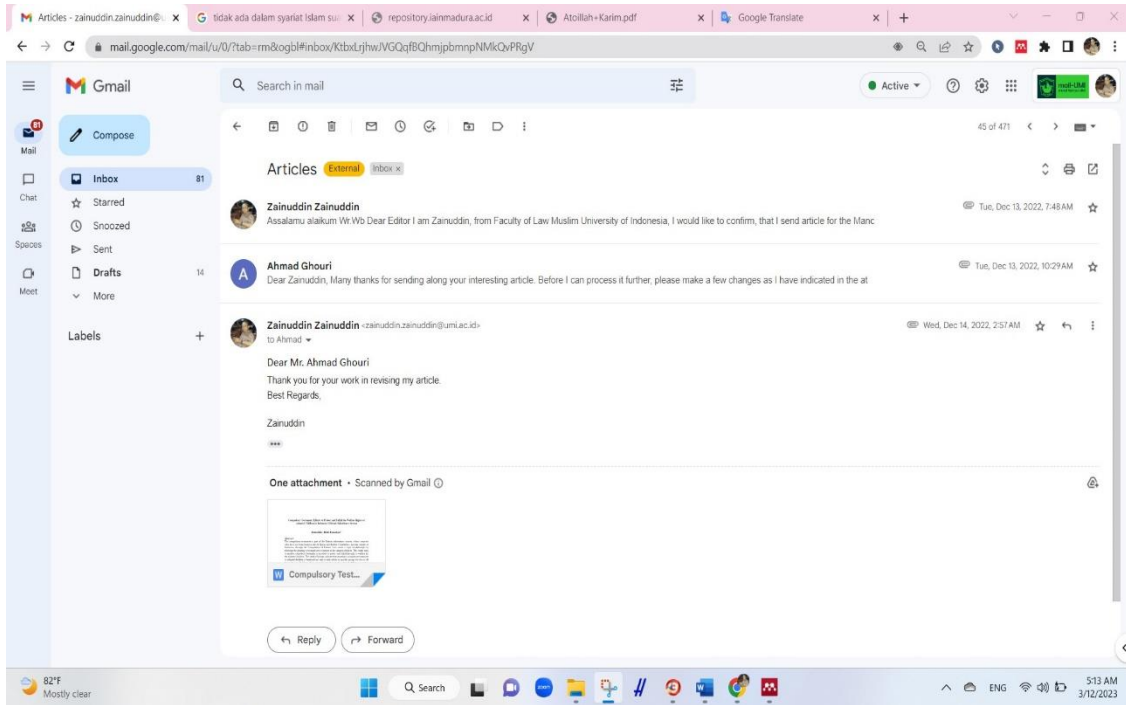


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Zainuddin Zainuddin Sun, Mar 5, 5:38 AM (7 days ago)

I would like to confirm the development of my journal manuscript entitled "Compulsory Testament: Efforts to Protect and Fulfill the Welfare Rights of Adopted Chi

Ahmad Ghouri to me Sun, Mar 5, 5:56 AM (7 days ago)

Ok thanks. Please send when its ready. Ensure that you have followed the attached author guidelines.

Best
Ahmad

On 5 Mar 2023, at 13:38, Zainuddin Zainuddin <zainuddin.zainuddin@umi.ac.id> wrote:

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Zainuddin Zainuddin <zainuddin.zainuddin@umi.ac.id> to Ahmad 5:12 AM (2 minutes ago)

Dear Editor

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Zainuddin Zainuddin <zainuddin.zainuddin@umi.ac.id> to Ahmad 5:12 AM (2 minutes ago)

Dear Editor

I would like to confirm, that I have revised my journal manuscript

Thank You in advance

Best Regard

Authors

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Ahmad Ghouri to me

3:00 AM (11 hours ago)

Dear Zainuddin,

Please see attached comments/edits of your paper by the reviewer after second reading. Please go through them very carefully before approving them or making further changes.

Send the final paper back and we will send it to the production team.

Best Regards,
Ahmad

From: Zainuddin Zainuddin <zainuddin.zainuddin@umi.ac.id>
Sent: 03 May 2023 00:35

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Zainuddin Zainuddin <zainuddin.zainuddin@umi.ac.id>

8:13 AM (6 hours ago)

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Ahmad Ghouri to me

Mar 23, 2023, 1:16 PM

Dear Zainuddin,

Many thanks. The paper looks in good shape now and I am happy to accept it for publication with a condition that it is proof-read by a professional to ensure that it is clear and has a consistent argument. This is important also to ensure that we send the best version to external reviewer to avoid rejection.

I suggest to get in touch with our recommended proof-reader Gul for this. You will need to pay for her services and her current rate is £50 per thousand words. You can contact her via email english.proofreading@outlook.com.

Any questions, please let me know.

Best Regards,
Ahmad

From: Zainuddin Zainuddin <zainuddin.zainuddin@umi.ac.id>
Sent: 23 March 2023 15:58

Zainuddin Zainuddin to Ahmad

Mar 24, 2023, 1:58 AM

Thank You Sir for the information, I will confirm to Proof Reader for my journal manuscript

Author

Zainuddin Zainuddin to Ahmad

Apr 7, 2023, 6:18 AM

Dear Editor
I would like to confirm that the journal manuscript has been revised based on the revision of the proof reader.

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Ahmad Ghouri to me
 Thank you. I will process it for publication now.
 Best Regards,
 Ahmad
 Fri, Jun 2, 4:57AM (4 days ago)

From: Zainuddin Zainuddin <zainuddin.zainuddin@umi.ac.id>
Sent: 24 May 2023 15:07

Zainuddin Zainuddin to Ahmad
 Thank you for your attention, Sir
 Best regards
 Zainuddin

Reply Forward

Gmail Search ahmad Active 1 of many

Ahmad Ghouri to me
 Many thanks. I will now send to a peer reviewer for critical feedback. They may require further changes.
 Best Regards,
 Ahmad
 Fri, Apr 11, 6:52AM

From: Zainuddin Zainuddin <zainuddin.zainuddin@umi.ac.id>
Sent: 07 April 2023 16:18

Zainuddin Zainuddin to Ahmad
 Dear Editor
 I would like to confirm the revision result of my journal manuscript from the reviewer.
 Best regards
 Authors

 Apr 30, 2023, 11:02PM

Ahmad Ghouri to me
 Dear Zainuddin,
 Many thanks. I will send a reminder to the reviewer now. It does take a while they come back to us. They are volunteers as we do not pay them. I hope you will understand.
 Best Regards,
 Ahmad
 May 2, 2023, 7:49AM

Compulsory Testament: Efforts to Protect and Fulfill the Welfare Rights of Adopted Children in Indonesia's Islamic Inheritance System

Zainuddin (Associate Professor of Law, Universitas Muslim Indonesia, Makassar, Indonesia. Email: zainuddin@umi.ac.id), Rizki Ramadani (Assistant Professor of Law, Universitas Muslim Indonesia, Makassar, Indonesia)

Abstract:

The *wasiat waibah* (compulsory testament) is part of the Islamic inheritance system. However, whose concrete rules of *wasiat waibah* have not been found in the Al-Quran and Hadith. Nonetheless, Muslim scholars in Indonesia, through the Compilation of Islamic Law, made a legal breakthrough by allowing the granting of a compulsory testament to the adopted children. This study article aims to explore and analyse the Shari'ah bases of compulsory testament as an effort to protect and fulfill the right to welfare for adopted children. This study's findings indicate that granting a compulsory testament to adopted children is beneficial not only to individuals or specific groups but also to all human beings. In Islamic law, compulsory testament for adopted children is categorized as *ba'dhanah* (efforts to care for adopted children) to maintain both their physical and spiritual health, seek their education, and overcome their economic problems. Therefore, when granting a compulsory testament to adopted children, a judge must prioritize their welfare.

Keywords: Adopted Children; Welfare; *Wasiat Waibah*; Compulsory Testament

I. INTRODUCTION

Islam is a universal religion comprised of three major components: faith, Sharia, and morals. As part of Islamic teachings, Islamic law has the *maqasid asy-syar'ah* (objective of law) of protecting the most important values, which are religion, the soul, mind, lineage, and property. The fifth goal is classified as a *maqashid ad-dar'iyat* (primary need) or an emergency goal. One of the provisions regulated in Islamic law is the issue of inheritance, which is part of Islamic family law known as *fiqh mawaris* (Islamic inheritance law).² Inheritance law as part of the Islamic legal system testament, of course, always refer to general legal principles. In Islamic law, there are seven principles: monotheism, justice, *amar bil ma'ruf wa nahi anil munkar* (enjoining

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to the idea of balanced justice, which states that everyone is treated fairly depending on his services or rights.⁴

In general, Islamic law does not justify giving adopted children inheritance because, according to Islam, adopted children are not on the same level as biological children. As a result, adopted children does not inherit from their adoptive parents. Furthermore, Islamic law forbids the loss of an adopted child's identity, so the child must still be assigned to his biological father.⁵

It is undeniable that the bond between adopted children and their adoptive parents is so strong that parents almost always leave grants or testament for adopted children before their adoptive parents die.⁶ In Indonesian society, adoption tends to be appreciated and occurs frequently. Therefore, the birth of a compulsory testament in the Compilation of Islamic Law is a response to the phenomenon of adoption, and adopted children are given material rights to inherit through compulsory testament. Adopted children do not fall under the descendants of the deceased due to the absence of an Intestate Succession Blood Tie. They may however inherit in terms of a bequest!

Therefore, the birth of a compulsory testament in the CeCCompilation of Islamic Law is a response to the phenomenon of adoption, and the adopted child is given material rights because he is not allowed to inherit property.⁵ The bloodline of the adopted child remains with his biological parents. Adopted children does not inherit a fixed share from their adoptive parents' estate and vice versa. Even so, adopted children still gets a compulsory testament from their adoptive parents and vice versa in accordance with Article 209 of Presidential Instruction of the Republic of Indonesia Number 1 of the Year 1991 on the Compilation of Islamic Laws.⁹

⁴ Zaimuddin, Salle and Andi Risma, "Balanced Justice in Islamic Inheritance to Realize Unity and Sustainability of Collective", *3rd International Conference on Business Law and Local Wisdom in Tourism (ICBLT 2022)* (Atlantis Press SARL, 2023) <<http://dx.doi.org/10.2991/978-2-494069-93-0-9>>, accessed 2 February 2023; Zaimuddin, Salle and Andi Risma, "Balanced Justice in Islamic Inheritance to Realize Unity and Sustainability of Collective" 3rd International Conference on Business Law and Local Wisdom in Tourism (ICBLT 2022) (Atlantis Press SARL, 2023) <<http://dx.doi.org/10.2991/978-2-494069-93-0-9>> accessed 2 February 2023.

⁵ Subiyanti, Jumadi Purwoatmodjo and Budi Santoso, "Implementasi Wasiat Wajibah Untuk Anak Angkat Menurut Kompilasi Hukum Islam" (in Indonesian) [Implementation of Compulsory Testament for Adopted Children According to Compilation of Islamic Law] (2019) 12 *Rinjani Scientific Journal* 313, 315.

⁶ Nadya Faisal and Asni Zubair, "[Wasiat Wajibah Terhadap Anak Angkat (Tinjauan Filsafat Hukum Islam Pasal 209 Kompilasi Hukum Islam)]" (in Indonesian) [Compulsory Testament Against Adopted Children (Review of Islamic Law Philosophy to the Article 209 Compilation of Islamic Law)] (2017) 3 *Ar Risalah: Jurnal Hukum Keluarga Islam* 75.

⁷ Shiekh Khalid Abduroaf, *Deceased Estates: Islamic Law Mode of Distribution* (Second Edi, Highlands Waor Trust Publishers, 2019).

Author
This is not entirely true. The Holy Qur'aan states that adopted child cannot obtain an intestate share/compulsory share due to an absence of blood tie (or rather does not state a fixed share for this child in Surah 4 verse 11, 12 and 176). On this basis, your statement is not entirely true. Kindly rephrase to represent this to incorporate this fact.

Author
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Author
This is not entirely correct as per above comment. An adopted child does not get a fixed share of inheritance but they can obtain a wasiyat share.

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