



## Polygamy and Child Adoption in Islamic Law: A Comparative Study of Thought Muhammad Quraish Shihab and Zakir Naik

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### Abstract

This article discusses the divergent opinions of the applicability of Islamic law to child adoption and polygamy, which have caused scholarly controversy because of different interpretations among modern experts. Muslims find it difficult to comprehend and apply these two ideas in line with religious teachings because of this discrepancy. The research employs a qualitative methodology along with a comparative study technique and descriptive analysis to address this discontent. Information was gathered from a variety of primary and secondary sources, including Muhammad Quraish Shihab and Zakir Naik's books and speeches. The results show that Muhammad Quraish Shihab uses a contextual approach that prioritizes justice in polygamy and preserving the lineage of adopted children while still giving full safety. However, Zakir Naik maintains a strict textual perspective, rejects child adoption because it could obstruct the application of other Islamic precepts, and views polygamy as a shari'ah right that does not require societal adjustment.

**Keywords:** Child adoption, Polygamy, Quraish Shihab, Zakir Naik

### Abstrak

Artikel ini membahas perbedaan pandangan dalam penerapan hukum Islam terkait poligami dan adopsi anak, yang menjadi sumber keresahan akademis karena adanya interpretasi yang beragam di kalangan ulama kontemporer. Perbedaan ini menimbulkan ketidakpastian bagi umat Islam dalam memahami dan menerapkan kedua konsep tersebut sesuai dengan ajaran agama. Dalam menjawab keresahan ini, penelitian menggunakan metode kualitatif dengan pendekatan studi komparasi dan deskriptif analisis. Data dikumpulkan dari berbagai literatur primer dan sekunder, termasuk karya tulis dan ceramah Muhammad Quraish Shihab dan Zakir Naik. Hasil penelitian menunjukkan bahwa Muhammad Quraish Shihab mengambil pendekatan kontekstual yang menekankan keadilan dalam poligami dan menjaga nasab anak angkat sambil tetap memberikan perlindungan penuh. Pada sisi lain, Zakir Naik berpegang pada pandangan tekstual yang ketat, menganggap poligami sebagai hak syariat yang tidak memerlukan penyesuaian sosial dan menolak adopsi anak karena itu dapat mengganggu pelaksanaan hukum Islam lainnya.

**Keywords:** Poligami; Adopsi Anak; Qurais Shihab; Zakir Naik



## Introduction

The legal framework of Islamic law frequently involves controversial problems, such as polygamy and child adoption, which affect both social norms and legal interpretations. In terms of fairness, women's rights, and family dynamics, polygamy that permits a man to wed many wives is frequently questioned.<sup>1</sup> Islamic law presents additional difficulties for child adoption, particularly with regard to the legal standing and rights of adopted children living in the family. This study's scholarly interest is the disagreements between two significant personalities, Muhammad Quraish Shihab and Zakir Naik, regarding how these two topics should be interpreted. Whereas Zakir Naik is more textual and exclusive, Muhammad Quraish Shihab typically takes a more moderate and conversational stance.<sup>2</sup> This difference makes it necessary to comprehend how various interpretations impact how Islamic family law is understood and applied in the contemporary setting.

Study of polygamy and child adoption in Islamic law, there is a large body of literature discussing various perspectives and interpretations. Previous research has examined this topic from various perspectives, including the study of Islamic family law and its practical application in Muslim countries. Abdul Manaf, in his publication entitled '*Right of Women in the Family Law: Zakir Naik Perspective*,' has systematically described how women's rights are divided into various dimensions, such as rights as mothers, rights as wives, rights as sisters, and rights as daughters. In addition to discussing women's rights within their familial roles, this article also delves into the role of women in the social, economic, and even political spheres.<sup>3</sup> The above article has similarities with the author in the context of family law issues, according to Zakir Naik. The difference is that if Abdul Manaf focuses on discussing women's rights in various aspects, the author only focuses on the legal aspects of polygamy and the law of child adoption, according to Zakir Naik.

Natriani and Irfan Lewa, in a paper titled 'The Concept of Fairness in Polygamy in the Perspective of Muhammad Muhammad Quraish Shihab and Amina Wadud,' have explored the comparison of polygamy law in two personalities who tend to contradict. Muhammad Quraish Shihab views polygamy as a lawful consequence that is necessary in some circumstances, with justice serving as its fundamental tenet.<sup>4</sup> Amina Wadud is more likely to oppose polygamy because it entails stronger rules that make it difficult for husbands with unfair tendencies to manipulate polygamy permits. There are parallels between the paper and the author's research on polygamy from Quraish Shihab's point of view. The distinction is that when Muhammad Quraish Shihab and Amina Wadud are compared in the aforementioned article, while in this study a comparison will be made between Muhammad Quraish Shihab and Zakir Naik.

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<sup>1</sup> Muhazir Muhazir, "Islam, Fatwa Dan Negara: Meretas Pluralisme Hukum Perceraian Di Aceh," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 2 (December 1, 2021): 233–48, <https://doi.org/10.24090/mnh.v15i2.5150>.

<sup>2</sup> Rahmi Syahriza, "Analisis Teks Hadis tentang Poligami dan Implikasinya," *Al-Quds: Jurnal Studi Alquran dan Hadis* 2, no. 2 (December 23, 2018): 125–52, <https://doi.org/10.29240/alquds.v2i2.471>.

<sup>3</sup> Abdul Manaf, "Right of Women in The Family Law; Zakir Naik Perspective," *Jurnal Hukum Islam* 20, no. 2 (December 25, 2022): 209–28, <https://doi.org/10.28918/jhi.v20i2.5638>.

<sup>4</sup> Natriani and Irfan Lewa, "Konsep Adil dalam Poligami Perspektif Muhammad Muhammad Quraish Shihab dan Amina Wadud," *Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab* 3, no. 1 (April 6, 2022): 158–66, <https://doi.org/10.24252/shautuna.vi.23820>.

Galu Putri Fatia's study clearly shows that, despite the compilation of Islamic law (KHI) not specifically governing the adoption process, normative analysis indicates that the adopted child's nasab link with his biological parents is upheld. Furthermore, as stated in Article 209 KHI, this study emphasizes the significance of the inheritance rights for adopted children, which are governed by mandatory wills. This establishes a solid legal foundation for the adoption of children within the framework of both state and Islamic law.<sup>5</sup> The author's research and the aforementioned study on child adoption from the standpoint of Islamic law are comparable. The main difference is in the way the author integrates the law of polygamy in Islam with Galu Fitri's exploration of the law of child adoption.

Based on the results of several literature reviews and after analysing various similar works. As far as the author's observation, no research has been found that specifically and coherently examines the law of polygamy and child adoption in the perspective of Muhammad Quraish Shihab and Zakir Naik. In fact, both of them often contribute ideas related to polygamy and child adoption, but there has been no publication that compares them.

This study is intended to make a significant contribution to comprehending the discrepancies in Muhammad Quraish Shihab and Zakir Naik's interpretations of polygamy and child adoption in Islam. It is intended that this comparative study will provide more insight into the ways in which various interpretations impact the comprehension and application of Islamic family law. The investigation also seeks to determine how these divergent viewpoints affect legal frameworks and social norms in Muslim nations. Furthermore, this study is planned to propose potential solutions to the problems related with polygamy and child adoption, as well as recommendations for future research in the field of Islamic family law. It is anticipated that by comprehending the distinctions between these textual and moderate approaches, methods to reconcile these viewpoints and implement them in a just and Islamic manner might be discovered.

This study is the result of a literature review using a comparative approach.<sup>6</sup> Comparing the opinions and interpretations of Muhammad Quraish Shihab and Zakir Naik helps to clarify the descriptive study, whereas the descriptive analysis clarifies and describes the information gleaned from the literature research. Data for this study is gathered from a variety of primary and secondary sources of literature. Muhammad Quraish Shihab and Zakir Naik's primary literature comprises books, papers, and recorded lectures on the topics of polygamy and child adoption. Academic publications, books, and scholarly journal articles that look at these topics and both figures' points of view are examples of secondary literature. Contextual data was also collected from previous research on the application of polygamy and child adoption laws in various Muslim countries and their comparison with modern legal practices.<sup>7</sup>

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<sup>5</sup> Galu Putri Fatia, I. Nyoman Putu Budiarta, and Indah Permatasari, "Pengaturan Pengangkatan Anak (Adopsi) Dalam Hukum Islam," *Jurnal Analogi Hukum* 5, no. 1 (March 14, 2023): 34-40, <https://doi.org/10.22225/ah.5.1.2023.34-40>.

<sup>6</sup> Kornelius Benuef and Muhamad Azhar, "Metodologi Penelitian Hukum sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 1 (April 1, 2020): 20-33, <https://doi.org/10.14710/gk.2020.7504>.

<sup>7</sup> Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Prenada Media, 2017). 133-135

## Reinterpreting Polygamy: Between Muhammad Quraish Shihab and Zakir Naik

Regarding how to read polygamy scriptures, there is still controversy about polygamy. In this discussion, polygamy is brought up as a marital issue, even though several participants agree that it is wrong. Differences in how the hadiths and passages regarding the law of polygamy are interpreted set the stage for the discussion. Muslim academics Muhammad Quraish Shihab and Zakir Naik have shaped how polygamy is understood in the modern world. In light of contemporary society, it is intriguing to revisit and debate the analysis of these two people's philosophical works.

### *Polygamy from Quraish Shihab's Perspective*

Polygamy is a practice where a man has more than one wife at the same time. In the Islamic context, polygamy is allowed with a maximum limit of four wives, but the main condition that must be met is justice. Muhammad Quraish Shihab explains that polygamy is likened to an 'emergency exit' on an airplane. No one can open it except the person sitting nearby, and it can only be opened with the pilot's permission. This means that although polygamy is permitted in Islam, it cannot be implemented carelessly, has strict conditions and procedures, and can only be done with the permission of the court. Polygamy can also cause rifts in the household if it is not followed by good communication and understanding between husband and wife and their respective families.<sup>8</sup>

Muhammad Quraish Shihab frequently advocates for monogamy in his explanations; for example, the Prophet was monogamous until his first wife died. But according to Quraish Shihab, the Islamic legislation on polygamy shouldn't be closed off like an emergency exit on a plane. There are circumstances and times when opening the door is necessary. More broadly, polygamy can be viewed as a way for a man to protect and take care of multiple women under specific circumstances. This may occur in a number of circumstances, including those involving an imbalance in the population between men and women or an urgent social need.

Modern examples of polygamy can be found in some countries, such as Saudi Arabia and Indonesia, where polygamy is legally permitted and the practice is still practiced by a small section of society. However, it is important to note that although it is allowed, not all men choose to be polygamous, and not all women agree to be part of a polygamous marriage. Polygamy is often a controversial topic, both among Muslims and non-Muslims.<sup>9</sup> Many criticize the practice as a form of injustice against women, while others see it as a practical solution in certain situations. Muhammad Quraish Shihab argues that the understanding and application of polygamy should always be based on the principles of justice and the welfare of all parties involved. The law of polygamy in Islam is regulated in Al-Quran Surah An-Nisa verse 3, which states:

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<sup>8</sup> Rifqi Rohmatun Nikmah, Hardivizon Hardivizon, and Hasep Saputra, "Poligami dalam Perspektif Muhammad Muhammad Quraish Shihab (Studi Analisis Penafsiran QS. An Nisa' Ayat 3 dan Ayat 129 dalam Tafsir Al-Misbah)" (Thesis, IAIN Curup, 2019), <https://e-theses.iaincurup.ac.id/1868/>.

<sup>9</sup> Ahmad Zayyadi, "Kontribusi Turki Dan Mesir Terhadap Sejarah Pembaruan Hukum Keluarga Islam Di Indonesia," *Al-Manhaj: Journal of Indonesian Islamic Family Law* 2, no. 1 (January 4, 2023): 47-69, <http://dx.doi.org/10.19105/al-manhaj.v2i1.3115>.

وَإِنْ خِفْتُمْ أَلَّا تُقْسِطُوا فِي الْيَتَامَىٰ فَانكِحُوا مَا طَابَ لَكُمْ مِنَ النِّسَاءِ مَثْنَىٰ وَثُلَاثَ وَرُبَاعَ ۚ فَإِنْ خِفْتُمْ أَلَّا تَعْدِلُوا فَوَاحِدَةً أَوْ مَا مَلَكَتْ أَيْمَانُكُمْ ذَٰلِكَ أَدْنَىٰ ۖ أَلَّا تَعُولُوا

Meaning: " If you fear you might fail to give orphan women their 'due' rights 'if you were to marry them', then marry other women of your choice – two, three, or four. But if you are afraid you will fail to maintain justice, then 'content yourselves with' one<sup>10</sup> or those 'bondwomen' in your possession. This way you are less likely to commit injustice." (QS. An-Nisa: 3).

This verse shows that polygamy is allowed under the condition of justice. Muhammad Quraish Shihab emphasizes that the justice in question is not only in material terms but also in emotional and psychological terms. Justice in Islam is a key principle that must be upheld in every aspect of life, including marital relationships. Polygamy is not a command that all Muslim men must follow, but rather a concession granted under strict conditions. This means that if a man feels unable to be just, then it is better for him to remain monogamous. Quraysh Shihab often highlights that many men do not realize or ignore this requirement of fairness, which can ultimately lead to injustice and conflict within the family.<sup>10</sup> In the modern context, the application of justice in polygamy has become more complex as the demands and needs of life have become more diverse. For example, in Indonesia, the law allows polygamy subject to the permission of the first wife and the religious court, which is a form of oversight to ensure justice.

Muhammad Quraish Shihab argues that there are a number of underlying social and historical reasons why polygamy is tolerated in Islam. Preserving the care and assistance that widows and orphaned women require is one of the primary motivations. In the early Islamic era, polygamy offered a workable way to guarantee the well-being of the numerous widows and orphans who were left defenseless after battles. Furthermore, the availability of polygamy was a result of the gender ratio imbalance. Women may outnumber men in countries that have experienced war or natural disasters. By ensuring that all women can have a mate and safety, polygamy helps lower the likelihood of exploitation and the social challenges that women confront.<sup>11</sup> Furthermore, polygamy offers a remedy for issues with fertility and health. In certain situations, polygamy enables a husband to have children without divorcing his first wife if she is unable to bear children. In communities where progeny are valued greatly for carrying on the family line and inheritance, this is significant. Examples from today that illustrate these rationales include those in which polygamy is being used as a remedy for specific social issues. For instance, polygamy aids in providing security for widows who have lost their spouses to illness or warfare in various African cultures. To prevent misuse, it's crucial to constantly respect the fairness principle throughout this procedure.<sup>12</sup>

Quraysh Shihab suggests that rather than seeing polygamy as a practice that ought to be outlawed, it should be considered a remedy in some circumstances. He emphasizes that

<sup>10</sup> Natriani and Lewa, "Konsep Adil dalam Poligami Perspektif Muhammad Muhammad Quraish Shihabdan Amina Wadud."

<sup>11</sup> Siti Asiyah et al., "Konsep Poligami Dalam Alquran: Studi Tafsir Al-Misbah Karya M. Quraish Shihab," *Fikri: Jurnal Kajian Agama, Sosial Dan Budaya* 4, no. 1 (June 27, 2019): 85–100, <https://doi.org/10.25217/jf.v4i1.443>.

<sup>12</sup> Carlo Koos and Clara Neupert-Wentz, "Polygynous Neighbors, Excess Men, and Intergroup Conflict in Rural Africa," *Journal of Conflict Resolution* 64, no. 2–3 (February 1, 2020): 402–31, <https://doi.org/10.1177/0022002719859636>.

although polygamy is not generally advised, there are instances in which it may be a preferable course of action than divorce or other forms of injustice. For example, polygamy can be a way to maintain the family without having to give up the first marriage in situations where a wife is unable to bear children or has severe health problems. In such cases, polygamy might offer a compromise that enables the husband to pay for the family's requirements while continuing to be close to the first wife.

Muhammad Quraish Shihab also emphasizes that justice must be the main principle in the practice of polygamy. The justice in question is not only in terms of fulfilling material needs but also attention, affection, and emotional justice. If a man feels unable to fulfill these conditions, then it is better for him to remain monogamous. In the modern context, the application of polygamy must be done carefully and within strict legal restrictions. In Indonesia, for example, the law allows polygamy on the condition of obtaining permission from the first wife and the religious court.<sup>13</sup> This shows that while polygamy is permitted, there is an effort to ensure that the practice is done fairly and within socially and legally acceptable limits. In essence, according to Quraysh Shihab, polygamy is a solution that can be considered in certain situations, but it must be done with full responsibility and justice. Polygamy should not be practiced carelessly or as a form of personal fulfillment. All decisions must be based on the principles of justice and the welfare of all parties involved, taking into account the prevailing social and legal conditions.

#### *Polygamy from Zakir Naik's Perspective*

According to Zakir Naik, polygamy actually means 'a person who has more than one partner'. It is then divided into two categories: polygyny and polyandry. Polygyny is a man having more than one wife, while polyandry is a woman having more than one husband. People usually think polygamy means a man can marry more than one wife. Polygamy means that someone has more than one partner.<sup>14</sup> Since polygamy is familiar in the social life of the community, it is the term polygyny that has become taboo in the community. The permissibility of polygamy in Islam is often used by those who are racist against Islam to find loopholes and provocations. Polygamy in Islam is essentially a solution. A solution to the realities of life and social ills that are sometimes considered normal for society in general.

For example, a man who has two wives is considered taboo and unfaithful. Meanwhile, a man who changes girlfriends and even commits adultery is considered normal in the modern era. Zakir Naik sees this on the basis of a statistical phenomenon in his country, India. According to the Functional Committee report on 'Status of Women in Islam', published in 1975 on pages 66 and 67, the percentage of polygamous marriages is stated. It says that the percentage of Hindus doing polygynous marriages is 5 to 6, while the percentage of Muslim polygynous marriages is only 4 to 31.<sup>15</sup> That means Muslims openly allowing polygamy would be condemned by other religious parties, even though the practice is mostly applied by Hindus in India.

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<sup>13</sup> Nikmah, Hardivizon, and Saputra, "Poligami dalam Perspektif Muhammad Muhammad Quraish Shihab(Studi Analisis Penafsiran QS. An-Nisa' Ayat 3 dan Ayat 129 dalam Tafsir Al-Misbah)."

<sup>14</sup> Gunawan Adnan, "Agama dan Kesenjangan Sosial Perempuan dalam Pemikiran Zakir Naik," Other (Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia, January 19, 2022), <https://repository.ar-raniry.ac.id/id/eprint/19548/>.

<sup>15</sup> Zakir Naik, *Rights of Women in Islam: Modern Or Outdated?* (Englan: Adam Publishers, 2011), <https://jurnal.ar-raniry.ac.id/index.php/abrahamic/article/view/16088>.

Regarding the law of polygamy, Zakir Naik also makes the same reference in the Qur'an. The Quran clearly states that in Islam, men are allowed to be polygamous under the condition that they are fair. Indeed, Islam is a religion that calls for marrying only one woman. According to Zakir Naik, despite allowing polygamy, the Quran is the only holy book on earth that says, 'Marry only one'. It is mentioned in Surah An-Nisa (4), verse 3, *that 'you may marry two, three, or four women of your choice, but if you cannot be just, then marry only one.'* This statement, 'marry only one', is only found in the Quran, not in any other religious scripture. In pre-Islamic times, men had several wives, and some people had hundreds of wives.<sup>16</sup>

Islam places a limit on polygyny, with a maximum number of wives of four. If a man is allowed to have more than one wife, it is only on condition that he can be equally just between two, three, or four. Otherwise, if he is unable to do so, he should have only one. Similarly, Surah An-Nisa (4), verse 129, says that 'It is certainly very difficult for a man to be just between his wives.' According to Zakir Naik, polygamy in Islam is not a rule to be followed in general but rather an exception that is allowed in certain situations. Many people misunderstand by thinking that Islam obliges every man to marry more than one wife. In fact, in Islam, there are five categories that describe whether an action is permissible or not: the first is obligatory or fardhu, which is an action that must be done and there is no other choice; the second is recommended or encouraged, which means it is better to do but not obligatory; the third is permitted, which means it can be done but there is no specific encouragement to do it; the fourth is better left, which is an action that should be avoided even though it is not absolutely prohibited; and the fifth category is prohibited or forbidden, which means the action should not be done at all.<sup>17</sup>

Polygamy falls into the third category, which is permitted or permissible. This means that polygamy is not required by religion but may be practiced under certain conditions. Islam gives permission for polygamy as an option, not as an obligation. So, while polygamy is allowed, there is no compulsion for any Muslim man to do so. In other words, polygamy in Islam is something that can be done if there is a need or certain conditions, but it is not a rule that must be followed by every individual.<sup>18</sup> Zakir Naik explains that a proper understanding of polygamy is important so that the practice is not misinterpreted as a religious obligation but rather as a permissible option in specific situations.

Zakir Naik emphasized, *'There is no statement in any hadith or in the Qur'an that says that... "If a man marries more than one wife, he is a better Muslim than a person who marries only one wife."* This dismisses certain individuals who use polygamy as an excuse to be a better Muslim. It dismisses the argument that is often expressed that polygamy is done to follow the sunnah of the apostle, because the apostle, during his lifetime, practiced polygamy. In fact, the position of polygamy, as explained earlier, is 'mubah' permissible action, not sunnah, let alone obligatory.<sup>19</sup>

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<sup>16</sup> Naik.

<sup>17</sup> Naik.

<sup>18</sup> Zulfikar, "Perempuan Dalam Hukum Keluarga Islam; Zakir Naik Perspektif," *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan* 9, no. 1 (June 28, 2022): 251-67, <https://doi.org/10.32505/qadha.v9i1.4197>.

<sup>19</sup> M. Anzaikhan, *Hak Perempuan Islam Menurut Zakir Naik* (Banda Aceh: Bambu Kuning Utama, 2019), 47.

There is a hadith where the Prophet says, *'Everyone who marries completes half his religion.'* Someone asked Zakir Naik, "Does this imply that if I marry twice, I will have completed the full extent of my religion?" According to Zakir Naik, the person misunderstood the Prophet's message. When the Prophet said, *'When you marry, you complete half the religion'*, he meant that when a person gets married, it protects him from promiscuity, from fornication, and from homosexuality, which is half the sin in this world. When people get married, they have the opportunity to become husbands or wives, and because of that, they have the opportunity to become fathers or mothers. The duties of mother and father and husband and wife are very important in Islam. So, according to Zakir Naik, it makes no difference whether a man marries twice or four times; it is not said to complete his entire religion but remains half of it.<sup>20</sup>

Apart from discussing the law of polygamy, Zakir Naik also discussed the reasons why the law of polygamy exists in Islam. One example that Zakir Naik explained is that, because of the excess of women who cannot find husbands, Islam has permitted polygamy to protect women's honor. According to statistical data, almost all countries in the world have a much larger number of women than men. Only India and certain countries have more men. That's because in India the cruel practice of aborting female fetuses still applies. So, if all men only had one wife, there would be so many women who would not find husbands. The only choice left for the woman is to marry a husband, she marries a man who already has a wife, or she becomes public property.<sup>21</sup>

Public property here means that a woman is in a relationship or has sexual relations with many men outside of marriage. Because according to Zakir Naik, it is naturally impossible for a normal woman to be able to hold back her sexual passion for life without giving vent to it in some form. Another aspect of why polygyny is permitted is because no one can say that a man is said to be totally sterile. Zakir Naik said, *"No doctor can give you the guarantee, that the husband is 100% sterile. Even if you do 'Vasectomy', even if you do 'Nasbandi' no doctor can tell you, that the child cannot be a father – so still again the identity, the identification of that child, is yet in doubt."*<sup>22</sup>

According to Zakir Naik, Islam forbids polyandry and permits polygamy for the following reasons: first, men are more lustful than women. Second, a guy can fulfill his role as a spouse biologically. A lady cannot carry out her responsibilities as a wife if she has more than one spouse. According to medical science, a woman experiences behavioral and psychological changes during her menstrual cycle, including mental disturbances. As a result, this is the time when most arguments happen. This is intrinsically linked to the suffering and agony that women go through during a biological process, specifically the uterine wall collapsing if fertilization does not occur at a specific period.

Therefore, for a wife, if she has more than one husband, adjusting will be more difficult. Medical science also says that if a woman has more than one husband, she has the possibility of contracting sexually transmitted diseases and also venereal diseases, which will transmit them to other husbands. Not only that, if a man has more than one wife, if he is

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<sup>20</sup> Naik, *Rights of Women in Islam*.

<sup>21</sup> Zakir Abdul Karim Naik, *Mereka Bertanya Islam Menjawab; Pertanyaan Mengganjal Tentang Islam yang Sering Diajukan Orang Awam dan Non-Muslim* (Yogyakarta: Aqwam Publisher, 2011), <http://archive.org/details/DrZakirNaikJawabanDariBerbagaiPertanyaanMengenaiIslam>.

<sup>22</sup> Naik, *Rights of Women in Islam*.



married and has children, identify both parents; third, as explained previously, it is still not medically certain that a man is completely sterile. father can be identified,<sup>23</sup> and also the mother can be identified. However, if a woman has many husbands, when she becomes pregnant, it will be difficult to identify which husband's child she successfully fertilized, considering that not only one seed was planted in her. Third, as explained previously, it is still not medically certain that a man is completely sterile. Meanwhile, women can be confirmed as medically sterile because they have a uterus.

Regarding alternatives to polygamy for women, several social facts that are often found regarding a wife's anger towards her husband who married her are due to the wife's lack of knowledge in understanding the values of polygamy in Islam. Often, a wife with all the jealousy that fuels her anger tends to blame the concept of Islam. In fact, if he had known earlier about how Islam regulates the benefit of the people, he would have done it casually and be big-hearted. According to Zakir Naik, a husband is not obliged to ask his wife's permission if he wants to remarry; however, if permission is given by the first wife, a better relationship will naturally develop between the husband and the second wife, but still, it is not mandatory, except with one condition: if the wife states in her marriage contract, "*I don't want you to take another wife, as long as I am your wife.*"<sup>24</sup>

If so, then it becomes obligatory for the husband to ask permission from the wife before remarrying. Otherwise, in all other cases it is not mandatory; it's just that it's better. So the solution offered to women who refuse to be married or refuse to marry their husband without his permission is to make a contract before the wedding so that if the husband wants to remarry, then he is obliged to ask for the wife's blessing, and the wife can also do 'isma', namely making a marriage proposal. Her marriage contract stated that she could divorce, or in addition, polygamy provides an alternative for barren wives who wish to have children and contribute to the next generation. Polygamy for Zakir Naik is also a solution so that a family does not adopt a child. According to Zakir Naik, a wife should prefer to let her husband remarry than adopt a child.

### **Child Adoption in Islam from the Perspective of Muhammad Quraish Shihab and Zakir Naik**

Child adoption is a common practice in various cultures and religions as a way to provide protection and welfare for disadvantaged children. However, in Islam, the concept and implementation have their own specificities that often require in-depth explanation to be understood properly. One of the Muslim scholars who paid special attention to this issue was Quraish Shihab. As a contemporary commentator, Muhammad Quraish Shihab's views and interpretation of the law of adopting children in Islam have become an important reference for many Muslims in Indonesia and the world. In Islam, the concept of adoption as understood in Western society, where the adopted child completely takes on the identity and inheritance of the adoptive parents, is not fully recommended. This is based on the principles emphasized in the Koran, such as in Surah Al-Ahzab verses 4-5, which explain that adopted

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<sup>23</sup> Naik.

<sup>24</sup> Zulfikar, "Perempuan Dalam Hukum Keluarga Islam; Zakir Naik Perspektif."

children should not be considered biological children in any way.<sup>25</sup> They should still be identified based on their biological ancestry. However, Islam also emphasizes the importance of doing good and loving orphans and children in need.

*Child Adoption Perspective of Muhammad Quraish Shihab*

Muhammad Quraish Shihab, in his various works and lectures, outlines a balanced and in-depth understanding of this issue. According to him, although the Koran prohibits changing the legal identity and lineage of adopted children, Islam strongly encourages good deeds such as nurturing and caring for children in need. In his view, maintaining the original identity and lineage of adopted children is important in Islam. This relates to inheritance rights, clarity of descent, and certain rules relating to mahram (people who cannot be married). Adopted children may not take the surname of their adoptive parents as their surname.<sup>26</sup>

Despite restrictions on changing identities, Muhammad Quraish Shihab emphasized the importance of showing love and providing the best care for adopted children. He referred to various verses and hadiths that encourage Muslims to do good to orphans and children who need protection. In Muhammad Quraish Shihab's view, adopted children must be treated with love and given proper rights, even though they are not automatically entitled to inheritance from their adoptive parents. Furthermore, to overcome this problem, adoptive parents can provide a gift or will to the adopted child as a form of love and support.<sup>27</sup>

Muhammad Quraish Shihab further emphasized how crucial it is to adhere to relevant rules and ethics while adopting a child. This entails making certain that adoptions are completed in a way that is lawful, equitable, and transparent as well as keeping the child's best interests in mind at all times. He underlined that the adoption procedure must be conducted in all honesty and sincerity, with no desire to conceal the adopted child's true identity. In an Islamic environment, adopting children is more focused on humanity and social responsibility, according to Muhammad Quraish Shihab. Adoption involves more than just meeting a person's basic requirements for housing; it also involves offering strong moral principles, affection, and education. He underlined how crucial adoptive parents are in helping adopted children move toward better lives.

In addition, Muhammad Quraish Shihab emphasized how crucial it is to preserve the bond between adopted children and their birth families. He feels that even when a kid is adopted and raised by a foster family, they should, if at all possible, maintain contact with and a positive relationship with their birth family. The child's identity and emotional equilibrium depend on this. Muhammad Quraish Shihab went on to say that adoption is considered a charitable act in Islam. In addition to carrying out good deeds in this life, providing for and nurturing orphans and underprivileged youngsters also accrues long-lasting benefits in the hereafter. He urged Muslims to view adoption as a chance to make a lasting and significant positive effect.

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<sup>25</sup> Nuraini, "Verifikasi Qur'ani Tentang Status Anak Angkat," *Jurnal Ilmiah Al-Mu'ashirah: Media Kajian Al-Qur'an dan Al-Hadits Multi Perspektif* 14, no. 2 (April 24, 2018): 142–55, <https://doi.org/10.22373/jim.v14i2.3040>.

<sup>26</sup> Fathan Boulou, "Konsep Anak Menurut M. Muhammad Quraish Shihab Dan Implikasinya Terhadap Pendidikan," *Jurnal Ilmiah AL-Jauhari: Jurnal Studi Islam Dan Interdisipliner* 1, no. 1 (2016): 54–65, <https://journal.iaingorontalo.ac.id/index.php/aj/article/view/664>.

<sup>27</sup> Boulou.

Muhammad Quraish Shihab's opinions on the Islamic adoption law strike a compromise between a moral and social concern for underprivileged children and a textual interpretation of identity and lineage. He called on Muslims to actively participate in giving less fortunate children love, support, and safety in addition to abiding by the laws outlined in the Koran. Therefore, adoption in Islam is a demonstration of the compassion and social justice that religion teaches, in addition to being a way to fulfill legal requirements.<sup>28</sup>

Muhammad Quraish Shihab emphasizes to Muslims that the primary purpose of all actions is to bring about the pleasure of Allah and the well-being of humankind, placing a great focus on striking a balance between law and compassion. As long as it's done in line with Islam's moral precepts and lofty teachings, adopting a child is one option to accomplish these two objectives in this situation. Muhammad Quraish Shihab claims that adoption is an example of how Islamic principles on social duty, justice, and compassion are put into practice.

*Child Adoption Perspective of Zakir Naik*

In Islam, adoption of children is legally not permitted, and there are several important reasons behind this decision. The main principle in Islamic law is that adoption cannot change the legal status of the child. In the modern context, this often raises debates about how to care for and provide protection to children in need, especially when society faces pressing social issues. In Zakir Naik's view, although Islam encourages its followers to provide protection and love to less fortunate children, formal adoption is not permitted because it cannot change the child's legal status. Zakir Naik said, *"Islam does not allow adoption, for which there are several reasons, I will not go into. The only option remaining here is, that he either divorces the first wife, and takes another wife, if he wants children – or he keeps the first, and takes another wife, and treats them both of them equally."*<sup>29</sup>

This means that even though a husband and wife can care for and love an adopted child with all their heart, the child does not have the same rights as a biological child, especially in terms of last name and inheritance rights. In many modern countries, these regulations often conflict with common adoption practices, where adopted children usually receive equal rights to biological children. One of the main reasons behind adoption bans is the issue of identity. Adopted children may have difficulty finding their identity if they are not related by blood to their adoptive parents. In today's society, where identity and family connectedness are often important concerns, the inability of an adopted child to acquire the surname of his or her adoptive parents can be a significant emotional and social problem. This also affects how adopted children relate to biological siblings who may be born after adoption.<sup>30</sup>

According to Zakir Naik, other complications arise when a husband-and-wife couple who adopt a child then have a biological child. In this case, biological children often receive more attention than adopted children. Although many parents are able to divide their love equally, emotional challenges remain, and this can lead to unfairness in the treatment of

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<sup>28</sup> Nuraini, "Verifikasi Qur'ani Tentang Status Anak Angkat."

<sup>29</sup> Naik, *Rights of Women in Islam*.

<sup>30</sup> Iin Ratna Sumirat and Muhamad Wahyudin, "Hukum Anak Angkat Dalam Perspektif Islam Dan Hukum Positif," *Jurnal Studi Gender Dan Anak* 8, no. 02 (December 30, 2021): 168-94, <https://doi.org/10.32678/jsga.v8i02.5507>.

adopted children. In the modern context, where attention to the child's emotional well-being is becoming increasingly important, this requires a careful and considerate approach. This issue also includes how adopted children interact with other family members. For example, if adopted children and biological children are of different genders, they may face difficulties in living together as siblings in the same house. Adopted daughters must follow rules such as wearing a headscarf in front of their adoptive fathers if they are adults, while boys cannot be alone with their adoptive mothers.<sup>31</sup>

Furthermore, the issue of adoption in the context of inheritance law is also important. In the Islamic inheritance system, the distribution of inherited assets is carried out based on very specific provisions in the Koran. If an adopted child is recognized as an heir, the inheritance rights of biological children and real relatives may be disturbed. This can cause an imbalance in the distribution of assets and affect the welfare of the original family members. In the modern context, inheritance law can become a source of conflict if there are no clear regulations regarding the rights of adopted and biological children.<sup>32</sup> Meanwhile, Islamic inheritance law provides provisions regarding 'wills' that make it possible to give some assets to people who are not part of the biological family. It provides solutions to address problems that may arise from adoption while still keeping the interests of biological family members in mind. In many countries, testamentary arrangements allow for flexibility in estate planning, which can be an alternative to addressing concerns regarding adoption.

In the modern era, where adoption is becoming more common and accepted in various cultures and countries, the legal and social challenges associated with adoption must be addressed with a careful approach. Although Islam legally prohibits adoption, many countries implement adoption legal systems that grant equal rights to adopted children. This requires adjustments in the context of Islamic law to ensure that all rights and obligations can be fulfilled fairly. Modern adoption practices often involve efforts to ensure that adopted children have equal rights to biological children, including in terms of inheritance and identity. In this context, society must look for solutions that can meet children's needs without ignoring the basic principles of Islamic law.<sup>33</sup> For example, some Muslim countries may adopt specially regulated adoption systems to maintain a balance between the rights of adopted and biological children. Finally, it is important to understand that although Islam legally prohibits adoption, social and humanitarian principles remain a primary concern. Handling adoption issues must be carried out with full attention to the welfare of the child and the needs of the family. With the right approach, we can ensure that the rights of children, both adopted and biological, can be fulfilled fairly in the evolving modern context.

## Conclusion

The views of Muhammad Quraish Shihab and Zakir Naik offer different perspectives on how Islamic law can be applied in contemporary issues, showing that the interpretation and implementation of sharia can vary depending on the theological and social approaches used. Muhammad Quraish Shihab takes a more contextual and inclusive approach,

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<sup>31</sup> Naik, *Rights of Women in Islam*.

<sup>32</sup> Naik, *Mereka Bertanya Islam Menjawab; Pertanyaan Mengganjal Tentang Islam yang Sering Diajukan Orang Awam dan Non-Muslim*.

<sup>33</sup> Fatia, Budiarta, and Permatasari, "Pengaturan Pengangkatan Anak (Adopsi) Dalam Hukum Islam."

emphasizing the importance of balance between the texts of the Koran and social moral values in everyday life. In terms of polygamy, he emphasized that even though it is permitted by the Shari'a, the practice of polygamy must be carried out with great care and considering justice for all parties involved. Regarding child adoption, Muhammad Quraish Shihab highlighted the importance of preserving the original lineage of adopted children in accordance with Islamic teachings but also underlined the obligation to provide full love and protection to children in need, including through mechanisms such as grants or wills to ensure their rights. Adopted children remain protected.

In contrast, Zakir Naik has a stricter and more textual view of these two issues. In his view, polygamy is a right granted by the Shari'a and must be accepted without adjustment to the wider social context. Regarding adoption, Zakir Naik emphasized that Islam legally does not allow adoption in the sense that an adopted child completely replaces the identity and legal status of a biological child, because this is contrary to the basic principles of Islamic law regarding lineage and inheritance. According to him, although Islam encourages good deeds towards orphans and children in need, the adoption process (in its course) will interfere with the implementation of other Islamic family laws.

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