

ABSTRACT

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Children adoption practice (nowadays in indonesia), based on court determining or verdict is a reconditional of value and law, in other hand, this is a contemporary problematic that has not pointed out in Al-qur'an and hadith. However in the other side reputed as law dynamicization. To answer it, ijtihad can be done through instinbath using manhaj istihsan (ekletisisme).

To analyze that case, be done in normative form (library research) using kualitative approach. Aggregation data is gotten from library research (main source) which made reference to literature that related with research problem.

Research result are showing that, first. Istihsan used because it more looked whole about goodness, so that, istihsan has a responsity and progresivity becoause it can adapating with society and culture development. Now the وجه اقوى or the importnat reason children adoption can be done in court is there are more advantageous which is got. They are : giving legal certainty both of children and parents. As a legal document (authentic evidence) on legal actions that they did, showing practice law control about children adoption that has been living in a society. Second, after doing application of manhaj istihsan on children adoption as a court competence, then, the conclusion is children adoption trough court is legal and may be done in court.