

Child Adoption in Sukorejo Village: An Empirical-Normative Analysis of Islamic Law and Adoption Regulation

Naily Fadhilah¹, Muhammad Miqdam Makfi²

Universitas Diponegoro, Indonesia¹, Universitas Islam Indonesia²

Nailyfadhilah25@gmail.com, miqdam.makfi@uii.ac.id

ABSTRACT

The purpose of this study is to analyze child adoption practices in Sukorejo Village, Banyuwangi, from the dual perspectives of Islamic law and Government Regulation Number 54 of 2007. This study employs a qualitative methodology, organizing and categorizing field data to draw definitive conclusions. Methodologically, it integrates both empirical and normative juridical approaches. The findings reveal that under Islamic law, child adoption in Sukorejo Village remains permissible provided it does not violate fundamental Islamic tenets, such as altering the child's lineage (nasab). However, such customary practices lack formal statutory legality. Conversely, a juridical review under Government Regulation (PP) No. 54 of 2007 indicates that the village's prevalent informal, family-based adoption practice—conducted without a formal court order—is legally invalid and violates statutory provisions. This informality directly undermines the administrative legality, civil status, and legal protection of the adopted children. Therefore, formal adoption procedures are essential to ensure legal certainty, safeguard children's rights, and prevent potential disputes concerning inheritance and family relationships.

Keywords: Child Adoption; Islamic law; PP Number 54 of 2007

ABSTRAK

Penelitian ini bertujuan untuk menganalisis praktik pengangkatan anak di Desa Sukorejo, Kabupaten Banyuwangi, berdasarkan perspektif hukum Islam dan Peraturan Pemerintah Nomor 54 Tahun 2007. Penelitian ini menggunakan metode kualitatif dengan mengorganisasikan dan mengklasifikasikan data lapangan untuk memperoleh kesimpulan yang komprehensif. Pendekatan yang digunakan meliputi pendekatan yuridis empiris dan yuridis normatif. Hasil penelitian menunjukkan bahwa menurut hukum Islam, praktik pengangkatan anak di Desa Sukorejo diperbolehkan sepanjang tidak bertentangan dengan prinsip-prinsip dasar syariat Islam, terutama ketentuan mengenai nasab yang mengharuskan tetap terpeliharanya hubungan nasab antara anak angkat dan orang tua kandungnya. Namun, praktik pengangkatan anak yang dilakukan berdasarkan kebiasaan masyarakat tersebut belum memiliki legalitas formal sesuai dengan ketentuan peraturan perundang-undangan. Sementara itu, berdasarkan tinjauan yuridis terhadap Peraturan Pemerintah Nomor 54 Tahun 2007, praktik pengangkatan anak secara kekeluargaan tanpa penetapan pengadilan, sebagaimana lazim dilakukan di Desa Sukorejo, tidak memenuhi ketentuan hukum yang berlaku. Kondisi tersebut berimplikasi pada aspek legalitas administratif, status keperdataan, serta perlindungan hukum bagi anak angkat. Oleh karena itu, prosedur pengangkatan anak yang sesuai dengan ketentuan hukum diperlukan untuk menjamin kepastian hukum dan melindungi hak-hak anak angkat.

Kata Kunci: Pengangkatan Anak; Hukum Islam; Peraturan Pemerintah Nomor 54 Tahun 2007.

Received: 30 June 2025	Revised: 5 May 2026	Accepted: 28 April 2026	Published Online: 10 October 2026
---------------------------	------------------------	----------------------------	--------------------------------------

INTRODUCTION

Historically, child adoption was primarily practiced to continue and maintain a family lineage or clan in the absence of biological children. Additionally, adoption served as a mechanism to strengthen marital bonds and prevent divorce. In the contemporary era, societal evolution has diversified the motives behind adoption, with child welfare emerging as a primary driver. Today, adoption is no longer restricted to securing an heir or preserving a marriage; rather, it serves as a meaningful alternative for couples facing infertility to complete their families. Far from being a taboo practice, child adoption has become a widely accepted alternative for married couples. Furthermore, adoption is not exclusively pursued by childless families; it is also motivated by a desire to alleviate the financial burdens of biological parents or simply out of an altruistic interest in raising a child. Such adoptions involve children from external families, orphanages, or close relatives.

Initially, Indonesian jurisprudence grounded the legality of adoption within local customary formalities. On June 22, 1989, the Supreme Court of the Republic of Indonesia, during a meeting with the Small Formulating Team for Research on Applications for Child Adoption Permits (PIPA), explicitly stated that child adoption among Indonesian citizens could, in principle, be executed in accordance with customary law. Over time, subsequent legislation mandated that adoption must be formalized under both local customs and statutory laws. Consequently, while customary adoptions remain permissible, they must be validated through an official court order. This institutional requirement represents the best approach to safeguarding the interests of adopted children by guaranteeing legal certainty. However, despite the critical importance of formal status to a child's future civil rights, regulations governing child adoption in Indonesia remain fragmented across various legal instruments rather than unified under a single, comprehensive statute. This research specifically focuses on analyzing child adoption through the concurrent lenses of Islamic Law and the Government Regulation of the Republic of Indonesia Number 54 of 2007 concerning the Implementation of Child Adoption.

In Banyuwangi Regency, particularly within Sukorejo Village in the Bangorejo District, several families have adopted children from close relatives. Sukorejo is a predominantly Muslim agrarian village where adoptions are driven by various factors,

including economic hardship, divorce, or a general desire to raise a child. Nevertheless, the majority of these adoptions are conducted informally through mutual family agreements without seeking court ratification. This preference persists because the community views the legal process as overly burdensome and complex, and many families remain ignorant of statutory adoption procedures. Securing formal legalization through a judicial decree is vital, as it ensures state-recognized civil status and institutional protection for the child. Fundamentally, both Islamic and state law dictate that a child's rights and best interests must be protected. While Islamic educational frameworks tolerate disciplined correction provided it does not harm a child's physical or mental development, violence against children is strictly prohibited in any form. Islam may allow violence to educate children if it does not physically injure the children but only as educative manner to teach them some principles. Therefore, Legal formalization through judge's determination establishes a protective umbrella for the adopted child, the adoptive parents, and the biological parents alike. Intriguingly, some families in Sukorejo Village bypass the judiciary entirely, registering adopted children directly onto their Family Cards (Kartu Keluarga/KK) or obtaining birth certificates that list them as biological offspring.

Previous literature has examined child adoption from the perspectives of Islamic law and Government Regulation No. 54 of 2007. For instance, Afri Aswari Lasabuda described adoption procedures and status within Islam, noting that judicial authority and adoption decrees are governed by the principle of Islamic personality, allowing customary practices to operate alongside formal regulations. Similarly, Muhammad Lutfi Syarifuddin explored child adoption from an Islamic viewpoint, asserting that Islam categorizes children of unclear parentage as eligible for adoption. He emphasized that Islamic adoption must prioritize humanitarian care, maintenance, and education rather than asset protection. Furthermore, Sarwenda Kaunang investigated the implementation of adoptions within Religious and District Courts under Government Regulation No. 54 of 2007. Kaunang clarified that formal adoption does not sever the legal or biological ties between the child and their birth family, meaning the child retains inheritance rights from both biological and adoptive parents.

The novelty of this study lies in its localized, comparative analysis of child adoption in Sukorejo Village, Bangorejo District, Banyuwangi Regency, juxtaposing

Islamic legal tenets with Government Regulation No. 54 of 2007. While prior research has leaned heavily toward isolated, textual normative analyses, this study utilizes a combined juridical-empirical approach to examine how rural communities navigate and negotiate these legal frameworks in daily life. Rather than merely concluding that local practices deviate from state norms, this study investigates why the Sukorejo community embraces the "pseudo-legality" of informal Family Card updates over formal judicial decrees. By integrating empirical insights, this research demonstrates that economic barriers and bureaucratic complexities cultivate a collective mindset that prioritizes immediate social solidarity over abstract legal certainty. Consequently, this study offers a fresh perspective: the efficacy of state law depends not only on the dissemination of rules but also on how effectively those rules accommodate the economic realities and social needs of rural populations.

This qualitative field study was systematically structured to evaluate the complexities of child adoption in Sukorejo Village. The dual approach pairs a juridical-empirical framework to observe grassroots enforcement with a normative framework to analyze the issues through the lens of the Quran, Hadith, scholarly consensus, and the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI). Informants were selected via purposive sampling to secure comprehensive data, comprising: (1) nine pairs of adoptive parents as key informants to discuss motives and practices; (2) village officials and local religious/community leaders; and (3) legal practitioners, including Judges from the Banyuwangi Religious Court and the Head/Registrar (Penghulu) of the Bangorejo District Office of Religious Affairs (KUA). Data were gathered through in-depth interviews and document reviews. The empirical data presented in Table 1 reflects field verifications conducted during the research period, with biological identities kept confidential for ethical compliance. The collected data were processed using descriptive qualitative analysis, and data validity was ensured through source triangulation across various informants, civil documents, and legal frameworks.

METHOD

This study employed an empirical legal research design using a qualitative approach to examine child adoption practices in Sukorejo Village, Bangorejo District, Banyuwangi Regency, Indonesia. The study integrates juridical-empirical and

normative legal approaches. The empirical approach was used to investigate how child adoption is practiced, understood, and justified by local communities, whereas the normative approach examined the compatibility of these practices with Islamic law and the Government Regulation of the Republic of Indonesia Number 54 of 2007 concerning the Implementation of Child Adoption.

Sukorejo Village was purposively selected as the research site because informal child adoption remains a common social practice despite the existence of formal legal procedures. The village therefore provides an appropriate setting for examining the interaction between customary practices, Islamic legal principles, and state law.

Primary data were obtained through in-depth semi-structured interviews with purposively selected informants who possessed direct knowledge and experience of child adoption. The participants consisted of nine adoptive families as the principal informants, village government officials, religious and community leaders, judges of the Banyuwangi Religious Court, and officials of the Bangorejo District Office of Religious Affairs (Kantor Urusan Agama). Interviews explored the motivations for adoption, decision-making processes, legal awareness, administrative practices, and participants' perceptions regarding the relationship between customary practices, Islamic law, and state legal requirements.

Secondary data were collected through document analysis, including Government Regulation Number 54 of 2007, the Compilation of Islamic Law (Kompilasi Hukum Islam), relevant statutory regulations, court decisions where available, village administrative records, and scholarly publications on child adoption. These legal and documentary sources were used to interpret and verify the empirical findings rather than to replace them.

The interview data were transcribed verbatim and analyzed using thematic analysis. The analysis began with open coding to identify recurring themes, followed by categorization into broader analytical themes, including the motivations for child adoption, community perceptions of legal procedures, customary adoption practices, and legal implications. These themes were then interpreted through normative legal analysis by comparing the empirical findings with Islamic legal principles and the legal requirements established under Government Regulation Number 54 of 2007.

To ensure the credibility of the findings, source triangulation was employed by comparing information obtained from adoptive parents, village officials, religious leaders, judicial officers, and documentary evidence. Methodological triangulation was also applied by integrating interview findings with documentary and legal analysis. All participants provided informed consent before the interviews, and their identities were anonymized to maintain confidentiality and comply with research ethics.

RESULT AND DISCUSSION

Child adoption has been practiced since antiquity, predating the era of the Prophet Muhammad (ﷺ). Definitions and overviews of adoption can be found across statutory legislation, civil law, customary law, Islamic jurisprudence, and general reference encyclopedias.

In Islamic jurisprudence, the detailed definition of an adopted child is nuanced. The Arabic term for adoption is *tabannī*, which historically implied taking an external child and granting them the exact legal status, rights, and obligations of a biological child. This was widely practiced in the Pre-Islamic Era (*Jahiliyyah*), where *tabannī* represented a complete assimilation of the child into the adoptive lineage.

Some Islamic legal experts equate adopted children with long-term foster children. While the two concepts are frequently conflated, a distinction exists: fostering (*ḥaḍānah*) involves providing care, guidance, education, and healthcare to a child whose biological parents cannot support them, without altering their legal identity.

In contrast, Article 1, Point 1 of Government Regulation Number 54 of 2007 concerning the Implementation of Child Adoption defines an adopted child as:

"A child whose rights are transferred from the family environment of parents, legal guardians, or other people who are responsible for the care, education, and upbringing of the child, into the family environment of his adoptive parents based on a legal decision or court order."

This definition aligns with Article 1, Point 9 of Law Number 23 of 2002 (as amended by Law Number 35 of 2014) concerning Child Protection. Similarly, Book II of the Compilation of Islamic Law (KHI), Article 171, Letter (h), states:

"An adopted child is a child who in terms of maintenance for his daily life, education costs, and so on, shifts his responsibilities from his original parents to his

adoptive parents based on a court decision."

Both legal frameworks—Government Regulation No. 54 of 2007 and the KHI—share the core requirement that an adoption is only legally valid when sanctioned by a formal court order. Sheikh Mahmud Shaltut outlines two distinct conceptual models of adoption:

1. Altruistic Caretaking (At-Tabannī as Fostering): A person takes in a child known to belong to someone else, providing love, maintenance, and education without treating them as a biological child. Islam recognizes this form of care but does not grant the child biological status or automatic reciprocal inheritance rights. This model functions essentially as fostering, leaving the child's lineage intact.
2. Lineage Substitution (At-Tabannī as Assimilation): A childless individual takes another person's child and falsely claims them as biological offspring, completely severing the child's ties to their biological family. This model mirrors Jahiliyyah customs and is strictly forbidden (ḥarām) in Islamic law because it falsifies lineage.

First model illustrates that adopted children only receive, love, care, education, and others, without obtaining status of biological children, and its consequence such as inheriting each other. This practice is in line more to what is called as foster children, who do not change their lineage.

The second model define At-tabann as someone who does not have children. He then 'change' someone else's child to be his own, even though he knows that the child is not his biological child. This second model describes the adoption of children as practiced in the era of ignorance, namely equating the status of adopted children as biological children and severing blood relations with their biological parents. Adoption of a child like this is prohibited by Islamic law, because it breaks the kinship relationship with his biological parents.

According to Article 1, Point 2 of Government Regulation No. 54 of 2007, adoption is a formal legal act that transfers parental authority. It is stated: "Appointment of a child is a legal act that diverts a child from the environment of parental authority, legal guardian, or other person who responsible for the care, education and rearing of the child into the family environment of the adoptive parents". Since adoption triggers substantial legal consequences for both the child and the adoptive parents, it requires judicial confirmation to provide permanent legal protection. Statutory law Number 23 of

2002 jo. Law Number 35 of 2014 concerning Child Protection emphasizes that the primary objective of adoption must always be the welfare of the child, and so must be legalized under judicial confirmation.

Crucially, both Islamic law and Government Regulation No. 54 of 2007 agree on a fundamental principle: adoption must never break the biological lineage of the child. This is explicitly codified in Article 4 of Government Regulation (PP) No. 54 of 2007, which states:

"The adoption of a child does not sever the blood relationship between the adopted child and his biological parents."

Implementation of Child Adoption in Sukorejo Village

Sukorejo Village, located in the Bangorejo District of Banyuwangi Regency, East Java, predominantly relies on a customary or familial adoption system. The transfer of a child from biological to adoptive parents is typically executed via a mutual verbal or written agreement witnessed by relatives or village officials, bypassed without judicial ratification. Remarkably, it is an open secret within the village that many adoptive families successfully register these children directly onto their Family Cards (KK) and obtain birth certificates listing themselves as the biological parents.

While most residents recognize that this practice deviates from legal standards, they continue to bypass the courts due to widespread legal illiteracy and economic concerns. The formal judicial process is perceived as overly complex, time-consuming, and expensive. Because residents lack knowledge of court procedures, they often rely on third-party intermediaries or brokers, which drastically inflates the cost of legal formalization.

Consequently, families in Sukorejo treat adoption as an informal matter that requires nothing more than mutual consent and familial witnesses. The empirical landscape of adoption practices in the village is detailed in Table 1 below:

Table 1. Adoption Data and Motives in Sukorejo Village, Bangorejo District, Banyuwangi

No	Adoptive Parents	Number of Biological Children	Adopted Child	Biological Parents	Primary Motive
----	------------------	-------------------------------	---------------	--------------------	----------------

1	Subari + Supiah	3	Malik	Kasipan + Jaenab	Accompanying Siblings
2	Syuhada + Dina	3	Ciko	Alexander + Hidayah	Accompanying Siblings
3	Fadhil + Yusro	2	Faza	Samsuri + Juriyah	Accompanying Siblings
4	Supriadi + Ilmiyah	1	Briyata	Andre + Ika	Accompanying Sibling
5	Surip + Kotipah	-	Reva	(Confidential)	Childlessness
6	Bunyan + Khadijah	-	Wiji	(Confidential)	Childlessness
7	Miseno + Jeminah	-	Renia	(Confidential)	Childlessness
8	Mario + Poniye	-	Sukati	Slamet + Ginem	Childlessness
9	Kateno + Rumtikanah	-	Reza	Hanfi + Yatemi	Childlessness

The field data indicates that the motivations driving child adoption in Sukorejo Village fall into two primary categories: solidarity to accompany biological child/children, and the desire of childless couples to build a family

Islamic Law Analysis of Adoption in Sukorejo Village

As has been described above that the definition of adopted child in Islam is not distinguishly explained. There is a term for adoption in Arabic called *tabannī* which means taking adopted children. Even then, *tabann* also contains meaning to give an adopted child same status as his own biological child with the consequence that he has the exact same rights and obligations as his biological child.

According to Wahbah al-Zuhaili, terminologically, *tabanni* means "taking a child by someone against a child whose lineage is clear, then transferring the child's lineage to himself". Another definition of *tabann* is someone who deliberately assigns a child to himself, even though the child's lineage to his biological parents is clearly known. This is why *tabann* is not allowed in Islam.

True adoption in Islam is treated as long-term fostering (*ḥaḍānah*), which encompasses nurturing, educating, and providing for a child without altering their lineage (*nasab*). This means the child remains a *maḥram* to their biological father's

family. Furthermore, the prohibition against marriage does not apply, and mutual inheritance rights with the biological father remain intact. Should the child marry upon reaching adulthood, the biological father would still serve as the wali (marriage guardian)-in the case of a daughter.

Islamic jurisprudence outlines that the relationship between adoptive parents and adopted children does not create an artificial blood lineage. Thus, adoptive parents and children do not inherit from one another through standard Islamic estate distribution (*farā'id*), though property can be transferred via voluntary gifts (*hibah*) or a testamentary bequest (*waṣiyyah*). Masyfuk Zuhdi summarizes the permissible and impermissible dimensions of adoption as follows:

1. Taking other people's children to be cared for and educated with love and care also being treated like their own biological children. This practice is allowed in Islam. In fact, if a child is neglected or there is no one to care for him, Muslims are obliged to pick up (take care) the child. If no one is able to care for him due to economic factors, the costs will be borne by the government.
2. Taking someone else's child to be given the status of his biological child, so that he has the right to use the lineage of his adoptive parents and inherit his inheritance. This practice is not allowed in Islam because it will erase original lineage and brings up new lineage.
3. The prohibition against erasing a child's true lineage was established following the revelation of Surah Al-Ahzab, Verses 4 and 5, which revoked the biological status of Zaid bin Harithah, whom the Prophet Muhammad (ﷺ) had previously adopted. Prior to this revelation, Zaid was publicly known as "Zaid bin Muhammad." The Quran states:

مَا جَعَلَ اللَّهُ لِرَجُلٍ مِّن قَلْبَيْنِ فِي جَوْفِهِ وَمَا جَعَلَ أَرْوَاجَكُمْ الَّتِي تَظْهَرُونَ مِنْهُنَّ أُمَّهَاتِكُمْ وَمَا جَعَلَ أَدْعِيَاءَكُمْ أَبْنَاءَكُمْ ذَلِكَ قَوْلُكُمْ بِأَفْوَاهِكُمْ وَاللَّهُ يَقُولُ الْحَقَّ وَهُوَ يَهْدِي السَّبِيلَ ﴿٤﴾ اَدْعُوهُمْ لِأَبَائِهِمْ هُوَ أَقْسَطُ عِنْدَ اللَّهِ فَإِنْ لَّمْ تَعْلَمُوا آبَاءَهُمْ فَلَاخُوَانَكُمْ فِي الدِّينِ وَمَوَالِيكُمْ وَلَيْسَ عَلَيْكُمْ جُنَاحٌ فِيمَا أَخْطَأْتُمْ بِهِ وَلَكِنْ مَا تَعَمَّدَتْ قُلُوبُكُمْ وَكَانَ اللَّهُ غَفُورًا رَّحِيمًا ﴿٥﴾

4. "Allah has not made for a man two hearts in their sockets; and He did not make your wives whom you rejoice as your mothers, and He did not make your adopted children as your biological children (alone). That is just what you say in your mouth. And Allah tells the truth and He shows the (right) way."
5. "Call them (adopted children) by (using) the names of their fathers; that is more just

in the sight of Allah, and if you do not know their fathers, then (call them) your brothers and sisters in your religion and your maula. And there is no sin on you in what you err on the part of, but (in which there is a sin) what your heart intends. And Allah is Forgiving, Most Merciful”

The reason for revelation (sabab al-nuzūl) of above verses is explained in the Tafsir Al-Mishbah that during Jahiliya era prior to Islam, an adopted child was treated exactly same as biological child. These verses were revealed for the case of Zaid bin Haritha which was adopted by Prophet Muhammad (ﷺ). Zaid who left his father and was cared for by his grandfather, was once kidnapped by a cavalry group from the Tihamah tribe. The young man was taken to Makkah and bought by Hakim bin Hizam bin Khuwailid who gave it to his father's sister, Khadijah bint Khuwailid, a noble woman who later became the wife of the Prophet Muhammad (ﷺ). Zaid lived with Rasulullah ﷺ for a long time. After a while, Zaid's grandfather managed to find out that Zaid was in Makkah and then went to Prophet Muhammad (ﷺ) willing to pay some amount of money if Prophet Muhammad (ﷺ) allows Zaid to be returned to his family. In response, the Prophet Muhammad (ﷺ) offered a superior alternative: he allowed Zaid to return to his family freely, without any financial compensation. However, Zaid himself refused to reunite with his family and preferred to live with Prophet Muhammad (ﷺ). Deeply moved, the Prophet Muhammad (ﷺ) publicly announced that Zaid was his son, and from that point onward, he was known as Zaid ibn Muhammad.

The revealed verses subsequently annulled this adoption framework, alignment with the Jahiliyyah model of erasing biological roots. Following this revelation, the Prophet Muhammad (ﷺ) strictly warned Muslims against falsely claiming lineage to anyone other than their true biological fathers.

Furthermore, prophetic tradition narrated by Muslim from Abu ‘Utsman also underscores this gravity:

لَمَّا ادْعَى زِيَادٌ، لَقِيتُ أَبَا بَكْرَةَ فَقُلْتُ: مَا هَذَا الَّذِي صَنَعْتُمْ؟ إِنِّي سَمِعْتُ سَعْدَ بْنَ أَبِي وَقَّاصٍ، يَقُولُ: سَمِعْتُ أَدْنَاهُ مِنْ رَسُولِ اللَّهِ ﷺ وَهُوَ يَقُولُ: "مَنْ ادَّعَى أَبَا فِي الْإِسْلَامِ غَيْرَ أَبِيهِ، وَهُوَ يَعْلَمُ أَنَّهُ غَيْرُ أَبِيهِ، فَالْجَنَّةُ عَلَيْهِ حَرَامٌ". فَقَالَ أَبُو بَكْرَةَ: وَأَنَا سَمِعْتُهُ مِنْ رَسُولِ اللَّهِ ﷺ

“When Ziyad was attributed to someone who was not his father, then I (Abu Utsman) met Abu Bakrah. I said to him, “What have you done? Indeed, I have heard

Sa'd ibn Waqqas said, "My ears have heard (hadith) of the Prophet (PBUH) when he said," Whoever acknowledges father in Islam which is actually not his father, and he knew that the man was not his father, then heaven becomes forbidden to him. " Abu Bakrah said, "I have also heard it from the Messenger of Allah (PBUH)."

This hadith definitively demonstrates that adoption practices that sever an adopted child's biological lineage and elevate them to the legal status of a biological offspring are strictly prohibited in Islam.

Another prophetic tradition addresses child parentage and the legitimacy of the marital bed:

حدثنا قتيبة بن سعيد حدثنا ليث ح وحدثنا محمد بن ربح أخبرنا الليث عن ابن شهاب عن عروة عن عائشة أنها قالت اختصم سعد بن أبي وقاص وعبد بن زمعة في غلام فقال سعد هذا يا رسول الله ابن أخي عتبة بن أبي وقاص عهد إلي أنه ابنه انظر إلى شبهه وقال عبد بن زمعة هذا أخي يا رسول الله ولد على فراش أبي من وليدته فنظر رسول الله صلى الله عليه وسلم إلى شبهه فرأى شيئا بينا بعتبة فقال هو لك يا عبد الولد للفراش وللعاهر الحجر واحتجبي منه يا سودة بنت زمعة قالت فلم ير سودة قط ولم يذكر محمد بن ربح قوله يا عبد [ص: 1081] حدثنا سعيد بن منصور وأبو بكر بن أبي شيبة وعمرو الناقد قالوا حدثنا سفيان بن عيينة ح وحدثنا عبد بن حميد أخبرنا عبد الرزاق أخبرنا معمر كلاهما عن الزهري بهذا الإسناد نحوه غير أن معمرًا وابن عيينة في حديثهما الولد للفراش ولم يذكرًا وللعاهر الحجر.

"narrated Qutaibah bin Sa'id narrated Al-Lais narrated from other lines, has told us Muhammad bin Rumh has reported to us Al-Lais from Ibn Shihab from 'Urwa from 'Aisha that she said, Sa'ad bin Abi Waqqāṣ dispute with 'Abd bin Zama'ah on a son, Sa'ad said: Messenger of Allah, is the son of my brother, 'Utbaḥ bin Abi Waqqas, he has advised me that this was indeed his son, look at the similarities (with relatives). 'Abd bin Zam'I said: Messenger of Allah, this is my brother, because he was born in the bed of my father from my father's slave girl. Then Rasūlullāh ṣallallāhu ‘alaihi wasallam noticed his resemblance, it turned out that he was exactly like 'Utbaḥ, then he said: "This is yours, O ‘Abd, that is for the person who has the bed, where the child was born. While the man who committed adultery with his mother has nothing against him. Therefore, keep your eyes closed on it, O Saudah bint Zam'ah. " And Saudah never saw it again. And Muhammad bin Rumh did not mention his words: "O ‘Abd." It has been narrated to us by Sa'īd ibn Manṣūr, Abu Bakr ibn Shaybah and ‘Amru An Nāqid they said: It has been narrated to us by Sufyān ibn 'Uyainah. And narrated from another line and has narrated to us ‘Abd bin Ḥumaid has narrated to us ‘Abdur Razzāq has narrated to us the second Ma'mar from Az Zuhri with an isnad like this, yet Ma'mar said and Ibn 'Uyainah said in the hadith: "For the owner of the bed." And does not say: "For those

who commit adultery." (Sahih Muslim: 2645).

In hadith, the Prophet said **الْحَجَرُ لِلْعَاهِرِ وَالْوَلَدُ لِلْفِرَاشِ** (the child belongs to the bed and for adulterer is a stone) which means paternity belongs to husband even though the child was born out of adultery with other man. Commentators of Sahih Muslim clarify that the term **العاهر** refers explicitly to an adulterer. The phrase "for the adulterer it is a stone" signifies complete deprivation or misery. This reflects an ancient Arabic idiom where saying "for you a stone" denotes getting nothing.

By stating "the child belongs to the bed," the Prophet (ﷺ) firmly linked lineage to a valid, recognized marriage. This implies that if a man is legally married, his wife's bed is attributed to him. Any child born within a standard gestational timeframe following the marriage is legally connected to him as a biological child, triggering full mutual inheritance and legal rights, regardless of physical resemblances. The minimum established period for verifying such parentage is six months from the consummation of the marriage.

These textual proofs reinforce the conclusion that child adoption structures that completely replace biological lineages are prohibited in Islam. No matter the civil arrangement, a child remains unalterably tied to their biological father, the legal one.

Ali Hasan outlines two distinct models of child adoption within an Islamic framework:

1. The Permissible Fostering Model: A family takes in a child out of compassion or altruism. This is often driven by the birth parents' severe economic distress or inability to provide basic education and daily needs. In this arrangement, the biological parents remain fully identified, and the adoptive parents do not falsely claim the child as their biological offspring. The adoptive parents function purely as guardians and caretakers, a model highly encouraged in Islam. Regarding marital guardianship (*wali*) and inheritance, the child remains unalterably attached to their biological family. If adoptive parents wish to pass wealth to the child, they must do so via voluntary gifts (*hibah*) or a living will (*waṣiyyah*), rather than automatic inheritance.
2. The Impermissible Lineage Substitution Model: An individual takes another person's child, claims them as their biological offspring, and intentionally erases

the child's true biological parentage. This method is strictly *ḥarām* (forbidden) in Islam

Applying this Islamic legal framework to the field data collected from Sukorejo Village, Bangorejo District, Banyuwangi Regency reveals the following insights:

1. First, the local practice of informal, family-based adoption executed without a formal court decree remains religiously permissible only to the extent that it functions as foster care and does not alter the child's true biological lineage (*nasab*). However, this informal practice carries absolutely no state-recognized legal force.
2. Second, field data shows that a significant portion of adoptions in Sukorejo Village involve falsifying civil birth certificates to list adoptive parents as the biological parents. Even though these families perceive their daily care as falling under the permissible scope of *ḥaḍānah* (parenting/fostering), they must recognize that marital guardianship for adopted daughters remains exclusively with the biological father.
3. Third, the custom in Sukorejo Village of completely replacing biological details on birth certificates and Family Cards (KK) without a formal judicial decree is entirely unjustified under both state statutes and Islamic law. Legally and religiously, a child's parental attribution unalterably belongs to their biological father. For adopted girls, an adoptive father possesses no *mahram* bond and cannot serve as the marriage guardian (*wali*), making any marriage conducted under his guardianship religiously invalid. Bypassing these boundaries constitutes an act of administrative dishonesty and direct disobedience to established laws and judicial authorities—actions that run contrary to Islamic commands.

Juridical Review of PP Number 54 of 2007 on Adoption in Sukorejo Village

Legislation governing child adoption in Indonesia is not unified under a single, comprehensive law, but remains fragmented across several scattered statutory instruments. Similarly, the statutory legal consequences of adoption have historically lacked a single, absolute codification.

According to Article 1, Point 1 of Government Regulation Number 54 of 2007 concerning the Implementation of Child Adoption, an adopted child is defined as a

minor whose rights are transferred from the family environment of their parents, legal guardians, or caretakers into the family environment of adoptive parents based on a formal court decree.” Furthermore, Article 1 number 2 of the Government Regulation of the Republic of Indonesia Number 54 of 2007 on the Implementation of Adoption, states that: responsible for the care, education and upbringing of the child in the family environment of the adoptive parents”. Surojo Wignjodipuro adds that adoption is an act of welcoming another person's child into one's own family in a manner that creates an identical socio-legal relationship to that of a biological family unit.

Article 2 of Government Regulation No. 54 of 2007 establishes the primary mandate of adoption: "Adoption aims to serve the best interests of the child in order to ensure child welfare and protection, executed in accordance with local customs and statutory regulations." Complementing this framework, Law Number 35 of 2014 concerning Child Protection regulates the general implementation of adoption across all demographics, defining child protection as any activity designed to safeguard a child's right to live, grow, develop, and participate optimally while maintaining human dignity and offering protection against violence or discrimination. Within modern Indonesian legal development, this formal statutory formulation applies uniformly to all adoptions nationwide, including both domestic and inter-country adoptions. Therefore, child welfare must always be the paramount priority, as explicitly mandated by Government Regulation No. 54 of 2007, Law No. 23 of 2002, and Law No. 35 of 2014.

The mandatory procedural steps are codified in Articles 19 and 20 of Government Regulation No. 54 of 2007:

Article 19

"Customary adoption is conducted in accordance with the prevailing procedures of the respective community."

Article 20

(1) An application for child adoption that meets all necessary prerequisites must be submitted to the court to obtain an official judicial decree.

(2) The court shall then submit a copy of this adoption decree to the relevant agency.

"relevant agencies" specified under Article 20 include the Supreme Court (via the Clerk of the Court), the Ministry of Social Affairs, the Ministry of Law and Human

Rights (via the Directorate General of Immigration), the Ministry of Foreign Affairs, the Ministry of Health, the Ministry of Home Affairs, the Attorney General's Office, and the Indonesian National Police.

These regulations make it clear that while custom-based adoptions are acknowledged, they must be formally petitioned in court to secure a legal ruling. Judicial confirmation is critical to establishing definitive legal power over the private and civil status of the child. In short, Chapter IV of Government Regulation No. 54 of 2007 permits customary adoptions but explicitly mandates their submission to a court for a binding judicial decree to secure permanent legal force.

In daily practice, the negative legal consequences of unratified adoptions are less visible to families operating within the informal entrepreneurial sector, who rarely encounter strict state civil service audits. Conversely, the administrative weight of a court-approved adoption decree is felt acutely by families of Civil Servants (Pegawai Negeri Sipil/PNS). For civil servants, formal administrative legality is a strict prerequisite for an adopted child to qualify for state-backed family benefits, allowances, and healthcare. This administrative eligibility represents the most tangible benefit of a formalized adoption.

All in all, adoption must progress through formal judicial channels and culminate in a judge's decree. As a formal legal act, this regulated process brings order to community practices and guarantees long-term legal certainty for both the child and the adoptive parents. Securing a judicial decree clarifies the child's civil status and solidifies their legal standing. Furthermore, a court decree serves as objective proof of the adoptive parents' permanent commitment to integrating the child into their family unit with all associated legal responsibilities.

Ultimately, processing an adoption through the courts is designed to secure legal certainty, state legality, institutional justice, and valid legal documentation. The resulting legal document acts as definitive proof of a valid adoption holding permanent legal force. Conversely, if an adoption is not validated by a court order, a formal legal relationship between the adoptive parents and the child fails to materialize under state law. Consequently, the civil rights that should naturally protect the child remain unfulfilled. This includes the right to a valid state identity (a birth certificate matching legal parameters), institutional protection, social welfare benefits, and formal state

recognition. Interestingly, under Islamic law, failing to secure a state court decree does not inherently invalidate the core relationship. This is because Islamic jurisprudence views adoption strictly as a transfer of caretaking custody (*ḥaḍānah*) from the biological parents to the adoptive parents, which operates successfully without altering biological lineage.

Arya and E. Rakhmat explain that the core objective of court proceedings is to secure a final judicial verdict with permanent legal force (*inkracht van gewijsde*), rendering it unalterable. A final judgment binds both parties in perpetuity and allows the state to enforce compliance through its legal apparatus if necessary ("by force of law"). In Indonesia, judicial decrees for child adoptions fall under the category of Declarative Decisions (*Beschikkingen*), which merely confirm or state an existing legal reality.

Given this landscape, the author notes that the primary driver behind child adoption within rural communities is often centered on immediate child welfare and social solidarity rather than abstract juridical concerns. At its core, adoption reflects a sincere willingness to assume full responsibility for a child's care, growth, education, and prospects. Because true adoption does not alter permanent biological lineages, it does not naturally trigger automatic statutory changes to inheritance rights. From a purely customary and religious perspective, the caretaking arrangement remains socially valid even without court intervention.

However, from a statutory perspective, the informal adoption practices in Sukorejo Village clearly violate state provisions, specifically Government Regulation No. 54 of 2007. By relying solely on family agreements and bypassing the judiciary, these practices attempt to bypass state channels to update birth certificates and Family Cards, which compromises the legal security of the child's identity.

CONSLUSION

Based on the findings of this study, child adoption in Islamic law is understood through the historical concept of *tabannī*. From an Islamic legal perspective, the informal adoptions conducted in Sukorejo Village without formal court verification remain religiously permissible, provided they do not violate fundamental tenets, such as altering or erasing the child's biological lineage (*nasab*). In Islam, adoption establishes a foster care relationship (*ḥaḍānah*) and does not create a biological or legal lineage.

Consequently, the relationship focuses on providing education, care, and daily maintenance. However, this informal customary practice carries no formal statutory weight under Indonesian positive law. Conversely, a juridical review under Government Regulation of the Republic of Indonesia Number 54 of 2007 indicates that the family-based adoptions prevalent in Sukorejo Village—executed without a formal judicial decree—are legally invalid and violate statutory provisions because these adoptions lack judicial confirmation, a state-recognized legal relationship between the adoptive parents and the adopted child fails to materialize. Furthermore, bypassing the courts undermines the child's administrative legality, weakens their formal civil status, and strips them of essential state-backed legal protections. As a result, several vital civil rights of the adopted child are left unfulfilled, including the right to an accurate, legally valid identity (birth certificate), the right to formal state protection, and comprehensive social welfare.

Based on the findings of this research, some recommendations are suggested:

1. Joint Educational Outreaches: The Office of Religious Affairs (KUA), local religious leaders, and the Religious Courts should collaborate to launch targeted socialization campaigns regarding formal statutory adoption procedures to dismantle public ignorance in rural communities.
2. Systemic Integration: There is an urgent need to harmoniously integrate the values of Islamic *ḥaḍānah* (caregiving) with the state legal framework. This alignment will safeguard children's civil rights and ensure that religious obligations and state regulations are not viewed by rural populations as conflicting systems.
3. Affordable Legal Access: Local governments should introduce affordable, subsidized legal services for the community in Sukorejo Village. Lowering the financial barriers and simplifying bureaucratic hurdles will directly discourage residents from relying on expensive intermediaries and encourage the formalization of adoptions through the court system.
4. Preventing Document Falsification: Implementing these collaborative measures will provide legal certainty for adopted children while actively halting the high-risk practice of falsifying civil cards and birth certificates.

REFERENCE

- Alam, Andi Syamsu, and M. Fauzan. *Hukum Pengangkatan Anak Dalam Perspektif Hukum Islam*. Jakarta: Kencana, 2008.
- An-Nawawi, Imam. *Syarah Shahih Muslim*. Vol. 7, translated by Darwis. Jakarta: Darus Sunnah Press, 2013.
- Diansah, S. (2023). *Pemberlakuan Hukum Positif terhadap Perlindungan Hukum bagi Anak Angkat Berdasarkan Peraturan Pemerintah Nomor 54 Tahun 2007 Tentang Pelaksanaan Pengangkatan Anak Implementation of Positive Law for the Legal Protection of Adopted Children Based on Government Regulation Number 54 of 2007 concerning the Implementation of Adoption*. 11(November), 1533–1542.
<https://doi.org/10.56338/jks.v6i11.4344>
<http://jurnal.unismuhpalu.ac.id/index.php/JKS/article/view/4344>
- Ginting, R. R. (n.d.). *Hukum Pengangkatan Anak di Negara Muslim*. 2, 369–381.
<https://ejournal.kopertais4.or.id/susi/index.php/JK/article/view/3917>
- Hamid, Muhammad Muhyidin Abdul. *Al-Ahwal al-Syakhshiyah Fi al-Syari'ah al-Islamiyyah*. Cairo: Maktabah Muhammad Ali Shobih, 1996.
- Hasan, Ali M. *Masail Fiqhiyah Al-Haditsah: Masalah-Masalah Kontemporer Hukum Islam*. Jakarta: PT. Raja Grafindo Persada, 1997.
- Juynboll, Gautier HA. *Encyclopedia of Canonical Ḥadīth*. Brill, 2007.
- Kadek, N., & Dwiyantri, M. (2023). *Jurnal Private Law Fakultas Hukum Universitas Mataram Tinjauan Yuridis Mengenai Pengangkatan Anak (Adopsi) Berdasarkan Penetapan Nomor : 365 / Pdt . P / 2019 / Pn . Mtr Juridical Review Regarding Adoption Of Children (Adoption) Based On Determination*. 3(3).
<https://journal.unram.ac.id/index.php/privatelaw/en/article/view/3424>
- Kaunang, Sarwenda. “Kajian Tentang Pengangkatan Anak Menurut Pp Nomor 54 Tahun 2007.” *Lex Privatum* 4, no. 3 (2016): 115–22.
<https://www.neliti.com/publications/149843/kajian-tentang-pengangkatan-anak-menurut-pp-nomor-54-tahun-2007>
- Lailawati, F. D., Anggriawan, F., & Amrullah, M. F. (2007). *Legal consequences of adopting children of Indonesian citizens by foreign nationals*. 253–261.
<https://doi.org/10.26905/idjch.v13i3.8881>
<https://jurnal.unmer.ac.id/index.php/jch/article/view/8881>

- Lasabuda, Afri. “Kewenangan Pengangkatan Anak Dalam Perspektif Hukum Islam.” *Lex Privatum* 1, no. 2 (2013): 91–108.
<https://www.neliti.com/publications/149385/kewenangan-pengangkatan-anak-dalam-perspektif-hukum-islam>
- Meliala, Djaja S. *Pengangkatan Anak (Adopsi) Di Indonesia*. Bandung: Tarsito, 1982.
<https://repository.unpar.ac.id/items/6b3f5733-8a17-4994-b267-09fbc4e3de86>
- Pramono, Zolla Andre, and Diana Tantri Cahyaningsih. “Problematisa Pelaksanaan Pengangkatan Anak (Adopsi) Ditinjau Dari Peraturan Pemerintah Republik Indonesia Nomor 54 Tahun 2007 Tentang Pelaksanaan Pengangkatan Anak Di Panti Asuhan Putra Bakti Kabupaten Batang.” *Jurnal Privat Law* 8, no. 2 (December 2020): 243. <https://doi.org/10.20961/privat.v8i2.48416>.
<https://jurnal.uns.ac.id/privatlaw/article/view/48416>
- Putra, Arya Pradana, and H. E. Rakhmat Jazuli. “Perbandingan Prosedur Pengangkatan Anak Menurut Hukum Positif Indonesia Dengan Hukum Islam.” *Yustisia Tirtayasa: Jurnal Tugas Akhir* 1, no. 1 (August 2021).
<https://doi.org/10.51825/yta.v1i1.11679>.
<https://jurnal.untirta.ac.id/index.php/yustisia/article/view/11679>
- Putu, N., Nandari, S., Sadnyini, I. A., Ayu, I., Artami, K., Tia, C., & Sari, S. (2022). *Appointment of Children Based on Government Regulation Number 54 Year 2007 in Human Rights Perspective*. 5(1), 17–24.
<https://ejurnal.warmadewa.ac.id/index.php/sjj/article/view/4511>
- Sarong, Hamid. *Hukum Islam Dan Sistem Pengangkatan Anak Di Indonesia*. Yogyakarta: Kaukaba Dipantara, 2016.
- Shihab, M. Quraish. *Tafsir Al-Mishbah (Pesan, Kesan, Dan Keserasian Al-Qur'an)*. Vol. 11. Tangerang: Lentera Hati, 2005.
- Siregar, Sutan. “Pelaksanaan Adopsi Berdasarkan Peraturan Pemerintah Nomor 54 Tahun 2007 (Studi Di Pengadilan Negeri Padangsidimpuan).” *JUSTITIA: Jurnal Ilmu Hukum Dan Humaniora* 1, no. 1 (January 2019): 428–42. <https://doi.org/10.31604/justitia.v1i1.428-442>. Syaltut, Syaikh Mahmud. *Fatwa-Fatwa*. Translated by Bustami and Zaini Dahlan. Jakarta: Bulan Bintang, 1973.

- Syarifuddin, Muhammad Lutfi. "Adopsi Perspektif Hukum Islam." *An-Nuha: Jurnal Kajian Islam, Pendidikan, Budaya Dan Sosial* 1, no. 1 (2014): 65–79.
<https://ejournal.staimadiun.ac.id/index.php/annuha/article/view/18>
- Tim Penulis. *Kompilasi Hukum Islam*. Bandung: CV. Nuansa Aulia, 2012.
- Togatorop, Deasy E. P. "Kekuatan Hukum Akta Pengangkatan Anak yang Dibuat Dihadapan Notaris Sesudah Berlakunya Peraturan Pemerintah Nomor 54 Tahun 2007 Tentang Pelaksanaan Pengangkatan Anak." *Premise Law Journal*, vol. 2, 2017.
<https://www.neliti.com/publications/165055/kekuatan-hukum-akta-pengangkatan-anak-yang-dibuat-dihadapan-notaris-sesudah-ber>
- Viedny, Ni Nyoman Sri Sukma Mega, and Lalu Hadi Adha. "Efektivitas Peraturan Pemerintah Nomor 54 Tahun 2007 Tentang Pelaksanaan Pengangkatan Anak (Studi Di Kecamatan Narmada, Kabupaten Lombok Barat)." *Private Law* 1, no. 2 (2021): 136–44.
<https://jurnal.unram.ac.id/index.php/privatelaw/en/article/view/257>
- Wignjodipoero, Soerojo. *Pengantar Dan Asas-Asas Hukum Adat*. Jakarta: Gunung Agung, 1995. <https://cir.nii.ac.jp/crid/1971993809810607490>
- Yusdani. *Menuju Fiqh Keluarga Progresif*. Yogyakarta: Kaukaba, 2011.
<https://journal.uui.ac.id/JHI/article/view/6153/5565>
- Zuhailiy, Wahbah al-. *Al-Fiqh al-Islami Wa Adillatuhu*. Vol. 9. Beirut: Dar al-Fikr, 2004.
- Zuhdi, Masyfuk. *Masail Fiqhiyah*. Jakarta: Haji Masagung, 1992.
- Putra, Hamidansyah P., et al. "Perlindungan Hukum Terhadap Pelaksanaan Pengangkatan Anak Ditinjau Dari Hukum Islam Dan Undang-undang No 23 Tahun 2002 Tentang Perlindungan Anak." *USU Law Journal*, vol. 3, no. 2, 2015, pp. 68-77.
<https://www.neliti.com/publications/14264/perlindungan-hukum-terhadap-pelaksanaan-pengangkatan-anak-ditinjau-dari-hukum-is#cite>