

## Adoption of Children and Its Limits in Interacting with Adoptive Parents

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### Abstrak

*Child adoption is governed by both Islamic jurisprudence (fiqh) and positive law, but these regulations are often overlooked by many adopting parties, leading to violations of both religious and legal principles. The objective of this article is to analyze the adoptive parent-child relationship in a family from a fiqh perspective and evaluate the implications of this relationship on their daily interactions. The research conducted in this article employs a qualitative literature review method with a descriptive and comparative approach. Data sources include classical fiqh texts, current legal statutes, and recent scholarly articles. Fundamentally, fiqh and positive law both prohibit attributing lineage from adopted children to their adoptive parents. As a result, these prohibitions create boundaries that affect the interactions between adoptive parents and adopted children in their daily lives. Unfortunately, the disregard for these boundaries often leads both parties to engage in actions that go against fiqh and positive law.*

**Kata Kunci:** *Adopted Child, Interaction Boundaries, Fiqh, Positive Law*

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## A. INTRODUCTION

The presence of a child in a family is one of the hopes of a married couple. However, many have been married for a long time but have not been blessed with children. Some Indonesian communities believe that adopting a child can trigger their wife's pregnancy. Therefore, adopting a child is one of the efforts made by a married couple to have offspring.

Various studies have found the motivations and reasons why someone considers adoption and parenting. Common reasons often cited include: wanting to provide a home for a child in need, the desire to expand one's family, infertility, and wanting siblings for their children.<sup>1</sup> Adopting a child is also often done out of pity for orphaned children.<sup>2</sup>

In Islam, the act of adopting a child (*tabanni*) is considered forbidden (*haram*). The

<sup>1</sup> Emily J. Helder, Marjorie L. Gunnoe, and Hannah Timmermans, "Religious Motivation to Adopt as a Predictor of Adoptive Family Structure, Parental Discipline, and Outcomes" *Adoption Quarterly* 23, no. 3 (2020): 1, doi:<https://doi.org/10.1080/10926755.2020.1790451>.

<sup>2</sup> T. Wahyu Srimuryadi, "Tinjauan Hukum Islam Terhadap Praktik Adopsi Anak Di Gampong Tanoh Anou Kecamatan Idi Rayeuk Kabupaten Aceh Timur" *Al-Qadha* 5, no. 2 (2018): 19.

prohibition of child adoption is based on Quranic verses and the sayings of the Prophet. The adoption of a child is prohibited to maintain lineage and prevent ambiguity. However, fostering a child for care and financial support is permissible as long as the child's lineage is maintained with their biological father.

At least it can be understood that there are two meanings regarding child adoption. First, child adoption in a broad sense. In this case, adoptive children and adoptive parents are considered to have a lineage relationship, thus having rights and responsibilities just like biological children. Adoption in this sense is prohibited in Islam. Second, child fostering in a limited sense. In this case, adoptive parents and adoptive children do not have a lineage relationship. Adoption by adoptive parents is limited to social relationships only,<sup>3</sup> Namely, treating an adopted child as one's own in terms of providing support, nurturing, affection, giving proper education, and fulfilling their needs.<sup>4</sup>

Adoption of children is already widely practiced by Indonesian society. However, it is important to understand that adopting a child is not just about raising a child based on an agreement between two parties. Child adoption must adhere to a specific legal process and obtain court approval.<sup>5</sup> In Indonesia, the adoption of children is regulated by the Republic of Indonesia Law Number 23 of 2002 concerning Child Protection.

Apart from the adoption process that must adhere to legal procedures, it is also important to consider the life with the adopted child afterward. The life of the adopted child with the adoptive parents should adhere to the rules of Islamic law, including the prohibition of being alone (khalwat) and the prohibition of exposing one's private parts (‘aurāt). Essentially, the adopted child is a stranger who becomes part of the adoptive parents' life. However, many adoptive parents ignore the boundaries set by Islamic law, which can result in engaging in actions prohibited by the religion. They treat the adopted child as if they were their biological child and live together in the same household.<sup>6</sup>

Previously, Ramlah Dahlan and Abdollah Reza had written on the topic of child adoption with the title "*Child Adoption and its Relationship with Guardianship in the Perspective of Islamic Law and Legislation in Indonesia (A Case Study in Class 1A of Palu Religious Court)*". In their article, the authors

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<sup>3</sup> Sukardi, "Adopsi Anak Dalam Hukum Islam" *Rabeema: Jurnal Studi Gender Dan Anak* 5, no. 2 (2018): 174.

<sup>4</sup> Erha Saufan Hadana, "Pengangkatan Anak Dalam Perspektif Hukum Islam" *LENTERA: Indonesian Journal of Multidisciplinary Islamic Studies* 1, no. 2 (2019): 132.

<sup>5</sup> *Ibid.*, 130.

<sup>6</sup> This is clearly visible in the lives of celebrities who choose to adopt children. Adoptive parents and their non-biological children live together under one roof. They appear very close, just like biological parents and their children. This is similar to what was reported by the IDN News team when discussing the life of the celebrity Anjasmara, who adopted three non-biological children. "Adem, 10 Potret Manis Anjasmara Dan Dian Nitami Bareng Anak Angkat", accessed October 12, 2023, <https://www.idntimes.com/hype/entertainment/amp/stella-azasya/potret-anjasmara-dan-dian-nitami-bareng-anak-angkat-c1c2?page=all#page-2>.

mentioned several challenges of child adoption and guardianship. Differences in perceptions pose challenges to realizing the regulation of child adoption within the legal framework. The presence of diversity and varying legal systems presents challenges in establishing a unified legal system in Indonesia, which hinders the optimal structuring of child adoption regulation.<sup>7</sup>

Another article is written by Heriawan in the *Catalogis* journal. In the article titled "*Direct Child Adoption in the Perspective of Child Protection*". Heriawan explains that child adoption must go through a court procedure through a Judge's decision. The legal consequences of child adoption include determining custody and inheritance rights for the adopted child.<sup>8</sup>

Haedah Faradz also wrote on the topic of child adoption with the title "*Adoption of Children According to Islamic Law*". In an article published in the *Journal of Legal Dynamics*, Faradz explains that child adoption based on the decision of the Religious Court does not sever the lineage relationship between the adopted child and their biological parents. The relationship between the adopted child and the adoptive parents is limited to that of a ward and foster parents. Adoptive parents are only responsible for providing financial support and covering the child's educational expenses. Meanwhile, the adopted child can inherit from their adoptive parents through a compulsory will (*al-waṣīat al-wājibah*).<sup>9</sup>

The previous articles did not provide a detailed explanation of the prohibitions that should be avoided by adopted children and adoptive parents when living under the same roof. As they are not biologically related, it is essential to observe boundaries between males and females, as outlined by Islamic scholars in jurisprudence. This article will discuss the essence of adopted children and adoptive parents in a family according to jurisprudence and what limitations and prohibitions should not be violated by both of them.

## B. RESEARCH METHOD

This article employs a qualitative literature review method with a descriptive and comparative analysis to examine the adoptive parent-child relationship. Data sources are taken from fiqh books, relevant laws, and scientific journals. This article aims to understand the nature of the relationship between adoptive parents and adopted children in a family from a fiqh perspective. It also explores the consequences of this relationship in their interactions with each other and

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<sup>7</sup> Ramlah Dahlan and Abdollah Reza, "Pengangkatan Anak Dan Hubungannya Dengan Perwalian Dalam Tinjauan Hukum Islam Dan Perundang-Undangan Di Indonesia (Studi Kasus Di Pengadilan Agama Palu Kelas 1 A)" *Almaṣṣhādīr* 4, no. 1 (2022): 1–23.

<sup>8</sup> Muhammad Heriawan, "Pengangkatan Anak Secara Langsung Dalam Perspektif Perlindungan Anak" *Jurnal Katalogis* 5, no. 5 (2017): 175–79.

<sup>9</sup> Haedah Faradz, "Pengangkatan Anak Menurut Hukum Islam" *Jurnal Dinamika Hukum* 9, no. 2 (2009): 153–59, doi:10.20884/1.jdh.2009.9.2.223.

highlights the prohibitions that must be avoided.

## C. RESULT AND DISCUSSION

### Adoption of Children in the Age of Ignorance and Islam

The Arabs already carried out the practice of child adoption during the pre-Islamic era (*Jabiliyyah*). If someone liked a young child because of their diligence, appearance, lineage, or for other reasons, they would adopt the child. Adopted children had the right to inherit just as biological children did. The lineage of adopted children was also attributed to their adoptive father.<sup>10</sup>

Child adoption was also practiced by Prophet Muhammad when he adopted Zaid bin Haritsah as his son. Before being adopted by Prophet Muhammad, Zaid was a slave owned by Khadijah. After marrying Prophet Muhammad, Khadijah gifted Zaid to him. Later on, Prophet Muhammad freed Zaid and adopted him as his son, declaring in front of a crowd, "*Witness! He is free, he is my son who will inherit from me and give me an inheritance*". Hence, during the pre-Islamic era, the Arabs used to call Zaid '*Zaid bin Muhammad*' (Zaid, the son of Muhammad) until the revelation of Surah Al-Ahzab, verse 5: "*Call them by [the names of] their fathers*". From that point on, he was called Zaid bin Haritsah.<sup>11</sup>

Surah al-Ahzab verse 5 abrogates the practice of adopting children that existed during the time of ignorance (*Jabiliyyah*), which treated adopted children as if they were biological children and had the same legal implications in matters such as inheritance, marriage, divorce, kinship through marriage, and other laws related to biological children.<sup>12</sup> The cancellation of adoption laws was further supported by Prophet Muhammad's marriage to the former wife of his adopted son. This marriage further emphasized that an adopted child is not considered a biological child, making it permissible to marry the former wife.<sup>13</sup>

The marriage of Prophet Muhammad to Zainab bint Jahsh (the former wife of Zaid, the adopted son of the Prophet) was exploited by Jews and hypocrites to slander Prophet Muhammad. They said, "*Muhammad married the former wife of his adopted son, even though he had forbidden it*". Then, Surah al-Ahzab, verse 4 was revealed: "*And He has not made your adopted sons your [true] sons*".<sup>14</sup> The verse clarifies that the Prophet's actions were not inappropriate, and marrying the former wife of

<sup>10</sup> Syadiyah Shadiq Hasan, "Ḥukm At-Tabannī Fī Al-Islām" *Journal of Islamic Science and Research* 4, no. 1 (2012): 3.

<sup>11</sup> Jalaluddin As-Suyuti, *Ad-Durr Al-Manṣūr Fī Tafṣīr Bi Al-Ma'ṣūr* (Beirut: Dār al-Fikr, n.d.), 564.

<sup>12</sup> Muhammad Ali As-Shabuni, *Rawāi' Al-Bayān Tafṣīr Ayāt Al-Aḥkām* (Beirut: Muassah Manāhil al-'Irfān, 1980), 268–70.

<sup>13</sup> Ibn Hajar Al-'Asqalani, *Fath Al-Bārī Bi Syarḥ Al-Bukhārī* (Beirut: Dār Ma'rifah, 1379), 524.

<sup>14</sup> As-Shabuni, *Rawāi' Al-Bayān Tafṣīr Ayāt Al-Aḥkām*, 256.

an adopted child is permissible.

Among the verses of the Quran that also annul the law of adopting children is verse 40 of Surah Al-Ahzab: "*Muhammad is not the father of [any] one of your men, but [he is] the Messenger of Allah and seal of the prophets*". Ibn Kathir explains in his commentary that after the revelation of this verse, Allah prohibited the use of the name '*Zaid bin Muhammad*'. Prophet Muhammad was not the father of Zaid, even though he had adopted him. Prophet Muhammad was also not the father of any male child because all of his biological sons had passed away before reaching adulthood.<sup>15</sup>

In addition to Prophet Muhammad, adoption was also practiced by Abu Hudzaifah. The one adopted by Abu Hudzaifah was Salim. Abu Hudzaifah considered Salim his child. Abu Hudzaifah married Salim to his niece Fatimah, the daughter of Walid bin Utsbah. After the revelation of Surah Al-Ahzab, verse 5, the lineage of adopted children was returned to their biological fathers if known; if not known, it was returned to the one who had set them free (*mawālī*). With the descent of this surah, the practice of adoption was annulled, and the status of adopted children became that of strangers to their adoptive parents. Because of this, Abu Hudzaifah's wife Sahlah binti Suhail complained to the Prophet and said, "*O Messenger of Allah! We used to consider Salim as a son who freely entered and exited our house while I was dressed informally, and we shared one home. How do you see this?*" Then, the Prophet instructed her to breastfeed Salim to make him a forbidden milk relative.<sup>16</sup>

Sahlah binti Suhail recognized that after the revelation of Surah Al-Ahzab, verse 5, the practice of adoption had been nullified, and Salim was no longer regarded as her son. Therefore, it was forbidden for her to be alone with Salim in the same house (*kehalwat*), let alone dress like a mother in front of her non-biological son within the house without a hijab. Regrettably, despite it being prohibited, some individuals today still feel at ease residing in the same house with their non-mahram adopted children.

### **The Law of Adoption in Islam**

Lineage is the strongest foundation that supports a family. Lineage ties keep the family harmonious, promote love among family members, and connect them. Due to the importance of lineage, one of the fundamental objectives of Islamic law (*maqāṣid as-syarī'ah al-khamsah*) is to preserve lineage.

In Islam, a person's lineage to their biological father can be established and considered

<sup>15</sup> Abu al-Fidā' Ibn Katsir, *Tafsīr Al-Qur'ān Al-'Adḥīm* (Riyadh: Dār Ṭaibah, 1999), 428.

<sup>16</sup> Abu Umar Ibn Abdil Bar, *At-Tamhīd Limā Fi Al-Muwāṭṭa'ā' Min Al-Ma'āni Wa Al-Asānid* (Marocco: Wizārah 'Umūm Al-Auqāf wa As-Syu'ūn Al-Islāmiyyah, 1387), 249–50.

legitimate according to Sharia with one of three pieces of evidence: *firāsy* (legitimate marriage), *iqrār* (acknowledgment), and witnesses.

To preserve the purity of lineage, Islamic law prohibits a father from disavowing the lineage of his child. Islamic law also prohibits a mother from attributing her child's lineage to anyone other than the father. Islam also prohibits someone from claiming lineage to someone other than their biological father. Islamic law also nullifies the practice of adoption that was prevalent during the time of *Jabilyah* (pre-Islamic era) and in the early days of Islam.<sup>17</sup>

Someone is prohibited from attributing their lineage to someone other than their father. This prohibition is based on authentic hadiths narrated by Ahmad, Bukhari, Muslim, Abu Daud, and Ibnu Majah, which state, "*Whoever consciously attributes themselves to someone other than their father, paradise is forbidden for them*", and also the hadith narrated by Abu Daud, which states, "*Whoever attributes themselves to someone other than their father, or a slave attributes themselves to someone other than their master, then the continuous curse of Allah is upon them until the Day of Judgment*".<sup>18</sup>

The Jordanian Dar al-Ifta issued a fatwa, number 1175, explaining that being kind to orphans is highly rewarding. However, adopting an orphan is prohibited and invalid. To take care of a female orphan (and avoid sin), a man can establish a legal kinship relationship with the prospective foster parents through his wife's sister, becoming her uncle through breastfeeding. He should also inform the child that he is not her biological parent.<sup>19</sup>

Sheikh Ali Jum'ah, the former mufti of Dār al-Iftā' al-Miṣriyyah, explains that the prohibited form of adoption (*tabannī*) in Islam is recognizing someone else's child as one's own. This is based on Surah Al-Ahzab, verses 4-5. As for caring for an orphan without claiming them as one's child, it is not prohibited; in fact, it is encouraged according to some Hadith narrations. One of the wisdom behind the prohibition of *tabannī* (adoption) is to prevent individuals from altering the true nature of something and to safeguard the rights of heirs, ensuring they remain intact and not diminish or disappear.<sup>20</sup>

In 1984, the Indonesian Ulama Council (Majelis Ulama Indonesia or MUI) issued a fatwa on child adoption during the National Working Meeting. Among the points outlined in the fatwa were:

- (1) Islam recognizes legitimate lineage (*nasab*), which is the child born within a marriage.

<sup>17</sup> Wahbah Az-Zuhaili, *Al-Fiqh Al-Islāmī Wa Adillatuh*, 4th ed. (Damascus: Dār al-Fikr, n.d.), 7247–48.

<sup>18</sup> Ibid., 7248.

<sup>19</sup> "Raḡmu Al-Fatwā 1175: Mā Ḥukmu Al-Tabannī Fī Al-Islām, Wa Mā Huwa Al-Makhrāj Al-Syar'ī Liman Arād an Yuḥsin Liyatīmatin Wa Yar'āhā Wa Yurabbihā?" *Dār Al-Iftā' Al-Urdunīyyah*, accessed February 6, 2023, <https://aliftaa.jo/Question.aspx?QuestionId=1175#.Y-EVMnVBzIU>.

<sup>20</sup> Ali Jum'ah, "Kafālah Al-Bint Wa Ri'āyatihā Wa Al-Waṣīyyah Lahā Bi Ba'di Al-Māl" *Dār Al-Iftā' Al-Miṣriyyah*, 2006, <https://www.dar-alifta.org/ar/fatawa/17406/كفالة بنت ورعايتها والوصية لها ببعض المال فضيلة الأستاذ الدكتور>.

- (2) Adopting a child in a way that severs their lineage (*nasab*) with their biological parents is against Islamic law.
- (3) However, adopting a child without changing their lineage and religion, done out of a sense of social responsibility to nurture, care for, and educate them with love, as if they were one's own, is a commendable act and is considered a virtuous deed recommended by the Islamic faith.

The adoption of Indonesian children by foreign nationals not only contradicts the 1945 Constitution Article 34 but also diminishes the dignity of the nation.<sup>21</sup>

### **The Adoption Procedure in Positive Law and Islamic Law**

In Indonesia, the adoption and fostering of a child are legally recognized when carried out through procedures stipulated in the law and approved by a court order. The adoption procedures and requirements include ensuring that adoption is in the best interest of the child, maintaining the bond between the adopted child and their biological parents, and sharing the same religious beliefs as the child.<sup>22</sup> The request for child adoption is submitted to the District Court located in the child's place of residence who is to be adopted.<sup>23</sup>

The official website of the Population and Civil Registration Office of Gunung Kidul Regency outlines several conditions for child adoption. Prospective adoptive parents should be aged between 30 and 55, married for at least 5 years, and either unable to have children or have specific family situations. They must also be financially stable and in good health. The required document files to be completed include photocopies of the marriage certificate of the married couple legalized by the marriage registry officer or a marriage certificate legalized by the Population and Civil Registration Office, photocopies of the birth certificates of the married couple, a certificate of good conduct from the police, the birth certificate of the child to be adopted, a letter of consent from the families of the husband and wife, signed on a revenue stamp, a letter of motivation for child adoption signed on a revenue stamp, and photocopies of the family card and ID cards legalized by the Population and Civil Registration Office. Once you meet the requirements and prepare the required documents, you can request permission to care for the child from the Head of the Social Institution and the District Court.<sup>24</sup>

Adopting a child who does not meet the criteria established in Law Number 23 of 2002,

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<sup>21</sup> *Fatwa Majelis Ulama Indonesia Nomor 890 Tentang Adopsi (Penggangkatan Anak)* (Jakarta: Komisi Informasi dan Komunikasi Majelis Ulama Indonesia, 1984), 305.

<sup>22</sup> "Undang-Undang Republik Indonesia Nomor 23 Tahun 2002 Tentang Perlindungan Anak Pasal 39 Ayat (1), (2) Dan (3)" (n.d.).

<sup>23</sup> Hadana, "Penggangkatan Anak Dalam Perspektif Hukum Islam" 130.

<sup>24</sup> Yuli Purwawati, "Ini Tata Cara Mengadopsi Anak Sesuai Undang-Undang" *Dinas Kependudukan Dan Pencatatan Sipil Kabupaten Gunungkidul*, 2016, <https://dukcapil.gunungkidulkab.go.id/2016/08/23/ini-tata-cara-mengadopsi-anak-sesuai-undang-undang/>.

Article 39 paragraphs (1), (2), and (4) is considered illegal and carries legal consequences, including a maximum prison sentence of 5 (five) years and/or a fine of up to 100,000,000 Indonesian Rupiah, as stipulated in Article 79 of Law No. 23 of 2002.<sup>25</sup> If the adopted child is registered in the family card (KK) as an adopted child, it constitutes a data manipulation offense, violating Article 94 of Law Number 24 of 2013 concerning Amendments to Law No. 23 of 2006 on Population Administration. Those who commit the offense of data manipulation are subject to a maximum prison sentence of 6 years and/or a fine of up to 75,000,000 Indonesian Rupiah.<sup>26</sup>

In Islamic law, the practice of child adoption does not affect the status of the child. An adopted child is still considered a non-mahram stranger.<sup>27</sup> In Islam, lineage is only obtained through the legitimate process of birth within a lawful marriage.<sup>28</sup> Therefore, it is forbidden for an older adoptive father to be alone (*kehalwat*) with his adopted daughter inside the house. However, many adoptive fathers live under the same roof with their adopted daughters, take them to school, shake hands, and engage in other activities that are forbidden for unrelated men and women. This often occurs because adoptive parents consider their adopted children as if they were their own.

Islam has abolished the law of child adoption forever. Adoption cannot in any way be a reason for someone to inherit or be considered the offspring of their adoptive father. Prophet Muhammad reinforced the prohibition of attributing the lineage of a child to someone other than their biological father and threatened severe consequences for those who do so.<sup>29</sup> The Prophet said, "*Whoever is called by a name other than their father's, while they know it (is not their father but remain silent), then paradise is forbidden for them*".<sup>30</sup>

Adopted children are not entitled to receive an inheritance share. This is because scholars explain that there are four reasons someone inherits, namely: blood relation, marriage, *wala'* (the act of freeing a slave), and Islam (for the Baitul Mal if the first three reasons are not present).<sup>31</sup> Adopting a child is not one of the reasons someone inherits.

In the Compilation of Islamic Law in Indonesia, adopted children can inherit and receive the inheritance. The distribution of inheritance for adopted children is regulated in Article 209, paragraphs 1 and 2, which state:

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<sup>25</sup> "Undang-Undang Republik Indonesia Nomor 23 Tahun 2002 Tentang Perlindungan Anak Pasal 79" (n.d.).

<sup>26</sup> "Undang-Undang Republik Indonesia Nomor 23 Tahun 2002 Tentang Perubahan Atas Undang-Undang Nomor 23 Tahun 2006 Tentang Administrasi Kependudukan Pasal 94" (n.d.).

<sup>27</sup> Srimuryadi, "Tinjauan Hukum Islam Terhadap Praktik Adopsi Anak Di Gampong Tanoh Anou Kecamatan Idi Rayeuk Kabupaten Aceh Timur" 27.

<sup>28</sup> Hasan, "Ḥukm At-Tabannī Fī Al-Islām" 4.

<sup>29</sup> Ibid.

<sup>30</sup> Muhammad bin Ismail Al-Bukhari, *Ṣaḥīḥ Al-Bukhārī* (Damascus: Dār Ibn Kašīr, 1993), 485.

<sup>31</sup> Muhammad bin Khatib Asy-Syirbini, *Mughnī Al-Muḥtāj Ilā Ma'rifat Ma'ānī Alfāṣiḥi Al-Minhāj* (Beirut: Dār Al-Ma'rifah, 1997), 9.

- (1) The inheritance of adopted children is divided following Articles 176 to 193 mentioned above. At the same time, adoptive parents who do not receive a will are given a mandatory bequest of up to one-third of the adopted child's bequested assets.
- (2) As for adopted children who do not receive a will, they are given a mandatory bequest of up to one-third of the inheritance from their adoptive parents.<sup>32</sup>

The allocation of inheritance to adopted children is determined by the Religious Court of Selong Kelas I B through Decision PA Number 355/Pdt.G/2003/PA.Sel, the Appellate Decision of the Mataram High Court Number 41/Pdt.G/2004/PTA.Mtr, and the Supreme Court Decision Number 36 PK/AG/2009. In the appellate decision, the Judges' Council of the Mataram High Court upheld the Selong Religious Court's decision that adopted children have the right to receive a portion of the inheritance through a compulsory will. This decision is based on Article 209 paragraph (2) of the Compilation of Islamic Law.<sup>33</sup>

In Islam, the adoption that is forbidden refers to the practice from the Jahiliyyah era, where adopted children were treated as biological offspring and could inherit property. However, if one adopts a child only to nurture, care for, and provide for their living expenses, it is not forbidden in Islam; in fact, it is encouraged, just as Islam encourages the care and support of orphaned children.

#### **Limitations on the Interaction of Foster Parents with Foster Children**

Adopted children are the children of others who have been adopted or taken in by someone to be cared for and financially supported in their lives. Adopted children will always have the status of someone who does not share a blood relationship with their adoptive parents. As such, there are limitations on interactions between the adoptive mother and an adult adopted son, as well as between the adoptive father and an adult adopted daughter, as regulated in Islamic jurisprudence.

However, many adoptive parents disregard these limitations on interactions with their adopted children. Some adoptive fathers live with their adopted daughters in the same household. In fact, adoptive fathers often provide transportation for their adopted daughters to and from school using a car or a motorcycle.<sup>34</sup>

The relationship between an adopted child and their adoptive parent is a non-mahram relationship. Therefore, an adoptive father is allowed to marry his adopted daughter or the former

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<sup>32</sup> *Kompilasi Hukum Islam Di Indonesia* (Jakarta: Direktorat Bina KUA dan Keluarga Sakinah, Kementerian Agama RI, 2018), 106–7.

<sup>33</sup> “PA Selong Lakukan Eksekusi Putusan Waris Yang Amarnya Memberikan Bagian Kepada Anak Angkat” 2020, <https://pa-selong.go.id/v1/berita-seputar-peradilan/401-pa-selong-lakukan-eksekusi-putusan-waris-yang-amarnya-memberikan-bagian-kepada-anak-angkat>.

<sup>34</sup> As was done by Mr KA and his adopted daughter TS. Mr. KA regularly takes his adopted children to and from school who have grown up and lives under the same roof as his wife, located in Ciputat District, South Tangerang.

wife of his adopted sons, just as the Prophet Muhammad (peace be upon him) married the wife of Zaid bin Haritsah, who was his adopted son.<sup>35</sup>

Therefore, foster fathers are not allowed to see the hair of their adult foster daughters as it is considered '*aurāt*' (intimate body parts). Foster fathers should also refrain from shaking hands with their adult foster daughters. Furthermore, it is not permitted for foster parents to live in the same house as their foster children to avoid any potential '*khalwah*' (private seclusion), which is considered inappropriate and against religious teachings.

Asy-Syirbini explains that a woman's '*aurāt*' includes all parts of her body except her face and the palms of her hands. Therefore, adult, mentally competent men are prohibited from seeing the '*aurāt*' of women who are not mahram, even if the men themselves are elderly.<sup>36</sup>

"An adopted daughter is also obliged to cover her face in the presence of her adopted father if there is a fear of slander. The slander referred to here is the desire to touch her, be alone with her, or enjoy gazing at her. In fact, the valid opinion in the Shafi'i school of thought requires women to cover their faces when they are safe from slander.<sup>37</sup>

Foster fathers are also prohibited from shaking hands with adult foster daughters, as they are not considered mahram (non-marriageable kin according to Islamic law). Scholars unanimously agree that shaking hands with a young woman who is not a mahram is forbidden. However, the majority of scholars, except for the Shafi'i school of thought, permit shaking hands with elderly women to avoid any temptation.<sup>38</sup>

*Khalwat*, which is prohibited, cannot be avoided as long as adoptive parents still live in the same house as their adopted children. The *khalwat* referred to is the gathering of unrelated men and women in a place where they cannot be seen by others. The legal basis for the prohibition of *khalwat* is a hadith of Prophet Muhammad (peace be upon him) narrated by Imam Muslim, which means: '*A man should never be alone with a woman unless she is accompanied by her mahram*'.<sup>39</sup>

## D. CONCLUSION

In Islam, adoption is permissible and can be seen as a commendable act when undertaken to provide care and education for orphaned and street children, ensuring they have a proper life. However, adoptive parents should also adhere to the limits prescribed by Islamic law

<sup>35</sup> Al-‘Asqalani, *Faḥḥ Al-Bari Bi Syarḥ Al-Bukhari*, 524.

<sup>36</sup> Asy-Syirbini, *Mughnī Al-Muḥṭaj Ilā Ma‘rifat Ma‘ani Alfāḥḥi Al-Minhaj*, 173.

<sup>37</sup> Ibn Hajar Al-Haitami, *Tuḥfab Al-Muḥṭaj Fi Syarḥ Al-Minhaj* (Mesir: al-Maktabah al-Tijāriyah al-Kubrā, 1983), 192–93.

<sup>38</sup> Az-Zuhaili, *Al-Fiqh Al-Islāmī Wa Adillatuh*, 2657.

<sup>39</sup> Muhyiddin An-Nawawi, *Al-Minhaj Syarḥ Muslim Ibn Al-Ḥajjāj* (Beirut: Dār Iḥyā’ al-Turāṡ al-‘Arabī, 1392), 109.

when adopting a child. These limits should not be breached or violated to avoid engaging in forbidden actions in positive law or Islamic law. One common boundary that is frequently crossed is the interaction between the adopted child and the adoptive parent. Due to the close bond, adoptive fathers may mistakenly treat their adopted daughters like biological children, engaging in actions such as shaking hands, improper covering of bodies ('aurāt), being alone in a house or vehicle, all of which are forbidden in Islam.

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