



Concealment of Adopted Children's Lineage: Contemporary Fiqh Perspective and Legal Protection in Indonesia

Fakhriyah Annisa Afroo^{1*}, Muchlis Bahar², Elfia³

^{1,2,3} Imam Bonjol State Islamic University Padang, Indonesia

*Corresponding author, E-mail address: fakhriyah.annisa.afroo@uinib.ac.id

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ABSTRACT

This study examines the phenomenon of concealing the lineage of adopted children that still occurs in Indonesia, both socially and administratively. The research aims to analyze how contemporary Islamic jurisprudence and Indonesian positive law address and provide legal protection for the identity rights of adopted children. Using a normative juridical approach, the study analyzes Islamic legal sources such as the Qur'an, Hadith, and contemporary scholars' opinions, as well as national regulations including Law No. 35 of 2014 on Child Protection, Law No. 24 of 2013 on Population Administration, and the Indonesian Criminal Code. The study finds that harmonizing Islamic kafalah with Indonesian positive law can effectively eliminate identity forgery and strengthen child protection systems. The findings indicate that both Islamic law and national law reject lineage concealment and emphasize the importance of protecting children's identity. The study concludes that harmonizing contemporary Islamic principles and national law through a legal-formal kafalah model can serve as an effective framework to ensure both moral and legal protection for children while supporting the Sustainable Development Goals (SDG 16) on justice and strong institutions.

1. Introduction

The concealment of an adopted child's lineage is one of the most sensitive and complex issues in Islamic family law and the Indonesian child protection system. Adoption is essentially an expression of compassion and noble social responsibility, yet in social reality it often deviates from the fundamental principles of Islamic law, particularly when a child's biological lineage is concealed or replaced with that of the adoptive parents. This gives rise to fiqh, ethical, and legal problems because it concerns matters of identity, inheritance, and mahram relations, which are essential components of Islamic law (Al-Zuhaili, 2011). On one hand, adoption is regarded as a humanitarian effort to protect abandoned children, but on the other hand, concealing a child's biological origin may lead to legal injustice and a violation of the sharia principle regarding the clarity of lineage.

In the context of Indonesian law, which adopts a dual system, it is called "dual" because Islamic law does not replace positive law but operates alongside it in coexistence. The implementation of child adoption often does not align with either Islamic law or positive law, creating tension between the two in practice. Data from the Ministry of Social Affairs of the Republic of Indonesia show that the number of adoption applications increases each year. However, most of these cases lack clarity regarding the child's origin, and in some instances, data falsification occurs by listing the adoptive parents as the biological parents on the birth certificate (Familda, 2023). This dualism between religious norms and administrative procedures blurs the line between *kafālah* (child guardianship without altering lineage) and *tabānnī* (adoption that replaces lineage), thereby creating ethical and legal challenges in its application.

From the perspective of Islamic law, contemporary scholars such as Wahbah al-Zuhaili and Yusuf al-Qaradawi emphasize that adoption which severs the biological lineage contradicts the principles of sharia. However, Islam still provides space for the practice of *kafālah* (child guardianship without changing lineage) as a form of social responsibility and child protection (Al-Qaradawi, 2012). This principle aligns with the objectives of *maqāṣid al-shari‘ah*, namely the preservation of lineage (*hifz al-nasl*) and the protection of human dignity (*hifz al-‘ird*) (Al-Zuhaili, 2011).

Historically, Indonesia's civil law system is rooted in Dutch law (*Burgerlijk Wetboek*), which treats adoption as a new legal relationship between the adoptive parents and the child in a formal legal sense (Subekti, 2014). However, over time, Indonesian positive law has undergone reforms that are more in harmony with religious and humanitarian values. According to Government Regulation No. 54 of 2007 on the Implementation of Child Adoption (Kemenkumham RI, 2007) and Law No. 35 of 2014 on Child Protection (RI, 2014), adoption does not sever the biological relationship between a child and their biological parents and must preserve the clarity of the child's origin. Thus, the Indonesian legal system is now moving toward an adoption model that balances legal, moral, and religious values, as emphasized in the Islamic principle of *hifz al-nasl* (the preservation of lineage).

Previous studies have shown that the issues of adoption and lineage concealment have been discussed from various perspectives. Siti Maryam (2019) highlighted the impact of adoption on inheritance rights in Islamic law, Hidayat (2020) examined administrative and civil registration problems in adoption practices, while Nurjannah (2022) explored the concealment of a child's identity within urban Muslim families, often done for reasons of privacy and social stigma. Recent studies by Afif (2024), Ayuni (2024), and Saputra (2025) indicate that the concealment of lineage is often socially tolerated under the pretext of affection or protection for the child, even though such practices carry serious legal and moral consequences. However, these studies have not specifically linked the issue to the dimensions of contemporary *fiqh*

and the principles of *maqāṣid al-shari‘ah* within the context of legal protection in Indonesia. Therefore, this study seeks to fill that gap by adopting an integrative approach that bridges Islamic law and national law.

This research is significant because the practice of concealing lineage directly violates one of the main objectives of sharia, which is the preservation of lineage (*hifz al-nasl*). It creates serious legal and moral implications while also neglecting the child's right to personal identity as guaranteed by both national and international law. This study differs from previous research by integrating contemporary *fiqh* analysis with the framework of Indonesia's positive law, thereby offering a model of harmonization between sharia values and the national legal system. Theoretically, it contributes to the discourse on Islamic legal reform (*tajdid al-fiqh*) in the field of family law, while practically, it provides recommendations for policymakers, judicial institutions, and society in implementing adoption practices that align with the principles of *maqāṣid al-shari‘ah* and child protection law.

Ultimately, the findings of this study are expected to produce a balanced understanding between compassion in caregiving and honesty in maintaining a child's lineage. The research outcomes are anticipated to provide theoretical benefits by strengthening the concept of Islamic family law that is adaptive to social change, as well as practical benefits in the form of policy recommendations to realize an adoption system that is fair, transparent, and consistent with both sharia principles and Indonesia's child protection laws. This study's novelty lies in integrating *maqāṣid al-shari‘ah* analysis with Indonesia's child protection law to propose a legal-formal *kafālah* model that harmonizes Islamic ethical values with national legal frameworks.

2. Method

This study employs a qualitative approach using library research (Moleong, 2019) that focuses on normative and conceptual analysis of the practice of concealing the lineage of adopted children in Indonesian society (Soekanto, 2015). The primary data sources include classical and contemporary literature on Islamic jurisprudence, national legal instruments such as the Child Protection Law and the Compilation of Islamic Law, as well as previous empirical studies on adoption practices in various regions of Indonesia. Data were collected through documentation techniques by reviewing books, scholarly journals, research reports, and both primary and secondary legal sources. The data were analyzed descriptively and analytically by comparing the principles of classical *fiqh*, contemporary scholars' views, and Indonesian positive law to identify points of convergence and divergence. The validity of the data was ensured through source triangulation by comparing findings from *fiqh* references, legal documents, and academic research to maintain consistency in legal interpretation. This study assumes that the legal sources used represent

authoritative perspectives within the context of Islamic and national law in Indonesia. The limitation of this research lies in its normative nature, as it does not involve direct interviews or field observations. Therefore, the results of this study are conceptual and reflective, yet they provide both theoretical and practical contributions to the development of Islamic family law and child protection policy in Indonesia.

3. Results and Discussion

The Concept of Lineage in Islam

Lineage (Nasab) is one of the fundamental concepts in Islamic law that relates to a person's ancestry and identity (Purnama, 2024). In the terminology of *fiqh* (Islamic jurisprudence), *nasab* is defined as a legitimate biological or familial relationship between a child and their biological father, which forms the basis for determining rights and obligations within the sphere of family law, including inheritance rights, *mahram* relations, and financial responsibilities (*nafāqah*) (Mardani, 2019).

The emphasis on the importance of lineage (*nasab*) is not only found in the views of Islamic scholars but is also clearly affirmed in the Qur'an and Hadith. The Qur'an, for instance, in Surah Al-Ahzab, verse 5, Allah explicitly prohibits attributing a child's lineage to anyone other than their biological father:

أَذْعُوهُمْ لِأَبَائِهِمْ هُوَ أَقْسَطُ عِنْدَ اللَّهِ فَإِنْ لَمْ تَعْلَمُوا إِبَاءَهُمْ فَإِنَّهُمْ كُفَّارٌ فِي الْدِينِ وَمَوْلَيُّكُمْ وَأَيْسَرُ عَلَيْكُمْ جُنَاحٌ فِيمَا أَخْطَأْتُمْ بِهِ وَلَكُنْ مَا تَعْمَدَتْ قُلُونُكُمْ وَكَانَ اللَّهُ عَفُورٌ ١٥ رَّجِيمًا

Meaning: "Call them (the adopted children) by (the names of) their fathers; that is more just in the sight of Allah. But if you do not know their fathers, then (consider them as) your brothers in faith and your clients. There is no blame upon you for what you do by mistake, but (there is blame) for what your hearts intend deliberately. And Allah is Ever-Forgiving, Most Merciful."

This verse shows that attributing a child's lineage to someone other than their biological father constitutes an injustice that contradicts Islamic teachings. The clarity of lineage is essential to ensure the protection of the child's rights and the preservation of the family structure. The verse emphasizes that a child must be identified by their father's name as a form of lineage acknowledgment. Concealing or falsifying the identity of a biological father is considered unjust and may harm the child's legal and social rights.

In addition to the Qur'an, the hadiths of the Prophet Muhammad (peace be upon him) also provide the same emphasis. One of the key principles in determining lineage (*nasab*) is found in a hadith narrated by Al-Bukhari and Muslim:

الْوَلْدُ لِلْفِرَاشِ، وَلِلْعَاهِرِ الْحَجَرُ

Meaning: "The child (is attributed) to the owner of the bed (the husband in a lawful marriage), and for the adulterer, there is nothing but the stone (that is, no rights whatsoever)." (Narrated by Al-Bukhari)

This hadith clearly establishes that a child's lineage can only be linked to the father through a lawful marriage, while a relationship born out of adultery does not create any legal lineage. Through this rule, Islam firmly prevents the mixing of bloodlines and safeguards the clarity of lineage. Furthermore, the Prophet Muhammad (peace be upon him) sternly warned against falsifying or concealing lineage, as he said:

مَنْ ادَعَى إِلَى غَيْرِ أَبِيهِ، وَهُوَ يَعْلَمُ أَنَّهُ غَيْرُ أَبِيهِ، فَالْجَنَّةُ عَلَيْهِ حَرَامٌ

Meaning: "Whoever attributes himself to someone other than his (true) father, knowing (his real lineage), then Paradise is forbidden for him." (Narrated by Al-Bukhari and Muslim)

This hadith emphasizes that concealing or falsifying lineage is a grave sin, as it disrupts social order and deprives a child of their fundamental rights. Thus, both the Qur'an and the hadith make it clear that preserving lineage is not merely a family matter, but also a religious obligation with legal, social, and moral implications.

Concealment of Lineage in Adopted Children

In Islamic law, adoption is recognized through the concept of kafalah, which involves caring for a child without transferring lineage (nasab), as also reflected in Article 171(h) of the Compilation of Islamic Law, an adopted child is defined as a child whose daily care, education expenses, and overall maintenance have been transferred from the biological parents to the adoptive parents based on a court decision (Musthofa Sy, 2008).

Lineage concealment occurs when the biological identity of an adopted child is hidden or altered, causing the child to be regarded as the biological offspring of the adoptive parents. This practice contradicts the Islamic principle that emphasizes the clarity of lineage as a means of protecting individual rights. In the Qur'an, Surah Al-Ahzab, verse 4, Allah Almighty says:

مَا جَعَلَ اللَّهُ لِرَجُلٍ مِّنْ قَلْبِيْنِ فِي جَوْفِهِ وَمَا جَعَلَ أَزْوَاجَكُمْ أُلَيْهِيْ ثُظَهِرُونَ مِنْهُنَّ أَمْهَتِكُمْ
وَمَا جَعَلَ أَدْعِيَاءَكُمْ أَبْنَاءَكُمْ ذُلْكُمْ قَوْلُكُمْ بِأَفْوَهِكُمْ وَاللَّهُ يَقُولُ الْحَقَّ وَهُوَ يَهْدِي الْسَّيِّلَ

Meaning: "Allah has not made your adopted sons your (real) sons. That is only your saying by your mouths. But Allah speaks the truth and He shows the right way."

This verse affirms that an adopted child must not have their lineage attributed to their adoptive parents, but rather must remain connected to their biological parents. Concealing lineage can lead to legal, social, and psychological problems for the child, and it stands in contradiction to the principle of justice upheld in Islam.

The Practice of Concealing the Lineage of Adopted Children in Indonesian Society

Child adoption in Indonesia demonstrates diverse patterns shaped by customary, social, and religious influences. Despite clear regulations under Law No. 23 of 2002 as amended by Law No. 35 of 2014 and Government Regulation No. 54 of 2007, a significant number of adoptions continue to occur informally without court authorization. These informal practices frequently involve the concealment of a child's biological identity in the name of family harmony, even though they fundamentally contradict both legal norms and Islamic principles.

Empirical findings indicate that informal adoption practices in various regions often lead to the falsification of identity and the severance of biological lineage, resulting in adopted children being fully recognized as the biological offspring of adoptive parents. Consequently, many children grow up without knowledge of their true parentage. Such practices commonly arise from complex family circumstances, including out-of-wedlock pregnancies and economic vulnerability, and are generally intended to shield children and families from social stigma. Although these practices are more prevalent in rural and small urban communities, similar patterns can also be found in other regions, indicating that lineage concealment is not an isolated phenomenon but a recurring structural issue in informal adoption practices (Ayuni, 2024) (Saefudin, 2021) (Afif, 2024).

In contrast, certain customary systems demonstrate alternative approaches. In Minangkabau customary law, child adoption takes forms such as *kemenakan bertali budi* or fostering within the maternal lineage. While adoption in this context is motivated by social and emotional considerations, Minangkabau customs continue to recognize and respect the child's biological lineage. This model aligns closely with Islamic principles that permit child care through *kafālah* (guardianship and fostering) while strictly prohibiting the alteration of genealogical lineage (Saputra, 2025).

Based on the research findings, the concealment of lineage in informal adoption practices in Indonesia manifests in two dominant forms: social concealment and administrative concealment. Social concealment occurs when adoptive parents deliberately withhold information about a child's adopted status in order to ensure emotional acceptance and preserve family honor. This form is commonly found in rural communities such as those in Tanggamus and Demak, where children born out of wedlock or from impoverished families are still perceived as social stigmas. As a

result, children may experience identity confusion, psychological distress, or even the risk of unintentional marriage between close relatives in adulthood.

Administrative concealment, on the other hand, involves the falsification of official state documents, including birth certificates and family cards, by listing adoptive parents as biological parents. This practice is more frequently observed in urban settings such as Banjarmasin, where identity manipulation is carried out to simplify bureaucratic processes related to education, civil registration, or inheritance. Such actions clearly violate Article 263 of the Indonesian Criminal Code on document forgery and Article 39 paragraph (1) of Government Regulation No. 54 of 2007, which obliges adoptive parents to inform adopted children of their biological origins. Beyond constituting a legal violation, administrative concealment exposes children to long-term risks, including difficulties in proving identity, inheritance disputes, and complications in matters of guardianship and marital eligibility.

The persistence of lineage concealment in informal adoption practices is driven by interconnected social, emotional, administrative, and religious factors. Social norms emphasizing family honor (*malu*) encourage families to hide a child's biological origins, particularly in cases involving extramarital birth or poverty. Emotionally, adoptive parents often seek to create a sense of full belonging by treating adopted children as biological offspring, believing that disclosure may weaken emotional bonds (Siregar, 2025). Administratively, complex, time-consuming, and costly formal adoption procedures motivate families to rely on informal arrangements and manipulate civil documentation for practical convenience. These factors are further reinforced by widespread religious misunderstandings, particularly the conflation of *tabanni* (lineage-altering adoption) with *kafālah* (guardianship without lineage change), leading some families to perceive lineage concealment as a compassionate act rather than a legal and religious violation (Sya'dan, 2023).

Although often driven by social pressure and limited legal-religious literacy rather than deliberate intent, lineage concealment poses serious risks to children's rights and welfare. From the perspective of *maqāṣid al-shari'ah*, such practices undermine the objectives of preserving lineage (*hifz al-nasl*) and honor (*hifz al-ird*). These findings underscore the urgent need for stronger collaboration among government institutions, religious authorities, and civil society organizations to simplify adoption procedures, improve public legal awareness, and promote transparent adoption practices that protect children's rights without compromising their biological identity.

Classical and Contemporary Fiqh Analysis on the Lineage of Adopted Children

In Indonesia's informal adoption practices, which often conceal a child's lineage, analyzing classical and contemporary *fiqh* is essential to identify root causes

and propose *shari'ah*-based solutions. Classical *fiqh* strictly preserves lineage (*nasab*), while modern *fiqh* adapts these principles to social realities like stigma and administrative barriers. Integrating both perspectives shows that concealing lineage contradicts *shari'ah* and that transparent *kafālah* (Islamic guardianship) offers an ethical, contextual solution aligned with *fiqh al-wāqi'* to protect children's rights.

a. Lineage (Nasab) in Classical and Contemporary Fiqh

Classical jurists across the four Sunni schools unanimously agree that the preservation of lineage (*ḥifż al-nasl*) constitutes a core principle of Islamic family law. Any practice that alters or conceals a child's biological lineage, including *tabannī* (lineage-altering adoption), is strictly prohibited because it generates legal uncertainty in matters of inheritance, *maḥram* relations, guardianship, and social responsibility. Classical *fiqh* therefore recognizes child care exclusively through lawful mechanisms that preserve biological identity, forming the normative foundation for later juridical developments concerning *kafālah* and child protection.

One of the fundamental doctrines supporting this principle is the *firāsh* doctrine, which establishes that a child born within a valid marriage is legally attributed to the husband of the mother. Through *firāsh*, marital legitimacy becomes the legal basis for a child's rights, including inheritance, *maḥram* restrictions, and guardianship, thereby safeguarding the child's legal identity and social status. In the absence of a valid *firāsh*, lineage cannot be formally recognized, placing the child at risk of losing fundamental familial protections (Mardani, 2019).

The prohibition against concealing or falsifying lineage arises from the recognition that such practices violate the child's legal and moral rights and disrupt the structure of Islamic family law. This prohibition explicitly encompasses *tabannī*, which is clearly rejected in the Qur'an, particularly in Surah al-Aḥzāb (33): 4–5, where adopted children are instructed to be identified by their biological fathers as a matter of justice. From a classical *fiqh* perspective, concealing lineage is therefore deemed *ḥarām* due to its direct impact on the integrity of *maḥram* relations and inheritance systems.

Beyond its legal consequences, lineage concealment also produces significant social and ethical implications. Children whose lineage is obscured may face stigma, discrimination, and identity confusion, especially in societies where cultural notions of honor and shame (*malu*) remain deeply embedded. Such conditions can lead to social exclusion and psychological vulnerability, phenomena frequently observed in informal adoption practices in Indonesia (Attas, 2024). These realities demonstrate that lineage concealment is not merely a technical legal violation but a practice with far-reaching consequences for a child's overall welfare.

Taken together, classical *fiqh* strongly emphasizes that maintaining the integrity of lineage is integral to protecting both the rights and dignity of the child.

These principles provide the normative foundation upon which contemporary fiqh scholars reinterpret child care mechanisms, seeking to reconcile classical doctrinal commitments with modern legal frameworks and evolving social realities.

In the modern context, contemporary scholars have sought to adapt classical principles to evolving social dynamics, particularly concerning adoption and the concealment of lineage. Although adopted children are not biological offspring, their biological identity must still be recognized as it is crucial for maintaining legal rights, determining mahram boundaries, and ensuring psychological well-being. Contemporary jurists emphasize honesty and transparency, stressing the necessity of maintaining clarity of lineage and protecting the rights of adopted children in ways that align with modern social realities while upholding the principles of sharia.

Wahbah al-Zuhaili, in his comprehensive work *Al-Fiqh al-Islami wa Adillatuhu* (Al-Zuhaili, 2011), asserts that adopted children may be cared for, loved, educated, and financially supported through the concept of *kafālah*. However, their biological lineage remains legally attached to their birth parents. Thus, attributing an adopted child's lineage to the adoptive parents is deemed invalid in Islamic law, as it may lead to legal complications such as illegitimate inheritance claims and incorrect mahram boundaries (Roihanah, 2021). Al-Zuhaili's approach resonates with Indonesia's administrative regulations, where falsifying documents exacerbates legal injustice, and he recommends maintaining accurate records of biological lineage to prevent long-term conflicts. Al-Zuhaili also addresses modern contexts such as international adoption, emphasizing that *kafālah* should comply with child rights conventions while preserving the essential principles of Islamic law.

Yusuf al-Qaradawi in *Fiqh al-Usrah*, emphasizes that an adopted child has the right to know their biological origins in order to avoid identity confusion and psychological trauma. Nevertheless, adoptive parents bear a moral and social responsibility to provide proper care and protection for the child. Furthermore, al-Qaradawi asserts that completely concealing an adopted child's lineage may lead to identity conflicts, psychological distress, and broader social problems. Therefore, adoptive parents may confer an appropriate family name and social status upon the child, provided that the child's biological lineage remains internally acknowledged. In this way, the child retains awareness of their true origins both morally and legally, and their future rights remain protected (Al-Qaradawi, 2012).

Yusuf al-Qaradawi interprets *kafālah* (the care of orphans) as a form of *al-birr* and continuous charity (*sadaqah jariyah*) that provides lasting benefits for the child. However, such compassion must remain within the bounds of Islamic law, especially concerning lineage (*nasab*) and inheritance, as stated in Surah Al-Ahzab. Qaradawi explains that Western-style adoption often changes a child's legal identity and lineage, whereas in Islam, an adopted child must retain the name of the biological father to

preserve lineage and inheritance rights. Therefore, he advocates for early transparency to prevent identity confusion and encourages formal adoption through Sharia courts in accordance with Islamic and national laws. This approach highlights the importance of honesty and transparency in child adoption, which can be applied in Indonesia through integration with the Child Protection Law to balance compassion and legal compliance.

Muhammad Abu Zahrah underscores the importance of administratively regulating *kafālah* in modern legal systems to ensure child protection without erasing biological lineage. While adoptive parents may be recorded for caregiving and administrative purposes, the child's biological identity must remain preserved in legal records to safeguard rights related to inheritance and marital guardianship. This structured administrative approach reflects an integration of classical fiqh principles with contemporary state systems and aligns with the objectives of *shari'ah*, particularly the preservation of lineage (*hifz al-nasl*) (Suryani, 2020).

Contemporary scholars, including traditional-modern figures such as Muhammad Abu Zahrah, highlight the importance of regulating *kafālah* administratively so that children gain legal protection without erasing their biological lineage—for instance, by keeping biological records confidential for legal purposes (such as inheritance and *mahram* relations), while administrative documents can include adoptive details to facilitate daily care. This structured and administrative approach is viewed as a relevant compromise for modern states, aligning with the objectives of *Sharia* (*maqāṣid al-shari'ah*), including the preservation of lineage (*hifz al-nasl*), life (*hifz al-nafs*), property (*hifz al-māl*), intellect (*hifz al-'aql*), and religion (*hifz al-dīn*). (Zahrah, 2011)

b. The Relevance of Maqāṣid al-Shari'ah and the Differences Between Classical and Contemporary Fiqh

Maqāṣid al-Shari'ah provides an evaluative framework for assessing whether legal and social practices fulfill the fundamental objectives of Islamic law. In the context of child adoption, objectives such as the preservation of lineage (*hifz al-nasl*), honor (*hifz al-'ird*), life (*hifz al-nafs*), intellect (*hifz al-'aql*), and religion (*hifz al-dīn*) are directly implicated. Using an integrative approach grounded in *fiqh al-wāqi'*, this section examines how lineage concealment in informal adoption contradicts these objectives and positions transparent *kafālah* as a contextual solution aligned with Indonesia's child protection framework (Al-Qaradawi, 2012).

First, the violation of *hifz al-nasl* (preservation of lineage). *Hifz al-nasl* constitutes one of the primary *darūriyyāt* of *maqāṣid al-shari'ah*, aiming to prevent genealogical confusion that may affect inheritance (*farā'id*), *mahram* boundaries, and marital guardianship. Surah Al-Ahzāb verses 4–5 explicitly prohibit *tabannī* by requiring lineage attribution to the biological father (Kusmidi, 2016). Informal practices such as listing adoptive parents on official documents obscure biological identity and

risk *ikhtilāt al-ansāb*, leading to loss of inheritance rights and legal uncertainty in marriage. Although often justified by administrative convenience, such practices contradict *maqāṣid al-sharī'ah*, which prioritizes long-term protection of the child's rights over procedural ease (Al-Zuhaili, 2011).

This strict concern for lineage preservation is also evident in Islamic legal discussions surrounding children conceived outside lawful marriage. Studies on pregnancy resulting from adultery demonstrate that Islamic law carefully regulates lineage attribution to prevent genealogical confusion and maintain social order. Even in cases involving moral transgression, Islamic law does not permit the erasure or concealment of a child's biological identity, as lineage clarity remains a legal and moral obligation (Afroo, 2024). Furthermore, Islamic legal thought emphasizes that the presence of children constitutes a central objective of marriage itself. As argued in studies on the urgency of children within Islamic family law, offspring are not merely biological outcomes but represent a fundamental *maqāṣid* of marriage, linked to the continuity of human stewardship (*khilāfah*) and collective welfare (*maslahah mursalah*). Consequently, safeguarding a child's lineage is inseparable from fulfilling the very purpose of marriage, reinforcing the impermissibility of concealing *nasab* under any circumstances, whether driven by stigma, administrative convenience, or social pressure (Nurdin, 2023).

Second, the violation of *ḥifz al-ird* (preservation of honor). While lineage concealment is frequently rationalized as a means of protecting family honor, *maqāṣid al-sharī'ah* emphasizes that dignity is preserved through truthfulness rather than deception. Concealment ultimately undermines social trust and may expose the child to greater harm when the truth emerges, thereby contradicting the objective of safeguarding personal and familial dignity ('Asyur, 2006).

Third, the violation of *ḥifz al-nafs* and *ḥifz al-'aql* (preservation of life and intellect). Concealing lineage may result in identity confusion, emotional insecurity, and long-term psychological distress, particularly during adolescence. Such conditions conflict with *maqāṣid al-sharī'ah*'s emphasis on holistic child welfare. Islamic teachings stress the protection of orphans and vulnerable children, as reflected in Surah Ad-Dhuha (93:9). From a *maqāṣid* perspective, transparency in caregiving and gradual disclosure of biological identity are essential to safeguarding both psychological well-being and intellectual development.

Fourth, concealing lineage also violates *ḥifz al-dīn* (the preservation of religion). Altering or concealing lineage contradicts clear Islamic principles governing *nasab* and reflects a misunderstanding between *tabannī* and *kafalah*. From a *maqāṣid* perspective, transparent *kafalah* preserves religious integrity while ensuring the child's welfare and legal protection (Al-Zuhaili, 2011).

From a *maqāṣid al-Sharī'ah* perspective, lineage concealment constitutes a multidimensional violation that undermines genealogical integrity, dignity, psychological well-being, and religious adherence. Transparent *kafālah* implemented through formal legal procedures therefore emerges as a balanced solution that prevents harm (*maḍārrāt*) and secures the child's welfare (*maṣlahah*), in harmony with both Islamic objectives and Indonesia's child protection laws.

Legal Analysis of Indonesia's Positive Law on Adoption and Lineage Identity

Indonesia's positive law provides a strict legal framework governing child adoption, emphasizing the protection of children's rights while preserving their biological lineage. Adoption is legally defined as a transfer of caregiving responsibility and explicitly excludes any alteration of lineage (*nasab*).

a. Legal Basis for Child Adoption in Indonesia

Indonesia's positive law comprehensively regulates adoption through statutes, government regulations, and specific legal compilations, all of which aim to uphold the *best interests of the child* in accordance with Article 3 of the Convention on the Rights of the Child. The law distinguishes between formal adoption (through court proceedings) and informal adoption (often illegal), stressing the importance of transparency to preserve the child's biological lineage.

Law No. 23 of 2002 in conjunction with Law No. 35 of 2014 on Child Protection serves as the primary legal foundation. The law defines adoption as a form of protection for children who cannot be cared for by their biological parents due to circumstances such as poverty, divorce, or extramarital pregnancy (Law No. 23 of 2002, Article 1 paragraph 13). The amendment through Law No. 35 of 2014 strengthens the child's right to identity (Article 4 letter d), which includes name, nationality, and biological origin thus, adoption must not alter lineage.

Within the national legal system, adoption is explicitly regulated to ensure that every child has the right to know their origins and to be protected from neglect, exploitation, and discrimination (Law No. 35 of 2014). Adoption must be carried out solely for the *best interests of the child*, not for the interests of adoptive parents (Article 39 paragraphs 1–2). Under Indonesian law, adoption must be carried out through a court decision, which transfers caregiving responsibilities without altering the child's biological lineage.

Government Regulation No. 54 of 2007 on the Implementation of Child Adoption: This regulation details the technical implementation of the Child Protection Law, including the requirements, procedures, and rights and obligations involved in adoption. Article 4 emphasizes that adoption only transfers custody, education, and financial responsibility, without altering the child's biological lineage. Article 39 paragraph (1) requires adoptive parents to inform the adopted child of their origin.

The adoption process involves the consent of the biological parents (if available), a social investigation conducted by the Social Affairs Office (Articles 10–15), and a court decision that records the child's original lineage on the birth certificate (Article 20).

Compilation of Islamic Law (KHI), Articles 171–214: For Muslims (the majority population in Indonesia), the *Kompilasi Hukum Islam* (KHI), enacted through Presidential Instruction No. 1 of 1991, regulates child adoption in Book II, Chapter XII (Articles 171–214). Article 171 prohibits *tabanni* (the changing of lineage) in accordance with Surah Al-Ahzab (33:4–5) and only allows *kafalah* (foster care without changing lineage) for orphans or poor children (Article 172). The procedure must be carried out through the Religious Court (Articles 173–180), where the adopted child has the right to maintenance and education from the adoptive parents, but inheritance rights remain with the biological lineage (Article 209). Both the Compilation of Islamic Law (KHI) for Muslims and the Civil Code for non-Muslims consistently limit adoption to custodial transfer without altering biological lineage.

Overall, these regulations reflect Indonesia's commitment to legal pluralism, ensuring that adoption is formalized to protect children from risky traditional practices that often occur in rural communities. Furthermore, Law No. 24 of 2013 on Civil Administration stipulates that a birth certificate, as a child's legal identity document, must list the biological parents if their identities are known. This aims to ensure that the child maintains a legal relationship with their biological parents. In cases involving foundlings or children of unknown parentage, birth certificates may still be issued with special annotations in accordance with the regulations of the Civil Registration Office, without depriving the child of their right to identity. From this explanation, it is clear that Indonesia's positive law is fundamentally consistent with Islamic law in preserving a child's lineage. The state prohibits the deletion or falsification of a child's identity and ensures that adoption is conducted solely for the *best interests of the child*, while upholding the child's right to origin and identity.

b. National Legal Recognition: Adoption as Custody Transfer, Not Lineage Change

Indonesian positive law strictly limits adoption to the transfer of parental responsibility custody, care, and education without altering the child's biological lineage, in order to protect the constitutional right to identity (Article 28D(1) of the 1945 Constitution). Under the Child Protection Law (Article 77), adoption is defined as the transfer of a child from biological to adoptive parents for welfare purposes, while lineage remains tied to biological parents for matters of inheritance, *mahram*, and citizenship. Government Regulation No. 54 of 2007 (Articles 4 and 39) clarifies that court rulings grant custody rights only, not legitimacy status, meaning adopted

children still inherit from their biological parents (KHI Article 209; Civil Code Article 352).

Any informal adoption that removes or conceals biological lineage may be annulled by the court and exposes adoptive parents to civil and criminal liability. The Constitutional Court Decision No. 46/PUU-VIII/2010 further reinforces the child's legal connection to biological parents. It recognizes that children born outside of marriage may have civil relations with their biological fathers if proven (e.g., DNA evidence). This ruling underscores the legal importance of preserving biological lineage and prohibiting identity falsification. The principle upholds the child's right to transparency and obliges the state to ensure formal adoption through social services and courts to prevent lineage-based inheritance disputes (Afroo, 2025).

c. Legal Sanctions for Identity Forgery: Violation of Article 263 of the Criminal Code

Forgery of identity in adoption such as listing adoptive parents as biological ones on birth certificates or family cards is a serious crime under Article 263 of the Indonesian Criminal Code, punishable by up to six years in prison. Such acts violate public trust and the child's civil rights. They also breach Article 39 of PP No. 54 of 2007 and Article 67 of the Child Protection Law, which categorize identity manipulation as child exploitation (punishable by up to five years in prison and a fine of IDR 100 million).

According to Law No. 24 of 2013 on Civil Administration, all population data must reflect factual truth. Birth certificates authentic legal documents must list biological parents; if unknown, special notations are allowed. Article 93 of this law imposes penalties of up to six years' imprisonment or fines of IDR 50 million for providing false information. Therefore, adoptive parents who falsify a child's identity can face both criminal and civil liability, as this act deprives the child of rights to inheritance, support, and knowledge of origin.

Recent cases, such as the Banjarmasin "administrative lineage reassignment" (Afif, 2024), show how bureaucratic loopholes can be exploited but still constitute forgery under Article 263(1) of the Criminal Code if they harm the child's rights. The Supreme Court (Decision No. 456 K/Pid/2018) confirmed that falsifying a birth certificate in adoption constitutes a criminal act, with additional sanctions such as revocation of custody rights. Law No. 24 of 2013 (Article 100) also allows administrative sanctions, including document annulment.

Indonesia's legal framework therefore shows a strong commitment to protecting children through transparent, formal adoption procedures that safeguard biological identity. However, weak enforcement, complex bureaucracy, and low public awareness continue to drive informal adoptions. Legal reform—such as digitalized adoption systems and collaboration with the Indonesian Ulema Council

(MUI) to promote *kafālah* is needed to modernize child protection while preserving the sanctity of lineage.

Comparative Analysis of Contemporary Fiqh and Indonesian Positive Law

Both contemporary fiqh and Indonesian positive law prioritize the preservation of lineage as a fundamental principle of child protection. While fiqh grounds this principle in *maqāṣid al-sharī'ah*, national law frames it within the best interest of the child and the right to identity. While fiqh grounds this principle in *maqāṣid al-sharī'ah*, national law operationalizes it through statutory regulation, the best interest of the child, and the right to identity.

In practice, Islamic law recognizes *kafālah* as a form of guardianship that allows care and responsibility for a child without altering biological lineage, a view affirmed by contemporary scholars such as Wahbah al-Zuhaili and Yusuf al-Qaradawi. Similarly, Indonesian positive law recognizes adoption as a court-based mechanism that transfers caregiving responsibilities without severing biological ties, requiring transparency in civil registration. Both systems therefore share a common normative commitment to preserving lineage and protecting the child's identity.

From a normative perspective, both contemporary fiqh and Indonesian positive law regard the concealment or falsification of lineage as a serious violation. In Islamic law, falsely claiming lineage is considered a major sin, while under Indonesian law, identity falsification constitutes a criminal offense subject to both criminal and administrative sanctions. This convergence reflects a shared commitment to protecting children's rights, public trust, and social order. According to Article 263 of the Indonesian Criminal Code (KUHP), any person who fabricates or uses a falsified document with the intent to use it as genuine and cause harm may be punished with a maximum imprisonment of six years. This includes acts such as falsifying birth certificates, family cards, or other identity documents. Furthermore, within the context of child protection, Article 67 of Law No. 35 of 2014 on Child Protection stipulates that anyone who deliberately falsifies a child's identity data including their origin and biological relationship shall be punished with a maximum imprisonment of five years and/or a fine of up to Rp100,000,000 (one hundred million rupiah). In addition, Article 93 of Law No. 24 of 2013 on Population Administration provides that anyone who gives false information in civil registration documents may be sentenced to a maximum imprisonment of six years and/or a fine of up to Rp50,000,000 (fifty million rupiah). (Fikri, 2019)

Therefore, concealing or falsifying a child's lineage through identity manipulation in official documents such as listing the adoptive parents as the biological parents constitutes a serious offense both morally and legally. In Islam, such an act is considered a major sin as it violates the principle of truthfulness and distorts

the purity of lineage (*nasab*). Under Indonesian positive law, it is categorized as a crime against state administration and as a violation of a child's right to identity. Thus, both Islamic law and national law firmly prohibit the concealment of lineage, aiming to uphold human dignity, protect children's rights, and promote social justice within the family and society (Hamdi et al., 2025).

Both contemporary fiqh and Indonesian positive law also emphasize a child's right to know their biological origin. Scholars such as Yusuf al-Qaradawi highlight lineage transparency as essential for psychological balance and clear mahram relations, a principle that aligns with Article 4(d) of Law No. 35 of 2014 on the child's right to identity.

From the comparative analysis, both similarities and differences can be identified between contemporary fiqh and Indonesian positive law. Both systems reject the alteration of lineage, recognize the child's right to identity, and distinguish between guardianship and inheritance an adopted child does not automatically inherit from adoptive parents but may receive property through *hibah* (gifts) or *wasiat wājibah* (gifts) (Meira, 2024). The main differences lie in their legal foundations and mechanisms of implementation: fiqh is based on *nash* (divine texts) and the objectives of *maqāṣid al-shari‘ah*, whereas national law is founded on statutory regulations and international conventions on the rights of the child. In practice, national law follows formal administrative procedures through the courts and civil registration, while Islamic law emphasizes moral, social, and religious responsibility.

In conclusion, contemporary fiqh and Indonesian positive law are complementary rather than contradictory. Harmonization between the two can be realized through the implementation of a *legal-formal kafālah* system a form of child guardianship that is legally recognized by the state without altering the child's biological identity. This integration reflects the spirit of *tajdīd al-fiqh* (renewal of Islamic jurisprudence), which aligns with the development of national law and supports the objectives of the Sustainable Development Goals (SDGs), particularly Goal 16 concerning justice and strong institutions. Through the integration of fiqh values and national legal principles, the adoption system in Indonesia can operate fairly, transparently, and in harmony with moral principles, Islamic ethics, and universal human values.

Modern Fiqh and Legal Solutions

Both Islamic jurisprudence and Indonesian positive law offer practical mechanisms to protect children's welfare while preserving lineage integrity. In Indonesian positive law, adoption must be carried out formally through the court, as regulated in PP No. 54 of 2007 and Permendikbud No. 110 of 2009, to guarantee legality and prevent misuse. Birth certificates must reflect the truth in accordance with Law

No. 24 of 2013, where the names of biological parents must be recorded or marked as "unknown" if necessary.

These integrated solutions demonstrate that child welfare and lineage preservation are not contradictory goals but complementary principles under both Islamic and national legal frameworks.

4. Conclusion

The study concludes that contemporary Islamic jurisprudence and Indonesian positive law share the same ethical and legal foundation, namely the preservation of a child's lineage (*hifz al-nasl*) and the protection of their inherent right to identity. Although their normative sources differ, both systems firmly reject any concealment or falsification of lineage in the adoption process. The research finds that informal adoption practices in Indonesia still pose risks to a child's biological identity, violating both Islamic moral principles and national legal provisions such as Law No. 35 of 2014 on Child Protection, Law No. 24 of 2013 on Population Administration, and Article 263 of the Criminal Code, which penalize identity falsification with imprisonment and fines of up to one hundred million rupiah. This study contributes to sustainable legal development by proposing the integration of Islamic principles into Indonesia's legal framework through a *legal-formal kafālah* system that ensures child protection without altering biological identity. Such harmonization embodies the spirit of *tajdīd al-fiqh* (renewal of Islamic law) and supports the Sustainable Development Goals, particularly SDG 16 on justice and strong institutions.

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