

## Exploring Child Adoption Among Muslim Families in Lubuklinggau: A Maslahah Perspective and Islamic Legal Insights

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### ABSTRACT

Studi ini meneliti praktik adopsi anak di kalangan keluarga Muslim di Lubuklinggau, Indonesia, dengan fokus pada interaksi antara prinsip syariah, hukum nasional, dan dinamika sosial budaya. Menggunakan pendekatan Tinjauan Naratif Sistematis, penelitian ini menganalisis sumber primer, sekunder, dan tersier, termasuk literatur fiqih, perundang-undangan, dan kasus ilustratif Pengadilan Agama Lubuklinggau No. 55/Pdt.P/2024/PA.LLG. Temuan menunjukkan bahwa model kafālah mendominasi, memberikan perawatan, pendidikan, dan perlindungan sambil melestarikan garis keturunan biologis (nasab). Studi ini menyoroti peran penting maslahah sebagai kerangka kerja harmonis, menjembatani kesenjangan antara kewajiban agama, persyaratan hukum, dan harapan sosial. Mekanisme seperti hibah wajib dan wasiat memastikan anak adopsi menerima dukungan ekonomi yang adil tanpa melanggar prinsip syariah. Penelitian ini berkontribusi secara konseptual dengan menunjukkan penerapan maslahah dalam hukum keluarga Islam kontemporer dan secara praktis dengan menawarkan panduan bagi hakim Pengadilan Agama dan pembuat kebijakan dalam mencapai kepentingan terbaik anak.

*This study examines child adoption practices among Muslim families in Lubuklinggau, Indonesia, focusing on the interplay between sharia principles, national law, and socio-cultural dynamics. Using a Systematic Narrative Review approach, the research analyzes primary, secondary, and tertiary sources, including fiqh literature, legislation, and the illustrative case of Lubuklinggau Religious Court No. 55/Pdt.P/2024/PA.LLG. Findings indicate that the kafālah model predominates, providing care, education, and protection while preserving biological lineage (nasab). The study highlights the critical role of maslahah as a harmonizing framework, bridging gaps between religious obligations, legal requirements, and social expectations. Mechanisms such as hibah and wasiat wajibah ensure adopted children receive fair economic support without violating sharia principles. This research contributes conceptually by demonstrating the applicability of maslahah in contemporary Islamic family law and practically by offering guidance for Religious Court judges and policymakers in achieving the best interests of the child.*



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### INTRODUCTION

Child adoption has long been a social practice in Indonesian society, including in Lubuklinggau, carried out for humanitarian reasons, the continuation of lineage, or socio-economic needs (Dimas Prayoga Pangestu et al., 2023). Local culture, such as caregiving by close relatives and the tradition of

“pancingan” children, also influences this practice (Saraswati, 2022). National law, through Law No. 35 of 2014 and Government Regulation No. 54 of 2007, regulates child adoption to ensure legal certainty and the protection of the best interests of the child (Lubis, 2023; Subeitan et al., 2021), while under Islamic law, the rights of adopted children can be fulfilled through the *wasiat wajibah* mechanism (Subeitan et al., 2021). A lack of public understanding of proper procedures often results in adopted children not having legally recognized status (Dimas Prayoga Pangestu et al., 2023).

From a fiqh perspective, child adoption has a strong normative basis. Islamic law distinguishes between *tabannī*, which alters lineage, and *kafālah*, which transfers caregiving responsibility without affecting nasab. Preserving nasab is fundamental, while child protection aligns with *maqāṣid al-syarī'ah* (Andri et al., 2024). Indonesian Islamic courts apply *ushul fiqh* and legal regulations, prioritizing children's welfare (Dharma & Amar, 2024). Adopted children inherit through *wasiat wajibah*, limited to one-third of the estate (Yasin, 2021) and practices emphasize *maslahah*, ensuring proper development while maintaining family connections (Hendy isharyanto & Linda Firdawaty, 2023) Adoption is permissible as long as it preserves lineage and avoids inheritance disruption.

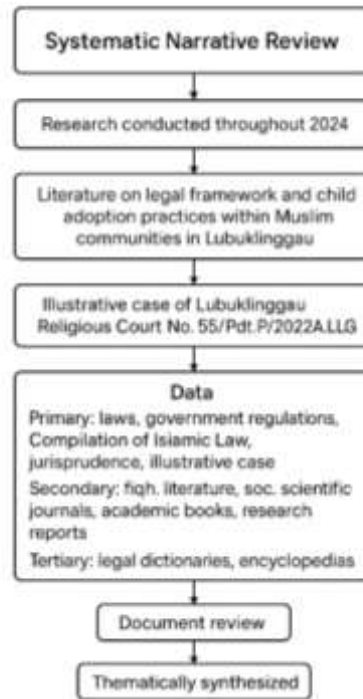
On the other hand, Indonesian positive law has established a clear legal framework for child adoption through the Child Protection Act, Government Regulation on Child Care, and the Compilation of Islamic Law. These regulations require court determination for every adoption to ensure legal certainty for the adopted child (Subeitan et al., 2021). Within Muslim communities, Religious Courts have jurisdiction over the administrative and social aspects of adoption applications (Lubis, 2023).

Nevertheless, social dynamics often reveal gaps between cultural practices, sharia provisions, and national law. Many Muslim families adopt children for social reasons but may not fully grasp legal implications regarding nasab, inheritance, and administrative status (Nasution, 2024; Tuti Ningrum, 2020). Judicial decisions in real cases illustrate how sharia and national law converge in practice, while adoption arrangements under the Compilation of Islamic Law, including *wasiat wajibah*, ensure the child's best interests are protected (Subeitan et al., 2021)). Comparisons with customary law further highlight variations in adopted children's status and local community complexities (Andri et al., 2024).

To understand these dynamics, this article uses the Lubuklinggau Religious Court Case No. 55/Pdt.P/2024/PA.LLG as an illustrative example. The case is not treated as a legal precedent but serves as a concrete instance to examine how judges consider *maslahah*, the best interests of the child, and the alignment of sharia and national law. Thus, this study not only describes legal norms but also reflects judicial practice and the social realities of the Lubuklinggau community.

## METHOD

This study employs a Systematic Narrative Review method, a literature review presented in a thematic narrative format following a systematic procedure. The research was conducted throughout 2024, focusing on legal literature and child adoption practices within Muslim communities, particularly in Lubuklinggau, with the illustrative case of Lubuklinggau Religious Court No. 55/Pdt.P/2024/PA.LLG serving as an example of judicial practice. The data consist of three types: primary (laws, government regulations, the Compilation of Islamic Law, jurisprudence, and the illustrative case), secondary (classical and contemporary fiqh literature, scientific journals, academic books, and research reports), and tertiary (legal dictionaries and encyclopedias). Data were collected through document review, selected based on relevance to the theme of child adoption, extracted into a literature matrix, and thematically synthesized into four main focuses: sharia concepts, national legal framework, social dynamics of the Lubuklinggau community, and analysis of the illustrative case. Critical interpretation was conducted using the *maslahah* approach to understand the interaction between theory, social practice, and judicial decisions (Andri et al., 2024; Dimas Prayoga Pangestu et al., 2023).



**Figure 1.** Flowchart Systematic Narrative Review method

## RESULTS AND DISCUSSION

This study employs a Systematic Narrative Review framework to analyze child adoption practices among Muslim families in Lubuklinggau, situated at the intersection of sharia norms, socio-cultural realities, and the national legal framework. Analysis of data from fiqh literature, regulations, and the illustrative case of Lubuklinggau Religious Court No. 55/Pdt.P/2024/PA.LLG indicates that adoption is a dynamic socio-religious phenomenon rooted in humanitarian values. It is driven by multiple factors, not only to address childlessness but also to provide protection and better future opportunities for children. Local cultural dimensions, such as caregiving by close relatives (kinship care) and extended family patterns, further influence and strengthen social motivations for child-rearing, consistent with anthropological findings that view adoption as part of an adaptive kinship system.

From a sharia perspective, fiqh literature clearly distinguishes between *tabannī* adoption that changes lineage, which is prohibited and *kafālah*, guardianship that transfers caregiving responsibility without severing biological ties, which is highly recommended (Purnama & Tanjung, 2024). In practice, Muslim communities in Lubuklinggau predominantly implement the *kafālah* model, providing maintenance, education, and protection while generally preserving the child's identity and biological lineage (Hendy isharyanto & Linda Firdawaty, 2023). Such caregiving, oriented toward fulfilling the child's fundamental rights, aligns with the principles of *maqāṣid al-syarī'ah*, particularly *ḥifẓ al-nafs* (protection of life) and *ḥifẓ al-nasl* (protection of lineage), which serve as the normative basis for *maslahah*-oriented actions. Religious courts integrate these Islamic values with the "best interests of the child" principle in guardianship decisions, combining both normative (*ushul fiqh*) and juridical arguments to guide practice (Dharma & Amar, 2024). Furthermore, the *maqāṣid al-syarī'ah* framework emphasizes safeguarding life, intellect, and lineage, providing a normative foundation for child protection legislation and social practices (Nusantara Putri, 2024).

Furthermore, the national legal framework, including the Child Protection Act and the Compilation of Islamic Law (KHI), affirms that child adoption is a legal action that does not sever biological ties. Analysis of the regulatory literature matrix shows a strong synchronization between sharia norms and positive law. National law places the best interests of the child as the highest priority, which is essentially equivalent to the Islamic principle of *maslahah* (Mufid & Hamzah, 2024). The authority of Religious Courts to issue formal adoption determinations ensures that adoption practices

achieve the necessary administrative legality while simultaneously respecting sharia boundaries (Lubis, 2023; Nasution, 2024; Subeitan et al., 2021).

The illustrative case of Lubuklinggau Religious Court No. 55/Pdt.P/2024/PA.LLG serves as an applied reflection of how the concept of *maslahah* is concretely implemented at the judicial level. In this determination, the judge evaluated not only the completeness of administrative and formal documentation but also conducted a comprehensive feasibility assessment, including the prospective adoptive parents' economic capacity, family stability, and emotional readiness. Moreover, the judge explicitly affirmed that the ruling does not alter the child's nasab or inheritance rights. This demonstrates that the *maslahah* approach functions as a normative evaluation tool, balancing religious obligations with the demands of positive law while ensuring the maximal benefit for the child.

The findings summarized in Table 1 strengthen this interpretation by showing that each core issue ranging from the form of care, inheritance, socio-legal dynamics, to judicial considerations operates within a consistent framework that combines sharia norms, national regulations, and lived practices in Lubuklinggau. The table illustrates how adoption practices in the community closely resemble *kafālah*, how judges operationalize *maslahah* in line with *maqāṣid al-syarī'ah*, and how legal certainty is maintained without compromising religious principles such as *ḥifẓ al-nasab*. In other words, the table provides empirical and conceptual reinforcement that the court's approach is not merely procedural but also rooted in a structured effort to harmonize diverse legal and social expectations.

**Table 1.** Synchronization of Maslahah, Law, and Child Adoption Practices in Lubuklinggau

Focus Issue	Key Findings (Lubuklinggau Practices & Social)	Fiqh/Sharia Analysis (Normative)	National Law Analysis (Juridical)	Role of Maslahah (Harmonization Bridge)
Form of Care	Adoption practices resemble <i>kafālah</i> (support/protection), driven by humanitarian and cultural values.	Preservation of <i>ḥifẓ al-nasab</i> is mandatory. <i>Tabannī</i> (lineage alteration) is prohibited. <i>Kafālah</i> is recommended.	Laws and KHI: Adoption does not sever biological ties.	Maslahah: Reinforces the <i>kafālah</i> principle, protecting <i>ḥifẓ al-nasab</i> while fulfilling the child's best interests.
Application of Maslahah by Judges	Illustrative case of PA No. 55/Pdt.P/2024/PA.LLG: Judge assessed economic capacity, family stability, and emotional readiness in depth.	Maslahah is applied to realize <i>maqāṣid al-syarī'ah</i> (protection of life and lineage).	Best Interests of the Child principle as the primary guideline in court determinations (Child Protection Act).	Maslahah: Functions as a practical decision-making framework balancing religious obligations and socio-legal demands.
Inheritance Rights & Nasab	Community shows gaps in understanding; expect adopted children to have full inheritance rights.	Adopted children are not entitled to inheritance under <i>farā'idh</i> (Islamic inheritance law). Permissible solutions: gifts or <i>wasiat wajibah</i> .	Religious Court determinations do not alter lineage or inheritance rights.	Maslahah: Ensures economic justice for adopted children through gifts/ <i>wasiat</i> , without violating core sharia principles ( <i>nasab</i> ).

<b>Socio-Legal Dynamics</b>	Strong interaction between kinship culture (extended family patterns) and legal demands via court determinations.	Sharia recognizes <i>wrf</i> (local customs) as long as aligned with <i>maqāsid</i> .	Regulations require administrative certainty and legal protection for children.	Maslahah: Bridges local socio-cultural practices with legal certainty and modern law requirements.
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Issues of civil rights, particularly inheritance, emerge as the most prominent tension revealed by the thematic synthesis. Although the Religious Court ruling affirms that the child’s nasab remains unchanged, many Muslim families still hope that adopted children will inherit like biological children, a desire that could violate *farā’idh* provisions and create *mafsadah* (legal disorder) if enforced. This expectation reflects the strong emotional bonds and social responsibilities felt by adoptive parents.

The *maslahah* approach offers a harmonious, legal, and religious solution to this inheritance gap through the instruments of gifts (*hibah*) or obligatory bequests (*wasiat wajibah*). *Hibah* (property transfer during the donor’s lifetime) and *wasiat wajibah* (a bequest mandated by the court, limited to one-third of the estate) are fully recognized under both Islamic law and positive law (KHI). By recommending these mechanisms, judges and legal practitioners not only fulfill their law-enforcing roles but also act as educators, guiding the community to uphold moral and social responsibilities (providing economic support) without violating *fiqh* principles regarding nasab and inheritance.

This *maslahah*-based solution demonstrates its role as a harmonizing instrument, allowing adoptive parents to provide fair economic support while maintaining strict adherence to sharia principles concerning lineage. It illustrates the maturity of the Indonesian Islamic legal system in responding to contemporary social needs.

Moreover, the interaction between local cultural values and formal legal systems has created a unique child adoption pattern in Lubuklinggau. Communities continue to maintain strong kinship-based caregiving while simultaneously showing increased awareness of the importance of legal formalization through court determinations. State administrative requirements (such as birth certificates and civil documents) encourage traditional practices to transform toward a more legally formal framework. Here, *maslahah* functions as a normative justification for this adaptation, as legal certainty is a form of public good that protects children’s civil rights.

Overall, the discussion emphasizes that *maslahah* is a key concept enabling an integrative conceptual model in child adoption practice. This model demonstrates that sharia provides normative limits (preserving nasab), national law supplies legal instruments (court determinations), and *maslahah* acts as a cohesive force facilitating dialogue and adaptation among the three. The result is an adoption practice that is legally valid, ethical, religiously compliant, and socially adaptive.

Finally, this study contributes significantly both conceptually and practically. Conceptually, it shows that *maslahah* can serve as an effective analytical framework for resolving Islamic family law issues in modern society. Practically, it provides normative guidance for Religious Court judges to explicitly use *maslahah* as the primary interpretive basis to achieve the best interests of the child, while promoting public education on *hibah* and *wasiat* mechanisms as sharia-compliant means to fulfill adopted children’s civil rights.

## CONCLUSION

This study demonstrates that child adoption among Muslim families in Lubuklinggau operates at the intersection of sharia norms, national law, and socio-cultural practices. The *kafālah* model predominates, allowing adoptive parents to provide care, protection, and education while preserving the child’s biological lineage. National law ensures administrative legality and child welfare, while the Islamic principle of *maslahah* serves as a harmonizing framework, bridging potential gaps between religious obligations, legal requirements, and social expectations. Mechanisms such as *hibah* and *wasiat wajibah* effectively resolve inheritance issues without violating sharia principles. Overall, *maslahah* provides both a normative and practical tool for achieving ethically, legally, and socially sound adoption practices, highlighting its relevance in contemporary Islamic family law and child protection.

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