

# Analysis of Under-the-Table Child Adoption Practices in the Perspective of Islamic Law and Law No. 23 of 2002 Concerning Child Protection

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## Abstract

The persistence of informal or under-the-table child adoption practices in Indonesia poses a significant challenge to the protection of children's rights and legal certainty. Although adoption is formally regulated under statutory law and Islamic legal principles, informal arrangements remain prevalent, particularly in Sumber Subdistrict, where they are often conducted through verbal agreements without judicial authorization. This study aims to analyze the underlying factors contributing to such practices and to evaluate them from the perspectives of Islamic law and Law No. 23 of 2002 concerning Child Protection. Employing a qualitative normative juridical-descriptive method, this research draws upon primary legal sources, including statutory provisions, Qur'anic verses, Hadith, and fatwas, as well as secondary literature, and applies the Miles and Huberman model of qualitative analysis. The findings reveal that socio-cultural traditions, limited legal awareness, procedural complexity, and the perception of greater psychological security for children are the main drivers of informal adoption. From the standpoint of Islamic law, severing lineage (*nasab*) is strictly prohibited, while positive law considers such practices unlawful and subject to civil and criminal sanctions, particularly when involving data falsification or exploitation. The study concludes that harmonizing customary practices with statutory frameworks requires legal literacy initiatives, simplified adoption procedures, and stronger institutional coordination to ensure child protection while respecting social and cultural contexts.

**Keywords:** Child adoption, islamic law, child protection, informal adoption, legal certainty.



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## Introduction

The family constitutes the smallest social<sup>1</sup> but fundamental unit within society,<sup>2</sup> yet it holds a pivotal role in the development of both the nation and the state.<sup>3</sup> Given its fundamental importance for the stability and welfare of society and the state, a regulatory framework is required to govern family matters, which has given rise to the concept of family law. Family law is understood as the body of legal provisions regulating relationships within consanguinity and affinity, including marriage, parental authority, guardianship, and custodianship.<sup>4</sup> Lineage within marriage may derive from biological descent, referred to as legitimate children under Law No. 1 of 1974. Article 42 of this Law stipulates that a legitimate child is one born in or as a consequence of a lawful marriage.

In cases where a married couple has no biological offspring, they may continue their lineage to preserve kinship continuity through child adoption.<sup>5</sup> According to Article 171 (h) of the Compilation of Islamic Law, an adopted child is defined as a child whose daily care, educational expenses, and other needs are transferred from the biological parents to the adoptive parents based on a court ruling. In Indonesia, child adoption practices are categorized into two forms: adoption based on local customary traditions and adoption governed by statutory law.<sup>6</sup> Although customary practices permit adoption through prevailing traditions, such adoptions are still required to obtain judicial confirmation. Government Regulation No. 54 of 2007, Article 9(2), explicitly states that “Adoptions based on local customs may be submitted for court determination.” Thus, it is evident that a court decision in adoption cases is constitutive in nature, as it establishes a legitimate legal relationship between the adoptive child and the adoptive parents, including recognition of rights and obligations.

Nevertheless, informal or under-the-table adoption practices remain prevalent in society,<sup>7</sup> including in Sumber Subdistrict. Based on preliminary research, at least five cases of such informal adoptions were identified, conducted solely through verbal agreements without written contracts or the presence of religious or community leaders as witnesses. Consequently, adoptive parents often directly register the child with the local Civil Registry Office (Disdukcapil) as their biological child, thereby formally severing the child’s lineage from the biological parents.

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<sup>1</sup> Nerea Jiménez-Picón et al., “Systematic Review of the Relationship between Couple Dyadic Adjustment and Family Health,” *Children* 8, no. 6 (June 9, 2021): 491, <https://doi.org/10.3390/children8060491>.

<sup>2</sup> Walaa Elsayed, “Building a Better Society: The Vital Role of Family’s Social Values in Creating a Culture of Giving in Young Children’s Minds,” *Heliyon* 10, no. 7 (April 2024): e29208, <https://doi.org/10.1016/j.heliyon.2024.e29208>.

<sup>3</sup> Sri Sulistijaningsih et al., “Increasing the Development of National Ideological Values from an Early Age through Family Education,” *Jurnal Civics: Media Kajian Kewarganegaraan* 21, no. 1 (April 30, 2024), <https://doi.org/10.21831/jc.v21i1.67887>.

<sup>4</sup> Muhammad Shoim, *Pengantar Hukum Perdata Di Indonesia* (Semarang: CV. Rafi Sarana Perkasa, 2022), 6; Diana R. W. Napitupulu, *Hukum Orang Dan Keluarga* (Jakarta: UKI Press, 2023), 11.

<sup>5</sup> Mahlil Ridwan, “The Practice of Child Adoption without Court Determination,” *Gender Equality: International Journal of Child and Gender Studies* 10, no. 1 (March 31, 2024): 27, <https://doi.org/10.22373/equality.v10i1.20213>.

<sup>6</sup> Ida Ayu Kade Irsyanti Nadya Saraswati, “Legal Status and Inheritance Rights for Adapted Children That Are Not Applied by a Court Decision,” *Journal Equity of Law and Governance* 2, no. 1 (March 31, 2022): 36–42, <https://doi.org/10.55637/elg.2.1.4612.36-42>.

<sup>7</sup> Ajeng Savitri Thamrin, Jacobus Ronald Mawuntu, and Meiske Mandey, “Eksistensi Hukum Pengangkatan Anak (Adopsi) Tanpa Penetapan Pengadilan Berlandaskan Hukum Positif Indonesia,” *Lex Administratum* 12, no. 5 (September 2, 2024).

This study offers a clear novelty by providing a dual-perspective analysis that has been insufficiently addressed in previous scholarship: the examination of under-the-table adoption practices simultaneously through the lens of Islamic law and the framework of Law No. 23 of 2002 on Child Protection. While prior research has predominantly discussed formal adoption procedures,<sup>8</sup> there remains a gap in critically analyzing how informal adoptions are perceived, legitimized, or rejected by both normative religious principles and statutory child protection regulations. This gap highlights the distinct contribution of this research in bridging legal theory with socio-religious practice.

In addition, the research provides substantial benefits on both theoretical and practical levels. Theoretically, it enriches the academic discourse on family law and child protection by contextualizing informal adoption within Indonesia's plural legal system. Practically, the findings may serve as a valuable reference for policymakers, judges, and child protection institutions in formulating more effective regulatory and preventive measures against illegal adoption practices. Moreover, this study may also guide communities in understanding the legal and religious consequences of under-the-table adoption, thereby fostering greater legal awareness and protection of children's rights.

This situation underscores the urgency of conducting an in-depth analysis to address the following research questions: (1) What are the underlying factors contributing to under-the-table adoption practices in Sumber Subdistrict? (2) How are such practices viewed from the perspective of Islamic law? and (3) How are they assessed under Law No. 23 of 2002 on Child Protection?

## METHOD

This study employed a qualitative method with a normative juridical-descriptive approach to analyze the practice of under-the-table child adoption from the perspectives of Islamic law and positive law. The research design is descriptive-analytical, aiming to understand the phenomenon holistically through the interpretation of legal texts and relevant social practices. Primary legal materials consist of Law No. 23 of 2002 on Child Protection, Qur'anic verses, Hadith, and the fatwas of the Indonesian Ulema Council (MUI). Secondary legal materials include academic literature, scholarly journals, conference papers, printed media, and relevant online resources.

Data were collected through a literature study and subsequently analyzed using a qualitative descriptive approach. The analysis followed the Miles and Huberman model, which involves three stages: data reduction, data display, and conclusion drawing/verification. This technique enables an interactive and continuous process of interpretation until the data become saturated, thereby providing a comprehensive understanding of the legal implications of under-the-table child adoption in both Islamic and positive law perspectives.

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<sup>8</sup> Aldi Subhan Lubis, Revi Fauzi Putra Mina, and Nabila Fahira Nasution, "Legal Studies on Child Adoption in the Indonesian Family Context: A Juridical Review," *Jurnal Multidisiplin Madani* 4, no. 3 (March 22, 2024): 417–26, <https://doi.org/10.55927/mudima.v4i3.8410>.

## RESULT AND DISCUSSION

### The Overview on Child Adoption

Adoption represents one of the civil law practices within the domain of family law that is widely found in Indonesia. This practice arises from diverse motivations and generates multiple legal implications, both in the context of customary law, positive law, and Islamic law. In scholarly discourse, adoption is derived from the term *adoption*, which refers to the act of taking another person's child to be treated as one's own biological offspring with corresponding rights and obligations. Etymologically, the Arabic term *tabanni* means "taking a child (adoption),"<sup>9</sup> while terminologically, Wahbah al-Zuhaili explains it as the affiliation of a child to another person despite the existence of clear lineage with the biological parents.<sup>10</sup> Such practice of *tabanni* in the sense of altering lineage contradicts the principles of Islamic law. Nevertheless, in civil law practice, adoption is interpreted as an effort to nurture, educate, protect, and fulfill a child's needs so that the child grows into a useful individual for society, nation, and state.

The legal basis of adoption in Indonesia derives from various legal systems, including Western civil law, customary law, and Islamic law.<sup>11</sup> The Civil Code (KUHPerdata) contains no explicit provisions on adoption, except for the recognition of illegitimate children as stipulated in Articles 280–289. However, Staatsblad 1917 No. 129 provided a regulatory framework for adoption that specifically applied to Chinese descendants. In customary law, adoption is based on the principle of "clear and final," requiring it to be carried out publicly before the community and accompanied by symbolic offerings to signify the termination of legal ties with the biological parents. Meanwhile, Islamic law rejects adoption in the sense of severing lineage, as emphasized in Qur'an Surah al-Ahzab verse 4, but permits the fostering of children on the basis of social responsibility without attributing lineage to the adoptive parents. The legal framework in Indonesia is reinforced by the Compilation of Islamic Law and the Fatwa of the Indonesian Ulema Council (MUI) of 1984, both of which prohibit severing lineage while allowing child fostering in accordance with religious principles. In addition, several modern regulations, ranging from Supreme Court Circulars and Minister of Social Affairs Decrees to the Child Protection Act, stipulate that adoption must be legalized through court decisions to ensure legal certainty.

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<sup>9</sup> Zulfia Malyan, Jaka Ghianovan, and Abil Ash, "Tabanni Concept of Al-Qur'an Perspective: In The Study of Ijtima'i Interpretation," *Riwayat: Educational Journal of History and Humanities* 7, no. 3 (July 23, 2024): 1187–98, <https://doi.org/10.24815/jr.v7i3.39925>.

<sup>10</sup> Atika Hidayatunnajah, "Adoption Children With Difference Religion In Guarantee Of Religious Freedom Perspective Of The Constitution Of The Republic Of Indonesia 1945 And Islamic Law," *JIL : Journal of Indonesian Law* 4, no. 2 (2023): 199–223.

<sup>11</sup> Salma Salsabila Imtina, Nurini Aprilianda, and Yeni Eka Widyanti, "Legal Protection Strategies for Child Adoption Without a Court Order: A Comparative Study of Indonesia, USA and Malaysia," *NEGREL: Academic Journal of Law and Governance* 4, no. 1 (July 7, 2024): 69–88, <https://doi.org/10.29240/negrei.v4i1.10092>; Silfi Rizkina and Arief Suryono, "Rights and Position of Adopted Children According to KHI and Common LAW," *Proceedings of the 1st International Conference on Social Science (ICSS)* 3, no. 2 (July 24, 2024): 295–301, <https://doi.org/10.59188/icss.v3i2.184>.

The primary purpose of adoption is directed toward the best interest of the child.<sup>12</sup> Law No. 35 of 2014, as an amendment to Law No. 23 of 2002 on Child Protection, emphasizes that adoption may only be carried out for the benefit of the child, in accordance with prevailing customs and statutory provisions. In practice, however, adoption in Indonesia arises from multiple motives.<sup>13</sup> On the one hand, it is pursued by couples without biological children to continue lineage or by those who wish to expand their family despite already having children. On the other hand, customary law emphasizes adoption as a means of preserving kinship continuity and preventing the extinction of family lines. Nevertheless, adoption undertaken for commercial purposes, exploitation, or as a mere symbolic act runs contrary to the rights of the child. Thus, the essential principle of adoption must be grounded in the intention to provide protection and welfare for the child.

There are two principal forms of adoption practices in Indonesia. First, formal adoption through the principle of “clear and final,” which involves ritual ceremonies before customary leaders and symbolic acts that signify the complete transfer of responsibility from biological parents to adoptive parents. In this type, the adopted child acquires full inheritance rights, both material and immaterial. Second, informal adoption, which is conducted without ceremonies and without severing the legal relationship with biological parents. This form is commonly found in regions such as Java and Sulawesi, where the child remains legally tied to the biological family but is socially integrated into the adoptive household. Such distinctions reflect the adaptability of customary law in aligning adoption practices with local social needs.

Despite the existence of clear legal frameworks, informal adoption practices remain prevalent in Indonesian society,<sup>14</sup> including in Sumber Subdistrict. Findings from the present study identified at least five cases of informal adoption conducted solely through verbal agreements without written contracts or the presence of community or religious leaders as witnesses. Several factors were found to contribute to this practice: prevailing community traditions, childlessness, the desire to expand the family, and kinship considerations that encouraged the adoption of relatives’ children. Additional factors included limited understanding of legal procedures, assumptions that a birth certificate could be issued without a court ruling, and the perception that formal legal processes were costly and time-consuming.

Furthermore, adoptive parents often expressed concern that listing biological parents in official documents might create psychological burdens for the child or lead to social stigma. In several instances, adopted children reportedly experienced discrimination after discovering their biological origins through third parties, reinforcing the perception that secrecy provides greater

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<sup>12</sup> Tiurma M. P. Allagan, “Intercountry Adoption in Indonesia,” *Indonesian Journal of International Law* 15, no. 2 (April 30, 2018): 214–44, <https://doi.org/10.17304/ijil.vol15.2.725>.

<sup>13</sup> Yurike Prastika Putri, Ismansyah Ismansyah, and Linda Elmis, “Child Adoption Implementation Without Court Judge Ruling Regarding Law Protection on Inheritance Right in Payakumbuh,” *International Journal of Multicultural and Multireligious Understanding* 6, no. 3 (July 25, 2019): 895, <https://doi.org/10.18415/ijmmu.v6i3.925>.

<sup>14</sup> Robby F Setiawan, “Pangkatan (Adopsi) Anak Menurut Hukum Positif,” *Journal of Gender and Social Inclusion in Muslim Societies* 4, no. 2 (December 30, 2023): 114–24, <https://doi.org/10.30829/JGSIMS.V4I2.23448>.

social protection. As a result, informal adoption is frequently considered a safer and more practical alternative, despite its incompatibility with formal legal provisions.

These findings illustrate that informal adoption practices reflect both a lack of legal awareness in society and the strong influence of local customs. Communities tend to prioritize practical and simplified approaches over formal legal mechanisms, motivated by considerations of cost, time, and the child’s psychological well-being. This underscores the urgent need for greater public legal education and the simplification of adoption procedures to ensure that the best interests of the child are preserved while providing legal certainty for adoptive families.

### The Practice of Under-the-Table (Informal) Adoption from the Perspective of Islamic Law

Based on the principle of Islamic personal law, Law No. 3 of 2006 grants religious courts the authority to examine and adjudicate adoption cases in accordance with Islamic law.<sup>15</sup> However, this law does not revoke the jurisdiction of district courts in handling adoption petitions filed by Muslim applicants. As a result, the authority to adjudicate adoption petitions rests concurrently with two judicial institutions, namely the religious courts and the district courts. To avoid jurisdictional overlap between these courts in adoption cases, the Supreme Court issued the *Guidelines for the Implementation of Duties and Court Administration in the Four Judicial Environments*. Book II (2007 Edition) of the General Court, published by the Supreme Court of the Republic of Indonesia in 2009, stipulates in paragraph 2, item 7, that adoption petitions filed by Muslim applicants intending to treat the adopted child as a biological child, including inheritance rights, shall be submitted to the district court. Conversely, if the purpose is solely for care and guardianship, the petition shall be filed with the religious court.

In light of these provisions, adoption petitions reflect a *choice of law*, meaning that applicants may pursue adoption either through Islamic law in the religious court or through civil law in the district court. Consequently, the legal implications of adoption differ depending on whether it is determined by the district court or the religious court, as summarized in the following table:

**Table 1.** *Comparison of Legal Consequences of Child Adoption Between District Court and Religious Court Determinations*

No.	Aspect	Legal Consequences Based on District Court Determination	Legal Consequences Based on Religious Court Determination
1.	Lineage ( <i>Nasab</i> )	a. The adopted child’s lineage is severed from biological parents and siblings along with all legal consequences. b. The adopted child’s lineage is transferred to the adoptive parents and	a. The adopted child’s lineage is not severed from biological parents and siblings, along with all legal consequences. b. The adopted child’s lineage is not transferred to the adoptive parents or their descendants. Only

<sup>15</sup> Arief Rachman Hakim and Sisca Novalia, “Adoption of Children in the Perspective of National Law and Its Relation to Religious Courts,” in *1st Raden Intan International Conference on Sharia and Law Volume* (KnE Social Science, 2024), 502–9, <https://doi.org/10.18502/kss.v9i2.15007>.

		their descendants, with all attendant legal implications.	responsibilities for care, maintenance, education, and related obligations are transferred.
		c. The adopted child is named with <i>bin/binti</i> of the adoptive parents.	c. The adopted child retains <i>bin/binti</i> of the biological parents.
2.	Guardianship	Adoptive parents become full guardians over the adopted child, including personal, property, legal matters, and marriage guardianship.	Adoptive parents have limited guardianship over the adopted child in personal, property, and legal matters, but not marriage guardianship if the adopted child is female.
3.	<i>Mahram</i> Relationship	The adopted child cannot marry the adoptive parents, nor the biological or adopted children of the adoptive parents.	The adopted child may lawfully marry the adoptive parents, as well as the biological or other adopted children of the adoptive parents.
4.	Inheritance Rights	The adopted child is entitled to inherit from the adoptive parents, holding the same legal position as a biological child.	The adopted child is not entitled to inherit from the adoptive parents but may receive part of the adoptive parents' estate through <i>hibah</i> (grant) or <i>wasiat wajibah</i> (mandatory bequest).

From the Table 1 and above discussion, several important insights may be drawn regarding the prohibition of altering the lineage of an adopted child from biological parents to adoptive parents, namely:

1. Islam places significant emphasis on preserving the integrity of the family institution and safeguarding the rights of its members based on kinship. This relationship may be disrupted, or even destroyed, by the introduction of an outsider into the family structure.
2. The prohibition prevents confusion between what is lawful (*halal*) and unlawful (*haram*). When an adopted child is equated with a biological child, the child is treated as a *mahram*, although originally not a *mahram*, and thereby may no longer marry within the family. This situation could potentially invalidate Qur'anic injunctions concerning restrictions on viewing the *aurat* (intimate parts) of certain family members, which are strictly limited to specific kinship relations.
3. The incorporation of an adopted child into a family could generate conflicts or hostilities, either among family members themselves or between them and the adopted child. This is particularly significant in matters of inheritance, as granting inheritance rights to an adopted child could diminish or exclude the rightful shares of legitimate heirs.

## The Practice of Under-the-Table (Informal) Adoption in the Perspective of Law No. 23 of 2002 on Child Protection

Referring to the provisions of Article 9(1) and (2) of Government Regulation (PP) No. 54 of 2007 concerning the Implementation of Child Adoption, it is stipulated that adoption based on local customary practices – namely adoption carried out within a community that demonstrably continues to practice customs and traditions in social life – may be submitted for judicial determination. Accordingly, the directive of the Subdistrict Office (*Kelurahan*) to immediately consult the Social Affairs Office (*Dinas Sosial*) when adoptive parents report an adoption is appropriate, as it implicitly emphasizes that customary adoption must also be submitted to the court for approval. However, among the three informants involved in informal adoption cases, only one – Mrs. DH and Mr. AS – reported the adoption to the Subdistrict Office. The other two informants reported the adopted child as their biological child with the aim of directly obtaining a birth certificate through the local Civil Registry Office (*Disdukcapil*).

The first informant, Mrs. DP, failed to obtain a birth certificate due to the midwife's certification and the biological father's (Mr. YRP) acknowledgment that the child's birth certificate had already been issued under the mother's name. Subsequently, Mrs. DP attempted to register the adoption through the Social Affairs Office but faced another obstacle when the biological father demanded financial compensation in exchange for a parental consent statement – a mandatory requirement for adoption registration through *Dinas Sosial*. From the researcher's analysis, the conflict faced by Mrs. DP and her husband, Mr. NW, could have been strategically managed through a bargaining approach. Dealing with individuals such as the biological father, Mr. YRP, is indeed challenging; however, rather than yielding to demands for compensation, the adoptive parents should have considered legal action. Should the biological father insist on reclaiming the child, such actions could have been reported to the authorities, given that exploiting a child for personal gain constitutes a criminal offense under Article 83 of Law No. 23 of 2002 on Child Protection. This provision stipulates that any person who traffics, sells, or abducts a child for personal use or commercial purposes is subject to imprisonment of up to 15 years and not less than 3 years, and a fine of up to IDR 300,000,000 and not less than IDR 60,000,000. Conversely, compliance with the biological father's demand for compensation in exchange for a consent letter may implicate the adoptive parents themselves in criminal liability, as such actions amount to tacit approval of child exploitation.

The third informant, Mrs. AM, successfully obtained a birth certificate for her adopted child in collaboration with the biological father, Mr. CNP, by reporting the child as her biological offspring to the Subdistrict Office. While this strategy succeeded administratively, it poses potential long-term conflicts with her biological children and her husband, Mr. WS. Furthermore, registering an adopted child as a biological child constitutes manipulation of civil registration data, which contravenes Law No. 24 of 2013 amending Law No. 23 of 2006 on Civil Administration, particularly Article 94, which stipulates criminal penalties of up to six years' imprisonment and/or fines of up to IDR 75,000,000 for manipulating population data. Such actions also violate Article 79 of Law No. 23 of 2002 on Child Protection, which imposes penalties of up to five years' imprisonment and/or fines of up to IDR 100,000,000 for adoptions carried out in contravention of legal requirements. In this case, the adoptive parents deliberately concealed

the biological parents' identity and severed the child's lineage, despite the legal obligation of adoptive parents to disclose the child's true origins. Accordingly, not only the adoptive mother (Mrs. AM) and the biological father, but also all parties involved in the issuance of the manipulated Family Card and Birth Certificate could be held criminally liable. Civil registration procedures stipulate that the addition of a child to a Family Card due to birth must be supported by an official Birth Certificate issued by a birth attendant, whether medical or non-medical. Thus, the issuance of such certificates must accurately state the biological parents' identities and must not substitute the adoptive parents' names as the child's biological parents.

Interviews with the Civil Registry Office (*Disdukcapil*) revealed that birth registration procedures have been simplified under Minister of Home Affairs Regulation (Permendagri) No. 9 of 2016, whereby applicants are no longer required to provide neighborhood (*RT*) letters or Subdistrict Office statements. Moreover, if a birth certificate from a birth attendant is unavailable, applicants may submit a Statement of Absolute Responsibility (*SPTJM*), signed by the parents/guardians and witnessed by two individuals. The *SPTJM* must contain key information including the child's name, identification number (NIK), place and date of birth, birth order, and mother's name, with the accuracy of the data being the full responsibility of the declarant. However, the simplicity of this mechanism has created opportunities for misuse, particularly through falsification of maternal identity fields, thereby facilitating illegal adoptions through data manipulation.

With regard to the broader implications of informal adoption practices in Sumber Subdistrict, relevant institutions such as the Social Affairs Office, Civil Registry (*Disdukcapil*), the Religious Court (*Pengadilan Agama*), and the District Court (*Pengadilan Negeri*) expressed differing perspectives on the relevance of customary law in contemporary contexts. Both the Social Affairs Office and the District Court affirmed that customary law remains relevant, as there is no explicit regulation abolishing its application, particularly given that Article 8 of Government Regulation No. 54 of 2007 recognizes inter-Indonesian adoptions based on local customs. Nevertheless, for such adoptions to be legally valid, they must still be submitted for judicial approval. Conversely, the Civil Registry Office and the Religious Court argued that customary law has lost its relevance in modern contexts, as the state has enacted comprehensive regulations to safeguard citizens' legal certainty and order. In their view, customary law may still apply in indigenous communities geographically distant from administrative centers, but it should not serve as the procedural basis for adoption in urbanized areas such as Sumber Subdistrict.

From these findings, it can be analyzed that customary law remains highly relevant within communities that uphold traditional values and local wisdom, as customary adoption often reflects communal harmony and preserves kinship continuity.<sup>16</sup> In many cases, customary mechanisms ensure that adoption takes into account emotional and familial bonds, which may carry deeper significance than mere formal legality. However, these traditions are often modified

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<sup>16</sup> Ahmad Rozali, Marwin Marwin, and Eko Hidayat, "The Uniqueness of Primogeniture in Traditional Inheritance Systems," *Jurnal Ius Constituendum* 10, no. 2 (June 30, 2025), <https://doi.org/10.26623/jic.v10i2.12094>.

or misappropriated by individuals, rendering them less suitable for urban or multicultural settings where modern legal frameworks are predominant.

## CONCLUSION

This study reveals that under-the-table adoption practices in Sumber Subdistrict persist due to a combination of socio-cultural traditions, limited legal awareness, procedural complexity, and the perception that informal arrangements provide better psychological and social protection for children. From the perspective of Islamic law, such practices contradict the prohibition of severing lineage (nasab) while simultaneously neglecting the child's right to legal certainty. Meanwhile, under Law No. 23 of 2002 on Child Protection and its amendments, informal adoption is considered unlawful, particularly when it involves data manipulation, exploitation, or concealment of biological identity, all of which may result in severe civil and criminal sanctions. These findings underscore the tension between community-driven customary norms and the state's obligation to safeguard the best interests of the child within a consistent legal framework.

In light of these findings, greater efforts are required to harmonize customary practices with statutory regulations through the reinforcement of legal literacy, the simplification of adoption procedures, and stronger institutional coordination among the Social Affairs Office, Civil Registry, and judicial bodies. Public education campaigns should be prioritized to raise awareness that formal adoption, legalized by court determination, not only protects the rights of the child but also provides legal certainty for adoptive parents. At the policy level, the government should strengthen monitoring mechanisms to prevent data manipulation and exploitation, while at the same time ensuring that adoption processes remain accessible, affordable, and culturally sensitive. By integrating social, legal, and religious perspectives, adoption practices can be realigned with both child protection principles and societal values, thereby achieving a balance between legal certainty and the preservation of communal harmony.

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