



The Position and Polarization of the Distribution of Inheritance of Adopted Children in Merangin Regency, Jambi Province

Rahmi Hidayati^{1*}, Wahyu Sawaluddin², Muhammad Farhan HR³, Amirulhakim bin Nadzri⁴
^{1,2,3} Universitas Islam Negeri Sulthan Thaha Saifuddin Jambi, Indonesia

⁴ Kolej Islam As Sofa, Malaysia

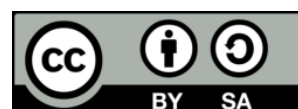
Corresponding Author: rahmihidayati@uinjambi.ac.id

ABSTRACT

This study aims to examine the status of adopted children and the polarization of inheritance distribution in Merangin Regency, Jambi Province. The research method used is social legal research, which aims to understand legal phenomena within the social and cultural context in which the law operates. The results indicate that in Merangin Regency, adoption is not conducted in accordance with Islamic law. Adopted children are treated equally with biological children, and this also applies to inheritance distribution, resulting in them receiving more than one-third of the estate. This clearly contradicts Islamic law, which states that adopted children do not inherit; however, they are provided with the option of obtaining inheritance rights through a will or gift. The granting of mandatory will rights to adoptive children/parents by the Islamic Law Compilation of Islamic Law (KHI) represents a local feature of Islamic inheritance law in Indonesia. This legal breakthrough allows the regulation of wills in Islamic law to adapt to prevailing traditions. This study contributes to understanding how local customary practices in Merangin Regency diverge from classical Islamic inheritance principles, highlighting the tension between traditional adoption practices and the adaptive legal framework provided by KHI's mandatory will provisions.

Keywords: adopted children, islamic inheritance law, customary law, mandatory will, merangin regency

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1. Introduction

Married couples often greatly desire the birth of a child in their family, as the primary purpose of marriage is to continue the family line. (Nelson-coffey & The, 2018) As Allah says in Surah An-Nahl verse 72, which means: "Allah has made for you spouses (wives) from yourselves (your nation) and has made for you children and grandchildren from your wives and provided good things, whether they believe in falsehood (falsehood) and deny the blessings of Allah (QS: An-Nahl: 72).

In the context of couples who do not yet have children, adoption is one solution, because by adopting a child, the interests of the husband and wife can be met on the one hand. Still, on the other hand, the interests of the adopted child must also be met by ensuring a better future for the child. If adoption is carried out, it will have implications for the emergence of legal provisions regarding adopted children, for example, the issue of the status of adopted children in receiving inheritance. (Atiyatunnajah & Setyawan, 2023)

Adoption during the Jahiliyah period was unique because society considered adopted children to be the same as their own biological children, especially if the adopted child was male. They established the law of severing the bloodline relationship between the adopted child and their biological parents, who then connected them to their adoptive parents. This differs from the emergence of Islam. Although the tradition of adoption is still accepted in Islamic teachings, its status and existence have changed. Adoption, which is permitted in Islam, does not attach bloodline ties to the adopted child, so its law does not affect mahram (mahram) and inheritance (Kasdi & Anwar, 2019). In principle, Islamic law prioritizes blood relations in inheritance.

In fact, adoption has become part of Indonesian customs and has been incorporated into practice through the Religious Courts. In several regions, such as Yogyakarta and Sulawesi, adoption is already widespread, and religious courts have issued rulings that are considered permanent jurisprudence among judges in Indonesia's religious courts. (Putra, 2025) This demonstrates the protection and legal certainty for adopted children regarding inheritance. (Wibawa, 2023) (Surbakti et al., 2024). Meanwhile, positive law is more flexible and recognizes the inheritance rights of adopted children as equal to those of biological children. (Hadiansyah & Nuryasinta, 2025)

In Jambi, particularly in Merangin, the practice of inheritance distribution for adopted children still relies on tradition, distributing inheritance according to the testator's wishes, which often results in the distribution exceeding one-third of the estate. This results in disputes and divisions within families due to the prioritization of individual egos. Therefore, legal breakthroughs are needed to ensure that the regulation of wills in Islamic law does not conflict with prevailing traditions.

Despite existing legal frameworks provided by the KHI regarding mandatory wills for adopted children, a significant legal gap persists in how local communities reconcile customary inheritance practices with Islamic law principles, particularly in regions where adoption traditions predate formal legal codification. While previous studies have examined adoption and inheritance in urban centers and well-documented regions like Yogyakarta and Sulawesi, Merangin Regency remains largely unexplored in academic literature, despite its distinct customary practices that deviate substantially from both classical Islamic inheritance rules and national legal standards. This research is urgently needed as Merangin's Religious Courts continue to receive recurring inheritance disputes involving adopted children, with families experiencing prolonged conflicts due to unclear legal guidance on distributions exceeding the one-third limit prescribed by Islamic law. Therefore, this study investigates the legal status of adopted children and the polarization of inheritance

distribution practices in Merangin Regency to bridge the gap between theoretical legal frameworks and actual community implementation, offering insights that can inform both judicial decision-making and policy development for regions with similar customary-Islamic law tensions.

2. Method

This study employs a socio-legal research method, which examines law through a combined legal approach to analyze legal phenomena within the social and cultural context in which the law operates. (Salter & Mason, 2007)

This method aims to understand the implementation of law by society and to comprehend law within a societal context. It also constructs a theoretical understanding of the legal system and positions law within a broader societal context, with various methodological implications. The primary data for this study come from in-depth interviews with religious and traditional leaders in Merangin Regency, Jambi Province, who serve as representatives. Secondary data were obtained from relevant literature. Both types of data were then analyzed through editing, organization, and grouping.

To ensure research transparency and methodological rigor, this study adhered to specific protocols throughout the data collection and analysis phases. In-depth interviews were conducted with purposively selected key informants, including religious scholars (*ulama*), customary leaders (*tokoh adat*), and Religious Court judges in Merangin Regency, chosen for their direct involvement in adoption cases and inheritance dispute resolution. Interview sessions were recorded with informed consent and transcribed verbatim to preserve the authenticity of participants' perspectives. Secondary data comprised legal documents from the KHI, court decisions from Merangin's Religious Court archives, and scholarly literature on Islamic inheritance law and customary practices. Data analysis followed a thematic coding approach, systematically categorizing findings into emerging themes related to adoption status, inheritance distribution patterns, and the tension between Islamic law and local customs. Cross-verification of primary interview data with court records and legal documents was performed to enhance validity and ensure credible interpretation of the legal-social dynamics in Merangin Regency.

3. Result and Discussion

Adopted Children and Their Status

Etymologically, adoption is synonymous with the word "adoption," which originates from the Dutch word "adoptie," meaning "adoption" in English, and the Arabic word "al-tabanni," which translates to "to raise a child" or "to take an adopted child and make them like one's own." Meanwhile, according to terminology, an adopted child is a child whose daily care, education, and other responsibilities are transferred through a court decision from the biological parents to the adoptive parents. Adopted children have no blood relationship, no guardianship, and no inheritance relationship with the adoptive parents. The child retains their biological father's name and becomes their heir. (Kasdi & Anwar, 2019)

The Indonesian Ulema Council (MUI) fatwa states that adoption is permitted under Islamic law only for the purpose of caring for, nurturing, and ensuring the greatest possible welfare of the adopted child. Adoption does not result in the severing of the blood relationship between the adopted child and their biological parents. Thus, the term "adopted child" is followed by the term "foster child," "educated child," or other terms that are more pro-child. (Hasbi Umar, Husin Bafadhal, 2023)

Adopted children in Jambi are known as "anak pungut" (adopted child) and "anak ambilan" (adopted child). According to Jambi custom, an adopted child is a child of clear origin who is adopted with the consent of both families and confirmed by the Village Head. An "anak pungut" (adopted child) is a child whose origin is unclear and adopted without ceremony. An adopted child, on the other hand, is a child who is taken while still in the womb without ceremony. The adoptive parents usually bear the costs of the child's birth.

In various regions of Indonesia, adopted children are accorded almost the same status as their own children under customary law, including the right to inherit property left by their adoptive parents. However, legitimate adopted children are still considered not part of the family and therefore have no right to inherit the inheritance of their adoptive parents. (Jumarin, 2024)

The status of adopted children in Indonesian inheritance law is regulated only by customary law. Customary inheritance, because Islamic law and civil law do not recognize adopted children as heirs. In customary law, the position of adopted children varies from region to region. (Atiyatunnajah & Setyawan, 2023) For example, in Bali, adoption is a legal obligation that releases the child from their original family to their adoptive family. The child becomes the biological child of the adopter and continues the position of their adoptive father. In Batak customs, adoption results in the severing of ties with their biological parents, so they only inherit from their adoptive parents with a new family name, and this is contrary to Islamic teachings. In Javanese customs, adoption does not sever the relationship between the adopted child and their biological parents, so the adopted child receives inheritance from both their biological and adoptive parents. (Alfida & Azhari, 2024)

The position of an adopted child in Islamic law is a child whose care for daily living expenses, education costs, and so on is transferred from the original parents to the adoptive parents based on a court decision and determination. Adoption of a child in Islamic law does not carry legal consequences in terms of blood relationship, guardian-mewali relationship, and inheritance relationship with adoptive parents. He remains the heir of his biological parents, and the child continues to use the name of his biological father. However, in terms of child custody, Sharia principles and customary law must be harmonized. (Safii, 2025) (Shobichah, 2025)

In the case of inheritance, an adopted child is not considered an heir; however, they can obtain an inheritance through a mandatory will, as stipulated by Islamic law, which allows for no more than one-third of the inherited assets. Likewise, in the case of marriage, adoptive parents are not permitted to be the guardians of their adopted child's marriage. The position of adopted children in the family is not the same as biological children. (Hakim et al., 2024). The legal relationship between an adopted child and their adoptive parents is limited to that of a foster child, cared for or

educated with complete love and attention, without being referred to as a biological child.

This differs from the Civil Code, as stipulated in Staatblaad 1927 No. 129, which stipulates that an adopted child legally receives the name of the adoptive father (Article 11). An adopted child is considered a child born from the marriage of the adoptive parents (Article 12 paragraph (1)). An adopted child becomes the heir of their adoptive parents because adoption results in the severance of the civil relationship based on descent by birth (between the child and the biological parents).

Inheritance Distribution of Adopted Children in Merangin Regency

Adoption is a crucial issue in society. Traditionally, when adopting a child, people equated the child with their biological child, leading to feelings of envy and jealousy within the biological child, which could lead to future problems. Therefore, to avoid any potential harm, adoption must be processed through an application to the Religious Court, which requires a statement from the panel of judges that the adopted child is legally adopted by the adoptive parents who applied. The court's decision also includes the legal status of the adopted child.

The adoption process in Merangin, Jambi, is conducted according to customary law, with witnesses including the village head, religious officials, traditional institutions, and community leaders. To date, no community has filed for adoption with the Religious Court. (Interview: Ansari, Traditional Leader). Likewise, inheritance distribution practices for adopted children still adhere to tradition, with inheritance assets distributed based on deliberation and consensus, resulting in the distribution exceeding one-third of the estate. Several patterns of inheritance distribution practices exist in Merangin Regency, including :

The case of Suharyanto and Sunanti

The inheritance distribution practice for the adopted children of Suharyanto and Sunanti, in which their house was sold for Rp. 150,000,000 (one hundred and fifty million) after deducting for Suharyanto's death expenses of 3,000,000. The remainder was divided equally among his four heirs, namely Sunanti (the deceased's wife), Angelina (the deceased's sister), Anggi (the deceased's sister), Budi (the deceased's brother), and Al Hidayat (the deceased's adopted son), in the amount of Rp. 36,750,000. This inheritance distribution was based on the consideration that Al Hidayat was considered a biological child and cared for the deceased during his illness, and a family meeting was held attended by the deceased's siblings, and a notary as a witness. (Interview: Angelina Warga)

This inheritance distribution ended the reconciliation with Suharyanto's sibling, Anggi. He did not accept the decision to divide the inheritance equally between adopted children and siblings. There was also a difference in status and position between adopted children and siblings. (Interview: Anggi, a resident).

The Case of Abdullah and Nafisah

The inheritance distribution for the adopted children of Abdullah and Nafisah was conducted during a family meeting, which was attended by village officials. The inheritance distribution was based on the provisions of the will, and no party was allowed to interfere with the decision.

This type of inheritance distribution to adopted children sometimes creates problems because it introduces an element of subjectivity, with the consent and wishes of the heirs being the basis for the distribution.

The Case of Fendi and Hasnaini

The inheritance distribution for the adopted children of Fendi and Hasnaini was carried out through the deceased's will. Both the biological and adopted children received the inheritance according to the agreement agreed upon during the deceased's lifetime, while the deceased's siblings received no inheritance at all.

The above case reveals that the distribution of inheritance for adopted children in Masumai District is governed by customary law. There are two inheritance distribution systems for adopted children in Masumai District:

1. If the adoptive parents' family has no children other than the adopted child, the inheritance will be distributed equally to the deceased's brother and the adopted child, based on the principle of deliberation and consensus, resulting in the distribution exceeding 1/3 of the estate.
2. If the adoptive parents' family has biological children, the inheritance will be distributed according to the marital agreement or the deceased's will. However, the will often exceeds 1/3 of the estate.

Based on the actual situation, the distribution of children in Masumai District is not carried out in accordance with Islamic law. Adopted children are treated equally with their biological children, ensuring no difference in status within the family. The adopted child's needs are always met as long as their wealth remains abundant. (Interview, Ansari, Traditional Leader)

Therefore, a legal breakthrough is needed to ensure that the regulation of wills under Islamic law does not conflict with the traditions prevailing in the Masumai sub-district community, which implements a mutual inheritance relationship between adopted children and their adoptive parents.

According to Islamic law, an adopted child's status is not equal to that of a biological child, and they cannot inherit from their adoptive parents. The community's lack of understanding regarding the procedures for terminating a child's inheritance has resulted in various social conflicts within families. Furthermore, society generally has an instinct to conceal matters related to the identity of an adopted child, such as adoptive parents hiding their adopted child's background.

According to Islamic law, the existence of an adopted child cannot be denied; it is solely to provide education and welfare for the adopted child. Severing the blood relationship between an adopted child and their biological parents is not permitted, thus eliminating all inheritance rights due to the lack of lineage. Adopted children are given a will, but the amount of the inheritance cannot exceed one-third of the inheritance.

The Compilation of Islamic Law, which serves as a reference for religious courts, is a comprehensive and systematic collection of Islamic legal principles that recognizes the institution of adoption. However, the Indonesian Ulema Council (MUI) emphasizes that adopted children do not have an inheritance relationship with their adoptive parents. This is noted by the Indonesian Ulema Council (MUI) Fatwa, which

stipulates that adoption does not result in the severance of the blood relationship between the adopted child and their biological parents.

Although Islamic teachings do not grant adopted children the right to inherit property from their adoptive parents, Islam does provide a way for adopted children to inherit from their adoptive parents, namely through a will or *wajibah* will. (Safruddin, 2025) The Compilation of Islamic Law (KHI) stipulates that adopted children are entitled to receive a portion of the inheritance as specified in Article 209 paragraphs (1) and (2) as follows :

1. The child's inheritance is divided according to Articles 176 to 193, while adoptive parents who do not receive a will are required to receive 1/3 (one-third) of their adopted child's inheritance.
2. Adopted children who do not receive a will will be issued a mandatory will, granting up to 1/3 (one-third) of the adopted inheritance. (Fuady et al., 2019)(Kosim, 2022) (Safruddin, 2025)

Adopted children have been caring for and nurturing their adoptive parents, but adopted children cannot be treated like biological children. Adoptive parents can provide a will, if it does not exceed 1/3 of the inheritance, to protect the adopted child's rights. However, the problem is that many people are unaware of and do not understand the true nature of inheritance.

According to the provisions of the above article, the inheritance of an adopted child or adoptive parent must be distributed in accordance with the rules, namely, to blood relatives (siblings) who are considered heirs. Based on this rule, parents or adopted children do not receive inheritance rights because they are not heirs. In the Islamic Law (KHI), adoptive parents are automatically considered to have left a will (therefore, it must be called a *wajibah* will) of a maximum of 1/3 (one-third) of the remaining assets for the adopted child, or vice versa for the adopted child for the adoptive parent, where the assets are subject to a distribution system, so that before the inheritance is distributed to the heirs, a *wajibah* will must be executed first.

Essentially, a *wajibah* will is the result of scholarly *ijtihad* based on considerations of the interests of the parents and the close relationship between the parents and the adopted child. This *ijtihad* aims to realize the values of justice and welfare that have developed within Indonesian Muslim society. (Ilhami, 2015)

The recognition of adopted children and adoptive parents as entitled to receive a share of the inheritance from one party through a *wajibah* will is a local feature of Islamic inheritance law in Indonesia. The KHI grants the right to a *wajibah* will to the child or adoptive parent by adapting customary law values to Islamic law to a limited extent, due to the transfer of responsibility from the original parents to the adoptive parents for daily living expenses and educational expenses. (Atiyatunnajah & Setyawan, 2023)

The practice of child adoption is one way used by Religious Courts to save children's lives. This provision does not sever the bloodline relationship with the biological parents, but rather only provides for the right to custody for the child's development. Islam, as a religion that cares about child development, condones this practice. However, in Masumai District, adoptions are not conducted through the Religious Courts, but rather based on prevailing traditions, as witnessed by the village

head, religious officials, traditional institutions, and community leaders. This renders inheritance disputes involving adopted children legally void.

Islamic law respects customary law as long as it does not conflict with Islamic legal principles and even considers it a source of Islamic law. (Idrus et al., 2024) Adoptions, according to law and the Compilation of Islamic Law, must be determined by a court order to ensure legal certainty and provide protection for the adopted child. Therefore, this is where the responsibility of adoptive parents lies, who should provide a place of safety for their adopted child.

The purpose of adoption through a court order is to achieve legal certainty, justice, legitimacy, and documentation. The legal consequences of adoption will have far-reaching impacts for generations, affecting inheritance law, legal responsibility, and other matters. (Hasbi Umar, Husin Bafadhal, 2023). In this regard, the government also plays a crucial role in upholding the law regarding adoption, ensuring that court orders protect the rights of adopted children.

4. Conclusion

In the Compilation of Islamic Law, adopted children cannot inherit from their adoptive parents because they are not heirs to the testator. However, Islam provides a way for adopted children to receive assets from their adoptive parents through a mandatory will, which cannot exceed one-third of the assets owned by the adoptive parents.

Inheritance distribution for adopted children in Batang Masumai District still follows customary practices, with inheritance distributed according to the testator's wishes, resulting in the distribution exceeding one-third of the estate. This division of power can lead to disputes and divisions within families, as it prioritizes individual egos and interests over collective well-being. Therefore, to ensure that the provisions of wills under Islamic law do not conflict with prevailing traditions, legal reform is necessary. Obligatory wills are an alternative solution to address these issues, ensuring that established traditions can be properly implemented. However, obligatory bequests are only permitted if they do not exceed one-third of the inheritance and must obtain the consent of the legal heirs if they exceed this limit.

These findings necessitate that Religious Courts in Merangin Regency develop standardized guidelines for inheritance cases involving adopted children, while local governments should implement community legal education programs to reconcile customary practices with KHI provisions and reduce inheritance-related litigation.

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