



RESEARCH ARTICLE

Not a Shift in Lineage but a Shift in Responsibility: The Concept of *Kafālah* in the Care of Adopted Children from an Islamic Legal Perspective

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Abstract

This study examines the forms of covert psychological violence experienced by adopted children in foster families and explores the implementation of the concept of *kafālah* in Islamic law to protect them. Adopted children are often vulnerable to psychological pressure and exploitation because their relationship with their foster family, which has no blood ties, is often considered a disadvantageous distinguishing factor. Based on the principle of *kafālah*, adopted children retain their rights to identity and care. The research method used a qualitative approach with a literature study method to understand the forms of psychological abuse experienced by adopted children in their adoptive families. The results show that neglect and psychological abuse of adopted children often occur covertly, causing long-term trauma. The implementation of the *kafālah* concept is proposed as a solution to ensure the protection of the emotional rights of adopted children, emphasizing the importance of the role of adoptive parents in creating a safe and supportive environment for them. This study is expected to raise public awareness and encourage the application of appropriate *kafālah* principles so that the psychological well-being of adopted children is better guaranteed.

Keywords: Psychological Violence, Adopted Child, *Kafālah*, Islamic Law

Abstrak

Penelitian ini mengkaji bentuk-bentuk kekerasan psikologis terselubung yang dialami oleh anak angkat dalam keluarga angkat serta mengeksplorasi implementasi konsep *kafālah* dalam hukum Islam untuk melindungi mereka. Anak angkat kerap kali rentan terhadap tekanan psikologis dan eksploitasi, karena hubungan mereka yang tidak memiliki ikatan darah dengan keluarga angkat sering dianggap sebagai faktor pembeda yang merugikan. Berdasarkan prinsip *kafālah*, anak angkat tetap memiliki hak identitas dan perawatan yang terjaga. Metode penelitian menggunakan pendekatan kualitatif dengan metode studi literatur untuk memahami bentuk-bentuk kekerasan psikologis yang dialami oleh anak angkat dalam keluarga angkat. Hasil penelitian menunjukkan bahwa pengabaian dan kekerasan psikologis terhadap anak angkat seringkali terjadi secara tersembunyi, yang dapat menimbulkan trauma jangka panjang. Implementasi konsep *kafālah* diusulkan sebagai solusi untuk memastikan perlindungan hak-hak emosional anak angkat, menekankan pentingnya peran orang tua angkat dalam menciptakan lingkungan yang aman dan mendukung. Penelitian ini diharapkan dapat meningkatkan kesadaran masyarakat dan mendorong penerapan prinsip *kafālah* yang sesuai, sehingga kesejahteraan psikologis anak angkat lebih terjamin.

Kata kunci: Kekerasan Psikologis, Anak Angkat, *Kafālah*, Hukum Islam

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Introduction

Psychological violence often damages mental and emotional health and can even cause the victim to lose their mind (go insane). Psychological violence is not immediately visible, but its impact is devastating, especially for individuals in vulnerable situations, such as children. Psychological violence is usually perpetrated by school friends, partners, and even those who are supposed to be protectors of children, namely, parents (Ahsinin et al., 2014). The effects of this violence can include mental disorders, such as depression, anxiety, and post-traumatic stress disorder (PTSD). However, many countries still do not pay serious attention to psychological violence against women. Protection from psychological violence is difficult to identify and report because of the close relationship between perpetrators and victims (Litner, 2022).

Based on the above, it is clear that psychological violence is very likely to occur against children, especially adopted children, who are often exploited by their adoptive parents who do not understand their obligations. Psychological violence against adopted children is a form of abuse that is often hidden and difficult to detect. Psychological violence against biological children who have a blood relationship with their parents still occurs frequently, let alone adopted children who have no blood relationship and are often considered “outsiders” in their families. In the long term, psychological violence against adopted children causes trauma, low self-esteem, and difficulty in building healthy relationships in adulthood. This situation is often ignored because of the perception that adopted children should feel lucky or grateful; therefore, their complaints are often ignored, not taken seriously, or even belittled. All of this has the potential to create conditions that make it difficult for children to grow up feeling emotionally secure (Farrás, 2024).

From an Islamic legal perspective, the concept of *kafālah* (guarantee of adopted children) provides guidance on the rights and responsibilities of adopted children. *Kafālah* essentially stipulates that adopted children retain their legal identity and kinship with their biological parents. Although the adopted child is under the care of the adoptive family, this principle aims to protect the rights of the child from pressure or violations. Although these rules have been established in Islamic law, in practice, the community does not fully understand or apply the principle of *kafālah* correctly, so that adopted children are at risk of psychological pressure that is not recognized by their adoptive families. Islam emphasizes the importance of compassion, protection, and fair treatment of foster children without discrimination or abuse of power (Fajarwati 2024).

Thus, this study aims to reveal the forms of covert psychological abuse faced by adopted children in foster families, as well as to analyze how Islamic

law on *kafālah* should be applied to prevent such abuse. This study also aims to raise awareness of the importance of psychological protection for foster children and encourage further efforts to ensure that the *kafālah* system protects not only the physical rights of children but also their emotional well-being.

Literature Review

Psychological violence is a type of violence that is not always physically visible but has a strong impact on the mental and emotional state of children. Social and emotional development theories confirm that children who experience psychological violence tend to experience disturbances in developing self-determination and social relationships. In relation to adoption, this pressure becomes more difficult to navigate because the status of adopted children is often considered lower than that of biological children. Psychological violence can take the form of insults, neglect, exploitation, or discriminatory treatment, causing prolonged trauma. Factors contributing to this violence include economic pressure and adoptive parents' lack of understanding of the rights and social environment of adopted children (Ariani & Asih 2022).

In Islam, child protection is part of the *maqāṣid al-sharī'ah* principle, which aims to protect the soul and preserve the lives of people, including children's minds. *Kafālah* is based on the principle that children must continue to receive protection, affection, and basic needs without excluding parent-child or legal relationships with biological families. From an Islamic psychological perspective, child-rearing emphasizes the importance of parental moral responsibility equivalent to that of biological children, thereby preventing the psychological abuse of adopted children based on the principles of *Kafālah* (Salsabilah, 2023).

The concept of *kafālah* plays an important role in preventing the psychological abuse of adopted children because it guarantees the child's right to identity and legal certainty within the adoptive family. By preserving the child's name and relationship with their birth family, this system helps reduce the feelings of loss or alienation that adopted children often experience in conventional adoption systems. In addition, the principle of *kafālah* requires adoptive parents to create an environment that supports the child's emotional development, so that they do not experience neglect or discriminatory treatment (Zumbach, J., Wetzels, P., & Koglin, 2018).

Strategies to prevent the psychological abuse of adopted children include raising public awareness of children's rights, strengthening regulations, monitoring adoption practices, and the active role of government and religion. An institution that guarantees the implementation of *kafālah* in accordance with Islamic principles. In addition, psychological support for

adoption, such as care and counseling, can help overcome the trauma caused by bad experiences.

Based on the theories reviewed, we can conclude that the concept of *kafālah* in Islamic law is an effective solution for protecting adopted children from psychological abuse. Islamic principles of caring for adopted children minimize the risk of exploitation and discrimination, ensuring that children grow up in a safe and loving environment and achieve optimal mental development. This study promotes the integration of psychological and legal theories on the concept of child protection in Islam and the application of more effective guidelines to prevent the psychological abuse of adopted children.

Method

This study uses a qualitative approach with a literature study or library research method to understand the forms of psychological violence experienced by adopted children in foster families, as well as to explore how the concept of *kafālah* in Islamic law can be applied to protect them. The data sources were drawn from academic literature, such as journals, books, and legal documents related to children's rights, psychological violence, and parenting in Islam. The analysis was conducted using content analysis, focusing on main themes such as types of psychological violence, child protection in *kafālah*, and the psychological impact on foster children. The data were categorized to highlight the relationship between psychological abuse and the implementation of *kafālah* in protecting the rights of adopted children in the UAE. The validity of the data was reinforced by relying on credible sources and triangulating perspectives from the fields of law and psychology. It is hoped that this study will provide insight into the importance of implementing *kafālah* to protect the psychological well-being of adopted children.

Result

The Concept of *Kafālah* in Foster Care

A foster child is a child adopted or taken in by a person or couple who are not their biological parents. According to Islamic figures such as Imam al-Ghazali and Imam al-Nawawi, foster children under the *kafālah* system have the same rights to identity and protection as biological children. They are entitled to affection, proper education, and a safe environment (Burhanuddin 2024). Terminologically, *kafālah* comes from the word *kafil*, which means to bear or take on responsibility. In this context, *kafālah* regulates the care of children who have lost their parents or who cannot be cared for by their biological parents due to other reasons. Unlike the adoption system in the West, in *kafālah*, children are not officially recognized as biological children, but they still have similar rights in terms of care, protection, family names, and

legal relationships with their original families. Inheritance rights are granted only through a will or grant (gift) (Bariki, 2024).

The concept of *kafālah* is one of the main foundations of Islamic law on childcare. Literally, *kafālah* means “responsibility” or “guarantee.” In the context of children, *kafalah* refers to a system of guardianship whereby a child who has lost their parents or whose parents are unable to care for them is placed in the care of another family or individual (Thalib, 1986). In practice, *kafālah* aims to prevent psychological abuse by ensuring that foster parents understand their responsibility to care for their foster children. This includes providing the emotional attention and support necessary so that children do not feel alienated or unloved. Foster children often experience psychological abuse because they are considered unimportant by their caregivers. This is caused by foster parents' perspective of underestimating their foster children because they cannot achieve “something” that they want to achieve. This can also be caused by changes in foster parents' conditions, relationships, and economic situations.

From an Islamic perspective, psychological abuse violates the principles of *maqāṣid al-sharī'ah*. Psychological abuse includes actions or words that can cause fear, loss of self-confidence, and feelings of helplessness in the victim. Examples include yelling, cursing, threatening, and degrading behavior. Islam strictly prohibits all forms of violence, except in the context of education, which must be carried out in accordance with moral and ethical principles and Sharia law. The following are some Islamic views on violence:

1. Islam prohibits all forms of sexual harassment, whether direct or through the media.
2. Islam prohibits acts that approach adultery, especially sexual harassment of women.
3. Islam promotes the principles of equality, partnership, and justice in interpersonal relationships.
4. The main purpose of marriage in Islam is to create a family that is *sakinah* (peaceful), *mawaddah* (full of love), and *rahmah* (compassionate) (Salsabilah, 2023).

The implementation of these principles is crucial to ensure that the rights of foster children are protected and their welfare is guaranteed in foster families. In *kafālah*, several rules are applied to protect children from potential psychological abuse.

1. Children are cared for and protected with love as if they were biological children to create an environment that supports their mental and emotional development (Effendy, 2018).

2. Children continue to use their biological family names. This is to maintain their original identity and reduce feelings of loss or rejection (Manangin 2016).
3. *Kafālah* does not change a child's legal relationship with their biological family; thus, the child retains their rights from their original family (Kertati, 2017).
4. Foster parents have a moral responsibility to care for the child, create a positive environment, and reduce the risk of neglect (Elfachmi, 2016).
5. Legal protection in *kafālah* provides children with a sense of security and appreciation, which is important for their mental health (Zumbach, J., Wetzels, P., & Koglin, 2018).
6. *Kafālah* emphasizes the importance of awareness of children's rights. This will educate adoptive parents and the community about protecting children from violence (Ghosita, 2004).

The family is the primary environment influencing a child's development. Adoption is often an option for couples without children. In this context, *kafālah* regulates that the rights and dignity of adopted children are maintained so that they are not treated arbitrarily by their adoptive parents (Anindhita et al. 2021). This is where the concept of *kafālah* regulates child adoption to protect the rights and dignity of the child so that they are not treated arbitrarily by their adoptive parents. Islam pays great attention to the rights of descendants and the dignity of children, which underlies various other obligations such as education, care, property, and inheritance. Therefore, it is important to educate adoptive parents about children's rights and how to support their psychological development in this regard. Society needs to raise awareness of the importance of applying the principle of *kafālah* to protect the emotional well-being of adopted children (Hasibuan, 2021).

Forms of Psychological Abuse

Abuse of adopted children is a serious issue that can negatively impact their mental and emotional health. The following is an explanation of the types of abuse, with a focus on psychological abuse, as well as the underlying factors that cause it. Physical abuse involves actions that cause physical injury to children, such as beating or using tools to hurt them (Hidayat, 2021). Adopted children are often more vulnerable to physical abuse if their adoptive parents feel frustrated or unable to manage their emotions due to economic pressure or personal problems (Kurniawansyah & Dahlan, 2022). High stress in difficult economic situations can trigger violent behavior as an outlet for emotions that directly impact foster children (Leuhery et al., 2023). A poor social environment can also have an impact, as foster parents living in areas with high crime rates are more likely to use violence as a form of discipline (Parares & Yusuf, 2024).

Sexual abuse occurs when children are involved in sexual activities that they do not understand or are subjected to degrading behavior. Adopted

children may face higher risks due to uncertainty in their relationship with their adoptive parents. Inequality in power and gender relations can exacerbate this situation and add to the psychological burden of women (Amini et al., 2023). In addition, a lack of parental education about children's rights and sexual protection can increase the risk of sexual abuse (Erniwati & Fitriani, 2020). Divorce is also a factor in this violence because of the uncertainty of the relationship between the adopted child and their adoptive parents (Kurniati et al., 2022).

Verbal abuse includes non-physical acts that create emotional distress in children, such as verbal insults or threats. Adopted children are often the target of harsh words or insults from adoptive parents who feel frustrated or are unable to manage their emotions. This experience can have long-term effects on the mental health of adopted children, including feelings of low self-esteem and helplessness (Erniwati and Fitriani, 2020). This is due to the traumatic experiences of harsh or violent parenting that adoptive parents experienced in their childhood, which is often reenacted in their own families (Praptini & Wilani, 2024). Lack of parental education can also have an impact, as parents with low levels of education may not understand the importance of constructive communication in parenting (Erniwati and Fitriani, 2020).

Emotional/Psychological Abuse: Emotional or psychological abuse occurs when parents neglect their child's emotional needs, such as attention and affection. Adopted children often feel alienated and unloved, which can increase their risk of emotional abuse. The inability of adoptive parents to provide the necessary emotional support can make children feel worthless and increase the risk of mental disorders in the future (Homoroc et al., 2022). Separation or divorce is a factor in this abuse because adopted children are often the target of emotional outbursts from parents experiencing domestic problems (Kurniati et al. 2022). The environment is also a factor because an environment that is indifferent to this issue will make violence commonplace and even consider it trivial or unimportant (Parares & Yusuf, 2024).

Social abuse consists of two types: child neglect, which is the attitude and treatment of parents who do not give proper attention to their children's growth process and even abandon their responsibility towards their children. Someone who should be responsible for this but instead does not care for and fulfill the needs of the children in their care (Sukardi 2016). This type of abuse can be caused by early marriage, as the parents are not yet emotionally, economically, or psychologically mature. Parents who marry young can increase the risk of this type of abuse because they lack adequate parenting skills, have difficulty controlling their emotions, and have unstable finances; therefore, they do not know how to raise their children properly (Mu'arifah & Mashar, 2022).

Second, child exploitation is the arbitrary use of children to force them to do something that can interfere with their mental or physical development. This includes the abuse of children's labor for work and other activities that they should not perform. This can override the rights of children (Hidayati et al., 2022). This is because adoptive parents in difficult economic conditions often exploit their adopted children for the family's financial benefit, and the lack of public awareness of the rights of adopted children makes it difficult to take legal action in cases of exploitation (Sukardi, 2016).

Discussion

Efforts to Overcome and Prevent Psychological Abuse in the Concept of *Kafālah*

Based on the factors of psychological abuse that have been explained, several efforts can be implemented to overcome or prevent it. Each factor has complementary solutions for creating a safe and caring environment for foster children.

Addressing Economic Pressure

The economic empowerment of adoptive parents is one of the main factors that can affect care quality. Therefore, empowering adoptive families economically is important. Providing skills training or access to stable employment will help them meet their children's needs without feeling frustrated by financial problems. This can reduce the pressure that can potentially lead to psychological abuse or unfair treatment of children in the future. Government and religious institutions can also play a role in providing financial assistance to underprivileged foster families (Mardhatillah, 2021). With this support, foster families can ensure that foster children's basic needs are met without feeling pressured by their financial situation.

Overcoming the Factor of Low Education Among Foster Parents

Education about parenting is important for foster parents to prevent psychological abuse in children. Training programs on how to educate with love, positive communication, and avoidance of verbal or emotional abuse can help foster parents educate children in a healthy way that supports their mental development. Providing information about children's rights under Islamic and national law can enhance foster families' understanding of their obligations. Knowing children's rights, including the right to education, protection, and economic welfare, will ensure that foster children are not treated arbitrarily (Ramadhani & Nurwati, 2022). This will make foster parents aware of the legal consequences of such abuse.

Overcoming Traumatic Experiences of Parents

Foster parents with traumatic experiences may find it difficult to manage their emotions. Therefore, it is important to provide therapy or counseling so that they can learn how to manage their emotions and not

transfer their frustration or trauma to their foster children (Sabrina and Zahra, 2021). Foster parents who face stress or emotional problems need to be trained to manage their emotions healthily. This will prevent them from taking out their frustration or anxiety on their foster children, which can lead to psychological abuse of the children.

Overcoming Adverse Social Environmental Factors

Creating a positive environment is essential for foster children's development. Ensuring that children maintain relationships with their biological families provides them with additional emotional support. This relationship can provide a sense of security and reduce feelings of alienation, which can trigger psychological trauma. This can also be addressed by holding seminars or discussions at the community level to raise awareness of the fair treatment of adopted children (Safitri et al., 2019). Communities that understand children's rights and reject violence are more supportive of efforts to create a safe and loving environment for adopted children.

Overcoming Factors of Divorce or Parental Conflict

Conflict in adoptive families, including divorce, can cause emotional instability among children. Therefore, providing family counseling can help ease tensions and ensure that children continue to receive fair attention from their parents. Counselors can help adoptive parents manage conflicts without harming children (Mutiarany, 2019). In situations of divorce or changes in family structure, it is important to ensure that children's rights are protected. Adopted children must be treated fairly and receive adequate protection, even if there are changes in the family.

Overcoming the Factor of Early Marriage in Adoptive Parents

Pre-marital education for young couples who want to adopt children is important to help them understand their parenting responsibilities. Knowledge of good parenting can prevent decisions that are detrimental to children. It is also important for the government or religious institutions to assess young couples before allowing them to adopt children (Mutiarany, 2019). This assessment ensures that couples are emotionally and financially prepared to raise children. Overall, these efforts complement each other in creating a supportive, loving, and safe environment for adopted children, thereby reducing the risk of psychological abuse that may occur.

The Role of the Concept of *Kafālah* in Preventing Psychological Abuse

The concept of *kafālah* plays a vital role in addressing psychological abuse against foster children. Several *kafālah* rules are applied to ensure that foster children grow up in a safe and caring environment, thereby reducing the risk of psychological abuse. First, the love given to adopted children is equal to that given to biological ones. This helps create a positive environment for mental and emotional development. An environment filled with love and

attention can reduce feelings of neglect and stress that may arise from uncertainty in the lives of adopted children.

Second, the use of the biological family name by the adopted child helps maintain their identity and reduces feelings of loss or rejection by their family of origin. By retaining the family name, the child feels that they still have roots and an emotional connection to their biological family, thereby reducing the trauma caused by major changes in identity. Third, the legal relationship maintained between children and their biological families provides a sense of security. Even though they live with their adoptive parents, children still have rights from their birth families. This provides stability and legal protection, which are important for a child's mental health. Fourth, the moral responsibility of adoptive parents to care for their children properly can reduce the risk of neglect or unfair treatment of the children. Adoptive parents are expected to create a supportive and positive environment, thereby reducing the possibility of psychological abuse through neglect or mistreatment.

Fifth, legal protection in *kafālah* provides a sense of security and appreciation to foster children. Children feel legally protected, which is very important for their psychological development because they know that their rights are well protected. Finally, awareness of children's rights, as emphasized in *kafālah*, educates foster parents and society as a whole to protect children from violence. By understanding their rights, foster children have the opportunity to grow up in an environment that is not only safe but also loving and caring, and far from the potential for psychological abuse. Overall, the concept of *kafālah* plays an important role in providing comprehensive protection for foster children. *kafālah* preserves their identity, reduces feelings of loss, and creates a loving and fair environment, which is essential for preventing psychological abuse.

Supervision in the Protection of Adopted Children's Rights

Supervision is carried out to ensure that adoptive parents pay more attention to the rights of their adopted children and prevent psychological abuse. This supervision involves legal and social approaches to the issue. These supervisory measures are crucial for creating a safe and supportive environment for adopted children.

Legal Approach

In legal terms, the Indonesian government has regulated the protection of adopted children through several relevant laws. One of these is Law No. 23 of 2002 on Child Protection, which stipulates that a child's adoption must be in the child's best interests. Article 39 of this law emphasizes that child adoption can only be carried out based on local customs, applicable laws, and regulations. In addition, Government Regulation No. 57 of 2007 concerning the Implementation of Child Adoption regulates the requirements for prospective adoptive parents and prospective adopted children, including the

obligation to provide periodic reports on a child's condition to the authorities. Strict law enforcement against psychological abuse is essential. This includes reporting cases of exploitation or neglect by adoptive families to the authorities. Child protection agencies, such as the Indonesian Child Protection Commission (KPAI), can conduct regular inspections and supervision of adoptive families to ensure that children are in a safe environment (Isnaini, 2017).

Social Supervision

Social supervision involves the community's active participation. Local communities, such as neighborhood associations or religious organizations, can serve as social supervisors of the foster family's treatment of the child. The formation of support groups for foster children in certain neighborhoods can help monitor their welfare. In addition, the community needs to be given access to report if they see signs of psychological abuse or neglect of foster children so that quick action can be taken (Susanto & Imelda, 2021).

School-Based Supervision

School-based supervision also plays an important role in this regard. Teachers and school counselors can monitor the psychological condition of foster children through their behavior at school. Counseling programs should be implemented to detect whether children experience psychological abuse at home. Cooperation between schools and child protection agencies must be established to create an easy communication channel for reporting cases of abuse (Suprayogi et al., 2023).

Public Awareness Campaign

Public awareness campaigns through social media are highly effective in increasing public understanding of the rights of foster children and the impact of psychological abuse. Designating a special day to commemorate the rights of foster children and holding related activities will help raise public awareness (Zahara et al., 2023). By combining all legal and social approaches, it is hoped that the public will better understand the importance of protecting adopted children's rights. This will help create a supportive environment for their development and reduce the risk of psychological mistreatment.

Conclusion

The concept of *kafālah* in Islamic law is an important foundation for the protection of adopted children, emphasizing the responsibility to provide care and affection without discrimination or abuse of power. In the *kafālah* system, adopted children have the right to retain their original family identity, maintaining a balance between their rights as individuals and their position in their adoptive family. Islam encourages adoptive parents to create a safe and

loving environment to support the mental and emotional development of their adopted children.

Forms of violence often experienced by adopted children include physical, verbal, emotional, and social abuse and neglect. Factors that cause psychological abuse in adopted children vary, including economic pressure, divorce, early marriage, traumatic experiences of parents, a poor social environment, and a low level of parental education. To address psychological violence against foster children, this document emphasizes the importance of economically empowering foster families, educating them on proper parenting, strengthening supportive environments, and applying the values of love and justice within the family. These efforts are expected to protect the emotional well-being of foster children and ensure that the *kafālah* system is properly implemented and supports children's rights.

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Author Contribution Statement

Y. A. S. played a major role in formulating ideas and developing the research, including understanding the theoretical framework based on Islamic law with an emphasis on the concept of *kafālah*, literature review, data analysis, and writing the main part of the manuscript. K. contributed to the collection and processing of literature, assisted in the analysis and discussion from legal and psychological perspectives, and was involved in editing the manuscript and refining the language.

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