



Radha'ah and Hadhanah from the Perspective of the Qur'an and Hadith: A Juridical-Normative Analysis of Children's Rights

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Abstract

This study examines the concepts of Radha'ah and Hadhanah within the normative framework of the Qur'an and Hadith. Amid modern social dynamics characterized by rising divorce rates and women's dual roles as mothers and workers, a comprehensive understanding of children's rights has become crucial. This study employs a qualitative method using a literature review (library research) and thematic analysis of relevant Qur'anic verses and hadiths. The results of the study indicate that Radha'ah not only regulates the fulfillment of a child's nutritional needs but also establishes kinship relationships (mahram) that carry permanent legal implications. Meanwhile, Hadhanah is positioned as a fundamental right of the child (haqq al-mahdhun) to receive the best care, where the child's interests and well-being serve as the primary benchmark (maslahah al-thifl), superseding the self-interested rights of the parents. The main argument of this article is that the Qur'an and Hadith provide a flexible, child-centered ethical and legal framework. These principles, when interpreted contextually, can offer just solutions to contemporary issues such as child custody disputes and the challenges faced by breastfeeding mothers in public spaces.

INTRODUCTION

Children in Islam are regarded as a trust (*amanah*) whose rights, dignity, and well-being must be protected and fulfilled by parents and society. This principle is reflected, among others, in the concepts of *Radha'ah* (breastfeeding) and *Hadhanah* (child care), both of which regulate important dimensions of children's early development and parental responsibility (Nurfitriani, 2022). *Radha'ah* is not merely related to the provision of nutrition but also concerns the fulfillment of a child's basic needs, while *Hadhanah* encompasses the responsibility to provide care, protection, education, and a safe environment for children. Both concepts therefore occupy an important position in Islamic family law because they concern the rights of children and the responsibilities of parents (Siregar et al., 2026).

The application of these principles, however, encounters increasingly complex circumstances in contemporary society. The growing participation of women in the workforce, for example, raises questions about how the normative recommendation of breastfeeding for up to two years can be accommodated within modern employment structures. This issue extends beyond the question of breastfeeding itself

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to broader concerns regarding maternity leave, access to appropriate lactation facilities in workplaces and public spaces, and the emergence of breast milk banks, which have generated discussions concerning lineage (*nasab*) and the establishment of milk kinship (*rada'ah*) ([Hanif et al., 2023](#)). These developments demonstrate that the implementation of Islamic teachings concerning breastfeeding cannot be separated from changing social, economic, and institutional conditions. The challenge lies in translating normative principles into forms of practice that protect children's rights while also taking into account the legitimate circumstances faced by contemporary families ([Mohamad et al., 2025](#)).

A similar complexity appears in the implementation of *Hadhanah*, particularly in the context of parental separation and divorce. Divorce does not terminate parental responsibility toward children, but it may create disputes concerning custody, residence, education, financial support, and other aspects of child care ([Masadah, 2020](#)). Data from the Directorate General of Religious Courts of the Supreme Court have consistently documented the significant number of divorce cases in Indonesia, making child custody an important issue within contemporary Islamic family law. In custody disputes, legal claims may become centered on competing parental rights, while the child's position and developmental needs risk receiving insufficient attention. This situation raises a fundamental question: whether the determination of custody should be understood primarily as a matter of parental entitlement or as a legal mechanism for ensuring the protection and welfare of the child ([Mustafid et al., 2025](#)).

Classical Islamic jurisprudence has provided extensive discussions of both *Radha'ah* and *Hadhanah*. Muslim jurists from various schools of law have examined their legal foundations, conditions, rights, obligations, and consequences in considerable detail. In the discussion of *Radha'ah*, for instance, breastfeeding that fulfills the established legal requirements may result in a *mahram* relationship comparable, in certain legal consequences, to blood kinship ([Muji & Ilhamsyah, 2024](#)). In relation to *Hadhanah*, classical jurists such as Ibn Qudamah in *al-Mughni* discuss the mother's priority in caring for young children while also establishing conditions that must be fulfilled by a person exercising custody. These discussions constitute an important foundation for understanding Islamic family law. Nevertheless, much of the classical discourse is structured around the determination of legal entitlement, eligibility, and the order of custody priority. Contemporary family circumstances require this legal framework to be examined alongside developments in child psychology, family sociology, women's employment, and the protection of children's rights ([Bemj et al., 2025](#)).

This condition reveals a significant discursive gap between the normative-legal formulation of *Radha'ah* and *Hadhanah* and the complex realities of contemporary family life. The central issue is not whether classical Islamic law remains relevant, but how its fundamental principles can be interpreted and applied in circumstances that differ substantially from those in which earlier juristic formulations emerged ([Multazam, 2024](#)). A contextual reading is therefore necessary to distinguish between the normative objectives of the law and the particular social forms through which those objectives were historically implemented. Such an approach makes it possible to examine whether the principles underlying *Radha'ah* and *Hadhanah* can provide a substantive framework for addressing contemporary issues without reducing Islamic family law either to rigid legal formalism or to unrestricted adaptation to social change ([Rohmah et al., 2023](#)).

Against this background, this study examines *Radha'ah* and *Hadhanah* through the Qur'an, Hadith, and relevant Islamic jurisprudential discourse, while placing their application within the context of contemporary family problems. The study focuses on three interrelated dimensions: first, the Qur'anic and Prophetic foundations underlying the principles of breastfeeding and child care; second, the rights and

responsibilities of parents and children that emerge from these principles; and third, their contextual relevance to contemporary issues, particularly breastfeeding mothers' rights and child custody following parental separation. The analysis seeks to identify the normative principles that remain fundamental while examining how those principles can be contextualized in changing social conditions.

The study argues that *Radha'ah* and *Hadhanah* should not be understood solely as a collection of formal legal provisions concerning parental rights and obligations. At their substantive level, both concepts reflect an ethical-legal orientation toward the protection and fulfillment of children's fundamental interests. This orientation is closely connected with the objectives of *Maqasid al-Shari'ah*, particularly the protection of life (*hifẓ al-nafs*), intellect (*hifẓ al-'aql*), and lineage (*hifẓ al-nasl*). Accordingly, the interpretation and application of rules concerning breastfeeding and custody should consider the best interests of the child (*maslahah al-thifl*) as a central consideration. Such an approach does not eliminate the authority of Islamic legal norms; rather, it places their application within the broader objectives of Shariah so that legal decisions can remain responsive to changing family conditions while preserving the protection, dignity, and welfare of the child.

METHODS

This study was designed as a qualitative study in the form of library research. The primary approach is juridical-normative, focusing the analysis on the norms of Islamic law contained in primary sources ([Mualim et al., 2026](#)). The data sources in this study consist of primary sources namely, the Qur'an and authentic hadiths related to *Radha'ah* and *Hadhanah* as well as secondary sources. Secondary sources include classical literature such as books of tafsir, hadith commentaries, and fiqh, as well as contemporary literature such as scholarly journals and relevant books discussing Islamic family law ([Hayati et al., 2026](#)).

The data collection process was conducted using documentation techniques, involving the identification, cataloging, and collection of relevant textual material from these various sources. The collected data was then analyzed descriptively and analytically through several stages ([Syafri et al., 2025](#)). These stages include reducing and classifying data by theme, systematically presenting normative data, conducting content analysis to derive legal principles and wisdom (*istinbath al-hukm*), and drawing conclusions. The final stage of the analysis involves synthesizing and contextualizing the normative findings within the framework of contemporary social issues to comprehensively address the research objectives ([Mangka et al., 2021](#)).

RESULT AND DISCUSSION

This section presents the results of an analysis of normative data from the Qur'an and Hadith, as well as relevant fiqh literature. The discussion will be divided into two main sections according to the research focus: *Radha'ah* (breastfeeding) and *Hadhanah* (child custody). Each section will examine its normative foundations, provide an in-depth fiqh analysis of the resulting rights and obligations, and explore its relevance in the context of current social issues.

1. Radha'ah (Breastfeeding): Nutrition, Legal Lineage, and Protection of Life

Etymologically, *ar-radha'ah* or *ar-ridha'ah* is a term for the act of suckling, whether human or animal milk. In the etymological sense, it is not required that the one being nursed (*ar-radhi*) be a small child (infant) or not. As for the terminological meaning, some scholars of Islamic jurisprudence define *ar-radha'ah* as the entry of a woman's breast milk into the stomach of a child (infant) who has not yet reached the age of two years, or 24 months ([Muji & Ilhamsyah, 2024](#)).

In this sense, there are three conditions that define what is considered *ar-radha'ah asy-syar'iyah* (breastfeeding based on Islamic ethics). First, the presence of human breast milk (*labanu adamiyatin*). Second, the breast milk enters the stomach of an infant (*nushlubu ila janfi thiflin*). Third, the infant must be under two years of age (*duna al-hawlayni*). Thus, the pillars of *ar-radha'ah asy-syar'iyah* comprise three elements: the nursing child (*ar-radhi*), the nursing woman (*al-murdhi'ah*), and the quantity of breast milk (*miqdar al-laban*) that meets the minimum threshold. If a case fulfills all three of these conditions, then the legal consequences of *ar-radha'ah asy-syar'iyah* apply to it. Conversely, if it does not fulfill these elements, then those legal consequences do not apply to it. The limitation of breastfeeding to the period before two years is also discussed by Ibn Kathir in his interpretation of QS. Al-Baqarah [2]: 233, where he relates the completion of breastfeeding to the two-year period and notes the position of the majority of jurists concerning breastfeeding before the completion of two years.

a. The Normative Foundations of Radha'ah in the Qur'an and Hadith

The Qur'an places special emphasis on breastfeeding, making it an explicitly regulated part of family law. The most fundamental verse on this subject is:

QS. Al-Baqarah [2]: 233

وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ ۖ لِمَنْ أَرَادَ أَنْ يُتِمَّ الرَّضَاعَةَ ۚ وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ ۚ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا ۚ لَا تَضَارَّ وَالِدَةُ وَلَا مَوْلُودُهَا بِبَوْلِهِ

“Mothers should breastfeed their children for a full two years, for those who wish to complete the breastfeeding period. And it is the father’s duty to provide for the mothers’ food and clothing in a reasonable manner. No one is burdened beyond their capacity. Let no mother suffer hardship because of her child, nor any father because of his child.” (QS. Al-Baqarah [2]: 233).

This verse contains several substantive legal and ethical principles:

- 1) Ideal Duration: The phrase *haulaini kamilaini* (two full years) is established as the maximum and ideal duration for breastfeeding. According to exegetes such as Ibn Kathir, the use of the term “full” (*kamilaini*) serves to emphasize the completeness of this period in order to maximize the physical and psychological benefits for the child. This duration aligns with modern medical findings regarding the importance of breast milk for a child’s immunity and brain development. Ibn Kathir also explains that the two-year period represents the completion of breastfeeding and notes that the majority of scholars consider breastfeeding after this period not to establish the same legal consequences of *radha'ah*.
- 2) The Father’s Obligation (Maintenance): This verse explicitly places the obligation to provide for the child’s sustenance and clothing (*rizqubunna wa kiswatubunna*) on the father (*‘ala al-maulud labu*). This indicates that breastfeeding is a shared responsibility. Although the mother is the one who physically breastfeeds, the father is obligated to ensure that the mother receives adequate nutrition and clothing so that she can fulfill her duties properly. This is a form of economic security that protects the rights of both the mother and the child. Ibn Kathir similarly explains the obligation of the father to provide for the mother during the breastfeeding period.
- 3) The Principle of Avoiding Harm: The phrase *la tudharra walidatun bivaladiba wa la mauludun labu bivaladib* (Neither a mother nor a father should suffer because of their child) serves as a universal principle. This means that a child must not be used as a means to harm either parent; for example, a mother is prohibited from breastfeeding in order to cause hardship for the father, or a father is prohibited from preventing the mother from breastfeeding as an act of revenge. Ibn Kathir interprets this provision as prohibiting either parent from using the child as an instrument of harm against the other, thereby emphasizing the protection of the child's interests within

parental relations.

Another legal basis can be found in the context of divorce, which indicates that a child's right to breast milk does not cease even if the parents' marriage is dissolved ([Mardiantari & Dwilestari, 2021](#)).

QS. At-Talaq [65]: 6

وَإِنْ كُنَّ أُولَاتٍ حَمْلٍ فَأَنْفِقُوا عَلَيْهِنَّ حَتَّى يَضَعْنَ حَمْلَهُنَّ ۚ فَإِنْ أَرْضَعْنَ لَكُمْ فَآتُوهُنَّ أُجُورَهُنَّ...

"...And if they (the divorced wives) are pregnant, then provide for them until they give birth; then, if they nurse your children for you, pay them their due..." (QS. At-Talaq [65]: 6).

This verse introduces the concept of compensation for breastfeeding (*ujrah ar-radha'ah*). If a divorced mother continues to breastfeed her child, she is entitled to compensation from her former husband. This is not compensation in the purely transactional sense, but rather a form of financial support and recognition of her efforts, which ensures the mother's well-being and, indirectly, the quality of breast milk for the child. Meanwhile, the hadiths of the Prophet Muhammad (peace be upon him) expand the concept of *radha'ah* from a mere nutritional relationship to a legal kinship relationship. The most fundamental hadith is:

Hadith narrated by Muslim

يَحْرَمُ مِنَ الرِّضَاعَةِ مَا يَحْرَمُ مِنَ النَّسَبِ

Meaning: "Anything that is forbidden due to blood ties is also forbidden due to breastfeeding." (Sahih Muslim, 1444b).

This hadith is the golden rule in the jurisprudence of breastfeeding. Its implications are far-reaching: a child who is breastfed by a woman becomes a *mahram* to her and her entire family, as if he or she were her own biological child. The child is prohibited from marrying the wet nurse, the wet nurse's daughters, the wet nurse's sisters, and so on, just as marriage is prohibited among blood relatives. This is how Islam protects the sanctity of the family institution and prevents confusion regarding lineage in the future.

To provide a more technical definition, another hadith from 'Aisha, may Allah be pleased with her, explains the quantitative criteria:

كَانَ فِيمَا أُنْزِلَ مِنَ الْقُرْآنِ عَشْرَ رَضَعَاتٍ مَعْلُومَاتٍ يَحْرَمُنَّ ثُمَّ نَسَخَنَ بِخَمْسٍ مَعْلُومَاتٍ

"In the past, one of the rulings revealed in the Qur'an was that 'ten known feedings of breast milk make a person a mahram'; this was later abrogated (*nasakh*) by the ruling that 'five known feedings of breast milk make a person a mahram.'" (Narrated by Muslim, 1452a–b).

This hadith serves as the basis for the Shafi'i and Hanbali schools of thought, which hold that *mahram* status is established only after a child under the age of two has been breastfed at least five times to the point of satiety. The hadith itself establishes the report concerning five known breastfeedings; the application of this evidence within the specific conditions of age, manner, and legal effect is subsequently elaborated in fiqh literature.

b. Analysis of the Rights, Obligations, and Legal Implications of Radha'ah

Based on the above normative foundation, the *fuqaha* (jurists) formulated a detailed set of legal rulings.

1) The Ruling on Breastfeeding

The majority of scholars (*jumhur ulama*) hold that breastfeeding is an obligation (*wajib*) upon both parents. However, this obligation becomes a *wajib 'ain* (individual obligation) for the mother under certain conditions: (a) if the child refuses to be breastfed by another woman, or (b) if the father is financially unable to hire a wet nurse (*murdhi'ah*).

Outside of these conditions, the obligation is collective; that is, if the mother is prevented from doing so by a valid religious excuse (*'udzur syar'i*), the obligation shifts to the father to find the best alternative for his child.

2) The Child's Right to Breast Milk

A child's right to breast milk, from the perspective of *fiqh* and *Maqasid al-Shari'ah*, emphasizes that breastfeeding is a fundamental right of the child (*haqq al-thifl*). A child has the right to the best nutrition, warmth, and emotional bond inherent in the breastfeeding process. Neglecting this right without a reason justified by *Sharia* may be considered a form of negligence in fulfilling a trust.

3) Legal Implications of Mahram Through Breastfeeding

This is the most important legal consequence. If the conditions are met (the child is under two years of age and has been breastfed to satiety at least five times, according to some schools of thought), then:

- a) A foster child becomes the child of the adoptive mother and her husband.
- b) A foster child becomes a sibling to all the children of the foster mother, both biological and foster siblings.
- c) A wet nurse becomes a grandmother to the child of the child she nursed.
- d) The applicable laws include the prohibition on marriage, the permissibility of *kehalwat* (being alone together), and the rules regarding the exposure of private parts, as they apply to blood relatives ([Muji & Ilhamsyah, 2024](#)).

c. The Contextualization of Radha'ah in the Modern Era

The principles of *Radha'ah* are exceptionally relevant in addressing the challenges of today.

1) Working Mothers and the Challenges of Breastfeeding

The spirit of Qur'anic Surah Al-Baqarah 233, which emphasizes full breastfeeding for two years, serves as a strong theological foundation for supporting pro-family policies. This can serve as a justification for companies and the government to provide longer maternity leave and adequate lactation facilities in the workplace. The father's obligation to provide for the breastfeeding mother can also be interpreted broadly, including supporting his wife's career in ways that do not compromise the child's right to breast milk.

2) Formula Milk as an Alternative

Islam is a religion that does not impose undue hardship. If a mother has a valid religious excuse (*'udzur syar'i*) that prevents her from breastfeeding—such as a medical condition, insufficient breast milk production, or the need to take certain medications—then the use of formula or hiring a wet nurse is a permissible (*mubah*) solution. It is emphasized that this decision should be made for the child's well-being, not for trivial reasons based on lifestyle choices.

3) Human Milk Bank

This is the most complex contemporary issue.

a) The Pro Argument

The permissibility of human milk banks under certain conditions is based on reasoning grounded in *maslahah mursalah* (public interest) and emergency situations (*dharurah*), particularly in the case of premature infants or infants whose mothers have died or are seriously ill. Proponents argue that saving a life (*hifdz al-nafs*) takes precedence.

b) The Counterargument

The counterargument is that human milk banks should be prohibited or approached with great caution due to concerns about confusion regarding lineage (*ikhtilath an-nasab*). If donor and recipient data are not properly recorded, there is a risk that, in the future, a marriage might occur between milk siblings, which is forbidden.

c) Solution to the Issue

The majority of fatwa institutions, such as the Indonesian Ulema Council, offer a middle ground: human milk banks may be permissible in emergency situations, provided

that very strict and clear record-keeping requirements are met. The identities of the donor and recipient must be legally documented to prevent future violations of *mahram* laws (Shahrenidzam & Kurniawan, 2024).

2. Hadhanah (Child Custody): Child Welfare as the Cornerstone of Justice

Hadhanah derives from the word *bidhn*, which means “lap.” Technically, it refers to the responsibility to care for, educate, and protect a child who is not yet capable of self-reliance (*mumayyiz*) from anything that may endanger them. Contrary to the common perception that views *hadhanah* as the “property” of the parents, Islamic law positions *hadhanah* as a right of the child that must be fulfilled by the most suitable adult.

a. The Normative Basis of Hadhanah in the Qur'an and Hadith

Although the Qur'an does not contain verses that specifically detail the order of custody following divorce, its general principles concerning child protection are clearly established, including the prohibition against harming children as stated in Surah Al-Baqarah 2:233. The primary foundation of *hadhanah* law is also clearly found in the Hadith of the Prophet (peace be upon him).

Hadith Narrated by Abu Dawud

أَنَّ امْرَأَةً قَالَتْ: يَا رَسُولَ اللَّهِ إِنَّ ابْنِي هَذَا كَانَ بَطْنِي لَهُ وَعَاءٌ وَثَدْيِي لَهُ سَقَاءٌ وَحَجْرِي لَهُ حَوَاءٌ وَإِنَّ أَبَاهُ طَلَّقَنِي وَأَرَادَ أَنْ يَنْتَزِعَهُ مِنِّي فَقَالَ لَهَا رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: أَنْتِ أَحَقُّ بِهِ مَا لَمْ تَنْكِحِي

Meaning: A woman said, “O Messenger of Allah, indeed this child of mine—my womb carried him, my breasts nourished him, and my lap sheltered him. However, his father has divorced me and wants to take him away from me.” The Messenger of Allah (peace be upon him) said, “You have greater rights to him as long as you have not remarried.”

This hadith is a cornerstone of *hadhanah* jurisprudence. Its implications can be understood through several aspects:

1). The Mother's Priority

The Prophet Muhammad (peace be upon him) explicitly granted custody priority to the mother (*anti abaqqu bihi*). This priority is associated with the mother's close relationship with the young child and her role in providing care and protection during the early stages of development.

2). Conditional Nature

The mother's right to priority is not absolute. It is subject to the condition expressed in the phrase *mā lam tankihī* (as long as you have not remarried). The underlying consideration is that remarriage may affect the mother's ability to provide care for the child, particularly when the new husband is not a *mahram* to the child. This condition is therefore discussed in relation to the protection of the child's best interests.

3). Focus on the Child's Needs

The woman's argument “my womb,” “my breast,” and “my lap” emphasizes the biological and emotional relationship between mother and child. The hadith therefore illustrates that *hadhanah* is closely connected with the child's need for care, protection, and emotional security. The narration is reported by Abu Dawud (no. 2276) and Ahmad (no. 6707), with variations in wording between the narrations (Fery & Hamidah, 2025).

b. Analysis within the *Maslahah al-Thifl* (Best Interests of the Child) Paradigm

Fiqh *hadhanah* is one of the dynamic areas of Islamic family law because its central purpose is to ensure the welfare and protection of the child.

1) Hadhanah as a Child's Right

Hadhanah should not be understood as a trophy for parents in a divorce dispute.

Rather, it is a trust and responsibility entrusted to the party who is best able to ensure the child's physical, intellectual, spiritual, and emotional growth and development. If the parent who initially has the right to custody no longer meets the required qualifications, that right may be reconsidered in order to protect the child's welfare (Al-Nawawi, n.d.).

2) Requirements for Caregivers (*Hadbin/Hadbinah*)

The *fuqaha* have established a number of requirements for caregivers, all of which are intended to protect the interests of the child. These requirements include:

- a) Sound Mind and Legal Age (*'Aqil Baligh*): The caregiver must possess sufficient maturity and mental capacity to educate and care for the child.
- b) Physical and Financial Capability (*Qudrah*): The caregiver must be capable of providing appropriate care and meeting the child's basic needs.
- c) Trustworthiness and Good Moral Character: The caregiver should possess good character and provide an appropriate role model for the child.
- d) Muslim, if the Child is Muslim: According to the view of the majority of scholars, the caregiver should be Muslim when the child is Muslim, particularly to preserve the child's religious upbringing.
- e) Order of Custody: If the mother loses her right to custody, for example because of remarriage or other circumstances recognized in fiqh, custody may pass according to the order discussed by the majority of scholars. This order generally gives priority to the maternal line because of its close relationship with the child. The sequence commonly begins with the mother, followed by the maternal grandmother, maternal aunt, and other relatives before extending to the paternal line. This order represents an *ijtihad*-based guideline and should not necessarily be understood as a rigid rule detached from the child's circumstances.
- f) The Child's Right to Choose (*Khiyar al-Mumayyiz*): When a child reaches the age of *tamyiz*, generally around seven years old, some schools of Islamic jurisprudence, particularly the Hanbali school, recognize the child's ability to choose between living with the father or mother under certain circumstances. This reflects recognition of the child's voice and preferences and positions the child as a subject whose interests should be considered rather than merely an object of parental dispute ([Fery & Hamidah, 2025](#)).

c. The Contextualization of Hadhanah in the Modern Era

- 1) Hadhanah and Religious Court Practice: In contemporary religious court practice, the principle of *maslahah al-thifl* should receive serious consideration in determining custody. Judges should not merely apply fiqh principles mechanically but should assess the child's psychological condition, the capacity of each parent, the living environment, and other circumstances relevant to the child's welfare. In appropriate cases, consultation with child psychologists or other experts may provide additional information regarding the environment most conducive to the child's development ([Utama, 2026](#)).
- 2) Co-Parenting: The modern concept of *co-parenting*, in which divorced parents continue to cooperate in raising their children, is compatible with the broader spirit of *hadhanah*. Divorce does not necessarily terminate parental responsibilities. Even when a child lives with the mother, the father remains responsible for financial support and maintains his parental role in visiting, educating, and caring for the child (*ziyarah wa ta'dib*). A cooperative parenting arrangement can therefore provide a framework for distributing parental responsibilities while reducing the potential negative effects of divorce on the child ([Bemj et al., 2025](#)).
- 3) Reexamining the "Not Yet Remarried" Requirement: Some contemporary Islamic legal discussions have questioned whether the *mā lam tankihī* condition should always be applied in an absolute manner. If a mother remarries a man who has good character, cares for the child, and can provide a more suitable environment than other available caregivers, the child's welfare may need to be considered alongside the literal

application of the hadith. This is where the principle of *maqasid al-shari'ah* becomes relevant. The protection and welfare of the child may require consideration of the circumstances underlying the classical rule. Such cases therefore require contextual assessment rather than a uniform determination, with the child's best interests remaining an important consideration in judicial decision-making ([Mangka et al., 2021](#)).

CONCLUSION

Hadhanah in Islamic law is fundamentally oriented toward protecting and fulfilling the rights and welfare of the child. The Qur'an and Hadith provide a normative foundation that emphasizes parental responsibility, the mother's priority in the early stages of childhood, and the prevention of harm to the child. The conditions established by the *fuqaha* for caregivers demonstrate that custody is not merely a parental right, but a trust that must be exercised by the person most capable of ensuring the child's physical, emotional, intellectual, and spiritual development. The principle of *maslahah al-thijl* therefore provides an important framework for understanding custody beyond the competition between parents.

In the contemporary context, the application of *hadhanah* requires attention to the actual circumstances of the child and family. Issues such as parental remarriage, psychological development, economic capacity, living environment, and *co-parenting* demonstrate that custody cannot always be determined solely through a formal application of classical rules. The principles of *maqasid al-shari'ah*, particularly the protection of life, intellect, lineage, and welfare, provide a basis for contextualizing *hadhanah* while maintaining its normative foundations. The central consideration remains the child's best interests, so that custody serves not only as a legal determination but also as an instrument for protecting the child's rights, dignity, and sustainable development.

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Author Contribution

Basrul: Writing-Preparation of original manuscript, Conceptualization Data accuracy,

Zakiar: Visualization, Methodology, Improve Language, Investigation.

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The authors declare that this research was conducted without any conflict of interest in the research.

Ethical Clearance

The place or location studied has agreed to conduct research and is willing if the results of this study are published.

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