

ADULTERY IN THE DIGITAL AGE FROM THE PERSPECTIVE OF ISLAMIC FAMILY LAW



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Abstrack

The development of digital technology has transformed patterns of social interaction and child-rearing practices in modern families. This situation calls for a reinterpretation of the concept of hadhanah in Islamic family law, which has traditionally focused more on the physical protection and basic education of children. This study aims to analyze the concept of hadhanah from the perspective of Islamic family law, assess its relevance to the principles of maqashid syariah, and formulate an adaptive parenting approach to address the challenges of child protection in the digital space. The study employs a qualitative method with a legal-normative approach through an examination of classical fiqh literature, the Compilation of Islamic Law, and national regulations such as the Child Protection Act, the ITE Law, and Government Regulation No. 17 of 2025 on Child Protection in the Digital Space. The findings indicate that the concept of hadhanah needs to be expanded to include aspects of digital literacy and competence as part of caregiver eligibility. The integration of fiqh values, maqashid syariah, and national regulations is essential to realizing a more adaptive, safe, and relevant parenting model for children in the digital age.

Keywords: Hadhanah, Maqashid al-Sharia, Islamic Family Law, Child Protection, Digital Age

INTRODUCTION

The development of digital technology over the past two decades has brought about significant changes to social life, including family dynamics and child-rearing practices. The internet, mobile devices, and social media have opened up spaces for interaction that are no longer limited by time or place, causing children to grow up in an environment vastly different from that of previous generations. (Al & Bangkalan, 2022) They learn, communicate, and engage in activities through digital media from an early age. This situation presents new challenges that were unknown at the time when the concept of *hadhanah* was formulated in classical *fiqh* tradition.

In Islamic law, *hadhanah* is understood as the moral and legal responsibility to care for, nurture, and educate children until they reach adulthood. (Lazuardi, n.d.) Scholars from various schools of thought have established parenting principles based on the social context of their time, which focused on direct interaction and physical supervision. However, rapid social change and the massive presence of the digital space have given rise to new issues that cannot be addressed solely through conventional approaches. (Azim et al., 2024) Children now face an unfiltered flow of information, including harmful content such as violence, pornography, digital scams, and cyberbullying. Additionally, excessive use of electronic devices can disrupt children's mental, social, and character development.

Amid this complexity, parental digital literacy has become an urgent necessity. Caregivers are not only obligated to provide physical protection but must also understand how technology works, the risks involved, and how to guide children to stay safe and thrive in the digital space. While technology offers significant benefits for children's education and creativity, without adequate guidance, it can become a source of threats that harm their moral and psychological well-being.

Meanwhile, academic studies on *hadhanah* (child custody in Islamic law) still largely revolve around classical *fiqh* perspectives and traditional regulations such as the Compilation of Islamic Law (*Kompilasi Hukum Islam* / KHI). Discussions of *hadhanah* within the digital context remain very limited. In fact, social changes require a reinterpretation of caregiving concepts so that they align with the needs of modern families. The *maqashid sharia* approach becomes important as a framework for reinterpreting the principles of child protection in Islam, enabling them to be applied to contemporary situations, including those in the digital space.

In line with this, Indonesia has developed a legal framework through the Child Protection Law, the Electronic Information and Transactions Law (ITE Law), and Government Regulation No. 17 of 2025 concerning Child Protection in the Digital Space. However, the integration of these regulations with the practice of determining *hadhanah* in religious courts is still not optimal. This gap between *fiqh* norms, national regulations, and the needs of children in the digital era highlights the need for more comprehensive research.

Based on this reality, this study becomes important to re-examine the concept of *hadhanah* from the perspective of Islamic family law by considering the challenges arising from the development of digital technology, the relevance of *maqashid sharia*, and how parenting challenges in the digital era influence the implementation of *hadhanah*. This research is expected to provide new insights while offering an adaptive approach capable of bridging

fiqh values, the demands of modern regulations, and the needs for child protection in the digital era.

REVIEW OF LITERATURE

Hadhanah in the Digital Era from the Perspective of Islamic Family Law

Conceptually, *hadhanah* refers to the obligation to care for, educate, and protect children who have not yet reached the stage of *mumayyiz* (the ability to distinguish right from wrong), particularly after the divorce of their parents. In Indonesian positive law, the regulation of *hadhanah* is based on the Compilation of Islamic Law (*Kompilasi Hukum Islam / KHI*), specifically Articles 105 and 156, which stipulate that the mother holds primary custody rights for children under the age of twelve, while the father is responsible for all maintenance costs (Nuruddin & Tarigan, 2014). The guiding principle in every decision related to *hadhanah* is the best interest of the child, meaning that the welfare of the child must take precedence over the interests of both parents (Mardani, 2017). A comparative study between the family law systems of Indonesia and Algeria shows that although both designate the mother as the primary caregiver, there are differences regarding the order of substitute guardians, the age limit for *hadhanah*, and the details of child support arrangements (Syafikri et al., 2025).

The discourse on *hadhanah* becomes increasingly complex when confronted with the realities of the digital era, which fundamentally transform patterns of child upbringing. The development of digital technology presents both opportunities and serious threats to children's growth and development; on the one hand, it provides access to interactive learning based on Islamic values, but on the other hand, it exposes children to unfiltered negative content (Khoiri, 2023). Generation Alpha, born since 2011, is even described as a true digital generation that may experience a crisis of socialization and alienation from real social life due to dependence on digital devices from an early age (Hidayati et al., 2023). This condition requires a reinterpretation of the concept of *hadhanah* so that it encompasses a comprehensive dimension of digital protection as an integral part of the parenting function.

The phenomena of sharenting and cyberbullying represent two concrete challenges that directly intersect with the responsibilities of *hadhanah* in the digital space. Parents who indiscriminately share their children's content on social media may unknowingly violate their children's privacy rights, while thousands of Indonesian children have been reported as victims of cyberbullying, requiring the active presence of parents as protectors (Hidayati et al., 2023). Within the framework of *maqashid al-sharia*, the failure of parents to fulfill this digital protection function constitutes a violation of the principles of *hifz al-nasl* (protection of lineage) and *hifz al-'aql* (protection of intellect), which are core objectives of Islamic law (Farid et al., 2025). Therefore, parental digital literacy is not merely a technical competence but also a religious obligation embedded in the responsibility of *hadhanah*.

In response to these challenges, the state and society must play an active role through concrete regulations and empowerment programs. Without strong public policy support, parents are left to face alone the algorithmic systems of digital platforms designed to retain users' attention for as long as possible. Thus, the presence of digital regulations can be understood as a form of institutional solidarity for families (Najib, 2025). Programs aimed at improving digital literacy based on Islamic values are also necessary, considering that many

parents categorized as *digital immigrants* experience difficulties in understanding and managing their children's digital environments (Bukhari et al., 2024).

The synthesis of the above studies indicates that the concept of *hadhanah* in Islamic family law must continue to be interpreted dynamically and responsively in accordance with societal developments. Custodial holders are no longer expected merely to fulfill the physical and moral needs of children within conventional boundaries but must also act as protectors and guides in the digital environment, which is full of potential risks. The development of an adaptive legal framework that integrates classical *fiqh* norms, Indonesian positive law, and child protection principles in the digital era has become an urgent necessity in the reform of contemporary Islamic family law (Multazam, 2024).

RESEARCH METHOD

This study employs a qualitative method by focusing on literature review and analysis of various legal sources related to *hadhanah* and child protection in the digital era. The approach used is juridical-normative, as this research examines the provisions of classical *fiqh*, the Compilation of Islamic Law (*Kompilasi Hukum Islam / KHI*), and national regulations such as the Child Protection Law, the Electronic Information and Transactions Law (ITE Law), and Government Regulation No. 17 of 2025. Through this approach, the research seeks to assess the suitability and limitations of existing legal norms when confronted with the challenges of modern parenting.

The author also employs a conceptual approach to reinterpret the principles of *maqashid al-sharia*, particularly those related to the protection of life, intellect, and the moral development of children. This approach is necessary so that the concept of *hadhanah* can be understood more broadly and contextually in relation to the dynamics of the digital environment faced by children today.

Data were collected from two main sources. The first consists of primary sources, including classical *fiqh* texts discussing *hadhanah*, the Compilation of Islamic Law, and relevant regulations such as the Child Protection Law, the ITE Law, and Government Regulation No. 17 of 2025. The second consists of secondary sources, including academic books, scholarly journals, research reports, and relevant decisions of religious courts. All data were analyzed using a descriptive-qualitative method by categorizing issues, comparing legal norms, and examining the relevance of Islamic legal concepts to digital phenomena. Through this method, the author aims to provide an overview of the need to reformulate the concept of *hadhanah* in response to technological developments.

RESULTS AND DISCUSSION

Hadhanah from the Perspective of Islamic Law

Hadhanah is essentially understood as the process of protecting, caring for, and educating children who are not yet capable of fulfilling their own needs independently. Linguistically, the word *hadhanah* derives from the Arabic root *ḥaḍhana-yahḍunu-ḥaḍnan*, which means to embrace, to protect closely, or to hold to one's chest (Fikri & Muchsin, 2022). This etymological meaning reflects a form of affection and protection that is very intimate, similar to how a mother holds her baby. Terminologically, *hadhanah* refers to the responsibility to

nurture, protect, and educate a child until they are able to take care of themselves, encompassing physical, mental, moral, and social aspects (Lazuardi, 2021).

All schools of Islamic jurisprudence regard child care as a major trust entrusted to parents, although they differ in emphasis. The Hanafi school understands *hadhanah* as an effort to ensure that a child's physical and emotional needs are properly fulfilled, meaning that the caregiver must provide stability and attention. The Maliki school incorporates elements of education and moral protection as essential components of caregiving. Meanwhile, the Shafi'i and Hanbali schools view *hadhanah* as a comprehensive form of protection that includes physical, spiritual, ethical, and character development (Musadah, 2020). Despite these differences, all schools agree that the primary objective of *hadhanah* is to ensure the optimal development of children by prioritizing their safety, welfare, and moral formation.

Normative references regarding the obligation of childcare can be found in Q.S. Al-Baqarah (2):233, which emphasizes the responsibility of both father and mother in caring for their children (RI, 2002). Several hadiths of the Prophet also highlight the central role of mothers in the early stages of child development. From the perspective of *ijma'*, Islamic jurists agree that *hadhanah* is not merely the right to be cared for but also a moral and legal obligation to ensure the safety and future of the child (Aulia, 2023).

To obtain custody rights, Islamic jurisprudence establishes several criteria, including moral integrity, sound intellect, the ability to provide care and attention, and the capacity to create a safe and supportive environment (Yahya et al., 2024). If a caregiver no longer fulfills these requirements, custody rights may be transferred to a more suitable party for the benefit of the child (Lazuardi, n.d.).

These principles have been adopted in the Compilation of Islamic Law (KHI) in Indonesia. KHI places the mother as the primary holder of custody rights, except when circumstances require transferring such rights to the father or another family member (Sari, 2021). However, KHI does not yet accommodate emerging issues such as digital parenting and online safety. As a result, in contemporary cases related to children's online activities, judges generally rely on the principle of *maslahah* (public interest) and their own *ijtihad*.

Some decisions of religious courts have begun to consider modern aspects such as the child's educational environment, online behavior, and the role of parents in supporting digital learning. Nevertheless, there are still no clear standards for assessing a caregiver's ability to manage digital risks. The gap between classical legal norms, written regulations, and social realities demonstrates the need for renewed legal thinking so that the concept of *hadhanah* remains relevant to contemporary challenges.

Theory of Maqashid Sharia

Maqashid al-sharia provides a framework for understanding the deeper objectives of Islamic law. Scholars such as Al-Ghazali and Al-Shatibi formulated that every legal ruling ultimately aims to preserve five fundamental elements: religion, life, intellect, lineage, and property (Khatib, 2018). When applied to the context of children's lives, three of these elements become particularly prominent.

First, *hifz al-nafs* emphasizes the necessity of ensuring children's safety from physical and psychological harm. Second, *hifz al-'aql* obliges parents to safeguard the intellectual and moral development of children from influences that may damage their thinking. Third, *hifz al-nasl* highlights the importance of character education to ensure the continuity and integrity of future generations.

These objectives become highly relevant in the digital world. Children are easily exposed to information that may not be appropriate for their level of maturity. Risks such as cyberbullying, harmful content, and information manipulation can damage their intellect, emotions, and even safety. Therefore, *maqashid sharia* provides guidance that parenting in the digital era must include efforts to safeguard children's well-being, guide their thinking, and ensure that they grow within an environment that supports their moral and character development.

Challenges of Hadhanah in the Digital Era

The rapid development of digital technology has significantly changed the way children interact, learn, and understand the world around them. Today's generation grows up with smartphones, the internet, videos, and social media from a very early age. This condition makes traditional parenting patterns based solely on direct interaction increasingly insufficient. Children now require not only physical protection but also guidance to understand the hidden risks behind technological convenience (Yani et al., 2022).

In this context, digital literacy becomes a fundamental necessity. The ability to operate digital devices alone is not sufficient; children must also be guided to filter information, recognize potential dangers, and maintain appropriate behavior in online environments (Ahmad et al., 2024). Without proper supervision, children risk exposure to inappropriate content, becoming victims of cybercrime, or developing gadget addiction that affects their mental and social development.

Although technology offers many positive opportunities—such as access to knowledge, creativity development, and educational support—its negative impacts are also evident. Problems such as reduced concentration, changes in social behavior, and digital dependency pose serious threats that require attention (Maroni et al., 2020). Therefore, parenting in the digital era demands a balance between utilizing technology and safeguarding children's psychological and moral health.

Unlimited internet access also opens opportunities for children to encounter pornography, violence, hate speech, and extremist ideologies with just a single click. Furthermore, threats such as cyberbullying, online grooming, and digital sexual exploitation continue to increase (Yusuf et al., 2024). These challenges become even more complex in post-divorce families, where children may face differences in rules and levels of digital supervision from each parent.

Children's privacy also presents new challenges. Parents must protect their children without exceeding boundaries that may disrupt their personal space. Excessive monitoring may lead to resistance, while overly loose supervision can expose children to online risks. Therefore, balanced parenting patterns are needed, combining control, guidance, and respect for children's development as individuals (Su'adah et al., 2023).

Adaptation of Parenting from the Perspective of Islamic Law

To remain relevant to contemporary needs, parenting must be examined through the lens of *maqashid sharia*, which emphasizes the protection of life, intellect, morality, and lineage. Considering that digital threats can harm children's intellectual and psychological well-being, the *maqashid* approach provides a normative basis for expanding the concept of hadhanah not only as physical protection but also as protection from online risks.

From this reinterpretation emerges the concept of an Islamic digital parenting model. Proportional supervision becomes an essential principle, meaning that parents accompany

children without excessively restricting them. Parents must improve their digital literacy in order to understand the risks children may encounter. Regulating children's screen time is also essential to maintain a balance between digital activities and real-world experiences (Sugiarti & Andyanto, 2022). In addition, moral guidance must extend to virtual spaces, considering that most of children's social interactions and information consumption now occur online.

Juridical Analysis of KHI and Related Regulations

The Compilation of Islamic Law (KHI), as the primary guideline for Islamic family law in Indonesia, provides a normative framework for *hadhanah* but does not explicitly regulate digital parenting. This absence of regulation creates difficulties for judges when determining the eligibility of caregivers in the context of online threats. Therefore, revising or improving KHI is important, particularly by incorporating indicators of caregivers' ability to manage digital risks.

National law has already provided a framework for child protection in the digital environment through the Child Protection Law, the ITE Law, Government Regulation No. 17 of 2025 on Child Protection in the Digital Space, and Presidential Regulation No. 87 of 2025 on the Roadmap for Child Protection in the Online Environment. These four instruments form a strong normative foundation to anticipate risks arising from children's online activities, such as exposure to harmful content, cyberbullying, and interactions that may lead to exploitation. At the regulatory level, Government Regulation No. 17 of 2025 explicitly clarifies the responsibilities of parents or guardians to ensure children's safety and supervision when engaging in online activities (President of the Republic of Indonesia, 2025).

However, the clarity of digital protection norms has not yet been followed by alignment with custody determination mechanisms in religious courts. The parameters used by judges are still dominated by traditional criteria such as emotional closeness, moral integrity, and the ability to provide children's basic needs. Meanwhile, the ability of parents to handle digital risks now an inseparable part of children's lives has not yet been included in judicial assessments. This condition indicates that religious courts have not fully adopted a more comprehensive child protection paradigm.

This gap raises critical questions about the effectiveness of child protection in Indonesia. On the one hand, the state has updated its legal framework to address digital challenges; on the other hand, these reforms are not automatically applied in custody decisions that determine who bears direct responsibility for the child's daily life. This disconnection reflects a significant regulatory gap, where national policies advance while judicial practices remain rooted in older paradigms.

Therefore, developing policies that integrate digital child protection into the standards for evaluating *hadhanah* is urgently needed. Such integration is important not only to ensure regulatory coherence but also to ensure that custody decisions reflect the contemporary needs of child protection. By incorporating the ability to supervise digital activities as part of the assessment criteria, *hadhanah* decisions can become more responsive to evolving social realities and more effective in safeguarding children both offline and online.

This situation also opens opportunities for the reconstruction of Islamic family law. The development of technical guidelines for religious courts, harmonization between KHI and national regulations, and the formulation of contemporary *ijtihad* can serve as important steps toward ensuring that child care remains relevant and adaptive to societal changes. In

this way, *hadhanah* will no longer be viewed merely as a traditional concept but as a continuing obligation capable of protecting children in all aspects of their lives, including the digital world.

CONCLUSION

Based on the discussion presented above, it can be concluded that *hadhanah* in Islamic law places the protection of children as its primary objective. The parenting principles regulated in *fiqh* and the Compilation of Islamic Law (KHI) remain fundamentally relevant; however, most of them have not yet anticipated the digital challenges that arise today. The *maqashid al-sharia* approach provides space for legal reinterpretation so that parenting does not stop at fulfilling basic needs, but also ensures the protection of children's life, intellect, morality, and identity within the digital environment. The digital era itself brings new risks such as exposure to harmful content, cyberbullying, sexual harassment through digital media, gadget addiction, and weak supervision in families that have experienced divorce. These conditions demand a parenting approach that is more adaptive and responsive to technological developments. Therefore, the concept of *hadhanah* needs to be expanded to include digital competence as part of the eligibility criteria for caregivers. Integrating *fiqh* values, *maqashid al-sharia*, and national regulations becomes an important step toward creating a more adaptive, safe, and relevant model of child care for children living in the digital era.

In line with this conclusion, several recommendations can be addressed to various stakeholders. For parents, it is important to improve digital literacy so they can effectively guide children when using the internet and digital devices. Physical supervision should be complemented by an understanding of digital risks and the cultivation of ethical behavior in online environments. For religious courts, clearer guidelines are needed regarding how parents' ability to protect children in digital spaces can be considered in determining *hadhanah* rights. For policymakers, regulations on child protection in digital spaces should be integrated with *hadhanah* regulations to provide clear standards for addressing modern parenting cases. Finally, for future researchers, more in-depth studies are needed on models of *hadhanah* that truly correspond to digital challenges, including empirical research on parents' digital competence as an important variable in assessing caregiving eligibility.

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