

AN EXAMINATION OF THE PRACTICE OF AL-ḤAḌĀNAH (CHILD CUSTODY) AMONG THE MUSLIM PARENTS IN ILORIN

Abubakar Sulyman Danboronu

Postgraduate Researcher, Department of Religions, Kwara State University, Malete
Sulymanabubakardanboronu@gmail.com

Abstract

Islamic custody is composed of *Hadanah* (nurturing), *wilaya al-nafs* (guardianship of the well-being of child) and *wilaya al-mal* (guardianship of funds/property of the child). The paper looks into the concept and practice of *Al-Ḥaḍānah* (child custody) among Muslim guardians in Ilorin, a city with a rich Islamic scholarship and cultural heritage. The study also examines the effects of cultural factors, legislation, and the contribution of religious leaders toward moulding the practise of custody. The qualitative approach was adopted involving the textual interpretation of Quranic commands, Hadith and juristic opinions, as well as a survey of secondary literature. The opinions of parents, community leaders, and religious scholars were collected in Ilorin to gain a real-life experience and the practical use of *Al-Ḥaḍānah*. The findings indicated that Muslim parents in Ilorin tend to follow the Islamic rules regarding custody with the welfare of kids being a priority. However, the practices also rely on the local customs, family relations, and Nigerian laws. The paper has come up with the conclusion that the *Al-Ḥaḍānah* practise in Ilorin is reflective of an ongoing attempt to bring into accord the teachings of religion with the realities of society. The paper suggested further research of comparing *Al-Ḥaḍānah* practises among Muslim communities in Nigeria.

Keywords: *Hadanah*; Custody; Parents; Muslim; Ilorin.

Introduction

Al-Ḥaḍānah which means custody or child-rearing under the provisions of the Islamic law is critical in the family law as it delineates the responsibilities and rights of parents caring after the birth of the child or in cases where there is a marital break-up (Kamali, 2008). Islamic custody is composed of *Hadanah* (nurturing), *wilaya al-nafs* (guardianship of the well-being of child) and *wilaya al-mal* (guardianship of funds/property of the child). The task of raising or *hadanah* of the child lies mainly with the mother (Wahbah al-Zuhayli, 1985). In Islam, the idea of *hadanah* focuses on the stress on the best interests of the child and balancing parents and duties, which often give a mother the initial rights to custody before the father except in certain situations indicating the opposite (Ali, 2019). *Al-Ḥaḍānah* (child custody) is based on Quran and the practises of Prophet Muhammad ﷺ. Indicatively, the Quran encourages parents to take good care of the children and make sure that they are safe.

Allah says in Qur'an 2:233;

the mothers shall give suck to their offspring for two whole years, if the father desires to complete the term. but He shall bear the cost of their food and clothing on equitable terms. no soul shall have a burden laid on it greater than it can bear. no mother shall be Treated unfairly on account of Her child. nor father on account of His child, an heir shall be chargeable In the same way. if They both decide on weaning, by mutual consent, and after due consultation, there is no blame on them. if ye decide on a foster-mother for your offspring, there is no blame on you, provided ye pay (the mother) what ye offered, on equitable terms. but fear Allah and know that Allah sees well what ye do.

In another verse, Allah says in Qur'an 65:6–7;

let the women live (in 'iddat) In the same style As ye live, according to your means: annoy them not, so As to restrict them. and if They carry (life In their wombs), then spend (your substance) on them until They deliver their burden: and if They suckle your (offspring), give them their recompense: and take mutual counsel together, according to what is just and reasonable. and if ye find yourselves In difficulties, let another woman suckle (the child) on the (father's) behalf. Let the man of means spend according to His means: and the man whose resources are restricted, let Him spend according to what Allah has given Him. Allah puts no burden on any person beyond what He has given Him. after a difficulty, Allah will soon grant relief.

These verses form the basis of *Al-Ḥaḍānah* in Islamic law, which means that child custody is not just about having physical custody of the child but also about the responsibility of providing love, care and support to the child by both parents based on their respective roles. The Prophet further emphasised the need to treat children kindly, compassionately and with fairness in the interactions, which set a precedent of the custodial practise within the Muslim communities (Al-Bukhari, Sahih, Kitab al-Talaq). Muslim scholars of the main schools of law have developed detailed prescriptions on the topic of custody over the years, covering such issues as the eligibility, the term of custody, and the transfer of custodial rights.

The Practice of *Al-Ḥaḍānah* as is being practised in Nigeria, is a cultural reality and religious imperative. In Ilorin in particular, a city that has long been known as an Islamic centre and the home of Muslim educational institutions, custody is handled by Muslim parents whose interactions are governed by Islamic principles, local culture, and Nigerian law. This creates a dynamic process between religious needs and social standards. The flexibility of Islamic family law in a modern environment can thus be learnt through analysing how Muslim parents in Ilorin understand and apply *Al-Ḥaḍānah*.

The paper is concerned with the knowledge and application of *Al-Ḥaḍānah* to Muslim parents in Ilorin. It also explores the awareness of the concept among parents, the role of religious leaders and the barriers of cultural and legal issues. Finally, it shows how the basis of Islamic principles of custody is created to protect the well-being of children and promote peace in society.

***Al-Ḥaḍānah* in Islamic Law: Conceptual Analysis**

The Islamic family law places an important role on *Al-Ḥaḍānah* (child custody) (Nasir, 2002). The term is infused with the Arabic term *hadana*, which means to embrace, hold a child under the arm, and as such is a symbol of protection, care and upbringing (Kamali, 2008). In the Islamic legal theory *Al-Ḥaḍānah* refers to the rights and duties of parents or guardians to provide total physical, emotional, moral and spiritual support to children, especially in cases of separation or divorce. This is a legal and religious duty which is intended to provide the child with a good life through the provision of shelter, food, hygiene, education, and spiritual support (Chandra and Andiko, 2020).

Ḥaḍānah is also seen to ensure that the basic needs of children are met, including food, drinks, clothes, healthcare, education, and other necessities (Mohamad, 2001). In a nutshell, *Al-Ḥaḍānah* is founded upon the principle of the child welfare (*maslahah*). It seeks to ensure that the children are raised in a conducive environment where their health, education and moral value are safeguarded. This is the holistic nature of Islam in the life of a family that a child is considered as a trust (*amanah*) of God and should be spared of being left out or abused (Qur'an 2:233; 65:6-7).

The Quran outlines the responsibilities of parents towards upbringing of children. The father has the role of guaranteeing the financial security and health of the mother and child and mother is advised to breastfeed her baby for two years, where possible (Qur'an 2:233). Similarly, when there is a divorce, the fathers are instructed to give accommodation and sustenance; this highlights the mutual responsibility to the child.

Custodial rights are also further enlightened by the *Sunnah* of Prophet Muhammad (peace be upon him). A woman asked the Prophet in one of the widely known Hadiths whether she had a right to keep her child in case of a divorce. Prophet ruled in her favour by saying: You have a greater right over him as long as you do not remarry (Abu Dawud, Sunan, Kitab al-Talaq). This shows the favouritism that is accorded to the mother at the early stages of child custody.

These principles were elaborated by Islamic scholars, and they set the prerequisites of the custody and those who could become a custodian. It is generally considered that the custody will first go to the mother, followed by female kinsmen and then the father in case none other is available and fitting (Ibn Qudamah, 2000). The rationale is that mothers are better placed to offer love and early nurturing, whereas the fathers have the major role of providing financial support.

Qur'anic and Hadith Evidences for Child Custody

Islamic laws of child custody (*Al-Ḥaḍānah*) have their foundation in Qur'an and Sunnah of the Prophet Muhammad (peace be upon him). These books emphasise the necessity of safeguarding, nurturing and taking care of children as a parental responsibility in the view of religion.

The Quran provides a set of requirements to both parents in the upbringing of their children. Quran 2: 233 goes on to advise mothers to breastfeed their infants a full two years, and the fathers to take care of the mother and child with food and clothing. This passage demonstrates the supportive functions of both parents in enhancing the well being of the child. Similarly, Quran chapter 65 verse 6-7 encourages the fathers to provide appropriate housing and maintenance of their divorced wives and children where it is stated that they are bound to support their children despite the termination of the marriage.

These commitments are also described by the Hadith. In one narration, a lady asked the Prophet (peace be upon him) whether she would be given the custody of her son after a divorce. The Prophet gave the reply, I have more claim to him so far as you do not take a second husband (Abu Dawud). This implies that mothers are usually the ones who are given custody, more especially during the infantile years, because they are the ones who have the tendency to nurture and take care of the child.

Other Hadiths stress the need for kindness and fairness to children. The Prophet showed great love for kids and said, "Whoever does not show mercy to our young or honor our elders is not one of us" (*Al-Tirmidhī*). These teachings show that custody in Islam is based on love, care, and what is best for the child. So, the Qur'an and Hadith make it clear that child custody is not just a legal issue but also a moral and godly duty, with the child's well-being (*Maṣlaḥah*) as the main focus.

Views of Contemporary Jurists on *Al-Ḥaḍānah*

Today, Muslim scholars have looked again at the rules for child custody because of changes in family life, new laws, and a worldwide focus on human rights. While the main ideas are still based on the Qur'an and Sunnah, modern scholars support flexibility and put the child's best interests first. The well-being of the child has become the most important factor in custody cases. This shows both Islamic values and global standards for children's rights.

A main area modern scholars study is the balance between traditional custody rights and the child's best interests. Scholars like Wahbah al-Zuhaylī (2002) say that even though early jurists set firm age limits for changing custody, today's views stress that custody choices should fit the specific situation. This means looking at the child's physical, emotional, and school needs. This view matches the Qur'an's command to protect the weak and vulnerable (Qur'an 4:9).

Today's legal experts also stress the importance of women's roles as caregivers, going past the strict limits set by earlier scholars. For example, Yusuf al-Qaradawi (1999) notes that if a mother shows the needed skill, stability, and caring ability, she should not lose custody just because she remarries or the child hits a certain age. This shows a move towards putting child-centered care above fixed legal rules.

A key point is the mixing of Islamic family law with modern legal and constitutional rules in Muslim societies today. Scholars like Muhammad Hashim Kamali (2008) stress that child custody must work within today's legal systems that recognize both parents' responsibilities and children's rights. In countries like Nigeria, Egypt, and Malaysia, Muslim scholars have worked with the law to make Shariah rules fit with civil law. This makes sure custody rulings are correct in Islam and also enforced by the state.

Also, modern study has widened the meaning of custody duty to include mental and school-related parts. Scholars like Abdullah bin Bayyah (2015) say that today, custody must also ensure a child gets proper schooling, health services, and moral teaching based on Islamic beliefs. This shows a knowing that a child's well-being is more than just physical care and includes their mind and feelings. Legal experts state that while the old foundation of custody is still key, understanding must change to match today's world. The main rule is protecting the child's welfare, which often needs flexibility, a judge's own judgment, and a mix of *Shariah* rules and present-day laws.

Custodial Rights and Responsibilities of Parents

In Islamic law, custody rights (*ḥuqūq al-ḥaḍānah*) are seen as both a right and a duty. These rights are given to parents not just for their own good, but as a task to make sure the child is safe and cared for. The main rule is the child's best interest, which is more important than the parents' own wishes. Because of this, custody in Islam is described as the duty to raise, care for, and protect a child who cannot take care of themselves on their own.

Mothers are usually the first choice for custody, especially when a child is very young, because they naturally give care, love, and support. This preference is backed by a hadith from Sunan Abū Dāwūd (Hadith no. 2276), where the Prophet ﷺ gave custody to a mother after a divorce, saying: "You have more right to him as long as you do not remarry." This decision shows that the mother's role is seen as very important for a child's body and feelings to grow well. However, this right depends on the mother's ability to provide a secure, steady and good moral home.

The father, even if not the main person for day-to-day custody, has very important duties as a guardian. He must still give money for support, safety, and must oversee the child's schooling, religious teaching, and future welfare. According to Wahbah al-Zuhaylī (2002), the father's job makes sure that custody is more than just where the child lives; it includes the child's full growth, mixing both care and guidance. So, even when the mother has custody, the father's responsibilities do not change. Custody duties are shared, and both parents must protect the child's spiritual, mental, and school growth. Yusuf al-Qaradawi (1999) stresses that custody is more than just giving a home; it also includes building moral training, Islamic teaching, and good character. From this view, custody matches one of the main goals of Islamic law, which focuses on protecting family lines and safeguarding future generations.

In today's understanding, experts point out the need to be flexible when applying custody rights, especially in cases of divorce, re-marriage, or disputes. Muhammad Hashim Kamali (2008) notes that, modern laws shaped by Islamic ideas often place the child's welfare above strict parent rights. A court can step in if either parent is found unfit for their custody role, making sure the child's best interest comes first. Similarly, Abdullah bin Bayyah (2015) states that the meaning of custody now should include emotional safety, chance for schooling, medical care, and safety from danger.

Islamic Guidelines on Custody Matters and the Welfare of Children

Islamic law pays great attention to children's welfare in custody matters. Custody is seen not as a parent's privilege, but as a duty given to them to raise and protect the child. The key rule guiding custody choices is the child's best interest. This makes sure the child's physical, emotional, spiritual, and educational needs come before the parents' wishes (al-Zuhaylī, 2002).

The Qur'an tells parents to be responsible and cooperate in bringing up their children. For example, Qur'an 2:233 shows the shared duties in breastfeeding and care, pointing to the mother's caring role and the father's duty for money support. Also, Qur'an 4:9 asks believers to be mindful of Allah when protecting the rights of weak children, making sure they are kept safe from harm. The Prophet Muhammad ﷺ also set examples for dealing with custody matters. In a hadith from AbūDāwūd (Hadith no. 2276), the Prophet ﷺ gave a mother custody of her child after a divorce, saying, "You have more right to him as long as you do not remarry." This shows the high status given to mothers in the early years of a child's life, while also setting rules to make sure the child has a stable life.

Legal experts stress that custody rights rely on the caregiver's ability to provide care, safety, and good moral training. If a parent is found unfit because of neglect, bad behavior, or instability, custody can be given to another capable family member. This is to protect the child's welfare (al-Qaradawī, 1999). This flexible approach ensures the child is always in the best environment for their development. Today, scholars say that custody includes not just meeting a child's physical needs but also giving emotional care, proper schooling, health services, and protecting the child's religious faith (Kamali, 2008; Bin Bayyah, 2015). This shows that Islam sees custody as a full responsibility that ensures the child's complete well-being.

***Al-Ḥaḍānah* in the Context of Ilorin**

Al-Ḥaḍānah, or child custody in Islamic law, is very important in forming family life and how children are raised in Muslim societies. In Ilorin, a mainly Muslim city in Kwara State, Nigeria, the idea of *Al-Ḥaḍānah* is especially important because of the area's strong Islamic history and the effect of the Maliki School of law. To understand how *Al-Ḥaḍānah* works in Ilorin, we must first know its local meaning. As the famous scholar Ibn Qudamah writes in his book *Al-Mughni*, *Al-Ḥaḍānah* means "the care and raising of a child in the early years by those who have the right to it." This shows that custody is mainly about protecting and caring for children, a duty given first to parents and close family members.

In Ilorin, *Al-Ḥaḍānah* is seen as more than just a legal issue; it is viewed as a moral and community duty. Families and the public see it as part of their job to raise children correctly by Islamic rules. The Maliki School of law, which is common in Ilorin and most of West Africa, gives mothers the main right to custody of young children, especially after a divorce. As Imam Malik stressed and the Sharia Court in Ilorin agrees, custody usually stays with the mother unless there are major reasons against it.

However, recent changes have affected the custody situation in Ilorin. City growth and social shifts have caused many families to move from the old, large family setups to smaller, immediate family units. This change reduces the support system for looking after children, sometimes making custody arrangements more difficult.

Cultural Influence on the Practice of *Al-Ḥaḍānah* in Ilorin

The practice of *Al-Ḥaḍānah* (child custody) in Ilorin is deeply formed by a mix of Islamic legal rules and the strong cultural traditions of the Yoruba people who live in the area. The mixing of religion and culture affects the special nature of child custody arrangements in Ilorin's Sharia courts.

Islamic law, especially the Maliki school which is common in Ilorin, gives clear rules for child custody, focusing on the child's welfare and best interests. Usually, the mother gets custody in the early years because she is the main person who cares for and raises the child. The father has the job of giving money and acting as the legal guardian, making choices about the child's schooling and marriage. These rules come from the Qur'an, Sunnah, and Islamic learning, and they aim to protect the child's moral and religious development.

In Ilorin, the cultural ways of the Yoruba people strongly affect how Islamic rules on child custody are used. Yoruba culture values large family connections and community raising of children. This makes it normal for grandparents, uncles, aunts, and other family members to be deeply involved in a child's life. Because of this, custody is often seen as a duty that goes beyond just the parents, including the wider family. This sometimes changes or extends the custody time beyond what Islamic law originally says, mixing religious rules with social life.

Yoruba culture stresses the importance of the father's family line and the order of family duties. This can cause problems with Islamic law, which usually gives first custody to the mother. In some cases, the father's family members push for custody based on arguments about family line and inheritance rights. These different views often lead to arguments, forcing judges to carefully weigh religious rules against cultural ways.

Judges in Ilorin now think about both religious faith and cultural values when they decide on custody. They look at the child's emotional needs, school needs, cultural background, and the caregiver's skill in giving a stable home, together with rules from Islamic law. This complete method makes sure the child's best interests are the most important.

In Ilorin, child custody (*Al-Ḥaḍānah*) is shaped by both Islamic rules and Yoruba traditions. While Islamic law gives the main structure, Yoruba customs bring in the help of extended family and local ways of life. Together, these factors create a unique system that respects both religion and culture, while always putting the child's welfare first.

According to Mallam Musa Ismaeel;

In Ilorin, the responsibility of child custody (*Al-Ḥaḍānah*) is not solely the parents' duty; it also encompasses grandparents, aunts, uncles, and even close family friends. This reflects the African belief that “it takes a village to raise a child,” which plays a vital role in the culture of Ilorin.

Usually, the mother takes the main role in caring for the child, giving physical care, emotional help, and moral teaching. The wider family supports this duty by helping her together in raising the child. On the other hand, the father does his part by providing money and making big choices about schooling and marriage, following Islamic rules. Courts in Ilorin normally support this arrangement, giving custody to mothers after a divorce unless there are situations that put the child's well-being at risk.

In a separate comment, Mr. Idris Abdulwahab says that the child's education is a very important matter. Families, and the courts, check if the caregiver can support the child's growth with strong Islamic values. A large number of parents see this as one of the main points in custody decisions. In fact, studies show that most parents in Ilorin rank Islamic education very high when deciding who should get custody of the child.

Adding to this, Mr. Nurudeen Saadudeen stresses that bringing up children means more than just giving them food and shelter; it is also about making sure they have a good religious and moral foundation. Because of this, the wider family is actively involved in the child's Qur'an memorization, moral teaching, and formal schooling. In Ilorin, the entire community helps with the child's well-being, ensuring that children are raised in a caring and religiously mindful setting.

Challenges

The practice of *Al-Haḍānah* (child custody) in Ilorin faces several problems coming from the mix of Islamic law and local cultural forces. These issues affect how custody decisions are reached and put into action in Ilorin.

Cultural-Religious Tensions

Ilorin shows a unique cultural mix where Islamic law, mostly the Maliki school, lives together with Yoruba customs. This mix creates tension because Islamic law sets clear custody rules, like the mother having custody of young children, which can conflict with Yoruba traditions that prefer the wider family's involvement and the father's family line. These tensions make custody setups more difficult, sometimes causing disputes between religious rules and cultural beliefs.

Extended Family and Custody Claims

Yoruba culture gives a very important role to extended family members, like grandparents, aunts, and uncles, in bringing up a child. Even though Islamic law clearly states who has custody rights, the major part played by the wider family can lead to different people asking for custody. Courts in Ilorin often find it hard to settle these cultural requests without going against Islamic custody rules. This can sometimes create unclear custody cases.

Gender Roles and Economic Factors

While Islamic law usually supports mothers for early child custody, local ideas about gender and money situations can change the results. In some cases, the father's family asks for custody based on traditional male authority and inheritance habits. The financial power of women and their place in the community can also affect their chance to get custody, even when religious law supports them. This mix of culture and money creates difficulties in applying Islamic child custody rules fairly.

Impact of Modernization

The pressures of global connection, city expansion, and changing social views have brought new problems. Younger people in Ilorin might hold different views on family life and parent roles, causing a slow drop in old ways of handling child custody. This changing situation makes it hard to steadily use both Islamic and cultural custody rules and requires the courts to be flexible.

Legal Pluralism and Judicial Balancing

Ilorin's two-part legal system, made of Sharia and native law, can sometimes cause confusing rulings or legal uncertainty. Sharia courts must carefully navigate these overlapping legal structures, weighing religious rules against cultural facts to put the child's best interests first. This constant effort to find a balance is key for making custody choices that fit both the legal and social situation.

Conclusion

Al-Haḍānah, meaning child custody in Islamic law, is a key part of family law that protects children's welfare while balancing parents' rights and duties. Rooted in the Qur'an and Sunnah, it stresses that the child's best interest must be the main factor in custody rulings. Mothers are preferred for early custody because of their natural caregiving role, while fathers handle guardianship tasks like financial support, education, and general welfare.

In Ilorin, the practice of *Al-Ḥaḍānah* shows a dedication to Islamic rules mixed with the effect of Yoruba customs, particularly the role of extended families. Sharia courts in Ilorin have had to weigh cultural expectations, gender roles, and modern legal systems while making sure results focus on the child's needs. Even with their work, problems like culture-faith clashes, demands from extended family, and the impact of new ways of life keep making custody matters complex.

Recommendations

- i. In Ilorin, we need to introduce programs that educate parents about their rights and responsibilities regarding child custody in Islam. It's important that decisions are made based on what is best for the child, not influenced by cultural norms.
- ii. Community leaders, including Imams and scholars, should take a more active role in teaching families about Islamic principles on custody. They should highlight that the responsibilities of being a parent are a trust from Allah.
- iii. Judges in Sharia courts should strive to balance Islamic teachings with local cultural practices, always ensuring that decisions about custody prioritize the physical, emotional, and spiritual well-being of the child.
- iv. Given the economic and social difficulties many women face, we should provide support systems like financial help, legal protection, and community resources to assist mothers in successfully fulfilling their roles as caregivers.

Works Cited

Abu Dawud, S. (2008). *Sunan Abu Dawud*. Riyadh: Darussalam.

Abu Dawud, *Sunan*, Kitāb al-Ṭalāq, Hadith no. 2276

Al-Bukhārī, M. I. (1997). *Ṣaḥīḥ al-Bukhārī*. Beirut: Dār al-Fikr.

Ali, A. Y. (2019). *The Concept of Child Custody (Ḥaḍānah) in Islamic Law*. Journal of Islamic Family Law, 5(2), 45–57.

Al-Qaradawi, Y. (1999). *Fiqh al-Usrah fi Daw' al-Qur'an wa al-Sunnah*. Cairo: Dar al-Shuruq.

Al-Tirmidhī, M. I. (2007). *Sunan al-Tirmidhī*. Beirut: Dar al-Fikr.

Bin Bayyah, A. (2015). *Sina'at al-Fatwāwa Fiqh al-Aqalliyyāt*. Abu Dhabi: Tabah Research.

Ibn Qudāmah, A. (2000). *Al-Mughnī*. Cairo: Dār al-Ḥadīth.

Kamali, M. H. (2008). *Shari'ah Law: An Introduction*. Oxford: Oneworld Publications.

Mohamad, Machae, and Khareng, 'Children's Protection in the Issue of Hadhanah, 2001, 19.

Nasir, J. J. (2002). *The Status of Women under Islamic Law and Modern Islamic Legislation* (3rd ed.). London: Brill. Chandra & Andiko, Pulang Bale Marriage Traditions and Child Care Issues, 2024

Oladosu, A. G. A. S. (2012). *Islamic Family Law and Child Custody in Nigeria: An Overview*. Ilorin Journal of Islamic Studies, 3(1), 45–60.

Oral interview conducted with Mallam Musa Ismaeel on 29th June, 2024



Oral interview conducted with Mr. Idris Abdulwahab on 30th June, 2024

Oral interview conducted with Mr. Nurudeen Saadudeen on 30th June, 2024

Wahbah al-Zuhayli, *Al-Fiqh al-Islami wa Adillatuh*, vol. 7 (Dimsyiq: Dar alFikr, 1985)