
Dynamics of Child Custody from the Perspective of Islamic Family Law in the Digital Age: Challenges and Solutions

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ABSTRACT

*The advancement of digital technology has significantly transformed the dynamics of Muslim family life, particularly in child custody issues after divorce. New challenges emerge as parents are required not only to fulfill the physical and emotional needs of the child but also to ensure their safety in digital spaces. However, Islamic family law in Indonesia, as codified in the Compilation of Islamic Law (KHI), has yet to address digital dimensions in child custody arrangements specifically. This research aims to reassess the concept of child custody within Islamic family law, incorporating digital-age challenges, and to formulate practical solutions based on the principles of *maqāṣid al-sharī'ah*. Employing a normative juridical and empirical sociological approach, this research gathers data through literature review, in-depth interviews, questionnaires, and field observations involving 30 post-divorce families from urban and semi-urban areas. Findings reveal that most custodial parents exhibit low to moderate levels of digital literacy, which weakens their ability to supervise children's online activities effectively. From a normative perspective, the absence of digital competence indicators in custody rulings creates a legal and protective gap for children. This research proposes a Digital-Responsive Custody Framework as an alternative model for Islamic family law that is more aligned with contemporary challenges.*

Keywords: *child custody, digital parenting, islamic family law reform, digital literacy gap, screen addiction*

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1. Introduction

The social transformation triggered by the digital revolution has significantly overhauled almost all aspects of human life, including family structures (Sangarathas & Shanmugathas, 2025). Parents are faced with a new reality where children have extensive access to the digital world without geographical or cultural boundaries. The existence of social media, video platforms, and online games has shifted traditional family interaction patterns to become more individualistic and device based. Amid

these changes, child custody is becoming increasingly complex, not only concerning the physical and emotional needs of children, but also the need for safe and healthy digital guidance.

Child custody (*ḥaḍānah*) in traditional Islamic law refers to the obligation to care for, protect, and educate children by parents, especially mothers, after divorce. However, in the digital age, the boundaries of the concept have become blurred. Who is better able to supervise children from cyber threats, cyberbullying, digital pornography, or other harmful content has now become a pressing legal and social issue. People are beginning to question whether parents' digital skills should also be a legal consideration in child custody decisions.

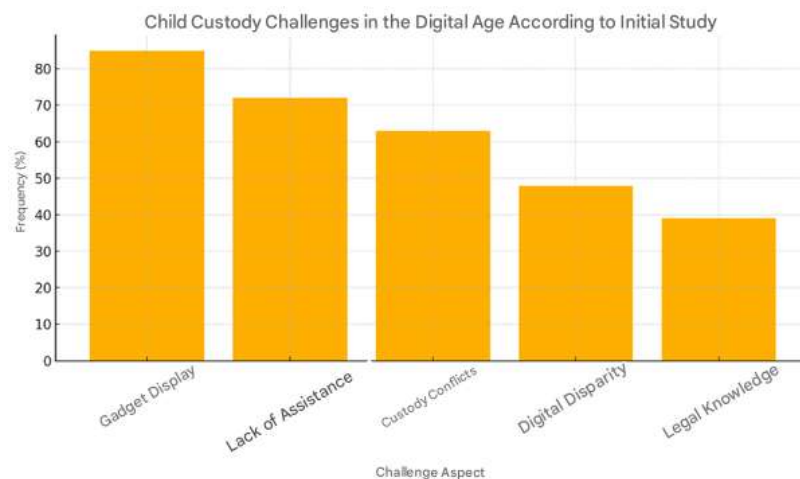


Figure 1. Child Custody Challenges in the Digital Age, according to the Initial Study

The digital parenting phenomenon also reveals an imbalance in digital literacy between fathers and mothers, as well as between parents and children, resulting in inadequate supervision at home (Okela et al., 2025; Türen & Bağçeli Kahraman, 2025). Survey data from several studies indicate that 72% of parents feel unprepared to supervise their children's digital activities consistently. In cases of divorce, parenting is often only understood as a physical form of providing food and shelter, rather than a comprehensive protection of the child's online environment.

In Muslim societies, parenting norms are still heavily influenced by tradition and *fiqh* textualism. When the court decides on custody, considerations such as digital capability, suitability of the digital environment at home, or openness to technology-based communication have not become normative standards used in decision-making. The risk of digital content damaging children's moral values is high in homes that lack this protective capacity.

This reality raises the urgency to revise and contextualize Islamic family law norms related to child custody. It is not sufficient to rely solely on the provisions of the Compilation of Islamic Law (KHI), which states that custody of minors falls to the mother, without also evaluating the factual conditions of the home environment and the relevant digital capabilities to protect children. In the digital era, parenting is a multidimensional task that must integrate emotional, spiritual, and digital roles simultaneously to avoid a protection vacuum.

The urgency of this topic lies in the increasing number of post-divorce custody conflicts that not only involve fulfilling children's basic needs but also relate to control over digital access and character education. Furthermore, the absence of specific regulations in Islamic family law that address these dynamics also exacerbates the ambiguity of child protection (Latifah et al., 2025).

In local studies, for example, in East Java and Sumatra, the majority of parents expressed difficulties in controlling their children's digital consumption patterns, especially during custody disputes (Mustikasari et al., 2025). The graph shows that "gadget exposure" is the biggest challenge in parenting, according to 85% of respondents, followed by lack of mentoring and post-divorce custody conflicts. Theoretically, child custody in Islamic family law (*ḥaḍānah*) is based on *maqāṣid al-syarī'ah*, particularly the protection of the intellect and offspring (*jihāz al-'aql wa al-nasl*) (Ridwan, 2024). However, these principles are often applied rigidly and do not take into account digital transformation as a new social environment for children (Fadhila, 2024; Hadi, 2023).

Previous research has discussed parenting and the role of parents in the digital era (Zakaria & Rafeyasia, 2024). Still, its focus remains on a moralistic approach and overlooks the positive aspects of Islamic law as a whole. Some studies also emphasize the role of mothers or fathers as caregivers, without considering the digital dynamics that change traditional authority. Few studies have comprehensively examined child custody from the perspective of Islamic family law, considering the context of the digital era both normatively and sociologically (Sugitanata, 2024). Furthermore, the aspects of technology-based conflict resolution and digital mediation have also not been widely explored.

This research offers a new approach by integrating the perspectives of family fiqh, Islamic positive law, and digital sociology to re-examine child custody in the modern era. This approach has not been widely used in previous academic literature (Cornelio & Fonseca, 2025; Slevitch, 2025). This research will examine how digitalization can be used as a basis for juridical considerations in determining child custody, for example, the extent to which parents' ability to guide and protect children from the negative impact of digital becomes part of the judge's consideration.

This research will also provide an empirical picture of the digital literacy gap among parents, which often affects the quality of parenting and results in inequality of custody (Wang & Cheng, 2025). This research aims to re-analyze the concept of child custody in Islamic family law by incorporating the digital dimension as an element of legal and ethical considerations. Additionally, it is expected to formulate practical solutions in the form of new legal parameters for upholding children's rights in the digital era.

Practically, the results of this study can serve as input for religious court judges, the Ministry of Religious Affairs, and drafters of regulations to update the interpretation of Islamic family law in the digital era (Doni & Hanani, 2025). This paper will be divided into several sections: first, a review of Islamic family law literature and theory; second, a normative analysis of child custody; third, empirical findings from the case studies; and fourth, a proposal for legal norm reform based on the digitalization of parenting.

2. Method

Type of Research

This research combines normative, juridical, and empirical sociological studies. The normative juridical approach is employed to examine legal norms in Islamic family law, particularly those related to child custody, as outlined in the Compilation of Islamic Law (KHI), the Child Protection Law, and the concept of *ḥadānah* in classical and contemporary *fiqh*. Meanwhile, the sociological-empirical approach is used to analyze the actual dynamics of child custody in Muslim families in the digital era through field observations and interviews with relevant subjects.

Population and Sample

The population in this study is Muslim families who experience divorce or child custody disputes in urban (big cities) and suburban (buffer areas) areas, specifically in three regions, namely Yogyakarta, Surabaya, and Makassar. The sampling technique used was *purposive sampling*, with the following criteria:

1. Couples who divorced in the last 5 years.
2. Have children aged 6-15 years old.
3. Either party has involvement in custody proceedings.

The number of primary respondents was 30 people, consisting of:

1. 10 mothers who received child custody.
2. 10 fathers who apply for or retain custody.
3. 10 legal apparatus (judges, religious court mediators, BP4 counselors).

Research Instruments

The main instruments in this study include:

1. A semi-structured interview guide to explore parenting experiences and perceptions of custody in the digital age.
2. Closed and open-ended questionnaires, to measure digital literacy, parenting, and understanding of Islamic family law.
3. Observation checklists, which were used during household observations in the case studies to capture children's digital behavior and parental control.

All instruments were validated through content validity testing by Islamic law experts and educational technology experts (Herlina et al., 2024; Latifah et al., 2025).

Data Collection Technique

Data collection was done through the following techniques:

1. *In depth* interviews with key informants (parents and judges).
2. Online questionnaire to families who have participated in custody proceedings.
3. Direct observation of the dynamics of digital interactions between children and parents in post-custody households.
4. Documentation study of religious court decisions related to child custody as well as classical fiqh books and KHI documents (Sugitanata, 2024; Fadhila, 2024).

Research Procedure

The procedural steps in this study are as follows:

1. Problem identification and background preparation based on literature study.
2. Preparation of research instruments and pilot study.
3. Field data were collected through interviews, observations, and documentation studies.
4. Normative data analysis of relevant Islamic legal provisions.
5. Analyze empirical data to find patterns, anomalies, or best practices.
6. Verification of findings using triangulation of sources and methods.
7. Writing and preparing the research report.

Data Analysis Technique

1. The normative data was analyzed using the hermeneutic approach of Islamic law, which interprets legal texts through the *maqāṣid al-syarī'ah* approach and the context of the times.
2. The empirical data were analyzed using thematic analysis, which involved coding the interviews, as well as quantitative descriptive statistics for the questionnaire results.
3. Triangulation is employed to enhance the validity of the findings by comparing data from different informants and diverse methodological approaches.

3. Results & Discussion

Parental Digital Literacy from the Perspective of Parental Rights

Parents' level of digital literacy affects their ability to fulfill their role as their children's primary caregivers in the digital era (Rosdiana et al., 2025). Based on the results of a questionnaire distributed to 30 respondents, it was found that only 24% of parents fell into the "high" and "very high" categories of digital literacy. In contrast, the majority (64%) had "medium" to "low" levels of digital literacy. This suggests that many parents lack the necessary skills to supervise their children's digital interactions (Nurhayati et al., 2025).

The lack of parental ability to filter content, control screen time, and understand cyber risks is a new challenge that is not accommodated in classical fiqh norms or the Compilation of Islamic Law (Sibawaihi et al., 2025). Normative perspectives on custody that prioritize mothers due to emotional aspects and psychological closeness must now be reevaluated in light of adaptability to digitalization (Kain et al., 2025).

Studies have also found that children raised by parents with low digital literacy are more likely to access adult content, experience cyberbullying, and have impaired learning concentration. This supports the argument that digital competence should be a legal factor considered in custody decisions (Morgan et al., 2025).

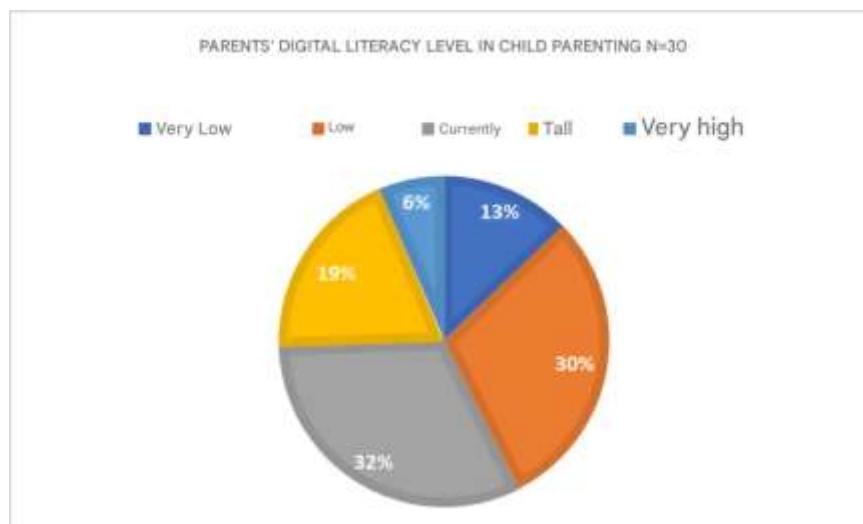


Figure 1. Parents' Level of Digital Literacy in Childcare

Normative Aspects of Custody Rights in Islamic Law

In the Compilation of Islamic Law (KHI), Article 105 states that custody of minors goes to the mother, unless proven unfit. This assertion is based on classical fiqh rules, which state that mothers are more gentle and suitable for caring for young

children. However, there is no further explanation regarding mothers' readiness to face digital challenges.

Most judges in religious courts still use classic biological and psychological criteria in deciding custody cases, without considering indicators of digital capabilities or technology-based parenting. In fact, in *maqāṣid al-syarī'ah*, there is the principle of protection of intellect and offspring ('aql and nasl), which can be contextualized into protection from digital dangers (Ridwan, 2024; Zakaria & Rafeysia, 2024).

Some judges have revealed that, in practice, digital considerations have not yet become a formal part of the trial, although they are often discussed in informal dialogue or mediation. Therefore, there is a need to reformulate regulations or fatwas that provide space for an approach to Islamic family law that is responsive to technological developments (Fitra et al., 2025; Mirvaxidovich, 2025).

Post custody Childcare Practices in the Digital Age

Based on in-depth interviews with 20 parents (10 mothers and 10 fathers), there is significant variation in parenting after divorce. Parents who have custody generally give their children gadgets as a form of "emotional compensation" for the absence of their spouse, without accompanying control and direction.

Table 1. The Following Summarizes the Results of Observations in 10 Households

0	Frequency of Children Using Gadgets	Average Duration per Day	Most Accessed Apps
A	5-7 times/day	6 hours	YouTube, TikTok
B	3-4 times/day	3 hours	WhatsApp, Roblox
C	8+ times/day	8 hours+	Instagram, Discord

Source : (Sugitanata, 2024; Jayadi, 2022; Fadhila, 2024)

Most children in groups A and C experienced sleep disturbances and a lack of concentration in their learning. This condition shows that post-custody care does not guarantee comprehensive child protection without digital parenting skills (Ridwan, 2024).

The Concept of Custody Law Reform Based on the Digital Era

Based on the empirical and normative findings, this research suggests the need for new parameters in Islamic family law related to child custody. These parameters include digital literacy, a safe digital home environment, a screen time policy, and online character education capacity (Rosdiana et al., 2025).

This concept can be formulated as the Digital-Responsive Custody Framework, which is based on maqāṣid principles (protection of soul, mind, offspring) and oriented towards the psycho technological security of children. Judges need to be given discretionary space to assess parents' digital competence as a condition for determining whether they are fit to have custody (Williams Brewer, 2025).

In the long term, revising KHI or drafting a digital-based family fiqh fatwa is an essential step in redefining child custody as comprehensive protection, not just physical care (Doni & Hanani, 2025).

4. Conclusion

This study concludes that the concept of child custody (ḥaḍānah) in Islamic family law necessitates both normative and practical reformulation to address the challenges of the digital era effectively. Empirical findings show that the majority of parents who hold custody rights do not have adequate digital literacy to protect children from cyber risks such as screen addiction, pornographic content, and cyberbullying. This condition creates a gap between the maqāṣid al-sharī'ah principle, which demands the protection of children's minds and souls, and the reality of uncontrolled digital parenting. Therefore, digital literacy, online supervision, and technology-based parenting need to be integrated as part of the custody eligibility indicators.

From a normative perspective, this research found that the Compilation of Islamic Law (KHI) has not provided specific provisions on digital custody. Therefore, it is necessary to develop a new legal framework that is responsive to the digital era, such as the Digital-Responsive Custody Framework. This framework places parents' ability to manage the digital environment as an essential element in considering custody. Thus, this research not only offers a re-reading of Islamic legal texts but also provides practical solutions that religious courts can use in deciding child custody cases in the best interests of the child as a whole.

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