



Between Justice and Silence: Women's Lived Experiences of Child Custody Proceedings in Religious Courts

Kamal

Universitas Tadulako, Indonesia

kamall741968@gmail.com

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ABSTRACT

Islamic family law plays a central role in shaping the legal and emotional realities of Muslim women, particularly in the context of child custody (hadhanah) following divorce. Although prior research has examined Islamic legal procedures, limited attention has been given to how divorced women subjectively experience hadhanah proceedings in Religious Courts. What remains unclear is how women assign meaning to the custody process and perceive justice, identity, and agency within this legal framework. This study applies a descriptive phenomenological approach to explore how divorced women experience hadhanah in Religious Courts in East Java, Indonesia between January and April 2024. Using Interpretative Phenomenological Analysis (IPA) in-depth interviews were conducted with nine Muslim women aged 28 to 45 who had undergone custody proceedings within the last three years. These interviews revealed four core themes: emotional vulnerability, perceived disempowerment, spiritual resilience, and the disconnect between legal ideals and lived reality. The findings show that participants viewed the hadhanah process as more than a legal dispute; they experienced it as a multifaceted ordeal involving emotional strain, religious conviction and ongoing negotiations of identity and self-worth. The analysis highlights the inadequacy of procedural justice alone in addressing the psychological and spiritual needs of women involved in Islamic family law. These insights deepen our understanding of gender and legal consciousness in Muslim contexts and suggest the need for more empathetic, experience-based approaches to legal reform in Religious Courts.



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INTRODUCTION

In many Muslim-majority societies, Islamic family law serves not only as a legal framework but also as a reflection of deep-rooted cultural, moral, and religious values. Among the most contested aspects of Islamic family law is the issue of hadhanah, or child custody, which often emerges in the aftermath of divorce (Anesa dkk., 2019). While Islamic jurisprudence offers general guidelines for custodial rights—frequently prioritizing the welfare of the child and recognizing the role of mothers in early upbringing—the practical implementation of these principles varies widely across legal and judicial contexts.

The custody process, particularly when adjudicated in Religious Courts, is not merely a procedural matter but a deeply human experience, especially for women. Divorce itself can represent a significant psychological rupture, and custody battles often exacerbate this distress, leading to emotional, spiritual, and social upheaval. Women may find themselves not only navigating the legal system but also confronting entrenched gender norms, social judgment, and personal trauma. These dimensions are not easily captured through doctrinal or policy-based analyses, which tend to focus on textual interpretation or institutional procedures.

In this context, hadhanah becomes more than a legal claim—it transforms into a lived phenomenon that intersects with a woman’s identity, agency, and sense of justice. Understanding the subjective experience of divorced women engaged in custody disputes is essential for comprehending the broader implications of Islamic family law as it functions in society. These experiences hold significant relevance, not only for legal reform but also for the empowerment of women within Islamic frameworks.

Given the complexity and intensity of these experiences, there is a growing need for research that explores the meaning of hadhanah from the perspective of those who live it (Arias Velásquez & Mejía Lara, 2020). A phenomenological approach offers a pathway into this inner world, enabling scholars and practitioners to grasp how women make sense of their journeys through legal, emotional, and spiritual terrains. Such an approach is vital in bridging the gap between normative legal discourses and the human realities they aim to govern.

Scholarly attention to women’s experiences within Islamic legal processes has gained momentum in recent decades, particularly in response to growing interest in the socio-legal dimensions of religious adjudication. Researchers have begun to recognize that legal outcomes are not experienced in isolation but are interwoven with deeply personal narratives of dignity, motherhood, and justice. As a result, studies that center the voices of women involved in hadhanah disputes have become increasingly relevant to understanding the lived implications of Islamic family law.

Despite this shift, methodological challenges persist in capturing the depth and complexity of subjective experience. Much of the existing literature remains dominated by normative or doctrinal analyses, which, while valuable, often overlook how legal structures are internalized, interpreted, or contested by those subjected to them. Quantitative approaches, though effective in identifying patterns and generalizations, are inherently limited in their ability to convey the emotional, spiritual, and existential dimensions of legal encounters. These methods risk reducing complex experiences to variables, thereby neglecting the nuance and meaning that individuals assign to their realities.

Consequently, prior studies have frequently failed to illuminate the essence of hadhanah as it is lived and felt by women navigating its procedures. There remains a critical need for research that moves beyond abstract legal categories and enters the intimate realm of human experience. By adopting a phenomenological lens, this study seeks to address that gap—offering a detailed exploration of how divorced women experience child custody litigation not only as a legal event but as a transformative life phenomenon.

Existing responses to the issue of hadhanah in Islamic legal contexts have predominantly relied on formal legal procedures, normative frameworks, and procedural remedies aimed at ensuring the best interest of the child. These practical approaches, while institutionally necessary, are often grounded in standardized interpretations of Islamic law and procedural fairness, overlooking the human experiences embedded within the process (Beckett & Brydolf-Horwitz, 2020). In this framework, the emotional, psychological, and spiritual dimensions of custody litigation are frequently marginalized or left unaddressed.

Previous studies have primarily emphasized statutory interpretations, legal codifications, or sociological overviews of gender within Islamic courts. While these approaches have advanced policy recommendations and legal awareness, they have done little to illuminate the meaning-making processes of women involved in custody disputes. The depth and texture of how women internalize, endure, and make sense of hadhanah remain largely unexplored. Consequently, current understandings of the phenomenon lack the richness necessary to inform reforms that are both empathetic and contextually grounded.

A more meaningful exploration of hadhanah requires a departure from detached analytical models toward an approach that privileges lived experience. Phenomenology offers such a framework, enabling a deep inquiry into the personal meanings and existential realities of divorced women navigating custody litigation (Dagdeviren dkk., 2020). By centering subjective experience, a phenomenological method not only fills the current conceptual void but also fosters a more holistic

understanding of the interplay between legal structures and human emotions in the context of Islamic family law.

Previous research has examined Islamic family law from doctrinal, legal, and sociological perspectives. Several studies have addressed gender dynamics in Religious Courts, but few have focused on how women personally experience child custody litigation. Theories of justice and motherhood have informed the discourse, yet the lived reality of divorced women in hadhanah proceedings remains underexplored. Some recent works have acknowledged the emotional and spiritual toll of legal disputes, but these aspects are often treated as secondary. This study builds on such gaps by focusing on the first-person narratives of women who have undergone custody battles.

To address the lack of experiential insight, this study adopts a descriptive phenomenological approach based on Husserlian principles. This method is chosen for its ability to reveal the essential meanings of lived experience, free from prior assumptions (Brooks dkk., 2023). It allows a deeper exploration of how women interpret and assign meaning to their hadhanah journey. By using Interpretative Phenomenological Analysis (IPA), the study captures emotional, legal, and spiritual dimensions in an integrated way. This approach responds to the previous gap by offering a holistic understanding rooted in the voices of those directly affected.

This article begins with an introduction to the broader and specific contexts of the hadhanah phenomenon. It then explains the research design, including participant selection, data collection, and the use of IPA for data analysis (Cozzolino, 2019). The results section presents core themes derived from participant narratives. This is followed by a discussion connecting the findings with existing literature and broader implications. The article concludes with reflections on practical, legal, and theoretical contributions of the study.

RESEARCH METHODS

Study Design

This study employed a descriptive phenomenological design to explore the lived experiences of divorced women navigating the process of hadhanah (child custody) within the context of Religious Courts. Phenomenology was selected as the guiding methodological framework due to its emphasis on understanding how individuals perceive, interpret, and make sense of their lived experiences (Domorenok & Graziano, 2023). The approach aligns with the aim of uncovering the subjective realities and emotional, legal, and spiritual meanings associated with custody litigation, as experienced from the perspective of the participants themselves.

Specifically, the study adopted Husserlian phenomenology, which seeks to describe phenomena as they are consciously experienced, free from presuppositions. This approach is particularly relevant for capturing the essence of hadhanah not merely as a legal process, but as a deeply affective and identity-shaping experience for women. Through bracketing prior assumptions, this design facilitated a focus on participants' voices and the fundamental structures of their experiences.

Participants

Participants consisted of women who had undergone child custody proceedings (hadhanah) in Religious Courts within the last five years. Purposive sampling was employed to select individuals whose experiences were directly relevant to the phenomenon under investigation. Inclusion criteria required participants to be adult women (aged 25 to 45), legally divorced, and having actively participated in at least one custody hearing in a Religious Court. Exclusion criteria included individuals with unresolved or ongoing custody disputes and those unwilling to engage in extended interviews due to emotional vulnerability.

A total of nine participants were included in the study. All were female, with an average age of 34.7 years (Gemitzi dkk., 2019). The participants represented a range of educational backgrounds and resided in both urban and semi-urban areas, reflecting diverse social contexts in which custody

cases are experienced. This demographic variety enriched the data by incorporating multiple perspectives on the legal and emotional dimensions of hadhanah.

Data Collection

Data were collected through semi-structured, in-depth interviews conducted face-to-face in settings chosen by the participants to ensure psychological comfort and privacy. The interviews followed a flexible guide that allowed for exploration of emotional, legal, and spiritual aspects of the participants' experiences. Each interview lasted approximately 60 to 90 minutes and was audio-recorded with the participants' consent.

All interviews were conducted in Bahasa Indonesia and subsequently transcribed verbatim. Field notes were taken during and after each session to capture contextual observations and non-verbal cues (Ghorbani dkk., 2020). Participants were invited to review their transcripts to confirm the accuracy of their statements, supporting the credibility of the data. The overall data collection spanned a period of three months.

Data Analysis

The data were analyzed using Interpretative Phenomenological Analysis (IPA), which involves an iterative and inductive process aimed at identifying essential themes that capture the meaning of participants' experiences. The analysis followed a structured sequence: repeated readings of transcripts, initial coding of meaning units, clustering of similar codes into emergent themes, and abstraction of superordinate themes that reflect shared experiences across cases.

NVivo software was utilized to facilitate data organization and coding, though the interpretation remained grounded in the text itself. Particular attention was paid to preserving the authenticity of participants' voices, with themes validated by reference to direct quotations. The process was guided by the objective of reaching thematic saturation, ensuring that the findings represented the core essence of the phenomenon.

Ethical Considerations

Ethical approval was obtained from the appropriate institutional ethics committee prior to data collection. Written informed consent was obtained from all participants, who were informed of the purpose, procedures, potential risks, and their right to withdraw at any time without penalty. Anonymity and confidentiality were strictly maintained through the use of pseudonyms and secure data storage (Libert Amico dkk., 2020). The study adhered to ethical guidelines in accordance with the Declaration of Helsinki and relevant local standards for research involving human subjects.

RESULTS

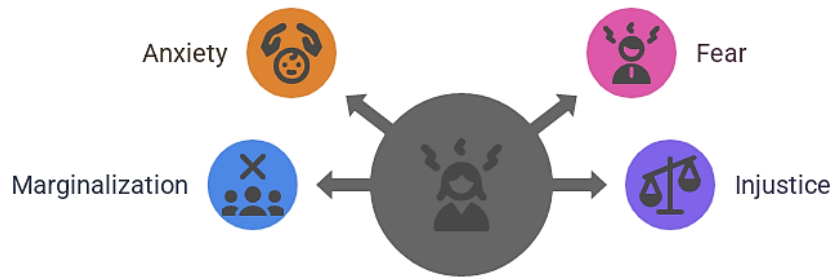
Emotional Vulnerability in the Legal Process

Participants consistently described profound emotional turbulence throughout the hadhanah process. Feelings of anxiety, fear, and a sense of marginalization were recurrent. Many women expressed that the courtroom experience did not accommodate their emotional states, which further deepened their sense of injustice.

“I felt like I wasn't seen—as if being a mother meant nothing to them. The judge didn't even look me in the eye. I was just someone who had to go through the process, not someone who loved her child.” — Participant 3

These narratives reveal an emotional dissonance between the legal framework of custody and the lived maternal experience. The participants' sense of vulnerability was not merely personal but structural—rooted in the courtroom's lack of emotional recognition.

Emotional Impact of Hadhanah Process



Perceived Disempowerment in Religious Courts

Several women articulated a perceived imbalance of power during court proceedings, particularly in how their voices were received compared to those of their former spouses or male legal figures. Some participants described moments where they felt silenced or dismissed.

“He had a lawyer, he had a louder voice. I tried to explain what happened at home, but they didn’t want to hear it. It was like my words didn’t matter.” — Participant 5

Such experiences illuminate a gendered dynamic within the hadhanah process, where the authority of motherhood was perceived as less legitimate than legal representation or male articulation of events. This imbalance contributed to a broader feeling of legal disenfranchisement.

Spiritual Struggle and Resilience

Despite the emotional and legal challenges, participants also described the process as a spiritual trial. Many relied on faith as a coping mechanism, framing their experiences within Islamic narratives of patience (*sabr*) and divine justice (*adl*).

“I cried every day after court. But I kept saying to myself, Allah is Just. If not now, someday the truth will be seen. That’s what kept me going.” — Participant 2

This theme highlights the duality of suffering and spiritual growth. For many, religious belief provided a framework through which to reinterpret pain as part of a divine test, thus enabling a form of spiritual resilience that counterbalanced their legal struggles.

Discrepancy Between Legal Principles and Practical Justice

Several participants perceived a contradiction between Islamic legal ideals and their courtroom experience. While Islamic law advocates for maternal rights in hadhanah, the women felt this principle was inconsistently applied.

“They told me that the mother has the right to custody—but in the end, they gave my child to his father. What kind of justice is that?” — Participant 1

This disjunction between normative Islamic principles and judicial practice was a key source of frustration. It prompted participants to question the integrity of the system and the extent to which legal outcomes reflected religious values.

The findings reveal that divorced women’s experiences in pursuing hadhanah through Religious Courts are emotionally charged, legally disempowering, spiritually complex, and marked by a perceived gap between religious law and its implementation. Their narratives expose an urgent need for a more empathetic, gender-sensitive approach within the administration of Islamic family law—one that acknowledges not only the legal dimensions of custody but the lived, subjective realities of those who seek it.

DISCUSSION

Opening: Summary of Key Findings

This study revealed that the hadhanah process, as experienced by divorced women, is not merely a legal procedure but a deeply emotional, disempowering, and spiritually charged journey (Liu

dkk., 2021). The findings illuminate the inner struggles of women seeking custody, who encounter not only institutional barriers but also psychological and existential challenges that shape their perception of justice.

Contribution of Findings to the Research Question

The central question posed by this study—how divorced women subjectively experience the hadhanah process in Religious Courts—has been addressed by uncovering multiple layers of meaning that participants assigned to their experiences. The study contributes uniquely to the field by moving beyond normative legal analysis and instead revealing how participants internalize court proceedings as emotionally vulnerable moments, perceive disempowerment in gendered legal spaces, and rely on spiritual resilience to endure the process (Mikhailov, 2020). These insights add complexity to our understanding of hadhanah as not just a matter of legal entitlement but a phenomenon that interweaves maternal identity, emotional trauma, and the search for divine justice. The research thus provides a deeper, experiential lens through which to view the implications of Islamic legal practice for women's lives.

Relationship with Previous Literature and Theoretical Frameworks

The findings align with prior research that suggests women often face structural and perceptual barriers in religious legal systems (Nurrochmat dkk., 2021). However, this study expands on those works by offering a more intimate portrayal of how these barriers are felt and interpreted at the individual level. Whereas (Onifade dkk., 2020) focused on the normative reform of Islamic law from a gender perspective, the present study provides a phenomenological counterpoint that emphasizes lived experience over legal doctrine. The narratives also resonate with broader theories of legal consciousness, where individuals do not merely experience law as a set of rules but as a site of personal meaning-making and moral negotiation. The women's reliance on faith to reinterpret their suffering also echoes Islamic spiritual frameworks that regard trials as divine tests, supporting the integrative nature of legal, emotional, and religious domains in Muslim women's lives.

Implications of the Findings

The findings of this study carry significant implications for both scholarly discourse and practical legal reform. At a social level, the experiences shared by the participants underscore the urgent need to humanize judicial procedures in Religious Courts, particularly in matters involving child custody. The emotional and spiritual dimensions of hadhanah must be acknowledged within legal settings to avoid exacerbating trauma and disempowerment among women. Culturally, the study challenges prevailing assumptions that Islamic legal systems operate uniformly, revealing instead how interpretation and implementation are shaped by gendered power relations and emotional subjectivities. For legal professionals and policymakers, these insights suggest the importance of integrating gender-sensitive and psychologically informed practices into family court protocols to ensure justice is not only delivered but also experienced.

Limitations of the Study

While the study offers a rich understanding of divorced women's lived experiences with hadhanah, it is shaped by certain methodological and contextual limitations. The sample was limited to a specific demographic and geographic context, which may affect the transferability of findings to other Muslim-majority settings with different legal cultures or social norms. As with most phenomenological research, the depth of insight comes at the expense of breadth, meaning the findings cannot be generalized in a statistical sense (Otto & van Oorschot, 2019). The emotional intensity of the subject also meant that some participants may have withheld or filtered certain experiences. However, these limitations do not diminish the validity of the findings; instead, they underscore the need to interpret them within their cultural and situational framework.

Prospective Statement for Future Research

Future research could expand on these findings by exploring the perspectives of other stakeholders involved in hadhanah cases, such as judges, legal clerks, and former spouses, to build a more holistic understanding of custody litigation. Comparative studies across different regions or

countries could also help assess how cultural and institutional variations shape women's experiences in Islamic legal systems. Moreover, integrating interdisciplinary approaches—such as combining phenomenology with Islamic psychology—could further illuminate the spiritual dimensions of legal struggle (Su dkk., 2020). These directions may enrich both academic inquiry and policy design by grounding reforms in the real-life experiences of those most affected by them. Ultimately, this study opens new pathways for reimagining justice in ways that are both faithful to Islamic principles and responsive to the lived realities of women.

CONCLUSION

This study explored the lived experiences of divorced women navigating hadhanah (child custody) proceedings in Religious Courts, with a focus on how they perceive justice, identity, and emotional resilience. The findings revealed that custody litigation is not merely a legal process but a deeply personal journey shaped by emotional vulnerability, perceived disempowerment, and spiritual endurance. Through a descriptive phenomenological approach, the study uncovered how women assign meaning to their experiences, filling a gap left by normative and procedural legal analyses. These insights provide a richer, more human-centered understanding of Islamic legal practice and highlight the importance of incorporating emotional and gender-sensitive considerations into court procedures. The research contributes both theoretically and practically by bridging legal doctrine with lived realities. Future studies may expand this work by including perspectives from other legal actors or exploring comparative contexts in different Islamic jurisdictions.

CONFLICT OF INTEREST

The authors declare that there is no conflict of interest regarding the publication of this article. All funding and institutional support were disclosed in the Acknowledgement section, and the research was conducted with full academic independence and ethical compliance.

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