

DISTINGUISHING LEGAL POLICIES ON HADHANAH DETERMINATION IN INDONESIA

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Abstract

Childcare, or hadhanah, is an important aspect of the family system that plays a crucial role in the development and well-being of children. In Indonesia, a country with a rich diversity of cultures, religions and customs, hadhanah practices can vary significantly across regions. This variation is due to differences in social norms, cultural values, as well as interpretations of religious law, particularly Islamic law. Hadhanah in Islamic law regulates the rights and responsibilities of parents or other parties in caring for children after divorce or the death of one of the parents. Although the basic principle is the best interest of the child, its implementation is often influenced by the local context. For example, in Muslim-majority areas, hadhanah practices are heavily guided by sharia provisions, while in other areas, local customs and traditions also play an important role. This study aims to uncover the differences in the implementation of hadhanah in different regions, as well as identify the challenges faced by families in parenting children in different contexts. The method used in this research is library research. The results show that the issue of childcare (hadhanah) has differences in each region, this is a factor of the diversity of culture, religion and customs in each region.

Keywords: *childcare, hadhanah*

A. INTRODUCTION

Hadhanah according to the language, means putting something near the ribs or on the lap, because the mother when breastfeeding her child puts the child on her lap. as if the mother at that time protects and nurtures her child so that "hadhanah" is made into a term that means: "the education and maintenance of the child's own well-being by the child's relatives". (Fiqh Islam Wa Adillatuhu, 2011: p.59).

In the Qur'an, the issue of hadhanah (child maintenance) is regulated in Surah An-Nisa verse 141 which means as follows: (They are) those who await (the event) that will happen to you. When you receive victory from Allah, they say, "Did we not fight with you?" If the disbelievers get a share (of the victory), they say, "Did we not win you and defend you from the believers?" Allah will judge between you on the Day of Judgment. Allah will not give way to the disbelievers to defeat the believers.

So hadhanah is like guardianship in marriage or property. It is also feared that the child will be brought up in the religion of the caregiver, and educated in the traditions of that religion. It will be difficult for the child to leave this religion. This is the greatest danger to the child. (Fiqh Munakahat.2013: p. 215-216).

The scholars of fiqh define hadhanah as the act of caring for young children, both male and female or who are grown up but not yet mumayyis, providing something that is good for him, protecting him from something that hurts and damages him, educating his physical, spiritual and intellectual, so that he is able to stand alone to face life and assume responsibility. A child at the beginning of his life until a certain age needs other people in his life, both in physical regulation and in the regulation of his morals. A person who performs the task of hadahnaah or child custody is very instrumental in this task. Therefore, the issue of hadahanah receives special attention in Islamic teachings. On the shoulders of both parents lies the obligation to carry out this task. If the parents are unable or unfit for this task because they do not meet the necessary conditions according to Islamic views, then a caregiver who meets the conditions should be found.

B. RESEARCH METHOD

Methodology is defined as a system of methods followed in a particular field and a branch of philosophy that analyzes the principles and procedures needed in a particular field. Methodology can also be defined as the science of method. In the Computer Dictionary methodology is defined as an organized collection of documented

procedures and instructions for one or more stages in the software lifecycle, such as analysis or design. Some methodologies include notations in the form of diagrams to document the results of the procedure, a step-by-step approach to performing the procedure, and objectives for criteria in determining whether the quality of the results of the procedure is acceptable.

This research uses a library research methodology, which is research whose studies are carried out by focusing on library books, journals or other sources.

C. DISCUSSION AND ANALYSIS

1. Hadhanah in Tapanuli ethnicity in Panti sub-district

In the Tapanuli community, which adheres to the Patrilineal kinship system, it is explained that after divorce, the child does not live with the mother or the mother's family, but continues to live with the father. This applies both in divorce when the couple is still alive and if the divorce is caused by the death of one of the spouses (Muhammad, 2006). Patrilineal itself is a kinship system in which the child is unilaterally connected to the father and the entire male lineage of his father in the family.

Since the relationship system practiced by this race is patrilineal, it shows that the Batak race highly respects the paternal lineage. Within this framework, children, both male and female, have a number of rights and obligations towards the group based on paternal lineage, they will follow and carry on their father's clan (Debora Sindi, 2021). Especially for boys, they have a very important role, because in addition to being a substitute for the family or group name, men in this race have the responsibility of inheriting the bloodline (Siregar, 2019).

According to Tapanuli custom, custody of children after divorce is held by the husband, which includes the care, education, and living expenses of the child. Children are considered to come from the water released by the husband into the wife's womb. Traditionally in Tapanuli, the child is considered the property of the father not the mother, and the authority to care for the child after divorce rests entirely with the father not the mother, because men are prioritized in raising offspring. Therefore, after divorce, the child is fully cared for by the husband, and child custody settlements in Tapanuli culture are usually carried out through non-litigation mechanisms, namely through a deliberation process (hatobangon) among community leaders.

2. Implementation of Hadhanah in Tereubeh Village, Jantcho City District

In Tereubeh Village, if a wife files for divorce against her husband, she will not get any rights, including child custody. After the divorce, the child will be taken care of by the father. Currently in Tereubeh Village, the issue of child maintenance is shared, even if the child is raised by the father or mother, but if the father does not provide maintenance for the child, this is not considered a problem in Tereubeh Village. If someone wants to claim their right to maintenance, they must file a lawsuit with the court. If the divorce papers have not been officially filed, the right to maintenance cannot be claimed. Because in Tereubeh Village, if the father does not care about his children, this is not considered a problem.

In Tereubeh Village, children who are still breastfeeding are not allowed to be cared for by their father. If the father insists on taking the child from the mother, the village will intervene by confronting the father and speaking nicely. If the father still refuses to budge, the matter will be taken to court, and BABIN will intervene. Each village has two BABINs, one from the Koramil and the other from the Kapolsek. If problems in the village cannot be resolved within the family, these people will intervene. They will resolve the issue legally, and when they are involved, the issue is considered a legal matter and will be followed up according to legal procedures. However, if the child is no longer breastfeeding despite being a minor, the father can take care of the child with the mutual consent of the families of both parties. In addition, the father also has the right to take the child if the mother is abusive in caring for the child.

After divorce, there are no definite requirements regarding the granting of child custody in Tereubeh Village. Children aged 7 years or under are considered minors and cannot yet distinguish between good and bad. For children in this category, both boys and girls, custody will be given to their mothers. This is because the mother has the primary responsibility in taking care of her children. Fathers are still responsible for providing for and fulfilling the needs of their children so that they can live and grow properly.

However, the father can obtain custody of the child with the consent of the mother and with some acceptable reasons. If the mother does not give consent, then the father will not be able to obtain custody of the child. The mother can file a lawsuit against the father who insists on getting custody of the minor child and take the case to court. Once the case has been brought to court, there will be no more deliberation or amicable

agreements. Furthermore, custody will be determined based on applicable laws and regulations.

Children over the age of 7 are considered capable of distinguishing between good and bad. Children in this category, both boys and girls, are given the freedom to choose their place of residence and upbringing. If they choose to live with their father, the father must provide a decent life and make the children happy. If they choose to live with their mother, the mother must provide love and happiness to the children. However, the child's living expenses remain the father's obligation.

The timing of child custody is not regulated by Tereubeh Village. If the child is able to distinguish between good and bad, he/she has the freedom to choose to live with his/her father or mother. However, there are several reasons that can lead to the loss of custody for a husband or wife. Such reasons include apostasy, insanity, or serious illness, so that they are unable to care for and provide a decent life for the child. This loss of custody occurs due to the inability of the husband or wife to properly care for the child, so custody will be given to someone else who can properly care for the child.

In Tereubeh Village, there has never been a loss of custody due to these reasons. However, the weakness of the system in Tereubeh Village is that the rules are not written rules, but rather hereditary rules that have been implemented for a long time by previous generations and are still valid today. If this rule is formalized in writing, it will make it easier for people who want to file a claim related to custody rights because there will be written regulations governing this matter.

3. Childcare Culture in Urug Traditional Village

In Urug Traditional Village, the culture of child rearing involves a series of traditions that are considered important to protect the child from demonic interference and ensure its health and well-being. One practice is the giving of a black necklace to a newborn baby. This necklace is worn until the child is five years old with the aim of protecting the child from demonic interference. At every maulid celebration, during the reading of the asrakal, the necklace is replaced as part of a tradition that almost all parents in Kampung Adat Urug follow, believing in the efficacy of this necklace in protecting the child from spiritual harm.

Another tradition is to change the child's name if the child cries a lot as a baby or is often sick. A baby's name that is not fixed and still changing can be changed if the child

cries often, or if the child is often sick, the child's name must be changed according to Kokolot's calculation, because it is considered that the name is too "heavy" and has the potential to make the child easily sick. if a father dies or is divorced from the mother, the child will be taken to the top of the para or roof of the house with the belief that this will help the child forget his father. This is believed by the people of Kampung Adat Urug to prevent the child from experiencing illnesses that often occur if the child continues to remember his or her father after the divorce or death of the father.

Raising boys and girls has a different approach once they reach the age of 15. It is important for parents to maintain girls' self-esteem so that they do not fall into inappropriate behavior. However, when they are toddlers, there is no major difference in how they are cared for. In Kampung Adat Urug, there are special restrictions for girls regarding kolecer, a bamboo toy that they are not allowed to make or step on because it will make it not function properly. Because of this, parents in Kampung Adat Urug tend to prohibit their daughters from approaching boys who are making kolecer.

In Kampung Adat Urug, most families apply a loving and accepting parenting approach, where parents show love and care to their children both physically and verbally. Verbally, parents constantly express their affection and support through praise, appreciation and encouragement to move forward. The proportion of this loving approach is almost proportional to aggression behavior, which is one aspect of rejected parenting. Aggressive behavior is characterized by the use of harsh and aggressive words and actions. According to Abah Ukat (community leader of Kampung Adat Urug) and some respondents, in the community of Kampung Adat Urug, parents may hit their children but only on the legs.

Girls tend to receive warmer parenting than boys in Urug Traditional Village, perhaps because some families have a subjective view that girls are more valuable than boys. Research shows a correlation between the gender of the child and the way parents provide acceptance or rejection in parenting. Nurrohmaningtyas (2008) suggests that a child's gender influences parents' parenting approach. In educating boys and girls, parents tend to apply different approaches due to differences in physical growth and mental and social development. Witkin-Lanoil's research referenced by Puspitawati (2009) shows that parents have expectations for boys to be strong and aggressive in achieving their life goals, while girls are expected to be more sensitive, polite and respectful. Girls are usually treated with tenderness, often hugged and cared for, while

boys often get a firmer approach.

4. Early Childhood Parenting Style in Village Dayak Families at Rumah Betang Ensaid Panjang

Based on the results of research on early childhood parenting styles in Dayak Village families living in Rumah Betang Ensaid Panjang, it appears that parents use an authoritative parenting style. This parenting style prioritizes freedom for children but still maintains responsibility for the freedom given by parents. Parents keep an eye on their children both when playing inside the Betang House and outside the Betang House. When in the Betang House, children mingle with their friends from different rooms in the Betang House. This Betang house is inhabited by 27 families with children of various ages. In the afternoon, they gather to play in the booth area or the front of the Betang House, starting from the booth (room) to the front of the house called "pungai," which is a long distance from the entrance to the exit.

According to Baumrind (Lestari, 2016: 49) in adopting an authoritative parenting style, parents direct children's behavior in a rational way, by providing an explanation of the purpose of the rules applied. Parents encourage children to comply with the rules with their own awareness. On the other hand, parents are responsive to children's needs and views. Through this authoritative parenting style, children are taught to be open to parents and can express their feelings freely. Based on this, in a study conducted by Wulandari (2016: viii), it is suggested that parenting patterns should be adjusted to the situation, conditions, and development of children. Parents who apply democratic parenting give freedom to children to make choices and act, and appreciate every effort and work done by children. Thus, children will be motivated to achieve better things.

One interviewee stated that in educating children, they use effective communication. Children are given freedom but still under supervision. For example, if the child is playing, the parents will keep an eye on him/her, and if it is time to go home but the child has not returned, the parents will look for the child. In this parenting approach, parents also give advice by giving examples from neighbors or people who are successful in higher education. The parents' goal is for the child to have a high education and good knowledge to achieve their goals.

Parents have an expectation to provide higher education to their children, in line

with research conducted by Adawiah (2017: 47) where parents' understanding of education in the Dayak community in Halong sub-district is relatively good. Generally, they realize the importance of education, as seen from the answers of all informants who expressed their desire for their children to attend the best possible school. Through higher education, parents hope that their children will be successful in the future. They believe that this process should start at an early age because during this time, children are more likely to shape their mindset and receive good input for their future. Families play an important role in shaping children's mindsets at an early age as they are the primary informal educators for children.

In addition, another informant, a traditional leader who lives in Rumah Betang Ensaid Panjang, stated that in his parenting style, he teaches the value of respecting others, which is reflected in the advice of the Dayak Village tribe which reads "tinuak bepegai ukum bejalai betungkat adat bepegai ke tali basa". The meaning of "tinuak bepegai ukum" is that we have customary law so that every action and behavior must refer to customary law. "Bejalai betungkat adat" means that if you make a mistake, you must abide by the customs of the Dayak Village tribe, and "bepegai ke tali basa" means that when entering a house, you must excuse yourself.

Village Dayak families living in Rumah Betang Ensaid Panjang are very respectful of the customs associated with these advice and customs. They apply this advice in their daily lives, including in early childhood care. Parents teach these adages and advice to their children through an authoritative parenting style, because with this parenting approach that emphasizes responsible freedom, parents can instill adages and advice as guidelines for life for Dayak Village families. Although these children are still at an early age, the cultivation of these values starts early through daily life. This is done so that what is instilled from an early age is maintained and preserved from generation to generation.

*Early childhood care in Dayak Desa families living in Rumah Betang Ensaid Panjang includes at least 5 meanings associated with this care. It can be seen that the Village Dayak families still hold firmly to their traditions in raising children at an early age. The first meaning is about patience in parenting in the Dayak Desa tribe, known as *kasabaRan*. The meaning of *kasabaRan* is that parents teach their children with a sense of acceptance, with the hope that the child will grow up to be a good individual and not angry in the future. *KasabaRan* is reflected through a good parenting style. Effective*

communication between parents and children is one of the important factors in educating children with full kāsabaRan. This good communication can be started from an early age so that children can understand the meaning of patience in everyday life through their immediate environment.

According to Jatmikowati's research (2018: 13), open communication between children and parents allows children to feel accepted. Children are given the courage to make their own choices, while parents are used to communicating realistic expectations according to their children's abilities. Thus, a positive self-concept in children will naturally develop. The meaning of kāsabaRan in parenting in Dayak Desa families is always applied in daily life. Parents uphold the value of kāsabaRan because they want their children to grow into good individuals. Even when children make mistakes, the parents are only verbally angry to advise their children, as they consider it inappropriate to use their hands in disciplining children.

The second meaning of parenting in the Dayak Desa tribe is the cultivation of the value of honesty, which in the Dayak Desa language is called kəjujuRan. KəjujuRan means openness between parents and children. The value of kəjujuRan is important to instill in children so that they become honest individuals, and this attitude will be maintained when they grow up. An example of this honesty value is that children do not take other people's goods or property. The cultivation of the value of honesty needs to start from an early age so that children have good integrity in their lives. Instilling this attitude of integrity must begin in childhood because at this age children understand more quickly what their parents teach them, including integrity values. According to Kurniawan, et al (2017: 159), integrity means that there is unity between thoughts, words, and actions. If children are taught about integrity from a young age, their understanding of integrity will be reflected in their speech and actions.

Through this attitude of integrity, children can understand the meaning of honesty in their words and actions. Parents, as examples and role models for children, need to instill the value of honesty in everyday life because children learn from their surrounding environment, especially from the behavior of their parents. Based on Inten's research (2017: 45), it is stated that the cultivation of honesty values by parents in the family is very important. Honesty instilled by parents through examples and role models in daily life, which are often observed by children, will be remembered, imprinted, and grow strong in children and will become an integral part of their personality throughout

their lives. The meaning of kajujuRan in children is instilled by parents from an early age, for example in daily interactions at Rumah Betang. Children are taught to get along with their friends, for example when playing together and a small dispute occurs or a friend's toy is taken, children are taught to admit their mistakes, say honesty, and apologize to their friends. This is taught from an early age so that children understand the meaning of honesty which is very important in children's lives.

The third meaning is about obedience, which in the Dayak Village language is called tunuak, which means that children follow what their parents say for their own good. One example shared by informants is teaching obedience to children by asking them to study. Through instilling this meaning of obedience, parents hope that children will obey their words without coercion, but with sincerity. Other informants also stated that the meaning of obedience is related to good manners, especially in the context of Dayak Desa tribal customs. In the customs of the Dayak Desa tribe, it is taught that humans cannot live alone because they need other people, and therefore, should not be arrogant or haughty, but should be humble to everyone. If children are taught about obedience from an early age, parents hope that children will have good behavior in everyday life, especially in the Betang House environment inhabited by other families. Thus, a harmonious and peaceful life can be created in Rumah Betang.

The role of parents, especially mothers, as the first educators in the family is very important in instilling the meaning of obedience to children, especially during early childhood development. Mothers, as a child's best friend, have a big role in paying attention and teaching the meaning of obedience to children so that they can develop properly. According to the results of research conducted by Lumbantobing, et al (2016: 119) on 76 respondents who had children aged 36-48 months, most mothers (77.63% of respondents) were not classified as compliant in monitoring children's growth and development. Therefore, efforts are needed that can assist mothers in monitoring children's growth and development better. The role of mothers in the early days of child development is very important because most of the child's activities are done with the mother. If the mother applies compliance in monitoring the child's development, the child will model the meaning of compliance. Children will see and imitate what their mothers do, and at this age, if children are educated with compliance that is understood with understanding and good communication, then the meaning of this compliance will be lived by children sincerely and without burden.

The fourth meaning is about firmness, which in Dayak Desa is called tagas. The meaning of firmness is consistent and unwavering. In daily interactions with friends or elders, parents have a duty to firmly reprimand their children when they make mistakes. For example, as stated by one informant, if the child makes a mistake, the parents will reprimand him firmly by saying "anang-anang piak," which means that the child should not repeat his actions because it will harm himself. Firmness needs to be instilled from an early age in childcare so that children can understand the meaning of not always agreeing to something that is not in accordance with their values. The meaning of assertiveness is related to assertiveness in humans. Assertiveness is not only relevant for adults, but also important for children, including early childhood. According to Muthmainnah (2013: 249), preschool children need to be introduced to assertiveness along with the development of their language skills. This is so that children are able to be assertive, sort out the right time to be assertive or not, do not feel pressured or harmed, and become independent and confident children.

Parents teach the meaning of assertiveness to children in everyday life to equip them with a firm nature in making decisions. For example, if a child is invited by a friend to play something that is forbidden by parents, the child is taught to be assertive and say no. Parents do this not to limit the child's ability to play. Parents do this not to limit children, but with good intentions for children's lives. By understanding the meaning of assertiveness from an early age, children will have the courage to make their own decisions without hesitation, because they know what is good for their lives and what can harm them.

The last meaning instilled by Dayak Desa families is patience. In the Village Dayak language, patience is referred to as bibas. The meaning of this patience is that parents give freedom to their children, but still monitor their behavior. Village Dayak parents who live in Rumah Betang generally give freedom to their children, but they also keep an eye on their children's behavior. These parents do not want their children to be afraid of them, but rather want to be friends with their children. Thus, it is expected that communication between parents and children will be good and children will still respect their parents. For example, one informant who has a 4-year-old child stated that even though her child is still young, she still gives her child the freedom to play, as long as it stays inside the rooms of the long betang house. The parent is afraid that playing outside the betang house will be dangerous because many vehicles pass by, and this could

endanger the child.

When children are playing, parents keep an eye on them. If it is time to go home and the children have not returned, parents will look for them. Giving children freedom to play is a form of parental attention to the development of their children because play has many benefits for child development. According to Papalia, et al (2009: 397), play is a child's job and contributes to all aspects of their development. Through play, children stimulate the senses, learn to use muscles, coordinate vision and movement, master the body, and acquire new skills. Thus, parents need to give their children the freedom to play, but still pay attention to their development. The attention and affection given by parents, especially in Dayak Desa families, is a form of cultural preservation in everyday life. If children are given the freedom to learn about life and culture in the rumah betang, they will absorb the knowledge easily and this will be learning that will always be remembered by the children.

5. Parenting in Bedede, Bedêngah, and Memautang Customs

The Sasak people have a variety of local terms that cover a wide range of meanings and are applied in daily activities. Terms such as bedede, bedêngah, and memautang refer to a series of processes that parents undertake in nurturing and educating children. In this process, the role of a mother is very important at the beginning of a child's life because of the close emotional connection between mother and child. Meanwhile, the father has a strategic role in supporting and complementing the child's development. Next, we will explain how these terms are applied in childcare.

Bedede, which means "to hold", is a way for parents to give attention, affection and love to their children with the aim of strengthening the emotional bond between parents and children. This process is also a means for parents to instill educational values to children, such as reading sholawat, reciting the Quran, telling lelakaq or rhymes, and singing traditional Sasak songs.

Bedêngah in Sasak culture refers to parenting in which parents release children to learn from the surrounding environment, especially things they do not yet know. The bedêngah process allows the child to gradually understand and adjust to his or her social environment. In this process, all family members play an important role as role models, including fathers, mothers, grandfathers, grandmothers, aunts, uncles, and older siblings. The example shown by the elders becomes a guideline for daily behavior for

children (Mulianah, 2019). Judging from the role and function of the family, the active and balanced involvement of both parents is very important. Empirical research shows that father's involvement in parenting has a positive impact on children's cognitive development, language, self-adjustment, and moral intelligence (Rima et al., 2017:86).

Bedêngah in the view of the Sasak community is a special responsibility carried by a mother. This has been passed down by the ancestors of the Sasak tribe and has become a habit that continues to be practiced from generation to generation. Through the bedêngah process, especially by mothers, children are given direction, guidance, and mentoring in their behavior. This process often involves the mother gathering with other family members (relatives) to introduce the children to the social environment outside the nuclear family. For young mothers, the bedêngah process is also an opportunity to learn from older family members, such as experienced sisters, about manners and values that a mother should adopt or avoid based on her life experiences. Thus, bedêngah not only acts as a bridge to nurture and educate children, but also as a medium of learning for a mother in pursuing her roles and responsibilities.

Memautang or adapting is done by parents as an effort to teach children to recognize the social environment outside the family and their role in society. A positive attitude from parents is very important in guiding children according to their developmental stages (Indanah & Yulisetyaningrum, 2019). Parents believe that at this stage, children have grown and developed so they need to be trained in social skills through adaptation and social interaction. With this adaptation process, children will learn how to become good members of society and obey the rules that apply in their social environment. However, the process of children's adjustment to new environments often causes obstacles, so Sasak parents should accompany children when introducing new environments or groups to them.

Therefore, success in the process of linking is highly dependent on the role of parents in accompanying children, providing an overview of the new social environment, and creating a sense of security and comfort for children. Children's social intelligence is influenced by both genetic inheritance and parental influence. Although social intelligence is naturally possessed by children, parents have an important role in developing children's social intelligence so that they can be accepted and move well in the social environment, which is a key step for children's future (Nadhilah & Kuniasari, 2020: 742). Children's social development can also be influenced by parenting patterns

that provide attention, support, and the right time so that children can grow and develop properly (Sari Batubara et al., 2019).

D. CONCLUSION

Based on the results of the above explanation, that Indonesia itself has a variety of customs in it, especially regarding the issue of hadhanah or childcare, almost every tribe or region has its own concept of childcare (hadhanah). The explanation above explains the concept of hadhanah in ethnic Tapanuli in Panti District, North Sumatra, the implementation of hadhanah in Tereubeh Village, Jantho District, Aceh. Then it also discusses the culture in Urug Traditional Village, West Java. Furthermore, it discusses the style of early childhood care in Dayak Village families at Rumah Betang Ensaid Panjang in Kalimantan, and the last is about childcare in the Sasak tribe in West Nusa Tenggara. We as Indonesian people must respect and appreciate the traditions in a region, especially if a tradition is good, then we can preserve it, so that the tradition is not lost in the times.

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