

Rethinking Hadhanah: Child Labor and Custodial Crisis in Banjarmasin’s Islamic Legal Response

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ABSTRACT

The prevalence of child labor in Banjarmasin has significantly disrupted established interpretations of hadhanah under Islamic family law, exposing a complex intersection of doctrinal mandates, cultural expectations, and economic hardship. This study explored the extent to which child labor reconfigures custodial responsibilities and how local moral governance informs the ethical realignment of hadhanah within Banjarmasin’s socio-legal framework. Fieldwork was carried out in both urban and peri-urban settings across Banjarmasin, South Kalimantan, Indonesia, where child labor is not only widespread but often socially legitimized. Employing a qualitative methodology, the research gathered data through in-depth interviews, direct observations, and document review conducted between March and July 2025. Participants included working children, their families, religious authorities, community leaders, and judges from Islamic family courts. Data were interpreted using Creswell’s tripartite process of reduction, display, and verification. The findings demonstrate that economic pressures have redefined hadhanah, positioning children as economic actors in contexts traditionally defined by adult custodianship. In response, local actors mobilized culturally embedded ethical frameworks and religious values to resolve custody-related tensions, often compensating for inadequate formal legal interventions. The study concludes that hadhanah is undergoing a locally negotiated transformation, revealing the dynamic adaptability of Islamic legal norms and highlighting the potential for incorporating community-based ethics into state custodial practices.

Keywords: *hadhanah, child labor, Islamic family law, local moral governance, custodial ethics.*

A. INTRODUCTION

Among Banjar communities in Banjarmasin, child labor has become a normalized aspect of daily life, prompting serious ethical, legal, and cultural dilemmas¹. Although both Islamic jurisprudence and national child protection laws prioritize the welfare and development of children², a considerable number of minors between the ages of eight and fourteen are involved in income-generating activities, including street vending, performing in public areas, and assisting in family-operated businesses³. This labor is often legitimized not solely by economic necessity⁴, but through prevailing cultural values that associate early responsibility with moral virtue and filial duty⁵. Such a context raises a critical inquiry: how resilient are Islamic custodial principles when confronted with the shifting realities of childhood defined by adult burdens?

While the intersection between child labor and custodial responsibilities has been explored in prior academic work, the specific realities emerging in Banjarmasin reveal a notable gap in the literature. Much of the existing research has yet to examine indigenous frameworks such as *menggaduh*, a culturally embedded concept of child custody that plays an influential role in informal governance under socio-economic pressure. Responding to this gap, Njieassam argues that although poverty and insufficient access to education are commonly identified as primary causes of child labor in Uganda, the issue is equally sustained by fragile legal systems and disjointed institutional mechanisms for child protection⁶. Building on this structural perspective, Stark and Budzinski present a relational argument, suggesting that parental expectations of future care and support from their children may influence the use of

¹ Kristina Brant, ‘When Mamaw Becomes Mom: Social Capital and Kinship Family Formation amid the Rural o Pioid Crisis’, *Rsf*, 8.3 (2022), 78–98 <<https://doi.org/10.7758/RSF.2022.8.3.03>>.

² Alla Sotska and others, ‘Legal Regulation of the Protection of Children’S Rights by European Standards: A Comparative Perspective’, *Syariah: Jurnal Hukum Dan Pemikiran*, 24.2 (2024), 359–75 <<https://doi.org/10.18592/sjhp.v24i2.13973>>.

³ Amano Kazuya, ‘An Eighteen-Year-Old Works to Abolish Child Labor’, *Asia-Pacific Journal*, 1.11 (2003) <<https://doi.org/10.1017/s1557466003000160>>.

⁴ Christine Schnor and Júlia Mikolai, ‘Remain, Leave, or Return? Mothers’ Location Continuity after Separation in Belgium’, *Demographic Research*, 42.June (2020), 245–92 <<https://doi.org/10.4054/DEMRES.2020.42.9>>.

⁵ Monica Puoma Lambon-Quayefio and Nkechi S. Owoo, ‘Investigating the Long-Term Effects of Child Labor on Household Poverty and Food Insecurity in Ghana’, *Journal of Demographic Economics*, 87.4 (2021), 561–87 <<https://doi.org/10.1017/dem.2020.29>>.

⁶ Esther Njieassam, ‘Child Labour in Artisanal and Small-Scale Gold Mines in Uganda: Are Legal Protections Adequate?’, *Journal of African Law*, 67.1 (2023), 45–57 <<https://doi.org/10.1017/S0021855322000298>>.

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child labor, particularly when shaped by early experiences of parental treatment⁷. In a complementary vein, Kissi observes that in rural areas, child labor does not necessarily interfere with school attendance, whereas in urban environments, it often leads to a direct conflict with educational commitments⁸. Together, these studies emphasize the importance of a multidisciplinary framework that incorporates legal, cultural, and socio-economic dimensions in order to engage more fully with the ethical and practical challenges of child labor in the context of Islamic custodial norms.

This study seeks to explore how the meaning and implementation of *hadhanah* in Banjarmasin are being redefined amidst the growing incidence of child labor and under the influence of localized cultural wisdom. It critically examines the interplay between economic hardship, customary norms, and religious interpretations in shaping custodial practices. Moreover, the research investigates how Islamic judicial authorities and community leaders navigate these intersecting pressures, both at the conceptual level and through practical decision-making. By doing so, the study aims to contribute to ongoing scholarly conversations about the flexibility of Islamic legal traditions in responding to ethical and socio-economic disruptions.

This study adopts a qualitative fieldwork approach, utilizing semi-structured interviews, participant observations, and documentary analysis conducted in Banjarmasin from March to July 2025⁹. The participant pool comprises child laborers, parents, religious figures, judicial authorities, and community leaders, offering a multidimensional perspective on the issue. Data interpretation followed Creswell’s analytic framework, involving systematic processes of data reduction, narrative presentation, and thematic verification¹⁰. This methodology enabled the research to illuminate the dynamics of Islamic custodial law as it is understood and practiced

⁷ Oded Stark and Wiktor Budzinski, ‘The Demand for Gratitude as a Restraint on the Use of Child Labor: A Hypothesis’, *Journal of Demographic Economics*, 89.1 (2023), 137–47 <<https://doi.org/10.1017/dem.2021.34>>.

⁸ Obed Adonteng-Kissi, ‘Interactions between Child Labour and Schooling: Parental Perceptions in Rural and Urban Ghana’, *Social Policy and Society*, 23.4 (2024), 867–81 <<https://doi.org/10.1017/S1474746422000690>>.

⁹ M. Q Patton, *Qualitative Research & Evaluation Methods: Integrating Theory and Practice (4th Ed.)* (London: Sage, 2014).

¹⁰ J.W Cresswell and D Cresswell, *Research Design: Qualitative, Quantitative and Mixed Methods Approaches (5 Th Ed)* (SAGE Publications, 2018).

within the socio-cultural fabric of the community, rather than limiting its scope to theoretical or normative abstractions¹¹.

The core premise of this study is that *hadhanah* in Banjarmasin is undergoing a significant contextual evolution, shaped by the intersection of Islamic legal principles, socio-cultural resilience, and institutional limitations¹². It argues that local moral governance, informed by communal ethics and religious leadership, increasingly functions as both a corrective mechanism and an informal alternative to formal legal structures¹³. This emergent custodial ethic exemplifies a form of Islamic jurisprudence that remains ethically principled while demonstrating pragmatic flexibility in addressing complex social realities¹⁴. The anticipated contribution of this research extends beyond academic theory, offering practical insights for jurists, policymakers, and community advocates striving to enhance child welfare frameworks in culturally diverse Muslim contexts.

B. METHODS

This study adopts a qualitative fieldwork methodology to explore the socio-legal dimensions of *hadhanah* in the context of increasing child labor in Banjarmasin¹⁵. Conducted between March and July 2025, the research took place across various neighborhoods in both the urban core and suburban peripheries of South Kalimantan’s capital. The investigation utilized in-depth interviews, direct observations, and document reviews, engaging a diverse group of participants including working children, caregivers, religious authorities, legal practitioners, and community leaders. By integrating these varied perspectives, the research illuminates how custodial norms are understood, contested, and redefined under the weight of economic strain and cultural expectation. This approach offers a situated account of

¹¹ John R Bowen, *Islam, Law and Equality in Indonesia an Anthropology of Public Reasoning* (New York: Cambridge University Press, 2003), vii.

¹² Sotska and others.

¹³ Njieassam.

¹⁴ Ahmadi Hasan, Gusti Muzainah, and Yusuf Setyadi, ‘Barambangan: Dynamics and Challenges in Resolving Husband and Wife Disputes in the Banjar Community’, *Syariah: Jurnal Hukum Dan Pemikiran*, 23.1 (2023) <<https://doi.org/10.18592/sjhp.v23i1.8611>>.

¹⁵ Alexandra B. Collins and others, ‘Policing Space in the Overdose Crisis: A Rapid Ethnographic Study of the Impact of Law Enforcement Practices on the Effectiveness of Overdose Prevention Sites’, *The International Journal on Drug Policy*, 73 (2019), 199–207 <<https://doi.org/10.1016/j.drugpo.2019.08.002>>.

how legal principles are adapted and operationalized within the complex moral and material landscape of contemporary Muslim communities.

Primary data for this study were collected through comprehensive qualitative techniques, including in-depth interviews, systematic field observations, and a review of relevant documents¹⁶. The participants consisted of a cross-section of stakeholders: children aged 8 to 14 engaged in various forms of labor, their parents or guardians, local religious authorities, respected community figures, judges from the Banjarmasin Religious Court, and regional policymakers. In total, 40 individuals contributed to the research, offering a wide range of insights into how child labor reshapes established understandings of custodial obligations within both socio-cultural and legal frameworks.

Religious figures, such as *ustadz*, religious leaders (*tetuha*), and Islamic court judges, provided doctrinal interpretations of *hadhanah*. Community leaders and cultural figures offered insights into the practice of *menggaduh* (local custodial care) and the role of customary values in mediating child welfare¹⁷. Observational data were gathered in sites where children were found working: markets, streets, intersections, and small family-owned businesses¹⁸. Supplementary documents included court case records, local regulations, and community forum transcripts.

Data collection was carried out through purposive sampling, allowing for the intentional selection of respondents who could offer rich, context-specific insights. Semi-structured interviews were employed to accommodate participants' narratives, enabling a deeper exploration of their experiences and perspectives¹⁹. Observational methods were conducted in a non-participatory manner, with findings systematically recorded through detailed field notes and, when ethically appropriate, supported by photographic documentation.

Data were analyzed using Creswell's three-phase model²⁰. The first phase was data reduction, which involved condensing raw transcripts and observation notes to highlight key themes such as economic motivation for child labor²¹, shifts in custodial

¹⁶ Patton.

¹⁷ Hasan, Muzainah, and Setyadi.

¹⁸ Banjar community Leaders, 'Observations' (Banjarasin: July 2, 2025).

¹⁹ MB Miles, A. Huberman, and J. Saldaña, *Analisis Data Kualitatif: Buku Sumber Metode*, 1988 <<https://www.amazon.com/Qualitative-Data-Analysis-Methods-Sourcebook/dp/1452257876>>.

²⁰ Creswell and Creswell.

²¹ Adonteng-Kissi.

roles²², and local governance responses²³. The second phase was data presentation, where findings were organized into narrative categories, integrating translated quotes and contextual commentary for clarity and coherence²⁴. The third phase involved drawing conclusions and verification²⁵, in which patterns and trends were synthesized to address the research questions, supported by triangulation with legal doctrine and socio-political theory²⁶.

This methodological framework allowed for a nuanced understanding of how child labor intersects with Islamic custodial law²⁷, local culture²⁸, and governance in a specific Indonesian context²⁹. It enabled the researcher to explore not only institutional interpretations of *hadhanah* but also how community actors reinterpret and negotiate custodial norms under economic pressure. The triangulation of interviews, observations, and documentation enriched the validity of findings by capturing voices across generational, religious, and socio-economic lines. As a result, the study reveals both the resilience and the vulnerability of local custodial ethics when faced with the structural realities of poverty and informal governance.

C. ANALYSIS/ DISCUSSION

1. The Phenomenon of Child Labor among Banjar Children and Its Challenge to the Legal and Ethical Foundations of Hadhanah

Field data collected through interviews, observations, and documentation in Banjarmasin between March and July 2025 reveal that child labor has become a pervasive and socially normalized practice within Banjar communities. Children between the ages of 8 and 14 were frequently found participating in street busking, vending, assisting in family businesses, and in more precarious forms of labor such as

²² Sotska and others.

²³ Hasan, Muzainah, and Setyadi.

²⁴ Heinz-Hermann Kruger, ‘The Importance of Qualitative Methods in the German Educational Science’, in *Qualitative Analysis and Documentary Method* (Verlag Barbara Budrich, 2010), pp. 52–74 <<https://www.jstor.org/stable/j.ctvbkjvmn.5%0AJSTOR>>.

²⁵ Ewald Terhart, ‘Handbuch Qualitative Forschungsmethoden in Der Erziehungswissenschaft’, in *Entwicklung Und Situation Des Qualitativen Forschungsansatz- Zes Der Erziehungswissenschaft*, ed. by Aneadore Friebertshäuser, Barbara/Pregel (Weinheim/München: Juventa, 1997), pp. 27–42.

²⁶ F.C. Susila Adiyanta, ‘Hukum Dan Studi Penelitian Empiris: Penggunaan Metode Survey Sebagai Instrumen Penelitian Hukum Empiris’, *Administrative Law and Governance Journal*, 2.4 (2019), 697–709 <<https://doi.org/10.14710/alj.v2i4.697-709>>.

²⁷ Sotska and others.

²⁸ Hasan, Muzainah, and Setyadi.

²⁹ Njieassam.

begging or performing as street entertainers³⁰. Respondent 6³¹ and 10³² confirmed their involvement in these roles, working up to 20–30 hours per week, reflecting an exploitative threshold that places their health, education, and psychosocial development at risk.

Respondents 11³³ and 12³⁴ described their experiences as emotionally taxing, noting the fatigue and social stigma encountered while working in public spaces. These accounts echo broader economic conditions: family poverty, parental illness, and disrupted education pathways emerged as the main drivers of child labor, particularly among families with limited access to state support.

Illustratively, Respondent 14³⁵ remarked, "My father is sick, and my mother cannot work, so I help earn money for food." Respondent 27³⁶ explained, "In our culture, we are taught to be responsible early. It is not just about money, but being useful for the family." This intertwining of cultural obligation and economic need reveals how *menggaduh* (custodial care) is reinterpreted not as a phase of nurturing, but as an initiation into responsibility, echoing the collective beliefs cited by Respondent 40³⁷, who reflected a reversal of traditional gender roles: the mother working while the father took on custodial duties.

Community figures also played a significant role in shaping responses to child labor. Respondents 13³⁸, 29³⁹, and 30⁴⁰ indicated that neighborhood leaders and religious figures provided both material assistance and ethical counsel, urging parents to prioritize education and protect children from exploitation. The dialogue between figures such as Salim and Rahman⁴¹—documented during community forums—offered insight into local moral governance, emphasizing values like "*rasa malu*" (shame of neglect), communal protection, and spiritual guidance rooted in Islam.

³⁰ Kazuya.

³¹ Respondent 6, 'Interview' (Banjarmasin: May 15, 2025).

³² Respondent 10, 'Interview' (Banjarmasin: May 28, 2025).

³³ Respondent 11, 'Interview' (Banjarmasin: June 5, 2025).

³⁴ Respondent 12, 'Interview' (Banjarmasin: June 7, 2025).

³⁵ Respondent 14, 'Interview' (Banjarmasin: June 28, 2025).

³⁶ Respondent 27, 'Interview' (Banjarmasin: July 3, 2025).

³⁷ Respondent 40, 'Interview' (Banjarmasin: July 4, 2025).

³⁸ Respondent 13, 'Interview' (Banjarmasin: June 9, 2025).

³⁹ Respondent 29, 'Interview' (Banjarmasin: July 3, 2025).

⁴⁰ Respondent 30, 'Interview' (Banjarmasin: July 3, 2025).

⁴¹ Salim and Rahman, 'Interview' (Banjarmasin: July 2, 2025).

Judicial responses mirrored this social complexity. Judges from the Religious Court (Respondents 20–23⁴², 31–34⁴³) described using discretion to transfer *hadhanah* to alternative guardians when parents were deemed incapable due to economic hardship. These cases demonstrate a shift from rigid textualism to a more adaptive, contextualized Islamic jurisprudence that resonates with Responsive Law Theory⁴⁴ and Legal Culture Theory⁴⁵. The cumulative data show a profound dissonance between the ideals of *fiqh al-usrah*, which designates parental care as a right and duty, and the economic conditions that force children into labor⁴⁶. Although Islamic doctrine expects fathers to fulfill financial responsibilities (*nafaqah*), many are unable or absent, and children step into this void as *de facto* providers⁴⁷. This erodes the core protective function of *hadhanah*, reconfiguring it into a family survival strategy.

The normalization of child labor, frequently legitimized by cultural ideals of filial duty and moral upbringing, presents a paradox. While it may foster a sense of communal endurance, it simultaneously undermines the ethical and legal foundations of Islamic custodial principles⁴⁸. The traditional notion of *menggaduh*, which was historically associated with maternal empathy and collective responsibility, is increasingly interpreted through an economic perspective. As financial pressures intensify, the community’s understanding of custodial roles transitions from nurturing and protecting the child to emphasizing economic contribution. This shift jeopardizes the spiritual objectives of *hadhanah*, which prioritize the comprehensive well-being and development of the child in accordance with Islamic jurisprudence. Moreover, the distinction between voluntary familial assistance and exploitative child labor becomes progressively obscured, prompting critical ethical concerns regarding the boundaries

⁴² Respondent 20–23, ‘Interview’ (Banjarmasin: July 1, 2025).

⁴³ Respondent 31–34, ‘Interview’ (Banjarmasin: July 1, 2025).

⁴⁴ Teja Sukmana, ‘Responsive Law and Progressive Law: Examining the Legal Ideas of Philip Nonet, Philip Selznick, and Sadjipto Raharjo’, *Peradaban Journal of Law and Society*, 2.1 (2023), 92–105 <<https://doi.org/10.59001/pjls.v2i1.82>>.

⁴⁵ Lawrence M. Friedman, *The Legal System a Social Science Perspective* (New York: Russell Sage Foundation, 1987).

⁴⁶ Tarmizi M. Jakfar Tarmizi M. Jakfar and Nur Azizah Fayyadhah Binti Baharuddin Nur Azizah Fayyadhah Binti Baharuddin, ‘Peran Majelis Sulh Dalam Penyelesaian Hak Hadhanah Pasca Perceraian (Studi Kasus Di Mahkamah Syariah Kabupaten Tawau, Provinsi Sabah, Negara Malaysia)’, *SAMARAH: Jurnal Hukum Keluarga Dan Hukum Islam*, 2.1 (2018), 197 <<https://doi.org/10.22373/sjhc.v2i1.3112>>.

⁴⁷ Durotun Nafisah and others, ‘Comparative Analysis of Islamic Family Law and Normative Law: Examining the Causes of Divorce in Purwokerto, Indonesia’, *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 8.2 (2024), 847 <<https://doi.org/10.22373/sjhc.v8i2.16825>>.

⁴⁸ Stark and Budzinski.

of parental authority. In such a context, cultural values that once served as safeguards for children are being reframed to justify their premature involvement in income-generating activities.

Adding a political dimension, the institutional failures to prevent child labor reveal systemic governance gaps. Theories of regulatory capture and state inaction in political science underscore how weak enforcement and low political commitment contribute to custodial breakdown⁴⁹. Public officials interviewed indirectly acknowledged these gaps, emphasizing budget constraints and lack of inter-agency coordination. These structural weaknesses not only impede effective intervention but also erode public confidence in the ability of state mechanisms to uphold the rights of children. As a result, communities often turn to informal moral authorities and religious leaders to fill the void left by institutional inadequacies, further blurring the lines between legal enforcement and cultural negotiation.

In contrast to prevailing academic discourse that primarily analyzes hadhanah through doctrinal interpretations and judicial rulings (Somaiyah⁵⁰, Sotska et al.⁵¹), this study reframes child labor as a critical disruption with both social and economic as well as legal dimensions. It advocates for a broader reconceptualization of Islamic custodial norms, one that extends beyond theological exegesis to embrace political accountability and institutional responsiveness. This shift calls for legal reasoning that is firmly rooted in the daily realities of vulnerable communities. Rather than viewing hadhanah as a fixed juridical construct, it should be understood as a responsive ethical practice that adapts to evolving social conditions. Elevating the perspectives of affected families and incorporating community-based governance mechanisms enables Islamic legal traditions to address the increasingly complex landscape of child protection with greater relevance and sensitivity.

In response to the complex and overlapping challenges identified in this study, several strategic interventions are proposed. Judicial authorities should expand the scope of custodial evaluations to encompass the economic fragility of households. Grassroots programs anchored in the objectives of *maqāṣid al-sharī‘ah* ought to draw

⁴⁹ Njieassam.

⁵⁰ Bittiandra Chand Somaiah and Brenda S.A. Yeoh, ‘Grandparenting Left-behind Children in Javanese Migrant-Sending Villages: Trigenerational Care Circuits and the Negotiation of Care’, *Geoforum*, 143.June 2022 (2023), 103767 <<https://doi.org/10.1016/j.geoforum.2023.103767>>.

⁵¹ Sotska and others.

upon indigenous wisdom and moral traditions to curb exploitative child labor. Public awareness initiatives should also work toward reestablishing *menggaduh* as a dignified and protective form of caregiving rather than a mechanism for economic survival. These efforts must be complemented by coordinated action across religious courts, social welfare agencies, and educational institutions to build an integrated and effective child protection system. Additionally, policymakers are encouraged to embed culturally resonant practices within formal legal structures, thereby strengthening their social legitimacy and practical efficacy. Through such measures, Islamic family law can more effectively engage with the complexities of present-day life while remaining grounded in its core commitments to justice, compassion, and the well-being of the child.

In conclusion, the case of Banjarmasin is not an isolated phenomenon but a reflection of broader questions facing Islamic legal systems: Can they preserve their ethical mandates amid economic duress and shifting cultural landscapes? Can governance and legal reform converge to sustain the dignity and rights of children in Muslim societies?

2. Local Moral Governance and the Negotiation of Custodial Ethics amid Child Labor in Banjarmasin

Field data from community leaders, religious scholars, and family members indicate that in the face of growing child labor, informal local governance plays a central role in shaping how Islamic custodial norms are interpreted and implemented. Observations⁵² and interviews with figures like Salim and Rahman⁵³ documented in local forums show that ethical appeals, public reminders (*nasehat*), and communal shame (*rasa malu*) are frequently invoked to promote child welfare in the absence of effective formal intervention.

Respondents 13⁵⁴, 29⁵⁵, and 30⁵⁶ affirmed that these leaders regularly mediate familial disputes and guide custodial practices by referring to both Islamic teachings and Banjar wisdom. For example, Respondent 30⁵⁷ shared, "We remind parents that

⁵² Leaders.

⁵³ Salim and Rahman.

⁵⁴ R13, Interview.

⁵⁵ R29, Interview.

⁵⁶ R30, Interview.

⁵⁷ R30, Interview.

raising a child is a trust (*amanah*) before God. We help them when they struggle, but we do not excuse negligence."

Additionally, Respondent 39⁵⁸ noted, "The community feels responsible. If a child is working too much, elders will talk to the parents." Respondent 40⁵⁹ illustrated how the community accepts flexible gender roles in custodial practice, as long as the child's dignity and education are preserved. These informal interventions often preempt formal court decisions, creating a layered legal reality where moral persuasion precedes juridical action.

This phenomenon aligns with the theoretical frameworks of Legal Culture Theory⁶⁰, where the normative force of law is shaped by community beliefs, and Responsive Law Theory⁶¹, in which law adapts to social needs through negotiated understandings. But to expand the lens, Governance Theory from political science offers further insight⁶². The absence of robust state-led enforcement in Banjarmasin leaves room for what may be termed "moral governance"—a fusion of ethical leadership, religious influence, and local social capital that mediates tensions between survival-based labor and Islamic custodial doctrine.

What emerged from the findings, namely the active role of informal community leadership in substituting for formal institutions, was simultaneously anticipated and surprising⁶³. While sociological theory anticipates moral actors stepping in during governance gaps, the extent to which community values realign Islamic ethics with socio-economic survival indicates a deeper socio-legal transformation⁶⁴.

The trend visible here is a contextualized Islamic custodial ethic shaped not in courts but through dialogical processes at the grassroots⁶⁵. Custody is not merely a

⁵⁸ Respondent 39, 'Interview' (Banjarmasin: July 3, 2025).

⁵⁹ Respondent 40.

⁶⁰ M. Friedman.

⁶¹ Sukmana.

⁶² Łukasz Świącicki, 'Local Self-Government as a Problem of Political Theory', *Polish Political Science Yearbook*, 4.48 (2019), 531–42 <<https://doi.org/10.15804/ppsy2019401>>.

⁶³ Nur Wakhidah and others, 'The Legal Culture of Samin Community of Family Law in Central Java', *AL-IHKAM: Jurnal Hukum & Pranata Sosial*, 19.1 (2024), 125–50 <<https://doi.org/10.19105/al-lhkam.v19i1.10341>>.

⁶⁴ John R. Bowen, *Islam, Law, and Equality in Indonesia an Anthropology of Public Reasoning* (New York: Cambridge University Press, 2003), LIX.

⁶⁵ Adonteng-Kissi.

parental right adjudicated by religious judges⁶⁶; it is a contested moral space where economic need, cultural loyalty, and spiritual obligation converge⁶⁷. The result is a dynamic reinterpretation of *hadhanah* that retains its spiritual core but adapts to material constraints. This reconfiguration challenges conventional dichotomies between sacred duty and socio-economic necessity, illustrating how legal meanings evolve in lived contexts. It further demonstrates the community’s capacity to preserve Islamic ethical commitments while navigating structural vulnerabilities with pragmatic resilience.

Contextually, this represents more than doctrinal negotiation. It reflects a community's capacity to uphold child protection in culturally grounded ways amid institutional neglect. Compared to prior studies that portray *hadhanah* through legalistic or text-centric paradigms, the findings here position moral governance as a locally effective but systemically fragile mechanism. Its strength lies in its immediacy and cultural resonance, yet it remains vulnerable to inconsistencies and lacks enforceable authority. Thus, while community-based ethics offer practical custodial alternatives, they require strategic reinforcement through formal legal integration to ensure long-term sustainability and equity.

This trend also mirrors broader Islamic legal discourse on *urf* (custom) as a legitimate source of law when not in contradiction with *shari’ah*. In this light, *menggaduh* becomes not merely customary but an evolving legal ethos grounded in collective conscience. Its normative value derives from its rootedness in communal experience and ethical intention, aligning with maqāṣid-based reasoning. As such, *menggaduh* is not a deviation from Islamic jurisprudence but a local instantiation of its core principles. This underscores the potential of contextual legal reasoning to adapt Islamic family law in response to lived realities without compromising doctrinal integrity.

The future implications of this research unfold along two trajectories. On a positive note, locally grounded moral governance offers a promising template for regions where institutional infrastructure remains underdeveloped, affirming the potential of community-driven justice. Conversely, excessive dependence on informal mechanisms risks entrenching inconsistency and inequality, particularly in cases

⁶⁶ Tarmizi M.Jakfar and Nur Azizah Fayyadhah Binti Baharuddin.

⁶⁷ Lambon-Quayefio and Owoo.

where communal norms are fragmented or influenced by elite-driven interpretations. Such vulnerabilities highlight the importance of strategically aligning formal legal structures with culturally rooted practices. Any effort to bridge these domains must preserve ethical coherence and avoid compromising core protections. Therefore, subsequent legal reforms should thoughtfully incorporate community perspectives while upholding standards of due process and safeguarding the rights of vulnerable populations.

As a way forward, this study recommends integrating moral governance mechanisms into formal legal reform through hybrid models that include community representatives in child custody deliberations. Public policies should recognize and resource these actors, not to replace the state, but to bridge the legal-cultural gap with institutional support. Doing so may enhance the legitimacy and effectiveness of custodial decisions by incorporating culturally embedded moral reasoning. It also allows for greater legal pluralism, in which multiple sources of normative authority coexist and cooperate for the welfare of the child. Ultimately, such integrative models may strengthen institutional resilience and foster a more responsive legal system attuned to the complexities of social reality.

Ultimately, the evolving discourse on custodial ethics in the context of child labor in Banjarmasin illustrates a form of adaptive resilience rooted in local agency. Rather than discarding Islamic legal principles, the community reinterprets and applies them through culturally resonant moral frameworks that aim to uphold the well-being of children in the absence of robust institutional safeguards. This process exemplifies a dynamic interaction between normative tradition and lived experience, where legal values are not diminished but reimagined to meet pressing social realities.

D. CONCLUSION

This study has revealed that the increasing normalization of child labor in Banjarmasin has led to a significant reconfiguration of *hadhanah* within the local Islamic legal context. The traditional custodial model, centered on parental responsibility and child protection, is being reshaped by economic hardship, cultural expectations, and informal governance responses. The most critical finding is that children are assuming roles as economic contributors in the household, thereby

disrupting the legal and ethical foundations of custodial care as envisioned in Islamic family law.

The conceptual lenses applied in this study, namely Responsive Law Theory and Legal Culture Theory, demonstrated substantial utility in interpreting the interaction between legal norms and socio-economic realities on the ground. These frameworks illuminated the ways in which religious guidance, cultural traditions, and moral authority collectively influence custodial determinations, particularly in contexts where formal legal mechanisms prove inadequate or ineffective. The integration of these theoretical perspectives with empirical evidence reinforces a broader understanding of Islamic legal practice that preserves its normative foundations while remaining adaptable to shifting social contexts.

To reinforce these findings, the study argued that local moral governance, as expressed through the actions of community leaders, religious scholars, and customary ethics, functions as a parallel mechanism to state law by sustaining ethical custodial practices when institutional enforcement proves inadequate. This argument challenges the strict division between formal and informal legal systems, suggesting that formal law often derives its effectiveness from the legitimacy and support provided by informal structures. Furthermore, the study highlights the potential of localized moral authority to address governance deficiencies by offering culturally meaningful solutions. By acknowledging and incorporating these community-rooted frameworks into official policy-making, legal interventions aimed at protecting children may become both more effective and more socially accepted.

Despite its contributions, this study acknowledges certain limitations. The research was confined to a single geographic region and cultural context, which may constrain the extent to which its findings can be generalized to other settings. Additionally, although the study prioritized qualitative richness and contextual insight, it did not incorporate statistical measurements to assess the national scope of child labor or judicial patterns more broadly. Future research would be well-served by adopting a comparative framework across multiple regions or integrating qualitative and quantitative methodologies. Such an approach would enhance our understanding of how Islamic legal principles are continuously reshaped in response to evolving economic pressures and cultural shifts.

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- 14, Respondent, ‘Interview’ (Banjarmasin: June 28, 2025)
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- 27, Respondent, ‘Interview’ (Banjarmasin: July 3, 2025)
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