

MUSLIM WOMEN'S RIGHT TO HADANA FOR RAISING AND UPBRINGING A CHILD IN AN ISLAMIC MANNER IN ADAMAWA STATE

Khadijat Buba

College for Continuing Education, Department of Islamic Studies,
Adamawa State Polytechnic, Yola.

Email: khadijatmaiha@gmail.com

ABSTRACT

This paper delves into the issues of Hadana rights of Muslim women in Islam as a tool for raising and upbringing a child in an Islamic manner in Adamawa state. The study suggests for solutions based on Islamic principles, emphasizing the crucial role of Hadana right of Muslim women. To x-ray and foster Islamic sustainable development on right of Muslim women for Hadana in Adamawa state, the Shari'ah principles were fully adopted. The research employs qualitative methods and field studies to capture the experiences on perspectives of Muslim women right to Hadana in the community. Islamic scholars were urged to put more effort to highlight and address the threat of barbaric and uncivilized custom in Adamawa state and to advocate for women's involvement in Hadana activities. Also, the study emphasize on the importance of intensified efforts by Imāms, Islamic scholars, and Muslim organizations to disseminate the pristine teachings of Islam regarding women's rights to Hadana. Therefore, in addressing the challenges of this menace and ensuring the realization of women's Hadana rights to child a promising future awaits Muslim communities through prioritizing shari'ah principles accordingly.

Keywords: Muslim Women's Riagt, Hadana, Raisina, Ubrinaina, Islamic Manner.

sources from the Qur'an as follows:

1. Introduction

Hidana is derived from the word '*hadana*' which literally means to embrace or hug. In the Shari'ah it means raising or bringing up of a child. *Hidana* is a form of guardianship which women are more suitable to assume because they are more experienced in the area of looking after children, and they are generally more caring and compassionate.

Hidana means care of a child by the mother under the Islamic law, custody of a child whether male or female is generally granted to a mother unless there is compelling reason not to do so. Even where the mother for one reason or the other cannot cater for her child, custody is given to her relation not the relation of the father. An in-depth study of Islamic law reveals that there is no verse in Quran on custody of minors but the classical Muslim jurists have referred to the verse of fosterage (***Ayat al Radha'at***) which says that ***the mother should breastfeed their infants for two complete years. Therefore through Iqtada al Nass, it is inferred that in the years of infancy the right of upbringing and fostering the child remains with the mother.*** Therefore, the term *hadana* get it

"The Mothers shall give suck to their offspring for two whole years. For him who desires to complete the term but he shall bear the cost of their food and clothing on equitable terms." (Qur'an 2:233).

Adamawa is one of the largest states of Nigeria and occupies about 36,917 square kilometers. It is bordered by the states of Borno to the northwest, Gombe to the west and Taraba to the southwest.

Its eastern border forms the national eastern border with Cameroon.

So, Adamawa state is located in the north-east geographic zone of Nigeria and to be specific the state majority dominant were Muslim *ummah* and mostly Fulani inclination with some minority tribes living side by side with the dominant Fulani tribe. So, the state has 21 local governments with three senatorial zone respectively. Muslim in Adamawa state are mostly Maliki school followers. Adamawa state is home to many languages due to the state's ethnic diversity, inter-ethnic communication is mostly done using Fulfulde, Hausa or English.

Many of the state's languages are at danger of extinction due to economic, social, political, religious, and contextual factors. Fewer and fewer people are using their ethnic languages in homes (Roelofs, 6).

The question and issues of *Hadana* arises mostly in Adamawa state based on the under listed situation either by way of separation of the parents as a result of formal divorce, nullification of marriage or death of the spouse. Therefore women have absolute right and the issue will arise as to the custody of the child in Question; then Shari'ah principle will avail over custom and western position on the issues of custody of child.

Muslim jurists gave preference as to who has the right to care for a child taking into consideration the interest of the child. Women are preferred over men, and within the same gender preference has been given to those who are closer to the child and who are expected to be more compassionate and merciful.

Women:

- i. The mother unless she is unfit.
- ii. Grandmothers: from the mother's side first and then from father's.
- iii. Sisters: Full sister, half-sister from the mother's side and then half-sister from the father's.
- iv. Aunties: from the mother's side and then from the father's.
- v. Nieces: from the mother's side and then from the father's.

Men:

If none of the above mentioned women is available or available but unfit, then *hadana* is becomes the right of one of the men in the following order:

- i. The father, and then the grandfathers.
- ii. The brothers and then their children (nephews).
- iii. The uncles and then their children (cousins) (Moussa, 7).

Pre- Conditions for *Hadana* (Custodianship)

- i. Maturity and Sanity.
- ii. Physical capacity Capability to look after the child (strength).
- iii. Trustworthiness.
- iv. Religion.

I. Maturity and Sanity In order to qualify for *hadana* a person must have reached the age of majority. A minor lacks the legal capacity to receive *hadana*, for he is unable to guard and take care of himself.

II. Physical Capacity: The child's custodian must have physical strength. In the event of physical incapacitation, he is not entitled to *hadana*.

III. Trustworthiness: In this case the person who takes care of the child must be trustworthy person having good character with lighting image of the religion.

IV. Religion: Receiving *hadana* is not contingent upon being a Muslim. Conceptually, *hadana* is rooted in compassion. Thus, even if the mother belongs to the Dhimmi she is entitled to keep the child "This, however, is not the case regarding a person who was a Muslim and left the religion, for a woman apostate would be imprisoned until her return to Islam. No school other than the Shafi'i requires that the mother pray as a condition to her entitlement to *hadana*."

There is a further condition in the case of a woman which is that, she should not be married to a man who is a stranger to the child (not a close relative) or who lived very far from the child relatives where the destination of child cannot be reached within forty eight hours (48) hour.

A woman came to the Prophet and said: O Messenger of Allah! I carried my son in my womb, suckled him my breasts and held him on my lap; yet his father has divorced me and wants to take him away from me. The Prophet replied: "You have more right to him as long as you do not re-marry (Sunan Abu Dawood) vol 1, p. 3058).

- Re-marry strange man to the child.
- The child does not go to the father but to the grandmother.

A man called rafi' bin Sinan accepted Islam but his wife refused to accept it. The Prophet then made the mother sit down to a side and the father to another side, and made the son sit down between them the son inclined

to his mother. The Prophet then said:

O Allah! Give him guidance" Then he inclined to his father and he took him (Sunan Abu Dawood) vol 1, p. 3059)

According to this Hadith some scholars said that being a polytheist does not nullify the right of a mother to her child. Other scholars however, are of the opinion that being a Muslim is a precondition for custody of a child.

There is a further condition in the case of a man which is that he should have a wife or a mother who would be looking after the child.

The Holy Qur'an, *Sunnah* and *Ijtihad* are the three main sources of Islamic law which govern and regulate all aspects of a Muslim's public and private life. These laws relate to religious worship, prohibitions, and all contracts and obligations that arise in social life such as inheritance, marriage, divorce, punishments, conduct of war and the administration of the state.

The science of these religious laws is called *Fiqh* and the expert in this field such as a jurist is called a *faqih* (plural: fuqaha). *Ijtihad*, or the exercise of judgment, is a valid source of Islamic laws in areas where the Holy Qur'an and the Traditions are not explicit. But the exercise of this independent judgment can only be left in the hands of proper scholars of the Holy Qur'an and the Tradition.

The vast majority of Muslims give this right of independent reasoning to only four ancient Muslim theologians and jurists who lived in the first three centuries of Islam. These four fuqaha are: Imam Abu Hanifa of Kufa, Imam Malik bin Anas of Madina, Imam Muhammad al-Shafi of Madina, and Imam Ahmad bin Hanbal of Baghdad.

Although a number of other jurists also became popular during their times, only the above four are now recognized by the vast majority of Sunni Muslims. These four great jurists and theologians tried to systemize the Islamic law into a comprehensive rational system which covered all possible legal situations. The four prominent schools of Islamic law are named after their founders and are called the Hanafiyya, the Malikiyya, the Shafiyya, and the Hanbaliyya schools of religious law (al-

Baihaqi, 8).

Most Muslims regard these four schools as equally valid interpretations of the religious law of Islam. These schools are in good agreement on all essential aspects of the religion of Islam. They all acknowledge the authority of the Holy Qur'an and the Traditions as the ultimate source of the Islamic law. Only in areas and situations where these two sources are silent, do the four schools use their independent reasoning in which they may differ with each other as to finding of the result.

The earliest school formed was by Imam Abu Hanifa (699-767 A.D.) of Kufa. It generally reflects the views of the jurists of Iraq. Abu Hanifa did not compose or write any books on law himself, but his numerous discussions and opinions as recorded by his disciples, form the basis of this school.

As a theologian and a religious lawyer, Abu Hanifa exercised considerable influence in his time. His legal thought is very consistent, uses high degree of reasoning, avoids extremes, and lays great emphasis on the ideas of the Muslim community. The Ahmadi Muslims generally follow the Hanafiyya School of law.

Other areas in which this school has a following include Turkey, the countries of the Fertile Crescent, Lower Egypt and India.

The next school of law in order of time was the one founded by Imam Malik bin Anas (d. 795 A.D.) of Madina and reflects the views and practices associated with that city. Imam Malik served as a judge in Madina and compiled all his decisions in a book form called al-Muwatta (the Levelled Path).

Like the jurists of Iraq, Imam Malik preferred to depend more on the Traditions associated with the Companions of the Holy Prophet. The adherents of this school are predominantly in North African countries.

The third school was founded by Imam al-Shafi (d. 820 A.D.) who was a disciple of Imam Malik. Imam Shafi placed great importance on the Traditions of the Holy Prophet Muhammad (SAW) and explicitly formulated the rules for establishing the Islamic law. He was a great thinker, had an unusual grasp of principles and a clear understanding of the judicial problems. This school is strong in Lower Egypt, Syria, India

and Indonesia.

This school was founded by Imam Ahmad bin Hanbal (d. 855 A.D.) of Baghdad. Imam Hanbal did not establish a separate school himself; this was rather done by his disciples and followers.

The *Hanbaliyya* was the most conservative of the four schools. Its rigidity and intolerance eventually caused its decline over the years. In the eighteenth century, however, this school was revived with the rise of *Wahhabism* and the growing influence of the House of Sa'ud. Today, *Hanbaliyya* School is followed only in Saudi Arabia.

The Hanbali's insist on the literal injunctions of the Holy Qur'an and the Hadith and are very strict in the observance of religious duties (Ibn Qaddama, 614).

Although the Muslims generally apply the Islamic law according to the principles and details laid down by the four ancient jurists, legal situations keep arising from time to time for which there are no clear answers in these early schools of law. To cope with this changing aspect of Islamic society, particularly in the light of new facts, specialists in the field of Islamic law are asked to give their decisions using the traditional tools of legal science. Such a decision is called a *fatwa* and the religious scholar who gives this decision is called a *mufti*.

According to the Maliki School, the right of hadana is given to the mother and to the maidservant whose child is free.

The enforcement of women right for *hadana* in Adamawa state

The responsibility of enforcing the Sharia (Islamic law) was the task of the Alkali (from the Arabic term *Qadi*). Aided by the muftis and modibbe (learned men) of the emirate, who took charge of the courts and is the only counsellor who operated independent of the Lamido. He was, however, appointed by the Lamido before now but today it's left for the Shari'ah court to enforce the right of hadana.

Adamawa state is home to many languages due to the state's ethnic diversity. Inter-ethnic communication is mostly done using Fulfulde, Hausa or English. Many of the state's languages are at danger of extinction due to economic, social, political, religious, and

contextual factors. Fewer people are using their ethnic languages in homes.

Therefore, for any Shari'ah issues which is not explicit in Qur'an, *Sunnah* and *Ijma* then *ijtihad* of the *fuqaha* is paramount significant for acceptance and admissibility. Islam being rooted in Adamawa state and it's environ the application of shari'ah is easier in all its formations so the right of hadana is not excluded in the state

2. Findings

The *Hadana* rights of Muslim women in Islam as a tool for rising and upbringing a child in an Islamic manner in Adamawa state had declined in effectiveness due to improper understanding of the difference opinion of Islamic scholars by some faithful Muslim. In the present Muslim societies the juxta fox of opinion by some scholar became a lacuna in courts, so also, the tradition which say "*al ikhtila'a fatul umatee fahuwa rahma*" the difference opinion of my scholar is mercy' and further statement by Imam Malik which collaborate such position and says "*iza'a sakha hadith fahuwa mazhabee*". When an excellent tradition emerge take it.

3. Recommendations

The *Hadana* rights of Muslim women in Islam as a tool for raising and upbringing a child in an Islamic manner in Adamawa state had enjoy the concept of *hadana* according to Shari'ah. The main recommendations of the study are as follows: -

1. *To ensure the legitimacy of Hadana rights of Muslim women in Islam as a tool for raising and upbringing a child in an Islamic manner in Adamawa state.*
2. *Ascertain the achievement of Hadana rights of Muslim women in Islam as a tool for raising and upbringing a child in an Islamic manner in Adamawa state.*
3. *Provide possible moral, political value and significant of Hadana rights of Muslim women in Islam as a tool for raising and upbringing a child in an Islamic manner in Adamawa state.*
4. *Suggest way forward and solution to proper application of Hadana rights of Muslim women in Islam as a tool for raising and*

upbringing a child in an Islamic manner in different community of Adamawa state.

4. Conclusion

Hadana, Care of a child by the mother. Custody of a child belongs to the mother or other women relatives until the child no longer needs a woman's care, can drink and eat unassisted, can learn about other bodily functions, and can perform ablutions or purification unassisted. For a boy this is estimated at seven years of age. A girl remains under the custody of women relatives until she reaches puberty (*hadd al-shahwa*), when she must move to the protection of men; this is estimated to be from nine to eleven years of age, in the opinion of various legal authorities. When boys reach seven and girl's nine to eleven, they are handed over to their father (or the closest male relative, according to their order of inheritance) to begin the second stage of custody, known as *Damm*. This is according to

the Hanafi code applied in most Islamic countries today. Other schools of law differ; for example, the Maliki's allow a boy to remain with the mother until he reaches puberty and a girl to remain with her mother until she is married. *Hadana* belongs primarily to the mother, but if she remarries, she loses custody over her daughter unless the court decides otherwise. If a mother loses *Hadana*, the child moves to the maternal grandmother; if that is not possible, then to the paternal grandmother, the maternal aunts, the paternal aunts or sisters, and so on. *Damm* belongs to male relatives: first the father, then the grandfather, uncle, and so on. *Damm*, which is enforced by the authorities if the mother refuses to surrender her children, is rationalized on the basis of a boy's need for male discipline and a girl's need for male protection at a vulnerable age before her marriage.

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