INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

ISSN: 2582-6433

November 2026

RESEARCH ARTICLE

# The "Digital Good Mother" Standard: A Psycholegal Review of Social Media Surveillance, Performative Domesticity, and Custody Adjudication in Family Courts

**Supraja Thogarapalli Jayasankaran**

JAIN (Deemed to be University)

www.ijlra.com

# ABOUT THE JOURNAL

## International Journal for Legal Research and Analysis (IJLRA)

ISSN: 2582-6433

IJLRA provides a platform for scholarly writing and discussion on law, legal research and interdisciplinary questions. Research articles explore legal principles, institutions, policy and contemporary developments.

Journal website: www.ijlra.com

# PUBLICATION INFORMATION

**International Journal for Legal Research and Analysis**

ISSN: 2582-6433

## Editorial note

The views and arguments expressed in this article are those of its author(s). Readers should consult the original legal authorities and sources cited in the manuscript.

Copyright and permissions are subject to the applicable publication agreement.

# ARTICLE DETAILS

## The "Digital Good Mother" Standard: A Psycholegal Review of Social Media Surveillance, Performative Domesticity, and Custody Adjudication in Family Courts

**Author: Supraja Thogarapalli Jayasankaran**

Institution: JAIN (Deemed to be University)

Journal: International Journal for Legal Research and Analysis

ISSN: 2582-6433

# The "Digital Good Mother" Standard: A Psycholegal Review of Social Media Surveillance, Performative Domesticity, and Custody Adjudication in Family Courts

**Supraja Thogarapalli Jayasankaran**

JAIN (Deemed to be University)

## ABSTRACT

Background: Social-media profiles are now easily accessible records of parenting behavior, but online self-presentation and parenting behavior are not the same. The purpose of this review is to consider the possible influence of the "digital good mother" ideal on child-custody assessments. It reviews surveys and research on sharenting, as well as verified studies and statistics from 2023 to 2025. It uses descriptive statistics. It reviews observational studies on parent sharenting and publishes survey data on perceived parenting judgment. It does not identify studies that support discriminatory child-custody outcomes. It interprets that digital content should be authenticated, provide context and purpose, and be relevant to the child in question to inform and influence child-custody outcomes. It argues that privacy should be protected using a proportionate and gender-neutral evidentiary standard.

Keywords: child custody; social media surveillance; motherhood; confirmation bias; sharenting; digital evidence; gender equality.

## 1. INTRODUCTION

Divorce cases are examples of family disputes in which everyday internet activity may be called upon to provide evidence. A photograph of a night out may become evidence of irresponsible behavior as may a text post expressing frustration. An apparently happy family portrait may also become evidence of parental irresponsibility. In the court of law, each of these may hold some evidentiary value to the case. However, as a judge, it is important to weigh the possible effects of using such evidence. The photograph documents only a moment. It does not show what occurred previously, what follows after, or the quality and continuity of care.

This paper describes the ideal of a continuously attentive, digitally respectable mother as the "digital good mother" standard. The term is an analytical tool and is not an official definition of Indian custody law. The value of the term is that litigants and evaluators might infer maternal fitness based on conformity to gendered expectations of respectable self-presentation. This is more apparent in cases where care work is required to be done in person, and where online care work is criticized as intrusive "sharenting."

Rather than empirical data, literature provides context. Surveys in the U.S. show that mothers are criticized for parenting in online groups.[1] Other studies, in Türkiye, Italy, and China, illustrate the disclosure of parenting-related content and reasons for the disclosure.[2] These may not be applicable to Indian family litigation. The core research question is more normative and evidentiary. How might a court utilize digital data pertaining to a child without transforming a socially constructed ideal of the good mother into a substitute for a child welfare inquiry?

## 2. OBJECTIVES AND RESEARCH QUESTIONS

The main objectives of the research are to (i) evaluate the kinds of pressure on mothers to self-surveil online; (ii) assess how online posts may be interpreted in an irresponsible and biased manner; (iii) analyze the legal and probative weight of digital evidence in custody matters; and (iv) develop safeguarding strategies and recommendations for practice.

Three questions guide the review: When could an online trace become probative of actual parenting? Which gendered assumptions and cognitive shortcuts pose a threat to fair interpretation? How should authentication, privacy, counter-evidence and the child's best interest shape the judicial response?

## 3. THEORETICAL AND LEGAL FRAMEWORK

### 3.1. Panoptic Surveillance and Performative Domesticity

Foucault's description of the regulation of behavior by the fear of being observed provides a way of understanding how a caregiver might manage online conduct to present an ideal or "best case" parenting scenario.[3] This analogy does not establish that custody courts systematically surveil mothers. It is possible, though, that a mother would be cautious about posting certain kinds of pictures for fear of being judged for not being a "good" parent. Likewise, a mother might post a lot of pictures of her children to demonstrate her closeness to them, or be perceived as neglecting them.

### 3.2. Confirmation bias

[1] Rachel Minkin & Juliana Menasce Horowitz, Gender and Parenting, Pew Rsch. Ctr. (Jan. 24, 2023), https://www.pewresearch.org/social-trends/2023/01/24/gender-and-parenting/.

[2] Maria Giulia Conti et al., Sharenting: Characteristics and Awareness of Parents Publishing Sensitive Content of Their Children on Online Platforms, 50 Ital. J. Pediatrics art. 135 (2024), https://doi.org/10.1186/s13052-024-01704-y.

[3] Michel Foucault, Discipline and Punish: The Birth of the Prison 195–228 (Alan Sheridan trans., Vintage Books 2d ed. 1995) (1975).

The tendency to search for or interpret evidence in a way that verifies a preconceived notion describes an example of a confirmation bias.[4] Once a caregiver is labeled as being negligent, a photo might be interpreted in that way even if there are more mundane reasons for the picture. The real test is whether the evidence presents an actual risk to the child.

3.3. Indian custody doctrine. Sections 17 of the Guardians and Wards Act, 1890 and Section 13 of the Hindu Minority and Guardianship Act, 1956, place welfare over parental right.[5] In Gaurav Nagpal v Sumedha Nagpal the Apex Court stated child's welfare is of primary concern, and not parental right.[6] The Family Courts Act, 1984, Section 14, permits family courts to receive such material. This does not make every electronic assertion authentic or reliable.[7]

3.4. Electronic evidence and privacy. The Bharatiya Sakshya Adhiniyam, 2023, (hereinafter 'the Act') (sections 61 to 63), governs Electronic Records, including outputs of computers; the Act has been in force since 1 July 2024, subject to the applicable transitional provisions.[8] Admissibility and authenticity should be differentiated from probative weight. The Supreme Court privacy judgments state that there are limitations to exposing the intimate details of the family.[9] The core legal question is whether a given context-specific, digitally stored information, bears on the child's welfare in a given case.

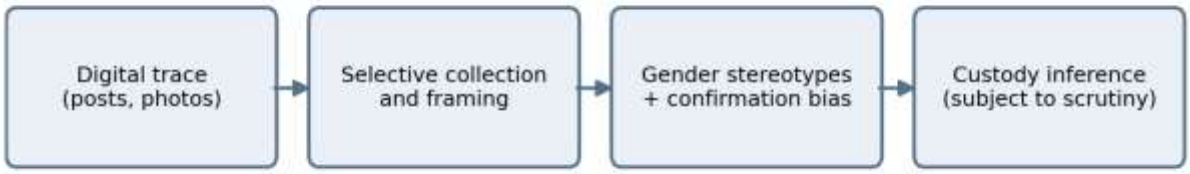


*Figure 1. Conceptual pathway; analytical model, not an estimated causal relationship.*

## 4. METHODOLOGY

This narrative psycholegal review has incorporated doctrinal analysis and descriptive reanalysis of secondary statistics. Primary legal and other materials were located in official repositories of

[4] Raymond S. Nickerson, Confirmation Bias: A Ubiquitous Phenomenon in Many Guises, 2 Rev. Gen. Psych. 175, 175–220 (1998), https://doi.org/10.1037/1089-2680.2.2.175.

[5] Guardians and Wards Act, 1890, No. 8, § 17, Acts of Parliament, 1890 (India). Hindu Minority and Guardianship Act, 1956, No. 32, § 13, Acts of Parliament, 1956 (India).

[6] Gaurav Nagpal v. Sumedha Nagpal, (2009) 1 S.C.C. 42 (India).

[7] Family Courts Act, 1984, No. 66, § 14, Acts of Parliament, 1984 (India).

[8] Bharatiya Sakshya Adhiniyam, 2023, No. 47, §§ 61–63, Acts of Parliament, 2023 (India). See also Ministry of Home Affairs, Notification S.O. 849(E) (Feb. 23, 2024) (commencement on July 1, 2024).

[9] K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 S.C.C. 1 (India).

laws and judgments, in Pew Research Center publications, and on publishers' webpages.[10] The more recent evidence window was 2020-2025. Older primary legal instruments and first principles of law and society were retained as they may continue to be valuable or relevant in the law and society domain. Relevant research was included if it studied norms of parenting and/or privacy, digital disclosure, and/or standards of evidence concerning custody. Opinion-based unreliable research was excluded.

Numerical analyses are limited to reported percentages. While a U.S. parenting survey (N = 3,757) and an Italian pilot (N = 228), a Turkish study (N = 130) and a Chinese instrument-validation study (N = 809) all deal with parenting, research designs and measurements differ.[11] No overall prevalence or effect size are calculated. Findings regarding parental posting or public attitudes towards childrearing on the Internet are not interpreted as evidence on Indian custody matters. No Systematic Review claim is made. Original coding of court files is not undertaken.

## 5. SECONDARY DATA ANALYSIS

The most relevant data show perceived parenting judgment in one U.S. survey. Of the survey respondents where online forums were applicable, 31% of mothers vs. 16% of fathers said they were judged in online forums at least sometimes. This represents a gap of 15 percentage points.[12] For judgment by other community parents, the gap was 41% vs. 27% (14 percentage points). Mothers also stated they found parenting to be tiring all or most of the time (47% vs. 34%), and stressful (33% vs. 24%). The data pertain to how parents feel they are being judged, and scrutinized, not to actual court cases and/or litigation.[13]

The Italian pilot reported that 98% of 228 participating parents used social media, 75% of social media users post child-related content, and 93% of respondents were unaware of legal risks as defined by the study. Clinical recruitment limits the study to the population of interest and precludes generalization to the overall population.[14] A correlation between the number of Instagram followers and child-related content was reported in a Turkish study of 130 mothers.[15] A Chinese study developed a sharenting motivation scale using interviews (n = 33) and quantitative samples (n = 134 and n = 809) and concluded that a variety of factors contribute to sharenting.[16]

---

[10] Minkin & Horowitz, supra note 1; Conti et al., supra note 2.

[11] Minkin & Horowitz, supra note 1; Conti et al., supra note 2; see also Orhan Kılıç et al., 66 Pediatrics Int'l e15736 (2024); Wang et al., 18 Computers Hum. Behav. Reps. art. 100625 (2025).

[12] Minkin & Horowitz, supra note 1, at Gender and Parenting; see also Rachel Minkin & Juliana Menasce Horowitz, Gender and Parenting, Pew Rsch. Ctr. (Jan. 24, 2023), https://www.pewresearch.org/social-trends/2023/01/24/gender-and-parenting/.

[13] Minkin & Horowitz, supra note 1 (survey of U.S. parents, not custody litigants).

[14] Conti et al., supra note 2.

[15] Betül Orhan Kılıç et al., The Relationship Between Mothers' Instagram Follower Count and the Concept of Sharenting, 66 Pediatrics Int'l e15736 (2024), https://doi.org/10.1111/ped.15736.

[16] Youyuan Wang et al., Development and Validation of the Motivation of Sharenting Evaluation Scale (MSES) Among Chinese Parents, 18 Computers Hum. Behav. Reps. art. 100625 (2025), https://doi.org/10.1016/j.chbr.2025.100625.

Four comparisons of mothers vs. fathers from one study are shown in Figure 2, rather than combining incomparable studies.[17] The difference is the reported percentage of mothers minus the reported percentage of fathers. No unreported standard errors or statistical significance tests are implied. Reviewed sources did not report data pertaining to Indian courts or judicial practices and their interaction with parental social media use.

### Table 1. Verified secondary evidence matrix

| Source; jurisdiction | Study/design; sample | Main reported finding | Relevance/limitation |
|---|---|---|---|
| Pew (2023); U.S. | Probability-panel survey; n = 3,757 | Mothers 31%, fathers 16% felt judged by online groups | Perceived scrutiny; not custody cases |
| Conti et al. (2024); Italy | Clinic-based pilot; n = 228 | 98% used social media; 75% of users shared child content | Posting prevalence in selected clinic |
| Kılıç et al. (2024); Türkiye | Observational Instagram study; n = 130 mothers | Higher follower count associated with riskier sharenting | Association; no custody outcome |
| Wang et al. (2025); China | Scale validation; n = 134 and 809 | Measured multidimensional motivations for sharenting | Non-Indian, non-judicial populations |

### Table 2. Evidentiary risk and safeguards

| Digital item | Possible relevance | Bias/privacy concern | Safeguard |
|---|---|---|---|
| Public party photograph | Timeline of a specific welfare allegation | Moral inference from ordinary leisure | Require link to child-specific risk |
| Child photo / geotag | Exposure or safety concern | Oversharing stereotype; child privacy | Redact identifiers; test context |
| Chat screenshot | Potential communication evidence | Selective cropping; misattribution | Request source, metadata, full thread |
| Posting frequency | Pattern of disclosure | Visibility confused with care quality | Do not infer parenting fitness alone |

### Table 3. Descriptive comparisons: Pew U.S. parenting survey (2023)

| Reported measure | Mothers % | Fathers % | Gap (percentage points) |
|---|---|---|---|
| Judged by online groups* | 31 | 16 | +15 |
| Judged by community parents | 41 | 27 | +14 |
| Parenting tiring most/all of time | 47 | 34 | +13 |
| Parenting stressful most/all of time | 33 | 24 | +9 |

* Online-group figures exclude those for whom the category did not apply. All figures are from one Pew survey (total parent sample n = 3,757); percentages do not describe custody litigants.[18]

[17] Minkin & Horowitz, supra note 1, at Gender and Parenting.

[18] Minkin & Horowitz, supra note 1.

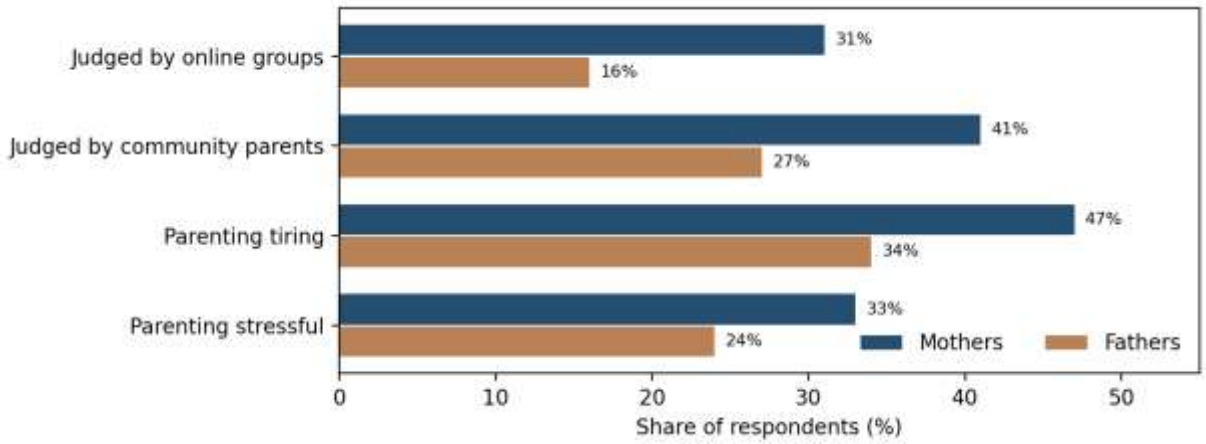


*Figure 2. Within-survey mother–father percentage comparisons. Source: Pew Research Center (2023); percentages as published.*[19]

## 6. RESULTS

6.1. Digital scrutiny. Surveyed mothers in the U.S. reported more frequent judgment from online groups and community parents than surveyed fathers. This creates a contextual gender asymmetry in reported, but not in actual surveillance, by Indian judges.[20]

6.2. Gendered interpretation. The literature shows that there is a common practice of posting pictures of children. It does not support that posting pictures of children frequently, or not posting pictures of children at all, reflects on a parent's ability to take care of children.[21] A double standard remains a plausible legal risk that requires further consideration.

6.3. Confirmation bias. Theoretical literature shows an interpretable pathway: a prior allegation may impact the selection of screenshots and how the judge would evaluate the evidence. However, no experimental evidence on this bias was found among Indian custody decision-makers.[22]

6.4. Privacy and Reliability. The best doctrinal position is that judges cannot evaluate the weight of the evidence merely because they gained access to the electronic material. Other issues may include the integrity of the source, who posted it, the order of things, and the completeness of the evidence in relation to the child's welfare. Evidence of adult's intimate relationship is not pertinent just because it offends a judge's sense of morality.[23]

## 7. DISCUSSION

[19] Minkin & Horowitz, supra note 1, at Gender and Parenting.

[20] Minkin & Horowitz, supra note 1 (reporting perceptions of parental judgment, not court surveillance).

[21] See Conti et al., supra note 2; Orhan Kılıç et al., supra note 15 (studies of parental disclosure, not custody fitness).

[22] See Nickerson, supra note 4 (general confirmation-bias literature; not an Indian custody study).

[23] Puttaswamy, supra note 9; Gaurav Nagpal, supra note 6.

The 'digital good mother' concept illustrates that a parent may put in a considerable amount of effort and perform family responsibilities in a way that may not be apparent to outsiders. In child custody cases, judges are required to make an individualized determination on the basis of the child's interests.[24] A parent's post may appear to provide evidence of family outings, but it does not reflect on the parent's ability to protect the child. Evidence of a family outing should not be used to determine child custody.

An asymmetry of social expectation can make that mismatch even worse. According to the Pew study, 31% of mothers, versus 16% of fathers, reported feeling judged at least sometimes by people in online groups.[25] The figure is important to provide social context, but the study does not provide an estimate specific to India. The Turkish and Italian studies point to the frequency of disclosures and potential risks, but do not validate digital profiling as a means of custody. The children's (particularly the teenagers') accounts also put the child's privacy as the focal point of the analysis as opposed to adult reputation.[26]

In India, the case law points towards the fact that family courts prefer to implement the statutory welfare principle. Within the framework of the Family Courts Act, 1984, there are a number of provisions that allow for a court to order electronic/digital records as evidence if need be (Section 14 being one of them).[27] Courts need to balance a number of things such as, the interest of the child, the welfare of the child and the moral conduct of parents. Judicial comparisons with respect to other jurisdictions may inform policy, but the data at hand does not, and should not, be relied upon to establish their judicial frequency.

## 8. RECOMMENDATIONS AND CONCLUSION

A workable protocol would involve the parties identifying the exact welfare proposition offered by a digital exhibit and preserving the original files and metadata where possible. Where the record is conversations, both parties should disclose the full context of the conversations. Each party should be afforded an opportunity to meaningfully test the authenticity and the interpretation of the digital exhibit. Father and mother evidence should be assessed against the same standards and there should be no consideration given to irrelevant moralistic attacks.[28] Wherever it is consistent with procedural fairness, images, locations and identifiers of children should be redacted.

---

[24] Guardians and Wards Act, supra note 5, § 17; Hindu Minority and Guardianship Act, supra note 5, § 13; Gaurav Nagpal, supra note 6.

[25] Minkin & Horowitz, supra note 1, at Gender and Parenting.

[26] Ora Peleg et al., To Share or Not to Share: Adolescents' Experience with Sharenting, 39 Child. & Soc'y 950, 950–61 (2025), https://doi.org/10.1111/chso.12963.

[27] Family Courts Act, supra note 7, § 14; see also Bharatiya Sakshya Adhiniyam, supra note 8, §§ 61–63.

[28] Gaurav Nagpal, supra note 6; Puttaswamy, supra note 9.

Judicial training should cover manipulation of social media, confirmation bias and limits of social media inferences. Decisions should state why the digital item was sufficiently reliable and materially child-centered. Therefore, the proposed "digital good mother" standard should be a warning to judge against replacing evidence of care with performative domesticity. Secondary studies do not demonstrate a measurable Indian custody penalty. The distinction between these is essential to encourage and promote a welfare-centered and privacy-protective jurisprudence.




*Figure 3. Proposed four-part judicial screening framework (normative synthesis).*

## REFERENCES

Authorities and studies cited (Bluebook 20th Edition format; statutes and foundational theory predate the 2020–2025 empirical evidence window).

1. Rachel Minkin & Juliana Menasce Horowitz, Parenting in America Today, Pew Rsch. Ctr. (Jan. 24, 2023), https://www.pewresearch.org/social-trends/2023/01/24/parenting-in-america-today/.

2. Rachel Minkin & Juliana Menasce Horowitz, Gender and Parenting, Pew Rsch. Ctr. (Jan. 24, 2023), https://www.pewresearch.org/social-trends/2023/01/24/gender-and-parenting/.

3. Maria Giulia Conti et al., Sharenting: Characteristics and Awareness of Parents Publishing Sensitive Content of Their Children on Online Platforms, 50 Ital. J. Pediatrics art. 135 (2024), https://doi.org/10.1186/s13052-024-01704-y.

4. Betül Orhan Kılıç et al., The Relationship Between Mothers' Instagram Follower Count and the Concept of Sharenting, 66 Pediatrics Int'l e15736 (2024), https://doi.org/10.1111/ped.15736.

5. Youyuan Wang et al., Development and Validation of the Motivation of Sharenting Evaluation Scale (MSES) Among Chinese Parents, 18 Computers Hum. Behav. Reps. art. 100625 (2025), https://doi.org/10.1016/j.chbr.2025.100625.

6. Ora Peleg et al., To Share or Not to Share: Adolescents' Experience with Sharenting, 39 Child. & Soc'y 950, 950–61 (2025), https://doi.org/10.1111/chso.12963.

7. Michel Foucault, Discipline and Punish: The Birth of the Prison 195–228 (Alan Sheridan trans., Vintage Books 2d ed. 1995) (1975).

8. Raymond S. Nickerson, Confirmation Bias: A Ubiquitous Phenomenon in Many Guises, 2 Rev. Gen. Psych. 175, 175–220 (1998), https://doi.org/10.1037/1089-2680.2.2.175.

9. Guardians and Wards Act, 1890, No. 8, § 17, Acts of Parliament, 1890 (India).

10. Hindu Minority and Guardianship Act, 1956, No. 32, § 13, Acts of Parliament, 1956 (India).

11. Family Courts Act, 1984, No. 66, § 14, Acts of Parliament, 1984 (India).

12. Bharatiya Sakshya Adhiniyam, 2023, No. 47, §§ 61–63, Acts of Parliament, 2023 (India).

13. Gaurav Nagpal v. Sumedha Nagpal, (2009) 1 S.C.C. 42 (India).

14. K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 S.C.C. 1 (India).