

Contemporary Legal Perspectives on Paternity and Their Intersection with Islamic Family Law: A Doctrinal Literature Synthesis

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Abstract

This study explores the complex interplay between Islamic jurisprudence and modern legal frameworks in the determination of paternity. It critically examines mechanisms for establishing paternity, such as civil registration, Deoxyribonucleic Acid (DNA) testing, acknowledgment, and court declarations, across various legal systems, including secular (e.g., France, and the United States of America (USA)), hybrid (e.g., Nigeria, Egypt and United Arab Emirates (UAE)), and religious or Sharia-based jurisdictions (e.g., Saudi Arabia and Iran). To achieve the objectives of this study, the doctrinal legal research approach is adopted. Through comparative analysis, the research identifies both points of convergence, such as the presumption of paternity in marriage, and areas of conflict, particularly the tension between DNA evidence and classical Islamic rules of lineage (nasab). Case studies from Egypt, Nigeria, Malaysia, and select non-Muslim countries with Muslim populations demonstrate how different systems balance religious, cultural, and scientific considerations. The study also engages with theoretical and normative reflections on the doctrinal challenges posed by scientific advances, the role of *ijtihad*, and the implications for identity and ethics in Muslim societies. It concludes by recommending integrative legal models that uphold religious principles while embracing legal certainty, and calls for interdisciplinary dialogue, legislative harmonization, and further research into reconciling traditional and contemporary norms in paternity law.

Keywords: paternity law, Islamic family law, Sharia, legal pluralism, comparative law.

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Introduction

Paternity is the legal recognition of a man as the father of a child. It is a foundational concept in family law that carries significant legal, social, and ethical implications (Kelly, 2009; Shabana, 2013). It determines not only rights and responsibilities related to inheritance, custody, and support but also impacts a child's identity and societal belonging (Zawawi et al., 2004). In Islamic jurisprudence, paternity (*nasab*) is deeply rooted in classical legal thought, often established through marriage and legal acknowledgment rather than biological evidence (Zawawi, et al., 2004). This approach reflects a broader concern with lineage preservation, social stability, and moral order (Shabana, 2012).

In contrast, modern legal systems increasingly emphasise biological verification, especially through scientific tools such as DNA testing (Chaudhry et al., 2022). Many jurisdictions have legislated mechanisms that prioritise genetic evidence in determining or disputing paternity, sometimes overriding social or marital presumptions (El Shanti et al., 2015). This shift raises profound questions about the compatibility of such practices with traditional Islamic legal frameworks, particularly in countries with dual or plural legal systems (Engelcke, 2020; Ijaiya & Ijaiya, 2020). Debates about the admissibility and authority of DNA evidence in paternity cases have prompted calls for reform and reinterpretation within Islamic legal thought (Engelcke, 2022).

This paper seeks to synthesise existing doctrinal and academic literature on the intersection between modern legal perspectives on paternity and Islamic family law. It aims to analyse how different jurisdictions have responded to tensions or synergies between these systems, particularly in the context of legal reforms, judicial reasoning, and policy debates. The scope includes both Muslim-populated countries such as Egypt, Morocco and the United Arab Emirates (UAE), and pluralistic legal environments (like Nigeria), where Islamic and secular norms often coexist.

Methodologically, the paper adopts a doctrinal legal research approach, supported by a qualitative synthesis of relevant scholarly writings, statutory provisions, and judicial decisions. This allows for a critical exploration of how principles from Islamic jurisprudence are retained, modified, or bypassed in contemporary legislation and adjudication concerning paternity.

Understanding the intersection between Islamic and modern legal perspectives is not only relevant for comparative legal scholarship but also crucial for developing rights-based and culturally sensitive legal frameworks. As questions of identity, legitimacy, and family structure evolve across diverse societies, so too must the legal responses, complementary value of tradition with the obligations of justice and social change.

The Concept of Paternity in Islamic Family Law

In Islamic family law, paternity (*nasab*) is a pivotal institution that establishes a child's legal identity, lineage, and access to various rights, including inheritance, guardianship, and social status (Haneef, 2016). Rooted in classical Islamic jurisprudence (*fiqh*), the legal construction of paternity is not solely biological but deeply interwoven with legal, moral, and social norms that aim to safeguard family integrity and moral order (Shabana, 2012; Sarumi et al, 2024).

Classical Jurisprudential Foundations

Three key doctrines underlie the Islamic legal framework for paternity: *nasab* (lineage), *li'ān* (mutual imprecation), and *istilhāq* (legal acknowledgment) (Shabana, 2013). *Nasab* refers to the confirmation and acknowledgement of a child's lineal descent through the father and is traditionally linked to the existence of a valid marriage at the time of conception or birth (Shaham, 2011). *Li'ān* is a procedural mechanism used when a man allegedly accuses his wife of adultery and denies paternity; if proven through the solemn exchange of oaths, the paternity is legally severed (Kamali, 2008). *Istilhāq*, in contrast, allows a man to claim a child born out of wedlock under certain conditions, thereby legitimising the child and establishing paternal rights and responsibilities (Quraishi, 2000; Zawawi, 2024).

Methods and Conditions of Establishing Paternity

Islamic law recognises three principal methods of establishing paternity: (1) the presumption of legitimacy in a valid marriage, (2) acknowledgment by the father, and (3) evidence from witnesses or circumstantial proof (, Shabana, 2013; Zawawi, 2024). The most prominent method is the legal presumption that a child born within a lawful marriage belongs to the

husband, as derived from a well-known prophetic hadith: “The child belongs to the [marital] bed, and the adulterer gets the stone” (al-Bukhārī, 1987). This reflects the Sharia's emphasis on social cohesion and the avoidance of scandal.

Acknowledgement by the father (*iqrār*) is another valid method, particularly when the child is born out of wedlock but meets certain criteria such as the child not being claimed by another man and the child's appearance aligning with that of the claimant (Sarumi et al, 2024). Courts often require consistency and absence of ulterior motives in such acknowledgements (Sait & Lim, 2006).

Treatment of Disputed Paternity

Disputed paternity cases are addressed through a combination of *li'ān*, circumstantial evidence, and *qadhf* (false accusation) laws (Sarumi et al, 2024). In traditional jurisprudence, biological evidence such as blood tests or DNA was not available; hence, courts relied on oaths and witness testimonies (Haneef, 2016). In contemporary times, there is growing debate among scholars about whether DNA testing can override traditional presumptions (Fadel, 2022). While some modern Islamic legal systems, such as those in Morocco and Egypt, have cautiously accepted DNA evidence as supporting or refuting paternity claims, others remain hesitant due to concerns about destabilising established family norms (Shabana, 2012; Engelcke, 2020; Fadel, 2022).

Gender and Rights Implications

The classical approach to paternity underscores a gendered allocation of roles and responsibilities. Fathers are traditionally viewed as providers and legal guardians, while mothers are associated with birth and caregiving. This division affects how legal systems address custody, inheritance, and child legitimacy. Notably, only men can formally deny or acknowledge paternity, reinforcing patriarchal control over lineage (Quraishi, 2000). Moreover, children born out of wedlock often face legal disadvantages, particularly in systems that do not recognise alternative forms of parentage (Shabana, 2013).

Yet, contemporary Muslim scholars and reformers argue for a more balanced approach that recognises the rights of all parties, especially children, within a *maqāṣid al-sharī'ah* (objectives of Islamic law)

framework, which prioritises justice, welfare, and the protection of lineage (Kamali, 2008; Shaham, 2011).

Modern Legal Approaches on Paternity

The establishment of paternity in modern legal approaches is essential for assigning parental rights and responsibilities, such as custody, child support, inheritance, and nationality (Chaudhry et al, 2022). Unlike classical Islamic jurisprudence, which centers on presumptive and marital-based models, modern legal regimes emphasise documentary evidence and scientific verification (Chaudhry et al, 2022). The mechanisms available to establish paternity vary across jurisdictions but commonly include civil registration, DNA testing, voluntary acknowledgment, and judicial declarations (Chaudhry et al, 2022).

Mechanisms for Establishing Paternity

In many countries, paternity is presumptively assigned to the father if a child is born within a legally recognised marriage (El Shanti et al, 2015; Chaudhry et al, 2022). This presumption is often rebuttable through judicial processes or scientific evidence (Chaudhry et al, 2022). For children born outside of marriage, legal systems typically require formal acknowledgment by the father or a court decision based on evidence, such as DNA testing (UNICEF, 2013). Civil registration systems serve as the primary administrative tool for documenting paternity, often at birth, and may involve the presentation of marriage certificates or signed acknowledgments by the parents (El Shanti et al, 2015).

DNA testing has emerged as the most definitive method for establishing biological paternity and is widely accepted by courts as admissible evidence (Shestak et al, 2023). It provides over 99.9% accuracy and has become instrumental in both confirming and contesting paternal claims, particularly in disputed or non-marital contexts (Besson, 2007; Shestak et al, 2023).

Comparative Perspectives

Secular Legal Systems: France and the United States

In France, paternity is presumed if the parents are married, and acknowledgment is required otherwise. French law permits DNA testing in

judicial proceedings but regulates it strictly under Article 16-11 of the Civil Code, requiring court authorisation (Code Civil, 2023). Voluntary acknowledgment (reconnaissance) plays a central role, and challenges to paternity must be initiated within prescribed time limits to protect the child's stability (Skaine, 2003; Singer, 2006; Anderson, 2017).

In the United States, state laws govern paternity, but most follow a similar structure: if parents are married, paternity is presumed; otherwise, the father must sign an acknowledgment of paternity or be subject to court-ordered testing (Skaine, 2003; Singer, 2006; Anderson, 2017; American Bar Association, 2020). The widespread availability of DNA testing has significantly influenced court decisions and child support enforcement mechanisms (Skaine, 2003; Singer, 2006).

Hybrid Legal Systems: Nigeria and Egypt

Nigeria presents a complex case of legal pluralism where statutory, customary, and Islamic laws are adopted (Obalowu & Abdul Rahim, 2022; Metuonu, 2025). In Southern Nigeria, civil law provisions under the Child Rights Act permit DNA testing in court proceedings, while Northern states governed by Sharia often resist such practices, favouring Islamic presumptions of legitimacy (Ijaiya & Ijaiya, 2020; Alkali, 2024; Ebimiebo, 2024). Legal inconsistencies can thus emerge, particularly in disputes involving non-marital children.

Egypt operates under a hybrid model that incorporates Islamic legal principles within a civil framework (Shaham, 2011; Linbekk, 2023). Courts in Egypt have traditionally upheld the presumption of paternity within marriage, but recent reforms and court decisions have cautiously permitted DNA evidence in some cases (Shaham, 2011; Linbekk, 2023). Nonetheless, judges often balance scientific findings with Sharia-based doctrines, and legal recognition of children born outside wedlock remains controversial (Engelcke, 2022).

Religious or Sharia-Based Systems: Saudi Arabia and Iran

In Saudi Arabia, family law remains closely aligned with Hanbali interpretations of Islamic jurisprudence (Shabana, 2012). Paternity is established through marital presumptions, acknowledgment, and judicial determination, but DNA testing is treated cautiously. Courts may use DNA

evidence as supplementary but rarely as decisive, especially in cases where doing so may contradict established religious principles (Shabana, 2012).

Iran, which follows the Jafari school of Shi'a jurisprudence, similarly prioritises marital paternity and legal acknowledgment. The Iranian Civil Code permits limited use of DNA evidence but within the constraints of Islamic legal norms. Children born out of wedlock face significant legal and social barriers in claiming paternal lineage (Mir-Hosseini, 2000).

Impact of Scientific Advances

Scientific advances, particularly DNA testing, have profoundly reshaped paternity law across jurisdictions. The high reliability of DNA tests has led many courts to prioritise biological truth over social or marital presumptions (Erickson & Babcock, 1995; Wieggers, 2010; Shabana, 2012; Engelcke, 2020). However, this shift raises ethical and legal challenges, especially in societies where lineage is not solely a matter of biology but of social, moral, and religious identity (Shabana, 2012; Engelcke, 2020).

In plural or religiously influenced legal systems, the integration of DNA testing remains contested. While some scholars argue that Islamic principles can accommodate such evidence under the broader objective of truth and justice (*ḥaqq* and *ʿadl*), others caution that doing so may undermine the protective functions of traditional presumptions, especially for children and women (Shabana, 2012; Engelcke, 2020).

Points of Convergence and Divergence between Islamic and Modern Legal Systems

The Islamic family law and modern legal systems intersect on the issue of paternity, reflecting both areas of alignment and notable friction. While both traditions share fundamental objectives - such as the protection of children, the establishment of lineage, and family integrity - they differ significantly in their sources, methods, and evidentiary standards. Exploring these convergences and divergences is critical to understanding legal pluralism in Muslim-majority societies and the global discourse on family law reform.

Convergences: Shared Presumptions and Goals

One of the most prominent areas of convergence lies in the presumption of paternity within marriage. Both Islamic jurisprudence (fiqh) and modern civil law systems uphold the value and norm that a child born in wedlock is presumed to be the father's child (Haneef, 2016; Fadel, 2022). In Islamic law, this presumption is rooted in the hadith, "The child is for the [owner of the] bed" (al-walad lil-firāsh) (Sahih al-Bukhari, 9:89:293). Similarly, civil codes in countries such as France (Code Civil, Article 312) and the United States (Uniform Parentage Act, §204) adopt a near-identical presumption.

Both systems also value the child's protection and the social function of paternity, seeking to avoid illegitimacy and uncertainty in lineage. In practice, Islamic and civil law traditions often converge on mechanisms such as acknowledgement of paternity, judicial confirmation, and statutory time limits for contesting paternity (Sarumi et al, 2024).

Divergences: DNA Testing vs. Traditional Evidentiary Norms

The most contentious point of divergence lies in the use of DNA testing. Modern legal systems typically regard DNA evidence as decisive in resolving paternity disputes due to its scientific accuracy. Courts in jurisdictions like the U.S., U.K., and many parts of Europe accept DNA results as the gold standard in establishing biological parentage (Besson, 2007).

By contrast, traditional Islamic law prioritises fiqh-based evidentiary mechanisms such as the presumption of legitimacy, acknowledgement (iqrār), li'ān (mutual oath) in cases of marital dispute, and witness testimony. DNA testing, while increasingly considered in Islamic legal scholarship, challenges established doctrines, particularly when it contradicts presumptive legitimacy or allows for post hoc denial of paternity (Shabana, 2012).

Some Islamic scholars and courts remain reluctant to prioritise DNA testing over scriptural or juristic norms, arguing that it risks undermining the moral and social dimensions of paternity and family. Others advocate for a reconciliatory framework, where scientific evidence is accepted as a supplementary (qarīna) but not overriding proof (Shabana, 2013; Engelcke, 2022).

Legislative Harmonisation in Muslim-Majority Countries

Several Muslim-majority states have attempted to harmonise Islamic principles with modern legal frameworks (Faizi & Ali, 2024). In Morocco, the 2004 Moudawana (Family Code) integrates DNA testing as supporting evidence in filiation claims while retaining fiqh-based presumptions (Charrad, 2012). Indonesia's compilation of Islamic law permits DNA testing but only under judicial oversight, reinforcing the role of judges in balancing scriptural norms and forensic proof (Nurlaelawati, 2010).

In Egypt, courts have cautiously admitted DNA evidence, especially when it supports rather than contradicts presumptive paternity within marriage (Lindbekk, 2023). However, in cases involving children born outside wedlock, Islamic law remains restrictive in assigning legal paternity, creating tensions between statutory and constitutional principles (Engelcke, 2022).

International Human Rights Standards and Paternity

The United Nations Convention on the Rights of the Child (UNCRC) and related international instruments emphasise the child's rights to know and be cared for by parents (Article 7) and to preserve their identity, including family relations (Article 8) (UNICEF, 2013). These rights have placed pressure on states, including those with Islamic legal traditions, to incorporate modern standards in establishing paternity.

However, tensions arise where human rights norms clash with religious principles, such as in matters of children who are born out of wedlock, whose legal recognition remains limited in many Islamic contexts. Efforts to resolve these challenges often involve intricate legal reforms, judicial interpretation, or conditional application of international norms to align with domestic religious frameworks (Mir-Hosseini, 2000).

Case Studies

Examining how paternity is addressed in various legal systems helps reveal the practical intersections and frictions between Islamic legal traditions and contemporary legislative mechanisms. The following case studies highlight national efforts to mediate between civil law, Islamic principles, and international norms, as well as examples from non-Muslim jurisdictions that encounter similar dilemmas within pluralistic societies.

Egypt: Balancing Civil Law and Sharia in Paternity Cases

In Egypt, personal status matters, including paternity, are governed by civil law that is heavily influenced by Islamic jurisprudence. The Egyptian Constitution (Article 2) declares that “Islam is the religion of the state and the principles of Islamic Sharia are the principal source of legislation.” (The Constitution of the Arab Republic of Egypt, Article 2, 2019). Consequently, family law draws from Islamic law while operating within a civil law framework.

Paternity is presumed within marriage, but in cases where the marriage is disputed or a child is born outside of wedlock, courts are often constrained by traditional Islamic principles that restrict paternal affiliation to legally married parents. Notably, Egypt’s Court of Cassation has occasionally upheld paternity claims based on DNA evidence, but only when they do not contradict established fiqh principles (Engelcke, 2022; Lindbekk, 2023).

The case of *Hind al-Hinnawy v. Ahmed El-Fishawy* (2004) marked a turning point: for the first time, a court accepted DNA evidence in affirming paternity of a child born out of wedlock (Sabina 2012). The case sparked public debate and exposed the tensions between civil liberties, scientific proof, and religious norms (Shabana, 2012).

Nigeria: Plural Legal Frameworks (Common, Customary, Islamic)

Nigeria presents a unique legal context where three systems: English common, customary, and Islamic laws (Shari’a) operate concurrently (Alkali, 2024; Metuonu, 2025). This pluralism is especially evident in northern states governed by Sharia law, while southern and urban areas apply common and customary legal standards (Obalowu & Abdul Rahim, 2022).

Under Islamic law in the north, paternity is governed by classical rules: a child is presumed to belong to the husband if born within wedlock, and claims of illegitimacy require procedures such as *li’ān* (Ijaiya & Ijaiya, 2014). Civil courts, however, increasingly recognise scientific methods such as DNA testing, especially in custody and maintenance disputes under common law jurisdictions (Obalowu & Abdul Rahim, 2022).

This legal duality can result in inconsistent outcomes. A civil court may compel a DNA test and declare paternity, while a Sharia court may dismiss it as insufficient unless aligned with fiqh evidence requirements.

Efforts to harmonise these frameworks have been limited by political, religious, and regional sensitivities (Oba, 2002).

Malaysia: Modern Reforms Influenced by Sharia and Constitutional Law

Malaysia's legal system blends English common law with codified Islamic family law administered by Syariah courts (Mohammad, 2011; Sobotcova, 2012; Abdullah, 2024). The Islamic Family Law (Federal Territories) Act 1984, which applies to Muslims, presumes paternity within marriage and allows for the use of medical and scientific evidence in establishing filiation (Noor, 2008; Mohammad, 2011; Sobotcova, 2012).

However, the Federal Constitution also plays a significant role, ensuring that Syariah courts' powers do not infringe on constitutional rights (Mohammad, 2011; Sobotcova, 2012). This has led to cases where scientific proof, such as DNA testing, was accepted, but still required to be consistent with Islamic legal standards. In *Noorfadilla Ahmad Saikin v. Ministry of Education* (2012), the Malaysian court emphasised gender equality and the right to family recognition, indirectly impacting how paternity and child rights are addressed (Nurlaelawati, 2010).

In 2003, the Department of Islamic Development Malaysia (JAKIM) issued fatwas affirming the permissibility of DNA in certain paternity and criminal cases, further signaling openness to integration of science into religious adjudication (Abdul Azeez, et al, 2016).

United Arab Emirate (UAE): Integrating Islamic Norms with Modern Legal Mechanisms

The United Arab Emirates, including Dubai, has undergone notable legal reforms concerning paternity and the use of DNA testing (Nurmohammed, 2020; Mustapha & Komalasari, 2024). Historically, UAE law, rooted in Islamic principles, presumed paternity within lawful marriages, with little room for scientific evidence in cases of disputed lineage, particularly when a child was born outside of wedlock (Nurmohammed, 2020; Alkhan & Hassan, 2024; Taofiqurrohman et al, 2024). However, recent shifts reflect a growing legal acceptance of DNA testing in determining filiation, even in sensitive cases.

One landmark judgement occurred in 2012, when a Dubai court acknowledged paternity despite the absence of marriage and even in the face of a negative DNA result. The judge ruled in favour of the mother

based on circumstantial evidence and the man's previous acknowledgment of the child, demonstrating the judiciary's discretion in favor of child welfare (Gulf News, 2012).

More recently, the New Personal Status Law for non-Muslims (Federal Decree-Law No. 41 of 2022) and ongoing discussions on the UAE Personal Status Law for Muslims have opened further avenues for legal recognition of children born outside wedlock. Legal professionals have highlighted that while Sharia principles remain central, DNA evidence is now considered acceptable for establishing paternity in both criminal and family law contexts (HZ Legal, n.d.; LYLAW Dubai, 2025).

A 2024 court decision in Dubai rejected a father's denial of paternity and ruled for child custody and support in favour of the mother, citing the best interest of the child as overriding social stigma or religious objections (Gulf Today, 2024). These shifts reflect a legal landscape that increasingly balances religious values with scientific and humanitarian considerations.

Despite these advancements, legal practitioners warn that DNA tests must still align with procedural and evidentiary standards, and courts may evaluate surrounding context, such as cohabitation or public acknowledgment, before issuing judgments (Wirestork, 2025; Healthcare 259, 2024).

Comparative Examples: Non-Muslim States and Muslim Populations

In France, which has a large Muslim minority, family law is strictly secular. The Code Civil grants courts broad discretion in resolving paternity claims, and DNA testing is legally mandated in disputed cases (Article 16-11). French law does not allow religious objections to overrule court-mandated scientific testing, even for Muslim claimants, leading to occasional cultural and ethical tensions (Berthelot, 2015).

The United Kingdom adopts a similar secular approach, although with greater cultural sensitivity. British courts may consider religious concerns but prioritise the best interests of the child. The case of *Re S (A Child) (Identity: Paternity)* [2009] EWCA Civ 1031, involving a Muslim family, illustrates how courts uphold biological truth over social or religious expectations when determining legal fatherhood.

These examples reflect how multicultural societies manage religious diversity within unified legal frameworks, often prioritising

children's rights and scientific evidence, while attempting to accommodate cultural sensitivities where possible.

Theoretical and Normative Reflections

The interface between modern legal standards of evidence, especially scientific proof like DNA testing and Islamic jurisprudence, invites deep theoretical reflection. At the core are fundamental questions about the nature of legal truth, the adaptability of religious law, and the cultural and ethical stakes of parenthood and identity in diverse Muslim contexts.

Doctrinal Challenges: Modern Evidence and Islamic Textualism

One of the principal doctrinal tensions lies in reconciling scientific, evidence-based approaches with the textualist and precedent-bound methodology of traditional Islamic jurisprudence (fiqh). Classical Islamic law constructs paternity around social legitimacy and marital presumptions rather than biological facts. For instance, the rule al-walad lil-firāsh (“the child belongs to the marital bed”) is rooted in prophetic tradition and emphasises social paternity over genetic certainty (Sahih al-Bukhari, 9:89:293).

This approach often comes into conflict with DNA evidence, which prioritises biological truth. Scholars such as Shabana (2012) argue that integrating such evidence disrupts the epistemological foundations of Islamic law, which rely on transmitted texts, consensus (ijma'), and analogical reasoning (qiyas), rather than empirical verification alone.

While modern legal systems treat DNA results as nearly conclusive, many Islamic jurists continue to regard it as a supportive rather than determinative form of evidence especially in cases that challenge established marital presumptions or implicate accusations of zina (illicit sex), which have strict evidentiary requirements (Ali, 2006).

Ethical, Cultural, and Identity Implications

Beyond jurisprudential mechanics, paternity engages sensitive ethical and cultural issues. In many Muslim societies, paternity is tightly linked to identity, honour, lineage (nasab), inheritance, and social belonging. Thus, introducing disruptive scientific findings such as proving non-paternity, can have profound implications not only for legal status but for the moral fabric of families and communities (Nurmohammed, 2020)

This raises ethical dilemmas: should a child's right to truth override family stability or cultural values? Can biological evidence be used to deny legal fatherhood in long-standing social relationships? These questions mirror broader tensions between individual rights and communal norms, between modern liberal ethics and Islamic moral frameworks (Moosa, 2004).

In contexts where illegitimacy carries severe stigma, DNA-based challenges to paternity may inadvertently harm children, stripping them of rights to maintenance, inheritance, and identity. Consequently, some scholars advocate caution and context-sensitive application of scientific tools in Islamic legal settings (Kamali, 2008).

The Role of Ijtihad and Legal Reform

Amid these challenges, *ijtihad*, the process of independent juristic reasoning, emerges as a vital mechanism for reform. Contemporary scholars and legal systems have increasingly turned to *maqasid al-shari'a* (the higher objectives of Islamic law), which prioritise justice, welfare, and protection of lineage, to justify the selective integration of DNA evidence and legal modernisation (Auda, 2008).

Some jurists propose distinguishing between proof of paternity within marriage (which should preserve traditional presumptions) and establishment of paternity outside marriage (where DNA could play a more prominent role). Others suggest that modern evidence can function as a *qarīna* (circumstantial indicator) rather than as definitive proof, thereby preserving both scientific integrity and doctrinal continuity (Engelcke, 2022).

The experience of courts in Morocco, Indonesia, and Malaysia shows that Islamic law is not static; rather, it can accommodate scientific advances when guided by reasoned interpretation and concern for social justice.

Findings, Conclusion and Recommendations

Findings

This study has examined the multifaceted relationship between modern legal perspectives on paternity and Islamic family law. It has demonstrated that while both frameworks aim to establish legal filiation and protect the rights of the child, they operate on different foundational logics: modern

systems prioritise biological certainty and individual rights, while Islamic law emphasises social legitimacy, lineage preservation (*nasab*), and moral considerations rooted in textual authority.

Modern legal tools such as DNA testing have introduced significant challenges to traditional Islamic paternity principles, especially in contexts where parenthood is defined through marriage and acknowledgment. Case studies from Egypt, Nigeria, Malaysia, and beyond reveal ongoing efforts to harmonise religious and civil norms, often with complex and uneven outcomes. While Islamic jurisprudence has shown some flexibility through tools like *ijtihad* and *maqasid al-shari'a*, doctrinal tensions remain, particularly concerning disputed paternity and children born outside wedlock.

Conclusion

Given the enduring relevance of Islamic family law in many Muslim-majority and minority contexts, there is a compelling need for integrative legal models that do not pit tradition against science but rather seek normative coherence and practical justice. Such models should:

- a. respect religious values and legal heritage,
- b. incorporate scientific evidence where it enhances fairness,
- c. preserve the rights and dignity of all parties, especially children.

This requires not only legal reform but also jurisprudential innovation, especially in reconciling Islamic notions of lineage with contemporary demands for transparency and identity recognition.

Recommendations

- a. Legislators in Muslim-majority countries should update personal status codes to explicitly regulate the use of DNA in paternity cases. These reforms must balance *fiqh*-based presumptions with the probative value of scientific evidence, possibly distinguishing between cases within marriage and those involving extra-marital claims.
- b. Judges of civil and religious courts should be trained in interdisciplinary reasoning, including biomedical ethics, Islamic jurisprudence, and comparative law. This would help develop more consistent and child-centered rulings.

- c. Awareness campaigns are needed to destigmatise issues like illegitimacy and DNA testing in paternity disputes. Community and religious leaders should be involved in reframing such issues as questions of justice and child welfare, not just morality or honour.

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CONFLICT OF INTEREST

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AUTHORS' CONTRIBUTIONS

The authors designed the study, gathered the existing literature, and wrote the article.

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