

## Determination of the Child's Nasab in Li'an Cases Through DNA Test in the Opinion of Sheikh Yusuf Al-Qaraḍāwī

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**Abstract:** In li'an cases, children often become victims of serious adverse effects after li'an itself, including emotional trauma and legal uncertainty. Starting from this problem, this paper will explain how Sheikh Yusuf Al-Qaraḍāwī's opinion on determining the child's lineage through DNA testing in the context of Islamic law to provide legal clarity for children after li'an. This research is a desk research using analytical descriptive method and content analysis, by collecting and analyzing the views of Sheikh Yusuf Al-Qaraḍāwī from various reliable sources, including his fatwas and relevant writings. The article includes a brief overview of the concept of li'an and the importance of establishing correct parentage in Islamic law to serve as a benchmark in analyzing the establishment of parentage through DNA testing. The analysis shows that Sheikh Yusuf al-Qaraḍāwī supports the use of DNA testing in Li'an cases to establish the child's parentage, provided that the request comes from the wife. This approach protects the wife's right to privacy while utilizing modern technology to achieve justice. The contribution of his thoughts in the reform of Islamic family law in Indonesia is significant, allowing sharia courts to adopt DNA testing, improving accuracy and fairness, and paying attention to the protection of individual rights and family welfare in the contemporary context.

**Keywords:** Li'an, Child's Nasab, DNA Test, Sheikh Yusuf Al-Qaraḍāwī, Islamic Law

**Abstrak:** Dalam kasus li'an, anak seringkali menjadi korban dampak buruk yang serius pasca li'an itu sendiri, antara lain trauma emosional dan ketidakpastian hukum. Beranjak dari masalah tersebut, tulisan ini akan memaparkan bagaimana pendapat Syekh Yusuf Al-Qaraḍāwī mengenai penetapan nasab anak melalui tes DNA dalam konteks hukum Islam untuk memberikan kejelasan hukum bagi anak pasca li'an. Penelitian ini adalah penelitian pustaka dengan metode deskriptif analitik dan analisis konten, dengan mengumpulkan dan menganalisis pandangan Syekh Yusuf Al-Qaraḍāwī dari berbagai sumber terpercaya, termasuk fatwa dan tulisan-tulisannya yang relevan. Artikel ini mencakup tinjauan singkat tentang konsep li'an dan pentingnya penetapan nasab yang benar dalam hukum Islam untuk menjadi tolak ukur dalam menganalisa penetapan nasab melalui tes DNA. Hasil analisis menunjukkan bahwa Syekh Yusuf al-Qaraḍāwī mendukung penggunaan tes DNA dalam kasus Li'an untuk menetapkan nasab anak, dengan syarat permintaan datang dari istri. Pendekatan ini melindungi hak privasi istri sambil memanfaatkan teknologi modern untuk mencapai keadilan. Kontribusi pemikirannya dalam pembaharuan hukum keluarga Islam di Indonesia sangat signifikan, memungkinkan pengadilan syariah mengadopsi tes DNA, meningkatkan akurasi dan keadilan, serta memperhatikan perlindungan hak individu dan kesejahteraan keluarga dalam konteks kontemporer.

**Keywords:** Li'an, Nasab anak, Tes DNA, Syekh Yusuf Al-Qaraḍāwī, Hukum Islam

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## A. Introduction

Nasab is a strong rope to form a family that binds one individual to another in a bond that is continuous and united on the basis of blood unity

(Yusron Rofi et al., 2024). The urgency of the bond of nasab is stated in the word of Allah SWT:

﴿وَهُوَ الَّذِي خَلَقَ مِنَ الْمَاءِ بَشَرًا فَجَعَلَهُ نَسَبًا وَصِهْرًا ۚ وَكَانَ رَبُّكَ قَدِيرًا﴾

Meaning: *And it is He who created man from water, then He made man (related) through descent and marriage, and your Lord is the Almighty. (QS. Al-Furqan: 54).*

The significance of this verse is that it occupies the position of *an imminence* from Allah, i.e. reminding people of His favors, and something that Allah mentions as an *imminence* indicates its importance. (Al-Zuhaili, n.d.-b).

The importance of lineage is also explained in the Prophet's hadith:

أَمَّا امْرَأَةٌ أَذْخَلْتُ عَلَى قَوْمٍ مِّنْ كَيْسٍ مِنْهُمْ فَلَيْسَتْ مِنَ اللَّهِ فِي شَيْءٍ، وَلَنْ يُدْخِلَهَا اللَّهُ جَنَّتَهُ وَأَمَّا رَجُلٌ جَحَدَ وَلَدَهُ وَهُوَ يَنْظُرُ إِلَيْهِ، اخْتَجَبَ اللَّهُ تَعَالَى مِنْهُ وَفَضَحَهُ عَلَى رُؤُوسِ الْأَوَّلِينَ وَالْآخِرِينَ يَوْمَ الْقِيَامَةِ. (رواهُ أَبُو دَاوُدَ).

Meaning: *"Whosoever attributes (a child) to a people when he is not of them, Allah will disassociate Himself from him and will not admit him into Paradise. And any man who denies his son when he sees him (as his legitimate son) then Allah will shut Himself off from him and will shame him before the former and the latter on the Day of Resurrection."* (H.R. Abu Daud) (Al-Sijistani, n.d.)

In the context of Islamic law, the determination of a child's nasab is important for determining inheritance rights, individual identity, and family relationships. The issue of inheritance rights for example; children whose lineage is clear from a legal marriage, automatically *have* inheritance rights from their parents, while those whose lineage is not clear, do not get a share of the inheritance (Khalidi, 2022). As for determining individual identity and family relationships, determining a child's nasab helps maintain family integrity and avoid identity conflicts in the future, so that strong family relationships can be built and maintained. In fact, in Islam, protecting is one of the objectives of the Islamic law (*maqāsid al-tasyri'*) (Arifin et al., 2024).

In addition to the above issues, one of the situations that is also urgent for the determination of nasab is a li'an case, where a husband alleges that his wife *committed* infidelity and is carrying a child that is not his. In order to clarify the nasab of the child involved in the li'an allegation, the parties involved must file the case with a sharia court or authorized Islamic legal authority (Kashvi, 2024). The court will investigate and examine the available evidence, including the testimonies of the involved parties and relevant witnesses (Hermanto et al., 2024). If the child's lineage is confirmed by the court, then the child is considered the legitimate offspring of the accused father (Asnawi., 2024). However, if the court is unable to confirm the child's lineage or find sufficient evidence, the child's lineage may be doubted. (Lestari et al., 2024; Nawawi, M Anwar & Siti Mahmudah, 2022). One of the advances in technology and science that can be utilized in the issue of determining the lineage of children is by conducting DNA (*Deoxyribonucleic Acid*) tests. DNA testing, also called genetic testing, is a laboratory procedure used to

identify, analyze, and compare genetic information contained in an individual's DNA. DNA testing enables the disclosure of information about genetic structure, genetic variation, and relationships between individuals in a biological context (Anam et al., 2021).

Although the accuracy rate of DNA tests is believed to be high, it is important to remember that no test is absolutely perfect and there is no absolute guarantee against errors. Factors such as sample contamination, human error, or the complexity of a particular analysis can affect the results. Therefore, it is important to use DNA testing as part of a comprehensive approach and consider the results carefully in the context of the overall information available (Ihsani et al., 2020)

In the Islamic world and the context of Islamic law, especially classical fiqh, the discussion of determining lineage through DNA test results is a new thing that has never been studied by previous scholars, let alone in the days of the Prophet and his companions. When referring to classical fiqh references, the determination of nasab that has been studied is only based on four ways, namely: through marriage, both valid and *invalid*, through recognition or claim of the child, (Al-Zuhaili, n.d.-a) through testimony, and through *qiyāfah* (Chaq, 2018)

If *qiyāfah*, which is based on the similarity of body parts, can be used as a method in determining the child's lineage according to the understanding of the majority of scholars, then DNA testing should also be positioned as equivalent to *qiyāfah* and even more accurate with the current sophistication and technological advances. However, despite this, it turns out that contemporary fiqh scholars have different views on this issue between accepting and rejecting (Hanapi et al., 2022).

Sheikh Yusuf al-Qaraḍawi, for example, believes that this method can be used to determine the status of the child, not to prove the adultery of the wife. In the case of a child whose status is in doubt, he argues that the use of DNA testing cannot be done if the request comes from the husband. However, if it is the wife who submits and requests a DNA test, Yusuf al-Qaraḍawi argues that the wife has the right to ask the judge to conduct a DNA test on the child she is pregnant or born with. The purpose of the DNA test is to determine whether the child is from her husband or from another person, as the allegations made against her.

The breadth of the teachings of Islam as a religion that is always relevant to all times and places and in line with technology and science, requires an in-depth and comprehensive study of the issue of determining the child's nasab in li'an cases through DNA testing. In general, Islam is not an enemy to the progress of science and technology that continues to develop over time (Al-Khuli, n.d.).

This article is important because it offers a fair solution for establishing the child's parentage in li'an cases, reducing emotional challenges and legal uncertainty, and protecting the rights of children and women. By supporting the use of DNA testing according to the views of Sheikh Yusuf Al-Qaraḍawi, this article integrates modern technology with the principles of Islamic law, provides practical guidance for judges and legal practitioners, and increases public understanding of the importance of nasab clarity. This article contributes to the reform of Islamic family law in Indonesia by offering a more accurate, just, and relevant approach in the digital age.

Relevant research includes the determination of the lineage of *mulā'annah* children through DNA tests (Study of the Istibath Method of Yusuf al-Qaraḍawi) by

Mutiara Fahmi, from Ar-Raniry State Islamic University (UIN Ar-Raniry) Banda Aceh. The study also discusses the use of DNA tests in determining the nasab of children, especially *mulā'annah* children, but focuses more on the views of Yusuf al-Qaraḍāwī and the *istinbath* method used in determining the nasab of children through DNA tests, while this study provides a more in-depth Islamic legal perspective on the use of DNA tests in the context of family law with the aim of presenting a formula that will contribute to the reform of Islamic family law in Indonesia. The next research is entitled Determination of Child's Nasab through DNA Test (Deoxyribonucleic Acid) by Bagas Lukito from Raden Fatah State Islamic University (UIN Raden Fatah) Palembang. A study that emphasizes the views of religious institutions such as Nahdlatul Ulama and Darul Ifta Egypt, in contrast to this article which focuses on the individual views of Sheikh Yusuf Al-Qaraḍāwī. In addition, research on Islamic Law and the Use of Information Technology in Indonesia.

This study also discusses the use of modern technology in the context of Islamic law, but its scope is broader because it covers various aspects of the use of information technology, not just DNA testing. Whereas this article focuses on the use of DNA testing in *li'an* cases in terms of determining the child's nasab. As such, this article provides practical guidance for judges and legal practitioners, as well as increasing public understanding of the importance of nasab clarity and the wise use of technology in the digital age, focusing on two problem formulations: 1) What is Sheikh Yusuf Al-Qaraḍāwī's view on the use of DNA testing in determining the child's lineage in *li'an* cases? 2) What is the contribution of Sheikh Yusuf Al-Qaraḍāwī's thought to the reform of Islamic family law in Indonesia?

## B. Research Method

This research is a library research using a normative juridical approach by conducting a literature study of the fatwa of Sheikh Yusuf al-Qaraḍāwī in his books and related literature. Data review was conducted through a qualitative analysis approach. This approach involves the process of organizing the data into structured sentences according to predetermined topics in a systematic and detailed manner. The aim was to facilitate interpretation of the data and to formulate conclusions in response to the research questions. The results of this analysis and discussion process are later explained in the form of a comprehensive, clear and organized research report.

## C. Result

### The Concept of Nasab in Islam

Nasab in Islam refers to the chain of descent and family relationships that manifest a person's lineage. This includes the relationship between parents and their children, grandparents and grandchildren, and all direct branches of the family (Asnawi, 2024). Nasab also includes extended family ties, connecting the individual to his ancestors and descendants (Al-Zuhaili, n.d.-a).

#### a. Significance of Nasab Concept

The significance of the concept of nasab in Islam can be seen briefly in the following points:

- 1) Inheritance Law: The concept of lineage has a major impact on inheritance law in Islam. Inheritance of property and family law is often based on the relationship of nasab (Dr. Maimun, S.Ag., 2018). This helps regulate the distribution of wealth fairly in accordance with religious orders.
- 2) Legal and Social Status: Lineage can also affect one's legal and social status in society. Family status and descent can affect how individuals are treated by society and in the eyes of the law.
- 3) Importance of Identity: The concept of lineage helps establish an individual's identity within the context of family and society. Through lineage, a person is connected to their ancestors and family history, which becomes an integral part of personal identity.

b. Legal and Ethical Implications

- 1) Family Law: The concept of lineage plays a role in Islamic family law, including marriage, divorce, and maintenance (Chaq, 2018). Legal provisions relating to blood and lineage affect the boundaries of marriage and family relationships.
- 2) Inheritance: The law of inheritance in Islam is based on the principle of nasab. The inheritance of property is closely related to the nasab relationship between the testator and the heirs (Dr. Maimun, S.Ag., 2018), which regulates the fair distribution of property based on blood relations.
- 3) Family Ethics: The concept of lineage teaches ethical values and responsibilities in the context of family. Individuals have moral obligations towards their family members, including parents, children, and siblings.

c. Relevance in Modern Society

In modern society, the concept of lineage remains relevant in various aspects of life:

- 1) Identity and Personality: The concept of lineage helps build an individual's identity, helping them recognize their historical and cultural roots.
- 2) Inheritance and Property: In the legal sphere, lineage plays an important role in terms of inheritance and property distribution, which is still relevant in modern legal systems.
- 3) Family Ethics and Responsibility: Ethical values related to family relationships and responsibilities remain important in maintaining harmony within the family.

### Ways of Establishing Nasab in Islam

In the study of Islamic fiqh, the determination of the child's nasab can be done in one of four ways, namely:

a. Valid and *invalid* marriages

The fiqh scholars agree that a valid marriage is the strongest and most legitimate way to establish a child's lineage to both parents, even though the marriage and the birth of the child are not officially registered with an authorized institution such as the Office of Religious Affairs (KUA (Al-Zuhaili, n.d.-a)). Whereas a marriage that is *fasid* (invalid) occupies the same position as a valid marriage in terms of determining nasab because nasab affairs are among the affairs that must be carefully guarded for the survival of the child concerned, even so there are 3 conditions that must be met, namely:



- 1) The man who will be the father must have the potential to cause pregnancy, i.e. be an adult according to Malikiyah and Shafi'iyah, or at least puberty according to Hanafiyah and Hanabilah.
  - 2) It must be proven that there was *khalwat* or intercourse according to the Maalikis, and it must be certain that there was intercourse according to the Hanafis.
  - 3) The birth of the child must be six months after *khalwat* or intercourse (Al-Zuhaili, n.d.-a)
- b. *Iqrar* (acknowledgment)

With regard to acknowledgment of children, the scholars divided it into two groups, namely: a *muqir's* acknowledgment of a child that it is his child and a *muqir's* acknowledgment of another person that he is his brother, uncle, grandfather or grandson. If a man acknowledges that a child is his child, or vice versa, a child who is an adult (according to the majority of scholars) or has *mumayyiz* (according to the Hanafis), acknowledges that a man is his father, then this acknowledgement is acceptable subject to certain conditions, namely:

- 1) The child who recognizes or is recognized is a child whose lineage is unclear. If the father is clear, then the acknowledgment is not valid.
  - 2) The recognition must be logical, i.e. the person claiming to be the father has a significant age difference with the child being recognized as his lineage.
  - 3) The confession is confirmed by the child if the child has reached puberty according to the majority of scholars or at least *mumayyiz* according to the Hanafis. According to the Malikiyah, this condition is not necessary because the *nasab* is the right of the child to the father, so if it has already been recognized, there is no need for confirmation from the child because there is no evidence to show that the father is lying.
  - 4) The confession does not impose a lineage on another person, because a person's confession can only be a proof for himself and not for another person, because if it is for another person it is called a testimony or a claim, and the testimony or claim of one person without evidence is not acceptable. But if the *muqir* acknowledges that someone is his brother, uncle, grandfather or grandson, then in addition to the above conditions, he must fulfill an additional condition, namely the existence of justification from a third party, such as when the *muqir* acknowledges that someone is his brother, then there must be justification from his father or two of his heirs if his father is dead, or there is valid evidence for the truth of the acknowledgment (Al-Zuhaili, n.d.-a)
- c. Presence of Evidence (*Al-Bayyinah*)

In contrast to confession, *al-Bayyinah* has a stronger status than confession, because *al-Bayyinah* always involves other people as witnesses who provide support. Meanwhile, in confession, there is not necessarily support from others, so the confession does not have sufficient strength and can still be canceled if there is other evidence in the form of true testimony.

The type of *al-Bayyinah* that can be used as a benchmark to establish *nasab* is the testimony of two men or one man plus two women according to Abu Hanifah and Muhammad bin Al-Hasan, while according to Malikiyah it must be two men,

while according to Shafi'iyah and Hanabilah there must be testimony from all heirs(Al-Zuhaili, n.d.-a). Testimony is admissible if the witness sees or hears the matter to which he testifies directly, this is based on the Prophet's hadith:

﴿تَرَى الشَّمْسَ؟ قَالَ: نَعَمْ، فَقَالَ: عَلَى مِثْلِهَا فَاشْهَدْ أَوْ دَعْ﴾ [رواه البيهقي]

Meaning: *Did you see the sun? Sahbat said: Yes. For cases like the sun please testify.* (H.R. Al-Baihaqi)(Al-Baihaqi, 2003)

#### d. Qiyāfah

As for the qiyāfah method, etymologically qiyāfah means tracing, while terminologically it refers to an attempt to link a person's lineage based on similarities in nature, appearance, or skin color using certain knowledge or methods. This method of determining lineage is justified based on the hadith narrated by Bukhari and Muslim as follows:

عَنْ عَائِشَةَ، قَالَتْ: دَخَلَ عَلَيَّ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ذَاتَ يَوْمٍ وَهُوَ مَسْرُورٌ، فَقَالَ: " يَا عَائِشَةُ، أَلَمْ تَرَيَنَّ أَنَّ مُجَزَّزًا الْمُدَلِّجِي دَخَلَ عَلَيَّ فَرَأَى أُسَامَةَ بْنَ زَيْدٍ وَزَيْدًا وَعَلَيْهِمَا فَطِيقَةٌ، قَدْ عَطِيَا رُءُوسَهُمَا وَبَدَتْ أَقْدَامُهُمَا، فَقَالَ: إِنَّ (رواه البخاري ومسلم). "هَذِهِ الْأَقْدَامُ بَعْضُهَا مِنْ بَعْضٍ"

Meaning: *'Aisha reported that she said: One day the Messenger of Allah (saw) entered my house in a state of excitement, then he said: "O 'Ā'ishah, do you know that Mujazziz Al-Mudliji entered my house and saw Usamah bin Zayd and Zayd both covering their heads with a velvet cloth, but their feet were visible, so Mujazziz said: surely these feet are part of the other.* (H.R. Bukhari & Muslim)(Al-Naisaburi, n.d.) (Al-Naisaburi, n.d.) .

According to Al-Asqalani and Al-Baghawi, at that time, the general public doubted whether Usamah was really Zayd's biological son, because Zayd had very fair skin while Usamah, had dark skin. News of this public doubt reached the Prophet. Through Mujazziz Al-Mudliji, a qiyāfah expert at the time, the Prophet showed his joy at having proven with his knowledge that Usamah was indeed Zaid(Al-'Asqalani, n.d.).

Understanding the above Hadīth, scholars have differing opinions on the position of qiyāfah as a way of establishing a child's lineage. The majority of scholars, including Imam Shafi'i, Imam Malik, Imam Ahmad, Abu Tsaur, and Al-Auza'i, justify the use of qiyāfah because they view the prophet's excitement above as justified. However, Imam Abu Hanifah argued that the dispute over the child's lineage between the two individuals could only be resolved based on the hadith *al-walad lil firasy*, and not through *qiyāfah* alone(Al-Zuhaili, n.d.-a)

### Introduction of DNA Testing in Nasab Determination

DNA is the main chemical component in chromosomes and serves as the genetic material that transfers heritable traits from parent to offspring. Linguistically, *Deoxyribo Nucleic Acid* (DNA) consists of the words "deoxyribose" which refers to a pentose sugar, "*nucleid*" which is better known as nucleic which means nucleus, and "acid" which refers to an acidic substance. In scientific terminology, DNA is the most

crucial chemical component in carrying genetic information from individual cells or creatures as a whole from one generation to the next (Tajqia Qalbu Rahayu, 2021)

DNA testing is based on the principle that each individual has unique genetic material that can be passed down from their parents. Human DNA consists of two long strands that form a twisted double structure called a double helix. Each strand is made up of nucleotides, which consist of four nitrogenous bases: adenine (A), thymine (T), guanine (G), and cytosine (C). This combination of base sequences forms the genetic code that is unique to each individual (Wahyu, 2013)

DNA testing uses molecular techniques to identify base sequences in a number of locations on an individual's genome. There are several types of DNA tests that are commonly used in lineage determination:

- a. Autosomal DNA test: This is the most commonly used test in lineage determination. It involves the analysis of DNA located on autosomal chromosomes, which are non-sex chromosomes. This test can be used to determine family relationships between parents and children, siblings, or cousins (Salim, 2023)
- b. Y-chromosome DNA test: This test measures variations in the DNA on the Y chromosome. The Y chromosome is only present in male individuals, so this test is useful for determining father-son relationships and patrilineal lineage.
- c. Mitochondrial DNA test: Mitochondrial DNA (mtDNA) is a type of DNA present in the mitochondria of cells and is only passed down from mother to child. The mtDNA test is used to determine matrilineal descent (Honestdocs Editorial Team, 2019)

### Li'an Cases in Islamic Law

#### a. Definition of Li'an

Etymologically, li'an means *المباعدة*, which means avoiding each other. It is so named because both partners are far from the mercy of Allah or far from each other. As for terminology, li'an is a series of certain sentences that are used as a proof for a person who is urged to accuse his partner of having defiled his bed by committing adultery or to deny the child born to his partner (Al-Syarbaini, 1994a).

#### b. Legal Basis of Li'an

The events and methods of li'an are mentioned in the Qur'an in detail in the words of Allah Swt. Surah An-Nur verses 6-9:

﴿وَالَّذِينَ يَزْمُونَ أَزْوَاجَهُمْ وَلَمْ يَكُنْ لَهُمْ شُهَدَاءُ إِلَّا أَنْفُسُهُمْ فَشَهَادَةُ أَحَدِهِمْ أَرْبَعُ شَهَادَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ الصَّادِقِينَ (6) وَالْخَامِسَةُ أَنَّ لَعْنَتَ اللَّهِ عَلَيْهِ إِنْ كَانَ مِنَ الْكَاذِبِينَ (7) وَيَدْرَأُ عَنْهَا الْعَذَابَ أَنْ تَشْهَدَ أَرْبَعَ شَهَادَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ الْكَاذِبِينَ (8) وَالْخَامِسَةَ أَنَّ غَضَبَ اللَّهِ عَلَيْهَا إِنْ كَانَ مِنَ الصَّادِقِينَ (9)﴾

Meaning: *And those who accuse their wives of adultery, and they have witnesses besides themselves, the testimony of the man is four oaths in the name of Allah, surely he is of the truthful (6) And the fifth (oath): That the curse of Allah be upon him, if he be of those who lie (7) The wife is spared the punishment by swearing four times in the name of Allah, that her husband is indeed of those who lie (8) And the fifth (oath) that the curse of Allah be upon him, if he be of those who are truthful (9).*

Among the narrations that explain the reason for the revelation of this verse is as mentioned by Imam Al-Baghawi with a connected sanad that 'Uwaimir Al-'Ijlani came to



'Ashim bin 'Adiy Al-Anshari and he said: O 'Ashim, what do you think if a man finds another man with his wife does he have the right to kill him so that you will kill him for killing, or what should he do? Ask the Messenger of Allah, O 'Ashim! Then 'Ashim asked the Messenger of Allah (S) but he did not like the question that 'Ashim asked. After returning home, 'Uwaimir came to him and asked the result, then 'Ashim said: The Messenger of Allah did not like the question, so 'Uwaimir said: By Allah, I will not stop until I ask him about it myself. Then 'Uwaimir came to the Messenger of Allah in the midst of the crowd and said: O Messenger of Allah, what do you think if a man finds another man with his wife does he have the right to kill him so that you will kill him for killing, or what should he do? So the Messenger of Allah said: a verse has been revealed about you and your wife, go back and bring your wife here! So Sahl said: The two of them were li'an and I was with the people beside the Messenger of Allah. When they had finished their li'an, 'Uwaimir said: I would have lied to her, O Messenger of Allah, if I had kept her, so he divorced her with the third divorce before he was told to do so by the Messenger of Allah (Al-Baghawi, n.d.).

c. Principles of Li'an

From the above it can be understood that the basic principles of li'an are as follows:

- 1) Obligation of Oath: When one spouse accuses the other of adultery, both are required to swear an oath before the judge. The husband swears four times in lieu of witnesses, and the fifth time is ready to be cursed if he lies. And the wife swears four times in self-defense, and the fifth time is willing to receive the wrath of Allah if her husband is right.
- 2) Determination of Nasab: If the couple who took the oath in the Li'an case already have a child, then the nasab of the child will be questioned. A child born after the Li'an case will be considered a bastard child to the husband, and he will not be entitled to inheritance or maintenance.
- 3) End of Marriage: After a case of Li'an, the marriage between this husband and wife is considered void and they must be divorced (Al-Syarbaini, 1994b)

**Determination of Nasab through DNA Test According to Sheikh Yusuf al-Qaraḍāwī**

In his fatwa, Sheikh Yusuf al-Qaraḍāwī emphasized that in the context of Islamic law, accusations of adultery require strong evidence in the form of four witnesses. If there are no witnesses to support the accusation, the accuser will be subject to the hadd punishment of *qadzaf* (punishment for accusing someone of adultery without evidence). However, in the case of a husband who accuses his wife of adultery or wants to deny the lineage of his wife's child, Islam provides a solution through a process called li'an, which is a mechanism that allows the husband and wife to swear to establish the truth or falsehood of the accusation. The husband swears four times that he is telling the truth, and the fifth oath states that Allah's curse will fall on him if he lies. The wife can deny by swearing four times that the husband is lying, and the fifth oath states that Allah's anger will be upon her if she is telling the truth (Al-Qaraḍāwī, 2006).

In modern times, scientific methods such as DNA testing have emerged to determine the lineage of children. Sheikh Yusuf al-Qaraḍāwī recognizes that the use of DNA testing can have great benefits in resolving nasab disputes between husband and wife. However, its application must consider the rights of each party involved. If the wife requests a DNA test to prove her innocence, according to Sheikh Yusuf this is permissible. He argues that a DNA test can help the wife prove that the allegations against her are untrue, convince the husband of the child's lineage, and safeguard the child's rights. However, if the request

is from the husband, the DNA test can only be fulfilled with the consent of the wife. This is because the li'an process provides protection for the wife's right to confidentiality, which is very much in line with the objectives of the Shari'a.

To strengthen his opinion, Sheikh Yusuf al-Qaraḍawi gives several reasons why DNA testing can be used at the request of the wife, among others:

- 1) Establishing innocence: DNA testing can scientifically prove that the wife is innocent of the charge of adultery, and this is something that sharia upholds; that an innocent person should not be accused of something that he or she did not do.
- 2) Establishing the child's lineage: The test can also confirm the child's lineage, which is the child's right to know the identity of his or her parents, Preserving lineage is one of the five objectives of shari'ah (*maqāṣid al-syarī'ah*).
- 3) Calming the Husband's Mind: DNA tests provide scientific evidence that can ease the husband's mind and remove any doubts about his child's lineage

Thus, all three parties benefit from this procedure: the wife, the husband, and the children. Something that achieves all of these interests, does not harm anyone, and does not contradict the text: it is not rejected by sharia law, but is in accordance with its purpose (Al-Qaradhawi, 2006)

Thus, Yusuf al-Qaraḍawi argues that the use of DNA tests by husbands and wives in Li'an cases has different implications. The husband is encouraged to bring witnesses or use the li'ān oath in place of witnesses, while the wife has the right to request a DNA test if she believes her child is her husband's offspring. This helps in safeguarding the rights and honor of both parties as well as proving or disproving allegations in Li'an cases (Keluarga & Volume, 2019).

## D. DISCUSSION

### A Study of Sheikh Yusuf al-Qaraḍawi's Opinions and His Contributions.

From the explanation of the law presented by Sheikh Yusuf al-Qaraḍawi in distinguishing the issue of DNA testing in li'an cases between the husband's request or the wife's request, it is clear that the maslahat consideration that he holds is mainly the maslahat of protecting the honor of the wife and the child's nasab. According to the author, this is in accordance with what has been formulated by scholars in *maqashid al-Tasyri'*, especially those related to Hifzu Al-Nasl and Hifz Al-'Irdh as added by some scholars. This is also in line with the words of Allah Swa. in another verse in Surah Al-Nur:

﴿إِنَّ الَّذِينَ يُحِبُّونَ أَنْ تَشِيعَ الْفَاحِشَةُ فِي الَّذِينَ آمَنُوا لَهُمْ عَذَابٌ أَلِيمٌ فِي الدُّنْيَا وَالْآخِرَةِ وَاللَّهُ يَعْلَمُ وَأَنْتُمْ لَا تَعْلَمُونَ﴾ (19)

Meaning: *Verily, those who wish evil to spread among the believers will have a painful torment in this world and the Hereafter, and Allah is all-knowing while you are not.* (Q.S. Al-Nur: 19).

Sheikh Yusuf al-Qaraḍawi's views on the use of DNA testing in determining a child's parentage in li'an cases combine elements of modern science with principles of Islamic law. Al-Qaraḍawi recognizes that the use of DNA testing as scientific evidence can provide clarity and accuracy in establishing a child's lineage, which is one of the important aspects of Islamic law. *The emphasis* on scientific accuracy shows the flexibility of Islamic law in accommodating technological advances to achieve justice. However, this approach also poses challenges in terms of adaptation to tradition and cultural resistance in some communities that may still cling to traditional methods such as li'an.

Al-Qaradawi states that if the wife requests a DNA test, the request should be honored. This is an important step in providing justice to the wife, who can thereby prove *her innocence* of adultery charges and safeguard the child's nasab rights. In addition, a DNA test can also ease the husband's mind by providing scientific evidence that removes any doubts regarding the child's lineage. However, the husband's request for a DNA test can only be fulfilled if the wife agrees. Al-Qaradawi argues that this protects the wife's right to privacy which is safeguarded through the li'an process, which allows the wife to maintain her confidentiality.

In addition, the wife's use of DNA testing in the context of Islamic law brings several important benefits. First, a DNA test can assist the wife in *proving* her innocence from accusations of adultery, which is an individual's right in Islamic law not to be accused without evidence. Second, DNA testing can confirm the nasab of the child, which is the child's right to know the identity of his or her parents and to be legally recognized in society. Thirdly, DNA testing provides scientific certainty that can eliminate the husband's doubts and improve household harmony.

However, there are some challenges to consider in implementing this view. One is the potential inequality of access, where only the wife can request a DNA test, while the husband may feel his rights are limited. *In* addition, there is also the risk of abuse of this right by either party for personal gain, which could undermine the justice system. Protecting the wife's right to privacy is important, but ignoring the husband's request for a DNA test could also be seen as a potential injustice if the husband has good reason to doubt the child's lineage.

Overall, Sheikh Yusuf al-Qaradawi's views demonstrate a significant attempt to integrate modern science with Islamic law. This approach not only reflects adaptation to technological advancements, but also *adheres* to the principles of justice and protection of individual rights. Despite challenges and potential conflicts, the implementation of this solution requires a balance between adherence to the principles of sharia and response to the needs of contemporary society. As such, this view offers a holistic and relevant solution to resolving nasab disputes in Li'an cases.

The thought of Sheikh Yusuf al-Qaradawi has made a significant contribution to the reform of Islamic family law in Indonesia, especially in the context of determining the child's *lineage* in Li'an cases. Al-Qaradawi, through his progressive views, has opened the door to the use of modern technology, such as DNA testing, as a tool in establishing the truth of lineage. In the context of Islamic family law, this is an important breakthrough, as it introduces scientific methods that can provide more accurate evidence especially in combination with traditional methods. This helps to resolve disputes over lineage more fairly and efficiently. In Indonesia, this view can be used as one of the important references in the revision of the Islamic family law, which aims to harmonize sharia principles with technological advances. This approach also reflects sensitivity to humanitarian needs while maintaining the integrity and ethics of Islamic law. Thus, al-Qaradawi's thought has provided a strong foundation for sharia courts in Indonesia to adopt DNA technology in resolving Li'an cases, ensuring justice for all parties involved.

## E. Conclusion

Sheikh Yusuf Al-Qaradawi's view on the use of DNA testing in establishing the child's lineage in Li'an cases is that he supports the use of this modern technology

as a scientific tool. According to Al-Qaraḍawī, DNA testing can provide accurate and scientific evidence to prove the wife's innocence of adultery charges and confirm the child's lineage. However, he emphasizes that the request for a DNA test should come from the wife and not the husband, unless the wife gives her consent. This approach aims to protect the wife's right to privacy which is safeguarded through the li'an process, while still utilizing technological advances to achieve justice in Islamic family law. This view demonstrates the flexibility and ability of Islamic law to adapt to the times without compromising the principles of ethics and morality held dear in sharia.

The contribution of Sheikh Yusuf Al-Qaraḍawi's thought to the reform of Islamic family law in Indonesia is significant, especially in the context of the use of modern technology such as DNA testing. Al-Qaraḍawi's approach allows sharia courts in Indonesia to adopt this scientific method in establishing a child's parentage, which in turn improves accuracy and fairness in legal proceedings. In addition, his views emphasize the importance of protecting individual rights and family welfare, by giving the wife the opportunity to prove her innocence and safeguard the child's lineage. This not only reforms Islamic family law to make it more relevant to contemporary needs, but also demonstrates that Islamic law can evolve along with advances in science and technology, thus creating a more humane and just legal system for all parties involved.

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