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Acceptability of DNA as Evidence in Child Denial (Li'ān) Cases at Bangil Religious Court

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Abstrak

Under Islamic law, li'ān is a judicially supervised oath procedure allowing a husband to deny a child's lineage when he cannot produce four witnesses to substantiate an adultery accusation. Although the Compilation of Islamic Law (KHI) regulates li'ān without referencing DNA evidence, judges at Bangil Religious Court have informally required DNA testing before accepting child denial filings, creating a normative gap between codified procedure and field practice. This study describes the use of DNA testing as evidence in li'ān child denial filings from the perspective of fiqh and legislation, and analyzes Bangil Religious Court judges' views on the evidentiary position of DNA results in deciding li'ān cases. Employing an empirical juridical method with a qualitative approach, primary data were gathered through semi-structured interviews with three judges selected via snowball sampling, supplemented by statutory instruments, fiqh literature, and fatwa documents, analyzed through editing, classification, verification, analysis, and conclusion-drawing stages. Classical fiqh and five major fatwa institutions converge in treating DNA as corroborative evidence (qarīnah) rather than a substitute for the li'ān oath. The three judges diverge: two consider valid DNA results sufficient to dispense with the oath, while one regards DNA as supplementary, becoming primary only when witnesses are unavailable—a position this study finds most doctrinally defensible. A granted li'ān ruling severs the child's lineage solely to the mother. The study recommends a Supreme Court circular letter and subsidy schemes to reconcile DNA-based proof with the principle of simple, fast, and low-cost justice.

Keywords: DNA Testing, Li'ān, Child Denial, Lineage (Nasab), Islamic Family Law.

1. Background

Marriage in Islamic law is not merely a social contract but an act of worship encompassing spiritual, moral, and social dimensions, through which lineage (*nasab*) is established and protected [1]. Indonesia's Marriage Law No. 1 of 1974 defines marriage as a physical and spiritual bond between a man and a woman intended to form an eternal and happy family founded on belief in God [2]. The Compilation of Islamic Law (KHI) reinforces this by describing marriage as a strong covenant (*mitsaqan ghalizan*) whose observance constitutes worship, aimed at realizing a *sakinah, mawaddah, and rahmah* household [3].

Marital discord, however, occasionally escalates into accusations of adultery (*qadzaf*) by a husband against his wife, which in turn may lead to the denial of a child born within the marriage [4]. Classical fiqh addresses this dilemma through *li'ān*, a judicially supervised procedure of reciprocal oaths used when a husband cannot produce four male witnesses to substantiate an accusation of adultery [5]. Through *li'ān*, the husband swears four times to the truth of his accusation and a fifth time invoking God's curse upon himself if he is lying; the wife may rebut through an equivalent five-fold oath [6]. The legal consequence is severance of both the marital bond and the child's lineage from the husband, consistent with the maxim *al-walad li al-firāsy* (the child belongs to the marital bed) [7]. In practice, however, *li'ān* rulings are exceedingly rare in Indonesian religious courts [8].

The procedural distinctiveness of *li'ān* lies precisely in its function as an exceptional substitute for ordinary testimonial proof. Qur'anic verses in Surah al-Nur (24:6–9) prescribe that where a husband accuses his wife of adultery without being able to produce four witnesses, his own four-fold oath, followed by a fifth invoking divine curse upon himself should he be lying, stands in place of testimony, while the wife may neutralize both the accusation and its legal consequences through an equivalent four-fold oath followed by a fifth invoking divine wrath upon herself should her husband be telling the truth [9], [10]. This design reflects a deliberate juristic choice: rather than leaving an unprovable accusation unresolved, the law channels it into a solemn, court-supervised declaration that requires no external corroboration whatsoever. It is precisely this design feature, an evidentiary mechanism built to function without scientific or testimonial support, that creates the doctrinal friction at the centre

of this study, since contemporary practice increasingly expects such proceedings to be accompanied by DNA evidence that the original procedure was never built to require.

A notable precedent illustrating this tension is Bangil Religious Court Decision No. 0882/Pdt.G/2022/PA.LMG, in which a husband performed the *li'ān* oath, resulting in both the dissolution of marriage and the severance of the child's lineage [11]. A parallel public controversy, involving a former regional governor publicly identified only as RK and a woman identified as LM, who disputed the paternity of a child from an unregistered marriage, saw DNA testing invoked as rebuttal evidence, illustrating how scientific proof has entered public discourse on lineage disputes alongside the classical *li'ān* mechanism [12]. Against this backdrop, the Bangil Religious Court has begun encountering *li'ān*-related inquiries despite having no prior adjudicated cases of this type, and its judges have informally required prospective litigants to obtain DNA test results before a denial case proceeds, even though no written regulation within the court mandates this. This creates a normative gap: KHI Article 127 prescribes the procedural elements of *li'ān* without reference to DNA evidence [3], yet judicial practice at the field level increasingly treats such evidence as indispensable. The tension is compounded by the constitutional principle that judicial proceedings must be simple, swift, and low in cost [13], a principle potentially strained by the financial and procedural burden of DNA examination.

Several prior studies have examined adjacent aspects of this issue, though from angles that leave the present problem largely unaddressed. Saputra analyzed the evidentiary strength of DNA testing in a homicide case using a normative juridical method with a statute approach, concluding that DNA evidence carries significant probative weight in criminal proceedings; the study, however, is confined to criminal procedure and does not touch family law evidentiary mechanisms such as *li'ān* [14]. Fadli, Djawas, and Rahmatillah, using a library-research method, examined whether DNA testing could substitute the requirement of four witnesses under Aceh's Qanun on *Jinayah* Law, concluding that DNA may corroborate but not fully replace testimonial evidence in adultery-related offenses; their analysis is doctrinal and confined to a single regional Qanun rather than national religious-court practice [15]. Lukito, also through library research, explored the position of DNA in establishing child lineage according to the 31st Nahdlatul Ulama Congress and the Egyptian Dar al-Ifta, finding general acceptance of DNA as a supporting instrument akin to classical physiognomy (*qiyāfah*), but the study addresses only the establishment, not the denial, of lineage [16]. Afifah and Yuni compared constitutional and Islamic legal bases for DNA as proof of child legitimacy through a statutory approach, concluding that both frameworks tend to treat DNA evidence as corroborative rather than dispositive, yet without engaging empirical judicial practice [17]. More recent doctrinal work by Lukito, Hadi, and Fikri synthesized fatwa positions on DNA specifically in establishing, rather than denying, lineage [18], while Hidayah examined the doctrinal tension between *al-walad li al-firāsy* and DNA technology in hadith-based evidentiary reasoning [19], and Hanapi, Imanuddin, and Hasballah analyzed the *maqāṣid al-sharī'ah* dimension of *qiyāfah* as a doctrinal precursor to modern genetic identification, concluding that classical physiognomy already anticipated the evidentiary logic later formalized by DNA science [20]. Kusmayanti examined the legal consequences of an unproven *li'ān* oath for a child's status under both Islamic and statutory law [21], and Setiawan analyzed the broader juridical impact of the *li'ān* oath under Islamic and positive law, concluding that the two frameworks remain only partially harmonized [22]. Two further recent contributions deepen the evidentiary picture without resolving it: Afif, Frederik, and Musa examined the juridical review of denying the legitimacy of a child born within a valid marriage, concluding that existing statutory protection for such children remains procedurally underdeveloped [23], while Djafri, Asri, and Muhammad, examining voice recordings as criminal evidence under Islamic law, demonstrate more broadly how Indonesian religious and civil courts have struggled to accommodate technologically generated evidence within classical evidentiary categories, a struggle structurally analogous to the one DNA testing now poses for *li'ān* [24].

Read together, these eleven studies establish that DNA's evidentiary relationship to lineage has been examined separately in criminal law, regional Qanun law, comparative fatwa analysis, and constitutional doctrine, yet none specifically examines how DNA testing functions as a prerequisite or evidentiary instrument within *li'ān* denial proceedings at the religious court level, nor do they capture the empirical perspectives of sitting judges who must reconcile classical *li'ān* doctrine with contemporary scientific proof in actual case handling. This gap is precisely what the Bangil Religious Court context exposes: a court where DNA testing has become a *de facto*, though not *de jure*, requirement, and where judges' interpretive choices directly shape both the procedural pathway and the substantive outcome for the child's lineage status. Addressing this gap matters beyond the single court studied, since the same normative silence in KHI Article 127 applies nationally, meaning the interpretive choices documented here are likely to recur, in varying forms, wherever a *li'ān* filing intersects with the now widespread availability of commercial DNA testing. This study therefore aims to describe the use of DNA testing as evidence in *li'ān* child denial filings at Bangil Religious Court from the perspective of fiqh and legislation, and to analyze

the views and considerations of Bangil Religious Court judges regarding the evidentiary position of DNA test results in deciding *li'ān* cases.

2. Research Methods

This research employs an empirical juridical method with a qualitative approach, focusing on field-based data concerning the application of DNA testing in *li'ān* proceedings at the Bangil Religious Court [25]. The qualitative approach was selected because the data required, judges' interpretations, reasoning, and institutional practice, are best captured through narrative rather than statistical means [27]. Primary data were obtained through semi-structured interviews with three judges of the Bangil Religious Court, Dra. Hj. Hamimah, M.H.; Drs. Muhammad Arafah Jalil, S.H., M.H.; and Rifyal Fachri Tatuhey, S.HI., M.H., selected through snowball sampling based on the criteria of holding senior judicial rank and possessing at least three years of experience handling evidentiary matters [28]. The interview guide combined structured questions on the requirements, fiqh and statutory basis, evidentiary status, and post-ruling implications of DNA testing with unstructured follow-up questions probing each judge's individual reasoning, allowing the researcher to pursue clarification where initial answers diverged. Secondary data comprised statutory instruments, the 1974 Marriage Law, KHI, Constitutional Court Decision No. 46/PUU-VIII/2010, classical and contemporary fiqh literature, principally Wahbah al-Zuhaili's *al-Fiqh al-Islāmī wa Adillatuhu*, and fatwas issued by national and international Islamic legal bodies [29]. Data were processed through five sequential stages: editing, verifying completeness and consistency of interview transcripts and documents; classification, grouping data according to the research questions; verification, cross-checking interview accounts among the three judges through source triangulation; analysis, interpreting findings against the fiqh and statutory framework; and conclusion drawing, synthesizing answers to the research questions [29]. Because the study draws on a single court and a small purposive sample, its findings are presented as an in-depth account of judicial reasoning at one institution rather than as a generalizable description of national religious-court practice; triangulation across the three judges nonetheless allows internal consistency and divergence within that single institution to be assessed with reasonable confidence.

3. Results and Discussion

3.1 First Discussion: DNA Testing as Evidence in *Li'ān* Filings According to Fiqh and Legislation

In Arabic juristic usage, DNA is rendered *al-bashmah al-warāthiyyah* (hereditary fingerprint), an extension of the term *al-bashmah* (fingerprint), reflecting its conceptual continuity with the classical practice of physical identification [30]. As a molecule encoding hereditary information at the cellular level, DNA testing offers a contemporary, highly accurate method for establishing biological parentage, functionally analogous to *al-qiyyāfah*, the classical Arab practice of inferring kinship from physical resemblance, which was recognized during the Prophet's era as a legitimate, if imprecise, method of lineage determination [31].

Classical fiqh, however, subordinates physical or scientific indicators to the stronger presumption created by a valid marriage. Al-Khatib al-Shirbini held that an already-established lineage cannot be transferred to another party merely on the strength of a weaker form of proof [32]. Ibn Qudāmah similarly maintained that once lineage has been established through acknowledgment, a subsequent denial is inadmissible, because lineage rests on a definitive legal basis, *dalīl syar'ī*, that cannot lapse through later repudiation [33]. The hadith *al-walad li al-firāsy wa li al-āhir al-ḥajar*, the child belongs to the marital bed; the adulterer has no claim, is the doctrinal anchor for this position, establishing that a child born within a valid marriage is legally attributed to the husband unless he formally denies the child through *li'ān* [34]. Some Shafi'i jurists nonetheless analogize DNA testing to the function of a *qā'if*, an expert in physiognomic lineage tracing, permitting its use within a hierarchy of proof: first, examining the interval between marriage and pregnancy; second, mutual acknowledgment between child and parent; third, witness testimony meeting prescribed conditions; and fourth, DNA testing or expert physiognomic judgment [35].

This four-stage hierarchy is not merely procedural ordering but reflects an underlying *maqāṣid al-sharī'ah* rationale: protection of lineage (*ḥifzān al-nasab*) is treated as a higher-order interest than evidentiary precision for its own sake, because an established lineage carries irreversible social, custodial, and inheritance consequences for the child, whereas a wrongly preserved presumption of legitimacy can, at least in principle, be revisited through the formal *li'ān* channel if new circumstances arise [20]. Privileging *firāsy* over scientific proof is therefore best understood not as juristic technological skepticism but as a deliberate preference for legal stability and protection of the child's status, a rationale that becomes directly relevant later in this study's discussion of the consequences a granted *li'ān* ruling has for the child's nasab and inheritance rights.

This doctrinal hierarchy is corroborated by the positions of five major fatwa-issuing institutions, summarized in Table 1.

Table 1. Positions of Islamic Fatwa Institutions on the Legal Status of DNA Testing

No.	Institution	Position
1	Indonesian Council of Ulama (MUI)	Does not elaborate extensively on DNA; affirms that denial of a child must follow the <i>li'ān</i> mechanism, referencing Constitutional Court Decision No. 46/PUU-VIII/2010 only in the context of out-of-wedlock children. ³⁷
2	Permanent Committee for Islamic Research and Fatwa, Saudi Arabia (Lajnah Dā'imah)	Positions DNA as corroborative evidence (<i>qarīnah</i>) akin to <i>qiyāfah</i> ; lineage denial must still proceed through <i>li'ān</i> , even where DNA indicates otherwise. ³⁸
3	Muslim World League, International Islamic Fiqh Academy (MWL)	Recognizes DNA's near-conclusive accuracy in verifying biological relationships but cautions that statutory and Sharī rules must take precedence over genetic fingerprinting in lineage matters. ³⁹
4	Dar al-Ifta al-Misriyyah (Egypt)	Permits DNA to establish lineage within a valid, non-disputed marriage absent <i>li'ān</i> ; prohibits its use in adultery cases or to deny an otherwise valid lineage. ⁴⁰
5	Bahtsul Masail Institution, Nahdlatul Ulama (LBM)	Treats DNA as equivalent to <i>qiyāfah</i> ; permits its use to deny an attributed lineage (<i>ilhāq al-nasab</i>) but not

Comparing these five positions reveals a more layered consensus than a simple binary of acceptance or rejection. MUI and Lajnah Dā'imah are the most conservative, treating *li'ān* as effectively non-negotiable regardless of what DNA evidence might suggest; the Muslim World League occupies an intermediate position, acknowledging DNA's scientific near-certainty while still subordinating it to statutory and Sharī text. Dar al-Ifta al-Misriyyah and LBM NU, by contrast, both carve out a narrower, asymmetric permission: Dar al-Ifta permits DNA to establish lineage but never to deny it absent *li'ān*, while LBM NU permits DNA to deny an attributed lineage but treats it as insufficient on its own to establish one. This asymmetry is doctrinally significant, since it implies that DNA's evidentiary weight in classical fiqh is not symmetric across the establishment and denial of lineage; institutions are markedly more cautious about allowing DNA to sever an existing legal bond than to support one. This asymmetry foreshadows a parallel asymmetry later observed in Indonesian constitutional jurisprudence itself, where DNA has been judicially embraced for *establishing* paternity but left doctrinally unaddressed for *denying* it within an existing marriage.

A useful comparative reference point is found in Saudi Arabia's own statutory treatment of the issue. Article 70 of the Saudi Personal Status Law permits a court to order DNA testing in exceptional circumstances or where lineage is disputed, but only after verifying that the child's origin is genuinely unknown and that the age gap is consistent with the disputed lineage claim, while Article 73 explicitly states that a man may not deny a child's lineage established through marriage except through *li'ān* [40], [32]. This statutory design is instructive for the Indonesian context precisely because it demonstrates that a jurisdiction can formally incorporate DNA testing into its lineage-dispute procedure while still preserving *li'ān* as the exclusive mechanism for denial, a combination Indonesian law has not yet codified. Indonesia's KHI, by comparison, remains entirely silent on DNA, leaving courts such as Bangil to improvise a practice that Saudi law has chosen to regulate explicitly.

At the level of Indonesian positive law, the legal landscape shifted substantially following Constitutional Court Decision No. 46/PUU-VIII/2010, which held that a child born outside marriage may have a civil relationship with the biological father where this can be proven through science and technology, including DNA testing [41]. This decision marked a doctrinal shift from a purely formal-marital basis for legal parentage toward one accommodating scientific proof, though, as the comparative discussion above suggests, it does not directly address DNA's role in denying, as opposed to establishing, a child's lineage within an existing marriage; the decision was framed to expand, rather than contract, a child's legal protections, and applying its logic in reverse, to sever rather than establish parentage, would require a separate and more cautious line of reasoning that Indonesian jurisprudence has not yet articulated. The KHI governs the *li'ān* procedure itself: Article 125 provides that *li'ān*

permanently dissolves the marriage; Article 126 defines *li'ān* as arising when a husband accuses his wife of adultery or denies a child, and the wife rejects the accusation; Article 127 prescribes the reciprocal oath formula; and Article 128 requires that *li'ān* be performed before a Religious Court session [3]. The Supreme Court's Book II Guidelines further specify formal requirements, the accusation must be stated chronologically in the petition, the wife must contest it, and the oath must be ordered by the presiding judge, and material requirements, absence of corroborating witnesses, the oath delivered in open court, and reciprocal oaths by both spouses [42]. None of these instruments references DNA testing as a procedural prerequisite.

Nevertheless, field practice at Bangil Religious Court diverges from this formal silence. According to information desk officer Ramadhan, *li'ān* cases are exceedingly rare at the court, to the extent that no formal written guidance, whether internal regulation or published procedure, exists to govern them [43]. In the absence of such guidance, when a prospective litigant inquired about filing a child denial case, the presiding judges, through internal deliberation, determined that DNA test results would be required before the matter could proceed, even though the case ultimately did not reach formal registration. This illustrates a structural reality: where written *li'ān* procedure is silent and case volume is negligible, individual judicial discretion, rather than codified rule, fills the gap, producing a locally specific evidentiary norm not derived from either KHI or national jurisprudence. The practical consequence is a form of legal uncertainty that cuts both ways: prospective litigants face an unwritten and therefore unappealable threshold requirement, while the court itself operates without institutional guidance that could otherwise protect it from inconsistent rulings should similar cases arise before different panels. This is precisely the gap the Supreme Court's general policy of simple, fast, and low-cost adjudication was designed to prevent, since an informally imposed evidentiary requirement, however well-intentioned, sits outside the predictability that codified procedure is meant to guarantee.

3.2 Second Discussion: Judges' Views and Considerations on the Evidentiary Position of DNA Test Results

Interviews with the three Bangil Religious Court judges reveal both convergence and meaningful divergence on four interrelated questions: the procedural status of DNA evidence, its relationship to fiqh and statute, its capacity to substitute the *li'ān* oath, and its practical implications for judicial economy.

On the question of procedural status, all three judges agreed that DNA testing is not an administrative precondition for registering a *li'ān* case but properly belongs to the evidentiary stage of trial. Judge Hamimah indicated that DNA evidence may be attached at the registration stage but is examined during the probative phase before the panel of judges, calling a strict registration requirement not relevant [44]. Judge Tatuhey distinguished sharply between administrative and evidentiary requirements, characterizing DNA as scientifically authoritative and difficult to refute given current technological advancement, while still situating it within trial-stage proof rather than filing requirements [45]. Judge Jalil concurred, framing DNA as a strong corroborative instrument for establishing biological parentage that nonetheless complements, rather than substitutes, the four-witness requirement [46]. This convergence positions DNA squarely within the documentary evidence category recognized under Indonesian procedural law generally, which acknowledges expert statements and authenticated documents as legitimate forms of proof in both criminal and civil contexts [47]. Functionally, a DNA report issued by a medical or forensic professional resembles either a private deed or, depending on the issuing authority, an authentic instrument falling under documentary evidence, distinguishing it from the categories applicable strictly to criminal procedure [48]. On the relationship between DNA and fiqh or statute, judges expressed more varied reasoning, summarized in Table 2.

Table 2. Judicial Views on the Status of DNA Testing in Fiqh and Legislation

Aspect	Hamimah	Tatuhey	Jalil
Characterization of DNA	A new technological development requiring legal accommodation	Permissible in fiqh, subject to strict limits	Functionally equivalent under both fiqh and statute
Relationship to fiqh	Not directly addressed; emphasis on innovation	DNA cannot override an already-valid lineage; may corroborate but not annul a <i>firāsy</i> -based	Fiqh and statute serve the same evidentiary function

Judge Hamimah's reasoning reflects an implicit application of *maslahah mursalah*, unrestricted public interest: because DNA technology offers certainty unavailable in earlier eras, she reasons it should be integrated into legal practice without treating it as doctrinally problematic. Judge Tatuhey's position is the most doctrinally cautious, holding that DNA may corroborate denial of an attributed lineage but cannot, by itself, overturn a lineage already validly established through marriage, consistent with the Abu Hanifah-derived principle that a child born after a valid contract is attributed to the husband unless formally denied through *li'ān*. This view aligns closely with the Quranic basis for *li'ān* discussed above, under which the oath functions as a substitute specifically for the absence of four witnesses, implying that DNA strengthens but does not eliminate the underlying oath requirement. Judge Jalil, by contrast, perceives no meaningful tension between fiqh and statute, treating both frameworks as functionally aligned. Read against the five fatwa institutions in Table 1, Judge Tatuhey's reasoning maps most closely onto the Lajnah Dā'imah and MWL positions, Judge Jalil's procedural-equivalence reasoning resembles no single fatwa institution's stated position, and Judge Hamimah's innovation-driven reasoning is the most distant from all five, illustrating that judicial practice at the field level can diverge from settled fatwa consensus even where judges believe themselves to be applying it.

The most consequential divergence concerns whether DNA testing can substitute the *li'ān* oath itself, summarized in Table 3.

Table 3. Judicial Positions on Whether DNA Testing May Replace the *Li'ān* Oath

Aspect	Hamimah	Jalil	Tatuhey
Status of DNA	Primary, self-sufficient evidence	Authentic, conclusive evidence	Supporting evidence, elevated to primary only if witnesses are unavailable
Necessity of <i>li'ān</i> oath	Not required once valid DNA evidence exists	Not required once authentic evidence exists	Still required; DNA only reinforces
Doctrinal	Constitutional Court	Strength of authentic	Fiqh's formal requirement

Judge Hamimah's position, that a valid DNA result obviates the need for the *li'ān* oath, represents the most scientifically deferential interpretation among the three, but stands in direct tension with the unanimous position of the five fatwa institutions discussed above, none of which permits DNA to substitute the oath. Judge Jalil's reasoning, grounded in civil procedural hierarchy, authentic documentary evidence outranking subsidiary proof such as oaths, similarly diverges from fiqh consensus, since none of the surveyed fatwa bodies accepts dispensing with *li'ān* once an accusation of denial is raised. Judge Tatuhey's intermediate position, DNA as reinforcement, escalating to primary evidence only where witnesses cannot be produced, aligns most closely with the fatwa institutions' shared framework and, in the author's assessment, represents the most doctrinally defensible synthesis: it preserves *li'ān* as the substantive mechanism mandated by KHI Articles 126 to 128 while accommodating DNA's evidentiary value where testimonial proof is unavailable.

This divergence can usefully be read through the Islamic evidentiary concept of *qarīnah*, circumstantial or corroborative proof, which all five surveyed fatwa institutions invoke, in some form, to describe DNA's proper status. *Qarīnah* in classical evidentiary theory strengthens a judge's confidence in a fact already supported by stronger proof, but it is not, on its own, equivalent to the primary forms of proof, such as testimony or oath, that the law specifically prescribes for a given case type. Judges Hamimah and Jalil effectively elevate DNA beyond *qarīnah* status into a primary, self-sufficient instrument, a move that, however scientifically reasonable, exceeds what any of the five fatwa institutions sanction. Judge Tatuhey's framing keeps DNA within the *qarīnah* category proper, allowing it to rise in practical importance only when the prescribed primary proof, four witnesses, is structurally unavailable, which is a materially different proposition from displacing *li'ān* altogether. Accordingly, this study takes the position that DNA testing should be integrated cautiously, filling evidentiary gaps without automatically displacing the *li'ān* oath, an approach that also avoids the risk, flagged implicitly by Judge Tatuhey himself, of procedural shortcuts producing outcomes vulnerable to future legal defect and prejudicial to the child's interests.

On the question of whether DNA examiners must be sworn in court, the three judges were unanimous: laboratory personnel issuing DNA reports need not be re-sworn at trial, since their professional oath of office already satisfies this requirement, provided the issuing institution is officially accredited and no party contests the

chain of custody [44]. This view aligns with forensic standards requiring documented chain-of-custody procedures, including sample collection in the presence of an authorized representative, to ensure evidentiary reliability [49]. The judges' shared reasoning here mirrors a broader principle of procedural efficiency found elsewhere in Indonesian evidentiary practice, where officials already bound by an oath of office are generally not required to repeat that oath for each individual act performed within their professional capacity; treating DNA examiners consistently with this principle avoids unnecessary duplication of process. A residual concern, however, is that not every laboratory possesses officially sworn personnel, creating potential disparities in evidentiary weight depending on which institution conducts the test, a gap that, left unaddressed, could allow forum-shopping among laboratories of varying credibility.

Regarding the type of DNA test admissible as evidence, judges showed limited technical specificity, with one judge speculating that higher cost implies greater accuracy, a proposition not strictly correct, since admissibility properly depends on procedural integrity and forensic accreditation rather than price [44]. The relevant test is the paternity test, which achieves accuracy of approximately 99.9 percent through either blood sampling or buccal swab analysis [50]. Commercial pricing varies considerably; Indonesian laboratories such as Genos Laboratory and Previ Klinik list paternity-verification fees in the range of eleven million to nearly seventeen million rupiah, with legal-purpose testing, requiring additional certification and procedural safeguards, commanding even higher fees [51], [52]. This limited judicial familiarity with the technical distinctions between consumer-grade and legal-purpose DNA testing is itself consequential: because neither KHI nor Bangil Religious Court's own practice specifies which type of test is admissible, the responsibility for ensuring evidentiary adequacy falls entirely on litigants and testing laboratories rather than on any court-supervised standard, raising a quality-control concern that parallels the access-to-justice concern discussed further below [53].

Concerning the status of the child following a granted *li'ān* ruling, all three judges concurred that the child's lineage is severed from the father automatically upon the ruling's finality, with lineage attributed solely to the mother, consistent with KHI Article 100's treatment of children born outside marriage [3]. Table 4 contrasts this outcome with the position of an ordinary out-of-wedlock child following Constitutional Court Decision No. 46/PUU-VIII/2010.

Table 4. Comparison of Lineage Status: Ordinary Out-of-Wedlock Child versus Child Following a Granted *Li'ān* Ruling

Aspect	Out-of-wedlock child (Article 43, Marriage Law, jo. Constitutional Court Decision No. 46/PUU-VIII/2010)	Child following granted <i>li'ān</i>
Civil relationship with biological father	May be proven; entitled to support and bequest if proven	Severed from the husband; support/inheritance from the biological father, if pursued, requires a separate acknowledgment proceeding
Lineage (<i>nasab</i>)	To mother and biological father, if proven	To mother only

This comparison illustrates a notable asymmetry: while constitutional jurisprudence has progressively expanded a biological father's civil obligations toward children born outside marriage, a child whose lineage is severed through *li'ān* loses inheritance, maintenance, and *nasab* rights from the husband absent further legal action, raising questions of consistency in how Indonesian family law treats children's interests across analogous evidentiary contexts. The asymmetry is sharpened further once custody (*haḍānah*) is considered alongside lineage and inheritance: while the mother retains full custodial and maintenance responsibility toward the child regardless of the *li'ān* outcome, none of the judges interviewed indicated that the court routinely informs litigants, at the point DNA testing is first discussed, of these downstream inheritance and support consequences, suggesting that the evidentiary conversation at Bangil Religious Court currently centers on proof of biological fact rather than on the child's resulting legal position, a sequencing that this study suggests warrants greater procedural attention given the irreversible nature of the lineage severance once the ruling becomes final [54].

Finally, on the application of DNA testing to the principle of simple, fast, and low-cost justice, judges' views again diverged. Judge Hamimah observed candidly that DNA testing's substantial cost runs counter to the

simplicity and low-cost principles, noting that an oath-based *li'ān* proceeding remains comparatively simpler and that KHI itself contains no provision extending the *li'ān* procedure to accommodate DNA technology [44]. Judge Tatuhey countered that fulfilling the Supreme Court's broader mission of accessible justice cannot mean dispensing with formal and material evidentiary requirements, drawing an analogy to divorce proceedings where mutual party consent still cannot substitute for required proof; in his view, where DNA constitutes the only available reliable evidence, foregoing it risks producing a legally defective ruling injurious to the child [45]. Judge Jalil similarly prioritized evidentiary certainty over procedural economy, arguing that where witnesses are unavailable, DNA testing becomes the only viable path to a sound and authentic determination [46].

Table 5. DNA Testing and the Principle of Simple, Fast, and Low-Cost Justice

Principle	General Meaning	Tension Introduced by DNA Testing
Simple	An easily understood process free of convoluted procedure	Additional administrative and procedural steps for sample collection and certification
Fast	Prompt and certain resolution	Extended waiting periods for laboratory results
Low cost	Affordable fees that do not burden litigants	Substantial examination fees, particularly burdensome for lower-income litigants

Constitutional Court Decision No. 46/PUU-VIII/2010 strengthened the legal basis for DNA-based proof of biological relationships but left unaddressed how such proof could be obtained in a manner consistent with simple, fast, and low-cost adjudication [55], a regulatory gap that Bangil Religious Court's improvised practice has not resolved so much as displaced onto individual litigants and judicial discretion. Two structural responses suggest themselves from the data. First, because all three judges agree that DNA functions, at minimum, as corroborative *qarīnah* rather than as a substitute for *li'ān*, a Supreme Court circular letter (SEMA) formally codifying this position would convert an informally improvised local practice into a nationally consistent rule, removing the uncertainty currently borne by litigants at courts such as Bangil. Second, since the principal obstacle to accessibility is cost rather than principle, accreditation-linked subsidy schemes, for example through cooperation with national health insurance laboratories or integration with the court's existing legal aid post (Posbakum), would allow DNA testing to remain available as supporting evidence without compromising the low-cost principle that *li'ān* was originally designed to preserve [56].

4. Conclusion

This study set out to examine the use of DNA testing as evidence in *li'ān* child denial cases at Bangil Religious Court from the perspectives of fiqh, legislation, and judicial practice. The findings demonstrate, first, that while Indonesian positive law has accommodated DNA testing as scientifically valid evidence, most notably through Constitutional Court Decision No. 46/PUU-VIII/2010, classical fiqh and the Compilation of Islamic Law continue to channel child denial exclusively through the *li'ān* oath mechanism, without requiring technological corroboration; this reflects a deliberate doctrinal preference, grounded in the *maqāṣid* of protecting lineage, for a relatively simple and low-cost mode of proof. At Bangil Religious Court, however, DNA testing has emerged as a practical necessity for prospective litigants despite lacking formal administrative status, indicating a gap between written norms and field-level judicial practice that is best closed through codified guidance rather than left to per-case discretion. Consistent with the converging position of national and international fatwa institutions, MUI, Lajnah Dā'imah, the Muslim World League, Dar al-Ifta al-Misriyyah, and LBM NU, and consistent with the asymmetric treatment of DNA across establishing versus denying lineage observed both in comparative Saudi statutory law and in Indonesia's own constitutional jurisprudence, this study concludes that DNA testing should properly be positioned as corroborative evidence, *qarīnah*, supporting the *li'ān* process, rather than as a substitute instrument displacing it. Second, the three interviewed judges diverge meaningfully in their evidentiary reasoning: two regard a valid DNA result as sufficient to dispense with the *li'ān* oath entirely, while the third maintains that DNA may rise to primary evidentiary status only where the four-witness requirement cannot be satisfied, with the oath otherwise remaining indispensable. This study finds the latter, intermediate position most consistent with both fiqh doctrine and judicial caution, since an automatic substitution of DNA for *li'ān* would contradict the unanimous fatwa consensus and risks undermining the doctrinal integrity of *li'ān* as a complete evidentiary package comprising accusation, witness requirement, and oath. On ancillary questions, the judges were unanimous that DNA examiners need not be separately sworn at trial given their existing professional oath of office, and that a

child's lineage, upon a granted *li'ān* ruling, attaches solely to the mother, paralleling, though not identical to, the treatment of children born outside marriage under KHI Article 100, with the inheritance and custodial consequences of that severance currently receiving less procedural attention than the underlying proof of biological fact. Finally, the principle of simple, fast, and low-cost justice remains imperfectly reconciled with DNA-based proof: while such evidence can streamline factual determination, its cost continues to disadvantage litigants of limited means, suggesting that further procedural adjustment, through a Supreme Court circular letter clarifying DNA's corroborative status and through accreditation-linked cost subsidy schemes integrated with existing legal aid infrastructure, rather than wholesale displacement of either *li'ān* or DNA evidence, is needed to harmonize scientific proof with the constitutional mandate of accessible justice. Future research could usefully pursue comparative studies of *li'ān* practice across religious courts or Muslim-majority jurisdictions, doctrinal analysis of decided *li'ān* rulings that accept or reject DNA evidence, and assessment of the psychosocial impact of *li'ān* proceedings on the children involved.

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