

**DNA TEST OF PATERNITY IN ISLAMIC LAW
IMPLICATIONS FOR ILLEGITIMATE CHILDREN BORN
LESS THAN MINIMUM GESTATION PERIOD IN
MALAYSIA**

PROFESSOR DR. SAYED SIKANDAR SHAH HANEEF

International Islamic University Malaysia (IIUM),

Kuala Lumpur, Malaysia

e-mail: Syed Haneef <zahid1@hotmail.com>

DNA testing of paternity represents the most celebrated achievement in the field of forensic technology to solve litigations on paternity in the Modern Legal Systems. Unlike the Western law of evidence, the question of adopting DNA test of paternity within traditional means of establishing paternity is a contentious issue among contemporary Muslim legal scholars. Some approve its restricted use, others advocate its complete adoption even to connect illegitimate children to the male party in an unlawful sex. An interesting development, however, is that on both sides of the discourse, it is agreed that DNA test can be used selectively to identify corpses during natural catastrophes and other emergency situations. In this context, an important issue with which jurists and lawyers grapple in Malaysia is the possibility of using *istilhāq* as the basis for solving the problem of illegitimate children born less than six months from date of marriage. As to whether DNA test can be another framework is a question which this paper endeavours to explore. In the pages which follow, we delineate the modern juristic debate over use of DNA test in determining paternity in general, and then its contextualization to the problem in Malaysia.

Keywords: DNA paternity test, Muslim juristic debate, Minimum gestation period.