

Validity of Biological Father Marrying Daughter Resulting from Adultery: Perspective of Nahdlatul Ulama and Muhammadiyah

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Abstract

This study explores the validity of marriage between a biological father and his illegitimate daughter according to the two largest Islamic organizations in Indonesia: Nahdlatul Ulama (NU) and Muhammadiyah. NU's marriage opinion uses Shafi'i jurisprudence that a biological father has no blood relationship with a child from an extramarital affair, so marriage is permissible. However, they withdrew this practice in the bahtsul masail decision because it is contrary to the public interest, and the principle of harm related to children. On the other hand, Muhammadiyah firmly rejects the validity of marriage on the grounds that there is a biological kinship relationship. This gives rise to a mahram relationship. Muhammadiyah also base their opinion on the maqasid sharia and legal recognition in the Constitutional Court Decision No. 46/PUU-VIII/2010. This study uses a normative juridical method with a conceptual and descriptive-analytical approach. The findings of this study indicate a lack of specific and fair regulations aimed at fulfilling the rights of illegitimate children within the framework of family law in Indonesian Islamic law.

Keywords: *Validity of Marriage, Biological Father, Child Resulting from Adultery, Nahdlatul Ulama, Muhammadiyah*

INTRODUCTION

Marriage is a sacred and legitimate bond according to Islam that regulates the relationship between a man and a woman to form a harmonious family and produce legitimate offspring. However, marriage is also regulated by certain provisions and limitations that include lineage and *mahram* relationships, so that not all couples can be legally married in the eyes of Islamic law.¹ One of the issues that is being debated is the validity of a marriage between a biological father and a daughter resulting from adultery, which touches on the legal aspects of lineage and *mahram* in Islam.

Lineage in Islamic law has an important position in determining legal status and family relationships, including the prohibition of marrying someone who falls into the *mahram* category as determined by sharia. Children resulting from adultery or children born out of wedlock have a different lineage status from children born from legal marriages, thus giving rise to complex legal issues related to *mahram* relationships and the validity of marriages between biological fathers and children resulting from adultery.²

This issue is important considering the differences of opinion among scholars and religious institutions in Indonesia, especially between NU and Muhammadiyah, which are the two largest Islamic mass organizations with different approaches to *fiqh*. NU tends to use a strong Syafi'i school of thought approach in emphasizing the boundaries of lineage and *mahram*, while Muhammadiyah often uses a contemporary *ijtihad* approach in interpreting the law of lineage of children from adultery and its impact on marriage law.³

¹ Abu Zakariya Yahya bin Sharaf Al-Misri, *Al-Mughni*, Juz 6, (Beirut, *Dar al Fikr*, 1997), 75-76

² Muhammad bin Ibrahim al-Qurthubi, *Al-Jami' li Ahkam al-Qur'an*, Juz 3, (Beirut: Dar al-Kutub al-'Ilmiyyah, 2000), 189

³ Azyumardi Azra, *The Origins of Islamic Reformism in Southeast Asia* (Honolulu: University of Hawaii Press, 2004), 190-192

The prohibition of marriage between father and daughter in the context of Islamic law is one of the strict prohibitions based on the evidence of the Qur'an and Hadith. However, the status of a child resulting from adultery who is not recognized by lineage by the biological father raises the question of whether the prohibition on *mahram* still applies or not, because according to sharia, a child resulting from adultery does not have the same lineage as a legitimate child.

NU in its various fatwas emphasizes that the relationship between a biological father and a child resulting from adultery still contains elements of *mahram* so that the marriage between them is invalid and forbidden according to sharia.⁴ This is based on the principle of maintaining the purity of lineage and preventing social damage that can arise from marriages that are contrary to *mahram* rules.

Meanwhile, Muhammadiyah provides a different interpretation regarding the validity of the marriage, with the argument that children resulting from adultery do not have a lineage that is recognized according to sharia to the biological father, so that the status of *mahram* can be different and in some conditions allows for *ijtihad* to assess the validity of the marriage in a more contextual manner.⁵ This approach is based on the principle of welfare and the current social context.

In addition, this issue also requires a positive legal study in Indonesia that refers to Marriage Law Number 1 of 1974, which regulates the limitations of marriage including *mahram* relations, thus requiring synchronization between religious law and state law in resolving the issue of the validity of the marriage of a biological father with a child resulting from adultery.

It is expected to find a comprehensive understanding of the law of lineage of children born out of wedlock and its implications and how the two largest Islamic mass organizations in Indonesia, NU and Muhammadiyah, deeply study and explore this issue based on evidence, *fiqh*, and socio-religious. Research on these differences of opinion is important to understand the legal position of marriage within the framework of Islamic family law in Indonesia.

METHOD

This research is normative legal research with a qualitative approach. The approaches used include historical, conceptual, and legislative approaches. Data sources consist of primary legal materials such as the Al-Umm book, NU *Bahtsul Masail* decisions, and Muhammadiyah *Tarjih* Council fatwas, as well as secondary legal materials in the form of scientific journals, *fiqh* books, and related legal documents. Data collection techniques are carried out through literature studies, and data analysis is carried out using descriptive-analytical methods to examine the relevance of the opinions of the two organizations to the principles of child protection and *maqashid* sharia.

RESULT OF LITERATURE REVIEW

Understanding and urgency of lineage in islamic law

Lineage in Islamic law is a relationship of descent or lineage that connects a person to his ancestors according to Islamic law. Etymologically, lineage comes from the word *nasab* which means descendant, relative. Lineage is also understood as a family relationship based on blood relations as one of the consequences of a legal marriage. Terminologically, the term lineage is descent or family ties as blood relations, either because of blood relations (father, grandfather, mother, grandmother, and so on) downwards (children, grandchildren, and so on) or sideways (siblings, uncles, and so on).⁶ Meanwhile, in Islamic legal terminology, lineage refers to a biological relationship that is determined by sharia, either through a legal marriage, birth, or legal recognition according to Islamic law. So, lineage is the people who emerge from the bonds of husband and wife and *shihir* are the people who emerge from the relatives of the husband and wife. Basically, kinship, lineage in its original meaning, is not patrilineal

⁴ Lajnah Bahtsul Masail Nahdlatul Ulama, *Fatwa tentang Nasab Anak Zina dan Pernikahan dengan Ayah Biologis*, (Jakarta, 2010).

⁵ Muhammadiyah Tarjih Council, *Penjelasan Hukum Pernikahan Ayah dengan Anak Hasil Zina*, (Yogyakarta, 2012).

⁶ B. Setiawan, *Ensiklopedi Indonesia*, Jilid 4, (Jakarta: Ichtisar Baru Van Hoeve, 1994), 2337.

or matrilineal, but parental. Among the evidence is that the relationship of a person's *mahram* does not only come from one party, but from both parties.

Lineage serves as the main basis for determining various family rights and obligations, such as inheritance rights, maintenance obligations, child custody rights, and the legal status of individuals in society,⁷ and also become the foundation in the formation of a Muslim's identity and social recognition.

Ibn Arabi explained that lineage is a term that reflects the process of mixing between male sperm and female ovum (egg cells) based on sharia provisions, if the mixing of the two is not in accordance with sharia or through zina, then it is classified as ordinary reproduction, not a correct lineage according to sharia. In relation to this, a father is prohibited from denying his descendants. Because denying this lineage results in great danger, and can cause bad disgrace for the child and his wife,⁸ and it is haram for a woman to enthrone or father a child to someone who is not the child's biological father.

The existence of children in a family is something very meaningful. Children have different meanings for each parent. Children are the continuation of the lineage, as an investment for the future, and children are the hope to be relied on in old age. Children are considered as capital to improve life rank so that they can control the social status of their parents. Children are the holders of the privileges of their parents, when their parents are still alive, children are the pacifiers and when their parents have died, children are the symbol of successors and the symbol of eternity. Children inherit signs of similarity with their parents including good and bad characteristics, high and low. Children are soul mates and pieces of their parents' flesh.

The existence of children is so important in human life, that Allah requires marriage. The purpose of marriage is to have good offspring (having children), maintain lineage, avoid disease and create a harmonious family.

Fiqh states: A child can be said to be legitimately related to his father, if he was born from a father and mother who were legally married (legal marriage). Of course, on the other hand, a child born outside of a legal marriage cannot be called a legitimate child. Usually called a child of adultery or a child outside of a legal marriage.⁹ Determining a person's lineage has a big impact on the person, his family, the surrounding community, and every person should mature their mind like that. In addition, the uncertainty of lineage is feared to cause deviations in marriage, for example marriage with one's own *mahram*. That is what causes the prohibition of attributing his lineage to someone who is not his biological father.¹⁰ The Qur'an emphasizes the importance of maintaining lineage, as stated in the letter al-Furqan verse 54.

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

Meaning: "And He (also) created humans from water then He made humans (have) offspring and *mushaharah* and is your Almighty God."

Status of children from adultery in the perspective of fiqh

Lineage is a hereditary relationship that is an important basis in Islamic law, especially in determining the rights and obligations of the family. Determination of a child's lineage in *Fiqh* is carried out based on a legal marriage relationship between the father and mother. Children born from a legal marriage automatically have lineage to the father and mother, so they get inheritance rights, sustenance, and become *mahram* for the father's family.¹¹ However, the lineage of children born from adultery in the concept of *Fiqh*, scholars have different opinions. The majority of scholars from the Maliki, Syafi'i, and Hanbali schools agree that children from adultery are not traced to their biological father. This is

⁷ Khoiruddin Nasution, *Islam dan Hukum Keluarga*. (Bandung: Mandar Maju, 1997), 34

⁸ Yusuf Qardhawi, *Halal dan Haram dalam Islam*, Alih Bahasa: H. Mu'ammal Hamidy, (Jakarta: Rabbani Press, 2001), 254.

⁹ Amior Nuruddin, Azhari Akmal Tarigan, *Hukum Perdata Islam di Indonesia*, (Jakarta: Kencaran, 2006), 276.

¹⁰ Andi Syamsu Alam, M. Fauzan, *Hukum Pengangkatan Anak perspektif Islam*, Cetakan Ke-1, (Jakarta: Prenata Media Group, 2008), 179.

¹¹ Wahbah az-Zuhaili, *al-Fiqh al-Islami wa Adillatuhu*, Jilid 9 (Damaskus: Dar al-Fikr, 1989), 7158.

based on efforts to maintain the purity of lineage, prevent slander, and maintain the honor of the family. Children from adultery are only traced to their mother.¹²

Imam Malik and Imam Syafi'i firmly stated that there is no lineage between a biological father and a child resulting from adultery. In the book *al-Muwaththa'*, Imam Malik stated that lineage only applies if the child is born from a legitimate marriage, and adultery does not create lineage.¹³ Meanwhile, the Hanafi school of thought has a minor opinion that allows the recognition of the lineage of an adulterous child in certain circumstances, especially if the biological father acknowledges the child. However, this opinion is less popular and is often criticized because it is feared to open the door to social damage and the unclear status of the child.¹⁴

In the book *al-Mughni*, Ibn Qudamah stated that "*Nasab* does not apply to the child of adultery to the man with whom she committed adultery." He emphasized that Fiqh law rejects the recognition of lineage in adultery cases in order to maintain social order and morality. Rejection of the lineage in an adulterous relationship also aims to prevent slander and legal chaos, because if the child of adultery is recognized for his lineage, then inheritance rights, maintenance and *mahram* status will become problematic. Apart from that, clear *nasab* is also the basis of social stability and protection of family rights in Islam.

Thus, the law of lineage of children from adultery in Fiqh is based on the principle of maintaining the purity of lineage and social stability, as well as preventing damage and slander. Lineage is only recognized if it occurs in a legal marriage, while adultery does not produce lineage in Islamic law.¹⁵

Difference between legal lineage and biological lineage

Lineage in Islam is an important concept that connects a person to his father and family legally and socially. However, in the study of Fiqh and the science of lineage, there is a difference between legitimate lineage and biological lineage that is often of concern, especially in the context of marriage, inheritance, and family law.

Legitimate lineage refers to the lineage relationship that is recognized by Islamic law, namely the relationship between a child and a father that occurs in a legitimate marriage or a marriage followed by divorce. This lineage is based on the principles of Fiqh which regulate the recognition of children born in a legitimate marriage or during the *iddah* period (for 132 days after becoming a widow) within a specified period. This argument is based on the Qur'anic text, An-Nisa verse 23 and the Hadith of the Prophet Muhammad SAW. regarding the recognition of lineage in a marriage that must be based on a legitimate and illegitimate marriage.

While biological lineage is a hereditary relationship based on genetic or biological factors, namely the relationship between a father and a child who is actually by blood without regard to marital status. Biological lineage can differ from legal lineage if the child is born out of wedlock, so that according to sharia the child's lineage is not connected to the biological father, but only to the mother.¹⁶

This difference becomes important especially in inheritance law and family status. Children born from adultery in Fiqh, do not receive inheritance rights from their biological father, because legitimate lineage is not formed without a legitimate marriage bond. On the other hand, the actual biological lineage is not recognized by Islamic law in the context of the father's recognition of the child.¹⁷

Imam Nawawi in his book "*Al-Majmu*" explains that legitimate lineage is formed on the basis of *ijab kabul* and a legitimate marriage, as well as the husband's recognition of children born during the marriage, whereas according to Imam Syafi'i, children born outside of marriage do not have lineage to their biological father even though they are directly genetically related.¹⁸

¹² Muhammad Abu Zahrah, *al-Ahkam al-Shar'iyyah fi al-Islam* (Kairo: Maktabah al-Qahira, 1960), 287

¹³ Malik ibn Anas, *al-Muwaththa'* (Beirut: Dar al-Kutub al-'Ilmiyyah, 1990), 223.

¹⁴ Hanafi scholars, as cited in Yusuf al-Qaradawi, *Fiqh al-Nisāb wa al-Warāthah* (Kairo: Dar al-Shuruq, 2002), 120.

¹⁵ Sa'id Hawwa, *Mabāhith Fiqhiyyah Mu'āsirah* (Beirut: Dar al-Fikr, 1997), 195.

¹⁶ Muhammad Abu Zahra, *Al-Masail Al-Fiqhiyyah*, (Beirut: Dar Al-Fikr, 1984), 45

¹⁷ Al-Nawawi, *Al-Majmu 'Syarh Al-Muhazzab*, jilid 7, (Beirut: Dar Al-Fikr, 1993), 125

¹⁸ Al-Shafi'i, *Al-Umm*, diterjemahkan oleh M. Husein Muhammad, (Jakarta: Pustaka Al-Kautsar, 2000), 380.

In modern studies, research by Hasan and Sari, suggests that legitimate lineage has a more dominant social and legal function than biological lineage in the context of the Islamic family system in Indonesia. This is related to the principle of protecting children's rights and family stability.¹⁹ Thus, even though medically biological relationships can be proven with *Deoxyribonucleic Acid* (DNA), Islamic law places more emphasis on legitimate lineage bound by marriage as the basis for recognizing family relationships, in order to maintain honor and social order.

Differences of opinion of ulama regarding determining lineage to biological father in cases of adultery

In the science of Fiqh and Islamic family law, determining lineage to the biological father in cases of children resulting from adultery is one of the complex issues and is a source of differences of opinion among scholars. Because this is related to very significant legal and social consequences, such as inheritance rights, maintenance obligations, and the legal status of children.

Most scholars from the Shafi'i, Hanafi, Maliki and Hambali schools of thought are of the view that in the case of children born out of wedlock, lineage cannot be determined to the biological father. They refer to the texts of the Qur'an and Hadith which state that lineage is only recognized in a valid marriage bond. In addition, there is also a rule that children of adultery are only assigned lineage to their mothers. This opinion is based on the words of the Prophet Muhammad:

لا يجوز نسب الطفل إلى غير زوجها، ولا يحق للولد الذي يولد من الزنا أن يرث من أبيه البيولوجي.

Meaning: "It is not permissible to entrust a child to someone other than her husband, and it is not permissible for a child born from adultery to receive inheritance rights from his biological father."²⁰

However, there are differences of opinion from several contemporary scholars and classical fuqaha who try to provide space for the recognition of lineage to the biological father in cases of adultery with certain conditions, for example through formal recognition or scientific evidence (such as DNA testing). These more flexible scholars argue that the recognition of biological fathers can be done to maintain the rights and obligations of children socially and psychologically, without ignoring the provisions of sharia regarding the validity of marriage.²¹

The book *Al-Mughni* by Ibnu Qudamah explains that a child resulting from adultery is not linked to the biological father except in the case of the husband's recognition of the child, but this recognition only applies if the husband married the child's mother before the child was born.²² Meanwhile, Imam Malik and Imam Syafi'i emphasized that the results of adultery are not attributed to the biological father, but to the mother, because the relationship between the mother and the biological father is not valid according to sharia, so that the relationship of lineage only applies between the child and his mother and his mother's family. From a contemporary perspective, research by Aisyah and Ridwan mentions a tendency to consider the psychological and social aspects of the child in determining lineage, so that even though classical law rejects it, some local jurisdictions have begun to accommodate the recognition of lineage based on scientific evidence for the sake of child protection.²³

Thus, this difference of opinion attempts to illustrate the conflict between the efforts of sharia to firmly maintain the purity of lineage and the efforts to protect children in a comprehensive understanding of the contemporary situation of the development of blood relationship verification technology.

DISCUSSION

In the context of Islamic law, this difference of opinion attempts to illustrate the conflict between the efforts of sharia to firmly maintain the purity of lineage with efforts to protect children in a

¹⁹ M. Hasan, & N.Sari, (2020). "Nasab Sah dan Nasab Biologis dalam Hukum Keluarga Islam Indonesia." *Jurnal Hukum dan Sosial*, Vol. 12, Edisi 3, 145-159.

²⁰ HR. Muslim, Kitab Al-Anbiya, Hadis No. 1519, dalam *Sahih Muslim*

²¹ Muhammad Abu Zahra, *Al-Masail Al-Fiqhiyyah*, (Beirut: Dar Al-Fikr, 1984), 67-70

²² Ibnu Qudamah, *Al-Mughni*, jilid 8, (Beirut: Dar Al-Kutub Al-Ilmiyah, 1997), 223.

²³ Nur Aisyah, & M. Ridwan, (2019). "Pendekatan Hukum Keluarga Islam terhadap Penetapan Nasab Anak Hasil Zina di Indonesia." *Jurnal Hukum Islam dan Masyarakat*, 14 (2), 78-92.

comprehensive understanding in the contemporary situation of the development of blood relationship verification technology.

NU as one of the largest Islamic mass organizations in Indonesia has a unique approach in understanding Islamic family law, including in the issue of the validity of marriage between a biological father and his daughter born from adultery. NU adheres to moderate and contextual Fiqh principles, so that their views do not only refer to the text of the nash rigidly, but also consider the interests and welfare of the community. In this context, NU emphasizes that prohibited marriage relationships are very clear in the Qur'an and Hadith, especially the prohibition on marrying *mahrims* resulting from relationships that are legitimate according to Islamic law. Therefore, NU examines the legal status of children from adultery differently compared to children from legitimate marriages.²⁴

NU adheres to the fatwa and opinions of classical and contemporary scholars stating that children resulting from adultery are not legally recognized biologically by the biological father who committed the adultery. In classical Fiqh books such as *Al-Mughni* by Ibn Qudamah, it is stated that children of adultery do not have official lineage to the biological father because the relationship did not go through a valid marriage contract.²⁵ Therefore, according to NU, the prohibition on marrying *mahram* in this context does not apply automatically, so that technically a biological father can marry his child born from adultery. However, NU also pays serious attention to the moral and social aspects related to the impact of this kind of marriage.

NU prioritizes the Fiqh principle of "*maslahah mursalah*," which is considering the interests and welfare of the community in determining the law. In the context of the validity of a biological father marrying a child resulting from adultery, NU reminds us to look at these cases holistically, including the potential psychological and social impacts for all parties. Although legally, such marriages can occur, NU emphasizes the importance of education and prevention of adultery so that this phenomenon does not arise which can cause legal and moral complications.²⁶

In addition, NU also pays attention to the perspective of *maqasid al-shariah*, namely the objectives of sharia which include protection of lineage and descendants. In this case, children resulting from adultery are indeed seen as a serious problem that must receive special attention so that there is no chaos in lineage and the rights of children are fulfilled. However, NU clearly distinguishes the status of children of adultery and legitimate children in determining the legal limits of *mahram*. This proves NU's flexibility in understanding the contemporary socio-religious context while maintaining sharia principles.

In the context of fatwas and internal studies of NU, it is emphasized that although legally the marriage of a biological father with a child resulting from adultery is not invalid according to Fiqh, there are social prohibitions and very strong moral norms that prohibit such marriages. NU emphasizes that this practice is highly discouraged and can cause major social stigma, and can even disrupt the harmony of families and society in general. Therefore, NU encourages more preventive and educational handling of adultery and its impacts.²⁷

NU sees the importance of protecting children's rights, including children resulting from adultery, so that they do not experience discrimination or psychological violence. Therefore, NU rejects the marginalization of children of adultery and encourages fair and humane treatment. Thus, the marriage of a biological father with a child resulting from adultery must be viewed from two sides: according to Fiqh it may be valid, but socially and morally it is not recommended and must be prevented through religious and social education efforts.

NU views that the validity of a biological father marrying his daughter resulting from adultery from the perspective of Fiqh law can be accepted within the framework of the concept of lineage and *mahram*, but is highly discouraged from a moral and social perspective. NU emphasizes the importance of preventive efforts against adultery and the protection of children as a form of concern for the welfare of the community as a whole. NU's approach that combines sharia principles with the context of social

²⁴ Al-Ghazali, Abu Hamid. *Ihya' Ulum al-Din*, Jilid 3, (Beirut: Dar al-Maktabah al-'Ilmiyah, 1996), 132-134.

²⁵ Ibnu Qudamah, *Al-Mughni*, Juz 7, (Beirut: Dar Al-Kutub Al-Ilmiyah, 1997), 412-415.

²⁶ Kuntowijoyo, "Maslahah dan Maqashid Syariah dalam Fikih Kontemporer," *Jurnal Ulumul Qur'an*, Vol. 5, No. 2, 2018, 121-135

²⁷ NU. "Fatwa Majelis Ulama Nahdlatul Ulama tentang Nasab dan Pernikahan," NU Online, 2020

welfare is a characteristic of their thinking in responding to this complex issue of Islamic family law. Muhammadiyah has a different approach in understanding Islamic family law, especially regarding the validity of marriage between a biological father and his daughter resulting from adultery. Muhammadiyah places great emphasis on the principle of the sanctity of lineage and family honor in Islamic law. Therefore, they emphasize that the relationship of lineage and *mahram* is the main foundation that must be maintained, and marriages that violate the prohibition of *mahram* are null and void by law. In the context of children resulting from adultery, Muhammadiyah rejects the biological father's recognition of the child in terms of lineage, so that the marriage between a biological father and a child of adultery is considered haram and invalid according to sharia.²⁸

Muhammadiyah's view refers largely to a strict and textual understanding of Fiqh, especially in the text of the Qur'an, Surah An-Nisa verse 23, which explicitly forbids marrying mothers, daughters, and descendants whose lineage is clear. They argue that even though the child is born from adultery, biologically he still has a blood relationship with his biological father, so the prohibition of *mahram* applies. Fiqh books such as *Al-Fiqh al-Islami wa Adillatuh* by Wahbah al-Zuhayli are the main references for Muhammadiyah in strengthening this view.

In addition, Muhammadiyah emphasizes the importance of maintaining the purity and honor of lineage in Islamic families in order to protect the dignity and honor of all family members. They view that the marriage of a biological father to a child from adultery will damage the social and moral order of the family and the wider community. Therefore, they consider such a marriage not only invalid under Islamic law, but also contrary to the ethics and social norms that apply in society.

Muhammadiyah also views that children from adultery must be given legal and social protection without eliminating the principle of the prohibition of *mahram*. They encourage preventive efforts in the form of strong moral and social education to prevent adultery, while also paying attention to children's rights so that they are not discriminated against. In this case, Muhammadiyah emphasized that child protection should not remove the limitations of sharia regarding the prohibition of marriage with biological *mahrims*.²⁹

In its fatwa and internal guidelines, Muhammadiyah strictly prohibits the practice of marriage between biological fathers and children resulting from adultery and considers it a major sin and a violation of sharia law. This fatwa was issued as a form of Muhammadiyah's commitment to maintaining the sanctity of lineage and Islamic family order. Therefore, this organization encourages the authorities and the community to reject and prevent such marriages in order to maintain the morality of the community.³⁰

Scholarly research examining Muhammadiyah's views highlights their more textual and conservative approach to interpreting Islamic family law. A study by Hasan and Fauzi asserts that Muhammadiyah adheres to the texts of the Qur'an and Hadith as the primary sources of law without much *ijtihad* in a modern social context. Therefore, they tend to reject the validity of the marriage of a biological father with a child resulting from adultery absolutely.

Muhammadiyah also reminded that the prohibition of *mahram* aims to protect offspring and prevent the community from social and moral dangers. Therefore, they consider the biological relationship between the father and child of adultery still results in *mahram* status that cannot be violated by marriage. In this perspective, even if the child is born out of wedlock, the principles of sharia must still be fully upheld for the benefit of the community.³¹ So in Muhammadiyah's perspective, the marriage of a biological father with his daughter resulting from adultery is not valid according to Islamic law and is morally forbidden. Muhammadiyah's textual and conservative approach emphasizes the importance of maintaining the sanctity of lineage and protecting the family order from practices that can damage morals and society. Muhammadiyah also encourages strong preventive efforts to prevent adultery while protecting the rights of children resulting from adultery without eliminating the legal limitations of *mahram*.

²⁸ Muhammadiyah. *Fatwa Majelis Tarjih Muhammadiyah tentang Nasab dan Pernikahan*, 2019.

²⁹ M. Amin Abdullah, "Perlindungan Anak dalam Perspektif Muhammadiyah," *Jurnal Studi Islam*, Vol. 10, No. 2, 2020, 154-165.

³⁰ Majelis Tarjih dan Tajdid Muhammadiyah, "Pedoman Hukum Keluarga Islam," 2021

³¹ Muhammad Ali, *Hukum Keluarga Islam*, (Yogyakarta: UII Press, 2018), 95-100.

CONCLUSION

Based on the study of the views of Nahdlatul Ulama (NU) and Muhammadiyah regarding the validity of a biological father marrying his daughter resulting from adultery, there are significant differences in approach. NU uses a contextual and moderate Fiqh approach by considering aspects of social and community benefits. In NU's view, although legally Fiqh blood relations are not recognized in cases of children resulting from adultery, the validity of the marriage of a biological father with a child of adultery is technically acceptable, but is highly discouraged morally and socially. Meanwhile, Muhammadiyah places a more textual and conservative approach, emphasizing the prohibition of such marriage based on biological blood relations which still make father and child *mahram*. This difference reflects the variety of interpretations of Islamic law in Indonesia which prioritize social contexts and sharia principles differently.

Both Islamic mass organizations agree that children resulting from adultery must receive adequate legal and social protection so that they do not experience discrimination or negative stigma. NU emphasizes the importance of benefits and prevention of the negative impacts of this phenomenon through education and preventive handling of adultery. Muhammadiyah, on the other hand, places more emphasis on strict enforcement of sharia to maintain the purity of lineage and the moral order of the family. Both consider the marriage of a biological father with a child resulting from adultery to be not an ideal solution and is not recommended, both from a legal and moral perspective. This view shows the importance of combining compliance with sharia with a humanitarian and social approach in handling Islamic family law issues.

In conclusion, the validity of a biological father marrying his daughter resulting from adultery from the perspective of NU and Muhammadiyah provides a picture of the complexity of the interpretation of Islamic law which is influenced by social, moral, and contextual factors. NU tends to provide flexibility with an emphasis on the welfare of the community, while Muhammadiyah emphasizes the principle of prohibiting *mahram* textually and conservatively. Therefore, handling this case must pay attention to the legal aspects of Fiqh as well as the socio-moral dimensions so that protection of children's rights and family harmony are maintained. This cross-organizational approach is an important source of inspiration in developing an understanding of Islamic family law that is inclusive and adaptive to the challenges of the times.

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