

Muhammad Abu Zahrah's legal *istinbāt* on *ilhāq*-based nasab establishment for children born of *zinā*

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Abstract:

The determination of nasab for children born of *zinā* through *ilhāq* remains a contested issue in Islamic family law. Divergent interpretations of scriptural texts have led Muslim jurists to differ on the validity of paternal acknowledgment and its legal consequences. This study aims to analyze juristic opinions on the establishment of nasab for children born of *zinā* through *ilhāq*, examine Muhammad Abu Zahrah's position, and explain the legal evidence and methods of *istinbāt* underlying his view. This qualitative library-based study focuses on Abu Zahrah's legal thought, with data analyzed through thematic analysis and validated through source triangulation and referential adequacy. The findings reveal three main points. First, juristic disagreement indicates that *ilhāq* in cases of children born of *zinā* remains within the domain of *ijtihad*: some scholars permit it to protect the child's legal and social interests, whereas others reject paternal attribution because *zinā* does not constitute a valid basis for establishing nasab. Second, Abu Zahrah permits *ilhāq* through acknowledgment by the biological father under specified conditions, particularly where *zinā* is not explicitly acknowledged, thereby allowing recognition of nasab and establishing maintenance as a consequence of kinship. Third, Abu Zahrah's *istinbāt* integrates *bayānī*, *ta'līlī*, and *istiṣlāḥī* reasoning, drawing on the ḥadīth *al-firāsh*, Qur'anic indications concerning the six-month minimum gestational period, and considerations of the child's interests. The study concludes that Abu Zahrah's approach represents an *ijtihadī* framework that reconciles the legal integrity of nasab with child protection and legal certainty through an integrative *maqāṣid al-sharī'ah*-oriented approach.



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INTRODUCTION

Lineage (*nasab*) occupies a fundamental position in Islamic family law as the legal basis of kinship and the determination of children's civil rights (Syarifuddin, 2014). The establishment of lineage is generally recognized through valid marriage, irregular marriage, and *shubha* relations (Martoredjo, 2021; Hanapi et al., 2022). However, some scholars maintain that a child born of zinā has no lineage relationship with the biological father because zinā does not constitute a valid legal basis for establishing paternal nasab (Mohtarom, 2018; Maulana, 2020; Ma'mun, 2021). In contrast, other scholars allow *ilhāq*, provided that the acknowledgment does not explicitly attribute the child to zinā (Abū Zahrah, 1971; Basri et al., 2022; Farid et al., 2022). Ibn Qayyim limits the legal consequences of such recognition, particularly regarding *maḥram* status, but does not extend them to inheritance and maintenance (Almukhrijal, 2017; Khan et al., 2019). Al-Zuhaylī (2000) rejects acknowledgment where the child is born before the minimum gestational period. Thus, the establishment of nasab through *ilhāq* remains an *ijtihādī* issue shaped by tensions between textual requirements, the legal integrity of nasab, and the protection of children's interests.

Numerous studies have examined the legal status of children born outside marriage. The existing literature can be classified into three main streams. First, studies on Constitutional Court decisions concerning children born outside marriage demonstrate that, from a *maqāṣid al-sharī'ah* perspective, such decisions seek to protect children's lives and rights while generating continuing debate concerning their lineage status (Nugroho & Safiudin, 2021; Hak, 2018; Rofiq & Hamidah, 2021). Second, studies on lineage establishment in Islamic law examine *iqrār*, evidentiary proof, *istilhāq*, and DNA testing as mechanisms for determining children's civil relationships, with consideration of *maṣlaḥah* (Taufiki, 2012; Fahmi & Fahmi, 2019). Third, studies on the ḥadīth *al-walad li-l-firāsh*, including those by Muslimah and Rusdiawan, emphasize the distinction between lineage and civil rights, particularly the different legal consequences attached to legitimate children and children born of zinā (Asriaty, 2010; Muslimah & Rusdiawan, 2020). Despite these studies, limited attention has been given to the normative and methodological dimensions of *ilhāq*-based nasab establishment, particularly in relation to Abu Zahrah's legal reasoning. This study, therefore, focuses on juristic perspectives concerning *ilhāq*, Abu Zahrah's position, and the legal proofs and *istinbāt* underlying his approach.

This study aims to analyze juristic opinions on the validity of establishing the lineage of children born of zinā through *ilhāq*, examine Muhammad Abu Zahrah's position on such lineage establishment, and elaborate on the legal proofs and methods of *istinbāt* underlying his reasoning. Accordingly, the study addresses three questions: (1) how do scholars assess the validity of *ilhāq* in establishing the lineage of children born of zinā? (2) What is Muhammad Abu Zahrah's position on the establishment of such a lineage through *ilhāq*? and (3) what legal proofs and methods of *istinbāt* does Abu Zahrah employ in determining the legal status of *ilhāq* for children born of zinā? Theoretically, this study contributes to contemporary discussions of Islamic family law by critically reconstructing Abu Zahrah's approach to lineage establishment and examining the relationship between *ilhāq*, *maṣlaḥah*, and the protection of nasab. In practice, the findings may serve as a reference for judges, Islamic family law practitioners, and child protection institutions when addressing questions of lineage and the legal consequences of acknowledgment, particularly in pursuit of legal certainty and substantive justice.

This study proceeds from the argument that the juristic debate concerning children born of zinā reflects a tension between preserving the legal integrity of nasab and protecting children's legal and social interests. While the majority rejects paternal attribution where zinā

does not establish valid nasab, alternative juristic positions recognize aspects of the biological father–child relationship under specific conditions. Within this spectrum, Muhammad Abu Zahrah distinguishes between zinā, as a non-automatic basis for paternal nasab, and ilhāq, as a potential legal mechanism for establishing lineage through acknowledgment. His reasoning draws on the ḥadīth al-firāsh, Qur'anic indications supporting a minimum gestational period of six months, and considerations of maṣlaḥah. These elements demonstrate an interaction between textual interpretation, legal qualification, and welfare-oriented reasoning. Abu Zahrah's approach therefore reconciles the protection of nasab with the legal and social interests of children born outside marriage, while recognizing concrete consequences, including paternal maintenance, once the conditions for nasab recognition are fulfilled.

METHOD

Research Approach

This study employs a qualitative approach using library research to construct knowledge claims from a constructivist perspective, in which reality is understood through interpretations derived from diverse viewpoints (Finfgeld-Connett & Johnson, 2013; Scoulas & De Groote, 2022). More specifically, the study adopts an intellectual biography approach to examine the legal thought of Muhammad Abu Zahrah. This approach enables the researcher to systematically identify, examine, and contextualize the ideas of the selected scholar by considering the historical, intellectual, and methodological contexts that shaped his thought. The approach is directed towards exploring, describing, and critically analyzing Abu Zahrah's position on establishing nasab for children born of zinā through ilhāq, including the legal principles, evidentiary basis, methodological reasoning, and legal consequences underlying his position (Sutton & Austin, 2015). Accordingly, the study goes beyond presenting Abu Zahrah's legal opinions by reconstructing the epistemological and methodological foundations underlying his *istinbāt*.

Data Sources

This study draws on primary and secondary data sources. The primary sources consist of Muhammad Abu Zahrah's works, particularly *al-Aḥwāl al-Shakhṣiyyah*, which addresses issues of nasab and ilhāq, as well as other relevant works concerning his legal thought and methodology. Secondary sources include classical fiqh literature from various schools of law concerning the lineage of children born of zinā, scholarly works supporting or critiquing Abu Zahrah's position, journal articles, dissertations, and other academic studies addressing related issues. Tertiary sources, including encyclopedias of Islamic law and fiqh dictionaries, are used to clarify key legal and technical terminology. The sources are selected based on their credibility, relevance, and scholarly authority to ensure adequate depth and accuracy in reconstructing Abu Zahrah's legal reasoning.

Data Analysis

The data are analyzed using the thematic analysis model developed by Braun and Clarke (2006), which provides a systematic procedure for identifying, analyzing, and reporting patterns within qualitative data (Vaismoradi et al., 2013; Ayre & McCaffery, 2022). The analysis proceeds through six stages. First, the researcher becomes familiar with the data by repeatedly reading Abu Zahrah's works and relevant supporting literature. Second, initial codes are generated from textual segments concerning nasab, ilhāq, legal evidence, *maṣlaḥah*, and *istinbāt*. Third, related codes are organized into potential themes. Fourth, the emerging themes are reviewed against the relevant textual evidence to assess their coherence and consistency. Fifth, the themes are defined and named according to their substantive legal

meaning. Sixth, the themes are synthesized into an analytical narrative that connects Abu Zahrah's legal position, evidentiary basis, *istinbāt* methodology, and legal implications.

The thematic analysis generates three interconnected analytical dimensions. The first identifies the broader juristic debate concerning the establishment of nasab based on *ilhāq*, including the positions of *Ishāq ibn Rāhawayh*, *Ibn al-Qayyim al-Jawziyyah*, and the *jumhūr al-ʿulamāʾ*. The second reconstructs Abu Zahrah's position on the establishment of nasab through *ilhāq*, including the conditions and legal consequences of acknowledgment. The third analyzes the legal proofs and *istinbāt* underlying his position, including *ḥadīth al-firāsh*, *maṣlaḥah*, and the minimum gestational period of six months. This analytical structure corresponds directly to the three thematic findings presented in Tables 1–3.

Data Validity

To strengthen the credibility and interpretive validity of the findings, this study applies source triangulation, persistent observation, and referential adequacy. First, source triangulation is conducted by comparing evidence from Abu Zahrah's primary works with classical fiqh sources and relevant contemporary scholarship, thereby reducing reliance on a single interpretation (Carter et al., 2014). Second, persistent observation is undertaken through repeated reading and close examination of Abu Zahrah's works and supporting literature to identify the consistency, nuances, and methodological dimensions of his legal reasoning (Swart et al., 2019). Third, referential adequacy is maintained by employing sufficient and diverse scholarly references from primary, secondary, and supporting sources to substantiate the interpretation and facilitate comparison across juristic positions. These procedures strengthen the credibility, consistency, and interpretive depth of the findings while reducing the potential for selective or one-sided interpretation.

RESULTS AND DISCUSSION

Results

Scholarly perspectives on *ilhāq*-based nasab establishment for children born of *zinā*

The fiqh discourse on the legal status of children born outside marriage has long been a significant subject of debate within the Islamic legal tradition. Classical and contemporary scholars have advanced different positions on whether a biological father may acknowledge such a child through *ilhāq* or lineage recognition. These differences reflect a broader tension between protecting the child's legal and social interests and preserving the legal integrity of lineage. The following thematic analysis identifies three principal juristic positions and a broader synthesis of the debate.

Table 1

Scholarly Perspectives on Ilhāq-Based Nasab Establishment for Children Born of Zinā

No.	Scholarly Position	Key Finding	Legal Implications	References
1	<i>Ishāq ibn Rāhawayh</i>	Permits a biological father who committed <i>zinā</i> to acknowledge the child, provided the child is not explicitly attributed to <i>zinā</i> .	Allows recognition of the biological father–child relationship and protection of the child's legal and social status, although not necessarily equivalent to full nasab established through valid marriage.	<i>Al-Jauziyyah</i> (2000); Sarong (2010)
2	<i>Ibn al-Qayyim al-Jawziyyah</i>	Recognises certain consequences of the biological relationship, particularly <i>maḥram</i> status.	<i>Maḥram</i> status may apply, but inheritance, maintenance, and marital guardianship are not automatically established.	<i>Al-Jauziyyah</i> (2000)

3	Jumhūr al- 'Ulamā'	Rejects attribution of a child born through zinā to the biological father because zinā does not establish paternal nasab.	The child is affiliated with the mother; paternal inheritance, maintenance, and guardianship do not arise from biological connection alone.	Mohtarom (2018); Maulana (2020)
4	Ilhāq as a Contested Method	Jurists differ on whether ilhāq or <i>iqrār al-nasab</i> can establish paternal nasab in cases of non-marital birth.	Recognition of biological paternity does not necessarily constitute full legal nasab, resulting in different legal consequences.	Sarong (2010)

Source: Processed by the researcher (2023).

Table 1 shows considerable juristic disagreement concerning the establishment of nasab for children born from zinā through ilhāq. The positions range from conditional recognition of the biological father–child relationship to the categorical rejection of paternal attribution. Ishāq ibn Rāhawayh permits paternal acknowledgment under specific conditions, particularly when the child is not explicitly attributed to zinā, with consideration for the child's legal and social interests. Ibn al-Qayyim al-Jawziyyah likewise recognizes certain consequences of the biological relationship, particularly mahram status, although such recognition does not necessarily entail inheritance, maintenance, or marital guardianship.

In contrast, the jumhūr al-'ulamā' reject attributing a child born through zinā to the biological father because zinā is not considered a legally recognized basis for establishing paternal nasab. The child is therefore legally affiliated with the mother, while paternal inheritance, maintenance, and guardianship do not arise from biological connection alone. The disagreement thus concerns not only the recognition of biological paternity but also whether such recognition can establish legally cognizable nasab and its associated rights and obligations.

Overall, ilhāq remains a contested juristic mechanism for nasab establishment. The positions reflect different approaches to reconciling biological paternity with the normative requirements of lineage: Ishāq ibn Rāhawayh and Ibn al-Qayyim allow certain aspects of the biological relationship to be recognized, albeit with different legal consequences, whereas the majority emphasizes the legal integrity of nasab. This divergence reveals a broader tension within *maqāṣid al-sharī'ah* between *ḥifẓ al-nasab* (protection of lineage) and the protection of a child's identity, dignity, and social interests, highlighting the interpretive space within Islamic jurisprudence for balancing the normative requirements of nasab with the welfare of children born outside marriage.

Muhammad Abu Zahrah's view on the lineage of children born of zinā through ilhāq

Fiqh discussions on the legal status of children born outside marriage involve a complex interaction between legal principles and social realities. Muhammad Abu Zahrah offers a distinctive position that maintains the legal integrity of lineage while allowing consideration of the interests of children born of zinā. His approach distinguishes between the absence of automatic paternal nasab and the possibility of establishing lineage through ilhāq under specific conditions. The following thematic analysis identifies five dimensions of Abu Zahrah's fiqh framework.

Table 2

Muhammad Abu Zahrah's View on the Lineage of Children Born Out of Wedlock through Ilhāq

No.	Finding	Key Description	Legal Implication	References
1	Lineage as a Fundamental	Abu Zahrah regards the preservation of lineage (<i>ḥifẓ al-</i>	Any mechanism of lineage recognition must preserve the legal integrity of nasab.	Abu Zahrah (1971)

	Necessity (<i>Maṣlaḥah Ḍarūriyyah</i>)	<i>nasab</i>) as one of the essential objectives of Islamic law.		
2	No Automatic Paternal Nasab	A child born of zinā does not automatically acquire nasab from the biological father, consistent with the majority position.	Biological paternity alone does not establish the legal rights and obligations of paternal nasab.	Abu Zahrah (1971)
3	Ilhāq as a Means of Nasab Establishment	Abu Zahrah allows nasab to be established through <i>ilhāq (iqrār al-nasab)</i> under the relevant legal conditions.	Acknowledgment may provide a legal basis for establishing paternal kinship.	Abu Zahrah (1971)
4	Condition for Valid Acknowledgment	The claimant to paternity may acknowledge the child provided that the acknowledgment does not explicitly attribute the child to zinā.	The condition enables legal recognition while avoiding explicit attribution of the child to an illicit relationship.	Abu Zahrah (1971)
5	Legal Consequence: Maintenance (<i>Nafaqah</i>)	Once nasab is established through valid acknowledgment, paternal kinship entails an obligation of maintenance.	The acknowledged child acquires a claim to financial support based on the established kinship relationship.	Abu Zahrah (1971)

Source: Processed by the researcher (2023).

Table 2 shows that Abu Zahrah distinguishes between the absence of automatic paternal nasab for a child born of zinā and the possibility of establishing nasab through ilhāq. He regards *ḥifẓ al-nasab* as an essential objective of Islamic law and therefore maintains that zinā does not, by itself, establish paternal lineage. Nevertheless, he permits *ilhāq (iqrār al-nasab)* as a legal mechanism to establish lineage under specific conditions, particularly when the acknowledgment does not explicitly attribute the child to zinā. Once a valid acknowledgment establishes nasab, it may generate corresponding legal consequences, including the father's obligation to provide maintenance (*nafaqah*).

Abu Zahrah's position, therefore, reflects an attempt to reconcile the normative requirements of nasab with the legal and social interests of children born outside marriage. His approach maintains the principle that zinā does not automatically establish paternal nasab, while recognizing acknowledgment as a distinct legal basis for establishing lineage. The resulting framework separates the cause of the child's birth from the legal mechanism through which nasab may subsequently be established. In this respect, *ilhāq* functions not merely as recognition of biological paternity but as a legal mechanism with concrete consequences, including paternal financial responsibility. Abu Zahrah's position thus brings together the protection of lineage, the interests of the child, and paternal responsibility within a coherent fiqh framework.

Abu Zahrah's legal proofs and istinbāt on ilhāq-based nasab establishment

The legal reasoning underlying the establishment of nasab for children born of zinā requires careful examination of both textual evidence and methods of legal inference. Muhammad Abu Zahrah's reasoning can be analysed through three modes of *istinbāt*: *bayānī* reasoning based on textual and linguistic interpretation, *ta'līlī* reasoning based on the identification of legal causes, and *istiṣlāḥī* reasoning based on *maṣlaḥah* and the objectives of Islamic law. His use of the ḥadīth al-firāsh, Qur'anic evidence concerning the minimum gestational period, and considerations of the child's welfare demonstrates an attempt to

reconcile textual norms with the legal and social consequences of nasab recognition. The following thematic analysis identifies five dimensions of Abu Zahrah's legal methodology.

Table 3

Abu Zahrah's Legal Proofs and Istinbāt on Ilhāq-Based Nasab Establishment

No.	Finding	Key Description	Legal Implication	References
1	Modes of Legal Istinbāt	Abu Zahrah's reasoning can be analysed through <i>bayānī</i> , <i>ta'līlī</i> , and <i>istiṣlāḥī</i> approaches.	These approaches provide a framework for understanding the textual, causal, and welfare-oriented dimensions of his legal reasoning.	Al-Zuhaili (2012); Ali (2016); Abubakar (2016)
2	Ḥadīth al-Firāsh as a Primary Evidence	Abu Zahrah relies on <i>al-walad li-l-firāsh wa li-l-āhir al-ḥajar</i> and interprets <i>firāsh</i> as a valid marital relationship.	A valid <i>firāsh</i> provides the normative basis for paternal nasab in marriage, while cases outside this framework require separate consideration of <i>ilhāq</i> .	Al-Bukhārī (1998); Abū Zahrah (1971)
3	Child Welfare as a Legal Consideration	Abu Zahrah permits <i>ilhāq</i> in the relevant circumstances while considering the child's welfare and <i>maṣlaḥah</i> .	Child welfare becomes an important consideration in determining the legal consequences of nasab recognition.	Abū Zahrah (1971)
4	Six-Month Minimum Gestational Period	Abu Zahrah derives a six-month minimum from the combined indications of Q. al-Aḥqāf [46]: 15 and Q. Luqmān [31]: 14.	The six-month period functions as a legal criterion in determining whether paternal nasab can be established within the framework of marriage.	Abū Zahrah (1971)
5	Recognition Based on the Timing of Birth	Abu Zahrah distinguishes children born at least six months after marriage from those born before six months, with <i>ilhāq</i> considered under specified conditions where zinā is not explicitly acknowledged.	The distinction provides a legal criterion for determining the applicable basis of nasab while limiting explicit attribution to zinā.	Abū Zahrah (1971)

Source: Processed by the researcher (2023).

Table 3 demonstrates that Abu Zahrah's reasoning on *ilhāq*-based nasab establishment combines textual interpretation, legal qualification, and considerations of *maṣlaḥah*. The ḥadīth *al-firāsh* provides the primary normative basis for attributing nasab within a valid marital relationship, while Abu Zahrah's interpretation of *firāsh* emphasizes the legal significance of a valid marriage. For cases not automatically covered by this principle, he considers *ilhāq* as a distinct mechanism of lineage recognition under specified conditions.

Abu Zahrah also incorporates the child's welfare as a relevant legal consideration, demonstrating an *istiṣlāḥī* dimension in his reasoning. In addition, his derivation of the six-month minimum gestational period from the combined Qur'anic indications in Q. al-Aḥqāf [46]: 15 and Q. Luqmān [31]: 14 illustrates textual synthesis in determining a concrete legal criterion. The resulting distinction between children born at least six months after marriage and those born before this period provides a temporal parameter for assessing the applicable basis of nasab.

Overall, Abu Zahrah's *istinbāt* demonstrates an interaction between textual evidence, linguistic interpretation, legal criteria, and *maṣlaḥah*. Rather than treating nasab solely as a consequence of biological connection or as a formal effect of marriage, his reasoning

distinguishes the normative basis of nasab from the mechanisms available to address particular cases. This approach allows textual principles concerning *firāsh* and the protection of nasab to be considered alongside the legal and social interests of children whose paternal status is disputed. His methodology, therefore, illustrates how Islamic jurisprudence can accommodate complex cases through the interaction of textual evidence, legal reasoning, and welfare considerations.

Discussion

This study identifies three main findings concerning the establishment of nasab for children born of *zinā* through *ilhāq*. First, juristic disagreement demonstrates that *ilhāq* in cases of *zinā* remains within the domain of *ijtihād*. While some scholars permit recognition of the biological father-child relationship to protect the child's legal and social interests, others reject paternal attribution because *zinā* does not constitute a valid basis for establishing nasab. Second, Muhammad Abu Zahrah permits establishing nasab through *ilhāq* by paternal acknowledgment under specified conditions, particularly when *zinā* is not explicitly admitted. This position provides a legal basis for recognizing the child and entails paternal maintenance as a consequence of established kinship. Third, Abu Zahrah's legal reasoning integrates *bayānī*, *ta'līlī*, and *istiṣlāḥī* approaches, drawing on the *ḥadīth al-firāsh*, Qur'anic indications concerning the six-month minimum gestational period, and considerations of the child's welfare. Thus, Abu Zahrah's approach represents an *ijtihādī* development that reconciles the legal integrity of nasab with the protection of the child's interests, while subjecting *ilhāq* to specific legal criteria.

The findings of this study have significant social relevance amid the increasing number of children born outside marriage in Indonesia. The rise in births resulting from unlawful relationships has implications for children's vulnerability to the loss of legal identity, inheritance rights, and social protection (Roche, 2001; Horii & Wirastri, 2022). This problem becomes increasingly complex when society is confronted with questions about the legal status of such children within inheritance and marriage-guardianship systems (Siegel et al., 2021; Simatupang et al., 2023). At the same time, Constitutional Court Decision No. 46/PUU-VIII/2010 grants civil rights to children born outside marriage in relation to their mothers and to men who are scientifically and technologically proven to be their biological fathers (Purwaningsih, 2014; Djumikasih, 2014; Iqbal & Zarkasi, 2021). This legal development creates an important point of comparison with the majority juristic position, which generally rejects the establishment of paternal nasab through *zinā*. The resulting divergence highlights the continuing need to reconcile legal certainty, lineage norms, and the protection of children's rights.

Theoretically, the findings indicate that Muhammad Abu Zahrah's method of *istinbāt* integrates textual evidence with welfare-oriented considerations of *maṣlaḥah* (Achmad, 2022; Rosida, 2022). His *bayānī* reasoning is reflected in his interpretation of the *ḥadīth al-firāsh*, particularly his understanding of *firāsh* as a lawful marital relationship. Within this framework, a child born of *zinā* does not automatically acquire paternal nasab, while acknowledgment may provide a separate legal basis for lineage recognition under specified conditions (Abū Zahrah, 1971). This approach demonstrates an effort to maintain fidelity to textual principles while addressing the social consequences experienced by children whose paternal status is uncertain (Rohmawati & Siddik, 2022; Botu, 2022). The *ta'līlī* dimension of his reasoning can be identified in the formulation of legal criteria and consequences, while the *istiṣlāḥī* dimension becomes particularly relevant in his consideration of the child's welfare and social interests (Djawas et al., 2022). This reasoning is consistent with *maqāṣid al-sharī'ah*,

particularly the protection of progeny and lineage (*ḥifẓ al-nasl*) as an essential objective of Islamic law (Baharuddin et al., 2019; Al Munawar, 2021). Abu Zahrah's approach, therefore, demonstrates how textual fidelity and contextual responsiveness can work together to address contemporary questions of legal status and child protection.

The findings further suggest that differences regarding *ilḥāq* should be understood as part of the dynamics of *ijtihād* rather than as merely contradictory legal positions (Sarong, 2010; Abubakar, 2019; Aini et al., 2019). The permissive positions provide space for lineage recognition as a means of addressing the legal and social vulnerabilities experienced by children, while restrictive positions prioritize the normative integrity of *nasab*. This divergence illustrates the capacity of Islamic jurisprudence to engage with changing social circumstances without abandoning the principles of the *Sharī'ah* (Zaprul Khan, 2018; Fageh, 2021). From this perspective, the preservation of lineage (*ḥifẓ al-nasl*) should be understood not only as restricting biological attribution but also as protecting children from the social and legal consequences of uncertain status (Abubakar et al., 2021). The permissive interpretation of *ilḥāq* may therefore be understood as an attempt to prevent greater harm while realizing *maṣlaḥah* for children and society. However, this interpretation remains subject to the legal conditions established within the relevant juristic framework.

The findings also demonstrate both continuity and divergence with previous studies. Abdillah (2016) and Dunggio et al. (2021) similarly identify scholarly positions that permit acknowledgment of children born of *zinā* under conditions that avoid explicit attribution to the illicit relationship. Darmawan (2021), meanwhile, examines the consequences of *ilḥāq* in terms of *maḥram* relations without extending them to inheritance and maintenance rights, whereas Abu Zahrah's position gives greater emphasis to maintenance as a consequence of established kinship (Abū Zahrah, 1971). This difference indicates variation in the legal consequences attached to acknowledgment across juristic positions. By contrast, Mohtarom (2018) and Maulana (2020) represent positions that reject paternal attribution for children born of *zinā*. The contribution of the present study, therefore, lies not merely in identifying these differences but in reconstructing Abu Zahrah's method of *istinbāt*, particularly the interaction between *bayānī*, *ta'līlī*, and *istiṣlāḥī* reasoning and his use of textual evidence, legal criteria, and *maṣlaḥah* in addressing *ilḥāq*-based *nasab* establishment.

The findings have several implications for Islamic family law and legal practice in Indonesia. First, the Indonesian Ministry of Religious Affairs could consider developing clearer guidance on mechanisms for recognizing and protecting children born outside marriage, particularly where questions of legal identity and paternal responsibility arise. Second, Religious Courts could engage with the diversity of juristic opinions concerning *ilḥāq* when addressing cases involving disputed paternal status, while ensuring that any application remains consistent with Indonesian positive law and applicable judicial authority. Third, public education is needed to strengthen awareness of the legal and social rights of children born outside marriage and to reduce stigma associated with their circumstances of birth. Fourth, scholars and academics should continue examining methods of *istinbāt* that respond to contemporary social realities while remaining grounded in the principles of the *Sharī'ah*. Fifth, the government and religious institutions could strengthen family-law consultation services to provide accessible guidance on legal identity, maintenance, and related rights, thereby promoting legal certainty and social protection without disregarding religious and legal principles.

CONCLUSION

This study concludes that *ilḥāq* represents an *ijtihādī* approach to addressing the contested status of children born of zinā. Amid juristic disagreement, with some scholars rejecting paternal attribution because zinā does not constitute a valid basis for establishing nasab and others allowing recognition on the basis of *maṣlaḥah*, Muhammad Abu Zahrah offers a distinctive integrative position. He permits paternal acknowledgment under specified conditions, particularly where the acknowledgment does not explicitly attribute the child to zinā, and recognizes maintenance as a legal consequence of established kinship. His method of *istinbāt* integrates *bayānī*, *ta'līlī*, and *istiṣlāḥī* reasoning through the use of the ḥadīth *al-firāsh*, Qur'anic indications concerning the six-month minimum gestational period, and considerations of the child's legal and social interests. Rather than replacing formal lineage principles with welfare considerations, Abu Zahrah's approach seeks to reconcile the legal integrity of nasab with the protection of children's interests. Its relevance is particularly evident in the Indonesian context following Constitutional Court Decision No. 46/PUU-VIII/2010, where legal certainty concerning children born outside marriage intersects with established principles of Islamic family law. In this context, *ilḥāq* may be understood as a potential juristic mechanism for negotiating between social protection and fidelity to textual and legal norms.

This study contributes to the discourse on *uṣūl al-fiqh* by reconstructing an integrative model of *istinbāt* in which textual evidence, legal reasoning, and *istiṣlāḥ* interact in addressing contemporary lineage questions. The findings demonstrate that *bayānī* reasoning need not operate in isolation but can be complemented by *ta'līlī* and *istiṣlāḥī* considerations within a coherent legal framework. In practice, the findings may inform policymakers in developing clearer mechanisms to protect the legal status and rights of children born outside marriage, while providing a conceptual reference for Religious Court judges when considering the diversity of juristic positions in relevant cases, subject to Indonesian positive law and applicable judicial authority. The findings also support broader public education concerning the legal protection and social dignity of children born outside marriage.

The main limitation of this study lies in its normative-descriptive design, which focuses on textual analysis and Abu Zahrah's method of *istinbāt* without empirically examining its application within Indonesian judicial institutions. The study also does not investigate the social and psychological responses that may arise from the application of *ilḥāq*, nor does it provide an in-depth comparison of judicial decisions issued after Constitutional Court Decision No. 46/PUU-VIII/2010. Future research should therefore examine Religious Court decisions concerning the recognition of children born outside marriage, compare the Ḥanafī and Shāfi'ī approaches in relation to Indonesian positive law, and investigate sociological responses to policies and public education concerning the legal protection of children's rights. Such research would further clarify the extent to which Abu Zahrah's *ijtihādī* framework can contribute to contemporary Islamic family law and its implementation in Indonesia.

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Ahmad Saifuddin Al Rosyid: Conceptualization; Data Curation; Formal Analysis; Methodology; Writing Original Draft; Validation; Visualization; Writing Original Draft; Writing

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