

# A Siyasah Shar'iyah Approach to Financial Support Obligations of Biological Fathers for Illegitimate Children

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## ABSTRACT

The rise in births of children out of wedlock poses a significant social challenge within Malaysia's Muslim community. Official data from the National Registration Department indicates that 67,628 illegitimate children were registered between 2020 and October 2024, reflecting the critical scale of the issue and its implications for the country's social fabric and future human capital development. Illegitimate children, born outside valid marital unions, often face complex legal and socio-economic difficulties. This study examines the obligation of financial maintenance (*nafkah*) for such children, focusing on the biological father's role as prescribed by Islamic law, relevant scholarly opinions, and Malaysian legal provisions. Employing a qualitative approach, the research analyses these issues within the framework of *Siyasah Shar'iyah*, Islamic governance principles emphasising public interest (*maslahah*). The findings highlight the necessity of re-evaluating traditional legal interpretations to address contemporary social realities better, advocating for a balanced approach that safeguards the welfare of illegitimate children while upholding Islamic legal integrity. This study contributes to the ongoing discourse on family law reform and social justice in Islamic contexts, offering recommendations to strengthen legal and moral frameworks for child maintenance obligations.

**Keywords:** Illegitimate child, *siyasah shar'iyah*, financial support, biological father

## INTRODUCTION

The issue of illegitimate children has become increasingly concerning in the Malaysian Muslim society, particularly regarding their rights and welfare. Despite the nation's progress, stigma against children born out of wedlock remains widespread, even though these children are innocent and deserve love and equal treatment like any other child (Iszahanid, 2019). According to the fatwa issued by the Federal Territories Mufti Office, the responsibility of financial maintenance for an illegitimate child lies entirely with the biological mother, as the child is only affiliated to the mother and not to the man who committed *zina* with her (Mazri, 2020).

In line with Islamic law and legal provisions in Malaysia, a child born out of wedlock cannot be affiliated to the biological father, which consequently nullifies any obligation of financial maintenance on his part. This is stipulated under Section 86 of the Islamic Family Law Enactment (State of Selangor) 2003 and Section 80 of the Islamic Family Law (Federal Territories) Act 1984. As a result, the biological mother often bears the full burden of maintenance alone, even if she lacks the financial means, thereby raising issues of social justice and revealing gaps in the legal protection of such children.

Accordingly, this study aims to reassess the issue of financial maintenance by biological fathers towards illegitimate children within the framework of *siyasah syariyyah*. The study applies a *maqasid syariah*-based approach, particularly preserving welfare, preventing harm, and upholding justice. Although affiliation of lineage *nasab* to the biological father is not permitted under Islamic law, financial maintenance may still be imposed through the principles of *siyasah syariyyah*, which emphasise responsibility, fairness, and public interest *maslahah*. This study also proposes suitable mechanisms for implementation within the Malaysian legal context to ensure the comprehensive protection and welfare of illegitimate children.

## The Legal Ruling on the Attribution of Lineage for Illegitimate Children According to the Four Major Schools of Islamic Jurisprudence

### The Shafi'i School of Thought

According to the majority view, including the Shafi'i school, a child born out of wedlock cannot be affiliated with the biological father. Instead, the child can only be attributed to the mother (Attas, 2024; Wulandari, 2018). Consequently, a man who has committed fornication is not legally obligated to provide maintenance for the child, as there is no legally recognised paternal lineage. This opinion is based on a hadith narrated by Aishah (RA), in which the Prophet Muhammad (PBUH) stated:

"الولد للفراش، وللعاهر الحجر"

"The child is for the (lawful) bed, and for the fornicator is the stone."

(Narrated by al-Bukhari and Muslim)

This hadith indicates that lineage is only acknowledged in a lawful marriage, where the husband is considered the legitimate father. Thus, a child born through fornication is not regarded as having a valid paternal lineage with the man involved in the act. However, Imam Al-Shafi'i holds the view that an illegitimate child may inherit from the biological father, on the condition that all the father's legal heirs give their consent and acknowledgement of the child (Wulandari, 2018).

### The Hanbali School of Thought

The Hanbali school, similar to the Shafi'i school, holds the view that an illegitimate child cannot be affiliated with the biological father; instead, the child may only be attributed to the mother (Gunawan, 2018). Ibn Qudamah, a prominent scholar of the Hanbali school, stated:

"وَلَنَا، قَوْلُ النَّبِيِّ - صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «الْوَلَدُ لِلْفَرَّاشِ، وَلِلْعَاهِرِ الْحَجَرُ». وَلَا تَنْتَهِ لَا يَلْحَقُ بِهِ إِذَا لَمْ يَسْتَلْجِئْهُ، فَلَمْ يَلْحَقْ بِهِ بِحَالٍ"

This means: "We rely on the statement of the Prophet (peace be upon him), 'The child is attributed to the (legal) bed, and for the fornicator is the stone.' Thus, the child is not affiliated with the biological father unless there is acknowledgement, and even then, in such cases, nasab cannot be established under any circumstance" (Mutalib & Yahya, 2016).

However, the Hanbali school is considered more flexible and open regarding the rights of illegitimate children, particularly in the aspect of financial support (Attas, 2024). An illegitimate child is deemed eligible to receive maintenance and shelter from the biological father, even if *nasab* is not legally established. This is because the Hanbali school affirms that illegitimate children should be treated equally to other children and should not bear the burden of their parents' sinful actions.

### The Maliki School of Thought

The Maliki school holds the view that an illegitimate child cannot be affiliated with the biological father. The same applies to the aspect of "bin" or "binti" illegitimate children to their biological father. Furthermore, Ibn Rushd, a prominent Maliki scholar, stated:

"واتفق الجمهور على ان اولاد الزنا لا يلحقون بابائهم الا في الجهلية على ما روي عن عمر بن الخطاب"

This statement means that most scholars agree that illegitimate children cannot be attributed to their biological fathers, except in cases of fornication that occurred during the pre-Islamic period of ignorance, as narrated from 'Umar ibn al-Khattab (Musa et al., 2023).

About inheritance, the Maliki school asserts that an illegitimate child is not entitled to inherit from the biological father. However, such a child may still inherit from the mother (Gunawan, 2018). Therefore,

inheritance rights are granted only within the framework of a valid marriage, wherein the relationship is legally established, and the child's lineage is affirmed through Islamic legal principles.

### The Hanafi School of Thought

According to the Hanafi school, an illegitimate child may be affiliated with the biological father if the parents marry before the birth of the child conceived through fornication, even though such affiliation is not legally valid from a shar'i perspective (Wulandari, 2018; Febri, 2023; Mutalib & Yahya, 2016). This suggests that while a biological relationship exists, it does not confer shar'i rights such as inheritance, guardianship in marriage or the maintenance obligation.

Furthermore, according to Pulungan (2023), Hamdan et al. (2023), and Wahid (n.d.), although an illegitimate child cannot be legally attributed to the biological father, the man is still prohibited from marrying his biological daughter born from fornication, due to the existence of a blood relationship. This implies that biological ties are still recognised in specific legal rulings, even if they are not acknowledged in valid lineage in Islamic jurisprudence. The verse in Surah al-Nisa supports this, verse 23:

"حُرِّمَتْ عَلَيْكُمْ أُمَّهَاتُكُمْ وَبَنَاتُكُمْ"

"Prohibited to you [for marriage] are your mothers and your daughters..."

This verse affirms the prohibition of marrying one's mother or daughter based on lineage. Whether the child is born from a lawful marriage or fornication, the daughter remains biologically connected to the father and thus prohibited from marriage (Gunawan, 2018).

Regarding financial support, the Hanafi school maintains that only children with a legally recognised shar'i lineage are entitled to receive maintenance from their parents. Therefore, an illegitimate child does not have the right to claim *nafaqah* from the biological father (Gunawan, 2018; Adam, 2022).

### 3. Statistics on Illegitimate Children in Malaysia

The issue of illegitimate children among Muslims in Malaysia has become increasingly pressing, with the number of cases continuing to rise each year. In the context of birth registration, an illegitimate child refers to a child born because of fornication between parents who are not legally married according to Islamic law (PEMBINA, 2010; Alavi et al., 2012). According to Professor Zainur Rashid Zainuddin, Chairman of Yayasan Ikhlas, there have been reported cases of illegitimate births involving children under the age of 13, including incidents where 11-year-old girls gave birth in states such as Negeri Sembilan and Terengganu (Sinar Harian, 2023).

Based on statistics from the National Registration Department (JPN), 257,000 birth certificates were registered without the father's name between 2000 and July 2008. This equates to approximately 83.3 cases occurring every 17 minutes and 7 seconds, with an average of 2,500 illegitimate births recorded daily (Mohamad et al., 2014; Alavi et al., 2012; PEMBINA, 2010). Furthermore, according to more recent statistics released by the JPN, a total of 133,946 cases of illegitimate births involving Malaysian citizens were recorded from 2020 to 31 October 2024. This figure excludes more than 62,000 cases involving non-citizens, bringing the total number of cases during that period to over 196,000 (Mawani, 2024; Kosmo, 2024). This significant increase presents numerous challenges in social welfare, legal frameworks, and the administration of Islamic law in Malaysia.

### Siyasah Syar'iyah

*Siyasah Syar'iyah* is derived from two Arabic terms: *siyasah* and *shar'iyah*. According to Dewan Bahasa dan Pustaka (2005), *siyasah* refers to the knowledge of governance or political affairs, while *syar'iyah* refers to a court that deals with matters concerning Islamic rulings. Thus, *siyasah syar'iyah* can be understood as the knowledge that discusses the administration of an Islamic government, comprising laws and systems founded on Islamic principles (Yusuf & Abdullah, 2022).

The main objective of *siyasah syar'iyah* is to implement the maqasid al-shariah, particularly in promoting public interest and preventing harm (Ibrahim, 2014). The role of *siyasah syar'iyah* as the foundation of governance has contributed significantly to the development of Islamic law and has enriched Islamic approaches in addressing contemporary issues. According to Atwah (in Ahmad et al., 2022), not every ruling derived through *ijtihad*, independent reasoning, can be classified as *siyasah syar'iyah* unless three conditions are fulfilled. First, its implementation must be consistent with the principles of Shariah law and general legal maxims. This includes alignment with the maqasid al-shariah, which seeks to secure benefit and avoid harm for individuals or society (Rosidi et al., 2022). It must also conform to general legal foundations such as *sadd al-dhara'i*, *al-adalah*, *al-urf*, and *al-shura*.

Second, the policy must not contradict specific, detailed *dalil tafsili* that applies universally across contexts, times, and communities. Third, the implementation must be neither overly lenient, which could lead to negligence, nor excessively strict, which could result in injustice. A balanced approach is essential to ensure the realisation of *maslahah* within society.

## RESEARCH METHODOLOGY

Methodology is used to collect and obtain data through effective procedures to address the research problem. It is divided into three stages: the planning stage, the application stage, and the analysis stage (Hua, 2016). Accordingly, this study adopts a research methodology that consists of four components: research design, data sources, data collection methods, and data analysis methods.

This study employs a quantitative design using a content analysis approach, drawing from primary and secondary sources such as Shariah, fatwas, legal provisions, and relevant academic journals. This approach is used to examine the development of opinions from the Shafi'i, Hanbali, Maliki, and Hanafi schools of thought regarding the attribution of lineage of illegitimate children to their biological fathers, within the framework of *siyasah syar'iyah* and maqasid al-Shariah. The study is conducted exclusively through library research and document analysis, without using interviews or surveys. The study utilises two categories of data, primary data and secondary data. Primary data includes references from the Qur'an, authentic hadiths, and scholarly opinions relevant to the issue of financial maintenance for illegitimate children, as well as rulings from the National Fatwa Council and the Perlis State Fatwa Committee concerning the rights of illegitimate children towards their biological fathers. Secondary data consists of scholarly journals, academic articles, university theses, and contemporary references related to *siyasah syar'iyah* and maqasid al-Shariah, including resources from official fatwa institution websites and university libraries.

The data collection method involves document analysis, which includes fatwas, national and international legal provisions, academic articles, and related journals. One key reference is the Islamic Family Law (Federal Territories) Act 1984 (Act 303), which serves as a primary legal source for this study. The data obtained will be analysed using several approaches. First, content analysis is used to examine and understand the core themes related to the biological father's obligation to provide maintenance for illegitimate children, particularly from the perspective of *siyasah syar'iyah*. Second, the maqasid al-Shariah framework is applied to assess the appropriateness of this responsibility in preserving lineage, life, and wealth. Third, the study includes an analysis of statistical data on illegitimate births in Malaysia, whether resulting from consensual relationships or sexual assault which is rape.

## Establishing the Maintenance Responsibility for Illegitimate Children within the Framework of *Siyasah Syar'iyah*

### The Necessity *Daruriyyat* of Establishing the Biological Father's Responsibility for Illegitimate Children

There is a *daruriyyat* urgent necessity to establish the responsibility of a biological father towards an illegitimate child, particularly when viewed from the perspective of the child's welfare and protection of rights within the social and legal context. However, from the standpoint of authoritative Islamic jurisprudence, establishing the lineage *nasab* of a child to the father is only valid through a legitimate marriage. According to the authoritative opinion in the Shafi'i school, a child born from an illicit zina relationship cannot be affiliated



with the man involved, as there is no legal shar‘i value in semen discharged from a relationship without a valid marriage contract (Pejabat Mufti Wilayah Persekutuan, n.d.).

In reality, contemporary developments necessitate a new approach, especially in cases where the rights of innocent children are neglected. There is an urgent need to establish a special mechanism to assign the biological father’s responsibility towards the child, not to establish shar‘i lineage, but for the sake of the child’s welfare, protection, emotional and physical well-being. A study by Aziz et al. (2021) asserts that the lack of recognition of the biological father’s identity and the failure to assign maintenance responsibilities have led to neglect in terms of emotional support, protection, and social justice for the child.

Accordingly, the framework of *siyasah syar’iyyah* allows the courts to consider the emerging *maslahah* public interest, notably when the mother cannot financially support the child. Although, in principle, Islamic law does not permit the establishment of lineage of an illegitimate child to the biological father, *siyasah syar’iyyah* still opens a pathway to establish the father’s financial responsibility for the illegitimate child. According to Ahmad and Md Dahlan (in Ismail & Sulong, 2021), the responsibility to provide maintenance for an illegitimate child must be carried out by the provisions of Islamic law. The eligibility of a biological father in such cases must meet certain conditions recognised by the Shariah, namely the presence of firash, a valid marriage, bayyinah, clear evidence, and iqrar, admission.

In line with this, scientific tests such as DNA testing may be used to corroborate evidence. This *qarinah* can be further strengthened by expert scientific testimony in the relevant field. In Malaysia, the use of DNA has become common in the civil court context; however, in the Syariah Court, the application of DNA, especially in determining lineage, depends on the facts of the case. A case such as Rosli bin Abdul Japar shows that the Syariah Court has begun to accept DNA as strong supporting evidence, when the Sabah Syariah Court accepted DNA testing as *qarinah* to prove the status of an illegitimate child (Muliadi et al., 2024).

This matter is further emphasised by a scholarly study by Ahmad et al. (2020), which stated that Malaysian academics have shown deep interest in applying forensic science, especially regarding the admissibility of DNA tests in Syariah Courts. The article also lists various studies, such as those by Tengku Fatimah Muliana, Siti Khatijah, and Najmiah (2011), Lukman and Wan Abdul Fattah (2012), Na’imah (2014), Ramlee (2015), and others, focusing on the issue of DNA evidence acceptance based on existing Syariah legal provisions (Ahmad et al., 2020).

Therefore, the approach of *siyasah syar’iyyah* should be considered, including allowing the use of scientific methods such as DNA testing as *qarinah* supporting evidence to establish the father’s civil and *takziri* discretionary responsibility, without establishing shar‘i lineage (Hashim et al., 2021; Musa et al., 2023). Although Islamic law stipulates that an illegitimate child cannot be affiliated with the biological father due to the absence of a valid marriage contract, within the *siyasah syar’iyyah* framework, the government can use *takziri* authority to enact laws based on public interest in assigning responsibility to the biological father to provide maintenance for the illegitimate child. Using scientific approaches such as DNA testing as *qarinah* to prove the biological relationship, the assignment of maintenance responsibility towards the child can be implemented in line with the principles of *siyasah syar’iyyah*. Even though a shar‘i lineage cannot be established with the biological father, the obligation to provide maintenance for the illegitimate child must still be shouldered by the biological father, based on responsibility and justice.

### Protection of Women Supporting Illegitimate Children

*Siyasah syar’iyyah* aims to protect the oppressed. If the mother alone bears the financial responsibility of maintaining the illegitimate child, it becomes a life burden that causes psychological and emotional stress to her.

Dahlan (2019) emphasised that the mother has the primary responsibility to provide maintenance for an illegitimate child and stressed the need for a mechanism based on Shariah and legal principles to ensure that social justice is upheld. The same writing also proposed that a specific regulation should be established to oblige the biological father to be responsible for the maintenance and welfare of the illegitimate child. This

regulation can be developed based on social justice and the protection of children's welfare, even though Shariah law does not recognise a lineage relationship between the child and the biological father. This step is intended to prevent irresponsibility among the involved men and reduce the burden borne solely by the mother (Dahlan, 2019).

In the case of *Mohd Hanif Farikullah v. Bushro Chaudhri & Another* [2001] 2 CLJ 397, the civil court took an approach to protect the welfare of a wronged mother when the Magistrate Court ordered her ex-husband to pay maintenance for a child born after their divorce. The respondent, a foreign woman without financial means or legal working status, faced hardship and relied on external assistance. Therefore, the court's decision to allow the maintenance claim based on public interest *maslahah* considerations represents a form of protection for women. This decision suggests the need to establish a mechanism or specific regulation that obliges the biological father to contribute to the maintenance of an illegitimate child in the interest of social justice, even without Shariah recognition of lineage (Noor, 2018).

Within the framework of *siyasah syar'iyah*, there is an important principle concerning the protection of women, particularly single mothers raising illegitimate children. The principle of *siyasah syar'iyah* demands justice and the safeguarding of welfare for those easily wronged. In cases of illegitimate children resulting from consensual relationships, the reality is that only the mother directly suffers the emotional, social, and economic consequences. At the same time, the biological father often escapes responsibility.

A case study by Ismail and Sulong (2021) found that court decisions in cases involving maintenance claims for illegitimate children by biological fathers are often influenced by the emotional stress and social stigma faced by the mother due to the child's illegitimacy. This stress directly impacts the child's development, ultimately affecting their education and emotional well-being. In their study conducted at the Syariah Subordinate Court of Penang, four cases were examined involving claims for maintenance of illegitimate children by biological fathers. One such case was *Azliza v. Faizul* (2016), involving two children, the first of whom was confirmed to be an illegitimate child. Nevertheless, after several *Majlis Sulh* conciliation sessions, the biological father agreed to provide maintenance for both children, and the court officially recognised this agreement. This study demonstrates that from a social reality and *siyasah syar'iyah* perspective, the biological father can be ordered to provide maintenance if there is mutual agreement (Ismail et al., 2021). This shows that the framework of *siyasah syar'iyah* is a crucial mechanism in defending the rights of women and illegitimate children, ensuring that the biological father is held accountable for his actions.

Accordingly, to safeguard the maqasid, such as hifz al-nafs, protection of life and hifz al-nasl, protection of lineage, it is appropriate to introduce mechanisms requiring biological fathers to maintain illegitimate children (Rosidi et al., 2025). This step aligns with the objectives of *siyasah syar'iyah*, which promotes justice, rejects oppression, ensures that social responsibility is not borne solely by women, and demands that biological fathers be held accountable for providing maintenance to such children.

## Laws in Malaysia and Other Countries

Under Malaysian law, Section 80 of the Islamic Family Law (Federal Territories) Act 1984 (Act 303) provides guidance concerning maintenance obligations for illegitimate children. Specifically, Section 80(1) empowers the court to order the mother to pay a reasonable monthly allowance if she neglects or refuses to maintain her illegitimate child who is incapable of self-support, except in cases where the child was conceived as a result of rape (Malaysia, 1984). Notably, this provision does not impose any financial responsibility on the biological father, thereby assigning sole maintenance obligations to the mother.

Mazri (2020) further asserts that Islamic law reinforces this legal framework, attributing the responsibility of upbringing and maintenance of an illegitimate child exclusively to the mother. This is grounded in the principle that, barring exceptions such as conception through rape, the child is legally affiliated (*nasab*) only to the mother and not to the biological father. Accordingly, there is no explicit statutory clause mandating biological fathers to support children born out of wedlock, leaving the mother as the primary caregiver and maintainer (Ayub, n.d.).

Nevertheless, as noted by Ayub, if both the biological mother and father of an illegitimate child mutually agree upon and consent to a maintenance arrangement, such an agreement may be drafted and approved by the Shariah Court. While the biological mother holds the legal rights over the illegitimate child, any assistance provided by the biological father, regardless of form, does not constitute a legal offence. This strategy aligns with the concept of *siyasah syar'iyah*, as defined by Ibn Qayyim al-Jawziyyah. This framework refers to actions that prevent harm and advance the public interest, even if they are not explicitly required by divine revelation or the Prophet Muhammad (PBUH) (Al-Jawziyyah, 1961; Al-Bakri, 2020). Therefore, although no explicit textual evidence exists, this issue allows not only for the involvement of the biological father but also for legal institutions to play a supportive role in ensuring the welfare of the illegitimate child.

Ismail and Sulong (2021) studied the case of *Azliza v. Faizul* (2016) before the Syariah Subordinate Court of Penang, whereby the biological father of the illegitimate child agreed to the provision of maintenance to his child by mutual agreement between the two of them during a *Sulh* session and thereafter confirmed by the judge. This case shows the court's flexibility in exercising judgments based on current needs and *maslahah*. The practice is in harmony with the spirit of *siyasah syar'iyah*, which does permit the use of law in seeking justice, although not technically following the classical model of filiation in making obligations of maintenance against a biological father of an illegitimate child.

From the perspective of European law, various legal systems, including those in France and the UK, explicitly recognise that biological fathers must support their non-marital children, regardless of the parents' relationship status. The French Code Civil indicates that both parents are accountable for the upbringing and education of their children. Specifically, Article 371-2 of the Code Civil states that each parent is required to contribute to the welfare and upbringing of their children based on their financial means, considering both parents' economic situations and the child's needs. This obligation persists even if parental authority is revoked or the child reaches adulthood (France, 2002; Legifrance, 2023). Thus, the financial and welfare obligations of a biological father to an illegitimate child are unambiguously upheld by French law.

From a legal standpoint in Europe, different legal systems, such as those in France and the UK, acknowledge that biological fathers are required to provide support for their non-legitimate children, regardless of the parents' marital status. The French Civil Code indicates that both parents are accountable for the care and education of their children. Specifically, Article 371-2 of the Code Civil indicates that each parent must contribute to the welfare and upbringing of their children according to their financial means, considering both parents' financial abilities and the child's requirements. This obligation persists even if parental authority has been revoked or the child reaches adulthood (France, 2002; Legifrance, 2023). Likewise, the law in the United Kingdom states that a biological father must legally support an illegitimate child financially. This is outlined in Section 1(1) of the Children Act 1989, which states that the child's welfare must be the primary concern in all matters regarding custody and support (UK Legislation, 1989). Additionally, regardless of marital status, every father in the UK must support his children financially in all situations, since the parents' marital status does not influence the father's legal obligations (Glanvilles, n.d.).

### **Fatwas in Malaysia and Other Countries**

Fatwas play a crucial role in guiding Islamic legal rulings on matters related to lineage and maintenance, particularly concerning children born out of wedlock. In Malaysia, fatwa bodies provide interpretative guidance that shapes public understanding and legal practice (Rosidi, 2024). The Mufti of the Federal Territory's Office (2020) states that a child born fewer than six lunar months following the marriage date is deemed illegitimate. If the child is delivered after six months, the child may be linked to the biological father, which would require the father to provide support. Nevertheless, in instances where a child is born within six months of marriage, the State Fatwa of Perlis, as per the Administration of the Religion of Islam Enactment 2006 (Enactment 4/2006), permits the assignment of lineage to the biological father, unless paternity is contested (Abidin, 2019). This contrasts with the stance taken in other Malaysian states, which permit such attribution only if the child is born after six months of wedlock. Additionally, the Perlis fatwa asserts that the six-month stipulation is not a conclusive criterion for determining paternity, contrary to the opinion of the *jumhur ulama* (Musa et al., 2023). Various fatwa organisations, such as the Saudi Fatwa Council and JAKIM's Fatwa Committee, hold the view that a child born from *zina*, or unlawful sexual relations, cannot be linked to

the biological father who engaged in the act (Abidin, 2019). Consequently, the prevailing fatwa stance in various areas is that an illegitimate child can only be linked to the mother, apart from the Perlis fatwa, which allows the biological father to support his illegitimate child.

## THE CONCLUSION

While Malaysian laws and prevailing state fatwas generally do not require biological fathers to provide financial support for illegitimate children, as legal lineage (*nasab*) is exclusively attributed to the mother, the principles of *siyasah syar'iyah* offer a more equitable and pragmatic framework for addressing this issue. Ibn Qayyim al-Jawziyyah defines *siyasah syar'iyah* as a governance approach prioritising public interest (*maslahah*) and the prevention of harm (*darar*), even if such measures are not explicitly outlined in primary Islamic texts.

In this context, when a biological father is both willing and financially capable of supporting his illegitimate child, this responsibility should be actively promoted and legally recognised. Judicial and administrative authorities must support and facilitate these efforts to ensure the child's welfare is adequately protected, thereby reflecting the ethical imperatives inherent in Islamic governance.

International comparative perspectives, particularly from France and the United Kingdom, affirm that the obligation to provide maintenance for children born out of wedlock transcends parental marital status. These examples underscore how social justice and child protection principles can effectively complement and reinforce the application of *siyasah syar'iyah*. Such integration fosters a balanced and compassionate approach that aligns with the *maqasid* of Islamic law while addressing the evolving needs of contemporary society.

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