

## The Integration of Naqli and Aqli Knowledge in Islamic Law of Evidence in Malaysia: An Overview Based on the Qur'an, Science, and Technology

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**Abstract :** *The Qur'an is the primary source of Islamic law, revealed to the Prophet Muhammad (peace be upon him) as a guide for human life in both worldly and spiritual matters. It encompasses various legal principles, moral teachings, and bodies of knowledge, including those related to science and technology. Clearly, the integration of rational ('aqli) and revealed (naqli) knowledge within the Qur'an demonstrates Islam's openness to the advancement of knowledge. This phenomenon is not only acknowledged by Muslim scholars but has also been recognised by Western academics, some of whom embraced Islam as a result of their studies. In principle, Islamic law does not limit evidence to specific methods. On the contrary, the Shariah Court may accept any form of evidence that fulfills the requirements prescribed by Islamic law, as long as it is capable of convincing the judge. Evidence derived from science and technology, such as DNA analysis, may be classified as qarinah (circumstantial evidence) or expert testimony. Although the recognition of such methods is generally expressed in national Acts and State Enactments, the courts do not reject their use in establishing guilt or legal facts, including in matters of lineage determination. This paper aims to analyse the extent to which scientific and technological facts may be utilised as tools of proof in accordance with the Qur'an and the Islamic Law of Evidence, and to examine the practices of the Shariah Courts in accepting and assessing such evidence.*

**Keywords:** Qur'an, Science, Evidence, Naqli & 'Aqli

### 1. INTRODUCTION

The Qur'an is a comprehensive and flawless guide to life, free from any deficiencies, whether concerning worldly matters or the hereafter. As the Qur'an is the Divine Speech (Kalam) of Allah Almighty, Who is All-Knowing of the needs and desires of His creation, it is inconceivable that He would leave His creation without guidance in navigating worldly life—a path that ultimately leads to eternal life in the hereafter. Accordingly, the knowledge encompassed within the Qur'an extends to all dimensions of human existence, including in the context of modern civilisation characterised by

technological advancement, notwithstanding the fact that the Qur'an was revealed more than 1,440 years ago. This, in turn, affirms the status of the Qur'an as the greatest miracle of the Prophet Muhammad (peace be upon him).

Nevertheless, there exists a minority who hold the view that adopting the Qur'an as the foundation of life would result in humanity being left behind, particularly in an era marked by rapid scientific and technological development. Such a notion is unfounded, for the Qur'an in essence supports progress and advancement, so long as it does not contravene the principles of Islamic law (Shari'ah) and the higher objectives (maqasid) of the Shari'ah. This position is reinforced by the statement of Allah Almighty in Surah al-Anbiya' (21:30). *Have those who disbelieved not considered that the heavens and the earth were a joined entity, and We separated them and made from water every living thing? Then will they not believe?*

This paper aims to elucidate the concept of 'aqli (rational) and naqli (revealed) knowledge, as well as to explain the comprehensiveness (*syumuliyah*) of the Qur'an and the integration between these two forms of knowledge. In addition, this paper also presents several examples of the integration between naqli and 'aqli knowledge as provided for under the Syariah Court Evidence (Federal Territories) Act 1997, particularly those related to aspects of science and technology.

## **2. THE COMPREHENSIVENESS OF THE QUR'AN**

The Qur'an is the speech of Allah, miraculous in nature, revealed to the Prophet Muhammad (peace be upon him) through the intermediary of the Angel Jibril (upon him be peace), recorded in the mushaf, transmitted to humankind through tawatur, and its recitation constitutes an act of worship. The Qur'an is the greatest miracle granted to the final Messenger, revealed with the objective of guiding mankind from the darkness of misguidance to the light of faith, and directing them to the path of righteousness. Allah SWT has guaranteed that the Qur'an shall remain preserved from all forms of distortion, falsification, or interpolation until the Day of Resurrection, as affirmed in His statement in Surah al-Hijr, 15:9:

*Indeed, it is We who sent down the Qur'an and indeed, We will be its guardian*

The Qur'an is the highest source of reference and serves as a comprehensive guide for mankind in all aspects of life, whether worldly or related to the Hereafter. The verses contained therein were revealed in various forms of expression, whether general or specific in nature. For the verses that are general, further interpretation and

clarification are provided through the Sunnah of the Prophet Muhammad (peace be upon him). The Qur'an does not merely address matters concerning the Hereafter; rather, it also encompasses various worldly affairs, including legal matters involving interpersonal relations.

The Qur'an is the Holy Book revealed by Allah (SWT) to His Messenger, bearing unique characteristics not found in any other divine scriptures. It comprises solely the words of Allah (SWT), without any addition or interference from any created being. The Qur'an is easy to recite, memorise, comprehend, and implement. It contains miracles in various forms, including linguistic eloquence, legal principles, and intellectual values that encompass all dimensions of life, both worldly and hereafter. Furthermore, the Qur'an is divinely guaranteed by Allah (SWT) to be preserved from any form of distortion until the Day of Judgment. It is universal in nature, suitable for all of humankind in every aspect of life, including those pertaining to modern developments such as science and technology.

There are textual evidence from the Qur'an that demonstrate the comprehensiveness and perfection of its content as a source of law, among them is the statement of Allah SWT as mentioned in Surah al-Nahl 16:89:

*And We have sent down to you the Book as clarification for all things and as guidance and mercy and good tidings for the Muslims.*

### **3. METHODS OF EVIDENCE IN ISLAMIC LAW OF EVIDENCE ACCORDING TO THE QUR'AN AND THE SUNNAH**

Conceptually, *'Ilm Naqli* refers to knowledge derived from the Qur'an and the Sunnah, such as theology (*'aqidah*), Qur'anic exegesis (*tafsir*), and Prophetic traditions (*hadith*). On the other hand, *'Ilm 'Aqli* refers to knowledge derived from human reasoning, such as philosophy, management, physical sciences, chemistry, and engineering. Therefore, the integration of *Naqli* and *'Aqli* knowledge refers to the generation of new Islamic knowledge through the synthesis of revelation-based knowledge and rational-based knowledge, which have often been viewed as separate due to the influence of secularism (Mahyudin H. et al., 2018).

In reality, science and technology can significantly aid in solving contemporary issues, whether they relate to civil or criminal matters, particularly in civil courts. The integration of science and technology does not, in fact, contradict the general purport of the *Shar'i* texts, provided that it upholds justice, which is a fundamental objective of Islamic legal injunctions. As stated by Allah the Almighty in Surah Şad 38:26:

*[We said], "O David, indeed We have made you a successor upon the earth, so judge between the people in truth and do not follow [your own] desire, as it will lead you astray from the way of Allah." Indeed, those who go astray from the way of Allah will have a severe punishment for having forgotten the Day of Account.*

Based on this 'nas', the statement of Ibn Qayyim (2007) is thus affirmed when he defined *Bayyinah* (evidence) as: (كل ما يبين الحق ويظهره) "anything that clarifies and reveals the truth – before a judge in a court of law." This definition clearly indicates that scientific and technological knowledge may also constitute valid methods of proof, insofar as such methods assist the court in reaching a fair and accurate decision. Therefore, the scope of evidentiary methods is not confined solely to confession (*iqrār*), testimony (*shahādah*), and oath (*yamīn*), but extends beyond them to include means involving science and technology.

Nevertheless, the foregoing statement does not intend to undermine the strength of proof through testimony, confession, or oath, as each of these has been recognised by the authoritative sources of Islamic law (*nusus al-shar'iyyah*) and the Syariah Court Evidence (Federal Territories) Act 1997. In this regard, Allah Almighty mentions testimony as a form of proof, among others, in Surah al-Baqarah 2:283:

*And do not conceal testimony, for whoever conceals it - his heart is indeed sinful, and Allah is Knowing of what you do*

The statement of the Messenger of Allah SAW, which means:

*"From al-Asyih bin Qais, he stated: 'A dispute arose between myself and another man concerning a well. We then brought the matter before the Messenger of Allah SAW. The Prophet SAW said: "You must either produce two witnesses on your behalf, or the defendant must take an oath."'* (Al-Bukhari, 1407h. 4: 202).

Section 83(1), Syariah Court Evidence (Federal Territories) Act 1997 provides for the admissibility of testimony in proof:

*Subject to the provisions of this section, all Muslims are competent to give syahadah or bayyinah as witnesses, provided that they are of sound*

*mind ('aqil), have attained puberty (baligh), are just ('adil), possess good memory, and are not prejudiced.*

Meanwhile, the prescription of proof through confession (*iqrar*) has been stated in the Qur'an, as in the words of Allah Almighty in Surah Ali 'Imran, 3:81:

*And [recall, O People of the Scripture], when Allah took the covenant of the prophets, [saying], "Whatever I give you of the Scripture and wisdom and then there comes to you a messenger confirming what is with you, you [must] believe in him and support him." [Allah] said, "Have you acknowledged and taken upon that My commitment?" They said, "We have acknowledged it." He said, "Then bear witness, and I am with you among the witnesses"*

Sections 17(2) and 18(1) of the Syariah Court Evidence (Federal Territories) Act 1997 also provide for the admissibility of an admission (*iqrar*) in evidence, subject to the fulfillment of prescribed conditions:

*An iqrar shall be made - (a) in Court, before a Judge; or (b) outside the Court, before two male witnesses who are of sound mind ('aqil), have attained puberty (baligh), and are just ('adil).*

*The following iqrar shall not be admissible: (a) an iqrar made by a person who is not of sound mind ('aqil) and has not attained puberty (baligh); (b) subject to subsection (2), an iqrar made by a minor; (c) an iqrar made by an insane person or a person of unsound intellect (ma'tuh); (d) an iqrar made by a guardian or custodian on behalf of a person under his care or responsibility; (e) an iqrar that is not made voluntarily; or (f) an iqrar made by a person who is legally prohibited under any written law from administering his own property (mahjur 'alaih).*

In addition, the oath is also prescribed as a method of proof. This statement is based on the word of Allah, the Almighty, in Surah al-Ma'idah, 5:89.

*Allah will not impose blame upon you for what is meaningless in your oaths, but He will impose blame upon you for [breaking] what you intended of oaths.*

The Messenger of Allah SAW also stated in a hadith which means:

*If every complaint made by a person were to be accepted, people would inevitably claim the property and blood of others. Therefore, it is incumbent upon the claimant to produce evidence, and upon the defendant who denies the claim to take an oath (Muslim, 1992. 3: 1336).*

Section 87(1) of the Syariah Court Evidence (Federal Territories) Act 1997 provides for the use of oath in the proof of civil cases:

*In a mal case, evidence shall be adduced by both the plaintiff and the defendant, and if the defendant denies the claim against him, he shall be required to take an oath in accordance with Hukum Syarak (Islamic Law).*

#### **4. INTEGRATION OF THE QUR'AN, SCIENCE AND TECHNOLOGY IN ISLAMIC LAW OF EVIDENCE**

In addition to testimony, confession (*iqrār*), and oath, evidence through electronic documents, expert evidence, and *qarīnah* are also employed in courts, particularly in Civil Courts, for the purpose of proof. In fact, electronic documents, expert evidence, and *qarīnah* are most closely aligned with the principle of “Integration Between Revealed Knowledge (*Naqli*) and Rational Knowledge (*Aqli*) in the Islamic Law of Evidence.” Numerous cases have been unraveled and resolved based on scientific and electronic evidence.

##### **a) Electronic Document**

Electronic documents are also defined as: 'any form of probative information that is stored, recorded, or transmitted in electronic form, whereby such material may be presented in court as evidence to support or refute a claim.' Sources of electronic and digital evidence include VLSI chips, SSDs, hard disks, mobile phones, digital cameras, computers, printers, photocopy machines, backup tapes, SSD cards, scanners, CDs, DVDs, VCDs, internet networks, software, and communication protocols (Ismail 2006: 3).

The term “electronic” is generally mentioned in section 3(c) of the Syariah Court Evidence (Federal Territories) Act 1997 when defining a document. In this section, electronic recordings, electronic impulses, and the like are included within the definition of a document. The scope of the term "document" as found in section 3(c) of the

Syariah Court Evidence (Federal Territories) Act 1997 is adopted from section 3 of the Evidence Act 1950, which is applied in Civil Courts. In section 49, illustration 3, it is stated: "A document produced by a computer is primary evidence."

In terms of the practice of admitting electronic documents as a method of proof, Civil Courts are more advanced compared to Syariah Courts. This situation may be due to the broader jurisdiction of the Civil Courts compared to the Syariah Courts. For example, in the case of *Mohd Ali Jaafar v Public Prosecutor*, the court convicted the accused of corruption based on a tape recording. The Malaysian Anti-Corruption Commission (MACC) used a tape recording of the accused's conversation as evidence to secure the conviction. Upon verification of the authenticity of the tape recording, the court accepted it as admissible evidence in establishing the corruption charge against the accused, as voice recordings are also regarded as documents. (Jal Zabidi 2008: 157).

The admissibility of electronic documents in Islamic evidence is based on the general evidential principles found in the Qur'an and the Sunnah of the Prophet Muhammad SAW. The Word of Allah SWT, which means:

*O you who have believed, when you contract a debt for a specified term, write it down. (al-Baqarah, 2: 282)*

The Messenger of Allah SAW also stated in a hadith which means:

*"It is not lawful for a Muslim who possesses anything to be bequeathed to remain for two nights without having his will duly documented". (Muslim 1997, 11:77)*

## **b) Expert Opinion**

Conceptually, various definitions of expert opinion exist; however, the definition that most accurately reflects the current context is that which has been articulated by Mutawalli, Mahmud Aisyh (2003): "A method of proof carried out scientifically by a knowledgeable and qualified individual, upon the request of a judge, for the purpose of obtaining their opinion in uncovering the true nature of a disputed matter, which the judge is unable to ascertain independently". The term *expert* herein does not solely refer to experts in Shariah disciplines, but also encompasses specialists in modern sciences, such as experts in science and technology, within the scope of this definition. This is in line with the verse of Allah SWT in Surah al-Nahl, 16:43, which means:

*So ask the people of the message if you do not know*

According to Section 33 of the Syariah Court Evidence (Federal Territories) Act 1997:

*(1) When the Court is required to form an opinion on a matter relating to foreign law, or concerning science or art, or on the question of identity or authenticity of handwriting or fingerprints, or relating to the determination of lineage, then the opinion upon that matter by a person specially skilled in such foreign law, science or art, or in questions concerning the identity or authenticity of handwriting or fingerprints, or relating to the determination of lineage, shall constitute qarinah (relevant fact or circumstantial evidence)*

*(2) Such a person is referred to as an expert*

### **c) Circumstantial evidence (Qarinah)**

There are various definitions of *qarinah*, but it may generally be described as: any clear indication which points towards something that is hidden (Lukman, W.A. Fattah W.I & Abdul Hamid, 2018). Section 3 of the Syariah Court Evidence (Federal Territories) Act 1997 defines *qarinah* as:

*A fact which is connected with another fact in any manner referred to in this Act.*

Section 5:

*Evidence may be given in any suit or proceeding of the existence or non-existence of every fact in issue and of such other facts as are hereinafter declared to be relevant, and of no others. Explanation—This section does not entitle any person to give evidence of a fact which he is not entitled to prove under the law relating to civil procedure*

*Qarinah is also recognised as an admissible method of proof according to Islamic law, as evidenced by the statement of Allah SWT in Surah Yusuf, verses 25 to 28*

*And they both raced to the door, and she tore his shirt from the back, and they found her husband at the door. She said, "What is the recompense of*

*one who intended evil for your wife but that he be imprisoned or a painful punishment?". [Joseph] said, "It was she who sought to seduce me." And a witness from her family testified. "If his shirt is torn from the front, then she has told the truth, and he is of the liars. But if his shirt is torn from the back, then she has lied, and he is of the truthful." So when her husband saw his shirt torn from the back, he said, "Indeed, it is of the women's plan. Indeed, your plan is great.*

The admissibility of DNA evidence in establishing paternity or lineage serves as a clear demonstration of the integration between the Qur'anic principles, modern science, and technology within the framework of Islamic law of evidence. DNA, or deoxyribonucleic acid, is a fundamental component of life, carrying the biological instructions that determine an individual's genetic identity. These genetic instructions are heritable and are transmitted from one generation to another through biological reproduction (National Institute of Health, 2016).

DNA profiling is frequently utilised to ascertain the identity of an individual, particularly in cases involving decomposed remains, mass disaster fatalities, or to verify the biological parentage of an abandoned or unidentified child. In the context of Islamic family and inheritance law, DNA evidence has proven useful in resolving lineage disputes, including claims involving illegitimate children, inheritance claims, or in determining the biological father of a child (Mawami Abdul Rahman, 2015).

In Malaysia, DNA testing is conducted by the Department of Chemistry Malaysia, which operates under the Ministry of Science, Technology and Innovation (MOSTI). DNA profiling analysis is exclusively offered at the Headquarters of the Department of Chemistry in Petaling Jaya, at the Kuching Branch Laboratory in Sarawak, and, since 1 July 2009, at the Penang Branch Laboratory (Mawami Abdul Rahman, 2015). The types of DNA tests administered by the Department of Chemistry Malaysia include, inter alia, the following (<http://www.kimia.gov.my>; Alias Azhar & Abdul Ghafur, 2006).

- a. DNA Paternity Testing. Paternity testing refers to a scientific procedure that establishes the biological relationship between a father and a child. DNA paternity testing is typically conducted to confirm or exclude a man as the biological father of a child. Such testing is characterised by high accuracy, expediency, and reasonable cost, with a discriminatory power (or accuracy) of up to 99.9999%.

- b. Maternity Testing. Maternity testing is a form of DNA analysis used to ascertain the biological relationship between a child and a presumed mother. The test provides conclusive results regarding maternal lineage.
- c. Lineage (Ancestry) Testing. Lineage or ancestry testing refers to a genetic procedure aimed at determining whether an individual is the biological grandparent of a particular child.
- d. Sibling Relationship Testing. This form of DNA testing is utilised to verify the existence and nature of a biological relationship between individuals alleged to be siblings.
- e. Identity Testing. Identity testing refers to the process of confirming the identity of an individual or a deceased person whose identity is unknown, through DNA analysis.

The stringent procedures involved in DNA sampling and its near-perfect accuracy have convinced scholars of its reliability. Although DNA testing does not attain the evidentiary status equivalent to *shahadah* (testimony) or *iqrar* (confession), it is nonetheless instrumental in establishing a standard of proof that at least meets the threshold of *ghalabah al-zann* (preponderance of probability or beyond reasonable doubt) (Zulfakar Ramlee, 2008). The 101st Meeting of the Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia, convened on 27 September 2012, deliberated on the ruling concerning the use of DNA evidence to establish the legitimacy of lineage (*nasab*) of a child and the prescribed period for invoking *li'an* to repudiate the paternity of a child (Alias Azhar & Abdul Ghafur, 2006). The Committee resolved as follows:

*Upon due consideration of the evidence, arguments, and opinions presented, the Muzakarah affirms that Islam places great emphasis on matters of lineage. Once there exists conclusive evidence establishing lineage (nasab), any subsequent denial thereof shall not be accepted except through the process of li'an, as li'an is definitively established through the Qur'an, the Sunnah, and scholarly consensus (ijma'), and is regarded as a devotional act (ta'abbudi)*

The Muzakarah (Religious Consultative Council) further clarified that the Majma' al-Fiqh al-Islami, in its session convened from 21–26 Shawwal 1422H, corresponding to 5–10 January 2002, resolved that for the purpose of establishing paternity (*nasab*), the use of DNA analysis is permissible, provided it is carried out by court order. This is

applicable only in cases involving disputes or uncertainty concerning the lineage of a child due to various circumstances, including cases of child-swapping or confusion in hospitals or care centers, test-tube babies, and missing children resulting from natural disasters or similar situations.

The admissibility of scientific evidence in the Shariah courts was first reported in the case of *Pendakwa Syarie Negeri Sabah v. Rosli bin Abdul Japar* (2007). This case involved the criminal offence of illicit sexual intercourse resulting in the birth of an illegitimate child. The Syarie Prosecutor for the State of Sabah tendered expert testimony and scientific proof through a DNA report to substantiate the prosecution's case. The DNA test was conducted by a DNA specialist from the Department of Chemistry Malaysia, who also testified as the third prosecution witness in the case.

A DNA test was conducted involving Hasmawi Abdullah (a child born out of wedlock), Murni binti Muhammad (the biological mother of Hasmawi), and Rosli bin Abdul Japar (the accused). The results of the test established a biological relationship between Hasmawi and the accused. The Syariah High Court Judge of Keningau, Sabah, accepted the scientific evidence obtained through DNA analysis pursuant to Section 86(1) of the Syariah Court Evidence Enactment (State of Sabah) 1992, and Sections 190(1) and (2) of the Syariah Criminal Procedure Enactment (State of Sabah) 1993. The Court convicted the accused of the offence due to his failure to rebut the scientific evidence derived from the said DNA analysis. The accused was sentenced to a fine of RM3,000, in default of which he shall be imprisoned for a period of six months. (Alias Azhar & Abdul Ghafur, 2006)

## **5. CONCLUSION**

Imam Khatib al-Sharbini once stated: *"Indeed, it is the nature of mankind to commit injustice, to usurp the rights of others, and seldom does a person recognise his own faults"* (al-Sharbiniy, 1994, 6:258). In light of this reality, every claim must be substantiated by credible evidence capable of convincing the court in order to arrive at a just decision. The provisions of the Shariah do not confine the judge to a rigid evidentiary framework; rather, the scope of evidence in Islamic law is expansive and encompasses confession (*iqrar*), testimony (*shahadah*), oath (*yamin*), and other recognised methods, including those derived from science and technology. Where scientific and technological tools can assist in resolving disputed matters, their admissibility ought to be considered. Both the scriptural texts and statutory provisions reflect a clear integration of *Naqli* (revealed knowledge), *Aqli* (reason), and the Law of Evidence, as practiced in the Malaysian judicial system.

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