

The Concept of Li'an and Its Legal Basis from the Perspective of Islamic Law

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Abstract

This study examines the concept of li'an in Islamic law and its legal implications for marriage and the nasab (lineage) status of children. The purpose of this study is to analyze the legal basis, procedures, and legal consequences of li'an from a fiqh perspective, as well as its relevance within the Indonesian legal system. This study employs a normative research method with juridical and theological approaches. The findings indicate that li'an constitutes a legitimate legal mechanism in Islam for resolving accusations of adultery in the absence of witnesses, resulting in the dissolution of marriage and the severance of the child's lineage relationship with the biological father. In the context of Indonesian law, the concept of li'an has not been explicitly regulated in statutory legislation, thus its application faces both juridical and practical constraints. This study concludes that a reconstruction of the li'an concept is necessary in order to align it with the development of modern law and the protection of children's rights.

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1. INTRODUCTION

In Indonesia, the phenomenon of accusations of adultery within households and their legal implications, leading to divorce, remains a significant socio-legal issue. Data from the Central Statistics Agency (BPS) shows that nearly 399,921 divorce cases were recorded throughout Indonesia in 2024. While most were caused by ongoing disputes and economic factors, there were still several cases triggered by accusations of adultery, amounting to over 1,000 cases during the same period. In the context of Islamic law, accusations of adultery have serious implications, as they not only threaten an individual's honor but also have the potential to lead to the severance of family ties and divorce through the oath of li'an if there are no witnesses who meet sharia requirements.

Essentially, it can be said that Li'an is a mechanism for resolving disputes over lineage and honor in Islam. Li'an is a measure used when a husband accuses his wife of adultery or rejects the lineage of a child born without being able to present four witnesses as required by Sharia law. In practice, li'an is realized through a series of oaths based on Surah An-Nur verses 6–9 that must be recited by both parties before the court, ultimately resulting in the permanent dissolution of the marriage and the termination of the child's lineage to his father. This approach aims to protect the couple's honor while providing legal certainty for highly personal and sensitive lineage disputes.

The relevance of the concept of li'an in the context of modern Islamic family law is discussed in contemporary Islamic legal literature as part of the Islamic family justice

system regulated in the Compilation of Islamic Law (KHI) in Indonesia. The KHI codifies the principle of li'an and emphasizes that its implementation must be carried out in Religious Courts to ensure legal certainty, despite academic debate regarding the severance of lineage and children's rights as a consequence of li'an law. Modern discourse also involves the study of maqāṣid al-syarī'ah to assess whether the application of li'an is in line with the objectives of sharia in protecting lineage and family honor amidst contemporary social complexities.

The problematic application of the li'an oath in religious court practice in Indonesia presents legal and procedural challenges, including the limitations of traditional proof through oaths and its compatibility with modern evidentiary rules such as DNA testing, which are increasingly relevant in lineage disputes. Empirical studies have shown concerns that the li'an oath can negatively impact children and women, particularly when lineage status and family rights are decided without accurate biological verification. Furthermore, judicial practice in some cases has not fully implemented gender-sensitive assessment guidelines, leading to criticism of the li'an decision-making process in several Religious Courts in Indonesia.

2. RESEARCH METHODS

In this research, the author uses a normative research method, where the author searches for and examines which rules contain rules related to Li'an.

3. RESEARCH RESULTS AND DISCUSSION

1. What is the concept of li'an in Islamic law?

The concept of li'an in Islamic law can be understood as a mechanism for resolving domestic conflicts that is very specific and originates directly from sharia provisions for extraordinary situations, especially when there are accusations of adultery or rejection of lineage without sufficient witness evidence. Essentially, li'an arises from the social reality that not all accusations can be proven through conventional evidence. Given this situation, Islamic law presents li'an as a solution, relying on religious oaths as a substitute for material proof. This mechanism places individual honesty and moral responsibility as the primary elements. However, because it involves an oath in the name of Allah, li'an has very serious legal and theological consequences. Therefore, from the beginning, li'an has been positioned not as a normal procedure, but rather as a last resort in domestic conflict. This demonstrates that the concept of li'an cannot be separated from the principles of prudence and protection of honor in Islamic law.

Li'an in Islamic law is an exceptional legal mechanism, which is applied when a husband accuses his wife of committing adultery or rejects the lineage of the child born, but is unable to present four witnesses as required in Islamic criminal law. This concept was born as a form of balance between protecting individual honor and preventing accusations of adultery without a valid basis for proof.

In the perspective of jurisprudence, li'an is understood as a reciprocal oath between husband and wife before a judge, each of which is accompanied by the curse and wrath of Allah if the oath is false. This oath replaces the conventional function of proof and has very serious legal implications, including the permanent dissolution of the marital relationship.

In the context of Islamic family law, li'an is closely related to the institution of talak, but both have fundamentally different characters and legal implications. Divorce is a husband's right that can be imposed without being preceded by serious moral accusations, whereas li'an arises from accusations of adultery that directly attack the wife's honor. From this difference, it can be understood that li'an is not simply a form

of divorce, but rather a divorce accompanied by a conflict of honor and a dispute over truth. While talaq still leaves room for reconciliation under certain circumstances, li'an permanently closes that possibility. This consequence indicates that li'an is at a more extreme level than talaq. Therefore, equating li'an with ordinary divorce has the potential to mislead the understanding of Islamic family law.

The danger of li'an in Islamic law lies primarily in its legal consequences, which not only break the bonds of marriage but also have a direct impact on the status of lineage and family rights. Unlike divorce, which only affects the husband-wife relationship, li'an can legally terminate the familial relationship between father and child. This impact is not only legal but also social and psychological, especially for children who are indirectly affected by their parents' conflict. This demonstrates that li'an carries the risk of structural injustice if used without careful consideration. Therefore, classical scholars positioned li'an as an emergency mechanism. This danger is why li'an must be strictly limited in legal practice.

In addition, li'an is also dangerous because it has the potential to be misused as a tool to legitimize accusations of adultery without objective proof, especially in unequal power relations between husband and wife. In social practice, li'an can be used to avoid financial support or to erase family ties. From this phenomenon, it can be concluded that li'an has destructive potential if separated from substantive justice. This differs from divorce, which, although problematic, still has more controlled administrative procedures. Therefore, Islamic law protects li'an with a heavy oath and the threat of curses. The primary goal is to prevent the indiscriminate use of li'an.

Conceptually, li'an reflects the dilemma between protecting honor and the risk of family damage, so the fuqaha emphasize that li'an can only be applied in truly urgent conditions. From these provisions, it can be understood that li'an is not an ideal conflict resolution instrument, but rather a compromise mechanism in extreme circumstances. Compared to divorce, li'an carries broader and more permanent consequences. Therefore, the danger of li'an lies in its irreversible nature and its intergenerational impact. Awareness of this danger is the basis for Islamic law's strict regulation of li'an and its limited application in judicial practice.

The descriptive-qualitative approach to examining the concept of li'an positions li'an as an instrument of Islamic family law that is not only normative but also fraught with ethical and social dimensions, as well as the protection of human dignity. Therefore, li'an is not intended as a repressive tool, but rather as a last resort in domestic conflicts that cannot be resolved through conventional evidentiary mechanisms.

2. What is the legal basis for li'an in the Qur'an and Hadith?

The legal basis for li'an is explicitly found in the Qur'an, particularly in Surah An-Nūr verses 6–9, which regulates the procedure for the li'an oath between husband and wife in cases of accusations of adultery without witnesses. These verses form a strong normative foundation and are of a qath'i nature in the formation of li'an law in Islam.

The verse explains that a husband who accuses his wife must swear four times by Allah that he is telling the truth, and the fifth oath includes God's curse if he lies. The wife is given the same right to deny the accusation with a counter-oath, the fifth of which includes God's wrath if she lies. The structure of this oath demonstrates the principle of procedural justice in Islamic law.

Apart from the Quran, the legal basis of li'an is also strengthened by the hadith of the Prophet Muhammad SAW, which is narrated in various authentic hadith books, including the story of Hilal bin Umayyah, who performed li'an in front of the Prophet

SAW. These hadiths serve as explanations (bayān) of the provisions of the Qur'an as well as legitimizing the practice of li'an in the Islamic legal system.

A qualitative approach to these sources shows that li'an is not just a textual norm, but rather a law that has been practiced historically in early Islamic society, with the direct supervision of the Prophet as the highest legal authority.

3. What are the consequences of the law of li'an on marriage, lineage, and family rights?

Li'an has very fundamental legal consequences for marital status, namely the occurrence of fasakh or permanent termination of marriage without the right to reconciliation between husband and wife. This termination is final because it is based on an oath that involves serious religious consequences.

From the aspect of lineage, li'an causes the severance of the lineage relationship between the child born and his biological father, while the child's lineage remains connected to his mother. These consequences have a direct impact on inheritance rights, guardianship, and maintenance responsibilities that previously rested with the father.

Other family rights, such as child custody (hadhanah) and legal protection of women, also experience complex implications due to li'an. In a descriptive-qualitative approach, this aspect is often studied through the perspective of maqāṣid al-syarī'ah, especially the protection of lineage (ḥifẓ al-nasl) and honor (ḥifẓ al-'ird).

Thus, li'an not only has a formal legal dimension, but also has a broad impact on family structure and child welfare, so that its implementation requires great care from Islamic judicial authorities.

4. What is the position and possible application of Li'an in Indonesian positive law?

In the context of Indonesian positive law, the concept of li'an was adopted normatively through the Compilation of Islamic Law (KHI), particularly in provisions regarding the dissolution of marriage and lineage disputes within the Religious Courts. This indicates limited recognition of the principle of li'an in the national legal system.

However, the application of li'an in religious court practice is relatively rare and faces various obstacles, especially related to modern evidence such as the use of DNA testing, which has not been fully integrated with the classical li'an concept. This condition has given rise to academic debate regarding the relevance and effectiveness of li'an in the contemporary family law system.

The descriptive-qualitative approach highlights the tension between classical Islamic jurisprudence norms and the principles of human rights protection, particularly the rights of children and women, in national law. Therefore, the potential application of Li'an in Indonesia is often seen as requiring contextual reinterpretation to align with the principles of substantive justice and the best interests of the child.

Thus, the position of li'an in Indonesian positive law is normative-optional, and its implementation requires caution and strengthening of regulations so as not to give rise to social and legal injustice.

4. CONCLUSION

The concept of li'an in Islamic law is a specific and limited legal mechanism designed to resolve domestic conflicts related to accusations of adultery and lineage disputes when conventional proof is unavailable. Li'an places an oath as the primary legal instrument, with serious consequences for marital status and family relationships. Thus, li'an is not intended as a routine procedure, but rather as a last resort that prioritizes the protection of the honor, honesty, and moral m The permanent severance of marital ties, the severance of the child's

lineage from the father, and the implications for inheritance rights, guardianship, and maintenance demonstrate that li'an carries complex social and legal consequences. Therefore, the implementation of li'an requires great care to ensure that the goal of protecting lineage and honor does not lead to injustice, particularly for children and women.

In the context of Indonesian positive law, li'an has a normatively recognized status through the Compilation of Islamic Law, but its application in religious court practice remains very limited. The main challenge lies in adapting the classical li'an concept to modern legal developments, including scientific evidence and principles of human rights protection. Therefore, the potential application of li'an in Indonesia requires a contextual and integrative approach to maintain its alignment with the values of justice, legal certainty, and family well-being.

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