Construction of Sumah Li’an Based on Sharia Maqashid

Imaro Sidqi
Universitas Islam Negeri Sunan Kalijaga
e-mail: imarosidqi@gmail.com

Abstract

Li’an is one of the reasons for divorce that has been legitimized by Islamic law through the Qur’an and Hadith. In the Indonesian context, li’an is also described in the Compilation of Islamic Law. The problem that arises in the text of li’an law is the emergence of misogynistic interpretations, both at the conceptual and practical levels. This is contrary to the spirit behind the historical side of the revelation of the li’an verse which is intended to complain about the fate of women from accusations. This research aims to explore the concept of li’an according to the Koran in the context of the modern era using the maslahah approach by Imam al-Ghazali. The method used is literature with a qualitative descriptive type. The primary data is in the form of the Qur’an, while the secondary data is in the form of commentaries, books, journal articles, and other written sources related to the li’an theme. The results showed that the revelation of the li’an verse was a solution that responded to the problems of society at that time, namely to maintain the sanctity of lineage or lineage. With the development of technology and the dynamics of the times, technology can broaden views so that the construction of li’an law becomes relevant. Judging from the Li’an case itself, the assistive sciences that can be used include medical science. The harmonization between fiqh and modern scientific disciplines is aimed at achieving benefits in the form of maintaining religion, soul, mind, lineage, and property.

Keywords: Li’an; Magna Cum Maghza; Maslabah

A. INTRODUCTION

In the Indonesian context, li’an is often one of the reasons for divorce, but there are still many people who are still very unfamiliar with li’an and even many are still wrong in classifying li’an with the problems they live with. Even though li’an itself has actually been regulated in the Marriage Law and specifically described in the Compilation of Islamic Law (KHI), unfortunately, the concept described is only briefly and very global, so li’an in reality still raises many problems.

Conceptually, li’an is a category of divorce that, in the Indonesian context, is decided by a judge. In the view of the language, li’an comes from the word la’nun which means anathema (curse), the meaning of the word is anathema or curse from God against a husband or wife who curses each other (starts with anah) and the five are mutually ready to be cursed by Allah SWT. Where can also avoid these actions gradually because after li’an is carried out one of them gets sinned, punished, and then both are kept away forever. If in the view of article 126 of the Compilation of Islamic Law (KHI), li’an exists because the husband accuses his wife of committing adultery or can also deny the wife’s children, then the wife can also respond to the accusation by refusing to deny it. When the father and child are socially separated, then, of course, it will have implications for the husband who is not obliged to provide living ‘iddah, madliyah, kiswah, mask, and hadhanah, and inheritance rights. So that li’an in such a context, of course, will bring harm to women and children because these actions can be manipulated by men.

In essence, the explanation of li’an in the Qur’an is actually not gender biased or detrimental to

---

1 Sri Ekayanti, Status Pernikahan Setelah Sumpah Li’an (Studi Komparatif antara Pandangan Mazhab Hanafi dan Kompilasi Hukum Islam, Shautuna, Vol. 1, No. 3, September 2020, hlm. 387-391
2 Rahmat Hakim, Hukum Perkawinan Islam, (Bandung: CV Pustakan Setia, 2000), 182
3 Tim Redaksi Nuansa Aulia, Kompilasi Hukum Islam (Bandung: CV Nuansa Aulia, 2015), 35
women, because the concept of *li'an* explained in Q.S. An-Nur verses 6-9 of course for some reason men who do not have evidence against their wives who are believed to be adultery, therefore an oath is made to the wife that they have committed adultery and the wife is also allowed to repay her oath. Unfortunately, in classical and modern interpretations, the concept of *li'an* actually seems to discriminate against women. Therefore, this article wants to specifically describe the concept of *li'an* and interpret it in construction in the current era so that the concept can adapt to the times that are developing drastically and are not gender biased.

**B. RESEARCH METHOD**

This article is the result of a literature review with a qualitative descriptive approach. The data used in this study consisted of two types, namely primary data and secondary data. The primary data is in the form of the Qur'an, while the secondary data is in the form of commentaries, books, journal articles, and other written sources related to the *li'an* theme. Data analysis used content analysis techniques. Operationally, the analysis technique begins by first elaborating the concept of *li'an* in fiqh and classical interpretation. Furthermore, the researcher conducted an analysis of the interpretation of the *li'an* verses using the maslahah approach initiated by Imam al-Ghazali to determine the significance and relevance of the *li'an* concept in the contemporary era.

**C. RESULT AND DISCUSSION**

1. **The concept of *Li'an* in Fiqh**

   *Li'an* comes from "*Laa'an*" which means: to curse. Then in the view of syara' that *li'an* has a certain meaning, which becomes an argument for a person who commits adultery accusations against his wife. In addition, the word *li'an* in KBBI has the meaning of an oath from a husband who accuses his wife of committing adultery, then his wife also gives an oath that her husband is lying, both the wife and the husband say it four times, then the fifth, both of them make a vow that they are willing to receive anathema from If Allah lies, therefore the husband and wife are automatically divorced and it is forbidden to remarry forever.

   In Islamic law, *li'an* occurs when a husband gives a greeting to his wife four times while pointing at his wife when she is around, with the sentence: "I testify in the name of Allah that I am an honest person for the adultery that I accuse him (of his wife) of." When his wife is in front of him or there, then pronounces his name. Then the fifth expression, adds that Allah's curse will be accepted upon him when he lies. Instead, the wife can also reply, with the sentence: "I testify in the name of Allah that he is a person who lied about the adultery that was accused of me." Then, the fifth expression has added the wrath of God will be accepted when the husband is righteous. The legal consequences of the existence of *li'an* are as follows.

1. The husband will have freedom from punishment, meaning that what he is accused of is true.
2. When *li'an* is used for a child, the lineage relationship with the child is automatically cut off.
3. On the other hand, when the wife is right, then the one who is free from the threat of punishment is the wife, meaning that the punishment is given to the husband who tells a lie.
4. Dissolution of marriage between husband and wife forever.

---


Because of a narration narrated by Ibn Abbas: Ashim bin Adi from Ansar’s friend said that he had a son named Uwainir, where Uwainir was married to Khaulah bint Qais. Then, the story begins when Uwainir comes before Ashim that he saw his wife (Khaulah) directly commit adultery with a man named Syuraik bin Samhaak who is still in the same family. Then, not long after, Ashim went straight to the Prophet s.a.w to report the incident. Rasulullah s.a.w immediately called the parties, to be honest before him, but all parties felt honest both Uwainir who accused his wife of adultery, and his wife who felt accused of Uwainir’s report. At that time, Uwainir’s wife was pregnant, even though Uwainir himself felt that he had not had intercourse with his wife for 4 months. Rasulullah s.a.w could not make a decision before the revelation came because problems like this were very new at that time, when a husband accused his wife of adultery, he was obliged to bring as many as 4 witnesses, but in that case, Uwainir could not bring those witnesses. Then, the revelation came down to answer the problem, namely Surah An-Nur verses 6-9. When all parties and all friends were ordered to gather, Rasulullah s.a.w ordered Uwainir to swear before Allah four (4) times and the fifth time was anathema from Allah when he lied. On the other hand, Khaulah (wife) took an oath that she did not commit the act four (4) times and the fifth time Allah was angry when she lied. In his history, Ibn Abbas also explained that even though the wife or husband was not given direct punishment by the Messenger of Allah, the punishment of Allah will befall one of them, which is very big. The event is considered complete, where there are legal consequences that surround them, namely; they separated forever, the man (Uwainir) no longer has the obligation to provide for his wife and children because his ancestral relationship is not recognized, so he does not get inheritance either.

There is another history which states that Rasulullah s.a.w once said when the child of Khaulah (Uwainir’s wife) was later born, he was told to pay attention to his child when the child resembled Uwainir, then Uwainir was lying. Conversely, when the child resembles his mistress, then Uwainir has said the truth. But the fact is that the child does not resemble anyone, either Uwainir or his mistress. Therefore, the law of li’an is no longer the responsibility of humans, but it is directly submitted to God to give the punishment.

Based on the Asbab al-Nuzul, it can be simplified that li’an is a concept to punish the wife who commits adultery without a witness, but is replaced with 4 oaths and 1 time of punishment from Allah when one of them lies. This means that when considering the case above, it was difficult to prove the truth of li’an at that time so the truth was not brought by humans but directly from God who proved it in the afterlife.

3. The Dynamics of Interpretation of Verses about Li’an: From Classical to Modern

One of the legal bases for enforcing li’an is contained in Surat an-Nur verses 6-9. The following is the sound of the verse.

\[
\begin{align*}
\text{وَالَّذِينََ} & \text{ يَرْمُوْنََ} \\
\text{اَزْوَاجَهُمَْ} & \text{وَلَمَْ} \\
\text{يَكُنَْ} & \text{لَّهُمَْ} \\
\text{شُهَدَا َ} & \text{اِلَّّاَ} \\
\text{اَنْفُسُهُمَْ} & \text{فَشَهَادَةَُ} \\
\text{اَرْبَعَُ} & \text{شَه َ} \\
\text{تِبِ} & \text{بِاللَِّٰ} \\
\text{ۙ} & \text{اِنَّه َ} \\
\text{لَمِنََ} & \text{الصَٰ} \\
\text{دِيْنََ} & \text{٦} \\
\text{وَالْخَامِسَةَُ} & \text{اَنََّ} \\
\text{لَعْنَتََ} & \text{اللَِّٰ} \\
\text{عَلَيْهَااَ} & \text{يَدْرَؤُا} \\
\text{عَنْهَا} & \text{الْعَذَابََ} \\
\text{اَنَْ} & \text{تَشْهَدََ} \\
\text{اَرْبَعََ} & \text{شَه َ} \\
\text{تِبِ} & \text{بِاللَِّٰ} \\
\text{اِنَّه َ} & \text{لَمِنََ} \\
\text{الْك َ} & \text{ذِبِيْنََ} \\
\text{ۙ} & \text{٧} \\
\text{وَيَدْرَؤُا} & \text{عَنْهَا} \\
\text{الْعَذَابََ} & \text{اَنَْ} \\
\text{تَشْهَدََ} & \text{اَرْبَعََ} \\
\text{شَه َ} & \text{تِبِ} \\
\text{بِاللَِّٰ} & \text{اِنَّه َ} \\
\text{لَمِنََ} & \text{الْك َ} & \text{ذِبِيْنََ} \\
\text{ۙ} & \text{٨} \\
\text{وَالْخَامِسَةََ} & \text{اَنََّ} \\
\text{غَضَبََ} & \text{اللَِّٰ} \\
\text{عَلَيْهَااَ} & \text{يَدْرَؤُا} \\
\text{عَنْهَا} & \text{الْعَذَابََ} \\
\text{اَنَْ} & \text{تَشْهَدََ} \\
\text{اَرْبَعََ} & \text{شَه َ} \\
\text{تِبِ} & \text{بِاللَِّٰ} \\
\text{اِنَّه َ} & \text{لَمِنََ} \\
\text{الْك َ} & \text{ذِبِيْنََ} \\
\text{ۙ} & \text{٩}
\end{align*}
\]

Meaning: (6) And those who accuse his wife (of adultery), but they have no witnesses other than themselves, then the witness of that person is to swear four times in the name of Allah, that in fact, he is right (in his accusation). (7) And the fifth oath, namely, Allah’s curse on

---

8 Hamka, Tafsir Al-Azhar, Jilid 7, hlm. 4890
9 Hamka, Tafsir Al-Azhar, Jilid 7, hlm. 4891
10 Hamka, Tafsir Al-Azhar, Jilid 7, hlm. 4892
In this verse, Allah SWT provides a solution to a husband who accuses his wife of adultery but cannot bring witnesses because it is very difficult and difficult if there are four witnesses. The solution is li'an by going directly to the judge to describe his accusations. Then, according to Allah's command, a man performs li'an to his wife by way of a judge who instructs him to swear an oath four times in the name of Allah SWT who replaces the four witnesses. In his book Imam Qurthubi, it is explained that this verse applies to everyone who accuses his wife of adultery, either accusing his wife of committing adultery or not recognizing the child she is carrying. In the view of the majority of scholars, jurists and hadith experts explain that when in the condition referred to, the husband is obliged to perform li'an instead because he cannot bring in four witnesses.¹²

Whereas in his book Ḥarām al-bayān, a Ta'wil al-Qur'ān written by al-Tabari explains that whoever commits adultery accusations against his wives, then they have no witnesses, must swear 4 times to Allah if he is telling the truth, which one can substitute for the 4 witnesses and simply explain to the listeners. Then the testimony must be in accordance with what is determined, namely by saying "I testify to Allah that I am one of those who are honest about the accusations that I leveled against my wife that she is a person who commits adultery". And the fifth testimony is by saying "Allah's curse on me if I lie" and this pronouncement is punished as a guarantee that the testimony is true.¹³ Then in the book of Tafsir Ibn Kathir, it is explained that this verse is a solution for a husband who accuses his wife of adultery, but has no witnesses and cannot prove it, so the husband is obliged to commit li'an. For this accusation they must appear before the judge, then the judge asks the husband to swear in the name of Allah four times and the fifth time is Allah's curse on him if he lies. As in the word of God:

وَالْخَامِسَةَُ اَنََّ لَعْنَتََ اللَِّٰ عَلَيْهَِ اِنَْ كَانََ مِنََ الْك َ ذِبِيْنََ ٧

And the fifth (oath) that the curse of Allah be upon him if he is one of the liars.

When the oath has been carried out, then they are separated. In the view of Imam Syafi'i and the majority of scholars, it is forbidden for a wife to reconnect with her husband forever and the husband is obligated to give a dowry to the wife. Where the wife will face charges of adultery punishment when she cannot reply to her husband's words.¹⁴ Where the li'an verse explains that the wife can also do li'an to refute the husband's oath with four oaths in the name of Allah and the fifth curse of Allah upon him if her husband is a righteous person in his accusations, this is as stated in the book of Tafsir Ibn Kathir.¹⁵ Furthermore, according to al-Tabari, she (wife) must know hadd. Scholars have different opinions regarding the punishment imposed on the wife. Some have an opinion that if a hadd is imposed in the form of 100 lashes for girls who are still virgins and stoning for widows. And others are of the opinion that the adulterer must be exiled or imprisoned if he does not refute the husband's testimony four times, then the li'an falls on the wife and must be exiled without any hadd.

Meanwhile, in the interpretation of contemporary scholars, according to the interpretation described in his book Tafsir al-Munir authored by Wahbah az-Zuhaili, it is explained that husbands who accuse their respective wives of adultery cannot produce four

¹² Al-Qurthubi, Tafsir Al-Qurthubi, Jilid 12, (Jakarta: Pustaka Azzam), hlm. 475.
¹³ Al-Tabari, Jami' al-Bayan' an Ta'wil al-Qur'an, Jilid 5, (Beirut: Mu'assasah al-rijālah, 1994 M), hlm. 398.
¹⁵ Abdullah bin Muhammad bin Abdurrahman bin Ishaq, Tafsir Ibni Kathir Jilid 6, Terj. M. Abdul Ghoffar & Abu Ihsan, (Bogor: Pustaka Imam asy-Syafi'I, 2004), hlm. 11.
witnesses to justify their accusations. If he says the truth (truth) about his accusation, then the husband can and must swear four times in the name of Allah if he tells the truth (honestly) about his accusation, then the next (fifth) oath is anathema from Allah when he does not tell the truth (lying). When the husband has said the oaths (li'an), the consequence is that the wife has ba'in status because of the li'an made by the husband, this is according to the view of the majority of scholars other than Hanafiyah scholars. Where forever the status of the wife is illegitimate for her husband. Then the husband has the obligation to pay the dowry for her, hadd qazf falls from him, if there are children then he is denied and hadd adultery goes to the wife. Furthermore, Muhammad 'Ali as-Sabuni in his book Rawa‘ul Bayan mentions that Allah SWT said that whoever accuses his wife of adultery and there is no evidence explaining the truth and there are no witnesses to the truth of his words, then he is obliged to testify four times to Allah. that he is one of the truthful people, in which this testimony applies in lieu of the 4 witnesses who defend him (had qazf) and also, he must swear on the fifth time that the curse of Allah be upon him if he lies about his accusations. Muhammad 'Ali as-Sabuni in his book Rawa‘ul Bayan provides an explanation if a woman does not admit the accusation and she wants to free herself from adultery, then she is obliged to take an oath four times if her husband lies about what he is accused of, this is done to counterbalance the husband's oath and determine that she is a good woman and the fifth oath is the wrath and anger of Allah upon her if the husband is a righteous person in his accusations. Allah explains if this is a rule that is prescribed by his servant (li'an between husband and wife). Apart from that, in his book which was written by Hamka entitled Tafsir Al-Azhar, he explained that there is another history of the Uwainir and Khulal cases (asbab nuzul case) which outlines that Rasulullah s.a.w once said when the child of Khulal (Uwainir's wife) was later born, he was told to pay attention to his child when the child resembles Uwainir, then Uwainir is lying. Conversely, when the child resembles his mistress, then Uwainir has said the truth. But the fact is that the child does not resemble anyone, either Uwainir or his mistress. Therefore, the law of li'an is no longer the responsibility of humans, but it is directly submitted to God to give the punishment. From this history, it means that the physical condition of parents can be proven through the physical appearance of their children so that the problems of Li'an in the future era can be clearer and more concrete to prove.

4. Tahlil al-Tafsir (Qira'ah al-Muntijah) QS. An-Nur verse 6: Searching for Historical and Dynamic Phenomenal Significance

Looking at the various interpretations in the commentary books in the verses of Q.S. An-Nur verses 6-9 and also the hadith narrated by hadith experts, the phenomenological significance when the verse was revealed greatly influenced the context of the Qur'an being revealed in Arabic, where the entry of Islam brought by the Prophet, of course, became the light in the midst darkness, with the existence of various problems that at that time emerged and developed in society, such as Q.S. An-Nur verses 6-9 which respond to events at that time which are called li'an. The li'an case at that time arose due to the problems experienced by Hilal bin Umayyah, when he returned home he found his wife with another man known as Syuraik bin Sahma, he actually saw and heard firsthand, then he did not take action anything until morning, until he reported to the Messenger of Allah that he hated Hilal bin Umayyah's report and ordered him to bring evidence, or else he would be penalized. From this, the author concludes that before the verse about li'an came down, Hilal bin Umayyah's report to the Prophet was like an accusation of adultery against his wife, while the qazf itself at that time

\[16\] Wahbah az-Zuhaili, Tafsir Al-Munir, Jilid 9, hlm. 440.
\[19\] Hamka, Tafsir Al-Azhar, Jilid 7, hlm. 4892-4893.
had become law and had its own hadd, namely in the form of being whipped 80 times.\(^{21}\) Islam came as a mercy to the universe, a solution to every problem, especially here Q.S. An-Nur verses 6-9 which were sent down provide convenience for the problems experienced by Hilal bin Umayyah, which then raises a solution in the form of \(l’\)an. From here, of course, Hilal bin Umayyah became free from the h`igortddgdg in the form of 80 lashes.\(^{22}\) Islam always brings benefits and prevents harm\(^{23}\), with \(l’\)an certainly having certainty about the relationship between husband and wife, namely divorce, and having an impact that will be illegitimate for him forever, then the lineage of  the child and father will be maintained.

This is all due to the abundance of Allah SWT's grace, favor, kindness, mercy, gentleness, and mercy in the form of the enactment of laws which are a solution to these difficulties. If Allah does not provide all of that, then humans have fallen into difficulties, a condition of dilemma and narrowness in many human affairs, and surely, they will be humiliated by you by exposing disgrace and hastening doom for humans.\(^{24}\) However, Allah SWT is still willing to cover disgrace and save people from dilemmatic conditions with \(l’\)an. Even though one of the parties is untrue or lying, they are saved from the punishment that applies in this world in the form of hadd, but one of them will receive a more severe punishment in the afterlife.

Taking into account the description above, the author concludes that the verses about \(l’\)an are included in the category of socio-historical verses, namely verses that have a relationship to history, the traditions of the Arab nation at that time when the revelation was revealed, and attempts to incorporate moral values from the culture\(^{25}\), remembering the \(l’\)an verse was sent down in response to problems that arose at the time of the Prophet and then a law was enacted which made the relationship between husband and wife separated forever and had moral values to protect each partner from \(l’\)an problems. A husband who accuses his wife of adultery is not allowed to be forced to take a \(l’\)an oath, this also applies to a wife who has been \(l’\)an by her husband and is not allowed to make a reciprocal oath against her husband's oath. When a husband cannot present witnesses and evidence, he will be punished. Therefore, when this happens, the husband performs \(l’\)an in the Religious Courts.\(^{26}\)

In Indonesia, the \(l’\)an case is the process of settling a divorce on the grounds of adultery. Based on Articles 87 and 88 of Law Number 7 of 1989 in conjunction with Law No. 3 of 2006 in conjunction with Law no. 50 of 2009 concerning the Religious Courts, the \(l’\)an process is the final evidence in the adultery case, after the judge considers that the evidence submitted by the applicant is insufficient.\(^{27}\) Then in Article 23 of Law no. 23 of 2002 concerning Child Protection\(^{28}\), guaranteeing the protection and maintenance and welfare of children by providing rights and obligations, so that the mula’anah child must obtain justice by having the right to welfare, care, maintenance and protection. Apart from that, \(l’\)an cases in the Marriage Law have also been regulated even though the norms are still classified as global and also still attract some criticism. This is because the law regarding \(l’\)an is still not accommodated


\(^{23}\) Hendri Hermawan Adinugraha, dkk, Al-Maslakah al-Mursalah dalam Penentuan Hakum Islam, Jurnal Ilmiah Ekonomi Islam, 4(01), 2018, hlm. 64-66


\(^{27}\) Lihat Pasal 87 ayat (1) Undang-Undang No. 50 Tahun 2009 tentang Peradilan Agama

\(^{28}\) Lihat Pasal 23 Undang-Undang No. 23 Tahun 2002 Tentang Perlindungan Anak

Al-Ahkam
by legality, so when there is a case of li'an, the reference is actually the Compilation of Islamic Law (KHI) which of course contains very little discussion of li'an, then the rules regarding li'an itself can be considered old and there are no new regulations. From here, most cases of infidelity or cases related to li'an are decided by judges according to their respective istinbath based on fiqh books and of course judges have their respective istinbath, then of course there will be differences between them regarding the li'an case.

In addition to the above problems, in reality, the existing community is still unfamiliar with li'an issues and also many people are still confused in understanding li'an children and children resulting from adultery, then several cases of li'an are being highlighted by society, such as the denial of children who happens to public figures in Indonesia, but are not understood as li'an. In the Indonesian context, cases that bear similarities to li'an are commonly called adultery. The issue of adultery itself has also been regulated in the Criminal Law which discusses adultery, with the existence of these rules and laws, can be one of the reasons why people are still unfamiliar with li'an and more familiar with infidelity, because most cases with li'an criteria in Indonesia are often referred to as extramarital affairs.

Li'an is basically a shari'ah that aims to maintain the sanctity of lineage or lineage, the case can be in the form of a husband who finds his wife committing adultery or it can also be the denial of a child born to his wife. As for here, according to the author of the verse about li'an at the time of the Prophet, it became a solution to respond to societal problems at that time, then in the current context the law can still be enforced, it's just that in the current era there is a more recent development and use. As times progress, technology becomes increasingly sophisticated and modern, so what is meant by the law of Li'an, as meant by the author in the present era, is to collaborate between this law and the sciences that are currently developing. Where li'an can use the help of medical science, for example when there is a case of a husband who directly sees his wife committing adultery with another person, then this can use medical science as evidence. In forensic medicine, there is an examination method to prove the existence of sexual relations or not, mainly used for cases of sexual crimes, this is usually called a post mortem, then later the doctor will provide information on whether there is an indication of sexual relations or not to the party submitting the examination. From here the case of li'an can be equated with cases of sexual violence that use a post-mortem examination in order to obtain accurate and clear evidence, where this method can be carried out when approved by the party in authority.

Based on the explanation above, the concept of li'an in the contemporary and heretical eras can get more concrete clarity compared to interpretations in the classical era which are still somewhat gray because interpretations in the present era are assisted by medical science which can provide evidence to the wife or husband who has committed adultery, then the truth will be proven from the medical assistance. Therefore, the presence of the truth in question will make it easier to give definite punishment to one of the parties who commit adultery and of course not discriminate against any party, so that the objective of the law is certain and fair and the benefits are maintained.

5. Maslahah Review of the Li'an Concept in the Modern Era

From the explanation above, the writer wants to describe Q.S. An-Nur verses 6-9 with contemporary interpretations in order to be able to solve problems that are increasingly
developing in this digital era, where the author will use the concept of maslahah formulated by Imam al-Ghazali. Imam al-Ghazali defines maslahah as an expression to search for something useful or set aside something that is vicious or bad. Maslahah is maintaining the law which includes 5 things namely the maintenance of religion, soul, mind, lineage, and property. Each of those who try to maintain all of these principles is called maslahah and each of those who try to set aside the five principles is called mafsada and rejects it is called maslahah. In accordance with this theory, the author will clearly describe and analyze the maslahah elements of the interpretation of verses about li’an in the modern era.

a. **Hifzd al-Din (Maintenance of Religion)**

_Hifz al-din_ or taking care of religion is the most priority thing to be guarded so that _maqasid as-sharâ'ib_ can be realized. Carrying out religious maintenance at the _dharuriyyat_ level, namely maintaining and carrying out what is ordered or required in a religion that is in the primary category, for example carrying out the five daily prayers. When prayer is ruled out, it will pose a threat to religion. _L’an_ as part of family law is a concept that must be actualized in society. The application of li’an followed by legal consequences in it is a form of worship in order to maintain the upholding of Shari’a or maintaining religion.

The contemporary or modern era, of course, has presented various forms of space and quite a variety of problems that were not found in the classical era. As described by the author, the use of technology in li’an practices will make law and justice clearer, both for men and women. Technological intervention in the practice of li’an is in accordance with the vision of Surat an-Nur verses 6-9 which goes down to specialize and provide a solution if the person who accuses of adultery does not have four witnesses by taking the oath of li’an. It is this harmonization between Shari’a and modern science that can then maintain the existence of religion in the life of a dynamic society.

b. **Hifzd al-Nafs (Soul Care)**

_Hifz al-nafs_ or guarding the soul, namely maintaining the rights to be able to live with dignity and taking care of the soul so that it can avoid acts of persecution, whether in the form of murder or physical violence. Where the level of protecting the soul is the second priority after religion which is the goal of implementing customary law and jinayah law. Taking care of the soul is one of the _maqasid as-yarîlab_ from Allah’s provisions regarding mu’amalah and jinayah issues. Caring for the soul at the _dharuriyyat_ level, for example fulfilling basic needs in the form of food in order to survive. When these needs are ruled out, they will have implications for the threat to the human soul.

It is undeniable that various forms of confusion and anomaly in li’an practices in ordinary society can cause physical and psychological harm. Denial of lineage does not only result in legal aspects but what is no less dangerous is social sanctions from society. The accusation of adultery against women that results in ridicule and ostracism from society is a negative impact that cannot be simply ignored. This can actually have an impact on a person’s psychological health due to mental pressure from society. Not to mention the addition of the loss of a living which also results in not fulfilling the material needs of the wife and children. Therefore, redefining the practice of li’an by using other scientific disciplines such as medical science can provide certainty in cases of alleged adultery.

c. **Hifzd-aql (Mind Care)**

_Hifz al-aql_ or taking care of reason means that humans can use reason as humans should, avoiding bad things like animals. Preserving reason is one of the goals of Allah’s rules.
in the field of muamalah and jinayah. Maintaining aqal at the *daruriyyat* level, for example drinking alcohol which is forbidden in the Shari'a. When the rule is set aside, it will threaten the position of reason.\(^{37}\)

Maintenance of reason in the practice of li'an in the present era can be directed to provide an understanding that husband and wife need to be careful in maintaining household relationships. Often narrow thinking makes someone accuse their partner of committing adultery without any concrete evidence. The educational value in Surah An-Nur verses 6-9 emphasizes that accusing a partner should be avoided, especially if the accusation is only prejudice without logical thinking. Therefore, li'an is conceptualized as an act that can lead a person to great sin.

d. **Hifdz al-Nasl (Maintenance of Offspring)**

*Hifz al-nasl* or taking care of offspring or honor, namely the fourth guard must be considered and realized for the benefit of mankind. Protecting offspring, namely maintaining human diversity and guiding the mental attitude of generations who will become their successors so as to avoid disputes between humans.\(^{38}\) The provisions or Shari’a of Allah which have the aim of preserving offspring or honor are the Shari’a in the field of muamalah, especially munakah and jinayah issues. Maintaining offspring at the *daruriyyat* level, for example, is prescribed to marry and prohibit adultery. When this is ruled out, the existence of descendants will be threatened.

In the context of li'an, it is clear that denial of lineage can have an impact on cutting off the rights of children and wives. These rights include living 'iddah, madliyah, kiswah, mask and badhanah, and inheritance rights. Therefore, caution in applying li'an can achieve benefits in the form of *hifz al-nasl*. This can be achieved if the practice of li'an in society can harmonize sharia with various scientific disciplines in the modern era.

e. **Hifzd al-Maal (Property Maintenance)**

*Hifz al-maal* or taking care of assets, is one of the goals of sharia in the field of mu'amalah and jinayah, taking care of assets is the maintenance of assets from actions that can cause damage to the lawfulness of assets, at the *daruriyyat* level, as shari'at relates to good governance how to own property and the prohibition to take property from other people through illegal means, when this rule is set aside, it will have implications for threatening the existence of property.\(^{39}\)

If the anomaly in the practice of li'an is allowed to go unchecked, then one of the bad consequences could be an impact on the muamalah aspect, namely inheritance rights. The anomaly referred to by the author is that if the proof of the accusation of adultery does not elaborate on medical knowledge such as a DNA test, then the error resulting from this action will result in the loss of the child's inheritance rights. Of course, this is one of the disadvantages that must be avoided in the practice of li'an which is still monodisciplinary, namely the threat of one's property in the form of inheritance.

**D. CONCLUSION**

The actualization of li'an law in Indonesia is still very unlikely to be implemented. The common people regarding the concept of li'an is one of the reasons, even though positive law in Indonesia has accommodated the law of li'an. It is hoped that the reconstruction of li'an in Surat an-Nur verses 6-9 as carried out by the researcher in this article can become a guideline for li'an practice in line with the


\(^{38}\) Muhammad Abu Zahra, *Ushul Fiqh*, h. 551

\(^{39}\) Fathurrahman Djamil, *Filsafat Hukum Islam*, Jilid I (Jakarta: Logos Wacana Ilmu, 1997), h. 128-131
Construction of Sumah Li'an …

E. REFERENCES


Al-Ahkam

