

Legal Status of The *Li'an* Children Recognition: Comparison of The Mazhab Malikiyah and The Compilation of Islamic Law

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Abstract

This study discusses the Legal Status of Li'an Child Recognition: Comparison of the Malikiyah Madzhab and the Compilation of Islamic Law. The essence of the problem in this study lies in the difference of opinion on the time limit for the recognition of li'an children or submission to court according to the Madzhab Malikiyah and KHI. The purpose of the study was to compare the Malikiyah Madzhab of Law and the Compilation of Islamic Law about Li'an children. With this research, it is hoped that it can become a reference for science in general and Islamic science, especially for legal science. The researcher uses library research with a normative approach. Data collection is done by collecting and reviewing books, journals and e-books related to marriage, the four schools of jurisprudence, compilation of Islamic law and Li'an. This study results that the Maliki School provides for the wife's holy period of three menstruation, or one menstruation is the time limit for denying a child for the husband, while according to the Compilation of Islamic Law it cannot show the time limit for the husband to deny the child. The Compilation of Islamic Law only emphasizes when submitting the denial of a child to the religious court that a husband who wishes to file a denial of a child must not exceed 6 months from the time the child is born. As for the comparison of the Li'an oath, Imam Maliki and the Compilation of Islamic Law have elements of the same opinion and refer to Islamic Law, namely: Li'an is carried out before a judge, Li'an results in divorce between husband and wife after Li'an completed, which causes a permanent divorce, and it is forbidden for both parties to get back together. Meanwhile, in terms of differences only lies in the time limit for the denial of Li'an's children.

Keywords: Compilation of Islamic Law, Li'an, Maliki School

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INTRODUCTION

The bond between a man and a woman that aims to build a strong commitment physically and mentally in a sacred bond is called a marriage based on the One Godhead. a bond called marriage for a Muslim man and woman. The bond between husband and wife is sacred because it is regulated by *sermon* and a marriage contract or consent qabul. Allah SWT says in QS. An-Nisa/4:1 namely :(Abdul Azuz Salim Basyarahil, 2009: 9)

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً
وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ عَلَيْكُمْ رَقِيبًا

O people, fear your Lord, who created you from a single person, and from him Allah created his wife; and from them Allah brought forth many males and females. and fear Allah who by (using) His name you ask one another, and (maintain) friendly relations.

Indeed, Allah always protects and watches over you. (Department of the Republic of Indonesia, 2009: 110)

Marriage is a sacred bond that is very noble to regulate domestic life and descendants, but also serves as a forum for the introduction of one family to another or it can also be called an expansion of the family. Establishing a kinship whether it is different ethnicity, nation and race is allowed apart from different religions. The essence of the marriage contract is a firm and strong bond in life, not only between two personalities, but also between two families. Prophet Muhammad SAW advised his ummah not to live alone or to be celibate. Imam Ahmad bin Hambal said that celibacy is not a teaching of Islam, the Prophet Muhammad SAW even said that marriage is part of my sunnah. Whoever does not like my actions or sunnah, then he is not on the right path or not part of my ummah.

Marriage is a lifelong bond that is not limited by time, until the goal is to reach the afterlife. Husbands and wives are obliged to maintain a household that is *sakinah mawaddah wa rahmah*, as a beautiful garden where a virtuous generation grows, the successor of their parents, because the husband-and-wife relationship is very sacred and honorable, and its high value is in accordance with the high value of humans themselves.

Every husband and wife would want offspring who can continue generations or give birth to new generations for their families. However, the pregnancy that husband and wife have been waiting for does not always run smoothly, there are many trials that will be experienced by married couples, especially pregnant women. One of them is the absence of acknowledgment from the husband where the husband denies the child his wife is carrying. In another sense, the husband accuses his wife of adultery. This then gives rise to *li'an*. itself is a husband's oath in which the husband accuses his wife of adultery. While the accusations are not necessarily true. (Beni Ahmad Saebani, 2001: 15)

Denying or not acknowledging the wife's pregnancy can be done if the husband thinks he has never had intercourse with his wife since the marriage contract is held or the husband thinks that he had intercourse with his wife but six months or a year ago, while the gestational age did not match the time the husband had intercourse with his wife. There are two conditions under which *Li'an* can be carried out, namely: 1) the husband's accusation against the wife of adultery and the husband does not have supporting witnesses for his accusation, the witnesses that must be owned are four men. 2) the absence of acknowledgment from the husband of the fetus conceived by his wife.

The first condition can be justified if the husband witnesses his wife's adultery, and if the wife admits her actions. In this case, the husband is allowed to mentally cheat his wife without doing *mula'annah*. If it is believed that the husband himself had intercourse with his wife, then it is certain that the fetus in his wife's womb is her blood, then the husband cannot accuse his wife of adultery.

The condition for the husband's accusation can be accepted or justified against his wife who commits adultery by presenting four male witnesses, but if the husband is unable to bring the witness, the husband must testify four times to the truth of his accusation. After swearing four times the husband is required to swear that he will get the curse of Allah SWT if the accusation is not true or just a lie (lie). A wife also has the right to deny her husband's

accusations by swearing four times that her husband is telling a lie and continuing with the next oath, which is to say with full confidence that she deserves the curse of Allah on her husband's accusations if he is the one who is lying, and her husband is telling the truth. (Sayyid Sabiq, 2012: 107)

Various studies and writings that discuss the *li'an children*, one of which is a journal written by Anwar and Musyarrofah entitled Refusal of Nasab Anak Li'an and Ta'liq. This journal analyzes this problem using the book of Fiqh Al-Islam wa Adilatu with Al-Mugni. This paper results in the permissibility of a husband rejecting the lineage of a child conceived by his wife on condition of taking an oath of li'an. (Anwar Hafidzi and Binti Musyarrofah, 2018: 78) The journal entitled Legal Consequences of the *Li'an* Truth Against Child Status Based on Law Islam and Legislation written by Hazar Kusmayanti focuses his writing on the consequences that will occur if the *li'an* is not true and divorce has occurred. The results of this study are if the husband's li'an oath is not proven then the divorce caused by the oath is canceled as well as the denial of the child by his father. The lineage of the child is returned to his father. (Hazar Basyarahil, 2009: 123)

There are no previous writings or journals that discuss in detail how to compare the laws of *li'an* or their status according to the Malikiyah School and the Compilation of Islamic Law. So, in this article, the author focuses on the Malikiyah School and the Compilation of Islamic Law, starting with what causes and when the limit of the denial of the *li'an* is permissible according to both.

RESEARCH METHODS

This type of research is a literature study, and the source of this research is related literature, especially in the field of Islamic Law and Civil Law, which is related to Primary Data, namely in the form of basic sources in the object of discussion in this case referring to the compilation of Islamic law and Islamic law. Maliki school. Secondary data is in the form of books or writings and from internet sites (journals), which are supporting, or complementary materials related to the subject of discussion. The data collection technique that the researcher uses is the method of documentation and quoting both direct and indirect quotes, where this method will later be used to find data about things or variables in the form of notes, books, reports, and other writings related to the concept. *li'an*.

The data analysis that the author uses in this study is qualitative descriptive. (Winarno Surakhmad, 1998: 134) Which consists of deductive reasoning, namely a method of thinking that applies general things first and then connected in special parts. This mindset serves to analyze the problem of the concept of *li'an* in general according to the Malikiyah School of Law and the Compilation of Islamic Law so that it can produce a common ground. Then comparative is by comparing the data or opinions and rules from the Malikiyah School of Law and the Compilation of Islamic Law relating to the concept of *li'an* to then draw conclusions. ((Winarno Surakhmad, 1998: 134).

RESULT AND DISCUSSION

A. The meaning of the child *li'an*

The word *Li'an* comes from the Arabic word *al-la'n*, the use of the word *li'an* is caused because husband and wife do *mula'annah* (curse each other) on the fifth oath. According to some scholars, the purpose of *li'an* is to keep husband and wife from cursing each other. Result of doing *li'an* is that the husband is kept away from his wife forever and those who lie get a big curse and sin from Allah SWT. There are also scholars who are of the opinion that when *Li'an* has been severed and remarriage is something that is very forbidden wife in other words, the husband drops charges of adultery committed by his wife with another man oath *li'an* can be made when the husband does not have solid evidence for the accusation, by presenting four male witnesses. However, when the husband witnesses his wife's adultery and the wife admits that the accusation is true, the *li'an* not need to be taken. However, if the wife denies the accusation and the husband cannot present four male witnesses, then Allah swt provides a way out through the *li'an* to prove the marriage partner has committed adultery. (Neng Djubaedah, tt: 126) As in Surah An- nur verse 6:

وَالَّذِينَ يَرْمُونَ أَزْوَاجَهُمْ وَلَمْ يَكُن لَّهُمْ شُهَدَاءُ إِلَّا أَنفُسُهُمْ فَشَهَدَتْهُ أَحَدِهِمْ أَرْبَعُ شَهَادَاتٍ بِاللَّهِ إِنَّهُ لَمِنَ
الصَّادِقِينَ

And those who accuse their wives (of adultery), even though they have no witnesses other than themselves, then that person's testimony is four times swearing in the name of Allah, verily He is one of the truthful. (Ministry of the Republic of Indonesia, 2009: 568)

The Abu Hanifa School argues that the result of the occurrence of *li'an* in a marriage is as divorce, in his opinion saying that the occurrence of a separation is due to *li'an* and is the same as divorce in the sense of the word that a wife is forbidden only temporarily for husband. And if the wife or husband performs *li'an*, while the other does not, and if both do *li'an* then there will be separation forever. The reason according to Imam Abu Hanifa's opinion is based on the hadith, Abu Hanifa believes that *li'an* only occurs and is only carried out by one party, such as only the wife who has *diamonds*, and or only husbands who have diamonds, and that is not a farewell. Meanwhile, if *li'an* involves the wife and husband, or the wife *meli'an* husband and vice versa, then there will be a separation forever. (Syamsuddin As-Sarkhasi, 1993: 44)

The Shafi'i and Hambali schools have the same opinion in giving conditions to the perpetrators of *Li'an* that husband and wife must be Muslim. *Li'an* of a husband against his wife is considered valid if the divorce is also considered valid and both parties are mature and of sound mind. Both belong to the class of people who are just and *fasiq*. *Li'an* is also considered valid from free people, slaves, intelligent people, stupid people, people who lost their minds due to drunkenness, great people or stupid people who understand signs according to Syafiiyah. People who mentalak *raj'i* are also legitimate as well as those who mentalak *ba'in* to deny children or do *li'an*, this is the same as Hambali's opinion. Hambali and Syafi'i

are of the opinion that it is legal for a husband to perform *li'an* against his wife to decide on lineage or lineage which they consider not the result of his actions.

A madman cannot be accepted by *his li'an* or his rejection of his child. The person who performs *li'an* must be a mukallaf because *li'an* results in a divorce. Oath *li'an* can also be made if the husband makes up his wife and considers her wife to be no longer holy. (Aris Bintania, 2019: 31-36.) This opinion is also confirmed by a journal written by Abdul Ghani which reads that *li'an* can result in eternal divorce. and it is forbidden for both to return together, the wife and child are no longer entitled to a living and inheritance from a husband who has taken the *li'an*. (Abdul Ghoni, 2021: 15)

Three schools of thought, namely Ash-Shafi'iyah, Al-Malikiyah, and Al-Hambali gave the opinion that if a person is accepted by his oath, *li'an*. the person whose oath is declared valid, then his *li'an*. *Li'an* can be done between husband and wife who are both in a state of freedom or in a state of slavery. Both must be equally fair or *fasiq*, *dhimmi* or both have *had had*. These three schools of thought make it a *proof*.

The Hanafi school of thought differs from the three schools of thought. The Hanafi group is of the opinion that the husband has no right to accept his testimony or *li'an* if the husband is a slave, disbeliever or has been sentenced to *had qazaf*. As for the *li'an* of a wife who has had *qazaf* status, is insane, immature, or the wife is an adulteress, *li'an* is also unacceptable.

Sentence *ta'zir* on the husband because he has damaged the good name of his wife. But it is not obligatory to give *him* for that reason, so what is recommended is only *ta'zir* to stop the same act from happening after the incident and maintain a lot of honor. If the husband is not a person who has the right to give testimony as mentioned and he has accused his wife of adultery, then it is obligatory to enforce *had qadzaf* on him. Because *li'an* is blocked from his side, it must be returned to the original cause.

B. The provisions of the Malikiyah School of View and the Compilation of Islamic Law Article 102 concerning the Time Limit for Husbands to Deny Children in *Li'an*

Li'an is a solution provided by applicable law in Indonesia. In marriage it is explained that if there is a dispute where a person does not want to acknowledge the child born to his wife, the solution given in Indonesian law is to do *li'an*. Which in the compilation of Islamic law is explained in article 101 that the husband's denial of his legal child, and the wife does not deny it, then in this case can confirm his denial with *li'an*. And as in the explanation of article 102 paragraph 1 that the husband's denial of a child born to his wife can file a lawsuit in a religious court and be given a period of 180 days after the birth of the child or 360 days after the termination of a marriage bond or after a husband finds out that his wife has given birth to a child and is in a place that allows her to file a case with the Religious Court. (Editorial Team Nuansa Aulia, 2015: 30) This article also regulates the procedures for a husband who wants to file a denial of his wife's child in the Religious Court.

1. The provisions of the Malikiyah School of View regarding the Time Limit for Husbands to Deny Children in *Li'an*

A husband is allowed to deny the child his wife is carrying with the time limit explained by the Malikiyah school, namely with the limitation of the wife's holy period of

three menstruations or it can also be one menstruation only. The husband may perform *li'an* against his wife. The purpose of this limitation is to find out whether his wife is pregnant or not. (Shaykh Al-Allamah Muhammad bin, Abdurrahman ad-Dimasyqi, 2015: 362)

Li'an can also be done when the wife is pregnant or has not given birth according to the Shafi' school, Hanafi and Maliki. A husband may also disown as the father of the child his wife is carrying, provided that the time limit is three times or one period for the wife. The two schools of thought are in accordance with the hadith that *li'an* can be done when the wife is pregnant with the aim of being free from the disgrace caused by her wife. (Shaykh Abdurrahman Al-Juzaini, 2015: 193) However, the Imam Malik school of thought does not allow the husband to deny or (Shaykh Abdurrahman Al-Juzaini, 2015: 196) A husband is recommended to immediately perform *li'an* before the child is born or the wife is still pregnant to maintain the honor of many parties.

A husband can take his oath if he sees his wife having sex with another man directly, and it is no longer permissible for the husband to have intercourse with his wife after witnessing the adultery. However, if the husband charges his wife with adultery, then the husband is sentenced *have had* his words. And if it is imposed on the husband, it is not permissible to do *li'an*, this is according to some opinions which differ from that of some *jurists*.

The Maliki school also stipulates that the husband must ensure that he never has intercourse with his wife until she gives birth to a child. However, if the husband is just silent until his wife gives birth, then the husband is sentenced to *had* and is not allowed to do *li'an*. (Wahbah Az-Zuhaili, tt: 482)

2. Provisions on the View of the Compilation of Islamic Law concerning the Deadline for Husbands to Deny Children in *Li'an*

The Compilation of Islamic Law Article 102 paragraph 1 provides an explanation in terms of the time limit for the husband not recognizing the child his wife is carrying, which is 180 days after the day of birth or 360 days after the divorce. between husband and wife or after the husband finds out that his wife has given birth to a child and the husband is in a place where he can file a case with the religious court. Regarding matters in the article, it explains the limitation of time for submission or 6 months or 180 days and above, but there is no explanation about the time limit for gestational age.

If the rejection of the confession is submitted after the past, then the application can no longer be accepted, that is in accordance with the article 102 paragraph 2. And the article also means that a husband who wants to deny a child in this case there is a predetermined time limit, namely 6 months since the child was born or 180 since the child was born in accordance with the explanation in article 102 paragraph, and when a husband denies a child who has exceeded the time limit of 6 months after the baby is born, then the husband must first separate the child. his wife or with the child's mother, and after that the husband may file a claim for denial of the child to the religious court. However, before that a judge decided whether the lawsuit was granted or not, therefore the child who was

denied, the lineage remained with the husband of the child's mother and the civil relationship that was owned was not lost with the neglected child.

Apart from that, it differs in the provisions of Al-Hadith and Al-Qur'an which have references to the opinions of the fuqaha regarding the time limit for husbands to deny children, in this case the compilation of Islamic law is also different. And in the Civil Code 256 concerning a matter regulated in articles 252, 251, 254, 253, the legitimacy of the denial of a child must be carried out by the husband within a period of 30 days or 1 month, and when he is at the place of the child's birth, or in the vicinity of the child's birthplace. And it is said in the article that it can be explained that the time limit for denying the child is thirty days when a husband is still in the same house or has a domicile in the vicinity of the child's residence.

It can be concluded from the explanation of article 102 paragraphs 1 and 2 that the detailed compilation of Islamic law does not explain the time limit for a husband to deny his child to his child. In this case, the compilation of Islamic law emphasizes only the time for filing denials against children in religious courts. As in Article 102 the compilation of Islamic law does not provide a strong firmness regarding the time limit for a husband to deny a child, where the time limit is 360 days and 180 is a long time, therefore a husband can procrastinate in denying a child. The thing where the jurists of Al-Hadith and Al-Qur'an, whose reference is to the opinion of the fuqaha, give their views about the time limit for a husband to deny the child *li'an* is when the wife is pregnant or when the child is born.

C. Comparison of *Li'an* Between Maliki School and Compilation of Islamic Law

1. Oath *li'an* between the Maliki school and the compilation of Islamic law

From the Maliki school's definition of the *li'an* oath where *li'an* is the oath of a husband who is a Muslim, who has reached puberty or is of age, that he sees his wife committing adultery, or does not acknowledge the pregnancy of his wife. And a wife swears that four times the oath of a husband lies by giving testimony in the name of Allah that I have seen him commit adultery, and other similar sentences are spoken before a judge. Whether this marriage is *fasid* or legal, therefore the oath is taken by someone other than the husband, for example a foreigner, a child, a madman, or an infidel.

Under the supervision of the judge, the oath was carried out by those who saw the mutual curses being carried out. And he gave the *hadd* punishment or he decreed the law to give divorce to those who do not want to be sworn in, and it doesn't matter whether the couple's marriage is not valid or valid because of the provisions of the lineage of children with their *fasid* marriage. As for example in the case of the Maliki school of thought above regarding the *li'an* oath pronounced in front of the judge or *qadhi*. *li'an* is valid when pronounced before the Religious Courts.

The result is a divorce or separation. The separation was based on the wishes of both parties and there was no interference from the judge who witnessed the *li'an*. (Shaykh Abdurrahman Al-Juzaini, 2015: 190.) *Lian* has the meaning of cursing, which means that it can cause a break in a relationship or sacred bond. without a legal divorce in court. If the other is valid, it is forbidden for them to reconcile.

The above is also explained in the compilation of Islamic law in article 125 that the divorce of a husband and wife can forever be caused by *li'an* in accordance with the contents of the article. regarding *li'an* which can result in divorce for good and it is forbidden for both parties to reconcile.

The above opinion is corroborated by the Hadith of the Prophet Muhammad SAW which in his words states that a husband and wife who have performed *li'an* are forbidden to reconcile or return together forever. So, with the occurrence of *li'an* then the divorce fell on the wife, and it is not allowed to make reconciliation forever. This is a consequence of the meaning of *li'an*, namely Allah is angry with people who lie and oppress others. The wife has the right to receive a dowry from her husband who has committed *mula'ana* or performed *li'an* against her. As for the child born to his wife, he is not entitled to receive a living from his mother's husband as well as his lineage which remains with his mother, due to the denial of his mother's husband.

The impact that occurs on the denial of children is very large for the future of a mother and her child. The filing of a husband's rejection of the child born to his wife cannot be used as a legal basis according to the compilation of Islamic law. The denial of the child must really have strong evidence after the time limit for the refusal has been regulated by the compilation of Islamic law on marriage in article 103 paragraph 1 which contains that proof of the origin of the child can be with a birth certificate and other evidence, as for article 2 that is, if there is no birth certificate as stated in article one, the religious court may or has the right to determine the origin of the child after a strict examination based on strong evidence., in this case the civil registration office is allowed to print the child's birth certificate.

Court of his lawsuit will have a huge impact on the future of the child he is suing. The decision taken by the husband should not be regretted because after the lawsuit was granted by the religious court, all ties between husband and wife were cut off as well as the child who did not know at all about the problems of his parents. Regarding the fulfillment of the denial lawsuit against the child, Law no. 1/1974 in article 42 and KHI as in letter a is a child born from a legal marriage and as a result, it is a legitimate child according to the law.

The Book of Fiqh Sunnah and the Book of Bidayatul Mujtahid provide an explanation of the consequences of the *li'an oath*, namely: if a man accuses his wife of adultery and denies the child he is carrying, then *li'an* occurs, if the husband has taken the *li'an*, divorce will also occur. as for the lineage of the child conceived by the wife, it is assigned to the lineage of the mother. (Sapira Prakasa, Muhammad Harun and Erniwati, 2020: 1) Both books emphasize the many consequences that can be caused by the *li'an*.

The Maliki school and the priests of other schools explained that it was the husband who charged his wife with adultery so that his wife became pregnant with a child, and the wife refused the accusation. In this case the husband also does not have strong evidence for his accusations, the husband is sentenced, but if the husband wants to refuse the punishment, then the husband must swear in the name of Allah and be ready to accept the curse of Allah if everything, he says is a lie or a lie. Furthermore, a wife will be punished

after her husband swears. However, if the wife refuses the punishment, then the wife is obliged to take an oath by mentioning the name of Allah and be ready to accept the curse of Allah SWT if she lies.

The husband swears four times with the accusation of adultery and/or denial of the child, followed by a fifth oath with the words 'God's curse on him if the accusation and/or denial is a lie. 2) The wife rejects the accusation and/or denial with four oaths with the words 'the accusation and/or denial is not true', followed by a fifth oath with the words of Allah's wrath against her, the accusation and/or denial is true. 3) The procedures for letter a and letter b are an inseparable unit. 4). If procedure number 3 is not followed by procedure number 2, then the *li'an* invalid or does not occur.

Pronunciation *li'an* or oath *li'an* should not be forced against a husband who charges his wife's adultery, and the wife should not be forced to say the oath *li'an*. (Abdul Fatah Idris and Abu Ahmadi, 1994: 245) The most frequent difficulties in the case of a child denial lawsuit, it is difficult to get witnesses from both parties. If the husband cannot bring witnesses in court, the husband is sentenced. Oath *li'an* in front of the judge of the religious court. (Abdurrahman, 1991: 326)

The explanation of the above article has elements of similarity in terms of *li'an procedures*. In which case the husband who performs *li'an* to his wife on both sides must both take the oath four times, followed by a fifth oath. And if the husband does not have evidence or see it in person, then the husband will be subject to *hadd*. These provisions come from both sources which both refer to Islamic law, which have similarities in terms of *li'an being* performed before a judge. *Li'an* resulted in a divorce between the husband and wife, and after *the li'an* was completed which resulted in a permanent divorce and it was forbidden for both parties to return together in accordance with the *li'an*.

2. Differences *Li'an* between the Maliki School and the Compilation of Islamic Law

The Maliki School has provided many detailed explanations regarding the requirements for refusing the husband's acknowledgment of the child his wife is carrying so that the wife's holy period is made three times or only one menstruation based on differences of opinion between the scholars and their followers, namely, to find out whether his wife is pregnant or not. (Shaykh Al-Allamah Muhammad bin, Abdurrahman ad-Dimasyqi, 2015: 362) As for another opinion, Asy-Syafiiyah and Al-Malikiyah regarding *li'an* which asks that the wife who pregnant may be in *li'an* and the husband may deny or deny the child conceived by the wife. The Al-Malikiyah school of law provides for a time limit of three menstrual periods, or it could be one period. This opinion is based on the hadith of the Prophet which contains a wife who is pregnant, it is permissible to go into the (Shaykh Al-Allamah Muhammad bin, Abdurrahman ad-Dimasyqi, 2015: 193).

Li'an religious courts. As in Article 102 the compilation of Islamic law does not provide a strong firmness regarding the time limit for a husband to deny a child, where the time limit is 360 days and 180 is a long time, therefore a husband can procrastinate in denying a child or filing a lawsuit. (Editorial Team Nuansa Aulia, 2015: 30) The summary of article 102 of the compilation of Islamic law which contains the time limit for child denial cannot be applied in Indonesia because the summary differs greatly from the fiqh

priests and some followers of the Islamic school of thought in Indonesia. Indonesia. This summary also contradicts the civil and criminal law article 256 that applies in Indonesia.

Islamic law compilations are compiled or have been classified by Islamic law, therefore Islamic law compilations should also provide a time limit for a husband to file a child refusal lawsuit as explained by Islamic law itself. Any problems faced should refer to the Qur'an and Hadith. As the opinion of the fuqaha and confirmed by the Imam Malik school of thought that the husband must immediately file a lawsuit to the religious court when the wife is pregnant or after the wife gives birth to the child.

Many consequences are caused by *li'an*, one of which is the divorce between husband and wife for good. The lineage of a *li'an* is carried over to his mother if his father does not admit that the child is his flesh and blood, and the child does not have the right to be supported by his mother's husband.

Article 102 of the compilation of Islamic law explains that a husband who does not recognize the child born to his wife is not his biological child must report it or file a lawsuit to the religious court within 180 days after the child is born or 360 days after the divorce or after the husband finds out his wife has given birth to a child. and being in a place where he could file a lawsuit in a religious court.

Meanwhile, Imam Malik explained that the husband must immediately perform *Li'an* when his wife is pregnant. The two opinions have differences in the timing of filing a lawsuit or denying a child for a husband against his wife. The compilation of Islamic law article 102 allows denial after the child is born, in contrast to the opinion of Imam Malik who says that denial must be done when the wife is pregnant.

Law number 1 of 1974 regulates the status of children regarding marriage. The rules for the status of children in this law are not much different from the rules of Islamic fiqh, the difference lies only in the use of the terms used. There are two classifications in this law, namely legitimate children and children born out of wedlock.

The author can conclude from the various explanations above that a husband may deny the child conceived by his wife with various conditions that have been explained by the Maliki school of law as well as the compilation of Islamic law. Although the time limit for the denial of children differs between Imam Malik and the compilation of Islamic law. The Maliki school of thought gives a time limit for denying a wife's sacred limit, namely three menstruations or one menstruation with the aim of finding out whether his wife is pregnant. The compilation of Islamic law provides a time limit of 180 days or 360 days after the wife gives birth. The opinion that can be applied or used as a guideline, especially in Indonesia, is the opinion of the Imam Malik school of thought. The opinion of the compilation of Islamic law article 102 is very different from the reality in Indonesia.

CONCLUSION

The stipulation of the time limit for the husband to deny the child in the *li'an Maliki* school requires that the wife's holy period be made three times or only one menstruation based on differences of opinion that exist between the scholars and their followers, namely, to find out whether his wife is pregnant or not. While the provisions in the compilation of Islamic law article 102 paragraphs 1 and 2 that the compilation of Islamic law does not

explain in detail the time limit for the husband to deny the child, the compilation of Islamic law only emphasizes the time for submitting the denial of a child to the religious court. In this case, Article 102 of the compilation of Islamic law has not provided a strong statement regarding the time limit for the husband to deny the child.

The oath according to Imam Malik and the compilation of Islamic law have elements in common from the provisions that come from both sources which both refer to Islamic law, which have something in common: *li'an* is carried out before a judge, *li'an* results in divorce between parties husband and wife after the *li'an* is completed which causes a permanent divorce and it is forbidden for both parties to return together and the *li'an* carried out. Meanwhile, in terms of differences, there are in terms of the time limit for denying a child, which in Article 102 of the compilation of Islamic law cannot indicate the time limit for the husband to deny the child, the compilation of Islamic law only emphasizes the time for submitting the denial of a child to the religious court, while in the opinion of Imam Malik, the time limit is limited. For the denial of a child, malikiyah requires that the time limit is that the wife's holy period is made up of three menstruations or only one period, namely, to find out whether her wife is pregnant or not.

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