

THE DOMESTIC VIOLENCE; THE NUSHUZ CONCEPT IN COMPARISON OF INDONESIAN POSITIVE LAW AND ISLAMIC LAW

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ABSTRACT

Lately there have often been acts of violence against wives committed by husbands. This happened because the husband considered his wife had nushuz to him. By reason of willing to change his wife for the better, the husband was forced to beat his wife. The concept of nushuz wife towards husband which was formulated by previous scholars as 'wife's disobedience to her husband' such as going out without the husband's permission and so on would need to be reviewed. The concept of Nushuz in Islamic law actually does not legalize all forms of violence against wives. Beating a wife who is illusory in Qs. an-Nisa '(4): 34 should be interpreted as an action to give lessons, not to hurt or even to act violently, especially the beating referred to in this paragraph may not hurt the wife's limbs. Meanwhile, beating is an act of domestic violence, which is considered a criminal act in positive law in Indonesia. This is as confirmed in Law Number 23 of 2004 concerning the Elimination of Domestic Violence (hereinafter referred to as the PKDRT Law). Article 1 of the Law states that acts of domestic violence are "every act against someone, especially women, which results in physical, sexual, psychological misery or suffering arising from or neglecting the household, including threats to acts, coercion or deprivation of liberty against the law in the scope of the household". Through a comparative study of positive law and Islamic law, this paper examines that the concept of Nushuz in Islamic law does not legalize violence against wives. The beating of the nushuz wife contained in QS. an-Nisa '(4): 34 should be interpreted as an action to give lessons, not to hurt or even to do violence, because the beating must not hurt. The concept of the nushuz wife towards the husband which was formulated by the previous ulama as disobedience of the wife to the husband which included leaving the house without permission and so on, needed to be reviewed. Even based on the hadith that allows a husband to beat his wife who commits adultery, also a verse that allows a husband to restrain his wife (QS. Al-Baqarah (2): 229), it can be formulated that the act of nushuz wife is only when the wife does 'fahisyah mubayyinah' (the vile) that is adultery.

Keyword: *Nushuz*, Domestic Violence

Background

The concept of nushuz wife towards husband which was formulated by previous scholars as 'wife's disobedience to her husband' such as going out without the husband's permission and so on would need to be reviewed. The concept of Nushuz in Islamic law does not legalize all forms of violence against wives. Beating a wife who is illusory in Qs. an-Nisa '(4): 34 should be interpreted as an action to give lessons, not to hurt or even to act violently, especially the beating referred to in this paragraph may not hurt the wife's limbs. Meanwhile, the act of a husband who beats his wife to a wound or other form of violence committed by a husband against a wife can be declared a husband's nushuz against his wife.

When speaking in the context of Islamic law (fiqh), in the Qur'an there is a verse which contains an order to beat the wife who committed nushuz. This is as contained in Qs. An-Nisa '(4): 34:

... The women you are worried about, then counsel them and separate them in their beds, and beat them ...

Meanwhile, beating is an act of domestic violence, which is considered a criminal act in positive law in Indonesia. This is as confirmed in Law Number 23 of 2004 concerning the Elimination of Domestic Violence (here in after referred to as the PKDRT Law). Article 1 of the Law states that acts of domestic violence are "every act against someone, especially women, which results in physical, sexual, psychological misery or suffering arising from or neglecting the household, including threats to acts, coercion or deprivation of liberty against the law in the scope of the household ". Meanwhile, what is meant by 'household scope' in Article 2 of the PKDRT Law includes husband, wife and child; people who have family relations with (husband, wife and child) because of blood relations, marriage, parenting, and guardianship, which reside in the household; people who work to help the household and settle in the household.

This paper tries to discuss the concept of nushuz in fiqh and tries to reinterpret the command to beat the nushuz wife, so that it is not considered a 'legalization' of the form of domestic violence as stipulated in positive law in Indonesia.

Nushuz

Men and women both live as members of society. However, in some cases, there is an imbalance in the pattern of relations between the two. The male figure is identified with the leader and protector of women; as a person who is strong, brave, tough, firm and ratio. Meanwhile, the female figure is considered as a gentle, whiny, spoiled and must be protected. Sorting out these

traits has been socialized for a long time in the community. So, each one lives and grows in this pattern. So that, each position themselves according to the image that is in the community.

The problem is that the distinction between men and women causes some injustice. Like, male domination of women both in the household and in the world of work and life in society. In fact, sometimes men commit violence against women, both physical and psychological violence, and women become helpless objects. Conversely, if women fight then women are considered to have committed nushuz.

Nushuz in language is a form of masdar from the word nasyaza which means "land that is raised high up". While terminologically, Nushuz has several meanings, including; according to Hanafiyah fuqaha is displeasure that occurs between husband and wife. Malikiyah Fuqaha gives understanding, hostility that occurs between husband and wife. According to the Syafi'iyah cleric, Nushuz was a dispute between husband and wife. While the Hambaliyah clerics defined it with displeasure from the side of the wife and husband accompanied by unharmonious relations.

While nushuz from the husband's side to his wife, according to the Hanafiyah cleric, was the husband's hatred of his wife and harsh relations with him. Malikiyah Fuqaha defines it with the attitude of a husband who is hostile to his wife, besides that he also hurts him either with hijr or a blow that is not allowed by syara', insults and so on. The Syafi'iyah Ulama defines it with the attitude of a husband who is hostile to his wife with blows and other acts of violence and is not good towards him. Whereas the Hambali cleric gave a definition of the husband's abusive treatment of his wife by beating and cornering or not giving his wife's rights such as the right to live and so on.

Whereas the understanding of nushuz wife towards her husband, according to the Hanafiyah cleric, was the discharge of his wife from home without her husband's permission and closing herself to her husband, even though he had no right to do so. According to the Malikiyah cleric, Nushuz is the discharge of the wife from the lines of obedience that have been obliged, forbidding the husband from having fun with him, leaving the house without the permission of the husband because he knows that the husband will not allow him, leaving the rights of God like not taking a bath, prayer, and Ramadan fasting and closing all doors for her husband. While according to the Syafi'iyah scholars, nushuz is the wife's iniquity to her husband and the violations committed on the conditions required by Allah. to her. Hambaliyah Ulama defines it as a violation committed by the wife against her husband on the conditions required of her from marriage rights.

Definition Of "Violence" In the Household

The word "violence" in the Indonesian language dictionary is defined as the nature (certain things) hard, activities of violence, coercion, cruelty. The term 'violence' in the Indonesian dictionary is also interpreted as 'the actions of a person or group of people that cause injury or death to another person or cause damage to the physical or other people's goods'.

The word 'violence' is the equivalent of the word 'violence' in English, even though both have different concepts. Violence in English is interpreted as an attack or invasion of a person's physical or psychological integrity. While the word 'violence' in Indonesian is generally understood to only involve mere physical attacks.

Apart from the differences in etymological understanding of 'violence' and 'violence' mentioned above, at present violence is not only interpreted physically, but also psychologically. As currently known about violence against wives or domestic violence (hereinafter abbreviated as domestic violence) can be in the form of physical violence, psychological violence and sexual violence, and neglect of the household.

Domestic violence, according to the definition of Law Number 23 of 2004 concerning PKDRT, is "every act against someone, especially women, which results in physical, sexual, psychological misery or suffering, and / or neglect of the household, including threats to commit acts, coercion or deprivation Unlawful independence in the household sphere".

Whereas according to Nettler, violent crime is generally interpreted as an event where people illegally and intentionally injure physically or threaten to commit acts of violence against others where forms of abuse, robbery, rape and murder are classic examples of serious violent crimes.

From the description of the definition of domestic violence above, the intended domestic violence is to focus on the pattern of relations that are built or that have been built between family members in the life of the household so that they are easily seen, both the perpetrators and victims in the family environment.

The scope of domestic violence is first, husbands, wives, or children, second, people who have family relations with their husbands, wives or children because of the relationship of blood care and guardianship that stays in the household, and third, people who work to help the house stairs and settled in the household.

Positive Legal Provisions: Law on The Elimination Of Domestic Violence

Awareness of discrimination and unfair treatment of women, both in public space and in the household, has penetrated into Indonesian society today. Thus, domestic violence is now regulated as an offense and sanctions are imposed on the perpetrators. Law Number 23 of 2004 concerning the Elimination of Domestic Violence (UU PKDRT), is a legal provision that regulates acts of domestic violence, procedures for handling cases, protection of victims and sanctions for perpetrators.

This law is legalized with the following considerations:

- a. That every citizen has the right to get a sense of security and freedom from all forms of husband violence
- b. That all forms of violence, especially domestic violence, constitute violations of human rights and crimes against human dignity and forms of discrimination that must be abolished
- c. That victims of domestic violence, who are mostly women, must obtain protection from the state and / or the community to avoid and be free from all forms of violence or threats of violence, torture, or treatment that demean humanity's dignity
- d. That cases of domestic violence occur a lot, while the Indonesian legal system does not guarantee the protection of victims of domestic violence.

What is meant by domestic violence in Article 1 of this Law is explained as any act against someone, especially women, which results in physical, sexual, psychological misery or suffering, and or neglects the household, including threats to acts, coercion or deprivation Unlawful independence in the household sphere. While what is meant by the scope of the household in Article 2 of the PKDRT Law includes husband, wife and child; people who have family relations with (husband, wife and child) because of blood relations, marriage, milk, parenting, and guardianship, which reside in the household; people who work to help the household and settle in the household.

The elimination of domestic violence is carried out based on respect for human rights, justice and gender equality, non-discrimination and protection of victims. While the purpose is to prevent all forms of domestic violence, protect victims of domestic violence, take action against perpetrators of domestic violence, and maintain the integrity of a harmonious and prosperous household. Strictly speaking, domestic violence is regulated in Article 5 of the PKDRT Law which states that:

'Everyone is prohibited from committing domestic violence against people within the household, by: a) physical violence; b) psychological violence; c) sexual violence, or; d) neglect of households.

Based on the article, the forms of domestic violence are divided into physical violence (actions that cause pain, fall ill or serious injury), psychological violence (actions that cause fear, loss of self-confidence, loss of ability to act, feeling self-confidence, and / or severe psychological pain in a person), sexual violence (i.e. coercion of sexual intercourse with a person who lives in the household, and forcing sexual relations with someone in the household with another person for commercial purposes and / or certain purpose), or neglect of households (such as people that result in economic dependence by limiting and / or prohibiting decent work inside or outside the home so that the victim is under the control of that person).¹

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Although violence against women has been legally prohibited, women who are victims of violence sometimes do not dare to resist, even report acts of violence. Kedang they tend to be quiet and accept the situation. This is partly due to 'powerlessness'. Women in the household (as wives) do not want to report because they are afraid that their husband will hurt him more, or fear that a divorce will occur, for example. Women as housewives are mostly economically weak. They do not work and only receive a living from their husbands, so they are not ready for divorce. On the other hand, widow status gets a bad stereotype in society. Not infrequently, if there is a divorce, what is blamed is the woman. Like, is considered not right to take care of the household, unable to serve her husband well and so on.

The Interpretation of Nushuz Verses

Related to *Nushuz*, Qs. an-Nisa '(4): 34 states:

الرجال قوامون على النساء بما فضل الله بعضهم على بعض و بما انفقوا من اموالهم
فا الصالحات قانتات حافظات للغيب بما حفظ الله. و اللاتي يخافون نشوزهن فعضوهن واهجروهن
في المضاجع واضربوهن. فان اطعنكم فلا تبنوا عليهن سبيلا. ان الله كان عليا كبيرا (34)

Meaning :

"Men are leaders for women, because Allah has exaggerated a portion of them (men) over others (women), and because they (men) have spent part of their wealth. Therefore, a righteous woman is one who obeys God and takes care of herself when her husband is absent, because God has cared for them. Women you worry about *nushuz*, then

¹ Article 5-9 Indonesian Constitution Number 23 of 2004.

counsel them and separate them in their beds, and beat them. Then if they obey you, then do not seek ways to cause trouble. Allah is the Highest, the Greatest.

Related to the above verse, *al-Jalalain's* interpretation explains that men are leaders, namely those who control women, give lessons and protect them, because what Allah has exalted to some of them over others, such as advantages in terms of knowledge, reason, guardianship, etc., and the property they (men) spend on them. Furthermore, it was explained that righteous women are those who obey their husbands, take care of themselves and their honor when their husbands do not exist, because Allah has guarded them by giving them to their husbands. As for the women who are feared to do *nushuz*, that is, immorality to their husbands by disobeying their commands, then advise them to be afraid of Allah, and separate their beds from moving to another bed if they are still doing *nushuz*, and beat them with punches who do not hurt if they separate their beds separately have not returned to doing good. If they have returned to do what the husband ordered, then do not look for ways to beat him to do persecution.²

Al-Jassas attributed this verse to the wife's obligation to her husband. The discussion begins with an explanation of *Nushuz*, that the verse relates to the narrations which state that the verse was dropped due to certain events. Namely, there is a man who injured his wife. Then the wife of the wife came to the Prophet, and he said that the man was *qisas*.³ Another history quoted states that there was a man who slapped his wife, so that the Prophet. order *qisas*, then go down the verse.⁴ While Abu Bakr - quoted by al-Jassas - stated that there was no *qisas* between men and women except *qisas* soul.⁵ While there is another history which states that it is permissible to slap a wife if she does *nushuz*, and Allah allows her to beat her. This history is related to the verse *nushuz*, that for the women who were feared to do *nushuz*, then advise them, then separated their beds and finally beaten. So, this verse begins with the statement that 'men are leaders for women'. According to al-Jassas, '*qawwam*' is intended as a person who must give a lesson about manners or make it civilized, take care of it, and take care of it. So, God favored men over women, both in their minds, and in the livelihood given to women.

However, according to him, this verse has several meanings. One of them, the superiority of men over women in the home, namely that men as the party who take care and guide the wife. This also means that the husband has the right to hold him at home and forbid him to leave the house, while women or wives must obey and accept all his orders, as long as they are not disobedient. Furthermore, it is required for the husband to provide a living based on the sentence "and because of what is left of his property".⁶

About pious women, according to al-Jassas, that is as indicated by the verse, namely women who obey Allah and their husbands, take care of any property or other things, when their husbands do not exist, also guard themselves.

In connection with his wife's obligation to this husband, al-Jassas also quoted the hadith which means the best of the wife if the husband saw it, he pleased him, if her husband ruled it, he obeyed it, and if the husband left it, he guarded his wealth and himself.⁷

The explanation of al-Jassas about the treatment of the husband when his wife did *nushuz*, based on the verse, is first to 'advise him', which is to remind him to fear Allah and His punishment. Then, 'separate the bed', that is, there are several opinions, namely separating the language or isolating it with words, leaving *jima* 'or not mengululinya, and separate beds. The next, namely "acquisition to hit him", is quoted as related history, namely that if the wife has again obeyed her husband after being separated from his bed, then he should not be beaten.⁸ Likewise also quoted the history which means that 'Fear God for women because all of you have taken them as a trust from Allah and are condemned to your honor (to associate them) with the words of Allah, and for you so that your wives will not do *jima*' with other men who you do not like in your bed, then beat your wives with a blow that does not cause injury, and your wives have the right to sustenance and good clothes'.⁹

Reinterpretation on Nushuz Verses

One verse of the Qur'an which is often considered not to defend women is QS. an-Nisa '(4): 34, which states that men are leaders for women, and legalize beating husbands when wives do *nushuz*. This verse is often used as an excuse to support patriarchal culture, namely that men are leaders for women both in society in general, and in the household.

In Tafsir al-Mizan, it is stated that the words 'rijal' and 'nisa' in the verse are not general in nature, namely male and female. But men and women in their relationships in the household, namely husband and wife. Because in the verse explained also about women who are pious women who guard themselves when their husbands are not there ... and so on, and the actions of men when women do *nushuz*. So, men and women in this context are husbands and wives in their households.¹⁰

² *Ibid.*, p. 76

³ A history from Yunus from Hasan. Imam al-Jassas, *Ahkam al-Qur'an.*, p 266

⁴ A history from Jarir bin Hazm from Hasan. *Ibid.*, p 267.

⁵ *Ibid.*, p 267

⁶ *Ibid.*, p 267

⁷ *Al-riwayah* from Abu Ma'syar from Sa'id al-Maqburi from Abu Hurairah. see *ibid.*, p. 278.

⁸ *Al-riwayah* from Ibnu Abbas. See *ibid.*, p. 268

⁹ Dirwayatkan oleh Ja'far bin Muh'ammad dari ayahnya, dari Jabir bin Abdillah, *ibid.*, p. 268-269.

¹⁰ Sayyid Muhammad Husain at-Tabataba'i, *Al-Mizan fi at-Tafsir*, (Lebanon: al-'Alami, t.t), IV: 343-346

In line with the above opinion, Asghar Ali Engineer also stated that the context of the verse was limited only to households. According to him, normatively, indeed the Al-Qur'an places men in a superior position towards women. However, the Qur'an does not consider or state that social structures are normative. A social structure is uncertain and indeed always changes, and if in a social structure where women support their families, or become male colleagues, women must be equal or even superior to men and play a dominant role in their families as played by men.¹¹

As for the permissibility of beating in the verse, it can be understood based on a special event that caused the decline of the verse (micro nuzul asbabun). Namely, the verse came down after a man wounded his wife, and then his brother took him to the Messenger of Allah, so he ordered to do qisas. In another history, it was explained that there was a man who slapped his wife, and the Prophet ordered to be *qisas*, so that the verse came down.

Based on the sababun nuzul, it can be understood that the verse is indeed in the context of the household, and the beating was allowed at that time to overturn the Prophet's decision about qisas. However, beating in this case should be interpreted to provide lessons, not to hurt the wife.

Regarding beatings to wives, there are prophetic traditions as follows:

اتَّقُوا اللَّهَ فِي النِّسَاءِ فَإِنَّكُمْ أَخَذْتُمُوهُنَّ بِأَمَانَةِ اللَّهِ وَاسْتَحْلَلْتُمْ فُرُوجَهُنَّ بِكَلِمَاتِ اللَّهِ. وَإِنَّ لَكُمْ عَلَيْهِنَّ أَنْ لَا يُؤْيِتْنَ فُرُوسَكُمْ أَحَدًا تَكْرَهُونَهُ فَإِنْ فَعَلْنَ فَأَصْرِبُوهُنَّ ضَرْبًا غَيْرَ مُبْرَحٍ. وَلَهُنَّ عَلَيْكُمْ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ.

Meaning:

'Fear to The God for women because all of you have taken them as a trust from Allah and are condemned to your honor (to associate them) with the words of Allah, and for you so that your wives will not do jima' with other men you do not like in your bed, then beat your wives with blows that do not cause injury, and your wives have the right to good luck and good clothes'

Based on the above hadith, beating is permissible because the wife commits abominable adultery. In Tafsir al-Mizan also stated, relating to the explanation of QS. an-Nisa '(4): 19¹² concerning the prohibition to master that is holding back, narrowing down the steps and restraining. The ban was given an exception, if they did real vile (*fahisyah mubayyinah*). The term 'fahisyah' is usually used in the Qur'an to refer to adultery, while '*mubayyinah*' from the word bayyana, is the same as abana, istabana, tabayyana, which tends to mean proof, so that the heinous act referred to is proven adultery.¹³

Therefore, it is necessary to question the limits of *Nushuz*, so that beatings to wives are permitted. Based on the explanation above, it should not be stated that the wife's *nushuz* against her husband is if the wife commits adultery which is real or proven to the wife to commit adultery.

So far *Nushuz* has only been understood as a disobedience or disobedience of a wife to a husband. The concept of *Nushuz* mentioned above should be reviewed, because of changes in the socio-cultural conditions of the current society. As the wife who came out of her husband's house was considered *nushuz*, at present women are more independent and able to go even work outside the home, so that may not be appropriate anymore.

Even though the act of beating was justified in Islam, when the wife committed *nushuz*, this beating did not mean violence, because the purpose of the beating was not to hurt, but to give lessons. Even in other verses there is an order to associate wives with makruf and prohibition of hurting wives or prohibition to do harm to wives.

The order to associate wives well and the prohibition to do wrong with wives is contained in QS. al-Baqarah (2): 229,¹⁴ and QS. an-Nisa '(4): 19.¹⁵ Even, in Tafsir al-Mizan, it is stated that QS. an-Nisa '(4): 19 concerning the command to associate women well is general, that is in people's lives. This verse comes down in the condition of the Arab community which makes women as inheritance, which can be married without paying dowry, or only to be controlled until he dies and then his property is inherited.¹⁶

It is a tradition that is not good and troublesome for women, so the verse goes down to ban the tradition. Namely, forbid (by using the word 'not halal') to inherit women by force, namely to marry her through inheritance. This prohibition is then confirmed in the next verse, namely an-Nisa '(4): 22¹⁷ (i.e., 'and do not marry the women who have been married by your fathers ...). Then it is followed by a prohibition to master that is holding back, narrowing down the steps and curbing. The ban was given an exception, if they did do *fahisyah mubayyinah*'. The term '*fahisyah*' is commonly used in the Qur'an to refer to *zina* acts, while *ay mubayyinah* 'from the word bayyana, is the same as abana, istabana, tabayyana, which tends to mean proof, so that vile actions are proven adultery. This exception is found in QS. al-Baqarah (2): 229.¹⁸

¹¹ Asghar Ali Engineer, *Islam dan Teologi Pembebasan*, translated by Agung Prihantoro, (Yogyakarta: Pustaka Pelajar, 1999), p. 237.

¹² يا ايها الذين امنوا لا يحل لكم ان ترثوا النساء كرها، ولا تعضلوهن لتذهبن ببعض ما اتيتوهن الا ان ياتين بفاحشة مبينة. و عاشروهن بالمعروف. فان كرهتموهن فعسى ان تکرهوا و يجعل الله فيه خيرا كثيرا

¹³ *Ibid.*, p. 254-255

¹⁴ الطلاق مرتان. فامساک بمعروف او تسريح باحسان

¹⁵ يا ايها الذين امنوا لا يحل لكم ان ترثوا النساء كرها، ولا تعضلوهن لتذهبن ببعض ما اتيتوهن الا ان ياتين بفاحشة مبينة. و عاشروهن بالمعروف. فان كرهتموهن فعسى ان تکرهوا و يجعل الله فيه خيرا كثيرا

¹⁶ Sayyid Muhammad Khan at-Tabataba'i, *Al-Mizan fi Tafsir al-Qur'an*, (Beirut: al-A'lami, t.t), IV: 253-254

¹⁷ و لا تتکحوا ما نکح ابواکم من النساء الا ما قد سلف، انه کان فاحشة و مقنا و ساء سبيلا

¹⁸ *Ibid.*, p. 254-255

The term referred to as 'ma'ruf' is something that is known to humans in their society that no one does not know and or deny it. It has been explained in the Qur'an that all human beings (both male and female) are human unity originating from one origin. They need each other and form a society. Each has specificity, as men are strong and firm, while women are gentle and loving. However, each of them needs each other.¹⁹

As for the community when the verse came down, it was not in accordance with the nature mentioned above. They do not like the presence of women in the community. Women are considered human beings who are less or imperfect, as are children. Women must live forever following men. Then said Allah *fain karihtumuhu ...*²⁰

In addition, the act of beating a husband to a wife which can cause injury as considered as violence against a wife, can be said to be an act of *nushuz* of a husband against a wife as the concept of *Nushuz* above.

Conclusions

From the discussion presented above, it can be concluded that the concept of *Nushuz* in Islamic law does not legalize violence against wives. The beating of the *nushuz* wife contained in QS. an-Nisa '(4): 34²¹ should be interpreted as an action to give lessons, not to hurt or even to do violence, because the beating must not hurt. While the act of a husband who beats a wife to a wound or husband's violence against a wife can be declared a husband's *nushuz* to his wife.

The concept of the *nushuz* wife towards the husband which was formulated by the previous ulama as disobedience of the wife to the husband which included leaving the house without permission and so on, needed to be reviewed. Even based on the hadith that allows a husband to beat his wife who commits adultery, also a verse that allows a husband to restrain his wife (QS. Al-Baqarah (2): 229),²² it can be formulated that the act of *nushuz* wife is only when the wife does a real vile (*fahisyah mubayyinah*) that is adultery.

References

- Engineer, Asghar Ali, *Islam dan Teologi Pembebasan*, translated by Agung Prihantoro, Yogyakarta: Pustaka Pelajar, 1999
- Jassas al-, Imam, *Ahkam al-Qur'an*, Beirut: Al-A'lami, t.t.
- Faqih, Mansour, 'Perkosaan dan Kekerasan Perspektif Analisis Gender', dalam Eko Prasetyo dan Suparman Marzuki (eds.), *Perempuan dalam Wacana Perkosaan*, Yogyakarta: PKBI, 1997.
- Nettler dalam Edgar F. Borgatta and Marie L. Borgatta, *Encyclopedia of sociology*, UN of America: Macmillian Publishing Company, 1992.
- Tabataba'i at-, Sayyid Muhammad Husain, *Al-Mizan fi at-Tafsir*, (Lebanon: al-'Alami, t.t.)
- _____, *Al-Mizan fi Tafsir al-Qur'an*, Beirut: Al-A'lami, t.t.
- Sadlani al-, Shaleh bin Ghanim, *Nushuz, Konflik Suami Isteri dan Penyelesaiannya*, alih bahasa Muhammad Abdul Ghafar, Jakarta: Pustaka al-Kautsar, 1993.
- Mulia, Siti Muzdah, *Muslimah Reformis: Perempuan-perempuan Pembaharu Keagamaan*, Bandung: Mizan, 2005.
- Undang-Undang Republik Indonesia Nomor 23 Tahun 2004 tentang Penghapusan Kekerasan Dalam Rumah Tangga (UU PKDRT).
- Purwodarminto, WJS., *Kamus Besar Bahasa Indonesia*, Jakarta: Balai Pustaka, 1984.
- Hanafi al-, Zainuddin Ibn Najm, *al-Bahr ar-Raiq*, Pakistan:Karachi, t.t.

¹⁹ *Ibid.*, p. 256

²⁰ *Ibid.*, p. 257

²¹ الرجال قوامون على النساء بما فضل الله بعضهم على بعض و بما انفقوا من اموالهم فالصالحات قانتات حافظات للغيب بما حفظ الله. و اللاتي تخافون نشوزهن فعظوهن و اهرجهن في المضاجع واضربوهن. فان اطعنكم فلا تبنوا عليهن سبيلا. ان الله كان عليا كبيرا

²² الطلاق مرتان، فامسك بمعروف او تسريح باحسان