

Reasons to Dissolve a Marriage through *Fasakh*

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Abstract

*There are various forms of dissolution of marriages under The Islamic Family Law. Most of the forms are initiated by a husband or by mutual consent (talaq, zihar, ila', li'an and khul'). The only way a wife can obtain dissolution of marriage without the husband's consent is through the court termination which is called Fasakh. This form particularly at the **instances** of the wife can only be granted on very limited ground which is considerably differed among the mazhab. However, the grounds for the dissolution of marriages at the wife's initiative has developed and expanded into numbers of grounds since reforms in Islamic Family Law began in the 19th century. Therefore, this article attempts to discuss the development particularly when Fasakh is used to solve the problems of husband's cruelty, desertion and maltreatment.*

Background

Basically, a husband has the exclusive power to divorce his wife by way of *Talaq*. This means that a husband can simply say "I divorce/*talaq* you", and the divorce between the husband and the wife will be convicted. In the *Fiqh* (Islamic jurisprudence) discussions, the reasons for allowing husband to say *talaq* are not stated. This means that a husband may divorce his wife with or without a reason. Furthermore, the divorce does not require the intervention of the judge and approved by the wife¹.

However, Islam also entitles a wife to dissolve her marriage through several ways which are *khul'* (divorce by redemption), *ta'liq* (divorce for breach of condition in the marriage contract) and *fasakh*². This means that both the husband and wife are given the rights to dissolve their marriage in various ways.

However, the rights given to a wife to claim the dissolution require specific reasons and supplementary elements such as redemption fees or the dissolution. For instance is *khul'* whereby approval from the husband is necessary and the wife is required to pay a certain amount of money to the husband for the claim. Meanwhile for *ta'liq*, the dissolution is based on the husband's violations of the conditions that have been pronounced. *Fasakh* is where the wife applies for divorce under one of the grounds that have been set by Islamic law.

Thus, it appears that it is difficult for a wife to dissolve a marriage compared to *talaq*. However, reforms onto Islamic family law since the 19th century have given the opportunity to a wife to dissolve her marriage through *fasakh* for various reasons. Therefore, for the purpose of this paper, discussions will be made on the grounds for dissolution of marriage by *fasakh* as provided for in Islamic family law.

***Fasakh* in Islamic Law**

Ibn Manzur in *Lisan al-Arab* stated *fasakh* means cancel (*naqada*) or dissolve (*faraqqqa*)³. If the word *fasakh* is attributed to *nikah* (marriage), it means the termination or dissolution of a marriage on reasons that prevent the continuity of the marriage⁴.

Divorce by way of *fasakh* is not clearly stated in the *Qur'an*. But the principle can be seen in *Surah al-Baqarah*, verse 231 and *al-Nisa'* verse 35. It is completely different from other dissolutions such as *talaq* (*Surah al-Baqarah*, verse 229), *khul'* (*Surah al-Baqarah*, verse 229), *zihar* (*Surah al-Mujadalah*, verses 1-4), *ila'* (*Surah Al-Baqarah*, verse 226) and *li'an* (*Surah al-Nur*, verses 6-9) which were mentioned in the Quran clearly. However, *fasakh* has been accepted as a way to dissolve a marriage based on the principles contained in the *hadith* of the Prophet (peace and blessings be upon him), which stated: (*La darar wa la dirar*).

Dissolution of a marriage by *fasakh* requires intervention by *kadhi* (judge) for reasons that are usually highlighted by a wife. As such, for example, Abu Zahrah uses the term *al-Talaq al-bi Hukm al-Qadl*⁵, while al-Zuhayli calls it *al-Tafriq al-Qada'l*⁶ when they discuss *fasakh*. However, some discuss this issue under the subject *al_Khiyar*⁷.

Although a husband may claim *fasakh* but the husband has the exclusive rights of *talaq*. *Fasakh* claimed by a wife is subjected to the several reasons that have been set by the *Fuqaha* (an expert in fiqh or Islamic jurisprudence). *Fasakh* and *talaq* are different especially in the dissolution effect. *Fasakh* is not restricted to certain obstacles compared to *talaq* which is limited to two (*talaq raj'i*). In other words, a husband and wife that have dissolved their marriage through *fasakh* method could return to the same husband and wife with a new *akad* (marriage contract) and dowry. However, *fasakh* which falls in eternally category such as sibling marriage or milk kindship or apostasy cannot be reverted⁸. *Fasakh* that falls into these categories do not need a judge's intervention⁹.

In Islamic law, matters that allow *fasakh* are different from one *mazhab* (sect) to another. In the *Hanafi* sect, a wife can apply to dissolve her marriage through *fasakh* only when she can prove to the Court that her husband is incapable of consummating the marriage. Marghinani in *al-Hidayah* stated only three diseases which are sexual impotence, penis decapitation and the disconnection of the two testicles¹⁰. This means that in the *Hanafi* sect, a wife may not request *fasakh* for other than the stated reasons even if the husband has vitiligo or leprosy.

If a wife was married at a young age (before puberty) by her *wali mujbir*, she has the right to seek *fasakh* upon reaching puberty. This *fasakh* is known as *khiyar al-bulugh* (option of puberty). However, *fasakh* because of *khiyar al-bulugh* is not allowed by the *Shafi'i* and *Maliki* sects¹¹.

The concept of husband with disease according to the *Maliki*, *Shafi'i* and *Hanbali* sects is relatively wide as it includes all diseases such as leprosy and vitiligo. Their principle in this matter is if the embarrassment or illness suffered by the husband affect the relationship between the husband and wife, or can be transmitted to the wife and the fetus, then the wife may apply for *fasakh*¹².

Apart from the reasons above, the inability of the husband to pay for provision (*nafkah*), missing or imprisoned are also accepted by the *Maliki*, *Shafi'i* and *Hanbali* as grounds for claiming *fasakh*. However, the *Maliki* and *Hanbali* sects have added one more reason to apply for *fasakh* which is occurrence of harm in the marriage. Harm being meant here refers to five items which are harmful to the religion, self, race, wealth, and *aqal* (dignity)¹⁴. This situation occurs when there is conflict in the

marriage. Therefore, Mustafa al-Siba'i mentioned the dissolution of marriage because of disagreement as *al-tafriq li al-syiqaq*¹⁵. This means that in the event of abuse and maltreatment to the wife, the situation can be a ground for dissolution of her marriage by *fasakh*. With such provisions by the *Maliki* sect, problems of abuse that occur in today's society can be solved.

Family Law Reform

The principles of the *Hanafi* sect, especially in marriage dissolution problem, seem to have dominated and become the authorities' view of the Turkish Ottoman Government. Exceptions to this principle of the Hanafi sect, however, only apply to those who are not from the Hanafi sect. For instance, the principle of *Shafi'i* sect will be applied to *Shafi'i* litigants or they will resolve themselves without bringing the matter to a formal Court¹⁶. As such, a wife who is a follower of the *Hanafi* sect cannot apply for *Fasakh* for reasons other than husband's defects. This means that if a wife is being abused by her husband, there is no way out of the marriage for her.

There are several writings in this magazine by Anderson, Carroll and Ahmad Ibrahim which stated the *Hanafi* principles as "... rigid and retrogressive than any those of any other schools", "... the *Hanafi* Law is the most restrictive ..." and "The *Hanafis* are more rigid than even the dominant *Shafi'i* opinion¹⁷.

Therefore in 1915, the Turkish Ottoman Government's first step was to reform the family law, and amongst the highlighted issues was to provide authority in dissolution of marriage through *fasakh*, if there is harmfulness in a marriage, based on the *Maliki* sect that adheres to *takhayyur* methods.

Subsequently, a few laws were enacted to include harmful reasons in a wife's claim for *fasakh*. This can be seen in Egypt Family Law (Section 6-11, No.29/1929), Tunisia (S.32, No.7/1981), Morocco (S.56), Jordan (S.132) and Kuwait (S.126-135)¹⁵. The same enactment also exists in the states of Indo-Pakistan subcontinent. For example, in Section 2, Dissolution of Islamic Marriage Act 1939 has listed 9 reasons that can be used by a wife to dissolve her marriage. This means that for wives in India, Pakistan and Bangladesh, this Act is a relief to them.

Hodkinson called “The Act represents a radical enhancement of dissolution of her rights of dissolution...”¹⁹. The drafting of the 1939 Act in India, which was taken from the *Maliki* sect, received support from the scholars. This is because prior to the drafting of the 1939 Act, wives who were trapped in a marriage that is not peaceful and harmony, will commit apostasy as a way out of their marriage²⁰. While in Pakistan and Bangladesh, the 1939 Act was amended by Law Ordinance - Islamic Family 1961 with additional reasons. In Section 13 (a) Ordinance 1961, a polygamous husband would be breaching the Ordinance 1961 if approval from “Arbitration Council” is not obtained.

***Fasakh* Provisions in Malaysia**

Provision of *fasakh*, is not new. In Clause 27, the Law Code of Malacca, the reasons for dissolution of marriage through *fasakh* was allocated as follows:

“Clause of the twenty-seventh states that *khiyar* can take place in women and men for these five reasons. Firstly, insanity (and) leprosy, second is vitiligo, third is *'aib ratak* (irregular growth of additional flesh), fourth is *'aib karan* (irregular growth of additional bone) and fifth is incompetent (and) erectile dysfunction, as such it is illegal to marry such persons.

If a man is married to a woman with such disease and later found out about it, therefore the marriage is dissolved, which is *fasakh*, and the man does not need to provide for the woman. If the husband is suffering from a disease as such, then it is *fasakh* too. If the husband refuses to divorce his wife, and the wife reports this to the judge, eventually they will divorce.

If the husband is suffering from erectile dysfunction, the judge will ask him to seek treatment with a physician, and then wait for a year. If he is not cured within a year, then the marriage is considered as *fasakh*.

If the husband or the wife has leprosy and insanity but the partner (either the husband or the wife) is abated with the disease, the judge will not perform *fasakh* since both parties agree to be with such a partner. There is no *khiyar* (cancel of contract) and the vow is valid.

If a wife gets a disease from her husband, the wife may claim for *fasakh*. Similarly, if a husband gets a disease from his wife, the husband may claim for *fasakh*. It is *khiyar* rule for every wedding. Such is the law.”

It appears that the reasons for dissolution of marriage by *fasakh* were specified in the Malacca Code of Law. The reasons were in relation to deformities of the husband or the wife. This suits the principles in the *Shafi'i* sect²¹. With the provision of *fasakh* in the Malacca Code of Law, it can be said that the Malays in that era have dissolved their marriages using *fasakh* according to the *Shafi'i* sect. For Ismail Hamid, the Malacca Code of Law was a rule that described the patterns and developments experienced by the old Malay society²².

This fact is recognised by Alwi Sheikh al-Hadi, who mentioned briefly about *fasakh* when he discussed the marriage of a divorcee in a Malay custom²³. Notwithstanding, for Wilkinson, the Malacca Code of Law is just an old Malay digest rather than code of law that has impact upon those who break them²⁴.

While in Mohammedan Marriage Ordinance 1880²⁵, *fasakh* is not directly allocated as well as the reasons, but it was mentioned in S.10, Ordinance 1880 “... if the entry by a divorce, other than the kind known of *Khul* ...”. This is an indication of *fasakh*. However, in the amendment of 1908, Section 19 (I), the word *fasakh* was clearly mentioned, but there were still no grounds of the dissolution.

“A kathi shall have power to receive from a married woman who has either been resident for at least four months in the district within which he is appointed or for whose nationality or sect he is specially appointed, an application for the divorce known in Muhammadan Law as fasakh”.

Although there is no reason allocated to apply for *fasakh*, for E.N. Taylor, since the majority of Muslims in Malaya follow the *Shafi'i* sect, the principle of the *Shafi'i* sect automatically applies²⁶.

Similarly, the situation occurs in the Islamic Administration Enactment for all states. For example, Section 123, Kedah Islamic Administration Enactment 1962, only provides matters of registration and administration when a wife applies for *fasakh*.

The grounds for dissolution of marriage by *fasakh* have been increasingly developed and structured. This is due to the fact that Malaysia is not left behind in making reformation of Family Law just like the other Muslim countries. Even more, the formulation and enforcement are pressured by a number of Muslim Women groups who wish the status of women by law, which relates to family law, to be improved²⁷.

All family law that has been enacted since 1983 recognises that a wife may apply for *fasakh* in Court based on one or several reasons that have been listed and provided in Islamic Family Law in every state. In Perak, the reasons listed as provided in Section 49, Perak Islamic Family Law Enactment, No. 13, 1984,

- a) That the husband is impotent, and remains so within a year after a complaint is made,
- b) That the husband is insane or is suffering from leprosy or vitiligo or is suffering from a venereal disease which can be transmitted and there is no clear fact that shows the willingness with the disease,
- c) That the wife's agreement to the marriage was given in void whether due to coercion, mistake while in the state of mentally impaired or other reasons according to Islamic law,
- d) That at the time of the marriage, the husband is suffering from brain illness (either continuously or intermittently) in the sense of Brain Illness Ordinance 1952 of the type or extent that makes him unfit for marriage,
- e) Any other grounds that have been recognised as valid reasons for the dissolution of marriage or *fasakh* under Islamic law.

The Kelantan Islamic Family Law Enactment No. 1, 1983, Section 38 provides, besides as Law No.13/1984 (Perak), it also provides the grounds that if the wife has been given in marriage by her father or grandfather before she reaches puberty age, according to Islamic Law, she may reject the marriage upon reaching the age of 18. Additions to the three other reasons as provided in Section 44 of Kedah Islamic Family Law Enactment, No. 1 / 1984 are:

- a) That the husband, due to poverty, is unable to support the wife,
- b) That the wife has a deformity that prevents intercourse,

- c) That the husband has an unusual penis size.

However, the states of Terengganu, Penang, the Federal Territory, Negeri Sembilan and Selangor²⁸ have provided broader reasons such as:

- a) The whereabouts of the husband is not known during a period more than one year,
- b) That the husband has neglected or failed to provide *nafkah* for a period of three years,
- c) That the husband is sentenced to prison for three years or more,
- d) That the husband has failed to perform, without reasonable cause, obligations of marriage (conjugal rights) for a period of one year,
- e) That the husband abuses his wife, among others:
 - i) Habitually assaults the wife or makes her life miserable by use of abusive behaviour, or
 - ii) Befriends immoral women or lives in despicable behaviour as perceived by Islamic law, or
 - iii) Tries to force the wife to lead an obscenely life, or
 - iv) Eliminates the wife's properties or prohibits the wife from using her lawful rights towards her properties, or
 - v) Prevents the wife from carrying out her duties or religious practices, or
 - vi) If the husband has more than one wife, he does not treat the wife equally in accordance with the requirements of Islamic Law.
- f) That despite four months of marriage, the couple has not had sexual intercourse because the husband refuses to copulate with his wife,
- g) Any other reasons recognised as valid for the dissolution of marriage or *fasakh* under the Islamic Law.

With the listed reasons, it is easier for a wife to seek for *fasakh* especially when there are provisions, and any other reasons ... “which are considered legitimate and reasonable”.

Fasakh due to Domestic Violence

Abuse and torture committed by a husband onto his wife is not a new phenomenon in Malaysia. Statistics show that such cases increase from year to year. Looking from the ethnic group point of view, the Malays are top-ranked, followed by the Chinese, Indians and others²⁹. The biggest cause of domestic violence is lack of understanding in a marriage. In other words, conflicts have already existed in the marriage.

Walter gives the definition of violence as any form of act that brings danger, not only in physical form but through other methods or techniques which can cause mental and emotional disorder to the victim³⁰. Based on this definition, anything that can result in danger to the victim is a form of violence. Not only that, any acts which restrict and deny the rights and freedom of any person are also regarded as violence³¹. This means that if a person purposely neglects to provide *nafkah* and such, then this act is also considered as violence. Therefore, violence occurs when the rights of individuals in a household have been violated, abused and hurt whether in the form of physical, emotional and sexual.

In Malaysia, there are serious cases of violence that have been reported such as stabbed until intestines protruded out, kicked which resulted in miscarriage, punched, poured with hot water, slashed with a sharp weapon and so forth. In such circumstances, the wife has the right to dissolve the marriage by *fasakh* as provided in Section 52, Islamic Family Act Law 1984.

In the case of Hairun bt. Mohd Shariff Mohd vs. Omar Mohd Noor³², the Klang Syariah Court rejected *fasakh* as the judge believed that “twice hit” by the husband is yet to be defined as a “common injury” under the Selangor Islamic Family Law Enactment. However, an appeal was submitted and the Appeal Committee believed that the judge had mistakenly interpreted the meaning of “common injury”. They also believed that “if a marriage appears to have failed and the holy purposes and goals are not achieved, and in contrary it created harm, hardship, suffering, argument, hitting, insults and prolonged fights, then they should part fairly and considerately, as the final solution”. Therefore, the Appeal Committee believed that the physical attack by the husband is in accordance to the Selangor Family Enactment and eventually the wife’s application for *fasakh* is allowed.

Similarly, in the case of Rosilah Abu Kassim vs. Abdul Rahman Ibrahim³³ whereby the appellant (the wife) applied for *fasakh* because the husband failed to provide *nafkah* and threatened to kill or injure the wife if she makes a complaint to the *kadhi's* office. After listening to the arguments, the Court ordered the formation of a peace committee. However, the report by the committee stated that the couple failed to reconcile and recommended the normal *talaq* (divorce) or *khulu'*. The judge rejected the *fasakh* applied by the wife as she failed to prove one of the provisions in Section 52, Negeri Sembilan Islamic Family Law Enactment 1983.

However, the Second Hearing Committee decided that "it appears that there is a powerful reason to use Section 52(h)(i) which reads ...giving regular hurt or make one's life miserable caused by abusive behaviour... and part 1, which reads ...any other reasons recognised as valid for dissolution of marriage or for *fasakh* under the Islamic Law". Thus, the Second Hearing Committee decided to carry out the usual divorce according to the procedure in Section 47 (1) Enactment 1983.

In two cases that occurred in India, Umar Bibi vs. Mohammad Din and Sayeeda vs. Muhamntad Sami³⁵, the Lahore High Court rejected decisions made by the Lower Court. In both cases, the wives sought to dissolve their marriage under Section 2 (ix) of the Dissolution of Muslim Marriages Act 1939 as they no longer have understanding and harmony in their marriages. The wife in second case, however, could not prove that she was abused by her husband. Therefore, the District Judge dismissed the application for dissolution of her marriage. Looking at these two cases, Carroll believes that although the law has provided a list of reasons for a wife to dissolve her marriage, but in reality, it is difficult for the Court to allow the wife's application³⁶.

This can be seen in the case of Mohamed Habibullah bin Mahmood vs. Faridah binti Dato 'Talib³⁷, whereby the wife claimed that she was assaulted and attacked by her husband. Consequently, the wife sought the dissolution of the marriage through the Court. However, the case dealt with the Court's jurisdiction in discussing this case while the husband still assaults his wife continuously. As such, the wife decided to leave Islam (commits apostasy). This decision was to avoid continuous attacks by the husband and to dissolve the marriage if the Court could not decide on the case.

Conclusion

With provisions taken from the principles of the *Maliki* sect, wives who are not happy with their marriages, especially due to abuse will be resolved. However, if seen from the definition stated earlier in this text in relation to the concept of violence, this means any provisions that may reflect the existence of abuse and persecution will bring meaning as “abuse”. It does not matter whether the husband fails to provide *nafkah*, missing husband, the husband degraded the wife’s dignity or others, as those can be meant as an abuse and persecution.

In other words, such matters may cause harm to the marriage, especially if the wife becomes the victim. Section 2 Islamic Family Law Act (Federal Territories) 1984 provides what is meant as “*darar syarie*” which is causing harm to the wife based on what is normally recognised by Islamic Law such as aspects of religion, life, body, mind, moral or property. These matters can be seen in Section 52 of the Islamic Family Law 1984 which has outlined the reasons to dissolve a marriage through *fasakh*.

The grounds can be grouped into four main aspects: due to the disgrace and defect of the husband, the husband’s imprisonment or missing, *dharar* (harm) onto the wife and the husband’s failure to provide *nafkah*. The four aspects are said to be included in the the definition by al-Shatibiy and Walter as physical, mental and emotional abuse. Unfortunately, even though the law has provided for *fasakh*, there were only three *fasakh* cases in 1995 compared to *khlu’*. According to Associate Professor Redzuan Awang, this occurred because the process of *fasakh* in Court takes more time compared to *ta’liq* and *khlu’*³⁸. However, Sulaiman Endut stated that “ignorance on the rights as a woman caused many women to be oppressed, deceived, deserted and abandoned but not divorced by the husband”³⁹. So, does this mean that the wives do not know the function of *fasakh* to dissolve their marriage or is it because the process is truly complicated!

Footnote

1. Ali al-Khafif, *Furaqal-Ziwajfi al-Madhahib al-Islamiyyah*, 1957, 10 Abu Zuhrah, *al-Ahwal al-Syakhsiyyah*, 1957, Dar al-Arabiyy, 277 and al-Zuhayli, Wahbah, *al-Fiqh al-Islamiyy wa Adillatuhu*, 1989, Juz: 7, Dar al-Fikr, 347
2. Syekh Muhammad bin Umar 'Utayni, *Huquq al Mar'ah fi al-ziwaj*, t.t., Dar l'tisam, 303
3. Ibn MAnzur, *Lisan al-Arab*, 1994, juz:3, Dar al-Fikr, 45
4. Khallaf, Abdul Wahab, *Ahkam al-Ahwal al-Syaksiyyah fi al-Shariati al-Islamiyyah*, 1990, Dar al-Qalam: Kuwait, 160.
5. Abu Zqhrah, *op.cit*, 347.
6. al-Zuhayli, *opcit*, 509.
7. See as example in al-Nawawi, *Minhaj al-Talibin*, al-Haramain, 85 and Abu Shuja', *al-Iqna*, juz;2, 129.
8. *Ibid*
9. Khallaf, Abdul Wahab, *op.cit*, 167
10. al-Marghinani, *al-Hidayah*, t.t. juz:1, 26
11. Ali Khafif, *op.cit*, 319.
12. Example statement in Ibn Qudamah, *al-Mughni*, 585, juz: 7 see also in Taj, Abdul Rahman.
13. Taj, Abdul Rahman, *al-Syariah al-Islamiyyah fi al-Ahwal al-Shakhsiyyah*, 1952, Dar al-Ta'lif, 367-378; Abdul Kadir Muhammad, "fasakh kerana ketidak mampuan memberi nafkah dan kecacatan suami" in *Monograf Syariah*, 2, May 1994, 107.
14. Abu Ishaq al-Syatibi, *al-Muafaqat fi Usul al-Shariah*, juz. 4, 28-30.
15. Dr. Mustafa al-Sibai'e, *al-Mar'ah baina al-Fiqh wa al-Qanun*, 1962, al-Maktabah al-Islamiyy: Damsyik, 144.
16. See Anderson, "Recent Developments in Shariah Law V" in *The Muslim World*, Vol:XLI, 271.
17. J.N.D. Anderson, ""Recent Developments in Shariah Law V" in *The Muslim World*, Vol:XLI, 271 Lucy Carroll, "Qur'an 2:229, A Charter granted to the wife, judicial Khulu' in Pakistan" in *Islamic Law and Society*, vol: 3, No.1, 1996, 91 and Ahmad Ibrahim. "Fasakh for failure to maintain" in *Journal of Malaysian and Comparative Law*, 1970, 329.
18. For further information and additional allocation for that sections see J.J. Nasir, *The Islamic Law of Personal Status*, 1990, London & Trotman, 125-141.
19. Hodgkinson, K., *Muslim Family Law, A Sourcebook*, 1984, Croom Helm: London, 224.
20. Lucy Carroll, "Muslim Women and Judicial Divorce: An Apparently Misunderstood Aspect of Muslim Law" in *Islamic & Comparative Law Quarterly*, 1988, vol: 5, 226.
21. G.W.J.Drewes, On a recent Edition of the Undang-undang Melaka" in *JMBRAS*, vol:LIII,

- Part 1, 1980, 40.
22. Ismail Hamid, *Masyarakat dan Budaya Melayu*, 1991 DBP: KL.
 23. Alwi Sheikh al-Hady, *Malay Customs and Traditions, 1962*, Eastern Universities Press, Singapore, 49.
 24. R.J. Wilkinson, "Law, Introduction Sketch" in *Papers on Malay Subject*, 1922, 3.
 25. An Ordinan which allocates on registration, the dissociation and effect to property and also kadhi's appointment. This ordinance used for Muslims that reside in Selat's states.
 26. See in E.N. Taylor, "Mohammedan Divorce by Khulu" in *JMBRAS*, vol. Xxi, Pt.2, 6, see also in case Rokiah vs. Abu Bakar in *Ibid*, 10.
 27. See Ahilemah Joned, "Keupayaan dan Hak Wanita untuk Berkahwin: Indah Khabar Dari Rupa" in *Makalah Undang-undang Menghormati Ahmad Ibrahim*, DBP: KL, 1988, 2.
 28. Sek. 49 Enakmen Undang-Undang Pentadbiran Keluarga Islam Terengganu, 1985; Sek. 52 Enakmen Undang-Undang Keluarga Islam Pulau Pinang, Bil 2/1985; Sek. 52, Akta Undang-Undang Keluarga Islam Wilayah Persekutuan, 1984; Sek.52, Enakmen Undang-Undang Keluarga Islam Negeri Sembilan, 1983 and Sek.52 Enakmen Undang-Undang Keluarga Islam Selangor, 1984.
 29. Utusan Malaysia, 19.8.1996, 21.
 30. See in Freeman, M.D.A. *Violence in the Family, Saxon House: England*, (1979), 1.
 31. Wallace, H, *Family Violence, Legal, Medical and Social Perspective*, 1996, Allyn Bacon: U.S.A., 2.
 32. Code, *Jurnal Undang-Undang Malaysia*, (1993), 163.
 33. (1991) 8 JH 249
 34. ILR (25, Lahore) 1944, 542
 35. PLD, 1952, Lahore, 113
 36. Lucy Carroll, "Quran 2; 229: A Charter granted to the wife? Judicial Khulu' in Pakistan" in *Islamic Law and Society*, 1996, vol: 3, No.1 , 90.
 37. See in Code: *Jurnal Undang-Undang Malaysia*, 1993, (1) 79.
 38. See *Dakwah* 1996, Vol 226, 14-15.
 39. *Utusan Malaysia*, 9.9.1996.