

Dissolution of Marriage on the Ground of Cruelty: A Comparative Overview of *Fasakh* and Irretrievable Breakdown of Marriage Principles

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Abstract: In Islam, if a husband treats his wife with cruelty either physically or mentally, she has the right to apply to the court for the marriage to be dissolved on the ground of *fasakh*. In Malaysia, the practice is that the Syariah (In Malay language, *Shari'ah* is known as Syariah) Court asks the wife to provide sufficient evidence to prove her claim, failure of which the application for *fasakh* will be set aside. In some cases, a Syariah Court demands a high standard of proof of the act of cruelty by the husband such as the requirement of two male witnesses, who have witnessed such act. This has caused difficulty to the wife, as it is practically hard to fulfil this requirement. Whilst, under section 54 (1) (b) of the Law Reform (Marriage & Divorce) Act, 1976, the plaintiff may petition for divorce on the ground that the respondent has behaved in such a way that the plaintiff cannot be reasonably be expected to live with the respondent. The act of cruelty of the respondent either physically or mentally is more than adequate to the term behaviour as stated under the present divorce law. In the case of irretrievable breakdown of marriage, both the objective and subjective tests have been used by the courts to decide whether or not the plaintiff can reasonably be expected to live with the respondent as a consequence of the respondent's behaviour, including, cruelty. If it is proven, then the court will grant the application for divorce. This article examines the above issues relating to the methods of proof and evidentiary requirement in cruelty cases. Relevant legal provisions as provided under the Malaysian laws i.e., the LRA 1976 and the Islamic Family Law Act/Enactments and the practice of the Malaysian courts relating to this issue are also examined. Decisions of the Syariah and Civil Courts on cruelty in divorce cases are analysed to highlight the practice in Malaysia.

Key words: Islamic Law, Family Law, Syariah Court, Malaysia

INTRODUCTION

In most countries in the world including Malaysia, cruelty whether in the form of physical or mental torture, has become one of the most common grounds for divorce. However, this ground often results in a contested divorce case and the burden of proof of cruelty is on the petitioner. In order to establish cruelty under the old law, the petitioner had to show that the respondent's conduct was such as to pose a danger to the petitioner's life, limb, or health, bodily or mental state or to give rise to a reasonable apprehension of such danger. However, under the present law such grave and weighty misbehaviour is no longer required. In Malaysia, by virtue of the Law Reform (Marriage and Divorce) Act 1976 (Act 164) (LRA 1976), particularly for the non-Muslims in Malaysia, the act of cruelty now falls under the ground that the marriage has irretrievably broken down. The requirement is less strict where the petitioner is to prove that the respondent has behaved in a manner that the petitioner cannot reasonably be expected to live with the respondent. As for the Muslims, the parties can dissolve their marriage by way of *fasakh* on the ground of cruelty affecting her whether physically; mentally; emotionally; on her property; her religious obligation and practice or even not being just if he practices polygamous marriage. (Section 52 (1) (h) (i) – (vi) of Islamic Family Law (Federal Territories) Act, 1984). Hence, this article discusses the law and practice of cruelty as the ground for divorce. The method of proof and the evidentiary requirement in the adjudication of cases of cruelty and the unreasonable behaviour are also discussed.

Dissolution Of Marriage Under Lra 1976:

Currently, the law governing divorce for the non-Muslims is the Law Reform (Marriage and Divorce) Act, 1976 (Act 164), which came into force on 1 March 1982. The coming of this Act has repealed the Divorce Ordinance, 1952 where divorce was no longer grounded on the fault-based principle. As such, the present law introduces the objectives of the modern law of divorce that is to uphold and support marriages and to allow a

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dead marriage to be ended as painless as possible, where the law should not make the divorce so easily obtainable that spouses have no incentive to work out their difficulties. Most importantly, the new law ensures that the marriage should be dissolved with the minimum bitterness, distress and humiliation (Cretney, 1984). Under the LRA 1976, besides divorce within two years of marriage or by conversion or by mutual consent, parties can also petition for divorce under irretrievable breakdown of marriage. With the new law, cruelty is now petitioned under para (b) of section 54 (1) namely that the respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent.

Divorce by Way of Irretrievable Breakdown of Marriage (IBM):

In order to petition for divorce under IBM, either party must at the first instance prove that the marriage has irretrievably broken down and the court upon hearing such petition shall, so far as it reasonably can, inquire into the facts alleged as leading to the breakdown of the marriage and if satisfied that the circumstances make it just and reasonable to do so, make a decree for its dissolution. In considering whether it would be just and reasonable, the court shall consider all the circumstances including the conduct of the parties and how the interests of any child or children of the marriage or of either party may be affected if the marriage is dissolved. It appears that the court must be satisfied that both the limbs of subsection (2) of section 53 are satisfied and failure to satisfy either of them will not be sufficient for the court to act (Mimi Kamariah, 2000).

Meanwhile, the proof of breakdown of marriage is provided under section 54 (1) of the LRA 1976 namely: adultery of the other spouse; unreasonable behaviour of the other spouse that the petitioner cannot reasonably be expected to live with the respondent; desertion by the other spouse after two continuous years and separation with consent after two continuous years. For the purpose of this article, only para (b) will be discussed i.e., the unreasonable behaviour as a ground for divorce.

As mentioned earlier, cruelty is no longer one of the grounds of divorce in Malaysia. However, it has been included as one of the facts evidencing the breakdown of marriage under LRA 1976. Cruelty relates more to the extreme misbehaviour physically or mentally of the respondent towards the petitioner such as domestic violence, mental or verbal abuse, etc. Nonetheless, with the present law, mild misbehaviours such as, the respondent being workaholic, spending extravagantly, internet-related obsessions, rejection of sexual relationship with the petitioner, lack of help around the home or with the care of children, lack of emotional support, refusal to socialize with the petitioner or his or her friends or family and so forth can be difficult if one were to allege such behaviour as unreasonable. If violence or cruelty is the issue then it is very easy, but in many cases, it is a question of proving the effect such behaviour has on the petitioner, which is a question of fact depending on the case before the court.

Methods of Proving Unreasonable Behaviour:

Behaviour may be defined as something that is more than a mere state of affairs or state of mind. Behaviour must be an action or conduct by one party that will affect the other. As such, behaviour may take the form of an act or omission, or maybe a course of conduct and it must have some reference to the marriage. Therefore, when reference is made to an unreasonable behaviour, the question that needs to be answered is whether the behaviour of the respondent is unreasonable, or whether the petitioner can reasonably be expected to continue living with his/her spouse of such a character.

In deciding this question, the court is not concerned as to the unreasonableness of the respondent's behaviour but the test is as to whether it is reasonable for the petitioner to continue living with his/her spouse (Tan Cheng Han, 1994). This test is known as the objective test or the 'reasonable man' test where the judge must put himself in the position of the petitioner and asks himself whether such a person with his/her personality and attributes, can reasonably be expected to live with the respondent in the light of the respondent's conduct. The court must consider the effect of the behaviour on the particular petitioner, and ask the question, whether it is established? It should not be that she is tired of the respondent, but she cannot reasonably be expected to live with him. However, in certain cases, the court will not only apply the objective test but also apply the subjective test. In the English case of *O'neill v. O'neil* [1975] All ER 289, Cairns LJ in his decision stated that the word 'reasonably be expected' *prima facie* did suggest an objective test. However, in considering what is reasonable, the court will have regard to the history of the marriage and the individual spouses before it. And from that point of view, it will have regard to what that particular petitioner, and to what that particular respondent, has in assessing what is reasonable.

From the application of the test in determining unreasonable behaviour, the requirement of 'behaviour' is less strict and accordingly, much of the old law on cruelty, which provides for the mandatory proof of grave and weighty misconduct, is irrelevant. The conduct, which under the old law would have constituted cruelty, is likely to satisfy the requirement of behaviour, which the petitioner cannot reasonably be expected to endure (Tan Cheng Han, 1994). For example, in the case of *Wong Siew Fong v. Wong Siew Fong*, [1964] 30 MLJ 37, it was held that there was such conduct amounting to cruelty where the wife persistently nagged the husband with the result that his health deteriorated and where he had assaulted the wife.

However, in the case of *Hariram Jayaram v. Saraswathy Rajahram* [1990] 1MLJ 114, the new ground of unreasonable behaviour under IBM was applied where the learned judge concluded that the respondent wife had not shown herself to be of such a character and personality as to understand her husband's problem, and her behaviour had not been such that his Lordship could conclude that the husband could reasonably be expected to live with her.

In contrast with the case of *Bhanu Sekaramani v. Nagamma* [1991] 3 MLJ 34, his Lordship in this case has decided against the husband's complaint of her wife's misconduct as they were trivial. The husband had wanted the divorce not because of misbehaviour on the part of the wife, but because he was tired and bored of her and desired his freedom. His petition was dismissed as he had failed to prove that the marriage has irretrievably broken down. Similarly, in the case of *Dowden v. Dowden*, [1978] 8 Fam Law 143, CA, the wife petitioned for divorce on the grounds of the husband's behaviour, where he was reported to be disinterested in sex and their physical sex was brief and occurred only about once a month. The judge refused a decree and the Court of Appeal agreed that a low sex drive cannot in itself be regarded as unreasonable behaviour. Therefore, it is submitted that the more trivial the conduct complained about, the more difficult it would be to satisfy a judge as in a case.

Dissolution Of Marriage By Fasakh:

Islam provides ways on how the marriage may be terminated. One of it is where the wife applies to the court to annul the marriage based on certain reasons. This dissolution of marriage is known as *fasakh*. *Fasakh* may be defined as the dissolution or rescission of marriage contract by judicial decree. The permissibility of this type of dissolution can be inferred from the Qur'an where Allah (s.w.t.) says:

"The parties should either hold together on equitable terms or separate with kindness" (Al-Qur'an, al-Baqarah 2:229)

In another verse, Allah (s.w.t.) says;

Take them back on equitable terms or set them free on equitable terms; but do not take them back to injure them or to take undue advantage; if anyone does that, he wrongs his own soul. Do not treat Allah's sign as a jest, but solemnly rehearse Allah's favours on you, and the fact that He sent down to you the Book and Wisdom, for your instruction. And fear Allah, and know that Allah is well acquainted with all things. (Al-Qur'an, al-Baqarah 2:231)

The reference to arbitration (*tahkim*) and the role of *hakam* (arbitrator) in cases of disputes or breach between husband and wife is relevant with regard to judicial dissolution of marriage. In the Quran, Allah (s.w.t.) says;

If you fear a breach between them twain, appoint (two) arbiters, one from his family and the other from hers; if they wish for peace, Allah will cause their reconciliation: For Allah has full knowledge and is acquainted with all things. (Al-Qur'an, al-Nisa' 4:35)

If the wife fears cruelty or desertion on her husband's part, the Quran allows for an amicable arrangement between them:

If a wife fears cruelty or desertion on her husband's part, there is no blame on them if they arrange an amicable settlement between themselves. (Al-Qur'an, al-Nisa' 4:128)

In Islam, there are various opinions among the schools of law as regard the power of the court to order dissolution of marriage. According to Shafi'i School, *fasakh* is allowed on the grounds of the husband's defect and becoming insolvent that could no longer give the minimum maintenance prescribed, but there can be no dissolution of marriage where the husband has means, even if no news can be obtained from him and no maintenance procured from his property (al-Syarbini, n.d.). *Fasakh* (by the husband) is also similarly allowed as a result of the wife's defects, but as the husband has the right of *talaq*, an application of *fasakh* by him is rare (al-Nawawi, n.d.). The Hanafi scholars opine that the wife has no right to seek the annulment of marriage on the basis of the fact that her husband has oppressed her through beating and not being fair in treatment between her and her fellow wife/wives. However, she can complain to the judge, who on having cogent proof, can impeach the husband, give him advice, and command him to treat her fairly (al-Jaziri, 2001; Kharofa, 2004). The opinion of the majority of Maliki scholars is that if the husband mistreats his wife and hurts her persistently, she can complain to the judge. If she can prove her claim before the judge, and seeks for separation, the judge can order divorce (al-Jaziri, 2001; Kharofa, 2004). The opinion of Maliki scholars has been incorporated into the law of many Muslim countries such as Egypt, Syria, Tunisia, Morocco, Iraq, Jordan, Algeria and Kuwait (Nasir, 1990).

Fasakh under the Islamic Family Law in Malaysia:

In Malaysia, the law that governs the marriage and divorce of Muslims is the Islamic Family Law Act/Enactment of every State. It is observed that the respective laws of the states recognize dissolution of marriage by judicial decree.

For example, section 52 (1) of the Islamic Family Law (Federal Territories) Act 1984 provides twelve grounds upon which a woman married according to *Hukum Syara'* (Islamic law) shall be entitled to obtain an order for the dissolution of marriage through *fasakh*. The grounds provided by the section are:

- (a) That the whereabouts of the husband have not been known for a period of more than one year;
- (b) That the husband has neglected or failed to provide for her maintenance for a period of three months;
- (c) That the husband has been sentenced to imprisonment for a period of three years or more;
- (d) That the husband has failed to perform, without reasonable cause, his marital obligations (*nafkah batin*) for a period of one year;
- (e) That the husband was impotent at the time of marriage and remains so and she was not aware at the time of the marriage that he was impotent;
- (f) That the husband has been insane for a period of two years or is suffering from leprosy or vitiligo or is suffering from a venereal disease in a communicable form,
- (g) That she, having been given in marriage by her father or grandfather before she attained the age of sixteen years, repudiated the marriage before attaining the age of eighteen years; the marriage not having been consummated;
- (h) That the husband treats her with cruelty, that is to say, inter alia-
 - (i) Habitually assaults her or makes her life miserable by cruelty of conduct; or
 - (ii) Associates with women of evil repute or leads what, according to *Hukum Syara'*, is an infamous life; or
 - (iii) Attempt to force her to lead an immoral life; or
 - (iv) Disposed of her property or prevents her from exercising her legal rights over it; or
 - (v) Obstruct her in the observance of her religious obligation or practice; or
 - (vi) If he has more wives than one, does not treat her equitably in accordance with the requirements of *Hukum Syara'*.
- (i) That even after the lapse of four months the marriage has still not been consummated owing to the willful refusal of the husband to consummate it;
- (j) That she did not consent to the marriage or her consent was not valid, whether in consequence of duress, mistake, unsoundness of mind, or any other circumstance recognized by *Hukum Syara'*;
- (k) That at the time of the marriage, she, though capable of giving consent, was, whether continuously or intermittently, a mentally disordered person within the meaning of the Mental Disorders Ordinance 1952 and her mental disorder was such of a kind or to such an extent as to render her unfit for marriage;
- (l) Any other ground that is recognized as valid for dissolution of marriages or *fasakh* under *Hukum Syara'*. (Islamic Family Law (Federal Territories) Act, 1984, s 52)

It is submitted that the wife in Malaysia who is married according to *hukum syara'* shall be entitled to apply for the dissolution of marriage from the Syariah Court based on the grounds provided in the Islamic Family Law Act/Enactment of each States. It is also submitted that the words 'any other ground' as provided for under subsection (1) includes any other reason that is recognised under *hukum syara'* such as AIDS, drugs, any act of ill-treatment or cruelty like beating, kicking and punching.

Application for Fasakh on the ground of cruelty in the Syariah Court:

Any woman, who intends to apply for the annulment of marriage, may do so at the Syariah Court. The summons will be served to the husband to attend the Court and defend himself. The court is required to record the evidence given by the wife. If the court is satisfied that the wife is entitled for *fasakh*, the court may make an order of dissolution of marriage.

In the case of *Hairun v. Omar* (1991) 8 JH (2): 289 the wife applied to the Syariah Court for the dissolution of marriage on the ground of the husband's cruelty under section 52(1) (h) of the Selangor Islamic Family Law Enactment 1984. Although the learned judge found that the husband has contravened *hukum syara'* by beating and injuring the wife, the wife's application was dismissed as the learned judge interpreted the words 'habitually assaults her' in sub-paragraph (i) of that section to mean frequently, and held that the husband's physically assaulting the wife on two occasions did not amount to 'habitually'. The Syariah Appeal Board allowed the wife's appeal and held that the learned judge had misinterpreted section 52 (1) (h). The Appeal Board further held that the main point in section 52(1) (h) is cruelty and subparagraphs (i) to (iv) are merely illustrations, among others, of cruelty. Cruelty may either be physical or mental, and the term 'habitually assaults' does not mean physical assaults, as there is a difference between "assault" and "battery". The question of habitual is only relevant in cases of mental cruelty. In cases of physical cruelty, battery even though not habitual may be sufficient to establish cruelty.

In the case of *Hasnah v. Zaaba* (1995) 10 JH 59, the wife claimed that the husband had habitually assaulted her and made her life miserable by cruelty of conduct. The Syariah High Court judge was of the opinion that cruelty has taken place whereby the husband had habitually assaulted the wife by beating and cursing her, which made the wife's life miserable. The Court allowed the application of the wife for the dissolution of marriage. In another case of *Zarina bt Syaari v. Mohd Yusof b. Omar* (2005) ShLR, Vol. 4, 173, the learned judge of the

Syariah Lower Court (Federal Territories) had decided that the refusal to communicate on the part of the husband, cheating the wife by having another marriage without her knowledge, and refusal to sleep with the wife constituted mental cruelty which were habitual. The court held that the term 'habitual assault' was relevant in cases of mental and emotional assault. Thus, the wife has to prove that the action happened habitually, continuously and repeatedly more than once. The court therefore granted *fasakh*.

The Syariah Subordinate Court (Taiping, Perak) in the case of *Halijah bt Mat Serat v. Mohd Idris bin Nordin*, [2009] 1 ShLR 151 allowed the application for *fasakh* by the plaintiff (wife) who alleged that her husband (the defendant) had battered her to the extent of threatening to kill her. In 2005, the defendant was placed at the rehabilitation centre for a period of two years. During the period, the defendant failed to provide the plaintiff with maintenance. The court held that the defendant had been cruel to her and his involvement in drugs and detention at the rehabilitation centre had made the plaintiff suffer to the extent of leaving her without any other option than to work. The defendant's cruelty had a devastating impact on the plaintiff.

In *Khairul Faezah bte Haji Abdul Majid v. Muhamad Salleh bin Bidin* [2005] 1 ShLR 171, the plaintiff contended that the defendant had been cruel towards her. She claimed that the defendant has hot tempered attitude and he often cause harm to the plaintiff and their children, physically and mentally. The court held that section 52 of the Act is specifically enacted to protect the wife from any harm, physically and mentally. While hot tempered attitude is not specifically regulated by section 52, it may be inferred from subsections (i) and (ii), "any other ground that is recognised as valid for dissolution of marriage or *fasakh* under Islamic Law," where the court was of the view that such behaviour would bring harm to the plaintiff and the children, as they would be subject to torture, physically and mentally. The court was of the opinion that the plaintiff had valid reasons to dissolve the marriage. It is interesting to note that the court recognised hot tempered attitude as a valid reason for the wife to apply for *fasakh*. Hot tempered attitude which subsequently lead to physical torture and injury on the wife and children should not be tolerated, as Islam teaches Muslims to treat their wives with respect and honour.

Method of Proving Cruelty under Fasakh:

Evidence is important to prove the facts relevant to the subject matter of the dispute before the court. The Prophet said:

If the people would be given what they claim (without evidence), some persons would claim other people's blood and properties, but it is obligatory on the claimant to produce evidence (Al-San'ani, 1992).

It is required of the claimant to prove beyond reasonable doubt for the court to give judgment against the accused or the defendant. The proof given must be clear and convincing. Failure to support the proof will generally cause the claim to be rejected. Therefore, the burden of proof is on the claimant because he or she normally claims what is contrary to the original presumption or apparent fact. The concept of burden of proof is well established in Islam. The Prophet (s.a.w.) said: "Evidence is on the claimant and oath is on the defendant" (Al-San'ani, 1992).

The requirements for the discharging the burden of proof are contained in the Syariah Court Evidence (Federal Territories) Act, 1997(hereinafter referred to as SCEA). Section 73 SCEA provides:

(1) Whoever desired any court to give judgment as to any legal right or liability which is dependent on the existence of facts which he asserts must prove that those facts exist.

(2) When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on the person.

It is clear that the wife who applies for *fasakh* must prove her allegation. Since the wife alleges the husband's cruelty, i.e. allegation of criminal conduct, she needs to prove her case beyond reasonable doubt (*dhan al-ghalib*) (Zulfakar and Normi, 2008). Therefore, the wife is required to bring two male witnesses to testify to the conduct of the husband or one male witness combined with two female witnesses (Qur'an, Al-Baqarah, 2: 282). There is also an opinion that one male witness and an oath may also be acceptable (Ibn Qayyim, 1985). The witness must fulfil the requirement to give *shahadah* (testimony) (Al-Nawawi, 2005). Alternatively, if the wife has no such witness, the allegation may also be proved through *bayyinah* (evidence) in the form of *qarinah* (circumstantial evidence) (Zaydan, 2002).

In the case of *Hanif v. Rabbiah* (1996) 11 JH 47 the Federal Territories Syariah Appeal Court accepted *qarinah* of quarrelling between the parties, bruises on some part of the plaintiff's body, bleeding and swollen marks on the plaintiff's face as evidence to support plaintiff's claim on the husband's cruelty. The honourable judge in his judgment states:

It is unreasonable to impose (a burden) on a wife who claims that she has been beaten by the husband to bring witnesses as it is very unlikely that a husband will call two male witnesses or one male witness combined with two female witnesses whenever he wants to beat his wife. In these type of cases, evidence in the form of *shahadah* is not required as *bayyinah* and *qarinah* are sufficient.

In *Rasnah Ariffin v. Shafri bin Khalid*, (2002) IX JH, 189, the plaintiff applied for *fasakh* on the ground that the plaintiff and the defendant had not been sleeping together since 1998 and the defendant failed to provide maintenance for her since the date. The Syariah Court allowed the application of the plaintiff. The Syarie judge of the Syariah Lower Court in his judgement stated:

In this case the plaintiff had provided evidence by way of oath before the court and the witnesses were from her own children. Those witnesses fall under the category of *bayyinah* as they cannot give *shahadah* to their own parents under the syariah. Such type of evidence can be accepted as *bayyinah* to support the application as provided under subsection 3(1) of the Syariah Court Evidence Act, 1996.

The judge went on to say;

Without *bayyinah* it will be difficult for the plaintiff to support the application as the incident happens in a situation where the outsider or witness cannot see. Thus, *bayyinah* is accepted as long as it upholds justice.

Conclusion:

In Malaysia, it is apparent that in order to petition for divorce under the ground of cruelty for non-Muslims, it is the responsibility of the petitioner to prove that whether he or her can reasonably be expected to carry on living with his or her unreasonable spouse's behaviour. If the behaviour is of extreme nature, it is easy to prove the unreasonableness of the act. However, if the behaviour is trivial but has a significant negative impact on the petitioner, then the burden of proving the effect of the behaviour lies on the petitioner. The task of proving this behaviour is normally very difficult. Thus, it is the responsibility of a wise and learned judge to see that there is irretrievable breakdown of marriage. As for the dissolution of marriage for the Muslims, it is apparent that if the husband oppresses the wife, treats her badly and causes her life to be miserable, the wife can raise a complaint to the judge seeking for the annulment of marriage. The schools of Islamic thought have varying opinions on this. In Malaysia, the law recognizes the right of a Muslim woman to apply to the Syariah Court for the dissolution of marriage on the ground of cruelty. If the wife can prove her claim, the court will not hesitate to grant *fasakh* to her.

REFERENCES

- Abdul Karim Zaydan, 2002. *Nizam al-Qada' fi al-Shar' iyyah al-Islamiyyah*. Resalah Publisher. Beirut.
- Ala'eddin Kharofa, 2004. *Islamic Family Law: A Comparative Study with other Religions*. ILBS Kuala Lumpur.
- Al-Jaziri, Abdul Rahman, 2001. *Kitab al-Fiqh 'ala Mazahib al-'Arba'ah*. Dar al-Kutub al-Ilmiyyah, Lebanon.
- Al-Nawawi, *Minhaj al-Talibin*, 2005. Dar al-Minhaj, Jeddah.
- Al-Nawawi, n.d. *Minhaj al-Talibin*, translated by E.C. Howaqrs. Law Publishing Company, Lahore, Pakistan.
- Al-San'ani, 1992. *Subul al-Salam Bulugh al-Maram Min Jami' al-Ahkam*. Maktabah al' Asriyyah, Beirut.
- al-Sayuti, Jala al-Din, 1983. *al-Ashbah wa al-Nazair*, First Edn. Dar al-Kutub al-Ilmiyyah, Beirut, p: 53.
- Al-Syarbini, n.d. *Mughni al-Muhtaj*. Matbaah Mustafa al-Babi al-Halabi wa Awladuhuh, Egypt, 3: 203
- Ibn Qayyim al-Jawziyyah, 1985. *Turuq al-Hukmiyyah fi al-Siyasah al-Syar' iyyah*, Dar al-Madani, Cairo, Egypt.
- Nasir, J. J. 1990. *The Islamic Law of Personal Status*. Graham & Trotman, London.
- Mimi Kamariah Majid, 2000. *Family Law in Malaysia*, Second Edition. Malayan Law Journal, Sdn. Bhd., Kuala Lumpur, p: 168.
- Cretney, S. M. 1984. *Principles of Family Law*, Fourth Edition. Sweet & Maxwell, London, p: 111
- Tan Cheng Han, 1994. *Matrimonial Law in Singapore and Malaysia*, First Edition . Butterworth Asia, p: 134
- Zulfakar Ramlee and Normi Abdul Malek, 2008. *Methods of Proof and Evidentiary Requirements in Divorce Cases: An Islamic Perspective*. IIUM Law Journal, 16(2): 236.