

## CHAPTER I

### INTRODUCTION

#### A. Background

Allah created all things in pairs in this world. One of them is the pairing between a man and a woman; He not only make a couple the animal desires but also gets the pleasure of Allah S.W.T. Islamic teaching all the rules and requirements as the worship to the wedlock.

Islam views marriage as noble because marriage seems to be a sacred relationship between a man and a woman. Allah S.W.T. honorably arranges this wedlock to maintain a good lineage and to keep the continuity of life in this universe. It also keeps uncontrolled sexual and prevents women from sexual objects as biological relations in animals.<sup>1</sup>

Some mufassir explains that marriage is something a noble relationship. Small reasons should not be damaged the marriage, and God hates everything that leads to the destruction of the household. Islam has set the divorce rules in a good way. Even though Islam has stipulated divorce rules, it does not mean Allah S.W.T. is very pleased with the permissible divorce. On the contrary, divorce (*thalâq*, a religious term) is lawful, but God hates it. Abû Dâwud narrations, the Prophet said;

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<sup>1</sup> Sofia Hardani and Wilaela, *Perempuan Dalam Lingkaran KDRT* (Pekan Baru: Pusat Studi Wanita, 2010), 147.

حدَّثنا كثير بن عبيدٍ حدَّثنا محمد بن خالدٍ عن معرّف بنِ واصلٍ عن مُحاربِ بنِ  
 دثارٍ عن ابنِ عمر عن النَّبيِّ صَلَّى اللهُ عليه وسلَّم قال أبغضُ الحلالِ إلى اللهِ تعالى  
 الطَّلَاقُ

Katsîr bin ‘Ubaid has told us, Muḥammad bin Khâlid has told us from Mu‘arrif bin Wâshil from Muḥârrib bin Ditsâr from Ibn ‘Umar from the Prophet sallallaahu `alaihi wasallam, and He said: *The halal thing that Allah hates the most is divorce.* (Narrated by Abî Dâwud).<sup>2</sup>

The problem of divorce gets enough attention in society. Divorce is more complex when confronted with the Qur'anic principles that uphold justice and equality between men and women. Divorce often show the impretion of gender inequality, and wives are victims of divorce. The divorce law in the book of *fiqh munkahat* seems to put the wife in the law position as an object and number two person after the man. A woman does not have more rights and power over the household that she also builds. The right to terminate the marriage is only for one party, the husband.<sup>3</sup>

Divorce in the Islamic concept, the husband's right to divorce his wife is declared valid in their way. The understanding gives the assumption that men have superiority over women. One of the controversial verses is often misunderstood in determining the household, Q.S. al-Baqarah verse 228.<sup>4</sup>

However, feminist views of the Q.S. Al-Baqarah verse 228 is often understood structurally by some people without going deeper into the basic. The purpose of superiority does not like a dictator winning alone and giving

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<sup>2</sup> Abû Dâwud Sulaiman bin al-Asy`as al-Sajastani, *Sunan Abî Dâwud* (Riyadh: Bait al-Afkar al-Dauliyyah Linnasyr, 1420), 570.

<sup>3</sup> Ali Imran, "Memahami Konsep Perceraian Dalam Hukum Keluarga," *Journal Nuansa Gender* Vol. 1, No. 1 (June 2010): 16.

<sup>4</sup> Farid Wajidi, *Mengenali Hak Kita: Perempuan, Keluarga, Hukum dan Adat di Dunia Islam*, (Yogyakarta: LKiS, 2007), 240.

discrimination that can reduce the values of equality. Many men divorce their wives arbitrarily.

A famous mufassir, Syekh Nawawi al-Bantani, explained briefly in his book *Marâh Labîd* he recognizes the superiority of men over women in the household.<sup>5</sup> Moreover, he emphasizes the hadits regarding the prohibition of a wife from suing her husband. On the contrary, the wife also obeys and respects her husband, serves him, and is not being *nusyûz*.<sup>6</sup>

Several Indonesian feminist figures deserve appreciation in the discourse on women's empowerment. Musdah Mulia uses a socio-historical approach to reconstruct and criticize the works of interpretation and the classic books on women's leadership. Musdah Mulia focuses on women's involvement in the aspects of public leadership. In other words, Musdah Mulia attempted to get freedom for women's rights, like playing a role in society and participating in the public sphere, not just the domestic sphere.<sup>7</sup>

Husain Muhammad is a male feminist determined to defend women in action and discourse. He has a strategy of Qur'anic interpretations related to gender relations using a fiqh approach.<sup>8</sup> Modernists interpret gender equality from the feminist, then it is color and characteristics. So mufassir interprets the verses about women comprehensively. From the interpretation, their

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<sup>5</sup> Muhammad bin 'Umar Nawawî al-Jâwî, *Marâh Labîd Li Kasyfî Ma'nâ Al-Qur'ân al-Majîd* (Beirut: Dâr al-Kutub al-'Ilmiyah, 1305), 55.

<sup>6</sup> Fuad Ibn Rusyd, trans., *Hak Dan Kewajiban Suami Istri Trans. Syarh 'Uqud al-Lujjain Fi Bayâni Huqûq Az-Zaujain Oleh Syekh Nawawi al-Bantani* (Jakarta: Turos Pustaka, 2014), 58.

<sup>7</sup> Hendri Saputra, "Pemikiran Musdah Mulia Tentang Kepemimpinan Politik Keperempuanan." *Journal Manthiq*, Vol.1, No.2, (November, 2016), 134.

<sup>8</sup> Eni Zulaiha, "Analisa Gender dan Prinsip-Prinsip Penafsiran Husein Muhammad pada Ayat-Ayat Relasi Gender, *Al-Bayan Journal Studi Al-Qur'an dan Tafsir*, Vol.3, No.1, (June,2018), 2.

approach is more holistic and analyzes the history, social and economic, so a new epistemology emerged looking at gender issues.

Some Indonesian feminists try to understand the biased gender of religious texts. One of them, Zaitunah Subhan, should be appreciated in the discourse of women's empowerment. Zaitunah Subhan is an Indonesian female figure who formulates a comprehensive view of the Qur'an on women using different methods. Zaitunah Subhan also directs her interpretation toward the Indonesian context as one of the fields in seeing women's reality. Zaitunah Subhan responded in her book *Tafsir Kebencian; Studi Bias Gender Dalam Tafsir Qur'an*, according to the habit of divorce rights is still the same as what happened during the Jahiliyya era, to put women in the law position, imposing the divorce rules arbitrary is detrimental to women's interests, she emphasizes the *khulu`* is an absolute right, and no one can prevent it.<sup>9</sup>

The development of Qur'anic interpretation and also every *mufassir* has a different background. Such as differences in tendencies, motivations, scholarship, generational times, and the environment of every *mufassir*, also when they interpret and apply the method interpretations.<sup>10</sup> Epistemology of interpretation is urgent research to know the sources of interpretation, the method used and its validity of interpretation.

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<sup>9</sup> Zaitunah Subhan, *Tafsir Kebencian Studi Bias Gender Dalam Tafsir Qur'an* (Yogyakarta: LKiS, 1999), 139.

<sup>10</sup> Quraish Shihab, *Membumikan Al-Qur'an; Fungsi dan Peran Wahyu dalam Kehidupan Masyarakat*, (Bandung: Mizan, 2002), 71.

Generational differences will affect the interpretation. Likewise, Syekh Nawawi is one of the mufassir of the classical period, around the 19th century A.D. Then, Zaitunah Subhan belongs to the contemporary era, where the awareness of gender equality is discussed widely. Even though the two figures are identical products from Indonesia, they also display various languages. Syekh Nawawi, the first Indonesian commentator, writes the Qur'an interpretation in Arabic, while Zaitunah uses Indonesian.

This research theme will lead to studies in the field of fiqh because it will reveal discussions about women's right for divorce. Still, in-depth research will focus on revealing the epistemological structure of the two figures in interpreting Q.S. Al-Baqarah verses 228-229. The method applied, and the validity of interpretation, whether this interpretation can be held.

The explanation regarding the different interpretations of the women right for divorce between Syekh Nawawi al-Bantani in *Marâh Labîd* and Zaitunah Subhan in *Tafsir Kebencian; Studi Bias Gender dala Tafsir Qur'an* on Q.S. Al-Baqarah verse 228-229. Moreover, the researcher sees the differences in the epistemological structure, including the study sources of interpretation and the methods used, and examines whether the interpretation of two figures can be held in society. This research is interesting because the two characters are also the same product, originating from Indonesia, but have different understandings. Therefore, this research was appointed with the title, **Women Right For Divorce on Q.S. Al-Baqarah verse 228-229 (Syekh Nawawi Al Bantani and Zaitunah Subhan Understanding).**

## **B. Problem Statment**

The formulation of the problems can be identified as the main discussion in this study are:

1. What is the interpretation of Syekh Nawawi al-Bantani and Zaitunah Subhan in Q.S. al-Baqarah verse 228-229 about the women right for divorce?
2. How are the epistemology of Syekh Nawawi al-Bantani and Zaitunah Subhan interpretation in Q.S. al-Baqarah verse 228-229 regarding the women right for divorce?

## **C. Research Purpose**

The formulation of the problem above, this study aims to:

1. To know the interpretation of Syekh Nawawi al-Bantani and Zaitunah Subhan in QS. al-Baqarah verse 228-229 about women right for divorce.
2. To find out the Epistemology of Syekh Nawawi al-Bantani and Zaitunah Subhan interpretation in Q.S. al-Baqarah verse 228-229.

## **D. Research Significances**

The discussion of research has some significance; both are used for theoretical and practical.

1. Theoretical, one of the effort is contribute to Islamic studies, especially epistemological research related to interpreting the Qur'an from another aspect, mufassir and gender figures on women's rights. The researcher also hopes this research will make us aware that Islam respects women.
2. Practical, one of the efforts to find out and to understand the interpretation of the Qur'an verses, according to mufassir and Muslim feminists' understanding. The results of this study will provide readers and the public with an understanding and additional insight into how a person takes a stand, whether supporting or opposing an opinion. Because each interpretation will expand continually according to certain conditions to prove that the Qur'an is present in all of our problems.<sup>11</sup>

## **E. Operasional Definition**

### **1. Divorce**

Divorce is the action or an instance of legally dissolving a marriage. To end a marriage with (one spouse) by divorce, to dissolve the

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<sup>11</sup> Bardiatus Sa'adah, "Perspektif Feminis Terhadap Ayat-Ayat Relasi Gender dalam al-Qur'an (studi pemikiran Amina Wadud Muhsin dalam Karyanya *Qur'an And Woman*), Skripsi (Jakarta IIQ, 2015), 12.

marriage contract between husband and wife. Another explanation is to terminate an existing relationship or union: separate, to obtain divorce.<sup>12</sup>

Divorce is the breaking up of a marriage, the end relationship between husband and wife, commonly referred to as divorce.<sup>13</sup> Husband and wife are often complaining in the household, even complaining to other people or their families, because they do not fulfill their rights, like obligations of one party or for other reasons, the problem can give the result a dispute between the two.<sup>14</sup> Islamic concept, divorce is a legal matter, but Allah hates it. The word of the Prophet in Abû Dâwud narrations.

## 2. Right

Right is qualities (adherence to duty or obedience to lawful authority) that constitute the ideal of moral propriety or moral merit approval. Something to which one has a just claim; as a) the power or privilege to which one is justly entitled, b) the interest that one has in a piece of property-often used in the plural.<sup>15</sup>

## 3. Gender

Gender is 1) a subclass within a grammatical class of a language that is past arbitrary but also partly based on distinguishable characteristics (such as shape, social rank, manner of existence, or sex) and that

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<sup>12</sup> Merriam Webster, *Webster's New Explorer Encyclopedic Dictionary* (U.S.A.: Federal Streer Press, 2006), 534.

<sup>13</sup> Amir Syarifuddin, *Hukum Perkawinan Islam di Indonesia* (Jakarta: Kencana Prenada Media Grup, 2006), 197.

<sup>14</sup> Abdul Ghofur Anshori, *Hukum Perkawinan Islam (Perspektif Fikih Dan Hukum Positif)* (Yogyakarta: UII PRESS, 2011), 233.

<sup>15</sup> Webster, *Webster's New Explorer Encyclopedic Dictionary*, 2006, 1582.



determines agreement with and selection of other words or grammatical forms. Membership of a word or a grammatical form in such a subclass. 2) a. S.E.X. (the feminine gender), b. The behavioral, cultural, or psychological traits typically associated with one sex.<sup>16</sup>

Gender means sex. Gender is also described as a cultural concept that seeks to make a difference (distinction) in terms of roles, behavior, mentality, and emotional characteristics between men and women that develop in society. Like Mansour Fakih's statement, gender is a trait inherent to men and women that is constructed socially and culturally. For example, women are usually known to be more beautiful, emotional, and motherly. While men are considered strong, rational, manly, and mighty.<sup>17</sup>

Gender is a simple concept where women only need justice by gaining access, control, participation, and benefits in the household, community, and state. Gender justice is a process to get equality, balance, and harmony, without discrimination and not to exceed men and their nature. Then, feminist groups provide the concept of gender starting from the differences between men and women that occur because they are formed by social differences, not judged from a natural aspect. Gender equality is a dynamic condition in men and women both have rights, obligations, roles, and opportunities based on mutual respect and help in various sectors of life.<sup>18</sup>

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<sup>16</sup> Webster, 763.

<sup>17</sup> Mansour Fakih, *Analisis Gender Dan Transformasi Sosial*, (Yogyakarta: Pustaka Pelajar, 2013), 9.

<sup>18</sup> Fakih, 11.

## F. Literature Review

The authors searched several scientific works. Some literature or thesis discusses the works of syekh Nawawi al-Bantani dan Zaitunah Subhan's interpretation, divorces rights, gender issues, and of course, the study has a connection with this thesis, as follows;

1. Miftahul Jannah, *Konsep Perempuan Perfektif Zaitunah Subhan (Kritik Terhadap Pemikiran Zaitunah Subhan dalam Buku Tafsir Kebencian)*, Qur'anic Study and Interpretation program of UIN Sunan Ampel Surabaya, 2019. This thesis contains a discussion of women's rights and obligations. Zaitunah Subhan emphasizes the domestic realm, such as; The rights to choose a partner, the right to Divorce, the right to sexual relations, the right to raise and care for children, the right to manage the household, the right to opportunity and equality, and the right to dedication. Also, the explanation about women having equal rights with men.<sup>19</sup>
2. Nor Chasana, *Hak Thalâq bagi Perempuan Persepektif Asghar Ali Engineer Dan Wahbah Zuhaili*, Study Masters of al-Ahwal al-Syakhshiyah Postgraduate Program at State Islamic University Maulana Malik Ibrahim Malang 2018. This thesis uses a comparative study

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<sup>19</sup> Miftahul Jannah, "Konsep Perempuan Persepektif Zaitunah Subhan: Kritik Terhadap Pemikiran Zaitunah Subhan dalam Buku Tafsir Kebencian" (PhD Thesis, UIN Sunan Ampel Surabaya, 2019).

between mufassir from Egypt and mufassir from India. The two figures use the ijtihad method to interpret all the divorce verses.<sup>20</sup>

3. Halimatussa'diyah, *Tafsir Kebencian studi Bias Gender dalam Tafsir al-Qur`an karya Zaitunah Subhan*. This article tells about Zaitunah Subhan's reinterpretation of gender verses in the Qur'an. She explains that Zaitunah, in her study of gender, is a reaction to the biased gender interpretations in the Qur'an verses, and this article generally talks about the origin of women and leadership in the home stairs.<sup>21</sup>
4. Ansor Bahary, *Tafsir Nusantara: Studi Kritis terhadap marah Labid Nawawi al-Bantani*, Journal of Ulul Albab, 2015. This study discusses the approaches used by Nawawi al-Bantani, who still follows the classical and medieval thinking patterns even though they have entered modern times.<sup>22</sup>
5. Nurul Huda, *Epistemologi Tafsir ayat-ayat Puasa dalam Al-Qur`an (Studi Komparasi Tafsir Marah Labid karya Nawawi al-Bantani dan Tafsir Al-Azhar karya Hamka)*, UIN Sunan Kalijaga, 2019. This thesis studies a comparative method that discusses the sources of interpretation

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<sup>20</sup> Nor Chasana, "Hak Talak Bagi Perempuan Perspektif Asghar Ali Engineer dan Wahbah Al-Zuhaili" (PhD Thesis, Universitas Islam Negeri Maulana Malik Ibrahim, 2018).

<sup>21</sup> Halimatussa'diyah Halimatussa'diyah, "Tafsir Kebencian Studi Bias Gender dalam Tafsir Al-Qur`an Karya Zaitunah Subhan," *Journal Ilmu Agama UIN Raden Fatah* 16, no. 1 (n.d.): 13.

<sup>22</sup> Ansor Bahary, "Tafsir Nusantara: Studi kritis terhadap Marah Labid Nawawi al-Bantani," *Ulul Albab Journal Studi Islam* 16, no. 2 (December 30, 2015): 25., <https://doi.org/10.18860/ua.v16i2.3179>.

and the methodology used then questions the validity of the interpretation between the two figures in understanding the fasting verses.<sup>23</sup>

## G. Theoretical Framework

Epistemology is the study or a theory of the nature and the grounds of knowledge, especially concerning its limits and validity.<sup>24</sup> Epistemology is a branch of philosophy, also known as the theory of knowledge. In Epistemology, the word episteme means knowledge, and logos is words, thoughts, or knowledge. The study of epistemology has three main formal objects: the sources, the nature of knowledge, and whether knowledge is valid. In other words, epistemology wants to solve how knowledge occurs, the origin of knowledge, methods or ways of obtaining knowledge, and the validity or truth of knowledge tested.<sup>25</sup>

## H. Research Methods

The methodological aspect is a crucial part of every scientific research. This methodology gets the problem's objectives with systematic steps and specific techniques. Then, the writer can focus and direction to get good results. Searching for the relevant problem to process and analyze, then

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<sup>23</sup> Nurul Huda, Epistemologi Tafsir ayat-ayat Puasa dalam Al-Qur`an (Studi Komparasi Tafsir Marah Labid karya Nawawi al-Bantani dan Tafsir Al-Azhar karya Hamka). (PhD Thesis, UIN Sunan Kalijaga, 2019)

<sup>24</sup> Merriam Webster, *Webster's New Explorer Encyclopedic Dictionary*, (U.S.A.: Federal Street Press, 2006), 613.

<sup>25</sup> Mohammad Muslih, *Filsafat Ilmu: Kajian atas Asumsi Dasar, Paradigma dan Kerangka Teori Ilmu Pengetahuan*, (Yogyakarta: Kanisius, 2005), 21.

to take the conclusion and to explain the solution results. The author will describe the research method used as follows;

#### 1. Type of Research

This thesis uses a type of library research that uses the descriptive qualitative study. It also related some material to see epistemology, both primary and secondary data. Then, the author describes qualitatively uncovers in explaining the research object.

#### 2. Data sources

The scientific use materials obtained from written materials, so the research sources are as follows;

- a. The primary data source used as a reference is an interpretation of Q.S. al-Baqarah verses 228-229, which directly refers to the works of two figures. Syekh Nawawi al-Bantani in his book, *Tafsîr Marâh Labîd*, and Zaitunah Subhan in her book, *Tafsir Kebencian, Studi Bias Gender dalam Tafsir Qur'an*
- b. Secondary sources are supporting materials to complete this research. Some literature relates to the discussion; Other books by syekh Nawawi al-Bantani and Zaitunah Subhan explain the understanding of divorce rights are *'Uqûd al-lujjain* and *Al-Qur'an dan Perempuan*. Books of hadist *Sahih Bukhârî*, some references in the book of interpretation, feminist commentary books, and others related to the object of study can help to analyze the problem of interpretation epistemology.

### 3. Data Analysis Technique

The data analysis uses descriptive analysis methods. The descriptive method is used to explain syekh Nawawi al-Bantani and Zaitunah Subhan's interpretation of women's right for divorce on Q.S. al-Baqarah verse 228-229. Then, analyze the data collected to get a comprehensive picture of the two figures interpretation and the methodology used. Furthermore, these ideas analyze the epistemology interpretation by comparing the views of two figures and the roots of differences. Data analysis is based on a predetermined theoretical framework using the epistemological theory of interpretation.

#### **I. Organization Of Contents**

The researcher will include systematic writing under five chapters, as follows:

The first is the introduction. Including the background, the problem statement contains the points of the problem resolved in this research, the research significance, the literature review, the theoretical framework as a basis for analysis during research, research methods that serve as methodological explanations used in research, last the organization of contents.

The second chapter is a general description background of the two figures, an explanation of their works, and sociocultural settings. This section will be the basis for researchers to examine the data sources.

The third chapter overviews the research subject, the definition of divorce, the epistemology of interpretation and the limitation of the epistemology problem of interpretation. This effort aims to understand the preceding discussion.

The fourth chapter, the subject of the study is the interpretation of divorce rights for women in Q.S. al-Baqarah verse 228-229. The first sub-chapter examines the interpretation of Syekh Nawawi al-Bantani, and the second sub-chapter examines the interpretation of Zaitunah Subhan. Then describes the differences in epistemological structure between the two figures about women's rights in *Marâh Labîd* and *Tafsir Kebencian*.

The fifth chapter is closing, the final part of the research. Expalanation of some conclusions and suggestions.