

Wahbah Zuhaili's Understanding of the Verses on Adultery: A Review of Al-Tafsir Al-Munir

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ARTICLE INFO	ABSTRACT
Keywords:	Adultery has recently become a major problem faced by mankind, especially whether it is prostitution or abnormal-sex considering that this ugliness is
Adultery;	among the oldest on earth, this crime is very difficult to deal with and even
Wahbah Zuhaili;	trying to reduce it is very difficult. This is made clear by the reading of the
Tafsir al-Munir.	text of the Qur'an by the mufasir, so that in this study it is hoped that it will be able to trigger Wahbah Zuhaili's best interpretation of zina and its
Article history:	relevance to the Criminal Code in Indonesia. This research uses qualitative research methods, namely research that contains written data such as
Received 2023-04-18	documents or other texts that are relevant to the topic of discussion, this
Revised 2023-08-22	written data is usually in the form of words or actions and not in the form of
Accepted 2023-09-22	numbers (numeric). The collection of sources in this research was obtained by means of library research or book surveys. In this technique, there are three stages that must be done. First, inventorying the verses on adultery. Second, read, browse, and compile interpretations of wAhbzh zuhaili. Third, describe and analyze the interpretation of these adultery verses, so that comprehensive and holistic research findings or results can be obtained.
	ABSTRAK
	Perzinaan belakangan ini menjadi masalah besar yang dihadapi oleh umat

manusia, terutama apakah itu pelacuran atau hubungan seks yang tidak wajar, mengingat kekejian ini merupakan salah satu kejahatan tertua di muka bumi, kejahatan ini sangat sulit untuk ditangani dan bahkan mencoba untuk menguranginya sangat sulit. Hal ini diperjelas melalui pembacaan teks Al-Qur'an oleh para mufasir, sehingga dalam penelitian ini diharapkan dapat memicu interpretasi terbaik Wahbah Zuhaili mengenai zina dan relevansinya terhadap Kode Pidana di Indonesia. Penelitian ini menggunakan metode penelitian kualitatif, yaitu penelitian yang berisi data tertulis seperti dokumen atau teks lain yang relevan dengan topik pembahasan, data tertulis ini biasanya dalam bentuk kata-kata atau tindakan dan bukan dalam bentuk angka (numerik). Pengumpulan sumber dalam penelitian ini diperoleh melalui penelitian perpustakaan atau survei buku. Dalam teknik ini, terdapat tiga tahapan yang harus dilakukan. Pertama, menginventarisasi ayat-ayat mengenai perzinaan. Kedua, membaca, menjelajah, dan menyusun interpretasi Wahbah Zuhaili. Ketiga, mendeskripsikan dan menganalisis interpretasi ayat-ayat perzinaan ini, sehingga dapat diperoleh temuan atau hasil penelitian yang komprehensif dan holistik.

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1. INTRODUCTION

Before the advent of Islam, adultery had permeated all segments of society, not being limited to specific groups (Al-Qaradawi, 1998). Only a small fraction of men and women held steadfast to moral values. It is worth noting that there is a historical account of a tribe that requested permission from Prophet Muhammad when Islam arrived, seeking to continue their adulterous practices because their livelihood depended on the produce of their women (Izzan & Tamimi, 2022). The conflicts during the Jahiliyah period often revolved around issues of honor among various Arab tribes, including Bani Hashim, Bani Makhzum, Bani Zahrah, and others. Some tribes were notorious for prostitution and adultery, such as Bani Abdul Shams, Bani Salul, and Bani Hudzail, which perpetuated these conflicts even after the advent of Islam among these tribes (Ramadayanto et al., 2021). It is not a coincidence that many of those who rose to power within the Umayyad dynasty had a history of involvement in adultery and prostitution. These professions bred animosity and resentment among the people (Wallace-Murphy, 2012). Few individuals refrained from engaging in such disgraceful activities. However, the free individuals were relatively better off concerning this issue compared to commoners and servants. During the Jahiliyah era, adultery was not generally perceived as a dishonor that tainted one's lineage (Shafiyyurahman, 1997).

Zina is a sexual relationship between a man and a woman in the absence of a valid marital bond and is carried out intentionally without any elements of ambiguity (Z. Ali, 2014). Adultery falls under the category of major sins. Linguistically, the term "zina" is derived from the Arabic lexicon, specifically the word "zina-yazni-zinan," which denotes committing adultery, prostitution, and forbidden acts (A. Ali & Muhdlor, 1996). Literally, "zina" signifies a heinous deed, known as "overspel" in Dutch (Wojowasito, 1992).

The primary objective of this study is to explore and analyze Wahbah Zuhaili's interpretation of the Qur'an's verses related to adultery (*zina*) and to examine the relevance of his interpretations to the Criminal Code in Indonesia. This research aims to provide a comprehensive understanding of Zuhaili's tafsir (interpretation) in the context of addressing the issue of adultery, thereby contributing to the broader discussion on morality, ethics, and legal implications in contemporary Indonesian society.

2. RESEARCH METHOD

This research uses qualitative research methods, namely research that contains written data such as documents or other texts relevant to the topic of discussion, this written data is usually in the form of words or actions and not in the form of numbers (numeric) (Mustaqim, 2015). The collection of sources in this study was obtained by means of library research or book survey (Moleong, 2007). In this technique, there are three stages that must be done. First, inventory the verses on adultery. Second, read, search, and compile interpretations of Wahbah Zuhaili. Third, describe and analyze Wahbah Zuhaili's interpretation of zina verses, so that comprehensive and holistic research findings or results can be obtained.

3. RESULTS AND DISCUSSION

3.1. Biography of Wahbah Zuhaili

Wahbah Zuhaili was born on March 6, 1932 AD/ 1351 H, in Dair Atiyah of Faiha district and died on Saturday, August 8, 2015 at the age of 83, Damascus Province, Syria. His full name is Wahbah bin Musthafa Az-Zuhaili, son of Musthafa Az-Zuhaili. Namely, a peasant who was modest and famous in his misfortune. Meanwhile, his mother was named Hajjah Fatimah binti Mustafa Sa'adah. A woman who has a warak nature and is firm in carrying out religious sharia (Amin, 2008).

With the encouragement and guidance of his father, since childhood Wahbah Zuhaili has known the basics of Islam. At the age of 7 years as well as his friends he attended ibtidaiyah school in his village until 1946. Entering his formal education level for almost 6 years he spent his secondary education, and in 1952 he received a diploma, which was the first step to continue to the college, namely the Faculty of Shari"ah of the University of Damascus, until he earned his bachelor's degree in 1953 AD. Then, to continue his doctoral studies, he deepened his knowledge at Cairo's al-Azhar University. And in 1963 he officially became a Doctor with his dissertation entitled Atsār al-Harb fi al- Fiqh al-Islāmi (Rahayu, 2010). At that time Wahbah obtained three diplomas, including:

- a. B.A diploma from the Sharia faculty of al-Azhar University in 1956
- b. Diploma of Takhasus Education from the Faculty of Arabic Language of al-Azhar University 1957
- c. B.A diploma from the Faculty of Shari"ah University "Ain Syam in 1957

In 1963 AD, he was appointed as a lecturer at the Shari'a faculty of Damascus University and successively became Deputy Dean, then Dean and Head of the Department of Figh Islami wa Madzahabih in the same faculty.

He served for more than seven years and was known to be alim in the field of Fiqh, Tafsir and Dirasah Islamiyyah (Hasab, 2019).

When Wahbah worked at the University of Damascus in 1963 AD as a teaching staff, then became a teaching assistant in 1969 AD and then he earned the title of Professor in 1975 AD. With this degree, Wahbah also became a flying lecturer at universities in Arab countries, such as the Faculty of Sharia and Law and the Faculty of Postgraduate Adab of Benghazi University, Libya, Khurtum University of Umma Darman University, African University in Sudan and University of Arab Emirates (Al-Zamakhshari, 1998).

3.2. Wahbah Zuhaili's Interpretation of The Verses of Adultery

The Qur'an deals with the verse that has the word zina found in the book of Fathur ar-Rahman with its various derivations, found nine repetitions on the five verses contained in the four surahs. In the form of masdar it is mentioned once (الزَّانِيَ), in the form of wazan isim fa'il mudzakar it is repeated three times (الزَّانِيَة), in the form of wazan isim fa'il mudlore berdomir هم ditemuka once (الزَّانِيَدُوْنَا), in the form of fill mudlore berdomir (الزَّانِيَة), in the form of fill mudlore berdomir (الزَّانِيَدُهُ), in the form of fill mudlore berdomir (الزَّانِيَدُوْنَا), in the form of fill mudlore berdomir (الزَّانِيَدُوْنَا)), in the form of fill mudlore berdomir (الرَّانِيَدُوْنَا)), in the form of fill mudlore berdomir (الرَّانِيَدُوْنَا)), in the form of fill mudlore berdomir (الرَّانِيَدُوْنَانَ المَالِيَرْنَانَ اللَّرَانِيَةُ), in the form of fill mudlore berdomir (الرَّانَ المَالَانِ اللَّرَانِيَةُ)), in the form of fill mudlore berdomir (المَالَانَ المَالَانَ المَالَانَ المَالَانَ اللَّذَانِ اللَّالَانَ اللَّالَالَالَ اللَّالَالِيَرْنَانَ (Al-Zuhaili, 2009). As follows:

1) Q.S Al-Isra [17] : 32

وَلَا تَقْرَبُوا الزُّنْيَ إِنَّهُ كَانَ فَاحِشَةً وسَاءَ سَبِيْلَ

Wahbah Zuhaili classifies this verse with verse al-Isra from verses 31-39 by giving the theme (لنظام المجتمع الإسلامى). After Allah Almighty ruled the five things that have been mentioned, then Allah mentioned the prohibition against three things, namely adultery, killing and eating the treasures of orphans. Allah goes through with the expectation of adultery because he belongs to the act of israf (overstepping the limit) after the prohibition of killing children which is a form of devotion (Az-Zuhaili, 2013).

Don't approach adultery, don't approach the cause and the driver because doing something will encourage someone to do the result. And adultery is a very bad heinous act, a great sin and a bad way because in it there is a violation of honor, a mixture of nasabs, a tyranny of the rights of others, the destruction of the pillars of society by destroying the family, the spread of chaos, the opening of the door to chaos, the spread of deadly diseases and the causes of faking, humiliation and weakness. Al-Qaffal said, "if it is said to someone,' do not approach this,' then this is more emphatic than if it was said to him, 'do not do this." Then allah Almighty mentioned the reason for the prohibition, that it was an abomination and a bad way (Az-Zuhaili, 2013).

2) Q.S An-Nur [24] : 2 dan 3

Zahir, this verse explains that the punishment of hadd for the perpetrator of adultery is absolutely dera hundred times. However, in as-Sunnah there is a qath'i, valid, and mutawatir information that distinguishes between perpetrators of adultery who have the status of muhshan and those who have not had the status of muhshan. The punishment of hadd for adulterers who have the status of muhshan is to be stoned to death, based on the postulates of the hadith qauli (sayings) and hadith fi'liy (actions, practices) (Az-Zuhaili, 2013).

Jumhur ulama responded to these opinions, arguments, and arguments by saying, that the half-rule applies in the punishment of hadd dera so that the punishment of hadd other than dera, i.e. stoning, remains within its general scope. In addition, the laws of the shari'a at that time descended according to the conditions and situation of the development of the emerging virtues. Perhaps the necessity of having a penalty for stoning only arose after the descent of the dera verse. Limiting the generality of qur'anic verses with hadith aahaad is ok in our opinion. In fact, in fact the hadiths of stoning are established based on the history that mutawatir in the context of its meaning and content although in the context of the details of its cases it is narrated in the form of aahaad history (Az-Zuhaili, 2013).

The generality of the verse (fajlidu) includes both Muslims and infidels. It's just that the infidel harbi is not sentenced to adultery because he has no commitment and is not bound by our laws. As for the dzimmi infidels, in the opinion of jumhurl the punishment of dera was also imposed against him. There is a narrated account from Imam Malik that dzimmf infidels were not subjected to dera punishment for adultery (Az-Zuhaili, 2013).

Indeed, the person who is charged and burdened with the responsibility of applying the hadd sentence is the priest of the magistrate or his deputy under the agreement of the clergy. The khithaab (message) in verse {fajlidu} is addressed to the holders of governmental authority and power. This is a law relating to the pursuit of repairing all human beings and the responsibility of the matter is placed on the shoulders of priests. Upholding religious symbols is an obligation for Muslims and in this case the imam is the one who performs them on their behalf. For it is not possible for all existing Muslims to have one voice in enforcing huduud. In addition, this was done to prevent chaos and the return of the jahiliyyah model tradition in demanding retribution (Az-Zuhaili, 2013).

Zina is one of the great sins because Allah Almighty juxtaposes it with shirking and murder, Allah Almighty requires the application of hadd punishment in cases of adultery, which is a hundred times dera, as well as to impose the punishment of stoning in it. In addition, Allah Almighty forbade the Mukminins to be merciful to the perpetrators, ordering that the execution of the existing hadd punishment be witnessed by a number of people to be exposed (Az-Zuhaili, 2013).

Also based on the aforementioned hadith, "O people, fear you against the act of adultery. For there are six things that are found in the act of adultery, three in the world and three in the hereafter. As for the three things that in the world are, the act of adultery removes beauty and ray w aj ah, abkan folly and reduces lifespan. Meanwhile, the three things in the afterlife are, the wrath of Allah Almighty, the badness, and the adzab of hell.

As for the deeds of the Luths (liwaath, homosexual and lesbian same-sex relationships) the law according to Imam asy-Shafii in the kitab al-Ashoh, Imam Malik Imam Ahmad, and Abu Yusuf has the same status as adultery. Therefore, the one who does so is called the one who commits adultery and falls into the scope of the generality of the verse. Still according to Imam asy-Shafi'i, the perpetrator is also subject to the punishment of hadd zina based on (Az-Zuhaili, 2013).

Meanwhile, according to Malikiyyah clerics and Hanabilah clerics, the punishment for hadd perpetrators of liwaath is stoning. While there are some Hanabilah scholars argue the punishment is to be killed. Sometimes by throwing him from a height, putting a wall on his body, or by throwing stones at him.

Meanwhile, Imam Abu Hanifah argued that people who perform liwaath are only punished by ta'ziir. Because the liwaath's actions do not lead to the mixing of nasabs and usually do not lead to feuds that lead to the murder of the perpetrator. Liwaath itself is not an adulterer and there is no dowry associated with it. Therefore, there is no hadd penalty associated with it. In addition, the Messenger of Muhammad saw allowing the murder of a Muslim for one of three reasons, namely the perpetrator of adultery who has the status of muhshan, the perpetrator of the murder of a person without rights, and the third an apostate. Here, there is no mention of the liwaath perpetrator because he is not called an adulterer and there is no strong information from the Messenger of Muhammad pbuh that he ever gave a decision on the liwaath's actions.

Fuqaha agreed that sihaaq (lesbian, rubbing cock) and istimnaa' (masturbation) perpetrators were punished ta'zir, reproached, and denounced. As for the animal, the priests of the four madhabs agreed that the perpetrator was subjected to ta'zir punishment in a form that the judge judged could have a deterrent effect on him. For the normal soul rejects such deeds. As for the burial of the corpse, according to the Malikiyyah cleric, he was entitled to hadd's punishment. For it was a form of copulation on the of Adam's son so that it resembled copulation with a living woman.

3) Q.S Al-Furqan [25] : 68

وَٱلَّذِينَ لَا يَدْعُونَ مَعَ ٱللَّهِ إِلَٰهًا ءَاخَرَ وَلَا يَقْتُلُونَ ٱلنَّفْسَ ٱلَّتِي حَرَّمَ ٱللهُ إِلَّا بِٱلْحَقِّ وَلَا يَزْنُونَ ۚ وَمَن يَفْعَلْ ذَٰلِكَ يَلْقَ أَثَامًا

This verse discusses the next law, staying away from shirking, killing children, and adultery, people who do not worship (associate) Allah Almighty with other offerings, which they make offerings (idols) with Allah in their worship as a form of worship (destruction) to Allah Almighty. However, they are truly sincere in obeying and worshiping Allah Almighty. Nor do they kill the soul of man intentionally but by reason (commandment) of the true religion; like a heathen after faith like a person who commits adultery after marriage, and one who kills a human being for no reason justified by religion. The execution of his sentence (murder) based on the decision of the head of state or judge (*qadi*) is not based on the decision of a person. They did not commit adultery. These are the three greatest sinful deeds: condemning God to SWI, killing people deliberately out of hostility, and committing adultery. The first act of sin is enmity to Allah Almighty, and the second is enmity to man and the third is hostility to human rights and defilement (violation) of worldly honor (Az-Zuhaili, 2013).

The eighth nature, stay away from adultery. The act of adultery is a defilement (violation) of human honor and the most dangerous act that can result in the mixing of nasab, the emergence of diseases, the destruction of rights, the ignition of hostility, quarrels and hatred (Az-Zuhaili, 2013, 120).

4) Q.S Al-Mumtahanah [60] : 12

يَٰلَيُّها ٱلنَّبِيُّ إِذَا جَاءَكَ ٱلْمُؤْمِنُتُ يُبَابِعْنَكَ عَلَىٰ أَن لَا يُشْرِكْنَ بِٱللَّهِ شَيْئًا وَلَا يَسْرِقْنَ وَلا يَزْنِينَ وَلا يَقْتُلْنَ أَوْلَٰدَهُنَّ وَلا يَأْتِينَ بِبُهْتَٰنٍ يَغْتَرِينَهُ بَيْنَ أَيْدِيهِنَ وَأَرْجُلِهِنَ وَلَا يَعْصِينَكَ فِي مَعْرُوفٍ فَبَايِعْهُنَ وَٱسْتَغْفِرُ لَهُنَ ٱللَّهَ عَفُورٌ رَحِيمٌ

This verse descends on the occasion of Fathu Mecca (conquest of the city of Mecca by the Messenger of Allah and the Muslims). When the Messenger of Allah pbuh finished the marriage of the men, he replaced the marriage with the women. Bukhari narrated from Urwah Ibn Zubair, that Aisyah r.a said, "The Messenger of Allah pbuh tested the women of Mukminah who came to emigrate to him with verses. Thus, whoever among the Believers made the pledge of the conditions mentioned in the verse, the Messenger of Allah pbuh said to him, 'I have made a rectification to you. Truly by god his hand did not touch the hand of a woman at all in the remembrance, he did not barricad them but only with the words, I have made a remembrance to you for it (Wahbah Zuhaili 2013, 528).

3.3. The Relevance of Wahbah Zuhaili's Interpretation of the Verses of Zina to the Criminal Code

In Indonesia, criminal law is a special sanction law, meaning that its use is ultimum remedium and is used selectively and restrictively, the Criminal Code in Indonesia regulates the issue of adultery into a criminal offense, the regulation is contained in Articles 284, 287, and 288 of the Criminal Code, but is limited to perpetrators who have been bound by marriage only and must begin with reporting from the party who feels aggrieved (complaint).

According to Article 284 of the Criminal Code, an act categorized as a criminal act of adultery of one of the perpetrators must be bound by marriage and the provisions of Article 27 BW apply. Prosecution of the perpetrator can be carried out if there is a (absolute) complaint from the aggrieved party, which is followed by divorce or separation of the bed and dining table.

This article has limitations because it only applies to those who are subject to western law (BW). As for those subject to customary or religious law laws, it is clearly not applicable. According to Article 27 BW, a person, whether male or female, may not have sex with any other person, other than with his own wife or husband (Setiadi, 2019).

According to Article 287 (1) of the Penal Code "Whoever has intercourse with a woman outside of marriage, when it is known or proper to be suspected, that he is not yet fifteen years old, or if his age is not evident, that he is not yet capable of marriage, shall be punished with imprisonment for not more than nine years". This article only regulates, among other things, the act of copulation with a woman not his wife who is under the age of 15 or has not yet married. The threat of punishment for the offender, imprisonment is a maximum of 9 years.

The element that must be proved in this matter is that in addition to the victim not his wife, the perpetrator must also know that the victim's age has not reached the age of 15 years or is not enough to be married. The problem that arises is the difficulty of measuring / determining age, where in certain cases it is very difficult to draw a firm line between a person's physical state and the age of the person. In addition to this article, it also includes criminal complaints, except for the age of the victim under 12 years old or resulting in injury or death (Setiadi, 2019).

Meanwhile, according to Article 288 (1) of the Criminal Code; "Whoever has intercourse with a woman in marriage, known or proper to be presumed that before being able to marry, is threatened, if the act results in injury, with imprisonment for not more than four years."

The article only provides for copulation with a wife whose age is not yet time to be married. Thus, a person can be accused of violating Article 288 of the Penal Code if the victim is a wife of age deemed unfit for marriage, and her conduct results in injury or death. Another problem that needs to be proved in this article is that it can only be criminally threatened if the copulation causes injury or death. Pay attention to the provisions governing the issue of sexual crimes As outlined above, it appears that although it generally contains threats to acts of sexual abuse, these provisions have not been able to fully ensnare the perpetrators. Such a reality can be seen from the existence of weaknesses that can open the chances of passing the perpetrators (Setiadi, 2019).

4. CONCLUSIONS

From the above explanation, it can be concluded that Wahbah Zuhaili gives full authority to the enforcement of the law of had zina to the highest orority holders in each country, even for those who enforce islamic sharia law using the law of whipping it is already relevant to the interpretation of Wahbah Zuhaili as well as between the interpretation of wahbah zuhaili and the Criminal Code is considered to be relevant only from the criminal law enforcement process which is too weak, so that the perpetrators of adultery may still perform an alibi or selfdefense so that they do not get into the article of the Criminal Code.

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