

ABSTRACT

ZURAIDAH BINTI SENIK @ KAMARUDDIN. Method of Problem Solving from Islamic Thought Perspective: a Case Study of Sisters In Islam. Thesis, Kuala Lumpur: University of Malaya, Kuala Lumpur, Malaysia, 2015. The objectives of the study are: to illustrate Sisters In Islam as a women's organisation in struggling for women's rights to achieve its objectives; to analyze the method of problem solving deployed by SIS; and to critically evaluate the method of problem solving used by SIS from an Islamic thought perspective. In this study, the methods adopted are library research (content analysis; data analysis; data gathering; and comparative analysis) and field work. Based on the study, it is found that SIS is an organisation registered as an NGO in 1993. The study identifies that the main objectives of SIS's establishment according to this group are to promote a framework for the rights of women in Islam, abolish discrimination against them, enhance public consciousness and reform laws and policies within the framework of justice and equality in Islam. The group is also very active in promoting its objectives to achieve its aims. Through Amina Wadud, the group has engaged actively in a model of Qur'anic hermeneutics which they claimed concerned with the aspect of the text's context in which it was revealed; the text's grammatical composition; and the text's worldview. Based on the study, it is found that the method of problem solving applied by SIS through the model of Qur'anic hermeneutics does not fulfil the requirements of the acceptable method of problem solving from an Islamic thought perspective. The analysis also shows that the method of problem solving through *ijtihad* as interpreted by SIS does not fulfil the proper methods of *ijtihad* within the Islamic context. Based on the analysis, it is also deduced that the group does not fully implement their method of problem solving in resolving matters relating to the issues of *ṭalāq*, *ta'liq*, *khul'* and *fasakh*, but they seem to favour the opinions of sects other than al-Shāfi'ī as well as those that are not *Jumhūr* in most of

their recommendations. Whereas in the issues relating to *'awrah* and enforcing public morality, it is found that SIS' method of problem solving efforts in understanding these issues is mostly based on their opinions and rationale. Their method applied in the issues relating to *'awrah* and enforcing public morality does not fulfil the requirements for the acceptable method of problem solving from Islamic thought perspective. In the issues relating to enforcing public morality, SIS also appears to be partial to perspectives that come from the West in most of their opinions, especially in defining and understanding certain terminologies. Hence, the proposed solutions and ideas by SIS in the issues relating to *'awrah* and enforcing public morality do not coincide with the Qur'an and *Sunnah*. According to Islamic thought perspective, this situation happen because SIS do not apply the proper method of problem solving in giving the solutions to the issues relating to *'awrah* and enforcing public morality.

ABSTRAK

ZURAI DAH BINTI SENIK @ KAMARUDDIN. Metod Penyelesaian Masalah Menurut Perspektif Pemikiran Islam: Suatu Kajian Kes Terhadap Sisters In Islam. Tesis, Kuala Lumpur: Universiti Malaya, Kuala Lumpur, Malaysia, 2015. Objektif utama kajian adalah untuk mengilustrasikan Sisters In Islam sebagai sebuah pertubuhan wanita yang berjuang untuk mencapai objektifnya; untuk menganalisis kaedah penyelesaian masalah yang digunakan oleh SIS; dan untuk menilai secara kritikal kaedah penyelesaian masalah yang digunakan oleh SIS dari perspektif pemikiran Islam. Metodologi penyelidikan yang digunakan dalam kajian ini ialah kajian perpustakaan (Analisa isi; analisa data; analisa hasil dapatan; dan analisa perbandingan) dan kerja lapangan. Hasil dapatan penyelidikan mendapati bahawa SIS ialah sebuah organisasi yang telah didaftarkan sebagai NGO pada tahun 1993. Hasil kajian juga mengenal pasti bahawa tujuan utama penubuhan SIS menurut kumpulan ini adalah untuk mempromosi kerangka hak-hak wanita dalam Islam, menghapuskan diskriminasi terhadap wanita dan meningkatkan kesedaran awam serta memperbaiki undang-undang dan polisi dalam kerangka keadilan Islam. Kumpulan ini juga bergiat sangat aktif dalam mempromosi objektif mereka demi mencapai cita-cita. Menerusi Amina Wadud, kumpulan ini terlibat secara aktif dalam pentafsiran al-Qur'an menggunakan model hermeneutik. Menurut mereka, model ini menitik beratkan aspek kontek teks semasa penurunan wahyu; komposisi tatabahasa teks; dan pandangan menyeluruh teks. Hasil kajian mendapati bahawa metod hermeneutik yang digunakan oleh SIS tidak memenuhi syarat-syarat dan metod pentafsiran al-Qur'an yang sepatutnya dalam penyelesaian masalah menurut perspektif pemikiran Islam. Analisa kajian juga menunjukkan kefahaman SIS terhadap metod penyelesaian masalah menerusi *ijtihad* tidak menepati kefahaman yang sebenar menurut perspektif pemikiran Islam. Manakala, berdasarkan kajian terhadap isu-isu yang berkaitan dengan *ṭalāq*, *ta'liq*, *khul'* and *fasakh*, hasil kajian mendapati bahawa SIS tidak begitu mempraktikkan metod hermeneutik

dalam memberi alternatif penyelesaian masalah kepada masyarakat berkaitan isu-isu tersebut. Dalam isu-isu ini, cadangan penyelesaian masalah oleh SIS kebanyakannya diambil daripada pandangan ulama dari mazhab selain al-Shāfi'ī. Dalam kebanyakan cadangan penyelesaian masalah dalam isu-isu ini, SIS juga kelihatan tidak bersama dengan pendapat jumhur. Manakala dalam isu-isu yang berkaitan dengan aurat wanita dan penguatkuasaan undang-undang moral awam, kajian mendapati bahawa pendapat SIS kebanyakannya cenderung menggunakan akal dalam menangani isu-isu tersebut. Berkaitan dengan isu-isu penguatkuasaan undang-undang moral, SIS juga kelihatan lebih cenderung kepada pendapat-pendapat yang datang dari barat terutamanya dalam mendefinisi dan memahami istilah-istilah tertentu. Oleh itu, faktor-faktor ini membawa kepada cadangan penyelesaian masalah oleh SIS dalam isu-isu berkaitan dengan aurat wanita dan penguatkuasaan undang-undang moral awam tidak selari dengan al-Qur'an dan Sunnah. Menurut perspektif pemikiran Islam, perkara ini terjadi adalah berpunca daripada penggunaan metod penyelesaian masalah yang digunakan oleh SIS dalam menangani isu-isu yang berkaitan dengan aurat wanita dan penguatkuasaan undang-undang moral awam tidak menepati metod penyelesaian masalah yang sepatutnya sebagaimana yang digariskan oleh ulama Islam.

ACKNOWLEDGEMENTS

Alhamdulillah, praise be to Allah s.w.t., the Most Compassionate and the Most Merciful, who has a great plan for man to become His vicegerent and endows him with perceptual faculty and provides absolute guidance. First and foremost, I am indebted to Him for my existence and everything within it. Praises to Him for giving me the strength in facing all trials and tribulations in achieving success in this world and the hereafter. My journey for knowledge is for the sake of His pleasure and mercy.

My heartfelt gratitude and highest appreciation are due to my supervisor, Associate Professor Dr. Wan Zailan Kamaruddin bin Wan Ali for his invaluable support, unconditional patience and insightful guidance from the beginning of my study in PhD until its completion. He is my life-teacher, who teaches me about the philosophy of life, how to survive, how to struggle and how to be strong. My earnest thanks to Madam Azimah Shurfa binti Mohammed Shukry from UNISZA and Madam Amnah Shurfa binti Mohammed Shukry and Aisya Shurfa binti Mohammed Shukry for editing this thesis and giving me valuable guidance and support.

My sincere thanks are extended to the head of “Jabatan Akidah and Pemikiran Islam,” at Akademi Pengajian Islam, UM and all administrative staff for their kind help and cooperation. My gratitude also goes out to the head department of General Studies at Kulliyah Islamic Revealed Knowledge and Human Sciences, IIUM. My appreciation also goes to my beloved friend Dr. Rahimah Embong for sharing and caring.

I am deeply grateful to my loving life-partner, Mohd Shukri Abdullah, my beloved parents, Zakiah Abdul Kadir and Kamaruddin Ibrahim, my brothers, my sisters and my in-laws for their unwavering support. To my husband, thank you for your willingness to be with me to face all hardships in life. To my children, Mohd Rashid Ridha, Muhammad Muiz Ridha, Muhammad Murshid Ridha and Muhammad Wafi Ridha, thank you for being my source of inspiration.

May Allah s.w.t. reward all those who have contributed directly or indirectly to the accomplishment of this study. May Allah s.w.t. the Almighty grant all of us happiness and success in this worldly life and the hereafter.

TABLE OF CONTENTS

Declaration Page	ii
Abstract	iii
Abstract in Malay	v
Acknowledgements	vii
Table of Contents	ix
Transliteration	xiii
Abbreviations	xvii

CHAPTER ONE

INTRODUCTION OF THE STUDY

1.0.	Introduction	1
1.1.	Background of the Study	1
1.2.	Problem Statements	9
1.3.	Objective of the Study	10
1.4.	Definition	10
1.5.	Scope and Delimitation of the Study	13
1.6.	Significance of the Study	13
1.7.	Literature Review	15
1.8.	Methodology of the Study	19
1.9.	Organisation of the Study	21

CHAPTER TWO

SISTERS IN ISLAM

2.0.	Introduction	24
2.1.	Background of Sisters In Islam	24
2.2.	The Founding Members of Sisters In Islam	26
2.3.	The Objectives of the Establishment of Sisters In Islam	39
2.4.	The Activities and Programs of Sisters In Islam	45
2.5.	Conclusion	53

CHAPTER THREE

METHOD OF PROBLEM SOLVING THROUGH QUR'ANIC INTERPRETATION (*TAFSĪR*)

3.0.	Introduction	54
3.1.	What are the Problems?	55
3.2.	General Principles of Method of Problem Solving through Qur'anic Interpretation (<i>Tafsīr</i>)	58
3.2.1.	The Method of Qur'anic Interpretation (<i>Tafsīr</i>)	58
3.2.1.1.	<i>Tafsīr bi al-Riwāyah</i>	59
3.2.1.2.	<i>Tafsīr Bi al-Dirāyah/al-Ra'y/al-Ijtihād</i>	63
3.2.2.	The Qualifications of a <i>Mufasssīr</i>	64
3.3.	Method of Problem Solving through a Model of Qur'anic Hermeneutics Applied by SIS	67
3.4.	An Analysis on the Method of Problem Solving through a Model of Qur'anic Hermeneutics Applied by SIS from an Islamic Thought Perspective	74
3.5.	Conclusion	86

CHAPTER FOUR

METHOD OF PROBLEM SOLVING THROUGH THE PRACTICE OF *IJTIHĀD*

4.0.	Introduction	87
4.1.	General Principles of the Method of Problem Solving through <i>Ijtihād</i>	87
4.1.1.	The Definition of <i>Ijtihād</i>	88
4.1.2.	Method of <i>Ijtihād</i>	90
4.1.3.	The Process of <i>Ijtihād</i>	91
4.1.4.	The Matters of <i>Ijtihād</i>	92
4.1.5.	The Qualifications of a <i>Mujtahid</i>	96
4.1.6.	<i>Maṣlaḥah</i>	109
4.2.	The Method of Problem Solving through <i>Ijtihād</i> from SIS' Point of View	112
4.3.	An Analysis of SIS's Understanding of <i>Ijtihād</i> from an Islamic Thought Perspective	118
4.4.	Conclusion	128

CHAPTER FIVE

ANALYSIS OF SELECTED ISSUES RELATED TO FAMILY LAW

5.0	Introduction	129
5.1	The Status of Women and Their Rights	130
5.1.1	The Status of Women and Their Rights According to the Understanding of SIS	130
5.1.2	An Analysis of the Status of Women and Their Rights by SIS from an Islamic Thought Perspective	132
5.2.	Issues Analysis Related to Family Law	148
5.2.1.	Problem Solving of SIS Regarding Issues Related to <i>Talāq</i> : An Analysis from an Islamic Thought Perspective	149
5.2.1.1.	The Issue of the Court's Technical Problems with Regards to <i>Talāq</i>	150
5.2.1.2.	<i>Talāq</i> at the Declaration of the Husband is Said to be Too Easy	154
5.2.1.2.1.	The Issue of <i>Talāq</i> (Divorce) Without a Witness	154
5.2.1.2.2.	The Issue of <i>Talāq</i> (Divorce) without the Knowledge of the Wife	155
5.2.1.2.3.	The Issue of <i>Talāq</i> through Text Message	156
5.2.1.2.4.	The Issue of <i>Talāq</i> with Regards to the Wife Who is Divorced from Her Husband Even When She is Not Agreeable to It	157
5.2.2.	Problem Solving of SIS Regarding Issues Related to <i>Ta'liq</i> : An Analysis from an Islamic Thought Perspective	164
5.2.2.1.	The Issue of the Wife's Right to Apply for <i>Ta'liq</i> if the Husband Marries Another	164
5.2.2.2.	The Issue of the Evidence for <i>Ta'liq</i>	168
5.2.3.	Problem Solving of SIS Regarding Issues Related to <i>Khul'</i> : An Analysis from an Islamic Thought Perspective	170
5.2.3.1.	The Issue of the Requirement of the Husband's Consent in <i>Khul'</i>	170
5.2.3.2.	The Issue of the Amount of Compensation after <i>Talāq</i>	173
5.2.4.	Problem Solving of SIS Regarding Issues Related to <i>Fasakh</i> : An Analysis from an Islamic Thought Perspective	175
5.2.4.1.	The Issue of Extending the Right of <i>Fasakh</i> to the Husband	175
5.2.4.2.	The Issue of <i>Mut'ah</i> and <i>Nafqah 'Iddah</i>	180
5.2.5.	Conclusion	182

CHAPTER SIX

ANALYSIS OF SELECTED ISSUES CONCERNING WOMEN AND HUMAN RIGHTS

6.0.	Introduction	183
6.1.	Problem Solving of SIS Regarding Issues Related to Women's 'Awrah: An Analysis from an Islamic Thought Perspective	183
6.1.1.	The Issue Regarding the First Rule of Women's Dress Code According to SIS	184
6.1.2.	The Issue Regarding the Second Rule of Women's Dress Code According to SIS	186
6.1.2.1.	The Issue Regarding the Meaning of the Word <i>Khimār</i>	186
6.1.2.2.	The Issue of Covering the Head and Hair	188
6.1.2.3.	The Issue of the Interpretation of "Except that Which is Necessary."	193
6.1.3.	The Issue Regarding the Third Rule of Women's Dress Code According to SIS	197
6.1.4.	Conclusion	203
6.2.	Problem Solving of SIS Regarding Issues Related to Enforcing Public Morality: An Analysis from an Islamic Thought Perspective	204
6.2.1.	The Issue of What Constitutes Public Morality	205
6.2.2.	The Issue Regarding the Role of the State in Legislating Morality	211
6.2.3.	Conclusion	219

CHAPTER SEVEN

The findings, Conclusion and Recommendations	222
Bibliography	237

TRANSLITERATION

The rules of transliteration for the romanization of Arabic word are based on the following guidelines:¹

Consonants

Arabic	English
ا, ء	a, 'a
ب	b
ت	t
ث	th
ج	j
ح	h
خ	kh
د	d
ذ	dh
ر	r

¹ Panduan Penulisan Ilmiah, 3rd ed. (Kuala Lumpur: Pejabat Ijazah Tinggi, Akademi Pengajian Islam Universiti Malaya, 2012), 45.

ز	z
س	s
ش	sh
ص	ṣ
ض	ḍ
ط	ṭ
ظ	ẓ
ع	‘
غ	gh
ف	f
ق	q
ك	k
ل	l
م	m

ن	n
ه	h
و	w
ي	y
ة	h, t

Vowels

Short Vowels	Transliteration	Example	Transliteration
اَ	a	قَنَاتَ	<i>qanata</i>
اِ	i	سَلِمَ	<i>salima</i>
اُ	u	جُعِلَ	<i>ju'ila</i>

Long Vowels	Transliteration	Example	Transliteration
آ ، اِي	ā	بَابُ كُبْرَى	<i>bāb, kubrā</i>
يِ	ī	وَكَيْلٌ	<i>wakīl</i>
وِ	ū	سُورَةٌ	<i>sūrah</i>

Diphthongs

Diphthong	Transliteration	Example	Transliteration
اَوْ	aw	قَوْلَ	<i>qawl</i>
اَيَّ	ay	حَيْرَ	<i>khayr</i>
اُوْ	uww	قُوَّةَ	<i>quwwah</i>
اَيَّ	iy, ī	عَرَبِيَّ	<i>‘arabiy/ī</i>

ABBREVIATIONS

B.Sc.	:	Degree
d.	:	Death
Dr.	:	Doctor
ed.	:	Edited
Ibid.	:	Ibidem (Similar reference)
IIUM	:	International Islamic University Malaysia
NGO	:	Non-Governmental Organisation
no.	:	Number
Op.cit.	:	Opera citato (Earlier reference)
Ph.D.	:	Philosophy of Doctorate
Prof.	:	Professor
r.a.	:	<i>Raḍiyallāhu ‘anhu/ ‘anha/ ‘anhum</i>
s.w.t	:	<i>Subḥānahu wa Ta’ālā</i>
s.a.w.	:	<i>Ṣallallāhu ‘alayhi wasallam</i>
SIS	:	Sisters In Islam
t.t.	:	Without date of publishing
t.p.	:	Without publisher
t.tp.	:	Without place of publishing
UKM	:	Universiti Kebangsaan Malaysia
UM	:	University of Malaya
UPM	:	Universiti Pertanian Malaysia
USIM	:	Universiti Sains Islam Malaysia
USM	:	Universiti Sains Malaysia
vol.	:	Volume