CHAPTER SEVEN

THE FINDINGS, CONCLUSION AND RECOMMENDATIONS OF THE

STUDY

In chapter one, the background of the study, problem statement, objectives, definition of the title, delimitation of the research, methodology, significance of the research, literature review, and the structure of the study was discussed.

Chapter one begins with the background of the study. The founding of SIS was traced to a law that its members were dissatisfied with after the implementation of new Islamic Family Laws enforced in 1987. This dissatisfaction led to the formation of Sisters in Islam (SIS). The members of the group aim to reinterpret the texts of Islam because they believe that their proposed interpretations should be able to solve problems arising in society. In other words, they want to offer an alternative problem solving for society. This brief background of SIS sparked the interest for the study of this topic which has been named "Method of Problem Solving from Islamic Thought Perspective: a Case Study of Sisters In Islam."

The problem statements used for this research are as follows: What are the objectives of the establishment of Sisters In Islam and how does it play its role as an NGO in championing women's rights to achieve them? What are the methods of problem solving used by this organization to solve the problems? Are the methods of problem solving used by SIS in solving problems accepted by Islam?

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 defining the title, the term 'method' is found to connote "*a particular way of doing something*"; 'of' means "*concerning*"; the word 'problem-solving' is referred as "*the act of finding ways of dealing with problems.*""; 'from' is "*used to show somebody's position or point of view*"; 'Islamic thought perspective' signifies the Islamic viewpoint that is based on the Qur'an and Hadith; 'a Case Study' here means "*a detailed account of the development of a group of people* "; and the term 'Sisters In Islam' in this study refers to those who claim themselves as members of the Sisters In Islam organisation.

With regards to the delimitation of the study, the research focuses on the general principles of the acceptable method of problem solving through Qur'anic interpretation (*tafsīr*) and *ijtihād*. The research concentrates on Sisters In Islam and their method of problem solving through a model of Qur'anic hermeneutics. The study also focuses on the method of problem solving through *ijtihād* as interpreted by SIS. The research looks into issues relating to family law (*ṭalāq*, *taʿlīq*, *khulʿ* and *fasakh*), *ʿawrah* and enforcing public morality. The general principles of the acceptable method of problem solving as determined by renowned Muslim scholars in their respective fields were used as a tool to analyse the method of problem solving by SIS, followed by an analysis from the Islamic thought perspective.

The methodology of the study involved library research (content analyses, data analyses, data gathering, and comparative analyses) and field work (interviews, evaluation and analyses).

In terms of the literature review, based on research in libraries within IIUM, UM, UKM, UPM, USM, and USIM, there were no theses found written specifically on the method of problem solving used by Sisters in Islam at PhD level. Papers written at degree levels do exist but are only discussed within general contexts. At the international level, several books do mention SIS though not in detail.

Chapter two presents the background of the establishment of Sisters In Islam, its founding members, its purpose of establishment, their activities and programmes.

The research found that the group's formation began in 1987 as a part of the Association of the Women Lawyers (AWL) when several women lawyers and their friends assembled to study what they believed as problems relating to the implementation of certain new Islamic Family Laws that were recently enforced. The situation led to the formation of Sisters in Islam (SIS) and in 1993, they were registered as a Non-Governmental Organisation (NGO) under the name of SIS Forum (Malaysia) Berhad.

The founding members consist of eight women: Amina Wadud, Askiah Adam, Norani Othman, Rashidah Abdullah, Rose Ismail, Salbiah Ahmad, Sharifah Zuriah Aljeffri, and Zainah Anwar.

The study reveals that according to SIS, the objectives of SIS' establishment is to promote a framework of 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.

In accordance with their objectives, it is found that SIS has run many activities and programmes to achieve its purpose with strong funding support. These include seminars, workshops, conferences, study sessions, public lectures, submitting letters to editors of major newspapers and more. SIS can be categorised as an organisation that has been active in promoting its objectives to achieve its aims according to its understanding.

 Chapter 3 brings into discussion the method of problem solving through Qur'anic interpretation (*tafsīr*). This chapter begins with an elaboration of the problems that arise in society as claimed by SIS. After which, the general principles of the method of problem solving through the Qur'anic interpretation (*tafsīr*) as determined by renowned Muslim scholars are discussed. This chapter also clarifies the qualifications required of a *mufassir*.

After that, the chapter discuss about the method of problem solving applied by SIS through the model of Qur'anic hermeneutics and its analysis from an Islamic thought perspective.

What are the problems? Based on the study, it shows that the founding members of SIS claim that there is a problem of discrimination against women in the name of Islam. The question that they are faced with is "… - *if Islam is just - why do laws and policies made in the name of Islam create injustice?*" Then, SIS claims that "… *it was not Islam that oppressed women, but male-centred interpretations of the Qur'an influenced by cultural practices and values of patriarchal society*," and consequently proposes a new method to solve them. SIS highlights that such bias in some of male interpretations have impacts on gender equality and human rights within Islamic communities. They believe that some male Muslim scholars who make discriminatory interpretations silence woman's realities, voice and experiences.

The research found that as a group struggling for gender equality, SIS also believes the struggle is concurrent with the fight for human rights. This in turn has led them to focus on areas of Muslim family law, *ḥijāb*, moral policing, polygamy, child marriage, Islamic legal theory, violence against women, *ḥudūd*, fundamental liberties and inheritance. Their fight for gender equality and human rights is based on their perspectives, ideas and their own method of interpreting the Qur'an. They believe that they are able to solve such problems in society by reinterpreting the texts of Islam.

This chapter further discusses the method of problem solving through Qur'anic interpretation from an Islamic thought perspective. This chapter stresses that renowned Muslim scholars have determined the general principles of the method of Qur'anic interpretation to avoid misinterpretation. In addition to this, certain qualifications are required to interpret the text. These principles became the guideline in analysing the method of problem solving exercised by SIS.

Based on the study, it is found that one of the methods of problem solving that is claimed to be used by SIS in solving problems is through a model of Qur'anic hermeneutics. Through Wadud, the group engaged actively in a model of Qur'anic hermeneutics, in which she claims that the model is concerned with the aspect of the text's context in which it was revealed; the text's grammatical composition; and the text's worldview.

The research shows that the model of Qur'anic hermeneutics only mention the method of *"tafsīr al-Qur'ān bi al-Qur'ān "*, however this model does not mention the other methods as outlined by renowned Muslim scholars. These include the method of interpretation of the Qur'an by the *Sunnah*, the interpretation of the Qur'an based on what has been transmitted by the *ṣaḥābah* (companion), and the interpretation of the Qur'an based on what has been transmitted by the *tābi'īn*.

The analysis of the study concludes that even though the model of Qur'anic hermeneutics includes a few principles that are acceptable and necessary in the work of interpretation, it is still inadequate in obtaining the actual meanings of the Qur'anic text. There are many other principles and guidelines that must be followed and fulfilled by those who wish to interpret it. In addition to this, there are also principles of SIS's method of interpretation that are widely general and may lead to liberal interpretations without limitations. Moreover, several principles of interpretation used by SIS contradict with general principles of Qur'anic interpretation as determined by Muslim scholars. This in turn renders their model and its outcome irrelevant from an Islamic thought perspective. Thus, the method of problem solving through a model of Qur'anic hermeneutics used by SIS does not fulfil the requirements and general principles of the method of problem solving through Qur'anic interpretation from an Islamic thought perspective.

Chapter 4 discusses the method of problem solving through *ijtihād*. This chapter begins with the topic of general principles of the method of problem solving through *ijtihād* from an Islamic context. After which, *ijtihād* as interpreted by SIS is presented, followed by an analysis from an Islamic thought perspective.

From an Islamic point of view, the study indicates that *Jumhūr Uṣūliyyīn* defines *ijtihād* as the utmost effort of jurists to obtain *ḥukm* from *ẓannī* evidence (*dalīl ẓann*). In discussing the general principles of the method of problem solving through *ijtihad*, there are three methods or modes of *ijtihād* that can be exercised by qualified *mujtahids*. In their effort to derive laws from the sources, they must apply all three methods of *ijtihād*, if necessary. They must also follow the proper process of *ijtihād*.

The Muslim scholars have reviewed the matter of *ijtihād* and determined the guidelines for any *mujtahid* who wish to practice it. In Islam, there are matters which are *thawābit* (unchangeable) and there are matters which are *mutaghayyirāt* (changeable). The *ijtihād* can only be practised for the matters which are *mutaghayyirāt*, whereas *ijtihād* is not allowed to be practised for the matters which are *thawābit*.

This chapter also discusses the qualifications of a *mujtahid* as determined by Muslim scholars and clear explanations regarding *maṣlaḥah* is given.

The research has found that Zainah Anwar, one of the founding members of SIS presents *ijtihād* as per the following:

i. Ijtihād "*is the jurist's method for finding solutions to new issues in light of the guidance of revelation.*"

ii. New interpretations of religious texts and new rulings are continuously sought to replace outdated laws with those that are parallel with the changing realities of time and place;

iii. The multiplicity of opinions and views must be recognised and engaged with the community for the interest of the public (*maṣlaḥah*);

iv. The interpretations and laws may vary within the framework of Islamic principles according to its context within society;

v.   Some present-day family laws must be reformed to reflect the values of equality and justice in Islam and strengthen universal human rights standards so that they remain relevant to the lives that Muslim families lead today; and

vi.   The right to identify and describe religious beliefs and what role they should play in public law and policy. It should be open to public debate and 'pass the test of public reason.'

With regards to the matter of *ijtihād*, the research shows that Zainah categorises legal rulings into "*'ibadat*" and "*mu'amalat*". She states that "*'ibadat*" offers restricted scope for change, while rulings in "*mu'amalat*" remain open to change.

The study further reveals that SIS is a group who believes that when Islam becomes a source of law and public policy, all members of a society have the right to debate the subject, be they Muslims or non-Muslims, experts or non-experts.

The research found that SIS believes that the human agency should serve its significant role in interpreting and deducing laws by taking into consideration the public interest in order to ensure that justice is consequently upheld in any society. SIS believe that Muslims must be guided by the Qur'an and ensure that their personal law fulfils the public interest (*maṣlaḥah*).

Based on the analysis from Islamic thought perspective, it is found that there are misunderstandings in terms of categorisation relating to the matter of *ijtihād* by Zainah, the founding member of SIS.

From an Islamic point of view, there are rulings/matters in the *mu'āmalah* that are categorised as *thawābit* (unchangeable) and there are matters in the *mu'āmalah* which are *mutaghayyirāt* (changeable). Ruling/matters that are categorised as *thawābit* are not open to

ijtihād, while rulings/matters that are categorised as *mutaghayyirāt* are open to *ijtihād*. Thus, in discussing the matter of *ijtihād*, one needs to understand the connotation of the word *thawābit* and *mutaghayyirāt* or definitive (*qatʿī*) and probable (*ẓannī*). *Ijtihād* is not based on *ʿibādah* or *muʿāmalah* categories. Hence, anyone who intends to talk about *ijtihād* needs to clearly understand what *ijtihād* involves.

With reference to the qualifications of a *mujtahid*, any individual, regardless whether male or female is allowed to engage in *ijtihād* with the condition that he or she must fulfil its qualifications as determined by Muslim scholars.

In the issue of *maṣlaḥah*, the study has found that SIS does not fully comprehend its meaning. From an Islamic point of view, Muslims do not determine their *maṣlaḥah* solely based on human opinion. A *mujtahid* must ensure that the *maṣlaḥah* that he/she refer to is genuine, general (secures the interests of all parties) and do not conflict with clear *naṣ* (textual evidence). *Maṣlaḥah* must be comprehensive and cover both interests of this world and in the hereafter. A *mujtahid* must understand what *maṣlaḥah* or public interest is from an Islamic point of view and the understanding of 'public interest' should be based on the Qur'an and *Sunnah*.

The analysis shows that the method of problem solving through *ijtihād* as interpreted by SIS do not run parallel with the method of problem solving through *ijtihād* as seen from the Islamic thought perspective. SIS's understanding of the method of problem solving through *ijtihād* needs to be corrected to avoid the formation of irrelevant solutions to societal problems. Those who are involved in issuing Islamic laws must be qualified *mujtahids* and follow the predetermined rules and methods of *ijtihād*.

Chapter 5 begins with a review of SIS' perspective on the status of women and their rights. This analysis was done to obtain a better understanding of the issues that are frequently highlighted by SIS in their recommended solutions to prevailing problems in society.

Following that, a few issues that are claimed by SIS as discrimination against Muslim women is discussed and their suggested solutions reviewed. After which, an analysis of SIS' commentary on the selected issues is conducted based on the Islamic thought perspective by observing the methods used to solve problems. Since the main focus of SIS is on Islamic family law, a few issues relating to this field were chosen as the subject of analysis. The issues that are analysed in this chapter are related to *ṭalāq*, *ta'līq*, *khul'* and *fasakh*.

The study found that SIS has several misunderstandings about the status of women and their rights. From the Islamic thought perspective, in order for justice to be served, specific rights must be given to those who are worthy of it. Justice does not necessarily mean that every individual is given equal quantity of rights; rather justice is to place things in their rightful place by considering its suitability, ability, and *fiṭrah*. This is to ensure that the appointed has the ability to carry out the duty. The different roles and rights of men and women in specific areas of worldly affairs do not imply that they are unequal in terms of their status as human beings.

The research shows that the recommendations and solutions offered by SIS on technical problems found in court can be considered as long as it can benefit and provide equal forms of justice to both husband and wife and does not contradict with Islamic teachings. Any recommendations and solutions that contradict the Qur'an and Hadith must be rejected.

SIS is also found to be partial towards their own opinions over *jumhūr* in the issues related to *ṭalāq*, *ta'līq*, *khul'* and *fasakh*.

Based on the study, it is found that SIS do not fully implement the principles of their method in providing solutions to issues related to *talaq*, *ta'liq*, *khulu'* and *fasakh*. They are favourable towards opinions of other *madhāhib* (sects) when it comes to these matters, providing recommendations and solutions to the problems as alternatives to the current

solutions practiced in the country. Most of SIS' opinions are not those of *jumhūr* and they choose opinions that they believe can benefit women. However, in these issues, it is not a problem if SIS offers solutions by extracted from opinions of other *madhāhib* within the *Ahl Sunnah wa al-Jamā'ah*.

In chapter six, the topic of discussion concerning women is *'awrah* and the topic concerning human rights is the enforcement of public morality. The perspectives and recommended solutions of SIS on these selected issues are presented and an analysis from an Islamic thought perspective was done by observing the methods used to solve problems.

The findings of the study related to *'awrah* are as follows:

i.   There are three rules to the Dress Code of women in Islam according to SIS: "First, the best garment is the garment of righteousness; second, whenever the women dress, they cover their chest (bosoms); and third, they lengthen their garment."

ii. SIS believes that the general term [إلا ما ظهر منها] used in the verse is to give women the freedom to determine the definition of "which is necessary" based on individual situations and circumstances.

iii.   SIS is of the opinion that the women is asked to use the cover (*khimār*) (being a dress, coat, shawl, shirt, blouse, tie, scarf, etc.) to cover their bosoms and not their head or hair.

iv.   In SIS's view, the verse 33:59 does not stipulate the length of the garment that the women are required to maintain, thus SIS believes that the minor details of this dress code should be left for the people of every community to decide for themselves.

v.   SIS concludes that the women's dress code is based on righteousness and modesty.

From an Islamic point of view, there are many *naṣ* (text) of *sharaʿ* that indicate in detail the parts of women's bodies which are considered as *'awrah* and must be covered. However, the study found that one of the main issues of SIS is that they misunderstand the Qur'anic verses due to their improper method of interpretation. The woman's dress code and *'awrah* is not a cultural matter, but a command of Allah s.w.t.. There are certain rules and regulations of dress code that must be followed by women, and its conditions are not subject to the decisions of the community that they live in.

The conditions of women's dress code are stated in the Qur'an and Hadith. Islam does not reject fashion; women are free to choose whatever fashion they wish to be dressed in as long as they fulfil the conditions of dress code as mentioned in the Qur'an and Hadith. The Muslim woman's dress code in Islam is suited to different cultures, times and places as commanded by Allah s.w.t..

The dress code of Muslim women as explained by Muslim scholars is well established by means of the Qur'an, the *Sunnah* and the consensus of reliable Shariah scholars in the past and present.

The study shows that although SIS has their own methods of interpretation, they do not fully implement their method when it comes to the issue of women's *'awrah*. Even if it is fully implemented, they would still fail to attain the correct meanings of the Qur'anic verses as they do not fulfil the requirements of the method of Qur'anic interpretation. Their way of thinking in understanding the issue is partial to methods based on logic and rationale. Thus, the method applied by SIS results in the Qur'anic misinterpretations in the issues related to *'awrah* and their recommended solutions to these issues contradicts with the Islamic thought perspective.

The findings of the study relating to the matter of enforcing public morality are as follows:

i.   Zainah, the founding member of SIS, believes that public morality must be based on public consensus;

ii.   Zainah believes that in a country where Islam is used as a source of law and public policy, those in religious authority should not monopoly the interpretation and meaning of Islam; and

iii.   Zainah questions whether it is truly the duty of the state – to bring about a moral society – to turn all "sins" into "crimes against the state".

Based on the above findings, from an Islamic point of view, what constitutes moral or immoral must be referenced to the Qur'an and Hadith. Unlawful acts are explained in the Qur'an and/or Hadith, and those acts do not require public consensus to prohibit or to permit, to be punishable or to enforce a law against it. It also does not require public consensus to decide on whether those who neglect the obligations must be punished. If an act is prohibited as stated in the Qur'an, this means it is unlawful, regardless of public consensus. It is immoral whether committed in private or public.

From the Islamic thought perspective, a person who wishes to express opinions in certain topics that require the knowledge of expertise must be qualified in doing so. In the field of religion, those who are qualified to express their views to the wide public are scholars and reputed religious individuals. If one intends to talk about Islam, one must first gain the necessary knowledge required. Religious models and scholars do not intend to conquer or monopolise interpretations and meanings of Islam, rather they aim to protect the religion from Qur'anic misinterpretation.

The study shows that the role of the state in Islam is to implement the divine law. Islam rules and regulates both the private religious life of an individual, and all aspects of public life. In Islam, religion and state are two concepts that cannot be separated. It is among the roles of those in authority to enjoin good and prohibit evil, and this includes carrying out punishments as prescribed by Allah s.w.t. on those who break the rules of Shariah. In addition to this, education of the society is crucial; however state authorities must enforce the law to ensure that the people abide to the stipulated rules and regulations. Both education and the enforcement of the law are important to thwart individuals from committing prohibited acts or neglecting obligations.

The method of problem solving used by SIS in this matter is found to be partial to their personal opinions. Their methods do not fulfil the requirements of proper method of problem solving from Islamic thought perspective. SIS also appears to be biased towards ideas that come from the West in certain matters, especially in defining and understanding certain terminologies. Hence, this leads to proposed solutions and ideas of the issues that related to enforcing public morality do not coincide with the Islamic thought perspective.

If SIS intends to ensure that their method of problem solving and solutions are in line with Islamic teachings, it is recommended that they:

i.   Apply the proper method of *tafsīr* in understanding the Qur'an in order to obtain the accurate meanings.

ii.   Refer to the general principles determined by Muslim scholars in understanding *ijtihād* as a method of problem solving. Any *mujtahid* needs to apply certain methods or models and follows certain steps in the process of *ijtihād* if he/she wishes to practice it.

iii.   Understand what *ijtihād* encompassed to avoid misunderstandings on the matter of *ijtihād*. They need to seek the proper knowledge of the texts or *naṣ* which are categorised as

"*qat'ī*" and "*ẓannī*" if they wish to exercise *ijtihād*.

vi.   Ensure any member who wishes to exercise *ijtihad* needs first to fulfil all the conditions required in order to become a qualified *mujtahid*. Once they become qualified *mujtahids*, they need to follow proper methods of *ijtihad* to ensure that the *ḥukm* (law) deduced is based on the teachings of the Qur'an and Sunnah.

v.   Ensure the members of the group fully understand Islam before they relay any ideas related to it. How can they solve problems related to Muslim societies if they themselves do not fully understand Islam?

vi.   Understand that current laws do take into account the current realities of contemporary society, but not all are required to. Laws cannot be simply amended to adapt to current situations and instead, the society needs to make adaptations to established and effective laws. Although certain laws can be altered to adapt with the context of current societal conditions and contemporary needs, they must not contradict with Islamic teachings.

vii. Understand the determining what is *fiqh* and Shariah cannot be taken from existing facts or circumstances. They must be based on evidences (*dalīl*) extracted from the Qur'an, the Sunnah, the consensus of the *ṣaḥābah* and *qiyas*. Even though society is constantly changing, it does not mean that *fiqh* and Shariah must be modified to adapt to these changes. Instead, society must adapt according to existing *fiqh* and Shariah.

viii. Understand the *maṣlaḥah* or public interest is from an Islamic point of view. The understanding of 'public interest' must be based on the Qur'an and Sunnah. Coming up with conclusions without referring to these sources is dangerous, as the capability of the human mind is limited. The Islamic way of deducing conclusions must always be guided by the Qur'an and Sunnah.

ix.   Acquire sufficient knowledge of *maṣlaḥah* if SIS intends to apply the concept of *maṣlaḥah* when solving problems prevailing in current society. They need to adhere to the

guidelines and principles determined by Muslim scholars to avoid the misuse of the term *maṣlaḥah* as it cannot be determined from merely the logical perspective. It needs to be based on what is stated in the Qur'an and Sunnah.

x.   Understand the meaning of justice as defined in the Qur'an and Sunnah. The misunderstanding of the word "justice" will result in inappropriate solution.

xi.   Comprehend the issues they aim to debate on and avoid making pre-conclusive judgements. SIS cannot make conclusions merely by extracting certain sentences or incomplete parts of a topic. They need to study and analyse the topic discussed as a whole in order to understand it.

xii.   Analyse the current issues before providing solutions for implementation. These issues need to be reviewed so that the offered solutions do not contradict with teachings of the Qur'an, Sunnah or the *ijmāʿ*. The forming of the suggestions and recommendations must be guided by these three sources to ensure that they are parallel with true Islamic teachings.

xiii. Ensure the involvement of relevant parties referring to *maqāṣid* Shariah in providing solutions and suggestions that are parallel with the Qur'an and Hadith.

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Ibid.