

AN ANALYSIS OF SIS'S UNDERSTANDING OF *IJTIHĀD* FROM AN ISLAMIC THOUGHT PERSPECTIVE

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Khulasah

Sisters In Islam (SIS) adalah sebuah pertubuhan bukan Kerajaan (NGO). Pembentukan kumpulan ini bermula pada tahun 1987 apabila sekumpulan wanita berkumpul untuk meneliti dan menumpukan perhatian kepada apa yang mereka dakwa sebagai masalah yang berkaitan dengan pelaksanaan sebahagian daripada Undang-Undang Keluarga Islam yang baru yang dikuatkuasakan pada tahun itu. Keadaan ini membawa kepada pembentukan Sisters In Islam (SIS) pada tahun 1989, dan pada tahun 1993, mereka telah didaftarkan sebagai Pertubuhan Bukan Kerajaan (NGO) di bawah nama SIS Forum (Malaysia) Berhad. SIS menyatakan bahawa mereka menawarkan penyelesaian alternatif kepada masalah yang mereka dakwa dihadapi oleh masyarakat Islam. Oleh kerana metode penyelesaian masalah dalam Islam adalah penting untuk memastikan penyelesaian yang diberikan tidak bercanggah dengan Islam, artikel ini akan menganalisis metode penyelesaian masalah melalui *ijtihad* mengikut pandangan SIS daripada perspektif pemikiran Islam.

Kata kunci: Masalah; penyelesaian; *ijtihad*; analisa; pemikiran; Sisters In Islam (SIS).

Abstract

Sisters In Islam (SIS) is a Non-Governmental Organisation (NGO). The group's formation started in 1987 when several women gathered to concentrate on what they claimed as problems relating to the implementation of some new Islamic Family Laws that were enforced in that year. This situation led to the formation of the core of what was to become Sisters In Islam (SIS) in 1989, and in 1993, they were registered as a Non-Governmental Organisation (NGO) under the name of SIS Forum (Malaysia) Berhad. SIS state that they offer alternative solutions for the problems that they claimed are faced by Muslim society. Since the method of problem solving in Islam is significant to ensure the given solution does not contradict with Islam, this article will analyse the method of problem solving through *ijtihād* as interpreted by SIS from an Islamic thought perspective.

Keywords: Problem; solution; *ijtihād*; analysis; thought; Sisters In Islam (SIS).

Introduction

The human mind is very important when it comes to guiding people to their destination. The mind is very essential in being human, and it is considered a gift to humans. In order to live a true, just and good life, people have to use their *`aql* or mind to think, to reflect, and to observe a religious way of life.¹

The people's needs are not endless, just as the agenda of human life is not endless. Yet, at the same time, disputes among people will continue to exist. This is why *ijtihād* is necessary. It is needed to find the answers we humans are constantly looking for.²

¹ Muḥammad Sayyid Tanṭāwī, *Al-Ijtihād fī al-Aḥkām al-Sharī'ah*, translated by Safri Mahayedin (Egypt: Dar Nahdah, t.t.), 2.

² *Ibid.*

The Definition of *Ijtihād*

Ijtihād is a *maṣḍar* of the Arabic word 'ijtahada' (اجتهد), which means to exert his best or utmost effort.³ It is derived from the Arabic root word (ج ح د: *j-h-d*). الجهد means hardship and energy, and بالضم الجهد means only energy.⁴

Literally, *ijtihād* means the utmost effort⁵ in doing something. Utmost effort here means with maximum and full energy. Hence, it is not called *ijtihād* if there is no hardship or maximum effort involved. Thus, *ijtihād* is not used to carry a seed, but it is used to carry a rock, as carrying rocks require great effort.⁶ In other words, *ijtihād* literally is defined as the exertion of utmost effort on a matter that requires it.

Terminologically, *ijtihād* means:

- i. To exert utmost effort to deduce (*idrāk*) *ḥukm shar'ī*.⁷
- ii. To exert utmost effort to discover evidence to reach *al-qaṭ'ī* or *al-zannī* of *ḥukm shar'ī*.⁸
- iii. To exert utmost effort when considering *Shar'īyyah* evidence to deduce *al-aḥkām al-Shar'īyyah*.⁹
- iv. The utmost efforts of jurists in obtaining *ḥukm* from *zannī* evidence (*dalīl zannī*).¹⁰

³ Muḥammad al-Ḥasan al-Shanqīṭī, *Sharḥ al-Waraqāt fī 'Usūl al-Fiqh* (t.tp.: Durūs Ṣawṭīyyah, t.t.), 26.

⁴ *Ibid.*, 58.

⁵ Ḥasan bin Muḥammad bin Maḥmūd al-'Attār al-Shāfi'ī, *Ḥāshiyah al-'Attār 'alā Sharḥ al-Jalāl al-Maḥallī 'alā Jam' al-Jawāmi'* (t.t.p.: Dār al-Kutub al-'Ilmiyyah, t.t.), 420.

⁶ Abū 'Abdullāh bin 'Umar bin Musā'id al-Ḥāzimī, *Al-Sharḥ al-Muyassar Liqawā'id al-'Usūl wa Mu'āqid al-Fuṣūl* (t.tp.: Durūs Ṣawṭīyyah, t.t.), 25.

⁷ Muḥammad bin Ṣāliḥ bin Muḥammad al-'Uthaymīn, *'al-'Usūl min Ilm al-'Usūl* (t.tp.: Dar Ibn al-Jawzī, 1426H), 85.

⁸ Al-Jāmi'ah al-Islamiyyah, *Mudhakkirah Usūl al-Fiqh* (Madīnah: Mawqī' al-Jāmi'ah 'alā al-Intarnit, t.t.), 58.

⁹ Abū 'Abdullāh, Aḥmad bin 'Umar bin Musā'id al-Ḥāzimī, *al-Sharḥ al-Mukhtaṣar Li Nuḥum al-Waraqāt* (t.tp.: Durūs Ṣawṭīyyah, t.t.), 25.

- v. To exert utmost effort to reach the goal.¹¹ Or: The jurist (*faqīh*) exerts his utmost effort to find out a legitimate rule of evidence (*dalīl*).¹²
- vi. The *mujtahid* has spent so much effort in pursuit of the knowledge of *aḥkām al-Sharʿiyyah*.¹³
- vii. *Ijtihād* is also defined as,
"The exertion of the utmost effort by a trained jurist, taking into account all the relevant texts of the Qur'an and Sunna as well as principles of jurisprudence, to discover, for a particular human situation, a rule or law. *Ijtihād* is the mechanism by which Islamic law, as revealed in the Qur'an and the Sunna, may be interpreted, developed and kept alive in line with the intellectual, political, economic, legal, technological and moral developments of a society."¹⁴

Terminologically, *Jumhūr Uṣūliyyin* defines *ijtihād* as the utmost effort of jurists to obtain *ḥukm* from *zannī* evidence (*dalīl zannī*). Thus, *ijtihād* is only acceptable if one exerts his utmost efforts in searching to the point where he feels that there is nothing left to search for.¹⁵ It is the exertion of energy to the extent that the faculties of the

¹⁰ Muḥammad bin al-Ḥasan bin al-ʿArabī bin Muḥammad al-Ḥujuway al-Thaʿālabī al-Jaʿfarī al-Fāsī, *al-Fikr al-Samī Fi Tārīkh al-Fiqh al-Islāmī* (Bayrūt: Dār al-Kutub al-ʿIlmiyyah, 1995), 493.

¹¹ Jalāl al-Dīn Muḥammad bin Aḥmad bin Muḥammad bin Ibrāhīm al-Maḥallī al-Shāfiʿī, *Sharḥ al-Waraqāt Fi Uṣūl al-Fiqh* (Falastīn: Jāmiʿah al-Qudus, 1999), 223.

¹² Muḥammad al-Ḥasan al-Shanqīṭī, *Sharḥ al-Waraqāt fi ʿUsūl al-Fiqh*, 26.

¹³ Abū ʿAbdullāh, Aḥmad bin ʿUmar bin Musāʿid al-Ḥāzimī, *al-Sharḥ al-Mukhtaṣar Li Nuzūm al-Waraqāt*, 16.

¹⁴ Abdullah Saeed, *Islamic Thought: An Introduction* (USA and Canada: Taylor & Francis, 2006), 52.

¹⁵ Muḥammad al-Ḥasan al-Shanqīṭī, *Sharḥ al-Waraqāt fi ʿUsūl al-Fiqh*, 26.

jurist become incapable of making further effort. In the other words, *ijtihād* is the maximum effort expanded by the jurist to master and apply the principles and rules of *uṣūl al-fiqh* (legal theory) for the purpose of discovering God's law.

An Analysis of SIS's Understanding of *Ijtihād*

SIS do claim that *ijtihād* is needed because human affairs constantly evolve. Zainah¹⁶ says, "...there is always a need for new rulings that use new interpretations of the religious texts to bring outdated laws in line with the changing realities of time and place. This is the rationale of *ijtihad*..."¹⁷

Based on the above statement, SIS have to be aware that the interpretation of religious texts must be based on the Qur'an and *Sunnah*. *Ijtihād* is important. However, to understand and derive Islamic laws from evidence, certain methods, rules and regulations must be followed. Thus, SIS must follow the proper methods that have been laid down by our Muslim scholars if they want to practice *ijtihād*. A *mujtahid* needs to try his utmost to discover proof and reasoning. A *mujtahid* is not free to say anything according to his own desires.¹⁸

¹⁶ Zainah Anwar is one of the founding members of SIS. She has worked as a Chief Programme Officer in the Political Affairs Division for the Commonwealth Secretariat, London; became a Senior Analyst at the Institute of Strategic and International Studies, Kuala Lumpur; and was a Political and Diplomatic Writer for the New Straits Times, Kuala Lumpur. As the public face of SIS, she was chosen to become the project director of Musawah: For Equality in the Family. She has published a book entitled "Islamic Revivalism in Malaysia: Dakwah among the Students".

¹⁷ Zainah Anwar, "Introduction: Why Equality and Justice Now," in *Wanted: Equality and Justice in the Muslim Family*, ed. Zainah Anwar (Petaling Jaya: Musawah, an initiative of Sisters in Islam (SIS Forum Malaysia), 2009), 16.

¹⁸ Ahmad Al Raysuni, *Ijtihad: Antara Teks, Masalah, dan Realitas: Al-Ijtihad: al-Nas, al-Waqi'i, al-Maslahah*, translated by Ibnu Rusdi dan Hayyin Muhdzar (Indonesia: Erlangga, 2002), 5.

SIS are not free from proper rules and regulations. Without proper rules, how can we determine what is right and what is wrong? How can we then determine if someone has 'manipulated' religious texts?¹⁹ Any group who claims that "there is no need for any condition to do *ijtihad*" must be rejected. Groups who claim that *ijtihad* can be done without limitations or rules are part of what is called the transformation movement (*al-taghyir*). Groups in this transformation (*al-taghyir*) movement are similar to the *bāṭiniyyah*.²⁰

Zainah states that "as a concept, Shari'ah cannot be reduced to a set of laws—it is closer to ethics than law. It embodies ethical values and principles that guide humans in the direction of justice and correct conduct."²¹ This statement shows that Zainah does not understand some terms in her explanation of Islam. As one of the founding members of SIS, Zainah Anwar constantly gives ideas on how to solve problems that arise in society.

However, she seems to have misunderstood and is confused about several basic terms often used in discussions pertaining to Islam. How she is going to give ideas on how to solve problems related to Muslim societies if she herself does not understand Islam well? Zainah seems confused about what Shariah is all about. How can she talk about matters pertaining to Shariah or Islamic laws? SIS needs to ensure that their members understand Islam very well before they give any ideas related to Islam. The group must not create more confusion regarding Islam amongst members of society.

Zainah says, "Thus, contemporary family laws, whether codified or uncoded, are not divine, but are based on centuries-old, human-made fiqh interpretations that were enacted into laws by colonial powers and

¹⁹ *Ibid.*, 11.

²⁰ *Ibid.*, 5-6.

²¹ Zainah Anwar, "Introduction: Why Equality," 15.

national governments."²² This statement is very dangerous and confusing. Interpretations made by Muslim scholars are not merely based on what is rational. Scholars interpret the texts based on Islamic sources and supporting evidence. It should be understood that even though *ijtihād* is done by humans (*mujtahid*), it doesn't mean that the law or *ḥukm* comes from *mujtahids*. This is the reason why people who wish to exercise *ijtihād* must fulfill certain qualifications and follow the predetermined methods of *ijtihād*, to ensure the *ḥukm* that is derived is based on the Qur'an and *Sunnah*.

There is certain method of *ijtihād* that is applied by jurists when interpreting religious texts. This means that jurists do not interpret texts without any regulations. Interpretations are done by following the predetermined methods.²³ In the process of *ijtihād*, the *ḥukm* or laws are derived from the Qur'an and *Sunnah*. A *ḥukm* decided upon by qualified jurists (*mujtahid*) must be obeyed,²⁴ because the *ḥukm* is always derived from the Qur'an and *Sunnah*, and not based merely on the opinion of a *mujtahid*.

A *mujtahid* should take his responsibility to derive *ḥukm* or laws from religious texts very seriously, as he deals with Allah's laws. The law or *ḥukm* derived by qualified *mujtahids* is considered to be discovered from authoritative sources of the law. In other words, the *mujtahid* or jurist does not make this law. Therefore, any tampering of the law by people who do not qualify as *mujtahids* must not be taken lightly. "The validity of a

²² *Ibid.*, 17.

²³ Nyazee, Imran Ahsan Khan, *Theories of Islamic Law: The Methodology of Ijtihad*, (Kuala Lumpur: Islamic Book Trust, 2002), 287.

²⁴ *Ibid.*, 134.

source of law depends on the issue of whether the *aḥkām* of Allah can be proved through such a law."²⁵

Uṣūl al-Fiqh is a methodology used to make sure that 'valid sources are used, in equally valid ways, to discover the law'. It is 'a body of principles' that jurists follow when interpreting religious texts.²⁶ The *mujtahids* are not free to exercise *ijtihād* as they like. They are bound by specific rules. This is the reason why those who want to practice *ijtihād* must first fulfill all the conditions required in order to become a qualified *mujtahid*, and, once they become qualified *mujtahids*, they must follow proper methods of *ijtihād* in order to ensure that the *ḥukm* or law that has been deduced is based on the Qur'an and *Sunnah*.

According to Zainah, "...family laws must evolve to reflect the Islamic values of equality and justice reinforce universal human rights standards and address the lived realities of families in the twenty-first century."²⁷

First of all, SIS must understand the meaning of equality and justice in Islam. They have to define the meaning of equality and justice according to the actual meaning in Islam, and not according to Western definitions or what they claim as rational. They have to look for definitions in the Qur'an and *Sunnah*.

The group also does not mention clearly what they mean by universal human rights standards. Islam has already given detailed explanations of what human rights are. So, which human rights were SIS referring to? Were they referring to Islamic or the Western definition of human rights? If they were referring to Western definitions, they will never find the right answers. Allah s.w.t. created us, so Allah s.w.t. knows best what our rights are. We must refer to the Qur'an and *Sunnah* when discussing human rights.

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ Zainah Anwar, "Introduction: Why Equality," 17.

SIS need to understand that some laws can be altered to suit the context of the societies and contemporary needs, as long as they do not end up contradicting Islam. However, they also need to realize that laws do not always have to consider them. Instead, they must change their lives to readapt to the established laws.

Besides that, SIS need to understand that *fiqh* and Shariah cannot be taken from existing facts or circumstances. They should be taken from the evidences (*dalīl*) of the Qur'an, the *Sunnah*, the consensus of the *ṣaḥābah* and *Qiyās*. 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 change according to *fiqh* and Shariah, not the other way around.

According to Zainah, "Diversity of opinion (*ikhtilāf*) is a basic concept that has always been a part of *fiqh*, even after the formal establishment of schools of law. There is not now, nor has there ever been, a single, unitary 'Islamic law'."²⁸

It should be highlighted here that any group cannot make this statement as the reason to be free in exercising *ijtihad*. Any group also cannot use this as an excuse to change existing established laws or to give their opinions using their mind, without following the predetermined methods set by Muslim scholars. The diversity of opinions is a source of mercy and leniency. However, opinions that are unacceptable are a source of deviancy.

Muslim scholars only exercise *ijtihad* when it is allowed. They do not apply *ijtihad* on matters that are not open to *ijtihad*. The multiplicity of opinions and views are allowed if they follow the methods, rules and regulations determined by our Muslim scholars. All those opinions and views must be based on the Qur'an and *Sunnah*.

²⁸ Zainah Anwar, "Introduction: Why Equality," 16-17.

Then, Zainah says, "The very existence of multiple schools of law, let alone the dozens of Muslim family laws in different countries today, attests to the fact that no one person, group or country can claim there is unified, monolithic, divine Islamic law over which they have ownership."²⁹

Based on the above statement, she must understand that the jurists may differ in their interpretation of texts that are interpretable. The differences of opinion may be caused by the different rules of interpretation applied by the jurists in their *ijtihad*.³⁰ Even though they apply different rules of interpretation in their *ijtihad*, it doesn't mean that just anybody can create their own rules and methods as they wish. There are certain general principles of acceptable methods and rules of interpretation that have been determined by Muslim scholars in exercising the *ijtihad*. Thus, *mujtahids* still have to follow these general principles that have been agreed upon by Muslim scholars to ensure his or her *ijtihad* is acceptable.

Even there are differences of opinion in certain matters; scholars must make sure that all these differing opinions do not contradict the Qur'an and *Sunnah*. In other words, they have to make sure that all these opinions are based on the Qur'an and *Sunnah*. They cannot derive *hukm* or laws without following proper methods.

Any group cannot reject religious authorities. They have to understand that real experts exist in every field of knowledge. People must refer to these experts if they want to learn more. Sick people go to doctors because doctors are medical experts. Religious experts are called *ulamā'* (Muslim scholars) or religious authority. Those who want to learn more about Islam must go to *ulamā'*. When it

²⁹ *Ibid.*, 17.

³⁰ Nyazee, Imran Ahsan Khan, *Islamic Jurisprudence (Usul al-Fiqh)* (New Delhi: Adam Publisher & Distributors, 2006), 267.

comes to handling religious matters in this country, we need to rely on them.

Muslims cannot be influenced by relativism. Relativism is a methodology that states that truth is relative and cannot be claimed by any party. Rejection of religious authority by any group is made by those who want to have freedom of opinion.³¹ This methodology of relativism is rejected. What is true and untrue in Islam is clear. *Mujtahids* are bound by rules and regulations, so they are not free to say whatever they want. Methods and rules play a very important role in protecting the original teachings of Islam.

Zainah says,

"There are two categories of legal rulings: *`ibadat* (devotional / spiritual acts) and *mu`amalat* (transactional / contractual acts). Rulings in the *`ibadat* category regulate relations between God and the believer, and therefore offer limited scope for change. Ruling in the *mu`amalat* category, however, regulate relations between humans, and therefore remain open to change."³²

The above statement must be corrected because not all legal rulings categorized as *mu`amalah* are open to change. Only certain matters of *mu`amalah* are open to *ijtihad*. The categories stated in the above quote are also incorrect. The group must have proper knowledge on the texts or *naṣ* which are categorized as *qat`ī* and *zannī* if they want to exercise *ijtihad*. The matter of *ijtihad* is not based on *ibādah* or *mu`amalah* categories. Thus, any

³¹ Mazlan Ibrahim et al., "Pengajian Islam di Ipt Malaysia Dalam Menangani Islam Liberal (Islamic Studies in Malaysian IPT in Addressing Liberal Islam)," *Jurnal Hadhari* 5 (1) (2013), 37 – 53, <http://www.ukm.my/jhadhari/makalah/V5n12013/makalah03.pdf>, (JAKIM & UKM: 2013), 40-41.

³² Zainah Anwar, "Introduction: Why Equality," 16.

member of SIS who wants to talk about *ijtihād* must clearly understand what *ijtihād* involves. *Ijtihād* also cannot be done on matters already solved through *ijmā'*.

Thus, SIS cannot say that rulings in the *mu'āmalah* category remain open to change. There are rulings/matters in the *mu'āmalah* that are categorized as *thawābit* (unchangeable) and there are ruling/matters in the *mu'āmalah* which are *mutaghayyirāt* (changeable). Ruling/Matters that are categorized as *thawābit* are not open to *ijtihād*, while rulings matters that are categorized as *mutaghayyirāt* are open to *ijtihād*. Thus, in discussing the matter of *ijtihād*, SIS must understand the connotation of the word *thawābit* and *mutaghayyirāt* or definitive (*qat'ī*) and probable (*zannī*).

Nowadays, more and more people like to criticise religion and express their controversial views and ideas. These people interpret religion in their own way. They feel that they are free to practice *ijtihād* and give their opinions even though they are not experts of religion, nor are they qualified *mujtahid*.³³ This is clearly not allowed.³⁴ People who do not have enough knowledge of religion must refer to the *ulamā'* to solve any religious problems. Thus, in order to avoid wrong interpretations of Islam, our Muslim scholars have determined the criteria that must be met by those who wish to become *mujtahids*, so that those who do not have the qualifications as *mujtahid* are not allowed to engage in *ijtihād*.

Anyone can engage in *ijtihād* to interpret Islamic texts, but they must be fully qualified and they must follow the determined methods of *ijtihād* to ensure that Islamic laws or *ḥukm* remain in accordance with the teachings of Islam based on the Qur'an and *Sunnah*. Therefore, those who are involved in issuing Islamic laws

³³ Aḥmad Al-Raysūnī, *Ijtihād*, 7.

³⁴ *Ibid.*, 9.

must be qualified *mujtahids* and follow the predetermined methods and rules of *ijtihad*.

Another issue raised by SIS is related to *maṣlaḥah* or public interest. According to Zainah, "Within the context of the modern state, it must recognize and engage with this diversity of opinions to determine how best to serve the public interest (*maslahah*) and meet the demands of equality and justice."³⁵

In this matter, SIS need to understand that any *mujtahid* who wants to interpret and deduce the law from religious texts for unprecedented cases may take into consideration the public interest. However, at the same time, a *mujtahid* must understand what *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 very limited. We must always be guided by the Qur'an and *Sunnah*.

Maṣlaḥah must be genuine and general (*kullīyyah*). It must not be in contrast with clear *naṣ* (textual evidence).³⁶ *Maṣlaḥah* must be comprehensive and cover both interests in this world and in the hereafter. It must also take into account individuals as well as groups, and the present generation as well as future generations. The human mind is fickle, so we must refer to the Qur'an and *Sunnah* to determine what *maṣlaḥah* actually is.³⁷ Only Allah s.w.t. knows what *maṣlaḥah* really is. Human beings will never be able to fully comprehend it. The only way for us to

³⁵ Zainah Anwar, "Introduction: Why Equality," 17.

³⁶ Group of Muftis, "Public Interest (Maslahah)", *OnIslam* website, January 7, 2014, <http://www.onislam.net/english/ask-the-scholar/principles-of-islamic-jurisprudence-usul-ul-fiqh/sources-of-legislation/174560.html>.

³⁷ Al-Qaradawy, *Madkhal li Dirasah al-Syari'ah al-Islamiyah* (Kairo: Wahbah, 1991), 53-57.

understand it is to refer to our primary sources—the Qur'an and *Sunnah*.³⁸

Hence, SIS cannot just claim that something is of *maṣlahah* (public interest) without referring to the guidance of Allah s.w.t. and His Messenger beforehand. They must also ensure that the *maṣlahah* that they refer to is genuine, general (secures the interests of all parties) and do not conflict with clear *naṣ* (textual evidence). The Shariah does not recognize any *maṣlahah* that clashes with the Qur'an or *Sunnah*. Thus, it will not be acknowledged if the provision recommended conflicts with what the Shariah has already provided.³⁹

Some laws can be reformed if it is necessary, but these reforms should be done properly, according to the right methods by the right people, so that the reforms do not go against the Qur'an and Hadith. The process of reforming the laws should be done through the proper procedures.

The majority of Muslim jurists agreed that Allah s.w.t. alone lays down the laws regarding the *maṣlahah* of human beings.⁴⁰ Muslims are not allowed to determine what their *maṣlahah* solely based on their own opinions. Muslims must know that Allah s.w.t. determines the *maṣlahah* of human beings. Muslim scholars and experts in this field have laid down methods and regulations so that not just anybody can create or change the laws. Muslims have to follow these methods and regulations so that the new laws derived are still Allah's laws.⁴¹

If SIS want to apply the concept of *maṣlahah* when solving problems that arise in society, they need to have the knowledge on it. They have to follow the guidelines and principles determined by Muslim scholars to avoid

³⁸ Al-Syatibi, *al-Muwafaqat* (Beirut: Dar al-Fikr, t.t.), 1: 243.

³⁹ Nyazee, Imran Ahsan Khan, *Islamic Jurisprudence*, 198-199.

⁴⁰ Imran Ahsan Khan Nyazee, *Theories of Islamic Law*, 43.

⁴¹ Imran Ahsan Khan Nyazee, *Islamic Jurisprudence*, 83.

misusing the term '*maṣlahah*'. They have to really understand and follow the regulations to identify *maṣlahah*. *Maṣlahah* cannot be determined from a mere logical perspective. It needs to be based on what is stated in the Qur'an and Hadith.

Conclusion

In conclusion, based on the above analysis, 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. The group must refer to the general principles of *ijtihād* as determined by Muslim scholars in the field in order to understand the proper method of problem solving through *ijtihād* in Islam. 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*.

Based on the analysis, it is found that there are misunderstandings in terms of categorisation relating to the matter of *ijtihād* by Zainah, one of the founding members of SIS. Hence, any member of SIS who intends to talk about *ijtihād* must 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 fulfill its qualifications as determined by Muslim scholars.

In the issue of *maṣlahah*, SIS does not fully comprehend its meaning. SIS has to understand that Muslims do not determine their *maṣlahah* solely based on human opinion. They must ensure that the *maṣlahah* that they refer to is genuine, general (secures the interests of all parties) and do not conflict with clear *naṣ* (textual

evidence). *Maṣlahah* must be comprehensive and cover both interests of this world and in the hereafter. A *mujtahid* must understand what *maṣlahah* 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*.

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