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The Representation of *Maqasid Shariah* by Sisters in Islam (SIS) from the Perspective of the Experts of Islamic Jurist

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Abstract

Sisters in Islam (SIS), an organization that fights for the rights of women and gender equality, has provided opinions that goes against the fatwa and criticizes the Islamic law in Malaysia concerning several issues such as *‘aurah*, the *fatwa* and *Hudud*. The reasoning used by SIS is that the Islamic law is not humane and does not represent gender equality. However, the nature of humane and gender equality based on Islam violates the *Maqasid Shariah*. All arguments stated revolves around the acceptance of *maslahah* and refuses *mafsadah*. At the same time, the Islamic authorities stated otherwise with the same reason of *maslahah* or *Maqasid Shariah*. Therefore, this research analyses the usage of *Maqasid Shariah* by SIS and evaluates *dawabit Maqasid Shariah* of SIS from the perspective of experts of the Islamic jurist on the issues of Islamic law. The methodology used is case study through qualitative approach. The datas are collected from websites, books, newspapers and articles by SIS. Besides, the data gathered are analyzed descriptively from 15 informants and uses the Atlas.ti software for coding datas of the interview. The research finds that a misunderstanding on the concept of “*Jalb al-Masalih wa Dar al-Mafasid*”. SIS basically does not understand the *maqasid* of implementing the laws of Islam in Malaysia. The experts of Islamic jurist states that SIS’s understanding in the issues of *‘aurah*, the *fatwa*, *Hudud*, drafting of Shariah Law on Moral Issue, judges and apostate does not comply within the parameters (*dawabit*) of *Maqasid Shariah*.

Keywords: Sis, Islamic Law, *Dawabit Maqasid Shariah*, Muslim Jurist.

Introduction

The debate on the implementation of Islamic law since the mid-1990s has given serious attention by the SIS. SIS claimed that the law is contrary to the principles of human rights and discriminatory against women. Since then, SIS has worked with human rights organizations, non-Muslim

organizations and influential individuals to ensure that Islamic law is not implemented, particularly in relation to the moral of the Muslim community (Latifah et. al 2016).

For them, the current Islamic law is not sacred because the source of the law has been adapted by classical scholars. Most of the laws issued by previous scholars are patriarchal because of the experience or psychological factors contained in their works. Hence, SIS describes the need for a new Islamic law that can generalize the rights of men and women (equality) as a new paradigm to resolve conflicts experienced by women in Malaysia (Husein, 2004).

SIS tries to open one dimension by highlighting *Maqasid* as a basis for understanding the religion of Islam. The *Maqasid* brought by SIS is thought to be able to alert various intellectuals or religious leaders that the existence of SIS is serious and desirable to assist women as a result of constraints or restrictions on their entitlement to a particular access based on the perspective of human rights.

SIS has been fighting for the rights of women and society, giving opinion on fatwa and law from 2006 to 2009. The method of applying Islamic law is not bound to the form of the law, but depends on the *Maqasid* or the purpose of the law is manifested in Islam. SIS provides the meaning of legal *Maqasid*, which is to safeguard the benefits of human beings (Saadah et.al 2014). SIS said that Islamic law should be disputed, amended and terminated if it is contrary to human rights (Munif et.al 2013; Ariffin, 2009 & Foley, 2004).

SIS seeks to eliminate patriarchal elements in the Quran and Hadith by interpreting Islamic laws that are more believable in the spirit and truth of the Quran which are required in today's society. According to al-Hibri (1997) & Bohlander (2014), secular laws also have the principles of ethical conduct similar to Islamic law. Among the efforts undertaken by SIS are to allow intermarriage (different religions) and fight for the rights of homosexuals to guard their offspring, launch anti-moral campaigns, defend the independence of sexuality and defend the misguided group, namely "AyahPin".

However, based on findings from previous studies, it is found that the SIS arguments are linked to Islamic legal issues such as the issue of *ṣaurah*, moral and shariah law, fatwa, judicial appointments among women, apostasy and hudud issues have been established opposition to ideas or arguments between SIS and the experts of Islamic jurists. Hence, this qualitative study is analyzed descriptively involving two categories of informants, namely Sisters in Islam and the experts of Islamic jurists in Malaysia to obtain the validity of the data. The main objective of this study is to analyze the use of *Maqasid* and evaluate the SIS argument in the issue of Islamic law from the experts of Islamic jurists perspective based on its parameter (*dawabit*).

Every SIS argument was assessed whether it coincides with shariah or otherwise, which includes *kulliyah al-khams*, al-Quran, al-Sunah, hadith, ijmak, qiyas and more important *maslahah*. Therefore, the study found that the SIS had violated *dawabit Maqasid Shariah* on 5 issues of debate. This study can also serve as a step towards confronting non-Islamic ideologies or issues that are often disturbing and depressing the minds of the ummah through *dawabit Maqasid Shariah*.

Methodology

The design of this study is a non-experimental study in the form of a purposive case study. The purposive or informative informants were selected from Sisters in Islam as the target of case studies

and the experts of Islamic jurists according to the criteria set by using non-random sampling method. This case study involves qualitative data through interviews or surveys on the communities studied, which consist of 15 informants comprising Sisters in Islam and Muslim jurists as analytical data units in multi-case studies.

Data obtained through interviews is the main source for achieving objectives and responding to research questions. This case study uses descriptive and comparative methods by placing *dawabit Maqasid Shariah* as a measure in conducting the entire study on the assessment of SIS's argument in the issue of Islamic law. In addition, data were also collected from Sisters in Islam (SIS) websites such as press releases, writings, pamphlets, official statements in seminars or forums and related books.

The sample selection of this study was multiple cases consisting of 5 different sample categories, namely *mufti*, court judges, academician including lecturers and scholars, lawyers and SIS, then the sample size was taken by 15 interviews randomly selected based on the same criteria, which they can describe the known phenomenon simultaneously (homogeneous). The sampling used in this study was purposive sampling and Snow Ball. Most of the selected Islamic legal experts have basic knowledge of the shariah, especially *Fiqh* and *Usul Fiqh* as well as *Maqasid Shariah* as a value added to the findings of the study to be sought in interviews with the informants. All informal interview data were subsequently analyzed using ATLAS.ti computer software for interpretative data reports. Here is a sequence of inductive study conducted:

Data collection and information in the field → Data analysis and information → Determination of patterns / forms / theoretical formation of the phenomenon studied

Figure 1: An Inductive Sequence of Qualitative Studies (Othman 2013).

Result

Representation of Piety (Takwa) in The Issue of 'Aurah.

According to SIS, piety is man's relationship with God. Allah does not need humans to worship Him, but the human being needs to depend on Him. The concept of piety is not only practiced by Muslims, but also non-Muslims who have been the responsibility of adherents to God. However, Muslim jurists disagree with SIS's view of the concept of piety because SIS has misunderstood the concept of piety in Islam. The experts of Islamic jurists clarified to achieve *Maqasid Shariah*, a servant of Allah should execute the commandments of Allah and avoid all that is forbidden.

To achieve *Maqasid Shariah*, the piety must be achieved. Experts agree that SIS has misunderstood the concept of piety. Piety will be achieved through obedience to God's command. Wearing a veil is among the commandments of Allah SWT for His servant to achieve piety. Takwa is not just through the heart without proving it through practice. The definition of piety means carrying out the command of Allah SWT and abstaining from His prohibitions based on His word in surah Ali 'Imran (3:102) (Al-Jazairi 2007). Among the commandments of Allah SWT is the closing of the 'aurah and this order is obliged to be performed just like prayer, zakat and other commands.

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ حَقَّ تَقَاتِهِ وَلَا تَمُوتُنَّ إِلَّا وَأَنْتُمْ مُسْلِمُونَ ﴿١٠٢﴾

Meaning:

“O you who have believed, fear Allah as He should be feared and do not die except as Muslims (in submission to Him)”.

Obeys to God's command shows the symbolic obedience in the form of worship manifested. The issue of covering *‘aurah*, SIS disputed the order by placing the criteria of *‘aurah* considered by understanding it according to human reason. According to Ahmad Wifaq (2016), the word *khimar* in verse 31 surah al-Nur in the context of Arabic means the veil covering the head, hair, ears and so on. Similarly, the word "hijab" in surah al-Ahzab verse 59 is the order of covering the face and neck of women according to al-Biq'a'i (Shihab 2010). SIS must issue a law by knowing the proper use of a term in Arabic as the Quran was revealed in Arabic language to the Arab society at that time.

In the event of misunderstanding on the concept of aurat and piety, then the *Maqasid Shariah* will not be achieved and this has violated the purpose of the Shariah, namely *al-qasdu al-ifhami*, which means shariah must be understood according to the Arabic language method. Thus, Muslim jurists stated that the statement issued by SIS regarding the piety is contrary to the meaning of religious texts and the matter has violated *dawabiṭ Maqasid Shariah*, which is contrary to the true interpretation of the Quranic verse.

Representation of the Eligibility of Female Judges.

In relation to the eligibility of female judges, SIS disputes the rights of gender equality between men and female judges in handling hudud and qisas cases. SIS uses the fatwa issued by previous scholars, Imam Ibn Jarir al-Tabari and Ibn Hazm in this issue, requiring women to be absolute judges and that the woman can be a judge for all cases, including hudud and qisas (Nik Noriani et.al 2002). According to the experts of Islamic jurist, the issue of appointing a female judge is an unconfirmed opinion among the scholars. There are groups that allow and some do not allow. Now, the appointment of a female judge has been made in the shariah court with the conditions set out as knowledgeable in the field of Islamic law.

In addition, SIS stressed that the existence of conditions limiting jurisdiction between women and men judges shows that there are elements of discrimination in Shariah courts. SIS suggests that Shariah courts should also allow women judges to handle hudud and qisas cases without placing any gender-specific exceptions. According to experts, in terms of *maslahah*, women judges do not prosecute hudud and qisas cases for the purpose of preserving the judge's decision from any disruption and prioritizing women's responsibilities in educating the family according to their priorities. If hudud and qisas cases are run by women judges, they have no time to carry out responsibility for household and children's affairs. This will cause her to not be able to manage domestic life wisely.

Hence, SIS's statement on the discrimination between women and men judges in handling hudud and qisas cases is not true. On the contrary, men judges are elected to assist judicial affairs on critical cases such as hudud and qisas to be carried out properly and transparently. There is no gender discrimination, but the purpose of the Islamic law is to explicitly glorify women who are considered to be the nature of humanity. Allah said in surah Imran (3:195):

فَاسْتَجَابَ لَهُمْ رَبُّهُمْ أَنِّي لَا أُضِيعُ عَمَلَ عَامِلٍ مِّنْكُمْ مِّمَّنْ ذَكَرَ أَوْ أُنتَىٰ بِغَضِّكُمْ مِّنْ بَعْضِ

Meaning:

“And their Lord responded to them, “Never will I allow to be lost the work of (any) worker among you, whether male or female; you are of one another”.

This verse means that Allah SWT will not allow the good deeds made by men or women because some of them come from others, namely men from women and vice versa. Men equip women and women equip men. There is no difference between the practice and the reward received by Allah SWT (Al-Jazairi 2004).

The SIS representation on the use of *Maqasid Shariah* on the eligibility of female judges in handling hudud and qisas cases is not a requirement in accordance with the reality in Malaysia. The purpose of Islamic law is *al-qasd al-taklifi*; putting all the religious needs afforded by men and women and mutually reinforcing one another. The views expressed by the SIS do not coincide with *dawabit Maqasid Shariah* because it contravenes the more important *maslahah*, which is to put greater emphasis on educating the children than the smallest interest in handling hudud and qisas cases.

Representation of False Understanding on the Shariah Law Drafting on Moral Issue.

SIS humiliates religious groups who monopolize the interpretation of Islamic law in the formulation of shariah-based Moral Law. SIS stated that the drafting of a shariah-based moral law should first seek public consent, especially individuals who will be subject to the law. To achieve a balance between law and morals, it must be decided by the society in a democratic manner and not through the law enacted without the support of the public or public discussion (Anon 1993).

Naturally, the moral law drafted after being debated in parliament must be informed to the public. The community's consent to the law imposed on the community is a necessity as the lawmakers are inexperienced in real life. For example, the enforcement of moral law on transgender people.

However, the experts of Islamic jurist point out that any law to which they wish to be amended will be reviewed by a legal adviser in advance. After reviewing the law, shariah courts or religious departments play a role in organizing workshops or forums to improve any deficiencies contained in legislated legislation and they still need to be reviewed by legal counsel. Once agreed upon, then the law is brought to the Legislative Assembly, respectively.

In fact, religious and non-religious experts are also asked to give their views on the law to be implemented in the muzakarah session which helps to enforce the moral laws. Hence, they disagree with the SIS arguments that completely reject the formulation of a law as the argument is given inaccurate and incorrectly indicating that SIS has misinterpreted the law enforcement that has been enacted in real life in Malaysia.

Representation of SIS Understanding about Hudud Punishment in Malaysia

According to SIS, there should be a non-transgressional punishment and there is a humanitarian nature for gender equality to be judged. The punishment must be in accordance with the passage of time, because the objective of hudud is justice. When mentioning justice, Islamic law and hudud

should take into account the issue of gender justice and ensure that there is no gender discrimination as enshrined in article 8 of the constitution. All those who commit an Islamic criminal offense, are obliged to be treated fairly regardless of rank and status.

The principle of fairness that SIS understands is to place the right of equality. For example, Muslims who are involved in stealing crimes will be punished, which is the hand (of the thief) should be cut off, but non-Muslims are only subject to imprisonment. The definition of SIS on justice in hudud punishment is different from the Islamic law. Justice, according to Islam, is not the same as the meaning of SIS. SIS seems to state that the concept of equality and gender equality is a justice. Whereas, in Islam, the concept of justice is put things in place and not generalize things. One way to get justice in Islam is to recognize the holistic nature (*shumuliah*), which is trying to practice Islam as a guide to the perfect life.

The SIS argument was criticized by Muslim jurists stating that hudud penalties are not implemented arbitrarily in conviction. Humanitarian elements are indeed in hudud punishment because the Islamic law aims to educate (*ta'dib*) society first before being sentenced. In fact, the punishment set by Allah SWT is also aimed at preserving those who commit the wrongdoing and those who do not commit the wrongdoing rather than gain greater harm. Implementation of hudud punishment can protect human life from crime which affects five things in *Maqasid Shariah*.

Five elements of *Maqasid Shariah* that are kept by Islam in Islamic criminal law are apostasy sentences for the preservation of religion, qisas punishment for life, punishment for drinking alcohol to preserve the sanity of the mind, the punishment of adultery in order to preserve the dignity and punishment of thieves and robbers for the preservation of the property. All the implementation of hudud punishment is motivated by justice, but not from the point of understanding the rights of the sexuality between gender or religion. The justice meant by Islam is to put the sentence in its place by giving the human sentence to the law of Allah SWT because through the punishment, the people have the benefit of the world and the hereafter.

In fact, hudud penalties imposed on offenders need to reach a high level of confidence based on the proving level so there will no longer be any *syubhah* in judging them. This step is taken because Islam is concerned with fairness to all parties so that judges are required to find ambiguity (*syubhah*) in convicting punishment because hudud could not be implemented if it contains *syubhah*. The sentence of punishment must be carried out as provided in the Quran and Hadith.

Based on the perspective of the experts of Islamic jurist above, it is clear that SIS's argument does not conform to *dawabit Maqasid Shariah* because SIS interpreted the meaning of hudud according to the common sense, not the mind guided by revelation. Thus, there is a contradiction with the will of the Quran. Allah SWT says in surah al-Ahzab, verse 36:

وَمَا كَانَ لِمُؤْمِنٍ وَلَا مُؤْمِنَةٍ إِذَا قَضَى اللَّهُ وَرَسُولُهُ أَمْرًا أَنْ يَكُونَ لَهُمُ الْخِيَرَةُ مِنْ أَمْرِهِمْ. وَمَنْ يَعْصِ اللَّهَ وَرَسُولَهُ فَقَدْ ضَلَّ ضَلَالًا مُّبِينًا ﴿٣٦﴾

Meaning:

"It is not for a believing man or a believing woman, when Allah and His Messenger have decided a matter, that they should (thereafter) have any choice about their affair. And whoever disobeys Allah and His Messenger has certainly strayed into clear error"

According to al-Syaukani (2010), the interpretation of this verse warns the faithful women and men to always receive the ordinance of Allah, and put themselves in accordance with what Allah has ordained for them. The word *ma kana* and *ma yanbaghi* is to prevent them from pursuing law by common sense.

The SIS approach which only accepts hudud punishment in the absence of gender bias and injustice between Muslims and non-Muslims and inhumane is a blatant rejection of the absolute religious law set by Allah in the Qur'an, the hadith and ijmak. The SIS parameter on the *Maqasid* of the law blatantly violates the purpose of the proclamation as *al-qasd al-ta'abbudi* and contrary to the accredited *maslahah (maslahah muktabarah)* itself.

Representation of Women's Views in Drafting Fatwa.

Regarding women's views or voices in drafting fatwa, all the experts of Islamic jurist agree that Islam always provides space for women to express their views in issuing a fatwa. SIS also states that Islam does not specify only men who can make an interpretation of the Quran and al-Sunnah. The fatwa or opinion of a woman in law is legitimate and applies, just like a fatwa issued by a man. Thus, women can become mufti, legal experts including judges and other political positions. All the experts of Islamic jurist from *Ahlus Sunnah wal Jamaah* agreed that women can become mufti. The law that allows women to be mufti was once mentioned by at-Tabari that women can be judges in all legal cases (Noriani et.al 2002).

SIS concludes that women's experiences, thoughts and voices are important to be included in the interpretation of the Quran and religious administration in the Islamic world today. SIS suggests that women can be granted access to fatwa such as men. Women's views must be taken into account in the drafting a fatwa, especially the fatwa enacted on the *'aurah* and women's apparel by setting aside the obsession for punishing women (www.sistersinislam.org).

SIS recommendations to feature women in drafting fatwa are recognized by Muslim jurists. In reality, the position of women is indeed accepted in the fatwa department in terms of the views of the knowledge they possess. The proof is that these women comprise members of the fatwa committee such as the Selangor Islamic Religious Council, the Federal Territories Islamic Religious Council and the Negeri Sembilan Islamic Religious Council as well as the national fatwa committee, namely Prof. Madya Datin Dr. Faizah binti Haji Ismail. The views of the fatwa committee members are taken and recognized by the religious departments as long as they are qualified and are based on four reference bases, namely the Quran, Sunnah, ijmak and qiyas regardless of gender.

In addition, women in the fatwa department are appointed as fatwa officers or mufti assistants who also play the role of the secretary of the fatwa committee. The process of issuing a fatwa not directly to the mufti, but through the conference committee in the institution of fatwa. The requirement to issue a fatwa is the same as the judge's qualifications, namely, she must be pious and knowledgeable. Based on the experts' information above, the fatwa institution accepts and embraces the views of women in discussing the law or fatwa. They have already held several key positions in the institution of fatwa.

a) Applying The Schools' (Mazhab) Views.

Not only that, SIS also stated that Malaysia was narrowed by taking the opinion of the Syafi'e sect exclusively, while Islam still recognizes the use of three other sect members of *Ahlu Sunnah wal Jamaah*, namely Hanafi, Maliki and Hanbali. Similarly, the issue of sectarian polemics during the debate on the eligibility of women to become muftis. Malaysians should see the difference in this sect as their alternative view of embarrassing other schools of denominations and not sticking to a sect only to reject the views of others.

Appointment of women mufti is permissible according to scholars in the field of Islamic jurisprudence based on responses given by Muslim jurists, but there are conditions and reasons for SIS on the use of other schools in that view is a non-affirmative view. The unpredictable view of adoption also has its terms and methods if used as a backup argument for the issuance of a law.

Although there is a view that allows the appointment of women as muftis, but informants among the experts of Islamic jurist explain that the power of appointment of the muftis remain dependent on the sovereign power in their respective states. If a female mufti is appointed, some mufti jurisdictions have to be restricted to unhealthy immorality such as leading the congregational prayers on official affairs.

b) *Appointment of Female Mufti via Selection of The School (Mazhab).*

In relation to the selection of the school in the issue of mufti appointments among women, Muslim jurists explain the adoption of the scholars' view according to the most powerful sect of the law and conforms to *Maqasid Shariah*. However, other views may be taken and referred to in the event of a conflict in terms of *maslahah*. Traditionally, Syafi'e's view of the sect is preferred and used as a reference because it has strong proponents. Therefore, the SIS method that takes the views of other schools to diversify views is forbidden because SIS members themselves do not meet the requirements of a mujtahid.

The Muslim community needs to understand that taking arguments from scholars to diversify opinions on a law must be based on the view of great scholars only. An odd view or *talfiq*, according to informants among Islamic jurists, is only considered in the event of an emergency or a need at that time. The adoption of the views of the ulama by SIS is rhetorical because SIS itself does not recognize the previous scholars, but only draws any view they perceive as their argument.

Relating to the voice or the views of women in the formulation of Islamic law, Islamic religious authorities have already implemented and women's views on Islamic law are not a determining factor to a law issued, but based on the Quran, Sunnah, ijmak and qiyas. No term of irrelevance of a law in Islamic law either decides or discusses it is associated with male or female gender. Hence, it is found that the SIS argument on the process of arbitrating the source of the authenticity of the Islamic law is contrary to *dawabit Maqasid Shariah* which should give priority to four important sources than the rights championed by the SIS, namely gender equality.

The views of women in the formulation of fatwa have been accepted and taken into account, referring to informants feedback among Muslim legal experts. SIS said that fatwas issued irrelevant because it does not welcome the position of women in the council is not true. It should be acknowledged that the relevance of a law issued is not dependent on gender, but based on the ruling argument and the supreme views of the Quran, Sunnah, ijmak and qiyas. This SIS view is rejected

because of the importance of gender that is created irrelevant to the *maslahah* accepted by the religious law. The fact is, it does not conform to any meaning of shariah (the religious law), which is subjected to *kulliyah al-khams*.

Representation of Religious Freedom does not recognize the Apostasy Group

The Malaysian legal system has allocated religious conversion rights and SIS specifies the disclaimer of this provision in the reality of this practice for certain religions or races. SIS stated that the allocation of rights is a matter that is not contrary to Islamic principles because Islam is a religion of affection and encourages tolerance. Therefore, SIS does not agree with any effort that uses the law to preserve the faith of a Muslim. Freedom of religion necessarily recognizes the freedom to change religion. Something unfair for the SIS if people want to embrace Islam for the right of religious freedom, but at the same time hold the stand to deny the freedom of those who want to abandon Islamic teachings.

Referring to surah an-Nisa (4:137), which means; “Indeed, those who believed then disbelieved, then believed, then disbelieved, and then increased in disbelief – never will Allah forgive them, nor will He guide them to a way”. SIS uses the verse to show the acceptance of Islam for religious freedom without any mention of those who convert other religions after converting to Islam.

Based on the interpretation of surahs stated by the SIS, it is different from the actual interpretation of the Qur'an. Interpretation of verses in surah al-Nisa above mentions the infidels who believe after they disbelieve, the sins of their disbelief which were forgiven by Allah SWT. If he turns away, he will be punished for his disbelief, whether first or last from his disbelief, it is the same. In addition, the interpretation of Surah al-Baqarah (3: 256) means that those who embrace the faith. If one has chosen the Islamic faith, he is bound by the demands of God and is obliged to carry out the commandments of God. When a person has accepted His faith, then he must carry out his demands. God reminded His servants who violate its provisions would be threatened (Shihab 2016).

Understanding the freedom of religion is absolutely a concept of deflection and distortion. Religious freedom does not mean that they are free to do the things they understand only by assuming that the things made are true according to them. While normally, when one chooses one religion, he must have an affiliation with his religious law whether to adhere to Islam or other than Islam. The religious right is not absolute, but it is based on the principles of religion. Therefore, the apostasy sentence which is part of the Islamic law should not be disputed from the point of view of religious freedom because it is included in the main *Maqasid*, namely *hifz al-din*.

With respect to apostasy, it is not clearly stated in the Quran, but the apostate's punishment has been discussed by Muslim scholars based on the authentic hadiths. The prophet SAW said:

اجْتَنِبُوا هَذِهِ الْقَادُورَةَ الَّتِي نَهَى اللَّهُ عَنْهَا فَمَنْ أَلَمَ فَلَيْسَتْ بِسِتْرِ اللَّهِ وَلَيْتَبَّ إِلَى اللَّهِ. فَإِنَّهُ مَنْ يُبَدِّ لَنَا صَفْحَتَهُ نُقِمَ عَلَيْهِ كِتَابَ اللَّهِ عَزَّ وَجَلَّ.

Meaning:

“Avoid the abominable things which Allah has forbidden, whoever has done it, let him cover it with Allah's protection and repent to Allah. This is because, if anyone appeared vile things (he did) to us, we will be condemned who have been ordered by Allah Almighty ”.

(Bukhari, *Sahih al-Bukhari*, Kitab al-Taubah wa al-Inabah).

Thus, the riddah or apostasy that reveal the Islamic faith is given the opportunity to repent. If they refuse to repent, then they will be judged according to the law of Allah and His Messenger. Islam is positioned higher than other religions in line with Article 3 as claimed in the hadith of Prophet Muhammad SAW (Helwa et.al. 2014). The granting of freedom of religion to the people through the constitution is aimed at respecting the human nature of the right to life in fulfilling the needs of human life. The freedom reserved for Muslims must be supervised to safeguard the faith of Muslims from the aspect of establishing the *Maqasid* of guarding the religion (*hifz al-din*) and the preventative aspects that influence and influence the *Maqasid* of guarding property (*hifz al-mal*) and descendants (*hifz an-nasb*).

Conclusion

SIS does not explain in detail the use of *maslahah* used to achieve *Maqasid* in the issues discussed. After being analyzed, the *maslahah* which became a measure of SIS is an unnecessary *maslahah* (*daruri*), contradicts the definite texts (*qat'i*) and makes the *maslahah* a personal right that cannot resist harm to the general public.

Based on the perspective of the experts of Islamic jurist, the use of *Maqasid Shariah* expressed by SIS does not conform to *dawabit Maqasid Shariah*. SIS struggle to hold on to the rights of secular humanism has proved these people put their lust to control their mind, not using common sense to guide their lust.

Thus, the debate on *Maqasid Shariah* becomes their stepping stone by using *maslahah* tickets, goodness or freedom of rights that prioritize individual interests from the interests of society. This misunderstanding has violated the principles of *Maqasid Shariah*, which lies under the concept of '*Jalb al-Masalih wa Dar al-Mafasid*'.

Acknowledgement

There are two studies that can be focused on the academic field, especially the areas of thought. In-depth studies in terms of the influences that build on the SIS theory, the further study of the understanding of *Maqasid Shariah* on a group of liberal-secular thinking and *manhaj* or methods adopted in their principles such as the A Front for Islamic Renaissance (IRF) or the Institute for Democracy and Economic Affairs (IDEAS). Based on these parameters (*dawabit*), the main cause that violate the preservation of the advantage (*maslahah*) or the interests of the Shariah can be identified to reject any thinking which is not right in the Islamic side.

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