

**THE FIQH WASATIYYAH APPROACH  
TOWARDS THE INVOLVEMENT OF MALAYSIAN WOMEN  
IN RELIGIOUS EXTREMISM PHENOMENON**

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**Abstract:** *The trend of women's active participation in religious extremism phenomenon has become a serious global threat, including for Southeast Asian countries such as Indonesia and Malaysia. This paper aims to offer a fiqh approach in the form of wasatiyyah in order to reinforce counter-laws of religious extremism, especially on the issue of Malaysian women's involvement in the Daesh extremist group (al-Dawlah al-Islamiyyah fi al-'Irāq wa al-Shām). Through library and field research, this paper concludes that an approach of fiqh wasatiyyah, which is based on the reality of law and the reality of religious extremism, can be developed. This research is hoped to assist various parties, especially the Malaysian government, to improve existing deradicalization process and strengthen the efforts to restraint religious extremism in the grassroots.*

**Keywords:** *Fiqh Wasatiyyah, Religious Extremism, Women, Malaysia*

**Abstrak:** *Trend keterlibatan wanita secara aktif dalam gejala ekstremisme agama telah menjadi ancaman serius di tingkat global, termasuk di wilayah Asia Tenggara seperti Indonesia dan Malaysia. Tulisan ini bertujuan untuk menawarkan pendekatan fiqh wasatiyyah untuk menguatkan usaha counter-hukum paham ekstremisme agama khususnya mengenai isu keterlibatan wanita Malaysia dalam kelompok ekstremis Daesh (ad-Dawlah al-Islamiyyah fi al-‘Irāq wa al-Shām). Dengan menggabungkan antara kajian pustaka dan lapangan, tulisan ini menyimpulkan bahwa pendekatan fiqh yang bersifat wasatiyyah berdasarkan realitas hukum dan realitas ekstremisme agama dapat dikembangkan. Dengan demikian, tulisan ini diharapkan dapat membantu berbagai pihak khususnya pemerintah Malaysia dalam proses deradikalisasi dan mengukuhkan usaha pembendungan paham ekstremisme agama di tingkat akar rumput.*

**Kata Kunci:** *Fiqh Wasatiyyah, Ekstremisme Agama, Wanita, Malaysia*

## Introduction

After the extremist group of *al-Dawlah al-Islamiyyah fi al-‘Irāq wa al-Shām* (Daesh), also known as *the Islamic State of Iraq and Sham* (ISIS) had lost many fighters and the territories of Iraq and Syria in mid-2018, Malaysian authority, Ayob Khan, found that their trends and modes of operation have changed,<sup>1</sup> which they decided to actively involve women in the extremist activities outside the conflicting areas, such as Indonesia and Malaysia. For example, on May 13<sup>th</sup>-14<sup>th</sup>, 2018, there were three bomb attacks in Surabaya involving a family including a wife and two young children.<sup>2</sup> Meanwhile, in Malaysia, a 51-year-old woman was arrested by the

Royal Malaysia Police (PDRM) for allegedly plotting a bomb attack on Chinese voters on the day of the 14<sup>th</sup> general election. The woman was believed to be the cell leader of the Daesh group also had been playing the role in recruiting new women and men through Facebook and WhatsApp.<sup>3</sup> These developments demonstrate a new trend for women's active participation in bomb attacks outside the conflicting areas by engaging women thriving their agenda.<sup>4</sup>

This paper argues that the involvement of Malaysian women in the Daesh group cannot be ruled out by the inter-

<sup>1</sup> Interview on July 16<sup>th</sup>, 2018.

<sup>2</sup> Abi Sarwanto, "Polisi Sebut Keluarga Terduga Pelaku Bom Surabaya Sel Pasif", *CNN Indonesia*, 15 Mei 2018, <https://www.cnnindonesia.com/nasional/20180515142030-20-298360/polisi-sebut-keluarga-terduga-pelaku-bom-surabaya-sel-pasif>.

<sup>3</sup> Ayob Khan Mydin Pitchay. Interview on July 16<sup>th</sup>, 2018.

<sup>4</sup> M. Magdalena Martinez Almira, "Women in Jihad: A Question of Honour, Pride and Self Defence," *World Journal of Islamic History and Civilization*, 2011, 27-36; Tunda Agara, "Gendering Terrorism: Women, Gender, Terrorism and Suicide Bombers," *International Journal of Humanities* 6, no. 1 (2015): 115-125.

nal factors such as the state of ignorance and their sympathy and empathy for the current Islamic world. Unfortunately, these sympathy and empathy which are not grounded on the true framework of knowledge, finally lead them becoming extremists in religion. Thus, this paper discusses the involvement of Malaysian women in the phenomenon of religious extremism based on the *fiqh wasatiyyah* approach. It also elaborates on the factors behind the background of Malaysian women joining the Daesh group and their jihadist believes, and how the *fiqh wasatiyyah* approach confines the involvement of Malaysian women in the phenomenon of religious extremism.

Tunda Agara,<sup>5</sup> Peresin,<sup>6</sup> Petrou,<sup>7</sup> Zakariya,<sup>8</sup> Pooley,<sup>9</sup> Edwin Bakker & Seran de Leede,<sup>10</sup> Mah-Rukh Ali,<sup>11</sup> Haras

Rafiq & Nikita Malik,<sup>12</sup> Kneip,<sup>13</sup> Anaedozie,<sup>14</sup> Peladeu,<sup>15</sup> Spencer,<sup>16</sup> Speckhard & Yayla,<sup>17</sup> Strommen<sup>18</sup> and others<sup>19</sup> studied the involvement of

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- <sup>5</sup> Tunda Agara, "Gendering Terrorism: Women, Gender, Terrorism and Suicide Bombers," *International Journal of Humanities* 6, no. 1 (June 2015): 115-125.
- <sup>6</sup> Anita Peresin, "Fatal Attraction: Western Muslimas and ISIS," *Perspectives on Terrorism* 9, no. 3 (2015).
- <sup>7</sup> Michael Petrou, "What's Driving Teen Girls to Jihad?," *Macleans* 7 (2015).
- <sup>8</sup> Rafia Zakaria, "Women and Islamic Militancy," *Dissent* 62, no. 1 (2015): 118-25.
- <sup>9</sup> Elizabeth Pooley, "A New Sisterhood: The Allure of ISIS in Syria For Young Muslim Women in the UK" (Doctoral dissertation, Arizona State University, 2015).
- <sup>10</sup> Edwin Bakker, Seran De Leede, and ICCT Background Note, "European Female Jihadists in Syria: Exploring an under-Researched Topic," *ICCT Background Note* (The Hague: International Centre for Counter-Terrorism The Hague, 2015).

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- <sup>11</sup> Mah Rukh-Ali, *ISIS and Propaganda: How ISIS Exploits Women*, Reuters Institute for the Study of Journalism, University of Oxford, 2015).
- <sup>12</sup> Haras Rafiq and Nikita Malik, "Caliphettes: Women and the Appeal of Islamic State," *Quilliam Foundation*, 2015.
- <sup>13</sup> Katharina Kneip, "Female Jihad-Women in the ISIS," *POLITIKON The IAPSS Academic Journal* 29, no. 89 (2016): 88-106.
- <sup>14</sup> F Anaedozie, "Has the Emergence of Female Suicide Bombers in Nigeria Depicted the Exploitation of Feminine Vulnerability? A Critical Appraisal of Boko Haram's Female Suicide Bombers in Nigeria," *International Journal of Innovative Research & Development* 5, no. 3 (2016): 217-227.
- <sup>15</sup> Hillary Peladeu, "'Support for Sisters Please': Comparing the Online Roles of al-Qaeda Women and Their Islamic State Counterparts" (Ph.D Theses, The University of Western Ontario, 2016).
- <sup>16</sup> Amanda N. Spencer, "The Hidden Face of Terrorism: An Analysis of the Women in Islamic State," *Journal of Strategic Security* 9, no. 3 (2016): 74-98.
- <sup>17</sup> Anne Speckhard and Ahmet S Yayla, "The Runaway Bride of ISIS: Transformation a Young Girl with a Dream to a Lethal ISIS Enforcer," (International Center for the Study of Violent Extremism (ICSVE), 2017), pp. 1-19.
- <sup>18</sup> Strommen, E.E.J., *Jihadi Brides or Female Foreign Fighters? Women in Da'esh-from Recruitment to Sentencing* (PRIO Center of Gender, Peace and Security, 2017).
- <sup>19</sup> Heinke, D. H., *ICSR Insight-German Jihadists in Syria and Iraq: An Update*, 29 of February 2016, <http://icsr.info/2016/02/icsr-insight-german-jihadists-syria-iraq-update/>; Hamed el-Said & Barrett, R., *Enhancing the Understanding of the Foreign Terrorist Fighters*

women in the Daesh group, however, their researches have raised many important questions, as they put emphasis more on statistical data, the roles, factors of involvement and the profile of women involving with the Daesh group. Based on these bases, Haleh Isfandiari *et al.*,<sup>20</sup> Sali Bitar<sup>21</sup> and Mehra Shirazi<sup>22</sup> have decided to study the pressure faced by these women in the Daesh group which finally forced them to become a suicide bombers and getting involved in humanitarian crimes such as slavery and rape.

In Malaysia, Hanif,<sup>23</sup> Maszlee *et al.*,<sup>24</sup> Osman & Arosoaie,<sup>25</sup> Siti Naqiyah *et al.*,<sup>26</sup> Schulze and Liow have studied the

Daesh' ideology on religious extremism and the threats it brought to the Malaysia national security. There were also discussions on the factors which have driven the spread of this ideology. However, these researches were not focusing on the involvement of Malaysian women who particularly have their own influences and factors.

Other than that, the studies of Roslan Mohd Nor (2015),<sup>27</sup> Sihabuddin Afroni<sup>28</sup> and Zolkharnain<sup>29</sup> have shed light on the stand of Islam in rejecting religious extremism. Other researchers, including Rahimin Affandi,<sup>30</sup> analysed the relationship between religious extremism and the *Khawārij* understanding based on the view of *maqāsid al-sharī'ah*. Meanwhile, Nasaruddin

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*Phenomenon in Syria* (Laporan Akhir, United Nations Office of Counter-Terrorism, July 2017).

<sup>20</sup> H Esfandiari, *et al.*, *Barbarians: ISIS's Mortal Threat to Women* (Wilson Center, Middle East Program, 2014).

<sup>21</sup> S Bitar, "Sexual Violence as a Weapon of War: The Case of ISIS in Syria and Iraq" (Master theses, Uppsala University).

<sup>22</sup> Mehra Shirazi, "Investigating Sexual and Gender-Based Violence as a Weapon of War and a Tool of Genocide against Indigenous Yazidi Women and Girls by ISIS in Iraq" (Master Theses, Oregon State University, 2016).

<sup>23</sup> Hanif Yusabra Yusuf, *Islamic State (IS): Implikasi Kepada Keselamatan Malaysia* (t.tmp.: t.p, t.t), p. 5-7.

<sup>24</sup> Maszlee Malik *et. al.*, "Siapakah ISIS?," in *ISIS* (Batu Caves: PTS Publishing House, 2016), p. 3, 45-46.

<sup>25</sup> Mohamed Nawab Mohamed Osman & Aida Arosoaie, "Jihad in the Bastion of 'Moderation': Understanding the Threat of ISIS in Malaysia," *Asian Security*, 2018.

<sup>26</sup> Siti Naqiyah Mansor *et al.*, "Ideologi Gerakan Islamic State of Iraq and Sham

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(ISIS) Di Malaysia," *Islāmiyyāt* 40, no. 2 (2018): 95-103.

<sup>27</sup> Roslan Mohd Nor, "Ekstremisme Rentas Agama Dan Tamadun," in *Kefahaman Islam Semasa Di Malaysia: Isu Dan Cabaran* (Shah Alam: Persatuan Ulama Malaysia, 2015), 154.

<sup>28</sup> Sihabuddin Afroni, "Makna Ghuluw Dalam Islam: Benih Ekstremisme Beragama," *Wawasan: Jurnal Ilmiah Agama Dan Sosial Budaya* 1, no. 1 (2016): 74-75.

<sup>29</sup> Zolkharnain Abidin, *Memahami Melampau dalam Beragama* (Perlis: Nyza Bestari Ent, 2016).

<sup>30</sup> Rahimin Affandi Abdul Rahim *et al.*, "Menangani Fenomena Ekstremisme Agama Mengikut Perspektif Maqasid Syariah," in *Maqasid Al-Sharia'ah: Aplikasi Dalam Aspek Sosial Dan Perundangan* (Kuala Lumpur: Jabatan Fiqh dan Usul, Universiti Malaya, 2016), p. 101-128.

Umar<sup>31</sup> has explained the problem of understanding, as well as literal and rigid interpretation on the concept of Islamic teachings which unfortunately become the root of radicalism, and can only be solved through moderation, toleration, and respecting the human rights. Most recently, Khadijah Mohd Khambali, Mustaffa Abdullah & Abd Karim Ali<sup>32</sup> found that *jihād* according to the Quran emphasizes on the question of good intentions, and requires a thorough study of reality and background. In short, *jihād* is different from terrorism which people have misunderstood.

All of the above studies are significant for this paper, but the studies have lack the information on one issue which is *fiqh wasatiyyah* approach towards the involvement of Malaysian women in the phenomenon of religious extremism. Therefore, to discover the factors behind the reasons of why Malaysian women join the Daesh group, together with their understanding on *jihād*, as well as how the *fiqh wasatiyyah* approach help to constrain the involvement of Malaysian women in religious extremism, this study has adopted qualitative method of research by combining the library and field research. There

were two analyses conducted; first, by analysing the books, theses, journals, papers and the collections of Dabiq magazine to understand the issues and develop the objectives of the study. Second, the interview method was applied to collect information from selected informants which aimed to classify certain codes as important themes based on the answers obtained from the interviews.<sup>33</sup>

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<sup>33</sup> For this research, we had selected a number of individuals as informants, those who had significant background with the research themes and also had agreed to be interviewed. The first informant was Dr. Zamihan Mat Zin, Head of Deradicalization Unit, Division of Religion, Malaysia Department of Prison, Ministry of Home Affairs. He was the Ministry important individual in the deradicalization process of the extremist detainees in Malaysia. He was also one of the 46 deradicalization panels appointed by the Ministry of Home Affairs. The interview with Dr. Zamihan was conducted in Kajang Prison, Kajang, Selangor, on the 4<sup>th</sup> of December, 2017. The second person was Dr. Abdullaah Jalil, Senior Lecturer in Faculty of Economy and Muamalat, Malaysia Islamic Science University (Universiti Sains Malaysia, USIM), in Nilai. He was also one of the 46 deradicalisation panels appointed by the Ministry of Home Affairs and was directly involved in the deradicalisation process of the extremist detainees with Malaysia Royal Police since 2006. The interview with him was conducted in USIM on the 13<sup>th</sup> of July, 2018. The third person was SAC Datuk Ayob Khan Mydin Pitchay, Assistant Director of Counter Terrorism, Special Branch (E8), Bukit Aman. He was an important Malaysia Royal Police individual who dealt with the threats of the extremist groups in Malaysia. The interview was conducted at Division of Counter Terrorism

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<sup>31</sup> Nasaruddin Umar, *Deradikalisasi Pemahaman al-Qur'an & Hadis* (Jakarta: PT Elex Media Komputindo, 2014).

<sup>32</sup> Khadijah Mohd Khambali, Mustaffa Abdullah, and Abdul Karim Ali, "Idealism of Jihad and War from the Qur'anic Perspective," *Al-Bayan: Journal of Qur'an and Hadith Studies* 15, no. 2 (2017): 240–260.

### The Internal Factors and Understanding of *Jihād* which Have Led Malaysian Women to Join the Daesh Group

From basic viewpoint, the thinking which underlying the practice of religious extremism is first, due to the state of ignorance. According to al-Luwaihiq, religious extremism can be occurred due to lack understanding of the al-Quran, *al-Sunnah*, *manhāj salaf al-ṣāliḥ*, *maqāṣid al-sharī'ah*, *sunnatullah*, the truth of faith and its relationship with practices, types of law, types of human beings, pattern of the Arabic language and the history of the Muslims.<sup>34</sup> Sihabudin Afroni, in describing the study done by al-Luwaihiq regarding to the state of ignorance that lead to religious extremism agreed that the misunderstanding on the truth of religion will finally lead to religious extremism. These extremists have good knowledge on the teaching of religion, however, they have misunderstood the true meaning of *jihād*. They believe with the understanding they have about religion, yet, they do not comprehend the real teaching of religion especially in the matter of *jihād*.<sup>35</sup>

For this reason, these people are exploited in the spirit of revenge against the unbelievers, even to the Muslims who are considered apostate for understanding Islam through other perspectives which they considered as misleading. For example, the case of attack attempted against the non-Muslim voters in the 14<sup>th</sup> General Election clearly shows the state of ignorance on identifying the real enemies of Islam and the boundaries of *jihād* and violent.<sup>36</sup>

Therefore, the interview data (2017 & 2018) of the cases involving Malaysian women have showed the intention of repentance for living in a life misleading away from religion, however, they have accidentally chosen wrong teachers and friends which finally led them to the wrong group. They were guided to join discussions over the social media, giving *bay'ah* and helping terrorists who they regarded as true fighters. These women were also educated and have made self-interpretation regarding the news they came across through the internet without cross-referencing with the real authorities and the scholars of *ahl al-sunnah wa al-jamā'ah*.<sup>37</sup> These

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(E8), Special Branch, Bukit Aman, Kuala Lumpur on the 16<sup>th</sup> of July, 2018.

<sup>34</sup> 'Abd al-Rahman Mu'alla Al-Luwaihiq, *Mushkilat al-Ghuluw fi al-Din fi al-'Asri al-Hadir* (Beirut: Muassasah al-Risalah, 1999); Khadijah Mohd Khambali, Mustaffa Abdullah & Abd Karim Ali, "Idealism of Jihad and War from the Qur'anic Perspective," p. 240-260.

<sup>35</sup> Sihabuddin Afroni, "Makna *Ghuluw* dalam Islam: Benih Ekstremisme Beragama," p. 74-75; Saidurrahman Saidurrahman, "Fiqh

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Jihad Dan Terorisme (Perspektif Tokoh Ormas Islam Sumatera Utara)," *Jurnal Ilmu Syari'ah Dan Hukum* 46, no. 1 (2012): 53-82.

<sup>36</sup> Ayob Khan Mydin Pitchay, interview with researchers, 16<sup>th</sup> of July, 2018; Rahimin Affandi Abd Rahim *et al.*, "Menangani Fenomena Ekstremisme Agama Mengikot Perspektif Maqasid Syariah".

<sup>37</sup> Zamihan Mat Zin, an interview with the researchers, 4<sup>th</sup> of December, 2017; Rahimin Affandi Abd Rahim *et al.*, "Menangani Fe-

women have neglected the culture of knowledge which emphasis on the truth and the value of *akhlāq* as they were influenced by the spirit of recklessness due to the strong feeling of sympathy and empathy.<sup>38</sup>

The second factor refers to the feeling of sympathy and empathy.<sup>39</sup> One important aspect which has influenced the Malaysian women to participate in Daesh group is the feeling of sympathy and empathy towards the oppression faced by the Muslims who live in the unstable regions such as Syria and Iraq. Due to this misunderstanding to value the truth and its priority, these feelings are exploited by the recruiters of the Daesh group, persuading to contribute and help the people of the same religion. One of the ways is to marry the Daesh fighters by leaving husband or family, even current job, behind.<sup>40</sup> The evidence can be referred to the case of

Ummi Kalsom Bahak who was reported planning to marry Aqief Huessin, a Daesh fighter in Syria. There were also other cases such as the cases of Shams, Siti Noor Aishah, Syamimi Faiqah Sulaiman and others who planned to do the same because they had already established relationship with the Daesh fighters, which finally led them to have the intention of migrating to these unstable lands in the name of *jihād* and *hijrah*.

This act of emigration (*hijrah*) is referred as the marriage *jihād*. We did not find this term used in the Dabiq magazine (published by the Daesh), yet the motive and its relevance can be found in the call to emigration for women as stated below:

Nourish your love of Allah and His Messenger. It is essential for you to love Allah and His Messenger more than your own selves, your husbands, your children, and your parents. Follow the example of Āsiyah – the wife of Pharaoh – who left the Dunyā for Allah and the Hereafter although she was a queen and had the wealth of the Dunyā. She was tortured and killed because of this choice, but Allah kept her firm and raised her above many women.<sup>41</sup>

The call emphasised on the importance and encouragement for women to emigrate. One of the interviewed respondents, who was also representing the Daesh women gave explanation on what the Dabiq magazine had pro-

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nomena Ekstremisme Agama Mengikuti Perspektif Maqasid Syariah.”

<sup>38</sup> Abdullaah Jalil, an interview with the researchers, 13<sup>th</sup> of July, 2018.

<sup>39</sup> Riyad Hosain Rahimullah, Stephen Larmar, and Mohamad Abdalla, “Understanding Violent Radicalization amongst Muslims: A Review of the Literature,” *Journal of Psychology and Behavioral Science* 1, no. 1 (2013): 19–35;. Jean M Twenge et al., “If You Can’t Join Them, Beat Them: Effects of Social Exclusion on Aggressive Behavior,” *Journal of Personality and Social Psychology* 81, no. 6 (2001): 1058–1069.

<sup>40</sup> Muhd Imran Abd Razak et al., “Application of Maqasid Al-Shari’ah In Evaluating Fiqh Jihad of Religious Extremism,” *Journal of Fundamental and Applied Sciences* 10, no. 6 (2017): 2454–2472.

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<sup>41</sup> “From Hypocrisy to Apostasy the Extinction of the Grayzone”, *Dabiq* 7, p. 51.

claimed, that the intention to emigrate for the sake of Allah SWT superseded the intentions to do other things and women must follow the historical guidance of 'Aisyah, the wife of Pharaoh, who was willing to be sacrificed for the sake of religion. Nevertheless, the call also can be referred to the call for women outside the Daesh region to leave behind everything they have including their husbands, children and parents they love in the name of Allah The Almighty.

Other than that, the *fiqh* understanding of the Daesh regarding the law of women to travel without *mahrām* is also related to the concept of the marriage *jihād* and emigration (*hijrah*) from *Dār al-Kufr* to *Dār al-Islām*. Only these kinds of *jihād* and *hijrah* are recognised by Islam. As referred to the Dabiq magazine, their statements towards migrating without *mahrām* were seen firm and harsh. They harshly criticised families who tend to be Muslims, yet later lodged on a police report to stop their daughters from immigrating to the Daesh land of Islam, even though being accompanied by their husbands, however, they let the daughters travel around the Western land without *mahrām*. They also criticised the society's view on justifying the law in the aspect of *musāfir* without *mahrām*, in the meantime, they disagreed with the concept of *hijrah* itself. Talking about law was considered as giving excuses only, because, the law issues did not come

into concern when the girls went out to travel in the land of the West.<sup>42</sup>

In addition, the act of *musāfir* without *mahrām* is related to the extreme *takfirī* believe adopted by the Daesh group. They suggest easy cancellation of marriage simply because of having different thinking stream. Again, the evidence can be identified in the Dabiq magazine, which mentioned that in the aspect of marriage, a husband or wife can be considered apostate for not supporting or adopting the same believe about Islam and they are no longer considered spouses. They are abandoned to live together under one roof, unless the apostate spouse willing to repent and support the stream of religion adopted by the Daesh. If not, the children will be considered as the result of adultery due to the cancellation of the marriage.<sup>43</sup> The combination of arguments from the Quran and Sunna are literally used to make women's *musāfir* without *mahrām* as legal by referring to the immigration from *Dār al-Kufr* to *Dār al-Islām* and the adopted *takfirī* believe. As it is considered as obligation, women must be obliged to travel with *mahrām*, therefore, they use the arguments related to emotions and the historical narration about women and *jihād* to attract women to join them hand-in-hand which persuade these women to travel to their land.

<sup>42</sup> Ibid., 7, pp. 34-35.

<sup>43</sup> "The Law of Allah or the Laws of Men", *Dabiq* 10, p. 44.



There are also implications of the extremism phenomenon which found women as victims such as war prisoners and eventually became enslaved. These women were captured as either for becoming the enemy soldier or women who were regarded as defined by this group. In this issue, the *fiqh jihād* as understood and practiced by the Daesh group refers to the act of enslaving the infidel women, meanwhile the men are killed. This is regarded as the most popular issue when it comes to the Daesh group. According to the report of al-Jazeera, in the month of August, 2014, the Daesh group had attacked a village of the Yazidi people in Sinjar province, northern Iraq. They had killed at least 5,000 men and enslaved 7,000 women, meanwhile the rest 40,000 people fled into the mountains.<sup>44</sup> Even though this issue has not related to the Malaysian women, it is related to the believe of *jihād* adopted by this group, including Malaysian women who have become members of this group, which must be encountered only through the real understanding of the law.

<sup>44</sup> Beck, J., "Iraq's Yazidis Living in Fear on Mount Sinjar," *al-Jazeera*, 26 Julai 2016, <http://www.aljazeera.com/news/2016/07/iraq-yazidis-living-fear-mount-sinjar160726063155982.html>.

## The *Fiqh Wasatiyyah* Approach to Constrain the Involvement of Malaysian Women in Religious Extremism

In the effort of confronting with the extreme believes, scholars like al-Qaradawi and Ben Bayyah have suggested a moderate approach (*wasatiyyah*) in interacting with the law of Islam. According to al-Qaradawi, a moderate (*wasatiyyah*) *manhāj* refers to equilibrium and moderations in everything; in 'aqidah, akhlāq, mu'āmalah, and laws as well as far from exceeding and transcending.<sup>45</sup> Al-Qaradawi<sup>46</sup> has inserted a number of basic principles in his writings. Among them are:

First, to ease and give good news. This principle of 'to ease' plays important role in determining the laws and *fatwā*, meanwhile 'to give good news' is an encouraged act in the process of *da'wah* and spreading reminders

<sup>45</sup> Muhammad Yusuf al-Qaradawi, "al-Wasatiyyah wa al-I'tidal", *Mu'tamar Wasatiyyah: Mukhtarat min Fikr al-Wasatiyyah*. <http://www.wasatia.org/wp-content/uploads/2010/05/book.pdf>

<sup>46</sup> The concept of this *wasatiyyah* has been explained by us in the literature reviews as found in Muhammad Imran Abdul Razak *et al*, "Metode Berfatwa Dalam Realiti Semasa Di Malaysia," in *Wacana Pemikiran Dan Tamadun Islam* (Perak: Universiti Teknologi Mara, 2019), 351-368.; Mohd Anuar Ramli *et al*., "Relevansi Pendekatan Wasatiyyah Menurut Al-Qaradawi Bagi Menangani Ikhtilaf Fiqh Dalam Kalangan Masyarakat Islam Nusantara," *Jurnal Wasatiyyah Malaysia* 1, no. 1 (2018): 7-20.

to the people.<sup>47</sup> There are two types of making ease in determining the law of *fiqh*. One, is to make it easy to be understood by the people.<sup>48</sup> Second, to ease the practice and implementation of the law of *fiqh* in daily life. Nevertheless, this principal does not intend to loosen up the *naṣṣ* which its obligation has been stated clearly. For reason, *maqāṣid* or the purpose of Islamic law is to ensure safeties and the state of well-being in the world and hereafter.<sup>49</sup>

Second, to combine between *salafiyyah* and *tajdīd*. *Salafiyyah* according to al-Qaradawi refers to the return towards the origin and sources of *al-sharī'ah* which are the Quran and *al-Sunnah*. Meanwhile, *tajdīd* refers to the present contexts and reality as well as become free from ignorance and blind *taqlīd*.<sup>50</sup> In order to achieve the state of *wasatiyyah*, these two aspects must be combined. For reason, these two matters are not conflicting with one another, likewise, they are completing each other. For example, the Prophet peace be upon him explained that religion will always be developed and expanded. The nature of Islam as a relevant religion as the time passes will last longer

only by interacting with the changes of time and place.<sup>51</sup>

Third, the middle ground between *zāhiriyyah* and the members of *ta'wīl*. Among the principles of *wasatiyyah* is to take the middle ground between understanding the literal meaning of the *naṣṣ* and to expand the space for *ta'wīl* without discipline or particular yard stick. The stream of *zāhiriyyah* inclines to understand *naṣṣ* simply through literal meaning as well as ignoring the aspects of *maqāṣid* and its aspect of *ta'līl*.

This approach often leads to narrow understanding of the *naṣṣ* and harsh legal decisions. In fact, this streamline often considers those who try to define the *naṣṣ* and try to understand its purpose as committing the act of heresy.<sup>52</sup> Meanwhile, there also members who tend to delegate the *naṣṣ* so excessively which eventually ignore the verse itself for the reason to safeguard the *maqāṣid al-sharī'ah* and *maṣlaḥah*.<sup>53</sup> Members of this group majorly have often being influenced by external thinking styles such as liberalism that magnify human reasoning and dare to ignore the Islamic law.<sup>54</sup> Thus, the position of *wasatiyyah* streamline lies in the middle of these two streams by accepting the descrip-

<sup>47</sup> Al-Qaradawi, "al-Wasatiyyah wa al-I'tidal", pp. 75-76.

<sup>48</sup> Muhammad Yusuf al-Qaradawi, *Nahw Fiqh Muyassar Mu'asir*. (Qahirah: Maktabah Wahbah, 1996), pp. 16-23.

<sup>49</sup> Muhammad Yusuf al-Qaradawi, *al-Maqasid al-'Ammah li al-Syari'ah al-Islamiyyah* (USA: al-Maahad al-'Ali li al-Fikri al-Islami, 1994), p. 79.

<sup>50</sup> Al-Qaradawi, "al-Wasatiyyah wa al-I'tidal", p. 78.

<sup>51</sup> Ibid., p. 81.

<sup>52</sup> Al-Qaradawi, *Dirasah fi Fiqh Maqasid al-Shari'ah*, pp. 59-64.

<sup>53</sup> See for example, Edi Kurniawan, "Distorsi Terhadap Maqasid Al-Syari'ah Al-Syatibi Di Indonesia," *Al-Risalah* 18, no. 2 (2018.): 175-194.

<sup>54</sup> Al-Qaradawi, *Dirasah fi Fiqh Maqasid al-Shari'ah*, pp. 93-102.

tion of *naṣṣ* however, with particular restrictions and does not overlimit which at the end ignore the *naṣṣ* itself.

Fourth, balancing between the matters of *thawābit* (permanent) and *mutaghayyirāt* (changeable). *Thawābit* refers to permanent religious matters which can't be altered, for example in the matter of *'aqīdah*, the obligatory *'ibādah*, the principles of *akhlāq* and *dalīl qat'īyy*. Meanwhile, *mutaghayyirāt* refers to the matter of *furū'* which can receive alteration according to the present context, for example the knowledge of agriculture, medical, and engineering. Therefore, the approach of *wasatīyyah* combines these two aspects and equilibrate them, such as to be firmed in the matters of *furū'* also in the form of *juz'īyyah*; to be firmed in the matter of religion and *akhlāq*, however becomes more flexible in the worldly matters.<sup>55</sup>

Fifth, to combine *fiqh* and *ḥadīth*. The approach of *wasatīyyah* according to al-Qaradawi combines *fiqh* and *ḥadīth* to deal with problems. Every *fatwa* issued under this principle will be contextual and profound. The separation between *fiqh* and *ḥadīth* causes confusion in the legal process. A *fiqh* expert who does not master the knowledge of the *ḥadīth* will be exposed to his own judgment which is derived based on weak *ḥadīth* and will not be accepted as a legal basis. Whereas a master of *ḥadīth* who does not strengthen the knowledge in *fiqh* may derive a legal decision based on a

<sup>55</sup> Al-Qaradawi, "al-Wasatīyyah wa al-I'tidal", pp. 87-89.

literal *ḥadīth* without understanding its purpose of Islamic law and how to derive law from it.<sup>56</sup> Therefore, the combination of these two disciplines can lead to a sound and comprehensive legal decision.

Sixth, celebrating the reality. One of the important *wasatīyyah* approaches is to lean the law against the reality, which also take *maṣlahāt* and *muḍārāt* into consideration. Celebrating this reality is important to take a simple approach. This is so that a given legal decision has something to do with current reality and not just a fantasy.<sup>57</sup> Therefore, a few things need to be kept in mind so that the action is always in keeping with the reality at present. Among them is to understand the concept that the law changes within the changes of time and place.<sup>58</sup>

Seventh, to understand a *juz'i naṣṣ* in the framework of a comprehensive *al-sharī'ah*. Al-Qaradawi always suggests that the understanding of the *naṣṣ* must be in line with the meaning of *al-sharī'ah*. The negligence in understanding the *maqāṣid* will cause a great deal of misunderstanding, which considers Islam as no longer fits different places and times.<sup>59</sup> Eventually, if it is deeply understood, there is no contradiction in accepting the *juz'i naṣṣ* and at the same

<sup>56</sup> Rumaizuddin Ghazali, *Yusuf al-Qaradawi dan Pengaruhnya Dalam Masyarakat Islam di Malaysia* (Nilai: Penerbit USIM, 2012), p. 88.

<sup>57</sup> Ibid., pp. 99-100.

<sup>58</sup> Ibid., pp. 99-100.

<sup>59</sup> Ibid., p. 102.

time accepting the complete framework of *maqāṣid al-sharī'ah*. This is due to the nature of Islam itself that every law exists with the purpose to bring benefits to human kind. Therefore, it is clear that the *juz'i naṣṣ* can be understood according to the framework of its definition of comprehensive *sharī'ah* without any collision.<sup>60</sup>

Based on the guidelines presented, we found a number of main approaches which can be applied as the approach of anti-terrorist *fiqh wasatiyyah* as follow:

### 1. To balance between the textual and contextual

The understanding of Islamic law based on the arguments of the Quran and Sunna must be viewed as a whole. The Daesh group's understanding in the form of selective *juz'i* has caused some of the arguments of the *sharī'ah* to be seen as promoting absolute violence. This matter can be observed in the example of their understanding of the Quranic verses which call for the killing of the unbelievers as a whole, but the verse refers to different context which is the warfare involving the cruelty of the infidel armies towards the Muslims.<sup>61</sup> Another example can be found in the use of arguments regarding the events of the Prophet's (peace be upon him)

*hijrah* to legalise the act of leaving husband or wife. It was true that in the days of the Prophet's (peace be upon him) *hijrah* from Mecca to Yathrib, Muslim women were obliged to emigrate even without their parents 'or husbands' consent as only the non-believers were still living in Mecca and did not emigrate.<sup>62</sup> However, according to the agreements of previous *fuqahā'*, the participation of women in the activities of *jihād al-ṭalāb* is not compulsory, yet, traveling with the *mahrām* is an obligatory. Thus, it is understandable that in addition to the context of the *hijrah al-Rasul* and the *jihād al-difa'*, a woman is obliged to be accompanied by her *mahrām* in any form of *musāfir*.<sup>63</sup> Therefore, the balance between the texts of the *dalīl* must be done together with its requirement so that the *dalīl* are not manipulated for the sake of their respective political interests.

<sup>60</sup> Al-Qaradawi, *Nahw Fiqh Muyassar Mu'asir*, p. 90.

<sup>61</sup> Al-Qaradawi, Muhammad Yusuf, *Fiqh al-Jihad: Dirasah Muqaranah li ahkamihi wa falsafatihi fi daw al-Quran wa al-Sunnah*, vol. I (Qahirah: Maktabah Wahbah, 2009), p. 311.

<sup>62</sup> Al-Qaradawi, *Fiqh al-Jihad*, vol. I, pp. 131-132.

<sup>63</sup> 'Alau al-Din Abu Bakar al-Kasani, *Bada'i' al-Sana'i' fi tartib al-Shara'i'*, vol. IX (Beirut: Dar al-Kutub al-'Ilmiyyah, 2003), p. 4301; Shams al-Din Sheikh Muhammad 'Arfah Al-Dusuqi, *Hashiyah al-Dusuqi 'ala Sharh al-Kabir*, vol. II (t.t.p: Tiba' Badan Ihya' al-Kutub al-'Arabiyyah, t.t), p. 176; Muhy al-Din al-Nawawi, *al-Majmu' Sharh al-Muhadhdhab li al-Shirazi*, vol. XIX (Jeddah: Maktabah al-Irshad, t.t), p. 270; Abi Muhammad 'Abd Allah Ahmad Ibn Qudamah, *al-Mughni*, vol. XIII (Riyad: Dar 'Alim al-Kutub, 1997), p. 9; Al-Shirazi, Abu Ishaq, *al-Muhadhdhab fi Fiqh al-Shafi'i*, vol. V (Dimashq: Dar al-Qalam, 1996), p. 241.

## 2. To consider the reality at time and place

One characteristic of the *fiqh* is the practicality and celebrating the reality at time. If not, the laws of Islam will be rigid, closed and hard. The debates among the previous '*ulamā'* were made based on different realities. The texts of *dalīl shar'ī* also are varied as they were derived based on the methodology of law in different situations, not only through literal understanding. The understanding and practice of the Daesh group has made the texts as literal arguments and created tensions and violent crimes which has jeopardised the image of Islam. For example, when the Daesh group enslaved the non-Muslim women, they actually showed an irrespective act towards the international treaty signed among countries and this action has brought bad image to the Islamic law. As referred to the issue of women detainees, the *fuqahā'* are found to agree on their merits based on some clear arguments on the matter. It is considered relevant because the system of slavery has long been accepted by the whole world.<sup>64</sup> In this regard, there is a *ḥadīth* that emphasizes on the care of a person's well-being even though they are recognized as slaves. Women and children given to the Muslim families were handsomely treated maybe be-

<sup>64</sup> Paul E Lovejoy, "The African Diaspora: Revisionist Interpretations of Ethnicity, Culture and Religion under Slavery," *Studies in the World History of Slavery, Abolition, and Emancipation* 2, no. 1 (1997): 1-23.

cause of this urgency to develop mutual support among each other.<sup>65</sup>

Nevertheless, the law to enslave people is *mubāh*, not *wājib*.<sup>66</sup> To look at this view in wider context, the long history of the expansion of Islam had witnessed the success of Islam in freeing people from the slavery system by imposing different types of law which led to the freedom of the slave. As a result, we barely see slavery system being practiced at present by the Muslims at the entire of the world. Dues to this argument, we believe that the debate on the law of the prisoner of war should be initiated by taking the reality at time into consideration. At present, we can observed international treaties signed by governments to discuss about the methods to solve the issues regarding the prisoner of war.<sup>67</sup> As the *fuqahā'* cat-

<sup>65</sup> Sahih al-Bukhari, Kitab al-Adab, Bab Ma Yunha min al-Sibab wa al-La'an, no. 6050, Al-Bukhari, Abu 'Abd Allah Muhammad Isma'il, "Sahih al-Bukhari", in *Mausu'ah al-Hadith al-Sharif*, p. 511 and "Sahih Muslim", Kitab al-Iman, Bab It'am al-Mamluk Mimma Ya'kul, no. 1661, Muslim al-Hajjaj Abu Husain al-Qushairi al-Naisaburi, "Sahih Muslim", in *Mausu'ah al-Hadith al-Sharif*, p. 969.

<sup>66</sup> Abi Muhammad 'Abd Allah Ahmad Ibn Qudamah, *al-Mughni*, vol. 13 (Riyad: Dar 'Alim al-Kutub, 1997), pp. 46-47.

<sup>67</sup> For example Article 4, Universal Declaration of Human Rights wrote; "No one shall be held in slavery or servitude. Slavery and the slave trade shall be prohibited in all their forms". United Nations (UN) (1948), *The Universal Declaration of Human Rights*. Refer to <http://www.un.org/en/documents/udhr/index.shtml#a4>.

egorise this matter under the discussion of *siyāsah al-shar‘iyyah* and include the best considerations which suite the time, present solution regarding to the reality of slavery should be taken seriously because to live up the slavery system through harshness will invite a great deal of slander towards the teachings of Islam in general and to the Messenger of Allah peace be upon him and the early generation of Islam in particular.

The same argument goes to the typology, the separation of countries at times of war, the encouragement to emigrate without paying attention to the women’s safety, the calls to launch the lone-wolf attacks, the implementation of Islamic law without the emphasis on justice and so on. These actions are evidences which at the end assimilate the Daesh group with religious extremism, also bring bad image to the harmony of Islamic law if all these actions are not properly addressed.<sup>68</sup>

### 3. The emphasis on the interpretation of the *naṣṣ* that reflects the global welfare of Muslims by pursuing *maṣlahāt* and denying *mudārāt*

The situations of Muslims at present need more attention and consideration

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<sup>68</sup> Muhd Imran Abd Razak et al., “Analisis Isu-Isu Hukum Islam Berkaitan Wanita Dalam Fiqh Jihad Aliran Ekstremisme Agama,” *UMRAN-International Journal of Islamic and Civilizational Studies* 6, no. 1 (2019): 63–78.

in deciding the *ḥukm*. Since the fall of *Khilāfah Uthmāniyyah*, the Islamic countries are not confined in one *Dār al-Islām*, however, separated by geographical borders and the nation state as well as bound by various local and global regulations as countries. Thus, the priority consideration of the Muslims has shifted from hegemony of power and authority to a divided nation state separated in the form of specific national identity. Consequently, harsh interpretation on the *dalīl shar‘ī* brings a significant impact on Muslims both locally and globally. The methods of interpreting the law that emphasize greater *maṣlahāt* are needed to address the current situation of Muslims and at the same time respecting classical *fiqh* texts.<sup>69</sup> For example, the interpretations of peaceful *fiqh jihād* such as the *jihād* in pursuing knowledge, combating the *nafs*, and expanding the economy of Muslims need to be emphasised more than the call for *jihād* in the form of war and creating conflicts with other countries including towards the non-Muslims who share life inspired on peace.

### Conclusion

The involvements of Malaysian women in the Daesh group are found to be based on the internal factors, including the feeling of sympathy and empathy

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<sup>69</sup> Muhammad Yusuf al-Qaradawi, *Fi Fiqh al-Awlawiyyat wa Dirasah al-Jadidah fi Dau’ al-Qur’an wa al-Sunnah* (Qahirah: Maktabah Wahbah, 1996), pp. 83-84.

towards the situation of the Muslim world. This reason has encouraged them to join the movement of *jihād* by marrying the Daesh warriors and leaving behind their careers as well as families. As a result, they are exposed to a bigger problem which is identified as national security threat. The practice of *takfīrī* and extreme believe in the matters of *jihād*, *hijrah* and *dawlah* have created a chaotic state of thinking in the minds of these women. Apparently, the description of law literally and partially without taking into consideration the reality of the present has developed misleading understanding about the teachings of Islam as a peaceful religion, also it developed continuous conflicts among the family members, even among the members of the society. Therefore, looking at the implications, this group needs to be handled firmly and wisely by all parties especially the government of Malaysia through measures of prevention, controlling and eradicating according to the laws and effective methods of deradicalization education. At the same time, feedback in the form of *counter-discourse* (anti-violent form of *fiqh wasatiyyah* discourse) and *counter-ideology* must be implemented with the aims of portraying the nature of moderation in Islamic teachings which at the end realises the image of Islam as a religion of *rahmatan li al-'ālamīn*.

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