

CHAPTER 6

CONCLUSION

6.1 Introduction

It is expected that this final chapter will be able to complete the aim of the entire study and offer brief conclusions. Therefore, the researcher will summarize and conclude all of the findings obtained during the previous discussions. First, the researcher will address and conclude on each of the research objectives. Following that, the researcher will explain the study's implications and recommendations. This entire process will be presented in the study's sections 6.2, 6.3, and 6.4. Hopefully, this study attained the right analysis approach, discussions, findings, and provides readers with new information as a whole.

6.2 Summary and Discussion of Findings

This section will summarize the conclusion of the chapter summary by providing the findings and discussions of study objectives 1, 2, 3, and 4.

6.2.1 Summary and Discussion (Research Objective 1)

The study's first research objective is to identify the concept of PWDs and their position under *Syarak* and the Malaysian legal system. During the discussion on general concepts of PWDs, the researcher described the definition of PWDs in three areas, including *Syarak*, Western, and Malaysian perspectives. In general, the definition of people with disabilities is unarguable. Each perspective, whether *Syarak*, Western, or

Malaysian, has its own meaning and approach. Disability is also a broad term with various connotations depending on the audience, individual, or organization and how it is used. However, the researcher discovered a similarity between these three perspectives in that they all addressed PWDs, or people with special needs such as visual, hearing, or mental impairment. Their limitations make it difficult for them to be fully accessible and active at times, but their rights are always protected or preserved under *Syarak* and law.

The special rights of the PWD group are clearly mentioned in the Qur'an and hadith. Disabled persons are given a special position in Surah 'Abasa verses 1-10, when Allah SWT admonished the Messenger of Allah SWT, Rasulullah SAW, for his treatment of blind 'Abdullah Ibn Ummi Maktum. Several hadith also mentioned the importance of treating PWDs with care and love, such as always encouraging PWDs in their lives and properly fulfilling their needs. Malaysian civil law legislations have also recognized the positions of PWDs, such as by enacting the PWDs Act 2008 (Act 685), outlining all of their rights in Chapter 1 to Chapter 5 of Part IV of the Act 685 and other aforementioned related provisions such as under Rules of Court 2012 - Affidavit by illiterate or blind person (O. 41, r. 3). Meanwhile, unlike in civil law, the *Syariah* or Islamic law does not have a specific definition of PWDs under its legislation. However, the presence of several PWD-related provisions, such as those mentioned in Sections 83(4)(5) and 84 of Act 561, has also recognized PWDs' rights.

Table 6.1: Summary of Research Objective 1 Findings and Discussions

Objective	To identify the definition of PWDs and their position according to <i>Syarak</i> and Malaysian legal system.
Findings and Discussions	
Definitions of PWDs	

Syarak Perspective	Western Perspective	Malaysian Perspective
In terms of linguistic and terminology.	Based on the World Health Organization (WHO) and Article 1 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).	Various definitions from different people's points of view.
Position of PWDs According to Syarak and Malaysian Legal System		
Syarak	Malaysian Legal System	
1) In Al-Qur'an Through several Quranic verses that discuss the position of the disabled such as in Surah 'Abasa verses 1-10, Surah at-Taubah verse 91 and Surah al-Fath verse 17. 2) In Hadiths There are many hadiths of the Prophet SAW that illustrate the position of PWDs with an emphasis on several aspects such as; - Increase the spirit and motivation of the disabled to persevere in facing the trials and destiny of Allah SWT. - Encouragement and recognition for doing good for the weak person. - Encouragement to interact with disabled people.	1) Under Civil Law Legislation - Malaysia took a proactive stance by signing the CRPD in 2008 and ratifying it on July 19, 2010. - Malaysia also has made reservations under Article 15 of the Convention (Freedom from torture or cruel, inhuman, or degrading treatment or punishment) and Article 18 of the Convention (Liberty of movement and nationality). - Preservation of rights through enacting the PWDs Act 2008 (Act 685) and outlining all of their rights in Chapter 1 to Chapter 5 of Part IV of the Act 685. - Other provisions: O. 41, r. 3 (ROC 2012), Section 118 and 119 (1)(2) of Evidence Act of 1950, and Section 342 (1)(2) of Criminal Procedure Code (Act 593). 2) Under Syariah Law Legislation Discussions on two different aspects: - Whether Malaysian Syariah Law includes a clear definition of PWDs in its provisions. Findings: There is no exact definition given. - Whether Malaysian Syariah Law provides adequate rights to PWDs in its legislation. Findings: PWDs' rights were mentioned in several provisions, including Sections 84(1), 83(4), and 83(5) of Act 561, Sections 17, 115 (1), 180(1)(2) of Act 560, and Section 127 of Act 585.	

6.2.2 Summary and Discussion (Research Objective 2)

The study's second objective is to analyze current practice in Syariah Courts in Malaysia on legal procedures for Civil cases involving PWDs. The researchers gathered information through interviews and observations. The study began with a discussion of the theoretical information or general concepts of Syariah law in Malaysia, as well as the legal procedure of Civil cases in Syariah Court. The researcher then continues the discussion by answering to the research objective. According to the findings, the Malaysian Syariah Court has no specific procedure or guidelines in dealing with Civil cases involving PWDs, whether in terms of registration, case handling, or case management. The set of laws applies to everyone, regardless of whether they have a disability or not. Currently, in dealing with Civil cases involving PWDs in Syariah Court, the Court only used their own initiative.

The study demonstrates that the judges take appropriate self-action, such as adhering to the basic principles of the Syarie judge's code of ethics as stated in the Practice Directions No. 1 Year 2001 when dealing with cases involving the disabled and referring to some clear provisions provided under the law, such as Section 84 of Act 561 (Dumb Witnesses). Even the current practice of Syariah Court State of Melaka had used the provisions under Chapter 2 of Enactment 13 (*Persons Under Disability*) (Section 24 until Section 30) and Section 84 of the Syariah Court Evidence (State of Melaka) Enactment 2002 (Enactment 8) as a reference when dealing the Civil cases involving the PWDs. The Syariah Court of Melaka is one of the courts that actively handles matters involving people with disabilities. Their Court offers necessary services, such as sign language interpreter services and other amenities. The data examined through observation also revealed that the Syariah Officer handles the Sulh

cases involving PWDs parties with their own strategy and technics as long as they do not deviate from the genuine or actual Sulh protocol (based on Sulh Work Manual).

Consequently, the current practice of Malaysian Syariah Court in dealing with such matters is based on the Court Officer's, judges', or legal practitioners' discretion to handle the case, as well as using their own techniques and initiatives as long as they do not deviate from actual legal principles and justices. As a result, the researcher discovered that the practice has resulted in variances in implementation among legal practitioners, as well as certain shortcomings in practice, and that various challenges have arisen while dealing with Civil cases involving PWDs.

Table 6.2: Summary of Research Objective 2 Findings and Discussions

Objective	To analyze the current practice in Syariah Courts regarding legal procedures for Civil cases involving PWDs in Malaysia.
Findings and Discussions	
• The action taken is based on discretion of the Court Officer, judges or practitioners to handle the case with their own methods and initiatives as long as it is not far from the true legal principles and justices. • The use of basic principles of the Syarie judge's code of ethics as mentioned under the Practice Directions No. 1 Year 2001 and several provisions such as Section 84 of Act 561 (Dumb Witnesses). • Current Syariah Court practice in the State of Melaka: - Used the provisions under Chapter 2 of Enactment 13 (<i>Persons Under Disability</i>) (Section 24 until Section 30) and Section 84 of Enactment 8. - The Court offers necessary services, such as sign language interpreter services and other amenities.	

6.2.3 Summary and Discussion (Research Objective 3)

The third research objective of the study is to investigate the issues and challenges that arise in the legal procedures of Civil cases involving PWDs in the Syariah Court of Malaysia. Through the data analyzed from the interview with several legal practitioners such as Syarie Judges, Syariah Officers, as well as PWDs

representatives, the researcher found that the Court, legal practitioners and even PWDs community faces several issues and challenges in legal procedure for Civil cases involving PWDs. The findings and discussions can be summarized in Table 6.3 below.

Table 6.3: Summary of Research Objective 3 Findings and Discussions

Objective	To investigate the issues and challenges that arise in the legal procedures of Civil cases involving PWDs in the Syariah Court of Malaysia.	
	Findings	Discussions
	The ambiguity of PWD-related legal provisions in Malaysian Syariah law	Seen in two aspects: the absence of related regulations or provisions regarding legal procedures for Civil cases involving PWDs in Malaysian Syariah Court and the absence of a clear definition of PWDs under Malaysian Syariah law.
	The absence of standard guidelines in legal procedures for Civil cases involving PWDs in Malaysian Syariah Court	- Results in varying practices among legal practitioners and the Syariah Court, as they employ their own initiative and methods. - No initial screening at the initial stage of registration. Thus, PWDs have unmet services or needs. - Causes the procedure to become unsystematic from the start. This is because the judge is unaware of the parties are among PWDs from the beginning and the court cannot provide the early services required to handle the case.
	A scarcity of legal practitioners skilled in handling PWD-related cases	- Due to the Court's acceptance of parties from disabled community is still minimal and could not understand their needs, characters and so on in order to handle the case. For example, there aren't enough Court officers who can communicate in sign language. - Due to the absence of specific roles or positions in the Syariah Court and a shortage of percentage in public employment for the PWD category in the legal aspect and department. - The court officers and staff, are not exposed to specific training or modules in dealing with such cases.
	A low level of legal literacy among PWDs community	- Due to a lack of PWDs community awareness in legislative affairs, a lack of sources that are more PWDs friendly, a lack of information offered by the Syariah Court, and a lack of concern for PWDs problems or needs.

6.2.4 Summary and Discussion (Research Objective 4)

The fourth research objective of the study is to propose the comprehensive procedures for empowering the legal procedures of Civil cases involving PWDs in the Syariah Court of Malaysia. Based on the issues and challenges occurred, the researcher proposed several suggestions for empowering the legal procedure for Civil cases involving PWDs in Malaysian Syariah Court. Table 6.4 below showed the findings and discussions, as well as improvements that can be made by the Syariah Court in order to improve in dealing such cases in future.

Table 6.4: Summary of Research Objective 4 Findings and Discussions

Objective	To propose the comprehensive suggestions for empowering the legal procedures of Civil cases involving PWDs in the Syariah Court of Malaysia.	
	Findings	Discussions
	The need for Malaysian Syariah law to have a clear PWD-related legal provision	In terms of a clear provisions on the methods to deal with Civil cases involving PWDs in Malaysian Syariah Court and an exact definition of PWDs under the Malaysian Syariah law or its legislation.
	The requirement for developing a standard guideline in legal procedure for Civil cases involving PWDs in Malaysian Syariah courts	- By developing a specific Practice Direction (<i>Arahan Amalan</i>), circulars or so on and outlining the standard guideline or method to manage such cases and the treatment that should be given to parties that are disabled. - Must ensure that all issues are addressed and that their rights and needs are met properly at each stage of the legal procedure. It can assist Syariah judicial institutions in elevating their current practices and becoming more progressive in dealing with issues involving the disabled and the Syariah Court.
	Early exposure to legal practitioners in handling Civil cases involving PWDs	All legal practitioners can be given early exposure through a series of training or courses, as an added value and other methods such as simulation in handling Civil cases involving PWDs.
	Creating interagency collaboration	Viewed from two perspectives: examining existing PWD provisions and developing standard guidelines and legal knowledge among the PWD community.

6.3 Implications of The Study

The study had various implications for the Malaysian Syariah legal system, the legal authorities, legal practitioners, the PWD community, academia, and society as a whole. It can be broken down into the following points:

- i. This study has a great implication towards Malaysian Syariah legal system and Syariah judicial institutions such as JKSM and Department of Syariah Judicial of the States in legal procedure for Civil cases involving PWDs in Malaysian Syariah Court, eventually reduces the barriers face by the Court.
- ii. By examining current practices and investigating issues and challenges, it will assist legal authorities and relevant organizations in taking appropriate action based on the researcher's empowerment, such as developing a specific standard guideline and module in the future.
- iii. The study's findings and discussions on legal procedures involving PWDs in Malaysian Syariah Court will assist legal practitioners in dealing with such cases in the future and will be a source of reference in improving that matter, as well as upholding Malaysia's current Syariah legislation system.
- iv. The study of PWDs and their related concerns with the Syariah Court receives little attention among researchers. As a result, this study will contribute to the academic literature by providing information about PWDS in legal research and will indirectly help future academics, researchers or students study more in this field in the future. It can also be a source of legal knowledge and a reference for the PWD community and the general public.

6.4 Suggestions for Future Research

The following are some recommendations for future research based on the findings of the study:

- i. Future researchers can undertake a more in-depth study on the issues and challenges that the Court, legal practitioners, and PWDs community confront in legal procedures concerning PWDs' cases in Syariah Court. The research can be focused on specific issues affecting the seven types or categories of PWDs recognized in Malaysia.
- ii. The data collection methods should be diversified, such as using Focus Group Discussion (FGD) approaches to obtain data that is more focused and geared toward the challenges experienced by each category of PWDs in specific.
- iii. The study should be expanded by making a research on issuing a Practice Direction or circular as well as developing a specific guideline on legal procedure for Civil cases involving PWDs in Malaysian Syariah Court so that it can be a reference to all people.
- iv. A more in-depth discussion can also be held on the existing practice of the Malaysian Civil Court in managing cases involving PWDs, as well as the issues and challenges that arise as a result of the Civil Court's lack of a clear guideline for handling such cases. Thus, a comparative study can be conducted in future, as well as collaboration between Syariah and Civil Courts can be made to empower and overcome such matters in the future.
- v. The researcher discovered that, with the exception of few Acts and provisions adopted, no country provides a standard or specific guideline in dealing with cases involving PWDs. As a result, future researchers should try to widen their

information and data searches from time to time in order to figure out the current procedures in other countries when dealing with court issues involving PWDs.

6.5 Conclusion

In general, this chapter summarizes all of the findings and comments in a brief way based on the research objectives. This research will have an impact on the Shariah legal system, legal practitioners, the PWD community, academics, and the public at large. Suggestions for future research have also been made in order to improve future research and fulfill gaps in the current study on the legal procedure of Civil cases involving PWDs in Malaysian Syariah Court. It is intended that this study can enhance the Shariah legal system's position in giving justice to the PWD community and develop procedures that are more PWD friendly or inclusive Court in the future.