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**NEGOTIATION IN ISLAMIC FINANCIAL SYSTEM:
DEVELOPING A *SHARIAH*-COMPLIANT NEGOTIATION
MODEL**



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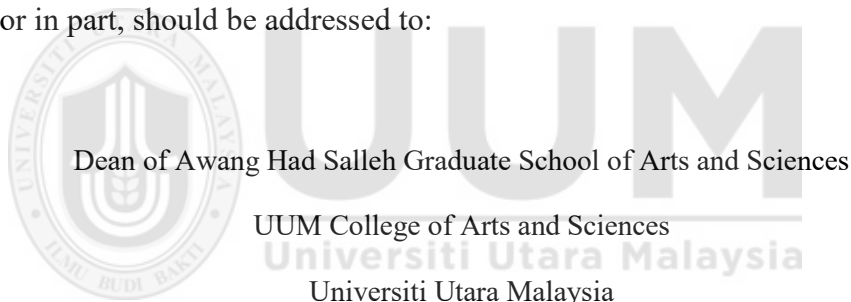
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Abstrak

Beberapa organisasi telah menerima pakai sistem pengurusan Islam untuk menguruskan organisasi mereka. Organisasi Islam ini berunding dan berurusan untuk memenuhi kepentingan dan memenuhi objektif mereka. Maka, adalah penting untuk mengetahui prinsip-prinsip Syariah yang mereka laksanakan dalam rundingan dengan pelbagai pelanggan dan pemegang taruh. Proses dan hasil berhubung perundingan telah banyak diselidik dari perspektif dan sistem nilai konvensional. Sementara kebanyakan kajian berkenaan perundingan hanya meneliti pandangan daripada sistem nilai barat, adalah penting untuk diteroka konsep dan amalan perundingan dari perspektif Islam. Oleh hal yang demikian, kajian ini meneroka dan mengenal pasti konsep, prinsip, dan amalan perundingan dari perspektif Islam. Di samping itu, kajian ini turut mencadangkan model perundingan patuh Syariah yang bersandarkan reka bentuk kajian kualitatif. Satu siri temu bual bersemuka dengan 20 orang informan daripada empat kelompok pakar telah dikendalikan. Kelompok pakar ini merangkumi para mufti, ahli akademik, pengamal, dan lembaga pengarah Syariah bank Islam. Data telah dianalisis secara analisis tematik berbantuan perisian NVivo8. Dapatan memperlihatkan bahawa perundingan dari kaca mata Islam memerikan tiga platform percanggahan pandangan, iaitu perdamaian (*Sulh*), perbincangan (*Shura*) dan wahana komunikasi. Platform ini terhasil daripada enam prinsip teras, yakni kepatuhan pada al-*Qur'an* dan *Sunnah* keadilan, kewibawaan, kebolehlenturan, pendedahan maklumat, dan perhubungan. Kajian juga mendapati bahawa tujuan utama organisasi Islam mengguna pakai pendekatan Islam dalam tatacara perundingan mereka adalah untuk mendapatkan kepuasan rohani. Kajian turut mengemukakan model Perundingan Patuh *Shariah* sebagai panduan dalam pengendalian perundingan dalam kalangan organisasi Islam. Akhir sekali, kajian juga menyumbang kepada kosa ilmu menerusi kerangka bersistem yang dapat memberikan pandangan kepada organisasi Islam tentang cara pengendalian perundingan menerusi pendekatan Islam yang sewajarnya.

Kata kunci: Perundingan, Prinsip, Amalan, Patuh *Shariah*, Organisasi Islam.

Abstract

A number of organizations have adopted the Islamic system of management to manage their organizations. Those Islamic organizations negotiate and deal in order to satisfy their interest and meet their objectives. Hence, it is important to know the Shariah principles, which they execute in their negotiation with their various customers and stakeholders. The negotiation process and outcome have been largely studied applying different conventional perspectives and value systems. However, while the extant studies on negotiation have exhaustively focused on viewpoints that are mainly informed by western value systems, it is imperative to explore the possibility of the conceptualization and practice of negotiation from the Islamic perspective. As such, this study explores and identifies the concept, principles and practices of negotiation from an Islamic perspective. Additionally, this study proposes a Shariah-compliant negotiation model through a qualitative research design. A series of in-depth face-to-face interview were conducted among 20 informants from four different expert groups namely; Muftis, Academicians, Practitioners and Shariah Board Members of Islamic Banks. Content analysis was used via thematic Data analysis with the assistance of NVivo 8 software. Findings show that negotiations from the Islamic viewpoint provide three platforms of disagreements; reconciliation (*Sulh*), discussion (*Shura*) and communication. These platforms are based on six core principles, which are *Qur'an* and *Sunnah* compliance, justice, credibility, flexibility, information disclosure and relationship. This study also finds that obtaining spiritual satisfaction is the main purpose for adopting the Islamic approach by Islamic organizations in their negotiation conducts. Furthermore, this study recommends a *Shariah*-compliant negotiation model as a potential guide for conducting negotiations among Islamic organizations. Finally, this study contributes to the body of knowledge by providing a systematic framework, which provides insights for Islamic organizations on how to conduct negotiations with a proper Islamic approach.

Keywords: Negotiation, Principle, Practice, *Shariah*-compliant, Islamic Organization.

Dedication

This thesis is dedicated to *The Almighty Allah (SWT)*, the Most Beneficent, the Most Merciful for his compassion and mercy towards my family and me.

And to;

The soul of **my father**, who passed away in the middle of my academic journey.

And;

My mother, brother **Aboubaker** and **my wife**; for their support, love and prayers.



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In the name of Allah, Most Gracious, Most Merciful

I owe my first and greatest gratitude to Allah (SWT), who gave me the strength and good health to pursue this PhD and sent his divine guidance to mankind through His Prophet, Muhammad (PBUH), from whom humanity has learnt to deal and interact with others in the best of manners. Of utmost relevance among his (PBUH) sayings is; “He who cannot thank the people cannot thank Allah”.

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Glossary of Terms

The following terms are definitions and explanations of Arabic and Islamic terminologies, which were adopted from A Dictionary of Modern Written Arabic (Wehr, 1976).

<i>Al-Adl</i>	Fairness, straightness, straightforwardness, justice, impartiality, fairness
<i>Amanah</i>	Means honesty, trust, reliability, trustworthiness, loyalty, faithfulness, integrity. Also means fulfilling the promise, whether written or given orally, in text and spirit (to be faithful, reliable, and trustworthy)
An expert	An expert is a person with extensive knowledge and experience through practice and education in a particular field.
<i>Arkan al-Islam</i>	The five Pillars of Islam (the basic elements)
<i>As-Salem</i>	The Peace
<i>At-Tayyibat</i>	Lawful good things. <i>Tayyibat</i> ; nice, pleasant things, gustatory delights
<i>Ayah</i>	A verse quoted from the Holy <i>Qur'an</i>
<i>Da'wah</i>	To invite humankind to follow the Islamic way of life (<i>Da'wah</i> : call, appeal, bidding, demand)
<i>Diyanatan</i>	By way of religion (communication, confession, and denomination)
<i>Fiqh</i>	Islamic jurisprudence (literally: understanding and acquisition of knowledge. (understanding, comprehension, knowledge, jurisprudence in Islam)
<i>Gharar</i>	Risk, hazard, jeopardy and peril. Technically, it signifies the contract or transaction in which the object of contract or the commodity is not determined for both or either contracting parties, and thus the contract involves an element of risk and uncertainty
<i>Hadith</i>	A saying or action ascribed to Prophet Muhammad (PBUH) or an act approved by the Prophet (an ordinary Prophetic tradition)
<i>Hajj</i>	The pilgrimage to Mecca
<i>Hakam</i>	Arbitrator, arbiter, umpire, referee
<i>Halal</i>	Permissible and lawful actions or things in Islam

<i>Haram</i>	Prohibited, banned, illegal or impermissible actions or things in Islam (forbidden, interdicted, prohibited, unlawful, offense, and sin)
<i>Hudud</i>	The bounds or restrictions that Allah has placed on man’s freedom of action
<i>Ibadah (Ibadat)</i>	Worship, adoration, veneration, devotional service, divine service. All acts of devotion and religious observances. The word linguistically means “obedience with submission”. In terms of Islam, <i>Ibadah</i> is the obedience, submission and devotion to Allah (SWT), along with the ultimate love for Allah. Muslims believe that <i>Ibadah</i> is the reason for the existence of all humanity.
<i>Ibar</i>	Admonition, monition, warning, example, lesson, advice, rule, precept, (to be followed, befitting of consideration, that has to be considered, to be taken into consideration, that which is of consequence, of importance)
<i>Imam</i>	A Muslim leader and in its highest form refers to the head of Islamic state (also refers to a prayer leader)
<i>Mafasid</i>	Cause of corruption or evil, scandalous deed, heinous act. Also means dirty tricks, malicious acts, and chicaneries
<i>Maqasid Shariah</i>	The highest objective of Islamic law (destination, intention, intent, design purpose, resolution object, goal, aim, end, purport, significance)
<i>Masalih</i>	Requirement, exigency, that which is beneficial, helpful or promoting, advantage, benefit, interest, good, and welfare
<i>Muamalat</i>	The individual transactions and interactions (treatment, procedure, social intercourse, social life, association (with one another), behaviour, conduct (toward others), mutual relations, business relations)
<i>Mufti</i>	An Islamic scholar who is a deliverer of formal legal opinions and an official expounder of Islamic law
<i>Prophet</i>	The Messengers of Allah, such as the Prophet Muhammad (PBUH)
<i>Qadhaan (Qadha)</i>	To accomplish, achieve, execute, and perform (for request). Also means to satisfy, meet, answer, and discharge (for a demand or a claim)
<i>Qur’an</i>	The Holy Book of Islam; the highest and most authentic authority in Islam

<i>Riba</i>	To increase, to grow, to grow up and to exceed. Literally means increase or addition and refers to the 'premium' that is paid by the borrower to the lender along with the principal amount as a condition for the loaner OR an extension in its maturity. It is equivalent to interest, and considered <i>Haram</i> (forbidden) in Islam
<i>Sadaqah</i>	Charity in Allah's Cause, or Ma'rûf: Islamic Monotheism and all the good and righteous deeds that Allah has ordained. <i>Sadaqah</i> also means charitable gift, charity or voluntary contribution of alms
<i>Shahadah</i>	The declaration of faith
<i>Shariah</i>	The body of Islamic law based on the Holy <i>Qur'an</i> and the <i>Sunnah</i> (the <i>Shariah</i> , the revealed, of canonical, law of Islam).
<i>Shura</i>	Consultation, deliberation, taking counsel, counsel and advice (from discussion)
<i>Sulh</i>	Peace, (re)conciliation, settlement, composition, compromise, peace-making, conclusion of peace
<i>Sunnah</i>	Statements or practices undertaken or approved by the Prophet Muhammad (PBUH) and established as legally binding precedents (The <i>Sunnah</i> of the Prophet (PBUH), his sayings and actions, later established as legally binding precedents)
<i>Surah</i>	A chapter from the Holy <i>Qur'an</i>
<i>Tafsir</i>	Explanation, exposition, elucidation or commentary (exp; on <i>Qur'an</i>)
<i>Taqwa</i>	Godliness, devoutness, piety
<i>Tawhid</i>	The concept of oneness or unity of God
<i>Ulama'</i>	Scholars, savants or scientists
<i>Ummah</i>	One nation

List of Abbreviations

PBUH	Peace Be Upon Him
PBUT	Peace Be Upon Them
SWT	The Arabic words "Subhanahu Wa Ta'ala". It means "Glory to Him, the Exalted".
SCN	<i>Shariah</i> -compliant negotiation
IO	Islamic organization
IUM	International Islamic University Malaysia
ISRA	International <i>Shariah</i> Research Academy for Islamic Finance
INCEIF	International Center for Education in Islamic Finance



CHAPTER ONE

INTRODUCTION

1.1 Introduction

Yousefvand (2012) considers negotiation to be one of the oldest activities, which is used to solve human problems or disputes peacefully on a daily basis. Negotiations have been the focus of scholars from different fields and orientations, and hundreds of books and articles have been written on the subject (Rubin & Brown, 1975). The possible reason for such a great deal of attention is that in the modern world, people have come to rely on negotiations more than any other problem-solving mechanism, because the world has changed and become more interdependent (Nikolaev, 2001). As a result, different genres of negotiation have emerged.

Scholars and practitioners of different areas of human knowledge have started to recognize that the negotiation process is not as easy as it seems. Therefore, in the last few decades, scholars have devoted a great deal of attention to the negotiation process (Nikolaev, 2001). Nowadays, most of the institutions (nations, organizations, companies and people) use this process to ease strained relations, reduce hostility, and establish economic and political relations, as well as halt wars, and consolidate peace (Yousefvand, 2012). People also negotiated across different industries and explored negotiation in many different fields of studies, while solving problems specific to their areas. That is why negotiation studies do not belong to any particular field of knowledge.

Many studies have subsequently emerged from the field of negotiations, and each researcher has tried to investigate the phenomenon from his or her point of view.

Therefore, this study focused on exploring the concept of negotiation from the Islamic perspective. It examines negotiation from the Islamic perspective by exploring Islamic principles, and practices that are requisite to developing a *Shariah*-compliant negotiation model. Negotiation from the Islamic perspective, like other perspectives, is of significant importance because it is considered a constructive tool (Al-Zuhaili, 2003). According to Ghanim and Fatima (2009), it is characterised by the features described below;

- i. It is one of the activities that are frequently experienced by all individuals, groups, organizations and states, for various purposes related to interests, conflicts, goals, rights, and obligations.
- ii. The negotiation process is essential for the stability and wellbeing of individuals, and helps to reach predetermined goals and solve complex problems.
- iii. It helps to end feuds and hostilities. It also helps to engender a state of satisfaction and understanding between parties, as well as acknowledgement of reciprocal rights and respect for differing opinions, regardless of the fact that they are disliked or otherwise.

Islam is not only a religion of rites and rituals, but is also a complete way of life. Islam speaks to every aspect of human life. For instance, Allah (SWT) taught His Prophet (PBUH) how to negotiate with mankind when necessary. Allah (SWT) says; “and argue with them in a way that is best” (The Noble *Qur’an*, 16:125, p 367). Similarly, the Prophet (PBUH) was commanded by Allah to debate in a gentle way and with positive speech and humane interpretation of meanings. Allah (SWT) also ordered Moses and Aaron (PBUT) to negotiate with Pharaoh with gentle speech as thus;

Go, both of you, to Fir'aun (Pharaoh), verily, he has transgressed (all bounds in disbelief and disobedience and behaved as an arrogant and as a tyrant), and speak to him mildly, perhaps he may accept admonition or fear Allah. (The Noble *Qur'an*, 20: 43-44, p 417)

In *Tafsir* This verse Ibn Kathir (2003) stated that it contains a great lesson. Even though Fir'awn (Pharaoh) was the most insolent and arrogant of people and Musa (PBUH) is Messenger of Allah (SWT), Musa was still commanded to speak to Fir'awn with mildness and softness. Therefore, their invitation to him was with gentle, soft and easy speech. So, the message may have more effectiveness on the souls, and it would have deeper and more beneficial results.

The verses and arguments above show that negotiation from the Islamic perspective aims to regulate the socio-political lives of mankind towards development of the society and the self. Additionally, the verses confirm that Islam has taught Muslims how to negotiate, and they have addressed some principles and practices of Islamic negotiation. The question then arises; are the principles of *Shariah*-compliant negotiation practised in this contemporary world?

1.2 Problem Statement

According to Langovic-Milicevic, Cvetkovski, and Langovic (2011), negotiation research in academic fields began relatively late. The first works in this area appeared in the late 1960s. Despite this fact, a broad body of literature exists on the topic of negotiation. Different theories and approaches have been developed and used to explain the negotiation process, albeit in a usually complicated manner. Therefore, much discussion of the negotiation process and outcome have been conducted based on different perspectives, as informed by their respective value

systems. These include the sociological perspective (Bartos, 1977; Hopmann, 1998), the psychological or behavioural perspective (Graham, Mintu, & Rodgers, 1994; Rubin & Brown, 1975; Spector, 1977), and the cultural perspective (Farazmand, Tu, & Daneefard, 2011; Salacuse, 2004). The learning theory perspective (Cross, 1977; Zartman, 1984) and the problem-solving perspective (Fisher & Ury, 1991; Hopmann, 1995) have also been explored.

However, previous studies on negotiation were dominated by the conventional orientation, which focused on viewpoints that are largely informed by Western value systems. Meanwhile, the possibility of conceptualization and practice of negotiation from the Islamic approach has remained largely unexplored. The dearth of literature on the Islamic negotiation perspective is proof of lack of sufficient scholastic attention, which has engendered a culture of misconception of Islamic negotiation among Muslims and Islamic organizations. For that reason, Muslims and Islamic organizations have resorted to conventional approaches in their negotiation conducts, to the detriment of *Shariah*-compliant negotiation. As such, the lack of research consideration of the Islamic negotiation perspective has created a gap in the literature.

Therefore, this research intends to focus on extant Islamic teachings on how to explore negotiation within the context of the Islamic value system, with the concept of negotiation and its principles subsisting within the Islamic worldview. The Prophet Muhammad (PBUH) confirmed several negotiation principles, which are embedded in the Holy *Qur'an* through his practices (*Sunnah*), while trying to establish a value system that is just and befitting for humanity. These principles are prevalent in every aspect of the life of Muslims (Mohammed, 2007). Hence, this study aims to extract those principles and investigate their practice among Muslims and Islamic organizations.

However, some of the literatures in the Islamic negotiation field are either religion-oriented or superficial and insufficient in their evaluation of the Islamic approach of negotiation, while some are fragmented and distributed over a wide variety of sources. These include negotiation within the ambit of international relations and peace (Al-Karmi, 1964; Al-Zuhaili, 2003; Alikhani, 2011), diplomacy (Al-Zuhaili, 2003; Yousefvand, 2012), and the business (Al-Qaradawi, 1999; Ghanim & Fatima, 2009). However, studies that focus on negotiation from the Islamic context are few. Moreover, the available literatures have failed to provide a systematic model or framework for negotiation from the Islamic perspective that Muslims and Islamic organizations should follow. Thus, this study is focused on bridging that gap.

The twenty-first century heralded the emergence of the Islamic system of management, which has increased remarkably among Islamic organizations. A number of organizations have subsequently adopted the Islamic system of management to pilot their affairs. These include *Halal* companies, Islamic insurance companies, Islamic banks and other corporate entities. This resulted from the need to align with the *Shariah* system of management, as Muslims believe that Islam is not only a religion, but a complete way of life (Maududi, 1960).

While those Islamic organizations deal with each other and with others in order to satisfy their interests and meet their objectives, it is crucial that they know the best practices of how to conduct their negotiations in a proper way. Accordingly, negotiation is considered an essential element for organizational survival, especially with current global challenges. This is even more paramount in this era, when globalization and economic openness have contributed to increased international engagement between 21st century individuals, organizations and countries (Tu &

Chih, 2011). Deetz (1997) therefore argued for capacity development that would lead to decisions of mutual satisfaction, especially in contexts where fundamental agreement is difficult. Indeed, that was the possible reason individuals and organizations came to rely on negotiations more than any other problem-solving mechanism (Nikolaev, 2001).

Leventhal (2003) argued that the development of Islamic financial instruments has engendered competition with their conventional counterparts. As such, the massive liquidity of the Gulf and a growing tendency for Islamic investors to demand *Shariah*-compliant products have certainly been contributory to the growth of the Islamic financial industry. That is why, in recent years, more organizations are trying to adopt Islamic principles or thoughts (*Shariah* compliance) in their sector, an obvious trend in the banking sector. Many global banks are already providing Islamic financial products by exploring the Islamic financial system (Zahid, Hussain, Islam, Aziz, & Ghazenfer, 2012).

The bottom line here is; if the Islamic financial system is based on religious and ethical principles that most Islamic investors believe in, then it is important to know how the banks are executing the Islamic principles and practices in their negotiation conducts with various customers or associates. In some countries, negotiations on the Islamic Sukuk (a legal instrument, deed, check) are already in play. This confirms the awareness of Islamic organizations about negotiations from the Islamic perspective. This study aims to contribute to a broader discourse on the understanding of the *Shariah*-compliant negotiation principles.

Finally, this study attempts to develop a *Shariah*-compliant negotiation model from the principle and practice of the Islamic negotiation approach. Indeed, developing the

Islamic model of negotiation would bridge the existing gap of how Muslims and Islamic organizations should hold their negotiations between each other or others in a proper Islamic way. Truly, the proposed model is considered an alternative framework in understanding negotiation from the non-Western perspective.

1.3 Research Questions

Considering of the research gaps and problems discussed above, this research intends to answer the following specific questions:

- i. How has negotiation been defined in the context of Islam?
- ii. What are the principles of *Shariah*-compliant negotiation?
- iii. What are the benefits and the challenges of *Shariah*-compliant negotiation practices among Islamic organizations?
- iv. What are the general perceptions of the *Shariah*-compliant and the conventional negotiation practices?

1.4 Research Objectives

This thesis is aimed at exploring the notion of *Shariah*-compliant negotiation by generating the principles and practices of negotiation from the Islamic approach, and developing a *Shariah*-compliant negotiation model therefrom. Therefore, the research objectives are enunciated below:

- i. To identify the concept of negotiation in the Islamic context.
- ii. To identify the principles of *Shariah*-compliant negotiations.

- iii. To identify the benefits and the challenges of *Shariah*-compliant negotiation practices among Islamic organizations.
- iv. To know the general perception of the *Shariah*-compliant and the conventional negotiation practices.
- v. To develop a *Shariah*-compliant negotiation (SCN) model.

1.5 Significance of the Study

This study contributes to the body of knowledge on negotiation by filling the gaps occasioned by the dearth of literature on negotiation from the Islamic perspective. It is anticipated that the exploration of an Islamic conceptual framework will address evident shortcomings in both conventional as well as Islamic negotiation literature. As discussed in the preceding chapter, the gaps emerged as a result of the Western orientation of the existing literature and the relative dearth of scholastic consideration of negotiation from the Islamic approach. This may naturally lead to misunderstanding and improper practices among the Islamic organizations. Therefore, this study contributes to the index discourse by creating ample understanding of the Islamic perspective to negotiation, thereby engendering the development of a conceptual framework for *Shariah*-compliant negotiation.

This study focuses mainly on the Islamic perspective, and is a significant contribution to the body of knowledge in the subject matter, especially as, to the best of the researcher's knowledge, it is the first empirical study on *Shariah*-compliant negotiation principles from the Islamic perspective. It also provides a wider scope of discussion from the angle of the organizational communication discipline.

From the practical perspective, this study contributed towards overcoming the misunderstanding or miscommunication within and between Islamic organizations and individuals over Islamic negotiation principles and its practices. Furthermore, the study developed a model on *Shariah*-compliant negotiation, which will serve as a guide and a template for the practice of *Shariah*-compliant negotiation among organizations. This model could in turn have a high impact on the level of awareness among stakeholders, especially non-Islamic organizations, about the effectiveness of conducting negotiations from the Islamic perspective.

The methodological approach this study employs is the in-depth interview, particularly of stakeholders across a spectrum of experts with longstanding experience. This helped to gain adequate insight into and enhance the understanding of negotiation from Islamic perspective.

1.6 Scope of the Study

The scope of this research entails elucidating the principles and practices of negotiation from the Islamic perspective, and developing a *Shariah*-compliant negotiation model. Specifically, the study first examined the concept of the *Shariah*-compliant negotiation and then explored its principles. It also examined the practices of the *Shariah*-compliant negotiation, and finally proceeded to develop a model for the *Shariah*-compliant negotiation. It explored the identified gaps in the literature, as explained above, using the in-depth interview methodology.

The study generally focuses on Islamic organizations in Malaysia, while choosing Islamic finance and banking organizations as the study sample. This is due to the emergent development of the Islamic finance sector in Malaysia, which has witnessed

immense growth and ample research attention from scholars and researchers. The study consulted four groups of experts. The first group of experts comprised three *Muftis* from three different states in Malaysia. The second group of experts consisted of three Islamic Institutes; International Islamic University Malaysia (IIUM), International *Shariah* Research Academy for Islamic Finance (ISRA) and International Centre for Education in Islamic Finance (INCEIF). Meanwhile, the third and the fourth group of experts were from four Islamic banks in Malaysia.

This methodological template enabled the researcher to extract comprehensive understanding and analysis of the notion and philosophy of the study. Therefore, the resultant findings from this thesis can be validly considered a foundation for Islamic organizations' negotiation practices.

1.7 Conceptual Definition of Terms

Following the review of previous studies, this study conceptualized its terms in line with the definitions in the discourse community, as presented below.

1.7.1 Negotiation

Negotiation has been defined in many ways. From the conventional literature, the most prevalent considered it as "a process of combining conflicting positions into a common position" (Zartman, 2008). Not far from this definition, the Islamic literature defined it as daily activities practised by individuals through communication with one another. People negotiate to establish relationships, exchange products and services, determine rights and duties, and end conflicts between them (Al-Zuhaili, 2003; Ghanim & Fatima, 2009). Meanwhile, in the context of this study, negotiation is conceptualized as an interactive process, which occurs between individuals or institutions based on

Islamic teachings, in order to satisfy their needs and objectives.

1.7.2 Principle

The term “principle” is conceptualized in this study as a fundamental truth or proposition that serves as the foundation for a system of belief or behaviour. The principles of such a system are understood by its users as the essential characteristics of the system, or reflecting the system's designed purpose (Alpa, 2010).

1.7.3 Islamic Principle

Islamic principles are defined in this study as the basics or the foundations of a system (of negotiation) obtained from the Holy *Qur'an* and *Sunnah* and these basics are understood by Muslims as the main characteristics that form any Islamic study.

1.7.4 Islamic Organization

In the context of this study, Islamic organization means each organization, institution, association or party, which is following the *Shariah* (the Islamic system) in their management activities.

1.7.5 Shariah Compliance

Shariah is an Arabic and Islamic terminology that refers to the body of Islamic law based on the Holy *Qur'an* and the *Sunnah*. According to Wehr (1976), it is the revealed canonical law of Islam. It also means “the path to be followed”. It is the term used to describe the rules of the lifestyle (Deen) ordained for mankind by Allah (SWT). Practically, *Shariah* includes all the do’s and don’ts of all aspects of daily activity and actions of Muslims (Abdul Rahim, 2013). In this study, *Shariah* compliance is conceptualized as being in accordance with Islamic teachings.

1.8 Chapter Summary

This chapter discusses an introduction to the study of the principles and practices of negotiation from the Islamic perspective. The study was necessitated by the need to produce a *Shariah*-compliant negotiation model. In line with the existing research gaps, specific research questions were formulated to elicit answers to cover for the identified research gaps. Finally, after highlighting the significance and scope of the study, the conceptual definitions of major terms in the study were clarified.



CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

In this chapter, the researcher reviews some literature that are relevant and related to the study. The chapter is designed to provide a comprehensive and analytical overview of the theoretical dimensions of negotiation. It also discusses how scholars from different disciplines have viewed negotiation generally and how they have conceptualized distinct aspects of the negotiation process in specific terms. The literature review starts with the basics of the negotiation process. What immediately follows is the synthesis of negotiation from different points of views; sociological, psychological, learning, problem-solving, and decision-making. Furthermore, the cognitive and communication perspective were examined to explain the complex process of negotiations. To furnish negotiation approaches, the typology of the conventional negotiation models and the emergence of the Islamic perspective was discussed. Finally, this chapter was concluded by a review of the existing literature on the Islamic perspective and then the summary of the chapter.

2.2 The Basics of the Negotiation Process

Zartman (2008) in his book; *Negotiation and Conflict Management* agreed with Kissinger (1969) definition of negotiation which is as “a process of combining conflicting positions into a common position, under a decision rule of unanimity, a phenomenon in which the outcome is determined by the process” (p 129). Nikolaev (2001) opines that the Zartman definition is the most widespread definition of negotiation in the literature, and most of the other definitions are just modifications of it, with a small deviation. For instance, some of them omit the “under a decision

rule of unanimity”, while others skip the “outcome is determined by the process”. Meanwhile, Niedźwiecki, Rzecki, and Cetnarowicz (2013) defined negotiation as a dual-sided conversation made between individuals or institutions, which is designed to reach an acceptable agreement. In tandem with that, Zartman (2008) and Tanya and Azeta (2008) noted that most negotiation scholars agree with the Henry Kissinger definition of negotiation as a process of combining conflicting positions into a non- conflicting one through a process of exchange. It is also important to note that different scholars from various fields have different opinions on what the actual meaning of negotiation is. An aggregation of the definitions above reveals some recurring decimals, which include the concepts of initial dispute, mutual discussion and eventual resolution and concurrence to agreement. Nonetheless, the definitions above are appropriate for this research.

Negotiation generally has three phases. The first phase is the pre – negotiation phase, which consists of three steps (Nikolaev, 2001); the first step involves defining the issue, where the definition of interests and objectives takes place. The second step is commitment to negotiate, when negotiators “come to judgment that the present situation no longer serves their interests” (Saunders, 1985, p 257). The final step of the pre-negotiation phase is the actual arranging for the negotiation. From there, the negotiation can proceed smoothly, after all the arrangements have been made (Nikolaev, 2001). It is instructive to note that the pre-negotiation phase is very important, and none of its stages can be skipped.

The second phase is the negotiation process itself. Usually, the whole negotiation process is a sequence of bids and concessions until all the participating parties reach an acceptable decision (Nikolaev, 2001). The first statement of the negotiation position is called the opening bid. The opening bids are very essential because they indicate the

original position expressed within the latitude of acceptability of the other party. If the point of view expressed is out of the range of acceptability, it simply is not yet “ripe” for negotiations (Bartos, 1977). Generally, negotiations will not proceed further or will not even start at all if the opening bids are not acceptable to the involved parties. Bartos (1977) reiterated the significance of opening bids, as they show the first party who made the bid what kind of negotiation dynamics can be expected in the future by knowing their opponent's position. The discourse above elucidates the importance of the opening bid, as it sets the stage for the subsequent negotiation, and gives the negotiating parties an initial feel of the tone and trajectory of the process. While the negotiation process will be repeated until both parties find an acceptable solution, the implementation of the final agreement of the negotiation is the last phase of the negotiation process.

Negotiation scholars have identified certain functions that are applicable to the negotiation process. The first function is diagnosis: “trying to find out what the problem is, what the other side is susceptible to in the way of appeals, what the ingredients of the situation are, what the other side wants, and what one wants oneself” (Zartman, 1984, p 2). This is essentially sounding out the other party, and gauging their potentials in terms of the extent of plausibilities they can accommodate. The second function is formulation: “finding an over-arching principle or formula which will define the problem, since problems can be defined in many ways” (Zartman, 1984, p 2). For example, according to Zartman (1984), the exchange of security for territory between Egypt and Israel was established as an over-arching formula for trade-offs. The last function is applying this general principle to a particular detail out of which one can construct an agreement between the parties (Zartman, 1984).

However, while there are three functions of the negotiation process, there are also several turning points that occur in any negotiation process. The first turning point is called the moment of seriousness. Zartman (1984) stated that this is the moment when both parties realize that it is actually possible to arrive at a solution to the problems via a joint decision, since their expectations are perceived to be within range of each other. At this point, the contending parties realize a real possibility of a *détente*. After that, a moment called the crest or the hump will occur, when the parties decide that they are satisfied with the agreement.

It is very important because it is the moment when the agreement itself enters into the calculations of each party (Zartman, 1984). The final moment is called the closing moment of deadline; “when it becomes important to the sides to agree before they lose the opportunity” (Zartman, 1984, p 4). Naturally, each party will want to take advantage of this fleeting window of opportunity before it closes, especially if it is time-bound.

In line with negotiation basics, Alavoine (2012) stated that negotiation is a process based on planned or strategic choices. Each negotiating party must realise their negotiation goals and choose the most appropriate ways to achieve them. Therefore, in order to choose the best negotiation strategy and tactic, scholars such as (Lewicki, Saunders, & Barry, 2010; Lewicki, Saunders, & Minton, 1999; Pruitt, 1981) have offered two main frames which conceptualize the negotiation strategies. These frameworks are the distributive and integrative processes, which are based on cooperation and competition tactics that link to different approaches and orientations in term of procedures.

The distributive process approach usually refers to how negotiating parties resolve differences when their interests are in fundamental and direct conflict with each other's goals (Kochan & Lipsky, 2003; Lewicki et al., 2010). Negotiation from this approach is understood as a competitive process and the involved parties are perceived as opponents in a context of conflict. As such, each party wants to maximize its own interests over the other party's. It is a win-lose process, where every benefit is earned only by one of the parties (Deutsch, 1949; Lewicki et al., 1999). Alavoine (2012) also reported that Walton and McKersie (1965) call this kind of negotiation "distributive bargaining" and they define it as a competition over who is going to get the most of limited resources among the contending parties. Indeed, this is what Hopmann (1998) and Thomas (2005) called a zero-sum game or positional negotiation. This scenario typically characterizes wartime negotiations, especially when the military contention is between a stronger, dominant party and a weaker, less resourceful underdog. The "winner takes all" worldview is the predominant approach in this perspective.

On the other hand, the integrative process approach refers to the process of seeking shared outcomes (Kochan & Lipsky, 2003). It is a cooperative process; the negotiating parties see themselves as having a common problem, which makes the parties' negotiating goals positively related. Here, an involved party is not only concerned with its own objectives, but is also concerned with the other party's interests (Deutsch, 1949; Lewicki et al., 2010). This type of negotiation is a win-win or a positive (non-zero) sum game (Alavoine, 2012; Hopmann, 1998). It is also described by Walton and McKersie (1965) as "integrative bargaining", which they defined as a process which assures a mutually beneficial outcome to a negotiated issue for all involved parties (Alavoine, 2012; Kochan & Lipsky, 2003). An example

of this model occurs in business transactions and negotiations, especially the service delivery type. Both the buying and selling parties must generate value from the transaction before they can consider such to be fruitful and successful. While the seller generates values from paid money, the buyer generates value from the satisfaction derived from the delivered product. However, the negotiation must feature the characteristics below before they can be considered integrative (Lewicki et al., 2010; Lewicki et al., 1999). They include;

- I. The focus on commonalities rather than differences
- II. The focus on needs and interests, not positions
- III. The focus on exchanging information and ideas
- IV. The focus on the intention of mutual gain
- V. The focus on using objective criteria for standards of performance

Overall, the aim of the above and the following review is to synthesise the main issues and components towards the development of negotiation theories, which will contribute to the study model. This review will be carried out with discipline-specific theories, such as sociological and psychological theories, and with the more recent models from different fields, perspectives, and approaches.

2.3 Negotiation from Sociological Perspective

This perspective of negotiation from the Zartman (2008) point of view is based on the elements of the strategic analysis approach. It has roots in many fields of study, such as mathematics, decision theories and rational choice theories, but it also benefits substantially from major contributions in the area of economics and conflict analysis (Tanya & Azeta, 2008). According to Zartman (2008), the strategic analysis

approach is based on an array of elements, but its structure is one of ends, not means, as described in game theory matrices. Strategic analysis begins with the assumption that outcomes are determined by the relative array of their values to the parties, under conditions of rational choice.

This approach also carries recognizable characteristics of the rational-actor approach used in the social sciences, such as economics or political science. That is because “most rigorous theories of negotiation start from the assumption of the individual rationality” (Bartos, 1977, p 565). As such, according to the sociological perspective on negotiations, the negotiator is a rational utility maximizer; “each negotiator is trying to maximize his/her payoff. As a result, an agreement is seen as an equilibrium point in which the opposing interests are balanced” (Bartos, 1977, p 565). In other words, negotiators in this viewpoint are considered as rational decision makers who make decisions guided by their view of which option will maximize their outcomes.

In general, the previous studies of this view (Bartos, 1977; Hopmann, 1998; Tanya & Azeta, 2008; Zartman, 2008) argued that the negotiation process is based on fairness, mutual bids and concessions which the parties could offer. Therefore, the outcome of this process should be fair enough to both of them. Bartos (1977) stated that the concessions would be fair if the negotiators have no need to revise their original expectations about what the ultimate agreement will be. The concessions could be unfair when an unexpected concession is experienced and that may lead the negotiation process to a stalemate or even to an end, therefore “the unfairly treated negotiator should stop making further concessions rather than retract his last concession” (Bartos, 1977, p 575). Thus, this progress is supposed to let the parties adjust their concession policy, if they want to reach the expected arguments.

The acceptable way to use the concepts based on the indicated opinion above is expressing the theoretical conceptualizations of the assumption by using game theory terms. These concepts are developed on the basis of mathematical reasoning rather than upon remarks of actual negotiations in the real world of international relations (Hopmann, 1998). These concepts are related to each other by the process of bargaining, which is defined by Young (1975) as an “income” by which two or more purposive players reach specific outcomes in situations in which;

- i. The choices of the players will determine the allocation of some value
- ii. The outcome for each participant is a function of the behaviour of the other
- iii. The outcome is achieved through negotiations between the players

Therefore, each player receives values in his play that is called utilities, which are summary measures of all the costs and benefits that collectively may be associated with a particular outcome (Hopmann, 1998).

Another significant characteristic in this kind of game is information. According to Nikolaev (2001), there are two kinds of players; the perfect one who knows everything about advantages of every player, and the incomplete or the absent one who can only understand other players’ advantages based on the payoff structure, game rules and his individual experience. Therefore, each player is given an amount of information that he/she can use to choose a strategy; “The set of choices that each player will select in the face of all possible contingencies” (Hopmann, 1998).

Nevertheless, Hopmann (1998) continued his claims by arguing that the game analysis procedure is based on general opinions. The rational players prefer to obtain a perfect possible service and try to maximize their gains. If they cannot achieve that, at least they

will succeed in decreasing the impact of the losses. These consequences are indicated generally in probabilistic concepts as the service is expected. Consequently, each outcome probability is the benefit of each possible option. That is because the rational actor selects the action that gives the greatest expected benefit (Hopmann, 1998).

Consistent with this perspective, some social science scholars such as (Bryant, 2007; Howard, 1994a, 1994b) criticised the game theory as being too rational actor-focused. They developed another theory called the drama theory, which goes beyond rational actors by considering emotional factors. Howard (1994b) argued that the drama theory explains the role of emotions in human interactions. It frames a negotiated issue based on a combination of rationality and impressions. In other words, it considers both rational and emotional movements. As such, it takes cognizance of subtle humanistic and emotional nuances, which is an evident departure from the brutal logic and calculated risk-taking that characterises game theory models.

Drama theory is a problem structuring method based on game theory in operational research (Azar, Khosravani, & Jalali, 2014; Bryant, 2007; Howard, 1994a, 1994b). That is why Howard (1994a) also called it the soft game theory. However, the main difference between game and drama theory is that in a drama, there is a possibility of changing the game itself, even though the environment remains closed. These probability of endogenous changes arise from the emotional factor and the interactions within the game itself (Howard, 1994a, 1994b). In view of this, it is very clear that this theory emphasises the developmental process of the game, and considers games as changeable frames. Therefore, it is evident that drama-theoretic analysis also differs from game-theoretic analysis in the focus of emotion and the irrationality function in the game interest (Azar et al., 2014; Bryant, 2007; Howard, 1994a).

Generally, even though the sociological negotiation approach has several limitations because of its rationality, Nikolaev (2001) reported that it is the most widespread point of view of the negotiation process in social sciences. This is because it offers several profits, which can assist the development of research into different negotiation process models in different circumstances.

2.4 Negotiation from Psychological Perspective

The psychological point of view of the negotiation process is predicated on the elements of the behavioural analysis approach. In this approach, scholars (Weingart, Thompson, Bazerman, & Carroll, 1990) argued that a negotiation strategy is a set of objectives which determine the practical behaviours-conscious or unconscious-of negotiators. Therefore, it “provides an obviously different explanation of negotiated outcomes by using the negotiators themselves as the focus of analysis” (Zartman, 1984, p 133). That is because according to Spector (1977), the negotiators (roles) are required to communicate positions, make demands and concessions, respond to changing signals, and arrive at outcomes. Therefore, “this school of analysis responds to a common belief about negotiation that, it all depends on the personalities of the negotiators” (Zartman, 1984, p 134).

Spector (1977) called this point of view the micro level perspective. Any negotiation at this micro level of analysis “can be viewed as a set of personal and interpersonal dynamics that result in outcomes of varying acceptability to the participants” (Spector, 1977). Generally, according to the psychological point of view, the negotiation process and the outcome are determined by:

- i. The individual personality needs of negotiators;

- ii. The personality compatibility among negotiators representing opposing parties;
- iii. Negotiator perceptions and expectations of the opponent – his strengths and weaknesses, his intentions and goals, and his commitments to positions; and
- iv. Persuasive mechanisms employed to modify the bargaining positions and values of the opponent to achieve a more favourable convergence of interests (Spector, 1977).

Nevertheless, Spector (1977) psychological model has found that the above mentioned factors are not always obvious. His model findings show that needs of achievement, dominance, aggression, defence, and counteraction against harsh demands were not significantly predicted, likewise the salient motivators that actually drive human behaviour during the negotiation process. As such, further research needs to be conducted to bridge the research gap in the literature of this perspective.

2.5 Negotiation as a Learning Theory Perspective

This negotiation approach describes a different kind of mechanism, which centres on learning. According to Zartman (1977), this perspective looks at negotiation “as a learning process in which parties react to each other’s concession behaviour”. Therefore, he called this point of view the processual approach (process analysis approach). As such, this theory recognizes the subliminal learning and subsequent negotiational adjustments that may occur in the process of back-and-forth discussions in the course of negotiations. In this regard, the parties listen not just to respond, but also to learn from the other party, overtly and covertly, how to respond for better advantage.

This approach, in Zartman (1984) opinion, has a peculiar feature of explaining the negotiation outcome through a series of concessions. These concessions are in turn determined by some elements in each party's position. Processual analysis indicates that "the party will concede on the basis of a comparative calculation of its own versus its opponent's costs or its own costs versus an acceptability level" (Zartman, 2008, p 132). Moreover, processual analysis claims that outcomes are determined by "how you get there" (Zartman, 2010, p 232).

In consonance with this point of view, perceptions are very important in any negotiation. That is because "negotiation is a matter of manipulating perceptions, in different ways, and it concerns the parameters of vision of the two parties. Negotiation does not involve only an exchange of offers and concessions to make the offers finally fit together. Offers are measured against two other notions: expectations of an outcome and estimates of an outcome without an agreement (Zartman, 1984). Furthermore, manipulating perceptions also concerns the frills and feelings that surround the parties' visions. That is because, the negotiating parties are human beings, which means they are inefficient because they are unsure of the available information and their feelings get in the way (Zartman, 1984).

Nevertheless, Nikolaev (2001) stated that negotiation strategies mostly depend on the parties' perceptions of the opponents' position, values, views, and expectations. These strategies and expectations could change during the negotiation according to what they have learned about each other. Subsequently, negotiation success is best achieved by learning from responses to the other's strategies, which are most effective. As such, each party needs to first learn the strategy of the other side (Spector, 1977). It has been observed that, during the negotiation, negotiators learn

not only about the opponents but also about themselves. As such, negotiators will be ready to depart from otherwise rigid positions if they discover, mid-negotiation that such positions were not to their advantage ab-initio. Often, people find out that a certain outcome is not as favourable as they expected because either their circumstances or their perceptions have changed. Furthermore, Cross (1977) draws his model via a number of conclusions, which shows the importance of the learning process in negotiation, such as the facts that:

- i. If a party's learning rate is high, for whatever reason, the duration of the negotiation will be reduced.
- ii. If a party's learning rate is high, for whatever reason, the party that wins receives a smaller payoff at settlement time than he would otherwise.
- iii. There is a central tendency in the bargaining process which reduces any asymmetries in the parties' expectations which are not reflections of differences in learning rates, utility functions, or in the availability of means for altering the outcome through the use of force.

Ultimately, scholars (Cross, 1977; Spector, 1977; Tanya & Azeta, 2008) have agreed that this theory is often applied to many real world public relations and organizational communication problems. This is so because this conception of the negotiation process is based on trial-and-error encounters, due to what is learned by one set of negotiators or in a particular negotiation context, which may not be consistent over time or across different contexts or actors. Indeed, the inherent risk in this approach is that participants engaged in concession-trading may miss opportunities to find new mutually beneficial solutions to their shared dilemma (Tanya & Azeta, 2008).

2.6 Negotiation as a Joint Decision-Making Process Perspective

In this perspective, Zartman (1977) argued that negotiation as a joint decision-making process is one of a limited number of decision-making modes which are widely explored in the literature. It has a set of features that identify and distinguish it from the other approaches that can be used as a basis for different directions in theoretical analysis.

However, in this approach, Zartman (2008) identifies three major modes of social decision-making. First, the coalition; which is the process of making a choice of numerical aggregation, involving voting majorities, rules of collective choice and legislation. That means the decision by this mode is a zero-sum process; one party wins and the other loses. The second mode is justification. It differs from the other modes because it is a hierarchical process; it refers to social or shared decision-making. For an individual, “it is the only available practice of decision-making, since whether a part of a coalition, judgement or negotiation, the individual person must make up his mind alone” (Zartman, 2008, p 53).

Lastly, negotiation is the third mode of social decision-making. This mode is different from the previous two. In consonance with what was discussed above, negotiation is a process where two parties combine their (conflict) points of view into a single accepted decision. Zartman (2008) stated that negotiation is a positive-sum exercise, since by definition both parties prefer the agreed outcome to the status quo, or to any other mutually agreeable outcome. There are fixed parties and flexible values; a decision is made by changing the parties' evaluation of their values in such a way as to be able to combine them into a single package, by persuasion, coercion, or force (Zartman, 1977).

2.7 Negotiation as a Problem-Solving process Perspective

This negotiation approach describes a different kind of negotiation perspective that caters to problem solving. This view is different from the approaches reviewed above. Their constructs are based on the negotiation mechanisms, while this approach is focused on negotiation as a problem solving procedure. However, according to Menkel-Meadow (1983), this perspective subordinates tactics and practices to the procedure of identifying potential solutions in order to allow a set of comprehensive possibilities of the outcomes of the negotiated matters. It is considered as a negotiation orientation that emphasises on finding solutions to the engaged parties' fundamental needs and goals. Therefore, negotiation process from this perspective is based on the elements of the integrative analysis approach.

This approach, according to Hopmann (1995), offers a different interpretation of negotiation outcomes by looking for better mutually beneficial solutions to the negotiated problems that satisfy the needs, identities, and benefits of the involved parties. Additionally, it structures negotiations as dealings with win-win potentials. Thus, integrative theories and approaches look for procedures of creating value, or expanding the pie (Tanya & Azeta, 2008). Hence, the integrative approach uses the negotiated parties' needs, objectives and criteria to create conditions of mutual gain. It emphasizes on the significance of exchanging information between parties and searching for solutions that meet their objectives (Lewicki et al., 2010).

In view of that, Hopmann (1995) specified that in the problem solving approach, the negotiating pattern is based on the indicators of flexibility. These include concession, opening new offers, and others. Moreover, he continued his argument by claiming that most research findings affirm that problem solving affords more flexibility and

greater common, effective, reasonable, and durable agreements than other negotiating approaches do (Hopmann, 1995).

Nonetheless, in this point of view, the negotiations process moves through three phases; diagnosis, formula construction and agreement on details (Zartman, 1984). In the first phase, the parties try to evaluate the issue of concern, and try to find out what the problem is (Zartman, 1984), to realize the appropriateness of negotiations for the problem's structure, and to set an agenda for solving the problem (Nikolaev, 2001). Also, in this phase, parties try to indicate their willingness to negotiate, and test the other party's willingness to commit to sincere potential negotiations (Tanya & Azeta, 2008).

During the second phase, the parties try to construct an agreement formula. They try to find a main principle or formula in which they may redefine the negotiation issues, since they can be defined in several ways. Therefore, a practical principle could be the source for an agreement (Zartman, 1984). In tandem with that, Tanya and Azeta (2008) noted that in this phase, the chance of finding an effective formula increases if the parties share information willingly, consider the perception of each other and try to build common principles or values. Meanwhile, during the details phase, parties try to apply shared common principles to work on particular details in order to reach an agreement (Zartman, 1984). In fact, Tanya and Azeta (2008) stated that for this approach, experience has shown that it is not necessary to carry out the three phases in successive order.

However, this approach is different from all the previously discussed approaches. It shows how the negotiating parties can achieve their needs and objectives. It assists them to be fair and just, and protects them from those who would take advantage of

their fairness. This approach is called the “principled negotiation approach” (Fisher and Ury (1991). They further argued that the approach is of multipurpose nature, irrespective of the level of knowledge or flexibility of the other party. This is because the approach is distinct from almost all the other approaches in that “it is the combination of openness to reason with insistence on a solution based on objective criteria that make principled negotiation so persuasive and so effective at getting the other side to play” (Fisher & Ury, 1991, p 47).

In summary, the problem-solving approach is expected to be used when existing formalizations of the problem are rejected. Therefore, the involved parties essentially work together in a new light to solve the problem. In view of that, Fisher and Ury (1991) argued that, compared to positional negotiation, the principled negotiation method is focuses on main interests, commonly sufficient choices, and fair standards from which results are better generated. Moreover, this approach enables parties to reach a regular agreement on a joint decision competently, while constructing potential and amicable agreements without predicating such on their individual positions alone (Fisher & Ury, 1991).

A common example of this approach is the Camp David treaty, which was signed in 1978 between Egypt and Israel. The treaty agreed for Sinai to be ceded to Egypt, while at the same time, all military forces were to be removed completely from it. The treaty ensured all involved parties got what they wanted; Egypt attained national integrity while Israel achieved security. However, it must be noted that the reality of the Sinai region today may not have conformed with the wishes of either of the negotiating parties. The political and security vacuum, which has especially plagued Egypt over the years, have allowed for the festering of ISIS-style militants

in the Sinai in recent years. Regular clashes with Egyptian military personnel have resulted in the death of hundreds of the latter, while the military elements have retorted with collateral destruction of the lives and properties of thousands of civilians in the Sinai region. Nevertheless, it was much better than just dividing the Sinai into two regions. Overall, the problem-solving approach is an innovative but complex approach. This is because it produces effective and strong solutions, which are usually difficult to attain.

2.8 Negotiation from the Cognitive Perspective (Communication)

This approach was postulated by Robert Jervis in his books; *The Logic of Images in International Relations* (1970) and *Perception and Misperception in Interactional Politics* (1976). He explored the basics that have now become the foundations of the communication theory of negotiation, which many scholars harped on in their contributions to this approach. Later on, in the late 1980s and early 1990s, Christer Jonsson summarized all the previous research in this area in a theory named the cognitive theory of negotiation (Nikolaev, 2001).

From what was indicated in the previous approaches, communication as a key factor in the negotiation process was mostly ignored. That is why this approach theory considers communication to be the basis for negotiation and a fundamental aspect of any negotiation process. According to Lewicki et al. (1999), communication is at the heart of the negotiating process. In view of that, Fisher and Ury (1991) defined negotiation as “back and forth communication designed to reach an agreement when you and the other side have some interests that are shared and others that are opposed”.

However, the literature indicated that most existing negotiation models, whether they concentrate on process or outcome, have a common game-theoretical heritage (Jonsson, 1983). Therefore, many scholars analysed negotiations mostly from the game theoretical perspective. However, when it comes to the study of the negotiation process from the communication perspective; the game theoretical standpoint has six main problems; (1) it has certain weaknesses as an analytical tool, (2) It causes problems, particularly due to its static nature, (3) it tends to homogenize actors, (4) it envisages unitary actors, and (5) it “black boxes” the problematic and interesting information-processing aspects of negotiation (Jonsson, 1983). Thus, these problems are the reasons that led Christer Jonsson to develop the cognitive approach to the negotiation process.

Nevertheless, from the cognitive point of view, the information-processing mechanisms are extremely essential and must be investigated deeply, because the information interpretation connection lies at the very heart of the negotiation process (Nikolaev, 2001). The literature (Jonsson, 1983; Thompson, Peterson, & Kray, 1995; Walton, 1991) shows the importance of information for reaching effective negotiation agreements. Walton (1991) stated that when information is sub-par, the result will be a less adequate definition of the problem (e.g. a definition functions less in terms of the basic concerns and more in terms of solution characteristics which are easily communicated); fewer generated alternatives; and less explored potential consequences of such alternatives. Finally, when the information level is relatively low, the parties will consequently produce relatively low-grade solutions.

The cognitive approach focuses on the belief systems of the bargaining or negotiating parties. Each party comes to the negotiation table with a set of beliefs and expectations about themselves, the opponent and the negotiation issue (Jonsson,

1983). Moreover, Rubin and Brown (1975) specified that if the other party knows both what the first wants as well as the least that he will accept, he (the other) will be able to develop a more effective and more precise bargaining position than would be possible in the absence of this information.

Subsequently, the outcome of the information processing depends on how information is perceived. That perception is largely a matter of intercepting, classifying, and interpreting information in terms of pre-established belief systems, (Jonsson, 1983) and it is deeply affected by the social context surrounding the negotiations. According to Thompson et al. (1995), social context here refers to “the broad constellation of social factors in negotiations”, they identified four key factors for social content; negotiating parties, social knowledge, social norms of the institution or organization, and communication.

The factor of social context in negotiation concerns the relationships between parties. It may include the parties’ configurations and the relationships and constituencies behind each negotiator. Meanwhile, the second factor refers to information, which the parties have about each other in the course of the negotiations, and it may be obtained based on previous experience, reputation, or direct disclosure. In addition to such explicit forms of information, negotiators may have implicit information about parties derived from stereotypes and role and group schemata (Thompson et al., 1995).

The third factor, which affects the perception of information in negotiation is social norms. Scholars have defined it as the beliefs held by members of a particular culture, organization, group, or institution that define acceptable and unacceptable behaviour (Thompson et al., 1995). These norms, which are always in play during

every negotiation process, are divided into three types:

- i. Social interaction norms: which prescribe appropriate behaviour in social interactions, such as politeness rituals, reciprocity in disclosure and turn taking.
- ii. Decision-making norms: which prescribe how a decision should be reached by groups (e.g., majority rule, consensus).
- iii. Negotiation norms: which prescribe appropriate behaviour in the conduct of bargaining (e.g., agendas, reciprocity, good faith bargaining, symmetric concessions) and appropriate outcomes (e.g., focal points, compromises) (Thompson et al., 1995).

The last factor is communication, which refers to the mechanisms or forms by which the parties interact with one another; face-to-face, correspondence, telephone, e-mail, or through a messenger. However, Thompson et al. (1995) noted that these different forms of communication could affect the way information is perceived, remembered, and acted upon. Therefore, they divided the information process into five major sub-processes; information distribution, encoding, representation, retrieval and judgment.

Information distribution is the primary step of reaching a negotiated agreement and getting the important information onto the table. The information that each of the negotiating parties have can be divided into two types; shared and unshared. Shared information is held by all members of the group while unshared information is held only by one group member. Information may also be partly shared, held by percentage of group members (Thompson et al., 1995). Additionally, the way information is distributed contributes substantially to negotiation outcomes. For example, in multiparty negotiation, the unshared information is given greater attention than shared

information. On the other hand, in group decision making, more focus is applied to shared information rather than unshared information (Thompson et al., 1995).

The second sub-process of information processing in social context of negotiation is encoding. It refers to how negotiation evaluates and interprets information (Thompson et al., 1995). This sub-process is vital because according to Nikolaev (2001), negotiators “often interpret information in a manner that fits their expectations, or they may simply ignore or discard a certain piece of information, because it is inconsistent with their beliefs and expectations”.

However, the third sub-process-representation-refers to the structuring of information about a concept or type of stimulus, including attributions and relations between attributions (Thompson et al., 1995). Social representation relations in negotiation can be organized in different forms, such as implicit theories, which are internal, personal theories people create to evaluate a certain situation; judgment tasks, which are sets of judgments about negotiations, their parties, self, utilities, outcomes, procedures, etc.; or conflict schemata, which are a series of win/lose statements that are supposed to reflect certain negotiation situations (Thompson et al., 1995).

The fourth sub-process – retrieval - according to Thompson et al. (1995), denotes the acquisition of previously stored information and deals with aspects such as memory organization, storage capacity and retrieval system. However, the last sub-process is judgment, and it is the most challenging area in any negotiation process, because the goal of information processing is the formation of judgments that can be used to guide behaviour (Thompson et al., 1995). Moreover, judgment errors concerning other party's preferences, payoffs, positions, opinions and beliefs cause majority of negotiation

failures. One of the big problems here is judgment coordination, because it happens even between individuals who have the same interests and beliefs (Nikolaev, 2001). That is why, for this approach, scholars emphasize the importance of open communication between all the group members. Indeed, communication is the key to the whole process.

Overall, the cognitive approach to a negotiation process puts communication and cognition at the centre stage of any negotiation, and it serves as the basis for the cognitive theory of negotiation (Jonsson, 1983). In this perspective, negotiations are considered a subclass of social communication. Therefore, the basic assumptions of this theory are that social communication involves the transmission of messages to which certain meanings are ascribed. These messages can be either verbal or nonverbal. In fact, both behaviour and non-behaviour may constitute messages, especially in a negotiation setting (Jonsson & Hall, 2003). In this sense, Čulo and Skendrović (2012) stated that both verbal and nonverbal, communication practices, are very crucial in achieving the negotiation objectives and in resolving conflicts.

In fact, Jonsson and Hall (2003) argued that signalling (communication in negotiation situations) occurs whenever one actor displays behaviour that is perceived and interpreted by the other, whether or not it is spoken, intended or even within the actor's conscious awareness. Negotiation or bargaining processes may be explicit or tacit. In either case, some sorts of signals are exchanged. Tacit negotiation is a process in which “adversaries watch and interpret each other's behaviour, while each of them aware that their actions are being interpreted and anticipated, and each acts in the direction of the expectations that he creates”. Explicit negotiation however refers to “a formalized process in which verbal signals are exchanged” (Jonsson, 1983). Thus, in any negotiation process, there is a predominant kind of

communication designed to influence negotiating parties by modifying their behaviours, beliefs, and attitudes (Nikolaev, 2001).

2.9 Typology of Conventional Negotiation Approaches and the Emergence of Islamic Perspective

There are myriad of approaches employed in negotiation. These approaches are mainly informed by the Western value systems, which in other words are the conventional typology of negotiation. These conventional approaches and models as discussed in the above sections are guided by different models. However, there is no unifying method of categorizing the extant negotiation models (Tanya & Azeta, 2008). For instance, Zartman (1988) categorized the negotiation perspectives into various analytical approaches. As an extension of Zartman classification, Tanya and Azeta (2008) characterized negotiation approaches and models to two divisions, namely; distributive and integrative negotiation. The first one focuses on the positions while the second focuses on the interests. On the other hand, Raiffa (1990) presented a dual-faceted model of negotiation approach which entails both symmetry-asymmetry and prescription-description.

Furthermore, other negotiation scholars (Coddington, 1968; Oliva & Leap, 1981) classified negotiation models according to the procedural criteria of negotiation namely; verbal and mathematical dispositions. The mathematical procedure focuses mainly on the economical utilitarian of negotiation. The mathematical procedure embodies series of models such as; continuous economical, non-economical and hybrid model that guide the negotiation process. Meanwhile on the other side, verbal models include that focus on negotiation process, elements, limitation intervention, and hybrid-type (mixed models).

These set of typologies serve different purposes. For instance, the typology of Zartman (1988) focuses more on the analytical and procedural perspectives of negotiation. The analytical and procedural approaches of negotiation entail such sociological and psychological perspectives (Zartman, 1988). This present study, adopts the Zartman typology because the objective of this study tilts towards developing and conceptualizing the process of negotiation from an Islamic perspective. Thus, Figure 2.1 presents the typology of conventional negotiation approaches, which serve as the underpinning models for this present study.

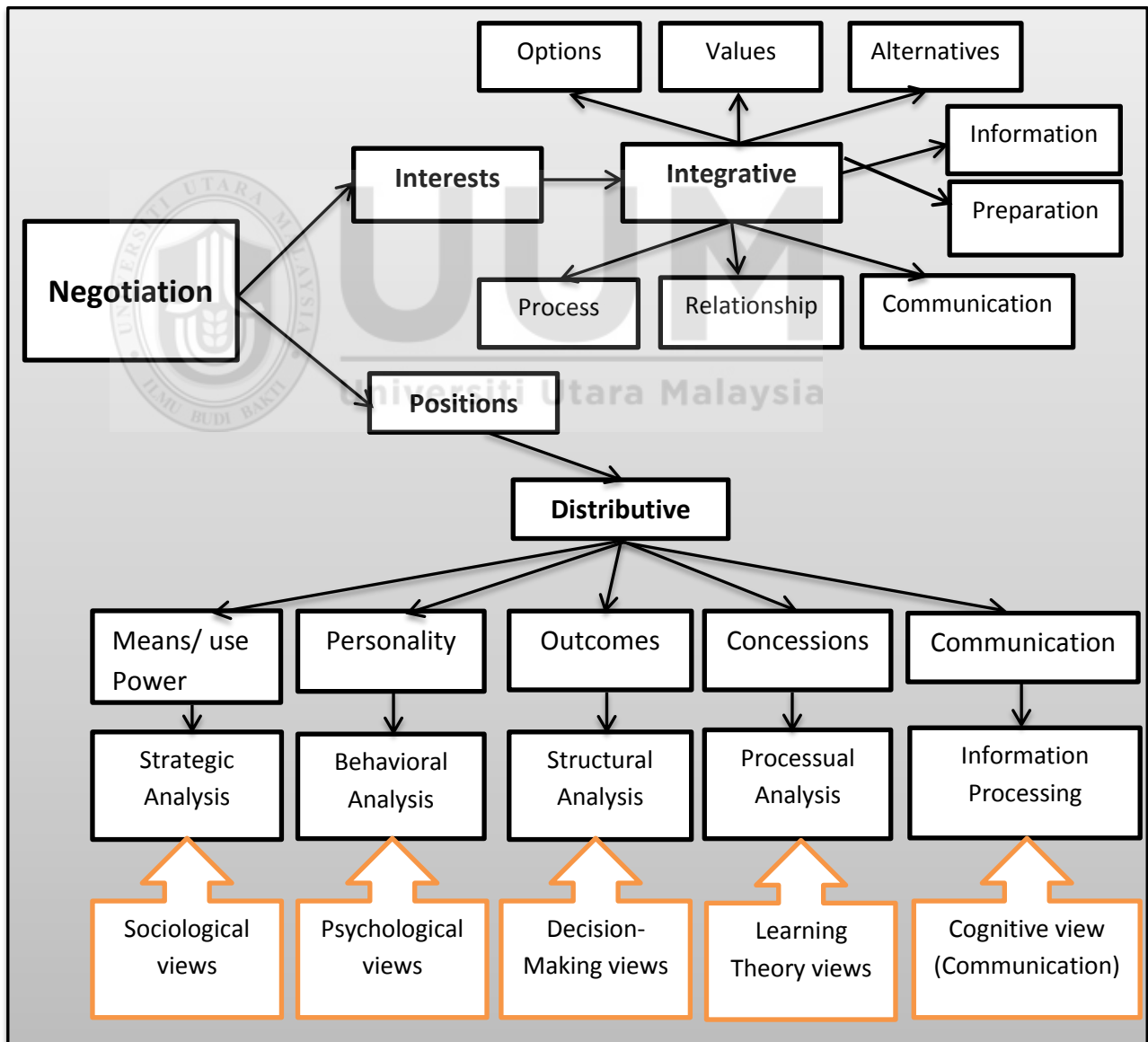


Figure 2.1. Synopsis of conventional negotiation approaches typology

Figure 2.1 presents a synopsis of existing negotiating approaches classified according to six different levels of analysis, or core approaches. These are the strategic, the behavioural, the processual, the structural, the information processing and the integrative analysis. This typology of the conventional negotiation approaches is an adaptation and an extension of a summary of negotiation model offered by Zartman (1988).

Furthermore, in justifying the reason for adapting the Zartman typology over other negotiation typologies, Nieuwmeijer (1992) reviewed that, even though the mathematical models of negotiation such as the typology of Coddington (1968) and Oliva & Leap (1981) entails more details than the non-mathematical models. However, in practice, they do reveal several weaknesses that make them incompatible for defining and describing negotiation as a complex communication process especially within a particular social context.

However, in view of the intrinsic differences of the topology of negotiation models and coupled with the fact that, there is no single dominant analytical approach, negotiation scholars such as (Nieuwmeijer, 1992; Tanya & Azeta, 2008; Zartman, 1988) have attempted to develop a unanimous understanding of the negotiation process by examining the common elements, features, assumptions and analysis of negotiation processes and approaches. Nieuwmeijer (1992) and Zartman (1988) explained that, the study of negotiation processes and approaches are guided by different viewpoints and school of thoughts which are reflected through the specific perspectives that are relevant to the objective of the researcher. Accordingly, Zartman (1988) conceptualization of negotiation process and approaches are guided by both the psychological and sociological perspectives. These two perspectives are more relevant to a communication study as compared to the economic utility or

mathematical and non-mathematical perspectives. Justifiably, Tanya and Azeta (2008) acknowledged that in practice, negotiation process cut across different perspectives. Therefore, the combination of both psychological and sociological perspectives are expected to guide this study in developing a *Shariah*-compliant negotiation model, which encompasses the process, approach, principles and outcomes of negotiation from an Islamic point of view.

Subsequently, Figure 2.1 depicts the relevant theoretical views that have been developed by previous researchers such as; the sociological views, psychological views, decision making views, learning theory views and cognitive views. Each perspective has its own analytical approach. This diversity made the negotiation study became a substantial in the previous two decades in structuring and developing a common concept of a negotiation process. Even though, Zartman (1988) reported that there is much more to do to know the process. Therefore, those common concept of negotiation analytical process are considered as a starting point for several further studies guidelines (Nieuwmeijer, 1992; Tanya & Azeta, 2008; Zartman, 1988). Thus, Figure 2.1 serves as the underpinning diagram for conventional value system of negotiation.

In proportion to this fact, this research reviewed and undertaken the conventional typology diagram as starting point or as an underpinning diagram, to develop or explore other perspective of negotiation, which is an Islamic negotiation approach. This typological figure synopsis the studied and discussed a variety of approaches or analysis levels of negotiation process. In this regard, Tanya and Azeta (2008) noted that negotiation models and analysis processes reflect the variety characteristic of the practical, theoretical, and disciplinary origins of the theories which is developed to explain it.

However, the conventional typology of negotiation process is informed by its value system. Meanwhile, what remained unexplored is the possibility of other perspectives that can be developed based on a different value system. In accordance with that, this study reviews the conventional perspectives in order to get a clear and a deep understanding of the negotiation process for the purpose of exploring and developing an Islamic approach of negotiation. Especially when scholars such Ali (2014) and Hassan (2013) claimed that, the Islamic value system is different from the western secular worldview. For instance, the western value system focuses more on materialism, individualism, pragmatism and secularism, which are extremely divergent to the value of Islam. Therefore, it becomes imperative to explore how the Islamic value system guides the negotiation process and approach from an Islamic perspective. Thus, the following sections present the review of negotiation process from an Islamic perspective.

2.10 Islamic Perspective and Negotiation

This section focuses on Islamic principles of negotiation. The objective is to engender a deep understanding on how Muslims should negotiate in the course of their social interactions. Therefore, the concept of Islam is examined carefully. Its objectives and characteristics are also discussed briefly. This is followed by a discussion about the concept of negotiation in Islam, while addressing the existing principles of negotiation in the Islamic literature.

2.10.1 The Basic Concept of Islam

Linguistically, Islam is an Arabic word derived from the root „Silm“, which means peace, submission and obedience (Emerick, 2004; Ghalwash, 1966; Maududi, 1960). Religiously, Islam means to submit freely and completely to the

Commandments and Will of The One and Only God (Allah). This submission should come from within, from sound belief in and conviction to Allah, with no doubt. It should also come from love, trust, and affection (El Ghasseyyn, 2009; Maududi, 1960).

Besides, one of the beautiful names of Allah is *As-Salem* (The Peace). Islam also connotes being at peace with Allah and His creatures. Being at peace with Allah implies complete submission to His Will, which is the source of all purity and goodness. In addition, being at peace with His creatures implies living in peace within one's self, with other people and with the environment (Malik, 1992). Indeed, Islam is a complete system of peaceful living, and it is the same message and guidance, which Allah revealed through all His Prophets to every generation throughout the history of humanity.

Islam appeared as a revolutionary approach to life at a time when human beings were living in complex circumstances and when prevalent values did not respect the moral needs of individual and their freedom, and did not guarantee their rights. Therefore, Islam came to destroy the old system of life and proceeded to build a new system based on faith in Allah (SWT) as the Lord of all beings. Allah (SWT) bestowed and honoured human beings by giving them intuition and strength, and making them His caliph on earth. Islam is the last religion revealed to humanity, and it is not just for some people; rather it is for all people and all nations, and even Jinns and other extra-terrestrial beings. Allah (SWT) says in the Holy *Qur'an* to his Messenger; “We have not sent you but as a universal (Messenger) to men, giving them glad tidings, and warning them (against sin), but most men understand not”. (The Noble *Qur'an*, 34: 28, p 577)

Concerning *Tafsir* this verse, Qatadah noted that, “Allah (SWT) sent Muhammad (PBUH) to both the Arabs and the non-Arabs, so the most honoured of them with Allah (SWT) is the one who is most obedient to Him (SWI)” (Ibn Kathir, 2003). This indicates that Islam aims to establish justice and fairness between the weak and strong, poor and rich, tribes and nations. In Islam, there are no differences between human beings, and if such will exist, they will be based only on faith in Allah and His worship. Allah (SWT) confirms in His Holy Book;

“O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that ye may know each other (not that ye may despise (each other). Verily the most honoured of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full knowledge and is well acquainted (with all things).” (The Noble *Qur'an*, 49: 13, p 700)

Concerning the *Tafsir* of the above verse, Allah (SWT) declares to mankind that He has created them all from Adam (PBUH), and from him He (SWT) created his mate, Hawwa. From their children, He (SWT) made nations, comprised of tribe, which include sub-tribes of all sizes. And so, for all of them honour with Allah (SWT) is earned through *Taqwa*, of Allah (SWT) not from family lineage (Ibn Kathir, 2003).

Allah (SWT) has demanded worship from people in order to purify their manners, develop social relationships among one another and ensure their cooperation in righteousness and piety. Therefore, an in-depth study of Islam will reveal that it has principles and rules which regulate all aspects of the life of Muslims. It is indeed a complete way of life (Maududi, 1960). Social relationships are one of the most essential aspects of the lives of Muslims. For that reason, Islam has placed great emphasis on organizing the individual transactions and interactions (*Muamalat*) based on justice, love and facilitation.

Moreover, Maududi (1960) stated that Islam is an attributive title. Anyone who has this attribute, whatever race, community, country or group he belongs to, is a Muslim. This means a Muslim is a person who liberally and willingly accepts the ultimate power of Allah and strives to live in accordance with His commandments, and follows the *Sunnah* (traditions) of the His Prophet Muhammad (PBUH) (Malik, 1992).

However, if Islam means obedience to Allah and is a matter of common sense, this compliance cannot be guaranteed in full measure unless a Muslim knows certain essentials of life and rests firm in confidence in them (Maududi, 1960). Therefore, Islam has a number of basic rituals intended to convert its religious beliefs into actual reality. This serves to keep Muslims constantly aware of their duties to Allah and helps them maintain a strategic distance from the dangers of allurements and complacency (Emerick, 2004; Kamaruzaman, 2007).

These basics are called *Arkan-al-Islam* (the five Pillars of Islam). They consist of (1) *Shahadah*; the declaration of faith; "I bear witness that there is no deity worthy of worship except Allah and I bear witness that Muhammad is the Messenger of Allah", (2) *Salat*; the prescribed prayers, (3) *Saum*; fasting during the month of Ramadan; (4) *Zakat*; the annual charity, and (5) *Hajj*; the pilgrimage to Mecca (Committee of Scholars, 2007; Haneef, 2002).

These basics are further expatiated in the *Sunnah* of Muhammad (PBUH), according to the famous *hadith* of Jibril on the authority of Muslim in his book (the Book of Faith). Umar bin al-Khattab (may Allah be pleased with him) narrated that Angel Jibril (Gabriel) asked the Prophet (PBUH); "Tell me about Islam". He replied;

Al-Islam implies that you testify that there is no god but Allah and that Muhammad is the messenger of Allah, and you establish prayer, pay Zakat, observe the fast of Ramadan, and perform pilgrimage to the (House) if you are solvent enough (to bear the expense of) the journey. (Imam Muslim, 2009 Book 1, Number 1, p 60)

Similarly, Faith (al-Iman) in Islam signifies perceiving a truth, confirming it, affirming it and realizing it. As stated by Abdu al-Ati (1997), faith in Islam is “a state of happiness acquired by virtue of positive and constructive conceptions as well as dynamic and effective measures” (p.47). Islam also requires its adherents to believe in the six Articles of Faith; Faith in Allah, angels, His holy books (Scrolls, Psalms, Torah, Injil and *Qur'an*), His prophets and messengers, life after death, fate and free will.

The above articles of faith are mentioned in many places in the Holy *Qur'an* as well as in the *Sunnah* of the Prophet (PBUH). Allah (SWT) said;

“O you who believe! Believe in Allâh, and His Messenger (Muhammad SAW), and the Book (the Qura“n) which He has sent down to His Messenger, and the Scripture which He sent down to those before (him), and whosoever disbelieves in Allâh, His Angels, His Books, His Messengers, and the Last Day, then indeed he has strayed far away.” (The Noble *Qur'an*, 4: 136, p 132)

In the same *Hadith* narrated by Umar bin al-Khattab (May Allah be pleased with him), Angel Jibril (Gabriel) asked the Prophet (PBUH) about al-Iman (Faith). He replied; “That you affirm your faith in Allah, in His angels, in His Books, in His Apostles, in the Day of Judgment, and you affirm your faith in the Divine decree about good and evil” (Imam Muslim, 2009, Book 1, Number 1, p 60).

In accordance with this expression of belief in the oneness and uniqueness of Allah and the prophethood of Muhammad (PBUH), Muslims must live according to the

guidance of all the concepts of Islam and its attitudes, values and ethical guidelines for human behaviour and relationships (Committee of Scholars, 2007; Haneef, 2002). As such, Muslims absolutely require a divine code of practice, which guides them in all affairs of their lives. This divine code of practice is called *Shariah* (Islamic law). It is a fundamental religious concept of Islam and generally, it means “the path to follow” (Ahmad, 2009). It is divided into two categories: *Ibadat* (system of worship), and *Muamalat* (system of dealing) (El Ghasseyn, 2009).

Overall, the key source that administers all the laws of Islam is Allah (SWT) through two channels; the first is the Holy *Qur'an*, and the second is the *Sunnah* of His Prophet Muhammad (PBUH), which is the authentic recording of the sayings, traditions of the Prophet and whatever his companions said or did to which he showed no objection.

2.10.2 Definition of Negotiation and its Importance

Al-Zuhaili (2003) define negotiation in Islam as an assortment of crucial and serious conversations that take place between Muslims and others for the purpose of ending conflicts, or enabling the spread of the Islamic call, or acknowledging good neighbourly relationships, or strengthening the bonds of cordiality and cooperation, or concluding cultural and economic treaties. Additionally, Ghanim and Fatima (2009) noted that it is a direct or indirect communication between two parties or more for the aim of setting up relations, defining rights and obligations, ending divergence and clashes, or agreeing on the negotiating parties terms.

Several *Qur'anic* verses emphasize the importance of negotiation between individuals as a humane way to regulate relations and end differences. It is

necessitated by conflicts of interest and differences in goals and points of view, or the different methods that are used to reach the targets of *Shariah* compliance in transactions and acts of worship (Ghanim & Fatima, 2009). The following verses indicate that Allah (SWT) instructs His Prophet (PBUH) to invite the people of the Book to negotiate;

“Say (O Muhammad SAW): “O people of the Scripture (Jews and Christians): Come to a word that is just between us and you, that we worship none but Allah, and that we associate no partners with Him, and that none of us shall take others as lords besides Allah. Then, if they turn away, say; "Bear witness that we are Muslims". (The Noble *Qur'an*, 3: 64, p 78)

Regarding the *Tafsir* of this verse, Ibn Kathir (2003) stated that this verse is about *Tawhid* and this is the message of all of Allah's (SWT) Messengers (PBUT), to invite every person to know about *Tawhid*, includes the people of the Book; the Jews and Christians, and those who follow their ways.

In another verse, Allah (SWT) urges Muslims to facilitate between the believers in order to help them end their conflict, when He says;

“If you fear a breach between them twain (the man and his wife), appoint (two) arbitrators, one from his family and the other from hers; if they both wish for peace, Allah will cause their reconciliation. Indeed, Allah is Ever All Knower, Well Acquainted with all things”. (The Noble *Qur'an*, 4: 35, p 113)

Relating to the *Tafsir* of this verse, Ibn Kathir (2003) specified that The *Ulama'* (scholars) say that when conflict occurs between the husband and wife, the judge refers them to a trusted person who examines their case in order to stop any wrongs committed between them. If the matter continues, the judge sends a trustworthy person from the wife's family and a trustworthy person from the husband's family to meet with them and examine their case to determine whether it is best for them to

part or to remain together. Continuingly, Ibn Kathir (2003) noted that Allah (SWT) gives preference to staying together, and this is why Allah (SWT) said, “if they both wish for peace, Allah will cause their reconciliation”.

However, negotiation from the Islamic perspective, just like other perspectives, is of significant importance because it is considered a constructive tool (Al-Zuhaili, 2003). According to Ghanim and Fatima (2009), it is characterised by the following features;

- i. It is one of the activities that are frequently experienced by all individuals, groups, organizations and states, for various purposes related to interests, conflicts, goals, rights, and obligations.
- ii. It is essential for the stability of the lives of individuals, based on high humanistic manners, which assist to reach goals and solve complex problems.
- iii. It helps to end feuds and hostilities. It also aids an ambiance of satisfaction and understanding between parties, as well as acknowledgement of reciprocal rights, and respect for different opinions regardless of the fact that they may be disliked.

Thus, through negotiations, individuals discover solutions for clashes that emerge between them because of the differences in points of view and goals. They also seek to engender common relations and carry out transactions. Therefore, the answers provided by the negotiation process should be practical and acceptable to all parties.

2.10.3 The Objectives of Negotiation

Negotiation in Islam has many positive aims or purposes that relate to the need for such. According to Al-Zuhaili (2003), among the most vital aims are; to spread the Islamic call, and to invite humanity to live the Islamic way (*Da'wah*). For example, the messengers and prophets of Allah (SWT) negotiated with people to spread the call for the oneness of Allah (SWT), belief in His existence, and following the institution of His *Shariah* (laws). In the Holy *Qur'an*, Allah Almighty enjoins His Prophet Muhammad (PBUH) and Muslim believers to adhere to commands. Allah says;

“Invite (mankind, O Muhammad SAW) to the Way of your Lord (i.e. Islam) with wisdom (i.e. with the Divine Inspiration and the *Qur'an*) and fair preaching, and argue with them in a way that is better. Truly, your Lord knows best who has gone astray from His Path, and He is the Best Aware of those who are guided.” (The Noble *Qur'an*, 16: 125, p 367)

According to *Tafsir* Ibn Kathir (2003), this verse is about to invite people to Islam with wisdom and good preaching. That is very clear when Allah (SWT) commands His Messenger Muhammad (PBUH) to invite the people to Allah with wisdom. However, since Islam is the religion for all mankind, it is a *Sunnah* for Muslims to do *Da'wah*. Allah praises those Muslims who invite people to Islam. He says;

“who is better in speech than he who [says: "My Lord is Allah (believes in His Oneness)," and then stands straight (acts upon His Order), and] invites (men) to Allah's (Islamic Monotheism), and does righteous deeds, and says: "I am one of the Muslims.” (The Noble *Qur'an*, 41: 33, p 647)

The above verse is highlighting the virtue of calling others to Allah (SWT) and doing *Da'wah* (Ibn Kathir, 2003). This is general in meaning and applies to every person who calls people to what is good and is himself guided by what he says. And so, the Prophet Muhammad (PBUH) is the foremost among people in this regard (Ibn Kathir, 2003).

Likewise, on the authority of Abdullah bin Amar bin Al-As (May Allah be pleased with them), the Prophet Muhammad (PBUH) says; “Convey from me even an *Ayah* (verse) of the *Qur’an*” (Al- Bukhari). Indeed, negotiating to invite people to Islam is one of the best ways of serving Allah. Moreover, Muslims should do *Da’wah* because it is their duty to share the knowledge of Islam with others (Mababaya, 1998).

The second objective of negotiating in Islam is to prevent armed conflict, to end an ongoing war, to exchange prisoners of war, or to ransom them (Al-Zuhaili, 2003). For instance, Prophet Muhammad (PBUH) negotiated in the first military encounter between the Muslims and the pagans of Mecca during the Great Battle of Bader in the second year after Hijrah (A year of the Muslim era begins with Muhammad (PBUH) emigration to al-Madinah) (Wehr, 1976). After the battle, an agreement was reached to ransom prisoners of war. If war has been a general social marvel between human beings since the oldest ages of history, negotiations too are a common phenomenon. However, since the beginning of the establishment of the Islamic government by Prophet Muhammad (PBUH), attention has been given to negotiations. As a result, the cases of peace are more prevalent than the cases of war in the war history of Muslims (Al-Zuhaili, 2003; Yousefvand, 2012). In support of the latter, the number of contracts, peace treaties and messages sent to the leaders of different countries is 249; which shows the flexibility and dynamism of the Prophet Muhammad’s (PBUH) government in external and internal relations (Yousefvand, 2012).

Even during the era of the Rightly Guided Caliphs (after Prophet Muhammad’s (PBUH) time), negotiation was the first concern of Muslims in times of war. For example, during the era of the Umayyad and Abbasid Caliphs, peaceful negotiation was held with the Persians and the Romans. In the year 245 After Hijrah (860

A.D), Mikhail bin Tufael called for negotiations to bring about peace between the Roman state and the Abbasid state in order to exchange prisoners of war between them (Al-Zuhaili, 2003).

In our present time, negotiations on the problem of the exchange and release of prisoners of war in the last war between Hamas (the Palestinian party) and Israel in Gaza continue to meet difficulties despite international mediation and United Nations and Security Council resolutions on the matter. Muslims also negotiated for the aim of boosting good neighbourly relationships, encouraging trade and exchange, or any other objective towards implementing peace and exchanging other essential interests with other nations. These occurred multiple times during the different Islamic eras (Al-Zuhaili, 2003; Yousefvand, 2012). This particularly occurred between the Islamic state and the Roman state (the Byzantine state) in Eastern Europe, the latter of which was absolutely the greatest European power in the medieval ages (Al-Zuhaili, 2003).

For example, the three most powerful Abbasid caliphs; Abu Jaafer al-Mansoor, al-Mahdi bin al-Mansoor and Haroon al-Rashid bin al-Mahdi negotiated with the Franks' Court on reinforcing the alliance between the Abbasids and the Franks. Dispatches were sent and received from each other. For that reason, according to Al-Zuhaili (2003), the Abbasids' negotiations and political activity with the Franks reached its peak, and exchanges of precious gifts between Haroon al-Rashid and Emperor Charlemagne took place.

Nevertheless, Muslims also negotiate to avoid danger from their lands. For instance, during the reign of Moaweah (the first of the Umayyad caliphs), negotiations occurred and a treaty of reconciliation between the Muslims and the

Romans was signed on the condition that he (Moaweah) pays money to them. That was due to the circumstances, which were rendered compulsory by the needs of defending the Muslim *Ummah* (nation or people), and focusing on preoccupation with internal sedition (Al-Zuhaili, 2003).

Evidently, another objective of doing negotiation is to request the conclusion of a reconciliation agreement or truce. In most cases, Muslims prefer peaceful negotiations than engaging in war (Al-Zuhaili, 2003; Ghanim & Fatima, 2009). Among such examples is the Treaty of Al-Hudaybiyyah, which is the famous negotiation between Muhammad (PBUH) and the Quraish to conclude the Hudaybiya Reconciliation in the sixth year after Hijrah.

In this negotiation, Quraish sent Suhail Ibn Ummr to explore reconciliation with the Prophet Muhammad (PBUH). When Suhail Ibn Ummr arrived, he started by saying; “O Muhammad, what has happened was not of the opinion of our wise men, but something that was carried out by the foolish among us. So send us those whom you have taken prisoners”. The Prophet Muhammad (PBUH) replied; “Not until you release those whom you have with you.” Indeed, they released the prisoners, then Suhail said to Muhammad (PBUH); “Let me write a book (a treaty or an agreement) between us and you.” The Prophet (PBUH) agreed and when He saw it, he said; “God has facilitated (or made easy) your affair” (Ghanim & Fatima, 2009).

Lastly, cultural exchange is also among the objectives of negotiation. For example, in the Abbasid period, cultural negotiations were held “to request rare books and to study historical sites relating to events in the Islamic state or to what was mentioned in the Holy *Qur’an*” (Al-Zuhaili, 2003, p 9). In summary, from Ghanim and Fatima

(2009) point of view, the objectives of Islam are set to purify souls, to endow society with security and peace, and to take individuals out of the darkness of ignorance to the light of knowledge and faith. Therefore, the purpose of negotiation in Islam is to guide Muslims to what is most right for them at all times and places. Thus, it contains all that which satisfies physical and spiritual needs of individuals and communities, and establishes justice and equality. It helps societies to have solidarity and balance between the interests of individuals and those of the whole society.

2.10.4 Islamic Principles of Negotiation

The existing Islamic literature such as (Al-Zuhaili, 2003; Alikhani, 2011; Ghanim & Fatima, 2009) highlighted general principles on which all negotiations between individuals should be based. These principles are the guides to the negotiation process in all of its stages. They were discussed in the Islamic literature just like elements or factors in other fields, especially diplomacy and legal studies. However, less attention has been paid to negotiation studies in general and negotiation communication in particular. Therefore, this study aims to enhance this field by bringing out these principles and developing a *Shariah*-compliant negotiation model. Nevertheless, the following general principles were extracted from the literature. Most of them were from the ethical Book of Negotiation (Ghanim & Fatima, 2009), and from some studies about Islamic diplomacy such as (Al-Zuhaili, 2003).

2.10.4.1 No Coercion in Negotiation

Social phenomena can be viewed from right and wrong angles and even from objective reality. When it comes to negotiation, diversity of people's religions and opinions is an objective reality. Therefore, the first principle of negotiation from the Islamic approach

is recognizing the other's rights and freedom of choice. Islam has given to mankind the freedom of belief, thought, speech and action, but within reasonable limits. However, Islam has not been forced on humanity, but recommended to all mankind (Ghanim & Fatima, 2009). Many *Qur'anic* verses have elucidated this fact. Allah says; "There is no compulsion in religion. Verily, the Right Path has become distinct from the wrong path..." (The Noble *Qur'an*, 2: 256, p 58). Regarding this verse, Ibn Kathir (2003) stated that this verse means Islam is plain and clear, and its proofs and evidence are plain and clear, so do not force anyone to become Muslim.

In fact, it is believed that Allah (SWT) has given human beings the freedom to choose their way. He has made clear to His Prophet (PBUH) that his duty is to spread the message of Allah (SWT) and he has no right to force people into accepting his religion. He says; "So remind them (O Muhammad (Peace be upon him)), you are only a one who reminds. You are not a dictator over them" (The Noble *Qur'an*, 88: 21- 22, p 833). Concerning the *Tafsir* of this verses, Ibn Kathir (2003) recorded that the Allah Messengers (PBUT) are only charged with delivering the message of Islam. And in *Tafsir* of; "You are not a dictator over them." Ibn Abbas, Mujahid and others believed that, it means that you cannot create faith in their hearts (Ibn Kathir, 2003). Additionally, that what the verse 45 from Surah Qaf explains; "We know best what they say; and you (O Muhammad SAW) are not the one to force them (to Belief). But warn by the *Qur'an*, him who fears My Threat". (The Noble *Qur'an*, 50: 45, p 706)

Beyond that, Allah (SWT) has told Prophet Muhammad (PBUH) that if people did not accept his call to faith, he should simply tell them that he would follow his own way while they follow their own way. In Surah Yunus, He says; "And if they disbelieve

you, say: For me are my deeds and for you are your deeds! You are innocent of what I do, and I am innocent of what you do!” (The Noble *Qur’an*, 10: 41, p 267). This verse *Tafsir* is in verse 22 from Surah Al-Hajj (Ibn Kathir, 2003), when Allah (SWT) says; “And if they argue with you (as regards the slaughtering of the sacrifices), say; Allah knows best of what you do” (The Noble *Qur’an*, 22:68, p 453).

From the *Qur’anic* verses above, it can be clearly observed that people act according to their own logic and every person will eventually be held responsible for what he have done. However, the *Shariah*-compliant negotiation approach confirms that every person is responsible for his own conduct and acts in negotiation; if they chose to negotiate rightly, they would have done justice to themselves and if they chose to conduct such unwisely, they would have harmed their own cause. Thus, attitudes, perceptions and acts of every person belong to them (Ghanim & Fatima, 2009). As such, the Islamic approach of negotiation maintains that no person is allowed to force others into holding a negotiation, even if it is best for them.

2.10.4.2 Respect the Diversity and Differences of Opinions

The Holy *Qur’an* and *Sunnah* are rife with numerous proofs that confirm the acknowledgement of existing diversity among human beings and other beings. Allah (SWT) said in Surah Ar-Rum; “And among His Signs is the creation of the heavens and the earth, and the difference of your languages and colours. Verily, in that are indeed signs for men of sound knowledge” (The Noble *Qur’an*, 30: 22, p 542). In relation to this verse Ibn Kathir (2003) explained that only Allah (SWT) knows the variety of languages spoken among the sons of Adam. And the difference of the

colours or the appearance of all the people of this world, from the time their creation until the Hour begins.

It is from the willingness of Allah (SWT) that He created human beings differently; in their tongues, colours, capacities, and interests. It is also the will of Allah (SWT) for his creatures to remain diverse, and that is clear in His saying: “And if your Lord had so willed, He could surely have made mankind one *Ummah* (nation or community [following one religion only i.e. Islam]), but they will not cease to disagree” (The Noble *Qur’an*, 11:118, p 303). From this verse Ibn Kathir (2003) clarified that Allah (SWT) could surely have made mankind one *Ummah* but He (SWT) has not made Faith universally accepted.

According to Alikhani (2011), what makes the Islamic approach accommodating of a variety of religions and faiths as a truth on the ground and a way for interaction between them is the very existence of human beings. Yet, the *Qur’an* has stated that all human beings were a single *Ummah* and Allah (SWT) has created them from a single man and a single woman. However, He (SWT) has divided them into various groups and tribes for the purpose of knowing one another, not fighting or to living in conflict. Indeed that what verse 13 from Surah Al-Hujurat is all about as discussed above (see page 42).

From the discourse above, it can be surmised that the literature confirms that diversity from the Islamic point of view is a good background for creative intellectualism, which is important for the continuation and development of human life (Alikhani, 2011; Ghanim & Fatima, 2009). That is a fact that is of clear primacy to Muslims scholars in the course of addressing current issues, especially those for which there is no clear text from the *Qur’an* and *Sunnah*. Indeed, these differences

between the Islamic scholars' opinions and thoughts over contemporary matters are accepted and good, as it does not go against the principles of the Holy *Qur'an* and *Sunnah*. The diversity of people and thoughts is not deniable, as that would contradict nature (Allah's purpose of creation).

Consequently, this diversity should be within the *Shariah* framework, which means it should be justified by evidence, and should not be used to corrupt people's intentions, or to drive them to intractable conflicts (Ghanim & Fatima, 2009). Generally, recognizing and respecting differences among people and thoughts is an important principle of the *Shariah*-compliant negotiation. In Islamic teaching, diversity should be accepted as a reality and a means to acknowledge the existence of others. Therefore, before conducting a negotiation, the negotiator has to accept and respect the differences of others. In *Shariah*-compliant negotiation, the diversity and the existence of different people should not be taken as a cause for contradiction or disagreement, but for harmony and congruity.

Differences between people usually begins with difference of opinion over an issue (Alwani, 2015). It cannot be denied that negotiation can solve the problems that could be caused by such differences and diversity in the opinions, or the different interests and needs among the people. On that basis, Ghanim and Fatima (2009) stated that the Islamic approach emphasizes on negotiation to develop and organize the relationship between people according to the foundations of justice and fairness. Thus, from the Islamic point of view, diversity is essential because it adds colour to life like different flowers in the garden.

2.10.4.3 Credibility

According to Ghanim and Fatima (2009), the concept of credibility refers to commitment to truth by word and action, which is a good character consistent with nature. Credibility and integrity are essential for human transactions, negotiations succeed and relations prosper with them. Regarding the significant value of credibility, Allah (SWT) has described Himself with this attribute in Surah An-Nisa. He says;

“Allah! Lâ ilâha illa Huwa (none has the right to be worshipped but He). Surely, He will gather you together on the Day of Resurrection about which there is no doubt. And who is truer in statement than Allah?” (The Noble *Qur'an*, 4: 87, p 123)

In *Tafsir* this verse Ibn Kathir (2003) clarified that the meaning of; “And who is truer in statement than Allah?” is no one utters more truthful statements than Allah (SWT), in His promise, warning, stories of the past and information of what is to come. In another verse from the same Surah, Allah (SWT) says; “... Allah’s Promise is the Truth, and whose words can be truer than those of Allah? (Of course, none)”. (The Noble *Qur'an*, 4: 122, p 130)

These *Qur'anic* verses clearly indicate that truth is the attribute of prophets, messengers and believers, and it is considered the most important characteristic of great personality, which enables mankind to win the pleasure of Allah (SWT) and the trust of people (Ghanim & Fatima, 2009). Additionally, being honest with one self and with others is vital to gaining great reward from Allah (SWT) in this life and the hereafter. Allah (SWT) says in Surah Al-Maeda;

“Allah will say: "This is a Day on which the truthful will profit from their truth: theirs are Gardens under which rivers flow (in Paradise) - they shall abide therein forever. Allah is pleased with them and they with Him. That is the great success (Paradise).” (The Noble *Qur'an*, 5: 119, p 165)

Concerning the Tafsir of this verse, Ibn Kathir (2003) summarized that only truth will be of benefit on the day of resurrection. For that reason, Allah (SWT) requires His prophet (PBUH) and the believers to plead Him to lead them to the truth and to grant them the ability to live an honest life. In another verse from Surah At-Tawba, Allah (SWT) says; “O you who believe! Be afraid of Allah, and be with those who are true (in words and deeds)” (The Noble *Qur’an*, 9:119, p 265). In *Tafsir* of this verse, Ibn Kathir (2003) discussed that the verse explains that, adhere to and always say the truth so that you become among truthfulness people and be saved from obliteration. And so, if you follow the way of truthfulness people Allah (SWT) will make a way for you out of your concerns and a refuge.

From the *Sunnah* , several authentic *hadiths* addressed these principles. All of them have discussed the importance of truthfulness in the life of Muslims. Principal among them is the famous *hadith* on the authority of Abdullah Ibn Mas‘ud that the Prophet (PBUH) said;

Truth guides to virtue and virtue guides to paradise. A person persists in telling the truth till in the sight of Allah he is named truthful. Lying leads to vice and vice leads to fire; and a person goes on lying till in the sight of Allah, he is named a liar. (Nawawi, 2006, *Hadith* 54, p 18).

Also, Hassan Ibn Ali Ibn Abi-Talib (Allah’s blessings be on them) narrated that he learnt the following from the Prophet (PBUH): “Leave alone that which involves thee in doubt and adhere to which is free from doubt, for truth is comforting and falsehood is disturbing” (Nawawi, 2006, *Hadith* 55, p 18).

Furthermore, the Prophet (PBUH) has clarified the necessity of avoiding falsehood and deception. On the authority of Ibn Omar (Allah’s blessings be upon them); A man came to the Prophet (PBUH) and said, “I am often betrayed in bargaining.”

The Prophet (PBUH) advised him, “When you buy something, say (to the seller); no deception.” The man used to say so afterwards.” (Imam Al-Bukhari, 2009, Book 41, Number 590, p 545). He wanted the relationships between Muslims to be based on the principle of truth, hence negotiators must be honest and avoid deception so as to win the confidence of other people in negotiation.

From what has been discussed above, it is evident that falsehood is considered an attribute that contradicts the Islamic principles of human dealings such as negotiation. Therefore, Allah (SWT) and his Messenger (PBUH) warned about its negative consequences among mankind, as it destabilises trust between people, and can cause difficulties in negotiating or developing relationships among people. Consequently, in the Hereafter, it can only lead to hell. For that reason, according to Ghanim and Fatima (2009), the *Shariah*-compliant negotiation must be based on mutual trust between negotiating parties. The negotiators have to bargain on the truth with others in all the stages of the negotiation, in order to be able to achieve the right solutions for the negotiated issues. They should not misuse the credibility and disguise to hurt others, deceive them, or demean their merits.

In conclusion, Ghanim and Fatima (2009) recommended several suggestions in order to understand the importance of credibility as a principle of *Shariah*-compliant negotiation. Therefore, it has to be believed that;

- i. There is no contradiction between correcting the wrong and rewarding the truthful one.
- ii. Credibility is an ethical attribute that every negotiator has to be characterized with.

- iii. The truthful negotiators should be rewarded so as to continue on the credible path and encourage truthfulness in all their dealings.
- iv. Lastly, the negotiators who deceive in negotiation should be held responsible for that and punished for any injustice resulting from that act. Thus, successful negotiations occur only with establishing credibility as a principle and as a way of dealing with others.

2.10.4.4 Flexibility

In Islam, the Holy *Qur'an* has explained the general principles that are related to worship and transactions, while allowing the issue of interpretation and application to proceed according to situations and general circumstances within the Islamic legitimacy (*Shariah*), in order to facilitate the performance of worship and transactions (Ghanim & Fatima, 2009). No doubt, Islam is lenient upon the believers, as there is constancy and flexibility in worship. For instance, the five prayers is an obligation to every Muslim, but its performance needs to be done only to the best of the Muslim's ability; standing, if not possible then sitting, if not then lying down. That is because Allah (SWT) does not place burdens upon people more than they can bear. He confirmed that in Surah Al-Baqara;

“Allah burdens not a person beyond his scope. He gets reward for that (good) which he has earned, and he is punished for that (evil) which he has earned. "Our Lord! Punish us not if we forget or fall into error, our Lord! Lay not on us a burden like that which You did lay on those before us (Jews and Christians); our Lord! Put not on us a burden greater than we have strength to bear. Pardon us and grant us Forgiveness. Have mercy on us. You are our Maulâ (Patron, Supporter and Protector, etc.) and give us victory over the disbelieving people.” (The Noble *Qur'an*, 2: 286, p 66-67)

In *Tafsir* the meaning of this verse, Ibn Kathir (2003) expounded that Allah (SWT) does not request a person what is beyond its ability. This only proves Allah's (SWT)

kindness, compassion and generosity towards His creation. Additionally, this also applies to the duty of *Hajj* (pilgrimage to Mecca), which is not compulsory for those who are not able to afford for it. Allah (SWT) says in Surah Al-Imran;

“...And Hajj (pilgrimage to Makkah) to the House (Ka'bah) is a duty that mankind owes to Allah, those who can afford the expenses (for one's conveyance, provision and residence); and whoever disbelieves [i.e. denies Hajj (pilgrimage to Makkah), then he is a disbeliever of Allah], then Allah stands not in need of any of the 'Alamin (mankind and jinns).” (The Noble *Qur'an*, 3: 97, p 86)

This verse highlighted the obligation of performing *Hajj* for those who are able to perform. In explaining what is able to undertake the journey of *Hajj*, Ibn Kathir (2003) specified that it means “having enough provision and a funds for transportation.

However, the Holy *Qur'an* is rife with evidences that emphasize the importance of flexibility in worship and fulfilling the religious duties. Surely, Islam is an easy religion. The Prophet (PBUH) also applied this principle in all transactions and dealings, and asked Muslims to follow him. He said, on the authority of Jabir bin Abdullah; “May Allah's mercy be on him who is lenient in his buying, selling, and in demanding his money” (Imam Al-Bukhari, 2009, Book 34, Number 290, p 471).

Besides, the Prophet (PBUH), in the *Hadith* narrated by Anas bin Malik said; “Make things easy for the people, and do not make things difficult for them, and make them calm (with glad tidings) and do not repulse (them).” Also, in another *Hadith*, Aisha (Mother of the Believers) confirmed that; “Whenever the Messenger of Allah (PBUH) was given the choice of one of two matters, he would choose the easier of the two, as long as it was not sinful to do so, but if it was sinful to do so, he would not approach it” (Imam Al-Bukhari, 2009, Book 56, Number 760, p 828).

From the above *Qur'anic* verses and *Hadiths*, the meanings of flexibility in the Islamic approach could be identified as meaning anything susceptible to change, choosing easier solutions than the available alternatives and taking decisions within their limitations or finding a better one (Ghanim & Fatima, 2009). The Islamic literature shows to what extent the flexibility of the Prophet Muhammad (PBUH) has contributed to spreading and strengthening Islam in all his negotiations. He conducted many negotiations; some of them were before the Hijrah (his emigration to Medina), and others were after the Hijrah (like the Battle of Badr and Hudaibiya treaty negotiations).

According to Ghanim and Fatima (2009), in the *Al-Hudaybiyyah* treaty, the Prophet (PBUH) was so flexible throughout the stages of the negotiations that even some of his companions were dissatisfied, and they wanted a stricter negotiation with the Quraish delegates. However, he insisted on being very lenient and disregarded the crimes of the Quraish, in order to give both the Muslims and the non-Muslims an example of the priceless ethics and principles of Islam. As a result, the Prophet (PBUH) succeeded during the negotiation in convincing the aliens of Quraish about the justice of the issue that he struggles for, and the importance of Islam. Eventually, he was able to achieve strategic goals that helped Islam prevail and spread later among people.

Generally, in *Shariah*-compliant negotiation, flexibility is considered a pillar of the negotiations. The negotiators must be able to negotiate with a high degree of flexibility, to encourage the other party in negotiating, and afterwards the negotiators would be able to accomplish their duties appropriately. Indeed, it is unreasonable to conduct negotiations without being flexible.

2.10.4.5 Justice

Islam has emphasized various principles in daily dealings among Muslims. One of the most important of such principles is justice in all its ramifications, and values like peace, love, brotherhood, and prosperity. In the Islamic approach, justice has several meanings; first, it means to straighten or to sit straight, in other words, placing things in their rightful place. Second; to run away, depart or deflect from the wrong path to the right one. Lastly, it also means giving others equal treatment (Bello, 2012).

Islam enjoins justice at all times and towards everybody. According to Alikhani (2011), justice from the Islamic point of view is not only to be practiced among Muslims. It is also to be practiced by every human being regardless of his/her race or religion. Both the *Qur'an* and the *Sunnah* have ordered Muslims to be just in all their dealings and judgments and avoid unjust treatment of their opponents. In Surah An-Nahl, Allah (SWT) says;

“Verily, Allah enjoins Al-Adel (i.e. justice and worshipping none but Allah alone - Islamic Monotheism) and Al-Ihsan [i.e. to be patient in performing your duties to Allah, totally for Allah’s sake and in accordance with the *Sunnah* (legal ways) of the Prophet (SAW) in a perfect manner], and giving (help) to kith and kin (i.e. all that Allah has ordered you to give them, e.g., wealth, visiting, looking after them, or any other kind of help, etc.): and forbids Al-Fahsha' (i.e. all evil deeds, e.g. illegal sexual acts, disobedience of parents, polytheism, to tell lies, to give false witness, to kill a life without right, etc.), and Al-Munkar (i.e. all that is prohibited by Islamic law: polytheism of every kind, disbelief and every kind of evil deeds, etc.), and Al-Baghy (i.e. all kinds of oppression), He admonishes you, that you may take heed”. (The Noble *Qur'an*, 16:90, p 360-361)

Concerning the Tafsir of the above verse, Ibn Kathir (2003) believes that it is about the command to be fair and kind. Allah (SWT) orders His servant to be just, fair and moderate to be helpful to the relatives, and He (SWT) encourages kindness and good treatment.

Islam has also advised Muslims to be just even if the result is against themselves or their relatives. In Surah An-Nisa, Allah (SWT) says;

O you who believe! Stand out firmly for justice, as witnesses to Allah; even though it be against yourselves, or your parents, or your kin. Be he rich or poor, Allah is a Better Protector to both (than you). So follow not the lusts (of your hearts), lest you may avoid justice, and if you distort your witness or refuse to give it, verily, Allah is Ever Well-acquainted with what you do. (The Noble *Qur'an*, 4:135, p 132)

The *Tafsir* of this verse also indicates that it is about commanding justice (Ibn Kathir, 2003). Allah (SWT) orders His servants (the believers) not deviate from justice and fairness and should to stand up for it. Not only that, they should not fear anyone or allowing whom want to prevent them from doing that for the sake of Allah (SWT) (Ibn Kathir, 2003).

Evidently, in the Islamic approach, justice will become more imperative when it is applied to non-Muslims and/or opponents. The *Qur'an* has required that hostility from a group should not prevent Muslims from doing justice to them (Alikhani, 2011). That is confirmed in the following *Qur'anic* verse;

O you who believe! Stand out firmly for Allah and be just witnesses and let not the enmity and hatred of others make you avoid justice. Be just: that is nearer to piety, and fear Allah. Verily, Allah is Well-acquainted with what you do. (The Noble *Qur'an*, 5:8, p 144)

Regarding the *Tafsir* of this verse, Ibn Kathir (2003) exposed that this verse is a similar to verse (4:135) in Surat An-Nisa. In both of them Allah (SWT) commands justice in action and statement, with both near relatives and distant relatives. Truly, Allah (SWT) orders to be just for everyone at all times and in all situations (Ibn Kathir, 2003).

The principle of justice has the same value with the previous principles of negotiation. However, the major feature of justice in Islamic approach is that its concern is to gain the agreement of the negotiating parties on the outcomes, and that is called “consensual justice” (Alikhani, 2011). Indeed, justice in the Islamic approach means giving each individual what he/she deserves, and providing equally for basic needs. It also connotes fairness in opportunities.

To sum up, there is no doubt that the Holy *Qur'an* and *Sunnah* are full of verses and *Hadiths* that emphasize the importance of adopting negotiation as a humane action, so as to set up relations and to solve disagreements that result from conflict of interests and opinions. The last section of this chapter discusses issues relating to the Islamic approach in negotiation. It concludes that Islam plays an important role in the application of negotiations in the Islamic societies or organizations. For Muslims, Islam is a complete way of life. It provides guidance not only in spiritual issues, but also in the daily actions of life, including negotiation.

Therefore, this chapter synthesises the Islamic point of view of negotiation as the focus of this study to bring out its principles from the *Qur'anic* verses and *Sunnah* teachings for its practice within the Muslim community. Finally, as proved in this chapter, the *Shariah* teachings are important for the development of the Muslim community.

2.11 Chapter Summary

Overall, a number of selected theories and perceptions in negotiation from the literature were discussed, especially those which have gotten a great deal of attention from researchers in different fields of knowledge. As such, many books and articles

have been written about this phenomenon. The main reason is probably the fact that nowadays the people's lives have changed and become more complex and interdependent, so people rely on negotiations in solving complex issues.

Additionally, people or organizations have diverse issues that could better be resolved through negotiations. However, scholars from different schools of thought have realized that the complexity of issues requires divergence and scholastic negotiation inputs from different fields of endeavour. As such, the study of negotiation does not belong to any particular field of knowledge. However, Table 2.1 below recaps the main points deliberated in the current chapter. It is an effort to organize the information presented about the most well-known approaches of negotiation from the conventional perspective. Thus, the table presents the basic features of each approach as well as their strategies, tactics, assumptions and limitations.

Table 2.1

Summary of the well-known negotiation approaches

Approaches	Basic Feature	Assumptions	Limitations
The sociological perspective (Game theory) (Bartos, 1977; Hopmann, 1998)	-Rational-actor approach -Focus on ends, rationality, positions - Strategic analysis	-Win-Lose, -Existence of optimal solutions and rationality of players	-Excludes use of power, players undifferentiated (Apart from differences in the quality of options open to each)- It causes problems because of its static nature
The psychological perspective (Micro level perspective) (Spector, 1977)	-Focus on personality traits -Behavioural analysis	-Win-Lose, role of perceptions and expectations	-Emphasis on positions

Table 2.2 Continued

<p>The learning theory perspective (Concession exchange) <i>(Cross, 1977; Zartman, 1977)</i></p>	<p>-Focus on concession making behaviour, positions. -Procedural analysis - It is a matter of manipulating perceptions</p>	<p>-Win-Lose, moves as learned (reactive) responses</p>	<p>-Emphasis on positions -Lack of productivity</p>
<p>The problem-solving perspective (process models, principled negotiations) <i>(Fisher & Ury, 1991; Hopmann, 1995)</i></p>	<p>-Focus on problem solving, creating value, communicating, win-win solutions. - Integrative analysis</p>	<p>-Win-win potential</p>	<p>-Parties should still recognize and be prepared for encounters with non-integrative bargainers -Time consuming</p>
<p>The communication perspective (cognitive) <i>(Jonsson, 1983)</i></p>	<p>-Focus on communication and cognition as the key to the whole negotiation process -Information-processing analysis</p>	<p>Win/Lose</p>	<p>-It ignores the basics of negotiation itself -It focuses exclusively on the upper tier of the negotiation process -Doesn't provide any suggestions to solve the perception problems</p>

Source; Adapted from (Tanya & Azeta, 2008).

CHAPTER THREE

METHODOLOGY

3.1 Introduction

This chapter presents the methodology adopted in this study. It explains the different processes the research went through. It starts with an introduction to the research design and follows with a comprehensive description of the study area and sampling techniques. This study used the qualitative data approach. Therefore, the method applied in the data collection was the in-depth interview. Moreover, this chapter also presents how the study was carried out as well as how the respondents were identified and selected. Finally, it concluded with a discussion of the procedure of data collection and how it was analyzed.

3.2 Research Philosophical Foundation

In social science, paradigms play an essential role in research methods. This term has been developed by Kuhn (1962) in his book “The Structure of Scientific Revolutions”. He was the first scholar to popularize the paradigm concept as a method used to summarize researchers’ beliefs about their efforts in knowledge formation (Hall, 2012; Morgan, 2007). In the literature, research paradigm has at least four meanings as; a worldview, an epistemological stance, a shared belief, and a model example of research. However, all these versions of meanings considered paradigm as “a shared belief system that influences the kinds of knowledge researchers seek and how they interpret the evidence they collect” (Morgan, 2007).

In line with that, Creswell and Clark (2007) refer to paradigm as a worldview and they identify it as “a basic set of beliefs that guides action” (Creswell, 2007), while

Lincoln and Guba (2013) called them paradigms and Burrell and Morgan (1979) named them as epistemologies and ontologies. According to those authors, the philosophy of social science affords different assumptions involving standards that offer paradigms or worldviews, which consist of stances on different philosophical beliefs and assumptions.

Consistent with that, scholars (Burrell & Morgan, 1979; Creswell & Clark, 2007) noted that, within assumptions about human knowledge, there are three philosophical levels of any social phenomena. The first level is the epistemological belief; which refers to assumptions about knowledge, what constitutes acceptable, valid and legitimate knowledge, and how we can communicate knowledge to others. The second is ontological beliefs; which refers to assumptions about the nature of reality and the very essence of the investigated phenomena. The third level is the methodological beliefs; which refers to assumptions about the ways the researcher's procedures guide the research process. In addition to these philosophical levels, Saunders, Thornhill, and Lewis (2016) added another level called axiology beliefs, which refers to assumptions about the function of values and ethics within the research process. This includes assumptions about how researchers deal with both their own and research participants' values.

However, by using these philosophical levels, Creswell and Clark (2007) identified four commonly agreed research worldviews or paradigms; postpositivism, constructivism, transformativism and pragmatism. Of these, only constructivism is seen to be compatible with qualitative research (Creswell, 2007). Postpositivism is identified with quantitative research, while the last two are suitable for the mixed methods research (Hall, 2012). Indeed, each method signifies a different paradigm for constructing claims about knowledge and its assumptions differ significantly.

In spite of that, Bryman (2012) and Saunders et al. (2016) noted that the aim of quantitative research is to measure the relationship between variables based on consistencies and patterns in a statistical and systematic manner. Therefore, it emphasizes on quantification in the data collection and analysis, which involves a deductive approach to the connection between theory and research and all that stands on the objectivist assumption.

Meanwhile, the focus of a qualitative study is to understand the complex world of social understanding, experience and conduct from the point of view of those who are involved in the situation of interest (Krauss, 2005). Therefore, it emphasizes on words rather than quantifications in the data collection and analysis, which mainly underlines an inductive approach to the relationship between theory and research, in which the emphasis is placed on the generation of theories, and all that stands on the subjectivist assumption (Bryman, 2012; Saunders et al., 2016).

Overall, scholars (Bryman, 2012; Creswell, 2007; Creswell & Clark, 2007; Lincoln & Guba, 2013) concluded that to choose one of the three main methods used in social science; quantitative, qualitative method or mixing them is to rely on the philosophical beliefs and assumptions underlying the nature of the undertaken study. In view of that, the philosophical belief of this research is to identify concepts, principles and practices of negotiation from the Islamic point of view. As such, this study was predicated more on the social constructivism worldview and the qualitative approach. That is because, according to Creswell (2009), the qualitative method is useful when the concept or phenomenon needs to be understood due to little prior research attention, which is the merit of the qualitative approach.

In the constructivism paradigm, researchers seek to understand the world from their participants' life and work experiences, because it is believed that the best way to understand any phenomenon is to view it in its context (Creswell, 2009; Krauss, 2005). The constructivism approach suggests that the categories and concepts of an analysis arise from the researcher's interaction within the field and questions about the data (Bryman, 2012; Saunders et al., 2016). Krauss (2005) stated that many qualitative researchers noted that the notion of the constructivism paradigm as a coherent belief system is different from other paradigms in the three main philosophical elements; ontology, epistemology, and methodology.

Constructivism ontology is based on a relativistic concept that suggests there are numerous realities constructed by individuals who experience a phenomenon of interest (Guba & Lincoln, 1994; Krauss, 2005). In other words, the reality is that social construction emerges from the perspective of human beings. Therefore, the constructions are not more or less true. Meanwhile, the epistemology of the constructivist paradigm is transactional and subjectivist. To elaborate more, the researcher and the purpose of research are presumed to be interactively connected. As a result, the study findings are accurately generated as the study proceeds. In line with that, Creswell (2009) specified that participants develop subjective meanings from their experiences. That is because they attempt to understand the phenomenon of interest from their life and work experiences. In view of that, this paradigm takes the epistemological position that the knower and the known are co-created during the study (Krauss, 2005).

The constructivism methodology is founded as a hermeneutical and dialectical method. In this view, Guba and Lincoln (1994) elaborated that individual constructions can be developed only through interactions between researchers and

participants. Hence, these constructions are construed using hermeneutical methods, and are distinguished through a dialectical reciprocity. All of these are for the purpose of filtering a consensus structure that is more informed and refined from any previous constructions. Table 3.1 below summarizes the basic philosophical elements that identify this research paradigm.

Table 3.1

Summary of the Philosophical Elements of Constructivism Paradigm

Philosophical elements	Constructivism Paradigm
<ul style="list-style-type: none"> • Ontology 	<ul style="list-style-type: none"> • Relativism; reality is constructed by participants and researcher
<ul style="list-style-type: none"> • Epistemology 	<ul style="list-style-type: none"> • Subjective; "passionate participant" as facilitator of multi-voice reconstruction
<ul style="list-style-type: none"> • Methodology 	<ul style="list-style-type: none"> • Hermeneutic/dialectic methodology designed at the reconstruction of previously held constructions
<ul style="list-style-type: none"> • Theoretical Approach 	<ul style="list-style-type: none"> • Inductive; theory evolves from close participation
<ul style="list-style-type: none"> • Aims 	<ul style="list-style-type: none"> • Understand the process of how the interpretation occurs and the rules and principles governing it.

Source: Adapted from (Guba & Lincoln, 1994)

Generally, this research is exploratory in nature, therefore the use of the qualitative method is considered suitable in attaining its objectives. The qualitative method was used because it is highly effective and it is the best approach in the field of communication in order to explore every day social phenomena in a way other

methods do not (Keyton, 2015). In particular, it is a suitable method for identifying a new perspective of knowledge, such as the Islamic perspective of negotiation. The constructivism worldview is therefore appropriate in studying and exploring this new perspective of negotiation from the angle of Islamic organisations. It offers understanding into how the negotiation could be conducted from the Islamic view, and provides a serious discussion that leads to improving the observed insufficiency of the existent literature. Without a doubt, the constructivism paradigm can generate better knowledge regarding negotiation framework within the context of Islamic organisations.

3.3 Research Design

A research design is very important in conducting any research work. According to Creswell (2012), research design is a process and steps used to conduct, analyze and report information to increase the understanding of the research issue. There are many types of research design, and each has its benefits, while using any of the methods depends on the research problem, objectives and hypotheses. Consequently, Yin (2011) identified research design as a logical blueprint which involves linking the research questions, the data collection and the analysis process, while the choice of research design should be in line with the aims of the research.

The aim of the present research is to explore the notion of negotiation from the Islamic perspective and to develop a *Shariah*-compliant negotiation model. Thus, it requires a comprehensive analysis of *Shariah*-compliant negotiation principles and practices. Hence, the use of multiple analysis strategies is crucial for this research. However, in selecting a research design, the researcher followed Ahmad (2010)

postulation that the qualitative approach is the proper method for this kind of study. The choice of qualitative research is because “it explicates within the realism and constructivism paradigms, as social reality can be understood through probing into deeper understanding rather than examining surface features” (Ahmad, 2010). Therefore, this study employs the qualitative research approach via in-depth, face-to-face interviews in answering the research questions.

3.4 In-depth Interview

This study seeks to explore the concept of negotiation in Islam and extricate principles that will help frame the *Shariah*-compliant negotiation. Therefore, this study employed qualitative methods, through the in-depth interview, in exploring and providing a deeper understanding of the philosophy of *Shariah*-compliant negotiation. It is a technique that involves conducting intensive individual interviews with a small number of respondents to explore their perspectives on a particular idea in a rich and detailed form (Baxter & babbie, 2004; Boyce & Neale, 2006; Wimmer & Dominick, 2003).

However, in-depth interviews are useful and appropriate when the researcher wants detailed and in-depth information about what an interviewee thinks and feels about a phenomenon (Baxter & babbie, 2004; Boyce & Neale, 2006). Moreover, Keyton (2015) further argued that the in-depth interview gives a researcher the opportunity to learn about phenomena that cannot be directly observed, or when not much has been researched. Thus, to the best understanding of the researcher, the philosophy and the concepts of *Shariah*-compliant negotiation have not received significant attention. Consequently, this study used the in-depth interview as an approach to generate an exhaustive understanding of the interviewees’ experiences and thoughts about the principles and practices of the *Shariah*-compliant negotiation.

3.4.1 Sample Design

Qualitative research designs require sampling strategies to guide the researcher on how to choose participants (Jensen, 2012). Therefore, this study used the purposive sampling technique in selecting the interviewees. Purposive sampling is a technique which involves drawing on the basis of the purpose of the study, where specific persons or contents meet specific criteria on what the researcher wants to gain in-depth understanding or information on (Keyton, 2015; Treadwell, 2014). This sampling technique fits the present research because the purpose of the study is to gather, know, and gain an understanding of the holistic view of *Shariah*-compliant negotiation principles and its practices in the Islamic organizations. The purposively selected persons were those with background knowledge of the related phenomenon. These people include experts such as *Muftis*, academicians, Islamic finance practitioners and *Shariah* board members of selected Islamic banks.

The first purposive group of experts chosen for interview consisted of three *Muftis* from three different states in Malaysia. Meanwhile, academicians were the second purposively selected group of experts as the study interviewees based on the following standards;

- i. The interviewee must be a lecturer in Islamic Banking and Finance.
- ii. The interviewee must be a lecturer in International Islamic University Malaysia (IIUM), the International *Shariah* Research Academy for Islamic Finance (ISRA) or the International Centre for Education in Islamic Finance (INCEIF)
- iii. The interviewee must be willing to participate in an interview session of this study.

The third group of experts are the practitioners who were purposively chosen from three Islamic corporate banks in Malaysia. This group of experts was selected according to the following criteria;

- i. The interviewee must be the person in charge and be responsible for negotiation on behalf of his organization.
- ii. The interviewee must be the person who has the authorization to make decisions for his organization.
- iii. The interviewee must be willing and able to be part of this study.

The fourth group of experts are scholars chosen from the *Shariah* board or management of selected Islamic corporate banks. However, given these criteria, which were all met in this research, the Informants of each group of experts were chosen due to the following reasons;

- i. They are believed to have the most valid and reliable data which contribute to the substantial understanding of negotiation from the Islamic perspective.
- ii. The accessibility and approachability of the Informants for the study.

Finally, in determining the sample size for a qualitative research, Guest, Bunce, and Johnson (2006), after reviewing numerous works about how many interviews are enough, reported that for most research whose aim is to know and understand shared views and experiences among a group of reasonably consistent individuals, 12 interviews should be sufficient. Given that, 20 Informants constituted the sample size of this research, and that is believed to be adequate for this type of study. According to qualitative researchers (Creswell, 2014; Fusch & Ness, 2015; Guest et al., 2006; Morse, 1995; O'reilly & Parker, 2013), the number of informants is determined when

the researcher reaches the saturation point in the inquiry. That occurs or is achieved when the ability to get additional new information has been attained, and when further coding is no longer possible. Thus, the main key in conducting qualitative research is the insistent effort to attain saturation (Boyce & Neale, 2006; Creswell, 2014; Morse, 1995). Bearing this in mind, the researcher was persistent in interviewing the informants until he was satisfied that a saturation point was reached. As such, interviews were conducted with the different informants, and stopped when the same information kept on repeating what was already said. That was when the researcher recognized that a saturation point had been reached.

3.4.2 Data Collection

In qualitative research, interview is one of the most prominent data collection methods (Flick, 2007). As noted by Punch (2014) and Bryman (2012), it is a very good technique to gain access to people's perceptions, meanings and thoughts about a particular issue. Also, it is a powerful way to gain other people's understanding. Therefore, for this study, the researcher conducted face-to-face interviews to collect the research data.

In line with the above quest, this study used the semi-structured interview (open-ended questions) to allow the interviewees to provide as much detailed information about their experiences as possible. Also, the semi-structured interview was used to explore the understanding of people without imposing any prior classification which may limit the area of inquiry (Punch, 2014). It also allows the researcher time to establish a relationship with the participant and to deal with any questions or anxieties the interviewee may have (Treadwell, 2014).

However, the interview protocol (see Appendix B) was designed and followed in the conduct of interviews during the fieldwork. The interview questions were flexible enough to allow for adjustment if there is a need during and after the interviews. Accordingly, Keyton (2015) argued that some questions should be more precise or minimally flexible, while other questions should be more flexible to allow the interviewee to have a chance to move around within the topic.

The participants for this research were informed about the purpose of the study before the beginning of each interview. The researcher gave them the letter of consent for participation in research activities with the basic information about the thesis; research objectives, significance of the study and conceptual definition of the main terms of the research. The researcher also assured the participants of the confidentiality of information gathered from the interviews so as to have honest and objective responses from them (see Appendix A).

The interviews were held between May and September 2015, and the average interview duration was more than 30 minutes. During the interview, the researcher used a digital voice recorder to record all the responses. Notes were also taken to compliment the voice recording. Finally, the researcher was very flexible during the period of the interview, and the flexibility of the researcher persuaded the Informants regarding their willingness and openness to share information that contributed to the objective of the study.

3.4.3 Data Analysis

The thematic data analysis technique was used to analyse the interview data. The researcher followed Creswell (2012) guidelines in carrying out data analysis.

However, qualitative computer data analysis software (NVivo 8) was employed to facilitate the data analysis process; storing, sorting, coding, analysing and preparing the representation of the data as indicated in Figure 3.1 below.

The data analysis was systematically carried out in stages. The first stage began with transcribing the interview records. Subsequently, the interview transcriptions were read and re-read in order to enable the researcher has an in-depth understanding of the data. As such, every time the interview transcriptions were read, it gave the researcher richer information that directed the pattern in which the coding emerged. The second stage involved importing the data into the NVivo 8 software for coding. Coding is a crucial aspect of qualitative data analysis. It is one of the essential steps used during data analysis to form and make sense of the data (Basit, 2003). Accordingly, every relevant part of the transcribed data was coded based on the adopted three coding stages; open, axial and selected (Corbin & Strauss, 1990).

The next stage; coding or the classification stage, involved the researcher repeatedly grouping and re-grouping the coded themes so as to merge similar themes together and separate unique themes as independent factors. At the end of this stage, the various concepts and terms that formed the fundamental units of the analysis were developed and arranged under appropriate themes. As a result, the thematic analysis of the data produced four themes, which are (1) the concept of negotiation from the Islamic perspective, (2) the principles of the *Shariah*-compliant negotiation, (3) the practice of *Shariah*-compliant negotiation in the Islamic organization, and (4) perception of *Shariah*-compliant and conventional negotiation practices.

The next stage was the axial coding in which the researcher steadily reviewed the initial themes that were coded in the previous stage. Corbin and Strauss (1990) view axial coding as the process of gathering the data together in new ways by making connections between categories. In other words, in this stage, the researcher collected and arranged the data in a way that drives attention to the connections between the themes, sub-themes and sub sub-themes after the open coding. This relationship or the connection of the themes categories were examined based on the contexts and the Informants' experiences.

Lastly, the final coding stage adopted is selective coding. Corbin and Strauss (1990) identified this stage as the process by which all categories are systematically unified around a fundamental category and filling in categories that need further refinement and development. In this final stage, the researcher completed the data analysis after selecting the core concepts that emerged from the coded data through open and axial coding, and four main themes were identified and structured.

At the end of coding, the first theme generated three sub-themes and eight sub-sub-themes. The second theme produced six sub-themes and fifteen sub-sub-themes. Meanwhile, theme three generated two sub-themes and eight sub-sub-themes. Lastly, theme four produced two sub-themes and ten sub-sub-themes. Thus, throughout the process, the researcher was able to systematically analyse the data based on the research objectives.

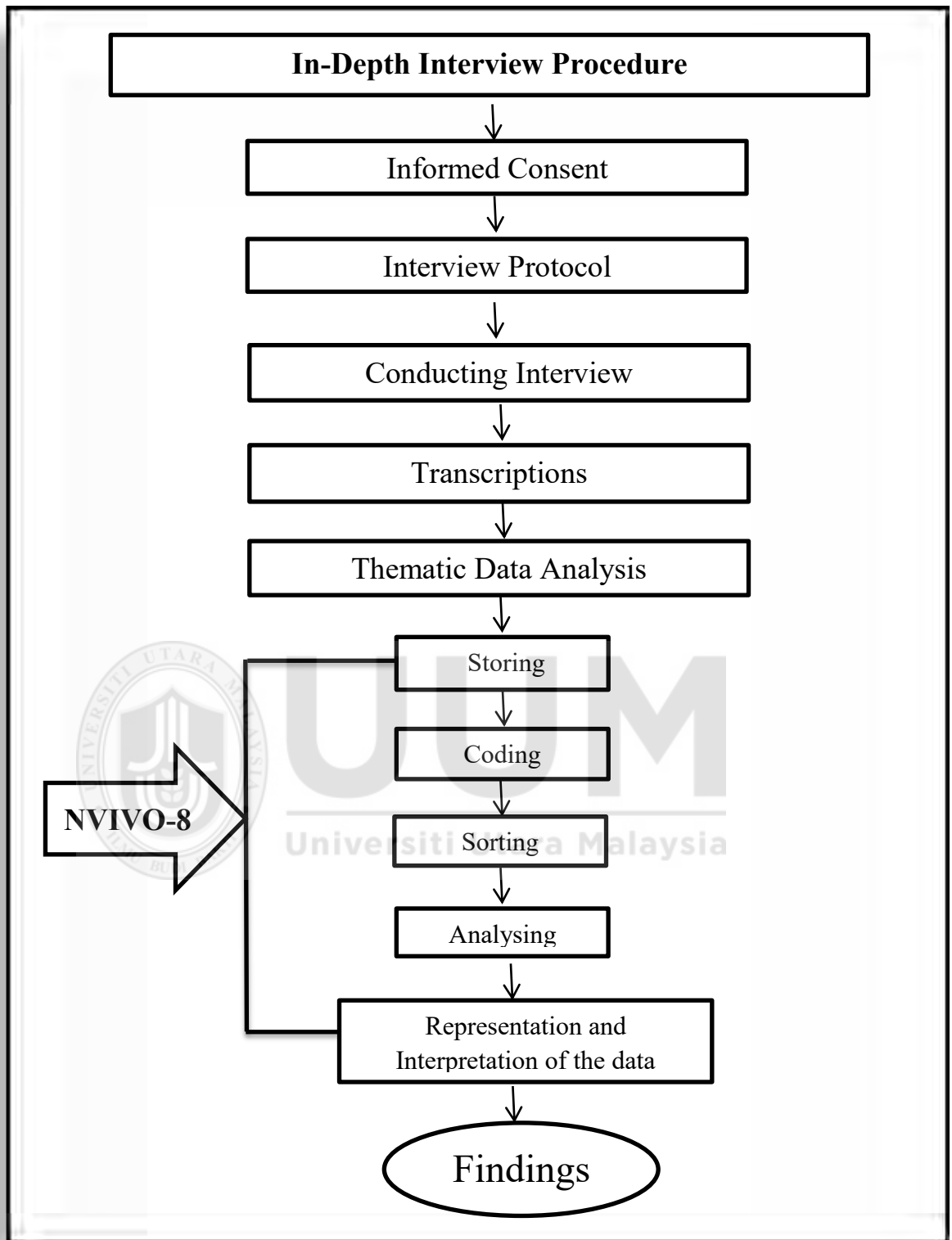


Figure 3.1. In-depth interview procedure

3.4.4 Validation of the Data

After the discussion of the qualitative data analysis process of this research, this section presents the strategies that the researcher used to validate the data quality. Validating the data means that “the researchers used strategies to ensure the accuracy and credibility of the findings as part of the analysis process” (Clark & Creswell, 2015, p. 364). Regarding the validation in qualitative studies, many perspectives exist in the literature (Creswell, 2007). Some of these perspectives review the qualitative validation from the eyes of quantitative, while others argue that validity is often believed to be in association with quantitative studies (Golafshani, 2003).

However, most qualitative scholars (Creswell, 2007; Creswell & Miller, 2000; Golafshani, 2003; Lincoln & Guba, 2013; Yin, 2011) believe that qualitative inquiry also involves the need for emerged findings from the data analysis process to be accurate and credible in representation of the gathered data, and that is what represents the validity and reliability of the data in quantitative research. But then again, many constructivist researchers have however preferred to use distinct terminology to differentiate themselves from the positivist paradigm. As a result, other terms were developed to verify the data quality. These include trustworthiness and dependability (Clark & Creswell, 2015).

Trustworthiness confirms whether the results and interpretations can be trusted and whether it is an outcome of a systematic process (Lincoln & Guba, 2013). In other words, it ensures that the researcher used an appropriate data analysis process. Therefore, scholars (Creswell, 2007; Creswell & Miller, 2000; Golafshani, 2003; Lincoln & Guba, 2013; Yin, 2011) specified several strategies to validate the data that emphasize the nature of the qualitative data analysis process and qualitative findings.

These include triangulations, member checks, audit trails, comparison and others.

In this study, triangulation of sources was used as a technique to validate the research data and findings. According to Creswell and Miller (2000), this technique is “a validity procedure where researchers search for convergence among multiple and different sources of information to form themes or categories in a study” (p126). In line with this definition, Lincoln and Guba (2013) stated that this trustworthiness procedure refers to producing data concerning a subject matter from multiple sources of the same type, in order to determine whether different sources provide different information. Thus, any type of data collection technique which asks the same question about a topic from different informants is a triangulation of sources.

This trustworthiness criterion was used at all possible times during the data collection process. Indeed, all the way through the study, triangulation was considered a vital stand for the study to be accepted and deemed valid. 20 informants from four different expert groups were the source of information for this research. The study informants’ perceptions and experiences were verified against others in order to produce a rich understanding of the Islamic principles and practices of negotiation. Their perceptions and experiences on negotiation formed the gathered data and subsequent themes which were constructed on their basis. The developed themes were cross-checked from the data gathered to ensure that all the data were true and accurate. In view of that, Creswell (2009) clarified that if themes are developed based on converging different sources of data of different participants’ views, the procedure can be formally claimed as adding to the validation of the study. The details of the findings are presented in the next chapter.

The second term used to refer to data validation for qualitative research is dependability. Lincoln and Guba (1985) specified that since there can be no validity

without reliability also in qualitative paradigm, credibility is associated with dependability. For that reason, Golafshani (2003) noted that to ensure dependability in qualitative research, consideration of trustworthiness is very crucial. Indeed, it can be used to examine the consistency of both the process and the data of the research.

Dependability, from the constructivist perspective, is concerned with the stability of data (Guba, 1981), and it ensures that the same data is constant under parallel settings (Neuman, 2014). However, in addressing the dependability issue more directly, Shenton (2004) recommended that the procedures of the process and the data of the study should be described in detail, in a way to enable future researchers duplicate the study, though not necessarily getting similar findings. This may be accomplished through the use of several techniques such as overlap methods, stepwise replication, audit trail, peer debriefing, and thick or rich description (Clark & Creswell, 2015; Creswell & Miller, 2000; Guba, 1981; Lincoln & Guba, 1985). In this research, two techniques have been used during the study to ensure dependability. These are audit trail and peer debriefing.

In a qualitative study, establishing an audit trail involves the researcher asking an external researcher to conduct an audit or evaluation of the procedures used in the study (Clark & Creswell, 2015). According to Creswell and Miller (2000), this technique is often used in formal studies such as dissertations. It is deployed in order to verify the research process through keeping a study log of all procedures, detailing the development of data collection chronology and recording data analysis procedures clearly.

In tandem with this technique, Dr. Mohd Khairie Ahmad served as the external auditor of the research procedures and general interpretations, which emerged from

the findings. He is a senior lecturer at the Communication department in Universiti Utara Malaysia. He was chosen to perform the audit because he has adequate knowledge of both qualitative analysis techniques and Islamic communication studies. He significantly contributed to the completion of the study process through his vital role as an external auditor. He evaluated the study in two steps; first, he reviewed it chapter by chapter then he evaluated the whole procedure of the research. Finally, in his oral report to the researcher, he asserted that the themes were justified by the data as well as the findings and interpretations from the emergent themes, which were logical.

The second technique conducted to ensure dependability is peer review or debriefing. It is a review of the data and research process by a person who is familiar with the study or the understudied phenomenon (Clark & Creswell, 2015; Lincoln & Guba, 1985). Lincoln and Guba (1985) also certified that a peer reviewer plays an essential role because he/she challenges the researcher's assumptions and always thrusts the researcher to the next step by requesting answers and justifications for procedures and interpretations. Accordingly, this study used peer review in order to gain insights into the evaluation of the procedures followed, and to provide support for the entire study's method consistency.

In consonance with this technique, Mr. Adisa Rasaq Muhammed was chosen as an external researcher to review the data and research procedures. He was a PhD researcher at the Communication department in Universiti Utara Malaysia. He reviewed different aspects of the research, especially the issues concerning the data collection and analysis, and at the end, he reported the strengths and weaknesses of the whole process. Overall, Creswell and Miller (2000) concluded that through the

process of evaluation and review of the thesis by an external auditor and a peer review, the study procedures become dependable and credible.

3.5 Ethical Considerations

Prior to the commencement of the interviews, verbal consent was obtained from all participants. Moreover, before the interviews began, the participants were informed about the nature of the study and each Informant was provided with a research information sheet which explained the objectives and the significance of the research and the conceptual definition of main terms of the study along with a consent form, which was signed by them. All these actions assured the interviewees of the confidentiality of their participation in the study. The researcher guarantees the confidentiality of all the interviewees and their organizations. Therefore, the information and the collected data will be kept confidential at all times. Also, no participant will be identified by name, nor will their organization be identified at any time, before or during the study. The interviewees were also informed that they have the right to withdraw from the study at any time by just informing the researcher of such intentions.

3.6 Chapter Summary

This chapter adopted the qualitative approach due to its suitability in an explorative and interpretivist research such as this study (Baxter & babbie, 2004; Boyce & Neale, 2006). Therefore, the chapter follows the process of qualitative design as explained in detail above. In view of that, the study employed semi-structured face-to-face in-depth interview and the chosen respondents were all associated with selected Islamic organizations. Overall, 20 Informants from different groups of experts were interviewed to explore their experience and perceptions about the principles and practices of *Shariah*-compliant negotiation.

CHAPTER FOUR

DATA ANALYSIS AND RESULTS

4.1 Introduction

This chapter presents the process of data analysis of this study, which is based on the data collected from the 20 in-depth interviews conducted. The interviews were conducted between May and September 2015. The main aim of this chapter is to analyse the study themes in order to bring out the meaning and the understanding of the *Shariah*-compliant negotiation principles. This is the main significant contribution of this study, and it may possibly be the first study that directly seeks to determine the principles of the *Shariah*-compliant negotiation, and with a design model. As such, the findings, which are based on the Informants' views are thematically analysed and presented below.

4.2 Respondents' Background

In line with the main aim of this study, which is to develop a *Shariah*-Compliant Negotiation Model, twenty Informants from four expert groups (*Muftis*, Academician, Practitioners and Islamic Banks Managers) formed the total population of this research. This study focuses on the Islamic organizations, therefore the Islamic Finance and banking organizations were chosen as samples. This is because the sector is fast developing and witnessing great attention from Muslim and non-Muslims organizations as stated in the first chapter.

However, conducting interviews with various experts groups in the Islamic organizations is essential as this study seeks to gain a broader understanding of the *Shariah*-compliant negotiation concepts. The first expert group consisted of three

Muftis from three different states in Malaysia. The second group consisted of three Islamic Institutes; International Islamic University Malaysia (IIUM), International *Shariah* Research Academy for Islamic Finance (ISRA), and International Centre for Education in Islamic Finance (INCEIF). Finally, the third and the fourth group of experts were from three Islamic banks in Malaysia. Indeed, the different standpoints of respondents was fundamental as it gave a critical understanding of diverse perceptions. Table 4.1 provides Informants' profiles for the appreciation of the background of the participants of the study.

Table 4.1

Informant's background Information

Experts Groups	Informants	Type of Organization	Role
<i>Muftis</i>	Informant M1	<i>Mufti</i> Department	<i>Mufti</i>
	Informant M2	<i>Mufti</i> Department	<i>Mufti</i>
	Informant M3	<i>Mufti</i> Department	<i>Mufti</i>
Bank's <i>Shariah</i> Division	Informant SD1	Islamic Bank	<i>Shariah</i> Board Member, Expert in <i>Shariah</i> and Islamic Finance and Banking
	Informant SD2	Islamic Bank	Director of <i>Shariah</i> Board, Expert in <i>Shariah</i> and Islamic Finance and Banking
	Informant SD3	Islamic Bank	Vice President, Expert in <i>Shariah</i> and Islamic Studies
	Informant SD4	Islamic Bank	Deputy Manager, Expert in <i>Shariah</i> and Islamic Finance and Banking

Table 4.1 Continued

	Informant A1	Islamic Finance and Banking Institution	Head of the Program (Expert in Islamic Finance and Banking)
	Informant A2	Islamic Finance and Banking Institution	Special Assistant to the Rector, Expert in Islamic Legal Studies
	Informant A3	Islamic Finance and Banking Institution	Lecturer, Expert in Islamic Legal Studies
	Informant A4	Islamic Finance and Banking Institution	Lecturer, Expert in Islamic Finance and Banking
Academician	Informant A5	Islamic Finance and Banking Institution	Lecturer, Expert in <i>Muamalat</i> (Islamic Assets Jurisprudence)
	Informant A6	Islamic Finance and Banking Institution	Lecturer, Expert in <i>Fiqh</i> (Islamic Jurisprudence)
	Informant A7	Islamic Finance and Banking Institution	Lecturer, Expert in <i>Usul Fiqh & Muamalat</i>
	Informant A8	Islamic Finance and Banking Institution	Lecturer, Expert in Islamic Marketing/ Finance
	Informant A9	Islamic Finance and Banking Institution	Lecturer, Expert in Islamic Finance and Banking
	Informant A10	Islamic Finance and Banking Institution	Lecturer, Expert in Islamic Finance & <i>Usul Fiqh</i>
Practitioner	Informant P1	Islamic Bank Officer	Marketing Officer
	Informant P2	Islamic Bank Officer	Vice President, Marketing/Treasury
	Informant P3	Islamic Bank Officer	Manager, Corporate Communications

Source: Developed from the study data

4.3 Analysis of the Interviews

As discussed in the previous chapter, in-depth interview was the appropriate method to collect the data for this research. Therefore, the researcher used thematic data analysis technique in analysing the interview data. In general, the interviewees of this study were asked about their viewpoint and understanding of the principles and the practices of negotiation from the Islamic perspective. The study themes were generated and developed from the verbatim narration of the interviews.

Themes are implicit attributes, elements, and concepts that form a group of repeating ideas to enable researchers answer the research question. (Vaismoradi, Jones, Turunen, & Snelgrove, 2016). Additionally, Braun and Clarke (2006) noted that a theme characterizes some level of patterned meaning within the gathered data and it captures some patterns or attributes which are important about the data in relation to the research question. Therefore, the emerged themes from this study are counted as the ideas or perceptions that are found to have explained negotiation from the Islamic perspective, while also answering the study questions.

In view of that, themes for each of the research questions were developed through reading and re-reading of the transcribed materials using thematic analytic techniques. This technique is a process used by most, if not all, qualitative methods in order to develop the themes and formalize their identification (Thomas & Harden, 2008). Therefore, it is appropriate, as the purpose of this study is to explore the Islamic principles of negotiation and develop the concepts and model of the *Shariah*-compliant negotiation.

Therefore, in order to achieve the objectives of this study, the researcher followed Creswell (2012) analytical guidelines in analysing the interview data. In doing this, the interview data were transcribed, followed by spending extensive time reading the transcribed interviews. This approach ensured that each transcribed interview was read severally. Every time the data was read, it gave the researcher a clear understanding of the information and also informed the arrangement from which the coding emerged.

After that, the transcribed materials were sorted under different arrangements and themes. In that direction, Yin (2011) recommended grouping and re-grouping the themes until a satisfactory result is achieved. After that came the stage of grouping the different data which fall under similar concepts. Lastly, the transcripts were classified under the developed and the identified themes. All these stages were facilitated by using NVivo 8 qualitative analysis software. Finally, the data was processed through the audit trail procedure to establish research conformability. In mediating the audit process, the researcher followed Lincoln and Guba (1985) suggestions by providing six categories of information that the external audit needed to have;

- 1) Raw data,
- 2) Data reduction and analysis notes,
- 3) Data reconstruction and synthesis products,
- 4) Process notes,
- 5) Materials related to objectives and natures, and
- 6) Preliminary development information.

Indeed, through reviewing these information categories, the auditor can evaluate whether the findings are grounded in the right data, and whether interpretations are consistent. Accordingly, the findings of this study were evaluated by audit trail (see Chapter 3) and they have been certified to be logical and coherent. However, consistent with the processes mentioned above, Figure 4.1 below depicts the main themes and sub-themes of the related factors for the *Shariah*-compliant negotiation principles and practices, which satisfied the objectives of this research.

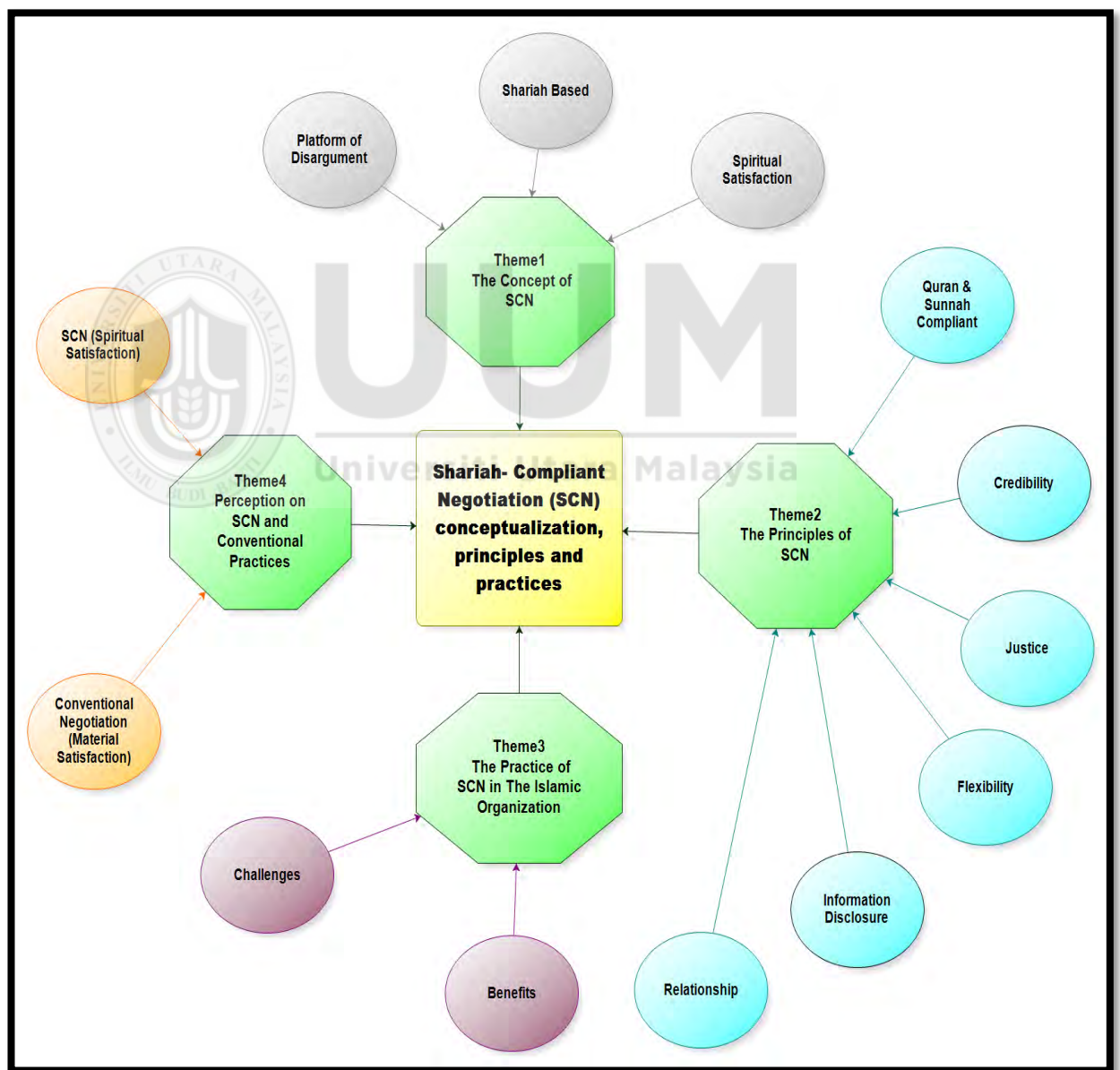


Figure 4.1. Main themes and sub-themes of the *Shariah*-compliant negotiation

4.4 Theme one: The Concept of Negotiation in Islam

The exploration of the *Shariah*-compliant negotiation concept in this study recommends a number of general negotiation principles in Islam. Based on the result, negotiation in Islam was found to be not just a give and take process. It is an interactive process which provides a platform for disagreements between two parties or more within the *Shariah* teachings to obtain spiritual satisfaction. Therefore, the following three sub-themes emerged as the main keys to identify the concept of negotiation in Islam as indicated in Figure 4.2.

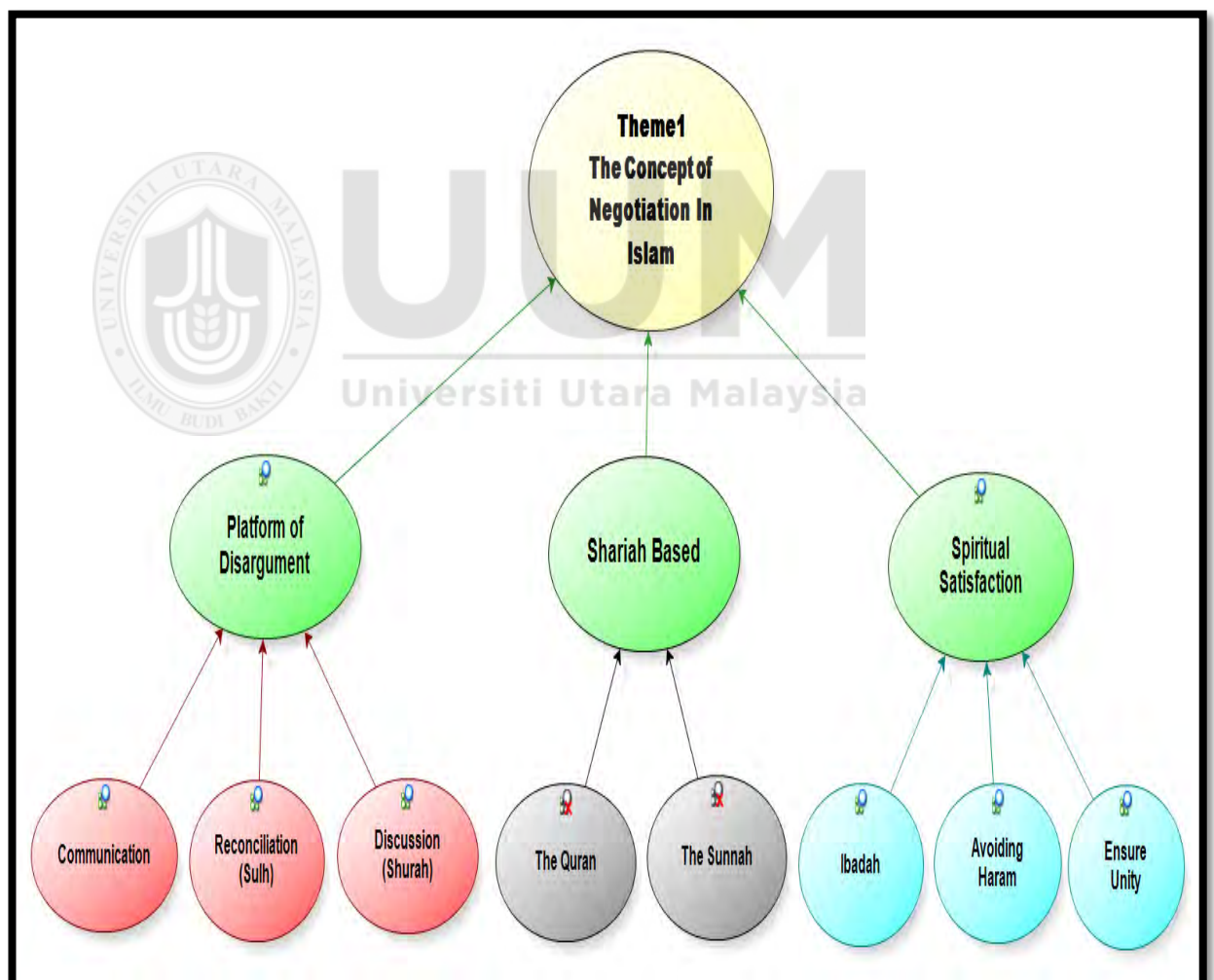


Figure 4.2. Theme one: The concept of negotiation in Islam

4.4.1 Platform of Disagreements

The evidence from the data of this study showed that all the Informants viewed negotiation as a very vital daily activity that human beings need to get what they want peacefully. Their responses emphasized three specific concepts of the *Shariah*-compliant negotiation platforms that Islamic organizations use to conduct negotiations. These concepts are presented in Figure 4.3 below.

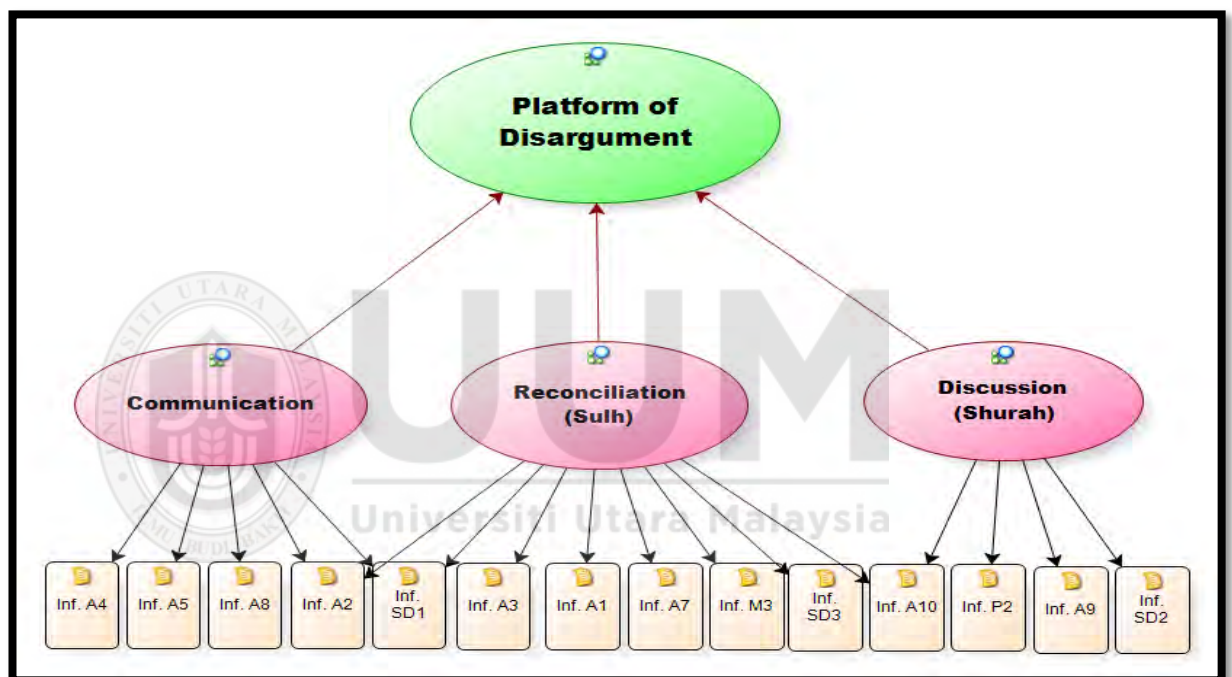


Figure 4.3. The *Shariah*-compliant negotiation arguments platforms

4.4.1.1 Reconciliation (*Sulh*)

As identified by the Informants, reconciliation (*Sulh*) is the most common concept Muslims use as a platform to conduct negotiations. That is because, according to Informant A10, “based on my humble reading of the *Qur’an* and *Sunnah* the term usually used to describe negotiation in The *Qur’an* is “*Sulh*”. This claim was confirmed by Informants A2, A7 and SD4.

In fact, the *Qur'an* uses the term “*Sulh*” to refer to negotiations. In order to explain this concept, Informant A7 argued that; “Islam comes with the Arabic language, so the first thing that we should understand when Islam talks is that we should understand it in the way Arabs understood it. We cannot depart from that meaning unless we have evidence” (Informant A7).

The term *Sulh* has a long history within Arab and Islamic societies and has its origins in the pre-Islamic Arabian period. The word “*Sulh*” is derived from the word “*Saluha*” or “*Salaha*”, which means to be good, right, proper, suitable, usable, practicable, and serviceable (Wehr, 1976). This term literally means negotiation, conciliation, mediation, arbitration, reconciliation, amicable settlement and compromise (Abdul Malik & Muda, 2015). In general, it means settling disputes and bringing goodness, righteousness, affection, harmony and peace (Wahed, 2015). For that reason, according to Informants A7 and A2, it is the preferred result and process of management of any form of dispute to achieve agreed terms or settlement outside of court.

Islam encourages every Muslim to practice “*Sulh*” (reconciliation) in a state of disagreement in order to restore peace, affection, harmony, and understanding between parties. Informants A7, A1, A2, and A3 discussed the permissibility and the validity of this concept in Islam. They supported their view by bringing evidences from the most primary source of Islamic references, the *Qur'an*, where the concept was confirmed. For instance, Allah (SWT) says in Surah Al-Nisa;

“There is no good in most of their secret talks save (in) him who orders *Sadaqah* (charity in Allah’s Cause), or Ma'rûf (Islamic Monotheism and all the good and righteous deeds which Allah has ordained), or conciliation between mankind, and he who does this, seeking the good Pleasure of Allah, We shall give him a great reward.” (The Noble *Qur'an*, 4:114, p 129)

In *Tafsir* the above verse, Ibn Kathir (2003) explained the verse by an authentic *Hadith* from the *Sunnah* when Prophet Muhammad (PBUH) asked his companions; “Should I tell you what is better than the grade of fasting, praying and Sadaqah?” They said, “Yes, O Allah's Messenger!” He said, “Bringing reconciliation between people” (Ibn Kathir, 2003).

In another verse, Allah affirmed that; “...and reconciliation is better. And human inner-selves are swayed by greed. But if you do well and keep away from evil, verily, Allah is Ever Well Acquainted with what you do” (The Noble *Qur'an*, 4:128, p 131).

Additionally, in Surah Al-Anfal; Allah (SWT) says;

“They ask you (O Muhammad SAW) about the spoils of war. Say: "The spoils are for Allah and the Messenger." So fear Allah and adjust all matters of difference among you, and obey Allah and His Messenger (Muhammad SAW), if you are believers.” (The Noble *Qur'an*, 8:1, p 231)

Concerning the *Tafsir* of this verse, Ibn Kathir (2003) clarified that the verse orders, to have *Taqwa* of Allah (SWT) in all your affairs, such as in settling matters of differences between each other, and do not dispute or differ.

From the verses of the *Qur'an* that were quoted above, Informants A7, A1, A2, and A3 confirmed and recommended the use of “*Sulh*” as a means of solving any kind of disagreements. In line with the *Qur'anic* injunction, Informants SD1, SD3 and A7 affirmed that the *Sunnah* of the Prophet (PBUH) has supported the application of *Sulh* as a means of resolution of disputes for Muslims.

Several *Hadiths* have also justified the need for *Sulh* as a reconciliation mechanism. For instance, Kathir bin Amr bin Awf Al-Muzani narrated from his father, from his grandfather, that the Messenger of Allah (PBUH) said:

“Reconciliation is allowed among the Muslims, except for reconciliation that makes the lawful unlawful, or the unlawful lawful. And the Muslims will be held to their conditions, except the conditions that make the lawful unlawful, or the unlawful lawful.” (Al-Tirmidhi, 1933, *hadith* 1352)

In another *Hadith*, the Prophet Muhammad (PBUH) stated that the rewards are waiting for those who establish *Sulh* between people. Narrated by Abu Huraira, Allah's Apostle said:

“There is a *Sadaqah* to be given for every joint of the human body; and for every day on which the sun rises there is a reward of a *Sadaqah* (i.e. charitable gift) for the one who establishes justice among people.” (Imam Al-Bukhari, 2009, Book 49, Number 870, p 619)

Practically, *Sulh* is the preferred platform of the Prophet (PBUH). In this vein, an Informant affirmed that Prophet Muhammad (PBUH) even missed the Assar prayer because of his quest for making the *Sulh* between two trips. This narration shows a very strong justification for the importance of establishing the concept of *Sulh* among people (Informant A7).

In a similar development, the Prophet Muhammad (PBUH) himself resorted to *Sulh* in many situations and occasions. For example, The Prophet (PBUH) once heard that the people of Quba fought with each other till they drew stones on each other. When Allah's Apostle was informed of the incident, He said: “Let us go to bring about reconciliation between them” Narrated by Sahl bin Sad (Imam Al-Bukhari, 2009, Book 49, Number 858, p 616).

This *Sulh* platform was also the preferred method to conduct negotiations by all the Prophets (peace be upon them). Informants SD1 and SD3 stated that negotiation was employed throughout the history of the Prophethood, and it has been captured in different stages in the history and stories of the *Qur'an*. Examples are the negotiation

between Ibrahim (PBUH) and his father and that between Noah (PBUH) and his son. In summary, all the Prophets (PBUT) engaged in negotiations in inviting their people to the way of Allah.

This study also found that the concept of *Sulh* encompasses all facets of human life. This argument was further stressed by the interviewees based on their understanding and experience as scholars. They argued that the concept of “*Sulh*” was mentioned in the *Qur’an* in three levels; individual, social and political (Informants A10, A2 and M3).

1- Individual (Family) level: In Surah A-Nisa, Allah (SWT) talks about *Hakam* (mediator) and affirmed that the *Sulh* is better. That is the best approach to solve family disputes.

“If you fear a breach between them twain (the man and his wife), appoint (two) arbitrators, one from his family and the other from hers; if they both wish for peace, Allah will cause their reconciliation. Indeed, Allah is Ever All Knower, Well Acquainted with all things.” (The Noble *Qur’an*, 4:35, p 133)

Also, in another verse Allah (SWT) says;

“And if a woman fears cruelty or desertion on her husband's part, there is no sin on them both if they make terms of peace between themselves; and reconciliation is better. And human inner-selves are swayed by greed. But if you do well and keep away from evil, verily, Allah is Ever Well Acquainted with what you do.” (The Noble *Qur’an*, 4:128, p 131).

2- Social level: In Surah Al-Hujuraat, Allah (SWT) says;

“And if two parties or groups among the believers fall to fighting, then make peace between them both, but if one of them rebels against the other, then fight you (all) against the one that rebels till it complies with the Command of Allah; then if it complies, then make reconciliation between them justly, and be equitable. Verily! Allah loves those who are equitable.” (The Noble *Qur’an*, 49:9, p 699)

Allah (SWT) also says in the next verse; “The believers are nothing else than brothers (in Islamic religion). So make reconciliation between your brothers, and fear Allah, that you may receive mercy”(The Noble *Qur’an*, 49: 10, p 699).

3- Political level: In Surah Al-Anfal, Allah (SWT) says;

“They ask you (O Muhammad SAW) about the spoils of war. Say: "The spoils are for Allah and the Messenger." So fear Allah and adjust all matters of difference among you, and obey Allah and His Messenger (Muhammad SAW), if you are believers.” (The Noble *Qur’an*, 8:1, p 231).

These verses of the *Qur’an* and *Hadiths* from the *Sunnah* that were quoted above prove that Islam authorizes and encourages all means of peaceful settlement such as *Sulh* (reconciliation).

4.4.1.2 Discussion and Consultation (*Shura*)

The concept of *Shura* (Discussion and Consultation) emerged from the Informants as one of the preferred platforms for negotiations. This concept was the second sub-sub-theme repeatedly stated by the Informants SD2, P2, A9, and A10. *Shura* according to Wehr (1976) is an Arabic word that means Consultation or Deliberation. In other words, it is the process of decision- making by consultation and deliberation. The concept of *Shura* was further buttressed as a viable instrument for negotiation as thus;

“I have heard about the word “*Shura*”, it is more in the consultation basis before you come to a certain decision... So, my understanding of negotiation is that you are discussing a subject matter and by having that discussion you are able to come to a better decision” (Informant A9).

In a related assertion, Informant A10 further elaborated the typologies or levels of *Shura*. He noted that the concept (*Shura*) is a very important term in negotiation. It is a

foundation of negotiation, and in the *Qur'an*, the term *Shura* is used on three levels; family, social, and political levels (informant A10).

At the family level, Allah (SWT) says in Surah Al-Baqara:

“...No mother shall be treated unfairly on account of her child, nor father on account of his child. And on the (father's) heir is incumbent the like of that (which was incumbent on the father). If they both decide on weaning, by mutual consent, and after due consultation, there is no sin on them.” (The Noble *Qur'an*, 2: 233, p 51)

At the social level, Allah (SWT) in Surah Ash-Shura says;

“And those who answer the Call of their Lord [i.e. to believe that He is the only One Lord (Allah), and to worship none but Him Alone], and perform As-Salât (Iqâmat-as-Salât), and who (conduct) their affairs by mutual consultation, and who spend of what We have bestowed on them.” (The Noble *Qur'an*, 42: 38, p 658)

And at the political level, when Allah (SWT) says;

“And by the Mercy of Allah, you dealt with them gently. And had you been severe and harsh hearted, they would have broken away from you; so pass over (their faults), and ask (Allah's) Forgiveness for them; and consult them in the affairs. Then when you have taken a decision, put your trust in Allah, certainly, Allah loves those who put their trust (in Him).” (The Noble *Qur'an*, 3: 159, p 97)

These three verses illustrated that the platform of consultation or discussion is not restricted only to the political issues, but it is also meant for family and social life. Additionally, the principle of consultation is based on matters relating to the affairs of the Muslims which are not identified in the *Shariah*. Therefore, *Shura* is all encompassing of all facets of human life, from individual to social and political relationships. Hence, the concept of *Shura* is fundamental to negotiation (Informant A10). It is to be noted here that the Muslim *Ummah* needs to imbibe the culture of *Shura* in all facets of life, as it has been found to be in conformity with Islamic doctrines.

4.4.1.3 Communication Means

Beside *Sulh* and *Shura*, the concept of “Communication” was the last sub-sub-theme that emerged from thematic analysis of the transcribed interviews. Categorically, Informants A5, A8, and A4 saw “communication” as a platform for negotiations. Specifically, Informant A4 pointed that, “*Shariah*-compliant negotiation is a means to communicate to each other in order to achieve a common goal that will be of benefit to the parties involved, meaning that negotiation is a means of communication”.

Undoubtedly, the main purpose of revealing the Holy Books and sending the Prophets by Allah (SWT) is to convey a message and to call mankind to the Right Way. Therefore, Islam gives much importance to the means of communication, and provides different basic practices which amply associate with communication such as negotiations. For that reason, Informant SD1 considered this concept as a form of dialogue or a means of communication to facilitate agreement on the terms of reference which include rights, obligations and accountability.

According to Mahmoud (2002), Islam is a communication-based religion as it encourages negotiation and consultation among the elite of the *Ummah*; the *Ulama*' (scholars). Therefore, Informant A5 stated that the Holy *Qur'an* and *Sunnah* are full of stories of negotiations based on the communication platform. The story of the Prophet Ibrahim's (PBUH) communication with Namrud and the negotiation between Prophet Musa (PBUH) and Fir'awn in several chapters of the *Qur'an* are instructive examples.

In the same vein, an Informant further explained from the *Sunnah* as thus;

“If we go into the *Sunnah* the famous story is the *Al-Hudaybiyyah* Treaty. Then, there was a daily communication or negotiation between the Prophet (PBUH), his Companions and non-Muslims. Even if we look at *Al-Qur'an* itself, we will see how Allah (SWT), despite His almighty power, negotiates and communicates with people” (Informant A5).

From the above quotations, it can be understood that the Holy *Qur'an* and *Sunnah* guides the way of life of man in the right direction, and one of the important basis for the guidance is negotiation through communication in our daily activities. Thus, Islam gives much importance to communication as a means of achieving effective negotiation.

4.4.2 *Shariah* Basis

Shariah is an Arabic word which means the revealed or canonical law of Islam (Wehr, 1976). It is an Islamic law that covers not only religious rituals, but all aspects of day-to-day life in Islam. *Shariah* is the standard and rules of conduct for all facets of life. It governs the specific norms of good and bad, goodness and evil (Abdul Rahim, 2013). Given this conceptualization of *Shariah* by previous scholars, the Informants of this study confirmed *Shariah* principles as the main pillar of exploring the *Shariah*-compliant negotiation concept as revealed below;

“The *Shariah*-compliant negotiation is a negotiation between willing parties within the ambiance of the teachings of Islam. It must be in line with the Islamic principles and based on the *Qur'an* and *Sunnah*” (Informant A3). Similarly, an Informant stated that; “In *Shariah*-compliant negotiation, you must follow the *Shariah* rules when you negotiate. This means that you cannot do something when the *Shariah* does not allow it. This is my understanding in general of the term: *Shariah*-compliant negotiation” (Informant P1).

To corroborate the opinions above, another Informant opined that; “*Shariah*-compliant negotiation is negotiating something by using the *Shariah* principles” (Informant SD2). Meanwhile, another Informant supported the assertion of *Shariah*

principles of negotiation as thus, “Negotiation from the Islamic perspective must follow the *Shariah* principles” (Informant A8). These statements clearly show that *Shariah* basis is an instrument of negotiation as was repeatedly opined by Informants as the main sub-theme in the *Shariah*-compliant negotiation concept. They also obviously supported the concept that Islam is a complete way of life, and provides understanding and guidance on all aspects of life. This is justified by the *Qur’anic* verse where Allah (SWT) says; “...This day, I have perfected your religion for you, completed My Favour upon you, and have chosen for you Islam as your religion” (The Noble *Qur’an*, 5:3, p 141- 142). In *Tafsir* of this verse, Ibn Kathir (2003) stated that this verse declares that Islam has been perfected for Muslims. This is why Allah (SWT) made Muhammad (PBUH) the final Prophet and sent him to all humans and Jinn.

However, the concept of negotiation has been vividly explained in Islam. The Islamic position on negotiation has further allowed Informants to examine the concept and address it within the framework of the *Shariah*. However, the main objective of the *Shariah* is to provide and protect good (*Masalih*) and remove evil (*Mafasid*). In order to achieve *Shariah* compliance, certain conditions (*Hudud*) has been prescribed by Allah (SWT), which are imposed on mankind to prevent them from following their own wishes and desires (Abdul Rahim, 2013). Informant A1, in his explanation of the concept of *Shariah*-compliant negotiation, emphasized the boundaries of the *Shariah* as a framework for adoption in negotiation among the Muslim *Ummah* as revealed below;

“Basically, for me, it is the negotiation which is in line with the Islamic principles and values ... And what is important is that they are negotiating within the *Hudud* (boundaries) of Allah (SWT)” (Informant A1).

To recap, *Shariah* is Islamic law, and it is based on the teachings of the Holy *Qur'an* and the traditions (*Sunnah*) of the Prophet Muhammad (PBUH). Therefore, all Informants put emphasis on these two authentic Islamic sources to bring out the principles of the *Shariah* concept of negotiation as identified in Figure 4.4 below. In this regard, Informant A10 considered the *Qur'an* and *Sunnah* as the facts, and these facts are stated based on events. Hence, from the events we derive *Ibar* (lessons), and the lessons help us to generate the principles.

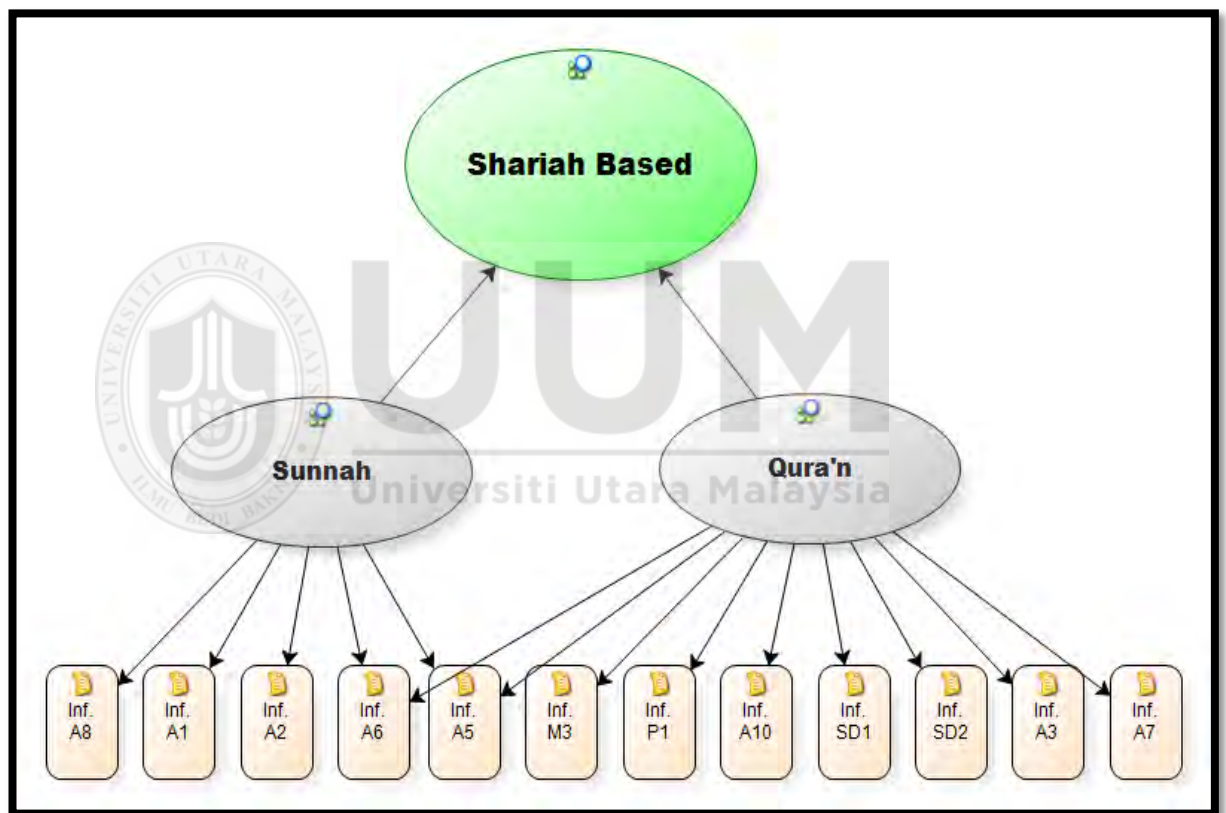


Figure 4.4. The *Shariah*-compliant negotiation sources

4.4.2.1 The Holy *Qur'an*

The Holy *Qur'an* is the primary source of the *Shariah*. It is the most significant source from Allah (SWT) to mankind as guidance for human living and activities. The *Qur'an* is an unadulterated scripture that directs our daily spiritual and social lives. Muslims believe that it is preserved by Allah (SWT) as stated in Surah Al-Hijr.

He says; “Verily We: It is We Who have sent down the Dhikr (i.e. the *Qur’an*) and surely, We will guard it (from corruption)” (The Noble *Qur’an*, 15:9, p 339). In *Tafsir* this verse, Ibn Kathir (2003) refer to verse 48 from Surah Al-Maeda; “...So judge between them by what Allah has revealed,...” The verse orders Prophet Muhammad to Rule between the all people (Arabs and non-Arabs, lettered and unlettered) by what Allah (SWT) has revealed to you in this Glorious Book *Qur’an*.

To confirm the authenticity of the *Qur’an* and its guidance, Allah (SWT) further in Surah An-Nisa says; “Do they not then consider the *Qur’an* carefully? Had it been from other than Allah, they would surely have found therein much contradiction.” (The Noble *Qur’an*, 4:82, p 124) concerning this verse, *Tafsir* Ibn Kathir (2003) clarified that, Allah (SWT) commands to contemplate about the *Qur’an* and forbids ignoring it, not only that, also forbids ignoring its wise meanings. Therefore, Allah (SWT) states that there are no inconsistencies, contradictions, conflicting statements or discrepancies in the *Qur’an*. Indeed, the Holy *Qur’an* is true because it is a revelation from the Most-Wise, Worthy of all praise (SWT).

In view of that, Muslims believes that the Holy *Qur’an* is Allah’s message to all mankind irrespective of race, colour, ethnicity or denomination. It is through the *Qur’an* that Allah (SWT) communicates to Mankind how to live their lives successfully in this world and the Hereafter. Therefore, Muslims believe that Islam is the perfect way of life and the Holy *Qur’an* is a comprehensive code of conduct for all of mankind. The *Qur’an* contains a universal message for all mankind across time and space. Consequently, in the context of this study, Informants referred to the Holy *Qur’an* as the expounder of the concepts and principles of the *Shariah*-compliant negotiation. Informant A5 stated that the *Qur’an* mentions some principles on how to

negotiate and how to communicate with each other. Moreover, Informant A6 further explained and provided examples of negotiations in the *Qur'an*. He said;

Of course, the *Qur'an* has many forms of negotiations, some of which happened even between Allah (SWT) and his angels and between the Prophets (PBUT) and their people. I will refer to one or two of them in this context. The negotiation was between Allah (SWT) and His angels when Allah (SWT) wanted to send a caliph/successor to the world. The angels negotiated with Allah (SWT) and replied; “why do you want to send humans as your caliph, as they could be fighting...So, this is a form of negotiation (Informant A6).

Informant SD2 also disclosed that the concept of negotiation can be found in the *Qur'an*, and if we look at the *Qur'an* we will find a complete Surah called Surah “*Al-Mujadillah*” which is an Arabic word which means “argument”, “dispute”, “discussion” and “debate” (Wehr, 1976). Besides the confirmation by the *Qur'an*, all the prophets (PBUT) negotiated with their communities. As for Prophet Nuh (PBUH), Allah (SWT) says in Surah Nuh; “He said: “O my Lord! Verily, I have called my people night and day”(The Noble *Qur'an*, 71:05, p 787). In another verse from Surah Hud, Nuh (PBUH) also negotiated with his son to believe in Allah;

“...and Nooh (Noah) called out to his son, who had separated himself (apart), "O my son! Embark with us and be not with the disbelievers. The son replied: "I will betake myself to a mountain, it will save me from the water." Nuh (Noah) said: "This day there is no saviour from the Decree of Allah except him on whom He has mercy." And a wave came in between them, so he (the son) was among the drowned”. (The Noble *Qur'an*, 11; 42 & 43, p 192)

Concerning the Tafsir of this verse, Ibn Kathir (2003) stated that it is about the story of the drowning of Nuh's (PBUH) disbelieving son. Yet, in a similar development, the *Qur'an* has exemplified many instances of negotiation between Musa (PBUH) and Fir'aawn. In this regard, Informant A5 argued that there are several verses in the *Qur'an* about negotiations between Musa and Fir'aawn. All Informants further noted that the *Qur'an* has laid down some general principles that can be learned from those

stories. Therefore, Muslims can deduct from the stories told in the *Qur'an* about negotiation in the past and deployed them for use in current times. From the above, it is evident that the *Qur'anic* principles of negotiation have been interpreted in theme two. Thus, the principles that are stated in *Qur'an* about negotiation can serve as guidance and a main Islamic source that explains the principles and practices of *Shariah*-compliant negotiation.

4.4.2.2 The *Sunnah*

Muslims are mandated to see Prophet Muhammad (PBUH) as a role model. This assertion further means that the sayings, acts and practice (*Sunnah*) of the Prophet Muhammad (PBUH) is the second source of all Islamic doctrines. *Sunnah* is an Arabic word which means habitual practice, customary procedure, action or norms. The *Sunnah* of the Prophet means; his sayings and doings which were later established as legally binding precedents (Wehr, 1976). Similarly, according to (Al-Muala, 2007), *Sunnah* means; everything that has been related from the Messenger of Allah (PBUH), such as his statements, actions, tacit approvals, personality, physical description, or biography. It does not matter whether the information being related refers to an issue which pre-dates the beginning of his prophetic mission, or after it (Al-Muala, 2007).

However, from the beginning of the creation of man, Allah (SWT) has always sent Prophets and Messengers as special guides for mankind, and they should be followed as leaders to ensure success in this world and the hereafter. Allah (SWT) confirms this in the following verse;

“We said: "Get down all of you from this place (the Paradise), then whenever there comes to you Guidance from Me, and whoever follows My Guidance, there shall be no fear on them, nor shall they grieve”. (The Noble *Qur'an*, 2:38, p 9)

In *Tafsir* this verse, Ibn Kathir (2003) noted that in this verse Allah (SWT) stated that when He (SWT) sent Adam, Hawwa, and Satan to earth from Paradise, He (SWT) warned them that He (SWT) will reveal Books and send Prophets and Messengers to them (to their children). So, whoever accepts what is contained in My Books and what I send the Messengers with, there shall be no fear on them (Ibn Kathir, 2003).

In view of that, Muslims believe that Prophet Muhammad (PBUH) is the last of the Prophets. He received the final guidance from Allah (SWT), which is the Holy *Qur'an*, to serve as basic principles for all of mankind till the end of time. This claim is justified from the *Qur'an*, as Allah (SWT) says; “Muhammad (PBUH) is not the father of any man among you, but he is the Messenger of Allah and the last (end) of the Prophets. And Allah is Ever All Aware of everything” (The Noble *Qur'an*, 33:40, p 567).

Muslims also believe that Muhammad (PBUH) was a role model and Allah (SWT) had sent him as a mercy to humanity. Surah Al-Anbiya confirms his prophetic qualities when Allah (SWT) says; “And We have sent you (O Muhammad SAW) not but as a mercy for the 'Alamin (mankind, jinns and all that exists)” (The Noble *Qur'an*, 21:107, p 441). Many Islamic scholars argued that even the *Sunnah* is revelation from Allah (SWT) to His Prophet, and they justified their claim from this verse; “...but remember Allah’s Favours on you (i.e. Islam), and that which He has sent down to you of the Book (i.e. the *Qur'an*) and Al-Hikmah (the Prophet's *Sunnah* - legal ways - Islamic jurisprudence, etc.)” (The Noble *Qur'an*, 2:231, p 50-51).

It is very clear from these verses that Allah (SWT) revealed to His Messenger (PBUH) both the *Qur'an* and the *Sunnah* and that He instructed him to convey both to the entire humanity. Similarly, Al-Muala (2007) noted that the great jurist Al-Shafi’i said: “God mentions the Book, which is the *Qur'an*. I have heard from people

who I consider authorities on the *Qur'an* that the Wisdom is the *Sunnah* of Allah's (SWT) Messenger".

The Prophetic *hadiths* also confirmed the fact that the *Sunnah* is revelation. Al-Muala (2007) stated that the views or attitudes of the Prophet (PBUH) on any matter were not just his own opinions or thoughts; they were what Allah (SWT) revealed to him. For that reason, the Prophet (PBUH) was different from other people, as he was supported by revelation. Therefore, Allah (SWT) orders the believers to obey His Messenger as stated in many *Qur'anic* verses as presented below;

“And obey Allah and the Messenger (Muhammad PBUH and fear Allah. Then if you turn away, you should know that it is Our Messenger's duty to convey (the Message) in the clearest way”. (The Noble *Qur'an*, 5:92, p 163)

Similarly, another verse of the *Qur'an* observed that; “He who obeys the Messenger (Muhammad SAW), has indeed obeyed Allah, but he who turns away, then we have not sent you (O Muhammad PBUH) as a watcher over them” (The Noble *Qur'an*, 4:80, p 122). Concerning the *Tafsir* of this verses, Ibn Kathir (2003) clarified that these verses state that whoever obeys Allah (SWT) servant and Messenger Muhammad (PBUH), obeys Him (SWT); and whoever disobeys him, disobeys Allah (SWT). That is because verily, whatever the Messenger (PBUH) says is not of his own desire, but a revelation inspired to him.

The above discussion confirmed that the *Sunnah* is the second authentic source of Islamic principles after the Holy *Qur'an*, which Muslims must follow and obey. Therefore, this concept has emerged as the second sub-sub theme for the *Shariah* sources after the *Qur'an* to determine the *Shariah*-compliant negotiations concept and its principles. In line with the discussions above, Informants A4 and A3 argued

that the life of the Prophet (PBUH) portrays a significant example that would drive people to follow his teachings in negotiations. This is because he (PBUH) is the best example to follow, and that is described in the *Qur'an* when Allah (SWT) says;

“Indeed, in the Messenger of Allah (Muhammad SAW) you have a good example to follow for him who hopes in (the Meeting with) Allah and the Last Day and remembers Allah much”. (The Noble *Qur'an*, 33:21, p 565)

Regarding the Tafsir of this verse, Ibn Kathir (2003) specified that this verse is talking about a vital commands, which is following the Messenger of Allah (SWT) in all his sayings, and deeds. Furthermore, Allah (SWT) directed the people to take the Prophet (PBUH) as an example.

Nevertheless, Informants A5 and A6 explained that the *Sunnah* revealed instances where the Prophet (PBUH) engaged in negotiations to begin the *Da'wah* or invite people to Islam. At those times, daily negotiations occurred between the Prophet (PBUH), his companions and non-believers. One famous example is the *Al-Hudaybiyyah* Treaty. As a result, there is no doubt that having the *Qur'an* and the *Sunnah* embedded in the life of Muslims would theoretically and practically guide them to the best way in their life endeavours, including the manner of conducting negotiations. This is because according to Abdul Rahim (2013), both the *Qur'an* and the *Sunnah* of the Prophet Muhammad (PBUH) are called “scriptural morality”. Additionally, the foundational principles of the *Qur'an* and the *Sunnah* are timeless and remain relevant in any given socio-cultural context. Islam, being a way of life, requires that its followers model their life according to its teachings in every aspect (Basharat, 2009). Thus, the conceptualization of the *Shariah*-compliant negotiation should be based on the authentic sources; *Qur'an* and *Sunnah*.

4.4.3 Spiritual Satisfaction

Spiritual Satisfaction was the third sub-theme which emerged from the analysis of this study in determining the concept of negotiation from the Islamic perspective. It has been argued by the Informants that they derived spiritual satisfaction from negotiation based on the Islamic perspective. As illustrated below in Figure 4.5, thematic analysis revealed that the Informants identified three factors, which lead to spiritual satisfaction.

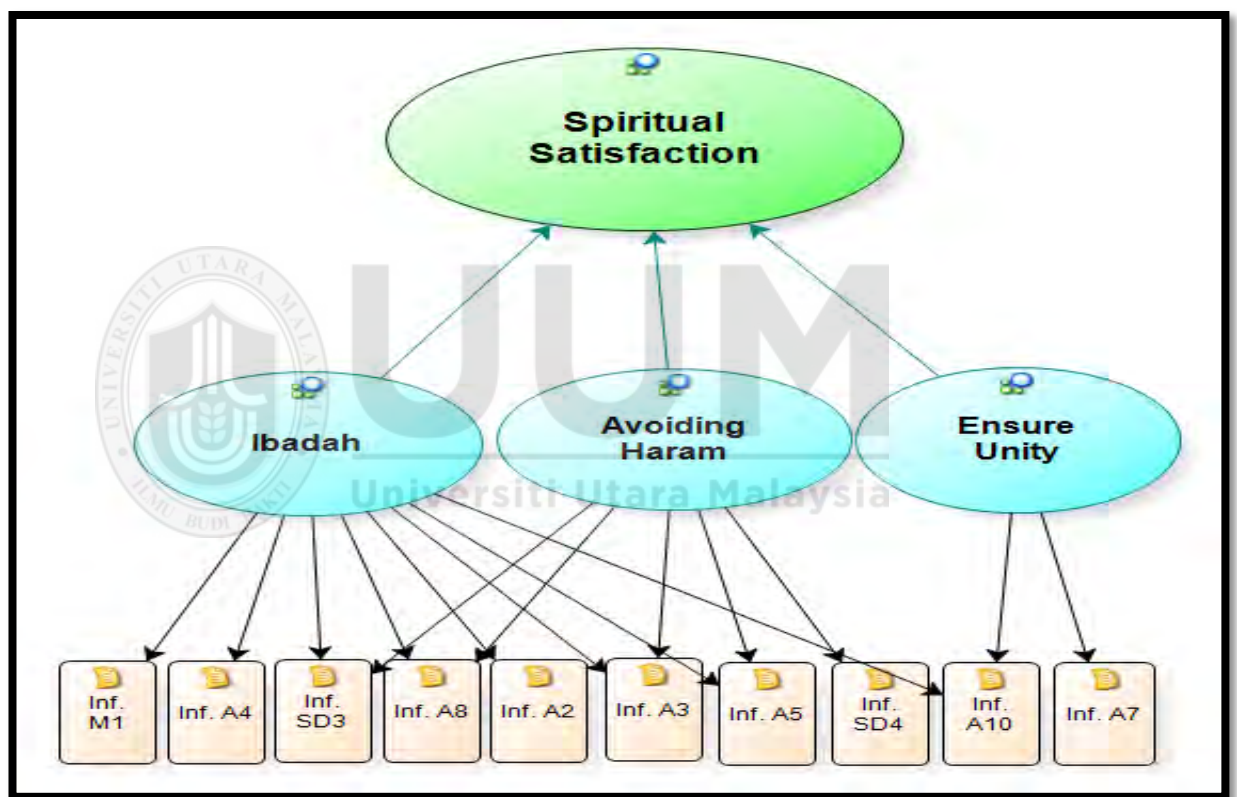


Figure 4.5. The *Shariah*-compliant negotiation outcome factors

4.4.3.1 Ibadah

As identified in this study, the first factor that leads to spiritual satisfaction as an outcome of *Shariah*-compliant negotiation is considering the whole process as an act of *Ibadah*. Islamic scholars define *Ibadah* as a comprehensive term for all that Allah (SWT) loves, including internal and external deeds, of intentions and actions

respectively, of a person (Basharat, 2009). Similarly, Az-Zarqa (1999) said that *Ibadah* in Islam is a means of purification of both man's soul and his daily life. The concept of *Ibadah* is related to its fundamental view that the true foundations of a good life are soundness of belief and thinking, purity of soul, and righteousness of action. However, Basharat (2009) stated that the concept of *Ibadah* in Islam is misinterpreted by many people, including some Muslims. It is commonly described as performing ritualistic acts such as prayers, fasting, charity, etc. However, this understanding of *Ibadah* is only one part of its meaning in Islam.

In summary, *Ibadah* is everything a Muslim says or does for the sake of Allah. These include beliefs as well as social activities, and personal contributions to the welfare of others (Basharat, 2009). Thus, a Muslim who lives for *Ibadah* has fulfilled the purpose of his creation. This is confirmed in Surah Adh-Dhariyat. Allah (SWT) says; "And I (Allah) created not the jinns and humans except they should worship Me (Alone)" (The Noble *Qur'an*, 51:56, p 712). Regarding the Tafsir of this verse, Ibn Kathir (2003) ensured that it is about the purpose of the creation of Jinns and mankind. Allah (SWT) only created them so that He (SWT) orders them to worship Him, not that He (SWT) need them.

In this regard, Muslims are required to submit themselves completely to Allah (SWT). The Holy *Qur'an* stressed further that; "Say (O Muhammad PBUH): "Verily, my Salat (prayer), my sacrifice, my living, and my dying are for Allah, the Lord of the 'Alamin (mankind, jinns and all that exists)" (The Noble *Qur'an*, 6:162, p 199).

From the above injunctions, it can be deduced that *Ibadah* is an essential part of the Islamic religion. It is a motivation factor for every Muslim in achieving spiritual satisfaction. From the above, the concept of *Ibadah* emerged as a main factor that

leads the spiritual satisfaction in the course of negotiations in accordance with Islamic principles. For that reason, Informant A10 argued, “I do practice negotiation, because it is a part of my religion to practice it”. The Informant further discussed, “*Shariah*-compliant negotiations inspire negotiating parties towards obtaining the pleasure of Allah (SWT), and that pleasure has multiplier effects in this world and the Hereafter”. In other words, “we don’t negotiate just to achieve our self-interest, but we do it for the sake of Allah (SWT)” (Informant A10). Consequently, Informant M1 noted that the foundation of the Prophet’s (PBUH) negotiations is the sincerity to negotiate for the sake of Allah (SWT).

Relatedly, Informants A4 and SD1 demonstrated that another importance of the practice of the *Shariah*-compliant negotiation is to promote Islamic rites. Hence, people can see that Islam goes beyond religious rituals but is also an embodiment of social matters. In addition to the above, when we promote the practice of Islamic negotiation, we will derive immense spiritual satisfaction. That is because Allah (SWT) says; “And whosoever honours the Symbols of Allah, then it is truly from the piety of the heart” (The Noble *Qur’an*, 22:32, p 447).

4.4.3.2 Avoiding *Haram*

Al-Qaradawi (1999) in his book “The Lawful and the Prohibited in Islam” confirmed that the first basis, fundamental or principle established by Islam is that anything which Allah has created and the benefits derived from them are basically permissible for the use of man. Nothing is *Haram* except what is prohibited by a sound and explicit *Nas* (either a verse of the *Qur’an* or a clear, authentic, and explicit *Sunnah* of Prophet Muhammad (PBUH)). The Islamic scholars have derived this foundation from the clear verses of the *Qur’an*. For instance, in Surah Luqman Allah says:

“See you not (O men) that Allah has subjected for you whatsoever is in the heavens and whatsoever is in the earth, and has completed and perfected His Graces upon you, (both) apparent (i.e. Islamic Monotheism, and the lawful pleasures of this world, including health, good looks, etc.) and hidden...” (The Noble *Qur'an*, 31:20, p 552)

Indeed, Muslims believe that Allah (SWT) has prohibited only a few things, which are needless and dispensable for human beings, while providing alternatives which are better and which give greater ease and comfort to them. Similarly, Abdul Rahim (2013) argued that Allah (SWT) has clearly mentioned the lawful (*halal*) and the unlawful (*haram*), and virtues and vices. These are called *Hudud* (limits) which Muslims must obey and respect, and disobeying any of these limits amounts to committing a sin. In support of this assertion, the concept and practice of negotiation in Islam was examined by Informant A3 as thus;

When we talk about negotiation in Islam, everything is negotiable excluding the *Haram*. As long as the negotiation is within the Islamic scope, it should be alright. Hence, the negotiation is permissible in Islam as long as you don't negotiate something to make unlawful become lawful or lawful to become unlawful (Informant A3).

In this line of argument, it means that the practice of negotiation based on Islamic teachings by Islamic organizations is an act of avoiding the *Haram*. For instance, “if Islamic banking and finance is to negotiate contracts, it has to avoid *Riba* and *Gharar* and *Haram* projects and investments” (Informants A5 & A8). This is because the purpose of the *Shariah*-compliant negotiation between organizations is to avoid *Haram* and promote *Halal* for the achievement of organizational and individual goals. For this reason, the Informants P2, SD4, A6 and A8 claimed that when Islamic organizations avoid *Haram* dealings, it means they are obeying and observing the *Shariah* in order to achieve spiritual satisfaction at the organizational level.

4.4.3.3 Ensure Unity

Ensuring unity is the third factor that emerged from the analysis of this study in determining the concept of spiritual satisfaction. In Islam, unity is considered as an actual guide to solving the universal human conflict problem. Islam is a means of salvation from all calamities and disputes that trouble human beings (Yassin & Dahalan, 2012). For that reason, Islam is a religion that demands the unity of people, because the human being is the greatest creation. Indeed, Allah (SWT) in Surah Al-Isra confirmed that. He says;

“And indeed We have honoured the Children of Adam, and We have carried them on land and sea, and have provided them with At-Taiyibat (lawful good things), and have preferred them above many of those whom We have created with a marked preference” (The Noble *Qur'an*, 17:70, p 378).

Undoubtedly, Allah (SWT) does not want to see humans go astray and destroy themselves. Therefore, He orders Muslims to obey Him and His Messenger (PBUH) and avoid disputes; “And obey Allah and His Messenger, and do not dispute (with one another) lest you lose courage and your strength depart, and be patient. Surely, Allah is with those who are As-Sabirin (the patient ones, etc.)” (The Noble *Qur'an*, 8:46, p 238). In another *Qur'anic* verse, Allah (SWT) orders His believers, even if they dispute or differ from one another, to always return to what He and His Messenger commands. This is categorically stated in Surah Nisa;

“O you who believe! Obey Allah and obey the Messenger (Muhammad SAW), and those of you (Muslims) who are in authority. (And) if you differ in anything amongst yourselves, refer it to Allah and His Messenger (SAW), if you believe in Allah and in the Last Day. That is better and more suitable for final determination”(The Noble *Qur'an*, 4:59, p 118).

Generally, the aim of the people’s unity is to direct all the ethnic, tribal, and religious differences into a constructive direction. Therefore, Islam emphasizes,

"knowing one another". That means emphasizing the need for Muslims to engender mutual understanding rather than conflict so that no one denies another's rights to life and wealth (Jilani et al., 2012).

However, in this context, Allah (SWT) and His Prophet (PBUH) always emphasize ensuring the unity of the *Ummah*. Thus, the *Qur'an* and the *Sunnah* validate some forms of negotiations in ensuring peaceful co-existence. Unity is a fundamental principle in Islam. That is why Informant A7 argued that "the main objective of *Shariah* is to ensure the unity of the *Ummah* because without unity we will never succeed". He justified that from the *Sunnah* when he argued that one of the reasons the Prophet (PBUH) missed a prayer was when he (PBUH) was making the *Sulh* (negotiation) between two tribes. He (PBUH) missed the Asar prayer because he wanted to ensure the unity of his *Ummah*. This action of the Prophet Muhammad (PBUH) has proven that negotiation is a very fundamental concept. In this vein, an Informant emphasised the importance of negotiation in the present time as thus; "Mankind needs negotiation. It is something that drives society and provides social security and cooperation. So, I would like to say this is something very fundamental that we cannot live without" (Informant A10).

Informant A7 also agreed with the importance of the practice of negotiation in Islam. He said; "Without *Sulh*, life will never be comfortable." Thus, negotiation is something that human beings cannot do without. It engenders unity among the *Ummah* and it closes the page of enmity, if conducted correctly. It further removes doubt from the heart of the members of community when it comes to the organizations' practices.

4.5 Theme Two: The Principles of *Shariah* - Compliant Negotiation (SCN)

The data analysis of this study defined general principles on which *Shariah*-compliant negotiations should be based. Based on the clear claims of the Informants, Muslims or Islamic organizations have to realize those principles and abide by them. Doing this would lead to the accomplishment of best results from their negotiations for terrestrial and celestial benefits. Hence, those fundamental principles of the *Shariah*-compliant negotiation are as stated below in Figure 4.6.

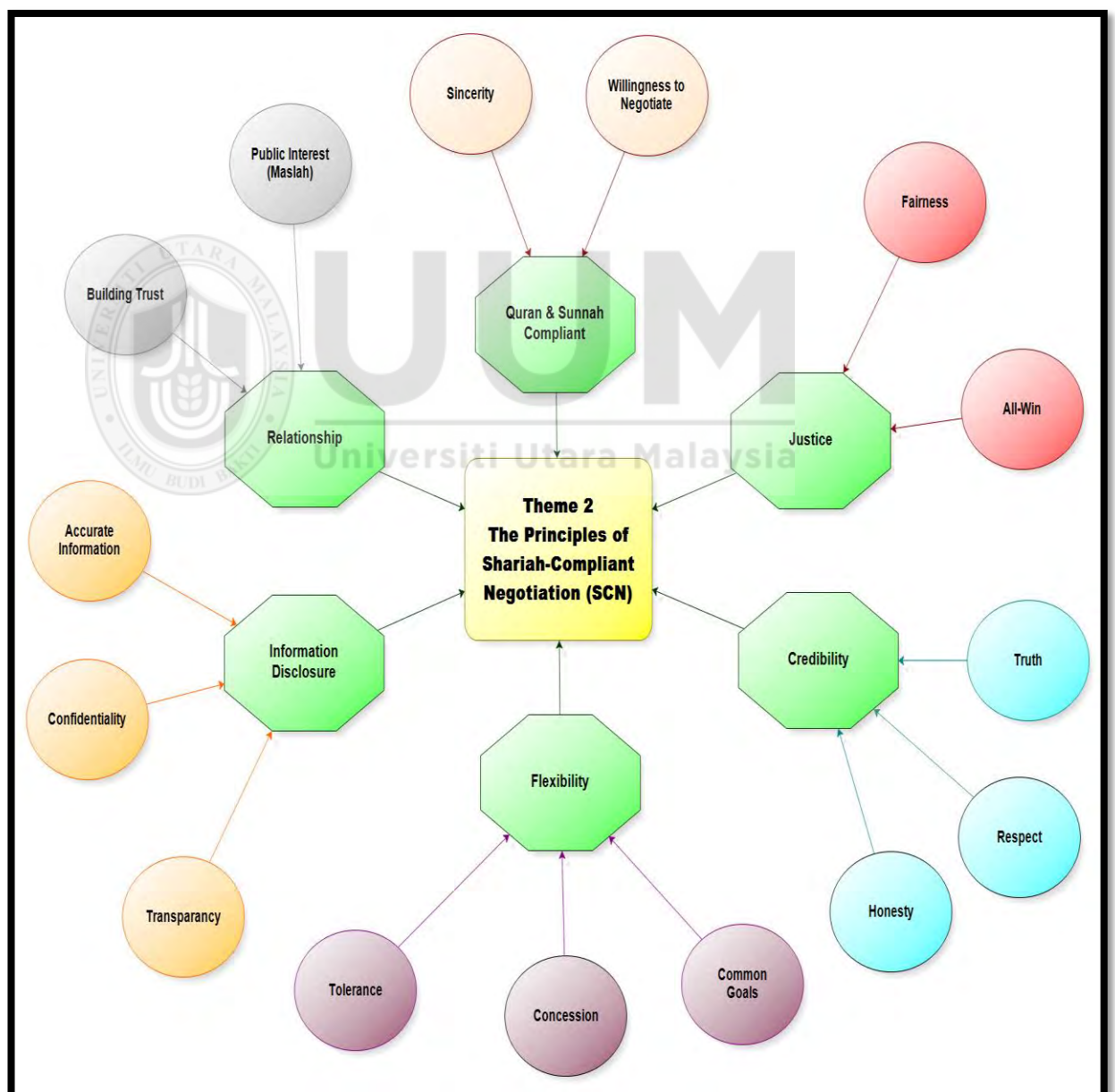


Figure 4.6. Theme Two: The Principles of *Shariah*- Compliant Negotiation (SCN)

4.5.1 The *Qur'an & Sunnah* -Compliant Principle

Informants of this research argued that the *Qur'an & Sunnah* compliance is the main principle of the *Shariah*-compliant negotiation. Informants A2 and SD2 pointed out that the main *Shariah*-compliant negotiation principle, which the conventional one does not have, is *Shariah* compliance itself. You have to make sure that the process, the object and the ultimate settlement are *Shariah*-compliant. In other words, the first principle is that if something is not allowed by *Shariah* law, it cannot be negotiated. So, any act which is *Haram*, prohibited or not *Shariah*-compliant cannot be negotiated from the Islam perspective. Correspondingly, Informant A7 discussed the importance of this principle because the whole process concerns the permissibly or possibility of the negotiation. He said;

By possibility, I mean it has Islamic value and the *Shariah* agrees with this kind of negotiation. If the *Shariah* does not agree with the negotiation content, the negotiation does not proceed at that moment. Here, I mean the legality and the content of the negotiation should be permissible (Informant A7).

The *Qur'an* and *Sunnah* compliance principle is the main pillar of conducting negotiations in Islam. That is because according to Informants M1, A5 and A1, the *Shariah*-compliant negotiation is a type of negotiation that has to agree with the *Shariah* and be within the teachings of Islam. It must be in line with Islamic principles and be based on the *Qur'an* and *Sunnah*. In line with the above, Informant P1 discussed his experience as a practitioner and argued that in the Islamic institutions, the negotiation has to be based on the *Shariah* law and the overall teachings of Islam, so as to have *Shariah*-compliant products. To elaborate, he justified his claim by illustrating with some examples from his experience. He said;

For example, when I was working in an Islamic insurance company, our competitors-the conventional insurance companies-when they go to their client- big clients- to get insurance policies, send their female officers

wearing attractive dresses to close the policies, and sometimes they go to certain clubs or go for drinks. This is very normal for them but we cannot do the same, because as a *Shariah*-compliant company, we cannot do that. It is against our principles (Informant P1).

From a different angle, Informants SD3 and A5 went further by saying that the *Qur'an* and *Sunnah* principle is not just a main pillar of the *Shariah*-compliant negotiation, it should be the main principle guiding the objectives or goals of any Islamic organization. They stressed that; “The *Shariah*-compliant negotiation is a type of negotiation that is designed to achieve a goal that is called *Shariah* compliance” (Informant A5). Therefore, “Whatever thing you discuss, you must concur or agree within the Islamic principles. That is because, when we reach this principle, we reach *Shariah* compliance and that is the goal of the Islamic institution”. (Informant SD3). Nevertheless, the data of this research also shows that this essential principle has two other sub-principles as presented in Figure 4.7 below.

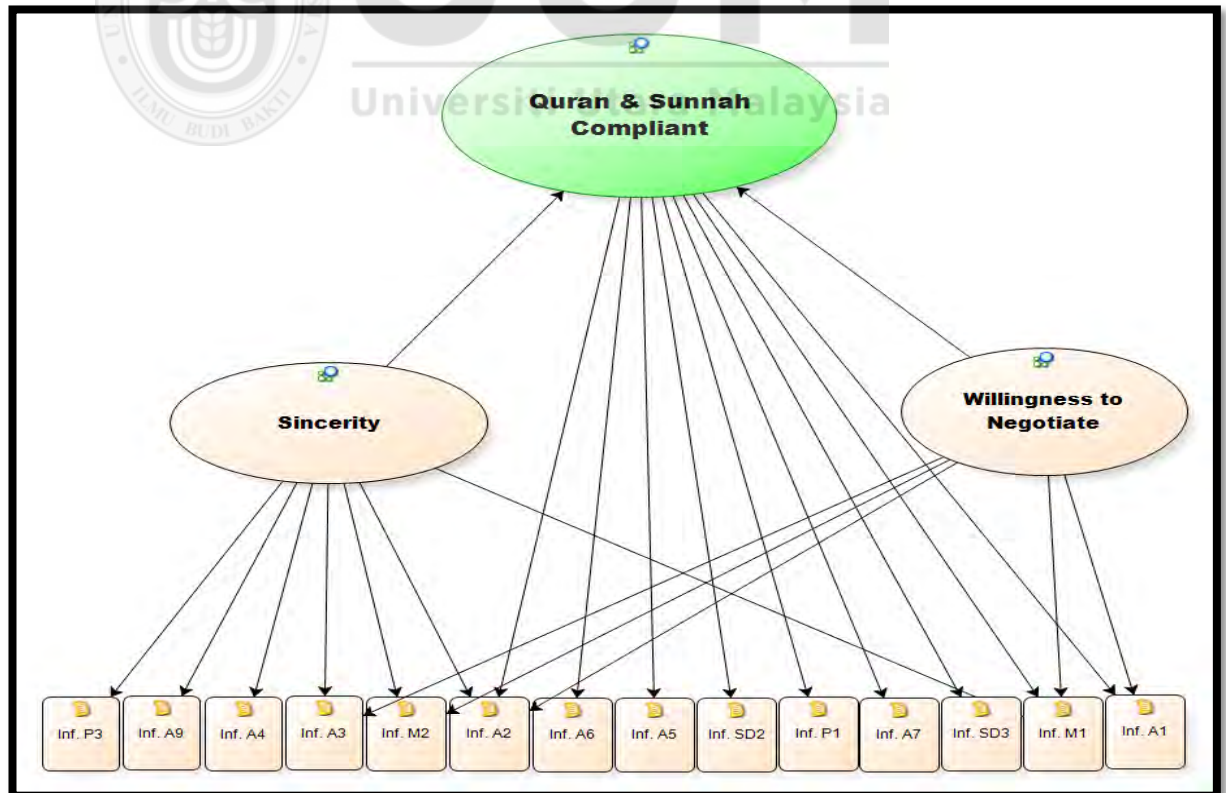


Figure 4.7. *Qur'an* & *Sunnah* compliance principle of the *Shariah*-compliant negotiation

4.5.1.1 Willingness to Negotiate

This sub-principle of negotiation from the Islamic approach recognizes others' rights and freedom of choice to negotiate. People have different schools of thought and so negotiating procedures can be observed differently based on varied understandings. Therefore, Informants M1, M2 and A1 emphasized on this sub-principle. This is because from their stand, negotiation will never be successful if the negotiating parties have been forced to negotiate. Thus, the willingness to negotiate principle has a vital role to play in the success of any negotiation. In this regard, Informant A2 justified this claim from the *Qur'anic* verse 35 from Surah An-Nisa, where Allah (SWT) says; "...If they both wish for peace, Allah will cause their reconciliation. Indeed, Allah is Ever All Knower, Well Acquainted with all things" (The Noble *Qur'an*, 4:35, p 113).

Therefore, negotiation from the Islamic approach confirms that every person or organization is responsible for its own conduct and deeds during and after the negotiation. If they choose to negotiate rightly, Allah (SWT) will grant them success and if they chose to conduct it wrongly, they will harm their own cause. For that reason, the Islamic approach of negotiation maintains that no person is allowed to force others into holding a negotiation. Indeed, the *Shariah*-compliant negotiation is a negotiation between willing parties within the teachings of Islam (Informant A3).

4.5.1.2 Sincerity

The other important sub-principle of the *Qur'an* and *Sunnah* principle is sincerity (Ikhlas). In Islam, sincerity is vital in the lives of the Muslims, because deeds are judged by the amount of its sincerity and Allah (SWT) is aware of people's intentions and sincerity. Sincerity means the intention of performing deeds, whether in speeches

or actions for the sake of Allah's (SWT) pleasure and not expecting praise from other than Him. To be sincere is to avoid all wrong intentions that spoil thoughts and actions (Maktabdar, 2014). Allah (SWT) commanded His Messenger (PBUH) when He said; "Say (O Muhammad SAW): "Verily, my Salat (prayer), my sacrifice, my living, and my dying are for Allah, the Lord of the Alamin (mankind, jinns and all that exists)" (The Noble *Qur'an*, 6:162, p 199). Evidently, Ibn Kathir (2003) noted that this verse commands Sincerity in the worship.

Therefore, in the *Shariah*-compliant negotiation context, Informant M1 and M2 claimed that "the foundation of the *Shariah*-compliant negotiation is the sincerity to negotiate for the sake of Allah". He opined, from the *Sunnah* perspective, that the negotiations that took place between the Prophet Muhammad (PBUH) and Quraish (Treaty of Al-Hudaybiyyah) were for the sake of Allah (SWT). Consequently, the foundation of the negotiation of The Prophet (PBUH) is the sincerity to be for the sake of Allah (SWT). As such, He (PBUH) succeeds in His negotiations. Similarly, Informant A10 and P3 discussed the importance of practicing this sub-principle in negotiations. They said, respectively;

The other important principle I try to put in practice is sincerity (Ikhlas). Good intention is very important. Usually, most of the people who conduct negotiation have a prior agenda and usually the outcome will not be good. But if there is sincerity, one thing we get is the blessing of Allah (SWT) and at the end of the day, the negotiation will succeed. Finally, our goal is to make it for the sake of Allah (SWT) (Informant A10).

Despite the fact, another Informant argued thus; "We must have a clear understanding of the negotiating mandate, because if uncertainty exists, the negotiation process will be ineffective" (Informant P3). Explaining further, Informant A10 stated that sincerity in the *Shariah*-compliant negotiation means; "for you to have a successful negotiation, you must come with a clean mind. You should

be sincere to negotiate. So, if you are sincere and honest with the sincerity towards Allah (SWT), you would succeed”. Stressing this more, Informant A5 pointed out that the *Shariah*-compliant negotiation should always start with a good intention; we should not have an exception to another person. That means, according to Informant A9, in the *Shariah*-compliant negotiation, “You must be sincere when you are expressing your views”.

In view of this, Informant A7 disclosed that “sincerity here means; I come to negotiate and I am not looking for a personal interest. It is to stick to sincerity for the sake of Allah (SWT) alone, because it may be purely for Dunyat issues where we just negotiate Dunya. So, sincerity means I am sincere that you and I reach a conclusion, not that I am coming to convince you that I am right and you are wrong. I just come with an open mind”. Indeed, the *Shariah*-compliant negotiation is mainly based on the principle of sincerity and good intention to ensure an effective negotiation.

4.5.2 Justice

The evidence from this study’s interviews showed that all the Informants were of the view that justice is the second main principle of negotiation from the Islamic perspective. As has been discussed in Chapter 3, the concept of justice in the Islamic approach has several meanings, but all of them are about placing things in their rightful place. Therefore, Informant A4 disclosed that;

In the *Shariah*-compliant negotiation, justice is something which is due to me; my right. But in the process of searching for my right, I may not do so for other concerns. Thus, in order to search for justice, you have to do justice to others (Informant A4).

He justified his claim that when we negotiate in Islam, we have to do so with justice because Allah (SWT) has ordered us to do so. In Surah An-Nahl, Allah (SWT) says;

“Verily, Allah enjoins *Al-Adl* (i.e. justice and worshipping none but Allah Alone - Islamic Monotheism) and *Al-Ihsan* [i.e. to be patient in performing your duties to Allah, totally for Allah’s sake and in accordance with the *Sunnah* (legal ways) of the Prophet SAW in a perfect manner],..” (The Noble *Qur’an*, 16:90, p 360-361)

In another verse, Allah (SWT) says;

“O you who believe! Stand out firmly for Allah and be just witnesses and let not the enmity and hatred of others make you avoid justice. Be just: that is nearer to piety, and fear Allah. Verily, Allah is Well-acquainted with what you do”. (The Noble *Qur’an*, 5:8, p 144)

From the above *Qur’anic* verses, it is clear that Allah (SWT) considers justice to be a supreme virtue and a basic objective of Islam (Islamic House, 2013). Hence, Informant A7 argued, “negotiation, when it comes to my mind, is all about justice”. In the same vein, Informant A10 disclosed that the importance of practicing the principle of negotiation in his organization is to avoid extremes. He said;

Justice is a very vital principle in negotiation and Islam really emphasizes so much on it. Therefore, I try as much as possible to exercise justice; it is defined as trying to avoid extremes, trying to be moderate and trying to put things in the right places (Informant A10).

Informant A10 justified his claim that Islam orders us to do justice all the time by stating the verse in the Holy *Qur’an* where Allah (SWT) says in Surah Al-Hujurat;

“And if two parties or groups among the believers fall to fighting, then make peace between them both, but if one of them rebels against the other, then fight you (all) against the one that which rebels till it complies with the Command of Allah; then if it complies, then make reconciliation between them justly, and be equitable. Verily! Allah loves those who are equitable”. (The Noble *Qur’an*, 49:9, p 699)

Concerning the *Tafsir* of this verse, ensured that this verse commands making peace justly between disputing Muslims that fight each other. Until the disobedient group refers to the commands of Allah (SWT) and His Messenger (PBUH) for judgement and they listen to and obey the truth (Ibn Kathir, 2003).

Therefore, Informants SD2, SD4 and A5 argued that the concept of justice in the *Shariah*-compliant negotiation means; “Don’t misuse someone’s right or interest” and “to give equal rights to all, even to your enemies”. That is because injustice or oppression is forbidden in Islam, as clearly stated in the authentic *Hadith* of the Prophet Muhammad (PBUH), when Abu Dharr reported Allah's Messenger (may peace be upon him) as saying that Allah (SWT) said: “My servants, I have made oppression unlawful for Me and unlawful for you, so do not commit oppression against one another”. (Imam Muslim, 2009, Book 032, Number 6246, p 1548)

In line with this flow of thought, the analysis of this study indicated that the Informants elaborated the concept of justice in negotiation and its two sub-principles (Fairness and All-Win), as showed in Figure 4.8 below.

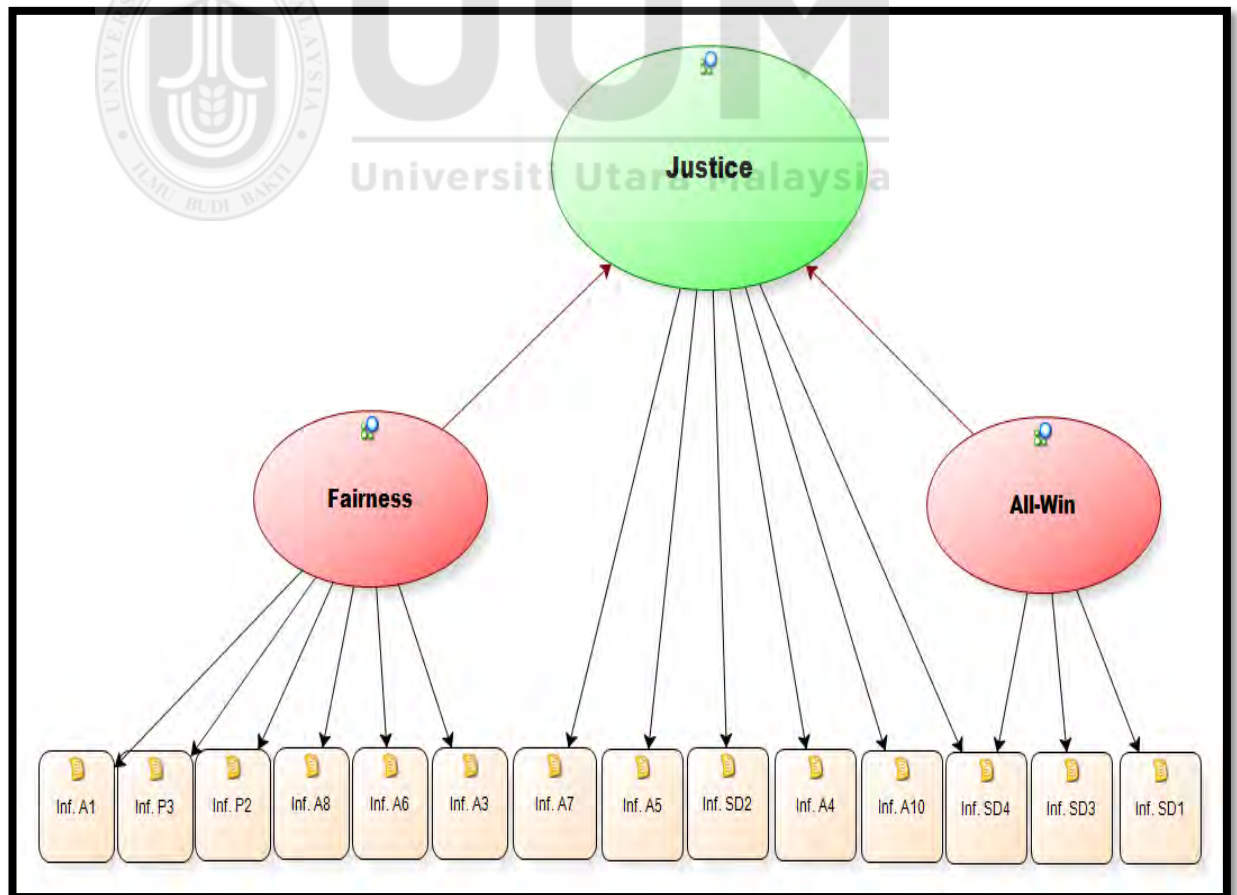


Figure 4.8. The Justice principle of the *Shariah*-compliant negotiation

4.5.2.1 Fairness

Some of the study Informants revealed that fairness means the negotiation should not involve transgression against other parties' rights. The negotiation has to rely on this principle in all dealings (Informant A1). However, Informant SD2 distinguished between the principle of justice and fairness, when he disclosed that; “Justice is to give equal rights, but fairness is innermost. It means you would like to treat someone in way you would like to treat yourself”. In other words, fairness is showing no bias towards some people or individuals, but justice is a broader term, which means giving a person his due.

Therefore, in *Shariah*-compliant negotiations, the negotiating parties should get fair treatment in all situations because in Islam people are all equals and deserve fairness. In line with this principle, Informants A8, P3 and P2 stressed that fairness is a very important principle in the *Shariah*-compliant negotiation. They believe that negotiations cannot be successful if it they are not fairly negotiated among parties. In line with this, Informant A3 stated that “Islam emphasizes the principle of *Al-Adl* (fairness). The Messenger of Allah (PBUH) always ensured fairness when he negotiated between the tribes”. That is because according to Informant A6, practicing this principle helps to avoid oppression and injustice in dealings. He justified his claim by saying “we can clearly see that from some of the prophets, like Daoud and Sulaiman (PBUT)”.

4.5.2.2 All-Win

There is no doubt that, when people negotiate, their goal is to win or to achieve positive outcomes from their negotiations. That is when they can call it fair (Welsh,

2004). Particularly, the negotiation from the Islamic perspective goals aims to achieve mutual gains at the end of the negotiation for all negotiating parties. Therefore, Informant SD1, when he was explaining the *Shariah*-compliant negotiation concept, said; “It means a platform to place the parties” interests without a major compromise, but at the end of the day we have an All-Win situation”. (Informant SD1).

This was equally buttressed by Informants SD3 and SD4, when they pointed out that conducting negotiation from the Islamic point of view is all about All-Win outcomes. That is because the *Shariah*-compliant negotiation relies on the principle of justice and fairness in all dealings.

Overall, the interpretations and analysis above show that the principle of justice is the core of the *Shariah*-compliant negotiation. That is because Islam requires its believers not to take away other people”s rights, even if they are from another faith. If they do so, it is a sin and it is contrary to Islamic teachings (refer Surah An-Nahl 16:90). Thus, this principle was reflected through the practice of the Prophet (PBUH) and his Companions, who observed all commands from Allah (SWT) throughout their lives.

4.5.3 Credibility

The third principle which has emerged from this research analysis is credibility. The concept means dedication to the truth by arguments and actions, which is a good character consistent with nature. The principle is very essential for conducting successful negotiations in all human dealings. Therefore, credibility in this study”s context is consists of three sub-principles as illustrated in Figure 4.9 below.

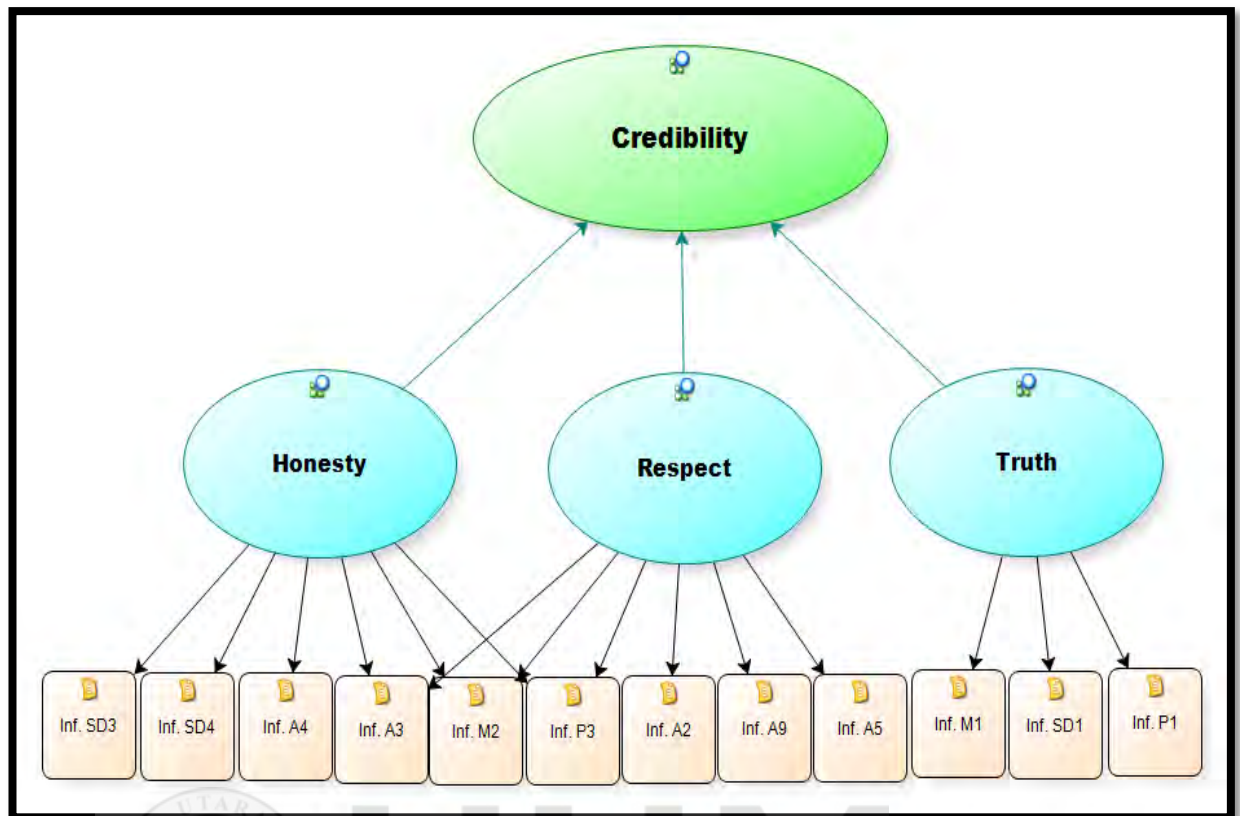


Figure 4.9. Credibility sub-principles

4.5.3.1 Truth

Truth is the first sub-principle that is related to credibility in the *Shariah*-compliant negotiation concepts that were developed from this study data analysis. Truth is a factor which everyone tries to decipher. In negotiations, truth is very vital in making decisions because true information is required for rightful negotiation. Also, knowing the truth about the negotiation issues helps the negotiating parties to form the right opinions. For that reason, Informant M1 stated that “without the truth, we cannot reach a common ground to negotiate, so, the truth between the parties is very important.”

In Islam, truth is far more than having an honest tongue. It is the conformity of the external with the internal, the deed with the intention, the speech with belief, and the

practice with the preaching Mahdi (2006). Islam orders its believers to be among those who are true at all times. In Surah At-Tawba, Allah (SW) says; “O you who believe! Be afraid of Allah, and be with those who are true (in words and deeds)”. (The Noble *Qur'an*, 9:119, p 266)

From the *Sunnah* Abdullah bin Mas'ud reported that Allah's Messenger (PBUH) said:

“Telling the truth is a virtue and virtue leads to Paradise and the servant who endeavours to tell the truth is recorded as truthful, and lie is obscenity and obscenity leads to Hell-Fire, and the servant who endeavours to tell a lie is recorded as a liar” (Imam Muslim, 2009, Book 32, Number 6308, p 1561).

In this authentic *Hadith*, Prophet Muhammad (PBUB) is instructed that it is obligatory for Muslims to tell the truth, because truth leads to virtue and virtue leads to Paradise, as a reward for the Muslims who practice the truth and are truthful with Allah. On the other hand, He (PBUH) warned Muslims to be aware of telling lies because it leads to obscenity and obscenity leads to Hell-Fire. Hence, the person who keeps telling lies is recorded as a liar with Allah. Because of the evidences above, Informant P1 emphasized this sub-principle of the *Shariah*-compliant negotiation.

While discussing his experiences in his organization, he said;

From my experience, I believe that, first of all when you negotiate with your client, don't lie. I had previous experience when I was working in another organization. When you want to sell the product, you are tempted to say something that your customer wants to hear.... Like saying things like excessive promises or untruths. I think those are very important (to take into consideration) when you negotiate with your clients (Informant P1).

In line with is view, Informant SD1 pointed out that there are some ethics and values that should not be embedded in negotiations like; “lying, excessive promises, deception or cheating.” Those undoubtedly are caused by the lack of truth. For that reason, Allah's Messenger (PBUH) said:

“Both parties in a business transaction...if they speak the truth and make everything clear they will be blessed in their transaction; but if they tell a lie and conceal anything the blessing on their transaction will be blotted out.” Reported by Hakim bin Hazim (Imam Muslim, 2009, Book 010, Number 3661, p 916).

Indeed, if truth in Islam is the key to all doors of goodness that may lead to Paradise, then it is also the key for any successful negotiation.

4.5.3.2 Honesty (*Amanah*)

Amanah is an Arabic word for honesty which literally means trust, reliability, trustworthiness, loyalty, faithfulness, integrity (Wehr, 1976). This second sub-principle of credibility also emerged from the views of the research Informants. Specifically, Informants A3, M2 and P3 were assertive that the *Shariah*-compliant negotiation principle of honesty and integrity are very essential. That is because honesty is a great attribute in Islam; it is one of the bases of the religion. Thus, Islam considers this sub-principle as the moral fibre of the believers. In support of this, Surah Al-Maarij and Surah Al-Mumenoon declared; “And those who keep their trusts and covenants” (The Noble *Qur’an*, 70:32, p 786), and “Those who are faithfully true to their *Amanah* (all the duties which Allah has ordained, honesty, moral responsibility and trusts etc.) and to their covenants...” (The Noble *Qur’an*, 23:8, p 455). In *Tafsir* this verses, Ibn Kathir (2003) stated that, it explains the qualities and the characters of the successful believers, and among them; when they are entrusted with something, they do not betray that trust, but they fulfil it. Moreover, when they make a promise or make a pledge, they are true to their word (Ibn Kathir, 2003).

Generally, honesty is one of the foundations of Islam. It is therefore an important sub-principle for the *Shariah*-compliant negotiation. Informant A4 specified that, in the *Shariah*-compliant negotiation “the concept of *Amanah* (honesty) must be

maintained. This is because *Amanah* is the bond between the parties that are involved in negotiations. So, “I must ensure that what I communicate with you is true”. Similarly, Informant SD3 emphasized on the *Amanah* concept as thus; “when you negotiate, you must be honest, in explaining and in receiving your counterpart’s arguments”. In other words, honesty here means telling the truth in all cases and under all conditions.

Additionally, honesty from the Islamic viewpoint also means fulfilling promises, whether written or given orally, in text or spirit. This concept was argued by Informant SD4 while discussing his experience; “The bottom line for the customer is the pricing. The pricing must not be overblown. So, you should negotiate in a very ethical way”. Moreover, Islam prompts Muslims to keep to their obligations, agreements and orders them to be honest at all times. This assertion is further declared clearly in the following verses. Allah (SWT) Says: “O you who believe! Fulfil (your) obligations.” (The Noble *Qur’an*, 5:1, p 141) and in another verse;

“Verily! Allah commands that you should render back the trusts to those, to whom they are due; and that when you judge between men, you judge with justice. Verily, how excellent is the teaching which He (Allah) gives you! Truly, Allah is Ever All Hearer, All Seer”. (The Noble *Qur’an*, 4:58, p 118)

Concerning the *Tafsir* of this verses, Ibn Kathir (2003) ensured that in these verses Allah (SWT) commands to return the trusts (*Amanah*) to their rightful owners whomever they are due.

4.5.3.3 Respect

The second sub-principle of credibility is respect. It is commonly understood in negotiations through two meanings. One focuses on an individual’s internal feelings, and the other upon his external actions (Cohen, 2001). Respect is a

significant component of successful negotiation. It is a factor, we must consider in negotiation. Therefore, this sub-principle clearly appears on the radar of the Informants of this study.

Informant A5 emphasized so much on this sub-principle as thus; “Negotiation is always about a question of give and take. So, we cannot insist on our own interests alone. The *Shariah*-compliant negotiation is a negotiation based on ethics, and in this case, we must respect each other, while we try to convey the message in a way that would not provoke the other person...” He continued his argument by sharing his experience; “In fact, my own practice is to listen and then talk. I give the other person the right to speak. I also respect him, and I will not try to impose my opinion”.

In line with this standpoint, Informants A9 and A3 expressively pointed out that respect is an important principle in the *Shariah*-compliant negotiation. Whoever the other party is, or wherever he comes from, you have to respect him. You also must respect other party’s rights. This is because, in Islam, respect is one of the pillars of Islamic ethics. Respect should be given to everything, because everything has been created for a purpose.

Additionally, according to Yassin & Dahalan (2012), disrespecting others’ rights can bring conflicts within the ranks of mankind, and it creates huge problems between negotiating parties because it is a trust that cannot be betrayed. Therefore, Informants A2, P3 and M2 focused on the importance of this sub-principle, which is an important concept in the *Shariah*-compliant negotiation.

4.5.4 Flexibility

Flexibility is the fourth principle of the *Shariah*-compliant negotiation that emerged from the data analysis of this research. In this context, it means the ability to be adaptable and open to alteration or change without compromising your core principles. This is the opinion of Informant SD2 on flexibility;

Flexibility in negotiation means; you shouldn't be too strict to the point of being a frozen negotiator. For example; in *Sulh* Hudaibiya, the Prophet Muhammad (PBUH) was so flexible; which means in negotiations, we shouldn't focus on the marginal issues, the focus should be on the core issues. You can compromise on the marginal, not on the core issues and you cannot judge people based on your personal conviction (Informant SD2).

Furthermore, Informant A5 argued that; "Negotiation is always a question of give and take. So, we cannot insist on our own interest only." Accordingly, Informant A9 stated that flexibility in negotiation means "you must be able to open up your mind in term of accepting new ideas. Because if you have a closed mind, then what is the purpose of having a negotiation?" For that reason, Informant A4 declared, "flexibility is very important in the conduct of negotiations". However, the Islamic literature emphasizes so much on this principle, as discussed in the third chapter of this study. In line with that view and through thematic analysis, the Informants of this study identified sub-principles, which indicate the principle of flexibility, as illustrated below in Figure 4.10.

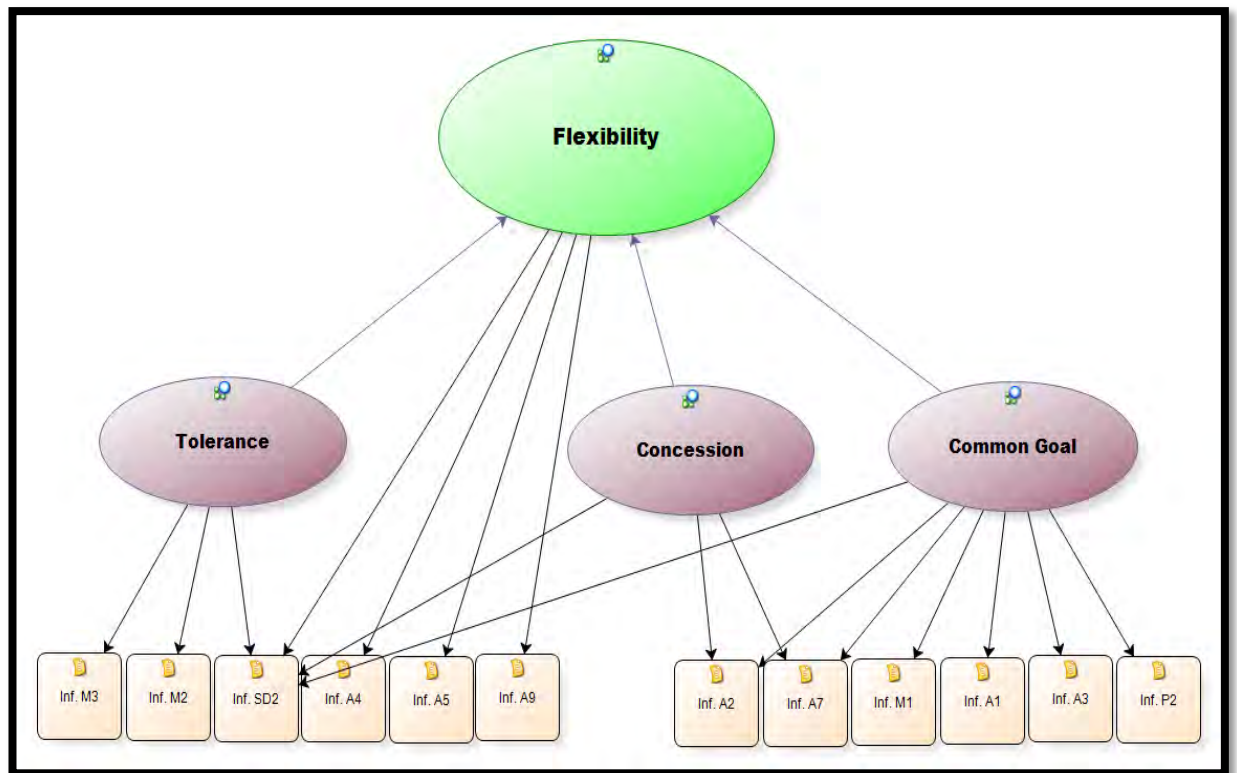


Figure 4.10. Flexibility sub-principles

4.5.4.1 Tolerance

Tolerance is the first sub-principle of the principle of flexibility in negotiation from the Islamic approach. Its concept means “respect, acceptance, and appreciation of the rich diversity of the world's cultures, forms of expression and ways of being human”. Literally, the word “tolerance” means, “to bear”. In Arabic, it is called “*Tasamuh*”. Also, there are other words that give similar meanings, such as “*Hilm*” (forbearance) or “*Afu*” (pardon, forgiveness) or “*Safh*” (overlooking, disregarding). Thus, it means to hold something acceptable or bearable (Khan, 2011).

In this regard, Informant SD2 argued that evidences from the *Qur'an* encourage and order Muslims to practice tolerance between each other and with all mankind in all aspects of life. That is obviously needed in inviting people and convincing them to believe in Islam. Informant SD2 supported his claim from the following verses;

“And argue not with the people of the Scripture (Jews and Christians), unless it be in (a way) that is better (with good words and in a good manner, inviting them to Islamic Monotheism with His Verses), except with such of them as do wrong, and say (to them): "We believe in that which has been revealed to us and revealed to you; our Ilah (God) and your Ilah (God) is One (i.e. Allah), and to Him we have submitted (as Muslims)”. (The Noble *Qur'an*, 29:46, p 536)

Concerning the *Tafsir* of this verse, Ibn Kathir (2003) stated that this verse is about how to argue with the people of the Book (Jews and Christians). That anyone who wants to find out about religion, argue with them in a way that is better, to be more effective. This *Tafsir* similarly ensures the meaning of the verse 44 from Surah Taha, Allah (SWT) says; "And speak to him mildly, perhaps he may accept admonition or fear Allah." (The Noble *Qur'an*, 20:44, p 417).

In the same context, Informant M2 justified his claim from the *Sunnah* when he pointed out the *Hadith* of the Prophet Muhammad (PBUH); Narrated Jabir bin Abdullah: Allah's Apostle (PBUH) said, “May Allah's mercy be on him who is lenient in his buying, selling, and in demanding back his money” (Imam Al-Bukhari, 2009, Book 34, Number 290, p 471). Therefore, based on the above confirmations, Informant M3 emphasized this sub-principle of Islamic negotiation, when he said; “we should tolerate in our negotiations. No matter what the dispute is, we should tolerate, especially if the dispute subject is not against the *Shariah*”. There is no doubt that Islam teaches tolerance at all levels because the best conduct in Islam is to treat people with dignity, equality and justice.

Thus, according to Khan (2011), tolerance from the Islamic perspective comes from the recognition of the dignity of the human, the basic equality of all human beings, universal human rights and fundamental freedom of thought, conscience, and belief.

4.5.4.2 Concession

The evidences from this study show that concession is the second sub-principle that indicates the principle of flexibility in negotiations. As discussed above, many people see negotiation as a give-and-take process. Therefore, Informant A2 disclosed that negotiating parties, in order to get what they want, “have to be willing to make concessions”. Similarly, Informant A7 called this sub-principle of Islamic negotiations “sacrifice”. He justified his claim by giving an example from his experience as thus; “I don’t like chewing gum. Even though it is *Halal*, I don’t like it. Therefore, I told my wife, and Alhamdulillah, I never saw it in my house. In return, I don’t like the fan too, but my wife likes it and cannot live without it. I let that go, and this is a sacrifice”. Thus, a concession from his experience is nothing more than getting something in return. So, it is often necessary for negotiation.

Furthermore, Informant SD2 highlighted the purpose of making concessions in negotiations. He pointed out that making concessions in negotiations means “you will lose what we call some rights; explicit rights”. The purpose of that is in negotiation, “you are negotiating to get at least 70% of you right”. Additionally, he justified his argument when he said; “In *Shariah*, there is something called the calculation between harm and benefits. So, either you lose all your rights completely and your case will be pending for 20 years or you negotiate and get at least two quarters or three-quarters of your rights”. The purpose of making concessions in negotiations from his experience is; “we negotiate to reach an agreement on a common ground, even though internally we know that you are wrong and you are taking our rights but instead of losing the whole rights, at least we will lose part of it”. This is called the act of consequences (Informant SD2).

4.5.4.3 Common Goals

Focusing on the common goal is the third sub-principle that defines the principle of flexibility in negotiations, as emerged from the data of this research. According to Informant A2, it means, “if you want to negotiate, don’t compete with the other party or just to win the other party, but you have to try to work together and you have to focus on the common objective”. In the same vein, Informant A1 noted that normally, we negotiate when we want to achieve certain things which the other party may have their own expectations on. So, when there is some kind of mismatch of wishes between the counterparts, the negotiation comes in to provide a common outcome where both of them would agree. For that reason, Informant A7 claimed that is what negotiation is all about. He said; “If I will identify it, I will say; two people or two contracting parties trying to reach a middle ground, that is a negotiation in general”.

In line with this context, Informant A3 reiterated that in the *Shariah*-compliant negotiation, the negotiating parties should always focus on the common interest, so both parties will get what they want and both will be happy. That is because according to Informant M1, “in the *Shariah*-compliant negotiation, we must have the spirit of understanding, not the spirit of intolerance, to reach a common ground”. That will not be achieved unless you have to separate yourself from the problem. Thus, “focusing on the collective goal is the main pillar of reaching the common ground between the negotiating parties” (Informant A2).

However, having a common ground here does not mean a state of having the same information and objectives. Rather, it refers to a process of communicating, updating, and integrating mutual understandings. Hence, common ground is a very important

factor. It permits negotiators to use shortened forms of communication and still be reasonably assertive that potentially ambiguous messages and signals will be understood (Klein, Feltovich, Bradshaw, & Woods, 2005).

To sum up the view of these three sub-principles that were extracted from flexibility as one of the principles of the *Shariah*-compliant negotiation, Informant P3 clarified that “the negotiation from the Islamic perspective is the most flexible dispute resolution”. Meanwhile, Informant M1 concluded that negotiation cannot be flexible unless the negotiating parties have the spirit of tolerance and to have it, they must give some concession in order to reach a common goal or objective.

4.5.5 Information Disclosure

The findings of this study also show that information disclosure is one of the main principles of the *Shariah*-compliant negotiation. This principle may consist of information about the negotiating parties, the fundamental issues or the outcomes of decisions, and interests that may affect the decision outcome (Stuhlmacher & Champagne, 2000). Hence, Informant SD2 emphasized this principle and considered it one of the core principles in the process of negotiation. He noted that the issue of information disclosure in the *Shariah*-compliant negotiation is very essential. This is in line with the first verse of the *Qur'an*; “*IQRA*” (read). Hence, if you are not aware of negotiation issues, you should not negotiate.

Similarly, Informant SD4 justified his claim by pointing out a practical example as thus; “Basically, we are in a Islamic banking and finance institution. The staff who do sales and marketing must first of all have enough information about the product and the client, then they can negotiate”.

In line with this point, Informant A8 stressed that from the Islamic perspective, “the information is very important, and it must be shared equally”. Because our concept is always about being fair; fairness here means *Musharakah* (sharing). Thus, the more information is shared, the more quickly negotiating parties are likely to determine favourable resolutions and the more efficient the process and outcome will be (Butler, 1999). However, based on the thematic analysis, this principle has three sub-principles as presented in Figure 4.11, which is explored below.

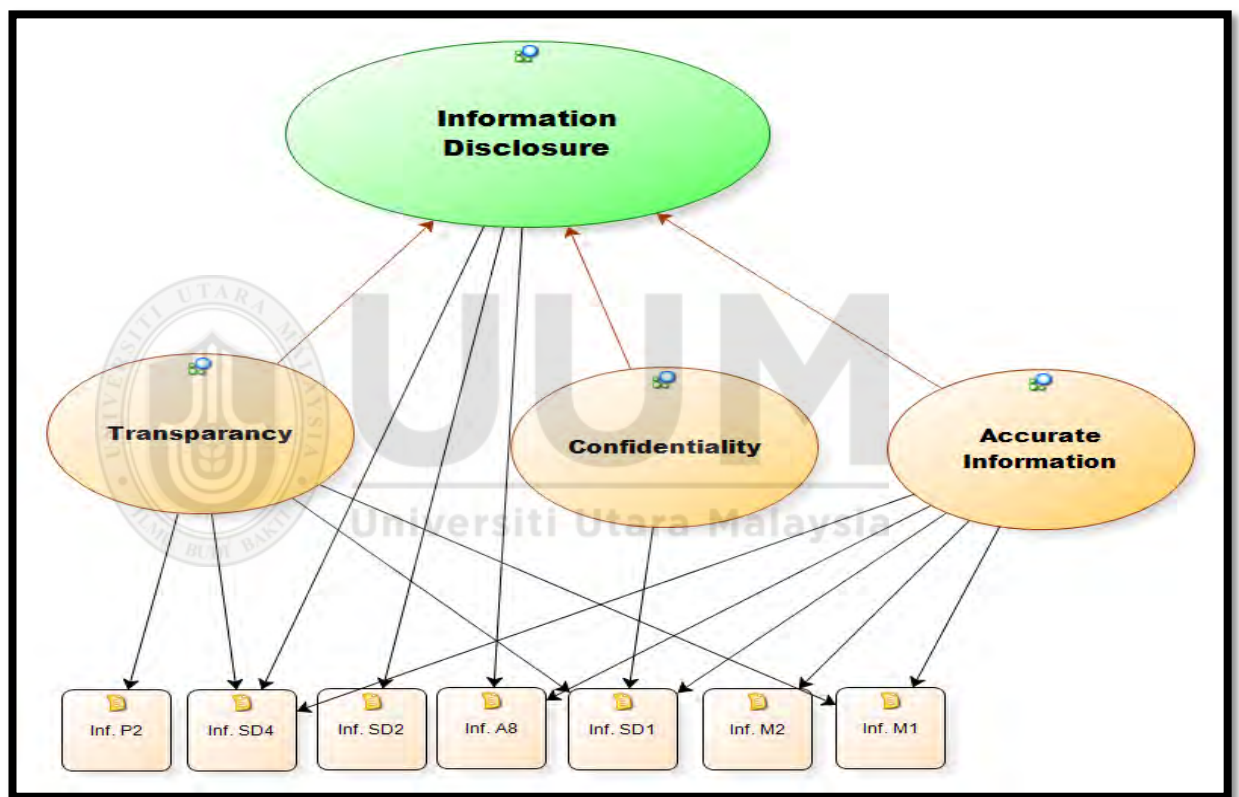


Figure 4.11. Information disclosure sub-principles

4.5.5.1 Accurate Information

Obtaining accurate information is the first sub-principle of the information disclosure principle of negotiation as evidentially emerged thematically from this study. Some Informants of this study asserted this sub-principle because of its relation to decision outcomes. For instance, Informant SD1 said; “Well, you know

that decisions are made based on the disclosed information, if you do not have enough accurate information, your decision will not be correct, and most of the disputes arise because of the hiding of some of the information, and inadequate disclosure”.

Therefore, Informant SD4 stated that in the *Shariah*-compliant negotiation, only accurate information should be entertained during deliberation. This is because accurate information intertwines with truthfulness (Informant M1). Based on experience, Informant M2 noted, “in our organization, we must know the truth about the subject matter by getting all information about the negotiated issue, and then we can make our decision”. In the same vein, Informant A8 discussed his experience in the banking organizations and he confirmed the importance of this sub-principle when he shared that; “Normally, the customer is the victim of the banks. This is because the customer has little information, but the bank has superior information”.

To sum it all, having accurate information during and after negotiations is extremely crucial to negotiation. Without good and accurate information, the negotiating parties may not achieve mutual benefit from the agreements, and this may allow negotiations to falter without good reason.

4.5.5.2 Transparency

Besides the sub-principle of accurate information, the evidences of this study showed that transparency is the second sub-principle for the information disclosure principle of the *Shariah*-compliant negotiation. The literature showed that this sub-principle has several concepts. However, it is commonly agreed that transparency is about information. First, transparency is understood as a vital component of

information sharing because increased transparency brings increased awareness, unity and clarity to the exchanged information between the negotiating parties (Schnackenberg & Tomlinson, 2014).

Additionally, according to Jordan, Peek & Rosengren (2000), increased transparency is achieved only through the disclosure of timely and accurate information. In congruence with literature, Informants of this study considered transparency as a core sub-principle of information disclosure, which has a great effect on the negotiation outcome. For that reason, Informant P2 noted that in the *Shariah*-compliant negotiation, whatever you discuss or negotiate must be transparent, while Informant SD4 further expressed that the less transparent the negotiating information is, the more the negotiating parties will be misled towards inaccurate conclusion. For example, in business, the *Shariah*-compliant negotiation does not allow providers to mislead their customers. Thus, according to Informant SD1, “here, we are saying the obligation of the parties must be honoured and spelt out transparently.”

Vorauer and Claude (1998) and Zhu (2004) opined that the individual’s sense of the degree to which their objectives are readily apparent to others should have consequences for their decisions and communication efforts in negotiation. Consequently, information transparency is defined as the degree of visibility and accessibility of information. Similarly, Informant M1 pointed out that the correct understanding of the main issues is based on the transparency of the information about the negotiated matter. Hence, if we want a successful negotiation, we should provide transparent and adequate information about the negotiated matter.

4.5.5.3 Confidentiality

The findings of this research evidently showed that confidentiality is a factor of information disclosure. Islam gives preference to confidentiality because it is very essential in all aspects of human life. Confidentiality is a set of rules or a promise that limits access to certain types of information (Ullah & Anwarii, 2014). Few Informants highlighted the importance of this sub-principle of information disclosure. Informant SD1 is the only Informant that focused on it from the perspective of institutional and nationally negotiated issues. Confidentiality is very important for maintaining good relationships between the negotiating parties. It is also a sign of honesty and increases trust among them.

Overall, Islam is very concerned about confidentiality of information on the organizational and individual levels. This is because having access to others' confidential information is not an absolute blessing, and it has significant risks. For that reason, Mawardi (1981) noted that confidentiality is a sign of strength, when an individual can keep others' personal information secret without disclosing such to others.

4.5.6 Relationship

The Islamic literature asserts that negotiation in Islam occurs at a variety of levels for different purposes according to the need of the negotiators (see chapter3). Among the most vital objectives is to maintain good relationships with the parties and to exchange other essential interests with other nations (Al-Zuhaili, 2003; Yousefvand, 2012). Therefore, relationship distinctly emerged from thematic analysis of the data as the last main principle for the *Shariah*-compliant negotiation.

This principle is very important in the *Shariah*-compliant negotiation because it has a direct impact on the how quickly the negotiating parties reach an effective agreement. In line with this view, Informant A10 asked; “why do we negotiate what we want to achieve? First, it should be for the sake of Allah (SWT), and then we want to ensure justice and peace, which will result to enhanced brotherhood”. Negotiation in Islam is a concept which helps to engender harmony and peace among Muslim communities and others. These tallies with the opinions of Informant A2 and A3, who simplified the process of solving the differences between the negotiating parties, thereby preserving and maintaining their relationships.

Negotiation in Islam is a platform that helps to nurture human relationships, therefore, negotiation becomes a foundation that connects to a number of factors which reduce the argument and difference gap among Muslim communities (Rafida, Alina, Hafiz, & Saifol, 2012). For that reason, Informant SD2 argued that; “We are human beings. We have different intellectual capacities and mentalities, and even different commitment levels to Allah. Hence, negotiation is the best way to get your full rights peacefully”. However, in tandem with this flow of thought, Figure 4.12 below shows that the analysis of this study indicated two sub-principles of this principle.

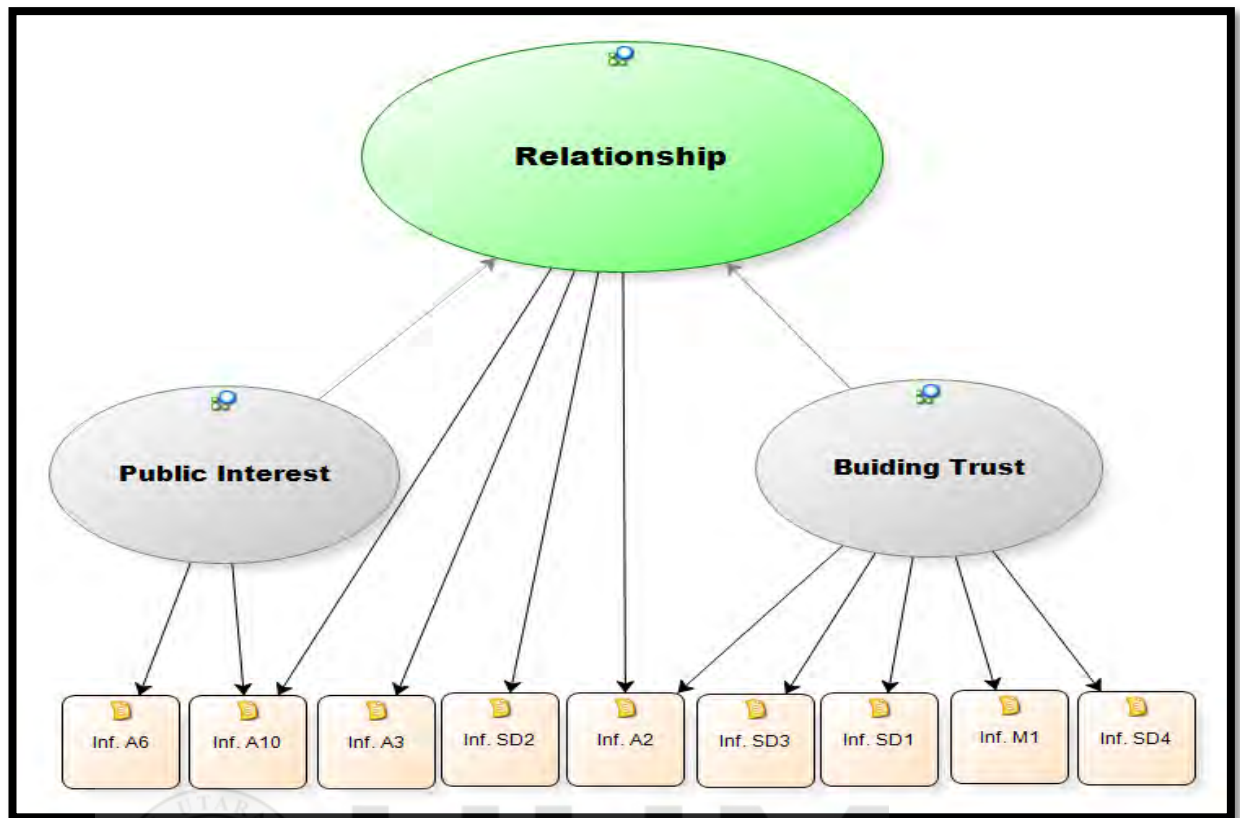


Figure 4.12. Relationship sub-principles

4.5.6.1 Building Trust

Trust as a factor influences how people work together, listen to one another, and build actual relationships. It is the main component for building good relationships, at both the personal and professional levels. Therefore, it is the first sub-principle that emerged from this study's findings for maintaining relationships in the *Shariah*-compliant negotiation. Informant A2 confirmed that trust is very important in the *Shariah*-compliant negotiation, and without winning the trust of the negotiating parties, negotiation will not succeed. This is because, in Islam, trust is an integral condition for human relationships (Ahmat & Akdogan, 2012). Allah (SWT) says in Surah Al-Munenoon; "Those who are faithfully true to their Amanat (all the duties which Allah has ordained, honesty, moral responsibility and trusts etc.) and to their covenants". (The Noble *Qur'an*, 23:8, p455)

In this verse, Allah (SWT) defined believers as ones who uphold their trust and covenant, therefore, it is important to sustain trust as a virtue. Allah (SWT) commands them to live in harmonious relationship with one another at all levels. This includes public and private trust, as well as the covenant humans undertake in all the issues related to their public and private life (Ahmat & Akdogan, 2012). Similarly, Informant SD4 argued that trust is the basic sub-principle of the relationship in negotiations, which it must be founded upon.

In line with this view, Informant M1 stressed that building mutual trust between the negotiating parties has a direct effect on reaching a common ground, which will result in agreeing to a mutual solution. In this regard, Informants SD1 and SD3 gave much attention to this sub-principle, for the reason that building trust is the foundation of all good relationships. Thus, trust in negotiation must be preserved as a precious principle. This is because, while building it may take a long time, it can break down easily through a single action of misunderstanding.

4.5.6.2 Maslahah (Public Interest)

Maslahah is the second sub-principle which emerged from findings of this study for maintaining mutual relationship in the *Shariah*-compliant negotiation. Maslahah is one of the foundations of *Maqasid Shariah*, and Maslahah emphasizes the needs of the public and its effects (Elvan et al., 2014). Literally, it means seeking benefit or interest and preventing harm (Dusuki & Abdullah, 2007; Elvan et al., 2014).

Maslahah in the *Shariah*-compliant negotiation context has the same meaning as the literal meaning above. Informant A10 opines that; “the word “Maslahah” means

interest and it could be the specific interest of the parties or social cum public interest. It could also be of interest to them in this world and the Hereafter. Informant A6 claimed that “negotiations should lead to a certain benefit to the individual and the society as a whole”. Hence, all of these factors should be taken into consideration in the *Shariah*-compliant negotiation. Scholars assert that the explanation above is related to and profoundly rooted in the *Shariah* objectives of ensuring that society’s interests are preserved in the best way, both in this world and in the Hereafter (Dusuki & Abdullah, 2007).

However, Informant A10 stated that Maslahah is one of most important sub-principles in any negotiation or deal. It should be taken into consideration since it is a very fundamental principle in Islam. That is because Maslahah is a principle that concerns the core of human life (Dusuki & Abdullah, 2007). Indeed, it is an essential sub-principle for building or maintaining individual and collective relationships of the negotiating parties.

4.6 Theme Three: The Practice of SCN in the Islamic Organization

After identifying the concept of negotiation from the Islamic perspective and subsequently determining the *Shariah*-compliant negotiation principles, this study analysed and examined the practice of those principles in Islamic organizations. The thematic analysis of interviews clearly demonstrated that the practice of the *Shariah*-compliant negotiation principles is divided into two sub-themes. The first concerns the benefits of practicing those fundamental principles, while the second discusses the challenges of the practice. Each sub-theme has sub-sub-themes, and are illustrated below in Figure 4.13.

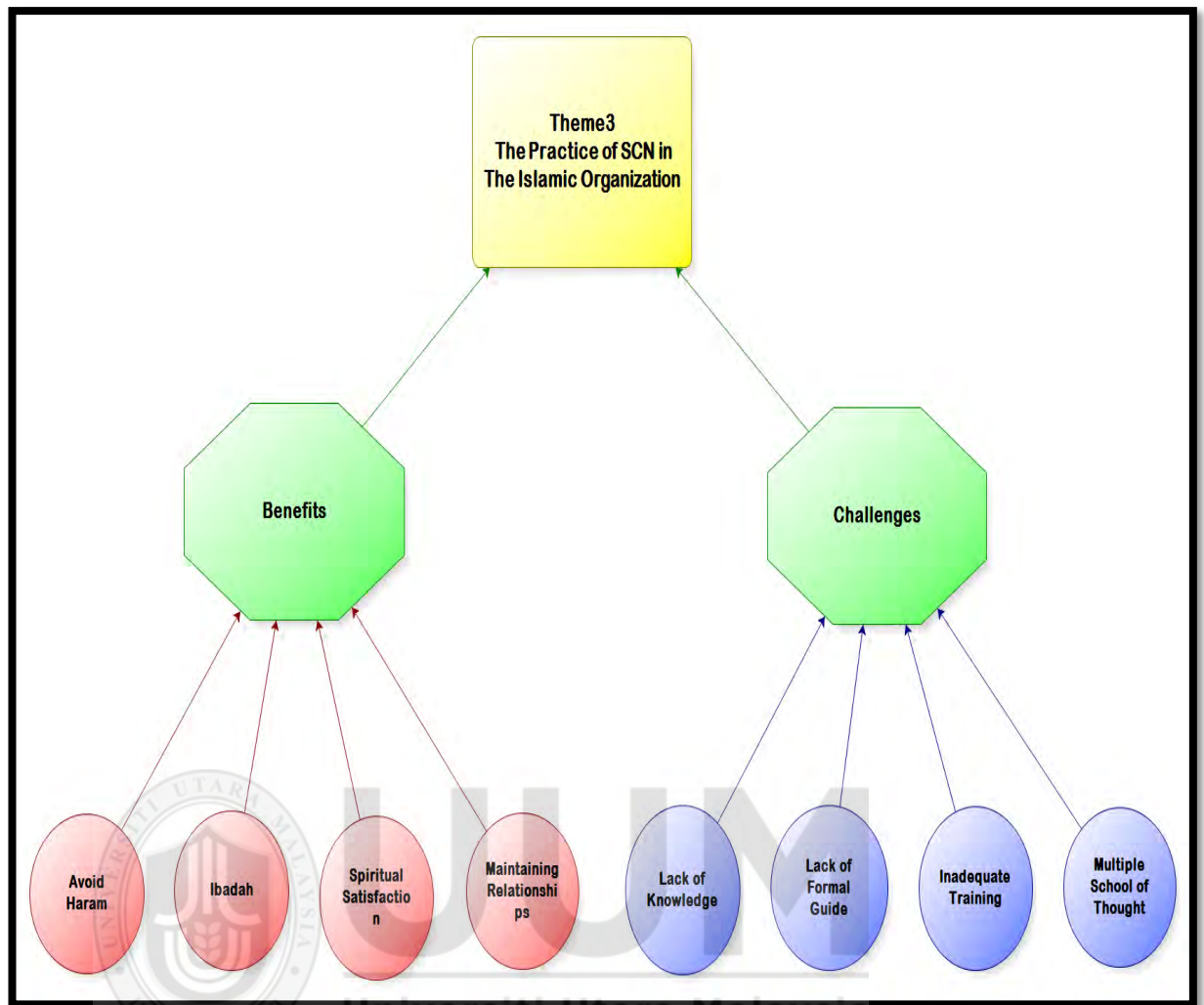


Figure 4.13. Theme Three: The practices of SCN in the *Shariah*-compliant negotiation

4.6.1 The Benefits of Practicing SCN in the Islamic Organization

Some Informants of this research have evidently seen tremendous benefits in the practice of the *Shariah*-compliant negotiation principles by Islamic organizations and individuals. However, their responses underlined that the main benefit of practicing the *Shariah*-compliant negotiation is to practice the *Qur'an* and *Sunnah*. Nonetheless, they specifically highlighted several essential benefits as documented in Figure 4.14 below.

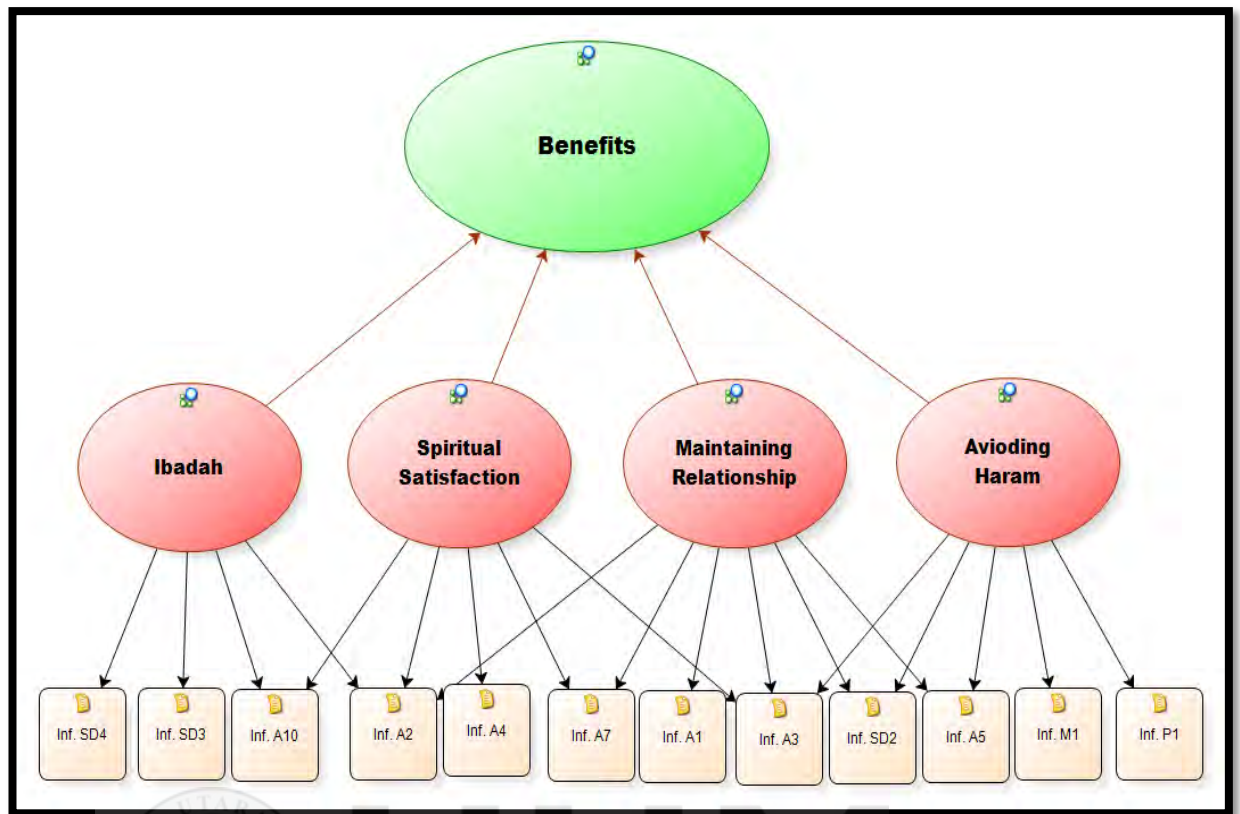


Figure 4.14. The benefits of practicing SCN in the *Shariah*-compliant negotiation

4.6.1.1 Avoidance of *Haram*

As discussed about the third Sub-theme of the first theme of the model, in identifying the concept of avoiding the *Haram*, there is a concept called *Hudud* (limits) in Islam, which Muslims must obey and respect and disobeying any of them constitutes an iniquity. Muslims believe that the lawful (*halal*) and the unlawful (*Haram*)/virtues and vices are clearly mentioned in the Holy *Qur'an* and *Sunnah*. Therefore, avoiding *Haram* is the first benefit of practising the *Shariah*-compliant negotiation as emerged from the findings of this study. Informant M1 argued that Islamic negotiation should be based on the *Qur'an* and *Sunnah*. For that reason, Informant A3 explained that we cannot negotiate something to make the unlawful become lawful or the lawful become unlawful. Indeed, practicing the *Shariah*-compliant negotiation, according to Informant A5, means avoiding *Haram* things.

In view of that, Informant SD2 pointed out that generally, if something is not a *Shariah*-compliant product, then it is not negotiable. For example, “in the Islamic finance sector, we cannot enter into negotiations to sell the conventional *Riba-based* products, because they are not *Shariah*-compliant”. Similarly, Informant A5 confirmed that;

In Islamic banking and finance institutions, negotiating contracts involving *Riba*, *Gharar* and *Haram* investments and projects must be avoided. Hence, the purpose of the *Shariah*-compliant negotiation in the Islamic organization is to avoid *Haram* things and provide *Halal* alternatives, and to provide *Shariah*-compliant solutions that are beneficial to all (Informant A5).

Informant P1 also supported this argument from his experiences, and said;

When I was in (an Islamic organization), our competitors from the conventional insurance companies; when they go to their clients - big clients - to get insurance policies, they send their female officers wearing attractive dresses to close the policies. This is very normal for them, but we cannot do the same, because as a *Shariah*-compliant company we cannot do that. It is against our principles (Informant P1).

Generally, Muslims believe that anything prohibited in Islam must be avoided, because it surely has more harm than benefit. Hence, any negotiation which leads to *Haram* is not a *Shariah*-compliant negotiation. Indeed, avoiding *Haram* is an essential benefit of practicing *Shariah*-compliant negotiation.

4.6.1.2 Ibadah

This sub-sub-theme is also discussed extensively in this study. The most general meaning of *Ibadah* in Islam is inclusive of everything, which is pleasing to Allah (SWT), whether they deal with issues of belief or deeds. It refers to the whole gamut of what Allah (SWT) requires; external, internal or interactive. This comprises rituals as well as beliefs, work, social activities, and personal behaviour of humanity as a

whole, such that every part affects the other (Imam Kamil, 2006). In this regard, *Ibadah* emerged as the second sub-sub-theme as a benefit of practicing the *Shariah*-compliant negotiation.

The Informants of this research argued extensively about the benefits of practicing the *Shariah*-compliant negotiation. For example, Informant A8 clearly stated that “I think the most important benefit is obeying the *Shariah*”. Furthermore, Informant A2 ascertained that the benefit of negotiation from the Islamic perspective is that you are at least doing something, which Allah (SWT) encourages you to do, since the *Qur’an* says, “The *Sulh* is best”. In the same vein, Informant SD4 stressed that the importance of practicing the *Shariah*-compliant negotiation is practicing the *Qur’an* and *Sunnah*. This is because Muslims believe that Allah (SWT) has created them only to worship Him (SWT), which is clearly specified in Surah Adh-Dhariyat, verse 56 (see page 112).

According to Mustafa Ahmad (1999), *Ibadah* may be explained from two categories. The first category is that which is related to specific beliefs, feelings and visible acts of devotion done in respect to Allah (SWT), which He (SWT) has commanded. Meanwhile, the second category is related to all other acts of goodness generally encouraged for Muslims to do. From this perspective, Informant A10 claimed that the important factor is obtaining the pleasure of Allah (SWT). In other words, we do *Sulh* not just to achieve self-interest, but also for the sake of Allah (SWT). Thus, according to Informant SD3, the important benefits devolve when we practice and fulfil the *Shariah* principles.

4.6.1.3 Spiritual Satisfaction

Besides the previous benefits, the findings of this study also show that spiritual satisfaction is another very essential benefit of practicing the *Shariah*-compliant negotiation. In consonance with what has been discussed before, Muslims believe that Islam is a complete way of life. Therefore, they believe in Islamic „spirituality“, because all actions must be geared towards Allah’s (SWT) pleasure. Scholars have submitted that the Islamic spiritual system is based on the words of Allah (SWT), as stated in the *Qur’an* (Nisar, Farwa, & Nadeem, 2015). Hence, the principles of the Muslims’ spiritual life must be based on acts of *Ibadah* and living according to the teachings of the *Qur’an* and the *Sunnah* (Ahmad, Muhammad, & Abdullah, 2011).

This is what Allah (SWT) commands in Surah Al-Imran;

“Say (O Muhammad SAW to mankind): "If you (really) love Allah then follow me (i.e. accept Islamic Monotheism, follow the *Qur’an* and the *Sunnah*), Allah will love you and forgive you of your sins. And Allah is Oft-Forgiving, Most Merciful. Say (O Muhammad SAW): "Obey Allah and the Messenger (Muhammad SAW)." But if they turn away, then Allah does not like the disbelievers.” (The Noble *Qur’an*, 3:31, p 72)

Concerning the *Tafsir* of these verses, Ibn Kathir (2003) explained that, it talking about Allah's (SWT) love is attained by following the Messenger. Allah (SWT) next commands everyone, to obey Him and the Messenger (PBUH).

From the concern of the above verses, Informant A10 claimed that the objective of practicing the *Shariah*-compliant negotiation is to achieve an outcome in this world and the Hereafter that is in consonance with the dictates of Allah (SWT). The *Shariah*-compliant negotiation, to him, is also “a kind of avenue that Allah (SWT) has provided for mankind from time to time to adjust their lives towards the goal which Allah (SWT) has set.” Subsequently, Informant A7 illustrated that “if we

practice it in a proper way, we will get the blessing and we will never lose”, because Allah (SWT) clearly says that; “...And He is with you (by His Knowledge) whosoever you may be. And Allah is the All-Seer of what you do”. (The Noble *Qur'an*, 57:4, p 739)

Likewise, Informant A3 stated that the essential benefit of practicing the *Shariah*-compliant negotiation is to get an outcome that is just for both parties, and empower them to have their own discussion. Hence, when justice prevails, we get Baraka (blessings) on it from Allah (SWT). For that reason, Informant A4 opined that when Muslims follow the Islamic approach in their negotiation, they will get rewards in this world and the Hereafter, which is called spiritual reward, and that is the main motivation for them in Islam. Above all, Informant A2 concluded the discussion by saying; “the importance of practising the *Shariah*-compliant negotiation is the fulfilment of spiritual satisfaction, because at the end of the day, you are doing something that Allah (SWT) prefers”. Thus, spirituality based on the Muslim viewpoint centres on submission and closeness to God (Ghorbani, Watson, Geranmayepour, & Chen, 2014).

5.3.3.1d Maintaining Relationships

Based on the content analysis of this study’s interviews, the findings showed that the Informants were of the view that maintaining relationship is another benefit of practicing *Shariah*-compliant negotiation from the Islamic perspective. Generally, negotiation occurs when there is a disagreement about preferences. Therefore, Informant A1 stated, “the main benefit of practicing negotiation is so you can discuss the preferences and if the negotiation succeeds, you can come to a common ground which both parties can agree to. So, the main benefit is solving disputes and

differences between parties”. That, according Informant A2, contributes directly to maintaining the relationship between the negotiating parties, even if they have some differences.

There is no doubt that negotiation processes in general affect the relationships of the involved parties. In other words, negotiation creates good relationships and outcomes (Li & Labig, 2001). In line with this context, Informant A5 argued that Islam commands what all that is good, fair and just, so negotiating based on that has the benefit of preserving the relationships among negotiating parties (Informant A3).

Furthermore, Informant A7 noted that the benefit of practicing the *Shariah*-compliant negotiation is to close the gap, and to engender proper reconciliation between the negotiating parties. That is because, according to Informant SD2; “we are human beings, we have different intellectualities and mentalities, even different commitment levels towards Allah. So, negotiation is the best way to get your full rights peacefully”. As thus, the importance of practicing the *Shariah*-compliant negotiation is to reach a common ground between the parties, and to reach a mutual solution, which will lead to building mutual trust and relationships. Above all, the significance of maintaining relationships between parties has been posited to have a major impact on the outcomes of the *Shariah*-compliant negotiation.

4.6.2 The Challenges of Practicing SCN in the Islamic Organization

The Islamic organization faces developmental challenges in practising the *Shariah*-compliant negotiation principles in their dealings. Though analytically distinctive, those challenges are fundamentally related and they need more attention and a development of the *Shariah*-compliant negotiation model. Nonetheless, lack of

knowledge, multiple schools of thought, lack of formal guidance and inadequate training are challenges of practicing the *Shariah*-compliant negotiation, as illustrated in Figure 4.15 below.

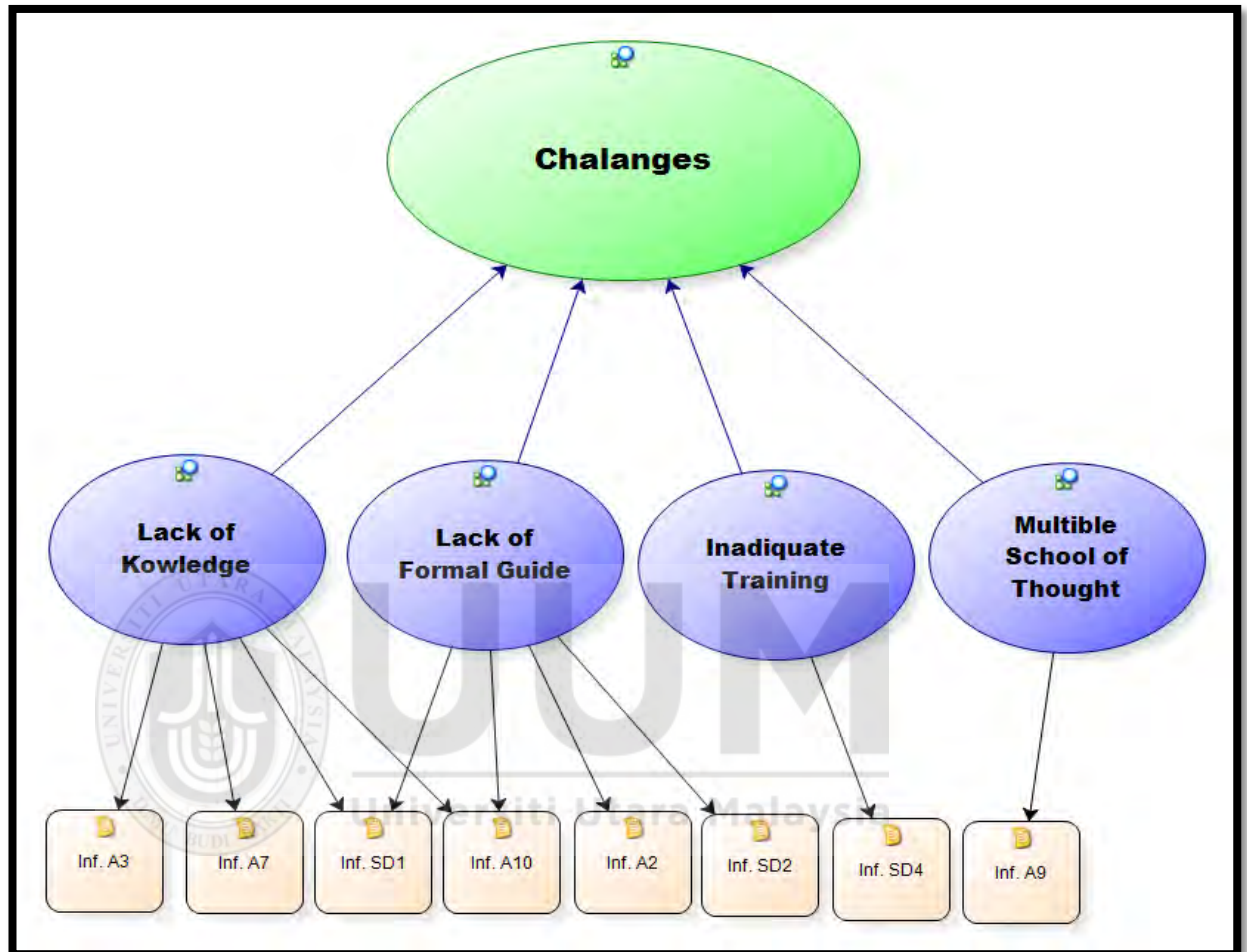


Figure 4.15. The challenges of practicing SCN in the *Shariah*-compliant negotiation

4.6.2.1 Lack of Knowledge

Lack of knowledge is the first challenge faced by practitioners of the *Shariah*-compliant negotiation in the Islamic organization. This factor evidentially emerged from the analysis of the interviews of this research. Knowledge is a fundamental principle of the *Shariah*-compliant negotiation, and practitioners must obtain such for the purpose of their practice, as extensively explained in theme two. Therefore, the Informants of this study claimed that lack of this principle is a real challenge to

the practice of the *Shariah*-compliant negotiation. For instance, Informant A10 stressed that “first and foremost, to exercise the principles of the *Shariah*-compliant negotiation, you must know it adequately. This is because, if you don’t have something, you cannot give it”.

Furthermore, Informant A3 said; “we need awareness among the Islamic organizations and Muslims about the *Shariah*-compliant negotiation principles”. That is because, based on her experience, only 1 of 10 persons is aware of the *Shariah*-compliant negotiation principles. In line with this flow of thought, Informant A7 expressed that some of the Islamic organizations lack knowledge of the *Shariah*-compliant negotiation concept and principles. As a result, they fail to practice it or implement it. He justified his claim by sharing one of his experiences;

“For example, I went to an Islamic bank to open an account and I asked them; what kind of account do you have? They said; we have “Mudharabah” account and we have a normal account. So, I asked them what is the difference? They said the difference is in the deposit; for the Mudharabah type, the deposit is RM 100, while for the other type, it is RM3. I asked them to differentiate more, but the assistant and her supervisor did not know” (Informant A7)

In consonance with the above Informant’s insights and as a summary, the Informant SD1 ascertained that the challenge of lack of knowledge in the practice of the *Shariah*-compliant negotiation has a direct impact on the negotiation decisions. That is because according to him, the decisions are made based on knowledge. If it is not adequate, the decision will not be accurate, and thus, most of the disputes emanate because of lack of knowledge.

4.6.2.2 Lack of Formal Guidance

Besides the above challenge, lack of a formal guide appeared from the analysis of this research as the second challenge of practicing the *Shariah*-compliant negotiation in the Islamic organization. The Informants of this study argued that this challenge is caused by reduced attention of literature on *Shariah*-compliant negotiation, which has caused lack of understanding of the issue among the Islamic organizations, as explained extensively in the first chapter.

Consequently, Informant A10 confirmed that the practice of the *Shariah*-compliant negotiation in most Islamic organizations (to his knowledge) needs to be enhanced. He further argued that the big challenge here is that they are operating based on the conventional rules and regulations because of the lack of formal guidance. He justified his claim as follows;

For example, look at the structure of the Islamic organization, you will find at the top; the shareholders, the board of directors, the managers, and what the objectives are to maximize the shareholder values. Look at the vision and mission of most Islamic organizations; they don't really translate into what we are talking about. Hardly do we find these principles translated. Naturally, the negotiations will tally with those bigger missions and visions (Informant A10).

Similarly, Informant SD2 said that "As to my organization, I cannot claim that we are perfect. We are doing our best to improve." Then he continued discussing and concluded his statement by saying; "Generally, I can say that, in the Islamic arena, the concept and practice of negotiations needs huge development and improvement." That is because, according to Informant A2, it is too informal. In line with these arguments, Informant A8 detailed his view amply and argued that the challenge here is the absence of clear Islamic guidance or laws to follow in transactions. As a result, practitioners are forced to go back to the conventional alternatives. That is especially

true in the course of dealing with non- Islamic organizations. On this matter, Informant SD1 said;

Well, to be frank with you, in practice, we are trying our best. Or, let me put it in this way, it depends who the party is. So, if it is another Islamic organization, basically we both subscribe to the same principles of *Shariah*; meaning we cannot do non- *Shariah* compliant deals. But the negotiation with the non-Islamic organization is challenging, and that needs to be taken care of (Informant SD1).

The summary of this is; the lack of a clear formal guide about the *Shariah*-compliant negotiation is a significant challenge of its practice by the Islamic organizations.

4.6.2.3 Inadequate Training

The findings of this study also show that inadequate training is another challenge that the Islamic negotiation faces in the conduct of negotiations. This challenge is related to the above challenge, or in other words, it is the consequence of previous challenges. Training is an efficient and planned process to provide and improve the knowledge, understanding, skills and behaviour of members to achieve the objectives of organization. It is also a learning experience that exhibits perpetual adjustment, which helps to improve organizational practices (Ukandu & Ukpere, 2013).

Informant SD4 was the only informant who seriously discussed this challenge. He noted that some of the Islamic organizations need to improve their practice, because sometimes; “when we go to specific organizations to do transactions, some of the staff do not know how to negotiate Islamically.” For this reason, adequate training is needed by the staff, because lack of the knowledge affects understanding, skills and attitudes of staff and hence, organizational development. To sum up, indeed adequate training is the solution Islamic

organizations need to provide their staff with knowledge and skills that are required to boost effective practice of the *Shariah*-compliant negotiation within the work environment.

4.6.2.4 Multiple Schools of Thought

The last challenge which emerged from the findings of this research is how to cope with the multiple Islamic schools of thought and their views on the practice of *Shariah*-compliant negotiation. The Islamic world boasts of several learned Islamic scholars (*Imams*), but out of them, four became the most famous and their teachings became widespread and practiced in different parts of the Muslim world. These four main schools of thoughts are Hanafi, Shafi'i, Hanbali and Maliki, though there are several other several schools of thought. For this reason, Informant A9 noted that these multiple schools of thought pose a serious challenge to the practice of *Shariah*-compliant negotiation. Due to the different knowledge bases of *Shariah* scholars about *Shariah* matters, this dichotomy has a direct effect on Muslims and Islamic organizations in the area of adopting and integrating different schools of thought into their practice of *Shariah*-compliant negotiation.

Nonetheless, Zakir Naik (2009) was asked about which school of thought a Muslim should follow? He responded that it is a misunderstanding to say a Muslim must follow any one of the four schools of thought. That is because there is no evidence at all in the *Qur'an* or any authentic *Hadith* that a Muslim should only follow one of these four *Imams*. Then, he further answered the question by saying; "We must respect all the great scholars of Islam, including the four *Imams*. Thus, the only school of thought that a Muslim should follow is the Madhab of Prophet Muhammad (PBUH). And Allah knows the Best".

4.7 Theme Four: Perception on SCN and Conventional Practices

This theme presents the Informants' perception on *Shariah*-compliant and conventional negotiation practices, after their identification of the concept and determination of the *Shariah*-compliant negotiation principles. However, the thematic analysis of the interviews clearly showed that the Informants' perception of *Shariah*-compliant and conventional negotiation practices are philosophically different from one another. In consonance with this view, the following sub-themes, which are indicated in Figure 4.16, have emerged as the main difference between the two perspectives, based on the perception of the Informants of this research.

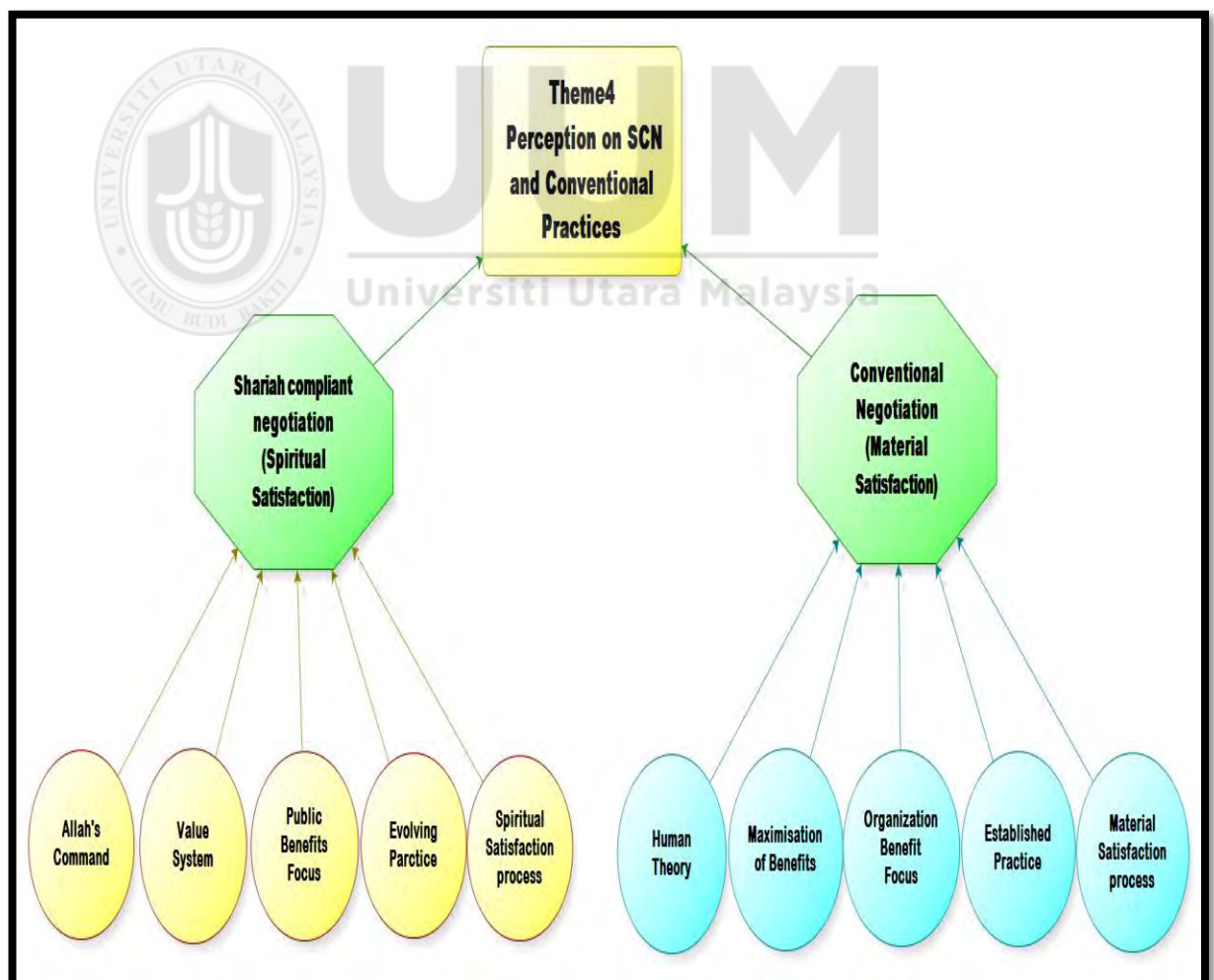


Figure 4.16. Theme Four: Perception on SCN and Conventional Practices

4.7.1 The Informants' Perception of *Shariah*-Compliant Negotiation

The spiritual satisfaction process was the theme that emerged from the findings of this study in distinguishing the *Shariah*-compliant negotiation from the other perspectives. The Informants of this research had evidently viewed the practices of the *Shariah*-compliant negotiation with a clear difference from the conventional practices. However, their responses emphasized that generally, the main differences of the *Shariah*-compliant negotiation practice are based on five criteria; Allah's (SWT) command, value system, zero interest, public benefit focus and evolving practice, as illustrated in the Figure 4.17.

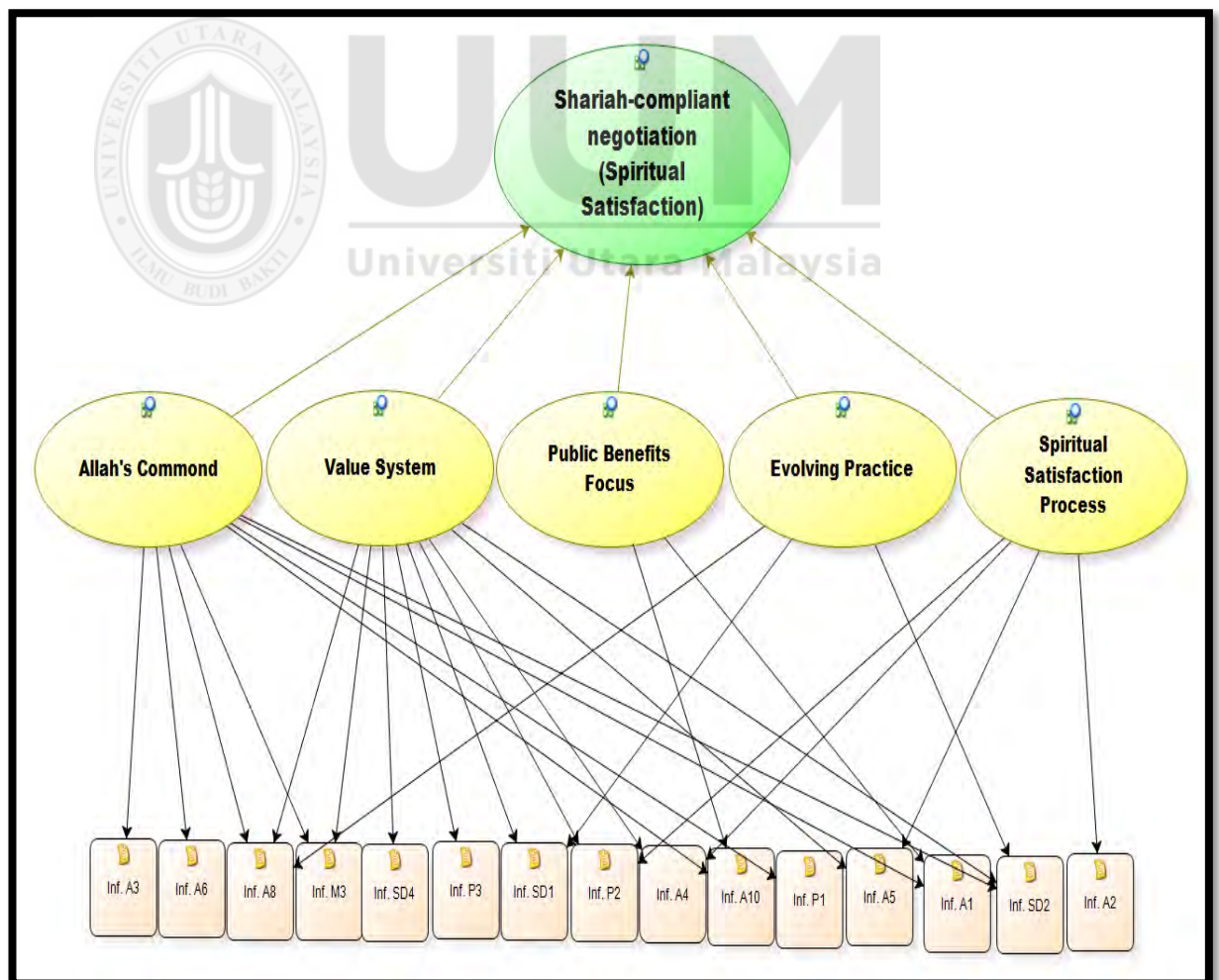


Figure 4.17. The Informants' Perception on *Shariah*-Compliant Negotiation

4.7.1.1 Allah's (SWT) Command

Based on the Informants' perception, the first distinguishing element is that the *Shariah*-compliant negotiation is Allah's (SWT) command. The emerged theme evidentially confirmed that the Informants all considered the *Shariah* principles as the main pillar in conceptualization Islamic negotiation. Similarly, the Informants all see Allah's (SWT) command through Islamic teachings as the main element that makes the negotiation *Shariah*-compliant, as the principles and practices are derived from the Holy *Qur'an* and *Sunnah* of the Prophet (PBUH). Allah (SWT) says; "And whosoever obeys Allah and His Messenger (SAW), fears Allah, and keeps his duty (to Him), such are the successful ones" (The Noble *Qur'an*, 24:52, p 475). In *Tafsir* this verse, (Ibn Kathir, 2003) noted that it discusses the main attitude of the believers, which is obeying Allah (SWT) and His Messenger (PBUH) in what he is ordered with, and avoid what he is forbidden. Indeed, the verse states that the successful one is he who follow the commands of Allah (SWT) and His Messenger (PBUH).

For that reason, Informant A10 significantly argued that from the Islamic perspective, the epistemology is different from the conventional alternative; "The moment you talk about the *Qur'an* and *Sunnah* they are evident truths." Therefore, to Muslims, it is not debatable, while "the moment you talk about theories, this is subject to human error, therefore they are debatable." In tandem with the above, according to Informant A1, what is important is negotiating within the ambit of Allah's (SWT) commands. In other words, Informants A6 and A3 certified that the *Shariah*-compliant negotiation is a negotiation type based on the teachings of the *Qur'an* and *Sunnah*.

Moreover, Informant A6 stressed that the *Qur'an* and *Sunnah* did not discuss in details the negotiation forms and its processes, but the *Qur'an* highlighted its principles and the Prophet Muhammad (PBUH) has made certain negotiations in the course of his practice of Islam, which has been preserved and should be repeatedly observed. That is why Informant A10 pointed out that; “For the Muslims, we may differ in the application, but we don’t differ on the principles.”

In agreement with this line of thought, Informant A2 stated that from the *Shariah*-compliant negotiations perspective, before the negotiations start, three questions should be answered to confirm *Shariah* compliance. These are; “Why do you want to negotiate? What are you negotiating for? And what is the subject matter of the negotiation?” This is because, based on Informant M3’s opinion, we negotiate in a lot of things and at different levels; political, family, and social, but for all of them, the negotiations should be based on *Shariah* compliance.

However, Informant A8 summed up the above by stating that obeying Allah’s (SWT) commands means observing Islam’s teaching. Hence, what makes negotiations *Shariah*-compliant according to Informant P1 is following the Islamic teachings. Similarly, Informant SD2 supported this argument by presenting his organization’s view below; “For example, in Islamic finance institutions, we cannot enter into negotiations to sell the conventional *Riba* (interest)-based products, because they are not *Shariah*-compliant. In general, if something is not a *Shariah*-compliant product, it is not negotiable.” (Informant SD2)

4.7.1.2 Value System

The analysis of the interviews of this study also show that value system is the second element that makes the distinction between the *Shariah*-compliant and the

conventional negotiation. All Informants of this research agreed that adhering to Islamic values is the second main element that aids the practice of *Shariah*-compliant negotiations. Informant A5, A8 and M3 claimed that such negotiations come from a common ground and are of the same nature. A major difference between the *Shariah*-compliant perspective and the conventional alternative is the religious value system.

In this context, Informant A5 explained that the *Shariah*-compliant negotiation is a negotiation type based on the practice of the value system that is conceived from Islamic principles and ethics, which are themselves derived from the *Qur'an* and *Sunnah*. Therefore, it is the best, most just and most right guide for Muslim believers to follow. Allah (SWT) confirms this in Surah Al-Isra. He says;

“Verily, this *Qur'an* guides to that which is most just and right and gives glad tidings to the believers (in the Oneness of Allah and His Messenger, Muhammad SAW, etc.). who work deeds of righteousness, that they shall have a great reward (Paradise)”. (The Noble *Qur'an*, 17:9, p 369)

Concerning the *Tafsir* of this verse, Ibn Kathir (2003) ensured that in this verse Allah (SWT) praises the Holy *Qur'an*, which He (SWT) revealed to His Messenger Muhammad (PBUH), and ensured that it directs people to the best and clearest of ways.

Nevertheless, Informant P3 stated that while the conventional negotiation may adhere to some principles, the *Shariah*-compliant negotiations are based on fundamental Islamic values. Additionally, according to Informant SD1, those values and principles are basically not rules, but are embedded in the nature of the Islamic negotiations. He continued his claim as thus; “As I mentioned earlier; the transparency, honesty and core ethics are not mere rules, they are part of our beliefs and faith.”

For that reason, Informant SD4 opines that the principles and values of the *Shariah* are borders of the *Shariah*-compliant negotiation, which should not be crossed. For that reason, Muslims should not negotiate within non-*Halal* activities and non-permissible dealings. Above all, Informants A4 and P2 concluded that following the Islamic value system is the main spiritual element that motivates Muslims to practice the *Shariah*-compliant negotiation.

4.7.1.3 Public Benefit Focus

The analysis of the interviews of this study found that “public benefit focus” is another element that differentiates *Shariah*-compliant negotiation from the conventional type. Focusing on the public interests or benefits in its essence is not only important for safeguarding benefits and preventing harm, it is essential for it to be in accordance with the objectives of the *Shariah*.

In line with this view, Elvan et al. (2014) considered achieving public interest as one of the *Shariah* objectives, because it is one of objectives of the creation of *Maqasid Shariah*, where it helps to prioritize the needs of the public and its effects. Consequently, this principle has the same objectives which *Maqasid Shariah* tends to achieve for humans, by a way of protecting five basic values; religion, life, intellect, lineage, and property (Al-Bugha, 1999). That means anything which constitutes public interest is recommended by Islam, while the opposite, things that cause harm, are prohibited. All jurists (fuqaha) agreed upon this as a basic principle (Nik Abdul Ghani, Laluddin, & Mat Nor, 2011).

For the above reason, Informant A10 argued that, from the Islamic view, when we negotiate, it should be for the sake of Allah (SWT), after which we should ensure

justice. We also want to ensure peace, as the result will enhance brotherhood, which is a focus of interest. Hence, what constitutes the significance of the *Shariah*-compliant negotiations is the Islamic philosophy (especially economics) behind it and societal or public interest, which devolves into the self or individual interest, while from the Western philosophical point of view, the opposite applies.

Informant A1 also stressed that the importance of this vital element is that it gives some kind of control to the negotiating parties over the negotiation outcome. To elaborate, focusing and implementing this guiding principle may help diffuse their self-interest or selfish ambition. He concluded his argument as such; “by practicing *Shariah*-compliant negotiation, there would be a balance, because in Islam, we have to balance between the private right and the social right.” Overall, utilization of this principle as a basis for the *Shariah*-compliant negotiation leads to the elimination of misconducts that underlie issues of injustice, oppression and social disharmony.

4.7.1.4 Evolving Practice

The thematic analysis of this study also found that “evolving practice” is the fourth element that makes the *Shariah*-compliant negotiation practice distinct from the conventional one. This element consequently affects the *Shariah*-compliant negotiation practices as was analysed in the previous theme. Informant SD2, SD1, and A8 significantly discussed their perception of the *Shariah*-compliant negotiation practice and all agreed that in most Islamic organizations, negotiation practice needs enhancement.

Informant SD2 heartedly argued that, in the Islamic institutions, negotiation practice needs vast improvement and development so as to effectively compete with other

perspectives. Evidentially, he stated that; “Surely, in terms of methodology and instruments, the West has advanced in studies on negotiation because they established institutions and practice professional negotiation, but we are behind in that respect; we have to admit the situation”. (Informant SD2)

4.7.1.5 Spiritual Satisfaction Process

Finally, the spiritual satisfaction process is another key standard which emanated from the findings of this study, to distinguish the *Shariah*-compliant negotiation practice from the other perspectives. This element is the outcome of the four components analysed above. The Informants of this research agreed that the Islamic principle is the main component that makes the *Shariah*-compliant negotiation practice differ from other perspectives.

Informant A2 claimed that the importance of practicing the *Shariah*-compliant negotiation is the fulfilment of spiritual satisfaction. That is because, based on the Islamic creed, everything is spiritual since all activities must be in accordance with Allah’s (SWT) pleasure. Thus, Islam does not view spirituality distinctly from everyday actions. Muslims should be mindful and establish constant awareness and consciousness of Allah (SWT) in their endeavours. In the same vein, Informant A4 noted that the spiritual element is the main motivation for the Islamic organization to practice the *Shariah*-compliant negotiation. That is because according to Informant A5, it is a type of negotiation that is intended to achieve a goal based on the *Shariah*. Nonetheless, the concept of spiritual satisfaction is clearly explained in the *Qur’an* by using the term; a pure and good life (*Hayatan tayyebetan*). In a *Qur’anic* verse, Allah (SWT) says;

“Whoever works righteousness, whether male or female, while he (or she) is a true believer (of Islamic Monotheism) verily, to him We will give a good life (in this world with respect, contentment and lawful provision), and We shall pay them certainly a reward in proportion to the best of what they used to do (i.e. Paradise in the Hereafter)”. (The Noble *Qur’an*, 16:97, p 362).

The Tafsir of this verse indicates that, means that whoever does good deeds in this world, Allah (SWT) will reward him for that in this world and in the Hereafter (Ibn Kathir, 2003). Then, Ibn Kathir (2003) continued his explanation, we are told that the life of the Hereafter will be better than the life of this world. Moreover, the reward in the Hereafter will be more complete than the reward in this life.

Overall, the above verse indicates that a good believer will have a special and good life in this world and the Hereafter, provided his deeds are in accordance with Allah’s (SWT) pleasure. As such, Informant P2 disclosed that the major factor that makes the *Shariah*-compliant negotiation practice special is its spirituality.

4.7.2 The Informants’ Perception of Conventional Negotiation

After analysing the Informants’ perceptions of the *Shariah*-compliant negotiation, in contrast, this sub-theme developed an analysis of the Informants’ perceptions of the conventional negotiations. The material satisfaction factor emerged from the findings. This factor distinguished the conventional perspective from its *Shariah*-compliant counterpart. However, the interviews’ thematic analysis evidently demonstrated that the conventional approach has five main standards that make its process different from the *Shariah*-compliant perspective. Those criteria are presented in Figure 4.18 below.

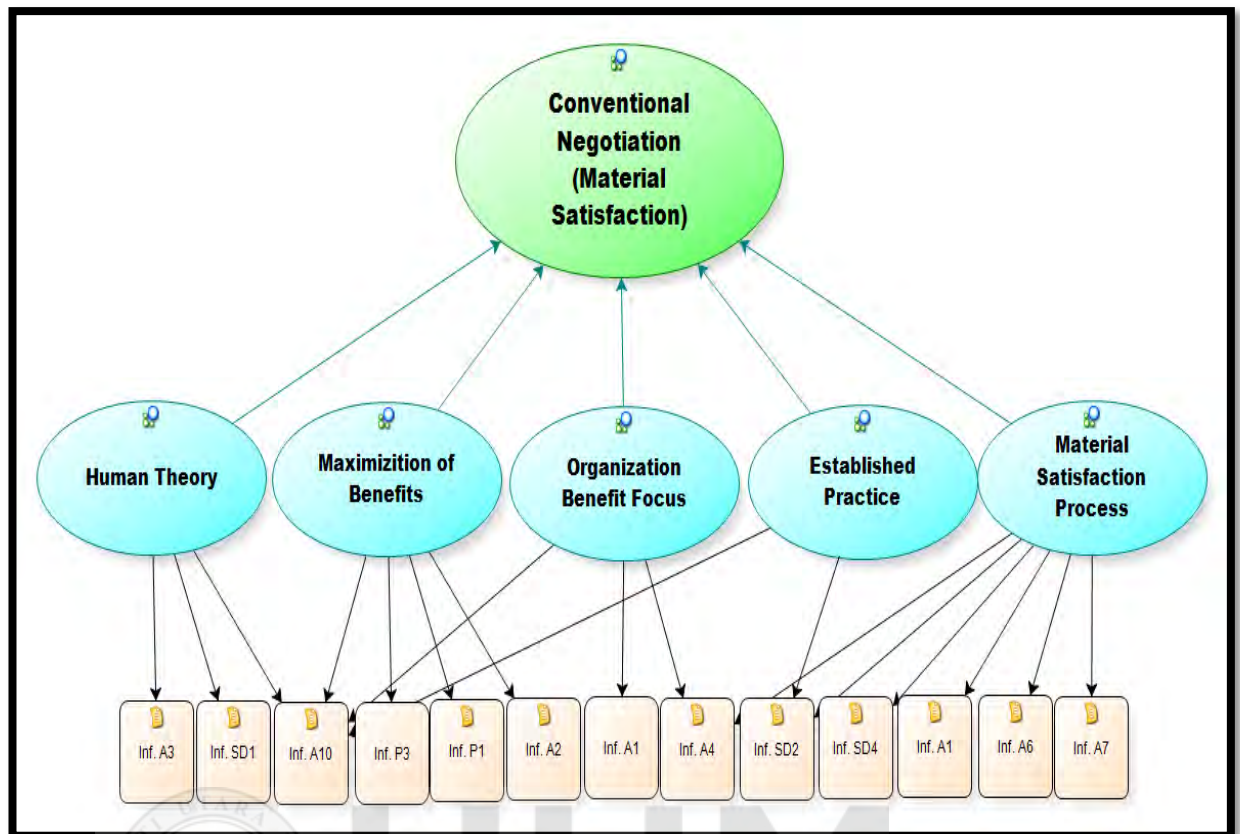


Figure 4.18. The Informants' Perception of Conventional Negotiation

4.7.2.1 Human Theory

The first distinguishing standard between the conventional and *Shariah*-compliant negotiation based on the Informants' perception is human theory. The thematic data analysis evidentially confirmed that some of the Informants viewed conventional negotiation as based on human theories. For example, Informants A3 and SD1 stated that the epistemology of the conventional perspective is different from the *Shariah*-compliant approach; as it is established on the basis of human theories. Therefore, Informant A10 disclosed that it is subject to human error, because the moment you talk about theories, it means that they are debatable.

Informant A10 explained this distinguishing component in more detail. He preferred to respond by sharing a story from his experiences of what happened to him while he

was conducting a training on Islamic organization's system of management in one of the East African countries. He said;

I was giving a training in Islamic finance in an East African country. During the third day of the training, a lady asked me; "Sir, I am a senior lawyer. I have been practicing law for 20 years. I have read *Shariah* and I know it thoroughly", and she started giving cautions. Then, she said; "Sir, given my background as a lawyer, and knowing your *Shariah* thoroughly, can I become a *Shariah* board member? So, I told her; "Look, young lady, I don't doubt your ability or your skills of argument, but Islam makes a contract. In Islam, we have two kinds of law; one is called "*Qadhaan*" and the other called "*Diyanatan*"; meaning, one rule of law is where the argument is based on apparent evidence that you see. But the other one is religious; it has to do with *Halal* and *Haram*. So, for the first one, I can see your ability of argument, but for the second one you need a passport; that is, you need to have the basic foundation of *Halal* and *Haram*, which is *Iman*, and this is what disqualifies you (Informant A10).

From this story, it can be argued that once it comes to the philosophical level, the conventional negotiation differs from the *Shariah*-compliant negotiation. Philosophically, the conventional negotiation scholars derive their concepts and principles from the human theories. Meanwhile, *Shariah*-compliant negotiation concepts and principles are derived from the Islamic religion (the *Qur'an* and *Sunnah*) (Informant A10). Additionally, he stated that the epistemological history of the western knowledge development indicates that its foundation is from human theories. That is why even in the methodology of their research, they talk about falsification of theories.

4.7.2.2 Maximization of Benefits

Another standard that creates a distinction between the conventional and the *Shariah*-compliant negotiation is maximization of benefits. This study finding revealed that the conventional negotiation approaches from the angle of maximization of benefits. The Informants of this research are of the view that conventional negotiation

practitioners focus on maximization of benefits as the second vital criterion that influences the practice of the conventional negotiations. To elaborate, Informant A2 stressed that negotiation objectives in any perspective are same, which is to reach a certain goal and to attain it peacefully. The difference lies in the way, the process and the procedures to achieve such goals.

From the *Shariah*-compliant approach, it should be based on fundamental Islamic values, while from the conventional perspective, it is benefits maximization-focused. In this regard, Informants P3 and A10 specified that the conventional negotiation procedures also have values and principles, but their main focus is maximization of benefits. Overall, Informant P1 debated that maximization of benefits relies on the principle of “ends justify the means”, which means no matter the process, if it will help to achieve the objectives, then it is justified. Meanwhile, the opposite applies in Islam; the means justify the ends. Indeed, this distinguishes conventional from the *Shariah*-compliant perspectives.

4.7.2.3 Organization (Individual) Benefits Focus

The findings and interpretation of the interviews of this study showed that organization or individual benefit focus is another criterion that makes the conventional negotiation different from the *Shariah*-compliant version. Informants A4, A1 and A10 all opined that most of the conventional negotiation practices focus only on self-interests or benefits. This is because, from their philosophical point of view, self-interest leads to public interest.

Self-interest refers to arrangements that produce the most personal benefit. The famous economist, Adam Smith, is the one who established this philosophical argument. He

explains that the best benefit for all can usually be achieved when individuals act in their own self-interest. Informant A4 argued that this point of view is one of the main differences between the conventional and the *Shariah*-compliant practices. According to his point of view, it means; “whatever I will get from negotiations based on conventional perspective practice is only for personal benefit.”

4.7.2.4 Established Practice

Another component that emerged from thematic analysis of this study is “established practice”, which also makes the conventional negotiation practice distinct from the *Shariah*-compliant approach. This element was the consequence of the foundation upon which conventional negotiation studies were established. The conventional practices have been in discourse since the 1960s, and they have been studied from a different approach and a different point of view. Therefore, numerous books and many models of it have been acknowledged and practiced around the world.

In line with this fact, Informant SD2 and A10 expressively agreed that in terms of methodology and instruments, the conventional perspectives enjoy advanced studies in negotiations because they established institutions and practice professional negotiations. As such, that could be a very essential standard for the *Shariah*-compliant practice to benefit from, literarily and methodologically.

4.7.2.5 Material Satisfaction Process

As a final point, the thematic data analysis of this study evidentially showed that the material or interest satisfaction process is another key term that distinguishes the conventional negotiation practice from the *Shariah*-compliant negotiation approach. Based on this study Informants’ perceptions, this standard is the outcome of the four

factors analysed above. They (Informants) agreed that the focus on the material interest satisfaction and ignoring of the spiritual satisfaction is the central factor that creates the differences between the conventional negotiation practices and the Islamic negotiation perspective respectively. More so, Informant A7 addressed this issue by saying;

The conventional way of negotiation is; let us close our eyes and cooperate with each other in what we all agree over. And everyone should just forgive the other in what we don't agree over. This may have a lot of interpretations. So, the conventional method is just; we close our eyes for the benefit of the transaction regardless of the consequences, whether it affects our religion or not. (Informant A7).

Accordingly, Informant SD2 argued that conventional practice is for the sake of the benefit of the negotiation because their philosophy is based on the principle of "ends justify means". Similarly, Informant SD4 stated that the conventional negotiation practitioners are only concerned with dollars and cents, and they don't care about religious principles. Therefore, according to Informant A1, they ignore *Shariah* principles. In general, Informants A6 and A4 concluded that the negotiation practices from the conventional perspective obviously focus only on interests and benefits because, due to their purpose and nature, they rely on material satisfaction.

4.8 Chapter Summary

The interpretation of the findings of this study has brought out a valuable perception and understanding about negotiation from the Islamic perspective. However, interviewing 20 experts from four varieties of groups (Muftis, *Shariah* board members, practitioners and academicians) has made the findings of this research more significant. The Informants' views were extremely substantial because they have direct and indirect experience in their organizations and that was very contributory as the themes of this study were originated and developed from the

Informants' responses. Generally, the thematic analysis with the assistance of NVivo 8 software brought out four themes that emerged for the purpose of conceptualizing the *Shariah*-compliant negotiation model.

Fundamentally, the findings and interpretations started with the first theme, which was about examining the concept of the *Shariah*-compliant negotiation. Three sub-themes and eight sub-sub-themes had emerged from the conceptualization. As such, the *Shariah*-compliant negotiation is an interactive process that provides a platform of deliberations between two parties or more based on the *Shariah* teachings, with the goal of obtaining spiritual satisfaction. After that, the analysis of theme two helped to determine more features of *Shariah*-compliant negotiation principles.

The fundamental principles of negotiation from Islamic perspective were then evidentially interpreted. Those principles are fundamentally related to each other and are the main elements which form the *Shariah*-compliant negotiation model. For that reason, the Informants of this study claimed that every identified principle requires deep consideration, observation and practice from the Islamic organizations.

The third theme was developed to evaluate the practice of the *Shariah*-compliant negotiation. Based on the views and explanation of the Informants, the practice has significant benefits for the Islamic organizations. However, Islamic organizations are faced with some challenges which need attention and solutions. Finally, the Informants' perceptions of the differences between the *Shariah*-compliant and conventional negotiation were evidentially analysed as the fourth theme. Overall, each theme is related to the other, and supports the development of the *Shariah*-compliant negotiation model directly.

CHAPTER FIVE

DISCUSSION AND CONCLUSION

5.1 Introduction

This study was conducted to explore the notion and principles of negotiation from the Islamic perspective, and to examine the extent of its practice in the Islamic organization. To achieve that, it focused on five specific objectives as presented in Chapter 1. In line with these objectives, the study used the in-depth interview technique of the qualitative approach to fulfil this study gap of knowledge and answer the research questions. Thus, themes emerged from the content analysis of the collected data. The findings of this research, thus, explored the concepts, principles and practices of the *Shariah*-compliant negotiation from the perceptions, views and opinions of the research Informants.

However, this chapter has two sections; the first section presents the discussion of the current study findings, which examine and provide an in-depth understanding of the negotiation notion from the Islamic perspective. Generally, the discussion follows the order of the research questions with the development of the emerged themes and sub-themes which provide answers to the research question. Thus, this section discusses and summarizes the results of this study, which led to the development of the *Shariah*-compliant negotiation model.

The second section of this final chapter demonstrates the significant contributions of the research. It thus examines the negotiation concepts, principles and practices of the Islamic approach. It began with pointing out the theoretical and methodological contributions of the study. After that, it highlights some practical contributions for the policy makers in the Islamic organizations. Finally, the chapter indicates the limitations of the study and ends with some recommendations for future research.

5.2 The Concept of the *Shariah*-Compliant Negotiation

This study began by identifying the concept of negotiation from the Islamic point of view. Therefore, this section focuses on answering the first research question. In doing this, three major sub-themes with 8 sub-sub-themes emerged as the key components of the *Shariah*-compliant negotiation. Thus, this discussion expounds the findings, with particular concern for the essentials of each the sub-themes in examining negotiation from the Islamic approach. Consistent with this discussion, this research explores the *Shariah*-compliant negotiation as an interactive process which provides a platform for disagreement between two parties or more within the *Shariah* teachings to obtain spiritual satisfaction.

5.2.1 *Shariah*-Compliant Negotiation Disagreement Platforms

As the data revealed, negotiation is an important daily activity of human beings. However, certain principles guide its process and practice. This process has many forms, which have been the focus of studies from different perspectives. From the Islamic approach, this study discovered that negotiation has three kinds of platforms or forms; reconciliation, discussion and communication (refer to Figure 4.3). Most Informants evidently agreed that this variation of the platforms validates the importance of process from the Islamic standpoint. Basically, the majority of the Informants opined that reconciliation (*Sulh*) is the most significant concept Muslims use as a platform for the conduct of negotiations. In line with the opinion of the Informants, this concept (*Sulh*) has been one of the main terms which are frequently mentioned in the Holy *Qur'an* and the *Sunnah* as a tool for negotiation. Thus, this view expressed by the Informants was synthesised in relation to previous literature and *Qur'an* and *Sunnah* injunctions on negotiation, peace building and conflict resolution.

Generally, the concept of *„Sulh’* has a long history within the Arab and Islamic societies. It has its origin from the pre-Islamic Arabian period. As such, Islam revealed and emphasized so much on this great process to convey its teachings to all human beings and invite them to live in the Islamic way. In fact, the Messenger (PBUH) used this vital process to spread the message and call to the oneness of Allah (SWT), belief in His existence, and following the institution of His *Shariah* (laws).

In this quest, the findings from the existing studies, especially diplomacy and law studies coincided with the concept of *Sulh* (reconciliation) as expressed by the *Qur’an* and *Sunnah*. It further correlates with the concept of mediation and arbitration. The concept of *Sulh* is justified as a reconciliation instrument in Surah An-Nisa of the *Qur’an*; “...and reconciliation (*Sulh*) is better” (4:128). In this verse, Allah (SWT) recommends that *Sulh* be done if there is any kind of disagreement between the husband and wife. Thus, it could be observed that *Sulh* is the first concept that is confirmed by Islam for Muslims as a platform for negotiations.

Besides that, this study also found two other concepts that the Informants prefer to use as a platform to conduct their negotiations. These are; “*Shura*” (Discussion, Consultation) and “communication means”. *Shura* does not only mean consultation or deliberation, it also means the process of decision-making. The Informants of this research consider this platform as a foundation which negotiations at any level should rely on. This platform is mentioned in the Holy *Qur’an* at three different levels; the family, social, and political levels. Therefore, the Informants claimed that it is not restricted only to political issues; it is also for family and social life.

In line with this view, this concept has been identified in a few academic works as discussed in the literature review chapter. Moreover, this concept from the

conventional perspective considers negotiation as a joint decision-making process. This was extensively discussed by Zartman (1977) while examining this approach (see chapter two).

Lastly, this research found that communication means is the last disagreement platform Muslims use to execute their negotiations. Some of the Informants even define negotiation as a means to communicate with each other in order to achieve mutual objectives. Therefore, considering the prophetic assignment of calling and inviting people to the Right Path via communication justified the impetus of communication in Islam. It can be further argued that the entire religion of Islam was spread through communication from *Qur'an* and *Sunnah* as well as other major references of Islamic scholars that serve as the Muslims core of foundations of guidance.

Therefore, Mahmoud (2002) noted that Islam is a communication-based religion, and it is dominated by and constituted based on negotiation and persuasion. This point of view has been discussed and studied by scholars from the 1970s till the present time from the conventional perspective. All of those studies clarified that negotiation is a communication process (refer to the cognitive perspective). And so, according to Čulo and Skendrović (2012), this process can be distinguished from the decision-making process perspective.

Overall, the discussions above about the *Shariah*-compliant disagreement platforms approve the significance of negotiations from the Islamic religion's point of view. Therefore, the Informants of this research brought out and built their claims in the negotiation context based on Islamic teachings.

5.2.2 *Shariah* Bases

The results of this study also indicated that the *Shariah*-compliant negotiation platforms must be derived from *Shariah* principles. *Shariah* is the revealed or canonical law of Islam (Wehr, 1976). It is the Islamic religion's fundamental concept and it covers religious rituals and all aspects of human daily life. *Shariah* is a perfect guide for a better life for all mankind; it produces perfect and standard rules of conduct for all aspects of life. *Shariah* law or principles were revealed by Allah (SWT) Who has created everything for humanity. Therefore, its main concern is to safeguard and balance the welfare of human beings, as well as fulfil their comprehensive needs Abdul Rahim (2013).

Nonetheless, without any doubt, the role of *Shariah* principles is very fundamental in Islamic scholarship and even in the Islamic view of any research field. Therefore, the analysis of this research indicated that the *Shariah* is the main foundation upon which the *Shariah*-compliant negotiation concept should be based. Moreover, the findings of this study acknowledged that *Shariah* compliance is based in foundation and authority on two divine scriptures; the Holy *Qur'an* and the *Sunnah* of the Prophet Muhammad (PBUH).

Muslims believe that the Holy *Qur'an* is the main source of the *Shariah* because the *Qur'an* is guidance to mankind. Moreover, Muslims believe that it is the final divine, authentic and unadulterated revelation from Allah (SWT), that was communicated to humanity through His final Prophet, Muhammad (PBUH). The Holy *Qur'an* is a perfect code for all mankind, without any limitation of time and space. Consequently, Muslims believe that it is the code for the complete way of life (Maududi, 1960). For this reason, the Informants of this research believe that

this perfect code of life also discusses principles on how to deal and negotiate between each other. Therefore, they used it as the main source and guide to know the concept of *Shariah*-compliant negotiation and determine its principles.

Apart from the Holy *Qur'an*, the *Sunnah* of the Prophet Muhammad (PBUH) is the second source which the Informants commonly referred to in their discourse of the *Shariah*-compliant negotiation concept. The *Sunnah* signifies the teachings of Allah's Messenger, Prophet Muhammad (PBUH). The importance of the *Sunnah* is in the fact that it explains the Holy *Qur'an* and is a commentary on it, such as that of the five daily prayers, their times, and all other rulings. It also adds some rulings to those in the Book of Allah (SWT), such as the prohibition on being married to a woman and to her paternal or maternal aunt at the same time. In Surah An-Nahl, Allah (SWT) says;

“With clear signs and Books (We sent the Messengers). And We have also sent down unto you (O Muhammad SAW) the Reminder and the Advice (the *Qur'an*), that you may explain clearly to men what is sent down to them, and that they may give thought.” (The Noble *Qur'an* 16:44, p 353)

Therefore, many Islamic scholars believe that even the *Sunnah* is revelation from Allah (SWT) to His Prophet (PBUH) (see the previous chapter). That is because it would be difficult to understand all of the verses of the *Qur'an* without referring to the *Sunnah* of the Prophet (PBUH) (Danka, 2009). This position is obviously declared in Surah An-Najm. Allah (SWT) says;

“...Your companion (Muhammad SAW) has neither gone astray nor has erred. Nor does he speak of (his own) desire. It is only an Inspiration that is inspired. He has been taught (this *Qur'an*) by one mighty in power [Jibrael (Gabriel)]...” (The Noble *Qur'an*, 53:2-5, p 717)

Allah (SWT) revealed to His Prophet both the *Qur'an* and the *Sunnah* and He commanded him to convey both to the people. From this point of view, the *Sunnah* is considered as the second authentic source of any Islamic study. For that reason, this

study found that the negotiation concept and principles can be derived from *Qur'an* and *Sunnah*. Therefore, The Informants of this study used these two authentic Islamic sources to bring out the concept and principle of the *Shariah* concept of negotiation. Consequently, the identification of the *Shariah*-compliant negotiation concept and principles is very significant because it correlates to the Islamic teachings and law.

Overall, *Shariah* relies on the Holy *Qur'an* and *Sunnah* as main sources. It represents the law of Allah (SWT) and offers guidance for the regulation of life in the best interests of mankind. Its objective is to show the best way to mankind and provide the ways and means to fulfil their needs in the most successful and most beneficial manner (Maududi, 1960). Therefore, this study found that the *Shariah*-compliant negotiation can only be identified based the *Shariah*. This is buttressed by the Informants, as they argued that the purpose of the *Shariah*-compliant negotiation is to gain spiritual satisfaction.

5.2.3 Spiritual Satisfaction

This study has also found that the importance of conducting negotiation from the Islamic perspective is to gain spiritual satisfaction. Accordingly, Islamic literature sees „spirituality“ as a means of using the intellect and abilities to gain consciousness of the reason for the creation of man. Mankind was created to worship Allah (SWT) alone, and accepting and practicing that which is from Allah (SWT) to His satisfaction, in this case, the *Shariah*-compliant negotiation. Thus, this has linked human actions to the purpose of life (Marzband, Hosseini, & Hamzehgardeshi, 2016).

In line with this assertion, the Informants of this study argued that in Islam, spiritual fulfilment is connected with daily actions. This is because Muslims are commanded to surrender completely to Islam; that means all activities must be in accordance with Allah's (SWT) pleasure. Therefore, based on the Islamic creed, everything that Muslims say or do is spiritual. Consistent with this view, this research claims that practicing the *Shariah*-compliant negotiation leads to spiritual satisfaction, because it is a negotiation founded on Islamic principles, and contributes significantly to the development of completely *Shariah*-based organizations.

Nonetheless, the findings of this research identified three interrelated factors which lead to spiritual satisfaction from the Islamic organizations' point of view, and encourage them to conduct their negotiations based on the Islamic approach. The main factor which is associated directly to spiritual satisfaction is *Ibadah*. This study argues that Muslims' purpose of life is to worship Allah (SWT). Thus, the Muslim who lives for *Ibadah* has fulfilled the purpose of his creation. This is confirmed in a *Qur'anic* verse (Surah Adh-Dharyat 51:56), (see page 112).

Generally, as discussed in the previous chapter, Islamic scholars explained *Ibadah* as a comprehensive term for all that Allah (SWT) loves from the actions of a believer (Basharat, 2009). This means that *Ibadah* is everything a Muslim says or does for the sake of Allah's (SWT) pleasure. In other words, Islam requires its believers to live their lives according to its teachings in every aspect. Corresponding to these beliefs, the Informants specified that their purpose of negotiating based on the Islamic teachings is to gain the pleasure of Allah (SWT) from obedience to His commands. As such, that pleasure is very important because it leads to spiritual satisfaction, and spirituality in this sense connects the actions of an individual to the purpose of his life.

Furthermore, Allah (SWT) has shown Muslims the deeds that attain high spiritual value, which are the obligatory (*Fard*) and recommended (*Mandub*) *Ibadah*. As such, this research found that from those required *Ibadat* is following Islamic instructions and avoiding actions which are prohibited in Islam. The Informants argued that Muslims believe Allah (SWT) has prohibited only things which are useless and dispensable for mankind. Therefore, the *Shariah* has clearly presented in detail the things that are unlawful (*Haram*) and lawful (*Halal*) in Islam. Consistent with this *Hudud* (limits) of *Shariah*, this study argued that avoiding the *Haram* actions is the second factor that leads to spiritual satisfaction. This is because the Informants found that one of the Islamic organizations' purposes of conducting their negotiations based on the *Shariah* is to avoid the *Haram* dealings and to obey and respect the *Hudud* of Allah (SWT).

However, the last factor that emerged from this research's findings that leads to obtaining spiritual satisfaction is ensuring unity. The Informants argued that the Islamic organizations conduct their dealings from the *Shariah* viewpoint to ensure the internal and external unity of the organizations. Conceptually, unity is the foundation of human cohesion. It refers to the situation whereby ethnic groups, religious groups and individuals from different locations live in harmony (Yassin & Dahalan, 2012).

Accordingly, unity in Islam entails practice of the basic Islamic tenets. In other words, it means that all actions should be within the Islamic values of unity as espoused in the Holy *Qur'an* and according to the *Sunnah* (Abid, 2015). Allah says in the Holy *Qur'an*; "Truly! This, your *Ummah* [Sharia or religion (Islamic Monotheism)] is one religion, and I am your Lord, therefore worship Me (Alone)." (Surah Al-Anbiya 21:92). Connected to this verse, Majid (2015) stated that the

foundation of the community in Islam is the principle which defines obedience to the will of Allah (SWT). Therefore, ensuring unity is one of the objectives of the Islamic organizations and it is also an obligation on all Muslims, individually and collectively.

Overall, this research confirms that the *Qur'an* and *Sunnah* serve as guidance to Muslims in all aspects of their lives. It is important for Muslims to realize that all their good deeds are considered acts of *Ibadah* by Allah (SWT). In view of that, it will be inspiring for the Islamic organizations to seek Allah's (SWT) pleasure in their dealings and negotiations so as obtain spiritual satisfaction.

5.3 The Principles of the *Shariah*-Compliant Negotiation

One of the main objectives of this research is to extract the principles that the *Shariah*-compliant negotiation should be based on. In the quest for achieving this objective, six sub-themes emerged from the interviews' analysis, which revealed the main principles of the *Shariah*-compliant negotiation. These principles are; *Qur'an* & *Sunnah* compliance, justice, credibility, flexibility, information disclosure and relationship. Thus, the principles that emerged as sub-themes and sub-sub-themes were discussed as the basis of negotiation from the Islamic perspective. These principles and their importance to the development of the *Shariah*-compliant negotiation model are presented below.

5.3.1 The *Qur'an* & *Sunnah* Compliance Principle

Deducing from the data from this study, the Holy *Qur'an* and *Sunnah* compliance is the main principle of the *Shariah*-compliant negotiation. The Informants argued that the *Shariah*-compliant negotiation is a type of negotiation that must be certified by

Shariah and must be within the teachings of Islam. In other words, it must be conducted in accordance with the Islamic principles that are developed based on the *Qur'an* and *Sunnah*. Thus, this research claims that these principles are the main pillars of conducting negotiations from the Islamic perspective.

This is because the Holy *Qur'an* and *Sunnah* compliance means the negotiations are derived from the Islamic approach, and not to any other kind of process. Rather, the scope is limited to the objectives and process of *Shariah* compliance. Accepting the above argument, Informant A2 opined that negotiating within the Islamic jurisdiction means the process, the object and the ultimate settlement have to be *Shariah*-compliant. Hence, this principle means that if an issue is not allowed by the Holy *Qur'an* and *Sunnah* it cannot be negotiated. Moreover, this study also confirms that this principle should be the most significant objective of Islamic organizations. Thus, *Shariah* compliance is the main principle that makes the Islamic organizations differ from the other types of organizations.

However, the findings of this research revealed that this indispensable principle of the *Shariah*-compliant negotiation has two other sub-principles; willingness and sincerity to negotiate. The Informants claimed that these two sub-principles are related to each other within the *Shariah* compliance principle. They are very essential principles that direct the outcome of the negotiation. Nevertheless, the willingness to negotiate was the first sub-principle developed from the *Qur'an* and *Sunnah* principles. The Informants argued that negotiation is not to be forced on persons, as Islam has given to mankind the freedom of belief, thought, speech, and action, hence the negotiations from the Islamic perspective. As such, the negotiating parties must have the choice to negotiate in the *Shariah*-compliant negotiation model.

In line with this view, Ghanim and Fatima (2009) stated that the Islamic religion does not deprive others their rights, but recognises their rights and freedom of choice. Accordingly, Usman (2013) stressed from the Islamic standpoint that the prohibition of compulsion in religious matters is a vital *Qur'anic* principle which, is “true faith based on free will and free choice.” In view of that, scholars justified their claim from several *Qur'anic* verses that treated this subject in a convincing manner to confirm the prevention of forcing others to unwillingly accept Islam and its principles. Therefore, this research confirms the claim of the literature on this sub-principle and finds that the *Shariah*-compliant negotiation ensures that every person is responsible for his own actions and inactions in negotiation. For that reason, the Islamic approach of negotiation presents the best way of conducting negotiations and ensures that no person is permitted to force others into negotiation.

Moreover, the findings of this study show that sincerity is another related sub-principle of negotiation. In Surah An-Nisa 3:35, Allah (SWT) says “...if they both wish for peace, Allah will cause their reconciliation.” From this verse, some Informants argued that there is no doubt that Allah (SWT) gave the freedom of choice to negotiate, but also to negotiate with sincerity. Therefore, this study claims that the *Shariah*-compliant principle is also based on the sub-principle of sincerity to ensure that the negotiation will be successful and blessed. Thus, according to Maktabdar (2014), sincerity is fundamental to Muslims’ lives, because their deeds and actions are judged based on it. Therefore, when it comes to sincerity in Islam, the intention is its foundation in considering whether the action or deed is done properly or not. Consistent with this thought, the Informants argued that the importance of this sub-principle is to come with a clean mind and with a good intention to negotiate and have a strong commitment to the negotiated outcomes.

5.3.2 Justice

As has been discussed in the previous chapter, the research findings revealed that justice is the second main principle of the *Shariah*-compliant negotiation. The Informants opined that the *Shariah*-compliant negotiation is all about justice. That is because it is based on the Islamic teachings, which consider justice to be an ultimate virtue and a main objective of Islam. Consistently, the Islamic literature confirms that Islam is characterized by justice at all times and to everybody irrespective of race or religion. Islam orders Muslims to be just in all their dealings in all aspects of their lives, and to avoid unjust conduct even with their opponents (Alikhani, 2011; Zubair & Azhar, 2014).

Taking a cue from the discussion documented in chapter two and four about justice in the Islamic literature, it is important to determine the right application of this principle in the context of this study. In that regard, several concepts or meanings in the Islamic viewpoint emerged, but all of the meanings are about putting things in their rightful places. In consonance with these concepts, this study argues that justice in the *Shariah*-compliant negotiation is all about avoiding oppression and extremes. Rather, it entails trying to be moderate and trying to give people their rights as ordered by the Holy *Qur'an* and *Sunnah* in many *Qur'anic* verses and authentic *Hadiths* (see chapter three and five). Therefore, this research claims that this principle is one of the significant and core principles of the negotiation from the Islamic approach, because without justice, negotiation would not be *Shariah*-compliant.

In addition, the findings of this study indicated that this fundamental principle also has two other sub-principles; fairness and All-Win. This research found that the

Informants consistently distinguished between the concept of justice in negotiations and these sub-principles. Generally, this study concludes that fairness is an innate trait of an individual. It means giving someone what is due to him without bias. Similarly, Yassin and Dahalan (2012) identified it as placing things in a right place and giving reasonable justification which nullifies the wrong. Consequently, the Informants stressed that in Islam, people are all equals and deserve fairness. Therefore, they should get fair treatment in all situations. Consistent with this understanding, conventional literature emphasizes the elements that lead negotiating parties to feel that they have gotten their fair share from the negotiation outcome through “distributive justice”. Therefore, they will depend on their perceptions of fairness in making agreements and demands, and in reacting to others’ offers, than determining whether to reach an agreement or close negotiations (Welsh, 2004).

Nonetheless, besides fairness, the findings of this study also revealed that All-Win is the second sub-principle that relates to the principle of justice. The Informants argued that this sub-principle is significant because it is one of the criteria that make the *Shariah*-compliant negotiation approach differ from other perspectives. They opined that the *Shariah*-compliant negotiation relies on the principle of justice, therefore from this view, negotiation is all about All-Win outcomes in all matters. Consistent with this view, the literature of conventional perspectives considered the All-win sub-principle as a negotiation approach. Its main purpose is to negotiate a set of mutually acceptable agreements that are fundamental to the negotiated matters. In this approach, it is commonly assumed that in negotiations, the negotiating parties accept only the agreements that are beneficial to all (Boehm & Kitapci, 2006; Winham & Bovis, 1979).

To sum up, the discussion above shows that the principle of justice is the second essential foundation of the *Shariah*-compliant negotiation. That is because Islam prohibits its believers and followers from being unjust, even to their enemies. Thus, this research argues that a negotiation which is not based on justice is not a *Shariah*-compliant negotiation.

5.3.3 Credibility

Islam is a religion that guides its believers in every aspect of their lives. Therefore, most of the Islamic principles are based on some principles that lead to a good, pleasurable and secure life. Credibility is another great typology of Islamic character of a true Muslim. Therefore, this study reveals that it is the third main principle of the *Shariah*-compliant negotiation. It is necessary for human dealings because it contributes significantly to the success of negotiations. As regards the importance of this principle, the findings of this research showed that, in the context of negotiation, credibility is the integration of three other sub-principles; honesty, truth and respect.

Nevertheless, as discussed in the previous chapter, truth emerged as the first sub-principle integrated within the concept of credibility. However, this study confirms that truth is the main foundation of credibility in *Shariah*-compliant negotiations. The Informants extensively emphasized credibility when they discussed their experiences in their organizations. They evidentially noted that in Islam, truth leads to goodness and goodness leads to Paradise. Therefore, many *Qur'anic* verses and authentic *Hadith* of the Prophet (PBUH) command Muslims to be truthful at all times and in all circumstances. As such, truthfulness with others is rewarded as truthfulness with Allah. Thus, this research argues that truth is very fundamental in executing negotiation from the Islamic perspective.

In accordance with this belief, the Islamic literature supports the claim that truth is the factor which everyone tries to ascertain in negotiations. Therefore, Ghanim and Fatima (2009) noted that in the Holy *Qur'an*, Allah (SWT) emphasized truthfulness extensively. Allah (SWT) described Himself with the attribute of truth in Surah An-Nisa (4:122). Besides, the Prophet Muhammad (PBUH) also focused on this great sub-principle so much in his character till He was known as the best and most popular example of a truthful person ever known to mankind. Moreover, He (PBUH) showed that the true servant of Allah (SWT) is not untruthful. Therefore, truthfulness is part of the belief and crucial value of the believers. Indeed, in Islam, truth is the key of goodness, and also the key to effective negotiations.

However, going back to the study's results, the Informants believed that honesty (*Amanah*) is the second sub-principle integrated into the credibility principle of the *Shariah*-compliant negotiation. This study argues that telling the truth is not enough; one must live with the truth and be honest, as an embodiment of credibility. Therefore, the Informants discussed the importance of this sub-principle to the effectiveness of negotiation from the Islamic approach. The study's findings show that the Informants identified honesty as telling the truth in all cases and under all circumstances, and fulfilling promises. Therefore, they considered it as one of the bases of negotiations, because it is one of the main bonds between the negotiating parties.

The Informants also stressed the factor of „disagreements“ by bringing out the evidences of their claim from the Holy *Qur'an* and *Sunnah* as presented in the previous chapter. In line with this concept, the Islamic literature also determined this sub-principle as giving, fulfilling rights and keeping them. Furthermore, scholars

declared that deception is prohibited in Islam, and any Muslim that deceives has committed a sin. On the other hand, Muslims believe that honest people will earn divine rewards. Almighty Allah (SWT) and His Prophet (PBUH) confirmed the primacy of honesty. Hence, this sub-principle will make the process of any deal or transaction proceed with tranquillity, relaxation and ease (Al-Nawan, 2012). For that reason, this research claims that honesty is another key for any effective negotiation.

Finally, besides truth and honesty, respect was the last sub-principle that was integrated within the credibility principle of the *Shariah*-compliant negotiation. This research confirms that from the Islamic point of view, respect is another important sub-principle that contributes to the success of negotiations. It is one of the pillars of Islamic ethics. Therefore, this sub-principle was evidentially stressed by the Informants. They strongly believe that negotiation occurs to solve the problems that were caused by differences in opinions or the different interests and needs among the people. Thus, negotiations would succeed by respecting each other's opinion and rights. This study affirms that mutual respect is paramount to successful negotiation.

In consonance with this discussion, Islamic and conventional literature affirm the importance of respect to successful negotiation. For instance, from the Islamic perspective, Ghanim and Fatima (2009) emphasized respecting diversity and differences of opinion. They developed their scholastic support from the Holy *Qur'an* and *Sunnah* and they specified that differences in colour and race were created among human beings in the *Ummah* by Allah (SWT), only for easy identification, to know one another and live with respect to each other; not to live in conflict (see chapter three). Similarly, from the conventional point of view, Cohen (2002) pointed out that most moral and religious edicts require that people should be

treated as beings with dignity. Thus, ethical negotiation requires one to respect the other party. This encompasses not just the means that should determine negotiation, but, both the means and the ends, which are considered as factors in negotiations. Overall, this research confirms that if truth and honesty are observed in any negotiation, the natural outcome of it is the establishment of respect between the negotiating parties. Thus, the integration of the three building blocks of credibility would lead to successful negotiations. Therefore, this study shows the importance of credibility as one of the core principles of the *Shariah*-compliant negotiation and concludes that this principle is an ethical attribute that the *Shariah*-compliant negotiation must feature.

5.3.4 Flexibility

As revealed by the findings from this study, flexibility is another key principle of the *Shariah*-compliant negotiation. The Informants extensively emphasized on this principle and considered it as one of the pillars of the *Shariah*-compliant negotiation. They all agreed on the importance of this principle in motivating and inspiring the negotiating parties. It makes it easier for the negotiating parties to achieve common outcomes. Accordingly, this research claims that it is difficult to negotiate without being flexible. Hence, flexibility is as important as identified by informants as a vital factor to successful *Shariah*-compliant negotiation.

In agreement with this view, the Islamic literature also gave attention to this principle, as already discussed in the third chapter. Scholars stressed that Islam is a religion of ease; the Holy *Qur'an* and *Sunnah* are full of recommendations that highlight the permissibility and importance of flexibility, even in worship and fulfilling the religious duties (refer to chapter three). Besides, Prophet Muhammad

(PBUH) was known to be flexible in his negotiations before and after the Hijrah (his emigration to Medina). This flexibility in negotiation has contributed significantly to the spread and strength of Islam. Indeed, it is an essential principle in managing the success or the effectiveness of any form of dealings or negotiations between the people (Ghanim & Fatima, 2009).

This study deeply examined this principle and identified three sub-principles related to flexibility in conducting negotiations from the Islamic approach. Though there are few Islamic literatures about tolerance, it was mentioned in a few cases in different contexts. Therefore, this study finding illustrates that tolerance is the first sub-principle integrated within flexibility. Some Informants argued that this sub-principle is very fundamental in Islam. Many *Qur'anic* verses and authentic *hadith* ordered Muslims to be tolerant with all mankind in all aspects of life.

In consonance with this point, the Islamic literature also disclosed that tolerance is a basic attitude in Islam. It is a spiritual and ethical duty (Khan, 2011). For that reason, the Informants argued that this sub-principle has a positive impact on negotiations. Therefore, this study ascertains that tolerance is a factor of the flexibility principle in the *Shariah*-compliant negotiation, because it is very difficult to be flexible in negotiations without tolerating the other party.

Besides this sub-principle, the data analysis also revealed that concession is the second sub-principle integrated within the flexibility principle. Some of the Informants of this research emphasized this sub-principle intently, and they argued that in order to negotiate effectively, negotiating parties have to make concessions. That makes this sub-principle one of the key factors of negotiation, because it has direct effects on the process and the outcome of the negotiation.

Hence, this study claims that concession is an important indicator of the flexibility principle of the *Shariah*-compliant negotiation. Similarly, the literature of the alternative approach in this context pointed out that concession rates is one of the flexibility indicators, as flexibility is usually indicated by a search for better, mutually beneficial solutions in the interests of the negotiating parties (Hopmann, 1995). Therefore, Pruitt (1981) defined concession as a change of offer in the direction of the negotiating parties' interests, to reduce the rate of the wanted benefit. Furthermore, some negotiation scholars such as Cross (1977) and Zartman (1978) focused on concession-making behaviour (concession exchange) as the basic feature of their new negotiation perspective, which is the learning theory perspective.

Nonetheless, the findings of this research also showed that focusing on a common goal is the last sub-principle that indicates the principle of flexibility in the *Shariah*-compliant negotiation. Many Informants gave great attention to this sub-principle. Overall, they agreed that conducting negotiations could be considered as a process of making negotiating parties meet a common goal. Therefore, this study claims that focusing on a common goal is a very essential sub-principle; it contributes to solving differences between negotiating parties. Such differences include individual needs, aims, interests, and even the differences in background and culture. Consequently, focusing on a mutual objective leads to having a spirit of understanding that gives negotiating parties the ability to be flexible on the demands of their negotiations. This confirms the claim of this study that the *Shariah*-compliant negotiation is a collaborative process.

To recap the discussion of the indicators of the flexibility principle of the *Shariah*-compliant negotiation, this study surmises that the positive implication of these

principles in negotiations could be very difficult unless the negotiating parties have the spirit of tolerance, demonstrated by giving concessions in order to reach common goals or objectives. However, it could be claimed that negotiation from the Islamic perspective is the most flexible of dispute resolution methods. In this context, it means the ability to be flexible and be open to change or adjustment without compromising the core principles of the *Shariah*-compliant negotiations.

5.3.5 Information Disclosure

Information disclosure is another core principle of the *Shariah*-compliant negotiation which emerged from the findings of this research. A number of Informants argued that information disclosure is a very essential principle for effective negotiation. They claimed that the principle has a direct impact on the negotiation outcome. That is because negotiating parties take decisions based on the available information they have at hand. Hence, the information available to individuals or organizations enable them, as negotiating parties, to make informed decisions.

It is not permissible in Islam to hide information which, in its absence, will affect the other party. It amounts to deception and cheating, and such actions are not *Shariah*-compliant. Accordingly, making information accessible to involved and negotiating parties is a vital principle in the *Shariah*-compliant negotiation. Thus, sharing and communicating such information in a way that is clear and reasonable to the parties is an important step in the process of the *Shariah*-compliant negotiation commitment, which will result to achieving an effective and efficient mutual outcome for all negotiating parties. Therefore, these factors were the grounds for this study, including the findings that proved that these principles are fundamental to the *Shariah*-compliant negotiation.

Similarly, previous studies in this context also found that information shared contributed to mutually beneficial outcomes and that boosted the effectiveness and efficiency of negotiations (Thompson, 1991). Butler (1999) also pointed out that the more information is disclosed, the more negotiating parties are likely to arrive at a favourable and integrative outcome. In line with this discussion, this core principle of the *Shariah*-compliant negotiation is considered as a basic feature of the cognitive approach of the negotiation process. Many arguments have been propounded and investigated by scholars about the importance of information-processing in the negotiation process, and its connection to the very heart of the negotiation process (see chapter 2). Generally, the literature similarly surmised that information disclosure is very essential, as it can lead to better negotiation performance by maximizing utility, overcoming biases and fostering more accurate perceptions of the other party's interests (Stuhlmacher & Champagne, 2000; Thompson & Hastie, 1990).

Nonetheless, the findings of this study correspondingly highlighted three sub-principles interconnected with the information disclosure principle of the *Shariah*-compliant negotiation. Previous studies have however made a few attempts at explaining the information disclosure principle of *Shariah*-compliant negotiation. However, this study found that disclosing accurate information is a factor to effective information disclosure. Some Informants of this research gave attention to this sub-principle. They argued that obtaining accurate information is equally important to the core principle of the *Shariah*-compliant negotiation, due to its influence on the decision of the outcome of the negotiation. Accordingly, Informant SD1 noted that most of the negotiation issues or problems occurred because of the disclosure of inaccurate information.

This study claims that the absence of this sub-principle could render the whole negotiation process not a *Shariah*-compliant. That is because it was found to be associated with injustice. Consistent with this discussion, literature from the conventional approach similarly argued that the greater the information accuracy, the greater the level of understanding of the negotiating parties, which may potentially lead to a more mutual, integrative outcome (Thompson, 1991). Additionally, Campbell, Graham, Jolibert, and Meissner (1988) opined that the integrative outcome of any negotiation is accomplished via open and accurate informational exchange, and mutual respect for both negotiating parties in achieving a set objective.

In addition, the findings evidentially proved that transparency is the second sub-principle related to the previous sub-principle and integrated with the information disclosure principle of *Shariah*-compliant negotiation. Transparency has a number of definitions from different specialists. In this study context, the findings showed that it is about information transparency, which is defined as the degree of clarity and availability of information about the negotiation issues, matters, and any information that has influence on the negotiation conduct. Most of the Informants stressed that transparency is the key of the information disclosure principle. They argued that accurate information disclosure will be useless if it is not transparent or clear enough for the negotiating parties, and that will absolutely affect their perceptions and objective decision making negatively.

Therefore, this research claims that transparent information in the *Shariah*-compliant negotiation is naturally a vital sub-principle, due to the effectiveness arising from more prevalent importance of accurate information on the negotiation goals. Thus, knowing negotiation matters and other party's objectives transparently helps to

improve the negotiation strategy and process, which results to successful settlements. Corresponding to this thought, other approaches also found that transparency is a critical element of information sharing, due to its direct relation to awareness, consistency, and intelligibility to the exchanged information between the negotiating parties (Schnackenberg & Tomlinson, 2014).

However, after the accurate and transparency information sub-principles, the findings again revealed that confidentiality is the last sub-principle interconnected to the information disclosure principle. This study argues that if providing accurate and transparent information in the *Shariah*-compliant negotiation is very essential, keeping a secret of this disclosed information is equally important. Confidentiality was found to be associated with the credibility and relationship principles. It is important for maintaining and constructing relationships between the negotiating parties. It also suggests honesty, which creates confidence between them. Some Informants emphasized that this sub-principle is important because of the preference Islam shows to its practice, not only in the negotiation conducts but in all aspects of Muslim life. In agreement with the Islamic literature, Ullah and Anwarii (2014) stated that the Islamic creeds stress that confidentiality concerning the individual, family, tribe and organization should be preserved, so as to ensure problems do not arise in the future.

To recap the discussion above, this research shows how important the information disclosure principle is to the *Shariah*-compliant negotiation, and it presented how this principle is interconnected to its three sub-principles. Generally, the study claims that disclosing accurate and transparent information and ensuring its confidentiality during and after negotiations is equally crucial to the other main principles of the *Shariah*-compliant negotiation.

5.3.6 Relationship

Finally, after the exploration of the five core principles of the *Shariah*-compliant negotiation, relationship distinctly emerged from this study data as the last core principle. Again, a number of Informants focused on this principle and it is important in negotiations conducts from the Islamic approach. This study argues that since relationships among mankind in Islam are considered good deeds, it is therefore a fundamental principle in the *Shariah*-compliant negotiation, due to the great effort and influence which the implication of this principle has to bringing cohesion and unity among Muslims and Islamic organizations. Additionally, it is one of the *Shariah*-compliant negotiation outcomes, which lead to spiritual satisfaction.

In the same vein, the Islamic literature emphasizes this principle. Al-Zuhaili (2003) and Yousefvand (2012) disclosed that negotiations are conducted with the purpose of reaching certain objectives, getting certain values or preserving particular interests. One of the most essential aims of the negotiation conduct from the Islamic perspective is to keep and maintain good and friendly relationships and to exchange other crucial interests with others, be they individuals, organizations or nations.

Additionally, it was discussed in chapter three that negotiation in Islam is a practice that contributes to sustaining, developing coherent and concordant relationships among Muslim communities particularly and others in general. Based on that, this study confirms the significance of this principle in overcoming the distinctions between the negotiating parties' interests. This principle also has a direct relation with the previously discussed core principles of the *Shariah*-compliant negotiation.

In other words, applying or practicing the five core principles leads to preserving and maintaining the negotiating parties' relationships. Thus, if other issues arise between them, this principle helps them to quickly to achieve a mutual and effective solution.

The findings of this research also indicated two sub-principles which are connected to maintaining relationships in the *Shariah*-compliant negotiation. The first sub-principle is building trust. Evidently, the study argues that building trust is a core sub-principle that facilitates maintaining relationships in negotiations. It has a critical link to any good relationship. The Informants opined that the negotiation conduct in the Islamic approach always aims to reach a common ground, where the negotiating parties will attain a mutual objective that will help build lasting trust between them. Accordingly, the study claims that building trust is the foundation of strong and healthy relationships among the negotiating parties.

The study clarified that in Islam, human dealings and relationships must be predicated on trust. The Holy *Qur'an* and *Sunnah* are full of recommendations that consider trust as a basic virtue in Islam. Allah (SWT) in Surah Al-Mumenoon (The Believers) defined believers as those who have several characters, one of which is maintain their trusts and agreements (Surah Al-Mumenoon 23:8). In this *Ayah*, Allah (SWT) commands believers to uphold trust in their personal lives must practice such in their relationships and covenants. In view of that, Ghanim and Fatima (2009) stated that the Islamic approach of negotiation emphasizes developing and organizing the relationship between people based on justice and fairness. These factors would contribute in building trustful relationships between parties.

However, if trust is an Islamic virtue, Maslaha (public interest) is one of the *Shariah* objectives. It is the second sub-principle that appeared from the study findings that are related to the relationship principle. Some of the Informants discussed the importance of this sub-principle in the *Shariah*-compliant negotiation. Informant A10 argued that the best conduct of negotiation from the Islamic approach is for it to be for the sake of Allah (SWT), and then to treat people with dignity, equality and justice. Moreover, it is to ensure the achievement of their interests (Maslahah) in this world and the Hereafter. In view of this, the study claims that it will enhance brotherhood and maintain their relationships.

A number of jurists has deliberated the concept of Maslahah in different dimensions, the two most prominent and most cited in the literature of which are Al-Ghazali and Al-Shatibi. They defined Maslahah as the seeking of benefit and avoiding harm, as directed by Allah (SWT) and His Messenger (PBUH). (Dusuki & Abdullah, 2007; Elvan et al., 2014; Jalil, 2006). The current research also adopts Maslahah the same meaning. It means in this study context; the community or negotiated parties' benefits or interests. Generally, the Maslahah goal in the *Shariah*-compliant negotiation is making the negotiating parties remove bias as much as possible and maintain a good relationship.

To sum up the discussion above, the research findings showed that relationship is the final core principle of the *Shariah*-compliant negotiation. It is a fundamental factor that leads to the *Shariah*-compliant negotiation and ensures unity among parties. Thus, upholding this virtue would help to safeguard benefits, prevent destruction and achieve an objective and purposeful life.

5.4 The Practices of the *Shariah*-Compliant Negotiation in the Islamic Organizations

The next question aims to explore the extent of the Islamic organizations' practices of the *Shariah*-compliant negotiation. To answer this question, the study finds that there are considerable practices of negotiation in the Islamic organizations. Based on the developed theme as presented in Figure 4:13, which interpreted the findings in the previous chapter, the findings showed that the practice of *Shariah*-compliant negotiation has several significant benefits. Meanwhile, it also has some challenges that have considerable impact on effective negotiations in the Islamic organizations. Below are the details of the sub-section.

5.4.1 The Benefits of Practicing SCN in the Islamic Organizations

Considering the results of this thesis, the practice of the *Shariah*-compliant negotiation features several potential benefits. This section discusses the main significant values found within the Islamic organizations' practices of the *Shariah*-compliant negotiation which could help boost their operational systems. However, All Informants agreed that the main benefit of negotiation from the Islamic approach is to adhere to *Shariah* principles. This is more practically important especially when Islamic organizations claim adherence to *Shariah* teachings in their operational or management systems. Thus, adopting and practicing the *Shariah*-compliant negotiation principle in their organizations would improve the effectiveness of their organization's operational systems.

However, as presented in the previous chapter, four core sub-themes emerged as the benefits of the *Shariah*-compliant negotiation practices. The first benefit is avoiding *Haram* acts and deeds. The current study reiterates that complete adherence to

obligations and limitations in deeds determine Islamic organization's *Shariah* compliance. Additionally, the main purpose of Islamic organizations is to provide lawful products, deeds and actions, and avoid the unlawful acts. Accordingly, Informants stated that Muslims and Islamic organizations believe that if anything is prohibited by Islam, it must be avoided because surely it has more harm than benefit. In consonance with that, they concluded that any negotiation that leads to *Haram* is not *Shariah*-compliant. For that reason, a number of them opined that practicing the *Shariah*-compliant negotiation means avoiding *Haram* dealings or transactions. This is therefore considered an essential benefit.

Furthermore, the second sub-theme that emerged as the second benefit of practicing negotiation from the Islamic approach is *Ibadah*. The Informants' arguments all emphasized the importance of practicing the *Shariah*-compliant negotiation. They believe that the main purpose of the creation of mankind is to worship the Creator (SWT) and to adhere completely to His (SWT) religious doctrines. In Islam, a true believer is a person who follows the Holy *Qur'an* and *Sunnah* in his/her private and public actions or deeds. In fact, the Prophet Muhammad (PBUH) is the best example to follow (Surah Al-Ahzab 33:21). Indeed, one of his Companions asked the Mother of the Believers; Aisha (May Allah be pleased with her) to describe his character. She said; "Al-*Qur'an* was his character" (Imam Muslim, 2009). In view of that, this research declares that the core inspirational factor for Muslims and Islamic organizations is to worship and obtain the pleasure of Allah (SWT) by obeying His (SWT) commands. As such, it could be argued that observing the *Shariah* principles and avoiding *Haram* in the negotiation practices is an act of *Ibadah*. Thus, the adherence to these Islamic principles could give essential benefit to Muslims and Islamic organizations.

The results of this study also showed that spiritual satisfaction is the third benefit of practicing the *Shariah*-compliant negotiation. This work claims that the previous benefits are integrated into this benefit. Muslims and Islamic organizations believe that all of their actions must be in accordance with Allah's (SWT) pleasure. Therefore, making the conduct of negotiation based on the Islamic approach is consonant with observing Allah's (SWT) commands by avoiding the *Haram* dealings and actions. Besides, if they do so, it is an act of *Ibadah*. As a result, obtaining these two beneficial factors lead to achieving a vital benefit, which is spiritual satisfaction. Islamic literature further stated that Muslims' spiritual satisfaction is based on the acts of *Ibadah* and living within the teachings of the *Qur'an* and the *Sunnah* (Ahmad et al., 2011; Nisar et al., 2015).

As to what has been discussed in determining the negotiation concept from the Islamic perspective, Ramdani, Mohammed, and Ahmad (2016a) stated that the main outcome of involving in negotiation conducts from the Islamic perspective is to gain spiritual satisfaction. They argued that everything in Islam is spiritual. It is therefore the belief of Muslims and Islamic organizations that the value of practicing the *Shariah*-compliant negotiation is in achieving spiritual satisfaction in this world and the Hereafter. That is because they believe that, ultimately, they are doing the act for the sake of Allah (SWT). Muslims believe that adherence to *Shariah* leads to spiritual fulfilment or peace of mind.

Lastly, the findings of this study illustrated that maintaining relationships is another benefit of practising *Shariah*-compliant negotiation. The current study stresses that the understanding of Muslims and Islamic organizations' relationships is a significant principle in the conduct of negotiation. That is because good relationships often lead to effective and successful negotiations. Hence, building and maintaining

relationships among the negotiating parties is an important factor that Islamic organizations crave to obtain in their negotiation practices. Since negotiation is an interactive process based on *Shariah* principles, this research argues that these principles are the requirements for maintaining good relationships among the negotiating parties. In view of that, there is no doubt that the importance of maintaining relationships between the negotiating parties has been perceived in the *Shariah*-compliant negotiation to have a major impact on its outcomes.

In this context, the literature from the conventional perspective stressed the role of relationships in negotiation. Lewicki et al. (2010) stated that in general, the relationships of the involved parties affect negotiation processes. As a result, good relationships make successful negotiation outcomes. If the negotiating parties implement competitive strategies in their negotiation, the relationship outcomes will be just for a short-term commitment. In contrast, if they adopt a strategy based on relationship, they may achieve a long-term positive outcome. In consonance with this point of view, this research claims that the *Shariah*-compliant negotiation is a cooperative and integrative process; it is an all-win-focused process. Therefore, one of its benefits is to maintain the relationships between people and involved parties. Similarly, Li and Labig (2001) argued that cooperative negotiation practices can create perceptions that the negotiating parties have increased and better understanding of each other. That surely will enhance their relationship, which will make the future negotiation outcomes reciprocally substantial.

5.4.2 The Challenges of Practicing SCN in the Islamic Organizations

After discussing the benefits of the *Shariah*-compliant negotiation practices, this subsection discusses the challenges of negotiation from the Islamic perspective. The

findings of this research highlighted a number of thoughtful challenges. According to the Informants, these challenges occur because of the lack of attention to the Islamic principles of negotiation. Therefore, this study found that, in the quest for the establishment of the *Shariah*-compliant negotiation model, practitioners encountered several challenges (see Figure 4.15).

One of the major challenges related is the lack of knowledge about the concepts and principles of negotiation from the Islamic perspective. Most of the evidence which appeared in these study findings are related to the importance of having enough knowledge about the *Shariah*-compliant negotiation. Therefore, Ramdani, Mohammed, and Ahmad (2016b) stated that knowledge is a fundamental principle that Muslims and Islamic organization practitioners must have in order to make their negotiation conducts *Shariah*-compliant. This challenge is not only related to the practice by practitioners, but is mostly linked to Muslims and Islamic organizations' performance effectiveness, especially in their management system, as they aim to become completely *Shariah*-compliant. In reality, the Informants clearly mentioned that Islamic organizations have a challenge in practicing the *Shariah* principles in their negotiation conducts. That is because of the absence of understanding about the *Shariah*-compliant concept and principles due to lack of sufficient literature about the phenomenon. These challenges influence Muslims and Islamic organizations to adopt conventional approaches in their dealings, even though they may not be in line with the *Shariah* teachings. This will surely have a direct impact on their negotiation outcomes.

In consonance with the factor discussed above, lack of formal guidance on negotiation emerged from the findings as the second challenge that Muslims and

Islamic organizations face in their negotiation practices. A number of the Informants stated that the real challenge of conducting negotiations from the Islamic perspective is lack of a white paper with laid down procedures to be followed by Muslim individuals and organizations. Thus, all of them agreed that the *Shariah*-compliant negotiation in most Islamic organizations need to be enhanced by developing a clear guide to follow in their dealings, in order to avoid adopting the conventional negotiation methods. However, this study claims that this challenge is also caused by the minimal attention of scholars to the negotiation concepts from the Islamic perspective. In line with that, Ramdani et al. (2016a) disclosed that the lack of Islamic literature has caused a deficiency in the understanding of Islamic organizations practitioners, especially on how the negotiation conducts should be formed from the Islamic viewpoint. Therefore, the development of a formal guide for *Shariah*-compliant negotiation is highly needed to solve this challenge.

In addition, the findings of this study again exposed another challenge that the Islamic negotiation faces; inadequate training. This challenge is consistent with the previous challenges. This study considers it as the consequence of the insufficient studies or literature about the concept of negotiation from the Islamic perspective. A number of Informants confirmed that one of the factors that Islamic organizations need to improve on is adequate training on the Islamic approach to negotiation. Training is very important to effective practice of negotiation, and it has an impact on the development of the organizations.

As such, the current study identifies that this challenge is deeply related to the development and improvement of organizations' practices. It makes them proficient and assured in their conducts within the *Shariah* compliance ambiance. That is because

adequate training leads to structured practice and increasing the understanding and skill of the practitioners, which leads to improved effectiveness of practice.

Consistent with these study findings, scholars of human resource management stated that training is a planned programme designed to improve performance at the individual, group and organizational levels (Cascio & Aguinis, 2005). It is a short term process piloted for the purpose of developing a systematic and planned practice by obtaining technical knowledge and skills for a certain matter or subject (Ukandu & Ukpere, 2013).

Similarly, Nestoroska and Petrovska (2014) stressed that adequate training makes organizations' practitioners perform optimally. However, Ukandu and Ukpere (2013) noted that training is designed to be offered when current effort standards are not inspiring due to lack of skills and poor attitudes of the organization's members. In view of that, this research argues that this challenge is about developing individuals and assisting them to be more confident and competent in their performance. As such, the findings evidently disclosed that the Islamic organizations require adequate training on the *Shariah*-compliant negotiation to improve their practices, as clarified in the previous chapter.

The last challenge articulated by the Informants concerns the multiple Islamic schools of thought. A number of them argued that the Islamic world has several school of thoughts. The four main schools are Hanafi, Maliki, Shafi'i and Hanbali. However, Islamic scholars have declared that these Mathahib predicated their thoughts and opinions on the Holy *Qur'an* and *Sunnah*. Therefore, there is no right or wrong Madhab that Muslims should adhere to, since the *Imams* of all these schools derived their thoughts from their understanding of the *Qur'an* and *Sunnah* of

Prophet Muhammad (PBUH) (Zakir Naik, 2009). Yet, it could be understood that the numbers of *Hadith* they collected may have caused the variances in their points of view. For that reason, Zakir Naik (2009) reported that all the four great *Imams* argued that if any of their thoughts or teachings contradict the Holy *Qur'an* or the *Sunnah* of the Prophet (PBUH) in any matter, then that particular point should be rejected, and the *Sunnah* of the Prophet (PBUH) should be observed.

Consistent with this flow of discussion, the current study argues that the multiple schools of thought challenge the issue of determining the important principles of negotiation from the Islamic perspective. Additionally, there is a challenge in the way Muslims and Islamic organizations understand the inter-school dichotomies, due to the varied understanding of *Shariah* scholars about the *Shariah* matters. However, this research claims that the proposed model of the *Shariah*-compliant negotiation could be the meeting point of most of the Islamic schools of thought, for the reason that they all are derived and established based on the Holy *Qur'an* and *Sunnah* as their core principles.

5.5 The Informants' Perception of the *Shariah*-Compliant and Conventional Negotiation Practices

The last question of this research aimed to examine the general perception of the *Shariah*-compliant and the conventional negotiation practices. To answer this question, this section discusses how the Informants of this study perceived the practices of both approaches. The Informants argued that there is philosophical difference between *Shariah*-compliant and conventional negotiation practice. However, ten sub-themes emerged as the core differences between them, and the following sub-section discussed each distinguishing perspective based on the perception of the Informants.

5.5.1 The Informants' Perception of *Shariah*-Compliant Negotiation

As interpreted in the previous chapter, the findings thematically revealed that the core factor that makes the *Shariah*-compliant negotiation differ from the conventional perspective is the religious factor, and the current study evidentially shows that the main distinctions are based on five factors, each of which is discussed below.

The first element that makes a negotiation a *Shariah*-compliant one is following Allah's (SWT) commands. The evidences of this study indicated that all Informants agreed that the main motivation for conducting negotiations according to the *Shariah*-compliant model is to observe Allah's (SWT) commands. This act of religiosity in negotiation practices was recommended by Holy *Qur'an* and *Sunnah* of His Prophet (PBUH) as a mechanism for better and fair conducts.

Consistent with this fact, this research argues that negotiation from the Islamic perspective is a *Shariah*-principled approach. It means it is a conduct that adheres to the *Shariah*, and that makes it distinct from the human-principled approaches. For that reason, the Informants declared that this element makes the epistemology of *Shariah*-compliant negotiation different from the conventional approaches. That is because according to Informant A10, it is grounded in the *Qur'an* and *Sunnah* ; the truthful messages from Allah to Muslims. In contrast, the conventional approaches are based on theories, which are human intellectual products, and are therefore questionable. In line with this argument, Abdul Rahim (2013) stated that *Shariah* commands are different from human commandments due to their religious origin, which is based on divine revelations. As a result, they differ since human law is the creation of reason and consequence of expected procedures, which cannot create uniformity of conduct.

That is because the practices and comportments of one group could be different from that of others. However, Muslims accept *Shariah* as faultless principles of conduct for all aspects of human life. In view of this discussion, this research claims that indeed, the epistemological aspect is the first main element that distinguishes between the *Shariah*-compliant and conventional negotiation approaches.

Secondly, the evidences of this work also showed that value system is another distinguishing element for the *Shariah*-compliant negotiation. The findings showed that negotiation conducts are common in nature, and what distinct the perspectives and approaches from one another is the feature of value system. In consideration of that, the current research claims that it is very obvious that *Shariah*-compliant negotiation is markedly different from other approaches because of its *Shariah*-based value system.

In line with this argument, Ramdani et al. (2016b) stated that Muslims and Islamic organizations purposely negotiate within *Shariah*-compliant principles so as to adhere to the Islamic value system in all aspects of life. Informant SD1 argued that the *Shariah*-compliant principle is a fundamental part of beliefs and faith and not just mere roles embedded in the nature of the negotiation. Similarly, Abdul Rahim (2013) opines that the *Shariah* value system has a comprehensive scope and purpose compared to the western value system. Therefore, this work surmises that the Islamic value system is one of the elements that motivate Muslims to practice the *Shariah*-compliant negotiation.

Additionally, the findings highlighted that the third differentiating element of the *Shariah*-compliant negotiation practice is public benefit focus. This research Informants argued that negotiation from the Islamic perspective is based on an

integrative analysis approach. Subsequently, it focuses only on the cooperative and collaborative techniques to build a common ground between the negotiating parties, which makes it focus on accomplishing all-win outcomes. The study also proves that in the *Shariah*-compliant negotiation approach, focusing on the public interests does not mean protecting the benefits or the rights only. It also means preventing evil and harmful things.

In view of that, the Islamic jurists concurred with the importance of this element. Al-Bugha (1999) noted that this principle has the same objectives with *Maqasid Shariah*. Therefore, Nik Abdul Ghani et al. (2011) stated that, in Islam, whatever benefits public interest is commended, while things that cause harm and evil is prohibited. As well, Elvan et al. (2014) stated that achieving public interest is an essential element, as it helps to prioritize the needs of the public and its effects. Therefore, this research claims that this essential distinguishing element makes the *Shariah*-compliant approach conform with the objectives of the *Shariah*.

Fourthly, evolved practice is another factor that makes the *Shariah*-compliant negotiation practice distinct from the conventional practice. As revealed in the previous section, some Informants elaborated several challenges of the *Shariah*-compliant negotiation practices. The findings of this study show that this distinguishing element is mostly related to those challenges. This means the current study acknowledges that negotiation from the Islamic approach is still considered as an evolved approach, compared to conventional approaches. Thus, the confirmation of this study proves that Muslims and Islamic organizations' negotiation practices need more improvement to ensure conformity with the required standards. Lastly, the results of this research evidently indicated that the fifth element and a key element

that distinguishes the *Shariah*-compliant negotiation practice from the other perspectives is the spiritual satisfaction process. As mentioned above, this study argues that spirituality is a core distinguishing element of the *Shariah*-compliant negotiation practices.

The components discussed above are integrated with this basic requirement. However, all Informants stressed that attaining spiritual satisfaction is the main purpose of practicing the *Shariah*-compliant negotiation, which is in line with the assumption of this study. In accordance with this flow of thought, Ramdani et al. (2016a), in discussing the concept of negotiation from the Islamic perspective, similarly argued that the Muslims and Islamic organizations' motivation for executing their negotiation conducts based on *Shariah* teachings is the fulfilment of their life's purpose, which is to be good believers and to live the Islamic life. This belief leads to spiritual satisfaction here and in the hereafter. As such, the current study claims that this key element also makes the Islamic view of negotiation differ from other perspectives.

Similarly, previous studies argued that the factor of spirituality in Islam is unlike the secular or humanistic understanding (Ahmad & Khan, 2016; Marzband et al., 2016). In the conventional approaches, spirituality is understood as "a way of being and experience that comes about through awareness of transcendental dimension, and is characterized by certain identifiable values in relation to self, others, nature, life, and whatever one considers to be the ultimate" (Elkins, Hedstrom, Hughes, Leaf, & Saunders, 1988). It is the human effort, self in connection to and with the external world. Mayhew (2004) also stated that spirituality is a concept that is practically distinct from religiosity.

Instead, in the Islamic perspective it is understood as a persistent reference to Allah (SWT) and ensuring that everything mankind does is in accordance with Allah's (SWT) pleasure. It means the connection of human actions to the purpose of life, which is worshipping Allah (SWT) (Marzband et al., 2016). Consequently, it is viewed as a standard of living for Muslim believers, in that it forms their values, thoughts and actions in the light of Allah's (SWT) pleasure. (Ahmad & Khan, 2016). For that reason, Islamic scholars argued that spirituality and religion are complementary. Religion is the road that needs to be travelled to get to spirituality (Marzband et al., 2016; Ramdani et al., 2016a). Indeed, this study shared a similar view with the Islamic scholars' positions.

Overall, this study argues that spiritual influence has been studied deeply from the psychological point of view and especially from the health angle. Meanwhile, to the best knowledge of the researcher, this study could be considered the first work on the essential or basic factor of negotiation in communication.

5.5.2 The Informants' Perception on Conventional Negotiation

After discussing the key distinguishing factors of the *Shariah*-compliant negotiation practices, this sub section discusses the distinguishing factors of the conventional negotiation perspective. From the perception of the study Informants, the conventional negotiation approaches have five distinguishing elements, which make it different from the *Shariah*-compliant approach.

First, this study highlighted that the conventional approach is based on human theory rather than Islamic principles. For this reason, the current research shows that the philosophy and epistemology of negotiation is obviously the central and distinct

pillar of *Shariah* and conventional approaches. Philosophically, the conventional negotiation researchers derive their concepts and principles from the human theories. Accordingly, Informant A10 argued that the epistemology paradigm of the western knowledge expansion indicates that its basis is human theories. Therefore, they engage in intensive discussions about the falsification of theories. This also confirms that the approach is changeable and debatable because of human-founded nature.

In contrast, this study ascertains that the *Shariah*-compliant approach philosophy is religious and spiritual-based. Its conception, principles and practices are determined from the Islamic religion's authentic sources; the Holy *Qur'an* and *Sunnah* of the Prophet Muhammad (PBUH). Therefore, this study claims that the *Shariah*-compliant approach's derivative sources are not questionable, and they are evidently true. It also confirms that Muslims may differ in the application, but they do not differ in the principles and values.

In view of that, Abdul Rahim (2013) stressed that *Shariah* views are very much different from the views of the conventional approaches; because if a group of people agree on an issue, then it becomes the rule and guideline to them. It indicates that human theories are the products of reason and outcomes of expected procedures. As a result, it never produces perfect conduct. This is because the good way of conduct for one group of people may not necessarily be good for another group. Hence, the practice of a good conduct would be dissimilar from others. Thus, it can be argued that once it comes to the philosophical level, the conventional negotiation perspectives are starkly different from the *Shariah*-compliant perspective.

Secondly, based on this study Informants' perception, the negotiation from conventional perspectives focuses on how to maximize the engaged parties' benefits.

Some of them emphasized this as the basic distinguishing element of the practice of conventional negotiations. Therefore, this current research shows that the conventional approaches are based on benefits maximization process, as compared to the *Shariah*-compliant approach, which is based on spiritual satisfaction. It also argues that in the conventional approach of negotiation, the negotiating parties would compete in the creation of rules in order to gain as much profit as possible.

Consequently, this practice would include considering a variety of tactics to ensure getting what they negotiated for, in which it focuses on using competitive and distributing outcome strategies, such that a win-lose ending could be achieved. Meanwhile, this research specified that *Shariah*-compliant negotiation approach focuses on achieving a mutually satisfying value that contributes in maximizing all-win negotiated outcomes.

Consistent with this discussion, Informant P1 concluded that conventional ways of negotiation also convey values, but they just focus on how to maximize benefits. They rely on the principle of “the end justifies the means”, which means no matter the process, if it will achieve the objectives, then it is justified. Indeed, this makes conventional approach distinct from the *Shariah*-compliant perspective. This is because *Shariah*-compliant negotiation relies on Islamic principles, which considers both the means and the ends.

Thirdly, this study data analysis as well showed that a number of the Informants saw organization or individual benefit focus as another distinct element of the conventional negotiation practices. This basic feature is related to the above elements. Because conventional approaches of negotiation are based on human theories, it means they are

developed for human interests. That means they may be a perfect practice for some individuals and not for others, thus, they could have been embedded with selfish interests due to human nature. This is because they could serve as a perfect process for certain groups or organizations to maximize their benefits at the detriment of others. Indeed, this makes the conventional approach self-interest motivated. In relation to this discussion, Lange, Löschel, Vogt, and Ziegler (2010) assumed that in benefits maximizing conduct, the use of justice attitude by negotiating parties is driven by self-interest in order to influence the negotiating outcome to their own advantage. In view of that, this study argues that this element makes conventional approaches differ from the *Shariah*-compliant approach.

In agreement with the above, the findings of this study again revealed that based on the Informants' perceptions, the conventional negotiation practices mostly focus on self-benefits motivation. This is due to their philosophical standpoint, which assumes that the self-interest motive leads to public interest. This philosophical view was established by the eminent economics scholar; Adam Smith in his publication-*Wealth of Nations* in 1776. It was one of the most substantial manifestations of the achievement of the interest paradigm. Generally, he assumed that the best-accomplished benefit for all can usually be achieved when individuals act in their own self-interest. That is because self-interest motive is the engine of all human behaviour.

Despite this fact, even in conventional negotiation, several studies have been conducted about this basic element in the international negotiations context. Similarly, researchers found that material self-interest is not sufficient to explain what is seen in real-life situations of international negotiations, and suggested that

researchers who develop negotiating models should take this evidence into account (LeVeck, Hughes, Fowler, Hafner-Burton, & Victor, 2014).

Fourthly, the findings of this study indicated that the conventional negotiation approach is an established practice. Informants lamented that studies from the conventional perspectives have been established and proven in several fields of knowledge. This study's review of literature (Chapter 2) is a strong justification of this claim. Since the 1960s, the notion of negotiations has been under the focus of researchers. Consequently, a number of scholastic works have been devoted by western philosophers and scholars to the conventional approaches. They explored and investigated the negotiation phenomenon from different areas of knowledge in a variety of social science disciplines. That gave rise to a great and solid foundation for the negotiation conducts from the conventional perspective.

In fact, this research recognizes that established practice is a distinguishing feature of conventional negotiation approach practices. Furthermore, it also stresses that this distinct element is a product of the great attention that has been given to the conventional negotiation practices from various approaches. A number of theories have been approved on the practices of its models, and this has resulted in established institutions, which practice professional negotiations. In view of this, some of the Informants argued that the conventional approach has an established practice. It could be crucial for the *Shariah*-compliant practice to benefit from this history, especially literarily and methodologically.

As interpreted in the previous chapter, the findings of this study evidently revealed that the last distinguishing basic feature of conventional negotiation approaches

practice is material satisfaction process. The Informants also argued that the basic features above are also integrated with this essential element, especially the first three of them, which fundamentally lead to material interests satisfaction. As such, this term, which emerged from findings, refers to conventional negotiation perspectives practices. Based on this study Informants' understandings, the present research argues that most of the well-known conventional approaches are based on material interests satisfaction, due to its philosophy and epistemology, which ignores the spiritual factor in its negotiation practices. Therefore, it is considered a main differential feature between the conventional and the *Shariah*-compliant negotiation practices.

Interestingly, some of the Informants stressed that there is no doubt that the *Shariah*-compliant approach also focuses on material objectives, but those are principle-based. They should be justified by the Islamic value system. In the meantime, the conventional approaches outcomes philosophy is founded on the principle of "aims justify means". As a result, conventional negotiation concerns only obtaining a substantial outcome, no matter the means via which it is attained. From that point of view, there is no restriction on trying to achieve the target.

This study also argues that this argument cannot be generalized to all negotiation conducts from the conventional perspectives. That is because, the conventional approaches that are founded on the integrative analysis techniques are also considered as principled approaches, where the negotiating parties focus only on justice and fair outcomes for both of them. Thus, this study claims that the only difference between those conventional integrative analyses approaches and the *Shariah*-compliant negotiations practices will only be in their value systems.

5.6 Significant Contribution

Negotiation studies have been under the focus of scholars from different fields and perspectives since the last decade. Hundreds of researches were conducted and articles were published on negotiation from different areas of human knowledge. The previous studies have significantly contributed to the body of knowledge by providing different ways and views of negotiations from scholars and practitioners based on different value systems. However, considering similar views of negotiation in practice, it could be seen that what has remained unexplored is the possibility of another approach, which is the Islamic perspective, due to the lack of literature on negotiation from the Islamic viewpoint and scholars' lack of attention, which led to a lack of understanding of the conduct and issues of negotiation from the Islamic value system.

In view of the above fact, there is a need for an exploration of the Islamic approach on the conduct of negotiation. This became the motivation for this study's exploration of the notion, principles and practices of *Shariah*-compliant negotiation. Therefore, the results of this study contributed significantly to the body of knowledge in three various ways; theoretically, practically and methodologically.

5.6.1 Theoretical Contributions

Negotiation studies have been under the focus of scholars from different fields of study. From the 1960s to the 1990s, researchers have devoted great attention to studying the subject. Many perspectives and approaches were developed during that period. As explained in the second chapter, each developed approach was shaped based on its philosophy and value system. Therefore, many researches have been

conducted concerning negotiations from varied perspectives; sociology, psychology, political, problem solving, communication, learning, economic and business, among others. Meanwhile, what has been missing is the possibility of another perspective, which remained unexplored; the Islamic approach. In view of this fact, Ramdani et al. (2016a) stated that the need for a new approach to study the Islamic perspective of negotiation has become imperative. Accordingly, this was the motivation for this research, in order to explore the concepts, principles and practices of negotiation from the Islamic perspective.

Generally, the findings of this study are expected to contribute to the body of knowledge by reviewing previous findings, extending the gamut of literature and studying new perspectives pertaining to the subject matter. Specifically, this work will hopefully shed light on negotiation from the Islamic approach. It is a fresh attempt and it benefits from excellent Islamic scholars, academics and professionals, and their thoughts and ideas on the focus of this study. Thus, this study theoretically contributes to knowledge by exploring how negotiation should be conducted from the Islamic perspective. The study bases its view on the Islamic philosophy and value system, after reviewing the existing perspective theories. As a result, several specific theoretical contributions are discussed below.

This theoretical contribution is pertinent to the Islamic philosophy of negotiation. The very first theoretical contribution springs from the exploration of the negotiation conception from the Islamic view, the uniqueness of which has been ignored in the previous literature. Till date, most Islamic literature were fragmented over a variety of sources and were inadequate in their evaluation of *Shariah*-compliant negotiation. The current study seeks to bridge this gap by exploring the concept of negotiation

from the Islamic perspective, which contributes theoretically to the foundation to the concept of *Shariah*-compliant negotiation.

The notion of negotiation from the Islamic perspective is distinct from the understudied conventional perspectives. It appears that many of the previous research efforts studied negotiation context from several views, and most of them focused on material values. In the meantime, they ignored the influence of religion or spirituality on the conduct of negotiation. Therefore, this study empirically contributes to a better understanding of this unexplored subject; how the religion or the spiritual factor orients the negotiation practices. However, as summarized in chapter two, even among the conventional approaches, the basic analytical traditions and assumptions of most existing theoretical frameworks in negotiation are different. Accordingly, Nikolaev (2001) argued this is because of variegated understandings between the different approaches.

The sociological approach (game theory) is the most used model in the social sciences, such as economics or political science (Bartos, 1977; Hopmann, 1998). It focused on rational-actor techniques that concentrate on ends, rationality utility maximization and positions. This is based on strategic analysis, which begins with the assumption that outcomes are determined by the comparative array of the parties' values, which could lead to win-lose negotiation outcomes. In this sense, this study argues that this approach causes problems regarding its analytical technique, which can influence the negotiating parties to become benefits-centric, due to competitive negotiation orientation. Thus, theoretically, the approach is not appropriate for the Islamic organizations' value system.

On the other hand, the psychological approach (Spector, 1977) focused on the personality traits, and is based on the behavioural analysis technique. This approach uses the negotiators themselves as the focus of analysis (Zartman, 1984). Therefore, its outcomes are determined by the perceptions and expectations of the parties, which leads mostly to win-lose endings because of the emphasis on positions. Regarding this view, this work reveals that in theory, it is also not suitable for the Islamic organizations' value system. This is because the psychological point of view focuses on the individual personality needs of negotiators. It is in contrast with the Islamic view, which focuses on organizational or community needs of negotiators.

From another perspective, the learning theory approach (Cross, 1977; Zartman, 1977) looks at negotiation as a learning procedure in which the negotiating parties learn and react to each other based on concession exchange. It focuses on concession-making behaviour as a way to learn the perceptions of the other party and to deal with them. In view of this perspective, this research maintains that it again is not appropriate to the Islamic approach, due to its basic feature, which amounts to manipulating perceptions. Hence, according to Tanya and Azeta (2008), what is learned in a particular negotiation context may not be reliable over time or across different circumstances or parties. However, at the same time, concession making is among the main principles of the Islamic approach, and it is considered an important element for obtaining a mutually beneficial outcome of the negotiated matter.

The cognitive perspective of negotiation (Jonsson, 1983) looks at communication as the key to the whole negotiation process. It focuses on information-processing analysis. In this approach, negotiation is considered as a subclass of social communication. Therefore, the basic assumptions of this theory are that social

communication involves the transmission of messages with certain attached meanings (Jonsson & Hall, 2003). Consequently, the outcomes are determined based on how the information is perceived by the parties. Consistent with this point of view, this study states that theoretically, the cognitive approach as well is not fitting for Muslims and Islamic organizations' value system. It pays no attention to the basics of negotiation itself, by concentrating utterly on the fringes of the negotiation process. It ignores the behavioural analysis and its importance in determining the negotiating parties' perception problems. From another angle, this study reveals that communication is an essential platform of negotiation in the Islamic perspective. In addition, information is one of the core principles of the *Shariah*-compliant negotiation approach.

Beside the approaches above, the problem solving approach is also one of the most famous conventional perspectives (Hopmann, 1995). It is an integrative analysis method. It focuses on problem solving by creating mutual value, and concentrates on negotiating parties' cooperation, which leads to All-Win solutions. This approach is likely to be used when the involved parties in fact work together to define the problematic matter in a new light. Concerning this approach, this research claims that ideally, this perspective is the nearest approach to the Islamic viewpoint of negotiation. This is because both approaches are focusing on the integrative analysis techniques. Therefore, the All-Win outcome is potentially possible. Additionally, the problem-solving theories are also based on the process models and principled negotiations, even though this study declares that it cannot be pertinent to the Islamic organizations' value system. This is because the principles of negotiation are totally different, and the negotiation principles from the Islamic perspective are based on religious values.

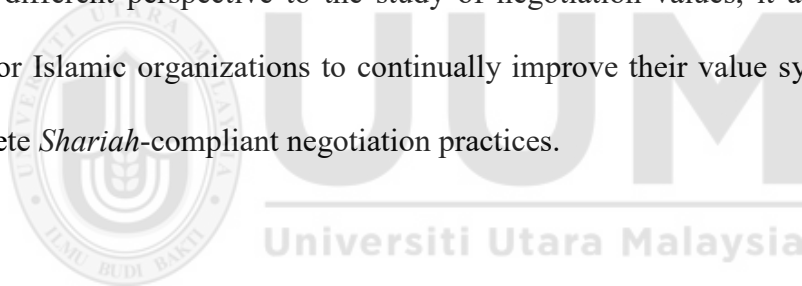
Nonetheless, in spite of similarities in the core components that constitute the negotiation process, this study theoretically contributes to the body of knowledge by exploring the Islamic conducts of negotiation that can be paralleled to the conventional perspectives. In fact, this study reveals that the standard for the *Shariah*-compliant negotiation is distinct from the conventional perspectives, especially in the basic features and assumptions. As a response to this, empirical evidence was found supporting the fact that existing negotiation theories or models focus on process or outcome (Nikolaev (2001); Tanya and Azeta (2008), while it was argued that the *Shariah*-compliant approach focuses on both the process and the outcome.

Another theoretical contribution in this study comes amid the empirical efforts towards intellectualizing the negotiation concepts of the Islamic perspective. Evidences from this research have revealed that the *Shariah*-compliant negotiation approach is considered as a spiritually principled negotiation. Its basic features are religious or spiritual in orientation. Therefore, its core principles are brought out from the *Shariah* teachings, which would in turn mould Muslims and Islamic organizations' value system.

Additionally, this study claims that the Islamic approach of negotiation is based on the elements of the integrative analysis approach. It begins with the assumption that negotiation outcomes are determined by spiritual satisfaction. This is because it produces better and more durable conducts. Thus, in this new approach, both the negotiation process and outcomes are determined by the religious factor, and that is what the existing theories fail to cover. Consistent with this, this study significantly contributes to knowledge and understanding by forming a foundation for a *Shariah*-compliant approach and by going further to explore the assumptions of this

perspective, in order to direct researchers' attention to other possible approaches.

Lastly, the current work has contributed theoretically by developing and introducing a *Shariah*-compliant negotiation model. The implication of this contribution is twofold. In a way, it would proffer a new perspective to negotiation phenomena and standards. In another way, it contributes to overcoming the knowledge gap that was caused by the lack of literature on how Muslims should conduct their negotiations. As such, this study provides a foundational stance to bring out the conception and principles of the *Shariah*-compliant negotiation approach for Muslim and Islamic organization negotiation practices in general. Furthermore, having introduced a SCN model which can be operationalized and practiced, this work not only brings to the fore a different perspective to the study of negotiation values, it also alerts to the need for Islamic organizations to continually improve their value systems to ensure complete *Shariah*-compliant negotiation practices.



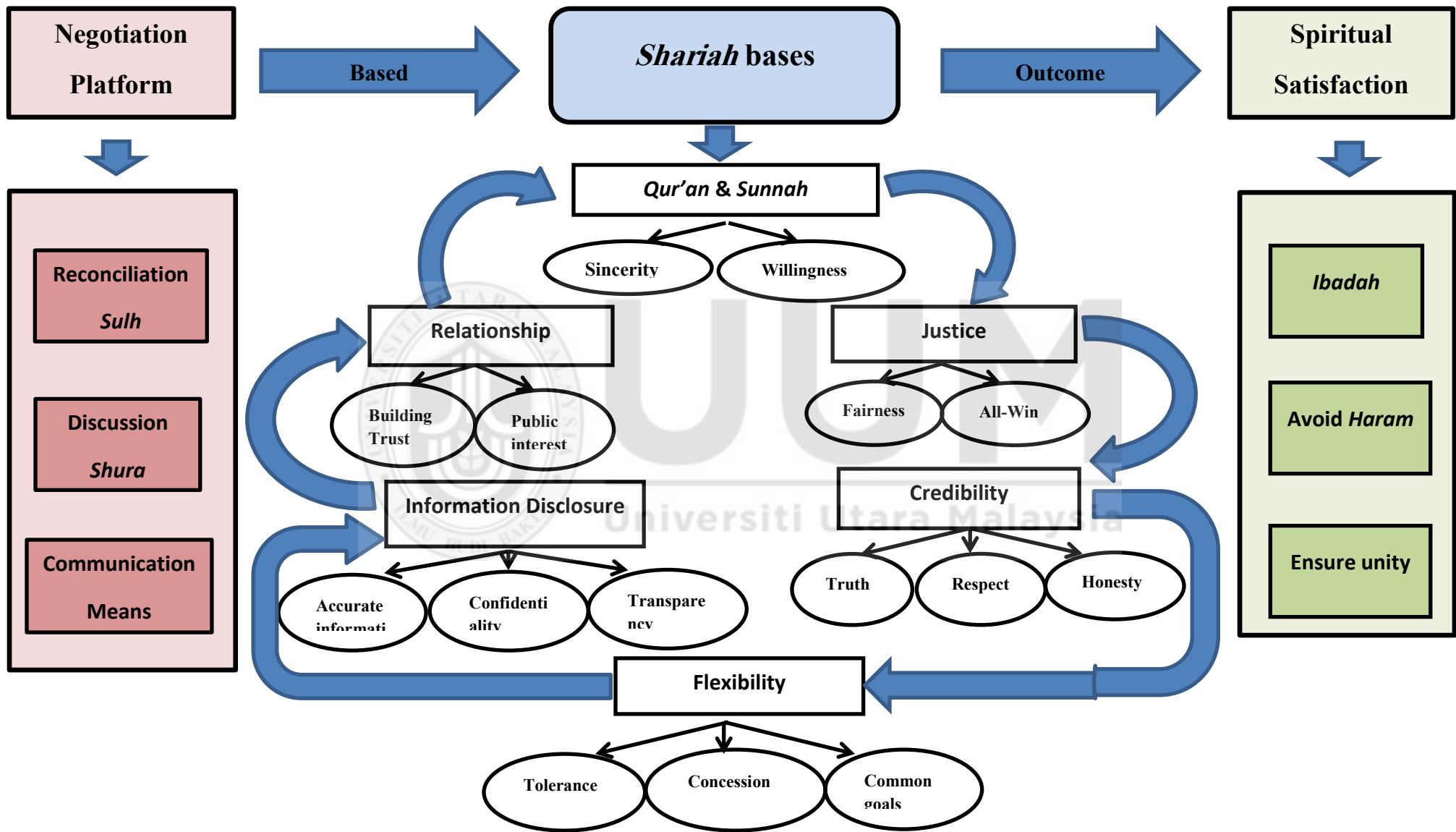


Figure 5.1. The Proposed Shariah-Compliant Negotiation (SCN) Model

5.6.1.1 The *Shariah*-Compliant Negotiation Proposed Model

The major contribution of this effort is the production of the *Shariah*-compliant negotiation model. Indeed, it is a significant theoretical contribution of this research, which was based on empirical findings from the applied method. This model was developed to answer research questions, which aim to identify how negotiation should be communicated or conducted in the Islamic way. Therefore, the purpose of this model is to establish the Islam-based procedure of negotiation conducts. This model shows how different the Islamic form of negotiation is from the other perspectives.

Practically, it was emphasized that even though all Islamic organizations are aware of some general Islamic principles of negotiation, the lack of a viable model led the Islamic organizations to apply western epistemological paradigms of negotiation in carrying out their negotiations conducts or training, which did not fit well into the Islamic value system (Informant SD2 and SD1). Therefore, this research contributed to the knowledge by filling a practical gap, which borders on the need for an appropriate model for *Shariah*-compliant negotiation in Islamic organizations. Thus, this study developed the *Shariah*-compliant negotiation model, and it is considered as a practical-oriented model.

Four research questions were purposively designed to determine and identify the core concepts that form a *Shariah*-compliant negotiation model. Therefore, under this model, the main disagreement platforms that Islamic organizations use for their negotiations were determined. Likewise, the main principles in the conducts of negotiations that need to be adapted were all emphasized. The study further presents the main outcome of applying these Islamic principles. They are the three core components that shape the *Shariah*-compliant negotiation model as discussed below.

5.6.1.2 *Shariah*-Compliant Negotiation Platforms

Reconciliation (*Sulh*), discussion (*Shura*) and communication means constitute the disagreement platforms of the *Shariah*-compliant negotiation model. The Informants explained that these are the main disagreement platforms or avenues that Islamic organizations use for the conduct of negotiations. More so, they claim that the distinction of these platforms confirms the importance of the negotiation conduct from the Islamic view.

The first disagreement platform found by this study is reconciliation (*Sulh*). It is an essential avenue that Islamic organizations and Muslims use for their negotiation conducts. This remarkable platform got credible attention from the Informants, as it is the main term conveyed by Islam that refers to negotiation. The Holy *Qur'an* and *Sunnah* are full of evidences of the use of this concept. This shows that the *Shariah*-compliant negotiation constitutes an important disagreement platform that must be put into significant consideration among the practitioners in Islamic organizations.

It was proven that the second and the third *Shariah*-compliant negotiation platforms also had great attention from the Informants. The study findings show that discussion (*Shura*) and communication also constitute avenues that Islamic organization practitioners use in conducting their negotiations. The Informants derived their justification from the Islamic sources, which validate these two disagreement platforms. Generally, the discussion in the previous chapter about the *Shariah*-compliant negotiation platforms demonstrates the significance of negotiation in Islamic organizations. For that reason, the Informants of this study built their statements in the negotiation context on the basis of Islamic teachings.

However, the general import of this finding is that the failure to provide clear platforms that Islamic organizations and Muslims can use has led to the adoption and practice of the conventional approach, which contain some elements that are against the Islamic value system.

5.6.1.3 *Shariah*-Compliant Negotiation Bases

There is no doubt that the Holy *Qur'an* and *Sunnah* are the core sources of the *Shariah*. Thus, principles or laws that make up the bases of the *Shariah* are very fundamental to any Islamic study. In other words, it is not possible to call a study of any research field an Islamic study without looking at it from the Holy *Qur'an* and *Sunnah* injunctions. In line with this thought, this study's purpose is to develop a negotiation model from the Islamic perspective. Therefore, the analysis of this research indicated that *Shariah* is the main foundation, on which the *Shariah*-compliant negotiation concept should be based.

Moreover, the findings stressed that this foundation and its authority are dependent on the two authentic sources; the Holy *Qur'an* and the *Sunnah* of the Holy Prophet (PBUH). Accordingly, this study brought out the core principles on which the *Shariah*-compliant negotiation platforms should be based, and it clearly states that these principles are considered as the main pillar of this model. Therefore, Muslims or Islamic organizations have to realize those principles and obligate themselves to implement them.

Hence, six fundamental principles of the *Shariah*-compliant negotiation emerged from the findings. They are; *Qur'an* & *Sunnah* compliance, justice, credibility, flexibility, information disclosure and relationship. The study also clarifies that these

principles are classified based on the importance of each principle to the *Shariah*-compliant negotiation. More so, the findings also disclosed that these six core principles have fifteen sub-principles, with each of them classified under its core principle.

This model has provided a clear insight into understanding and conducting negotiations from the Islamic perspective. It has significantly contributed to determining the disagreement platforms and the principles of the *Shariah*-compliant negotiation. The exploration of those principles generally recommends that the *Shariah*-compliant negotiation be based on the Islamic religious value system, which depends on the principles highlighted above. Therefore, Muslims and Islamic organizations must conduct their negotiations or dealings by taking those principles of *Shariah* compliance into consideration, in order to achieve fruitful negotiation.

5.6.1.4 *Shariah*-Compliant Negotiation Outcome

After determining the *Shariah*-compliant negotiation platform and its core principles, this model shows that practicing this interactive process leads to an essential outcome, which is spiritual satisfaction. Thus, the findings of this study indicated that in order to obtain spiritual satisfaction here and in the Hereafter, Muslims and Islamic organizations are ordered to surrender completely to Islam in all endeavours. Hence, all actions must be in accordance with the purpose of life, which is worshipping Allah (SWT) and seeking His pleasure. Accordingly, this study claims that the purpose of negotiation based on Islamic teachings is to gain the pleasure of Allah (SWT) by obedience to His commands, which results to spiritual satisfaction.

This model also indicates that, from the Islamic organizations' view, there are three indicators to spiritual satisfaction that inspire negotiating parties to execute their negotiations based on *Shariah* teachings. The first factor that is associated directly to spiritual satisfaction is *Ibadah*. The findings showed that Muslims and Islamic organizations considered implementing the *Shariah*-compliant negotiation as an act of *Ibadah*. That is because all Informants believed that the Holy *Qur'an* and *Sunnah* of the Prophet (PBUH) are full of evidences that require Muslims to submit themselves completely to fulfil the purpose of their creation, which is worshiping the Creator (SWT). *Ibadah* in Islam is everything Muslims say or do for the sake of Allah (SWT), which includes beliefs as well as daily activities. Therefore, Muslims and Islamic organizations conduct their negotiations for the sake of Allah (SWT), because it is considered an act of *Ibadah* that results to obtaining spiritual satisfaction here and in the Hereafter.

Additionally, this model specifies that the second factor that leads to spiritual satisfaction is avoiding *Haram* actions. The findings of this study found that the Islamic organizations' inspiration to apply the *Shariah*-compliant negotiations stems from the need to avoid the *Haram* dealings and obey and respect what Allah (SWT) has prohibited. Muslims believe that Islam only prohibited things and actions which are useless and harmful for human beings. In *Shariah*, those *Harams* are clearly stated in detail and Muslims must avoid them. Therefore, this model shows that the outcome of practicing the *Shariah*-compliant negotiation principles is obeying and observing the *Shariah* by avoiding *Haram* actions, and that would in turn also result to spiritual satisfaction.

Furthermore, this model illustrates that the last outcome of applying the *Shariah*-

compliant negotiation principles in the Islamic organizations is ensuring unity. The study evidentially justified that the last inspiration factor that leads the Islamic organizations to make their dealings and negotiations *Shariah*-compliant is ensuring internal and external unity. This is because Islam is a religion that demands the unity of people; it is a fundamental principle and one of the main objectives of the *Shariah*.

It is very essential to remember that Islam is a complete way of life and Muslims have to submit themselves completely to Islam. The *Qur'an* and *Sunnah* provide guidance for all aspects of life, in order to fulfil the purpose of creation, which is worshipping Creator (SWT). Therefore, it is very inspiring for Muslims to realize that all their deeds or actions are considered by Allah (SWT) as acts of *Ibadah*. In view of that, the inspiration of the Islamic organizations is to seek Allah's (SWT) pleasure in their dealings and negotiations, and continuously try to conduct them in the best possible way to gain spiritual satisfaction.

5.6.2 Methodological Contribution

Negotiation does not belong to a particular field. It has been studied from different field of knowledge; each field used a method which suits its school of thought. This study explores and identifies principles and practices of negotiation from the Islamic perspective. Therefore, this study's methodological approach was different from that of most previous studies. Pure qualitative method was used with the intention of overcoming the knowledge gap on *Shariah*-compliant negotiation model. Hence, this provides a comprehensive and in-depth understanding of how negotiation can be conducted from the Islamic approach. Structured interview was used as the main technique for collecting the research data from four different groups of experts.

Consequently, the study derived its methodological contributions from the unit of analysis of this study, who are different groups of experts from various Islamic organizations in Malaysia.

Indeed, this technique explored subjective opinions of Informants about a social, daily subject or issue such as negotiation. This qualitative study succeeded in delivering an in-depth understanding of new perspectives of negotiation from the Islamic approach, by bringing out the Islamic principles and practices of negotiation.

5.6.3 Practical Contribution

The findings of this study indicate that this research is important in theoretical and practical terms to human knowledge. Its importance is in developing the Islamic perspective on the conduct of negotiation. However, the exploration of the negotiation notion, principles and practices from the Islamic view would serve as a foundation for the conduct of negotiation by individuals, organizations, academicians, practitioners and governments. Hence, this study provides the understanding and view of how negotiation should be conducted from the Islamic viewpoint. Generally, the findings of this research proposed a *Shariah*-compliant negotiation model, which will serve as a guide for the conduct of Islamic negotiation.

Practically and particularly to Muslims and Islamic organizations, the findings provided core Islamic principles that will guide negotiation practitioners to make their conducts *Shariah*-compliant, in order to achieve a purposeful and Islamic way of life. Hence, this study significantly contributes towards determining the *Shariah*-compliant principles that practitioners can implement in their negotiation practices.

In addition, this study will serve as a good reference guide for Islamic organizations with respect to the conduct of negotiation. It will allow them to transact their dealings based on *Shariah* teachings. Furthermore, the proposed *Shariah*-compliant negotiation model will allow for easy understanding and conduct of negotiation from the Islamic approach. Most significantly, the proposed model will serve as a guide to the best way of effective negotiations for Muslims and Islamic organizations. That will save Muslims from the trap of the conventional negotiation models, which could be against the Islamic value system.

In addition, the study will help policy makers to become aware of how negotiations can be conducted from the Islamic perspective. The results of this research could also help policy makers in other matters. First, the findings of the study identified the *Shariah*-compliant negotiation disagreement platforms that Muslims and Islamic organizations mostly use in negotiation. This result helps policy makers to know the right platform to adhere to in negotiating with others, especially Muslims.

Secondly, policy makers could gain some understandings of how the *Shariah*-compliant negotiation works, and which core principles it is based on. With these core principles, policy makers could develop a better avenue to access the Islamic organizations' negotiation practices. Lastly, the most significant practical contribution of the study to the policy makers in organizations is the proposed *Shariah*-compliant negotiation model itself. This model will serve as a reference material for training programs, which managers and practitioners can effectively execute in the course of internal and external trainings on the Islamic negotiation approach. In fact, Informant SD2 confirmed that Islamic organizations just train managers on general Islamic principles. There is no relevant model to follow on how

negotiations should be done in an Islamic way. Therefore, this empirical study will be a valuable training tool for organization policy makers, and can assist in maintaining as well as increasing managers' or practitioners' professional standards, thereby assisting them in making sure that all their operations are *Shariah*-compliant.

This research also serves as a significant contribution towards the exploration of a foundation for continuous capacity building in negotiation from the Islamic perspective. In view of that, the results of this work will benefit the Islamic and non-Islamic organizations, practitioners and negotiation handling institutes or agencies. It will provide them with clear conceptions and directions on how negotiations should be handled from the Islamic approach. This is of particular importance to the non-Islamic organizations; those opening Islamic windows and providing Islamic products for their Muslims customers. This work could be very beneficial to them in gaining a deep understanding of how they should operate or deal with their Muslim customers. Thus, this research will surely help in overcoming the misunderstandings that are caused by the lack of literature on the *Shariah*-compliant negotiation.

5.7 Limitations of the Study

Conducting research in the realm of social science is like swimming in an ocean. Therefore, every study has limitations in its scope and framework. In this study, there were some important limitations. The first limitation concerns the selection of the sector used to describe the population of the study. The chosen sector was the Islamic finance and banking sector, due to its emerging development and the great attention the sector has garnered from researchers and practitioners in Islamic or non-Islamic countries. This study only covered the Islamic organizations in the finance and banking sector; four Islamic banks and three famous institutes of Islamic finance and

banking in Malaysia. Meanwhile, other Islamic organizations from different sectors which are equally important were not included in the population of the study. This limitation was necessary in order to ensure the research is well focused and well explored.

The second limitation is related to the findings. The current study was only able to identify the concept of negotiation from the Islamic perspective and proposed a *Shariah*-compliant negotiation model. It does not include empirical validation of the model. This limitation was due to the stipulated duration of the study, and due to the restrictive sampling from the Islamic finance and banking sector in Malaysia.

5.8 Directions for Future Research

There are also several important suggestions for future research. Firstly, an empirical research needs to be carried out in order to validate the developed model in various Islamic organizations and among Muslims practitioners. As such, future research should be directed towards including different and more practitioners from dissimilar organizations. That may lead to the emergence of new factors that can contribute to the improvement of the model.

Secondly, as has been noted earlier, the research focus is on the Islamic organizations, but future research may also test the proposed model in different settings. Another proposed area of research is conducting a study among the non-Islamic organizations which are providing Islamic products in their operations. This will indeed further fill the knowledge gap on the understanding and practices of the *Shariah*-compliant negotiation which has been observed in this study. Certainly, findings from such researches will either contribute to the improvement of the

subject of this study by providing further evidence on the subject or serve as a comparative view on the other perspectives.

Thirdly, the current research identified and determined six core principles of *Shariah*-compliant negotiation. Future research may also examine the relationships between those core principles and their holistic potential role in modelling the proposed prototype. Concern could possibly be raised that the identified principles of negotiation from the Islamic approach could have potentially strong relationships.

Finally, investigating the potentials of the *Shariah*-compliant negotiation outcomes can be another opportunity for future research. Having empirically proven the outcomes of *Shariah*-compliant negotiation as the inspiration which facilitates the responsibility of Islamic organizations' practices, a deeper investigation into the relationships between negotiation outcomes and the Islamic organizations' performances could be carried out in future research.

5.9 Chapter Summary

This chapter has two main sections; the first section discusses the implications of all the findings, which were interpreted in the previous chapter. In addition, empirical and theoretical explanations were provided. Meanwhile, the second section outlines the significance of the study; theoretical, methodological and practical. This chapter ends with a discussion of the limitations of the study and signposts for future research.

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APPENDIX A

INFORMED CONSENT FOR PARTICIPATION



School of Multimedia Technology and Communication

Informed Consent for Participation in Research Activities:

Principles and Practices in Negotiation; Developing an Shariah-compliant negotiation Model

I would like to thank you for giving me the opportunity to meet with you today. My name is **ABBAS RAMDANI** and I would like to talk to you about your experiences and practices as a manger (negotiator) in your organization.

The interview should take about an hour or less. I will be taping the session because I don't want to miss any of your comments. Although I will be taking some notes during the session, I can't possibly write fast enough to get it all down. Because we're on tape, please be sure to speak up so that we don't miss your comments.

All responses will be kept confidential. This means that your interview responses will only be used for this study only and I will ensure that any information included in the report does not identify you as the interviewee. Remember, you don't have to talk about anything you don't want to and you may end the interview at any time.

Are there any questions about what I have just explained?

Are you willing to participate in this interview?

.....
Interviewee

.....
Witness

.....
Date

APPENDIX B

INTERVIEW GUIDE

Interview Question	Probing question
<ol style="list-style-type: none">1- Have you heard about negotiation?2- Do you practice negotiation in your organization?3- How and when do you negotiate?4- Have heard about Islamic negotiation?5- What do you understand by Islamic negotiation?6- What are the principles of Islamic negotiation that you know?7- What are the principles of Islamic negotiation that you put into practice in your organization?8- What is your evaluation of practicing the Islamic negotiation in your organization?9- What are the benefits and the shortcomings of the negotiation?10- What are the differences between the Islamic negotiation and the conventional one?	<ol style="list-style-type: none">11- What is the concept of negotiation in Islam?12- How do <i>Qur'an</i> and <i>Sunnah</i> explain negotiation?13- What are the general principles of negotiation identified by <i>Qur'an</i> and <i>Sunnah</i> ?14- What is the importance of practicing the Islamic principles in negotiation?