

The Conceptual Framework of International Law in the Historical Establishment of Islamic Law

Ahmad Iffan, Syamsul Mujtahidin, Muhammad Faiz Algifari

Universitas Bung Hatta, Universitas Mataram, University of Jordan

ahmad.iffan@bunghatta.ac.id, mujtahidin.sy@gmail.com, muh0220967@ju.edu.jo

Received: 2023-12-15

Accepted: 2023-12-23

Published: 2023-12-31

Abstract

The legal enactment in the Makkah phase which lasted for approximately 13 years focused on cultivating the faith, strengthening its roots, and maintaining its purity. Islam makes the two sentences of the shahada as the realization of the aqidah as the door to a person's entry into the embrace of Islam which then applies Islamic laws to him. In efforts to adhere to the Islamic creed, it relies on logical arguments. The way to do this is by inviting humans to think about the universe, observing the signs of Allah's power and the beauty of His creation, and thinking about how all of this creation works in an orderly pattern. According to Sheikh Manna, the letters and verses that were included in the Makkah phase describe the orientation of faith by inviting humans to think and see the universe along with the heavens and the earth, witnessing the secrets that Allah keeps behind it all, and accuracy and perfection. in the universe itself, which is neatly arranged without any defects or doubts in it. Determination of Medina Law, The hijrah event was a separation between two societies in Islamic history. While in Mecca, the Islamic faith had been firmly ingrained in the souls of the Muhajirin and, like the Ansar, had taken the oath of allegiance. It was there that the seeds began to form which became the embryo of the founding of an Islamic society. Then they made Medina a place to settle in order to develop these seeds. "It is at this stage that da'wah begins to enter the stage of implementation in an organized manner," he said. Sheikh Manna said that the establishment of laws in Medina led to the formation of society and the establishment of rules in social matters. And the first step taken by Rasulullah SAW in building society was to bring brotherhood between the Muhajirin and the Ansar, whereby the Ansar people prioritized their brothers from among the Muhajirin over themselves.

Keywords: International law, islamic law, conceptual framework

Abstrak

Pemberlakuan hukum pada fase Makkah yang berlangsung selama kurang lebih 13 tahun ini fokus pada penanaman keimanan, penguatan akarnya, dan pemeliharaan kesuciannya. Islam menjadikan dua kalimat syahadat sebagai realisasi aqidah sebagai pintu masuknya seseorang



ke dalam pelukan Islam yang kemudian menerapkan syariat Islam kepadanya. Dalam upaya memegang teguh akidah Islam, bertumpu pada argumentasi yang logis. Caranya adalah dengan mengajak manusia berpikir tentang alam semesta, mengamati tanda-tanda kekuasaan Allah dan keindahan ciptaan-Nya, serta memikirkan bagaimana seluruh ciptaan itu bekerja dengan pola yang teratur. Menurut Syekh Manna, surat dan ayat yang termasuk dalam fase Makkah menggambarkan orientasi keimanan dengan mengajak manusia berpikir dan melihat alam semesta beserta langit dan bumi, menyaksikan rahasia yang disimpan Allah di balik itu semua, dan ketepatan. dan kesempurnaan. di alam semesta itu sendiri, yang tersusun rapi tanpa ada cacat atau keraguan di dalamnya. Penetapan Hukum Madinah, Peristiwa hijrah merupakan pemisahan antara dua masyarakat dalam sejarah Islam. Selama berada di Makkah, keimanan Islam telah tertanam kuat dalam jiwa kaum Muhajirin dan, seperti kaum Ansar, telah mengucapkan sumpah setia. Di sanalah mulai terbentuk benih-benih yang menjadi cikal bakal berdirinya masyarakat Islam. Kemudian mereka menjadikan Medina sebagai tempat menetap guna mengembangkan benih-benih tersebut. "Pada tahap inilah dakwah mulai memasuki tahap pelaksanaan secara terorganisir," ujarnya. Syekh Manna mengatakan, pembentukan hukum di Madinah berujung pada terbentuknya masyarakat dan terbentuknya aturan-aturan dalam urusan kemasyarakatan. Dan langkah pertama yang dilakukan Rasulullah SAW dalam membangun masyarakat adalah dengan menjalin persaudaraan antara kaum Muhajirin dan Ansar, dimana kaum Ansar lebih mengutamakan saudaranya dari kalangan Muhajirin dibandingkan dirinya sendiri.

Kata kunci: hukum internasional, hukum Islam, kerangka konseptual

INTRODUCTION

TAsyri or Shari'a during the time of the Prophet was established in two ways. First, the revelation that comes from Allah in a meaningful and meaningful way is in the form of the Quran which Allah revealed to the Prophet Muhammad. Islam, which was revealed to the Prophet Muhammad SAW, has brought the Arab nation, which was originally backward, uncivilized, unknown and ignored by other nations, to become a developed nation, it quickly moved to develop the world, building a culture and civilization that is very important in human history. Until now. An important event that shows Muhammad's wisdom occurred at the age of 35. At that time the Kaaba building was heavily damaged. Repairs to the Kaaba were carried out in mutual cooperation, the residents of Mecca helped with the work voluntarily. But at the last moment, when the work was left to lift and place the Hajarul Aswad in its original place, a dispute arose because each tribe felt they had the right to carry out the final and honorable task. As the dispute escalated, the Quraysh leaders agreed that the first person to enter the Kaaba through the shafa door would be made the judge to decide the case. The first person to enter was the prophet Muhammad Saw. He was also believed to be a judge. He then spread the cloth and placed the Black Stone in the middle, then asked all the tribal leaders to hold the edge of the cloth

and lift it together. After reaching a certain height, Muhammad put the stone in its original place.

In this way, disputes could be resolved expediently, and all tribal chiefs were satisfied with this method of resolution. Prophet Muhammad immediately returned to Madina. He managed the Kabila community organization which had converted to Islam. Religious officials and preachers were sent to various regions and taught Islamic teachings, administered justice, and collected zakat. Two months after that, the Prophet suffered from a fever. His energy quickly diminished. On Monday 12 Rabi'ul Awal 11 AH/8 June 632 AD, the Prophet Muhammad died at the house of his wife Aisyah. From the history of the Prophet, it can be concluded that the Prophet Muhammad SAW, apart from being a religious leader, was also a capable statesman, political and administrative leader. In just eleven years as a political leader, he succeeded in subordinating the Arabian Peninsula to his control.

Tasyri' during the time of the Prophet is called the period of legal formation (*al-insya'wa al-takwin*) because it was during his time that Islamic law began to grow and form, namely when the Prophet moved to Medina and lived there for 10 years (Linda, 2020). The basic source is revelation, either the Quran or the Sunnah of the Prophet who is guided by revelation. All laws and decisions are based on revelation. Although this period is short, it is very decisive for the development of law and subsequent legal decisions. The source or power of tasyri' in this period was held by Rasulullah himself and no one was allowed to determine the law on a matter either for himself or for anyone else. With the Messenger of Allah in their midst and them easily returning all their problems to him, none of them dared to give a fatwa based on the results of their own *ijtihad*. Even if they faced an incident or a dispute occurred, they immediately returned the matter to the Messenger of Allah and he was the one who would then give them a fatwa, resolve the dispute, and answer the questions they asked. The influence of tasyri' during the time of the Prophet had a big impact on society, such as the *muamalah* law which had a big impact on the economy of the population at that time, for example the prohibition on hoarding goods, usury, and other funds (Nurhadi, 2019). People often came to Rasulullah to find definite answers to the problems they were facing at that time. If Rasulullah was faced with a problem, the Prophet waited for revelation, if the revelation did not come then the Prophet made *ijtihad* guided by the spirit of the Shari'a, benefit, or deliberation. The challenges of how laws were made during the time of the Prophet will be discussed in the next point.

Mecca period starts from the time the Prophet Muhammad SAW was appointed as an Apostle until he immigrated to Medina. This period lasted 13 years. Islamic legal legislation in this period focused more on efforts to prepare society to accept religious laws, cleanse the *aqeedah* of worshiping idols and worship Allah, in addition to instilling noble morals to make it easier for the soul to accept all forms of implementation of the Shari'a. Therefore, Revelation in this period came down to provide guidance and direction to humans on two main matters. First, strengthening the correct faith in the soul on the basis of faith in Allah

SWT and nothing else, faith in angels, books, messengers and the last day. All of this comes from the Quran which is then explained in several hadiths. Second, forming morals so that humans have noble traits and avoid despicable traits. The Quran commands them to tell the truth, be trustworthy, keep their promises, be fair, help each other based on kindness, honor their neighbors, love the poor, help the weak and oppressed. Apart from that, the Quran also prohibits them from despicable morals such as lying, deceiving, cheating, breaking promises, committing injustice and abuse, as well as other behavior that is considered to be beyond the limits and deviating from customs.

Medina period lasted from the emigration of Rasulullah SAW from Mecca until he died, this period lasted approximately 10 years (Muthoilah, n.d.). Islamic law legislation in this period focused on practical legal aspects and Islamic preaching in this phase discussed faith and morals. Therefore, it is necessary to have legislation that regulates the condition of society from every aspect, one by one it comes down as an answer to all problems, opportunities and developments. Before this era reaches the stage of perfection, it has covered all dimensions of actions and all problems that occur. There is not a single aspect unless the law has been regulated and explained, both globally and in detail. In general, all laws, whether in the form of orders or prohibitions to themukallaf, came down in this phase except for a few, such as the law on prayer which was revealed on the nights of Isra and Mi'raj 1 year before His Majesty emigrated to Medina. Apart from this in the form of muamalah jinayah hudud worship, inheritance, marriage will and talak, everything falls on this phase.

DISCUSSION

Social Conditions during the Time of the Prophet Muhammad SAW

The birth of the Islamic religion brought by the Prophet Muhammad SAW gave rise to an extraordinary driving force that has ever been experienced by mankind (Eickelman & Anderson, 1999). The emergence of Islam from the social conditions of Arab society at that time which we know as the Jahiliyyah era. It was the social conditions of the Arab nation that led to the birth of social thought during the time of the Prophet (Bloom & Blair, 2002). The existence of Islamic social and political thought during the time of the Prophet would later influence the development of Islam.

Before the arrival of Islam, the Arabs lived with the concept of tribes where they were hostile to each other, the sense of national ties did not apply to them, there were only tribal ties based on blood ties (ashabiyah). This resulted in that if one of them was persecuted, all members of their tribe would desperately defend him. Because they have very high fanaticism towards ethnic groups, the gap is very visible. The condition of the Arab nation is that it has a tradition of burying girls alive, committing adultery, liking to drink wine, gambling, slavery, apart from that, it often happens that they take the law into their own hands for reasons of self-respect or defense, thus giving rise to war.

The social conditions above mean that there are several social principles that have been instilled by the Prophet Muhammad SAW, namely (Saritoprak, 2002):

1. Unity and Fraternity: This principle has the aim of uniting and fraternizing society so that in the future there can be unity and brotherhood among religious believers, as well as social unity and brotherhood, as well as unity and brotherhood between believers of religions. This principle of unity and brotherhood requires cooperation between community groups in dealing with various problems. Brotherhood is also one of the important principles of Islamic society laid down by the Prophet.
2. Equality, this principle of equality contains everything related to the common good which guarantees all the rights of every person without distinction between groups, ethnicity, religion, and so on. The Prophet taught equality even though it was contrary to the Arab tradition of jahiliyyah which differentiated human degrees based on position and social status [5]. In this principle of equality, everyone has the same rights, the right to life, the right to security of life, the right to protection for all groups without exception. This means that every society has the same strata in social life.
3. Peace, this principle requires the realization of peace between all existing groups, because security will be realized if all groups maintain peace. This requires every individual to take part in peace, in order to create unity and unity. With peace, one group and another group will be able to live side by side.
4. Living Neighborly, as we know about living as neighbors, mutual respect and not giving each other trouble are things that must be included in it. Every household or family must treat other families as if they were their own. Understand each other, feel, and relieve each other when there are difficulties. When good relations between neighbors are realized, it will result in a harmonious social life.
5. Freedom, the principles of brotherhood, equality and others will not be realized if humans do not obtain freedom or do not have freedom. Because freedom is one of the basic rights in everyone's life and is a recognition of a person's equal human dignity. If freedom is shackled, what will happen is only the oppression of one group against another group. With freedom, everyone feels that their existence is respected. The main freedoms needed by humans are freedom of religion, freedom from slavery, freedom from fear, freedom from oppression, and many others.
6. Defense, regarding this principle, it means the existence of general rights and obligations, in an effort to realize common defense and maintain mutual security. Every enemy threat comes from outside or inside, and creates a sense of security for all citizens. This principle requires every individual to participate in realizing domestic defense and security and working together in facing a common enemy is a reasonable demand because every individual definitely wants a safe and peaceful situation and conditions. And security is not just the responsibility of one party but is the responsibility of all parties in order to realize shared prosperity.

After the arrival of the Prophet Muhammad SAW with the prophetic message and providing enlightenment to Arab society, the Prophet carried out many changes in forming a new, civilized, just and advanced order. Islam is a revealed religion (Said, 2001). The Islamic civilization that was built during the time of the Prophet Muhammad SAW was not due to political, social, economic or cultural construction, but was built on the basis of revelation itself (Tibi, 2005).

The reforms carried out by the Prophet Muhammad SAW covered various aspects of life, both social, political, economic and military (Arkoun, 2003). It was during this period that the foundations of Islamic civilization were laid at the beginning of its formation. In the structure of Arab society at that time, kabilah (clan) was the core. It is a large family organization whose relationships between its members are bound by blood ties (nasab). However, sometimes a person's relationship with his tribe is due to marriage, political asylum or an oath of allegiance. Tribal solidarity ('asabiyah qabiliyah) in pre-Islamic Arab society was known to be very strong. This is realized in the form of tribal protection for all members of the tribe. The fault of a member of a tribe against another tribe is the responsibility of his tribe, so that a threat to a member of a tribe means a threat to the tribe in question. Therefore, individual disputes almost always give rise to conflicts between tribes which often give rise to long-lasting wars.

The Prophet Muhammad SAW made an agreement between the existing tribes, which resulted in the first written constitution in human history, namely the Medina Charter (The Charter of Medina) (Wildan, 2023). Based on the first article of the constitution, the Prophet formed an ummah, which was agreed upon by four types of communities: Jews, Christians, Ansar and Muhajirin. The new community, called the ummah (Islamic community), is a system of fraternal communities that integrates individuals, tribes/clans, cities and even ethnic groups into a larger community. The ummah functions as a basis for cooperation in political and social life, which redefines the meaning of ethnicity as a group that defends its brothers through religious ties and also ties of blood brotherhood.

There are countless constitutions relating to the ummah, including rules regarding both civil and political relations between citizens of one country with citizens of other countries, and also with citizens of other countries outside them (Anello, 2021). The concept of power is determined on the basis of prerogative rights according to religious absolutes. Thus, the ummah has two characters. On the one hand, the ummah is a political organization, and at the same time the ummah basically has a religious meaning. That is the form of a religious society, a theocratic society. Political matters and religious matters were never truly separate.

The highly upheld Sharia regulates every aspect of life, not only regarding belief and worship, but also regulates public law, constitutional law and international law, private law, criminal law and civil law. Its (Islamic) ideal character is most clearly visible in the constitutional aspect. The Prophet Muhammad SAW has created a new local

government, which was founded on the basis of his prophetic views (Koller, 2004). This was the first Muslim country that became the forerunner of the Islamic empire. The Prophet also formed a military force and carried out real military activities among the Muslims. The Prophet held "Monitoring Patrols" and sent military brigades and also led military troops under his command.

It quickly became a competing power in Arabia not only with the Quraysh, but also with the Byzantine and Sassanid empires. After winning the competition and establishing himself as the general Arab ruler, in two successive generations he expanded his territory over his neighboring countries in monumental struggles between the Muslim Arabs and the two imperial powers. At every turn, crucial decisions were taken to determine which "character" the future Islamic government should adopt. Then, in turn, this character will determine what impact Islam will have on the peoples it conquers.

Sharia and Social Society in Mecca

There are several factors that can influence the law. Ibn Qayyim al-Jauziyyah stated that time, place, circumstances, intentions and customs can change legal fatwas. Islamic law emerged not in a "void" space. He came by considering the things around him. We even find changes in these laws in the Quran and Hadith. This shows that Islamic law provides space for the dynamics of society to be taken into legal consideration. To understand the emergence of Islamic law in its entirety, it is necessary to trace the geographical, social, political and legal conditions in Mecca and Medina during the early period of Islam. That period was the beginning of the emergence of Islam. It was during that time that the foundations of Islamic teachings were revealed. These aspects are very helpful in understanding the emergence of Islamic law. By understanding it, it can also provide guidance on legal determination for the future. This is where the urgency of this discussion emerges. For legal conditions, it will be reviewed using the legal system theory presented by Lawrence M. Friedman, which consists of legal structure, legal content and legal culture (Saifullah, 2007).

Mecca was an important city at that time, both because of tradition and because of its position. Apart from dealing with polytheistic religion which has deep roots, the teachings of the Prophet Muhammad saw. Also had to fight opposition from the oligarchic government (Ali, 2002; Bakar, 2008) of the Prophet Muhammad's Da'wah, whose call to Islam was seen as destroying the social order adhered to by the nobility. This is what causes many conflicts to occur. This counter attitude is not only motivated by social and economic factors. The nobles were not ready to equalize their position with a group of people who had been slaves. Apart from that, the prohibition on worshipping idols not only has an impact in terms of beliefs, but also an economic impact¹². This is because making idols was one of the people's incomes at that time.

Opposition to the Prophet's preaching occurred after the preaching was carried out openly. There were five factors that encouraged the Quraysh to oppose the call of Islam (Syalabi, 1983), namely:

1. They cannot differentiate between prophecy and power. They thought that submitting to Muhammad's call meant submitting to the leadership of Bani Abdul Muttalib. This is something they really don't want;
2. The Prophet Muhammad SAW called for equal rights between nobles and slaves. This was certainly not approved by the Quraish noble class;
3. The Quraish leaders could not accept the teachings about resurrection and retribution in the afterlife;
4. Religious devotion to one's ancestors is a custom that is deeply rooted in the Arab people;
5. Sculptors and statue sellers view Islam as a barrier to good fortune.

Even though the first Islamic government was in Medina, the contribution of Makkah cadres cannot be ignored. This is because the formation of the Muslim personality took place in Mecca, thus becoming the forerunner to the growth of Islamic society. It could be said that the "superior seed" came from Mecca, while the "fertile ground" was Medina, so that the combination of the two gave birth to a strong Islamic government (Bakar, 2008). In the economic field, there is the term *ilaf*, namely commercial travel which is a tradition of pre-Islamic society in Mecca which was legitimized by the Quran in Surah Quraish. Summer goes to Syria, while winter goes to Yemen (Sahin, 2015). From the characteristics above, the Makkah phase was a phase of religious revolution to change the belief system of the ignorant society towards worshipping Allah alone. A revolution that brings fundamental change, social and moral reconstruction in all dimensions of life. 37 A strong creed becomes a very strong foundation for the establishment of Islamic law which is obeyed by its adherents (Salahuddin & Niaz, 2011).

Sharia and Social Society in Medina

W. Montgomery Watt in his book "Muhammad Propet and State Man" explains the social and political conditions of Medina before the hijrah. Watt wrote that the situation in Medina was different from the situation in Mecca. In Mecca and the surrounding area there is no agricultural land, as a consequence the existence of the city depends on trade, on the other hand Medina is an agricultural oasis. Like Mecca, Medina is a village that is busy with fierce and anarchic horizontal conflict between prominent tribal groups, including the Aus and Khazraj. This prolonged conflict made ordinary people feel insecure and gave rise to existential problems in Medina. Furthermore, in contrast to Mecca, Medina continues to experience social changes that abandon the absolute form of society of the Bedouin model. Medina's social life was gradually colored by elements of spatial proximity rather than elements of kinship.

What is clear is that Medina had a number of Jewish residents, most of whose followers were more sympathetic to monotheism (Lapidus, 2000).

The people of Medina followed the people of Quraish and the people of Makkah in belief and religion. They viewed the Quraysh as guardians of God's house, as religious leaders, and as role models in faith and worship. They were subject to paganism (the teaching of worshiping statues) which covered the entire Arabian Peninsula, worshiping several idols, which were also worshiped by the Quraysh and the inhabitants of the Hijaz. It's just that the relationship between them and the idol is stronger than the relationship between each of them (An-Nadwi, 2006).

In the Medina phase, Hitty said that Arabization or nationalization of Islam was starting to take place. Friday became the substitute for the Sabbath; the call to prayer replaces the sound of trumpets and gongs; Ramadan is designated as a month of fasting; Mecca as the Qibla direction replaced the previous Qibla, namely Jerusalem; The Hajj pilgrimage is standardized as an Islamic ritual. The Medina phase lasted for 10 years, namely since the hijrah of the Prophet PBUH. Until he died in 11 H. In this phase, Muslims developed rapidly. The Prophet SAW began to form an Islamic society that had resounding power. Then regulations are made because society needs them to regulate their relationships and their relationships with other people, both in peace and in war.

For this need, laws are prescribed that regulate all their needs, both personal and community related, such as issues of worship, muamalah, jihad, jinayat, marital inheritance and various other issues. Therefore, Madaniyah surahs such as al-Baqarah, Ali 'Imran, al-Nisa' and al-Ma'idah contain many legal verses, in addition to containing verses on faith, morals and history (Ilham et al., 2020). The Prophet Muhammad SAW explained and resolved the problems faced based on revelation, both the almatluww revelation, namely the Quran and the ghayr al-matluww revelation, namely the Sunnah. The friends obeyed and followed His decision. The Quran and Sunnah were the marja' and legal propositions at the time of the Prophet Muhammad.

The period of the Prophet SAW, tasyri ' was the laying of the basic foundations and general principles. Apart from that, the term fiqh in this period is an understanding of religious knowledge as a whole. At the same time, it is known that religious sciences such as theology, kalam and Sufism, developed scientifically in the second Hijri century. GE von Grunebaum's analysis illustrates that at the end of the time of the Prophet Muhammad, both the Makkah and Medina periods, several family laws were formed as follows: (1) restrictions on polygamy in patrilineal family structures; (2) inheritance arrangements that focus on individual rights; (3) the establishment of religious customs, and at the same time the prohibition of idolatrous traditions and intoxicants and the prohibition of eating pork were introduced; (4) the tradition of circumcision is permitted and has subsequently become an important teaching in Islam; (5) use of the

annual calendar from the lunar calendar (based on the rotation of the moon); and (6) practice of prayer and completion of Hajj (632 AH).

Thus it can be understood that in the period of the Prophet SAW. The state of jurisprudence is still simple, in the form of an introduction to Islamic laws in a certain time and space. There are at least three aspects that can be drawn from the process of developing sharia in this period, both in Mecca and Medina, namely as follows:

1. The Prophet Muhammad's method of implementing the law in many ways, Islamic law was transmitted globally, especially in the Makkah period. The Prophet did not explain much about whether his actions were obligatory or sunnah, what the harmony and conditions were and other details. When the Prophet SAW prayed, his companions saw him and imitated him without asking him more about the procedure.
2. Some are prescribed, some are not. There were laws that were prescribed for problems faced by the community or friends which were submitted to the Prophet, and at that time the Prophet saw made them mandatory. There are also things that people don't ask about, the Prophet SAW prescribed them, especially in the Makkah phase, for example monotheism and worship.
3. The gradual decline of the Shari'a.
 - a. Stages of implementing the unity of Islamic law, such as prayers prescribed on the nights of Isra and Mi'raj one year before the hijrah; the call to prayer in the first year of Hijriah; fasting on prayer, id, sacrifice and zakat in the second year of Hijriah; inheritance law in the third year; etc.
 - b. The stages continue, for example prayer, which initially requires two rak'ahs. After emigrating to Medina, four rak'ahs of prayer were required. The stages of sustainability are clearly illustrated in the prohibition on drinking khamr.

In short, the power to make laws at this time was in the hands of the Prophet Muhammad. The source of Islamic law at that time was the Quran. If the verses of the Quran were not revealed when he faced a problem, with the guidance of Allah SWT, he determined his own law. This is what is called the Sunnah of the Prophet Muhammad. The term fiqh in its classical or modern sense was not yet known at that time. Science and fiqh at this time contain the same meaning, namely knowing the propositions in the form of the Quran and the Sunnah of the Prophet Muhammad (Wimra et al., 2023). The definition of fiqh in the time of the Prophet Muhammad was everything that could be understood from the texts (verses or Hadith), whether related to matters of faith, law or culture. In addition, the jurisprudence of this period is actual, not theoretical. The legal determination of a problem is only determined after the case occurs, and the law determined only concerns that case. Thus, according to Mustafa Ahmad al-Zarqa, in this period, legal theory as known in subsequent periods had not yet emerged.

Rasulullah saw has put forward general rules in the formation of Islamic law, both originating from the Quran and from his Sunnah as practiced by alKhulafa` al-Rashidun. Changes in the legal field in the Medina phase can be seen from the pre-Islamic period and the post-Islamic period as follows (Bakar, 2008): (1) from being warlike to agreeing to a peace treaty; (2) from frequent physical fights to making laws; (3) from liking revenge to applying the law of qisas; (4) from being completely halal to prioritizing obedience to the law: and (5) from liking to rob to maintaining an attitude of trust.

All legal systems, including international law, are the same, consisting of provisions that regulate what should be done and what should not be done, and are accompanied by rewards and punishment. Reward or profit for those who obey it and punishment or punishment/loss for those who violate it. The basic principles in Islamic law regarding relations between nations/ethnic groups or between countries contain norms relating to the principle of brotherhood, the principle of equality between fellow human beings/ nation/state, the principle of independence or freedom (freedom), the principle of tolerance and peaceful coexistence (tolerance and peaceful coexistence), the principle of friendship, the principle of cooperation or mutual assistance (cooperation), the principle of humanity, and so on (Wiradipradja, 2003).

As is known, these principles have now become principles adopted by international law, especially in the UN Charter in efforts to create international peace and security. The UN Charter as an international agreement that forms universal law (law making treaties) is the most important source of international law at the present time. The principle or principle of equality between human beings, between nations and between countries is the main basis for international relations, both from a legal, social, economic and political perspective. Discrimination based on differences in race, skin color, gender, language or religion is an act that is contrary to international law, especially international law on human rights.

Even the concept of *siyar* is a concrete framework in international law, as Javaid Rehman from Brunel University (UK) stated that *Siyar* has made many contributions to the development of international law, although these contributions are rarely acknowledged. Among the broadcast contributions include (Rehman, 2008):

1. That every agreement is sacred (sanctity), the agreement creates an obligation for the parties to respect and follow it in good faith (*pacta sunt servanda*) and each party must be truly aware, sincere and agree to enter into an agreement (Genuine consent of parties) without the existence of coercion, injustice or pressure on one party (Provisions must not be coercive, unjust or oppressive towards one party).
2. Law in Trade and Commerce; The business practices of the Prophet Muhammad SAW when he married Khadijah provided many references in Islamic trading law. Then the practice of *hawalah* (Bills of Exchange & assignment of debts) which was widely practiced in Islamic countries in the 8th century is now widely imitated and

adopted by Western European countries. The practice of *aval* in medieval France originates from the *hawalah* partnership laws. Including *muwafada* (unlimited, universal partnership) and *inân* (limited investment partnerships). Then, the common law doctrine of trust originates from the principle of *waqf* in Islamic sharia.

3. Contribution to the principle of diplomatic immunity in international law; one of which is the principle of security (pledge of security) where this principle guarantees the security and safety of non-Muslims in other countries/including Muslim countries (also applies to non-Muslim foreign diplomats).
4. Contribution to arbitration (arbitration); The principles of Islamic law have had a positive influence on international arbitration law, including: (a) freedom to select arbitrators; (b) the parties agree and have the authority to resolve disputes through arbitration; and (c) the parties are bound by the decision made by the arbitrator. The parties must comply with the decision of the arbitrator.
5. Contribution to the development of the laws of warfare (*jihād*); for example, Islamic law limits the use of armed force (use of force) only for certain purposes and targets, not haphazardly and haphazardly.

The establishment of Islamic law in the framework of the history of Islamic civilisation has a significant impact on the establishment of international law in the international community. It begins that the diversity of ethnicity, race and understanding in the time of Muhammad SAW is a miniature of the diversity of international society, this can be explained in the sub-discussion below regarding the conceptual framework of international law.

Conceptual Framework of International Law

International law has legal sources that are the main reference in resolving various material and formal international conflicts (Kusumaatmadja & Agoes, 2003) such as: (1) sources of law in the formal sense; (2) sources of law in the material sense; (3) source of law in a casual sense. Despite having a historical connection in the civilisation of determining Islamic law, it will still formulate different sources of law, because in Islamic law it still comes from the Quran, hadith, *Ijma* and *Qiyas*. This difference does not make the two legal concepts above become contradictory because it is precisely in providing the completeness of science, even now it has developed with the concept of new science, namely the science of Islamic international law. Agreements that are the main basis of international law in the field of private international law have similar principles because *muamalah* issues have the principles and principles of Islamic law to respect an agreement with agreed norms (Nugraha, 2022). Islam becomes one of the sources of international law can be seen from the *ijtihad* process carried out. As in line with the formulation written by Wahbah Zuhaili who tried to formulate a list of Islamic law principles that are in line with international law.

Efforts made in terms of material can also be treated the same in terms of being a source of formal law in international law. Through the acceptance of Islamic law as a source of formal law is evidence that the principles of Islamic law have been accepted by the international community, this can be seen from two international conventions, namely the 1961 Vienna Convention on diplomatic law and the law of war in the Geneva and Den Haag rules (Aqimuddin, 2016).

Religious relations in international law are categorised into three categories: separationist, accommodationist and double edge. The development of international law today actually uses religion as part of itself which is pragmatized. This shows that the Islamic conception of international law has developed, especially in muamalah. Islamic international law pays special attention to relations between states or the international community (Aqimuddin, 2016).

International law is the part of the law that regulates the activities of international entities. Initially, international law was only defined as the behaviour and relations between states. However, in the development of international relations patterns, the understanding is increasingly complex. International law also deals with the structure and behaviour of international organisations and to a certain extent, multinational corporations and individuals. This so-called international law regulates relations between states, assigns rights and obligations to them and also contains provisions for situations of conflict and war. It is also known as international law and public international law, and also applies to international organisations and political bodies.

Historically, Islam has made significant contributions to the development of International Law, not only at the theoretical level but also in the practical dimension of relations between Islamic states including their organisations and other Western states. Modern International Law is not purely a law exclusively inherited from Europe, Islamic civilisation has also influenced the development of the International Law system. European historians who state this include Marcel Boissard and Theodor Landschdeit (Thontowi & Iskandar, 2006).

Zahrah put forward ten basic principles on the continuity of international relations in the theory and practice of Muslims in the past, namely: (1) Islam places the honour and dignity of man as an honourable being, he is the Khalifah (God's representative) on earth; (2) humans as a people who are one and united, not only by the process of historical evolution theory from one descendant of the Prophet Adam, but also by the nature of universal humanity; (3) the principle of humanitarian cooperation (ta'awun insani) by upholding truth and justice; (4) the principle of tolerance (tashomah) and not patronising the other party; (5) the existence of freedom (harriyah), freedom is very important because it is the root of human growth and perfection; (6) noble character and justice; (7) equal treatment and anti-discrimination; (8) fulfilment of promises; (9) Islam calls for peace, therefore complying with agreements

is a legal and religious obligation; and (10) the principle of compassion and preventing damage.

In addition, the contribution of Islam to the development of International Law can be seen in the conception of *siyar* which is a branch of *shari'ah*. The understanding of *siyar* can be seen in the relationship between Muslim and non-Muslim countries and among Muslim countries (Anke Iman Bouzenita, 2007). In addition, the conception of *siyar* can also be seen in the neutrality of one Islamic state towards two warring states (Bouzenita, 2011). These subsidiary sources are the practices of the first four Caliphs which Islamic jurists claim complement the Quran, but they can also include the opinions of Islamic legal scholars, arbitral awards, national laws relating to the subject matter of the *shariah*, unilateral declarations relating to the *shariah*, and custom. When considering the construction of these sources of law, there are similarities with the sources of law listed in the ICJ Statute (Thontowi & Iskandar, 2006).

CONCLUSION

Social and political conditions at this time changed with the arrival of a new order in Islam, for example the emergence of equality or social justice and a new political order that was tied to the basis of faith. The community's tradition of frequent and prolonged war between tribes changed to unity in creed with the appointment of the Prophet Muhammad as leader. Legal conditions are divided into two phases, namely the Makkah phase and the Medina phase. The Makkah phase is characterized by creeds as the foundation of law, while the Medina phase is characterized by complete law which was revealed in stages. The legal structure in Mecca and Medina was held by the Prophet Muhammad *saw*. The legal substance is in the form of the Quran and Hadith, both of which originate from the revelation of Allah SWT. Legal culture shows that the people of Mecca and Medina obey the law. This obedience is influenced by strong beliefs.

We can see the basic principles of international law in Islam which regulate relations between nations/ethnic groups or between countries in the Qur'an. The UN Charter as an international agreement that forms universal law (law making treaties) is the most important source of international law at the present time. The principle or principle of equality between human beings, between nations and between countries is the main basis for international relations, both from a legal, social, economic and political perspective. The basic concepts in the charter reflect how countries as an international community must maintain stability and harmony between countries based on various agreed principles.

BIBLIOGRAPHY

- Ali, S. A. (2002). *Islamic Fire*. Pembangunan.
- An-Nadwi, A. H. A. al-H. (2006). *Sirah Nabawiyah Complete History of the Prophet Muhammad SAW*. Mardhiyah Press.
- Anello, G. (2021). The Concept of "Contractual Citizenship" in the Charter of Medina (622

- C.e.): A Contemporary Interpretation. *SSRN Electronic Journal*.
<https://doi.org/10.2139/ssrn.3784632>
- Aqimuddin, E. A. (2016). Islam Sebagai Sumber Hukum Internasional. *Jurnal Masalah Masalah Hukum*, 45(4).
- Arkoun, M. (2003). Rethinking Islam Today. *The ANNALS of the American Academy of Political and Social Science*, 588(1), 18–39.
<https://doi.org/10.1177/0002716203588001003>
- Bakar, I. A. (2008). *History of Islamic Civilization*. UIN-Malang Press.
- Bouzenita, Anke I. (2011). The Principle of Neutrality and “Islamic International Law” (Siyar). *Global Jurist*, 11(1). <https://doi.org/10.2202/1934-2640.1377>
- Bouzenita, Anke Iman. (2007). The Siyar – An Islamic Law Of Nations? *Asian Journal of Social Science*, 35(1), 19–46. <https://doi.org/10.1163/156853107X170150>
- Eickelman, D. F., & Anderson, J. W. (1999). New Media in the Muslim World The Emerging Public Sphere. In *Indiana University Press*. Indiana University Press.
- Ilham, M., Amiruddin, M. M., & Arif, A. (2020). Islamic Harmony Exemplar: The Qur’an’s Frame on Social Interaction with Non-Muslims. *FITRAH: Jurnal Kajian Ilmu-Ilmu Keislaman*, 6(2), 191–206. <https://doi.org/10.24952/fitrah.v6i2.2777>
- Jonathan Bloom, & Sheila Blair. (2002). *Islam: A Thousand Years of Faith and Power*. Gardner Films.
- Koller, J. M. (2004). From the Prophet to the Present: An Historical Approach to Understanding Islam. *The Journal of Comparative Asian Development*, 3(1), 29–50.
<https://doi.org/10.1080/15339114.2004.9678391>
- Kusumaatmadja, M., & Agoes, E. R. (2003). *Pengantar Hukum Internasional*. Alumni.
- Lapidus, I. M. (2000). *Social History of Muslims*. Raja Grafindo Persada.
- Linda, L. (2020). The Tasyri of Rasulullah Priode: An Introduction to Islamic Law. *Al-Mirah: Jurnal Pendidikan Islam*, 2(2), 51–57. <https://doi.org/10.33487/al-mirah.v2i2.453>
- Muthoilah, G. I. (n.d.). *The Urgency of Understanding the Tasyri’ Date of the Rosulullah Period to Strengthen Understanding of Islamic Law*.
- Nugraha, A. T. (2022). Contemporary International Treaties Seen From the Principles of Maqasid Ash-Shariah. *Law and Justice*, 7(1), 63–75.
<https://doi.org/10.23917/laj.v7i1.604>
- Nurhadi, N. (2019). The Importance of Maqashid Sharia as a Theory In Islamic Economic Business Operations. *International Journal of Islamic Business and Economics (IJIBEC)*, 3(2), 130–145. <https://doi.org/10.28918/ijibec.v3i2.1635>
- Rehman, J. (2008). The Sharia and Siyar in the Development of the Law of Nations. *Salzburg Global Seminar Session 457*.
- Sahin, H. (2015). Civil Society Institutions in Pre-Islamic Mecca. In *Research Gate*. Medipol University.
- Said, J. (2001). Law, Religion and the Prophetic Method of Social Change. *Journal of Law and Religion*, 15, 83–150. <https://doi.org/DOI: 10.2307/1051516>
- Saifullah. (2007). *Reflections on the Sociology of Law*. Refika Aditama.
- Salahuddin, H., & Niaz, A. (2011). Pre-Islamic Arab Judiciary in Islam. *Gomal University Journal of Research*, 27(2).
- Saritoprak, Z. (2002). The Mahdī Tradition in Islam: A Social-Cognitive Approach. *Islamic Studies*, 41(4), 651–674. <http://www.jstor.org/stable/20837234>
- Syalabi, A. (1983). *History of Islamic Culture 1*. Pustaka al-Husna.

- Thontowi, J., & Iskandar, P. (2006). *Hukum Internasional Kontemporer*. Refika Aditama.
- Tibi, B. (2005). *Islam between Culture and Politics*. Palgrave Macmillan UK.
<https://doi.org/10.1057/9780230204157>
- Wildan, T. (2023). Principles of the teaching of nation and state life in the Constitution of Medina. *IBDA` : Jurnal Kajian Islam Dan Budaya*, 21(1), 17-36.
<https://doi.org/10.24090/ibda.v21i1.6747>
- Wimra, Z., Huda, Y., Bunaiya, M., & Hakimi, A. R. (2023). The Living Fiqh: Anatomy, Philosophical Formulation, and Scope of Study. *JURIS (Jurnal Ilmiah Syariah)*, 22(1), 185. <https://doi.org/10.31958/juris.v22i1.9491>
- Wiradipradja, E. S. (2003). *Principles of International Law in Islam*. XIX(2).