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ISLAMIC LAW AND SOCIAL TRA NSFORMATION:
HISTORICAL ANALYSIS TOWARDS Egalitarian
CHARACTERS

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Abstract—The consequences of a social transformation, the Islamic law has replaced the law of Jahiliyyah. In history, the Prophet Muhammad and his early followers of Islam really made a stance counter to the legal system and Jahiliyyah in their behavior and actions, thereby gaining a strong opposition from the leaders of those who held Jahiliyyah system, and even the approach of Muhammad saw as messenger engaged all including those whom considered marginalized in the social stratification to the teachings of Islam, and it became an important point in these consequences. This study set out an understanding that Islamic law is involved with human history within the context of Jahiliyyah society, with the approach of a cultural phenomenon and humanities. The aim of this paper to discuss social change brought by by Islamic law from Jahiliyyah law as background of the study known as fideistic subjectivism or scientific objectivism. The finding of the study is obvious how Islam has defended and protected the weak group in the society to have equality status with others in before the Islamic law.

Keywords: Islamic law, Jahiliyyah Law, Social Transformation.

I. Introduction

The Prophet Muhammad received a revelation from Allah SWT first time on Monday the 17th of Ramadan 41 years after his birth, coinciding with the August 6, 610 M.1 Since that time, Muhammad bin Abdullah undertaking nubuwat to bring Islam to the mankind, which turned out to revolutionized the entire social system, especially the legal system that existed at the ignorance period (Jahiliyyah).2 Islam came to the society of Jahiliyyah with Syariah Islamic law system which is permissive be able to arrange a fair and egalitarian relations between individuals within the community. Basically, the approach of the Prophet Muhammad with egalitarian approach toward the Jahiliyyah is to change toward ignorance happening in the community, especially in the legal system, with the revelation of guidance from Allah SWT.3

Islamic law is the body of commandments of Allah SWT that govern all aspects of life for every Muslim, and includes legal matters which purely spiritual as well as religious affairs.4 Through an empirical study and

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ISLAMIC LAW AND SOCIAL TRANSFORMATION:
HISTORICAL ANALYSIS TOWARDS Egalitarian Characters

Mary, Joseph Schacht called the Islamic law as a summary of Islamic thought, the manifestation of the Islamic way of life is very distinctive, and even as the law of Islam itself. In the early Islamic period, the

code of Islam in Makka, the Islamic religious texts existed in the community. But then, as

lead by Muhammad Hamidullah, in the Qur'an and Sunnah of Prophet Muhammad, the

legal system has become a habit in the Jahiliyyah era, and even those who were alongside the Islamic law,

which totally different with the
decessor.

As a consequence of a reformation (social changes), Islamic society, in the era when the Prophet Muhammad and his
community makes a counter to the Jahiliyyah system in the period of the reign of the Caliph.s, and actions, thereby gaining a

long opposition from the leaders of the group who wanted to maintain Jahiliyyah era. And even then, the approach of

Muhammad brought the group that marginalized in the social stratification to hold the teachings of Islam as also

the most important points in the changing

process.

This paper set out an understanding of Islamic law in the context of the Jahiliyyah era as a cultural phenomenon and can be

researched with the approach of cultural

knowledge and its methodology. With the pros and cons, the study of social change by Islamic law from the law of

Jahiliyyah, discussed in this paper, attempted to avoid the attitude attributed by Richard C. Martin as fideistic

subjectivism or scientific objectivism. Furthermore, the perspective of Islamic Law stands to the marginalized group or

poor mustard'afin becomes a critical awareness of the importance of social change by Islamic law in society.

sebuah penyadaran penting yang kritis terhadap adanya perubahan sosial oleh hukum Islam di dalam masyarakat.

II. Jahiliyyah Legal System Pre-Islamic Arab society

In general, the period of pre-Islamic Mecca called the period of Jahiliyyah which means folly and barbarian. In real terms, expressed by Philip K. Hitti, pre-Islamic Mecca society was a society that did not have the destiny of certain privileges (no dispensation), no inspired prophet, and no revealed book as guidance of life.

Refers to the word "Jahiliyyah" in the Qur'an, Al Imron/3 verse 154 (…yazhunnunna bi Allahi ghayra al-haqqi zhamma al-jahiliyyati…), Al-Ma'idah/5 verse 50 (afahuqma al-jahiliyyati yabghuma…), Al-Ahzab/33 verse 33 (wala

The story was the story of 'Umar ibn al-Munzhir, rejected a Persian king Khwarazmshah Aburuzi Hurqa on his son because of the harsh laws of Jihadiyyah were held by the Persians, that if a 'Umar considered a nation of 'twilight' therefore it was prohibited in marriage with an 'Ajam, though suitors were a kind of base and was believed to degrade the quality of the Arab's in 'Umar's and his son.

In the groups interactions, Islamic Arabs always debated the interests of group and group members. Someone would always be defended, the members of a group dealing with members of other groups (outer group), either right or wrong position. Right and wrong sentençe by group respectively. An example could be adduced in the battle of Battle of Fajir which took place in a prohibited month (Asr) between tribe Kinana and tribe 'Iljan (both were tribes of Quraish) which witnessed by prophet Muhammad saw when he was 14/15 years old he not appointed as prophet, happened because to defend the members of these families, each of which shared clashes and killings in the market but regardless of fault of each person who defended. Whatever the circumstances there was one member of a group.android then necessarily all members of the group would defend them...\(^{19}\)

2. Feudal Character

Feudal character of the Islamic law envisaged by the Persians was understood by the rich people or the rich and could be understood by the poor. The rich and the nobility of Islam the holder of this once became prosperous classes in Makkah.\(^{18}\)

Although there was no evidence of pre-Islamic teaching that the Arab pre-Islamic, as depicted in the Arab pre-Islamic, there was a group leader must be known, Philip K. Hitti, \(^{19}\) but not to Lapidus that Arab pre-Islamic wrong sense of pride the poor, neglect of almsgiving, and support for the weaker community. Legal and historical slavery in Arabia was strong evidence of the character of the feudal types which Arab society pre-Islamic...a man who has a degree of freedom of men in general traded anything by the order of human rights for grabbing.

3. Patriarchal Character

The next characteristic attached to the law of marriage. Hafiz men power at that time high relation, positioned high...
ISLAMIC LAW AND SOCIAL TRANSFORMATION:
HISTORICAL ANALYSIS TOWARDS EGA}ALITARIAN CHARACTERS

I. Feudal Characteristic

Feudal character of the Arab pre-Islamic law envisaged by the superiority of the rich and the nobility over the poor and oppressed group. Although there was good value (al-madad) within Arabian society depicted in the poems of the pre-Islamic, namely that good character must be generous, as noted by Hitti. But mentioned by Hitti that Arab pre-Islamic society had a sense of pride that neglect of the neglect of almsgiving and of love for the weaker member of the community. Legal system and the concept of slavery in the pre-Islamic was strong evidence of the strictness of the feudal law of Jahiliyyah. A slave who has a degree far below the commoner in general, could be anything by the owner, and had no rights for granted as human beings.

II. Patriarchal Characteristic

The next character was strongly defined in the law of Jahiliyyah was mentioned by Hafsa that at that time high in the gender, men positioned higher than women.

Women received discrimination, unfair treatment, and even considered as the embodiment of sin. Jahiliyyah legal system stated that women did not earn the right for inheritance. The birth of a daughter was considered a disgrace, so much that they were buried alive as a baby. In short, women were treated as a thing and not as a person.

Conditions of women in the Jahiliyyah period as portrayed in the Qur'an al-Nahl/16 verse 58-59 (wa idza busysyra aladuhun bi al-unsza zhalta wajihu muswadda wa huwa kahir, ya'tawara mal al-qawmi min su'in ma busysyra bihi, ayumsikhu 'ala hunin am yaddasuha fi al-turab...). The verse tells of the attitude of the Jahiliyyah in response to news of the birth of her daughter who was considered very shameful, lowered self-esteem of parents and families, so that these girls that needed to be killed or buried alive. It shows a story how Arab women pre-Islam treated at patriarchal Jahiliyyah.

Jahiliyyah legal system in Arab society pre-Islam with three main characters as described above as foundation basis to the discussion of Islamic legal system which brought social changes in the law system revolutionary.

III. Revolutionary of Islamic law and Egalitarian

Clearly stated that the Qur'an rejected the law of Jahiliyyah due to full of desires and only take aside to certain groups in society. Further asserted that Islamic law is the only law that should be held by the people coming from God and
bring the principles of justice and social equality.

In the early period of Islam, Prophet Muhammad spread the Islamic teachings, universal to all mankind, under the guidance of revelation from Almighty Allah SWT. W. M. Watt detailing the teachings of Islam as taught by Prophet Muhammad in the early period of Islam into the 5 (five) key themes, namely; God's Goodness and Power, the Return to God for Judgement, Man's Response – gratitude and worship, Man Response to God – Generosity, and message of Prophet Muhammad.

The core message of prophet Nabi Muhammad saw is called nawihi that is teachings to believe in the One True God, the Almighty, the Creator of the universe and Superintendent judge for all creatures (including humans) on all actions. Logical consequence of this doctrine is the obligation to worship and give thanks to God and responsible to be egalitarian and love among mankind. In short, it can be said that the teachings of the early period is true belief in hereafter, ethical and prayer as mentioned by Lapidus; eschatological piety, ethical nobility and prayer formed the basis of early Islam.

In general, Islamic law stands on the principles that must be maintained in absolute and universal. These principles, as expressed by Masdar F. Masudi, is strong and study (qath'i) and acceptance of Islamic law as a whole. These principles identified by Masdar, among others, is the principle of independence, freedom and responsibility, principle of equality in the presence of Allah, principle of justice, principle of equality before the law, principle of not harming yourself and others, principle of criticism and social control, principle of keeping promises and uphold the agreement, the principle of helping for the good, principle to protect the weak, the principle of consultation in matters of joint, principle of equality in family, and principle to treat others in good way (ma'ratif) between husband and wife.

With regard to the law of Islam, al-Hujurat/49 verse most honorable. Almight is the most rich most wealthy, most powerful, either man somehow come from earth. Mentioned in the beginning, it is from man and then dispersed to various tribes. It is also stressed that humans necessary to communication and interpretation was narrated down with events, including the time of faith in the book cahid caleed to prayer, the al-Harith bin His entered, because Bilal was also a 'for Sahayl bin 'Amr recognize the assessment if the accordingly Allah will turn the verse.

If then there are no laws that seem incorrect egalitarian principle and the rules of non-aggression at the time of al-Jahiliyya or law of inheritance or the rules of inalienable inheritance among men versus two parts of the Qur'an, according to understanding, as example for example, must considering two important the inheritance of men and women that the subjects receiving an
Islamic law as a whole. These are identified by Masdar, among whom is the principle of individual and responsibility, principles of unity in the presence of Allah, principle of justice, principle of equality in the law, principle of not harming oneself and others, principle of law and social control, principle of keeping promises and upholding agreement, the principle of mutual benefit or the good, principle to protect the person in the principle of consultation in matters of joint, principle of equality in death, and principle to treat other in the way (ma’ruf) between husband and wife.

With regard to egalitarianism in Islam, al-Hujurat/49 verse 13 states that the most honorable before Allah Almighty is the most righteous, not the most wealthy, most clever or most powerful, either man or woman, and somehow come from any tribe. Mentioned in the beginning of the verse that man was created from the same origin, it is from man and a woman who then dispersed to various groups and tribes. It is also stressed that among humans necessary to make the mutual communication and interaction. The verse was narrated down with respect to several events, including events that occurred at the time of fath al-makkih. Bilal bin Rabah cued to prayer and assessed by the al-Harith bin Hisham inappropriate because Bilal was a “former” black slaves. Suhab bin ‘Amr responded by stating that the assessment if the act of Bilal’s wrong, surely Allah will turn and sent down the verse.

If there then are the rules of Islamic law that seems incompatible with the egalitarian principle and other principles, then the rule must be understood in the context of the social reality context and legal attention to its function as a counter to the rules of non-egalitarian applicable at the time of Jahiliyyah. For example, the law of inheritance which divide the inheritance among men and women with one versus two parts as mentioned in the Qur’an, according to an egalitarian understanding, as expressed by Masdar, for example, must be understood by considering two important things. First, to give the inheritance to women, and put men and women the same status as subjects receiving an inheritance, then it means that Islamic law has been reformed quite revolutionary and radical law of Jahiliyyah which has been there before, that did not make women as subjects of the recipient inherited property and could even become the estate itself. Second, socio-economic setting of family life in the emergence of the law was a family living expenses were borne by men, so that dividing the inheritance of men with the legacy that is greater than the legacy of women is a fair division. That way, the rules of Islamic law is the rule of law that have an egalitarian character, not racial, and not feudal and patriarchal.

IV. Reaction Against Islam and Islamic Law
Islam emerged in the Jahiliyyah society by bringing social change, against the legal system that has gone before. Given the significant changes by Islam against the law of Arab society pre-Islamic, the Islamic mission get response from the community, both from community groups who wanted changes as well as from community groups that supported the existing law of Jahiliyyah.

1. Acceptance of Islam by the Jahiliyyah Community
The early acceptance group of Islam, as identified by Albert Hourani consisted of several young men (in a relatively small number) from an influential of tribe Qurash, some people (in a relatively large number of) members of small families and weak, the people which under protection of the tribe of Qurash and some workers and slaves. Jahiliyyah people who welcomed the Islamic teachings were among the

\[\text{Abu al-Hasan ‘Ali bin Ahmad al-Wahidi, Ashab al-Nasir, Abu al-Qaisim Hibatullah ibn Salamah Abu} \]
\[\text{Naher (penumbra), (Kairo: Mubakrah al-Dakwah, t.t.): p. 255.} \]

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\[\text{Naher (penumbra), (Kairo: Mubakrah al-Dakwah, t.t.): p. 255.} \]
migrants within the marginal group and
and poor-Lapidus said they were people
who dissatisfied with the conditions of
moral and social circumstance that existed
and then accept an Islam as alternative.33

Clearly, the first reverted to Islam
were women, that was the wife of the
Prophet Muhammad, Khadijah bint
Khuwaylid,34 then a young man 10 years
old Quraysh, the son of the Prophet
Muhammad's uncle, long nurtured by
the Prophet Muhammad, that 'Ali ibn Abi
Tabi as the first boy who followed the
teachings of Prophet Muhammad,49
followed then a salute given by Khadijah
who later liberated by the Prophet
Muhammad, before he took on the task
prophethood (nabuwah). Zayd bin
Haritsah50 and the next four was a gentle
and caring man Abu Bakr al-Siddiq bin
Abu Quhafah, who has real name 'Abd
Allah dan laqab 'Atiq.51 Beginning with
these four person, slowly Prophet
Muhammad, started well received by
other Jahiliyyah society that would accept
the changed, especially from groups
identified above.

Prophet Muhammad always treated
the egalitarian ways to the followers,
without distinguishing the origin, social
status and gender. Prophet Muhammad is
the main example for the Muslims
showing the attitude of humility to the the
followers. There were commandment
which sent down 3 years after the first
revelation in order to spread Islamic
publicity,52 who took an order to have a
humble attitude to the followers.53

Recorded in history, some events
that depicted the life of an egalitarian and
contrasts with the laws of Jahiliyyah,
including the role of a woman named
Khadija bint Khuwaylid in the spreading
of Islam,54 liberation of Bilal bin Rabah
by Abu Bakr,55 rejection of the Prophet
Muhammad towards feudalism and racial
attitudes to Bilal bin Rabah,56 changing
attitude of Umar bin Khattab after
embraced that against the law of
Jahiliyyah57 and several others events.

2. Opposition towards
Transformation of Islamic Society

Before Prophet Muhammad saw
did reformations entirely new on
Jahiliyyah, it was begun with the faith and
religious rituals, almost there was no
rejection towards Islam from Jahiliyyah
society.58 However, after Prophet
Muhammad saw, openly did indicate to
Jahiliyyah society pre-Islamic. Islam got
a great responsibility from the group of rich
and powerful nobles at the time
Jahiliyyah, the group of the tribe of
Quraish who actually the Prophet
Muhammad belong to.59

Tor Andrac assert that based on
the descriptions in the Qur'an, the conflict
between the Prophet Muhammad. Islam
with the Quraish Jahiliyyah, has two
close related aspects of the religious and
social aspects. Aspects of religious related

52 Khadijah strengthen Prophet Muhammad saw after
received revelation, supported him totally see Ibn
Husayn, Ibn, 131-239.
54 Prophet warned Abu Daz al-Ghulaf who called him with
Ibn al-Aswad' and he said, in this Ikhlas, 'I hold it', Ibn al-
Safi and 'I hold it', Ibn al-Munawar, 'I hold it'. Let it be al-nawas on 'amal wa'idh, that 'Ali ibn
Wahab Wafai, al-Munawar, 131-132.
55 Umar lament when he remembered he buried his
daughter, in Jahiliyyah period before Islam, see
Husayn, 131-406.
56 Tor Andrac, Mohammed The Man and the Message.
(Mohammed Sein Leben und sein Glauben), Thomas
57 Ibid., 117-118
58 Andzar 'asiratuhu al-qurubin wabfituhu janahahuka li
man 'atbahu ' al-mu 'tanar...
to the beliefs about God that there is no deity to be worshiped except Allah SWT. Moreover, the faith about hereafter was something new to the people of Quraisy that never been heard before from their ancestors. Apparently, the religious aspect shared by the tribes of Jahiliyyah was both a social bond united the members of each tribe. Therefore, embracing Islam was considered out of tribal ties that already existed and changed the dominion order in the Jahiliyyah.

In history, there were several discussions and debates among the Quraysh with Abu Talib, Quraysh and Prophet Muhammad, and between the Quraysh with the King of Abyssinia Najasî in concluding several objections Quraisy against Islam and Prophet Muhammad. At least three times the conversation between the Quraisy with Abu Talib who became patron of Prophet Muhammad: (1) come in peace, by trying to put pressure associated with the position of Abu Talib at the Quraisy, and (3) by offering the exchange of Prophet Muhammad with bin al-Walid Barmah.

In a conversation with the Prophet Muhammad itself recorded at least three important events: (1) of cursing the prophet Muhammad as a magician, poet, dealer, and even a crazy person, (2) in their conversation which ended with calling Prophet Muhammad as a fool, and (3) offer to stop Islam and became one of the richest, most powerful, most glorious, and would be protected from interference evil. While the conversations between the Quraisy with Najasî king in Abyssinia was to ask the king to return Muslim refugees to their homes Mecca.

Quraisy made an objections against Prophet Muhammad saw. deemed to have made some mistakes these are: sabb al-mu'min, 'alî al-din, 'asbih al-ahkâm, sâytm al-abâ' dan ta'afiq al-jamah. the Prophet Muhammad. still refused to stop the spread of Islam to the general public who used the law of Jahiliyyah. Determination of the Prophet Muhammad was reflected in his statement to Abu Talib, ya 'amn law wasdha'aw al-samans fi yamiila wa al-qamar fi ya'sari 'a/a an atrîka hadza al-amr 'atta yushhirahu Allahu aw ahlaka fihî ma sarakah.

It obvious that rejection towards Islam and Prophet Muhammad was closely related to changes in laws that affect social structures and patterns of community leadership. Social structure and leadership of the nuances of siding with the rich, nobles and rulers, to the social structure and egalitarian leadership nuanced and siding with the mu'attad'afîn in social structure.

V. Conclusion

With a background in Jahiliyyah law pre-Islamic which was racist, feudal and patriarchal, Islam was brought up with legal changes to the character contrary to the laws of Jahiliyyah. Islam teaches equality is drawn from the principles and laws of Allah and the Prophet Muhammad and his followers who wanted the egalitarian life. Conflicts

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65 Followed Prophet Muhammad saw, migrated and asked protection from Abyssinia King and Quraisy representative same and asked those migrated people returned to Mecca Iriâ, Ibn. ibid. him. 300.
67 Ibn Hisham, al-Sira, 1: 265-266.
of Quraish against Islam which was closely related to the religious aspects and social aspects was a counter to the egalitarian system of Islamic law. And by implication, the understanding of Islamic law must be followed by the realization that Islamic law was to have an egalitarian character and it was the social change of the to egalitarian Islamic law.

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