



Islam and International Law

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Abstract	Original Research Article
<p>The Qur'an, as a source of Islamic law, undoubtedly has a profound influence on the legal system as a whole. In Islamic law, international law is governed by established principles intended to guide human life in a more structured and purposeful manner. Islam regulates relationships between individuals as well as between nations through principles developed within the Islamic tradition. These principles can be classified into the principles of justice, equality, and freedom. Islamic law accommodates international law through the concept of syiar (religious propagation or public expression of faith), as this area falls within the scope of ijthadi (independent legal reasoning).</p> <p>Keywords: Islam, International, Law, Qur'an, Islamic Law, Justice, Equality</p>	

A. INTRODUCTION

Islam is a comprehensive way of life. It does not only define beliefs, but also sets out rules for social customs and behavior. Islam does not view this worldly life as an end in itself; rather, it teaches belief in the Hereafter. Islam not only praises good deeds and condemns bad ones, but also provides rewards and warnings. Beyond that, Islam also seeks to prevent people from committing injustice and violating the rights of others.¹

Normatively, the teachings of Islam are referred to as a mercy to all creation, as they were brought by someone whom Allah declared as "*rahmatan lil 'alamin*" (a mercy to the worlds). This means that Islamic teachings must be applicable and capable of being manifested in everyday life. It also indicates that Islamic teachings should align with and be relevant to the developments and demands of the times. Every Islamic teaching must be acceptable to all segments of society and levels of intellect. Moreover, it must always remain in harmony with the changes and progress brought about by the dynamic nature of the Muslim society.²

It is understood that Islam not only regulates the relationship between human beings and their Creator, but also the relationships among human beings, and even between humans and other creatures. Likewise, Islam is not limited to rules for individual life; it also serves as a norm in social life, including in the context of governance and international relations.

It is undeniable that all nations share common interests such as the interest in peace, security, and general economic well-being. These shared interests demand a legal framework that grants rights and imposes obligations upon states. This paper discusses the relationship between Islam and International Law.

B. METHODOLOGY

This research is a qualitative study that narratively explores the relationship between Islam and international law. The data is primarily sourced from library research and relevant literature related to the subject matter. The collected data is then analyzed to draw conclusions regarding the issues under

¹ Muhammad Hamidullah, *Introduction to Islam*, diterjemahkan oleh A. Cotib dengan judul "*pengantar Studi Islam*" (Jakarta Bulan Bintang, 1974), h. 126

² Jalaluddin Rahman *Islam: Dalam Perspektif Pemikiran Kontemporer*, Ujung Pandang Umitoha Ukhuwa Grafika, 1997). H 1

investigation.

C. RESULTS AND DISCUSSION

1. Islamic Epistemology

Linguistically, the term “Islam” originates from the Arabic language, derived from the root word “salima”, which conveys meanings such as safety, peace, and well-being. From “salima”, it then transforms into the form “aslama”, which means to surrender or to enter into peace. Another source states that “aslama” means to preserve in a state of safety and well-being, and also implies submission, obedience, and devotion. According to *al-Munjid*, the word “aslama” means to be obedient and submissive. It is from “aslama” that the term “Islam” is derived. In conclusion, from a linguistic perspective, the word “Islam” carries the meaning of submission, obedience, and surrender to God in the pursuit of safety and happiness in both this world and the hereafter.³

The definition of Islam in terms of terminology, as stated by Harun Nasution, is that Islam is a religion whose teachings were revealed by God to human society through the Prophet Muhammad (peace be upon him) as His messenger. In essence, Islam brings teachings that do not concern only one aspect of life, but rather encompass various dimensions of human existence. Meanwhile, Maulana Muhammad Ali describes Islam as a religion of experience, centered on two fundamental principles: the oneness of God and the unity and brotherhood of humankind. Thus, Islam can be viewed from two perspectives: First, from a theological perspective, Islam is a religion that contains teachings about *ibadah* (worship), which govern the relationship between human beings and their Creator. Second, from a normative perspective, Islam is a religion that deals with matters of faith (*aqidah*) and social transactions (*muamalah*), which regulate both individual affairs and social/community matters.

2. International Law

According to Emmerich de Vattel, international law is the science concerning the rights that exist among nations or states, and the obligations related to those rights. Hackworth states that international law is a body of rules that governs the relations between states.⁴ A different perspective states that international law, or the law of nations, is a term used to describe a specific regulation of human behavior that is categorized within what is referred to as a state.⁵

According to Mochtar Kusumaatmadja international law is the body of rules and principles that govern relationships

or issues that transcend national boundaries, including:

1. Relations between one state and another state;
2. Relations between a state and other non-state subjects of international law.⁶

Starke defines international law as the body of law that largely consists of principles and rules of conduct which states recognize as legally binding upon themselves, and therefore are generally obeyed in their mutual relations. It includes:

1. Legal norms concerning the institutions of international organizations and their relationships with states and individuals;
2. Specific legal rules relating to the rights and obligations of individuals within the international community.⁷

According to Subekti, as stated in the *Dictionary of International Law*, the term “Public Law Between Nations” is used as a substitute for the term *international law*. He defines international law as a legal order consisting of provisions that regulate the interactions between states and, in that context, also govern the relationships among them.⁸

It can be concluded that international law is a set of principles, provisions, legal systems, and regulations that are observed as binding obligations by states and international bodies in their interactions within the international community of nations.

3. Islam and International Law

It is undeniable that all countries have interests in peace, security, and other concerns. All of these require a legal system that grants rights and obligations to those countries. Most international law scholars consider international law as a discipline that only emerged in Europe three or four centuries ago. This view is influenced by a phase of fanaticism and by their limited knowledge of the true reality of international law.⁹

A Dutch international law expert, known as the “Father of International Law,” stated that international law has essentially existed since the birth of human society in this world. However, as a comprehensive discipline, it was developed through Islamic law, as the religion of Islam brought by Prophet Muhammad (peace be upon him), which is based on the Qur'an, contains teachings and principles of international law. Furthermore, a professor of international law in The Hague affirmed that international law is in fact largely founded upon fundamental principles previously established by Islam, particularly those related to the laws of war and peace.¹⁰

The term “God’s Peace and Divine Truce,” which served as a foundation for international law as established by

³ Abudin Nata, *Metodologi Studi Islam* (Jakarta: PT. Raja Grafindo Persada, 1999), h 63

⁴ Emmerich de Vattel dan Hackworth, “*Digest of Internasional law*” dalam Chairul Anwar, *Hukum Internasional: Pengantar Hukum Bangsa-bangsa* (Jakarta Djambatan, 1989), h 1

⁵ Philip C jjsseup, *A Modern Law of Nations: An Introduction* (Mac Millan, 1949), h 5

⁶ Mochtar Kusumaatmadja, *Pengantar Hukum Internasional* (Jakarta Bina Cipta, 1978), h 3

⁷ J.G Starke, *Introduction to International Law*, diterjemakan oleh Bambang I.D dengan judul “*Pengantar Hukum Internasional*” (Jakarta: Sinar Grafika, 1992), h, 3

⁸ Subekti, *Kamus Hukum* (Jakarta: Pradya Paramita, 1972), h, 54

⁹ L Amin Widodo, *Fiqh Siasah dalam Hubungan Internasional* (Yogyakarta: Tiara Wacana, 1994) h, 6

¹⁰ Ali Mansur, *Al-Syariat al-Islamiyya wa Qonun al-Dauliy al-'Am* (Kairo Daar wa Mathbai' al-Sya'b), h. 31

church councils and royal conferences, is a concept that emerged later. Prior to this, the Qur'an had already laid down principles of eternal peace. Many verses in the Qur'an affirm

the existence of a Divine Truce, as implied in Surah Al-Ankabut, verse 67.

أَوَلَمْ يَرَوْا أَنَّا جَعَلْنَا حَرَمًا آمِنًا وَيَنْتَحِطُّ النَّاسُ مِنْ حَوْلِهِمْ أَفَبِالْبَاطِلِ يُؤْمِنُونَ وَبِنِعْمَةِ اللَّهِ يَكْفُرُونَ ﴿٦٧﴾

"Do they not see that We have made [their] land a secure sanctuary while people all around them are being plundered? Then do they believe in falsehood and reject the favor of Allah?"

In the field of maritime law, provisions in international law concerning the high seas and continental shelf boundaries

of a state have existed since the time of the Umayyad Caliphate. Caliph Umar ibn Abdul Aziz had already established regulations regarding free seas and the continental shelf limits of coastal regions. These provisions were based on verses from the Qur'an, including Surah An-Nahl, verse 14.

وَهُوَ الَّذِي سَخَّرَ الْبَحْرَ لِتَأْكُلُوا مِنْهُ لَحْمًا طَرِيًّا وَتَسْتَخْرِجُوا مِنْهُ حِلْيَةً تَلْبَسُونَهَا وَتَرَى الْفُلَ مَوَاجِرَ فِيهِ وَلِتَبْتَغُوا مِنْ فَضْلِهِ وَلِعَلَّكُمْ تَشْكُرُونَ ﴿١٤﴾

"And it is He [Allah] who subjected the sea for you so that you may eat from it tender meat (fish) and extract from it ornaments which you wear. And you see the ships plowing through it, so that you may seek of His bounty and that you may be grateful."

International law scholars in Europe have become the most significant source for the foundations of modern international law. However, Islam is the final divine message "al-risalah al-khatimah" which serves as a guide for life and regulates human conduct across this diverse world, regardless of nationality or skin color. Therefore, Islamic law, which stands upon the religion of Islam, is a law that is universal and global in nature ('alamiyyah), not local or limited by geography (makaniyyah).¹¹

Islamic law came to regulate the conduct among nations in the spirit of friendship and cooperation, enabling different nations to fulfill their mutual needs in various aspects of life within the context of national and international relations. The foundational philosophy of Islamic law as an international perspective is rooted in a perfect sense of humanism. It places human rights in the highest regard, in line with the natural disposition (fitrah) of human creation. Islam upholds "huqūq al-insāniyyah" (fundamental human rights and freedoms) without discrimination based on religion, race, or nationality.¹²

Islam takes a middle path, ensuring that private ownership continues to serve a social function. Wealth, in essence, belongs to Allah, and human beings are entrusted with the responsibility to manage and utilize it appropriately. Islam is not limited to such matters alone; it also serves as a comprehensive guide for the establishment of a state, including its form and system of governance.

Islamic law also governs the relationships between nations and states, extending even to the establishment of international institutions tasked with resolving conflicts that may arise. If any nation or state refuses to submit to such a

body, then, through international authority, that institution may resolve the disputes in order to uphold truth (haqq) and ensure the preservation of justice.

Islam calls upon all of humanity—regardless of nationality, skin color, or religion to uphold a comprehensive human brotherhood, so that true humanism may be realized in everyday life. Islamic law is indeed a universal ('alamiyyah) legal system, not a local (makāniyyah) one. Islam was revealed for the well-being of the entire world, not for a particular group alone.

D. CLOSING

Islam is a religion whose teachings were revealed by God to humankind through the Prophet Muhammad (peace be upon him) as His Messenger. In essence, Islam brings teachings that encompass not just one aspect of human life, but all dimensions. International law, in its essence, has existed since the emergence of human society. However, as a comprehensive and developed discipline, it was born from Islamic law, because Islam—brought by Prophet Muhammad (peace be upon him) and based on the Qur'an—contains teachings and foundational principles of international law. The principles of Islamic law, as fundamental concepts in international legislation, are rooted in a complete humanistic worldview that upholds human rights in accordance with the natural disposition (fitrah) of humankind.

Islam, as the final divine religion, serves as a guide for life and regulates the affairs of humanity across the globe, regardless of differences in nationality or skin color. Islamic law, built upon the foundation of Islam, is a law that is universal ('alamiyyah) in nature, not local (makāniyyah). Islam came to regulate human conduct in the spirit of friendship and cooperation between nations in all aspects of life, in order to fulfill the needs of each people in their national and international existence. These

¹¹ L. Amin Widodo, *op. cit.*, h 8

¹² *Ibid*, h 10 Lihat juga Baharuddin Lopa. *Al-Quran dan Hak-hak asas Manusia* (Yogyakarta: Dana Bakti Prima Yasa, 1996)

h. 19-157. Lihat juga Alwi Shihab, *Islam Inklusif: Menuju Sikap Terbuka dalam Beragama* (Bandung: Mizan 1998), h 177

principles are extensively explained in numerous verses of the Qur'an.

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