DIALOGUE OF THE QUR’AN AND SCIENCE:
Tracing the Integration-Interconnection of the Verses of the Qur’an with Health Sciences at the Faculty of Health Sciences University of ‘Aisiyiah
M. Nurdin Zuhdi

UNMISSED FEMALE BABY IN THE QUR’AN:
Critical Study of the Story of Maryam from A Literary Psychology’s Perspective
Fathurrosyid

AL-WĀQI ‘AL-IJTIMĀ’TYYAH IN THE REVIEW OF THE QUR’AN
(ISLAMIC LAW)
Abidin

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Editorial Preface

This issue (Vol. 15 Issues 1) of HUNAFA: Jurnal Studia Islamika offers eight articles covering topics from Qur’an studies. The issues cover economic, education, science, law, and health from Qur’an perspectives.

The first article is by Abidin Abidin at Institut Agama islam Negeri Palu and this article is titled *Al-Wāqi’ Al-Ijtima’iyyah in the Review of the Qur’an (Islamic law)*. This article discuss about al-Wāqi’ al-Ijtima’iyyah review of Islamic law. The author addresses problem of how al-Wāqi’ al-Ijtima’iyyah views Islamic law. The study found that the nature of al-Wāqi’ al-Ijtima’iyyah is a social fact that contains real events that actually exist or occur as a result of human interaction with other human beings, good or bad, empirical or idea, written (text) or habits (contextual), both that happened in the past and now associated with Islamic law in the sense of jurisprudence is not a worship whose nasal passages ḥannā al-dalālah and qaṭ’ī al-dalālah.

The second article in the issue is titled *The Philosophy Of Iqra` on Islamic Education*. The article is by Ahmad Wahyu Hidayat Universitas Islam Negeri (UIN) Sunan Kalijaga Yogyakarta. This article examines the meaning of iqra`, any verses about iqra`, and how philosophy iqra` in Qur’an.

The third article is by Dwi Noviatul Zahra and Muhammad Iqbal Fasa from Universitas Islam Negeri (UIN) Sunan Kalijaga Yogyakarta. The article discusses the concept of ta’āwun (cooperative learning) in the Qur’an. The concept is discussed based on the verses of al-Mā`idah verse 2, al-Naḥl verse 125, al-Anfāl verse 73, al-‘Aṣr verses 1-3, and al-Taubah paragraph 71.

The fourth article is by Fathurrosyid from Institut Ilmu Keislaman Annuqayah (INSTIKA) Guluk-Guluk. The article is titled *Unmissed Female Baby In The Qur’an: Critical Study Of The Story Of Maryam from A Literary Psychology’s Perspective*. The article discusses the psychological construction of Maryam in the Qur’an from the perspective of literary psychology.
The fifth article is titled *A Thematic Analysis of al-Żanb in Qur’an* by M. Ilham Muchtar Universitas Muhammadiyah Makassar. The article discusses the concept of al-Żanb in Qur’an which presents al-Żanb as an act which can harm oneself or others and to call sin against God and fellow human beings. Al-Żanb also means sin as the result of an act that violates the teachings of religion and will follow the perpetrator until the Day of Judgment.

The sixth article is titled *Dialogue of the Qur’an and Science: Tracing the Integration-Interconnection of the Verses of the Qur’an with Health Sciences at the Faculty of Health Sciences University of ‘Aisyiyah*. The article investigated the forms of integration-interconnection of Qur’anc verses and health sciences at Faculty of Health Sciences of Universitas ‘Aisyiyah Yogyakarta. The article found that there are two forms of integration-interconnection of Qur’anic verses and health sciences at Faculty of Health Sciences, namely: Formal integration and Non-Formal Integration.

The seventh article is titled *Contextual Analysis of Qur’an Verses in Entrepreneurs* by Suharto Suharto from Universitas Islam Negeri (UIN) Raden Intan Lampung. The article presents the contextual analysis of Qur’anic verses related to entrepreneurship concept. This article offers the characteristics of business in Islam, namely intentions based on worship, the foundation of Qur’an, sunnah on the basis of belief (*tauḥīd*), purpose of the balance of profit world and hereafter (*falāḥ*), orientation maximization *maṣlaḥah*, high working ethos, character business performer honest (*ṣidq*), be responsible, trustworthy, *tablīgh*, professional (*faṭānah*).

The last article is titled *Munāsabah: Understanding, Postulate, Method of Discovery, Distribution and Application in the Interpretation of Qur’an* by Sumanto from STAI Ma’arif Kota Jambi. The explains *munāsabah* which is also *musyākalah* (likeness). It means between verses with other verses have relationships and likenesses, which means the terms are closely related to the science of causality. This cannot stand alone without the help of understanding of the verse before or after the terms.
I hope the articles presented in this issue adds further empirical evidence to the growing body of research that examines topics such as the role of Qur’an and the implementation of its verse within economic, education, health, law and other aspects of human life contexts.

Nurdin Nurdin

Editor-in-Chief

HUNAFA: Jurnal Studia Islamika XV, I
**Al-Wāqi’ al-Ijtimā’iyyah in the Review of the Qur’ān**

(ISLAMIC LAW)

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**Abstract.** This paper will discuss about al-Wāqi’ al-Ijtimā’iyyah review of Islamic law. The main problem is how al-Wāqi’ al-Ijtimā’iyyah views Islamic law. The subject matter is formulated into the sub-issue of how the nature of al-Wāqi’ al-Ijtimā’iyyah is. The approach method used in analyzing this sub-issue is the qualitative and descriptive approach of Islamic law and term. The goal to be achieved in this paper is to know the nature of al-Wāqi’ al-Ijtimā’iyyah. From the data obtained can be concluded that the nature of al-Wāqi’ al-Ijtimā’iyyah is a social fact that contains real events that actually exist or occur as a result of human interaction with other human beings, good or bad, empirical or idea, written (text) or habits (contextual), both that happened in the past and now associated with Islamic law in the sense of jurisprudence is not a worship whose nasal passages ẓannī al-dalālah and qaṭī al-dalālah.


**Keywords:** al-Wāqi’ al-Ijtimā’iyyah, Islamic law, social fact

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Introduction

The author deliberately chose the word *al-Wāqiʿ al-Ijtimaʿīyyah* (social fact) in the title of this paper on the grounds that the social facts that can be taken into consideration, determination, and change of Islamic law.

The use of the word *al-Wāqiʿ al-Ijtimaʿīyyah* in the title of this paper opens the possibility of a new ijtihad from the author in finding a new theory or developing a thorough analysis theory about *al-Wāqiʿ al-Ijtimaʿīyyah*. The use of the word *al-Wāqiʿ al-Ijtimaʿīyyah* means that traces only results or the result of human interaction with other human beings as social beings. However, since *al-Wāqiʿ al-Ijtimaʿīyyah* in the title of this paper is associated with the change of Islamic law, the social fact is the social fact related to the Islamic law of *Fiqh al-Muʿāmalah* category whose *nasal ẓannī al-dalālah* is not *qatī al-dalālah*.

Another thing that is also fundamental to the reason the author uses *al-Wāqiʿ al-Ijtimaʿīyyah* because according to the author that all fields in science both in the field of politics, education, agriculture, economic, cultural and social can be the object of study Islamic law in the context of its legal determination. Therefore *al-Wāqiʿ al-Ijtimaʿīyyah* as part of the social field in science becomes the object of Islamic law in determining its legal status.

Departing from title orientation and willingness of writer in this paper then social facts are relevant for the writer to use in the title of this paper.

Discussion

As for *al-Wāqiʿ al-Ijtimaʿīyyah* which the author means in the title of this paper is "a real event that actually exists or occurs" as

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1 The meaning of the phrase “a real event that actually exists or occurs” in the definition of social facts above, is that the outcome of human interaction in relationships between individuals, between groups and groups of humans, and between individuals and other human groups can be materially substantiated with visible presence both in the form of institutions and other social institutions (agreements, progress, interests, information, opinions,
a result of human interaction with other human beings,\(^2\) good or bad,\(^3\) empirical or idea,\(^4\) written (textual) or habits (contextual),\(^5\) findings, customs, motivations, places, conditions, time, disaster) and in written documents and in life practice daily.

\(^2\) The meaning of the phrase “the result or effect of human interaction (social interaction)” on the definition of social facts above is that the results of human interaction affect the two forms, namely the institutional form (structure) and other forms of institutions in the form of agreements, progress, interests, information, findings, habits, motivations (intentions), places, conditions, time, disaster, and others. Human interaction is the main requirement of social activities. Human interaction is a dynamic social relationship involving relationships between individuals, between human groups, between individuals and groups of people. There are social interactions that are legal and some are not. Only the social interactions relating to the law discussed in this paper, for example when two people meet, then they rebuke each other, shake hands, talk to each other or even fight. The habit of shaking hands with various models (kissing left and right cheeks) without knowing \(muhārim\), speaking with various covenants, and fighting, can have implications for the law. While social interactions that do not result in Islamic law are not subject to the study of this dissertation, for example people who meet face but not talking to each other or not exchanging signs. This condition is said to have occurred social interaction because each is aware of other parties that cause changes in the feelings and nerves of the people in the form of odor of sweat, perfume, walking sounds, and so on. All of that creates an impression in the mind of a person, who then determines what action he will perform. See Soerjono Soekanto, *Sosiologi Suatu Pengantar* (Jakarta: PT. Raja Grafindo Persada, 2006), 55.

\(^3\) The meaning of the phrase “good or bad” to the definition of social facts above, is that the results of human interaction there is good and some are bad. In Islamic law, the term is equivalent to the meaning of \(ḥalāl, mubāḥ, makrūḥ, \) and \(sunnah\). Medium term is the same as the meaning of \(ḥarām\). Good social facts and bad as a result of social interaction, including the basic category of consideration of the determination of changes in Islamic law.

\(^4\) The meaning of the phrase “empiric or idea (metaphoric)” on the definition of social facts above, is that the results of human interaction are empirical (experience) or idea (metaphoric) but they must all be written (undocumented). Empirical social facts or ideas (metaphorical) written as a result of social interaction, are included in the category of consideration of the establishment of changes in Islamic law.

\(^5\) The meaning of the phrase “written or custom” to the definition of social facts above, is that the results of human interaction are written (documented in textual form) in various formal literature (books, magazines, journals), and some are not written but in habitual behavior (non-textual) behavior.
both in the past and now related to Islamic law in the sense of jurisprudence is not a worship whose passages ẓannī al-dalālah qatī al-dalālah.7

The above definition of social fact has been supported by several theories, among others:

1) Max Weber’s Theory. Max Weber in his social fact theory says that “social facts are the result of the interaction of society both in the form of changes of its institutions (social structures) and other social institutions” e.g. agreements.8 Weber did not strictly divide between institutional change (social structure) and other social institutions. Other institutions and social institutions both help to shape meaningful human actions. Learning the development of a specific institution from the outside without regard to its institutions, according to Weber, means ignoring the principles of social life. The development of social relations can also be seen through the human objectives that engage in social relationships when human beings take advantage of the action itself in its actions.9

2) Durkheim’s Theory. Durkheim in his social fact theory merely regards social facts in the changes of institutions (structures) in society, does not regard social facts in other social institutions.10

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6 The meaning of the phrase “happened in ancient times and now” to the definition of social facts above, is that social facts have occurred both in ancient and present times in written form in (books, journals, and magazines) and in the form of behaviors that have become customary.

7 The meaning of the phrase “relating to Islamic law in the category of jurisprudence on the mu‘āmalah aspect of the ẓannī al-dalālah is on the definition of social facts above is the result of human interaction which can be determined by law through ijtihad so that the result can be judged ḥalāl or ḥaram or makrūh or sunnah or mubāḥ.


9 Ibid., 91.

Abidin, Al-Wāqi ‘Al-Ijtima‘iyyah in the Review of the Qur’an (Islamic Law)

From the description of the two theories above (Weber and Durkheim), the authors are more likely to use Weber's opinion in discussing the subject and sub-issues in this paper, namely to interpret social facts as the basis of consideration of Islamic law changes on two aspects, namely human interaction in terms of institutional and social interaction of agreement, progress, findings, habits, motivation (intention), condition, time, and others.

3) Meanwhile, Ibn Khaldūn in his social fact theory focuses the social fact on the human by saying that social facts are “the result of a social phenomenon between one phenomenon with another interrelated phenomenon in culture and having a great impact on the existence of the state”.11

Ibn Khaldūn classified the community in two parts. Firstly, the community of Badāwah (Baduwi). Secondly, ḥadārah society (civilized). The Badāwah community refers to a simple society, wandering, and weak in civilization but the sense of destiny, the basis of norms, ‘aṣabiyyah (solidarity), values, same beliefs, and the desire to cooperate is a matter of thriving in this society. While the community ḥadārah is directed, it is characterized by impersonal and often superficial social relationships. Each person is trying to meet his personal needs, regardless of the others. Ibn Khaldūn explains that the more modern a society the more diluted the value of ‘aṣabiyyah or solidarity. Low social integration results in low social control.12 Conversely, high social integration will lead to high social control as well. ‘Aṣabiyyah in Ibn Khaldūn’s conception can not be separated from the concept of power. Even ‘aṣabiyyah is identical with power. Visible in history, the great empires were destroyed by the dadāwah people. In Europe, the age of this society was represented by the Barber who conquered the various empires. A badāwah society led by an acceptable person will be able to paralyze the dying Hellenistic community. External conflicts in society, will lead to circulation and changes in power.

12 Ibid., 36.
structures. This is what Khaldūn calls the process of historical cycles that go on from time to time and from generation to generation.\textsuperscript{13}

According to the author, there is a strong correlation in this paper with the theory of Ibn Khaldūn, namely the correlation between the concept of “the occurrence of social facts”. Ibn Khaldūn says that social facts can occur because there are phenomena with each other that are interrelated while the author says that the occurrence of social facts is the result of social interaction. The opinion of the author with the opinion of Ibn Khaldūn agreed that the occurrence of social facts involves humans to make cooperation to realize something.

4) The Al-Syāṭībī theory in its social fact theory says that “Islamic law has a purpose for the benefit”.\textsuperscript{14}

This theory is closely related to the subject of the author in relation to the determination of social facts as the basis of consideration of changes in Islamic law. The change of Islamic law is directed to the benefit. What is offered by al-Syāṭībī with the theory of Sharia objectives for the benefit is the background of the birth of new social facts. As it is known that most of the background of the birth of new social facts because of the old social fact law has made human difficult. Under such conditions, humans engage in social interactions in order to escape difficult laws leading to easy law.

To the authors in analyzing various issues of Islamic law in changing Islamic law on a legal object, consistently using the theory of \textit{maqāṣid al-syarīʾah} with the \textit{maslāḥah} approach. Once the importance of \textit{maqāṣid al-syarīʾah}, legal theorists make \textit{maqāṣid al-syarīʾah} as one of the criteria (in addition to other criteria) for mujtahid who perform ijtihad. The core concept maqasid al-syari'ah is to realize the good at the same time avoid the bad or benefit and resist damage. Imam al-Haramain al-Juwaini said to

\textsuperscript{13} Ibid., 24.

be the theoretician of the first al-fiqh proposal which emphasized the importance of understanding maqāṣid al-syarā’ah in establishing Islamic law. He explicitly says that one cannot be said to be able to establish the law in Islam, before he understands the true purpose of Allah issuing his commandments and prohibitions.  

Al-Syāṭibī set the concept of maqāṣid al-syarā’ah with the benefit approach, of course, the application can be understood as an effort to translate the revelation of Allah (which in the form of text) in accordance with the demands of society, place, and time. In this connection, the dialectics of the text with context is a necessity. In other words, one of the key features of the study of Uṣūl al-Fiqh is a grasping and departing understanding of the text of revelation. Until here it can be understood how important the dialectic between text and context. The problem that then arises is how the mechanism of methods and theories in answering the issue of the ummah. In other words, how is the process and mechanism of an ijtihād? To address this issue, al-Syāṭibī offered in a normative-deductive way. Al-Syāṭibī put the Qur’an as the source of all sources of Islamic teachings that should be the starting point of the ummah in dealing with the problem. Other sources, including the sunna of the Prophet, are a source of explanation for the things contained in the Qur’an. Consequently, if there is a conflict between the Qur’an and the other (eg the sunna of the Prophet), what should be won is the Qur’an. Al-Syāṭibī also explained that the question of time becomes important in the process of revelation. According to al-Syāṭibī, texts that came first were basically more general and more fundamental than those that came later. Therefore, the makkiiyyah verses are essentially more general and fundamental than those of the madaniyyah. If there is a verse of Madaniyyah that is considered to be general and fundamental, in fact, the verse is a

detailed verse of the *makkiyyah* verse which is more general and fundamental.\(^{16}\)

Here, the thought of al-Syāṭībī met with Taha Muhammed Taha’s offer which was later developed by ‘Abdul Ahmed al-Na’im. Maḥmūd Syalṭūṭ with the model *muqārāt al-maẓāhib*, Yūsuf al-Qaraḍāwī with *ijtihād intiqā‘ī* and *insyā‘ī* approach, ‘Alī Syarī‘atī with text and context. Along with that, Hassan Ḥanafī offers his traditions and renewal (*al-turāṡ wa al-tajdīd*), Naṣr Ḥāmid Abū Zayd with *ta‘wil* and *talwīn* theories. However, the principle of understanding of the Qur’ān as mentioned above is not an easy task, it still requires further processes and mechanisms, which in turn can be categorized into an inductive-empirical model. According to Al-Shatibi, to understand the texts of the Qur’ān and the sunah is necessary for provision of Arabic, especially that developed during the time of the Prophet. The role of *asbāb al-nuzūl* is also quite important in the effort to understand the religious texts. The provision of language and understanding *asbāb al-nuzūl* is not only fixated on the time of the Prophet but also as an effort to translate the things contained in the Qur’ān in a contemporary context in accordance with the demands of the people. Therefore, the role of legal thought development becomes very important in this process. The process should also be supported by the *al-istiqrā‘ al-ma‘nawī* approach and *al-tawātūr al-lafzī al-tawātūr al-ma‘nawī* or generally referred to as the inductive corroboration model. Through this model, in the process of *ijtihād* in order to answer the question of the ummah, the first step to be done is to identify the problem, the second step, to search for verses related to the matter, either directly or indirectly. At present, this model is known for thematic studies. At the same time, it is also necessary to trace the Prophetic traditions that are related to the issues under discussion. Meanwhile, the *al-tawātūr al-lafzī* and *al-tawātūr al-ma‘nawī* are quite instrumental in attempting to establish the authenticity of a hadith and also in order toward a sure rank. It should be noted, any conclusion

\(^{16}\) Ibid., 79.
derived from an *ijtihād*, the falsification model should always receive attention.\(^ {17} \)

As mentioned earlier, that as a general measure and scale of all the processes of *ijtihād* mentioned above, according to al-Syāṭībī, is the objective of the law itself, which in Fazlur Rahman’s language is termed the ideal of moral ideals that are subject to the principle of justice. Thus, what should always be enforced in the midst of society is not law but *maslahah* as a concrete form of *maqāsid al-syarī‘ah* or morality itself. The law can change and must be changed if no longer able to sustain the realization of *maslahah* and morals in life.\(^ {18} \)

5) The theory of Najm al-Dīn al-Ṭūfī in his theory of social facts says that good social facts are *maslahah* based on two things, namely *al-‘urf* and syar‘ī. ‘Urf *al-maslahah*, according to him, is a cause or reason that can bring goodness and usefulness. While *syar‘ī al-maslahah* is everything that could be the cause to arrive at the goal of sharia (Allāh), in the form of worship and customs.\(^ {19} \)

The meaning of *al-‘urf* in the text above is tradition or custom. From this meaning has a correlation with the word *ma‘rifah* and *ma‘rūf* (recognition). However, the introduction in question is an introduction to the good social facts. The social fact of *al-‘urf* has contributed to the birth of Islamic legal thought. The product of Islamic law prevailing in Indonesia is a legal product which was born by *mujtahid* in the 1st century (10th century AD) based on social facts in the form of *al-‘urf*. Social facts in the form of *al-‘urf* that existed at that time very much different from the social facts of Indonesia at this time. The social changes brought about by space and time directly affect the change of law.

Thus some of the theories and their respective figures which, according to the authors, can support the definition of

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\(^ {17} \) Ibid., 80.

\(^ {18} \) Ibid., 102.

social facts in this paper. The formulation of the definition of social fact in this paper is actually inspired from the notion of city’s vocabulary from the facts and social, although the author's intention in this paper does not separate the two words. But to facilitate the formulation of the definition of social facts intended in this paper then the writer needs to explain the word for word between the two. The word fact in Arabic is called *al-wāqi’*. The word *al-wāqi’* comes from the word *waqā’a* means occurrence, events, facts, truth, and reality. The meaning of the word fact in Arabic, in line with the author's intention in this paper, i.e. all real events, really exist or happen (written or become a habit in society). Some opinions of the figures about the definition of facts, among others:

a. Abdul Mujieb and his friends say that the facts are all the causes that cause the relationship of sharia. Likewise a new movement that causes scars, both natural (*sunnah Allāh*) and human intervention.

b. Western materialist philosophy says that facts are everything that can be perceived or matter formed.

c. In the encyclopedia of Islamic law it is stated that fact is an event or problem that arises in everyday life by using the term *al-wāqi’*, in addition to using other terms namely: *fiqh wāqi’*, *ijtiḥād tatbiqī*, *fatwā*, and *fiqh* in general.

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22 Ibid., 178.
23 The term *fiqh al-wāqi’* is emerging and popular today (15th century H./20th M.), that is, with the appearance of the fiqh book between theory and practice (*Fiqh al-Wāqi’* bayn al-Nazariyyah wa al-Taṭbiqī) by ‘Alī bin Ḥasan al-Ḥalabī. But actually the application of *fiqh al-wāqi’* has begun since the lifetime of the Prophet and the Companions, and its development cannot be separated from the development of fiqh in general. *Fiqh al-wāqi’* is somewhat different from the general definition of fiqh. *Fiqh al-wāqi’* is the result of *ijtiḥād* which departs from the objective reality of human life and is directly applied in everyday life, *al-ijtiḥād al-taṭbiqī* is an attempt to apply the law extracted from the text to the object of law. The scope of *fiqh al-wāqi’* and *al-ijtiḥād al-taṭbiqī* is...
d. In Indonesian dictionary it is stated that fact is something of a state or event which is a reality.\(^{24}\) Or in another context the word fact is defined as something that really exists or occurs.\(^{25}\) In English, fact means reality, incident.\(^{26}\) Then it is defined as: 'fact is a piece of information about circumstances that exist or event have occurred'\(^{27}\) (a piece of information about an existing situation or event that has occurred).

Some opinions on the above facts agree that the fact is something that has happened in written form or become a habit in society. Meanwhile, the social word in Arabic is called al-\textit{mujtama’}. The word \textit{al-mujtama’} is isim from the origin of the verb \textit{jama’a} means society.\(^{28}\) In English, the word social is written social. The word social is the nature of the word society. Social is relating to human society its members (social is something related to social human and its members).\(^{29}\) In a large Indonesian dictionary the word social means something that concerns the community and likes to pay attention to the public interest.\(^{30}\)

Social understanding with language approach above agree with the writer who interpret the social as a society on the grounds that there is interaction that raises the interests of society on a reciprocal basis that can cause legal consequences.

\(^{24}\) Departemen Pendidikan Nasional RI, \textit{Kamus Besar Bahasa Indonesia} (Jakarta: Balai Pustaka, 2003), 312.
\(^{25}\) Ibid.
\(^{26}\) Wojowasito dan Tito Wasito, \textit{Kamus Lengkap Inggeris-Indonesia dan Indonesia-Inggris} (Jakarta: Mizan, 1999), 57.
\(^{28}\) Ahmad Warson Munawwir, \textit{Kamus Al-Munawwir}, 543.
\(^{30}\) Departemen Pendidikan Nasional RI, \textit{Kamus Besar Bahasa Indonesia}, 1085.
There are four terms that can be used as an appeal to the meaning of the word social as a society, namely community, ummah, culture, and custom.  

1. The Basic Law of Social Fact Changes
   a. Qur’an

   Some Qur’anic commentary on the fundamentals of Islamic law changes based on social facts, both in the category of shariah and fiqh. Among others:

   1) Q.S. al-An’am (6): 151, on the nature of women in Islam.
   2) The historical record of women’s position in the social structure, especially in pre-Islamic Arab societies, is very apprehensive. Women are seen as nothing more than the object of male sex treatment and as a burden in the social stratum. Not only are they deemed incapable of uplifting the welfare of the family, even the opposite becomes an economic burden, because the tribal culture is so thick in Arab society that often leads to war between them. This condition then places the bargaining power of men more honorably than women because it is considered capable of raising the honor of the tribe in battle. That is why, in Arab culture at that time, it was not naive to get rid of women in life and association. They did not hesitate to kill, even bury her daughter’s new born. Upon this fact, the Qur’an directly alludes to this and insults

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31 Setiawan Budi Utomo, Anatomi Masayarakat Islam (Jakarta: Pustaka al-Kautsar, 1999), 8.

32 The social fact (al-wāqi’ al-ītimā’īyyah) in the Qur’an is contained in Surah 56. This chapter consists of 96 verses and belongs to the Makkiyah surah. The surah that is revealed after the surah Tāhā is named after al-Wāqi’ah (Judgment Day), taken from the words al-Wāqi’ah contained in the first verse. The content of the contents is the faith: The turmoil in the time of the end of the world; man in the time of reckoning (the day of reckoning) is divided into three groups, namely the group that hasten the good, the right and the wretched and the reward obtained by each group; God’s refutation of the circle of those who deny the existence of God, resurrection day, and the existence of reckoning; The Qur’an comes from Lawh al-Mahfūz. See Dahlan Abdul Azizi et al., Encyclopedia of Islamic Law (Jakarta: PT Ichtiar Van Hoeve, 2006), 78.
them as narrow-minded because it considers women only as a social and economic burden.\textsuperscript{33}

The condition of this social fact Allah Almighty explains in Q.S. al-An'ām (6): 151.

Say: Let me recite what is forbidden to you by your Lord, that do not associate anything with Him, do good to both Mother and Father, and do not kill your children for fear of poverty, we will give sustenance to you and to them, and do not approach any of the abominable deeds, both visible in the way and hidden, and kill not the soul which Allah forbade (to kill) but with something (right). Thus it is commanded that you understand (him).\textsuperscript{34}

Also in Q.S. al-Isrā‘(17): 31.

And do not kill your children for fear of poverty. We are the ones who will give sustenance to them and also to you. Truly killing them is a great sin.\textsuperscript{35}

It is in this conjunction that slowly but surely, the presence of Islam changes the society’s view of women. Women who were previously only placed in positions as objects with almost no rights and social roles, have now become the supposedly community. In fact, in religious texts found a lot of traditions that glorify women. For that, by itself women, in addition to being an


\textsuperscript{34} Translated by the author. See Departemen Agama RI, \textit{Al-Qur’an dan Terjemahnya} (Jakarta: Yayasan Penterjemah Al-Qur’an, 1978), 149.

\textsuperscript{35} Ibid, 79.
object is also more viewed as a subject with rights and obligations.  

b. Hadith

In the hadith of the Messenger of Allah, many also mentioned about the legal knowledge that departs from the objective reality of human life and is directly applied in everyday life, for example:

1) Hadith of Abū Dāwud concerning the mortal prayer of the owed

It tells us Muḥammad bin al-Mutawakkil al-‘Asqallānī, ‘Abd al-Razzāq told us, Ma’mar told us from al-Zuhrī from Abī Salāmah from Jābir, he said: that Allah’s Messenger (may peace be upon him) not want to pray someone who died in a state of indebtedness. So when it was under the body of a person in front of the Messenger of Allah. Rasul Allāh asked his friends: did he leave the debt? The Companions replied: There is, a debt of two dinars. Messenger of Allāh. said: Attempt your friend. Abu Qatādah al-Anṣārī said; pray ya ya Rasul Allāh my debt is guaranteed. Then the Messenger of Allāh performing the corpses’ prayer. After reciting the prayer of the Messenger of Allāh said: I am more important than every believer, then whoever abandoned the debt then must pay it and whoever abandoned the property must pass it on.

36 Nasaruddin Umar, Fiqh Jender (Jakarta: Gramedia, 2005), 74.
The Messenger of Allāh conveys this hadith. After a complaint about a social fact in the form of the death of someone who owed, then asked him

2) Hadith history Imam al-Bukhārī and Imam Muslim about the Situation of Perpetrators Modernization or Modification of Religious Understanding

Hadith history Imam al-Bukhārī and Imam Muslim about the situation of the perpetrators of modernization or modification of religious understanding is sometimes done because of considerations of the perpetrator’s situation, such as sanctions for those who do sex intercourse with his wife during Ramadan. Based on the hadith of Imam Muslim history, the sanction for those who marched with his wife during the day of Ramadan is to free the slave and fast two consecutive months or feed 60 poor people. On the agreement Rasul Allāh said:

Hadith history Imam al-Mālik, the word "aw" denotes the choice (al-takhyīr), while majority scholars (among them Imam al-Syāfi‘i) argue that the word "aw" denotes the order (al-tartīb). The word "aw" which indicates the intended meaning of choice may choose one of the three sanctions offered by the hadith mentioned above.

Muḥammad Ibn Rāfi‘ tells me, ‘Abd al-Razzāq told us, Ibn Jurayj preached to us Ibn Syihāb told me from Ḥāmid Ibn ‘Abd al-Raḥmān actually Abū Hurayrah told him that Prophet Muḥammad ordered someone cancel his Ramadan fast (for his jīmā with his wife) to free a servant or fast two consecutive months or feed to sixty poor people. The hadith is understood differently by scholars. According to Imam Mālik, the word "aw" denotes the choice (al-takhyīr), while majority scholars (among them Imam al-Syāfi‘i) argue that the word "aw" denotes the order (al-tartīb). The word "aw" which indicates the intended meaning of choice may choose one of the three sanctions offered by the hadith mentioned above.

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Whereas the word *aw* which indicates the meaning of the sequence means that the second may be done if the first one is not capable of being executed, and the third condition can be chosen if the first and second provisions are incapable.\(^{39}\) At first, there was no other way of understanding except the two ways.

One of the governors of Andalusia was married to one of his wives during the day of Ramadan. When he regrets his actions, he wants to repent. At that time, he collected the clerics and asked for a fatwa about the sanctions he must take. Yahyā Ibn Yahyā al-Layṣī (d. 862 H.) suggests that the sanction to be taken by the Governor is fasting two consecutive months. Then other scholars asked al-Layṣī 'why did not you use the opinion of Imam Mālik or the opinion of majority scholars? Al-Layṣī replied: If given the right to choose freeing the servant or feeding the sixty poor people, then, it is feared he will repeat his actions because the sanction he imposed (freeing the servant) is not hard for him.\(^{40}\)

Thus al-Layṣī argues that the Governor who commits sexual intercourse during the day of Ramadan is given a fasting sanction for two consecutive months, not the sanction of freeing the slave or feeding the sixty poor people for the offense is a financially affluent governor.

Such is the illustration of the change or modification of Islamic jurisprudence which has been done by Abū Yūsuf living in the time of Hārūn al-Rasyid (Dynasty of Bani Abbas) and Yahyā Ibn Yahyā al-Layṣī al-Mālikī. One of the scholars who travel intellectually from one place to another.

3) Hadith al-Bukhārī and Muslim about storing the Sacrifice Meat.

Salāmah bin al-Akwa’ hadith narrated by Imam al-Bukhārī and others, the Messenger of Allāh (saws) said, “Whosoever of you shall sacrifice, he shall not keep it after three days and leave little in the house.” The following year the Companions asked, “O


Messenger of Allāh, do we have to do as we did last year? The Messenger of Allāh replied: Eat, give, and keep. Because in the last year people are in crisis. I want you to help him.”

In another hadith, the Messenger of Allāh said, “I used to forbid you because of the many guests.” This means that the Prophet forbade to keep the sacrificial meat for more than three days due to certain conditions and incidental causes, i.e. the arrival of the guests from Medina on the day of sacrifice. Thus the guests should be entertained, respected so that the sacrificial meat must be given. When the incidental condition and cause disappeared, the law that was written by the Prophet was lost. Because the result disappeared along with the loss of the Prophet therefore change the fatwa of not be allowed. Therefore he asserted in the hadith about the permissibility of storing the meat of the sacrifice. He said: I have forbidden you to deviate the sacrificial meat, (now) eat, give it, and keep it. The example is a very clear sample of fatwa changes.

Many jurists consider the permission of the Prophet to be the abolition of the previous law. They mention the hadith as an example of nasakh. For example the hadith, “I once forbade you to make a pilgrimage to the grave, (but now) go for a visit”. But if examined, the above is not nasakh, but a law that disappeared with the lost illat. As implied by Imam al-Shafi’i in al-Risalah, he attributes the prohibition by keeping the meat in the presence of a guest.

Imam al-Qurṭubī in his commentary denies it is nasakh. He writes, the law can be lost along with the lost of ‘illah. What is lost because nasakh will not be law forever. While lost because the lost ‘illah will apply again if illatnya back. If a person comes to a resident at the time of the sacrifice, then the inhabitants have nothing but sacrificial meat, they can not keep the meat for more

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41 Muḥammad bin Ismā‘īl al-Bukhārī, Ṣaḥīḥ al-Bukhārī, ed. Muḥammad Zuhayr bin Nāṣir al-Nāṣir. Section al-Aḍāḥī, vol. I (Beirut: Dār al-Najāḥ, 1422 H.), 569; and see also Muslim bin al-Ḥajjāj bin Muslim, Ṣaḥīḥ Muslim, 197.
42 Ibid.
43 Ibid.
than three days. As the Prophet never did that. The Prophet issued a fatwa containing a prohibition to store the sacrificial meat in certain concessions. Later, when conditions changed he changed his fatwa. This is a very clear proposition of the rules of change of fatwa which has been affirmed by Ibn al-Qayyim.

4) The Fiqh Rule and the Usūliyyah Rule

The juristic jurisprudence and usūliyyah rules can provide the ease of finding the law in new legal cases that are not clear. The juristic rules and rules of usūliyyah are additional reinforcers to the establishment of Islamic law other than the Qur’ān and hadith. The rules of jurisprudence and dynamic usuliyyah such as the dynamics of the Qur’ānic verses ẓannah al-dalālah. Therefore, the principles of jurisprudence and usuliyyah can also be used as the basis for the change of Islamic law. Ibn al-Qayyim al-Jawziyyah tries to reduce change in a fiqh rule as a basis for social facts, namely:

Change of fatwa due to changing times, places, circumstances, intentions, and habits.

Here the authors show the position of rules in istinbāt of Islamic law.

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2. Purpose of Social Facts

Social facts are manifested in three goals, namely:

a. To Consider the Behavior of Others

Considering the behavior of others is the goal of social action, such as planting flowers to include in a race so as to get the attention of others. The substance of this goal is the motivation of someone doing something that gives rise to social facts. A person’s motivation becomes an important measure in determining the law against social facts, as long as the motivation is written. This is closely related to the concept of Ibn al-Qayyim on the criteria of Islamic law changes especially those related to intention. Intention according to Ibn al-Qayyim interpreted as something that encourages people to do something. Something that drives people to do something is called motivation, which in Ibn al-Qayyim terms is called intention.

b. To Understand What Happens in Society and on Human Self

This goal is called the goal of sociological imagination. According to Wright Mills, sociology fantasy is able to understand the history of society, personal life history, and the relationship between the two. Tools for sociological fantasy are called troubles and issues. Troubles are personal problems that pose a threat to personal values. Issues are things that are beyond the reach of personal life, for example if an area has only one person who is unemployed, then unemployment is called trouble. This individual problem solving can be via enhancement of personal skills. Meanwhile, if in the city there are 12 million unemployed population of 18 million inhabitants, the unemployment is an issue, the solution requires a more extensive study.

c. To Uncover Various Curtains and Uncover Every Blowing Blood It Became an Unexpected Sua

This goal is called the goal of social reality. The requirement is that a person in his or her actions must follow scientific rules and prove scientifically, objectively with personal
prejudice control, observation of the veil sharply, and avoid normative judgments.\textsuperscript{45}

d. The social changes that result in the emergence of new social facts are the result of the fulfillment of human needs that were not previously met. Unmet needs cause humans to experience difficulties. The difficulty must be solved. Usually people get out of trouble and then find the easiest way, simple, wise, and great benefits. That is why the purpose of the emergence of new social facts that human be coveted. This is in line with the goal of sharia.

If for example the author specifies the standard zakat \textit{nişāb} of food, drink, clothing, and home as a primary need in all people. Of course not, because many new human needs build new laws due to needs based on space, time, and place. In order to obtain an ever-changing need for human beings, one is given the opportunity to change old legal habits to a new law.

e. To Enforce the \textit{Ma’rūf} and Prevent Crime

The social phenomenon with the unequal position of social structure has the potential to give rise to a wave of movements aimed at balancing the lame social facts. Such a goal is goodness (\textit{ma’rūf}), prevents from the evil, justifies everything good, forbids everything that is bad, frees the burdens and shackles that exist in humans. This is the mission of the Prophet and those who professed his followers. Awareness of the mission of the Prophet, has great potential to give birth to a wave of social movements aimed at liberating the burdens and fetters that exist in society.\textsuperscript{46}

All the above social fact objectives, the authors make the foundation in determining the social fact law status.

3. Factors of Social Facts

Social facts occur when there is a change in society. Community change is something that must happen. This is evidenced by the contradictions and differences in the

\textsuperscript{45} Soerjono Soekanto, \textit{Sosiologi Suatu Pengantar}, 78.

\textsuperscript{46} Jaih Mubarok, \textit{Modifikasi Hukum Islam} (Jakarta: Depok Pres, 2008), 78.
understanding of moral norms. The causes of the emergence of social facts or changes in society are numerous, such as the progress of science, urbanization, changing expectations, and human demands. All of these have mutual influence and have mutual consequences in society. This change is in shock which in sociological terms is called social change. Social change is grouped into two things, small changes and major changes. A small change is a change that occurs in elements of social structure that do not bring great influence in society. It is said to have no effect in society because it does not directly change the institutions of society, such as changes in clothing models. This change did not bring changes to the social institutions. Such a thing is certainly different from the industrialization process that occurs in agrarian society, which directly bring great influence to the society so that it affects the working relationship, land ownership system, stratification of society, and so on. The latter form is commonly referred to as a major change.47

Social change can be planned (planned change) and can also not be planned (unplanned change). The planned change is a change that has been prepared by the agents of change (agent of change). Such efforts are commonly called social planning (social engineering). While unplanned changes are unexpected changes taking place beyond the scope of public scrutiny, so any consequences arising from such changes are not desired by society.48

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48 Soerjono Soekanto, *Sosiologi*, 348-349.
consequences arising from such changes are not desired by society.\textsuperscript{49}

According to James W. Vander Zanden, social change is the result of several factors, first increase and decrease of the population, second ecosystem changes that exist around it, third cultural influences of other societies as a result of cultural interaction, fourth collective nature of the community, the movement, the social-technological revolution, and modernization.\textsuperscript{50}

A big or small population within a region can affect social structures. In many populated societies, there are many problems caused by relatively few people, such as the population of the island of Java compared to other islands. On the island of Java, problems arise more complexly, for example, they must prepare rules on individual rights in land, land rent, community shared lands, profit sharing systems, and so on.

In cultural factors, the social structure of society is also strongly influenced by culture. Even culture often become a serious problem because the culture of a society often contradict one another, such as Javanese culture and Batak or Sundanese culture with Padang culture. In their new place, they must be able to adjust to the community. So in society, this culture can produce certain social institutions of society.

James W. Vander Zanden’s opinion is consistent with the author’s intention in this paper, which considers social fact as the factor of the emergence of social institutions.

In social change it is not only those who come who have to adapt their culture, but even the indigenous people can change and adapt their culture because of the rapid influx of global currents so that one culture interacts with one another, which in turn can bring about a new society culture.

\textsuperscript{49} Ibid., 349-351.

Then the factor of technology and information is a very dominant factor in influencing the change of world society. Moreover, information technology is developing so rapidly and new discoveries are continuing so that young people access the news. It thus causes the change of society itself either change in politics, law, economy, and others. In the establishment of Islamic law against new findings such as how does the law carry out marriage by telephone and internet or make other transactions through internet and other sophisticated media? Had the law not been able to answer everything, certainly Islamic law stagnated the law. The development of law must be in line with the development of technological progress due to the influence of the cultural revolution. In history, many theories about the causes of the occurrence of social change as well as social facts. First, worldview and values. Max Weber is one of the same opinion. In *The Sociology of Religion and The Protestant Ethic and the Spirit of Capitalism*, Weber emphasized how influential the idea of a society. Second, changes in society can occur because of great individuals (big figures). One follower of this theory is Thomas Carlyle who states “The history of the world is a biography of great men ...” According to such thinkers as Carlyle said, social change occurs because the emergence of a character who can attract the sympathy of his followers to launch a movement to change society. Third, the emergence of social movement (social movement).

Various kinds of social changes that occur in the community directly or indirectly can affect the institutional structure of society in various areas of government, politics, economy, religion, even law though. Likewise, law can affect and change the structure and community institutions. This mutual influence of law and social change in historical trajectory continues.

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Conclusion

From the data obtained can be concluded that the fact of social fact is a real event that actually exist or occurs as a result of human interaction with other human beings, good or bad, empirical or idea (metaphoric), written (text) or habits (contextual) both in the past and now related to Islamic law in the sense of fiqh mu’amalah not worship whose nasal passages žanni al-dalālah not qaṭ’i al-dalālah.

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