

The Law Of Transcendence Liberation

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ABSTRACT

Objective: This paper aims to reveal the problem of how prophetic legal thought in the perspective of its relation to morals?

Methodology: Doctrinal Law research types, philosophical approach, secondary data, Heuristic, and Interpretative analysis.

Results: The core of law in legal prophetic thought is its axiology/goal that emphasizes the liberation of transcendence. It can be reviewed from the pattern of legal and moral relations in general, namely integrative dialogue, starting from the same legal and moral object in the form of Allah's verses (implied and expressed), the equal source (integrative relationship) in the form of senses, ratio, and intuition (heart), to different methods and approaches. However, they are interrelated. Morals are formed through internalization (psychological transformation) while the law is formed through a process of objectification (social transformation). Therefore, the relation in this aspect is dialogue. Meanwhile, according to prophetic law, both moral and legal in the aspect of goals have specific purposes. Morals form a perfect person while law aims at humanization, liberation, and transcendence. Nevertheless, both form a unified goal in the form of ethical ideals for a just and egalitarian society.

Purpose: In the philosophical or metatheoretical realm, with the explanation of legal prophetic thought, especially in the perspective of legal and moral relations, it is expected that new ideas in the field of law will emerge to complement even as an alternative to various legal ideas in the future.

Novelty/Originality: The most significant novelty value from the results of this research is the development of new legal ideas, namely the theory of transcendent liberation law. It can also be called the prophetic law of ethics, with the following characteristics: **First**, the level of substance or legal ontology places revelation as a constitutive

element, in addition to the elements of reason and the five senses. It becomes a crystal-clear distinction with the naturalist metaphysical natural law school of thought (Plato and Aristotle), especially legal positivism (Immanuel Kant, J. Austin, Hans Kelsen, Hart). **Second**, the perspective on cultural reality also distinguishes it from naturalist metaphysics that reduces cultural relativity. Meanwhile, prophetic positions culture or empirical reality as one of the objective conditions. **Third**, the prophetic has similarities to the metaphysical schools of thought, both naturalists (Plato) and religious ones (Thomas Aquinas), which place conscience as a critical part of understanding law. **Fourth**, Prophetic law, apart from having numerous similarities with progressive law developed by Satjipto Rahardjo, also has dissimilarities, especially, the weak point of progressive law that is considered to reduce legal certainty. Meanwhile, with Von Savigny's thought, prophetic has similarities in terms of recognizing the existence of cultural particularities but not in the context of the particularity of truth. **Fifth**, in terms of axiology, the most prominent characteristic of prophetic law is that all stages of law are covered by an ethical mission, namely the mission of humanization, liberation, and transcendence.

Keywords: Law; Liberation; Transcendence; Prophetic, Moral.

BACKGROUND

What is a valid legal measure? This question has brought the law into a prolonged debate while at the same time emerging numerous variants of schools. It starts from the oldest schools of legal thought, namely the natural law school of thought, legal positivism, legal historical, legal realism, utilitarianism, to critical legal studies. These various schools of thought were then polarized into a triangular conflict of debate: *first*, the legal school of thought that believes valid law is a law that contains moral values and justice applies objectively (cognitively), and is universal (regardless of ethnicity, race, religion, and language). Even if positive law is made, it must promote moral values. This model of thought is promoted by the natural law school.

The second is the group of thought that considers valid law to be the law that has normative value, namely positive norms, either as sovereign orders in the style of John Austin, juridical norms in the style of Hans Kelsen, or rules in the style of Hart, the law is neither moral nor empirical (Stanley L. Paulson, 1993). *The third* is the group of thought, which believes that the true law is not a moral norm, nor is it a positive norm, but the

authenticity of the law depends on life and development in society (living law), the law lives and disappears along with culture, language, and customs (volgiytz).

In its development, the legal positivism school of thought emerged as the dominant force. Legal positivism places moral values including religion, economy, politics, and culture in a position opposite (stand-alone/independent). Even if enforced, it will cause methodological syncretism over the purity of the law. At that moment, the law will lose its autonomy as law. However, in the course of legal positivism, it is increasingly showing a destructive aspect (Nonet Selznick, 2010; Shaomin Li et al., 2017; Philippe Nonet and Philip Selznick, 1978; Bernard L. Tanya, 2013). Positivism is accused of being a significant cause behind the decline in the quality of law, being the main contributor to the face of the law that has turned into an authoritarianism machine, an instrument of crime, and a tool of domination.

Due to the failure of legal positivism, legal scholars have begun to consider a law that does not only contain rational-empirical but also ethical content. Some are merely patching holes that are not filled by legal positivism and some offer a legal face that is completely different from legal positivism. One of the theoretical points of view that have relevance to be offered, as a solution to the stagnant legal positivism that has lost value, especially moral and ethical values, is prophetic law.

Examining the point of view of prophetic law becomes stimulating for: first, prophetic law is a novel variant in the discourse of the relationship between religion and science among many variations of other integrative thought; transcendental thought magnetizes the originators of science, and it is considered an alternative future thought in the slump of positivistic understanding of science in overcoming various life problems. (Absori, 2017), second, prophetic is a thought that becomes the antithesis of the mainstream secular style of science. Therefore, it is critical to further examine the prophetic perspective on legal and moral relations, which will be observed from the aspect of objects, sources, approach methodology, and objectives.

RESULTS AND DISCUSSION

The relation between law and morals in a prophetic perspective shows an integrative-dialog relation. It can be viewed from the specific relation of the comparable object aspect, namely from Allah's verses (expressed and implied), the source is also the similar form of the

five senses, ratios, and hearts. However, there are differences in the regional aspect, especially in terms of methodology and approach. In the aspect of objectives, it is also dissimilar if the moral aims to form the Muslim person to gain wisdom while the law is aiming at humanization, liberation, and transcendence. However, the two goals are actually dialectical and lead to the same goal, namely the ethical ideals of creating a just and egalitarian society.

The prophetic thought shows similarities with the Greek trio and Thomas Aquinas who made physical and "metaphysical" objects. Nonetheless, the assumption of prophetic "metaphysical" objects with the Greek trio is different, where the Greek trio is a naturalist in character. Prophetic law is equally religious with Thomas Aquinas' thought because both refer to God's revelation. The unity of the source also shows its similarities with Thomas Aquinas, Plato, Kant (specifically, morals), which give place to conscience.

The prophetic separate methodological and approach between law and morals. However, forming a unity, in this case prophetic, is different from the classical and medieval natural law school of thought, but has similarities with Immanuel Kant's thought (although the realm of morals and law are both in the noumena realm, but different, if morals are in the form of content/material/inner, while the law of form/legality/outward) but also different in many respects from Kant, because Kant positions the determination of a priori knowledge that comes from the principle of action of Marxism and objective rules, while prophetic considers revelation as a constitutive element that determines.

a. Object Aspect

Prophetic considers legal and moral objects in the visible reality, as well as invisible/metaphysical in the implied and explicit verses. Invisible reality can only be identified through revelation, and only Allah SWT can perceive its essence (Al-Qur'an: Al-An'aam: 50). Allah's verses are both written in the scriptures (normative rules/revelation), or implied in His creation (the universe and human beings). It is also recognized by the Western scholar Oliver Leaman, who states that metaphysical aspects can only be reached by revelation (Oliver Leaman, 2002). In humans and nature, there are signs of Allah's greatness, everything in the universe is a sign of Allah (Sachiko Murata, 1999). It explains "And on earth, there are signs (of Allah's greatness) for those who believe, And in yourselves. Then will you not see?" (Q.S 51: 20-21). In another verse, it is said, "We will show them Our signs in the horizons and within themselves until it becomes clear to them that it is the truth." (QS.41:53). Man himself, in the view of Muslim philosophers, is a duplicate of the universe.

(Mastaka Takeshita, 2005), the universe (nature) in prophetic ethics is explored for human welfare (Absori et al., 2017). The Islamic prophetic/paradigm will also reorient the paradigm, namely the mode of thought and mode of inquiry, that the source of knowledge is not only the ratios and senses believed by western science so far but also the source of knowledge comes from revelation. Recognizing the existence of an element of revelation means acknowledging the existence of a transcendental structure as well as a constitutive element in interpreting reality; therefore, revelation occupies a significant role (Kuntowidjoyo, 2006).

The construction of prophetic thought that makes the revelation in addition to the potential in humans and the universe as an object of knowledge is a clear differentiator with the classical natural law school of thought, which refers to objects of knowledge from the naturalist world, both in the form of Plato's ideas and Aristotle' empirical reality. However, the prophetic aspect of this object has similarities with the spiritualist natural law scholar, Thomas Aquinas, who both made revelation the most principal element. On the more extreme side, prophetic differs from the legal positivistic school of thought that makes legal and moral objects come from the reality of ideas (rationalism) and empirical reality (empiricism), or the categorical imperatives of Immanuel Kant and other legal positivists. The main point with a positivistic style of thought that sharply separates the moral area (*is*) and the legal area is in the form (*ought*) or *das sein* and *das sollen*.

b. Source Aspect

Prophetic is similar to western epistemology in general, which recognizes the ability of mind (ratio) and senses, as a means and source to explore objective and rational knowledge. However, prophetic does not make the ratio and the senses the only thing, because the ratio and the senses have limited abilities. Therefore, prophetic makes the heart or *qolbu* (intuition) also a modality for gaining knowledge. The involvement of the modality of the heart is a special feature that distinguishes it from secular-Western epistemology.

Reality can only be understood if the modality to distinguish it is also comprehended correctly. Hence, understanding human modalities is crucial. Human modalities in Islamic epistemology are the five senses, common sense, heart/*qolbu*/intuition, accurate information/valid news (Daud, Wan Mohd Nor Wan, 2003). According to Al-Attas, the Soul is a single reality, with four distinct states, soul, heart, spirit, each of which is involved in human activities that are cognitive, empirical, intuitive, and spiritual. These interconnected

abilities represent the single reality of the human soul, namely the vegetative soul, animal soul, and rational soul. Furthermore, the human soul has five external and internal senses, one of the external souls is the feeling to touch, feel, smell, see, and listen. Meanwhile, one of the internal souls is the common sense that collects data provided by the external soul and then integrates the data in a general sense of the perception process. Al-Attas mentions that the human spirit that is related to intellect and understanding is called "intellect", when it governs the body it is called "soul", when it is experiencing intuitive enlightenment it is called "heart" and when it returns to its abstract world it is called "spirit", essentially it manifests itself in these states (Wan Mohd Nor Wan, 2003).

The understanding of God's law (revelation) is done through mind. However, it is not just an arbitrary mind, must be a sound mind (*salim*), namely a mind that can lead humans to the awareness of oneness with the transcendental (Ach. Maimun, 2015). Islam does not experience the sharpest opposition that occurs in the Western world. Islam respects the freedom of mind. The Qur'an places great emphasis on the value of the mind in searching for knowledge and its use, no less than 750 verses relating to it (Ziauddin Sardar, 1991). However, solely mind is not enough as an instrument to uncover the truth, because God's truth is vast. Therefore, there is another instrument in the Islamic intellectual tradition to discover the ultimate truth, namely the role of the heart or *Qolbu*.

Prophetic provides no separation of human modalities in exploring knowledge, including in law and morals even in everyday life, as in the Kant-style legal positivism tradition that clearly makes the voice of conscience or moral (inner) ontology a morality discipline as well as legality (outwardly) as a form of law. Prophetic, in addition to making the elements of mind and senses, also involves the heart or *qolbu*, even revelation and accurate news (Islamization version) as a tool to obtain the truth, because the ratio and senses are highly limited in their ability. The aspect of the heart becomes an extremely clear distinction with the legal positivism style of thought. The heart plays a role in several phases. In the moral aspect, the heart or *qolbu* plays a role in the internalization phase, where Revelation as a transcendent manuscript requires the reader to believe in its truth. Internalization has a contemplative process (*dhikr*) (Azhyar Zein, 2015). In the objectification phase, the involvement of the heart (*qolbu*) is at the stage of reading Revelation as normative data, and when transcendent ethical goals or ideals that lead to the ultimate goal of monotheism. In the context of legal and moral relations in the source aspect, prophetic clearly

shows a unified or integrative relationship, because there is no separation or division of instruments or human modalities to obtain morals and laws. The prophetic involves all the potential modalities of the human soul to gain knowledge. It can be seen from the internalization and objectification phases.

c. Methods and Approach

If there is no separation in the aspect of the object and source of prophetic law, it means that in the pattern of integrative relationships, there will be a separation in the methodological and approach aspects, moral and legal methods, and approaches are different. Although, they then aim at unity of ethical ideals. At the level of this method and approach, prophetic is in the relation of dialogue. It can be explained from the way of constructing morals with synthetic methods on the one side, and legal methods with analytic methods on the other side.

Morality is constructed through a process of internalization-towards objectification. Internalization is a psychological process. This process is called subjective transformation as the beginning of the process of social transformation (law formation). Internalization or psychological (subjective) transformation begins with interpreting the content of the Qur'an, which consists of ideal types or concepts and archetypes or stories and proverbs. This psychological-subjective (analytic) transformation will emerge an ethical perspective, and form an Islamic personality and a perfect personality. It is expected that all of his behavior will be in line with the instructions of revelation (Sutoyo, 2015). The results of this psychological transformation form subjective moral ethics because every human being has different abilities, experiences, and potentials in living and understanding the content of the Qur'an. It does not mean the normative content of the Qur'an is relative and particular.

Law is a form of objectification or social transformation effort, namely considering the normative content of the Qur'an as data that must be contextualized so that Islam can be a blessing for all of nature. It is done using analytical methods, transcendent structure approaches, with the aim of humanization, liberation, and transcendence. The difference between the objectification of Islam and the integrative variant in making the Qur'an a source of law is in the procedure, not in essence. Objectification will make the Qur'an a positive source of law whose formation is with the consent of citizens (as an objective symptom). Thus, not all direct sharia content automatically becomes state law. However, it must go through an objectification process (Mohammad H. Fadel, 2007; Mohammad M. Shabestari,

2004; Saiful Muzani (ed), 1998). This objectification is completed through a number of laws and regulations and other derivative regulations. Therefore, according to Kuntowidjoyo, this positive law lies in the effort to the way of God (*fisabilillah*), and the path of the persecuted (*fisabilil mustad'afin*) (Kuntowidjoyo, 2006).

d. Goal Aspect

The moral goal from a prophetic point of view is to achieve an Islamic personality and a perfect personality to gain wisdom. Meanwhile, the goals or ethical ideals of prophetic law aim at humanization, liberation, and transcendence. Both moral goals and legal goals will form a unified ultimate goal, namely the formation of a just and egalitarian society. Thus, in this aspect, prophetic views the relationship between morals and law in the form of an integrative-dialogue relationship, where morals and law have their own specific goals that form an integrative one.

Moral goals can be achieved through a process of psychological transformation (internalization), which develops a subjective perspective on the normative content of the Qur'an through a synthetic approach, namely the internalization of the values of the Qur'an which contains two issues, namely the internalization of the values of the Qur'an which contains three issues. Doing contemplation and appreciation of the normative values of the Qur'an so that it is internalized and, in the end, a moral-ethical perspective is emerged, which forms an Islamic personality and perfect personality is a process is called psychological transformation. Hence, its form is a subjective attitude. The purpose of the law, in the form of humanization, liberation, and transcendence, which are the pillars and significant characters of prophetic social science, is realized through analytical methods, a transcendent structure approach, which is an effort to objectify the normative content of the Qur'an. This process is called social transformation.

Humanization is necessary, according to Kuntowidjoyo, because human history is currently experiencing dehumanization, science and technology reduce humans partially, humans experience objectification in political and market machines, industrial society makes humans have abstract faces without human faces, even David Morley giving a nickname for humans as a result of modern science construction as ethical animals (Kontowijoyo, 2006). The goals of liberation, human liberation from cruelty, structural poverty, liberation from technological confines, and extortion. Transcendence aims to add a transcendent dimension to a culture that is contaminated and dominated by the philosophy of life of hedonism and

materialism. These three pillars characterize prophetic social science, which is directed towards future ethical ideals. Equivalent terms of humanization, liberation, and transcendence of humanization and emancipation are the terms of "*amar ma'ruf*", liberation for "*nahi munkar*" and transcendence for "*faith in Allah*". If western science leads to secularism through transformation, then the ultimate goal of the Islamic paradigm according to Kuntowidjoyo is towards transcendence, namely the closer humans are to the almighty, Islam requires transformation towards the transcendent, namely the eternal through full involvement in the history of the ummah, namely humanization, liberation, and transcendence.

**Table:
 Legal and Moral Relations Model of Prophetic Law**

Aspek	Moral	Hukum	Relasi Spesifik	Relasi Umum
Object	Allah's verses are written in the holy book (normative rules/Revelation) and implied in His creation (the universe and human beings)		Integrative	
Source	Senses, ratio, and heart (<i>intuitions/qolbu</i>)		Integrative	
Methods & approaches	Synthetic (Content of the Qur'an with Ideal Type & Arche Type), Internalization (psychological transformation)	Analytical (Al-Qur'an as data (<i>Kauniyah verse, Kauliyah &</i>) objectification, transcendental structure (social transformation)	Dialogue-integrative	Dialogue-Integrative
Purpose	Islamic Personality & Perfect Personality (Wisdom)	Humanization, Liberation, and Transcendence	Dialogue-integrative	
Fair & Egalitarian Society				

Conclusion

Based on the description above, it can be concluded that from the point of view of prophetic law in general, the legal and moral relation is an integrative-dialog relation. It is said that dialogue is caused by certain aspects, both moral and legal, which are considered to have their characteristics, especially in terms of methods and objectives. However, it actually ends in a unified whole. It is said to be integrative because most of the legal and moral aspects are in the same object, the same source, and the goal that leads to the same thing. It can be explained from the following aspects. **First**, objects, both legal and moral objects are the same reality, in the form of implied and explicit realities of Allah's verses (in humans and the universe). At this phase, prophetic has similarities to naturalist and religious metaphysical thought, as well as different from rationalist/legal positivism. **Second**, sources, both legal and moral sources are in the form of senses, ratios, and intuition (**heart/qolbu**). These aspects are very different from rational thought and at the same time similar to naturalist and religious metaphysical thought. **Third**, methods and approaches, both law and morals are considered to

have their methods and approaches, morals are constructed through internalization, while the law is objectified through a transcendental structure approach so that the relationship in this aspect is dialogue. **Fourth**, aspects of goals or axiology, law, and morals have each specific goal, the moral goal is to form a Muslim person, while the legal goals are humanization, liberation, and transcendence, which will be directed at the unity of ethical ideals, namely forming a just and egalitarian society. In these purpose or axiology aspects, prophetic law emerges a new thought, namely the Law of Transcendence Liberation. The law is directed to free humans from all shackles and oppression, and bring humans closer to the Creator. []

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