



**THE CONCEPT OF JUSTICE  
IN THE SYSTEM OF THE CONFLICTION  
THROUGH CONTEXTUALIZATION OF SURAH  
AL-MĀ'IDA 44-47**  
**(Application of Abdullah Saeed's Contextual  
Approach)**

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**Abstract:** This article aims to employ Abdullah Saeed's contextual approach to explore the concept of justice in the system of the confliction based on the interpretation of surah al-Mā'ida: 44-47. Based on this approach, a contextualist must be able to find two meanings that arise from the interpreted verse, i.e. meaning for the first recipient (historical meaning) and meaning for the present context (contemporary meaning). For the first recipient of surah al-Mā'ida: 44-47, it is understood as a form of justice and equality of the Prophet in mediating the case of the dispute at that time, especially between the *Nadīr* and the *Qurayṣa* tribe. When this verse is attributed to the form of the present state of the constitutional system, the contemporary meaning of this verse is that a state is capable of mediating fairly among its people in order to avoid the clash between rights and obligations. In this case, the form of the state, secular or non-secular, cannot be taken as a measure of the state system in accordance with this verse.

**Keywords:** Contemporary Meaning, Historical Meaning, Justice, Surah al-Mā'ida: 44-47, Confliction System.

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## **Introduction**

THE QUR'AN was often revealed with a certain socio-historical background. In the view of Fazlur Rahman, the Qur'an came through the historical light and as the response to the current

problems.<sup>1</sup> In this case, the socio-historical context of revelation is the fundamental element of it. The essential ties of the revelation exist. Moreover, it survives through the practice of interpretative communities. From here, various exegeses emerge amongst Muslims and each has different element of knowledge on the revelation.<sup>2</sup> For Abdullah Saeed, the condition will make the meaning of the Qur'an inline with the change of contexts.<sup>3</sup> Thus, lots of Muslim scholars have high awareness for contextualizing the product of exegeses since the condition or context changes over time.

The product of exegeses which required a contextual analysis is about the state system rooted in surah al-Mā'ida: 44-47.

...Those who do not judge by what Allah has sent down —it is they who are the faithless (44)...Those who do not judge by what Allah has sent down —it is they who are the wrongdoers (45)...Those who do not judge by what Allah has sent down —it is they who are the transgressors (47).

In the early period, the verses were understood as the response to the problem of stoning and fine for murder cases between *Bani* (tribe or group) *Naḍir* and *bani Qurayṣa*.<sup>4</sup> The Qur'anic exegeses communities brought the understanding until pre-modern period.<sup>5</sup> In the modern period, the era of western imperialism and colonialism, the verses were interpreted as legitimacy that the western political system was secular.<sup>6</sup> However, regarding the contemporary condition, the secular

<sup>1</sup> Fazlur Rahman, *Islam dan Modernitas tentang Transformasi Intelektual*, trans. Ahsin Muhammad (Bandung: Pustaka, 1985), 6.

<sup>2</sup> Abdullah Saeed, *Interpreting the Qur'an: Towards a Contemporary Approach* (New York: Routledge, 2006), 41.

<sup>3</sup> Abdullah Saeed, *Al-Qur'an Abad 21: Tafsir Kontekstual*, trans. Ervan Nurtawab (Bandung: Mizan, 2016), 417.

<sup>4</sup> Abū Muhammad 'Abd al-Mālik Ibn Ḥishām, *al-Sīrah al-Nabawiyyah li Ibn Ḥishām* (Beirut: Dār al-Kutub al-'Ilmiyah, 2009), 144.

<sup>5</sup> Look at Īmām Abū Ja'far Muḥammad ibn Jarīr ibn Yazīd al-Ṭabarī, *Jamī' al-Bayān fi Ta'wīl al-Qur'ān* (Beirut: Dār al-Kutub al-'Ilmiyah, 1992), 'Imād al-Dīn Abū al-Fidā' Ismā'īl ibn 'Amar Ibn Kathīr, *Tafsīr al-Qur'ān al-'Aẓīm* (Beirut: Maktabah al-Nūr al-'Alamiyyah, 1992), and Abū 'Abdullūh Shams al-Dīn Muḥammad ibn Aḥmad ibn Abī Bakr ibn Farḥāl-Anṣārī al-Khazrajī al-Qurtūbī, *al-Jamī' li Aḥkām al-Qur'ān* (Beirut: Dār al-Kutub al-'Ilmiyah, 2014).

<sup>6</sup> Look at *Fī Zilāl al-Qur'ān* by Sayyīd Quṭb and *Hukum dan Konstitusi Sistem Politik Islam* by Abu A'la al-Maududi.

system which was considered as infidel then becoming an interesting system for the Muslim majority states.<sup>7</sup>

The Qur'anic interpreter communities understand about the basis of various political backgrounds. That is the reason to count on the objectives behind the texts through the contextualization of the verses.<sup>8</sup> According to Schacht, there is a need to have determination and boundary of the scope of law or the product of exegeses (the fixed) and change them to accommodate the need of the change (the unfixed).<sup>9</sup> Fazlur Rahman appends that two dimensions of the meaning of the Qur'an, i.e. historical and contemporary meaning, need to be explored through double movement. The movement is from current condition to the period of the Qur'an revealed and nowadays.<sup>10</sup>

According to Abdullah Saeed, although Rahman tried to develop moral values of the Qur'anic verses, but he did not explain explicitly the alternative methodology used to formulate the moral values. In addition, Abdullah Saeed offered a contextual approach which draws on systematic steps by considering the socio-historical contexts and still using the linguistic aspects.<sup>11</sup> To formulate moral values or with his term 'values hierarchy' from surah al-Mā'idah: 44-47 for the first receivers (historical meanings) and for the current context (contemporary meanings), contextual approach was used.

### **Abdullah Saeed's Contextual Approach**

Abdullah Saeed is the professor of Islamic Studies at Melbourne University, majoring the hermeneutics of the Qur'an and Islamic law. He was born in Maldives 1960. He accomplished his BA degree in Arabic or Islamic Studies in Islamic University

<sup>7</sup> Budhy Munawar Rachman, *Sekularisme, Liberalisme, dan Pluralisme: Islam Progresif dan Perkembangan Diskursusnya* (Jakarta: Gramedia, 2010), ixi, and Nurcholish Madjid, "Islamic Roots of Modern Pluralism," *Studia Islamika* 1, no. 1 (1994): 57.

<sup>8</sup> Saeed, *Interpreting the Qur'an*, 116.

<sup>9</sup> Joseph Schacht, *An Introduction to Islamic Law* (London: Oxford University Press, 1964), 4.

<sup>10</sup> Rahman, *Islam dan Modernitas*, 7.

<sup>11</sup> Saeed, *Al-Qur'an Abad 21*, 180.

(Saudi Arabia), MA in Islamic studies and applied linguistics, and Ph.D. in Islamic studies. In 1993, he was a junior lecturer in foreign language and anthropology department. He became a senior lecturer in 1996, associate professor in 2000, and professor of Arab and Islamic studies in 2003. In 2010, he was elected as the member of Australian Academy of Humanities<sup>12</sup>.

His research focus was the negotiation of texts and contexts, *ijtihad* and interpretation, and the reform of Islamic thought. He published scientific works on various issues such as Islam and human right, the reform of Islamic law, Islam and religious freedom, and the hermeneutics of the Qur'an. He actively involved in inter religious dialogues, addressed lecture and short courses on Islam and civilization for government officers, businessman, and organizations. He was very popular for the issues of the Qur'an and Islamic studies.<sup>13</sup>

Abdullah Saeed was not the first Muslim scholar who propose contextual approach. In the late of 20<sup>th</sup> century and beginning of 21<sup>st</sup> century, some contextual approaches have widely offered by some Muslim scholars.<sup>14</sup> One of them was Fazlur Rahman. According to Rahman, in order to free the eternal messages of the Qur'an as revealed in the period of the prophet Muhammad and adopt moral values of the current period, a double movement is needed. Firstly, the interpreters must understand the meaning of a statement by studying the situation or historical problems where the statement of the Qur'an is the answer. In this case, a moral value or general principle of the Qur'anic statement is achieved for the first receivers. Secondly, unitizing specific answers and state them as the statement which has moral-social objectives of the verses in socio-history backgrounds.<sup>15</sup>

Abdullah Saeed came as the successor and developer of the double movement theory by Rahman. According to Abdullah Saeed, although Rahman had tried to establish the moral value of the Qur'anic verse, it is not explained explicitly about the

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<sup>12</sup> Ibid., 316.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid., 43.

<sup>15</sup> Rahman, *Islam dan Modernitas*, 7.

alternative methodology of formulating moral values. So, Abdullah Saeed offered an approach that he calls a contextual approach. Not much different from Rahman, according to Abdullah Saeed, in general the contextualization process involves two main tasks.<sup>16</sup> *First*, trying to identify the basic messages that arise from the interpretation of the Qur'an. One of the main tasks of the contextual interpreter of the Qur'an is to understand the history and traditions of the text in order to establish the context of the Qur'an revelation. Emphasis should be given to the Qur'an and its role in history. That is the period of the Prophet Muhammad using Arabic in a specific community context.<sup>17</sup> *Second*, the messages were applied in other contexts after the period. Determination of the content of the message is translated based on the comprehension of how the text of the Qur'an understood and applied in the context of revelation and subsequent generations. The message was then translated into the current context, while still paying attention to the relevance of the values and assumptions that emerged within a range of 1400 years ago. This is the main part of the contextual interpretation, namely the analysis of the macro context of the modern period, focusing on specific issues mentioned by the Qur'anic text.<sup>18</sup>

### **The Scheme of Texts and Context**

The process of translating messages into the present requires extensive knowledge of the original macro context and contemporary macro context. Awareness of the macro context raises an understanding of things that are 'fixed' and 'changing', between the context of the early seventh century and the present context which allows the interpretation of the text of the Qur'an to be more appropriate and meaningful. The Qur'an has by default plays a role in a society whose values are constantly changing. The teachings of the Qur'an that voiced change in the seventh century

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<sup>16</sup> Saeed, *Al-Qur'an Abad* 21, 102.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

AD will be applied differently in a new context, but with the same purpose.<sup>19</sup>

To carry out these two tasks in a contextual approach, Abdullah Saeed compiled a methodological set that had not been carried out by Muslim scholars. The methodological stages compiled by Abdullah Saeed, can generally be seen in the following figure. The stages as in the following figure are used to get the historical meaning and contemporary meaning of surah al-Mā'idah: 44-47.



Figure 1. The steps of contextual methodology<sup>20</sup>

### **The Historical Meaning of Surah al-Mā'ida: 44-47 Dealing with Political System in the Period of Prophet Muhammad**

The historical meaning is the meaning that emerged during the time of the Prophet Muhammad and the early generation of Islam.<sup>21</sup> To obtain this meaning, a contextualist needs to consider literary readings of texts based on various historical understandings at the beginning of the seventh century AD. Emphasis should be given to the Qur'an and its role in history which use Arabic in a specific community context. The aim is to find out how the verses with the composition of the language it uses is honed by the recipient community in the seventh century AD.<sup>22</sup>

#### *Linguistic Analysis of Surah al-Mā'ida: 44-47*

Linguistic aspects are closely related to the language of texts which is a key aspect of interpretation. This includes efforts to

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Rahman, *Islam dan Modernitas*, 6.

<sup>22</sup> Saeed, *Al-Qur'an Abad 21*, 102.

identify why certain linguistic features are used in the text, as well as how they affect meanings.<sup>23</sup> In this paragraph there are certain features that need to be done in linguistic understanding.

Among the features that need to be studied in surah al-Mā'ida: 44-47 is the word *yaḥkumu* which is a derivation of the word *ḥukm*. Literally the word is considered synonymous with the word *qaḍa*, which refers to the decision in political power. But more than that, the word *ḥukm* has a comprehensive meaning rather than just giving a judgment.<sup>24</sup>

The word *ḥukm* is derived from the word *ḥakama-yaḥkumu-ḥukm* which has the basic meaning of preventing and preventing evil, or the like in order to obtain good things (منع منعاً لإصلاح).<sup>25</sup> When it changes in the form of *iḥkam* from *fi' il māḍi aḥkama*, it has the meaning of *al-iḥrāz* which means guarding or maintaining.<sup>26</sup> Another term related to the meaning of *ḥukm* is the word *al-ḥikmah* which defined as knowledge and understanding (*al-'ilm wa al-fiqh*) with which ignorance is lost.<sup>27</sup> While the perpetrator or person who upholds *ḥukm* is usually called *ḥākim*, which is interpreted as preventing a human being from committing abomination or crime. Besides the word *ḥākim*, sometimes the word *ḥakīm* is used, both of which mean the same thing.<sup>28</sup> Another word that has the same meaning with *ḥākim* is *ḥakam*, which is defined as arbitrator or mediator. The term *ḥakam* is often understood as the middle man in charge of settling the parties to the dispute after negotiations. They are not a tribal chief, but are chosen for the quality and personal reputation.<sup>29</sup>

From here it is known that the term *ḥukm* is different from the term *qaḍi*. The Lexicon dictionary states that *ḥukm* is meant as *qaḍi*

<sup>23</sup> Ibid., 170.

<sup>24</sup> Edward William Lane, *Arabic-English Lexicon*, vol. 1 (New York: Frederick Ungar Publishing, 1865), 617.

<sup>25</sup> Jamal al-Dīn Muḥammad Ibn Manzūr, *Lisān al-‘Arab* (Beirut: Dār al-Kutub al-‘Ilmiyyah, 2009), 164.

<sup>26</sup> Ibid.

<sup>27</sup> Raghib al-Asfahānī, *Mu'jam al-Mufradāt fī Ghārīb al-Qur'ān* (Beirut: Dār al-Fikr, n.d.), 126.

<sup>28</sup> Ibn Manzūr, *Lisān al-‘Arab*, 163.

<sup>29</sup> Joseph Schacht, *Pengantar Hukum Islam*, trans. Joko Supomo (Bandung: Nuansa, 2010), 33.

but it is considered as a radical meaning.<sup>30</sup> The use of the word *hukm* shows that what is desired from this verse is an intermediary activity without alignments, or it can be said to be an activity of adjudicating in order to lose something cruel or persecution. It is not just a decision involving its authority so that the disputed problem is over.

The selection of *anzala* or *inzāl* (*masdar* form) in this verse also indicates certain intentions. The word *anzala* or *inzāl* comes from the word *nazala* which means *inhiṭātu min'uluwwin* (coming down from something high). The use of the word *anzala* or *inzāl* is different from the use of the word *nazzala* or *tanzīl*. In the Qur'an, the word *inzāl* has a more general characteristics than *tanzīl*. The word *tanzīl* specifically refers to something which descends separately. It often refers to the revelation of the Qur'an and angels (surah al-Zuhrah: 31, al-Shu'ara: 198, etc.). While the word *inzāl* can include all things revealed by God, as in surah al-Mu'minūn: 29 whose object refers to His favor or His punishment, in surah al-Talāq: 10-11 whose object is *dhikr*, in surah al-An'ām: 156 whose object is *kitāb* (Torah and the Gospel), and in surah al-Dukhān: 3 which refers to the Qur'an.<sup>31</sup> So, in the context of the revelation of the Qur'an the word used is *inzāl* which refers to the first revelation of the Qur'an to the sky as a whole and *tanzīl* which refers to the revelation of the Qur'an to the earth in separate ways. It is different from the holy books before the Qur'an which only use the term *inzāl*.<sup>32</sup> Thus, the choice of the word *inzāl* or *anzala* in this verse refers to something that is not necessarily the Qur'an intended to. However, it can refer to the hadith, the previous holy books such as the Torah, the Gospel, the Psalms, or even the provisions and favors of the God.

The relationship between the words *kāfirūn*, *zālimūn*, and *fāsiqūn* is important to be discussed. The word *kāfirūn* comes from *kafara-yakfuru-kufrun*,<sup>33</sup> which means *al-satrū* or *al-tagħiyyatū* (to cover) as in surah al-Hadīd: 20. In the verse, *al-kuffar* are farmers

<sup>30</sup> Lane, *Arabic-English Lexicon*, 1:616.

<sup>31</sup> al-Asfahānī, *Mu'jam al-Mufradāt*, 510.

<sup>32</sup> Ibid.

<sup>33</sup> Ibn Manzūr, *Lisān al-'Arab*, 170.

who plant seeds (covering them with soil).<sup>34</sup> There are several derivations of *kufr* which closely related to the meaning of *kufr* such as *kaffara* which means to abolish, *kaffārat* which means the penalty for redeeming sin, *kafūr* which has the meaning of pod covering the fruit.<sup>35</sup> The word *kufr* is always identical with the opposite of faith, namely denial and deception of God. For this reason, al-Laits said that those who deny Allah are called *kāfir* because their hearts are closed, as in the surah al-Baqarah: 6.<sup>36</sup> Besides being considered as contrary to faith, *kufr* is also contrary to gratitude, in the sense of *kufr al-ni'mah*. *Kufr al-ni'mah* is a denial of God's favor as in surah al-Baqarah: 152.<sup>37</sup>

The word *zālimūn* comes from *zalama* with the root *z-l-m*,<sup>38</sup> which means *al-jawruwa al-mujāwazatu al-haddor* deviates and transgresses.<sup>39</sup> According to al-Asfahani, it means *mujāwazatu al-haqqi* (deviating from the truth).<sup>40</sup> The word is usually translated as *lam ya'dil 'anhu* (injustice).<sup>41</sup> In the Qur'an, this word has several meanings as in surah al-Nisā: 40 which translated as arbitrary, in surah al-Baqarah: 193 defined as chaos or oppression of human rights, and in surah al-An'ām: 21 means the act of making lies.<sup>42</sup>

*Fāsiqūn* comes from the word *fasaqa* which means a form of iniquity, abandons the command of Allah, and goes out of the way of truth. In *Lisān al-'Arāb*, *Fasaqa*, *yafsiqū*, *yafsuqu*, *fisqan*, *fusūqan*, and *fasuqa* with *dammah* have the meaning *fajara*, which means doing wrong or cruel.<sup>43</sup> The origin of the *fisqun* is also *al-khurūj 'an istiqāmatiwa al-jawri*, which means out of line and deviant.<sup>44</sup> In the

<sup>34</sup> Ibid.

<sup>35</sup> Harifuddin Cawidu, *Konsep Kufr dalam al-Qur'an: Studi Kajian Teologis dengan Pendekatan Tafsir Tematik* (Jakarta: Bulan Bintang, 1991), 31.

<sup>36</sup> Ibn Manzūr, *Lisān al-'Arab*, 170.

<sup>37</sup> al-Asfahānī, *Mu'jam al-Mufradāt*, 452.

<sup>38</sup> Ibid., 326.

<sup>39</sup> Ibn Manzūr, *Lisān al-'Arab*, 433.

<sup>40</sup> al-Asfahānī, *Mu'jam al-Mufradāt*, 326.

<sup>41</sup> Ibn Manzūr, *Lisān al-'Arab*, 434.

<sup>42</sup> M. Dawam Rahardjo, *Ensiklopedi al-Qur'an: Tafsir Sosial Berdasarkan Konsep-konsep Kunci* (Jakarta: Paramadina, 2002), 408.

<sup>43</sup> Ibn Manzūr, *Lisān al-'Arab*, 370.

<sup>44</sup> al-Asfahānī, *Mu'jam al-Mufradāt*, 394.

Qur'an, this word has several meanings<sup>45</sup> as in surah al-Baqarah: 59 which is interpreted as substituting the law of Allah, in surah al-An'ām: 121 which means deviant from the way of Allah and unable to receive Allah's instructions.<sup>46</sup>

Not much different from the previous word, the word *kāfirūn*, *zālimūn*, and *fāsiqūn* do not only have one meaning. However, one of the many meanings shows the linkages between the three. Regardless of what meaning is expected of the three and which meaning indicates the relationship between the three, what is clear is that the three words in this verse are the consequences of the violation or not carrying out the activities of *hukm* with what Allah revealed.

#### *Literature context of Surah al-Mā'ida: 44-47*

An effective starting point in determining the meaning of a verse is to identify the actual literary context of the text being interpreted. The Qur'an is not arranged thematically, and in one letter often contains various themes. Based on these reasons, understanding the thematic units in the text is important by relating to the verse before and after it.<sup>47</sup>

Surah al-Mā'ida: 44-47 is part of a longer series of verses revealed in the context of the legal return by the Jews to the Prophet. More specifically, these verses came down regarding the request of the Jews against the Prophet to be a mediator between them in the case of adultery or a fine of murder. This series of verses starts from al-Mā'ida: 41 to 50.

Abu Hurairah narrated that when the Jewish monks discussed the punishment of adultery by a married Jewish man with a woman, they agreed to ask the Prophet. If the Prophet punishes him with *tajbiyyah*, they will follow and justify it. But if the Prophet punishes with stoning, they will reject it. In this case, the Prophet did not immediately decide the case, but he went to their monks to ask about the punishment of adultery in the Torah. The

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<sup>45</sup> Rahardjo, *Ensiklopedi al-Qur'an*, 423.

<sup>46</sup> Ibid., 425.

<sup>47</sup> Abdullah Saeed, *Paradigma, Prinsip, dan Metode Penafsiran Kontekstualitas al-Qur'an*, ed. Sahiron Syamsuddin, trans. Lien Iffah Naf'atu Fina and Ari Henri (Yogyakarta: Lembaga Ladang Kata, 2015), 297.

monks lie, except for a half-blind man.<sup>48</sup> In some narrations, the young man who did not deny the verse of stoning in the Torah was Abdullāh ibn Ṣuriyyah.<sup>49</sup>

The reason why the Jewish monks changed the law of stoning with *tajbiyyah* can be read in the narration of Ibn Ishāq. At first, they had carried out what was in the Torah until the adultery of a man from a royal family in which the king refused to stone him. After the incident, there were men who were not from the royal family to commit adultery, but the stoning penalty was applied to him. This decision led to protests from the lower classes and they agreed to replace stoning with *tajbiyyah*. *Tajbiyyah* is a sentence of 40 lashes with a soft rope and raise the perpetrator of the adultery on a donkey with a face attached to the anal. The face of the perpetrator is blackened then the people paraded them. This case was the reason for the verses revealed.<sup>50</sup>

However, there are some narrations which explain that the verse came down regarding the *diyat* (a fine) issue between the Naḍīr tribe and the Qurayzah tribe. The narration of Ibn Ishāq is one of them. At that time, a member of the Naḍīr tribe who had a noble position was killed. They asked for a full *diyat* (100 *wasaq*) to the Qurayzah tribe. However, when members of Qurayzah tribe were killed, they only received a half. The case was considered a demeaning and discriminating. Thus, they agreed to ask the Prophet to make a decision. Then, the verse was revealed.<sup>51</sup>

The story originated from the request of the Jews to the Prophet to mediate against their problems, whether it was related to the issue of stoning or *diyat*. However, the Jews actually rejected the Prophet's decision to rule with the Torah. Eventually, they changed the law in the Torah. In this case, the verses in the context of literature explain about the Jews who like to hear fake news (al-Mā'ida: 42), their separation from what Allah has revealed (al-Mā'ida: 43-45), then the Gospel was revealed through the prophet Isa to support the truth of the Torah (al-Mā'ida: 46-47), and in the

<sup>48</sup> al-Ṭabarī, *Jamī' al-Bayān fi Ta'wīl al-Qur'ān*, 589.

<sup>49</sup> Ibid., 590.

<sup>50</sup> Ibn Ḥishām, *al-Sīrah al-Nabawiyah*, 144.

<sup>51</sup> Ibid., 145.

next verse the Qur'an was revealed to Muhammad which confirms the prior holy books (al-Mā'ida: 48-50)

*Macro context of the verse relating to political system*

The Qur'an was revealed in a place called by people with the Arabian Peninsula.<sup>52</sup> Based on its two land characteristics, the population of the Arabian Peninsula is divided into two main groups, namely nomads who live in the desert and urban people. Action and relations between the people in the urban and desert are motivated by strong pressure to fulfill their needs and self-protection, without regard to the rights and other protection. They tried hard by means of violence or contention to get certain sources that they did not have.<sup>53</sup>

This attitude was able to emerge its pattern of relations such as the rampant events, robbery on the trade caravans (*ghazw*) which became the economic foundation of the Bedouin people, and the case of *ayyām al-'Arāb* which lasted for 40 years by attacking and robbing each other.<sup>54</sup> However, mutual awareness to help each other in surviving harsh natural conditions has fostered mutual interest. It was also able to bring forth the spirit known as '*asabiyah* (tribal spirit).<sup>55</sup> In this case, social law does not only apply to maintaining tribal identity but also to the safety of its members, regardless of whether the members are right or wrong. Thus, justice in this system is very difficult to find.

The combination of the selfish people and the strong spirit of '*asabiyah* require centralized power to be a mediator so that there is no conflict between rights and obligations. The Prophet realized the condition long before prophethood, which in turn encouraged him to be a mediator between them. For example, the Prophet successfully reconciled disputes that arose in the midst of the Quraysh tribe who were renovating the Ka'bah. For the action, he was called as *al- amīn*.<sup>56</sup>

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<sup>52</sup> Philip K. Hitti, *History of the Qur'an*, trans. R Cecep Lukman Yasin and Dedi Slamet Riyadli (Jakarta: Serambi Ilmu Semesta, 2008), 12.

<sup>53</sup> Ibid., 28.

<sup>54</sup> Ibid., 30.

<sup>55</sup> Ibid., 34.

<sup>56</sup> Ibn Hishām, *al-Sīrah al-Nabawiyah*, 77.

When the period of revelation came, the Prophet built Arab society with the central problem, i.e. the issue of theology and social order. The Qur'an calls for a sense of social responsibility towards the poor and warns about the Day of Judgment. The call emerged double effects. On one side, the preach was received amongst the poor people (lower level of the society). On the other side, it created controversy in Makkah especially the rich people.<sup>57</sup> The controversy was aggravated by the Prophet's actions that promotes equality of human rights, by placing people who are seen as weak along with prominent figures and community leaders.<sup>58</sup>

The refusal from the Quraysh community was increasingly intense. The Muslims decided to migrate to Medina or Yathrib in order to save themselves.<sup>59</sup> The composition of the population in Medina is very different from Makkah. The social and cultural structure of the people of Medina tends to be more heterogeneous than Makkah.<sup>60</sup> In addition, there were also many inter-tribes hostilities in Medina such as the hostility between Jewish, between Jews and Aus and Khazraj, and between the two tribes Aus and Khazraj.<sup>61</sup>

The conditions experienced by Arab ethnic in Medina especially between Aus and Khazraj were tried to be overcome by asking the Prophet to mediate them. The will to live in peace that drives the Aus and Khazraj tribes to accept the presence of Islam. The Prophet also needed a place to save his people from the attack of the Quraysh.<sup>62</sup>

The Prophet created another strategy by developing a new community called the *ummah*. It is a brotherhood system that unite

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<sup>57</sup> John Oberst Voll, *Politik Islam: Kelangsungan dan Perubahan di Dunia Modern*, trans. Ajat Sudrajat (Yogyakarta: Titian Ilahi Press, 1997), 29.

<sup>58</sup> Ajid Thahir, *Sirah Nabawiyah: Nabi Muhammad dalam Kajian Ilmu Sosial-Humaniora* (Bandung: Marja, 2014), 218.

<sup>59</sup> Abdul Aziz, *Chiefdom Madinah: Kerucut Kekuasaan pada Zaman Awal Islam*, ed. Ahmad Baedowi (Jakarta: Pustaka Alfabetta, 2016), 216.

<sup>60</sup> Thahir, *Sirah Nabawiyah*, 235.

<sup>61</sup> Aziz, *Chiefdom Madinah*, 192.

<sup>62</sup> Thahir, *Sirah Nabawiyah*, 242.

individuals and ethnic groups into a larger community.<sup>63</sup> In this community, some basic things the Prophet did in Medina. *First*, building a mosque which is used to solve common problems and foster the people as a nation. *Second*, uniting the Muhajirin and Ansar into a brotherhood relation. *Third*, binding agreements between Muslims and other faiths. It aims to establish a community which unite people (*ummatan wahidatan*) based on political agreement. The formation of this community was reinforced by the Medina Charter which contained the rights and obligations of each party. The foundation for this *ummah* is not the descends and tribes, but rather the unification of various tribes while respecting the existence of each tribe.<sup>64</sup>

The roles Prophet played at that time is a central power holder. With the roles, he managed to become a mediator as well as being able to limit the rights of individuals and groups who previously tended to be free. It resulted a society that respects the rights of others. In this case, the community is bound together with justice, not by blood relations. The acts of '*asabiyah*' in the sense of "helping the tribe itself" was prohibited.

### *Parallel texts*

In this section, it is necessary to identify other texts that may be relevant to the primary text being discussed in order to find key ideas that emerge from different texts. With this, the dominant values in the texts can be arranged based on the hierarchy of relevance.<sup>65</sup>

The key word needed here is *hakama*. It is assumed to be an arbitration activity from the Prophet to reconcile the disputing society. The word *hukm* and its derivation in the Qur'an are said to be around 190 times, including the words *hikmah*, *hākim*, *hukkam*, and *hakīm*.<sup>66</sup> The verses with the term *hukm* often refer to cases of disputes or conflicts that exist in the community faced by the Prophet. These verses will at the same time clarify the translation

<sup>63</sup> Aziz, *Chiefdom Madinah*, 214.

<sup>64</sup> Ibid., 216.

<sup>65</sup> Saeed, *Al-Qur'an Abad* 21, 170.

<sup>66</sup> Muḥammad Fu'ād Abd. al-Baqī, *al-Mu'jam al-Mufahras li al-fāz al-Qur'ān al-Karīm* (Beirut: Dār al-Fikr, 1981), 212–215.

of the word *hakama* as an arbitration activity or mediation (surah *an-Nisā'*: 35). It has no way to refer the word *qađi*.<sup>67</sup>

The verse with the term *hukm* is found in surah *an-Nisā'*: 105 which relates to steal by Thu'mah to Rifa'ah's property. Thu'mah concealed the stolen property in the house of a Jew. This verse was revealed as a response to the Prophet's mediation activities which almost sided with those who betrayed or as justification for the mistakes that the Prophet almost committed (*bi al-haqq*). Through the truth brought by the Qur'an, the Prophet can mediate this case fairly. The way Prophet mediated this case was able to bring Rifa'ah to Islam.<sup>68</sup>

In many cases, the word *hukm* refers to Allah. No less than 27 verses that explain Allah's actions as a court, and the law belongs only to Allah. Of the 27 verses, around 19 verses were revealed in Makkah.<sup>69</sup> The period of Mecca was not a period of formation of society (*ummah*), but rather a strengthening of faith. The rest of the verses was revealed in Medina. Although they were revealed in the context of the formation of society, most of the verses pertain to the judgment of Allah later on the Day of Judgment as in al-Baqarah: 113, al-Ra'du: 41, al-Hajj: 69, and others.

In addition, the word *hukm* refers to the *tāgūt* and *jāhiliyyah*.<sup>70</sup> It also relates to the pre-Islamic law system. The Qur'an shows its rejection of such law as in surah *an-Nisā'*: 60. In this verse, *hukm* refers to *tāgūt*. This verse was revealed regarding the case between the Jews and the *munāfiq*. In this case, the Jews wanted to follow the Prophet's decision. Meanwhile, *Munāfiqūn* wanted to follow the law by *kāhin* (shaman). Whereas they have been ordered to deny the law of *jāhiliyyah* because the shaman in practice accepted bribes so that they are not able to give judgment fairly.<sup>71</sup>

Regarding arbitration or mediation activities, the principle emphasized by the Qur'an does not merely rely on what Allah has revealed. Beside the Qur'an rejects the *jāhiliyyah* law, the legal

<sup>67</sup> Schacht, *Pengantar Hukum Islam*, 37.

<sup>68</sup> 'Abd al-Fattāḥ 'Abd al-Ghanī al-Qađī, *Asbāb al-Nuzūl 'an Ṣahābah wa al-Mufassirīn* (Cairo: Dār al-Salām, 2012), 82.

<sup>69</sup> al-Baqī, *al-Mu'jam al-Mufahras*, 212–215.

<sup>70</sup> Ibid., 213.

<sup>71</sup> al-Qađī, *Asbāb al-Nuzūl 'an Ṣahābah wa al-Mufassirīn*, 74.

principle emphasized by the Qur'an is fair and rejects tyranny,<sup>72</sup> pays attention to equality and individual rights,<sup>73</sup> does not give bribes,<sup>74</sup> provides correct evidence,<sup>75</sup> and gives the correct scale and size.<sup>76</sup> Whereas the command of law which refers to what Allah revealed was only mentioned occasionally.

The political system and state administration emphasized by the Prophet in his hadith are to realize the equality and justice of the rights of the people. There are many hadith which indicate this purpose. Among them is the order to determine or make a decision with *al-hikmah* in Bukhari no. 6722, prohibition to deceive the people in Bukhari's narration no. 6731 and 6732, a prohibition on the system of government which complicates the affairs of its people in the narration of Muslims no. 1828, prohibition to make a law in a state of anger in Bukhari no. 5406, a prohibition for government officers to receive gifts in the Bukhari no. 6753, the order to give equal rights between two litigants in the hadith of Tirmidhi no. 1331, and prohibition for leaders to divorce in Bukhari no. 6751.

#### *Finding the hierarchy of values in Surah al-Mā 'idah: 44-47*

The interpretation of the Qur'an contextually requires the interpreters to consider the characteristics of the verse hierarchy. One of the most challenging issues in the contextualization process is the effort to determine the significance that should be placed on the values of the Qur'an specifically. Failure to realize the existence of a hierarchy of values can produce the exegeses that are contrary to the important universal values of the Qur'an.<sup>77</sup>

Value is what a Muslim wants to adopt, follow, and practice. These values are able to form the essence of religion and maintain the characteristics of universality.<sup>78</sup> In Abdullah Saeed's view, at

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<sup>72</sup> Surah *al-Mā 'idah*: 42, surah *al-Nisā'*: 58, surah *al-Mā 'idah*: 95, surah *al-Nūr*: 51, surah *al-Hujurāt*: 9.

<sup>73</sup> Surah *al-Nisā'*: 65.

<sup>74</sup> Surah *al-Nisā'*: 60.

<sup>75</sup> Surah *al-Nisā'*: 15.

<sup>76</sup> Surah *al-Isrā'*: 35.

<sup>77</sup> Saeed, *Al-Qur'an Abad* 21, 109.

<sup>78</sup> Ibid., 110.

least the values have five levels, namely obligatory values, fundamental values, protection values, implementation values, and instructional values.<sup>79</sup>

Surah al-Mā'idah: 44-47 is a verse that falls into the category of instructional value. Seeing from the reason it was revealed and its relation to the political context at that time, the command in this verse refers the resolution of the problem of the *jāhiliyyah* political system which tends to be unfair and unbalanced. The people in the system have the spirit of *'aṣābiyyah* which always accentuate their rights or interests. This situation is specifically found in the case of stoning and fine disputes between the Naḍir tribe and the Qurayzah tribe. This case is the cause of this verse. As a consequence, according to Abdullah Saeed, this verse has a particular and universal side.<sup>80</sup>

Instructional values need to be explored carefully to find out which particular or universal nature of its application. The ways to explore are by looking at the frequency of events in the Qur'an, its significance in the Prophet's preaching, and its relevance in the context of the Prophet.<sup>81</sup> Firstly, the order to mediate or to judge based on the revelation was only mentioned by the Qur'an in limited number. Whereas what is often emphasized by the Qur'an is the principle of justice and equality. Here, the frequency of occurrence in the Qur'an is less than the principle of justice and equality.

Secondly, a high emphasis in the Prophet's preaching is able to indicate a high level of significance from values in a verse of the Qur'an.<sup>82</sup> Based on previous historical studies, the emphasis in the Prophet's preaching through the social system is justice and equality. It can be seen in the period of Mecca that the goals the Prophet fought for in society was the equality of the slaves with the *Quraysh* authorities. Likewise, in the Medina period an agreement was made which accommodate all parties as well as restrict all the rights of the community without exception to

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<sup>79</sup> Ibid., 116.

<sup>80</sup> Ibid., 117.

<sup>81</sup> Ibid., 116–117.

<sup>82</sup> Ibid., 118.

mediate and reconcile the people of Medina. This emphasis can also be seen through many hadith, which emphasize the principle of justice and equality.

Thirdly is its relevance to the Prophet's mission.<sup>83</sup> The Prophet was received in Medina very openly because the justice he promoted. Fair mediation makes the whole community, including Jews, return all the cases to the Prophet. In fact, the reason Rifa'ah converted to Islam was the fair decision by the Prophet.

From the ways, judging with what Allah has revealed is very particular or context-dependent, whereas mediating with the principles of justice and equality has high significance. So, the value hierarchy that can be drawn from this verse is mediating (*hukm*) with justice and equality. When associated with the activities of the Prophet at that time, the desired historical meaning of this verse is the justice and equality of the Prophet in mediating the conflicting communities. Furthermore, this verse must be proven through the context of the liaison to find out the specificity. Whether this verse is interpreted consistently or not will be explained in the next section.

### **Understanding the Meaning of Surah al-Mā'idah: 44-47 through Liaison Context**

The meaning is something dynamic, as far as it can emerge from the various relationships between the God, messages (texts that express the message of God), the recipient, and the context in which it is communicated. Although the interpreters can get clues based on the understanding of the message as expressed through their language and through speculative understanding of the people who receive the first revelation, these various contextual changes conclude that the meaning of the Qur'an will remain flexible. Therefore, it is necessary to deal with this flexible meaning to identify the values and instructions in the words of God in order to continue guiding the community based on every changing context.<sup>84</sup>

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<sup>83</sup> Ibid.

<sup>84</sup> Ibid., 147.

*Surah al-Mā'idah: 44-47 in the pre-modern period*

According to Abdullah Saeed, the context of interpretation affects the interpretation itself. Beside considering the current interpretations, it was also important to see the political context that occurred in the past time. The past and current context will reveal something behind an interpretation which will strengthen or maybe even change the universal value found in the historical meaning.

In interpreting al-Mā'ida: 44-47, most of the pre-modern interpreters especially the classical era did not provide a strong political interpretation of the verse. They focused more on the theological implications from God's command to the Prophet to judge the Qur'an. As example, Ibn Jarīr at-Tabarī (d. 310 H / 923 AD) interpreted the verse in the view of theological aspects.

According to Tabarī, this verse is about the answer to the Jewish question about the punishment for the case of adultery, and the equal fine (*diyat*) for the murder case between *Naqīr* tribe and *Qurayzah* tribe.<sup>85</sup> In Tabarī's view, this verse is *siyāq khabar*, which explain the Jews who deny the law in their holy book. Tabarī argued that the purpose of this verse is that the God has equalized and balanced everything through the law in the Torah. In this case, those who do not judge by what Allah has revealed in which there is justice and equality and replace it with another law is unbeliever (*kāfir*). They were called so because they hide the truth that is clear to them and cover it from the people.<sup>86</sup> The reluctance to reject the law of stoning for the case of adultery and the stipulation of the law of *qisāṣ*, made them to be despotic. The law only applies to some people, was being transcended, and put things not in the place God has determined.<sup>87</sup> These are the reasons for being the despotic. The Gospel was revealed as a reformer of the Torah. When they did not judge with it, they are called *fāsiq*, i.e. out of the command of Allah.<sup>88</sup>

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<sup>85</sup> al-Tabarī, *Jamī' al-Bayān fi Ta'wīl al-Qur'ān*, 588.

<sup>86</sup> Ibid., 597.

<sup>87</sup> Ibid., 598.

<sup>88</sup> Ibid., 604–605.

Tabarī lived in the 3rd century hijriah/9 AD. His interpretation was inseparable from the political context surrounding him. Before the 3rd century hijriah/ 9 AD, the Islamic government was under the authority of *al-Khulafā al-Rāshidūn*, the Umayyad dynasty, and the Abbasid dynasty. However, specifically Tabarī lived in the time of the Abbasid dynasty.

The Sunni foundation by Tabarī was formed during the late Umayyad government until the beginning of the Abbasid period. This foundation was founded on the principles of sharia development. Most of Muslim scholars focused on the matters of spiritual, legal, and personal morality but few refer to political issues.<sup>89</sup> After all, there was no genuine and fundamental support for the Caliphate, nor is it a firm refusal, but a dispute based on mutual awareness among religious groups that they cannot expect better. The Muslim scholars wanted the existence of the Caliph and not disturb them. So, the literalist-narrative method developed by the Muslim scholars raises a new approach to politics, namely not rejecting, nor supporting. One reason behind this is that Muslim scholars have created structures outside of government for themselves.<sup>90</sup>

Besides that, the political problem at that time was the separation of religion and state. The religion and state previously were on the hand of the authority. Since the mid-10th century, the Abbasid caliph had lost its effective power over all areas of government. They survived again, even if only in a symbolic role, until finally the Mongol army invaded the capital of the government, Baghdad. The Caliphate slowly turned into a sultanate.<sup>91</sup> The political decline of the Caliphate led to a separation between religious and political power, between religious-moral-legal authority and political-military authority. The first power was represented by the Muslim scholars, who regulated social and family affairs. The second was represented by

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<sup>89</sup> Antony Black, *Pemikiran Politik Islam: dari Masa Nabi hingga Masa Kini*, ed. Dedi Ahimsa Riyadi and Qamaruddin SF, trans. Abdullah Ali and Mariana Ariesyawati (Jakarta: Serambi Ilmu Semesta, 2006), 78.

<sup>90</sup> Ibid., 87.

<sup>91</sup> Voll, *Politik Islam*, 36.

the sultans who regulated military affairs and upheld law and order.<sup>92</sup>

From this, the interpretation of Ṭabarī over surah al-Mā'idah: 44-47 was indirectly affected by the development of Islamic politics at that time, namely the existence of disparity between scholars and rulers. The interpretation does not mention the problems of politics or Islamic governance, nor is there any support or rejection of Ṭabarī against the authorities. The interpretation of Ṭabarī on this verse purely covers only theological aspects.

A slightly more political interpretation can be found in the interpretation of Qurtubī (d. 671 H/1273 AD). In his view the word *kāfirūn*, *zālimūn*, and *fāsiqūn* refer to unbelievers, not the Muslims.<sup>93</sup> The view is quoted from Islamic political schools, namely *Ahl Sunnah* and the *Khawarij*.<sup>94</sup> Although Qurṭubī believed that this verse was specifically revealed to unbelievers including Jews. However, when he linked the meaning to Muslims, it is a critic the government at that time. This can be seen from the narration he mentioned about the three criteria of *ḥukkām*, i.e. not following lust, not afraid of (power) humans, and not selling the law at a low price.<sup>95</sup> This kind of interpretation is still in the theological realm, but the interpretation seems more political.

Similar interpretations also seem to have been carried out by Ibn Kathīr (d. 774 H/1373 AD). According to Ibn Kathīr, surah al-Mā'idah: 44-47 is a reprimand to Jews who violate the law. This reprimand is related to the injustice of the *qīṣāṣ*, inequality of *diyat*, and the injustice of the application of stoning law carried out by Jews.<sup>96</sup> For the actions, the Jews are said to be infidel because they have denied the law of God intentionally, full of deviations, and *zālim*.<sup>97</sup> Whereas the next verse *fa'ulā'ikahumu al-fāsiqūn*, according to Ibn Kathīr in the perspective of *siyāq al-kalam*, seems to be aimed at Christians who if they do not follow the law in the Gospel then

<sup>92</sup> Black, *Pemikiran Politik Islam*, 87.

<sup>93</sup> al-Qurṭubī, *al-Jamī' li Aḥkām al-Qur'ān*, 124.

<sup>94</sup> Ibid.

<sup>95</sup> Ibid.

<sup>96</sup> Ibn Kathīr, *Tafsīr al-Qur'ān*, 120.

<sup>97</sup> Ibid.

they are *fāsiq*. It means that they are out of obedience to God, inclined to falsehood, and leave the truth.<sup>98</sup> There is an interesting point here where Ibn Kathīr mentions the history of bribery which was considered an adverse act, so that it was classified as the act of *kufr*.<sup>99</sup> This shows that although Ibn Kathīr interpreted theologically, it also contained political elements.

In the time of Qurṭubī and Ibn Kathīr, political conditions changed. After the fall of the Abbasid dynasty, the Muslim world split into regional empires. The idea of uniting religious and political affairs re-emerged in the 12th century to the 15th century AD. In this endeavor, the Muslim scholars fully had a critical role in defining the legal structure, and then helping to implement these messages. The culmination of sharia-based governance took place during the three modern post-Abbasid Islamic empires, namely the Ottoman dynasty, Safavi dynasty, and Mughal dynasty. However, the Ottoman dynasty centered in Turkey became the most prominent dynasty known as the *Khilāfah Islāmiyyah*.<sup>100</sup> So, with this political condition it is not surprising if the interpretation of Qurṭubī and Ibn Kathīr against surah al-Mā'idah: 44-47 is a bit of a political element.

#### *Surah al-Mā'idah: 44-47 in the Modern Period*

Moving into modern times, Mawdudi and Sayyīd Quṭb are examples of Muslim scholars who study in depth this verse. Sayyid Qutb and Mududi are among the generation of Islamic *mujaddid* (reformist) who provided momentum for the rise of the Muslim Brotherhood movement which was established in Egypt in 1928 by Hasan al-Banna. They rejected the secularization effort and invited back to the Islamic system.<sup>101</sup>

According to Qutb, based on surah al-Mā'idah: 44-47, it is not justified for someone to say that the sharia made by man is more important or equivalent to the sharia of Allah. This problem is related to the issue of *kufr* and faith, the issue of *jāhiliyyah* or

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<sup>98</sup> Ibid., 126.

<sup>99</sup> Ibid., 119.

<sup>100</sup> Voll, *Politik Islam*, 38.

<sup>101</sup> Black, *Pemikiran Politik Islam*, 577.

Islam.<sup>102</sup> As long as the law in Islam is not applied then he/she *iskuf* and *jāhiliyyah*. It is a condition whenever there are elements of legislation that return it to human lust. In the sense that if a country makes a sharia for humans then this condition is *jāhiliyyah*. The consequence of this interpretation is the Islamic government (an Islamic state) which has a general sharia for humans, as the God wants.<sup>103</sup>

According to Qutb, this verse is general which is seen in the pronunciation of *man* as *isim ishārah* and the number of conditions thereafter. The law applies generally to all people who do not decide cases with what Allah has revealed at any time and from any nation.<sup>104</sup> The first problem set by the God is the principle of equality in legal matters such as in *qisās* in surah al-Mā''idah: 45. There is no other sharia besides the sharia of Allah which recognizes the equality between the human soul despite the different positions, nationalities and tribalities.<sup>105</sup> This explanation ends with the declaration that *kāfir*, *zālim*, and *fāsiq* attributed to anyone who does not decide the case according to what Allah has revealed from any generation and class or nation.<sup>106</sup>

The next interpreter, Mawdudi, used the discussion on this verse as a starting point for building his theory of Islamic governance. In one of his books, the Essence of the Qur'an, it is explained that the correct form of government for mankind according to the Qur'an is based on this verse, namely the government in which the state places its basic laws under the laws of God and His Messenger. It also put the head of state under the supervision of Allah the Just. A Muslim is not permitted to obey his own will in doing everything that has been determined by Allah and the Prophet. So, whoever does it means he/she is *kāfir*.<sup>107</sup> According to Mawdudi, this verse refers to people who use their power of mind in the efforts of Islamic reform. They replace the

<sup>102</sup> Sayyīd Quṭb, *Fī Zilāl al-Qur'ān* (Beirut: Dār al-Iḥyā', n.d.), 725.

<sup>103</sup> Ibid., 729.

<sup>104</sup> Ibid., 738–740.

<sup>105</sup> Ibid., 741.

<sup>106</sup> Ibid., 746.

<sup>107</sup> Abu A'la al-Mawdudi, *Esensi al-Qur'an: Filsafat, Politik, Ekonomi, dan Etika*, trans. Ahmad Muslim (Bandung: Mizan, 1994), 87.

truths listed in the Book of God with lies, deception, and so on. Although Mawdudi alluded to the specific context of this verse in relation to Jews, he discussed it in the context of an Islamic state.<sup>108</sup>

The verses 44-47, according to Mawdudi, are the facts that all prophets are Muslims and the core of the sharia is the same. Thus, this verse applies to all humans. So that anyone who is not judging by the law revealed by Him; he/she *iskāfir* due to his rejection of the law of Allah, he/she is *zālim* due to his unjust attitude because it violates the perfect law of Allah's justice and evenness, and he/she is *fāsiq* because it has exceeded the limits of God's law and take the law yourself.<sup>109</sup>

The 'political' interpretations of the two interpreters were inseparable from the political conditions at that time. The 18th century is often seen as a dark century of Islamic history. This picture stems from the divisions that occur in the sultanate government and the general decline in the Islamic world.<sup>110</sup> A series of military and political defeats forced Muslims to re-examine their views. In this period, there were further attempts to introduce Western techniques into the Ottoman system by carrying out a reformation which was imitating Europe. This imitation was first in the military and government bureaucracy, and finally culminated with the adoption of secular political ideology and ideology.<sup>111</sup> In the reform program, Islamic institutions are challenged by the establishment of similar institutions supported by modern institutions, and inspired by European ideas and concepts. In this way, traditional institutions in Islam are slowly turned off through the process of secularization, i.e. the separation of religion from state institutions and functions.<sup>112</sup>

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<sup>108</sup> Abu A'la al-Mawdudi, "Tafhim al-Qur'an: The Meaning of the Qur'an," accessed February 26, 2017, <http://www.englishtafsir.com/Quran/5/index.html>.

<sup>109</sup> Ibid.

<sup>110</sup> Voll, *Politik Islam*, 66.

<sup>111</sup> Azyumardi Azra, *Transformasi Politik Islam: Radikalisme, Khilāfah, dan Demokrasi* (Jakarta: Paramadina Group, 2016), 29.

<sup>112</sup> Ibid., 30.

The response of the Muslim scholars themselves to European strength and domination ranges from rejection to adaptation.<sup>113</sup> First, conservatives group who tend to support the idea of separating religion from politics because for them Islam is only within the limits of moral and personal problems. They turned to the West to renew the socio-political aspects of their lives. Nevertheless, this group always maintains that taking secularism does not mean that the Turks left Islam.<sup>114</sup> Second, the generation of Islamic *mujaddid* (reformist) who seeks to unite and strengthen Muslim society through renewal of faith and society itself. They are developing a reinterpretation or reformation of Islamic heritage to answer the challenges of the West and modern life in the political and cultural fields. They try to show suitability of Islam for modern ideas and institutions.<sup>115</sup>

Sayyid Quṭb and Mawdudi belong to the opposing group. Therefore, their interpretation of al-Mā'ida: 44-47 is a total form of redefining the teachings of Islam to assert Islamic identity and counter the Western system. Based on the background of their lives, it is not surprising that the central doctrine in the interpretation of Sayyid Quṭb and Mawdudi is the concept of modern *jāhiliyyah*. In addition, their anti-modernism stance is caused by their shock at the rise of racism and sexual freedom in the West. Progress in the West is solely as progress in production, organization, reason and work, not progress in social and humanitarian leadership. Their participation in the Muslim Brotherhood helped them condemn modernity and its incompatibility with Islam.

#### *The Meaning of Surah al-Mā'ida: 44-47 in the Liaison Context*

The interpretation of surah al-Mā'ida: 44-47 from the pre-modern era to the modern era continues to grow and melt along with the changing socio-political context. In its development found inconsistencies in the interpretation. This inconsistency indicates

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<sup>113</sup> Ibid.

<sup>114</sup> Mukti Ali, *Islam dan Sekulerisme di Turki Modern* (Jakarta: Djambatan, 1994), 25.

<sup>115</sup> Azra, *Transformasi Politik Islam*, 30.

that the command to judge by what Allah revealed in the context of the state administration is very particular. So, because of this particular nature it is very possible to do different interpretations when the contexts are also different.

Nevertheless, the universal value of the verse is still found in different contexts. In pre-modern times, where there is a separation between religion and politics or the union between religion and politics the emphasis is more on rejection of Jewish injustice and inequality in punishing stoning and *qisas*. Subsequent interpretations in the Modern era, even though it looks so political but the emphasis is more on the rejection of an unfair political and government system practiced by the extreme secular system. Universal value, justice and equality, will be brought in a contemporary context. The specific context is Indonesia which will be discussed in the next section.

### **Contemporary Meaning of al-Mā'idah: 44-47 in Relation to State System in Indonesia**

After knowing how surah al-Mā'idah: 44-47 is understood by the early generation and afterwards, then it is necessary to link that understanding into the contemporary context (macro context). According to Abdullah Saeed, it is necessary to highlight the problems and needs of the present which relate to the text message interpreted to determine the contemporary meaning of al-Mā'idah: 44-47.<sup>116</sup> In the contemporary era, quantitatively the issues related to the political system and constitution are the discourse of political movements both domestic and abroad about a secular state through secularization.<sup>117</sup>

So far, the term secular is defined as "worldly" and "non-religious". While secularization is defined as "seclusion" and "separation of religion from the world". The term secularization can be used to refer to various meanings of a variety of processes and can even be contradictory. Among the definitions of secularization are; takeover or deprivation of religious property

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<sup>116</sup> Saeed, *Al-Qur'an Abad 21*, 149.

<sup>117</sup> Muhammad Shahrur, *Tirani Islam: Genealogi Masyarakat dan Negara*, trans. Saifuddin Zuhri Qudsya and Badrus Syamsul Fata (Yogyakarta: LKiS, 2003), 217.

rights politically, political liberation from strict religious control, decrease in the number of adherents and quality of experience in the majority religion, and many other understandings.<sup>118</sup> The secularization theory introduced by religious sociologists around the 1950s and 1960s consisted of three main circuits. First, that secularization is a process of eliminating the hegemony of religion, with the condition of a region with a plural religion. Second, it is interpreted as religious decline. Third, it is defined as the marginalized process of religion in the modern world. However, the secularization theories introduced were now considered dead. The definition that is still considered to be in accordance with secularization now is the first definition, which is to make the country clear of religious hegemony.<sup>119</sup>

Through the policy of a secular government, it is now able to reject the existence of monopolies and privileges in certain religions.<sup>120</sup> In fact, such secularization is not possible to damage the development of religion. The role of the state is to protect, enforce and fulfill human rights. On the other hand, the state is needed to limit individual freedom in acting so as not to cause harm to the rights of others. It is demanded to be a mediator to eliminate conflict between one individual's rights and the others.<sup>121</sup>

Similar needs seem to be experienced by Indonesia. The plural and multicultural Indonesian society demand to separate religion and the state.<sup>122</sup> A multicultural society contains the potential for conflict because of the encounter of two or several foreign cultures.<sup>123</sup> In addition, the plurality in Indonesia is also assumed to contain potential conflicts or unfair competition especially inter-

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<sup>118</sup> Tore Lindholm, W. Cole Durham Jr., and Bahia G. Tahzib Lie Lie, eds., *Kebebasan Beragama atau Berkeyakinan: Seberapa jauh? Sebuah Referensi tentang Prinsip-Prinsip dan Praktek*, trans. Rafael Edy Bosko and M. Rifa'i Abduh (Yogyakarta: Kanisius, 2010), 125.

<sup>119</sup> *Ibid.*, 131.

<sup>120</sup> Robert Audi, *Agama dan Nalar Sekuler dalam Masyarakat Liberal*, trans. Yusdanidan Aden Wijdan (Yogyakarta: UII Press, 2002), 128.

<sup>121</sup> Adam Muhsin, *Teologi Konstitusi: Hukum Hak Asasi Manusia atas Kebebasan Beragama di Indonesia* (Yogyakarta: LKiS, 2015), 48.

<sup>122</sup> M. Dawam Rahardjo, *Merayakan Kemajemukan Kebebasan dan Kebangsaan* (Jakarta: Kencana, 2010), 180.

<sup>123</sup> *Ibid.*, 182.

religious relations. Every religion must try to maintain the purity of its faith. If so, inter-religious tension will rise. Therefore, from the perception of the theory of the state, the state is required to be fair and able to mediate against all different religions.<sup>124</sup> For the plurality and multicultural reality of the Indonesian people, the leaders of the Indonesian movement demanded the establishment of a secular state since the mid-30s. This led to a polemic and heated debate between secular nationalists and Islamic nationalists.<sup>125</sup> The difference in views eventually resulted in a compromise formulated in the Jakarta Charter text which essentially stated that the Indonesian state was based on five principles proposed by Soekarno in the session of the Indonesian Independence Preparatory Investigation Board (BPUPKI) which was later called Pancasila.<sup>126</sup>

The reality of the current state, secular or not, is not able to be used as a benchmark whether the form of a particular state is in accordance with the spirit of surah al-Mā'idah: 44-47. The development of history witnessed the form of the state has its positive and negative sides. The theocracy state that is desired by most Muslims today does not always provide welfare. Likewise, a secular state which is considered not religiously concerned, it does not always ignore the religion.

It can be concluded that the meaning of surah al-Mā'idah: 44-47 in the present era is a state that is able to become a mediator fairly and equitably so that there is no conflict between human rights. Even though it is a secular state, when it is still paying attention and protecting rights in a just and balanced manner, as Indonesia aspires to, it can be said to be in accordance with the spirit of this verse. A state is called a pagan state or a *jāhiliyyah* state when individual rights are oppressed. Even though it is an Islamic state but when its power is used to be dictatorial then it can be said to be an infidel state.

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<sup>124</sup> Ibid., 186.

<sup>125</sup> Ahmad Suhelmi, *Polemik Negara Islam: Soekarno vs Natsir* (Jakarta: UI Press, 2011), 1.

<sup>126</sup> Rahardjo, *Merayakan Kemajemukan*, 124.

## Conclusion

There are two conclusions of this paper. First, surah al-Mā'idah: 44-47 arises in connection with the situation of the *jāhiliyyah* political system which tends to ignore justice and equality. It is due to the tradition of '*asabiyyah*' rooted in its society which is specifically found in the conflict between the *Qurayzah* and *Naḍir* tribe. Therefore, this verse belongs to the instructional value which contains temporal and universal values. Based on the consideration of the frequency of its mention in the Qur'an, the emphasis in the Prophet's preach, and its relevance to the Prophet's preach, the command in this verse, i.e. to judge by what Allah revealed (Torah) is temporal. Whereas the universal meaning of this verse refers to its historical meaning is the justice and equality of the Prophet in mediating the conflict of the people of Medina, or specifically the conflict between *Qurayzah* and *Naḍir* tribe.

Second, the inconsistency of interpretation in mediating context strengthens the temporal nature of this verse. When this verse is linked to the political system and contemporary state administration, the contemporary meaning of this verse is a country that is able to be a fair mediator among its people so that there is no conflict between rights and obligations. Even if it is a secular state when it is able to become a mediator fairly and equally among its people. It can be said to be in accordance with the value of this verse. Otherwise, even though it is an Islamic state, but when its power is abused, it can be said to be opposite with the value of this verse.

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