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Islam and Trans-Border Humanity: Humanitarian Intervention in the Perspective of Islam

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ABSTRACT:

This paper is trying to find the connection between humanitarian intervention and the basic value of Islam. Humanitarian intervention is the current controversial international law phenomena because it is categorized as an action which violated the sovereignty of another state. Humanitarian intervention defined as an intervention performed by a state or a group of states towards another state with the aim to stop or prevent a humanitarian crisis caused by widespread crimes against humanity and gross violations of human rights. There is a strong connection between the basic value of Islam and humanitarian intervention, especially in the context of humanity. Islam is a religion that respects humanity even if it is only a single soul, in the Quran chapter of Al Maidah verse 32 mentioned that whoever kills a soul unfairly it is as though he had killed all mankind. There are also many sources of Islamic law mentioned the importance of humanity even in the war condition. This paper uses traditional descriptive comparisons between humanitarian intervention and Islam, examine the basic principles of humanitarian intervention and compare it to Islamic law and ethics. The Islamic value is still relevant until nowadays as the guidance in human life, it is even relevant to the complexity of the current international law phenomena like humanitarian intervention.
Keywords: Humanitarian intervention, Islamic law, International Law.

INTRODUCTION

Humanity is a universal value recognized by the international community. The recognition of humanity as a universal value is reflected in several attempts by the international community to maintain humanity. The formation of the League of Nations succeeded by the United Nations (UN), declaring the Universal Declaration of Human Rights (UDHR), the creation of Rome Statute, the approval of Geneva Convention after the tragedy in the battle of Solferino, International Convention on Civil and Political Rights (ICCPR), International Convention on Economy Social and Cultural Rights (ICESC) are the series of efforts to ensure humanity upheld in international society.

The issue of humanity and international peace is a serious matter. The impact caused by the inhumane treatment and unstable international peace can impact negatively to the international community. Security disturbances caused by inhumane treatment in one state can affect the

surrounding states, even with a complex international politics, the whole state can be affected by the security disturbance.

One of the disturbances of international peace and security has occurred in the Middle East region since 2010, known as the Arab Spring, which caused a massive humanitarian catastrophe in the Arab world. The Arab Spring is a social revolutionary movement that emerged as a form of protest against governance in absolute authoritarian Middle Eastern states (Salam, 2015, p. 123). Authoritarian governments in Middle Eastern states such as the administration of President Bashar AL Asaad in Syria, President Zine El Abidine in Tunisia, President Hosni Mubarak in Egypt, are considered to cause damage to the administrative system, worsening economic conditions, unemployment, poverty, nepotism, social inequality , and violations of human rights (Salam, 2015). The growing protest movement that tried to be suppressed by violence led to greater resistance. Syria became part of the most complicated Arab Spring, the oppression of the Syrian government through its armed forces turned the protest movement into an armed resistance movement. The time of conflict in Syria became the most complex conflict in the Middle East.

Besides the political impact, the Arab Spring also caused armed conflict as has happened in Syria which resulted in a humanitarian catastrophe that is still ongoing with an estimated death toll reaching 470,000 (The Guardian, 2018). Prolonged armed conflict in the Middle East received attention from other states and the United Nations (UN). Prolonged armed conflict resulted in a humanitarian disaster that claimed hundreds of thousands of lives. The humanitarian disaster in Syria provoked a strong reaction from member states of the United Nations which urged the United Nations to take decisive action in the form of actions aimed at saving humanity. One way to stop an increasingly worst humanitarian disaster is by imposing a humanitarian intervention policy.

The tragedy in the Middle East is not burdened to one state or certain group of states, it is the obligation of the international society to end the humanitarian disaster. However, to stop the humanitarian disaster in the Middle East is not an easy task because it is absolutely related to the matter of the perception about the absolutism of state sovereignty. Sovereignty is always defined as absolute rights of one state to do anything in its territory and the other states are not allowed to intervene its internal affairs. Humanitarian intervention is becoming one of the solutions to stop the humanitarian disaster, because the aim of humanitarian intervention is solely only to stop atrocities not to do aggression.

Humanitarian intervention is recognized as one of the contemporary international law phenomena. The main concept of humanitarian intervention is the value of humanity. It is imposed to save the humanity from the humanitarian disaster caused by an inhumane policy by one state. In brief, one state or a group of state mobilizing its armed forces to the territorial of another state with the aim to end a massive humanitarian tragedy.The concept of humanitarian intervention is on the same line with the basic principles of Islam related to the humanity value.

Islam is closely related to the value of humanity. The city of Mecca and Medina witnessed the early spread of Islam by the prophet Muhammad. Prophet Muhammad preaching Islam through the way of humanity, put the dignity of a human being as one of the most important value in the community. The values taught by Islam uphold the principle of protecting, loving others, and helping one another in good. If fellow human beings, especially fellow Muslims, are affected by a disaster that threatens their lives, then it is an obligation for other Muslims to help overcome the chaos and tragedy.

Islam has a value that upholds the dignity and human rights. Any violations of human rights are a logical reason to make a number of efforts in order to guarantee the achievement of these rights, including by conducting humanitarian interventions to avoid and overcome humanitarian crises and tragedies (Utami, 2016, p. 42).

Based on the description about the humanitarian intervention and Islam, there may be a connection between related to the humanity value. Humanitarian intervention as a contemporary concept and Islam as a religion from the 7th century. This paper is trying to find more about the connection between humanitarian intervention and Islam, using a traditional descriptive comparison based on the source from the international law related to the humanitarian intervention and the source of Islamic teaching related to the basic principle of humanity.

This paper is aimed to give more information about the universality of the Islamic teaching and the relevance of the Islamic teaching even with the newly phenomena in international law.

Humanitarian Intervention and Islam

The Nature of Humanitarian Intervention

Humanitarian intervention is defined as an act of using force that is across the state by one state or several states that aims to prevent or end gross and widespread violations of human rights that occur in the territory of a state without permission the state. This type of intervention

caused debate in the international community due to two main things. First, because the use of force is not justified in the legal aspect. Second, humanitarian intervention is carried out by violating the sovereignty of the intervened state. Although it violates the sovereignty which is often said to be an absolute right, humanitarian intervention in some conditions can be justified because this intervention is humanitarian.

Humanitarian intervention defined as an act of a state interfering in the affairs of another state by deploying the armed forces with the aim of forcing the intervened state to implement more humane policies. Humanitarian intervention aims to protect the basic values of human rights (Oxford, 1997, p. 217).

Humanitarian intervention is an action that can be categorized as extraordinary, because the use of actions that violate the sovereignty of a state. Therefore, strict provisions are needed for its implementation. These provisions include:

a. **There have been serious human rights violations**. Humanitarian interventions can be implemented if there are serious human rights violations, with indications based on the Rome Statute which lists the most serious crimes, including (a) Genocide crimes; (b) Crimes against humanity; (c) War crimes; (d) The crime of aggression.

b. **Crimes against humanity are widespread and systematic**, serious crimes against humanity that continuously and systematically, therefore it must be stopped by intervention.

c. **Authorization of the Security Council.** Before giving authorization, the UN Security Council will examine whether the states to be intervened threaten peace. The UN Security Council will authorize a state or UN organ or international organization to intervene. Only interventions approved by the UN Security Council are justified under international law.

d. **Carried out without another purposes or interests**. If humanitarian intervention is carried out for purposes other than as an effort to protect human rights, it can be said that the intervention is baseless and illegal (Heriyanto, 2013, p. 75).

e. Interventions must be proportional and within a certain period (Duke, 1994, p. 44).

Humanitarian intervention is different from sending armed forces for the purpose of peacekeeping. The impact of foreign relations from humanitarian intervention is greater not only damaging diplomatic relations with the state to be intervened, but also other states that have diplomatic relations. When compared, humanitarian interventions can be categorized the same as the declaration of war against other state. because the deployment of the armed forces is to deal with the armed forces of other states.

The mechanism for humanitarian intervention is not yet clearly regulated in international law, because humanitarian intervention is categorized as a threat to the sovereignty of one state. Fundamentally, the international law put sovereignty as the core rights of any state and the internal affairs of one state cannot be intervened by another state. For example, as stated in the ASEAN Charter which upholds the sovereignty of each ASEAN member state and adheres to the principle of non-intervention, it means that ASEAN member states are prohibited from interfering in the internal affairs of other member states. In Article 2 regarding the principles of the ASEAN Charter, paragraph 2 points (a), (e) and (f) are stated:

(a) respect for independence, sovereignty, equality, territorial integrity and national identity of all ASEAN Member States;

(e)   does not interfere in the domestic affairs of the ASEAN Member States;

(f)   respect for the right of each Member State to maintain its national existence free from external interference, subversion and coercion;

Based on the principles of the ASEAN Charter it is illustrated that the ASEAN Charter adheres to the principle of non-intervention, which is not to interfere in the internal affairs of other states. Any intervention on the sovereignty of ASEAN member states is a violation of the principles of the ASEAN Charter that respects the sovereignty of ASEAN member states. As part of the United Nations, ASEAN continues to recognize the UN Charter as a rule that is upheld as stated in the ASEAN Charter article 2 paragraph 2 point (j). This means that the application of the ASEAN principle of non-intervention follows the rules set by the UN Charter as an international guideline for UN member states.

The UN Charter as a guideline for state regulation at the international level also stated its principle as a charter that respects the sovereignty of the state., mentioned in Article 2 paragraph 7:

(7) *Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter.*

Stated that the UN fundamentally cannot intervene any internal affairs of any sovereign state.

However, the UN Charter also stated that the UN also has the obligation to maintain international security and peace. Furthermore, in article 2 paragraph 7 it is explained that:

...but this principle shall not prejudice the application of enforcement measures under Chapter Vll.

Chapter VII of the UN Charter in question is the part that discusses actions related to the threat of peace, violations of peace, and acts of aggression. In Chapter VII of the UN Charter it is stated that the role is carried out by the UN Security Council, mentioned in article 39:

"The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security."

Article 39 authorizes the UN Security Council to take action to prevent the threat of peace. Preventive actions begin with non-military efforts pursuant to articles 40 and 41. If non-military actions are unsuccessful, the UN Security Council may take military steps under article 42:

"Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations".

Based on the provisions in the UN Charter, humanitarian intervention may be imposed if there is a threat to the international peace and security.

Humanitarian intervention based on the provisions from the international sources is not easily implemented. There must be a concrete mechanism to make sure the humanitarian intervention achieved its objective to save humanity from tragedy. One of the concrete mechanism to

implement the humanitarian intervention occurred in 2013 when the United Kingdom intended to intervene Syria.

In 2013 the Prime Minister of the United Kingdom David Cameron, initiated humanitarian intervention against the Syrian government led by Bashar Al Assad. The Syrian government is suspected of using chemical weapons to stamp out rebels in Syria. On his way, David Cameron's initiation to intervene in the Syrian government ran aground after the UK Parliament voted in with the results of 285 members rejecting the intervention and only 272 members agreed. Initiation of intervention on behalf of humanity by David Cameron failed to materialize (BBC News, 2013).

Unlike when in 2015 David Cameron initiated an intervention against the Islamic State of Iraq and Sham, or what is often called ISIS. At the British Parliament vote, a majority of 397 members of the British Parliament approved the British armed forces to be deployed in humanitarian intervention against ISIS. The intervention in the name of humanity by the British was carried out with the deployment of the armed forces to ISIS-controlled territory. In the case of humanitarian interventions carried out by the United Kingdom, the role of the Parliament of Great Britain is seen. In the beginning, the government represented by Prime Minister David Cameron made the initiation of an intervention with all the arguments to be brought to the UK Parliament to be examined. The role of Parliament is to question all matters of intervention that will involve the armed forces, and if there is no unanimous vote of Parliament, a vote will be held to determine whether the initiation of humanitarian intervention is rejected or accepted (BBC News, 2015).

Humanitarian Intervention in The Perspective of Islam

Islam provides guidance on human life from the smallest to the biggest matter, not only containing theological matters but Islam is full set for the development of civilization. Islam is a religion of humanism, which is a religion that places great importance on humans. It is depicted in the early movement of the Prophet Muhammad, which was oriented to the problems related to the human development and fostering a society free from exploitation, oppression, domination and injustice in any form (Zainuddin, 1999, pp. 3-6).

The application of the humanity as universal value in Islam is without differentiating on certain things, even the Prophet Muhammad once showed the value of his humanity while sparing his enemy. Prophet Muhammad once helped the Quraysh when famine was afflicting Mecca, the

Prophet sent a contribution of ripe dates and 500 dinars even though in the preceding year, the Quraysh had

attacked his stronghold Medina, resulting in the martyrdom of many Muslims in the Battle of Uhud (Kamal, 2016, p. 426).

Fundamentally, the humanity value is the core in Islamic teaching. Human dignity is placed respectfully as the core principle in Islam, Islam teach to respect the life of human being even its only a single soul. As mentioned in the Quran, verse Al Maidah 32:

"Because of that, We decreed upon the Children of Israel that whoever kills a soul unless for a soul or for corruption [done] in the land - it is as if he had slain mankind entirely. And whoever saves one - it is as if he had saved mankind entirely. And our messengers had certainly come to them with clear proofs. Then indeed many of them, [even] after that, throughout the land, were transgressors" (Al-Maidah:32)

The verse Al-Maidah:32 stated that whoever kills someone without a justifiable reason, and not because that person killed someone else, or not because they did damage on earth, then by doing that it was as if he had killed all humans, because he had encouraged other humans to kill each other . On the other hand, whoever is ready to preserve and save the life of a human being, it is as if, with his behaviour, he has preserved the lives of all humans. The provisions of Surat Al Maidah 32 provide a clear description about the virtues of saving humanity, even though is only one soul. Human values are clearly describing according to the reality that there are those who do good and some who do damage, so those who do damage must be stopped (Marwan, pp. 352 - 353).

Islam in its teachings always puts forward the first step which is more preventive. Prevention of damage should be done in a more persuasive way in the first. When persuasive methods did not produce any good results, and the damage is increasingly visible, strict methods need to be taken. In accordance with the provisions in Surat Al-Hujarat: 9, namely:

"And if two factions among the believers should fight, then make settlement between the two. But if one of them oppresses the other, then fight against the one that oppresses until it returns to the ordinance of Allah . And if it returns, then make settlement between them in justice and act justly. Indeed, Allah loves those who act justly".(Al-Hujarat:9)

This verse contains a prohibition of wrongdoing between fellow believers and a prohibition for them to fight each other, and that if between two groups of believers fight each other, then the

other believers must extinguish this great ugliness by reconciling them and being perfectly mediated so that peace is realized, and they should take the path that leads to it. If the two groups make peace, then it is very good, but if one of the two commits wrongdoing against the other (group), then fight (the group) who commits the wrongdoing so that the group returns to the command of Allah, which is returned to the decree of God and His Apostles in the form of doing good and leaving bad things including fighting. This verse has an order to make peace and an order to act fairly in *shulh* (peace). The first stage prescribed in the verse is one of non-violent intervention, seeking reconciliation between the parties. This presumes a *prima facie* rights of the Muslim collectively to engage in preventive intervention, to resolve a dispute before hostilities are commenced. The second stage is the permission rather, injunction to launch a collective intervention on behalf of the aggrieved party (Hashmi, 1993, pp. 55 - 73)

Based on the opinion of Juhaya related to the principles of Islamic law, there are basic principles that illustrate the virtues of Islamic law. These principles include; the principle of tauhid (monotheism), justice, *al-amr bi al-ma'ruf wa al-nahy 'an al-munkar* (Social benefit), *al-ḥurriyah* (Freedom), *al-musawah* (Egalitarian), *al-ta' awun* (Mutual assistance) and *al-tasamuḥ* (Tolerance). Those principles provide a comprehensive view of Islam as a religion which respect humanity. The closely related principle to humanitarian intervention is the principle of social benefit, egalitarian, and mutual assistance.

The principle of *al-musawah* (egalitarian) is the equality of human values which includes beliefs that human beings are in totality equal. Therefore, no group is exaggerated than others when viewed through the elements of humanity as well as the initial process human events and their origins created by Allah. The differences contained in human life in principle are only external differences that come out of the nature, elements and events such as knowledge, character and activities. It is also based on this principle that Islamic law emphasizes the urgency of monotheism so that every Muslim is required to uphold it.

The principle of *amar ma'ruf* and *nahy munkar* (Social Benefit) is an effort in realizing social benefits that come from two dimensions. The first dimension encourages human to do good deed and at the same time give an appreciation. The second dimension prevents humans from committing evil acts and at the same time provides sanctions for the perpetrators. This principle indicates that even the smallest type of human action will still get the consequences of such actions.

The principle of *al-ta'awun* is the principle of mutual assistance because humans are social creatures who find it difficult to live alone. This principle sometimes provides facilities for

someone to do good activities and also keeps someone from committing acts that are not commendable. That is precisely the award given to someone after doing good or punishing someone after committing a crime included in the principle of *al-ta'awun* as well as helping someone to get their rights (Zein, 2015, pp. 211-212).

Based on the perspective of Islam, humanitarian intervention efforts are a useful to avoid hostility. Humanitarian intervention that is carried out without using violence can avoid creating hostility and avoid worsening the existing conflict situation. In the Qur'an it is emphasized that efforts for collective humanitarian intervention are carried out to stop hostilities, not to eliminate one party from another party in dispute. The main objective of the humanitarian intervention is solely to stop the atrocities occurred in one state because the aim of humanitarian intervention is not to conquer or to dominate the sovereignty and territorial integrity of one state.

Conclusion

There is a strong connection between humanitarian intervention and Islamic teaching, especially related to the matter of humanity. The principle of Islamic teaching is clearly about humanity, about helping each other and to prevent any humanitarian catastrophe. Humanitarian intervention as a new phenomenon in the international society is already regulated in the Islamic teaching, even though Islam is a religion from the 7th century. The basic principles of Islam related to the humanity is still relevant and may be used as the source of guidance in maintaining international peace. Islam is not limited by geographical border, Islam is universal, and the value of humanity in Islam has a trans-border characteristic. It is making humanitarian intervention and Islam is on the same line, there are no any contradictions as long as the humanitarian intervention is intended to save human life.

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