

Joseph Schacht and the Early Concept of Islamic Law Formation: A Study of Orientalist Perspectives

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ABSTRACT

Joseph Schacht, a leading orientalist, is known for his analysis of Islamic law using historical and sociological approaches. In his view, Islamic law is not merely a set of directly revealed norms, but the result of a process of historical development that is closely related to the social dynamics of Muslim society. Through extensive research, he argues that many hadith were composed or modified to support the development of Islamic law at particular times. In his view, the peak of the formation of Islamic law occurred during the time of Imam al-Shafi'i, who succeeded in systematizing the methodological framework of Islamic law. Some scholars consider his ideas to provide new insights into the development of Islamic law, while others consider his approach to be reductionist and ignores the spiritual and theological dimensions of Islamic law. Despite the controversy, Schacht's thought remains one of the important references in modern Islamic legal studies.

Keywords: Joseph Schacht, Islamic Legal Studies, Islamic Law Formation, Hadith Authenticity

ABSTRAK

Joseph Schacht, seorang orientalis terkemuka, dikenal melalui analisisnya terhadap hukum Islam yang menggunakan pendekatan historis dan sosiologis. Dalam pandangannya, hukum Islam tidak semata-mata merupakan seperangkat norma yang diwahyukan secara langsung, melainkan hasil dari proses perkembangan sejarah yang erat kaitannya dengan dinamika sosial masyarakat Muslim. Melalui penelitian yang mendalam, Ia menilai bahwa banyak hadis yang disusun atau dimodifikasi untuk mendukung perkembangan hukum Islam pada masa-masa tertentu. Dalam pandangannya, puncak pembentukan hukum Islam terjadi pada masa Imam al-Syafi'i, yang berhasil menyusun kerangka metodologi hukum Islam secara sistematis.

Sebagian sarjana menganggap gagasannya memberikan wawasan baru tentang perkembangan hukum Islam, sementara yang lain menilai pendekatannya cenderung reduksionis dan mengabaikan dimensi spiritual serta teologis dalam hukum Islam. Terlepas dari kontroversi tersebut, pemikiran Schacht tetap menjadi salah satu referensi penting dalam studi hukum Islam modern.

Kata Kunci: Joseph Schacht, Kajian Hukum Islam, Pembentukan Hukum Islam, Otentik Hadis

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INTRODUCTION

Islamic law, as one of the main pillars in the lives of Muslims, has a long history rich in dynamics and development. Its formation process not only involved theological aspects, but was also influenced by the social, political and cultural contexts that surrounded it. One of the figures who critically highlighted the early process of Islamic law formation was Joseph Schacht, a prominent orientalist who had a significant contribution to the study of Islamic law in the Western world.

Through a historical-sociological approach, Schacht proposed the controversial but influential view that Islamic law is not a direct result of divine revelation but a product of history that developed gradually. He also emphasized that the hadith, which is considered one of the main sources of Islamic law, is largely a reconstruction of post-Prophet scholars to meet specific legal and social needs.

This article aims to examine Joseph Schacht's thoughts on the early concept of the formation of Islamic law and its implications for the understanding of Islamic law from an academic perspective. By exploring Schacht's views, this article not only offers insight into the evolution of Islamic law, but also provides a critical reflection on the methods used by orientalists in the study of Islam. This study is expected to be an important contribution in enriching the discourse on Islamic law and its relevance in the contemporary era.

METHOD

This research uses a qualitative approach with a *library research* method. Data was collected through analyzing various literatures, such as books, journals, and documents relevant to the research topic. This approach was chosen to obtain a comprehensive and in-depth understanding of the phenomenon under study, based on credible and reliable written sources.

RESULTS AND DISCUSSION

Biography of Joseph Schacht

Joseph Schacht was born in Silisie, Germany on March 15, 1902. His career as an orientalist began with the study of classical philology, theology, and Eastern languages at the University of Berslauw and the University of Leipzig. He earned his doctorate from Berslauw University in 1923, when he was 21 years old. In 1925 he was appointed lecturer at the University of Fribourg, and in 1929 he was confirmed as Professor. In 1932 he moved to Kingsbourg University, and two years later he left Germany to teach Arabic and Syriac grammar at Fuad Awal University (now Cairo University) in Cairo, Egypt. He remained in Cairo until 1939 as Professor.¹

When World War II broke out, Schacht left Cairo and moved to England where he worked for the London BBC. Although he was German, he was on the British side in World War II. And when the war ended, he did not return to Germany, but stayed in England, and married an Englishwoman. In 1947 he even became a British citizen. Although he worked for the benefit of the British state and

¹Ali Mustafa Yaqub, *Hadith Criticism*, (Jakarta, Firdaus Library, 1995), pp. 19

betrayed his own homeland, the British government gave him nothing in return. As a scientist who holds the title of Professor-Doctor, in England he actually studied again at the Postgraduate level of Oxford University, until he earned a Masters (1948) and Doctorate (1952) from the university. In 1954 he left England and taught at Laiden University in the Netherlands as a Professor until 1959. Here he supervised the second printing of *Dairah al-Ma'arif al-Islamiyah*. In the summer of 1959 he moved to Columbia University in New York, where he taught as a Professor until his death in 1969.²

Joseph Schacht's Orientalistic Career

Joseph Schacht is an orientalist who is well known in Islamic studies, especially with regard to skepticism about the authenticity of the hadith. He made significant contributions to Islamic studies through his academic works and a distinguished career in leading educational institutions. The following is a breakdown of Schacht's career:³

1. University of Fribourg (1925)

Schacht began his academic career as a lecturer at the University of Fribourg, Switzerland. Here, he began to develop his interest and expertise in Islamic studies.

2. University of Königsberg (1929)

At a relatively young age, Schacht was appointed professor at the University of Königsberg (now Kaliningrad, Russia). This position demonstrated his growing reputation among European academics.

²Abdurrahman Badawi, *Mausu'ah al-Mustasyriqin*, (Bairut, Daar al-Ilmi al-Malayin, 1989), pp. 252-253.

³ Mohammad Muhtador, "Tracking the Authenticity of Islamic Law in Prophetic Hadiths (A Study of the Thought of Joseph Schacht)." *AL QUDS: Journal of Quranic and Hadith Studies* 1, no. 1, 2017, pp. 38

3. Early Fuad University/Cairo University (1932)

Schacht became a professor at Fuad Awal University (now Cairo University), Egypt. His first-hand experience of the Islamic world allowed him to delve deeply into Islamic tradition and law.

4. Oxford University (1946)

After World War II, Schacht taught at Oxford University, England, which is one of the world's leading centers of Islamic studies.

5. Leiden University (1954)

He continued his teaching at Leiden University in the Netherlands, which has a long tradition of orientalism and Arabic philology.

6. Columbia University (1957-1959)

Schacht taught at Columbia University, USA, before being appointed full professor of Arabic and Islamic studies in 1959.

His impressive academic career at leading universities demonstrates the great influence he had in the field of orientalism. However, his views on hadith continue to be a relevant subject of debate today, prompting deep discussions between tradition and modernity in Islamic studies.

Works of Joseph Schacht

In general, there are several disciplines that he wrote about. These include the study of Arabic Manuscripts, Critical Editing of Islamic Fiqh Manuscripts. Studies on the science of Kalam, studies on Islamic Fiqh, studies on the History of Science and Philosophy, and others. His most monumental work and his name is his book *The Origins of Muhammadan Jurisprudence* which was published in 1950. Joseph

Schacht's second work that is no less important among orientalists is *An Introduction to Islamic Law* published in 1960.⁴

Joseph Schacht's Thoughts on the Sunnah and His Contribution to the Understanding of Islamic Law

Joseph Schacht, an orientalist and expert on Islamic law, gave a definition of sunnah in the context of Islamic law that differs from the traditional Muslim understanding. According to Schacht, sunnah is a practice followed by early Muslim communities and recognized as a legal norm. He views the sunnah not as something that came exclusively from the Prophet Muhammad, but rather as a tradition that developed gradually in early Muslim societies, including through local and regional influences. Schacht states that sunnah in the early stages of Islam often referred to 'community customs' that pre-dated Islam, but were later absorbed and given religious legitimacy. In his view, the concept of the Prophet's sunnah as formulated in hadith only became dominant a few centuries after the death of the Prophet Muhammad, through the process of codification of hadith by scholars such as Bukhari and Muslim.⁵

Joseph Schacht's Critique of the Hadith

The early orientalist studies of Islamic traditions were not very in-depth. Initially, their focus was on the history and the source of hadith, the Prophet Muhammad. However, their doubts about the authenticity of the traditions led them to a skeptical

⁴ Cahya Edi Setiawan, "*Hadith Studies: An Analysis of the Thought of Schacht and Azami*", *Zawiyah: Journal of Islamic Thought*, Vol. 4, Number 1, July 2018, p. 3.

⁵ Joseph Schacht, *The Origins of Muhammadan Jurisprudence*. (Oxford: Clarendon Press, 1950). H. 20-23, 58-60.

approach in their study. This skepticism was deeply rooted in their tradition and became the basis for the regeneration of orientalist thinkers, whose aim was to question the validity of Islamic teachings. Figures like Joseph Schacht became an important figure in this skeptical approach. He developed the theories of his predecessor Ignaz Goldziher who doubted the authenticity of hadith in general. In his studies, Schacht used historical and sociological approaches to scrutinize hadith, especially in the context of Islamic law.

An Analysis of the Orientalist Skeptical Approach to Hadith:

a. The Skeptical Approach: Between Criticism and Bias

The skeptical approach of orientalists, though academic in nature, is often considered to contain bias. For example, Joseph Schacht and Goldziher based their theories on the assumption that many hadith originated from later generations rather than directly from the Prophet Muhammad. This is opposed by Islamic scholars, who have a strict methodology of testing the authenticity of traditions through the sanad (chain of transmission) and matn (content).

b. Influence of History and Sociology Methods

Using historical methods, orientalists tried to trace the development of hadith in terms of time and place. In sociology, they examine the social context of the hadith in search of external influences that might have affected its formation. While these approaches can enrich the study of hadith, orientalists often neglect internal Islamic perspectives such as the principle of truthfulness of narrators.

c. Schacht's Theory: Rejection of Hadith as an Early Source of Law

Schacht argued that hadith as a source of Islamic law developed only later, not since the time of the Prophet. This theory has been sharply criticized

by Islamic scholars, who argue that from the beginning the hadith has been the main guide for Muslims, as seen in the tradition of the Prophet's companions.⁶

Joseph Schacht's Analysis of the Authenticity of Legal Hadith In his study *The Origins of Muhammadan Jurisprudence* (1950), Joseph Schacht became one of the most influential orientalist in the study of Islamic legal hadith. He argued that the majority of traditions are not authentic and only a small number can be attributed directly to the Prophet Muhammad. According to Schacht, the traditions were a construct of the Muslims of the second and third centuries AH, which served as documentation of the social, religious and historical developments of Islam at that time.

An Analysis of Schacht's Critique of Hadith Authenticity:

a. Arguments on the Origin of Hadith

Schacht argues that the legal traditions emerged in response to the need of the Muslims to organize their social and religious life in the early days of Islam. He sees the traditions as reflecting the needs of the Muslim community in the post-Nabi period more than the direct revelation of the Prophet. This view is based on his analysis of the method of formulation of Islamic law which he considers to be evolutive rather than direct.

b. Doubts about the Isnad Method (Chain of Transmissions)

Schacht doubted the validity of isnad as a method of verifying hadith. According to him, the seemingly structured and systematic isnad only came into

⁶ M. Ihsan Fauzi, "*Joseph Schacht and the Theories of Hadith Skepticism and Their Refutation*", *Al-AFKAR: Journal for Islamic Studies*, Vol. 6, No. 1, 2023, pp. 15

widespread use in the second century Hijri and he concluded that the traditions using this method reflected the need for legal legitimization rather than historical fact.

c. Hadith as a Social and Historical Product

Schacht interpreted the hadith as a result of the social and political dynamics of the early Muslims. He places the hadith in a historical context, seeing it as an attempt to justify the practices and laws that developed in the Islamic society at that time.

A Critique of Schacht's Theory

A. Biased Perspective

Schacht's approach is considered too skeptical and does not take into consideration the internal Islamic tradition which has a strict methodology in ascertaining the authenticity of hadith. The science of *mustalah al-hadith* has shown how Islamic scholars verified the *sanad* and *matn* of traditions to ensure their authenticity.

B. Disregard for Other Historical Evidence

Schacht ignores the evidence from historical sources that indicate the existence of hadith that were written down or memorized from the time of the Prophet. This weakens his argument that the hadith is entirely a later product.

C. Limited Contribution to Islamic Studies

Although Schacht's critique introduces new perspectives, his views are not considered to give fair credit to the Islamic tradition. His studies are more often seen as attempts to raise doubts than to understand the Islamic legal system in depth.

Implications of Schacht's Approach

A. Challenges to Hadith Studies

Schacht's theory encourages Muslims to continue developing methods of studying hadith, both in theological and historical aspects. This is important to strengthen the scientific foundation of Islam in the face of modern academic criticism.

B. Opportunities for Methodological Reflection

Schacht's approach shows the importance of reflecting on traditional methods, especially in the face of contemporary scientific demands. However, this reflection must remain grounded in solid Islamic principles.

C. Enhancing Academic Dialogue

Schacht's critique opens a space for dialogue between Islamic tradition and Western academic studies, which can enrich the understanding of both sides. This approach allows Islamic studies to develop within a broader framework, without losing its traditional authenticity.⁷

Schacht's Theory of Hadith Inauthenticity: An Analysis of the Sanad and Methodology

Joseph Schacht, in his critique of the authenticity of the Prophet Muhammad's hadith, based his argument on three main theories: projecting back, e silentio, and common link. These theories focus on analyzing the sanad (chain of transmission) of the hadith, which he argues is often fabricated to support the legitimization of certain laws or beliefs. The following is an explanation of the three theories and their implications for the study of hadith.

A. Projecting Theory

⁷ Idris, "Orientalist Views on Hadith as a Source of Islamic Law", al-thiqah vol. 1, No. 1 October, 2018, p. 27

This theory states that many traditions are actually the result of reconstructions made by subsequent generations of Muslims and then attributed to the Prophet or companions to provide legitimacy. Schacht argues that these traditions arose out of the legal or social needs of a particular time and were "projected backwards" to appear as the teachings of the Prophet.

Criticism of this theory: This view ignores the methodology of hadith scholars, such as the science of rijal al-hadith, which is designed to verify the authenticity of the sanad and ensure that the hadith actually originated from the Prophet. It also undermines the moral integrity of the narrators in conveying the traditions.

B. E Silentio Theory

Schacht used the e silentio approach to assess the authenticity of hadith. If a tradition is not mentioned in the early sources of Islamic law he concludes that it is either inauthentic or of later origin.

Criticism of this theory: The E silentio approach is highly problematic because it assumes that the absence of a tradition in an early source automatically indicates its inauthenticity. On the contrary they may not have been recorded in early documents but were nevertheless passed on through a strong oral tradition. It also ignores the context of the development of the science of hadith writing which became widespread only in the second century Hijri.

C. Common Link Theory

This theory focuses on the role of a narrator who becomes the main transmission point of a tradition in the chain of transmission. According to Schacht, if a particular narrator becomes the "common link" of the various sanads then the tradition is most likely to have originated from that narrator and not from the Prophet.

Criticism of this theory: This theory ignores the possibility that the common link is simply a reliable narrator who authentically transmits the hadith he has received. Hadith scholars have often noted the transmitter who was at the center of the transmission of a hadith without compromising the validity of the transmission.

An Analysis of Schacht's Approach

Critique of the Validity of the Argument Schacht's theories rely too much on assumptions without considering the very strict verification mechanisms of hadith in the Islamic tradition. Scholars have long used methodologies such as sanad and matn criticism to distinguish authentic traditions from false ones. Contribution to Academic Studies Despite his controversial theories, Schacht's approach opens a space for critical dialog in hadith studies. Theories such as the common link provide new perspectives on the dynamics of hadith transmission, although their use needs to be seen as proportional and not absolute. A challenge for Muslims, Schacht's skeptical approach encourages Muslim scholars to continue strengthening methodology in hadith studies. This is important to face modern academic challenges while maintaining the authenticity of the Islamic tradition.⁸

Joseph Schacht's View of Islamic Law as a Product of History and Not a Direct Revelation from God

⁸ Cahya Edi Setiawan, "Hadith Studies: An Analysis of the Thought of Schacht and A'zami", *Journal of Interdisciplinary Islamic Studies*, Vol. 1 No. 2, December 2016, p. 277. 277.

According to Joseph Schacht, the concept of Sunnah comes from the ancient Arab tradition that later became the center of Islamic thought. He argues that the Sunnah is more like the traditions of pre-Islamic Arab society that were adapted into Islamic teachings. Fazlur Rahman interpreted Schacht's view that the Sunnah as the tradition of the Prophet only emerged in the second century AH. Prior to that, the Sunnah was not considered the property of the Prophet but the tradition of the community that developed through individual free reasoning. Schacht's opinion is in line with other orientalists, such as Goldziher, who stated that the Sunnah did not originate from the Prophet but was a transformation of pre-Islamic Arabic traditions which were then attributed to the Prophet.⁹

Schacht asserts that the term "Prophetic Sunnah" does not directly refer to the Prophetic traditions. He argues that during the time of the Prophet, the Sunnah was used as a source of law to solve the problems of the Muslim community. During the era of al-Khulafa' al-Rashidun, the Sunnah blended with the traditions of the conquered territories, resulting in a more complex Islamic legal tradition. The Umayyad period marked the beginning of the Islamization of law, with the qadhis using local customary law and administrative practices as sources of law. This process developed into legal schools (madhahib) such as Kufa, Basra, Makkah, Madinah and Sham. However, this view contradicted the scholars of hadith and ushul fiqh who believed that the Sunnah and hadith originated directly from the Prophet. In practical terms, the Sunnah has been the main reference since the time of the Prophet, serving as an explanation and complement to the Qur'an. Hadith and Sunnah are not seen as coming from outside traditions such as Judaism, Christianity or Greek philosophy, but are fully consistent with the teachings of the Qur'an. In

⁹ Idri, *Hadith Studies*. (Jakarta: Kencana, 2010). pp. 312-313.

Islam, the Prophet is positioned as a legislator who enacts laws based on revelation, rather than simply following pre-Islamic Arab traditions.¹⁰

Schacht viewed the Sunnah as local traditions that were adopted and adapted into Islamic teachings. This view deconstructs the traditional Muslim understanding in which the Sunnah is ascribed to the Prophet. This view has major implications as it leads to criticism of the authenticity of hadith and the role of the Prophet in the formation of Islamic law. Muslim scholars criticized Schacht for ignoring the historical fact that the Sunnah and hadith had been practiced since the time of the Prophet. They argued that the Sunnah is an integral part of Islamic teachings, derived from revelation and fully consistent with the Qur'ān. The assumption that the Sunnah is derived from ancient Arabic traditions is considered a reduction that ignores the originality of Islamic teachings.¹¹

The Sunnah has an extensive role in Islamic law, such as explaining Qur'anic verses, establishing new laws, and providing practical guidance for Muslims. These functions show that the Sunnah is not just a cultural tradition, but has an essential theological and normative dimension.¹²

Schacht's view highlights the development of Islamic law as a historical process influenced by various cultural, political and social factors. However, Muslim scholars assert that Islam provides unique legal guidance, distinct from the traditions of previous societies. Joseph Schacht's view of the Sunnah suggests a skeptical historical approach to Islamic sources, while Muslim scholars defend the

¹⁰ Idri. *Hadith and Orientalism Perspectives of Hadith Scholars and Orientalists on Hadith*. (Depok: Kencana, 2017). h. 103-104.

¹¹ Akhmad Minhaji. *Controversies over the Formation of Islamic Law*, translated. Ali Masrur. (Yogyakarta: UII Pres, 2001), p. 21.

¹² Fazlur Rahman. *Islam*, trans. Shonhadji. (Jakarta: Bumi Aksara, 1992). H. 72.

originality and authenticity of the Sunnah as the teachings of the Prophet. These different approaches reflect the differences in methodology and epistemology between the Islamic tradition and orientalism.¹³

CONCLUSION

Joseph Schacht was a 20th century orientalist known for his contributions to the study of Islamic law, particularly regarding the origins and development of fiqh. He argued that Islamic law was formed through the influence of local traditions and the administrative needs of the caliphate, with the Prophet's sunna being officially recognized in the second century Hijri. Schacht also challenged the traditional view by arguing that many of the traditions of the Prophet that are considered authentic came later, rather than directly from revelation. Although this theory has been criticized, especially for its perceived neglect of earlier hadith documentation and bias against Islamic tradition, some thinkers such as Fazlur Rahman have partially acknowledged Schacht's views, while affirming the importance of the sunnah. Although controversial, Schacht's theory encourages a critical approach to the sources of Islamic law and opens space for the development of alternative theories in contemporary Islamic legal studies.

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