

## APPLICATION OF FAZLUR RAHMAN'S DOUBLE MOVEMENT THEORY ABOUT MILK AL YĀMIN

**Muhammad Miftah Irfan<sup>1</sup>**

Sunan Kalijaga State Islamic University Yogyakarta  
Correspondence E-mail: [muhammadmiftahirfan@gmail.com](mailto:muhammadmiftahirfan@gmail.com)

**Fatimah Shalehah<sup>2</sup>**

Sunan Kalijaga State Islamic University Yogyakarta  
[fatimahsholihah41@gmail.com](mailto:fatimahsholihah41@gmail.com)

### ABSTRAK

Persoalan milkul yamin merupakan persoalan klasik yang telah lama ditinggalkan, namun permasalahan ini kembali menguat kepermukaan ketika seorang pemikir kontemporer, Muhammad Shahrur, mengangkat kembali permasalahan ini dan menjadikannya sebagai dasar legalitas hubungan seksual non marital. Hal ini tentu menjadi polemik dalam dunia akademis. Oleh karena itu, dalam penelitian ini memuat paparan pendapat para ulama terkait masalah milk yamin, serta memberikan alternatif penyelesaian terhadap masalah ini. Adapun jenis penelitian ini adalah penelitian kepustakaan. Penelitian ini menggunakan metode deskriptif analisis dengan pendekatan kualitatif. Sedangkan teori yang digunakan ialah teori double movement milik Fazlur Rahman. Dari penelitian ini dapat di ambil kesimpulan bahwa ayat-ayat yang melegalkan hubungan seksual antara majikan dan budak telah dinasakh-kan oleh ayat-ayat yang mensyaratkan akad bagi hubungan seksual. Adapun pendapat Muhammad Shahrur mengenai masalah milk yamin dapat dikatakan sebagai pendapat yang kurang kuat. Pendekatan yang ia gunakan (teori hudud) untuk membatasi definisi ar-riqq dan milk yamin memang suatu pendekatan baru dalam ilmu tafsir, namun ia melupakan bahwa seharusnya tidak boleh ada pertentangan dalam Al-Qur'an.

**Kata Kunci:** Double Movement, Fazlur Rahman, Milk Al Yāmin

### ABSTRACT

The issue of milkul yamin is a classic problem that has been abandoned for a long time. However, this problem came to the fore again when a contemporary thinker, Muhammad Shahrur, raised this issue again and made it the basis for the legality of non-marital sexual relations. This is undoubtedly a polemic in the academic world. Therefore, this study contains explanations of the opinions of scholars regarding the problem of milk yamin and provides alternative solutions to this problem. The type of this research is library research. This study uses a descriptive analysis method with a qualitative approach. While the theory used is Fazlur Rahman's double movement theory. From this research, it can be concluded that the

verses that legalize sexual relations between masters and enslaved people have been confirmed by verses that require a contract for sexual relations. As for Muhammad Shahrur's opinion on the issue of milk yamin, it can be said as a less strong opinion. The approach he uses (hudud theory) to limit the definitions of ar-riqq and milk yamin is indeed new in the science of interpretation. However, he forgets that there should be no contradiction in the Qur'an.

**Keywords:** *Double Movement, Fazlur Rahman, Milk Al Yāmin*

## A. INTRODUCTION

The Qur'an is a holy revelation that was revealed to humanity in the 7th century AD. Hundreds of people have tried to unravel the veil, but until now, its true meaning is still a mystery. Various methods have been applied, but instead of getting answers, the Qur'an is now becoming more and more alienated. The Islamic spirits that have been based on humanization, liberation, and transcendence now seem to be forgotten. (Shri Ahimsa Putra, 2011)

The arrival of Islam is a revolution that has played a significant role in human life history for centuries. Undoubtedly, Islam has been a sign of change, not only in theology but also socially and economically. (Ali Engineer, 2009) At the time of the Prophet, Islam was indeed a revolutionary force. Historians prove that the Prophet, a messenger of Allah, has successfully rolled out a challenge that endangered the wealthy merchants who ruled in Mekah. Not only that, but the Prophet also countered the Arab cultures at that time, which were against Islam. This includes a culture of discrimination in treating enslaved people and women.

The issue of discrimination against an enslaved person is not a trivial matter. Even after the arrival of Islam, these problems still occur. During the reign of the Umayyad Caliphate in Andalusia, a record was found

compiled by Ibn Garsiya in the 11th century. Ibn Garsiya is a writer and secretary at the court of Tai'fah, in the state of Denia. Denia, which was known as the "Slave Country" at that time, was often underestimated by other cities. The city leader, Ibn al-Mujahid was also a descendant of enslaved people. His father was a slave soldier who guarded the top brass of the caliphate at that time. Once, Ibn Garsiya received a letter from the leadership of the State of Almeria claiming he was a descendant of Banu Sarraj from Yemen. (Graham, 1995) This, of course, raises a new conclusion that the slave label will permanently be attached to someone, even though a person's social status has changed.

In addition to the discriminatory actions described above, slavery practices still occur in modern times. A fact that shocked the Islamic world was the act of the Islamic State of Iraq and Syria (ISIS) which openly announced the sale of Yazidi and enslaved Christian women they had captured in war and listed the prices of these enslaved people on its website and it is said that they had received sizable income from the sale of these female slaves. A similar situation is also carried out by the Boko Haram group (a rebel group in Nigeria), who take women captive and treat them like slaves. (Sayuti Anshari Nasution, 2015)

In the early days of Islam, enslaved people were mistreated, especially women. They are made to satisfy lust by their master. This is known as milk al-yamn. The term "milk al-yamn" is essential in Islamic studies. This term appears no less than 15 times in the Qur'an with the phrase: mā malakat aimānukum, mā malakat aimānuhum, ma malakat aimāhunna, dan mā malakat yamīnuka.(Fuad 'Abd Al-Baqi, 1992)

In its development, there are significant differences of opinion on this phenomenon. Traditional scholars view that a master is allowed to have intercourse with his slave. On the other hand, contemporary scholars think that to touch an enslaved person, that person must first marry him. From this, it can be seen that this problem is an interesting problem to study. The author chooses the theory of double movement to dissect this problem, which Fazlur Rahman owns. Fazlur Rahman, a Pakistani intellectual who grew up in America, is one of the reformers who made an original contribution to the emergence of a breakthrough in Islamic thought, especially in the field of the Qur'an in the 20th century. His reform agenda is centred on a review or reinterpretation of the Qur'an.

In order to limit the subject matter in this research, it is necessary to make a subject limitation. The subject of this research is the concept of milk al-Yamin and the application of Fazlur Rahman's theory of double movement about milk al-Yamin.

After reviewing various written works or articles, it was found that several scientific papers in the form of articles were similar to this research. However, the

previously found research has essential differences from this study. The research includes:

Beta Firmansyah, journal article with the theme "Application of Fazlur Rahman's Double Movement Theory to the Law of Choosing Non-Muslim Leaders". This article examines the law on choosing non-Muslim leaders according to Fazlur Rahman's thoughts. The author's background on this theme is based on QS Al-Maidah [5]: 51, which commands Muslims to choose leaders from the Muslim group. The method used by the author is descriptive analysis.(Firmansyah, 2019)

N. Nafisatur Rofiah, "Polygamy Perspective of Double Movement Theory Fazlur Rahman". The focus of the study in this article is on the application of polygamy in this modern era which is viewed from the perspective of Fazlur Rahman's double movement theory. The author of this article interprets Surah An-Nisa verse 3 about allowing polygamy. The writing method used by the researcher in this article is a literature review and primary and secondary sources of material. Data collection is done by documentation and content analysis.(Nafisatur Rofiah, 2020)

Imam Syarbini, "Fazlur Rahman's Double Movement Theory a Methodological Proposal in Islamic Law". This study examines the resolution of social problems in Islamic law, such as polygamy, cutting hands, liquor, and other social problems, using the modern methodology brought by Fazlur Rahman. This article explores the thoughts or ijtihad of previous scholars using the double movement theory. The research method used by the researcher in

this article is the historical-critical method, using historical, contextual and sociological approaches.(Syarbani, 2019)

M. Adib Hamzawi, "The Elasticity of Islamic Law: A Study of Fazlur Rahman's Double Movement Theory" This article examines the relevance of double movement theory as a methodology in interpreting the Koran and hadith. In this study, the researcher considers that the double movement theory is very suitable as a bridge of thinking for scientists and the public in understanding Islamic laws.(Adib Hamzani, 2016)

From the research above, it can be seen that between previous research and the research that will be studied in this article, there are essential differences, both in terms of the themes raised and the methods used. In this study, researchers focused on examining the application of the double movement pioneered by Fazlur Rahman in responding to milk Al-Yamin.

This study aims to identify and analyze the concept of milk Al-Yamin in modern times based on the perspective of the Qur'an and hadith, and the application of the double movement theory pioneered by Fazlur Rahman to the concept of milk Al-Yamin.

## **B. METHOD**

The research method used by the researcher in this writing is descriptive analysis. The type of research is library research, using a qualitative approach. Sources of materials are primary materials and secondary materials. Data collection techniques are carried out in two stages, namely the exploration stage and the focused study stage.(Muhaimin, 2020) The

exploration stage is carried out by collecting data or documents related to this research, and the data can come from books, journal articles, the web, and other sources. While in the focused study phase, researchers focus on determining what will be studied in this study. In this study, researchers focus on studying and analyzing the application of the double movement theory pioneered by Fazlur Rahman about Milk Al-Yamin.

## **C. RESEARCH OUTCOME AND DISCUSSION**

### **1. Double Movement Theory**

The double movement theory is a method of interpreting the Qur'an, which was created by a Muslim intellectual from Pakistan, Fazlur Rahman. Fazlur Rahman was born on September 21, 1919, in the Hazara region of Pakistan. This area is right in the Northwest of Pakistan. In its recorded history, this place has given birth to a series of world-calibre thinkers, such as Shah Waliyullah, Sir Sayyid Ahmad Khan, Amir Ali, and Muhammad Iqbal. As a child, Rahman was raised in a religious family based in the Hanafi school. This Sunni school is more rationalistic than the three other Sunni schools of thought, namely Maliki, Syafii, and Hanbali. Apart from receiving an education from his family, Rahman formally received secondary education at Deoband India Seminary, where his father devoted himself. Then he continued his studies at the eastern Punjab University Lahore, majoring in Arabic literary studies to get a bachelor's degree and then continued to get his master's degree and graduated in 1942. Four years later, he

continued his studies at Oxford University, England. He chose England as a place to study because he wanted a critical study of Islam, which he did not get in Pakistan or India. In 1951 he managed to achieve his PhD in Islamic Philosophy. His dissertation on the philosophy of Ibn Sina. After leaving Oxford, he chose to stay in the West and taught philosophy at Durham University between 1950-and 1958. Then he left Durham and set to work as an associate professor at the Canadian Institute of Islamic Studies at McGill University until 1961.(Adnan Amal, 1996)

His thoughts related to the theory of double movement; Fazlur Rahman was inspired by the concept of theoretical hermeneutics. Since the beginning of the emergence of hermeneutics as a method of reading the text of the Koran, it has sparked debate among the scholars of the Koran. However, they agree on the importance of a text reading methodology that can reveal the valid message of the limited Qur'anic text in the face of its infinite dynamics. In the development of hermeneutics, experts have concluded six definitions, including the science of interpretation—first, hermeneutics is a theory of interpretation of the scriptures of the Bible. Second, hermeneutics is a philological methodology. Third, hermeneutics is the science of linguistic understanding. Fourth, hermeneutics is the basic or methodological basis for the historical sciences. Fifth, hermeneutic recommendations for designing and understanding existence. Sixth, hermeneutics as interpretation. As an interpretation methodology, hermeneutics is

not only singular but also consists of various models and variants.(Yusuf et al., 2021)

As a science of theoretical linguistic understanding, Hermeneutics focuses on the general theory of interpretation as a methodology for the humanities, including the social sciences of humanity (*geisteswissenschaften*). (Bleicher, 2003)

This point of view examines the appropriate method for interpreting the text as felt or thought by the author or the author of the text so that the interpreter or reader avoids misunderstanding. This hermeneutics aims to achieve an objective and valid meaning according to the size of the author or the author of the text. In this regard, Schleiermacher, with a psychological approach, states that interpretation or understanding undergoes the mental processes of the text author or re-experiencing the mental processes of the text author.(E.Palmer, 1969)

Fazlur Rahman criticized the way of interpretation carried out by classical and medieval commentators. Rahman was of the view that the interpretation process they carried out was very tendentious, which only defended the views of certain groups and scholars so that the resulting interpretation was considered a failure in presenting the Qur'an in an integrated manner towards nature and social life. One of the interpretations that Fazlur Rahman has criticized is the thematic interpretation or maudu'i interpretation. He believes that thematic interpretation or maudui'i does not lead a student to understand the Koran about God, nature, and humans.(Khoirul Fatih, 2019)

This is in line with Dilthey's view of the historical approach, which states that meaning as a product of interpretive activity is not determined by transcendental subjects but is born from the historical reality of life (the ideality of meaning was not assigned to a transcendental subject but emerged from the historical reality). Thus, the text represents the historical condition of the author or the author of the text. The theory of double movement is the process of interpretation offered by Fazlur Rahman by manifesting the current social conditions during the revelation of the Qur'an. According to Fazlur Rahman, the Qur'an is a divine response that solves all the social problems faced by the Arabs. Contextually the problem can be drawn from the problems that occur in the present. To interpret and answer current social problems, it is necessary to study the background of the revelation of the verses relating to current problems.(Khikmatiar, 2018)

Double movement theory is a revolutionary theory that aims to get an objective meaning in a text. In this theory, Rahman wants to show that the understanding that the Qur'an wants to promote is an understanding that focuses on a comprehensive understanding (*Wéltanschauung*), not just a literal view. According to him, the Qur'an must be viewed in terms of its basic idea, namely mercy for all nature, such as justice, brotherhood and loyalty. Basically, the double movement theory is a theory that distinguishes between specific legal and moral ideas in understanding the content of the Qur'an.(Adib Hamzawi, 2016)

According to Rahman, moral values must stand side by side with basic ideas from the Qur'an. Those values are monotheism and justice.(Rahman, 1966)

The existence of the application of these moral values is considered reasonably necessary at this time, considering that these values are starting to fade due to the various interests that take part in the current Islamic contestation. As a result of these many interests, divisions within the Muslim community are inevitable. An example of this case is the split between the Ahmadiyah and Khwaja Nadzib ad-Din camps, which resulted in casualties.(Rahman, 1995)

At least in his thoughts, he criticizes three main issues that are the problems of Muslims today. First is the development of jurisprudence which has forgotten the fundamental values of the Qur'an. The current development of Islamic law is impressive, but according to Rahman, it is not the answer to the people's current problems. For example, the use of *qiyas*. He emphasized that no matter how systematic the method is, it still cannot produce a fair interpretation of the Qur'an. In fact, according to Rahman, the Qur'an is not only legal but more ethical. Therefore, he emphasized that a more comprehensive interpretation is needed.(Rahman, 1979) Second, Rahman criticizes the commentators who always interpret the Qur'an by strengthening one opinion and weakening another. He argues that this is the failure of the commentators to provide exposure to the public about how the Qur'an provides views related to the concept of divinity, the concept of humans as individuals, the concept of humans as

members of society, the universe, revelation and eschatological problems.(Rahman, 1979)

Third, Rahman criticizes the scientific dichotomy in theology, ethics (morals) and law. He thinks that the separation of the three causes the disintegration of understanding, which often leads to division.(Rahman, 1966) Based on these three things, Rahman then formulated a new method. This method is then referred to as double movement.

Method double movement is a comprehensive method with two kinds of movement. The first movement is a historical study of a verse. This means that to understand a verse, a commentator must return to the time when the verse was revealed. A commentator must understand the socio-historical context, customs and politics that occurred around the arabian peninsula at that time. Rahman uses the socio-historical method as a tool for finding related social contexts. Socio-historical is very important in providing information about people's behaviour on some issues, such as politics, economy, society, and family.(Budiarti, 2017)

In fact, according to Rahman, not only the Arabian Peninsula but also the conflicts and political conditions that occurred between Persia and Byzantium at that time. This movement is an effort to explore and systematize the general values and basic principles in verse. In comparison, a second movement is a form of application of the general premises that have been obtained from the first movement, leading to special functions adapted to the present context. This movement is based on the element of

ratio legis extracted from the previous movement. This movement is also a correction to the previous movement. If the first movement is wrong, there will undoubtedly be irregularities in the contextualization process of the verse. Besides that, it is impossible for a verse that has been separated for hundreds of years to be applied precisely the same today. So, adjustment is an absolute in the application of this second movement. In the end, carrying out these two movements is indeed not an easy thing; therefore, Rahman, in his book, asserts that this is a form of "Intellectual Jihad".(Rahman, 1995)

## **2. Concept Milk Al Yamin**

The term Milk Al-Yamin in Islam is a group of people who have lived with the Muslims and became servants or messengers for their masters, and Milk Al-Yamin is often also referred to as a slave. The term Milk Al-Yamin or slaves has long been known and applied by significant religions and nations globally, and Milk Al-Yamin does not only apply in Islam but also to other religions and nations.(Sauri, 2019)

The term slavery or slaves did not come initially from Islamic culture. The concept of enslaved people existed long before Islam was brought by the Prophet Muhammad. The arrival of Islam raised human dignity, including abolishing slavery. It can be seen that in the Qur'an, there is not a single verse that allows slavery; even if it is mentioned, the context is about liberation. Likewise, there is no evidence that the Prophet SAW made prisoners of war as enslaved people in history.(Hasballah, 2020) Slavery is a phenomenon that has occurred for centuries. In ancient Greece, enslaved

people were trained labour that was the mainstay of wealth in the economic system in Greece and Rome until the 10th century.(Nashih 'Ulwan, 2003)

Many work as labourers in mining, factories and pier construction projects, and road and bridge construction. They also work a lot on agricultural land, work as fishermen and animal breeders, and help in homes. They are also the mainstay of soldiers in the war to defend the country or their masters, while enslaved women are entertainers in the palace or public. Aristotle defines enslaved people as "living tools", and tools are simply inanimate enslaved people. The goal of an enslaved person lies not in himself but his master. For Aristotle, the role and position of enslaved people in the state are almost no different from that of domesticated animals. Awareness that slavery as a social institution ignores human rights does not appear at all in the perspective of Aristotle and Greek society in general.

Moreover, as he wants in books VII and VIII, citizens must be freed from all heavy work in an ideal state. Handwork demeans man and will hinder him from practising the virtues. In addition, a person who works as a farmer, for example, does not have the opportunity to carry out his duties as a citizen in deliberation sessions and courts. Traders, farmers and artisans are not considered actual citizens in Aristotle's ideal state. Handwork demeans man and will hinder him from practising the virtues. In addition, a person who works as a farmer, for example, does not have the opportunity to carry out his duties as a citizen in deliberation sessions and courts. Traders,

farmers and artisans are not considered actual citizens in Aristotle's ideal state. Handwork demeans man and will hinder him from practising the virtues. In addition, a person who works as a farmer, for example, does not have the opportunity to carry out his duties as a citizen in deliberation sessions and courts. Traders, farmers and artisans are not considered actual citizens in Aristotle's ideal state.(Bertens, 1999)

Such conditions have been going on for centuries, so this tradition is rooted deep into the structure of society. The closest example that occurred at the time of the Prophet was in the time of Jahiliyah. In this era, slavery that occurs can be said to be very severe. The markets in the Arabian peninsula were always filled with slaves as the main commodity, while the Quraysh were among the people who enjoyed the most from the slave trade. The Quran got enslaved people from prisoners of war between Arab tribes or which they bought from slave markets in Habsyah (for enslaved Black people) or the Caucasian region (for white enslaved people).(Bahey, 1979)

Arab aristocrats, in addition to trading enslaved people, also enslaved as goods that could be exchanged as gifts and passed on to their children and grandchildren and not infrequently made as a dowry in marriage. Besides that, many masters also married their slaves. When the enslaved person gave birth to a child for his master, he was called umm al-walad. This last condition continued until the beginning of the advent of Islam.

When viewed from the point of view of the cause, there are several reasons a

person can become a slave, including:(Sayuti Anshari Nasution, 2015)

First is heredity. Certain families are considered to be born into the world as slave families. Anyone born into that tribe and family had to continue to be enslaved and live under the tutelage of a master who owned and treated them arbitrarily with no way to get them out of that bondage.

Second, prisoner of war. War between tribes, regions and countries was widespread in ancient times; even wars can occur between two groups with different interests. The loser will legally become the slave of the victor. If the war does not end with the defeat of one party, then all the citizens of the captive party will become slaves to the party who took them captive.

Third, poverty. The economic challenge is no less big than enslaving someone. A person experiencing an economic crush has no other way but to borrow money from a rich man. If the debt cannot be paid on time, the borrower or one of his family will become slaves to the rich man. In many cases, people who experience economic hardship and do not get loans from others often sell themselves immediately or sell one of their family members to overcome the economic crash.

Fourth, commit a crime. Certain crimes, such as murder, theft and adultery, can turn the perpetrator into slavery. A person who commits murder or adultery becomes a slave to the victim's family or community members who catch him. Likewise, people who commit theft and other significant crimes will become slaves to the victim's family or community members who catch them.

Fifth, working on the land. The limited agricultural land that the community can own causes a farmer who does not have a place to work to offer himself to a landlord to work on the land owned by the landlord. In this regard, both the worker's husband, wife and children will become slaves to the landlord.

Sixth, kidnapping. It is not uncommon for a person to fall into slavery due to being kidnapped from the playground or his own home when he is deserted from parental care. This condition often occurs in children or women who are alone without being accompanied by adults who can defend them.

Seventh, revenge against one family. Differences in interests between members of different ethnic groups often result in tribal, tribal and family wars. The war can have a long tail where people who want to take revenge on their opponent's family can arrest one of their family members or ask for help from others to catch one of the family members and then become slaves.

Eighth, buy and sell. Buying and selling is the way that most people become enslaved. People who get hit economically, politically, socially and religiously can sell themselves to people in need and, at the same time, become slaves to the buyer. These conditions made the slave trade a very lucrative business. Traders looked for enslaved people as much as possible and then sold them wholesale to collectors, and collectors sold them at retail, just like commodity goods that were mostly sold in markets.

In Islam itself, Rasulullah SAW ordered someone not always to be kind to his slaves. Rasulullah SAW said:

لِلْمَمْلُوكِ طَعَامُهُ وَكِسْوَتُهُ وَلَا يُكَلَّفُ مِنَ الْعَمَلِ إِلَّا مَا يُطِيقُ

Enslaved people had the right to eat and drink. It is forbidden to burden him with a job beyond his capacity. (Husain Muslim bin al-Hajj, n.d.)

In addition, the Prophet also said:

وَلَا يَقُلْ أَحَدُكُمْ عَبْدِي وَأَمْتِي وَلْيَقُلْ فَتَايَ وَفَتَاتِي غَلَامِي

Let none of you says: 'O my male slaves, O my female slaves, but instead say: 'O my youth, my women'. (Abdullah Muhammad bin Ismail Al-Bukhari, 301 C.E.)

The many narrations regarding the defence of Islam against enslaved people still leave one crucial question: what about enslaved women who often function as sexual objects from their masters (Milk al-Yamin). Milk al-yamin is a master's contract of ownership of his slaves, whether obtained from war, buying and selling or other causes of ownership permitted by syara'. With this contract, an employer is allowed to have intercourse with his slave as stated in verse:

إِلَّا عَلَىٰ أَرْوَاحِهِمْ أَوْ مَا مَلَكَتْ أَيْمَانُهُمْ فَإِنَّهُمْ غَيْرُ مَلُومِينَ

...except for their wives or enslaved people, they are blameless verily.

A similar statement is also found in verse:

الَّذِينَ هُمْ لِأَرْوَاحِهِمْ حَفِظُوا - ٢٩  
لَا عَلَىٰ أَرْوَاحِهِمْ أَوْ مَا مَلَكَتْ أَيْمَانُهُمْ فَإِنَّهُمْ غَيْرُ مَلُومِينَ - ٣٠

.....and those who guard their private parts. Except for their wives or their slaves, they are not blameworthy.

Buya Hamka thinks that what is meant by malakat aymanukum are enslaved people obtained from war. He argues that they can have intercourse without a marriage contract. As for enslaved people, other than that, then it is unlawful and classified as adultery. In this case, the master is obliged to treat him as best he can with fairness and compassion. Therefore, the term milk al-yamin uses the diction "al-yamin" (right) as a representation of commendable traits that deserve good treatment. (Hamka, 1982)

Imam Syafi'i is of the opinion that what is meant by malakat aymanukum is a slave booty of war. He added that it is legal for a master to have intercourse with his slave, whether through a marriage contract. Al-Shafi'i also argues that if the husband of the enslaved person is held captive in the same place as him, then they are both still husband and wife based on the history of the Prophet Muhammad, who once captured men and women from Bani Mu'ahliq. Then the Messenger of Allah forbade his companions to have sex with him. In addition, the Prophet also reminded us not to have intercourse with pregnant women and holy women until their menstruation period. (Abdullah Muhammad bin Ismail Al-Bukhari, 301 C.E.)

Imam al-Samani argues that marriage is a condition for a master to have intercourse with his slave. (Al-Marzuki, 1982)

It is based on the verse:

وَالْمُحْصَنَاتُ مِنَ النِّسَاءِ إِلَّا مَا مَلَكَتْ أَيْمَانُكُمْ ۚ كَتَبَ اللَّهُ عَلَيْكُمْ ۚ وَأَجَلَ لَكُمْ مَا وَرَاءَ ذَلِكَ ۚ تَبْتَغُوا بِأَمْوَالِكُمْ مُحْصِنِينَ

عَبْرَ مُسَافِرِينَ ۖ فَمَا اسْتَمْتَعْتُمْ بِهِ مِنْهُنَّ فَآتُوهُنَّ أُجُورَهُنَّ فَرِيضَةً ۚ وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا تَرَاضَيْتُمْ بِهِ مِنْ بَعْدِ  
 الْفَرِيضَةِ ۗ إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا

Moreover, (it is also forbidden for you to marry) married women, except for female slaves (prisoners of war) whom you have as a decree of Allah upon you. Moreover, it is lawful for you other than such (women) if you try with your wealth to marry her not to commit adultery. So because of the pleasure, you have received from them, could you give them a dowry as an obligation? However, it does not matter if it turns out that some of you have given up on each other after it has been established. Indeed, Allah is All-Knowing, All-Wise. This verse shows that marrying a married woman is haraam, except for the slaves owned (illa malakat aymanukum).

A similar opinion comes from Imam al-Shawkani. He thinks that milk al-yamin can only be married if the master has married. The marriage in question is mut}'ah marriage. He based his opinion on the reading of Ubayy bin Ka'ab, 'Abdullah ibn 'Abbas, and Sa'id bin Jabir which was based on the fragment of the verse "fa-ma istamta'tum bihi minhunna fa-a tuhunna ujurahunna ..." (then on the basis of the pleasure you get from them, give them a dowry as an obligation). However, mut}'ah marriage was prohibited by the Prophet Muhammad after the war of Khaibar. (Ibn 'Ali Ibn Ahmad al-Syawkani, 2007)

A different opinion came from Muhammad Syahrur. He considers there is a fundamental difference in the use of the term "al-riqq" and "milk al-yamin". He considers that slavery (al-riqq) no longer exists in modern times. According to him,

slavery is something that injures the rights of a human being and is contrary to the Islamic concept of rahmatan lil 'alamin. Therefore, Syahrur argues that the term "al-riqq" is an ancient term whose context is qiyas with slavery in the early Islamic period. In contrast, the term milk al-yamin is used as a concept of sexual relations without an official marriage (al-Yamin). Zawaj). What is meant by official marriage here is a marriage that is oriented to building a family, preserving offspring, obtaining inheritance rights, and so on. Syahrur thinks that the verses regarding milk al-Yamin still exist and are not narrated. Syahrur also argues that to implement this, contextualization is needed, which leads to nine kinds of non-official marriages such as mut}'ah marriage, 'urfi marriage, al-muhallil marriage, misfar marriage, misyar marriage, friend marriage, marriage grants, musa>nakah marriages, and ihsan marriages. According to Syahrur, sexual relations can be said to be legal with these nine types of marriage. Therefore, he rejects the notion that milk al-yamin only includes war enslaved people because it is no longer relevant today. Moreover, marry ihsan. According to Syahrur, sexual relations can be said to be legal with these nine types of marriage. Therefore, he rejects the concept that the notion of milk al-yamin only includes war enslaved people because it

is no longer relevant today.(Hasballah, 2020)

### **3. Analysis of the Application of Double Movement Theory to the Milk Al-Yamin. Phenomenon**

The first movement: examine the phenomenon of milk al-yamin from a historical point of view to find the universal value contained in the verses about milk al-yamin.

When viewed from a historical point of view, the tradition of slavery has existed since before the advent of Islam. Historical sources state that in almost all human civilizations, evidence of remnants of the slavery tradition that prevailed in society at that time was found. According to the data, civilizations that occurred in Ancient Egypt, Mesopotamia, Babylon, Ancient Greece, Persia, Nubia, Cushites, and so on have known slavery systems. At that time, the conditions of slavery were truly appalling; a human being was treated like an animal. Men were forced to work, while women were sexually employed.(Nashih 'Ulwan, 2003)

In pre-Islamic times, various traditions were always preserved, including slavery. This kind of pre-Islamic tradition is often referred to as the jahiliyah tradition. However, after the arrival of Islam, not all of these traditions were eliminated. Islam came with goodness and spread with goodness too. So, as for traditions that are considered to be still in line, they will be maintained. Meanwhile, if there are conflicting traditions, Islam will change them slowly. This is then referred to as the concept of *tadarruj* (step by step).

In the early days of the emergence of Islam, the tradition of slavery was considered an overall social system. A person who enslaves a person is considered to have a higher social status than others. Meanwhile, his slaves are labelled as the lowest human being. The tradition of slavery was not much different from the commodities traded in the market. Therefore, when there is a war, not only property is used as spoils of war, but also enslaved people.(Nashih 'Ulwan, 2003)

After the hijrah, Islam, based on the values of freedom and equality, began to reveal its identity. During this period, massive control over the liberation of enslaved people began. One of the implementations is in the *kifarah* system; for example, a husband and wife who have sex while fasting is given the punishment of freeing enslaved people. The same thing also happens in cases of accidental murder, people who break their oaths, husbands who abuse their wives, etc.(Al-Sirjani, 2009) As for the verses that have been mentioned in the previous chapter, which relate to the permissibility of having sex with slaves without marriage, these are the verses that were revealed before the migration of the Prophet Muhammad SAW.(Amin Suma, 2019)

While the verse that can be used as a basis that marriage is a condition of sexual relations, even with a slave, is Qs. al-Nisa (4): 3 and 24. Therefore, it can be concluded that this phenomenon's universal value (moral value) is an Islamic process in elevating the dignity of slaves, which was carried out gradually following the development of society at that time.

The second movement: is to draw universal values that have been determined into the present context.

After examining the historical analysis and arguments above, it can be concluded that there is a misconception in understanding the verses related to milk al-yamin. The partial and atomistic understanding of the verse leads us to the wrong interpretation. As stated above, Islam guides humanity to uphold the degree and dignity of women. In Qs. al-Nisa'(4):24, it has been seen that Allah forbids anyone to marry a married woman except an enslaved person. This does not mean that the Qur'an demeans the position of an enslaved person. On the contrary, the Qur'an makes it clear that marriage remains a condition for sexual relations.

Based on the explanation above, what can be drawn as its significance is that we should always respect the status and degree of women. Reasons for social status such as enslaved people and enslavers are not obstacles for someone to act reasonably and in line with human rights. The struggle and obstacles have been passed by Rasulullah SAW and the previous people to eliminate the social gap that has been created over the years. These things can not necessarily disappear just because of the problem of lower social status than the others. Therefore, the term milk al-yamin, which is interpreted as a prisoner of war, is not a legitimacy for someone to have intercourse without a marriage relationship. Therefore, in substance, the status of milk al-yamin

## D. CONCLUSIONS

Slavery is a historical wound that has been rooted in human civilization. Since time immemorial, enslaved people have always been the primary commodity for the world community, including the people of the Arabian peninsula. With the advent of Islam, the existing good values can be instilled without hurting anyone, including promoting enslaved people and women. This can be done with the concept of tadarruj (step by step), which became the main pattern of da'wah at that time. The verses that legalize sexual relations between enslavers and enslaved people result from a gradual decrease in the law. Meanwhile, what Islam wants is justice, equality and brotherhood. When it is judged that the community is ready, Islam begins to show its identity. This is stated in Qs. al-Nisa' (4): 3 and 24. In this verse, it is clear that marriage is the only thing that can legalize sexual relations. This is clear evidence that Islam does not view a person in terms of social status.

## E. REFERENCES

- Abdullah Muhammad bin Ismail Al-Bukhari, A. (301 C.E.). *Sahih Al-Bukhari Juz 3*.
- Adib Hamzani, M. (2016). Elastisitas Hukum Islam: Kajian Teori Double Movement Fazlur Rahman. *Jurnal Inovatif*, 2(2), 21–22.
- Adib Hamzawi, M. (2016). Elastisitas Hukum Islam: Kajian Teori Double Movement Fazlur Rahman. *Jurnal Inovatif*, 2(2), 16.
- Adnan Amal, T. (1996). *Islam dan Tantangan Modernitas: Studi Atas Pemikiran Hukum Fazlur Rahman*. Mizan.
- Al-Marzuki, A. (1982). *Tafsir Al-Qur'an*. Dar al-Watan.
- Al-Sirjani, R. (2009). *Maza Quddam al-Islam li al-'Alam Ishamat al-Muslimin Fi al-*

- Hadarah al-Insaniyah Cet.II*. Mu'assasah Iqra'.
- Ali Engineer, A. (2009). *Islam dan Teologi Pembebasan*. Pustaka Pelajar.
- Amin Suma, M. (2019). *Ulumul Quran*. Raja Grafindo Persada.
- Bahey, M. (1979). *Al-Islam Wa Al-Riqq*. Maktabah al-Wahbah.
- Bertens, K. (1999). *Sejarah Filsafat Yunani*. Kanisius.
- Bleicher, J. (2003). *Hermeneutik Kontemporer: Hermeneutik Sebagai Metode Filsafat dan Kritik*. Fajar Pustaka Baru.
- Budiarti. (2017). Studi Metode Ijtihad Double Movement Fazlur Rahman Terhadap Pembaruan Hukum Islam. *Zawiyah: Jurnal Pemikiran Islam*, 3(1), 33.
- E.Palmer, R. (1969). *Hermeneutics: Interpretation Theory in Schleiermacher, Dilthey, Heidegger and Gadamer*. Northwestern University Press.
- Firmansyah, B. (2019). Aplikasi Teori Double Movement Fazlur Rahman Terhadap Hukum Memilih Pemimpin Non-Muslim. *Ushuluna: Jurnal Ilmu Ushuluddin*, 5(1), 48.
- Fuad 'Abd Al-Baqi, M. (1992). *Al-Mu'jam Al-Mufahras li al-Faz Al-Qur'an Al-Karim*. Dar al-Fiqr.
- Graham, C. (1995). The Meaning of Slavery and Identity in Al-Andalus: The Epistle of Ibn Garcia. *The Arab Studies Journal*, 3(1), 70.
- Hamka, B. (1982). *Tafsir Al-Azhar*. Pustaka Panjimas.
- Hasballah, K. (2020). The Milk Al-Yamin Concept as a Validity of Sexual Relationship in a Modern Context: an Analysis of Muhammad Syahrur's Thought. *Samarah*, 4(2), 348.
- Husain Muslim bin al-Hajj, A. (n.d.). *Sahih Muslim Juz 2*. Toha Putra.
- Ibn 'Ali Ibn Ahmad al-Syawkani, M. (2007). *Fath Al-Qadr: Jami' Bayn al-Fanni al-Riwa Yahwa al-Dirayah min 'Ilm al-Tafsir Cet.IV*. Dar al-Ma'rifah.
- Khikmatiar, A. (2018). Reinterpretation of The Hadit of Tashabbuh: Application of The Double Movement Fazlur Rahman's Theory in Understanding the Hadith. *ASILHA-Islamicate Intitute Pubhlishing: Journal of Hadith Studies*, 1(1), 17.
- Khoirul Fatih, M. (2019). Epistemologi Double Movement: Telaah Pemikiran Hermeneutik Fazlur Rahman. *Al-Furqan: Jurnal Ilmu Al-Quran Dan Tafsir*, 2(2), 104.
- Muhaimin. (2020). *Metode Penelitian Hukum*. Mataram Press.
- Nafisatur Rofiah, N. (2020). Poligami Perspektif Teori Double Movement Fazlur Rahman. *Mukadimah: Jurnal Pendidikan, Sejarah, Dan Ilmu-Ilmu Sosial*, 4(1), 7.
- Nashih 'Ulwan, A. (2003). *Nizham Al-Riqqfi Al-Islam*. Dar al-Salam.
- Rahman, F. (1966). *Islam*. Anchor Books.
- Rahman, F. (1979). *Islam Studies: A Tradition and Its Problem: Islamic Studies and The Future of Islam*. Undena Publications.
- Rahman, F. (1995). *Islam dan Modernitas: Tentang Transformasi Intelektual*. Pustaka Setia.
- Sauri, S. (2019). Konsep Al-Milk Al-Yamin: Sebuah Kajian Hadis Tentang Kedudukan Milk Al-Yamin Dalam Islam. *Cois: Conference Islamic Studi*, 109.
- Sayuti Anshari Nasution, A. (2015). Perbudakan Dalam Hukum Islam. *Ahkam*, XV(1), 96.
- Shri Ahimsa Putra, H. (2011). *Paradigma Profetik: Mungkinkan? Perlukah*. Sekolah Pascasarjana.
- Syarbani, I. (2019). Teori Double Movement Fazlur Rahman Sebuah Tawaran Metodologis Dalam Hukum Islam. *Jurnal Progresif*, 26.
- Yusuf, M., Nahdiyah, & Sadat, A. (2021). Fazlur Rahman's Double Movement and its Contribution to The Development of Religious Moderation. *IJISH: International Journal of Islamic Studies and Humanities*, 4(1), 51–52.