

## HUMAN RIGHTS CONCEPTUALITY IN ISLAMIC AND WESTERN REALITY TERMINOLOGY

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### ABSTRACT

*Human rights are generally understood as rights that absolutely become basic rights where people inherently have rights because of their position as human beings which include aspects of nation, location, language, religion, ethnicity, and other statuses. There is a principled difference between human rights seen from an Islamic and western point of view. In fact, the root of the problem between Islamic and Western civilizations is not from the Islamic religion or not, but because of the different structural foundations that are used as a basis for both. Islam is against the social class system in any form. Meanwhile, the West always claims that the concept of human rights originates from their civilization. On the other hand, the Islamic world also claims that this concept originates from the original teachings of Islam. In applying the principle of justification, a paradigm shift is required from the exclusionist interpretation of international human rights law. However the authors mention that the points of similarity are far more general than the differences. Points of difference do not have to be avoided, but reconstructed in order to find common ground. In this way, Islam is compatible with the dynamics and developments of the times.*

*Keywords: Conceptuality of Human Rights, Islam, West*

### ABSTRAK

Hak Asasi Manusia secara umum dipahami sebagai hak yang mutlak menjadi hak dasar dimana manusia secara inheren memiliki hak karena kedudukannya sebagai manusia yang meliputi aspek bangsa, tempat, bahasa, agama, suku, dan status lainnya. Ada perbedaan prinsip antara hak asasi manusia dilihat dari sudut pandang Islam dan Barat. Padahal, akar permasalahan antara peradaban Islam dan Barat bukanlah dari agama Islam atau bukan, melainkan karena perbedaan landasan struktural yang dijadikan landasan keduanya. Islam menentang sistem kelas sosial dalam bentuk apapun. Sedangkan Barat selalu mengklaim bahwa konsep hak asasi manusia berasal dari peradaban mereka. Di sisi lain, dunia Islam juga mengklaim bahwa konsep ini bersumber dari ajaran Islam yang asli. Dalam menerapkan asas pembenaran, diperlukan pergeseran paradigma dari penafsiran yang eksklusif terhadap hukum HAM internasional. Namun penulis menyebutkan bahwa poin kesamaan jauh lebih umum daripada perbedaannya. Titik perbedaan tidak harus dihindari, tetapi direkonstruksi untuk menemukan titik temu. Dengan demikian, Islam sesuai dengan dinamika dan perkembangan zaman.

**Keywords:** Konseptualitas Hak Asasi Manusia, Islam, Barat

## INTRODUCTION

The debate revolves around the reach and scope of the International Declaration of Human Rights, a document designed to establish an individual and national responsibility for behavior on behalf of fellow human beings regardless of religious or cultural affiliation. has raised issues that have given rise to debates in the international world view between Islam and the West (Sofwan, 2018). The concepts of Human Rights (HAM) originate from the Magna Charta in England. Magna Charta emerged about six hundred years after the birth of Islam (Abror, 2012). Gufron (2017) explains that, long before the Western world introduced human rights around the XVI-XIX centuries, Islam had already introduced the concept of human rights 1,300 years earlier, Rasulullah Muhammad Shallallahu Alaihi wa Sallam, was a revolutionary figure (Muhammad Ali, 2020) as well as the most persistent fighters for human rights enforcement throughout the universe.

Historical records prove that Islam already knows what is called human rights (Ahmad Zein, 2015) as evidenced by the existence of a concrete agreement called the Medina Charter in 622 Masehi (Sukardja, 1995). In the charter, human rights are placed in the highest position (Danil Alfaruqi, 2017). Other evidence is in the form of Muhammad bin Abdullah's speech in 632 Masehi, which is known as the Arafah Declaration (Zahri, 1983). In fact, the declaration is said to be the first written document containing human rights.

The struggle for Human Rights (HAM), which has been vociferously voiced since the 18th century, has often resulted in heartbreaking failures. The phenomenon of human rights violations that often occur inspires the Islamic world to criticize the western character in treating human rights (Abdi, 2016), so that various new formulations are born in the context of efforts to make various draft human rights laws in Islam. The Declaration on Human Rights and Their Obligations in Islam was issued by Rabithah Alam Islamy in 1979. The Universal Islamic Explanation was published by the European Islamic Council in London in 1980, the Universal Explanation for Human Rights by the European Islamic Council in London in 1981, when the Project Agreement was put forward at the Organizational Summit Conference The Islamic Conference (OIC) in Taif in January 1989 and the Declaration Project were discussed again at the 5th Human Rights Conference in Tehran in December 1989 (Abror, 2012).

Those various bitter realities, every idea and struggle, of course, are not all dark. There are still various progress that should be noted honestly, such as every effort to uphold justice and protect the universality of human rights itself. Even though various wisdoms were born in the West, in fact there are still barbaric hands that distort, betray the holy struggle to glorify human

dignity. Therefore, Al-Jabiri (2003) emphasized, the process of entrenching human rights in contemporary Islamic thought must be directed towards efforts to show universality in each of Western culture and Islamic culture, that is, it must be based on the same philosophical foundations so as to arrive at a clear point. (Ngainun Naim, 2015). Maududi (1985) emphatically states that all human rights are absolutely the gift of God, not the gift of a king or legislative body (Nasution, 2017).

At an ideal and theoretical level, the perception of the universality of human rights is indeed more interesting to adhere to and closer to the basic values in the concept of human rights, such as equality and equality. However, at the level of practical reality, it cannot be ruled out that there is quite significant diversity in the understanding of the concept of human rights among nations, existing cultural and religious traditions (Fuadi, 2022). Based on the description above, it will then become material for study in this research to analyze the perception of human rights in the reality of Islamic and Western understanding within the framework of modern terminology. Then how do efforts to understand this diversity so that human rights issues do not become obstacles and problems, but instead become glue and support for positive international relations.

## **LITERATURE REVIEW**

Based on the existing literature, the perception of the universality of human rights, viewed from a historical perspective the development of human rights thinking refers to the views of Jack Donnelly (1985) and Milne (1986) who perceive the universality of human rights from a historical perspective. natural rights (natural rights theory), that is, human rights are rights that everyone has at any time and place on the basis of their existence as human beings. Natural rights thinkers generally view that in some respects humans have equality because they have the same basic rights. The statement on equality with regard to the existence of equal basic rights is contained in the 1776 American Declaration of Independence which states "all men are created equal" (Emma, 2012).

The notion of natural rights has become a debate between pro natural rights thinkers and thinkers who are against natural rights. This debate eventually gave rise to two major different views. The claim regarding negative rights is that the individual has the right to own himself and therefore no other individual or social institution intervenes or injures an individual. This idea emphasizes respect for individual autonomy in determining their lives. then claims for positive rights emphasize that humans have the right to freedom in life, but need to be directed towards the common good to achieve a higher value in accordance with the common good considering that they are part of organisms that live in the same nature (Hayden, 2001).

The second perception is the theory of cultural relativity (cultural relativist theory) which contradicts the theory of natural rights, holding the view that human beings are a product of the socio-cultural environment. So that differences in cultural traditions among people also cause differences in thoughts and perceptions, including in terms of human rights (Matondang, 2008). According to Jack Donnelly (2003) the notion of cultural relativism postulates that culture is the only source of the legitimacy of moral rights or rules. Cultural relativism is an understanding that departs from the general idea that moral character is relative. cultural relativism emerged towards the end of the cold war as an antithesis to the universal claims of the idea of international human rights (Knut D. et al, 2015).

Cultural relativism is a strategy used by some communitarian views to defend their ideal way of life against the threat of liberal human rights. According to Howard (2000) the norm that underlies cultural relativism is nostalgia for the simplicity of the lost communitarian society coupled with the romanticization of the primitives. in general. Indirectly cultural relativism requires westerners to move further away from their values and prejudices and view other cultures from the point of view of their adherents (Riyadi, 2018). Thus cultural relativism is a method of social scientific analysis that perceives and describes social phenomena and has a conviction that no one culture or custom dominates another culture in a moral sense (Nur Afif Ardani, 2017).

Maududi (1985) classifies human rights in an Islamic view into two major classifications, namely human rights that are intended for all people and the rights of citizens in an Islamic state (Muhalling, 2018). Human rights in Islam, for example, differ from the mainstream of thought in the West. The essence of human rights in Islam is an affiliation to universal principles and manifestations of goodness, so that it can be said that Islam is a global ethic for human solidarity, while its universal principles are the theoretical basis for global ethics (Hanafi, 2001). Philosophically, Islamic thinkers view the concept of human rights as closely related to views and doctrines regarding the position and function of humans, the purpose and mission of their existence as God's creatures, all of which can be referred to the sources of Islamic teachings (Mahmood, 1993). It is theocentric in nature, meaning that it refers to Divine demands (Anggraini, 2020). Thus, human rights are a set of rights inherent in a person in his life.

## **RESEARCH METHODOLOGY**

This writing study was carried out using the library research method to analyze several related references in the form of books, journals and even other articles (Hadi, 2002). This research is different from other studies which require observation or interviews in obtaining data.

Data is processed using inductive-deductive logic. After the data is grouped, then the data is interpreted to get conclusions. The research results are not intended as a solution (solution) directly to the problems faced, because research is part of a larger problem solving effort. The function of this research is to find explanations and answers to problems as well as provide alternatives for the possibility of meeting points from the perspective of views on human rights that can be used scientifically.

## **RESULT AND DISCUSSION**

### **Conception of Human Rights at the Level of Practical Interpretation**

The rejection of the Western concept of human rights actually brought positive effects, in the form of the emergence of creativity in the form of searching for the concept of human rights in Islam. Those who make this effort believe that Islam has teachings that can guarantee the maintenance of the rights of every human being. This belief is based on the existence of teachings that are loaded with human rights. The verses of the Koran and al-hadith have touched on many related issues. Efforts to find human rights formulations are getting stronger and gaining appreciation from several Islamic countries. Several countries that are members of the Islamic Council (Islamic Council), which among others consists of Egypt, Pakistan, and Saudi Arabia, gave birth to the birth of the Islamic version of the human rights declaration. As a responsive effort, this declaration is a form of seriousness in facing global dynamics and challenges that are not easy. This formulation of human rights became known as the Universal Islamic Declaration of Human Rights (UIDHR), which was declared by the Islamic Council in London in September 1981 (Taher, 1993).

Arifin (2009) said, when viewed from a historical perspective, the process of developing human rights thinking which was then applied universally after the issuance of the Universal Declaration of Human Rights (Universal Declaration of Human Rights) on December 10, 1948 did not really involve the role of religion and religious people. , That's why it is natural that thoughts on this issue then produce differences, even opposition and resistance from existing religions. Even adherents of cultural relativism who support the contextualization of human rights tend to see the universality of human rights as western cultural imperialism. Human rights, as stipulated in the Universal Declaration of Human Rights are seen as a product of western politicians, so they are not universally applied. The reluctance to apply it broadly and thoroughly is an excuse for defending plurality based on the right to independence, so that the uniformity of human rights is seen as deprivation of independence itself (Zein, 2015).

The anthropocentric view of the Western world, humans are at the center and it must be considered as a benchmark for everything that has human rights with the reason and the fact that it is part of the center of nature. The view of Islamic theology, because God is the center, humans only have obligations to God, and humans in turn derive their rights from the obligations of those who believe in God. This is the most fundamental difference regarding the terminology of human rights in Islam and human rights which depart from the West. As can be seen from the following table:

**Table 4.1. Human Rights in Western and Islamic Perspectives**

Western Perspective	Islamic Perspective
The source is purely philosophical thought	The source is from the Qur'an and the Sunnah of the Prophet Muhammad SAW
It is anthropocentric	Theocentric
Prioritizing rights over obligations	Balance between rights and obligations
It is more individual in nature	Social interests take precedence
Humans are the benchmark or the owner of everything regarding basic rights.	Humans as creatures entrusted with basic rights by God, therefore must be grateful for and maintain them.

Source: Anggraini, 2020

Conception at the level of practical interpretation is indeed impossible to produce a common view. Precisely this difference should be appreciated constructively. Because it's a different context, another issue. A topic may cause heated debate in a country, while in other countries it is considered as a matter of course. The fundamental aspect that is important to do is how to find meeting points from these differences (Izzuddin Washil and Ahmad Khoirul Fata, 2017).

### **Human Rights As Universal Humanitarian Treasures**

The principle of the Universal Declaration of Human Rights is compared to human rights according to Islam (Suhaili, 2019), then in the Qur'an and Sunnah the following things will be found, namely:

- a. Human Dignity. In the Qur'an it is stated that humans have a high position and dignity
- b. Principle of equality. That in fact all human beings are the same, the only difference is their faith
- c. The principle of freedom of expression. Islam provides the opportunity to freely express opinions as long as they do not conflict with Islamic principles.

- d. The principle of freedom of religion. The Qur'an states that there should be no compulsion in religion and upholds freedom of religion
- e. Right to Social Security. In the Qur'an there are many verses that guarantee a minimum level and quality of life for the community

Islam teaches the importance of respect and respect for fellow human beings, because Islam is a religion that liberates and humanizes humans (Zein, 2015). Awareness of the importance of respect and respect for fellow human beings and awareness of the importance of human rights appears together with awareness of the importance of placing humans as the central point of development (human centered development). First, human rights whose existence can be implemented by a state (Islam). Second, human rights whose existence cannot be directly implemented by a state are referred to as legal rights and moral rights.

The parallel relationship between Islam and human rights is elaborated as a reality that human rights values will not conflict with other universal values. There is a meeting point (common values/kalimatun sawā) between Sharia and the concept of human rights and the human concept which calls for overall virtues. Islam is the religion of rahmatil lilālamīn (religion that protects all nature), so with this recognition, Islam respects diversity and recommends that diversity become an instrument of cooperation between humans, so that differences are sunnatullah.

In the view of Western thought, human rights are anthropocentric, which means that everything is centered on humans and Western thinking places humans in the position that humans are the benchmark for everything (Gufron, 2017). Western views also originate from philosophical thought. As in the view of socialist/communist understanding that the concept of human rights prioritizes welfare over freedom. Therefore, human rights are not sourced from natural law, but are sourced from power (government, state) so that their content and weight depend on the will of the state. Then also through a liberal understanding that human rights are recognized, upheld by the state and implemented by the government. (Imran, 2019).

### **Existence of Human Rights Debate Looking for Meeting Points**

Recognition of the existence of human rights does not appear to be final. Not a few have sued its existence, one of which is being sued is about its origins. Apart from the debate regarding its existence, human rights actually have a noble purpose, namely to wish to place human beings as they should by giving them their basic rights without any discrimination regarding ethnicity, nation, skin color, gender or religion. Humans who are deprived of their basic freedoms and

rights become imperfect in their human existence (Naim, 2015). That's why positioning humans properly is a must (Prasetyo and Sahal, 1993). Qadir (2004) even stated that human rights are a need for every human being that has existed since birth.

The conception of human rights at the level of practical interpretation is indeed impossible to produce a common view. Precisely this difference should be appreciated constructively. Because it's a different context, another issue. A topic may cause heated debate in a country, while in other countries it is considered as a matter of course (Nasir: 2013). The fundamental aspect that is important to do is how to find meeting points from these differences. The principles of equality, freedom and justice are the basic values contained in human rights that have been upheld. The implication, according to Kelsay and Twiss (1996), is that so far Islam does not yet have a theory and perception of human rights that are accepted by Muslims as something definitive and certain. This kind of reality can be understood because human rights are a phenomenon that has just emerged in modern times.

The response of Muslims to the concept of modern human rights originating from the West is divided into several views, namely; reject. This attitude is represented by a group of traditional scholars. There are those who are actively trying to change the environment in world affairs to be reinstated. This attitude is represented by militant groups of ideologues, such as Maududi, Khomeini, Hasan al-Banna, Sayyid Qutb and others. Then those who seek a synthesis between Islamic values and modern values, this response is given by modernists. Finally, Muslims who choose the West, which separates religion and state, adhere to secularism. The search for meeting points, and not points of difference, has implications for how Muslims are not just apologists, but more how to develop a productive reading of the existing reality. Through this productive reading, Muslims will be able to color the dynamics and developments of the times.

## **CONCLUSION**

Various explanations put forward above; there are at least two noteworthy conclusions that can be found. First, respect for human rights is the noble ideal of all human religions, not only Islam. As Jack Donnelly (1985) and Milne (1986) conclude, one of the interesting facts about human rights in the contemporary world is that there is a very wide consensus on their basic norms among different civilizations. Contemporary differences in human rights are more in the details than in the basic norms. Of course, there are some differences in scope between Islamic law and international human rights law, but that does not create a general antithesis between the two. Differences can truly be discussed and the noble idea of international human rights can be realized in the Muslim world if the concept of international human rights can be



reliably built on the themes of Islamic law rather than presenting it as a foreign concept in Islamic law.

The fact that a positive means of advancing any concept from within a particular culture is through the evidence support of its legitimizing principles. Although Islamic law is currently not uniformly applied in all Muslim countries, Islamic principles and norms are still part of the main legitimizing factor for cultural legal norms in almost all of the Muslim world. Since morality and substantive justice are the main principles applicable to both Islamic law and international human rights law, the principle of justification must be accommodated in designing practical harmonization of the conceptual differences between Islamic law and international law. Thus, the fiqh arguments of Islamic jurists on relevant issues are discussed here vis-à-vis modern interpretations of international human rights law.

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