

Portrait of Human Rights and Islam: An Analysis of Development, Theological Responses, and Contemporary Applications

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Abstract: Human rights issues have become an interesting debate in the dynamics of the current world political arena. Western countries use human rights issues as a political instrument against other countries, especially Muslim countries. The reality of the concept of universal human rights comes from natural law. Long before the declaration of universal human rights, the Prophet Muhammad (PBUH) had issued the charter of Medina, which was full of human rights values. The formulation of universal human rights and Islamic human rights is hardly different. In fact, it can be said to be complementary. This paper uses a descriptive-analytical method, namely, by explaining the description of the data found and analyzing it so that the results and findings of this paper can be holistic, concise, and philosophical, and can be scientifically proven based on existing reality. This paper finds that in the Islamic world, the concept of human rights aims at the benefit (maqāṣid al-sharī'ah). However, there are differences between Universal and Islamic human rights, such as the concept of women's freedom and heritage. This difference has an impact on the concept of specific human rights or relative human rights, which are limited by the culture and sociology of certain societies, especially religions that cannot be equated. The Islamic world's response to universal human rights conceptually considers that universal human rights are different from Islamic human rights principles, universal human rights are not based on religious (secular) values. Some Muslim countries are against directly rejecting and using Islamic human rights completely, such as in Iran and Saudi Arabia; and some of them accommodate universal human rights. In the Islamic world, the implementation of human rights is influenced by global political factors with the imposition of Western double standards on Muslim countries, accompanied by economic, military and media forces to pressure Muslim countries. This causes the human rights problem in Muslim countries to be not completely resolved and gives rise to a strong resistance movement to Western human rights (Islamic fundamentalism).

Keywords: Human Rights, Universal Human Rights, Islamic Human Rights, Response, Implementation.

Introduction

Human rights issues are an important agenda in the current world political dynamics. Since the end of the cold war, where the West (NATO) defeated the Communist countries marked by the dissolution of the Soviet Union and the collapse of the Berlin Wall, the issue of human rights has become a factor in determining the policy of relations between nations. Especially the foreign policies of developed countries (West) and the United States, which prioritize human rights issues as an instrument of foreign negotiation and cooperation. In fact, human rights are the main reason for the West to pressure the geopolitics of certain countries, by including military force to control countries that do not apply human rights.¹

In the context of the Islamic world, the issue of human rights is a matter that has always been debated, whether the concept of human rights discourse by the West, namely universal human rights, is in sync with the understanding of the concept of human rights in Islam, because Islam already has a concept of human rights that is expressed in the Qur'an and hadith. The formulation of human rights in Islam according to the Western view is considered inappropriate. On the other hand, there are those who think that Islamic human rights are complementary or complementary to universal human rights.² However, these concepts must be reinterpreted because these concepts are still general and temporal. The issue of human rights in the contemporary Islamic world is an interesting debate to find out how to formulate human rights in accordance with the Islamic world. Human rights issues in the Islamic world include various aspects of study, especially their relationship with universal human rights campaigned by the West. After the cold war era, the West directed the issue of human rights towards the Islamic world, which on the one hand already had religious principles and values about Human Rights.

These data show that human rights issues are interesting to study, analyze and even to be implemented in the Islamic world. Therefore, in this article, three main themes will be discussed to answer this issue.

¹In the author's analysis, human rights issues are even an excuse to secure economic interests (Western capitalists), when they feel disturbed by the economic progress of a group or state. This can be seen in the economic embargo imposed by the West against Iran, because the Iranian government is considered to be violating human rights. In fact, the issue and concept of human rights still need to be debated and proof is needed.

²The Center for Inquiry International in 2008 considered that Islamic Human Rights is complementary to the UDHR, the Center for Inquiry International, *Islam & Human Rights; Defending Universality at the United Nations*, 2008, www.centerforinquiry.net. (accessed December 20, 2024)

First, how to discourse on human rights in the context of its dynamics, meaning and formulation. Second, what is the universal human rights response in the Islamic world? Third, what is the reality of human rights implementation in the Islamic world?

To answer this question, the author uses a descriptive-analytical method, namely: by explaining the description of the data found and analyzing them according to the research questions that will be answered in this paper. This method is used so that the results and findings of this paper can be holistic, concise, and philosophical. The findings of the data can later be scientifically proven based on the existing reality.

Several literature reviews that discuss the reality of human rights, their concepts and dynamics in the Islamic world have also been discussed in several articles. Zuman Malacca "Human Rights and Democracy in the Islamic World" in the *Al-Qanun Journal*, Faculty of Sharia and Law UIN Sunan Ampel Surabaya; Achmad Suhaili "Human Rights (HAM) in the Application of Islamic Law in Indonesia", in the *Bayan STIQ Wali Songo Journal* explained that human rights in Islam are viewed more in a theocentric perspective with their own characteristics and peculiarities. Equality of rights, justice, help, and equality before the law are key principles that are highly regarded in Islamic Sharia.³ Masykuri Abdillah "Islam and Human Rights: Enforcement and Human Rights Problems in Indonesia" in the *Miqot Journal*; Yahya Ahmad Zein, "The Concept of Human Rights in Islam, in *Veritas et Justitia*, Journal of Legal Science, asserts that he rejects the assumption of some observers about the incompatibility or contradiction between Islam and human rights, especially since most Muslim countries have not yet fully protected and upheld human rights. Since the beginning of Islam, it has recognized the protection of human rights, which was then formulated by scholars with the concept of *maqashid al-shari'ah* (the purpose of *shari'ah*). As one of the Muslim countries, Indonesia in the Reform era has been committed to protecting and enforcing human rights in line with the substantive implementation of the democratic system. However, now there are still a number of problems or obstacles in the protection of human rights, both substantive, structural and cultural. The government, the House of Representatives, civil society and religious organizations have made efforts to overcome these problems and

³Zuman Malaka, "Ham dan Demokrasi dalam Dunia Islam", in *Jurnal Al-Qanun* Fakultas Syari'ah dan Hukum UIN Sunan Ampel Surabaya, Vol. 12. No. 2. 2019; Achmad Suhaili "Hak Asasi Manusia (HAM) dalam Penerapan Hukum Islam di Indonesia", dalam *Jurnal Bayan STIQ Wali Songo*, Vol. 2, No. 2. 2019.

obstacles.⁴ These writings do not contain the universal formulation of human rights in the context of the Islamic world, where the concept of human rights aims at the benefit (maqāṣid al-sharī'ah). For this reason, in this paper, it focuses on the response of the Islamic world to human rights which is universal in concept, theory and application in the Islamic world. This is what distinguishes this paper from the results of several previous studies.

Results and Discussion

Human Rights: Dynamics, Meanings and Formulations

Historically, human rights emerged and grew as a concept of thought among European historians that began from Roman jurisprudence, then became an ethical concept based on the theory of natural law. As stated by Robert Audi, the concept of Human Rights emerged in Roman law which developed into ethics through the theory of natural law.⁵ In Europe (England) in 1215 the *Magna Carta* Charter was issued, which established a limited monarchical power. The law came into force not only for the people, but also for the nobles and the royal family. The *Magna Carta Charter*, also known as *Magna Charta Libertatum* (*The Great Charter of Freedoms*), was created during the reign of King *John of England* and applied to the next reigning British kings. The main content of the document is that the king should not infringe on the property rights and personal freedoms of any one of the people.⁶ The issuance of *The Petition of Rights* in 1628 also confirmed the limitation of the king's power and the elimination of the king's right to exercise power over anyone without a clear legal basis.⁷ Then the charter of the 1689 Bill of Rights was born.⁸ Then the United States declared independence (*Declaration of Independence*) in 1776. Human rights in

⁴Masykuri Abdillah "Islam dan Hak Asasi Manusia: Penegakan dan Problem HAM di Indonesia" dalam *Jurnal Miqot*, Vol. XXXVIII No. 2 Juli-Desember 2014; Yahya Ahmad Zein "Konsep Hak Asasi Manusia dalam Islam (Mengungkap Korelasi Antara Islam Dengan HAM) dalam *Veritas et Justitia Jurnal Ilmu Hukum*, Vol. I. No. I. 2015.

⁵*The concept of right arose in Roman Jurisprudence and was extended to ethics via natural law theory. Just a positive law makers, confers legal right, so the natural confers natural right.* Robert Audi, "Hak Asasi Manusia dalam Konstitusi-konstitusi Indonesia", in *Majda El-Muhtaj* (Jakarta: Kencana, 2005), 50.

⁶*Dokumen Piagam Magna Carta*, [Http://www.bl.uk/magna-carta/articles/magna-carta-english-translation](http://www.bl.uk/magna-carta/articles/magna-carta-english-translation) (Accessed: 20/12/2024).

⁷*Piagam The Petition of Rights*, [Http://www.constitution.org/eng/petright.htm](http://www.constitution.org/eng/petright.htm) (Accessed: 20/12/2024).

⁸*Piagam Bill of Rights*. [Http://www.constitution.org/eng/eng_bor.htm](http://www.constitution.org/eng/eng_bor.htm) (Accessed: 20/12/2024).

the United States are actually inseparable from some previous formulations such as the Virginia Bill of Rights. In this declaration can be found the sentence "We hold this truth to be clear, that all human beings are created equal, that they are blessed by their Creator with certain human rights, that among these are *Life, Liberty* and the pursuit of Happiness.⁹

In addition, the Declaration on the Rights of Man and Citizen was issued in France at the outbreak of the French Revolution (1789) and was profoundly influenced by American declarations of human rights. This declaration still tries to relate the constitutionality of these rights to God. This was seen when the French National Assembly read this declaration preceded by the sentence "*in the presence of the supreme being and under his protection*".¹⁰

Although the spirit of the French revolution was so passionate about igniting the anti-Christian spirit and promoting the spirit of enlightenment (*Aufklärung*), they still based the idea of Human Rights on the nature of God. Foundationalist ideas still greatly influence the declaration of human rights and French citizenship as in the *Declaration of Independence* in the United States. By focusing on the five fundamental rights of *property* ownership, liberty, *equality*, security, and resistance to *oppression*.

It was only in the United Nations General Assembly on December 10, 1948 that the *Universal Declaration of Human Rights* was proclaimed. What is new in this declaration is that there is a shift in the basis of human rights from the nature of God to the recognition of human dignity. At the beginning of the declaration it is stated "Considering that the recognition of the inherent dignity and equal and inalienable rights of all members of society is the basis for freedom, justice, and peace in the world."¹¹

Based on this, according to Philipus M. Hadjon,¹² human rights in the Western concept are basically restrictions on the actions of the state

⁹*Declaration of Independence*. [Http://www.ushistory.org/declaration/document/index.htm](http://www.ushistory.org/declaration/document/index.htm). (Accessed: 20/12/2024).

¹⁰"*En conséquence, l'Assemblée Nationale reconnaît et déclare, en présence et sous les auspices de l'Être suprême, Suivants les Droits de l'Homme et du Citoyen*. [Http://www.legifrance.gouv.fr/Droit-francais/Constitution/Declaration-des-Droits-de-l-Homme-et-du-Citoyen-de-1789](http://www.legifrance.gouv.fr/Droit-francais/Constitution/Declaration-des-Droits-de-l-Homme-et-du-Citoyen-de-1789). (Accessed: 21/12/2024).

¹¹*United Nations, The Declaration of Human Rights*, <http://www.un.org/en/universal-declaration-human-rights/> (Accessed: 20/12/2024).

¹²Philipus M. Hadjon, *Perlindungan Hukum bagi Rakyat Indonesia* (Surabaya: Bina Ilmu, 2010), 61.

and its organs and the laying of obligations of the state to its citizens so that the principles contained in the concept of human rights are the demands of *the* rights to the state and the obligations that must be carried out by the state.

The concept of human rights further developed, not only with regard to traditional political and civil rights, but also with economic and social rights. The United Nations approved the development of this concept of human rights by ratifying three agreements, namely the *international covenant on economic, social and cultural rights*, the *international covenant in civil and political rights*; and the *optional protocol to the international covenant on civil and political rights*.¹³ According to Masykuri Abdillah, there are three generations of human rights, namely;

- a. Generation I of 1948, Human Rights with regard to civil and political rights
- b. Generation II in 1966, human rights were expanded to include *economic and cultural rights*
- c. Generation III in 1984 and 1986, human rights were further developed to include the rights of solidarity, peace and development.¹⁴

The human rights generation shows great concern for human rights. Thinking on human rights is evolving and encompasses extensive studies. It can be seen that the meaning of human rights contained in the early generation was very limited, it is understandable that the main problems faced at that time were colonialism and imperialism. So that civil and political rights are prioritized. The development of human rights seems to follow the mainstream of the problems faced by the world in every era.

When compared to Islam, long before the UN declaration of human rights or the *Magna Carta charter*, the Prophet Muhammad Saw, had given birth to the Charter of Medina¹⁵ which contained guarantees for the protection of human rights. The context of human rights in Islam

¹³Masykuri Abdillah, *Islam dan Dinamika Sosial Politik di Indonesia* (Jakarta: PT Gramedia Pustaka Utama, 2011), 16.

¹⁴Masykuri Abdillah, "Islam and Human Rights in the Muslim World", *Handout of Contemporary Islamic World*, 3. Tim ICCE UIN Jakarta, *Demokrasi, Hak Asasi Manusia dan Masyarakat Madani* (Jakarta: Prenada Media, 2003), 153.

¹⁵*Piagam Madinah*, pdf.

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=13&cad=rja&uact=8&ved=0ahUKEwiAgtGuaTKAhWEUBQKHWNak44ChAWCCcwAg&url=http%3A%2F%2Fsimbi.kemena.go.id%2Fpustaka%2Fimages%2Fmateribuku%2FTEKS%2520PIAGAM%2520MADINAH.pdf&usq=AFQjCNFh3BaKJlIagp81SCaJX6TBOlfw&sig2=ge_X_e49NguKm0lgbHS9oQ&bvm=bv.111396085,d.d2s. (Accessed: 20/12/2024).

further makes the charter of Medina as the reason for the existence of Islamic human rights that are different from universal human rights.

Human rights is a term that has emerged and been used recently, as mentioned by Nader Hashemi, *The term "human rights has only recently come into common use, as have the analogous terms huqūq-i insān in Persian, insan haklari in Turkish, and human rights in Indonesian (Indonesian).*¹⁶ In Arabic it is called *h}uqūq al-insān*.¹⁷ *Al-haq* linguistically means *athabat bila shak* (undoubted thing/something), or it is the same obligation for individuals and groups.¹⁸ In Islamic sharia, the word *al-haq* has a meaning--on the one hand-- pointing to God, because *al-haq* is one of God's names.¹⁹

"Rights" are normative elements that function as a guideline for behavior, protect freedom, immunity and guarantee opportunities for human beings to maintain their dignity and dignity²⁰. Rights are interpreted as a value that a person wants to protect himself so that he can maintain and improve his life and develop his personality (M. Timur, 1987).²¹ The term human rights and its formulation began to be popular in the new Islamic society in the early 20th century. This is because Islam emphasizes obligations rather than rights. A person's rights will be realized when the obligation has been fulfilled. The importance of human obligations has actually been realized, so on September 1, 1997, a number of important figures in the world issued *the Universal Declaration of Human Responsibilities*.

Human rights basically originate and develop from natural rights. Natural rights that have been inherent since the existence of humans on this earth. Nature is an inseparable part of human existence on earth. These natural rights are then formulated based on basic human needs in

¹⁶Nader Hashemi, Emran Qureshi, *Human Rights*. [Http://www.oxfordislamicstudies.com/article/opr/t236/e0325](http://www.oxfordislamicstudies.com/article/opr/t236/e0325). (Accessed: 20/12/2024).

¹⁷Aḥmad Rashidī uses the term *Huqūq al-Insān* and the title of the book: *Huqūq al-Insān: Dirāsah Muqārinah fī Naharīah wa Taṭbīq* (al-Qāhirah: Maktabah Shurūq al-Daulīah, 2003). In this book, the derivation of the meaning of the word *al-haq* is explained in general. Aḥmad Rashidī, *Huqūq al-Insān: Dirāsah Muqārinah fī Naharīah wa Taṭbīq* (al-Qāhirah: Maktabah Shurūq al-Daulīah, 2003), 30-33.

¹⁸Aḥmad Rashidī, *Huqūq al-Insān: Dirāsah Muqārinah fī Naharīah wa Taṭbīq*, 30.

¹⁹Aḥmad Rashidī, *Huqūq al-Insān: Dirāsah Muqārinah fī Naharīah wa Taṭbīq*, 30.

²⁰Tim ICCE UIN Jakarta, *Demokrasi, Hak Asasi Manusia dan Masyarakat Madani* (Jakarta: Pranada Media, 2003), 199.

²¹M. Fattah Santoso, *Islam dan Hak Asasi Manusia, dalam Islam, Ham, dan Keindonesiaan: Refleksi dan Agenda Aksi untuk Pendidikan Agama* (Jakarta: Ma'arif Institute, 2007), 32.

living life (*human basic needs*). This basic natural right is then often associated with natural *law* as introduced by John Locke (1632-1705).²²

The definition of human rights is limited to the aspect of protecting rights as defined by H.JM Milne that human rights as an idea are certain rights that are whether or not recognized belong to all of humanity at all times and in all places. These are rights that they have only in the nature of being human, regardless of nationality, religion, gender, social status, position, wealth, or other differences in ethnic, cultural or social characteristics.²³

The right implies an obligation, because in general a person speaks of rights when he has demands that must be fulfilled by the other party. In society, it is impossible to talk about the rights of a person or a party without directly associating that right with the obligations of another person or party. Of the number of human rights, some are considered basic. The word *asasi* contains the meaning that the subject who has such rights is humanity as a whole without distinction of status, ethnicity, customs, religion, race, or skin color, even without knowing the necessity of relevance according to time and place. Thus, human rights must be so important, fundamental, recognized by all civilizations, and absolutely fulfilled (Cf. Sidney Hook, 1987).

The right itself has the following elements²⁴: a. The owner of the right; b. The scope of the application of the right; c. The party who is willing in the application of the right. There are three forms of human rights in Islam. *First*, *basic rights (dharuri)*, something considered basic human rights if these rights are violated, not only make human beings miserable, but also lose their existence, even lose their human dignity. *Second*, *secondary rights*, namely rights that if not fulfilled will result in the loss of their basic rights as human beings. *The third* *tertiary rights* are rights that are lower than primary and secondary.

In particular, many experts since the issuance of the PPB human rights concession in 1948, Muslim scholars and intellectuals have mentioned the conception of human rights in Islam which describes rights in Islam, namely; Human rights are a gift from Allah as an integral part of one's faith. And therefore no one and no one institution can withdraw these rights. These rights are even an integral part of one's faith. All persons and all governments that claim to be Muslims must

²²Masykuri Abdillah, *Islam and Socio-Political Dynamics in Indonesia* (Jakarta: PT Gramedia Pustaka Utama, 2011), 15.

²³Masykuri Abdillah, *Islam dan Dinamika Sosial Politik di Indonesia*, 15.

²⁴Tim ICCE UIN Jakarta, *Demokrasi, Hak Asasi Manusia dan Masyarakat Madani*, 199.

accept, recognize, and exercise these rights. Respect for these human rights is based on the postulate that Allah blesses humans with a certain glory, as stated in Qs. Al-Isra verse 70.

Muslim scholars and intellectuals also support the concept of human rights with the theory that it is a manifestation of the maintenance of inevitability (*dharuriyat*) including;

- (1). Maintenance of religion (*hifz al-din*) which contains the understanding and right of religion
- (2). Maintenance of the soul, (*hifz al-nafs*) which includes the understanding as well as the right to life and security
- (3). Maintenance of reason (*hifz al-'aql*) which also contains the understanding and right to obtain education
- (4). Maintenance of property (*hifz al-maal*), which includes the right to work, property and live a decent life.
- (5). Maintenance of the nasab (*hifz al-nasb*), which contains the meaning and the right to obtain offspring
- (6). Maintenance of honor (*hifz al-'ird*), which includes the understanding and right to have self-respect.²⁵

Universal Human Rights Response in the Islamic World

Many of the great ideas regarding democracy and human rights are in line with Islamic thought. The rule of law, the basic principle of democratic leadership, in Islamic jurisprudence (*fiqh*) is very central. Centuries ago Islam recognized that every decision, rule, and procedure, of public rulers at every level is invalid or legally binding if they are inconsistent with the law (*sharia*). This is of course related to the concept of rights protection. As in any society based on democratic norms and procedures, Islamic law states that "you cannot deprive a person of life, liberty, or property except through "lawful legal process.

Islamic intellectuals do not reject universal human rights but show that human rights are already known in Islam and are not even just rights, but inevitability that must be realized. In addition to the principle of *maqasid al-shari'ah*, there are also principles of Islamic law that must be realized. The principles of Islamic law that must be realized are justice, rahmah (compassion), wisdom (wisdom), and benefits both in relation to Allah (*hablu min allah*) and fellow humans (*hablu min nas*) and with nature. Muslim scholars and intellectuals then developed the concept with various rights as contained in the human rights declaration;

²⁵Masykuri Abdillah, *Islam dan Dinamika Sosial Politik di Indonesia*, 18-19.

1), the right to life, 2), the right to freedom of religion, 3), the right to freedom of thought and speech, 4), the right to education, 5), the right to work and property, 6), the right to work, and 7), the right to choose one's own place of residence.²⁶

Islamic law is also a strong advocate of a fair and balanced judicial process. This is a concept rooted in the Quran, the source of all sources of guidance for Muslims.²⁷

Islam also from the beginning limited the power and authority of the rulers. Limiting the authority of the state is another democratic norm. In Islamic jurisprudence, political power must be exercised within the framework of sharia. This means that the ruler must submit himself to the laws of values, and the principles of religion.

However, in some respects there is a difference between universal human rights and Islamic human rights, that is, especially about the limits of freedom and about the position of women in Islam, which in certain respects, such as in marriage and inheritance, is not entirely the same as the position of men. The fundamental difference lies in the philosophy between western countries, which are secular as the main reference in the implementation of human rights, and Muslim countries that cannot let go of the sharia aspect. So to show that Islam also highly respects human rights and at the same time compiles a formulation that is in line with sharia, in 1990 the OIC issued a Cairo declaration on Islamic human rights, despite a 13-year debate that all its members agreed to.²⁸

In addition to philosophical differences, there are also differences in the conception of human rights among Muslim countries caused by differences in the political will of a Muslim country. Many Muslim countries have tried to adjust human rights practices to suit the culture of their people. But in reality, these adjustments are more intended to justify the political system promoted by the country's government, rather than to bring this concept of human rights closer to Islamic doctrine. There is even a reason to conform to the concept of Islam, but behind that, the adjustment is intended to justify its political system and perpetuate its power.

²⁶Masykuri Abdillah, *Islam dan Dinamika Sosial Politik di Indonesia*, 19.

²⁷Chandra Muzaffar, *Hak Azasi Manusia Dalam Tatanan Dunia Baru; Menggugat Dominasi Global Barat* (Bandung: Mizan, 1995), 45.

²⁸Masykuri Abdillah, *Islam dan Dinamika Sosial Politik di Indonesia*, 15. *The Cairo Declaration of Human Rights in Islam*, [Http://www.un.org/en/universal-declaration-human-rights/](http://www.un.org/en/universal-declaration-human-rights/) (Accessed: 10/12/2024).

Are human rights universal or relative? Some opinions say that human rights are universal anytime, anywhere and by anyone. However, on the other hand, there is an opinion that human rights are a relatively simple concept because human rights are influenced and limited by religion, belief, culture and geography.²⁹ The problem of the universality of human rights lies in the understanding that basic human beings have basic rights from birth and that all human beings everywhere and at any time have them directly. On the other hand, human rights relativity is interpreted that human beings have human rights limited by space and time, especially the view of life that applies in the society in which they live, grow and develop. Especially when it is associated with religious values.

In other terms, relative human rights are also known as Particular Human Rights, the emergence of this particular Human Rights is due to the interpretation of the concept of Human Rights PPB, especially in third world countries. With the intention of adapting it to local or regional philosophy and culture and to realize national stability as a prerequisite for development. Muslim countries also tried to understand this human rights in the context of Islam, so in 1990 the countries that were members of the Organization of the Islamic Conference (OIC) which later in 2011 changed to the *Organization of Islamic Cooperation* (OIC) issued the Cairo Declaration. In this declaration it is stated that rights and freedoms are only subject to sharia (article 25).³⁰

However, human rights relativity is considered to be a concept limited to certain rights, but universally there are agreed fundamental human rights values. Among them are the right to life, the right to opinion, the right to own property. But these rights are then revealed in the rules of living together agreed upon by certain community groups whose purpose is to organize social life to be orderly and orderly, which is called religious values. Indeed, human rights relativity is opposed by groups that do not recognize the value of religious universality.

This is due to the existence of a sharia philosophy that is opposed by universal human rights groups. In fact, substantively, sharia has since the beginning included this idea of human rights. The scholars even make it the main goal (*maqashid al-shari'ah*). However, because this sharia philosophy is different from universal human rights, there are differences, according to some observers, considered contradictory. In the formulation of human rights in the classical period, human rights are indeed not human rights but *al-dhururiyah* (inevitability, *necessities*) or obligations that must be realized.³¹ The main purpose of legislation in Islam is to realize the benefits of mankind by

²⁹On whether human rights are universal or relative can be seen in the description, Debra I. Delaet, *The Global Struggle For Human Rights: Universal Principles In World Politics* (Canada: Thomson, 2006), 44.

³⁰Masykuri Abdillah, *Islam dan Dinamika Sosial Politik di Indonesia*, 16.

³¹Masykuri Abdillah, *Islam dan Dinamika Sosial Politik di Indonesia*, 17.

protecting and realizing the things that are their necessity (*dharuriyat*), as well as fulfilling their needs (*hajjiyat*) and decoration (*tahsinīat*).

Although human rights are universal, in practice there are variations, especially between liberal and socialist countries. Liberal countries give priority to civil and political rights, while socialist or communist countries give priority to economic and social rights.³²

Human rights issues in the Islamic world were initially about the debate on the principles contained in human rights according to the West, especially the Magna Carta charter, some Muslims argued that the human rights content contained in the Magna Carta was contrary to Islamic principles. As Nader Hashemi says,³³ in the 19th century during the early debates a distinction developed between inheriting Islamic doctrine and modern norms of rights, particularly regarding the equality of Muslims and non-Muslims before the law, as European powers pressed for the elimination of traditional handicaps imposed on non-Muslims.

Furthermore, the Islamic world embraces the concept of human rights through two forms; *First*, by *outright rejection*. Examples of Muslim countries that use this form of response are Iran and Saudi Arabia. This refusal, according to Glenn L. Roberts³⁴, refuses to support a universal declaration of human rights or international human rights, at the lower level is incompatible with sharia and embodies unacceptable Western values. Through international economic relations and treaties, Muslim countries that maintain sharia as their basic law tend to either reject the declaration of human rights altogether or support them with various offers. *Second*, by *redefining Islam as a set of principles and guidelines rather than explicit rules and injunctions, and relegating the sharia to areas that will impact only minimally on global international affairs, i.e., family law and inheritance*. Indirect rejection through the redefinition of Islam as a set of principles and guidelines rather than explicit rules and worship, and the re-inclusion of sharia in areas that will have only a minimal impact on global international affairs, family

³²Masykuri Abdillah, *Islam dan Dinamika Sosial Politik di Indonesia*, 16.

³³Nader Hashemi, Emran Qureshi, *Human Rights*, [Http://www.oxfordislamicstudies.com/article/opr/t236/e0325](http://www.oxfordislamicstudies.com/article/opr/t236/e0325). (Accessed: 20/12/2024).

³⁴ Glenn L. Roberts, *Islamic Human Rights and International Law*, (Florida:isertation.com,2007),45.https://books.google.com/books?id=tLHOBQaDT98C&pg=PP3&lpg=PP3&dq=glenn+l+roberts,+islamic+human+rights+and+international+law&source=bl&ots=I4atqaPcr&sig=8hMF9sKplBqolupEqZIp3iEoMY4&hl=id&sa=X&ved=0ahUKEwjTivWW_pXKAhVKhhoKHUn8CykQ6AEIODAE#v=onepage&q=glenn%20l%20roberts%20c%20islamic%20human%20rights%20and%20international%20law&f=false. (Accessed: 20/12/2024).

law and inheritance. Examples of countries that use this form of response are Egypt and Morocco.³⁵

Implementation of Human Rights in the Islamic World

Human rights in the Islamic world are sourced from the Quran and Sunnah, the problem is that the interpretation of the concept of human rights enshrined in the Quran and Sunnah is different among Muslims. These differences in interpretation are related to the formulation and scope of human rights, especially when dealing with the complexity of the contemporary world and the development of humanist thought. Differences in the interpretation of the concept of human rights in the Quran and Sunnah further leads to the development of human rights sources. In the early period, scholars' interpretation of human rights was based on the Quran and Sunnah. Later, when Muslims were faced with modernization, the source of human rights developed no longer just the Quran and Sunnah. In fact, these human rights sources also include controversial Western concepts and thoughts such as the concept of gender and the rights of transgender groups.

Human rights problems in the Islamic world are influenced by several factors, including:

a. Economic Dominance

The global economy, for example, is controlled and run by a handful of elites, corporations and countries in the North. They do everything they can to ensure that their interests are protected and upheld even at the cost of other human losses and destruction.³⁶ This dominance causes global economic inequality that continues to widen. This is reflected in the gross national product over the past thirty years.

Compare that to the Global South where more than a billion people are trapped in absolute poverty. One and a half billion people are uprooted from basic health care. About one billion adults are illiterate.³⁷

³⁵Lenn L. Roberts, *Islamic Human Rights and international law* (Florida: disertation.com, 2007), 45. https://books.google.com/books?id=tLHOBQaDT98C&pg=PP3&lpg=PP3&dq=glenn+l+roberts,+islamic+human+rights+and+international+law&source=bl&ots=I4atqaPcr&sig=8hMF9sKplBqolupEqZIp3iEoMY4&hl=id&sa=X&ved=0ahUKEwjTivWW_pXKAhVKhhoKHUn8CykQ6AEIODAE#v=onepage&q=glenn%20l%20roberts%2C%20islamic%20human%20rights%20and%20international%20law&f=false (Accessed: 20/12/2024).

³⁶Consider, for example, the work of the World Bank, the IMF, the General Agreement on Tariffs and Trade (GATT), all of which are under the effective control of the group-7 (the United Kingdom, Canada, France, Germany, Italy, Japan and the United States).

³⁷UNDP data as cited by, Chandra Muzaffar, *Hak Azasi Manusia Dalam Tatanan*

As a result, predictably, the Global South became dependent on rich countries. Furthermore, through the influence of the "debt" economy, the countries of the southern world cannot fully implement human rights sovereignty according to the conception they adopt. Inevitably, they are dictated to implement biased human rights from rich countries.

b. Global Politics

Global decision-making is only carried out by powerful countries through the UN mechanism, especially the use of veto power by five countries. The United States and its allies dominate global political policy by dictating the UN security council. As Muhammad Istiaq wrote,³⁸ I have tried to point out that despite the cultural origins of the current human rights package, it is relatively advanced compared to the Muslim approach to human rights, assuming, of course, that the present form of the international social order in terms of ethnic, religious and linguistic plurality is something permanent and cannot be changed in at least the foreseeable future. The Muslim response to Western human rights has not been negative, nor is it possible to agree on many rights. The fundamental question of reconciliation is the question of morality, especially the relationship between men and women, therefore, there is no doubt that there is a difference between Western ideas and Islamic human rights. The main question that Muslims must solve today is how to reconcile with the two main ideas of the modern period, the first the more theoretical problem of separating religion from the state and the sovereign compensatory rights in the hands of the people, and the second more manifestly wrong according to the equal rights of men and women in all spheres of life. In practice the distinction between religious and profane is a clear fact, and women in increasing numbers are entering public life and service. It is clear that the Muslim approach to human rights is inconsistent. In Africa and Asia, trials in Islamic countries have always been a problem with a dramatic increase in human rights violations. On the other hand, the Muslim response to European human rights practices has been positive. As a minority community, Muslims must seek refuge from the existing framework of human rights and democratic freedoms, recognized by European countries, in order to combat discrimination, pursue their legitimate interests, and preserve their identity and dignity.

c. Military

It is undeniable that military power in the world is a powerful

Dunia Baru: Menggugat Dominasi Global Barat (Bandung: Mizan, 1995), 41.

³⁸Ishtiaq Ahmed, "Western And Muslim Perceptions Of Universal Human Rights", in "*Journal of Africa Focus*, Vol. 10, Nr. 1-2, 1994, 29-54.

instrument in controlling human rights. It is evident that military power is still concentrated in developed countries, especially permanent member states of the UN Security Council (United States, United Kingdom, Russia, France, China). The dependence of third countries, which are generally Muslim countries, on military parts produced by powerful countries, often includes human rights issues as part of political, economic and military renegotiations. The defense equipment of Muslim countries is generally supplied from developed countries with America dominantly. In a world where almost all nations and peoples of the world are afraid of military superpowers, they cannot be expected to be able to express their aspirations, however legitimate those aspirations may be.

d. Media

The influence of the global media on human rights in Muslim countries is so strong, almost the dominant information and news presented both through print and electronic media are controlled by foreign media, especially developed countries. Through the CNN (*Cable News Network*) news agency, the United States produces issues and information related to human rights in their versions. Likewise with the UK through the Reuter news agency. And many other media.³⁹

In addition to the external factors mentioned above, there are also internal factors of the Muslim state according to Masykuri Abdillah, including⁴⁰:

1. *Political will*, the political will of the government that wants to maintain the autocratic system, and then they limit the freedom of expression of its citizens.
2. Weaknesses of human rights protection support instruments. For example, legal institutions (judiciary) that are not yet strong
3. Some conservative scholars understand that universal human rights are contrary to Islamic law (sharia).

In principle, there is no problem with the application of human rights in Islam. However, according to Fatih Osman, there are several problems faced by Muslims related to human rights, namely, sources, terminology and semantics, changes, formulations and others (*other*).⁴¹

³⁹Chandra Muzaffar, *Hak Azasi Manusia Dalam Tatanan Dunia Baru: Menggugat Dominasi Global Barat* (Bandung: Mizan, 1995), 45.

⁴⁰Masykuri Abdillah, "Islam and Human Rights in the Muslim World", *Handout of Contemporary Islamic World course*, SPS UIN Jakarta, 2015, 8.

⁴¹M. Fathi Osman, *Human Rights In Contemporary World; Problem For Muslims And Others*, pdf. <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKewisk9SigpbKAhUKfRoKHTY1Br4QFggeMAA&url=http%3A%2F%2Fwww.usc.edu%2Fschools%2Fcollege%2Fcrcc%2Fpriv>

The implementation of human rights in Muslim countries that are not in accordance with Islam and the existence of *double standards* in Western countries in some cases of human rights implementation, have invited the emergence of the "Islamic fundamentalism" movement in several Muslim countries. This movement is often exclusive and rejects all Western opinions, including democratic systems and human rights, giving the impression of a conflict between Islam and the West. And this condition is exacerbated by the claim of some Western societies that their civilization is the most superior, and therefore it must be disseminated throughout the world, without realizing that other societies already have their own social values and civilization that are no less superior.

As Maurits Berger has mentioned,⁴² Human Rights has evolved from an exclusive legal field to major international political and diplomatic issues. For many Muslim countries, the West has interfered in their country's affairs. The West's insistence on adopting human rights standards has an impact on the counter-to human rights built by the West rather than accepting universal standards, resulting in a rejection of human rights invitations as the dominant West does.

Many Muslims consider that Western constructive human rights must be met with an authentic Islamic response. This is in turn referred to as the "*Self-asserting-argument*", which is accompanied by a degree of defiance of Western hegemony and a claim for an identity that is clearly different from that of the "West".

However, when we return to the actual constructs and mechanisms of human rights instruments, we are talking about conventions that have been ratified by many countries, including many Muslim countries. This "West" versus "Islamic World" is then just a political ruse, for all the signatories are very free to enter into this convention, and they all enjoy the same status as partners for that particular convention. In that capacity, they agree on some basic principles and are allowed to criticize each other for not following those principles. Muslim countries that have signed and ratified treaties---even at the time of adding demands in the name of Islam or sharia--but at the same time complaining about the "Western" insistence on human rights

ate%2Fcmje%2Fissues%2FHuman_Rights_in_the_Contemporary.pdf&usg=AFQjCNEmTo-CcpoEOPwE4EmphqOgSOhbBw&sig2=kj_g7Awqt3TH8PHls0CG5A&bvm=bv.110151844,d.c2E. (Accessed: 20/12/2024).

⁴²Maurits Berger, "Religion and Islam in Contemporary International Relations", *Netherlands Institute of International Relations 'Clingendael*, 2010, 10. [Http://www.clingendael.nl](http://www.clingendael.nl).

compliance, are simultaneously playing on political- and legal rhetoric.

In some cases, they (Islamic states) have combined the political and legal spheres by creating the concept of "*Islamic Human Rights*", that is, human rights that derive from Islamic principles and continue to be of significance to Muslims only. Thus, they still uphold universal human rights as a principle, especially in the form of international conventions, but at the same time assert a separate identity for themselves. This position can be criticized for several reasons. *First*, legal instruments that have been developed as "Islamic human rights" pretend to be congruent with international standards of human rights, but they are not. Also, *second*, Western outsiders, or non-Muslims are denied participation in debates or criticisms of Islamic human rights documents on the grounds that only they do not have the authority (religion) through the naming of Islamic human rights, only they adapt them for Islamic use only.

Conclusion

The concept of universal human rights comes from natural law that has developed through several generational phases, namely the first phase, human rights related to political and social rights. The second phase, human rights includes the right to a decent life, the third phase, human rights are developed again including the rights to solidarity, peace and development. Long before the declaration of universal human rights, the Prophet Muhammad (PBUH) had issued the charter of Medina which was full of human rights values. The formulation of universal human rights and Islamic human rights is hardly different. It can even be said to be complementary. Universal human rights are considered to belong to all human beings from birth. However, on the other hand, it considers that human rights are an obligation (necessities, al-dhururiyah). Islamic human rights contain the purpose of benefit (maqasid al-shari'ah). In addition, there is a difference between Universal and Islamic human rights regarding women's freedom and heritage. So that this gives rise to the concept of particular human rights or relative human rights, which are limited by the culture and sociological nature of certain communities, especially religions, which cannot be equated. In addition, the concept of human rights is particularly influenced by power political factors. The Islamic world's response to universal human rights conceptually considers that universal human rights are different from Islamic human rights principles, universal human rights are not based on religious (secular) values. The attitude of Muslim countries towards universal human rights is generally divided into two, namely; directly

rejects and uses Islamic human rights to the fullest as in Iran and Saudi Arabia. Second, accommodating universal human rights. The implementation of human rights in the Islamic world is influenced by global political factors with the double standards of the West towards Muslim countries accompanied by the involvement of economic, military and media forces to pressure Muslim countries. This causes the human rights problem in Muslim countries to be not completely resolved and even gives rise to a strong resistance movement to Western human rights (Islamic fundamentalism).

Universal human rights are considered to be the property of all human beings from birth. However, it is not limited to the scope of religious norms. on the other hand, Islamic human rights are limited to the values of Islamic teachings. This raises a debate about whether human rights are universal or relative. Universal human rights are human rights that are not influenced by religious values. On the other hand, human rights are relatively limited by the culture and sociological of certain societies, especially religions, which cannot be equated.

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