

Human Rights and Democracy in Islamic Perspective

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Abstract. The purpose of this study is to clarify Islamic perspectives on human rights and democracy. The research method employed is a literature study with a qualitative approach that is examined using content analysis. The results of the research show that, within certain limits, Islam upholds the implementation of human rights that must be obtained by everyone. In Islam, there are concepts of *al-usia al-daruriyah* (human needs) and *al-usia al-hajjiyah* (human interests) that humans must fulfill and defend, such as the right to life (*hifz al-nafs*), the right to religious freedom (*hifz al-din*), the right to free thought (*hifz al-'aql*), property rights (*hifz al-mal*), and the right to have offspring (*hifz al-nasl*). Likewise, with democracy, Islam upholds democratic principles such as *al-musawah* (egalitarianism), *al-hurriyah* (independence), *al-ukhuwwah* (brotherhood), *al-Jadi* (justice), and *al-syura* (deliberation). Even these principles are in line with the basic concepts of Islamic teachings to a certain extent, even though in practice, not all such democracies are justified. The parameters of democracy (including the concept of human rights) are that it is accepted by Islam as long as it does not contradict the essential principles of Islam.

Key Words: Human Rights, Democracy, Islamic Perspective

Introduction

Islamic teachings are often seen by many Western circles as teachings that do not accommodate human rights. There are at least four sensitive issues in Islamic teachings that are being questioned by human rights activists; First, regarding the death penalty. As per human rights activists, the death penalty is a kind of deprivation of the right to life, which cannot be taken by anybody. Meanwhile, Islam uses the death penalty for a variety of crimes, including *qishash*, robbery, *bughat* acts, *muhson* adultery, *hirabah*, *riddah*, and others. Even the Qur'an confirms

that *qishash* punishment guarantees human life (QS. 2: 179).¹

Second, is the issue of freedom in selecting a life partner or mate. Human rights advocates believe that everyone has the freedom to pick their life mate. (1) Adult men and women have the right to marry and have families without regard to country, citizenship, or religion, according to Article 16 of the Universal Declaration of Human Rights. They have the same rights before, during, and after marriage. (2) Marriage can only be carried out based on the free choice and full consent of the bride and groom. Not infrequently, this reason is also a justification when carrying out same-sex marriages. Meanwhile, in Islam, certain conditions and pillars must be met in a marriage that is not necessarily by the concept of human rights.

Third, the freedom to create in the name of art. In this case, an artist is free to express his art in any form, such as poetry, songs, paintings, or even clothing. In Islam, creative freedom is permitted, but with the condition that it does not violate the *Shari'a*. Similarly, in dressing, with the caveat that it must cover the nakedness. It is not surprising that musicians often produce works that are then protested by the clergy because they are not following religious teachings.

Fourth, religious freedom is guaranteed (including the entry and exit of a religion). In terms of human rights, a person is free to practice any religion. An individual is also free to enter and exit the religion to which he adheres and believes. It is indeed conceivable that he went into and out of the same faith several times.² In Islam, choosing a religion is not a problem, as Allah guarantees in QS 2: 256. However, leaving Islam is considered an apostate, which has certain legal consequences. Starting from the provisions on how many times apostasy is tolerated to being

¹ Qurays Sihab, *Tafsir Al Misbah*, Edisi 2021, vol. Jilid I (Ciputat: Lentera Hati, 2021), h. 475; This verse underlines the importance of *qishash* legal regulations in ensuring human survival. Because he knows that if he murders unlawfully, he would be threatened with death, thus he will not commit murder.

² Article 18 of the DUHAM states that: Everyone has the right to freedom of thought, conscience and religion; in this case includes the freedom to change religion or belief, with freedom to express religion or belief by teaching it, practising it, worshipping it and observing it, either alone or together with other people, in public or privately.

subject to severe legal sanctions, namely the death penalty,³

While Islam is tied to democracy, it is frequently associated with being unresponsive to democratic principles such as freedom, equality, justice, brotherhood, and others. Even though Islam has fundamental ideals that are compatible with democracy.

Many researchers have researched this, including Muhammad Ikrom in *Syariat Islam dalam Perspektif Gender dan HAM*, it states that under Islam, several human rights must be fulfilled by both the individual and the state. Each is a right to life (*hifz al-nafs aw al-hayat*), a right to religious freedom (*hifz al-din*), a right to free thought (*hifz al-'aql*), a right to property (*hifz al-mal*), a right to protect one's good reputation (*hifz al-'irdh*), and a right to have a lineage (*hifz al-nasl*).⁴ Following that, Achmad Suhaili declared in *Human Rights in the Application of Islamic Law in Indonesia* that human rights are inherent rights that a person gets from birth, and so human rights are consistent with human nature and Islamic teachings.⁵ Then followed Zulfi Imran's writing in *Hak Asasi Manusia (HAM) Internasional dalam Perspektif Islam*, It states that Islam upholds the human rights of all people, even if there are significant gaps between human rights according to Islam and human rights according to the West, which may become contentious and used to condemn Muslims.⁶ The next article, Mhd. Md. Abduh Saf in *Persoalan HAM dan Hukum Islam*, discovered that the concept of human rights is a representation of current living standards in the sphere of legal politics, which conflict with conventional normative principles in a variety of ways (*Sharia*). Human rights, on the other hand, do not imply that they are more powerful or fully contradict religious teachings or traditions, because the scope of human rights is quite restricted, mainly primarily in the political and legal

³ Abdu al-Rahman Al-Jaziri, *Fiqh ala Mazahib al-Arba'ah* (Beirut: Dar al-Kutub al-Ilmiyah, 2003); Sayyid Sabiq, *Fiqh al-Sunnah*, (Kairo : Maktabah Daar al Turast, Tt), and other fiqh books when discussing the Riddah Chapter.

⁴ Mohamad Ikrom, "Syariat Islam dalam Perspektif Gender dan HAM," *Jurnal Humanika* Th. XVIII, no. No. 1 (Maret 2018).

⁵ Achmad Suhaili, "Hak Asasi Manusia (HAM) dalam Penerapan Hukum Islam di Indonesia," (*Jurnal Al Bayan : Jurnal Ilmu Al Quran dan Hadis* Vol 2, no. No 2 (Juni 2019)).

⁶ Zulfi Imran, "Hak Asasi Manusia (HAM) Internasional dalam Perspektif Islam," *Jurnal Hukum Responsif FH Unpab* Vol. 7, no. No. 7 (Maret 2019).

domains.

Meanwhile, there are various pieces of literature about democracy, such as Mohammad Ikram in *Syariat Islam dalam Perspektif Gender dan HAM*, which states that several Islamic concepts are seen as in line with democratic principles, such as; *al-musawah* (egalitarianism), *al-hurriyah* (independence), *al-ukhuwwah* (brotherhood), *al-is* (justice), and *al-syura* (deliberation).⁷ Then there's Afifa Rangkuti's *Democracy in Demokrasi dalam Pandangan Islam dan Barat*, which explores the notion of democracy in general and the disagreements among scholars about democracy; some claim that democracy is illegal and must be abandoned. However, many people support democracy since it is regarded to be in keeping with Islamic values.⁸

There are also Toha Andiko's writings in *Syura dan Demokrasi Barat: Criticism and Solutions Towards Islamic Democracy*, which carries the concept of Islamic democracy with *shura* as the backbone of the Islamic political system and with which binding decisions are made or produced regarding public affairs, This shura is then supported by the presidential apparatus, the council of *Ahl al-Hall wa al-'Aqd*, the *shura* council, and the judiciary.⁹ Even Farida Nur 'Afifah in *Demokrasi dalam Al-Qur'an dan Implementasi Demokrasi di Indonesia*, claimed that democracy is the only approach that is closest to Islam, based on Koranic teachings. This democracy may reflect Divine ideals in all aspects of life, just as the Prophet did for the people of Medina in the Medina charter.¹⁰

This research expanded on prior studies that explain the confluence of Islamic teachings with the concept of universal human rights and democracy, which is presently being adopted by several countries. Except for those parts that are incompatible, human rights and

⁷ Ikrom, "Syariat Islam dalam Perspektif Gender dan HAM."

⁸ Afifa Rangkuti, "Demokrasi dalam Pandangan Islam dan Barat," *Jurnal Ilmiah Penegakan Hukum* No. 5, no. 2 (Desember 2018): 40-59.

⁹ Toha Andiko, "Syura dan Demokrasi Barat: Kritik dan Solusi Menuju Demokrasi Islam," *Jurnal Al-Imarah: Jurnal Pemerintahan dan Politik Islam* Vol. 2, No. 2 (2017).

¹⁰ Farida Nur 'Afifah, "Demokrasi dalam Al-Qur'an dan Implementasi Demokrasi di Indonesia," *Jurnal KACA (Karunia Cahaya Allah) : Jurnal Dialogis Ilmu Ushuluddin* Vol. 10, No. 1 (Februari 2020).

democracy are in some ways compatible with Islam.

Discussion

Islamic Perceptions of Human Rights

In general, human rights are rights given by God directly to humans. Therefore, no power can revoke these basic rights. However, that does not mean that everyone has the right to do whatever they want. Because if someone has been excessive in exercising the rights he has, he will, of course, violate the rights of other people around him.¹¹

There are considerable disparities in interpreting the concept of rights between Islam and the West, both in terms of definitions and restrictions on human rights. This discrepancy is caused by different viewing angles. Human rights are seen geocentrically in Islam, for example (contains aspects of divinity and human life is intended to serve Him). In other terms, human rights in Islam are defined as activities centered on humans as Allah's caliphs on Earth.

Whereas in the Western concept, human rights have a more anthropocentric starting point, which sees them as aligning with human existence so that the character that develops is closer to respect for the individual alone. In other words, human rights are determined by public regulations to achieve peace and security in the universe.¹²

Human rights have gained popularity in Islam since the turn of the century. Because religion puts greater duties on rights than rights imposed on religion. If the individual has completed his commitments, his rights will be realized. However, traditional scholars defined *al umur al daruriyah* (human necessities) and *al umur al hajjiyah* (human interests) as requirements that must be met and maintained in human existence. These phrases are analogous to the modern idea of human rights.

In Islam, the concept of human rights is outlined in *Cairo Declaration of Human Rights in Islam* which was declared on August 15,

¹¹ Eggi Sudjana, *HAM dalam Perspektif Islam* (Jakarta: Nuansa Madani, 2002), h.3

¹² Sudjana.

1990, in Cairo. The declaration, which consists of 25 articles, contains individual, social, economic, and political rights. All rights and freedoms stipulated in this declaration are the subjects of Islamic *shari'ah* (article 2) which is correctly referred to as the only source of reference for each article (Article 25). While civil and political includes (equal rights in human dignity, basic obligations and responsibilities (article 1), equality before the law (article 19), the right to life which is a gift from God (article 2), the right to express opinions freely as long as they do not contradict with Islamic *shari'ah* (article 22), socio-economic rights include education (article 9), the right to work (article 13), the right to own wealth (article 15), the right to meet the necessities of life adequately (article 17), the right to live safely for self, religion, dependants, honor, and property (article 18)).¹³

From this fundamental foundation, a distinct formulation emerges between the concepts of Western human rights and Islamic human rights. For example, understanding the death penalty is a crucial element of mastering *fiqh jinayah*. Especially for those who commit unjustifiable homicides, must be punished; nevertheless, if the victim's heirs pardon, he is liable to a severe *diyat*.¹⁴

The term *Qishash* in the Qur'an, according to Qurays Sihab, informs us that what is done to criminals is essentially just following the path and consequences of their abuse of the victim. Thus, if someone feels that murder (death penalty) is a cruel and unnatural punishment for civilized beings who should have pity and compassion, the explanation may be that he is cruel when evaluated separately and forgets about the victims who were slain and their families. According to the Qur'an, not all mercy and compassion are good unless they are on purpose, and firmness has a place as well. This is where justice comes into play, putting anything in its appropriate position.¹⁵

The verse that guarantees life in the execution of *qishash* above has rendered *qishash* a punishment that has the opposite result, namely life.

¹³ See the Cairo Declaration on Human Rights in Islam

¹⁴ Sabiq, *Fiqh al-Sunnah*; Al-Jaziri, *Fiqh ala Mazahib al-Arba'ah*, dan kitab-kitab *fiqh lainnya*

¹⁵ Qurays Sihab, *Tafsir Al Misbah ...*, h 477

The word "life" is assigned in this poem to demonstrate that there is a type of profound significance of life in this punishment that is not appropriately tied together with words. For example, previously, retaliation punishment was carried out on multiple persons, whereas previously, just one person was slain. Or, if the punishment was placed on someone other than the killer, there was slander or a conflict that exacerbated the issue.¹⁶

As for choosing a life partner, the Universal Declaration of Human Rights states;

"men and women of full age without any limitation due to race, nationality, or religion, have the right to marry and to found a family. They are entitled to the equal right to marriage, during marriage and at its dissolution".¹⁷

While in Islam it is stated that if someone is going to get married he must fulfill the conditions and pillars of marriage. Among these conditions and pillars is the obligation to marry someone of the same religion. His understanding is that interfaith marriages are not allowed. In QS. 2: 21 Allah strictly forbids interfaith marriage. In Islam, the issue of religious equality is an absolute requirement in a marriage. QS. 2: 221 affirms the prohibition of a Muslim from marrying a non-Muslim woman. And vice versa, a Muslim woman may not marry a non-Muslim man. When addressing the future husband, for example, the conditions are as follows: Male, mature, intellectual, has no marital impediments (such as Hajj/Umrah) and must be a Muslim.¹⁸ Similarly, while discussing the requirements for a potential wife, it must be stated that women, Muslim women, do not have marital difficulties (such as being someone else's wife or being in the *iddah* period).¹⁹

¹⁶ Ach. Fuad Fahmi Nurhadi , Martin Putra Perdana, Imam Kamaluddin, Muhammad, "Aspek Kemanusiaan Dalam Hukuman Qishash" Volume 15, No. 1 (Juni 2021), h. 102

¹⁷ Lih. Pasal 16 Universal Declaration of Human Rihgt

¹⁸ Ahmad Rofiq, *Hukum Perdata Islam di Indonesia*, Edisi Revisi, vol. Cet. I V (Depok: PT RajaGrafindo Persada, 2019).; Sayyid Sabiq, *Fiqh al-Sunnah*; Abdu al-Rahman Al-Jaziri, *Fiqh ala Mazahib al-Arba'ah*, and other fiqh books when discussing the chapter on marriage.

¹⁹ Lih. Juga dalam QS. Mumtahanah (60) ayat 10

Meanwhile, freedom of artistic expression is permitted in Islam as long as it does not contradict Islamic beliefs. Beginning with the creation of a song, it is not acceptable to fall into the category of inciting lust or an invitation to commit immorality. Similarly, it is forbidden to portray persons whose nakedness is obvious, nor to depict images of the cleansed Prophet. Finally, the criterion in clothes is clear: they must conceal nakedness.

In Indonesia, the issue of covering genitalia was once a long controversy when regulations were made on pornography in 2008. Groups that support, especially from religious circles such as the MUI, for example, which in detail prohibit pornography and its derivatives, such as; 1) showing sensual conduct directly or indirectly, whether, through painting, drawing, writing, music, ads, advertisements, or speech (printed/electronic) that might stimulate lust; 2) wearing see-through clothes or leaving intimate parts exposed to photograph for print or visual reasons; 3) photographing for the second point; 4) acting out scenes or sexual interactions in public, shooting sexual pictures/scenes of oneself (other persons), and watching sexual relations (scenes); 5) copying, sharing, selling (purchasing), and seeing (showing) photographs of persons, both printed and visual, whose nakedness is revealed or who are dressed in tight (see-through) clothes that might stimulate lust; 6) Having sex (together) with a man and a woman who is not their *mahram*, or other comparable activities that promote or approach having sexual intercourse outside of marriage; 4) performing scenes or sexual relations in front of other people, taking sexual pictures/scenes of oneself (other people) and viewing sexual relations (scenes); 5) duplicating, distributing, selling (buying), and viewing (showing) pictures of people, both printed and visual, whose nakedness is exposed or in tight (see-through) clothing that can arouse lust; 6) having sex (together) between a man and a woman who are not their mahram or other similar acts that encourage and or approach to have sexual relations outside of marriage;²⁰

The Indonesian Ulema Council's premise (reason) is as follows:

²⁰ Majelis Ulama Indonesia Pusat, "Keputusan Fatwa Komisi Fatwa Majelis Ulama Indonesia Nomor 287 Tahun 2001 tentang Pornografi dan Pornoaksi," 22 Agustus 2001.

first, Qur'anic passages such as a). Surat al-Isra '[17]: 32 forbids anybody from attempting adultery.²¹ Surah al-Nur [24]: 30 controls men's social order and attire. b) Surat al-Nur [24:31], which governs women's association and attire. d) Surat al-Ahzab [33]: 59, in which the Prophet Muhammad urges women to spread their headscarves all over their bodies (fashion) so that they can be identified and not disturbed.²²

Second, the hadiths of the Prophet, such as a). Hadith of the Prophet narrated by Imam Malik and Imam Ahmad which prohibits people from wearing see-through, erotic, sensual, and similar clothing and prohibits women from wearing transparent clothes; b). Hadith narrated by Ahmad prohibits people from behaving in a certain way, namely a man who looks like a character and visits the mosque, but his wife is naked; c) Bukhari's hadith on the prohibition of isolation and Muslim's hadith on the denizens of hell, especially women who waddle seductively or alluringly, that they would not reach heaven and will not be able to smell paradise; d). Abu Daud's hadith about the limitations of women's private parts and the prohibition on women from wearing thin (transparent) garments.

Third, the rules of ushul fiqh and the rules of fiqh: a. In the Rules of *Usul Fiqh* it is stated: "*everything that can cause an unlawful act to occur is unlawful*"; b. Fiqh principles, such as 1) avoiding *mafsada* is prioritized over bringing benefits: 2) All harm must be eliminated; 3) looking at something that is born from something that is haram is haram; 4) Everything that is born from something haraam is illegitimate.²³

As for the issue of freedom of religion, there is also a difference regarding a Muslim who has apostatized (moved to another religion). If you look at the Prophet's hadith, which says that *anyone who changes religion should be killed*, it means that the apostate was sentenced to death

²¹ The translation of the verse is: "And do not approach adultery; In fact, adultery is an abominable act. and a bad way"

²² The translation of the verse is: "O Prophet: Say to your wives, your daughters and the wives of the believers: "Let them extend their headscarves all over their bodies. That is so that they are easier to recognize, therefore they are not disturb. and Allah is Most Forgiving, Most Merciful."

²³ Majelis Ulama Indonesia Pusat, "Keputusan Fatwa Komisi Fatwa Majelis Ulama Indonesia Nomor 287 Tahun 2001 tentang Pornografi dan Pornoaksi."

earlier. When this discourse is related to the context of human rights, there are at least two opinions regarding this text: first, those who agree with this provision, as Tahir Azhari said. Because Islam allows everyone to choose between Islam and another faith. However, if he has chosen Islam, he must stay a Muslim indefinitely, as this demonstrates that he is not playing God. Meanwhile, the second opinion, represented by Syafii Maarif, is of the opposite opinion, that only God can punish apostates. Human relations are based on the principle of mutual respect, not annihilation. So it remains the right of every person to change religions as long as this conversion is based on free will.²⁴

According to Wahbah al-Zuhaili, scholars agree on the obligation to kill apostates. The sanction is imposed if the apostate has matured, has a reason, has been asked to repent but is reluctant, and his apostasy is known through a pledge (confession) or testimony (proof). Although not mentioned in the Qur'an, several hadiths support this opinion, including the hadith from Ibn Abbas: *Whoever changes his religion, then kills him.*

There is also a hadith from Abdullah bin Mas'ud:

لا يحل دم امرئٍ مسلمٍ إلا يأخدى ثلاثٍ : الثيب الزاني، والنفس بالنفس، والتارك لدينو المفارق للجماعة.

It is not lawful for the blood of a Muslim (may not be killed) except for one of three: a married adulteress, soul to soul (qisas), and deceased religion separates itself from the jama'ah (apostasy).

The death penalty for persons who quit Islam is an *ijma'*, according to Wahbah al-Zuhaili, Sayyid Sabiq, Abd al-Rahman al-Jaziri, and other thinkers. Abu Bakr's resolve to battle apostates, especially those who refuse to pay zakat, is one of the underlying causes. At the moment, Abu Bakr's choice was followed and carried out by all companions. Ibn Taimiyyah held a somewhat different viewpoint. He divides riddah into two types: *riddah mugallazah* (heavy) and *riddah mukhaffafah* (light). *Riddah mugallazah* is apostasy followed by actions of hostility toward

²⁴ Abdillah, Masykuri, *Demokrasi di Persimpangan Makna Respon Intelektual Muslim Indonesia Terhadap Konsep Demokrasi 1966-1993*, (Yogyakarta: PT Tiara Wacana Yogya, 1999), h. 142.

Islam and influence over other Muslims to become apostates. Meanwhile, *riddah mukhaffafah* is only apostasy in the absence of actions demonstrating hatred against Islam. He classifies *riddah* into two categories: *riddah mugallazah* (heavy) and *riddah mukhaffafah* (light). *Riddah mugallazah* is apostasy accompanied by deeds opposed to Islam and persuading other Muslims to become apostates. Meanwhile, *riddah mukhaffafah* is only apostasy in the absence of hostile activities toward Islam.²⁵

Islamic Perceptions of Democracy

Democracy, according to Sidney Hook, is a type of governance in which essential government decisions are made directly or indirectly based on the freely offered majority consent of the adult population. Democracy does not exist in Islam, according to its etymology. It is derived from the Greek words *Demos* (people) and *Kratos* (power). So democracy means rule by the people. Sometimes it is also termed as from the people by the people and for the people. Historically, the term democracy has been known since the 5th century BC, which was originally a response to the bad experiences of monarchies and dictatorships in the ancient Greek city-states. Democracy was practiced at the time as a system in which all citizens comprised a legislative body. This was made feasible by the fact that the city-states had a population of around 10,000 people and that women, children, and slaves had no political rights.²⁶

Islamic figures have differing perspectives on democracy since they do not stem from Islamic law. There are at least three points of view on this. The first is that democracy is inherent or an intrinsic component of Islam. As a result, democracy is no longer shunned and has become a part of Islamic affairs. Because democracy is a tool for carrying out Islamic *da'wah*, participation in the democratic process is required in Islam. This kind of relationship between Islam and democracy is called an

²⁵ Syamsuddin, "Antara Hukum Murtad dalam Islam dengan Kebebasan Beragama Menurut Hak Asasi Manusia (HAM)," *Jurnal El-Mashlahah* Vol. 11, no. 1 (Juni 2002), h. 47.

²⁶ Abdillah, Masykuri, *Demokrasi di Persimpangan Makna Respon Intelektual Muslim Indonesia Terhadap Konsep Demokrasi 1966-1993*, h.71.

intergalactic relationship or an integrated relationship. Figures included in this category include Muhammad Abduh, Rashid Ridha, Yusuf al-Qardhawi, Fahmi Huwaidi, Muhammad Husain Haikal, Sadek Jawad Sulaiman, Abid al-abiri, Fazlur Rahman, Abdurahman Wahid, Amin Rais, Syafi'i Ma ' Arif, Nurcholis Madjid, Azyumardi Azra and others; Second, between Islam and democracy have a conflicting relationship. The relationship between Islam and democracy is viewed as opposed and mutually adversarial. Islam and democracy are opposed. The two are mutually exclusive and have no relationship. There is no such thing as democracy in Islam. Democracy is a Western invention that has nothing to do with Islam; in fact, democracy contradicts Islamic precepts. This type of connection is known as an adversarial relationship or a mutually contradictory relationship. Taufiq Muhammad Asy-Syawwi, Shaykh Fadlullah Nuri, Sayyid Qutb, Ali Benhadj, Hasan at-Thurabi, Abdul Qadim Zallum, Abu Bakar Bashir, and others carry and support this philosophy.²⁷

Hafiz Salih, for example, forbids the use of the term and concept of democracy, because this concept means negating God's sovereignty over humans. More than that, the term democracy does not come from the vocabulary of Islam and therefore must be abandoned. Exactly Allah's prohibition on the Prophet Muhammad to use the words *raaina* (see) in QS. 2 104 because these words are often used by the Jews.²⁸

Adnan Ali Ridha al-Nahwi, like Salih, rejects democracy and promotes the notion of *shura* (deliberation), especially because the first is identical with rules produced by people, whilst the second is regulations from God. Meanwhile, Hasan al Turabi distinguishes between democracy and *shura*. He claims that while democracy and *shura* have the same denotative connotation, their connotative meanings are not identical. Both have the meaning of detonation of public participation in solving political problems; democracy means that the final sovereignty is in the hands of the people, while *shura* means that the final sovereignty is in the hands of God who is united in the revealed sacred textual

²⁷ Muhammad Taufik dan Ardillah Abu, "Islam dan Demokrasi," *Jurnal Moderasi : Jurnal Studi Ilmu Pengetahuan Sosial* Volume 1, No. 1 (2020).

²⁸ Hafiz Salih, *Al-Dimuqratiyya wa Hukm al-Islam fiha*, (Beirut: Dar al-Nahdah al-Islamiyyah, 1988), h. 95-96.

authority.²⁹

Muhammad Dhiya'uddin al-Ra'is similarly responded to the rejection of democracy. He proposed three principles: 1), that the term country or people in contemporary democracy refers to what is already common in the Western world, namely a geographically constrained nation. As a result, democracy is inextricably linked to nationalism. Not the case with Islam. People are not confined by area, region, or language, according to Islam. Faith is the true bond. As a result, it is exceedingly cosmopolitan and universal; 2) that democracy's aims are worldly or material goals. As a result, democracy exists solely to benefit the people (the people). Unlike democracy, Islam has spiritual purposes that are more vital than addressing worldly or material necessities. 3) According to democracy, the authority of the people is absolute, but it is limited by the norms of religious law.³⁰

That's why in Islamic society, there are strong indications that some of the clergy and political rulers are of the view that in Islam there is no proper place for the notion of democracy. Democracy (*demos-Kratos*) means that power is in the hands of the people. Meanwhile, according to Islamic belief, only God has power. More than that, some academics argue that Islam is a comprehensive religion that governs all elements of life. According to these followers, there are no standards of life for a Muslim other than those declared by God in the holy book Al-Quran and the sayings of the Prophet Muhammad SAW. So complete and detailed are the teachings of Islam that a Muslim just has to surrender to following the instructions of the Koran and Hadith in all his pursuits. Therefore, democracy which argues that the legitimacy of power comes from the majority of the people cannot be enforced. Precisely history shows that God's Apostles have always been an enlightened minority force because most people in general tend to be corrupt and misguided.³¹

²⁹ Hasan al-Turabi, *Qadaya al-Huriyah wa al-Wahdah wa al-Syura wa al-Dimuqratiyyah* (Jeddah, 1987), h. 10-11.

³⁰ Khamami Zada & Arif R Arafah, *Diskursus Politik Islam* (Jakarta: LSIP, t.t.), h. 38-39.

³¹ Khamami Zada & Arif R Arafah.

Third, in the relationship between Islam and democracy, the third group neither accepts nor rejects it altogether. This implies they acknowledge the parallels and distinctions between Islam and democracy. There are various ethical ideals in a democracy that are comparable to Islamic values, such as freedom (*al-hurriyah*), equality (*al-musawwa*), tolerance (*al-tasammuh*), justice (*al-Jadi*), and others. The distinction between Islam and democracy is based on the source. Democracy may be embraced and implemented in a country if many key points are taken into account. Democracy must be synthesized with Islam. This kind of relationship is called a "symbiotic" relationship, "mutualism," or a relationship that is mutually beneficial and so beneficial that they cannot be separated from one another. The figures who support this idea are Abu Al-A'la al-Maududi, Muhammad Iqbal, Abdul Karim Soroush, Imam Khomeini, Muhammad Dhiyauddin Ar-Rais, and others.³²

Abul a'la al Maududi distinguished between the concept of democracy philosophically and its form of organization. According to him, the basic philosophy of Western democracy is the sovereignty of the people and the foundation of its government denies the sovereignty of God and the caliphate of humans. Therefore the most suitable term for Islamic policy is the kingdom of God which is described in English as a theocracy. However, the Islamic theocracy is not the same as the unpleasant experience of European theocracies. As a result, perhaps theocracy is more fitting, meaning a divinely inspired democratic government in which Muslims carry out people's sovereignty, which is constrained by God's sovereignty. Under this type of governance, the executive is selected by the general will of the Muslims, who also have the authority to reject them. All administrative concerns and those that are not clearly defined based on Shari'a are resolved by Muslim consensus. Every Muslim who is capable and qualified to provide an opinion on Islamic law issues has the right to interpret God's law when such an interpretation is required.³³

³² Muhammad Taufik dan Ardillah Abu, "Islam dan Demokrasi."

³³ Abu al-A'la al-Maududi, *Islamic Law and Constitution* (Lahore: Islamic Publication Ltd, 1960), 147-148

That's why some modify democracy to suit Islam. Even though literally, democracy means power by the people, while in the Islamic doctrine sovereignty is in the hands of God, democracy does not automatically conflict with Islam, or conversely, democracy is not an entirely Islamic concept. Islam, on the other hand, has democratic values. As a result, the evolution of democratic ideas and concepts is frequently related to the pattern of development of Western secularism. For liberal democratic thought that grows alongside liberalism-capitalism-individualism, it appears reasonable to be classed as not in conformity with the principles of Islamic teachings, but that does not mean that there is no "Islamic democracy".³⁴

For example, Javid Iqbal declared that ultimate sovereignty and absolute authority are Allah's unique prerogative, hence he respects the supremacy of Islamic law. However, he endorsed the democratic process as far as elections for Islamic leadership and *shari'a* implementation were concerned.³⁵

The limitation of people's sovereignty by the Koran and sunnah was also referred to by Amin Rais who views people's sovereignty as something that is not absolute because Islam is a moral paradigm for a democratic system implemented in Muslim societies. Therefore democracy must be implemented within the framework of this moral paradigm. In this case, he gave two examples of democratic practices in the United States. Many states outlawed alcohol around the turn of the century, but citizens later asked that the restriction be removed. This desire was finally met, and the legislation was changed, however access to alcohol remains. The second example is homosexuality, which was historically deemed deviant conduct, but is today accepted as a normal societal phenomenon by the United States government. These cases do not occur in Islam because there are moral and legal principles that cannot be changed through reference to democracy. So, access to

³⁴ Teuku May Rudy, *Politik Islam dalam Pemerintahan Demokrasi dalam Abu Zahra (ed), politik Demi Tuhan: Nasionalisme Religius di Indonesia* (Bandung: Pustaka Hidayah, t.t.).

³⁵ Javid Iqbal, *Democracy and The Modern State, dalam John L Esposito (ed) Voices of Resurgent Islam* (New York: Oxford University Press, 1984), h. 257.

democracy can be controlled by Islamic ethics and morality.³⁶

Modifications to the concept of Western democracy lead to findings of intersections with Islamic teachings. At least some of the democratic values promoted by the world's democracy activists, such as, first, related to equality. Muslim intellectuals support equality (*al-musyawah*) among fellow human beings. This can be referred to in His words in the Koran (49: 13): "*O people! We created you from a male and a female and made you nations and tribes so that you may know one another. That the noblest among you in Allah's eyes is the most devout*" There is also a hadith that says: "*O people, certainly your Lord is one. In Allah's eyes, the noblest among you is the most pious. There is no superiority of Arabs over persons other than Arabs, nor of whites over blacks, nor blacks over whites, but via their taqwa*". According to Harun Nasution and Tahir Azhari, God created humanity from the couple, Adam and Eve. Even though people today are made up of diverse nations, ethnicities, religions, languages, and skin colors, they are all brothers and share the same status. If they differ, it is due to their religious and moral beliefs.³⁷

In this regard, Nurkholis Madjid underlined that Islam is a religion of equality. According to Gellner, it is the fact that these versions of Islam are fundamental, that they are egalitarian and scientific, whereas hierarchy and ecstasy are types of fringes that grow to assist them to adapt to the contemporary world. In its widest meaning, Islamic egalitarianism refers to justice, the existence of democracy and equality, the values of debate (participatory democracy), wisdom, and representation. It is also related to the issue of legal awareness, including the argument that no one can justify acting outside the law. This egalitarianism and legal awareness have been practiced by the Prophet in his leadership mission to develop a constitutional state community. The Medina Charter, and the other constitutions, are the product of a social contract and the recognition of all members of society regardless of their

³⁶ Abdillah, Masykuri, *Demokrasi di Persimpangan Makna Respon Intelektual Muslim Indonesia Terhadap Konsep Demokrasi 1966-1993*, h. 86.

³⁷ Harun Nasution, *Pengantar dan Harun Nasution dan Bahtiar Effendy (Eds), Hak Asasi Manusia dalam Islam* (Jakarta: Pustaka Firdaus dan Yayasan Obor Indonesia, 1987), h. ix-x.

social background.³⁸

Second, consider the importance of fairness. Along with the idea of equality (*al-musawah*), there is also the principle of justice (*al-is*), which cannot be separated. In connection with this, Allah highlighted in QS. 4:135: "*O you who believe! Be upholders of justice, witnesses for Allah, even against yourselves or against your parents and relatives. If he (the defendant) is rich or poor, then Allah knows better his benefits (goodness)*". So, if you wish to depart from the truth, do not even follow your impulses. Then in (QS. 5: 8), it says: "*O you who believe, always be those who support (the truth) for Allah, and bear witness fairly. Do not let your animosity for a people motivate you to behave unjustly. Be just since it is closer to piety.*"

Justice is the moral underpinning that has aided the advancement of human civilisation throughout history. In contrast, the absence of justice is viewed as a threat to the existence of nations and people. Madjid advocates not only for procedural justice, but also for social justice (*al' is al-iftima'iyah*). This is done per the need to pay zakat and sadaqah, which are affluent people's moral responsibility to share their riches with their fellow humans. This is consistent with the definition of justice (*al-adl*), which is: 1) balance (*mauzun*), namely all elements in society in a balanced and appropriate size or relationship to one another, 2) equality (*musawah*), namely no differences between fellow human beings, or equal treatment for all people who have equal rights, and 3) giving rights to someone (*I'tha' kulli dzi haq haqqah*).³⁹

Third, freedom. In Islam, discourse on free will (*ikhtiyar*) is the opposite of predestination (*taqdir*), but a discussion of independence or freedom (*hurriyah*). Islamic doctrine (in this case Sunni), gives a high position to humans in cosmology. Humans can do anything, even though their will must be subject to the power of God. *Ikhtiyar* produces an obligation to achieve high meaning and value in life, and of course human rights to be protected by law.⁴⁰

³⁸ Nurcholish Madjid, *Islam, Kemodrenan dan Keindonesiaan* (Bandung: Mizan, 1992), h. 56.

³⁹ Madjid, h.57-58

⁴⁰ Abdurrahman Wahid, *Muslim di Tengah Pergumulan* (Jakarta: Lepas, 1983), h. 40.

According to an Arabic adage, the existence of rights and responsibilities in humans implies freedom as a holy treasure and obligations as a reputation. ; *La syay 'athman min al-huriyyah, wa la sa'adah akbar min al-qiyam bi al-wajib* (there is nothing more precious than freedom, and no greater happiness than fulfilling one's duties). Individual rights in this instance come from the notion of individual accountability on the Day of Judgment (*yaum al-hisab*), which means that humans will not be held accountable except for what they have done. One of the more important consequences of individual responsibility before God is the presupposition that a person has possibilities and can choose his possibilities freely about what is right and good for him. If this kind of freedom does not exist, it is impossible to demand responsibility for actions that have been committed, because such demands will create tyranny for those held responsible or unfair treatment of individuals who are held responsible. As a result, the most essential right is the ability to choose and decide oneself. While an individual can use his freedom without limits in terms of belief, he cannot do so completely in practise because his life is intertwined with the lives of others, so his actions must be in accordance with the rights and interests of others, namely fulfilling their rights and obligations equally. As stated in the dictum, rights are a person's basic property, but duties are constraints on individual rights imposed by the rights of others, *Hurriyat al-mar' mahdudah bi hurriyat siwah* (Individual freedom limited by the freedom of others).⁴¹

Islam recognizes and protects human freedom. Because humans are equipped with thinking abilities that are not possessed by other creatures. However, human freedom is not absolute, because absoluteness belongs only to God. There are certain limits to this freedom, such as freedom of speech must not interfere with the public interest, freedom to be rich must not endanger the public interest, and so on. In other words, there is no ultimate freedom in the sense that a person may do whatever he wants because this freedom is constrained by the public interest, which manifests itself in the shape of legislation. As a result,

⁴¹ Nurcholis Madjid, *Islam , Doktrin dan Peradaban : Sebuah Telaah Kritis Tentang Masalah Keimanan, Kemanusiaan dan Kemodernan* (Jakarta: Yayasan Wakaf Paramadina, 1992), h. 563-568.

there is no total freedom. Only freedom of thinking is regarded as absolute freedom by Islam. Freedom of thinking is the foundation of many other liberties that must be maintained in a democratic government, such as religious freedom, freedom of thought and expression, freedom of movement, and so on. Islam acknowledges the freedom of choice as well, and the example of Prophet Adam's sin may be a symbol of this freedom. Individuals can even become atheists in Islam as long as they do not disrupt public order.⁴²

There is indeed a difference between the freedoms recognized by Liberal democracy and Islam. In a liberal democracy, freedom emphasizes the ability to do without limits; while in Islam freedom emphasizes the ability to exist. This difference is primarily due to differences in the concept of law which is recognized as the only limit to freedom. Islamic law covers personal and interpersonal life, while the law in a liberal system only covers interpersonal life. In Islam, one cannot do anything he wants, even in the private domain, which is tied to social life indirectly. In contrast, in a liberal system, a person has complete freedom in the private sphere. Furthermore, in a liberal democracy, the law may be quickly altered with a new law that is more sympathetic to the people's desire for greater freedom, but Islamic law is not simply changed. Only Islamic law resulting from *ijtihad* (a person's statement or interpretation of Islamic doctrines) can be changed, whereas the law prescribed in the Al-Quran and Al Sunnah cannot be changed qath'i. Consequently, the boundaries of freedom in Islam appear to be stricter than those in a liberal democratic system.

Fourth, recognition of the existence of other religions. Islam is a religion whose holy book strongly acknowledges the existence of the rights of other religions to live and implement its teachings. Confession shows a religious basis as well as social and cultural pluralism, as God's rules that do not change (Q.S. 5:44-50). Then in the Al-Quran surah Hud [11] verse 118, it is emphasized;

⁴² Abdillah, Masykuri, *Demokrasi di Persimpangan Makna Respon Intelektual Muslim Indonesia Terhadap Konsep Demokrasi 1966-1993*, h. 139

"If your Lord had willed, he would have made mankind one nation, but always differing in opinion."

If Allah had desired, He could have easily produced all humanity in one monolithic tribe with one faith. But it is not what God desires. God truly demonstrates to people that humans are fundamentally different. This is God's plan. People talk about pluralism and diversity on this basis.⁴³

In practice, the Prophet SAW did this with a concept called the Medina Charter, which is an important document made by the Prophet SAW as an agreement between the Muhajirin, Ansar, and Jewish groups, as well as other allies. The document contains important principles or regulations that guarantee their rights and stipulate their obligations as the basis for living together in social and political life. In practise, the Prophet SAW accomplished this through the Medina Charter, an essential document created by the Prophet SAW as an agreement between the Muhajirin, Ansar, and Jewish tribes, as well as other supporters. The text provides key ideas or norms that safeguard their rights and specify their responsibilities as the foundation for coexistence in social and political life.

Therefore, it is acknowledged that with this arrangement, the Prophet Muhammad succeeded in building a united society from a variety of religions: Muslims, Jews, and adherents of Paganism. This is none other than because the Prophet Muhammad saw when making the charter did not only pay attention to the benefit of non-Muslim communities. In other words, the social paradigm used by the Prophet, both in reading reality and making political decisions, is egalitarian inclusiveness. This is further supported by the Medina Charter's acknowledgment that the Medina community's customs (traditions, conventions) are fully acknowledged as living law. As a result, the Medina Charter's clauses safeguarded the rights of all socioeconomic groups and legal equality in all public matters.⁴⁴

⁴³ Alwi Shihab, *Nilai-Nilai pluralism dalam Islam (Sebuah pengantar)*, dalam *Sururin (ed), Nilai-Nilai Pluralisme dalam Islam : Bingkai Gagasan yang berserak* (Bandung: Nuansa, 2005), h. 16-17

⁴⁴ Alwi Shihab, *Nilai-Nilai pluralism dalam Islam...*,h. 19-20

Conclusion

Human rights advocates are continually pushing for the protection of human rights in society. The concept of human rights in Islam is defined in *Cairo Declaration of Human Righth in Islam*. It comprises assurance on individual, social, economic, and political rights. These rights include the freedom to express one's beliefs as long as they do not contradict Shari'ah, socioeconomic rights, the right to work, the right to possess wealth, the right to meet one's basic needs, the right to live safely for oneself, religion, dependents, honour, and others. The fundamental distinction between the notion of human rights in the current (Western) world and Islam is its philosophical foundation; if theocentric Islam, God is the primary reference. While the West is anthropocentric, with the human aspect as the metric.

In line with democracy, even though it has philosophical differences, there is a basic intersection between the two. Even when it comes to the ideals of democracy, Islam is a big supporter. As may be seen in the ideals of freedom, equality, justice, and pluralism, Islam strongly supports all of these values. The discrepancies in the foregoing essential underpinnings have a significant impact on the implementation of democracy. If Western democracy is typically secular, Islam becomes theo-democracy. In other words, democratic ideals and values are permissible in Islam as long as they do not contradict divine instructions.

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Deklarasi Universal Hak Asasi Manusia

Deklarasi Kairo tentang Hak Asasi Manusia dalam Islam