

HUMAN RIGHTS ISSUES AS THE BASIS OF MODERN- CONTEMPORARY THINKING IN ISLAM

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Abstract: *Modern-contemporary-based scientific studies that give birth to answers to actual problems in the progress of the times are getting a lot of attention by academics and the government at this time. One of the most discussed issues is related to human rights. As a natural right that is owned by every human being on earth, of course it raises a variety of different views, such as the different views held by the West and Islam. The existence of these differences also has a major influence on the understanding of human rights and their application in life. It is undeniable that many Muslims are influenced by Western human rights doctrines so that they are applied in everyday life. To overcome this threat, Muslim scholars try to provide ideas that are relevant to modern-contemporary times that originate from the teachings of Islam.*

Keywords: *Human Rights, West, Islam.*

Introduction

Allah created man as a caliph on earth. The appointment of humans as caliphs is a very big mandate. This mandate applies to human relationships, as well as to relationships with nature and other creatures created by Him, such as animals and plants. Humans are asked to be fair in living this life. In Q.S Al-Maidah/5:8 Allah says:

يَا أَيُّهَا الَّذِينَ آمَنُوا كُونُوا قَوَّامِينَ لِلَّهِ شُهَدَاءَ بِالْقِسْطِ وَلَا يَجْرِمَنَّكُمْ شَنَاٰنُ قَوْمٍ عَلَىٰ أَلَّا تَعْدِلُوا ۗ وَعَدِلُوا ۗ هُوَ أَقْرَبُ لِلتَّقْوَىٰ وَاتَّقُوا اللَّهَ ۗ إِنَّ اللَّهَ خَبِيرٌ بِمَا تَعْمَلُونَ

“O ye who believe! Be steadfast witnesses for Allah in equity, and let not hatred of any people seduce you that ye deal not justly. Deal justly, that is nearer to your duty. Observe your duty to Allah. Lo! Allah is Informed of what ye do.”

The verse above explains the importance of being fair to all creatures and nature. Because it is with justice that peace will be created and the feeling of bringing each other down will disappear. To carry out justice, of course, there are several rights that must be owned by a human being to get justice. In this study, the rights to justice that will be discussed include Human Rights (HAM) which are currently being widely used as objects of discussion in the modern-contemporary era, especially from an Islamic perspective.

Of all the teachings of Islam regarding Human Rights, the milestone in the emergence of the human rights movement historically occurred during the early days of the emergence of Islam at the end of the 6th century AD. In this century, Islam has instilled the spirit to abolish slavery and restore human nature and dignity as it should be. The deletion efforts are carried out in stages, not immediately deleted all at once.¹ Meanwhile, according to the West, the history of the emergence of the idea of Human Rights stems from

¹ Aji, “Hak dan Kewajiban Asasi Manusia dalam Perspektif Islam,” *Salam; Jurnal Sosial dan Budaya Syar’i*, Vol. II, No. 2, Desember 2015, 210.

political conditions resulting in the event of limiting the absolute power of a king in England, better known as the Magna Carta (Grand Charter).²

In implementing and understanding human rights, there are several different views held by the West and Islam. This difference then creates a dialectic in the concept of human rights between the West and Islam.³ So in this article, we try to present a discussion of issues related to human rights starting from the notion of human rights, its history, the concept of human rights from a Western perspective, and the concept of human rights from an Islamic perspective initiated by modern-contemporary Islamic leaders.

Research methods

This study uses the literature study method by collecting several literature studies as references that can be accounted for in the form of books, journals and sources that can be used as references in writing scientific papers.

Results and Discussion

In this discussion, the author focuses on human rights issues in modern and contemporary Islamic thought. And before entering into the main discussion, the author first provides an understanding of human rights along with the history and views of the West. This is done so that readers can understand human rights universally properly and correctly and are not fixated on discussions from an Islamic perspective only. In addition, the aim of understanding human rights from these two perspectives is to identify and clarify the direction or source of thinking about these human rights.

A. Definition of human rights

God Almighty has given gifts in the form of a set of rights to every human being since they were born. These rights are known as natural rights, these rights are also known as human rights. Indonesia as a constitutional state also pays special attention to this right as a form of protection for the people which is regulated in the 1945 Constitution, Law no. 39 of 1999

² Rahmawati, "Hak Asasi Manusia dalam Islam," *Jurnal Transformatif (Islamic Studies)*, Vol. 1, No. 2, Oktober 2017, 199.

³ Mustaanu, "Dialektika Komunikatif Antara HAM Internasional dan Hukum Islam," *Indonesian Journal of Islamic Communication*, Vol. 1, No. 1, Juni 2018, 5.

concerning Human Rights, and Law no. 26 of 2000 concerning Human Rights Courts.⁴

Based on Article 1 point 1 of Law no. 39 of 1999 concerning Human Rights and Law no. 26 of 2000 concerning the Human Rights Court are:

"a set of rights that are inherent in the nature and existence of humans as creatures of God Almighty and are His gifts that must be respected, upheld and protected by the state, law, government and everyone, for the honor and protection of human dignity."

It cannot be denied that human rights have many definitions. To facilitate understanding of human rights, the author provides a classification related to human rights into several sections, namely:

1. A human right born as a form of God-given existence that is permanent and cannot be denied, which includes the right to life and other rights that God has given in human life.
2. A human right that is born from the results of a country's policies originating from laws and non-laws such as the right to education, welfare, health services and others.⁵

According to Arabic, HAM is also known as al-huqūq al-insaniyyah. The word Huqūq is the plural form of the word Haqq which has various meanings such as possession, certainty, or determination. Meanwhile, the word al-Insāniyyah means "humanity" or an educated or intelligent person.⁶ Human rights are rights granted to every individual. These rights emerged and developed from the modern thinking of the European nation in carrying out a law in society. As time goes by, these human rights issues are increasingly developing in the Western world and are used as international standards.⁷

⁴ Nawawi, "KOMNAS HAM: Suatu Upaya Penegakan HAM di Indonesia," *Jurnal Hukum Progresif*, Vol 9, No. 1, Juni 2017, 1.

⁵ Fauzan Khairazi, "Implementasi Demokrasi dan Hak Asasi Manusia di Indonesia," *Jurnal Inovatif*, Vol. 8, No. 1, Januari 2015, 81-82.

⁶ Sitti Aminah, "Hak Asasi Manusia (HAM) dalam Perspektif Alquran," *Jurnal Hukum Diktum*, Vol. 8, No. 2, Juli 2010, 162.

⁷ Jamhari, "Reformasi Syari'ah dan Wacana Hak Asasi Manusia (Studi Pemikiran Hukum Abdullah An-Na'im)," *Nurani*, Vol. 15, No. 2, Desember 2015, 37.

B. History of Emergence of Human Rights Issues

History records that a well-known notion of human rights which states that humans are creatures free from all oppression was championed at the beginning of the 13th century in England. This struggle took place in the form of the nobility's resistance to the power of King John Lockland who acted without limits. This power resulted in extraordinary conflicts and crises for the people of Great Britain. After a long struggle, finally the king's power became limited and the people's rights were recognized. The results of the struggle of the nobility were then written in the Great Charter known as the Magna Charta, in 1215..⁸

Long before the existence of the Magna Charta, respect for human rights existed around 2100 years BC in the Code of Laws of Hammurabi from Babylonia. Around 1500 BC there was also the order of King Thutmose in Egypt. In religious scriptures such as the Torah, Zabur, Bible and Koran there are many discussions related to human rights. At the time of the Prophet there was also the Constitution of the Medina Charter which contained the rights to freedom of religion, freedom of opinion, about guaranteeing the safety of property and the prohibition of committing crimes between Muslims and non-Muslims.

Like the economy, human rights are also becoming increasingly complex along with the times and the ease of the globalization process. Raising issues concerning human rights then reached the international sphere in the 1948 Universal Declaration of Human Rights (UDHR/DUHAM) which became the culmination of international recognition of human rights and recognition of the nature and dignity of all human beings.⁹

C. Western View of Human Rights

The influence of the domination of Western views on human rights has an impact on taking human rights values that are inclined to Western thinking. Even though the formation of international human rights standards is in the West, it cannot be used as a conclusion that human rights originate

⁸ I Nyoman Surata, "Sejarah Perkembangan Konsep Hak Asasi Manusia," *Kertha Wijaya Jurnal Hukum*, Vol. 2, No. 1, Agustus 2014, 114.

⁹ Firdaus Arifin, S.H., M.H, *Hak Asasi Manusia Teori, Perkembangan Dan Pengaturan* (Yogyakarta: Thafa Media, 2019), 25.

in the West because the concept of human rights already exists in every human civilization in various parts of the world.

The existence of Western domination also influences their view of Islam. Criminal punishments contained in Islam are often criticized by the Western world. In addition, the social and political situation in the Islamic world has also received criticism from Western analysts. They think that Islamic law does not respect human rights.¹⁰

Western views of the regulations contained in Islam give rise to a fear of Islam which is popularly known as 'Islamophobia'. The controversial term refers to prejudice, discrimination, fear and hatred towards Islam and Muslims. Actions against Islamic teachings are carried out openly or in secret. Until now, Islamophobia continues to grow in western countries with Muslim minorities.¹¹

Western views on human rights are generally divided into two discussions that are highly respected in Western circles and are controversial in Eastern circles, including:

1. Universalism in International Human Rights Law

The universalism of international human rights law has become the subject of fierce debate between East and West. The universalism referred to in this notion refers to the interpretation and application of the idea of human rights globally. After the implementation of the Universal Declaration of Human Rights in 1948, every country in the world is obliged to implement it and if there are countries that do not accept the results of the declaration, they will be considered as human rights violators.

The concept of universalism has also generated conflict in various circles resulting in international debates in the United Nations forum. Universalism is often contrasted with the cultural relativism of diverse societies. So that this conflict is always raised in every forum that carries the theme of human rights in the international arena. As was the case when the Vienna Conference discussed human rights, delegates from Eastern countries such as Africa, Asia, and Muslims firmly opposed the concept of

¹⁰ Baderin, *Hukum Internasional Hak Asasi Manusia & Hukum Islam*, (Jakarta: Komnasham, 2010), 9.

¹¹ Khotijah, "Fenomena Kemunculan Islamophobia dan Pengaruhnya terhadap Pemahaman Islam secara Umum." *Pillow*, Vol. 1, No. 2, Desember 2022, 19.

human rights initiated by the West which was considered West-centric and did not tolerate Eastern culture.

2. Paradoks Universalisme dan Relativisme Budaya

Universalism, which is used as an international human rights concept, means that every human being has the same rights wherever he is. Adherents of this theory assume that human rights are always comprehensive. This theory is closely related to the concept of Western liberalism. In another sense, if there is a matter that is contrary to the norms prevailing in the West, then this matter will be immediately refuted because it is considered different from Western thought.

Contrary to the theory of universalism, the theory of cultural relativism which is mostly adhered to by the East considers that human rights are absolutely not rooted in Western thought, but originate from a combination of historical, political, religious, socio-cultural and economic factors. It is with these factors that human rights are fought for.¹²

D. Views of Modern-Contemporary Islamic Figures on Human Rights

Islam as a religion has a big role in modern life.¹³ Religion is considered capable of answering the challenges of modern life which is dominated by scientific and technological advances. Islam is able to dialogue with the times and become the main guideline for solving the problem of justice in human life on this earth.

The existence of a controversial debate on the concept of human rights between the West and the East provides a challenge to Muslim scholars to contribute their ideas which aim to prevent the negative impact of Western ideas that are contrary to the Islamic religion. Several thoughts on human rights have been initiated by Muslim figures, including:

1. Abdullah An-Na'im

With regard to human rights, An-Na'im believes that Islam is substantially in line with international human rights norms if interpreted correctly. He is of the opinion that the limitation of human rights in terms of

¹² Baderin, *Hukum Internasional Hak Asasi Manusia & Hukum Islam*, (Jakarta: Komnasham, 2010), 23-27.

¹³ Nurcholish Madjid, *Islam Kemodernan dan Keindonesiaan*, (Bandung: Mizan, 2008), 94.

sharia is still justified, but it needs to be underlined that revisions are needed so that syari'ah is able to dialogue with modern times. In this modern era of human rights standards, he is more focused on discussing the prohibition of slavery and discrimination based on gender and religion.

a. Slavery

It is clear that Islam does not recognize slavery. Although historically, Islam came at a time when the slavery system was rife. However, the arrival of Islam actually broke the chain of slavery little by little by advocating the liberation of slaves in various ways, such as penance in a religious context. Related to this has been explained in Q.S Al-Mujādalah verse 3:

“Those who make zihar on their wife and then take back what they have said must free a slave before the husband and wife have intercourse. That's what you were taught. Allah is All-Seer of what you do.”

Nevertheless, slavery was banned by the constitutions of modern Muslim countries around the 1960s. The prohibition of slavery was born from secular law, not from shari'ah. An-Na'im also criticized the image of sharia-shadowed slavery and Islamic literature which continuously supports the enslavement of non-Muslims from South Sudan and treats them as slaves even though it is covertly.

b. Gender Discrimination

An-Na'im's views on gender issues, the inferiority of a woman compared to men in the shari'ah view lies in the principle of qawwamah (guardianship of men over women) in terms of women's dependence on men in the security and economic sector. Then after the modernization in global life, the trust is no longer valid. A woman has the same freedom and responsibility in the realm of law, so that security and economic matters are no longer the sole responsibility of a man, but have transformed into a shared responsibility.¹⁴

2. Abdullah Al-Affendi

Abdullah Al-Affendi is of the opinion that a culture of human rights is considered not very important in an Islamic state. Only a small part of the

¹⁴ Jamhari, “Reformasi Syari'ah dan Wacana Hak Asasi Manusia (Studi Pemikiran Hukum Abdullah An-Na'im),” Nurani, Vol. 15, No. 2, Desember 2015, 37–42.

Islamic community in an Islamic country or the people of a country with a Muslim majority truly understand and uphold human rights.

Political movements that are constantly in flux unknowingly step on human rights and values. The impact of the existence of war, the struggle for ideological influence and power in the West has led to the emergence of the need for human rights that apply to humans. Unfortunately these issues are not thought of in Eastern society.

The main factor behind most Eastern nations not being too concerned with the human rights movement is the problems that occur within the Eastern nations themselves. The attitude of fanaticism towards groups, tribes, descendants, families, parties, and sects that are ingrained in the flesh creates a blindness in seeing the positive impacts of diversity. For example, the Arab nation is known for its kinship. In terms of politics or the economy, they tend to prioritize their own family as the holder of power. Most of them think that if the rights given to other people are equal to the rights they have, the other people will take over the power they have. This is not a matter of mere power, but a feeling that is deep-rooted and difficult to root out.¹⁵

3. Heba Raouf Ezza

He believes that a woman has the same rights as men. Heba also criticized the patriarchal culture that occurred in his era which was very detrimental to women. She also hopes that the progress of the times will support women's emancipation, because she believes that a reform will not be easily accepted by a society that is still developing. The background to her thoughts occurred when publishers in Egypt were arrested who printed a paper belonging to the Muslim Brotherhood entitled "The Role of Muslim Women in an Islamic Society." The paper contains about the permissibility of women to enter into the world of politics, and given equal rights with men. The idea of renewal was of course immediately rejected by the government and deemed illegal, the publishers were sentenced to six months in prison.

4. Mashood A. Baderin

Mashood A. Baderin has the desire to build a dialogue between Islamic law and international human rights law. It is intended that Islamic countries

¹⁵ Nug Katjasungkana, *Hak atas Keadilan Dalam Wacana Islam*, (Jakarta: ELSAM, 1998), 92.

can easily implement Islamic law. Mashood also contributed narrative as one of the brightest ideas after the interaction between international law and religion, he also provided an opinion on related analysis on how appropriate interactions are to align human rights tensions in the international sphere as well as efforts to encourage the actual development of human rights.

The concept embodied in human rights has a great influence on contemporary international relations and is the main goal of the universal association of nations. If international human rights are understood as a whole in fighting for humanity in the world without any subjective interests, then there will be no negative justification for Islam which is considered incompetent for international human rights because of the fact that Islam also provides protection for individuals from abuse of government power in a country, as well as upholding efforts to increase human dignity universally, because these two aspects are used as a principle of political theory in Islamic law.

Then a question arises, why is an idea of renewal considered illegal? And who deserves to be blamed in this matter? In the midst of Islamist currents that provide a balanced view of society, the Government as the party in authority actually hinders the renewal of this thought, makes efforts to fight for human rights have no effect at all in society and adds to the justification that Muslims do not uphold human rights. thoroughly in this modern era.¹⁶

Conclusion

It is appropriate for us to thoroughly analyze social issues related to human rights and revitalize them in social life in this modern era. The development of the current era is known as the era of disruption, an era where innovation and change occur massively. Do not let the era of revolution at this time again write a bad record in human history just because human rights as individual and social beings are ignored.

In addition, modern Muslim society is also asked not to be apathetic towards issues related to human justice. Muslim communities are also

¹⁶ Nug Katjasungkana, *Hak atas Keadilan Dalam Wacana Islam*, (Jakarta: ELSAM, 1998), 123.

expected to live side by side with other communities, without deep suspicion and mutual tolerance in terms of differences. This, if done perfectly, does not rule out the possibility of creating justice, prosperity and peace in the world, both internally for Muslims and for society globally.

In writing this paper, we realize that there are still many shortcomings, both in writing papers and in the use of references. Therefore, we apologize profusely, and we hope that readers will read this work carefully and carefully so that there are no misunderstandings. And we also ask readers to provide criticism and suggestions that are useful for us so we can write even better papers in the future.

Bibliography

- Aji, Ahmad Mukri. "Hak dan Kewajiban Asasi Manusia dalam Perspektif Islam." *SALAM: Jurnal Sosial dan Budaya Syar-i*, Vol. 2, No. 2, Desember 2015.
- Aminah, Hj Sitti. "Hak Asasi Manusia (HAM) dalam Perspektif Alquran," *Jurnal Hukum Diktum*, Vol. 8, No. 2, Juli 2010.
- Baderin, Mashood A. *Hukum Internasional Hak Asasi Manusia & Hukum Islam*, Jakarta: Komnasham, 2010.
- Arifin, Firdaus. *Hak Asasi Manusia Teori, Perkembangan dan Pengaturan*, Yogyakarta: Thafa Media, 2019.
- Jamhari. "Reformasi Syari'ah dan Wacana Hak Asasi Manusia (Studi Pemikiran Hukum Abdullah An-Na'm)." *Nurani* , Vol. 15, No. 2, September 2015.
- Katjasungkana, Nug. *Hak atas Keadilan Dalam Wacana Islam*, Jakarta: ELSAM, 1998.
- Khairazi, Fauzan. "Implementasi Demokrasi dan Hak Asasi Manusia di Indonesia," *Jurnal Inovatif*, Vol. 8, No. 1, Januari 2015.
- Khotijah, Siti. "Fenomena Kemunculan Islamophobia dan Pengaruhnya Terhadap Pemahaman Islam Secara Umum," *Pillow*, Vol. 1, No. 2, Desember 2022.
- Madjid, Nurcholish. *Islam Kemodernan dan Keindonesiaan*, Bandung: Mizan, 2008.
- Mustaanu, Al. Mustaanu, "Dialektika Komunikatif Antara HAM Internasional dan Hukum Islam," *Indonesian Journal of Islamic Communication*, Vol. 1, No. 1, Juni 2018.

Nawawi, Asror. "KOMNAS HAM: Suatu Upaya Penegakan HAM di Indonesia," *Jurnal Hukum Progresif*, Vol 9, No. 1, Juni 2017.

Rahmawati, Laila. "Hak Asasi Manusia dalam Islam," *Jurnal Transformatif (Islamic Studies)*, Vol. 1, No. 2, Oktober 2017.

Surata, I Nyoman. "Sejarah Perkembangan Konsep Hak Asasi Manusia," *Kertha Wijaya Jurnal Hukum*, Vol. 2, No. 1, Agustus 2014.