



## Epistemology of Islamic Law Concerning Human Rights

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### Abstract

Human rights law in the context of answering human rights debate as the spirit of constitutional law, international law, and criminal law. civil law, and procedural law with a blended approach international law and national law. In the Islamic context, the understanding of Human Rights is studied through the understanding of Islamic Law itself. The problems inherent in humans are of interest to scientists, philosophers, and legal experts because humans have inherent will, rights, and freedom. in Islam, all human rights are obligations of a state or individual that cannot be ignored. Hence, human rights in Islamic law are related to the concept of equality which is transcendently stipulated for the benefit of humans through Islamic law. In Islamic law, humans are beings who have duties and responsibilities and have rights and freedoms based on justice. Human rights are rights that are owned by everyone in accordance with human conditions. Human problems are complex if the rights inherent in humans are not fought for and protected, such as the right to life, the right to freedom, the right to religion, the right to justice, the right to equality, the right to education, the right to freedom of opinion, the right to ownership, and the right to get a job. .In other words, without protection there will be social oppression, human colonization, and authoritarian life arrangements. Therefore, freedom and the will for independence must be protected from oppressive outside forces.

**Keywords:** Epistemology, human rights, Islamic law

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### Introduction

Human rights objectively serve a noble purpose as they are fundamental rights inherent to all individuals, regardless of skin color, race, gender, language, or religion. These basic rights are inherent in each individual and, when fulfilled, enable humans to achieve significant levels of development. However, human rights (HAM) have historically been disputed, especially in England, where the Magna Carta charter (great agreement) was established on 15th July 1215, marking the early beginnings of the recognition of human rights (Baderin, 2010).

Many scholars have written about human rights, but often, the practical and valuable implementation of human rights is lacking. In the book *Human Rights Law*, there is an expression stating: "The approach and orientation of teaching human rights

should be free from the influence of the political interests of the ruling regime, and not be too focused on the 'East-West' contrast or fixated on a cultural approach, which actually hides the interests of the authoritarian ruler” (Rhona, 2008).

Human rights are based on the Natural Law Theory, which can be traced back to the natural law writings of Saint Thomas Aquinas. Then, Hugo de Groot, a Dutch jurist, further developed Aquinas' natural law theory by eliminating religious origins and making it a product of rational secular thought. For this reason, one of the post-Renaissance scholars, namely John Locke, proposed the theory of natural rights. Locke's notion of natural rights was the basis for the human rights revolution that unfolded in England, the United States, and France in the 17th and 18th centuries.

This reality that the concept of international human rights originates from Western secularism/liberalism cannot be avoided (Riyanto & Muhammadiyah, 2019). As a result, when Islamic law applies a concept that differs from the epistemology that should be upheld in Islam, it poses a problem (Almahfali & Avery, 2023). The International Declaration of Human Rights cannot be achieved in protecting human rights due to the failure of several countries to respond to and implement this declaration, as applications are subject to the criteria of various powers in this world, while under an Islamic state, humans enjoy the freedom of belief and religion, and he has absolute freedom to choose any religion.

The study of human rights from various sources is often influenced by elements and content of power politics, making the identification of the epistemology of human rights challenging. This topic has been extensively discussed by academics like Jairo Enrique Suárez Alvarez (Alvarez, 2022) and Jean De Munck (De Munck, 2018), who argue that human rights are frequently viewed merely as legal norms, neglecting their essence as a value system. To preserve their integrity, human rights must stand on their own essence, free from interpretations that serve the interests of power or certain sectarian perspectives. If human rights become contaminated by power or are polarized between East and West, the objectivity of human rights knowledge will inevitably become blurred (Almahfali & Avery, 2023; Souaiaia, 2021).

The view of human rights in the Western perspective is that it is anthropocentric, meaning that everything is centered on humans, the measure of its value and truth lies in the subjectivity of the humans themselves. Whereas in Islam, it is theocentric. Therefore, the epistemology of human rights in Islamic law is important to explain so that the bias of subjectivity and interest in understanding human rights fundamentally in Islamic values does not become different. This paper discusses the epistemology of human rights in Islamic law and then explains human rights within the framework of Islamic law. Islamic law is a set of regulations that governs the conduct of human life with good, orderly, and virtuous principles that regulate all human activities as a way to worship Allah. However, there are several problems or issues faced by Islamic law today.

One of the problems faced by Islamic law today is an issue related to the issue of Human Rights (HAM) where universal human rights have been regulated in the Charter of the United Nations (UN), advocating for and defending human rights and freedoms regardless of race, gender, language or religion. Therefore, Islamic law regulates the order of human life both vertically and horizontally, namely the relationship with Allah SWT and the interactions among individuals and society generally.

## **Method**

This study used a qualitative method with the type of library research, which involves using library data, particularly books as data sources. The research applied descriptive analysis methods by examining and analyzing various existing literature. The primary data in this research were several charters or laws related to Human Rights (HAM), along with several references on Islamic jurisprudence/law and Islamic legal philosophy regarding human rights, as well as a compilation of Islamic law in Indonesia. Islamic fiqh studies were used to look at the principles of Islamic law, while the philosophy of Islamic law was employed to understand the epistemology of human rights in Islamic law.

The primary data used in this study are laws relating to human rights, while the secondary data are books, journals, online sources, and books on Islamic legal philosophy. In addition, this study also used reference support and previous research that is relevant to the problem.

## **Result and Discussion**

### **Flow in Epistemology and its Types**

The emergence of schools of thought in epistemology is caused by ways or methods of obtaining different information. In Western thought, there are several schools of thought in epistemology, namely observation, logic, positivism, and intuitionism. The pioneer of this observational school was John Locke (1632 – 1704). Meanwhile, the pioneer of the logic or rationalism school was Rene Descartes (1596 – 1650), and the positivism school was pioneered by Auguste Comte (1798 – 1857). The last was the intuitionism school pioneered by Henri Bergson (1859-1941).

Types of epistemology include: Epistemology aficionado, namely the traditional method of managing epistemology. This type relies on judgment and power (cosmology), a character who is Plato. The function of this type of epistemology is how to know reality by raising the question: what do we know? and how can we know?, Basic Epistemology is a method that asks what questions we can know before we classify something. And by initially raising fundamental questions before something is believed to be true. In particular, the disbelief that we can directly know objects directly without going through our spirits. Fundamental questions like this: What can we know? Can we find it? Is it possible that we can know something outside ourselves? As a result, this epistemology forms philosophy, Logos epistemology. This type epistemology poses the main question, namely what do we really know and how do we know it?

### **Main topics of Epistemology**

The topic of discussion of epistemology is science, technology, and information. However, there are two important things, namely from the point of view of epistemology, the topic focuses on knowledge and information, namely the importance of the information itself which is equivalent to a general understanding and combines every fundamental material, science, innovation, ability, skill, and combining

Every science such as hudhuri (existence), hushuli (achievements), information about God, messengers, as well as human sciences. In addition, information is existence

and all types of exposure where this term is used in the Islamic method of thinking which combines hushuli and hudhuri information. Then the newly obtained information is identified with rationality. Then that information is a request (tashdiq) which is put into reality whether it is accepted or not.

### **Epistemological Method**

One of the methodologies in obtaining information about science is epistemology or logical techniques. The information obtained is information obtained through strategic techniques. The logical strategy is an examination in considering technical guidelines. Hence the logic system is an evaluation of the principles contained in the logical strategy.

The above is like a logical action cycle that begins when someone pays attention to something. Ontologically, science limits issues that are considered and contemplated at the level of human information. So, science does not discuss things that are beyond human reach because science only seeks answers in reality.

Wise methodology when combined with the right methodology is called strategic. Naturally, science organizes information in a predictable and collected way. Meanwhile, experimentally, science isolates information that fits the present reality which in essence is not the case.

The strategy mentioned above was also developed by Muslim researchers during the heyday of Islam in the past, whose background was to seek a truth that was started by Greek thinkers or philosophers and restored by Islamic culture through history until today's modern world gets light and strength.

### **Knowledge and its Sources in Islam**

As is known, epistemology is a way of thinking that manages sources of information. To understand Islamic epistemology, it is necessary to adopt a genetivus subjectivus approach, where Islam serves as the standard of deduction and epistemology as the subject (Abdullah, 2012).

The similarities between Islamic epistemology and general epistemology lie in their shared goal of obtaining information. However, the difference lies in their sources. Islamic epistemology is independent of general epistemology, which is related to openness and motivation as sources of information. On the other hand, general epistemology accepts that reality revolves around humans because of their ability to determine truth (information).

### **Knowledge in the Qur'an**

In the Al-Qur'an, there are means to obtain detailed information, namely: hearing, sight, reason, and heart. This is as stated by Allah SWT in Surah An-nahl (16) verse 78: And Allah has brought you forth from your mothers' wombs when you knew nothing, and then gave you hearing, and sight and thinking hearts so that you may give thanks."

In this case, the epistemology in the Qur'an is extensively described as its implied meaning in sura al-Kahf (18) verse 109:

Say (Muhammad): "If the sea were to become ink to record the Words of my Lord, indeed the sea would be all used up before the Words of my Lord are

exhausted, and it would be the same even if We were to bring an equal amount of ink.”

From the verse above, it can be understood that the use of writing instruments (pens) and seawater as ink to compile information implies exploration and investigation through logical cycles to decide definitions and laws of ongoing routines and also God's creations that manifest in the universe. Furthermore, in Islam, al-Qur'an and hadith are the founding sources of scientific development so as to add quality to life, such as the word Jannah (heaven) with gardens filled with plants, fountains, fish, and places to sit.

Besides, there are also many verses of the al-Qur'an or sentences that suggest, motivate, and provide inspiration to be applied in the realities of life through scientific studies and research, and philosophical thinking, both in rational and empirical studies. In other words, it can be understood that the al-Qur'an is the main source of knowledge.

### **The concept of Islamic Epistemology**

As it is known that the discussion of the concept of epistemology is usually related to philosophical issues which are an important aspect in the discussion of science. Therefore, the concept of epistemology according to the Islamic view is an important matter in a community where epistemology is a view of life that includes worldly life and the life hereafter.

With regard to philosophy, epistemology is one of the main branches of the discussion of philosophy which talks about the theory of science (Hasanah, 2013). Meanwhile, from a historical background, the discussion of philosophy is the main precursor of science. In this case, according to Abdul Rahaman, other branches of science were born such as mathematics, logic (logic), medicine, and so on.

The dynamics of the progress and development of science achieved are the reason for the birth of several other scientific disciplines that emerged from the philosophy, namely ontology (theory of essence/existence), epistemology (theory of science), and axiology (theory of value).

In the aspect of epistemology, there are also several schools that discuss the problem of science according to their respective opinions and ideas when viewed as contradictory to one another. These schools are rationalism, empiricism, positivism, realism, and idealism (Kosim, 2008). From this aspect, each school tries to discuss the issues, scope, and limitations of each of these schools.

### **Classification of Science in Islamic Perspective**

The division of knowledge in an Islamic view is different from the distribution of knowledge according to the West where the division of knowledge is organized based on virtues and interests based on the Qur'an and al-Hadith. In this perspective, Muslims are seen as more thorough and orderly in classifying knowledge which combines naqli science (revelation) and aqli science (ratio).

In general, Islamic scientists categorize this knowledge into two groups, namely eternal knowledge (qadim) and new knowledge (hadith). According to Mohammad Nor wan Daud, this qadim or eternal knowledge is eternal, which is based on the substance of Allah. Meanwhile, new knowledge or hadith is divided into self-evident categories, primary and demonstrative. Hsa' al-ulum states that the classification of science includes mathematics consisting of arithmetic, geometry, astronomy, and music. The

second is a natural science, which discusses the natural world, and the third is the science of metaphysics and its divisions. The fourth is political science and the fifth is about legal philosophy, as well as the science of scholasticism.

Besides, Ibn Khaldun discussed epistemological issues while he was discussing the classification of this science as described in one of his books, namely *Muqaddimah*. Ibn Khaldun classified knowledge into two parts, namely naqli science and aqli science (Madjid, n.d.)(Madjid 2004). Each of these two sciences also has its divisions. According to Ibn Khaldun, naqli science is divided into two, namely knowledge that originates from revelation and knowledge that does not originate from revelation. The knowledge that originates from revelation is the knowledge that originates from the Qur'an and Hadith. As for sciences that do not originate from the Qur'an and Hadith, such as the science of interpretation, the science of qiraat, the science of hadith, the science of ushul fiqh, the science of fiqh, the science of faraid, the science of kalam, and the science of Sufism.

The division of aqliy, Ibn Khaldun divides it into four parts, namely logic, science (medicine and agriculture), metaphysics, knowledge of the secrets of letters, and learning science (engineering, arithmetic, music, and astronomy (Khaldun, 1993). Meanwhile, according to al-Ghazali, the division of knowledge is based on the stages of obligations, sources, and social functions. This can be seen in his work, namely *Ihya 'Ulum al-Din* and *Ri Salah al-Laduniyyah*.

Based on the description above, it can be understood that there are differences among Islamic scientists. This is due to their respective backgrounds and moods of thought. Al-Attas that the sharing of knowledge was motivated by the education of a Muslim who ultimately has a unity of knowledge, namely knowledge from Allah SWT.

In addition, according to Muhammad Dawilah al-Idrus, Islamic epistemology emphasizes that the ultimate goal of knowledge is to believe in something that has absolute truth and is believed to be true without any skepticism (doubt), prejudice, and mubham (vague).

## **The Philosophy of Islamic Law**

### **Understanding the Philosophy of Islamic Law**

The philosophy of Islamic law consists of three words, namely Philosophy, Law, and Islam. Each of them has its own definition. According to Harun Nasution (Nasution, 1992), the notion of philosophy in this discussion is more appropriate to be interpreted as thinking according to order (logic) freely (not bound by tradition, dogma, and religion) and so deeply that it gets to the basics of the problem. In this case, it can be understood that philosophy is thinking freely, deeply, and radically (getting to the root of the problem). Although philosophy is thinking, not every thought is called philosophy. This is as expressed by Sutan Takdir Ali Syahbana that thinking in philosophy is thinking consciously, thoroughly, and according to a definite rule.

The word "Philosophy" in Arabic is often identified with the word "Wisdom" which etymologically means "bridle iron" namely, an iron used for controlling animals. The meaning of the word "controller" in this case is the control and restraint of humans who have them not to act and have low and despicable morals, but to act and behave in a correct and commendable manner. However, it's important to note that the concept of "Wisdom" in Arabic is not exactly the same as in other languages.

The definition of wisdom according to Mustafa Abd al-Raziq, as quoted by Akhmad Shodikin, is that the wisdom mentioned in the Qur'an makes people who have wisdom as noble and authoritative people.

Apart from the differences in opinion above, it is understandable that Muslim philosophers tend to make the word wisdom the equivalent of the word Philosophy. This is according to Fuad al-Ahwani that most Arab authors place the word wisdom in place of the word philosophy, placing the word judge in place of the word philosopher.

It is understood that the definition of understanding philosophy among philosophers is terminologically different, but substantively they have similarities, namely philosophy is science and thinking deeply to achieve the essence of something.

### **Understanding of Islamic Law**

The definition of Islamic law is a system of rules based on the revelations of Allah and the Sunnah of the Prophet relating to the actions or behavior of the mukallaf (people can already be burdened with obligations that are carried out and believed). In other words, Islamic law is shari'a which means rules made by Allah. For His servants who were brought by a Prophet Muhammad, both laws related to amaliyah (deeds) carried out by all Muslims. In this case, it can be understood that Islamic law in this sense emphasizes more on principles based on revelation and sunnah of the prophet Muhammad SAW. Those who say with the actions or deeds of the mukallaf.

The notion of Islamic law in Western literature, as described by M. Ibnu Rochman, is translated into Islamic Law and Islamic Jurisprudence. Such as JND Anderson in his book: *Islamic Law in the Modern World* and NJ Coulson in his book: *History of Islamic Law* (Edinburg, 1964), and *Conflict and Tension in Islamic Jurisprudence*, and also the work of J.Scha ch namely: *An Introduction to Islamic law. and Origins of Muhammadan Jurisprudence*, as well as Zagday in his book *Modern Trends in Islamic Law*.

The Orientalists mentioned above generally consider that Islamic law is expressed as the irrevocable will of God, as opposed to legal systems based on human reason. This law (Islam) has two characteristics, namely an eternal and eternal system, and represents a standard of uniformity.

According to Muhammad Ichsan, in fact the term "Islamic law" is rarely used by Islamic scholars. The term they always use to refer to Islamic law is "shari'a" and "Fiqh". Mir Syarifuddin explained that what is meant shari'a is the path to a water source, as water is the source of the life of plants and animals, just as Allah SWT makes shari'a the source of the life of the soul. (Muhammad Syah, 2002)

In terms of terminology, shari'a is a law that is prescribed by Allah to His servants both through the Qur'an and Sunnah, both related to matters of faith which specifically become a discussion of theology and amaliyah issues which become the discussion of fiqh (Az Zuhaili, 2000). In this case, Wahbah al-Zuhaili defines shari'a as laws related to faith and laws related to amaliyah. Meanwhile, al-Tanhawy defines syar'iah as branch and amaliyah laws which are codified in fiqh and basic laws related to creed which are codified in kalam (Asy'arie, 2002).

From the quotation above, it can be understood that the scholars differ only in the definition of shari'ah, but in terms of substance and purpose are the same, namely law relating to faith and practice. Akidah is the belief or i'tiqad of a Muslim towards his

faith in Allah SWT and the unseen, while amaliyah is the act or action of a Muslim in carrying out the commands of Allah. And stop all His prohibitions.

Meanwhile, the etymological understanding of Fiqh comes from the Arabic language, namely alfiq, which means understanding or knowledge of something (Islam, 2016). Morphologically, the word Fiqh comes from the words: faqiha, yafqohu, and Fiqhan, which mean "understand" (al-Karim, 1992).

Terminologically, the notion of fiqh has various editorials from fiqh experts, but a more specific understanding is the notion put forward by al-Said al-Jurjani, namely the science that explains syara' law which is amaliyah and taken from detailed arguments and through ijtihad and requires reasoning and taammul (Aljloud, 2014).

Based on the explanation of the definition of philosophy and Islamic law above, it can be understood that Islamic Law Philosophy also has editorial differences among Islamic jurists, including according to Hasbi Ash-Shiddiqiy that Islamic Law Philosophy is a philosophical study of the essence of Islamic law, the sources of origins of Islamic law and the principles of its application, as well as the functions and benefits of Islamic law for the life of the people who implement it. In this case, Hasbi Ash Shiddiqiy emphasizes more to philosophical studies related to the nature, sources, principles, functions, and benefits of Islamic law in Muslim life. In other words, Islamic Law Philosophy is a fundamental, systematic, and methodical study (Syari, 2016).

In addition, there are Islamic law experts who define the philosophy of Islamic law in terms of a methodological framework. They use a methodology called the Tasyri' Philosophy and the Syari'ah Philosophy aiming at those who know the law, its goals, and secrets. So according to Dahlan (Dahlan, 2012), the tasyri' philosophy is a philosophy that talks about the essence and purpose of establishing Islamic law. Uqubah, and so on.

From some of the explanations above, it can be understood that Islamic Law Philosophy is scientific and systematic thinking that can be accounted for and in-depth about Islamic law or in other words, that Islamic Legal Philosophy examines the secrets and essence of Islamic Law.

## **Human Rights**

Human Rights (HAM) are rights bestowed by God Almighty to every individual on Earth. Everyone is obliged to maintain, protect, and respect the rights of everyone. According to the Big Indonesian Dictionary, human rights (HAM) refer to the entitlement to be protected internationally such as the right to life, independence, and freedom to own.

Human rights (HAM) have been obtained by every individual since he was born on earth and cannot be taken and seized by anyone, because they have also been protected by the United Nations (UN) in a UN declaration regardless of race, ethnicity, religion and social status. Human rights are upheld by the European human rights court.

The history of human rights (HAM) originates from the Western world (Europe) where a British philosopher in the 17th century named John Locke (1632 – 1705) formulated natural rights that are inherent in every human being, namely the right to life, the right to freedom, and property rights. At that time, rights were still limited to the civil (personal) and political fields.



The history of the development of Human Rights (HAM) is motivated by three important events in the Western world which emerged the Magna Carta charter (1215), the American Revolution (1776), and the French Revolution (1789). These three events were the forerunners to the birth of Human Rights (HAM).

*Magna Charta* (1215) is a charter signed on June 15, 1215 by King John of England and this charter is a milestone in the birth of Human Rights and is a constitution in England which limits the absolute power of the king or queen in England and emphasizes that the king does not rule without the agreement of the nobles under him. The birth of this magna charta was motivated by the rebellion of the English people against King John (1199 – 1216) because King John's power often failed in his reign, such as losing the Normandy region to the French king, burdening large taxes on British nobles to finance wars abroad, and also often disagreeing with Pope Innocent III and selling church offices to fill the dwindling royal coffers.

The United States Revolution (1773) was the culmination of the United States Revolution caused by the Boston Tea Party incident on December 16, 1773. The emergence of this event was motivated by the disappointment of the citizens of the United States where they threw together loads of tea into the sea, thus making the British government angry which caused war as the beginning of the revolution. The results of this revolution had an impact especially on the people of the United States, namely independence and freedom so that the United States became an independent country free from colonial rule on July 4, 1776.

The United States Declaration of Independence stated that humans are created equal by their creators. All humans are granted the right to life, independence, and freedom. These rights cannot be revoked by anyone. The United States Revolution incident served as the backdrop for the emergence of human rights.

Then a revolution also occurred in Europe, namely the French Revolution (1789 – 1799), which was a radical and political upheaval in France. This revolution was one of the biggest revolutions that could change the order of life of society. After several centuries France was in absolute monarchy. Then this absolute monarchy ended in a period of three years.

From the explanation above, it can be understood that all the rights contained in the Human Rights (HAM) instrument are the rationale for the formulation of universal human rights, which are finally called the Universal Declaration of Human Rights. This declaration was ratified by the United Nations (UN).

### **Kinds of Human Rights.**

It should be noted that the history of the development of human rights thinking is long enough, so this research only briefly describes the various types of human rights (HAM) between generations such as the first generation or the classical period, according to Jimly Ashshidhiy that human rights include, among others: the right to self-determination, the right to life, the right not to be sentenced to death, not to be tortured, to be arbitrarily detained, to be fair, independent and impartial, the right to express opinions, the right to assemble and associate, equality before the law, the right to vote and selected (Hasaballah, 1957).

Developments in the second generation expanded the concept of human rights to include efforts to guarantee completeness in pursuing economic, social, and culture

progress, including the right to education, the right to determine political status, the right to enjoy scientific findings, and so on. The climax of the development of the second generation was the signing of the International Covenant on economic, social, and cultural rights in 1966. The development of human rights in this generation is principally a demand for social equality called "positive rights" which requires the active role of the state.

Furthermore, in the third generation in 1986, a new conception of human rights emerged, namely the right to development which included equal rights or opportunities to advance that apply to all nations and includes the rights of every person who lives as part of the nation's life which includes the right to participate in the development process, as well as the right to enjoy the results of development, economic, social and cultural results, health, income distribution, employment opportunities, and so on.

### **Human Rights Epistemology in Islamic Law**

The secular Western paradigm that underlies the international human rights declaration cannot be avoided becoming the epistemological basis of the universal declaration of human rights, which can be interpreted freely and wildly, even secularly, which makes absolute freedom. In Islam, the concept of human rights is related to the protection and respect for the dignity, freedom, and justice of every individual. Although the term "human rights" is not explicitly used in Islamic legal sources such as the Qur'an and Hadith, the principles and values contained in the concept can be found in religious teachings (Esack, 1998).

In Islamic law, every individual is considered to have rights that must be respected by society and government. Some of the human rights upheld in Islam include the Right to life, Freedom of religion, Equality before the law, and Protection of family and children's rights (Na'im, 1995).

The interpretation and implementation of human rights in Islam can differ depending on different contexts and understandings. views of human rights in Islam can evolve over time and be integrated with broader Islamic legal principles. The epistemology of human rights in Islamic law also involves the study of scholars and scholars of general principles and values in Islamic teachings. Principles such as justice, generosity, equality, and protection of the individual form the basis of the understanding of human rights in Islam. Through this understanding, knowledge of human rights in Islamic law is developed and applied in social, political, and legal contexts (Saed, 1999). Interpretations and interpretations of human rights in Islam can also be influenced by different historical and social contexts. Therefore, there is room for debate and diverse approaches to understanding and implementing human rights in Islamic law (Saed, 1999).

In the application of Islamic law in Indonesia, human rights (HAM) remain an important principle. Although Indonesia has officially adopted the Islamic legal system in some areas, such as marriage and inheritance, the country also has a secular legal tradition that protects human rights. The Indonesian Constitution, namely the 1945 Constitution, provides a basis for the protection of human rights. Article 28B states that everyone has the right to life, freedom, and personal safety. In addition, other articles in the constitution also guarantee rights such as freedom of religion, freedom of speech, the right not to be tortured, and the right to obtain legal protection.

In addition to the things mentioned above, there are very principled differences between human rights in the Western view and Islamic law. Human rights in the Western view are *anthropocentric*, that is, everything is centered on humans. In other words, the measure of truth is centered on humans, whereas in the view of Islamic law, human rights are *theocentric*, that is, truth is centered on God. From this explanation, it can be understood that there are different perceptions of human rights between Western and Islamic views.

Several issues related to human rights in the application of Islamic law in Indonesia include the protection of religious freedom and women's rights. Although the majority of Indonesia's population is Muslim, the country also recognizes the right of religious minorities to worship according to their beliefs. In addition, there are also efforts to protect women's rights in the context of Islamic law, such as eliminating the practice of child marriage and protecting against domestic violence.(El Fadl, 2011).

There are several verses that state principles related to human rights. Some of these principles include Freedom and human dignity: The Qur'an recognizes human dignity as a creature created by Allah. Every individual has the right to be respected and acknowledged. The Qur'an states that all humans are born free (QS. Al-Isra' [17]: 70) and have the right to live with freedom and equality.

Freedom of religion: The Qur'an emphasizes that religion must be upheld based on the sincere will and belief of the individual, without coercion or oppression. Verses like QS. Al-Baqarah [2]: 256 states that "There is no compulsion in religion" (Begovic, 2021).

Protection of life: The Qur'an places great importance on protecting human life. Murder is stated as a very serious act and is prohibited in the Qur'an (QS. Al-Maidah [5]: 32).

Justice: The Qur'an emphasizes the importance of fairness and fair treatment of all people. All individuals have the right to be treated fairly, regardless of race, ethnicity, or religion (QS. An-Nisa' [4]: 135).

Protection against violence and torture: The Qur'an condemns violence and torture. The Al-Quran states that committing violence and torture is a heinous act and is not acceptable (QS. Al-Baqarah [2]: 190).

Protection of women and children: The Qur'an emphasizes protecting women and children and respecting their rights. The Al-Quran states the need to provide protection for weak women and children (QS. An-Nisa' [4]: 127) and prohibits the practice of child marriage (QS. An-Nisa' [4]: 6).

### **Human Rights within the framework of Islamic Law**

Islam is a religion that places humans as valuable, personable, and responsible creatures. As for his responsibility, humans are given the freedom to make choices to accept or reject God's religion; discrimination between fellow human beings is not justified and given the freedom to develop their lives in the framework of enhancing human dignity. There was an incident during the conquest of the city of Mecca which was told that Bilal ascended to the top of the Kaaba to call the call to prayer. Some people responded by saying, "Did this black slave call to prayer over the Kaaba?" However, someone else replied, "If God loved this man, he would have replaced him."

This verse then goes down as an affirmation that in Islam there is no discrimination, and the noblest are those who are the most pious.

The concept of Human Rights (HAM) explained in the Qur'an has a wider spectrum, is deeper, and is universal. These rights receive very serious attention and are always associated with the basic abilities possessed by each individual in expressing his existence as an honorable servant of Allah (Karamah) and having priority among His other creatures.

In its disclosures related to self-expression, Islam always adheres to morality. Since its inception, Islam has established the basic and main principles of Human Rights (HAM) in many verses contained in the Al-Qur'an, both general in nature, applicable to all human beings regardless of class, creed, race, skin color, status social, as well as of a special nature that is neatly and detailed.

In many ways, the Qur'an first of all confirms that the coming of Islam through the message of the last Prophet, namely Muhammad, is an invaluable gift to all mankind. The Qur'an calls it a mercy for all nature, without exception other than humans, as explained in Surah Al-Anbiya (21:107):

"And we did not send you except as a mercy to the worlds."

The principle of mercy for all nature was then applied in the context of human rights by the Prophet Muhammad, with the spirit of equal humanity (egalitarianism), to eliminate the strong roots of ignorance in Arab society at that time. The tradition and culture of ignorance at that time judged a person based on lineage (heredity), skin color, social status, and so on. This is contrary to the spirit initiated by the Qur'an, which places the concept of a universal humanitarian mission (HAM). As a creature that has dignity, is honorable and is commendable, humans have basic human rights that are inherent in themselves. The presence of the Al-Qur'an in the midst of humans confirms and strengthens the belief that humans from the beginning are noble creatures, have dignity, and honor, and are considered the best creature created by God. Therefore, the concept of Human Rights in Islam automatically includes all human glory and honor which must be fulfilled without exception (Baderin, 2010).

M. Quraish Shihab explained that the Qur'an emphasizes that differences are laws that apply in this life, to ensure strong bonds of brotherhood. In terms of human rights, brotherhood is highly valued. In fact, Islam has demanded that brotherhood is built on humanity, unity, and equality so that the radius of brotherhood is not interfered with by arrogance and the imperialism of power.

In protecting human rights from the perspective of fiqh, we can see Maqashid Shari'ah. In the definition explained by Wahbah al Zuhaili, these are the meanings and intentions that are to be guarded by syara' which are contained in all of its internal laws and contain secrets that are placed by syara' in its hull (al-Zuhaili, 1997).

Another opinion is what has been said by Ahmad al-Raisuni; Maqashid Shari'ah are the goals set by the Shari'a so that they can be realized for the benefit and benefit of humans.

The purpose of maqashid syari'ah: Religion, soul, mind, offspring, and wealth. Then specifically to protect the order of life in the world with the guarantee of human rights as the subject or activator in protecting human rights and the environment. This view seeks to maintain and protect human rights whose implementation is related to faith and creed in realizing the activities and social status held by each individual in the

midst of society. Because the improvement carried out and desired by Islam is an improvement that covers the whole of every human problem, not partial.

Within the framework of Islamic law, human rights principles are integrated with Islamic religious teachings and upheld through an appropriate legal system. Although there is no single document equivalent to the Universal Declaration of Human Rights in Islam, human rights principles can be found in Islamic legal sources, such as the Qur'an, Hadith, and *ijtihad* (invention of law based on Islamic principles). There are several principles of human rights that must be respected and protected. These principles include human honor and dignity, the right to life, freedom of religion, equality before the law, privacy and personal freedom, protection of the family, proportional punishment, and freedom of opinion and communication. These principles are implemented in the legal system of an Islamic state or within the framework of international Muslim organizations such as the Organization of the Islamic Conference (OIC). However, the application and understanding of human rights within the framework of Islamic law can vary depending on the historical context, culture, and different interpretations.

### Conclusion

Human rights principles are integrated with Islamic religious teachings and upheld through an appropriate legal system. Although there is no single document equivalent to the Universal Declaration of Human Rights in Islam, human rights principles can be found in Islamic legal sources, such as the Qur'an, Hadith, and *ijtihad* (invention of law based on Islamic principles). There are several principles of human rights that must be respected and protected. These principles include human honor and dignity, the right to life, freedom of religion, equality before the law, privacy and personal freedom, protection of the family, proportional punishment, and freedom of opinion and communication. These principles are implemented in the Islamic state legal system.

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