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Human Rights Thought: Between Islamic Law and The Universal Declaration of Human Rights

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ABSTRACT

The issue of human rights among Muslim countries is nothing new. Islamic Shari'a which is universal explains a lot of basic principles regarding equality of human rights and freedoms, even when the Prophet Muhammad declared the Medina Charter. The history of the enactment of Islamic law among Muslim communities has shifted from a vertical normativity point to a horizontal one. This is because the development of the enactment of Islamic law has also been influenced by socio-cultural dynamics and legal politics in Islamic society itself. Islam has first taught mankind about the concept of egalitarianism, universalism and democracy. This beautiful and comprehensive concept is allegedly adopted by the West through the emergence of universal ideas which are standardized in the Universal Declaration of Human Rights convention. Islam is an ash-Syumul religion. Islamic teachings cover all aspects of human life. Islam provides regulations and demands on humans, ranging from the smallest affairs to large-scale affairs. And of course, it includes rules and high respect for human rights (HAM). However, it is not in one structured document but is spread out in the holy verses of the Koran and the Sunnah of the Prophet Muhammad.

Keywords: Human Rights, Islamic law, UDHR

ABSTRAK

Persoalan hak asasi manusia di kalangan negara-negara muslim bukanlah suatu hal yang baru. Syariat Islam yang bersifat universal banyak menjelaskan prinsip-prinsip dasar tentang persamaan hak asasi manusia dan kebebasan bahkan ketika Nabi Muhammad SAW mendeklarasikan Piagam Madinah. Perjalanan sejarah berlakunya hukum Islam di kalangan masyarakat muslim telah bergeser dari sudut normativitas vertikal menjadi horizontal. Hal ini disebabkan perkembangan berlakunya hukum Islam

telah dipengaruhi pula oleh dinamika sosial-budaya dan politik hukum dalam masyarakat Islam itu sendiri. Sesungguhnya Islam telah terlebih dahulu megajarkan umat manusia tentang konsep yang egaliter, universal dan demokratis. Konsep yang sedemikian indah dan komprehensif ini disinyalir diadopsi oleh Barat melalui pemunculan ide-ide universal yang dibakukan dalam konvensi Universal Declaration of Human Rights. Islam adalah agama yang asy-Syumul. Ajaran Islam meliputi seluruh aspek dari sisi kehidupan manusia. Islam memberikan pengaturan dan tuntutan pada manusia, mulai dari urusan yang paling kecil hingga urusan yang berskala besar. Dan tentu saja telah tercakup di dalamnya aturan dan penghargaan yang tinggi terhadap hak asasi manusia (HAM). Namun memang tidak dalam satu dokumen yang terstruktur, tetapi tersebar dalam ayat-ayat suci al-Quran dan Sunnah Nabi Muhammad Saw.

Kata kunci: DUHAM, Hak Asasi Manusia, Hukum Islam

Introduction

Human rights are one of the elements of the concept of the rule of law, human rights are a right that is owned from birth or a basic right that is owned by humans as individual beings. *"Those fundamental rights, which empower human beings to shape their lives by liberty, equality, and respect for human dignity"* This view states that human rights are basic rights given to humans *to shape their lives by* freedom, equality and respect for human dignity as individual beings. Human rights have been ratified throughout the world, therefore these rights are respected and upheld, so that a statutory regulation is issued that regulates them (Manfred, 2003, p.1).

The history of the development of human rights can first be seen from the recognition of moral rights and basic human rights regarding human dignity. With the recognition of these rights, then to protect them a treaty or agreement was made, then the Magna Charta Charter was born in England on June 15, 1215, where the king's power must be limited, human rights are more important than the king's sovereignty. From this description, that the charter is the first historical milestone regarding the protection of human rights. The birth of the Magna Charta Charter. contains the view that the previous king's power was absolute (the law he created was bound for others

but not for himself), but after the existence of this charter the king's power has begun to be limited and legally accounted for. The Magna Charta Charter was then followed by the birth of the Bill of Rights in 1689 in England, the view is in essence, that humans are equal on earth (equality before the law). The Bill of Rights which gave birth to the principle of equality of human dignity and dignity must be realized because the right to freedom can be realized if there is equality (Effendi, 1994, p. 68). It can be said, that the birth of this Bill of Rights has provided equality of human rights and provided freedoms that are protected and respected by law which are outlined in the form of legislation. Furthermore, the development of human rights was marked by the emergence of the American Declaration of Independence from the United States and in France in 1789 Declaration des Droit de l'homme (Asshiddiqie, 2009, p. 348). The text above has had a great influence on its universal development for the struggle for human rights. In essence, the two texts say that humans are free from birth and these rights must be given freedom and not be shackled or restrained and guarantee all human rights struggles. Arbitrary arrests and detentions are not allowed if there is no warrant from a legitimate official.

In principle, the current idea of human rights is a compound that was cooked on the scene of World War II. During the war, it would be seen from any angle that one dangerous aspect of Hitler's reign was the inattention to human life and freedom. Therefore, the war against the Axis powers was easily defended in terms of the protection of human rights and fundamental freedoms. The Allied States stated in their "Declaration by United Nations" published on January 1, 1942, that victory was "essential to safeguarding life, liberty, independence and religious freedom, as well as to defending human rights and justice. " In a subsequent message to Congress, President Franklin D. Roosevelt identified four freedoms he sought to defend in the war: freedom of speech and expression, freedom of religion, freedom from poverty, and freedom from the fear of war.

The impact of the killings and the catastrophic damage to the joints of life caused by World War II aroused a global determination to do something to prevent war, to build an international organization that could defuse international crises and provide a forum for discussion and mediation. This organization is the United Nations (UN), which has played a major role in the development of contemporary views on human rights. The founding fathers of the United Nations believed that reducing the possibility of war required the prevention of gross violations of human rights. Because of this belief, even the earliest UN conceptions have included the role of developing human rights and freedoms. The early texts of the United Nations Charter (1942 and 1943) contained provisions on human rights that must be adhered to by any country that joined the organization, but several difficulties arose regarding the application of such provisions. Concerned about the prospects for their sovereignty, many countries are willing to "develop" human rights but are unwilling to "protect" them. Finally, it was decided to include a few references to human rights in the UN Charter, in addition to assigning a Commission on Human Rights. To write an international statement on human rights.

There are three views from religious groups including Muslims on the declared human rights, namely: First, those who accept it because human rights are in line with Islamic teachings. Second, those who consider that the concept of human rights is contrary to Islamic teachings. Third, the position of the moderate group that takes a cautious attitude, namely accepting with some changes and modifications as necessary (Ismail, 2009, p.111). Islam views the human rights formulations contained in the UDHR, there are principal problems that are contrary to Islamic teachings, such as article 16 concerning marriage between people of different religions and article 18 concerning the right to freedom of entry and exit of religion. In the view of Islam, the marriage of a Muslim with a non-Muslim is forbidden (haram), while freedom of entry and exit of religion is an apostasy. On this basis, the countries that are members of the Organization of the World Islamic Conference (OIC) make a formulation on human

rights based on the Qur'an and Sunnah which was declared in Cairo, Egypt on August 5, 1990. This formulation consists of 25 articles, later called the Cairo Declaration on Human Rights in Islam (CDHRI). The Cairo Declaration did not form a new formulation of human rights at all but corrected articles deemed to deviate from the principles of Islamic teachings, while articles that did not conflict with the principles of Islamic teachings were given the basis of the Qur'an and Sunnah.

Discussion

The Basic on Thoughts of Human Rights

The origin of the idea of human rights can be traced back as far back as ancient times with Stoic philosophy to modern times. Among legal experts, three main theories explain the origin of the thought of human rights, namely the theory of natural law, positivism, and anti-utilitarianism.

1. Natural Law Theory.

The thought which later gave birth to the theory of natural law cannot be separated from the influence of the writings of Saint Thomas Aquinas. According to Aquinas, natural law is part of God's law that can be known through human reasoning. Aquinas's ideas lay the foundations for autonomous individual rights. Every human being is given a unique individual identity by God, and this is separated by the State. However, Aquinas's idea has been criticized because it is not empirical, how do we know God has given certain rights to everyone.

2. Positivism or Utilitarian Theory

The idea of human rights based on the view of natural law was seriously challenged in the 19th century. It was Edmund Burke, an Irish national who was troubled by the French Revolution, who propagated the "terrible idea of human equality". Burke alleges that the compilers of the "Declaration of the Righteousness of Man and the Citizen" are untrue ideas and vain hopes in humans who are destined to live an obscure life with difficulty. Hume, a Scottish philosopher, held the view that the

theory of natural law mixes between what is (is) and what should be (ought). What exists are facts that can be proven empirically and can be verified. Here one cannot argue right or wrong, because its existence can be proven and tested empirically. Meanwhile, what should be (ought) is the principle of morality, namely the objective reality that cannot be proven. In morality, people can argue right or wrong.

3. Theory of Justice

The theory of justice was born from a critique of the theory of positivism. The figures who developed this theory were Ronald Dworkin and John Rawls. Dworkin's theory is very much based on the obligation to treat its citizens equally which is carried out by the State.

Manfred Nowak mentions that there are four principles of human rights, namely universality, indivisibility, interdependence (Wignjosoebroto, 2003, p 12), interrelated. Rhona KM Smith added another principle, namely equality and non-discrimination. Some circles say that the principle of indivisibility, interdependence and interrelatedness is a derived principle of universality. A simple explanation of some of these principles is:

1. Universal Principle This principle says that all people, in all parts of the world, regardless of religion, a citizen of any country, any language, any ethnicity, regardless of political and anthropological identity, and regardless of disability status, have the same rights. The affirmation of this principle is carried out through Article 5 of the Vienna Declaration on the Program of Action which reads "all human rights are universal, undivided, interdependent, interrelated (all human rights are universal, indivisible, interdependent and interrelated).
2. The Indivisible Principle This principle is interpreted as "all human rights are equally important and therefore it is not permissible to exclude certain rights or certain categories of rights from their share". Everyone has a whole category of inalienable

rights. As an analogy, one cannot only receive political rights without receiving social and cultural rights.

3. The principle of interdependence This principle means that certain types of rights will always depend on other rights. For example, the right to work will depend on the fulfilment of the right to education.
4. The Principle of Interrelatedness This principle is understood that one right will always be related to another right. Whether it's the right to life, to express opinions, to choose a religion and belief, or other rights, these are rights that are related to one another in the protection and fulfilment of human rights as a whole. In other words, every human right is connected in a chain. If one link is broken, the rights of others will be violated. The principle of interrelatedness has two elements, namely interdependence and interrelatedness.
5. Equality Principle Equality requires equal treatment, where the same situation must be treated equally, and wherein different situations—with little debate—then are treated differently. Equality is also considered an absolute prerequisite in a democracy. Equality before the law, equality of opportunity, equality of access to education, equality of access to a fair trial and others are important aspects of human rights.
6. Principles of Non-Discrimination Discrimination occurs when everyone is treated or has unequal opportunities such as inequality before the law (inequality before the law), inequality of treatment, inequality of educational opportunity and others. Discrimination is then interpreted as a situation that is discriminatory of inequalities if like situations are treated differently or different situations are treated similarly (a situation is said to be discriminatory or unequal if the same situation is treated differently and/or different situations are treated the same). The principle of non-discrimination (non-discrimination) then becomes very important in human rights. Discrimination has two forms, namely (a) direct discrimination, ie when a person is directly or indirectly treated differently than others, while (b) indirect

discrimination, ie when the practical impact of laws and/or policies is a form of discrimination even though it is not intended for discriminatory purposes.

7. State responsibility This principle means that the main actor who is burdened with the responsibility to fulfil, protect and respect human rights is the State through its apparatus. This principle is written in all international human rights covenants and conventions as well as domestic regulations. Article 71 of Law Number 39 of 1999 expressly states that: "The government is obliged and responsible for respecting, protecting, upholding and promoting human rights as regulated in this Law, other laws and regulations, and international law concerning human rights. human rights accepted by the Republic of Indonesia".

The charter itself reaffirms "belief in fundamental human rights, in human dignity and worth, in equal rights between men and women and between large and small countries." The signatories pledged to "take joint and separate action in cooperation with this Organization "to strive for" universal respect for, and observance of, human rights and fundamental freedoms for all human beings, without distinction of race, sex, language or religion (Nickel, 1971, pp. 93-105) Human rights, as understood in human rights documents that emerged in the twentieth century such as the Universal Declaration, have several prominent features (Nickel, 1996, p.54). *First*, so that we don't lose sight of the clear idea that human rights are rights. This shows that these rights are definite norms and have a high priority whose enforcement is mandatory. *Second*, these rights are considered universal, which are owned by humans simply because they are human. This view implies that characteristics such as race, gender, religion, social position, and citizenship are irrelevant to the question of whether or not a person has human rights. It also implies that these rights can be applied worldwide. One of the special features of human rights currently in force is that they are international rights. Adherence to such rights has been seen as an object of legitimate international attention and action. *Third*, human rights are considered to exist by themselves and do not depend on their recognition and implementation in the

customary system or legal system in certain countries. This right may not be effective until it is exercised according to law, but it exists as a standard of argument and criticism that does not depend on the application of the law. *Fourth*, human rights are seen as important norms. Although not entirely absolute and without exception, human rights have a strong enough position as a normative consideration to apply in conflict with conflicting national norms, and to justify international actions taken for human rights. The rights outlined in the Declaration are not listed in order of priority; the relative weights are not mentioned. It is not stated that some of them are absolute. Thus, human rights are what philosophers call *prima facie* rights. *Fifth*, these rights imply obligations for both individuals and governments. The existence of this obligation, as well as the rights associated with it, is considered independent of its acceptance, recognition or application. Governments and people everywhere are obligated not to violate a person's rights, although that person's government may also have the primary responsibility for taking positive steps to protect and enforce that person's rights.

Human rights (HAM) etymologically, is a direct translation of human rights in English, “*droits de home*” in French, and *menselijke rechten* in Dutch (Hardjowirogo, 1977, p.10). However, some use the term human rights as a translation of basic rights and fundamental rights in English, as well as *grondrechten* and *fundamentele rechten* in Dutch . 2000, p.3). Miriam Budiardjo said that human rights are rights owned by humans that are obtained and carried along with their birth or presence in people's lives (Budiardjo, 2000, p. 207). Meanwhile, according to Jan Meterson from the UN Human Rights Commission that human rights are rights inherent in every human being, without these rights, humans can't live as humans.

Furthermore, he revealed that this right is a right that is brought from birth as a gift from God Almighty, not a gift from humans or rulers. This right is very basic for human life and life, which is natural, that is, it cannot be separated from and in human life. John Locke stated that human rights are rights that are given directly by God

Almighty as natural rights. Therefore, no power in the world can uproot it. In-Law Number 39 of 1999 concerning Human Rights Article 1 it is stated that: "Human Rights are a set of rights that are inherent in the nature and existence of humans as creatures of God Almighty and are His grace that must be respected, upheld and respected. protected by the State, law, government, and everyone for the sake of honour and protection of human dignity." (www.komisiyudisial.go.id, on Thursday, 9 December 2020)

The formulation of human rights that are considered legal and is used as a standard at this time is published by the United Nations Agency, which was declared on December 10, 1948, and is better known as "The Universal Declaration of Human Rights". -Human Rights), abbreviated as UDHR. This formulation consists of 30 articles. 8 The considerations for declaring these human rights are to respect the natural dignity and worth of human beings so that they can live freely and raise their standard of living properly.⁹ Developed (Western) countries, in general, refers to the human rights declared by the UN Assembly. Although almost all members of the UN have accepted, these human rights have not been fully agreed upon and have not been able to accommodate the wishes of the nations of the world with very diverse cultural and religious backgrounds.

The points that become rights for all human beings as formulated in the UDHR (Universal Declaration of Human Rights) are:

1. The right to have dignity, not to be humiliated and not to be treated like a slave as stated in article 1, article 4 and article 5.
2. The right to live, be free, and be safe as stated in Article 3.
3. The right to obtain justice, legal protection, not to be arrested without concrete evidence and to express opinions (free speech) and associate (assemble to form organizations) as stated in Articles 7, 8, 9, 10, 11, 19 and 20.
4. The right to be free to take care of himself and his own family without the intervention of other parties or agencies as stated in Article 12.

5. The right to have a place to live or live in a place he likes as stated in Article 13.
6. The right to flee and seek refuge in all corners of the world as long as he does not violate the basic laws of the United Nations as stated in article 14.
7. The right to obtain recognition as a citizen of a state-owned as stated in article 15.
8. The right to seek and find a mate freely without being limited by nationality, nationality, and religion as stated in Article 16.
9. The right to own property (article 17).
10. The right to freedom of thought, change of religion and worship (Article 18).
11. The right to be sovereign and participate (participate) in the affairs of one's own country, such as occupying government positions. (Article 21).
12. The right to social security, to try, and to work according to his wishes, to receive wages from his work and to protect his interests both morally and materially as stated in Articles 22, 23 and 27 paragraph (2).
13. The right to rest, vacation, enjoy art and culture, obtain health and a decent standard of living for himself and his family as stated in Articles 24, 25, and 27 paragraph (1).
14. The right to receive education and educate children (Article 26).

The views of Muslim scholars who at the same time represent Indonesian scholars on human rights can be seen from the following opinions. Ali Yafie, for example, supports human rights by arguing the concept of *maslahah* introduced by classical *fiqh* scholars. In legal theory (*ushul fiqh*) there is a rule that states that "The general purpose of Islamic sharia is to realize the public interest through the protection and guarantee of basic needs (*al-Daruriyyah*), the fulfilment of their interests (*al-Hajiyah*), and the fulfilment of their jewellery (*tahsiniyah*)" (Khalaf, 1978, p.199). According to Yafie, as quoted by Masykuri, basic human needs (*al-Daruriyyah*) include the soul (*al-Nafs*), reason (*al-'Aql*), offspring (*al-Nasab*), property (*al-Mal*) and religion (*al-Nasab*). -Din).

The Birth of the IUDHR and CDHRI The basic Islamic formulation of human rights was raised by Muslim experts, scholars, religious leaders or intellectuals into the real form of a charter that was ratified by institutions. This effort was started at the Abu Dhabi meeting in 1977. The meeting resulted in a formulation called the “Islamic Universal Declaration of Human Rights (IUDHR). This declaration is quite complete and completely in line with UN human rights documents such as the Universal Declaration of Human Rights, conventions on civil and political rights, and so on. The IUDHR consists of 22 articles. (Abdillah, 1999, pp. 101-102)

Islam and Human Rights

The issue of human rights among Muslim countries is nothing new. Islamic law which is universal explains the basic principles of equality of human rights and freedom. Even when the Prophet Muhammad declared the Medina Charter, human rights were placed in the highest position of the first Islamic constitution. The history of the enactment of Islamic law among Muslim communities has shifted from a vertical normativity point to a more horizontal one. This is because the development of the enactment of Islamic law has also been influenced by socio-cultural dynamics and legal politics in Islamic society itself.

Islam views that humans are noble, because of the glory bestowed on them by Allah SWT. The glory is associated with the worship of man to his Lord. According to Muhamad Ahmad Mufti and Sami Salih al-Wakil (Mufti and Deputy, 2009, p. 22), Western thought views that human rights are natural rights (*al-huquq athabi'iyah* or natural rights) that flow from the idea that absolute sovereignty belongs to humans, no other party is more sovereign than humans. Whereas in Islam basic human rights are gifts given by Allah SWT.

There are fundamental differences between the concept of human rights in Islam and human rights in the western concept, including:

1. Human rights in Islam are based on the teachings of the Qur'an and Sunnah. The basis of human rights in the Qur'an is contained in the letter al-Hujurat verse 13: "O mankind, indeed We created you from a male and a female and made you into nations and tribes so that you may know each other..." It is said that humans live in tribes and nations is to know each other, meaning that humans are interconnected and help each other and provide mutual benefits, a harmonious relationship can't occur if the rights of equality and freedom are not maintained. Meanwhile, Western Human Rights (UDHR) is based solely on philosophical thought, because it is entirely a product of the human brain.
2. Human rights in Islam are Theocentric, meaning that humans in this case are seen only as creatures entrusted with basic rights by God, not as absolute owners. Therefore it is obligatory to maintain it by God's rules. In enforcement, in addition to the interests of humanity, it is also based on obedience and obedience to carry out God's commands and in seeking his pleasure. Therefore, in the enforcement of human rights, it must not clash with the teachings of the Shari'a comprehensively. While Western human rights are more anthropocentric, meaning that humans are the main focus of attention. Humans are seen as the full owner of these rights.
3. Human rights in Islam prioritize a balance between the rights and obligations of a person. Therefore, social interests are very much considered. The use of personal rights in Islam should not harm or ignore the interests of others. If a person acts as his right, but his actions harm others, his rights may be limited. On the other hand, western human rights prioritize rights over obligations, therefore they seem more individualistic.

In this case, the use of rights by a person does not pay attention to the obligation to maintain the rights of others. So, it can be concluded that according to the West human rights are merely the product of the human brain, which prioritizes humans to exercise freedom without any limitations. Meanwhile, Human Rights in Islam is one part of the general pattern of Shari'ah. These rights are as sacred as other

shari'ah laws and thus these rights must be respected by shari'ah. There is no decree of Allah that can be reduced or limited for the sake of human rights. So all the laws that have been stipulated by the Shari'ah limit the scope of human rights (Husain, 1996, p.100).

As a comparative perspective between human rights originating from the West which is legitimized in the Universal Declaration of Human Rights (UDHR) or the Universal Declaration of Human Rights (UDHR) and human rights from an Islamic perspective, i.e:

Table 1 : Differences between UDHR and Islamic human rights

UDHR	ISLAMIC HUMAN RIGHTS
1. Based on philosophical thinking alone	1. Based on of the Qur'an and the sunnah of the Prophet Muhammad SAW
2. Anthrophocentric	2. Theocentric nature
3. More concerned with rights than obligations	3. Balance between rights and obligations
4. More individualistic	4. Social interests take precedence
5. Humans as the full owner of basic rights	5. Humans as creatures entrusted with basic rights by God, therefore must be grateful and maintain them

Source: (Hussain, 1996, p.100)

Human Rights Principles in the Medina Charter

Human rights in the books of authentic hadith, Hasan, and musnad musnad, not only in one form, including that the Prophet sallallaahu 'alaihi wa sallam said in the Hajj Wada sermon: "Indeed your blood, your wealth and your honours. you are forbidden (noble-protected) for you as forbidden (noble-protected) this day of yours in this month of yours in this country of yours. (Tafsir Ibn Kathir juz 4 p. 215, Sahih Al-

Bukhari no. 105, and Sahih Muslim no. 1218). Wada' sermon until now is known as the farewell sermon of the Prophet Muhammad SAW with his people around the world by confirming the perfection of the Islamic message he taught. In the sermon or speech that coincided with the implementation of wukuf in Arafah on 9 Dzulhijjah 11 Hijriyah, there was another important thing for human life on earth, namely the Islamic commitment to upholding the values of human rights. The Medina Charter (Arabic: shahifatul Madinah) also known as the Medina Constitution, is a document compiled by the Prophet Muhammad, which is a formal agreement between him and all the important tribes and people in Yathrib (later called Medina). in 622 AD.

Experts call the manuscripts made by the Prophet Muhammad by various names. W. Montgomery Watt named it "The Constitution of Medina", RA Nicholson "Charter," Majid Khaddury "Treaty," Phillip K. Hitti "Agreement" (Sukardja, 2012, p.2). In this paper, the term "Medina Charter" is used. The word charter refers to the manuscript. The word Medina refers to the place where it was made. Charter means an official letter containing a statement about something.

This is where we can see Muhammad's role and function as a statesman as well as a great and qualified leader of a country throughout the history of human civilization, in addition to his position as a religious prophet and apostle. The principles of human rights in the Medina Charter are: First, good interaction with others, both Muslims and non-Muslims. Second, help each other in the face of a common enemy. Third, defend those who are persecuted. Fourth, advise each other. And fifth, respect religious freedom. The Medina Charter is the foundation for the life of a pluralistic society in Medina. The substance of the Medina Charter: 1) monotheism, which recognizes the existence of one god. This principle is contained in the Preamble, articles 22, 23 and 42; 2) unity and unity (articles 1,15,17,25 and 37). In these articles, it is emphasized that the entire population of Medina is one Ummah. Only one protection, if the Jews have recognized this Charter, means entitled to the protection of security and honour. In addition, the Jews and the Muslims shared the costs of the

war; 3) equality and justice (articles 1,12,15,16,19,22,23,24,37 and 40). These articles contain the principle that all citizens of Medina are equal before the law and must uphold the law and justice indiscriminately; 4) freedom of religion (article 25). Jews are free to practice their religion just as Muslims are free to practice Islamic law; 5) state defence (articles 24, 37, 38 and 44). Every resident of Medina who recognizes the Medina Charter has the same obligation to uphold and defend Medina from enemy attacks both from outside and from within and; 6) recognition and preservation of customs (chapters 2-10). In these articles, it is mentioned repeatedly that all good customs among Jews must be recognized and preserved.

Human Rights in the Quran.

Al-Quran as a source of law in Islam gives high respect for human rights. The Qur'an as the first source of law for Muslims has laid the foundations of human rights and truth and justice long before any thought arose in the world community. This can be seen in the provisions contained in the Qur'an, among others:

1. In the Qur'an there are dozens of verses about life, maintenance of life and the provision of means of life, for example in Surah al-Maidah verse 32: "Therefore We set (a law) for the Children of Israel, that: Whoever kills a human being, it is not because of that person. (killing) other people, or not for causing mischief on the earth, then it is as if He has killed all mankind. and Whoever saves the life of a human, it is as if He has saved the life of all mankind. And verily, Our Messengers have come to them with (bringing) clear statements, then many of them after that transgressed in doing mischief on earth."
2. The Qur'an also explains a hundred more verses about creation and creatures as well as about the similarities in creation, for example in the letter al-Hujarat verse 13.
3. The Qur'an has presented an attitude against injustice and wrongdoers in hundreds of verses, and on the contrary also commands justice in dozens of verses which are expressed in the words: *adl*, *qist* and *qishsh*.

4. In the Qur'an there are dozens of verses that talk about the prohibition of coercion to guarantee freedom of thought, belief and expression of aspirations, for example, stated in Surah al-Kahf verse 29.

5. Several other verses that show respect for human rights in Islamic teachings include the Right to Equality and Freedom (Surah al-Isra: 70, an-Nisa: 58, 105, 107, 135 and al-Mumtahanah: 8).

Human Rights in Hadith

The following descriptions are some of the values of Human Rights and Justice in the perspective of hadith found in hadith literature:

1. Right to Life. In the hadith narrated by Bukhari, it is stated that the second biggest sin after associating partners with Allah is killing one's biological child for fear of not being able to feed him. (*an taqtula waladaka kayayyata an yath'ama ma'aka*) (Bukhari, 2013, p. 1245). It's just that at the time of the prophet, children's rights were not accommodated into an institution like the world today with the existence of the National Commission on Human Rights of the Child. Not to mention that the character of the Arabs hates girls so much that girls are a disgrace to them. Therefore, Islam came to protect children. In other narrations, not specifically on children, namely with a more general editorial *qatlu an-nas* (killing humans) is part of a series of major sins (*al-Kabair*) (Bukhari, 2013, p. 1246). To follow up the murder law, namely with the *qishas* law which is shariah already contained in the Koran. In addition, the legal possession of weapons was also assessed by the Prophet that people who have weapons are not part of us (Muslims). Moreover, human death was still respected by the Prophet even though it was the body of a non-Muslim. One day there was a Jewish body that was about to be buried, then the Prophet stood up to honour it. At that time Sahl bin Hunaif and Qays bin Sa'd stood up and told the prophet that the body was Jewish. The Prophet replied "*alaisalat nafsan?*" isn't the human too? Understanding *mukhalafahnya*, the Prophet

respected the bodies of the Jews, especially if they are still alive? This shows that respecting other people does not look at religion or whatever its attributes, as a human being must respect others.

2. Right to Equal Justice. The right to justice is the universal value when the law is truly enforced, it will not be indiscriminate. Even when the ones who violate are their relatives. So justice is still enforced fairly according to the rules. As the Prophet Muhammad once said: "If Fatimah steals, then I will cut off her hand." This is an example given by the Prophet that it is better to carry out legal actions there are no exceptions.
3. Right to Seek Knowledge. Islam highly values knowledge, in a hadith the Prophet told the story of Moses, which Moses once boasted to the children of Israel when he was asked "is there anyone who knows better than you, Moses?" He replied "Nothing." Then Allah rebuked him "There is, namely my servant Khadr". Then Musa wandered off to look for Khadr to gain knowledge from him, although in the end, he failed to learn the science of patience. Then this story is immortalized by the Koran in the QS. al-Kahf: 60-82. In another hadith, the Prophet said that "Thinking for one hour is more useful than worshipping for one year (Bantani, 2001, p.7).
4. Property Rights. Ownership is also a highly respected value in Islam so that to enter a house one must ask permission by greeting first. This is clearly stated in the QS. an-Nur: 27-29.

Maqoshid al-Shariah and Human Rights

The principles of human rights are the goals of Islamic law (maqoshid al-Syaria'at) which have been formulated by Imam al-Ghazali and Abu Ishaq as-Syatibi. al huquq al insaniyah fi al Islam (human rights in Islam). This concept contains five basic principles that must be maintained and respected by each individual, namely (Jauhar, 2009, p.15):

1. Hifdzu al-Din (respect for religious freedom). Islam gives respect and freedom of belief and worship. Every believer has the right to his religion and sect. One should not be forced to leave his religion for another religion or madhhab and no one should force and pressure others to convert from his belief to convert to Islam. This is illustrated in the Qur'an letter al-Baqarah verse 256 which means "There is no compulsion (in) to adhere to a religion (Islam)".
2. Hifdzu al-Mal (respect for the property). In the teachings of Islam, the property belongs to Allah SWT, which He entrusted to Nature and humans as a gift. The whole earth and all that is contained in it, and what is on it has been made by Allah SWT for all humans. As the word of Allah in the Qur'an ar-Rahman verse 10 means: "And Allah has levelled the earth for His creatures." And also in Surah al-Hadid verse 7 which says: "Believe in Allah and His Messenger and spend part of your wealth which Allah has made you master. So those who believe among you and spend (part) of their wealth will have a great reward.
3. Hifdzu al-Nafs wa al-'Ird (respect for the soul, right to life and individual honour). In Islamic teachings, respect for the soul, the right to life and the honour of the individual is a basic right and the foundation of all rights. Other rights would not exist and are relevant without the protection of the right to life. So the protection of the Qur'an against this right is very clear and firm as stated in the letter al-Maidah verse 32: "Therefore We set (a law) for the Children of Israel, that: Whoever kills a human being, not because that person (kills) another person, or not because of making mischief on the earth, then it is as if He has killed all mankind. And whoever preserves the life of a human being, it is as if He has preserved the life of all human beings..." (Surah al-Baqaroh verse 179).
4. Hifdzu al-'Aql (respect for freedom of thought). Respect for freedom of thought and the right to education is a very important elaboration of the principle of hifdz al-aql. Protecting the mind from intoxicating substances is primary protection, so education is the fulfilment of secondary rights for its development. Without

adequate education, reason as an important gift from God is of no value and is a waste of God's grace.

5. Hifdzu al-Nasl (necessity to maintain offspring). In Islamic teachings, maintaining and maintaining offspring is manifested by the law of marriage. Islam views the institution of marriage as a way to protect human existence with respect and dignity. Islam does not recommend, although it does not prohibit celibacy/celibacy. For those who carry out marriage with full responsibility, it is promised with glory.

Legal Protection for Non-Muslims under Islamic Human Rights

Islam recognizes the existence of plurality or plurality, both in the fields of religion, race, and culture as the will of Allah. Islam just does not recognize pluralism, which views all religions as equal. In the view of Islam, what distinguishes a Muslim from a non-Muslim is his faith which is manifested by embracing Islam. The fiqh scholars classify non-Muslims into two groups; ahl al-harb and ahl al-'ahd. This division is based on the Word of Allah Surah al-Mumtahanah: 8-9. Ahl al-harb is a group of disbelievers who fight or engage in war with Muslims (al-Ghanusyi, 1993, pp.59-61). The term infidel harbi according to Yusuf al-Qardawi is pinned by the jurists to non-Muslim groups who live in their territory called dar alharb and express hostility towards Muslims and their leaders or who do not recognize an Islamic state (Qardhawi, 2010, p.751). The harbi infidels are all infidels who show hostility and attack Muslims, both from among the polytheists (pagans) and the people of the book.

The attitude of the Muslims towards them is harsh because of their hostile attitude towards and fighting against Islam (Hamka, 1984, p. 165). Shaykh Muhammad ibn Salih al-'Utsaimin stated, "The unbelievers (because of their attitude) do not have the right to receive protection and care from the Muslims." (Al-'Utsaimin, 2007, p. 43). These are the disbelievers whom the Messenger of Allah (SAW) fought. Meanwhile, ahl al-'ahd are non-Muslims who behave well, establish harmonious relations with

Muslims, and do not engage in hostility to them. This group is those who make peace and enter into treaties with Muslims, both those who choose to live in the dar al-Islam (Islamic territory) and those who remain in their territory.

The jurists divide this group of ahl al-'ahd into three groups. This is due to their different attitudes and positions in making agreements with Muslims. They are ahl al-dzimmah, ahl al-hudnah, and ahl al-aman. Ahl al-dzimmah are non-Muslims who are dependent on Muslims because they have agreed in the form of submitting and obeying the provisions and laws of Allah and His Messenger while paying the jizyah and they live in Islamic territory. This group is a permanent dependent of the Muslims, they are guaranteed to live in safety, peace, and get the rights and obligations that are generally the same as other Muslim residents, especially in the social field (muamalah), furthermore ahl al-hudnah is a group that enters into a ceasefire agreement with the Muslim community. the Muslims. They do not live in the territory of the Muslims, but still, have an agreement not to attack each other for a certain period. This group is not protected by the armed forces by the Muslims, but the Muslims still have good ties in this relationship. This group is still required to maintain the agreement between the two parties, and al-aman is a group that lives outside the territory of Islamic rule (dār al-ḥarbi) but makes an agreement to get guaranteed protection when they stay in the territory of the Muslims for a certain period.

Conclusion

Based on the discussion above, it can be concluded that the Islamic response to human rights is a reflection of global, eternal and fundamental demands. By not intending to apologise, Islam has first taught mankind about egalitarian, universal and democratic concepts. This beautiful and comprehensive concept is allegedly adopted by the West through the emergence of universal ideas which are standardized in the Universal Declaration of Human Rights convention. Islam is an ash-Syumul religion. Islamic teachings cover all aspects of human life. Islam provides regulations and

demands on humans, ranging from the smallest affairs to large-scale affairs. And of course, it includes rules and high respect for human rights (HAM). However, it is not in a structured document but is spread out in the holy verses of the Koran and the Sunnah of the Prophet Muhammad.

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