

ANALYSIS OF THE SCOPE OF HUMAN RIGHTS BASED ON THE HADITHS

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Abstract: Some scholars and human rights activists outside of Islam have extensively expressed opinions and sharp criticisms regarding the Islamic way, particularly in the context of human rights. In their actions, many human rights activists outside of Islam have accused the Islamic world of human rights violations in countries implementing Islamic law (Islamic Sharia), such as in several Islamic nations. In several incidents like in Aceh, it has rapidly become apparent that Aceh is not lenient in upholding human rights in the enforcement of Sharia law, including punishments like flogging, stoning, and the cutting off of hands. This article aims to address the concept of human rights in Islam, especially in the sayings of Prophet Muhammad (PBUH), the scope of human rights concepts in Islam, and the coverage of human rights in the sayings of Prophet Muhammad. The research employs a document analysis method using the texts of the Qur'an and hadiths, utilizing a philosophical approach and analyzing through content analysis methods. The findings of this article can be summarized, including that Islam is a religion that advocates for human rights and vehemently opposes their violations. The scope of Islamic human rights is extensive, not confined solely to the human rights of individuals but also extending to the rights of creatures other than humans, such as

animals, plants, structures, and the entire environment. Islamic human rights, as per the sayings of the Prophet, are not only applicable during times of war but also in peaceful conditions, such as in business and other interactions. Even in worship, human rights are regulated to ensure the preservation of the rights of every individual's body.

Keywords: Human Right, Islam, Hadith

Abstrak:—Sebagian ilmuwan dan pegiat Hak Asasi Manusia (HAM) di luar Islam telah banyak melontarkan pendapat dan kritikan pedas terhadap ajaran Islam khususnya dalam persoalan HAM. Dalam aksinya, tidak sedikit pegiat HAM di luar Islam telah melancarkan tuduhan kepada dunia Islam, berupa pelanggaran HAM di negara-negara Islam melalui pelaksanaan hukum Islam (Syariat Islam) seperti di beberapa negara Islam, dan term asuk provinsi Aceh di Indonesia. Dalam beberapa peristiwa di Aceh khususnya telah berkembang dengan pesat bahwa Aceh tidak ramah HAM dalam penegakan hukum syariat seperti hukuman cambuk, Rajam, dan Had. Artikel ini bertujuan menjawab bagaimana konsep HAM dalam Islam khususnya dalam Hadis Nabi, bagaimana cakupan konsep HAM dalam Islam dan bagaimana cakupan HAM dalam Hadis Nabi Saw. Artikel menggunakan metode telaah dokumen yaitu teks al-Qur'an dan hadis, dengan pendekatan filosofis dan dianalisis dengan metode *content analysis*. Hasil telaahnya dapat dikemukakan bahwa Islam adalah agama yang ramah HAM, cakupan HAM Islam sangat luas berupa adanya perhatian kepada hak asasi makhluk selain manusia, seperti hewan dan tumbuhan, bangunan dan lingkungan secara keseluruhan. HAM versi Islam tidak hanya untuk diterapkan dalam perang, tetapi juga dalam kondisi aman, seperti dalam kehidupan berbisnis dan interaksi lainnya.

Kata Kunci: Hak Asasi Manusia (HAM), Islam, Hadis Nabi

INTRODUCTION

The enforcement of human rights principles remains a serious issue to be discussed. Human rights violations are not confined to a single aspect but encompass various facets, including Armed Conflict and Humanitarian Crises; Discrimination and Racial Violence; Violations of Freedom of Expression and the Press; Violations of Women's and Children's Rights; Refugee Crises; and the Abuse of Power by Authorities. Armed conflicts in various countries, such as Syria, Yemen, Myanmar, and others, have led to severe human rights violations, including massacres, mass displacements, and brutality against civilians. Armed conflicts should not entail the sacrifice of the lives of non-combatant individuals. In practice, warfare has resulted in numerous casualties among civilian populations, as exemplified by the current actions of the Israeli military (ongoing since October 2023 until now, January 2024). There are no signs of an end to these violations, unequivocally constituting an emergency for human rights in the region.

The issues of racial discrimination and violence against minority groups continue to persist in many countries. Incidents of police violence targeting black and racial minority communities in several nations fall within this category. The majority should not engage in violent actions and violate human rights, as fundamentally, they all share the same rights and responsibilities before God, before the state, and on a humanitarian basis. However, in reality, racial oppression is still exhibited by some

majority rulers, with no signs of cessation, such as the oppression against the Rohingya ethnic minority in Myanmar and various other locations worldwide.

Universally, humans are required to respect the rights of fellow humans to ensure order in human life everywhere. However, in reality, violations of human rights by others often occur worldwide from ancient times to the present. Islam, as a religion of mercy for all worlds, is the last hope for humanity because it is believed that the principles of human rights in the concept of Islam have a broader scope compared to the existing human rights concepts in the world. Based on such beliefs, an in-depth study is needed regarding the scope of human rights principles based on Islamic teachings, both found in the Qur'an and the sayings of the Prophet. This article specifically focuses on the scope of human rights found in the sayings of the Prophet, with the hope of fostering understanding and implementation in the global society in the form of a more comprehensive human rights concept, contributing universally. This is because, in the context of Islam, the Qur'an and the sayings of the Prophet are two primary sources, and if the Qur'an presents many concepts or theories of human rights, then through the sayings of Prophet Muhammad, it demonstrates the practical implementation of human rights principles found in the Qur'an. In other words, many related concepts have been elaborated in the Qur'an, but their practical implementation is demonstrated by the Prophet and his companions. These practices are found in various sayings of the Prophet as *fi'liyah* hadiths, alongside commands and prohibitions in the form of *qauliyah* hadiths. In this context, the author does not entirely agree with the perspective of human rights activists who argue that Islamic teachings inadequately address human rights aspects in law enforcement, as seen in the implementation of Islamic law in Aceh. Through this paper, the author aims to contribute to refuting such issues. The paper utilizes hadiths that illustrate the seriousness of upholding human rights, aiming to demonstrate to human rights activists that the scope of human rights in Islam is extensive. It encompasses rights that must be upheld for entities beyond humans, among other essential explanations.

Methods

This research employs a qualitative library research method that focuses on the content analysis of the scholars' interpretations of hadiths concerning the scope of human rights. This method is also utilised to retrieve data from various relevant literature sources for research purposes. Literature included in this study comprises primary hadith collections classified within the Nine Books of Hadith (*Kutub al-Tis'ah*), secondary sources such as books of hadith commentary, as well as books and journal articles pertinent to the research theme. The data were analyzed using the *Fiqhul Hadith* approach. This method involves understanding and interpreting Islamic jurisprudence based on the Hadith of the Prophet Muhammad.

Result And discussion

Meaning of Human Rights

The term Human Rights refers to fundamental rights possessed by every human being, indeed, all living creatures. In its international context, it is known as Fundamental Rights, signifying rights that are fundamental and universally applicable.¹ This

1 Tom Campbell, 'Human Rights and the Partial Eclipse of Justice BT - Pluralism and Law' in Arend Soeteman (ed) (Springer Netherlands 2001). See also, Muhammad Siddiq et al Armia, 'Post Amendment of Judicial Review in Indonesia: Has Judicial Power Distributed Fairly?' (2022) 7 JILS

indicates that every individual is entitled to these rights. It implies that, in addition to their validity being safeguarded within the existence of human beings, there is also a genuine obligation that must be understood, comprehended, and accounted for in preserving them. The existence of rights for an individual means that they have a "privilege" that opens up the possibility for everyone to be treated according to the "privilege" they possess. Similarly, the existence of an obligation for an individual means that they are required to adopt an attitude by the "privilege" possessed by others. The introduction and learning of Human Rights are crucial in all regions of the world to foster awareness in every individual to respect the human rights of others. Additionally, every person has the right to have their human rights protected by their respective countries.

Furthermore, it can be understood that human rights are a set of principles arising from values that subsequently become norms governing human behavior towards fellow humans.² There are various norms regarding the rules and guidelines for the enforcement of human rights globally, both in universal terms and within the context of individual countries. The existence of these various human rights norms indicates the awareness among leaders of each country to uphold human rights within their nations, leading to instances where one country claims to be a front-runner in enforcing these rights. Whatever is interpreted or formulated as human rights, this phenomenon remains a manifestation of values that are then concretized into norms and principles.³

Human rights are rights directly bestowed upon humans (rights of a natural order) by the God who created them.⁴ Therefore, no authority in this world has the power to revoke them. However, this does not mean that individuals can act arbitrarily with their rights. If someone engages in actions that can be categorized as depriving others of their human rights, they must be held accountable for their actions.⁵

These human rights often collide with the legal realm, as, on one hand, the victim has already lost their rights, and, on the other hand, the violator of others' rights insists that they have rights independent of the rights of others. The aspect of law enforcement in Islam and in regions that implement Islamic law, such as in Aceh, is often scrutinized by international human rights activists because they believe there are human rights violations occurring there.

In this aspect, a comprehensive and balanced study is genuinely needed on how to correctly implement the rights of an individual in conjunction with the rights held by other humans, along with the comprehensive consequences of upholding human rights. Various expressions have been brought forth, deemed to weaken the concept of Islam in the modern era, including the perceived inadequacy in enforcing human rights, imbalanced tolerance, the perceived weakness in family concepts such as the

525; Muhammad Siddiq Armia, 'Ultra Petita and the Threat to Constitutional Justice: The Indonesian Experience' [2018] Intellectual Discourse.

2 Antony Flew, *A Dictionary of Philosophy* (St Martin's Press 1984).

3 Majda El-Muhtaj, *Hak Asasi Manusia Dalam Konstitusi Indonesia* (Kencana 2012) 48. See also, TRS Allan, 'Constitutionalism At Common Law: The Rule Of Law And Judicial Review' (2023) 82 The Cambridge Law Journal 236 <<https://www.cambridge.org/core/product/ECE3D6C40248012BB9EAD73F3890B871>>.

4 Mohammad Daud Ali, *Hukum Islam : Pengantar Ilmu Hukum Dan Tata Hukum Islam Di Indonesia* (Rajawali Pers 2009) 304.

5 Baharuddin Lopa, *Al-Quran Dan Hak Asasi Manusia* (PT Dana Bhakti Prima Yasa 1999) 1.

allowance of polygamy, and the imbalance in the distribution of inheritance that favors males. Other issues include terrorism and so forth.⁶ The slanted issue of polygamy fundamentally needs to be comprehensively understood, not solely from the perspective of sexual needs, so that the concept of human rights pioneered by Islam can be conveyed.⁷

There is a perspective that equates Islamic law with criminal law (*jinayat*). The implementation of laws such as hand amputation, *qishah* (retaliation), and *rajam* (stoning) for adulterers is seen as the dominant factor in understanding Islamic law. Such thinking is not entirely incorrect but is rather confined to a very narrow scope of study. This is because Islamic law does not only refer to Islamic criminal law (*jinayat*), let alone be solely interpreted as criminal law within Islam. Even though the Quran mentions the term "sharia" about five times, its connotation extends far beyond just Islamic law.⁸

Taking into consideration the political and governmental conditions that have not fully embraced democracy and human rights (including economic conditions) still reliant on the process of internationalization, it is undeniable that it has influenced the development of human rights in Asian countries. Consequently, the awareness of human rights emerging in countries in Southeast Asia, for instance, grows and evolves under diverse conditions. In this manner, it is not surprising that the phenomenal movement of the Implementation of Islamic Sharia Law is challenging to comprehend from a human rights perspective. Ahmad An-Naim emphasizes that the defense of human rights in the Muslim world will be effective if understood within the context of Islamic teachings. However, there is a need to define their stance on the specific historical interpretation concerning Islamic law known as Sharia from a legal perspective.⁹

The Scope of Human Rights in Islam

Islam has articulated a clear and unequivocal concept regarding human rights violations, both through the holy book, the Qur'an, and the sayings of the Prophet (hadith), as well as the consensus (*ijma'*) of scholars, analogy (*qiyas*), and independent reasoning (*ijtihad*). For instance, in the Qur'an, it is mentioned that the value of one human life is equivalent to the entire human life on Earth. Islam establishes laws that are just and balanced in judging those who violate the rights of others, such as taking a life or harming someone's body.

In Islamic teachings, not only are norms of human rights addressed, but also encompass all living beings and even the natural environment. In the wars that have occurred between Islamic forces and those threatening the security and freedom of the Muslim community, strict warnings have always been given against actions inconsistent with human rights. This includes prohibitions on the scorched-earth

6 Akhmad Muzakki, 'PANDANGAN ISLAM TENTANG KEDUDUKAN HAM BAGI NON MUSLIM: Pendekatan Fiqh Politik' (2018) 2 *EL-HAKAKAH (TERAKREDITASI)* 31, 31.

7 M Rusl Karim, *Konvergensi Kepentingan Agama Dan Negara, Dalam Politik Demi Tuhan* (Pustaka Hidayah 1999) 91.

8 M Asfar Marzuki, 'Penegakan Syariat Islam Dalam Perspektif Ham Internasional Dan Konstitusi' (2006) 8 *Jurnal Masyarakat dan Budaya* 105.

9 Henry J Steiner, Philip Alston and Ryan Goodman, *International Human Rights in Context* (Oxford University Press 2008) 210.

policy, killing women and children, killing the elderly, and killing unarmed individuals (civilian populations).

Furthermore, on a broader scale, Islamic forces are prohibited from damaging crops and livestock, damaging the environment and water sources, and engaging in warfare in civilian areas. In his work "Hak dan Kewajiban Asasi Manusia dalam Perspektif Islam" ("Rights and Duties of Human Beings in the Islamic Perspective"), Aji asserts that the Islamic concept of human rights is the earliest and most comprehensive.¹⁰ Citing the views of Al-Maududi, Aji states that human rights, initiated by human rights activists in the modern era, were introduced in Islam 600 years before the initiation of human rights in the modern world. With this fact, it is evident that Western accusations against Islam as a religion unfriendly to human rights lack foundation and should rightfully be rejected based on tangible evidence. Furthermore, Aji contends that the actual declaration of human rights by the Islamic community can be seen in the Charter of Medina and the Cairo Declaration. In the contemporary world, debates often arise between different factions, such as between Western and Eastern countries. They claim that their respective human rights concepts are the most complete and in line with humanitarian principles. Moreover, both groups of countries sometimes assert that they were the first to discover the concept of human rights.

Despite the ongoing claims and disputes regarding the concept and the question of who initially introduced human rights, Islamic teachings have indeed formulated a comprehensive framework for human rights, encompassing various aspects through both the holy verses of the Qur'an and the sayings of the Prophet. The following are some verses related to human rights:

وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ وَحَمَلْنَاهُمْ فِي الْبَرِّ وَالْبَحْرِ وَرَزَقْنَاهُمْ مِنَ الطَّيِّبَاتِ وَفَضَّلْنَاهُمْ عَلَى كَثِيرٍ مِمَّنْ خَلَقْنَا تَفْضِيلًا. (الإسراء: ٧٠)

Meaning: We have indeed honored the children of Adam, carried them on land and sea, provided for them of the good things, and favored them distinctly over many of those We created with a marked preference."

The statement "We have indeed honored the children of Adam" holds a profound understanding in the context of human rights because, fundamentally, the concept of honor is highly philosophical. Esteeming the life of the children of Adam, which includes the most fundamental human rights, implies that by safeguarding someone's right to life, one is, in essence, honoring that individual. In Al-Khazin's interpretation, it is explained that the honor bestowed upon the children of Adam (humanity) represents the utmost level of dignity ever granted on the Earth's surface.¹¹

The verse illustrates that among the forms of honor granted to humans is the provision of complete facilities, including the sea, land, and sky. When connected to the mistreatment perpetrated by humans against each other, such actions are

10 Ahmad Mukri Aji, 'Hak Dan Kewajiban Asasi Manusia Dalam Perspektif Islam' (2015) 2 SALAM: Jurnal Sosial dan Budaya Syar-i 210; A Hamid Sarong & Nur A Fadhil Lubis, 'The Child Rights In Islamic Law With A Special Focus On Aceh' (2019) Volume 4 Petita : Jurnal Kajian Ilmu Hukum dan Syariah.

11 Abu Al-Hasan Ali Muhammad bin Ibrahim ibn Umar Al-Syahi, *Lubab Al-Ta'wil Fi Ma'ni Al-Tanzil* (Dar Al-Kutub Al-Ilmiah 2001) 289.

considered highly reprehensible because they deviate from the practice demonstrated by the Creator of humans—honoring them with the highest dignity.

Additionally, the honor and superiority of humanity are further augmented by being appointed by Allah SWT as stewards (khalifah) on the Earth. While all creatures are made subservient to them. This has been explicitly stated by Allah SWT, as mentioned, for instance, in Surah Luqman (31:20). In Jalalain's interpretation, it is mentioned that the sign indicating the high value of Upholding human rights in the Quranic concept is the freedom granted to humans to utilize all of Allah's blessings, whether found in the sea, on the Earth, or even in the sky.¹² With such imagery, it can be understood that the Islamic concept reaches the highest level. Therefore, Western accusations against Islam, claiming a lack of human rights enforcement, are not acceptable.

The legal enforcement carried out in Islam is not directly labeled as a violation of human rights because, fundamentally, it aims at upholding the rights of victims of crimes or ensuring fair and wise distribution of rights to all individuals. In a hadith narrated by Ibn Abbas, the Prophet Muhammad (peace be upon him) was asked about the meaning of external blessings, to which he replied, "Being kind to someone." As for internal blessings, it is receiving guidance in the Islamic religion.¹³

Some argue that the outward blessings refer to health and noble character, while the inward blessings are knowledge and intellect. At first glance, it may seem as if in Islam, humans do not have inherent rights. In this concept, individuals only have duties or responsibilities to Allah as they must adhere to His laws. However, within these responsibilities lies all rights and freedoms according to Islamic teachings. Humans acknowledge the rights of others because this is a duty imposed by religious law to obey Allah SWT.¹⁴ At least, there are five main principles of human rights in Islam as outlined in Islamic law, including the following:¹⁵

a. Principles of Protection of religion

The freedom to practice one's religion is a fundamental human need that must be fulfilled. Islam guarantees protection to all followers of a religion to practice their faith according to their beliefs and does not compel adherents of other religions to abandon their faith in Islam. This is reflected in Surah Qaf (50:45).

b. Principles of protection of life

According to Islamic law, human life must be safeguarded. Therefore, Islamic law obliges the preservation and protection of human life. Islam vehemently prohibits murder as an attempt to take away human life and protects various means used by humans to preserve their well-being and survival.

c. Principles of protection of intellect

According to Islamic law, humans are obligated to preserve their intellect because the intellect plays a crucial role in their lives. Therefore, the intellect must be shielded

12 Jalaluddin al-Mahally and Jalaluddin Al-Suyuti, 'Tafsir Jalalain' 413.

13 Abu Bakr Ahmad Ibn Husain Ibn Ali al-Bayhaqi, *Sunan Al-Kubra* (1st edn, Majlis Da'irah al-Ma'arif al-Nizhamah al-Ka'inah 1923).

14 Nur Asiah, 'HAK ASASI MANUSIA PERSPEKTIF HUKUM ISLAM' (2018) 15 DIKTUM: Jurnal Syariah dan Hukum 55, 58. See also, Bertrand Chopard and Marie Obidzinski, 'Public Law Enforcement under Ambiguity' (2021) 66 International Review of Law and Economics 105977 <<https://linkinghub.elsevier.com/retrieve/pii/S0144818821000016>>.

15 Asiah (n 14).

from various factors that could impair its function. Islamic law expressly prohibits individuals from engaging in activities that could harm the intellect, such as consuming intoxicating substances, as they can have detrimental effects on human intellect. Hence, Islam imposes legal sanctions on those who consume intoxicating substances, as stated in Surah Al-Maidah (5:90).

Protection of the intellect is not contingent on whether someone is an enemy in war or not; rather, this principle is considered universal because it affects the universal well-being of humanity. This principle is of paramount importance when carefully examined. Therefore, Islam explicitly establishes certain boundaries that can positively impact the well-being and safety of human life. Islam unequivocally prohibits any actions or the use of substances that can impair one's mental faculties, such as alcohol, drugs, pills, and the like. The consumption of forbidden substances, especially alcohol, is explicitly condemned due to its potential harm to society. This prohibition is elucidated through the sayings of Prophet Muhammad (SAW), who stated that ten groups associated with alcohol will incur the wrath and curse of Allah SWT. The prohibition against the use of forbidden substances, apart from alcohol, is also extended through the method of qiyas, based on the same justification of potential harm to the intellect.¹⁶ The safeguarding of intellect is considered a fundamental human right that deserves serious attention from governments and rulers everywhere, as it is not merely a personal individual need. Conversely, Islam emphasizes the development of intellect and knowledge as a manifestation of preserving one of humanity's inherent capacities that should not be restricted, namely the pursuit of knowledge.¹⁷

d. Principle of protection of lineage

In Islamic law, preserving lineage is of utmost importance. Hence, Islam provides assurance for the preservation of lineage for humans through legitimate means according to Islamic teachings, primarily through marriage as a means of procreation. Islam prohibits engaging in illicit relations, as mentioned in Surah Al-Isra (17: 32).

Human rights must not only consider the conditions experienced by individuals during their lifetime but also contemplate the circumstances of subsequent generations. In this context, Islamic teachings have a forward-looking perspective on human welfare, specifically in safeguarding legitimate lineage. This principle is crucial and demands careful preservation by humanity, as the neglect of maintaining legitimate lineage can lead to the collapse of human civilization itself. The worrisome negative effects of adultery include the birth of individuals without a clear identity, causing them to feel alienated, lacking confidence, facing educational challenges, and struggling with everyday life on a psychological level. Therefore, Islam emphasizes the importance of

16 Muhammad Adil Khan Afridi., 'Maqasid Al-Shari'ah and Preservation of Basic Rights Under The Theme Islam and Its Perspectives on Global & Local Contemporary Challenges' (2016) 4 Journal of Education and Social Sciences. See also, Muhammad Siddiq Armia and others, 'Criticizing the Verdict of 18/JN/2016/MS.MBO of Mahkamah Syar'iyah Meulaboh Aceh on Sexual Abuse against Children from the Perspective of Restorative Justice' (2022) 17 AL-IHKAM: Jurnal Hukum & Pranata Sosial 113; Muhammad Siddiq Armia, 'Public Caning: Should It Be Maintained or Eliminated? (A Reflection of Implementation Sharia Law in Indonesia)' [2019] Qudus International Journal of Islamic Studies.

17 Rahimah Embong & Berhanundin Abdullah Siti Aishah Maliki, 'The Ethical Values Based on Maqasid Syariah For Enhancing Self Identity Among Students.', *mpowering Islamic Civilization in the 21st Century* (Universiti Sultan Zainal Abidin, Malaysia 2015).

safeguarding legitimate lineage as a fundamental aspect of human rights, ensuring the well-being and identity of future generations

Wealth is a divine gift bestowed upon humanity by Allah to sustain and enhance their lives. Consequently, individuals are granted the right to acquire wealth as long as it is obtained through lawful and legitimate means according to Islamic law and morally upright standards. Islam provides assurance of legitimate ownership rights over human wealth and strictly prohibits any means of acquiring someone else's property unlawfully, as stated in the Quran, Surah Al-Baqarah (2:188).

Therefore, Islam prohibits usury and all actions that may harm others, such as fraudulent practices in trade. The saying of the Prophet Muhammad (peace be upon him):

حَدَّثَنَا أَحْمَدُ بْنُ عَبْدِ اللَّهِ وَأَحْمَدُ بْنُ الْمُقْدَامِ قَالَا حَدَّثَنَا حَمَّادُ بْنُ زَيْدٍ عَنْ جَمِيلِ بْنِ مُرَّةَ عَنْ أَبِي
الْوَضِيِّ عَنْ أَبِي بَرْزَةَ الْأَسْلَمِيِّ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ الْبَيْعَانِ بِالْخِيَارِ مَا لَمْ
يَتَفَرَّقَا¹⁸

Meaning: This hadith is a narration from Abu Barzah Al-Aslami, who reported that the Messenger of Allah (peace be upon him) said: "The two parties involved in a transaction have the option [to cancel] as long as they do not separate [from each other]"

The above demonstrates that Islam regulates various aspects of human life, even the seemingly trivial ones. In matters involving human interactions, such as in buying and selling transactions, Islam places a high value on fairness and equitable rights, ensuring that no party is unfairly disadvantaged. In the context of buying and selling, Islam stipulates that during negotiations, a seller should not offer the same merchandise to a third party at a lower price until the first potential buyer decides whether to purchase or not. Similarly, the third party should refrain from expressing readiness to buy at a higher price before the second party decides to buy or not. The regulations imposed by Islam in this regard illustrate the depth of Islamic teachings and showcase the recognition of human rights in all aspects, including transactions.

Respect for human rights is also applicable in the context of marriage proposals. As mentioned in the hadith above, it is prohibited for someone to propose to a woman who is currently under consideration by someone else for marriage. The prospective wife is not allowed to cancel the ongoing process with her first potential husband. She is not permitted to entertain proposals from a second potential husband until a decision is made by the first potential husband to cancel the arrangement. If he does not cancel within the agreed-upon timeframe, the second potential husband is not allowed to propose to the woman. This demonstrates the respect for human rights in the context of marriage within Islam.

Scope of Human Rights Based on the Hadiths

In the context of the scope or coverage of discussions and theories concerning the enforcement of human rights, the foundations are not only found in the Qur'an but also in the detailed theories and practical examples initiated by Prophet Muhammad

18 Sunan Ibn Majah, 'Sunan Ibn Majah 2182 - The Chapters on Business Transactions - كتاب التجارات - Sunnah.Com - Sayings and Teachings of Prophet Muhammad (صلى الله عليه و سلم)' (*Sunnah.com*).

(peace be upon him) alongside his companions. In this context, the author will delve into relevant hadiths, particularly those with authoritative status that can be utilized as evidence, including authentic (sahih) and well-founded (hasan) hadiths.

a. Prohibition of Violating the Rights of Creatures

In Islamic teachings, as frequently emphasized in the hadiths of the Prophet, human rights are not exclusive to humans alone. They are also possessed and must be fulfilled with full responsibility, even in emergency situations such as during warfare.

This underscores the comprehensive nature of human rights in Islam, extending beyond the human realm to encompass all living beings. The Prophet's hadiths guide respecting the rights of all creatures, emphasizing the ethical treatment of animals, environmental conservation, and responsible stewardship even in challenging circumstances like warfare.

حَدَّثَنِي أَبُو الطَّاهِرِ وَحَرَمَلَةُ بْنُ يَحْيَى قَالََا أَخْبَرَنَا ابْنُ وَهْبٍ أَخْبَرَنِي يُونُسُ عَنْ ابْنِ شِهَابٍ عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ وَأَبِي سَلَمَةَ بْنِ عَبْدِ الرَّحْمَنِ عَنْ أَبِي هُرَيْرَةَ عَنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنَّ نَمْلَةً قَرَصَتْ نَبِيًّا مِنَ الْأَنْبِيَاءِ فَأَمَرَ بِقَرْيَةِ النَّمْلِ فَأُحْرِقَتْ فَأَوْحَى اللَّهُ إِلَيْهِ أَلَيْكَ أَنْ قَرَصَتْكَ نَمْلَةٌ أَهْلَكَتْ أُمَّةً مِنَ الْأُمَمِ تُسَبِّحُ¹⁹.

Meaning: Abu Ath Thahir and Harmalah bin Yahya both narrated to me; Ibn Wahb reported to us; Yunus reported to me; from Ibn Shihab, from Sa'id bin Al Musayyab and Abu Salamah bin 'Abdur Rahman, from Abu Hurairah, who reported that the Messenger of Allah, may peace be upon him, said: "A prophet among the prophets was bitten by an ant, and he ordered to burn the ant's nest, and it was burnt. Then Allah, the Exalted and Glorious, revealed to him: 'Was it not enough to kill a single ant that you have caused destruction to a community which glorifies Allah?'"

Simply put, an ant may be viewed as a small creature with seemingly little benefit to humans. However, in the eyes of Allah, ants are a group of beings constantly glorifying Him. This teaching illustrates that Islam possesses an extraordinary concept regarding human rights. Not only is the life of a human, the most complete creation, protected, but even the life of an ant is prohibited from being taken. Thus, it can be understood that human rights in Islam extend not only to humans but also to all creatures, even seemingly insignificant ones like ants.

Human Rights in Worship

There are remarkable aspects within Islamic teachings, including the complete granting of human rights to every individual. One fascinating aspect of human rights in Islam revolves around the limitations placed on worship for a Muslim. These restrictions serve as Islam's effort to preserve the human body's rights. Islam does not burden or even prohibit the continuous use of body parts for worship. Instead, Islam teaches that human rights extend beyond general considerations for life; it also encompasses the regulation of each body part to receive its rights. For instance, eyes are forbidden from continuous use but are still granted the right to rest adequately.

19 Sahih Muslim, 'Sahih Muslim 2241a - The Book of Greetings - كتاب السلام - Sunnah.Com - Sayings and Teachings of Prophet Muhammad (صلى الله عليه و سلم)' (*Sunnah.com*).

The same principle applies to other body parts. The constant use of body organs is prohibited in Islam, as mentioned in the following hadith.

1. Hadith narrated by Anas bin Malik, revealed:

جَاءَ ثَلَاثُ رَهْطٍ إِلَى بُيُوتِ أَزْوَاجِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَسْأَلُونَ عَنْ عِبَادَةِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ، فَلَمَّا أُخْبِرُوا كَانَتْهُمْ تَقَالُوهَا ، فَقَالُوا : وَأَيْنَ نَحْنُ مِنَ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ؟ قَدْ غَفَرَ اللَّهُ لَهُ مَا تَقَدَّمَ مِنْ ذَنْبِهِ وَمَا تَأَخَّرَ ، قَالَ أَحَدُهُمْ : أَمَّا أَنَا فَإِنِّي أَصَلِّي اللَّيْلَ أَبَدًا ، وَقَالَ آخَرُ : أَنَا أَصُومُ الدَّهْرَ وَلَا أَفْطِرُ ، وَقَالَ آخَرُ : أَنَا أَعْتَزِلُ النِّسَاءَ فَلَا أَتَزَوَّجُ أَبَدًا ، فَجَاءَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالَ : أَنْتُمْ الَّذِينَ قُلْتُمْ كَذَا وَكَذَا ؟ أَمَا وَاللَّهِ إِنِّي لَأَخْشَاكُمْ لِلَّهِ وَأَتَقَاهُمْ لَهُ ، لَكِنِّي أَصُومُ وَأُفْطِرُ ، وَأُصَلِّي وَأَرْقُدُ ، وَأَتَزَوَّجُ النِّسَاءَ ، فَمَنْ رَغِبَ عَنْ سُنَّتِي فَلَيْسَ مِنِّي²⁰

Meaning: "Three individuals visited the wives of the Prophet Muhammad (peace be upon him) to inquire about his worship. After being informed about his worship, they considered their own acts of worship to be insufficient. They said, "We are nothing compared to the Prophet Muhammad (peace be upon him)! He has been forgiven for all his sins, past and future." One of them said, "As for me, I will pray all night forever." Then the other said, "As for me, I will fast continuously without breaking my fast." The third one said, "As for me, I will abstain from women and will not marry at all." Later, the Prophet Muhammad (peace be upon him) approached them and said, "Did you say such and such? By Allah, I am the most God-fearing and conscious among you, yet I fast and break my fast, I pray at night and sleep, and I also marry women. So whoever dislikes my way, then he is not one of my followers.

2. Hadith narrated by Abdullah ibn Amr ibn Ash, he revealed:

قَالَ لِي رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ : يَا عَبْدَ اللَّهِ ! أَلَمْ أُخْبِرْ أَنَّكَ تَصُومُ النَّهَارَ ، وَتَقُومُ اللَّيْلَ ؟ فَقُلْتُ : بَلَى يَا رَسُولَ اللَّهِ ! قَالَ : فَلَا تَفْعَلْ ، صُمْ وَأَفْطِرْ ، وَتَمَّ وَتَمَّ ، فَإِنَّ لِحَدِّكَ عَلَيْكَ حَقًّا إِنَّ لِعَيْنِكَ عَلَيْكَ حَقًّا وَإِنَّ لِرِزْوَاجِكَ عَلَيْكَ حَقًّا²¹.

Meaning: "Rasulullah told me, 'O Abdullah, it has been reported to me that you fast all day long and stand in night prayer all night?' I replied, 'Yes, O Rasulallah.' He said, 'Do not do that. Fast and break your fast, perform night prayer and also sleep. For your body has rights upon you, your eyes have rights upon you, and your wife has rights upon you.'"

Based on the two hadiths above, it can be understood that the concept of human rights in Islam is profound and comprehensive. In the mentioned hadith, if looked at simplistically, someone who wishes to focus on worship will not disturb others, let

20 Sahih al-Bukhari, 'Sahih Al-Bukhari 5063 - Wedlock, Marriage (Nikaah) - كتاب النكاح - Sunnah.Com - Sayings and Teachings of Prophet Muhammad (صلى الله عليه و سلم) (sunnah.com).

21 Sahih al-Bukhari, 'Sahih Al-Bukhari 1975 - Fasting - كتاب الصوم - Sunnah.Com - Sayings and Teachings of Prophet Muhammad (صلى الله عليه و سلم) (sunnah.com).

alone violate human rights. However, through this hadith, the depth of Islamic human rights can be understood, emphasizing that an individual should not violate their human rights. Biologically, humans need elements that keep their bodies healthy and allow them to continue their lives normally without disruption. Therefore, continuous worship, such as praying all day, fasting indefinitely, and avoiding marriage, can biologically disrupt a person. On the contrary, Islamic teachings embody the principle of "wasatiyah" (moderation or balance). This is because excessive behavior is deemed contrary to the inherent rights of a human being.²²

Similarly, the practice of continuous worship without giving the body its due rest is biologically unacceptable and poses a threat to human health. Health experts have researched the effects and disadvantages for those who do not give their bodies the necessary rest according to their biological needs and an appropriate schedule according to health science. In another terminology, the term "*ghuluw*" (excessiveness) is also employed when practicing a command or worshipping Allah.²³

Herman Sudjarwo²⁴, Head of UM Surabaya Clinic Services, explained the eight adverse effects of staying up all night. According to Herman, besides feeling sleepy and tired, lack of sleep due to staying up all night, whether for an activity or continuous worship without rest, can affect a person's emotional and psychological condition. Furthermore, he explained that the habit of staying up late could increase the risk of weight gain. Research shows that people who don't sleep enough or sleep less (staying up all night) tend to gain more weight compared to those who get enough sleep every day. The biological effects of staying up all night can also disrupt the body's metabolism. Additionally, lack of sleep can make the body feel hungry, making it difficult to maintain a proper eating pattern. In Islam, it is stated that Allah has ordained everything, such as utilizing the night for both worship and rest, emphasizing the importance of not only engaging in worship but also incorporating periods of rest²⁵

The second impact is premature aging. When staying up late and getting less sleep, a person will produce more stress hormones (cortisol). These hormones can break down and damage collagen structures in the skin, a protein that functions to make the skin tighter and more elastic. Due to staying up late, the skin and face can become dull and dry. The damage to collagen in the face can lead to the appearance of lines or wrinkles, dark spots or black patches on the face, and swollen eyes with dark circles around the eyes (dark circles or panda eyes).

Furthermore, the third effect is forgetfulness. When a person sleeps, the brain's tissues and nerve cells undergo a repair or regeneration process. The formation of healthy

22 Muhammad b Mukarram al-Ifriqî al-Misrî b Manzûr, *Lisân Al-'Arab* (7th edn, Dar al-Sadir 2009) 426.

23 Muhammad b S and Sâlih Al-'Uthaymîn, *Fatâwâ Nûr 'alâ Al-Darb* (2nd edn, Muh}ammad b S {âlih} al-'Uthaymîn, *Fatâwâ Nûr 'alâ al-Darb*, Vol 2 Muassasah Shaykh Muhammad b Sâlih al-'Uthaymîn 2006) 4.

24 Uswah, 'Pakar UM Surabaya Paparkan Bahaya Begadang Dan Dampaknya Bagi Kesehatan' (*surabaya.ac.id*, 2022).

25 M Albina, M., & Aziz, 'Hakikat Manusia Dalam Al-Quran Dan Filsafat Pendidikan Islam' (2022) 10 *Edukasi Islami: Jurnal Pendidikan Islam* 731. See also, Abrar ZYM, 'Pemikiran Ibnu Khaldun Terhadap Filsafat Hukum Islam' (2017) 2 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*; Muammar, 'Nurcholish Madjid Dan Harun Nasution Serta Pengaruh Pemikiran Filsafatnya' (2017) 2 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*.

brain tissue is crucial for maintaining brain function, memory or cognitive abilities, concentration, and thinking skills. Conversely, when a person stays up late or does not sleep at all, brain cells and tissues will deteriorate more quickly and be challenging to repair. This can disturb brain function, leading to more frequent drowsiness, forgetfulness, and difficulty concentrating. Another consequence of lack of sleep is a decrease in brain function, staying up late can reduce reasoning ability, problem-solving skills, and concentration. The ability to observe something, as well as the level of alertness, will also decrease. Difficulty focusing can also lead to accidents while driving or working. Compared to other living beings created by Allah SWT, humans are the most perfect creatures. Starting from the physical, spiritual, and mental composition of the body, everything is adorned by Allah with wisdom. Unlike a robot, humans require periodic refreshment, akin to living beings.²⁶

The fifth effect of lack of sleep for humans is a decrease in sexual desire (libido). Reduced libido is one of the effects of a lack of sleep or staying up late. When lacking sleep, the body can become fatigued, sleepy, lack energy, and be more prone to stress. The effect of staying up late can reduce enthusiasm for sexual intercourse. The subsequent impact is an increased risk of mental disorders. Some studies show that people who stay up late or don't sleep at all are more vulnerable to brain function disorders and sleep disorders such as insomnia. In the long run, the effects of lack of sleep can increase the risk of mental disorders such as depression and anxiety disorders. This risk will also increase if a person has unhealthy habits, such as smoking, lack of exercise, frequent stress, and an unhealthy diet.

The seventh effect is an increased risk of cancer. According to Herman, the effect of staying up late is also related to an increased risk of cancer. Research shows that those who have the habit of not getting enough sleep, or often engage in activities at night without sleeping or resting, are more at risk of cancer compared to those who get enough sleep every day.

In the following hadith, it is explicitly explained that a person is prohibited from continuous worship, including fasting and praying without intervals: "In a clear narration, it is prohibited for an individual to engage in uninterrupted worship, including continuous fasting and praying."

حدثنا محمد بن بشار حدثنا جعفر بن عون حدثنا أبو العميس عن عون بن أبي جحيفة عن أبيه قال : أخى النبي صلى الله عليه و سلم بين سلمان وأبي الدرداء فزار سلمان أبا الدرداء فرأى أم الدرداء متبذلة فقال لها ما شأنك ؟ . قالت أخوك أبو الدرداء ليس له حاجة في الدنيا . فجاء أبو الدرداء فصنع له طعاما فقال كل قال فإني صائم قال ما أنا بآكل حتى تأكل قال فأكل فلما كان الليل ذهب أبو الدرداء يقوم قال نم فنام ثم ذهب يقوم فقال نم فلما كان من آخر الليل قال سلمان قم الآن فصليا فقال له سلمان إن لربك عليك حقا ولنفسك عليك حقا ولأهلك عليك

26 Dwi Suci Febrika and Anindita Fildzah Sani, 'PROSES PENCIPTAAN MANUSIA DALAM PERSPEKTIF AL-QUR'AN DAN SAINS: STUDI LITERATUR' (2023) 2 Al-Alam: Islamic Natural Science Education Journal 52.

حقاً فأعط كل ذي حق حقه فأتى النبي صلى الله عليه و سلم فذكر ذلك له فقال النبي صلى الله عليه و سلم (صدق سلمان)²⁷

Meaning: Narrated to us Muhammad bin Bashar, narrated to us Ja'far bin 'Awn, narrated to us Abu Al-'Umayy from 'Awn bin Abi Juhayfah, from his father, he said: "The Prophet صلى الله عليه و سلم fostered a bond between Salman and Abu Darda'. He visited Salman at the residence of Abu Darda', and upon seeing Abu Darda's fatigued wife, he inquired, 'What is the matter with you?' She replied, 'Your brother, Abu Darda', has no need for the worldly life.' Consequently, Abu Darda' came and prepared a meal for the Prophet. Inviting him to eat, Abu Darda' was informed that the Prophet was fasting. Abu Darda' insisted, 'I will not eat until you eat.' Eventually, the Prophet partook in the meal. As the night approached, Abu Darda' endeavored to perform the night prayer, but the Prophet advised him to rest. After Abu Darda' slept, Salman woke him and urged him to engage in prayer. Salman reminded him that Allah has rights over him, he has rights over himself, and his family has rights over him. Salman advised him to give each their due rights. Abu Darda' then approached the Prophet and recounted the incident. The Prophet صلى الله عليه و سلم confirmed, 'Salman spoke the truth.'"

The narration highlights that Abu Darda' was excessively devoted to worshiping Allah ﷻ. He fasted every day and filled his nights with voluntary prayers, to the extent that he had no time to fulfill his obligations towards his family, society, and even himself. He was caught up in a heightened state of worship addiction (*nasywat al-ibadah*). In Islamic teachings, engaging in something excessively is referred to as *israf* (exceeding limits). This concept also applies to worship; for instance, excessive engagement in voluntary acts is discouraged, as it may impede the performance of obligatory acts. Going beyond limits or being excessive is not only discouraged in the context of Allah's blessings but is also strongly detested in matters of worship. Excessive behavior in religious practices may lead to the severance of one's connection with the religion. This prohibition aims to prevent individuals from ~~surpassing~~ exceeding the limits in of voluntary acts of worship to the point of experiencing boredom, which could result in neglecting more crucial worship or abandoning prescribed acts of worship. This does not mean discouraging individuals from seeking perfection in their worship, as that is a praiseworthy pursuit. For instance, someone who engages in night-long *Tahajjud* prayers until they become drowsy and eventually fall asleep, missing the Fajr prayer, illustrates the importance of balancing acts of worship.²⁸

Prohibition of Killing Women in War

Islam is a straight and true religion from Allah, the creator of humans and all other creatures. Therefore, there is not a single teaching in Islam that harms humanity. This aspect is not widely socialized in the public, leading some individuals to perceive that Islam lacks a clear concept of basic human rights. Concerning warfare, Islamic

27 Abi Abdullah Muhammad bin Ismail Al-Bukhari, *Shahih Bukhary* (Muhammad Fuad Abdul Baqi ed, 1st edn, Dar Turuq al-Najah) 1125.

28 Tim Humas Universitas An-Nur Lampung, 'Pengertian Israf, Bahaya, Contoh, Cara Mengindari, Dan Hikmah Meninggalkannya'.

teachings have outlined restrictions that must not be violated by Muslim soldiers, one of which is the prohibition of killing women.

حَدَّثَنَا قُتَيْبَةُ حَدَّثَنَا اللَّيْثُ عَنْ نَافِعٍ عَنْ ابْنِ عُمَرَ أَخْبَرَهُ أَنَّ امْرَأَةً وَجِدَتْ فِي بَعْضِ مَعَاذِي رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مَقْتُولَةً فَأَنْكَرَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ ذَلِكَ وَهَيَّ عَنْ قَتْلِ النِّسَاءِ وَالصِّبْيَانِ.²⁹

Meaning: Qutaibah narrated to us, saying, Al-Laith narrated to us from Nafi' who reported to him from Ibn Umar that he informed him that once a woman was found killed in a battle during the time of the Prophet Muhammad, may peace and blessings be upon him. Upon this, Prophet Muhammad denied it and prohibited the killing of women and children.

Based on the above hadith, it is evident that Islamic teachings regarding the protection of human rights are stringent. Rules in warfare sometimes neglect factors that require time and resources to rectify the resulting losses, such as the destruction of buildings and infrastructure in a village or region. Non-material losses, such as psychological disturbances and prolonged trauma, are also considered.

Killing women, children, elderly individuals, or even unarmed civilians does not reflect a true understanding of human rights by a military force. Such actions become one of the reasons a country might face international court demands. Several countries, such as Yugoslavia in the 1990s, Rwanda, Sudan, Liberia, Sierra Leone, Iraq, and others, have experienced this. As of the writing of this article (January 10, 2024), it is reported that Israel is being sued by South Africa in the International Court for alleged genocidal crimes resulting in the deaths of children and women. This demand is supported by several countries, including Turkey, Jordan, Malaysia, and others.

Conversely, Palestinian fighters do not engage in the killing of children and women, showcasing an ethical approach to warfare in line with Islamic teachings. In the early periods of Islam, Islamic warriors practiced this principle effectively. Therefore, it can be concluded that Islamic teachings on human rights have also been followed by modern states, as evidenced by agreements to safeguard the civilian population, especially children and women, during times of conflict. While not all countries worldwide have joined agreements to protect civilians in war, it is believed that more nations will do so in the future, guided by humanitarian principles.

In *Al-Mausuah Al-Fiqhiyah*, it is explained: "(during the raging war), It is not permissible to kill women, children, the insane, or those of doubtful gender – this is the consensus of the scholars. Likewise, it is impermissible to kill the elderly according to the majority of scholars. The Hanbali school explains that farmers not participating in the war should not be killed based on a narration from Umar who said: 'Fear Allah (do not kill) the farmer who is not fighting against you.' Auzai said: 'Farmers should not be killed if it is known that they are not combatants.'"³⁰ In the following hadith, this is further emphasized.:

29 Jami` at-Tirmidhi, 'Jami` At-Tirmidhi 1569 - The Book on Military Expeditions - كتاب السير عن رسول الله - Sunnah.Com - Sayings and Teachings of Prophet Muhammad (صلى الله عليه وسلم) (sunnah.com).

30 'Al-Mausuah Al-Fiqhiyah Al-Kuwaitiyah' 42/353.

لا تقتلوا صبيا ، ولا امرأة ولا شيخا كبيرا ، ولا مريضا ، ولا راهبا ، ولا تقطعوا مثمرا ، ولا تخربوا عامرا ، ولا تدبحوا بعيرا ولا بقرة إلا لما أكل ، ولا تغرقوا نحلا ولا تحرقوه³¹.

Meaning: "Do not kill small children, women, elderly individuals, sick people, priests; do not cut down fruit-bearing trees, do not destroy buildings, do not slaughter camels or cows except for food, and do not drown wasp nests and burn them."

Furthermore, as reported from Ibn Abbas in a hadith narrated by Ahmad, Prophet Muhammad, peace be upon him, would always provide serious instructions to the warriors before their departure for battle. These instructions included explicit reminders to the Muslim soldiers not to kill children in warfare. This is evident in the following hadith:

عَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا قَالَ: كَانَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَعَلَى آلِهِ وَصَحْبِهِ وَسَلَّمَ إِذَا بَعَثَ جُيُوشَهُ قَالَ: "أَخْرِجُوا بِسْمِ اللَّهِ تُقَاتِلُونَ فِي سَبِيلِ اللَّهِ مَنْ كَفَرَ بِاللَّهِ لَا تَغْدِرُوا وَلَا تَغْلُوا وَلَا تُثَلِّمُوا وَلَا تَقْتُلُوا الْوِلْدَانَ وَلَا أَصْحَابَ الصَّوَامِعِ"³².

Meaning: From Ibn Abbas, may Allah be pleased with him, he said: The Prophet Muhammad, peace be upon him, used to advise the warriors when sending them out, saying: "Go in the name of Allah, and fight in the cause of Allah. Do not betray, do not oppress, do not commit mutilation, and do not kill children and those who reside in places of worship."

One of the reasons soldiers in war kill besides enemy combatants includes harboring hatred towards enemy civilians, facing dilemmas in identifying armed enemies, receiving orders from superiors to devastate enemy areas, and other factors. In the modern world today, leaders of Islamic nations need to promote the ethical principles of warfare to the world, adopt the Islamic concept of human rights into international human rights standards, and unite Islamic nations in upholding these Islamic human rights.

Prohibition of killing worshipers (monks)

Another remarkable aspect of the Islamic way, especially in the context of war, is the prohibition of killing monks engaged in worship. Despite their different beliefs and not adhering to the oneness of Allah in their faith, Islam establishes that the religion of a people should not be enforced. In other words, Islam highly respects the faith of others, even in the midst of war. This is emphasized in the hadith mentioned above.

وَلَا تَقْتُلُوا الْوِلْدَانَ وَلَا أَصْحَابَ الصَّوَامِعِ

Meaning: "...and do not kill children and those who reside in places of worship (monks) who are engaged in worship."

Based on the above hadith, it can be understood that warfare in Islam is focused solely on enemy combatants who pose a threat to Islamic fighters. Islamic warriors are not permitted to attack unarmed civilians, women and children, monks engaged in

31 Abu Bakar Ahmad ibn Husain Al-Baihaqi, *Sunan Al-Kubra* (Dar al Kutub al Ilmiyah 1990) 17591.

32 Ahmad Ibn Ahmad Ibn Hanbal Abu Abdullah Al-Syaibani, *Al-Musnad* (Mu'assasah al-Qurtubah) 124.

worship, and other entities considered non-enemies. Based on passages from the Quran and the sayings of the Prophet Muhammad, Islamic fighters are prepared with the ethics of battle. Regarding monks, from a doctrinal perspective, an attack could potentially be justified due to their refusal to accept Islam as a religion. One of the goals of warfare in Islam is to establish the oneness of Allah. However, communities outside of Islam are growing to respect Islam due to the noble teachings of Islam, which prioritize respecting human rights and valuing humanity.

Concerning regulations related to the rights of non-Muslim residents in Muslim territories, Syaukat Hassain explains that they have the same rights as other citizens, regardless of religious differences. This is considered a special right that Muslim countries must not violate. These rights include, in detail:³³

- 1) They have the right to embrace and propagate their religion, and they also have the right to criticize Islam, just as Islam has the right to criticize their religion.
- 2) They are free to settle their affairs according to their own legal system.
- 3) They must follow Islamic law in criminal and civil matters since Islamic law is the state law in these issues. The only exception on this legal regulation is in the case of consuming wine (now referred to as a beverage that warms the body or can intoxicate), where non-Muslim citizens are exempt from punishment.
- 4) Dhimmi individuals have the right to establish their own educational institutions to impart religious education to the younger generation.
- 5) They cannot be compelled to perform military duties like Muslim citizens. However, those capable of bearing arms are subject to paying *jizyah*.

The concept of human rights as mentioned above is a result of the understanding of Islamic intellectuals based on the verses of the Quran and the sayings of the Prophet Muhammad. This idea makes it clear that the definition of human rights given by Islamic teachings is wide-ranging and all-encompassing. Regarding the frequent criticisms by Western human rights activists against the Islamic concept of human rights, accusing Islam of lacking a basis in enforcing human rights, this is inaccurate and mistaken. Therefore, spreading the correct and appropriate concept to the non-Muslim world regarding the enforcement of human rights needs to be continuously done through various approaches and using various media available in the present era.

In addition to the rules mentioned above, some other prohibitions in warfare in Islamic teachings include: prohibiting the killing of the elderly, prohibiting the destruction of buildings, prohibiting harm to the environment, prohibiting damage to crops, water sources, prohibiting the scorched-earth tactic in war zones, and prohibiting harm to educational institutions, among others.

33 Syaukat Hussain, *Hak-Hak Asasi Manusia Dalam Islam*, Terj. Abd. Rochim, (Gema Insani Press 1996) 55; Faradilla Fadlia and Ismar Ramadani, 'The Qanun Jinayat Discriminates Against Women (Victims of Rape) in Aceh, Indonesia' (2018) 2 Journal of Southeast Asian Human Rights 448 <<https://jurnal.unej.ac.id/index.php/JSEHR/article/view/8358>>. See also, Muhammad Siddiq Armia and Muhammad Syauqi Bin-Armia, 'Introduction: Maintaining the Constitutional Rights to Create a Better Society' (2023) 8 Petita : Jurnal Kajian Ilmu Hukum dan Syariah 69; Muhammad Siddiq Armia and Muhammad Syauqi Bin-Armia, 'Introduction: Form Over Substance, Achieving Objectives While Preserving Values' (2023) 8 Petita : Jurnal Kajian Ilmu Hukum dan Syariah i.

War is the last resort

While Islam has wisely and in detail regulated the rules of etiquette in warfare, war is considered the last alternative in Islam. The dissemination of Islamic teachings prioritizes gentle methods rather than warfare. However, if war becomes the last option, then the Islamic government must rigorously uphold human rights. This is the goal of Islamic Sharia, which aims to be a source of mercy for all mankind, not a threat to people outside Islam. Similarly, when looking at the enforcement of Islamic law, often criticized by the media outside of Islam for its harsh punishments such as whipping, the true nature of Islam is not a religion targeting punishment for humans. Instead, Islam aims to establish well-being in societal life. The enforcement of laws for violators is a form of safeguarding the rights of fellow citizens within the Islamic community, ensuring that life proceeds in peace and security.

Everyone should rejoice if a war does not materialize because it saves many lives, prevents infrastructure destruction, avoids human rights violations and deep trauma in civil society, maintains the smooth functioning of the economy in that country, ensures the normal process of education for the younger generation, and more. Islam never initiates an invitation or call to war, whereas warfare that occurs is a result of failed diplomacy and an attempt to defend oneself from the threat of attacking enemies. If examined accurately and objectively in Islamic history, the background of wars in Islam, especially those in the early days of Islam, will reveal the circumstances leading to war.³⁴ In other words, Islam is not a religion that delights in warfare. If wars involving the Muslim community do occur, it must be objectively understood that such wars have noble objectives, namely, to establish justice for oppressed societies ruled by their leaders or as a defensive measure against threats. Warfare is also considered the last option when Islam extends the offer of peace to rulers by embracing Islam and abandoning oppression against their people.³⁵

Conclusions

In the Islamic way, there are principles that demonstrate the nobility of its teachings as a source of mercy for all mankind, including in the context for upholding human rights. When understood correctly and objectively, noble Islamic teachings include various rules and punishments for criminals causing harm to others. The objective is to safeguard the rights of every individual without discrimination based on caste, social status, religion, ethnicity, and so on. The sayings of the Prophet (Hadith) serve as one of the sources for implementing human rights principles in Islam. In several Hadiths, Prophet Muhammad has established rules related to human rights in various aspects of social, economic, and wartime situations. Prophet Muhammad explicitly delineates boundaries that must not be violated in times of peace or war, such as the prohibition of killing civilians, children, the elderly, and worshipers. Additionally, actions like scorched-earth tactics in war zones, destruction of infrastructure,

34 Faisal Zulfikar, 'Etika Dan Konsep Perang Dalam Islam' (2016) 7 al Qisthas; Jurnal Hukum dan Politik 102. See also, Alexander Latham-Gambi, 'Political Constitutionalism and Legal Constitutionalism—an Imaginary Opposition?' (2020) 40 Oxford Journal of Legal Studies 737 <<https://academic.oup.com/ojls/article/40/4/737/5939843>>.

35 Muhammad Iqbal, *Fiqh Siyasah Kontekstualisasi Doktrin Politik Islam* (Gaya Media Pratama 2001). See also, Nawir Yuslem, 'Sharia Contextualisation To Establish the Indonesian Fiqh' (2020) 5 Petita: Jurnal Kajian Ilmu Hukum dan Syariah; Saifuddin Dhuhri, 'Social Engineering Through Education Law A Comparative Analysis of Cultural Policies between the Dutch and Indonesian Central Government' (2019) 4 Petita: Jurnal Kajian Ilmu Hukum dan Syariah 86 <<http://petita.ar-raniry.ac.id/index.php/petita/article/view/12>>.

environmental damage, and destruction of water sources, orchards, and more are strictly forbidden.

The scope of human rights in Islam based on the Hadiths of Prophet Muhammad has a very broad and comprehensive coverage. The Hadiths provide detailed rules in upholding human rights, extending beyond the rights of humans to include the rights of all living beings. This is evident in the prohibition of killing even small creatures like ants. Moreover, the Hadiths emphasize the protection of natural resources such as plants, water sources, and the air. Additionally, the concept of human rights in Islam extends to personal rights, ensuring that even in worship; individuals must not neglect their bodily rights. For instance, one cannot pray endlessly, fast continuously, or remain unmarried, as it is considered a violation of the rights of the human body itself.

References

- A Hamid Sarong & Nur A Fadhil Lubis, 'The Child Rights In Islamic Law With A Special Focus On Aceh' (2019) Volume 4 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*
- Abdullah Al-Syaibaniy AIAIHA, *Al-Musnad* (Mu'assasah al-Qurtubah)
- Abrar ZYM, 'Pemikiran Ibnu Khaldun Terhadap Filsafat Hukum Islam' (2017) 2 *Petita : Jurnal Kajian Ilmu Hukum dan Syariah*
- Abu Bakr Ahmad Ibn Husain Ibn Ali al-Bayhaqiy, *Sunan Al-Kubra* (1st edn, Majlis Da'irah al-Ma'arif al-Nizhamah al-Ka'inah 1923)
- Afridi. MAK, 'Maqasid Al-Shari'ah and Preservation of Basic Rights Under The Theme Islam and Its Perspectives on Global & Local Contemporary Challenges' (2016) 4 *Journal of Education and Social Sciences*
- Aji AM, 'Hak Dan Kewajiban Asasi Manusia Dalam Perspektif Islam' (2015) 2 *SALAM: Jurnal Sosial dan Budaya Syar-i*
- Al-Baihaqiy ABA ibn H, *Sunan Al-Kubra* (Dar al Kutub al Ilmiyah 1990)
- Al-Bukhari AAM bin I, *Shahih Bukhary* (Muhammad Fuad Abdul Baqi ed, 1st edn, Dar Turuq al-Najah)
- 'Al-Mausuah Al-Fiqhiyah Al-Kuwaitiyah'
- Al-Suyutiy J al-M and J, 'Tafsir Jalalain'
- Al-Syaihi AA-HAM bin I ibn U, *Lubab Al-Ta'wil Fi Ma'ni Al-Tanzil* (Dar Al-Kutub Al-Ilmiyah 2001)
- Albina, M., & Aziz M, 'Hakikat Manusia Dalam Al-Quran Dan Filsafat Pendidikan Islam' (2022) 10 *Edukasi Islami: Jurnal Pendidikan Islam*
- Ali MD, *Hukum Islam : Pengantar Ilmu Hukum Dan Tata Hukum Islam Di Indonesia* (Rajawali Pers 2009)
- Allan TRS, 'Constitutionalism At Common Law: The Rule Of Law And Judicial Review' (2023) 82 *The Cambridge Law Journal* 236
<<https://www.cambridge.org/core/product/ECE3D6C40248012BB9EAD73F3890B871>>
- Armia MS, 'Ultra Petita and the Threat to Constitutional Justice: The Indonesian Experience' [2018] *Intellectual Discourse*

- , 'Public Caning: Should It Be Maintained or Eliminated? (A Reflection of Implementation Sharia Law in Indonesia)' [2019] Qudus International Journal of Islamic Studies
- , 'Criticizing the Verdict of 18/JN/2016/MS.MBO of Mahkamah Syar'iyah Meulaboh Aceh on Sexual Abuse against Children from the Perspective of Restorative Justice' (2022) 17 AL-IHKAM: Jurnal Hukum & Pranata Sosial 113
- Armia MS et al, 'Post Amendment of Judicial Review in Indonesia: Has Judicial Power Distributed Fairly?' (2022) 7 JILS 525
- Asiah N, 'HAK ASASI MANUSIA PERSPEKTIF HUKUM ISLAM' (2018) 15 DIKTUM: Jurnal Syariah dan Hukum 55
- Campbell T, 'Human Rights and the Partial Eclipse of Justice BT - Pluralism and Law' in Arend Soeteman (ed) (Springer Netherlands 2001)
- Chopard B and Obidzinski M, 'Public Law Enforcement under Ambiguity' (2021) 66 International Review of Law and Economics 105977 <<https://linkinghub.elsevier.com/retrieve/pii/S0144818821000016>>
- Dhuhri S, 'Social Engineering Through Education Law A Comparative Analysis of Cultural Policies between the Dutch and Indonesian Central Government' (2019) 4 Petita: Jurnal Kajian Ilmu Hukum dan Syariah 86 <<http://petita.ar-raniry.ac.id/index.php/petita/article/view/12>>
- El-Muhtaj M, *Hak Asasi Manusia Dalam Konstitusi Indonesia* (Kencana 2012)
- Fadlia F and Ramadani I, 'The Qanun Jinayat Discriminates Against Women (Victims of Rape) in Aceh, Indonesia' (2018) 2 Journal of Southeast Asian Human Rights 448 <<https://jurnal.unej.ac.id/index.php/JSEHR/article/view/8358>>
- Febrika DS and Sani AF, 'PROSES PENCIPTAAN MANUSIA DALAM PERSPEKTIF AL-QUR'AN DAN SAINS: STUDI LITERATUR' (2023) 2 Al-Alam: Islamic Natural Science Education Journal 52
- Flew A, *A Dictionary of Philosophy* (St Martin's Press 1984)
- Hussain S, *Hak-Hak Asasi Manusia Dalam Islam, Terj. Abd. Rochim*, (Gema Insani Press 1996)
- Iqbal M, *Fiqh Siyasah Kontekstualisasi Doktrin Politik Islam* (Gaya Media Pratama 2001)
- Jami` at-Tirmidhi, 'Jami` At-Tirmidhi 1569 - The Book on Military Expeditions - كتاب السير - Sunnah.Com - Sayings and Teachings of Prophet Muhammad (صلى الله عليه وسلم)' (sunnah.com)
- Karim MR, *Konvergensi Kepentingan Agama Dan Negara, Dalam Politik Demi Tuhan* (Pustaka Hidayah 1999)
- Latham-Gambi A, 'Political Constitutionalism and Legal Constitutionalism—an Imaginary Opposition?' (2020) 40 Oxford Journal of Legal Studies 737 <<https://academic.oup.com/ojls/article/40/4/737/5939843>>
- Lopa B, *Al-Quran Dan Hak Asasi Manusia* (PT Dana Bhakti Prima Yasa 1999)
- Manzûr M b. M al-I al-M b., *Lisân Al-'Arab* (7th edn, Dar al-Sadir 2009)

- Marzuki MA, 'Penegakan Syariat Islam Dalam Perspektif Ham Internasional Dan Konstitusi' (2006) 8 Jurnal Masyarakat dan Budaya 105
- Muammar, 'Nurcholish Madjid Dan Harun Nasution Serta Pengaruh Pemikiran Filsafatnya' (2017) 2 Petita : Jurnal Kajian Ilmu Hukum dan Syariah
- Muhammad Siddiq Armia and Bin-Armia MS, 'Introduction: Form Over Substance, Achieving Objectives While Preserving Values' (2023) 8 Petita : Jurnal Kajian Ilmu Hukum dan Syariah i
- Muhammad Siddiq Armia and Muhammad Syauqi Bin-Armia, 'Introduction: Maintaining the Constitutional Rights to Create a Better Society' (2023) 8 Petita : Jurnal Kajian Ilmu Hukum dan Syariah 69
- Muzakki A, 'PANDANGAN ISLAM TENTANG KEDUDUKAN HAM BAGI NON MUSLIM: Pendekatan Fiqh Politik' (2018) 2 El-HAKAH (TERAKREDITASI) 31
- S M b. and Al-'Uthaymîn S, *Fatâwâ Nûr 'alâ Al-Darb* (2nd edn, Muh}ammad b S {âlih} al-'Uthaymîn, *Fatâwâ Nûr 'alâ al-Darb*, Vol 2 Muassasah Shaykh Muhammad b Sâlih al-'Uthaymîn 2006)
- Sahih al-Bukhari, 'Sahih Al-Bukhari 1975 - Fasting - كتاب الصوم - Sunnah.Com - Sayings and Teachings of Prophet Muhammad (صلى الله عليه وسلم)' (*sunnah.com*)
- , 'Sahih Al-Bukhari 5063 - Wedlock, Marriage (Nikaah) - كتاب النكاح - Sunnah.Com - Sayings and Teachings of Prophet Muhammad (صلى الله عليه وسلم)' (*sunnah.com*)
- Sahih Muslim, 'Sahih Muslim 2241a - The Book of Greetings - كتاب السلام - Sunnah.Com - Sayings and Teachings of Prophet Muhammad (صلى الله عليه وسلم)' (*Sunnah.com*)
- Siti Aishah Maliki RE& BA, 'The Ethical Values Based on Maqasid Syariah For Enhancing Self Identity Among Students.', *mpowering Islamic Civilization in the 21st Century* (Universiti Sultan Zainal Abidin, Malaysia 2015)
- Steiner HJ, Alston P and Goodman R, *International Human Rights in Context* (Oxford University Press 2008)
- Sunan Ibn Majah, 'Sunan Ibn Majah 2182 - The Chapters on Business Transactions - كتاب التجارات - Sunnah.Com - Sayings and Teachings of Prophet Muhammad (صلى الله عليه وسلم)' (*Sunnah.com*)
- Tim Humas Universitas An-Nur Lampung, 'Pengertian Israf, Bahaya, Contoh, Cara Mengindari, Dan Hikmah Meninggalkannya'
- Uswah, 'Pakar UM Surabaya Paparkan Bahaya Begadang Dan Dampaknya Bagi Kesehatan' (*surabaya.ac.id*, 2022)
- Yuslem N, 'Sharia Contextualisation To Establish the Indonesian Fiqh' (2020) 5 Petita : Jurnal Kajian Ilmu Hukum dan Syariah
- Zulfikar F, 'Etika Dan Konsep Perang Dalam Islam' (2016) 7 al Qisthas; Jurnal Hukum dan Politik 102