

## ENFORCEMENT OF HUMAN RIGHTS IN THE PERSPECTIVE OF ISLAM AND SHARIAH IN INDONESIA

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### **Abstract**

*The enforcement of human rights (HAM) from the perspective of Islam and Shariah in Indonesia reflects the state's commitment to accommodate the principles of justice and welfare in accordance with the teachings of Islam. The application of human rights in this context is in line with Shariah norms that emphasize the importance of protecting individual rights. In Indonesia, efforts to enforce human rights from an Islamic perspective are reflected through legal diversity that involves Shariah as a source of law. Enforcement of human rights in Islam involves aspects such as justice, freedom, and protection of individual rights. Indonesia constitutionally adheres to the principle of *Bhinneka Tunggal Ika*, which respects religious diversity, including Islam. Actions to enforce human rights in this context include protecting minority rights, religious freedom, and social justice. Additionally, cooperation among state institutions, civil society organizations, and Islamic institutions supports the implementation of human rights enforcement. However, challenges and criticisms regarding the implementation of human rights still arise, necessitating continuous efforts to strengthen human rights protection in accordance with Islamic values within the national legal context.*

**Keywords:** Human Rights, Islam, Shariah

### **I. INTRODUCTION**

Human Rights (HAM) are an important foundation in the development of a society that upholds justice and protects the dignity and freedom of individuals. In Indonesia, efforts to enforce human rights have a unique characteristic influenced by the perspectives of Islam and Shariah, reflecting the state's commitment to accommodate the principles of justice and welfare in accordance with the teachings of Islam. In the Indonesian context, the application of human rights from an Islamic perspective is in line with Shariah norms that emphasize the importance of protecting individual rights. This commitment runs deep and is reflected in Islamic teachings, where justice, freedom, and the protection of individual rights are considered fundamental principles. The principle of *Bhinneka Tunggal Ika* in the Indonesian constitution, which respects religious diversity including Islam, further strengthens the integration of Islamic values into the foundation of the state. "On the other hand, Indonesia's cultural construction is highly diverse and shares similarities with Anglo-Saxon culture in England, but due to imperialism, Indonesia was forced to adopt imperialist laws. This, ontologically, does not align with Indonesian culture (Munir Fuady, 2016).

The legal landscape of Indonesia is characterized by diversity, encompassing both civil law and Shariah law. Shariah, derived from Islamic principles, serves as a significant source of law, reflecting the state's commitment to encapsulate a balanced legal system. The diversity within this legal framework indicates efforts to integrate Islamic values into a broader legal context, especially concerning human rights. Enforcement efforts of human rights from an

Islamic perspective involve maneuvering within this legal diversity, ensuring that civil law and Shariah law work synergistically to protect individual rights. The integration of Shariah principles into the legal system is not a deviation from human rights standards but rather an effort to enrich and strengthen them through an Islamic lens.

One of the main challenges in human rights enforcement is the protection of minority rights and religious freedom. Islam, as a religion of tolerance and harmony, emphasizes the importance of respecting diversity of beliefs. In Indonesia, this is reflected in the constitutional guarantee of religious freedom, acknowledging the existence of various religious communities (Hazzin, 2021). Efforts to protect minority rights involve legislative measures that safeguard their interests and ensure participation in societal development. Islam, as a moral guide, promotes fair treatment of minorities, in line with human rights principles advocating for equality and non-discrimination.

The Islamic perspective on human rights extends to principles of social justice. Islam emphasizes fair distribution of resources, eradication of poverty, and provision of basic needs for all members of society. In Indonesia, this view of social justice is embedded in national consciousness and reflected in various government programs aimed at alleviating poverty and promoting social welfare. Collaboration among state institutions, civil society organizations, and Islamic institutions is key to the effective implementation of human rights. Through collective efforts, these entities can address challenges, share resources, and develop strategies that reflect Islamic values and universal human rights standards.

Despite sincere efforts in enforcing human rights from an Islamic perspective in Indonesia, challenges and criticisms persist. Issues such as harmonizing civil and Shariah laws, ensuring comprehensive protection for minority rights, and responding to criticisms regarding human rights implementation require continuous attention. Overcoming these challenges necessitates ongoing dialogue, legal reforms, and educational initiatives. Increasing public awareness and understanding of the integration of Islamic principles with human rights standards are crucial in creating an environment supportive of effective enforcement. Indonesia's efforts in enforcing human rights from an Islamic and Shariah perspective reflect a commitment to align religious principles with universal standards of justice and freedom. This journey involves navigating legal diversity, protecting minority rights, promoting social justice, and fostering close cooperation. Continuous improvement is essential, ensuring that human rights implementation aligns with Islamic values and contributes to the well-being of Indonesia's diverse society.

## **II. PROBLEM FORMULATION**

Based on the previous introduction, this research examines the following legal issues:

1. How does Islam view human rights from the perspective of human rights in Indonesia?
2. To what extent is the protection of human rights in Indonesia?
3. What efforts are being made to enforce and address human rights violations in Indonesia?

## **III. RESEARCH METHODS**

Research method is an approach used to address the focal issues of a study. In this article, the researcher opts to employ qualitative research method. Qualitative research focuses on the qualitative aspects or essential characteristics of an object or phenomenon. Essentially, the primary emphasis in qualitative research is to delve into the meanings inherent in the observed

phenomena, which can provide valuable contributions to the development of theoretical concepts.

The compilation of this article utilizes qualitative research method. Within this research framework, qualitative method is utilized to explore International Law Enforcement Efforts in Human Rights Violations in Indonesia. Data collection techniques in qualitative research involve interviews and literature review. Literature study, often referred to as a literature review, is conducted by exploring references containing theories relevant to scholarly works, whether published or not, in both physical (hardcopy) or digital (softcopy) forms, which can be found in various sources such as books, papers, and journals. This literature study technique serves as the primary tool in gathering primary data to examine research findings related to efforts in enforcing human rights (HR) from the perspective of Islam and Sharia law.

#### **IV. RESULTS AND DISCUSSIONS**

##### **1. The Perspective of Islam and Sharia in Law and Human Rights in Indonesia**

The Islamic Perspective on Law and Human Rights in Indonesia is an important and complex topic concerning the development of law and human rights in this country. As a nation with a majority Muslim population, the Islamic viewpoint plays a significant role in shaping policies and laws related to human rights. Some key aspects in this context include (Ersu, M. S. Z, 2023) :

- a. **The Harmony between Islamic Sharia and National Law:** Indonesia has a legal system based on Pancasila, which respects religious diversity. However, challenges arise in striving to achieve harmony between the principles of national law and the principles of Islamic Sharia, especially in matters related to family, marriage, and inheritance.
- b. **Religious Freedom and Minority Rights:** Religious freedom and minority rights are integral parts of human rights (Gurinda, N. C. H. 2019). In Indonesia, several issues arise, such as the recognition and protection of religious minority rights, including non-Muslims, as well as the issue of religious conversion, which has become a center of debate amidst diverse Islamic perspectives.
- c. **Women's Rights Protection:** In the context of Islamic perspectives, issues such as child marriage, polygamy, and the protection of women's rights are significant. How Islamic views contribute to the development of laws and policies affecting women's rights in Indonesia is an aspect that needs analysis.
- d. **Criminalization of LGBT:** Controversies arise regarding Islamic views on LGBT (lesbian, gay, bisexual, and transgender), where some conservative views in society contradict the principles of human rights demanding protection and recognition of LGBT rights.
- e. **Harmonization Efforts:** The government and human rights organizations in Indonesia continue to strive for harmony between Islamic views and human rights, through dialogue, legal reforms, and public education.
- f. **Global and Regional Influence:** Global and regional influences, including the influence of Islamic organizations and changes in the understanding of Islam worldwide, also affect Islamic perspectives in Indonesia and their impact on law and human rights.

The Islamic Perspective on Law and Human Rights in Indonesia is a complex and intriguing topic that involves many aspects. A thorough analysis and understanding of how the Islamic viewpoint influences the development of law and human rights in Indonesia are crucial to achieving harmony between Islamic values, principles of human rights, and national law. The

influence of Islam on the Relationship between the National Legal System and Human Rights Principles in Indonesia is a topic that has significant implications for the development of law and human rights in this country. Some key aspects influencing the relationship between Islam, the national legal system, and human rights in Indonesia include (Wazin, W. 2020):

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- a. **Pancasila as the State Foundation:** Pancasila, which serves as the foundation of the Indonesian state, places values such as social justice, democracy, and the protection of human rights as its core principles. However, some argue that certain principles of Islamic Sharia should also be incorporated into the values of Pancasila, leading to debates surrounding the compatibility between Islam and human rights principles in this context.
- b. **Islamic Legal Provisions:** Indonesia has a number of legal provisions that encompass aspects of Islamic law within its national legal system, especially in family law such as marriage, divorce, and inheritance. How Islamic law is integrated into the national legal system and how this affects human rights, particularly women's rights, is an important topic.
- c. **Protection of Religious Rights:** Religious rights and freedom of religion are important principles of human rights. Challenges arise regarding the recognition of minority religious rights and the protection of non-Muslim religious groups amidst the majority Muslim population in Indonesia.
- d. **LGBT Issues:** Conservative Islamic views in some societies often conflict with the human rights of LGBT individuals, who demand protection and recognition of their rights. Debates surrounding how to address LGBT issues in Indonesia reflect the complexity of the relationship between Islam, national law, and human rights.
- e. **Legal Reform and Public Education:** The Indonesian government and various organizations are striving to achieve harmony between Islam, the national legal system, and human rights principles through legal reform and public education. This involves efforts to educate the public about human rights and engage in constructive dialogue.
- f. **Global and Regional Influences:** Global and regional influences, particularly from Islamic organizations and changes in the understanding of Islam worldwide, also affect Islamic views in Indonesia and how these views interact with the national legal system and human rights principles.

The influence of Islam on the national legal system and principles of human rights in Indonesia creates complex and significant dynamics in the country's legal and human rights journey (Putri, D. N. 2020). Therefore, to achieve good harmony, in-depth analysis and dialogue are necessary.

## 2. Legal Instruments for the Protection of Human Rights in Indonesia

Indonesia, as a democratic country with a large population and cultural diversity, has committed to protecting human rights (HAM) in accordance with norms. There are several international legal instruments that support the protection of human rights in Indonesia, and the articles in these documents play a crucial role in creating a legal framework to protect individual rights in this country, including (Wazin, W. 2020).

- a. The Constitution of the Republic of Indonesia (UUD 1945): Articles 28A to 28J of the UUD 1945 explicitly state the human rights in Indonesia. Article 28A stipulates that every person has the right to life, the right to defend life, and the right to a life worthy of humanity. Furthermore, Articles 28B to 28J detail rights such as freedom of association, the right to education, the right to employment, and the right to freedom of religion.
- b. Universal Declaration of Human Rights (UDHR) 1948: This document, which serves as a guide for many countries worldwide, underscores the fundamental rights of every individual. Indonesia, as a member of the United Nations (UN), is indirectly bound by the principles of the UDHR. Several articles supporting human rights protection in Indonesia are enshrined in this Declaration, including the right to freedom, justice, and personal dignity.
- c. International Covenant on Civil and Political Rights (ICCPR): Indonesia ratified the ICCPR in 2005. This instrument establishes civil and political rights, including the right to freedom of expression (Article 19), the right to privacy (Article 17), and the right to a fair trial (Article 14). Ratification of the ICCPR demonstrates Indonesia's commitment to respecting the civil and political rights of its citizens.
- d. International Covenant on Economic, Social and Cultural Rights (ICESCR): Indonesia's ratification of the ICESCR in 2006 reflects a commitment to protecting economic, social, and cultural rights. Articles within the ICESCR, such as the right to decent work (Article 6) and the right to education (Article 13), create a legal basis for government policies that support economic development and social welfare.
- e. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): Indonesia ratified CEDAW in 1984, demonstrating seriousness in eliminating discrimination against women. Articles within CEDAW, such as Article 16 on protecting women's rights in marriage and family, provide a legal basis for policies that support gender equality in Indonesia.
- f. Convention on the Rights of the Child (CRC): Indonesia ratified the CRC in 1990, affirming the rights of children. This document establishes children's rights to life, identity, and education. Ratification of the CRC creates a legal basis for the protection and development of children in Indonesia.
- g. The ASEAN Human Rights Declaration (AHRD): As a member of the Association of Southeast Asian Nations (ASEAN), Indonesia is also involved in regional efforts to protect human rights. The AHRD, adopted in 2012, declares the basic rights that need to be respected and protected by ASEAN member states. Although not legally binding, this declaration lays the groundwork for promoting and protecting human rights in the region.

Although there is a strong international legal framework to protect human rights in Indonesia, implementation challenges persist. Some criticisms include inequality in treatment

among citizens, human rights violations in Papua, and protection of minority rights. Nevertheless, the Indonesian government has taken steps to address these issues through legal reforms and policies (Zulhildi, A. 2022).

Furthermore, it is important to acknowledge that human rights protection is not solely the responsibility of the government but also of civil society, media, and non-governmental organizations. Active participation from all parties is key to the success in realizing human rights protection. The ratification of international treaties and declarations creates legal and moral obligations for states to ensure the protection and respect of individual rights. Moreover, concrete steps and effective implementation of human rights principles at the national level will ensure that this commitment is not just rhetoric but also translates into real protection for all Indonesian citizens.

### **3. Upaya Penegakan HAM di Indonesia Berdasarkan Perspektif Syariah**

Indonesia, as the largest archipelagic country in the world, plays a very important role in representing the diversity of its culture, religion, and ethnicity. With more than 17 thousand islands and over 300 ethnic groups, the country possesses an incredibly diverse population. One significant aspect of this diversity is religious diversity, where Islam is the majority religion with a significant number of Muslim adherents. As Indonesian society evolves, Islamic perspectives on law and human rights have become increasingly debated topics (Supriyanto, B. H. 2016).

Throughout its long history, Indonesia has embraced various religions, including Hinduism, Buddhism, Islam, and Christianity. However, Islam is the most dominant religion in the country, with approximately 87% of its population adhering to Islam. Although the majority of Muslims in Indonesia are Sunni, there are also various other sects such as Shia and Ahmadiyya. Thus, this diverse understanding of Islam shapes the complex religious landscape in Indonesia. Indonesia is a country with a unique legal system, based on Pancasila, which is the state foundation that respects pluralism and diversity. Pancasila places values such as social justice and human rights as the main foundation for the state. However, in practice, Indonesia's legal system comprises two aspects: the national legal system, which applies universally, and customary law, which is still upheld by some tribal communities in various regions. This legal system reflects the diverse cultural and religious values in Indonesia, including the influence of Islam (Ali, H. Z. 2022).

Although Indonesia has recognized human rights as a fundamental principle in its constitution and laws, the country also faces various controversies and challenges in implementing human rights, especially concerning Islamic views. Some controversial issues include religious freedom, LGBT rights, and the protection of minority religious rights. Tensions between the Islamic values held by the majority of the population and the principles of human rights often arise in public discourse and government policies. Indonesia, as a country with a majority Muslim population, has unique dynamics in its efforts to enforce Human Rights (HAM), which are reflected in Sharia perspectives. Sharia, as a source of Islamic law, provides a deep-seated value foundation for the implementation of HAM in Indonesia. In this discourse, we will explore efforts to enforce HAM in Indonesia based on Sharia perspectives, discussing legal foundations, challenges, The legal foundation of Sharia from the perspective of Sharia law in Indonesia is reflected in various regulations and laws that recognize Sharia as a legitimate source of law. Although Indonesia adheres to a general positive legal system, some regions in Indonesia have implemented Sharia-based local regulations, creating a legal framework that

reflects Islamic values. For example, Aceh, a province at the western end of the island of Sumatra, has implemented Sharia law since 2001. Sharia law in Aceh covers aspects such as whipping punishments, penalties for adultery (although this rule has sparked controversy), and regulations governing daily life that reflect Islamic values. Although applicable only in Aceh, this indicates efforts to apply Sharia within the national legal context.

Recognition of the legal foundation of Sharia can also be found in several national regulations, such as the Criminal Code (KUHP), which includes criminal penalties in line with Sharia principles. Integrating Islamic values into this legal foundation forms the basis for efforts to enforce human rights with a Sharia perspective in Indonesia. Enforcement of human rights from a Sharia perspective in Indonesia encompasses several aspects that reflect Islamic principles. The principle of justice is a key element in the enforcement of Sharia-based human rights. Justice in Islam involves equal and fair treatment for every individual, regardless of social, economic, or religious status. Therefore, efforts to enforce human rights must be in line with the principles of Islamic justice.

Freedom of religion is a significant focus in the Sharia perspective. Islam guarantees freedom of religion, and therefore, the enforcement of human rights must ensure that every individual has the right to choose and practice their religious beliefs without pressure or discrimination. Protecting the rights of women and children is an aspect that must be considered in the enforcement of Sharia-based human rights. Islam emphasizes the need for Protection and appreciation of the rights of women and children are crucial. Therefore, efforts in human rights enforcement must encompass concrete steps to safeguard these rights in accordance with Sharia principles. Despite having legal foundations and values that support it, human rights enforcement from a Sharia perspective in Indonesia faces several challenges. One of the main challenges is the harmonization between positive law and Sharia. This harmonization process can lead to tension and controversy, especially in the context of national laws that are generally applicable. Another challenge is the mismatch between Sharia norms and international human rights standards. Some aspects of Sharia punishment, such as whipping, often conflict with international human rights standards that oppose cruel, inhuman, or degrading treatment. Therefore, addressing this disparity is crucial to achieving a balance between Sharia principles and universal human rights standards.

Furthermore, the challenges of human rights enforcement in Indonesia involve comprehensive regulation related to religious freedom. Although Islamic values acknowledge religious freedom, its implementation can be complex in the context of religious diversity in Indonesia. This challenge demands a careful and inclusive approach to ensure that every citizen has the right to practice their religious beliefs. With the passage of time, the understanding of Islamic views in Indonesia has undergone significant changes. Some segments of society adhere to moderate and inclusive Islamic views, while others may adhere to more conservative views. This dynamic reflects social, political, and economic changes in Indonesia, as well as the influence of globalization. In this regard, Indonesia, as part of the global Muslim community and a member of the Organization of Islamic Cooperation (OIC), which includes various countries with diverse views on Islam, creates a dynamic in which Islamic views in Indonesia are influenced not only by internal factors but also by global and regional influences. Developments in other Muslim countries, especially those related to human rights issues, also impact discussions in Indonesia.

## V. CONCLUSION

The legal foundation of Sharia reflected in various regulations and laws in Indonesia demonstrates a commitment to integrating Islamic values into the national legal system. However, challenges in harmonizing positive law and Sharia, as well as discrepancies with international human rights standards, indicate complexities that need to be addressed. Enforcing human rights with a Sharia perspective involves principles of justice, religious freedom, and the protection of women's and children's rights. Although efforts are made to ensure understanding and protection of these aspects, tensions between Islamic values and universal human rights standards can lead to conflicts.

The challenges faced, such as the complexity of harmonizing laws and expanding understanding of religious freedom, require a careful and inclusive approach. Enhancing public understanding of human rights principles in Islam and creating awareness of the importance of harmonization with international standards are integral parts of the solution. Indonesia faces complex challenges in enforcing human rights based on a Sharia perspective.

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