Abstract

Human rights are natural rights given by God for every human being. However, the difference in views between Islam and the West makes countries in the world have their own standards regarding human rights. If Western human rights make people the center of human rights, it is different from Islamic countries. They focused human rights on God, where God had absolute authority over man. The principle held by Islamic countries is supported by the opinion that human rights are flexible in nature depending on the culture, religion, and traditions of these countries. As a counterpoint to the Universal Declaration of Human Rights, Islamic countries formed a coalition to draft an Islamic version of the human rights declaration. And one of the countries that contributed to the drafting of the declaration was Iran. Iran after the revolution led by Ayatullah Khomeini in 1979, turned into the state of the Islamic Republic. They made Wilayatul Fakih a government system. Iran's constitution and laws are adopted from Islamic principles and laws, including the human rights values they hold. The results showed that human rights values such as natural rights, individual freedoms are always political if they are exposed to religious values, especially Islam. Because human rights values are indirectly taken from western values that are Christian in style. As for Islamic countries, which make religious foundations a constitution, human rights values are always supported by local culture. This research uses qualitative research, where the description requirements, whose research results contain synthesis and abstraction conclusions.

Keywords: Human Rights, Islam, Iran, democracy, hijab, law

INTRODUCTION

Humans and the environment influence each other, the influence of the two is like an endless circle. On the one hand, humans regulate the environment, but on the other hand, the environment has an influence on human behavior. Culture has a close relationship with the environment and is one of the factors that shape the views and values of life that humans hold. On the other hand, humans also play a lot of roles in the formation of culture.

The life values that man holds and believes in are partly the product of culture. Culture is often thought of as art, and is often matched with the word cultural art. Although culture is actually a comprehensive value that shapes the life of mankind, hereditary heritage, as well as the rules of life (Hasanuddin, 2017: 4). And when people hold fast to values in behavior, tradition will be created. A tradition that later became attached to a group of human beings, and was difficult to change.

As for religion, some people think it is a product of culture. While others believe that the two influence each other, the culture formed in a religious society is usually born from that society's understanding of their scriptures. Iran is a country with a system of Islamic Republics, whose majority of the population is Shia Imamiah. From the data I got, 93 percent of Iranians are Shia (pewresearch.org). The development of Shia in Iran cannot be separated from the Safavid Dynasty which was previously just an order group in Ardebil. In the 13th century, the order led by Safinuddin was purely just his religious movement, which later developed into a military as well as a political movement. In the 15th century, Ismail, the successor to the throne at that time proclaimed the founding of the Safavid Dynasty and established the Shia Imamiah or Twelve Imams as the official school in their territory. And in the end, the dynasties that originated from this order influenced the map of Iranian civilization, its culture, traditions and religion, including their views on human rights.
METHOD

Here I will use qualitative research methodology as a method to get an overview of the wide variety of existing data variables. In this case, descriptive analysis methods will be used to explain and describe the object of study. Qualitative research is research that has the aim of obtaining descriptive data, such as written words from the behavior of the observed object. Where the meaning of each behavior of the object under study is very essential in research (Hardiani et al, 2020: 15).

Therefore, the focus of this study is to observe human behavior to obtain original and authentic data. Given that original data is the most important thing, the process of collecting data is no less important.

This research will be written in the form of narrative writing, where the object of study will be explained in detail.

RESULTS AND DISCUSSION

Theocracy

A government based on a theocracy system is one that places supreme sovereignty on God (sovereignty of God). Where the only law that applies is the law of God. Therefore, countries that have the concept of theocracy will usually use religious texts taken from scriptures to serve as guidelines in determining state policy and used as the basis and source for the formation of laws.

According to this understanding, God is the sole owner of sovereignty. Meanwhile, the state apparatuses that govern the course of government will be regarded as the intermediaries of God. Abul A’la Al-Maududi explained that the concept of theocracy is reflected in three doctrinal values (Al-Maududi, 1993: 150).

First, no one can challenge God's sovereignty. God's dominion is absolute, while man is only the subject of that power.

Second, the law in force is God's law. Only God is the possessor of true authority in condemnation. No one can claim God's law, and man cannot take refuge from God's lawful demands.

Third, the state must be founded on the law of God that has been passed down through His prophets and Apostles. And the obligation for the people is to obey, if the state is formed not based on the teachings and laws of God then it does not need to be obeyed (Al-Maududi, 1993: 158).

Al-Maududi’s opinion regarding this system of government is certainly contrary to the theory of democracy that puts sovereignty in the hands of the people. The democratic theory that the West initiated puts absolute power on the people, no matter how bad the policy is when viewed from a religious perspective, the policies approved by the legislation will be included in the Act. Democracy itself comes from the Greek, demos means people and kratos means power. This system highly upholds the collective principle, where decisions are made in the name of deliberation of all those who have equal rights (Atmaja, 2011: 5).

On the contrary, as best as the legislation is viewed from the religious side, if the people want it to be repealed then the policy will be repealed from the Act. Al-Maududi indirectly wanted to explain that Islamic countries have their own concepts regarding a state.

In the paper, it is explained that Islamic-style theocracy is different from the theocracy used by Western countries in the past. At that time many of the priests legitimized their power in the name of God but enforced their own version of the law. At that time European kings in the Middle Ages often had to ask permission and endorsement from church authorities when they wanted to do something. Anglican is
one of the churches created by King Henry VIII who at that time did not get permission from the church to remarry (vaticancatholic, 2020).

Unlike the Western theocracy, Islamic theocracy still pays attention to the voice of the people. Where the people still have a hand in the course of government under the supervision of God. The people are given the right to vote and the people are also given the right to subvert it.

In this case, Islamic government is dynamic, democratic as well as theocratic. What may later become a question is that if Islam declares that absolute sovereignty belongs to God, does it not mean that God deprives man of his rights? Al-Maududi explains this cannot be understood as stripping people of their rights but rather to preserve the right itself (Al-Maududi, 1993: 160).

**Theory of Cultural Relativism in the nature of human rights**

The history of human rights was first in the UN Charter of 1945-1948. This arose after the Second World War which took many casualties and material losses were also immaterial. The protection of human rights contained in the UN Charter is a commitment of states to view human beings equally, to have equal dignity, both male and female, anyone, any race and anywhere. For some circles the UN Charter is considered to be only normative without any legal action and consequences for countries that commit human rights violations (Smith, 2005).

Eleanor Roosevelt was the first female chairwoman of the Human Rights Commission to preside over the birth of the Universal Declaration of Human Rights. As for this declaration, it is still soft law, an appeal whose measure is moral, which is still a debate regarding international moral measures. From 1948-1989, the Universal Declaration of Human Rights, which was once soft, in this period went on to become a hard law stipulated in international treaties or treaties on the elimination of genocide.

In 1966, as a result of the Cold War between the Western Bloc and the Eastern Bloc, a second debate arose regarding which one should be prioritized whether Political Civil Rights or Economic, Social and Cultural Rights. The Western bloc focuses on Political Civil Rights such as freedom of expression and so on regarding individual freedoms in which the state should not intervene in this fundamental right. The Eastern bloc, meanwhile, highlighted the importance of social, economic and political rights in efforts to protect human rights.

But although these two things are separated in two covenants, they are intertwined with each other. For example, if a country highlights the importance of economic, social and cultural rights, it is also necessary to have a role for the state not to intervene in the rights of workers by giving them freedom of association. The last debate on human rights arose after the Vienna Declaration in 1993. Debates in the period on universality and particulate matter.

This debate arises because of differences in perspectives, laws and cultures that exist in countries in the world. The Universal Declaration of Human Rights established in the West will certainly directly or indirectly intersect with the cultures of each country. The question that arises is whether it is possible that this universality of human rights can be carried out in world countries without conflicting with local culture? Or vice versa, the local culture can run as long as it does not conflict with human rights? The debate is related to whether each country should put forward the universal principle of human rights or continue to adopt local laws, cultures and perspectives in the application of human rights?

In human rights there is a debate between universality and cultural relativity. The theory of cultural relativity. To understand morality, it is necessary to understand cultures, different cultures will give birth to different moralities as well (Rachels, 2014: 45). Cultural relativism in human rights initially emerged after the cold war, as the antithesis of the universality of human rights. According to adherents of
this theory, human rights should be laid out based on the local culture. The priority of human rights, which according to universal theory is individualistic, then according to the theory of cultural relativism is based on community values, customs and ideologies that are believed. Cultural differences will form different perceptions regarding human beings, one of which is about their human rights (Ardani, 2017: 40).

Human rights are fundamental rights that every human being has when born into the world, but culture and customs influence human perspectives and nature. The systematic influence of culture in shaping human individuals led to the emergence of a dominance of a distinctive social type in each place. Although there were radical forms of cultural relativism in the past, such as slavery that considered humans irrelevant to their moral status. But that view has been universally rejected in the modern world. Such things erode on their own, along with human movement and mobility. For example, regarding the prohibition of punishing a person without a court are values that arise across cultures, although in practice and implementation there are differences. This is what inspired the proponents of the theory, for them no matter how influential the culture is on human rights, as long as it is the truth then it is automatically the truth. And this is what Islamic countries are trying to bring up, a time when human rights are based on local cultures, ideologies and even religions.

Theocracy countries such as Saudi Arabia, Iran and other Islamic states are often caught up in the human rights dichotomy that the West and Islam offer. Islamic countries with their ideologies and beliefs, present other alternatives related to human rights that are in accordance with the norms of their beliefs. The Charter of Medina was the forerunner of the establishment of a declaration of human rights among Muslims. The Charter of Medina contains declarations of a humanistic and multicultural nature. Where the Prophet Muhammad SAW in the charter taught about equality, equality of degrees, freedom of religion and tolerance. He also upholds justice in society without discrimination against any group.

Then in 1981, Islam was the only religion that offset the UDHR by making declarations based on their own religion. The Declaration of Islamic Human Rights was first announced in Paris by the Islamic Council of Europe, which consists of clerics from Egypt, Saudi Arabia and Pakistan. Although both have the theme of Human Rights, the two declarations have opposing ideas, especially regarding matters concerning religious freedom. In article 18 of the UDHR it is said that everyone is free to embrace any religion and has the right to perform his religious rituals,

"Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance."

And a few years later, in its development in 1990, the leaders of the OIC countries agreed on the Human Rights Declaration in Cairo, which is now referred to as the Cairo Declaration. In this declaration contained in article 25, that what is contained in the Declaration of Islamic Human Rights in Cairo is completely subject to Islamic law and Allah Almighty,

"The Islamic Shari'ah is the only source of reference for the explanation or clarification of any of the articles of this Declaration."

**Discussion**

**Characteristics of the Islamic Rule of Iran**

Iran, once known as Persia, is located in the Middle East in the northern hemisphere of the earth. The country is a mountainous country with an area now reaching 1,548,195 km². To the north of Iran it borders Armenia, Azarbeijan, and Turkmenistan. To its south it borders the Persian Gulf and Oman. While in the west
it is directly adjacent to Iraq as well as Turkey. And to the east it borders Afghanistan also Pakistan.

Persia was once famous for its extraordinary civilization, starting from the Elam kingdom of Pre Achaemenia to the emergence of the Islamic Republic of Iran. Before the arrival of Islam, the Persian population adhered to local religions such as Zoroastrian, Mithra, Mani, Mazda and even Buddhism. Islam entered this emperium during the Caliphate of Abu Bakr who sent the command of Mutsanna bin Harritsah Al-Shaibani to Iraq, which at that time was under the rule of the Persian Emperium (Rochmat, 2020). Until finally through conquest and warfare, the Persian Emperium collapsed to replace with Islamic dynasties such as the Thahiriah Dynisty in Khorasan, Dailami, Alawi and so on to the Pahlevi Dinasi. For 25 centuries, these dynasties conquered each other in order to rule Iran. Until finally the Dynisty chose to embrase Islam. And became the forerunner of the progress of Islamic civilization in Iran developed rapidly. At that time, the Il Khan Dynasty lost control to the point of making the emergence of many religious traditions (Bosworth et.al., 1995: 766). And among the most striking are Sunni-Shia.

As it is known that Iran is a country that adopts Shia ideology as a principle of its rule. The Mongol invasion of the Iraqi state in 1256-1350 and beyond was the starting point at which Islam and Shia flourished in Iran. Through Hulagu, the grandson of Jengis Khan who controlled Iran, the Il Khan dynasty was established by starting the massacre as well as ending the rule of the Ismailis and conquering the Abbasid Caliphate. Where both sunni and shia iranians believe in karamah wali, glorifying Ali bin Abi Talib and Ahlul Bait Nabi. These two schools are difficult to distinguish due to the presence of taqiyah from the Shiites. And this is even more striking when the Shia Imamiah Safavid Dynasty came to power. During this Dynasty, Shia ideology was adopted into a state principle whose legacy remains to this day forming modern Iran (Nasr, 1974: 273).

Imam Khomeini, whose full name is Sayyid Ruhullah Al-Musawi, is an Iranian revolutionary from among the clerics. He was also the first to come up with the concept of Shia-style Islamic rule in the modern era. The most prominent idea of him after the collapse of the Pahlevi Dynasty was the formation of a state with the concept of Wilayatul Fakih or Guardian Jurist. According to him the fakih (jurist) has the highest authority in leading the country, he stressed the importance of a government controlled by a fakih.

Iran, after the Revolution in 1979, declared itself a country with an Islamic system of government. In the constitution of the country, article 56 says that the absolute authority of the world and man rests with God (Manucherhi, 2019: 39). The chapter also explains two authorities, first, the absolute authority held by God and the second, the authority of man. Human authority includes destiny, fate and his social life. God’s absolute authority is referred to as iradah takwini. This absolute authority is related to all the order of nature, life and death, the authority of which the world and man would vanish if God had cut it off. Human authority, called iradah tasyri‘I, in which man is given both freedom and responsibility by God. In addition to this freedom, God has equipped man with his intellect, so that man can choose choices well and correctly. Because in the Islamic faith, every choice made by a servant has its own consequences.

In article 57 it says that the authority of the people is divided into three parts, legislative, executive and judicial.

"The powers of government in the Islamic Republic are vested in the legislature, the judiciary, and the executive powers, functioning under the supervision of the absolute wilayat al-’amr and the leadership of the Ummah, in accordance with the forthcoming articles of this Constitution. These powers are independent of each other".
These three authorities are under the supervision of the guardians of the fakih. Wali Fakih or supreme leader is the highest entity in the Wilayatul Fakih-based Islamic government. The main basis for the formation of the Wilayatul Fakih system of government was Imamah, one of the religious doctrines of the Shiites. The word territory comes from the root of the word guardian. In Arabic wali means friend, loyal or supporter. While territory is power and leadership (Tehrani, 2005: 38). While fakih is an expert in jurisprudence or Sharia law. In the Constitution of the Islamic Republic of Iran, it is said that the continuous Imamah during the time of the shrewdness of Imam Mahdi (the twelfth Imam of the Shia sect) played an important role in the continuation of the Islamic Revolution through the ijtihad (determination of Islamic law based on quranic and Hadith sources, Ijma' and reason) qualified fakih (Manuchehhi, 2019: 42).

The Islamic Republic of Iran was built on five main pillars of the Shia school, namely Tawhid (Godhead), Nubuwwah (Prophetic), Imamah (Faith), Adl’ (Justice) and Ma’ad (Last Day). The Iranian government sees themselves as the guardians of the revolution and Islamic values responsible for the affairs of Islamic Muslims in accordance with what the general public had chosen at the time of the April 1, 1979 referendum.

Islamic tensions and the Universal Declaration of the Right to Human Principle, are reflected in Iran's constitution. Where ideas related to human rights are limited by sharia which is handed down by God as the highest authority. Article 19 of the Iranian Constitution is presented on equal rights of every citizen, article 20 on civil and political rights, the same socio-economic between women and men. Articles 21 to 27 cover freedom of expression, freedom of the press and freedom of religion as well as carrying out religious rituals, all of which are restricted by Islamic law nor do they violate the sanctity of Islam.

In 1948, Iran was among the countries that participated in agreeing on the Universal Declaration of Human Rights, including the Covenant on Civil and Political Rights in 1966 as well as the Covenant on Social And Economic, Social and Cultural Rights on April 4, 1968, which was finally ratified in 1975 by Iran.

When the revolution erupted and the Islamic Republic was established, a new law was created, the contents of which included 24 articles of people's rights. Where every citizen has equal rights, be it men or women with Islam as the basis of their values. Although it does not explicitly ratify the UN UDHR, Iran is committed to fulfilling the human rights of its citizens by reviewing international documents through a more Islamic approach and in accordance with the culture of local communities. Manuchehhri detailed several records related to Iran adopting human rights values in its country's constitution, from 1904 before the Iranian Revolution to the aftermath of the revolution, such as the convention on the anti-sexual harassment of women that Iran ratified in 1910 to 1989 which was on November 20 through resolution No.25/44 of the UN General Assembly. Iran has ratified a convention on the establishment of the rights of the child approved by the Shura Council (DPR) as long as it does not conflict with Islam (Manuchehri, 2019: 168).

**Iranian Women’s Hijab Obligations**

After Iran's Islamic Revolution, the government represented by the fakih governed the country based on Islamic laws. And one of the things that is regulated in the country is the obligation to wear the hijab for women. In chapter 638 it says that,

"Anyone who explicitly violates any religious taboo in public beside [sic] being punished for the act should also be imprisoned from ten days to two months, or should be flogged (74 lashes). Note - women who appear in public without a proper hijab should be imprisoned from ten days to two months or pay a fine of 50,000 to 500,000 Ryal [Iranian rials (IRR)]"
Hijab in the KBBI dictionary means a wall that borders one another. In the Qur'an surah Shad verse 32, Allah Almighty says "so he said, 'Verily I love all that is good (horses), which makes me remember (will) the greatness of my Lord, until sunset." This verse tells about the Prophet Solomon, and the sunset (covered) in this verse uses the word *bil hijab* (Muthahhari, 2000).

Iran itself has a long history of hijab. During the reign of Shah Reza Pahlevi who encouraged modernization, he considered that the hijab was a symbol of backwardness. He also banned women from wearing head coverings in public spaces, except for European hats. For him Europe is a symbol of progress, and Iran must emulate them in order to be equal. Until finally the eruption of Iranian Islamic revolution in the country in 1979 (Hoodfar, 1999: 13). The ban on hijab in public spaces at that time (1941-1979) made some women reluctant to go out without a hijab. This is what actually makes some of them not have good social contacts, proper education because they are confined to these rules. So when Imam Khomeini led the Islamic Revolution which ended with a referendum on the birth of the Shia Islamic state, he changed all the rules and laws of the country according to Islamic law. In Article 1 of the Iranian Constitution it says,

> “The form of government of Iran is that of an Islamic Republic, endorsed by the people of Iran on the basis of their longstanding belief in the sovereignty of truth and Qur'anic justice, in the referendum of Farwardin 9 and 10 in the year 1358 of the solar Islamic calendar, corresponding to Jamadi ’l-Awwal 1 and 2 in the year 1399 of the lunar Islamic calendar [March 29 and 30, 1979], through the affirmative vote of a majority of 98.2% of eligible voters, held after the victorious Islamic Revolution led by the eminent marji' altaqlid, Ayatullah al-‘Uzma Imam Khumayni.”

The Islamic Republic of Iran is the result of a majority Iranian referendum. The referendum conducted by the Iranian government after the revolution is proof of the country's respect for democratic values. The referendum involved the Iranian people to choose their own destiny. Although it could not overshadow all the aspirations of the Iranian people, the majority had chosen the establishment of an Islamic state. The United Nations itself has introduced a referendum as an instrument of democracy that each country has the right to decide for itself (Miller, 2003: 165).

With this referendum, all the rules that apply to Iranian sovereignty are based on Islamic law. Citizens must obey the laws, including the obligation to wear the hijab for women in public spaces. This is a consequence of the results of the 1979 referendum. Even though this concept is considered to injure human rights by Western countries, it is undeniable that it raises different principles. If human rights according to the Western perspective are anthropocentric, Islam does not believe that human rights are God-centered or theocentric.

So according to the mandate of the Islamic Revolution and the results of the Referendum, wearing the hijab is the obligation of a Muslim woman. As the word of Allah SWT in the Qur'an Surah Al-Ahzab verse 59 which reads, "O Prophet! Say to your wives, your daughters and the wives of the believers, "Let them cover their veils all over their bodies." That is so that they are easier to identify, so that they are not disturbed. Allah is Forgiving and Most Merciful.

As for why the West insists on considering Iran as a country that violates human rights, it is a one-sided standard. Regardless of the culture, religion, traditions of each country, the West tries to impose their human rights standards on other countries that have different principles and ideologies.
CONCLUSION

Realist perspective, makes the state as the main actor in international relations (Antunes & Camisao, 2018). The existence of these debates is because the concept of human rights adopted by the United Nations emerged from the Western world where this idea was first referred to as natural human rights. This natural law can be found in the writings of John Locke, Thomas Aquinas, etc., which inspired revolutions in France, England and America (Smith, 2005). This natural law later developed into international law related to human rights. According to the realist perspective, fully accepting the universality of human rights inspired by western products is feared to be a gap for other countries to intervene in the sovereignty of a country suspected of committing human rights violations. As happened to Saddam Hussein in Iraq who was accused by America of possessing weapons of mass destruction. To this day the accusations have not been proven, but the military intervention carried out by America in the name of human rights has ravaged Iraq to this day (Hasan, 2018). Although it has been accommodated under the umbrella of the Universal Declaration of Human Rights, it cannot be denied that the existence of a national interest can cause a country to expand its hegemony to weak countries in the name of human rights.

There is a debate regarding universality and particularity, due to the values held by each country. According to the realist perspective, there is no higher existence than the state. So human rights should also go hand in hand with local culture, international institutions do not have the freedom to regulate the law, social and culture of a country. For example, in the case of Saudi Arabia which does not want to recognize the religious freedom of its citizens, the United Nations as an international institution cannot do much. What Saudi Arabia has done by not fully accepting the universality of UN human rights is the national interest of its country. With the restrictions on one's religious expression, it could be that the goal is in the national interest to avoid conflict in the community.

Carl Schmitt argues that states may enter into negotiations and agreements as long as these do not violate the basic principles of international relations, one of which is state sovereignty (Carl, 2006).

Basically every country, religion, ideology and culture has its own perspective regarding human rights, which implies that the Universal Declaration of Human Rights will be difficult to implement if international institutions are reluctant to see the state as a state, which is anarchic and tends to act because of national interests.

BIBLIOGRAPHY

Cultural Relativism in the Application of Human Rights in Iran

Hijab Obligation Analysis

A. Eka Nurfitria