

Siyasah Fikih Thinking in the Context of Religious Freedom And Human Rights

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Abstract

Religious freedom is given to every human being to adhere to their own beliefs and religion. Religious freedom in Indonesia upholds human rights which are regulated in the 1945 constitution. The law on religious freedom acts as a material to protect the entire community and acts of discrimination, religious-based violence, exploitation, and limits of religious authority in religion. Religion is a system that regulates belief and worship in the Almighty God as well as rules related to culture, and a worldview that connects humans to the order of life. Every religion has rules and regulations for life in society. People who have religion will definitely understand more about how to live life. As with human rights, governments must be fair to their people. According to Siyasah Fiqh, religious freedom is prohibited and is an act of coercion that can lead to violations of freedom and human rights. There is no sense in choosing people according to class. The method used for this research is a qualitative approach, namely by collecting data and using information related to the problems in this research. The nature of this research is descriptive analysis. The data source is secondary data. Because there are still many people who change religions without paying attention to the future consequences and many people's rights are lost by not implementing justice.

Keywords: Siyasah Fiqh Thought, Religious Freedom, Human Rights

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INTRODUCTION

Religion is the rules or procedures for human life in relation to God and each other. Religion functions as a guide to human life, so that a harmonious relationship is created between humans and the Almighty Creator. For its adherents, religion is believed to be something noble, which leads to God's path so that salvation in the world and the hereafter can be realized. Religion in the relationship between humans and the Creator, is expressed in a cult form based on certain doctrines. In short, religion is the most basic need and a source of guidance for human life. Essentially, every human being has rights that have been inherent to him since he was born. One of them is the right to freedom of religion. Every human being is free to choose a religion according to his religious experience and according to his personal beliefs. Of course, religious freedom is not only an ability, but also a real condition experienced by humans. This means that freedom of religion also includes a conducive situation for a person to choose a religion



(according to his beliefs) and to live his religion without any obstacles or coercion from any party (Bertens, 1971).

In the context of religious freedom, *siyasah fiqh* considers Islamic religious teachings related to freedom of belief and practice of worship. Some scholars consider that Islam provides freedom of religion to individuals, although with certain limitations, such as not disturbing public order or community security (Forsythe, 1983). However, there are variations in interpretation among Islamic scholars and scholars regarding the extent to which religious freedom can be accommodated within the framework of *siyasa* jurisprudence. Some views may be more conservative and emphasize the enforcement of religious laws, while others may be more inclusive and recognize religious freedom as a fundamental right of every individual.

Meanwhile, in relation to human rights more generally, *siyasa* jurisprudence can consider universal human rights principles and ensure that these principles are in line with Islamic teachings. Some important human rights issues in this context include the right to life, freedom from torture, freedom of opinion, and freedom of organization. It is important to remember that interpretations of *siyasa fiqh* related to religious freedom and human rights can vary among various schools of thought and schools of thought in Islam. Therefore, discussions and debates about these issues continue to take place in the Islamic academic and religious world.

The interpretation of *siyasa fiqh* regarding religious freedom can vary between schools of thought and schools of thought in Islam. Therefore, there is ongoing discussion and debate in the Islamic religious and academic world regarding how Islamic religious principles can be applied in the context of religious freedom. *Siyasa fiqh* thinking about religious freedom is an effort to understand and apply the principles of the Islamic religion in the context of political and governmental affairs, especially in relation to individual freedom to choose and practice their own religious beliefs. One of them is the connection between religious freedom and other human rights, namely that some scholars see religious freedom as part of broader human rights, which include rights such as freedom of opinion, freedom of association, and other civil rights. They argue that religious freedom is one aspect of the overall human rights framework that must be recognized and respected (Budiharjo, 1985). Religious freedom is an important aspect of human rights (HAM). The two are interrelated and mutually reinforcing in the context of protecting and respecting individual dignity and freedom. Therefore, there is a connection between religious freedom and human rights.

By paying attention to this background, the problem in this research is how does Islamic jurisprudence think about various freedoms and human rights? So, the purpose of this problem is to describe religious freedom and human rights according to *siyasah fiqh*.

Academically, research studies examining religious freedom have been carried out several times. These studies include: First, Abdillah Halim's research in 2010 which took the title "Political, Legal and Religious Freedom Analysis of Law no. 1/PNPS/1965 concerning Prevention of Abuse and/or Blasphemy of Religion." This research explains that religious freedom is a gift from God given to every human being and should not be removed in any situation and

for any reason. The state has an important role to realize and ensure its sustainability.

Second, Hasyim Asy'ari's research in 2011 on "The Legal Politics of Religious Freedom in Indonesia." This research, published in the legal journal *Pandecta*, states that the political development of religious freedom law in Indonesia is not linear, but is full of dynamics, similar to the historical experience of the relationship between state and religion that has occurred so far.

RESEARCH METHOD

Based on the place of research, including library research, which focuses on the study of religious freedom from the perspective of the Islamic religion. This research describes this phenomenon as it is in accordance with the point of view or approach used regarding religious freedom and human rights. This research is qualitative research where the research procedures produce descriptive data.

Documentation techniques are used to collect data in the form of books and articles referenced from online, print and internet journals. Data collection was carried out to obtain materials that were relevant, accurate and reliable (Kusdiyanto, 1997: 89). The data that has been collected is then analyzed and concluded deductively, namely drawing conclusions from general statements to specific statements.

RESULTS AND DISCUSSION

Religious Freedom

Every human being is born free. Their freedom in life is absolutely absolute in everything, until they meet truth or goodness. The right to freedom of religion is an essential right for humans which enables them to freely respond to the call of love from God and to respond to their Creator. The right to believe freely is included in the framework of individual freedom of conscience. The need to guarantee religious freedom must be accompanied by the protection of other human rights, namely the right to assemble; seeking, receiving, and providing information, and teaching religion or belief. Religious freedom also encourages the implementation of freedom of religion or belief in the social, economic and political realms at national and international levels (Mukti Ali, 1970 ; Alim, 2001).

Religious freedom is understood as the principle that every individual is free to choose and believe in his religion and fully practice the religious teachings he believes in. Islam gives its citizens the freedom to embrace their own religion and is not allowed to impose their beliefs on other people (Alim, 2001). Thus, it is not permissible for other parties to interfere with this most basic right, either by denying it completely or simply reducing it.

Every Muslim is obliged to respect and appreciate the human rights of his fellow human beings, which include guarantees for life and property, protection of honor, personality and guarantees of private life, guarantees of personal freedom, the right to oppose tyranny, freedom of expression, freedom of association, freedom of expression of conscience and belief, protection against religious sentiments, protection from arbitrary punishment, the right to the basic necessities of life,

equality before the law, the right to abstain from sinful acts, and the right to participate in state affairs (Maulana Abul A'la Maududi, 2000: 22-40).

Religious freedom is a human right that gives individuals or groups the right to choose, practice, and maintain their religious beliefs or personal beliefs without pressure, coercion, or discrimination from other parties, including from the government or public institutions.

Religious freedom is an important element in creating a society that is inclusive, just and respects individual rights. This is a widely recognized principle in international law and the constitutions of countries around the world.

The purpose of religious freedom is to give individuals or groups the right to choose, practice, and maintain their religious beliefs or personal beliefs without pressure, coercion, or discrimination from other parties, including from the government or public institutions. Here are some of the main goals of religious freedom:

1. **Respect for Human Dignity:** Religious freedom is recognized as a universal human right, which recognizes the dignity and integrity of every individual. This allows them to practice religious beliefs or personal beliefs according to their own conscience and views.
2. **Respect for Religious Diversity:** Religious freedom encourages tolerance and respect for religious diversity in society. This means allowing for a variety of religious beliefs and practices without discrimination or pressure to follow a particular religion.
3. **Avoiding Religious Conflict:** By providing religious freedom to individuals, society tends to be more peaceful and avoid religious conflict. This is because everyone has the freedom to choose and practice their beliefs without pressure or coercion from other parties.
4. **Encourages a Meaningful Religious Life:** Religious freedom allows individuals to practice their religion wholeheartedly, thereby providing meaning and purpose to their lives.
5. **Promoting Social Justice:** By recognizing religious freedom, society is expected to respect individual rights and treat all citizens fairly, regardless of their religious beliefs.
6. **Maintaining Balance between Religion and State:** Religious freedom helps maintain balance between religion and state. This allows individuals to practice their religion without unauthorized interference on the part of the government.
7. **Respecting the Right Not to Practice Religion:** Freedom of religion also includes the right not to practice a particular religion or belief. This provides space for individuals who choose not to have religious beliefs.

Religious freedom is one of many important human rights, and is a widely recognized principle in international law and the constitutions of countries around the world.

The freedom of religion given by Islam contains at least three meanings:

1. Islam gives each individual the freedom to embrace a religion according to his or her beliefs and there is no compulsion for any individual to embrace Islam.

2. Every Muslim is not permitted to change his religion and beliefs without a reason that is acceptable to Islam.
3. Followers of the Islamic religion are automatically bound by the laws contained therein, so they are not permitted to create new teachings or interpretations that conflict with theological foundations (shariah and aqidah).

Here are some important points related to religious freedom:

1. **Universal Rights:** Freedom of religion is considered a universal and fundamental human right. This means that every individual, regardless of religion or belief, has the right to practice his or her beliefs without fear or discrimination.
2. **Right to Choose a Belief:** Religious freedom includes the right to choose or change one's religious or personal beliefs. Individuals have the freedom to determine their beliefs according to their own conscience and views.
3. **Freedom to Practice Religion:** Freedom of religion includes the right to practice religion, including worship, participating in religious rites, and engaging in other religious activities.
4. **Protection from Discrimination or Intolerance:** Individuals have the right not to experience discrimination or intolerance based on religious beliefs or personal beliefs. The government and society are expected to respect and recognize this right.
5. **Right Not to Practice Religion:** Freedom of religion also includes the right not to practice a particular religion or belief. This means individuals have the freedom to identify themselves as non-religious or as adherents of a particular religion.
6. **Tolerance and Respect for Religious Diversity:** Religious freedom emphasizes the importance of tolerance and respect for religious diversity in society. This means allowing for a variety of religious beliefs and practices.
7. **Reasonable Restrictions:** While freedom of religion is a fundamental right, in some cases, restrictions may be imposed where there is a legitimate public interest, such as national security or public health. However, these limitations must be reasonable, proportional and in accordance with the law.

Human Rights

Human rights (HAM) are rights that every individual has outwardly and is not left behind, just because they are human. Human rights include basic rights granted to humans regardless of their race, religion, gender, ethnicity or socio-economic background. The main goal of human rights is to ensure the protection and respect for dignity, freedom and justice for all human beings. Human rights include the right to life, the right to freedom from torture or cruel, inhuman or degrading treatment, the right to study and education, the right to work and choose employment, and the right to freedom of opinion and expression and many more (Halim, 2010).

Humans and human rights are two words that are difficult to separate. Since his birth on earth, humans are born with natural rights that are integral to their

lives. Basically humans are free creatures. As Jean Jaquas Rousseau argued, humans will increasingly develop their potential and experience human values in an atmosphere of natural freedom.

According to the great Russian thinker Nicolai Alexandrenovict Berdyaev, humans are indeed social creatures, but their lives should not be solely immortalized for groups. Living in a group will be meaningful if the group is able to increase the quality of personal human life (Fuad Hasan, 1989). The concept of human rights has a broad spectrum. On the one hand, there is liberalist thought which is based on individualism, on the other hand, there is a growing rejection of human rights and freedom in socialist thought which emphasizes collective interests and the state.

From Indonesia there are no figures recognized internationally as human rights pioneers. However, this does not mean that in Indonesia there is no struggle to uphold human rights. The struggle to uphold human rights began since colonialism in Indonesia. This struggle is not merely a struggle to expel colonialists, but beyond that, it is also basically a struggle to uphold human rights.

Indonesia experienced centuries of colonialism. At that time, there were many human rights violations such as kidnapping, forced labor, massacres, torture, oppression, abuse which were common phenomena that occurred. There is no freedom, justice, feelings, sense of security, what is happening is massive exploitation of people and Indonesia's natural wealth for the interests of the colonialists.

During the Dutch colonial period, Indonesian society was divided into three social strata. This class distinction in society has far-reaching implications. There is discrimination in all areas of economic, political, social, educational and legal life. The three social strata are: European society as the first class, East Timorese (Chinese, Indian Arabs) as the second class and Irish society as the third class. Human treatment based on discrimination is contrary to dignity. Humans are equal creatures of God. Conditions like this encouraged warrior figures to take up arms.

The historical milestones of the struggle for human rights are as follows:

1. National Awakening (20 May 1908)
2. Youth Pledge (28 October 1928)
3. Proclamation of Independence (17 August 1945); was the culmination of the struggle to eradicate colonialism with the establishment of the 1945 Constitution which contained the recognition of human rights
4. The RIS Constitution and the 1950 Constitution implicitly include the concept of human rights.
5. The 1966 MPRS General Session established MPRS Decree Number However, after the eruption of G30S/PKI this problem was postponed
6. In 1993, based on Presidential Decree Number 50 of 1993, the Human Rights Commission was established.
7. The formulation of human rights achieved progress with the inclusion of this issue in the 1998 GBHN.
8. The 1998 MPR Special Session succeeded in formulating an explicit Human Rights Charter through MPR-RI Decree Number XVII/MPR/1998

concerning the Views and Attitudes of the Indonesian Nation towards Human Rights.

9. MPR Decree Number

Human rights are a universal issue. This problem has always existed as long as humans have existed. The struggle for human rights in the country emerged when oppression during the colonial period was basically an abuse of human rights. The emergence of the struggle to obtain government is also basically to obtain human rights.

Human rights gain legal force in their implementation, both within the international and national legal framework. The Indonesian nation experienced disturbances regarding human rights after the reform period, with the MPR RI Decree no.

It is hoped that the formulation of human rights contained in positive law will be able to reduce human rights violations in the country, because these legal provisions are binding on the state or state. The existence of human rights laws is a preventive effort to prevent human rights violations. However, in this matter the good will of the government and society to respect human rights is much more important.

Siyasah Fikih Thinking On Religious Freedom And Human Rights

Siyasah fiqh thinking about religious freedom is a concept or view in Islamic law which discusses the right of individuals to choose and practice their religion or beliefs without coercion or pressure from other parties, including the government. Siyasa jurisprudence is a branch of jurisprudence that discusses laws related to government, politics and state administration in the Islamic context. Therefore, religious freedom is an important aspect in the context of siyasa fiqh.

Views on religious freedom in siyasa jurisprudence can vary depending on the interpretation and views of each scholar or jurisprudence expert. Some scholars may consider that religious freedom is a human right that must be recognized and respected in an Islamic society. They may argue that the principle of religious freedom is consistent with human values and respects individual freedom.

However, there are also clerics who may limit religious freedom within certain limits according to their interpretation of Islamic law and the objectives of sharia. They may argue that religious freedom must be exercised by taking into account religious norms and the public interest. It is important to remember that siyasa fiqh thinking can vary depending on the historical, cultural, and political context of a particular Islamic society or country. Therefore, there is no single view that represents all siyasa jurisprudence regarding religious freedom.

Siyasa fiqh thinking about human rights is an interpretation and view in Islamic law related to the basic rights that every human being has. These include rights such as freedom of religion, freedom of speech, the right to justice, and socio-economic rights.

The relationship between Islam and human rights, from the basic teachings about *habl min Allah* and *habl min al-nas*, two concepts of rights emerge, namely human rights and Allah's rights. Each right is based on another name. Allah's rights underlie human rights and vice versa. The Islamic concept of human

life is based on a theocentric approach or one that places Allah through the provisions of His Shari'a as a benchmark for the good and bad of human life both as individuals and as members of society or citizens.

Some Islamic scholars and scholars consider that many human rights values and principles are in line with Islamic teachings. They argue that Islamic teachings recognize human dignity, respect individual freedom, and promote social justice. Therefore, they seek to adopt and promote human rights in the context of *siyasa fiqh*.

However, there are various interpretations and approaches to human rights in *siyasa fiqh*. Some scholars may argue that human rights must be articulated and interpreted taking into account Islamic values and principles, as well as in accordance with the social and cultural context of Muslim societies. It is important to remember that perspectives on human rights in *siyasa fiqh* can vary depending on the background, education, and beliefs of each cleric or *fiqh* expert. Therefore, there is no single view that represents all Islamic jurisprudence regarding human rights.

In discussions about human rights in the Islamic context, questions and debates often arise about the extent to which these rights can be implemented and integrated with the teachings and values of the Islamic religion as a whole. This is part of an ongoing dialogue among Islamic scholars, clerics and thinkers regarding the relationship between human rights and Islamic teachings.

CONCLUSION

The conclusion that can be drawn from the discussion above is that freedom of religion in Islam is understood as the principle that every individual is free to choose and believe in his religion and fully practice the teachings of the religion he believes in. Islam gives its citizens the freedom to embrace their own religion and is not allowed to impose their beliefs on other people.

Views on religious freedom in *siyasa* jurisprudence can vary depending on the interpretation and views of each scholar or jurisprudence expert. Some scholars may consider that religious freedom is a human right that must be recognized and respected in an Islamic society. They may argue that the principle of religious freedom is consistent with human values and respects individual freedom.

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