



Human Rights and Islam in the Legal Systems of Indonesia and Malaysia: An Overview

Nisar Mohammad Ahmad¹

¹ Universiti Sains Islam Malaysia

Article info	Abstract
<p>Corresponding author: Nisar Mohammad Ahmad nisar@usim.edu.my</p> <p>Keywords: <i>Human Rights, Islam, Legal Systems, Indonesia, Malaysia.</i></p> <p>Kata Kunci: Hak Asasi Manusia, Islam, Sistem Hukum, Indonesia, Malaysia.</p>	<p><i>In Malaysia and Indonesia, human rights are often seen as products of the West, thus seen as a threat to Muslims and the religion of Islam itself. This misconception has led to the belief that any discourse on human rights is inherently un-Islamic and contrary to Eastern traditions. This article discusses the concept of human rights from the perspective of Islam and law in Malaysia and Indonesia to resolve these misunderstandings. In other words, this article aims to clarify that human rights are not incompatible with Islam; rather, Islam itself upholds and protects human dignity and rights. However, human rights in Islam must be based on the balance of sharia which is based on the principles of maqasid sharia and not based solely on human desires and desires. The paper explores the definition of human rights and related issues in Indonesia and Malaysia from both Islamic and legal perspectives, demonstrating that a clear understanding of human rights—rooted in national constitutions and religious principles—can dispel confusion and foster greater societal adherence to human rights norms.</i></p>
	<p>Abstrak</p> <p>Di Malaysia dan Indonesia, hak asasi manusia sering dipandang sebagai produk Barat, sehingga dipandang sebagai ancaman bagi umat Islam dan agama Islam itu sendiri. Kesalahpahaman ini telah menyebabkan keyakinan bahwa wacana apa pun tentang hak asasi manusia secara inheren tidak Islami dan bertentangan dengan tradisi Timur. Artikel ini membahas konsep hak asasi manusia dari perspektif Islam dan hukum di Malaysia dan Indonesia untuk menyelesaikan kesalahpahaman tersebut. Dengan kata lain, artikel ini bertujuan untuk mengklarifikasi bahwa hak asasi manusia tidak bertentangan dengan Islam;</p>

sebaliknya, Islam sendiri menjunjung tinggi dan melindungi martabat dan hak-hak manusia. Namun, hak asasi manusia dalam Islam harus didasarkan pada keseimbangan syariah yang didasarkan pada prinsip-prinsip maqasid syariah dan tidak hanya berdasarkan keinginan dan keinginan manusia. Makalah ini mengeksplorasi definisi hak asasi manusia dan isu-isu terkait di Indonesia dan Malaysia dari perspektif Islam dan hukum, menunjukkan bahwa pemahaman yang jelas tentang hak asasi manusia—yang berakar pada konstitusi nasional dan prinsip-prinsip agama—dapat menghilangkan kebingungan dan menumbuhkan kepatuhan masyarakat yang lebih besar terhadap norma-norma hak asasi manusia.

A. Introduction

Human rights-related issues are often the subject of heated discussion among Indonesian and Malaysian communities. For many Muslims who make up the majority of the population in both countries, human rights are usually seen and understood from a negative perspective as if they have nothing to do with Islam and are purely 'Western' products.¹ This may happen because those who usually dominate the human rights struggle are seen as inclined towards Western-style human rights philosophies that are not in line with Eastern religious principles and customs. Controversial issues such as the human rights of lesbian, gay, bisexual and transgender (LGBT) people, the concept of gender equality between men and women, the issue of pluralism and liberalism which is widely accepted in the West are among the issues that are often debated and disputed by the Muslim community including in Indonesia and Malaysia.

It is true that such human rights claims are not part of Islamic principles and contradict the laws of the country, but focusing human rights on these issues alone is not a wise move e. g. the Cairo Declaration. This is because this obsession with discussing un-Islamic human rights has drowned out more human rights principles that have been in line with and even championed by Islam for a long time, namely the principles of justice, anti-discrimination and

¹ Hilda Nur Sabrina et al., "Hak Kebebasan Berpendapat Indonesia Dan Malaysia Perspektif Hak Asasi Manusia," *Journal of Law and Islamic Law* 2, no. 1 (2024): 95–112. Shafa Dhia Zahira et al., "Analysis on Human Rights Enforcement by Adopting UDHR in Indonesia and Malaysia," *Proceedings of Universitas Muhammadiyah Yogyakarta Graduate Conference* 1, no. 1 (2021), <https://prosiding.umy.ac.id/grace/index.php/pgrace/article/view/385>. Ichsan Anwary, "Exploring the Interconnectedness Between Public Administration, Legislative Systems, and Criminal Justice: A Comparative Analysis of Malaysia and Indonesia," *International Journal of Criminal Justice Sciences* 18, no. 1 (2023): 172–82.

other freedoms recognized by Islam.² The eagerness of the Muslim community to generalize all the principles of human rights as un-Islamic and indirectly threaten Islam has hindered efforts to read, study and research what exactly are the human rights principles outlined in Islam. Even if there are elements of threats, demands or dissemination of human rights that go beyond religious and legal principles of concern, the governments of Malaysia and Indonesia have adequate legal provisions to deal with them. In addition, programmes and campaigns that can educate and increase public understanding of the true principles of human rights can also be implemented as a solution. This article therefore sees the need for a more holistic, fresh and objective human rights discussion instead of creating polemics without any solution. It is necessary to make a comparison between human rights that are in line with Islam that need to be fought for and Western-style human rights principles that are based solely on human desires that need to be rejected. Also, it is necessary to look at the legal provisions related to human rights so that no human rights claims are made that go beyond the legal and societal norms.

The first part of this article will provide a rough overview of the definition of human rights followed by a debate on the concept of human rights from the perspective of Islam and the laws of Indonesia and Malaysian. Next, to delve into the human rights issues that are often debated and even have the potential to trigger divisions among Indonesians and Malaysians, this article will discuss in general the selected human rights issues in both countries. The final part of this article will discuss proposed solutions to human rights-related polemics in Indonesia and Malaysia while the conclusion will summarize the overall discussion in this article.

B. Defining Human Rights: West and East

Literally, the term 'human rights' refers to the fundamental rights that every human being is entitled to as a symbol of respect for his or her dignity and human nature.³ Mohd Fauzi

² Agus Purnomo et al., "Dimensions of Maqāṣid Al-Sharī'Ah and Human Rights in the Constitutional Court's Decision on Marriage Age Difference in Indonesia," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (2023): 1397–421, <https://doi.org/10.22373/sjhk.v7i3.13283>. Farnush Ghadery, "Beyond International Human Rights Law – Music and Song in Contextualised Struggles for Gender Equality," *Transnational Legal Theory* 13, no. 1 (2022): 31–58, <https://doi.org/10.1080/20414005.2022.2081906>. Rina Antasari, "Islam and Domestic Violence between Husbands and Wives: Indonesian Social and Cultural Perceptions," *The Islamic Quarterly* 65, no. 3 (n.d.).

³ Anna Lawson and Angharad E. Beckett, "The Social and Human Rights Models of Disability: Towards a Complementarity Thesis," *The International Journal of Human Rights* 25, no. 2 (2021): 348–79, <https://doi.org/10.1080/13642987.2020.1783533>. Iwoeng Geovani et al., *JURIDICAL ANALYSIS OF VICTIMS OF THE ECONOMIC EXPLOITATION OF CHILDREN UNDER THE AGE TO REALIZE LEGAL PROTECTION FROM HUMAN RIGHTS ASPECTS (RESEARCH STUDY AT THE OFFICE OF SOCIAL AND COMMUNITY EMPOWERMENT IN BATAM CITY)*, 1, no. 1 (2021). Jessie Hohmann and Beth Goldblatt, eds., *The Right to the Continuous Improvement of Living Conditions: Responding to Complex Global Challenges* (Hart Publishing, 2021), <https://doi.org/10.5040/9781509947867>. Frederik J. Zuiderveen Borgesius, "Strengthening Legal Protection against Discrimination by Algorithms and Artificial Intelligence," *The*

Hamat defines human rights as natural rights owned by humans that are bound by their existence naturally and recognized by the international community, even though some do not recognize them or violate them. Human rights generally recognize the rights of individuals and communities in matters related to equal rights in economic, social, political and so on. Among the most important rights is the right to life which follows after other rights that support life such as freedom of religion, freedom of speech and so on.⁴

In general, principles related to human rights and rule of law or *negara hukum* have become an important part of the constitution and legal framework in most countries including Malaysia and Indonesia. This is because of its universal nature and cannot be separated from the nature of a human being.⁵ Human rights have also become a field and branch of international law that has been given extensive detail and interpretation by international bodies and courts.⁶ At the global level, the basic principles of human rights are usually referred to certain documents such as the *Universal Declaration of Human Rights (UDHR)* which was adopted and declared by the United Nations (UN) on December 10, 1948 following the end of the second world war (UDHR, 1948). At the beginning (*preamble*) of this declaration it was affirmed that the rights and freedoms enshrined are worthy and entitled to be enjoyed by every human being regardless of race, colour, gender, language, religion, political belief, national origin, birth, social status and so on.

In principle, human rights in Islam began long before the declaration of the UDHR by the UN in 1948. The Charter of Medina in 622 AD, for example, outlined the rights and principles of freedom that should be respected and enjoyed by every citizen of Medina. This is in line with the Islamic philosophy which recognizes human freedom from any injustice and tyranny as well as recognizing the high position of human beings compared to other creatures based on the principle of human dignity (*human dignity*).

The Prophet PBUH in his sermon during his last Hajj season once declared the principles of human rights according to syarak, as follows:

"O man, verily your Lord is One, your father is also one, all of you are from Adam and Adam is from the earth. Indeed, the most noble among you is the one who fears Allah

International Journal of Human Rights 24, no. 10 (2020): 1572–93, <https://doi.org/10.1080/13642987.2020.1743976>.

⁴ Wahbah al-Zuhayli, *Ḥaqq Al-Ḥurrīyah Fī al-‘ālam* (Dar al-Fikr al-Mu‘asir & Dar al-Fikr, 2000), 14.

⁵ John H. Knox, "Constructing the Human Right to a Healthy Environment," *Annual Review of Law and Social Science* 16, no. 1 (2020): 79–95, <https://doi.org/10.1146/annurev-lawsocsci-031720-074856>. Anna Lawson and Angharad E. Beckett, "The Social and Human Rights Models of Disability: Towards a Complementarity Thesis," *The International Journal of Human Rights* 25, no. 2 (2021): 348–79, <https://doi.org/10.1080/13642987.2020.1783533>. Masha Medvedeva et al., "Using Machine Learning to Predict Decisions of the European Court of Human Rights," *Artificial Intelligence and Law* 28, no. 2 (2020): 237–66, <https://doi.org/10.1007/s10506-019-09255-y>.

⁶ Alexandra J C Gatto, "The European Union and Corporate Social Responsibility: Can the EU Contribute to the Accountability of Multinational Enterprises for Human Rights?," Working Paper, Institute for International Law K.U.Leuven, 2002, 13.

SWT, there is no advantage for Arabs compared to foreigners (non-Arabs) except with piety".

The description of the hadith above explains the Islamic view of human rights that human beings are the same from the point of view of human values like the blade of a hairbrush. Only piety and righteous deeds distinguish man's position with Allah. Islam has eliminated caste in society. It also abolishes the principles used by humans to highlight the advantages of a race or nation based on race, race and descent (al-Haqil, 1994: 19).

Based on the guidance of the Quran, al-Sunnah and the examples of the practices of Islamic rulers in the past, Islamic scholars have collected the human rights provided for by Islam and included them in the *Universal Islamic Declaration of Human Rights* referred to as the "Cairo Declaration".⁷ This declaration containing 25 clauses was proclaimed on 14 Muharram 1411, equivalent to 5 August 1990. Among the contents of this declaration are the right to life, equality among human beings in terms of the glory of humanity, burdens and responsibilities without distinction between race, blood, blood, language, religious beliefs, political beliefs, equality rights in terms of legislation, prohibition against discrimination, the right to learn knowledge, the right to choose employment, the right to live in peace and happiness, protection from torture, protection from abuse of power and so on.⁸

Undeniably, there are differences and even debates in the discussion between Western-style and Islamic human rights. This is because for Muslims, some of the Western-style human rights principles found in most international instruments do not take into account and some even contradict Islamic principles and values.⁹ The basis for the difference between the two Western-style and Islamic human rights principles is that the Western-style human rights principle relies on the *human-centered* principle which makes absolute use of reason, passions and experiences without taking into account the role of religion and God's revelation in life.¹⁰ For example, fighters and activists who support the Western version of human rights tend to demand and fight for rights that are contrary to the Federal Constitution and Islamic values such as gender equality, LGBT and so on.¹¹

In contrast to Western-style human rights which depend entirely on human judgment, human rights in Islam are determined by Allah who created man. As the creator of man, Allah knows better the rights that man is entitled to enjoy and vice versa. In Islam, the human character of a human being, including his way of thinking and reasoning is not the

⁷ Mehrun Siraj, "Islam, Hak Asasi Manusia Dan Isu-Isu Perundangan Semasa," kertas kerja Seminar Islam Dan Cabaran Semasa sempena Muktamar Sanawi ABIM ke- 35, 2006.

⁸ Al-Haqeel Sulaiman bin Abd al-Rahman, *Huquq Al-Insan Fi al-Islam Wa al-Radcl Ala al-Syubuhah al-Mutharah Hawlaha* (Matabi' al-Taqqiyyah li al-Ufset, 1994), 4942; Siraj, "Islam, Hak Asasi Manusia Dan Isu-Isu Perundangan Semasa," 1.

⁹ Mashood A. Baderin., *International Human Rights and Islamic Law* (Oxford University Press, 2003).

¹⁰ Jack Donnelly, *Universal Human Rights: In Theory & Practice* (Cornell University Press, 2003).

¹¹ "Hak Asasi Manusia Menurut Acuan Islam - The Patriots," accessed December 29, 2025, <https://thepatriots.asia/hak-asasi-manusia-menurut-acuan-islam/>.

determinant of his fundamental rights but is the will through which all the rights and responsibilities assigned to him by Allah can be exercised. Thus, since the basis of the Western-style human rights struggle is to recognize the freedom, equality and privacy of an individual alone, the responsibility to respect human rights in Islam arises from the need to respect human dignity and fulfill religious responsibilities. In other words, respecting and protecting human rights in Islam is also a form of obedience to God and is highly demanded.¹²

C. Human Rights in Indonesia's Legal System

1. Legal Foundations

Indonesia's legal framework for human rights is rooted in the 1945 Constitution (UUD 1945), Law No. 39 of 1999 on Human Rights, and Law No. 26 of 2000 on Human Rights Courts¹³. These laws guarantee fundamental rights such as freedom of expression, religion, and protection from torture and discrimination.¹⁴ Despite these legal provisions, implementation remains weak due to limited resources, bureaucratic inefficiencies, and political interference. The principle of *Rechtsstaat* (rule of law) is often undermined by inconsistent enforcement and lack of judicial independence.¹⁵ Meanwhile Indonesia adopted *negara hukum*.

In addition, Indonesia has also ratified key international treaties, including the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention Against Torture (CAT), reflecting its commitment to international human rights norms.¹⁶

However, recent developments—such as the passage of a new criminal code in 2022—have raised concerns about regression in rights protection. The code includes provisions that violate international human rights norms, particularly regarding freedom of expression and belief.

2. Relevant Institutions

Key institutions involved in human rights enforcement include:

¹² Donnelly, *Universal Human Rights: In Theory & Practice*.

¹³ Ria Wierma Putri et al., "Exploring the Effectiveness of the Human Rights Court in Indonesia: A Call for Humanitarian Action," *Journal of Liberty and International Affairs* 10, no. 2 (2024): 97–118, <https://doi.org/10.47305/JLIA24102097w>.

¹⁴ Yovan Iristian, "Pursuit of Fairness: Human Rights and Social Justice in Indonesia's Legal Landscape," *Journal of Progressive Law and Legal Studies* 2, no. 01 (2024): 34–48, <https://doi.org/10.59653/jplls.v2i01.530>. Bahrain et al., "The Position Of Human Rights in Indonesia Constitutional Law," *Journal Evidence Of Law* 3, no. 3 (2024), <https://doi.org/10.59066/jel.v3i3.943>.

¹⁵ Bahrain et al., "The Position Of Human Rights in Indonesia Constitutional Law."

¹⁶ Iristian, "Pursuit of Fairness." Eko Iswahyudi, "Human Rights and Legal Reforms in Indonesia: Challenges and Progress," *The Journal of Academic Science* 2, no. 2 (2025): 734–43, <https://doi.org/10.59613/ydvwta66>.

- Komnas HAM (National Human Rights Commission): Established in 1993, Komnas HAM is mandated to conduct research, education, monitoring, and mediation on human rights issues. It is responsible for inquiries and investigations into human rights violations.¹⁷
- Human Rights Court: Established under Law No. 26/2000 to adjudicate gross violations such as genocide and crimes against humanity.¹⁸ And through constitutional court republic of Indonesia.
- Attorney General's Office: Handles prosecutions but has been criticized for failing to follow through on cases referred by Komnas HAM.
- Constitutional Court: Reviews laws and policies for compliance with constitutional human rights guarantees.¹⁹
- KOMNAS Perempuan and Child Protection Commission: Focused on gender-based violence and child rights respectively.

Despite their mandates, these institutions often face political and procedural obstacles that hinder effective enforcement and accountability.²⁰

The Human Rights Court has been largely ineffective. Trials for major cases such as the Tanjung Priok massacre (1984), East Timor (1999), and Abepura (2000) ended in acquittals, raising concerns about impunity and lack of deterrence. Investigations often stall at the inquiry stage, and Komnas HAM's recommendations are frequently ignored by the Attorney General's Office.

Despite reforms, judicial independence remains weak. Corruption and political interference in the judiciary undermine legal protections, especially for vulnerable groups.²¹ Judges often lack training in human rights law, leading to inconsistent rulings.²² Human rights courts have been largely ineffective, as seen in various unresolved cases.²³ The Attorney General's Office and Komnas HAM have repeatedly returned case files without resolution, citing procedural issues.

Freedom of expression is constitutionally protected but heavily restricted in practice. Laws on defamation, blasphemy, and hate speech are used to silence critics and journalists. The Electronic Information and Transactions (TE) Law is often applied to prosecute online dissent (U.S. Department of State, 2024). Journalists face harassment, threats, and physical violence. The law has also been used to criminalize dissent and silence critics, including

¹⁷ Iristian, "Pursuit of Fairness." Law No. 39 of 1999, Arts. 75–89

¹⁸ Law No. 39 of 1999, Art. 104

¹⁹ Putri et al., "Exploring the Effectiveness of the Human Rights Court in Indonesia"; Bahrain et al., "The Position Of Human Rights in Indonesia Constitutional Law."

²⁰ Iristian, "Pursuit of Fairness."

²¹ Nandha Risky Putra and Rosa Linda, "IMPACT OF SOCIAL CHANGE ON SOCIETY FROM THE CRIME OF CORRUPTION," *Integritas: Jurnal Antikorupsi* 8, no. 1 (2022): 13–24, <https://doi.org/10.32697/integritas.v8i1.898>.

²² Iswahyudi, "Human Rights and Legal Reforms in Indonesia."

²³ Iristian, "Pursuit of Fairness."

journalists and activists. This has led to a chilling effect on free speech and undermines Indonesia's obligations under the ICCPR.²⁴

While Indonesia has ratified several international human rights treaties, it has not ratified the Rome Statute of the International Criminal Court. This limits international oversight. Domestic reforms have been slow, and political dynamics often obstruct justice. Humanitarian intervention has been proposed as a last resort to address unresolved cases.²⁵ The Job Creation Law (Law No. 6 of 2023) has introduced regressive provisions that weaken environmental protections and community consultation processes. It has facilitated land grabs and forced evictions, particularly in Rempang Island, where indigenous communities were displaced for development projects.

The new criminal code and attempts to manipulate election laws reflect a broader trend of weakening democratic institutions and undermining civil liberties. Civil society and media face increasing restrictions, and corruption remains pervasive in resource management and governance.

Indonesia's legal system integrates Islamic values through Pancasila, the state ideology, which emphasizes belief in one God and social justice.²⁶ While Pancasila supports human dignity, its interpretation sometimes prioritizes collective rights over individual freedoms, creating tension with universal human rights standards.²⁷ In addition, while Law No. 39 of 1999 guarantees freedom of religion (Art. 22), the impementation of Sharia-inspired bylaws in some provinces has led to discrimination against religious minorities and women.²⁸ Islamic principles influence legal norms, but the challenge lies in harmonizing these with international human rights obligations. The Constitutional Court often navigates this balance but overlapping laws and cultural interpretations complicate enforcement.²⁹

D. Human Rights in Malaysia's Legal System

To get an accurate understanding of human rights in Malaysia, referring to the highest law of the country namely the Federal Constitution is a must. Although the Constitution does not provide a clear definition of the term human rights, there are several provisions in it that directly touch on the principles of human rights, namely articles 5 to 13. These provisions are referred to as fundamental freedoms. This term was also not given a clear definition by the Constitution until 1999 the SUHAKAM Act, under Section 2 clarified that human rights in Malaysia should be referred to articles 5-13 of the Constitution. For the purposes of the act,

²⁴ Iswahyudi, "Human Rights and Legal Reforms in Indonesia."

²⁵ Putri et al., "Exploring the Effectiveness of the Human Rights Court in Indonesia."

²⁶ Suci Flambonita et al., "THE CONCEPT OF LEGAL PLURALISM IN INDONESIA IN THE NEW SOCIAL MOVEMENT," *Jurnal Analisa Sosiologi* 10, no. 1 (2021).

²⁷ Bahrain et al., "The Position Of Human Rights in Indonesia Constitutional Law"; Iristian, "Pursuit of Fairness."

²⁸ Iswahyudi, "Human Rights and Legal Reforms in Indonesia."

²⁹ Putri et al., "Exploring the Effectiveness of the Human Rights Court in Indonesia."

reference may also be made to the UDHR 1948 as long as it does not conflict with the Federal Constitution.³⁰

In summary, the content of the provisions in articles 5-13 is as follows;

Article 5 - Self-freedom. *(Shall not be taken or deprived of his liberty except in accordance with law.)*

Article 6 - Prohibition of devotion and forced labor. *(No one can be detained as a slave and all forms of forced labor are prohibited).*

Article 7 - Protection from retroactive criminal laws and repeated trials. *(No one can be punished for an act or omission that is not punishable according to the law at the time the act or omission is done or made. Also, a person who has been acquitted of an offence or convicted of an offence cannot be retried for the same offence unless the conviction or acquittal has been quashed and a retrial is ordered by a court higher than the court which acquitted or convicted him.)*

Article 8 - Equality. *(Everyone is equal before the law and entitled to equal protection under the law).*

Article 9 - Prohibition of deportation and freedom of movement. *(No citizen can be expelled from the state or detained into the Federation.)*

Article 10 - Freedom of speech, assembly and association. *(Subject to Clauses (2), (3) and (4)— (a) every citizen has the right to freedom of speech and expression; 25 Laws of Malaysia (b) all citizens have the right to assemble peacefully and without weapons; (c) all citizens have the right to form a union.)*

Article 11 - Freedom of religion. *(Everyone has the right to profess and practice his religion and, subject to Clause (4), to develop it).*

Article 12 - Rights with respect to education. *(Without prejudice to the generality of Article 8, there shall be no discrimination against any citizen solely on grounds of religion, race, descent or place of birth— (a) in the administration of any educational institution maintained by a public authority, and, in particular, the admission of pupils or pupils or the payment of fees; or (b) in the provision of financial assistance from the money of a public authority for the*

³⁰ SUHAKAM Act, 1999: Section 4

maintenance or education of pupils or pupils in any educational institution (whether maintained by a public authority or not and whether within or outside the Federation).

Article 13 - Rights to property. *(No one can be deprived of his property except according to the law.)*

LGBT-related human rights issues often steal the attention of the Malaysian public because they are in direct contradiction with the country's religious values and laws. Even if seen in some Western countries, this freedom has reached the point of legalizing same-sex marriage. In Malaysia, it is clear from a legal point of view, and all parties accept the fact that the inverse sexual orientation of the same sex, namely male to male (gay) and female to female (lesbian) is contrary to the principles of all religions and the laws of the country. This article looks at the point of confusion in this LGBT issue is not in the condemnation of perverse acts that contradict religious and legal values such as the practice of same-sex sex, but in how all parties – the government and members of society should treat and deal with those with different sexual orientations such as these transgender people.³¹

As reported in the media, 80 percent of transgender people, especially *mothers*, are involved in the sex industry. They had to choose the 'career' to continue their lives perhaps because they were denied the right to work and were set aside by society. They are also often the target of insults and abominations from community members. There are also those who have been outcast by their families or have a black history of being sexually abused as children which eventually makes them stuck with these immoral symptoms. It must be remembered, they are also human beings among them who want to change and regret the mistakes made. Thus, the human rights that need to be given and guaranteed to these people are not the right to commit perverse acts that are contrary to religion and the law but the right to be treated as a human being and most importantly, the right to be supported, loved and guided to the right path.

_____ This issue is often associated with liberalism and pluralism which among the doctrines is to assume that all religions are equal. This understanding is contrary to the Islamic creed which adheres to the principles of Islam as the only religion that is accepted by Allah. The Constitution of Malaysia has clearly detailed this freedom of religion as enshrined in Article 11. In Indonesia, too, the legal basis that guarantees freedom of religion is regulated in Article 28E paragraph (1) of the 1945 Constitution. The Constitution of Malaysia recognises the right of every citizen to practice his or her religion subject to the limitations that have been set. Therefore, the issue of religious freedom must be seen in the human rights guarantee to every Malaysian and Indonesian citizen to have a religion and freely practice it in the context and framework permitted by law.

³¹ “Jangan Lupakan Perjuangan Ulama, Agamawan Capai Kemerdekaan,” accessed December 29, 2025, <https://www.bharian.com.my/rencana/agama/2018/08/468328/jangan-lupakan-perjuangan-ulama-agamawan-capai-kemerdekaan>.

In Islam, there are verses of the Quran that emphasize the concepts of 'no coercion in religion' (Al-Baqarah: 256) and 'for you your religion, for us our religion' (Al-Kaafirun: 6) which generally means that no non-Muslim can be forced to convert to Islam. Every religious believer has the right to practice his or her religion just as Muslims also have the right to practice their religion. In fact, Islam forbids its people to insult the worship of other religions, as Allah says in the Qur'an which means: *"And do not curse the gods that they worship other than Allah, for they will curse Allah by going beyond the limits of ignorance"* (Al An'am: 108). This attitude emphasized by Islam does not mean that Islam recognizes the truth of religions other than Islam but respects the religious rights of adherents of other religions in practicing their respective religious teachings.

Gender equality is one of the elements of human rights that is often debated because it is seen in certain circumstances to contradict the Islamic principle that places men as leaders and protectors of women. However, it must be remembered that this principle is not an excuse to discriminate or oppress women and misrepresent the patriarchal element by taking advantage of the shortcomings or weaknesses that exist in women. One thing that needs to be understood here is that Islam respects and even glorifies women. Islam recognises equal rights between men and women as long as it does not conflict with the principles of sharia such as the right to be rewarded and rewarded for their deeds and practices, the right to carry out responsibilities in religion, the right to get an education, the right to choose a life partner, the right to own property and so on.

Although men and women have equal rights in the above matters, there are differences between the two in Islam especially in their respective roles in the family institution. As stipulated in Article 6 of the Cairo Declaration on Human Rights in Islam;

"(1). Women have the same dignity and dignity as men; and he has the rights which he may enjoy in addition to the duties which he must perform; he has civil rights as well as financial freedom, and also has the right to defend his personal and offspring's good name."

"(2). The husband is responsible for providing for and taking care of the welfare of his family."

Cases involving human rights issues as mentioned above also occur in Indonesia at a rate that is not much different. Although the cases that occur in Indonesia in terms of number and level of diversity are more complex and numerous, in terms of the challenges faced by the two countries are almost the same.

E. Resolving Human Rights Conflicts

This article outlines two main things that can be implemented to ensure compliance with human rights and avoid any polemics or confusion related to human rights. First, planned efforts to educate and understand the public about human rights need to be improved. This role can be played by community members at all levels through programs such as awareness campaigns or information programs. The public needs to be given exposure to the concept of

human rights as applied in the country's legal system and in line with religious principles. Sometimes confusion and polemics arise because society does not get a clear picture of the true principles of human rights. This is because it is possible that they are influenced by certain sentiments that deny space for discussions related to this issue in a more scientific and objective manner.

In addition, the legal mechanism should also be used as a platform to warn those who promote or practice human rights that are contrary to the Constitution and the laws of the country. Apart from being a bulwark to prevent the spread of perverse beliefs such as those mentioned above which are mostly formed on the basis of mere human reason and passion, this legal mechanism can also be used such as through stronger enforcement mechanisms, to prevent the occurrence of human rights violations by one person on another.

F. Conclusion

Based on the above discussion, it can be concluded that the confusion that occurs in society, especially among the Muslim community, in understanding the concept of human rights is due to the failure to distinguish between Western and Islamic human rights. The fact is that there are significant differences between these two versions of human rights because each stands on a different basis of judgment. Because of this misunderstanding, there are endless polemics that if left unchecked, can disrupt the harmony and stability of the country. Therefore, it is important for every member of society to understand this concept of human rights more deeply. The fact is, if it is truly understood, human rights are actually an important element in Islam in line with its philosophy which is a blessing to all the world, one of the branches of which is to provide the rights that every individual is entitled to enjoy in a fair and equitable manner without any discrimination.

In addition, those who try to spread human rights beliefs that are in conflict with religious values and national laws should be aware that the local situation in Malaysia and Indonesia is not necessarily suitable for applying the concept of human rights practiced in the West or enshrined in human rights instruments at the global level. This is because the Constitution of Malaysia and the Indonesian Constitution have clearly outlined the principles of human rights that are guaranteed, recognised and protected in both countries. If efforts to bring the understanding of human rights that contradict the principles of religion, the laws of the country and human nature are allowed to run rampant, it is feared that there will be conflicts and disharmony in the social life in both countries. What is important is that a clear understanding of human rights is the key to preventing the continued polemics related to this issue while law enforcement can be a platform to deal with the spread of human rights beliefs that contradict the principles of religion and the laws of the country.

References

Antasari, Rina. "Islam and Domestic Violence between Husbands and Wives: Indonesian Social and Cultural Perceptions." *The Islamic Quarterly* 65, no. 3 (n.d.).

- Anwary, Ichsan. "Exploring the Interconnectedness Between Public Administration, Legislative Systems, and Criminal Justice: A Comparative Analysis of Malaysia and Indonesia." *International Journal of Criminal Justice Sciences* 18, no. 1 (2023): 172–82.
- Baderin., Mashood A. *International Human Rights and Islamic Law*. Oxford University Press, 2003.
- Bahrain, Deny Susanto, and Tubagus Achmad Darodjat. "The Position Of Human Rights in Indonesia Constitutional Law." *Journal Evidence Of Law* 3, no. 3 (2024). <https://doi.org/10.59066/jel.v3i3.943>.
- Donnelly, Jack. *Universal Human Rights: In Theory & Practice*. Cornell University Press, 2003.
- Flambonita, Suci, Vera Novianti, and Artha Febriansyah. "THE CONCEPT OF LEGAL PLURALISM IN INDONESIA IN THE NEW SOCIAL MOVEMENT." *Jurnal Analisa Sosiologi* 10, no. 1 (2021).
- Geovani, Iwoeng, Siti Nurkhotijah, Harry Kurniawan, Feby Milanie, and Rico Nur Ilham. *JURIDICAL ANALYSIS OF VICTIMS OF THE ECONOMIC EXPLOITATION OF CHILDREN UNDER THE AGE TO REALIZE LEGAL PROTECTION FROM HUMAN RIGHTS ASPECTS (RESEARCH STUDY AT THE OFFICE OF SOCIAL AND COMMUNITY EMPOWERMENT IN BATAM CITY)*. 1, no. 1 (2021).
- Ghadery, Farnush. "Beyond International Human Rights Law – Music and Song in Contextualised Struggles for Gender Equality." *Transnational Legal Theory* 13, no. 1 (2022): 31–58. <https://doi.org/10.1080/20414005.2022.2081906>.
- "Hak Asasi Manusia Menurut Acuan Islam - The Patriots." Accessed December 29, 2025. <https://thepatriots.asia/hak-asasi-manusia-menurut-acuan-islam/>.
- Hohmann, Jessie, and Beth Goldblatt, eds. *The Right to the Continuous Improvement of Living Conditions: Responding to Complex Global Challenges*. Hart Publishing, 2021. <https://doi.org/10.5040/9781509947867>.
- Iristian, Yovan. "Pursuit of Fairness: Human Rights and Social Justice in Indonesia's Legal Landscape." *Journal of Progressive Law and Legal Studies* 2, no. 01 (2024): 34–48. <https://doi.org/10.59653/jplls.v2i01.530>.
- Iswahyudi, Eko. "Human Rights and Legal Reforms in Indonesia: Challenges and Progress." *The Journal of Academic Science* 2, no. 2 (2025): 734–43. <https://doi.org/10.59613/ydvwta66>.
- "Jangan Lupakan Perjuangan Ulama, Agamawan Capai Kemerdekaan." Accessed December 29, 2025. <https://www.bharian.com.my/rencana/agama/2018/08/468328/jangan-lupakan-perjuangan-ulama-agamawan-capai-kemerdekaan>.
- Knox, John H. "Constructing the Human Right to a Healthy Environment." *Annual Review of Law and Social Science* 16, no. 1 (2020): 79–95. <https://doi.org/10.1146/annurev-lawsocsci-031720-074856>.
- Lawson, Anna, and Angharad E. Beckett. "The Social and Human Rights Models of Disability: Towards a Complementarity Thesis." *The International Journal of Human Rights* 25, no. 2 (2021): 348–79. <https://doi.org/10.1080/13642987.2020.1783533>.

- Lawson, Anna, and Angharad E. Beckett. "The Social and Human Rights Models of Disability: Towards a Complementarity Thesis." *The International Journal of Human Rights* 25, no. 2 (2021): 348–79. <https://doi.org/10.1080/13642987.2020.1783533>.
- Medvedeva, Masha, Michel Vols, and Martijn Wieling. "Using Machine Learning to Predict Decisions of the European Court of Human Rights." *Artificial Intelligence and Law* 28, no. 2 (2020): 237–66. <https://doi.org/10.1007/s10506-019-09255-y>.
- Purnomo, Agus, Nor Salam, Mukhammad Zamzami, and Abu Bakar. "Dimensions of Maqāṣid Al-Sharī'ah and Human Rights in the Constitutional Court's Decision on Marriage Age Difference in Indonesia." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 3 (2023): 1397–421. <https://doi.org/10.22373/sjhc.v7i3.13283>.
- Putra, Nandha Risky, and Rosa Linda. "IMPACT OF SOCIAL CHANGE ON SOCIETY FROM THE CRIME OF CORRUPTION." *Integritas : Jurnal Antikorupsi* 8, no. 1 (2022): 13–24. <https://doi.org/10.32697/integritas.v8i1.898>.
- Putri, Ria Wierma, Yunita Maya Putri, and Eddy Rifai. "Exploring the Effectiveness of the Human Rights Court in Indonesia: A Call for Humanitarian Action." *Journal of Liberty and International Affairs* 10, no. 2 (2024): 97–118. <https://doi.org/10.47305/JLIA24102097w>.
- Rahman, Al-Haqeel Sulaiman bin Abd al-. *Huquq Al-Insan Fi al-Islam Wa al-Radcl Ala al-Syubuhāt al-Mutharah Hawlaha*. Matabi' al-Taqniyyah li al-Ufset, 1994.
- Sabrina, Hilda Nur, Badrut Tamam, and Yudha Bagus Tungala Putra. "Hak Kebebasan Berpendapat Indonesia Dan Malaysia Perspektif Hak Asasi Manusia." *Journal of Law and Islamic Law* 2, no. 1 (2024): 95–112.
- Wahbah al-Zuhaylī. *Ḥaqq Al-Ḥurrīyah Fī al-‘ālam*. Dar al-Fikr al-Mu'asir & Dar al-Fikr, 2000.
- Zahira, Shafa Dhia, Ahmad Mujaddid, and Mutia Hariati Hussin. "Analysis on Human Rights Enforcement by Adopting UDHR in Indonesia and Malaysia." *Proceedings of Universitas Muhammadiyah Yogyakarta Graduate Conference* 1, no. 1 (2021). <https://prosiding.umy.ac.id/grace/index.php/pgrace/article/view/385>.
- Zuiderveen Borgesius, Frederik J. "Strengthening Legal Protection against Discrimination by Algorithms and Artificial Intelligence." *The International Journal of Human Rights* 24, no. 10 (2020): 1572–93. <https://doi.org/10.1080/13642987.2020.1743976>.