

## The Religious Freedom: Universalism Claim, Resistance of Islamic World, and Reconceptualization

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### Abstract

*Religious freedom is one type of human rights which caused major resistance to the universalism claim of human rights in Muslim countries. The resistance revealed that the universalism problems of human rights and the particularism challenges of local culture are real and actual, especially in religious freedom (freedom of religion or belief). This article attempted to describe why that resistance arose and how Islam should reconceptualize religious freedom. The religious freedom issues are important to be explored in the context of contemporary Islamic studies because its value and scope tended to be limited in the Islamic conservatism discourse. One of the issues is the fallacy in categorizing the apostasy (riddah)—a non-derogable right—verdicted as a blasphemy in Islam. By reconceptualizing the Islamic meaning of religious freedom, this study applied document analysis to enrich the contemporary Islamist studies, especially to postulate the significant relationship between Islam and human rights and to argue that Islam actually legitimized religious freedom as one of the non-derogable rights. It began by describing; (a) the problem of universalism claim of human rights; (b) the resistance of the Islamic world to this claim, especially in the religious freedom issues; to then (c) reconceptualizing religious freedom in Islamic context which supposed to mediate two antagonistic sides between Islam and human rights.*

### Abstrak

*Kebebasan beragama adalah salah satu jenis hak asasi manusia (HAM) yang telah memantik resistensi utama di negeri-negeri Muslim terhadap klaim universalisme HAM. Resistensi itu merefleksikan fakta bahwa problem universalisme HAM di hadapan partikularisme budaya lokal sungguh nyata dan selalu aktual, khususnya menyangkut hak kebebasan beragama dan berkeyakinan. Artikel ini berupaya menggambarkan mengapa resistensi itu muncul dan bagaimana Islam seharusnya mengkonseptualisasi ulang kebebasan beragama. Isu-isu kebebasan beragama sangat penting untuk dieksplorasi dalam konteks studi Islam kontemporer karena nilai dan lingkupnya cenderung terbatas dalam wacana Islam konservatif. Salah satu isu terpenting ialah kekeliruan mengkategorisasi apostasi (riddah)—suatu jenis hak yang tidak dapat dikurangi dalam keadaan apa pun—sebagai bentuk penistaan agama dalam Islam. Dalam mengkonsep ulang makna kebebasan beragama dalam Islam, studi ini menerapkan analisis dokumen untuk memperkaya kajian Islam kontemporer, terutama untuk menguatkan relasi signifikan antara Islam dan HAM sekaligus menegaskan bahwa Islam pada dasarnya melegitimasi kebebasan beragama sebagai salah satu jenis HAM yang tidak boleh dibatasi dalam situasi apa pun. Pemaparan dimulai dengan menggambarkan (a) problem klaim universalisme HAM; (b) resistensi dunia Islam terhadap klaim tersebut, khususnya dalam isu kebebasan beragama; dan kemudian (c) mengkonsep ulang kebebasan beragama dalam konteks Islam dengan pemaknaan yang diandaikan dapat memediasi sisi-sisi antagonistik antara Islam dan HAM.*

**Keywords:** Religious Freedom; Universalism Claim; Apostasy; Conservatism; Reconceptualization.

## Introduction

Human rights are the long process product of Western civilization. Therefore, it is reasonable if a number of tensions between universalism claim of human rights and particularism of local culture in the non-Western world, including the Islamic world. These conflicts indicated resistances to the universalism claim of human rights, so a compromise is need to affirm the strengthening of human rights without negating the particularity of local cultures.

Human rights discourse inevitably linked with the dynamics of Western civilization.<sup>1</sup> Socio-political dynamics in the Western world and philosophers' reflections had important effects on the development of human rights discourse in later periods.<sup>2</sup> In the early half of the twentieth century, human rights formulation was considered to be no longer sufficient to accommodate the socio-economic-political dynamics of the world, especially after World War I and II that triggered many human rights violations in various parts of the world.

This fact had prompted conceptualization efforts on human rights. In the post-World War I period, i.e. during the formation of the League of Nations, the conception of human rights began to be institutionalized. Several treaties and declarations were agreed by a number of countries in Central and Eastern Europe which contained guarantees of non-discrimination in

human rights, including freedom of religion or belief.<sup>3</sup>

Since then, the ideas about human rights emerged and further enriched the discourse. One of the famous ideas was the four main foundations of human rights by US President Franklin Delano Roosevelt (1882-1945), namely freedom of speech and expression, freedom from want, freedom from fear, and freedom of religion.<sup>4</sup> His ideas inspired the member states of the United Nations (UN) to formulate the Universal Declaration of Human Rights (UDHR) in 1948.

The UDHR was a new starting point for the development of human rights in the international context.<sup>5</sup> Its effects triggered stronger awareness of the urgency of protecting human rights. It inspired the emergence of human rights documents within the UN and encouraged the emergence of human rights declarations within the European Union, Council of Europe, the Organization of American States, the Organization of African Unity, and the Commission on Security and Cooperation in Europe.<sup>6</sup>

In 1966, exactly 18 years after the UDHR declared, the UN tried to provide certainty in protecting human rights in various aspects of social, political, economic, and cultural life. Two covenants were launched in the UN General Assembly on December 16, 1966 to ensure the conducive protection of human rights in the public life. They were the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>7</sup>

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<sup>1</sup>Jan Erik Wetzel, "Introduction," in *The EU as a 'Global Player' in Human Rights?*, ed. Jan Erik Wetzel (New York: Routledge, 2013), 1-13.

<sup>2</sup>Antonio Cassese, *Hak Asasi Manusia di Dunia yang Berubah*, trans. A. Rahman Zainuddin (Jakarta: Yayasan Obor Indonesia, 2005), 31; Andrew Fagan, "Human Rights", *The Internet Encyclopedia of Philosophy*, accessed February 25, 2020, <http://www.iep.utm.edu/h/hum-rt/htm>.; A. Patra M. Zen, "Berkenalan dengan Instrumen Internasional dan Regional Hak Asasi Manusia," in *Instrumen Internasional Pokok Hak Asasi Manusia*, ed. Adnan Buyung Nasution and A. Patra M. Zen (Jakarta: Yayasan Obor Indonesia, YLBHI, Kelompok Kerja Ake Arif, 2006), 4-81.

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<sup>3</sup>Zen, "Berkenalan...", 6.

<sup>4</sup>"The Four Freedoms," accessed March 7, 2020, <http://www.libertynet.org/edcivic/fdr.html>

<sup>5</sup>"Universal Declaration of Human Rights," accessed March 25, 2020, <http://www.un.org/Overview/rights.html>.

<sup>6</sup>The human rights documents and protocols that emerged after 1948, see the Appendices section of Tore Lindholm, W. Cole Durham, Jr., and Bahia G. Tahzib-Lie, eds., *Facilitating Freedom of Religion or Belief: A Deskbook* (Leiden, The Netherlands: Koninklijke Brill NV, 2004), 871-921.

<sup>7</sup>Lindholm, *Facilitating*, 971-921.

These historical facts confirmed that the history of human rights is the history of Western civilization. As a public discourse, human rights emerged in the West and accompanied the socio-political-economic-cultural dynamics of the West for centuries. Most documents about human rights also arose in the Western world civilization than in other parts of the world. Therefore, the influence of Western cultures was quite significant on the UDHR 1948 and also on the other international human rights covenants. In other words, UDHR was a product of an era (1940s) which dominated by "Western countries" and reflected a "Western" concept of human rights.

The Western concept of human rights had caused problems and provoked resistances when applied in non-Western civilization, especially the claim of universalism. The claim viewed that human rights are the universal consensus that can be applied in all spaces and times while overcoming all disparities of cultures, ideologies, moralities, and religions. The claim believed that its values are always true in any situation and condition and relevant across cultures and histories. The claim is problematic indeed because there are always a number of disparities and particularities, especially concerning philosophical, religious, and cultural traditions in the world.<sup>8</sup>

As a result, the spread of universal human rights around the world had raised resistances of non-Western countries, including Muslim countries of the Organization of the Islamic Conference (OIC).<sup>9</sup> The resistances in general laid on the theses that human rights are not universally applicable because different cultures have their own standards and principles so that the implementation of universal human rights in all countries is clearly impossible.<sup>10</sup> The theses were also promulgated by the human rights

defenders, religious leaders, and non-governmental organizations (NGOs). These communities recognizing that there are conflicts between universalism claim of human rights and cultural particularism.<sup>11</sup>

The resistances of non-Western countries ensued, for example in fierce debates went along with the UDHR declaration in 1948.<sup>12</sup> The socialist countries' criticism mainly concerned the concept of the UDHR which they accused of venerating the individualism rights, while the Muslim countries' objections primarily aimed at the liberalistic and individualistic tendencies in the human rights.<sup>13</sup> Various objections and criticisms of the universalism claims of human rights and the inconsistencies of Western countries' practice in implementing the rights are ongoing right now.

The whole criticism of the universalism claim had led to dialectical processes contributed productively to human rights discourse. International views and perceptions generally began to shift; they no longer regarded human rights as a product of certain cultural groups, i.e. Western cultures, but rather a product of interculturalism.<sup>14</sup> At the same

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<sup>11</sup>Kelsay and Twiss, *Agama*, 59-60.

<sup>12</sup>There were four groups of the countries. Firstly, the Western countries, both geographically and geopolitically, such as the US, France, Britain and Australia. Secondly, the Latin American countries tended to be in line with Western groups. Thirdly, the European socialist countries led by the Soviet Union which fiercely opposed Western human rights theses. Fourthly, Asian countries, especially Muslim countries led by Saudi Arabia and Pakistan propounded a number of objections concerning religions, specifically the religious freedom issues. See Cassese, *Hak Asasi*, 40-1.

<sup>13</sup>The socialist countries' objections against the UDHR were accommodated by the UN with the ICESCR. See "International Covenant on Economic, Social, and Cultural Rights," accessed March 5, 2020, [http://en.wikipedia.org/wiki/International\\_Covenant\\_on\\_Economic,\\_Social\\_and\\_Cultural\\_Rights](http://en.wikipedia.org/wiki/International_Covenant_on_Economic,_Social_and_Cultural_Rights). Meanwhile, Muslim countries of the OIC responded to the UDHR by declaring an Islamic version of human rights instruments, namely the Cairo Declaration on Human Rights in Islam (CDHRI). See "Cairo Declaration on Human Rights in Islam," accessed March 6, 2020, [http://en.wikipedia.org/wiki/Cairo\\_Declaration\\_on\\_Human\\_Rights\\_in\\_Islam](http://en.wikipedia.org/wiki/Cairo_Declaration_on_Human_Rights_in_Islam).

<sup>14</sup>Cassese, *Hak Asasi*, 89-90.

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<sup>8</sup>Cassese, *Hak Asasi*, 71-96.

<sup>9</sup>John Kelsay and Sumner B. Twiss, eds., *Agama dan Hak-Hak Asasi Manusia*, trans. Ahmad Suaedy and Elga Sarapung (Yogyakarta: Institut Dian/Interfidei, 2007), 57-8.

<sup>10</sup>Cassese, *Hak Asasi*, 71-96.

time, the UN stressed to strengthen understanding of human rights and its implementation between Western and non-Western countries; *First*, to understand that there are various types of human rights, not only civil and political rights, but also economic, social and cultural rights. Likewise, human rights do not only include individual rights, but also the collective rights of society (indivisibility principle); *Second*, based on the principle, an evaluation of the implementation of human rights in a country by external parties (other countries) is not at all justified; *Third*, an equilibrium between individual rights and community rights or between rights and obligations urgently needed; *Fourth*, although the notion of human rights are universal, its implementations are bound by its contexts such as norms, history, culture, socio-political system, and the level of economic growth.<sup>15</sup>

The common understanding initiated by the UN had more or less created a conducive situation to strengthen awareness of human rights.<sup>16</sup> Many of the objections also proposed formulations from non-Western countries greatly affected the international human rights covenants and treaties, such as the ICCPR and ICESCR. Two covenants are evidences that human rights are no longer a homogeneous cultural product.<sup>17</sup> The productive symbiosis between Western and non-Western perspectives had enriched the human rights discourse.<sup>18</sup> However, that does not mean that the problem between universalism claim of human rights

and particularism claim of cultures was over. To some extent, the problem still emerged until now. One of the most controversial human rights issues is the right to freedom of religion and belief called UDHR Article 18. In Muslim countries, the idea of religious freedom becomes one of the most controversial human rights issues to this day. Therefore, it is one of the biggest challenges to the strengthening of human rights in Muslim societies.<sup>19</sup>

The objections and resistances of Islamic world, especially on the religious freedom issues, had led to a number of formulations or "counter" human rights instruments claimed to represent Islamic teachings. Two documents of human rights in Islamic version, the Universal Islamic Declaration of Human Rights (UIDHR) in 1981 and the Cairo Declaration on Human Rights in Islam (CDHRI) in 1990, were concrete manifestations of the Islamic world's efforts to fight against the international human rights regime. The documents further reflected the controversies of human rights issues in Islamic world, especially the religious freedom issues.

### **Resistance of Islamic World**

In the international context, the discourse on religious freedom mainly refers to the two international human rights instruments issued by the UN as major international provisions, namely the UDHR and ICCPR.<sup>20</sup> For all UN member states, the two instruments are morally binding even though not legally binding. UDHR becomes a general reference in guaranteeing the protection and fulfillment of human rights, while ICCPR emphasized the UDHR's human rights principles can be effective and legally

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<sup>15</sup>Lili Romli, "Masalah Hak Asasi Manusia di Indonesia," *Majalah Forum Ilmiah UNIJA*, vol. III, no. 1 (May 1999): 10-16.

<sup>16</sup>Kelsay and Twiss, *Agama*, 76-80.

<sup>17</sup>Kelsay and Twiss, *Agama*, 58-9.

<sup>18</sup>Many religious leaders and interfaith commissions voiced the philosophical human rights ideas accepted in various world traditions and also expressed supports for human rights in their own traditional language. For example, Parliament of the World's Religions on 4 September 1993 in Chicago. See "Declaration Towards a Global Ethic," accessed March 6, 2020, [http://www.parliamentofreligions.org/\\_includes/FCKcontent/File/TowardsAGlobalEthic.pdf](http://www.parliamentofreligions.org/_includes/FCKcontent/File/TowardsAGlobalEthic.pdf)

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<sup>19</sup>The other controversial human rights issues in the Islamic world are slavery, women's rights, non-Muslim socio-political status, discrimination against religious minorities, and physical sanctions such as *rajam* and decapitation. They had led to accusations that Islam is incompatible with human rights. See Abdullahi Ahmed An-Na'im, *Toward an Islamic Reformation: Civil Liberties, Human Rights, and International Law* (New York: Syracuse University Press, 1990), 172-7.

<sup>20</sup>An-Na'im, *Toward*, 871-3; Zen, "Berkenalan," 16-33.



binding. Therefore, the countries ratified ICCPR are legally bound by it; they become State Parties obliged protecting, respecting, and fulfilling all forms of human rights in the covenant.<sup>21</sup>

Indonesia as a member of the UN had accommodated the UDHR's spirit regarding the recognition and protection of human rights in general and the right to religious freedom in particular through promulgation in the amendment of the Constitution 1945 (the human rights section, Article 28E Verse [1], [2] and [3]; and religion section Article 29 Verse [2]) and Human Rights Act Number 39/1999 (Article 4 and 22 Verse [1] and [2]). Indonesia had also ratified ICCPR through Ratification Act of the ICCPR Number 12 of 2005.<sup>22</sup> Thus, Indonesia is morally bound to UDHR as well as legally (entry into force) with ICCPR.

The relationship between UDHR and ICCPR is indeed close. UDHR's guarantee for the religious freedom is main basis for its formulation in the ICCPR. Article 18 Verse (1) The ICCPR in general follows the arrangements affirmed in Article 18 of UDHR. In Article 18 Verse (1) of the ICCPR there are three types of guaranteed and protected human rights, namely freedom of thought, religion, and belief. The three as confirmed in Article 4 Verse (2) of the covenant are recognized as non-derogable rights. Through this article, ICCPR recognizes freedom of belief as a type of human rights which is equal to the freedom of religion and freedom of thought.

Based on the UDHR and ICCPR, the religious freedom clearly includes the right to freedom of religion as well as belief. It includes not only the right to embrace and practice a religion or belief, but also the right to change a

religion or a belief.<sup>23</sup> Based on the eight norms of religious freedom emerged in the international human rights discourse,<sup>24</sup> it is one type of human rights that cannot be reduced or suspended by anyone and in any situation (non-derogable rights). It is a absolute form of inner freedom (freedom to be)<sup>25</sup> and is therefore a hard core of human rights.<sup>26</sup> Meanwhile, the right to express religion, such as the right to worship, to establish houses of worship, and to spread religion categorized as the freedom to act) and therefore can be limitable, regulable, and derogable.<sup>27</sup>

The right to freedom of religion is one of basic human rights such as the right to live, free from hunger, right to residence, free from torture, and the right to obtain health services.<sup>28</sup> The basic human rights are claimed to be universal by the internasional human rights regime. This universalism claim was immediately rejected by the Islamic world, precisely by Muslim countries. The rejection mainly focused on the imposition of religious

<sup>23</sup>Ismail Hasani, *Negara Harus Bersikap: Realitas Legal Diskriminatif dan Impunitas Praktik Persekusi Masyarakat atas Kebebasan Beragama/Berkeyakinan* (Jakarta: SETARA Institute, 2009), 6.

<sup>24</sup>The eight norms are (1) internal freedom, (2) external freedom, (3) noncoercion, (4) nondiscrimination, (5) rights of parents and guardians, (6) corporate freedom and legal status, (7) limits of permissible restrictions on external freedom, and (8) non-derogability. See Tore Lindholm, W. Cole Durham, Jr., Bahia G. Tahzib-Lie, and Nazila Ghanea, "Introduction," in *Facilitating Freedom of Religion or Belief: A Deskbook*, eds. Tore Lindholm, W. Cole Durham, Jr., and Bahia G. Tahzib-Lie (Leiden, The Netherlands: Koninklijke Brill NV, 2004): xxxvii-ix.

<sup>25</sup>Dermot Groome, *The Handbook of Human Rights Investigation* (Massachusetts: Human Rights Press, 2001), 6.

<sup>26</sup>H. Victor Conde, *A Handbook of International Human Rights Terminology* (London: University of Nebraska Press, 1999), 26.

<sup>27</sup>Manfred Nowak and Tanja Vospernik, "Permissible Restrictions on Freedom of Religion or Belief," in *Facilitating Freedom of Religion or Belief: A Deskbook*, eds. Tore Lindholm, W. Cole Durham, Jr., and Bahia G. Tahzib-Lie (Leiden, The Netherlands: Koninklijke Brill NV, 2004): 147-72.

<sup>28</sup>Conde, *A Handbook*, 11; Ahmad al-Rashīdī, *Huqūq al-Insān: Dirāsah Muqāranah fī al-Nazhariyah wa al-Tathbīq* (Cairo: Maktabah al-Shurūq al-Dawliyah, 2003), 135-53.

<sup>21</sup>See Article 1 Verse (3) and Article 2 Verse (1), (2), and (3) ICCPR.

<sup>22</sup>Indonesia was the 161st country of 192 UN member countries ratified ICCPR. See "Evaluation of Human Rights Enforcement," accessed March 5, 2020, <http://www.kontras.org/data/evaluasi%20penegakan%20ham%202008.pdf>.

freedom to include the right of freedom to change religion or belief (Article 18 of UDHR). Thus, the rejected point was not the right to freedom of religion in general, but its scope which includes the right to change religion or belief as part of the right to freedom of religion. This issue was one of the controversies as well as the main reason for the emergence of two Islamic instruments of human rights, namely UIDHR and CDHRI.

UIDHR and CDHRI promulgated a number of basic objections to human rights issues in UDHR, especially concerning freedom to change religion or belief. The essence of the two declarations were same in general: Islam did accept the principles of human rights, but it had its own interpretations and limitations in certain matters such as the the religious freedom, especially the freedom to convert religion which considered contrary to the Islamic doctrine of apostasy (*riddah*).

UIDHR was published on September 19, 1981 in Paris. The formulation was developed from the Islamic conceptualization of human rights entitled Universal Islamic Declaration (UID) which had been previously declared through the International Conference on the Prophet Muhammad and His Message on April 12-15, 1980 in London. UIDHR accommodated 23 types of Islamic human rights<sup>29</sup> were initiated by a number of Muslim jurists and intellectuals from Egypt, Pakistan, Saudi Arabia, and other Muslim countries. The forum was facilitated by the Islamic Council, a non-governmental organization based in London and affiliated with the Muslim World League based in Saudi Arabia which tended to represent the interests of conservative Muslims.<sup>30</sup>

<sup>29</sup>See "Universal Islamic Declaration of Human Rights," accessed March 7, 2020, <http://www.alhewar.com/ISLAMDECL.html>.

<sup>30</sup>Ann Elizabeth Mayer, *Islam and Human Rights: Tradition and Politics* (Colorado: Westview Press, 2006), 21. In the contemporary era, conservative Islamic views are ideologically represented by the Islamists. See Mulawarwan Hannase, "Islamist Ideology and Its Effect on the Global Conflict: Comparative Study between Hams

Meanwhile, the CDHRI consisting of 25 Articles<sup>31</sup> was declared in Cairo on August 5, 1990. Signed by representatives of 54 member states of the OIC, it had a more "official" status than UIDHR. At least in the Islamic world, precisely within the OIC member states, CDHRI was more morally binding than UIDHR; it was an Islamic scheme of human rights claimed as the consensus of Muslims worldwide.<sup>32</sup> However, in the context of international human rights, that claim did not necessarily make it able to shift the international human rights regime represented by the UDHR and ICCPR. It had relatively no social relevance and political significance in many Muslim countries such as Indonesia which ratified the UDHR and ICCPR as "The International Bill of Human Rights".

The entire contents of the CDHRI and UIDHR in general indeed reflected the conservative views of the Islamic world before the UDHR and ICCPR which considered contrary to Islamic teachings. Both of them also played the element of exclusivism because all of their conceptualizations based on the Shari'ah so that they automatically reinforced the idea of particularism.<sup>33</sup> The particularism spirit also was manifest in their conceptualization of the right to freedom of religion or belief; both ignored and/or refused to include *riddah* as part of the right to freedom of religion or belief.

By placing Shari'ah as the sole reference for every explanation and clarification, CDHRI and UIDHR had the interest of protecting a number of Islamic doctrines, such as allowing *rajam*

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and ISIS," *ESENSIA*, vol. 20, no. 2 (October 2019): 183-97, <http://ejournal.uin-suka.ac.id/ushuluddin/esensia/article/view/2107>

<sup>31</sup>See "Cairo Declaration on Human Rights in Islam", accessed March 7, 2020, <http://www1.umn.edu/humanrts/instreet/cairodeclaration.html>.

<sup>32</sup>Mayer, *Islam*, 22.

<sup>33</sup>CDHRI was based on the Shari'ah (Article 24) confirmed as a single reference (Article 25). UIDHR also chose to base itself on the Qur'an and al-Hadith; in the document there was no a article that explicitly mentioned the Shari'ah as the sole reference, but in the Explanatory Notes section (item 1.b) it explicitly stated that the UIDHR's articles based on the Shari'ah.

sanction, prohibiting *ribā*, giving unequal *warīth* rights between men and women, differentiating Muslim and non-Muslim status, prohibiting interfaith marriages, and forbidding *riddah*. That is why both are often criticized as unneutral because they prioritized a particular religion, Islam, as the moral and legal standard of the human rights. Therefore both of them are inadequate to be called universal, but particular, for the context of Muslims only;<sup>34</sup> even this context is debatable because Muslims divided into many variants of schools, ideologies, and thoughts.

CDHRI and UIDHR were also accused of failing to guarantee and fulfill the right to religious freedom. Both of them declared freedom of religion, but not in the sense to include freedom of apostasy. UIDHR mentioned the right to freedom of religion in Article 13 (*Every person has the right to freedom of conscience and worship in accordance with his religious beliefs*) and Article 10a (*The Qur'anic principle "There is no compulsion in religion" shall govern the religious rights of non-Muslim minorities*). Meanwhile, CDHRI accommodated the religious freedoms in Article 10 (... *It is prohibited to exercise any form of pressure on man or to exploit his poverty or ignorance in order to force him to change his religion to another religion or to atheism*). It used the sense in prohibiting to force or exploiting the poverty and ignorance of people to invite them to change religion or convert to atheism (Article 10). The articles indeed supported the religious freedom and rejected the compulsion in religion. However, that clearly did not answer the problem regarding people who changed religion without compulsion. It is not clear whether it is prohibited or permitted; both only forbade the compulsion in apostasy.

The UIDHR and CDHRI refused apostasy as part of the religious freedom. Both of them did not explicitly mention the prohibition to change religion. However, by not mentioning the apostasy as a scope of the notion of religious

freedom, it is clearly ambiguous and inconsistent because apostasy is an inherent part of recognition of the religious freedom.<sup>35</sup> Based on these premises, that is why UIDHR and CDHRI allegedly failed to provide protection of rights on religious freedom. The logic is simple, how is it possible recognizing religious freedom, while forbidding people to change their religion? Isn't it ambiguous, freedom of dress, while punishing people switched to wear clothes with a certain model and color?

The serious differences between the Islamic version of human rights (UIDHR and CDHRI) and the Western version of human rights (UDHR and ICCPR) did not lie in the idea of religious freedom in general, but in the apostasy issues—whether it was part of religious freedom or not. Moreover, the difference lied in the potential of the UIDHR and CDHRI's religious freedom schemes to delegitimize the freedom of thought regarding religious interpretations, a part of the religious freedom. This is related to the fact that both instruments put the Shari'ah as the sole reference in interpreting human rights in which the freedom of thought must be subverted to the Shari'ah.

UIDHR and CDHRI clearly emphasized Shari'ah as a sole reference for every interpretation and that's the problem. In each of their dialogues with the Shari'ah, Muslims are impossible apart from their own prejudices and historical situatedness.<sup>36</sup> Meanwhile the tradition of interpretation in Islam is always interconnected with interests of the religious authorities. As a result, the apostasy was not tolerated; the various religious thoughts that considered "deviant" from the mainstream religious interpretations could be immediately accused of heresy.<sup>37</sup>

<sup>35</sup>Mayer, *Islam*, 21, 160-2, 172-3.

<sup>36</sup>This thesis referred to Gadamer's hermeneutical perspective. See Hans-Georg Gadamer, *Truth and Method*, trans. Joel Weinsheimer and Donald G. Marshall (London: Crossroad Publishing Co., 1975), 276, 283.

<sup>37</sup>For example the case of Nashr Hamīd Abū Zayd, an Egyptian muslim thinker, who accused of apostate for criticizing the Islamic orthodoxy and the case of Mahmoud

<sup>34</sup>Ibn Warraq, "Apostasy and Human Rights," accessed May 3, 2020, <http://www.iheu.org/node/1541>.

The serious differences had become the main problem for strengthening human rights in the Islamic world. On the one hand, it was the reason for the Muslims to emphasize that Islamic teachings are indeed different from Western traditions and are incompatible with human rights. On the other hand, there are a number of Muslim intellectuals acknowledged the religious freedom in the international human rights is actually in line with the universal message of Islam and therefore Islam is always compatible with human rights. This fact reflected that the concept of religious freedom in Islam had never been singular meaning; there are many perspectives, so there is a lot of debate going on from then until now.

### Reconceptualization of the Meaning

The compatibility issue between Islam and human rights is one of the controversial issues in contemporary studies of Islam and human rights. A number of Muslim intellectuals had tried to analyse it with various approaches to harmonize the two. For example, Abdullahi Ahmed al-Na'im who advocated an adequate reform methodology<sup>38</sup> and Mashood A. Baderin who proposed a methodical approach called complementary approach that combined the traditional interpretation of Shari'ah with the exclusionist interpretations of international human rights.<sup>39</sup> In that context, this paper proposed a reconceptualization of religious freedom in order to mediate the serious differences between Islam and human rights.

Islam actually acknowledged the right to religious freedom (*hurriyah al-adyān; al-hurriyah al-dīniyyah*). A number of verses of the Qur'an confirmed it, for example Qs. al-Baqarah (2): 256

which promulgated that Islam refuses all kinds of coercion in religion, even to embrace Islam. For Islam, the assertion that the right path is different from the wrong path is enough; furthermore, everyone has the freedom to choose to be a believer or not.<sup>40</sup>

The spirit was also confirmed by Qs. Yūnus (10): 99-100. This verse said that it is actually easy for Allah SWT to make all humans to be believers, but He did not make it because He did not want coercions in religious matters.<sup>41</sup> He also asserted that to be *mu'min* or *kāfir* is His business and that is very dependent on His will.

The spirit is closely related to the tolerance as well as the freedom of choice as confirmed by Qs. al-Kahfi (18): 29. That verse said, "...Whoever wills—let him believe and whoever wills—let him disbelieve". This phrase is truly extraordinary; believing or denying the Islam or other religions or even not having a religion is a choice. There is no compulsion in religion. Therefore, Allah SWT limited the Prophet Muhammad's role as merely a reminder (Qs. al-Ghāshiyah [88]: 21). In the continuation of verse (22) it was emphasized that although he is the God's messenger, he is not the one has power over all mankind, but God has.

Furthermore, Allah Almighty declared in Qs. al-Shūrā (42): 48 that he did not send the Prophet Muhammad to act as watchdog over humans. "Your duty is only to deliver (the

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<sup>40</sup>This verse was related to the story of a woman promised that if she was blessed with a child, she would make him/her a Jew and would not allow him/her to adopt another religion. This verse came down as a form of rejection of all coercions in religious matters. See Muhammad Rashīd Riḍā, *Tafsīr al-Qur'ān al-Hakīm al-Shahīr bi Tafsīr al-Manār*, Juz III (Beirut: Dār al-Fikr, n.d.), 35-6. The other story was also referred as *sabab al-nuzūl* of the verse; an Anshār, al-Hushaynī, had two Christian sons. He requested permission from the Prophet Muhammad SAW to force them to embrace Islam and then the verse came down. See Abū al-Fidā 'Ismā'il ibn Kathīr al-Qurashīyyi al-Dimashqī, *Tafsīr al-Qur'ān al-'Azhīm*, Juz I (Cairo: Dār al-Mishr li al-Ṭibā'ah, n.d.), 310-1.

<sup>41</sup>In Qs. al-Mā'idah (5): 48, Allah SWT emphasized that diversity is intentionally created by Him to test the humans and encouraged them to compete for virtue. See also Qs. al-Nahl (16): 93.

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Mohamed Taha, a Sudanese Muslim reformer, executed by President Ja'far Numayry's regime on January 18, 1985 because of his reform ideas. For the Taha's case, see Abdullahi Ahmed An-Na'im, "Translator's Introduction," in Mahmoud Mohamed Taha, *The Second Message of Islam* (New York: Syracuse University Press, 1987), 2-10.

<sup>38</sup>An-Na'im, *Toward*, 34-68.

<sup>39</sup>Mashood A. Baderin, *International Human Rights and Islamic Law* (Oxford: Oxford University Press, 2003), 219-35.



message; *risālah*)," he said in the verse. In Qs. Qāf (50): 45 it even said that the Prophet "... is not there to compel them to believe". The Prophet is strictly merely a conveyor of the truth.<sup>42</sup> He is not a presenter of the *hidāyah*;<sup>43</sup> The only Allah SWT authorized to give it. The spirit of all these verses is a fundamental reason for being tolerant of those apostates (*murtad*).

Allah SWT affirmed the tolerance in responding to the differences in religious choices, e.g. in Qs. al-Kāfirūn (109): 6, "To you be your religion, and to me mine".<sup>44</sup> This verse indirectly outlined that religious matters are personal matters. It cannot be exchanged, negotiated, intervened, or forced. It is a belief entity occupied the one's heart so that only Allah knows the true of one's faith. Each person will be held accountable for their respective faiths before Allah Almighty later. Thus it was hinted by Allah in Qs. Yūnus (10): 41.<sup>45</sup> So, the tolerance always becomes a necessary thing in the dynamics of religious plurality.<sup>46</sup>

In the framework of tolerance, Muslims are also forbidden to hate, insult, and persecute others because of different choices in religions or beliefs. This message referred to Qs. al-An'ām (6): 108.<sup>47</sup> This verse reminded Muslims not to

<sup>42</sup>See Qs. al-Furqān (25): 56; Qs. Hūd (11): 12; Qs. al-Mā'idah (5): 99; and Qs. al-Ra'd (13): 40.

<sup>43</sup>Qs. al-Qaṣaṣ (28): 56.

<sup>44</sup>This verse responded the Quraysh offered the Prophet to worship their Lord a year and vice versa they were willing to worship the Prophet's God for a year. They were also willing to follow the Islamic teachings if the Prophet's God is better and instead they demanded the Prophet to follow their beliefs if their God is better. See Abū Ja'far Muhammad ibn Jarīr al-Ṭabarī, *Tafsīr al-Ṭabarī: Al-Musammā Jāmi' 'al-Bayān fi Ta'wīl al-Qur'ān*, Volume XII (Beirut: Dār al-Kutub al-'Ilmiyah, 1992), 727-8; Ibn Kathīr, *Tafsīr*, Juz IV, 560-1.

<sup>45</sup>Qs. al-Baqarah (2): 139; Qs. al-Qaṣaṣ (28): 55; and Qs. al-Shūrā (42): 15.

<sup>46</sup>Umma Farida, "Religious Tolerance in the Quran and Sunnah and the Importance of Its Application in Indonesia," *ESENSIA*, vol. 20, no. 1 (April 2019): 95-117, <http://ejournal.uin-suka.ac.id/ushuluddin/esensia/article/view/1747>

<sup>47</sup>See also Qs. al-Hujurāt (49): 11. This verse is very relevant to respond the conflict of beliefs within the Muslims. It emphasized the prohibition of insulting each

insult the others' religion, such as cursing the others' God, so that others did not do the same thing—or even exceed the limits—to Islam.<sup>48</sup> This is a affirmation that every religion or belief must be protected; differences in religion or belief should not be a reason for the believers to negate each other.

Islam refused all acts of coercion in religious matters and highly upheld the principle of religious freedom. Allah had reminded the Prophet Muhammad that he was sent only as a messenger brought warnings and good tidings.<sup>49</sup> The emphasis of *risālah* (Islamic messages) is the invitation without coercions and methods of violence.<sup>50</sup> In that case, Islam substantively had shown its commitment to the principles of religious freedom and the human rights principles in general rather than the international human rights instruments that emerged in the recent past such as the UDHR and ICCPR.

All the textual-normative affirmations of al-Qur'ān did not necessarily make the Islamic discourse of religious freedom without debates. The controversies arose, especially in the matters of apostasy. The apostasy issues tended to be ignored in the Islamic creed of religious freedom. In many cases, this issue was indeed a biggest obstacle to reconcile Islam with human rights.

The discourse of apostasy had caused controversy not only in Islam, but also in almost all religions such as Judaism and Christianity. In the Christian and Jewish traditions, the term of apostasy or conversion was known, which meant to change one's religion or belief.<sup>51</sup> The term actually referred to a strong desire to escape from sin as well as to draw closer to God through strengthening faith. However, this term

other because the only God knows which is better or truer among them.

<sup>48</sup>Ibn Kathīr, *Tafsīr*, Juz II, 167-8.

<sup>49</sup>Qs. al-Furqān (25): 56.

<sup>50</sup>Qs. al-Nahl (16): 125.

<sup>51</sup>Robert B. Costello (editor in chief), et.al., *Random House Webster's College Dictionary* (New York: Random House Inc., 1991), 298.

is later commonly associated with apostasy.<sup>52</sup> The apostasy means rejecting a religion and then leaving it to enter another religion or not at all.<sup>53</sup>

In Islam, the discourse of apostasy or *riddah* appeared in a number of Quranic verses with two categories, namely *irtidād* (returning to its original state; retreating) and *al-kufr ba'd al-īmān* (returning infidels after believing).<sup>54</sup> The two verses directly (*lafzhīyah*) mentioned *riddah* are Qs. al-Baqarah (2): 217 and Qs. al-Mā'idah (5): 54.<sup>55</sup> In the first verse, Allah SWT asserted that all good deeds of apostates who later died in disbelief are worthless and they will inhabit the hell forever. In the second verse, Allah swt. implied a no-worry response to the apostates<sup>56</sup> while announcing that someday He will bring "a people whom Allah loves them and they also love Him...".

The spirit of all these verses is to question, regret, and even condemn the apostates. However, none of these verses ordered the death penalty for apostates, except the punishment that would befall them in the hereafter. The inspiration of the death penalty

for apostates in classical or conservative Islamic thought was indeed not drawn from al-Qur'ān, but the hadith. There are at least two hadith which directly affirmed the death penalty for apostates.<sup>57</sup> First, the hadith narrated by al-Bukhārī ra. concerning the "halal blood" of a Muslim who apostatized and separated himself from the Muslim community (*al-tārik li dīnihi, al-mufāriq li al-jamā'ah*). According to the hadīts, in addition to murderers and adulterers (*muḥṣan*), apostates who leaved their community are authorized to be killed.<sup>58</sup> Second, the other hadith narrated by al-Bukhārī ra. announced that "whosoever changes his religion, then kill him" (*man baddala dīnahu faqtulūhu*).<sup>59</sup> This hadith was revealed by Ibn 'Abbās as a reaction to the action of 'Alī ibn Abī Thālib kw. which burned the *zindīq* people. According to Ibn 'Abbās, quoting the Prophet, it was forbidden to punish with Allah's punishment, viz. to burn; they should be executed because that is the right punishment for apostates.<sup>60</sup>

Both hadiths are literally controversial to the concept of religious freedom in Islam; whether apostasy is part of the Islamic version of religious freedom or not. The point of controversy is not only regarding the death penalty for the apostates, but also concerning the relevance of the two hadiths as a reason to affirm the thesis that Islam guaranteed the right to religious freedom, except the right to

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<sup>52</sup>Ibn Warraq, "Apostasy."

<sup>53</sup>Nazila Ghanea, "Apostasy and Freedom to Change Religion or Belief," in *Facilitating*, 669-71.

<sup>54</sup>The two categories of apostates are (1) a person who denied all the Islamic teachings and then renounced Islam; and (2) a person who acknowledged some of the Islamic teachings and rejected others. See Abū 'Abd al-Lāh Muhammad ibn Ahmad al-Anṣārī al-Qurṭubī, *Al-Jāmi' li Ahkām al-Qur'ān*, vol. III, Juz 6 (Beirut: Dār al-Kutub al-'Ilmiyah, 1993), 142; 'Abd al-Qādir 'Awdah, *Al-Tashrī 'al-Jinā'iy al-Islāmī: Muqāranan bi al-Qānūn al-Waḍ'ī* (Damascus: Muassasah al-Risālah Nāshirūn, 2005), 877. For etymological meanings, see Jamāl al-Dīn Muhammad ibn Makram ibn Manzhur al-Afrīqī al-Miṣrī, *Lisān al-'Arab*, vol. III (Beirut: Dār Ṣādir, 1990), 173.

<sup>55</sup>The verses which indirectly mentioned *riddah* spread in al-Qur'ān, such as Qs. al-Nisā' (4): 137 which said that Allah SWT will not forgive "those who believe, then disbelieve, then believe, then disbelieve, then increase in disbelief". See also Qs. al-Nisā' (4): 89; Qs. Ali 'Imrān (3): 72, 86-90, 106, 177; Qs. al-Tawbah (9): 66, 74; Qs. al-Hajj (22): 11; Qs. Muhammad (47): 25; and Qs. al-Nahl (16): 106.

<sup>56</sup>In Qs. Ali 'Imrān (3): 177 it is even stated that those apostates will absolutely not be able to give *maḍarrāh* (disadvantage) to Allah SWT.

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<sup>57</sup>In addition to the two hadiths, there are a number of other hadiths, for example about (1) inviting the apostates to repent, if they deny, we have to hit their nape; see Ahmad ibn 'Alī ibn Hajar al-'Asqalānī, *Fath al-Bārī bi Sharh Ṣahīh al-Bukhārī*, vol. XII (T.tp: al-Maktabah al-Salafiyah, n.d.), 272; and (2) the case of apostates from the 'Ukuls. They apostatized after seizing camels and killing their guards who had given them camels' milk and urine to cure their pain. The Prophet punished them by cutting off their arms and legs and prying their eyes and leaving them to die. See Abū al-'Abbās Shahāb al-Dīn Ahmad al-Qistalānī, *Irshād al-Sārī li Sharh Ṣahīh al-Bukhārī*, vol. XIV (Beirut: Dār al-Fikr, 1990), 245.

<sup>58</sup>See Yūsuf al-Qaradāwī, *Jarimah al-Riddah... wa 'Uqūbah al-Murtad fi Daw'i al-Qur'ān wa al-Sunnah* (Cairo: Maktabah Wahbah, 1996), 47.

<sup>59</sup>al-Qistalānī, *Irshād*, 395-6.

<sup>60</sup>al-Qistalānī, *Irshād*, 395-6.

apostatize (the conversion from Islam to another religion, not vice versa).

Both hadiths were commonly held by conservative Muslims as a basis for the implementation of the death penalty for apostates while categorizing the *riddah* in *jarimah hudud* (criminal offense).<sup>61</sup> They ignored the fact that the validity level of hadith “*man baddala dinahu faqtuluhu*” is actually *ahad*,<sup>62</sup> not *mutawatir*. Some Islamic scholars assessed this hadith has a weakness (*shudhudh*) on one of *rawis*.<sup>63</sup> The fact reduced its level of validity and therefore it was weak to be the basis for the implementation of death penalty for the apostates.

Regardless of the controversy about the level of validity (*shahih*), these hadiths and others must be placed in the context of place, time, and socio-political situation when the hadiths arose. The hadiths promulgated the death penalty for apostates were closely related to the socio-political context of Muslims in formative period when the quantity and social solidarity of

Muslims were very significant to the *da'wah islamiyah* and the political strengthening of the *Ummah*. During the formative period, Muslims were in a war against the infidels. The apostates often not only apostatized from Islam, but also provoked social chaos; they broke away from the *jam'ah* while conspiring with the infidels to attack Muslims.

Provoking social chaos as a reason for enforcing the death penalty was revealed in the hadith about the case of apostates from the 'Ukuls then seized camels and killed the guards.<sup>64</sup> Meanwhile, for the cases of *riddah* followed by betrayal, it was reflected through the hadith regarding the act of *riddah* which was followed by the act of opposing the Muslims. In these cases, the imposition of death penalty for apostates had theological relevance as well as social significance at that time, namely related to the need for the solidity of the *umamah* in the war situation.<sup>65</sup>

The death penalty for apostates was imposed because of their betrayal and/or conspiracies with the infidels, not just because of apostasy. The Prophet Muhammad SAW had never sentenced a person to death who simply apostatized—not followed by the enmities; it was implicitly revealed in the hadith about the *riddah* case of a Bedouin Arab. The hadith narrated that the Bedouin had a high fever after embracing Islam. He then met the Prophet and declared out of Islam. The Prophet did not condemn him to death and then let him go.<sup>66</sup> Thus apostasy or disbelief did not justify the death penalty, unless accompanied by the acts of betrayal and enmity towards Muslims.<sup>67</sup> Therefore, the apostasy in

<sup>61</sup>Awdah, *Al-Tashri'*, 885; Ibn Warraq, “Apostasy.”

<sup>62</sup>The status of hadith *ahad* as *hujjah* was indeed debatable among Islamic scholars. Some of them obliged to use it as *hujjah*, the others argued that it was a unobligatory because its *dalalah* is *zhanni* so that it can be ignored. See Muhammad 'Alī ibn Muhammad al-Shawkānī, *Irshād al-Fuhūl ilā Tahqīq al-Haqq min 'Ilm al-Uṣūl* (Beirut: Dār al-Fikr, n.d.), 48. If a hadith *ahad* is contrary to the universal message (*kulliyah; qat'i*) of al-Qur'an, it cannot invalidate the universal law of al-Qur'an; in this context, the idea of religious freedom is the universal message of al-Qur'an, whereas the death penalty of apostates is a particular message (*juz'iyah; zhanni*) of the hadith *ahad*. Meanwhile, the meaning of *qat'i* and *zhanni* in the discourse of *uṣūl al-fiqh* involved two different things, namely *al-thubūt* (originality of source) and *al-dalālah* (content of meaning). Al-Qur'an had *qat'i al-thubūt* that it really came from Allah SWT. See 'Abd al-Wahhāb Khallāf, *'Ilm Uṣūl al-Fiqh* (Cairo: Dār al-Qalam li al-Naṣr wa al-Tawzī, 1990), 34-5. On the other hand, the hadith—especially those with the status of *ahad*—had *zhanni al-thubūt* because most could not be ascertained to have truly originated from the Prophet. See Khallāf, *'Ilm Uṣūl*, 42-3.

<sup>63</sup>Ikrimah ibn Khālid ibn al-'Ash and Muhammad ibn al-Faḍl al-Sadūsī were two *rawis* whose personal integrity and rote quality doubted. See Ahmad ibn 'Alī ibn Hajar al-'Asqalānī, *Tahdhīb al-Tahdhīb*, Juz VII (Beirut: Dār al-Kutub al-'Ilmiyah, 1994), 223-4 and Juz IX, 347-9.

<sup>64</sup>See note 57.

<sup>65</sup>For the historical socio-political background of the *riddah*, see Elias Shoufani, *Al-Riddah and The Muslim Conquest of Arabia* (Toronto: The Arab Institute for Research Publishing, 1973), 10-47.

<sup>66</sup>Muhammad ibn Ismā'īl al-Bukhārī, *Shahih al-Bukhārī*, Juz VIII (t.tp.: Dār al-Fikr, 1981), 98-9.

<sup>67</sup>See explanation of *hudud* sanctions and their differences with *qisās* in Mahmūd Shaltūt, *Al-Islām: 'Aqīdah wa Shari'ah* (Cairo: Dār al-Shurūq, 2001), 288-91.

Islam is not enough to be defined only by the term "apostate", but also "renegade".

Under peaceful conditions, especially when the Muslims are majority like in Indonesia today, there is no reason to implement the death penalty for apostates. The current socio-political context of the Muslims in Indonesia obviously does not allow the same legal treatment for apostates; the current context differs from the Muslims in the formative era. This difference in context and disparity in legal consequences should be considered when interpreting the Qur'anic messages, for example, in Qs. al-Nisā '(4): 89 contained the command to kill the infidels wherever Muslims meet them and Qs. al-Tawbah (9): 29 affirmed the instruction to fight against the unbelievers.

The same perspective must also be applied in responding to the facts about different religious interpretations, differences in beliefs, and religious sects within the Muslims society; this becomes one of the crucial issues in the discourse of religious freedom in addition to the apostasy issue. Based on Article 18 of the UDHR and ICCPR as well as Article 28E Paragraph (2) of the 1945 Amendment, understanding and interpreting the religious teachings and then expressing them in the public and private sphere is an inherent part of the religious freedom.

In that context, differences in understanding and disparities in beliefs between the Muslims are theologically common realities. Those are not a blasphemy of religion. Disparity in truth claims should not be a reason for negating, blaming, insulting, and mocking each other (Qs. al-Hujurat [49]: 11). For this reason, being tolerant and fair, unsupportive of hatred, and avoiding violences is the indispensable spirits in the various truth claims among Islamic groups. Each group has an equal status so that none can be used as a parameter for assessing others; the only Allah who has the right to judge them in the hereafter (Qs. al-Sajdah [32]: 25; Qs. al-Naḥl (16): 92). This awareness theologically drove every religious adherent to always take the path of moderation

in addressing differences in order to avoid radicalism and religious intolerances.<sup>68</sup>

Finally, the reactualization of Islamic teachings in accordance with the current social context becomes necessary because Islam did not emerge in culturally vacuum situations; Islam was the result of Allah's dialogical relationship with all realities of the Arab-Hijaz when it emerged early times. Therefore, understanding the "contradictory" facts between the Quranic spirit emphasized religious freedom and the hadiths which actually reinforced the death penalty for apostates must be placed in the ever-changing dynamics of socio-political-cultural contexts. In these contexts, the hadiths must be seen as the Prophet's wisdom in strengthening Muslim society in that era. Furthermore, the death penalty must be understood in the Prophet's role context as an God's messenger or *mufti* or judge or a political leader; his policies direction may differ due to differences in the socio-political-cultural context of the Muslims.<sup>69</sup>

The reactualization of Islamic teachings requires the involvement of contextual interpretation paradigms. These paradigms put realities or contexts as the main projection of interpretations; the involvement efforts will make Islam always be relevant in all times and places (*ṣāliḥ li kulli zamān wa makān*). On the contrary, the old paradigm of interpretations oriented to the texts and subordinated the contexts will only make Islam and Muslims alienated in the changing contemporary social dynamics, including in human rights issues.

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<sup>68</sup>Arifinsyah, et.al., "The Urgency of Religious Moderation in Preventing Radicalism in Indonesia," *ESENSIA*, vol. 21, no. 1 (April 2020): 91-107, <http://ejournal.uin-suka.ac.id/ushuluddin/esensia/article/view/2199>

<sup>69</sup>M. Quraish Shihab, "Wawasan al-Qur'an tentang Kebebasan Beragama," in *Passing Over: Melintas Batas Agama*, eds. Komaruddin Hidayat and Ahmad Gaus AF (Jakarta: Gramedia Pustaka Utama, 2001), 187-96.



## Conclusion

The universalism claim of human rights as a product of Western civilization had triggered various problems when implemented to the non-Western world, including the Islamic countries. All of these problems evoked resistances to a wide range of human rights. In the context of the Islamic world, this resistances brought forth two instruments of human rights in Islamic version, namely the UIDHR and CDHRI. Both instruments generally reflected a conservative Islamic outlook on a number of fundamental human rights issues. On the issue of religious freedom, the conservative view clearly rejected the right to change religion (apostasy: *riḍḍah*). It affirmed the view that the apostates must be put to death penalty according to the textual message of Islamic teachings. This is one of the main issues created an image that Islam is antagonistic towards the human rights and is therefore considered incompatible with it.

Reconceptualizing the Islamic meaning of religious freedom is necessary to reduce the resistances of Islamic world and to minimize the conservative prejudices in human rights issues. The religious freedom in Islam must be interpreted progressively as the right to freedom of religion or belief and freedom of thought. The Islamic concept of religious freedom should include the right to embrace and practice religion or belief, the right to convert religion or belief, and the right to be atheist. This reconceptualization of human rights issues, specifically the religious freedom issue, is not only to mediate the interests of cultural particularism, the views of Islamic conservatism, and the universalism claim of human rights, but also to ensure that Muslims are not increasingly alienated amid the contemporary social and political dynamics.[]

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