

Universal Values in Islamic Law and Its Relation to Community Religiosity

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Abstract

The purpose of this study is to analyze universal values in Islamic law and their relationship to the religiosity of society. This research uses qualitative research with a phenomenological analysis approach. The type of data used in this research is secondary data. This research develops the research flow from various points of view, first, by researching universal values and high legal awareness. Next is to examine the effectiveness of the regulations contained in the legislation. The third is to explore the universal values that exist in the teachings of Islam, and the last is to look for the causality of all these things with the level of religiosity of the Indonesian people. Based on the analysis results, it can be concluded that all Islamic teachings contain and are relevant to universal values. Islamic law regulates all aspects of life, both aspects of worship (human relations with God) and aspects of mu'amalah (relationships between humans and their environment, but this is still not implemented by the Indonesian community, although it affects the level of community religiosity.

Keywords

universal values; islamic law;
society; religion



I. Introduction

Islam has a universal mission addressed to humankind known as *Rahmal li al-Alamin*. However, there is a debate in the meaning of the universal values of Islam that exist among Muslims themselves; even the differences are very diametrically visible (Fikri, 2019). Some groups define the universality of Islam as teaching that must be carried out as the practice exemplified by the Prophet Muhammad, including the Arab cultural attributes contained in it (Hitami, 202). Meanwhile, another view interprets the universality of Islam as a value that does not depend on differences in space and time so that it can be applied at any time and is analytical. These groups are usually referred to as substantive Islamic groups because their views emphasize values that are believed to be influential and relevant to various situations and cultures anywhere (Zamzami, 2019).

To explore the universal and particular dimensions of Islam, it can be done using an Islamic legal approach by expressing al-Shātībī's opinion that the universality of Islamic law can be found in sharia as the highest expression of God's will as *Shari'* (Maker of Sharia) for His servants (Mutaqin, 2018; Yaqin, 2015). In this case, Imam Syatibi uses the terms *kulliyah* and *'āmmah* to refer to the universality of the *sharī'* ah, where sharia is universal and general at the same time. The particularity of Islamic law lies in its practical aspect (*Amali*), which must adapt to human life, which is coloured by the diversity of cultural conditions, traditions, etc. Furthermore, shariah is universal and general (*kulliyah-'āmmah*) according to the level of measurement for the *mukallaf*. This means that the editorial discourse (*khitab*) of the *sharī'* ah lawsuits have no specificity, and there are no exceptions for any *mukallaf* when it is under the authority of its laws. Firstly, the Prophet Muhammad was sent to all humankind based on the news from the *nash*. Second, the

shari'ah law was created for the good of humanity (masalih al-'ibad). Third, according to the previous scholars' consensus (ijma'), the Prophet's actions are legal proof for all humans. Fourth, all requirements for legal imposition (shurut al-taklif) follow the level of ability of a mukallaf (Basri, 2011).

Meanwhile, the particular dimensions of Islamic law are classified into three things, namely: first, the exceptions set by Allah as a form of specificity from the universal and general khitab (discourse), such as the law that allows polygamy for the Prophet Muhammad to exceed the provisions of shariah. However, it should be emphasized that this exception does not invalidate the universality and generality of the khitab; it only gives it a specific status (ikhtishas) and can only be determined based on detailed textual arguments (nash) (Betawi, 2019).

Second, particularity concerning the conditions for implementing Islamic law (shurut al-taklif). For example, the prayer command is substantially universal, but in practice, it depends on the requirements and circumstances surrounding a mukallaf; whether he is in a normal situation, travelling, sick, etc. Third, particularity concerning extracting the law (istinbath al-hukm). In this case, Islamic law is upheld on removing rules based on textual instructions, both axiomatic (qath'i) and hypothetical (zhannī). The particularity of Islamic law occurs due to extracting the law based on its dialectics with cases that are textually not found explicitly in the texts (Yaqin, 2015).

Scheherazade S.Rahman and Hossein Askari (2010) from The George Washington University conducted social research with the theme "How Islamic are Islamic Countries", the researchers measured how far the level of Islam in Muslim countries or how far the level of practice of Islamic teachings in countries that predominantly Muslim population. The study results were published in the scientific journal *Global Economic Journal* in 2010. The study results stated that New Zealand ranks first as the most Islamic country among the 208 countries studied; Luxembourg occupies second place. Third, Ireland, fourth, Iceland, fifth, Finland, sixth, Denmark, seventh, Canada, eighth, England, ninth Australia, tenth Netherlands. In this study, Arab countries considered the most Islamic are ranked 48th (Kuwait), 64th Bahrain (Mosiri, 2018).

Meanwhile, as a country with the largest Muslim majority population in the world, Indonesia only ranks 140th (Al-Hadi, 2019). This is a unique fact because New Zealand, Luxembourg and Ireland, are more Islamic than Indonesian people. The two international calibre researchers use 4 (four) indicators as a measuring tool to measure the extent to which a country is categorized as the most Islamic country. The first indicator is the economic system and justice in politics and social life. The second indicator is the system of legislation and government. The third indicator is human rights and political rights. And the fourth indicator is Islamic teachings related to international relations and non-Muslim communities. The indicators that are personal worship, namely Islamic teachings regarding a person's relationship with God and human relations, are not used as benchmarks in this study (Wahid, 2016; Saputra, 2017).

Based on the four indicators used as a frame of reference in the study, it can be seen that Indonesia, as a Muslim country with the largest population in the world, has not practised correctly and seriously the main principles of Islam, especially in political, economic, legal life. Social and cultural. In practice, there are still many frauds in political life, such as fraud in the presidential and vice-presidential elections, regional head elections, the practise of money politics, the corruption that is rampant and entrenched from the centre to various regions (Sujati, 2018). This is exacerbated by corrupt practices that place Indonesia in the position of the most corrupt countries in the world. Likewise, inequality in the world economy creates a just, prosperous and prosperous society. Many

traders still reduce the scales and measurements, committing various frauds in the buying and selling process. The culture of discipline, respecting time, maintaining cleanliness and respecting the rights of others is still not practised by some Indonesian people, such as being impatient in queues so that they violate the rights of others (Hidayah & Zafi, 2020). The economic condition of the population is a condition that describes human life that has economic score (Shah et al, 2020). Economic growth is still an important goal in a country's economy, especially for developing countries like Indonesia (Magdalena and Suhatman, 2020).

On the other hand, the Indonesian people deserve to be proud because various Islamic phenomena are increasingly widespread and developing. For example, bank and non-bank financial institutions are generated based on sharia principles, such as sharia banking, sharia insurance, sharia capital market, sharia pawnshops, Baitul Mal wat Tamwil (BMT). More and more Islamic political parties or parties with religious nuances have emerged (Samsuri, 2021). The phenomenon of veiling and wearing Muslim clothing is a trend that is in demand by many parties, including artists and celebrities. In arts and culture, the religious spirit is growing with the emergence of films and soap operas with Islamic nuances, the behaviour of Islamic songs and nasyid (Hasanudin, 2020).

In addition, in the legal field, with the enactment of Law No. 22 of 1999 concerning regional autonomy, several local governments, both city and district governments, are competing to make regional regulations (Perda) with an Islamic spirit. Such as the Cirebon Regency Regional Regulation number 05/2000 concerning the prohibition of gambling, prostitution and liquor. Tasikmalaya district regulation no.556.3/SP/03/Sos/2001 regarding the management of swimming pool visitors (separation of male and female swimming pools) (Ma'mun, 2016), Cianjur Regent Decree no.451/2712/ASSDA I/ 2001 regarding the obligation to wear the hijab in Cianjur (Purnomo, 2016). There is also the Banjarmasin district regulation no. 10/2001 on opening restaurants, stalls and the like, selling food and drinks and smoking in public places during the holy month of Ramadan (Wangi, 2020). In West Nusatenggara (NTB) province, there is a regional regulation of the Bima district no. 2/2002 concerning Friday solemnly' (Asmar, 2019). In Polewali Mandar district, there is a Regional Regulation number 14 of 2006 concerning the Islamic community movement to read the Qur'an.

People in West Sumatra, which are famous for their philosophy of life "*Adat Basandi Syara', Syara' basandi Kitabullah, Syara' mangato, adat mamakai*" (culture is based on Islamic Teaching, and Islamic teaching is based on Al-Qur'an; Islamic teaching decides something, and culture apply it), increasingly show the spirit of Islamic life and do not want to miss the birth of regional regulations with sharia nuances (Nelmaya, 2018). For example, Perda No. 11/ 2002 concerning eradicating community diseases. Appeal for the governor of West Sumatra no.260/421/X/PPr-05 regarding behaviour and wearing Muslim clothing to all heads of offices/agencies/SKPD/offices/bureaus/mayor agencies throughout West Sumatra. Regional Regulation of Agam Regency no. 5 of 2005 concerning literacy and reading skills of the Qur'an. More than that, the province of Nangroe Aceh Darussalam (NAD) has been given special autonomy rights to implement Islamic law through law no. 18 of 2001 on the privileges of Aceh (Abidin, 2021). Seeing how vibrant religious life is in Indonesia, how is it possible for Sheherazade S. Rahman and Hossein Askari (2010) to place Indonesia at number 140, which is considered less Islamic than Westerners in Europe and other developed countries. This reality forces us to raise critical questions, namely, how far the Islamic values that have been made into positive law can influence the level of religiosity of the Indonesian nation.

II. Research Method

This study uses qualitative research with a phenomenological analysis approach (Suwendra, 2018). The type of data used in this research is secondary data. This research develops the research flow from various points of view, first, by researching universal values and high legal awareness. Next is to examine the effectiveness of the regulations contained in the legislation. The third is to investigate the universal values that exist in the teachings of Islam, and the last is to look for the causality of all these things with the level of religiosity of the Indonesian people. The presentation of writings is carried out using a qualitative method, at least to answer several things, namely: 1) To what extent are universal values in Islamic teachings able to generate high legal awareness that makes everyone willing to obey the existing rules; 2) Why are people in developed countries in Europe, America and Asia able to apply universal values so that they like to obey the rules, respect time (discipline), respect the rights of others and keep the environment clean; and 3) Why non-Muslim communities in developed countries are considered more Islamic than Muslims in Indonesia.

III. Results and Discussion

3.1 Universal Values and High Legal Awareness

What is meant by universal values here are guidelines for attitude and behaviour in social life that are recognized and accepted by all people around the world, or fundamental values that exist in the conscience (instinct) of every human being planted by the creator of man (God)? Since its inception and accepted by everyone around the world. For example, the value of honesty (al-shidqu), the value of justice (al-'adalah), equality (al-Musawah), brotherhood (al-ukhuwwah), freedom (al-hurriyah), love of cleanliness (al-nazhafah), the desire to live is safe (al-amnu), prosperous (al-rafa'hiyah) comfortable, orderly, respecting the rights of others, respecting time. Values like these are values that are taught (required) by Allah and His Messenger in the Qur'an and al-Sunnah.

In Islamic terms, these universal values can be referred to as "al-Fithrah". Al-Raghib al-Ishfahaniy, in his monumental book *Al-Mufradat fi Gharib al-Qur'an*, explains that al-Fithrah is a trait/talent created by Allah and planted deep in the human conscience that encourages him to do an action (Hakim, 2014). All teachings of Islam follow human nature (Fithratallah allati fatharan nas 'alaiha) Q.S. Ar-Rum: 30. For example, according to his instincts (conscience), every human being will want cleanliness, so non-Muslims, sometimes even infidels In developed countries, love cleanliness and don't throw garbage anywhere. Their motto is "Clean is Healthy, Clean is Beautiful". This is the spontaneous motto (conscience) of every human being. If there were no verses from the Qur'an and the Sunnah of the Prophet that ordered us to maintain cleanliness, then the Fitrah (instinct) of every human being would want cleanliness.

It turns out that there are many verses of the Qur'an and the Sunnah of the Prophet that instruct us to maintain cleanliness. This means that the teachings of Islam contained in the Qur'an and the Sunnah of the Prophet are following the Fitrah (instinct/conscience) of every human being. For Muslims, besides the instinctive motto "Clean is Healthy, Clean is Beautiful", there is another religious motto ", An-Nazhafah Minal iman" (cleanliness is part of faith). Suppose it turns out that people in developed countries who are generally non-Muslims are more hygienic (more Islamic). In that case, this is more driven by their healthy fitrah (instincts/conscience), not because they obey the commands of the Qur'an and the Prophet's Hadith. Suppose the Muslim community in Muslim countries lacks/does

not maintain cleanliness. In that case, they do not follow the call of Fithrah (instinct/conscience) and do not obey the commands of Allah and His Messenger (Aisyah, 2019).

The following will describe the experiences of Muslims who have lived for more than three years in developed countries such as the Netherlands, France, Australia. Prof. Zainul Daulay, the dean of Faculty of Law at Andalas University (Unand), shared his experience in the Netherlands (Leiden). He asked his friend who did not believe in the existence of God: Do you think in the presence of God?. His friend answered: No. Next question: "Then why do you obey the rules in this country?. His friend replied: I need a safe, comfortable, orderly and orderly life so that all affairs can run smoothly; if I don't obey the rules, there will be chaos, chaotic, disorderly, unsafe, uncomfortable and disorganized. All matters do not go smoothly; a situation like this can harm other people, damage the country and harm me. Based on Zainul Daulay's experience, it can be understood that non-Muslims or atheists obey the existing legal rules, are more driven by their instincts/conscience (Fithrah) and their needs in an orderly, safe, comfortable and orderly life atmosphere, not because they are driven by their desire to obey commandments of Allah and His Messenger.

Dr Badrul Mustafa, an earthquake expert from Andalas University who has studied for more than five years in France, admits that Westerners who are generally non-Muslims, even atheists, are considered more Islamic than Muslims themselves, in the sense that they practise the principles of Islam more. The principles of Islamic teachings in social life include discipline, respecting time, loving cleanliness, order, order, obeying the rules, and respecting the rights of others. They are patient in queues, orderly traffic, do not want to run red lights even though the police are not around, do not litter. When asked why they obey the rules of law?. Badrul replied that they realized the benefits of attending to the existing regulations: creating an orderly, orderly, safe, comfortable, fair, prosperous, and prosperous life. They felt the need for such an atmosphere of life. Among Badrul Musthafa's experiences, while living in France, a 65-year-old grandmother drove her car on the highway and was stopped by the traffic police for violating traffic rules. The police continue to enforce the applicable regulations and impose sanctions even on old grandmothers; there has never been a "transaction" on the side of the highway between the police and motorists who violate the rules, as is often the case in our country. (Do you want your problem to be resolved in court or here? Then the driver gives a "sticky greeting" to the police officer, and the case is over).

Badrul Muashtafa agrees with the results of research by Scheherazade and Hossein Askari (2010) which places New Zealand in the first place as the most Islamic country. In 2010 there was an earthquake in New Zealand; after the earthquake, people still did not panic, there was no chaos, theft and looting as happened in Indonesia. Badrul has lived in this country for some time. The crime rate can be minimized, and houses are generally not high fenced with iron bars. If thieves attack a home, the house's occupants call the police, and the police immediately come to the scene. If it turns out that the thief was carrying a weapon, the police immediately called a number of his fully armed friends, and they immediately came to arrest and even shoot the thief if necessary. The slogan "Police Serve the Community" in this country is implemented, not just an empty slogan. People in New Zealand have a high awareness that if they don't obey the rules or make trouble, the country will be destroyed, the economy will suffer, the people will suffer, suffer and be destitute. It is different from the atmosphere in Indonesia; many people manipulate and corrupt, abuse their authority to enrich themselves and their groups, even though these actions will result in harming the country, the economy slumps, the people suffer, become

poor and destitute, even though the corruptors have gone on pilgrimage several times (Khodijah, 2018).

According to Dr.Saifullah, a biology lecturer at Faculty of Science at Andalas University, who has studied in Australia for several years, Western people are "more Islamic" than Muslims. They practise Islamic teachings more in social life, such as maintaining cleanliness. Discipline, respecting time, respecting the rights of others, complying with applicable laws. They are used to obeying the rules of law because they feel the need for a life system that is orderly, orderly, safe, comfortable, clean, respecting the rights of others, discipline, love of cleanliness, etc. However, in terms of the human relationship with God, generally, they are not religious, even if there are Christians, Catholics. Still, they rarely go to church, and even many churches are closed because there are no visitors. Muslims bought some of the churches that lost their congregations as mosques. They do not believe in the day of resurrection, and there will be life again afterlife in this world. The experience of Dr.Saifullah was confirmed by Dr.Badrul Musthafa, an Earthquake expert from Andalas University who had studied for six years in France; according to Badrul, free sex is increasing and has become a culture in Western countries. When asked if they are not afraid of being exposed to HIV or other deadly venereal diseases? They were answered that generally, they look for aids or other drugs to prevent themselves from contracting HIV, such as using condoms. France also developed "Incest", namely sexual relationships between close relatives in the family, as between brother and sister, or between uncle and nephew. Sex like this is done to avoid being attacked by HIV because if you have sex with a close family member, it is more believed that he is more "clean" than other people who may have often had sex outside of marriage and are feared to have contracted the HIV. Based on the description above, it can be concluded that they have a high legal awareness that is driven by these universal values, then coupled with the need to live in an orderly, orderly, safe and comfortable atmosphere.

3.2 The Effectiveness of a Legislation

According to Soerjono Soekanto, a legal expert from the University of Indonesia, in his book Introduction to Legal Research Methods, whether or not a statutory regulation is effective is determined by the following: 1) The existence of law enforcement officers who are authoritative, brave and firm, 2) The presence of high legal awareness from the community and 3) complete laws and regulations. As is well known, statutory statute or ordinance is made to regulate people's lives to live in a safe, comfortable, orderly and orderly atmosphere (social engineering). The regulation will be more efficient and effective if supported by high legal awareness from the community. In developed countries, the law has become efficient and effective (effective) as a social engineering tool to regulate people's lives because law enforcement officers such as judges and police carry out the rules and dare to impose sanctions on people. Anyone who commits an offence. The police do not want to be "bribed" by lawbreakers wherever the violation occurs. The police carry out their duties and functions to serve and protect the community.

Unlike the situation in Indonesia, often laws and regulations cannot be enforced because law enforcement officers are lacking/incompetent, the community lacks high legal awareness, sanctions are not applied to violators of rules, sometimes regulations can be "traded" or can be changed to specific political interests. As a result, the laws that have been made with difficulty only remain in the book (Law is written in the book), cannot be applied correctly and do not reach the target or are ineffective.

3.3 Universal Values in Islamic Law

As explained above, all Islamic teachings are in line/following universal values (instinct/conscience/fithrah). Therefore, all Islamic law is also relevant to universal values, both Islamic law in the sense of "Fiqh" and Islamic law in the sense of "Fiqh which has been made positive law". Fiqh (al-fiqh) itself is the result of thought (ijtihad) of Islamic jurists (fuqaha) to draw legal conclusions by interpreting existing legal texts (al-nushush al-Muqaddasah), namely al-Qur'an and Sunnah. In carrying out this interpretation, the mujtahids are also influenced by various things, such as educational background, self-inclination (muyul), and the socio-cultural environment in which they live. In principle, everyone is equal before the law (equality before the law); for example, the Prophet Muhammad PBUH said, "If Fatima, the daughter of Muhammad, stole, I would cut off her hand" (Lawanna Fathimah Binta Muhammaddin Saraqat Laqotho'tu Yadaha). In maintaining the cleanliness of the environment, the Prophet said, "Never urinate in calm water" (La Yabulanna Ahadukum Fil Ma-in Da-im)". Every Muslim is prohibited from doing anything that will damage/harm himself and damage/harm others, in this case, the Prophet said: "La Dharara wa La Dhirara". The rules in Islamic law are quite complete because Islamic teachings are comprehensive teachings (syumuliyah) governing all aspects of life, are universal ('alamiyah), rational ('aqliyah), elastic and dynamic (murunah) and contain religious values (divine) is full of rewards and sins. Every Muslim who obeys the rules will feel a safe, comfortable, orderly and orderly life atmosphere; besides, he also gets a reward in return for his obedience. This is not obtained by non-Muslims who obey the rules.

3.4 Islamic Teachings and Their Relationship with the Religiosity of the People

All Islamic teachings contain and are relevant to universal values. Islamic law regulates all aspects of life, both aspects of worship (human relations with God) and aspects of mu'amalah (relationships between humans and their environment. The critical question that must be raised here is why universal values are lacking/incapable of building people's awareness to obey the rules in social life? Or why obedience to worship is not directly proportional or not a guarantee for one's compliance in social life? Prostration) or has gone to hajj several times. Still, in social life, he throws garbage as he pleases, throws garbage into ditches/rivers, pollutes the environment, if he queues he runs through other people's lines, or runs a red light, or when he is running for president area, he commits fraud, distributes money illegally (money politics), when he hopes that he misuses his position to enrich himself and his group/party, does not prioritize the welfare of his people.

The rules for praying in the congregation should crystallize in every Muslim in society. When he becomes a leader (imam), he must be willing to criticise his people (makmum); if the leader disobeys the rules or abuses power/corruption to the detriment of the state and the people, he must be willing to resign from his position. According to the author, the non-crystallization of universal values in Islamic teachings in the life of society, nation and state, among the causes is the lack of legal awareness in the community. Law enforcement officials are not firm, do not dare to enforce the rules, even willing to be bribed, so that any government that Even though the regional regulations have a shari'ah nuance, they only stay in the book, are not effective, are ineffective in regulating people's lives and building religious awareness.

IV. Conclusion

Based on the analysis results, it can be concluded that all Islamic teachings contain and are relevant to universal values. Islamic law regulates all aspects of life, both aspects of worship (human relations with God) and aspects of mu'amalah (relationships between humans and their environment, but this has not been implemented by the Indonesian community, although it affects the level of religiosity of society. The rules when worshipping are also applied in the form of obedience to the management of law when living in a community because Islam is a comprehensive religion (syumuliah), universal ('alamiyah), rational ('aqliyah), elastic and dynamic (murunah) and divinity (ilahiyah) everything comes from God.

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