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Humanism in Islam: A Criminal Law Perspective

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Abstract

Humanism in Islam is defined as a philosophical and ethical perspective that emphasizes the people's human rights, dignity, and welfare. It primarily promotes social justice, equality, human values, and compassion. Islamic law applies the Quran and Sunnah to advance justice and protect human rights. Islamic law, also known as Sharia law, is integrated into the legal systems of several Islamic nations, including Malaysia, Iran, and others. In addition to promoting an equitable and efficient criminal justice system, the principles of this law are also effective in doing so. In Indonesia, however, Islamic law is not effectively integrated into the country's legal system, which impacts human rights. In light of this, the present study examines the concept of humanism in the context of Islam, concentrating on its significance in the "Indonesian Criminal Code" (KUHP). For this study, a "normative juridical research approach" was employed, secondary and primary data sources were utilized, and content analysis was performed. The findings of this study revealed that although Indonesia is an Islamic country, Sharia principles are not fully incorporated into the country's civil law, commercial law, and penal law. Dutch law primarily influences the KUHP and concentrates on violating laws and preventing crimes rather than promoting the associated people's human dignity and fundamental rights. In addition, the revisions made to the new KUHP prohibit "freedom of expression," provoking widespread criticism. In Indonesia, Islamic law is only fully implemented within the context of criminal law in the province of Aceh, which has been granted permission by the government to practice Islamic Criminal law. This research has both practical and theoretical significance. In addition, significant recommendations have been made to promote the concept of humanism in Islam within the context of criminal law. It has been proposed that public awareness and international cooperation will enhance the integration of humanism in KUHP.

Keywords: Humanism; Islam; Criminal Law; Indonesia; KUHP

1. Introduction

In this modern era, atrocities that destroy humanity are commonplace. Globally, developed and developing countries have created a variety of frameworks that favor humanity and can be incorporated into legal sentence punishments for criminals or

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offenders based on legal laws and regulations. Humanism is one such perspective that deals with the interpretation of legal frameworks for penalizing the perpetrators of crimes that are detrimental to humanity and serve as the foundation for enforcing criminal laws. According to the American Humanist Association (n.d.), humanism is the philosophy of life in which everyone has the right to exist in peace and ensure an ethical interaction with the people in their surroundings, which aims for the greater good. In addition, humanism is a rational philosophy that promotes the self-respect of humans, expands human liberty, and concentrates on the development of democracy.

Humanism is the debate on human values based on psychology, anthropology, sociology, theology, and phenomenology, from which human values are constructed. Moreover, the perception of humanism originated in Athens and served as the foundation for modern Eastern and Western nations (Wahyudin, Maimun, & Jalil, 2019). In addition, the concept of humanism in Islam holds that humans who attempt to control other humans should not be permitted to exist. They promote discriminatory laws and unethical behavior because they do not adhere to human norms and values. Nonetheless, many nations, including Indonesia, have adopted humanism. Law enforcement, including criminal law in various countries, incorporates the values, ideas, and perspectives necessary to achieve legal goals Maroni and Ariani (2018). state that Human rights and spiritual characteristics are reflected in the criminal laws formulated within the context of Indonesia, a religious nation. In addition, criminal law enforcement is always based on human rights. It has as its primary objective the protection of human rights through the formulation of legal laws and frameworks, and the successful execution of criminal law in Indonesia is anticipated because it involves human rights.

In recent years, many Indonesian observers have observed a conservative shift in Indonesian Islam, which has resulted in intolerable liberalism and intolerance towards religious individuals and minorities (Lindsey & Pausacker, 2016). In addition, until 2017, this religious intolerance and Islamic conservatism became increasingly apparent in Indonesian courts. Historically, the courts of Indonesia were divided into two primary categories: blasphemy and constitutional court (Crouch, 2011). Muslims argue in the Constitutional Courts that Islamic law must be enforced in Indonesia so that Muslims can openly practice their faith. Moreover, between 1999 and 2002, the Constitution was amended to grant citizens the right to "have a religion" (article 28I(1)); they should also have the right to "profess their religions" (article 28E); and citizens should be permitted to "worship according to their religion" (article 28E(1) and 29(2)) (Butt, 2018).

As the country with the largest Muslim population, the primary objective of this study is to incorporate humanism into the criminal law frameworks of Indonesia so that Muslims can live peacefully there. Humanism was the subject of this study, and incorporating humanism into penal law frameworks is a concern in several nations. In addition, the current research investigates the criminal laws implemented in Indonesia to punish various alleged human-harming perpetrators. This study concentrates on the criminal law framework in Indonesia and will provide policymakers with suggestions for incorporating criminal laws based on humanism to reduce global crime. This study is organized into numerous sections. The first

section discusses the background and the need to investigate criminal laws in Indonesia. This is followed by a literature review explaining the connection between humanism and criminal law enforcement in a global context. In addition, the study's methodology describes the relevant method employed by the researcher, followed by the results and the researcher's interpretation of them. In conclusion, the researcher concludes, explains the study's implications, and identifies the study's limitations to provide future researchers with an opportunity.

2. Method

Research methodology is essential for conducting research in various disciplines, including law, the natural and social sciences, business, etc. In addition, the research methodology clarifies the objectives, focuses the researcher, and plays a crucial role in achieving the study's purpose. The selection of a research methodology depends on the study's type and objective (Munn et al., 2018). Research methods may be qualitative, quantitative, or hybrid (quantitative and qualitative). It is also known as the iterative research methodology (Aspers & Corte, 2019). Qualitative research methodology refers to the in-depth interpretation of collected data by getting near the research phenomenon and is also known as the iterative research methodology. As is evident from the preceding, the current research focuses on analyzing the various criminal law frameworks implemented in different countries around the globe. These frameworks and the cited literature will enable Indonesian policymakers to formulate criminal law following the humanist paradigm of Islam. Based on the objective and purpose of the present study, the researcher has chosen to employ qualitative research methodology by accumulating secondary data from various sources. The primary sources for data collection may include multiple legal resources, such as legal documents, laws, and regulations. In contrast, secondary sources may consist of previous literature in the context of Islamic humanism and the nexus of humanism with the criminal laws thus enforced in different countries, as well as reference books, articles, and online databases such as Wiley Online Library, Taylor and Francis, Google Scholar, and many other sources. In addition, the shortcomings of the current study's methodology will aid the researcher in providing recommendations for future studies, resulting in a robust criminal justice system in Indonesia.

3. Literature Review

3.1. Humanism in Islam

(Kline & Cole, 2018) Humanism refers to the social, psychological, rational, physical, and spiritual approaches that enable humans to interact compassionately across the globe. Moreover, Islam responds to humanism by asserting that humans are multidimensional, social, rational beings who self-actualize as caliphs. The Islamic perspective on humanism emphasizes that humans are pure, intelligent, and motivated to worship their God. Moreover, according to research (Anco & Suroso, 1995), Islam believes that human beings differ from one another based on their capacity and possibilities of development, proving that humans are multidimensional, as stated in some Quranic verses such as "We have certainly created man in the best of stature, and I did not create the jinn and mankind for any other purpose than to worship me." Therefore, man should observe from what he was made" (Safrudin, Khuzai, & Nasir, 2020).

Humanism emphasizes the value of humanity and individuals, and the Islamic paradigm embraces humanism and its incorporation into religion. In addition, Islamic teachings emphasize the significance and necessity of humanism in the world, as humanism seeks to implement moral virtue, independence, and brotherhood among Muslims worldwide (Usman, Shaharuddin, & Abidin, 2017). Muslims who support the concept of humanism have rejected the earlier beliefs regarding the philosophy of humanism, which held that humans created all moral values, requirements, and desires and were not based on God's teachings and commands. Despite this, some modern Muslim scholars contend that humanism's tenets, such as freedom, the dignity of human beings, freedom of choice, human rights, democracy, social rights, and rational inquiry, follow Islamic principles worldwide (Shamsudheen & Azhar Rosly, 2021). In addition, modern scholars rejected the secular concept of humanism. Still, they accepted it in a more justifiable, sympathetic, and charitable society, and numerous Quranic verses (such as verse 68:4 of the Holy Quran) and Hadiths (Al-Muwatta 1614) support the humanistic paradigm in Islam.

Humanism is a significant field of study because it lays the groundwork for developing ethical relationships, justice, and equitable social interaction. Moreover, Indonesia should integrate Islamic humanism within the country because Muslims are the majority, and minorities will be safeguarded by incorporating Islamic humanism.

3.2. Humanism in Islam and Criminal Law

Humanism refers to the social, psychological, rational, physical, and spiritual approaches that allow humans to interact empathetically globally (Kline & Cole, 2018). In addition, Islam responds to humanism by asserting that humans are multidimensional, social, rational beings who self-actualize in this world as caliphs. According to the Islamic perspective on humanism, humans are pure, intelligent, and motivated to worship their God. Moreover, according to research (Anco & Suroso, 1995), Islam believes that human beings differ based on their capacity and possibilities of development, demonstrating that humans are multidimensional, as stated in certain Quranic verses such as "We have certainly created man in the best of stature, and I did not create the jinn and mankind for any other purpose than to worship me." Therefore, man should be mindful of his origins" (Safrudin et al., 2020).

Humanism emphasizes the worth of humanity and individuals, and the Islamic paradigm incorporates humanism into religion. Moreover, Islamic teachings emphasize the significance and necessity of humanism in the world since humanism aims to implement moral virtue, independence, and brotherhood among Muslims worldwide (Usman et al., 2017). Muslims who support humanism have rejected the earlier humanism beliefs, which held that humans created all moral values, requirements, and desires and were not based on God's teachings and commands. Despite this, some contemporary Muslim scholars argue that humanism's tenets, including freedom, the dignity of human beings, freedom of choice, human rights, democracy, social rights, and rational inquiry, are consistent with Islamic principles worldwide (Shamsudheen & Azhar Rosly, 2021). In addition, modern scholars rejected the secular concept of humanism but accepted it in a more justifiable, sympathetic, and charitable society. Furthermore, numerous Quranic verses (such as verse 68:4 of the Holy Quran) and Hadiths (Al-Muwatta 1614) support the humanistic paradigm in Islam.



Humanism is an important academic discipline because it establishes the foundation for developing ethical relationships, justice, and equitable social interaction. Furthermore, Indonesia should incorporate Islamic humanism within the nation because Muslims are the majority, and minorities will be protected.

4. Results and Discussion

This study's primary objective is to determine the concept of humanism in Islam, focusing on the Indonesian criminal law perspective. Indonesia is a Muslim nation, but its criminal code is still influenced by Dutch law, and Islamic law has some influence on its criminal justice system. This section concentrates primarily on criminal law within Islam, emphasizing the incorporation of humanism. Additionally, the laws and regulations of the "Indonesian Criminal Code" (KUHP) are discussed, with a focus on the implementation of "Islamic Criminal Law" in Indonesia.

4.1 Criminal Law in Islam

Humanism is theocentric from an Islamic standpoint: "God is at the center of everything." The Islamic holy book, the Quran, emphasizes human liberties. According to Wahyudin et al. (2019), humans are created from two distinct two-dimensional elements, described as abject and low. Humans are presented with various options, and their decisions determine their fate. Humanism holds that all humans are interconnected. Brotherhood is an integral part of humanity regardless of the color, ethnicity, or race of the people. Islam is considered to be more than an ideology; it is a transcendental humanism that focuses on implementing the Quran's moral teachings (Akbar, 2019). The teachings of Islam primarily promote liberty, human dignity, equality, and tolerance. Therefore, Islamic Law is distinct from Common Law and is referred to as Sharia Law, based on the Quran and Sunna. This law addresses not only offenses committed in society but also individuals' private and public conduct.

According to the Sharia, crimes are classified as Qisas, Ta'zir, and Hadd. In this regard, the most serious crimes include theft, adultery, homicide, defamation, and alcohol consumption (Samudro, 2020). The Sharia law stipulates a fixed punishment for these offenses. However, Ta'zir's crimes are less severe and are punishable if they cause any damage to society. Qisas are crimes that impact an individual or their family, such as homicide. The Sharia stipulates specific punishments for such offenses (Adeyemi, 2018). This demonstrates that the concept of humanism is highly promoted within Islamic Law, as it emphasizes providing basic human rights. In several Muslim nations, including Malaysia, Iran, Egypt, and others, the principles of Sharia Law are incorporated into the criminal justice system to ensure that all citizens have equal rights.

4.2 Indonesian Criminal Code (KUHP)

The "Indonesian Criminal Code," also known as "Kitab Undang-Undang Hukum Pidana" (KUHP), contains the regulations and laws that contribute to the development of Indonesia's criminal law foundation (Butt & Lindsey, 2020). The laws and regulations of KUHP are believed to be substantially influenced by Dutch law, and it is hypothesized that they are regulations of Dutch Criminal Law. Nonetheless, the KUHP outlines punishments for a variety of criminal offenses. This code also contains a variety of crimes that can only be prosecuted if the victim has filed a

complaint following Chapter VII, which concentrates primarily on the withdrawal and filing of complaints (Tanuwijaya, 2020). One of these offenses is adultery; therefore, this code states that the adultery offense will not be prosecuted until the wife or husband submits a complaint.

Nonetheless, the complaint can be withdrawn until not presented to the court. However, according to Islamic law, adultery is a serious crime because it disrupts family dynamics and leads to negative social outcomes, thereby influencing society. Therefore, the KUHP presents numerous articles regarding the offense of adultery. Five articles of the KUHP have been observed to highlight this offense. Article 284 includes adultery, and Article 285 discusses rape, whereas (Supardin & Syatar, 2021) Article 286 deals with non-consent intercourse with an unconscious woman, article 287 states the punishment for the offense of having intercourse with a woman younger than 15 years, and article 288 deals with the sexual offense with the woman who is not an adult and may suffer various injuries or death as a result of the act (Widyawati, 2020).

However, in 2022, the Indonesian parliament approved a new KUHP. This new code concentrates primarily on democratizing criminal law, harmonizing and adapting the criminal justice system, decolonizing the legal system, and consolidating existing laws, including criminal penal codes. Nevertheless, the new KUHP contains several controversial amendments. However, articles 411 to 412 of the new KUHP penalize extramarital sex with one year in prison, and cohabitation by unmarried couples is prohibited (EGA, 2022). However, there is no distinct definition of cohabitation in these articles.

Article 218 of the new KUHP prohibits insults against state institutions and the president. In contrast, articles 188 to 190 prohibit the expression of anti-state ideology viewpoints. Simultaneously, the "Indonesian Human Rights Commission (Komnas HAM)" requested that Article 598, which focused on humanitarian violations and genocide, be eliminated. Komnas HAM also asked for the deletion of articles 300 to 305, which deal with religious freedom, and articles 463 to 465, which deal with abortion, arguing that these provisions are mainly discriminatory against women. According to Komnas HAM, provisions 263 to 264 and 433 to 439 also restrict the freedom of expression and deny the people their fundamental expression rights (EGA, 2022). This code is also incapable of explaining the circumstances under which sanctions are applied in corporate law, merely stating that government regulations will be considered in the event of such criminal offenses. This paints a highly critical picture of the new KUHP, which does not comply with Islamic Law and cannot incorporate effective human rights to guarantee the incorporation of the concept of humanism, resulting in insufficient outcomes. The present study effectively highlights the function of the new KUHP in the context of human rights protection.

4.3 Islamic Criminal Law (ICL) in Indonesia

Even though Indonesia is a Muslim country with one of the largest Muslim populations in the world, Islamic Criminal Law is not fully practiced in Indonesia, impacting the overall human rights of the Indonesian population (Sumardi, Lukito, & Ichwan, 2021). However, only one province in Indonesia (Aceh) currently enforces

ICL. In this province, ICL is referred to as "jinayat," and the laws implementing it are referred to as "Qanun Jinayat" or "Hukum Jinayat" (Fuad, Darma, & Muhibbuthabry, 2022). Nonetheless, most of Indonesia's secular laws are implemented in Aceh, and the provisional government has the authority to enact additional regulations based on ICL. The Indonesian government has authorized the province to implement Islamic-based regional regulations. Following these provisions, various offenses include wagering, rape, alcohol consumption, adultery, distribution, production, homosexual acts, and extramarital relations (Butt, 2018). However, various punishments are imposed for these crimes under the ICL, including fines, jail time, and caning. As a result of Governor Iwwandi Yusuf's veto in 2009, no provision regarding stoning was implemented. In Aceh, however, 324 court cases were processed under ICL in 2016, and nearly 100 caning sentences were carried out.

Diverse proponents of ICL emphasize the autonomy granted to the people of Aceh about religious liberty. However, the use of caning as a sanction for criminal offenses under this law has been heavily criticized by various governmental and non-governmental organizations, such as "Amnesty International," which considers it contrary to the protection of human rights (Fadlia, 2018). In Indonesia, however, the legal system is believed to be influenced by Islamic Law. The principles of Islamic law primarily promote humanism. In contrast, some critics have observed that the harsh punishments imposed by Islamic law, such as hand amputation and flogging, violate human rights (Mann & Afrianty, 2020). To better comprehend ICL in this context, this study has also emphasized the Islamic understanding of humanism.

However, three legal systems operate at the national level in Indonesia: commercial, civil, and criminal law. In regions other than Aceh, Islamic law is limited to certain aspects of civil law, such as religious endowments, inheritance, and marriage. In addition, Islamic law is utilized in certain areas of commercial law, including finance and Islamic banking. In this context, customary tradition and European codes are additional commercial and civil law sources (Rani, Fikri, & Mahfud, 2020). In addition, the KUHP is largely founded on the Netherlands Indies Criminal Code, as Indonesia was ruled by the Netherlands before 1945. Therefore, it has been determined from this discussion that Islamic law is only applied to criminal matters in Aceh.

Therefore, Islamic law has been observed to integrate significant behavioral regulations, such as Allah's revelations and the Sunnah of His Messenger. Thus, Islamic Law strongly promotes human rights by focusing on regulating crimes and their punishments to preserve human life in their possessions, religion, minds, and dignity. The primary objective of Islamic Law is to ensure the welfare of individuals in this world and the next. In contrast, the KUHP focuses primarily on preventing offenses and law violations and enforcing punishments against those who commit criminal acts.

5. Conclusion

Islam is a more ardent defender of human rights. Humanism's incorporation into Islam emphasizes the promotion of human dignity and values. Incorporating Islamic principles within the context of criminal law is therefore regarded as essential for promoting human rights and equality. Islamic nations incorporate Sharia law into

their criminal justice systems to promote social value and integrity. In Indonesia, however, Dutch law is considered in developing criminal law, while Islamic law is limited to a few areas of civil and commercial law. The results of this study indicate that the KUHP focuses primarily on coping with violations of laws and the legal system rather than integrating human rights. However, the human rights committee has primarily criticized the harsh punishments imposed by Islamic law, such as cutting hands and caning, which has prompted the Indonesian government to implement Islamic law in its Criminal Code partially. However, only Aceh (an Indonesian province) fully enforces Islamic law in all penal matters, promoting humanism in Islam within criminal law. Consequently, the current research has also successfully provided various theoretical and practical implications that add value to the current study. In addition, multiple recommendations are made to harmonize Islamic teachings with contemporary legal approaches in criminal law, resulting in effective results.

6. Recommendations

Humanism promotes an inclusive approach to criminal law in Islam by combining the values of justice, compassion, and human dignity. Its primary objective is to harmonize Islamic teachings with the modern legal approach. To enhance the incorporation of humanism within the context of criminal law, the following suggestions can be considered:

- Legislative bodies should make the necessary efforts to align the criminal justice system with the humanism principles of Islam by instituting significant reforms. To this end, criminal laws should be revised with an emphasis on promoting equal rights, eliminating discriminatory provisions, and protecting human rights. Such reforms are possible by enhancing the collaboration between human rights organizations, legislators, and other stakeholders.

- Raising public awareness regarding the significance of Islam within the context of criminal law should also be encouraged. This can be accomplished through various media campaigns, social discussions, seminars, and workshops. This strategy can also effectively motivate people to perform their role as whistleblowers in reducing the number of criminal offenses in the country, resulting in effective outcomes. Consequently, laws and regulations can be developed and implemented to secure the rights of whistleblowers, thereby encouraging more individuals to report criminal violations in various professional and social settings.
- The cooperation between international and regional entities is also considered essential to promote the incorporation of the concept of humanism within the criminal justice system. This will aid in the development of a peaceful society. In this regard, the international human rights committee and other associated organizations play a crucial role in emphasizing the significance of incorporating human rights protection into the context of criminal law. Consequently, this strategy can effectively promote the concept of humanism within the context of KUHP, resulting in the promotion of Islamic law in the legal system of Indonesia at the national level, resulting in effective outcomes.

In addition to these recommendations, the judiciary and other associated legislative bodies should promote important training sessions for the relevant stakeholders, including policymakers, legislators, human rights workers, and other



related individuals, to effectively promote the concept of humanism within the context of criminal law.

7. Research Implications

This study has effectively provided a variety of theoretical and practical implications, thereby contributing to its overall value. Regarding its theoretical significance, the present research has significantly advanced the literature on humanism in Islamic law, with a particular emphasis on criminal justice. This study has also effectively emphasized that Islamic law is partially implemented in Indonesia's legal system by highlighting its various limitations in the criminal justice system. Additionally, the current study presents the instance of Aceh, asserting that it is the only province in Indonesia where Islamic law applies in criminal matters. To maintain current knowledge, the present study has also addressed the criticisms of the new KUHP. Therefore, the conceptual framework presented in this study focusing on the incorporation of Islamic law in KUHP can be effective in enhancing the knowledge of the associated stakeholders, encouraging them to take significant measures to incorporate the principles of Islamic law in KUHP to impose fair punishments on the accused and protect the fundamental rights of the people.

In addition to its theoretical significance, the present study is also practical in highlighting the Indonesian government's role in preventing the incorporation of Islamic law into the new KUHP. This study's findings can encourage various international organizations and governments to contemplate Islamic law. Simultaneously, the development of essential principles regarding the criminal justice system because Islam primarily promotes humanism and focuses on implementing the Quran's moral teachings. In addition, the present study can be useful in dispelling misconceptions regarding the role of ICL in imposing harsh punishments on the accused, thereby encouraging different legislators and policymakers to focus on Islamic principles when drafting and implementing significant criminal laws and regulations. Even though many criticisms of the integration of ICL in Indonesia have been presented in the present study, it has also been observed that Islam promotes freedom of expression and accords equal rights to all individuals. However, the amendments to the new KUHP are more likely to restrict freedom of expression. Consequently, the present study can effectively increase public awareness of the significance of ICL in fostering a secure and peaceful environment, thereby encouraging individuals to fulfill their societal responsibilities.

8. Limitations and Future Research

Although the current study provides various theoretical and practical implications, the research conducted by the researcher in terms of humanistic paradigm and criminal law enforcement in the context of Indonesia has some limitations, which provides the opportunity for future researchers to investigate in greater detail the incorporation of Islamic humanism in the formulation of criminal law framework, as criminal law is formulated globally to maintain equity and equality. The study's first and most significant limitation is its geographical context; as the current research has only been conducted in Indonesia, it may aid other researchers in conducting their studies in countries where Islamic humanism is not a framework. As a qualitative

study, the current investigation also has methodological limitations. Future researchers may also use an alternative methodological approach, i.e., the research may be conducted quantitatively or employ hybrid methods. Moreover, the current study cites criminal laws regarding humanism, which is a limitation of this study. In the future, researchers may conduct investigations in the context of online criminal laws and thefts, enabling policymakers to develop frameworks that can be used to correct online crimes and promote peace for humanity. This future implication will enable the governments of Indonesia and other nations to promote and enforce laws that could significantly regulate the behavior of people living in different countries and reduce the number of perpetrators engaged in various crimes. The current methodology for data collection is based on secondary sources, which will aid future researchers in using both primary and secondary sources for data collection and interpreting results in a more general manner.

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