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**TITLE : HUMAN RIGHTS AND CONTEMPORARY FIQH: ANALYZING
COMPATIBILITY AND CHALLENGES**

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HUMAN RIGHTS AND CONTEMPORARY FIQH: ANALYZING COMPATIBILITY AND CHALLENGES

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Abstrak: kajian ini membahas hubungan antara hak asasi manusia dan fiqh kontemporari, dengan melihat sejauh mana keduanya sesuai dan apa saja cabaran yang ada. Tujuan utama kajian ini adalah untuk menjelaskan apa itu hak asasi manusia dalam Islam dan dalam konteks fiqh masa kini, mengenal pasti isu-isu semasa berkaitan hak asasi manusia, serta menganalisis cabaran dalam menggabungkan prinsip-prinsip tradisional Islam dengan piawaian hak asasi manusia moden. Kajian ini dilakukan dengan pendekatan kualitatif, menggunakan analisis kandungan terhadap sumber-sumber utama dan sekunder seperti al-Quran, hadis, dan dokumen hak asasi antarabangsa. Hasil kajian menunjukkan bahawa walaupun ada persamaan antara prinsip Islam dan hak asasi manusia moden seperti keadilan, maruah dan kebebasan, terdapat juga beberapa perbezaan, terutama dalam isu-isu seperti kebebasan beragama, hak wanita, dan hukuman hudud. Kesimpulannya, dialog yang berterusan dan pendekatan ijtihad yang progresif sangat penting untuk menghadapi cabaran ini dan memastikan fahaman fiqh yang lebih sesuai dengan konteks semasa serta memenuhi keperluan zaman.

Kata kunci: Hak Asasi Manusia, Fiqh Kontemporari, Cabaran Moden, Ijtihad, Undang-undang Islam

Abstract: This study examines the relationship between human rights and contemporary jurisprudence, looking at the extent to which they are compatible and what challenges exist. The main objectives of this study are to explain what human rights are in Islam and in the context of contemporary jurisprudence, to identify current issues related to human rights, and to analyze the challenges in combining traditional Islamic principles with modern human rights standards. The study was conducted with a qualitative approach, using content analysis of primary and secondary sources such as the Quran, hadith, and international human rights documents. The results of the study show that while there are similarities between Islamic principles and modern human rights such as justice, dignity, and freedom, there are also some

1.0 INTRODUCTION

Human Rights (HR) have been a cornerstone of modern world law and governance since the birth of the Universal Declaration of Human Rights (UDHR) in 1948. Principles such as freedom of religion, freedom of expression, gender equality, and protection from discrimination are among the values championed in this declaration and have become the main references in the international legal system. However, when these principles are brought into Islamic discourse, especially fiqh, important questions arise regarding the compatibility between sharia law and these universal values. The difference in philosophical backgrounds between the two approaches, namely revelation-centered and secular rationalism-based, has created a clash of views on issues such as apostasy, sexual freedom, and women's rights in society (Abdulaziz Sachedina, 2019).

In the Islamic framework, human rights are not absolute rights that individuals possess autonomously, but rights that come with responsibilities to God, society, and oneself. Sharia as a legal system based on revelation emphasizes that every individual right must operate within the framework of maqasid syariah which includes the protection of religion (hifz al-din), life (hifz al-nafs), reason (hifz al-'aql), lineage (hifz al-nasl), and property (hifz al-mal) (Zaprul Khan, 2018). Therefore, individual freedom in Islam cannot be understood in absolute terms as it is understood in liberal thought, but needs to be balanced with the need to safeguard the public interest and moral values of society.

The fundamental differences between modern human rights and Islamic jurisprudence are increasingly evident in contemporary issues such as freedom of religion, especially in cases of apostasy, and the rights of the LGBTQ community. In the human rights approach, every individual is free to change their religion and express their sexual orientation without any discrimination. In contrast, in traditional jurisprudence, apostasy is a serious offense that can lead to punishment, and homosexual practices are seen as deviating from human nature and strictly prohibited (Nik Rahim bin Nik Wajis & Muhammad Norfarihin Bin Norazman, 2018). This situation poses a dilemma for modern Islamic states, which are trying to balance compliance with sharia and pressure from the international community to respect human rights standards.

However, the differences between human rights and Islam do not necessarily lead to an absolute rejection of these universal principles. Many contemporary Islamic scholars call for a