

The Global of Terrorism is A Crime Against Humanity and Deviations Religious Values

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ABSTRACT

Measures terrorism is often associated with Islam that sparked tension between Islam and the West. The West became more cautious in giving space. Since the terror committed by Muslims, they taste that all Muslims are terrorists, and Islam itself is a dogma which contains the teachings of terrorism. Primarily since the attacks on the World Trade Center on September 11, 2001, Muslims have always been the top of the government's suspicions the country, especially a country that has a Muslim ethnic minority. All their activities closely monitored, the motion is complicated, and they are always the first order of the list every occurrence of acts of terrorism suspects.

Islam is not a religion of terrorists who teach his people commit crimes that violate humanitarian. There are some people who claim that Muslim terror is the embodiment of the jihad is obligatory in Islam. Understanding they actually leads to aberrant act of terror occurs not only among Muslims, but also among other people.

Terrorism creates fear into various global humanity for crimes, because it is done by those who have a distorted understanding of the religious values. They are always making every effort to achieve ideological goals and the targets are free and not military. Perpetrators of terrorist acts are called terrorists. Terrorism is coordinated attacks aimed at generating feelings of terror against a group of people. Unlike the war, acts of terrorism are not subject to the ordinances of war. There are five main criteria of terrorism. *First*, there is always the threat of violence and (Violence). *Second*, the psychological impact and fear (Psychological impact and fear). Third, terrorism is used for a political purpose (perpetrated for a Political Goal). Four, terrorism contains illegitimacy (Unlawfulness or illegitimacy). Five, the target intentionally directed at Deliberate targeting of non-combatants.

Acts of terrorism in the name of Islam is clearly not a form of jihad but became a global crime against humanity and a deviation of religious values. Terrorism, in any context is a crime against humanity that does not fit Islamic guidance. Islam is a religion of mercy for universe, so it is very inappropriate if adherents behalf of indiscriminate killings by jihad in defense of religion.

Keywords: Terrorism, global crime, a crime against humanity, fundamentalism, religious deviations of values

A. Introduction

First case which must be known well to say about anything related to the terrorism in the name of Islam is about the relationship between religion and terrorism, because Islam here is as religion, so, the relationship that is an urge to discuss firstly is the relationship between Islam and terrorism itself.

Terrorism is identical with the violence, hostility, suffering and the like. While religion, involved Islam has a good connotation, such as peace, love and live. Hence, to placing both of terms in one phrase—religious terrorism—will reduce the meaning of both one and other; terrorism as the glory and good one or religion as the bad thing that brings the destruction.

Terrorism is a systematic violence done by the terrorists who have connection of sub cultural identity, either subjective or objective. Terrorism is effort to create social and politic change through fear and intimidation. Terrorism is the one way which is used by sub cultural terrorist to get dispute between themselves their culture or other sub cultures. So, the relation between religion and terrorism means the terrorism that caused by religion, its teachings, directly or not.

Adam Silverman, in his observation about the tradition and concept of Jihad in Islam and Just War in Christian conclude that both are not teaching the terrorism as to day we found. However, it is not debatable a phenomenon, a lot of terrorism movements in the world were often colored and justified with the religious symbols. The tragedy of September, 11, 2001 was the representative of that movement, and many other tragedies, such as in Afghanistan, Iraq, Sudan, Libya, Indonesia, and Filipina. The doers of those tragedies were accused to the Muslim. Therefore, it seems that Islam is the militant, reactionary and strict religion. It can be analyzed by presenting many fundamental trends in Islamic tradition today, such as *Hizb Al-Tahrir*, *Hizbullah* (Lebanon), *Hammam* (Palestine), *Al-Qaeda* (Afghanistan), *Jama'ah Islamiyyah* (Egypt), Islamic State of Iraq and Syria (Iraq and Syria) and many other which have same mainstream. Bombing, kidnapping and murdering are some of their movement. They stated that their actions in the name of Islam, or Jihad. Starting from this, the term of Islam as the religion of terrorism aroused by the western people, while it has not been ever founded yet the term of terrorism in Islamic tradition. Therefore, the analyses to

say that their movement are not able to be said as the Jihad, even the violence of human right, firstly is understanding the concept of Jihad itself in the Islamic perspective.

B. Jihad: Concept, Tradition and Phenomenon.

Jihad is the term of Arabic language, means “struggle”. In the context of Islamic teachings, it means all kinds of endeavor to gain the better condition in the name of God. The general meaning of that term, particularly related to the context made the term as the debatable material. However, in Western, word Jihad is the synonym of “Holy War” and “Terrorism”. Any meaning given to Jihad will bring to the wrong interpretation about Islam. To understanding the meaning of Jihad in its true context, there are many verses talking about it. The verses are contradictive one and other in a glance, therefore arose the different understanding of Muslim depends on their interpretation. Some conclude that Jihad is offensive, this is the understanding of the doer of terrorism we saw, and the other see Jihad as the defensive movement.

Jihad in the light of fundamentalists is a suggestion to offend and resist the evilness even though it is conducted by violence that harms many people. Or jihad is war. So, it is offensive. Whereas, It is impossible while the God commands to create peaceful condition in the world, so he says that Islam is spread out for *Rohmatan li Al-Alamin*, he instructs in other verse to spread the violence even in the name of religion, Islam that has meaning surrender to the peace and fundamentally, Islam is peace itself.

It is important to be recorded that since fifty years ago, Jihad in its negative meaning, war, violence and terrorism, dominated the discourse and the political world of Islam in this world. From Egypt to Indonesia, the word Jihad is always associated with the radical groups, organization and their movements. In Egypt there is a radical group for *Al-Jihad Al-Islamy* that was known for its success action to murder the president, Anwar Sadat. In Pakistan there is movement of *Al-Jihad Al-Islamy* and its popular movement. In Indonesia, there was Laskar Jihad that was known for its participation in the religion conflict of Ambon.

In the Western world and the world outside Islam generally, Jihad is mostly more founded in its negative meaning than positive one. For some of non Muslim people, even Jihad is identical to the war and violence. Historically, Islam was spread out on peaceful way. Prophet Muhammad introduced Islam in the earliest time to his family,

his companions and the entire people in Arab and he had never forced them to convert Islam. So did Khulafa' Al-Rosyidin, they did the pricing of Islam peacefully.

It is important to understand historical context where the verse took place, Abdullah Yusuf Ali as the translator and the interpreter of Qur'an, claims that the verses of Jihad was revealed in Medina period. At that time, prophet Muhammad and his companion could not defend the hostility from Mecca people, so far they had done effort by isolating themselves to Ethiopia and Medina. In other word, those verses were revealed when violence cannot be defended.

In several cases about terrorism done by Muslim people, for example in Indonesia the actor of terrorism commonly in his every movement used name of religion and ideology to legalize his action. They interpret some verses of Al-Quran and Al-Hadith to be reference. One of this verse is Surah Al-Anfal : 60. Such as the bombing case in Filipina embassy, Jakarta, done by Fathurrahman Al-Ghozi and Amrozi, the bombing of The church HKBP and Santa Anna, Jakarta, done by Agung and Dani, the bombing of Sari club and Pad-dy's café, Denpasar, done by Imam Samudra, Ali Ghufron and Amrozi, and there are still many cases. The actors claimed that those actions were in the name of Islam, *Jihad fi sabilillah*.

According to Abdurrahman Wahid (Gus Dur) there are two kinds of knowledge in Islamic tradition; first is *to know* or *to understand* the first is called *ma'rifat* while the second is *ilm*. Lot of the tragic phenomenon in this world are caused by understanding of human being to differ between both two terms (*to know* or *to understand*). For this, the violence in the name of religion have been being done. Whereas, the violence is permitted when the Moslems chased away from their state (*idza ukhrijuu min diyaarihim*). This principle of Islamic law is not understood well by the fundamentalists. The other reason for terrorism in the name of Islam according to Gus Dur is disappointment and alienation of those fundamentalists for backwardness undergone by Moslems to seeing about the advance and development of western world and its culture in several access. Then, they use the violence to restrict offensively the western penetration and materialism in spite of disability to encounter the effect of western culture on materialism.

C. Terrorism as the Broker of *Al-Maqashid Al-Syar'iyah* and Human Right.

The lying down of Islamic law must be on its purpose (*al maqashid as syar'iyah*); to keep up the interest of human being which consists of *al umur ad dloruriyyah* (*din, nafs, aql, 'irdl, mal*) *Hajjiyat, and Tahsiniyyat*. So is the way of pricing Islamic teaching and performing '*amr ma'ruf nahi munkar*, there are some methods that must be known well to every Muslim. Those methods or ways are gradually on being gentle and wise, good suggestion and dialog or debate. So, not war and terrorism to eliminate the evilness and commanding the goodness. Therefore, the movements done by the fundamentalists are not in concordance with the purpose of the laying down of Islamic teaching and the methods touched by those teachings.

When we are talking about terrorism, we will automatically also talk about violence of human right, because the definition of terrorism as above showed that the terrorism is the phenomenon of violence *al maqashid as syar'iyah*. And we have known that the nucleus of *al maqashid as syar'iyah* to maintain human right.

Thus, there is no terrorism in the name of Islam. However, that is the violence of human right. It is caused by their lack understanding about the concept Jihad in Islam. Because, what is in Islam is called Jihad, and Jihad is not as they understood and they did. Every law given by God, or Islamic law include Jihad has a purpose, the purpose dubbed as *Maqosid Al Syari'ah*, and this general purpose is to keep the interest of human being with keeping their *Dhoruriyyat, Hajjiyat* and *Tahsiniyyat*. While the movement they performed was not reflecting on the purpose of producing Law.

Seen from a historical perspective, the process of development of human rights ideas which subsequently was put into effect universally after the publication of the Universal Declaration of Human Rights on December 10, 1948, the role of religion and religious leaders is neglected. A fair recognition to the limited role of religion is revealed by Franz Magnis Suseno. In one of his writings on human rights in lights of contemporary Catholic theology, Suseno said:

That the idea of human rights did not emerge from the churches, but, on the contrary, originated from the reflections of philosophers and politicians who saw the suffering of society. Suseno also asserts that Catholic churches initially was cool and even attacked the modern idea of human rights, although in 1963 they became much more open. (Franz Magnis Suseno, 2000: 84).

Although there are differences between Islam, Catholicism and other religions, the acceptance of Islam toward human rights did not happen smoothly. Some literature that discusses the relation between Islam and human rights reveals the resistance shown by many scholars well as Muslim states toward human rights. A book written by Ann Elizabeth Mayer and Daniel E. Price, for example, treat the concept of cultural relativism which becomes the basis of rejection by some scholars in Muslim countries toward the idea of the universality of human rights (Ann Elizabeth Mayer, 1999). Using the concept of cultural relativism, human rights is seen to have limitations when applied in a society of Muslim countries which have cultural difference from the pioneers of universal human rights of the Western countries (Daniel E. Price, 1999). Moreover, the West as supposed to dominant in creating and disseminating the idea of human rights is also views to have black record with regard to human rights enforcement compared to Muslim countries which are often viewed severely by the West.

D. Religion and the Problem of Universalism of Human Rights in Islam

Not all Muslim scholars agree with the distinction of human rights ideas based on the concept of cultural relativism. Todung Mulya Lubis regards the distinction of human rights on the basis of cultural universalism and relativism is no longer relevant, particularly after many countries ratified fundamental instruments of human rights published by the United Nations (Todung Mulya Lubis, 2000: 12). A constructive idea on human rights is also promoted by Abdullahi Ahmed an-Na'im. Like Lubis, an-Na'im also argues that human rights is principally a universal idea. At the time of its formulation as universal idea which subsequently became known as Universal Declaration of Human Rights, religion is evidently (consciously) not put as the justifying foundation in order that fundamental ideas of human rights could be used either by religious man or irreligious people (Abdullahi Ahmed an-Na'im, 2008: 115).

Toward the secular nature of universal human rights sparked by the United Nations, instead of rejecting this prominent Muslim thinker of Sudan firmly calls all Muslim to recognize that universal human rights was the product of international consensus. In an-Na'im's view, the Universal Declaration of Human Rights is an important instrument for protecting human dignity and for enhancing human welfare thanks to the universality of moral and political power they have. An-Na'im is of course

aware that his call and constructive views will harvest protests and rejections from some Muslims who remain in their view of cultural relativism.

Being aware of this matter, an-Na'im persistently conducts researches on Islamic law to find a more positive and reconciliatory relation between shari'ah and human rights. Before the publication of *Islam and the Secular State*, in 1990 an-Na'im published *Toward an Islamic Reformation: Civil Liberties, Human Rights and International Law*. In both books, an-Na'im exhibits his arguments from the perspective of Islamic law to strengthen a positive and reconciliatory relation between Islam and human rights. An important conclusion from an-Na'im's thought is that Islam as a religious phenomenon can be used as legitimizing factor of the idea of universal human rights.

An-Na'im's idea is supported by Rhoda E. Howard. Like an-Na'im, Howard also argues that human rights which are developed by the United Nations were a product of secular thought, not based on divine decision. Being aware of the secular nature of human rights ideas, Howard actually does not regard religious legitimacy as an absolute matter (Rhoda E. Howard, 1995). But if it is seen as giving guarantee for the implementation of human rights, religious legitimacy as developed by an-Na'im deserves a high appreciation. In light of the significance of religious aspect of human rights, the views of Joseph Runzo, Nancy M. Martin and Arvind Sharma in their introduction to *Human Rights and Responsibilities in the World Religions* should be given attention:

Religions have too often used to justify the violation of human rights, in part through the hierarchical and selective use of role ethics and the postponement of temporal justice to divine judgment of future karmic consequences. Yet the world religions have also provided a constant voice of critique against the violation of human rights by calling for equity, and universal compassion and love, call which reach far beyond the mere protection of human rights (Joseph Runzo, Nancy M. Martin and Arvind Sharma, 2003: 1).

An important point in the views of Runzo, Martin and Sharma is that how religion in a positive construction –although religion is often misused to justify the violation of human rights- is used as a source of energy for the enforcement of human rights in all aspects. Although human rights have become international regulation, the violation of human rights often takes place in some countries. Among the violation of human rights that should be given attention is the violation of freedom of religion or belief. Freedom

of religion or belief is fundamental human rights which prevail universally and is codified in the international instrument of human rights. In the normative level, since the earlier phase of human rights it has been clear that freedom of religion or belief is a fundamental right, and certainly one of the most fundamental rights. Having emerged since World War II, these rights have been formulated in Article 18 of the Universal Declaration of Human Rights and the International Covenant of Civil and Political Rights.

As one of the most fundamental rights, the implementation of freedom of religion or belief is based on eight norms as follows:

First is internal freedom. Based on this norm, each individual is viewed as having the rights to freedom of thought, conscience, and religion. This norm also recognizes the freedom of each individual to have, adopt, defend or change his religion or belief.

Second is external freedom. This norm recognizes the freedom to express freedom of religion or belief in all aspects of manifestation, such as freedom in teaching, practices, worships and obedience. The manifestation of freedom of religion or belief can be performed either in private or public sphere. Freedom can also be manifested individually or collectively with other.

Third is non-coercion. This norm emphasizes on the existence of individual freedom from any form of coercion in adopting a certain religion or belief. In other words, each individual has freedom to have a religions or belief without being compelled by anybody.

Fourth is nondiscrimination. Based on this norm, state is obliged to respect and ensure that all individuals in its sovereignty and jurisdiction obtain the guarantee of freedom of religion or belief regardless of race, sex, language, religion or belief, political ideologies or other views, national origins, wealth, and birth status.

Fifth is the right of parent and guardian. According to this norm, state is obliged to respect the freedom of legally valid parent and guardian to ensure religious and moral education for their children in accordance with their own belief. State is also obliged to give protection for the rights of each child to freedom of religion or belief according to their own ability.

Sixth is corporate freedom and legal status. An important aspect of freedom of religion or belief particularly in contemporary life is the prevailing rights for religious community to organize themselves or to establish associations.

Seventh is the limit of permissible restrictions on external freedom. The freedom to express a religion or belief is subject to limitation by law with the reason as to protect public safety, order, health, morality and other fundamental rights.

Eighth is non-derogability. State should not reduce the rights to freedom of religion or belief even in emergent situations Tore Lindholm, W. Cole Durham, Jr., Bahia G. Tahzib-Lie, 2004: xxxvii-xxxix).

Indonesia has a solid normative foundation guaranteeing freedom of religion or belief. The Introduction to the 1945 Constitution outlines the *Pancasila*, the first principle of which is “Belief in Almighty God”. This sets out the basis of the Indonesian

state as a state which has a religious characteristic. The Constitution also contains two chapters containing guarantees for freedom of religion, namely Chapter XA on Human Rights, and Chapter XI on Religion. In Chapter XA, Article 28E states that:

1. Each person is free to embrace a religion and to worship according to that religion.
2. Each person has the right to freedom in his or her beliefs, to assert his or her thoughts and views, in accordance with his or her conscience.

The Constitution also states that this right may not be derogated from in any circumstance, although limitations may be put in place by law (*undang-undang*) in order to satisfy just demands based upon considerations of morality, religious values, security, and public order in a democratic society. Article 28I of the Constitution also mandates that each person has the right to be free from discriminatory behavior and has the right to protection from such treatment. In Chapter XI, Article 29 the Constitution maintains that:

1. The State is based on belief in Almighty God.
2. The State guarantees all persons the freedom to embrace his or her own religion and to worship according to that religion and [religious] belief.

Affirming the protection contained in the Constitution, Article 22 of Law No.39/1999 concerning Human Rights repeats the Constitutional guarantees on religious freedom:

1. Everyone has the right to choose his or her religion and to worship according to this religion and [religious] belief.
2. The state guarantees everyone the freedom to choose and practice his or her religion and to worship according to this religion and [religious] belief.

Law No.39/1999 also contains the same provisions in relation to derogations and limitations, but does not permit limitations based upon considerations of religious values. Under Law No.39/1999 limitations may also be placed on the right to freedom of religion by law to guarantee recognition and respect for the basic rights and freedoms of other persons. Each person has the right to protection of human rights and basic freedoms without discrimination.

In addition to the protection provided by the Constitution and Law No.39/1999, Indonesia ratified the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) in 1999 and the International Covenant on Civil and

Political Rights (ICCPR) in 2005. It made no reservations in relation to freedom of religion or belief at the time of ratification or subsequently.

Once Indonesia ratified these two treaties they became national law, and the government was immediately obliged to respect, protect, implement and advance the human rights contained in them. The ICCPR contains specific guarantees in relation to freedom of religion or belief. Article 18 reads:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others, in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
4. The States Parties to the present Covenant respect the liberty of parents and, when applicable, legal guardians, to ensure the religious and moral education of their children in conformity with their own convictions.

As Indonesia has ratified the ICCPR and it immediately became national law, it is important to understand what its legal obligations are, and therefore what constitutes the normative core of the human right to freedom of religion or belief. The ICCPR has certain *core values* that must be protected by governments if freedom of religion or belief (as a universal standard) is to be respected. These core values constitute a set of minimum standards.

Freedom of religion or belief, as codified in legally binding international human rights instruments, applies to every human being in Indonesia's jurisdiction, without exception. Human beings are the *primary holders* and beneficiaries of this right. States, ideally under continual critical scrutiny by informed citizens in each country, are the *primary addressees* burdened with the correlative obligations to respect, protect, and fulfill this right. Beyond the religious freedom provisions of the Universal Declaration of Human Rights and the ICCPR, key elaborations and specifications of the human right to freedom of religion or belief are provided by, among others, the 1981

United Nations Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief. General Comment No. 22 (48) of the United Nations Human Rights Committee provides normative substance to Article 18 of the ICCPR. Relevant regional sources are the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the American Convention on Human Rights (ACHR), and the African Charter on Human and Peoples' Rights (ACHPR).

E. Discourse of Human Rights and Freedom of Religion or Belief in Islam Indonesia

Although having many normative foundations, in fact Indonesia has not yet been free from violation of freedom of religion or belief. Scrutinizing again the above report, violation of freedom of religion or belief is done by state and society. Based on analysis by Imparsial, violations which are done by state against freedom of religion or belief employ two modes. The first mode is that state commits violations indirectly through letting various violent acts done by society occur. In some cases it can be seen that the police let violent acts and do not prevent the actions, therefore suggesting a group of people continue their violent actions as to close worship places or to attack against the belief of other group. As an institution which has the authority to control the security and order in society, the police ought to take actions against the doers of violent acts. But it is very often that the police do the letting as if the act of violations is justified. The act of connivance by the security officers, according to Imparsial, cannot be justified because it means that state do not guarantee and protect the freedom of religion or belief. In the second mode, state violates directly through the formulation and strengthening of various policies which limit and repress freedom of religion or belief.

It is still about violation by state. According to Ghufron Mabururi, this violation is caused by inability of state in taking distance from affairs of religion evolving in society. Freedom of religion or belief is parts of civil and political rights which are categorized as negative rights—different from social, economic and cultural rights which are categorized as positive rights. Positive rights (social, economic, and cultural) can be fulfilled if state takes an active part in promoting these rights (Ghufron Mabururi, 2007: 4).

On the contrary, negative rights can be fulfilled and manifested if state does not interfere too far in religious affairs in society. Mabruhi mentions the existence of the directorate of the surveillance of society belief and religious stream (Direktorat Pengawasan Aliran Kepercayaan Masyarakat dan Keagamaan—Pakem) as an example of state intervention over the affairs of religion and belief. This directorate is under the Grand attorney established on the basis of the letter of decision of General Attorney Number KEP-108/JA/5/1984 on the institution of coordinating team of surveillance of society belief stream. According to Mabruhi, the role of state ought to be limited only in guaranteeing the rights of each individual citizen. In relation to freedom of religion or belief, state according to Mabruhi should do two things: first, it does not create regulations which limit and repress freedom of religion.

Freedom of religion or belief in part of non derogable human rights in any condition and by any person, consisting of: the right to life; the right not to be tortured, the right to individual freedom, the right of religion, the right not to be enslaved, the rights to be respected as individual and equality before the law and the right not to be persecuted on the basis of retrospective law. The protection of these fundamental human rights is regulated in Article 4 the Law Number 39 (1999) on human rights. In its explanation it is stated that what is meant by “in any condition” include the situation of war, armed conflict and/or emergencies. What meant by “any person” is state, government and/or members of society.

The formulation of Article 4 of the above Law can obviously be understood that in Indonesia freedom of religion is guaranteed and protected by the government regulation. Therefore, all forms of unfair and discriminative attitude on the basis of ethnicity, race, color, culture, nation, religion, sex and social status that can result in anguish, misery and social discrepancy should be abolished. Then, the second point to be carried out by state according to Mabruhi is preventing any potential that may lead to disturbances and constraints for each individual to choose and observe his belief in the midst of society.

The violation of freedom of religion or belief by state provides an opportunity for society to conduct the same action. In other words, society also becomes actors who perform violation of freedom of religion or belief after state. But, is violation by society is only caused by an opportunity given by state? Although state may not be neglected,

the internal conditions of society alone as the cause of violation of freedom of religion or belief need to be explored. Is the violation of freedom of religion or belief by society related to the way one group perceives another group? A Study by Fatimah Husein, deserves a special attention to answer the above question (Fatimah Husein, 2005: 29-31).

Categories made by Husein can be used to describe the process of violation of freedom of religion or belief conducted by society. Accordingly, it can be said that the violation of freedom of religion or belief is influenced by the way they perceive other religions or beliefs. Among these two perspectives, the most potential to commit violation is the exclusive perspective. Just asserting the definition of exclusivism from Husein, it is important to quote the explanation of Joseph Runzo about what religious exclusivism is meant; i.e. religious attitude which regards that the only true religion is the religion or belief of his own, while other religions or beliefs are false. Why some people are exclusive, while others inclusive? Is this perspective influenced by religious doctrines? If exclusivism is influenced by religious doctrine and it potentially leads to violation of freedom of religion or belief, can it be said that religion should be responsible for this violation? As series of questions needs to be raised for prejudices and pessimistic attitudes often emerge and question the contribution to the enforcement of freedom of religion or belief.

The discourse on the relation of Islam and human rights finds its fertile soil when the development of Islamic thought in Indonesia –almost a decade after the Konstituante assembly- entered a phase, which Greg Barton calls neo-modernism (Gred Barton, 1995). This phase is an important phase in the history of Islamic intellectualism in Indonesia. Fachry Ali and Bahtiar Effendy have fully recorded the process of proliferation of Islamic thought in this phase through a study entitled *Merambah Jalan Baru Islam: Rekonstruksi Pemikiran Islam Indonesia Masa Orde Baru* (Fachry Ali and Bahtiar Effendy, 1986). One of the important issues –besides democracy- which receives responses from Muslim intellectuals in this stage, according to the research of Masykuri Abdillah, is the issue of human rights. An interesting point, published by Abdillah, is that Muslim intellectual responses to human rights in fact have been much more open than their responses to democracy. Masykuri Abdillah assesses that this difference is normal when considering the affinity between democracy and human

rights in Islam. Compared to democracy, Abdillah asserts, human rights are much easier to recognize since it has similarities in term of language (Masykuri Abdillah, 1995: 34). In Arabic, the term *haqq* has been known earlier and translated into ‘right’, while democracy is not only seen as a new vocabulary, but also seen as coming from the West.

But, more than differences in language, in Islamic intellectual tradition the term *haqq* has been elaborated earlier than the term democracy. Those who are concerned in classical Islamic sciences will find conceptual categories, such as the rights of Allah (*huquq Allah*), the rights of human or the rights of individuals (*huquq al-‘ibad* or *huquq al-nas*), and the common rights of Allah and human (Ozlem Denli Harvey, 2000: 43-44). *Huquq Allah* is all rights and obligations which are ordained through revelation and religious teachings. The rights of Allah can be an obligation in the form of command of rituals. The rights of Allah can also be in the form of various activities that are beneficial for a larger segment of society. Various obligations embodied in the pillars of Islam, such as two sentences of confession (profession of faith), praying, giving alms, fasting in Ramadan, and performing pilgrimage, can be regarded as fulfilling the rights of Allah. Various services which can protect society from destruction and recommending of doing virtues in a wider sense can also be included in the category of the rights of Allah.

F. Conclusion

Individual rights are realm, which clearly asserts –secular or civilian- what exists in their command and consideration. These rights exist in the interest of each individual or group. The same right is general, such as the right to have health, the right to have children, the right to safety. The rights can also be specific, such as the protection of property ownership or the right to conduct commercial transaction in trade.

Common rights originate from the command and teaching of religion or human reason. Examples of common rights of God and humankind can be seen in the obligation of putting into effect ‘*iddah* (waiting period) for divorced women during three times of menstruation in order to observe whether the women are pregnant. The logics is that God (Allah) decides that the genealogy of a person from his father can only be received through valid marriage and the command to observing pregnancy

should be performed for divorced women or widows as a waiting period before she shall be allowed to conduct a new marriage.

In contemporary human rights discourse, Huntington can be regarded as the follower of the adversarial perspective who tends to create a contradiction between Islam and human rights.

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