

Understanding the Hadith on Killing Apostates and Its Relevance to Human Rights

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Keywords: Apostasy, hadith, Religious Freedom, Human Rights	Abstract Freedom of religion is a right guaranteed by religion, state and international law in the context of human rights. In Islam, this principle is reflected in the Qur'an which emphasizes that there is no coercion in religion. The issue then becomes when the Hadith states that an apostate must be killed as narrated by Imam Bukhari, then are these two sources of law contradictory? In this context, it is important to investigate the original meaning of the Hadith and its significance in relation to the issue of human rights that has spread throughout the world. Therefore, this study aims to analyze the understanding of the Hadith on killing apostates and its relevance to human rights. By using qualitative methods and Fazlur Rahman's hermeneutic theory approach known as <i>double movement</i> , this research answers the formulation of the problem: What is the understanding of the Hadith, and how is the correlation between the understanding of the Hadith and freedom of religion in the concept of human rights today? The results and conclusions show that the Hadith of killing apostates is allowed on the condition that the apostate has been fulfilled as an enemy of Islam. In other words, an apostate can be killed when he attacks and fights Islam after embracing Islam and passing the deferred period with an absolute decision to apostatize. Thus, the punishment of being killed can be enforced in accordance with the legal records applicable to the area of the apostate where the implementation is the authority of the imam or local leader.
Kata Kunci: Murtad, hadis, kebebasan beragama, Hak Asasi Manusia	Abstrak Kebebasan beragama adalah hak yang dijamin oleh agama, negara, dan hukum internasional dalam konteks hak asasi manusia. Dalam Islam, prinsip ini tercermin dalam al-Qur'an yang menekankan bahwa tidak ada pemaksaan dalam agama. Kemudian yang menjadi persoalan ketika Hadis menyatakan seorang yang murtad harus dibunuh sebagaimana riwayat Imam Bukhari, lantas apakah kedua sumber hukum ini bertentangan? Dalam konteks ini, penting untuk menyelidiki makna asli dalam Hadis serta signifikansinya terkait dengan isu hak asasi manusia yang telah merambah ke seluruh dunia. Oleh karena itu, penelitian ini bertujuan untuk menganalisis pemahaman hadis membunuh orang murtad dan relevansinya dengan Hak Asasi Manusia. Dengan menggunakan metode kualitatif dan pendekatan teori hermeneutika Fazlur Rahman yang dikenal dengan <i>double movement</i> , penelitian ini menjawab rumusan masalah: bagaimana pemahaman hadis tersebut? dan bagaimana korelasi pemahaman hadis tersebut dengan kebebasan beragama dalam konsep Hak Asasi Manusia di masa sekarang? Hasil dan kesimpulan menunjukkan bahwa Hadis membunuh orang murtad diperbolehkan dengan syarat seseorang yang murtad telah terpenuhi sebagai musuh Islam. Dengan bahasa lain, orang yang murtad dapat dibunuh ketika ia menyerang dan memerangi Islam setelah memeluk Islam dan melewati masa tangguhan dengan keputusan absolut untuk murtad. Dengan demikian, hukuman dibunuh dapat diberlakukan sesuai dengan catatan hukum yang berlaku pada daerah pelaku murtad tersebut di mana pelaksanaannya menjadi wewenang imam atau pemimpin setempat.
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INTRODUCTION

In Islamic teachings, people who leave or convert from their religion are called apostates, and converting in Arabic is called *Riddah*.¹ Etymologically, the term "*riddah*" comes from "*ar-ruju'u ani ash-shay'i ila ghairihi*," which refers to the act of switching from one thing to another. However, in the context of the term, "*riddah*" refers to actions or words that cause a person to leave the religion of Islam and enter disbelief, whether in the form of belief or doubt.² In substance, Islam has great respect for the right of individuals to determine their religious beliefs. This principle is affirmed in the Qur'an, where there are clear statements affirming that there is no compulsion in religion, and no Qur'anic verse commands the use of force or coercion to convert someone to Islam. The Qur'an, which is the primary source of law, provides a strong moral and legal basis, which influences the system of law and morality.³

Therefore, all believers are obliged to follow it and at the same time non-Muslims are also protected by these provisions.⁴ But departing from the basic teaching that Islam is a religion full of peace and does not force someone to embrace it, a polemic arises if in this religion out of Islam. This is because there is a history that a person who leaves Islam then halal blood to be killed, as the Prophet said:

حَدَّثَنَا عُمرُ بْنُ حَفْصٍ حَدَّثَنَا أَبِي حَدَّثَنَا الْأَعْمَشُ عَنْ عَبْدِ اللَّهِ بْنِ مُرَّةَ عَنْ مَسْرُوقٍ عَنْ عَبْدِ اللَّهِ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: لَا يَحِلُّ دَمُ امْرِئٍ مُسْلِمٍ يَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَأَنَّي رَسُولُ اللَّهِ إِلَّا بِأَحَدٍ ثَلَاثٍ النَّفْسِ بِالنَّفْسِ وَالزَّانِي وَالْمَارِقُ مِنَ الدِّينِ التَّارِكُ الْجَمَاعَةَ.⁵

"It has been told to us by 'Umar bin Hafsh, it has been told to us by my father, it has been explained to us by Al A'masy, from 'Abdullah bin Murrah, from Masruq. Masruq quotes 'Abdullah as saying that the Prophet Muhammad had revealed, 'The life of a Muslim who has testified that there is no God but Allah and acknowledged that I am the messenger of Allah should not be taken, except in three circumstances: murder, married adultery, and apostasy (denial) of religion and separating oneself from the Muslim community.'"

This hadith textually says that if someone leaves Islam, it is permissible to shed his blood (killed). This is certainly a big question and polemic in the international world, especially the Islamic world itself. Islam is a religion of peace and tolerance, how can there be a teaching that allows its followers to kill other people?

¹ Muhammad Mutawali, "Hukuman Mati Bagi Orang Yang Murtad Dalam Perspektif Hadis", *Ahkam* 8, no. 2 (2020), h. 398.

² Abu Abdillah, *Manhaj al-Salikin wa Tauhihu al-Fiqh fi al-Din*, (Madinah, Dar al-Waton, 2002), Juz I, h. 244.

³ Yuviandze Bafri Zulliandi, "Makna Pengkhususan Pada QS. Al-Baqarah Ayat 256: Analisis Semiotika Charles Sanders", *Jurnal Semiotika-Q: Kajian Ilmu al-Quran dan Tafsir* 4, no. 1 (2024), h. 347-361.

⁴ Harun Nasution dan Bahtiar Effendy, *Hak Azasi Manusia Dalam Islam*, (Jakarta: Yayasan Obor Indonesia, 1987), h. 123.

⁵ Abu Abdillah Muhammad bin Ismail al-Bukhari, *Shahih al-Bukhari*, (Saudi Arabia, Baitul Afkar ad-Dauliyah, 1998), Jilid IV, h. 1311

Based on the above Hadith, it is known that the blood of a person becomes unlawful if he leaves Islam. So the question arises, is this a serious violation of human rights if applied? Of course, if adjusted or associated with today's legislation, then killing apostates will be an indicator of no freedom of religion and no justice in exercising the right to belief.⁶ Departing from the controversial understanding of the hadith above and various problems if applied, the author is interested in examining how the understanding of the hadith is and how the correlation of the understanding of the hadith with freedom of religion in the concept of Human Rights in the present?

Many previous studies have explored the problem of hadith about killing apostates. Nasirudin Al Ahsani, for example, discusses the traditions of the death penalty for apostates in terms of religious moderation,⁷ Ja'far Assagaf, discusses the contextualization of the law of apostasy in the perspective of the social history of hadith,⁸ Ade Pahrudin, discusses the meaning of the hadith about killing apostates in the perspective of fiqh,⁹ Abd Rahman Dahlan, explains apostasy: between the death penalty and religious freedom,¹⁰ Benny Afwadzi, discusses the hadith "man baddala dīnahū faqtulūhu" with a semiotic analysis of hadith communication,¹¹ and Asrori who describes the study of ma'anil hadith about the death penalty for apostates.¹² Some of these previous studies have not yet correlated the hadith explanation of killing apostates with human rights. Therefore, this study is expected to complement previous studies and can add new insights about killing apostates and its relevance to human rights.

RESEARCH METHODS

This research can be categorized as library research because it uses data sources that are literature, including books, journals, and writings that have or have not been published. This type of research is qualitative, where data is obtained from various literary sources.¹³ In the context of this research, the *Shahih al-Bukhari* book is the primary data source, while the secondary data source involves the Hadith

⁶ Abd. Haris, "Respon Terhadap Penyelesaian Kasus Murtad Dan Kebebasan Beragama Di Indonesia (Membaca Al-Mustashfa Karya Imam Al-Gazali)", *Rausyan Fikr* 18, no. 2 (2022), h. 217-245.

⁷ Nasirudin Al Ahsani, "Moderasi Beragama: Meninjau Hadis-Hadis Hukuman Mati bagi Orang Murtad", *Al-Hikmah: Jurnal Ilmu Dakwah dan Pengembangan Masyarakat* 18, no. 2 (2020).

⁸ Ja'far Assagaf, "Kontekstualisasi Hukum Murtad Dalam Perspektif Sejarah Sosial Hadis", *Ijtihad: Jurnal Wacana Hukum Islam dan Kemanusiaan* 14, no. 1 (2014).

⁹ Ade Pahrudin, "Hadis Tentang Membunuh Orang Murtad Dalam Perspektif Fikih Dan Makna Hadis", *Al-Insaf: Jurnal Ahwal Al Syakhshiyah* 1, no. 2 (2022).

¹⁰ Abd Rahman Dahlan, "Murtad: Antara Hukuman Mati Dan Kebebasan Beragama (Kajian Hadis Dengan Pendekatan Tematik)", *Miqot* 4, no. 2 (2008).

¹¹ Benny Afwadzi, hadis "Man Baddala Dīnahū Faqtulūhu": Telaah Semiotika Komunikasi Hadis", *Esensia* 16, no. 2 (2015).

¹² Asrori Asrori, "Kajian Ma'anil Hadits Tentang Hukuman Mati Bagi Orang Murtad", *Hikmah: Journal of Islamic Studies* 14, no. 2 (2018).

¹³ Wildan Fatoni Yusuf, et al., "Telaah Hadis Kepemimpinan Quraisy Melalui Pendekatan Sosio-Historis", *Al-Shamela: Journal of Quranic and Hadith Studies* 1, no. 2 (2023), h. 200.

commentaries and literature related to the object of research, such as books that discuss human rights in the Islamic context. In addition, the data acquisition method used is the documentation method, which is a common approach often used to collect qualitative data. This approach involves the steps of tracing data obtained from various sources, including notes, books, transcripts, as well as various other types of sources.¹⁴ While the data analysis method used includes the use of the descriptive analytical method.

RESULTS AND DISCUSSION

Hadith Quality Analysis on Killing Apostates

One popular hadith that is often used to justify the *jihad* of killing apostates is as follows;

حَدَّثَنَا عُمَرُ بْنُ حَفْصٍ حَدَّثَنَا أَبِي حَدَّثَنَا الْأَعْمَشُ عَنْ عَبْدِ اللَّهِ بْنِ مُرَّةَ عَنْ مَسْرُوقٍ عَنْ عَبْدِ اللَّهِ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: لَا يَحِلُّ دَمُ امْرِئٍ مُسْلِمٍ يَشْهَدُ أَنْ لَا إِلَهَ إِلَّا اللَّهُ وَأَنَّي رَسُولُ اللَّهِ إِلَّا بِأَحَدٍ ثَلَاثٍ النَّفْسُ بِالنَّفْسِ وَالزَّيْبُ الزَّيْبُ وَالْمَارِقُ مِنَ الدِّينِ التَّارِكُ الْجَمَاعَةَ.¹⁵

"It has been told to us by 'Umar bin Hafsh, it has been told to us by my father, it has been explained to us by Al A'masy, from 'Abdullah bin Murrah, from Masruq. Masruq quotes 'Abdullah as saying that the Prophet Muhammad had revealed, "The life of a Muslim who has testified that there is no God but Allah and acknowledged that I am the messenger of Allah should not be taken, except in three circumstances: murder, married adultery, and apostasy (denial) of the religion and separating oneself from the Muslim community."

The chain of transmission of this Hadith is *muttashil*. In fact, four out of the five traditions under study and the supporting tradition are from the same narrator 'Abdullah ibn Mas'ud and none of them are disconnected. In addition, there is a fourth supporting tradition that although it does not come from 'Abd Allah b. Mas'ud but from 'A'ishah RA, the chain of transmitters in this fourth tradition is proven to show the meeting of teacher and student so that the sanad of the transmitter in this fourth tradition is not broken. Then all the narrators of the hadith from number one to number five are all of good quality and can be held accountable for the credibility of their narration. So the quality of the sanad of this hadith is *shahih* or *shahih al-isnad*.

Regarding the text of this Hadith, it does not contradict the Qur'an, but basically God has prevented the killing of human beings without a legitimate religious reason.¹⁶ In accordance with His clear words in QS. al-Isra' [17]: 33 as follows:

¹⁴ Suharsini Arikunto, *Prosedur Penelitian Prosedur Penelitian Suatu Pendekatan Praktis*, (Jakarta: Bina Aksara, 1989), h. 206.

¹⁵ Abu Abdillah Muhammad bin Ismail al-Bukhari, *Shahih al-Bukhari*, (Saudi Arabia, Baitul Afkar ad-Dauliyah, 1998), Jilid IV, h. 1311

¹⁶ Audina Putri, et al., "Hak Asasi Manusia Dalam Perspektif Islam", *Al-Wasathiyah: Journal of Islamic Studies* 2, no. 2 (2023).

وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ وَمَنْ قُتِلَ مَظْلُومًا فَقَدْ جَعَلْنَا لَوْلِيهِ سُلْطَانًا فَلَا يَسْرِفُ فِي
الْقَتْلِ إِنَّهُ كَانَ مَنْصُورًا

“Dan kamu dilarang membunuh seseorang yang dinyatakan haram oleh Allah, kecuali dalam keadaan yang benar-benar dibutuhkan. Jika seseorang dibunuh secara zalim, maka walinya diberi hak untuk mengambil tindakan, namun dia tidak boleh melebihi tindakan yang diperlukan dalam pembalasan. Sungguh, walinya akan mendapatkan bantuan dan dukungan.”

Based on this expression, the hadith that the author will study becomes a bayan tafsir of the verse, because in the matan of the hadith it is not halal or forbidden to shed the blood of someone who has testified that Allah SWT is their Creator and the Prophet Muhammad is His messenger. In contrast to the reasons that are justified in Islam, one of which is related to apostates who fight against Islam. In line with this, Islam explains that there is no obligation to force someone to accept Islam.¹⁷ What can be killed is not everyone who apostatizes, but with special notes. In QS. al Baqarah [2]: 256 it is written as follows:

لَا إِكْرَاهَ فِي الدِّينِ قَدْ تَبَيَّنَ الرُّشْدُ مِنَ الْغَيِّ فَمَنْ يَكْفُرْ بِالطَّاغُوتِ وَيُؤْمِنِ بِاللَّهِ فَقَدِ اسْتَمْسَكَ بِالْعُرْوَةِ
الْوُثْقَىٰ لَا انْفِصَامَ لَهَا وَاللَّهُ سَمِيعٌ عَلِيمٌ

“There is no compulsion in matters of religion (Islam). Truth has been distinguished from error. Whoever rejects the worship of all that is worshipped besides Allah and believes in Allah, then he has followed a firm path that will never be cut off. Allah is All-Hearing and All-Knowing.”

This verse is interpreted by Ibn Kathir that it is not allowed to force anyone to enter and embrace Islam, because the instructions and evidence of Allah are clear so there is certainly no need to force someone to embrace it.¹⁸ However, the matan of the Hadith does not contradict the Qur'an because one's entry into Islam cannot be forced but from the conviction of each heart, the coercion in religion in the verse is when entering Islam while killing an apostate is when he leaves Islam, namely leaving the truth after he knows it. Based on the above it can be affirmed that the matan of this Hadith does not contradict the Quran. In fact, this Hadith is supported by the Qur'an by the supporting Hadiths number two to five, which have similar texts and themes so that the quality of the Hadith's text is *shahih*. So overall in this study it can be stated that the quality of the Hadith about the blood of the apostate is *shahih*.

¹⁷ Kartika Nur Utami, “Kebebasan Beragama dalam Perspektif al-Qur’an”, *Kalimah: Jurnal Studi Agama Dan Pemikiran Islam* 16, no. 1 (2018). Lihat juga, Eko Zulfikar, et al., “Pengakuan Islam Terhadap Eksistensi Agama Lain: Studi Relevansi Penafsiran Hamka di Indonesia”, *Jurnal Perspektif* 16, no. 1 (2023).

¹⁸ Iqbal Ansari, *Kebebasan Beragama Menurut Buya Hamka Dalam Tafsir al-Azhar Q.S. al-Baqarah Ayat 256*, Skripsi, UIN Sunan Kalijaga Yogyakarta, 2020, h. 3

Definition of Human Rights

John Locke argued that human rights are rights that come from human nature and are given by God directly, so they cannot be revoked by any authority.¹⁹ A. Masyur Efendien can state that human rights are rights that are collective and given by God to all humans as long as they live. According to Darji Darmodihardjo, human rights are basic rights possessed by humans since birth as a gift from God.²⁰ Sidney Hook expressed the view that human rights are basic concepts that are a gift from God given to all individuals. moral demands that encourage humans to pursue their human nature by utilizing the basic freedoms they have.²¹

In the view of the United Nations as contained in the teaching of human rights, human rights are explained as intrinsic or natural rights that exist in humans, and the existence of these rights is very important for human survival. According to Law No. 39/1999 on Human Rights, Article 1, human rights are defined as a set of rights that are an integral part of human nature and existence as a creation of God. These rights are considered a gift that must be respected, recognized, and saved by the government, law, state, and all individuals in order to maintain honor and preserve human integrity.²²

Human Rights in Islam

Islam strongly upholds religious freedom and tolerance, this can be seen where the fact that non-Muslim individuals living among the Islamic community still have the right to reject even Islamic messages.²³ This goes back to the perfection of Islamic teachings regarding human rights where Islam teaches its people to care about the right to life of other people and the right to respect fellow human beings.²⁴

A unique characteristic of the Islamic concept of human rights is that no one can condone the violation of individual rights, even if these rights have been bestowed by Allah Himself. These rights remain important and cannot be ignored, and all humans are responsible for safeguarding them. Allah will not use His power to forgive violators of these rights in the Hereafter. The sanctity of human rights in Islam is far greater than ritual worship. While a person may be forgiven by Allah for not fulfilling his obligations towards Him, this does not apply in the case of not fulfilling his obligations towards his fellow human beings.²⁵

¹⁹ Daniel Alfaruqi, "Korelasi Hak Asasi Manusia dan Hukum Islam", *Jurnal Sosial dan Budaya Syar'i* 4, no. 1 (2017), h. 59.

²⁰ Yahya Ahmad Zen, "Konsep Hak Asas Manusia Dalam Islam (Mengungkap Korelasi Antara Islam Dengan HAM)", *Jurnal Ilmu Hukum* 1, no. 1 (2015), h. 101.

²¹ Dahlia H. Mou, "Hak Asasi Manusia (HAM) Dalam Islam," *Jurnal as-Syir'ah* 1, no. 1 (2002), h. 2.

²² Alfaruqi, *Korelasi Hak...*, h. 59.

²³ Robert Spencher, *Islam Unveiled*, Terj. Mun'im A. Sirry, (Jakarta: Paramadina, 2003), h. 60

²⁴ Syaikat Hussain, *Human Rights in Islam*, Tej. Abdul Rochim C.N (Jakarta: Gema Insani Press, 1996), h. 60.

²⁵ Hussain, *Human Rights...*, h. 55-57.

Human rights in Islam can be categorized into two main groups. First, there are the basic human rights that Islam stipulates for every individual, independent of any situation, status or condition they may have. Secondly, there are human rights granted by Islam to different groups of people, which can apply in a variety of situational contexts, social status, and other factors in their lives. Historically, human rights in the Islamic world began with the adoption of the Kairo Declaration, the result of which was that human rights are based on the view of *tawhid*. Thus, everything, including individual rights, comes from God and will return to him. Thus, human rights in Islam are eternal rights. The source of Islamic human rights comes from the Qur'an and sunnah.

The history of human rights in the Islamic context is a concept that emerged and developed along with the decline of Islamic law in the 7th century AD. The Quran and as-Sunnah are considered the two most fundamental sources in this framework. They contain various views on human rights, although some of them take the form of values and regulations that require further development to become more perfect laws. This is in keeping with the nature of the laws contained in the Quran and sunnah, which are sometimes presented in detail and sometimes in the form of general principles that require further explanation.

Scholars' Opinions on Human Rights

1. Ahmed al-Na'im

Human rights are a challenge for Muslims, as they are one of the westernized cultures that can undermine Islamic values. So the solution to this problem is to seek cooperation and peace and let it cross religious and cultural boundaries, one of the Muslim thinkers who thinks so is Ahmed al-Na'im. According to Ahmed al-Na'im, in facing modern problems such as human rights, the Islamic world is very difficult if it has to take a traditional and closed attitude so that Islam needs to make cross cultural contacts, this is based on conditions in the world where the economy and politics are increasingly modern so that for him there is no religion in the world that is monolithic.²⁶

In its development, human rights have become a necessity that cannot be ignored, so the best attitude to take is to have your own perspective on it and of course it is different from the perspective of sharia because it cannot be denied that some cases of human rights and sharia seem to experience certain tensions. Therefore, the need for a special assessment that becomes a way out and a meeting point between human rights and sharia. Therefore, for al-Naim and other liberal Muslim thinkers, they argue that there is a need for an understanding of sharia that emphasizes the original meaning which will later become a way of *ijtihad* in order to

²⁶ Mohamad Hudaeri, "Islam dan Hak Asasi Manusia: Respon Intelektual Muslim", *Jurnal Keagamaan dan Kemasyarakatan* 24, no. 3 (2007), h. 378.

be fair to modern demands. In other words, they think that rather than just sticking to a collection of existing laws that result in a stagnant view of Islam regarding modern problems, it would be better to do *ijtihad* on it.

2. Abu A'la al-Maududi

In contrast to the liberal view, conservative Muslim thinkers reject the Western universal concept of human rights, as expressed by figures such as Abu A'la al-Maududi. He rejects the universal concept of human rights because he believes that the concept of human rights brought by the West is not all acceptable to countries outside it. So then al-Maududi reformulated the rights within the framework of Islam. The formulation carried out by al-Maududi focused on the alignment of *sharia* with respect to human rights, he tried to equate the concept of human rights with what is in *sharia*. Thus, for him the concept of human rights was not superior to Islamic *sharia*.

But he did not see the aspect that there might be tension between the two. It is not uncommon for the value of human rights to be in conflict with the Islamic *Shari'a*. Hence, the concept of human rights seems to have been distorted. The concept of human rights formulated by al-Maududi slightly ignores the concepts of universal human rights where universally there should be recognition of equal rights. However, al-Maududi in his formulation only opposes differences in rights in the aspects of race, color, nation or language and does not reach the aspects of gender and religion so that his formulation is considered to fail in exploring the rights that are crucial.²⁷

3. Mohammad Fathi Osman

In social life that Muslims actually respect human rights, we can live in harmony with members of other religious communities, because this world is inhabited by various religious communities, not just Muslims. Therefore, Muslims should not see or see the background of differences in religious beliefs, because efforts to prosper this world require wisdom in it by respecting differences in beliefs in the social life of the community. So, humans also have a universal responsibility to maintain individual rights and social rights from the moment of their birth. However, in the Islamic context, there are still problems related to human rights violations. Therefore, Fathi Osman identifies a number of issues related to human rights in Islam:²⁸

a. Main Source

The view that often arises is that the main problem is related to the Muslim belief that the *Qur'an* and *Hadith* are the main sources of law in Islam which are considered absolute. This belief sometimes leads to the rejection of positive laws that have been made by humans. Moreover, when there is a discrepancy between the

²⁷ Hudaeri, "Islam dan Hak Asasi Manusia...", h. 378.

²⁸ Nurrida Dhestiana, "Islam dan Hak Asasi Manusia (HAM) Dalam Perspektif Fathi Osman", *Jurnal al-Yasini* 3, no. 2 (2018), h. 88-91.

man-made positive law and the contradictory sharia law, there will be a conflict between the two. Problems arise when these two types of law clash or are incompatible. The situation becomes chaotic if the man-made law contradicts the sharia law that they adhere to, because their commitment to always obey the Qur'an is very binding.

b. Terminology and semantics

In this context, Muslims have internalized the rules contained in the Qur'an, which are considered divine gifts. Therefore, everything contained therein is regarded as divine revelation that cannot change. Consequently, these rules are absolute and unchangeable, and this is considered an unshakable attitude. This issue creates tension in the Western perspective, which has a different view.

c. The concept of change

All creation, be it individual or collective, is constantly changing, both in terms of material and human life. Therefore, the Qur'an conveys fixed principles to answer the challenges of change in human life. But, according to Osman, the problem arises when Muslims are confronted with modernity introduced by Western countries.

d. Formulation and codification

Osman also notes that Muslims face another challenge, which is the technical aspect of drafting and explaining modern law. They often apply the legal heritage of previous generations without distinguishing between legal science and the law itself. These problems include terminology and difficulties in adapting to change. Many Muslims have come to feel that existing laws are sufficient to apply in a variety of diverse human contexts, so that when an issue arises, all sides can claim to be correct.²⁹

e. Equality and others

Muslims are explicitly commanded to be fair to all individuals, including non Muslims. Thus, Osman argues that Muslim societies should regard human rights as a legal principle with universal applicability, which applies to all individuals regardless of their differences.

f. Equation for women

Therefore, Osman argues that Muslim societies should better understand that men and women have equal and complementary roles, so that neither is considered superior to the other. For Osman, both men and women have equal status and need to work together to support each other, as well as share responsibility in carrying out their obligations to society as a whole.³⁰

²⁹ Dhestiana, "Islam Dan Hak Asasi Manusia...", h. 89-90.

³⁰ Dhestiana, "Islam Dan Hak Asasi Manusia...", h. 91.

Understanding the Hadith on Killing Apostates

Regarding the explanation of the hadith on killing apostates, there are several scholars who have opinions on apostasy, namely the Hanafi, Maliki, Shafi'i and Hanbali scholars. Some of these scholars say that the apostate is given a chance or given time for three days so that the individual who has apostatized can repent and return to Islam by providing an understanding of religion to him, especially providing light on the issue that caused his apostasy. If he repents to Allah and if he returns to Islam, his repentance will be accepted. But if he persists in his apostasy, then the death penalty will be imposed.³¹

In *al-Mughni*, it is stated that the scholars are unanimously agreed that it is obligatory to kill apostates. This was narrated by Abu Bakr, 'Umar, 'Uthman, 'Ali, Abu Musa, Ibn 'Abbas, Khalid, Muadz and others, and no one rejected it. Abu al-Qasim al Kharqi states that whoever apostatizes from Islam, be it a man or a woman who has reason and has reached the age of maturity, then he will be summoned and given encouragement to return to Islam. If he does not want to return to Islam, then the death penalty will be imposed. In the context of this issue, there are five issues that need to be considered, namely;

First, when it comes to the obligation of killing, there is no difference between men and women. Most scholars are of the opinion that the word "Man" in the Hadith is general and includes both men and women.³² In the narration given by Darul Quthni, there is a story about a woman known by the nickname Umm Marwan. This woman was reported to have left Islam and apostatized. This case then came to the attention of the Prophet Muhammad. He instructed that she be given the opportunity to repent. If she decided to repent, her repentance would be accepted. However, if she did not repent, then she would be subject to the same punishment as that applied to apostate men, because as a mukallaf, she had replaced her true religion with a false one. However, the Prophet (peace be upon him) forbade the killing of women, meaning that the Prophet (peace be upon him) forbade the killing of women with the description of killing without reason, he said this when a woman who was killed was a disbeliever. Therefore, the Prophet had forbidden the people who were sent at that time to Ibn Abi Haqiq to kill the women among whom there was no apostasy.

Secondly, apostasy cannot be recognized unless it is committed by a person who is capable of reasoning, because a reasonable person is capable of reasoning, so his talk of apostasy is valid. Ibn Munzir said: The scholars whose names we have memorized are unanimously agreed that if a madman apostatizes in a state of insanity, he is still a Muslim as he was before. If he kills someone intentionally, then

³¹ Ali Geno Berutu, *Hukuman Mati Orang Yang Murtad*, Tesis, Jakarta, Universitas Islam Negeri Syarif Hidayatullah, 2016, h. 12

³² Muhammad bin Ismail al-Amir ash-Shan'ani, *Subulus Salam*, (Jakarta Timur: Darus Sunnah, 2016), Jilid III, h. 306

the guardian of the person killed demands the blood money, then he has to pay the blood money.³³

Thirdly, the majority of scholars, including 'Umar, 'Ali, Malik, Ishaq, Al Auza'i, Ats-Tsauri, as well as scholars based on rational considerations, consider that an apostate individual will not be sentenced to death except after three requests for repentance. This view is also one of the two views expressed by Imam Shafi'i. The majority of scholars are of the view that a person who apostatizes should not be killed immediately before repenting. This is based on qiyas in the hope that the person may repent. However, if he persists in his apostasy then he should be killed.³⁴

Another narration says that he called him for twenty nights, then Muadz came and called him but he refused to come, so he struck him on the back of the neck. If the time for repentance is fixed, it is three days, narrated from 'Umar, and this was also the view of Maalik, Ishaq and other scholars. According to Ibn Qudamah, if the apostasy is due to a doubt, it does not go away, so he must wait until he comes to his senses. But it is preferable to wait for three days, because this is a small amount of time, and at that time he should be made to feel uneasy during the time when he is asked to repent. Rather he should be imprisoned, as 'Umar said: Do you not keep him in prison and feed him bread every day? Perhaps his heart will melt and he will return to Islam.

Fourthly, if he does not repent to Allah then he will be executed, as explained above. This is the general view held by the fuqaha. The apostate is to be put to death by the sword, as the sword is the instrument used to execute the death penalty, and not by burning. There is a report from Abu Bakr RA that he ordered the burning of apostates, and a man named Khalid did this to apostates. However, the former view is preferable, as the Prophet (peace and blessings of Allaah be upon him) said: "Allaah emphasizes the obligation to act with kindness in all matters, so that if it is necessary to kill, do so in a proper manner." (Sura Allaah, may Allaah be pleased with him).

Fifthly, the words of al-Kharqi mean that if an apostate repents, his repentance is accepted before he is killed. Whether he is a zindiq who takes refuge in kufr or otherwise. This opinion is according to ash-Shafi'i and al-Anbari.³⁵ The contextual understanding confirms that in Islam, freedom of religion is guaranteed, as mentioned in the Qur'an surah al-Baqarah verse 256. Therefore, it is understood that the meaning of killing in the hadith means killing any loopholes that can lead someone to a wrong understanding of Islam by showing positive values in Islam.³⁶

As for the background of the hadith about the punishment for killing apostates, there is one specific reason for the hadith that has a similar wording and chain of

³³ Ibnu Qudamah, *Al-Mughni*, Terj. Muhiddin Masridah dkk (Jakarta: Pustaka Azzam, 2013), h. 2-6.

³⁴ Abu Muhammad bin Husain bin Mas'ud al-Farra, *Syarh as-Sunnah*, (Jakarta: Pustaka Azzam, 2013), Jilid IX, h. 595.

³⁵ Ibnu Qudamah, *Al-Mughni...*, h. 9-10.

³⁶ Munawir, *Yang Tetap Dan Yang Berubah Dalam Hadis Nabi Muhammad Saw*, (Purwokerto: STAIN Press, 2018), h. 182.

transmission, namely the hadith reported by Imam Muslim about the punishment for killing apostates. Furthermore, the Hadīth was revealed against the backdrop of an incident where a person who left Islam and then did harm to Islam or Muslims. This is known in the case of a group of people from the tribe of 'Ukul who embraced Islam and moved to Medina, but they felt that Medina was not a suitable place for them to live. Therefore, the Prophet directed them to settle in a location where there were camels owned by the government, so that they could utilize the camels. But then they killed the guard and stole the camel, hearing this incident the Prophet ordered to chase them down and kill them.³⁷

Another incident where the Prophet sent Muadz bin Jabal to Yemen and on his way, Muadz met a person who was previously a Jew, then converted to Islam, and then apostatized again. The man was asked to repent over a period of twenty days but he refused, so he was killed. Yet on another occasion the Prophet spared an apostate on the grounds that he should not have converted to Islam and had no desire to antagonize Islam.³⁸

Based on the explanation above, it can be concluded that the understanding of this Hadīth is that it is permissible to kill apostates when they leave Islam and become enemies of Islam or do injustice by attacking Muslims. And as according to some madhhabs, if the apostate has fulfilled the conditions then the punishment must be enforced, whereas if he returns to Islam after a period of reflection then he is free from punishment.

The Relevance of the Hadith on Killing Apostates to Human Rights

The Hadith of killing apostates is understood that an apostate whose conditions are met, such as attacking Islam after embracing Islam and passing the deferred period with the decision to apostatize, then this is clearly the punishment, namely being killed, which is the authority of the imam or leader. Therefore, the leader in a region is very important, as according to the opinion of the scholars that the authorized in deciding someone who is guilty is a leader including the matter of an apostate. The reason is that if the one who punishes is not a leader then it will get worse.³⁹

Another important point is the laws that are enforced in the country. If it is based on Islamic laws, then any punishment prescribed in Islam can be applied. But on the contrary, if the applicable law is not based on Islamic law, it will become a problem and will even cause many divisions which will certainly harm Muslims. By looking at the conditions at the time of the Prophet Muhammad Saw until the time of the companions where the wheels of government were run on the basis of Islamic law

³⁷ Firman Tongke, *Hukuman Mati Orang Murtad Dalam Hadis*, Skripsi, UIN Alauddin Makassar, 2015, h. 109.

³⁸ Tongke, *Hukuman Mati...*, h. 107-108.

³⁹ Ibnu Qudamah, *Al-Mughni...*, h. 15.

and even the state or government that was run was independent and free which could carry out its own policies without the need to obey or think about other nations.⁴⁰ So, the application of the punishment of killing on apostates is valid and does not cause a big polemic related to other nations.

Dengan demikian dapat dipahami bahwa pemahaman hukuman bunuh bagi orang murtad dapat dilakukan hanya dengan catatan seseorang tersebut hidup pada ruang lingkup wilayah atau negara yang di dalamnya berdiri atas dasar hukum Islam. Poin penting lainnya adalah seseorang tersebut terbukti melakukan penyerangan terhadap Islam setelah menjadi murtad.

This is not the case in the modern era, where nation states with governments ranging up to the liberal system have begun to pay attention to human rights.⁴¹ So, something like killing people for converting to another religion is a sensitive matter. Moreover, modern countries have treaties and cooperation with other countries so that this will trigger something bad and can even lead to war.⁴² Therefore, an understanding of the Hadith on killing apostates is quite relevant in light of the fact that individual freedom is a right for everyone.

Thus, it can be understood that the understanding of the death penalty for apostates can be carried out only if the person lives in the scope of a region or country in which Islamic law is established.⁴³ Another important point is that the person is proven to have attacked Islam after becoming an apostate.⁴⁴ In the sense that the person not only violates the rights of Allah SWT, but also has done injustice or criminal value, one of which causes inter-religious riots so that someone who meets these conditions can be enforced by the death penalty against him. However, if someone apostatizes and does not commit injustice to Islam or Muslims, especially in an area where Islam is a minority, then the punishment for killing is canceled. This is because his departure from Islam becomes his right to freedom in that country and the need to obey the applicable punishment.

CONCLUSIONS

Drawing on what has been discussed previously, the following conclusions can be drawn: *First*, the Hadith under study permits the killing of an apostate if he becomes an enemy and shares information about the strength of Islam with the

⁴⁰ Wahbah al-Zuhaili, *Fiqh Islam Wa Adilatuhu*, Terj. Abdul Hayyie al-Kattani, (Jakarta: Gema Insani, 2011), h. 417-419.

⁴¹ Ramon Kaban, "Pandangan Indonesia Terhadap Hak Asasi Manusia Di Bidang Politik Ditinjau Darj Uud 1945 Setelah Amandemen", *Perspektif* 9, no. 2 (2004).

⁴² A. Singgih Basuki, "Kebebasan Beragama Dalam Masyarakat (Studi Tentang Pindah Agama Dan Konsekuensinya Menurut Pemikir Muslim Kontemporer)", *Religi: Jurnal Studi Agama-Agama* 9, no. 1 (2014).

⁴³ Muhammad Muhammad, *Hukuman Mati Bagi Pelaku Murtad dalam Perspektif Tafsir Al-Misbah, Tesis*, Institut PTIQ Jakarta, 2020.

⁴⁴ Mahdalena Nasrun, et al., "Egacy of Apostates", *IJoMaFiM: Indonesian Journal of Maqasid and Fiqh Muqaran* 2, no. 2 (2023).

enemy. So it is not generalized to all apostates. *Secondly*, the understanding of the Hadith on killing apostates has relevance to the enforcement of human rights, in that it does not contradict the issue of religious freedom. This is because the application of the law against the apostate, if accompanied by his hostility towards Islam, makes killing permissible because of his apostasy. It is possible that this type of punishment may differ depending on the level of unrest or hostility that he incites.

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