



## Human rights in the perspective of Islam and the 1945 constitution post-amendment

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### ABSTRACT

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#### Keywords

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The purpose of the study on the title of this paper is to understand how the concept of Human Rights in Islam and the 1945 Constitution post-amendment is. The research method employed is library research. In this study, the author utilizes a juridical approach and a normative theological approach. The data processing and analysis involve a descriptive-analytical method, used to analyze the concept of Human Rights by presenting data to draw conclusions. The historical analysis method is employed to analyze the background of the emergence of Human Rights material in Islam and the 1945 Constitution, while the concept analysis method is used to examine and compare the preceding concepts of Human Rights. The research findings indicate that the concept of Human Rights in Islam and the 1945 Constitution post-amendment is consistent in considering justice as a fundamental human need since the inception of Islam. The core content of Human Rights material in the 1945 Constitution post-amendment includes the right to religious belief in accordance with the principle of the One and Only God, the right to life and the preservation of life, the right to education, information, and freedom of expression, the right to continue one's lineage (family rights), the right to employment and social security, the right to the protection of cultural assets, and the right to justice and peace. This means that Human Rights in Islam and the 1945 Constitution post-amendment, based on the author's research, both aim to protect fundamental aspects such as religion, soul, intellect, lineage, and property

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### Introduction

Human Rights has always been an intriguing issue to discuss, evident in its evolution as a topic in presidential debates. This underscores the significance of Human Rights, demanding attention from the government. Throughout its enforcement, Human Rights often faces betrayal through the subversion of existing value systems. The demands for justice, equal rights, freedom, and peace are non-negotiable, reflecting the consequences of societal unrest that rejects any form of deviation.

The interpretation of rights that serves as the foundation in discussions about human rights carries a broad and nuanced meaning, combining moral and political dimensions. From its English

counterpart, the conception of rights cannot be translated with a single meaning into Indonesian. Within the meaning of rights, various interpretations emerge, such as privilege, immunity, claims, entitlement, power, and expectation (Ani W; 2015, 15).

Human Rights are fundamental rights inherent in every individual, allowing them to live with full dignity. In Islam, human rights are considered a divine gift from God. (Kurniati; Based on this, human rights in Islam are of a divine nature, aiming for and deriving from God. Therefore, all actions undertaken by humans, driven by their free will, must be anchored in the framework of justice, equality, and love.

According to Mahmud Syaltut, Sharia is a set of rules created by Allah for humans to follow in governing their relationships with God, fellow Muslims or non-Muslims, nature, and all aspects of life. As a political product, the 1945 Constitution also affirms this perspective. The assurance of the importance of protecting and upholding the values of human rights, especially those of a fundamental or essential nature (Daruriyyat), is considered crucial and necessary, particularly within the framework of the 1945 Constitution as the constitution. In human rights law, the rights holder is an individual, while the duty bearer is the state. The state has three general obligations related to Human Rights, namely the obligation to respect, protect, and fulfill. Respectively, these obligations entail respecting individual rights, protecting them, and ensuring their fulfillment. On the other hand, individuals are bound by the obligation not to interfere with the Human Rights of other individuals.

The state's obligation to respect Human Rights is violated when it engages in actions (commission) that should be passive or refrains from preventing the enjoyment of rights by individuals. The state is also said to violate Human Rights when it engages in omission if it fails to protect its citizens from third parties or fulfill their Human Rights. Therefore, the active role of both the community and the state will be the primary driver of enforcing Human Rights.

## **Method**

The research method employed in this paper is library research, focusing on the comparison of concepts. It will be comprehensively analyzed in connection with primary, secondary, and tertiary legal materials derived from documentation such as books, documents, magazines, journals, archives, and other relevant sources. The approach utilizes both juridical and normative theological or Sharia perspectives, with data sources drawn from the interpretation of the Quran and the 1945 Constitution. Data collection employs documentation, and the processing and analysis utilize the content analysis method to scrutinize the researched data. Consequently, the conclusions or analytical results are expected to contribute to theoretical frameworks. Additionally, historical approach analysis and conceptual approach methods are also employed.

## Result and Discussion

### *Human Rights*

#### *Fundamental Concept of Human Rights in Islam*

Islam is a religion that upholds the value of humanity, guided by the Quran and Hadith. Therefore, discussions on the concept of human rights in Islam should always be anchored in these two sources. Human rights are inherent in every individual, making them complete human beings. In Kurniati's perspective, human rights in Islam are derived from Allah. She categorizes the foundations of the implementation of human rights in Sharia into three aspects: the sovereignty of God, humans as stewards and managers of nature. (Kurniati; 2000, 75-88)

Sovereignty of God means that no one can limit humans except Allah. He is the Most High, the source of everything in the heavens and on earth. No one is superior to another based on anything other than their piety. Human as a steward implies human leadership; human leadership on Earth will determine the direction of human civilization, especially Islamic civilization. Human as a manager of nature means that humans, as leaders in manifesting their stewardship duties, are obligated to manage the earth wisely so that a clean and prosperous earth can be realized.

In contemporary times, various perspectives have emerged regarding the study of Human Rights. Therefore, examining the connection between Islam and the study of human rights will lead to diverse interpretations, creating what seems to be a serious debate. According to Suprianto Abdi, there are at least three types of views on the relationship between Islam and human rights, proposed by both Western and Muslim thinkers:

- a. The first view asserts that Islam is not compatible with the ideas and concepts of modern human rights;
- b. The second view states that Islam accepts the humanitarian spirit of modern human rights but rejects its secular foundation by replacing it with an Islamic foundation;
- c. The third view declares that modern human rights are a universal human heritage, and Islam should provide a strong normative and philosophical foundation for them. (Ambo Asse; 2012, 55)

The first perspective is grounded in assumptions of essentialism and cultural relativism, while the second perspective is known for the Islamization movement towards human rights. The third perspective, however, advocates that Islam should provide a normative and philosophical foundation for the universal human heritage of modern human rights concepts.

The term 'human rights' cannot be directly found in the Quran or hadith in Islam. However, the word 'right' appears approximately 287 times in various forms, with diverse meanings such as truth, authority, ownership, and the power to do something that must be protected by law and the

rights of others. The term 'right' with the meaning of truth can be found in Surah Al-Baqarah/2:174:

إِنَّ الَّذِينَ يَكْتُمُونَ مَا أَنْزَلَ اللَّهُ مِنَ الْكِتَابِ وَيَشْتَرُونَ بِهِ ثَمَنًا قَلِيلًا ۖ أُولَٰئِكَ مَا يَأْكُلُونَ فِي بُطُونِهِمْ إِلَّا النَّارَ وَلَا يُكَلِّمُهُمُ اللَّهُ يَوْمَ الْقِيَامَةِ وَلَا يُزَكِّيهِمْ وَلَهُمْ عَذَابٌ أَلِيمٌ

Meaning:

*"The truth is from your Lord, so never be among the doubters".* (Ministry of Religious Affairs of the Republic of Indonesia; 2012, 26)

Based on the above verse, it can be understood that 'right' is a truth originating from God bestowed upon humanity, which must be believed without any doubt. Furthermore, a 'right' also signifies something fundamental, inherent from birth, and perpetually protected by God. Hence, according to the Quran, humans hold a significant position on Earth. They are granted privileges and honor surpassing other creatures. Humans are empowered to reside on Earth for a predetermined time set by Allah, and they are entrusted with managing Earth's resources, organizing, and leading their lives in accordance with Allah's law.

Thus, human rights in Islam are part of the human heritage based on strong normative and philosophical values derived from the Quran and hadith. This forms the basis that every human possesses inherent fundamental rights from birth, known as natural rights. Conversely, Islam dictates that every individual has fundamental and intrinsic duties, acknowledging the basic rights of others while respecting and honoring them (Ambo Asse, 60).

#### *Principles of Human Rights in Islam*

According to Harun Nasution, the foundations and principles are essential guidelines for Muslims in 'facing the developments of the times in organizing Islamic society in accordance with the demands of the era' (Harun Nasution; 1984, 6). Masdar F. Mas'udi identifies five principles of human rights derived from the concept of daruriah alkhams, which can be outlined as follows (Masdar F. Mas'udi; 2000, 66):

##### a. Freedom of Religion/Belief

In the teachings of Islam, freedom is considered a Human Right, including the freedom to practice one's religion according to one's belief. Therefore, Islam strongly prohibits coercion on others to adopt Islamic teachings, as emphasized in Surah Al-Baqarah/2:256:

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

Meaning:

*"There is no compulsion in religion; truly the right way has become clearly distinct from error.*

*Therefore, whoever disbelieves in Taghut and believes in Allah has indeed laid hold on the firmest handle, which will not break off. And Allah is All-Hearing, All-Knowing". (Ministry of Religious Affairs of the Republic of Indonesia, 42)*

When dividing religious freedom, several forms can be identified: First, there is no compulsion to embrace a specific religion or belief, or coercion to abandon one's faith. Second, Islam grants non-Muslims the authority to exercise their rights and responsibilities, as long as it does not contradict Islamic law. Third, Islam respects the dignity of the people of the book, allowing them the freedom to engage in debates and exchange ideas within the ethical boundaries of debate.

Islam teaches tolerance among followers of different religions, reflected in the prohibition of insulting the gods of other religions (Q.S. Al-An'am/6; 108), even though such actions are considered polytheism in Islam. Despite recognizing harmony and tolerance in Islam, it is limited to the realm of social interactions (muamalah) and not in the realm of beliefs (aqidah). This is emphasized in Surah Yunus/10:41:

وَإِنْ كَذَّبُوكَ فَقُلْ إِنِّي عَمَلِي وَإِنَّكُمْ عَمَلُكُمْ أَنْتُمْ بَرِيءُونَ مِمَّا أَعْمَلُ وَإِنِّي أَنَا بَرِيءٌ مِمَّا تَعْمَلُونَ

Meaning:

*"For me is my work, and for you is your work. You are clear of what I do, and I am clear of what you do". (Ministry of Religious Affairs of the Republic of Indonesia, 213)*

Based on the above verse, it is evident that since its inception through His Messenger Muhammad, Islam has portrayed itself as a religion capable of respecting differences, regardless of religious, ethnic, or racial distinctions.

#### b. Right to Protection and Preservation of Life

In Islamic teachings, the right to life is one of the most fundamental aspects for human beings. The loss of this right can threaten human existence on Earth, leading to a forfeiture of their humanity. Due to the immense value of life, any violation of this right will face severe sanctions. This is emphasized by the verse in Surah Al-Maidah/5:32:

مَنْ أَجَلٍ ذَلِكَ كَتَبْنَا عَلَى بَنِي إِسْرَائِيلَ أَنَّهُ مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا وَمَنْ أَحْيَاهَا فَكَأَنَّمَا أَحْيَا النَّاسَ جَمِيعًا وَلَقَدْ جَاءَتْهُمْ رُسُلُنَا بِالْبَيِّنَاتِ ثُمَّ إِنَّ كَثِيرًا مِّنْهُمْ بَعَدَ ذَلِكَ فِي الْأَرْضِ لَمُسْرِفُونَ

Meaning:

*"Whoever kills a person, not in retaliation for a person killed, nor for causing corruption in the land, it is as if he has killed all mankind. And whoever saves one life, it is as if he has saved all mankind. Our messengers had already come to them with clear proofs, but many of them thereafter commit excesses in the land". (Ministry of Religious Affairs of the Republic of Indonesia, 113)*

Thus, Islam places a significant emphasis on life, considering the loss of life as tantamount to the loss of humanity's activities.

c. Right to Protection of Reason

In Islamic teachings, the role of reason is one of the crucial aspects of life. This is because the existence of reason is a prerequisite for considering someone as human. Our humanity is manifested through our reason – the curiosity to explore, the ability to judge, and the capability to engage in legal activities. Therefore, it is essential to avoid anything that could weaken reason, whether in the form of substances or objects. Thus, the vision of promoting good and preventing evil can be upheld.

d. Right to Protection of Property

In Islamic teachings, ownership of all worldly possessions is considered temporary rather than eternal. Therefore, in Islam, ownership or wealth is positioned as a trust from God. Consequently, all forms of wealth, including how they are acquired and owned, must adhere to Sharia guidance. This is emphasized in Surah Al-Baqarah/2:188:

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْلُوا بِهَا إِلَى الْحُكَّامِ لِتَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ

Meaning:

"Do not consume one another's wealth unjustly or send it [in bribery] to the rulers in order that [they might aid] you [to] consume a portion of the wealth of the people in sin, while you know [it is unlawful]." (Ministry of Religious Affairs of the Republic of Indonesia, 29)

Based on the above verse, we are advised not to acquire or possess wealth unjustly. Therefore, wealth ownership in Islam must align with religious guidance to achieve goodness and benefit in life.

e. Right to Preservation of Descendants

In Islam, the preservation of descendants is considered highly significant. This is because having descendants allows the continuation of human struggle on Earth as stewards, contributing to its prosperity. As human beings, creatures honored by God and endowed with reason, individuals are given guidelines by God in the process of propagating their descendants. This distinguishes humans from animals. One of the conditions for propagating human descendants, particularly in Islam, is through marriage.

Marriage is the physical and spiritual bond between a man and a woman as husband and wife, with the aim of forming a happy family based on the belief in the Almighty God (Indonesian Law; 1974). Therefore, relationships between spouses outside of marriage are prohibited. This is reinforced by Al-Isra/17:32, which explicitly prohibits adultery.

وَلَا تَقْرُبُوا الزَّوْجَ الَّذِي أَنَّهُ كَانَ فَاحِشَةً وَسَاءَ سَبِيلًا

Meaning:

"Do not approach adultery; indeed, it is a shameful act and an evil path." (Ministry of Religious Affairs, Indonesia, 285)

Thus, Islam regards and highly values the preservation of lineage as something crucial in life. In addition to the five fundamental rights outlined above, the Quran, as a normative foundation, states that the essence of human rights in Islam is based on:

a. Principle of Equality

Equality in the Islamic concept is a condition where God positions humans equally before Him, with the only distinguishing factor being piety. This indicates that humans are equal when viewed from the perspective of their creation. Honor can be achieved if humans are able to fulfill their responsibilities as stewards on Earth and consistently base their actions on truth.

b. Principle of Freedom

Freedom derives from the word "free," meaning being able to act according to one's own will. Ideally, a person's freedom should be accountable. Since humans are rational and religious beings, they should have a higher consciousness to judge what is right and wrong. A person's freedom is limited by the freedom of others; therefore, it is expected that the freedom one possesses should not be misused. If humans can place their freedom in line with rational considerations, it will lead to the creation of peaceful conditions in society.

c. Justice

Justice is one of the fundamental needs of humans. Therefore, discussions about justice are always intriguing and essential. Why is that so? Because in its enforcement, issues of justice are often underestimated and even betrayed.

The term "justice" can be interpreted as a balance between protected interests, where each person receives as much as is rightfully theirs. Justice is not considered synonymous with equality. It does not mean that every person gets an equal share. (CST. Kansil; 1986, 42)

In his work "Rhetorica," Aristotle distinguishes between two types of justice: distributive justice and commutative justice. Distributive justice is the kind of justice that allocates to each person according to their merit (distribution based on individual rights). It does not demand that each person receives an equal share; rather, it emphasizes proportionality, not equality. On the other hand, commutative justice is the justice that gives each person an equal amount without considering individual merits. Upon careful examination of the Qur'an, it is evident that there are several verses addressing the issue of justice, as seen in QS Al-A'raaf/7:29.

قُلْ أَمَرَ رَبِّي بِالْقِسْطِ وَأَقِيمُوا وُجُوهَكُمْ عِندَ كُلِّ مَسْجِدٍ وَادْعُوهُ مُخْلِصِينَ لَهُ الدِّينَ ۚ كَمَا بَدَأَكُمْ تَعُودُونَ

Meaning:

"My Lord commands justice and says: 'Straighten your faces at every prayer and dedicate yourselves to Allah with sincerity in obedience to Him. Just as He created you in the beginning, so shall you return to Him.' " (Ministry of Religious Affairs, Indonesia, 153)

This indicates that Islam, since its inception, consistently speaks about justice and considers it a fundamental need for humanity.

*Human Rights in the 1945 Constitution Post Amendment*

The constitution is the highest social agreement (consensus) within a country. This constitution contains the aspirations that will be achieved with the formation of a state. In the book written by K.C. Wheare, categorized as a constitutional textbook, the term "constitution" is generally explained in two senses. (K.C. Wheare, 1966, 1-2) First, in a broad sense, "constitution" is used to describe the entire system of government of a country, a collection of rules that shape and regulate the government. Some of these rules are legal in the sense that the courts recognize and enforce them. Others are non-legal or extra-legal, taking the form of usages, understandings, customs, or conventions because the courts do not recognize them as law. Second, in a narrow sense, "constitution" is a collection of rules for the organization of the state contained in a document.

Based on the statement above, the first perspective emphasizes that the constitution regulates the entirety of state affairs, even extending beyond what is written in the text, such as state conventions or customs. In contrast, the second perspective confines the constitution to a document or text that governs issues related to the organization of the state. Therefore, the existence of the constitution plays a strategic role in fulfilling state functions. The constitution is understood as the philosophy of the state or *staatsidee* (national ideals) that serves as the philosophical foundation among fellow citizens in the context of national life. A change in the constitution can be interpreted as a transformation in the constitutional system of a country. History of Amendments to the 1945 Constitution

a. Reasons for the Amendments to the 1945 Constitution

Change is an inevitability, a process towards perfection. Changes are always triggered by various factors, whether internal or external in nature. In the context of amendments to the 1945 Constitution, there are several triggers that led to these changes. Soekarno's statement can at least illustrate the temporary nature and the necessity of amending the 1945 Constitution:

"The constitution made now is a temporary constitution: this is a flash constitution. Later, when we govern in a more peaceful atmosphere, we will certainly gather the People's Consultative Assembly (MPR) again to create a more complete and perfect constitution." (Bagirmanan & Susi Dwi H; 2015, 3)



Understanding Soekarno's statement leads to the conclusion that the 1945 Constitution at that time had many deficiencies. Considering the conditions of that era, there were still many upheavals in the territory of the Republic of Indonesia, so the maturation of the concept of the 1945 Constitution had not reached a satisfactory point. Therefore, after the situation returned to normal, it was Soekarno's hope to establish a new 1945 Constitution that aligns with the nation's aspirations. Some reasons for the amendments to the 1945 Constitution include: The nature of the 1945 Constitution that granted significant powers to the president without being accompanied by an adequate system of checks and balances.

Imperfections in regulating the mechanisms for carrying out the functions of the state and government, preventing aspects of popular sovereignty or the principle of a law-based state from functioning as intended. Consequently, violations of human rights proliferated everywhere.

The constitutional authority of the president, commonly referred to as prerogative rights, was exercised without a mechanism allowing the people to exercise oversight, thereby hindering the effective functioning of popular sovereignty.

Lack of oversight of authority by the judiciary to assess legislation or government actions to prevent violations of democratic principles and a law-based state. The 1945 Constitution system places a heavier emphasis on executive power (executive heavy), leading to indications of power abuse that may result in the ruler's dictatorship.

#### b. Stages of Amendments to the 1945 Constitution

Stages are understood as steps in doing something, in this case, amending the 1945 Constitution. The stages in amending the 1945 Constitution are as follows:

1) The 1945 Constitution was established on August 18, 1945, as the foundation of the state, at a time when the Greater East Asia War was raging. This had an impact on the hasty drafting of the 1945 Constitution, resulting in various deficiencies. Recognizing this, the framers of the 1945 Constitution agreed to create a temporary constitution.

The temporary nature, on the one hand, faced various challenges, both internally and externally. To encourage constitutional changes, even without formal amendments, changes began with the issuance of Vice President's Proclamation No. X, which aimed at changing the presidential system to a parliamentary system. (Bagirmanan & Susi, 48) These changes in the constitutional practice did not provide an opportunity to implement the 1945 Constitution according to the ideas of its framers.

2) Next is the enforcement of the RIS Constitution on December 27, 1949. On August 23, 1949, a round table conference was held in The Hague. This conference was attended by

representatives from Indonesia, the *Bijeenkomst voor Federal Overleg* (BFO), representatives from the Netherlands, and the UN Commission for Indonesia. The conference successfully agreed on three things: first, establishing the state of the United States of Indonesia (RIS). Second, transferring sovereignty to the RIS, which included three elements:

- a) The Charter of Transfer of Sovereignty from the Dutch government to the RIS government.
- b) Union status, and
- c) Agreement on the transfer. Third, establishing a union between the RIS and the Kingdom of the Netherlands.

The constitution of the United States of Indonesia, drafted by the delegation from the Republic of Indonesia and the BFO delegation to the conference, was then agreed upon as the Basic Law of the RIS, which took effect on December 27, 1949. With the establishment of the RIS, the territory of the Republic of Indonesia still existed alongside the RIS, with the 1945 Constitution as its constitution. This was because, according to Article 2 of the RIS Constitution, the RI was recognized as one of the states, encompassing the territory specified in the Renville Agreement.

The RIS Constitution, drafted in the context of the Round Table Conference in The Hague in 1949, was essentially intended to be a temporary constitution. Thus, the enforcement of the 1945 Constitution in the early history of Indonesia's constitutionalism came to an end with the expiration of the RIS Constitution on August 27, 1950, when the 1950 Provisional Constitution was officially enacted.

- 3) Implementation of the 1950 Provisional Constitution on August 15, 1950, was driven by the fact that the federal state structure carried numerous political nuances, particularly regarding the interests of Dutch colonization. Therefore, proposing a federal state structure was considered to have strong sociological relevance for implementation in Indonesia. However, due to Dutch colonial interests, the idea of feudalism became unpopular. Moreover, as a newly formed nation, Indonesia needed effective stages of power consolidation, making the RIS federative state structure short-lived. The unitary state structure was deemed far more suitable.

Gradually, the authority of the RIS government diminished, and eventually, an agreement was reached between the governments of Indonesia and the RIS to reunite and establish the Unitary State of the Republic of Indonesia (NKRI). This agreement was formalized in a joint agreement on May 19, 1950, essentially agreeing to re-establish the NKRI as a continuation of the unitary state proclaimed on August 17, 1945. To prepare for

the re-establishment of the constitution, a committee was formed to draft its framework. After the draft was completed, it was approved by the Central National Committee's Working Body on August 12, 1950, and by the People's Consultative Assembly and the Senate of the United States of Indonesia on August 14, 1950. Subsequently, this new constitution was officially enacted on August 17, 1950, with the issuance of Law No. 7 of 1950. This constitution was replacement in nature, reflecting not only the change from the RIS Constitution but also explaining the replacement of the RIS Constitution with the 1950 Provisional Constitution (UUDS).

The 1950 Provisional Constitution was also temporary, as stated in Article 134, which mandated that the Constituent Assembly, together with the Government, promptly formulate the Constitution of the Republic of Indonesia to replace the 1950 Provisional Constitution. In contrast to the RIS Constitution, which did not manage to form a Constituent Assembly as mandated, the mandate of the 1950 Provisional Constitution was carried out effectively, leading to the successful conduct of the first general elections in Indonesia in December 1955. This election was held based on the provisions of Law No. 7 of 1953, which consisted of two articles: (a) provisions for the change from the RIS Constitution to the 1950 Provisional Constitution, and (b) provisions for the effective date of the 1950 Provisional Constitution, replacing the RIS Constitution on August 17, 1945. Based on these provisions, the 1955 elections were held, ultimately leading to the formation of the Constituent Assembly. Unfortunately, the Constituent Assembly did not or has not yet successfully completed its tasks.

Its task to draft a new constitution. Therefore, President Soekarno deemed the Constituent Assembly a failure, and based on that, President Soekarno issued the Presidential Decree on July 5, 1959, one of its contents being the re-enactment of the 1945 Constitution as the subsequent Constitution of the Republic of Indonesia.

According to Adnan Buyung Nasution, in the dissertation he defended in the Netherlands, the Constituent Assembly was on recess at that time, so it cannot be considered a failure, merely used as an excuse by Soekarno to issue the decree. Nevertheless, in reality, the history of Indonesia's constitutionalism unfolded in such a way that the Presidential Decree on July 5, 1959, became a landmark in the history of the reenactment of the 1945 Constitution as the Constitution of the Republic of Indonesia from July 5, 1959, until now.

- 4) The issuance of the July 5, 1959 decree was a response to the chaotic political and legal situation at that time. The issuance of the decree at that time was considered an

unconstitutional act. According to the 1950 Provisional Constitution system, the President was not responsible for the decisions of the state. Furthermore, the authority to establish the constitution rested with the Constituent Assembly, not the president. The decree was essentially a "Coup d'État" because by enforcing the 1945 Constitution, the president took over the Constituent Assembly's authority and assumed control of the government and the cabinet. However, this does not mean there was no basis to justify the decree, namely based on the state of emergency and for the sake of the nation's safety and protection against the threat of disintegration, among other reasons. Thus, there was a formation of law in an abnormal manner. As a real justification, it was due to the dominant political power exerting strong pressure to reenact the 1945 Constitution. (Bagirmanan & Susi, 15)

#### 1. The Concept of Human Rights in the 1945 Constitution Post-Amendments

The enforcement and protection of human rights in Indonesia have experienced ups and downs. Examining the historical journey reveals numerous violations against human values. For instance, during the 1965 tragedy with the G30S/PKI movement and culminating in the abduction of activists in 1998. This led to a massive wave of rejection at that time, alongside prolonged crises and an authoritarian and corrupt president. Post-reform, when the Soeharto regime had fallen, the Indonesian nation began to reform itself.

In the constitutional context, significant changes occurred through the amendment process of the constitution. Starting with these amendments, many fundamental changes took place, such as the first amendment during the 1999 Annual Session of the People's Consultative Assembly (MPR), focusing on limiting the President's power and strengthening the position of the People's Consultative Assembly (DPR) as the legislative body. The second amendment during the 2000 Annual Session of the MPR was more centered on issues related to the country's territory and the division of local government, refining the first amendment by strengthening the DPR's position and incorporating detailed provisions on human rights. The third amendment during the 2001 Annual Session of the MPR focused more on the foundational principles of the state, state institutions, inter-institutional relations, and provisions on general elections. The fourth amendment, carried out in the 2002 Annual Session of the MPR, focused on provisions related to state institutions, inter-institutional relations, the abolition of the Supreme Advisory Council (DPA), provisions on education and culture, provisions on the economy and social welfare, and transitional and additional regulations (Jimly Asshieddiqie; 2005, 170-171).

Looking at the various phases of change mentioned above, we can draw the conclusion that the peak recognition of Human Rights in Indonesia occurred during the second amendment of the Constitution. With the inclusion of Human Rights material in the Constitution, it has become a requirement for the Unitary State of the Republic of Indonesia (NKRI) to guarantee and uphold

the human rights of its citizens.

According to Prof. Jimly Asshiddiqie, the Human Rights material adopted in the formulation of the 1945 Constitution of the Republic of Indonesia encompasses 27 items (Nurul Qamar; 2014, 101-104). When condensed, it regulates several fundamental aspects, including:

- a. The right to religious beliefs in accordance with the principle of belief in the One Almighty God.
- b. The right to life and the preservation of life.
- c. The right to education, information, and freedom of expression.
- d. The right to family and the continuation of lineage.
- e. The right to employment and social security.
- f. The right to the protection of cultural assets.
- g. The right to justice and peace.
- h. Therefore, the above points constitute the essential content of Human Rights material in the 1945 Constitution post-amendments. This serves as the foundation for thinking about the protection and enforcement of Human Rights in Indonesia.

## Conclusion

The research findings reveal that the concept of Human Rights in Islam and the 1945 Constitution post-amendments consistently emphasizes justice, considering it a fundamental need for every human being since the emergence of Islam. The core content of Human Rights material in the 1945 Constitution post-amendments includes the right to religious beliefs in accordance with the principle of belief in the One Almighty God, the right to life and the preservation of life, the right to education, information, and freedom of expression, the right to family and the continuation of lineage, the right to employment and social security, the right to the protection of cultural assets, and the right to justice and peace. This means that Human Rights in Islam and the 1945 Constitution post-amendments, based on the author's research, both protect fundamental aspects: religion, life, intellect, lineage, and property.

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