

## Government Protection of Human Rights Humans in Indonesia in the Perspective of *Maqasid Al-Syari'ah*

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### ABSTRACT

Research this discuss about protection government to right human rights in Indonesia in the perspective of Maqasid Syari'ah. Problems in guaranteeing right basic man on every individual is Thing which sensitive. Because every decision given will give birth to various perceptions, including what happened in Indonesia. There is often overlap in the implementation of human rights protection. Then the policy that was initiated by government Indonesia should notice rule and elements from five aspect maqasid al-Shari'ah . So study this study view para expert law and para cleric fiqiyah in review government protection regulations for human rights in Indonesia in the perspective of Maqasid al-Shari'ah. This research is literature research and the approach used in this research is a legal approach based on Maqasid al-Shari'ah. The data related to this study were collected through a literature study and presented with technical content analysis, with reference to the arguments and laws and regulations. as data primary and books literature which related as secondary data. The results of this study are that government regulations on right basic man in Indonesia in perspective maqasid al-Shari'ah has been mentioned contextually, although the limitations and details are not complete as in shari'ah Islam. Thing the appear consequence differences in the aspect of determining the size of violence, sanctions and penalties, as well as the impact on the economy and social conditions. However, the formulation and details of human rights regulations in Indonesia still contain values and principles that are in line with Maqasid al-Shari'ah.

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### 1. INTRODUCTION

Allah *Subhanahu Wa Ta'ala* as the essence who created humans and made them as noble creatures on earth. The mandate that Allah *Subhanahu Wa Ta'ala* also entrusts to humans is to protect it from damage, maintain it above prosperity and always try to do all activities by making His pleasure as a barometer of success. Humans also become caliphs on earth, as in the word of Surah al-Baqarah verse 30.

﴿وَإِذْ قَالَ رَبُّكَ لِلْمَلٰئِكَةِ اِنِّيْ جَاعِلٌ فِى الْاَرْضِ خٰلِفَةً ۗ قَالُوْۤا اَتَجْعَلُ فِيْهَا مَنْ يُفْسِدُ فِيْهَا وَيَسْفِكُ الدِّمَآءَ وَنَحْنُ نُسَبِّحُ بِحَمْدِكَ وَنُقَدِّسُ لَكَ ۗ قَالَ اِنِّيْۤ اَعْلَمُ مَا لَا تَعْلَمُوْنَ ۝۳۰﴾

Translation: *(Remember) when your Lord said to the angels, "I want to make a caliph on earth." They said, "Are you going to make people who destroy and shed blood there, while we exalt Your praise and sanctify Your name?" He said, "Verily I know what you do not know ."*<sup>1</sup>

In the Qur'an, the word khalīfah has the meaning of 'successor', 'leader', 'ruler', or 'manager of the universe'.<sup>2</sup> So, in carrying out this message and treatise, humans must be the best and brilliant creatures in managing the earth. The brilliance of this mandate has made it necessary to be careful in acting, especially regarding matters of human rights.

Human rights or abbreviated as HAM are rights inherent in human beings that are natural and fundamental as a gift from God that must be respected, guarded, and protected by every individual, society or state. Whereas in the Law on Human Rights it is explained that the notion of Human Rights is a set of rights inherent in the nature and existence of humans as creatures of God Almighty and is His gift that must be respected, upheld and protected by the state, law, government and every citizen. people, for the sake of honor and protection of human dignity.<sup>3</sup>

Based on the provisions in article 1 paragraph (1) of Law Number 39 of 1999 it has been explained that human rights are the most essential rights possessed by humans and cannot be contested by anyone, therefore the state's human rights as protection Its citizens are expected to be able to accommodate the interests and rights of these citizens

Human rights are an important aspect that must be considered, because they are related to souls and lives, how many cases have we faced but only disappeared without accountability, even though this already involves life and blood. Look at the Semanggi tragedy in 1998 and 1999, also about the incident of the Trisakti students in 1998, the case of Munir's death on a plane, the Thursday Mekasan incident, and recently about the shooting of members of the FPI laskar which has not been completed.<sup>4</sup> Whereas the Messenger of Allah (*sallallahu alayhi wasallam*) said in an authentic hadith, concerning caution in this matter.

أَوَّلُ مَا يُقْضَى بَيْنَ النَّاسِ بِالْدِمَاءِ

Translation " *The first thing that will be decided between humans is the matter of blood*<sup>5</sup>.

Al -Qurtubi said the hadith convey that there is no human right that is greater than the problem of life and blood. The meaning is because the blood of a human being is the greatest right for him , therefore, Allah *Subhanahu Wa Ta'ala* made it Thing first to be tried about blood problems . Whoever spills the blood of others, kills others unjustly, Allah will judge him later in the hereafter before Allah judges other matters .

The problem of blood is a crucial thing in the protection of human rights law in Indonesia, the rules for drafting the law should pay attention to aspects in *Maqasid al-Shari'ah* . *maqasid al-Shari'ah* is knowledge of various purposes of legal provisions within the scope of ushul fiqh, namely the intent and purpose of the revelation of Islamic law. Because the law that first existed on earth was the law of Allah, but the preparation of the later law by humans must be seen from the perspective of its benefit as the law of Allah SWT. Namely, attracting benefits, preventing damage and evil, and cleansing the world of various evils.

Problems in guaranteeing right basic man on every individual is Thing which sensitive. Because every decision given will give birth to various perceptions, including what happened in Indonesia. There is often overlap in the implementation of human rights protection. Then the policy that was initiated by government Indonesia should notice rule and elements from five aspect *maqasid al-Shari'ah* . Thus, research this study view para expert law and para cleric fiqiyah in review government protection regulations for human rights in Indonesia in the perspective of *Maqasid al-Shari'ah* .

## THE ORITICAL REVIEW

Human rights are a set of rights that are inherent in the nature and existence of humans as creatures of God Almighty, and are His gift that must be respected, upheld, and protected by the state, law, government, and

<sup>1</sup> QS. Al-Baqarah (2) : 30

<sup>2</sup>M. Quraish Shihab, *Tafsir al-Mishbah* , (Jakarta: Lentera Hati, 2007), v. 1, p. 394.

<sup>3</sup> Article 1 point 1 of Law no. 39 of 1999 concerning Human Rights

<sup>4</sup>Khamami Zada, " *Human Rights*," in *Building Democracy from the Bottom* (Jakarta: Center for Human Resource Development UIN Jakarta, 2006), p. 66-58.

<sup>5</sup>HR. Al-Bukhari : 6533, Muslim : 3178

everyone, for the sake of honor and protection of dignity and worth. human dignity.<sup>6</sup> In every human individual there are certain human rights that cannot be removed.<sup>7</sup>

Human rights, due to the universal nature of their implementation, oblige all individuals and institutions of society to respect the rights of others. Human rights are rights that are owned by humans according to their nature, which cannot be separated from their essence, and are therefore sacred.<sup>8</sup> Historically, the idea of human rights stems from the idea of *natural rights*.

Then about *Maqashid al-Shari'ah*, linguistically consists of two words, namely *Maqashid* and *Shari'ah*. *Maqashid* means intentional or purpose, *Maqashid* is the plural form of *maqsud* which comes from the syllable *Qashada* which means will or intends, *Maqashid* means things that are desired and intended.<sup>9</sup> Meanwhile, *Shari'ah* literally means the road to the water source, the road to the water source can also be interpreted as walking towards the source of life.<sup>10</sup> In the Qur'an, Allah *Subhanahu Wa Ta'ala* mentions several *Shari'ah words*, including those contained in Surah al-Jassiyah (45) verse 18.

{ ثُمَّ جَعَلْنَاكَ عَلَىٰ شَرِيحَةٍ مِّنَ الْأَمْرِ فَاتَّبِعْهَا وَلَا تَتَّبِعْ أَهْوَاءَ الَّذِينَ لَا يَعْلَمُونَ ۚ (١٨)

Translation: " Then We made you (Prophet Muhammad) follow the Shari'a of that (religious) affair. So, follow it (the Shari'a) and do not follow the lusts of those who do not know. <sup>11</sup> "

After explaining the definitions of *Maqashid* and *Shari'ah* separately, it is necessary to define *Maqashid Shari'ah* after combining the two sentences (*Maqashid Shari'ah*). According to Asafri Jaya Bakri, "The term *Maqashid Syari'ah* does not have a specific definition made by *Usul fiqh* scholars, perhaps this is understood among them. specifically, he only revealed about the *shari'a* and its function for humans as expressed in the book *al-Muwafakat* ": "Indeed, the *Shari'a* was set aiming to uphold (realize) the benefit of humans in the world and the Hereafter, and laws were promulgated for the benefit of the servant.<sup>12</sup>

*Maqashid Syari'ah* is a concept to know the wisdom (values and goals of *syara'* which are written and implied in the Qur'an and Hadith) which are set by *al-Shari'ah* towards humans while the ultimate goal of the law is one, namely *mashlahah* or goodness and welfare of mankind both in this world (with *Mu'amalah*) and in the hereafter (with 'aqidah and Worship).<sup>13</sup>

Al-Imam Al-Syatibi explained that there are five forms referred to as *Maqashid al-Khamsah*, namely the general principles in *Maqashid Shari'ah*, including: *Hifzh al-Din* (maintaining religion), *Hifzh al-Nafs* (guarding the soul), *Hifzh al-Syati 'Aql* (guarding the mind), *Hifzh al-Mal* (guarding wealth), and *Hifzh al-Nasl* or *Hifzh al-Nasl* (guarding offspring).<sup>14</sup>

Knowledge of *Maqashid Shari'ah*, as emphasized by Abd al-Wahhab Khallaf, is a very important thing that can be used as a tool to understand the editorial of the Qur'an and Sunnah, resolve contradictory arguments and, most importantly, to establish laws against cases that are not accommodated by the Qur'an and Sunnah in linguistic studies.<sup>28</sup> The *istinbat* methods, such as *qiyas*, *istihsan*, and *maslahah mursalah* are methods of developing Islamic law based on *maqasid shari'ah*. *Qiyas*, for example, can only be implemented if the *maqasid shari'ah* can be found which is the logical reason ('*illat*') of a law.<sup>15</sup>

*Maqashid al-Shari'ah* discourse before al-Syatibi mostly dwelled on the issue of '*illah*' of law and *maslahah* as the basis for formulating law. Because at that time many scholars of *ushul* were also theologians or *kalam* scholars, so many discourses in the field of *ushul fiqh* were also explored by theologians, including the discourse of *Maqashid al-Shari'ah*. One of the results is the discourse on the law of causality in which there is actually a paradigm difference that cannot be confused between causality in the philosophical framework of law and causality in the theological framework. According to al-Syatibi, in formulating the law, God's motive is the benefit of humans and it is from this initial premise that the debate about the law of quality begins. However, the

<sup>6</sup>Article 1 paragraph 1 of Law no. 39 of 1999 concerning Human Rights, and Law no. 26 of 2000 concerning the Human Rights Court

<sup>7</sup>Peter Davies, *Human Rights* (Jakarta: Indonesia Torch Foundation, 1995), p. 2.

<sup>8</sup>Kuncoro Purbopranoto, *Human Rights and Pancasila* (Jakarta: Pradya Paramita, 1982), p. 19.

<sup>9</sup>Ahmad Qorib, *Ushul Fiqh 2*, (Jakarta: PT. Nimas Mul tima, 1997), Cet, II), p. 170.

<sup>10</sup>Asafri Jaya in the oral book *al-'Arab*, from Ibn Mansur al-Afriqi, (Beirut: Dar al-Sadr, t.th), VIII, p. 175

<sup>11</sup>QS. Al-Jassiyah (45):18.

<sup>12</sup>Al - Syati by, *al-Muwafaqat fi Usul al-Shari'ah*, (Cairo: Mustafa Muhammad, t.th.), vol II, p. 2 - 3.

<sup>13</sup>Muhammad Abu Zahrah, *Usul al-Fiqh*, (Egypt: Dar al-Fikri al-Arabi, 1958), p. 121

<sup>14</sup>Al-Sya ti by, *al-Muwafaqat fi ...*, p. 31

<sup>15</sup>Satria Effendi, *Ushul Fiqh* (Prenada Media, Jakarta, 2005), p. 237

notion of cause, cause or motive in the science of kalam cannot be equated with the notion of 'illah in ushul fiqh. There is a shift in the meaning or semantic change of 'illah from theological studies to the study of legal philosophy.

The doctrine of *Maqashid al-Shari'ah* is an effort to enforce *maslahah* as an essential element in legal purposes. Al-Syatibi falsifies the study of *Maqashid al-Shari'ah* into two levels, from the point of view of *Maqasid al-Shari'a* or the purpose of Allah as a law maker and from the point of view of maqashid al-mukallaf or the subject of law. *Benefit* as maqasid al-syari' means that it is Allah who decides a benefit. However, al-Syatibi realized that this condition was not final. Al-Syatibi admits that the benefit of Allah's version can still be understood and its discursive spaces are opened.<sup>16</sup>

## 2. RESEARCH METHODS

The method is a systematic procedure to achieve certain goals. While the method is combined with the word *Logos* which means science / knowledge, the methodology means how to do something by using the mind carefully to achieve the goals that have been determined.<sup>17</sup> This research uses qualitative *research*<sup>18</sup> and type of library research (*library research*).<sup>19</sup> The reason the researcher uses library research is based on the following reasons. *First*, this research is about legal studies where the discussion about this is based on books, references, manuscripts and books, not from the field so that researchers use this type of heritage research. *second*, as well as about human rights and *Maqasid al-Syariah* which the researcher will discuss, here the researcher refers to books that have been written by scientists and other supporting books, not from field sources.

The method used in this study is descriptive analysis method, namely first describing the data obtained from books and other literature, then evaluating the data that has been described.<sup>20</sup> The source of data in this study is the author citing data relevant to the discussion under study from several writings, both in the form of archives, theory books, opinions, arguments, laws, and others that are related to the research problem. The data sources consist of primary data sources and secondary data sources. Primary data are data that are directly related to the problems discussed in this thesis. This primary data is obtained from basic sources, namely referring to the arguments and laws and regulations. The secondary data are indirect supporting books, which consist of literature and books that are relevant to the discussion.<sup>21</sup>

The data that has been collected was analyzed using qualitative methods and content analysis techniques, the procedures carried out were first, analyzing the meaning of each verse related to these themes using the *Maqasid al-Syariah approach*. Then analyze the content of these arguments using the rules of *ushul interpretation* and *ushul fiqh*. Next, analyze the views of scholars in the legal issues contained and mentarjih among various opinions using the rules of fiqh. And finally by drawing conclusions and presenting in the form of cases contemporary problems.

## 3. RESULTS AND DISCUSSION

Law can be understood as a set of rules that can be implemented to regulate society. Understanding Islamic law comprehensively is not an easy job considering the complexity of Islamic law issues, especially in the discussion of human rights. Government regulations against right basic man in Indonesia in perspective *maqasid al-Shari'ah*, with details still contain values and principles that are in line with *Maqasid al-Shari'ah*. The following will explain the government's protection of human rights people in Indonesia by paying attention to the benefit of the *Maqasid approach al-Shari'ah*.

### a. *Hifzh al-Din (Guarding Religion)*

Apart from being social beings, humans are religious creatures. This status requires humans to believe in God. Worship is an important aspect of one's religion, therefore respect for the existence and worship procedures of other religions is important. This is the human right of each religious adherent that must be upheld

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<sup>16</sup>Satria Effendi, *Ushul Fiqh* (Prenada Media, Jakarta, 2005), p. 237

<sup>17</sup>Jani Arni, *Research Methods and Interpretation* (Pekanbaru: Pustaka Riau, 2013), p. 1.

<sup>18</sup>Qualitative research is research that uses qualitative data (data in the form of sentences, schemes and pictures). In qualitative research, the information collected and processed must remain objective and not influenced by the opinion of the researcher himself. See Jani Arni, *Interpretation Research Methods*, p. 11.

<sup>19</sup>Sutrisno Hadi, *Research Methodology* (Yogyakarta: UGM, 1987), h. 8.

<sup>20</sup>M. Quraish Shihab, *Affirming the Al-Quran, Function and Role of Revelation in Community Life* (Bandung: Mizan, 1996), p. 87.

<sup>21</sup>Sumardi Suryabrata, *Research Methodology*, (Jakarta: Rajawali Press, 1991), p. 93-94.

and respected. It is on this basis that Islam instills a general principle regarding one's religious attitude, namely "there is no compulsion in religion,"<sup>22</sup> as stated in the word of God in Surah al-Baqarah verse 256.

{ لَا إِكْرَاهَ فِي الدِّينِ قَدْ تَبَيَّنَ الرُّشْدُ مِنَ الْغَيِّ فَمَنْ يَكْفُرْ بِالطَّاغُوتِ وَيُؤْمِنُ بِاللَّهِ فَقَدِ اسْتَمْسَكَ بِالْعُرْوَةِ الْوُثْقَىٰ لَا انفصامَ لَهَا وَاللَّهُ سَمِيعٌ عَلِيمٌ ۚ ۲۵۶ }

Translation: " *There is no compulsion in (adhering to) religion (Islam). Indeed, the right path has become clear from the misguided path. Whoever disbelieves in tagut and believes in Allah has indeed clung to a very strong rope that will not break. Allah is All-Hearing, All-Knowing.* " <sup>23</sup>

Freedom to choose religion is a human right that is protected by law. It is stated in the Universal Declaration of Human Rights which was accepted and promulgated by the United Nations General Assembly on December 10, 1948 through resolution 217 A (III), in article 18, namely "Everyone has the right to freedom of thought, conscience and religion; this includes freedom to change his religion or belief, with freedom to manifest his religion or belief by teaching it, practicing it, worshiping and obeying it, either alone or in community with others, in public or alone."<sup>24</sup>

Maintaining religion and carrying out religious obligations is the right of every human being who enters the primary level, such as performing the five daily prayers. If the prayer is ignored, then the existence of his religion will be threatened. Maintaining religion in human rights is that every individual has the freedom to embrace any religion, whether it is learning about his religion, practicing religious values and even preaching it.

#### b. *Hifzh al-Nafs (Guarding the Soul)*

Human Rights are conceived as protecting the human soul, keeping it alive, respecting one another. In the application of Islamic law, there are interests related to the lives of many people whose continuity must be guaranteed, such as meeting basic needs in the form of food to sustain life. If these basic needs are ignored, it will result in the existence of the human soul being threatened. In Islamic law, Allah SWT is very wary of the right to life of a human being, even with terrible threats. In the Qur'an it is also stated that instantly killing a life, it is as if a person has killed a whole human being, but whoever protects the right to life of a human being, it is as if he is also protecting the rights of all human beings.

The matter of protecting the soul is a very crucial matter, therefore the recompense for a threatened soul in the Qur'an is with a similar soul. Allah says in surah al-Baqarah verse 179.

{ وَلَكُمْ فِي الْقِصَاصِ حَيَوةٌ يَا أُولِي الْأَلْبَابِ لَعَلَّكُمْ تَتَّقُونَ ۚ ۱۷۹ }

Translation: " *In the story there is a (guarantee) of life for you, O people of understanding, so that you may become pious* " <sup>25</sup>

Theoretically, the right to life is a group of human rights that are not reduced under any circumstances. This means that under no circumstances and for any reason a person should not be deprived of his right to life.<sup>26</sup> It is also mentioned in the Universal Declaration of Human Rights which was accepted and promulgated by the United Nations General Assembly on December 10, 1948 through resolution 217 A (III), in article 3, namely " Everyone has the right to life, freedom and safety as an individual ". This is a form of anticipation and also the implementation of *Hifzh al-Nafs*.<sup>27</sup>

#### c. *Hifzh al-'Aql (Keeping the Mind)*

Realizing the ideals of the ancestors in the body of the *preamble* that educating the nation's life is a form of urgency in citizens. Keeping one's mind in a conscious state is like drinking alcohol is forbidden in religion. If this provision is not heeded, it will result in the threat of the existence of reason. Allah SWT says in Surah al-Furqan verse 43-44.

{ أَرَأَيْتَ مَنْ اتَّخَذَ إِلَهَهُ هَوَاهُ أَفَأَنْتَ تَكُونُ عَلَيْهِ وَكِيلًا ۚ ٤٣ أَمْ تَحْسَبُ أَنَّ أَكْثَرَهُمْ يَسْمَعُونَ أَوْ يَعْقِلُونَ إِنْ هُمْ إِلَّا كَالْأَنْعَامِ بَلْ هُمْ أَضَلُّ سَبِيلًا ۚ ٤٤ }

<sup>22</sup>Research and Development and Training Agency, *Thematic Al-Qur'an Interpretation, Law and Human Rights*, (Jakarta: Ministry of Religion, 2008), v. 1, p. 284

<sup>23</sup> QS. Al-Baqarah (2) : 256

<sup>24</sup> Universal Declaration of Human Rights, Article 18

<sup>25</sup> QS. Al-Baqarah (2) : 179

<sup>26</sup>Research and Development and Training Agency, *Thematic Interpretation of the Qur'an ..*, p. 282

<sup>27</sup> Universal Declaration of Human Rights, Article 3



Translation: " *Have you (Prophet Muhammad) seen the person who makes his lust as his god? Will you be his protector ?Or do you think that most of them hear or understand? They are nothing but like livestock. In fact, they are more astray in their ways .*"<sup>28</sup>

The verse above mentions the importance of maintaining and using reason well so that humans understand and understand the conditions that exist in their lives.

As Muslims, we should give the widest possible freedom of thought in order to foster an exploration of thought. Thought should not be shackled by trivial matters such as differences of opinion. Differences of opinion are a blessing to be grateful for, not even denied. Let differences of opinion occur as evidence that Islam appreciates it. In fiqh books, it is not difficult for us to find the opinions of the priests of various schools of thought. However, that didn't kill the friendship between them. So, we can conclude that Islam does not require its people to have one voice in any matter, but rather gives great appreciation to differences of opinion and freedom of thought.<sup>29</sup>

In human rights, freedom of thought in maintaining reason is also regulated, as the Universal Declaration of Human Rights accepted and announced by the UN General Assembly on December 10, 1948 through resolution 217 A (III), in article 18, namely "Everyone has the right to freedom of thought."<sup>30</sup>

#### d. *Hifzh al-Mal (Keeping Property)*

Allah SWT gives humans sustenance as an effort in survival, with that gift humans should also take care of it. Keeping what is provided is an applicable form of practicing religion. From Khaulah al-Ansariyyah *radhiyallahu 'anha* he said that the Prophet *sallallahu 'alaihi wa sallam* said.

إِنَّ رَجَالًا يَتَخَوَّضُونَ فِي مَالِ اللَّهِ بِغَيْرِ حَقٍّ، فَلَهُمُ النَّارُ يَوْمَ الْقِيَامَةِ

Translation: " *There are a number of people who spend the wealth of Allah haphazardly or carelessly in a way that is not right, then for them hell on the Day of Resurrection .*" (Narrated by Bukhari)<sup>31</sup>

In Human Rights , property rights are human rights of every human being. Every human being has the same right to own and use this nature created by Allah. No one has the right to forbid others from reaching and utilizing the treasures that Allah has bestowed on the earth. In international human rights law, this property right is strictly protected.<sup>32</sup> It is also stated in the Universal Declaration of Human Rights which was accepted and promulgated by the United Nations General Assembly on December 10, 1948 through resolution 217 A (III), in article 17, namely " (1) Everyone has the right to own property, either alone or jointly with others. same as other people. (2) No one may be deprived of his property arbitrarily."<sup>33</sup>

Thus, human rights in safeguarding property are a form of prohibition from seizing other people's property. Because, everyone has the right to own wealth in a lawful way, and must be given the right to own wealth without prejudice to oneself, others, or the general public. Attempts to take over by force are illegal unless it is carried out in the public interest and accompanied by cash payments and reasonable compensation.

#### e. *Hifzh al-Nsab or Hifzh al-Nasl (Keeping Descendants)*

Humans that God created in pairs, with the aim of making the kinship line always continued, offspring and kinship are increasingly awakened. Islam as a religion that details this, even in marriage even though there is a special chapter of study. Family is a group of people who are united by blood relations and certain goals. Fostering a family is an instinctive human trait, of course, taking care of the family and offspring is important and has become the basis for every human being. Allah SWT says in surah al-Tahrim verse 6.

﴿ يَا أَيُّهَا الَّذِينَ آمَنُوا قُوا أَنْفُسَكُمْ وَأَهْلِيكُمْ نَارًا وَقُودُهَا النَّاسُ وَالْجَارَةُ عَلَيْهَا مَلَائِكَةٌ غِلَاظٌ شِدَادٌ لَا يَعْصُونَ اللَّهَ مَا أَمَرَهُمْ وَيَفْعَلُونَ مَا يُؤْمَرُونَ ۖ ﴾

Translation: " *O you who believe, protect yourselves and your families from the fire of hell whose fuel is people and stones. Its guardians are harsh and stern angels. They do not disobey Allah in what He commands them and always do what they are commanded .*"<sup>34</sup>

<sup>28</sup> QS. Al-Furqan (25) : 43-44

<sup>29</sup>Research and Development and Training Agency, *Thematic Interpretation of the Qur'an ..* , p. 292

<sup>30</sup> Universal Declaration of Human Rights, Article 18

<sup>31</sup> HR. Bukhari in the book of Fardul Khamsi chapter on the Word of Allah Fa Innalillahi Khumusahu p. 3118

<sup>32</sup>Research and Development and Training Agency, *Thematic Interpretation of the Qur'an ..* , p. 287

<sup>33</sup> Universal Declaration of Human Rights, Article 17 Paragraphs 1 and 2

<sup>34</sup> QS. Al-Tahrim (66): 6

So by keeping the lineage of religion stipulates marriage and prohibits adultery. If this activity is ignored, the existence of the offspring will be threatened. Protecting offspring is not only a protection for the head of the family. Its actualization is also regulated by the government by writing down the applicable regulations. This principle is also applied in human rights law.

It is also mentioned in the Universal Declaration of Human Rights which was accepted and promulgated by the United Nations General Assembly on December 10, 1948 through resolution 217 A (III) , in article 16, namely "(1) Men and women who are adults, with not restricted by nationality, nationality or religion, has the right to marry and to form a family. They have the same rights in matters of marriage, during marriage and at the time of divorce. (2) Marriage can only be carried out based on the free choice and full consent of the bride and groom. (3) The family is a natural and fundamental unit of society and has the right to protection from society and the state".<sup>35</sup>

#### 4. CONCLUSION

The results of this study indicate that the government's protection of Indonesian citizens in general is by issuing laws and regulations, especially regarding human rights for every citizen. Government regulations on right basic man in Indonesia in perspective *maqasid al-Shari'ah* has been mentioned contextually, although the limitations and details are not complete as in shari'ah Islam. Thing the appear consequence differences in the aspect of determining the size of violence, sanctions and penalties, as well as the impact on the economy and social conditions. However, the formulation and details of human rights regulations in Indonesia still contain values and principles that are in line with *Maqasid al-Shari'ah* , such as *Hifzh al-Din* (guarding religion) with Article 18 of the Universal Declaration of Human Rights , *Hifzh al-Nafs* (guarding the soul) with article 3, *Hifzh al-'Aql* (guarding the mind) with article 18 , *Hifzh al-Mal* (guarding property) with article 17 paragraphs 1 and 2, and *Hifzh al-Nsab* or *Hifzh al-Nasl* (guarding offspring) with article 16 paragraphs 1 to 3.

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<sup>35</sup> Universal Declaration of Human Rights, Article 16 Paragraphs 1 to 3.