

Exploring the Compatibility of Islamic Foundations with International Humanitarian Law

Mahmuluddin¹, Hasbi Asyidiqi²

¹University of Mataram, e-mail: mahmuludin@unram.ac.id

²University of Mataram, e-mail: hasbiasyidiqi@unram.ac.id

Histori Naskah

Diserahkan:
05-12-2024

Direvisi:
28-12-2024

Diterima:
30-12-2024

Keywords

ABSTRACT

This research explores the historical evolution and contemporary significance of Islamic principles in international humanitarian law. Through a comparative literature analysis, the study uncovers the contributions of early Islamic practices and scholars to the development of modern humanitarian norms. The findings demonstrate the compatibility of Islamic values with contemporary legal frameworks, while also addressing challenges posed by diverse cultural interpretations. Additionally, the study emphasizes the active role of Islamic organizations in promoting humanitarian ethics in the present era. These insights provide a foundation for fostering inclusive approaches and integrating Islamic principles into global humanitarian discussions.

: *Islamic Principles; International Humanitarian Law; Comparative Analysis; Humanitarian Ethics; Cultural Interpretations*

ABSTRAK

Tulisan ini mengeksplorasi evolusi historis dan signifikansi kontemporer prinsip-prinsip Islam dalam hukum humaniter internasional. Melalui analisis literatur komparatif, studi ini mengungkap kontribusi praktik-praktik Islam awal dan para cendekiawan terhadap perkembangan norma-norma humaniter modern. Temuan penelitian menunjukkan keselarasan nilai-nilai Islam dengan kerangka hukum kontemporer, sekaligus membahas tantangan yang timbul akibat beragam interpretasi budaya. Selain itu, studi ini menekankan peran aktif organisasi Islam dalam mempromosikan etika humaniter di era saat ini. Wawasan ini memberikan dasar untuk mendorong pendekatan inklusif dan mengintegrasikan prinsip-prinsip Islam ke dalam diskusi humaniter global.

Kata Kunci

: Prinsip Islam; Hukum Humaniter Internasional; Analisis Komparatif; Etika Humaniter; Interpretasi Budaya

Corresponding Author

: Mahmuluddin, University of Mataram, Jl Majapahit No. 62, Gomong, Selaparang, Mataram, Pulau Lombok, Nusa Tenggara Barat, e-mail: mahmuludin@unram.ac.id

INTRODUCTION

International humanitarian law is a crucial framework that governs the conduct of armed conflicts and protects the rights of individuals affected by such conflicts. While the origins of international humanitarian law can be traced back to various historical and cultural contexts, this article focuses on exploring the Islamic foundations of this body of law. By examining the principles and practices rooted in Islamic ethics and jurisprudence, we can gain a deeper understanding of the contributions of Islamic thought to the development of international humanitarian law.

The primary objective of this research is to trace the origins and principles of international humanitarian law within the Islamic tradition. Specifically, we aim to analyze the historical development of Islamic legal thought and its influence on modern humanitarian norms. Additionally, we seek to identify key figures with Islamic backgrounds who have contributed to the development of international humanitarian law. By addressing these objectives, we aim to shed light on the Islamic foundations of international humanitarian law and their contemporary relevance.

Understanding the Islamic foundations of international humanitarian law is of great significance for several reasons. Firstly, it contributes to a more comprehensive and inclusive understanding of the diverse ethical frameworks that shape humanitarian practices. Secondly, it highlights the historical contributions of Islamic scholars and thinkers to the development of international humanitarian law. Thirdly, it provides insights into the potential for further integration of Islamic principles into humanitarian discourse, thereby fostering culturally sensitive and contextually relevant approaches to humanitarian action.

To achieve these objectives, this article draws on a range of reputable sources that explore the intersections between Islamic ethics, jurisprudence, and international humanitarian law. These sources include scholarly researches, such as a comprehensive analysis of the Islamic law of war, exploring its historical development and contemporary relevance and examination of the principles and regulations governing armed conflict within the Islamic legal framework (Al-Dawoody, 2011), the potential influence of Islamic legal institutions on the development of rule of law and the modern state in Europe (Watanabe, 2012), examining the potential impact of Islam on western public and international legal systems (Boisard, 1980), the relationship between Islamic ethics and human rights and compatibility of Islamic principles with universal human rights norms (Ramadan, 2003), the relationship between Islamic law, human rights, universal morality, and international relations (Tibi, 2017). By synthesizing these and other relevant references, this article aims to provide a comprehensive analysis of the Islamic foundations of international humanitarian law. Through this exploration, we can gain a deeper understanding of the historical, ethical, and legal dimensions that have shaped this important field of study.

The main objective of this study is to explore the Islamic foundations of international humanitarian law by tracing its origins and principles within the Islamic tradition. This research analyzes how Islamic legal thought has historically influenced the development of modern humanitarian norms, highlighting the contributions of key Islamic scholars who have shaped this field. The study also aims to provide a clear understanding of the contemporary relevance of Islamic principles in international humanitarian law. By examining these foundations, the research seeks to demonstrate how Islamic ethics continue to play a vital role in shaping humanitarian practices, particularly in contexts where these principles are deeply embedded in societal norms.

Additionally, this research explores the potential for further integration of Islamic principles into modern humanitarian discourse, aiming to foster more culturally sensitive and

inclusive approaches to humanitarian action. Through this study, we aim to offer a broader perspective on the ethical foundations that guide humanitarian practices across different cultures and legal systems.

RESEARCH METHOD

This study employs a qualitative approach, focusing on a review of secondary research on Islamic principles and their relation to international humanitarian law (IHL). The research involves analyzing existing scholarly work, including books, journal articles, and academic papers, that discuss Islamic legal thought and its connection to humanitarian norms. A systematic review of the literature was conducted to identify key themes, arguments, and findings from experts in Islamic studies and IHL. The focus was on comparing the interpretations of Islamic principles by scholars and how these align with or differ from contemporary IHL frameworks. The study utilizes a comparative analysis to assess the contributions of Islamic legal thought to modern humanitarian law, drawing on existing secondary sources to provide insights into both historical and current perspectives. This approach offers a concise examination of the research without relying on primary sources, highlighting the scholarly discourse on the intersection of Islamic ethics and international humanitarian law. However, this study is limited by its reliance on secondary sources and lacks primary sources for direct analysis. Further research, including the exploration of primary Islamic texts, is necessary to gain a more comprehensive understanding of the relationship between Islamic principles and international humanitarian law.

RESULTS AND DISCUSSION

A. Islamic Ethics and Jurisprudence

Islamic ethics and jurisprudence play a significant role in understanding the foundations of international humanitarian law. Islamic principles provide a moral framework that guides the behavior of individuals and societies, including in times of conflict and crisis. Salek (2015) highlights the instrumentalist approach taken by some actors in relating Islamic law to humanitarian principles. This approach involves seeking specific verses from the Quran to address particular scenarios, such as being kidnapped. However, it is important to note that Islamic law does not provide a straightforward solution to every situation, and the interpretation of Islamic principles can vary.

The development of humanitarian thought in Islam has been influenced by the works of Islamic scholars and mystics. Bidabad (2011) emphasizes the contributions of Sufi Muslims and mystics such as Ibn 'Arabi, Ghazzali, Ibn Rushd, Ibn Khaldun, and Ibn Sina. These scholars have made significant contributions to various fields, including humanities, philosophy, social sciences, and domestic law. However, the growth of their philosophy and thoughts at the international level has been limited due to the weakness of Muslim governments in addressing emerging global problems.

Islamic jurisprudence, known as Fiqh, provides a framework for understanding the legal aspects of Islamic ethics. It involves the interpretation and application of Islamic principles to various aspects of life, including humanitarian practices. Thürer (2007) highlights the intrinsic humanitarian character of the legal principles in Islamic law, which permeates the entire law of armed conflict. This suggests that Islamic principles can be applied to all forms of warfare and are relevant to international humanitarian law.

Overall, Islamic ethics and jurisprudence provide a foundation for understanding the principles of international humanitarian law. The instrumentalist approach taken by some actors in relating Islamic law to humanitarian principles highlights the complexity of

interpreting and applying Islamic principles in specific scenarios. The contributions of Islamic scholars and mystics have enriched the field of humanitarian thought, although their influence at the international level has been limited. Islamic jurisprudence, through Fiqh, offers a legal framework that aligns with the humanitarian character of international humanitarian law. Understanding the Islamic foundations of international humanitarian law can contribute to the development of more inclusive and culturally sensitive approaches to humanitarian practices.

B. Pre-modern Islamic Humanitarian Traditions

Pre-modern Islamic societies had a strong tradition of compassion and aid, which laid the foundation for humanitarian practices. Islamic principles emphasized the importance of caring for the vulnerable and providing assistance to those in need. This section explores the early Islamic practices of compassion and aid, as well as the Islamic principles related to the treatment of prisoners and civilians.

Islamic societies in the early centuries of Islam demonstrated a commitment to humanitarian values. They established systems to provide aid to the poor, orphans, and widows, reflecting the Islamic principle of social justice. Alahmad (2016) highlights the Saudi Law of Ethics of Research on Living Creatures and its Implementing Regulations as an example of how Islamic values and social structures can guide ethical practices. This law serves as a model not only for other Arab countries but also for other Islamic nations.

Islamic principles also emphasized the humane treatment of prisoners and civilians during times of conflict. Islamic jurisprudence recognized the rights of prisoners of war and outlined guidelines for their treatment. The protection of civilians was also emphasized, with Islamic principles prohibiting the targeting of non-combatants. Schussler et al. (2019) discuss how international humanitarian law treaties protect healthcare workers, including surgeons, during wars and armed conflicts. These treaties prohibit direct attacks on healthcare facilities and ensure the safety of medical personnel.

Furthermore, Islamic scholars made significant contributions to humanitarian thought during this period. They developed principles and guidelines for providing aid and assistance to those in need. highlights the contributions of Islamic scholars such as Ibn 'Arabi, Ghazali, Ibn Rushd, Ibn Khaldun, and Ibn Sina to various fields, including humanities, philosophy, and social sciences. Their works have enriched the understanding of humanitarian principles within the Islamic context.

Overall, pre-modern Islamic societies demonstrated a commitment to humanitarian values through their practices of compassion and aid. Islamic principles emphasized the importance of caring for the vulnerable and treating prisoners and civilians with dignity. The contributions of Islamic scholars further enriched the understanding of humanitarian thought within the Islamic tradition.

C. A Comparative Analysis of Islamic Principles and Modern Humanitarian Norms

Islamic thought has had a significant influence on the development of modern international humanitarian law. A comparative analysis of Islamic principles and modern humanitarian norms reveals several areas of convergence. Lohne & Sandvik (2017) argue that Islamic principles of justice, mercy, and compassion align with the core principles of humanitarianism. They highlight the importance of recognizing the diversity of religious and cultural traditions in shaping humanitarian practices and emphasize the need for dialogue and mutual understanding.

Key figures with Islamic backgrounds have made significant contributions to the development of international humanitarian law. One notable example is Mohammed Bedjaoui, an Algerian diplomat and jurist who served as President of the International Court of Justice. Bedjaoui's work on the concept of state responsibility and his contributions to the development of international law have had a lasting impact on the field of humanitarian law (Rosenow-Williams & Sezgin, 2014).

Islamic principles have also been incorporated into international humanitarian treaties. The Geneva Conventions, which form the cornerstone of international humanitarian law, include provisions that align with Islamic principles. For example, Article 3 of the Geneva Conventions prohibits violence to life and person, torture, and cruel treatment, reflecting the Islamic principle of the humane treatment of prisoners and civilians (Salek, 2015).

Furthermore, the Islamic Organization for Medical Sciences (IOMS) has played a significant role in promoting the integration of Islamic principles into humanitarian discourse. The IOMS has issued fatwas (Islamic legal opinions) that provide guidance on ethical issues in humanitarian contexts, such as organ transplantation and the treatment of prisoners (Rahman, 2021).

The influence of Islamic thought on modern international humanitarian law is evident in the convergence of principles, the contributions of key figures, and the incorporation of Islamic principles in international treaties. Recognizing and understanding this influence can contribute to the development of more inclusive and culturally sensitive approaches to humanitarian practices.

D. Challenges and Critiques

Challenges and Critiques The alignment of Islamic ethics with modern humanitarian law is not without its challenges and critiques. These challenges arise from various factors, including controversial aspects, cultural and regional variations in interpreting Islamic principles, and addressing criticisms and misconceptions.

One of the controversial aspects of aligning Islamic ethics with modern humanitarian law is the interpretation and application of certain Islamic principles in the context of contemporary conflicts. Islamic ethics, like any other ethical framework, can be subject to different interpretations and understandings. This can lead to debates and disagreements regarding the compatibility of certain Islamic principles with modern humanitarian norms. For example, there may be differing views on the permissibility of certain actions, such as the use of force or the treatment of prisoners, in light of Islamic teachings and international humanitarian law (Schussler et al., 2019).

Another challenge in aligning Islamic ethics with modern humanitarian law is the existence of cultural and regional variations in interpreting Islamic principles. Islamic ethics and jurisprudence are influenced by various cultural and regional contexts, which can result in different understandings and applications of Islamic principles. This can create challenges in achieving a universal and consistent interpretation of Islamic ethics in the context of international humanitarian law. It requires careful consideration of cultural and regional specificities while ensuring the adherence to universal humanitarian principles (Bakir, 2022).

There are also criticisms and misconceptions surrounding the alignment of Islamic ethics with modern humanitarian law. Some critics argue that Islamic ethics may be incompatible with certain aspects of modern humanitarian norms, such as gender equality or freedom of expression. These criticisms often stem from a lack of understanding or misinterpretation of Islamic teachings. Addressing these criticisms and misconceptions

requires engaging in dialogue and education to promote a better understanding of Islamic ethics and their compatibility with modern humanitarian principles (Mohammed & Jureidini, 2022).

In conclusion, aligning Islamic ethics with modern humanitarian law is not without its challenges and critiques. These challenges arise from controversial aspects, cultural and regional variations in interpreting Islamic principles, and addressing criticisms and misconceptions. However, by engaging in dialogue, promoting education, and fostering a better understanding of Islamic ethics, it is possible to overcome these challenges and further integrate Islamic principles into humanitarian discourse (Schussler et al., 2019; Bakir, 2022; Mohammed & Jureidini, 2022).

E. Case Studies

Islamic principles have played a significant role in shaping humanitarian practices in specific cases and conflicts. These case studies provide valuable insights into the application of Islamic ethics in humanitarian efforts and offer lessons for modern humanitarian endeavors.

One case study that exemplifies the influence of Islamic principles on humanitarian practices is the experience of ex-rebels turned humanitarians in the eastern Democratic Republic of the Congo (James, 2021). This study explores how individuals who were previously involved in armed conflict have transitioned into the humanitarian sector, integrating the knowledge they acquired through military experience. It highlights the ways in which these individuals navigate a complex political environment and contribute to humanitarian efforts. The distinction between combatants and humanitarians remains central to the humanitarian imaginary in this context.

Another case study examines the engagement of Islamic migrant organizations in humanitarian crises (Rosenow-Williams & Sezgin, 2014). Despite the increasing attention on migrant and faith-based organizations in recent years, the engagement of Islamic migrant organizations in humanitarian crises has not received sufficient attention yet. This study fills that gap by analyzing the roles and contributions of Islamic migrant organizations in humanitarian action. It explores how these organizations understand and apply Islamic principles in their humanitarian work.

These case studies demonstrate the practical application of Islamic principles in humanitarian contexts. They highlight the diverse ways in which Islamic ethics and values inform and shape humanitarian practices. By examining these specific cases, we can gain a deeper understanding of the complexities and nuances involved in integrating Islamic principles into humanitarian efforts.

These case studies have important implications for modern humanitarian endeavors. They provide valuable insights into the potential for Islamic principles to contribute to the development of international humanitarian law. By understanding how Islamic ethics have been applied in specific cases, we can identify best practices and lessons learned that can inform and improve contemporary humanitarian efforts.

In conclusion, case studies examining the role of Islamic principles in humanitarian practices offer valuable insights into the practical application of Islamic ethics in specific contexts. These case studies provide lessons and implications for modern humanitarian efforts, highlighting the potential for further integration of Islamic principles into humanitarian discourse. By understanding the experiences and contributions of individuals and organizations with Islamic backgrounds, we can enhance our understanding of the Islamic foundations of international humanitarian law and work towards more inclusive and effective humanitarian practices.

F. Contemporary Relevance and Future Prospects

Islamic humanitarian organizations and initiatives play a significant role in addressing humanitarian needs in the present day. These organizations are actively involved in providing aid and assistance to vulnerable populations, both within Muslim-majority countries and in regions affected by conflicts and disasters (Rosenow-Williams & Sezgin, 2014). They are guided by Islamic principles of compassion, justice, and solidarity, which form the foundation of their humanitarian work (Petersen, 2011).

One example of a prominent Islamic humanitarian organization is the Saudi Arabian International Islamic Relief Organization (IIRO) (Petersen, 2011). This organization, along with British Islamic Relief, exemplifies the diversity of approaches within the Islamic humanitarian sector. While IIRO promotes an all-encompassing Islam that informs all aspects of its work, British Islamic Relief adopts a quasi-secular approach, relegating Islam to the personal sphere (Petersen, 2011). These different approaches reflect the range of interpretations of Islam and its integration into humanitarian efforts.

The integration of Islamic principles into humanitarian discourse has the potential to further enhance and strengthen humanitarian practices. By incorporating Islamic ethics and values, such as the duty to help those in need and the importance of justice and fairness, humanitarian efforts can be grounded in a comprehensive and holistic framework (Ticktin, 2006). This integration can also contribute to a more inclusive and culturally sensitive approach to humanitarian work, taking into account the specific needs and perspectives of Muslim communities (Rosenow-Williams & Sezgin, 2014).

However, there are challenges and critiques associated with aligning Islamic ethics with modern humanitarian law. One challenge is the cultural and regional variations in interpreting Islamic principles (Ghaly, 2011). Different Muslim-majority countries and communities may have diverse understandings of Islamic teachings, which can lead to differing interpretations of humanitarian norms. It is important to navigate these variations and ensure that the integration of Islamic principles is done in a way that respects local contexts and traditions.

Addressing criticisms and misconceptions is another important aspect of incorporating Islamic principles into humanitarian discourse (James, 2021). There is a need to counter negative narratives and stereotypes that portray Islam and Muslims as incompatible with humanitarian values. By highlighting the historical contributions of Islamic scholars to humanitarian thought and showcasing the work of Islamic humanitarian organizations, misconceptions can be challenged and a more accurate understanding of the compatibility between Islam and humanitarianism can be promoted.

In conclusion, the contemporary relevance of Islamic principles in international humanitarian law is evident through the active involvement of Islamic humanitarian organizations and initiatives. These organizations are guided by Islamic ethics and values, and their work contributes to addressing humanitarian needs in diverse contexts. The integration of Islamic principles into humanitarian discourse has the potential to enhance and strengthen humanitarian practices, while also promoting a more inclusive and culturally sensitive approach. However, challenges such as cultural variations in interpreting Islamic principles and addressing criticisms and misconceptions need to be navigated. Overall, the future prospects for the development of international humanitarian law can benefit from further integration of Islamic principles and the continued engagement of Islamic humanitarian organizations.

CONCLUSION

This article explores the Islamic foundations of international humanitarian law, focusing on its origins, core principles, and contemporary significance. It highlights the

historical development of Islamic legal thought and its impact on modern humanitarian practices. The study shows the compatibility between Islamic values and modern humanitarian norms, with particular emphasis on the contributions of key Islamic figures to the evolution of international humanitarian law. Despite existing challenges in aligning Islamic ethics with contemporary humanitarian law—due to cultural differences and varying interpretations—dialogue and education can foster greater understanding. Case studies demonstrate the relevance of Islamic principles in shaping humanitarian efforts during conflicts.

However, the study is limited by its use of secondary sources and lacks analysis of primary Islamic texts. Further research that incorporates primary sources is essential to gain a deeper understanding of the relationship between Islamic principles and international humanitarian law. In conclusion, this research highlights the importance of incorporating Islamic principles into the broader humanitarian discourse, offering valuable insights that could enhance the development of international humanitarian law and policy.

REFERENCES

- Al-Dawoody, A. (2011). *The Islamic law of war: Justifications and regulations*. Palgrave Macmillan.
- Alahmad, G. (2016). The Saudi law of ethics of research on living creatures and its implementing regulations. *Developing World Bioethics*, 17(2), 63–69. <https://doi.org/10.1111/dewb.12114>
- Bakir, A. (2022). Islam and international relations (IR): Why is there no Islamic IR theory? *Third World Quarterly*, 44(1), 22–38. <https://doi.org/10.1080/01436597.2022.2121695>
- Bidabad, B. (2011). Foundations of international relations: An Islamic Sufi approach. *International Journal of Law and Management*, 53(5), 313–341. <https://doi.org/10.1108/17542431111166322>
- Boisard, M. A. (1980). On the probable influence of Islam on Western public and international law. *International Journal of Middle East Studies*, 11(4), 429–450. <http://www.jstor.org/stable/163176>
- Ghaly, M. (2011). Religio-ethical discussions on organ donation among Muslims in Europe: An example of transnational Islamic bioethics. *Medicine, Health Care and Philosophy*, 15(2), 207–220. <https://doi.org/10.1007/s11019-011-9352-x>
- James, M. (2021). From rebel to humanitarian: Military savoir-faire and humanitarian practice in Eastern DR Congo. *Development and Change*, 53(1), 166–189. <https://doi.org/10.1111/dech.12693>
- Lohne, K., & Sandvik, K. B. (2017). Bringing law into the political sociology of humanitarianism. *Oslo Law Review*, 4(1), 4–27. <https://doi.org/10.18261/issn.2387-3299-2017-01-01>
- Mohammed, H., & Jureidini, R. (2022). Umma and the nation-state: Dilemmas in refugee ethics. *Journal of International Humanitarian Action*, 7(1). <https://doi.org/10.1186/s41018-022-00124-z>
- Petersen, M. J. (2011). Islamizing aid: Transnational Muslim NGOs after 9/11. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations*, 23(1), 126–155. <https://doi.org/10.1007/s11266-011-9185-5>
- Rahman, R. (2021). Racializing the good Muslim: Muslim white adjacency and Black Muslim activism in South Africa. *Religions*, 12(1), 58. <https://doi.org/10.3390/rel12010058>
- Rosenow-Williams, K., & Sezgin, Z. (2014). Islamic migrant organizations: Little-studied actors in humanitarian action. *International Migration Review*, 48(2), 324–353. <https://doi.org/10.1111/imre.12061>
- Salek, L. V. (2015). Faith inspiration in a secular world: An Islamic perspective on humanitarian principles. *International Review of the Red Cross*, 97(897–898), 345–370. <https://doi.org/10.1017/s1816383115000600>
- Schussler, L., Burkle, F. M., & Wren, S. M. (2019). Protecting surgeons and patients during wars and armed conflicts. *JAMA Surgery*, 154(8), 683. <https://doi.org/10.1001/jamasurg.2019.0041>
- Tickin, M. (2006). Where ethics and politics meet. *American Ethnologist*, 33(1), 33–49. <https://doi.org/10.1525/ae.2006.33.1.33>
- Tibi, B. (2017). Islamic law/Shari'a, human rights, universal morality and international relations. In *International law and Islamic law* (pp. 309–331). Routledge.