

The Extent of Islamic Education Nondiscrimination Policy Protection for Transgender: An Islamic Law Analysis

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ABSTRACT: *The transgender phenomenon is seen to be one of the public sphere hot topics that is being discussed by many scholars nowadays, especially in Indonesia. Transgender is categorized into the problem of gender identity which refers to the condition in which the perpetrators identify their identity and gender differently from their sex biologically. It's caused by dissatisfaction and incompatibility between their body and soul. In Bahasa Indonesia, the words "waria", "priawan" or "tomboy" are being used to refer and indicate the person with transgender characteristic. Thus, there is a need to investigate how some transgender Muslims or even transgender scholars utilise Islam as a resource for alternative pedagogical strategies and nondiscrimination policy protection to reconcile their personal beliefs and values. Their strategies are especially significant given the prevalence of dominant Islamic teachings and education that forbid Transgender identities. This research uses qualitative method to illuminate the extent of Islamic law that is sourced from Al Quran, Hadith, as well as the Muslim scholars' opinion formulated an educational tool to provide an Islamic nondiscrimination policy protection for transgender people. In this way, this article suggests that comprehensive understanding in Islamic value and teachings are essential to deeply understand the extent of Islamic Education nondiscrimination policy protection for transgender.*

KEY WORD: *Transgender, Islamic Education, Nondiscrimination, Policy Protection*

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I. INTRODUCTION AND LITERATURE REVIEW

The term transgender is one of the hot topics discussed in the public sphere, the pros and cons are common views when dialecting this issue. Basically, the discussion about transgender in the Indonesian public sphere is a dilemma, on the one hand, Indonesia is one of the largest democracies in the world which is obliged to provide equal protection for all citizens, including transgender groups. Apart from the presence of religious values in the democratic system in Indonesia, not all democratic spaces are under the influence of religion, certain spaces are actually influenced by the values of humanism based on secularism, one of which can be seen from government policies that seem to provide space for the sustainability of transgender groups. While on the other hand Islam as the majority religion in Indonesia has a final view on transgender, namely transgender is not something that is allowed in Islam, explicitly Islamic teachings emphasize that there are only two genders, namely male and female. There should be no man who behaves like a woman, on the other hand there should not be a woman who acts as if she were a man.

The principle of non-discrimination in Islamic perspective

Islam as a religious teaching is not against the principle of non-discrimination, Islam clearly emphasizes that discrimination against certain groups cannot be justified, material and ethnic benchmarks cannot be used as a basis for discriminatory actions, in the view of Islam all humans have the same position in front of people. God, the only thing that makes the difference is the quality of his piety (Zuhra, 2013). The commitment to non-discrimination has been shown very perfectly by the Prophet Muhammad SAW, he was able to carry out a major revolution that raised the dignity of women, before the arrival of the Prophet Muhammad SAW, the practice of burying newborn girls was a normal thing in the culture of the ignorant Arab society, However, after the arrival of the Prophet Muhammad, this habit was crushed completely, this is undeniable historical evidence (Gumilang, 2018).

It is important to understand together that the principle of non-discrimination in Islam does not mean providing space for all groups to express according to their desires without any limitations, Islam still provides certain limits for human beings in behavior and expression, these restrictions are not intended to discriminate against humans from freedom of expression, This limitation is more intended as a guide to lead humans to salvation (In'amuzzahidin, 2015). In addition, this limit is also intended to maintain the harmony of human life, both between fellow Muslims and between Muslims and adherents of other religions, this limit is part of the rules of Islamic law. In this section, the concept of non-discrimination in the secular framework often fails to understand

the concept of non-discrimination from an Islamic perspective. Furthermore, the logic of secular thinking often condemns things that are prohibited in Islam as a form of discrimination, even though the prohibition is a form of law enforcement in an effort to realize human benefit.

A. Transgender, Left or Straightened?

The presence of transgender groups in society has become a polemic of its own, many reject its presence but there are also community groups who welcome it. Apart from the teachings of Islam, in terms of moral ethical standards in Indonesian society, transgender is basically unacceptable, the moral and ethical standards of society view transgender as something wrong and need to be straightened out. Groups in society who defend the existence of transgender people usually use the pretext of human rights, for this group transgender is considered as an expression of human rights that must be given space, this group not only chooses to allow but also protects transgender (Rahayu, 2018).

The perspective of omission, especially the protection of transgender, is certainly not in accordance with the Islamic concept, Islam places a firm emphasis on transgenderism as a mistake, therefore it needs to be straightened out. (Septian, 2020). The act of omission of transgender people will actually foster deviance that should not occur, for example, deviations that lead to moral damage. Along with the times, the Islamic perspective on transgender people often faces opposition, especially from those who defend the presence of transgender people, and it is not uncommon for these parties to try to pressure the government to issue policies that protect transgender people. This is a challenge for Muslims, this situation requires a harder da'wah struggle so that transgender people who are actually wrong are not considered as normal thing

1.2 Research Objectives

The objective of the research is to illuminate the extent of Islamic law derived from the Quran, Hadith, and Muslim scholars' opinions, an educational tool was developed to protect transgender people under an Islamic nondiscrimination policy. Consequently, this article suggests that a comprehensive understanding of Islamic values and teachings is necessary to comprehend the extent of Islamic Education's nondiscrimination policy protection for transgender individuals.

1.3 Research Methodology and Data Analysis

This study uses a qualitative method in the form of a literature review, in this section an assessment of the concepts and theories used is based on the available literature, the literature in question is the Qur'an as the main literature, plus hadith, and the opinions of Muslim scholars as supporting literature, The Qur'an was chosen as the main literature in the literature review because transgender issues seek to be reviewed from an Islamic perspective, when talking about Islam, of course, the Qur'an acts as the main source of teaching, the Qur'an becomes the basis of the world view in viewing and analyze everything. The verses in the Qur'an that talk about transgender will be reviewed in depth, these verses will reveal what the Islamic point of view on transgender is.

1.4 Findings and Interpretation

In the era of life that continues to move forward, various problems of life appear one after another, all of these problems require the presence of Islam as a religious teaching to act, one of the hottest issues is the issue of transgender. Before discussing further, it is important to understand the definition of transgender. From an etymological perspective, transgender comes from two words, namely "trans" which means to move or transfer and "gender" which means gender. So, in terminology, transgender is defined as a deviation from the original gender that is brought from birth (Harahap, 2016). A research entitled *Transgender Theory: Embodying Research and Practice* conducted by J.L Nagoshi transgender is defined as a denial of the original gender role that the individual should have performed or behavior that leads to the role of another gender (Brzuzy, 2010).

Transgender is not a new problem in human civilization, human ancestors in the past have also faced transgender issues, in prophetic history, Prophet Lut was faced with the situation of his people who made transgender a normal thing, the da'wah conveyed by Prophet Lut to repent and return to the right path. In fact, they actually experienced strong rejection from their people, because of their stubborn attitude to reject the truth, choosing to continue practicing transgender activities, finally the people of Prophet Lut ended up receiving a painful punishment from Allah in the form of landslides, earthquakes and hailstones that continued to befall them until they were destroyed. (QS. Hud: 82). Historically, the incident that happened to the Sodomites was a strong signal from Allah SWT so that mankind should never think that transgenderism is something that can be accepted and practiced in society. Apart from that, it is also important to remember that what is rejected is their behavior, transgender behavior, while the person still needs to be respected as a fellow human being while continuing to be guided to the right path.

The Islamic View on Transgender

Transgender in the view of Islam is not something that can be tolerated its existence, legally, Islam views the practice of transgender as something that is haram, therefore any action that leads to the preservation of transgender groups cannot be accepted in the context of Islam. (Rangkuti, 2012). Islamic law views that there are only two genders, namely male and female, this is as explained in the Qur'an Surah An-Najm Verse 45 "*And that He createth the two spouses, the male and the female*". Everyone who is born in the future must carry out behavioral roles based on their original gender, if they are born as a male then they must behave as a male, on the other hand if they are born as a female then they must behave like a woman.

Men and women were created in tribes and nations to then get to know each other " *O mankind! Lo! We have created you male and female, and have made you nations and tribes that ye may know one another. Lo! the noblest of you, in the sight of Allah, is the best in conduct. Lo! Allah is Knower, Aware.*" (QS. Al-Hujurat:13), the group who practice transgender are judged as people who transgress the limits as stated in QS. Al-A'raf:80-81, transgender also falls into the category of heinous acts as described in QS. Hud: 78. Denial of the original gender is an expression of the loss of gratitude for the blessings of life that God has given to that person. Rasulullah Muhammad SAW forbade and even condemned transgender acts, it can be seen in his hadith "*Allah curses women who imitate men and men who imitate women*" (HR. Ahmad, Abu Daud, At-tirmidzi, dan Ibnu Majah dari Ibnu Abbas).

In Islamic teachings, transgender is referred to as *al-mukhannits*, namely men who act as if they were women, in addition to *al-mukhannits* there is also the term *mutarajjilat*, namely women who behave as men. (Suhairi, 2016), *mukhannits* and *mutarajjilat* usually occur due to two conditions, first the tendency has been shown in a person when he was a child, this tendency usually appears in the model of body movements, for example a person who is born as a male but has very graceful movements resembling female body movements. Second, *mukhannits* and *mutarajjilat* occur due to the effects of environmental interactions, for example a person who is naturally a normal male but intensely associates with waria slowly begins to follow the tendencies of waria, until at one point he actually appears as a waria. In this section, we can actually understand the wisdom of why Islam forbids transgender, because there is a big enough chance that transgender people will influence normal people to join their group, and this is certainly damaging.

The leading scholar Abdul Hamid Asy-Syarwani in the book *Hasyisyatus Syarwani* asserts that if a man changes the form of a woman or vice versa, then if a man touches her, his ablution will not be invalidated in the first case (a man changing his form like a woman) and his ablution will not be invalidated in the first case. the second problem (women who change shape like men) because it is certain that there is no change in essence, what changes is nothing but the outer form. This view emphasizes that efforts to imitate men as if they are women or vice versa do not change the legal status of the person at all.

Transgender is also related to sex change surgery cases, transgender people, especially those who have a lot of money, often try to change their gender based on their sexual preferences. Regarding the case of sex change surgery, this case needs to be understood comprehensively. There are three conditions that cause sex change operations on a person, these three conditions each have different legal consequences from the side of Islamic teachings. First, a person who performs a sex change operation only because of sheer lust, this person was born in a normal sex condition but he deliberately wants to change his gender based on the sexual tendency he likes, in this case the law is haram because it is included in the category of changing Allah's creation, This type of surgery is mostly done by transgender people (Abdullah, 2013). Second, genital surgery is performed on people who are born with multiple sexes, this operation is intended to clarify which genitals he deserves to use, this operation is to remove one of his genitals so that it is no longer double, this type of surgery is legal. Third, genital surgery which intends to perfect or repair, not replace, the scholars view that this type of surgery is permissible.

Solutions to Transgender Problems from an Islamic Perspective

The rejection of transgender people is also accompanied by solutions to overcome this problem, Islamic teachings not only prohibit transgender but also provide a way out to avoid this act, there are several ways that can be taken to overcome transgender from the micro level to the macro level. First, strengthening Islamic education from an early age, this is important considering that education plays a key role in a person's physical and psychological growth, it is not enough just to rely on schools to maximize Islamic education for children, more than that, parents at home must be actively involved in providing Islamic education to their children. not only in theory but also in practice. The child must be given an understanding that the body that he has is very valuable and very important to be protected, the child must be kept away from things that stimulate his sexual desire in the wrong direction, the child must also be taught the role that he will later assume based on the nature of his gender, by way of It is hoped that the child will grow without deviating from the nature of his gender (Afif, 2019).

Second, ensure that you do not fall into a social environment that can lead to transgender people, of course this is a form of prevention so that you don't fall into transgender actions. In certain cases, there are people

who as a child received Islamic religious education but because they chose the wrong place to hang out, eventually in adolescence or adulthood they fell into transgender behavior. (Azriani Sari Nasution, 2019). Third, carry out a da'wah movement to transgender actors, this da'wah can be delivered in the form of building a dialogue with them so that the perpetrators leave transgender behavior and then return to normal life in the community, this da'wah can be done while still paying attention to the ethics of politeness, opening the horizons of thinking the perpetrators will harm that will what he gets in the future, for himself and the environment around him, the perpetrator must be made aware that there is still a chance to return to a normal life, and that is the best option. Fourth, take real, practical actions to make transgender actors aware, for example building a clinic that aims to provide counseling and guidance to transgender actors. this needs to be done so that transgender actors do not further distance themselves from society because of sentiments of hatred towards them, if they further distance themselves from society, it is likely that they will be more and more soluble in transgender behavior, of course this is not a good thing.

Fifth, ensuring that the government does not provide space in the form of direct or indirect support to transgender actors, the intended support is actions that lead to the growth of transgender people, for example providing space for transgender people to use their transgender abilities to find work, this should not be If the government gives this kind of space, then it is the same as allowing transgender actors to continue to grow in Indonesia. Apart from the will of the internal government, policies like this also arise because of pressure from human rights activists who view that transgender actors have the right to use their transgender abilities to access jobs. (Rahim, 2021), Of course this is wrong, this is the same as allowing deviations that lead to moral damage to continue to occur, if the excuse is human rights then normal humans who are far more numerous also have human rights so that their environment is not morally polluted by transgender practices, something cannot be called a part of human rights if something actually damages the human rights of people or society.

Muslim scholars and Muslims in general must oversee government policies related to transgender, it must be ensured that none of the government policies leads to omission or support. The government as a policy maker must ensure that the policies he takes bring benefit to the community, it is important for the government to take policies that are an attempt to improve so that people who have fallen into transgender behavior can return to their senses and live normal lives in society. a policy like this is much more urgent and important, it also brings concrete benefits.

II. Conclusion

Islam has a clear view of transgender, the law is prohibited, Islamic teachings do not open up space for the presence of transgender people, the Qur'an explicitly confirms that humans are created only in two sexes, namely male and female. The prohibition of Islam for its adherents not to practice transgender is a serious effort to maintain the safety of human life, ensuring that Muslims do not fall into acts that are detrimental to themselves and society. Islam also provides solutions to overcome transgender problems, this solution can be applied at the family, community and state levels, these solutions include: First, strengthening Islamic education from an early age, Second, ensuring that you do not fall into a social environment that can lead to transgender people, Third, carry out da'wah movements for transgender actors, Fourth, take practical practical actions to awaken transgender actors, Fifth, ensure that the government does not provide space in the form of direct or indirect support to transgender actors.

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