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Challenging and asserting human



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Commemorating International Human Rights Day, which fell on Dec. 10, we saw that human rights institutions have long advocated what might be termed Western or '€ liberal'€ principles and standards of human rights protection across the nation.



because of global agreement as shown in the ratification of human rights instruments

The liberal principles assert that all individuals must have all kinds of rights and protections as long as these rights do not violate the rights of others. In regard to this

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the significant elements of a democratic state. It is because of this that liberalism promotes the equality of non-mainstream groups of people and individuals with others, because the former's status as human beings should be equally protected.

The liberal aspect also requires the protection of non-mainstream individuals or minority groups within a particular state because they usually do not have sufficient legal and political power to defend themselves. In many cases members of society frequently regard certain elements of non-mainstream groups as conflicting directly with 'well established norms' held by the majority.

The reality of the liberal human rights approach varies from one state to another. Liberal human rights have been successfully applied in countries which 'culturally' endorse individualism such as in Western Europe and North America. However, the contentious debate about the liberal principles of human rights cannot be ignored in other parts of the world.

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South America, Asia and Africa. Socialist countries generally argue that the liberal

individuals, may collide with the communal nature of the state. In most African countries where a particular culture has a significant influence on the judicial process and state policies, the rights of the individual are often curbed to preserve harmony in

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countries, which generally promote a harmonious relation between the rights and duties of the individual based on Islamic criteria, the conflict between individualism and collective interests generally ends up giving priority to the latter.

While there is no clear statement in the Koran and or the Hadith instructing Muslims to prioritize the community over the individual, the history of Islam demonstrates that individual legal reasoning or *ijtihad*, which promotes liberal human rights were often considered a deviation, apostasy or even '€ rebellion'€ against well established Islamic jurisprudence.

In Indonesia, which acknowledges the significant role of religion in the public sphere but at the same time does not endorse a particular religion as a source of national law, liberal human rights are deemed by most people and the government as a threat to social integration and national unity.

Some religious organizations also claim that individualism and liberal human rights

introduce religious prescripts into Indonesian human rights law to challenge the

This means that the application of human rights principles may coincide with socio-religious reality within Indonesian society, which generally prioritizes community

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This dynamic-contentious interaction between liberal human rights and the communalism of religion and cultures not only occurs in Indonesia but also in many parts of the world. If human rights regimes still apply the '€ anthropocentric approach'€ to reinforce liberal human rights, it is very likely they will fail to receive legitimacy around the world. The main reason is that some states still apply a '€ theocentric approach'€ to human rights.

Until very recently, many countries, including Indonesia, still challenged the liberal version of human rights by asserting their own version. Thus, there must be an approach to accommodate a particular culture and religion when speaking about human rights. However, when a violation of human rights occurs, it must fall within the jurisdiction of international human rights.

The writer is a lecturer at Faculty of Law, University of Jember, East Java

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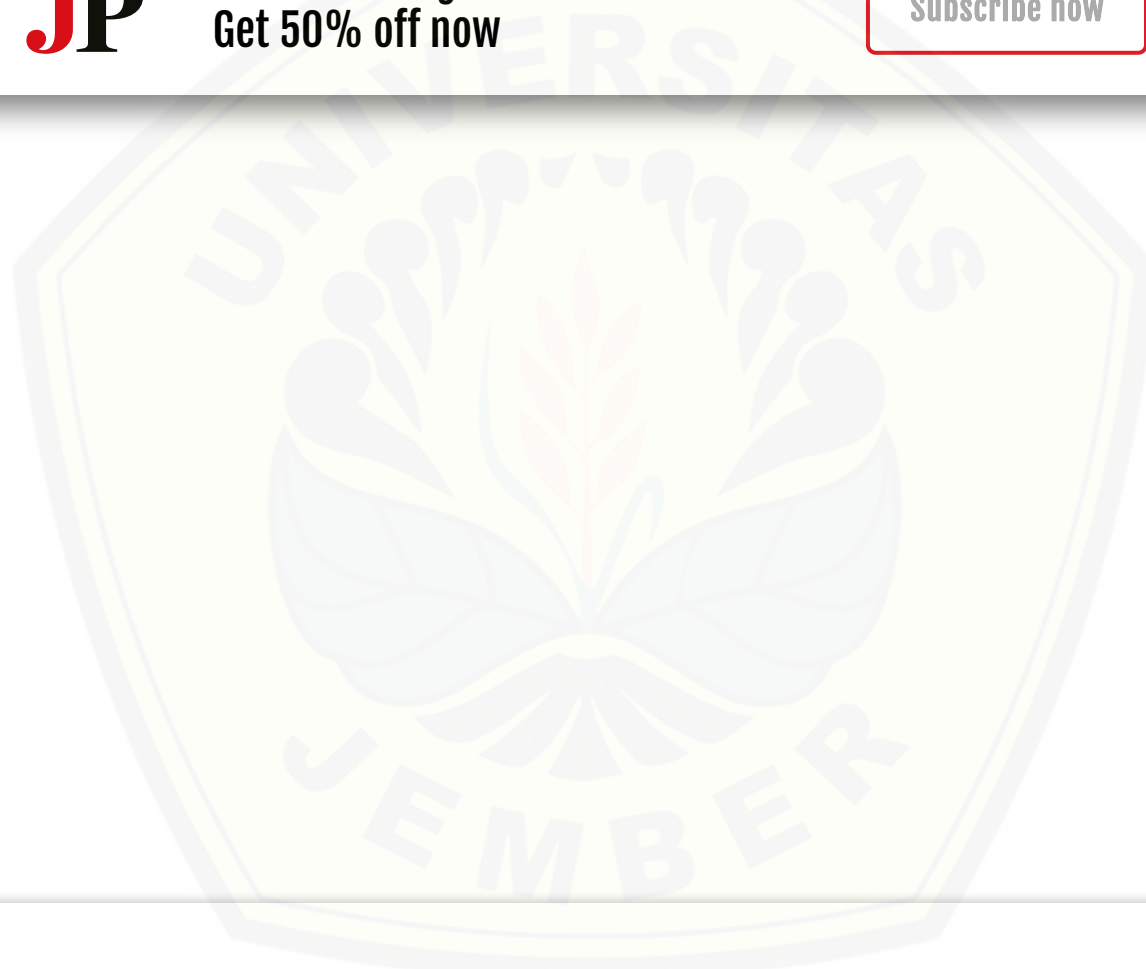
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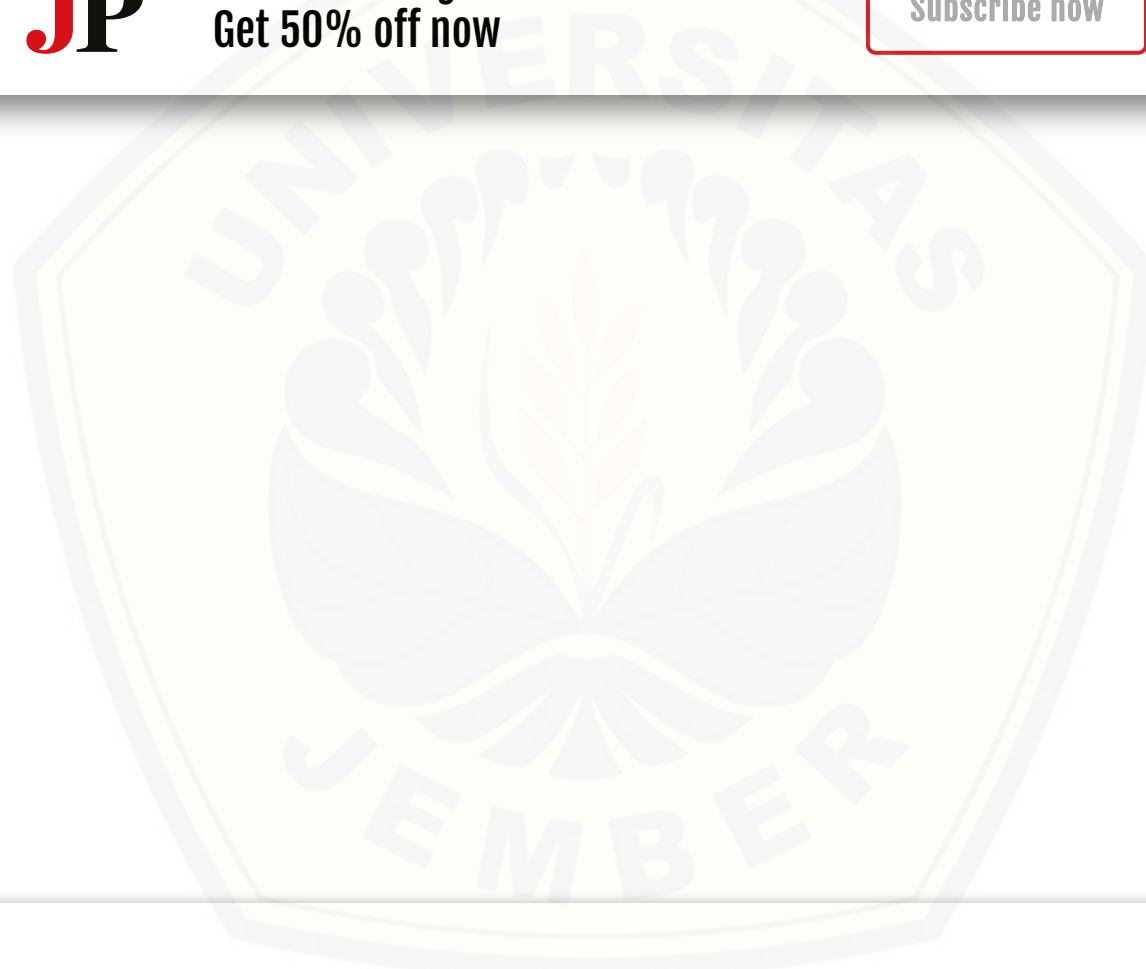
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