

A Systematic Analysis of Islamic and Legal Perspectives on The Rights of Persons with Disabilities (PWDs)

Nurul Nadia Nozlan

Faculty of Syariah & Law, Universiti Sains Islam Malaysia

Azman Ab. Rahman

Faculty of Syariah & Law, Universiti Sains Islam Malaysia

Hasnizam Hashim

Faculty of Syariah & Law, Universiti Sains Islam Malaysia

Abstract

Undoubtedly, it cannot be denied rights of Persons with Disabilities (PWDs) preserved and protected under Islamic and Legal perspectives. Islam sees the disability as morally neutral and given equal preservation just like any other human being. Ensuring their inclusiveness can help achieve global goals, realizing the Sustainable Development Goals (SDGs) by, for, and with PWDs. Building on the principle of "leaving no one behind," the new Agenda emphasizes a holistic approach to achieving sustainable development for all (United Nations, 2016). This research examined the rights of PWDs according to Islamic and legal perspectives. This study uses the PRISMA methodology and two electronic databases from SCOPUS and HeinOnline systematically searched for papers or articles relating to Islam and disabilities, legal perspective, and the rights of PWDs over the period 2010 until 2020. The data collected was analyzed and recorded in the PRISMA flow chart. The result shows that 54 articles showed from the searching on both databases. However, only 28 journal articles were selected and analyzed after the final filter in the qualitative and quantitative synthesis. Ten interesting articles were chosen for discussion on the Islamic and legal perspectives on the rights of PWDs. Hopefully, this research will provide a useful overview and discussion of the systematic analysis of PWD rights from Islamic and legal perspectives using PRISMA methodology, as well as serve as a reference for other researchers and academics.

Keywords: Persons with Disabilities (PWDs), Islamic and Legal Perspective, Rights of PWDs, Systematic Analysis, PRISMA

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1. INTRODUCTION

Rosmawati (2008) defines Persons with Disabilities or also known as (PWDs) as a person who has problems with the limitations of mobilization (movement), either physical (body), mental (light, medium or heavy), sight, and hearing. Wan Sabri et al. (2013) define PWDs as a person with differences in terms of neurological characteristics, sensory capacity, communication ability, behaviour and emotion, and physical characteristics. The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) recognizes that 'disability is an evolving concept'. The term "persons with disabilities" are used to apply to all persons with disabilities, including those who have long-term physical, mental, intellectual, or sensory impairments which, in interaction with various attitudinal and environmental barriers, hinders their full and effective participation in society on an equal basis with others (UNCRPD, 2006). Overall, disability is part of the human condition. Everyone is likely to experience it, either permanently or temporarily, at some point in their life (WHO, 2020; & The World Bank, 2011). People with disabilities also are diverse and not defined by their disability (Al Ju'beh, 2015). Disabilities may be visible or invisible, and onset can be at birth, during childhood, working-age years, or old age.

Other than that, according to Ab Aziz Mohd Zin et al. (2009), PWDs are classified into two different community groups. The first group consists of special children or special needs children, and the second group consists of a particular person for adults and the elderly. All characteristics,

such as sight problem, hearing problem, physical disability, mental and intellectual ability, sensory capacity problem, communication ability, and social behaviour disorders, are referred to the persons with disabilities. This entity's existence within society becomes a signal for the communities to play their role in the survival of this unique group or entity based on three main elements: *al-Ta'āruf*, *al-Ta'āmul*, and *al-Ta'āwun*.

The aspect of *al-Ta'āruf* refers to knowing each other in understanding and accepting their differences and disorders. The element of *al-Ta'āmul* means be friendly and communicate with them by respecting their lifestyle and way of life. Then, the aspect of *al-Ta'āwun* completes the signals or symbolic of their existence, which is to help them fulfill their needs and create opportunities and equality in all aspects of life (Azman Ab Rahman et al., 2014). Even though people with disabilities have practical limits or weaknesses, their rights should be better protected under Islamic law. They also should be given more attention so that they do not fall behind. People with disabilities are regarded as one of the cornerstones of a good society in Islam. Allah SWT mentioned in Al-Quran:

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا

Meaning: "O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another."

(al-Quran. al-Hujuraat, 49:13)

This verse shows that the one of its main focuses is to build an ethical and fair society by not depriving peoples' rights. One of its concepts and rules to produce a quality society are through the method of "*al-Qudwah Qabla al-Dakwah*" (be exemplary before preaching) as it is crucial to recognize the existence of all entities or individual society regardless of their race, appearance, and their level of physical and mental. Besides, their right in legal perspective also cannot be denied and must be protected under the law and legislation.

Thus, the purpose of this study is to conduct a brief examination of the rights of PWDs from Islamic and legal perspectives in general using a Preferred Reporting Items for Systematic Review and Meta-Analyses (PRISMA) technique. The researcher chose SCOPUS and HeinOnline as search engines to collect data and relevant articles. Using the PRISMA flow chart, the data will be systematically counted and recorded. Several intriguing and specially selected articles will be discussed or used as a qualitative synthesis in the discussion.

2. METHODOLOGY

In this research, the researcher employs a systematic qualitative review. A systematic literature review was conducted by reviewing all journal articles published in SCOPUS and HeinOnline from 2010 to 2020 that were related to research on Islamic and legal perspectives on the rights of PWDs. SCOPUS and HeinOnline were chosen as a comparison to find any journal articles related to the research objective, as HeinOnline is a database related to legal sources, whereas SCOPUS is a database related to life sciences, social sciences, physical sciences, and health science. Hence, choosing these databases will ease researchers' task in reviewing existing research related to Islamic and legal perspectives on the rights of PWDs systematically.

The data was analyzed using the content analysis method by adapting inductive and deductive reasoning. The data analyzed will be deductively displayed in the form of a matrix table. The said table is inductively clarifying the content on the issue discussed in the journal articles. The study

used Preferred Reporting Items for Systematic Review and Meta-Analyses (PRISMA) technique to demonstrate the finding besides being a guide for the systematic review. According to Hayrol et al. (2020), the flow diagram describes the A-Z process of Systematic Literature Review (SLR) in an organized manner. Among the established flow diagrams are the PRISMA flow diagram. Several steps were taken in PRISMA to demonstrate the study: identification, screening, eligibility, and inclusion (included).

The identification process is a step where the researcher records identified articles through database searching. The researcher uses suitable keywords to find the related journal articles from the two databases (SCOPUS and HeinOnline). The general keywords used by researchers in to find articles in SCOPUS and HeinOnline are: “Islamic Perspective”, “Legal Perspective”, and “Rights of Persons with Disabilities.” It is critical to enter a large number of keywords into a database in order to generate more data on the topic. However, if the researchers only use a specific keyword, the database results will be more relevant, but there is a risk of losing potentially valuable documents (Shaffril et al., 2020). After the search found the result, the researcher analyzed the result by removing the duplicate articles from the two databases and recording the total number. This process is necessary to remove the redundant documents or articles that exist and are counted in the records. In this research, researchers discovered no redundant files after compiling all of the details of journal articles using Microsoft Excel. As a result of the search, 54 articles were discovered, including 27 from SCOPUS and 27 from HeinOnline. The result from two databases shows a different document as these two databases have different types of criteria. HeinOnline only focuses on articles related to law, whereas SCOPUS only focuses on articles concerning to life sciences, social sciences, physical sciences, and health science. Figures 1 and 2 show an example of a query string from the database used in this study: HeinOnline and SCOPUS.

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TITLE-ABS-KEY ( islamic AND perspective AND on AND persons AND with AND disabilities  
OR legal AND perspective ) AND ( EXCLUDE ( PUBYEAR , 2008 ) OR EXCLUDE ( PUBYEAR , 2000 ) OR EXCLUDE ( PUBYEAR , 1984 ) ) AND ( LIMIT-TO ( PUBSTAGE , "final" ) ) AND ( LIMIT-TO ( DOCTYPE , "ar" ) ) AND ( LIMIT-TO ( SRCTYPE , "j" ) )
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Figure 1: An Example of Symbols and Coding in A Search or Query String Developed in SCOPUS

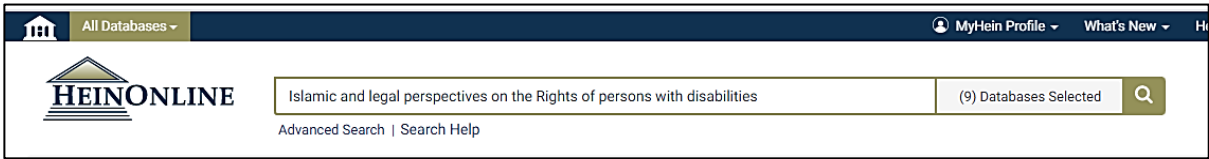


Figure 2: An Example of Symbols and Coding in A Search or Query String Developed in HeinOnline

Next, in the screening process, the researchers evaluate and goes through all the articles to be included and excluded from the research by reading the article's title and abstract. The researchers put several criteria in the screening process, such as year, document type, publication stage, source type, and language. The researcher only includes the year publication from 2010 until the year 2020. For the document article, the researcher only chooses articles and removes document types such as book and book chapters. The only final paper in the publication stage, article in English language and article that suit the research objectives was recorded. At the same time, unrelated articles were excluded because they do not suit with the criteria mentioned. In this study, 26 articles were excluded because the researchers had scoped the search using the aforementioned criteria after entering keywords into the SCOPUS and HeinOnline databases.

For the eligibility process, the researchers read the full text of articles assessed for eligibility. The researchers exclude articles that are not related to the research objectives and only chooses the articles that suitable for the study to be included in the qualitative and quantitative synthesis. Only 28 articles are relevant after the previous screening record that discussed and related to this topic. Finally, the last process is included where the researcher only discusses the selected articles to be analyzed in this research. Ten from twenty-eight interesting articles were chosen to discuss the Islamic and legal perspective on persons with disabilities' rights and were analyzed through qualitative synthesis. Meanwhile, all 28 recorded articles in the final process were analyzed through quantitative synthesis and displayed in the table given. Figure 3 shows the flow chart of the research and data recorded based on the PRISMA systematic methodology.

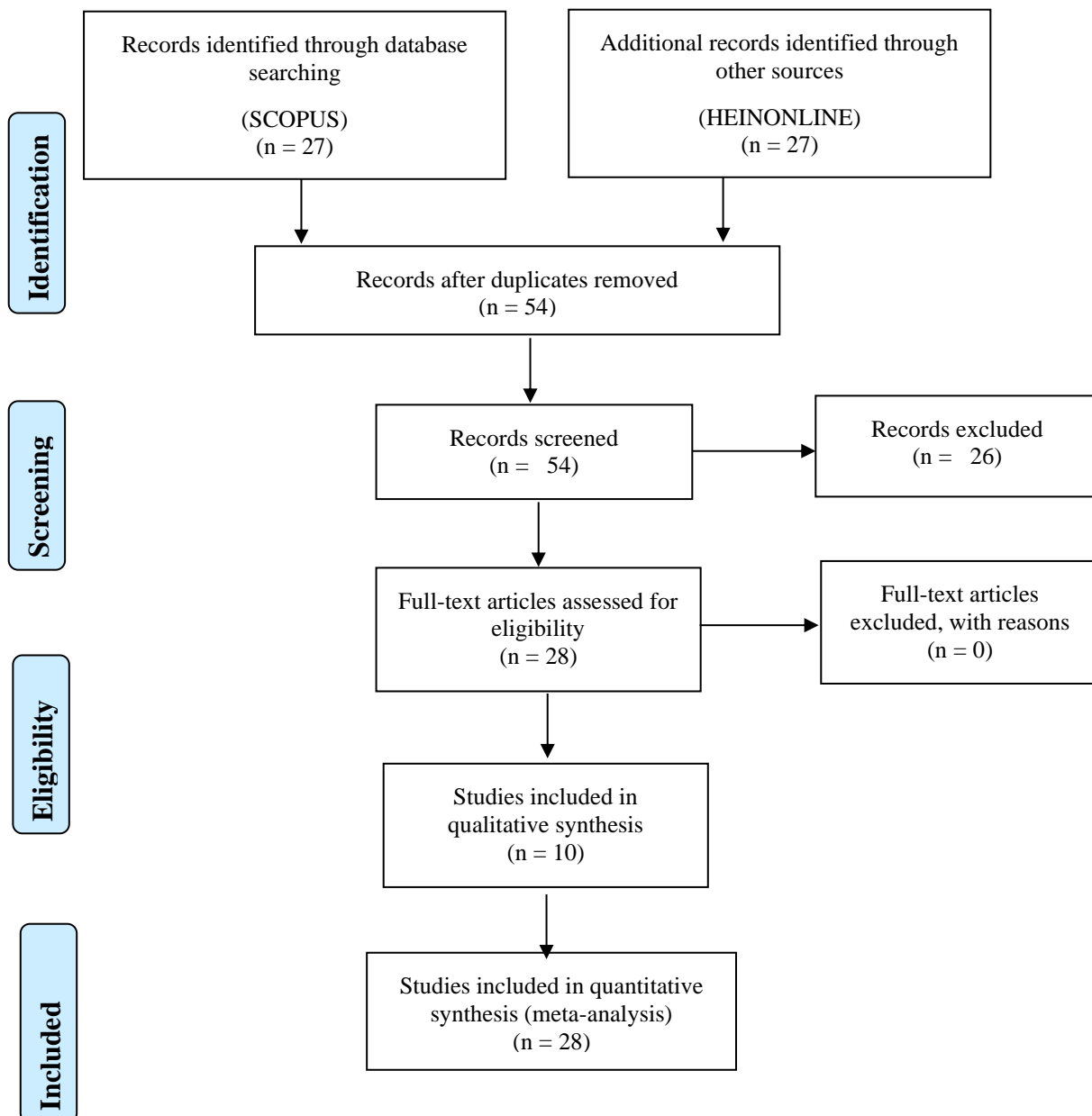


Figure 3: Flow Chart of The Research and Data Recorded Based on The PRISMA Systematic Methodology

3. RESULTS

From the result recorded in the PRISMA flow chart, the researchers analyzed the data by categorizing the result into a table. Initially, the researcher discovered a total of 54 related articles in SCOPUS

and Heinonline databases. However, the information or final data was obtained after being screened and evaluated for eligibility in the final stage. Thus, after being screened and evaluated by the researchers, 17 articles were found through the SCOPUS databases, and 11 articles were found from the HeinOnline databases. Hence, for the quantitative synthesis, the researchers include all 28 articles found in both databases.

Based on the Table 1 shown, journal articles related to Islamic and legal perspectives on PWDs slightly increase by years. One to three articles were published in SCOPUS, and the result indicates that almost every year, the author was interested in discussing the topic related to the research area. The highest number of articles published in SCOPUS is three (17.5%) in 2019 and 2015. Meanwhile, in 2010, 2013, and 2020, no article was published in SCOPUS regarding the research topic. Other years recorded the same number of articles published in SCOPUS, which is two (12%) articles in a year. Overall, 17 articles were published related to PWDs and its rights in Islamic and legal perspectives from year 2010 to 2020.

Table 1: Number of Publications in SCOPUS by Years

Year of Publications	Number of Article	Percentage (%)
2020	-	-
2019	3	17.5
2018	2	12
2017	2	12
2016	2	12
2015	3	17.5
2014	2	12
2013	-	-
2012	2	12
2011	1	5
2010	-	-
Total	17	100

Table 2 shows results found from the HeinOnline databases searching. The highest number of publications was found in 2020, 2019, 2017, and 2010, which is two (17.5%) journal articles. The overall result shows that even though only 11 articles were published in HeinOnline, most researchers are still interested in investigating and discussing the PWDs and their rights according to Islam and legal perspective as at least 1 (10%) articles published in a year.

Table 2: Number of Publications in HeinOnline by Years

Year of Publications	Number of Article	Percentage (%)
2020	2	17.5
2019	2	17.5
2018	-	-
2017	2	17.5
2016	-	-
2015	1	10
2014	-	-
2013	1	10
2012	1	10
2011	-	-
2010	2	17.5
Total	11	100

Besides that, Table 3 shows 28 articles found from two databases published by SCOPUS and HeinOnline related to the research topic and objectives. The highest number of publications found in the year 2019, which is five (18%) articles, was published in the databases. Meanwhile, the least number of articles published is 2011 and 2013, which is only one (3.5%) article. Each year, an article is published related to the Islamic perspective on PWDs and their position according to law in general.

Table 3: Number of Publications by Years

Year of Publications	Number of Article	Percentage (%)
2020	2	7
2019	5	18
2018	2	7
2017	4	14
2016	2	8
2015	4	14
2014	2	7
2013	1	3.5
2012	3	11
2011	1	3.5
2010	2	7
Total	28	100

4. DISCUSSIONS

For this section, the discussion is based on data collected from a systematic qualitative review. The data recorded are ten interesting articles discussed on the Islamic and legal perspectives on PWDs. First of all, the existence of PWDs in our society is part of society. Their existence cannot be denied and must be seen in the right way because the difference is not physical but ability due to a natural cause or unwanted incident in their life. Their ability should be evaluated based on the different capabilities of those considered perfect without disabilities. Thus, it is essential to know their position and rights according to Islamic and legal perspectives as a whole. Islam is a religion and a way of life, whereas the law prevents humanity from being far from humanity's concept. Both Islamic and legal perspectives are essential to understanding the Islamic position and principle towards disability and its rights.

6.1 Islamic Perspective on The Rights of Persons with Disabilities (PWDs)

Ibrahim & Ismail (2018) stressed that the theoretical construct of disability from an Islamic perspective was derived from the authentic teachings of the Quran, Sunnah, and the Sahabi stories. Muslims with disabilities live in various circumstances, whether in predominantly Muslim countries on low or average incomes or as minority citizens, immigrants, or refugees in other countries. However, the authors believe that, despite their vulnerability, disabled people must be viewed positively in the Islamic way of life because negative perceptions of disabled people can cause them to be excluded and deprived of the right to live a full life. This will result in the denial of rights, which Islam strongly encourages, such as the right to live an equal life without discrimination between the disabled and the typical.

Meanwhile, Al-Aoufi et al. (2012) provide an analytical perspective of Islamic philosophy on PWDs. The researchers were examining some texts from Quran and Sunnah, with their differences between cultural practices and real Islamic perspectives. Even though Muslims share the same beliefs, their reactions towards PWDs may vary depending on the intensity of a person's faith and other reasons such as socio-economic status, level of education, awareness, and cultural context.

According to the Islamic perspective, the researchers also highlighted that the rights of disability consist of social rights, rights of treatment and rehabilitation, rights of education, and marital rights. All of these rights are thought to correspond with Islamic law's principles for providing care for the less fortunate, such as the PWDs.

Nevertheless, one study was discovered that compared the rights of PWDs not only from an Islamic perspective, but also from other religions. Simon Hayhoe (2014) conducted research on the position or rights of PWDs not only in Islamic beliefs but also in Christian beliefs. The researcher examined Muslim attitudes toward disabled people, focusing on attitudes in the Middle East and North Africa. Focusing on the West, on the other hand, is a priority for Christians (Europe and Americas). The study found that both beliefs have much in common and are very good in promoting and developing disability equality by both Muslims and Christians. The study also discovered that in both faiths, promoting support and equality is their primary concern. In the areas mentioned by the researcher, both the Muslim and Christian communities are seen to accept the presence of the disabled in the community by providing support such as help and promoting equal rights in their lives by not denying their existence.

Meanwhile, another study was focusing on one's country about the nature and culture of disability. Hussain (2019) investigated the cultural and religious discourses about disability among six young disabled people in Kuwait. The author also investigated the views of a Kuwaiti Salafi Imam on how the Islamic religion views disability and disabled people. In contrast to the Imam's viewpoint, the study discovered that people's attitudes and religious interpretations of disability paint a distorted picture of disabled people. The findings also show how participants locate the "problem" of disability in their bodies by accepting words such as healthy or normal when referring to nondisabled people, reinforcing the notion of "normalcy." As can be seen, Islam never discriminates against the rights of people with disabilities by accepting and normalising their presence in society. It is also a right to life recognised by Islam in order to ensure the well-being of individuals in society.

To summarise, Islam is deeply concerned with the rights that every individual, disabled or not, should be able to obtain. According to several journal articles obtained by researchers, it is possible to conclude that Islam is very concerned about the rights that the PWDs should be granted. According to the authors of the journal article, social rights, treatment and rehabilitation rights, educational rights, marital rights, support, equality, and the right to live a full life are among the rights outlined from a Sharia or Islamic perspective which must be obtained by PWDs. As a result, every level of society in the world will achieve harmony and prosperity.

6.2 Legal Perspective on the Rights of Persons with Disabilities (PWDs)

In the legal perspective on the rights and positions of PWDs, recent studies draw a significant finding in various aspects of opinions. In the context of their employment rights, Fengming & Wharton (2010) stated that PWDs in China faced challenges in employment, even though the employment situation for PWDs in China reveals improvement. The study found among the challenges faced by the PWDs is a lack of acceptance and respect for people with disabilities in the workplace by their non-disabled employers and colleagues. These negative attitudes can create a very unwelcoming and destructive environment for employees with disabilities. Other than that, the word 'disability' is always being misunderstood that can lead to the self-denial of PWDs as citizens who should be one of the society responsible for in participating the development of the country by promoting their rights, building capacity as productive members of the workforce, and contributing to social change. It was mentioned in Article 27(1)(b) of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) stated that, obligates governments to '*Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions,*

including protection from harassment, and the redress of grievances,' and CRPD Article 3(c) calls for 'full and effective participation and inclusion in society.'

In the aspect of their rights to be included in the life of the community, Gradwohl (2014) stated that the study aimed to make the field of community living the subject of legal research in order to draw attention to the deficiencies of the current legal regulation concerning the replacement of large residential institutions and the promotion of community living in Hungary. The study found that among the rights of PWDs that should be included in the community's life are deinstitutionalization and the development of community-based services, right to community living in the light of the international and supranational legal regulation, personal care, and housing services. The author also suggested that the Social Act and the Disability Act should be more coherent with each other. The establishment of a uniform terminology would be desirable in naming housing forms provided for people with disabilities, and the uniform terminology should be consistently followed by the relevant legal and other documents.

Next, the study made by Frawley & Naylor (2014) on the rights of PWDs in a closed environment stated that people with disabilities were still housed in congregate residential institutions in Australia. Most people living in these facilities are people with intellectual disabilities who have been placed there by administrative decisions, although some have been placed under a formal order based on risk. The study found that the problem in these environments is closed off from the community geographically and offers a very different service model than the individualized model that has grown from rights-based legislation and policy. It highlights the challenge to the existence of closed residential facilities posed by the United Nations Convention on the Rights of Persons with Disabilities, particularly Article 19, which articulates the right to choose where to live and live in the community. Thus, PWDs also have their rights to choose a suitable and comfortable place as they wished.

A different argument was given as Addaney et al. (2019) focused on the legal capacity of and access to justice for refugees with disabilities in Africa. The study found that even though the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD) has rendered PWDs more visible, their struggles remain overlooked. One of the struggles is during forced migration. The refugees with disabilities were challenged in accessing protection and assistance seeking refuge under international and domestic law. The author also examined the normative content of Article 12 (equal recognition before the law) and Article 13 (access to justice) of the CPRD to ascertain how these provisions have influenced domestic refugee laws, policies, and practices in Ghana and Uganda.

Another exciting research discussed is protecting the rights to freedom from torture in the Arab League States and under the Arab Charter on Human Rights (Mujuzi, 2010). The author suggested that the Arab League member States would have to adopt a protocol to the Arab Charter, explicitly protecting it to protect the right to freedom from torture among PWDs effectively. The amendment of the Arab Charter is another further suggestion made to give the Arab Human Rights Committee jurisdiction to entertain individual communications alleging the violation of the right to freedom from torture under the Charter. Besides, the article recommends that the Arab Human Rights Committee's Rules of Procedure include a provision allowing non-governmental organizations (NGOs) to submit shadow reports reacting to state parties' reports on the measures taken to implement the provisions Arab Charter. It can be seen that it is not only legal policies such as the CRPD that are responsible for ensuring the rights of the disabled in a country; the government or non-governmental organizations are also responsible for ensuring the rights of the disabled in their country.

Lastly, Mohammed Ghaly (2019) discussed the Convention on the Rights of Persons with Disabilities and the Islamic Tradition. The study focused on the legal capacity of persons with mental

disabilities. The issue always arises during the process of drafting the Convention on the Rights of PWDs. The Arab Group, consisting of Muslim-majority countries in the United Nations, expressed reservations about the Article's formulation related to this issue. However, arguably with language-specificity have made their reservations dismissed. The study found that the author revisits these deliberations and argues that the reservations of the Arab countries have to do with religious aspects rooted in the Islamic tradition. The Disability Convention missed a rich source of wisdom provided by a world religion like Islam by ignoring these religious aspects. The innovative insights provided by the Disability Convention can be of value to improve contemporary discussions on legal capacity within the Islamic tradition.

Without a doubt, the laws have provided proper rights to PWDs by outlining some of the rights that should be given and accepted by the disabled from a legal standpoint or perspective. According to the findings of the study, most of the authors primarily discussed the rights of PWDs as stated in the United Nations Convention on the Rights of Persons with Disabilities (CRPD). Employment rights, full and effective participation and inclusion in society, equal recognition before the law, and access to justice are among the rights emphasized by the authors. Thus, it can be seen that the law does not deny the rights of the disabled by enacting policies such as the CRPD to ensure the rights that they should possess. Disabled people's rights must be respected, certified and accepted in society, regardless of country, religion, or culture.

5. CONCLUSIONS

In conclusion, in this paper, the researchers used the PRISMA framework to conduct a systematic analysis of the Islamic and legal perspectives on the rights of PWDs by analyzing journal articles or publications from two databases, namely SCOPUS and HeinOnline, from 2010 to 2020. The data was meticulously recorded and analyzed using quantitative and qualitative synthesis. Generally, the researchers found that the right of PWDs from Islamic and legal perspectives must be protected by recognizing their existence, accepting their disabilities, and be a part of the community. Recent studies through the past ten decades (2010-2020) show very significant and comparison findings and discussion on the rights of PWDs according to Islamic and legal perspectives. The rights of PWDs according to the Islamic perspective have been derived through Quran and Sunnah by upholding their rights, existence, justice, and equality among society. Their disabilities should be seen positively by not hindering their involvement in society and respect each other.

Moreover, their rights from a legal perspective should be protected under the law. Throughout the study discussed, their rights in employment, rights to freedom from torture, equal recognition before the law, and access to justice should be preserved. These elements will help to protect their rights legally and preserve their inclusiveness to have a better life. All of these rights have been highlighted and outlined in the CRPD, which should be legally authorized in all countries around the world in order to promote social and cultural well-being. Hopefully, more journal articles related to this type of research on the systematic analysis writing of the rights of PWDs will be published in the future, with a focus on publishing articles discussing PWDs in another related aspect and research area, so that it can be a reference to other researchers while conducting their study, particularly in the literature review section.

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Nurul Nadia Nozlan (Corresponding author)

Faculty of Syariah & Law,
Universiti Sains Islam Malaysia,
Bandar Baru Nilai, 71800 Nilai,
Negeri Sembilan, Malaysia.
Email: nunadianurul@gmail.com

Azman Ab. Rahman
Faculty of Syariah & Law
Universiti Sains Islam Malaysia,
Bandar Baru Nilai, 71800 Nilai,
Negeri Sembilan, Malaysia.
Email: azman@usim.edu.my

Hasnizam Hashim
Faculty of Syariah & Law,
Universiti Sains Islam Malaysia,
Bandar Baru Nilai, 71800 Nilai,
Negeri Sembilan, Malaysia.
Email: hasnizam@usim.edu.my