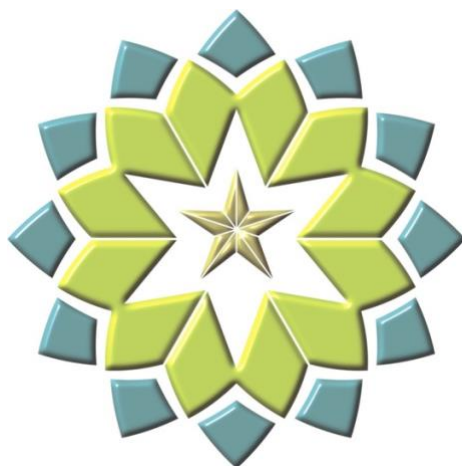


**ISLAM, ISLAMISM AND SHARIA:
MUSLIM PERSPECTIVE ON THE MEANING OF DEMOCRACY , ITS
FOUNDATION AND CONTEMPORARY CHALLENGE FACED BY INDONESIA**



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Abstract

Since the fall of the New Order's authoritarian regime, Indonesia as a country with the largest Muslim population in the world is often praised as a country that has proven that Islam, democracy and modernity can grow and develop together. However, this praise is actually not easy to maintain given the many challenges that must be faced. The challenge mainly comes from the Islamism group which makes Islam an ideology. Although Islamism groups are not singular, some of them, especially the extreme or radical, clearly reject democracy as an idea that comes from the West and must be rejected. Through a normative, theological and historical approach, this research or study seeks to answer the challenges that come from the Islamism group. By examining the relation of Islam, Islamism, Islamic state and sharia, the meaning of democracy for Muslims, this study concluded that Islam as well as sharia can be synergized with democracy. Because theological foundations for Muslim to support constitutional democracy of Indonesia are very strong. This study also concludes that although Islam is actually only a religion, not political ideology, but in the midst of the development of democracy, where everyone is given the freedom to express their ideas, it is impossible for those who make Islam their political ideology to be hindered or suppressed. Therefore, the challenge is how to transform Islam as an ideology in Indonesian state based on Pancasila in democratic way. In discussing the challenges faced by Indonesia, this research finds at least nine challenges that must be faced, namely: the intolerance toward pluralism ; the emergence of extremism or radicalism ; the politicization religious conservatism and homogenization ; the rigid or static definition of Islamic state ; the totalitarianism within democracy and sharia ; the weakness of civil society as well as civil religion ; the lack of skill to express opinions or ideas in civilized manner ; the lack of institution that function efficiently. ; the lack of educational system that instill democratic awareness. To be Indonesian democratic Islam is not a sin but it is a historical call. Muslims, especially Indonesian Muslims, should learn to accept the principles of democracy because even though democracy is not the best way to manage state, it is a best among the worse, among various government systems. Although democracy is not synonymous with the principle of shura in Islam which was practiced by Muslims in the past, there is no principle of democracy that contradicts the teachings of Islam. In a democratic country, Muslims are not only valued as a group but are also valued individually. This spirit is in line with the Qur'anic teachings that place everyone as a khalifatullah (vicegerent of God), a predicate which in history seems to have been monopolized by religious elites or rulers.

Key words : democracy , Islam, Islamism, Islamic state, sharia

Abstrak

Sejak jatuhnya rezim otoriter Orde Baru, Indonesia sebagai negara dengan penduduk muslim terbesar di dunia kerap dipuji sebagai negara yang telah membuktikan bahwa Islam, demokrasi, dan modernitas dapat tumbuh dan berkembang bersama. Namun, pujian ini sebenarnya tidak mudah dipertahankan mengingat banyaknya tantangan yang harus dihadapi. Tantangan tersebut terutama datang dari kelompok Islamisme yang menjadikan Islam sebagai ideologi. Meski kelompok Islamisme tidak tunggal, beberapa di antaranya, terutama yang ekstrim atau radikal, jelas menolak demokrasi sebagai ide yang datang dari Barat dan harus ditolak. Melalui pendekatan normatif, teologis dan historis, penelitian atau kajian ini berusaha menjawab tantangan yang datang dari kelompok Islamisme. Dengan mengkaji hubungan Islam, Islamisme, negara Islam dan syariah, makna demokrasi bagi umat Islam, penelitian ini menyimpulkan bahwa Islam dan syariah dapat disinergikan dengan demokrasi. Karena landasan teologis bagi umat Islam untuk mendukung demokrasi konstitusional Indonesia sangat kuat. Kajian ini juga menyimpulkan bahwa meskipun Islam sebenarnya hanya sebuah agama, bukan ideologi politik, namun di tengah perkembangan demokrasi, di mana setiap orang diberi kebebasan untuk mengekspresikan ide-idenya, mustahil bagi mereka yang menjadikan Islam sebagai ideologi politiknya. dihalangi atau ditekan. Oleh karena itu, tantangannya adalah bagaimana mentransformasikan Islam sebagai ideologi negara Indonesia berdasarkan Pancasila secara demokratis. Dalam membahas tantangan yang dihadapi Indonesia, penelitian ini menemukan setidaknya sembilan tantangan yang harus dihadapi, yaitu: intoleransi terhadap pluralisme; munculnya ekstremisme atau radikalisme; politisasi konservatisme dan homogenisasi agama; definisi negara Islam yang kaku atau statis; totalitarianisme dalam demokrasi dan syariah; kelemahan masyarakat sipil serta agama sipil; kurangnya keterampilan menyampaikan pendapat atau gagasan secara beradab; kurangnya institusi yang berfungsi secara efisien. ; kurangnya sistem pendidikan yang menanamkan kesadaran demokrasi. Menjadi Islam Indonesia yang demokratis bukanlah dosa tetapi merupakan panggilan sejarah. Umat Islam, khususnya umat Islam Indonesia, harus belajar menerima prinsip-prinsip demokrasi karena meskipun demokrasi bukanlah cara terbaik untuk mengelola negara, itu adalah yang terbaik di antara yang terburuk, di antara berbagai sistem pemerintahan. Meskipun demokrasi tidak identik dengan prinsip syura dalam Islam yang dipraktikkan oleh umat Islam di masa lalu, tidak ada prinsip demokrasi yang bertentangan dengan ajaran Islam. Di negara demokrasi, umat Islam tidak hanya dihargai sebagai kelompok tetapi juga dihargai secara individu. Semangat ini sejalan dengan ajaran Al-Qur'an yang menempatkan setiap orang sebagai khalifatullah, sebuah predikat yang dalam sejarah seolah-olah dimonopoli oleh para elit atau penguasa agama.

Kata kunci : demokrasi , Islam, Islamisme, negara Islam, syariah

FOREWORD

From August 20 to September 20, 2019 I had the opportunity to visit the United States, Washington DC, to attend an international seminar themed The Meaning of Democracy: Foundations and Contemporary Challenges. This seminar took place at The Catholic University of America, organized by The Council for Research in Values and Philosophy (RVP) and sponsored by The McLean Center for The Study of Culture and Values (MCSCV).

The seminar interests me for several reasons. First, Indonesia is a country that is currently consolidating democracy after the fall of the New Order authoritarian regime. Second, as a country that is relatively young in its democracy, Indonesia also faces many challenges that are not easy to overcome. The challenge is increasing because so far, many parties, including Muslims, do not believe that Islam is compatible with democracy.

Therefore, in addition to trying to understand the meaning, foundations and challenges of democracy in countries that have practiced democracy earlier and longer, such as the United States, I also tried to present a paper (working paper) on the meaning, foundation and challenges of democracy for Indonesia, which has a Muslim majority population. The title of the paper that I presented at the international seminar at that time, precisely on September 13, 2019, was: Muslim's Perspective on Democracy; The Meaning, Foundation and Challenge Faced by Indonesia.

The current book entitled: ISLAM, ISLAMISM AND SHARIA: MUSLIM PERSPECTIVE ON THE MEANING OF DEMOCRACY, ITS FOUNDATION AND CONTEMPORARY CHALLENGE FACED BY INDONESIA, is the development of a paper that I presented in a seminar in America. In order for this book to be suitable as teaching material for students at the Faculty of Sharia and law, especially those who study politics and constitutional law in Islam, several themes are added in this book, such as the theme of Islam and Islamism, Islamic state or *Dar al-Islam*, the meaning of sharia and how it is practiced, the principles of government according to some scholars, how Muhammad PBUH combined his role as prophet and statesman, the similarity of Medina constitution and Indonesian Constitution. In this book, the challenges faced by Indonesia in consolidating democracy are also described in more detail. Of course, this book not only describes the challenges, but also tries to provide solutions.

I would like to thank my colleagues from Chad, China, India, Indonesia, Mexico, Philippines, Portugal, United State and Zimbabwe who participated and provided suggestions and input on the papers I submitted in America. I also thank a number of colleagues in Indonesia who helped directly or indirectly with the writing of this book. Special thanks go to the Institute for Research and Community Service (LP2M) State Islamic University, Sunan Gunung Djati, Bandung for making this theme part of the textbook writing research funded in the 2021 fiscal year. I hope that this book will not only be useful for students who take courses in politics or constitutional law in Islam, but also can be used by the wider community who have been confused by a number of views on the relationship between Islam and democracy. Finally, suggestions, criticisms or input on this book are still expected for further improvement.

Bandung, August 10, 2021 (I Muharram 1443 H)

Nurrohman

KATA PENGANTAR

Pada tanggal 20 Agustus sampai 20 September 2019 saya berkesempatan berkunjung ke Amerika Serikat , Washington DC , guna mengikuti seminar internasional bertema *The Meaning of Democracy : Foundations and Contemporary Challenges*. Seminar ini bertempat di lingkungan The Catholic University of America, diorganisir oleh The Council for Research in Values and Philosophy (RVP) dan disponsori oleh The McLean Center for The Study of Culture and Values (MCSCV).Seminar menarik minat saya karena beberapa pertimbangan. Pertama , Indonesia merupakan negara yang tengah melakukan konsolidasi demokrasi setelah jatuhnya rezim authoritarian Orde Baru. Kedua , sebagai negara yang relative masih muda dalam berdemokrasi, Indonesia juga mendapat banyak tantangan yang tidak mudah diatasi. Tantangan itu semakin bertambah karena selama ini, banyak pihak , termasuk di kalangan umat Islam , yang tidak percaya bahwa Islam itu sesuai/ compatible dengan demokrasi.

Oleh karena itu, disamping berupaya memahami makna , fondasi dan tantangan demokrasi di negara yang lebih dulu dan lebih lama mempraktekkan demokrasi seperti Amerika Serikat, saya juga berusaha memaparkan makalah (kertas kerja) tentang makna , landasan dan tantangan demokrasi bagi Indonesia yang berpenduduk mayoritas Muslim. Judul makalah yang saya presentasikan dalam seminar Internasional waktu itu, tepatnya tanggal 13 September 2019, adalah : *Muslim's Perspective on Democracy; The Meaning, Foundation and Challenge Faced by Indonesia*.

Buku yang ada sekarang ini dengan judul : *ISLAM, ISLAMISM AND SHARIA: MUSLIM PERSPECTIVE ON THE MEANING OF DEMOCRACY , ITS FOUNDATION AND CONTEMPORARY CHALLENGE FACED BY INDONESIA*, merupakan pengembangan dari makalah yang saya sampaikan dalam seminar di Amerika. Agar buku ini cocok sebagai bahan ajar bagi mahasiswa di Fakultas Syariah dan hukum , terutama yang mempelajari politik dan hukum tata negara dalam Islam, beberapa tema ditambahkan dalam buku ini, seperti tema tentang *Islam and Islamism ,Islamic state or Dar al-Islam, The meaning of sharia and how it is practiced,The principles of government according to some scholars ,How Muhammad PBUH combined his role as prophet and statesman , The similarity of Medina constitution and Indonesian Constitution*. Dalam buku ini, tantangan yang dihadapi oleh Indonesia dalam konsolidasi demokrasi juga dijelaskan dengan lebih dirinci. Tentu , buku ini bukan hanya menjelaskan tantangan, tapi juga berusaha memberikan jalan keluar.

Terima kasih saya sampaikan kepada para kolega yang berasal dari Chad, China, India, Indonesia, Mexico, Philippines, Portugal, United State and Zimbabwe yang berpartisipasi dan memberikan saran dan masukan terhadap makalah yang saya sampaikan di Amerika. Terima kasih juga saya sampaikan kepada sejumlah kolega di Indonesia yang ikut membantu langsung atau tidak langsung terhadap penulisan buku ini. Terima kasih secara khusus yang sampaikan kepada Lembaga Penelitian dan Pengabdian Masyarakat (LP2M) Universitas Islam Negeri Sunan Gunung Djati, Bandung yang telah menjadikan tema ini sebagai bagian dari riset penulisan buku ajar yang didanai pada tahun anggaran 2021.

Saya berharap buku ini tidak hanya memberikan manfaat bagi mahasiswa atau mahasiswi yang mengambil mata kuliah politik atau hukum tata negara dalam Islam, tetapi juga dapat dimanfaatkan oleh masyarakat luas yang selama di buat bingung oleh sejumlah pandangan tentang hubungan Islam dan demokrasi. Akhirnya, saran , kritik atau masukan terhadap buku ini tetap diharapkan guna perbaikan lebih lanjut.

Bandung, 10 Agustus 2021 (I Muharram 1443 H)

Nurrohman

I. INTRODUCTION

Since the fall of the New Order's authoritarian regime, Indonesia as a country with the largest Muslim population in the world is often praised as a country that has proven that Islam, democracy and modernity can grow and develop together. Even so, democracy in Indonesia does not escape the challenges associated with the return of the spirit of religion in political life. The question is, why in secular democratic countries like Indonesia, religion returned to the political stage? First, religion is an important part of the construction of collective identity. Second, religion provides a moral framework. Third, state actors, along with other political actors, consistently manipulate such identities and find usefulness in promoting religious interpretations that are theologically conservative as the basis of populist legitimacy.¹

In addition, philosophically, the ideology of the state, *Pancasila* (five basics) said, in its first principle, that Indonesia is based on the One Godhead. It means that *Pancasila* is actually or substantively very religious. The religiousity of Indonesia also can be seen in the article 29 of the Constitution which said that the state is based on the Almighty God (verse 1) and the state guarantees the freedom of each population to embrace their respective religions and to worship according to their religion and beliefs (verse 2). This is what makes religion inseparable from political life in Indonesia.

The problem, according to Dahrendorf, the return of religion to politics – and to public life in general – is a serious challenge to the rule of democratically enacted law and the civil liberties that go with it.² These worries is understandable because for the past thirteen years there has been a tendency for rising aspirations for Indonesia to be regulated by religious norms or sharia. In the last decade, the agenda of Islamist groups to make the Unitary State of the Republic of Indonesia (NKRI) abide by the principles of Sharia or known as the NKRI *Bersyariah* is quite prominent. Islamist groups who believe that holy verses are above the constitution are not willing if the values and legal norms prevailing in Indonesia are not in line with Islamic law. There are 72% of Indonesian Muslims who support sharia as an official law for the State. Unfortunately, some of them tend to be rigid in implementing sharia, because according to 45% Indonesian Muslims, Islamic sharia has only one interpretation.³ This

¹ Scott W. Hibbard, *Religious Politics and Secular States; Egypt, India, and the United States*, The Johns Hopkins University Press (2010: 12).

² Dahrendorf, Ralf, "Is secularism coming to an end?", *The Jakarta Post*, November 15, 2006

³ Pew Research Center, 2013

campaign had lowered public confidence the principle of unity in diversity as well as Pancasila.

In 2005, the number of people who were pro-Pancasila reached 85.2%. Five years later, in 2010, the figure was 81.7%. In 2015 the figure was 79.4% and in 2018 it was 75.3%. So within 13 years, the number of people who are pro-Pancasila decreased by 10%. In 2005, the figure of public approval to NKRI with sharia reached 4.6%, in 2010 it reached 7.3%, and in 2015 it reached 9.8%. Finally, in 2018 the figure was 13.2%. Within a period of 13 years, there has been an increase in public approval of the NKRI with Sharia by 9%. While the percentage of people who are pro-Pancasila has decreased by 10%.⁴ This condition is in line with the emergence of a number of phenomena in society, such as the tendency of homogenization, rejection of pluralism,⁵ and the strengthening of religious conservatism.⁶

In the Islamic world, the presence of religion as a political ideology gives birth to what is called the religionization of politics by promoting a political order that is believed to emanate from the will of Allah and is not based on popular sovereignty or Islamism. As a political ideology, Islamism is distinct from the teaching of the religion of Islam.⁷ Islamists, or those who hold to Islamism, believe that Islam can and should form the basis of political ideology.⁸ In other words, Islamism can be defined as “an Islamic militant, anti-democratic movement, bearing a holistic vision of Islam whose final aim is the restoration of the caliphate.”⁹ Yes, behind the discourse of the caliphate, there is an idea of how Islamic law and an Islamic state are enforced.¹⁰ When Islamism upheld that there is only one truth in Islamic law, and it is theirs, while the other interpretation is wrong, they tend to be authoritarian and totalitarian. Authoritarianism and totalitarianism are contrary to the spirit of democracy.

This is a development that requires critical study, because authoritarian and totalitarian interpretation in Islam and in politics in Indonesia is unacceptable. *Pancasila* is actually

⁴ Satrio Arismunandar (ed.), *NKRI Bersyariah atau Ruang Publik yang Manusiawi? Tanggapan 21 Pakar Terhadap Gagasan Denny JA*, PENERBIT CERAH Budaya Indonesia (CBI), Maret, 2019 p. vi-vii)

⁵ Al Makin, *Plurality Denied: The defeat of pluralism advocates in Indonesia during the reformation era*, paper presented at the conference of Negotiating Diversity in Indonesia, School of Social Sciences, Management University, Singapore, November 5-6, 2012.

⁶ Leonard C. Sebastian and Andar Nubowo, “The Coservative Turn in Indonesia Islam: Implication for the 2019 Presidential Elections”, *Asie Visions*, No.106, Ifri, March 2019.

⁷ Tibi, Bassam, *Islam and Islamism*. London: Yale University Press, 2012, p.1

⁸ Greg Barton (2004) “Making sense of Jemaah Islamiyah terrorism and radical Islamism in Indonesia” in Shahram Akbarzadeh and Samina Yasmeen (eds), *Islam and the West Reflections from Australia*, Sydney: UNSW Press, 2004., p.3.

⁹ Esman, Abigail R, *Macron is Right, Islamo-Leftism is a Threat*, The Investigative Project on Terrorism, 2021. <https://www.investigativeproject.org/8755/macron-is-right-islamo-leftism-is-a-threat>

¹⁰ Syarif, Nurrohman, “Dibalik Wacana Khilafah, Syariat Islam, Negara Islam dan Negara Pancasila, (“Behind the Discourse of the Caliphate, Islamic Sharia, Islamic State and Pancasila State.), *Media Nusantara*, Nomor 10, 2014. <http://digilib.uinsgd.ac.id/2702/>

intended to be a middle path ideology. It is with the principle of *bineka tunggal ika* (Unity in diversity) has made Indonesia a secular state which is able to accommodate the religious differences, including among Muslims.¹¹

In the other hand, although the support for sharia in Indonesia increased, the latest survey presented the fact that the support for democracy among citizens has also increased. Most citizens (84.8%) consider that democracy is the best form of government compared to other forms of government. Most Muslims, 86.5%, believe that the Pancasila, five principles consisted of belief in God, humanity, unity, democracy and social justice, as well as the 1945 Constitution are the best for Indonesians.¹²

This indicates that Indonesian Muslims basically have the belief that in carrying out Islamic sharia they do not have to leave the democratic system adopted by Indonesia. So, the challenge faced by Indonesian Muslims is how to synergize sharia with democracy. “When Indonesia’s democratization moved to consolidate, the real test is the place of Islamic law. Intra-Muslim debates in this regard continue to be a delicate issue”. Said Kersten.¹³ So, Indonesia, as the largest Islamic democracy in the world, needs to develop studies of the implementation of Islamic law which are suitable and in line with the development and characteristic of democracy without deviating from the substance and purpose of the sharia.

The Islamism groups who promote political order that is believed to emanate from the will of God, actually is not a problem as long as they carried out their ideas through the process of consultation and negotiation in constitutional democratic state of Indonesia. But it becomes a problem if the will of God was implemented in a rigid and exclusive way. Islamism groups often give birth to authoritarian behavior, radicalism and extremism because they use authoritarian interpretation in understanding the will of God.¹⁴ Authoritarian behavior, if allowed to grow and develop in a democratic country, will kill democracy itself.¹⁵ Authoritarian behavior also jeopardize the mission of Islam to brought a blessing to universe. Therefore, without any effort to synergize between the demands of the Islamic Sharia and the demands of democratic constitutionalism base on Pancasila, the differences between many

¹¹ Al Makin, *Plurality, Religiosity, and Patriotism: Critical Insights Into Indonesia and Islam*, SUKA -Press, Yogyakarta, 2017,p.9.

¹² Lembaga Survei Indonesia,2019

¹³ Kersten, C. , Democratization and Shari’a: The Indonesian Experience, in Armin B. Sajoo,ed., *The Shari’a History, Ethics and Law*, I.B.Tauris, London, New York,2018.

¹⁴ Abou El Fadl, Khaled, *Speaking in God’s Name: Islamic Law, Authority, and Women* ,Oxford; One world Publications, 2001,p.202.

¹⁵ Levitsky, S. and Ziblatt, D., *How Democracies Die*, Crown Publishing Group, New York,2018.

groups that have different perspectives can be even wider and can lead to conflict and violence which in turn will disrupt the integrity of the nation.

By assuming that democracy, ideally, does not threaten the beliefs of Muslims and Islamic Sharia able to be synergized with the democracy, this purpose of this study is to explain the relation of Islam, Islamism, Islamic state and sharia, theological foundations for Muslims to support democracy, and the challenges and alternative solutions for practicing sharia in the context of Indonesia constitutional democracy.

This research is a kind of normative research which commonly used in reviewing legal issues, in this case is Islamic legal issues. In normative research, the aspects examined include legal principles, legal systems, synchronization of laws both vertical and horizontal, comparative law and legal history.¹⁶ This research can also be categorized as non-doctrinal qualitative legal research which covered some problems, policy and law reform based research.¹⁷ Because this research also covered some problems faced by Indonesian Muslims in practicing Islam or sharia in Indonesia democratic state. The data , mostly derived from the documents or library and then combined with observation and interview. The result and discussion are carried out by discussing on the relation of islam, islamism, islamic state and sharia, democracy and its meaning for muslim, the theological foundations for muslim to support constitutional democracy of indonesia, the challenges faced by indonesia and the alternative solution. In explaining the data this study also uses theological as well as sociological approach.

II. THE RELATION OF ISLAM, ISLAMISM, ISLAMIC STATE AND SHARIA

Islam and Islamism

Islam is a religion of peace and security, and it urges others to pursue the path of peace and protection. The most significant proof of this is that God has named it as Islam. The word Islam is derived from the Arabic word *salama* or *salima*. It means peace, security, safety and

¹⁶ Soerjono Soekanto dan Sri Mamudji , *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, edisi 1, cet.v, (Jakarta: PT Raja Grafindo Persada, 2001), p.13-14

¹⁷ Ian Dobinson and Francis Johns, *Qualitative Legal Research*, in Mike McConville and Wing Hong Chui , ed., *Research Methods for Law*, Edinburgh University Press, 2007.p. 20

protection. As for its literal meaning, Islam denotes absolute peace. As a religion, it is peace incarnate. It encourages humankind to be moderate, peaceful, kind, balanced, tolerant, patient and forbearing. If we look for the definition of a Muslim or mu'min [believer] mentioned in the Qur'an and hadith, it will become evident that, in the sight of God and His Messenger, a Muslim is someone who embodies peace and security, and a mu'min is the one who is endowed with love, affection, peace, tranquillity, tolerance and coexistence, and upholds the cause of human dignity. Everyone is protected and safe from him at all levels, individually and collectively.¹⁸ According to Professor Mahmoud M. Ayoub, the confusion on the meaning of Islam has arisen as a result of the different levels of meaning in the word Islam, referring, on the one hand, to a universal attitude of submission to the will of the Divine, and, on the other hand, to an institutionalised religion, bound by a juridical code of law.¹⁹ So, according to Intiyaz Yusuf, we must distinguish between philosophical Islam, which regards faith as belief in God/Ultimate Reality and righteous living, and institutionalized Islam of the post-Muhammad era.²⁰

So, it is clear that Islam is different from Islamism. While Islam is a religion, Islamism is a 20th century political ideology that seeks to impose a theocratic ideal upon the world, not just within Muslim lands, but in non-Muslim lands as well. It wants a caliphate, a supranational extremist state in which religious law is supreme. Bassam Tibi in his book, *Islam between Culture and Politics* said that Islam is both a religious faith and a cultural system, but not a political ideology.²¹ In his book *Islam and Islamism*, Tibi explained the differences between Islamism and Islam by saying that Islamism is about political order, not faith. Nonetheless, Islamism is not mere politics but religionized politics. It is a political ideology that is distinct from the teaching of the religion of Islam.²²

Muhammad Said al-Ashmawy, in his book *Islam and the Political Order*, said that God intended Islam to be a religion, but men have attempted to turn it into politics. Religion is general, universal, holistic; whereas politics is partial, tribal and limited in space and time. Hence, to restrict religion to politics is to limit it to a confined area and group, a specific region and moment. Religion tends to inspire man to the best that he can be; politics arouses his worst

¹⁸ Muhammad Tahir-ul-Qadri, *Fatwa on Terrorism and Suicide Bombings*, Minhaj-ul-Quran International (UK), 2010, p.21

¹⁹ Roger Boase, ed., 2005, *Islam and Global Dialogue; Religious Pluralism and the Pursuit of Peace*, Ashgate Publishing Limited, England, 2005, p.8

²⁰ Intiyaz Yusuf, Islamic Theology of Religious Pluralism: Qur'an's Attitude Towards other Religions, Assumption University of Thailand, *Prajna Vihara, Journal of Philosophy and Religion*, Vol.11, No.1 (2010) <http://www.assumptionjournal.au.edu/index.php/PrajnaVihara/article/view/1301>

²¹ Tibi, Bassam. 2005, *Islam Between Culture and Politic*, Palgrave Macmillan Ltd, page ix

²² Tibi, Bassam *Islam and Islamism*. 2012, Yale University Press, London, 2012. page 1

instincts. Hence, to carry on politics in the name of religion is to transform the latter into conflicting groups and interminable struggles; it is to reduce its goals to a search for prestige, positions of power, and financial gain. For these reasons, if the transformation is not done out of ignorance, only evil and perverse spirits would attempt the politicization of religion or the sacralization of politics. Both come down to basing in religion opportunism and cupidity, to inventing Koranic justification for injustice, to lending wickedness a vague aura of faith and to disguising as acts of Holy War the unjust taking of blood.²³ According to Mustofa Bisri, “Islam is not a goal, it is a means to reach God. When you use Islam as political ideology, you are sowing conflicts that prevent people from reaching God”²⁴

When Islam to be used as political ideology, it is actually a degradation. As an Ideology, Islamism is understood as the endeavour to improve society starting from universal abstract principles. Islamism, like other ideologies, demands total and irrevocable engagement that turns the believer into a militant. Because this struggle precludes the demands and pleasures of daily life, the real idealist must abandon everything. Enthusiasm may lead to death, the ultimate sacrifice for a transcendent ideal. The realization of which for Islamism entails a deterministic view of history as combat between good and evil.²⁵

Islamism is becoming at once an ideology as well as a social movement. Behind the slogan “Islam is the solution” lies a theocratic model of society that posits itself as an alternative to the West’s, and rejects its central values and symbols: secularism and individualism. Idolatry of the modern is seen as the root of Western permissiveness and decadence which express themselves in alcohol, drugs, licentiousness, and consumerism. However, for Islamism, the West’s “badness” expresses itself also in racism, colonization, and exploitation of the non-West. Thus, Islamism combines the anti-modernism seen on all fronts of fundamentalism with the critique of imperialism, which sounds like Marxism without class analysis.²⁶

There are 9 principles shared by all Islamists, according to Demant :

1. Human beings are not their own masters but owe obedience and worship to their Creator Who is sovereign and Who communicated His will through the prophets, of whom Muhammad was the last.

²³ Muhammad Said al-Ashmawy, *Islam and the Political Order*, The Council for Research in Values and Philosophy (CRVP), Washington, D.C., 1994,p.10.

²⁴ Discourse: Islam as an ideology is a threat to Islam itself, *The Jakarta Post*, May 16,2011

²⁵ Peter R. Demant, *Islam vs. Islamism: The Dilemma of the Muslim World*, Praeger, London, (2006),p.180

²⁶ *Ibid.*,p.177

2. The ideal polity is the Islamic state, although there is more consensus among Islamists about its government than about its scope. For some Islamists, any state will do as long as it is Islamized; for others, devout Muslims may or should establish a new Islamic state wherever they have the opportunity; for the most radical, all existing states and borders are illegitimate, and the Islamic state should therefore include the totality of *Dar al- Islam*, and eventually the whole world.
3. Government must be by an Islamic instance that will have Islam's absolute truth and axiomatic supremacy as its starting point and will, in the name of the *umma*, enjoy respect of the rules of Islam. Differences exist as to modalities: many Sunni fundamentalists want government by (or guided by) *`ulama*, others an emirate or new caliphate; Shiite Islamists are also divided, not all accepting the rule of *mullas* or the *faqih*. Although the Islamic state does not have the Western concepts of citizenship or democracy, some currents identify *shura* with democracy and have in practice if not in theory come to accept pluralistic democratic rules.
4. Separation of the public(social)from the private(family)sphere, the first being the terrain of men and the second that of women, who are subordinated to men. The intention is to keep each sex in his or her natural sphere where each can best contribute to Islamic society. There is more separation between the sexes than in Western society, often with specific dress and behaviour codes, in addition to prohibitions on alcohol and other forms of "corruption."
5. The aim of the Islamic state is to stimulate and facilitate a religious lifestyle for all Muslims and thus optimize their chances for salvation. Hence the state will maintain a framework of Islamic ritual and public prayers and guarantee religious education.
6. Islamic economy remains controversial but, at a minimum, includes an interest-free banking system. For most Muslims, Islam recognizes the right to private property but enjoins (e.g., through *zakat*) solidarity with the weak: widows, orphans, the sick and disabled, the poor. The gap between theory and practice is large here.
7. *Taghallub*, the superiority of Muslims over other subjects, must be maintained. Although the position of non-Muslims must be inferior to that of believers, there are disagreements, both as regards Christians and Jews (the most extreme demand a return to *dhimmi* status) and in relation to polytheists.
8. Application of Qur'anic penalties (*hadd*) for specific transgressions.
9. Because Islam is universally valid, an Islamic international order under God's government must be promoted. This order is based on a perpetual antagonism between

the territory of Islam (*Dar al-Islam*) and the rest of the world (i.e., the territory of war, *Dar al-Harb*), until Islam's final victory. Consequently, Islamists at least in theory deny the legitimacy of nation-states and the current international order based on them. Most Islamists consider the struggle to Islamize the whole world as a *jihad* that, under specific conditions, may include the use of violence. Significant disagreements exist as to the application of this general concept. The most radical envisage a life-and-death struggle against the existing order.²⁷

There are some criticism and questions that can be directed to the shared principles adhered by Islamist group. For instance, it is right that the prophet Muhammad has the monopoly right to determine which one is true in the matters of religious affairs because he receives revelation from God, it is what is called the concept of infallible (*ma'sum*). However, after his death there is no one that replaced his infallibility. The doctrine of infallible person only occurs in Shia community.²⁸ It is the right of Islamists group to propose Islamic state as the ideal polity, the question is how Islamic state should be defined? Whether it should be defined on demographic base or the implementation of sharia. If sharia will be used as the determinant factor of Islamic state, whether it should be understood textually or substantially.

On the concept of *umma* for instance, whether it should be limited for Muslims who acknowledged the prophethood of Muhammad or it can be extended to include all citizens of the state. Ahmad Ibrahim al-Sharif in his book *Daulat al-Rasul fi al-Madinah* said that the understanding of the people on the concept of *umma* in the era of the Prophet experienced an expansion of meaning. The word *umma* is not only used for the name of a group of people who are bound by kinship ties, but refers to a group in a broad sense. The *umma* is not only addressed to the believers, but includes those who want to fight with the believers, namely from the entire population of Medina. Among the Ansar (people who reside in Medina before the arrival of the prophet in his companions) there are those who are not yet Muslim but they are included in the *umma*, as well as the Jews.²⁹

On the women's subordination to men, it is not the genuine teaching of Islam. Some verses in the Quran clearly denote on the partnership between men and women, they able to lead one another according to their capacity or expertise. For instance in surah al-Taubah verse 71, the Qur'an said: "the believing men and believing women allies of one another. They enjoin what is right and forbid what is wrong and establish prayer and give zakah and obey

²⁷ Peter R. Demant, *Islam vs. Islamism: The Dilemma of the Muslim World*, Praeger, London, (2006), p.179-180)

²⁸ Ahmad Mahmud Shubhi, *Nadlariyat al-Imamat Lidzi Syi'ah al-Itsnaa'asyariyat*, Mesir, Dar al-Ma'arif, t.t.

²⁹ Ahmad Ibrahim al-Sharif, *Daulat al-Rasul fi al-Madinah*, Egypt, Dar al-Maarif, 1972, (1972: 99-100)

Allah and His Messenger. Those – Allah will have mercy upon them. Indeed , Allah is Exalted in Might and Wise” .

Amina Wadud in her book, *Qur'an and Woman; Rereading the Sacred Text from a Woman's Perspective* says that regarding social justice, it is important to challenge patriarchal culture – not to replace it with matriarchy, but to create an efficient and egalitarian system of cooperation that allows and encourages maximum participation by each member of a society. This system will truly reward each gender for their contribution and for all the work they have done. This will allow the growth and development of each individual and its impact on society at large. For this reason, women must be given full access to participate in the economic, intellectual and political fields and therefore men must be able to respect and participate in housework and child care in order to create a more just and balanced society.³⁰

Concerning a religious lifestyle and salvation, the question is whether religious life style is so important in religion and the salvation is only belong to Muslim? When explaining the interpretation of surah al-Baqarah verse 62, Muhammad Asad in *The Message of The Qur'an* said that at a time when the Children of Israel had the erroneous belief as depicted in the Jewish belief that their lineage from Abraham was the "chosen of God" people, al-Qur'an said that *the idea of "salvation" is made conditional upon three elements only: belief in God, belief in the Day of Judgment, and righteous action in life.*³¹

Muhammad Rashid Rida (1865-1935) a modern commentator and favorite student of Muhammad Abduh (1849-1905) emphasized that there are no requirements for Jews, Christians and Sabians to believe in the Prophet Muhammad, because each *umma* has a special revelation and prophet, unique and different from each other.³² Rida's view is supported by Fazlur Rahman. According to Rahman, as quoted by Bahri, the majority of Muslim commentators have, in vain, tried not to accept the clear meaning stated in the verse that people of any race who believe in Allah and the Day of Judgment and do good deeds will find salvation.³³ All of these views are supported by Asghar Ali Engineer who said that **heaven is not a monopoly for Muslims.**³⁴

³⁰ Amina Wadud, *Qur'an and Woman; Rereading the Sacred Text from a Woman's Perspective* , New York , Oxford, Oxford University Press ,1999 , p.103.

³¹ Muhammad Asad, *The Message of The Qur'an*, p.28

³² Muhammad Rashid Rida , *Tafsir al-Qur'an al-Hakim* (Bairut , Dar al-Kutub al-Ilmiah,1999) vol. I,275

³³ Media Zainul Bahri, *Satu Tuhan Banyak Agama- Pandangan Sufistik Ibn "Arabi, Rumi dan al-Jilli*, Jakarta, Mizan, 2011), 382-383

³⁴ Majalah *Tempo*, Agustus 20, 2008 in ARTIKEL, TOKOH. Available ini: <http://antimui.wordpress.com/2008/08/20/208/>

On the idea of *Taghallub*, the superiority of Muslims over others, it can be said that this idea often referred to the surah al-Fath (48) verse 28. In translating this verse, Muhsin Khan , for instance said: He it is Who has sent His Messenger (Muhammad SAW) with guidance and the religion of truth (Islam), that He may make it (Islam) **superior over all religions**. And All-Sufficient is Allah as a Witness. Pickthall's translation is: He it is Who hath sent His messenger with the guidance and the religion of truth, that He may cause it to **prevail over all religion**. And Allah sufficeth as a Witness.

This verse seem to predict that Islam will prevail over every religion, in the sense of replacing them. If so, it would be a contradiction of what is stated elsewhere, for example, in the Qur'an , surah 5 (al-Maidah):48. The light of Islam, thanks to its higher intensity, shines so strongly that it outshines every other religion. Prevailing, in this sense, does not imply that what is outshone no longer exists. One the verb in question (*zahara 'ala*) can, however, also be understood as “to outshine”. In that case, the should therefore read 48:28 as follows: “It is He Who has sent His messengers with guidance and the religion of truth to make it shine over all religion.”³⁵

Concerning the application of Qur'anic penalties (*hadd*) for specific transgressions, it can be said that sharia or Islamic law has a number of characters. First, it contains a sacred value and personal because it comes from God and related to faith. Secondly, it has a moral content. It doesn't only speak of rights and obligations but talk about what should be or recommended to be done and what should not be done through the inner conscience by a mature and sane person (*mukallaf*). The thirdly, Islamic law is not totally dependent on a particular country. Because, it was developed by legal experts independently. The fourth, Islamic law is flexible and dynamic. Because it can basically change if there is social change. It is dynamic because it can develop in accordance with the development of human civilization. The fifth, it is rational, because it generally can be understood and in line with common sense or scientific explanation.³⁶

So, it is right when Asghar Ali Engineer said that Sharia is a personal matter. Sharia law should not be interpreted by the state. Let each community do it. The best example is the Medina period, when Muslims, Jews and Christians lived side by side and were free to practice

³⁵ Roger Boase,ed., 2005, *Islam and Global Dialogue; Religious Pluralism and the Pursuit of Peace*, Ashgate Publishing Limited, England, 2005,p.239,240.

³⁶ Nurrohman Syarif, (2016). Syariat Islam dalam Perspektif Negara Hukum berdasar Pancasila. *Pandecta Research Law Journal*, 11(2), 160-173.

their respective Shari'a. The state can only maintain order.³⁷ The articulation of Islamic crime in the public sphere should not be realized in a way that is contrary to the legal system in one country.³⁸

Concerning “perpetual antagonism between the territory of Islam (*Dar al-Islam*) and the rest of the world (i.e., the territory of war, *Dar al-Harb*), until Islam’s final victory”, it can be said that in classical discourse, besides *Dar al-Islam* and *Dar al-Harb*, there is also the term *Dar al-Ahdi*, which is a territory inhabited by a number of residents who are bound by an agreement to live side by side peacefully. Muhammad al-Syaibani in his book *al-Sairul Kabir* states that if an area is in the hands of non-Muslims but they want peace with other groups then the area they command is called *dar al-ahdi (mu'ahadah)*.³⁹ Asghar Ali Engineer calls it *Dar al-Aman*. According to him, in *Dar al-Aman*, every Muslim is free to practice his faith. There is no state intervention in matters such as marriage and inheritance, unless there is injustice there.⁴⁰

Bassam Tibi's view that Islamism is a political phenomenon that emerged in the 20th century is strengthened by Abou El-Fadl. According to Abou El Fadl, until the modern age, a theocratic system of government in which a church or clergy ruled in God's name was virtually unknown in Islam.⁴¹

Although Islamism is mentioned as a 20th century phenomenon, its origins can be traced back to the nineteenth century, namely since the emergence of debate among Muslim leaders and thinkers who began to realize why Muslims were declining and the West advancing. The answer to this question then gave birth to what was then called Islamism. Islamism's answer is that the decline of Muslims around the world is because they abandoned their religion or at least, they did not fully practice the teachings of their religion. Therefore, the solution offered by Islamism is to return to Islam, return to the Qur'an and al-Sunnah. In order to return to progress, Muslims must totally practice the teachings of Islam. Therefore, Islamism tends to be puritanical and literalist. They are enthusiastic in understanding and

³⁷ Majalah *Tempo*, Agustus 20, 2008 in ARTIKEL, TOKOH. Available ini: <http://antimui.wordpress.com/2008/08/20/208/>

³⁸ Nurrohman, “Artikulasi Pidana Islam dalam Ruang Publik: Tinjauan Politik Hukum Islam atas Rajam di Ambon, Putusan Mahkamah Konstitusi No.19/PUU-VI/2008, dan Qanun Jinayat di Aceh”, *Mukaddimah; Jurnal Studi Islam*, Volume 18, No.2, 2012, pp. 257-278.

³⁹ Abu Zahrah, *al-alaqqah al-dauliyah fi al-Islam*, diterjemahkan menjadi *hubungan-hubungan Internasional dalam Islam*, Jakarta, Bulan Bintang, 1973, p.67

⁴⁰ Majalah *Tempo*, Agustus 20, 2008 in ARTIKEL, TOKOH. Available ini: <http://antimui.wordpress.com/2008/08/20/208/>

⁴¹ Khaled Abou El Fadl, “Islam and the State: A Short History”, dalam Khaled M. Abou El Fadl, Said Arjomand, Nathan Brown, Jerrold Green, Donald Horowitz, Michael Rich, *B-Democracy and Islam in the New Constitution of Afghanistan* (2003). (page 13-16)

practicing religious texts that come from the Qur'an and the *hadith* (written traditions) of the Prophet textually.

Therefore, the term used by Fazlur Rahman to refer to this group is revivalist, namely a movement that wants to revive the traditions of the Prophet and his companions such as practiced by early generations. According to Rahman, there are two categories of revivalists, namely pre-modernist revivalists and postmodernist revivalists. Revivalist pre-modernist was born on 18 and 19 century in Arabia, India and Africa. This movement emerged originally from within the Islamic world , not reaction from the West. The characteristic of these movements are among others: a) it has deep concern on moral and social degradation among Muslim's community b) calling back to true Islam by destroying superstitions and opened the *ijtihad* (individual reasoning) c) calling to dump fatalistic attitudes and d) calling to make reform through *ijtihad* if needed.

Besides the revivalist group, according to Rahman, there is also another group which he calls classic modernist. This group enlarged the scope of *ijtihad* and agendas such as the issue on relationship between reason and revelation, social reform especially in education and the role of woman, political reform particularly in establishing representative government and constitution. The contribution of classical modernist is laid in their efforts to make harmonious relationship between West institution with the Islamic tradition in the eye of the Qur'an and the Sunna. Unfortunately their interpretation of the Qur'an not be based on adequate methodology. They are more adopts the issues from the West and covered it the Qur'an languages. As a result this movement cannot fully avoid from the West centric impression, even this movement often accused as the agents of the West in destroying Islam. They are seen like cancer within Muslim society.

The reaction is the emergence of neo revivalists or revivalism post modernism which see Islam as the religion covering all aspect of life be it individuals or community. This view was similar to the basic of classic modernism. But because its reactionary character which wish to distinguish themselves from the West, this movement tend to exclusive, apologetic and not authentic.

In the mid of the influence of neo revivalists, the neo modernists emerged and Rahman admitted himself as the speaker of this movement. According to Rahman, neo modernists should develop critical attitude toward the West as well as toward the inheritance of Islam in classical discourses. In this context Rahman said that the task of neo modernism is to develop accurate and logic methodology toward the Qur'an to obtains its instruction and guidance. With

this methodology it can avoid the arbitrary and wild *ijtihad* such as occurred in the past.⁴² If you use the grouping made by Fazlur Rahman, Islamism is close to the group he calls neo revivalists.

Islamism, because of its belief in the unification of religion and politics in Islam, is often called Islamist fundamentalism. According to Asghar Ali Engeneer, fundamentalist thought and arguments are simple. The entire world's problems are due to Western (which is defined as atheistic, secular, decadent and immoral) influence. Thus Islam is the solution, since Islam is *ad-Din* (defined as comprehensive, total way of life); the solution lies in implementing *shari'ah*, either by establishing an "Islamic state" (with the Qur'an and Sunnah as guiding constitution and learned *ulama* as leaders) or *Islamize* all aspect of life (i.e.knowledge , science, politics, economics, etc) through *da'wah* and conversion.⁴³

In the global context, the development of Islamism is felt by David Littman. In his article entitled "Islamism Grows Stronger at the United Nations" published in the Middle East Quarterly, September 1999, he stated as follows: by establishing Shari'a law as "the only source of reference" for the protection of human rights in Islamic countries, the Cairo Declaration gives it supremacy over the Universal Declaration of Human Rights.⁴⁴

Although the membership of Islamic countries in the United Nations (UN) and the organizations under it is a very important event, it does not solve the problem of the relationship between Islamic law and international law. As Majid Khadduri said that traditional Islamic law regarding the state is different from the principles contained in the UN charter. Muslims, who in the seventh century AD were conquerors of other nations to the point of almost ruling the world, did not recognize the existence of another legal system.⁴⁵ What is meant by Khadduri, of course, is not all Muslims but those who are members of or able to be included to the radical Islamism group.

Therefore, it is natural that not all Muslims can accept the conventions issued by the United Nations. Many Muslims want adjustments. That is why at the end of the 19th foreign ministerial conference of Islamic countries which was held in Cairo on 31 July to 5 August 1990 or 9-14 Muharram 1414 H, all conference participants agreed to issue the so-called Cairo

⁴² Taufiq Adnan Amal, *Islam dan Tantangan Modernitas; Studi Atas Pemikiran Hukum Fazlur Rahman*, Bandung, Mizan, 1994

⁴³ Mohamed Imran Mohamed Taib, 'Religion, Liberation and Reform ; An Introduction to the Key Thoughts of Asghar Ali Engeneer', *Indian Journal of Secularism* Vol.10 No.3 Oct- Dec.2006 , page 35.

⁴⁴ David Littman, Islamism Grows Stronger at the United Nations, *Middle East Quarterly* September 1999, pp. 59-64. web: <https://www.meforum.org/477/islamism-grows-stronger-at-the-united-nations>

⁴⁵ Majid Khadduri , *War and Peace in The Law of Islam*, diterjemahkan menjadi Benarkah Islam itu Agama Perang ?, Yogyakarta, Bina Media, 2005, p.1.

Declaration on Human Rights in Islam (CDHRI) which will serve as general guidelines for member countries in addressing human rights issues.

The first article of the CDHRI states: All human beings form one family whose members are united by their subordination to Allah and descent from Adam. All men are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the basis of race, color, language, belief, sex, religion, political affiliation, social status or other considerations.

This article, although there are differences in its words when compared to Article one of the Universal Declaration of Human Rights (UDHR), has similar meanings. Article one of the UDHR states: all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

However, the potential for conflict between Islamic law and human rights still exists if Muslims adhere to traditional and conservative interpretations of Islamic law. Why?, because Article 24 of the CDHRI says: all the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari'ah. And article 25 states: the Islamic Shari'ah is the only source of reference for the explanation or clarification of any of the articles of this Declaration. This means that the CDHRI, because of its flexibility, can be used by conservative groups in Islam to ignore human rights that have been accepted or recognized internationally.

On the one hand, CDHRI recognizes that discrimination on the basis of race, color, language, belief, gender, religion, political affiliation, social status and others should not exist. But on the other hand, through articles 24 and 25, CDHRI still sees the supremacy of Islamic law. From this point, it appears that there is a difference between CDHRI and UDHR. UDHR does not at all refer to any particular religion or group but emphasizes absolute equality for all human beings.

An-Na'im said :... *when the so called Islamic alternative in the term of Shari'a has been attempted in countries like Iran , Pakistan and the Sudan , it has created more problems than it has solved because those country who realized Syari'ah faced some problems in connection with global demand like International law and human right.* ⁴⁶ According to Littman, the new rules of conduct being imposed by the OIC, and acceded to by other states, give those who claim to represent Islam an exceptional status at the United Nations that has no legal basis

⁴⁶ Abdullahi Ahmed an-Na'im, *Toward an Islamic Reformation : Civil Liberties, Human Right, and International Law*, Syracuse, Syracuse University Press, 1990/1996 p.67.

and no precedent; it therefore gives ample reason for apprehension. Will a prohibition of discussion about certain political aspects of Islam become generally accepted at the United Nations and beyond, contradicting "the right to freedom of opinion and expression" promised by Article XIX of the Universal Declaration of Human Rights? Unless farsighted states, both Muslim and non-Muslim, make it their business to assert and reassert the need for freedom of speech, this precious liberty is at risk of being eroded throughout the system of international organizations.⁴⁷

The problem appeared when the Islamic world faced CEDAW (The Convention on the Elimination of All Forms of Discrimination against Women), which was adopted in 1979 by the UN General Assembly. Among the 38 countries that have a Muslim population, only six countries are willing to fully adopt and ratify it without notes. They are Ghana (signature in 1980, ratification in 1986), Nigeria (signature in 1984, ratification in 1985), the Philippines (signature in 1980, ratification in 1980), Senegal (signature in 1980, ratification in 1985) Sri Lanka (signature 1980, ratification 1981) and Tanzania (signed 1980, ratified 1985). While other countries ratify it with a number of notes or exceptions.

Many Muslims are still not aware that human rights are the basic teachings of Islam. It is George Maqdisi, a non-Muslim American thinker who is more aware that the idea of human rights has historical roots in Islamic history. In his book "The Rise of Humanism in Islam", he states: Islamic civilization arouses out of the notion on the urgency of respecting humanity and humanism, a notion that believes in human's dignity as a 'fitrah or nature. It means that there is no contradiction between human rights and Islam. Islam encourages human rights and human rights that were implemented in Muslims society will raise Muslims dignity.

Khaled Abou El-Fadl, a UCLA professor of Islamic law, has also said: people who argue that they have to prioritize God' rights over human rights, are ignorant about the classical fikh literature of the previous ulema. Those ulema stated that human rights must be prioritized over God's right (*'haqqul insân muqaddam `ala haqqil Ilâh*), because Allah is well capable of defending His rights in the hereafter, while humans have to defend their own rights. A book written in the third century of Hejra mentioned that when there is a contradiction between laws; the more humanistic one (*'arfaq bin nâs*) should be chosen.⁴⁸

⁴⁷ David Littman, "Islamism Grows Stronger at the United Nations", *Middle East Quarterly* September 1999, pp. 59-64.

⁴⁸ Nurrohman, "Syari'at Islam dan Hukum Nasional: Problematika Transformasi dan Integrasi Hukum Islam ke dalam Hukum Nasional". *TAJIDID*, [S.l.], v. 26, n. 2, p. 231-244, oct. 2019. ISSN 2621-8259. Available at: <<https://riset-iaid.net/index.php/tajdid/article/view/333>>. Date accessed: 07 june 2021. doi: <https://doi.org/10.36667/tajdid.v26i2.333>.

The idea of the unification of religion and state and making religious doctrines and laws a reference in all actions in all aspects of life, both private and public, is the seed of the emergence of radicalism, including Islamic radicalism.⁴⁹ *Dar al-Islam*, which was conceptualized by Islamist radicals, has drawn controversy in Islamic history. Where is *Dar al-Islam*? Who defines its boundaries, and based on what criteria? It is not only since a self-declared “Islamic State” in Syria and Iraq has claimed to represent the only true “territory of Islam” in the world of the 21st century that heated controversies have arisen about what actually renders a territory “Islamic.” The division of the world into a “territory of Islam” (*Dar al-Islam*) and a “territory of war” (*Dar al-Harb*) has in fact been a matter of contestation throughout Islamic history.

Since the early centuries of Islam until today, Muslim scholars have continuously debated and redefined this territorial paradigm in response to, and in interaction with, particular historical experiences. From the beginning, it has been of particular importance in the discourse on Muslims living under non-Muslim rule: do territories ruled by non-Muslims on principle lie outside the realm of *Dar al-Islam*? Are they per se part of *Dar al-Harb*, or how else can they be classified from an Islamic legal perspective? Under what conditions is it permissible for Muslims to reside in such territories, and how far does life under non-Muslim rule change their obligations to God? In other words, are Islamic norms, as embodied in the sharia, territorially bound, or are they extraterritorial in nature? Are Muslims living outside Muslim territory thus outside the scope of sharia, or do they require a specific interpretation of Islamic norms?⁵⁰

In fact, apart from *Dar al-Islam* and *Dar al-Harb*, the term *Dar al-Ahdi* is also found. Muhammad al-Syaibani in *al-Sairul Kabir* states that if an area is in the hands of non-Muslims but they want peace with other groups, the area they command is called *Dar al-Ahdi* (*mu'ahadah*).⁵¹ However, this term is less popular among the *fuqaha*.

Islamic state or Dar al-Islam

Islamic jurists who use the terms *dar al-Islam* and *Dar al-harb*, differ in their definition. Among them, there are experts who look at the law in force in the country. There are also

⁴⁹ Daniel E. Price, (1999) *Islamic Political Culture, Democracy, and Human Rights_ A Comparative Study*, Praeger, London, page 195-197.

⁵⁰ Sarah Albrecht, *Dār al-Islām Revisited; Territoriality in Contemporary Islamic Legal Discourse on Muslims in the West*, Brill (2018).p. 1.

⁵¹ Abu Zahrah, *al-alaqqah al-dauliyah fi al-Islam*, diterjemahkan menjadi *hubungan-hubungan Internasional dalam Islam*, Jakarta, Bulan Bintang, 1973, hal.67

experts who see from the side of the security of its citizens carrying out Islamic law. While others see from the side of the power holder of the country whether the power is held by Muslims or not.

Imam Abu Yusuf (d.182 H.), the biggest figure in the Hanafi school, argues that a country is called *dar al-Islam* if Islamic law applies in it, even though the majority of its citizens are not Muslims. Meanwhile, according to him, *Darul Harbi* is a country that does not enforce Islamic law, even though most of the population is Muslim. Al-Kisani (d. 587 H) is also an expert in the Hanafi school of jurisprudence, strengthening the opinion of Abu Yusuf. According to him, *darul harb* can become *dar al-Islam*, if the country enforces Islamic law.⁵²

Al-Rafi'I (d.623H), one of the leaders of the Shafi'I school, made a measuring tool to determine whether a state was *dar al-Islam* or *dar al-harb* by considering the holders of power in the country. A country is seen as *Dar al-Islam* if it is led by a Muslim. Meanwhile, Abu Hanifah (80-150 H) distinguishes between *Dar al-Islam* and *Dar al-Harb* based on the sense of security enjoyed by the population. If Muslims feel safe in carrying out their religious activities, then the country is included in *dar al-Islam*. On the other hand, if there is no sense of security for Muslims, then the country is categorized as *Dar al-harb*.⁵³ Meanwhile, Ibn Qayyim al-Jauziyah (d. 751 H.) argues that *dar al-Islam* is a country whose territory is inhabited by (the majority) of Muslims and the law that applies in that country is Islamic law. If these two elements are not met, then the country is not *Dar al-Islam*.⁵⁴ When these various benchmarks are combined cumulatively, *Dar al-Islam* is a country inhabited by the majority of Muslims, led by Muslims and in which Islamic law can be implemented safely.

That is why **Javid Iqbal** in his writings "The Concept of State in Islam" states that *Dar al-Islam* is a country whose government is held by Muslims, the majority of the population is Muslim and uses Islamic law as its law.⁵⁵ Salahuddin Wahid formulated an Islamic state as a state that makes Islam the basis of the state, considers Muslim citizens as first-class citizens while non-Muslim citizens as second-class citizens and applies Islamic law to all citizens.⁵⁶

According to Abdul Rauf, there is no consensus about the meaning of *Dar al-Islam* or Islamic State. Three definitions have been widely used: the first is that an Islamic state is one

⁵² Al-Sarkhasi, *Mabsuth*, Bairut, dar al-Ma'rifah, tt. Juz 10, hal.144.

⁵³ Wahbah al-Zuhaili, *Atsar al-harb fi al-fiqh Islam*, Syria, dar al-Fikr, tanpa tahun dan penerbit, hal. 56.)

⁵⁴ Ibn al-Qayyim Al-Jauziyah, *ahkam ahl al-dzimmah*, Bairut, Dar al-Kutb al-Ilmiyah, ttp.) jilid I, hal.226

⁵⁵ Javid Iqbal, *The Concept of State in Islam* in Mumtaz Ahmad, ed. *State, Politics and Islam* Washington: american Trust Publication, 1986,hal.38

⁵⁶ Salahuddin Wahid, "Negara Sekuler No!, Negara Islam, No!" dalam Kurniawan Zein, ed., *Syari'at Islam Yes, Syari'at Islam No!*.Jakarta, Paramadina, 2001, hal. 24.

that has a majority population of Muslims. This demographic definition was used in the creation of the Organization of the Islamic Conference (OIC, now called the Organization of Islamic Cooperation) in 1969. A second definition, which the Afghan Taliban and the Sudan under Omar al-Bashir adopted and which was announced by the Sultan of Brunei in October 2013, focuses on applying the Islamic penal code, specifically punishments known as the *Hudud*, and outlawing “un-Islamic” practices. These states define their Islamicity by forbidding crimes and harshly punishing transgressors. A third definition is that an Islamic state is one that is governed by Shariah, perhaps best described as instituting an “Islamic rule of law,” and thereby manifesting the principles of just governance as prescribed in the Qur’an and the Sunnah.⁵⁷ Most Muslim scholars tend to agree on this third definition. In the third definition, the normative declaration is not so important, because what is more important is the manifestation of the principles of just and good governance that are sourced from the inspiration of the Qur'an and Sunnah. This can be seen in the following table.⁵⁸

Table 1
The Scholars’ Opinions on Important Criteria for an Islamic state

Categories	Relative Importance to Definition of Islamic State , Allocate 0%-100%
Normative Declarations	5%
Qualification & legitimacy of Leaders	8%
Outcomes of Governance Subtotal:	87%
(1) Principles of justice, shuro, ijma, bay’ah	35%
(2) The goal is to be able to protect life (<i>al-nafs</i>), mind (<i>al-aql</i>), religion (<i>al-din</i>), family (<i>al-nasl</i>), property (<i>al-mal</i>) and honor (<i>al-'irdl</i>).	52 %
TOTAL	100%

This table shows that although the normative declaration is still important (5%), the qualifications and legitimacy of leaders are also important (8%), but what is more important is the outcomes of governance. The outcomes of governance are supported by two things, namely, first, the extent to which the principles of justice, deliberation, agreement and elections are implemented, second, how is the purpose of sharia to protect life, mind, religion, family,

⁵⁷ Imam Feisal Abdul Rauf (auth.)-*Defining Islamic Statehood; Measuring and Indexing Contemporary Muslim States*, Palgrave Macmillan UK (2015) p.2.

⁵⁸ Imam Feisal Abdul Rauf (auth.)-*Defining Islamic Statehood_ Measuring and Indexing Contemporary Muslim States*-Palgrave Macmillan UK (2015) page 58

property and honors implemented. From this table it can be noted, that Indonesia is an Islamic State with a level of 95% because it is only minus the normative declaration. By exploring the ongoing Islamic legal discourse on Muslims in the West from a spatial perspective, it has provided insight into how traditional territorial concepts such as *Dar al-Islam*, the “territory of Islam,” and *Dar al-Harb*, the “territory of war,” are revisited, modified, and contested in light of today’s geo-political, demographic, and social realities.⁵⁹

In making revisions and modifications to the definition of an Islamic state or *Dar al-Islam*, what the Islamic world needs to do is creating the standard of measurement that can be seen from a number of indicators that can be tested or verified openly. To measure the achievement of Sharia goals in protecting **lives**, there are a number of indicators and indexes that can be used, such as Life Expectancy at Birth, Poverty Rate, Environmental Protection index (EPI) and National Peace and Security (Global Peace Index). To measure the achievement of Sharia goals in protecting **mind**, there are a number of indicators and indexes that can be used, such as Provision of Quality Education (Human Capital Index), Free Dissemination of Knowledge (Telecommunication Infrastructure Index), Promotion of Science, Technology, Research, and Development (Innovation Index), and Press Freedom (Press Freedom Index). To measure the achievement of Sharia goals in protecting **of property**, there are a number of indicators and indexes that can be used, such as Equitable Distribution of Wealth (Gini Coefficient), Promotion of Economic Development (GDP, Doing Business Index), Access to Employment (Unemployment rate) and Prohibiting Unlawful Gain (Corruption Perception Index, International Property Rights Index). To measure the achievement of Sharia goals in protecting **of honor**, there are a number of indicators and indexes that can be used, such as Physical Integrity (incidence of torture, political imprisonment, extrajudicial killing, and disappearance), Fundamental Human Rights and Freedom from Discrimination (Empowerment Rights Index, Women’s Rights Index) and the Independence of the Judiciary.⁶⁰

In redefining an Islamic state, why are indicators or indexes on the implementation of Sharia important? Feisal Abdul Rauf said, there are at least eight reasons, namely: 1) to revitalize Islam and its role in the world 2) to delineate what the shariah says about the state and governance 3) to benchmark an Islamic state in the twenty-first century 4) to reduce

⁵⁹ Sarah Albrecht, *Dār al-Islām Revisited; Territoriality in Contemporary Islamic Legal Discourse on Muslims in the West*, Brill (2018).page 223.

⁶⁰ Imam Feisal Abdul Rauf (auth.), *Defining Islamic Statehood: Measuring and Indexing Contemporary Muslim States*, Palgrave Macmillan UK (2015) p.101-105.

malaise among Muslims who worry that they are not living in an “Islamic” state 5) to clarify for individual Muslims how to better fulfill both their spiritual and temporal obligations 6) to mitigate polarization within the Muslim community 7) to assist current governments in administering according to Islamic principles 8) to reshape perceptions in the West about Islam and Islamic governance.⁶¹

By using measurable indicators, Indonesia, despite being grouped in a secular state by Ahmed T Kuru,⁶² is better than other countries that formally declared themselves as an Islamic state in their constitution. Based on research conducted by Rehman and Askari, the Islamic index of Indonesia is better than the index of country which formally declares itself as an Islamic State or makes Islam a state religion like Egypt, Pakistan and Iran. Based on this index, Indonesia ranked 140, Pakistan ranked 147, Egypt ranked 153 and Iran ranked 163.⁶³

The meaning of sharia and how it is practiced

The term sharia in Arabic literary means a path or a way.⁶⁴ From this reading, sharia generally means the way or path that Muslims take to lead their lives – be it as individuals, as society or as a religious community. The term sharia is often used in present discourse as if it were synonymous with Islam itself as the totality of Muslim obligations in both the private, personal religious sense and vis-à-vis social, political, and legal norms and institutions.⁶⁵

From the perspective of Islamic jurisprudence, sharia refers to Islamic law. As the sacred law of Islam, Islamic law is an all-embracing body of religious duties, the totality of Allah’s commands that regulate the life of every Muslim in all aspect. Although Islamic law is a ‘sacred law’, it is by no means essentially irrational; it was created not by an irrational process of continuous revelation but by a rational method of interpretation, and the religious standards and moral rules which were introduced into the legal subject-matter provided the framework for its structural order.⁶⁶

As God’s plan for mankind consisting of His prescriptions for human behavior, sharia

⁶¹ Imam Feisal Abdul Rauf (auth.), *Defining Islamic Statehood: Measuring and Indexing Contemporary Muslim States*, Palgrave Macmillan UK (2015) p.6.

⁶² Ahmet T. Kuru, *Secularism and State Policies toward Religion: The United States, France, and Turkey*, Cambridge University Press 2009:259.

⁶³ Scheherazade S. Rehman and Hossein Askari, “How Islamic are Islamic Countries”, *Global Economy Journal*, Volume 10, Issue 2 2010 Article 2, The George Washington University

⁶⁴ Qur’an chapter :45 verse:18

⁶⁵ Abdullahi Ahmed An-Na’im, “The Normative Relevance of Sharia in the Modern Context”, in Rudolph Peters, Peri Bearman, *The Ashgate Research Companion to Islamic Law*, (Ashgate Pub Co, 2014) p.311.

⁶⁶ Joseph Schacht, *An Introduction to Islamic Law*, (Oxford University Press,1964) p.1-4.

is rather abstract concept which leaves ample room for various concrete interpretations by human beings. The classical sharia is the body of Islamic rules, principles and cases compiled by religious scholars in search of God's will during the first two centuries after Muhammad. In this sense, sharia can be found in the classical works of religious scholars of the dominant legal schools (*madhab*), and is therefore more concrete. The historical sharia includes the entire body of all principles, rules, cases and interpretation developed and transmitted throughout a history of more than one thousand years across the entire Muslim world. In this context sharia is plural. Differences can arise because of the different methods used to take the law. Through the method that was developed, the priests or Islamic scholars were accompanied by their followers, eventually forming a school of thought. So it is the legal scholars or fiqh experts who independently develop Islamic law as well as its articulators.⁶⁷

In his article entitled: *Keeping the State Out: the Separation of Law and State in Classical Islamic Law*, Lubna A Alam (2007: 1255) says that Islamic legal systems grow from the efforts of pious individuals who truly want to know God's will. Individuals who are motivated by their religious commitment eventually form a circle or study group. Nearly a hundred years after the death of the Prophet Muhammad, or around 730 AD, individuals who have extensive knowledge and continue to want to learn become educated people who have more influence in society solely because of their knowledge. These experts rivaled the country's authority in the field of law by placing themselves as the articulators of the law. So, legal authority is based on the knowledge that a person has, not on power, politics or society. Given the legal expertise that makes a person have authority, the legal authority is private or personal, inherent in the experts and the community (*madzhab*), not the political authorities or the state.

So, Islamic law represents the views of legal experts. It was developed by individuals and legal science (*Fiqh Science*). In the classical history of Islam, the state does not take part in the legislative process. Books written by experts have more legal power. In contrast to other civilizations including Western civilization, where the State plays a role in the process of legislation and legal execution, in Islamic civilization the State is not involved in managing the law or in the process of creating and promulgating the law. Authority outside the political system has the role of creating it. Although the State does not formulate a law, the State adopts a judge to implement the law. So, the law remains independent of the State but the courts in the classical system are not independent. "The Shari'a court [was]... an apparatus of the state,

⁶⁷ Nurrohman Syarif, "Syariat Islam dalam Perspektif Negara Hukum Berdasar Pancasila", *Pandecta*, Volume 11. Nomor 2. December 2016, hlm. 160-173.

but based on a law that was outside the state's domain, "said Alam.⁶⁸

According to An Na'im, the idea that we called sharia which is organized and codified and ready to apply and to use does not exist in muslim history. This idea also not exist in the Qur'an. For 1400 years we never had codification of sharia, precisely because it is too value to be codified. Not because it is too irrelevant but because when you codify it you kill it, you make it dead unable to think unable to advance. By keeping it from codification and leave it in the hearts and minds of Muslims men and women then it is live and it is powerful and it is transformative. So, anybody anywhere if he or she speaks about Islam they are speaking about their understanding of Islam not Islam itself nobody speaks for Islam, nobody speaks for sharia but every body speaks their understanding of what Islam is what their understanding of what sharia is. So when we debate we are not disputing Islam itself we are disputing the understanding of some people of Islam and therefore nobody should be persecuted or killed because he said odd or strange views. An- Na'im added, what Ottoman made in the middle of nineteenth century when they codified majalla, it is actually some of the views of Hanafi school.⁶⁹ In other words, they are not codifying sharia.

So, in history, sharia in the form of Islamic law actually has a number of characters. First, Islamic law contains sacred values because it comes from God. The second character is that Islamic law contains a moral value. It does not only speak of rights and obligations but also talks about what should be done and what should not be done by a mature and healthy person. As a religious law, Islamic law related to one's awareness of the existence of rewards and torments in the afterlife. The first process of desacralization takes place when the sharia is interpreted or understood by humans. The further process of desacralization also occurs when Islamic law undergoes a process of politicization by imposing Islamic law through political instruments. In other words, desacralization occurs when qanunization occurs, or when Islamic law becomes qanun. The word qanun comes from the Persian language which then undergoes an Arabization process. This word means principle. Since the nineteenth century, this word was given the meaning of written law in countries that made Islam a source of legislation.⁷⁰

In the one hand, qanunization produced unification but in the other hand, qanunization means that people follow Islamic law not because of their moral awareness but because they

⁶⁸ *Keeping The State Out: The Separation of Law and State in Classical Islamic Law*, Lubna A Alam (2007:1255)

⁶⁹ Abdullahi Ahmed An-Na'im, on webinar entitle, "Liberating Sharia and Decolonizing Human Rights.", held by UIII (Universitas Islam International Indonesia), at February 23, 2021. Available at: <https://www.youtube.com/watch?v=6Ldz01KyUmA>

⁷⁰ Nurrohman Syarif (2016). Syariat Islam dalam Perspektif Negara Hukum berdasar Pancasila. *Pandecta Research Law Journal*, 11(2), 160-173.

are forced by the state. Modernization, westernization and re-Islamization of the law through the process of unification and centralization of the sharia can have an impact on the loss of some characteristics of Islamic law. The making of Islamic law as a positive law on the one hand raises certainty but on the other hand it will reduce its flexibility. In addition, it can have an impact on the loss of some civil rights and political rights of citizens. When it happens, it means that it failed to bring its vision as *rahmatan lil alamin* (blessing to universe).

The third character is that Islamic law is basically personal. Because it is related to faith. This means that someone follows the instructions of Islamic law because of his faith in the Prophet Muhammad or the Holy Qur'an. Every Muslim because of his faith consciousness, can practice Islamic law wherever he or she is. Islamic law can be practiced in an Islamic state, in a secular state or in the state base on *Pancasila* like Indonesia. It is what is called by Juhaya S Praja, professor of Islamic law in State Islamic University Sunan Gunung Djati Bandung, a credo theory.⁷¹ Only aspects of criminal sanctions require the support of power.

The fourth character, Islamic law is not entirely dependent on certain countries. Because it was developed by legal experts. The state does not formulate a law, the state appoints judges to implement the law. The Islamic legal system is the third variant in the dichotomy of civil law and common law. It can be called juristic law because Islamic law in its history was explored and developed by Islamic jurists.

In their book entitled *Modern Perspective on Islamic Law*, Black, Ismaeili and Hosen (2013: xi) said:

*Islamic law is the world's third major legal system, after the common and civil law systems. Although the Qur'an and Sunna are the original sources of Islamic law, the Islamic legal system has evolved many other sources, methodologies and perspectives. Like any other legal system, the Islamic legal system has developed over many centuries in various Muslim societies, incorporating local cultures and customs as well as some limited state decrees and particularly the work of Muslim jurists... it was created and developed by private specialists; legal science and not the state, plays the part of legislator, and scholarly handbooks have the force of law. Islamic law is therefore neither common or civil law, but is juristic law.*⁷²

The fifth character, Islamic law is flexible and dynamic. Because it can basically change if there are social changes. It is dynamic because it can be developed according to the development of human civilization. *Ijtihad* (individual reasoning) remains open all the time. In Islam, reason and revelation are both sacred because both come from God. The sixth character is that it is rational, because even though it comes from the words of God or from the believe

⁷¹ Juhaya S Praja, *Teori-teori Hukum Islam : Suatu Telaah Perbandingan dengan Pendekatan Filsafat*, Bandung, Program Pascasarjana Universitas Islam Negeri (UIN), 2009, hlm.107.

⁷² Ann Black, Hussein Esmaeili, and Nadirsyah Hosen, 2013. *Modern Perspective on Islamic Law*, UK: Edward Elgar Publishing Limited. (p.xi)

system, it can be understood and in line with common sense or explanation of science. In Islamic teaching reason and revelation is not contradictory.

Historically, sharia has been influenced by time and place. The contemporary sharia contains the full spectrum of principles, rules, cases and interpretations that are developed and applied at present, throughout the Muslim world. New technologies of information and communication have decreased the dominance of legal schools of classical sharia. The variety of meanings of sharia has given rise to a flexible, multi-interpretable discourse about sharia and law which moves smoothly from one meaning of sharia to another. Therefore the theological assumption that sharia is a fixed set of norms that apply exclusively to all Muslims must be dismissed on the basis of both legal and empirical evidence.⁷³

Although there is a flexible, multi-interpretable discourse about sharia, it has an objective. The first objective of sharia is protecting basic human rights for all members of community irrespective of race, religion and culture. There are seven basic human rights that must be protected by the state or society, ie : 1) the right to life and its enjoyment 2) the right to believe 3) the right to gain knowledge 4) the right to disagree 5) the right to consultation 6) the right of equality and justice 7) the right of the oppressed.⁷⁴

The second objective of sharia is establishing justice between Muslims and the rest of humanity. Equality is among the key message of Prophet Muhammad in his last sermon. Qur'anic legislation in the field of private and public life has social justice and the building of an egalitarian community as its end.⁷⁵ The third objective of sharia is providing benefits (*maslahah*) for human beings and removing hardships (*al-usr*) from them. Bringing about benefits and removing harm is essential in establishing a harmonious society. Thus, any ruling that replaces justice with injustice, mercy with its opposite, common good with mischief, or wisdom with nonsense, is a ruling that does not belong to the sharia, even if it is claimed to be so according to some interpretation.⁷⁶ In addition to the characteristics and objective of sharia, there is also the principles of Islamic law. In his book *Philosophy of Islamic Law (Filsafat Hukum Islam)*, Hasbi Ash Shiddieqy said that Islamic law should be guided and developed based on a number of principles, namely: 1) eliminate narrow-mindedness (*nafyu al-kharaj*). 2) minimize burden (*qillatu al-taklif*). 3) in line with human welfare 4) realizing equitable

⁷³ Jan Michiel Otto, *Sharia and National Law in Muslim Countries*, (Leiden University Press, 2008)p. 9-11.

⁷⁴ Mohammed Abed al-Jabri, *Democracy, Human Rights and Law in Islamic Thought*, (I.B.Tauris & Co Ltd, London, 2009) p.251.

⁷⁵ Fazlur Rahman, *Islam and Modernity; Transformation of an Intellectual Tradition*, (University of Chicago Press, 1984) p.19.

⁷⁶ Jasser Auda, *Maqasid al-Shari'ah as Philosophy of Islamic Law, A Systems Approach*, (London, Washington: The International Institute of Islamic Thought, 2007)p. xxii.

justice 5) putting the mind over the text of sharia in case of conflict between the two. 6) each person assumes his own responsibility.⁷⁷

In the Indonesian legal system, the constitution is the highest basic law. Therefore, all laws made in Indonesia must not conflict or deviate from constitutional provisions. Sharia as a religious norm based on belief, its form is not singular. In its history, sharia or Islamic law developed into several schools of thought. Therefore, Islamic law can be adapted to the Indonesian legal system, insofar as Muslims not restricted themselves by one form of understanding and practicing the rigid and textual Islamic law.

From the principle of accepting plurality, the models of exploring or practicing sharia in Indonesia is widely opened. In exploring the meaning and the content of sharia, at least there are three theories, *bayani*, *irfani* and *burhani*. In *bayani* method, the truth was obtained through linguistic approach that produced correspondence truth. The source of truth is religious text and the method is juristic reasoning. In Islamic history, this method was often used by jurists and theologians. In *irfani* method, the truth was obtained through psychognostic approach that produced inter subjective truth. The source of truth is intuition and the method is illumination. Gnosis refers to knowledge based on personal experience or perception. In religious context, gnosis is mystical or esoteric knowledge based on direct participation with the divine. In Islamic history, this method is used by mysticians. In *burhani* method, the truth was obtained through logical approach that produced coherence or consistence truth. The source of truth is ratio and the method is analytical discourse. While these three methods actually had been used in the Muslim world, *burhani* method which put forward the way of demonstrative-philosophical thinking not developed optimally by Muslim thinkers and scientists.⁷⁸ Table 2

Table 2
The Theories for Exploring the Meaning and the Content of sharia

The name of theory	Source	Method	Approach	The validity of truth
<i>Bayani</i>	Religious text	<i>Istinbath/istidlal/</i> juristic reasoning	Linguistic	Correspondence
<i>Irfani</i>	Intuition	<i>Kasyf/</i> illumination	Psycho-gnostic	Inter-subjective
<i>Burhani</i>	Ratio	Analytical discourse	Logic	Coherence/ consistence

⁷⁷ Ash Shiddieqy, Hasbi . 1975. Filsafat Hukum Islam. Jakarta, Bulan Bintang, p.73-92

⁷⁸ Sembodo Ardi Widodo, “Nalar Bayani, ‘Irfani dan Burhani dan Implikasinya Terhadap Keilmuan Pesantren”, *Hermenia, Jurnal Kajian Islam Interdisipliner*, Vol.6.Nomor 1, Januari-Juni 2007, p 65-92

The application model of Islamic sharia in some countries cannot be separated from the role of religion in politics. The role of religion in politics can be classified into three forms. Firstly, religion as a political ideology; secondly, religion as ethical, moral and spiritual base and third, religion as sub-ideology. Countries that place religion as ideology tend to practice religious teachings formally as positive law and take a structural approach to socialization and institutionalization of religious teachings. Countries that place religion as an ethical, moral, and spiritual source tend to support cultural approaches and reject structural approaches in terms of socialization and institutionalization of religious teachings. This means that the implementation of religious teachings should not be institutionalized through legislation and state support, but enough with the consciousness of religious people themselves. Countries that place religion as sub-ideology tend to support a cultural as well as structural approach by involving religious teachings in public policy making in a constitutional, democratic and non-discriminatory manner.⁷⁹ **See Table 3**

Table 3
The Role of Religion in Politics

The Role of Religion	Description	Example
As an ethical, moral and spiritual base	Countries that place religion as an ethical, moral, and spiritual source tend to support cultural approaches and reject structural approaches in terms of socialization and institutionalization of religious teachings. This means that the implementation of religious teachings should not be institutionalized through legislation and state support, but enough with the consciousness of religious people themselves.	Secular state such as Turkey
as a political ideology	Countries that place religion as ideology tend to practice religious teachings formally as positive law and take a structural approach to socialization and institutionalization of religious teachings	State that places sharia as the primary source of legislation
as sub-ideology	Countries that place religion as sub-ideology tend to support a cultural as well as structural approach by involving religious teachings in public policy making in a constitutional, democratic and non-discriminatory manner	State that has it's own ideology such as Indonesia

⁷⁹ Nurrohman Syarif ; Tajul Arifin, and Sofian Al-Hakim, S. (2017). Sharia in Secular State - The Place and Models for Practicing Islamic Law in Indonesia. In *2nd International Conference on Sociology Education - Volume 2: ICSE*, ISBN 978-989-758-316-2, pages 52-60. DOI: 10.5220/0007104306920700

In line with the role of religion in political life, the model of Muslims in practicing sharia in Indonesia can be divided into three, exclusive textual, inclusive substantial, and combination. The first model is usually trying to implement sharia as mentioned in the text of the Qur'an, prophet tradition or in the text of standard works recognized by its authority in explaining Islamic law. This model is based on the assumption that the sharia has perfectly regulated all aspects of life. Sharia after the prophet Muhammad no longer experiences the process of evolution. Therefore, the duty of Muslims is to apply it when the provisions are clear in the text of the Qur'an or prophet tradition (*al-Sunnah*). If there is no provision, then they can use analogy or individual reasoning (*ijtihad*). Muslims do not need to take other legal systems outside of Islam. Sharia is a law of God that can not be known its true content except by the experts, ie. Jurist (*faqih ,mujtahid*) . Therefore, any legislation made by a legislature must be approved by a sharia expert, and the sharia expert has the right to veto any laws deemed inconsistent with the sharia. The first model is commonly practiced privately in private matter.

The second model, it is try to practice the Islamic sharia by looking at the concepts or ideas that exist behind the text. If the main idea has been captured, then its application can be carried out flexibly in accordance with the times and places. This model is based on the assumption that every legal provision in Islamic law has its reasoning and purpose. Therefore, the proponents of this model do not object if Islamic law undergoes evolution. They are also relatively easy to accept any legal system as long as the legal system upholds justice, equality, freedom, brotherhood and humanity which are the core of sharia. Sharia is applied openly through accepting "external elements" such as local custom and thoughts coming from outside Islam. There is no monopoly in the interpretation of sharia, and therefore, there is no need for "sharia supervisory" institutions that monopolize the interpretation of sharia. The second model was commonly practiced in public life.

The third model is combination. In practicing sharia, they divided it into two; purely religious teaching that should be done without any question or reasoning ,(*ta'abbudi*) and what is understood by reason (*ta'aqquli*). They sort the sharia into two, private and public. In private law, they tend to be textual exclusives because it is part of *ta'abudi*, but in public law, they tend to be substantially inclusive. The choices taken by each person, community or country will depend on the legal politics embraced by them. **See Table 4**

**Table 4:
The Models for Practicing Sharia**

Type of model	Description	Assumptions	Example
Exclusive textual	trying to implement sharia as mentioned in the text of the Qur'an, the prophet tradition or in the text of standard works of expert recognized by its authority in explaining Islamic law	Sharia has perfectly regulated all aspects of life. Sharia after the prophet Muhammad no longer experiences the process of evolution	Cutting the hand of the thief is understood physically
Inclusive substantial	Trying to practice sharia by looking at the concepts or ideas that exist behind the text. If the main idea has been captured, then its application can be carried out flexibly.	Every legal provision in Islamic law has its reasoning and purpose. Therefore, Islamic law undergoes evolution. There is no monopoly in the interpretation of sharia.	Cutting the hand of the thief is not understood physically. It just metaphor
Combination	In practicing the sharia, they divided it into purely religion (<i>ta'abbudi</i>) and <i>ta'aqquli</i> (be understood by reason). They sort the sharia into two, private and public.	Some sharia has a reason and experiences evolution, and the other ones are should accepted without reason and not experience evolution	In private matter or pure religion tend to textual, for instance daily prayer should be in Arabic, but in public matter accept substantial meaning

From the above explanation, the existing model for practicing sharia in Indonesia is a combination. Some provisions of sharia are practiced exclusively, but the others are practiced substantively and inclusively. In the private aspect, or civil law, sharia tends to be practiced exclusively textually. But in the public domain or penal law, sharia tends to be transformed substantially inclusively.

In civil cases or penal codes, effort to synergize the demands of faith with the legal system in Indonesia can be traced from the era of colonialism. According to Van Den Berg (1845-1927), Muslims should adhere sharia norm as consequence of their belief or religion. This theory that becomes Dutch policy toward Muslims since 1855 well know by *receptie in complexu theory*. According to the *receptie* theory, supported by Snouck Hurgronye (1857-

1936) Islamic law in Indonesia only applies if customary law requires it. This theory became the reference of colonial policy since 1929 through the *Indische Staatsregeling* (IS) of 1929. Article 134 paragraph 2 of IS said: "In the case of civil cases among fellow Muslims, will be resolved by the judges of Islam if their customary law wants it." ⁸⁰

After Indonesia become independent state, some theories emerge. According to *receptie exit* theory proposed by Hazairin, after Indonesia became independent state and has its own constitution, even though the transitional rule states that the old law is still valid as long as its soul not contradictory to the 1945 Constitution, all laws of the Dutch East Indies government based on *receptie* theory cannot be applied again because its soul is contradictory to the 1945 Constitution. According to the 1945 Constitution article 29 verse 1, the Republic of Indonesia is obliged to form an Indonesian national law with the material derived from religious law. It is the obligation of state to do it. The religious law that would be Indonesian national law is not just Islamic law, but also other religious law living in Indonesia. Religious law in civil and criminal law absorbed into Indonesian national law, then becoming a new Indonesian law based on Pancasila. This theory was developed by Hazairin as it is written in his book entitled *The Seven Laws (Tujuh Serangkai tentang Hukum)*.⁸¹ The new Indonesian law based on Pancasila which derived from sharia norms and values is what is called *Fiqh Indonesia* (Indonesian Fiqh) by professors Hasbi Ash-Shiddieqy.⁸²

Another theory, *receptio a contrario*, introduced by Sayuti Thalib. This theory said that for Muslims, Islamic law should be applied to them, customary law can be applied if not contrary to Islamic law. Another theory, the *positivization* of Islamic law, that was supported by A Qadri Azizy said that Islamic law basically has become a positive law for Indonesian Muslims therefore, the application of Islamic law is no longer determined on acceptance of customary law. The main reference of this theory is Law No.1/ 1974 on marriage. Article 2 (1) of this law said that marriage is valid, if it is done according to the law of each religion and belief. ⁸³ **See Table 5**

⁸⁰ Nurrohman Syarif, *Syariat Islam dalam Perspektif Negara Hukum berdasar Pancasila*, Pandecta, Volume 11. Nomor 2. December 2016

⁸¹ Hazairin, *Tujuh Serangkai tentang Hukum*, Jakarta, Bina Aksara, cet. ketiga, 1985: 52.

⁸² Nur Ahmad Fadhil Lubis, (1997). "Islamic Legal Literature and Substantive Law in Indonesia", *Studia Islamika, Indonesian Journal for Islamic Studies*, Volume 4, Number 4, 1997. Pp.33 -92.

⁸³ Nurrohman Syarif, *Syariat Islam dalam Perspektif Negara Hukum berdasar Pancasila*, Pandecta, Volume 11. Nomor 2. December 2016

Table 5
The Theories for Practicing Sharia in Indonesia

The name of theory	Description	Implication	Notes or reference
<i>Receptio in complexu</i>	Muslims should adhere sharia norm as consequence of their religion.	Sharia norms directly applied to Muslims without waiting whether its accepted by custom or not.	Applied in religious court since 1855
<i>Receptie</i>	"In the case of civil cases among fellow Muslims, will be resolved by the judges of Islam if their customary law wants it."	The application of sharia norms depends on the acceptance of customary law	the reference of colonial policy since 1929
Possitivisation	Islamic law has basically become a positive law for Indonesian Muslims	the application of Islamic law is no longer determined on the basis of acceptance by customary law	The main reference of this theory is: UU No.1 / 1974 about marriage

Therefore, from the very beginning, Hasbullah Bakry, in his book: *Anthology About Islam, State and Law states (Bunga Rampai Tentang Islam, Negara dan Hukum)* said that there are five arguments or five main arguments why we can call the Republic of Indonesia a non-constitutional Islamic state. The five postulates are: (i) Pancasila can be considered Islamic teachings (2) There is no naming of an Islamic State with a definitive model in the Qur'an and the Sunnah of the Prophet (3) the absolute majority of Indonesian people are Muslims (4) The Republic of Indonesia is a worldly country that is anti-secularism (5) The head of State of the Republic of Indonesia is always a Muslim.⁸⁴

Regarding Hasbullah Bakry's opinion, the author argues that based on the criteria of a contemporary Islamic state, anti-secularism and the requirement that the head of state must be Muslim are not the most important requirements. The most important thing as described in table 1 is the implementation of the objectives of sharia through good governance. The author agrees with Ahmed Kuru who places Indonesia as a secular country along with a number of other Muslim countries.⁸⁵ But the secularism practiced in Indonesia is not extreme secularism but mild secularism. Mild secularism is a term that used by Abdurrahman Wahid. In the mild

⁸⁴ Hasbullah Bakry, *Bunga Rampai Tentang Islam, Negara dan Hukum*, Jakarta, Pedomon Ilmu Jaya, 1984,p.32

⁸⁵ Ahmet T. Kuru, *Secularism and State Policies toward Religion:The United States, France, and Turkey*, Cambridge University Press (2009). page 259.

secularism, the relative (not absolute) separation between state and religion is maintained, but allows at the same time the state's moderate administering of some of the religion's public affairs, and the religion's moderate values and norms are allowed to inspire the state.⁸⁶

Although from the world perspective, Indonesia was grouped in secular state, it is by no means that it is less Islamic than other countries which formally declared themselves as an Islamic state in their constitution. Based on research conducted by Rehman and Askari, the Islamic index of Indonesia is better than the index of country which formally declares itself as an Islamic state or makes Islam a state religion like Egypt, Pakistan and Iran. Based on this index, Indonesia ranked 140, Pakistan ranked 147, Egypt ranked 153 and Iran ranked 163.⁸⁷

After the downfall of New Order regime which was very repressive towards the Islamism movements, these groups grew and developed. The emergence of Islamism groups in the democratic era has given rise to three types of democracy that compete with each other in Indonesia, namely; Islamic democracy, religious democracy and liberal democracy. Each model of democracy affected how sharia be practiced.⁸⁸

In democratic era, sharia as a collection of *ahkam* (a set of positive rules), principles, a methodology, and a discursive process that searches for divine ideals, is a work in progress that is never complete. In his book *Islam and The Challenge of Democracy*, Abou El-Fadl said that although all sharia norms in its ideal concept are justice, mercy, wisdom and good, when it is understood and interpreted by humans, it varies according to the variety of methodologies. Sharia as conceived by God is flawless, but as understood by human beings is imperfect and contingent. Jurists out to continue to explore the ideal of sharia and to expound their imperfect attempts at understanding God's perfection. Sharia is not simply a collection of *ahkam* (a set of positive rules) but also a set of principles, a methodology, and a discursive process that searches for divine ideals. **As such, sharia is a work in progress that is never complete.**⁸⁹ This is what is called by Hallaq the evolution of Islamic law⁹⁰. However, in the current time, when Muslims want to transform Islamic values into the law of state or positive law it must be done through a democratic process without discrimination. Such as said by Hefner, democratic

⁸⁶ Moch Nur Ichwan, 2012. *The Making of a Pancasila State: Political Debates on Secularism, Islam and the State in Indonesia*, Institute of Asian Cultures, Japan, p.4

⁸⁷ Rehman, Scheherazade S. and Askari, Hossein. 2010. "How Islamic are Islamic Countries", *Global Economy Journal*, Volume 10, Issue 2 2010 Article 2, The George Washington University

⁸⁸ Luthfi Assyaukanie, *Ideologi Islam dan Utopia; Tiga Model Negara Demokrasi di Indonesia*, Freedom Institute, Jakarta, 2011:84-217.

⁸⁹ Khaled Abou El Fadl, *Islam and The Challenge of Democracy; A Boston Review Book*, Princeton University Press, 2004:34.

⁹⁰ Wael B Hallaq, *The Origins and Evolution of Islamic Law*, Cambridge University Press. 2005

constitutionalism in applying sharia is the best way to functionalize Islamic values ⁹¹.

Through a constitutional democracy, Islamic law can be transformed into national law through various means or methods. According to the author, there are at least three ways of transforming Islamic law into national law, namely : substantive, normative and attributive or symbolic. **See Table 6**

Table 6
Transformation Model of Sharia into National Law System

No	Category	Description	Example/notes
1	Substantive	Islamic law has been transformed into national law because the principle and substance of Islamic law has actually been incorporated into national law. Indonesian Constitution has already accommodated the principles of Islamic law.	Base on research conducted among other by Harun Nasution and Masdar Farid Mas'udi
2	Normative	the transformation of Islamic law into national law occurs when the norms contained in Islamic law are also accommodated and made norms in national law	Most of norms concerning marriage in Islamic law has been transformed to UU No 1/1974 on Marriage Law
3	Attributive or symbolic	Symbolically or attributively, Islamic law has been transformed into national law if the attributes or symbols of Islamic law such as sharia, <i>al-adl</i> (fair), <i>hikmah</i> (wisdom), <i>zakat</i> , <i>wakaf</i> and so forth are accommodated in national law.	There are some attributes that symbolically denote Islamic law such as the term <i>zina</i> , <i>waqaf</i> and <i>zakat</i> , <i>hudud</i> although it's content might be different with what is desired by some scholars

So, Islamic support for democracy is very strong. This is because the seeds of democracy can be found not only in the holy book of Muslims, but in the practice of government run by Muslims since the time of the Prophet. Muslims' acceptance of democracy does not prevent them from practicing Shari'a. Because, there are many ways or models that can be used by Muslims in understanding, practicing and transforming Shari'a in the national legal system. In other words, it means that Islam actually allowed its sharia to be interpreted in democratic manner. However, Islamism, for their refusal to popular sovereignty may destroy the principle of plurality in democracy.

⁹¹ Robert W. Hefner, *Shari'a Politics; Islamic Law and Society in the Modern World* , Indiana University Press (2011): 43.

There are at least four reasons for the changes of Islamic law , including in Muslim Family Law, through democratic mechanism. First, there is a distinction between the revealed way Sharia, which is immutable and infallible, and human understanding and interpretation of Sharia (known as *fiqh*), which is fallible and changeable. Much of what is freely labelled as “Islamic law” today is *fiqh* and not Sharia.

Second, there are two main categories of legal rules – devotional/spiritual acts (*‘ibadat*) and transactional/contractual acts (*mu‘amalat*). Muslim jurists have always considered legal rulings relating to marriage and family relations as social and contractual matters (*mu‘amalat*), which are open to rational consideration and change depending on circumstances and social conditions, rather than spiritual or devotional matters (*‘ibadat*), where there is little room for disputation.

Third, diversity of opinion (*ikhtilaf*) has always been accepted and celebrated within the tradition of *fiqh*. This is the reason for the existence of multiple Islamic schools of laws (*mazhab*). The fact that different Muslim family laws exist today demonstrates that there is no unified, monolithic “Islamic law”. It must be recognised that contemporary codified Muslim family laws are not God-given but have been developed by individuals serving in legislatures or committees. People can therefore change the laws to be more equal and just to reflect changing norms and contexts. A collection of guiding principles of understanding that includes “public interest” (*maslahah*) and “choosing the best opinion in the interest of the common good” (*istihsan* or *istislah*) supports this process.

Fourth, family laws that are developed or amended in the name of Islam should reflect the Qur’anic values of justice (*‘adl*), equality (*musawah*), equity (*insaf*), human dignity (*karamah*), love and compassion (*mwaddah wa rahmah*), and mutual respect among all human beings. All these values are fully compatible with international human rights standards, including CEDAW, and national constitutional guarantees of equality and non-discrimination.⁹²

III. DEMOCRACY AND ITS MEANING FOR MUSLIM

If sharia or Islamic law develops or experiences evolution, democracy also develops and experiences evolution in line with human development. Democracy, which in terms of

⁹² Sisters for Change , 2019, *Contemporary Legal review of The Impact of Muslim Family Laws on Women Across Commonwealth Asia and Africa*.p. 43.

language means that sovereignty in the hands of the people, in its development, is limited by a number of principles. At least there are four principles that are often used to guard democracy. First, the principle of rule of law, the second is the existence of free and fair elections, third, the protection of human rights, fourth, the active participation of citizens in political affairs and civil life. In its development there is no truly "liberal" democracy that allows the people without limitation to do whatever they want. The 2004 United Nations General Assembly (UN) resolution recommended seven things: (1) the separation and balance of power (2) an independent of judiciary, (3) the pluralistic systems of political parties and organizations, (4) respect for the rule of law), (5) the existence accountability and transparency, (6) free independent and pluralistic media, and (7) respect for human and political rights.⁹³

Philosophically, democracy is built from a number of propositions. 1) the acceptance of the concept of unity in diversity (*E Pluribus Unum*) 2) readiness to accept imperfections, because perfectionism and democracy are incompatibles 3) consistency in achieving common goals 4) The willingness of community to improve their skills in expressing opinions or exchanging ideas in a civilized manner 5) the existence of cultural and economical strategy that are consistent with shared ideals 6) the existence of institutional support that is correlated and functions efficiently 7) the existence of an educational system that instills awareness of democracy.⁹⁴

If democratic state respected human and political rights, Islam also promoted human rights. In his book entitles *Democracy, Human Rights and Law in Islamic Thought*, Mohammad Abed al-Jabri mentioned seven human rights that should be protected by state or society, namely: 1) the right to life and its enjoyment 2) the right to belief) 3) the right to acquire knowledge 4) the right to disagree 5) the right to deliberation or undertake consultation 6) the right to equality and justice 7) the rights of the oppressed to free from the oppression . This is the basic right that if the people cannot enjoy it, the punishment in the sharia cannot be carried out fairly, Al-Jabri said. He added: *Without putting an end to poverty, ignorance and the injustice of the rulers and the injustices of the strong against the weak, the hudud will remain exposed to doubt. And, the Prophetic hadith says, 'Avoid the hudud [penalties] when in doubt.* ⁹⁵

⁹³ Jennie S Bev, *Urgency of next form of democracy in Indonesia*, The Jakarta Post, July 19,2013

⁹⁴ T.V. Smith and Eduard C. Lindeman, *The Democratic Way of Life; An American Interpretation*, New York: Mentor Book, 1960

⁹⁵ Mohammad Abed al-Jabri, *Democracy, Human Rights and Law in Islamic Thought*, Published in 2009 by I.B.Tauris & Co Ltd 6 Salem Road, London, p.251.

If democracy, like Sharia undergoes an evolutionary process, Muslims in responding to democracy must be able to distinguish between the ideals of democracy and the reality of democracy that is practiced in a number of countries, including Indonesia. It means that democracy for Muslims is just a tool to achieve the goal of sharia. Given that there are no basic principles of democracy that contradict the basic principles of sharia, then there can be synergy between sharia and democracy. If sharia exists to provide mercy for all, then sharia can contribute to the achievement of the national goal of social justice for all through democratic means. Deficiencies that occur in democratic practice, as well as deficiencies that occur in the practice of sharia or Islamic law, must be returned to their ideals through a process of dialogue and deliberation, not through coercion and violence.

IV. THE THEOLOGICAL FOUNDATIONS FOR MUSLIM TO SUPPORT CONSTITUTIONAL DEMOCRACY OF INDONESIA

Qur'anic support to the principles of democracy

Theologically, in the Holy Qur'an, there are a number of verses that can be used as the foundation for democratic life, among them are.

- (1) The principle of respecting for humanity. (QS 17 :70) “And We have certainly honored the children of Adam and carried them on the land and sea and provided for them of the good things and preferred them over much of what We have created, with [definite] preference.”
- (2) The principle of freedom and individual responsibility. (QS 99 :7-8) “ So whoever does an atom’s weight of good will see it, And whoever does an atom's weight of evil will see it”
- (3) The principle of equality of human beings before God. (QS 49:13) “ O mankind , indeed We have created you from male dan female and made you peoples and tribes that you may know one another. Indeed , the most noble of you in the sight of Allah is the most righteous of you. Indeed, Allah is Knowing and Acquainted.”
- (4) The the principle of justice. (QS 5: 8) “O you who have believed, be persistently standing firm for Allah , witnesses in justice, and do not let the hatred of a people prevent you from being just. **Be just; that is nearer to righteousness.** And fear Allah ; indeed, Allah is Acquainted with what you do.”
- (5) The principle of human equality before the law. (QS 5: 8)

“O you who have believed, be persistently standing firm for Allah , witnesses in justice, and **do not let the hatred of a people prevent you from being just.** Be just; that is nearer to righteousness. And fear Allah ; indeed, Allah is Acquainted with what you do.” ‘O mankind, verily, what destroyed those before you was if there were noble people among them who stole, then they let them go (unpunished), but if the one who stole was a weak person (ordinary people), then they enforce the law on that person. By Allah, if Fatimah bint Muhammad stole, I myself would cut off her hand” (Narrated by Bukhari no. 6788 and Muslim no. 1688).⁹⁶

- (6) The principle of not harming yourself and others. (QS 2:279) “you do no wrong , nor are you wronged.”
- (7) The principle of criticism and social control, (QS103:1-3) “ By time , indeed , mankind is in loss, except for those who have believed and done righteous deeds and advised each other to truth and advised each other to patience.”
- (8) The principle of keeping promises and upholding agreements. (QS 17:34) “And fulfill [every] commitment. Indeed, the commitment is ever [that about which one will be] questioned.”
- (9) The principle of mutual help for good, (QS 5:2) “And cooperate in righteousness and piety, but do not cooperate in sin and aggression. And fear Allah ; indeed, Allah is severe in penalty.”
- (10) The principle of respecting plurality (QS 5:48) “To each of you We prescribed a law and a method. Had Allah willed, He would have made you one nation [united in religion], but [He intended] to test you in what He has given you; so race to [all that is] good. To Allah is your return all together, and He will [then] inform you concerning that over which you used to differ.”
- (11) The principle of deliberation (*syuro*) in handling worldly affairs (QS 42: 38 and QS 3: 159). “And those who have responded to their lord and established prayer and whose affair is [determined by] consultation among themselves, and from what We have provided them, they spend.” And “ So by mercy from Allah, [O Muhammad], you are were lenient with them. And if you had been rude [in speech] and harsh in heart, they would have disbanded from about you. So pardon them and ask forgiveness , for them and consult them in the matter. And when you have decided, then rely upon Allah. Indeed , Allah loves those who rely [upon Him]”

⁹⁶ <https://muslim.or.id/23872-penegakkan-hukum-di-masa-rasulullah-shallallahu-alaihi-wa-sallam.html>

The principles of government according to some scholars

The scholars differed in formulating the principles of sharia in managing the state. Abd.Muin Salim mentions four principles that can be seen as principles of government in the political system. The four principles he took from the Quran (QS 4 /al-Nisa : 58 and 59) are: (1) the principle of the mandate (*amanat*) (2) the principle of justice (harmony) (3) the principle of obedience (discipline) and (4) the principle of deliberation by making the Qur'an and Sunnah as a reference.⁹⁷ Yusuf Musa in his book *Nidzam al-Hukm fi al-Islam* mentions two pillars that must be enforced in administering government according to Islam. First, the principle of *syuro* (deliberation), second, the principle of justice. The principle of *syuro* is based on the Qur'an (QS 42/al-Syuro : 38 and QS 3/Ali Imran : 159) while the principle of justice is taken from the Qur'an (QS 16 / al-Nahl : 90 and QS 4/al-Nisa : 58).⁹⁸ Abdul Wahab Khallaf mentioned several pillars in Islamic government; first *al-syuro* (deliberation) , secondly, accountability of *ulil amri* (government) , the third ratification of the highest leadership through general *bai'at* (general election).⁹⁹ In determining this principle, Khallaf does not only take from the sources of the Qur'an but also from the *hadith* and the practice of the companion of the prophet who gathered at Tsaqifah Bani Sa'idah after the death of the Prophet. This principle according to him gives authority to the people, to choose who they want to be their highest leader. The Qur'an does not give special rights to Quraysh or not Quraysh in this matter. The Prophet also did not appoint a particular person to occupy this supreme leadership.¹⁰⁰

Muhammad Husain Haikal in his book *al-Hukumah al-Islamiyah* (Islamic Government) mentioned several basic principles. The first basic principle is faith in the One God and that He is the one who must be worshiped. Then from this basic principle, several principles are born such as equality, brotherhood and freedom. Haikal seems to have adopted the motto that emerged during the French revolution namely *Liberte, faternite and egalite*. This is understandable because he had lived for three years in Paris where freedom of thought had developed so much. The three slogans were then translated into Arabic with *al-musawah, al-ikha* and *al- khurriyyah*¹⁰¹ There are three basic teachings in Islam that can be used to support democracy namely : 1) Islam endows its people for direct access to God 2) Islam has no race

⁹⁷ Abd.Muin Salim, *Konsepsi Kekuasaan Politik dalam al-Qur'an*, Jakarta, Rajawali Press,1994, hlm.306

⁹⁸ Muhammad Yusuf Musa, *Nidzamal al-Hukmi fi al-islam*, Kairo, 1963,hlm. 177-178)

⁹⁹ Abd al-Wahab Khallaf, *al-Siyasah al-Syar'iyah aw al-Nizhaam al-Dauwliyyah al-Islaamiyyahfi Syu'un al-Dusturiyah wa al-Kharijiyah wa al-Maliyyat*, Kairo, Dar al-Anshar, 1977.hlm.29

¹⁰⁰ Ibid.hlm.26.

¹⁰¹ Munawir Sjadzali, *Islam dan Tata Negara*, Jakarta . UI Press, 1990.hlm 185

complex 3) Islam has banned human hatred and opened the way for human brotherhood and equality.¹⁰²

Another scholar, Mohammad Hashim Kamali, said that in general the Islamic government system has four characters: (1) Islamic government is a mandated government, meaning that the government is a mandate from the people (2) Islamic government is a limited government, meaning that its power is limited according to the mandate it receives. This means that Islamic government is not a totalitarian government. (3) Islamic government is a civil government, meaning that it is not a theocratic government. (4) Islamic government is a democratic government.¹⁰³

How Muhammad PBUH combined his role as prophet and statesman

Practically, from the early history of Islam, according to Nurcholish Madjid, the election of Muhammad as the leader of the plural Medina community took place through a democratic process.¹⁰⁴ In Medina, the prophet Muhammad not only practiced the idea of democracy but also developed the concept of inclusive community. The word *ummah* in the Prophet era in Medina experienced an extension of meaning. The word *ummah* is not only used for the names of groups of people bound by *nasab* (blood) ties, but refers to groups in the broadest sense. The *ummah* is not only directed at the faithful group but includes those who want to fight with the believers, namely the entire population of Medina. Among the *Ansar* (people who reside in Medina) there were those who were not yet Muslims but they were included in the *ummah*, so were the Jews.¹⁰⁵

In practicing the principle of deliberation (*syuro*) in handling worldly affairs, Muhammad not deny the possibility to make decision base on the majority of votes. In a hadith it is told that if there was no unanimous agreement, the Prophet Muhammad asked us to take a majority vote (*'alaikum bi al-sawad al-a'dham*). Some people criticize democracies because they make mistakes, and they conclude that democracy is not good. However, mistakes in democracy don't give us the right to abolish it. When the Prophet asked people to go to Uhud, he didn't want to go himself. But most of his followers said, 'We have to go' and the Prophet

¹⁰² Danial Zainal Abidin, "Islam The Misunderstood Religion" Penertbit PTS Millenia Sdn.Bhd, Bentong Pahang, Kuala Lumpur, 2005, hlm. 15.)

¹⁰³ Kamali, Mohammad Hashim. 2012. "Constitutionalism in Islamic Countries: A Contemporary Perspective of Islamic Law" , in Rainer Grote and Tilmann J. Röder, ed., *Constitutionalism In Islamic Countries : Between Upheaval And Continuity* , Oxford University Press, 2012.p.19-33.

¹⁰⁴ Nurcholish Madjid, *Cita-cita Politik Kita*, makalah ,1983, hlm. 12

¹⁰⁵ Ahmad Ibrahim al-Syarif ,*Daulat al-Rasul fi al-Madinah*, Mesir, hlm.99-100.

replied, 'OK, vote on the decision.' They voted to go and were defeated. The Prophet didn't blame them by saying: 'See I didn't want to go but you went anyway.' He didn't blame anybody. He taught that mistakes do not give us a right to abolish democracy.¹⁰⁶

What is practiced by the Prophet Muhammad in Medina was praised by modern scholar in sociology such Robert N Bellah. In his book *Beyond Belief*, Bellah said that under Muhammad, Arabian society made a remarkable leap forward in social complexity and political capacity. When the structure that took shape under the prophet was extended by the early caliphs to provide the organizing principle for a world empire, the result is something that for its time and place is remarkably modern. It is modern in the high degree of commitment, involvement, and participation expected from the rank and file members of the community. It is modern in the openness of its leadership positions to ability judged on universalistic grounds and symbolized in the attempt to institutionalize a nonhereditary top leadership. The effort of modern Muslims to depict the early community as a very type of equalitarian participant nationalism is by no means entirely an unhistorical ideological fabrication. In a way the failure of the early community, the relapse into pre- Islamic principles of social organization, is an added proof of the modernity of the early experiment. It was too modern to succeed. The necessary social infrastructure did not yet exist to sustain it.¹⁰⁷

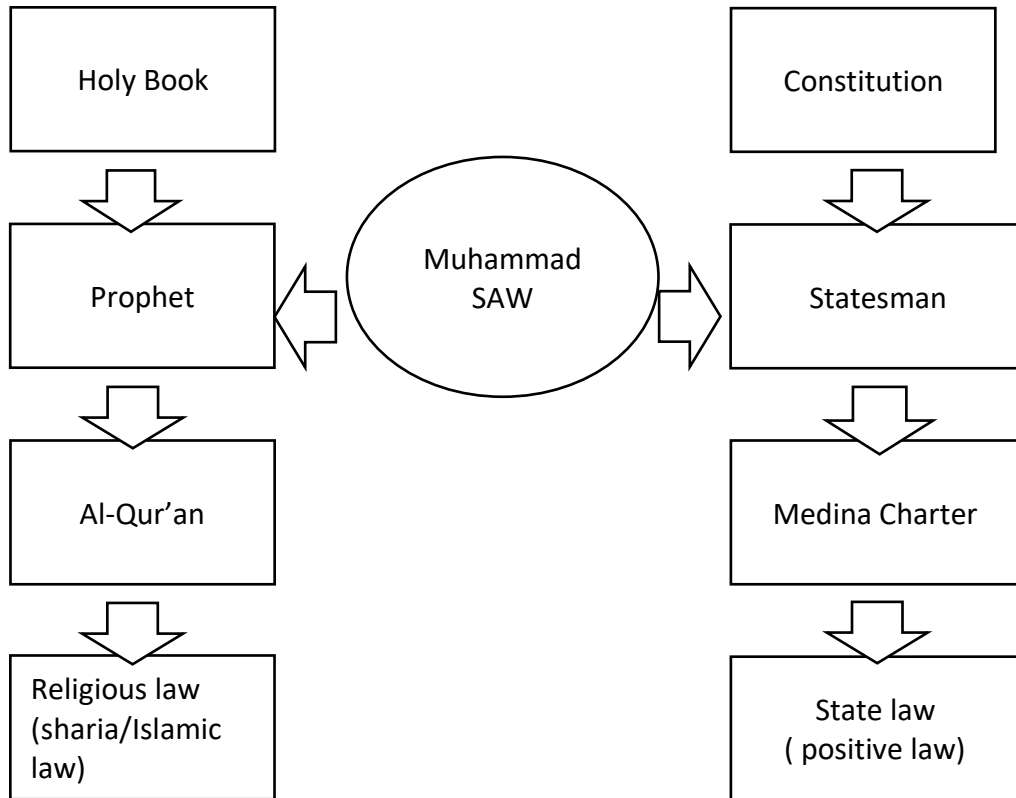
Montgomery Watt in his book *Muhammad Prophet and Statesman* stated that Muhammad SAW was not only a prophet but also a statesman (head of state).¹⁰⁸ As prophet and statesmen, Muhammad, through the constitution of Medina gave an example to his people how to synergize the demand of faith with the demand of constitution. See Picture1

¹⁰⁶ Andreas Christmann, *The Qur'an, Morality and Critical Reason: The Essential Muhammad Shahrur*, Brill, Leiden, 2009,p.519.

¹⁰⁷ Robert N.Bellah,*Beyond Belief: Essays on Religion in a Post-Traditionalist World*,University of California Press, 1991, page 150-151.

¹⁰⁸ W. Montgomery Watt, *Muhammad Prophet and Statesman*, Oxford University Press, 1961,p.94-95.

PICTURE 1
MUHAMMAD PROPHET AND STATESMAN



The picture can be narrated that as a Prophet, Muhammad upheld the Scriptures or the Quran to guide the believers. But as a statesman he upheld the constitution in the form of the Medina Charter. The Scriptures produce religious law (*fiqh / sharia*) and the constitution produces state law (positive law). Not all religious laws automatically become State law. Religious law which has not been or has not been transformed into State law is accommodated as a private matter of each religious follower. The prophet Muhammad did not make the Qur'an directly as a constitution to regulate them. Because not all residents of Medina are believers. So, life together in the community of Medina was arranged through an agreement which came to be known as the Medina agreement or the Medina charter. While the Qur'an produced

religious law (sharia/ fiqh) , the constitution produced state law (positive law). So, the principles of plurality or unity in diversity can be preserved.

Merryl Wyn Davies, Director of Muslim institute, London ,in explaining the spirit that can be captured from the prophet, said: “To me the most important part of the example of the prophet and the message of the Qur’an is the acceptance of plurality, the need for and the realization that there are many faiths, many ways and all capable of being a community, an *Ummah* together. I think Muslims marginalize this message. I think they fail to hold it as the central principle of social existence and by doing that, they actually defy the example of the prophet.”¹⁰⁹ According to Reza Aslan, a democratic country not because it is secular, but because it is dedicated to accept pluralism. Diversity is both a naturalistic and humane rule of conduct. Diversity belongs to the order of Nature. Person striving to adapt themselves to the democratic way of life are required to discipline themselves to one variety of unity, namely unity which is achieved through the creative use of diversity.¹¹⁰

It is pluralism—the peaceful coexistence and legal equality between different ethnic, religious or political ideologies—that defines democracy, not secularism.¹¹¹ Islam was able to support democracy because it was built by three basic teachings namely : 1) Islam endows its people for direct access to God 2) Islam has no race complex 3) Islam has banned human hatred and opened the way for human brotherhood and equality.¹¹²

Prince Hassan bin Talal from Jordan known as an expert in the constitution of Medina said :

“The constitution was necessary for the establishment of a new diversity in Medina, that is to say, Muslims, Jews, Christians. So it organized the relationship between Muslims, Jews and non Muslims on the basis of recognition of the importance of respecting the lives, the properties, the places of worship and in particular, ultimately respecting the relationship between the descendants of Abraham. It regulated rights and obligations in a sense it was a Magna Charta, if you will, of the Muslims. In the case of Medina this was not religious state. On the contrary, it was a civil state in which the government and the people were subject to the rule of law, which recognized their respective rights and encouraged them to live together.”¹¹³

After moving to Medina, Muhammad SAW appeared as a community leader described by a number of experts as a state because of the fulfillment of state elements in it such as

¹⁰⁹ Lihat ,www.youtube.com tentang The Life of Muhammad ,BBC,mp4.

¹¹⁰ Smith, T.V. and Lindeman, Eduard C. 1960.*The Democratic Way of Life; An American Interpretation*, New York: Mentor Book, p. 112.

¹¹¹ Reza Aslan , **The Iraqi Constitution: A Model of Islamic Democracy, New Perspectives Quarterly , Volume 23#1 Winter 2006.** : Source : http://www.digitalnpq.org/archive/2006_winter/aslan.html diakses 18 Oktober 2010.

¹¹² Danial Zainal Abidin, “Islam The Misunderstood Religion” Penertbit PTS Millenia Sdn.Bhd, Bentong Pahang, Kualalumpur,2005, hlm. 15.)

¹¹³The Life of Muhammad BBC Documentary.(<https://www.youtube.com/watch?v=EBx-RYW1FjE>)

territory, population, government and sovereignty. Therefore, Montgomery Watt stated that Muhammad SAW was not only a prophet but also a statesman (head of state). As prophet and statesmen, Muhammad, through the constitution of Medina gave an example to his people how to synergize the demand of faith with the demand of constitutional democracy. The spirit of his leadership is still relevant until today. That is why Karen Armstrong in his book *Muhammad: A Prophet for our time*, said that as paradigmatic personality, Muhammad has important lessons, not only for Muslims, but also for Western people. His life was a tireless campaign against greed, injustice, and arrogance. We cannot understand his achievement unless we appreciate what he was up against. In order to see what he can contribute to our own predicament, we must enter the tragic world that made him a prophet nearly fourteen hundred years ago, on a lonely mountain top just outside the holy city of Mecca.¹¹⁴

The similarity of Medina constitution and Indonesia Constitution

Constitutionally, there are similarities between the Medina constitution and the Indonesian constitution. Constitutional democracy adhered to by Indonesia, in fact, in line with the principles of the constitution of Medina during the time of the Prophet. Harun Nasution, after carefully examining the points of the Medina Charter, concluded that the Medina Charter which became the first "Islamic State" constitution in the world, contained eight principles namely (1) monotheism (2) unity and togetherness (3) equality and justice (4) religious freedom (5) defending the State (6) the preservation of good customs (7) supremacy of law / shari'a (8) politics of peace and protection. These eight principles also occurred in the constitution of Indonesia.¹¹⁵

Munawir Sjadzali in his book *Islam and State Administration (Islam dan Tata Negara)* that the basic stones laid down by the Medina Charter as a foundation for state life for plural societies in Medina are : 1) all Muslims, even though they come from many tribes, but constitute one community. 2) relations between fellow members of the Islamic community and between members of the Islamic community and other community members are based on the principles of (a) good neighbors (b) help each other in the face of common enemies (c) defend those who are persecuted (d) advise each other; and (e) respecting religious freedom.¹¹⁶

¹¹⁴ Karen Armstrong, *Muhammad: A prophet for our-time*, Harper-and-Collins, 2013, p.16,17.

¹¹⁵ Harun Nasution, "Islam dan Sistem Pemerintahan Sebagai yang Berkembang dalam Sejarah" dalam *Studia Islamika*, Nomor 17 tahun VIII (July 1985), LP IAIN Syarif Hidayatullah, Jakarta, p.11-12.

¹¹⁶ Munawir Sjadzali, *Islam dan Tata Negara*, Jakarta. UI Press, 1990, hlm.15-16

Historically, the prevailing form of government in Islamic history was known as Caliphate, which in reality was dynastic and authoritarian. For about 30 years after the death of the Prophet, Muslims succeeded in establishing a form of government with a strong democratic orientation, but upon the rise of the Umayyad Dynasty the democratic experiment came to an end, and power became concentrated in the hands of particular families or military forces.¹¹⁷ Caliphate (*Khilafah*) is the government whose rules are based on Islamic law. By referring to Ibnu Khaldun's viewpoint, Rosenthal calls the *khilafah* as the state based on the *shari'a* of Islam.¹¹⁸ Nevertheless the caliphate in the history of Islam has many forms. In fact, the caliphate system can be developed into any form insofar as the principles of sharia can be protected and carried out. H.A.R. Gibb as quoted by Hamid Enayat in his book, *Modern Islamic Political Thought*, said that in the Sunni community there is no one universally accepted doctrine of caliphate. The very basis of Sunni thought, he goes on to say, excludes the acceptance of anyone theory as definitive and final. What it does lay down is a principle: that caliphate is that form of government which safeguards the ordinances of Sharia and sees that they are put into practice. So long as that principle is applied, there may be infinite diversity in the manner of its application.¹¹⁹ If in the past Muslims had succeeded in forming a government that had a strong democratic orientation, now the opportunity to make a similar government remains open.

Indonesia has determined *Pancasila* as the state's ideology, the principle of unity in diversity (*Binneka Tunggal Ika*) as its jargon, the 1945 constitution as its constitution and the Unitary State of the Republic of Indonesia as the chosen form of state

Pancasila itself consists of; Belief in the one and only God, fair and civilized humanity, the unity of Indonesia, populism led by wisdom in deliberation / representation and social justice for all Indonesians. "Belief in the one and only God" is placed as the spiritual basis. "Fair and civilized humanity" is placed as the moral basis. "The unity of Indonesia" is placed as a social orientation. "Populism led by wisdom in deliberation / representation" is placed as the political orientation. "Social justice for all Indonesians" is placed as the goal.¹²⁰ The five principles of Pancasila can be summarized as; belief in God, humanism, nationalism,

¹¹⁷ Khaled Abou El Fadl, *Islam and the State: A Short History*, in Khaled M. Abou El Fadl, Said Arjomand, Nathan Brown, Jerrold Green, Donald Horowitz, Michael Rich, B, *Democracy and Islam in the New Constitution of Afghanistan* (2003) Published 2003 by RAND 1700 Main Street, P.O. Box 2138, Santa Monica, p. 13-16

¹¹⁸ Rosenthal, *Islam in The Modern National State*, Cambridge, 1965 p. xiii

¹¹⁹ Hamid Enayat, *Modern Islamic Political Thought ; The Response of the Shi'I and Sunni Muslims to Twentieth Century*, London, The Macmillan Press LTD, 1982. page 14.

¹²⁰ Masdar Farid Mas'udi, "Islam Indonesia vs NKRI", makalah disajikan dalam rangka bedah buku "SYARAH UUD 1945 :Perspektif Islam," di UIN Sunan Gunung Djati Bandung , Kamis 30 Juni 2011.

democracy and social justice. Since the beginning of independence, Indonesia has chosen a form of constitutional democratic state that combines the principles of faith in God with democratic principles, in other words, combining God's sovereignty and people's sovereignty.

Therefore, ideologically and constitutionally there is no obstacle to practice, synergize or transform faith-based Islamic law into national law. The first principle of *Pancasila* "Belief in the one and only God" was often understood as the prove that Indonesia adheres the sovereignty of God. However it is not obstacle because the sovereignty of God existed only in the methaphisical or theological domain not in political reality.

Yusril Ihza Mahendra , in his dissertation on Masyumi, explained that there are two domains in which each sovereignty was applied, namely the political domain for popular sovereignty, and the metaphysical or theological area for God's sovereignty. With these two domains, each type of sovereignty will not conflict with each other, because God only acts in the area of Muslim metaphysical consciousness, while humanity has full sovereignty in the political sphere. Because God always illuminates Muslim consciousness, including political consciousness. Every human political action is thus "illuminated by the presence of God".¹²¹ What is explained by Mahendra is not different from what has been exemplified and practiced by the Prophet Muhammad.

Masdar Farid Mas'udi in his book SYARAH KONSTITUSI UUD 1945 DALAM PERSPEKTIF ISLAM (The explanation of the 1945 constitution in Islamic perspective) , among others, said that as a general agreement, the constitution is an attempt to find common ground and reconciliation of various values and interests of citizens. In this case, although the constitution binds individual citizens, in reality every citizen, even if viewed as a legal subject, is not abstract individuals uprooted from their social roots. Therefore, the constitution of a country reflects the values that grow in society.¹²²

V. THE CHALLENGES FACED BY DEMOCRATIC CONSOLIDATION IN INDONESIA

Although theologically , there is a strong support for democracy , there are at least nine challeges faced by Indonesia amid the growing of Islamism; 1) the intolerance toward

¹²¹ Luthfi Assyaukanie , *Ideologi Islam dan Utopia; Tiga Model Negara Demokrasi di Indonesia*, Freedom Institute, Jakarta , (2011) p. 106.

¹²² Masdar Farid Mas'udi, SYARAH KONSTITUSI UUD 1945 DALAM PERSPEKTIF ISLAM, Pustaka Alvabet, Jakarta ,cet ke 3, 2011.p.v.

pluralism 2) the emergence of radicalism 3) Religious conservatism and homogenization 4)) the rigid or static definition of Islamic state 5) The totalitarianism within democracy and sharia 6) The weakness of civil society as well as civil religion 7) The lack of skill to express opinions or ideas in civilized manner 8) the lack of institution that function efficiently. 9) educational system that instill democratic awareness.

The intolerance toward pluralism

If one of the basic principles for democracy is acceptance of pluralism, then, in the context of Islamism, the main challenge faced by Indonesia, where the majority of the population adheres to Islam, is the Islamism group which is anti-pluralism. This is because the anti-pluralism attitude is not only against the spirit of democracy but also against the basic principles of Islamic teachings which view differences as the will of God.

From theological perspective, diversity is the will of God.¹²³ The Qur'an warns that the differences between human beings should be used to get to know each other and respect each other.¹²⁴ In addressing religious differences, the Qur'an clearly provides instructions for humans to adhere to the principle; to you your religion and to me my religion.¹²⁵ Because, in matters of religion, humans cannot be forced.¹²⁶ Prophet Muhammad himself was not allowed to force others to become believers.¹²⁷ The Qur'an also informs Muslims about the possibility of salvation that can be obtained through other religions. Salvation may be obtained by human beings who meet three criteria; faith in God, faith in the Day of Judgment and doing good deeds.¹²⁸ Therefore, the Qur'an also provides guidance so that differences in religious beliefs should be left to God's decision, not to be judged by humans in this world.¹²⁹ The Qur'an also teaches that believers should not insult or give negative stigma to other groups.¹³⁰

Qur'anic model of religious pluralism according to Murad Wilfried Hofmann consisted of four principles.

(1) Muslims believe that not only Muslims but every good and God-abiding person can go to heaven. It is clearly stated: "Those who believe [in the Qur'an] and those who follow the

¹²³ Qur'an, Surah al-Maidah (5), verse 48 / Q.S. 5:48

¹²⁴ Q.S.49 :13

¹²⁵ Q.S.109:6

¹²⁶ Q.S.2 : 256

¹²⁷ Q.S. 10:99

¹²⁸ Q.S.2 :62

¹²⁹ Q.S.6:159

¹³⁰ Q.S.49:11

Jewish faith, and the Christians and the Sabiaeans, any who believe in God and the Last Day and do good deeds, shall have their reward with their God (2:62).” The same message can be deduced from verse 111 of the same Surah: “Send not away those who call on their Lord morning and evening, seeking His face (6:52).” Muhammad Asad was correct in pointing out that this refers to people of any religion (Asad 1980: 179, n. 41).¹³¹

(2) Allah and Whoever is worshipped as God by others are identical. Muslims are instructed to say: “We believe in the revelation which has come down to us and in that which has come down to you; our God and your God is one and the same, and it is to Him we [all] submit” (29:46). This point is especially important in view of the fact that even the President of one of the Lutheran Churches in Hesse and Nassau, Professor Peter Steinacker, recently denied it publicly. Of course, he confused the Oneness of God/Allah with the differing images of God held by Muslims, Jews, and Christians. Concepts of Him are one thing; He is another.¹³²

(3) God has guaranteed the existence of more than one religion for as long as the world lasts. This can be deduced from Surah 22:67: “Those who believe [in the Qur’an], those who follow the Jewish faith, and the Sabiaeans, Christians, Magians, and Polytheists – Allah will judge between them on the Day of Judgment” [that is, not earlier]. In fact, God repeatedly makes it clear that religious pluralism corresponds to His will (42:8), and that it is He who gave every community its direction of prayer (qiblah; 2:148) and its ritual (22:67). “Had God so willed, He would indeed have guided all mankind aright” (13:31; 16:9; 16:93) and would have made them one single community (11:118; 42:8). The Surat al-Ma’idah(5:48) is a virtual manifesto of religious pluralism and therefore, in this context, by far the best Muslim argument: To every one of you We gave a law and way of life. And if God had so willed, He could surely have made you all one single community. But [He willed otherwise] in order to test you through what He has given you. Therefore, compete with each other in doing good works. To God you all must return. Then He will make you truly understand all about that which you used to differ. This verse is no less than a structural guarantee for the survival of more than one religion, and every Muslim should know it by heart.¹³³

¹³¹ Roger Boase, ed., 2005, *Islam and Global Dialogue; Religious Pluralism and the Pursuit of Peace*, Ashgate Publishing Limited, England, 2005, p.238

¹³² Roger Boase, ed., 2005, *Islam and Global Dialogue; Religious Pluralism and the Pursuit of Peace*, Ashgate Publishing Limited, England, 2005, p.238

¹³³ Roger Boase, ed., 2005, *Islam and Global Dialogue; Religious Pluralism and the Pursuit of Peace*, Ashgate Publishing Limited, England, 2005, p.238-239

(4) Muslims are expected to be not only tolerant but respectful of other religions. Since religious pluralism is God's will, this means that tolerance of members of other denominations is a minimum requirement for Muslims. This is best expressed in Surat al-Baqarah(2:256): "There is no compulsion in religion", meaning that it is both useless and forbidden to try and coerce people in matters of belief: "So let believe whoever wills, and let disbelieve whoever wills" (18:29). That is why Muslims can say, as in Surat al-Kafirun, without any second thought: "To you your religion, and for me mine" (109:6). There can be no second thought since, as we can gather from 30:22 and 49:13, pluralism in races, colours, languages, and religions is part of human nature: fitrah. It is in keeping with these basic principles that Muslims are urged not to engage in religious disputes (42:15), not to judge or condemn non-Muslims (6:52), and to speak kindly with them.¹³⁴

However, this beautiful posture of tolerance in a divinely ordained pluralistic universe is marred when our adversaries and, alas, some Muslims as well, claim, first of all, that "Islam alone is God's religion" and, second, that this religion is bound to be "victorious" over all others. The first idea, expressed, for instance, in Surat al-'Imran(3:19), is based on a misunderstanding of the term "Islam" both here and elsewhere. When the Qur'an says "Inna ad-din 'ind'Allah al-Islam", "Islam" has to be understood as it was at the beginning of the Qur'anic revelation, that is, as "submission" or "self-surrender". It would be an anachronism to read such verses as if they referred to the world religion as it was subsequently to become. Thus 3:19, and correspondingly 3:85, are to be read: "The only true religion in the sight of Allah is submission to Him."¹³⁵

The second idea is based on several identical verses which, like 48:28, seem to predict that Islam will prevail over every religion, in the sense of replacing them— which would be a contradiction of what is stated elsewhere, for example, in 5:48. The verb in question (*zahara 'ala*) can, however, also be understood as "to outshine". In that case, the light of Islam, thanks to its higher intensity, shines so strongly that it outshines every other religion. Prevailing, in this sense, does not imply that what is outshone no longer exists. One should therefore read 48:28 as follows: "It is He Who has sent His messengers with guidance and the religion of truth to make it shine over all religion."¹³⁶

¹³⁴ Roger Boase, ed., 2005, *Islam and Global Dialogue; Religious Pluralism and the Pursuit of Peace*, Ashgate Publishing Limited, England, 2005, p.239

¹³⁵ Roger Boase, ed., 2005, *Islam and Global Dialogue; Religious Pluralism and the Pursuit of Peace*, Ashgate Publishing Limited, England, 2005, p.239

¹³⁶ Roger Boase, ed., 2005, *Islam and Global Dialogue; Religious Pluralism and the Pursuit of Peace*, Ashgate Publishing Limited, England, 2005, p.239,240.

Imtiyaz Yusuf, in his article entitled “Islamic Theology of Religious Pluralism: Qur’an’s Attitude Towards other Religions” said that there are six principles that can be used to support pluralism.¹³⁷

a) Everyone who believes in Ultimate Reality and does good, is guaranteed salvation.

This is mentioned in the following two verses of the Qur’an. “Verily, those who have attained to faith [in this divine writ], as well as those who follow the Jewish faith, and the Christians, and the Sabians – all who believe in God and the Last Day and do righteous deeds – shall have their reward with their Sustainer; and no fear need they have, and neither shall they grieve”. (Qur’an 2:62) “For, verily, those who have attained to faith [in this divine writ], as well as those who follow the Jewish faith, and the Sabians, and the Christians – all who believe in God and the Last Day and do righteous deeds – no fear need they have, and neither shall they grieve.” (Qur’an 5:69)

The above verse which occurs twice in the Qur’an sets down a fundamental teaching of Islam that salvation/liberation/enlightenment is conditional upon three beliefs: belief in God/Ultimate Reality, belief in the Day of Judgment and performing of good deeds and righteous action in life.

b) Allah and other definitions of Ultimate Reality are identical.

This principle is supported by Qur’anic verse: “We believe in that which has been bestowed from on high upon us, as well as that which has been bestowed upon you: or our God and your God is one and the same, and it is unto Him that We [all] surrender ourselves.” (Qur’an 29:46)

It is right that although The Ultimate Reality is identical, but human ability in conceptualizing it differs. There are two doctrines of divinity that are equally extreme. First, the doctrine that describes God as an impersonal universe, second, the doctrine that describes God as the person who created the universe. On the nature of God, according to Whitehead in his book *Religion in the making*, the extremes are the doctrine of God as the impersonal order of the universe, and the doctrine of God as the one person creating the universe.¹³⁸ The concept of God in Islam is very difficult, He cannot be described by humans, and does not resemble anything. The concept of God in Islam is between these two extreme concepts. Therefore, one

¹³⁷ Imtiyaz Yusuf, “Islamic Theology of Religious Pluralism: Qur’an’s Attitude Towards other Religions”, Assumption University of Thailand, *Prajna Vihara, Journal of Philosophy and Religion*, Vol.11, No.1(2010) <http://www.assumptionjournal.au.edu/index.php/PrajnaVihara/article/view/1301>

¹³⁸ Alfred North Whitehead, *Religion in the making*, Cambridge, The University Press, 1927.p. 135

sect that in describing its God tends to a certain extreme angle will easily see another sect as heretical or infidel.

c) Diversity of Religions is a part of God's plan and will last as long as the world lasts.

This principle is supported by Qur'anic verse : "Unto every one of you have We appointed a [different] law and way of life. And if God had so willed, He could surely have made you all one single community: but [He willed it otherwise] in order to test you by means of what He has vouchsafed unto, you. Vie, then, with one another in doing good works! Unto God you all must return; and then He will make you truly understand all that on which you were wont to differ." (Qur'an 5:48) Muhammad Asad, in his *The Message of the Quran*, comments on the above verse as follows, "Thus, the Qur'an impresses upon all who believe in God - Muslims and non-Muslims alike - that the differences in their religious practices should make them "vie with one another in doing good works" rather than lose themselves in mutual hostility."¹³⁹

d) Muslims must be tolerant and reverential toward other religions.

In keeping with the spirit of religious pluralism the Qur'an categorically declares, "There is no compulsion in religion" (Qur'an 2:256). This means that nobody is to be forced to believe or convert to Islam, and everyone is free to leave Islam. Everyone is free to believe or disbelieve in Islam, "Then whosoever will, let him believe, and whosoever will, let him disbelieve." (Qur'an 18:29). Prophet Muhammad did not only reject compulsion in religion but also practiced it as seen from below mentioned events.

Many commentators cite some events in which the Prophet himself implemented the requirements of verse 2:256 and prohibited his companion from compelling people to accept Islam. For instance, Tabari mentions that when the two Jewish tribes of Qaynuqa and Nadir were expelled from Medina, they had in their charge children of the Ansar (Medinian Muslims) who had been placed with Jewish families. The biological parents asked the Prophet's permission to take their children back and raise them as Muslims, but the Prophet said, 'There is no compulsion in religion.' Tabari mentions another event which indicates how this verse worked in practice. A Muslim named Al-Hussayn had two sons, who having been influenced by Christian merchants, converted to Christianity and left Medina to go to Syria with these missionary merchants. Al-Hussayn pleaded with the Prophet to pursue the convoy and bring his sons back to Islam. But the Prophet once again said, 'There is no compulsion in religion', that is let them follow the religion of their choice, even though it is not Islam.

¹³⁹ Muhammad Asad, *The Message of the Quran*, p. 154, n. 68.

Furthermore everyone is free to choose and practice their religions. “To you your religion and for me mine” (Qur’an 109:6). The diversity of languages, races, and ethnicities are to be honored and respected. This natural diversity is also considered from a divine perspective. The Qur’an remarks: “ O human beings! Behold, We have created you all out of a male and a female, and have made you into nations and tribes, so that you might come to know one another. Verily, the noblest of you in the sight of God is the one who is most deeply conscious of Him. Behold, God is all-knowing, all-aware.” (Qur’an 49:13)

Muslims are reminded to be cordial toward non-Muslims. Muslims should neither be judgmental nor condemnatory towards non-Muslims. “Hence, repulse not [any of] those who at morn and evening invoke their Sustainer, seeking His countenance. Thou art in no wise accountable for them-just as they are in no wise accountable for thee – and thou hast therefore no right to repulse them: for then thou wouldst be among the evildoers.” (Qur’an 6:52) “God is our Sustainer as well as your Sustainer. To us shall be accounted our deeds, and to you, your deeds. Let there be no contention between us and you: God will bring us all together – for with Him is all journeys’ end.” (Qur’an 42:15)

e) Islam is not a new religion but a re-confirmation of truth revealed before.

Muslim believe in all prophets without making any distinction between them. The Qur’an attitude towards religious pluralism is reflected in its contention that Islam is a reconfirmation of the message brought by previous prophets.

“And unto thee have We revealed the Scripture with the truth, confirming whatever Scripture was before it, and a watcher over it ... For each We have appointed a divine law and a traced out way. Had Allah willed He could have made you one community. But that He may try you by that which He hath given you (He hath made you as ye are). So vie one with another in good works. Unto Allah ye will all return, and He will then inform you of that wherein ye differ.” (Qur’an 5:48)

“The apostle, and the believers with him, believe in what has been bestowed upon him from on high by his Sustainer: they all believe in God, and His angels, and His revelations, and His apostles, making no distinction between any of His apostles; and they say: We have heard, and we pay heed. Grant us Thy forgiveness, O our Sustainer, for with Thee is all journeys' end!” (Qur’an 2:285)

And it is the fundamental belief of the Muslims that though Muhammad is the last of prophet, Muslims believe in all prophets without making any distinction between them.

Say: “We believe in God, and in that which has been bestowed from on high upon us, and that which has been bestowed upon Abraham and Ishmael and Isaac and Jacob and their descendants, and that which has been vouchsafed by their Sustainer unto Moses and Jesus and all the [other] prophets: we make no distinction between any of them. And unto Him do we

surrender ourselves.” (Qur’an 3:84) “Behold, We have inspired thee [O Prophet] just as We inspired Noah and all the prophets after him - as We inspired Abraham, and Ishmael, and Isaac, and Jacob, and their descendants, including Jesus and Job, and Jonah, and Aaron, and Solomon; and as We vouchsafed unto David a book of divine wisdom “; (Qur’an 4:163)

Above Qur’anic references and comments illustrate that contemporary Muslims in their efforts to brand the followers of other religions as *kafirs* – unbelievers, infidels have very much deviated from the tolerant and pluralistic spirit of their own scripture.

f) Islam should be returned to original meaning “ submission to God”

The majority of Muslims opine that Islam is the only religion preferred by God and it will prevail over other religions. This Muslim view is based on a literal reading of the following verse in the Qur’an. “Behold, the only [true] religion in the sight of God is Islam.” (Qur’an 3:19) “And whoso seeketh as religion other than the Surrender to God (Islam) it will not be accepted from him, and he will be a loser in the Hereafter.” (Qur’an 3:85)

Actually, the Qur’anic use of the word “Islam’ in the above mentioned verses and as discussed above means “self-surrender” and thus applies universally to all those who have surrendered to belief in God/Ultimate Reality since the dawn of human history, it does not refer the ethnic usage of the term Islam which refers to the Muslim community only. The above verse has a historical context, it tells the pagan Arabs of Muhammad’s time that the only true religion is self-surrender to God and not idolatry. For the Arabs were conscious of the historical presence of monotheism in Arabia since Abrahamic times. Often it became corrupted into idolatry.

The above verse necessitates a distinction between philosophical Islam, which regards faith as belief in God/Ultimate Reality and righteous living, and institutionalized Islam of the post-Muhammad era. A narrow literal and legalistic interpretation of the usage of the word “Islam” in the verses above, contradicts the Quranic view of religious pluralism as illustrated in the verses provided in this article. Hence, for the sake of religious pluralism, there is a need for Muslims to engage in a broadened reading of their own religious sources. The Qur’an is book with a universal message. It is not a book of contradictory teachings, if it was, it could not be considered a divine revelation.

In commenting on the challenge unity in diversity, Nurrohman Syarif , in his article entitle “The question of unity in diversity” ¹⁴⁰, said:

¹⁴⁰ Nurrohman Syarif, “The question of unity in diversity” , *The Jakarta Post*, June 3,2014 : <https://www.thejakartapost.com/news/2014/06/03/the-question-unity-diversity.html>.

When Indonesia adopted Pancasila as the state ideology, which envisions the nation as neither secular nor theocratic, it was actually an ideal and a wise choice. Pancasila, the five tenets, neither rejects religion nor favors one particular religion. It respects all religions and beliefs embraced by Indonesians. However, something ideal is not necessarily translated into practice. Both will intertwine with each other and are prone to misuse, particularly in the political campaign season that is currently on in Indonesia. The fanatics of religion might use this opportunity to spout their bigotry and the politicians, particularly the ambitious ones, do not hesitate to use any means, including religious sentiment and prayers, to gain support. This all in turn blurs religious and political activities. That is what happened in Yogyakarta when dozens of people dressed in gamis (long clothes usually worn by Arabs) in Ngaglik in the Yogyakarta regency of Sleman attacked the house of Julius Felicianus, the director of Galang Press publisher, where a number of Catholics were worshipping last week. When, on the following day the Indonesia Police Watch (IPW) said that the violence was more political than religious because Julius was a local campaigner for presidential candidate Joko 'Jokowi' Widodo and his running mate Jusuf Kalla, it confirmed the notion that politics is not easily separated from religion. The question is how to deal with religion and politics in order to assure that diversity in unity (Bhinneka Tunggal Ika), Indonesia's motto, is respected and protected? Although some Muslims still object to democracy, in my opinion, Indonesia's path to consolidate and strengthen democracy is a right choice. Democracy comprises at least four pillars: public or people participation in civil political life, free and fair elections, rule of law and the protection of human rights. All of this is compatible with Islamic teachings. It is democracy that will ensure equal status for all people as citizens despite their background. That is what was exemplified by the Prophet Muhammad in the Medina 'constitution'. So, if religious followers, particularly Muslims, are still facing difficulties in adjusting their life style to a democratic state, religion cannot be blamed. I have found a number of reasons why certain Muslims cannot accept diversity and tolerance. First is that many Muslims are trapped in a limited way of thinking as blind followers. In the Yogyakarta assault, one of the perpetrators admitted that he received 'an instruction' from Laskar Jihad commander, Ja'far Umar Thalib. Although the history of Islam shows that theology and philosophy are among the Muslim disciplines that grew fast by cultivating reason and revelation, many Muslims are still confined to the jargon, 'If you want to be a believer don't think, because if you think you will not be a believer.' While Islam respects reason and revelation, because both originated from God, and the prophet encourages Muslims to exercise their individual reasoning, many of them are afraid to use their own reason. For them faith is a static affair. The holy Koran itself divides faith or

certainty (*yaqin*) into three categories: faith based on perception or observation (*ainul yaqin*), faith based on reason and logical conclusion (*ilmu al-yaqin*) and faith based on one's own mind combined with spiritual, reflective and intuitive experience. The latter is called haqqul yaqin, the highest degree of faith. Second, as a result of the first factor, many Muslims deem diversity in the form of religious sects or political affiliations as a disaster. Third, politicization of religion by way of (mis)using religion as a political tool through what is called political identity or confronting Islam as a political ideology with Pancasila as state ideology. So, in dealing with religious violence, it is right that in the short run strict law enforcement is imperative, but in the long run we need to evaluate religious education in schools as well as in family and society. Education should enable students to balance reason and revelation, esoteric and exoteric aspects of religion or formalistic and spiritualistic aspects. Depending on how it is taught, religion can be a source of integration as well as disintegration, a source of peace or conflict. Western countries prefer secular states because of their long history of difficulties integrating religion and politics without causing backlash on both sides. If Indonesia, which is neither a secular nor theocratic state, is incapable of dealing with religious diversity and intolerance peacefully, it seems a logical choice for the voices who wish to transform Indonesia into a secular state grow louder.

Intolerance in religious understanding held by some Islamism group easily gives birth to radical movements, because for them religious affairs and political affairs cannot be separated. History proves that radicalism centered around the fusion of religion and state that give birth of absolute and totalitarian behaviour. Daniel E. Price in his book *Islamic Political Culture, Democracy, and Human Rights; A Comparative Study*. said that. "Radicalism is centered around the fusion of religion and state, and religious doctrine and law serve as guides of action in all areas of both public and private life."¹⁴¹ When religion is integrated with politics, it is feared that there will be rulers or people who feel they have religious authority who act in the name of God and therefore will monopolize the truth. As stated by Abdullahi Ahmed al-Na'im, "Since Muslims accept the ultimate sovereignty of God, they must accept the practical sovereignty of men who speak for God."¹⁴²

Al Makin in his paper entitles "Plurality denied: The defeat of pluralism advocates in Indonesia during the reformation era" said (in his conclusion) that since the independence of Indonesia, plurality in the Indonesians faiths and beliefs has been under appreciated. The

¹⁴¹ Daniel E. Price ,(1999)*Islamic Political Culture, Democracy, and Human Rights_ A Comparative Study*.,Praeger, London , page 195-197.

¹⁴² Abdullah Ahmed al-Na'im, *Toward an Islamic Reformation*, Syracuse University Press, 1990,p.81.

government denied the existence and status of various local beliefs, forcing those who embraced local faiths to choose one of the six religions as their identity. Simplification and the effort of making uniformity made by the government for the sake of social and political control denied the plurality of the Indonesian society. The judicial review of the 1965 blasphemy law reflects the strong position of orthodoxy and recent growth of radicalism and conservatism advocated by only a small number of people but effectively deterring the government and dominating the silent majority's voices. The advocates of pluralism, who reject political pragmatism and have weak root in the grassroots level, are easily assaulted and defeated via religious jargon and sentiments. Pluralism is a new ideology invented by modern people to cope plural society. In the Indonesian context, an uphill struggle is still needed. Pluralism advocates should adopt at least two strategies: making the common people understand the principles of pluralism easily in order to win their support in the process of propagation, and convincing the government that pluralist ideology is a capital by which to enhance the survival of the nation with plural population in ethnicities, traditions, and faiths. That only elite intellectuals serve as the guardians of pluralism is still vulnerable.¹⁴³

In his paper Al Makin gave nine example of cases which denote how vulnerable the application of the concept of plurality such as : 1) Intolerant attitude shown by radicals and Islamist prevailed in the public 2) Persecution, and prosecution in the state courts of minority groups (Eden, Ahmadiyah, Inkar Sunnah, JIL, Shi'ite) 3) Pornography bill passed by the house under the radicals' pressure 4) Judicial review 1965 blasphemy law failed thank to radicals' pressure 5) Secularism, liberalism, and pluralism earn bad image in the public 6) Eden leaders, and other claimants to prophethood, put in jails 7) Disbanding Ahmadiya activities in various local areas 8) Joint three ministerial decree signed by the Supreme Court, Ministry of Religious Affairs, and Interior Ministry 9) Perpetrators of minorities, burning mosques, churches, and attacking, even murdering minority members receive light punishment put in jail from three months to one year.

The intolerance attitude cannot be separated from the intolerance opinion released by the Indonesian Ulema Council (MUI). In 2005 , The Council of Indonesian Ulama's (MUI) issued fatwa prohibiting Muslims to adopt pluralism in Indonesia . The MUI believed that pluralism is not compatible with Islamic teachings, and is to disturb the Islamic faith. In general, the MUI's fatwa attempted to refute the pluralism idea that spread widely among

¹⁴³ Al Makin, "Plurality denied: The defeat of pluralism advocates in Indonesia during the reformation era" , a Working paper presented at the conference of *Negotiating Diversity in Indonesia*, School of Social Sciences, Management University, Singapore, November 5-6, 2012.

Indonesian Muslims. The fatwa is criticized by some Muslim scholars, since it is assumed to disturb religious tolerance in Indonesia. They argued that from the beginning, the Republic of Indonesia has been consisted of various religions. Therefore, these scholars insisted on establishing the pluralism concepts. According to them, to reject pluralism is not realistic. Pluralism is a concept required to support religious plurality.¹⁴⁴

In 2007 the MUI officially set up the criteria on which they determine the status of deviant sects. 1) Denying one of six pillars of faith (rukun iman): faith in God, angels (malaikat), scriptures (kitab), messengers (rasul), the end of the world (qiyamah), and God's determination (qadla dan qadar); or denying one of the five pillars of Islam: two testimonies (stating Allah as the only God and Muhammad as the only God's messenger), prayers (salat), almsgiving (zakat), fasting during Ramadan (puasa), and pilgrimage to Mecca (Hajj). 2) Believing or following theological doctrines other than recommended by the Quran and Sunnah 3) Believing in divine revelation after the Quran 4) Denying the authenticity of the Quran 5) Interpreting the Quran not based on the criteria of tafsir (orthodox quranic exegesis) 6) Denying hadith (Prophet tradition) as the second source of Islam 7) Defying, insulting, or scorning one of the prophets or messengers of God 8) Denying Muhammad as the last messenger of God 9) Changing, adding or reducing, Islamic rituals.¹⁴⁵

Nurrohman in his article entitles "Islam and pluralism in Indonesia" said that it's the right of MUI to issue the *fatwa* (non binding opinion) said that pluralism, liberalism and secularism are contradicting to Islamic teachings. It is MUI's right to say that Muslims should consider their religion as the true religion and judge other beliefs as false beliefs. In a democratic country one may argue that the Ahmadiyya congregation, an Islamic group that does not recognize the prophet Muhammad as the last prophet, is heretical and that its followers can be considered apostates. But when hardliners use this fatwa to physically attack Ahmadiyah congregations or carry out vandalism, it is the duty of the police to prevent or deter them.¹⁴⁶

The emergence of extreme or radical Islam

¹⁴⁴ M. Hilaly Basya, "The concept of religious pluralism in Indonesia: a study of the MUI's fatwa and the debate among Muslim scholars", *IJIMS, Indonesian Journal of Islam and Muslim Societies*, Volume 1, Number 1, June 2011: 69-93

¹⁴⁵ *Mimbar Ulama*, Suara Majelis Ulama Indonesia, no 341, Rabi'ul Awwal 1429/March 2008, 8.

¹⁴⁶ Nurrohman, "Islam dan Kemajemukan di Indonesia", *Asy-Syari'ah; Jurnal Hukum Islam*, volume 17, Nomor 3, Desember 2015.

The consolidation of democracy in Indonesia is challenged by the emergence of radical Islam. Radical Islam can hinder the growth of democracy because this group believes, among others, that violence which carried out for religious causes is legitimate. Intolerance and radicalism can become obstacles to the consolidation of democracy because it will close various alternative models that can be used by Muslims in Indonesia in carrying out their sharia.

The characteristics of radical Islam in Indonesia, according to Bilveer Singh are : 1) using literalist approach towards religion with religious teachings being interpreted strictly based on the written word. 2) A romantic importance attached to religion, with the unseen past viewed as good tradition and the ideal type that should be re-created; 3) Hold the view that there should be no new interpretation or *ijtihad* of what has been stated in the Holy Koran. 4) Believes in the unconditional absolute truth, with any other view treated as heretical. A believer of such “wrong” views can be classified as a postate or murtad, and labelled as a traitor to the religion; 5) Practices exclusivity, where working with adherents of other religions (kafirs or infidels) is considered haram or forbidden. Many Islamist hardliners will not even cooperate with Muslims who do not share their views, viewing them as *jahiliyyahs* (ignorant) or worst still, as kafir harbi (enemy infidels), which traditionally only described non-believers operating in a conflict zone 6) Sees justification in the use of violent jihad to realize their beliefs. Radical Islamists believe that violence carried out for religious causes is legitimate. 7) Adopts Islamist radical ideology in political discourse. All issues are described purely in religious idioms with Muslims’ persecution as the common theme; 8) Virulently opposed to Westernization and democracy, as these are viewed as un-Islamic; 9) Resists liberalism, pluralism, and secularism as being antithetical to Islam; 10) sharia-minded, and aims to create a *Darul Islam* (Abode of Islam) as a prerequisite to *Darul Salam* (Abode of Peace), where Islamic law or Sharia would determine the rules of society.¹⁴⁷

Any group that justifies the use of violence for religious purposes is basically a radical group, regardless of their religion. This radical group can also be called an extreme group even though they have not actually practiced such acts of violence. Therefore, it is natural that Alex P. Schmid judges violent and non-violent extremism as two sides of the same coin.

In his paper entitles: “Violent and Non-Violent Extremism: Two Sides of the Same Coin?” Alex P. Schmid presented 20 indicators for extremism that may lead to radicalism, among other are 1) Reject the existing social, political or world order. 2). Seek to overthrow

¹⁴⁷ Singh, B. 2011. “Religion as Political Ideologi in Southeast Asia,” in Ishtiaq Ahmeed ed.. The Politics of Religion in South and Southeast Asia. New York, Routledge ,pp.121-135.

the political system in order to (re-) establish the natural order in a society based on race, class, faith, ethnic superiority, or alleged tradition. 3) Are usually in possession of an ideological program or action plan aimed at taking and holding communal or state power. 4) Reject or, when in power, subvert the liberal-democratic conception of the rule of law; use the political space provided by it to advance their cause in efforts to take state power. 5). Reject universal human rights and show a lack of empathy and disregard for rights of other than their own people. 6). Reject diversity and pluralism in favour of their preferred mono- culture society, e.g. a worldwide Islamic state. 7) Reject democratic principles based on popular sovereignty. 8) Reject equal rights for all, especially those of women and minorities. 9) Adhere to a (good) ends justify (any) means philosophy to achieve their goals. 10) Are unwilling to accept criticism and intimidate and threaten dissenters, heretics, and critics with death 11) Have fixed ideas and closed minds and believe there is only one truth – theirs. In its pursuit, they are often willing to face punishment or even death and sometimes actively seek martyrdom.¹⁴⁸

Among , the radical organizations that often came to the street to show their force, since 1990s until 2010, are :1) LDDII (Institute of Islamic preaching Indonesia) lead by Cholil Ridwan, operated in Jakarta 2) LPPI (Research and observation of Islam Institute) lead by Amin Djamaluddin , operated in Jakarta. 3) HTI (Hizbut Tahrir Indonesia) lead by Ismail Yusanto and Muhammad al-Khattath (Gatot) 4) FKASWJ (ahlusunnah wal jamaah communication forum) Later becomes Laskar Jihad, established in 1999. 5) Jamaah Anshorut Tauhid 6) Ikhwanul Muslimin 7) FPI (Islam Defenders front), established in Jakarta 1998, lead by Habib Rizieq Shihab Munarman . 8) Garis (Islamic reform movement) established in Cianjur in 1998, lead by Chep Hernawan, Anwar Haryono and Husain Umar. 9) Tholiban, established in Tasikmalaya in 1999, lead by Ajengan Zenzen and Asep Mausul Afandi. 10) MMI (Mujahidin council Indoneisa) established in Yogyakarta in 2000, lead by Fauzan al Anshory .¹⁴⁹

It is true, that religious intolerance, radicalism and extremism are found in some groups of Islamism, as shown in various research results.

The results of research by the Center for the Study of Islam and Society (PPIM) of Syarif Hidayatullah State Islamic University, in 2018, showed that the majority of Muslim

¹⁴⁸ Schmid, A. P. 2014. Violent and Non-Violent Extremism: Two Sides of the Same Coin?, ICCT- The Hague Reseach Paper. Available at: <https://www.icct.nl/download/file/ICCT-Schmid-Violent-Non-Violent-Extremism-May-2014.pdf> Accessed: October 5, 2017..

¹⁴⁹ Al Makin, "Plurality denied: The defeat of pluralism advocates in Indonesia during the reformation era" , a Working paper presented at the conference of *Negotiating Diversity in Indonesia*, School of Social Sciences, Management University, Singapore, November 5-6, 2012.

teachers in Indonesia were intolerant to the followers of other religions. They teach various subjects in public schools and madrasas, from kindergarten to high school and vocational school levels, and from *raudlatul athfal* to *madrasah aliyah* levels. "The school's status includes both public and private." Said the Executive Director of PPIM, Syarif Hidayatullah State Islamic University, Saiful Umam. He said, intolerant thoughts are owned by 53.06 percent of teachers. Intolerance in this survey is indicated by, among others, refusing if neighbors of different religions hold spiritual activities in their surroundings, disagreeing with the establishment of schools and houses of worship based on other religions and having superiors such as school principals or supervisors of different religions. The number of teachers who have tolerant thinking is 32.99%. The number of teachers who are very tolerant is only 3.39 percent.¹⁵⁰

The PPIM research results which illustrate that Islamism (a 20th century political ideology that seeks to impose a theocratic ideal upon the world) among teachers in Indonesia has led to radicalism is reflected in the following data:

- 40.36% of teachers agree that all knowledge is already in the Qur'an, so there is no need to study Western science.
- 82,77% of teachers agree that Islam is the only solution to all problems
- 62.22% of teachers agree that only a system of government based on Islamic law is the best for Indonesia.
- 75.98% of teachers agree that the government should enforce Islamic law for their adherents.
- 79.72% of teachers agree that Muslims must choose leaders who fight for Islamic law
- 23.42% of teachers agree that the Indonesian government is tagut.
- 64.23% of teachers agree that non-Muslims should not become president.¹⁵¹

Base on data from the survey conducted by Wahid Foundation in 2016, 7,7% Indonesian Muslim or 11 million people are willing to take radical action if there is an opportunity. In this survey, the potential of socio-religious radicalism was defined as people who participate or want to participate, in event involving, or potentially involving violence in the name of religion. Data presented by Wahid foundation in the context of Indonesia is not so different with the data of Muslim at global level. John L Esposito and Dalia Mogahed in "Who speak for Islam" said that there are 7 percent of Muslims in the world who did believe 9/11

¹⁵⁰ **Sumber** : "Guru Cenderung Intoleran" (Kompas, Rabu 17 Oktober 2018)

¹⁵¹ *Koran Tempo*, Wednesday, October 17, 2018

was justified. Data from the survey released by The Alvara Research Center at the end of October 2017, shows that 23.4 percent of students in Indonesia agreed to carry out *jihad* for the establishment of *khilafah* (caliphate) in Indonesia to replace the existing system democracy. There are 19,4 percent of Indonesia civil servants who pledged that Islamic ideology is more suitable for Indonesia.

According to Al Makin, in the face of rampant intolerance and radicalism among Muslims, supporters of pluralism need to adopt two strategies, namely: 1) making the common people understand the principles of pluralism easily in order to win their support in the process of propagation, and) convincing the government that pluralist ideology is a capital by which to enhance the survival of the nation with plural population in ethnicities, traditions, and faiths. That only elite intellectuals serve as the guardians of pluralism is still vulnerable.¹⁵²

What is needed to struggle against radical Islamism? According to Barton, the struggle against radical Islamism needs to be fought on a number of levels but the first of these is the level of ideas.¹⁵³ Martin van Bruinessen, in his working paper entitled “Indonesian Muslims in a Globalising World Westernisation, Arabisation, and Indigenising Responses” , said that the presence of transnational Islamist and fundamentalist movements, has weakened the established nation-wide Muslim organisations (Muhammadiyah, NU) that had been providing religious guidance for most of the twentieth century. The perceived threat of transnational radical Islam has led to renewed reflection on, and efforts to rejuvenate, indigenous Muslim traditions.¹⁵⁴

Research by the Wahid Institute (2016) regarding indicators of tolerance and socio-religious harmony in young communities states that there is a 37 percent trend in the views of young people (including students) who support the practice of radicalism. Of the 1,200 youth respondents who are also young high school students, 15 percent agree to the prohibition of religious practices by groups considered heretical and minorities, 12.5 percent agree to replace the Pancasila ideology with religious ideology. More surprisingly, 7.9 percent agreed with acts of violence in the name of religion. Another research from the Institute for the Study of Islam and Peace (LaKIP) quoted by Alamsyah M.Dja'far (2016) presents an ironic fact: Islamist

¹⁵² Al Makin, *Plurality Denied: The defeat of pluralism advocates in Indonesia during the reformation era*, paper presented at the conference of *Negotiating Diversity in Indonesia*, School of Social Sciences, Management University, Singapore, November 5-6, 2012.

¹⁵³ Greg Barton (2004) “Making sense of Jemaah Islamiyah terrorism and radical Islamism in Indonesia” in Shahram Akbarzadeh and Samina Yasmeen (eds), *Islam and the West Reflections from Australia*, Sydney: UNSW Press, 2004.p.13

¹⁵⁴ Martin van Bruinessen, “Indonesian Muslims in a Globalising World Westernisation, Arabisation, and Indigenising Responses” , *The RSIS Working Paper* No. 311, S. Rajaratnam School Of International Studies Singapore ,2018.

views are getting stronger among Islamic Religious Education teachers and students. This is evidenced by their support for the acts of vandalism and sealing of places of worship (teachers 24.5 percent, students 41.1 percent); destruction of houses or facilities of religious members who are accused of being heretics (teachers 22.7 percent, students 51.3 percent); destruction of nightclubs (teacher 28.1 percent, students 58.0 percent); or defense with weapons against Muslims from threats of other religions (teachers 32.4 percent, students 43.3 percent).¹⁵⁵

Table 7
Youth Intolerance and Radicalism (Teachers And Students)

No	Form	Percentage	Source
1	Agree with the practice of prohibiting worship of groups that are considered heretical and minority	15%	Wahid Institute Research (2016)
2	Agree that Pancasila ideology is replaced by religious ideology	12,5%	Wahid Institute Research (2016)
3	Agree with acts of violence in the name of religion	7,9 %	Wahid Institute Research (2016)
4	Support the actions of the perpetrators of destroying and sealing houses of worship from groups that are considered heretical.	Teachers =24,5% students =41,1%	Institute for Islamic Studies and Peace(LaKIP) 2016
5	Agree to the destruction of houses or facilities of religious members who are accused of being heretical.	Teachers =22,7 % Students =51,3 %	Institute for Islamic Studies and Peace(LaKIP) 2016
6	Support the destruction of nightclubs	Teachers= 28,1 % Students =58,0 %	Institute for Islamic Studies and Peace(LaKIP) 2016
7	Support defense with weapons to protect Muslims from threats of other religions	Teachers =32,4 % Students= 43,3 %.	Institute for Islamic Studies and Peace(LaKIP) 2016

It is interesting to compare between Nurcholish Madjid and Abu Bakar Ba'asyir. There are many similarities between them. Both are graduated from Gontor Islamic boarding school and both of them also admit that the most important element of Islamic teaching is the oneness of God (*tauhid*). But while Madjid used *tauhid* as doctrine that inspires liberty, equality and solidarity or brotherhood among all human beings, Ba'asyir used *tauhid* as the basic of human

¹⁵⁵ Ari Kristianawati , “Deradikalisasi dari Sekolah”, *Kompas*, 17 Juni 2017. p.6.

obligation to adhere the God’s law as the sole law in the world. ¹⁵⁶ Abu Bakar Ba'asyir was proven to be involved in terrorism activities. After serving a prison sentence for several years, for humanitarian reasons, due to age and health factors, in early 2019 there was an attempt to release him from prison. The effort received a positive response from the government. However, in the end the release was canceled because one condition was not fulfilled, namely loyalty to the Pancasila and the Republic of Indonesia. ¹⁵⁷ The overall comparison between the two persons can be seen in the following table.

Table 8
The Comparison of Some Aspect of Thoughts and Attitude
of Nurcholish Madjid and Abu Bakar Ba’asyir

Number	Aspect of thought and attitude	Nurcholish Madjid	Abu Bakar Ba’asyir
1	The mission of the prophet	The main mission is morality	The main mission is moral as well as political
2	The jargon	Islam yes, politic is no. Islam is doctrine and civilization	Islam is din wa dawlah (religion and state)
3	How Islam be defined	Submission to God	Islam is not only a set of theology it is a complete civilization
4	How sharia be defined	The way to God. It is a moral, spiritual and ethical guide , the path that Muslims take to lead their lives — be it as individuals, as a society or as a religious community based on their credo. So it isn’t need religious or Islamic state.	Islamic law, that controls and orders all areas of life. It is not a moral law for the sensitising of conscience but is a penal law, requiring the punishment of violators through an instrument of the state. Islam demands a religious state as an executor to enforce the law.
5	The relationship between religion and state	Symbiotic or separated. Islam as well as sharia is a moral, ethical and spiritual guide for Muslim	Integrated . Placing Islam is an political ideology
6	The ideal form of state	Civil state in the form of democratic government	Religious state in the form theocratic caliphate
7	The relationship between reason and revelation	Reason and revelation able to enhance each other	The superiority of revelation in the form of the text of sacred book over reason

¹⁵⁶ Nurrohman Syarif, “Sharia Law in Pluralistic State Based on Pancasila; Review on the Thought of Two Alumni of Gontor Boarding School”, *AL- ‘ARAF ; Jurnal Pemikiran Islam dan Filsafat*, Vol.VIII, No.1, Juli-Desember, 2011.

¹⁵⁷ *Detik*, January 28 2019

		since both are originated from God	
8	The kind of theology	Inclusive theology	Exclusive theology
9	The stance of Pancasila an ideology of state	Pancasila ideals can be accepted by Muslims because Islamic ideal has been included in it.	Refuted Pancasila as a state basis. Pancasila state can be accepted as temporary step before replaced it with caliphate state.
10	The characteristic of Islamic teaching	Progressive, flexible and plural which capable to follow the development of civilization	Rigid and conservative, so it should be returned to the way of the prophet and his companion practicing it in purely manner.

Tawfiq Hamid in his article entitled “The Development of A Jihadist's Mind” , mentions three psychological stages of becoming a terrorist: 1) Hating non-Muslims and those who hold different views. 2) Suppressing or silencing one's conscience 3) accepting violence as worship or devotion to God. “Once I was able to suppress my conscience, I was open to accepting violence without guilt—the third psychological stage.”¹⁵⁸

Globally, radicalism particularly radicalism that recently emerge in the Muslim world is cannot be separated from global crisis that later produced revivalist reformist or puritanist with certain political agenda. According to professor Francis Robinson, to understand the root cause of recently global crisis, it is important to know the relationship between the West and Muslim in all over the world. Robinson explained shortly and clearly like this: “how the changing balance of power, the memory of the Crusades, and the colonial experience produced resentment and a sense of loss, which led to the emergence of Islamic revivalist or reformist groups with a political agenda in many parts of the Muslim world”.¹⁵⁹

Kumar Ramakrishna in his book *Islamist Terrorism and Militancy in Indonesia* states that behind the label of religion that is often used by Islamism groups involved in acts of radicalism and terrorism in Indonesia, there is a deeper root in human beings universally, namely the universal tendency to adopt binary oppositions in organizing the social world which later gave birth to the Manichean Mindset. Manichean Mindset is a postulated universal cognitive-affective complex that predisposes individuals to cleave the external world into immutably separate and distinct social groupings: a morally superior in-group, “us,” and a morally inferior out-group, “them” – that must be dominated so as to preserve the justified

¹⁵⁸ Tawfiq Hamid , “The Development of A Jihadist's Mind”, *Current Trends in Islamist Ideology*, April 6, 2007 available at : <https://www.hudson.org/research/9858-the-development-of-a-jihadist-s-mind>

¹⁵⁹ Roger Boase,ed., 2005, *Islam and Global Dialogue; Religious Pluralism and the Pursuit of Peace*, Ashgate Publishing Limited, England, 2005.p.5.

higher pecking order status of the in-group. The combination of a highly Manichean Mindset fused with an embattled religiosity results in cognitive radicalism. When this admixture interacts with six intervening factors – a tight counterculture, an enabling ideology, a charismatic group, intragroup psychic dynamics, in-group (social) humiliation, and an enabling environment of poor governance - , the frequently result is cognitive extremism or violent fundamentalism.¹⁶⁰

Religious Conservatism and homogenization

Al Makin in his article entitles “Homogenizing Indonesian Islam: Persecution of the Shia group in Yogyakarta” on the case of a Shia intellectual group in Yogyakarta called Rausyan Fikr which was persecuted by the radical Indonesian Jihad Front (FJI) group in November and December 2013, finds that the scenario to terrorize the Rausyan was not an isolated incident, but the case is part of a grand homogenizing movement in the country. The anti-Shia propaganda was planned by local perpetrators and national actors: local radicals who persecuted the Shia and conservative activists who propagated anti-Shia ideology in national level.¹⁶¹

In their article “The ‘Conservative Turn’ in Indonesian Islam: Implication for the 2019 Presidential Elections.” Leonard C. Sebastian and Andar Nubowo analysed the seismic shift in Indonesian Islam that has occurred , with moderate Islam in steep decline while conservative Islam is on the rise. It argues that radical Islam and violent extremism in Indonesia are only the tip of the iceberg – a resurgence of conservative Islamic ideology and large-scale Islamisation of Indonesian society has occurred over the nearly two-decade old Reform Era.¹⁶²

Sebastian remark is in line with what is said by Martin van Bruinessen. In his book entitles *Contemporary developments in Indonesian Islam: explaining the “conservative turn”*, Bruinessen said that before the reform era, the liberal, tolerant and open-minded discourse of the likes of Nurcholish Madjid and Abdurrahman Wahid was almost hegemonic. It was widely covered in the press and was influential in the universities, in the Ministry of Religious Affairs

¹⁶⁰ Kumar Ramakrishna, *Islamist Terrorism and Militancy in Indonesia; The Power of the Manichean Mindset*-Springer-Verlag Singapura (2015)

¹⁶¹ Al Makin, “Homogenizing Indonesian Islam: Persecution of the Shia group in Yogyakarta”, *Studia Islamika, Indonesian Journal for Islamic Studies*, vol.24,no.1,2017.pp.1-33.

¹⁶² Leonard C. Sebastian and Andar Nubowo, “The ‘Conservative Turn’ in Indonesian Islam: Implication for the 2019 Presidential Elections.” *Asie.Visions*, No.106, Ifri, March 2019.

and other major Muslim institutions, and among the emerging middle class. The post-Soeharto years have presented a very different face of Indonesian Islam. For several years, there were violent inter-religious conflicts all over the country. Jihad movements (supported by factions of the military and local interest groups) carried the banner of Islam to local conflicts, turning them into battlefields in a struggle that appeared to divide the entire nation. Terrorist groups with apparent transnational connections carried out spectacular attacks, including a series of simultaneous bombings of churches all over the country on Christmas eve of 2000 and the Bali bombings of October 2002, which killed around two hundred people and wounded hundreds more, many of them foreign tourists. Opinion surveys in the early 2000s indicated surprisingly high levels of professed sympathy for radical Muslim groups among the population at large and unprecedented support for the idea of an Islamic state. Efforts to insert a reference to the Shariah — the so-called Jakarta Charter — into the Constitution were rejected by the People's Consultative Assembly (MPR) in its 2001 and 2002 sessions, but in the following years numerous regions and districts adopted regulations that at least symbolically enshrined elements of the Shariah.¹⁶³

The rigid definition of Islamic state

Martin van Bruinessen, in his article entitled 'Islamic state or state Islam? Fifty years of state-Islam relations in Indonesia', said that 'If Islam has had little institutionalised influence on the state, it is not for lack of trying. In the very earliest stage of Indonesia's independence, Muslim leaders fought for the inclusion in the preamble to the constitution of a phrase to the effect that Muslim citizens would be obliged to carry out their religious obligations. This would have given the shari'ah constitutional status. The attempt failed because of the strong opposition of the secular nationalists -- most of whom incidentally were Muslims too, some even santri. The debate on the Jakarta Charter, as the preamble to the 1945 Constitution was called, continued through the 1950s until the proponents of the phrase were finally outvoted in the Constituent Assembly in 1959. The debates in the Assembly may not have been entirely free, but it was obvious that there was no popular majority in favour of the enforcement of the sharia. In the 1955 elections, the freest ever to be held in Indonesia, the Muslim parties together won not more than 44% of the total vote. The party most vocal in its defense of the Jakarta

¹⁶³ Martin van Bruinessen, ed., *Contemporary developments in Indonesian Islam: explaining the "conservative turn"*, 2013 Institute of Southeast Asian Studies (ISEAS), Singapore, p. 2

Charter, the Masyumi, received only 20.9% of the vote. These results are not surprising given the well-known observation that many of Indonesia's Muslims (those known as *abangan* in many parts of Java) hold syncretistic beliefs and do not observe the canonical obligations. Among the stricter Muslims, too, many were and are secular in orientation and consider religious performance to be a purely private affair.

There were also more radical attempts to make the sharia the basis of the Indonesian state. In various parts of the country, Islamic organisations played a dominant role in the struggle for independence. When the (republican) Siliwangi division withdrew in early 1948 from West Java to the Yogyakarta area, the struggle against the Dutch was continued there by Muslim guerrillas led by Kartosuwirjo, who came to control vast parts of the province and who spoke of themselves as the Islamic State of Indonesia (*Negara Islam Indonesia*). Kartosuwirjo's movement, later known by the name of *Darul Islam*, developed into a full-blown rival to the Republic, that resisted the return of the Siliwangi division to West Java in 1949, and after 1950 continued a guerrilla war against the Jakarta government. Relations were established with other regions (notably Aceh and South Celebes) where Muslim leaders, for various reasons, rose against the central government. **The Islamic State had its own Constitution, explicitly based on the sharia, and a judiciary where ulama delivered Islamic justice (as opposed to the Republic, which had adopted a secular legal system).** *The Darul Islam* remained a military and political embarrassment to the Jakarta government until Kartosuwirjo's capture and the surrender of the other West Javanese leaders in 1962. In South Sulawesi, the rebellion lasted even longer, until its local leader, Kahar Muzakkar, was finally shot in early 1965. These two events, the *Darul Islam* rebellion and the Jakarta Charter debates, have marked state-Islam relations in Indonesia ever since. They lie at the root of the lasting suspicion towards political Islam on the part of the military and political elite and the religious minorities, and they explain much of the government's policy towards Islam in later years. They are also the cause of the underdog feelings of many committed Muslims. **If the sharia is not even given verbal recognition as the supreme source of law, this means to them that the state is un-Islamic; if not sufficient Muslims rose to the support of the sharia, clearly something was lacking in their Muslim awareness.** From time to time, minor movements arose that, apparently inspired by the *Darul Islam*, totally rejected the authority of the state. The more common response of committed Muslims, however, was to strive for gradual changes in the nature of the state, attempting to islamise it from within, as it were. At the same time, concerted efforts

were undertaken to strengthen religious awareness and to improve ritual performance among the Muslim masses. In both aspects, they have made considerable progress.¹⁶⁴

In the midst of society, there is an understanding that is antagonistic, as if an Islamic state is definitely not a secular state or vice versa. Likewise with sharia, in some communities there is a view that as evidence that sharia is practiced by the state, then sharia must be formalized by the state in the constitution or at least in the law.

Islamic state or *Dar al-Islam* in Islamic history actually has some meanings and definitions, unfortunately Islamism particularly radical one often use rigid and theocratic definition. Therefore, in order to make a positive contribution to the consolidation of democracy as well as to achieve the purpose of sharia, Muslims need to revise the definition of *Dar al-Islam* which tends to be exclusive to an inclusive *Dar al-Islam*. Traditional territorial concepts of *Dar al-Islam*, the “territory of Islam”, and *Dar al-Harb*, the “territory of war,” need to be revisited, modified, and contested in the light of today's geo-political, demographic, and social realities.¹⁶⁵ The revision of the concept of *Dar al-Islam* or the Islamic State can be done by reducing the portion of the normative declaration while increasing the portion in other aspects such as the leader qualification and legitimacy and the outcome of governance. By giving a higher score on the outcome of governance, as offered by Faisal Abdul Rauf (**Table 1**), the Islamic level of a country can be measured through a number of indicators that can be tested openly.

In measuring the achievement of a country or state in protecting the right to life of its citizens or *hifdzu al-nafs* in sharia terms, there are a number of indicators that can be used such as Life Expectancy at Birth, Poverty Rate, Environmental Protection Index (EPI) as well as National Peace and Security (Global Peace Index).¹⁶⁶ In measuring the achievement of a country or state in protecting the mind or the right to think of its citizens or *hifdzu al-aql* in sharia terms, there are a number of indicators that can be used such Provision of Quality Education (Human Capital Index), Free Dissemination of Knowledge (Telecommunication Infrastructure Index), Promotion of Science, Technology, Research, and Development (Innovation Index) as well as Press Freedom (Press Freedom Index)¹⁶⁷ In measuring the

¹⁶⁴ Martin van Bruinessen, 'Islamic state or state Islam? Fifty years of state-Islam relations in Indonesia', published in: Ingrid Wessel (ed.), *Indonesien am Ende des 20. Jahrhunderts*, Hamburg: Abera-Verlag, pp. 19-34

¹⁶⁵ Sarah Albrecht, *Dār al-Islām Revisited; Territoriality in Contemporary Islamic Legal Discourse on Muslims in the West*, Brill, 2018 p.223.

¹⁶⁶ Imam Feisal Abdul Rauf (auth.), *Defining Islamic Statehood: Measuring and Indexing Contemporary Muslim States*, Palgrave Macmillan UK 2015. P. 99-100

¹⁶⁷ Imam Feisal Abdul Rauf (auth.), *Defining Islamic Statehood: Measuring and Indexing Contemporary Muslim States*, Palgrave Macmillan UK 2015. p. 101,102.

achievement of a country or state in protecting the property of its citizens or *hifdzu al-mal* in sharia terms, there are a number of indicators that can be used such as Equitable Distribution of Wealth (Gini Coefficient), ^[168] Promotion of Economic Development (GDP, Doing Business Index). Access to Employment (Unemployment rate), Prohibiting Unlawful Gain (Corruption Perception Index, International Property Rights Index).¹⁶⁸ In measuring the achievement of a country or state in protecting the honor of its citizens or *hifdzu al-irdl* in sharia terms, there are a number of indicators that can be used such as Physical Integrity (incidence of torture, political imprisonment, extrajudicial killing, and disappearance), Fundamental Human Rights and Freedom from Discrimination (Empowerment Rights Index, Women's Rights Index) and Independence of the Judiciary.¹⁶⁹

According to Abdurahman Wahid, the relationship between religion and state should be mutually supportive: on the one hand, the state gave all existing religions recognition and legitimisation, and on the other hand, the religions, including Islam, legitimised the state. Wahid then suggests that the state need not be an Islamic state; the state must simply support the basic principles of Islam. He further explained that the state should not be preoccupied with religion, but should legitimise the existing religions and let them operate independently. Likewise, religions should legitimise the state, and allow the state to act independently.¹⁷⁰

Wahid realistic stance is in line with the classical political thought in Sunni tradition. Al-Mawardi (972-1058) in his book on the *Ethics for The Relation between The Worldly Affairs and Religion (Adabu al-dunya wa al Dîn)* said that the power will endure if it is supported by religion and the religion will strong if it is supported by power (*al-mulk bi al-dini yabqa wa al-dini bi al-mulki yaqwa*).¹⁷¹ In the language of An-Na'im : "Maintaining institutional separation between Islam and the state while regulating the permanent connection of Islam and politics is a necessary condition for achieving the positive role of sharia now and in the future."¹⁷² The complex relationship between Islam and state in democratic state, according to Hashemi, because liberal democracy actually requires a form of secularism to sustain itself, yet simultaneously the main political, cultural, and intellectual resources at the disposal of Muslim

¹⁶⁸ Imam Feisal Abdul Rauf (auth.), *Defining Islamic Statehood: Measuring and Indexing Contemporary Muslim States*, Palgrave Macmillan UK 2015. p. 103.

¹⁶⁹ Imam Feisal Abdul Rauf (auth.), *Defining Islamic Statehood: Measuring and Indexing Contemporary Muslim States*, Palgrave Macmillan UK 2015. p. 103.

¹⁷⁰ Muhamad Ali, *Islam and Indonesian Nation State: The Religio-Political Thought of Abdurahman Wahid*.
link: https://www.academia.edu/3805984/Islam_and_the_Indonesian_Nation-State_The_Religio-Political_Thought_of_Abdurrahman_Wahid accessed , November 6, 2019

¹⁷¹ Al-Mawardi, *Adabu al-dunya wa al Dîn*, Bairut , Tanpa Tahun, p.137-138.

¹⁷² Abdullahi Ahmed An-Na'im, *Islam and the Secular State: Negotiating the Future of Shari'a*, Harvard University Press , England 2008 ,page 268

democrats today are theological¹⁷³ In Indonesia context , Abdurrahman Wahid called it a mild secularism.¹⁷⁴ If Islamic state was defined rigidly, it is right what said by Abdurrahman Wahid that it is jus illusion.¹⁷⁵

Hallaq called it impossible state. Because, according to him, the Islamic state, judged by any standard of definition of what the modern state represents, is both an impossibility and contradiction in terms. Until the early nineteenth century , and for twelve centuries before then, the moral law of Islam, the sharia, has successfully negotiated customary law and local customary practices and had emerged as the supreme moral and legal force regulating both society and government. This “law” was paradigmatic , having been accepted as a central system of high and general norms by societies and the dynastic power that ruled over them. It was a moral law that created and maintained a “well ordered society”, to borrow John Rawl’s effective expression. However , beginning in the nineteenth century , and at the hand of colonialist Europe , the socio economic and political system regulated by the sharia was structurally dismantled and reduced to providing no more than raw materials for the legislation of personal status by the modern state.¹⁷⁶

Ahmad Rizky Mardhatillah Umar in his article entitles : *From ‘Islamic State’ to Democratic Politics: Discourses and Articulations of Islamist Movement in Egypt and Indonesia*, in explaining the failure of Islamic state struggle in Indonesia, said that in contrast to Egypt, "Islamism" in Indonesia basically emerged not as an effort to build an Islamic state, but as a tool against Dutch colonialism. This can be read from three historical backgrounds of Islam in Indonesia: (1) the absence of a single Islamic empire since the 15th century, which enabled the Dutch to build a hegemonic 'territorial-administrative' power in the 19th century; (2) the emergence of a religious modernization movement made possible by knowledge exchanges with similar movements in the Middle East; and (3) the plurality of Islamic religious discourses in Indonesia which in the 20th century can be seen from the discourse contestation between traditionalism and Islamic modernism.¹⁷⁷ In other words, rigid and exclusive

¹⁷³ Nader Hashemi, *Islam, Secularism, and Liberal Democracy: Toward a Democratic Theory for Muslim Societies*, Oxford University Press, USA (2009) p. 2

¹⁷⁴ Moch Nur Ichwan, “The Making of a Pancasila State: Political Debates on Secularism, Islam and the State in Indonesia” , *Institute of Asian Cultures*, Japan, 2012, p.4

¹⁷⁵ Abdurrahman Wahid,ed., *Ilusi Negara Islam: Ekspansi Gerakan Islam Transnasional di Indoensia*, The Wahid Institute , LibForAll Foundation,2009.

¹⁷⁶ Wael B. Hallaq, *The Impossible State ; Islam, Politics and Modernity’s Moral Predicament*, New York, Columbia University Press, 2013.p.7.

¹⁷⁷ Ahmad Rizky Mardhatillah Umar, : From ‘Islamic State’ To Democratic Politics: Discourses And Articulations Of Islamist Movement In Egypt And Indonesia (Dari ‘Negara Islam’ Ke Politik Demokratis: Wacana Dan Artikulasi Gerakan Islam Di Mesir Dan Indonesia) , *Jurnal Masyarakat & Budaya*, Volume 18 No. 1 Tahun 2016, p 1-17.

definition of Islamic state is contrary to Indonesian culture of tolerance , moderation and respecting plurality.

The totalitarianism within democracy and sharia

Bill Warner in his book *Sharia Law for the Non-Muslim* said that Islamic scholars claim: Islamic law is perfect, universal and eternal. The laws of the United States are temporary, limited and will pass away. It is the duty of every Muslim to obey the laws of Allah, the Sharia. US laws are man-made; while Sharia law is sacred and comes from the only legitimate God, Allah. Sharia is based on the principles found in the Koran and other Islamic religious/political texts. There are no common principles between American law and Sharia. Under Sharia law:

- 1) There is no freedom of religion
- 2) There is no freedom of speech
- 3) There is no freedom of thought
- 4) There is no freedom of artistic expression
- 5) There is no freedom of the press
- 6) There is no equality of peoples—a non-Muslim, a Kafir, is never equal to a Muslim
- 7) There is no equal protection under Sharia for different classes of people. Justice is dualistic, with one set of laws for Muslim males and different laws for women and non-Muslims.
- 8) There are no equal rights for women
- 9) Women can be beaten
- 10) A non-Muslim cannot bear arms
- 11) There is no democracy, since democracy means that a non-Muslim is equal to a Muslim
- 12) Our Constitution is a man-made document of ignorance, *jahiliyah*, that must submit to Sharia
- 13) Non-Muslims are *dhimmis*, third-class citizens.
- 14) All governments must be ruled by Sharia law.
- 15) Unlike common law, Sharia is not interpretive, nor can it be changed
- 16) There is no Golden Rule ¹⁷⁸

¹⁷⁸ Bill Warner, *Sharia Law for the Non-Muslim*, Center for the Study of Political Islam, , 2010 , Printed in the USA, p.2-3.

Islamism for their acceptance to ideology of jihadism has a tendency to accept ideology of totalitarianism. The totalitarian movements, according to Hannah Arendt, are mass organization of atomized, isolated individuals. Compared with all other parties and movements, their most conspicuous external characteristic is their demand for total, unrestricted, unconditional, and unalterable loyalty of the individual member. This demand is made by the leaders of totalitarian movements even before they seize power”¹⁷⁹ According to Arendt, Hitler’s rise in power was legal in term of majority rule, and neither he nor Stalin could have maintained the leadership of large population, survived many exterior and interior crisis , and braved dangerous danger of relentless intra party struggle , if they had not had confidence of the masses.¹⁸⁰

Sociologically, there are three similarities between Islamism who adhere ideology of jihadism and the ideology of totalitarianism such as fascism and communism. Both are used the term vanguard, defenders and revolutionary to name themselves and used the term imperialist, capitalist, colonialist to name their enemy. Both are using violence indifferently. Substantially, there is no difference between the killing conducted by Adolf Hitler and Bin Laden. Both are glorifying the death. Jose Millan Astray, pro Nazi General exploited the concept *Viva la Muerta*, or “long live death”, while Bin Laden exploited the concept of *syahid* or martyrdom. How unconditional and unalterable loyalty of the individual member of extreme ideology able to inspire people to perform suicide attack on September 11 was well described by Reza Aslan in his book *Beyond Fundamentalism*.¹⁸¹ By using the analysis used by Arendt and Aslan it can be argued that in the context of Indonesia, Islamism and communism are actually two side of the same coin. Both of them glorifying the totalitarian ideology, one based on religious justification and the other based on an atheistic point of view.

Indonesia actually can be a model of democratisation for the Muslim World, in which Islam, democracy and modernity able to grow together. However, if the majority of Indonesian Musllims not active in preserving democracy, democracy is in danger through the creeping of totalitarian ideology. Therefore, the success of sustaining or changing a relatively democratic circumstance of Indonesian politics not depends the struggle of the Islamic radical group, but importantly on the struggle of the majority Indonesian people that do not agree with them. What can be done by the mainstream groups of Islam in Indonesia is spending their active

¹⁷⁹ Hannah Arendt, *The Origin of Totalitarianism*, Harcourt, Brace, Jovanovich p.323

¹⁸⁰ Hannah Arendt, *The Origin of Totalitarianism*, p.306.

¹⁸¹ Reza Aslan, *Beyond Fundamentalism; Confronting Religious Extremism in the Age of Globalism*, Random House, 2010.

engagement in the public and legal sphere for maintaining Indonesian Islam which is moderate, democratic and non- discriminative. ¹⁸²

So, it is right, when Karl Popper said that democracy should be continuously preserved base on the assumption that there may be anti-democratic tendency latent among the ruled and the rulers. Democracy might be ended if it is not preserved by democratic morality.¹⁸³ According to Popper, democracy should be defended because democracy provides invaluable battle for any reasonable reform. If democracy is destroyed, all rights also will be destroyed. If democracy is destroyed what will emerges is tyranny. For Popper democracy cannot be fully characterized as the rule of majority but also should brings the full protection of minority. However, the full protection of minorities should not extend to those who violate the law, and especially not to those who incite other to violence.¹⁸⁴ The use of violence is justified only under tyranny which make reforms without violence impossible, and it should have only one aim, that is, to bring about a state of affairs which make reform without violence possible. Violence also exists and is justified even in democratic regimes when they are enforcing the law.¹⁸⁵

The weakness of civil society as well as civil religion

In line with Kamali who said that Islamic government is a civil government, Hasan bin Talal said that Medina (in the era of prophet) was not religious state. On the contrary, it was a civil state in which the government and the people were subject to the rule of law, which recognized their respective rights and encouraged them to live together. Civil government and civil state need the support of civil society and civil religion. Therefore , it is undertood if Robert W. Hefner, in his book *Civil Islam: Muslims and Democratization in Indonesia* said that what is apparent, however, is that democratic consolidation will require not just a civil society of independent associations (although these are important too) but a public culture of equality, justice, and universal citizenship. In this majority-Muslim society, and in the aftermath of a great Islamic revival, the creation of such a public culture of democratic civility

¹⁸² Syafiq Hasyim, “ Sate and Religion: Considering Indonesian Islam as Model of Democratisation for the Muslim World”, Paper prepared for the Colloquium on Models of Secularism, hosted by the Friedrich Naumann Stiftung, Berlin, July 31, 2013. , Published by the Liberal Institute Friedrich-Naumann-Stiftung für die Freiheit Reinhardtstraße 12 D–10117 Berlin, First Edition 2013

¹⁸³ David Runciman, *How Democracy Ends*, Profile Book, 2018, p.207.

¹⁸⁴ Karl R. Popper, *Open Society and Its Enemies*, Princeton University Press, 2013, p.160-161.

¹⁸⁵ Popper ,p.151

will be impossible unless it can build on the solid ground of civil Islam.¹⁸⁶ Islam, like other religion, naturally will experience the evolution to become civil religion. Because all religions actually fluid , capable to be adjusted to the development of human civilization. Because all religions actually fluid , capable to be adjusted to the development of human civilization.

Albertus Patty , in explaining the fluidity of religion said that basically religion does not exist in a vacuum, an empty space. Religion is always dynamic, fluid. Religion has always experienced intense interaction with various socio-political, economic, and cultural issues. Religion is also in dialogue with the development of science and technology. Now, religion must have a dialogue with the multiple crises that have arisen due to the Covid-19 pandemic and with the Digital Technology 4.0 revolution. That is why, religion is never stuck! That is, religion undergoes a process of moderation! Always in the process of becoming. Religion often provides power in the process of world transformation. At other times, religion is often forced to adapt by correcting its own understanding and beliefs. That is why religion is fluid, always melting. Flexible! Of course, these changes and renewals are always guided by the values of the substance of religion itself.¹⁸⁷ When did religion grow and develop into the religion of the people?

Robert Ellwood in his book: *Cycles of Faith; The Development of the World's Religions* says that the development of world religions undergoes a cycle whose stages can be divided into five stages: 1) the apostolic stage 2) the imperial stage (wisdom) 3) the medieval stage (devotional), 4) the reformation stage 5) folk religion stage.¹⁸⁸ According to Ellwood, Buddhism and Chinese religion have entered the fifth stage, namely folk religion , Hinduism and Christianity are only in the early stages of entering folk religion. Where is the position of Islam? Islam, according to him, is still in the reformation stage or the fourth stage. It is estimated, based on statistical calculations, that by 2050, all major religions, including Islam, will become folk religion. In that year Christians will reach more than 3 billion, Muslims will reach 2.25 billion, Hindus will reach 1.17 billion.¹⁸⁹

In Islam, the possibility of this religion to be folk religion is wide , because Islam gives all Muslims to get direct access to God. In other words , Islam actually an open religion that

¹⁸⁶ Robert W. Hefner, *Civil Islam: Muslims and Democratization in Indonesia*, Princeton University Press Princeton And Oxford,2000, p.20.

¹⁸⁷ Albertus Patty, *Agama yang Cair*, available in : <https://selisip.com/slp16/2021/07/agama-yang-cair/>

¹⁸⁸ Robert Ellwood , *Cycles of Faith; The Development of the World's Religions* , Alta Mira Press, Meryland, 2003 p. 193

¹⁸⁹ Robert Ellwood , *Cycles of Faith; The Development of the World's Religions* , Alta Mira Press, Meryland, 2003 p. 207.

able to be understood by all people. This is what is called civil religion. The characteristic of Islam as an open religion is in line with the idea of open democracy.¹⁹⁰

Can religion, when it becomes the religion of the people, be a factor that can encourage the consolidation of democracy? In countries that are mature in democracy, religion and democracy can unite. However, the union of religion and democracy is only possible if religion has truly become a folk religion, where religious understanding, religious expression and political orientation of the adherents of that religion are no longer monopolized by the elite but left to the people. However, if the people's religion changes and leads to a political identity, where religious identity is more important than professionalism or meritocracy, then the democracy that is born becomes a pseudo-democracy.

In order to be a civil religion, reformation ideas in Islam that able to be used as material for debate and dialog publicly, in civilized manner, need to be encouraged continuously. In the context of Indonesia the values and spirit of Pancasila are more than enough to direct the common goals. Unfortunately, to this day, Pancasila still plays a minimalistic role as a state ideology, not yet a living value like a civic religion.¹⁹¹

The lack of skill to express opinions or ideas in civilized manner

The consistency in achieving common goals as well as the willingness of community to improve their skills in expressing opinions or exchanging ideas in a civilized manner, are among the basic principle to develop democracy. Therefore, the other challenge faced by Indonesian democracy is how Indonesia able to nurture the morality of communication in democratic state. Voegelin is right when he said that moral bases for communication is necessary in a democracy. Because some procedures of communication in our time are unfit for the achievement of moral purpose, or even destructive of morality.

According to Voegelin, there are three kinds of communication; substantive, pragmatic and intoxicant communication. Substantive communication is communication that has its purpose in the unfolding and building of personality. This kind of communication is positive for democracy.¹⁹² Pragmatic communication is a technique for inducing people to behave in such a manner that their behaviour will agree with the communicator's purposes, such as

¹⁹⁰ Helene Landemore, *Open Democracy; Reinventing Popular Rule for the Twenty-First Century*, Princeton University, Oxford, 2020

¹⁹¹ Komaruddin Hidayat, "Benturan Politik Identitas", *Kompas*, 26 April 2019.

¹⁹² Eric Voegelin, *The collected works of Eric Voegelin, Volume 11, Published Essays 1953–1965*, p.47.

political or commercial purposes.¹⁹³ This kind of communication maybe positive or negative for democracy. Intoxicant communication is the most negative kind of communication. According to Voegelin, the development of communication as an industry for pragmatic and intoxicant purposes is certainly a symptom of moral crisis.¹⁹⁴ If this kind of communication is not prevented it may destroy democracy.

For Voegelin, freedom and democracy were not something that can be guaranteed once and for all through installing a constitution. Although the state had a constitution that accommodated the principle of freedom and democracy, it can be paralyzed in its functioning by a majority bloc from the right and left.¹⁹⁵ In Voegelin's view, the morality of democracy is inseparable from rationality. The connection will be clarified by the definition of conscience. Conscience is the act of judgment by which we approve or disapprove our actions in the light of rational moral principles. In order to act rationally, a man must know who he is, in what kind of a world he lives, and what his station is in the order of being. A man who is confused about the essentials of his existence is incapable of rational action; and if he is incapable of rational action, he is incapable of moral action.¹⁹⁶

According to Tocqueville, moral action not only be based on rational action but also should be based on beliefs or ideas which can be used as unifying factor for all citizens. There is no society that can prosper without such beliefs or ideas. Without common ideas there is no common action, and without common action a social body does not exist. So, it is necessary that all minds of the citizens always be brought and held together by some principal ideas.¹⁹⁷

Indonesia actually possessed these principles and are part of the *Pancasila*, the basis of the Indonesian democracy and these principles, according to some recent surveys are still considered by people as a unifying factor. Base on the survey conducted by *Kompas*, on May 2016, 95,3% respondents believe that Pancasila is the best ideology for Indonesia.¹⁹⁸ In 2018, Indonesian Institute of Science (LIPI), conducted survey and the result is that 95,6% respondents agree that *Pancasila* is the suitable ideology for Indonesia.¹⁹⁹ In 2019, the similar survey conducted again by *Kompas*, shows a slight impromevement in favor of Pancasila of.95.8% of aproval.²⁰⁰

¹⁹³ Ibid.p.48.

¹⁹⁴ Ibid.p.50

¹⁹⁵ Ibid.p.5

¹⁹⁶ Ibid.p.57

¹⁹⁷ Alexis Tocqueville, *Democracy in America*, translated, edited and with an introduction by Harvey C Mansfield, p.407.

¹⁹⁸ *Kompas* 29 Mei 2017

¹⁹⁹ *Kompas*, 31 Oktober 2018.

²⁰⁰ *Kompas*, 3 Juni 2019

In the language of Habermas, *Pancasila* for Indonesian is “the basis of an existing value consensus”.²⁰¹ In this context of Indonesia, the moderate Muslims, particularly those affiliated with *Nahdlatul Ulama* (The largest mass Islamic organization) or Muhammadiyah (the second largest) need to support and consolidate democracy as a sign of their clear acceptance to *Pancasila* as the state ideology. The author agree with Hasyim, when he said that the success of sustaining or changing a relatively democratic circumstance of Indonesian politics not depends the struggle of the Islamic radical group, but importantly on the struggle of the majority Indonesian people that do not agree with them. What can be done by the mainstream groups of Islam in Indonesia is spending their active engagement in the public and legal sphere for maintaining Indonesian Islam which is moderate, democratic and non- discriminative.²⁰²

The lack of institution that function efficiently.

In his article entitles *Islam, Democracy and Good Governance in the Post New Order Indonesia: Challenges and Opportunities*, Nurrohman Syarif said imagine, if there is government that get strong political support but incapable to make policies that can raise economics growth, its support will gradually decline even vanish. As well as if there is government with good policies and political support but it has serious problem in government administrative that caused dysfunctional situation, this government will face problems, even when the possible success actually has in the front of eyes.²⁰³

Further more , he said that generally, there are some principles that can be used as a tool to measure the quality of government and other institution in applying good governance. These principles are:

- 1) Public or social participation. It means that all of citizens have a vote in decision making process, directly or through legitimate representative institution. The wide

²⁰¹ Jurgen Habrmas, *Between Facts and Norms; Contribution to a Discourse Theory of Law and Democracy*, , translated by William Rehg, The MIT Press, Cambridge, Massachusetts , 1996, p.140.

²⁰² Syafiq Hasyim, “ Sate and Religion: Considering Indonesian Islam as Model of Democratisation for the Muslim World”

²⁰³ Nurrohman Syarif, “Islam, Democracy and Good Governance” , paper is presented in the conference organized by the Training Indonesia’s Young Leaders Program (Leiden University) in cooperation with the Ministry of Religious Affairs (Jakarta) and Institut Agama Islam Negeri Walisongo (IAIN Walisongo), in Novotel Semarang from October 6-8, 2009. Available in website: https://www.academia.edu/3582076/Islam_Democracy_and_Good_Governance

participation of society is based on freedom of congregation, freedom of opinion and constructive participation.

- 2) Enforcing the supremacy of law. It means that justice should be made as the frame and the goal of law, applied without discrimination, including law that protecting human rights.
- 3) Transparency. It means that transparency should be built based on the freedom of information flow. Information of all governance process, institutions should be able to be accessed by each party concerned and the information should be appropriately available in order to be understood and to be monitored.
- 4) Caring to stakeholders. It means that all institution and all process of governance should be directed to serve all interested parties.
- 5) Consensus orientation. It means that good governance should bridges different interest in order to build a whole consensus in dealing with what is the best for all groups in society, and if possible, including the consensus policies and procedures.
- 6) Equality. It means that all citizens in society should have a same chance to improve and to defend their welfare.
- 7) Effective and efficiency. It means that all of the process in government and other institution should able to produce a result that suitable with the need of society by using available resource optimally.
- 8) Accountability. It means that all decision makers in government as well as in private sector and in social organizations should responsible to society or other concerned institution. The form of responsibility is different between one another it depends on the type of organization.
- 9) Strategic vision. It means that leaders and society should have broad and future perspective about good governance and human development and have enough sensitivity toward what is needed to achieve this goal. In addition they also should understand history, culture and social complexity used as the basis of this perspective.

If we use these nine principles of good governance, it is actually not difficult to search these values from Islamic teachings.

Public and social participation, if it is understood as the involvement of people directly or indirectly in decision making process or in determining their own fate in the future, this is in line with the message of verse Q.S. 13:11 that said *innallaha la yughayyiru ma biqawmin hatta yughayyiru ma bi anfusihim* (Surely, God not change to people fate until they are changing their

character and mindset). Enforcing the supremacy of law, for instance, is in line with the verse *wa idza hakamtum baina al-nas an tahkumu bil adli* (And when you judge between man and man , that you judge with justice (QS 4:58). Transparency is the appropriate translation of *tabligh* , one of the four character possessed by the prophet Muhammad. Caring to stakeholders, for instance, is in line with the saying of prophet *khairu al-nas anfa'uhum li al-nas* (the best humans are who gave advantages to humans. Consensus orientation, for instance, is in line with the verse *wa amruhum syuro bainahum* (their affairs are deliberated among them) QS42:38 . Equality, for instance, is in line the verse *kana al nasu ummatan wahidatan* (humans are single community) QS 2:213. Effective and efficiency, for instance, is in line with the verse *wa la tubadzir tabdzira* (don't waste something beneficial) QS 17:26

Accountability, for instance, is in line with the verse *wa la taqfu ma laisa laka bihi ilmun inna al sam'a al abshara wal fu'ad kullun ula'ika kana 'anhu mas'ula* (And pursue not that of which thou hast no knowledge: for every act of hearing, or of seeing or of (feeling in) the heart will be enquired into (in the day of reckoning). (QS 17:36). Strategic vision, for instance, is in line with the verse *wa lal akhiratu khairu laka minal ula* (And verily the hereafter will be better for thee than the present) (QS. 93:4) and *wabtaghi fi ma ataka Allahu al dara al-akhirah* (But seek , with the (wealth) which Allah has bestowed on thee, the home of hereafter.)(QS. 28:77)

Encouraging wider participation from all elements in society has long been practiced by Muhammad since he was very young not yet appointed as prophet. Remember what was done by Muhammad when he was trusted by Mecca people to put black stone (*hajar aswad*) when Ka'ba was renovated. Instead of putting it alone, Muhammad asks all of the community leaders to participate. From the very young people Muhammad was well known as *al-amin* (trustworthy person).

All Muslims, I think, believed that the prophet Muhammad has four characters which contribute to his success in dealing with social and state affairs. There are *sidiq* (integrity), *amanah* (accountability), *tabligh* (transparency), and *fathonah* (capability). That is why Muhammad PBUH (peace be upon him) was well known as successful businessman and statesman.

When the prophet Muhammad SAW will be trusted to become a ruler in Medina, he together with elements in society formulated “constitution” later known by Medina Charter. Through this charter he promotes some principles, among others are: (a) being a good neighbor

(b) mutual help in facing common enemy (c) protecting those persecuted (d) mutual advise and (e) respecting freedom of religion.²⁰⁴

According to Nurcholish Madjid the values of Medina such as spoken by the prophet in the last and farewell preaching or *khutbah wada'* comprised about the sacredness of life, property and sacred honor (*al-dima wa al-amwal wa al-aradl*), have been transformed to Europe through the long chains from the crusade battle , the Italian philosopher Giovanni Pico della Miralonda who in the 1486 addressing an oration on the Dignity of Man , continued by John Lock until Thomas Jefferson who in declaring the independent of America used the formula which similar to the one formulated by the prophet Muhammad, in seeing the sacredness of life, liberty and pursuit of happiness.²⁰⁵

In reality, the 2008 global competitiveness report launched by the World Economic Forum on competitiveness ranked Indonesia 55th out of 134. According to Transparency International's CPI in 2006, 2007 and 2008, Indonesia remains one of the world's most corrupt countries. The country ranks 130th among 163 countries surveyed in 2006, and 143rd among 179 countries surveyed in 2007. Although Indonesia managed to improve its position to 126th among 180 states surveyed in 2008, this is was still not sufficient since some ASEAN countries are better in combating corruption, including Vietnam, Thailand and Malaysia. Another survey conducted by the Corruption Eradication Commission (KPK) in 2008 on public sector integrity, gives an indication that government officials remains corrupt.

In addition, if some quantitative indicators released by many pollsters can be used to measure the implementation of good governance in Indonesia as well as in Muslims' countries, it can be said that the application of good governance is still poor. Susilo Bambang Yudhoyono, Indonesia's president, in his address to Muslims leaders said "If we look at the world's 25 biggest economies, the United States of America at the top of the list with GDP of about US\$11 trillion. In the top 25, there are only three Muslim majority countries: Turkey, Indonesia and Saudi Arabia. If we look at the world's top trading nations. No Muslim country is in the top 10 or top 20 traders. If we look at the world's human developing index we will find no Muslim country in the top 10, top 20 or top 30 best performing nations. Only if we expand the list to the top 50 will you find five Muslim societies – Brunei, Bahrain, Kuwait, Qatar and United Arab Emirates-

²⁰⁴ Munawir Sjadzali, *Islam and Good Governmental System*, Jakarta, INIS, 1991, page 12

²⁰⁵ Nurrohman Syarif, "Islam, Democracy and Good Governance", paper is presented in the conference organized by the Training Indonesia's Young Leaders Program (Leiden University) in cooperation with the Ministry of Religious Affairs (Jakarta) and Institut Agama Islam Negeri Walisongo (IAIN Walisongo), in Novotel Semarang from October 6-8, 2009. Available in website: https://www.academia.edu/3582076/Islam_Democracy_and_Good_Governance

between the ranking of 33 and 47. How about global competitiveness? Well of the top 20 most competitive countries, there are not single Muslim country. According to UNICEF, over 4.3 million children under the age of five in OIC countries die each year from preventable diseases and malnutrition. ²⁰⁶ If democracy cannot bring peace, justice and prosperity it is feared that Muslims' trust on democracy will decline and Indonesian Muslim's pride of becoming the third largest democratic country will disappear.

Educational system that instill democratic awareness.

The author's research in the 2010s found a number of problematic facts about the views of pesantren leaders, namely the oldest Islamic Education Institution in Indonesia. When viewed from the philosophy of the pesantren or the mission of Islam as a blessing for all, the facts surrounding the views of the pesantren regarding jihad, violence and power can be seen as problematic facts. The facts surrounding the views of Islamic boarding schools on jihad, violence and power may be called inconvenient truth (an unpleasant, problematic reality).

The problematic view of pesantren regarding jihad can be seen, for example, 25% of pesantren circles agree that for the sake of da'wah, Muslims need to prepare themselves by force of arms. Many Islamic boarding schools also consider those involved in acts of terrorism as mujahid. 35% of them agree that Osama bin Laden (leader of al-Qaeda) who is considered responsible for the World Trade Center (WTC) attack on September 11, 2001 is called a fighter or mujahid. Even though they have been sentenced and sentenced to death for being proven involved in acts of terrorism in Indonesia, Amrozi, Imam Samudra, and their group still deserve to be called fighters/mujahid according to 10% of Islamic boarding schools.

The problematic view of pesantren regarding violence in religion can be seen, for example, in the views of pesantren regarding punishment for apostates, adulterers, thieves, Ahmadiyah congregations and Christians. Many pesantren (40%) still maintain the old opinion that allows apostates to be sentenced to death. This conservative view causes them to be ambivalent. On the one hand, for example, they support that there is no compulsion in religion, but on the other hand, they also approve of the death penalty for apostates. Even though this opinion has been denied or criticized by many because it is not in line with human rights, it is also not in line with the spirit taught by the Qur'an. 75% of them also agree that adulterers are

²⁰⁶ Susilo Bambang Yudhoyono, *Muslims capable of driving globalism*, The Jakarta Post, April 28, 2006

punished by flogging or stoning. 65% of them agree that thieves are punished by cutting their hands off.

Regarding the Ahmadiyah sect, 80% of the pesantren circles agree to call this sect a heretical and misleading sect and therefore have no right to call themselves Muslims. 40% of them even think that expelling or destroying the Ahmadiyah congregation and other deviant sects is part of the amar ma'ruf nahi munkar.

Religious violence can also arise in the construction of places of worship for other religions, especially the construction of churches. 65% of Islamic boarding schools agree that churches or places of worship for Christians/Catholics that are built without a permit must be demolished or closed. From the outside, the technical issue of licensing seems like the main problem, but if you look further, the problem is actually not only technical licensing, but there is an attitude of rejection of church attendance. 35% of Islamic boarding schools think that Muslims should refuse requests for permits to build churches in their area.

These views and attitudes, although they do not always lead to physical violence, do clearly indicate an attitude of intolerance in religion. This intolerance is also seen in the refusal of Islamic boarding schools to wish me a merry Christmas or attend Christmas celebrations. 80% of Islamic boarding schools agree with the view that prohibits Muslims from saying Merry Christmas or attending Christmas celebrations organized by Christians.

Violence in the name of religion can also arise from the sensitivity of Muslims to what they perceive as insults to Islam, the Koran or the Prophet Muhammad. 70% of Islamic boarding schools have expressed their agreement to execute people who insult Islam, the Koran or the Prophet Muhammad. Discriminatory views are also still visible in the pesantren world. It was found that 85% of them agreed that Islam should be a condition for people to become heads of state. 70% of Islamic boarding schools also agree that non-Muslims in Indonesia are treated as *kafir dhimmi* (the third class citizen). 40% of them also do not agree if women go forward to become heads of state.

There are also many pesantren circles who indirectly agree with the views of terrorists who consider Indonesia to be in the territory of Darul Harbi (area of war) or not Darul Islam (area of peace). The number of those who support this view is quite significant, namely 25 percent. In classical fiqh, an Imam is obliged to preach Islam to non-Muslims. There are only two options for non-Muslims who are the targets of da'wah if they don't want to accept Islam: submit as unbelievers, dhimmi with jizyah or be fought. In classical fiqh, there is also a view that basically divides the world into only two, namely Darul Islam and Darul Harbi. If it is not a peaceful area, it is a war zone.

Although the caliphate system often promoted by Hizbu Tahrir Indonesia (HTI) tends to be theocratic, the support of Muslims for this theocratic caliphate is quite high. This support was not always accompanied by a rejection of Pancasila. Evidently, although 45% of Islamic boarding schools support the caliphate, only 25% reject the Pancasila State as the final form of Muslim political ideals.

The problems that arise regarding the administration of the state are also seen in the views of the following pesantren circles. 85% of Islamic boarding schools want the state to take responsibility for banning, closing or disbanding religious sects that have been deemed heretical by the Indonesian Ulema Council (MUI). 70% of Islamic boarding schools want the state to take responsibility so that Muslims carry out their sharia law.

The Center for the Study of Islam and Society (PPIM) in its survey released in 2018 entitled: “The Dimming Lamp: A Portrait of Indonesian Teachers' Religion” (Pelita yang Meredup: Potret Keberagamaan Guru Indonesia), revealed that the factor of Islamism is one of the important variables related to teacher intolerance and radicalism. 82.77% of teachers, for example, agree that Islam is the only solution to all problems in society. 40.36% of teachers agree that all knowledge is already in the Qur'an so that Muslims do not need to study science that comes from the West. 13.36% of teachers are willing to attack the police who arrest people who are struggling to establish an Islamic state. 27, 59% of teachers are willing to encourage others to join the war in creating an Islamic state, if there is an opportunity. 29% of teachers agreed to join the jihad in the Southern Philippines, Syria, or Iraq in the fight for the establishment of an Islamic state. 33% of teachers agree to encourage others to join the war to create an Islamic state.²⁰⁷

Such as said by Smith and Lindeman, in *The Democratic Way of Life*, the existence of an educational system that instills awareness of democracy is very important to maintain the continuous spirit or ideals of democracy.²⁰⁸ So it is impossible for democracy to flourish if it is not supported by educational institution, including religious educational institution. Sohaib Khaliq, in his dissertation entitles *Political Theology and Democratization: A Comparative Study of Indonesia And Pakistan* said that the institutional dynamics of religious education- the structure, quality, philosophy, and methodology for understanding religion- have implications

²⁰⁷ “Pelita yang Meredup: Potret Keberagamaan Guru Indonesia”, Hasil Survey PPIM , 2018 .

²⁰⁸ Smith, T.V. and Lindeman, Eduard C. 1960.*The Democratic Way of Life; An American Interpretation*, New York: Mentor Book

for religious thought and political theology.²⁰⁹ In other words, to encourage democracy need democratic theology.

Yusril Ihza Mahendra is Among scholar that tried to gave solution on this matter. In his dissertation on Masyumi, he explained that there are two domains in which each sovereignty was applied, namely the political domain for popular sovereignty, and the metaphysical or theological area for God's sovereignty. With these two domains, each type of sovereignty will not conflict with each other, because God only acts in the area of Muslim metaphysical consciousness, while humanity has full sovereignty in the political sphere.²¹⁰

Komaruddin Hidayat, in his article entitles “Benturan Politik Identitas” (*The Clash of political Identity*) said that Indonesia need to maximalize the role of Pancasila as a state ideology so it able to become a living value like a civic religion. Civic religion is needed to avoid the clash of political identity.²¹¹ Civic religion is important because the first Muslim polity was the city-state led by the Prophet Muhammad in Medina. But after the Prophet Muhammad died, no human being or institution was deemed to inherit his legislative, executive, or moral power. Maximalizing Pancasila as a state ideology means that Islam as political ideology should be placed as sub-ideology of Pancasila.

Pancasila is not only in line with Islamic values, it is also the best manifestation of Islamic universal teachings in the Indonesian context. It is through Pancasila that the combination of Islam and Indonesia can find its ideal form, and it is only through this kind of manifestation that the ideal and universal values of Islam can be realised in this world.²¹² Maximalizing Pancasila as a state ideology also means that theocratic element embedded in Islamic ideology should be replaced by democratic one.

In Islamic theology, there is no church or priestly class that is empowered to speak for God or represent His Will. There is a class of sharia specialists (jurists), known as the “*ulama* or *fuqaha*,” who are distinguished by virtue of their learning and scholarship, but there is no formal procedure for ordination or investiture. These jurists are not thought to embody the Divine Will nor treated as the exclusive representatives of God’s law. The authoritativeness that a particular jurist might enjoy is a function of his formal and informal education, and his

²⁰⁹ Sohaib Khaliq, *Political Theology and Democratization: A Comparative Study of Indonesia And Pakistan*, a dissertation, Northern Arizona University May 2019.

²¹⁰ Luthfi Assyauckanie, *Ideologi Islam dan Utopia; Tiga Model Negara Demokrasi di Indonesia*, Freedom Institute, Jakarta, (2011) p. 106.

²¹¹ Komaruddin Hidayat, “Benturan Politik Identitas”, *Kompas*, 26 April 2019.

²¹² Ahmad Najib Burhani, “Defining Indonesian Islam :An examination of the construction of the national Islamic identity of traditionalist and modernist Muslims” in Jajat Burhanudin and Kees van Dijk, *Islam in Indonesia Contrasting Images and Interpretations*, Amsterdam University Press, 2013. p.31-34.

social and scholastic popularity. Therefore all scholars that created the school of thought in Islamic history should be treated as equally orthodox and authoritative.²¹³

According to Ahmad Najib Burhani, in his article entitled “Defining Indonesian Islam: An examination of the construction of the national Islamic identity of traditionalist and modernist Muslims” the stigma that Islam in Indonesia is not pure, not perfect, comes from, among others, Geertz. Indonesian Islam tended to be seen as incomplete or corrupted. Clifford Geertz, for instance, shows his reluctance to categorise the nominal Muslims in Java, who constitute the majority, as Muslims. Instead of calling Islam in Java ‘Javanese Islam’, he preferred the term ‘religion of Java’, as is reflected in the title of his classic book. Geertz is not alone in perceiving the particularity of Islam in Indonesia in this negative sense. C.L.M. Penders and several other scholars perceive that the majority of Indonesian people could be barely considered Muslims based on the degree of correspondence with High Islam.²¹⁴ Geertz perception is not true as evidenced by the result of research conducted by Rehman and Askari on “How Islamic are Islamic Countries”.²¹⁵ Javanese Islam or Indonesian Islam is just an example of the model of Islam which be contextualized to Indonesian cultures, so its manifestation is plural. Plurality is blessing because it enables someone to choose. Accepting plurality is also a basic principle of democracy. By endowing all people to direct access to God, plurality cannot be avoided. So the **model of Islamic practices in Indonesia is no less orthodox than that of those who proclaim themselves to be puritan Muslims.**

Three basic teachings in Islam that can be used to support plurality and democracy are : 1) Islam endows its people for direct access to God 2) Islam has no race complex 3) Islam has banned human hatred and opened the way for human brotherhood and equality.²¹⁶ According to Haikal, for Muslims , after accepting the basic principle in faith, namely the faith in the One God and that He is the one who must be worshiped, the consequence is they should accepted the principle of equality, brotherhood and freedom.²¹⁷

²¹³ Khaled Abou El Fadl ,*Islam and the State: A Short History*, dalam Khaled M. Abou El Fadl, Said Arjomand, Nathan Brown, Jerrold Green, Donald Horowitz, Michael Rich, B,*Democracy and Islam in the New Constitution of Afghanistan* (2003)p.13

²¹⁴ Ahmad Najib Burhani ,”Defining Indonesian Islam :An examination of the construction of the national Islamic identity of traditionalist and modernist Muslims” in Jajat Burhanudin and Kees van Dijk , *Islam in Indonesia Contrasting Images and Interpretations* , Amsterdam University Press, 2013. p.31-34

²¹⁵ Scheherazade S. Rehman and Hossein Askari, “How Islamic are Islamic Countries”, *Global Economy Journal* ,Volume 10, Issue 2 2010 Article 2 , The George Washington University

²¹⁶ Danial Zainal Abidin, “Islam The Misunderstood Religion” Penertbit PTS Millenia Sdn.Bhd, Bentong Pahang, Kualalumpur,2005, hlm. 15.)

²¹⁷ Munawir Sjadzali, *Islam dan Tata Negara*, Jakarta . UI Press, 1990.hlm 185

This is the spirit of unity in plurality that has long been endorsed by Quran in chapter 5 verse 48. “To each of you We prescribed a law and a method. Had Allah willed, He would have made you one nation [united in religion], but [He intended] to test you in what He has given you; so race to [all that is] good. To Allah is your return all together, and He will [then] inform you concerning that over which you used to differ.” The spirit of plurality has long adopted by Indonesia in the slogan of *Bineka tunggal ika* (unity in diversity). The principle of unity in diversity alongside with Pancasila provided the climate of religious tolerance that would enable free development of religious thought.²¹⁸ Unfortunately, political identity that uses religious legitimacy is vulnerable to be exploited. The state actors, along with other political actors, consistently manipulate such identities and find usefulness in promoting religious interpretations that are theologically conservative as the basis of populist legitimacy.²¹⁹ Sharia regulations that cause various problems in the regions cannot be separated from the involvement of state actors and political actors.²²⁰

Therefore, in order to raise religious literacy, Kamaruddin Amin, in his article entitles , “Evaluating religious education” said that the purpose of religious education in Indonesian schools, be it Islam and other religions, is to inculcate religious values in students, to make them devote Muslims or Christians, Catholics, Hindus and Buddhists. This may be called a mono-religious approach. One may argue the importance of introducing other religions to every student in Indonesian schools. This is definitely justifiable, but inculcating religious values, nurturing a religious doctrine, creating a religious society and being a devout believer is no less important. **Truly devout believers should genuinely respect others, thus helping to create peaceful coexistence. Therefore religious education in Indonesian schools is theoretically and ambitiously dual-purpose.**²²¹

In other words , the purpose of religious education is to prepare people to be piety and good citizens. The challenge is the public trust to religion as the unifying factors is just 10 % . As unifying factor , Pancasila is better than religion. Public trust to Pancasila as a unifying factors is 45%. However, public trust to Pancasila as a state ideology is 95%.²²² The distrust

²¹⁸ Martin van Bruinessen, ‘Indonesian Muslims and Their Place in the Larger World of Islam’ published in: Anthony Reid (ed.), *Indonesia rising: the repositioning of Asia's third giant*, Singapore: ISEAS, 2012, pp. 117-140.

²¹⁹ Scott W. Hibbard, *Religious Politics and Secular States; Egypt, India, and the United States*, The Johns Hopkins University Press (2010: 12).

²²⁰ Dani Muhtada, *Perda Syariah di Indonesia: Penyebaran, Problem, dan Tantangannya* , Disampaikan dalam orasi ilmiah dalam rangka Dies Natalis VII Fakultas Hukum Universitas Negeri Semarang pada tanggal 4 Desember 2014 di Semarang.

²²¹ Kamaruddin Amin, “Evaluating religious education” , *The Jakarta Post*, November 15, 2013

²²² “Pancasila Belum Jadi Etos, Elite Tidak Memberi Teladan” *Kompas* 29 Mei 2017

on religion is understood because religion is like a double-edged sword. On the one hand it can be a source of tolerance, harmony and peace but on the other hand it can also be a trigger of conflict, hostility and violence. The characteristic of religion as a double-edged sword is acknowledged by both Muslims and non Muslims scholars.²²³

Therefore it is understood if some scholars saw on the need to evaluate religious education on how it should be held. According to Kamaruddin Amin, the problems could be due to the content or textbooks of religious education, the way it is delivered or the teachers' competence. This is the big challenge that the new 2013 curriculum is trying to deal with. The curriculum has been designed to meet the need of this multicultural country, to promote mutual respect and peaceful coexistence, and at the same time, to create a religious community.²²⁴

Evaluation and improving educational institution is very important to sustain the spirit and ideal of constitutional democracy from the perspective of legal system. Because, according to Friedman , legal system consisted of three elements; legal substance, legal structure and legal culture.²²⁵ The culture of democracy cannot be sustained if it is not supported by democratic education.

To be Indonesian democratic Islam

If democratic Islam is possible , so Indonesian Islam. Indonesian Islam is not only supported theologically but also has been practiced in the long history of Indonesia, before and after independence. Indonesian Islam is a moderate, inclusive and tolerant Islam was then popularized as the Nusantara Islam by *Nahdlatul Ulama* (NU). as Nusantara Islam. According to Ma'ruf Amin, Nusantara Islam is a proactive way for NU people to identify the specifics that exist in them to promote characteristics of NU. These characteristics are affirmations of a distinctive identity, but are democratic, tolerant, and moderate.²²⁶

According to Amin, Nusantara Islam was built on three pillars, namely: thought, movement and religion (religious behavior). In thinking, the first pillar, it adopted moderate

²²³ Nurrohman Syarif and Asep Saeful Muhtadi , “Interfaith Communication Muslim-Christian Social Interaction in Sindang Jaya, Ciranjang, Cianjur”, *Advances in Social Science, Education and Humanities Research, volume 260* , International Conference on Media and Communication Studies (ICOMACS 2018, pp.68-73

²²⁴ Kamaruddin Amin, “Evaluating religious education” , *The Jakarta Post*, November 15, 2013

²²⁵ Lawrence Meir Friedman, Grant M. Hayden, *American Law; An Introduction*, Oxford University Press (2017),p.6.

²²⁶ Ma'ruf Amin, (2015).” Khittah Islam Nusantara”, *Kompas* , 29 Agustus 2015.

thought (*tawassuth*) not textual but also not liberal. Because, in terms of religion, the static attitude fixed on the text can be misleading and can come out of actual religious intent. Amin cites the opinion of Imam al-Qarafi, the expert on the methodology of Islamic law (*ushul fiqh*) which states: "*al-jumûd 'alā al-manqûlāt abadan dalāl fi al-din wa jahl bi maqasidihi*", (Static forever stuck to the text quoted is error in religion and ignorance of religious intentions). Amin also disagrees with liberals in religion. The liberalism referred to by Amin is a free way of thinking without regard to the methodology agreed upon by the ulema which is used as a point of thought in the Nahdlatul Ulama. Harmonization between the text and the general good (*maslahat*) is described in the rules: *idza wujida nash fatsamma mashlahah, idza wujida al-maslahah fatsamma shar'u Allah* (if the text is found, then there is goodness, and if good is found, then there is the law of God)

The second pillar is movement. That is, the spirit that controls the Nusantara Islam is improvements. The task of Nusantara Islam is to make continuous improvements (reform) for *jam'iyah* (associations) and members (citizens) that are not only based on tradition but also on innovation. Reformation in Nusantara Islam is a continuous reform towards a better. Therefore, the slogan used by Nusantara Islam is not merely *al-Muhafadzah ala al-qadim al-shalih* (preserving old values and traditions that are still good) but also *al-Ahdzu bi al-jadid al-ashlah* (taking better new values and traditions). This process is carried out continuously along with active and critical attitudes.

The third pillar is *amaliah* (religious behavior). Nusantara Islam emphasizes that everything that *Nahdliyin* (a member of NU) does must be born from a rationale based on *fiqh* (Islamic jurisprudence) and *ushul fiqh*; the discipline which is our basis for connecting the *amaliah* ruled by the Qur'an and the Sunnah of the Prophet. *Amaliah* Nusantara Islam respects traditions and culture that have been going on for a long time in the community. Because the tradition or culture (*'urf* or *'ādat*), as long as it does not deviate from the values of Islamic teachings, it is part of Islamic law. For NU, such religious practices have basically been carried out by *Wali Songo* (religious preachers) and then inherited by the founders of NU to all of us.

According to Amin, there are five indicators of the Nusantara Islam. First, *ishlahiyah* (reformative). That is, the thoughts, movements, and practices carried out by the *Nahdliyin* are always oriented towards improvement. The way of thinking is not static and not too far. Second, *tawazuniyyah*, which means balanced in all fields. If a movement is implemented, the aspect of balance must also be taken into consideration. For example, the attitude of Nusantara Islam in addressing the two currents of religious formalism and the substantialization are in the middle. Both tendencies can be fought as long as they do not cause conflict. This

tawazunniyyah considers justice. Third, *tathawwu'iyyah*, which means voluntary. That is, in carrying out thoughts, movements and practices, *Nahdliyin* must not impose on other parties (*lā ijbāriyyah*). This means that NU people must pay attention to the rights of people outside of NU. Internally, NU members also should not be fatalistic (*jabbāriyyah*), they must always try and innovate to uphold the three pillars of the Nusantara Islam above. In other words, there is no coercion, but it does not mean not doing anything at all.

Fourth, polite (*akhlaqiyyah*), namely all forms of thought, movement, and practice of the Nusantara Islam carried out politely. Compassion here applies in accordance with social, state and religious ethics. Fifth, *tasamuh*, which means being tolerant, respecting others. This tolerant attitude is not passive, but critical and innovative. In the daily language of NU members, they agreed to disagree. The principle that must be held in this case is agreement (consensus), democratic, and constitutional. Therefore, laws or state policies born of modern political processes are part of the agreement of the citizens of the nation, if the product does not conflict with Islamic values it is binding (*mulzim syar'i*) and must be obeyed. Conversely, if it is contrary to Islamic values, Muslims need to rectify it in constitutional ways. And may not be used as an excuse against a legitimate government. This is one of the NU National Conference (Munas) decisions in Banjar, West Java, 2019. In the national deliberation, Nusantara Islam was formulated as the Islamic *Ahlu Sunnah wal Jama'ah* which was practiced, preached, and developed according to the characteristics of the people in the archipelago.

Therefore, Nusantara Islam developed its own methodology.²²⁷ Nusantara Islam is actually a continuation of Professor Hasbi Ash-Shiddieqy's ideas about the need for Indonesian *Fiqh*. Nusantara Islam can be synergized with what is proposed by Professor Hazairin on the need to compile Indonesian law which was developed from the philosophy and values of Indonesian culture.²²⁸

Theologically, Nusantara Islam is supported by five propositions taken from the Qur'an, namely: 1) High appreciation for wisdom or locality. (al-A'raf 7: 199) 2) Uphold the spirit of non-sectarians by handing over the highest decisions in sect differences to Allah (Al-An'am 6: 159) 3) Upholding spirit of nationalism by making ethnic or group differences to get to know each other. (al-Hujurat 49:13) 4) Upholding popular spirit or democracy through the principle of deliberation or *syuro* (Al-Syuro 42: 38) 5) More concerned with non formalism in religion

²²⁷ Harisudin, M.N,(2018) "Fikih Nusantara, Metodologi dan Kontribusinya pada Penguatan NKRI dan Pembangunan Sistem Hukum di Indonesia", pidato pengukuhan guru besar , disampaikan di Auditorium GKT IAIN Jember , Senin , 19 November,2018

²²⁸ Lubis, Nur Ahmad Fadhil ,(1997).“Islamic Legal Literature and Substantive Law in Indonesia”, *Studia Islamika, Indonesian Journal for Islamic Studies*, Volume 4, Number 4,1997. Pp.33 -92.

by emphasizing goodness for other people or groups or emphasizing more social piety rather than ritual piety (al-Ma'un)

So, it is understood if Ahmad Najib Burhani in his article entitled “ **Islam Nusantara as a Promising Response to Religious Intolerance and Radicalism**” said that Islam Nusantara has the potential to become an exceptional form of Islam or a template for tolerant Islam that can be emulated by Muslims in other parts of the world, especially in terms of its ability to accommodate local culture and multiculturalism.²²⁹

For NU, the purpose of Indonesia, social justice for all, is the same as the purpose of sharia. Because, ideally, sharia is all about justice, mercy, wisdom and good. Thus, any ruling that replace justice with injustice, mercy with its opposite, common good with mischief , or wisdom with nonsense, is a ruling that does not belong to sharia, even if it is claimed to be so according to some interpretation.”²³⁰ In social and political life sharia can be practiced inclusively. Because, theological assumption that sharia is a fixed set of norms that apply exclusively to all Muslims is not supported by legal and empirical evidence.”²³¹ Equality is among the key messages of Prophet Muhammad in his Last Sermon. Qur'anic legislation in the field of private and public life has social justice and the building of an egalitarian community as its end.²³²

Toward shared justice and prosperity for all by respecting human dignity

The concept of justice in Indonesian context is what is known as shared justice which initially proposed by John Rawls. By assuming that the public has a concept of justice, justice implemented in a democratic state is a concept of justice that is formulated and accepted together. This is the concept of public justice that should be used to regulate political affairs and interpret the constitution.²³³ Rawls believes that, in modern conditions, a conception of justice can achieve stability only if it can be the object of an overlapping consensus, that is, only if it can be morally endorsed by citizens who are also committed to diverse and partially

²²⁹ Ahmad Najib Burhani , “Islam Nusantara as a Promising Response to Religious Intolerance and Radicalism” , *Trends in Southeast Asia Series*, 0219-3213 ; TRS21/18), DS501 I59T no. 21(2018) November 2018.

²³⁰ Auda, Jasser (2007).*Maqasid al-Shari'ah as Philosophy of Islamic Law, A Systems Approach*, London, Washington: The International Institute of Islamic Thought, p. xxii.

²³¹ Otto, Jan Michiel, (2008). *Sharia and National Law in Muslim Countries*, (Law, Governance, and Development Research & Policy Notes) ,2008, page 9-11.

²³² Rahman, Fazlur , (1984). *Islam and Modernity; Transformation of an Intellectual Tradition*, University of Chicago Press (1984): 19

²³³ John Rawls, (2005) *A Theory of Justice* ,Original Edition (2005: 365)

conflicting moral, religious, and philosophical worldviews.²³⁴ The concept of justice need to be reformulated base on different situation and cahllenge because without justice the genuine and sustainable peace is impossible to be achieved.

This study proves that sharia, besides being able to be used as a means to support peace and justice, also shows that in implementing the sharia, Muslims do not have to stick to one model. Many models can be used to implement sharia, including in secular countries like Indonesia.²³⁵

In his speech in Pakistan at Institute of International Affairs on April 2, 1952, Muhammad Natsir said at that “Pakistan is decidedly an Islamic country by population and by choice as it has declared Islam as the state’s religion. So is Indonesia an Islamic country by the fact that Islam is recognized as the religion of Indonesian people, though no expressed mention is made in one constitution to make it the state’s religion. But neither has Indonesia excluded religion from statehood. In fact, it has put the monotheistic creed in the one and only God, at the head of the Pancasila. The fives principles adopted as the spiritual, moral and ethical foundation of the state and the nation. Thus for both our countries and peoples, Islam has its very essential place in our lives, which does not mean, however, that our state organization is theocratic”.²³⁶ If Natsir proves that Indonesia is no less Islamic than Pakistan, Rehman and Askari also prove that in implementing Islamic law, Indonesia is better than Pakistan. Base on Islamicity index made by Rehman and Askari, Indonesia ranked at 140, higher than Pakistan that ranked at 147.²³⁷ Because Islamic law in Indonesia has entered into the life of the state through structural and cultural processes by transforming its values, norms or symbols.

In their article entitles *Legal Justice for All and Anti Discrimination: Models for Practicing Sharia in Democratic Secular State of Indonesia*, Nurrohman Syarif and others said that It is not easy to brought legal justice for all in practicing sharia in Indonesia. The first obvious problem or challenge to realize sharia as legal justice for all is the emergence of authoritarianism in understanding sharia. Authoritarianism is the act of “locking” or captivating

²³⁴ Pogge, T, Kosch, M (2007). : *John Rawls; His Life and Theory of Justice*, Oxford University Press, USA (2007).page 41.

²³⁵ Syarif, N., Arifin, T. and Al-Hakim, S. (2017).^[1] Sharia in Secular State - The Place and Models for Practicing Islamic Law in Indonesia.^[2]In *2nd International Conference on Sociology Education (ICSE 2017)*, pages 692-700.^[3]ISBN: 978-989-758-316-2

²³⁶ Syarif, Nurrohman,(2014) “The dependency of an Islamic state on sharia”, *The Jakarta Post*, September 19,2014.

²³⁷ Rehman, S. and Askari, H. (2010), “How Islamic are Islamic Countries”, *Global Economy Journal*, Volume 10, Issue 2, Article 2, The George Washington University

the Will of the Divine, or the will of the text, into a specific determination, and then presenting this determination as inevitable, final, and conclusive.²³⁸

The second problem is ambivalence attitude or inconsistency of some Muslims in accepting the constitution and the law that has accommodated the values of Islamic law. If Muslims acknowledged that there is no contradiction between the principles of sharia and the principles of constitution then each law that not contradict to constitution should be accepted by Muslims. This means that, in the context of state life, the constitution must be made the highest law, but in reality, it is not always the case. While legal system consists of three elements; structure, substance and culture , sometime the culture of society not supported the substance or the structure. For example, although marriage legislation in Indonesia has made provisions that the marriage age is 16 years for women and 19 years for men but in the community, there is still a frequent occurrence of underage marriages.

The third problem is the conflicting provision among the laws in Indonesia, for instance the age of children. According to Law No. 35 of 2014 on Child Protection, article 26 (1), parents are obliged and responsible for preventing marriages from occurring at the age of the Child. According to this law the child is someone who is not 18 (eighteen) years old. However, according to Law No. 1 of 1974 on marriage, a woman who is 16 years old and a 19-year-old man can get married. As a result, child marriages still occur in Indonesia. Child marriage is a nation's problem, which can violate children's rights to get education, health, growth and others.

In order to overcome rigid, authoritarian interpretation, Muslims need to be introduced to various interpretation of sharia. The norms of sharia was created not by an irrational process of continuous revelation but by a rational method of interpretation.(Schach, 1964) The Islamic legal maxim said: “It may not be denied that laws will change with the change of circumstances” (*la yunkar taghayyur al- ahkam bi taghayyur al-zaman wa al- ahwal*). In order to overcome the ambivalent attitude, some parts of the family law need to be revised or reformed. For example, if the marriage principle according to marriage law is monogamous, polygamy is only possible in an emergency after someone who will to conduct it obtaining permission from the court. If this provision violated the marriage should be declared invalid and the perpetrator should be punished. In personal or family law, Muslim countries take different model of reformation. Some countries take progressive reform such as Tunisia and

²³⁸ Nurrohman Syarif et.al., *Legal Justice for All and Anti Discrimination: Models for Practicing Sharia in Democratic Secular State of Indonesia*, DOI: 10.5220/0009923010751083 In *Proceedings of the 1st International Conference on Recent Innovations (ICRI 2018)*, pages 1075-1083 ISBN: 978-989-758-458-9

Turkey. For instance, based on the Turkish Civil Code 1926, polygamy is strictly prohibited and if it happens then the marriage is declared invalid. The conflicting provision among the laws is morally unacceptable because it is violated the principles of morality of law. There are some standards of morality of law such as the clarity of law and not containing contradictions in laws. Rules that its formula is not clear, or contained contradictions between one and another are immoral rules. In order to reform sharia law in Indonesia, eclectic choice need to be used. Eclectic choice not only proposed by Tahir Mahmood but also by Mahfud MD. According to Mahfud, the formation of national law should be processed through an eclectic process in legislative institutions by preserving the objectives of sharia which include public benefit and justice (MD, 2018) The eclectic process is in line with the concept of *ijtihad* according to Fazlur Rahman. For Rahman, *ijtihad* must be multiple effort of thinking minds – some naturally better than other, and some better than other in various areas – that confront each other in open arena of debate, resulting eventually in an overall consensus.²³⁹

The ideal concept of justice is justice for all proposed by John Rawls which well known as shared justice. This concept should be used by citizens to "regulate their political affairs and interpret the constitution". Rawls believes that, in modern conditions, a conception of justice can achieve stability only if it can be the object of an overlapping consensus, that is, only if it can be morally endorsed by citizens who are also committed to diverse and partially conflicting moral, religious, and philosophical worldviews. The best way to functionalize Islamic values, according to Hefner is through democratic constitutionalism. Hefner's view is in line with the opinion of Rachmat Syafe'i, the chairman of West Java Council of Ulama (MUI). For Syafe'i, a concrete manifestation of the absorption of the aspirations of Muslims to include the values and norms of sharia through political policies is carried out every five years, when Muslims through their representatives who sit in the legislative body formulate laws that will be applied in Indonesia.

Considering that democracy is only a tool, the challenge that is no less important is how political and economic institution was managed. Because, democracy will be preserved only if the state has the capacity to overcome inequity and eradicate poverty. While Fukuyama believes that liberal democracy is the last evolution of the world ideology, the states that adopted democratic system are not automatically able to bring prosperity for its people. In

²³⁹ Fazlur Rahman, "Islam challenges and opportunities" dalam Alford T. Welch and Piere Cachia,(ed.), *Islam: Past Influence and Present Challenge*, Edinbrugh: Edinbrugh University Press, 1979, hlm.325.

their book, *Why Nations Fail* Daron Acemoglu and James A. Robinson showed how political and economic institutions interact in causing poverty or prosperity.²⁴⁰

It means that democracy actually need good governance. When democratic country failed to bring justice and prosperity , for instance because of the poor performance of political and economic institution, the elements of anti-democracy such as Islamism , is easy to criticize democracy and gain more influence in society. For Islamism , the failure of democratic system to bring justice and prosperity can be used to strengthen their argument about the falacy of democracy.

In this context of justice, the appropriate concept, suitable for our current time is the concept of shared justice, introduced by John Rawls. Rawls believes that, in modern conditions, conception of justice can achieve stability only if it can be the object of an overlapping consensus, that is, only if it can be morally endorsed by citizens who are also committed to diverse and partially conflicting moral, religious, and philosophical worldviews.²⁴¹ It is a shared justice that enables people to attain shared prosperity. In his paper entitle: “Lessons from the Anti-Globalists” Joseph E. Stiglitz, recipient of the Nobel Memorial Prize in Economic Sciences in 2001, said: “the only sustainable prosperity is shared prosperity. It is a lesson that the US and the rest of Europe must now learn.”²⁴²

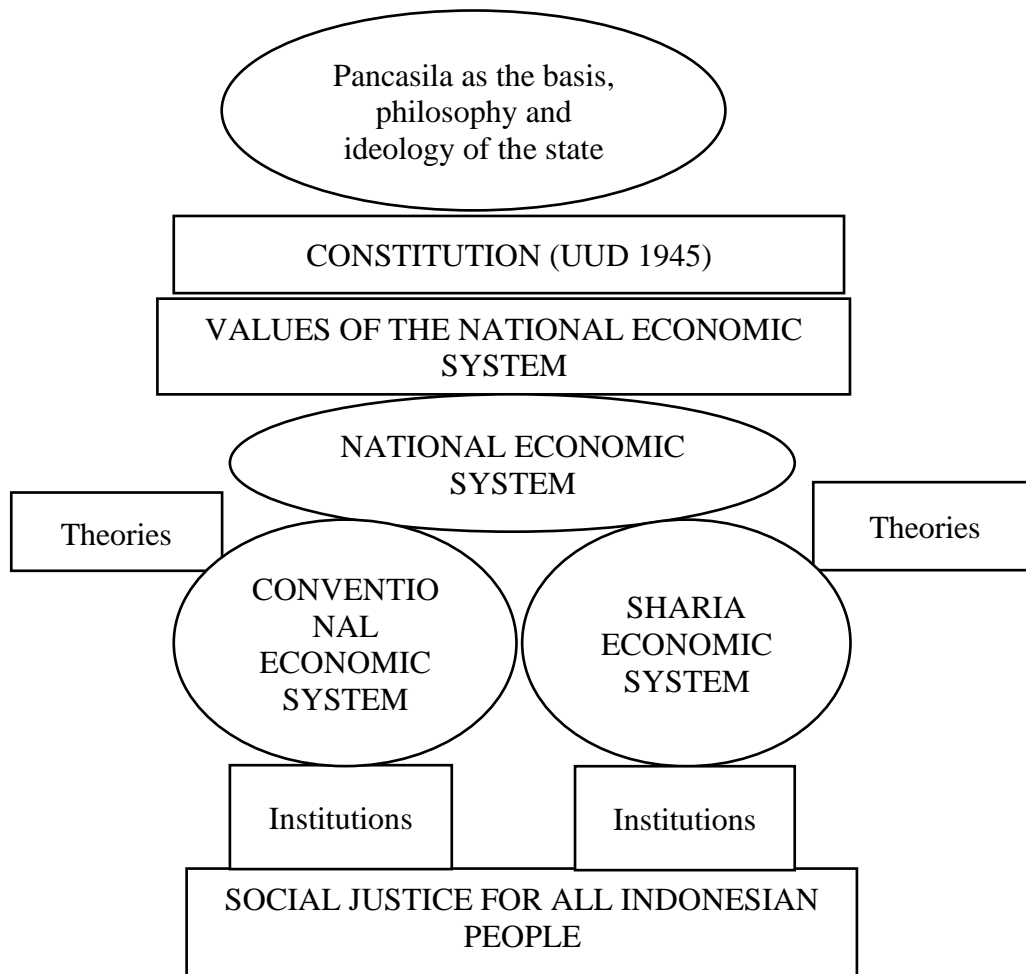
Through democratic process, conventional economic system and sharia economic system can be continuously synergized in order to bring justice and prosperity for all such as pictured in the flowchart diagram.

²⁴⁰ Daron Acemoglu and James A. Robinson *Why Nations Fail: The Origin of Power, Prosperity and Poverty*, p. 44.

²⁴¹ Thomas Pogge, Michelle Kosch: *John Rawls; His Life and Theory of Justice*, Oxford University Press, USA (2007).page 41.

²⁴² Joseph E Stiglitz, *Lesson from Anti Globalists*, Project Syndicate, May 1,2017. https://www.project-syndicate.org/commentary/macron-fight-against-populism-by-joseph-e--stiglitz-2017-05?utm_source=Project+Syndicate+Newsletter&utm_campaign=e00784fc40-sunday_newsletter_7_5_2017&utm_medium=email&utm_term=0_73bad5b7d8-e00784fc40-104745729

PICTURE 2
FLOWCHART DIAGRAM ON
SYNERGY BETWEEN CONVENTIONAL ECONOMIC SYSTEMS
AND SHARIA (DUAL SYSTEM)



This flowchart can be narrated as follows. Pancasila as the basis, philosophy and ideology of the state are the highest values in the context of living together in the nation and state. The constitution is an elaboration of the values of Pancasila. In the constitution, the values of Pancasila are translated into a clearer formulation. For example, in the economic context, the values for building a national economic system are more clearly defined. These values are the ingredients for building a national economic system. Academics or scientists, then formulate theories that can be used to realize or improve the national economic system. Here, theories derived from conventional and sharia economic systems can contribute even though each contribution is made through different institutions. Because the ultimate goal of the national economic system is to realize social justice for all Indonesian people.

Radicalism particularly global radicalism that recently emerge in the Muslim world is cannot be separated from global crisis that later produced revivalist reformist or puritanist with certain political agenda. According to professor Francis Robinson, to understand the root cause

of recently global crisis, it is important to know the relationship between the West and Muslim in all over the world. Robinson explained shortly and clearly, “how the changing balance of power, the memory of the Crusades, and the colonial experience produced resentment and a sense of loss, which led to the emergence of Islamic revivalist or reformist groups with a political agenda in many parts of the Muslim world”²⁴³

For Indonesian Muslim to attain justice and prosperity, they should participate in raising what is called ‘Islamicity Index’. If measured by the Islamicity Index, Indonesia's score has not been encouraging. The Islamicity Index Foundation tries to measure the extent to which the values of the Qur'an are practiced in social relations between humans in various countries, not just Islamic countries. The findings are interesting. The highest Islamicity score, in 2017, is the country in the West such as New Zealand, the Netherlands, Sweden, Ireland, Switzerland, Denmark, Canada and Australia.²⁴⁴ Whereas a Muslim-majority country has an ordinary Islamicity score and tends to be low. For example: Malaysia (rank 43), United Arab Emirates (ranking 47), Indonesia (rank 74), and Saudi Arabia (rank 88). The conclusion of this research is: people who more practice Islamic social values, actually occur in Western countries. Many countries that are even labeled themselves as Islamic countries have not succeeded in reaching the top ranks in practicing Islamic values.²⁴⁵ . In the Indonesian context, Aceh, one of the provinces in Indonesia, which through the special autonomy law, was allowed to implement Islamic law, turned out to be the poorest province on the island of Sumatra.²⁴⁶ Formally the province of Aceh is considered to be the most Islamic province, but in reality, Islamic values have not succeeded in getting Aceh out of poverty. In fact, eliminating poverty is also an Islamic value.

Franz Magnis-Suseno is right when he said that If we want to continue to strengthen the Unitary State of the Republic of Indonesia in the face of various challenges, such as radicalism, economic globalism and so on, we must base ourselves on the five principles or precepts in the Preamble to the 1945 Constitution, Pancasila. According to him what unites hundreds of different ethnic, cultural and religious communities of Indonesia, both majority and minority, which enables them to live together in peace, is that they can base themselves on

²⁴³ Roger Boase,ed., 2005, *Islam and Global Dialogue; Religious Pluralism and the Pursuit of Peace*, Ashgate Publishing Limited, England, 2005,p.5.

²⁴⁴ Scheherazade S. Rehman and Hossein Askari, “How Islamic are Islamic Countries”, *Global Economy Journal* ,Volume 10, Issue 2 2010 Article 2 , The George Washington University

²⁴⁵ Denny JA, “NKRI Bersyariah atau Ruang Publik yang Manusiawi ?” dalam Satrio Arismunandar, NKRI Bersyariah atau Ruang Publik yang Manusiawi ?; Tanggapan 21 Pakar Terhadap Gagasan Denny JA, PENERBIT Cerah Budaya Indonesia (CBI), Maret 2019. p. 2

²⁴⁶ <https://news.detik.com/berita/d-4385686/aceh-provinsi-termiskin-di-sumatera> , accessed September 1,2019

the five precepts. While the realization of Pancasila in concrete politics, for example how social justice is realized, must be agreed continuously in the process of searching for the direction of the nation in a democratic manner.²⁴⁷

In his book *The Normative Relevance of Sharia in the Modern Context*, Abdullahi Ahmed An-Na'im (2014: 312) says that the term sharia in current discourse is often used as a synonym for the word Islam itself, namely as the total obligation of a Muslim regarding private, social, and social affairs. , politics, legal norms and institutions. It is important to distinguish between the concept of sharia, as the totality of the obligations of Muslims, and the particular interpretation of the content of sharia through the methodology of human interpretation of the Qur'an and Sunnah in certain contexts. Since adherence to religion is a personal matter for believers, it can be reiterated that it does not include the forced enforcement of religious principles as state law. Of course, it is legal for Muslims to fight for their religious values to be reflected in state policies and legislation, but that is a political matter and must be sought or pursued through citizenship reasons and the democratic process, and not as a religious (obligatory) affair.²⁴⁸

VI. CONCLUSION

In discussing on the relation of Islam, Islamism, Islamic state and sharia, this book concludes that Islam is different from Islamism. Islamism is an understanding that emerged among Muslims who made Islam a political ideology. Even though Islam is actually only a religion, not a political ideology, but in the midst of the development of democracy, where everyone is given the freedom to express their ideas, it is impossible for those who make Islam their political ideology to be hindered or suppressed.

Problems arise when Muslims define an Islamic state in a rigid, exclusive and discriminatory way. The idea of an Islamic state like this if implemented in Indonesia will not be in line with the spirit of democracy and the ideals of the Indonesian people who want to realize social justice for all Indonesian people. Given that Islamism groups generally have the same characteristics, namely that they will implement Islamic law in total, the first problem

²⁴⁷ Franz Magnis-Suseno, "Pancasila , Tidak Kurang Tidak Lebih" (**Pancasila, No Less No More**) *Kompas* ,31 Mei, 2021
<https://www.kompas.id/baca/opini/2021/05/31/pancasila-tidak-kurang-tidak-lebih/>

²⁴⁸ Abdullahi Ahmed An-Na'im, *The Normative Relevance of Sharia in the Modern Context* dalam Rudolph Peters, Peri Bearman, *The Ashgate Research Companion to Islamic Law*, Ashgate Pub Co (2014).p.311,314.

that must be resolved is how Islamic law is understood, how it is extracted, practiced and transformed into the national legal system.

Since , sharia for Muslims is paradigm, what Muslims understand about it is not singular. The plurality of sharia in the form of Islamic law cannot be separated from the fact that there are divine , abstract sharia, classical sharia, historical sharia and contemporary sharia.

This is because the content of sharia values and norms can be explored in three ways, namely *bayani*, *irfani*, and *burhani*. The way Islamic law is practiced by each individual or group can also be done in three ways, namely textual exclusive, substantial inclusion, or a combination. The way Islamic law is transformed into national law can also be done in three ways, namely substantive, symbolic formalistic and normative. Each method can be used legally by individuals, groups or by countries. As long as it does not deviate from the objectives of sharia, Muslims can choose various ways that can be used to implement sharia. Therefore, the sharia basically does not conflict with democracy, because in a democracy it is also possible to create various ideas that will be used together in the context of the state. So, just like the sharia which respects plurality, democracy also upholds pluralism.

In discussing democracy and its meaning for muslim, it can be concluded that if sharia or Islamic law develops or experiences evolution, democracy also develops and experiences evolution in line with human development. So , democracy for Muslims can be used as a tool to achieve the puspose of sharia. Philosophically, democracy is built from a number of propositions which are not contradict to the principles of sharia. If democratic state respected human and political rights, Islam also promoted human rights. If democracy, like Sharia undergoes an evolutionary process, Muslims in responding to democracy must be able to distinguish between the ideals of democracy and the reality of democracy that is practiced in a number of countries, including Indonesia. Between ideals and reality always there is a gap that should be narrowed.

In discussing the theological foundations for Muslims to support constitutional democracy of indonesia, this book concluded that theological support for democracy , in Islamic perspective, is very strong. Because the spirit of democracy actually has been practiced by the prophet Muhammad at Medina. As the prophet, he received the revelation form God. It means that his legitimacy is depend on the believers. However , as the statesmen , his position as the head of state was acquired through democratic process. In making decisions regarding social issues, the Prophet not only consulted but sometimes made decisions based on the majority vote, a common method in democracy. In the Indonesian context, it is important to

note that the Medina constitution and the Indonesian constitution have no less than eight principles in common.

In discussing the challenges faced by Indonesia, this research finds at least nine challenges that must be faced, namely: the intolerance toward pluralism ; the emergence of extremism or radicalism ; Religious conservatism and homogenization ; the rigid or static definition of Islamic state ; The totalitarianism within democracy and sharia ; The weakness of civil society as well as civil religion ; The lack of skill to express opinions or ideas in civilized manner ; the lack of institution that function efficiently. ; educational system that instill democratic awareness.

All the explanations stated above show that sharia law can be compatible with democracy. Because even though the sharia is basically inseparable from the beliefs of Muslims, the space of *ijtihad* (individual thought), especially those related to social life, is very open. Islamic sharia is not a dogmatic belief that cannot be reformed. It can grow and develop in line with the development of democratic consolidation in Indonesia as long as it not deviate from its purposes, namely : protecting basic human rights for all members of community irrespective of race, religion and culture, establishing justice between Muslims and the rest of humanity, and providing benefits (*maslahah*) for human beings and removing hardships (*al-usr*) from them.

In the democratic era, the opportunity to incorporate sharia elements into law remains large even though the challenges are also large. As an ethical, moral and spiritual foundation based on belief, the sharia can actually be implemented or practiced by Muslims without the legitimacy or formalization of the State. But if sharia law, as a religious norm, will be transformed into a state law, then it must be adjusted to the principles and provisions of the constitution.

Muslims, especially Indonesian Muslims, should learn to accept the principles of democracy because even though democracy is not the best way to regulate the State, it is a best among the worse, among various government systems. Although democracy is not synonymous with the principle of Shura in Islam which was practiced by Muslims in the past, there is no principle of democracy that contradicts the teachings of Islam. In a democratic country, Muslims are not only valued as a group but are also valued individually. This spirit is in line with the Qur'anic teachings that place everyone as a *khalifatullah* (vicegerent of God), a predicate which in history seems to have been monopolized by religious elites or rulers.

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