

	International Conference on Islam, Law, and Society (INCOILS) 2022 Conference Proceedings
Article	
INDONESIA STATE CONSTITUTION IN ISLAMIC STATEMENT PERSPECTIVE	
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<p style="text-align: center;">Abstract</p> <p>It can be said that the history of the Indonesian Constitution has gone through various stages of development. From each stage a unique model of state administration was born, until the idea emerged to amend the 1945 Constitution due to past trauma, especially the New Order political practice which used the constitution for the interests of the people who were centralized and authoritarian power. Changing the constitution (UUD) is certainly not an easy thing. Because the constitution is the main goal of the state to regulate various basic and strategic issues, starting from the issue of the power structure and the relationship between the power of state bodies and human rights. The process of changing the Constitution from 1945 took place four times in stages. The four stages of the amendment, which were thoroughly examined by observers, had several flaws, among which sparked the idea that a constitutional commission should be formed to help resolve and correct these flaws for future amendments. Basically, according to experts, the State in Islam describes the principles of Islamic state administration in its studies, and the principles of state administration contained in the Qur'an can be formulated in the basic principles of Islamic political law, for example: the principle of sovereignty; the principle of justice; Principles of Reasoning and Ijma'; The principle of equality; the principle of rights and obligations of the state and the people; The principle of amar ma'ruf nahi munkar</p>	
<p>Keywords: <i>Constitution, State of Indonesia, Islamic State Administration</i></p>	

Introduction

In a country, the nature of the constitution is very important because it is a formal document. Andrews said, the constitution in general, must meet the elements of agreement on the shared ideals of state philosophy, legal agreement as the basis and must also contain agreement on the form of state institutions and procedures.¹

The legal basis of Pancasila, where Pancasila as the legal basis of the rule of law cannot be separated from the history of its formation, namely, it was born on June 1, 1945 in the hands of Soekarno who became the initiator of Pancasila as the basis of the state. Regarding the establishment of the Unitary State of the Republic of Indonesia.² The formulation of Pancasila has existed since June 1, 1945, spoken by Ir, Soekarno. Pancasila requires a long process from June 1, 1945, the preparation of the Jakarta Charter on June 22, 1945 until its final formulation on August 18, 1945, is an inseparable part of the process of the birth of Pancasila.

¹ Harjono, *Legitimasi Perubahan Konstitusi Kajian Terhadap UUD 1945*, Yogyakarta, Pustaka Pelajar, 2009, hlm. 35.

² Backy Krisnayuda, *Pancasila & Undang-Undang Realisasi dan Transformasi Keduanya dalam Sistem Ketatanegaran Indonesia*, Jakarta, Prenadamedia Group, 2016, hlm. 40.

Indonesia is a legal state as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, it is expressly stated that the state of Indonesia is a state of law. With the formulation of Indonesia as a country based on law in the 1945 Constitution of the Republic of Indonesia, then all are actors, supporters and implementers as it has been outlined that state administrators (policy executers) and leaders (policy makers) must have a good spirit that is in accordance with the spirit of Pancasila and 1945 Constitution of the Republic of Indonesia.³

Islam as a religion has provided various normative frameworks and applications as guidelines for human behavior on earth. Islam does not provide it in the most detailed form, but provides guidelines for values and application frameworks according to religious issues, which are able to answer the challenges of all times.

The presence of the state in the view of Islam is not a goal (*ghayah*), but as a means to an end (*wasilah*). The purpose of the establishment of a state is to realize the benefit of human beings physically and mentally, both in this world and in the hereafter. In other words, the existence of the state must realize prosperity and prosperity that is just and divine. Because the position of the state is as an instrument or means, it makes sense if in the text of revelation, the form of the state and the system of government are not stated explicitly and in detail. Instead, the text of revelation talks a lot about the state and government in a macro and universal manner. As reflected in the general principles of ash-shura (consultation), al-'is (justice), al-musawah (equality), and al-hurriyah (freedom).

The state of Indonesia as a state of law (idea of law) Pancasila provides the basis for the purpose of law, namely providing protection to the people, namely. protect people passively (negatively) by preventing arbitrary actions and actively (positively). By creating conditions for a just society to be just. Everyone is given broad and equal opportunities to develop their full human potential.⁴

In the context of Indonesian constitutional history, Islamic law has its own position, although the position of Islamic law has experienced ups and downs throughout the history of the Indonesian constitution, sometimes it is not even explicitly stated. However, in the Indonesian constitution, the content and spirit of Islamic law characterizes the Indonesian constitution. Based on the problems above, the formulation of the problem is: What is the concept of the Indonesian state constitution? How is the constitution of Indonesia in the perspective of Islamic state administration?

METHOD

The method used in this research is library research. Literature study is a research process that takes from literature, books, journals, dictionaries and the internet. Then carry out review activities from studies that are relevant to the discussion. The next activity is to discuss the results of research related to literature, books, journals, dictionaries and internals, and the last is to draw conclusions that are in accordance with the concept of the Indonesian state constitution and how the Indonesian constitution is in the perspective of Islamic administration.

RESULTS AND DISCUSSION

1. Indonesian Constitution

a. Basic Concepts of the Indonesian Constitution

In English the term constitution is known as "constitution", and in Dutch it is called "constitutie", in Indonesian it is literally often translated as the Basic Law. By using the term constitution, the problem is that we immediately imagine a written text. Whereas the term constitution for the political science circles is something broader, namely the entire set of written

³ Padmo Wahjono, *Indonesia Negara Berdasarkan Atas Hukum*, Jakarta, Ghalia Indonesia, 1986, hlm. 21

⁴ Yopi Gunawan & Kristian, *Perkembangan Konsep Negara Hukum & Negara Hukum Pancasila*, Bandung, PT Refika Aditama, 2015, hlm. 7.

and unwritten regulations that govern bindingly the ways in which a government is administered in a society. The habit of using the term constitution as a basic law is in line with the habits of the Dutch and Germans, who in everyday conversation use the words "Grondwet" (Grond = *dasar*, wet = *undang-undang*) and Grundgesetz (Grund = *dasar*, gesetz = *undang-undang*) both of which show a written text.⁵

It can be said that the meaning of the constitution in the state administration has two meanings, namely:

- 1) Wider than the Constitution.
- 2) Same with the understanding of the Constitution.

The formulators of the 1945 Constitution believe that the meaning of the constitution is broader than the constitution because the explanation of the 1945 Constitution says: "The constitution of a country is only part of the law of that state". The Constitution is a written law, but apart from the basic constitution, there is also an unwritten constitution, namely the basic rules that appear and remain in constitutional practice, even though they are not written. However, during the period of the Republic of the United States of Indonesia from December 27, 1949 to August 17, 1950, the drafters of the RIS constitution narrowly defined the term Constitution as the same as the constitution. This is indicated by the mention of the term Indonesian Constitution in the Constitution of the United States of Indonesia.⁶

In terms of power, the constitution can be seen as an institution or a set of principles that determine the distribution of power between several state institutions. Referring to the concept of trias politica, power is divided between the executive, legislative and judicial branches. The constitution determines how the centers of power work together and adjust to each other; The constitution regulates power relations within the state.

b. The Constitution That Has Been Applicable in Indonesia

When viewed from the development of the text of the constitution, since its promulgation on August 17, 1945 until now, the stages of the history of the Indonesian constitution can be said to have six stages of development, namely:⁷

1. Period 18 August 1945 to 27 December 1949.
2. Period 27 December 1949 to 17 August 1950.
3. Period 17 August to 5 July 1959.
4. Period 5 July 1959 to 19 October 1999.
5. Period 19 October 1999 to 10 August 2002.
6. Period 10 August 2002 until now.

The first period is regulated by the 1945 Constitution, the second period by the 1949 RIS Law, the third period is regulated by the 1950 Provisional Constitution, and the fourth period by the 1945 Constitution and its explanations. After that, the 1945 Constitution was amended four (4) times in 1999, 2000, 2001, 2002, using the text which came into force on July 5, 1959, which was then used as an integral part of the standard text of the 1945 Constitution. Thus, the period when the 1945 Constitution was changed to . Some laws can be called a separate period, namely the transitional period of the Constitution.⁸

The implementation of state administration based on the constitution at each period can be explained as follows:

1. The first period of the 1945 Constitution-27 December 1949

The 1945 Constitution is the first constitution in force in Indonesia which was ratified on August 18, 1945, and this was valid nationally until December 27, 1949. The first Constitutional

⁵ Miriam Budiardjo, *Dasar-Dasar Ilmu Politik*. Penerbit Gramedia Pustaka Utama, Jakarta, 2007, hlm. 95.

⁶ Toto S.Pandoyo. *Ulasan Terhadap Beberapa Ketentuan Undang-Undang Dasar 1945*, Yogyakarta, Penerbit Liberty, 1981, hlm. 25-26.

⁷ Jimly Assididjic, *Pokok-Pokok Hukum Tata Negara Indonesia*, PT Bhuana Ilmu Populer Kelompok Gramedia, Jakarta, 2007, hlm. 73.

⁸ *Ibid*, hlm. 74.

document was ratified by the Preparatory Committee for Indonesian Independence (PPKI). The preparation of the draft document for the 1945 Constitution began with the formation of the BPUPKI which was inaugurated on May 28, 1945. The formation of this body was a fulfillment of the Japanese government's promise to give independence to Indonesia in the future. BPUPKI has sessions that can be grouped into two examination periods; The first test started from May 29, 1945 to June 1, 1945, and the second test was from July 10 to July 17, 1945. From these tests, BPUPKI succeeded in compiling the full text of the draft law, which included:

- a. Declaration of Independence of Indonesia.
- b. Preamble to the Constitution.
- c. The Constitution consists of articles.⁹

After the completion of the BPUPKI mission, the Japanese government formed the Preparatory Committee for Indonesian Independence (PPKI) which was tasked with preparing everything related to Indonesian independence. At the session held on August 18, PPKI succeeded in ratifying the text of the 1945 Constitution of the draft law made as a result of BPUPKI's work, with a few changes here and there of course. In particular regarding the basis of the state: God with the obligation to carry out Islamic law for its adherents as stated in the Jakarta Charter was changed to Belief in One Supreme God.

From 18 August 1945 to 27 December 1949, the 1945 Constitution came into force. According to the provisions of this constitution, Indonesia's system of government is presidential in the sense that ministers are not responsible to parliament, but only function as assistants. to the president. However, since November 1945, Vice President No. X 16 October 1945, labor union notification letter 11 November 1945 and government notification letter 1 November 1945, political responsibility rests with the minister. This situation marked the beginning of the parliamentary system of government, which remained in practice until 1959, when the 1945 Constitution was re-proclaimed by presidential decree. Thus, the system of government that was in effect from November 1, 1945 to December 27, 1949 was different from the system of government presented in the 1945 Constitution.¹⁰

2. RIS Constitution (27 December 1949-17 August 1950)

In a situation where Indonesia had just declared independence, the Dutch wanted to control Indonesia again through the First Aggression in 1947 and the Second Aggression in 1948. Due to the fierce resistance of the Indonesian people, the Dutch were unable to control Indonesia. In 1949 the Round Table Conference (KMB) was held in The Hague, Netherlands. One of the results of the KMB was the formation of the United Republic of Indonesia. The draft Constitution of the Republic of Indonesia was also decided in the KMB and was approved to come into force on December 27, 1949.

With the establishment of the United States of Indonesia (RIS), the Republic of Indonesia (RI) remains legally established. The Republic of Indonesia changed its status to become one of the RIS countries. The 1945 Constitution which originally applied to the entire territory of Indonesia on December 27, 1949, only applies to the territory of the Unitary State of the Republic of Indonesia.

The RIS state with the RIS rule was very short-lived because it was not in the spirit of the Proclamation of Independence, which wanted a unitary state, did not want a state within a state, so the states were merged back into the Republic of Indonesia. The spirit of unity is reflected in the Presidential Decree of the RIS regarding the annexation of the state of the Republic of Indonesia, namely:

- a. On March 9, the states and regions of East Java, Central Java, Madura, Subang, and Padang were incorporated into the Republic of Indonesia.

⁹ Bakry Noor MS, *Pancasila Yuridis Kenegaraan*, Penerbit Liberty, Yogyakarta, 1994, hlm. 23.

¹⁰ Meriam Budiarjo, *Op. Cit.*, hlm. 115-116.

- b. On March 11, 1950, the State of Pasundan became the territory of the Republic of Indonesia.
- c. March 24, 1950, incorporated East Kalimantan and South Sumatra into the territory of the Republic of Indonesia.
- d. On April 4, 1950, Bangka, Belitung, Riau, Banjar, Dayak Besar, Waringin City, Southeast Kalimantan were included in the territory of the Republic of Indonesia.

Thus, only the states of East Indonesia and the states of East Sumatra have not yet been integrated into the Unitary State of the Republic of Indonesia, the center of which is Yogyakarta. On May 19, 1950, a charter of agreement was drawn up between the RIS government, in which and the government representing the state of East Indonesia declared their agreement to form a unitary state. And as a continuation of the Charter of the Treaty, a unitary state was formed based on the Provisional Constitution of 1950, on August 17, 1950.¹¹

3. UUDS 1950 period (17 August-5 July 1959)

Change of government from the United States to a Unitary State according to the Provisional Constitution of 1950, which has the principles of Pancasila in its opening, but the administration of the government system uses a parliamentary cabinet system, which is not in accordance with the spirit of Pancasila, so that the cabinet falls and rises, the average age of each cabinet less than one year. Bakry Noor MS explained that between 1950 and 1959 there were 7 cabinet changes, namely:¹²

- a. Natsir Cabinet (6 September 1950 -27 April 1951)
- b. Sukiman Cabinet (27 April 1951-3 April 1952)
- c. Wilopo Cabinet (3 April 1952 to 1 August 1953)
- d. Alisastroamidjojo I Cabinet (1 August 1953-12 August 1955)
- e. Cabinet of Burhannudin Harahap (12 August 1955-24 March 1956) f. Alisastroamidjojo II Cabinet (24 March 1956-9 April 1957)
- f. Djuanda Cabinet (9 April 1957-10 July 1959).

Similar to the 1949 RIS constitution, the 1950 Constitution of the Republic of Indonesia was temporary. This temporary nature is enshrined in Article 13, which requires the Constituent Assembly together with the Government to draw up the Constitution of the Republic of Indonesia to replace the existing Constitution, namely the Provisional Constitution of the Republic of Indonesia. The 1950 Constitution did not carry out the establishment of founders or constitutional institutions, as the implementation of Article 13 of the 1950 Constitution, the general election was successfully held.

The first general elections were held in Indonesia on September 29, 1955, namely to elect members of the DPR, and December 15, 1955, namely to elect representatives of the people who sat on the Constituent Council, whose task was to form a new Constitution of the State of Indonesia which was permanent in nature as a substitute 1950 Constitution. However, since 1956-1959 the Constituent Assembly which was given the authority to draft a new constitution has never been successful, has always experienced difficulties and has never reached an agreement. So that if this situation continues, it will certainly experience a dead end which results in a danger to the survival of the nation and state. Therefore, President Soekarno took over all government policies by issuing a Presidential Decree 5 July 1959 which read:

- 1) Dissolving the Constituent Assembly
- 2) Return to the 1945 Constitution and the invalidity of the 1950 Constitution
- 3) Establish MPRS and DPAS.

All Indonesian people agreed and supported what the President did at that time, so that through the decree there was a change in the Indonesian state administration, where the 1945 Constitution was returned as the highest law in the Unitary State of the Republic of Indonesia.

¹¹ Bakry Noor MS, *Op. Cit*, hlm. 34

¹² *Ibid*, hlm. 36.

4. UUD 1945 (ORLA 1959-1965)

This period was marked by a very strong presidential power, the limited role of political parties, the increasing influence of communists and the expansion of ABRI's role as a socio-political element. The 1945 Constitution allows the President to serve at least five years. MPRS Regulation No. III/MPRS/1963, which appointed Sukarno as president for life, abolished the five-year mandate. In 1960, President Sukarno dissolved the House of Representatives after the general election, while the Constitutional Explanation specifically stated that the President was not authorized to do so. The Gotong Royong People's Representative Council, which replaced the DPR in the MPR general election, emphasized its role as assistant to the president, while losing its supervisory role. Likewise, the leadership of the DPR is made ministers so that their function is more as assistants to the President than representatives of the people. Here the position of the President is so strong that it has penetrated into other fields outside the executive field. As contained in Law no. 19 of 1964 concerning the Basic Provisions of Judicial Power, in which the President is authorized to intervene in the judicial sector. In addition, Meriam Budiardjo said that there were many other deviations from the 1945 Constitution.¹³ The climax was the G 30 S/PKI incident which ended the period of guided democracy and opened the way to the period of Pancasila democracy.

5. UUD 1945 (1966-1998)

The transfer of power from Sukarno to Suharto led to the transition of the Order from the Old Order to the New Order. Several changes were made during the implementation of the 1945 Constitution. The New Order decided to correct various deviations from the constitution (1945) during the Old Order. In , the New Order initially tried to improve the fate of the nation in various fields of life. And the community is experiencing recovery in various areas of life through the programs described in the GBHN and Repelita. However, during the New Order era, it changed its face to an authoritarian power. The interpretation of the articles of the constitution (1945) was manipulated to maintain power. The short and flexible 1945 Constitution is also easy to misinterpret and is useful for the authorities, what is sacred is not changing not for the benefit of the people, but for the interests of the rulers themselves.

The experience of the old order of the 1945 Constitution, the very strong position of the president, was repeated in the New Order era. Legislation duties are under the authority of the President. Human rights are also restricted. Power without control has caused the New Order government to deviate in various areas of life. Corruption, Collusion and Nepotism (KKN) is rampant. Inequality of development results, the gap between the rich and the poor is widening, debt swells and eventually accumulates in a multidimensional crisis. As the pioneers of students, the people demanded reform everywhere. Finally, the New Order regime fell with Suharto's resignation on May 21, 1998.

6. The 1945 Constitution Period After Amendment (1998-present)

The historical experience of both the old and new orders and the application of the articles of the 1945 Constitution with "ambiguous" characteristics, or in other words meaningful, led to the centralization of the state. power in the hands of the president. Therefore, the 1945 Constitution needs to be amended. Amendments are mandatory because they will bring the Indonesian nation to a new chapter in structuring public administration.¹⁴

Changes to the 1945 Constitution began in 1999, when the first amendment was made by adding and amending Article 9 of the 1945 Constitution. Then the second amendment was carried out in 2000, the third amendment was carried out in 2001. and the last amendment was carried out in 2002 and ratified on 10 August 2002. Therefore, according to Jimly Assiddiqie, the official text of the 1945 Constitution of the Republic of Indonesia consists of five texts, namely:¹⁵

- 1) The text of the 1945 Constitution as enacted by the Presidential Decree 5 July 1959

¹³ Meriam Budiardjo, *Op. Cit*, hlm. 71.

¹⁴ Kaelan, *Pendidikan Pancasila*, Paradigma, Yogyakarta, 2004, hlm. 177

¹⁵ Jimly Assiddiqie, *Op. Cit*, hlm. 98.

- 2) The First Amendment to the 1945 Constitution which was ratified in 1999
- 3) The Second Amendment to the 1945 Constitution which was ratified in 2000
- 4) The Third Amendment to the 1945 Constitution which was ratified in 2001
- 5) The Fourth Amendment to the 1945 Constitution which was ratified in 2002.

2. The Constitution of the State of Indonesia in the Perspective of Islamic State Administration.

a. Medina Charter as the State Constitution in Islamic State Administration.

Islam does not separate the things of the hereafter from the things of this world; and also does not distinguish between personal gain and the good of the masses, but aims to create happiness in this world and the hereafter both individually and in groups. Islam is a religion that brings laws and regulations that can make people happy in the life of the world, such as muamalah law, criminal law, commercial law, civil law, international law, and a legal system that includes freedom and equality. rights, processing, justice and social care. As the state constitution in the Medina Charter.

Prophet Muhammad SAW announced the establishment of the Medina state because the implementation of the basic elements of state formation is known in conventional constitutional law, namely there must be a community, there must be a legal order that regulates, there must be a territory and there must be a leader. All these elements are fulfilled and stated in the words of the Prophet Muhammad SAW when he announced the establishment of the state of Medina. The following is an excerpt of the Proclamation of the Prophet Muhammad, better known as the Mitsaq Medina or the Medina Charter.¹⁶

The Medina Charter by Islamic scholars is considered the first constitution, which emphasizes the importance of mutual cooperation, cooperation, and not fighting each other. In addition, the agreement is also proof that Islam is a tolerant religion and does not discriminate between Muslims and non-Muslims. Muhammad Hamidullah wrote several of his statements on the Medina Charter. According to him, the first written state constitution ever presented by the ruler in the history of mankind was announced by the Prophet Muhammad SAW, namely in the first year of Hijriah (622 AD) and now the constitution has reached our hands. He also stated that this defense issue was indispensable for the emergence of a confederate state in Medina with very broad autonomy for each entity.

An Egyptian Islamic thinker, Hasan Ibrahim Hasan said that the Medina Charter officially indicates the establishment of a state, the contents of which can be summarized in four (4) principles, namely:

- a) Unite all Muslims from various tribes into one bond.
- b) Enlivening the spirit of mutual cooperation, coexistence, mutual guarantee of fellow human beings.
- c) Establish that everyone has the obligation to bear arms, maintain security and protect Medina from outside attacks.
- d) Ensure equality and freedom as Jews and followers of other religions in managing their interests.

In the Medina Charter it is expressly stated that the sovereignty of the state over all human groups that establish bilateral relations in Muslim society. Likewise in the relationship between one community group and another. In fact, upon closer inspection, the charter also contains provisions on military alliances such as federations to fight enemies of the state. According to the provisions of the Medina Charter, the Jews had to bear the burden with the Muslims during the battle. Jews are obligated to finance Muslims. Both sides are equally obliged to protect Yastrib from enemy attacks.¹⁷

¹⁶ Muhammad Nur Murdan, *Membangun Hubungan Antara Umat Dan Kekuasaan, Konsep Negara Dalam Piagam Madinah*, Jurnal Pappasang: Jurnal Studi Al-Qur'an-Hadis dan Pemikiran Islam 1, No. 1 (2019), 44–67,

¹⁷ A Gaffar Aziz, *Berpolitik Untuk Agama*, Pustaka Pelajar, Yogyakarta, 2000, <https://pustakapelajar.co.id/buku/berpolitik-untuk-agama/>, Akses, 20 Oktober 2022.

Indirectly it can be concluded that the Medina Charter covers all aspects and structures of human life in society, nation and state, because the Medina Charter explains the formation of the ummah, human rights, national unity, and unity. of all citizens, minority groups, civic responsibility, national defense, national leadership and peace policy.¹⁸

Prophet Muhammad SAW never determined with certainty about the form of state/government that will be followed by the leader. But that does not mean that in general it does not carry the political mechanism that is used as a benchmark. In fact, he succeeded in initiating and building many concepts and theories about the life of the nation and state.¹⁹ Didn't Prophet Muhammad SAW talk a lot about justice, welfare, deliberation, implementation of criminal law, equality of rights and obligations, tolerance, appointment of state apparatus, army commanders and even socio-political issues related to foreign relations? For example. send representatives to several neighboring countries to convey Islamic messages or establish cooperative relations in various fields.

b. Duties and Goals of the State in Islamic State

Basically a country has its own goals, but the end goal is the same, namely to create happiness for its people. To that end, the state must fulfill two general tasks, namely; (a) must regulate the life of the state as well as possible, (b) must regulate and manage the government through competent apparatus as well as possible.²⁰

a) State Duty

1) Carry out order

To create a conducive and peaceful environment, it is necessary to maintain public order that is supported by the community.

2) Welfare and prosperity of the people

A prosperous and developed country is a country that is able to make its people happy economically and socially.

3) Defense and security

The state must be able to provide a sense of security and protect itself from all disturbances and threats that come from inside and outside.

4) Upholding Justice

The state establishes legal institutions where citizens can demand justice in all aspects of life.

b) Country Destination

There are several opinions regarding the purpose of the state according to non-Muslim thinkers, including:²¹

1) Shang Yang in China that is, gaining state power.

2) Macchiavelli, namely, obtaining state power which is intended for the honor and happiness of the nation.

3) Roger H. Soltau, namely, enabling people to develop and express their creativity as freely as possible.

4) Dante Alighiere (1265-1321) In his book "De Monarchia Libri III", namely to bring about world peace.

5) Immanuel Kant (1724-1804), namely protecting and guaranteeing legal order so that the rights and freedoms of citizens are nurtured and maintained.

¹⁸ Lukman Arake, *Agama Dan Negara Perspektif Fiqh Siyasah*, Al-Adalah: Jurnal Hukum dan Politik Islam 3, no. 2 (2019).

¹⁹ Ahmad Husein Arif Al Anang, *Genealogi Aliran-Aliran Politik Dalam Islam*, Fajar Historia: Jurnal Ilmu Sejarah dan Pendidikan 4, no. 2, 2020, hlm. 68–79,

²⁰ Sigit Ridwan Abdullah, *Tujuan Negara Dalam Islam Menurut Yusuf Al-Qardhawi*, Asy-Syari'ah 19, no. 1, 2017, hlm. 15–36,

²¹ Arake, *Agama Dan Negara Perspektif Fiqh Siyasah*, Al-Adalah: Jurnal Hukum dan Politik Islam 3, no. 2, 2019.

- 6) Kranenburg, namely not only maintaining law and order, but also actively seeking the welfare of its citizens.²²

According to Al-Mawardi, in the book "Ahkam Sultaniyah", from a conceptual point of view among Islamic scholars and political thinkers in the classical period, Al-Mawardi emphasizes three important features of the state from an Islamic point of view. view, namely the existence of the state. Islamic Society (Ummat), Islamic Law (Shari'ah) and Muslim Community Leadership (Khilafah).²³

In the context of Indonesia, Mukrimin claims that Islamic politics is part of the life of the nation and state in Indonesia. Since independence in 1945 Muslims have played an important role in the formation of the state; However, they never controlled political power. This is largely due to the fragmentation of Muslim identity and society in Indonesia, which tends to be reluctant to bring religious identity into the state scene. Therefore, internal conflict and competition are the reasons why Islam does not enjoy much power as a legitimate autonomous power. Moreover, political Islam has long been marginalized and does not trust the state, especially the Sukarno and Suharto regimes, to run the government. Sometimes Muslim parties claim the marginalization of Islam at home by using Muslim votes. But considering religious matters; such as the Ministry of Religion, which regulates the Islamic economic system, for example Islamic banks, Islamic jurisprudence; in the state is intelligently regulated by state actors to reduce the potential of Islamic political power. Internal conflicts and distrust of the state are the reasons why Islam has never dominated major political powers.²⁴

Even though Islamic jurists and political experts describe the origin of the state in Islamic law, it is very different. However, based on political and constitutional principles in the Qur'an, it can be stated that the main principles of Islamic political law are: The principle of independence; The principle of justice; The principle of thinking and consensus, the principle of equality; The principle of rights and obligations of the state and the people; The principle of amar ma'ruf nahi munkar.²⁵

- 1) The principle of sovereignty, is the highest authority in the state. Absolute and legal power belongs to Allah SWT. On earth, authority acts as caliph and is entrusted to the people.²⁶
- 2) The principle of justice, is the main key of public administration. Justice in law requires that all citizens of the state are equal before the law. When the Prophet began to build the state of Medina, he began to build tahhud with all elements of Medina society from different tribes and religions. The principles of justice and equality are found in Articles 13, 15, 16, 22, 23, 2, 37 and 40 of the Medina Charter.²⁷
- 3) The principle of deliberation and ijma ', is the origin of deliberation is also found in the letter As-Shura verse (38). Deliberation and consensus is a decision-making process in all social issues, which takes place with the approval and deliberation of all parties. The leadership of the state and government must be carried out on the basis of the consent of the people through fair, honest and reliable elections. Governments or authorities that are run in an arbitrary and tyrannical manner are not in accordance with Islamic principles.²⁸

²² Abdullah, Tujuan Negara Dalam Islam Menurut Yusuf Al-Qardhawi, *Asy-Syari'ah* 19, no. 1, 2017, 15–36

²³ Al-Mawardi, *Ahkam Sulthaniyah: Sistem Pemerintahan Khilafah Islam*, Qisthi Press, Jakarta, 2014.

²⁴ Mukrimin, *Islamic Parties and the Politics of Constitutionalism in Indonesia*, *Journal of Indonesian Islam* 6, no. 2, 2012, hlm. 367–390.

²⁵ Fahmi, *Prinsip Dasar Hukum Politik Islam Dalam Perspektif Al-Quran*, *PETITA: Jurnal Kajian Ilmu Hukum dan Syariah* 2, no. 1 (2017): 33–43.

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ *Ibid.*

- 4) The principle of equality, non-Muslim citizens have the same civil rights. Because the state at that time was an ideological state, the decision-making figures who had positions of leadership and authority (ulu al-amr), they had to be able to uphold sharia. In the history of Islamic politics, the principles and constitutional framework of government like this are enshrined in the Medina Constitution or the Medina Charter in the era of the leadership of the Prophet Muhammad in Medina, which protects a pluralistic society. Even if there are accusations that Islam does not respect the principle of equality in the state because it does not provide space for non-Muslims to become leaders. For example, it is basically not because Islam does not respect the rights of minorities, but rather because the requirements and qualifications that have been set as leaders are not fulfilled. Such things are common in all systems of government in the modern world.
- 5) The principle of rights and obligations of the state and the people, Certain basic rights are guaranteed for all citizens. According to Subhi Mahmassani in his book *Arkan Yuruk al-Insan*, some of the rights of citizens that must be protected are: personal security guarantees, respect for self and property, freedom of speech and association, the right to fair consultation without discrimination, the right to proper education, health and safety in the practice of economic activity.²⁹
- 6) The principle of amar ma'ruf nahi munkar. Amar ma'ruf nahi mungkar is a mechanism of checks and balances in the Islamic political system. the system is regulated in the Hili wal Aqdi (Parliament) Experts, Wilayatul Hisba and Wilayatul Qadha. According to the majority of Muslims (Sunnis), the leader is not a holy person (Mashum), so it is possible to be criticized and reprimanded.³⁰

CONCLUSION

The history of the Indonesian constitution can be said to have gone through various stages of development. Each stage gave rise to a unique state administration model, until due to past trauma, especially the New Order political practice which abused the constitution for the purposes of its centralistic and authoritarian power, gave rise to the idea of amending the 1945 Constitution.

In principle, a state according to experts in their study describes the principles of siyasa and state administration as contained in the Al-Quran can be formulated in the basic principles of Islamic political law, among others: The principle of sovereignty; The principle of justice; The principle of deliberation and Ijma'; The principle of equality; The principle of rights and obligations of the state and the people; The principle of amar ma'ruf nahi munkar.

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³⁰ *Ibid.*

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