The Relationship Between Religion and The State in Indonesia, and Its Relation to Islamic Law

Ahmad Hamidi, Asasriwarni, Ikhwan Matondang
Universitas Islam Negeri (UIN) Imam Bonjol Padang, Indonesia
Correspondence: hamidi.5nst@gmail.com

Abstract. The relationship between religion and the state has become an actual and dynamic discourse in every phase of the development of civilization, both in the West and in the East. The debate revolves around the question of the form of the state, whether it is integral, symbiotic, or secular. Departing from this discourse, this study examined the existence of the relationship between religion (Islam) and the state in Indonesia. The approach used was Martin Heidegger's hermeneutics, while the study method used was a comparative method. The results of this study indicate that historically-normatively, the Prophet SAW had formulated the State of Medina based on the Medina Charter which spirit was based on the texts of the Qur'an, not an Islamic state based on the literal Qur'an. The scholars who became the founders of the Indonesian state had also formulated Pancasila as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia as the ideal building for establishing relations between religion and the state in Indonesia, so that religion and the state could develop dialectically. The substance of religious norms was applied after promulgation and in accordance with Pancasila and the 1945 Constitution of the Republic of Indonesia. Therefore, the ideal relationship between religion and the State could be built based on a symbiotic or dynamic-dialectical typology.

Keywords: State; Religion; Pluralism; Pancasila

Introduction

Social change is natural in human life (Irfan & HS, 2003). These changes and dynamics also occur in the order of religious and state life, so that the relationship between the two becomes an actual and dynamic debate, even exclusive-tendency in nature, for example among the Shia, Hizbut Tahrir Indonesia (HTI), the Indonesian Mujahidin Council (MMI) and Laskar Jihad (LJ) who holds the view that religion and the state are (Jurdi, 2008; Sirry, 2013). Meanwhile, in reformist circles, there is a secular view that mentions that religion and the state must be separated from its leader (Al-Raziq, 2001). The dynamics of the debate cannot be separated from the comprehensive nature of religious norms (Islam) (Sirry, 2013), which regulates worldly and hereafter affairs at the same time (Pulungan, 1997). History has proven that religious norms, especially Islam, were born and grew with the history of state life since the time of the Prophet Muhammad, especially since the formation of the Medina Charter. The Medina Charter which was formulated by the Prophet SAW was a historical witness that proved that since its early development, Islam has played an important role in the state political stage to unite all citizens in the bonds of state political agreements, not in the bonds of Islamic religious ideology (al-Mubarakfuri, 2001).

Islamic religious norms had been in effect since the establishment of the Medina state which was built by the Prophet SAW (Lindolm & Vogt, 1996). The implementation of Islamic religious norms went smoothly without any controversy among members of the pluralistic society in Medina (An-Na'im, 1990). In the Medina period, the plurality of religious life was also increasingly felt, the policy of the Prophet SAW as the leader of the Medina state had been able to provide an umbrella for the plurality of life of the community members. Nurcholish Madjid (2004) said:

> *"At the time when human life was becoming more and more plural, it became increasingly impossible to accept the truth of a teaching which was not in line with the broad wisdom of Abraham, the father of the Prophets. The essence of this teaching was the search for and partiality to truth, sincerity and goodness naturally, with a central point in the notion of the belief in the one and only God or tauhid and an attitude of submission to Him or Islam. This was what underlies the various calls in the Qur'an, either directly or indirectly, to the*

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Prophet Muhammad SAW to arrest millah Ibrahim who was hanif and Muslim"

The flexibiliy or the *hanif* of the application of Islamic religious norms has undergone drastic changes since the emergence of a modernization movement from the Western world that wants to change the world's political map to become secular (Sjadzali, 1990), including in the Islamic world. This phenomenon has given birth to excessive resistance movements which then gave birth to formalistic political movements, even far from the substance of Islamic religious norms. The example of these literalistic-formalistic countries is Saudi Arabia with its Wahhabi movement (Coulson, 1978; Esposito & Voll, 1998).

The movement for formalization of religion in the form of establishing a religious state (Islam) in the life of the state basically also appeared at the beginning of the independence of the Republic of Indonesia. The movement for the establishment of a religious state was not completed after the agreement of the Pancasila ideology with the principle of Belief in One God between Mohammad Hatta and KH Abdul Wahid Hasyim et al, but the movement has continued to emerge in recent days such as the movement for the establishment of an Islamic state in West Java which was pioneered by Sekarmadji Maridjan Kartosuwirjo, Kahar Muzakkar in Sulawesi, and Daud Beureueh in Aceh (Ismail, 2001).

The birth of the movement for the establishment of a religious state cannot be separated from the problem of the unfinished comprehensive understanding of the ideal relationship between religion and the state, so that movements for the formalization of religion in state life always appear at every time or period. Therefore, the study of the development of the ideal relationship between religion and the state has an important meaning in the life of the state in Indonesia.

Departing from this phenomenon, the author formulated the problem to be studied in this paper, yhay are: how are the historical roots of the relationship between religion and the state in Islam?, how is the relationship between religion and the state in Indonesia?, and how is the relationship between religion and the state in Islamic law?

The Historical Root of Religion and The State in The Early Time of Islam

Theoretically, a state is an integrated society because it has legitimate coercive authority, superior to groups or individuals who are part of that society. There is also another opinion which describes that the state is a territorial area in which the people are ruled by a number of officials or which has succeeded in obliging its citizens to obey through power control. Meanwhile, the nation (Kaelan, 2010) is a group that has the same will, is in one area, and has the will to form a government (Setiawan, 2012).

Therefore, the nation state can be understood as a group of citizens who share the same ideals to build a system of government by complying with the laws and regulations enacted, including building a relationship between the state and the religion adopted by its citizens in an area. The word Islam means entering into peace, while in terms, Islam means a religion that teaches submission to Allah, monotheism and submission to Him, and peace, so the word *ad-din* according to Ibn Abbas includes faith, law, ethics and worship described in detail, while the problem of social interaction (*mu'amalat*) is only explained globally. As for Islam, what is meant here is the Islamic religious norm that teaches peace or the social benefit of masalih *al-'amm* which is within the scope of *mu'amalat* although other aspects are still related. Islam as a perfect religion always recognizes the nature of human development and does not hinder it (al-Fauzan, 1998; Sirry, 2013).

Ibn Khaldun argues that the existence of community organization is a necessity for humans as social or political beings. Humans cannot live without organization (Sjadzali, 1990). With regard to state issues, Muslims began to live in a state since the Prophet SAW moved to Yasrib, which was later changed to Medina. It was in Medina that a community of nations was born who lived together with one goal to build a country based on a pluralistic life, both in terms of religion (there are Muslim and non-Muslim groups) and in terms of groups, namely the Ansar group (followers of the Prophet who came from Medina) and Muhajirin (followers of the Prophet from Mecca). After settling in Medina, the Prophet Muhammad then formulated and promulgated the Medina Charter. According to political experts, the Medina Charter was seen as the constitution or the basic constitution of the state for the first Medina state founded by the Prophet SAW. The main content of the Medina Charter described the nature of pluralism as a nation, not as a state based on a particular religion. This ccould be seen from the

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contents of the Medina Charter which were stated among others; "Muslims are a unified ummah, they live side by side with other community groups", "All citizens will work hand in hand in the face of other parties who launched attacks on Yasrib (Medinah)", and "This Letter of Agreement does not prevent (to defend) those who do wrong and sin. Everyone was guaranteed security, whether they were in Medina or outside Medina, except for doing wrong and sin." (Sjadzali, 1990).

The principle of living as a nation and state which was built by the Prophet SAW was egalitarian, inclusive, pluralist and aspirational. One example of this principle was described in the preparation of the text of the Hudaibiyah Agreement; The Prophet SAW received input and aspirations from the envoy of Qurasy, Suhail ibn Amr. Suhail had a political will that sticked with his political interests and did not want to compromise with the formulation offered by the Prophet SAW. Munawir Syadzali described:

The compiling of the text of the Hudaibiyah Agreement became an important event that the Prophet SAW had an inclusive and aspirational attitude in building the text of the agreement. Although there were attempts to remove the formal symbols of divinity and apostolate in the text, the Prophet SAW still accepted it because the substance of Islamic religious norms could be implemented properly. With his inclusive and aspirational attitude, the Prophet SAW was able to build an agreement with the Quraysh people of Mecca, so that the Prophet SAW and his companions can perform Umrah in Mecca in the following year (Sjadzali, 1990).

Prophet SAW as a leader ruled the people of Medina by neutralizing the power of social groups that often caused physical conflicts. The political power of the state built by the Prophet was intended to regulate human relations in society and to control the life of the community that had the potential for conflict. The birth of a number of agreements according to Muhammad Marmaduke Picktal in his book *The Meaning of Glorious Koran* is the proof that the Prophet SAW had built a state and religious political life system to regulate the public interest as the state constitution. The birth of a number of treaty texts is also the proof that the Medina state had been formed, although the Prophet SAW never declared the establishment of an Islamic State, but with the Medina state, Islamic religious norms that regulated worldly and hereafter affairs could be carried out properly (Amiruddin, 2000).

In political science, the state led by the Prophet SAW qualifies as a state because of the element of territory, the city of Medina, a people consisting of Muhajirin, Ansar and non-Muslims, and a sovereign government based on the Medina Charter. The Medina Charter was the constitutional basis for running a government system that was able to defend and protect the rights of its diverse citizens and establish cooperation with neighboring countries. The country under the leadership of the Prophet SAW continued to maintain order and security, seeked welfare and prosperity, realized justice and eradicated all forms of lawlessness (Amiruddin, 2000).

The inclusive and aspirational nature of the Prophet SAW then followed by his friends. Abu Bakr when elected as the first caliph after the death of the Prophet SAW, stated openly that he was not the best of his people despite being a leader. Its citizens were asked to support if he run the government right, but should correct him if he was in the wrong way. Umar ibn Khattab also delivered his first speech after being elected to the second caliph by declaring that if he governed the country properly, helped him, but if he went on the wrong path, corrected him. Uthman bin Affan as the third caliph ruled in a more lenient way in contrast to Umar, he gave instructions to his assistants to defend and protect their citizens while fulfilling the rights of their citizens, not only asking the people to pay zakat or taxes. Ali bin Abi Talib as the last caliph delivered his first speech to follow the commands of the Qur'an and Sunnah and protected the rights of its citizens (Sjadzali, 1990).

In the theory of social change as put forward by Umar Kayam in his work entitled *Pergeseran Sosial Budaya dan Implikasinya dalam Pembangunan*, mentioned that what the Prophet SAW and his companions did was a process of liberation from all forms of oppression and shackles, namely the shackles of ignorance. However, that's not all that the Prophet SAW and his companions did, but also at the same time forming new values, namely the state life system based on the Medina Charter. With the Medina Charter, the Prophet and his companions then integrated the universal values of Islamic religious norms into state life (Irfan & HS, 2003).

From a non-Muslim point of view, the Bishop of Sidon Paul of Antioch, a religious leader from the Malikite sect, who lived in the early 12th century admitted that he not only recognized the noble values of the Prophet's religious norms that were able to organize state life, but even recognized him as one of the

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a prophet who was sent to the Arabs. Montgomery Watt also admitted that the Prophet SAW was really a Prophet and Christians should admitted this based on Christianity because throughout time Islam had given birth to many righteous people who were able to uphold justice and law (A. Shihab, 2005).

The Relationship Between Religion And The State in Indonesia

In Islamic history, there are three typologies of the relationship between religion and the state. Din Syamsudin divides it as follows: *First,* those who think that the relationship between religion and the state is integral. The domain of religion is also the domain of the state, and vice versa, so that the relationship between religion and the state has no distance and runs as a unit. The figure supporting this movement is al-Maududi. *Second,* there are groups who argue that the relationship between religion and the state is symbiotic and dynamic-dialectical, not directly related, so that the two regions still have distance and respective control, so that religion and the state go hand in hand. Both meet for the sake of fulfilling their respective interests. Religion requires state institutions to accelerate its development, as well as state institutions need religion to build a just state and in accordance with the spirit of divinity. World Muslim figures in this group include Abdullahi Ahmed An-Na'im, Muhammad Syahrur, Nasr Hamid Abu Zaid, Abdurrahman Wahid and Nurcholish Madjid. *Third,* the group that believes that religion and the state are two different domains and has no relationship at all. This group separates the relationship between religion and politics/state. Therefore, this group rejects the basis of the state on religion or the formalization of religious norms into the state legal system (Syamsudin, 1999). One of the world's Muslim leaders who belong to this group is Ali Abd Raziq. In addition, R. R. Alford in his research entitled *Religion and Politics* states that religion does not have a significant influence on the political behavior of its adherents, and sometimes even has the opposite tendency in the Western world, so that the main political orientation is secularization (Alford, 1988).

In the history of the Indonesian nation, the relationship between religion (Islam) and the state developed into four groups. *First,* the group that integrated religion and the state as two inseparable things. The history of the integration of religion and the state went on intensively during the growth of Islamic kingdoms, such as the Islamic Kingdom of Perelak, the Islamic Kingdom of Samudera and Pasai in Aceh. In the constitutional system, state law became religious law and religious

law also became state law. The relationship between religion and the state run safely and peacefully without any conflict. *Second,* there were groups who thought that religion and the state run in a vortex of conflict and denied each other between the two as happened in West Sumatra. The conflict arised because the clergy had the will to apply religious/Islamic norms in totality, while the local community members rejected the application of these religious norms. This incident led to an open war known as the Padri war (war of religious leaders). From that incident emerged the motto "customs based on syara' and syara' based on Kitabullah" which means; *the existence of customary law is recognized as long as it does not conflict with the provisions of Islamic law* (Federspiel, 2001). *Third,* the group that built a dynamic-dialectical relationship between religion and the state. Religious norms were applied gradually in the national legal system and run without conflict as the government system of Goa. *Fourth,* the group that built a secular-ritualistic relationship between religion and the state. Religious norms were enforced in religious ritual traditions by the government as a symbol of protection for its citizens, so that people felt protected by the arrival of leaders, as was the tradition of Javanese royalty. Javanese kings attended religious rituals only twice a year at the mosque or sekatenan. The Javanese kings gave freedom to their citizens to embrace a certain religion, which was important as well as being obedient to the king (Wahid, 2006).

In terms of political movements, the relationship between religion and the state in Indonesia has developed in the form of opposition, alienation and integration. The three typologies of religious movements have experienced progressive and successive dynamics. Islam as a religion played a political role in opposition to the Majapahit government, since the establishment of the Islamic Kingdom of Demak. Whereas during the reign of the Islamic kingdom of Demak, Islam and state politics were built in an integrated manner, but when the center of Islamic power shifted to the Mataram kingdom, the typology of Islamic relations did not adopt the pattern of integration as the practice of the Islamic kingdom of Demak, but the Islamic Mataram kingdom took a moderate model with a syncretic character. The role of the king as a religious symbol was enough to be presented twice a year, even though he did not come to the mosque on a daily basis (Hadi, 2011).

Meanwhile, the political power of religion took on a strict opposition role when the Dutch came to colonize the archipelago. The ulama and da'i fought against

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the Dutch colonial power by forming religious organizations such as the Islamic Union led by HOS Cokroaminoto in 1911. In 1912 the Muhammadiyah organization led by KH Ahmad Dahlan was also established, and in 1926 among Nusantara ulemas the Jamiyah Nahdlatul Ulama was born, with KH Hasyim Asy'arie as the leader.

The efforts of the clergy in the struggle against the Dutch colonials finally resulted in the Independence of the Republic of Indonesia on August 17, 1945. In the early days of independence, religion and the state experienced crucial periods, considering that the perception of the relationship between religion and the state was still unresolved among religious Independence leaders (Hadi, 2011).

They had different interpretations of the ideal relationship between religion and the state, so some groups thought that what was meant by the ideal relationship between religion and the state was the Jakarta Charter, but after serious debate and discussion, KH A Wahid Hasyim as one of the members of the team accommodated and accepted the deletion of seven words with the results as stated in the 1945 Constitution of the Republic of Indonesia (UUD-NKRI) with the ideology of Pancasila (Ismail, 2001). In the formulation of the ideology and constitution, the substance of the Indonesian state is in the form of a *religious nation state*. The state does not deny the role of religion, and religion does not deny the existence of the state. Religion and the state have an important role in the success of the ideals of the independence of the Republic of Indonesia, that is realizing social welfare and the intellectual life of the nation and state within the unitary State of the Republic of Indonesia (NKRI).

KH Wahid Hasyim's decision had surpassed the religious understanding of his time, where he had succeeded in finding transcendental values that could be the basis of all religions and groups, so that different religious views that could trigger conflicts and disputes could be neutralized and compromised. This decision has similarities with the results of R. R. Alford's research entitled "*Religion and Politics*", which states that if plural religious understanding enters the practical political arena, it will cause conflict and is far from compromised, so that the search for transcendental values becomes a necessity (Alford, 1988).

The decision of KH Wahid Hasyim also has similarities with the history of the preparation of the *Hudaibiyah Agreement* and the *Medina Charter* where the Prophet SAW took substantive, not formalistic policies. Although the formal symbols of

divinity and apostolate were removed in the text of the agreement, the Prophet SAW still accepted it because the substance and purpose of religion can be carried out properly, for example the Prophet SAW could still perform Umrah in Mecca, provided protection to all citizens and promoteed their welfare (Sjadzali, 1990). The first principle of *Belief in One God* is proof that the Unitary State of the Republic of Indonesia is a country that has substantially in common with the state formed by the Prophet SAW as a religious nation state. The Prophet SAW fought atheists (infidels) and rebels, but the Prophet SAW guarded and protected non-Muslims. Likewise, the Unitary State of the Republic of Indonesia prohibits anti-God and anti-religious attitudes, but "The State guarantees the independence of each resident to embrace their own religion and to worship according to their religion and beliefs".(Ismail, 2001)

Article 1 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which is the original text contains the principle that "the State of Indonesia is a Unitary State", which is in the form of a Republic. The article formulated by PPKI became the determination of the Indonesian people in the Youth Pledge of 1928, namely one county, one nation, one language of unity, one homeland, namely Indonesia. The determination of the Indonesian people to want a unitary state was then stated in the basic guidelines for the 1999-2000 People's Consultative Assembly of the Republic of Indonesia (MPR-RI) in carrying out the 1945 Amendments to the 1945 Constitution of the Republic of Indonesia. The amendment does not change the Preamble to the 1945 Constitution of the Republic of Indonesia and still maintains the Unitary State of the Republic of Indonesia (Sjadzali, 1990).

The scholars who became the founders of the state (KH. Abdul Wahid Hasyim, Abdul Kahar Muzakkir, H. Agus Salim and Abikusno Tjokrosurojo) realized that the establishment of the state was not an end in itself, but as a means to achieve the benefit of human life. Likewise, the purpose of Islamic religious norms (*Maqasid asy-Syari'ah*) is to realize the benefit of human life as a whole without distinguishing race, religion or class. This religious plurality was realized by the ulama who became the founders of the state, so they took policies by formulating the ideology of Pancasila and the 1945 Constitution of the Republic of Indonesia which accommodated the aspirations of all groups and religions. Thus, if the Unitary State of the Republic of Indonesia with the Pancasila ideology is considered final, then it is natural because the idea was born from the traditions

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and religious spirit of its citizens. The existence of the Unitary State of the Republic of Indonesia with the ideology of Pancasila was culturally stronger, after Nahdlatul Ulama through its 1984 congress in Situbondo, East Java, confirmed Pancasila as the single principle of the state (Ismail, 2001; Wahid, 2006).

In line with efforts to enforce a functional political movement, one of the prominent figures of Muhammadiyah, Ahmad Syafii Ma'arif, voiced the need for the implementation of religious substance, in the sense that religion must color the morality of politics or the state, and at the same time reject the formalization of religion, in the sense of politicizing religion. The practice of formalizing religion had been carried out in 1955. At that time, the mosque had turned into a campaign site for religious (Islamic) parties. The Friday sermon was marked by political party campaigns so that the mosque ceased to be a comfortable place to worship. In fact, the mosque was built not for practical political interests, but for the interests of religious ideals, namely the welfare of the world and the hereafter (Surah at-Taubah: 107-108 and QS. Ali 'Imran: 103, 105, and 112).(Dahlan, 2014)

Recently, there have also been widespread demands for the formalization of Islamic religious norms in the life of the state and nation. The groups that demand the formalization of religion by changing the state ideology are Hizbut Tahrir Indonesia (HTI) and Majlis Mujahidin Indonesia (MMI). They do not want to admit the existence of the Unitary State of the Republic of Indonesia as a legitimate and final state; they still keep a latent ideology, namely their version of Islamic ideology to replace the ideology of Pancasila and the Unitary Republic of Indonesia. They infiltrate various elements and government agencies with the aim of changing the ideology of the people around them to follow their ideology which is considered the most correct. They are trying to replace flexible and elastic Islamic religious norms with rigid religious norms and do not want to make peace with local environmental conditions even though it is good and makruf.(Wahid, 2011).

The religious traditions of HTI and MMI have the same character. Since its establishment in Palestine al-Quds in 1953, Hizb ut-Tahrir is of the view that the enforcement of Islamic religious norms must go through the legal-formal state. Hizb ut-Tahrir in Indonesia (HTI) has also became one of the most active organizations to market the ideas of the Islamic caliphate. Likewise MMI, but they only cover the archipelago. They understand the norms of Islam only from a legal-formal point of view (Arif, 2014).

Laskar Jihad (LJ) which was founded in Yogyakarta in 1994 led by Dja'far Umar Thalib also taught that the norms of the Islamic religion he adhered to were the most correct and authentic, while other Islamic sects were less valid or heretical. Robert W Hefner argued that LJ also had a strong political motive since its inception. LJ was not born to build the country, but instead spread hatred towards the country (Hefner, 2005; Jurdi, 2008). By borrowing the thoughts of M Quraish Shihab, in his book *Rationality of the Qur'an: A Critical Study of Tafsir al-Manar*, it can be stated that HTI, MMI and LJ can be grouped into groups that do not want to use reason, while religion emphasizes the obligation to use common sense in understanding Islamic religious norms and prohibitions on taqlid, including the prohibition of taqlid to other forms of state such as the Islamic caliphate, which is not born of Indonesian cultural traditions (M. Q. Shihab, 2006).

The principles of HTI, MMI and LJ also contradict Article 18 B paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states that the state recognizes and respects customary law community units and their traditional rights as long as they are in accordance with the traditions of community life and the principles of the Unitary State of the Republic of Indonesia. In the article it is stated that the state recognizes and respects customary law community units and their traditional rights as long as they are in accordance with the traditions of community life and the principles of the Unitary State of the Republic of Indonesia. This article provides space to accommodate the existence of customary law and its traditional rights (Ismail, 2001). Meanwhile, HTI, MMI and LJ do not want to recognize customary law and their traditional right, what they recognize is only their version of the Islamic religious norm. MMI, for example, rejects all forms of state systems originating from the West. The religious paradigms of the three organizations have similarities with the view of the book al-Mugniyah which is exclusive-tendential, where the book explains that the successor of the Prophet SAW was only Ali (Sirry, 2013).

Within the framework of the state system, dynamic-dialectical or symbiotic typology can be considered as an ideal typology. Religious norms are applied gradually in state life while still paying attention to the substance of Islamic religious norms which aim to realize the benefit of the community. Islamic religious norms and the ideology of Pancasila as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia have the same goals, namely

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maintaining the existence of the oneness of God, maintaining human dignity, maintaining unity and integrity, state policies built based on deliberation. These four principles are aimed at realizing social justice for all Indonesian citizens. In the language of ushul fiqh, it is known as the general benefit (*al-maslahah al-'ammah*) (Khallaf, 1999). Benefit or welfare is the main goal in Islamic religious norms. Even the general benefit (*al-maslahah al-'ammah*) must be prioritized in determining state policy, because state policy must give birth to the general benefit for its people (Wahid, 2006).

The ideal relationship between religious norms and Pancasila was also built by Jam'iyah Nahdalatul Ulama by making Pancasila as the principle, while Islam as its creed. In this case, the relationship between aqidah and principle is separated as a symbol of a dynamic balance of relations but there is no separation between the two. The formulation was determined by KH Ahmad Siddiq, Rois Am Executive Board of Nahdlatul Ulama (PBNU) during the NU Congress in Situbondo, East Java in 1984 (Wahid, 2001). The ideal relationship between religion and the state is also described in the word of God which explains the problem of the perfection of Islam if it is understood and practiced properly, substantively, not literalisticly (Surah al-Ma'idah [5]: 3) and (Surah al-Baqarah [2]: 208) (Wahid, 2006).

The history of the preparation of the *Hudaibiyah Agreement* where the Prophet Muhammad SAW also describes the obligation to practice Islamic religious norms in a substantive, inclusive and aspirational manner in the life of the state, not formalistically. Although there were efforts to remove the formal symbols of divinity and apostolate in the text, the Prophet SAW still accepted it because the substance and purpose of religion could be carried out properly at that time (Sjadzali, 1990). Based on these historical facts, there is no justifiable excuse for establishing an Islamic State in Indonesia as demanded by HTI, MMI and LJ, because Islamic religious norms have applied and are running as they should in the Pancasila ideology. Even the state has guaranteed and protected and supported every adherent of the religion (Islam) to carry out the teachings of his religion (Wahid, 2006).

Ibn Taimiyah also issued a fatwa regarding the permissibility of more than one imam or state leader. With this fatwa, it means that it does not require the establishment of an Islamic State as the HTI version of the Islamic caliphate system. However, Ibn Taimiyah's fatwa was not used by them. Ibn Taimiyah's

religious understanding was actually embraced by the founding scholars of the Indonesian state who not only succeeded in formulating a religiously nuanced Pancasila as the sole principle in building the Unitary State of the Republic of Indonesia, but also succeeded in resisting the Dutch colonials with the issuance of the Jihad resolution and succeeded in fighting the rebels who wanted to undermine the Pancasila ideology (Ahmad, 2010).

The success of the founding scholars of the country also radiated from the light of the noble values of Islamic religious norms brought by the Prophet SAW. Philip K Hitti in his book entitled *History of the Arabs* explains that the Prophet SAW in a short time had succeeded in laying universal and inclusive principles to form a nation-state that had never been united before, was able to build various cities which would later become the center of world civilization, and brought the holy book which was a source of knowledge, wisdom and faith. Not only that, even the Prophet SAW was able to build ties of brotherhood among citizens and nations in Medina based on the Medina Charter (Hitti, 2010).

In the life of the Indonesian state, the ideal typology that needs to be developed regarding the relationship between religion and the state is to build a symbiotic or dialectical dynamic relationship, namely *First,* Islamic religious norms which are institutionalized in the national legal system must go through a valid legislative process, so that religious norms are validly enforced. Religion and the state synergize to realize the aspirations and needs of religious citizens. *Second,* the state synergizes to build national legal norms originating from Islamic religious norms as social ethics and public morality. In this ethical role, Islamic religious norms are substantively integrated into the Indonesian political structure through state political ethics. Islamic religious norms are the basis for the basis of the State, and the state builds the foundation for implementing the noble values of these religious norms. This system is known as "Pancasila is the building of the house; Islam is the rule of the household". By exploring the substance, religion and the state can synergize in upholding the principles of *syura* (deliberation), *'adalah (*justice) and *musawah* (equality) in national and social life (Arif, 2014).

The Relationship of Religion and The State in Islamic Law

In Islam, the relationship between religion and the state has been a long debate among Islamic scholars until now. In the historical trajectory of Islam, the relationship between religion and the state and the political system shows very

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diverse facts. Many traditional scholars have argued that Islam is a belief system in which religion has a close relationship with politics. Islam provides a world view and meaning of life for humans, including the political field (Rosyada, 2003).

From this point of view, basically in Islam there is no separation between religion and politics (daula). This argument is often associated with the position of the Prophet Muhammad when he was in Medina who built a system of government in a city-state. In Medina, the Prophet served as head of government as well as head of religion. Responding to this, Ibn Taimiyah said that the position of the Prophet at that time was as an Apostle in charge of conveying teachings (al-kitab) not as a ruler. Even if there is a government, it is only a tool to convey religion and power is not religion. In other words, politics or the state is only a tool for religion, not an existence of religion. Ibn Taimiyah's opinion is confirmed by the verse of the Qur'an Surah Al-Hadid 25:

 "Certainly We sent Our Messengers with the clear proofs, and sent down with them the Book and the Balance that they may rule with justice amongst the mankind. And We have sent down the iron, wherein is great hardness in it and many benefits in it for mankind. And (this is) for Allah to know (distinguish) who will help Him and His Messengers in the Unseen (without seeing Him). Surely Allah is All-Strong, All-Mighty. **(QS. 57: 25)**.

From the verse above, Ibn Taymiyya said that the true religion must have a manual and a helping sword. This means that political power symbolized by the sword becomes something absolute for religion, but that power is not religion itself. Syafi'i Ma'arif emphasized that the term *daulah* which means state is not found in the Qur'an. The term *daulah* does exist in the Qur'an (Qur'an 57: 25) but it does not mean the state. The term is used figuratively to describe the circulation or change of hands from power (Rosyada, 2003).

Fazlur Rahman, even though did not clearly state his opinion on the Islamic concept of the state, seems to be more inclined to argue that Islam does not command and also does not teach clearly about the constitutional system but acknowledges his opinion on a number of values and ethics in the Qur'an. Although the Prophet Muhammad never declared himself to be the leader of the state, he has made the state a tool for Islam to spread and develop religion (Rosyada, 2003).

Abdurrahrnan Wahid, also gave a significant portion of his thoughts on the relationship between the State and religion, and tried to provide alternatives in

the two conflicts. According to him, state thought in Islam can basically be divided into two types of thought, namely idealistic thinking and realistic thinking. Idealistic thinking tries to consciously formulate a state framework that is entirely based on Islamic insight. In this view, Islam is a state concept that must be fully realized in a society that is one hundred percent Islamic. Meanwhile, realistic thinking is not so tempted by the utopian building of an ideal state according to Islamic insight, but is more interested in solving the problem of how historical developments can be accommodated in Islam about the state.

In the historical trajectory and opinions of Islamic political theorists, there are several opinions regarding the concept of the relationship between religion and the state, which can be summarized into three paradigms, namely integralistic, symbiotic, and secularistic (Rosyada, 2003).

Integralistic Paradigm

The integralistic paradigm is an understanding and concept of the relationship between religion and the state which assumes that religion and the state are an inseparable unit. Both are two integrated institutions. This also gives an understanding that the state is a political institution as well as a religious institution. This concept reaffirms that Islam does not recognize the separation between religion and politics or the state.

This paradigm then gave birth to the concept of state religion, which means that state life is regulated by using religious laws and principles. From here, the integralistic paradigm is also known as the Islamic understanding of din wa daulah, whose source of positive law is religious law. This integralistic paradigm, among others, is adopted by *Syi'ah* Islamic groups. It's just that the Shia do not use the term *daulah* but the term *imamah*

The Symbiotic Paradigm

According to this concept, the relationship between religion and the state is understood to need each other and reciprocal. In this context, religion requires the state as an instrument in preserving and developing religion. Vice versa, the state also needs religion, because religion also helps the state in fostering morals, ethics and spirituality.

In the context of the symbiotic paradigm, Ibn Taimiyah said that the existence of power that regulates human life is the greatest religious obligation because

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without state power, religion cannot stand upright. Ibn Taimiyah's opinion legitimizes that between religion and the state are two different entities, but need each other. Therefore, the constitution that applies in this paradigm does not only come from the existence of social contact, but can also be colored by state law.

Secularistic Paradigm

The secularistic paradigm assumes that there is a separation (disparity) between the state and religion. State and religion are two different forms and each one has its own fields of work, so their existence must be separated and cannot interfere with each other.

The actualization of Islamic law with the state in Indonesia is reflected in the various basic norms that regulate the state constitution and various laws and regulations as the state's commitment to the concepts of religious law. As stipulated in Article 29 of the 1945 Constitution of the Republic of Indonesia, as a derivative of the first principle of Pancasila, it guarantees independence for each resident to embrace religion in accordance with the Shari'a of their respective religions. The Republic of Indonesia gives full guarantee to everyone to freely adhere to a religion and practice the teachings of that religion. The practice of religious teachings is identical to worship in Islam.

It is clear, that the word "worship" comes from the Islamic vocabulary. God's purpose in creating jinn and humans is to worship Him (Surah adz-Dzariyat/51: 56). Worship literally means humility (adh-dzall), submission (al-khudu'), and obedience (al-inqiya). Thus, to worship means to humble oneself before Allah and submit and obey the provisions of His law. In Islam, worship is not only limited in the sense of carrying out ritual obligations that have been determined by the procedure or worship of mahdah, such as prayer, fasting, zakat and hajj, but also includes all obligations to Allah and all types of activities that are intended as obedience to Allah or bring benefit. for humans, both individually and socially.

Relevant to the assumptions above, according to Rifyal Ka'bah that the implementation of some Islamic law as norms adopted by the community requires state power, as in Hart's legal theory, that law requires state power for its implementation which is referred to as primary rules of obligation that have been confirmed by secondary rules. H. L. A. Hart in The Concept of Law understands law from what he calls primary rules (primary rules) and secondary

rules (secondary rules). The attention of primary rules is to actions that should or should not be done by individuals. While the attention of secondary rules is to the primary rules themselves, it's all up to the individual or society as a whole, and no special person or institution feels more responsible for implementing them (Dedi & Hardivizon, 2018; Ka'bah, 1999).

Furthermore, Rifyal Kaaba stated that some of them do not need the state, and some of them are between needing and not needing it, depending on the situation. Islamic law that requires state power, for example, is about marriage, inheritance, waqf, civil, criminal, economic, trade, banking, relations between countries, health and others. Without implementing regulations in a national legal system against these Islamic legal norms, it will not get a proper and effective acceptance in society (Ka'bah, 1999).

Laws that do not require state power include those relating to customs of courtesy and pure worship such as prayer and fasting. Islam, for example, outlines the rules of greeting, how to enter public places, how to visit, how to propose, how to carry out and attend parties and so on. This is all related to morality in Islam. Likewise the provisions on how to purify, bathe, perform ablution, pray and fast (Ka'bah, 1999).

On the other hand, some Islamic law can be implemented with or without state power, for example the law regarding zakat and hajj. In the past, without the intervention of state power, the worship of zakat and hajj could still be carried out by the Muslim community, even though it was not effective. However, now society and the state are seriously thinking about making laws regarding the organization of the pilgrimage, and have regulated the management of zakat for Muslims through the Zakat Management Act. In addition to the claim of protection for citizens to carry out their religious worship, behind the effort to make laws regarding these two types of Islamic worship, the state actually has certain interests, especially finance. Through the arrangement of these two worships, the state obtains income from the community, opens the workforce and improves its performance in the eyes of the community (Ka'bah, 1999).

Tahir Azhary adds that in the contemporary western concept in general, it can be said that both the state and law have been separated from religion. Religion has been alienated from the state and law. On the other hand, the state and law have a close relationship, although the existence of law is not always determined by the

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state. In contrast to western thought which has separated religion and from the state and law, in Islamic thought, state and law are closely related to religion. In Islam there is no known dichotomy, either between religion and the state or between religion and law (Ka'bah, 1999).

Therefore, dividing Islamic law into worship and mu'amalah in relation to state power is no longer appropriate today. The issue of zakat and hajj has so far been seen as a matter of worship which depends a lot on the obedience of individual Muslims for its implementation, but because it involves the interests of many people, these two types of worship have now entered the scope of muamalat. Arrangements related to religious matters such as prayer times, fasting, breaking the fast, and celebrating holidays in Indonesia currently require the intervention of state power (Ka'bah, 1999).

In line with the description above, the relevant thought that describes the relationship between religion and the state in the context of the Indonesian constitution is in conformity with the third paradigm, that Islam does not cover everything, but includes a set of ethical principles and values regarding social life including the state. Religious values in which Islamic values/Islamic law become a source of law in the formation of laws and regulations in Indonesia. Such as the birth of the Zakat Management Act, the Hajj Organizing Act, the Special Autonomy Law for Nanggroe Aceh Darussalam, the Pornography Law, the National Education System Law, the Sharia Banking Law, and others. This shows that the values and principles of Islamic Shari'a have become a legal source for the preparation of legal norms in statutory regulations.

Conclusion

Historically, the relationship between religion and the state has undergone a dynamic process, starting from a formalistic typology to a secularistic typology. Meanwhile, the relationship between religion and the state that was built by the Prophet SAW had an inclusive and substantive tendency. From this typology, the relationship between religion and the state needs to be built based on a symbiotic or dynamic-dialectical typology. Constitutionally, religion and the state run dialectically dynamically, so that the institutionalization of the substance of Islamic religious norms in the life of the nation and state cannot be carried out in an unconstitutional way, but must go through a constitutional process, based on Pancasila and the 1945 Constitution of the Republic of Indonesia. The

substance of Islamic religious norms can only be applied in the national legal system if it is constitutionally promulgated and in accordance with Pancasila and the 1945 Constitution of the Republic of Indonesia as also applied by the Prophet SAW in the preparation of the Hudaibiyah Agreement and the Medina Charter, so that religion and the state play an important role in realizing the welfare of the citizens of the community.

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