

God's Sovereignty in the 1945 Constitution and Its Implementation in the Formation of Sharia Legislation

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Abstract

Sovereignty is a concept of supreme power in a state. God's sovereignty, which means the highest authority in a country is God. God has sovereignty over the administration of the state or government. The problem in this study is how the concept of God's sovereignty in the 1945 Constitution needs to be implemented in the lives of Indonesian Muslims in the context of the Indonesian legal state. The results of this study explain that the teaching of God's sovereignty in the 1945 Constitution is the basis for organizing national, state and social life. The teaching of God's sovereignty needs to be implemented by establishing laws and regulations that have Sharia nuances. The 1945 Constitution as a written basic law has provided direction and objectives in the formation of law in Indonesia, especially for Muslims in Indonesia. In the context of an Islamic state of law (nomocracy), the 1945 Constitution contains maqashid sharia whose aim is to form laws in accordance with the philosophical values prescribed by Allah to mankind for the benefit of the people. The direction and objectives of the law that have been determined in the 1945 Constitution will make it easier for the Indonesian Muslim community to see which laws are good to follow and which laws need to be changed. So far, there have been laws or regulations resulting from national legislation products with Islamic nuances, including regional regulations.

Keywords: God's Sovereignty, Law, Sharia

INTRODUCTION

Sovereignty is a teaching regarding the highest power in a country (Asshiddiqie, 1994), meaning it is the highest form of sovereign power in state administration. The word "sovereignty" comes from the word "sovereign" which means power; government (Indonesia, 1988). According to Salim (2010), the word sovereignty means the highest power over the government or state, and the highest power is generally exercised by the state. According to Latin, sovereignty is "superanus" meaning top. Sovereignty is an essential characteristic of a state, so it is said that the state is sovereign, meaning that the state has supreme power (Santoso, 2018). According to Mochtar Kusumaatmadja (2003), sovereignty as the highest power has important limitations, namely: (1) power is limited to the territorial boundaries of the country holding the power; (2) power ends when the power of another state begins. It can also be said that sovereignty is the highest power of the state, namely power that is not under other powers. For example, a sovereign government means that the people obey the government so that legal order can be implemented in the country (Andriyan, 2021). Thus, a sovereign state means that the state has the power to govern its people without interference from other countries. Indonesia is a sovereign country, meaning that the Indonesian state has the highest power to regulate the lives of its people.

The 1945 Constitution as the Indonesian state constitution is a basic legal norm or written political document containing supreme power or sovereignty. According to legal science, it is known that there are several doctrines of sovereignty regarding who is sovereign or powerful in a country. The 1945 Constitution recognizes several doctrines or theories of sovereignty such as the sovereignty of God, the sovereignty of kings, the sovereignty of the state, the sovereignty of law, the sovereignty of the people and the sovereignty of the environment. It is also the constitution that makes it the basic law and the higher law. In the constitution there is also a scope of outlook on life (way of life, weltanschauung) and the inspiration of the nation that has it. The Constitution is then used as the main source of law (rechtsbron), so that there cannot be a single piece of legislation (wettelijk regeling) that conflicts with the 1945 Constitution (in strijd zijn met de grondwet) (Saputra, 2018b).

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There are six theories of sovereignty in the 1945 Constitution, namely the theory of God's sovereignty, king's sovereignty, state sovereignty, legal sovereignty, people's sovereignty and environmental sovereignty. On the one hand, these six theories are developments resulting from practical interactions, and on the other hand they also illustrate differences in thinking regarding constitutional concepts in history. As a theory, none of the six theories/teachings can be called the most modern, because in constitutional practice a nation may adhere to one or more theories of sovereignty in its Constitution (Anwar, 2015). It is said that the adoption of several theories of sovereignty in the 1945 Constitution is a feature of the constitution which is very noble in nature and includes consensus (toestemming) regarding essential principles (beginselen) in the state, so that the constitution can be said to be a noble national document which is a legal document and political (Saputra, 2018b). As the highest form of legal and political document, according to Sahal Mahfudh, referring to the majority of Indonesia's Muslim population, there is an absolute need for the basic values and main concepts in the 1945 Constitution to be wholeheartedly accepted by Muslims. In this way, Muslims will be willing to assume national and state responsibilities wholeheartedly and with the belief that fighting for the realization of national ideals in the constitution is in line with realizing the noble message taught by their own religion (Mas'udi, 2010). In the scope of sharia, according to Mahfud MD, Islam can influence the constitutionalism that is built. Muslims can simultaneously take *istinbath* from the contents of the constitution or the 1945 Constitution as provisions that are in line with Islamic teachings, both *naqliyyah* and *'aqliyyah* (Mas'udi, 2010). The joint agreement of the nation's components states that a state is based on law (*rechtsstaat*, *etat de droit*), so the existence of the 1945 Constitution as a constitution in Indonesia can be accepted as a legal basis (*juridische gelding*) in constitutional practice.

Of the six theories or teachings of sovereignty adopted in the 1945 Constitution, only the teaching of God's sovereignty is the main subject or study in this paper. This is because the author tries to analyze from the perspective of Islamic law in examining one of the theories or teachings of sovereignty contained in the 1945 Constitution. Therefore, God's sovereignty as adhered to in the 1945 Constitution means sovereignty which indeed comes from God, meaning that the state is given the mandate and power by God, so the government is obliged to pass on that power to the people in accordance with God's commands. Likewise, Arthur Pink (1993) said that, the Sovereignty of God is an expression that once was generally understood. It was a phrase commonly used in religious literature. The first teaching or theory of God's sovereignty was pioneered by Augustine and Thomas Aquinas (Sibuea, 2014). According to this teaching, supreme power is in the hands of God, so that all state orders must be an implementation of God's sovereignty. All movements and activities of the government and people must be in accordance with God's will (Isharyanto, 2016). This teaching became known as theocratic doctrine, because it was the earliest and oldest attempt made by humans to answer problems or something related to power relations (Sibuea, 2014).

Over the course of history, the teaching of God's sovereignty was then applied in several countries in their constitutions. Likewise in Indonesia, because of historical experience and the formation of the 1945 Constitution at the beginning of independence which wanted an Indonesian state based on divinity or a godly state. Therefore, the concept of God's sovereignty in the 1945 Constitution explains that state administration is carried out by the government based on God's orders and God's orders are one of the matters of government administration. So, the one who has the highest power in a country is God. This is a consequence that God created this universe and its contents. Therefore, the governance and management of a country is completely according to God's will (Anwar, 2008). According to Islam, God's sovereignty is embraced in the 1945 Constitution as a constitution, because God is the Creator, Owner, Ruler and Ruler of the entire universe, while humans are only "God's caliphs" on earth. In this position, it is an obligation for humans to live their lives in this world according to God's provisions (Sadzali, 1993). The theory or teaching of God's sovereignty does not mean that state power is exercised only by religious elite groups, but by the entire Muslim community by adhering firmly to the Word of Allah in His Holy Book and the Sunnah of His Messenger (Mahendra, 1994).

The teaching of God's sovereignty as espoused in the 1945 Constitution needs to be implemented in a concrete form for the lives of its people. The real form of God's sovereignty could be in the form of sharia-based legislation. This is because the 1945 Constitution is the basic law, so in the context of a rule of law, sharia-based legislation is the goal of Islamic law for Muslim communities in Indonesia. Thus, the 1945 Constitution contains

maqashid syari'ah and the content of maqashid syari'ah is benefit. The benefit in question is the benefit in efforts to develop law seen as something that contains the philosophical value of the laws prescribed by God to humans. Thus, the problem in this study is how the concept of God's sovereignty in the 1945 Constitution needs to be implemented in the life of the nation, state and society in the context of the Indonesian rule of law.

LITERATURE REVIEW

Understanding the Definition of Sovereignty

To clarify the concept of God's sovereignty, it is necessary to first analyze the meaning of sovereignty itself. The word sovereignty comes from Arabic, namely *dawlah* or *dulah*, in the *az-Zurjawi* dictionary, literally the word *dulah* or *dawlah* means round or turn (Mas'udi, 2010). The word *daulah* has two forms, namely first, *duulatan* which means circulating, which is connected with the prohibition on the circulation of wealth only among the rich. Next there is the word *nudawiluha* which means to replace, which is related to the assertion that power is something that must be rotated among the people (Asshiddiqie, 2002). Javanese civilization also knows the theory of the cycle of power called "*cokro manggilingan*", namely that power rotates like a wheel, those who get their turn, they are the ones in power, the sovereign (Mas'udi, 2010). According to the history of Islamic civilization, the word *daulah* is used to refer to the meaning of a regime of power, such as *Daulat Bani Umaiyah*, *Daulat Bani Abbasiyyah* (Asshiddiqie, 1995).

The meaning of sovereignty can be found in the Qur'an, among others in Ali Imran's letter verse 26 which means: "*qalillahuma maalikaalmulki...*" (Say: O God Who has a kingdom,...) (K. U. A. Islam, 1418). In other interpretations and studies of this verse, there are also those who translate it as follows: "Say, O God who has (all) power..." (Hassan, 1962), then there are also those who interpret "He is Allah, the sovereign God...". (Azzam, 1983). Apart from that, there is an opinion which states that, sovereignty as a concept of power (sovereignty) to regulate life, some are limited (*muqayyad*), relative (*nisby*) and some are unlimited (*ghair muqayaad*) or absolute (Mas'udi, 2010). Thus, the meaning of absolute sovereignty is sovereignty over all sovereignty which is not limited by the sovereignty of other parties. Absolute sovereignty belongs only to Allah SWT to regulate the universe through His natural laws and regulate human life through moral law signals inspired to every human conscience (*qalb*) or revealed through His prophets and apostles. This is different from the state as a social building and civilization project that is engineered by humans in a particular area where humans are collectively sovereign as their caliphs (Mas'udi, 2010).

In subsequent developments, the term sovereignty was adopted from the English translation, namely sovereignty. The word sovereignty is a legal characteristic or attribute of countries and as an attribute of countries that has existed for a long time, some even argue that sovereignty may be older than the concept of the country itself (Isywar, 1964). Likewise, according to Padmo Wahjono, sovereignty is a legal characteristic or attribute of the state, which may be older than the concept of the state itself (Wahyono, 1985).

Thus, sovereignty is a power that does not recognize other powers above it and at the same time is a power that does not depend on other powers, so it is the highest power. According to Ismail Suny, the meaning of sovereignty is generally interpreted as the highest authority that determines all existing authorities in a country (Suny, 1984). The understanding of sovereignty as stated by Ismail Suny is in line with the opinion of C.F. Strong defines internal sovereignty, namely we have defined internal sovereignty as the supremacy of a person or body of persons in the state over the individuals or... (Strong, 1966). Harold J. Laski also said the same thing, this power is called sovereignty; and it is by the possession of sovereignty that the state is distinguished from all other forms of human association (Laski, 1967). According to Jean Bodin, as quoted by Muchtar Affandi, sovereignty is an attribute of the state, which describes the concept of supreme power or sovereignty which has a nature or essence, namely; (1) original (*ursprunglich*, *oorspronkelijk*), meaning that it is not derived from another power, or does not originate from the transfer of another power; (2) lasting or eternal (*permanent*, *duurzaam*) not limited by a certain period of time, the power continues without interruption even if there is a change of king, or changes in the structure and form of the state; (3) supreme, no other higher power can limit it; (4) indivisible (*ondeelbaar*), which is the only supreme power; and (5) cannot be transferred, meaning it cannot be transferred to another body/institution, handed over or released (Affandi, 1971).

The Concept of God's Sovereignty

Among several sovereignty teachings in the 1945 Constitution, the teaching of God's sovereignty is the main problem in the study of this paper. The teaching or theory of God's sovereignty is the first doctrine of sovereignty adopted at the time of the formation of the 1945 Constitution at the beginning of independence. God's sovereignty means that the one who is sovereign or has the highest power in a country is God. God is the one who created this universe and its contents, meaning that there is no supreme power other than God's power. Whoever obtains and holds power in a country, that power comes from God. According to Lili Rasjidi, all laws are divine laws. God Himself establishes the law, and worldly commandments are messengers of the Divine will (Rasjidi, 2007). According to Haroon Khan Sherwani, God's sovereignty refers to three different conceptions but all lead to the political aspect of the Qur'an, namely; (1) the conception of the oneness of God; (2) the kingdom of God means that all members of the human species should have the same rules applied to them; (3) that humans are truly powerless in the face of the world (Sherwani, 1964).

Another opinion also states that the teaching or theory of God's sovereignty can be assumed that the sovereignty possessed by humans is actually the executor of the sovereignty delegated by God to humans. This means that God's sovereignty is given to anyone who is able to exercise power and can rule other people. For example, a religious leader, a king or several people together, so that many ancient rulers claimed to be God, or claimed to be God's representative (Isharyanto, 2016). The development of God's sovereignty further states that the king's position as the holder of supreme power and as God's representative can apparently be conquered by another king who is not God's representative, in addition, rebels can also conquer the king. As a result, people's belief in the theory of God's sovereignty faded (Sibuea, 2014), although in the end many countries adhered to the teaching of God's sovereignty which was included in their constitution.

According to Lili Rasjidi, the theory of God's sovereignty is direct, which justifies the need for laws made by kings who incarnate themselves as God in the world, to be obeyed by every inhabitant (Rasjidi, 2007). In line with Lili Rasjidi's opinion, in its historical development the teaching or theory of God's sovereignty is the oldest theory that answers the question of the holder of sovereignty in a country. Furthermore, this theory developed in Europe during the Middle Ages, namely between the V and XV centuries. The concept of God's sovereignty is usually associated with the doctrine of theocracy. This theocratic government places the Pope as king of heaven, king of the world and king of the lower regions whose rank and power are so great, that he has one and the same position as Jesus the Messiah (Ahmad, 1977).

According to Islamic teachings, as stated by Kasman Singodimedjo (1978), God created nature and its unlimited contents. The expression of Allah's sovereignty is found in surah al-Ahzab verse 36 (Q.S. 33:36), which can be interpreted as, "If Allah and the Messenger have determined a matter (law), then a believer or believer may not determine other provisions according to his own wishes." In Islam, political power only has legal authority to create legal products in an effort to implement sharia. The problem then is how God expresses his sovereignty in the real world. The Qur'an emphasizes that humans on earth are the Khilafah (substitute/representative) of Allah. The Khilafah (substitute/representative) of Allah on earth with the task of making the earth prosperous and the power it has is a mandate. Therefore, in Islam, God's sovereignty is the source of all sovereignty. This shows God's law as "absolutely supreme", which does not limit human freedom, and is also an effective protection of human reason (Khan et al., 2022).

In connection with the teaching or theory of God's sovereignty, Ismail Suny (1984) stated that, for religious people, real sovereignty or real sovereignty does not exist in human society. Real sovereignty belongs to God Almighty, while the power that should be exercised is a sacred trust, a trust that naturally falls within the limits of God's will. This statement means that through God's sovereignty, which means that state power is not exercised by religious elite groups alone, but by the entire Muslim community by adhering firmly to the Book of Allah and the Sunnah of His Messenger. This system was called by Al-Maududi a divine democratic government, which he also called theo-democracy (Mahendra, 1994). Theo-democracy or religious political movement in Indonesia has developed, and this theo-democratic movement has been transformed into a government system gradually. This is manifested in laws and regulations that have sharia nuances (Nurcahyono & Astutik, 2020). This theo-democracy (God's sovereignty) is actually based on belief in the oneness of Allah

SWT who governs the universe. Humans as caliphs of Allah on earth are obliged to carry out all the teachings of Allah SWT without exception. Consequently, a Muslim's outlook on life and political behavior must be in accordance with Islamic teachings or law (Anwar, 2002). Essentially, theo-democracy according to Islam means that Islam gives sovereignty to the people, but that sovereignty is not absolute because it is limited by the rules and norms that come from Allah (Anwar, 2002).

According to Majid Khadduri, the term theo-democracy or theocracy was coined by Flavius Josephus (around 37-100 AD) which was used to show the characteristics of the type of Israeli state that existed at the beginning of the Christian era. Josephus qualified the state of Israel as a theocracy, which was later approved by J Welhausen and also used as a predicate for an Arab (Islamic) state (Khadduri, 1955), (Anwar, 2008), (Azhary, 1992). Menurut Azhary (1992), The correct predicate for the concept of state in Islam is nomocracy (Islam) and not theocracy, because nomocracy is a system of government that is based on a legal code, a rule of law in a society (Anwar, 2008). Therefore, Azhary emphasizes the concept of Islamic nomocracy because it is a government system that is based on the principles and rules of Islamic law (shariah) which is the rule of Islamic law (Azhary, 1992). This is an implication of the teaching of God's sovereignty which emphasizes Islamic nomocracy, that the law within the state is sharia as established by Allah and His Messenger, and a principle widely thought essential to Islamic society and political thought (Peterson, 2021).

According to Al Maududdi, God's sovereignty is not intended to eliminate human freedom, but so that humans do not fall into the wrong choice in deciding laws, such as allowing the production and buying and selling of liquor in democratic countries with sovereignty in human hands, causing many crimes. and moral destruction (Anwar, 2002). This is the basis that every Muslim everywhere must believe and make Islamic teachings (in the Qur'an and Sunnah) the basis for every aspect of life and every Muslim believes that these two sources of teaching provide a clear principle of life (Riyadi HS et al., 2020). The characteristics and principles of Islamic nomocracy are based on the values contained in the Qur'an and Sunnah. This concept places humans, God, religion and the state in an inseparable relationship with each other (Azhary, 1992). Likewise, it is said that, in the concept of an entity based on religious law as its operational basis. Islam has an entity with broader interests than conventional entities, which has an orientation towards holistic performance which includes performance in this world and the hereafter (Mukhibad, 2019).

RESEARCH METHOD

The research method in this study is descriptive-normative, namely analyzing, finding legal facts as a whole, and systematically examining the constitutional regulation of God's sovereignty in the 1945 Constitution and its implementation. Data collection techniques are carried out by collecting and studying primary legal materials and secondary legal materials. Primary legal materials consist of laws and regulations relating to the subject matter being researched, and secondary legal materials come from books, journals, papers, research reports and other forms of writings relating to the subject matter being discussed.

RESULTS AND DISCUSSION

Legal Norms of God's Sovereignty in the 1945 Constitution

The 1945 Constitution is a constitution and at the same time a written basic legal norm in Indonesia which is the aim of Indonesian law. The 1945 Constitution adheres to the teaching of God's sovereignty, which in the context of Islamic law is called "Islamic nomocracy" which contains maqashid sharia whose aim is the benefit of the people/citizens. Maqashid shari'a according to the terms is the objectives of Islamic law contained in each rule (Candra, 2020). The content of maqashid sharia in the 1945 Constitution is the belief of the Indonesian people, especially those who are Muslim, to believe in the laws that apply in Indonesia. Islam is a teaching that is very suitable and can be applied to all human beings on this earth, and the concept of maqashid sharia helps Muslims to overcome gaps (Nur Kholisha. et al., 2020). This will make it easier to see which laws are good to follow, then which laws need to be worked towards changing, because Islamic law for Muslims is not an option but a necessity. The concept of a legal state based on Islamic law (the concept of Islamic nomocracy) is naturally a logical consequence of the existence of Muslims in Indonesia.

The 1945 Constitution as a constitution is a living constitution (Gustavsson, 2008) in the sense that citizens are never completely satisfied with their role as citizens who only have rights, but also have obligations. The 1945 Constitution which contains the teaching of God's sovereignty has grown and developed in people's lives which are carried out in real life (the 1945 Constitution as a living constitution). Historically, the teaching of God's sovereignty was the first teaching contained in the 1945 Constitution, because the Indonesian state educators (founding fathers) wanted religious teachings to be part of the life of the Indonesian nation. This is because the search for origins and founding fathers has a complex relationship with theology and theology is often made significant (Gilhus, 2015) in establishing a nation. The 1945 Constitution has the privilege of including consensus (toestemming) regarding essential principles (beginselen) in the state (Saputra, 2018). As a consensus, the 1945 Constitution is a sacred agreement (al-'ahd or al-mitsaq) (Mas'udi, 2010) which is legally binding on all parties. The sovereignty of God in the 1945 Constitution in state practice is manifested in the doctrine of equality of humanity who is seen as God's caliph on the face of the earth, so that every person is born in the same condition and has the same constitutional rights and obligations. Thus, in life the only thing that is absolute is God Almighty, while all of God's creatures are relative (Asshiddiqie, 2009).

The legal norm of God's sovereignty in the 1945 Constitution can be found from the word "God" or "Godhead" which is mentioned twice and also the word "Allah" twice (Asshiddiqie, 2009). Firstly, the word Allah can be found in the third paragraph of the Preamble to the 1945 Constitution, namely: "By the grace of Almighty Allah and driven by a noble desire to live a free national life, the Indonesian people hereby declare their independence." Second, the word Allah in the formulation of the oath of office for the President/Vice President as regulated in Article 9 paragraph (1) of the 1945 Constitution, which begins with the words, "By Allah, I swear that I will fulfill my obligations...". Third, the word Belief is contained in the formulation of the fourth paragraph of the Preamble to the 1945 Constitution which is known as the formulation of the first principle of Pancasila, namely: "...then the Indonesian National Independence was formulated in a Constitution of the State of Indonesia which was formed in the structure of the Republic of Indonesia which is the sovereignty of the people with based on the Almighty Godhead, ...". Fourth, the word divinity is contained in the formulation of Article 29 paragraph (1) of the 1945 Constitution which states, "The state is based on the belief in one Almighty God" (Asshiddiqie, 2009).

The first word of Allah is found in the third paragraph of the Preamble to the 1945 Constitution, "By the grace of Allah the Almighty and driven by a noble desire for a free national life, the Indonesian people hereby declare their independence." Allah is the name for God who is the Creator and Almighty of Everything (Mas'udi, 2010). Thus, the Qur'an explicitly acknowledges that it is Allah who is always addressed by the hearts and tongues of all believers. This is as explained in Q.S. al-Isra' 17: 110 which means, "Say (O Muhammad) call (Him) Allah (the Lord) or call the Most Merciful; whatever names you use, to Him are beautiful names; and do not raise your voice in your prayer and do not lower it; use a simple method between the two." Based on this, the meaning contained in the third paragraph of the Preamble to the 1945 Constitution is that (1) independence was achieved by the Indonesian people not only because of physical factors, but also because of the blessing and grace of God Almighty. This is a spiritual motivation that strengthens the desire of the Indonesian people to live freely, and (2) the desire of all Indonesian people for a life that is sustainable between material and spiritual life, or life in this world and the hereafter (Wulandari, 2021). This is a way of thinking that suggests that divine grace may actually make a difference to world values (Wierenga, 2002).

The third paragraph of the 1945 Constitution is an effort to achieve the independence of the Indonesian nation, which is a grace and gift that comes from God Almighty, which is a psychological motivation regarding the embodiment of the attitudes and beliefs of the Indonesian people towards the power of God Almighty. It was God's grace and noble desires that became the driving force for the birth of the Unitary State of the Republic of Indonesia. In addition, the existence of nationalist ideology together with social mobilization and collective action creates a sense of national awareness of ethnic origins and redefines ties of national solidarity (Ergun, 2022). It is through God's grace and noble desires that can save this country and nation from greed, corruption, manipulation, fraud, abuse of power and other destructive actions (Said, 2019). Building an independent country with the blessing of Allah's grace requires the determination to protect the lives of all people. Running a country

requires leaders who can determine the direction of the nation's journey with constructive attitudes and behavior, not destructive ones that are contrary to God's grace.

The second word Allah in the 1945 Constitution is contained in the formulation of the President/Vice President's oath of office as regulated in Article 9 paragraph (1) of the 1945 Constitution, namely the words, "By Allah, I swear that I will fulfill my obligations...". Such an oath provides a normative basis for officials to adhere to interpretive methods and substantive principles that are simultaneously associated with the constitution (Re, 2016). An oath is a statement made officially by testifying to God or to something considered sacred to strengthen its truth and sincerity. This oath and promise of allegiance is not only a formality of relationships between humans, but is also a form of obedience to God Almighty. This is because humans have responsibilities and obligations to Allah as God and His creation. Therefore, in every form of activity, whether bureaucratic or not, in Indonesia it is necessary to prioritize religious norms.

Islam teaches that a sacred promise will be too heavy if it is broken, so that if the promise is confirmed with an oath in the name of Allah, the All-Knowing, then the consequences will be heavy for being denied. Likewise, the promise of a President/Vice President who carries a heavy mandate to protect the interests of the people at large, is in accordance with the state's goals, namely realizing justice and prosperity for the people. In Indonesia, the President and Vice President have the position of head of state as well as head of government. Usually the President/Vice President's responsibilities will be carried out through performance assessments by the people (Darusman, 2018). The President/Vice President as a leader who makes promises without keeping his promises is an act of injustice, hypocrisy and a big sin. This is in accordance with the Word of Allah SWT, which means "And fulfill your promise, indeed you will be held accountable for that promise." (QS al-Isra': 34).

The pledge of allegiance made by the President/Vice President in Islam is through Bai'at. From the time of the Prophet to the Rasyidin Khulafa, pledges of allegiance or allegiance were given from the people to the leaders. Since the time of the Prophet until now, bai'at has been used as a form of legitimacy in every leadership, so it can be seen that bai'at is still relevant to the current condition of Islamic politics in Indonesia because it is a form of sincerity to carry out the mandate that has been entrusted to a leader. Bai'at means "pledge of allegiance" that is, someone who promises to obey a leader or caliph (Samsul Bahri, 2019). Therefore, it can be understood that bai'at is an oath of allegiance which is a bond between the leader and the people on the one hand and also a relationship between the leader and the oath or promise of allegiance made on the other hand.

The oath of office of President/Vice President means that a head of state is the holder of state power and his position as head of state places him in the highest position. Thus, the power and authority possessed by a President/Vice President indeed comes from God, so that the sacred values of the oath or promise of the President/Vice President need not be doubted. The oath/promise to occupy a position, which means that this position is intended to be able to regulate humanity by God's law and direct it to the path of benefit and goodness, manage its interests honestly and fairly, and lead the lives of humanity towards a noble and honorable life. Thus, according to Brownell (2017), as an executive branch, the president's duties cannot be carried out by delegation. Constitutionally it reflects the political will to exercise unquestionable executive power (Simons, 2017). The head of state has political responsibilities and rights determined in accordance with the constitution. As head of state, he has power and the source of his power is God himself, then this power is delegated to only a small number of His servants. Therefore, according to him, this power is sacred (Muqoddas) and the people must follow the ruler or head of state. Thus, the head of state is absolutely necessary for Muslims to guarantee prosperity and guarantee the implementation of Allah's laws.

Furthermore, there is the word Godhead which is contained in the formulation of the fourth paragraph of the Preamble to the 1945 Constitution or known as the formulation of the first principle of Pancasila, which states that, "...then the Indonesian National Independence was formulated in a Constitution of the State of Indonesia which was formed in the structure of the Republic of Indonesia which sovereignty of the people based on the belief in the Almighty God...". The concept of Belief in One Almighty God is the term Tawhid. The word tawhid is only in the form of itsbat that 'I worship Allah', which does not mean that he does not worship other gods besides Allah or worships other gods besides Allah (Asni, 2017). Tauhid is the deepest and earliest (primordial) belief of all religions in the world (Mas'udi, 2010). Likewise with the rights of religions other than

Islam that are adhered to in Indonesia, they also believe in the existence of God Almighty as their monotheistic teachings. This is because all religions basically and initially teach the Oneness of God (tawhid), although they differ in how they understand monotheism and also the level of difference is the clarity of their language. The concept of belief in the Almighty God as the teaching of monotheism forms the basic unity of the Republic of Indonesia, known as Pancasila (Mas'udi, 2010). In the Qur'an, it is explained that Allah says, "For each people there is their own way of worship (sacrifice) to mention the name of Allah for the sustenance He has bestowed in the form of livestock, because your God is one, then to- Thank you, all of you surrender and give good news to those who submit (Q.S. al Hajj, 22: 34).

According to Islam, monotheism (Arabic: *توحيد*) is the basis of the Islamic religion which is precisely expressed in the phrase "Lā ilāha illallāh" (Philips, 2005). According to language, tawhid is the masdar form of *f'il wahhada-yuwahhidu* which means making something into just one (Yulian, 2019). Thus, a Muslim must believe that monotheism is the most essential basis of Islam because Islam is the true religion, so it is one of the conditions for accepting good deeds which must be in accordance with the guidance of the Prophet. The meaning of requirements is what must be fulfilled before implementation until completion of implementation. This is because it is related to a person's intentions. If someone does something just because of Allah, then the condition for acceptance is that the intention because of Allah must remain the same until the end. God's intention to form the structure of the Unitary State of the Republic of Indonesia with the sovereignty of the people as explained in the fourth paragraph of the Preamble to the 1945 Constitution.

The second word divinity is found in the formulation of Article 29 paragraph (1) of the 1945 Constitution which states, "The state is based on the belief in One Almighty God." This article still contains the meaning of monotheism, because the state was founded based on the Oneness of God, namely the oneness of Allah SWT. However, this article provides instructions that state life in Indonesia adheres to universal principles such as humanity, unity, democracy and justice which must be lived and realized with full confidence that all of this is realized in the form of faith in Allah SWT, the Almighty God (Mas'udi, 2010). Therefore, universal life values need to be fought for humanity, unity, democracy, justice and democracy solely for the sake of faith in God Almighty, so that these universal values are not only profit and loss in the world, but are completely carried out with appreciation for the commands of Allah SWT, God Who Knows, and everything will return to Allah SWT, this is what then becomes a strong and eternal moral foundation in running the country.

Article 29 paragraph (1) of the 1945 Constitution is related to Article 29 paragraph (2) of the 1945 Constitution, because it is still in one article. Article 29 paragraph (2) of the 1945 Constitution states that "the state guarantees the freedom of every citizen to embrace their own religion and to worship according to that religion and belief." Article 29 of the 1945 Constitution contains the meaning that the state has an obligation through its government system, namely the function of protecting religion and regulating world affairs, so that the government and its government system are a substitute for prophethood in safeguarding religion and the affairs of the benefit of the people. The sentence "guaranteeing independence" in Article 29 paragraph (2) of the 1945 Constitution symbolizes the state's function in protecting religion. This is proof that the powers possessed by the government have been regulated in the constitution and the government cannot take the actions it wishes outside of those specified in the constitution (Harisman, 2021). The state needs to be present (exist) to protect religious communities from practicing their respective religions. Religious life in Indonesia with different religious rituals can continue to exist according to the adherents of each religion. Followers of a religion must be given the freedom to believe and embrace their religion and must also be respected (M. H. Islam, 2020). This statement shows that the state guarantees and protects the implementation of this according to Article 29 of the 1945 Constitution.

Sharia Legislation as a Form of Implementation of God's Sovereignty

The 1945 Constitution as a political document containing basic laws or norms in administering the state in Indonesia provides direction in the formation of laws or statutory regulations. One area in which constitutional common law remains particularly prevalent (Metzger, 2010). Thus, legislative regulations are a tool for engineering society and the application of the law can function to influence and change people's behavior (Tan, 2022). The aim of forming laws or statutory regulations must be in line with the 1945 Constitution as a

constitution. The inclusion of God's sovereignty in the 1945 Constitution provides direction for the formation of laws or regulations based on religion (sharia). The direction of formation that has been determined in the 1945 Constitution is because the law itself is always developing along with the times, and the development of the law never stops this process, leaving many problems. The sovereignty of God as espoused in the 1945 Constitution shows the existence of constitutional guarantees in terms of the supremacy of law and constitutional guarantees in terms of freedom to carry out religious orders, accompanied by the fact that the majority of Indonesia's population is Muslim. It seems that there has been a transformation of laws that guarantee the implementation of religion from laws that are understood to protect religious minorities to laws that protect the majority from minorities (Sullivan, 2018). The 1945 Constitution is an implementation of Pancasila values as basic law and at the same time as a source of law in terms of law formation, so that it is the goal of law in Indonesia in carrying out national, state and social life. The position of Pancasila as a legal ideal (rechtside) is a reflection of the fundamental reflection on building a legal order based on the noble values of the nation idealized in the national legal system (Suparno, 2021).

The sovereignty of God in the context of the Indonesian legal state means that the 1945 Constitution is the legal objective in the formation of sharia legislation for the Muslim community in Indonesia. Thus, the 1945 Constitution contains maqashid sharia with the aim of mutual benefit. Maqashid ash-syariah is the idea in Islamic law that sharia was revealed by Allah to achieve certain goals. This goal can be found from the main sources of Islamic law (the Qur'an and the Hadith) which must always be maintained when deciding legal cases. Thus, the objectives or results expected from the legislation. Maqasid al-syari'ah has been directly mentioned in the Qur'an and Sunnah and then interpreted by a number of scientists. All expressed the urgency of fulfilling the maslahah (jalb al-masalih) of all humans and to save them from danger (da'P'u al-mafasid / dar'u al-mafasid) (Zatadini & Syamsuri, 2018).

The 1945 Constitution, which is a legal objective containing the intent of maqashid sharia, can also be used as an alternative in resolving various legal problems that arise. The use of maqashid sharia is an actualization of Islamic law, and will show the flexibility and looseness of Islamic law itself in answering factual legal problems. This is not only an identification tool for laws known to the public that are directly related to religion, such as interfaith marriages or marriage registration for Muslims or contemporary legal issues. These contemporary legal problems arise because of the development of information technology (Azhar, 2020). The use of maqashid sharia with boundaries that can be used as a means of identifying any law. This is because all laws intersect with one goal, namely human benefit, likewise, if maqashid shari'ah is used as a tool for enacting a law, not only worldly benefits will be obtained by humans, but also benefits that are hereafter.

The identification of maqashid syari'ah and the 1945 Constitution includes coverage of maqashid syari'ah in the 1945 Constitution and vice versa. Maqashid syari'ah as the goal of Islamic law in fact greatly influences the formation of the legal system in Indonesia due to the existence of Muslims themselves who dominate the country's territory. The formation of laws that align themselves with existing developments and these developments cannot always be interpreted as a positive thing. This is because society still desires a law that defends the interests of the general public and provides full rights to its citizens (Akmal, 2021). The author admits that the use of maqashid sharia as an identification tool here is not actually to prove whether or not Islamic law exists in state law, even though this is automatically visible and proven. However, the use of maqashid shari'ah here is to show the extent to which Islamic law is pervasive in the state's legal system. It can be said that the existence of Islamic law remains the hope of the Islamic community by making it a source of national law (Hamzani, 2020). So, identification does not just show the existence of Islamic law that applies in the Indonesian legal system, but also identifies developments, challenges, as well as a picture of the future of Indonesian law so that harmonization and adjustments can be made towards better law. This is because maqashid shari'ah itself is benefit.

The teaching of God's sovereignty in the 1945 Constitution is the teaching of monotheism and Islamic law which must be used as the main basis for making laws and regulations. In other words, all laws and regulations made by humans must be based on and refer to the Koran and Sunnah. Islamic law must be an important consideration in every legal drafting aimed both at the Indonesian Islamic community in particular and

Indonesian society in general. The existence of Islamic law must influence the entire Indonesian legal system. In order to fulfill the legal needs of Muslims in Indonesia, several fundamental laws and regulations need to be created and ratified. This is in line with the religious guarantees in the constitution which continue to be in the process of achieving perfection. Laws in Indonesia, although not labeled Islamic, must always lead to laws that do not conflict with Islamic teachings. If there are laws that conflict with Islamic teachings, there will be chaos, because Muslims will not remain silent. This is proof that Islamic law, whether consciously or not, is an important factor in determining the entire Indonesian legal system.

The implementation of God's sovereignty in the 1945 Constitution contains several statutory regulations that are in line with the demands of the people. Furthermore, the formation of legislation intended for the interests of Muslims is still around private law and has not yet formed public law. Public law that is formed with sharia nuances is only implied in the articles in the relevant law. Public law with sharia nuances can be found in regulations under laws or regional regulations at both provincial and district/city levels. The history of the formation of legislation specifically intended for Muslims is Law no. 1 of 1974 concerning Marriage, then there are several implementing regulations. Every society has a complex form of marriage that is regulated by law, because marriage is a public legal act and not just a private romance or religious rite (Gallagher, 2002). Law no. 1 of 1974 regulates in detail marriage for Muslims, because before this law, marriage law was carried out according to religious law which was not regulated by the state.

Implementing regulations of Law no. 1 of 1974 is Presidential Instruction no. 1 of 1991 concerning the Compilation of Islamic Law. This Compilation of Islamic Law explains a collection of Islamic legal rules originating from books of jurisprudence and the views of scholars regarding jurisprudence which are put together in the form of a book called the Compilation of Islamic Law. This compilation of Islamic Law is used by judges in religious courts in deciding marriage disputes, inheritance, wills, gifts and other things for Muslims (Yusuf, 2020). The existence of the Compilation of Islamic Law is motivated by the absence of an official legal book as a standard reference in giving decisions on cases in religious courts. This is because before the Compilation of Islamic Law existed, judges in making decisions in religious courts usually used old fiqh books (books written by scholars from past centuries). As a result, decisions that are not uniform often emerge, because the references and guidelines in the books used are not uniform. For example, the same case may receive different decisions because it is handled by different judges and the reference books are different, because the judges have different views in choosing reference books, this is not in line with the principle of legal certainty. Therefore, the Ministry of Religion at that time felt it was very necessary to create a standard reference book for religious judges in determining their decisions in court (Yusuf, 2020).

Furthermore, in order to meet the needs of Muslims regarding judicial institutions, Law no. 7 of 1989 concerning Religious Courts. This law provides the basis for realizing an independent, equal religious judiciary and strengthening and aligning the position of religious courts with other courts. Religious Courts in Indonesia reflect an actualization of the life of Indonesian Muslim society. Diversity leads to the beliefs and values of the majority of Muslims, so that religious justice is required to be actualized to fulfill the needs of the Indonesian people and nation (Basri, 2017). Law no. 7 of 1989 concerning Religious Courts has undergone several changes in its development. Amendment to Law no. 7 of 1989 also concerns the authority or competence of the court, both relative competence and absolute competence. Relative authority is judicial power of one type and one level, in contrast to the power of courts of the same type and level (Djalil, 2010). Absolute competence (absolute competence) is power related to the type of case and dispute over the court's authority. The power of the courts within the Religious Courts is to examine, decide and settle certain civil cases among people who are Muslim (Bisri, 1997). The absolute power of the Religious Courts is regulated in Article 49 of Law no. 3 of 2006 concerning Amendments to Law no. 7 of 1989 concerning Religious Courts, namely the power to handle matters regarding marriage, inheritance, wills, grants, endowments, zakat, infaq, shadaqah and sharia economics (Bisri, 1997).

Furthermore, there is a law that regulates zakat, namely Law no. 38 of 1999 concerning Zakat Management which was later replaced by Law no. 11 of 2011 concerning Zakat Management. The establishment of this zakat law is because zakat is a religious institution which aims to improve justice and welfare of society so it needs to be regulated to increase efficiency and usefulness. Zakat must be managed institutionally in accordance with

Islamic law. Islam has a spirit of justice and economic equality through a collection mechanism called zakat. Zakat is so important that in a number of verses in the Koran, Islamic thought places zakat on a par with prayer, so that every Muslim is obliged to pay zakat (Bara & Pradesyah, 2019). After the Law on Zakat was established, the Law on Endowments was formed with Law no. 4 of 2004 concerning Waqf. The establishment of Law no. 4 of 2004 is because waqf is a philanthropic institution that is quite old in Islamic history with its aim not only to provide devotion to Allah SWT, but also to provide an economic impact on waqf objects. Waqf is also one of the solutions provided to eliminate the gap between the rich and the poor (Martinelli, et al, 2019).

In 2008, Law no. 13 of 2008 concerning the Implementation of the Hajj Pilgrimage. The law was later amended by Law no. 8 of 2019 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2009 concerning Amendments to Law Number 13 of 2008 concerning the Implementation of the Hajj Pilgrimage into Law. Law Number 8 of 2019 concerning the Implementation of the Hajj and Umrah is the legal basis for the implementation of the Hajj and Umrah in a safe, comfortable, orderly manner and in accordance with sharia provisions as well as to improve the quality of the Hajj and Umrah. Here the state guarantees the freedom of each resident to embrace their own religion and to worship according to their religion and beliefs. This is because the Hajj is the culmination of the pillars of Islam, which integrates all levels of the Shari'a into it, in fact the Hajj is a big investment and represents the strength of Islam (Jumali, 2018).

In the economic sector there is Law no. 21 of 2008 concerning Sharia Banking. This law is in line with national development goals, namely the creation of a just and prosperous society based on economic democracy. Banking was developed with an economic system based on the values of justice, togetherness, equality and benefit in accordance with sharia principles because sharia banking has specificities compared to conventional banking. Islamic banking practices emerge from sharia principles which are in line with Islamic ideological guidelines (Aliyu, 2018). Likewise with other forms of business which are regulated in the form of laws or other regulations which are not explicitly sharia law but implicitly regulate in detail the forms of business using sharia concepts. The current development of the sharia economy is not only a demand of the Indonesian Muslim community or world Muslims, but also because the sharia economy fulfills the principles of justice, welfare and individual rights which must be balanced between this world and the hereafter. According to Yusuf Qardhawi, sharia economics is an economy based on divinity with the ultimate goal being God and utilizing means that cannot be separated from God's law (Rifka, 2022). Islam is firm about the principles of justice, which can be practiced in the world of business/commerce. Trade transactions, namely when man-made law originates from customs and conventions or is created by the legislature, then Islamic law (fiqh) has its own unique source based on revelation (Saleem, 2008), this is what has become known as universal brotherhood and justice.

In public law (criminal law and constitutional law/administrative law) there is no law that has been formed under the name of sharia, but the law in its articles already contains sharia norms. This is considering that the majority of Indonesia's population is Muslim. This public law contains legal norms that are able to fulfill the aspirations of the Muslim community (Alimuddin, 2013). Likewise, the Criminal Code which has just been passed into law has Islamic nuances. This Islamic nuance is especially in the case of crimes of morality and also murder (according to Islamic concepts, family members of murder victims have a role in determining the punishment to the perpetrator, or in fact providing forgiveness) as well as the concept of punishment. Other criminal laws also provide Islamic nuances. This criminal law is a demand from Muslims that every law resulting from DPR legislation has an Islamic nuance even though the law does not have an Islamic label. It can also be said that, state legislative power is legally based on the constitution and also the national legislature has religious (divine) legitimacy on the basis of siyasah (policy) authority to make laws and regulations as long as they do not conflict with the main principles of sharia (Arafa, 2018).

The reform era with the strengthening of regional autonomy has placed regional governments in the position to regulate themselves. For example, the regional government of Nangroe Aceh Darussalam (NAD) was given the opportunity to implement Islamic law. Subsequently, Law no. 44 of 1999 concerning the Implementation of the Specialties of the Special Region of Aceh Province and further emphasized by the establishment of Law no. 18 of 2001 concerning Special Autonomy for the Special Region of Aceh Province as the Province of Nangroe Aceh Darussalam (NAD). Operationalization of Law no. 18 of 2001 is through Decree of the

President of the Republic of Indonesia No. 11 of 2003 dated 3 March 2003 concerning the Sharia Court and the Provincial Sharia Court in the Province of Nangroe Aceh Darussalam. In this case, it is possible to establish Islamic criminal law in NAD even though it is different from the Indonesian criminal law which generally applies in the archipelago (Alimuddin, 2013).

This legislation, some of which has an Islamic nuance, also contains other regulations besides the law, namely regional regulations. Regional regulations are formed by provincial regional governments and district/city governments which are then known as Sharia regional regulations or Sharia nuanced regional regulations. The formation of sharia regional regulations was motivated by the regional autonomy law which allows regional governments to issue regional regulations as long as they do not conflict with higher laws. Sharia nuanced regional regulations are nothing other than legal norms that originate from moral norms from the legal consciousness that lives in society (Sodikin, 2021). This Sharia nuanced regional regulation was created as a concrete manifestation of the implementation of regional autonomy. Regional governments have their respective authorities in regulating their regions to provide legal certainty and justice for their communities. Various areas of life are regulated in regional Sharia regional regulations, starting from the prohibition of alcohol, gambling, smoking, the obligation to read the Koran, and all aspects of life must be in line with Islamic Sharia. Although this Sharia nuanced regional regulation has been rejected by some in the community, it provides its own nuances in a more Islamic community life.

The facts that exist in this society show that the existence of Islamic law has been internally realized by the Indonesian people and has given them awareness of the importance of giving shape to Islamic law in the Indonesian state legal system. In reality, God's sovereignty in the 1945 Constitution has been transformed into a living law in Indonesian Muslim society. Thus, the form of implementing God's sovereignty in the 1945 Constitution is legislation with sharia nuances.

CONCLUSION

The teaching of God's sovereignty as espoused in the 1945 Constitution has consequences for the organization of national, state and social life. These consequences mean that the teaching of God's sovereignty is implemented by establishing laws and regulations that have Sharia nuances. The 1945 Constitution as a written basic law has provided direction and objectives in the formation of law in Indonesia, especially for Muslims in Indonesia. In the context of an Islamic state of law (nomocracy), the 1945 Constitution contains maqashid sharia whose aim is to form laws in accordance with the philosophical values prescribed by Allah to mankind for the benefit of the people. Thus, the legal aim contained in the 1945 Constitution is to increase the confidence of the Indonesian Muslim community to follow or recognize the applicable laws which are the result of the national legislative process which are teachings that are very suitable and applied to all Indonesian Muslims. The direction and objectives of the law that have been determined in the 1945 Constitution will make it easier for the Indonesian Muslim community to see which laws are good to follow and which laws need to be changed in accordance with the concept of Islamic nomocracy. This is a logical consequence of God's sovereignty in the 1945 Constitution with the existence of Muslims in Indonesia.

In the end, to maintain the purity of Islamic law, and so that Islamic law becomes a guide to life for Muslims and its certainty is guaranteed in state law, through the concept of God's sovereignty it is necessary to codify Islamic law as completely as possible. This codification is something that is recognized and is very important to be implemented immediately.

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