

DIALECTICS IN RELATIONSHIP BETWEEN RELIGION AND STATE: A CORRELATION OF RELIGIOUS PRINCIPLES AND IDEALS OF LAW IN INDONESIA

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Abstract

The article discusses the dialectics in the relationship between religion and state in its correlation with the ideals of law in Indonesia, which is focused on the variants and principles of religion in the state. There are three variants regarding the relationship between religion and state namely, integralistic, secularistic and symbiotic. Indonesia as a state based on Pancasila which upholds religious values can be included in symbiotic variants. Religious principles in symbiotic variants can be implemented because they do not conflict with Pancasila and the 1945 Constitution of Republic of Indonesia. Between Islam and the ideals of law, in this case Pancasila, is not a contradictory entity but two elements that are in line. These principles are power as trust, deliberation, justice, equality, protection of human rights and independent justice; be valid proof so that the state can be said to be a nation that upholds human dignity and benefits. As a symbiotic state, Islamic law has room in the state, namely as one source of national law. The implication of this study is that between the state and religion there is no conflict, religion is not alpha in providing interpretations about the state. Therefore, between religion and state is not a new thing because the ideals of law and religious values have the same hope that is to achieve mutual benefit.

Kajian ini membahas tentang dialektika hubungan agama dan Negara dalam korelasinya dengan cita hukum di Indonesia, yang difokuskan pada varian dan prinsip-prinsip agama dalam negara. Terdapat tiga varian mengenai hubungan antara agama dan negara yaitu, integralistik, sekuleristik dan simbiotik. Indonesia sebagai negara berdasarkan Pancasila yang menjunjung tinggi nilai-nilai agama dapat dimasukkan dalam varian simbiotik. Prinsip-prinsip agama dalam varian simbiotik dapat diimplementasikan sebab tidak bertentangan dengan Pancasila dan UUD 1945. Antara Islam dan cita hukum, dalam hal ini adalah Pancasila bukanlah entitas yang bertentangan melainkan dua unsur yang sejalan. Prinsip-prinsip tersebut adalah kekuasaan sebagai amanah, musyawarah, keadilan, persamaan, perlindungan Hak Asasi Manusia dan peradilan yang independen; menjadi bukti yang shahih sehingga negara tersebut dapat dikatakan sebagai bangsa yang menjunjung tinggi martabat dan maslahat kemanusiaan. Sebagai negara yang

simbiotik hukum Islam mendapat ruang dalam negara yakni sebagai salah satu sumber hukum nasional. Implikasi kajian ini bahwa antara Negara dan agama tidak memiliki pertentangan, agama tidak alfa dalam memberikan interpretasi tentang negara. Jadi antara agama dan Negara, bukan hal yang baru karena cita hukum dan nilai-nilai agama mempunyai harapan yang sama yakni mencapai kemaslahatan bersama.

Keywords: Religion; State; Principle, Ideals of Law.

INTRODUCTION

Dialectics between religion and state is always interesting to discuss. If discussed in the history of Islam, the process of emigration of the Prophet Muhammad (pbuh) to Medina which then built cities and countries, and made Medina charter involving the Jewish and Christian communities is a historical axiom that cannot be denied. In the City of Medina, Islam was interpreted and practiced not only as *al-din* (religion), but it also meant *al-duniya* (world) and *dauwlah* (state) which then gave birth to *Medina* (city) and *tamaddun* (civilization).¹

This basis of Islam was what later underlied the power of religion which became a light for almost all people in the world, namely; Asia which was centered in Baghdad, Africa, centered in Morocco and Egypt and Europe which was centered in Spain and later Turkey. The glory of Islam occurs in almost all aspects of life ranging from science, economics, culture, art, social and politics, the peak of which is known as the golden age.²

In Indonesia, when this country was to be established, a heated debate took place between the factions who wanted the state ideology based on the Pancasila, and the faction that carried Islam as the basis of the state which later gave birth to the Jakarta Charter, although it did not finally apply. The debate was not only reflected in the discussion of the Investigation Agency for Preparation of Indonesian Independence (BPUPKI) but also critical and scientific discussions between Sukarno who wanted Pancasila and Mohamad Natsir who brought Islam. Then after an intense discourse, the nation's leaders found an agreement that

¹Bakhtiar Efendi, *Islam dan Negara* (Jakarta: Paramadina, 1998). M. Din Syamsuddin, *Islam dan Politik Era Orde Baru* (Jakarta: Logos, 2001). Montgomery Watt, *Muhammad: Propeth and Statesman* (Clarendon Press: Oxford University, 1961). Ahmad Sukardja, *Piagam Madinah dan Undang-Undang Dasar 1945* (Jakarta: Universitas Indonesia Press, 1995). Abidin Nurdin and Ridhwan, Penerapan Syariat Islam dalam Konteks Negara Bangsa: Kajian Formalisasi Hukum Islam di Aceh, in Supriyanto et al., *Islam and Local Wisdom* (Yogyakarta: Deepublish, 2018), p. 244.

²Antony Black, *Pemikiran Politik Islam*, translated by Abdullah Ali and Mariana Ariestuawati, (Jakarta: Serambi Ilmu, 2001). Philip K. Hitti, *History of The Arabs*, (Jakarta: Serambi Ilmu, 2006). Syamruddin Nasution, *Sejarah Peradaban Islam* (Riau: Yayasan Pusaka Riau, 2013), p. 103-281.

Indonesia was not a state based on theocracy, but a nation that upheld Islamic values as stated in the 1945 Constitution in particular article 29.³

The two factions continue to be polarized between nationalists and Islam which are quite thick in the world of politics and state administration. The formation of parties is also undeniably influenced by the polarization. Parties that have been established since at least the reform period can be traced to have geneology and political ties to nationalist and Islamic groups. A nationalist party is a party that only lists Pancasila as a principle, while an Islamic party is a party emphasizing Islam as a basis besides Pancasila. Nationalist parties for example, Golkar, PDIP, Democrats while Islamic parties namely: PKS, PPP and PBB. Although there are also parties based on Islamic organizations, they are still based on Pancasila, namely PKB which was established by Nahdlatul Ulama while PAN was carried out by the Muhammadiyah group.

The Medina Charter and the Jakarta Charter are historical realities that reflect different political epistemologies and axiologies. The Medina Charter was born at a time when the Prophet Muhammad (pbuh) as a prophet was also the leader of the country and continued with the glory of Islam which had implications for a strong religious position. Whereas the Jakarta Charter was born and implemented in the context of a nation state amidst the political, economic and social hegemony of the post-colonial Dutch and Japanese. Therefore the position of religion in the context of the nation state in Indonesia is clearly different from the prophetic period when the Medina state was founded.

Mahfud MD proposed that the position of religion in the country cannot be separated from legal politics because law is a medium to reach the ideals of the nation and the goals of the state. This is done so that the state always pays attention to the politics of law and the reaction of the law, so that the relationship between religion and state becomes more harmonious and can co-exist in achieving the the ideas of the state. It can also be emphasized that the legal pluralism that exists in Indonesia has always influenced the movement of religion and state, and the Indonesian political world has always juxtaposed the two in interacting.⁴ The legal pluralism referred to is the recognition of Islamic legal order, Western (Dutch) law and customary law as raw material for the development of national law.

This study will focus on the dialectics of the relationship between religion and state which discusses the variance and principles of religion in the state in Indonesia. Emphasis on religious principles in the state is important enough to

³Endang Saifuddin Anshari, *Piagam Madinah 22 Juni 1945* (Jakarta: Gema Insani Press, 1997). Ahmad Syafii Maarif, *Islam dan Masalah Kenegaraan* (Jakarta: LP3ES, 1985).

⁴Ali Ismail Shaleh and Fifiama Wisnaeni, Hubungan Agama dan Negara menurut Pancasila dan UUD 1945, *Jurnal Pembangunan Hukum Indonesia*, Vol. 1, Number 2 2019, p. 421.

answer the phobia assumptions and thoughts about the presence of Islam in the state.

DISCUSSION

A. Variants of Religious and State Thought

1. Integralistic Variant

This variant holds that Islam as a religion is not only limited to ideology and dogma, but also contains rules about politics and state administration. This group believes that religion in addition covers theological aspects, as well as social, cultural and political aspects. So they agreed that Islam is broadly meaning religion, world and state (*al-Din, al-Duniya wa Daulah*). Because of the broad and pervasive nature of religion, Islam is then positioned as an ideology and the basis of the state, so then religion must be applied legally-formally under the banner of an Islamic state.⁵

Jamaluddin al-Afghani, Sayyid Qutub and Hasan al-Banna are figures that can be categorized in this variant. Al-Afghani as a scholar and intellectual who carries Pan Islamism, a movement that invites Muslims to unite politically against the domination of Western colonialism under the leadership of Sultan Abdul Hamid II in Istanbul, Turkey. Whereas Qutub and al-Banna were the movers of *Ikhwanul Muslimin* (the Muslim Brotherhood), an organization established in Egypt aimed at fighting for Islam to condemn foreign hegemony.⁶ Until now the Muslim Brotherhood movement still exists in Egypt and had won the election, before the military group took power.

Integralistic variants are sometimes equated with nomocracy. The theory of Islamic nomocracy is a concept explored by Islamic teachings itself to distinguish from democracy and theocracy that was once practiced by the West. Democracy and theocracy are not fully compatible with the principles of government in Islam. Islamic nomocracy as explained by Muhammad Thahir Azhari as a model of government that relies on the rules of Islamic law or Islamic law. This system of government is best suited to the rule of law model in the perspective of Islamic law. This system has principles namely; power as a mandate, deliberation, justice, equality, protection of human rights.⁷

Muhammad Thahir Azhary disagrees with the view that an Islamic state is the same as a theocracy which means the power of God, as understood by Western

⁵Kamsi, Paradigma Politik Islam Tentang Relasi Agama dan Negara, In Right, *Jurnal Agama dan Hak Azazi Manusia*, Volume 2, Number 1, 2002, p. 43-44.

⁶Kamsi, *Paradigma Politik Islam*, p. 44.

⁷Muhammad Thahir Azhary, *Negara Hukum*, (Jakarta: Kencana, 2010), p. 86.

scholars. Because theocracy is a state ruled by God or Gods and recognizes God as king or ruler.⁸ In addition, HM. Rasjidi, (former Minister of Religion) shared the same views as Azhary, because according to him theocracy could be mentioned a concrete example of the Vatican State led by the Pope. The Pope is both a religious and political leader.⁹ The teachings of Islam have never known priesthood as Catholicism, Islam actually puts forward the similarities between its adherents. Therefore, the most suitable concept of state in Islam is nomocracy which means power that stands on the laws of God.¹⁰

In this context it can be understood that the integralistic variant views that Islam as a religion is a teaching that is broad and encompasses all aspects of human life, ranging from religion, social, cultural and even political and state order. Then the Islamic state is different from theocracy, because theocracy means a state whose authority is under God's command, but more precisely is a nomocracy which means a state based on God's laws.

2. Secularism Variant

The secularism holds that there is no place of religious practice in the country, politics and religion must be separated. This group clearly contradicts the view of integralistic variance, because they are of the view that the state cannot wear "clothes" in the name of Islam. Religion and the state have different roles and functions, religion deals with individual problems, while the state regulates public matters.¹¹

The main figure of this variant is Ali Abd Raziq, according to him that the Messenger of Allah was sent to mankind his job was only as a Prophet (pbuh) and had no obligation to establish an Islamic state or government. The Caliph after the Prophet Muhammad (pbuh), is a historical event that may or may not be followed.¹²

If traced, this understanding of secularism actually first appeared in the West when the Roman Empire was still in the form of a Kingdom. When there was a conflict between the priests who were supported by the Emperor with intellectuals such as Copernicus and Galileo. In the end, intellectuals lost and science proceeded

⁸Muhammad Tahir Azhary, *Negara Hukum*, p. 86.

⁹HM. Rasjidi, *Koreksi Terhadap Drs. Nurcholish Madjid tentang Sekularisme*, (Jakarta: Bulan Bintang, 1972), p. 84.

¹⁰Muhammad Tahir Azhary, *Negara Hukum*, p. 87. The application of Islamic law or Islamic *Sharia* in the current Indonesian context in Aceh. Although Aceh implements Islamic *Sharia*, it remains within the Unitary State of the Republic of Indonesia, see Abidin Nurdin, *Reposisi Peran Ulama dalam Penerapan Syariat Islam di Aceh*, *Jurnal al-Qalam*, Vol. 18, Number 1, January-June 2012.

¹¹Abdul Mannan, *Islam dan Negara*, *Jurnal Islamuna*, Vol. 1, Number 2 December 2014, p. 190.

¹²Kamsi, *Paradigma Politik Islam*, p. 46.

without the light of religion at that time. Finally, Western society was disappointed with politics in the sense of the state, so that from that moment until now in the West, politics or the state was completely separated from religion. The name of God is only mentioned in houses of worship, while in socio-political life, God does not have space.

3. Symbiotic Variant

The symbiotic variant holds that religion and the state are two elements that need one another. Religion that contains ethical and moral teachings is needed by the state, while the state can support religion as a force to strengthen the existence of religious teachings in the practice of people's lives. If the state does not support the existence of religion, the teachings are difficult to practice properly and perfectly by the people. So both of them need each other or have a mutual symbiosis relationship, between one another, even though they do not reduce each other.¹³

The principles underlying this variant are ethical frameworks, hence they reveal that explicit teachings about political or state concepts in Islam are not found clearly. Because the concept is not explicit, then there are ethical principles. These logical arguments are then stated expressly, so that they are of the view that Muslims are not obliged to establish an Islamic state, or make Islam as the state ideology or foundation.¹⁴

The figures included in this variant are Muhammad Abduh, Muhammad Husain Haikal and Muhammad As'ad. Later this group was referred to as a modernist school in the development of Islamic thought. In this context, most Islamic intellectuals in Indonesia are much influenced by these modernist ideas.

B. Religious Principles in the State Ideals of law

Religion has a fairly fundamental position in the country. Ibn Khaldun asserted that religion has a crucial position as a truth that must be realized in social reality. According to him, Islam is able to provide legitimacy and political power so that the state has great power in carrying out development so that it can progress and be strong. A state built without the light of religion will only create a sense of tribal and kinship solidarity that only prioritizes the interests of groups.¹⁵ Allah, the Almighty God, sent down the religion as a guidance, Then religion will provide guidance to the believers which also includes instructions for the welfare and peace

¹³Kamsi, *Paradigma Politik Islam*, p. 49.

¹⁴Kamsi, *Paradigma Politik Islam*, p. 49.

¹⁵Cecep Supriadi, *Relasi Islam dan Negara: Wacana Keislaman dan Keindonesiaan*, *Kalimah: Jurnal Studi Agama dan Pemikiran Islam*, Vol. 13, Number 1, March 2015, p. 203.

of society in a country if the believers practice religious teachings as well as possible.¹⁶

Therefore, to implement religion in the State, the following principles will be explained, which are important elements, namely: power as a mandate, deliberation, justice, equality and protection of human rights. These principles clearly lead to the progress of the state based on religion for human benefit.

1. The Principle of Power As a Trust

Trust is very important in exercising power. Allah confirms in the Qur'an, "Indeed, Allah commands you to render trusts to whom they are due and when you judge between people to judge with justice." the Holy Quran Surah al-Nisa (4): 58. According to Hazairin and Sayuthi Talib that this verse contains two affirmations; first that trust must be given to those who are entitled, both laws must be upheld fairly. In the context of the state, power is entrusted or a message which also means delegation of authority. That power is entrusted or mandated by the Almighty, Allah. Islamic politics teaches that power is a mandate and a gift from God to humans to be implemented as well as possible based on the Qur'an and the Sunnah of the Prophet (pbuh). Later in the Hereafter, that power will be questioned by Allah.¹⁷

Anxiety which is carried out in a dictatorial and arbitrary manner is part of the misuse of the mandate. As well as the denial of the principles of democracy in Islam as affirmed in the Qur'an and Sunnah. In addition, unsafe power also contradicts legal lines.¹⁸

Therefore, a leader who exercises power with the mandate while at the same time carrying out the law in accordance with the principles of justice will clearly create a dignified and prosperous country. Ultimately these leadership characteristics will lead civilized societies and be able to compete with an increasingly fast-changing world.

2. Principles of Deliberation

Deliberation is a medium for decision making to solve problems, in which a person can provide ideas, suggestions and thoughts. The context of statehood is a constitutional principle within the framework of Islamic democracy that must be carried out in order to make decisions that favor the public interest. In this context deliberation acts as a control to prevent dictatorship and absolutism of power.¹⁹

¹⁶Hamzah, Samiang Katu. "Pemikiran Islam tentang Hubungan Negara dengan Agama." *Dirasat Islamiah: Jurnal Kajian Keislaman* 1, no. 1 (2020): p. 62

¹⁷Muhammad Tahir Azhary, *Negara Hukum*, p. 106.

¹⁸Muhammad Tahir Azhary, *Negara Hukum*, p. 107.

¹⁹Muhammad Tahir Azhary, *Negara Hukum*, p. 113.

The interests of the people and public good will be found a way out through deliberations. The leader as the holder of power must listen to all ideas and ideas that develop in deliberations. The results of the deliberations will be the primary consideration of leaders who are objective for public benefit. In the context of Islamic law, deliberation to get mutual agreement or *ijma* (consensus). During the time of the Prophet Muhammad (pbuh), *ijma* is used as a way out in the war against the Quraysh infidels during the Battle of Badr, the Battle of Uhud and even the Battle of *Khandaq* (trench), the Quraysh originated from Mecca and the Muslims in Medina. All decisions end with deliberation and mutual agreement between the Prophet and his companions.²⁰

At present, when many Muslim regions choose the form of a nation state (democracy) then democracy as a political choice is then equated with deliberation. Nevertheless, deliberation and democracy have different historical roots, deliberation comes from the womb of Islam, while democracy comes from the womb of the West. In many countries in the world, democracy and deliberation are two parallel entities, for example in Indonesia, Turkey or in Pakistan and Bangladesh. Even Indonesia is often referred to as one of the most democratic Muslim countries in the world.

3. The Principle of Justice

Justice is a very important element in law enforcement. Islamic law places justice not only in legal systems and theories, but moreover is its application in people's lives. Although in general justice was initially associated with the determination of the law or the wisdom of the leader or king.²¹ After monotheism as the first principle in Islam, justice is ranked second. Justice in various relationships, for example between individuals and judges and cases that have links with various parties; individuals with the community or between individuals with individuals.

Justice Enforcement has its own challenges, because it is related to human behavior that has the potential to do good and bad. Humans sometimes take precedence over justice rather than justice, or are attracted to evil rather than good. This factor is caused by love and hatred that drives people to act and behave like that. Because God warns that one of the signs of a believer is that those who uphold truth and justice, become fair witnesses even to groups or people who have

²⁰Muhammad Husain Haikal, *Sejarah Hidup Muhammad*, (Jakarta: Pustaka Jaya and Tintamas, 1982), p. 313-318.

²¹Muhammad Muslehuddin, *Filsafat Hukum Islam dan Pemikiran Orientalis*, translated by Yudian Wahyudi Asmin, (Yogyakarta: Tiara Wacana, 1991), p. 78-84.

a bad relationship with us. Justice is a very quality of taqwa. (Holy Quran Surah Al-Maidah: 8).

Therefore, Allah commands humans to do justice in all things, to all people and under any conditions. Leaders or people who have power relations are required to act fairly, because in the circle of power the temptation to act unfairly is very high and easy to commit tyranny. Likewise with judges, *muftis*, *da'wah*, educators and figures who have influence in society.

To be fair is an obligation for fellow Muslims even for infidels. The order to be fair to fellow Muslims as mentioned in the Qur'an, that if there are two groups of believers who are at war or in conflict, then it must be reconciled between the two. If one of the groups do evil, then fight, then if they have repented, then reconcile justly without doing wrong to one group (Holy Quran Surah al-Hujurat: 9). While the story of how to do justice to unbelievers is the story of Amr bin Ash when he became Governor of Egypt. Amr bin Ash wanted to expand the mosque, and the Jewish homes would have to be demolished because of the expansion of the mosque. The Jew complained to Umar bin Khattab, the second Caliph at the time. Umar bin Khattab then rebuked Amr bin Ash and ordered that the house not be demolished. Because of that incident, the Jews then realized that just how fair the teachings of Islam were, he complained to the Islamic leader, he lived in an area that was controlled by Islam but instead he protected his property and rights. Eventually he converted to Islam and his house was given up to build a mosque.

Islamic law in its implementation contains the principle of elasticity or ease and convenience. The law can be applied depending on the situation and condition, or space and time which is usually called *illat* of law or "cause" of law. For example, in an emergency, pork may be eaten, even though under normal conditions the law is haram. Emergency conditions are referred to as "causes" that make illegal laws permissible. Therefore, justice also means a balance between human capabilities and obligations that must be done.

4. Principle of Equality

The principle of equality or *al-musawa* (egalite) in Islam is one important thing. The equation has a clear basis in the Qur'an and the practice carried out by the Prophet (pbuh) and the Companions. This can be read in history when the Prophet Muhammad (pbuh) made the Medina Charter (Medina Charter), in which the existence of Jews and Christians was recognized as citizens of Medina. Jews and Christians were treated equally and had the same rights in social interaction even carrying out their religious obligations guaranteed by the charter. The Medina Charter is very far ahead of the birth of the Charter of the United Nations (UN) on the Universal Declaration of Human Rights in 1948 after World War II.

Thus, Islam has been opposed to slavery and human exploitation in all its forms. The Qur'an emphasizes that humans were created different types of men and women, different tribes, nationalities, races, languages not to fight each other or to feel superior to each other. But the goal is to know each other. Allah asserts that the best among them are the most pious (the Holy Quran Surah al-Hujurat: 13).

The verse has a general meaning, because it uses the word "al-nas" which means that all humans and it is not limited to whether they are Muslim and non-Muslim. Through this verse Allah teaches equality between humans not slavery because humans are the most noble creatures, when compared to other creatures (Holy Quran Surah al-Isra: 70). Nevertheless, Islam opposes the teachings of communism which teaches a classless society, and capitalism which divides society into classes of financiers and workers. The principle of equality in Islamic law actually fosters and helps or *ta'wun* (cooperation between classes) in social classes.²²

Practices that are in conflict with equality can be witnessed in history such as colonization which then gave birth to slavery. War enslavement occurred in almost all countries that lost the war, even until the 19th century, the practice of slave trade still existed in Europe and America, until finally abolished by President Abraham Lincoln (1809-1865). Likewise the Dutch colonialists called *rodi* and Japanese work called *romusa*, there were even *Jugun Lanfu* or female sex workers who were forced to serve the lust of the Japanese army at that time. This forced labor was carried out to build infrastructure, the economy and the interests of survival in their colonies. These practices are clearly in conflict with the principle of equality or egalitarian of human beings.

5. Principles for the Protection of Human Rights

Human Rights is an issue that has emerged at this time, it even becomes the main prerequisite for a country to be called democratic. Countries with high levels of human rights violations are categorized as undemocratic states and will surely be marginalized in the world. Islamic law teaches that the protection and recognition of human rights is something given by Allah from birth. Therefore, human rights are also the main theme of the state in Islam which includes three elements; 1. Human equality; 2. Human dignity; and 3) human freedom. Since the beginning of Islam, human equality has not only existed in the text of the Holy Quran and hadith, but has been implemented and the context of social life of the people. Humans are considered the same despite different skin colors, different languages

²²Juhaya S. Praja, *Filsafat Hukum*, (Bandung: Lathifah Press in collaboration with Faculty of Shariah IAILM Suryalaya, Tasikmalaya, 2004), p. 77.

and races. Islamic teachings conflict with all forms of oppression, colonialism, feudalism, discrimination, arbitrariness in any name.²³

Humans are a noble and dignified creature of God, God as the creator who gives dignity and quality. So if there is someone who undermines the dignity and glory of our fellow human beings, it means that they are against the provisions that God has outlined to humans. Humans are different from other creatures, because they have physical and spiritual elements. Then related to human freedom, it can be mentioned the main things namely; 1) freedom of religion; 2) freedom of thought and expression; 3) freedom to have children; 4) freedom to own property and; 5) freedom to have a place to live. These five kinds of freedom must be protected by the state according to Islamic law.²⁴

Regarding the matter explained above it is interesting to refer to the Orientalist views of the French Marcel A. Boisard who precisely upholds humanism in the sense of protecting women, human rights, providing freedom and equality of human beings. Boisard stressed that in Islam the underlying construct and social system are built on the principle of equality. The principle of equality is only found in Islam, not in other religious systems and ideologies, for example capitalism or communism.

Islamic law also protects women and enforces equality between men and women. Then Islamic law provides a boundary between human rights and obligations, and also guarantees those rights and obligations. As a proof, the Holy Quran and the Sunnah require the husband to be fair and kind to his wife. As the teachings of Islam teach the marriage system to protect the rights and treat women with dignity. Women's rights which, according to the Prophet Muhammad, are holy, have equality before the law, the right to private property and the right to inheritance.²⁵ Before Islam came, let alone inheritance, in fact women at that time could in practice be passed on from a father to their children.

Based on Marcel A. Boisard's opinion, it shows honesty and acknowledgment of Islam which respects and dignifies human nature, protects human rights, elevates the status of women, and respects fellow human beings without discrimination. However, this view is an opinion held by a minority of scientists and Western society towards Islam but can provide confirmation that the teachings of Islam are not as alleged so far. Islam in theory and practice throughout the history has come to uplift human dignity.

²³Muhammad Tahir Azhary, *Negara Hukum*, p. 132.

²⁴Muhammad Tahir Azhary, *Negara Hukum*, p. 134.

²⁵Marcel A. Bosaird, *Humanisme dalam Islam*, translated by HM. Rasjidi, (Jakarta: Bulan Bintang, 1980), p. 112.

CONCLUSION

Based on the discussion above, it can be concluded that Islam has a broad meaning, not only meaning religion, but also the world and even the state system. Because Islam is holistic and comprehensive and not partial (*juz'iyat*). There are variants regarding the relationship between religion and the state such as, integralistic, secularistic, and symbiotic, each of which has arguments and applications in the history of the nation in the world from the past and even today. Indonesia as a country based on the ideals of Pancasila is not an Islamic state but also not secular, but the country with the largest Muslim population that upholds religious values can be included in symbiotic variants. In this symbiotic variant the principles of religion in the state can also be implemented because it does not conflict with Pancasila and the 1945 Constitution. Islam and Pancasila are not conflicting entities but rather two elements that are in line. These principles are in line with the ideals of law in Indonesia with power as trust, discussion, justice, equality and protection of human rights; be valid evidence and guarantee that the country can be said to be a nation that upholds the dignity and benefit of humanity.

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