



The Concept of "Mursalah Issues" in Life of The State According to Islamic Law (NU and Muhammadiyah Perspective)

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Abstract

This research was conducted in order to solve the problem of relations between Islam and the State. Islam is a religion that has characteristics that are shumuh or comprehensive, perfect and muzzled so that it can adapt to the developments of the times. The purpose of conveying the message of Islam to humans is none other than the realization of mercy for all nature (QS: al-Anbiya: 107) This verse is used as a source of law in determining the objectives of Islamic law. Scholars such as Syatibi and al-Ghazali have the opinion that the aim of Islamic law is to create maslahah and avoid the mafasadah. Therefore, this research becomes very important in order to understand what is the background of the ulama from the NU and Muhammadiyah circles to participate in the Pancasila State education.

Keywords: Daulah, Ijtihad, Maslahah, State, Moderate

1. Introduction

The polemic about the relationship between Islam and the State is a discourse that is never final, so it often triggers various kinds of social and political conflicts. In the Indonesian context, the birth of the unitary state of Indonesia in 1945 gave birth to a long debate among the Muslims, especially from the aspect of Islamic law. Is Islam in line with the concept of the unitary state of Indonesia which is based on Pancasila or is it contradictory? Historical facts show that the ulama contributed to the birth of the unitary state of the Republic of Indonesia, both from the NU and Muhammadiyah circles, such as the role of Kahar Muzakki and Ki Bagus Hadikusumo which cannot be denied in the formulation of Pancasila so that it can be accepted as the basis of the state. (Aidi, 2010)

What is behind the agreement of the ulama from Muhammadiyah and NU to support the unitary state of the Republic of Indonesia cannot be separated from political ijtihad taken from the method of Islamic law. In the context of Islamic law, political problems are within the scope of the muamalah chapter, so that political decisions return to muamalah principles. According to the muamalah rule, every problem related to muamalah is permissible, unless there is a argument that prohibits it, as stated in the ushul fiqh rule: "The original law in muamalah is permissible until there are arguments that show its prohibition". (Djazuli, 2007) State politics in Islamic law refers to the arguments of the Koran and hadiths regarding the

Imarah chapter or the concept of leadership in Islam and the foundation of social values. In accordance with the Koran, the principles of governance in the Koran are based on human values, justice, deliberation and equality.

This foundation was built by the Prophet Muhammad in his leadership in Medina. The city of Yathrib, which was transformed into the city of Medina under the leadership of the Prophet Muhammad SAW, indicates a change from an ignorant society to a civilized, educated, humane society and has legal awareness. Therefore, this study tries to find out what answers the scholars consider in agreeing to form a state, especially in Indonesia, from the perspective of Islamic law.

When viewed from the Ijtihad method in Islamic law, there are several Ijtihad methods, including the Qiyas, Istihsan, Ihtisab and Maslahah Mursalah methods. In the context of statehood, the scholars tend to use the concept of maslahah mursalah. How this method is used by scholars in forming a country. Can the marslahah mursalah method be used as a legal consideration in the context of a state consisting of a plural society?

2. Literature review

2.1 Definition of State

The term Negara (Indonesia) is a translation of the words state (English), staat (German and Dutch) or Etat (French) which is absorbed from the Latin status or statum which means something that has fixed and upright characteristics. (Arifin, 2015) The Big Indonesian Dictionary states that the country is defined as first; as an organization in a region that has the highest legal power obeyed by the people. Second; The state is defined as a social group that occupies a certain territory or region organized under an effective political institution and government, has political unity, is sovereign so that it has the right to determine its national goals. (Rosana, 2016)

Meanwhile, according to Wirjono Prodjodikoro, states that a state is an organization among a group or several groups, humans who together inhabit a certain area (territory) by recognizing a government that manages the order and safety of a group or several groups. (Atmadja, 2012) Three important elements that must be possessed by the State are, namely the people, territory and government. These three elements by Mahfud M.D. referred to as a constitutive element. These three elements need to be supported by other elements such as the existence of a constitution and international recognition by Mahfud with a declarative element. (Ubaedillah, 2017)

When referring to the Arabic dictionary, there is the word daulah which is taken from the word dala-yadulu-daulah which means to take turns, circulates, and rotates. The word daulah The term means a social group that resides in a certain area and is organized by a government that regulates their interests and benefits. Daulat can be interpreted as state, government, kingdom or dynasty. (Republika, 2021) The word Ad-daulah is mentioned by al-Qur'an in two surahs, namely surah Ali Imran (3) verse 140 and Surat Al-Hasyr (59) verse 7

ۚ نِيْمَسْخُمْ قَرَحَ فَقَدْ مَسَّ الْقَوْمَ قَرَحٌ مِّثْلُهُ وَتِلْكَ الْآيَاتُ نَذَائِهَا بَيْنَ النَّاسِ وَلِيَعْلَمَ اللَّهُ الَّذِينَ ءَامَنُوا وَيَتَّخِذَ مِنْكُمْ شُهَدَاءَ وَاللَّهُ لَا يُحِبُّ الظَّالِمِينَ ١٤٠

If you (in the war of Uhud) get wounded, then actually the people (disbelievers) (in the battle of Badr) will get the same wound. And the period (glory and destruction) We rotate among humans (so that they can learn a lesson); and that Allah will distinguish between those who believe (with unbelievers) so that some of you will be made him (fall as) martyrs'. And Allah does not like wrongdoers

2.2 Understanding Maslahah al-Mursalah

According to etymology, the word *maslahah* comes from Arabic which is a form of *masdar* from the word *shalaha yashlihu* which means good or positive and has been standardized into Indonesian to become the word *maslahat*, which means to bring good or benefit (benefit) and reject damage (*mafsadah*).) (Kholil, 1995). Meanwhile, in terminology, the word *maslahah* can be interpreted as taking advantage and rejecting harm in order to maintain the objective of *syara* 'or Islamic law. (Harun: 2009) There is the concept of *maslahah* in the *ijtihad* method, because in essence, the *syari'at* is sent down in this world only for the benefit of humans (*innama unzilati syari'atu lithahqiqi mashalihil anam*) (Hadi, 2014)

While the word *mursalah* etymologically means to be free, not tied to religious propositions (Sirat et al., 2016). The word is detached and free when associated with the word *maslahah*. The point is "regardless of or free from information indicating whether or not it is permissible to do it". According to *ushul fiqh* experts, *maslahah al-mursalah* is the benefit that has been conveyed by *shari'a* in the form of law, in order to create benefit, in addition to the absence of arguments that justify or blame. Therefore, *maslahah al-mursalah* is called absolute because there are no arguments that state right and wrong. (Syafe'i, 2010)

2.3 The position of the Maslahah Mursalah in Islamic Law

In fact, the problem of human improvement always arises and never stops. (Syafe'i, 2010)

- a. If if you do not use *maslahah al-mursalah* then you cannot manage new problems that arise to improve humans.
- b. Indeed, many people have used *maslahah al-mursalah*, namely from the Sahaba, the Tabi'in and the mujtahid. They use *maslahah al-mursalah* for the truth that is needed, such as Sahabat Abu Bakr collecting the manuscripts and then recording them into the Qur'an.

According to Syatibi, the position of "*maslahah mursalah*" is used as an argument for the establishment of an independent Islamic law, with several conditions. First, the benefit which is used as the basis in the argument of *maslahah mursalah* is a *maslahah* that is not mentioned by *syara* 'but there is no argument that justifies or rejects it and is in line with the will to be achieved by *syara*. If there is a special argument that points to it, then it is included in the area of *qiyas* study. Second, the *maslahah* which is used as a consideration for the stipulation of the law is indeed logical. Third, the *maslahah* which is used as a consideration for the stipulation of the law is the *maslahah dharuriyyah* and *hajiyah*. Fourth, this *maslahah* can perfect a life and eliminate the difficulties or pettiness of life that *Shara* does not want. (Imran Rosyadi: 2018)

3. Result and Discussion

3.1 Problems Mursalah in a state according to Islamic law

Part of the problem raised by the Ulama is the problem that is not raised by the arguments of the Al-Quran and Hadith, so the scholars refer to maqashid sharia (Sharia Purpose), namely avoiding kemudhdaratan and prioritizing benefit. In the book *al-Mustasfa min 'Ilm al-Ushul*, Imam al-Ghazali argues that *maslahah* is a statement towards achieving benefits and rejecting harm. To know the benefits of something, it cannot be known only by human reason, but must also be with the help of *syara* 'argument. (al-Ghazali, 1999) Essentially, *Maslahat* is maintaining the objectives of the Shari'a which are divided into 5 things: maintaining religion, soul, mind, descent, and property. (al-Ghazali, *al-Mustasfa min 'Ilm al-Ushul*, 2008)

Even so, the scholars have made it necessary to establish laws based on *maslahah mursalah*, including first, not to negate the existing arguments and not to contradict the arguments that are *qat'i*. Second, legal decisions based on *Maslahah mursalah* must also be accepted naturally or rationally. Third, the *maslahah mursalah* does not eliminate what already exists, and if the theory does not use it rationally, then people will experience difficulty in thinking. Allah SWT in his word states, which means `` Allah SWT did not make religion for you narrowly (Syafe'i, 2010)

In the context of a state, the *maslahah mursalah* method is needed because there is no argument that explicitly shows the state procedures. Therefore, the ulama in Indonesia decided on a concept of statehood based on the situation and circumstances of society by taking into account the benefit. Because in essence, the goal of Islamic law is ultimately how Islam is able to provide welfare for its people, as contained in the Koran Surah *al-anbiya*: 107.

وَمَا أَرْسَلْنَاكَ إِلَّا رَحْمَةً لِّلْعَالَمِينَ ١٠٧

107. And We did not send you, but to (be) mercy for all the worlds

For example, the opinion of Umar bin Khattab who proposed the existence of Al-Quran bookkeeping without any mandatory arguments, because there was no more benefit factor. The appointment of the caliph Ar-Rashidin is part of a legal decision based on *maslahah mursalah*. Islam even commands that everything in matters of benefit is carried out by way of deliberation.

وَالَّذِينَ اسْتَجَابُوا لِرَبِّهِمْ وَأَقَامُوا الصَّلَاةَ وَأَمْرُهُمْ شُورَىٰ بَيْنَهُمْ وَمِمَّا رَزَقْنَاهُمْ يُنفِقُونَ ٣٨

38. And (for) those who accept (obey) the call of their Lord and offer prayers, while their business is (decided) by deliberation between them; and they spend part of the sustenance that We give them

3.2 Maslahah Mursalah in the state from the perspective of NU and Muhammadiyah

In Indonesia, there are 2 Islamic organizations that have played a major role in the formation of the Unitary State of the Republic of Indonesia, namely the NU and Muhammadiyah Organizations. Muhammadiyah is an Islamic organization that was born in 1912 while it was born in 1924. As an Islamic organization, NU and Muhammadiyah have a large number of followers, with charitable efforts in the field of education, hospitals and others. Muhammadiyah and NU during independence had an important role in the formation of the Pancasila State. Because of this, the Pancasila formula was born and cannot be separated from the contribution of scholars from both NU and Muhammadiyah circles.

Muhammadiyah itself explains that Muhammadiyah is an organization that has the characteristics of moderate Islamic thought. In fighting for the idea of Moderate Islam, Muhammadiyah developed various activities known as business charity in the fields of education, hospitals, orphanages and recently empowering the mustadhafin. (Qodir, 2019) Therefore, Muhammadiyah placed the Pancasila State as Darul Ahdi Wa Syahadah as decided in the 47th Muhammadiyah Congress on 3-7 August 2015 in Makassar.

In the introduction to PP Muhammadiyah in the concept book "Pancasila State: Darul Ahdi Wa Syahadah" published by PP Muhammadiyah, it is stated that the concept of the Pancasila State as Darul Ahdi Wa Syahadah is based on official ideas that have been the guidelines and references for organizations such as Matan Beliefs and Cita. The Life of Muhammadiyah (MKCH), Muhammadiyah Personality, Muhammadiyah Khittah-Khittah, Building the Vision and Character of the Nation, as well as the results of Tanwir Muhammadiyah in Bandung in 2012 and Tanwir Samarinda in 2014. (Muhammadiyah P., 2016)

According to Haedar Nashir, the meaning of "Darul Ahdi" means the country where we carry out national consensus. Our country stands because all the diversity of nations, groups, regions, political powers agreed to establish Indonesia. Meanwhile, darul syahadah means the country where we fill. So after we have Indonesia which is independent, then all elements of the nation must fill this nation into a developed, prosperous, just, dignified country (Muhammadiyah PP, 2017)

Muhammadiyah also invites Muhammadiyah members in particular and Muslims in general as a majority force and is expected to be able to fill and build the Pancasila State, namely the Unitary State of the Republic of Indonesia (NKRI) which is based on Pancasila, the 1945 Constitution, and Bhineka Tunggal Ika as a developed, just, and prosperous, dignified and sovereign in line with the ideals of Baldatun Thayyibatun Wa Rabbun Ghafur.

Meanwhile, in the NU perspective that the establishment of Pancasila in order to realize the public interest (masalahah 'âmmah) is in line with one of NU's khittahs in the field of Religion. NU scholars agree that the purpose of Islamic law is to create universal human benefit (jalb al-maslahah), and reject all forms of apostasy (dar'u al-mafâsid). In other words, Islamic syari'at is built for the happiness (sa'âdah) of humans both in this world and in the hereafter, fully reflecting the benefits mentioned earlier. (Yusuf, 2020)

As stated in the NU khittah that the principles of government must be implemented in order to realize masalahah 'ammah. The concept of masalahah 'ammah according to the NU perspective adheres to the provisions of syûra as emphasized in the alQuran wa amruhum syura bainahum (their affairs are discussed among them). (Surah al-Syûra: 38). All decisions masalahah 'ammah are borne, carried out, and felt together. According to NU, al-Islâm murûnatun fiy al-Wasâil Wa tsabât fiy al-Ghâyât (Islam is elastic on its wasilah plain, and is constant in the ghayah or its goal). And something that has become a consensus from the process of defining masalahah 'ammah through deliberation is the highest law that binds us. (M. Imdadun Rahmat (Ed.) ;: 2002)

4. Conclusion

Based on the description above, the writer concludes that Islam is a religion that is flexible, dynamic and adapts to the times. In the context of statehood, all legal decisions in establishing a state must consider the objectives or maqashid sharia, namely prioritizing maslahah and avoiding mafsadat. For this reason, NU and Muhammadiyah ulama have the same approach in solving state problems.

Muhammadiyah uses the concept of Darul Ahdi wa Syahadah in establishing the Pancasila State, likewise NU uses the Maslahah amah approach. "Darul Ahdi" means the country where we carry out national consensus. Meanwhile, darul syahadah means the country where we fill in. In line with Muhammadiyah, NU is of the opinion that Islam is elastic in its wasilah plain, and is constant in its ghayah or goal). the consensus of the process of defining maslahah 'ammah through deliberation is the highest law that binds us

Legal considerations in building the Pancasila State must follow the maslahah principles formulated by previous scholars. The legal decision in establishing a state must not contradict the arguments of syara 'and be in line with the maqashid sharia or the objectives of the sharia as contained in the Koran surah al-Anbiya verse 107. And it is not that We send you, but to (become) a mercy for the universe.

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