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THE RELATIONSHIP OF RELIGION AND STATE LAW IN INDONESIA PARADIGM THEORY PERSPECTIVE OF THE RELATIONSHIP OF RELIGION AND THE STATE

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Abstract: *The discourse on the relationship between religion and the state in the context of the implementation of Islamic law in Indonesia is an issue that will never go stale. This article aims to examine the relationship between Islamic law and state law from a paradigm theoretical perspective on the relationship between religion and the state, a study of the thoughts of Indonesian thinker Prof. Arskal Salim. The type of method used is qualitative, data comes from library materials, the main data is the book "Challenging the Secular State; The Islamization of Law in Modern Indonesia" by Prof. Dr. M. Arskal Salim GP, M.Ag. The data is read, analyzed, separated and categorized and then analyzed using descriptive analysis and content analysis. The research results show that Prof. Arskal Salim in his book raises five issues related to the dynamics and discourse of the relationship between religion and the state in the form of the application of Islamic law in state law in Indonesia. The five issues are the dialectic of the concept of sharia and the issue of the nation state, the dialectic of the formalization of Islamic law and the issue of nationalism, the implementation of Islamic law in the Pancasila state constitution, legislation and the formalization of Islamic law in national law, the formalization of Islamic law in Aceh from the beginning of independence to the reform era. Based on the theoretical analysis of the paradigm of relations between religion and the state, namely the integralistic, symbiotic and secularistic paradigms, a fourth new typology was discovered, namely symbiotic-integralistic which is a combination of the symbiotic and integralistic paradigms. This symbiotic paradigm applies throughout Indonesia, and the integralistic paradigm only applies in Nangroe Aceh Darussalam Province.*

Keywords: *Relation; Religious Law; State Law; Paradigm Theory.*

INTRODUCTION

Islam is a perfect religion, where all aspects of human life have been regulated and explained in two sources of teaching, namely the Koran and hadith (Pulungan, 1997). The perfection of Islam is stated by Allah SWT in the Qur'an Surah Al-Maidah verse 3, "On this day I have perfected your religion for you, and I have perfected My blessings, and I am pleased with Islam as a religion for you all." Meanwhile, Rasulullah SAW explained that the message he brought was one unit with the message brought by previous prophets. In a hadith narrated by Bukhari and Muslim, he said, "My parable and the parables of the prophets before me are like those who build a house. He beautified and beautified the house, except for the bricks on one side of the building. Then people surrounded and admired the house, then said: 'How beautiful it would be if this stone were installed!' I am the brick and I am the cover of the prophets,". So, Allah SWT revealed this Islam perfectly and completely so that not a single issue concerning human life is left unregulated. Islam contains legal aspects – halal-haram, mubah-makruh, fardhu-sunnah – and also concerns matters of faith, worship, politics, economics, war, peace, legislation, and all concepts of human life (Tim kajian dakwah alhikmah, n.d.).

From this thesis, a debate was born regarding the relationship between Islam as a religion and the state as an entity of political power that regulates the lives of its citizens. Religion and the state are two entities that represent power in human life (Ihsan & Nurhayati, 2020). So one of the topics that has always been an issue in political developments in the Islamic world is the relationship between religion and the state (Firdaus, 2014). Until now, Muslim countries are still debating the relationship between religion and state. This debate occurs in terms of the state's adoption of Islamic teachings, especially Islamic law (shari'ah), including in Indonesia and Tunisia, which are now the most democratic Muslim countries (Di Negara-Negara Muslim, Hubungan Agama Dan Negara Masih Diperdebatkan, n.d.).

Looking at history, this debate seems to have started with the Turkish youth revolution under the leadership of Mustafa Kemal Pasha in the 20s (Gunawan, 2017). Mustafa Kemal Pasha (Mustafa Kemal Attaturk) has transformed the theocratic Ottoman Caliphate into a secular nation state. It is important to know that before colonialism, the average country was in the form of a kingdom, sultanate, caliphate and so on. The basis of these countries is theocratic, namely based on the power of God represented by kings, sultans, caliphs who rule a territory. So that when a nation state is born, the tug-of-war between religion and the state inevitably occurs and becomes an issue that is continuously debated and can even lead to war.

Broadly speaking, according to Sofyan Hadi in his article quoting from the opinion of J. Paul Wogeman stated that there are three general patterns of political and religious relations: *First* , the pattern of theocracy in which religion controls the state; *second* , erastianism if the opposite happens, namely the state co-opts religion; and *third* , the equal relationship between religion and state – in an *unfriendly* and *friendly separation.*(Hadi, 2018) Indonesia can be said to be a country that is included in the third category, which is friendly. Where there is separation but still accommodating and accommodating certain aspects of

religion, for example in aspects of Islamic civil law, such as marriage, inheritance, endowments, zakat, infaq, shadaqah, grants, and cases concerning sharia economics (Effendi., 2021).

This discussion on the relationship between religion and the state, even though it is a classic theme in the Indonesian context, is still important and relevant for at least three reasons . This is as expressed by Ahmad Sadzali in his article, namely: *First* , historically, the people living in the post-colonial area called Indonesia were actually very attached to a particular religion, religion or belief system. *Second ,* philosophically and on a national basis, Indonesia recognizes and makes religion part of the principles of the nation and state. In the basis of the Pancasila state, the first precept "Belief in the One and Only God" shows that Indonesia recognizes the life of the nation and state which is based on God. *Third*, post-colonialism, issues of religion and the state still often color and even become serious problems in social and political life in Indonesia (Sadzali, 2020).

Indonesia as a country born after colonialism has distinctive characteristics compared to other countries. Indonesia is a country that was born based on an agreement, namely an agreement between leaders representing tribes, religions, races, and groups in Indonesia. This was reflected long before Indonesia's independence, such as the Youth Pledge incident, until ahead of independence with the formation of the BPUPKI and PPKI, an institution formed by the Japanese to prepare for Indonesian independence. In the various meetings held during the period of the two institutions, there was a fierce debate between them in the context of what form and state system would be established later. But in the end there was a meeting point where the philosophy, foundation and concept of our country were Pancasila, Bhinneka Tunggal Ika, NKRI, and the 45 Constitution.

In the course of the history of the Indonesian state. Ten years after independence, it turns out that issues and debates about how the basis of the state and the application of religious law (Islam in this case) in the NKRI constitution have occurred again, which ended with the Presidential Decree 5 July 1059. The same thing also happened again when entering the reform era with the fall of the Order regime. Only in 1998. During the period 1999 to 2002 there was a change in the amendment to the Constitution of the Republic of Indonesia. The issue of Islamic law becoming state law also appears and is widely discussed in the public. Represented by right-wing groups such as the Islamic Defenders Front (FPI), KISDI, and so on. The debate even went so far as to replace the Pancasila state with an Islamic state or caliphate.

So far, the theory that is quite well established in explaining the relationship between religion and the state is the theory put forward by sociologists, Islamic political theorists. They formulated several theories about the relationship between religion and the state. In general, this theory can be divided into three paradigms of thought, namely the integralistic paradigm (unified paradigm), the symbiotic paradigm (symbiotic paradigm), and the secularistic paradigm (secularistic paradigm) (Sudarti, 2020) (Amrin, 2022a) (Zaprulkhan, 2014).

So far, Indonesia is known to fall into the symbiotic paradigm category. However, according to the author's hypothesis, Indonesia is not only in the symbiotic paradigm, Indonesia is also in the integralistic paradigm category. This means that there is a new typology in the paradigm theory of relations between religion and the state, the fourth typology, namely symbiotic-integralistic. The author's assumptions are based on historical records of the relationship between religion and the state, between the implementation of Islamic law and state law written by Prof. Dr. M. Arskal Salim GP, M.Ag. (hereinafter referred to as Prof. Arskal) is a Professor of Islamic Political Science from the Syarif Hidayatullah State Islamic University, Jakarta, who conducted in-depth research to produce a book entitled "Challenging the Secular State; The Islamization of Law in Modern Indonesia". So this article aims to dissect his thoughts in analyzing the history and map of the debate on the relationship between religion and the state, especially with regard to the implementation of Islamic law in Indonesia, then his thoughts are analyzed using the paradigm theory of the relationship between religion and the state as explained in the previous paragraph.

RESEARCH METHOD

The research method used in this article is a qualitative method that is descriptive analytical with a historical approach. The type of research is library study, where the data is obtained from two sources, namely primary sources and secondary sources. The primary data source was obtained from main library materials, namely books written by Prof. Dr. M. Arskal Salim GP, M.Ag. itself, namely the book "Challenging the Secular State; The Islamization of Law in Modern Indonesia". Secondary data sources were obtained from various scientific works, in the form of books, journal articles, proceeding articles, papers and other scientific works related to the topic of the application of Islamic law in state law in Indonesia as well as the paradigm theory of the relationship between religion and the state.

The data collected from primary and secondary sources is then analyzed using the content analysis method which in practice is carried out using the following steps: First, determine the unit of analysis, namely the parts of the text that are relevant to the research topic. Second, determine the analysis categories, namely the concepts or variables that will be used to classify the analysis units. Third, determine data processing techniques, namely ways to present the results of frequency calculations in the form of detailed thematic descriptions. Fourth, determine data interpretation techniques, namely ways to explain and answer research questions based on the results of data processing.

RESULT AND DISCUSSION

Paradigm Theory of the Relations between Religion and the State

According to Islamic political theoretical sociologists, theories about the relationship between religion and the state can be broadly divided into three paradigm theories, namely:

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1. Integralistic paradigm theory

   The integralistic paradigm views the relationship between religion and the state as an inseparable unity, two integrated institutions. The state is a political institution and at the same time a state institution. State government is organized on the basis of God's sovereignty, because sovereignty is in God's hands (theocratic). Consequently, state regulations must be carried out according to God's laws (Zulkifli, 2020). Examples of modern countries with this pattern are Saudi Arabia and Iran.

2. Symbiotic paradigm theory

   The symbiotic paradigm is based on the view that religion and the state are two different entities but need each other so that it is impossible to clearly separate the two. Religion requires power to obtain guaranteed protection and conversely the state needs religion as the actualization of values in the formation of laws or as an area of ethical and moral guidance. The symbiotic paradigm does not rule out the possibility that religious law can be used as state law (Febriansyah Ramadhan et al., 2023). Examples of modern countries with this pattern are Indonesia and Egypt.

3. Secularistic paradigm theory

   The secularistic paradigm applies the concept that rejecting the two paradigms above that have been explained, secularism proposes a strict separation between religion and the state. This paradigm holds that the state and religion are two different things so that their existence should not interfere with each other (Rahmatunnair, 2012). Examples of modern countries with this pattern are Türkiye and Azerbaijan.

Prof. Arskal Salim Thoughts

Prof. Thoughts Arskal Salim in the book "Challenging the Secular State; The Islamization of Law in Modern Indonesia" can be classified into 5 issues. These five issues will be explained in detail and will be analyzed using the paradigm theory of the relationship between religion and the state.

1. Dialectics of Sharia Concepts and Nation State Issues

   Before entering into a more in-depth discussion, it is necessary to explain what is meant by the term sharia used in this book by Prof. Arskal. This is important to know so that there are no misperceptions regarding the term sharia. According to Prof. Arskal, there is a difference between sharia and law and between sharia and fiqh, precisely the extent to which a rule or law can be identified as sharia remains unresolved. However, it is important to emphasize here that sharia in legal rules is not only visible in legal texts, but is more often found in the substantive content of legal rules. Here we have at least two types of sharia. Firstly, it is largely a set of legal rules, and secondly it is substantially a collection of main values (Salim, 2008).

   In relation to sharia and the state, none of the main sources of sharia, the Qur'an and hadith, have clear (written) or specific instructions regarding the establishment of a state, such as: what is the form of a state, what is the system used by a country, how the structure is in a country and so on. Verses and hadiths only explain general or

macro aspects, namely regarding the main principles, such as: deliberation (asy-syura), justice (al-Jadi), equality of rights (al-musawah), and freedom or independence (al-hurriyah) (KH Afifuddin Muhajir., 2017). Therefore, throughout Islamic history from its inception until today there have been many models and systems used in establishing a state or political power.

For Islamists (a term that represents a group that wants a state based on Islam), the unity between religion and politics is contained in three major concepts, namely:

a. Community concept

The Ummah is perhaps the first religiopolitical concept to appear in Islam, even though it was originally sociohistorical. The term ummah appears sixty-four times in the Qur'an and twice in the Constitution of Medina, with multiple and various meanings including followers of the prophet, followers of the divine plan of salvation, religious groups, small groups within the larger community of believers, perverted people, and the order of beings. Given the ambiguity of its meaning umma, there are differing interpretations among scholars as to whether it originally had an inclusive (applicable to all human beings) or exclusive sense (only applicable to Muslim believers) meaning in the early Islamic period (Salim, 2008)

b. Caliph concept

Like the term ummah, which is not only a framework for accommodating the cultural diversity of its adherents but also a concept for maintaining the unity of believers, namely the khilafah. The term caliph (caliph) itself turned out to be a symbol of religious and political unity throughout the Islamic empire. In political practice, the term caliph refers to the successor of the Prophet Muhammad, whose duty was to provide non-divine guidance on the true path (Islam) for the ummah. According to many scholars of Islamic law from the medieval period, the caliph was the one who sustained the mission of the Prophet, formulating concepts such as hifz al-din (guarding religion) and siyasa al-dunya (managing the world). The caliph inherited the Prophet's executive authority to implement and defend truth, along with the authority to "proclaim" the truth or make public policies on matters not explicitly provided for in the Qur'an or Sunnah. The caliph's authority was applied to everything from individual piety to ritual, family, business, politics and military matters (Salim, 2008).

c. Sharia concept

Historically, the application of the concept of sharia in countries that have existed in Islamic history has experienced differences and various interpretations. For Ibn Taimiyah himself, as quoted by Prof. Arskal, the form of caliphate or leadership is not his main concern. On the contrary, he is more focused on his function and leadership (state) goals, namely realizing all God's commands (shariah), promoting good, and prohibiting evil (amr ma'ruf nahy munkar). Both the goals of sharia and the state are similar. Therefore, Ibn Taimiyah attempted to create a new unified religiopolitical symbol (namely sharia) for the survival of the

ummah (Salim, 2008). For Islamists, these three concepts must be implemented by Muslims in building a state.

Historically, the political legitimacy of pre-modern states with models such as caliphs, empires and kingdoms based their legitimacy on their capacity to implement religious law in the state under their control. The stricter the implementation of the rules of religious law in the state, the stronger the political legitimacy will be, and vice versa. Whereas in a modern nation based on the concept of a nation state, its legitimacy lies in its ability to provide welfare for its people, so that not a few countries that fail to fulfill people's welfare will experience political changes and can even change the state constitution. This experience also occurs in our country Indonesia.

In dealing with the current reality, according to Piscatori, there are three responses among Muslims to the reality of the nation-state in the modern era. The former argue that the nation-state is unavoidable. It is a fact of life, which can only be accepted. Both claim that the nation-state is a natural institution and is only to be expected in terms of order. The third calls for a new synthesis between Islam and the modern nation-state. In the current era , the reflection that describes the relation of the unity of religion and the state can be seen in countries, namely Saudi Arabia, Iran and Pakistan. Although both of them are Islamic countries, in practice they have their own uniqueness and peculiarities in terms of the application of sharia and the role of the clergy as holders of sharia authority in the country.

2. Dialectics of Formalization of Islamic Law and Issues of Nationalism

Definition of Islamization according to Prof. Arskal is the establishment of what is considered as Islamic doctrine in state law (formal implementation of sharia). The formal implementation of sharia can be divided into five ranking areas, namely: (Salim, 2008)

a. Family problems, such as marriage, divorce, and inheritance;
b. Financial affairs and institutions such as zakat, waqf, and Islamic banking;
c. Ta'zir (discretionary) punishment for committing prohibited acts, such as consumption of liquor and gambling, or for eliminating necessary actions, for example the wearing of the headscarf for women;
d. Punishment hudud and qisas. Hudud for those who commit adultery or adultery and theft, and qisas for those who are proven guilty of murder;
e. Islam is both the basis of the state and the system of state government.

In In relation to the implementation of Islamic law by the state, totality or the comprehensiveness of syari'at, can be divided into five levels of application of Islamic law as follows (Aseri, 2016):

a. Family law issues, such as marriage, divorce and inheritance.
b. Economic and financial affairs, such as Islamic banking and zakat.

c. Religious (ritual) practices, such as the obligation to wear the headscarf for Muslim women, or the prohibition of things that are contrary to Islamic teachings such as alcohol and gambling.

d. The application of Islamic criminal law, especially with regard to the types of sanctions imposed on violators.

e. The use of Islam as the basis of the state and government system.

According to Ricklefs, in the history of the arrival of Islam in Indonesia, there have been three phases of Islamization: First , the 14th – early 19th centuries (religious conversion). Second, 1830-1930 (reconciliation of identity and purification of Islamic accluturation). Third, 1930-present. Since 1930, there have been three phases. First, there is an attempt to Islamize the country. Second, starting in 1968 to Islamize society/life. Third, post-New Order, namely increasing efforts to simultaneously Islamize the state and society (Salim, 2008).

Related to nationalism, in the history of Indonesia there were two phases of nationalism, namely Islamic nationalism (which was marked by the establishment of the Sarekat Islam in 1911 by HOS Cokroaminoto) and homeland nationalism which was marked by the birth of youth and student organizations, both domestically and abroad. such as the Indonesian Association in the Netherlands, Jong Java, Jong Sumatra, Jong Celebes and so on.

The most important development that explains how the issue of the relationship between religion/religious law and the state in the context of the formation of the Indonesian state occurred when Japan began to open discourse on granting independence. Japan at that time felt that it was about to lose the war in the 2nd world war began provide space for Indonesian leaders to discuss what and how the country will be formed. Japan facilitated this by forming a preparatory committee for independence, namely Dokuritsu Junbi Cosokai (Investigation Agency for Independence Efforts, abbreviated as BPUPKI) and Dokurotsu Junbi Inkai (Committee for Indonesian Independence Preparation, abbreviated as PPKI).

In early 1945, there was actually a hot debate about the future character of the State of Indonesia between Islamic and nationalist leaders at the Sanyo Kaigi (Advisory Council), one of the official institutions or bodies of the Japanese government. According to Lev, the Gunseikanbu (military administrative headquarters) were curious to know how the relationship between religion and the state would be in independent Indonesia, which immediately led to a polarization of ideological competition between Muslims and nationalists. From February to April 1945, the focus of much of the discussion was on Muslim institutions, such as the status and jurisdiction of Islamic courts, the role of the chief administrator of the mosque (head of the mosque), and whether the penghulu (Islamic religious official) would continue to advise the first levels of the ordinary courts and remains an adviser to the district head (bupati) (Salim, 2008).

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For Abikusno as chairman of PSII not only defended the existence of a formal Islamic religious adviser, but also argued strongly for providing a full umma, which is something very close to an Islamic state. For Abikusno and other Muslim leaders, Islam can only survive and grow stronger and fulfilled as a religion if there is a state behind it. However, Hatta, as a representative of the "secular nationalist" group, did not support the idea that national laws must be derived solely from the Qur'an. Hatta's attitude is also different from the Islamic group who do not want a separation between private and public spheres in Islam. In its development, this nationalist group was more dominant. This is because they were university graduates and so were more skilled and articulate, and they controlled the direction of Indonesian politics before and during independence (Salim, 2008).

Subsequent history records that at the first meeting of the BPUPKI session, which took place from late May to mid-July 1945, the two competing camps were openly confrontational in arguing about the basis of the new Indonesian state. The nationalist camp was represented by Soekarno, Muhammad Yamin and Mr. Soepomo. While from the Islamic community represented by Ki Bagus Hadikusumo. At the June 22, 1945 meeting, these nine leaders (from the Nationalist circles namely: Soekarno, Mohammad Hatta, AA Maramis, Achmad Subardjo, Muhammad Yamin. From the Islamic circles namely: Abikusno Tjokrosuyoso-SI, Agus Salim-SI, Abdul Kahar Muzakkir-Muhammadiyah, and Wahid Hasjim-NU) managed to reach a compromise. The nationalist group received a guarantee from the Islamic group that the Indonesian state would not be based on Islam, while the Islamic group received a concession from the nationalist group that the practice of Islamic sharia would be mandatory for Muslim citizens. This compromise is known as the Jakarta Charter, whereby the practice of Islamic law will be mandatory for Muslim citizens. This compromise, containing a statement containing seven words "With the obligation to carry out Islamic sharia for its adherents" was inserted in the Pancasila formulation as part of the Preamble to the 1945 Constitution.

The compromise reached in the form of the Jakarta Charter, however, is not the final consensus. This provisional consensus then had to be brought to the second round of BPUPKI meetings (10–16 July 1945) to be deliberated by all BPUPKI members. On the second day of the meeting (July 11, 1945), three members objected to the Jakarta Charter, namely Latuharhary (a Protestant representative), Wongsonegoro (a liberal Javanese) and Hoesein Djayadiningrat (the first Head of the Indonesian Religious Affairs Office during the Japanese occupation).

However, in its development, the rapid political developments after the proclamation of Indonesian independence on 17 August 1945, especially that which occurred on 18 August 1945, broke the compromise reached in the Jakarta Charter and removed all concessions given to Islamic groups. The seven words in the preamble as well as the chapter on religion were deleted and replaced with "Belief in the One God" (God Almighty). This happened because there was opposition from the Eastern Indonesian region towards the seven words. So that a new consensus is formed. The

new consensus on August 18, 1945 regarding the abolition of the seven words of the Jakarta Charter would become one of the most controversial issues in modern Indonesian history. Debate on this issue has occurred at least three times since 1945, most recently as the 2002 Annual Session of the MPR (MPR) (Salim, 2008). MORA is important because it enables religion (particularly Islam) to function as effectively as possible within the state as well as within religious communities and because it is a symbolic intermediary between the secular state and the Islamic state. MoRA itself appears to be a replica of the Ottoman millet system.

3. Application of Islamic Law in the Pancasila State Constitution

By quoting the opinion of Ann Elizabeth Mayer, Prof. Arskal argues that Islamic constitutionalism is based on the peculiarities of Islamic principles." What is meant by "Islamic principles" here, however, remains a matter of debate. However, identifying whether a country has an Islamic constitution depends heavily on how Islam is defined in the constitution. Therefore, the constitutional position of Islam as the state religion has always been a matter of debate during the process of constitution-making or political reform in Muslim countries. There are at least four types of Islamic state related to the constitution of state religious recognition (Salim, 2008):

a. Countries that proclaim themselves to be 'Islamic countries,' such as Afghanistan, Bahrain, Brunei, Iran, Maldives, Mauritania, Oman, Pakistan, Saudi Arabia, and Yemen.

b. Countries that state that they have declared Islam as the 'state religion', such as Bangladesh, Egypt, and Malaysia.

c. Countries that do not have a constitutional declaration of state religion, such as Indonesia, Syria and Uzbekistan

d. Countries that recognize themselves as secular states. An example of such a situation is Azerbaijan .

In addition to constitutional recognition of Islam as the state religion, recognition of the status and role of sharia in the constitution of a Muslim state has become another defining criterion for distinguishing an Islamic constitution from others. It is clear from the discussion above that the status and role of sharia in the constitution is at the heart of what is called 'Islamic constitutionalism'. The position of sharia in a constitution determines whether it is Islamic or not (Salim, 2008).

In practice in Islamic countries, there is tension in constitutional law, stemming in part from the fact that it tends not to emphasize human rights and freedoms, but rather the obligation of citizens (Muslims) to obey divine law or sharia. This is different from non-Muslim countries or countries in general in modern countries which actually make rights the main issue in the law of a country. The state is obliged to protect basic human rights as stated in The Universal Declaration of Human Rights (UN Declaration of Human Rights). At the next level, many Islamic countries in today's modern era tend to be more open towards human rights issues, they are more inclusive in facing the realities of the times.

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As briefly mentioned in the previous sub-chapter, in Indonesia, attempts to reintroduce Islamic law into the Indonesian constitution have been made several times, at least three times after independence in 1945. The first attempt was at meetings of the Constituent Assembly (Council Konstituante) from 1957 to 1959. The second attempt took place during the first years of the New Order (1966-1968), during the meetings of the Annual Session of the Provisional People's Consultative Assembly (MPRS) 1966 to 1968. Finally, the third attempt occurred during the constitutional process amendments in the Annual Sessions of the People's Consultative Assembly (MPR) in 2000, 2001 and 2002. However, all these efforts were unsuccessful.

The next issue that is being debated is how to address human rights issues whose concept comes from the West with a Liberalistic view. There were two important meetings that specifically discussed the amendments to Article 28 on Human Rights at the 2000 MPR Annual Session. The first was the 43rd Plenary Meeting of the Ad Hoc Committee One which took place on 13 June 2000. The second was the 5th Commission Session of the Annual Session MPR on 13 August 2000. The 13 June 2000 meeting was more important, as the discussions in the meeting proposed and drafted provisions on human rights, while the meeting on 13 August 2000 seemed to be mostly dealing with the systematic formulation of human rights provisions in the constitution. In their debate, the Islamic faction wanted MPR Decree 17/1998 and laws that apply to human rights to become the basic reference for drafting human rights provisions in the constitution. Then emphasizing that constitutional provisions on human rights must meet the requirements not to conflict with religious values, they proposed using the words "religious values". Even though the demands of the Islamic faction were not fully approved, the Islamic faction was at least able to formulate Article 28J (2) of the Constitution, so that religious values must be considered in the implementation of human rights (Salim, 2008).

4. Legislation and Formalization of Islamic Law in National Law

The next study raised by Prof. Arskal is how the application of sharia law in the laws and regulations that apply in Indonesia. Prof Arskal took the example of the Zakat Law. Zakat is an instrument in Islam that is multidimensional, covering spiritual (purification of the soul), political purposes (state fiscal and use for public works and expansion of territory), and economic (reducing poverty and inequality). However, in relation to the implementation of the implementation of zakat among Muslims themselves there is disagreement. This is probably because the Al-Qur'an does not clearly detail matters related to the administration and enforcement of zakat. There is no precise direction whether to centralize or decentralize, or institutionalize or personalize the implementation of zakat (Salim, 2008). In the application of zakat, there are three models that occur in Islamic/Muslim countries, namely: First, the complete incorporation of zakat as a regular tax in Islamic countries (Pakistan, Sudan, Saudi Arabia). Second, the establishment of intermediary financial institutions that accept voluntary zakat payment funds (Jordan, Egypt, Bahrain, Kuwait, Indonesia).

Third, the marginalization of zakat as a matter of personal conscience for each individual (Morocco, Oman) (Salim, 2008).

How is the implementation of zakat in this case so that it can align with the agenda of a nation state based on Islam or the majority of Muslims? It appears that there have been efforts in several Muslim countries, including Indonesia, to simplify the various practices of zakat by subordinating its spiritual function to its political and economic goals and by centralizing its administration. In this way, a shift from understanding zakat primarily as an act of piety with an emphasis on zakat as the foundation of Islamic political and economic systems is now being made. Likewise, there is a strong demand that Muslim Governments themselves should assume the responsibility of "collecting zakat" and not leave its payment and distribution to individual conscience, as zakat is now seen as a fully viable alternative to secular taxes." In short, efforts to centralize the management of zakat in the hands of the government apparatus and its integration into the modern taxation system are clear stages on the road to the Islamization of the nation-state (Salim, 2008).

Management in the form of zakat collection in Indonesia itself has occurred along with the arrival of Islam and was embraced by the people of the Archipelago, the collection was organized with the existence of Islamic kingdoms that were born in the Archipelago. During the Dutch colonial period there was a dearth of information available to us regarding Dutch colonial policy on zakat and for the most part the little information available was limited to Java and relied on Snouck Hurgronje's correspondence containing his advice on zakat issues. What we know from his correspondence is that early colonial policies regarding zakat probably stemmed from the fact that some of the original officials were as bupati, camat (wedana), and village heads. Misusing zakat funds for personal gain. The Dutch East Indies government, realizing that such abuse by self-appointed officials could undermine political stability in the colony, issued a regulation (Bijblad no. 1892) in 186 forbidding all officials of these classes from being involved in the collection and distribution of zakat (Salim, 2008).

After Indonesia's independence, the newly independent Indonesia's zakat policy adopted the previous Dutch policy of a colonial strategy. As previously mentioned, the Ministry of Religion (MoRA), which effectively replaced the Dutch Colonial Office for Indigenous Affairs, was established in January 1946. The task of this ministry, among other things, was to guarantee the freedom of people to practice their respective religious obligations, 12 and at first only continued the colonial policy of zakat. In 1951, for example, issued a circular letter (Circular no. A/VVII/17367 dated 8 December 1951), stating that the ministry would not intervene in the management of zakat (Salim, 2008).

During the New Order era, President Soeharto co-opted the zakat administration by offering himself to take over all the responsibility for collecting and distributing zakat, personally, as a citizen. As soon as President Suharto stopped being a national amil in the mid-1970s, there was no clear legal basis for some government-sponsored

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or semi-autonomous zakat institution to exist. The only legal basis they had during that time belonged to a presidential circular issued in 1968, which suggested establishing an organization of officers to collect zakat in each of the institutions hosting the zakat institutions.(Salim, 2008) Surprisingly, even though there is no national policy regarding the direction zakat collection will go, the number of zakat institutions continues to increase gradually from year to year until entering the Reformation period.

Entering the Reformation era, Law 38/1999 concerning Zakat Management was born. The enactment of Law 38/1999 concerning Zakat Management is clear evidence that the institutionalization of zakat has been included in the state structure. There are four reasons why the Zakat Administration Law is considered and needed in Indonesia:

a. First, it is hoped that the law will increase the amount of zakat payments in Indonesia.
b. Second, it is intended to assign zakat funds for economic purposes, such as poverty alleviation and social welfare.
c. Third, it is necessary for legal and political purposes, namely to provide a stronger judicial basis for zakat institutions in Indonesia and to establish zakat institutions at the national level.
d. Fourth, it stems from religious expectations that the law will increase the level of participation and religiosity of Muslims

While many Muslims welcome the existing zakat law, there are also those who complain about its enforcement and want to revise the current zakat law. The idea of revising the zakat law has appeared in public on several occasions. Efforts to amend the Zakat Law were made regarding complaints in law enforcement, this effort was successful with the revision of Law (UU) Number 23 of 2011 concerning Zakat Management.

The next issue related to the management of zakat is how the relationship between zakat and taxes is equal become an obligation inherent to citizens and as a Muslim. Here there is an overlap between zakat and taxes. in 1988 and emphasized that zakat and taxes are different obligations and that Indonesian Muslims are obliged to pay zakat as well as pay taxes. However, in its development, with the issuance of the Zakat Law, it was stated that zakat could be used as a tax deduction. In its development, the enactment of the Zakat Administration Law in Indonesia is politically problematic for non-Muslims who feel discriminated against by some of its provisions (Salim, 2008).

It seems that the phenomenon of taqnin (promulgation) of Islamic law in Indonesia is in line with the view of Amien Rais who stated that it is the state that can control society and apply a law, so that Amien Rais has the idea that "the state is the guardian of shari'ah" so that shari'a 'ah do not experience a deterioration (decay) and deviations and violations, the state is a syari'ah tool that can manage and regulate the dimensions of human life, the state functions as a guardian of legal, political, cultural, customary,

moral order so that things become orderly." From the paradigm understood by Amien Rais, Islam does not determine the form of a state that must be formed, but the most important thing for Islam in running the state is substance (Nadliroh, 2022).

H. Muchsen as quoted by Matta Baharuddin in his estimation and hope that in the future more and more Islamic contents can enter and color legislation. This hope is not exaggerated in view of several laws and regulations related to Islamic law, such as Law no. 1 of 1974 concerning Marriage, Law Nu. 7 of 1989 concerning the Religious Courts, Law no. 17 of 1999 concerning the Implementation of Hajj and Law no. 36 concerning Management of Zakat. However, in the future will this hope be realized? This can be proven by the government's political will in exploring and understanding Islamic ethical and legal values that grow and develop in Islamic society (Baharudin, 2012).

5. Formalization of Islamic Law in Aceh from the Beginning of Independence to the Reformation Era

According to Prof. Arskal, an Acehnese Ulama since the early years of the Indonesian republic, has played a major and central role in mobilizing expressions of Acehnese Islamic identity, namely wanting to formalize the application of Islamic sharia in Aceh. Therefore, the All Aceh Ulama Association (PUSA) tried to realize their goals by proposing the establishment of the Province of Aceh in 1949. However, dissatisfaction emerged among the Acehnese clergy, with the dissolution of Aceh Province by the central government in 1950. As a form of disappointment experienced by the Acehnese people, on September 21, 1953, only eight years after Indonesia's independence, the Acehnese people under the leadership of PUSA Teungku Daud Beureueh proclaimed that Aceh was separated from the Unitary State of the Republic of Indonesia, and two years later joined NII or DI/TII led by SM Kartosoewiryo (Salim, 2008).

After the ulama rebellion led by Daud Beureueh was settled in the early 1960s, the ulama lost power and their political position declined throughout the province, but after the dissolution of the PKI, the role of the ulama increased again, assisted by the military establishing the Acehnese Ulama Association which is different from PUSA - it's Daud Beureuh (Salim, 2008). However, in its development, the New Order Regime then issued Law 5/1974 concerning Regional Government, which implied the abolition of the special status for the province of Aceh. The role of the clergy during the New Order era was increasingly marginalized and taken over by technocrats. Since the late 1980s, calls by the clergy for religious autonomy have been increasingly muted. However, after the fall of the New Order, political positions were taken over by GAM and NGOs (Salim, 2008).

During the period when the DOM (Military Operations Area) was enforced from 1989 to the end of 1998, there was a clear difference between rural and urban ulama. If HUDA (Aceh Dayah Ulama Association) wants sharia and a referendum, urban clerics—most of whom are from the MUI—are cautious in responding and prefer to introduce Islamic sharia under the auspices of special autonomy. The enactment of

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Law 44/1999 concerning the Privileges of Aceh is a confirmation of the position of the ulama in the political structure of the local government. In this autonomy, the central government offers Aceh to get three aspects of autonomy (religion, customs, and education) which inherently require the ulama to be active in power.

In Aceh, the role of the MPU (Ulama Consultative Council) is stronger than that of the MUI. Apart from issuing fatwas, the key role that ulama can play in the implementation of sharia in the modern nation-state is involvement in the codification of Islamic rules. In the application of sharia in Aceh, there were at least seventeen regulations or qanuns that were promulgated between 2000 and 2006 (Salim, 2008). In the implementation of these qanuns, there were differences between before and after the Aceh tsunami. At the time when the Aceh tsunami had not yet occurred, the application of qanuns in the field was very small, but post-tsunami there has been an increase in the application of qanuns in society. This may seem a bit strange, but based on the interview conducted by Prof. Arskal, the answer was that the devastating tsunami occurred because the people of Aceh abandoned the rules of Shari'a (Salim, 2008). So, the Aceh tsunami has created momentum to further encourage the application of sharia in the region, there has been an increase in prosecutions for violators of qanun jina'i.

Paradigm Theory Analysis of the Relations between Religion and the State

Of the five issues explained by Prof. Arskal, based on the theoretical analysis of the paradigm of relations between religion and the state, the results of the analysis according to the author are as follows:

1. Analysis of sharia concepts and nation state issues

   In the context of Indonesia, Piscatori's theory (which has been explained above) seems quite relevant in describing the socio-political reality of Indonesian society. In the author's opinion, the formation of the Indonesian state based on an agreement in the form of PBNU (Pancasila, Bhinneka Tunggal Ika, NKRI, and UUD 45) is a reflection of the symbiotic state paradigm, because Indonesian society cannot escape from the two relationships between religious law and state law, like and soul as in the theoretical explanation above. The latest example that can illustrate the pattern of relations in Indonesian society is in Law no. 1 of 2023 concerning the Criminal Code (New Criminal Code). In this law, the source of the law comes from 3 legal systems, namely Western, Islamic and customary. The symbiotic paradigm is reflected in the compromise between criminal forms and criminal punishments, for example the criminal form is taken from Islamic law, but the punishment pattern follows western or customary law.

2. Dialectical analysis of the formalization of Islamic law and the issue of nationalism

   The fact that Prof. Arskal's explanation in point b also strengthens the author's analysis that the pattern of relations between Islam and nationalism is a symbiotic integralistic paradigm. There was a synthesis between Islamic law and secular (state) law, the basis and form of the PBNU-based state above, and the formation of the

Ministry of Religion. This is in line with Amrin's statement in his article which states that sociologically and politically, the position of Islam in the context of statehood in Indonesia cannot be separated from the dynamics and political configurations that accompany it. In history, Indonesian politics has always been colored by the santri and abangan circles from the socio-cultural Javanese community. So that santri tend to be affiliated with Islamic parties, while abangan tend to be secular parties. Since before independence, the santri have been involved intensively in the struggle for independence, both through diplomacy and physical confrontation. Santri who know religious people are also intensive and contribute to the formulation of the basis and constitution of the Indonesian state in the BPUPKI and PPKI forums (Amrin, 2022b). This is what influences the integralistic-symbiotic relationship pattern.

3. Analysis of the application of Islamic law in the Pancasila state constitution

Strengthening the theories of experts on the paradigm of the relationship between religion and the state which is divided into three typologies, namely integralistic, symbiotic and secular, Faizal Amrul Muttaqin, citing Din Syamsuddin's theory, stated that there are three typologies of the relationship between religion and the state (Muttaqin, 2022). First, the typology which states that Islam is both a religion and a state (din wa daulah). Islam as a perfect religion, namely Islam and the State are two things that unite. The relationship between Islam and the state is an organic one. There are several figures included in this typology, namely Sayyid Qutb, Rashid Rida, Abu al-A'la al- Maududi .

Second, the typology which states that the relationship between religion and the state runs symbiotically and dynamically-dialectically, not directly related, so that the two regions still have their own distance and control, so that religion and the state run side by side. The two of them meet for the sake of fulfilling their respective interests, religion requires state institutions to accelerate its development, likewise state institutions require religion to build a country that is just and in accordance with the spirit of divinity. World Muslim leaders in this group include Abdullahi Ahmed An-Na'im, Muhammad Syahrur, Nasr Hamid Abu Zaid, Abdurrahman Wahid and Nurcholish Madjid (Dahlan, 2014).

Third , the typology which states that religion and the state are two different domains and have no relationship at all. This group separates the relationship between religion and politics/state. Therefore, this group rejects the state's basing on religion or the formalization of religious norms into the state legal system. One of the world's leading Muslim figures included in this group were A. Lutfi Sayyid, Ali Abd al-Raziq and Soekarno (Faqih, 2022).

Even from this theory it can be concluded that in the context of the constitutionalization of sharia, the prevailing paradigm is the symbiotic and dynamic-dialectical paradigm. Moh Mahfud MD as quoted by Junaidi et al in the context as an academic views that the relationship between religion and the state cannot be separated from legal politics in this country where in his book explains that law is a tool to achieve what is called the ideals of the nation and state goals. In order to run a

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country so that the relationship between religion and the state becomes more harmonious and can coexist in facing the goals of the state, it can be emphasized that the legal pluralism that exists in Indonesia always influences the space for movement of religion and the state, and the world of Indonesian politics always juxtaposes the two in interacting (Junaedi, Diki Dikrurohman, 2023).

This is also reinforced by Rahmatunnair's opinion in his article which states that compromising Islamic law (religious law) with positive law (state) is difficult to avoid, especially positive law which does not contradict or even support the application of Islamic law. Such as the Road Traffic and Transportation Law, the Law on the Environment and so on.

4. Analysis of legislation and formalization of Islamic law in national law

   Prof.'s Arskal explanation in this sub-chapter again strengthens the author's analysis that legislation and the formalization of Islamic law in national law is a symbiotic paradigm. There was a synthesis between Islamic law and state law in the formation of the zakat law, and also other laws such as Law no. 1 of 1974 concerning Marriage, UU Nu. 7 of 1989 concerning Religious Courts, Law no. 17 of 1999 concerning the Implementation of the Hajj.

5. Analysis of the formalization of Islamic law in Aceh from the beginning of independence to the reform era

   In the context of the implementation of Islamic law in Aceh, the correct theory to read is the integralistic theory, where Aceh and Islamic law cannot be separated. The specificity of Aceh with Law 44/1999 concerning the Specialty of Aceh, which is a province that implements Islamic law, is a socio-political reality resulting from prolonged conflict and is a compromise for the sake of peace in Aceh. So it can be concluded that there are two paradigms of the relationship between religion and the state in the socio-political context of Indonesian society; symbiotic pattern (other than Nangroe Aceh Darussalam Province), and secondly integralistic pattern (applies specifically to Nangroe Aceh Darussalam province). So from the two patterns that the author found in the issue of the relationship between religion and the state in the context of the implementation of Islamic law in Indonesia, a fourth paradigm was found (apart from integrative, symbiotic and secularistic), namely the symbiotic-integralistic paradigm.

CONCLUSION

Prof. Arskal's thoughts in his book "Challenging the Secular State; The Islamization of Law in Modern Indonesia" can be mapped into five issues, namely: the dialectic of the concept of sharia and the issue of the nation state, the dialectic of the formalization of Islamic law and the issue of nationalism, the application of Islamic law in the Pancasila state constitution, legislation and the formalization of Islamic law in national law, the formalization Islamic law in Aceh from the beginning of independence to the reform era.

These issues are elaborated in detail so that complete information can be obtained on the dynamics of the issue of the implementation of Islamic law in Indonesia.

The issue of the relationship between religion and the state is a strong issue after the birth of the concept of the nation state in the world, since the beginning of the 20th century. Various Islamic or Muslim-majority countries try to implement religious rules in the state constitution, but there are three forms of typology that ultimately apply, namely: integrative, symbiotic, and secularistic. This is happening in the Islamic world today, each of these three typologies exists in nation states whose majority population is Muslim.

In the Indonesian context, the relationship between religious law and the state also occurred long before the Republic of Indonesia's independence in 1945, with two main issues, namely Islamic nationalism and Indonesian nationalism. After independence, this issue did not stop, but continued to be debated at three moments until the last time when there was an amendment to UUD 45 in 1999-2002. The use of Islamic law as a rule that applies in post-reform state law began to appear formally, one of which was with the birth of the Zakat Law in 1999, and several other laws regarding Religious Justice and Sharia Economics. Even more formally, sharia rules really apply in Aceh Province as one of the provinces that has special rights in implementing Islamic sharia.

So with the five themes that have been described by Prof. Arskal, a new typology was found that applies where Indonesia as a country founded on the principle of agreement (darul mitsaq) has a new typology, namely symbiotic-integralistic. The symbiotic paradigm applies on a national scale, while the integralistic paradigm applies to the province of Nangroe Aceh Darussalam.

Through this article, it is hoped that this study can provide a significant contribution in understanding the dynamics of the relationship between Islamic law and religious law in Indonesia, as well as providing in-depth insight into Prof. Dr. M. Arskal Salim GP, M.Ag, which can become a basis for further policy development and research in this area. From these findings, future research can be directed at aspects of the application and enforcement of law as reflected in the two typologies above, and their impact on the future progress of the Indonesian state. Comparative studies also seem to need to be part of the analysis, both in the internal context of Indonesia and Indonesia with other countries, especially Islamic countries and Muslim countries..

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