

**ASBĀB AL-NUZŪL: METHODS AND ITS APPLICATION
TO VERSES OF THE AL-QUR'AN**

Rozatul Muna



**ONLINE LOANS THROUGH SMART CREDIT APPLICATION;
A COMPARATIVE STUDY OF ISLAMIC LAW AND POSITIVE LAW**

Slamet Abidin



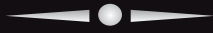
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HIMPUNAN ILMUWAN DAN SARJANA SYARIAH INDONESIA

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POLITICAL CONFIGURATION AND LEGAL PRODUCTS IN INDONESIA IN TERMS OF ISLAMIC CONSTITUTIONAL LAW

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Abstract

Politics and the state are inseparable. The confusion of the form of politics or what is known as the Political Configuration and Legal Products in Indonesia makes people wonder. Then, Islamic Constitutional Law will look at or see how Indonesia's forms of politics and legal products are used. This study aimed to determine Indonesia's political configuration and legal products in terms of Islamic constitutional law. The type of study was normative legal research or research library. The primary data sources were obtained from Al-Qur'an and Hadith, while the secondary data were obtained from books, journals, or materials taken from writings related to the subject matter. The data collection technique was used through the literature by searching, reading, studying, and reviewing related literature. The results of this study showed that: 1) Indonesia currently used a democratic political configuration and responsive legal products, where the public was given space to express themselves and play an active role in determining policies in the government; 2) Islamic constitutional law considered that the political configuration and legal products in Indonesia were in accordance with what was contained in the Islamic constitutional law. This was because Indonesia's democratic political configuration and legal products had the same vision, namely creating prosperity for the general public.

Keywords: *Indonesia; Islamic Constitutional Law; Political Configuration; Product of law*

INTRODUCTION

Politics are all activities related to the problem of fighting for and maintaining power. It is usually assumed that this power struggle has a goal that concerns the interests of the whole society.¹ Basically, the concept of a political system is used for analysis purposes, where a system is abstract as well. In this context, the political system can be applied to a concrete situation, for example, a smaller state or unity (city or ethnic group) or a larger unity (in the international field) where the political system consists of several countries.

The concept of the political system in its application to concrete situations such as the state tries to base the study of political phenomena in the context of behavior in

¹ Miriam Budiardjo, *Dasar-dasar Ilmu Politik* (Cet. I; Jakarta: Gramedia Pustaka Utama, 2008), hlm. 18.

society. Political behavior is considered a part of overall social behavior. It means that society is a social system that essentially consists of various processes. Among these various processes, political phenomena can be seen as a collection of separate processes different from other processes. This is called the political system.

Politics and law or legal politics have various meanings or definitions. However, while believing that there is a substantive similarity between existing explanations, the explanations related to politics and law are legal policies that are comprehensively implemented by the Indonesia Government, which in this case includes; *first*, the development of laws with the core of making and updating legal materials so that they are in accordance with by necessity; *second*, the implementation of existing legal policies, in this case, the functions of institutions that must be confirmed and law enforcement and needs to be fostered. From this explanation, it can be seen that politics and law cover a draft, and the law implemented must be felt and enforced.²

The political and legal conceptions are important to be positioned as a framework in viewing the direction of state policy towards the regulation of believers in Indonesia's context of the rule of law. What and how are the state's efforts in providing regulation and providing protection for believers as part of the citizenship index in Indonesia? Based on the perspective of legal politics, this section attempts to lay out the line of state policy in terms of the appreciation of beliefs that have been manifested in the form of laws and regulations. From this expanse, it can be seen, is there any deviation? Even if there is the extent of the deviation that has occurred.³

Indonesia is a serene and peaceful country.⁴ Islam is the religion most widely embraced by the people of Indonesia and makes Indonesia the largest Muslim country in the world. Islamic teachings have various kinds of knowledge contained in their holy books, especially the knowledge of Islamic Constitutional Law, which discusses the system of government or politics in a country, laws, regulations, the rights and obligations of every citizen or society, and so on. Al-Quran is like a supermarket that has provided a political system and must be followed by its people.⁵ Every citizen certainly needs a service.⁶ Services sourced from policies provide benefits. The leader or government who is a servant of their people in political science is a public servant.⁷ In

² Moh. Mahfud MD, *Politik Hukum di Indonesia*, (Depok: Rajawali Pers, 2009), hlm. 17.

³ M. Wildan Humaidi, Politik Hukum Mahkamah Konstitusi Atas Rekognisi Penghayat Kepercayaan Dalam Kontestasi Politik Kewargaan Indonesia, *Jurnal Al-Daulah*, Volume 9 Nomor 1, (Juni, 2020), hlm. 68.

⁴ Burhanuddin Rabbani dan Nila Sastrawati, Kebangkitan Islam Dalam Sistem Politik di Indonesia (Studi Analisis Dampak Gerakan 212), *Siyasatuna*, Volume 3 Nomor 1, (Januari, 2021), hlm. 44.

⁵ Usman, Negara dan Fungsinya (Telaah atas Pemikiran Politik), *Al-Daulah*, Volume 4 Nomor 1, (Juni, 2015), hlm. 131.

⁶ Ramlia dan Darussalam Syamsuddin, Kualitas Pelayanan Publik Dinas Kependudukan dan Catatan Sipil Kabupaten Majene, *Siyasatuna*, Volume 3 Nomor 1, (Januari, 2021), hlm. 193.

⁷ Asriana dan Usman Jafar, Telaah Hukum Tata Negara Islam Atas Peraturan Daerah Bernuansa Agama (Syariah), *Siyasatuna*, Volume 3 Nomor 1, (Januari, 2021), hlm 36.

Islam, humans, in this case, the government, are allowed to make laws and regulations to regulate in such a way the order of social life that can bring benefits.⁸

On the other hand, it can also be seen that the function of law tends to decline. Thus, the basic assumption was born that law is a political product whose character will be largely determined by the form of politics that gave birth to it. This assumption is chosen on the basis of the reality that all legal products decided are the result of politics so that they appear as a result of the crystallization of interacting political thoughts between leaders or politicians.

Many people think that the formation of law is faced with a dilemma about the possibility of values that must be set aside, but the law should be operated according to its purpose. The core of the community's trust in the law is the maximum achievement of legal goals. Therefore, the implementation of the law should give satisfaction to the community about the hope to achieve the goals of the law itself.⁹ The achievement of legal goals comes with a process of expectation and must be proven or felt directly by the community.

Based on the description above, the research questions of this study are: "How is the current political configuration and legal products in Indonesia? How is the political configuration and legal products in Indonesia in terms of Islamic constitutional law?"

METHOD

In conducting this study, the researcher employed 2 (two) approaches, namely the statutory and normative theological approaches (*Syar'i*). The data source was from primary and secondary materials using comparative analysis. The data collection techniques were carried out by writing, clarifying, and making data obtained from written sources.¹⁰ After collecting the data, the researcher then analyzed it to draw a conclusion.¹¹

RESULT & DISCUSSION

1. *The Current Political Configuration and Legal Products in Indonesia*

Indonesia is a country that adheres to a democratic political configuration or a democratic system so that the democratic culture has taken root in the minds of the Indonesian people. The Indonesian people have adopted this system since the independence of the Republic of Indonesia. Democracy is the government of the people. This means that the highest power is held by the people. All policies regarding government decisions must be negotiated with the people.

⁸ Sandi dan Andi Safriani, *Eksistensi Badan Permusyawaratan Desa Dalam Penetapan Peraturan Desa, Siyasatuna*, Volume 3 Nomor 1, (Januari, 2021), hlm. 214.

⁹ Marwan Mas, *Pengantar Ilmu Hukum* (Bogor: Ghalia Indonesia, 2014), hlm. 82.

¹⁰ Mayyadah, *Analisis Sosial Hukum Islam, Al-Risalah*, Volume 21 Nomor 1, (Mei, 2021), hlm. 37.

¹¹ Indo Esse dan Lomba Sultan, *Sistem Pemerintahan Kerajaan Wajo di Desa Tosora Abad XV-XVII Perspektif Siyasa Syar'iyah*, *Siyasatuna*, Volume 3 Nomor 1, (Januari, 2021), hlm. 90.

The term “democracy” itself comes from the Greek, *demos*, which means people, and *kratos*, which means power. The word democracy itself was first introduced by Aristotle, namely, as a form of government that stipulates that power is in the hands of the people.

Indonesia is a country that adheres to democracy in its government system. Indonesia has proven this by holding direct presidential and vice-presidential elections. In addition, the Indonesian people are free to hold meetings and free to speak to express opinions, criticize, or even supervise the running of the government system. The freedom to embrace religion is also an embodiment of a democratic state.

Building a democratic country is not easy. This is because the development of a democratic system in a country may fail. However, in this country, the democratic system being implemented is progressing. It can be seen from the freedom of belief, opinion, or freedom to assemble without any restrictions.

However, even though this country has succeeded in implementing its democratic system, it seems that the democratic system is being misused and not working properly nowadays. This causes this nation to experience many problems, for example, in political life. The real democratic system seems to be no longer valid. Still, there are elements of strength and weakness that determine the final outcome of democracy. Who are the most powerful, then they will get a certain position or role. It is no longer purely the result of people's beliefs and opinions.

The democratic system run by a country certainly has positive and negative impacts. The positive impact is that democracy gives hope in creating freedom, justice, and prosperity. However, the negative impact of this system is that it can increase unemployment, traffic congestion, corruption, etc. Actually, democracy is a bad system among the worse alternatives. If all goes well, then everything will also be smooth. If a country wants to make a change, then the democratic system is a dynamic idea; the process is continuous. A country that is successful in implementing democracy is a country that is able to implement true freedom, justice, and welfare. For this reason, we, as Indonesian people who adhere to a democratic system of government, need to maintain and run the system in accordance with the rules so that the democratic system can be fully realized in an Indonesian government system towards a prosperous, safe, and peaceful society.¹²

Legal products in Indonesia have a Responsive/Populistic character. These legal products make the Indonesian people play an active role in determining the laws or regulations that apply in their country. All demands or input from the public regarding unrest related to legal products will be conveyed to their representatives. In this case, the House of Representatives will follow up on any demands or input from the community.

The hierarchy of legal products or statutory regulations currently being used as references is confirmed in Article 7 Paragraph (1) of Law Number 12 of 2011¹³, namely: the 1945 Constitution of the Republic of Indonesia, Decree of the People's Consultative Assembly, Government Regulations in Lieu of Law, Government Regulations,

¹² Kompasiana, Sistem Demokrasi Indonesia, <https://www.kompasiana.com/popy/55282da76ea8348c588b4597/sistem-demokrasi-di-indonesia>, diakses tanggal 25 Juli 2021

¹³ Marwan Mas, *Pengantar Ilmu Hukum* (Bogor: Ghalia Indonesia, 2014), hlm. 67.

Presidential Regulations, Provincial Regulations, and Regency/City Regional Regulations.

Indonesia's products of law or legislation have gone through many reforms or revisions, both shortly after the proclamation of independence and until now. Any renewal or revision of legal products is considered very reasonable because Indonesia adheres to or uses a democratic political configuration or a democratic political system and uses responsive legal products, thus giving rise to various opinions and inputs related to the improvement of legal products.

Society or citizens must also provide supervision and control, especially related to the rule of law, so that the authorities' interests do not misuse the goals of democracy and many legal products in Indonesia.

2. The Political Configuration and Legal Products in Indonesia in terms of Islamic Constitutional Law

The political change in 1998, known as reformation, was evidenced by the fall of President Suharto from the golden seat of power that he had held for more than 30 (thirty) years. The fall of the authoritarian New Order regime was marked by changes to the state constitution, namely the 1945 Constitution was amended up to four times. The result of the amendment to the country's constitution was a change that was so important for the constitutional system of the Republic of Indonesia. The structure of state institutions that were no longer needed by the state was removed or abolished, and then along with political developments and the needs of the community, new state institutions were formed. The Supreme Advisory Council was abolished or dissolved, then the Constitutional Court and the Regional Representative Council were formed as high state institutions. The people's representative institution underwent changes to make improvements by eliminating the elements of representation, which in the past, were used as a tool of executive power. The elements of the Armed Forces of the Republic of Indonesia, Group Representatives and Regional Representatives, in which during the New Order were used to create formal legitimacy, were dissolved from the House of Representatives. All members of the House of Representatives were elected by the people through general elections. In order to fulfill and accommodate the aspirations and interests of the regions, the House of Representatives was formed, whose composition was directly elected by the people from the regions they represent (the provinces).

The reform movement that led to the fall of President Suharto and his New Order regime also gave the press a revival spirit in Indonesia. As one journalist in Malang put it, reform and press freedom were described as "a party." The reform era was marked by the opening of the faucet for freedom of information. In the press, this freedom was demonstrated by the ease of managing the Press Publishing Business License (Suroso, 2001:3). Prior to 1998, the Press Publishing Business License process involved 16 stages, but with the installation of the BJ Habibie Cabinet, it was reduced to three stages. In addition, in September 1999, the government of BJ Habibie ratified the Law of the Republic of Indonesia Number 40 of 1999 concerning the Press, replacing the Law of the Republic of Indonesia Number 11 1966, Law Number 4 1967, and Law Number 21 1982,

which is recognized as "no longer in accordance with the times." The third-year since the fall of Suharto and the change of his regime, a new trend has emerged in the press in Indonesia, namely localization. The process involved many publications appearing in the regions to serve the information of residents in that area.

The post-reform political configuration shows a pattern of openness that opens up opportunities for the full potential of the people to play an active role in determining state policies. In such a political configuration, the government acts more as a servant who must carry out the people's wishes, formulated democratically by the people's representative body, and political parties function proportionally.¹⁴

The changes in the political configuration in Indonesia also greatly affect the process and results of the creation of legal products. Of course, this change in political configuration is expected to produce a policy that positively impacts the community. Judging from the current situation, Indonesia adheres to a democratic political configuration by producing responsive legal products.

One of the purposes of human creation is to enforce the law.¹⁵ In the view of Islamic Constitutional Law regarding the political configuration and legal products in Indonesia, there is a very close relationship. If a country adheres to a democratic political configuration, the legal products produced are responsive legal products. This is because the democratic political configuration is designed in such a way to provide an active role by the community in the order or policy made by the government. The active role given by the people in Indonesia is represented by the House of Representatives of the Republic of Indonesia. However, when there is an injustice from the rules or policies that have been made, the community has the right to voice opinions or suggestions for the perceived injustice, this is what is called a responsive legal product.

The essence of meaning is the most important thing about Islamic Constitutional Law.¹⁶ Democracy in Islam is seen as the sovereignty of the people and cannot be separated from the sovereignty of God.¹⁷ On QS. Ash-Shura/42:38 mentioned:

"And who respond to [the call of] their Sustainer and are constant in prayer; and whose rule [in all matters of common concern] is consultation among themselves; and who spend on others out of what We provide for them as sustenance".¹⁸

Based on the above verse, it can be seen that citizens or communities have an important role to be involved in deciding matters concerning their interests.¹⁹ This is in

¹⁴ Lintje Anna Marpaung, Pengaruh Konfigurasi Politik Hukum Terhadap Karakter Produk Hukum, *Pranata Hukum*, Volume 7 Nomor 1, (Januari 2012), hlm. 11-12.

¹⁵ Daniati dan Hasbullah, Tinjauan Hukum Islam Terhadap Peran Pemerintah Dalam Pemberdayaan Minyak Bumi, *Siyasatuna*, Volume 3 Nomor 1, (Januari, 2021), hlm. 57.

¹⁶ Andi Zalika Nidasoliah dan Rahmiati, Pemenuhan Hak Pilih Penyandang Disabilitas Netra Pada Pemilihan Gubernur di Kota Makassar Perspektif Siyasah Syar'iyah, *Siyasatuna*, Volume 3 Nomor 1, (Januari, 2021), hlm. 24.

¹⁷ Nurekasari dan Hamzah Hasan, Tinjauan Siyasah Syar'iyah Terhadap Eksistensi Lembaga Legislatif Sebelum dan Sesudah Reformasi, *Siyasatuna*, Volume 3 Nomor 1, (Januari, 2021), hlm. 174.

¹⁸ Kementerian Agama RI, *al-Qur'an dan Terjemahnya* (Bandung: Mikraj Khazanah Ilmu, 2014) h. 487.

¹⁹ Haryono Harun dan Subehan Khalik, Peran Tokoh Masyarakat Dalam Pemilihan Kepala Desa Bontoala Kabupaten Gowa, *Siyasatuna*, Volume 3 Nomor 1, (Januari 2021), hlm. 74.

accordance with the configuration of democratic politics and responsive legal products used by Indonesia. In a democratic political configuration, the law-making process is carried out by way of deliberation where the people are represented by the People's Representative Council so that the government or authorities cannot immediately make rules as they wish, but for the common interest or desire.

Then, one of the Islamic ullema, Yusuf al-Qardhawi, stated that the substance of democracy is in line with Islam.²⁰ This can be seen from several things as follows:

- a. In a democracy, the electoral process involves many people appointing a candidate entitled to become a leader and providing services to them. Of course, they shouldn't choose a leader they don't like, likewise with Islam. Islam forbids a person to be the *imam* of prayers that are not liked by the *ma'mum* behind him.
- b. The efforts of every people to straighten out tyrannical rulers are also in line with Islam. Even admonishing *ma'ruf* and *nahi munkar* and giving advice to leaders is part of Islamic teachings.
- c. The elections are one type of witnessing. Therefore, whoever does not use his right to vote so that the candidate who should be eligible to be elected loses and the majority vote goes to the candidate who is actually not worthy. It means that they have violated the command of Allah SWT to testify when desired.
- d. Legal stipulation based on the majority vote also does not conflict with Islamic principles, such as Umar's attitude to joining the *shura*. They were appointed by Umar as a *khalifah* candidate, and at the same time chose one of them to become *khalifah* based on a majority vote. Meanwhile, others who are not elected must submit and obey. If the votes came out three to three, they had to choose someone who was favored from outside them, namely Abdullah ibn Umar. Another example is the use of the opinion of *jumhur* ulama in *khalifah problems*. Of course, this majority vote is taken as long as it does not contradict the Shari'a texts explicitly.
- e. Freedom of the press, freedom of expression, and judicial authority are many things in a democracy that is in line with Islam.

CONCLUSION

Currently, Indonesia's political configuration and legal products used or applied are democratic political configurations or democratic and responsive legal products. The democratic political configuration and responsive legal products currently used by Indonesia give the people the right to freedom of expression because the public must actively participate in determining government policies. Meanwhile, Islamic constitutional law assesses from the results of the review that Indonesia's political configuration and legal products have the same vision, namely creating prosperity for the general public. This is in accordance with what is contained in Islamic constitutional law. One of the conformity forms is holding a deliberation or meeting between the

²⁰ Ex-School, Pandangan Ulama (Intelektual Muslim) Tentang Demokrasi, <https://ex-school.com/artikel/pandangan-ulama-intelektual-muslim-tentang-demokrasi>, diakses tanggal 25 Juli 2021.

government as the State Leader and the House of Representatives as the representative or bearer of all the voices of the community in making or deciding a policy. The basis for conformity is found in one of the words of Allah SWT contained in the QS. Ash-Shura/42:38 and QS. al-Baqarah/2:177. Then it is reinforced by Yusuf al-Qardhawi's opinion, which stated that the substance of democracy is in line with Islam.

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