

Relations between The State and Religion in The Constitutional Republic of Indonesia

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Abstract—The debate regarding the relationship between the state and religion in Indonesia has been going on for a long time and its intensity is increasing while preparations for independence are underway. This article examines how these debates influenced the creation and amendment of the Constitution, as well as their impact on the rewritten or amended Constitution. In this article, it is emphasized that the debate regarding the relationship between religion and the state became very fierce during the preparation for independence, especially when the first Constitution was formulated. The focus of the debate is whether Indonesia will become a country based on a particular religion, especially Islam, or whether it will become a country that does not associate itself with a particular religion. Such debates re-emerged when the Constitution underwent revisions and changes. Over time, this debate has had positive implications with the birth of valuable agreements such as Pancasila, which recognizes that the Indonesian state is based on "Belief in One Almighty God". This agreement is contained in the 1945 Constitution in the form of recognition of the state based on God Almighty, guarantees and freedom to embrace religion and worship, the oath of the president and vice president according to their religion before taking office, recognition of religious courts, the right to religion as a human right that cannot be reduced under any circumstances, and restrictions on human rights, one of which is based on religious values, and the development of science and knowledge by upholding the values of religion

Keywords-Religion; Country; Pancasila; Constitution.

I. INTRODUCTION

This article discusses how the relationship between the state and religion in Indonesia is related to the formation and amendment of the Constitution. The focus of the discussion is the polemic regarding the relationship between the state and religion in the process of forming and changing the Constitution, as well as its implications for this process. Although this theme has long been debated in the Indonesian context, it is still relevant and important for at least three reasons. First, historically, people in the region that later became Indonesia were closely associated with certain religions or belief systems, both before the introduction of Hinduism and Buddhism, and after Islam was introduced. Second, philosophically and in a state context, Indonesia recognizes the role of religion of the Almighty God, which reflects the principle that this country is based on faith in God. Even though it does not recognize any particular religions, including Islam, Protestantism, Catholicism, Hinduism, Buddhism and Confucianism. Thus, Indonesia is not an explicitly religious or secular state, but rather adopts a state typology with nationalism that relies on the existence of God or a concept called a tamyiz state[1].

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After the colonial period ended, the issue of the relationship between the state and religion remained a topic that often emerged and even became a serious problem in Indonesian socio-political life. Polemics regarding the relationship between the state and religion often arise in the political arena, indicating politicization efforts from various parties. If this polemic continues to be maintained solely for the practical political interests of certain sectors, there is a possibility that there will be continued polarization in society, which could lead to the division of the nation. In fact, the presence of threats from extreme left and right groups can also worsen this polemic. Issues regarding the relationship between the state and religion are not only limited to the political realm, but also affect other fields such as economics, education, law, culture, and others[2].

Therefore, even though it has become a classic topic, the issue of the dynamic relationship between the state and religion in Indonesia is still relevant to study. The polemic regarding this relationship should have ended when the 1945 Constitution was enacted. The basic state agreements in the Constitution should be respected and implemented by all elements of the nation. In this article, the discussion regarding the relationship between the state and religion is limited to the context of the formation and amendment of the Constitution. The discussion begins by explaining the discourse regarding the relationship between the state and religion theoretically. Next, it explains the relationship between the state and religion during colonialism, then continues with the polemic in the formulation of the 1945 Constitution. The next discussion highlights this relational polemic in changes to the Constitution: the RIS Constitution, the 1950 UUDS, and the 1945 NRI Constitution. Finally, the article identifies the implications from the polemic regarding the formation and amendment of the Constitution.]

II. LITERATURE REVIEW

A. The Relationship of The State and Religion: Perspective of Islamic Thought

This article examines the relationship between the state and religion from the perspective of Islamic thought. This research aims to describe the relationship between the state and religion in the Islamic view. The method used to obtain data is a descriptive method through literature study. The results of the study show that among Muslim figures or thinkers such as Nurcholish Madjid and Abdur Rahman Wahid agree that there is a constructive relationship between two things, namely state and religion, which revivalists separate. This is based on several indicators as follows. (1) Islam does not provide a concept of state formation but in practice it can be done with the concept of khalifah, dawlah or hukumah (2) What is emphasized by Islam is precisely the universal values which are democratic values in the form of truth and justice (3) In addition, Islamic teachings uphold the values of human rights as a basic right that everyone has from birth or the right to freedom of religion, so it cannot be reduced under any circumstances[4].

B. Religion and Politics: Study of Soekarno's Thoughts on the Relationship Between The State and Religion

This article examines the basic state debate, namely the relationship between the state and religion. This debate arose as a result of differences in views between religious nationalist groups and secular nationalist groups. Religious nationalist groups want a state based on religion. Meanwhile, secular nationalist groups believe that in the basic formulation of the state, religion must be separated from the state. The first opinion (Religious nationalists) is based on the fact that the majority of Indonesia's population is Muslim, and conversely, the second group believes that Indonesia is a plural country consisting of various groups. This paper uses a descriptive literature study method, meaning that materials are collected from various literature to collect data related to the relationship between the state and religion according to Soekarno as a representation of the sparation of the state and religion is Cording to Soekarno is nationalist group. The separation of religion and state in Soekarno's view was inspired by Kemal Attatur from Turkey and Ali Abdurraziq and other reformer figures. According to Soekarno the separation of the state and religion is carried out for the sake of national unity, considering that the Indonesian nation is a plural nation. The separation of the state and religion in question will not override the teachings of Islam, and the building of nationalism in question is not chauvinism, but nationalism which turns Indonesians into servants of God who reside in the spirit and soul of religion[5].

C. Islam and the State: Revealing the Relationship between the State and Religion in the History of the Constitutional System in Indonesia

This article examines the relationship between the state and religion and the relevance of their relationship in the history of national and state life in Indonesia. This research uses a normative descriptive research method with a conceptual approach and an approach through the sources of Islamic law and legislation. The aim of the study is to discover the relationship between the state and religion in the constitutional system in Indonesia. Research findings show that Islam and the state are both different things, the first is a transcendental and holy religion, while the second is the result of human civilization in regulating human relations. However, in its development there is a kind of unique dialectic, where ulama and intellectuals are of the view that the two have a strong relationship not only from the conclusions of contemporary ulama, but also have a long history since the time of the prophet Muhammad. In Indonesia, the relationship between the two is visible in the history of this

country, conflicting thoughts of religious nationalist figures and secular nationalists in the early days of independence as well as armed contacts color the evidence of the relationship between the two. However, in the end there is agreement, especially the majority of Muslims do not see that religion (Islam) and the state does not need to be at odds. Both actually need to be elaborated in a beautiful combination. Islam can be used as a basis for a holy spirit in the administration of power or government. The birth of the Ministry of Religion, the Religious Court, the Marriage Law, Zakat Law, Waqf Law, Sharia Banking Law and Sharia regional regulations are relevant forms of relations between religion and the state in Indonesia[6].

III. METHOD

This research is normative legal research conducted to analyze the relationship between the state and religion in the constitutional of Republik Indonesia, which includes the correlation between religious principles and the formulation of values in Pancasila, as well as the position of both in the 1945 Constitution. This research uses a legal approach. (statute approach), namely in the context of this research the analysis carried out is based on constitutional principles and provisions. Descriptive analysis is used as the analytical method carried out in the discussion to explain the relationship between religion and Pancasila based on the 1945 Constitution.

IV. RESULT AND DISCUSSION

A. Discourse on the Relations between the State and Religion

Theoretically, many proposed typologies regarding the relationship between the state and religion have emerged and developed. The most classic typology is of course a theocratic state, namely the union of religion and the state, and a secular state, namely the separation of the state and religion. Then it developed into a more moderate typology, which some Muslim thinkers called the tamyiz state. The concept of a tamyiz state is also said to be in accordance with Islam. Muhammad Ali Jum'ah, former Mufti of Egypt, believes that in Islam there is no concept of secularism or theocracy. A secular state is not recognized by Islam, because it deconstructs the role of religion. Meanwhile, a theocratic state is also not justified, because the leader is considered to be God's representative, which of course is not justified in Islam[7].

However, the typology of relations between the state and religion has apparently experienced very rapid development. Ran Hirschl, as quoted by Ratno Lukito, put forward at least eight theories of the relationship between the state and religion, namely: the atheist state; assertive secularist; separation as state neutrality toward religion; weak religious establishment; formal separation with de facto pre-eminence of one denomination; separation alongside multicultural accommodation; religious jurisdictional enclaves; and strong establishment. The development of this typology of course shows the ongoing discourse regarding the relationship between religion and the state[8].

Historically, the emergence and development of secular views has been an integral part of discussions about the relationship between the state and religion. The secularization process, in Donald Eugene Smith's view, is characterized by a separation between the state and religion affairs. In the Islamic world, Türkiye is a clear example of the secularization process in a country that has a strong religious base. The decision to change the government system from a religious-based monarchy to a secular one was a step that surprised many countries at that time. Although many other Muslim countries, such as Iran, Egypt, and Saudi Arabia, condemned it, the presence of secularization in Turkey was considered a proud "success". Türkiye remains consistent in running a non-religious government, even though the majority of its people have strong religious beliefs. The steps taken by the Turkish government in encouraging the secularization of the government system are an invitation to other countries with a majority religious population to accept that change in society is an inevitability that cannot be rejected[9].

In Asia and Africa, secularization has been fueled, in part, by the influence of Western imperialism. Western rulers have removed spiritual kings from power (as happened in Burma), replaced Islamic criminal law with secular criminal law (as in northern Nigeria), refused to differentiate treatment of citizens based on religious status (as in India), eliminating religious economic institutions from the land structure of monk landlords (as in Sri Lanka), reducing the role of religious education by promoting secular government schools and Christian schools (as in Egypt), and generally reducing the role of and the influence of religion in social and political life.

Muhammad Natsir believes that every individual has his own ideology and philosophy of life. Whether people are Muslims, Christians or followers of other religions, or those who have fascist or communist views, they have a unique outlook on life. For Muslims, the goal is to become true servants, to achieve happiness in this world and success in the afterlife. A Muslim does not separate between worldly life and the afterlife, this is part of their ideology.

Natsir also reminded that in discussions about the relationship between the state and religion, it is often forgotten that Islam is not only related to worship of God alone. Islam covers all aspects of human life, including human relations (*muamalah*) and sharia laws (*hudud*). Islamic teachings provide guidelines that can be found in

the Quran and Sunnah. However, to implement these guidelines, strength and power are needed, known as the state. The Quran and Sunnah cannot stand alone without the power of the state to apply them in everyday life[10].

B. Polemic on the Relations between Religion and the State in the Formation and Amendment of the Constitution

Soepomo, as quoted by Mahfud MD, stated that groups who refused to adopt Islam as the basis of an independent Indonesian state had several reasons. First, Indonesia has its own uniqueness that differentiates it from other Muslim-majority countries such as Egypt, Saudi Arabia and Iraq. Therefore, the basis of the state must be in accordance with the characteristics of its society[11]. Second, there is no agreement among Islamic countries regarding the form of a legal state that is suitable for modern times. The question of whether sharia law can be adapted to the needs of the times is still debated. This can cause conflict in society and make things difficult for the investigative committee. Third, there are concerns that making Islam the basis of the state will threaten Indonesia's unity and place greater emphasis on Islamic identity. This can burden religious minority groups and create feelings of inferiority. Even though there is a guarantee of religious freedom, this will not make minority groups feel fully represented by the Indonesian state. Therefore, Soepomo stated that the idea of making Islam the basis of the state was contrary to the vision of a United State that the Indonesian people had long dreamed of.

On August 18 1945, all PPKI members met to discuss the Constitution and elect the President and Vice President. The establishment of the Constitution, President and Vice President must be held as soon as possible because after being proclaimed the Indonesian state must have a Constitution and President/Vice President which are ratified by the PPKI. Yamin stated that the August 18 1945 meeting was planned to start at 09.30, but was about 2 hours late. There is a strong suspicion that the delay was caused by lobbying between Hatta and a number of representatives of Islamic groups to change several provisions of the draft Preamble and Constitution which had been approved by the BPUPK[12]. This suspicion was strengthened by the fact that when the meeting opened. Hatta was immediately invited to propose changes after Sukarno first asked the meeting not to beat around the bush and just speak in broad outline. Hatta immediately proposed four changes to the text of the Preamble (Jakarta Charter) to the text of the Constitution which had been approved on 16 June 1945,48 namely49 firstly, the term 'Preamble' was replaced with the term 'Preamble'; secondly, the First Principle of Pancasila which originally stated in the Jakarta Charter read "Belief in God with the obligation to implement Islamic law for its adherents" was changed to "Belief in One Almighty God"; third, Article 6 in the Body of the Constitution which originally read "The President is a native Indonesian who is Muslim" was changed to "The President is a native Indonesian"; and fourth, Article 28 of the Body of the Constitution which originally read "The State is based on God with the obligation to implement Islamic law for its adherents" was changed to "The State is based on Belief in One Almighty God." The fourth change, concerning Article 28, was later shifted to Article 29.

Apart from these proposed changes, there are still other proposed changes from Ki Bagoes Hadikoesoemo who asked for the use of the diction "according to the basics" after the words "Belief in the Almighty God" were simply removed. Then I Gusti Ketut Pudja proposed that the sentence "By the grace of God" in paragraph III of the Preamble to the Constitution be replaced with the sentence "By the grace of God". I Gusti Ketut Pudjo's proposal was accepted and agreed to change it to "By the grace of God Almighty". The proposals for change were finally accepted by the members of the PPKI session. Soekarno as chairman read out the changes. However, perhaps due to an oversight or for other unknown reasons, it turns out that the official text that was promulgated or published in News of the Republic of Indonesia Number 7 of 1946 still contains the sentence "By the grace of God" as in which was approved on August 18, 1945[13].

That was the end of the polemic about the relationship between the state and religion during the formation of the 1945 Constitution at the beginning of independence.

The final formulation of the provisions in the 1945 Constitution relating to the relationship between the state and religion is:

- 1. The First Principle of Pancasila contained in the Preamble to the 1945 Constitution is: "Ketuhanan Jang Maha Esa."
- 2. Article 29 paragraph (1) of the 1945 Constitution reads: "Negara berdasarkan atas Ke-Tuhanan Jang Maha Esa.
- 3. Article 29 paragraph (2) of the 1945 Constitution reads: "Negara mendjamin kemerdekaan tiap-tiap penduduk untuk memeluk agamanja masing-masing dan untuk beribadat menurut agamanja dan kepertjajaanja itu."

The 1945 Constitution which was ratified by the PPKI is temporary. This can be seen in the Additional Regulations which state that within six months after being formed, the People's Consultative Assembly convenes to adopt the Constitution.

C. Practices of State and Religion in Indonesia

In the current context of state life, the relationship between the state and religion can be grouped into three forms, namely integrative (unification between religion and state), intersectional (intersection between religion and state), and secularist (separation between religion and state). Western countries are considered to have ended the relationship between the state and religion by adopting secularism, which is the separation between the state and religion. Secularism is considered an ideology, in which its supporters actively reject all forms of supernaturalism and the institutions associated with them, and support non-religious or anti-religious principles as the basis of personal morality and social organization[14].

However, the state recognizes the existence of religious institutions in society. Differences in people's visions and aspirations regarding religious involvement in the state vary. In general, people's orientation towards religion in the context of state life can be grouped into three forms. First, religion as an ideology, supported by those who want to make religion the state ideology. The manifestation is the formal application of religious teachings (such as sharia in Islam) as positive law. This group has a stronger religious orientation than national orientation, and sometimes politicizes religion to achieve their goals[15]

The second option is that religion is seen as a source of moral ethics (morals), which is supported by individuals who prioritize national orientation over religious orientation. Supporters of this orientation support the application of religious ethics (religious-ethics), but reject the formalization of religion in the context of national life. This position aims to ensure that the nation has a clear philosophical basis regarding ethics and morals, not only relying on good and bad criteria which can be very subjective or temporal. Although this orientation can reduce tensions between Islamic groups and other groups, and support the integration of a plural nation, it is less able to fulfill the aspirations of religious communities who strive to practice religious teachings as a whole[16].

The third option is that religion is seen as a sub-ideology or as an alternative source of ideology, if the use of the word "sub-ideology" is considered controversial for some groups of society. This option faces challenges, where the first orientation is too idealistic in the Islamic context but not realistic in the context of plural Indonesian society. Meanwhile, the second orientation is too idealistic in the context of pluralism in Indonesia but less realistic in the context of the Islamic religion as the majority, which includes basic teachings and norms. Policies that favor one orientation can strengthen the pull toward the opposite orientation, and can even lead to greater internal conflict. Therefore, a middle approach is needed between the two, namely making religion a sub-ideology or one of the sources of the Pancasila ideology[17].

The third orientation is more realistic and moderate, because even though this orientation seeks to implement moral ethics and religious law or its principles in national and state life, it still recognizes Pancasila as the state ideology. Because Pancasila is an open and flexible ideology, religion is required to contribute to the elaboration of operational concepts in various fields in accordance with developments in society and the world. In this case, religious values and norms become input and legitimacy for the formation and strengthening of ethics and morals as well as national systems and public policies. In addition, this orientation supports pluralism and high tolerance for the diversity of this nation, so that all citizens have an equal position.

The involvement of religion in strengthening the nation's moral ethics (morals) is currently very much needed, especially when the nation's moral condition in general is still very weak, such as the rise of lies, corruption, fraud, violence, radicalism, rape, egoism, greed and so on, both in community life as well as political, legal and bureaucratic life. Likewise, nowadays there is more and more juvenile delinquency, drug abuse, clashes between groups, promiscuity, pornography, pornographic action, and so on. Strengthening these morals is now very important to strengthen political ethics in the democratic consolidation process which has been going on since 2004 but has not run smoothly, unlike the democratic transition process which was passed successfully between 1998 and 2004.

Thus, in line with the third orientation mentioned above, the application of Islamic law in the context of national law is carried out in three forms, namely:

- 1. Formal implementation of sharia, namely for certain private laws, such as family law, zakat and hajj which currently have laws, as well as waqf and sharia banking.
- 2. Substantive implementation of sharia, namely for private laws other than those mentioned above, the extent of which is actually in accordance with the substance or material of Islamic law, and public laws, some of which are also in accordance with the substance of Islamic law, such as the death penalty for the crime of murder which is materially the same as qishâsh.
- 3. Substantial implementation of sharia, if concrete implementation is difficult to realize in the current context, such as the application of prison sentences for crimes of theft which are basically in line with Islamic law, where theft is considered a criminal act that must be punished[18].

This substantial implementation is carried out by understanding the philosophy or principles of sharia, including the objectives of Islamic law (maqâshid al-Syarî'ah) and the intentions contained in a particular law (asrâr al-tasyrî'). Efforts to integrate Islamic legal principles into national law or public policy in general are made.

This step is not only for the Islamic religion, but is a right for all religions in Indonesia. However, this integration must be followed by the objectification of Islamic teachings, so that the application of these teachings is not only an obedience of Muslims to Allah, but is also accepted rationally by all parties. This objectification is important because good legal regulations in a country are those that can be accepted by all parties, not just because they follow the will of the majority group. This second and third form of implementation makes Islamic law integrated or absorbed into national law, which becomes the legal rule for all people. This is a middle ground between those who support full implementation and those who reject the formalization of Islamic law. Even though there have been efforts such as family law legislation, sharia economic law, and hajj, zakat and waqf management legislation, there are still concerns regarding religious practices and immorality. Therefore, several provinces and districts/cities have made Regional Regulations (Perda) that encourage the implementation of Islamic teachings. These regional regulations are generally considered not to conflict with the national legal system because they are in the area of private law, while the prohibition of immorality in the regional regulations only strengthens the legal provisions in the Criminal Code. In Aceh, Law no. 11/2006 concerning the Government of Aceh has specifically mandated the implementation of Islamic sharia, which is then further regulated in the Aceh Qanun. This is part of a peaceful solution to the long-standing conflict in Aceh.[18]

V. CONCLUSION

This article concludes, firstly, that the polemic that has occurred in Indonesia regarding the relationship between the state and religion has been going on for a long time, even long before independence. This polemic occurred between religious groups and nationalist groups. The religious groups wants the state and religion to merge into one breath, so that the state can run according to religion and religious teachings can be carried out by the state. Meanwhile, nationalists groups want religion to be separated from the state. This polemic occurred before, before and after Indonesian independence. Before independence, there had been an open polemic in the mass media between Soekarno and Natsir. Towards independence, religious and nationalist groups were involved in heated debates regarding determining the form of the state that would be formulated in the 1945 Constitution. The fierce debate was repeated in the Constituent Assembly, and most recently in the amendments to the 1945 Constitution in the reform era. Second, this polemic between the state and religion has implications for the birth of a noble agreement in the form of Pancasila as the basis of the state. The concept of Pancasila is a synthesis of opposing ideologies regarding the relationship between the state and religion. Apart from that, in the content or body of the Constitution, this polemic has further implications for the state's recognition of the existence of certain religions; equal treatment of all recognized religions; providing guarantees for the population's freedom to embrace and practice religious teachings; recognition and respect for human rights that take into account religious values; and the development of national education that is based and oriented towards improving religious spiritual aspects.

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