Siyāsah syar'iyyah and Its Application to Constitutional Issues in Indonesia

Maimun[1], Dani Amran Hakim[2]

[1,2]Fakultas Syari'ah UIN Raden Intan Lampung
E-mail: maimun@radenintan.ac.id

Abstract

Siyāsah syar'iyyah (Islamic law politics) is a political doctrine in Islam based on revealed values (sharia), which in practise constructs state laws to regulate, control, manage, and administer the governance and politics of an Islamic nature. This aims to achieve welfare and avoid harm without violating the universal principles and provisions of sharia. This study aims to examine *siyāsah syar'iyyah* (Islamic law politics) towards constitutional issues in Indonesia. The method used is a literature study with a conceptual approach. Based on its nature, this research is descriptive, and the research data used is secondary. Based on the results of the study, it shows that *siyāsah syar'iyyah* is a type of siyāsah (Islamic law politics) constructed by the ruler (*ulil amri*). The formation of laws is based on religious moral values, which are applied to regulate life in society, nation, and state. *Siyāsah syar'iyyah* (Islamic law politics) can be a part of the application or implementation of constitutional issues in Indonesia that are ongoing, continuous, and will occur especially in the political year (2023-2024) as a barometer to assess whether these issues are categorized as Islamic ('*ādilah*) or not (*ẓālimah*). For Indonesian Muslims in this contemporary era, *siyāsah syar'iyyah* has become a necessity.

Keywords: Constitutional Issues, Indonesia, Political Doctrin, Regulation, *Siyāsah syar'iyyah*

Introduction

Islamic law politics (*siyāsah syar'iyyah*) in a government or a state has been established and practised since the era of the Prophet Muhammad. This is evident in historical facts, including in the 6th year of Hijri, after Hajj was legislated. The Prophet led 1,000 people from Madinah to Mecca to perform Umrah. Before they arrived in Mecca, they camped at Hudaibiyyah, but the Meccans did not permit them to enter the city. Consequently, a treaty known as the Treaty of Hudaibiyyah (*umrah al-hudaibiyyah*) was established.[1]

Similarly, allegiance to the Prophet, known as bai'ah 'aqabah I and bai'ah 'aqabah II, occurred. Apart from that, within the context of international relations between countries, strategic political agreements and peace treaties were made, leading to the emergence of what is referred to as *dār al-Islām* (a state governed under the sovereignty of Muslims), *dār al-harbi* (a state whose power and governance are in the hands of non-Muslim rulers), and *dār al-'ahdi or al-muwāda'ah* (a state or several states that have made a treaty with the Muslims from the beginning, built on the basis of power and defence).[2]

Legal politics, or "legal policy," is the official policy line about the law that will be enacted either by creating new laws or by replacing old laws in order to achieve the state's goals. Thus, it can be said that legal politics is a choice about the laws that will be enacted and also a choice about the laws that will be repealed or not enacted, all of which are intended to achieve state goals as stated in the preamble of the 1945 Constitution.[3]

---

[1] Amin Iskandar, "Hikmah Dibalik Perjanjian Hudaibiyah," *Jurnal Studi Hadis Nusantara* 1, no. 1 (1 Juni 2019), https://doi.org/10.24235/jshn.v1i1.5745.

[2] Muhammad Abū Zahrah, *al-'Alāqāt al-Dauliyyah fi al-Islām* dalam Muhammad Zein Hasan, *Hubungan-hubungan Internasional dalam Islam*, I (Jakarta: Bulan Bintang, 1973), 61–67.

[3] Moh Mahfud MD, *Politik Hukum di Indonesia* (Jakarta: PT. Rajawali Persada, 1999), 1.

Padmo Wahyono asserted that the basic policy that determines the direction, form, and content of the law to be formed is legal politics.[4] He further explained that legal politics is the state organiser's policy about what is made a criterion for legalising something, which includes the formation, determination, and enforcement of law.

The digital era of science and modern information and communication technology can make *siyāsah syar'iyyah* a concept and theory that becomes a barometer for politicians and practitioners of constitutional law in Islam when looking at various emerging issues in Indonesia. Issues of natural resource (SDA) management handed over to foreigners, maintaining national unity threatened by radicalism and terrorism movements, issues of delaying the 2024 elections, the three-term presidency, allowing foreign nationals to become presidential candidates by amending Article 6 of the 1945 Constitution, controversial discourse on changing the electoral system from an open proportional system to a closed proportional system, and many more issues continue to emerge and occur in national and state life within the territory of the Unitary State of the Republic of Indonesia (NKRI), which has entered the political year until 2024.

Several previous studies related to *siyāsah syar'iyyah* (Islamic legal politics) include Sirojul Munir's work, which discusses the influence of Islamic law in Indonesian legal politics. Then, a study by Muhsin Aseri analysed the conceptualisation of Islamic legal politics and its implementation in Indonesia.[5] Following that, Abdul Halim's research studied the transformation of Islamic law into national law,[6] and finally,

---

[4] Padmo Wahyono, *Kerangka Pembangunan Hukum di Indonesia* (Jakarta: Pustaka Sinar Harapan, 1986), 160.

[5] Muhsin Aseri, "Politik Hukum Islam Di Indonesia," *Al Qalam: Jurnal Ilmiah Keagamaan Dan Kemasyarakatan*, no. 0 (18 Oktober 2018), https://doi.org/10.35931/aq.v0i0.57.

[6] Abdul Halim, "Membangun Teori Politik Hukum Islam di Indonesia," *Ahkam* XIII, no. 2 (2013).

Ahmad Hafidh discussed the dynamics of law in Indonesia and its connection with Islamic legal politics.[7]

Contrary to previous studies, this research examines *siyāsah syar'iyyah* or Islamic legal politics, with a focus on current constitutional issues in Indonesia, using foundations in revelations or texts of the Qur'an and the jurisprudence rules contained therein as materials for analysis. Therefore, starting from a glance at the constitutional issues that become academic problems above, this paper will attempt to answer the issues and examine and describe the theory of *siyāsah syar'iyyah* and its application to several constitutional issues in Indonesia.

Research Method

This study employs a normative research method or a literature review study.[8] The approach used is conceptual, analysing the concepts of *siyāsah syar'iyyah* or Islamic legal politics, studied in relation to Indonesian constitutional issues. Based on its nature, this research is descriptive, aiming to portray specific phenomena or occurrences. The research data is secondary data, taken from various pieces of literature related to the research topic.

Definition and Basic Formulation of Siyāsah Syar'iyyah

Etimologically, siyāsah *syar'iyyah* consists of two words, "*siyāsah*" and "*syar'iyyah*". The word siyāsah is a maṣdar (gerund) form of the root word (taṣrif): *sāsa-yasūsu-siyāsah*, which can be interpreted in several ways, including to organise, manage, control, lead, establish policy, govern, and

---

[7] Ahmad Hafidh, "Pertarungan Wacana Politik Hukum Islam di Indonesia," *Yustisia* 3, no. 3 (t.t.): 109–26, https://doi.org/10.20961/yustisia.v3i3.29558.

[8] Soerjono Soekanto, *Pengantar Penelitian Hukum* (Penerbit Universitas Indonesia UI-Press, 2006), 160.

practise politics.[9] From this variety of meanings, it can be stated that anything that is political to achieve a goal is called *siyāsah.*

Terminologically, experts in siyāsah define it with various editorials, but substantially, the meaning is the same. Ibn Manẓūr defines *siyāsah* as "organising something in a way that brings benefits".[10] 'Abd al-Wahhāb Khallāf defines it as "laws constructed to maintain order and benefit and to regulate various existing conditions".[11] Meanwhile, according to 'Abd al-Rahman Tāj, *siyāsah* is defined as "laws and policies that regulate various societal problems in the fields of governance, judiciary, and in all executive (*al-tanfiżiyyah*) and administrative (*al-idāriyyah*) ranks, as well as international relations with other nations".[12]

From these three definitions above, it can be understood and affirmed that, in principle, siyāsah is a way that can be used to become a concept of regulation and governance of societal life in the context of nationhood and statehood, oriented to achieve public welfare and anticipate mafsadatan (*limaṣlahah al-'āmmah wa daf' al-mafsadah*).

Meanwhile, the word syar'iyyah is an adjective or glorifying (nisbah) from the root word syara'a-yasyra'u-syar'an, which means to make sharia (laws).[13] However, according to 'Abd al-Ahmad 'Uṭwah, it means "something that complies with sharia law and its general principles".[14]

From the etymological and terminological definitions of siyāsah, and syar'iyyah above, it can be understood that siyāsah syar'iyyah is essentially

---

[9] Jalāl al-Din Muhammad ibn Makram ibn Manẓūr, *Lisān Al-'Arab*, vol. VIII (Bairut: Dār al-Ṣadr, 1968), 108; Abū Luis Ma'lūf, *Al-Munjid Fi al-Lugah Wa al-I'lām*, XXIX (Bairut: Dār al-Masyriq, 1986); Mahmud Yunus, *Mahmud Yunus, Kamus Arab-Indonesia , 1391 H/1973 M), Cet. I,* (Jakarta: Yayasan Penterjemah Pentafsir al-Qur'an, 1391). 184

[10] Makram ibn Manẓūr, *Lisān al-'Arab*, VIII:108.

[11] Abd al-Wahhāb Khallāf, *al-Siyāsah al-Syar'iyyah aw Niẓām al-Daulah al-Islāmiyyah fi Syu'ūn al-Dustūriyyah wa al-Khārijiyyah wa al-Māliyyah* (Mesir: Dār al-Anṣār, 1977), 4–5.

[12] Abd al-Rahman Taj, *al-Siyāsah al-Syar'iyyah wa al-Fiqh al-Islāmi*, I (Mesir: Dār al-Ta'lif, 1953), 7–8.

[13] Yunus, *Mahmud Yunus, Kamus Arab-Indonesia , 1391 H/1973 M), Cet. I* 175.

[14] Abd al-Ahmad Utwah, *al-Madkhal ilā al-Siyāsah al-Syar'iyyah* (Riyad: al-Ṭariq al-Mustaqim, 1414), 57–59.

politics based on sharia, or politics in line with sharia, considering religious norms, and based on religious ethics. If a *siyāsah* construction is found that is not based on religious norms and ethics and is solely based on human thought alone, then it is referred to as *siyāsah waḍ'iyyah*.[15]

The terminological definition of *siyāsah syar'iyyah* can be elaborated in several ways, as follows:

a. ʿAbd al-Wahhāb defines it as "the regulation of general problems of Islamic governance that ensures the realisation of benefits and the anticipation of harm regarding matters that do not violate the boundaries and general principles of sharia, even though the rules that have been formulated are not in line with the opinions of the imam mujtahid".[16]

b. Abū al-Wafāʾ ibn ʿAqil in Ibn Qayyim al-Jauziyyah mendefinisikan *siyāsah idasyar'iyyah* as "a policy that can bring mankind closer to benefits and avoid harm, even though the Prophet Muhammad did not set it, and also revelation was not descended to regulate it".[17]

c. Islamic legal experts (fuqahāʾ) define *siyāsah syar'iyyah* as "the government's authority to make policies intended for the welfare of the people through rules that do not contradict the basics of religion, even though there is no specific argument that regulates it".[18]

The three definitions above can be understood to mean that the ruler (government) has the authority to apply God's laws and at the same time construct various legal rules related to emerging problems that are not explicitly (*ẓāhir al-naṣ*) regulated in detail by sharia. Therefore, on a

---

[15] Imam Iqbal, "Diskursus Politik dalam Khazanah Keilmuan Islam," *Living Islam: Journal of Islamic Discourses* 2, no. 1 (30 Juni 2019): 1, https://doi.org/10.14421/lijid.v2i1.1876.

[16] Khallāf, *al-Siyāsah al-Syar'iyyah aw Niẓām al-Daulah al-Islāmiyyah fi Syu'ōn al-Dustōriyyah wa al-Khārijiyyah wa al-Māliyyah*, 18.

[17] Ibn Qayyim al-Jauziyyah, *Ṭurōq al-Hukmiyyah fi al-Siyāsah al-Syar'iyyah* (Riyad: Dār al-Waṭan, 1953), 18.

[18] Khallāf, *al-Siyāsah al-Syar'iyyah aw Niẓām al-Daulah al-Islāmiyyah fi Syu'ōn al-Dustōriyyah wa al-Khārijiyyah wa al-Māliyyah*, 4.

theoretical-normative level, siyāsah in a general sense (including *dustūriyyah, dauliyyah, wa al-māliyyah*) as well as in a special sense (*siyāsah al-syar'iyyah*) requires four principles: First, the holder of power as a manager and executor of governance activities Second, the people (the community in general) as interested parties Third, government policies and legal rules made as a means of regulating its people oriented towards their benefit. Fourth, the noble ideals and basic goals are to prosper the people and realise legal, social, and economic justice.

The fundamental basis for formulating *siyāsah syar'iyyah* (Islamic legal politics) is none other than revelation (texts from the Qur'an) and the Sunnah of the Prophet. In the context of *siyāsah*, it is often referred to as sharia-based Islamic legal politics. Sharia here is intended, as Abū Hāmid al-Gazāli expressed in Satria Effendi M. Zein, to be Islamic teaching that is not interfered with by the power of reason. It is the revelation of God, which is fixed and cannot and should not be changed (*al-nuṣūṣ al-muqaddasah*).[19] However, according to Ibn Qayyim al-Jauziyyah, sharia is meant to be God's rules constructed based on policy and human welfare in the world and in the hereafter. Welfare here includes a sense of justice, compassion, goodness, and wisdom; whatever shifts (changes) from justice to oppression, from love to hatred, from welfare to misery, and from wisdom to futility, then it is not sharia, even though interpretative efforts are made.[20]

The fundamental basis of *siyāsah syar'iyyah* means sharia in the sense of the rules of Allah seen in several of His verses, among them Q.S. al-Nisā', verse 59: "O you who believe, obey Allah and obey the Messenger (His), and those of you who are in authority..." Based on this verse, it shows that any product of legislation made by the government must be obeyed by the people must obey it as long as it does not conflict with the rules of Allah

---

[19] Satria Effendi M. Zein, *Hukum Islam: Perkembangan dan Pelaksanaannya di Indonesia" dalam Fiqh Indonesia dalam Tantangan* (Surakarta: FIAI-UMS, 1991), 24.

[20] Ibn Qayyim al-Jauziyyah, *A'lām al-Muwaqqi'in 'an Rabb al-'Ālamin*, I (Bairut: Dār al-Kutub al-'Ilmiyyah, 1425), 483.

(the texts of the Qur'an) or the Sunnah of the Prophet Muhammad. But if the government makes rules that are contrary to the rules of Allah, then the people are not obliged to follow them (*lā ṭā'ah fi ma'ṣiyah Allah*), such as the government issuing rules for the legalisation of alcohol, legalising adultery, and so on.

Meanwhile, the fundamental basis of the hadith of the Prophet Muhammad is seen from his statement related to the matter of leading. In a hadith narrated by Ibn Mājah from Abū Hurairah, he said: "Indeed, the Bani Israil was led by their Prophets. Every time a Prophet died, his position was immediately replaced by another Prophet. Surely after me, there are no more Prophets sent to you ".[21]

Based on the verse and hadith above, it can be affirmed that the ruler's (government's) policy in regulating various public affairs in community, national, and state life is his authority. In practise, the fundamental basis of the policy on the one hand must refer to religious values that have been outlined by Islamic teachings, and on the other hand, it can be based on community traditions, human experience, and the views of scholars in constructing legal rules and the policies they set. The latter aspect mentioned can be accommodated and become the basis of *siyāsah syar'iyyah* as long as it aligns with and supports the realisation of *siyāsah syar'iyyah* itself in regulating community, national, and state life.

The Object of Study in *Siyāsah Syar'iyyah* and Its Difference with *Fiqh Siyāsah*

Basically, the object of study in shari'ah politics is various aspects of legal subject behaviour (*af'āl al-mukallafin*) related to societal, national, and state life that are regulated based on the main provisions, the basic

---

[21] Ibn Mājah, *Sunan Ibn Mājah*, VIII (T.tp: T.p, t.t), 408.

principles of shari'ah that are universal (*al-kulliyyah*). Therefore, 'Abd al-Wahhāb Khallāf asserts in his book that the object of study in shari'ah politics is various regulations and laws needed to regulate the state in accordance with the universal teachings of religion (*uṣūl al-kulliyyah*), to realise the benefit of mankind (*limaṣālih al-'ibād*), and to anticipate harm while trying to meet their life needs.[22]

The scope of *siyāsah syar'iyyah* among the scholars of *siyāsah* is essentially the same as the scope of *siyāsah* in general, only the scope of focus is different. Khallāf mentions three fields of study in *siyāsah syar'iyyah*, namely *siyāsah dustūriyyah, siyāsah māliyyah,* and *siyāsah dauliyyah* (*khārijiyyah*). Meanwhile, according to 'Abd al-Rahman Tāj there are seven types of fields in *siyāsah syar'iyyah* namely: *siyāsah dustūriyyah, siyāsah tasyri'iyyah, siyāsah qaḍāiyyah, siyāsah māliyyah, siyāsah idāriyyah, siyāsah tanfiżiyyah,* and *siyāsah khārijiyyah*.[23]

Clearly, a brief explanation of each of these *siyāsah* is as follows: (a) (a) What is meant by *siyāsah dustūriyyah* is a field of *siyāsah syar'iyyah* that discusses the state's legal regulations; the main discussion is around the form of government, state institutions, choosing a leader (*khalifah* atau *imāmah*) along with criteria and requirements, and the rights and obligations of citizens. (b) What is meant by *siyāsah tasyri'iyyah*, is *siyāsah* that discusses the process of drafting legislation, the establishment of various planned regulations, and managing all public interests in accordance with the established rules. (c) What is meant by *siyāsah qaḍāiyyah* is *siyāsah* that discusses matters of justice (a judicial institution) whose main task is to deal with cases of violations of legal rules and regulations made and established by *ahl halli wa al-'aqd* (legislative institution) (d) What is meant by *siyāsah māliyyah*, is *siyāsah* that discusses the sources of state

---

[22] Khallāf, *al-Siyāsah al-Syar'iyyah aw Niẓām al-Daulah al-Islāmiyyah fi Syu'ōn al-Dustūriyyah wa al-Khārijiyyah wa al-Māliyyah*, 4.

[23] Taj, *al-Siyāsah al-Syar'iyyah wa al-Fiqh al-Islāmi*, 8.

revenue, how to manage it, and its distribution in the context of nation and state development, as well as efforts to meet the welfare of the people towards a better and more independent life. (e) What is meant by *siyāsah tanfiżiyyah*, is *siyāsah* that revolves around the government's work system in implementing laws and regulations that have been established and promulgated by the legislative institution, so the government as the executive institution is obliged to realise these laws and regulations in order to advance and improve the welfare of citizens in various aspects of life fairly and wisely. (f) whereas what is meant by *siyāsah khārijiyyah,* is *siyāsah* that discusses international relations with other countries, both in the fields of economy, trade, politics, and others.

The difference between *siyāsah syar'iyyah* and *fiqh siyāsah* needs to be clarified to avoid confusion. Among the experts ini *siyāsah* Among the experts in politics, there are different opinions on this issue. Some *siyāsah* expert believe that *siyāsah syar'iyyah* is synonymous (*mutarādif*) with *fiqh siyāsah*, with their substance being the same.[24] However, other *siyāsah expert* yang lain berpandangan bahwa *siyāsah syar'iyyah* dengan *fiqh siyāsah* believe that shari'ah politics and political jurisprudence are not synonymous, as they each have different points of emphasis.

Siyāsah syar'iyyah refers to a group of legislative actors accommodated in *wa uli al-amr minkum*, among them are scholars who are members of the legislature (*al-'ulamā' allażina ya'malūn al-nās umūra dinihim*), the heads of the military force (*ru'us al-jaisy*), and others who construct and produce various regulations (*al-qanūn*) needed by the public.[25] Once these regulations are enacted, they are binding and mandatory, and anyone who

---

[24] Mohammad Husen, "Theologi Kebatinan Nu'Mān Ibn Ḥayyūn dalam Penafsiran Safīnah dan Fulk pada Kitab Asās At-Ta'wīl," *Jurnal Al-Fanar* 4, no. 1 (28 Februari 2021): 89–112, https://doi.org/10.33511/alfanar.v4n1.89-112.

[25] MIftahur Rahman, "Uli al-Amr dalam Alquran: Sebuah Aplikasi Teori Kontekstual Abdullah Saeed," *Jurnal Studi Ilmu-ilmu Al-Qur'an dan Hadis* 18, no. 2 (2 Juli 2017): 141, https://doi.org/10.14421/qh.2017.1802-01.

violates them will be sanctioned according to the applicable rules. Meanwhile *fiqh siyāsah,* is the politics of Islamic law with its emphasis on the discussion of theories of state politics in Islam, which are often formulated by scholars and are not binding or mandatory.[26] They produce many theories of Islamic political law, which are documented in various works of literature.

For example, Abū Hasan 'Ali bin Muhammad al-Mawardi al-Syāfi'i, *al-Ahkām al-Sulṭāniyyah wa al-Wilāyah al-Diniyyah* (Laws of State Administration in Islamic Sharia), Abū Ya'lā al-Hanbali, *al-Ahkām al-Sulṭāniyyah wa al-Wilāyah al-Diniyyah*, Taqy al-Din Abū al-'Abbās Ahmad ibn al-Halim ibn 'Abd al-Salām ibn Taimiyyah, *al-Siyāsah al-Syar'iyyah fi Iṣlāh al-Rā'i wa al-Ra'iyyah,* Syams al-Din bin 'Abd Allah Muhammad bin Abi Bakr bin Qayyim al-Jauziyyah, *Ṭurūq al-Hukmiyyah fi al-Siyāsah al-Syar'iyyah,* 'Abd al-Wahhāb Khallāf, *al-Siyāsah al-Syar'iyyah wa Niẓām al-Dauliyyah al-Islāmiyyah fi Syu'ōn al-Dustōriyyah wa al-Khārijiyyah wa al-Māliyyah,* and many other works that study *siyāsah syar'iyyah.*

The above differences confirm that the constructor of *siyāsah syar'iyyah* is the ruler (government), including the scholars who sit in the government (legislature), not outside the government. All legislative products established and promulgated are binding and compulsory. Whereas *fiqh siyāsah* is a collection of theories of state politics in Islam constructed by scholars in general, and their products are not binding or compulsory.

Application of *Siyāsah Syar'iyyah* to State Issues in Indonesia

---

[26] Yusuf Hanafi, "PEMIKIRAN POLITIK DALAM TAFSIR FATH AL-QADIR: Pembacaan atas Konsep Ketatanegaraan dalam al-Quran yang Ditulis al-Shawkany," *Jurnal Ilmiah Ilmu Ushuluddin* 11, no. 2 (10 Maret 2016): 145, https://doi.org/10.18592/jiu.v11i2.737.

Reflecting on various state political issues in Indonesia over the last five years, it has become increasingly interesting to criticise to contribute thoughts, roll out ideas, and offer alternative solutions to problem-solving, at least participate in responding to emerging issues such as the ones the writer has raised above, namely the issue of managing Natural Resources (SDA) handed over to foreigners, maintaining the unity and unity of the nation threatened by radicalism and terrorism movements, the issue of delaying the 2024 elections, the three-term presidency, foreign citizens can be presidential candidates by trying to amend article 6 of the 1945 Constitution, controversial discourse on changing elections from an open proportional system to a closed proportional system, and many other issues that continue to emerge and occur in the life of the nation and state in the territory of the Unitary State of the Republic of Indonesia (NKRI) which has entered the political year until 2024. However, in this paper, only a few issues will be presented as manifestations of the application of *siyāsah syar'iyyah,* among them:

First, choosing a leader in Islamic legal politics Theoretically-normatively, according to the texts of the Qur'an and sunnah (hadith), Allah has informed mankind in Q.S. al-Baqarah: 30 and 124 that, "*Remember when Your Lord said to the Angels: Indeed, I will make a caliph on earth...*". And *Indeed, I will make an imam for all people...*" Based on these two verses, it is shown that in the lives of human beings in small or large communities, a leader (caliph or imam) needs to be chosen or appointed who can lead people within each of their communities so that they, in living their lives, feel safe, calm, peaceful, and prosperous. The command of the two verses above is also strengthened by several statements of the Prophet Muhammad. Among them is a hadith narrated by Imam Abū Dāwud from

Abū Hurairah, : "If three people go out travelling, they should determine (choose) who among them is appointed as their leader".[27]

Based on several verses and hadiths above, it can be understood and emphasised that in the context of statehood in Islam, choosing a leader is a necessity that must be done. In a small community alone, at least three people are required to choose one of them to be a leader; let alone in a large community, namely a nation and a state with a population of hundreds of millions (the Indonesian population is 275 million), it is absolutely necessary to have a leader for the nation and the state. Therefore, Ibn Taimiyyah al-Hanbali, a radical Islamic reformer who consistently adheres to the texts of the Qur'an and hadith when speaking about *siyāsah* and state life, states that the law of choosing a leader is obligatory. Choosing a leader is obligatory, Ibn Taimiyyah says in his *siyāsah* thoughts: (a) Based on Q.S. al-Nisā': 58 and 59:

> "*Indeed, Allah commands you to render trusts to whom they are due, and when you judge between people, to judge with justice ...*" and "*O you who have believed, obey Allah and obey the Messenger and those in authority among you. Then if you disagree in anything, refer it to Allah (the Qur'an) and the Messenger (the Sunnah or hadith of the Prophet) ...*".

Based on these two verses, Ibn Taimiyyah states that he is subsequently referring to the judgements of scholars. According to him, the first verse (al-Nisā': 58) descended concerning those in power: they are obliged to deliver the trust to those entitled to it, and they are obliged to judge fairly .... Whereas the second verse (al-Nisa': 59) descended concerning the people he leads, both from the armed forces (*ru'usā' al-jaisy*) and the war forces (*ru'usā' al-sarāyā*), and others.[28] **(b)** He also bases it on a hadith narrated by Abū Dāwud as stated above, that, in a small community of at least three people, it is obligatory to choose and appoint one of them

---

[27] Sulaiman ibn al-Asy'as al-Sajastani al-Azdi Abū Dāwud, *Sunan Abi Dāwud*, III (T.tp: Dār al-Fikr, t.t). 36

[28] Ibn Taimiyyah, *al-Siyāsah al-Syar'iyyah fi Iṣlāh al-Rā'iy wa al-Ra'iyyah* (Bairut: Dār al-Kutub al-'Arabiyyah, t.t), 4.

as a leader; let alone, in a large-scale community, it is absolutely necessary to choose to have a leader.[29]

Ibn Taimiyyah's views and thoughts clearly show the application of *siyāsah syar'iyyah* to the issue of choosing a leader wherever and whenever, because the politics of law is based on sharia, including in the political year of the 2024 Election that will come. As long as it is in line with legal principles and religious ethics, it can be accommodated and included as *siyāsah syar'iyyah*. Because of this reasoning, the state is a force that can organise and regulate the life of the wider community in all its aspects. Therefore, the existence of a leader of a nation or state greatly determines the running of the wheel of government now, in the past, and in the future. Ibn Taimiyyah even further asserts that 60 days under a *ẓālim leader* (*imāmun jāirun*) is much better than a day living without a leader. Whether a leader is fair or not becomes the second important problem after the existence of a leader.[30] However, in this era of digitization of knowledge and modern information and communication technology, voters need to consider the qualifications and criteria of the candidate leader so as not to make the wrong choice. The offers and requirements put forward by past scholars seem relevant enough to be considered in this contemporary era.

Al-Mawardi, for example, requires a candidate leader (*Imāmah*) to meet seven requirements, namely: (1) have the quality of being fair (*al-'adālah*) with its provisions. (2) knowledgeable (al-'ilm) so that he can make ijtihad in establishing laws and contemporary problems. (3) physically and spiritually healthy (*salāmah al-khawās min al-sam'i wa al-baṣar wa al-lisān ...*). (4) not physically disabled so as not to hinder his duties and activities (*salāmah al-a'ḍā' ...*). visionary so that he can manage the people and realise the welfare of his nation. (6) brave in defending the territory of his nation

---

[29] Taimiyyah, *al-Siyāsah al-Syar'iyyah fi Iṣlāh al-Rā'iy wa al-Ra'iyyah.*
[30] Taimiyyah, 138–39.

and state and driving out his enemies. (7) The leader must be from the Quraysh tribe, in the sense of the clever people, not a foolish leader.[31]

Second, the management of Natural Resources (SDA) in a nation and state Q.S. al-Baqarah: 29 has informed mankind that "He is Allah, who made everything on earth for you, and He intended the sky, then He made them seven heavens. And He is All-Knowing of all things". This verse informs and shows mankind that the contents of the earth inside and out, or above, in the universe were created by and for humans. Humans are created by Allah on this earth as inhabitants and at the same time as the inhabitants, in the sense of managing the existing SDA (Q.S. Hūd: 61) for the prosperity and welfare of the people (people) of his nation and state, managed professionally, not exploited with damage, pollution, and excavation of SDA content without paying attention to AMDAL from the surrounding community environment. This is exactly like the historical fact informed by Q.S. al-Kahfi (92–97) about the story of Żulqarnain that he became a manager and planner in a production activity.

> "*Then he followed another path. Until he reached between two mountains, he found in front of the two hills a people who barely understood speech (They could not understand the language of others, because their language was so different from other languages, and they could not clearly explain their intentions due to their lack of intelligence). They said: O Żūlqarnain, indeed Ya'jūj and Ma'jūj are people who cause mischief on the earth, so can we give you some payment so that you can build a wall between us and them? Żūlqarnain said: What my Lord has empowered me with is better, so help me with strength (people and tools), give me pieces of iron. Until the iron was level with the two (peaks, Żūlqarnain said, "Blow (the fire)". Until the iron became red like fire, he said: "Give me molten copper to pour over this hot iron.".*

These verses indicate and depict a complete and principled production process to achieve economic prosperity. In the concept of Sharia economics, economic welfare lies in a reality that does not ignore public

---

[31] Abū Hasan 'Ali bin Muhammad al-Mawardi, *al-Ahkām al-Ṣulṭāniyyah wa al-Wilāyah al-Diniyyah*, III (Mesir: Muṣṭafā al-Bāby al-Halaby, 1393), 18.

welfare, which is certainly based on religious ethics and morals. Yusuf al-Qaraḍāwi in this case affirms that the moral principles in production include: (a) production must be within the halal circle (*al-intāj fi dāirah al-halāl*), not allowed in the circle that Allah has forbidden (see Q.S. al-A'rāf: 157). (b) providing protection for natural resources (*al-muhāfaẓah 'alā al-mawārid*). It is the duty of every Muslim to take care of and maintain natural resources, because nature is a blessing from Allah that must be appreciated and kept from pollution, contamination, and damage, both materially and spiritually, by the spread of injustice (*biisyā'ah al-ẓulm*), the spread of falsehood (*nasyar al-bāṭil*), the power of evil (*taqwiyah al-syar*), the corruption of conscience (*al-talwiṡ al-ḍamāir*), and the darkness of the mind (*taḍlil al-'uqūl*). These two damages are criminal acts that are not sanctioned by Allah SWT.[32]

The emphasis of Yūsuf al-Qaraḍāwi, in terms of *siyāsah syar'iyyah* s the law politics of Sharia economics (*siyāsah māliyah wa al-iqtiṣādiyah*) that must be contextualised and preserved in all forms of Sharia-based economy. This is different from the capitalist economic system; although there is a call to produce goods and services based on the principle of economic welfare, its nature and character are far different from the Sharia economic system. " The West is represented by capitalism, and the East by communism. These two forces have been on opposite sides of the intersection from the beginning. The side represented by capitalism, adheres to the doctrine of freedom of investment, money supervision, and expenditure. The understanding provides the widest possible rights and freedoms to private parties or individuals in all material elements and production factors. This doctrine is detrimental to the side that makes production facilities public property or that makes the proletariat an

---

[32] Yūsuf al-Qaraḍāwi, *Daur al-Qiyam wa al-Akhlāq fi al-Iqtiṣād al-Islāmi*, III (al-Qāhirah: Maktabah Wahbah, 1429), 159–62.

investment instrument. Of course, this oppressed party needs to get a helping hand."[33]

From the perspective of *siyāsah syar'iyyah*, the difference between the Sharia economic system and the capitalist and communist economic systems is clear. The Sharia economic system is based on religious moral values from the beginning, while the capitalist-communist economic system is not based on them; it is based solely on material value, even though there is a similar call on the principle of economic welfare. Indonesia, which has abundant natural resources and its management issues are handed over to foreigners, as seen in East Kalimantan, Sulawesi, and North Maluku, is constitutionally clearly contrary to the 1945 Constitution Article 33, paragraphs 2, 3, and 4, which explains that: (paragraph 2), Branches of production that are important for the country and that control the needs of the people are controlled by the state. (paragraph 3), The earth, water, and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. (Paragraph 4): The national economy is organised based on economic democracy with the principles of togetherness, fair efficiency, sustainability, environmental insight, independence, and maintaining the balance of progress and unity of the national economy.

The management of natural resources that does not refer to the 1945 Constitution, Article 33 (paragraphs 2, 3, and 4), whoever the manager is, is clearly contrary to Islamic law and politics because it is not based on religious values and morals, besides not being in line with the 1945 Constitution, Article 33 above. This problem in the context of *siyāsah*, theoretically normatively viewed from the point of validity, is that there are two kinds of *siyāsah*, and the benchmark is revelation (religious values and morals), namely *siyāsah 'ādilah*, and *ẓālimah*. By *siyāsah 'ādilah*, t is meant a

---

[33] Mutawalli Sya'rawi, *Islam Diantara Kapitalisme dan Komunisme* (Jakarta: Insani Press, 1988), 7.

true politics (al-haq) whose arrangement of laws is in accordance with the values of religious morality (*al-diniyyah al-akhlāqiyyah*), whether the rule comes from sharia or from humans themselves and the surrounding environment that surrounds it, such as making regulations about mining, waters, industry, transportation, and others whose principle is in line with the provisions of the values of religious morality, that is included in *siyāsah 'ādilah*, and at the same time included in *siyāsah syar'iyyah*.

Meanwhile, siyāsah ẓālimah refers to false or unrighteous policies in which all the laws created are contrary to religious moral values,[34] For example, Indonesian government regulations that legalise the production of alcoholic beverages, which are forbidden by the Islamic holy book (see al-Baqarah: 219 and al-Māidah: 90-91), legalise prostitution (adultery), as seen in Permendikbud No. 30 of 2021, which leads to the legalisation or normalisation of free sex, including the management of natural resources (SDA) that is counterproductive to the constitution, and religious moral values, among others.

Conclusion

Based on the discussion above, some conclusions can be drawn as follows: 1) *Siyāsah syar'iyyah* is a type of *siyāsah* (Islamic law politics) constructed by the ruler (*ulil amri*) where all its laws are based on religious moral values, and these laws are applied to regulate human life in society, nation, and state. 2) *Siyāsah syar'iyyah* can be applied to state issues in Indonesia in this political year (2023-2024), where various issues continue to emerge, so the existence of *siyāsah syar'iyyah* can be a parameter to assess whether the issue is *siyāsah 'ādilah*, or *siyāsah ẓālimah*. 3) Theoretically and normatively, *siyāsah syar'iyyah* needs to be preserved and developed as a

---

[34] Wahbah al-Zuhaili, *al-'Alāqāt al-Dauliyyah fī al-Islām*, I (Suriyyah-Damaskus: Dār al-Maktabi, 1420), 11.

contribution to the adaptive, progressive, and prospective political thought of Islamic law for the future.

References

Abū Dāwud, Sulaiman ibn al-Asy'as al-Sajastani al-Azdi. *Sunan Abi Dāwud*. III. T.tp: Dār al-Fikr, t.t.

Aseri, Muhsin. "Politik Hukum Islam Di Indonesia." *Al Qalam: Jurnal Ilmiah Keagamaan Dan Kemasyarakatan*, no. 0 (18 Oktober 2018). https://doi.org/10.35931/aq.v0i0.57.

Hafidh, Ahmad. "Pertarungan Wacana Politik Hukum Islam di Indonesia." *Yustisia* 3, no. 3 (t.t.): 109–26. https://doi.org/10.20961/yustisia.v3i3.29558.

Halim, Abdul. "Membangun Teori Politik Hukum Islam di Indonesia." *Ahkam* XIII, no. 2 (2013).

Hanafi, Yusuf. "PEMIKIRAN POLITIK DALAM TAFSIR FATH AL-QADIR: Pembacaan atas Konsep Ketatanegaraan dalam al-Quran yang Ditulis al-Shawkany." *Jurnal Ilmiah Ilmu Ushuluddin* 11, no. 2 (10 Maret 2016): 145. https://doi.org/10.18592/jiu.v11i2.737.

Husen, Mohammad. "Theologi Kebatinan Nu'Mān Ibn Ḥayyūn dalam Penafsiran Safīnah dan Fulk pada Kitab Asās At-Ta'wīl." *Jurnal Al-Fanar* 4, no. 1 (28 Februari 2021): 89–112. https://doi.org/10.33511/alfanar.v4n1.89-112.

Iqbal, Imam. "Diskursus Politik dalam Khazanah Keilmuan Islam." *Living Islam: Journal of Islamic Discourses* 2, no. 1 (30 Juni 2019): 1. https://doi.org/10.14421/lijid.v2i1.1876.

Iskandar, Amin. "Hikmah Dibalik Perjanjian Hudaibiyah." *Jurnal Studi Hadis Nusantara* 1, no. 1 (1 Juni 2019). https://doi.org/10.24235/jshn.v1i1.5745.

Jauziyyah, Ibn Qayyim al-. *A'lām al-Muwaqqi'in 'an Rabb al-'Ālamin*. I. Bairut: Dār al-Kutub al-'Ilmiyyah, 1425.

———. *Ṭurūq al-Hukmiyyah fi al-Siyāsah al-Syar'iyyah*. Riyad: Dār al-Waṭan, 1953.

Khallāf, Abd al-Wahhāb. *al-Siyāsah al-Syar'iyyah aw Niẓām al-Daulah al-Islāmiyyah fi Syu'ūn al-Dustūriyyah wa al-Khārijiyyah wa al-Māliyyah*. Mesir: Dār al-Anṣār, 1977.

M. Zein, Satria Effendi. *Hukum Islam: Perkembangan dan Pelaksanaannya di Indonesia" dalam Fiqh Indonesia dalam Tantangan*. Surakarta: FIAI-UMS, 1991.

Mahfud MD, Moh. *Politik Hukum di Indonesia*. Jakarta: PT. Rajawali Persada, 1999.

Mājah, Ibn. *Sunan Ibn Mājah*. VIII. T.tp: T.p, t.t.

Makram ibn Manẓūr, Jalāl al-Din Muhammad ibn. *Lisān al-'Arab*. Vol. VIII. Bairut: Dār al-Ṣadr, 1968.

Ma'lūf, Abū Luis. *al-Munjid fi al-Lugah wa al-I'lām*. XXIX. Bairut: Dār al-Masyriq, 1986.

Mawardi, Abū Hasan 'Ali bin Muhammad al-. *al-Ahkām al-Ṣulṭāniyyah wa al-Wilāyah al-Diniyyah*. III. Mesir: Muṣṭafā al-Bāby al-Halaby, 1393.

Qaraḍāwi, Yūsuf al-. *Daur al-Qiyam wa al-Akhlāq fi al-Iqtiṣād al-Islāmi*. III. al-Qāhirah: Maktabah Wahbah, 1429.

Rahman, MIftahur. "Uli al-Amr dalam Alquran: Sebuah Aplikasi Teori Kontekstual Abdullah Saeed." *Jurnal Studi Ilmu-ilmu Al-Qur'an dan Hadis* 18, no. 2 (2 Juli 2017): 141. https://doi.org/10.14421/qh.2017.1802-01.

Soekanto, Soerjono. *Pengantar Penelitian Hukum*. Penerbit Universitas Indonesia UI-Press, 2006.

Sya'rawi, Mutawalli. *Islam Diantara Kapitalisme dan Komunisme*. Jakarta: Insani Press, 1988.

Taimiyyah, Ibn. *al-Siyāsah al-Syar'iyyah fi Iṣlāh al-Rā'iy wa al-Ra'iyyah*. Bairut: Dār al-Kutub al-'Arabiyyah, t.t.

Taj, Abd al-Rahman. *al-Siyāsah al-Syar'iyyah wa al-Fiqh al-Islāmi*. I. Mesir: Dār al-Ta'lif, 1953.

Utwah, Abd al-Ahmad. *al-Madkhal ilā al-Siyāsah al-Syar'iyyah*. Riyad: al-Ṭariq al-Mustaqim, 1414.

Wahyono, Padmo. *Kerangka Pembangunan Hukum di Indonesia*. Jakarta: Pustaka Sinar Harapan, 1986.

Yunus, Mahmud. *Mahmud Yunus, Kamus Arab-Indonesia , 1391 H/1973 M), Cet. I, h. 184*. I. Jakarta: Yayasan Penterjemah Pentafsir al-Qur'an, 1391.

Zein Hasan, Muhammad. *Hubungan-hubungan Internasional dalam Islam*. I. Jakarta: Bulan Bintang, 1973.

Zuhaili, Wahbah al-. *al-'Alāqāt al-Dauliyyah fi al-Islām*. I. Suriyyah-Damaskus: Dār al-Maktabi, 1420.