

## **The Principles of Democracy in Islam and its Relationship to the Indonesian State Administration System**

Muhaemin Muhaemin\*, La Ode Husen\*\*, Muhammad Syarief Nuh\*\*, Hamzah Baharuddin\*\*

\*Student of Postgraduate Doctoral Program in Legal Studies, Universitas Muslim Indonesia

\*\*Lecturer of the Faculty of Law, Universitas Muslim Indonesia

Corresponding Author: Muhaemin Muhaemin

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**Abstract:** This study aims to examine the principles of democracy in Islam and analyze its relationship to the Indonesian State Administration System. This research is normative legal research that focuses on comparative law. The data collection technique used in this research is a literature study. Based on the description of the results and discussion, it can be concluded that the principles of democracy in Islam include monotheism, justice, equality, freedom, deliberation, human rights, and government accountability. The principles of democracy in Islam are primarily the same as the principles of democracy in general. The most pronounced differences are related to the first and last principles, namely the principle of monotheism and government accountability. These two principles require that every human being, both as an individual and as a social being, should always feel that he is being watched by God and at the same time be aware of a time when humans will be responsible for every behavior and behavior. Based on this conclusion, it is suggested that the law's drafters can more objectively assess all values that live in a society so that there is no condemnation of a value, which also has the potential to contribute to the birth of a concept in terms of ideal state governance.

**Keywords:** Islamic Democracy, Principles, State Administration System.

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### **I. INTRODUCTION**

Aristotle comments that the democratic system of polis states, which means, such as cities in the present context and has a small population, unlike today's countries which have large areas and large populations (vlakte staat). That is why, under such conditions, it is very natural for state affairs to be carried out by deliberation (ecclesia), in which all citizens are directly involved in state affairs.<sup>1</sup>

Based on Aristotle's comments quoted by Irawan, it can be understood that democracy is actually born during a small group of people, so, naturally, it can become an accommodative-responsive system. Therefore, when democracy wants to be implemented by many people, it is inevitable that it will experience various kinds of obstacles. For this reason, it is not surprising that democracy is constantly being "designed" in such a way as to find a format that can suit the context of each era in which it will be applied.

For example, in Indonesia, democracy has been designed several times since its implementation as a state governance system. In the Soekarno era as the first president, democracy was given the name parliamentary democracy (1945-1959), but because this version of democracy was deemed incompatible with the Indonesian context, so based on a presidential decree, Parliamentary democracy automatically changed to guided democracy (1959-1965). Likewise, in the Soeharto era, democracy also underwent a name change, namely from the guided democracy inherited by Soekarno to Pancasila democracy (1965-1998). Since then, until now, post-reform, democracy in Indonesia has not yet found a form that can satisfy all people.<sup>2</sup>

Such is the case in Pakistan. Democracy which was initially the same as the case in Indonesia, namely the failure of parliamentary democracy to accommodate the interests of several groups, forced the government to change the government system into essential democracy (Basic Democracy). As of 2018, Pakistan has amended the constitution 31 times.<sup>3</sup> These are two of the many portraits of democratic adjustment when dealing with non-Western political cultures. As for the United States, for example, even though democracy has become

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<sup>1</sup>Irawan, B. B. (2007). Perkembangan Demokrasi di Negara Indonesia. *Jurnal Ilmiah Hukum dan Dinamika Masyarakat*, Universitas 17 Agustus 1945 Semarang, 5(1), p. 55.

<sup>2</sup>For post-reform democracy, some call it reformed democracy (1998-present).

<sup>3</sup>The Constitution of the Islamic Republic of Pakistan. As modified upto the 31st May, 2018.

the governing value in the life of the nation and state, it has always existed in the lives of US people for hundreds of years. It has even been reflected in life, freedom, and the pursuit of happiness as values that always inspire immigrants who come to the US, as said Thomas Jefferson;<sup>4</sup> or even has crystallized into the philosophy of nationhood, religion, cultural pluralism, to family life as the smallest unit of group life as said by Alexis de Tocqueville,<sup>5</sup> but he still has defects.

From the information above, it can be understood that the country some researchers view as a democratic fighter country has not found an ideal form or format of democracy that can be applied in every era.

However, even though modern countries are trying to find the ideal form or format of democracy up to this moment, it does not mean that democracy has failed to satisfy the earth's population in managing their socio-political life. On the other hand, there is the concept of democracy in Islam. In this case, at least there are democratic principles in Islam and can be implemented in a country's system.

Based on the description of the background above, this study aims to examine the principles of democracy in Islam and analyze its relationship to the Indonesian State Administration System.

## II. RESEARCH METODE

This research is normative legal research that focuses on comparative law. The source of data used is secondary data, namely direct data obtained from the results of literature studies, journals, documents, and others closely related to the object of this research. The data collection technique used in this research is a literature study. Literature studies are carried out by reading, studying, taking notes, and reviewing library materials related to the object of this research.

## III. RESULTS AND DISCUSSION

There are similarities between Western democracy and Islam, such as; justice, equality, government accountability, deliberation, state goals, and the rights of the opposition. According to al Maududi, the difference lies in the fact that in the Western system, a democratic state enjoys absolute popular sovereignty. In contrast, an Islamic democratic state is limited by the boundaries that divine laws have outlined.<sup>6</sup> For this reason, al Maududi named the concept of Islamic democracy the the-democracy. Abu a'la al Maududi said that:<sup>7</sup>

*"In Islamic politics, what is appropriate is the government of God (the government of God) or in the political language of theodemocracy. The concept of Islamic theodemocracy differs from the one that once existed in Europe, which was ruled by a group of people (priests) who imposed divine power on the people. In Islam, all the people maintain a government that adheres to the book of Allah and the sunnah. Thus theodemocracy in Islam is a system of government in which the people are given sovereignty but under the supervision of God."*

An opinion similar to the above came from an Iranian political figure, namely Ayatullah Khomeini. According to him, Islam is in line with democracy; only Islamic democracy is different from Western-style liberal democracy, which gives the broadest possible freedom. He argued that freedom in Islam must be limited and exercised within the boundaries of a constitution based on Islamic law principles.<sup>8</sup> The principles of Islamic law in question must be guided by the Qur'an and hadith. Alternatively, at least those policies are not contrary to the principles or doctrines of Islam.<sup>9</sup> The principles of democracy in Islam, according to Muhammad Natsir, include Tawhid, obedience to the law, tolerance, equality before the law, Ijtihad, protecting minority groups, shura (deliberation).<sup>10</sup>

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<sup>4</sup>Jatmika, S. (2000). AS Penghambat Demokrasi: Membongkar Politik Standar Ganda Amerika Serikat. Yogyakarta: Bigraf Publishing, p. 9.

<sup>5</sup>Tocqueville, A. d. (1961). Masalah Demokrasi. Djakarta: Bhratara, p. 2. In addition to Toqueville, there are other figures who worship American democracy, such as Herbert Mc Closky and John Zaller in "The American Ethos: Public Attitudes toward Capitalism and Democracy" (1988) mentioning that democratic values have a very large influence in bringing the direction and nature of the development of the US nation and continue to function as values that rule US politics. Meanwhile, John Markoff in "Waves of Democracy, Social Movements and Political Change" (1996) saw the growth of democratic institutions and democratic ideas spreading in the US.

<sup>6</sup>Kamil, S. (2002). Islam dan Demokrasi: Telaah Konseptual dan Historis. Jakarta: Gaya Media Pratama, p. 49.

<sup>7</sup>Al-Maududi, A. A. I. (1995). Hukum dan Konstitusi: Sistem Politik Islam. Bandung: PT Mizan Pustaka, p. 159.

<sup>8</sup>Yamani, Y. (2002). Antara al Farabi dan Khomeini: Filsafat Politik Islam. Bandung: PT Mizan Pustaka, p. 141.

<sup>9</sup>Madjid, N. (1995). Masalah Simbol dan Simbolisme dalam Ekspresi Keagamaan. In Budhy Munawar Rachman (Ed.), Kontekstualisasi Doktrin Islam dalam Sejarah. Jakarta: Yayasan Wakaf Paramadina, p. 454.

<sup>10</sup>Fatwa, A. M. (2001). Demokrasi Teistis Upaya Merangkai Integrasi Politik dan Agama di Indonesia. Jakarta: PT Gramedia Pustaka Utama, p. 246.

### 1. **Tawhid**

In Islamic terms, monotheism is the belief in one or one God. So all his thoughts, theories, and arguments conclude that God is one called the Science of Tawhid,<sup>11</sup> as in QS. Al Ikhlas verse 1.

The principle of monotheism is also one of the principles championed in Indonesia. It is stated in the Preamble to the Constitution of the Unitary State of the Republic of Indonesia in the third paragraph that the independence obtained by Indonesia is a “*by the blessings of Almighty God*”. Thus, in the fourth paragraph, it is stated that:

*“...therefore the independence of Indonesia is formulated into a constitution of the Republic of Indonesia which is built into a sovereign state based on a belief in the One and Only God...”*

So, from the opening, Indonesia adheres to a democracy based on religious values. In Manyara the Preamble to the 1945 Constitution, Masdar Farid Mas’udi said that the third thing contained in the Preamble to the 1945 Constitution was the spirit of faith in God Almighty as the spiritual and moral foundation of all movements and struggles of the nation in building the country.<sup>12</sup>

Moreover, the inclusion of the phrase “*based on God Almighty*” in the Preamble of the Indonesian constitution, which is also one of the precepts of Pancasila, provides a logical consequence that atheism is prohibited because it has overruled these precepts. That is on one side. Then, on the other hand, Pancasila is the source of Indonesian legal politics,<sup>13</sup> which means that all legal rules that are made must not conflict with Pancasila. On this basis, the Unitary State of the Republic of Indonesia is a democratic country whose legal construction (especially its constitution) stands on the foundation of the values of monotheism.

### 2. **Justice**

Justice in Islam which is the second principle after monotheism in a democracy, must be manifested in various relationships that exist in life, in this case including; justice in the relationship between the individual and himself, the relationship between the individual and humans or society, the relationship between the individual and beings other than humans and most importantly the relationship between the individual and his God.<sup>14</sup>

Linguistically, the word “*fair*” comes from Arabic, namely “*adl*”. The word “*adl*” can mean “*same*”. The equation, which is the original meaning of the word “*fair*” is what makes the perpetrator “*not taking sides*”, and basically, a just person will “*side with the right*” because both right and wrong must both get their rights. Thus he does what is right and not arbitrary.<sup>15</sup> As in the Qur’an, justice can be understood in several Surahs. For example, QS. An Nisa verse 58, QS. Al Hadid verse 25, QS. An Nahl verses 90 and 126, QS. Al Maidah verse 8, QS. Al Hujurat verse 9, and QS. Asy Shurah verse 15.

The principle of justice is also one of the principles championed in Indonesia. It is stated in the Preamble to the Constitution in the fourth paragraph that:

*“...therefore the independence of Indonesia is formulated into a constitution of the Republic of Indonesia which is built into a sovereign state based on a belief in the One and Only God, just and civilized humanity...”*

It means that the Indonesian constitution stipulates that everyone must be treated somewhat based on the law in force in the Unitary State of the Republic of Indonesia. Explicitly, justice in the Indonesian constitution is emphasized on several things. *First*, it includes justice in terms of human rights, such as the right to work, receive compensation, and fair and proper treatment in employment relationships. *Second*, justice in terms of the economy. *Third*, justice in the implementation of the General Election. *Fourth*, the obligation to act reasonably for the office of President, Vice President, judicial institutions, and Constitutional Justices and Supreme Court Justices.

### 3. **Equality**

The principle of equality in Islam is the recognition of equal rights between Muslims and non-Muslims.<sup>16</sup> According to Sayyid Quthub, equality in Islam includes several aspects: equality in terms of fulfilling civil and general rights, equality in obtaining education and employment, equality in law enforcement, and equality for women and men in political and economic fields.<sup>17</sup> According to Azhari, equality in Islam

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<sup>11</sup>Zainuddin, Z. (1992). Ilmu Tauhid Lengkap. Jakarta: Rineka Cipta, p. 1.

<sup>12</sup>Mas’udi, M. F. (2013). Syarah UUD 1945 Perspektif Islam. Jakarta: PT Pustaka Alvabet, p. 5.

<sup>13</sup>D., M. M. M. (2006). Membangun Politik Hukum, Menegakkan Konstitusi. Jakarta: PT. Raja Grafindo Persada, p. 23.

<sup>14</sup>Praja, J. S. (1993). Filsafat Hukum Islam. Bandung: Yayasan Piara, p. 72.

<sup>15</sup>Shihab, M. Q. (1997). Wawasan Al-Qur’an: Tafsir Maudhu’i atas Pelbagai Persoalan Umat. Bandung: Mizan, p. 111.

<sup>16</sup>Wafi’, A. A. W. (1965). al Musawah fi al Islam. Kairo: Daar al-ma’arif, p. 28.

<sup>17</sup>Quthub, S. (1984). Keadilan Sosial dalam Islam. Bandung: Pustaka, pp. 67-69.

includes legal, political, economic, and social aspects. However, Azhari emphasized that the equation should be applied to the legal aspect from the four aspects. Equality in Islam is described by Allah in QS. Al Hujurat verse 13.

The principle of equality is not mentioned in the preamble to the Indonesian constitution. However, the principle of equality can be found in the following points:

*First*, equality before the law. It is stated in Article 28D section (1) that the “Every person has the right of recognition, securities, protection, and fair legal certainty, and equal treatment before the law”. It means that, Indonesia wants every citizen to be treated the same when dealing with the law, whether the law is a giver of recognition, guarantee, protection, and fair legal certainty.

*Second*, Equality in the opportunity to be involved in government. As stated in Article 28D section (3), “Every citizen has the right to obtain equal opportunity in government”. At first glance, this article gives the impression that the Indonesian constitution adheres to the principle of absolute Equality, which means that whoever it is, as long as he is an Indonesian citizen, has the right to be involved in the government, regardless of age, psychology and etcetera. However, this is not the case. For candidates for President and Vice President, for example, it is stated in Article 6 section (1), that:

“Candidates for President and Vice-President must be Indonesian nationals and never have acquired another citizenship by his/her own will, never have committed an act of treason against the state, and are mentally and physically capable of implementing the duties and obligations of President or Vice-President.”

In section (1) above, it appears that the Indonesian constitution gives several requirements for a candidate for President and Vice President. That is, the equality referred to in the article mentioned earlier does not mean absolute equality. In addition, section (2) of the same article even confirms that there will be conditions to become President and Vice President, namely that “The requirements to become President and Vice-President are further regulated by law”.

So, as mentioned above, the nature of the Indonesian constitution is very general, so it requires an explanation in the form of other laws to be applied in the life of the nation and state.

*Third*, equality in obtaining facilities and special treatment. This issue is regulated in Article 28H section (2), namely, “Every person has the right to receive ease and special treatment to obtain the same opportunity and benefit in order to achieve equality and fairness”. It means that a person may be given special treatment if a situation requires it, such as treatment for people with disabilities who must be given special treatment to obtain equality and justice.

*Fourth*, equality in the economy. It is stated in Article 33 section (1) that “The economy is organized as a joint endeavor based upon the principles of brotherhood”. Thus, Indonesia regulates that every citizen has the same economic rights.

#### **4. Freedom**

##### **a. Individual Freedom**

Freedom (Arabic; alhurriyyah), according to al Ghalayani, comes from the word alhurr, which means “to be free” and “free from slavery”, as well as “free to make choices”. or even violate religious teachings.<sup>18</sup>

Individual freedom includes, among others, freedom of thought, opinion and religion. Concerning freedom of thought, Islam gives extensive freedom. It is stated in the Qur'an that humans are encouraged to use their minds to think about every natural phenomenon they encounter in their lives, as well as to motivate them to continually reflect on, and explore some general rules, as an effort to seek scientific truth, as well as the main road to a person who believes and is Muslim nicely.

“Freely” referred to above must be understood based on the rules. That is, under any circumstances, Islam does not give anyone the right to use abusive, degrading, or insulting language in the name of criticism.<sup>19</sup> As in the Qur'an, individual freedom can be understood in several Surahs. For example, QS. An Nahl verse 125, QS. Luqman verse 17 and QS. Ali Imran verse 104.

##### **b. Social Freedom**

Social freedom is meant here as the freedom of humans to associate with whom they want by treating or being treated humanely. This freedom is also often referred to as freedom of assembly and association.

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<sup>18</sup>al-Ghalayani, M. (2007). ‘Idhah al Nasyi’ in Kitab Akhlaq wa Adab wa Ijtima’. Beirut: Dar al Kutub al Ilmiyah, p. 86.

<sup>19</sup>Al-Maududi, A. A. I. (1985). Hak Asasi Manusia dalam Islam. Bandung: Pustaka, p. 43.

According to Qurasih Shihab, the word “*lita'arafu*” in verse indicates that humans are free to interact with anyone so that there is a relationship of learning from each other, working together, helping and respecting each other.<sup>20</sup> As in QS. Al Hujurat verse 13.

**c. Economic Freedom**

According to Karim, the universal principles in Islamic economics are: at tauhid which means faith, al 'adl, which means justice; an nubuwah which means prophethood, al Khilafah, which means government; and al ma'ad, which means return or result. These five principles, according to Karim, became the basis for the inspiration to formulate propositions and economic theories in Islam.<sup>21</sup>

In the Qur'an, it is stated that freedom is called pleasure, willing, or consensual, while unwillingness is called falsehood. As a result, willingness to be the main factor in determining the validity of a transaction in Islam (QS. Al Nisa' verse 29).

Economic freedom in Islam can be classified into several aspects: freedom in transactions, freedom in production, freedom in shopping, owning and consuming, freedom to choose to continue or cancel transactions, and freedom to determine the price of goods. As in the Qur'an, economic freedom can be understood in several Surahs. For example, QS. Al Baqarah verse 188 and 275, QS. Ali Imran verse 130, QS. An Nisa verse 29, QS. Al Isra 'verse 26-27, and QS. Ar-Rum verse 41.

The principle of justice is also one of the principles championed in Indonesia. It is stated in the Preamble to the Constitution in the third paragraph that “*by the blessings of Almighty God and motivated by the noble desire to live a free national life, the people of Indonesia hereby declare their independence*”.

Although this principle is also mentioned in the Preamble to the Constitution, it is only the background to demands for its independence. However, it does not mean that Indonesia does not regulate this matter in its Constitution. The following clearly states the principle of freedom in the Indonesian Constitution.

*First*, the freedom not to be discriminative. It is stated in Article 28I section (2) that the “*every person has the right to be free from discriminative treatment based upon any grounds and has the right to protection from such discriminative treatment*”.

The author understands that even if there is the word “based upon any grounds”, it does not mean that the freedom to be applied in Indonesia is freedom without limits. However, the freedom referred to here is a freedom that does not violate legal norms that have been jointly determined, both customary and religious norms and norms contained in the legislation of the unitary state of the Republic of Indonesia.

Moreover, there is an article that explicitly regulates the restrictions on freedom granted by the constitution, namely Article 28J section (2), which states that:

*“In exercising their rights and freedoms, every person shall be subject to any restrictions established by law solely for the purpose of ensuring the recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, religious values, security, and public order in a democratic society.”*

*Second*, the freedom to live well. It is as regulated in Article 28G section (2), which states that the “*every person has the right to be free from torture or inhumane and degrading treatment, and has the right to receive political asylum from another country*”.

It means that Indonesia does not want or forbid its citizens to be treated like slaves or to do forced labour. Not only that, the Indonesian constitution even gives the right to obtain political asylum from other countries. It means that at this level, the protection of freedom provided by the Indonesian constitution for its citizens is broader than that of the other two countries, namely Pakistan and Malaysia.

*Third*, freedom of religion, choosing education and teaching, choosing a job, having a nationality, choosing a place to live and choosing to leave the country and return to the country. These freedoms are all regulated in one article, namely Article 28E section (1). The following read the article:

*“Every person is free to choose and to practice their choice of religion, to choose education and schooling, to choose employment, to choose citizenship, and to choose their residences within the state territory and to leave, and to which shall have the right to return.”*

Regarding freedom of religion, apart from the article above, there are also other articles with almost the same editorial, namely article 29 section (2), which states that “*the state guarantees the freedom of religion for each citizen and to practice such religion and belief accordingly.*”

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<sup>20</sup>Shihab, M. Q. (2007). Tafsir Al Misbah: Pesan, Kesan dan Keserasian Al-Quran (Vol. 9). Tangerang Selatan: PT Lentera Hati, p. 364.

<sup>21</sup>Karim, A. (2003). Ekonomi Islam: Suatu Kajian Kontemporer. Jakarta: Gema Insani Press, p. 17.

However, as stated above, the Indonesian Constitution is general and not practical, so that what is contained in it cannot be understood textually and singly. It means that the Indonesian constitution needs other laws to understand it comprehensively. So, it is not prohibited in Indonesia regarding the spread of religious teachings, even though it is not explicitly stated in its constitution.

*Fourth*, freedom to believe in a belief, express thoughts and attitudes. These freedoms are regulated in Article 28E section (2), which states that the “*every person has the right to freedom of belief, and to express thoughts and tenets, in accordance with their conscience*”.

Based on the article, Indonesia does recognize not only certain religions but also all sects of belief.

*Fifth*, freedom of association, assembly and expression. These freedoms are regulated in Article 28E section (3), which states that the “*every person has the right to freedom of association, assembly, and expression*”.

*Sixth*, the freedom to determine leaders and representatives in parliament. As a country that adheres to a democratic system, the election of leaders is inevitably carried out directly through elections. These matters include freedom for all citizens to make choices. It is stated in Article 22E section (1) that the “*General elections are conducted in a direct, public, free, secret, honest, and fair manner once every five years*”.

With this article, every citizen will be free to choose a leader according to his heart. Likewise, the article will hinder their desire to force someone to make a choice with political actors.

*Seventh*, freedom in maintaining and developing cultural values. It is stated in Article 32 section (1), that “*the state promotes Indonesian national culture among the world civilizations by ensuring the freedom of society to preserve and to develop cultural values*”.

*Eighth*, freedom for BPK in examining the management and responsibility of state finances. It is as regulated in Article 23E section (1), that “*in order to audit the management and accountability of state finances, a free and independent Audit Board shall be established*”.

These are some of the freedoms that are regulated in the Indonesian constitution.

## **5. Deliberation**

Quraish Shihab defines that the deliberation is taken from the word “شور”, which originally meant “removing honey from the beehive”. Then the meaning develops to include everything that can be taken or excluded from others, including opinions.<sup>22</sup>

Moreover, deliberation, which in Islamic terms is called shura is even one of the essential pillars of the government system in Islam. Even the consensus reached by scholars who write political theory in Islam states that the principle of shura is an essential foundation in the government system and a pillar of Islam according to equality and justice principles.<sup>23</sup> As in the Qur'an, deliberation can be understood in several Surahs. For example, QS. Ali Imran verse 159 and QS. Asy Shurah verse 38.

Furthermore, in the Indonesian context, deliberation is mentioned in the Constitution's preamble, precisely in the fourth paragraph. The following reads, “*...democratic life led by wisdom of thoughts in deliberation amongst representatives of the people...*”. This sentence is the fourth precept of Pancasila, which means that it is also the primary source of the formation of legislation, both the Constitution and the laws under it because Pancasila is the philosophy of the Unitary State of the Republic of Indonesia.

Based on the information above, it can be understood that Indonesia is also a country that upholds the principle of deliberation in managing the life of the nation and state through law. Indonesia also has a particular institution for deliberation, named the “People's Consultative Assembly”, commonly abbreviated as MPR. However, after the fourth amendment, this institution only has three powers: the authority to amend and apply the Constitution, inaugurate the President and Vice President, and dismiss the President and/or Vice President. It is as regulated in Chapter II on the People's Consultative Assembly Article 3 section (1) and section (2) and in Chapter III on Executive Powers Article 7A. However, the authority of the three MPRs can only be exercised if the DPR proposes them. The following reads the second sections of Article 3:

(1) The People's Consultative Assembly has the authority to amend and enact the Constitution.

(2) The People's Consultative Assembly inaugurates the President and/or Vice-President.

As for the sound of article 7A, are as follows:

*“The President and/or the Vice-President may be discharged during his/her term of office by the People's Consultative Assembly on the proposal of the House of Representatives, both if it is proven that he/she has violated the law through an act of treason, corruption, bribery, other act of a grave criminal nature, or through moral turpitude, and if the President and/or Vice-President no longer meets the qualifications as President and/or Vice-President.”*

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<sup>22</sup>Shihab, M. Q. (2002). Tafsir Al Misbah: Pesan, Kesan dan Keserasian Al-Quran (Vol. 2). Tangerang Selatan: PT Lentera Hati, p. 244.

<sup>23</sup>Anshary, A. I. a. (1996). Asy Syurah wa Atsaruhah fi ad Dimukratyiyah. Kairo: Daar al-ma'arif, p. 17.

In order to amend the Constitution, the MPR has an obligation to consult by presenting 2/3 of the MPR members. It is stated in Article 37 section (3), that “to amend the articles of this Constitution, the People’s Consultative Assembly session requires at least 2/3 of the total members of the People’s Consultative Assembly to be present”.

Then, in deciding on the amendment to the Constitution, the MPR is obliged to decide based on a majority vote, or 50 percent plus one from the members of the MPR. As regulated in Article 37 section (4), that the “decision to amend articles under the Constitution is made with the agreement of at least fifty percent plus one member of the total members of the People’s Consultative Assembly”.

Apart from this, the Indonesian constitution stipulates the importance of deliberation in every decision-making. It means that the principle of deliberation as one of the principles of Islamic democracy has also been spelt out in the Indonesian constitution.

## **6. Human Rights**

According to Miriam Budiardjo, human rights are rights that humans have that have been obtained and brought along with their birth or presence in people’s lives.<sup>24</sup>

According to Jan Materson, human rights are rights inherent in humans, without which it is impossible for humans to live as humans.<sup>25</sup>

According to Al Maududi, as Ahmad Kosasih, human rights are rights given by God since humans are born, and therefore no one person or institution has the right to revoke or cancel them.<sup>26</sup>

As in the Qur’an, human rights can be understood in several Surahs. For example, QS. Al Isra’ Verse 70, QS. Al Baqarah Verse 62, Al Kahfy Verse 29, QS. Al Mumtahanah Verse 8, Al Maidah Verse 8, QS. Ar Rahman Verse 1, and QS. Al Buruj Verse 14.

The discussion of human rights in the Indonesian Constitution has its ups and downs. At the beginning of independence, human rights became one of the terms that received pro and contra attitudes from the founding fathers of the nation, especially those who were members of the BPUPK in drafting the Constitution. Those who agreed that human rights should be included in the Constitution were Muhammad Hatta and Muhammad Yamin. According to him, a constitution that does not include human rights will lead to unlimited power is authoritarianism. In fact, Indonesia is a country that positions the people as the owner of sovereignty who should be given the freedom to express opinions with constitutional guarantees.<sup>27</sup>

The BPUPK members who did not support the inclusion of human rights in the constitution were Soekarno and Supomo. According to him, human rights are a Western culture that is not compatible with Indonesian culture. In Soekarno’s speech at the BPUPK session, he stated:<sup>28</sup>

*“Why not write down individual rights for Indonesian people? Dear gentlemen, this is precisely what I want to explain. This is the source of the calamities in this world. Countries in Europe and America, founded on the basis of staat sovereign rights called staat souvereiniteit. Actually this, as explained by Prof. Soepomo yesterday, already contained a conflict. The right to freedom of man as an individual, and the right to independence of sovereignty as a body as well.”*

Based on these debates and the desire to reconcile all opinions, a constitution with multiple interpretations on human rights issues was born. Majda El-Muhtaj stated that,<sup>29</sup> regarding the inclusion of human rights in the pre-amendment Indonesian constitution, there are at least three views, namely; first, those who hold the view that the 1945 Constitution does not provide comprehensive guarantees for human rights because it is not found explicitly in the Preamble, body and explanation, and also only regulates the rights and obligations of citizens and the rights of members of the DPR. Mahfud MD and Sutiyoso support this view. Second, those who are of the view that the 1945 Constitution provides comprehensive guarantees for human rights because the 1945 Constitution elevates the human rights phenomenon that exists among the people, on that basis, the human rights implied in the 1945 Constitution are based on the basic philosophy and view of the life of the nation, namely Pancasila. This view is shared by Sumobroto, Marwoto, Azhary and Dahlan Thalib.

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<sup>24</sup>Budiardjo, M. (1999). *Dasar-Dasar Ilmu Politik*. Jakarta: PT Gramedia Pustaka Utama, p. 120. Pengertian ini hampir sama dengan pengertian yang diutarakan oleh Jack Donnelly. Lihat, Donnelly, J. (2003). *Universal Human Rights in Theory and Practice*. London: Ithaca: Cornell University Press, p. 7.

<sup>25</sup>Lopa, B. (1996). *Al-Quran dan Hak Asasi Manusia*. Jakarta: PT Dana Bhakti Prima Yasa, p. 1.

<sup>26</sup>Kosasih, A. (2003). *HAM dalam Prespektif Islam: Menyingkap Persamaan dan perbedaan Antara Islam dan Barat*. Jakarta: PT Salemba Emban Patria, p. xvii.

<sup>27</sup>Kusuma, R. A. B. (2009). *Lahirnya Undang-Undang Dasar 1945: Memuat Salinan Dokumen Otentik Badan Oentoeck Menyelidiki Oesaha-Oesaha Persiapan Kemerdekaan dan Panitia Persiapan Kemerdekaan Indonesia (Edisi Revisi)*. Jakarta: Badan Penerbit Fakultas Hukum Universitas Indonesia, p. 355.

<sup>28</sup>Ibid., p. 349.

<sup>29</sup>Muhtaj, M. E. (2005). *Hak Asasi Manusia dalam Konstitusi Indonesia: Dari UUD 1945 Sampai dengan Perubahan UUD 1945 Tahun 2002*. Jakarta: Kencana Prenada Media Group, p. 95.

Third, those who think that the 1945 Constitution only provides basic guarantees for human rights,<sup>30</sup> but it is not systematic, so it has the potential to be interpreted according to need. This view is shared by Kuntjoro Purbopranoto, G.J Wolhoff and M. Solly Lubis.

The wave of reforms that occurred in Indonesia triggered significant changes in human rights. Among them are changes to the 1945 Constitution in stages and carrying out constitutional reforms, which previously only contained 71 items to 199 items of provisions. It can be seen in the second and third amendments in the 2000 MPR Session, which – among others – include human rights as regulated in Chapter XA which contains ten articles, namely Articles 28A-28J. The regulation of human rights in the 1945 Constitution is the state's commitment to fulfilling the requirements for the existence of Indonesia as a state of law.<sup>31</sup>

## **7. Government Accountability**

According to Hughes, the principle of accountability is that government organizations are organizations made by the public and for the public. Therefore they must be accountable to the public as well.<sup>32</sup>

Accountability, according to UNDP, means that decision-makers in public, private and civil society sector organizations have accountability to the public (general public), as well as a borrower to the owners (stakeholders).<sup>33</sup>

Government accountability in Islam is carried out not only in front of fellow human beings as the object being led, but also before Allah SWT as Shari'a, the maker of the law. This is what makes the Prophet Muhammad and his Caliphs always take Allah's guidance as the main consideration in making policies, as in QS. Az Zalzalah verse 7-8.

Furthermore, in the Indonesian context, As a country that is not an Islamic state (formally) like Pakistan, nor does it make Islam a state religion like Malaysia, Indonesia should not mention specifically the government's accountability to God. However, it does not mean that the Indonesian constitution does not regulate government accountability at all. However, the regulation is conditional, namely being responsible if it is proven to have committed an act that is considered unlawful (Article 7A) by the DPR (Article 7B). So, the responsibility of the government in the context of Indonesia is a legal responsibility. As for the right of the DPR to file an impeachment lawsuit against the President and/or Vice President to the MPR, not because the president is responsible to the DPR, but as a form of supervision (Article 7B section (2)).

So, does the Indonesian constitution not recognize accountability to God? In the author's opinion, no. The Indonesian constitution recognizes accountability to God. The author understands this based on Article 9, which contains the oaths of office of the President and Vice President, as follows:

*"In the name of God, I swear to fulfil the obligation of the President of The Republic of Indonesia (the Vice-President of Indonesia) to the best of my ability and as justly as possible, to strictly hold the Constitution and to enforce all the laws and regulations there under consistently and devote myself to the Country and Nation."*

The oath of office above begins with the word "in the name of God" which although not specifically for Muslims, nevertheless proves that the Indonesian constitution does not allow an atheist to become President or Vice President because of the accountability that must be carried out before God. It means that accountability before God is actually recognized in the Indonesian constitution like Pakistan and Malaysia.

## **IV. CONCLUSION**

Based on the description of the results and discussion, it can be concluded that the principles of democracy in Islam include monotheism, justice, equality, freedom, deliberation, human rights, and government accountability. The principles of democracy in Islam are primarily the same as the principles of democracy in general. The most pronounced differences are related to the first and last principles, namely the principle of monotheism and government accountability. These two principles require that every human being, both as an

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<sup>30</sup> Another figure who thinks so is Ismail Sunny. According to him, many of the contents of the 1945 Constitution are related to human rights. In the preamble, for example, in the first paragraph there is an acknowledgment of the existence of "freedom to be free", the second paragraph mentions Indonesia as a just country. The third paragraph emphasizes that the Indonesian people want to live a free national life, which is one of the recognition and protection of human rights that contains equality in the form of politics. The fourth and final paragraph contains the outlines of the recognition and protection of human rights in all its fields, namely politics, law, social, economic, cultural, and educational. Vide Suny, I. (2004). *Hak Asasi Manusia*. Jakarta: Yarsif Watampone, p. 2.

<sup>31</sup> Editorial. (2011). *Panduan Pemasarakatan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 dan Ketetapan Majelis Permusyawaratan Rakyat Republik Indonesia*. Jakarta: Sekretariat Jenderal MPR RI, p. 166.

<sup>32</sup> Widodo, J. (2001). *Good Governance: Telaah dari Dimensi Akuntabilitas dan Kontrol Birokrasi pada Era Desentralisasi dan Otonomi Daerah*. Surabaya: Insan Cendekia, p. 4.

<sup>33</sup> Muhammadong, M. (2017). *Good Governance dalam Perspektif Hukum Islam*. Makassar: CV. Edukasi Mitra Grafika, p. 100.



individual and as a social being, should always feel that he is being watched by God and at the same time be aware of a time when humans will be responsible for every behavior and behavior. Based on this understanding, when viewed with the theory of sovereignty, the sovereignty embraced in Islamic democracy is the sovereignty of God whose manifestation is left to humans as caliphs, so that its application must be based on the two primary sources of Islamic law, namely the Qur'an and Hadith. Furthermore, there is a connection between the principles of democracy in Islam and the Indonesian constitutional system. This connection is since the majority of the nation is inhabited by Muslims, so this fact also necessitates that the principles of Islamic democracy are spelled out in its constitution. It means that the claims of those who say "Islam is not compatible with democracy" or "Islam does not know democracy" are false claims. Based on this conclusion, it is suggested that the law's drafters can more objectively assess all values that live in a society so that there is no condemnation of a value, which also has the potential to contribute to the birth of a concept in terms of ideal state governance.

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