



## **SYSTEMS OF GOVERNMENT IN ISLAMIC COUNTRIES: THE DYNAMICS OF SHARIA LAW FROM THE PROPHETIC PERIOD TO THE MODERN ERA**

*Sukardi<sup>1</sup>, Muhammad Adib Alfarisi<sup>2</sup>, Riyani<sup>3</sup>*

<sup>1</sup> Doctoral Program Universitas Islam Indonesia, Yogyakarta

<sup>2</sup> Postgraduate UIN Sunan Kalijaga Yogyakarta, Indonesia

<sup>3</sup> Kütahya Dumlupınar Üniversitesi, Türkiye

Email: [122932009@students.uui.ac.id](mailto:122932009@students.uui.ac.id), [2adibalfarisi19@gmail.com](mailto:2adibalfarisi19@gmail.com),  
[3riyani.riyani@ogr.dpu.edu.tr](mailto:3riyani.riyani@ogr.dpu.edu.tr)

*\*Corresponding Author*

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**Abstract:** This article explores the forms and systems of government practiced by Islamic states from the time of the Prophet to the present day. This research departs from the problem of the debate on the relationship between religion and the state in the practice of Muslim countries that form the diversity of Islamic state administration from classical to modern times. This conceptual research is related to classical to contemporary government practices in Muslim countries. This research uses heuristic and philosophical approaches. Based on the research conducted, this study concludes that four factors cause diversity in the implementation of the constitutional state of Islamic countries, namely: 1) there are no specific rules on constitutionalism in Islamic teachings, 2) the centralized and absolute power of the caliph, 3) the growing tradition of the rule of law, and 4) the influence of Western concepts of democracy through international expansion and the expansion of power in the colonial era. This study contributes practically to offering a more adaptive model of interaction and negotiation of diversity-based governance and constitutions of Muslim-majority countries.

**Keywords:** Islamic government system; sharia law; modern era.

**Abstrak:** Artikel ini mengeksplorasi bentuk dan sistem pemerintahan yang dipraktikkan oleh negara-negara Islam sejak masa Nabi hingga saat ini. Penelitian ini berangkat dari permasalahan perdebatan hubungan agama dan negara dalam praktik negara-negara Muslim yang membentuk keragaman ketatanegaraan Islam dari masa klasik hingga modern. Penelitian konseptual ini terkait dengan praktik pemerintahan klasik hingga kontemporer di negara-negara Muslim. Penelitian ini menggunakan pendekatan heuristik dan filosofis. Berdasarkan penelitian yang dilakukan, penelitian ini menyimpulkan bahwa terdapat empat faktor yang menyebabkan keragaman dalam penyelenggaraan ketatanegaraan negara-negara

Islam, yaitu: 1) tidak adanya aturan khusus tentang konstitusionalisme dalam ajaran Islam, 2) kekuasaan khalifah yang sentralistik dan absolut, 3) berkembangnya tradisi negara hukum, dan 4) pengaruh konsep demokrasi Barat melalui ekspansi internasional dan perluasan kekuasaan di era kolonial. Penelitian ini berkontribusi secara praktis untuk menawarkan model interaksi dan negosiasi yang lebih adaptif terhadap pemerintahan dan konstitusi yang berbasis keragaman di negara-negara berpenduduk mayoritas Muslim.

**Kata Kunci:** sistem pemerintahan Islam; hukum syariah; era modern.



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## INTRODUCTION

The relationship between religion and state in Islamic politics has experienced an unavoidable shift.<sup>1</sup> This difference is caused by various interpretations of Islamic teachings and influenced by other factors, such as the nation's socio-political conflicts. In addition, such as Samuel P. Huntington<sup>2</sup>, Oliver Roy, John Sidel, and also Huntington by several other Western scholars, such as Bernard Lewis, Kedourie, Lipset, and Gellner, revealed that the interpretation of religious beliefs is influenced by historical experiences, socio-political realities, and culture, which causes beliefs about state democracy to be strong.<sup>3</sup> Muslims adopt this view as an argumentative rationale because of the ongoing process of interpretation, which provides a mutual understanding of existing realities with various socio-political realities.<sup>4</sup> As one of the alignments in connecting the relationship between Islam and the state, it provides an interpretation of the control of social institutions, both formal and informal.

This relationship strengthens the state politics in power and government, which is increasingly dynamic in public sharing; on the other hand, religious authority (religion) connects the pattern of ulama in playing the politics of knowledge as Islam and the state are mutually fused and even inseparable. Of course, the politics of power and government cannot be separated from populist

<sup>1</sup> Sunny Tanuwidjaja, "Political Islam and Islamic Parties in Indonesia: Critically Assessing the Evidence of Islam's Political Decline," *Contemporary Southeast Asia* 32, no. 1 (2010), <https://doi.org/10.1355/cs32-1b>.

<sup>2</sup> Samuel P. Huntington, *The Clash of Civilizations. Remaking of the World Order* (New York: Simon and Schuster, 1997).

<sup>3</sup> Saiful Mujani, *Muslim Demokrat: Islam, Budaya Demokrasi, Dan Partisipasi Politik Di Indonesia Pasca Orde Baru* (Jakarta: Gramedia Pustaka Utama, 2007).

<sup>4</sup> M. Syafi'i Maarif, *Islam Dan Politik, Teori Belah Bambu Masa Demokrasi Terpimpin 1959-1965* (Jakarta: Gema Insani Press, 1996).

preachers, neo-traditional Sufi masters, and secularly-educated new (Muslim intellectuals) as one of the paradigms of state administration.

On the other hand, socio-political realities shape constitutionalization in the issue of constitutional law in the global world through identity in structuring government structures and guaranteeing the constitutional protection of the rights of its citizens.<sup>5</sup> In contextualization, constitutional law guarantees a balance in government that forms the pillars of democracy, such as the executive, legislative, and judiciary, by providing an essential framework for democratic policymaking.<sup>6</sup> On the other hand, constitutional law regulates consistent state action in treating international legal subjects. This is based on justice and legal certainty. This concept is the foundation of the life of the nation and state that regulates the basic principles of governance, human rights, and justice.<sup>7</sup> Constitutional law comes in different formulations and emphases globally, following each country's times and characteristics.<sup>8</sup>

Studying constitutions in Islamic countries is an exciting aspect to study in the modern world. When societies adopt the concept of the nation-state, there is variation in the drafting of constitutions and, at the same time, diversity in implementing the state form. Although all of these states claim to be Islamic states within the framework of their constitutions, there are significant differences in the form and system of government they implement. Karomah found that three types of constitutions exist in Islamic countries. Starting with countries that have not updated their constitutions (such as Saudi Arabia)<sup>9</sup>, countries that removed Islam as the basis of the state (such as Turkey), and finally, countries that combine Islamic law with other legal systems (such as Egypt, Tunisia, Algeria, and Indonesia).<sup>10</sup>

This paper analyzes the dynamics of forms and systems of government, and Islamic constitutions applied in Islamic countries to establish or decide on law from the classical period to the modern era. The research process is carried out through

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<sup>5</sup> Vadim V. Antonchenko, "Law and Legislation," *Current Issues of the State and Law*, no. 2 (2022), <https://doi.org/10.20310/2587-9340-2022-6-2-123-131>.

<sup>6</sup> Bambang Soesatyo, Kadir Johnson Rajagukguk, and Heri Wahyudi, "Building Legal Foundation for a Prosperous Indonesia: Insights from MPR-RI Four Pillars," *Yustisia* 12, no. 3 (2023), <https://doi.org/10.20961/yustisia.v12i3.71520>.

<sup>7</sup> Vadim Antonchenko, "The Interaction of Law and Morality in the Process of Their Transformation," *Academic Law Journal* 24, no. 1 (2023), [https://doi.org/10.17150/1819-0928.2023.24\(1\).5-13](https://doi.org/10.17150/1819-0928.2023.24(1).5-13).

<sup>8</sup> "Revitalization of Rule of Law, Democracy and Good Governance Ideas as Modern State Pillar," *Public Policy and Administration Research*, 2019, <https://doi.org/10.7176/ppar/9-4-06>.

<sup>9</sup> Harun, "Konstitusi Dalam Perspektif Hukum Islam," *Suhuf* 24, no. 1 (2012).

<sup>10</sup> Shafira Elnanda Yasmine, "Arab Spring: Islam Dalam Gerakan Sosial Dan Demokrasi Timur Tengah," *Masyarakat, Kebudayaan Dan Politik* 28, no. 2 (2016), <https://doi.org/10.20473/mkp.v28i22015.108-115>.

four methodological steps.<sup>11</sup>, namely the heuristic stage, which involves the inventory of relevant sources;<sup>12</sup> the criticism and verification stage, which involves assessing the validity of the sources used; the interpretation stage, which consists of interpreting the relationship between the various facts revealed in the sources; and the historiography stage,<sup>13</sup> which involves compiling the research results systematically and chronologically.<sup>14</sup> This research uses a historical approach to examine how Islamic governance developed and changed from the caliphate to the nation-state era. The main objective is to identify and map the factors that contributed to various Islamic countries' different forms and structures of governance. In addition, it aims to determine whether the Islamic system of governance was monolithic or pluralistic in its implementation throughout history.

### **STATE ADMINISTRATION IN JURISPRUDENCE SIYĀSAH**

*Siyāsah dustūriyah* is a branch of *siyāsah syar' iyyah* that focuses on state legislation,<sup>15</sup> exploring the rule of law within the framework of sharia and the responsibilities of the state according to Islamic jurisprudence. It examines the general principles found in the Qur'an and hadith, aligning them with the goals of sharia.<sup>16</sup> Scholars generally agree on its definition, and according to Taqiyuddin an-Nabhani, all state regulations should be based on the Qur'an and Sunnah, with *ijma* (consensus) and *qiyas* (analogy) playing a supportive role in shaping Islamic law for governance.<sup>17</sup>

Based on the above, the concept of governance in Islam has strength and distinction because of its legal source. This shows that Islamic law and the laws of other countries are different. Under these circumstances, the Islamic constitutional system centers on the spiritual aspect more than any other constitutional system in the world; the main pillars of the system are morality and spirituality. The state cannot provide justice and security if it does not have a firm moral foundation. The ideas of a civil society can only come from morality rooted in religious teachings.<sup>18</sup>

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<sup>11</sup> J.W Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approaches* (United Kingdom: SAGE Publications Ltd., 2014).

<sup>12</sup> Mohamad Hjeij and Arnis Vilks, "A Brief History of Heuristics: How Did Research on Heuristics Evolve?," *Humanities and Social Sciences Communications*, 2023, <https://doi.org/10.1057/s41599-023-01542-z>.

<sup>13</sup> Dudung Abdurahman, "Metodologi Penelitian Sejarah Islam," *Penerbit Ombak*, 2011.

<sup>14</sup> Endah Sri Hartatik Wasino, "Metode Penelitian Sejarah: Dari Riset Hingga Penulisan," *Seri Publikasi Pembelajaran* 1, no. 2 (2018).

<sup>15</sup> Muhammad Iqbal, *Fiqh Siyasah* (Jakarta: Gaya Media Pratama, 2007).

<sup>16</sup> Jubair Situmorang, *Politik Ketatanegaraan Dalam Islam* (Bandung: Pustaka Setia, 2012).

<sup>17</sup> Taqiyuddin al-Nabhani, *Sistem Pemerintahan Islam; Doktrin, Sejarah Dan Realitas Empirik*, (Bangil: Al-Izzah, 1996).

<sup>18</sup> Abdul Qadir Audah, *Kritik Terhadap Undang-Undang Ciptaan Manusia* (Surabaya: Bina Ilmu, 1985).

According to the fiqh of *siyāsah dustūriyah*, the state has the highest position. Al-Mawardi argued that Islamic governance aims to maintain the continuity of religious teachings and regulate world affairs.<sup>19</sup> Building the state is considered a Sharia obligation because Imam al-Ghazali described religion as the foundation of government and the caliph as its protector.<sup>20</sup> The state is responsible for implementing God's law and protecting the rights of individuals.<sup>21</sup>

### **STATE MODEL: FORMS AND SYSTEMS OF GOVERNMENT IN THE PERIOD OF THE PROPHET AND CALIPHATE**

The structure of Islamic governance experienced a significant transformation after the Prophet Muhammad (peace be upon him) transitioned leadership to the caliphs. Based on divine authority, the previous theocratic system evolved into a non-theocratic model where reason played a more vital role in shaping primary policies.<sup>22</sup> Nevertheless, shari'ah law remained a top priority, established through consensus. The ideal model is the governance established under the first four caliphs—Abu Bakr, Umar, Uthman, and Ali. Thinkers from the Islamic renewal movements of the 19th and 20th centuries have argued that the decline of the Muslim world can be attributed to the loss of this model, which resembled a democratic republic.

Asghar Ali refers to this system as an Islamic "Republic," Fadhil Zaky Muhammad echoes this sentiment, suggesting that if Islamic governance were expressed in modern terms, it would align closely with republicanism. This resemblance is particularly evident in the presidential election process while ensuring the state's accountability to the people. However, a key distinction lies in the exercise of power. In the khilāfah system, heads of state implement shari'ah law throughout their tenure, while heads of state in a republican system serve for a defined period. K. Hitti characterizes the era of the four caliphs as a republican period, highlighting its democratic elements.

Khawaja Nazir Ahmad posits that Umar Ibn al-Khattab, the second caliph, elevated Islamic governance to new heights of progress. Umar established a government characterized by socialist features rooted in the ideology of Prophet

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<sup>19</sup> Al Mawardi, *Al Ahkam Al Sulthaniyah* (Beirut: Dar al-Fikr, 1996).

<sup>20</sup> Abu Hamid Muhammad bin Muhammad Al-Ghazali, *Al Iqtishad Fil I'tiqad* (Kairo: Maktabah al Jund, 1972).

<sup>21</sup> Al Mawardi, *Al Ahkam Al Sulthaniyah*.

<sup>22</sup> Lukman Santoso, "Eksistensi Taqin Dalam Negara Hukum Modern Dan Relevansinya Dalam Dinamika Legislasi Di Indonesia," *El-Dusturie* 2, no. 1 (July 26, 2023), <https://doi.org/10.21154/el-dusturie.v2i1.6746>.

Muhammad.<sup>23</sup> Rather than distributing land acquired through war compensation to soldiers, he transformed it into state funds (*baitu al-mal*) for public purposes. However, Khuda Bakhs presents a contrasting view, suggesting that not all in Arab society agree with Umar's approach.<sup>24</sup> Scholars Toha Hussein and H.D. al-Rayes contend that the khilāfah system should not be equated with theocracy, absolutism, democracy, monarchy, or republic. They argue that the term "khilāfah system" is applicable only when grounded in Islamic shari'ah principles, with the Muslim community responsible for its implementation. H.D. al-Rayes further emphasizes that since the religious leader does not possess absolute power, the khilāfah cannot be classified as a theocracy.<sup>25</sup> Additionally, it differs from democracy because laws and regulations govern the khilāfah, meaning the people do not enjoy absolute sovereignty within this system. Consequently, the concept of khilāfah governance stands apart from other forms of government.

The appointment system for caliphs underwent a significant transformation during Mu'awiyah Ibn Abi Sufyan (661-680). This period shifted towards hereditary dynasties, giving rise to the term "Mu'awiyah Dynasty." While the earlier caliphs operated under a republican and democratic framework, Mu'awiyah's rule established a monarchy. This transition led to a more authoritarian and absolute leadership style, with deliberation becoming almost non-existent. Nonetheless, it is essential to note that Arab democratic traditions still exerted some influence, which tempered the absolutism and authoritarianism of this era. In contrast, the Bani Abbas dynasty, based in Baghdad and influenced by Persian culture, exhibited a harsher and more absolutist rule. In 872 AD, Abu Yusuf, a judge in Baghdad, authored the book *al-Kharaj*, criticizing attempts to reconcile Islamic principles with Sasanian (Persian) power.

The questioning of the caliphate's absolute power was not limited to the sultans in Baghdad and its surroundings; these rulers still officially recognized the caliphate as the sacred supreme authority. However, the Abbasid caliphate faced challenges from other caliphates, such as the Umayyad caliphate (921-1031) in Andalusia and the Fatimid caliphate (909-1171) in Tunisia, both of which ruled Egypt. The

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<sup>23</sup> Abu Ala Al-Maududi, *Islam and Socialism* (Lahore: Working The Basher Muslim Library, n.d.).

<sup>24</sup> Mark Bratton, "Shari'a Law and Modern Muslim Ethics," *Journal of Contemporary Religion* 33, no. 2 (2018), <https://doi.org/10.1080/13537903.2018.1473212>.

<sup>25</sup> Ibnu Burdah, "New Trends in Islamic Political Parties in the Arab Spring Countries," *Al-Jami'ah* 52, no. 2 (2014), <https://doi.org/10.14421/ajis.2014.522.459-485>.

Umayyad caliph in Andalusia was Sunni, while the Fatimid caliph in Egypt was Shi'a.

After Hulagu's destruction of the Abbasid caliphate in Baghdad in 1258, the Islamic world experienced a shift similar to that of the Turkish caliphate. Kings with absolute power outside Istanbul, including the Sultan of Indonesia, recognized the caliph in Istanbul as the sacred supreme monarch. The Bani Abbas kings held the title of caliph, while the Ottoman Turkish rulers combined the titles of caliph and sultan. This marked a departure from the Abbasid era, where power was shared; now, one individual held worldly and spiritual authority. As a result, after the death of the fourth caliph in 661 CE, governments across the Islamic world evolved into central and regional absolute monarchies. This backdrop set the stage for the influence of Western culture in the 19th century, when Islamic reformers began to embrace the ideas of constitutions and republics, leading to the emergence of the constitutionalism movement within the Islamic world.

The world's first Islamic constitution was established in Tunis in January 1861.<sup>26</sup> However, due to the people's lack of readiness to implement the constitutional system, it was abolished in 1864. Namik Kemal argued that Islamic values were compatible with republican and constitutional governance, drawing parallels with the leadership of the Rightly Guided Caliphs, whose authority was limited by the Qur'an and the Sunnah while incorporating republican elements.

Muslims did not necessarily need a new constitution, as modern constitutions had already been adopted in Europe.<sup>27</sup> However, with the support of Sultan Abdul Hamid, the second Islamic constitution was drafted and promulgated in Istanbul on December 23, 1876. This Tunisian constitution predated the one of the Ottoman Turkish Empire. The movement towards constitutional monarchy began in Tunisia and Turkey, serving as a model for other Islamic nations. Consequently, by the mid-20th century, nearly all Islamic countries had adopted constitutions, transitioning from absolute monarchies to constitutional monarchies.

In the 20th century, Turkey underwent significant transformations under Mustafa Kemal Atatürk. Recognizing the need to separate the sultan's holiness and power, Atatürk proposed the abolition of the sultanate to the Turkish National Council, which approved the measure in 1923, marking the birth of the Republic of

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<sup>26</sup> Sainul Rahman, "Tensi Sektarianisme Dan Tantangan Demokrasi Di Timur Tengah Pasca Arab Spring," *Dialektika* 12, no. 2 (2019), <https://doi.org/10.33477/dj.v12i2.1116>.

<sup>27</sup> Pippa Norris, "A Virtuous Circle: Political Communications in Postindustrial Societies," *Choice Reviews Online* 39, no. 01 (2001), <https://doi.org/10.5860/choice.39-0604>.

Turkey with Atatürk as its president. Initially, the caliph in Istanbul retained religious and spiritual authority, creating a dual leadership with the president in Ankara. However, this arrangement was short-lived, as the caliph's role rivaled the president.<sup>28</sup>

On March 3, 1924, the National Assembly abolished the caliphate and other sultanates, establishing Turkey as a republic without a monarchy or caliphate. This transition mirrored trends in other Islamic nations; Indonesia became a republic after gaining independence in 1945, while Pakistan followed in 1947. In 1952, Egypt shifted from a constitutional monarchy to a republic after Jamal Abd al-Nasir overthrew King Faruq.

By the mid-20th century, most Islamic countries had embraced republican forms of government, with Saudi Arabia, Morocco, and Jordan being among the few that still maintain constitutional monarchies today. The evolution of Islamic governance reflects changing circumstances, moving from a theocracy during the time of the Prophet Muhammad to a democratic republic under the Rightly Guided Caliphs and eventually transitioning to absolute monarchies during later dynasties.<sup>29</sup> Initially characterized by democratic deliberation, power gradually shifted to a more hierarchical system where the caliph held supreme authority.<sup>30</sup>

## CURRENT MODEL OF GOVERNMENT NATION-STATE

The formation of "nation-states" in the Islamic world began after the collapse of the Ottoman Caliphate, mainly driven by Western imperialism, which led to the colonization and fragmentation of Islamic territories. In the mid-20th century, many of these regions fought for independence, fueled by nationalism,<sup>31</sup> which became a powerful political identity in resisting colonialism.<sup>32</sup> Once independent, these

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<sup>28</sup> Mehmet Zahid Sobaci, Özer Köseoğlu, and Nebi Miş, "Reforming the Policymaking Process in Turkey's New Presidential System," *Insight Turkey* 20, no. 4 (2018), <https://doi.org/10.25253/99.2018204.08>.

<sup>29</sup> Ali Sodiqin and Anwar M Radiamoda., "'The Dynamics of Islamic Constitution: From the Khilāfah Period to the Nation-State,'" *Journal of Islamic Law* 2, no. 2 (2021): 138–67.

<sup>30</sup> Syed Raza Shah Gilani, Zahid Ullah, and Shehla Zahoor, "Democracy, Economic Development, and the Separation of Powers in the 1973 Constitution Pakistan: A Critical Analysis," *Qlantic Journal of Social Sciences and Humanities* 4, no. 3 (2023), <https://doi.org/10.55737/qjssh.401499812>.

<sup>31</sup> H. Taubenböck et al., "Border Regions across the Globe: Analyzing Border Typologies, Economic and Political Disparities, and Development Dynamics," *Applied Geography* 151, no. December 2022 (2023), <https://doi.org/10.1016/j.apgeog.2022.102866>.

<sup>32</sup> Muhamad Mustaqim and Muhamad Miftah, "Tantangan Negara-Bangsa (Nation-State) Dalam Menghadapi Fundamentalisme Islam," *Addin* 9, no. 1 (2015).



nations adopted European-style state models with modern national symbols like flags, anthems, and administrative systems.<sup>33</sup>

Three factors contributed to the rise of the "nation-state" concept in the Islamic world:<sup>34</sup> (1) the absence of a transparent constitutional system in classical Islamic political thought, (2) the post-colonial development of political pluralism, and (3) support from Islamic scholars who saw political institutions as worldly. Nationalism, as a response to imperialism, and awareness of political plurality helped shape the concept of the nation-state in the modern Islamic world.<sup>35</sup>

During this period, political plurality emerged in various forms of Islamic government, influenced by both khalifah and imāmah systems, reflecting the divide between Sunni and Shia ideologies. The khalifah system followed Arab traditions, while the imāmah system, particularly in Shiism, was rooted in Persian teachings on the sacred right of kingship.<sup>36</sup> Sunnis use the term khalifah,<sup>37</sup> while Shias refer to their leadership concept as imāmah, which is limited to descendants of the ahl al-bayt (the Prophet's family). The khalifah system allows for various forms of governance, whereas imāmah has a single model, exemplified by the Islamic Republic of Iran.<sup>38</sup>

Based on the imāmah system, Iran's constitution blends political and religious authority with modern governance.<sup>39</sup> The constitution, drafted in 1979 and amended in 1989, mandates that legislation follows Islamic sharia and enshrines Shiism as the state ideology. It comprises 14 chapters and 107 articles, with Article 5 establishing the Wilayah al-Faqih as the highest authority, led by a judge elected by the Council of Experts.<sup>40</sup> While the president is democratically elected for four-year terms, the government is overseen by the Wilayah al-Faqih. It includes a two-tier legislature with the Constitutional Guard Council and the Consultative Council.

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<sup>33</sup> Abdurrahman Abdullah, "Analisis Kritis Teori Dan Penerapan Konsep Khilafah Pasca Nabi Saw Wafat," *Politea: Jurnal Politik Islam* 4, no. 1 (2021), <https://doi.org/10.20414/politea.v4i1.3492>.

<sup>34</sup> Syahrudin Siregar, "Khilafah Islam Dalam Perspektif Sejarah Pemikiran Ali Abdul Raziq," *JUSPI (Jurnal Sejarah Peradaban Islam)* 2, no. 1 (2018), <https://doi.org/10.30829/j.v2i1.1794>.

<sup>35</sup> P James Piscatori, *Islam in a World of Nation-States* (New York: Cambridge University Press, 1994).

<sup>36</sup> Laeli Fajriyah, "Analisis Pemikiran Ali Abdurraziq Tentang Sekularisme Dalam Pemerintahan," *Nature Methods* 7, no. 6 (2016).

<sup>37</sup> Ma'shum, "Islam Dan Pencarian Identitas Politik (Ambiguitas Sistem Khilafah Dalam Institusi Politik Islam)," *Asy-Syir'ah Jurnal Ilmu Syari'ah Dan Hukum* 47, no. 2 (2013).

<sup>38</sup> L. Carl Brown and Vali Nasr, "The Shia Revival: How Conflicts within Islam Will Shape the Future," *Foreign Affairs* 85, no. 6 (2006), <https://doi.org/10.2307/20032188>.

<sup>39</sup> Kadir Abd, "Syiah Dan Politik: Studi Republik Islam Iran," *Jurnal Politik Profetik* 5 (2015).

<sup>40</sup> Zulkarnain, "Konsep Al-Imamah Dalam Perspektif Syi'ah," *Jurnal TAPIS* 7, no. 13 (2011).

The constitutional models of Sunni Muslim states vary regarding state structure, government systems, and rule types.<sup>41</sup> Some Sunni states are monarchies, like Saudi Arabia,<sup>42</sup> Brunei Darussalam, Morocco, and Jordan, while others are federations, such as Malaysia, or republics, like Egypt, Pakistan, Tunisia, Algeria, and Indonesia. Monarchies are divided into absolute monarchies, as in Saudi Arabia and Brunei,<sup>43</sup> and parliamentary monarchies, like Morocco and Jordan.<sup>44</sup>

Countries develop their constitutional systems based on their societies' unique needs and dynamics,<sup>45</sup> influenced by history, culture, geography, and socio-economic factors.<sup>46</sup> No two countries have identical systems, as each adapts to evolving requirements.<sup>47</sup> Government models worldwide vary, such as democracy, theocracy, and authoritarianism, each shaped by constitutional frameworks reflecting national identity.<sup>48</sup> In constitutional monarchies like the UK, Denmark, and Spain, the monarch's powers are limited by law.<sup>49</sup>

Many Islamic countries, like Egypt, Pakistan, Tunisia, Algeria, and Indonesia, adopt republican systems with variations.<sup>50</sup> Egypt, for example, has a semi-parliamentary system. Its constitution, first written in 1971 and amended in 2011, 2012, and 2014, states that Islam is the state religion and that Islamic Sharia is the highest source of law. The Egyptian president, who also serves as head of state and commander-in-chief, appoints the prime minister with parliamentary approval. The legislature, the People's Assembly (Majlis An-Nuwab), has a six-year term.<sup>51</sup>

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<sup>41</sup> Mohammed Ayoob, *The Many Faces of Political Islam: Religion and Politics in the Muslim World*, *The Many Faces of Political Islam: Religion and Politics in the Muslim World*, 2008, <https://doi.org/10.5860/choice.45-7018>.

<sup>42</sup> Erin E. Stiles, "Shari'a Politics: Islamic Law and Society in the Modern World Edited by Robert W. Hefner," *American Ethnologist* 39, no. 3 (2012), [https://doi.org/10.1111/j.1548-1425.2012.01385\\_11.x](https://doi.org/10.1111/j.1548-1425.2012.01385_11.x).

<sup>43</sup> Abd Ghofur, "Islam dan Politik Di Brunei Darussalam (Suatu Tinjauan Sosio-Historis)," *Toleransi: Media Ilmiah Komunikasi Umat Beragama* 7, no. 1 (2016).

<sup>44</sup> Manuel Aragón Reyes, "The Essential Preservation of The Parliamentary Monarchy as An Irreplaceable Element of Our Constitution," *Teoria y Derecho*, no. 35 (2023), <https://doi.org/10.36151/TD.2024.078>.

<sup>45</sup> Ivana Marková and Andrew Jahoda, "Across Culture, Mind and History," *Culture and Psychology*, 2018, <https://doi.org/10.1177/1354067X18779036>.

<sup>46</sup> Felix Dodds, "A Short History of Democracy," in *Stakeholder Democracy*, 2019, <https://doi.org/10.4324/9781351174428-3>.

<sup>47</sup> Arend Lijphart, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*, 2012, <https://doi.org/10.2307/3331092>.

<sup>48</sup> Mike Hough, "Forms of State, Government and Authority," *South African Journal of African Affairs* 9, no. 3 & 4 (1979).

<sup>49</sup> Anisa Syifa Maulida et al., "Analisis Perbandingan Administrasi Publiknegara Inggris dan Australia," *Pentahelix* 1, no. 2 (2023), <https://doi.org/10.24853/penta.1.2.163-174>.

<sup>50</sup> Hamdi Putra Ahmad, "Relasi Ideo-Historis Antara Hukum Negara Dan Hukum Islam Di Indonesia," *IN RIGHT: Jurnal Agama Dan Hak Azazi Manusia* 11, no. 1 (2022), <https://doi.org/10.14421/inright.v11i1.1779>.

<sup>51</sup> International IDEA, "'Egypt's Constitution of 2014,'" *Constituteproject.Org*, 2014.

The 1973 constitution of Pakistan, established during Zulfikar Ali Bhutto's leadership, introduced a parliamentary system of government. This constitution has undergone 24 amendments up to 2017. In Pakistan, the president is the head of state, while the prime minister is the head of government. The legislature comprises the Upper House (Senate) and the Lower House (Qaumī Asimblī'e). The constitution highlights the connection between religion and the state, designating "Islam" as the state name, establishing it as the state religion, and incorporating sharia as state law. Additionally, it mandates that both the prime minister and president must be Muslims and designates Friday as a public holiday instead of Sunday.<sup>52</sup>

The government of the People's Democratic Republic of Algeria operates as a semi-presidential system. Following its independence from France in 1956, Algeria established a constitution in 1963, amended multiple times, most recently on November 28, 1996. The nation's principles are rooted in democracy and socialism, aligned with Islamic and Arab values. The president, elected for a five-year term (renewable for one additional term), serves as the country's leader and is responsible for both the Council of Ministers and the High-Security Council. A Prime Minister, appointed by the President, manages the day-to-day operations of the government. Algeria has a bicameral legislature, consisting of the Upper House, Majlis al-Ummah, with 144 members, and the Lower House, Majlis ash-Shia'biyah al-Wathani, comprising 380 members, all elected for five-year terms. The judicial system includes the Supreme Court, overseeing appellate and district courts, and the High State Court, which tries the President and other high-ranking officials for criminal offenses.<sup>53</sup>

In contrast, Indonesia, a country with a majority Muslim population, operates under a presidential system.<sup>54</sup> After gaining independence on August 17, 1945, Indonesia adopted the 1945 Constitution, which has undergone several amendments, including changes in 1949, 1950, and again in 1999, 2000, 2001, and 2002.<sup>55</sup> Indonesia's state ideology, Pancasila, serves as the nation's foundation, representing a blend of religious and political principles without establishing Islam

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<sup>52</sup> National Assembly of Pakistan, "The Constitution of The Islamic Republic of Pakistan," *Islamabad, Diakses Pada 22 Februari 2021*", 2021.

<sup>53</sup> Max Planck Institute, "Algeria's Constitution of 1989, Reinstated in 1996, with Amendments through 2008" (Oxford University Press, 1989).

<sup>54</sup> H. Bottom Nashir, "Bottom Up-Sharia Formalization in Indonesia's Nation State.," *Jurnal Studi Pemerintahan*, 2017, 352-82.

<sup>55</sup> Ridho Al Izzati et al., "Direct Elections and Trust in State and Political Institutions: Evidence from Indonesia's Election Reform," *European Journal of Political Economy* 85, no. June (2024): 102572, <https://doi.org/10.1016/j.ejpoleco.2024.102572>.

as the state religion. Instead, Pancasila grants citizens the freedom to practice their faith according to their beliefs.<sup>56</sup> The government has established the Ministry of Religious Affairs to manage and oversee religious matters. Indonesia's legal system encompasses Islamic and Western law, reflecting the country's diverse legal framework.<sup>57</sup>

In Indonesia, the president serves as both the head of state and the head of government, wielding significant executive power. The presidential system incorporates the concept of Trias Politica, which divides governmental authority into three branches: executive, legislative, and judicial.<sup>58</sup> The president operates within the executive branch, where he has the authority to issue government regulations and presidential decrees, though his powers are subject to limitations by law. The legislative branch comprises the People's Consultative Assembly (MPR), which includes the House of Representatives (DPR) and the Regional Representative Council. Members of these bodies are elected through general elections and serve five-year terms. Indonesia's judiciary comprises the Supreme Court and the Constitutional Court. The Supreme Court oversees general, religious, military, and administrative judicial matters. In contrast, the Constitutional Court is responsible for ensuring laws comply with the Constitution, adjudicating disputes over the powers of state institutions, and resolving electoral conflicts as specified in Article 24C.

The Turkish state has undergone significant constitutional reforms throughout its history. The establishment of the Republic of Turkey in 1923 marked a pivotal shift from the caliphate system. Under Mustafa Kemal Atatürk's leadership, Turkey declared itself a secular republic. However, in recent years, especially under President Recep Tayyip Erdoğan, the country has seen a transition from secularism to an Islamized system.<sup>59</sup> This transformation included changes to the constitution, evolving from the 1982 parliamentary system to a presidential system through a referendum on April 16, 2017. In this new system, the president wields substantial powers, including the direct appointment of ministers and public officials, while the

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<sup>56</sup> Fariz Ulul et al., "Relasi Islam-Negara Dalam Pembentukan Hukum Di Indonesia," *Sosio Yustisia: Jurnal Hukum Dan Perubahan Sosial* 1, no. 1 (2021), <https://doi.org/10.15642/sosyus.v1i1.64>.

<sup>57</sup> Mark E. Cammack and R. Michael Feener, "The Islamic Legal System in Indonesia," in *Islamic Law in Practice*, vol. 3, 2017, <https://doi.org/10.4324/9781315251738>.

<sup>58</sup> Bustamin and Rony Jaya, "Urgensi Checks And Balances Ketatanegaraan Indonesia dan Islam," *Juris: Jurnal Ilmiah Syariah* 18, no. 2 (2019), <https://doi.org/10.31958/juris.v18i2.1740>.

<sup>59</sup> Mohd Roslan Mohd Nor and Muhammad Khalis Ibrahim, "From Separation between State and Religion to Religion-Freeing State: The Changing Faces of Secularism in Turkey," *Indonesian Journal of Islam and Muslim Societies* 13, no. 1 (2023), <https://doi.org/10.18326/ijims.v13i1.85-114>.

position of prime minister has been eliminated.<sup>60</sup> Turkey's legislature operates as a unicameral body, the Grand National Assembly, consisting of 600 members, as stated in Article 75 of the Constitution. The Assembly can make, amend, and repeal laws, draft the state budget, set currency policy, declare war, approve international treaties, and decide on amnesties and pardons.

According to Article 104, the president serves as both the head of state and head of government, as well as the supreme commander of the armed forces, with the power to appoint and dismiss ministers and the vice president. The judiciary comprises several bodies, including the Constitutional Court (Article 146), Court of Cassation (Article 154), Council of State (Article 155), Court of Jurisdictional Disputes (Article 156), and Budget Court (Article 157). Notably, the new constitution abolished military courts. Article 24 outlines the principles of religious freedom, emphasizing the right to practice religion, prohibiting the imposition of religious beliefs, and mandating state supervision of religious education.

Islamic countries entered the nation-state era to revitalize their governments, influenced by Western traditions during colonization. This led to various forms of government, with some states forming monarchies due to strong aristocracies, while others, influenced by colonial powers, became republics or federations. Constitutional practices have evolved throughout Islamic history from the Prophet Muhammad to modern times. The Prophet's Charter of Medina was an early legal framework uniting Medina's diverse people, but after his death, caliphs ruled without written constitutions, with centralized authority around the caliph. Islamic states developed constitutions reflecting local preferences in the modern era, resulting in different government systems, including monarchies, republics, and federations.<sup>61</sup> The Sunni-Shi'ah divide also influenced governance, as seen in concepts like imāmah and khilāfah. Despite these changes, Islamic principles remain a core foundation in state constitutions and governance.<sup>62</sup>

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<sup>60</sup> O. Yegen, "Constitutional Changes under the AKP Government of Turkey," *Tijdschrift Voor Constitutioneel Recht* 8, no. 1 (2023), <https://doi.org/10.5553/tvcr/187966642017008001006>.

<sup>61</sup> Abdul Samat Musa, "Constitutional Law: An Overview of the Islamic Approach and Its Contemporary Relevance," in *Advances in Social Science, Education and Humanities Research* 192, 2018, 27.

<sup>62</sup> Muhammad Qasim Zaman, *Modern Islamic Thought in a Radical Age: Religious Authority and Internal Criticism*, 2009, <https://doi.org/10.1017/CBO9780511973062>.

## CONTEXTUALIZATION OF STATE ADMINISTRATION IN ISLAM

The Qur'an does not explicitly prescribe a specific system of government or detailed governance methods,<sup>63</sup> nor does the Prophet Muhammad provide clear directives regarding the type of government Muslims should follow. This indicates that governance systems can evolve and adapt to the complex needs of society over time.

While the Qur'an does not mention "civil society" directly, it refers to concepts like "*ummah*" (community) and "*Madinah*" (city), which embody its essence. These terms establish the foundation for civil society in Islam, highlighting ideals of justice and fairness, as seen in phrases like *khairu ummah* (good community) and *ummah muqtashidah* (just and balanced community). Justice is central to Islamic governance, ensuring laws are upheld, rights are protected, and maintaining economic stability, fostering growth and national development.

Consequently, justice is vital for the nation, acting as a standard to evaluate moral aspects of good and evil and guiding policies aligned with Shariah ideology. Both the government and citizens share the responsibility for promoting justice and prosperity. The government, as the political authority, is tasked with implementing *amar ma'ruf nahi munkar* (enjoining good and forbidding wrong) according to Shariah principles.<sup>64</sup> According to Abd Muin Salim, the Islamic political system is founded on four fundamental principles: the principle of trust, the principle of justice (harmony), the principle of obedience (discipline), and the principle of Sunnah, which asserts that authorities must collaborate to establish laws and political policies.<sup>65</sup>

Nation-states often encounter significant limitations in addressing global challenges, including minority rights, concentration of power, and economic issues.<sup>66</sup> Problems like climate change, terrorism, and pandemics necessitate international cooperation, which is frequently hindered by the national interests of individual countries.<sup>67</sup> Protecting minority rights can be particularly difficult due to discriminatory policies and insufficient political representation, as exemplified by

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<sup>63</sup> S. Tobroni, L., & Arifin, *Islam Pluralisme Budaya Dan Politik* (Yogyakarta: SIPRESS, 1994).

<sup>64</sup> Michael Gilson, "Islam in a World of Nation-States," *International Affairs* 63, no. 3 (1987), <https://doi.org/10.2307/2619246>.

<sup>65</sup> A. M. Salim, *Konsep Kekuasaan Politik Dalam Al-Quran* (Jakarta: PT. Raja Grafindo Persada, 1994).

<sup>66</sup> N Sivakumar and S Baskaran, "Globalization and Nation State," *International Journal for Innovation Education and Research* 2, no. 8 (2014), <https://doi.org/10.31686/ijer.vol2.iss8.225>.

<sup>67</sup> Azyumardi Azra, *Konflik Baru Antar Peradaban: Globalisasi, Radikalisme & Pluralitas*, ed. Divisi Buku Perguruan Tinggi, (Jakarta: RajaGrafindo Perkasa, 2002).

the Rohingya crisis in Myanmar.<sup>68</sup> Additionally, the concentration of power among a select elite can lead to corruption and authoritarian regimes that restrict civil liberties, as seen in various Middle Eastern and African nations.<sup>69</sup> Economically, countries with limited resources or heavy reliance on international aid struggle to achieve sustainable development.<sup>70</sup> Globalization further underscores the constraints on national sovereignty imposed by international treaties and supranational organizations and highlights the challenges of large-scale migration that demands transnational cooperation.<sup>71</sup> These limitations require cooperative, multilateral approaches, global governance reforms, and inclusive, transparent domestic policies.

A dynamic, stable, and harmonious government is crucial for the general welfare of socio-political life. Leaders, including presidents, ministers, and governors, should view their roles as mandates from Allah SWT. They bear the responsibility not only for ensuring material prosperity and justice but also for fostering a strong spiritual connection with God (*habl min Allah*) and maintaining harmonious social relationships with others (*habl min al-nas*), all guided by principles of justice and democracy.

## CONCLUSION

Islamic constitutionalism has evolved significantly since the establishment of the State of Medina under the leadership of Prophet Muhammad, which marked the beginning of a sophisticated system of government encompassing public administration, security, economy, military, politics, and international relations. This evolution includes the development of various governance models such as the Abbasid and Umayyad dynasties, the Imamah, the Caliphate, and contemporary forms such as republics, monarchies, and democracies, all of which are rooted in the principles of early Islamic governance. These historical models show how Islamic constitutionalism has influenced global governance structures, offering an alternative framework that integrates historical, cultural, and identity aspects of

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<sup>68</sup> John P. J. Dussich, "The Ongoing Genocidal Crisis of the Rohingya Minority in Myanmar," *Journal of Victimology and Victim Justice* 1, no. 1 (2018), <https://doi.org/10.1177/2516606918764998>.

<sup>69</sup> Yusuf Hanafi and Titis Thoriquttyas, "The Resolution of Social Conflict in The National Constitution and Islamic Perspectives: Integrating Formal and Non-Formal Approaches," *Al-Tahrir: Jurnal Pemikiran Islam* 18, no. 2 (2019), <https://doi.org/10.21154/altahrir.v18i2.1336>.

<sup>70</sup> P. F. Pernia, E. M., & Quising, "Trade Openness and Regional Development in a Developing Country," *Springer*, 2005, 79–94, [https://doi.org/https://doi.org/10.1007/3-540-28351-X\\_6](https://doi.org/https://doi.org/10.1007/3-540-28351-X_6).

<sup>71</sup> Bernard Weiss, "Interpretation in Islamic Law: The Theory of Ijtihād," in *Islamic Legal Theory: Volume 1*, vol. 1, 2017, <https://doi.org/10.4324/9781315251721-34>.

Muslim-majority countries. The legacy of these systems highlights their effectiveness in addressing social and political issues throughout history despite the challenges faced by different state ideologies.

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