

CHAPTER I

INTRODUCTION

1.1. Background of Study

The history of the sovereignty rights of people has passed a fairly long way, even since created the first man named Adam with his first generation are Qabil and Habil. The Qur'an has noted that Qabil who has committed a violation of human right firstly that the violation committed murder to Habil, his brother. This incident was immortalized in the Qur'an in surah Al-Maidah verse 27-31.¹

It does not argue the country of West or East, the issue of sovereignty is a consensus to all of the humanity for the creation of world peace. However, the problem often appears is the difference of standard and orientation of sovereignty in Western and Eastern or Islamic version, which later split into two big groups that continue dichotomous (The division of two groups are conflicting).²

The presence of two Islamic figures, first represented by Abu Al-A'la Al-Maududi want to campaign that the concept of sovereignty in Islam is the concept of humanist more than sovereignty campaigned and standardised by the Western. On the other side, second represented by Abdullahi Ahmad An-Na'im is a figure in Islamic group who want to fight that sovereignty in Islam should follow the standard of sovereignty that is owned by the Western.

The concept of sovereignty become a conversation that continues to appear the attention of law scholars. The sovereignty in Islam explained in a different form, namely the definition of sovereignty, the source of sovereignty, the various of sovereignty, the theory of sovereignty until

¹ Q.S Al-Maidah (5) Verse 27-31.

² Ahmad Kosasih, *HAM dalam Perspektif Islam: Menyingkap Persamaan dan Perbedaan Antara Islam dan Barat*, (Jakarta: Salemba Diniyah, 2003), hlm. 30.

sovereignty in the perspective of two big characters that represented each era itself, namely Abul A'la Al-Maududi and Abdullah Ahmad An-Na'im.³

Among Muslim thinkers themselves, there is the confrontation interpretation on sovereignty. Related to the concept of sovereignty which became the instrument of knowledge on the constitution, according to Al-Maududi, an expression of the people sovereignty is often became non-definition. Therefore, it applied only four or five once in the election. The control of the country on his essentially still in the hands of a small group of authority. Not only that, according to Al-Maududi, the verses of the Qur'an also show that the authority and supreme sovereignty are in the hands of God (Theocentric). The only God has rights to giving the law for human formed on basic norms for the creation of fair and prosperous society.⁴

Different to Al-Maududi, An-Na'im criticized the concept of the God sovereignty that leads to the rights given by God as the hold of supreme sovereignty. For An-Na'im, such sovereignty is often hijacked by the authority to legitimize his sovereignty to commit discriminatory. Thus, An-Na'im argues that the sovereignty of the modern country is in the hands of people (Anthropocentric).⁵

The approach is used by Al-Maududi that seen more normative. It speaking the Islamic morality to be compared with the history and culture of west which seen more cruel and discriminatory. According to him, Islam as universal religion and cosmopolite (people without citizenship status) had manage everything, including human rights. Islam according to Al-Maududi load the guidance and law that most humanist than the Western which fixed since now.⁶

³ Mujaid Kumkelo, *Fiqh Hak Asasi Manusia*, (Malang: Setara Press, 2015), hlm. 146.

⁴ Abul A'la Al-Maududi, *Hak-Hak Asasi Manusia dalam Islam*, (Jakarta: Bumi Aksara, 2008), hlm. 24.

⁵ Abdullah Ahmad An-Na'im, *Islam dan Negara Sekuler*, cet. 4 (Yogyakarta: LKIS, 2004), hlm. 32.

⁶ Abul A'la Al-Maududi, *Hak-Hak Asasi Manusia dalam Islam*, hlm. 24.

Meanwhile, An-Na'im argues that between sovereignty and shariah are found the contradiction. Therefore, when the absolute of shariah is applied, thus the sovereignty will not run goodly. An-Na'im argues that need for harmonization of shariah with international law that bring the enforcement of sovereignty. The reinterpretation and reconstruction are needed to be done on the Islamic of teachings and law which still contradict to the universal of sovereignty for the benefit together. An-Na'im exemplified on slavery and discrimination based on gender and religion that are universally not recognized in the international world. According to him, there are many Islamic countries that still applied it.⁷

Based on the above, the author need to take this discussion with taking one of the field on human rights, entitled «The Concept of Sovereignty According to Abul A'la Al-Maududi And Abdullah Ahmad An-Na'im «.

1.2. Problem Formulation

Based on the background of study, the author makes the problem formulation as follows:

1. How does the concept of sovereignty in Al-Maududi's thought?
2. How does the concept of sovereignty in An-Na'im's thought?

1.3. Research Objectives

1. To know the concept of sovereignty in Al-Maududi's thought.
2. To know the concept of sovereignty in An-Na'im's thought.

1.4. The Benefits of Research

1.4.1. Academic Benefits

Academically, the author of scientific paper can give idea and basic theory for the development of legal science in general and can be

⁷ Abdullah Ahmad An-Na'im, *Islam dan Negara Sekuler*, hlm. 32.

literature or material additional scientific information that can be used for scientific studies and research next time.

1.4.2. Practical Benefits

Practically, increasing knowledge for writers in particular and readers in general. For academicians, it provide science for Darussalam University Gontor Ponorogo especially Faculty of Shariah. For the general public, it give a positive contribution to the society about sovereignty in Islam and provide an objective overview of the concept of sovereignty according to Al-Maududi and An-Na'im.

1.5. Literature Review

1.5.1. Previous Research

In discussing the concept of sovereignty according to Al-Maududi and An-Na'im, from theory it has not been described in detail about discussed this issue. The books discuss specifically very little to be founded, from the books also do not discuss the whole of what is discussed by author. There is some the reference of previous researcher little related to the discussion of author as follows.

1. Santi Siti Nurhayati entitled «The idea of People Sovereignty According to Mohammad Hatta». This research method is library research which obtained the data source through the study of books and other paper related with issues that are discussed and collecting data by conducting the descriptive analysis of these sources. In this research, it can be concluded that the idea of people sovereignty who want to be developed by Mohammad Hatta is the democratic which patterned politics and economics, where are both located between individualism and collectivism are derived from the socio-politics of real society in Indonesian.⁸

⁸ Santi Siti Nurhayati, "Gagasan Kedaulatan Rakyat Menurut Mohammad Hatta", *Skripsi* IAIN Sultan Maulana Hasanuddin Banten 2016.

2. Nur Hidayatullah Isnain entitled «Relevance Protection of Human Rights in Pancasila Democracy System with Human Rights in Islam». This research method is library research where the data will be obtained by examining the library materials in the form of rule handling on human rights and other reference books which have a relationship with the problem and collecting the data by conducting the descriptive analysis of these sources. In this research, it concluded that it can be seen from some of the characteristics and aspects of Pancasila democracy which reflects the protection of citizen rights. It partly complies with the principles of human rights in Islam.⁹
3. Andrew Firdaus entitled «Intervention on The State Sovereignty According to International Law». This research method is a case study with in-depth exploration based on the collection of data such as interviews, observation, and documentation. From the conclusions can be taken that the intervention of the United States and the coalition troops of United Nations, the Soviet Union, and China in the Korean War in 1950-1953 included interventions that are prohibited under the condition of international law because it is an intervention that attacks the other state sovereignty by the force ways until causing the conflict resolution of North Korea and South Korea into the stalemate war and big casualties on each side.¹⁰

Regarding the discussion, the author still has not found a discussion of the concept of sovereignty according to Al-Maududi and An-Na'im.

⁹ Nur Hidayatullah Isnain, "Relevansi Perlindungan Hak Asasi Manusia dalam Sistem Demokrasi Pancasila dengan Hak Asasi Manusia dalam Islam", *Skripsi* IAIN Sunan Ampel Surabaya 2004.

¹⁰ Andrew Firdaus, "Intervensi Terhadap Kedaulatan Suatu Negara Menurut Hukum Internasional", *Skripsi* Universitas Jenderal Soerdiman Purwokerto 2015.

1.5.2. Theoretical Framework

According to Al-Maududi, Islam is a comprehensive and universal system that covers every aspect of human life, so that it has an answer to any issue the man may encounter with. In addition to guarantee prosperity and welfare of man, Islam redeems man from hardships, diseases, problems, evil deeds, and tyranny. To realize the aforementioned objectives, Islam fights the corrupted systems and replaces them.¹¹ As proof for universality and comprehensiveness of Islam, Al-Maududi takes the word literally and refers to the Holy Qur'an four times by stating that Islam is the definite religion, which is constituted of four elements:

1. Sovereignty and control of the state represent sovereignty and control of God.
2. Respecting and recognizing the state means respecting God's sovereignty.
3. Executive and theoretical systems of the state are constituted of religious codes, divine laws and foundations of God's sovereignty.
4. Punishment and rewarding or judicial system are implemented by God to distinguish between those who respect and those who breach the laws.¹²

Al-Maududi has made a great contribution to elaboration of political system of Islam within a religious framework. At first, he elaborates on Islam's ideology and then goes through political system of Islam. He tries to highlight that political system in Islam is based on monotheistic ideology. The Holy Qur'an and Sunnah (tradition) are two sources that he uses to articulate and support his arguments. Al-Maududi manages to develop a political and intellectual system that virtually faces with no serious opposition from the religious scholars. He argues that in Toba God specifically names four meanings for the

¹¹ Zahed Fayyaz, "A Brief Review of Abul A'la Al-Maududi's Thoughts" *International Journal of Basic Sciences & Applied Research*, 2014, Vol. 5, p. 191.

¹² Ibid., p. 191.

religion, a comprehensive and complete system of man's life that covers all social, moral, political, and practical aspects of life. The religion, under this framework, is not limited to internal and moral affairs that rules the spiritual relationship between God and man, but rather it is a social and civil system as well that dictates relationship between the religion and politics. He writes that by pondering on the story of Moses and Pharaoh in the book one may argue that religion is about not only how to worship but also a social or political system or a state with determined rules and bases to put the social life of man in order.¹³

By breaking the dogmatic limits of Salafi thinking, Abul A'la Al-Maududi brings in a fresh viewpoint to religions matters. He criticizes some of Salafi's beliefs and founds one of the earliest neo-Salafi movements. He defines pre-civilization as an era that started before Bisat (the Prophet's mission), and not limited to a specific age. By introducing democracy and permitting uprising against tyrant and oppressor the idea that later used by Jamate Al-Muslimin, Manzame At-Tahrir, and Tanzim Al-Jihad in Egypt and a new structure of justice-seeking attitude of the Prophet's fellow, Al-Maududi sheds light on theoretical foundation of a new Islamic movement. The Islamic state of Al-Maududi longed for requires an Islamic movement and revolution in the mind and ideology of the public. He believes that Islam tries to bring order to social life based on religious principles and codes.¹⁴

An-Na'im criticized the concept of sovereignty which leads to the rights given by God as the holder of top sovereignty. According to An-Na'im, such sovereignty like that often hijacked by the authorities to legitimize his sovereign to commit discriminatory. So, An-Na'im argues (give opinion) that the sovereignty of country in the hand of

¹³ Shahram Khosravi, "Political Thoughts of Islamic Thinkers", *Journal of Refugee Studies*, 2005, Vol. 18 No. 2, p. 185.

¹⁴ Ibid., p. 185.

people or human (Anthropocentric).¹⁵

An-Na'im argues that the sovereignty and sharia get contradiction. Therefore, when the absolute of sharia is applied easily, cause would violate the sovereignty. An-Na'im believes that need for harmonization of sharia with international law enforcement carries the sovereignty. Need doing the teaching of reinterpretation and reconstruction and Islamic law which still contradict with the universal rights for the benefit together. An-Na'im exemplified on slavery and discrimination based on gender and religion universally which not recognized in international world. According to him, there are many Islamic countries that still apply it.¹⁶

1.6. Research Methods

To achieve the goal expected in the research, the author using research methods as follows:

1.6.1. Research Design

In principle, the research design that will be used is the literature research which is a research study conducted by examining and searching the literature, either in the form of books, records, and reports the results of previous studies. And retrieve the data either in writing to be described, so as to obtain an overview and understanding.

1.6.2. Object of Research

The object of research that will be targeted by the author is the sovereignty and some famous people in each group, namely Abul A'la Al-Maududi and Abdullah Ahmad An-Na'im.

¹⁵ Abdullah Ahmad An-Na'im, *Islam dan Negara Sekuler*, Op. Cit., hlm. 35.

¹⁶ Ibid., hlm. 35.

1.6.3. Data Source

- A. The primary data source is the fiqh book of human rights about orthodoxy and liberalization on human rights in Islam.
- B. The secondary data source is books, journals, articles, research result, and others related to this research.

1.6.4. Data Collection Technique

Data collection techniques took by doing a search of books or variety of literature which relation and relevant with problems are researched and then classify the data.

1.6.5. Data Analysis Technique

The author using descriptive analysis with the effort to collect and make the data, and then analyse the data to be easily read and interpreted. And retrieve the data either in writing to be described, so as to obtain an overview and understanding. All data were obtained and classified in the form of a general nature then studied and researched further drawn the conclusion that provides the view of specific and relevant to the data.

1.7 Systematic of Discussion

To identify the issue which the author mentioned about The Concept of Sovereignty According to Abul A'la Al-Maududi and Abdullah Ahmad An-Na'im, then it needed comprehensive and systematic of discussion. Therefore, the author will be made in four chapters as follows:

1. CHAPTER I: INTRODUCTION

Describe generally the background of the study, problem formulation, research objectives, the benefits of research, literature review, theoretical framework, research methods, and systematic of discussion.

2. CHAPTER II: THE CONCEPT OF SOVEREIGNTY IN ISLAM AND WEST THE LIFE OF ABUL A'LA AL-MAUDUDI AND ABDULLAH AHMAD AN-NA'IM

In this chapter, author will explain the concept of sovereignty in Generally and explain the life of Abul A'la Al-Maududi and Abdullah Ahmad An-Na'im such as when and where they were born, the history of education, the books are written.

3. CHAPTER III: THE CONCEPT OF SOVEREIGNTY ACCORDING TO ABUL A'LA AL-MAUDUDI AND ABDULLAH AHMAD AN-NA'IM

This chapter will explain the problem formulation which the author made. In the problem formulation is how does the concept of sovereignty in Abul A'la Al-Maududi's thought and how does the concept of sovereignty in Abdullah Ahmad An-Na'im's thought.

4. CHAPTER IV: CLOSING

In this chapter would contain conclusion as the answer from problem formulation which explained in the future. There is some advice that relates to the topic of discussion in this research are useful for good research and will be terminated with closing.