

The Concept Of State Sovereignty In Islam
(Comparative study Of Muhammad Natsir And Jimly Ash Shiddiqie)



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THE CONCEPT OF STATE SOVEREIGNTY IN ISLAM
(Comparative study Of Muhammad Natsir And Jimly Ash Shiddiqie)

Thesis

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ABSTRAK

KONSEP KEDAULATAN NEGARA DALAM ISLAM MENURUT PANDANGAN MUHAMMAD NATSIR DAN JIMLY ASH SHIDDIQIEY

(STUDI PERBANDINGAN)

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Kedaulatan yang berlaku di berbagai pemerintahan negara terus mengalami perkembangan secara signifikan seiring berjalannya isu-isu yang ada tidak ubahnya apa yang terjadi dalam pemerintahan Indonesia. Semuanya tercermin di dalam buku UUD 1945 Konsep Kedaulatan secara tegas dirumuskan dalam pasal 1 ayat (2) yang menyatakan : *“Kedaulatan adalah di tangan rakyat, dan dilakukan sepenuhnya oleh Majelis Permusyawaratan Rakyat.* Setelah amandemen berubah menjadi: *Kedaulatan berada di tangan rakyat dan dilaksanakan menurut Undang-Undang Dasar,* yang mana dalam sejarah Pemerintahan Indonesia untuk pertama kalinya menjalankan dan melaksanakan kedaulatan dengan pemilu serentak 2019. Tanda lain selang dua tahun setelah Rasulullah Hijrah ia mengumumkan peraturan dan hubungan antar kelompok masyarakat yang hidup di Madinah, pengumuman ini dikenal dengan Piagam Madinah, Piagam ini adalah bentuk upaya Rasulullah dalam mengenalkan kedaulatan yang terbuka, bebas (bidang agama, politik, ekonomi) serta tanggung jawab sosial secara bersama tanpa harus mengesampingkan Syariat agama Islam.

Berdasarkan kasus di atas, tujuan penelitian ini adalah untuk membahas teori tentang konsep kedaulatan negara dalam Islam menurut pandangan Muhammad Natsir dan Jimly Ashiddiqie. Selain itu juga membandingkan kedua pemikiran dengan melihat kesamaan dan perbedaan di antara mereka.

Penelitian ini menggunakan studi literatur dengan analisis komparatif. Untuk mengumpulkan data, peneliti menggunakan metode dokumentasi. Kemudian data dianalisis dengan metode deduktif untuk mendapatkan teori umum konsep kedaulatan. Kemudian, metode deskriptif untuk menganalisis dan menjelaskan teori kedaulatan. Setelah itu, peneliti menggunakan metode komparatif untuk menganalisis hubungan, kesamaan, dan perbedaan antara mereka.

Hasil penelitian ini menyimpulkan secara eksplisit bahwa gagasan kedaulatan negara yang dilaksanakan Indonesia adalah kedaulatan yang bersumberkan pada nilai-nilai Ketuhanan (*Theocracy*), nilai-nilai aspirasi rakyat (*Democracy*), ide gagasan negara hukum (*Nomocracy*), Kedaulatan Raja/Ratu (*Monarchy*), baik yang dirumuskan dalam Pembukaan UUD 1945 atau dalam Pasal-pasal lainnya. Bahkan Jimly Ashiddiqie maupun M.Natsir melengkapi gagasannya tentang nilai-nilai penataan kehidupan yang selaras dengan agama maupun kondisi negara saat ini yang akan menjadikan gagasan kedaulatan menjadi kuat dalam menyelenggarakan sistem kenegaraan dan pemerintahan di Indonesia

Penelitian ini memberikan rekomendasi kepada para pihak terkait untuk pemerintahan demi menambah wawasan dan untuk menciptakan keadilan sosial bagi seluruh rakyat Indonesia. Selain itu, penelitian ini merekomendasikan kepada para peneliti selanjutnya untuk memperdalam dan memperluas penelitian lain yang sejenis demi kemajuan ilmu pengetahuan.

ABSTRACT

THE CONCEPT OF STATE SOVEREIGNTY IN ISLAM COMPARATIVE STUDY OF MUHAMMAD NATSIR AND JIMLY ASH SHIDDIQIE

Muhammad Agus Setiawan

33.3.1.10428

Sovereignty in various Government continues to undergo development significantly over issues that do not exist will look to what is happening in the Government of Indonesia. Everything is reflected in the CONSTITUTION of 1945 of the concept of Sovereignty is expressly formulated in the market 1 paragraph (2) which States: *“Sovereignty is in the hands of the people, and conducted entirely by the people’s Consultative Assembly “.*After the amendment is changed to :” *Sovereignty is in the hands of the people and is exercised according to the basic law (UUD)”* which in the history of the Government of Indonesia for the first time run and execute the sovereignty with concurrent election 2019. Another sign lapse two years after the Hijrah of the Prophet he announced regulations and relationships between community groups living in Medina, the announcement was known as the Charter of Medina, this Charter is a form of Messenger in the efforts to introduce an open, free sovereignty (religious, political, economic) as well as social responsibility together without having to override the laws of Islam..

Based on the above cases, the purpose of this study is to discuss the theory of the concept of State sovereignty in Islam according to the view of Muhammad Natsir and Jimly Ash Shiddiqiey. It also compares the second thoughts by looking at similarities and differences among them.

This research uses the study of literature by comparative analysis. To collect the data, the researchers used a method of documentation. Then the data were analyzed with the deductive method to get the general theory of the concept of sovereignty. Later, descriptive methods to analyze and explain the theory of sovereignty. After that, the researchers used the comparative method to analyze relationships, similarities, and differences between them.

The results of this research concludes that the idea of explicitly state sovereignty exercised the sovereignty of Indonesia is source on the values of the Godhead (Theocracy), values the aspirations of the people (Democracy), state laws (Nomocracy), the sovereignty of the King/ Queen (Monarchy), both of which are formulated in the Preamble or in article 1945. Jimly Asshiddiqie nor even M. Natsir completes his notions about the setup values a life in harmony with both religious and current country conditions will render the notion of sovereignty to be strong in a State system and the Government in Indonesia.

This study provides recommendations to the parties related to the Government for the sake of adding insights and to create social justice for all the people of Indonesia. In addition, the study recommends to researchers subsequent to deepen and expand other similar research for the sake of science progress.

CERTIFICATION

Dear,
Dean of Faculty of Syariah
University of Darussalam Gontor

*Bismillahirrahmanirrahim
Assalamu 'alaikum Wr. Wb.*

I present this thesis written by,

Name : **Muhammad Agus Setiawan**

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The Title :

"The Concept of State Sovereignty in Islam"

(Comparative study Of Muhammad Natsir And Jimly Ash Shiddiqie)

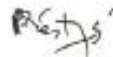
It has been processed and corrected to meet the partial of the requirement to attain the degree of Licentiate (S1) in Comparative Schools of Jurisprudence in Faculty of Syari'ah. Therefore, we expected that the thesis could be examined.

Hopefully, this thesis would be useful for religion, nation and the development of educational institution.

Wassalamu 'alaikum Wr. Wb.

Gontor, Ramadhan 8th, 1440
May 13th, 2019

Supervisor



(Ria Rahmawati, MA)

*Bismillahirrahmanirrahim
Assalamu 'alaikum Warahmatullahiwabarakatuh.*

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It has been processed and corrected to fulfill the partial requirement for the degree of Licentiate (S1) in Comparative schools of Jurisprudence, faculty of Syariah on academic year: 1439-1440/ 2018-2019. Hopefully, this thesis would be useful for religion, nation, and the development of educational institution.

Wassalamu 'alaikum Warahmatullahiwabarakatuh.

Gontor, Ramadhan 8th, 1440
May 13th, 2019

Dean of Faculty Syari'ah



(H. Imam Kamaluddin, Lc. M.Hum.)

DECISION OF THE TEAM

The Team of Thesis Examination in partial fulfillment for the degree of Licentiate (S1) Comparative Schools of Jurisprudence Faculty of Syari'ah had held the thesis examination on:

Day and Date : Tuesday, 30th of April 2019

Place : Main Campus University of Darussalam

And stated the student below:

Name : Muhammad Agus Setiawan

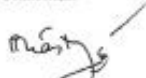
Reg.Number : 33.3.1.10428

The Title : The Concept of State Sovereignty in Islam comparative study of Muhammad Natsir and Jimly Ash Shiddiqie

Has passed in the Thesis Examination and eligible for the degree of Licentiate (S1) Comparative Schools of Jurisprudence

Siman, 8th of Ramadhan 1440

Chairman



Ria Rahmawati, S.H.I, M.A

The Team of Thesis Examination

1st Examiner: Imam Kamaluddin, Lc. M.Hum.

2nd Examiner: Syaifullabil Maslul, M.H.

Secretary



Syaifullabil Maslul, M.H



DECLARATION

I hereby,

Name : **Muhammad Agus Setiawan**

Reg. Number : **33.3.1.10428**

Faculty : **Syariah**

Department : **Comparative Schools of Jurisprudance**

The Title :

“The Concept of State Sovereignty in Islam”

(Comparative study Of Muhammad Natsir And Jimly Ash Shiddiqie)

Declare that this thesis is the result of my own research, except where otherwise stated. I also declare that this thesis has not been previously or concurrently submitted as a whole for any other degrees at University of Darussalam Gontor or other institutions. When, otherwise found that this thesis is a plagiarism, I am ready to accept any punishment according to academic regulations of university.

Gontor, Ramadhan 8th, 1440

May 13rd, 2019

The Researcher

(Muhammad Agus Setiawan)

MOTTOES-

-KATAMU ITU GAGAL

„Akan ada hikmah dari setiap kegagalan”

Akan ada penguat dari setiap keterjatuhan, dan
.Ini semua tergantung dari prasangkamu kepada-Nya
Selalu berprasangka baiklah kepada-Nya, yakinlah
bahwa kegagalanmu saat ini adalah keberhasilan yang
,sebenarnya, kita tidak tahu, kita hanya sok tahu
seolah percaya ini adalah keburukan yang
mutlak, padahal menurut-Nya? Ini adalah yang
terbaik untukmu, Allah ingin mempersembahkan
yang terbaik untuk hamba-Nya, dan inilah
,cara Allah menjaga dan mencintaimu. Jangan sedih ya
“mari tersenyum, masih ada Allah

my mom

DEDICATION

All praises be to Allah The Most Merciful, The Most Beneficent. I dedicate this thesis to Allah Azza WA Jalla, who has given me His mercy and blessing during my entire life, until I could not count how much is it.

My great idol, Prophet Muhammad SAW. He is the pioneer of the great civilization throughout the ages, who taught us right path in this life.

My beloved dad, Mursito. He is my best friend, my superhero, the one who has faith in me even when I fail. And my mom, Nailul Hidayanti. Who always with me with support and motivation.

My dear brother. Muhammad Miftakhul Asror. He is color of my life, pour the smile and love in every inches of the life.

My friends “PIONEER generation”, my consulate, and all of my mates. Allahumma`j alna min ahlil ilmi wal khoiri wattuqo.

My Students, Inspiring Family.

My secret, unknown and mysterious wife-to-be, I believe one day, I can find you and give us pious children.

And anyone who participated to the completion this works. Because the only thing that I know is I know nothing.

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In the name of Allah, the Beneficent, the Merciful. All praises be to Allah the lord of the lords, the King of hereafter. Peace and salutation be upon the final prophet Muhammad, his families, companions, and who follow them. I bear witness that no God worthy of worship except Allah. And I bear witness that Muhammad is a messenger of Allah. By the mercy, blessing, and help of Allah only, the researcher could finish writing this thesis. So in this occasion, the researcher would like to express his greatest debt and deepest thanks are owed to:

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May Allah reciprocate a proportionate reward for them and bless them, and may this humble thesis be valuable and useful for the readers and especially for the researcher.

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CHAPTER ONE

INTRODUCTION

A. BACKGROUND OF STUDY

As a religion, Islam is certainly better known with the concept of the Godhead him rather than his political. He was born as follow God's religion to re-arrange the *Samawi* religion that has been modified from its original form. From Monotheist religion being polytheist religion shapes. But, there is a strong assumption primarily from among Western orientalist that Islam has no clear system of primaries in accordance with his teachings. Assuming so, causing the Islamic teachings do not get proportionality as a system of moral and ethical teachings of the State in the current world order. Further, Islam is regarded as an ancient religion, retarded, and are not relevant to the dynamics of the world. Of course, this is in contrast to the reality of Islamic history past. In historical records, under the command of Rasulullah SAW. Islam came bringing new things about life of society so as to make it more civilized and modern. This can we read in the documents the *Charter of Medina*. This document is one of the first written evidence how Rasulullah SAW, start building a system state with a tolerant Islam and basic modern as being a reference to the system of governance of this era. No wonder then, if this period is known as the Islamic State.

As the Islamic countries, limitations of the leadership of the General connotation, the Islamic Caliphate that made it a form of State is in charge of taking care of the whole affair, that includes the implementation of Sharia and Jurisprudence against all people, without exception includes Muslims and non-Muslims. Starting from the problem of belief, worship, social, economic, educational, and political Foreign Affairs, everything is taken care of by the Islamic Caliphate. Caliphate system is a system of Government that implements the global Islamic laws of God the Lord intended for humans. Many of the laws governing the Islamic Caliphate

issue has been discussed by the Fuqaha , countless already, good written classical and contemporary scholars.

The passage of the Islamic Caliphate is reflected by Ottoman Turkey, which is the last bastion of the Muslims in the frame of the Caliphate before it was demolished by *Mustafa Kemal Atatürk* on March 3, 1924. The destruction of the Ottoman Caliphate, Turkey is effected by many factors both internal and external factors. On the other hand, a variety of propaganda being waged by European countries and the fact that when the incident took place occurred the First World War more and make the process of the collapse of the Caliphate the sooner than expected. The collapse of this course, it is not a process that happens overnight, but a collection of a series of events that support each other and related to each other. The collapse of the Ottoman Empire Turkey on March 3, 1924 is a marker of the end of a system that is regulated based on Islam in the face of this earth. Since then, the world has already stepped forward approximately 94 years¹.

In this year 94, the description of the condition of the world is the power of Islam that we know, with the Muslim army as much as about 300 people can beat the enemy forces around 1000 people in the battle of BADR ². However, the opposite is happening now. Residents of the predominantly Islamic Indonesia can still be intimidated, broken, confused by the parties who desires the destruction of Muslims. Experience is no less important than Turkey collapse incident Ustmani make us learn how the importance of the concept of the sovereignty of a country.

In this world keep stability and justice of the country compulsory. The trick is to create a system to organize the country in one. The system will create a regulatory and policy making for the welfare of the country. There are several types of government systems, like the presidential system, a parliamentary system, and a semi-presidential system. Indonesia using

¹ H. Özoğlu, *From Caliphate to Secular State: Power Struggle in the Early Turkish Republic*, (Praeger, Oxford, 2011.)

² R. A. Gabriel, : *Islam's First Great General*, University of Oklahoma Press, Norman, 2007, pp. 86-95.

a presidential system based on the Principal Constitution of 1945 of the system is the system that best suited to country Indonesia.

According to the theory of the *Covenant community*, people will give their trust to a party that implement things based on their interests. If it goes well then the country will also be sovereign. As an independent, Indonesia has decided to adhere to the principle of State sovereignty. Indonesia held sovereignty based on the Constitution of the Republic of Indonesia Year 1945 (UUD 1945) State sovereignty is at once the sovereignty of law as referred to article 1 paragraph (2) which States “*Sovereignty is in the hands of the people and is exercised according to the basic law*”. With the diversity and unity the people of the religion, tribe, ethnicity, or race, democracy is considered to be able to accommodate the interests of all the people.

Among the political figures who have ideas about democracy, is *Muhammad Natsir*. Muhammad Natsir; In addition to political figures is also a character education and religious figures. According to him, the Organization of the State should be in line with the rules of the religion, and democracy is a system that is in line with Islam. In other words, Muhammad Natsir strives to bring together the concepts of State sovereignty with the teachings of Islamic politics.

Apart from Muhammad Natsir, there are also figures of other political thinkers have views on sovereignty, namely Jimly AshShiddiqie. Jimly Ashshiddiqie has an important role for Indonesia, the idea and the idea is to fix the system's attempt to Indonesia toward more democratic. Jimly role can be seen when the judges of the Constitutional Court, it is not uncommon that a defeated Jimly became the Chairman of the constitutional court decide *Judial Review* where his decision to change the constellation in the system's attempt to Indonesia, as at the time It does Judial a Review against the law number 32 year 2004 about local governance. Jimly ruled that independent candidates can participate in the election of the head of the region. This ruling was well received by the people of Indonesia due to the perceived open space of democracy. The other side than that Jimly

stated that as a country we must build a legal system of a country that is accountable, credible, democratic and sovereignty. For Jimly sovereign not only of the people but all aspects of the system of the Union as a whole. This is what makes the reason as Jimly worth and deserves to be made a reference about how sovereign³. He gives the formulation-formulation regarding the sovereignty of the country. Further, Jimly stated that sovereignty was Supreme sovereignty of God. That is, it also strives to bring together Jimly between the concepts of State sovereignty with the teachings of Islamic politics.

Departing from a background which has been described, Researchers want to discuss about **“The Concept of State Sovereignty in Islam Comparative Study of Muhammad Natsir and Jimly Ash Shiddiqie”**.

B. PROBLEM FORMULATION

Based on explanation above, then the author will draw an outline of the subject matter of discussion in this thesis more purposeful and systematic way.

Staple the problem is as follows:

1. How is the concept of State sovereignty in Islam?
2. How does the Concept of Idea M. Natsir and Jimly Ash Shiddiqie in State sovereignty?
3. How did the analysis of the similarities and differences of the concept Idea M. Natsir and Jimly Ash Shiddiqie about State sovereignty?

C. PURPOSE OF STUDY

With the questions above, it can be stated that this discussion aims to:

1. To know the concept of State sovereignty in Islam
2. To know the concept of Idea M. Natsir and Jimly Ash Shiddiqie in

³ Jimly AshShiddiqie, *Konstitusi dan Konstitusionalisme Indoensia*, (Jakarta: Konstitusi Pers, 2004) p.148

State sovereignty

3. To find out the similarities and differences of the concept idea M. Natsir and Jimly Ash Shiddiqie in the concept of State sovereignty

D. THE SIGNIFICANCE OF STUDY

As for usefulness or benefit from this research are as follows:

a. The Usefulness Of the Theoretically

- 1) This research is expected to provide information for the development of political science cache and system's attempt, in particular with respect to the sovereignty of the State.
- 2) To make a donation of political thought, particularly with regard to the sovereignty of the State in the College's academic environment and contribution of the treasures of the library in the science of law of State administration.

b. Usability Is Practically

- 1) To serve as a reference for subsequent researchers.
- 2) To make a donation of thought against government policies in the field of political attempt.
- 3) To qualify for compulsory for every student in holds a Bachelor at Faculty of Syari'ah in Comparative Schools of Jurisprudence and Law.

E. LITERATURE REVIEW

From the overview of the concept of State sovereignty, the author would like to examine the concept of State sovereignty in the perspective of Muhammad Natsir and Jimly Ash Shiddiqie similarities as well as differences, because it is not much even a hint that examines in depth the concept of State sovereignty according to the view of two figures.

First, thesis written by *Evi Ardianti* graduate of Universitas Islam Negri Raden Intan whose title **Pemikiran Jimly Ash Shiddiqie tentang Demokrasi** his writings describe how the thinking Jimly Ash Shiddiqie

about democracy. The difference of this paper are the author's wish to analyze the concept of sovereignty of Islam according to the thinking M. Natsir and Jimly Ash Shiddiqie

Second, the thesis written by *Syamsul Huda* graduate of Universitas Islam Sunan Kalijaga Yogyakarta title **Islam dan Agama Studi Komparasi M. Natsir dan Munawir Syadzali** in many of his writings describes how Muhammad Natsir and sovereignty State life, the difference from this paper are the author's wish to analyze the concept of sovereignty of Islam according to the thinking M. Natsir and Jimly Ash Shiddiqie.

Third, this journal written by sister *Indah Muliati* lecture at Universitas Negri Padang under title **Pandangan Muhammad Natsir tentang Demokrasi**, that Indah discusses the view of Muhammad Natsir about concepts of democracy and sovereignty, The difference of this paper are the author's wish to analyze the concept of sovereignty of Islam according to the thinking M. Natsir and Jimly Ash Shiddiqie

Fourth, this journal written by brother *Jauhari* under title **Kedaulatan** where he just describes how lived the independent force in the Government or the country that develops along with the issues of democracy, the difference from this paper are the author's wish to analyze the concept of sovereignty of Islam according to the thinking M. Natsir and Jimly Ash Shiddiqie.

Fifth, that is the paper written by *Jundiani* under title **Gagasan Kedaulatan Bernegara dalam Bingkai ke-Indonesiaan** He explains a lot about the theory of sovereignty but a very unfortunate he did not describe how the two figures were thinking about sovereignty. The difference of this paper are the author's wish to analyze the concept of sovereignty of Islam according to the thinking M. Natsir and Jimly Ash Shiddiqie

Of all the examples of theses, journals, and the authors conclude that papers will be presented by the author is a new concept of sovereignty of the State in accordance with the concept of Islam according to the view of Muhammad Natsir and Jimly Ash Shiddiqie in the similarities as well as differences.

F. THEORETICAL FRAMEWORK

Sovereignty is the exclusive right to control an area of Government, the community, or for yourself there are adherents in the two theories that is based on the giving of God or of the public. In constitutional law and international, the concept of sovereignty associated with a Government that has the full control of affairs in her own country within a region or territorial boundaries or geographical, and in a particular context associated with a variety of organizations or agencies that have jurisdiction over their own laws. The determination of whether an entity is a sovereign entity that is not a certainty, but is often a matter of diplomatic disputes.

The notion of sovereignty itself is the highest authority to make laws and implement them with all available ways. Therefore, popular sovereignty brings consequences that the people were as the holder of the supreme power in the life of society and State. Popular sovereignty means as well, the Government of the people, by the people, and for the people. The Government of the people means they are sitting as organizers of Government made up of the people itself and gain popular support.

Government by the people to contain the notion, that the existing Government is organized and carried out by the people themselves either through direct democracy or representative democracy. The implementation of the principle of popular sovereignty can be done through direct democracy or representative democracy. Direct democracy is characterized by the people taking part personally in actions and votes to discuss and ratify laws. While representative democracy, people choose other citizens as representatives who sit in the House of Representatives to discuss and ratify laws. That fact here rather than just discuss about relationships (human) in the context of the Union, in other words, these relations can be described as power and how to use it.

In Islamic Studies as everything is already stamped and written in the concept *Fiqh Siyasah*, Ahmad Fathi Bahatsi describes the notion of management as the *Siyasah* benefit mankind in accordance with *Syari'ah*

4. Ibnu Qoyyim define as, all that brings man closer to the benefit of and away from the damage, though the Rasulullah does not assign it and even Allah did not specify⁵. Then with this agreed that maintaining it is, Siyasa things that are common for Islamic countries in a manner that ensures the realization of kindness and damage with the rejection did not go beyond the bounds of Syari'ah and Islamic issues.

This difference became clear when the word siyasa that is coupled with the word Fiqh become Jurisprudence Fiqh and science of Siyasa talking about normative rules, rules are essentially a revelation though there are elements of human effort in the context of ijtihad, the effort should still be in the corridors of revelation namely Quran and Sunnah.⁶ So the definition of Siyasa Fiqh is the study of aspects of the normative aspects of regulating all the frenzied state that where based from al Quran and Sunnah through the elements of effort or ijtihad⁷.

With Islamic jurisprudence and postulates a hadiths shaheh, assertive, and agreed the scholars stated that the sovereignty of the Supreme in the hands of God and the laws of God. Islamic political system different from a secular democratic system which declared sovereignty at the hands of humans (people).

Different Islamic political system with a system of theocracy declaring sovereignty in the hands of a handful of humans (the King and the Pope/priest/bishops/pastors) who call themselves the representatives of God on Earth. Islamic political system is also different from the system of monarchy that stated sovereignty is in the hands of King or Queen.

⁴ Ahmad Fathi Bahatsi, *Al Siyasa Al Jinayah fi Syariatil Islam* diterjemahkan oleh H A Djazuli , *Implementasi Kemaslahatan Umat dalam Rambu Rambu Syariah* , (Sunan Gunung Djati Bandung Press, 2000) p 24-25

⁵ Ibid hlm 25

⁶ Muhammad Abu Zahrah, *Ushulul Fiqh* ,(Dar El Fikr Al Arabiy) p 6-7

⁷ Ahmad Mumtaz, *Masalah Masalah Teori Politik Islam* ,(Mizan Bandung 1986). p

The scholars of Islam have agreed to declare sovereignty in Islam is in the hands of Allah, or is sometimes expressed by the term “*sovereignty in the hands of the Syari’ah on Allah*”. That is, Allah becomes Supreme ruler and his jurisprudence into supreme law above all leaders, officials, legislation, and the law in the country.

The principle of sovereignty in the hands of God and his laws are Islamic teachings which are *qath’i*, normative, and will never change. This principle is based on many *dalil kulliy* and *qoidah kulliyah*.

According To M. Natsir, State sovereignty embodied in the democratic system. Thus, State sovereignty and democracy is a unified system that comply with the Islam Indonesia society and reality. However, sovereignty should be done based upon Syari’ah norms and does not exceed a specified provision of the God.

Departures from this assumption, thus, the concept of the sovereignty of the State more appropriate to be called by the term *theistic democracy*. The background of the use of the term *theistic democracy* effected by two views, *First*, Islam does not recognize the concept of sovereignty is absolutely as it is practiced in the West, in the sense that all political decisions are submitted completely to the will of the majority of members of Parliament. Where as in Islam, not all of the issues that should be discussed in Parliament. The question that will be decided only with regard to issues that are not found in his decision expressly Nash. *Second*, Islam does not recognize the system of theocracy, where a Government dominated by a priesthood (ecclesiastical systems), that have a hierarchical (multilevel level) as well as assume the ruler as God’s representative on Earth. Therefore, in an expression of the firm, Natsir stated that sovereignty in Islam is a familiar and which has its own properties. Islam is not one hundred percent democracy not theocracy also one hundred percent.

The sovereignty of the State, according to Jimly Ash Shiddiqie refers to democracy, democracy first came from the West, and of course it’s not a thing that is absolute or perfect. Democracy is a very important

choice for the country based on a presidential Republic, with this regular society issued an aspirations against the Government as well as to state of the Union. Democracy is one of the concept of the people's Congress for the Betterment of the country toward a new Indonesia in conducting assessment of the State of the Union.

Jimly Ash Shiddiqie contended that the law of democracy is democratic as a very dominant form of State or is very important for the people. He thinks that democracy is the concept of power from, by, for and with people. Mean, power it on anyway recognized come from the people themselves, and therefore the actual peoples define and give direction and the real life of the Union organizing, where the people also have the right to freedom of speech, of expression, of freedom of the press, nor freedom to organize the gathering in one place. And by the existence of political Democracy, people's rights expected it fulfilled all wishes in accordance with the values or norms applicable law in one country.

G. METHOD OF STUDY

Research methods is a way or path that is used in the search for, cultivate and discuss the data in an election to regain a resolution against the problems.⁸ In this study, the authors use the method as follows:

- 1) This type of research and the nature of the research
 - a. Type of Research

Research conducted in the preparation of this thesis are included in research libraries (*library research*), that research with historical methods for finding, analyzing, making an interpretation of the issues related to State sovereignty as the book magazine journal and others⁹.

⁸ Joko Subagyo, *Metode penelitian dalam teori dan praktek*, (Jakarta : PT Rineka Cipta 1994), p 2

⁹ Muh Nazir, *Metode Penelitian*, (Jakarta : Ghalia Indonesia,) p. 53

b. Nature of Research

Views of the nature of this research including research that uses descriptive analysis method, a method of research that illustrates and describes the thought a figure Muhammad Natsir and Jimly Ash Shiddiqie about Sovereignty Countries in a comprehensive manner for later analyzed logically¹⁰, so get a conclusion against the thought of Muhammad Natsir and Jimly Ash Shiddiqie about State sovereignty.

2) The Primary Data Sources

The collection of primary data sources or thesis research papers this is by using literature research writing objects as well as classical works from two figures M. Natsir and Jimly Ash Shiddiqie become of principal problems in discussion of the sovereignty of the country and also *Fiqh Siyasah* as a framework for discussion of the theory.

3) Secondary Data Collection

Secondary data collection in this research is a method of documentation, that finding and collecting data about a particular thing or a variable in the form of notes, transcripts, books, newspapers, articles and other stuff¹¹. To collect the data in question is using the *Library Research* method. This technique is done by way of search, notes, and inventory, analyze, and study the data in the form of references.

4) Method of Processing Data

In the method of data processing, the approach used is approach *sosio-historis*, which is the approach that uses condition, social, political, and cultural aspects influenced the thinking of the existence of the sovereignty of the Country, according to

¹⁰ Mardalis, *Metode Penelitian : Suatu Pendekatan Proposal*, (Jakarta : Bumi Aksara 1999), p. 26

¹¹ Suharmi, *Prosedur Penelitian Suatu Pendekatan Praktik*, (Jakarta : PT Rineka Cipta 1993), p. 202

Muhammad Natsir and Jimly Ash Shiddiqie.

5) Data Analysis

Through search and study deep against literature primary and secondary in the research as a scientific paper or thesis is expected to get a clear and accurate data. This research using the method of thought:

- a). Qualitative analysis, namely the research procedure generates descriptive data about the words written or spoken of people and behavior that can be observed.¹²
- b). Deductive, is departing from common knowledge assessed with special events.¹³
- c). Content Analysis, that is the method that uses other people's thoughts so that we can trace the thinking nicely. The research is used to view the structure of the content of thought Muhammad Natsir and Jimly Ash Shiddiqie surrounding the independent State.¹⁴
- d). Histories, The authors use this method to find out the definition of history as well as the understanding of State sovereignty¹⁵.

H. SYSTEMATIC WRITING

Throughout the discussion in this thesis will be presented in some of the chapters, so this discussion orderly. Then the systematic writing are as follows:

The first chapter, the form of the introduction, which is where in this chapter describes the background to the issue, the issue, the purpose of writing, uses and benefits of the research, the study library, framework

¹² *ibid.* hal 236

¹³ Sutrisno Hadi, *Metode Reserch Jlid 1, Metode Reserch Jlid 1*, (Yogyakarta , Andi Offet 1989, p 42

¹⁴ Sumadi Suryabrata, *Metode Penelitian* , (Jakarta : Rajawali 1983,) p 94

¹⁵ Sugiyono, *Metode Penelitian Kuantitatif dan Kualitatif dan R&D*, (Bandung : Alfabeta, 2001) p 287

theory, research methods, and Systematics of writing.

The second chapter, this chapter will describe a general overview about the sovereignty of the state. In particular, the explanation will consist of the definition of the general concept of State sovereignty and the following explanation of the understanding of the nature and type of sovereignty

The third chapter, in this chapter we analyze the comparison between the concept of Muhammad Natsir and Jimly Ash Shiddiqie in sovereignty. In this chapter, also researchers will describe about two brief biography of the main character, namely Muhammad Natsir, Jimly Ash Shiddiqie and also their concept of State and politicking. Researchers also will explain the similarities and differences of both the view of sovereignty

The fourth chapter, is the cover consisting of the conclusions in the study include the important conclusion that contains the answer to the problems that exist in the background of the problem. Then the expression of some suggestions that if necessary the author convey with regards to the results of this research.

CHAPTER TWO

GENERAL OVERVIEW ABOUT SOVEREIGNTY AND THE CONCEPT OF SOVEREIGNTY IN ISLAM

A. SIGNIFICATION, THE NATURE, AND THE TYPE OF SOVEREIGNTY

Sovereignty is part of the conception of Democracy. Sovereignty is a concept that is commonly made into objects in political philosophy and the law of the State of the Union. In the independent, there is a conception related to the idea of the supreme power which is associated with the State. In terms of language, sovereignty itself is derived from the Arabic language, *Daulat* and *Daulatan*. In addition, it also said the authority is used to sense the dynasty or the power. Thus, in the classic sense, the concept of sovereignty is indeed used to describe a period of dynastic power.

The classical concept of sovereignty concerning the also associated with the sense of power that abstract, single, intact, and not be divided or not fragmented, as well as the highest nature within the meaning of the word is not of other higher power.

Sovereignty in latin is “suprenus”, whereas the United Kingdom referred to in the language of “sovereignty”, in French it is called “soiouverainete”, the language of the Netherlands referred to by the term “sovereyn”, Italy language referred to by the term “sperenus” that means the highest. In fact the word sovereignty comes from the Arabic word from the ‘dalā’ ‘yaḍulū’ ‘ḍaūlatān’ or in the plural ‘ḍuwāl’ the meaning originally means alternated or changes. Sovereign is meaning of power. The sovereignty of various languages that can be interpreted as one unified political authority¹⁶. Sovereignty is the concept of supreme power in the country. Mahmud Yunus in addition to providing the basic meaning of the

¹⁶ Jimly Asshidiqie, *Pokok-Pokok Hukum Tata Negara Indonesia: Pasca Reformasi*, (Jakarta: PT Bhuna Ilmu Populer, 2008), p 158

word duwal, as well as alternates or changes the meaning of the Kingdom, the State or power.¹⁷

Sovereignty is often understood from the translation of the Word as “sovereignty”, “soverainette”, “sovereigniteit”, “soveryn”, “superanus”, “-summa potestas”, “maiestas” (majesty) and others¹⁸. Adopted from the United Kingdom, France, Germany, and the Netherlands that much influenced Latin. All this word refers to the sense of supreme power in the country or .from the English called the Sovereignty

Sovereignty is characteristic or attribute of the law of Nations, and as an attribute of the country he had long existed, even argues that sovereignty was older than the country itself.

We will start with the first question regarding, who enjoy the right to a sovereign State? Al Quran gives an answer that can't be contested upon this question. The very essence of sovereignty in the modern political science terminology, this word is used to mean the absolute power of the King of the Empire or the absolute. Someone, a group of people or an institution called a sovereign if the person or group that is sovereign, sovereign has a right which cannot be contested to impose his commands to all the people of the country concerned and the people have absolute liability to stick to it regardless of whether they are willing or not. No other outdoor media accept his own will, who can wear a limitation on his authority to govern. There is no absolute right to have people to against or contrary to the commandments. Any rights that are owned by the people is sourced from it and any rights which the revoked will be deleted. Therefore, if the giver of the law it would its existence is cut off, and afterwards the rights that have been eliminated will not be prosecuted.

¹⁷ M. Mahmud Yunus, *Kamus Arab-Indonesia*, (Jakarta: Yayasan Penyelenggara Penterjemahan al-Qur'an, 1989), p. 132.

¹⁸ Encyclopedia Internasional, hal 242 dan Encyclopedi of Social Science, p.267, In this sense the term Encyclopedia this is explained in detail.

The law was created through the will of the people's sovereignty as well as putting all the State under obligation to obey it. But there is no law binding the sovereignty itself. In other words, He is the absolute authority and thus all relate to his commands, will not and should not appear good bad questions, true false, and so on. Anything that is done is fair and no one can question the actions, orders and enforcement of those commands.

This is the nature and meaning of the concept of sovereignty as defined by the lawyers of the modern Polish. There are none the less meet the above elements which can be termed the sovereignty, But sovereignty remains merely a presumption the legal basis as long there is no active persons who are able to enforce them. Thus, in political science political sovereignty law without sovereignty has no practical existence. So naturally, political sovereignty means the owner of the enforce authority to the sovereignty of the law and who had authority here is the people so that the sovereignty of the law and political sovereignty above people's mandate.

In Indonesia reflected the various aspects of sovereignty within the range of one *The sound of the 1945 CONSTITUTION article 33 as follows : paragraph (1) said ; The economy is structured as a joint venture, based upon the principle of family, paragraph (2); Branches of production that are essential for the country and that ruled his life crowd dominated by State, paragraph(3) said ; Earth, water and natural resources contained therein is controlled by the State and used for the most of people's prosperity, paragraph (4), The national economy was held based upon the economic democracy with the principle of mutuality, fairness, efficiency, environmentally sustainable, independence, as well as by maintaining a balance of economic progress and national unity and paragraph(5); Further provisions concerning the implementation of this article is regulated in legislation ¹⁹.*

¹⁹ Dr.Fokky Fuad Wasitaatmadja, *Falsafah Pancasila .Epistimologi Keislaman Kebangsaan*,(Depok: Prenadamedia,2018)p, 28

As a reminder of the series of notes related to economic inequality and equity in this country failed to stop and come upon alternates without control continues to be a cause of problems²⁰.

1. Dredging and damage to natural resources exploitation in this case without looking at the aspect of sustainability from the fate of nature and the environment as well as human. The opening of the massively influential on land (forests and wildlife-watching), depleting forests and animal life habitat increasingly narrows and squeezed, not to mention coupled with weak supervision and governance that ignore the significance and functions environmental benefits for the life of living beings. Pollution, the more often a disaster occurs make it increasingly difficult to survive.
2. Widespread environmental degradation and rate of investment from investors (owners of capital and market participants) accidentally and uncontrolled imposes upon the rights of society are neglected. Justice and issues will be various sources conflict occurs, the seizure of land, sharing the results a bit much influence social and economic community. Gaps occur, economic inequality and societal ignite action and ends in a dilemma recently named the clarity of the guidelines or rules that are neglected.
3. Management of the SDAS are not controlled. Management of the SDAS in question is a lack of supervisory functions, punishment, and governance and policy issues pertaining to the environment, so that it becomes a bias of the existence of the availability of natural wealth the growing concern. To date the function of supervision and regulation is only limited terms in the absence of a determination.
4. The obligations and responsibilities of companies to obey , making the area as a conservation area, green area for wildlife and plants be protected seems like a lot among companies reluctant to apply

²⁰ Burhanuddin Abdullah, *Menanti Kemakmuran Negri*, (Jakarta: PT Gramedia.2006) p, 102-103

them. This of course being very ambiguous when only as discourse.

Article 33 paragraph (4) mentions, the national economy was held based upon the economic democracy with the principle of mutuality, fairness, efficiency, environmentally sustainable, independence, as well as by maintaining a balance of progress and the unity of the national economy. However, prosperity for all the people turned into mastery of all the people. Togetherness turned into monopolies that tend to ignore the progress and potentially fishing issues divisions in some areas. Given justice, equality, the rights of society and the prosperity belongs to the neglected. Natural resources depleted and suffering is getting worse, the growing poverty.

Article 33 paragraph (1), (2), (3), (4) and (5) of the 1945 Constitution, clearly implies that the mastery of the economy-related wealth results nature should page to the common good and for the prosperity of the people based upon justice. Fresh wind about the RAPERDA on managing environmental recovery-based SDA as a must to set in immediately in an area or region to serve as an answer to the increasing complexity of issues the present environment and rights of society failed after this time.

The real sovereignty in economics is the estuary of all things that exist in this world, such as politics, education, social life, etc. the extent of the estuary of the economy is not limited to, like the ocean that no immeasurable and edged it. So when someone wade it he should be prepared to deal with the storm, and, indeed, that trip is a journey without a destination. Perversion is a hint at him and lust as the provision of food to supplement his energies. A journey that will not bring any result could be taken as it is not mainland. And that journey will end when death comes to pick up²¹.

It takes a dike to stem the ocean. As the delimiter between the ocean and the Mainland. So what is on the estuary can be brought to the Mainland. In order to travel the ocean sail has a start and end point as well as to generate

²¹ Tim Pusat Studi Pancasila UGM, *Membangun Kedaulatan bangsa Berdasarkan Nilai Nilai Pancasila*, (Yogyakarta:Pusat Studi Pancasila,2015) p, 81

benefits. As for the embankment is the value the value of the Godhead²².

Because in the concept of religion there is a regularity that ordered her to obey existing law, for the sake of the happiness of living in the world and in the hereafter. In religion, there is the concept of halal and haram, which able to brake one's actions. Then there is the concept of relationships and relationship to God against man. In this context the humans are encouraged to obey his Lord (Allah), and care about their fellow human beings, put tolerance at a high position.

Every living definitely has the purpose why he lived. The purpose of life is what becomes the most sought after treasures of mankind. As for the primary purpose of human life is happiness. Where humans will obtain happiness if his wishes are met both in the aspect of the material as well as spiritual, individual and social events in the short term and long term.

However, in practice this very difficult multidimensional happiness is achieved due to the limitations of the human ability to understand and translate his desire in comprehensive, limitations in balancing between aspects of life, as well as the limitations of the resources that can be used to achieve happiness. Economic problems is one of the vehicles from the life that is expected to draw a human in achieving goals of his life. Economic sovereignty is the right instrument to achieve the goals of human life brings. When the economy in General is only able to carry a person or small group in a particular goal of his life. Another case with the special economic, because this economic system capable of delivering all mankind achieve his life together just the same. It is stated in the concept please help found in Islam. In fact, economic sovereignty is part of Islamic teachings. Thus the whole doctrine of the religion of Islam has also become an economic doctrine, in the context she should deal. Islam in the contemporary era has a love for teaching to the State. Many of the scholars mentioned that the Muslims of Indonesia is obliged to have a sense of nationalism and idealism. Although still occurring differences of opinion regarding the proportions of a sense of

²² Ibid, p, 102

nationalism/defense State. Therefore economic sovereignty is an economy that can be used as a solution to achieve the sovereignty of the country²³.

Article 33 of the Sovereign in the State also listed are politically Sovereign, which becomes a duty when wanted Indonesia, that could compete with other countries and keep the country in the eyes of behavior, besides just have to fix the domestic politics in the frame of democracy, recognized excellence by many countries. Here's how such²⁴:

1. State policy without foreign intervention. As part of the international, Indonesia could not be separated from the policy and international politics. It cannot be denied because there are no any one nation in this world that can live on its own, without the help of other Nations. But, despite such an attachment is an inevitability, there could also be other nations of interfering in domestic affairs and the sovereignty of the nation of Indonesia. Cooperation with foreign countries, it is certainly necessary to run in the context of origin mutually beneficial (symbiotic mutualism) foreign at all, but could not intervene against all policies and decisions to be taken by the. As a result, Indonesia became the owner of absolute top of Indonesia itself. The desire of the nation of Indonesia's predecessor who had to escape from a foreign intervention.
2. Maintain the integrity of the State. Keep state is the duty of the entire people of Indonesia. That is to say, all we have to keep this country from all sorts of threats that would damage the integrity of the State. From all kinds of fields, in all directions, and all interests should be boiled down to the process of maintaining the integrity of the State. This concept necessarily very broad scope for this short writing was written in, but the urgency of the life of nation and State are a necessity throughout Indonesia to maintain the integrity of the people of the State. United, that's the key. Because the Union will

²³ Ibid, p ,104-105

²⁴ Prof. Dr.Jimly AshShiddiqie,*Konstitusi Ekonomi* ,(Jakarta: PT.Kompas Media Nusantara.2010) p, 24-25

give birth to firm, and the divorced divorce will bear the collapse.

3. An effective Government. All know, that the country will go forward when there is a Government run effectively, Sepik. Effective governance will produce an effective and intelligent policy anyway. What do the current Government for example, with instruction directly so that the process of bureaucracy that exist are no longer, is part of a process towards an effective Government. Effective governance can also be meant with a Government that can be detached from any kind of negative behavior such as the CCN and the Gleanings of the wild which no responsible and miserable people. As long as there is still a “Bully” in the Government, then certainly the process of governance will be stuck on policies that loaded corruptive and negative.

If we take the pull straight lines that are a source of law is God and his Messenger, from here then Muslims are represented by the Legislature, to outlining the sovereign according to the context of space and time mean that became *Ahlul Halli Wal Aqdi* is the legislative. As the holders of power in determining the law of God, the people can be to correct legislative decision if they produce does not correspond to the spirit of the basic principles of Islam. Departing with the view of the theory of the above that the sovereign is actually God, while the man as God’s Caliphs on Earth just implementing the sovereignty only²⁵.

As already mentioned, sovereignty is the supreme power to determine law or the will in a country. Basically, sovereignty has four basic properties, *first*, that’s permanent sovereignty over that country’s fixed stand, *second*, original or sovereignty comes not from other higher power, *third*, round, not assigned, or to sovereignty is the only supreme authority in the country, *fourth*, unlimited, which means that power is not limited by anyone, for when that power is limited, certainly characterize that sovereignty is the

²⁵ Abu Al-A’la Al Maududi, *The Islamic Law and Constitution*, (Lahore : Islamic Publisher ,1975) p.203

supreme power of it will vanish.²⁶

Sovereignty has two forms have a different system that is as follows. *First*, Sovereignty into the meaning of sovereignty into the country or Government has the right to regulate all the interests of the people or the country through various countries set up by the State. *Second*, sovereignty to outside, the sense of sovereignty to outside is the Government has the power of free, unfettered and not subject to force other than the conditions already set.

Types of Sovereignty,

- a. The sovereignty of God, That is to say all the source or origin of a sovereignty that comes from God given to a King or ruler. Because a God incarnated into the King or ruler, then a King is considered a Messenger of God or God's representative. All rules that are run by a ruler comes from God, therefore people must abide by and be subject to an order of the ruler²⁷.
- b. The sovereignty of the King, of a country's sovereignty is a municipality in the hand of the King, because a King is the embodiment of the will of the Lord and the Lord of the shadows. In order for a country is strong and sturdy, a King must have a strong power and have no restrictions so that the people should be denied their rights and hand over his power to a King²⁸.
- c. State sovereignty is a Government, of a country's sovereignty. Because the source of sovereignty of the State, then the State is considered to have unlimited power, and that power be handed over to the King on behalf of a State. A State is entitled to make the rule of law, and are therefore not subject to mandatory State law²⁹.

²⁶ Astim Riyanto, *Negara Kesatuan: Konsep Asas dan Aktualisasinya*, (Bandung: Yapemdo, 2006), p. 41-42

²⁷ Aidul Fitriada Azhari, *Sistem Pengambilan Keputusan Demokratis Menurut Konstitusi*, (Surakarta: Muhammadiyah University Press, 2000), p. 26.

²⁸ M. Hasbi Amiruddin, *Konsep Negara Islam Menurut Fazlur Rahman*, edisi Revisi, (Yogyakarta: UII Press, 2006). p. 106

²⁹ Ibid, p. 104

- d. The sovereignty of the law is a supreme power. State power must be sourced on a law, while the law is predicated upon a sense of fairness and legal awareness. Based on this theory a country expected to become a State of law, which means that all actions of an organizer of the State and the people must be based on the applicable law³⁰.
- e. Popular sovereignty is a supreme power that is in the hands of the people. The people give a power to the ruler to run a Government through an agreement called the social contract. State leaders are selected and determined upon the will of the people through their representatives who sit in a Government. On the contrary, the sovereign State should recognize and protect a people's rights as well as the running of a Government based on the aspirations of the people. If the ruler of a country cannot guarantee the rights of the people and could not meet the aspirations of the people, then the people can change the leaders with a new leader³¹.

The Government can be distinguished in the broad sense and meaning. The Government in the broad sense is the entire equipment of the country that holds the power, namely the powers of the legislative, Executive, and judicial. While the Government in a sense narrow is the entire equipment of the State (State agencies) who only carry out the functions of Government, such as the Executive (President and Ministers) who runs the laws according to which has been created by the legislature³².

How the Government was said to be sovereign? A sovereign Government is divided into two in and out. A sovereignty based on into is a Government that has a power that is exercised to set States, and traversed by State agencies, as well as equipment is often needed when countries.

³⁰ Ibid, p. 105

³¹ Rifyal Ka'bah, *Politik dan Hukum dalam al-Qur'an*, (Jakarta: Khairul Bayaan, Sumber Pemikiran Islam, 2005), p. 50.

³² Dr.Teuku Saiful Bachri Johan, *Perkembangan Ilmu Negara dalam Perkembangan Globalisasi Dunia*, (Yogyakarta: Cv.Budi Utama , 2018) p, 8

The goal of a sovereign Government based on it into the provided in the Constitution of 1945³³:

- Protecting all Nations Indonesia and all the spilled blood of Indonesia.
- Promote the general welfare.
- The intellectual life of the nation.
- Participated in world peace based on freedom, peace, eternal, and social justice.

The meaning of a sovereign Government based on into was so that the State has the right to regulate all people's interests with the assistance of the various State agencies and also with equipment. Sovereign Government based on into and out, that its meaning is³⁴:

- Sovereignty in, meaning the Government has supreme authority in organizing and running the State organizations in accordance with the applicable legislation
- Sovereignty to outside, meaning the Government ruling is free, not bound and are not subject to other powers. The Government should also respect the authority of another country by not intervene in his country.

Sovereign Government that other cooperation relations with a country that it may be of some interest for a country's interests.

The goal of a sovereign Government based on an already set out in the 1945 Constitution:

- Participated in world peace based on freedom, peace, eternal, and social justice.
- The President with the approval of PARLIAMENT declare war, make peace, and agreements with other countries. Found article 11 paragraph (1).
- The President appoints ambassadors and consuls contained article

³³ Ibid, p 15

³⁴ Ibid, p 16

13 paragraph (1) of the 1945 Constitution.

The important thing to remember is that the ruling Government to be recognized by his people. In fact, the Government is the people's aspirations with the carrier once the Government is able to stand up to the stable. So did recognition from outside is often based on the stability and effective of the Government of a country. Therefore at the beginning – the beginning of an independent State, the recognition of a country initially is temporary until the country had a stable and effective Government. That's some a little explanation of the notion of a sovereign Government based into or out. With a sovereign Government explains in can we conclude that Indonesia has a lot of power in the country. Indonesia also is able to manage the entire people of Indonesia with the running order of the world in a peaceful. There are two aspects of sovereignty: the internal and external sovereignty or sovereignty into and sovereignty out. Internal sovereignty means some people, assembling a group of people in every independent State has the legal authority to instruct and enforce compliance. This sovereignty is running the authority over all absolutely individuals or individual associations in state this issued an order to all men and all the associations in the area, he received orders from none of them. This will be subject to any legal restrictions. What he proposed are correct only with announcement of intention. Internal sovereignty means that within the sovereignty of no other entity can act against the will of sovereignty. In the modern sovereign State country stating that the sovereign wishes expressed via laws³⁵.

1. External sovereignty, that the State does not have the authority to another rigueur and not dependent on any other country. Every independent State has the authority to abandon trade agreements and hold a military agreement. Each estate is independent of any other country. Every independent State free to determine foreign policy and join the forces of whatever she liked. Any other State is not

³⁵ Dr.Umar suryadi Bakry, *Dasar Dasar Hubungan Internasional*, (Depok:Kencana, 2017) p, 62

entitled to intervene externally independent. Thus, with our external sovereignty means that every State is not dependent on any other country. In other words, the external Sovereignty means national freedom. The modern State is a sovereign State. Therefore, an independent in the face of other communities. External sovereignty is the right of a nation to be free from outside interference that will defy, confuse, or delete rights and freedoms the nation to exist, to set up their own society and region.

2. Internal sovereignty is the right of a nation to be free from internal disturbances against the rights and freedom to carry out the internal governance of the community and its territory. Internal sovereignty can be further divided to include the rights and freedoms of a subset of a sovereign State to exercise their constitutional rights, or other rights that are defined in their regional boundaries. This subset is usually made up of provinces, States, territories, and municipalities³⁶.

A little Example to Sovereignty in and out every time we comply with the law and keep traffic regulations, pay taxes, avoid criminal behavior, etc. We observe the internal sovereignty of our country. If the foreign element ignores the law, for example, an international company that gets tax relief because the State wants it to operate factories and create jobs, this is the challenge for example internal sovereignty. Sovereignty is the limit cannot be contested, and the supremacy of the State under the authority of the Supreme law maker. The notion of the sovereignty of a country trying to protect from attack the soldiers of other countries. For this reason, strong countries can't get into another country that does not threaten or dictate their behavior, even if they do not agree with some of the policies of a sovereign State. For example: If someone bringing drugs into Singapore, his Government could not prevent the sovereignty of countries applying the law and execute drug couriers. Sovereignty is the highest, absolute,

³⁶ Ibid, p. 63

unbridled, and where an independent country governed and where certain political forces all come from, a deliberate independence from a country, combined with the right and the power set its internal affairs without foreign intervention. In an increasingly interdependent world, insisting that neither the property nor sovereignty are absolutely getting no help. People who insist on absolute anything very likely start a fight. Here are a few examples of sovereignty into and out³⁷ :

Example Implementation of Sovereignty In:

1. Select a DPD and DPR in order also election
2. The selection of a wide range of areas such as head Regent or mayor in direct it in the general election by the people
3. Vote for President, along with Vice President
4. Do the care and preservation of the culture in the region
5. Improve the knowledge, education and respect for the harmony between citizens in Indonesia.

Examples Of Application Of Sovereignty Comes Out:

1. Establish a territory that encompassed the area to be outside or establish ambassadors abroad such as in Malaysia and some other RI Ambassador for various cases like TKI.
2. The existence of politics of a foreign country that is non-active
3. Holding diplomatic or cooperation with various foreign countries
4. Participated in various international organizations
5. Implementing the sovereignty in the form of world order

Hereby some examples of sovereignty into and out of which must be known. While sovereignty means Supreme, independent authority holds over a region or country, internal sovereignty refers to the internal affairs of the country and the location of the supreme power in it. The ability of leadership to prevent this violation is key in determining the internal

³⁷ Dr.Baso Madiung, *Pendidikan Kwarganegaraan: Civic Education*, (Celebes Media Perkasa , 2000) p. 92

sovereignty³⁸.

B. THE CONCEPT OF SOVEREIGNTY IN ISLAM

:Allah said in Quran In surah An Nisa' chapter number one

يَا أَيُّهَا النَّاسُ اتَّقُوا رَبَّكُمُ الَّذِي خَلَقَكُمْ مِنْ نَفْسٍ وَاحِدَةٍ وَخَلَقَ مِنْهَا زَوْجَهَا
وَبَثَّ مِنْهُمَا رِجَالًا كَثِيرًا وَنِسَاءً وَاتَّقُوا اللَّهَ الَّذِي تَسَاءَلُونَ بِهِ وَالْأَرْحَامَ إِنَّ اللَّهَ كَانَ
عَلَيْكُمْ رَقِيبًا ﴿١﴾

The Mean: O people! be careful of (your duty to) your Lord, Who created you from a single being and created its mate of the same (kind) and spread from these two, many men and women; and be careful of (your duty to) Allah, by Whom you demand one of another (your rights), and (to) the ties of relationship; surely Allah ever watches over you.

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا إِنَّ
أَكْرَمَكُمْ عِنْدَ اللَّهِ اتَّقَىٰ اللَّهَ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ ﴿١٣﴾

The mean: "O you men! surely We have created you of a male and a female, and made you tribes and families that you may know each other; surely the most honorable of you with Allah is the one among you most careful (of his duty); surely Allah is Knowing, Aware"³⁹.

This Ayah tells us that humans are indeed created for the group. The desires of the group is given by God in the form of instinct. It is this instinct that has always brought people to form groups when they feel they have in common, as well as differences.

³⁸ Kompas Media, *Kita Hari Ini 20 Tahun Lalu: Seri Buku KOMpas*, (Jakarta. 2018)

³⁹ (Q S Al Hujarat : 13)

The fact humans from early on was indeed created with the tendency of living in a group being justification that no one is able to live outside a community. Started since the creation of Adam as the first humans, then followed by Hawa directly, they live in a patchwork family. It was this family which became the smallest form of life in the pattern of clusters of human relationships.

After passing through several centuries, the number of their family members are increasingly a lot, then when that groups of people begin to form by themselves based on their shared principles. At a later stage, when a small group felt did not fit with their desires, then the desire to form a larger community will soon appear. With this development pattern is then born institution relatives, who at the beginning of human life more enabled to identify themselves. Subsequently formed the village, region, nation and State. This kind of development is already as a Sunatullah, the provision of God for human life in this world, as is indicated in the above two.

The emergence of the State as the developmental process of human needs in the life of the group in accordance with the opinion of *Dr. Abdul Rouf* which quotes sayings *Bouman 40*: "that form of human life that takes the form of the State is the result of historical growth". This also fits with the historical facts of the early-early humans. During the time of Adam, Hawa and their descendants haven't known some kids named State institutions. Mean, the State formed by the future is not a result of the duplication of the past, or even mandate past.

As it known, God calls the new institution named countries in the Qur'an when telling the story of Queen Balqis at the time of Prophet Sulaiman AS. And the King Pharaoh at the time of the Prophet Moses AS. These stories provided in Al Quran

لَقَدْ كَانَ لِسَبَإٍ فِي مَسْكِنِهِمْ آيَةٌ جَنَّتَانِ عَنْ يَمِينٍ وَشِمَالٍ كُلُوا مِنْ رِزْقِ رَبِّكُمْ

⁴⁰ G.H. Sabine, *A History of Political Thought*, (New York : Collier Book, 1959) p.398

وَأَشْكُرُوا لَهُمْ بَلَدَهُ طَيِّبَةً وَرَبِّ غَفُورٌ ﴿١٥﴾

. The mean “Certainly there was a sign for Saba in their abode; two gardens on the right and the left; eat of the sustenance of your Lord and give thanks to Him: a good land and a Forgiving Lord!”⁴¹

وَفِرْعَوْنَ ذِي الْأَوْتَادِ ﴿١٧﴾

The mean “And (with) Firon, the lord of hosts,”⁴²

The emergence of the countries mentioned in the second paragraph that is not a heritage before, or its formation was inspired from the previous kingdoms.

These facts tackle several theories about the formation of the State. Among them, a theory called State formed as a result of the Covenant community. The theory advanced by *Rousseau, Nobbes and Locke* this is clearly not in line with the Quran. According to this theory, the formation of the country due to the demands of the community to be able to manage life together in an orderly and secure, to protect the interests of the community⁴³.

The refusal of Al-Qur’an against this theory does not mean to justify the theory of Theocracy. The theory States that a country formed Theocracy because God gave authority to the other human groups. The Qur’an never connect power with the formation of a nation. The Qur’an also rejects the theory of unification based on the existence of power imposed by the stronger to weaker. Because, the existence of the State is essentially a part of the human instinct to live in groups or society. This instinct becomes a motor driving the formation of various institutions in human life. And this instinct also designing institutions that form it complies with the demands of the times and place conditions.

⁴¹ (Q.S AS Saba’ 15)

⁴² (Q.S Al Fajr 10)

⁴³ Munawir Sjadzali , *Islam dan Tata Negara* , (Jakarta , UI Press, 1990) p. 15-16

Because of that, today we find the different countries with the shape and pattern of the relationship with the people of a different respectively in accordance with their needs. But although varies, but his name remained a top, country.

Democracy is built on the basis of principles affirms that the rights in the forming laws and the direction of development is in the hands of the people. In the State system, the basic idea is practical is knotted in the institution called *legislative Institute*, is the institution that determines the basic laws, as well as the bow as a state. Whatever be the product of these institutions, the legal means which cannot be contested again. In other words, the people are represented by the sovereign legislative agencies (determine what the law will be applied in the community).

The sovereignty or *As-Siyadah* is a term that comes from the West and have an understanding of the particular notion/resting on Aqidah of secularism. The meaning of the word ‘ sovereignty ‘ is handled and run a will or aspiration of certain ⁴⁴.

If there is a person who manages and controls the aspiration, then he basically has sovereignty over itself. If the aspirations of the people of yesteryear is controlled and regulated by others, meaning he has been a servant (*‘abdun*) for others. A country colonized, eventually becoming servants of the aspiration, is set up by the invaders. In other words, its sovereignty was already in his grasp. Democratic system means the sovereignty is in the hands of the people. That is, the people handle and control aspiration. The people shall have the right to appoint anyone he wants and give the right handling and control of aspiration to the person elected. Islam has asserted that sovereignty lies in the hands of syara, not in the hands of the people.

:Allah said in Quran

⁴⁴ Dr. Mahmud Abdul Majid al Khalidi, *Qowaaid Nidhomul Hukmi fil Islam*, (Hiszbut Tahrir Indonesia), p. 46

قُلْ إِنِّي عَلَىٰ بَيِّنَةٍ مِّن رَّبِّي وَكَذَّبْتُمْ بِهِ ۗ مَا عِندِي مَا تَسْتَعْجِلُونَ بِهِ ۗ إِنِ الْحُكْمُ إِلَّا
 لِلَّهِ يَقُضُ الْحَقُّ وَهُوَ خَيْرُ الْفَاصِلِينَ ﴿٥٧﴾

*The mean “Say: Surely I have manifest proof from my Lord and you call it a lie; I have not with me that which you would hasten; the judgment is only Allah’s; He relates the truth and He is the best of deciders”.*⁴⁵

And also in other Surah:

إِنَّ رَبَّكُمُ اللَّهُ الَّذِي خَلَقَ السَّمَوَاتِ وَالْأَرْضَ فِي سِتَّةِ أَيَّامٍ ثُمَّ اسْتَوَىٰ عَلَى الْعَرْشِ
 يُغْشِي اللَّيْلَ النَّهَارَ يَطْلُبُهُ حَثِيثًا وَالشَّمْسَ وَالْقَمَرَ وَالنُّجُومَ مُسَخَّرَاتٍ بِأَمْرِهِ ۗ أَلَا لَهُ
 الْخَلْقُ وَالْأَمْرُ تَبَارَكَ اللَّهُ رَبُّ الْعَالَمِينَ ﴿٥١﴾

*The mean “Surely your Lord is Allah, Who created the heavens and the earth in six periods of time, and He is firm in power; He throws the veil of night over the day, which it pursues incessantly; and (He created) the sun and the moon and the stars, made subservient by His command; surely His is the creation and the command; blessed is Allah, the Lord of the worlds”.*⁴⁶

The intent of the *Al Amru* in this paragraph include the command of Allah SWT to organize the universe and the command of Allah SWT in the legal setting for human life. Means only God alone acts as *Musyarrri*’ (who established the law). He is the only Essence with the right to govern. There is no longer one among his creatures deserving equal him in creation, as much as there is no worthy match him in governing, or in determining the law. They are commanded to *‘thaghut*’, commanded to other except Allah.

أَلَمْ تَرَ إِلَى الَّذِينَ يَزْعُمُونَ أَنَّهُمْ ءَامَنُوا بِمَا نُزِّلَ إِلَيْكَ وَمَا نُزِّلَ مِن قَبْلِكَ يُرِيدُونَ

⁴⁵ (QS Al An’am:57)

⁴⁶ (QS Al A’raaf:54)

أَنْ يَتَحَاكَمُوا إِلَى الظُّلُوعِ وَقَدْ أُمِرُوا أَنْ يَكْفُرُوا بِهِ ۗ وَيُرِيدُ الشَّيْطَانُ أَنْ يُضِلَّهُمْ
ضَلَالًا بَعِيدًا ﴿٦٠﴾

*The mean “Have you not seen those who assert that they believe in what has been revealed to you and what was revealed before you? They desire to summon one another to the judgment of the Shaitan, though they were commanded to deny him, and the Shaitan desires to lead them astray into a remote error”.*⁴⁷

Based on this verse, it is not justified to *thaghut*, namely, every law that is not based on the laws of Allah SWT. For a Muslim, there is no other choice but to obey and submit to what is given Allah and his Messenger.

وَمَا كَانَ لِمُؤْمِنٍ وَلَا مُؤْمِنَةٍ إِذَا قَضَى اللَّهُ وَرَسُولُهُ أَمْرًا أَنْ يَكُونَ لَهُمُ الْخِيَرَةُ مِنْ
أَمْرِهِمْ ۗ وَمَنْ يَعْصِ اللَّهَ وَرَسُولَهُ فَقَدْ ضَلَّ ضَلَالًا مُبِينًا ﴿٣٦﴾

Mean: “And it behooves not a believing man and a believing woman that they should have any choice in their matter when Allah and His Messenger have decided a matter; and whoever disobeys Allah and His Messenger, he surely strays off a manifest straying⁴⁸.”

Not enough with that alone, even any inclination of a Muslim should be subject to law, are subject to Islamic Syari’ah.

Our prophet Muhammad Said: “Don’t believe someone between you guys, so the eve of his (desires) tailored to what had me sign (according Syari’ah law).”⁴⁹ Each system or man-made rules, contrary to the book of Allah and the Sunnah of the Prophet is a system *thaghut*, which had to be removed. In addition, earlier efforts should proceed with placing Islam as his successor. A Muslim is not allowed to do any act that would establish

⁴⁷ (QS An Nisaa’:60)

⁴⁸ (QS al Ahzab:36)

⁴⁹ Syekh Abdul Aziz Abdullah bin Baz, *FathulBaari Penjelasan Shahih Bukhari Syarkh Ibnu Hajar Al Asqolani*, (Jakarta : Pustaka Azzam 2003), p.289

that thaghut systems. Because the deed was done means have distanced Islam as the law of Almighty God that Haq from its application in daily life. It is not possible the laws and regulations of human will emulate what more to surpass, or even more true than on the laws of Allah SWT

And all of it according to the word of Allah SWT

أَفْحُكْمَ الْجَاهِلِيَّةِ يَبْغُونَ وَمَنْ أَحْسَنُ مِنَ اللَّهِ حُكْمًا لِقَوْمٍ يُوقِنُونَ ﴿٥٠﴾

Mean: “Is it then the judgment of (the times of) ignorance that they desire? And who is better than Allah to judge for a people who are sure?”⁵⁰

Thus the ruling in the midst of the people and individuals as well as the handling and control of the aspirations of the people and the individual is what comes from Allah, and brought by the Prophet Muhammad. The Muslims and the individual must submit to the Syari’ah. Then in Islam Sovereignty belongs Syari’ah (Islamic law)⁵¹ A head of State (Caliph) of Islam in allegiance (appointed after selected) by people not as *Aajir* (worker/ executive) that salary to carry out what had been desired by the people, the laws drafted by the people, as a bow to the head of State of carrying out their aspirations, as happened in the Western democratic system. Islam teaches us that the head of State (Caliph) was in allegiance by the people based on the Qur’an and the Sunnah of his Messenger so that he implement perfectly make the Qur’an and Sunnah, implementing syara ‘.

So instead of implementing what is desired by the people (humans)? The result can, either the people or the ruler (*the Caliph*) is subject to the law of Syari’ah. This is the meaning of the statement ‘ sovereignty belongs to Syari’ah. People should not follow the opinions or legal conflict with the law Syari’ah’, especially if he ruled in the lawsuit immoral. Vice versa the ruler will not accept the opinions of the people and implementing the

⁵⁰ (Q.S Al Maidah 50)

⁵¹.Taqiyuddin An Nabhani, *Nidzamul Hukmi fil Islam (sistem pemerintahan Islam)*,(Bangil: Al Izzah,1997) p.39

aspirasinya in their opinion it strayed from Islamic teachings and laws. If people agree to condone gambling or philandering, but the works of the kind that has been forbidden by Allah is firmly, then their agreement would not be worth the slightest Allah⁵².

A Muslim was a servant of Allah SWT. He is obliged to adjust any form of his deeds in order to fulfill orders and prohibitions of Allah SWT. Similarly, people may not have and follow his will in accordance with lust or just based on the value of 'Affairs' benefits and sheer. Because sovereignty is not in the hands of the people. Running and direct the will of the people of only Syariah'.

Developments among Muslim scholars, there are two interpretations regarding the concept of power, those⁵³;

- a. See sovereignty with emphasis on the concept of legal authority (*nomolvasi*).
- b. More likely to the concept of Islam on the country as a "Devine democracy". Muhammad Muslehuddin In contrast to the Western view that assumes sovereignty there is in the hands of the people. He argued, that in Islam sovereignty is in the hands of God ' countries in perspective of Islam, his opinion is:*Is state ruled in Devine Laws which precedeitandto who sedictatesis has ideally to conform*⁵⁴ that the right predicates for the concept of State in Islam is "nomocratic" (Islam)⁵⁵.

Nomocratic Islam is a State law that has general principles as

⁵² Ali Abdur Raziq , *Al Islam wa Ushulul Al Hukm* (Kairo, Tanpa Penerbit, 1925) p/49

⁵³ Dhalan Thaib, *Kedaulatan Rakyat Negara Hukum dan Konstitusi* , (Liberty, Yogyakarta, 2000) p. 8

⁵⁴ Muhammad Muslehuddin, *Philosophy of Islamic Law and Orientalism (A Comparative Study of Islamic Legal System)*, (Lahore Islamic Publications Ltd., 1980') p.' 57'

⁵⁵ Nomos "law ' means" legacy "power. Lihat : Tahir Azhary, *Negara Hukum Suatu Studi Tentang prinsip-prinsipnya Dilihat Dari segi Hukum Islam, Implementasinya Pada Periode Negara Madinah Dan Masa Kini*, (Bulan Bintang Jakarta 1992)p.61

follows⁵⁶:

1. The principle of power as a mandate
2. The principles of deliberation (*musyawarah*)
3. The principle of Justice
4. The principle of unity
5. The principle of the recognition and protection of human rights
6. The principle of free justice
7. The principle of peace,
8. The principle of welfare
9. The principle of people's obedience

Those principles laid out in the Qur'an and the Sunnah of the Prophet applied by. The Qur'an clearly States, "*Allah's is the kingdom of the heavens and the earth and what is in them; and He has power over all things.*"⁵⁷.

لِلَّهِ مُلْكُ السَّمَوَاتِ وَالْأَرْضِ وَمَا فِيهِنَّ وَهُوَ عَلَىٰ كُلِّ شَيْءٍ قَدِيرٌ ﴿١٢٠﴾

Has been equally understandably that the Principal Constitution 1945 embraced the tenets of Sovereignty. It is expressly formulated in article 1 paragraph (2) which States: "Sovereignty is in the hands of the people, and conducted entirely by the people's Consultative Assembly (MPR).⁵⁸ After the amendment is changed to: *Sovereignty is in the hands of the people and is exercised according to the basic law*. When examined more deeply especially with presents to consider formulation and trees thoughts contained in the preamble, UUD 1945 torso and explanation (prior to Amendment), It would seem that the UUD 1945 also embraced the tenets of sovereignty. If that sovereignty is understood as the concept of supreme power, Hence the concept of Omnipotence of God the Almighty to be formulated in the third paragraph of the opening UUD 1945 for example, it is also the concept of

⁵⁶ Ibid.

⁵⁷ (Q.S Al Maidah : 120)

⁵⁸ UUD 1945 dan Perubahannya, Amandemen I, II, III, IV

supreme power.

In the third paragraph of the opening UUD 1945, use of the term. ” *Top of the blessings of God Almighty and impelled the sublime desire, so that the ones that are free, then the people of Indonesia proclaim its independence*”⁵⁹. Whereas in the formulation of principal of state (Pancasila) which is stated in the fourth paragraph of the opening UUD 1945, the term used is, “*Believing One God* “. Similarly, the word used in the formulation of article 29 paragraph (1), is “*Believing One God*” not “*Believing not God but sovereign*”. Mean, in UUD 1945 It recognized the existence of the concept of God Almighty,’ and the Omnipotence of God Doth at once.

In principal of constitution, the ideals of divinity can be found in three formula, twice in the opening and once in the torso. While the word “religion” formulated twice, respectively in article 9 concerning the oath of Office Presidents and Vice Presidents, and section 29 subsection (2) of the freedom of religion – because it’s mind to God and religious are the two things are closely related to principal od constitution⁶⁰ If linked with the Islamic view on the country more specifically to the concept of sovereignty, the two concepts that seem no different that country’s power base in the Islamic view, as already outlined by the concept of Tauhid is based on previous and the concept of the sovereignty of God (God’s Omnipotence). With the concept of Omnipotence to God, man sued for absolute God, and with the concept of Tauhid. Humans are required to deny all forms of “God” that besides Allah and worship only the one true God as the only God. That is, with the concept of unity, all the people and all the creatures of God must be consider (relatively), not absolute therefore, in the formulation of

⁵⁹ ibid

⁶⁰ pasal 29 ayat(2) yang sering ditafsirkan memberikan dasar bagi adanya aliran kepercayaan non agama sebenarnya tidak mungkin dilepaskan dari cita keagamaan itu. Bab XI UUD 1945 yang berisikan Pasal 29 ayat (1) dan (2) itu sendiri adalah Bab mengenai Agama Karena itu, rumusan “Negara menjamin kemerdekaan tiap-tiap ‘penduduk untuk memeluk agama dan kepercayaan itu. dalam Pasal 29 ayat (2) itu, tidak dapat tidak haruslah dipahami juga sebagai jaminan kemerdekaan dalam arti positif dan jaminan kemerdekaan untuk menjalankan ibadah menurut agama yang dipeluk masing-masing itu

Pancasila, fair and civilized humanity is the formulation of the second after God to the one true God. Relations of humanity that is the consistent right from the concept principal of state and principal of constitution choices about the concept to God and the concept of Omnipotence to God.

Therefore, It is entirely proper if it is said that UUD 1945, In addition to adhering to the teachings of the sovereignty of the people, also embraced the teachings of God's Sovereignty, But God's Sovereignty here must be distinguished from the teachings of God's Sovereignty in the concept " *theocracy* " whoever appeared in the history of the West, the Western, the embodiment of theocracy in the sovereignty of God was incarnated in the person in the practice of the King (head of State) or in the interpretation of the law is ruled by the King as well. In contrast to the sovereignty of God in perspective UUD 1945 and this is precisely in Principal of State, in humanitarianism is fair and civilized, not to be Absolut all human beings. Therefore, in the relationship of State, sovereignty of the Lord incarnate in know an egalitarian popular sovereignty. Therefore, the notion of the sovereignty of God in UUD 1945 absolutely not theocratic nature⁶¹.

This means that any form of sovereignty that is most preferred in the independent in a country is how independent against People by always putting forward sovereignty of God that is based against the Quran and Sunnah as priority The Sovereignty of The Law.

⁶¹ Nurcholis Madjid, *Islam Doktrin dan Peradaban* , (Jakarta: Paramedina, 1992) p. 114

CHAPTER THREE

THINKING ANALYSIS ABOUT SOVEREIGNTY ON THE ISLAMIC CONCEPT ACCORDING TO M. NATSIR AND JIMLY ASH SHIDIQIEY

A. BACKGROUND OF SOCIAL, RELIGION AND POLITICS MUHAMMAD NATSIR

1. BACKGROUND OF RELIGION M. NATSIR

Muhammad Natsir is a scholar, theologian, great politician. A great figure who has a *Datuk Sinaro Panjang* title, was born in Jembatan Berukir, Alahan Panjang, Solok, West Sumatra on Friday the 17 Jumada Akhir 1326 H, coinciding with the date of July 17, 1908 from a mother named Khadija. His father was Mohammad Idrus Sutan Saripado, an employee who was a clerk in the Office of the controller in Maninjau. In 1918 he moved from Alahan Panjang to Ujung Pandang as warden. Muhammad Natsir has three siblings: Yukinan, Robiah, and Yohanusun. In his birthplace, he passed through periods of religious socialization and intellectual. At the age of eighteen (1926), he wished the incoming lower school Netherlands (HIS). His desires failed because he was only a child of a lowly employee. He entered the school of particular *adabiyah* HIS in Padang⁶².

During the first five months in the field, he passed through life with struggle. He is cooking rice, washing his own clothes, and look for firewood on the beach. This condition raises awareness of self, the consciousness that happy is not located on the luxury and State of the versatile enough. Happy a lot more satisfaction out of a heart that is not depressed and non, dare tackle the difficulties of life, do not succumb to life, do not despair, and believe in the power of self. Later, he moved

⁶² Scholichin Salam , *Wajah Nasional* , (Jakarta : Pusat Studi dan Penelitian Islam)

to Solok, and this is where he first learned Arabic and studied the Fiqh to Tuanku Mudo Amin in the afternoon and evening. In this *madrasah diniyyah* (Islamic School), M. Natsir with his Arabic language skills, as well as his encounters with the renewal of broad aims are accompanied by about renewal, causing intensive involved in cultivate Natsir ideas and thoughts they are in a relatively young age⁶³.

In 1927, he continued his studies at the secondary level to the MULO (Meer Middle Lager Onderwijs), Padang. In addition, he also attended lessons given by Haji Abdullah Ahmad. In addition, M. Natsir was also active in the Pandu National Islamitische Pavinderij activity.⁶⁴

Afterwards, he continued his formal education to Algememe Midelbare Afdelling School (AMS) in Bandung. This is where Natsir got interested in studying Islam and learning directly to someone famous for his name Ahmad Hassan, founder of Islamic Unity (Persatuan *Islam*,) which he admitted greatly influenced his mind. He was also active in the Theosophical Jong Islamitien Bond (JIB). An advantage for m. Natsir got to hang out with national figures such as Hatta, Prawoto Mangunsasmito, Yusuf Wibisono, Tjokroaminoto, and Moh. Roem. In addition, the school also began acquiring M. Natsir Western science. He studied many aspects of the history of civilization, such as Islamic, Roman, Greece, to Europe via Arabic books, French, and Latin. From this Natsir started their earnestness in formulating conception about Islam and its history through Western⁶⁵.

After completing studies at AMS, Natsir not continuing his studies, he turned down a scholarship for him. Natsir later prefer to teach religion at one of the MULO in Bandung. This reality is calling his soul

⁶³ Ibid

⁶⁴ Nasution S, *Sejarah Pendidikan Islam di Indonesia* ,(Jakarta, Bimi Aksara ,1995

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⁶⁵ Yusuf A Puar, *70 Tahun M Natsir: Kenang Kenangan Kehidupan Perjuangan*, (Jakarta: Pustaka Antara)

to teach religion at that time not yet adequate. Natsir then established Islamic Institutions, a form of modern education that combines general education curriculum with education boarding school. Natsir served as director of Islamic Education for ten years since 1932⁶⁶.

The Islamic movement initially focused on the struggle to get *furu'iyah fihiyyah* and Islamic ideological and political struggle. At the same time, in the year 1938, M. Natsir began active politics by registering himself became a member of the *Islamic Party of Indonesia* (PII). He served as Chairman of the PII Bandung on 1940 until 1942. During the occupation of Japan, the Government of the country Sakura felt the need to embrace Islam, then a *Majelis Islam A'la Indonesia* (MAI). In its development, the Assembly is transformed into an Assembly of *Shura* Muslim Indonesia (Masyumi) precisely on 7 November 1945 as well as delivering M. Natsir as one of its leader.

2. M.NATSIR POLITICAL CAREER

During the Japanese occupation (1942-1945), Natsir served as head of the Bandung municipal education department. In the position as head of the Department of Education, Natsir co-founded the Islamic High School (STI) in Jakarta. In the early days of the independence of Indonesia, Natsir appears to be wrong a politician and leader of the country. At first he was a member of the National Committee of Indonesia work Center (1918), later became the Minister of information of the year 1946-1948. Political career eventually Natsir reached its peak when he was sworn in as Prime Minister of Indonesia (1950-1951).

His appointment as Prime Minister was reasonable considering the consequences of his position as Party Chairman of the Muhammadiyah, Indonesia's largest political party at the time. Therefore the existence of Natsir in Muhammadiyah has brought new nuances to the struggle

⁶⁶ Ibid

of Muslims against the interests of the religious, political, economic, and social. Natsir lead Masyumi as General Chairman, beginning in 1949 until 1958, two years before it was disbanded. Natsir played nine years for his role in the Banned Islamic party as the largest in the scene of politics in Indonesia. As a leader of political Islam, Natsir maximum has been giving the whole effort and his thoughts for the benefit of Muslims, Indonesia and all the people of Indonesia⁶⁷.

In addition, the day's top Government, Natsir as Prime Minister, nor its strategic step in spite of the put forward Motion in the Parliament of the Republic of Indonesia United (RIS) on April 3, 1950, better known as Natsir Integral Motion. A motion that is what allows RI that had split asunder into seventeen State, back to being a unitary State of the Republic of Indonesia (SO). The history of the nation of Indonesia is inseparable from integral Natsir, Motions and by some politicians considered the proclamation after the August 17, 1945. It is not easy for Natsir reason as General Chairman of Muhammadiyah, he had to repeatedly hold approach to the various parties and the power of the moment. During his Office as Prime Minister a range of policies issued by Natsir everything aims to build a democratic Government and a stable economy life in improving the people's welfare. Political activity Natsir who cannot be overlooked is the debates that he did in the trial Assembly 1956-1959 year. The debates that relate to an attempt to make Islam Natsir as the basis of the State and at the same time rejecting various other ideologies, such as nationalist, Socialist, and to serve as the basis of Pancasila State. Ideas that leveled Natsir in various meetings, the Assembly reaffirms its involvement in efforts to build a democratic political system based on the Sharia. Despite the inevitable, that with the failure of the constituent Assembly which later gave birth to the guided power under President Soekarno, leads

⁶⁷ Moh Mahfud M.D, *Demokrasi dan Konstitusi di Indonesia , Studi Tentang Interaksi Politik dan Kehidupan Kenegaraan,*(Jakarta, Rineka Cipta)

to the he dissolved of the Islamic political party of Masyumi Banned in 1960. Natsir's career as a politician is experiencing ups and downs. Opposition position against President Sukarno in the guided democracy (1950-1959), and the communist stance that hard, encouraged him to join the dissidents, which was originally driven by the Commander of the military region commander-. The opposition has finally spilled over into armed unrest, after they formed the PRRI crippled militarily by the Central Government. After receiving an amnesty from his involvement in PRRI, Natsir was apparently detained by the Soekarno government under subversive charges. For seven years he has been in custody without judicial process. Natsir was released by the new order Government, sometime after President Sukarno fell⁶⁸.

3. THE IMPORTANT WORK OF M.NATSIR

When the Government of the new order appears in the year 1967, Nasir was not got a place and position in the Government. Natsir shifts his struggle strategy to *da'wah* activities. This strategy then gave birth to DDII (Indonesian Islamic Da'wah Council) on February 26, 1967. The courage of the new order Government corrects Natsir with join 50 signed a petition, dated May 5, 1980, resulted in his blocked abroad without passing through court proceedings. Political attitude Natsir most of his life, is the support of the United Development Party in the 1992 elections. In addition, because of the support and ideas Muhammad Natsir received numerous international awards, among them: beginning in 1967 he was appointed a Vice President of the World Congress, with its headquarters in Pakistan and a member of the body of the founder of *al-rābiṭah al-`Ālamiyyah al-Islāmiyyah* based in Saudi Arabia. The year 1980 he received awards from the Governments of Tunisia and Saudi Arabia King Faisal Foundation top of his devotion towards the Muslim world. In the academic world, he

⁶⁸ Yusril Ihza Mahendara, *Modernisme Islam dan Demokrasi : Pandangan Politik Muhammad Natsir*, (Majalah Islamika No. 3 Edisi Januari – Maret)

received a Doctorate of *Honoris Causa* (HC) of the Lebanese University (1967) in the field of literature. Whereas in the field of Islamic thought, Nasir also received degrees from Malaysian National University and Malaysian Technology University⁶⁹.

Other than in politics and education, he also actively contributed his thoughts through his writings in the form of books and articles published in magazines and tabloids. Among the works he has among other things, Islam as an Ideology, Islam and Resourceful Independence, Basis of Our Religious Beliefs, Unifying the Muslims, *Capita Selecta* I and II, Islam as the Foundation of the State, and much more. The papers showed that he has the attention to Muslims. His motivation is *amar ma'ruf nahi munkar* (telling goodness and preventing evil), reminding each other, and guiding the human beings.

B. BACKGROUND OF SOCIAL, RELIGION AND POLITICS

JIMLY ASH JIMLY ASH SHIDDIQIE

1. BACKGROUND OF RELIGION JIMLY

Prof. Dr. Jimly Asshiddiqie, S.H. name is no stranger in the ears of society Indonesia, especially for legal observers. The name is known as the old legal academics. Expertise in the field of the law of State administration was not only recognized at his alma mater, the University of Indonesia, but also in environmental legal expert's attempt to Indonesia. His name continues to skyrocket when the Constitutional Court (MK) stand. He is the first person believed to have served as Chairman of the Constitutional Court. His role as Chairman of the Constitutional Court has put him and his agency as the last door to seekers of Justice Subject Constitution in Indonesia⁷⁰

⁶⁹ Thohir Luth, *M. Natsir Dakwah dan Pemikirannya*, (Jakarta : Gema Insani Pers 1999)

⁷⁰ Zaenal Abidin, *Setengah Abad Jimly Ashshiddiqie: Konstitusi dan Semangat Kebangsaan*, (Jakarta: Sumber Agung, 2006), p. 27

He was born in Palembang about 61 years ago, or rather April 17, 1956. The impression of luxury living is indeed far from families residing in the hamlet of Ogan Komering Ulu, Baturaja. Further, as a teacher, Jimly just barely income only. Therefore, besides teaching, he also farmed. Not enough with that, H. Asmuni Almansur still try their luck with established business packaging plastic wrap. Press machine equipment yet so sophisticated that time plastic-plastic, so it's just glued together with beeswax. Jimly that brought him early in the morning to the market. There, the seller of bread already waited for him.⁷¹

Hence although the youngest, spoiled attitude far removed from everyday life Jimly. Even otherwise independent living and hard work have become a daily menu of his childhood. Every day small Jimly wake up at 5 in the morning, extend powerful bike to market and sell the plastic wrap to artisan-bakers. Finished selling, he went to al-Madrasah al-Ibtidāiyyah (Islamic Elementary School). Since the end of MI to step on the school in al-Madrasah al-Tsānawiyah (Islamic Junior High School), this morning's routine was never abandoned.⁷²

2. JIMLY POLITICAL CAREER

Jimly indeed known as the figure who could not stop learning. His interest in the issue of the law and the Constitution be read in a number of studies that employed together with legal experts in the State administration and abroad. The father of four children also became Professor extraordinary of law science at the Faculty of law, University of Sriwijaya (Palembang), University of Muhammadiyah (Jakarta), al-Syāfi'iyah Islamic University (Jakarta), Indonesian Islamic University (Yogyakarta), and Riau Islamic University, in addition to wander in science, he also travelled the country to various. Well as research participants, speakers, delegates to the State, as well as in the framework of research. Start of training on peach research

⁷¹ Ibid, hal. 28

⁷² Ibid, hal. 28

at United Nations University, Tokyo (1985), Indonesia's delegation at the Council of the UNESCO, Paris (1994), to get an invitation from the Department of States, USA, to conduct comparative studies on "Education in the United States". Later in series, becoming a member of Indonesia's delegation at the Council of SEAMEC (South east Asia Ministry of Education Conference, Cambodia) (1995), participants Visiting Research School of Law, University of Washington, Seattle, USA (1989), Indonesia's delegation to the Council of SEAMEC (Kuala Lumpur 1996), Also participants of post-graduate summer Refreshment Course on Legal Theorist and Legal Philosophy Program of Instruction for Lawyer, Harvard Law School, Cambridge 1994. Members of the delegation of Indonesia to COMSTECH Session (Committee on Science and Technology), the organization of Islamabad, Pakistan (2002)⁷³.

Legal experts of the academic achievements of state, the country achieved when believed to be Full Professor of legal science faculty of State Administration Law in 2000. Not only should serve at his alma mater, Jimly else divides his time became an extraordinary Professor of legal science at the Faculty of law University of Sriwijaya, Palembang; Muhammadiyah University, Jakarta; Al-Syafiiyah Islamic University, Jakarta; Universitas Islam Indonesia, Yogyakarta; and the Islamic University, Riau. He completes his journey with a variety of Office, he had been an expert staff of the House of representatives (1988-1993), the Council of defense and national security (1985-1995), Senior Scientist BPP law technology (1990-1997), and the National Research Council Minister (1996-1998), He also helps a lot Depdikbud, including in the field of law and administration of education Depdikbud (1993-1998), Working Group On Policy Development Of National Education (1994-1998), and LinkandMatch Policy Steering Team in College (1995). Ketua Dewan Pakar Ikatan Cendekiawan Muslim Indonesia (2002 -

⁷³ Jimly AssShiddiqiey , *Hukum Tata Negara dan Pilar Pilar Demokrasi*, p. 284

Now). Assistant Vice President RI field people's welfare and poverty alleviation (1998-1999). Vice Chairman of the Board of Trustees of fields of cooperation The Habibie Center (2000 - Now) he entrusted the responsibility of enforcement of Security Council Secretary and the national legal system of Indonesia (1998 - 1999) chaired by President B.J. Habibie. The man who reformed the principal constitution 1945 this RI. Once the ad hoc Committee of experts team 1 and II working body at MPR RI (2001-2002), Academic Investigations and Team Chairman Changes UUD 1945 Babinkumnas The Ministry of Justice and human rights (2001), and the leader of the team of national law reform towards civil society and became in charge of the Panel of experts in the Secretariat of State Constitution Update RI (1998-1999). Chairman of the Board of the Association of Law Teachers and the State administration of State Administration Law (2000- Now), He was also once an advisor Staff Expert of the Secretariat-General MPR RI (2003). And now as Chairman of the Constitutional Court of the Republic of Indonesia⁷⁴.

3. THE IMPORTANT WORK OF JIMLY

Jimly Asshiddiqie can be classified as a productive scholar. In the midst of the rush of his busy life, as an academic he took the time to write a book. There have been 23 books written about the law, amendments to the 1945 Constitution, education, and others. His hobby of writing was increasingly canalized when he served as Chief Justice of the Constitutional Court. The results of his reflections and thoughts on the constitution he published simultaneously through a professionally managed publisher. There were 9 books on the constitution which had been published since he was the Chief Justice of the Constitutional Court. In the course of his life around 60 years there have been many scientific works in the form of articles, papers, and articles which have been recorded and others. Until now the scientific works that have been

⁷⁴ Ibid

published are more than 43 books, and the following is the work of Jimly Asshiddiqie which the author has summarized in such a way:

1. *Constitution and Constitutionalism Indonesia* (2011). This book is written by the author for the study of discourse on the science of law with the description of the melee in the theory and practice of the science of law. The Constitution is the law of the higher or even most high and most fundamental nature, because this Constitution is the source of the legitimacy or the authorization form the cornerstone of legal forms and laws of other invitation, in accordance with the principle of the universal laws, regulations which are promoted under the Constitution can be valid and enforced and must not be contrary to the higher law. Modern Constitutionalism principle anyway regarding the limitation of powers (Limited Government), constitutionalism set of two interconnected relationships to each other. The relationship between Government and citizens and the relationship between Government institutions government institutions with one another.
2. *The law of the State administration and the pillar of democracy* (2004). This book suggests a series of important and valuable and ideas as well as the State administration law about visionary which are significant influenced the development of democracy in Indonesia, when a map image of law of State administration, the media, and human rights look, he later responded in the form of grains of thought and accumulated in the pillar of the pillars of democracy that can be when in line with the rule of law, and is the reciprocal of good law enforcement, push towards the realization of the State democratic.
3. *towards a democratic Law State* (2009). This book contains a variety of thoughts and views of Prof. Jimly Asshiddiqie S.H., former Chairman of the Constitutional Court on the issue of constitution issues, laws, and attempt, as well as the problem of the nationality

problems and Islamic written critically, comprehensive, contextual, and visionary. One of the visions of Prof. Dr. Jimly Asshiddiqie illustrated clearly that as a contribution in the Organization of the system State building effort and format of national life and community we are geared towards the realization of a democratic State of law. The implementation of the 1945 Constitution as a national constitution is not only the responsibility of the state or government, but also all citizens and all components of the nation. For the 1945 Constitution, it must be a public discourse in various aspects of national and state life. For this reason, the 1945 Constitution must be a public discourse in various aspects of national and state life⁷⁵.

4. *Introduction to the State Administrative Law* (2013). This book is an introduction to the law of the State which describes the General State Administration Law and the law of the State administration. The explanation begins in a comprehensive manner from the side of the definition, the method up to the shift in the orientation of the scientific pattern of occurring in the field of the law of the State in its development in Indonesia⁷⁶.
5. *A matter of Law in Indonesia* (2014). This book describes in full and critical the eight issues of law, namely the norms and decisions of law, the form of laws, material legislation, and the language of the law, the procedures and administration of legislation, and the authority of abundant legislation. This book also presents a scientific and comprehensive range of aspects of the law and encourages the emergence of new inspiration and ideas to improve the quality of laws for the progress of the nation and state⁷⁷.

⁷⁵ Jimly AshShiddiqiey, *Menuju Negara Hukum Yang Demokratis*, (Jakarta : PT Bhuna Ilmu Populer, 2009) p. Vii

⁷⁶ Jimly AshShiddiqiey, *Pengantar Ilmu Hukum Tata Negara*, (Jakarta: Rajawali Pers, 2013) p. V

⁷⁷ Jimly AshShiddiqiey, *Perihal Undang-Undang di Indonesia*, (Jakarta, Rajawali Pers, 2014) p. V

6. *The law of the State Administration* (2008). This book is written by intended to elaborate in a comprehensive manner, sharp and visionary things about the State of emergency from the perspective of legal governance that is essential is understood by the Organization of the State, academia, practice of law and citizens. In practice, in addition to state the conditions of countries in a State of abnormal (emergency) that requires its own settings so that the country can continue to functions works effectively in the midst of an emergency, but it can be addressed without damaging the principle of democracy and the ideals of the State law⁷⁸.
7. *Green Constitution* (2010). This book was written in order to understand the basic conceptual basis will be the issue of environment and sustainable development. In addition, we will discover the relevance Basic Law 1945 as the supreme law of the land, who initiated the concept of the sovereignty of the environment by democracy and monarchy⁷⁹.

C. THE SOVEREIGNTY CONCEPT ANALYSIS ACCORDING TO M.NATSIR

1. THE SOVEREIGNTY CONCEPT

According to M. Natsir, the independent contained in the democratic system. Thus, the independent and democracy is a system that is fit and in accordance with Islam and the reality of society Indonesia. The independent, however, have to do with holding to Sharia norms and does not go beyond the provisions that have been ordained by God. Depart from this assumption, as such, the concept of independent sovereignty is making all aspects of especially the people that sovereignty in more appropriate to be called by the term *theistic*

⁷⁸ Jimly AshShiddiqiey, *Hukum Tata Negara Darurat*, (Jakarta : Rajawali Pers , 2008) Hlm 08

⁷⁹ Jimly AshShiddiqiey, *Green Constitution*, (Jakarta : Raja Grafindo Persada, 2010)

democracy.

The background of the use of the term *theistic democracy* is motivated by two views;

1. Islam does not recognize the concept of absolute people's sovereignty as adopted in the West, in the sense that all political decisions are left entirely to the will of the majority of parliamentarians, whereas in Islam, not all problems are discussed in parliament. Issues that will be decided are only those that relate to the problem that the decision has not been explicitly found in the text (Nash).
2. Islam does not recognize the theocracy system, where a government is ruled by a priesthood (priesthood system), which has a hierarchy (level) and considers the ruler as God's representative on earth. Therefore, in a strict expression, Natsir states that sovereignty in Islam is an understanding and has its own characteristics. Islam is not a hundred percent democracy nor is it a hundred percent theocracy.⁸⁰

M. Natsir is groups including the Democratic accept ide originating from the West, however, he did not accept fully the concept of Western democracy, but the concept of coloring with Islamic values.

According to M. Natsir in Islam there are also democratic principles as in Western democracy. On the other hand he admits the existence of differences between the Democracy of Islam with Western democracy, especially about the independent. In the most important way of Western democracy in the independent State is to make people as hands the powers of sovereignty and that the mandatory existence of absolute or highest power authorities fully to make law and determines the laws of the What legislation will be made and it was decided, All forms of decisions issued by the Tribunal be a provision that must be run. But the people's authority in Islam is not Absolute as in the nature

⁸⁰ M.Natsir, *Capita Selecta 1*, Bulan Bintang , Jakarta

of Western democracy, but bound by the provisions of Sharia which adopted by Muslims⁸¹.

The expression of Muhammad Natsir, seen that the opinion is not the adherents of Islam democracy Natsir 100% and not 100% theocracy also, thus Islam is Islam.

Muhammad Tahir Azhary an Islamic scientists who agree with the view that Islam was not the Natsir 100% theocracy, because according to Azhary theocracy as defined in Oxford Dictionary, is “*a form of Government in which God is recognized as the King or ruler of the direct*”, a political system that is only valid in the European middle ages. Islam is the synthesis between democracy and autocracy. Although Natsir was known as a true Democrat and supporter of democracy, he still supports the sovereignty of God.⁸²

Cannot be said whether or not he democracy or theocracy, because everything is set up properly in Islam (whether it was related to political, social, economic, etc.) and Islam is the backrest for his people not otherwise. As well as Islam is the religion that flexible that can keep up with the times, and have proven it matches from the first time the revelation in the times of the Prophet Muhammad to the present. Because in Islam just arrange things common, as for the explanation or legal details done or left to the man or the expert who lived in the time of the road *Ijtihad, Ijma', Syura* and so on, which all World Affairs submitted to humans as long as that is true according to the Quran and the Sunnah of the Prophet and not contrary to Syari'ah.

At least that's presumably who became the cornerstone of any Muslims, including how to think Muhammad Natsir. While holding to the Quran and Sunnah and Syari'ah is not incompatible with human freedom in thinking given to uphold and enforce the laws of God on

⁸¹ Ibid

⁸² M. Natsir, *Agama dan Negara dalam Perspektif Islam*, (Jakarta: Penerbit Media Dakwah, 2001), p. 90

Earth. Because the model of democracy can be adjusted according to circumstances where Muslims are, for reasons of the *ijtihad* has an important role within the community.⁸³

In other words the sovereignty is in the hands of the people as God's mandate to them. According to him the most God Natsir sovereign, sovereign above all earthly sovereignty-sovereignty. But according to Natsir implementation of sovereignty should be done based upon Syari'ah norms and does not go beyond the provisions that have been ordained by God. The idea of *Theistic Democracy* are explained by Muhammad Natsir in the constituent Assembly:

“What is now the State-based right of Islam like that one country theocratic? Theocratic is a State system in which the Government is ruled by a single priesthood (ecclesiastical systems), which has a hierarchies (multilevel level) and run that as the representative of God on Earth. In Islam is not known priesthood kind of thing. So the country is not an Islamic State based theocratic he state of democracy. He “neither secular as I describe it first. It is the democracy of Islam. And if indeed, the brother of Chairman, peoples wishing to give a common name also, so perhaps a State based on Islam could be called Theistic Democracy”.⁸⁴

In view of the need for sovereignty Natsir, tailored to Islamic values. Because basically, the Islamic Sharia has to contain the principles of sovereignty. Nevertheless, the principle of sovereignty in Islam have differences with the Western version of the sovereignty principle.

In the principle of the sovereignty of the West, the people's power is absolute power and the people holding the supreme power. The people through Parliament is fully authorized to make laws. Any decisions issued by the Tribunal be a provision which should be run,

⁸³ Masykuri Abdullah, *Demokrasi di Persimpangan Makna: Respon Intelektual Muslim Indonesia terhadap Konsep Demokrasi*, (Yogyakarta: Tiara Wacana, 1999), p. 85.

⁸⁴ M. Natsir, *Agama dan Negara dalam Perspektif Islam*, (Jakarta: Penerbit Media Dakwah, 2001), p. 220

even though it was contrary to the benefit of mankind as a whole.

But in Islam, people's sovereignty is not absolute in nature as in the concept of the sovereignty of the people of the West, but are bound by the provisions of Sharia which adopted by Muslims. This is the popular sovereignty that are in line with the Syari'ah combining popular sovereignty with the sovereignty of God. This is called *theistic democracy*.

As for the definition of *theistic Democracy* expressed by Muhammad Natsir is that ideas of Islam in a country can accept secular norms (*reason, intuition, experience*), then equip it with Islamic relegation. According to researchers and also saving as written by *Dr. Muhammad Iqbal, M.Ag. And Drs. H. Amin Husein Nasution, MA.*

In his book, political views Natsir is closer to *Muhammad Abduh*. And at least there are some basic principles about the concept of democracy, among others, Muhammad Natsir;

- a. Tauhid
- b. Adherence to the law
- c. Tolerance
- d. Islamic democracy is not limited by geographical region, race, skin color and language
- e. Ijtihad
- f. Protecting minority groups
- g. Syura (deliberation).⁸⁵

Democracy according to m. Natsir as described above is a system that is approaching what is referred to in Islam as *syura (delibration)*, and in the view of m. Natsir formula of modern democracy closer to the principles *syura (delibration)* in Islam, as has been demonstrated in by the Prophet Muhammad and his companions.

⁸⁵ A.M. Fatwa, *Demokrasi Teistis: Upaya Merangkai Integrasi Politik dan Agama di Indonesia*, (Jakarta: Gramedia, 2001), p. 246

As for the principle of *syura* that's the intent and accentuated by Muhammad Natsir was noted in the Qur'an as contained in the word of Allah:

وَالَّذِينَ اسْتَجَابُوا لِرَبِّهِمْ وَأَقَامُوا الصَّلَاةَ وَأَمْرُهُمْ شُورَىٰ بَيْنَهُمْ وَمِمَّا رَزَقْنَاهُمْ يُنْفِقُونَ



Mean: "And those who respond to their Lord and keep up prayer, and their rule is to take counsel among themselves, and who spend out of what we have given them".⁸⁶

فِيمَا رَحْمَةٍ مِّنَ اللَّهِ لِنْتَ لَهُمْ وَلَوْ كُنْتَ فَظًّا غَلِيظَ الْقَلْبِ لَانفَضُّوا مِنْ حَوْلِكَ
فَاعْفُ عَنْهُمْ وَاسْتَغْفِرْ لَهُمْ وَشَاوِرْهُمْ فِي الْأَمْرِ فَإِذَا عَزَمْتَ فَتَوَكَّلْ عَلَى اللَّهِ إِنَّ اللَّهَ

يُحِبُّ الْمُتَوَكِّلِينَ

Mean: Thus it is due to mercy from Allah that you deal with them gently, and had you been rough, hard hearted, they would certainly have dispersed from around you; pardon them therefore and ask pardon for them, and take counsel with them in the affair; so when you have decided, then place your trust in Allah; surely Allah loves those who trust.⁸⁷

At least two verses of the Quran is to be the cornerstone of Muhammad Natsir in his thinking about the concept of democracy that he convey.

The concept of democracy is seen that Muhammad Natsir can't separate his thoughts away from religion and divine values adhered. Muhammad Natsir stated;

"As a Muslim, we should not break away from politics. As a political, we can't escape from our ideology, namely the ideology of Islam. For us,

⁸⁶ (Q. S As Ashura : 38)

⁸⁷ (Q.S Al Imron :159)

enforcing Islam could not release from enforcing community, enforce and uphold the independence of the State “. His thinking is increasingly insists on the principle of *syumuliah* in Islam that put the lack of understanding of the concept of separation between religion and politics or separation between the life of the world and the hereafter.”⁸⁸

Islamic democracy based on freedom *rohaniah individual*. No one has a divine right to rule, nobody was chosen by God as a special tool for expressing his will, so that he is free from errors or mistakes. Even a prophet, nor do they have the right, because the Prophet just Messenger of revelation from God to mankind. According to Islam, all people and all Nations God’s chosen man is equal. All men equally enjoy the grace of God. All were awarded the mind and heart, were all given the same equipment to develop the physical and spiritual. Use of the gift and the grace of yesteryear, as well as the application of precisely upon these tools will bring blessings. This applies to the whole of humanity, without differentiating race, region, and national anthem.⁸⁹ That distinguishes human beings before God is only the worship as well as good.

More specific, the values of sovereignty in to accommodate by Islam to the people so that the right to criticize, rebuke, and correct the tyrant Government. When criticism and rebuke is not adequate to warn the Government, then Islam entitles people to eliminate the terrors it with specific actions. This is as it has ever been ordered by the Prophet Muhammad. “*Tell the truth against the tyrant ruler. “When asked by someone,” is that the best jihad?* (HR. Nasai’)

In addition, in other occasions, m. Natsir revealed that sovereignty in Islam it means that anti-Islamic authoritarianism, absolutism, and arbitrariness. Sovereignty in Islam does not mean non-free as free peoples determine or approve any policy. The people’s

⁸⁸ M. Natsir, *Agama dan Negara dalam Perspektif Islam*, (Jakarta: Penerbit Media Dakwah, 2001.

⁸⁹ *Ibid*, hal. 223

sovereignty must be in accordance with the principles of Islam. Thus, the people no longer need to freely determine whether prostitution is legal or not stated. So, this matter is something that is expressly prohibited by Islam. Furthermore, sovereignty, in this case it means, that the people in power to decide the ways or methods from which to run all of Islamic values in life. With the redaction of the other, the sovereignty of the people's freedom, according to meaningful Natsir in determining technical matters in order to apply the teachings of the religion or mundane matters that do not yet exist or not exist together in the teaching of religion.

In order to implement the people's sovereignty, the methods used in order to determine policy is with deliberation. In this case, the people's sovereign and have the freedom to choose its representatives to accommodate the interests and aspirations in Parliament.⁹⁰ In addition, the independent also reflected his freedom in selecting the head of State. In this case, Natsir do not require heads of State called by the Caliph. The head of State be called priests, or-the believers, or the President, or the like. Nevertheless, the head of State appointed by the people must be good religion, attitude, their ways, uniting, and according to what the Islamic wills.⁹¹

2. SOURCE OF SOVEREIGNTY

The role of the people in the country, according to Mohammad Natsir ideals of a Muslim is to be a servant of God in the sense that entirely, glory and victory in the next. As in the *Adz Dzariyaat ayah 56*

وَمَا خَلَقْتُ الْجِنَّ وَالْإِنْسَ إِلَّا لِيَعْبُدُونِ ﴿٥٦﴾

“And I have not created the jinn and the men except that they should serve me.”

⁹⁰ Agama dan Negara, hal. 86

⁹¹ Ibid, hal. 86

Worship to Allah that's the purpose of human life, this means that in every activity we live in the world must be focus of worship unto God solely with live and organize all the facets and aspects of life in this world is born of inner in accordance with divine will, both as individual people in relationship with God and as a member of the community in relation to our fellow human beings.

Thus for a Muslim, life in this world and the hereafter that cannot be separated. For it was Allah SWT. Has given a wide range of rules regarding the relationship between fellow humans in the form of norms relating to rights and duties to the person or who is referred to as a State of affairs. The religion of Islam, according to Mohammad Natsir is not only Affairs of worship, like Prayer and fasting, but includes all of the rules and *hudud* (limit) in *muamalah* (Association) in the community, and everything is laid out in the Qur'an and As-Sunnah.

In the running of Government, heads of State get a mandate from the people to carry out their wishes in applying the teachings of the Quran and Sunnah of the Prophet. While people have the right to supervise and evaluate the activities of the Government if he runs on the right path or not. The people have a right to criticize his Government and in time when the Government is still conducting policies that deviate from the guidance of Al Quran and Sunnah of the Prophet, the people can drop the sanctions on his Government⁹².

According to Mohammad Natsir source of authority and legitimacy of power is God Almighty. Legitimacy of all power in return to God Almighty as a primary source. In the meantime, in view of the nature of secular, political power is returned to the people who are known by the term *Vox Populer, Vox Dei* (Voice of the people is the voice of the Lord), so the people are the source of supreme power. Such a system of Government is realized through the form of a Republic which States that sovereignty must be returned ultimately to the will of

⁹² Mohammad Natsir. *Capita Selecta*. (Jakarta: Bulan Bintang1954).

the people is a source of supreme power. Such a system of Government is realized through the form of a Republic which States that sovereignty must be returned ultimately to the will of the people.

Islam according to Mohammad Natsir may accept the Republican form of Government as long as the will of the people is still in accordance with the guidance contained in the Qur'an and the Sunnah of the Prophet⁹³. If contrary to the truth and divine revelation then decisions already desired one hundred percent of the people in view of Mohammad Natsir should be firmly rejected and combated. So even though Islam accept deliberation, democracy and the Republic but which became the main runway to run Government is the absolute truth that comes from the Allah SWT and guidance given by the Prophet.

The role of the people in the country, according to Mohammad Natsir not only to determine the direction and policy in the country but since the formation of the State itself is due to the people's wishes in order to ensure the regularity of the divine law so that it can runs well. So even though the role of the people in those countries is very great, but in Secular Democracy does not recognize Islam as in practice by the Western countries, he thought He was Muslim democracies or called with *Theistic Democracy*, Democratic governance is a Divine.

In a system of Government like this is simply God's sovereignty and mankind is solely as a Caliph or leader whose task is to administer and enforce the orders from holders of sovereignty, as has been said by Mohammad Natsir against Pancasila as the ground State "...*It is not a recognition of God's sovereignty with all its consequences over which admit with all forms of obedience to divine law positive*"⁹⁴.

So the nature of the authority of the leader is not inherent but delegated to man, he is not free to do whatever he wants, but it must act

⁹³ Mohammad Natsir, *Islam sebagai dasar Negara* (Bandung : Segarsy, 2004.)

⁹⁴ Sadjali, H. Munawir. 1990. *Islam dan tata negara, ajaran, sejarah dan pemikiran*. (Jakarta: UI Press)

in accordance with the guidance of Allah. Through the guidance of Al Quran and the example given by the Prophet.

3. THE PURPOSE OF SOVEREIGNTY

The independent goals contained in democracy is the perfection of the enforcement and application of the teachings of the Lord.

“Country for us is not a destination, but a tool, the Affairs of State in anyway and basically an inseparable part, which became the goal of perfection is the enactment of laws Divine, both related to this mortal life fairy and relating to life later in the afterlife.”⁹⁵

With the statement, m. Natsir wants democracy. This means that the democracy with the principle of popular sovereignty, in addition to aiming to steer the political into the procedural mechanisms of law, democracy also aimed so that the Government can realize the enactment of the divine laws, both related to human life as an individual or as a member of society.

The purpose of popular sovereignty which align between the life of the world and the hereafter, not always means using the State religion or theocracy. With realistic properties owned by popular sovereignty, then the most appropriate place for the seedbed is a form of popular sovereignty of the Republic.

4. SOVEREIGNTY RELATION BETWEEN ISLAM AND INDONESIA

As a Muslim, Natsir holds that the idea of indirect sovereignty has been taught by the Quran and Sunnah, then preserved by the companions, the Caliphate, and Islamic leaders in the past. They have been put into practice and demonstrate a system of democracy and popular sovereignty in its authority respectively. Even Prophet Muhammad was himself a figurehead who private model examples of

⁹⁵ ibid

living democratically.⁹⁶

In the history of the outbreak of the battle of Uhud the Prophet to see that put into practice the principle of sovereignty. When news of the threat that the Quraysh were on hand at Uhud, the Prophet Muhammad. The affair has given to the people through the deliberations. In the end, the decision was taken so that survive in Medina.

Natsir rejects opinion about separation of religion and State. In view of the Natsir, religion and State must be fused, cannot be separated. This statement is a reaction against the harshness of the views expressed by the then supports the idea of secularization made by Kemal Attaturk in Turkey. President Sukarno argued that the separation between religion and State will make both can thrive. Whereas in view of the Islamic concept of having Natsir, setting State, although in the form of a fundamental framework. Islam governs all aspects of human life, including social issues, politics, economics, and culture.

Further, Natsir holds that the country is not a goal, but rather a State of affairs that tool is one thing integrative with religiously. This is an affirmation of who delivered the country's position with regard to Natsir in the religion of Islam. With the integration of State and religion is inseparable, Islam makes the country strong, fertile, and became the main intermediary to achieve the purpose of human life, as well as achieving the well-being of individuals and society.

In the context of as Indonesian's, so tight relations with socio-religious community, then there is no provision regarding the raw form of Government. Therefore, Muslims should follow the example of the systems of governance that has existed and has been applied by other countries. However, these systems do not conflict with the teachings of Islam have a vision that aligns with the vision of Islam. With regards to sovereignty, democratic system is a system that has a tendency in common with the Syari'ah of Islam. In a democracy

⁹⁶ Pak Natsir 80 Tahun, hal. 135

based on popular sovereignty, the Government and the country can guarantee the people's rights within limits allowed by Islamic Sharia. Meanwhile, in view of the realization of popular sovereignty in fact comes from the sovereignty of God, because the people congregate and socialize according to religious rules are adhered to. Tahir Azhary says that the right predicates for the concept of State in Islam is nomocratic (Islam)⁹⁷. While the nomocratic Islam is a State law that has a general principle as follows⁹⁸:

1. The principle of power as a mandate;
2. The principles of deliberation;
3. The principle of Justice;
4. The principle of unity;
5. The principle of the recognition and protection of human rights;
6. The principle of free justice;
7. The principle of peace;
8. The welfare principle;
9. The principle of people's obedience.

Thus the existence of the State is necessary as a means of life together the people who tied up a joint solidarity often meant by the social contract as the basis of their interaction with the legal basis of the Godhead that embraced as well as social laws that was agreed upon. So the principle of popular sovereignty as the holder of the supreme power in the country should be based on the; **Believing One God, Just and Civilized Humanity, the Unity of Indonesia, Led by populist Wisdom in Consultative/Representative, Social justice for all the people of Indonesia.**

Based on the above description can be understood that in this modern age still found the wrong understanding interpret ideas of

⁹⁷ Tahir Azhary, *Negara Hukum Suatu Studi Tentang Prinsip Prinsipnya Dilihat dari Segi Hukum Islam , Implementasinya Pada Periode Negara Madinah dan Masa Kini* (Jakarta . Bulan Bintang , 1992) p.64

⁹⁸ Ibid

sovereignty shared in UUD 1945 such as:

1. Popular sovereignty is meant as a mere formality (legally).
2. Pattern representation embraced in carrying out the people's mandate, are artificial and instantly, because people are just choosing arbitrary arrest, detention without criticizing or even revoke the mandate that he has given his Deputy.
3. Popular sovereignty is considered an absolute, whereas there are three elements that must be in line for the sake of true popular sovereignty upright as mandated UUD 1945 must be; **elements of the Godhead, elements of the populace, elements of the law.**
4. Popular sovereignty is recognized only at the time of the general election, beyond that there has not been a pattern of integrated in host's popular sovereignty.

In Islamic democracy, according to political wisdom, formulation of Natsir, economics, law and others must be referring to the principles set by the Qur'an and the Sunnah of the Prophet. Or at least the wisdom-wisdom that does not conflict with the principles of the doctrine of⁹⁹.

Natsir argues that Islam is "not a democracy 100%". Because political decisions are not solely have to be based on the whims of the majority of members of Parliament. That decision, cannot exceed hudud (the boundaries) that has been established by God. Natsir call it democracy in Islam with the term "Theistic Democracy", that is a democracy based upon the values of the Godhead. Hudud-Natsir was not mentioned by the system of punishment in Islamic criminal law as interpreted by the editor of the traditional clergy, but rather "principle moral universal" that will guarantee upright the lofty humanitarian values.

⁹⁹ Nurcholish Madjid, *Masalah Simbol dan Simbolisme dalam Ekspresi Keagamaan*, dalam Budhy Munawar Rachman, *Kontekstualisasi Doktrin Islam dalam Sejarah*, cet ke II, (Jakarta: Yayasan Paramadina, 1995),p. 454

So, he interprets the hudud-it is almost similar to the concept of “*natural Law*” as understood *Thomas Aquinas*, M. Natsir guarantee there will be no legal norms that would have the power to apply, If it is contrary to “*natural Law*” as a universal moral norms ¹⁰⁰.

Democracy desired by Islam in the eyes of Natsir is almost similar to the system of liberal democracy, unless political decisions in the Guide as it says above, based on the interpretation top concept *ijtihad*, *syura*’ and *ijma*’. Ijtihad seen by Natsir as the absolute imperative for Islam in the face of changing dynamics community. Without ijtihad, the doctrine as interpreted and passed on by tradition in the past that it will lose relevance to the modern world Problems. Ijma’, traditionally defined as “deal of fuqaha’ `alim legal qualification of a matter that is not firmly the determination of law, both in the Qur’an and in the Sunnah”. Natsir see the consensus as an agreement of a majority of the Muslims in a place and a certain period against joint problems they face with a hold to the principles of the doctrine in the Qur’an and the Sunnah of the Prophet¹⁰¹.

D. THE SOVEREIGNTY CONCEPT ANALYSIS ACCORDING TO JIMLY

1. THE SOVEREIGNTY CONCEPT

Sovereignty according to the *Jimly Ash Shiddiqi* referring to democracy, democracy first came from the West, and certainly not an absolute thing nor perfect. Democracy is a very important choice for the country based on a presidential Republic, with this community bias against aspirations issued to the Government as well as State of the Union. Democracy is one of the concept of the people’s Congress for the Betterment of the country toward a new Indonesia in conducting assessment of the State of the Union.

¹⁰⁰ Ibid, p. 50

¹⁰¹ Ibid, hlm. 70

Jimly Ash Shiddiqi the law assumes that democracy is a democratic Country which forms as very dominant or very important for the people. He thinks that democracy is the concept of power from, by, for and with people. This means that power substantially recognized come from the people themselves, and therefore the actual people define and give direction and the real life of the Union organizing. Where the people also have the right to freedom of speech, of expression, of freedom of the press, nor freedom to organize the gathering in one place. And by the existence of political Democracy, people's rights expected it fulfilled all wishes in accordance with the values or norms applicable law in one country.

According to Jimly in his book entitled "Constitution and Constitutionalism" Democracy is divided into two forms in its practical stages, namely direct democracy and indirect democracy. He describes these two democracies by exemplifying the practice of democracy held in Indonesia, but in terms of indirect democracy he uses the term representative democracy. Indonesian popular sovereignty (democratic) is held directly.

Directly, popular sovereignty is manifested in three branches of power reflected in *Majelis Permusyawaratan Rakyat* (People's Consultative Assembly) consisting of *Dewan Perwakilan Rakyat* (People's Consultative Council) and *Dewan Perwakilan Daerah* (Regional Representative Council) as legislative powers, the President and Vice President as holders of executive power, and *Mahkamah Agung* (Supreme Court) and *Mahkamah Konstitusi* (Constitutional Court) as executors of judicial power.

From the description of this opinion, it can be seen that what is meant by direct democracy is the direct involvement of the people in running the wheels of government in the State, but it must also be understood that not all people are directly involved in running the government, but some people who are representatives or the

legitimacy of the people as a whole, this is called indirect democracy or a representative system¹⁰².

In the direct involvement of the people through a system of representation in a democratic country, Jimly also added that direct democratic sovereignty was carried out through general elections, presidential elections, and referendums to express approval or rejection of plans for changes to certain articles in Constitution. In addition, popular sovereignty can also be channeled through the exercise of the right to freedom of expression, the right to freedom of the press, the right to freedom of information, the right to freedom of association and other basic rights guaranteed in the Constitution. However, the principle of direct popular sovereignty should be carried out through legitimate channels in accordance with the principles of representative democracy.

2. SOURCE OF SOVEREIGNTY

The 1945 Constitution of the Republic of Indonesia adheres to the sovereignty of the people, although in particular some constitutional law experts state that besides the teachings of popular sovereignty there are also other sovereignty teachings in the 1945 Constitution, for example *Ismail Sunny* which states that the 1945 Constitution adheres to three sovereignty teachings at once namely the teachings of God's sovereignty, people's sovereignty, and the sovereignty of law.¹⁰³

Such a view naturally occurs, because as stated above the true sovereignty of God and the popular Sovereignty cannot be dichotomized from one another, because in the Islamic concept, the

¹⁰² Jimly Ash Shiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, (Jakarta. Konstitusi Pers, 2004), p 12

¹⁰³ Jimly Asshiddiqie, *Gagasan Kedaulatan Rakyat dalam Konstitusi Dan Pelaksanaannya Di Indonesia: Pergeseran Keseimbangan Antara Individualisme Dan Kolektivisme Dalam Kebijakan Demokrasi Politik Dan Demokrasi Ekonomi Selama Tiga Masa Demokrasi, 1945-1980-an*, Disertasi Pada Fakultas Pasca Sarjana Universitas Indonesia, Jakarta, 1993, p.61.

sovereignty of God and popular sovereignty has an integral relationship where the sovereignty of God manifests into popular sovereignty in implementation...

Strictly formulated in article 1 verse (2) of the 1945 Constitution, *“Sovereignty is in the hands of the people, and conducted entirely by the Consultative Assembly of the people.”* Then it was changed at the time of the third amendment to the 1945 Constitution so that the formula became, *“Sovereignty is in the hands of the people and is exercised according to the basic law.”* The MPR which was originally understood as the holder of full mandate from the people or the highest,¹⁰⁴ holder of popular sovereignty shifted towards understanding that the MPR was no longer the highest holder of a single mandate, but the mandate was carried out based on the Constitution.

Thus, the people’s mandate which was originally only carried out by the MPR is now manifested in the branches of other state powers based on the Constitution, including the MPR as one of the institutions that administer state power. The reason for this change is according to Jimly Asshiddiqie because the formulation of article 1 verse (2) before the change contains unclear provisions, with the expression *“... performed entirely by the people’s Consultative Assembly”* then there are those who interpret that only the MPR does the sovereignty of the people, so that the DPR, which is the people’s representative, is deemed not to carry out people’s sovereignty.¹⁰⁵

In addition, there is also a historical burden that the MPR was only an institution that perpetuates the power of the President only where in the New Order era the President could hegemony for 32 years, hence negative sentiments arose to the MPR as the sole implementer of

¹⁰⁴ SoewotoMulyosudarmo, *Pembaharuan Ketatanegaraan Melalui Perubahan Konstitusi*, Asosiasi Pengajar HTN dan HAN dan In-Trans, Malang, p.4

¹⁰⁵ Jimly Asshiddiqie, *Implikasi Perubahan UUD 1945 Terhadap Pembangunan Hukum Nasional*, Sambutan Pada Seminar Pengkajian Hukum Nasional (SPHN) Oleh Komisi Hukum Nasional (KHN) Republik Indonesia, Jakarta, 21 November 2005.

popular sovereignty. And the answer is no, because the MPR has closed its eyes by not listening to the aspirations and unrest of the Indonesian people at that time. So from that arises an idea that the central popular sovereignty needs to be carried out directly by the people with the help of other state institutions such as the MPR, DPR, DPD, and others.

This amendment to the provisions of article 1 verse (2) of the 1945 Constitution shows that there is a change in ideas that are so fundamental about popular sovereignty in the 1945 Constitution. There is a very fundamental shift about who actually acts as the supremacy holder or supreme authority. As stated by *Soewoto Mulyosudarmo*, the amendment to article 1 verse (2) of the 1945 Constitution is a change towards a condition that reflects the actual condition of the highest power regulation.¹⁰⁶ In terms of sovereignty in the country of Indonesia in accordance with the Constitution.

In tune with the change of the idea of sovereignty in the 1945 CONSTITUTION, it is also accompanied by changes to the way people in giving that mandate against the organizers of the State power. One example that can has been said that the first President as the organizer of the State chosen by the MPR as mandatory's, while the current President is elected directly by the people, not to mention by the MPR. It means that the current President of the running task not as a mandatory's MPR, but rather as a true people's mandatories must have an orientation to prosperity people.

Likewise the mandate given by the people to the organizers of other state powers, such as *Dewan Perwakilan Rakyat* (House of Representatives) and *Dewan Perwakilan Daerah* (Regional Representative Council). All members of the DPR and DPD are elected directly through general elections. At present no member of the DPR and DPD has been chosen by appointment as before the reform, where

¹⁰⁶ SoewotoMulyosudarmo, *Pembaharuan Ketatanegaraan Melalui Perubahan Konstitusi*, Asosiasi Pengajar HTN dan HAN dan In-Trans, Malang, p.4

members of the DPR and DPRD from ABRI—Angkatan Bersenjata Republik Indonesia—(Armed Forces of Republic Indonesia) were not elected by the people through the election mechanism but were appointed by the President. Similar to the President, currently elected DPR and DPD members are representations of the Indonesian people, this is a manifestation of essential popular sovereignty that the legislator is chosen from and for the people themselves so that the programs he hopes are oriented towards people's prosperity.

The manifestation of the concept of popular sovereignty is that there must be a guarantee that the people are fully involved in planning, regulating, implementing and carrying out supervision and evaluating the implementation of the functions of power. The implementation of the full involvement of the people must be organized according to the Constitution in accordance with the provisions of the 1945 Constitution, no longer organized through the MPR state institutions as stipulated in the 1945 Constitution before the amendment...¹⁰⁷

Therefore there are three main characteristics of the concept of popular sovereignty in Indonesia after the amendments to the UUD 1945:

1. The sovereignty that is in the hands of the people is no longer institutionalized only in one subject (*ordering subject*), namely the MPR as the singular incarnation of state institutions. In the new formula, all state institutions either directly or indirectly are also considered as incarnations or are formed in the context of the implementation of popular sovereignty.
2. The implementation of duties according to the provisions of the constitution is not just one institution, the MPR, but all state institutions are required to work according to the provisions of

¹⁰⁷ Baca Jimly Asshiddiqie, *Implikasi Perubahan UUD 1945 Terhadap Pembangunan Hukum Nasional*, Sambutan Pada Seminar Pengkajian Hukum Nasional (SPHN) Oleh Komisi Hukum Nasional (KHN) Republik Indonesia, Jakarta, 21 November 2005. p.292.

the constitution

3. The people are fully involved in planning, regulating, implementing, and carrying out supervision and evaluating the implementation of the functions of power.

In connection with the subject of the sovereignty of the people no longer related only to one subject, it means that all state institutions or public positions either directly or indirectly are also considered as incarnations and are formed in the context of the implementation of popular sovereignty. Directly the incarnation and implementation of popular sovereignty is carried out by means of direct elections to determine holders of public office in a state institution while indirectly is with representatives of the people in this case the DPR. Because all state institutions or public positions are essentially positions that obtain legitimacy from sovereign people, then not only the duties and authority of the office must be carried out according to the constitution, but there must also be a mechanism of accountability to the people through the principle of accountability, transparency, and participatory work methods. Every citizen must get the widest access to the performance of state institutions, and periodically the relevant state institutions are required to submit an open report to the public, and equally important is the freedom of the press to obtain information and provide that information to the public.¹⁰⁸

In addition, the characteristic of popular sovereignty in Indonesia is related to the meaning of popular sovereignty in the 1945 Constitution which is different from the liberal state in general. The reason, firstly the people's sovereignty in Indonesia according to the 1945 Constitution does not only concern the political sector, but also people's sovereignty in the economic and even social fields.¹⁰⁹ According to *Soekarno*, This principle is referred to as *socio-democracy* or democracy who

¹⁰⁸ *Pokok-Pokok Hukum Tata Negara Indonesia Pasca Reformasi*. (Jakarta : Bhuana Ilmu Populer, 2007).p.295.

¹⁰⁹ *Ibid* hlm.296.

stand on both legs.

In this form of democracy the people become sovereign in the political and economic fields. That is the reason why the 1945 Constitution in addition to containing basic provisions regarding the political system also contains the basics regarding the economic system. In other words, the 1945 Constitution as the highest basic and legal law in the constitution of the Republic of Indonesia must be a reference and guide for state administrators in determining policies in order to carry out state and government duties. Political policies, economic policies, and even socio-cultural policies must refer to the basic legal provisions or the highest legal provisions, namely the 1945 Constitution. The 1945 Constitution is a reflection of the political will of all sovereign people in the Republic of Indonesia. The popular sovereignty not only concerns the political aspects of state life, but also in the economic, social and cultural fields of the state

Sovereignty in Indonesia is a follow-up from the sovereignty of God, because if sovereignty is understood as the concept of supreme power, then the concept of Omnipotence to God's omniscience which are formulated in the third paragraph Preamble 1945 is also is the concept of supreme power. In the third paragraph Preamble 1945, used the term "**top of the blessings of Allah**" whereas in the formulation of Pancasila which is stated in the fourth paragraph the principal of constitution 1945 there is the term used is "**Ke-Tuhanan Yang Maha Esa**". Similarly, the case shall be used in the formulation of article 29 paragraph (1) is "**Ke-Tuhanan Yang Maha Esa**". It means that in this 1945 Principal of constitution also recognized the concept of God's omniscience to at once. All this shows that the 1945 principal of constitution contains a very clear recognition and resolute about the ideals of to-God and religious nation of Indonesia in the context of the life of the Union.

If it is connected with the Islamic view of the state, more specifically regarding the concept of sovereignty, then the two concepts are actually not distinguished and not dichotomized. Because it is very appropriate to say that the 1945 Constitution, in addition to adhering to the teachings of popular sovereignty, also adheres to the sovereignty of God. Even as stated by Ismail Sunny, the 1945 Constitution adheres to the teachings of God's sovereignty, the Sovereignty of the People and the Sovereignty of the Law at once. Furthermore, according to him, the sovereignty was first in essence held by God in state life, the sovereignty of God manifested in the sovereignty of the people. It is the people who then hold and exercise that sovereignty through the state mechanism. That is, the sovereignty of the people of Indonesia based on the 1945 Constitution is essentially **“Implementation of the sovereignty of God by all the people who are the servant of God”**. The implementation of God's commandments in community, national and state life is discussed by the people through the intermediary of their representatives. The results of the people's consultations are people's legal awareness determined by the MPR in the form of its provisions, and by the DPR together with the President in the form of Law¹¹⁰.

3. PURPOSE OF SOVEREIGNTY

Based on the thought of Jimly Ash Shiddiqie on Ash Jimly discussion-the discussion above can be drawn the conclusion that democracy gives strength to the community, such;

- 1. Protect the interests of the people** is democracy is a system that protects the interests of the people. Real power lies in the hands of the people who represent the people are many. The representatives of the people elected and accountable to the people who elected him. In this way, social economic and

¹¹⁰ A A Syahid Gatara, F H MSi. *Ilmu Politik memahami dan Menerapkan* (Bandung Pustaka Setia) p. 74

political interests of the people to be more secure under the Democracy.

2. **Based on the principle of equality** is democracy is based on the principle of equality. All citizens have the same position in the eyes of the law. All people have the right to social, political and economic alike and should not distinguish between citizens on the basis of caste, religion, gender, ownership.
3. **Stability and responsibility in Government** is democracy known as the system stability and efficiency. The Government is running stable because it is based on the support of the public. In a representative democracy, the people's representatives to discuss the problem of the country thoroughly and take decisions based on the aspirations of the people. Under the system of monarchy, elite Kingdom of his own decisions accordingly. Whereas under the dictatorship, dictator does not involve people at all in the decision-making.
4. **Political education to the people** is democracy can function as a school of political education for the people. People will join the driven to take part in State Affairs. At the time of the general election political party proposed policies and programs for the votes of the people. This ultimately creates political awareness among the public.
5. **Little chance of revolution** is because democracy is based on the will of the public, there is a small possibility of a revolt of the people. The representatives elected by the people to conduct Affairs of State with the support of the people. If they do not work properly or does not meet the expectations of the people, its representatives could not be selected again in the next election. In this way, people don't have to do the rebellion when want change.
6. **A stable Government is** democracy based on the will of the people so that the conduct of the State run based on popular

support. Therefore, democracy is considered more stable than other forms of Government.

7. **Forming good citizens into people** is the success of democracy lies in the good citizens grew. Democracy creates the right environment for the development of personality and cultivate good habits. In a democracy, the people are trained to understand the rights and obligations.

8. **Based on public opinion** is Government sovereignty based on the wishes of the public and not based on fear and the ruler of Democracy stand on consensus, not on power because citizens have the opportunity take part actively in the Government.

4. SOVEREIGNTY RELATION BETWEEN ISLAM AND INDONESIA

History has recorded that among the disputed issues in the first days after the death of the Prophet Muhammad, is a question of political power or the so-called *Al-imamat (Imamah)*. Although those problems successfully solved with the lifting *Abu Bakar (23 H/643 M)* as Caliph, but within no more than three decades of similar problem reappear in a Muslim environment¹¹¹.

The sovereignty of the people in the view of Islam is the highest power which basically comes from God, sovereignty is in the hands of syara 'not in the hands of the people, and the one who determines that direction is God. Muslims acknowledge that only God made these legal rules. In the belief of Muslims, it does not make sense to recognize that power comes from the people, for the people, by the people, and with the people. Power actually comes from God and indeed the sovereign is God, not the people. God's sovereignty is manifested in the people's sovereignty that is egalitarian, so that the sovereignty of the people is seen as a

¹¹¹ Abd.Muin Salim, *Fiqh Siyasa: Konsep kekuasaan politik Dalam Al Quran* (Jakarta, PT Raja Grafindo Persada , 1995)p.1

mechanism of state that is important in order to realize the principles of life that are based on divine values. Popular sovereignty in Islam is basically the application of God's sovereignty by all people, where the implementation of God's rules in political and social life is implemented by the people through their deputy representatives and democracy in Islam is often called shura, but the opinion is wrong, that shūrā and democracy are two meanings different. Shūrā is a product of Islam while democracy is a western product, it is said that because the shūrā of absolute law is in the hands of God who has power over everything and in democracy itself there is legislative power (making and establishing laws) absolutely in the hands of the people. In Islamic law human authority is only to describe and formulate the law in accordance with the principles outlined by God by doing ijihad for something that is not governed by Allah's provisions¹¹².

According to the theory of theocracy then origin and source of power comes from God. This theory was developed in the last century XV. Adherents of this theory of *Augustine, Thomas Aquinas and Marsilius*.

Inside UUD 1945 the word "Tuhan" referred to as many as four (4) times each,¹¹³

First, The word "Allah" at the opening of a third formulation: "Upon the blessing of grace Allah Almighty and impelled by the desire of the sublime, that the non-national ones, then the people of Indonesia declared independence."

Second, The word "Tuhan" in the formulation of the fourth opening of UUD 1945 which is the formula of the first sila of Pancasila: "...then arranged the independence of Indonesia

¹¹² Jimly Ash Shiddiqie, *Islam dan Kedaulatan Rakyat*, (Jakarta , gema Insani Press 1997) p 22

¹¹³ Jimly Ash Shiddiqie, *Gagasan Islam tentang Teokrasi, Demokrasi dan Nomkrasi* (Ichtiar Bru Van Hoeve) 1994

Nationality it in a Constitution of the State of Indonesia, which is formed in an order of the Republic of Indonesia which independent based to the divinity of the one true God,..."

Third, The word "Allah" in the formulation of article 9 paragraph (1) UUD 1945, that starts with the phrase: "...For the sake of Allah I swear I will fulfill the obligations..."

Fourth, The word of God in the formulation of article 29 paragraph (1) UUD 1945 which States that: "the State based on the Almighty Godhead".

The exposure from above, then it can be inferred that the normative basis and contextually, the unitary State of the Republic of Indonesia is a country based and based on the sovereignty of God. Jimly said that in a sense to the Almighty Power of God or of God's Sovereignty, in practice there's attempt to contain the intention that equation and humanity and equality between citizens that is the same as the Caliph in the face of the Earth This.

Every person born in the same State and holds the same rights among each other. The absolute and powerful is simply God, while others are simply mere the relational and relative.

Many Muslims recalled that Islam does not requires the idea of democracy is liberal and taught the principle of one person one vote. Such conclusions are clearly wrong. People criticized the idea of democracy because of the innate flaws contained in the principle of one person one vote not to imagine that the conclusions about shortcomings, has become the talk of all the experts since the first till now. All proponents of the idea of Sovereignty knowing that that is one of the disadvantages of the system of democracy. Therefore, the system's sovereignty realized as the system had defects. However, experts generally argue that the democratic system, with all the disadvantages that keep is the most reliable system in the present era. Therefore, in practice, the system of democracy that has to be

counterbalanced by other principles, which generally recognized the need for a balance between the principle of Sovereignty with the sovereignty of God (Popular sovereignty and God sovereignty). The application of the concept of the sovereignty of many weaknesses, and therefore must be accompanied and followed by the application of the principle of the application of the sovereignty of the law nor the opposite concept of the sovereignty of the law is also still a lot of shortcomings that it has accompanied and coupled with the concepts of democracy.

Sovereignty in the eyes of Islam including the *Siyasah Dusturiyah* to understanding who has the sense of a country govern or lead the way leads to the benefit and all this must be made as a Government in control task in the country as well as overseas or domestic politics as well as domestic politics, that is, in other words, organize public life on a basis of Justice and *Istiqomah*. whereas the principles of sovereignty and governance issues and proved to be contained in the Constitution of the State, remains many societies, religious experts, educational proponents reject or accept in certain things in full for grouping of sovereignty with the sovereignty of God or declare them full democratic system tailored to the principles of Islam and the provisions of God.

E. Comparison of the concept of Sovereignty and equality Muhammad Natsir and Jimly Ash Jimly Ash Shiddiqie

After discussing Muhammad Natsir and Jimly A Jimly Ash Shiddiqie thinking about sovereignty, then we could compare in this study their views to see the similarities and differences between the two points. The second similarity of two views of sovereignty, *that*;

- 1.They both agreed that sovereignty is the main principle of democracy. At the same time confirms their view that sovereignty and democracy has a very close relationship and relationships.
- 2.They both agree that *syura* (the discussion agreed on the consensus)

delivered and accommodated by democratic.

3. They both agreed that democracy is a system of Government in line with the principles of Islam. *M.Natsir* States that sovereignty is theistic. That is, not absolute sovereignty in the hands of the people, but must be in accordance with the sovereignty of God. *Jimly* also stated that sovereignty must come from God. Sovereignty embodied in the egalitarian nature so that the sovereignty of the State mechanism was seen as originating from the divine values.
4. They both agree that the ultimate source of sovereignty was Allah. Furthermore, both said that sovereignty is derived from the Allah. Allah is the ultimate source of sovereignty. This means that the people's sovereignty is seen as an extension of sovereignty Allah.

They both agreed that sovereignty has a relationship with religion as for the difference of both two views of sovereignty they both have different views on the general formula of sovereignty, such;

The General Concept of Sovereignty;

1. **M.Natsir** States that sovereignty should be in accordance with the principles of Islam, where sovereignty is an understanding that has its own characteristic. While **Jimly** States that sovereignty is democracy, which means that the sovereignty of the people is truly of the people, by the people, and for the people, and therefore, are the ones that really define and give direction and define the State administration life.
2. **M.Natsir** formulated that sovereignty must be based on Islamic teachings, in this case called by the name Natsir theistic democratic ion. Background the use of democracy that each term was motivated by two views, first, Islam does not recognize the concept of absolute sovereignty as adopted in the West, in the sense that all political decisions are submitted completely to the will of the majority a Member of Parliament. But in Islam, not all issues have to be discussed in Parliament. The issues that will be decided upon

only those related to the problem that the decision has not been explicitly found in the text. Second, the system does not know the Islamic theocracy, in which the Government is controlled by the *imamat (imam)*, that have a hierarchy and considered the ruler as God's representative on Earth. Therefore, in a tight expression, Natsir stated that sovereignty in Islam is an understanding and has its own characteristics. Islam is not one hundred percent democracy not theocracy one hundred percent. While **Jimly** formulating the sovereignty with a formula that is more common than Natsir, where sovereignty is truly democratic. In addition, Jimly divides sovereignty into two, namely, direct democracy and indirect democracy. Jimly described two democracy this by exemplifying the practice of democracy in Indonesia. What is meant by direct democracy is the direct involvement of the people in the running wheels of Government in the State, but must also be understood that not everyone is directly involved in the running of Government,

In terms of the goal of sovereignty, both figures had a difference of view namely;

According to M. Natsir, the goal of sovereignty is as follows

- a. Redirect politics of the procedural legal mechanisms in
- b. Realize the enactment of the divine law, both with regard to the human lives as individuals or as members of the community.

According to the destination, Jimly sovereignty is as follows

- a. Protect the interests of the people, that democracy is a system that protects the interests of the people. The real power lies in the hands of the people who represent the people. The elected representatives of the people and must be accountable to the people who elected them. In this way, the interests of socio-economic and political community be safer under the Democracy.

- b. realize the equality of all citizens
- c. giving political education to the community
- d. the shape of the community to be good citizens

As for the source **of sovereignty**, both figures it had a difference of opinion among them;

1. **According to m. Natsir about more sovereignty refers to the Qur'an.** The Qur'an, revealed that the main source of authority and legitimacy of the sovereignty of God. Thus, the legitimacy of the sovereignty is not inherent to the human being, but delegated to them. Therefore, the concept of sovereignty and democracy are applied must comply with the guidelines contained in the Qur'an. This is what Natsir later called theistic democracy.
2. **According to the Constitution refers more Jimly.** According to him, the law essentially embodied the sovereignty of the people and the sovereignty of God at the same time. Secondly it is a unity that cannot be *dichotomized*. Because in the Islamic concept of God's sovereignty and the people's sovereignty have integral relations in which the sovereignty of God manifests itself into sovereignty in practice. In addition, the preamble in 1945 stated that the concept of the Almighty God is also the concept of supreme power.

Review of **the relationship between religion and sovereignty**, both figures above holds as follows;

1. **M.Natsir** argues that the relationship between sovereignty and religion lies in the integration of the two, in which the sovereignty and religion are two things that cannot be separated. Than **Jimly** argues that the relationship between sovereignty and religion lies in the balance between two things, namely the sovereignty of the people and the sovereignty of God.
2. **M. Natsir** argued, the meaning of sovereignty in Islam is that Islam is anti-authoritarianism, *anti-absolutism*, and anti-

arbitrariness. **Jimly** in Islam sovereignty argues, means that Islam set the country by bringing to the benefits based on fairness and consistency.

CHAPTER FOUR

CLOSING

A. CONCLUSION

After a lot of learning more about the concept of sovereignty, according to m. Natsir and Jimly Ash Siddique , researchers concluded that perhaps could become the main points of this research and can give you some advice.

Among the things that relate to the core of the concept of State sovereignty between m. Natsir and Jimly is as follows:

- 1. The Concepts of State sovereignty in Islam** is The fact humans from early on was indeed created with the tendency of living in a group being justifier that no one is able to live outside of a community that is what made the cornerstone of the establishment of a State. From a country that established need for norms or rules that set up this country goes according to his will. This is called the media and sovereignty. For Islam in defacto the highest sovereignty lies in the sovereignty of God by all these statutes. The sovereignty of the State symbolized by popular sovereignty and the sovereignty of the law that binds and rooted everything goes and synergize. All this in accordance with the teachings of Islam. That a sovereign country that should rest with the desperate people's sovereignty represented by the people's Consultative Assembly with obedient and submissive towards the sovereignty of the law as a form of sovereignty to God as the pinnacle of the sovereignty its own
- 2. The thought general concept of sovereignty is** For M. Natsir independent contained in the independent system of democracy, and democracy is a system that fit and in accordance with Islam and the reality of society Indonesia, sovereignty also needs to be adjusted to the values of Islam because it basically Islam has syari'ah contains principles of sovereignty as well as Jimly he added and strengthen

grain law 1945 as a postulate of the theory of m. Natsir

3. A. The similarity between the Ideas of Muhammad Natsir and Jimly Ash Jimly Ash Shiddiqie

- a. They both agreed that sovereignty is the main principle of democracy. At the same time confirms their view that sovereignty and democracy have very close ties and relationships.
- b. They both agree that *Syura* (consensus agreed on discussions) delivered and accommodated by democratic.
- c. They both agreed that democracy is a system of Government in line with the principles of Islam. Natsir stated that sovereignty is theistic. That is, not absolute sovereignty in the hands of the people, but must be in accordance with the sovereignty of God. As Natsir, Jimly also stated that sovereignty must come from God. Sovereignty embodied in the egalitarian nature so that the sovereignty of the State mechanism was seen as originating from the divine values.
- d. They both agree that the ultimate source of sovereignty was God. Furthermore, both said that sovereignty is derived from God. God is the ultimate source of sovereignty. This means that sovereignty is seen as an extension of God's sovereignty.
- e. They both agreed that sovereignty has a relationship with religion.

B. The difference between ideas and Muhammad Natsir Jimly Ash Shiddiqie

a. General Concept

1. Natsir stated that sovereignty should be in accordance with the principles of Islam, where sovereignty is an understanding that has its own characteristics. While State sovereignty that is democracy Jimly, which means that sovereignty is truly of the people, by the people, and for the people, and therefore, are the ones that really define and give direction and define administration

country life.

2. Natsir formulated that sovereignty must be based on Islamic teachings, in this case called by the name democratic Natsir theistic. Background the use of democracy that each term was motivated by two views, first, Islam does not recognize the concept of absolute sovereignty as adopted in the West, in the sense that all political decisions are submitted completely to the will of the majority Member of Parliament. But in Islam, not all issues have to be discussed in Parliament. The issues that will be decided upon only those related to the problem that the decision has not been explicitly found in the text. Second, the system does not know the Islamic theocracy, in which the Government controlled by the priesthood (Lev. system), which has a hierarchy (level) and assume the ruler as God's representative on Earth. Therefore, in a tight expression, Natsir stated that sovereignty in Islam is an understanding and has its own characteristics. Islam is not one hundred percent democracy not theocracy hundred persen.
3. While Jimly formulate popular sovereignty with a formula that is more common than Natsir, where popular sovereignty is truly democratic. In addition, Jimly divides sovereignty into two, namely, direct democracy and indirect democracy. Jimly described two democracy this by exemplifying the practice of democracy in Indonesia. What is meant by direct democracy is the direct involvement of the people in the running wheels of Government in the State, but must also be understood that not everyone is directly involved in running the Government, but as a part of the people who became the representative or the legitimacy of the people as a whole,

this is called indirect democracy or a representative system.

Purpose of Sovereignty

According to the goal of sovereignty, Natsir are as follows

1. Redirect politics of the procedural legal in mechanisms
2. Realize the enactment of the divine law, both with regard to the human lives as individuals or as members of the community.

While according to the objectives, Jimly sovereignty is as follows

1. Protect the interests of the State, that democracy is a system that protects the interests of the people. The real power lies in the hands of the people who represent the people. The elected representatives of the people and must be accountable to the people who elected them. In this way, the interests of socio-economic and political community be safer under democracy.
2. Realize the equality of all citizens
3. Realizing stability in the Government
4. From the community to be good citizens

b. Source of Sovereignty

- 1) The main argument of Natsir's about more sovereignty refers to the Qur'an. The Qur'an, revealed that the main source of authority and legitimacy of the sovereignty of God. Thus, the legitimacy of the sovereignty is not inherent to the human being, but delegated to them. Therefore, the concept of sovereignty and democracy are applied must comply with the guidelines contained in the Qur'an. This is what Natsir later called theistic democracy.
- 2) In addition, the main argument Jimly more reference to the Constitution. According to him, the law essentially embodied the sovereignty of the people and the sovereignty

of God at the same time. Secondly it is a unity that cannot be dichotomized. Because in the Islamic concept of God's sovereignty and the people's sovereignty have integral relations in which the sovereignty of God manifests itself into the popular sovereignty in its execution. Moreover, in the preamble UUD 1945 stated that the concept of the Almighty God is also the concept of supreme power.

c. Sovereignty concept in Islam

- 1) Natsir argues that the relationship between the State and religious sovereignty lies in the integration of the two, in which the sovereignty and religion are two things that cannot be separated. Whereas Jimly argues that the relationship between the independent and religion lies in the balance between two things, namely the sovereignty of the people and the sovereignty of God.
- 2) In view of the meaning of sovereignty, Natsir in Islam is that Islam is anti-authoritarianism, absolutism, and arbitrariness, but according to Jimly, sovereignty in Islam means that Islam set the country by bringing it to the benefits are based on fairness and consistency.

B. ADVICE

Based on that, there are some suggestions. Researchers will suggest some important things:

1. The researchers hope the study could open views on democracy and sovereignty.
2. Researchers hope that this research be insightful to supplement Government to create social justice.
3. Any person who has been interested in this research, to expand and are looking for more opinions of Muslim scholars in the case of State sovereignty.
4. All Muslims to learn and study hard the best concept for other

Muslims to live a good life now and hereafter.

Finally, the authors believe there are many shortcomings and mistakes in this thesis, therefore the author expect criticism and corrections from readers and there will also be further research to manage research deeper and more comprehensive about it.

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