

## CONSTITUTIONAL RELIGIOUSITY IN ADJUSTING POLITICAL LIFE OF CITIZENS

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### Abstract

The 1945 Constitution explicitly includes both the opening and its articles which provide protection for every citizen to exercise their rights and obligations in the political field in accordance with the teachings of religion and the beliefs held by every citizen. Therefore, there is no contradiction between carrying out religious orders and political life in Indonesia. The constitution of the Republic of Indonesia regulates various dimensions of life, both economic, social and political. The economic, social and political dimensions are based on the values contained in the constitution, including the value of religiosity. The value of religiosity in the constitution is an elaboration of the first principle of Pancasila, namely the Almighty Godhead. Thus, how the value of constitutional religiosity in regulating citizens' political life becomes interesting to be studied in depth. The method used is juridical normative by analyzing the minutes of the drafting of the 1945 Constitution so that the original intent of drafting the constitution can be seen by the founding fathers in seeing the value of constitutional religiosity with its relation to political life authorities.

**Keywords:** Religiosity, Constitution, Politics and Citizens.

### 1. INTRODUCTION

The constitution is the ideology and outlook of life of Indonesian citizens who inspire and become role models in the life of the state. The constitution provides direction and views and the protection and limitations of how citizens should implement the values contained in the constitution in the life of the state. The constitution contains the precepts of Pancasila which form the basis of the state where the basic state has the highest legal norm that regulates matters relating to human relations with God, human beings with humans and humans in carrying out their daily lives. The location of the basic relationship between the state and the constitution is that from the basic rules a whole constitutional system will be formed in the form of a set of rules governing the government of a country, one of which is the 1945 constitution or constitution. The relationship between the Pancasila and the constitution appears on basic ideas, ideals and goals country contained in the opening of the 1945 Constitution of the Republic of Indonesia NRI. The articles in the 1945

Constitution of the Republic of Indonesia are an elaboration of the main points of mind in the opening of the 1945 Constitution of the Republic of Indonesia which contains the Pancasila precepts.

The basic relations of the state with the opening of the 1945 Constitution of the Republic of Indonesia can be described in four dimensions as follows: a) The abstract philosophy of the Pancasila state reflected in the Preamble of the 1945 Constitution of NRI which is a detailed description of the August 17 Proclamation of Proclamation, b) Pancasila formulated in the Preamble of 1945 Constitution is a complete and orderly roundness. One principle inspires and covers the other precepts in stages, c) The soul of the abstract Pancasila, after being born as the Proclamation of the Independence of the Republic of Indonesia on August 17, 1945 reflected in the main points contained in the Preamble of the 1945 Constitution and d) Unified interpretation of the principles of Pancasila must be sourced and based on the Preamble and articles of the 1945 Constitution of the Republic of Indonesia.

Relationships regarding the state foundation with the articles in the 1945 Constitution of the Republic of Indonesia can be seen, namely: a) the first precepts relating to Article 29 paragraph (1), paragraph (2); b) the second precept is related to Article 27, Article 28, Article 28A - Article 28J, Article 29, Article 30, Article 31, Article 32, Article 33, Article 34, URI 1945 Constitution; c) The third principle relates to Article 1 paragraph (1), Article 32, Article 35 and Article 36; d) The 4th Code relates to Article 1 paragraph (2), Article 2, Article 3, Article 22E, Article 28 and Article 37; and the 5th principle relates to Article 23, Article 27 paragraph (2), Article 31, Article 33, and Article 34 of the 1945 Constitution.

The acceptance of the Pancasila as the basis of the state and national ideology has the logical consequence that the values of the Pancasila are the basic foundation, the fundamental foundation for the administration of the Indonesian state. Pancasila contains five precepts which essentially contain five fundamental values. The basic values of the Pancasila are the value of the One Godhead, the Value of Just and Civilized Humanity, the value of Indonesian Unity, the value of the People led by wisdom of wisdom in deliberation / representation, and the value of social justice for all Indonesian people. With a brief statement that the basic values of Pancasila are divine values, human values, values of unity, people's values, and values of justice.

Each value in the Pancasila has harmonization and synergy where the first principle inspires the second principle, the third principle, the fourth principle and the fifth principle. The divine value of the One means the recognition and belief of the nation towards the existence of God as the creator of the universe. With this value, the Indonesian nation is a religious nation that is not an atheist nation. The value of divinity also means the recognition of freedom to embrace religion, respect for religious freedom, no coercion and no discriminatory acts among religious believers. The value of divinity also means the equality of citizens in the country who have the freedom to embrace and worship according to the religion that is believed, respects freedom in religion, does not compel each other or acts discriminatively among fellow religious people.

The religious values contained in the first precept of Pancasila provide direction and views that inspire other precepts. In addition, the first precepts also become guidelines and directives in the body in the 1945 Constitution of the Republic of Indonesia. In the articles of the 1945 Constitution of the Republic of Indonesia contains various rules in the political, legal and economic fields. All these fields, must be in line with the value of religiosity found in the first precepts of the Pancasila. Such provisions are in line and protected and guaranteed in the constitution. Therefore, in this study we will discuss about the value of constitutional religiosity in regulating citizens' political life?

## **2. DISCUSSION**

In writing this paper to understand and will provide an information about in the Indonesian Constitution the value of religiosity in the constitution is appropriate and animates the dimensions of the constitution, especially those related to the political dimension. The Indonesian nation as one of the nations in the world is destined to have characteristics, both in the geopolitical context and in its socio-cultural structure, which is different from other nations in the world. Therefore, in Indonesian laws and regulations, this does not apply to society.

### **2.1. Content of the Value of Religiosity in the Constitution**

When laying the foundations of thought the founding fathers realized that the Indonesian nation was a religious nation, therefore the Indonesian state could not have been established with a system of atheism, secularism or liberalism. Because the Indonesian people have the freedom to embrace religion and the state cannot be separated from religious values, then the founding fathers of the country determine and choose the state's thinking is the Supreme Godhead (Kaelan, 2009, p. 249).

Juridically, the One and Only God is listed in the first precepts and contained in the Preamble of the 1945 Constitution. In the legal science the position of the Preamble of the 1945 Constitution which contains the value of the One and Only God is a status fundamental norm in the Indonesian state. In this sense the One Godhead is a constitutive and regulative principle for Indonesian legal order. So that it is a base to reject the derivation of Indonesian legal order and the positive law that is under it (Kaelan, 2009, p. 257).

The founders of the Indonesian state seem to make a distinctive and innovative choice about the shape of the country in relation to religion. Through a very serious discussion accompanied by a very high moral commitment comes a choice that the state of Indonesia is a country based on the One Godhead. Given the peculiarities of the elements of the Indonesian people and nation which consist of various ethnicities, ethnicities, races, religions, it seems that our founding fathers find it difficult to determine just the shape of the country as it is in the world. Western-style democracies are usually secular, and this is not desired by all elements of the Indonesian nation. Communist countries are usually atheists, who reject religion in a country, while religious countries will have the consequence that certain religious groups will dominate the state and in Indonesia in this case Islam. Therefore the state based on the One Godhead, is a creative choice and is an inclusive eclectic process. This means that the choice of the state based on the One Godhead is unique and seems to be in accordance with the objective conditions of the Indonesian nation. Agus Salim states that the basis of the One Godhead is the basis or basis of all other precepts. The Precepts of the One and Only God are the basic guidelines for state life consisting of various elements of the nation. Based on Agus Salim's view, the basic principles of the shared life of various adherents of a religion in a country of the Republic of Indonesia. In this shared life, the state and all understandings and schools of religion are not justified in entering the personal space of each person's creed (Kaelan, 2009, p. 245-255).

Similarly, when we consider the opinion of Mohammad Roem as a Masyumi figure, as follows:

Human belief about God Almighty, about creation is not a field to intervene for those in power, whether he is an executive body, or he is a legislative body. The state, which was ultimately transformed by those in power, did not interfere with the people's inner livelihood to the fullest about the relationship between humans and God. The agreement on the basis of the state of the One Godhead means that each believes in God according to his own religion, with the awareness that together we can establish a state that is strong because of the essence of religion, is a life of worship, upholding justice, love and compassion for fellow beings (Roem, Muhammad dan Agus Salim, 1977, p. 115-116).

Based on the statements of Indonesian religious and state leaders, then the Almighty Godhead is not a principle that enters the faith space of a religious community but is a principle of living together in a country, from various walks of life that have different religious beliefs. This is intended to create a dignified and civilized human life. Therefore in a country that is based on the Almighty Godhead, religious life is not separated at all but rather religion gains philosophical, juridical and political legitimacy in the country, this is as contained in the Preamble of the 1945 Constitution. Philosophically the One Godhead is contained in sila the first is Pancasila which is based on the philosophy of the Indonesian state, so that the first principle is a philosophical basis for national and state life in matters of state and religious relations (Kaelan, 2009, p. 255-256).

The unity of the Pancasila precepts in essence is not only a formal logical entity but also includes the ontological basis, the epistemological basis and the axiological basis of the principles of Pancasila. The Pancasila precepts are hierarchical in nature and have a pyramidal form, used to describe the relationship of the sila-sila hierarchy in Pancasila in broad sequences (quantity) and in this sense the unified relationship of the Pancasila precepts in a formal logical sense. In addition to the unity of the precepts of the Pancasila hierarchy in terms of quantity as well as in terms of their nature, namely concerning the meaning and nature of the principles of the Pancasila. Such unity includes unity in terms of the ontological basis, the epistemological basis and the axiological basis of the precepts of the Pancasila. Philosophically, Pancasila as a unified philosophical system has an ontological basis, an epistemological basis and its own axiological basis which is different from other philosophical systems such as materialism, liberalism, pragmatism, communism, idealism and others who understand philosophy in the world (Kaelan, 2009, p. 249-250).

The first precepts of the One and Only God underlies and animates the principles of just and civilized humanity, Indonesian unity, popularism led by wisdom in deliberation / representation and social justice for all the people of Indonesia. It is based on the fact that the main supporters of the state are human beings, because the state is as an institution to live together as a humanitarian institution and humans are creatures of God Almighty, so that human beings are the result of the Supreme God as prime power. God is the origin of everything, the existence of God is absolute, perfect and powerful, unchanging, unlimited and also as a regulator of natural order. So that the first precept underlies, covers and animates the other four precepts

(Kaelan, 2009, p. 252).

Pancasila, which contains religious values, moral legal values, natural law values, and God's legal value is a source of material law for positive Indonesian law. Thus Pancasila determines the content and form of legislation in Indonesia which is arranged hierarchically. In this hierarchical arrangement Pancasila guarantees harmony or absence of contradictions between various laws and regulations vertically and horizontally. This contains a consequence if there is an inconsistency or conflict with one another's legal norms that are hierarchically higher, especially with Pancasila as its source, then this means that if there is a mismatch of illegality and therefore the lower legal norm it's null and void by law (Mahfud, M.D., 1999, p. 59).

Consequently, in the legal philosophy of the values of God's law together with the values of natural law, ethical and philosophical law is a source of positive law in Indonesia. Therefore, the law in Indonesia must have a moral basis based on divine values. Based on this philosophical analysis, there is no longer a problem with Pancasila as the basis of state philosophy in relation to the life and existence of religion in this beloved country of Indonesia. Pancasila is not a religion, because Pancasila is formulated based on materialist causes of religious values, so that between Pancasila and religion actually has a causal relationship (Kaelan, 2009, p. 258).

The state is based on the One Godhead and the placement of the One Godhead as the first principle in the Pancasila has several meanings, namely (Kaelan, 2009, p. 267):

First, Pancasila was born in a mystical atmosphere to fight colonialism and imperialism, so that unity and brotherhood were needed among the components of the nation. The first principle in the Pancasila of the One Godhead is an important factor to strengthen unity and brotherhood, because the history of the Indonesian nation is full of respect for the values of the One Godhead. The willingness of Islamic figures to erase sentences with the obligation to carry out Islamic law for their followers after the One Godhead at the time of ratification of the August 18 1945 Constitution was inseparable from the ideals that Pancasila must be able to maintain and maintain unity and brotherhood among all components of the nation. It means. Islamic figures who became the founding fathers of the Indonesian people have made unity and brotherhood among the components of the nation as the main goal that must be above other primordial interests.

Secondly, the 1st Pancasila Seminar in 1959 concluded that the Almighty Godhead is because the first or *causa prima* and the precepts of the People led by wisdom in Consultation / Representation are people's power in the life of the nation to carry out the state mandate from the people, the state for the people, and the state by the people. This means that the One Godhead must be the foundation in carrying out state management from the people, the state to the people, and the state by the people.

Third, the 1st Pancasila Seminar in 1959 in Yogyakarta also concluded that the principle of the One Godhead must be read as a whole with other principles in the Pancasila as a whole. This is reinforced in conclusion number 8 of the seminar that Pancasila is (1) the One Godhead, who is just and civilized humanity, who is united Indonesia (nationally) who is faithful and who has social justice; (2) Fair and civilized humanity, which has the One Godhead, which is united in Indonesia (nationality), which is faithful and that has social justice; (3) Indonesian Unity (Nationality) which has the Almighty Godhead, which is just and civilized humanitarian, faithful and socially just; (4) Popularism with the One Godhead, which is just and civilized humanity, which is Indonesian unity (national) and socially just; (5) Social justice, which has the Almighty Godhead, which is just and civilized humanity, which is united in Indonesia (nationality) and has faith. This means that other precepts in Pancasila must contain the One Godhead and on the contrary the Almighty Godhead must be able to manifest in the principle of nationality (unity), justice, humanity and popularism (Kaelan, 2009, p. 268).

Fourth, the state based on the One Godhead must also be interpreted that the state prohibits teachings or understandings which openly reject the One and Only God, such as communism and atheism. Therefore, MPRS Decree No. XXV of 1966 concerning Prohibition of Any Activity to Disseminate or Develop the Ideas or Teachings of Communism / Marxism Leninism still remains relevant and contextual. Article 29 paragraph (2) of the 1945 Constitution that the State guarantees the independence of each resident (Kaelan, 2009, p. 268).

Indonesia is a religious nation state. This understanding is extracted from the basic character of the Indonesian people themselves who have long recognized God as the Essence of the One. The religiosity of the Indonesian people is philosophically a fundamental value that confirms the existence of the Indonesian state as a YME faithful country. Pancasila as the spirit of national law in which YME contains the principles of Godhead, recognizes the existence of God's legal values other than natural law, ethical law, and philosophical law in the life of the state. The implementation of this meaning can be realized through the

application of these legal values as a source of derivation for legal regulations in Indonesia (Tim Penyusun, 2009, p. 58).

Regarding individual rights, the state guarantees the right of every citizen to embrace religion in accordance with their respective beliefs and beliefs. Beliefs and beliefs are individual rights and therefore the state cannot mix them. Nevertheless, the state has an obligation to regulate the relationship between individuals and the state and life between religious people based on principles that are just and civilized. The Godhead of God is the basis of the nation's spirituality and is the main support for the unity and unity of the nation in order to guarantee the integrity of the NKRI. Therefore, in order to establish harmonious and harmonious relations between religion and the state, the state must provide protection to the religions in Indonesia (Tim Penyusun, 2009, p. 58).

In the course of history, the Indonesian nation has found a distinctive formulation of state and religious relations, in the midst of the types of countries that exist in the world, namely secular countries, atheistic countries, and theocratic countries. The founders of this nation state realized that the materialist cause of the Indonesian state was in the Indonesian nation itself. The nation of Indonesia since ancient times is a religious nation, which acknowledges the existence of the Almighty Substance, namely God and this is an ontological basis that humans as citizens are as creatures of God Almighty (Kaelan, 2009, p. 290).

During BPUPKI's first trial Dr. Radjiman Widiyodiningrat told the trial participants that what basis would be used as the basis of the philosophy of an independent Indonesian state. Then there was a discussion and discussion that was quite intensive and long, then after BPUPKI held a meeting in June 1945 it was not yet obtained a unanimous agreement on the basis of the state of Indonesia. Then a small committee of nine people was formed, namely (1) Ir. Soekarno, (2) Drs. Moh. Hatta, (3) H.A. Salim, (4) Mr. A. A. Maramis, (5) Mr. Muh Yamin, (6) K.H.A. Wahid Hasyim, (7) Mr. A. Subardjo (8) R. Abikoeno, (9) A. Kahar Muzakkir. On June 22, 1945 the Committee of Nine after holding a meeting at 8:00 p.m. and obtained a basic agreement of the state which the first principle reads "Godhead with the obligation to carry out Islamic Shari'a for adherents". This Jakarta Charter was called by Yamin as the Jakarta Charter, which was the noble agreement of the Indonesian people in establishing the country (kaelan, 2009, p. 240).

At the beginning of the PPKI August 18, 1945 session, Moh. Hatta held a meeting with afternoon participants, mainly from the Islamic group, conveying messages from the Eastern Indonesian brothers, especially those relating to the first precepts listed in the Jakarta Charter. After discussion, the first principle of Pancasila was agreed to become the One Godhead. Despite the lengthy debate in the Constituent Assembly, especially on November 11 to December 6, 1957, which discussed the basic state of all groups, namely the group that wanted a country based on Pancasila, Islam and Socio-Economy, no one refused that the Indonesian nation was a nation religious. The Godhead of the Almighty is a religious nation. The Supreme Godhead is the Indonesian local wisdom in establishing the state (Kaelan, 2009, p. 240-241).

If a hermeneutical analysis is carried out, the process of formulating the basic philosophy of the state that finds the core values of the Supreme Being as a basis for the philosophical value of state and religious relations in Indonesia, is a local genius of the Indonesian nation in establishing the state. The agreement on the philosophy of relations between the state and religion is a noble agreement, which places an ethical foundation for the life of the nation and the state, as well as a creative thought about the shape of state and religious relations in the midst of secularism and theocracy (Kaelan, 2009, p. 241).

## **2.2. Criminal Political Dimensions in the Constitution**

The constitution can simply be interpreted as a document that contains the rules for running an organization (Brian Thompson, 1997, p. 3). The organization referred to various forms and complexity of the structure. The state as one form of organization, in general, always has a text which is referred to as a constitution or constitution. In the concept of the constitution also includes the definition of written regulations, customs and conventions of state (state) which determine the composition and position of state organs, regulating the relations of the organs of that state with citizens (Jimly Asshiddiqie, 2005, p. 19-34).

Today's constitution is considered as a necessary concept for every modern country. The basic existence of the constitution is a general agreement or consensus among the majority of the people regarding idealized buildings relating to the state. The state organization is needed by citizens of the political community so that their shared interests can be protected or promoted through the establishment and use of a mechanism called the state (William G. Andrews, 1968, p. 9).

This is where the strategic role of the constitution can be seen as unifying the nation, every person has the right to have views based on their respective beliefs, as well as every group, tribe or religion that has the

collective right to develop diversity in accordance with the system of values and beliefs. But in the interaction of community life, nation and state which involves the entire components of the nation, the agreed upon constitution becomes the main and first reference (Jimly Asshiddiqie, 2015, p. 7).

In Indonesia, the philosophical bases intended are what are commonly referred to as Pancasila, which means five principles or five basic principles to achieve or realize the four objectives of the state as part of the 1945 Constitution in the Opening section. The five basic principles of Pancasila include principles or principles (i) Godhead, (ii) just and civilized humanity, (iii) unity of Indonesia, (iv) popularism led by wisdom of deliberation / representation and (v) Social justice for all the people of Indonesia. The five precepts are used as a philosophical-ideological basis to realize the four goals or ideal ideals of the state, namely: (i) protecting the entire Indonesian nation and the entire bloodshed of Indonesia, (ii) improving public welfare, (iii) educating the nation's life, (iv) participate in implementing world order based on independence, lasting peace, and social justice. The goals or ideals of the state and the fundamentals of the country are explained operationally in the provisions of the 1945 Constitution (Jimly Asshiddiqie, 2015, p. 8).

Pancasila as philosophical foundations is found in the Preamble of the 1945 Constitution which is the first agreement on supporting constitutionalism. By unchanging the Preamble of the 1945 Constitution, the position of Pancasila has not changed as the philosophical foundations of the building of the Republic of Indonesia. What changes is systems and institutions to realize ideals based on Pancasila values. This is in accordance with the meaning of Pancasila as an open ideology that can only be carried out in a democratic system and in touch with the values and development of society (Jimly Asshiddiqie, 2015, p. 39).

The placement of Pancasila as a basic practice-norm was first delivered by Notonagoro (Notonegoro, Pancasila Dasar Falsafah Negara). Pancasila is seen as the ideal of law (*rechtsidee*) as a guiding star. This position requires the establishment of positive law to achieve ideas in Pancasila, and can be used to test positive law. With the establishment of Pancasila as fundamental norms, the formation of law, its implementation and implementation cannot be separated from the values of Pancasila (Attamimi, A. Hamid A, 1990, p. 309).

To achieve national goals and carry out state administration based on Pancasila, the 1945 Constitution has provided a framework for the arrangement of life in the community, nation and state. The norms in the 1945 Constitution not only regulate political life but also economic and social life. This is because the founding fathers desired that the Indonesian people be fully sovereign, not only political sovereignty, then the 1945 Constitution was a political constitution, an economic constitution, and a social consequence that had to become a political, economic and social basis, both by the state. , society (civil society), or market (market) (Jimly Asshiddiqie, 2015, p. 10).

As a political constitution, the 1945 Constitution regulates the problem of state structure, relations between state institutions, and relations with citizens. This is for example regulated in Chapter I concerning the Form of Sovereignty, Chapter II concerning the People's Consultative Assembly, Chapter III concerning the Power of State Government, Chapter V concerning State Ministries, Chapter VI concerning Regional Governments, Chapter VII concerning the House of Representatives, Chapter VIIA concerning Regional Representative Councils , Chapter VIIB concerning Elections, Chapter VIII concerning Financial Matters, Chapter VIIIA concerning the Supreme Audit Board, Chapter IX concerning Judicial Power, Chapter IX concerning State Territory, Chapter X concerning Citizens and Citizens in particular Article 26, Chapter XA concerning Human Rights, especially Article 28I paragraph (5), Chapter XII concerning State Defense and Security, Chapter XV concerning Flags, Languages and State Symbols, and National Anthem, Chapter XVI concerning Amendments to the Constitution, Transitional Rules and Additional Rules (Jimly Asshiddiqie, 2015, p. 10).

The diversity of the Indonesian nation is a reality. Even this diversity is wealth as a gift from God which has stated that humans are created classically so that they know each other. Therefore, a state organization that is established must be able to bind the whole differences into a unity without having to impose unity, if there is no union that creates unity, then it is impossible to organize as one nation and one country. other cultures or between one religion and another. Therefore the idea of a nation state (nation state) put forward by the founders of the Indonesian nation is not the concept of an ancient nation state which solely bases itself on equality of race, language and religion. The nation state is the idea of a state established for all nations. The concept of a "nation state" is a state established based on a collective agreement that results in open contractual and transactional relations between the parties that make an agreement for the benefit of all people (Jimly Asshiddiqie, 2015, p. 18-19).

If the countries established are based on the principle of popular sovereignty and are aimed at all nations consisting of various tribes, cultures and religions, then democracy is the only choice. This is because in

democracy presupposes the existence and importance of pluralism in society. The freer the degree of individual autonomy, the more democratic life is realized. This also means that democracy promotes diversity and pluralism (Jimly Asshiddiqie, 2015, p. 257).

The application of religious or religious actions, in certain conditions of society, is a value system that can influence one's behavior, both in social, economic and political life. Referring to Talcott Parsons's opinion, religion is the only system of referenced values for the whole system of actions (Talcott Parsons, P. 55-60). Because that is according to Zubaedi, religion in this context, is placed as the only reference for its followers in directing attitudes and determining the orientation of action choices. That is, religion is ideally used as a kind of reference for identity that can give meaning to the style of social interaction. Human upheaval becomes a religious upheaval, and every decision of followers of a religion will determine the image of religion in the face of history. In short, the nature of religion is a historical essence, which fights between mortality and change, and is not a metaphysical nature, which is closed, completed, does not contain movement in itself, and remains in eternity (Zubaedi, 2007, p. 45-46).

Based on the overall material of the 1945 Constitution and if it explores the struggle of thought during the formulation of the text of the 1945 Constitution and at the time of amendment to the 1945 Constitution, it can be stated that there are nine basic principles underlying the preparation of the Indonesian State administration system, namely (Jimly Asshiddiqie, 2005, p. 63-84):

1. The One Principle of Godhead;
2. The State of Law and the Rule of Law;
3. Understanding the People's Sovereignty and Democracy;
4. Direct Democracy and Representative Democracy;
5. Separation of Power and Principles of Checks and Balances;
6. The Presidential System;
7. Unity and diversity;
8. Understanding the Democracy of the Economy and Economy of the Social Market;
9. Civil society.

The development of the regulation of human rights in the 1945 Constitution after the amendment has changed the arrangement from the previously regulated limited to more detailed. The results of the regulation of human rights Second Amendment to the 1945 Constitution are spread into 17 articles, namely Article 27, Article 28, Article 28A up to 28 I, Article 29, Article 31, Article 32, Article 33, and Article 34. These rights are distinguished into Civil and Political Rights (HSP) and Social and Cultural Economic Rights (HESB) with the following details:

1. Article 28A and Article 28I paragraph (1) Right to life
2. Article 28D paragraph (1) Right to the recognition, guarantee, protection, and fair legal certainty and equal treatment before the law
3. Article 28D paragraph (3) The right to equal opportunities in government
4. Article 28D paragraph (4) and Article 28E paragraph (1) The right to citizenship status and the right to move
5. Article 28E paragraph (1) and Article 28I paragraph (1) Right to freedom of religion
6. Article 28E Paragraph (2) and Article 28I Paragraph (1) The right to freedom of belief in faith, expresses thoughts and attitudes, in accordance with his conscience
7. Article 28E paragraph (3) The right to freedom of association, assembly and opinion
8. Article 28F The right to communicate and obtain information
9. Article 28G paragraph (1) The right to security and freedom from threats
10. Article 28G paragraph (2) and 28I paragraph (1) Rights free from torture
11. Article 28G paragraph (2) The right to obtain political asylum

12. Article 28I paragraph (1) The right not to be enslaved
13. Article 28I paragraph (1) The right to be recognized as a person before the law
14. Article 28I paragraph (1) The right not to be prosecuted on the basis of retroactive law
15. Article 28I paragraph (2) The right not to be discriminated against

Political rights / Political Right, namely rights that provide guarantees as well as protection for political attitudes and in ways of organizing. This right instead provides protection so that everyone is kept away from the targets of torture. The emergence of civil and political rights is partly based on the desire to avoid dictatorial power.

- a. The right to choose and be elected in an election
- b. the right to participate in government activities
- c. The right to make and establish political parties / political parties and other political organizations
- d. The right to make and submit a petition proposal

Citizens' political rights include the right to vote and be elected, the guarantee of rights is chosen explicitly in the 1945 Constitution beginning with Article 27 paragraph (1) and (2); Article 28, Article 28D paragraph (3); Article 28E paragraph (3) .<sup>56</sup> While the right to vote is also regulated in Article 1 paragraph (2); Article 2 paragraph (1); Article 6A paragraph (1); Article 19 paragraph (1) and Article 22C paragraph (1) of the 1945 Constitution.<sup>57</sup> The formulation of these articles is very clear that there is no justification for discrimination regarding race, wealth, religion and descent. Every citizen has the same rights and the implementation of rights and obligations must be shared (A.Gunawan Setiardja, 1993, p. 117).

### **2.3. Application of the Value of Religiosity in Life Politically Based on the Constitution**

The tolerance of religious life in Indonesia is guaranteed in the state constitution, namely religious freedom guaranteed in the 1945 Constitution as a result of amendment to Article 28E, paragraph (1) Every person is free to embrace religion, and worship according to his religion, choose education and teaching, choose employment, choose citizenship , choose a place to live in the territory of the country, and leave it and have the right to return; paragraph (2) Everyone has the right to freedom of belief in his beliefs, expressing his attitude, in accordance with his conscience. And Article 29 paragraph (2), the State guarantees the independence of each resident to embrace his own religion and to worship according to his religion and belief (Rachman, Fazlur, 2000, p. 256).

Philosophically the ideal relationship between the state and religion, the basic principle of the state based on the One Godhead, which means that every citizen is free to believe or embrace religion in accordance with his beliefs and beliefs. Freedom in this sense means that religious and religious decisions are placed on the private domain or at the individual level. It can also be said that religion is an individual problem and not a state problem. The state in this relationship is sufficient to guarantee juridically and facilitate so that citizens can practice religion and worship in a safe, peaceful and peaceful manner. However, however, human beings form a state, but there must be state regulations, especially in religious life. Such regulations are needed in order to provide protection to citizens. The regulation relates to efforts to protect public safety, public order, ethics and moral community (public morals), public health (public health) and protect the rights and fundamental freedoms of others (the fundamental right and freedom orders). The regulation carried out by the state towards the freedom of citizens to embrace religion seems to still need further development. For example in the Criminal Procedure Code, only contained in a few articles, for example Article 156 which regulates hatred and humiliation in a religion. Article 156a concerning blasphemy, Article 175 hinders violent religious ceremonies, Article 176 concerning disrupting religious meetings (Kaelan, 2009, p. 246-257).

Philosophical thinking about the relationship between the state and religion is contained in the basis of the state philosophy of Pancasila, whose first principle reads the One Godhead, is an innovative thought of the founders of this nation. In this connection the founder of the Republic was able to put the context of state and religious relations in the midst of a model of a secular, theocratic and atheist state, based on the Indonesian local wisdom as a materialist cause. The Precepts of the One and Only God in Pancasila philosophy is a value and even the essence of values (values), for the life of nationality and statehood. Therefore the next important issue is how to derivate these values at the normative, actual and praxis level and their actualization in today's global era which is full of challenges (Kaelan, 2009, p. 242).



Pancasila, which contains the basic philosophy of state relations with religion, is a major work of the Indonesian people through the Founding Fathers of the Republic of Indonesia. The concept of thought of the founders of the country contained in the Pancasila, is a unique work that is anthropologically a local genius of the Indonesian people. The thought of statehood and nationality developed by the founders of the Republic was a result of the process of eclectic thought of incorporation, in Notonagoro's terms. Therefore the great work of this nation is on the same level as other major world ideas such as liberalism, socialism, communism, pragmatism, secularism and other great understandings. In this connection we realize that without the moral responsibility of all elements of the Indonesian nation to have such great work, it is not impossible to become extinct in today's global era. Tonybee in *A Study of History* warns us that a great work of culture from a nation in the process of change will develop well when there is a balance between challenge and response. If the cultural challenge will not develop well too much while the response is small, then the culture will consequently be pushed and extinct. Conversely if the challenge is too small while the response is large, then there will be an acculturation that is not dynamic (Kaelan, 2009, p. 242).

There are two main problems in state relations and religion, especially Islam, which appear as an expression that must be clarified. First, the party's temporary concern over the reappearance of the principle of Islamic law in the life of the community, nation and state, so that it seems that this is an attempt to restore the Indonesian state to the state foundation as contained in the Jakarta Charter. If it is understood in a straightforward manner that in fact no muslim pun refuses, if life is based on the Shari'ah that is in accordance with its religion, namely Islam. Second, but unfortunately it was precisely developed rather than the practical aspects, but the verbally, which was enlivened through discourse so as to cause turmoil that could lead to the disintegration of the nation. Many people question Islamic law in state life, which in this case is feared to return to the Jakarta Charter, or even to an Islamic state. Meanwhile for the elements of Islamic nationality, the most important thing should be to fight for the values of Islamic law in social life, nationality and statehood through the existing democratic order in Indonesia. Therefore, in order to clarify the issue above, it is important to understand the historical roots, the development of Islam and the Pancasila (Kaelan, 2009, p. 243).

When mapped, the issues relating to the relationship of religion (especially Islam) with the Pancasila in the Republic of Indonesia can be grouped into three stages, namely:

First, it happened when the nationalists proposed Pancasila as the foundation of the country's philosophy ahead of Indonesian independence in 1945. Like the founders of other countries, the founders of this Republic realized how important the basis of philosophy and ideology in a country. Therefore, when approaching independence on August 17, 1945, the leaders of the founding countries of the Islamic and Nationalist groups were involved in a debate on the basis of the Indonesian state's philosophy and ideology which would be established later. Our Founding Fathers realize how difficult it is to formulate the basic philosophy of the Indonesian state which consists of various ethnicities, races, religions and political groups in Indonesia. The debate on the basis of state philosophy began when the first BPUPKI trial, which at that time appeared three speakers, namely Yamin on May 29, 1945, Soepomo on May 31, and Soekarno on June 1, 1945. Based on speeches from the three founding figures of the country, the basic problem of state philosophy (Pancasila) was at the center of the debate between the Nationalists and the Islamic Group. At first the Islamic group wanted a country based on Islamic law, but the nationalist group did not agree with the proposal. Then there was an agreement with the signing of the Jakarta Charter which was intended as the draft Opening of the Indonesian Constitution on June 22, 1945 (Kaelan, 2009, p. 243-244).

In discussing the relationship between the State and the Islamic Religion it would be worth considering various thoughts from Islamic intellectual circles. The theories developed by modern Islamic intellectuals regarding the relationship between religion and the state can be classified into three main theories (Kaelan, 2009, p. 244).

The first thought, states that between religion and state do not have to be separated, because Islam as an integral and comprehensive religion regulates both worldly life and the life of the ukhrawi. According to this view, there is no aspect of the daily activities of Muslims, including in the management of the state, which can be separated from religion. Therefore, the state constitution must formally be based on Islamic law. This theory, among others, was put forward by, among others, Abdul A'la Maududi, Sayyid Quth and other ideologies of the Muslim Brotherhood. Both the Jamaat-Islami and the Ikhwan al-Muslimin are known as fundamentalist movements. Saudi Arabia, Iran and Pakistan can be seen as examples of Islamic countries in this type. They developed the ideology that the unity of the state and religion was manifested in the political reality that Islam was 'al-din wa al-daulah (religion and state) (Kaelan, 2009, p. 244).

Second thought, state and religion must be separated, and in this case religion is limited to personal matters.

In state relations there must be no religious interference in political affairs. The state constitution does not have to be based on Islam, but on secular values. An example of this theory is in the modern Turkish state under Kemal Attatutk. Third thought, requires an official separation between state and religion, so that the state is not based on Islam but the state continues to pay attention to or deal with religious matters. In other words, the state is involved in religious issues in its territory. The three possible relations between religion and the state seem to provide an overview of the choices that can determine all the characteristics of the social and political structures of Muslim countries and how the state must be run in the face of the demands and challenges of modernity. In this connection Ali Abdul al-Raziq asserted that the Caliph was essentially a religious regime, but a worldly regime without a religious foundation. Raziq argued that despite the claim of power, the caliphs could not have replaced the Prophet, because according to him, the Prophet had never been a king and had never tried to build a government or a state. He is a messenger of God and has never been a political leader. According to Raziq that Islam does not determine a particular regime and does not force Muslims to follow a certain system of existing government, but Islam gives full freedom to regulate the state in accordance with the intellectual, social and economic conditions in which we are based by considering our social development and the needs of the times (Kaelan, 2009, p. 244-245).

It seems that the formulation of relations between the state and the Islamic religion in the process of establishing the state of Indonesia is indeed not historically influenced by the thinking of these theories. In subsequent developments when the Indonesian nation proclaimed its independence on August 17, 1945, which was proclaimed by Soekarno and Hatta, on behalf of the entire Indonesian nation, then the PPKI which was known by Soekarno and Hatta as deputy chairman began his duties. Ahead of the opening of its first official session on August 18, 1945, Hatta proposed changing the draft Preamble to the Constitution and its contents, and this was carried out because he received objections from the people of eastern Indonesia, about the formulation of the sentence in the Jakarta Charter with the obligation to implement Islamic law for its followers. At the historic meeting, it was then approved through a noble agreement to become the Almighty Godhead (Kaelan, 2009, p. 246).

Second, the response of Muslims to Pancasila when in 1978 the New Order government submitted P-4 (Guidelines for Understanding and Pancasila Experience) to be ratified. In this connection many Islamic figures initially objected, but later accepted it. Third, when in 1982 the government proposed Pancasila as the sole principle of both all political and social organizations in Indonesia. This policy has received many challenges from Muslims, and there have even been several organizations that were frozen because they rejected the principle. Based on the development of the Muslim response to Pancasila as the basis of state philosophy, which was actualized by the government at that time, various attitudes and judgments emerged on Pancasila as the basis of the philosophy and ideology of the Indonesian nation and state, which resulted in confusion about the Pancasila as the basis of Indonesia's philosophy (Kaelan, 2009, p. 245-246).

### **3. CLOSING**

Indonesia is not a state based on religion, but in the absence of affirmation in the constitution regarding the separation between state and religious affairs, the Indonesian constitution still maintains religiosity as one of the values it contains. This is evidenced by the discussion of the founding fathers in the opening and several Articles in the 1945 Constitution to date, which mention many words of God. Thus the value of religiosity in the constitution is in line and animates the dimensions of the constitution, especially related to the political dimension. Therefore, every citizen should exercise his rights and obligations in the political sphere in line with the teachings of each religion. Because the application of religion in the political world is protected by the constitution. The Indonesian nation as one of the nations in the world seems destined to have characteristics, both in its geopolitical context and in its socio-cultural structure, which is different from other nations in the world. Therefore, the founding fathers of the Republic chose and formulated a philosophical basis, which is a philosophy of the nation and state of Indonesia whose first principle reads the Almighty Godhead, in the midst of an atheist, secular and theocratic state. Formulating the basic philosophy of this country in a process that is quite long in history. The Indonesian state on the basis of the One Godhead philosophy has characteristics when compared to atheist and secular state types. Therefore in a country based on the Almighty Godhead, religious life is not separated at all but rather religion gains philosophical, juridical and political legitimacy in the country, this is as contained in the Preamble of the 1945 Constitution. Philosophically the One Godhead is contained in sila the first is Pancasila which is based on the philosophy of the Indonesian state, so that the first principle is a philosophical basis for the life of the nation and state in terms of relations between the state and religion. In Indonesian laws and regulations, it does not regulate the religious space of the religious community but rather regulates the public sphere of citizenship in human relations.

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