THE STATE-RELIGION RELATIONSHIP FROM THE PERSPECTIVE OF ISLAMIC-BASED STATE POLICY

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Abstract: This article examines the relationship between state and religion from the perspective of Islamic-based state policy in Indonesia by focusing on how the state can manage the relationship with religion, as well as its impact on political, legal, and social structures. The data in this research is collected from primary and secondary legal materials. Using a juridical-normative approach and content analysis of various policies as well as conducting a literature review, this article concludes that in the context of state and religion relations, the state is not only considered as a political entity but also as a forum for implementing various Islamic-based values and principles in public policy. This article also sees that the state continues to make a positive legal system that is enforced nationally, in addition to efforts to introduce and apply moral and ethical values in the social and political structure of the state. In addition, this article also finds the fact that the relationship between the state and religion is still harmonious by providing legality to various Islamic-based legal products, one of which can be seen in sharia-based economic arrangements, especially Islamic banking. The relationship between state and religion in the Indonesian context shows that both have a reciprocal relationship that needs each other, state policies in ensuring religious life are very important to foster faith. Conversely, religion is very important for the state to get guidance in terms of morality.

Keywords: State, Religion, Sharia Economics, Islamic Law.
Introduction

The position of Islamic law in the Indonesian legal system has so far received a place and constitutional recognition. There are at least three philosophical reasons: a view of life and morals in the legal ideals of the majority Muslim community in Indonesia. Islamic law’s value or moral message is vital in creating the Pancasila state fundamentals. Meanwhile, sociological reasons in the history and development of Islamic-Indonesian society show a legal awareness based on Islamic values that are always sustainable. The third reason is that the juridical aspect contained in the 1945 Constitution has given a formal juridical place in enforcing Islamic law.¹

The juridical recognition of Islamic law in the Indonesian legal system at least fills the legal vacuum in the midst of the enactment of Indonesian positive law today.² Some formally applicable legislation products that have nuances or juridical content of Islamic law include Law Number 7 of 1989 concerning Religious Court; Law Number 1 of 1975 concerning Marriage; Law Number 10 of 1998 concerning Islamic Banking; Law Number 38 of 1999 concerning Zakat Management; Law Number 17 of 1999 concerning the Organization of Hajj; Law Number 41 of 2004 concerning Waqf; and Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law.

The existence of some legislation with Islamic law nuances above does not mean that the application of Islamic law formally becomes the basis of law in Indonesia. So far, Indonesia has not made Islamic law a formal source of law or a particular form in the national legal system. Only some provisions regarding Islamic law

are applied in several scopes in private law, such as marriage law, Islamic banking and others.

This confirms that Indonesia still prioritises the principle of tolerance. On the other hand, Islamic law cannot become formal law in Indonesia because of obstacles or debates. Given that although Indonesia has a majority Muslim population, the Indonesian legal system does not make Islamic law the primary source of formal law.

If we look at history, when Islam entered the archipelago, empirically, Islamic law was the living law in Indonesian society. In J.C.’s notes, Van Leur, the entry of Islam into Indonesia, still

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3 The Islamic Religious Law Adopted by the Majority of the Indonesian Population Does Not Mean That It Can Be Enforced as a Source of Law. To Enforce Islamic Law, Muslims Need to Work Hard, Such as Becoming Members of Parliament, for Example, Who Will Be Able to Carry the Mission of Islamic Values in Determining Legal Products, Even Though Only Islamic Legal Products Are Only Applicable and Intended for Their Adherents. Because It Should Be Known That the Political Reality of Law in Indonesia Is Constitutionally Not an Islamic State, but Constitutionally Indonesia Is a Pancasila State and the 1945 Constitution Is the Main Source of Law. See Kamsi, Pergolakan Politik Hukum Islam Di Indonesia, 154.

4 There Is an Idea That to Indonesian Islamic Law, It Is Necessary to Look at Several Aspects or Rules, One of Which Is That There Should Be No Public Law Binding Communities with Diverse Primordial Ties Based on Certain Religious Teachings Because the Pancasila State of Law Requires the Appearance of Laws That Guarantee Tolerance of Religious Life. See, Kamsi, Politik Hukum Islam Di Indonesia: Indonesianisasi Hukum Islam, 23.

5 The Positivation of Islamic Law Experiences Ups and Downs Which Follow Political Direction. Islamic Law Is the Living Law Whose Existence We Can See in the Form of Jurisprudence, Court Decisions, and Legislation. However, to Apply Islamic Law so That Islamic Values Can Become Material in Legal Products, Especially in the Realm of Private Law in Indonesia, Requires a Big Struggle, One of Which Is That We Must Be Active in the Legislative Process so That We Can Convince the Legislative Parties That These Islamic Values Need to Be Included in the National Legal Products. So to Achieve These Ideals, Muslims Should Take a Big Role in the Legislative Process by Being Active in Representative Institutions. One of Them Is Becoming a Member of Parliament by Carrying an Islamic Mission. See Kamsi, Pergolakan Politik Hukum Islam Di Indonesia, 149-151.

called the "archipelago," began in the 7th (seventh) century A.D.\textsuperscript{7} This means that the acceptance of Islamic law by society occurred in the early phase of the birth of Islam in the Arabian Peninsula until the entry of Dutch colonial rule. However, accepting Islamic law as a living law in society has experienced challenges since the arrival of the Dutch.

During the reign of the VOC (Vereenigde Oost Indische Compagnie), a rule was implemented that all regions under VOC rule had to use Dutch law. However, because people prefer to use Islamic law, the VOC government allows people to use Islamic law to resolve disputes in society. Then, in 1760, the VOC government, through D.W. Freijer, created the Freijer Compendium, which was used as a legal reference for resolving legal problems for Islamic communities in areas controlled by the VOC.\textsuperscript{8}

After the VOC government, another challenge came from coercive efforts that seemed to undermine Islamic law normatively by the Dutch East Indies government through Staatsblad 1937 Number 116. As stated by Yahya Harahap, this regulation was the result of Ter Haar's recommendation which, among other things, Islamic inheritance law had not been entirely accepted by the community, revoke the authority of the Religious Court (Raad Agama) for inheritance cases and transfer it to Landraat, the Religious Court (Raad Agama) under the supervision of Landraat, and Religious Court decisions cannot be implemented without the executive branch of the chairperson of Landraat.\textsuperscript{9}

Theoretically, the position of Islamic law in legal reform in Indonesia has two approach models, namely, persuasive source and authoritative source.\textsuperscript{10} The persuasive source then makes

\textsuperscript{7}Ahmad Mansur Suryanegara, \textit{Menemukan Sejarah} (Bandung: PT. Mizan Pustaka, 1999), 74.
\textsuperscript{9}M Yahya Harahap, \textit{Informasi Materi Kompilasi Hukum Islam: Mempositifkan Abstraksi Hukum Islam, Dalam Kompilasi Hukum Islam Dan Peradilan Agama Dalam Sistem Hukum Nasional} (Jakarta: Logos, 1999), 27.
\textsuperscript{10}Rahmat, \textit{Hukum Islam Di Indonesia} (Bandung: Bulan Bintang, 1993), 3-4.
Islamic law the basis for developing Islamic law in Indonesia. For example, regarding the death penalty, which was introduced from the qisas law, previously it was considered to violate human rights. Still, after it was recently included in the Criminal Law in Indonesia, with or through the Islamic law of visas, namely life for life, it seems that it tends to be accepted by society, proven until now, the death penalty is in effect in Indonesia. Meanwhile, authoritative sources mean efforts to formalize Islamic law as positive law in Indonesia. One example is Law Number 4 of 1970 concerning Marriage, most of which is taken from Islamic jurisprudence books. It can be seen that even though there are still many shortcomings, the Marriage Law remains a reference for Muslims seeking justice in Indonesia.11

The acceptance of Islamic law throughout history can be seen in three phases or periods;12 First, the period of acceptance of Islamic law (reception in the complex), namely a period in which Islamic law is fully implemented by Islamic society as a guideline in religious life. This happened before the Dutch came to Indonesia; Islamic law had been widely used to resolve various problems related to Islamic law, such as marriage and inheritance.13

Second, the period of acceptance of Islamic law by customary law is known as (receptive), namely the period in which Islamic law will generally be enforced if previously desired or accepted by customary law provisions. This means that Islamic law can be applied if it has become part of customary law. This provision was based on the Dutch East Indies’ rejection of the full implementation of Islamic law before they came to the archipelago so that through the "Islam Policy” policy, the Dutch government could then take care of Muslims in Indonesia with various efforts to attract the native people to be closer to European culture and also the Dutch

The State-Religion Relationship from the Perspective of Islamic-Based

East Indies government. ¹⁴ Let’s look closely at the policy of the Dutch East Indies government. It indirectly intends to undermine it by hampering the implementation of Islamic law, for example, by not including hudud and qisas penalties in criminal law, as well as regarding marriage and inheritance laws, which are also increasingly narrowed. ¹⁵

The role of Islamic law in Indonesia’s legal system then began to improve after the formation of the Indonesian Independence Preparatory Efforts Investigation Agency (BPUPKI), where Islamic leaders persistently fought for the re-enactment of Islamic law with the strength of Islamic law itself without any connection with customary law. ¹⁶ Apart from that, normative and authoritative acceptance of Islamic law began with the enactment of the 1945 Constitution. In this case, Islamic law was recognized constitutionally as stipulated in Article 29 of the 1945 Constitution. At that time, Islamic law was accepted as a persuasive source. ¹⁷

The Symbiotic Relationship between Religion and the State in Indonesia

Looking at the past and present journey of the Indonesian nation with all its plurality or pluralism and diversity of society, of course, to say that religion and the state in Indonesia establish a symbiotic relationship is undeniable as Islam-Indonesia has distinctive characteristics, with the structure of society, language, religion, and culture all appearing peacefully. ¹⁸

¹⁴ Aqib Suminto, Politik Islam Hindia Belanda (Jakarta: LP3ES, 1985), 12.
In symbiotic theory, the state and religion have a reciprocal relationship that requires each other. In this case, religion needs the state to develop. Likewise, the state needs religion to receive guidance in terms of morality. According to the symbiotic theory or paradigm, the relationship between religion and the state is not formal. Therefore, religion cannot fully determine the policy of a state; it applies vice versa, and the state has limits in matters concerning the regulation of religion. Looking at the Indonesian context with symbiotic theory shows that religion and the state have a reciprocal relationship that needs each other. Still, religion cannot influence state policy in general. This is because Indonesia does not make Islamic law formal, but even so, in this relationship between religion and the state, they need each other.

On the other hand, in an integralistic paradigm, it is stated that religion and the state are always united, where religion’s territory covers a state’s political territory. According to the paradigm theory, a government is implemented using the basis of God’s sovereignty. If examined closely, this intergalactic paradigm then gave birth to the understanding or concept that the state and religion are one unit. This paradigm also states that life in the state has then been regulated by religious principles or values, as the source of formal law, according to this paradigm, is located in Islamic law.

In practice, state rules and religious rules are always united, so according to the intergalactic paradigm, citizens who obey the regulations or provisions of the state are said to be obedient to religion, which is then the opposite of anyone who rebels or opposes the provisions of the state is also said to oppose religion, which means it can also be said to oppose God.

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19Kamsi, Pergolakan Politik Hukum Islam Di Indonesia, 87.
In reality, not all countries in the world can be said to apply Islamic sharia law as its formal law as interpreted by the integralistic paradigm. As for the countries that constitutionally use Islamic sharia law as the primary source of law, namely Saudi Arabia, Pakistan and Iran, these three countries are recorded as using Islamic law as their formal laws or regulations. Of the three countries, both civil law and criminal law apply the concept of Islamic law. Call it in a civil environment, such as marriage law, inheritance law and so on, all of which apply Islamic law. In the criminal law environment as well, let's say, for example, in the three countries there is theft, then the culprit will be punished by cutting hands; if there is a case of adultery, then the law of a hundred times and stoning is carried out, as well as if there is a case of murder then it will be subject to visas.

While in Indonesia, the concept of Islamic law is considered inappropriate to be used fully.\(^{22}\) Suppose previously, the intergalactic paradigm was identical to the meaning of applying Islamic law in a country in totality. In that case, Indonesia does not implement the concept of Islamic law in total, only some of which are used, such as the field of private civil law such as marriage, waris, wakaf, zakat, infaq, sadaqah, hibah, and cases about sharia economics. This authority applies Islamic law in the scope of dispute resolution within the religious courts, Law Number 5 of 2009 concerning Religious Court.\(^{23}\)

Meanwhile, Indonesia does not apply Islamic criminal law as a formal law in the national legal system. Aceh Province is a region in Indonesia granted special autonomy rights authorised to apply Islamic criminal law or jinayat as the applicable law. However, the implementation of Islamic criminal law is not fully implemented,

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some of which are regulated, such as relating to the consumption of alcohol, gambling, adultery, and so on.\textsuperscript{24} Likewise, the sanctions given from some of those regulated above are also not fully applied; for example, in the case of adultery, where the law of stoning is not applied, there is only the law of flogging, fines, or confinement. The law of hand-cutting for thieves and the law of visas for murderers is also not applied.

The non-application of Islamic law in Indonesia indicates that other aspects of the law are considered, such as the existence of laws on Human Rights, where in international law or norms, human rights have been adopted by all countries that are part of the United Nations (UN). Likewise, the countries previously mentioned above, such as Saudi Arabia, Pakistan, and Iran, fully implement Islamic law as their formal legal system, which is then often opposed and criticised by the international legal system. Saudi Arabia, for example, is said to be a severe human rights violator, according to human rights organisations.\textsuperscript{25}

However, it is very close if we look at the relationship between the state and religion in Indonesia in the abovementioned cases. Religion and the state are always united in the policies issued by the state by looking at religious interests, although not by applying the concept of Islamic law as public law.\textsuperscript{26}

Even so, the future of the application of Islamic law or the norms and values of Islamic law in Indonesia can be said to be guaranteed and will continue to exist because of the nature of the application of symbiotic relationships, namely where religion and the state need each other so that both will continue to go hand in hand even though on the one hand the position of the values and norms of Islamic law cannot fully influence the policy on the

\textsuperscript{24}Hamdani, “Kontroversi Pemberlakuan Qanun Jinayah Di Aceh,” \textit{Jurnal Nanggroe} 2, no. 3 (2013).


enactment of formal (public) law with Islamic nuances in Indonesia.

Soekarno once said that to make an Islamic-based policy, it is enough to put political parties based on Islam so that Islamic nuances will characterise parliamentary decisions. Although it is as simple as that, in fact, before the reformation, there were many Islamic parties that occupied the parliament, but still, Islamic policies could not be fully implemented into public law. This is considering the struggle for independence of the Indonesian nation with various beliefs embraced by freedom fighters, so that making the relationship between religion and the state symbiotically is considered far more appropriate, where Islamic values are not fully applied but also not eliminated, so that the interests of Islamic believers and non-Muslims are accommodated in the frame of the legal system by the Indonesian nation to date.

Once again, it is emphasized that Indonesia has chosen not to make Islamic law a formal source of law or any particular form in its national legal system. This can be understood as a reflection of the characteristics of the Indonesian state, which adheres to the basic state principles of Pancasila, which emphasizes the principles of diversity, social justice, and the supremacy of law. With Pancasila as the basis of the Indonesian state, it reflects the spirit of inclusiveness and recognizes religious diversity. Bearing in mind that even though the majority of Indonesia’s population is Muslim, it is also inhabited by adherents of other religions such as Christianity, Hinduism, Buddhism, and traditional beliefs. Therefore, the decision not to make Islamic law the only one or tend to appear dominant as a source of formal law illustrates efforts to maintain balance and justice for all citizens.

Although various legal provisions reflect Islamic values in the Indonesian legal system, these are generally inclusive and not exclusive. Indonesia has a national legal system that originates from multiple sources, including the constitution, statutory

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regulations, and general legal principles.\textsuperscript{28} At the national level, Pancasila and the 1945 Constitution of the Republic of Indonesia (UUD 1945) are the constitutional foundations that regulate the rights and obligations of citizens.

However, in several regions in Indonesia, there is a practice of applying Islamic law, such as in Aceh Darussalam Province, and the application of Islamic law in the form of customary law and local policies. Regarding Islamic law, various regions have generally applied Islamic law in specific contexts, such as in matters of marriage, inheritance, and criminal law. However, this is often local and remains the generally secular characteristic of the national legal system. This means that it is emphasized that up to now, Indonesia still adheres to the basic principles of Pancasila in forming and implementing its national laws while still respecting the diversity of religions or pluralism of laws and beliefs in its society.

**Unification of Islamic Law**

Legal unification refers to the merging of various types of law into a unified legal framework that can be applied and enforced nationally or in regional-based applications within a country.\textsuperscript{29} In Indonesia, legal unification involves combining state law with customary or Islamic law, codified into statutory regulations.

In his book, Introduction to Indonesian Law, History and Basics of Legal Procedure, and Politics of Indonesian Law, Umar Said states that legal unification is a union of national laws.\textsuperscript{30} However, in the framework of national legal unification, especially for sensitive laws such as customary laws that exist in society, it is pretty challenging to unify; this happens considering that each


region has different customs, such as the Law on Pornography. This has received a lot of resistance from local communities who believe that if it is implemented, it will affect the essence of implementing traditional activities in their area.

In Indonesia, unification has been realized in various fields of public law, such as constitutional law, state administrative law, tax law, criminal procedural law, and others. Meanwhile, in the realm of private law, it is generally still pluralistic, except in specific legal fields such as Law Number 5 of 1960 concerning UUP, Law Number 1 of 1997 concerning Marriage, Law Number 4 of 1996 concerning Mortgage Rights, Law Law Number 42 of 1999 concerning Fiduciary Guarantees, Law Number 16 of 2001 concerning Foundations, and others.

In the history of the formation of the state ideology, namely Pancasila, where previously the first precept read "Belief in God with the Obligation to Implement Islamic Sharia for its adherents", the sound of the first precept of Pancasila at first glance seemed to favor the interests of the Muslim community. So then it was changed to "Belief in One God", which is how the first principle of Pancasila reads.

According to Kusumatmadja, the mandate of the meaning of the first principle of Pancasila is that there should not be a national legal product contrary to religion or rejected or hostile to religion. Similarly, Article 28 Paragraph (1) of the 1945 constitution states that the right to religion is a human right. Then, in Article 29

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31 To Realize Islamic Law into National Law, Two Conditions Are Needed, One of Which Is That All Ideas Must Be Included in the Frame of the Indonesian Legal System without the Need to Mention Islam. Law for a Majority Group Has the Prospect of Being Enacted, with the Aim of Always Strengthening the State Based on Pancasila. In the Indonesian Legal System, a Law Will Be Enacted If It Has Been Stipulated by a State Institution Such as the Parliament, so on the Contrary, a Law That Has Not Been Stipulated by an Authorized Institution Categorically Cannot Be Called a Law Even If It Is Literally Called a Law. Kamsi, *Politik Hukum Islam Di Indonesia: Indonesianisasi Hukum Islam*, 5.

Paragraph (2), it is clarified that the state guarantees every Indonesian citizen in embracing belief or religion.

In the legal system in Indonesia, the state, through the legal system of legislation, has provided legal legality in the implementation of Islamic banking activities, some of which are Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking. The law is considered to have not specifically regulated Islamic banking institutions, so Law Number 21 of 2008 concerning Islamic Banking was enacted. It explicitly regulates Islamic banking institutions, covering their principles, objectives, and functions. In this legislation, it is clear that the state gives legality to all Islamic banking activities to empower the community’s economy. Thus, the presence of the state in giving its attention to religion is evident from the policy within the scope of determining regulations on Islamic banking as a principle or guideline for the legality of organising an Islamic banking system.

Several Islamic banking products in financing traffic, both covering the realm of investment and loans, with the contracts in them such as sale and purchase and service contracts or in insurance products such as general insurance and life insurance, all of which are also clearly regulated in existing regulations regarding regulations in the scope of Islamic banking financing traffic. Similar rules can also be seen from the Financial Services Authority Regulation Number 15/PJOK.04/2015 concerning the Determination of Sharia Principles in the Capital Market. In the law, what can be done by Islamic banks in carrying out banking activities by Sharia principles and regulating the limitations or prohibitions of banking activities that may not be carried out has been clarified.


34 Article 2 of the Financial Services Authority Regulation Number 15/PJOK.04/2015 Concerning the Determination of Sharia Principles in the Capital
The relationship between religion and the state can then be seen with the state's full attention in the development of a Sharia-based economy or the traffic of Islamic banking financing. Significant developments have occurred since the enactment of Law Number 21 of 2008 concerning Islamic Banking, which clearly states Islamic banking institutions’ principles, functions, and objectives from article to article. The principle of banking that runs its business according to Islamic law makes it much in demand by the public, where the majority of Indonesia's population is Muslim. Products or financing and capital provided by Islamic banking are considered to have provided a sense of security and comfort based on the provisions of Islamic sharia principles.

Currently, the development of Sharia-based economics is not only recognised by the broader community in general, but it has

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Market Describes Several Activities and Businesses That Are Contrary to Sharia Principles, Such as Gambling, Ribawi Services, Buying and Selling Containing Elements of Gharar, Producing Prohibited Substances and Types and so On.


entered the education sector, one of which is through Islamic boarding schools. The pesantren-based populist economy has been able to encourage the revival of halal. The development of pesantren financial institutions continues to show positive results, both through the development of students’ entrepreneurship and so on. Some of the development of Islamic finance in pesantren is through the Waqf Bank, Baitul Maal Wat-Tamwil and others.37 From these facts, at least, cupuk gives us an idea that the community widely recognises the existence of Islamic economics, sharia-based banking products developed amid society through pesantren educational institutions and so on have had a positive influence.

In 2020, the government reiterated that it would be committed to making the Islamic finance industry one of the new sources of national economic growth. As stated in Presidential Regulation Number 28 of 2020 concerning the National Committee for Sharia Economy and Finance, there are four (4) focuses of strengthening the national economy through Sharia finance, namely, the development of the halal product industry, Sharia financial industry, Sharia fund development and; sharia business development.38 Ma’ruf Amin said that Indonesia has enormous potential in developing the halal production industry because it has the world’s largest Muslim population.39 According to him, the number of domestic consumers is vast, with most Indonesians having a Muslim population, so Indonesia should develop halal production globally to meet domestic and foreign needs. Regarding banking institutions based on Islamic economics, Ma’ruf Amin also explained that Islamic finance in

Indonesia has a good ecosystem, starting from clear legal regulations, business actors, and the public as consumers. Sri Mulyani said the same thing, she expects Indonesia to apply the concept of sharia economy thoroughly in every aspect of life today. According to her, the principles used in Sharia-based economics have unique values: helping, justice, honesty and so on. He says it is appropriate and very appropriate if applied in Indonesia.

The existence of the concept of Islamic economics implemented through Sharia-based financial institutions, in this case through Islamic banking, is very familiar in people's lives, especially in Indonesia. In fact, in addition to the development and progress of Islamic economics in Indonesia, several countries have also implemented Islamic financial institutions to be implemented in their countries, namely the country dubbed the Bamboo Curtain, China, which incidentally has a majority non-Muslim population but still presents Islamic banking both from financing through cooperation with countries with Muslim populations. This can happen considering that Islamic banking institutions, although using Sharia principles, also do not close access for non-Muslim customers to join.

Meanwhile, Bali Province has a majority Hindu population (non-Muslim). Still, according to the data, by looking at the composition of financing, 55% is felt by non-Muslim customers and 45% of Muslim customers, or in other words, Islamic banking customers from non-Muslims dominate. This reality proves that non-Muslim customers are also interested in Sharia-based financial institution products.

Based on the above explanation, regarding the existence of Islamic finance or banking, which is well known by the wider community, it can illustrate that the role of Islamic banking with all its products has made a substantial contribution to the

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economic field. Islamic banks have the same purpose and function as conventional banks, covering financing and capital. However, what distinguishes it is the product or cooperation contract owned by Islamic banking.

Islamic banking institutions’ financing products show that Islamic banking’s contribution, primarily as a facilitator for most Muslims, has provided good guarantees from the halal cooperation contracts in financing traffic through Islamic Banks. In providing guarantees, the state, through its authority, has regulated economic activities through related institutions so that the guarantee of Islamic banking financing traffic can genuinely apply the concept of banking based on Islamic Sharia principles. The involvement or form of state responsiveness to religious interests in Sharia-based banking institutions has shown attention through legislation covering general Islamic banking institutions or specifically regulating Islamic banking products.

For example, in Law Number 21 of 2008 concerning Islamic Banking, the articles mention Islamic banking products that are allowed, or we can find more explicit regulations in the Financial Services Authority Regulation No. 15 / POJK.04 / 2015 concerning the Application of Sharia Principles in the Capital Market. The clarity referred to in this regulation and other laws and regulations can be seen regarding what provisions are allowed and which are contrary to Islamic law in Islamic banking activities.

As stated in the Financial Services Authority Regulation No. 15/POJK.04/2015 concerning the Application of Sharia Principles in the Capital Market in Article 2 Paragraph (1) letters (a), (b), (c), and (d), which states that prohibited business activities are those related to gambling, ribawi, buying and selling that have elements of uncertainty (unclear) gharar, producing and distributing products that are haram in terms of substances, and others.

The government’s attention is paid to ensuring the legality of various legal products with Sharia nuances and, at the same time, regulating Islamic banking institutions specifically through the different regulations above. It reflects that the state has played an essential role in regulating Islamic banking institutions to have
legal certainty in the financing traffic and remain by the principles of Islamic law. That way, the contribution of Islamic banking in providing products that guarantee halalness for the community can be fulfilled. The position of the state in this context is to guarantee religious life. At the same time, the position of religion is to ensure order through the source of moral values covering all activities of human life, both personal and social, as well as in state life, especially in the context of nation and state in Indonesia.

Conclusion

In symbiotic theory, it is stated that the state and religion have a reciprocal relationship that needs each other. The state’s position in guaranteeing religious life is critical for growing faith. Conversely, religion is vital for the state to get guidance in terms of morality. In the Indonesian context, it seems that the state and religion have shown a symbiotic relationship in the life of the nation and state. It can be seen that Islam-Indonesia has distinctive characteristics, with the structure of society, language, religion and culture that can all appear peacefully.

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