



### RELEVANCE OF VERSES ON POLITICS IN THE QURAN WITH THE CONSTITUTION IN INDONESIA; THEMATIC PANCASILA, UUD 1945, AND CONTROVERSIAL ARTICLES IN CRIMINAL CODE (KUHP)

Ashari Mujamil<sup>1\*</sup>, Ali Wafa<sup>2</sup>

<sup>1</sup>Universitas Islam Negeri Sunan Ampel, Indonesia : [02050122023@student.uinsby.ac.id](mailto:02050122023@student.uinsby.ac.id)

<sup>2</sup>Universitas Islam Negeri Sunan Ampel, Indonesia : [aliwafa@uinsby.ac.id](mailto:aliwafa@uinsby.ac.id)

\*correspondence author: [02050122023@student.uinsby.ac.id](mailto:02050122023@student.uinsby.ac.id)

**Abstract:** The Qur'an has become a universal guide to life - including political ethics - although it is not explained explicitly so that in its development, the concept of politics and government reflected in the constitution often has relevance to the values of the Qur'an. This study aims to reflect on the main values in the al-Qur'an related to political ethics to be elaborated in the concept of the Constitution in Indonesia, namely Pancasila and the UUD 1945. This research analyses the result using a qualitative approach, a thematic literature study method aided by Abdullah Saeed's contextual hermeneutic approach. The research results show that as a whole, the Pancasila precepts have a meaning that is relevant to the values of the Qur'an, namely the 1st precept of monotheism, the 2nd precept of equality, the 3rd precept of brotherhood/ unity, the 4th precept of deliberation in the process of decision-making, and the 5th precept of social justice/welfare. As for the thematic review of the UUD 1945, there are basic values of political ethics in the Qur'an, namely regarding law, power, and sovereignty; leadership and democracy; government apparatus; and Human Rights. Regarding the controversial articles in the Criminal Code, there are several important points, including the limitations on freedom of expression, alternative criminal penalties and commutation of sentences for corruptors, as well as punishment for adultery perpetrators, which in the contextualization of the values of the Quran contains the relevance of ethical, political and moral values.

**Keywords:** *Al-Qur'an, Politics, Indonesian Constitution*

#### A. Introduction

The role of the Al-Qur'an as a universal human guide and in sync with the times course also includes a discussion of politics, although, in the Qur'an, the word *siyasa* (politics) is not directly found. Politics is called *siyasa* (Arabic); the use of this term in the Qur'an cannot be found clearly because no verses mention it *siyasa* said. However, the word *siyasa* can be represented by several terms that mean leadership, such as judge, caliph, *imarah*, *ulil amri*, *al-mulk* (Makmur, 2019). Furthermore, one of the uses of the term *siyasa* in Islamic politics refers to the *fiqh* science commonly known as *Siyasah Dusturiyyah*, which is the science of studying a country's government, especially the state constitution. *Siyasah Dusturiyyah* discusses the issue of governance arrangements in a



region -in the context of the country - and the legislation used. In practice, this arrangement is adapted to Islamic religious principles and uses the principles of *mashlahah mursalah* to benefit and fulfill community needs (Muthalib, 2019). When explored more deeply, Islamic civilization's development is inseparable from the upheaval of power with various government systems. However, this is an implementation of the principles of political ethics contained in the Qur'an, which then develop according to the dynamic conditions of society.

This state order began when the Prophet Muhammad SAW transformed the ethnic-political situation of the Arab nation towards a socio-political order with the principle of equality. As for the revelation of the Qur'an –the revelation of Allah– to the Prophet Muhammad, it is used as a guideline for using the constitution in a country. Along with the times, Muslims position the Qur'an as the basis for Islamic political and ethical values, while the realization of the rules (legislation) that is made can be in 2 (two) forms, following the initial design -the politics of the prophetic according to the Qur'an, or arranged to adapt to the times (Black, 2006). The presence of Islam, originally located in the Arabian Peninsula, certainly brought about a social transformation, including the political system. Arab culture, which at its time used the tribal system, was then united in a frame of equality before Allah to become a society that prioritized law and morality, which is one of the contributions of Islam in implementing the political system. Islam, at that time, was symbolized not only as a religion but also as a form of political power, forming the state structure.

Indonesia has Pancasila as the basis of the state and the UUD 1945 (UUD) of the Unitary State of the Republic of Indonesia (NKRI), commonly abbreviated as the UUD 1945, as the source of all sources of law in Indonesia. As a country with a majority Muslim population, the substance of Indonesia's Constitution has similarities with the political system in the Quran. For example, the Preamble of the UUD 1945, which at the same time contains Pancasila, one of the 4th precepts which read "Populist led by wisdom in representative deliberations," also contains political principles in the Qur'an, namely QS. Ash-Shura: 38 regarding deliberation as decision-making (Lajnah Pentashihan Mushaf Al Qur'an, 2022).

The formulation of the latest Draft Law (RUU) on the Criminal Code (KUHP) aims to create a national criminal law that replaces the Criminal Code inherited from the Dutch East Indies colonial government. The Criminal Code itself was designed based on Pancasila and the UUD 1945 of the Republic of Indonesia, as well as the general legal principles recognized by civilized society (Badan Pembinaan Hukum Nasional Kementerian Hukum dan HAM, 2022). The Criminal Code Bill draft, passed on December 6, 2022, has drawn controversy in several articles. These articles, among other things, concern the issue of insulting the president and the government, reducing sentences for corruptors, and so on. The article that caught the public's attention was regarding the legal actions of the perpetrators of adultery (CNN Indonesia, 2022a).

The previous research that examines the political values of Islam and the Qur'an with thematic juridical-normative of the Constitution in Indonesia is research conducted by Nurhadi, with his thematic research on the verses of political education in the Qur'an (Nurhadi, 2020). As a result, there are 13 (thirteen) points regarding the verses of political education, including the provisions of constitutional law and its implementation. Similar thematic research was also conducted by Sutiono, who discussed the study of Human Rights from the perspective of Islamic Law and the Constitution in Indonesia (Sutiono,

2022). Sutiono conducted this research by exploring the relevance of Islamic Law sourced from the Qur'an and Hadith with the Constitution in Indonesia, including the 1945 Constitution and other laws governing Human Rights. Both studies only use descriptive analysis and do not use specific theories or approaches to discuss research topics.

Furthermore, Abdul Rohman's research compared the election of leaders in Indonesia who adhere to the principles of democracy based on the constitution and the election of leaders in the view of the Qur'an, which prioritizes choosing leaders from among Muslims (Rohman, 2021). In his research, Rohman uses Al Mawardi's views to analyze the Islamic perspective on leader selection. From these studies, researchers understand that the right research approach is needed to dialogue and analyze the problems of the research topic on the relevance of the Qur'an and the Constitution in Indonesia. In addition to just looking for relevance, researchers must also explore the existing contradictions so that the research boundaries and analysis can lead to answers to contextual problems.

Therefore, to differentiate and limit the focus of study in this research from previous research, the researcher raises (1) the concept of politics in the Qur'an and its relevance in the Indonesian constitution, namely Pancasila and the UUD 1945 and (2) reflection of Qur'anic values in controversial articles of the Criminal Code. Based on these research topics, researchers use Abdullah Saeed's contextual hermeneutic theory and approach to interpret the verses of the Qur'an and dialogue them with the contextualization of law (Constitution) in Indonesia. In Saeed's view, the text of the Qur'an cannot be separated from contextualization with the situation when it was revealed (Saeed, 2006). Abdullah Saeed views that the values contained in the verses of the Qur'an have both relevance and contradiction when interpreted in the law in the present, such as the contradiction of the provisions on slavery and the position of women in the 7th-century Islamic period. Therefore, the contextual hermeneutic approach offered by Abdullah Saeed can be used as an alternative to interpreting the Qur'an in the context of the contemporary era (Saeed, 2019). This theory and approach are considerable to use, considering that the application of Islamic law and law in Indonesia cannot be separated from society's social, cultural, political, and economic context at a certain time.

Thus, the novelty of the research can be seen from the topic raised, and the approach used, namely contextual thematic studies related to the relevance of political concepts in the Qur'an and the Constitution in Indonesia, and the reflections on the values of the Qur'an and controversial articles of the Criminal Code. This research is important to examine the relevance between the values of the Qur'an and the Constitution in Indonesia. The right approach is needed in interpreting and contextualizing according to social conditions at a place and time. This research can contribute at the academic level regarding the study of the Qur'an in the contemporary era and its relevance to the Constitution in Indonesia, as well as at the religious and social levels to understand the implementation and contextualization of law in regulating, guiding life, as well as overcoming problems that occur in society.

## **B. Method**

This research is a thematic literature study with the help of Abdullah Saeed's contextual hermeneutic approach that initiates the paradigm of interpretation at the "ethico-legal" level. Saeed considers that the verses on ethico-legal are strategic (Saeed, 2008). In his theory, Abdullah Saeed refers to and develops the "double-movement" hermeneutic approach initiated by Fazlur Rahman. Saeed formulates the levels of his

contextualized interpretation in four levels, namely: (1) the first level, broad knowledge of the text; (2) critical analysis, based on linguistics, literary context, literary form, parallel texts, and precedents; (3) meaning for the first Qur'anic recipient community, containing the socio-historical context, worldview, type and nature of the message, and its implementation at that time; and (4) meaning in the current context, containing analysis of the current context, comparison with the socio-historical context, universal or contextual nature, and its implementation in the present (Saeed, 2006).

Saeed provides convenience in contextual interpretation in contemporary times with 3 (three) steps, namely referring to the frequency of occurrence (number of verses) in the Qur'an, the core meaning of the verse being interpreted, and the relevance of the text to the socio-historical context and the present (Saeed, 2019). Due to the limited capabilities of the researcher, this study only covers the fourth level of interpreting Qur'anic verses. The researcher also uses an interpretation method with three steps of contextual interpretation in the contemporary era: searching and collecting verses with the frequency of appearance in the Qur'an, knowing the core meaning of the verse, and dialoguing it with the present context.

In his contextual interpretation, Saeed builds a "hierarchy of values," a development and differentiation from Fazlur Rahman's "double-movement" approach. This hierarchy of values is divided into 5 (five), namely: (1) Obligatory Value; context: tawhid, worship practice, halal-haram law; context value: independent-universal (2) Fundamental Value, context: *maqashid al-syari'ah, al-kulliyah al-khoms (hifdz al-mal, hifdz an-nasl, hifdz al-din, hifdz-nafs, hifdz-'aql)*; context value: independent-universal; (3) Protection Value; context: preservation; context value: independent-universal; (4) Implementative Value; context: application and sanction of sharia; context value: dependent; (5) Instructive Value; context: command, prohibition, recommendation; context value: dependent (Saeed, 2019).

This theory and approach are used to interpret the primary data of the research in the form of Qur'anic verses about politics, which analyze and classify it based on the hierarchy of values. Other primary data is obtained from the thematic text of the UUD 1945 - in which there is Pancasila - and the text of the Criminal Code. The data collected are then analyzed by directing it to the relevances and contextualizations to be elaborated descriptively. The secondary data is in the form of other texts in the form of books, previous research, and news or articles from the internet that are relevant to the research topic to support the analysis of the discussion.

### C. Result and Discussion

#### Politics in the Perspective of the Qur'an and Pancasila and the UUD 1945

Textually, no verses use the word *siyasa* (politics) in the Qur'an. However, political concepts start from the perspective of sovereignty, leadership, decision-making, justice, unity, trustworthiness, equality, the obligation to defend oneself, and other matters. Law obedience, it can be said that the Qur'an has regulated the political system contextually. Talking about politics certainly talks about power, which, when contextualized in constitutional means, includes laws, government systems, rulers, and people, as well as their rights and obligations. Therefore, a state constitution was formed as a rule to guide the nation and state to benefit the people.

From the perspective of *maqashid al-syari'ah*, Pancasila is in line with the values in the Qur'an. Dialogizing Pancasila with an Islamic perspective will find a point where

values are compatible, and there is no conflict in it (Musolin, 2020). In Pancasila, protective values contain the context of preservation in the form of *al-kulliyat al-khomsah* (Hosaini & Mohammad Ihyani, 2021). The relevance that is visible between the values in the Quran is reflected in the basis of the Indonesian state Pancasila, which is also contained in the Preamble to the UUD 1945 contained in the Quran, namely:

1. Ketuhanan Yang Maha Esa (Belief in the One and only God)

The first precept has relevance to the values in the Qur'an regarding monotheism, the acknowledgment of the oneness of God, and, at the same time, in Islam, there is freedom of religion. This value becomes the highest consciousness of Pancasila, namely theological consciousness (Putri, Asbari, Radita, Novitasari, & Purwanto, 2022). This awareness is the foundation for mental strengthening in increasing the moral values of the nation and state, which are reflected in the following precepts (Shodiq, 2021). The essence of monotheism is known in QS. al-Ikhlâs:1-4. In Abdullah Saeed's view, this value is included in the Value of Obligation, especially in the context of faith/tawhid.

2. Kemanusiaan yang adil dan beradab (Justice and civilized humanity)

The second precept is relevant to the Qur'an values regarding the relationship of humanity. This relationship can be traced into three, namely the relationship of man with God (*habl min Allah*), the relationship of man with other humans (*habl min al-naas*), and the relationship of man with himself (*habl min al-nafs*) (Hasibuan, Lubis, & Khoir, 2019). The relationship between humans and others (*habl min al-naas*) is reflected in doing good (QS. al-Baqarah: 177 and al-Mumtahanah: 8); also about mutual respect between nations/tribes and equality as in QS. al-Hujurat:13. This value in Abdullah Saeed's view is included in the Fundamental Value, especially in the context of *hifdz al-nafs*.

3. Persatuan Indonesia (The unity of Indonesia)

The third precept is relevant to the Qur'an values regarding brotherly relations (*ukhuwah*) by uniting or assembling and the prohibition of dissolution as in QS. Ali 'Imran:103 and 105. In Abdullah Saeed's view, this value is included in the Protection Value in the preservation context.

4. Kerakyatan yang dipimpin oleh hikmat kebijaksanaan dalam permusyawaratan/perwakilan (Population led by wisdom in representative deliberations)

The fourth precept is relevant to the Qur'an values regarding deliberation as decision-making in case of differences of opinion (*mudzakarah*). In the democratic system adopted in Indonesia, the deliberative decision-making process has the highest position before lobbying and voting. As for the Qur'an, the call for deliberation is reflected in QS. asy-Shura':38 and Ali-'Imran:159. In Abdullah Saeed's view, this value is included in the Implementative Value in the context of applying sharia to leadership.

5. Keadilan sosial bagi seluruh rakyat Indonesia (Social justice for all the people of Indonesia)

The fifth precept is relevant to the Qur'an's social and economic equity values for creating social welfare. Social justice in the Qur'an and Pancasila is reflected in three explanations: justice in social relations, justice in law, and justice in the economy (Fatikhin, 2017). Therefore, in this case, the Qur'an emphasizes concepts such as obligate zakat (QS. adz-Dzariyat: 19) related to reducing inequality. In Abdullah Saeed's

view, this value is included in the Implementative Value in the context of applying sharia to social justice.

As the Indonesian Constitution, the UUD 1945 regulates state administration, including the values and norms taught in religions, including Islam. In Islamic teachings, the Qur'an, as the highest text and source of law, has provided guidelines regarding the political system in the form of values that are relevant to the contents of the Constitution in Indonesia, such as regarding Human Rights (HAM), justice, deliberation in decision making, leadership and so on. Reviewing the concept of Islamic politics in the Qur'an, which has been mentioned above, there are several relevant comparisons to the editorial of the UUD 1945, which the author classifies into 4 (four) points, including the following:

1. Law, Power and Sovereignty

The Qur'an states that the highest law and authority belongs to Allah SWT, as in QS. al-An'am: 62.

ثُمَّ رُدُّوْا إِلَى اللَّهِ مَوْلَاهُمْ الْحَقَّ ۚ لَا لَهُ الْخُلُوكُ وَهُوَ أَسْرَعُ الْحَاسِبِينَ

*"Then they (servants of Allah) will be returned to Allah, their true Ruler. Know that all laws (on that day) belong to Him alone; he is the quickest reckoner."*

As for the UUD 1945, it is stated in Chapter I, Forms and Sovereignty of Article 1, paragraphs (1), (2), and (3) (Majelis Permusyawaratan Rakyat Sekretariat Jenderal, 2022):

- (1) The State of Indonesia is a Unitary State in the form of a Republic.
- (2) Sovereignty is in the hands of the people and implemented according to the constitution.
- (3) Indonesia is a state of law.

Furthermore, in matters of power, the UUD 1945 states that in Chapter III concerning State Government Powers articles 4 and 5:

Article 4

- (1) According to the Constitution, the president of the Republic of Indonesia holds the power of government.
- (2) In carrying out his obligations, the president is assisted by a Vice President.

Article 5

- (1) The president has the right to propose bills and an invitation to the House of Representatives.
- (2) The president sets government regulations to carry out the law as it should.

The difference between Islamic law and Indonesian state law is that Islamic law is more appropriate when used for an Islamic state that uses the legal principles and power belonging to Allah SWT, while Indonesia, whose people embrace various religions, chooses the form of a Republican state with power in the hands of the people with power holders namely the president and the UUD 1945 as the highest source of law. However, the Qur'an, as a guideline for Islam, is the word and revelation of Allah. Hence, the absolute provisions for its use as a legal basis are undeniable regarding religion and universal life. At the same time, the UUD 1945 is a form of thought (legal product) of the Indonesian people that only serves as a legal guideline for the nation and state.

2. Leadership and Citizenship

## a. Obedience to the leader

Obedience to the leader is described in QS. an-Nisa':59 as follows:

يَا أَيُّهَا الَّذِينَ آمَنُوا أَطِيعُوا اللَّهَ وَأَطِيعُوا الرَّسُولَ وَأُولِي الْأَمْرِ مِنْكُمْ فَإِن تَنَزَعْتُمْ فِي شَيْءٍ فَرُدُّوهُ إِلَى اللَّهِ وَالرَّسُولِ  
إِن كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ۚ ذَلِكَ خَيْرٌ وَأَحْسَنُ تَأْوِيلًا

*"O you who believe, obey Allah and obey the Messenger (His), and ulil amri among you. Then, if you differ on something, return it to Allah (the Quran) and the Messenger (the Sunnah) if you truly believe in Allah and the Last Day. That is more important (for you) and better the result."*

When talking about leaders who deserve to be obeyed, of course, leaders who have qualified criteria, where in the Qur'an it is stated that they must have extensive knowledge (QS. al-Baqarah: 247), believe (an-Nisa: 144), be fair, trustworthy and be responsible (QS. al-Maidah: 42, an-Nisa': 58, an-Nisa: 135, and al-Baqarah: 283).

The UUD 1945 also states the obligation of citizens to obey the government and the law in Chapter X concerning Citizens and Residents, article 27, paragraph (1):

"All citizens have the same position before law and government and are obliged to uphold that law and government without exception."

## b. Leadership change

This leadership change is told about the appointment of Harun by Prophet Musa As, who in QS. al-A'raf: 142 it is stated:

وَوَعَدْنَا مُوسَىٰ ثَلَاثِينَ لَيْلَةً وَأَتَمَمْنَاهَا بِعَشْرِ فَنَمَّ مِيقَاتُ رَبِّهِ أَرْبَعِينَ لَيْلَةً وَقَالَ مُوسَىٰ لِأَخِيهِ هَارُونَ اخْلُفْنِي فِي قَوْمِي  
وَأَصْلِحْ وَلَا تَتَّبِعْ سَبِيلَ الْمُفْسِدِينَ

*"And We promised Moses (to give the Torah) after thirty nights had passed, and We completed the number of the nights with ten (another night), so the time that His Lord had appointed was perfect for forty nights. And Musa told his brother, Aaron: "Replace me in (leading) my people, and correct it, and do not follow the path of those who make mischief."*

In the letter, the meaning can be taken that the leadership change has been regulated in the Qur'an to improve the government situation. As in the UUD 1945, leadership changes are regulated in Chapter VIIB Article 22E, paragraph (1) to paragraph (6). The difference is that the leadership change in the verse is carried out by appointment (acclamation), while the election in the Republic of Indonesia is carried out by general election.

## 3. Government Devices

The matter of division of labor in the constitutional system is also part of politics, which in *fiqh siyasah dusturiyyah* is termed *wizarah*. The word *wizarah* is taken from the word *wazir*, which means a heavy burden, and the minister who assists the head of state is called a *wazir* (Muthalib, 2019).

In the Qur'an it is narrated in QS. Thaha: 29-31, as follows:

وَأَجْعَلْ لِي وَزِيرًا مِّنْ أَهْلِي

*"And make me a servant from my family,"*

هُرُونَ أَخِي

*"(namely) Aaron, my brother,"*

أَشْدُدْ بِهِ أَزْرِي

*"Strengthen with him my strength,"*

This is also implied in QS. Furqan: 35, as follows:

وَلَقَدْ آتَيْنَا مُوسَى الْكِتَابَ وَجَعَلْنَا مَعَهُ أَخَاهُ هَارُونَ وَزِيرًا

*"And verily We have given the Book (Torah) to Musa, and We have made Harun his brother, accompanying him as vizier (helper)."*

In the UUD 1945, it is also explained that there is a vice president as an assistant to the president, namely in Chapter III Article 4 paragraph (2), as well as several other government agencies: (1) State Ministries, Chapter V article 17; (2) Regional Government, Chapter VI articles 18, 18A, 18B; (3) House of Representatives, Chapter VII articles 19, 20, 20A, 21, 22, 22A, 22B; (4) Regional Representative Council, Chapter VIIA articles 22C, 22D; (5) Supreme Audit Board, Chapter VIIIA, articles 23E, 23F, 23G; (6) Judicial Power, Chapter IX articles 24, 24A, 24B, 24C, 25. These statutory provisions largely adapt the concept of *wizarah* (representative/ assistant) in constitutional affairs, as explained in the Qur'anic values above. The whole concept of constitutional law from the viewpoint of Abdullah Saed's hierarchy of values is included as an interpretation of Protection Value in the context of constitutional maintenance for the continuity of governance.

#### 4. Human Rights (HAM)

The Al-Qur'an, as the first source of law for Muslims, has laid down the basics of human rights, which can be seen in the principles of the Al-Qur'an, including:

- a. The Qur'an contains about 80 verses about life, maintenance of life, and provision of means of life. Besides that, the Qur'an also talks about honor in 20 verses. Verses about the right to life, for example, in Surat al-Maidah: 32.

مَنْ أَجَلِ ذَلِكَ كَتَبْنَا عَلَى بَنِي إِسْرَائِيلَ أَنَّهُ مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا وَمَنْ أَحْيَاهَا فَكَأَنَّمَا أَحْيَا النَّاسَ جَمِيعًا ۚ وَلَقَدْ جَاءَتْهُمْ رُسُلُنَا بِالْبَيِّنَاتِ ثُمَّ إِنَّ كَثِيرًا مِّنْهُمْ بَعْدَ ذَلِكَ فِي الْأَرْضِ لُمْسِرُونَ

*"Therefore We set (a law) for the Children of Israel, that: whoever kills a human being, not because that person (kills) another person, or not for causing damage to the earth, it is as if he has killed all human beings. And whoever preserves the life of a human being, it is as if he has preserved the lives of all human beings. And verily Our messengers came to them with (bringing) clear statements, then many of them after that transgressed in doing mischief on earth."*

- b. The Qur'an also explains in about 150 verses about creation and creatures, as well as about equality, for example, in QS. Al-Hujarat: 13.

يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا ۗ إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ أَتْقَاكُمْ ۗ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ

*"O mankind, indeed, We created you from a male and a female and made you nations and tribes so you may know each other. Indeed, the most honorable among you in the sight of Allah is the most pious among you. Surely Allah is All-Knowing, All-Knowing."*

- c. In the Al-Qur'an, there are about 10 verses that talk about the prohibition of coercion to guarantee freedom of thought, belief, and expressing aspirations. For example, what was stated by QS. Al-Kahf: 29.

وَقُلِ الْحَقُّ مِنْ رَبِّكُمْ ۖ فَمَنْ شَاءَ فَلْيُؤْمِنْ وَمَنْ شَاءَ فَلْيُكْفُرْ ۗ إِنَّا أَعْتَدْنَا لِلظَّالِمِينَ نَارًا أَحَاطَ بِهِمْ سُرَادِقُهَا ۗ وَإِنْ يَسْتَعِينُوا يُعَاثُوا بِمَاءٍ كَأَلْمُهْلِ يَشْوِي الْوُجُوهَ ۗ بِئْسَ الشَّرَابُ وَسَاءَتْ مُرْتَفَقًا



*"And say: "The truth comes from your Lord; so whoever wants (believes) let him believe, and whoever wants (disbelieves) let him disbelieve." Verily, We have prepared for the wrongdoers a hell whose turmoil surrounds them. And if they ask for a drink, surely they will be given water to drink with water like boiling iron that scorches their faces. It is the worst drink and the worst place to rest."*

In the UUD 1945, the case of human rights, especially the right to life, is regulated in chapter XA in Article 28A (right to life) and Article 28B (survival). It is in line with the verse explained above (QS. al-Maidah: 32), where there is a prohibition on killing fellow humans and an encouragement to preserve life. Furthermore, article 28J (respect for others) also aligns with QS. al-Hujurat: 13 emphasizes that humans' position on earth is equal to recognize and respect each other.

Furthermore, QS. al-Kahf: 29, which mentions freedom of religion, in this case, choosing one's religion and beliefs, also has relevance to Article 28E (freedom of religion and expression). Freedom of expression is an aspect of human nature that aspires to embody the values of equality and universality (Junaedi & Rohmah, 2020). This is also included in the UUD 1945 Chapter XI Article 29 (religious guarantees).

The UUD 1945 regulates human rights that are relevant to the values of the Qur'an, which are based on human principles freely and securely, including the right to protect his property (*hifdz al-mal*) and his mind (*hifzd al-'aql*) in obtaining education (Almuzammil & Ridwan, 2023). The Indonesian constitution regulates other matters related to human rights in more detail, including by writing a special provision in Chapter XA of Article 28C (self-development and collective progress), article 28D (legal guarantees and citizens' rights), article 28F (right of communication), article 28G (right to self-protection), article 28H (social security and health), article 28I (law enforcement of human rights). It is sought as an interpretation of Protection Value in the context of preservation and Implementative Value in the context of application and legal sanctions described by Abdullah Saeed.

### **Reflection on Al-Qur'an Values in Controversial Articles of the Criminal Code (KUHP)**

The draft law on the Criminal Code has been controversial since 2019 when academics held large demonstrations. The demonstration aims to reject the ratification of the Criminal Code Bill, especially on certain controversial articles, and hasten the ratification of the Sexual Violence Prevention Bill (PKS) into law. However, as time passed, the Criminal Code Bill was finally ratified on December 6, 2022. The ratification aims to replace the Criminal Code, a product of the Dutch East Indies government, with a progressive, transformative, and responsive law. In its ratification, it is admitted that the new Criminal Code has caused controversy for several groups in certain articles (Kemenkumham RI, 2022).

As for the important points of the controversial articles of the Criminal Code, the author simplifies several things, including:

#### **1. Limits on Freedom of Expressing Aspirations**

This point concerns criminal articles for insulting the president and government officials, which are contained in the Criminal Code in Chapter II concerning Crimes against the Dignity of the President and Vice President articles 217, 218, 219, and 220. regulated in Chapter IX concerning Crimes against Public Powers and State

Institutions, especially in Articles 351 and 352. There are differences in punishment for violators of the insulting article from the perspective of Islam and the Indonesian constitution. Based on the Qur'an and Hadith, Islamic Criminal Law applies *takzir* punishment, while the Criminal Code imposes imprisonment and penalties (Banjarani, Putri, & Zulaikha, 2023).

More than that, the latest Criminal Code text also stipulates the punishment for carrying out demonstrations without notification as contained in Chapter V concerning Crimes against Public Order, article 256 concerning organizing marches, rallies, or demonstrations. From these three points, the general public perceives that caution is needed in conveying aspirations, which are feared to be the reason for being convicted for humiliating the government. Not to mention that if a notification to the authorities must accompany every demonstration, the activity will not take place because a permit is not obtained. So far, the implementation of marches, rallies, and demonstrations is one of the ways for the community to voice their aspirations.

However, what is most important and directly related to the Rules of the Criminal Code above is related to the scope of freedom of expression/opinion. The application of penalties relating to freedom of opinion and expression is contained in the Criminal Code Articles 310-311. Freedom of opinion and expression should be limited if it can damage the peace of the social order. However, this does not mean that law enforcement related to freedom of speech should not be criminalized because it can cause fear in opinion and expression (Marwandianto & Nasution, 2020).

The Qur'an explains the concept of freedom of opinion with certain limitations, including (1) speaking well (QS. al-Baqarah: 83); (2) clear and correct words (QS. al-Ahzab: 70); (3) does not cause damage because Allah does not like damage (QS. al-Baqarah: 205). The Qur'an does not explicitly explain freedom of speech, but only explains the ethics of voicing aspirations by speaking well and not causing damage. In Al Maraghi's interpretation, freedom of speech is specified as the freedom to express aspirations in deliberations and express beliefs (Fadhil & Sahrani, 2014).

So, from the perspective of the Qur'an, there are limits where, in expressing aspirations or opinions, it would be better to be based on good words. It aligns with the Criminal Code's constitutional mandate, which intends to minimize bad words (insults) against government officials. On the other hand, implementing demonstrations that often cause damage is also highlighted in the latest Criminal Code, so there are restrictions and adjustments to licensing regulations to create order. However, this interpretation must be based on an open mind, that the Criminal Code does not really limit public aspirations but rather shows moral values as described in the Qur'an.

In the Qur'an also stated that citizens who obey the government should also be willing to hand over certain matters to the government, and obedience to the government is also an absolute obligation of citizens as in QS. an-Nisa': 83, as follows:

وَإِذَا جَاءَهُمْ أَمْرٌ مِنَ الْأَمْنِ أَوْ الْخَوْفِ أَذَاعُوا بِهِ وَلَوْ رَدُّوهُ إِلَى الرَّسُولِ وَإِلَى أُولَى الْأَمْرِ مِنْهُمْ لَعَلِمَهُ الَّذِينَ يَسْتَنْبِطُونَهُ مِنْهُمْ وَلَوْ لَا فَضْلُ اللَّهِ عَلَيْكُمْ وَرَحْمَتُهُ لَاتَّبَعْتُمُ الشَّيْطَانَ إِلَّا قَلِيلًا

*"And when news comes to them about safety or fear, they then broadcast it. And if they hand it over to the Apostle and Ulil Amri among them, surely those who want to know the truth (will be able to) find out from them (Rasul and Ulil Amri). Were*

*it not for Allah's grace and mercy upon you, you would have followed Satan, except for a small part (among you)."*

## 2. Alternative Criminal Punishment and Complimentary Punishment for Corruptors

The Minister of Law and Human Rights, Yasonna H. Laoly, stated that the fundamental difference lies in the placement of capital punishment as the main punishment, but instead replaces it with a special sentence as an alternative with a ten-year probationary period (Kemenkumham RI, 2022). The death penalty in this discussion emphasizes irrelevance to the condition of Indonesian law, which upholds human rights, namely the right to life. Rumni Hafizah and Risman Bustamam, in their research, stated that the death penalty for people who are pleased (apostate) in the Qur'an cannot be applied in Indonesia because it is contrary to human rights, which views freedom of religion (Hafizah & Bustamam, 2021).

In the Qur'an, limitations related to the law of killing (*qishas*) are explained in QS. al-Maidah: 32, "... whoever kills a human being, not because that person (kills) another person, or not because he has caused damage to the earth, it is as if he has killed all humans. ...." This verse emphasizes that killing is an act that is displeasing before God, so even if the death penalty must be carried out, it should still use the principle of benefit.

On the other hand, some regulations seem to lighten the punishment for criminal acts of corruption. These rules are contained in Chapter XXXV concerning Special Crimes, especially in articles 607-610, which regulate Corruption Crimes. The Qur'an does not explain in detail the punishment for corruptors, but the prohibition on acts of corruption is clearly stated in QS. al-Baqarah: 188, as follows:

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبُطْلِ وَتُدْخِلُوا بِهَا إِلَى الْحُكَّامِ لِتَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ

*"And do not be part of you eat the property of another part of you in a vanity way and (do not) bring (the matter) of the treasure to the judge so that you can eat a part of the property of the other person by (the way of) sin, even though you know."*

However, what is problematic is the case of commuting sentences for perpetrators of corruption, where Article 607 it is stated that:

"Anyone who unlawfully commits an act of enriching himself, another person, or a corporation that harms the state's finances or the country's economy shall be punished with life imprisonment or imprisonment for a minimum of 2 (two) years and a maximum of 20 (twenty) years and a minimum fine of category II and a maximum of category VI."

Prison sentences in the latest Criminal Code are considered to have decreased from the imprisonment provisions in Law Number 20/2001 concerning the Eradication of Corruption Crimes. Article 2 of the law explains that corruptors can be imprisoned for a minimum of four years and a maximum of 20 years. Penalties for fines have also decreased from the original Law No. 20/2001; corruptors are fined at least IDR 200 million (CNN Indonesia, 2022a).

## 3. Punishment for Adultery Perpetrators

The rules regarding decency crimes are focused on the article on adultery. In the latest Criminal Code, these rules are explained in Chapter XV concerning Moral Crimes, specifically in articles 415-417 concerning adultery. This rule steals public attention with the assumption that the government regulates the individual lives of

its people. There is a view that this rule will affect foreign tourist arrivals and reduce the number of tourists entering Indonesia. Not to mention the case of raids by the Civil Service Police Unit (Satpol PP) on hotels or inns.

However, on the other hand, the government has the pretext that the regulation functions as a moral foundation for decency. As disclosed by the Coordinating Minister for Political, Legal and Security Affairs, Mahfud MD, these rules do not limit tourist arrivals, nor do they limit individual privacy lives because there is a verse which explains that "if there is a report," so if it is not reported, it will not be subject to crime. Precisely, this rule is intended to increase society's morality to avoid adultery (CNN Indonesia, 2022b).

In fact, when associated with the definition of *zina* from an Islamic perspective, these articles of the Criminal Code are still fairly lenient. It is because the regulations in the Criminal Code cannot be implemented if no victim reports or objects to the offense (Muzakir, 2022). Articles 415-417 of the Criminal Code protect religious and moral values closely related to the values of the Indonesian nation derived from Pancasila (Pratama, 2022).

Furthermore, in the case of raids by Satpol PP, Deputy Minister of Law and Human Rights Edward Omar Sharif Hiariej also explained that the enactment of the Criminal Code automatically revokes the authority of Regional Regulations (Perda), which regulate raids and raids on Satpol PP related to adultery, thus creating a win-win solution for society (CNN Indonesia, 2022c).

So, this article on adultery focuses on suppressing decency crimes in society with a starting point of increasing morality. It is in line with the provisions in QS. al-Isra':32 which explains:

وَلَا تَقْرَبُوا الزَّانِيَةَ إِنَّهَا كَانَ فُحِشَةً وَسَاءَ سَبِيلًا

*"And do not approach adultery; Verily adultery is an abominable act. And a bad way."*

#### D. Conclusion

Al-Qur'an, as a text that guides Muslims, including in a political system based on the benefit of the people, has a connection with the application of the constitution in Indonesia, namely the UUD 1945, which also includes Pancasila as the basis of the state. Overall, the Pancasila precepts have a meaning that is relevant to the values of the Qur'an in the form of the 1st precept of monotheism, the 2nd precept of equality, the 3rd precept of brotherhood/unity, the 4th precept of deliberation as a decision-making process, and the 5th precept of social justice/welfare. As for the thematic review of the UUD 1945, there are basic values of political ethics in the Qur'an, namely: (1) Law, power, and sovereignty, (2) leadership and democracy, (3) government apparatus, and (4) Human rights. Regarding the controversial articles in the Criminal Code, There are several important points, including (1) limitations on freedom of expression, (2) alternatives to criminal penalties and commutation of sentences for corruptors, and (3) penalties for adultery perpetrators, which in the contextualization of the values of the Quran contains the relevance of ethical, political and moral values.

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