

OVERVIEW MASLAHAH ON APPLICATION ISLAMIC SHARIA IN INDONESIA ACCORDING TO INDONESIA HIZBUT TAHRIR

Uswatul Khasanah

Yayasan Nurul Huda Madiun
uswatulkhasanah28@gmail.com

Muhammad Rosyid Ridho

Sekolah Tinggi Agama Islam Mulia Astuti Wonogiri
muhammadrosyid726@gmail.com

Neng Eri Sofiana

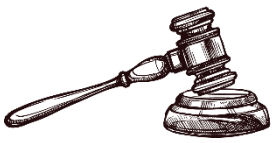
Pesantren Mahasiswa Al-Mutawakkil Ponorogo
nengerisofiana@yahoo.com

Abstract: Hizbut Tahrir Indonesia is a community organization that has existed in Indonesia which is unique in its desire to apply sharia principles in every regulation in Indonesia. According to them, in order for these ideals to be realized, there must be a supporting institution whose function is to control it, namely al-khilafah al-Islamiyah. The concept of al-khilafah al-Islamiyah must of course be based on the concept of the benefit of the ummah. Based on this, the researcher will outline HTI's views regarding the implementation of Islamic law in Indonesia from a maslahah perspective. This research is qualitative using library methods. Researchers obtained data from various library sources such as books, journals and other media related to the application of Islamic law in Indonesia and analyzed deductively. Based on this research, it can be seen that HTI is the only institution capable of exercising power that implements the Islamic sharia system in a pure and comprehensive manner, only with the al-khilafah. Second, according to maslahah theory, the idea of HTI is considered to be contrary to the objectives of Islamic law, namely hifdz an-din or hifdz al-huriyyah al-I'tiqad. Third, in the Indonesian context, the application of sharia will be beneficial if it is applied in the form of civil society. The application of sharia in the Indonesian context places greater emphasis on maqosid al-tasyri' and hikmah al-tasyri'.

Keywords: HTI, al-khilafah al-Islamiyah, Maslahah.

INTRODUCTION

Applying Islamic law in every Muslim behavior becomes a parameter of a Muslim's obedience in carrying out his religion. Every Muslim is required to adhere



to the Shari'a as contained in the Qur'an and Sunnah ¹. Literally, sharia is the path to the source of life ². Meanwhile, etymologically, Shari'a means all provisions that come from Allah SWT which was conveyed through the Prophet Muhammad SAW which contains orders, prohibitions, and recommendations regarding all aspects of human life. Meanwhile, sharia in Islamic terms is defined as a legal or regulatory dimension ³. The purpose of the Shari'a is to uphold justice based on the will of the Creator, so that order and peace can be realized in society ⁴.

Islamic law taken from the Qur'an and Hadith contains guidelines for life. As a guide to life, nothing is missing in the Qur'an, this is in accordance with QS Al-An'am: 38, as follows:

وَمَا مِنْ دَابَّةٍ فِي الْأَرْضِ وَلَا طَائِرٍ يَطِيرُ بِجَنَاحَيْهِ إِلَّا أُمَمٌ أَمْثَلَكُمْ مَا فَرَّطْنَا فِي الْكِتَابِ مِنْ شَيْءٍ ثُمَّ إِلَىٰ رَبِّهِمْ يُحْشَرُونَ
٣٨

Meaning: "We have missed nothing in the Book, then to God they are gathered"

One of the things that do not escape in the Koran is about *al-khilafah*. One of the theological normative foundations relating to *al-khilafah* this is QS: *as-Sad*: 26, here is the verse:

يَا دَاوُدُ إِنَّا جَعَلْنَاكَ خَلِيفَةً فِي الْأَرْضِ فَاحْكُم بَيْنَ النَّاسِ بِالْحَقِّ وَلَا تَتَّبِعِ الْهَوَىٰ فَيُضِلَّكَ عَنْ سَبِيلِ اللَّهِ إِنَّ الَّذِينَ يَضِلُّونَ عَنْ سَبِيلِ اللَّهِ لَهُمْ عَذَابٌ شَدِيدٌ بِمَا نَسُوا يَوْمَ الْحِسَابِ
٢٦

Meaning: "O David, verily We have made you caliph (ruler) on earth, so judge (cases) between people fairly and do not follow your lust, because it will lead you astray from the way of Allah. Indeed, those who stray from the way of Allah will have a severe punishment, because they forgot the day of reckoning."

One of the organizations that use *al-khilafah* as a forum for implementing Islamic sharia is Hizbut Tahrir Indonesia (HTI). HTI has a view that to realize the ideals of implementing Islamic law, there must be a supporting institution, namely the state. The country referred to here is an Islamic country or it can be called a Muslim country *al-khilafah al-Islamiyah*.

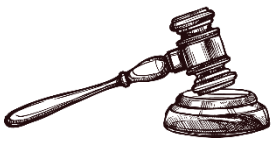
Hizbut-Tahrir (HT) was founded in 1953, in Al-Quds Palestine by Taqiyudin al-Nabhani. The reason for the establishment of this HT is to fulfill the call of Allah

¹ Ahmad Amrullah, *Dimensi Hukum Islam Dalam Sistem Hukum Nasional* (Jakarta: Gema Insani Press, 1996).

² Beni Ahmad Saebani, *Filsafat Hukum Islam* (Bandung: Pustaka Setia, 2007).

³ Sirajuddin M, *Legalisasi Hukum Islam Di Indonesia* (Yogyakarta: Pustaka Pelajar & STAIN Bengkulu, 2008).

⁴ Zainuddin Ali, *Hukum Pidana Islam* (Jakarta: Sinar Grafika, 2007).



SWT because of the reality of Muslims today⁵. According to HT, Muslims are currently experiencing a decline. This decline can be seen from the shackles of Muslims to the ideas, systems of legislation and laws of kufr, as well as the power and domination of the infidel state. Because of that HT intends to build *al-khilafah al-Islamiyah* so that government affairs can be carried out again in accordance with what was revealed by Allah SWT⁶.

Based on these reasons, the goals to be achieved by HT are to restore an Islamic life, carry out Islamic da'wah throughout the world, and build a society based on Islamic principles⁷. HT entered Indonesia led by Abdul Rahman Al-Baghdadi in 1980. In Indonesia HTI was introduced under the name Hizbut Tahrir Indonesia (HTI)⁸. As for HTI's efforts to propagate *al-khilafah* These are through demonstrations, holding seminars and public discussions, publications through the media, approaches to educational figures and institutions, recruitment through interpersonal ties, and halaqah as indoctrination⁹. As for after being disbanded, the effort to spread it is by campaigning ideas *al-khilafah* through online media (online), as well as infiltrating socio-political organizations and da'wah activities¹⁰. Draft *al-khilafah* which was initiated by HTI which aims to implement Islamic law is a noble thing. And it can't be denied *al-khilafah* also stated in verse 26 surah *as-Sad*. The purpose of implementing Islamic law should be fully supported by Muslims. However, this goal should also be based on the benefits that will be obtained if it is established *al-khilafah al-Islamiyah*.

Existence *masalah* become important to consider in various decisions. This is because *masalah* become one of the conditions that must be met in the application of Islamic law. *Maslahah* means benefit, benefit, good, good, goodness, use or use¹¹.

⁵ Muhammad Muhsin Rodhi, *Tsaqofah Dan Metode Hizbut Tahrir Dalam Mendirikan Negara Khilafah* (Bogor: Al-Azhar Fresh Zone Publishing, 2012).

⁶ Anonim, *Mengenai Hizbut Tahrir Partai Politik Islam Ideologis* (Bogor: Hizbut Tahrir, 2002).

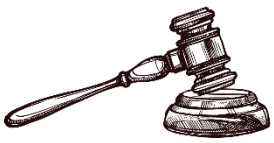
⁷ Rodhi, *Tsaqofah Dan Metode Hizbut Tahrir Dalam Mendirikan Negara Khilafah*.

⁸ Cecep Supriardi, "Relasi Islam Dan Negara: Wacana Keislaman Dan Keindonesiaan," *Jurnal Kalimah* 13, no. 1 (2015).

⁹ Abdul Qohar and Kiki Muhamad Hakiki, "Eksistensi Gerakan Ideologi Transnasional HTI Sebelum Dan Sesudah Pembubaran," *Kalam* 11, no. 2 (2017).

¹⁰ Nur Hasan and Mochamad Parmudi, *Gerakan Sosial Keagamaan Dan Agenda Politik Kelompok Radikal Pasca Pemberlakuan Perpu No 2 Tahun 2017 Tentang Organisasi Masyarakat: Studi Kasus Hizbut Tahrir Indonesia (HTI)*, *Laporan Penelitian Klaster Penelitian Terapan Dan Pengemangan Nasional* (Semarang: UIN Walisongo, 2018).

¹¹ Ahmad Munif Suratma Putra, *Filsafat Hukum Islam Al-Ghazali* (Jakarta: Pustaka Firdaus, 2002).



In addition, it can also be defined as everything that is beneficial to humans, can attract benefits and avoid damage¹².

The application of Islamic sharia with a container *al-khilafah al-Islamiyah* according to HTI is considered contrary to the benefit. Benefit is a condition for the implementation of Islamic law. The benefit referred to here is the general benefit (*al-Maslahah al-ammah*), not only for the benefit of certain groups (*al-maslahah al-syakhsiiyyah*)¹³. In the context of Indonesia, the public benefit here concerns all Indonesian people. It is undeniable that the Indonesian people do not only embrace Islam. It can be seen that the Indonesian government officially recognizes six religions, namely Islam, Protestantism, Catholicism, Hinduism, Buddhism and Confucianism¹⁴.

Thus, this paper will examine the application of Islamic law in Indonesia from the HTI perspective *masalah*. This research was conducted to find out the views of HTI in implementing Islamic law and to see the idea of HTI when applied in Indonesia from the perspective of *masalah*. From the background that has been described, the researchers will conduct research with the title "Overview". *Maslahah on the Application of Islamic Sharia in Indonesia According to Hizb ut-Tahrir Indonesia*". The formulation of the problem explored in this research is How HTI views the application of Islamic sharia in Indonesia?. How's the review *masalah* to the implementation *al-khilafah* in Indonesia according to HTI?. And how to implement Islamic sharia in Indonesia perspective *masalah*?

Research that discusses the concept of *al-khilafah* according to HTI there have been many conducted by previous researchers, including by Nilda Hayati in her research entitled "The Concept" *Khilafah Islamiyah Hizb ut-Tahrir Indonesia Study of Living al-Qur'an from a Communication Perspective*". The study concluded that armed with belief in the establishment of *al-khilafah* which is based on several verses of the Qur'an, HTI is trying to build the country *al-khilafah* and sharia enforcers who are complete with ideas that they put into various media, both print and electronic in order to communicate their message to the public¹⁵.

¹² Amir Syarifuddin, *Ushul Fiqh* (Jakarta: Kencana, 2014).

¹³ Syarifuddin Jurdi, *Pemikiran Politik Islam Indonesia: Pertautan Negara, Khilafah, Masyarakat Madani Dan Demokrasi* (Yogyakarta: Pustaka Pelajar, 2008).

¹⁴ indonesia.go.id, "Profil Agama," 2020, <https://indonesia.go.id/profil/agama>.

¹⁵ Hilda Hayati, "Konsep Khilafah Al-Islamiyah Hizbut Tahrir Indonesia Kajian Living al-Qur'an Perspektif Komunikasi," *Episteme* 12, no. 1 (2017): 169-200, <https://doi.org/https://doi.org/10.21274/epis.201712.1.169-200>.



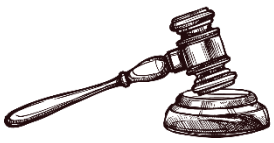
Second, the research by Sadari entitled "Religion and State Assessing HTI's Views on *Khilafah* and Democracy". In Sadari's research, it is concluded that in state contests, including in Indonesia, the concepts and views between *khilafah* and democracy seems to have found no common ground. In the context of a state in Indonesia, Pancasila and Bhineka Tunggal Ika have become a strong basis for nationalism to unite diverse cultural traditions. However, it does not mean that Islam cannot be integrated and interconnected with the context of the Indonesian state. The method is by integrating and interconnecting between concepts *khilafah* concept of democracy, then between Religion and the state become coherent, so that HTI's view of *khilafah* can be intertwined with democracy in Indonesia¹⁶.

Furthermore, research conducted by Imam Bonjol Jauhari and Riyadzul Malikah with a research entitled "Controversy on the Interpretation of Political Systems *khilafah* HTI". Research using this literature method concludes that HTI claims that the obligation to enforce *khilafah* has been written in the Qur'an, namely QS. Al-Maidah:48-49, QS. An-Nur: 55, QS. An-Nissa: 59, QS. Al-Baqarah: 30. There are pros and cons to HTI's claims. For the pro group *khilafah* consider *khilafah* has good implications or impacts to be enforced in Indonesia. As for groups who are against, they reject the idea of HTI who wants to enforce the system *khilafah* in Indonesia. According to this group, *khilafah* is not appropriate to be established in Indonesia, considering the context of diversity contained in Pancasila. And the last one is that wanting an Islamist system doesn't have to be the only one with enforcement *khilafah*¹⁷.

The fourth previous study was from the KALAM Journal by Sudarman entitled *khilafah* in the Thought of Hizb ut-Tahrir Indonesia". From this research, Sudarman concluded that as a political party, HT has the aspiration to establish an Islamic State with a distinctive government system, namely, first, the Qur'an and Sunnah are made into the state constitution. Second, the shura government is a government based on deliberation within the limits of the Qur'an and Sunnah.

¹⁶ Sadari Sadari, "Agama Dan Negara Menakar Pandangan HTI Tentang Khilafah Dan Demokrasi," *Jurnal Kajian Islam Interdisiplin* 1, no. 1 (2016): 1-30, <https://doi.org/10.14421/jkii.v1i1.1059>.

¹⁷ Imam Bonjol Jauhari and Riyadzul Malikah, "Kontroversi Penafsiran Sistem Politik Khilafah HTI," *Al-Manar* 7, no. 1 (2021).



Third, government in the form of *Khilafah* chosen by Muslims to enforce Islamic law¹⁸.

The last previous study belongs to Henny Yusalia in the *Wardah Journal* with the title "Application Dynamics *Khilafah* A Socio-Historical Review". The result of this research is that the concept of *Khilafah Islamiyah* difficult to apply. This is due to the diversity and plurality of society. In the Qur'an there is no command to create a state with a system *khilafah*, but there is an obligation in upholding the order of Islamic society. One way is to increase understanding of the work ethic and spirit of Islam which is *rahmatan lil alamin*¹⁹.

From the five previous studies above, this research has similarities in terms of research topics, namely both discussing related to the concept of *khilafah* promoted by HTI. In addition, the research method carried out by the five previous studies above also uses the library method as well as the method used by the researcher. However, this research has differences with the five previous studies above, in terms of the perspective used, where the research that the researcher conducted here uses the perspective of *maslahah*.

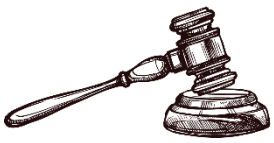
This study uses a descriptive analysis method, namely by collecting, studying, analyzing and interpreting as well as describing data related to HTI and *maslahah*. This method will describe objectively and critically in order to provide improvements, responses and solutions to the topic under study. The researcher also conducts an assessment of books or other writings that support and support the depth and sharpness of the analysis in this research. HTI and *maslahah*. This method will describe objectively and critically in order to provide improvements, responses and solutions to the topic under study. Researchers also conduct studies on books or other writings that support and support the depth and sharpness of the analysis in this research²⁰. In this study, various literatures related to HTI and theory are used *maslahah*.

Based on the place of data acquisition, this research is included in library research, which is one type of research whose data is obtained from non-field data or in other terms obtained from library sources such as documents, archives and so

¹⁸ Sudarman Sudarman, "Khilafah Dalam Pemikiran Hizbut Tahrir Indonesia," *Kalam* 11, no. 1 (2017): 107–34, <https://doi.org/10.24042/klm.v11i1.1179>.

¹⁹ Henny Yusalia, "Dinamika Penerapan Khilafah Sebuah Tinjauan Sosio-Historis," *Wardah* 17, no. 2 (2016): 137–54, <https://doi.org/https://doi.org/10.19109/wardah.v17i2.964>.

²⁰ Suharsimi, *Prosedur Penelitian Suatu Penanganan Praktik* (Jakarta: Rineka Cipta, 1986).



on. The approach in this research is a qualitative approach, where this approach is carried out in order to find the truth of an actual phenomenon and with regard to the interpretation of the data found. The phenomenon in question is the emergence of ideas *al-khilafah* from HTI. Qualitative research is the method used in this research. Qualitative research is research conducted to seek an understanding of the meaning of understanding, *verstehen* about phenomena and human life by being directly and or indirectly involved in the setting being studied, contextual, and comprehensive²¹. What is meant by qualitative research methods here is research that uses data or information from various theories needed and obtained from the literature.

The steps taken in collecting this data are by searching for and collecting books or writings related to the object of discussion in this study, by reading, understanding and classifying according to the required needs, then systematically arranged into a framework so that it is easy to understand. understood and then analyzed. This research uses data collection techniques, namely literature study and documentation study. Literature study is a data collection technique by conducting a review study of books, literature, notes, and reports related to the problem being solved²². In this literature study, researchers collected various literature related to Hizb ut-Tahrir Indonesia (HTI) and *masalahah*. Then in the documentation study, this technique is carried out by collecting information obtained from data sources in the form of documents related to the problem under study²³The purpose of collecting this document is to check the truth or accuracy of the information obtained²⁴In this study the data collected is about HTI and *masalahah*.

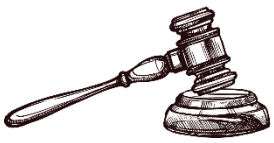
The analytical method used by the researcher is the deductive method. This method is defined as the process of drawing conclusions from a general premise that begins with the arguments and basic theories. In this study, the researcher first conveyed about the application of Islamic law, then explained about HTI's ideas about Islamic law *al-khilafah al-Islamiyah* then analyzed with theory *masalahah*. In

²¹ Dean J. Champion and James A. Black, *Metode Dan Masalah Penelitian Sosial* (Bandung: Refika Aditama, 2009).

²² M. Nazir, *Metode Penelitian* (Jakarta: Ghalia Indonesia, 2003).

²³ Andi Prastowo, *Metode Penelitian Kualitatif Dalam Perspektif Rancangan Penelitian* (Yogyakarta: Ar-Ruzz Media, 2014).

²⁴ Afrizal, *Sebuah Upaya Mendukung Penggunaan Penelitian Kualitatif Dalam Berbagai Disiplin Ilmu* (Jakarta: Raja Grafindo Persada, 2014).



checking the validity of the data, using triangulation techniques. The triangulation technique is a technique to check the validity of the researcher's data using something other than the data, for purposes of comparing the data. In this study, researchers used triangulation with sources explaining the application of Islamic law according to HTI which contained the concept of *al-khilafah al-Islamiyah* according to theory *maslahah*.

DISCUSSION

HTI'S VIEW ON THE IMPLEMENTATION OF ISLAMIC SHARIA IN INDONESIA

Criticism of democracy forms the basis of an HTI view on the application of sharia. Where the democratic system is implemented, namely not making God's sovereignty the main pillar of politics, but making people's sovereignty the main pillar of the political system. The sovereignty of the people in this democratic system makes the people the determinants of the law, and this is contrary to sharia²⁵. According to Hizbut-Tahrir, Islamic sharia is a system or rule prescribed by Allah SWT that is used to regulate human relations with himself, with fellow Muslims, with fellow humans, with the universe, and with the life of the world ²⁶.

In HTI's view, Islam is seen as an ideology. This ideology gave birth to two understandings of Islam as operational definitions. Where Islam is understood as *fikrah* (thought) and as *thariqoh* (method). As *fiqrah*, Islam has creed and sharia that regulates all human activities, where these rules were revealed directly by God through the teachings contained in the Qur'an and Hadith. The *aqidah* which is part of this *fikrah* is the basic rule about divinity and the pattern of faith of a Muslim. Meanwhile, according to²⁷ sharia as the operationalization of these rules, Sharia here is a rule of thumb, where a Muslim practices his faith through charity *al-shalih* ²⁸. According to HTI, sharia is "all-encompassing", and includes the obligation to enforce it stately, namely:*al-khilafah*. This opinion begins with an understanding that the position of sharia is a reflection of faith. *Aqidah* is closely related to faith in Allah and Islam, while sharia is the practice of that faith. The consequence of this view is

²⁵ Abdul Aziz Aziz, *Islam Versus Demokrasi, Mengungkap Mitos, Menemukan Solusi* (Jakarta: Saadah Pustaka Mandiri, 2016).

²⁶ Tim Penulis HTI, *Syariah Islam Dalam Kebijakan Publik* (Jakarta: HTI Press, 2006).

²⁷ Syaiful Arif, *Sistem Pergaulan Di Dalam Islam* (Jakarta: HTI Press, 2018).

²⁸ Taqiyudin Al-Nabhani, *Syakhshiyah Islam (Kepribadian Islam)*, 1st ed. (Bogor: Pustaka Thariqul Izzah, 1991).



that if you do not apply sharia, then the person does not believe or can be said to be out of Islam²⁹.

As for Islam as *tariqoh*, here it means as a method to realize the rules in *aqidah* and *sharia*. The position of *tariqoh* in this case is as a driving force for HTI in enforcing Islamic law through *al-khilafah al-Islamiyah*³⁰. Apart from that, so that Muslims and humans as a whole can enjoy a just, peaceful, and prosperous life in the shade of the pleasure of Allah SWT, the only way according to HTI is to implement the Islamic system in a holistic manner *khaffah*³¹.

Based on this explanation, HTI views that the Indonesian people have an urgent need in the form of implementing Islamic sharia in the state constitution and in the rules of the living system. Thus, it can be said that HTI has aspirations to establish *al-khilafah*. This is a consequence of the application of sharia in the field of constitution. According to HTI, the only institution capable of exercising a power that implements the Islamic system in a pure and comprehensive manner is only *withal-khilafah*³².

In general *al-khilafah* can be defined as a system of government in Islam. Meanwhile, linguistically, the word *al-khilafah*, derived from the word *khalafa* which means someone who replaces another person in his stead. According to Ibn Khaldun, *al-khilafah* is a general responsibility required by sharia regulations to realize the benefit of the world and the hereafter for the people by referring to it³³. According to HTI, *al-khilafah* is a power that implements Islamic sharia *kaffah* (completely). And it has become a necessity for Muslims to raise *khalafah* who leads *al-khilafah* as well as implementing Islamic law in a *kaffah* manner. Thus, the stance *al-khilafah* has become an obligation for every Muslim, because without establishing *al-khilafah* enforcement of Islamic law will never happen. And because it has become an obligation, any negligence in trying to enforce it is a big sin³⁴.

According to HTI, *al-khilafah* Daulah *ri'ayah* (a state that takes care of people's lives), where the state is supported by a number of structures established by sharia,

²⁹ Arif, *Sistem Pergaulan Di Dalam Islam*.

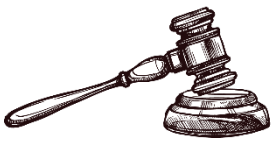
³⁰ Arif.

³¹ Hizbut Tahrir Indonesia, *Manifesto Hizbut Tahrir Untuk Indonesia (Indonesia, Kilafah Dan Penyatuan Kembali Dunia Islam)*, 2009.

³² Hizbut Tahrir Indonesia.

³³ Suyuthi Pulungan, *Fikih Siyasah Ajaran, Sejarah Dan Pemikiran* (Yogyakarta: Penerbit Ombak, 2014).

³⁴ Hizbut Tahrir Indonesia, *Manifesto Hizbut Tahrir Untuk Indonesia (Indonesia, Kilafah Dan Penyatuan Kembali Dunia Islam)*.



including the caliph (head of state), the mu'awin (assistant to the caliph), the wali (regional head), the qadhi (judges), administrative officers, and the assembly of the people³⁵. HTI's view in the effort to establish al-khilafah is not necessarily without a foundation, some of the foundations are as follows:³⁶:

First, philosophical foundation. According to HTI, the basis of its thinking is the perfection of Islam. Perfection is meant here in the form of the comprehensiveness of Islamic rules that cover all things. Second, normative foundation. The normative basis here refers to the sources of taking Islamic law, one of which is

..فَأَحْكُم بَيْنَهُم بِمَا أَنْزَلَ اللَّهُ وَلَا تَتَّبِعْ أَهْوَاءَهُمْ عَمَّا جَاءَكَ مِنَ الْحَقِّ ... ٤٨

Meaning: So decide their case according to what Allah has sent down and do not follow their lusts by leaving the truth that has come to you (Qur'an 5:48).

Based on the verse implicitly ordered the appointment of a *al-khilafah* who replaced the function of judges after the Prophet Muhammad SAW. Third, historical platform. The caliphate argument is also seen from its historical aspect, namely, according to HTI from the time of the Prophet to the Ottoman Turks, it was a period of time *al-khilafah* and stopped in 1918 AD. There are two da'wah strategies used by HTI, namely cultural and structural. This cultural strategy emphasizes the importance of changing Indonesia through the enforcement of the political system *al-khilafah al-Islamiyah* by changing the consciousness of Muslims. Furthermore, the structural strategy is carried out through demonstrations, conferences *al-khilafah* which aims to shape public opinion of Muslims and the people of Indonesia³⁷.

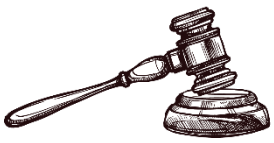
OVERVIEW MASLAHAH TO THE IMPLEMENTATION OF AL-KHILAFAH IN INDONESIA ACCORDING TO HTI

Benefit is everything that contains benefits, either by attracting things that are beneficial or by rejecting or avoiding things that can be harmful and painful. *Maslahah* in the sense of *syara'* is not only based on reason in judging the good or bad of something, nor because it can bring pleasure and avoid damage, but more than that, what is considered good by reason must also be in accordance with the purpose of *syara'* in establishing the law, namely maintaining five basic principles

³⁵ Hizbut Tahrir Indonesia.

³⁶ Arif, *Sistem Pergaulan Di Dalam Islam*.

³⁷ Sudarno Shobron, "Model Dakwah Hizbut Tahrir Indonesia," *Jurnal Profetika* 15, no. 1 (2014).



of life³⁸. In terms of its strength as evidence in establishing the law, *Maslahah* There are three kinds, namely *masalahah dharuriya*, *masalahah hajjiah*, and *masalahah tahsiniah*³⁹.

According to HTI, the application of Islamic law can only be done if there is a forum, namely: *al-khilafah al-Islamiyah*. Establishment *al-khilafah* has become an obligation for every Muslim, because without establishing *al-khilafah* enforcement of Islamic law will never happen. And because it has become an obligation, any negligence in trying to enforce it is a big sin⁴⁰. In the context of Indonesia, where the people do not only embrace Islam, but there are six other religions. This can be seen from the official recognition by the Indonesian government that there are six religions recognized in Indonesia, namely Islam, Protestantism, Catholicism, Hinduism, Buddhism and Confucianism⁴¹. As for HTI, it wants an establishment *al-khilafah* which is only for Muslims.

Based on the statement above, from the point of view of the level *masalahah dharuriyah*, where one of the powers *Maslahah* from the point of view of the purpose of syara' in establishing law, namely in the form of religious protection (*hifdz andin*) it is important. According to Jasser Auda, in order for Islamic law to be able to play a positive role in realizing the benefit of the people, the protection of religion here is expanded to become the protection of freedom of belief (*hifdz al-huriyyah al-I'tiqad*)⁴². According to this theory, the idea of HTI is considered contrary to the objectives of Islamic law, namely the protection of religion or the protection of freedom of belief.

Furthermore, when viewed from the shape, *masalahah* there are two forms, namely, first, realizing benefits, goodness and pleasure for humans which is called bringing benefits. The benefits in question are benefits for the public, which in this case is the Indonesian people who embrace various religions. And not a benefit to a particular group. Form *masalahah* the second is to prevent mankind from damage and evil which is called resisting damage. Idea *al-khilafah* According to HTI, this could

³⁸ Syarifuddin, *Ushul Fiqh*.

³⁹ Syarifuddin.

⁴⁰ Hizbut Tahrir Indonesia, *Manifesto Hizbut Tahrir Untuk Indonesia (Indonesia, Kilafah Dan Penyatuan Kembali Dunia Islam)*.

⁴¹ indonesia.go.id, "Profil Agama."

⁴² Retna Gumanti, "Maqasid Al-Syariah Menurut Jasser Auda (Pendekatan Sistem Dalam Hukum Islam)," *Jurnal Al-Himayah*, no. 2 (2018): 1.



threaten the integrity of the Unitary State of the Republic of Indonesia, this is because the idea is contrary to the conditions of Indonesia.

EFFORTS TO IMPLEMENT ISLAMIC SHARIA IN INDONESIA PERSPECTIVE MASLAHAH

The word al-khilafah is mentioned in the Koran as many as three verses, in which these three verses are used as justification for the establishment of al-khilafah. As for these three verses, the first is QS Al-Baqarah: 30, the following verse:

وَإِذْ قَالَ رَبُّكَ لِلْمَلٰئِكَةِ اِنِّيْ جَاعِلٌ فِى الْاَرْضِ خَلِيْفَةً قَالُوْۤا اَنْتَجْعَلُ فِيْهَا مَنْ يُفْسِدُ فِيْهَا وَيَسْفِكُ الدِّمَآءَ وَنَحْنُ نُسَبِّحُ بِحَمْدِكَ وَنُقَدِّسُ لَكَ قَالَ اِنِّيْۤ اَعْلَمُ مَا لَا تَعْلَمُوْنَ
۳۰

Meaning: "Remember when your Lord said to the angels: "Indeed I want to make a caliph on earth". They said: "Why do you want to make (the caliph) on earth a person who will do mischief on it and shed blood, even though we always glorify you by praising you and purifying you?" God said: "Verily I know what you do not know".

Second, QS Al-an'am: 165, the following verse:

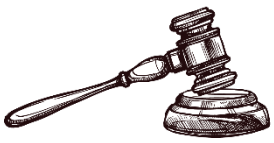
وَهُوَ الَّذِى جَعَلَكُمْ خٰلِفًاۗٓ فِى الْاَرْضِ وَّرَفَعَ بَعْضَكُمْ فَوْقَ بَعْضٍ دَرَجٰتٍ لِّيَبْلُوَكُمْ فِىۤ مَاۤ اٰتٰتِكُمْۗ اِنَّ رَبَّكَ سَرِيْعٌۭ۫ لِّعِقَابٍ وَّاِنَّهٗ لَغَفُوْرٌ رَّحِيْمٌ
۱۶۵

Meaning: "And it is He who made you rulers on earth and raised some of you above some (others) by several degrees, to test you about what He has given you. Verily, your Lord is swift in torment, and indeed He is Oft-Forgiving, Most Merciful."

Term *al-khilafah* according to most commentators does not refer to the system of governmental-*khilafah* as some thinkers have fought for so far⁴³. According to Dawam Raharjo, the word *al-khilafah* cannot be used as a legal basis for the obligation to establish *al-khilafah* or political power. *Al-khilafah* here it is defined as a function carried out by humans which in this case is the task of managing the earth responsibly, by using the intellect that God has bestowed upon him⁴⁴. Agree with

⁴³ Aksin Wijaya, *Negara Islam Indonesia? (Menguji Otentisitas Argumen Hukum Khilafah Islamiah Dalam Konteks Berislam Indonesia)* (Surabaya:) (Surabaya: Convergence Proceeding AICIS XII, n.d.).

⁴⁴ M. Dawam Raharjo, *Ensiklopedi Al-Qur'an: Tafsir Sosial Berdasarkan Konsep-Konsep Kunci* (Jakarta: Paramadina, 1996).



Dawan, Nurcholis Madjid also expressed the same opinion. The role of human caliphate, which is a substitute for God on earth, means that all affairs of the earth are left to mankind. Giving the role of the caliphate is based on the consideration that humans have intellectual power, reason and mind ⁴⁵. Thus, humans are free to determine the form of their state, because Islam itself does not explicitly regulate the form or standard concept of the state. When juxtaposed with the Indonesian context, the appropriate form of state is the Unitary State of the Republic of Indonesia.

Based on the word of Allah in QS Al-Maidah verse 44, which means whoever does not punish with what Allah has sent down, then they are disbelievers. According to NU clerics, the expression "whoever" here indicates the subject is "person" not "institution". So, if it is related to the Indonesian context, the application of sharia will *masalah* if applied in the form of civil society, not in the nation-state. The application of sharia in the Indonesian context places more emphasis on maqosid al-tasyri' (meaning the establishment of sharia) and wisdom of al-tasyri' (wisdom of establishing sharia). The implementation is through the democratic process, the Indonesian process and the diversity process.

The reasons for using this step are, first, Islam respects differences among people, one of which is in terms of religion. Second, the basic foothold in the Islamic struggle is to fight for substantive values and not formal institutional symbols. Third, in Islam there is never an order to establish an Islamic state. Fourth, there is a fiqh rule which reads "*ma> la> yudraku kulluh la >yutraku kulluh*" which means if a struggle does not succeed in taking all of it, then don't abandon it entirely."⁴⁶

As for the efforts to apply Islamic law in the context of Indonesian perspective *Maslahah* According to Mahfud MD, this can be done by planting and spreading Islamic substantive values⁴⁷ which encourages the plurality of life as a nation and state, which in this case has been enshrined in Pancasila and the 1945 Constitution. Substantive values based on Pancasila and the 1945 Constitution include the first, the principle of equality in article 27 paragraph 1, which is the teaching of the principle of equality in the Koran in terms of creation (Surah Al-Nisa: 1 and QS. Al-Hujurat: 13), as well as before the law and upholding it (Surah Al-Nisa: 135).

⁴⁵ Nurcholis Madjid, *Islam Kemoderenan Dan Keindonesiaan* (Bandung: Mizan, 1998).

⁴⁶ Siti Mahmudah, "Politik Penerapan Syariat Islam Dalam Hukum Positif Di Indonesia (Pemikiran Mahfud MD)," *Jurnal Al-'Adalah* x, no. 4 (2012).

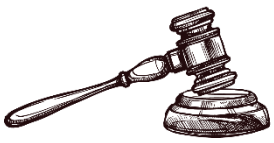
⁴⁷ Moh. Mahfud MD, *Membangun Politik Hukum Menegakkan Konstitusi* (Jakarta: Rajawali Press, 2010).



Second, the principle of freedom in Article 28, which is in accordance with Surah Al-Nisa: 59, Surah Al-Imran: 104, and Surah Al-Asr: 1-3. Third, the principle of deliberation contained in the preamble of the 1945 Constitution, in which Islam also requires deliberation. This is in accordance with Surah Al-Imran: 159 and Surah Al-Shura: 38. Fourth, the principle of unity is stated in the preamble. This principle is in accordance with Surah Ali Imran: 103. Fifth, the principle of freedom of religion is stated in Article 29 paragraph 2, where the article is in accordance with Surah al-Baqarah: 256, Surah Yunus: 99 and Surah al-An'am: 108. Sixth, the principle of justice as stated in the preamble to the 1945 Constitution, is in accordance with surah al-Nisa: 3, 58, and 135, surah al-Nahl: 90, and surah al-An'am. Seventh, the principle of peace in the preamble of the 1945 Constitution, according to Surah al-Anfal: 61 and Surah al-Hujurat: 9.

CONCLUSION

Based on the description above, it can be concluded in several ways, first, in HTI's view, Islam is seen as an ideology. This ideology gave birth to two understandings of Islam as operational definitions. Where Islam is understood as fikrah (thought) and Islam as thariqoh (method). According to HTI, the only institution capable of exercising a power that implements the Islamic system in a pure and comprehensive manner is only with al-khilafah set up al-khilafah has become an obligation for every Muslim, because without establishing al-khilafah enforcement of Islamic law will never happen. And because it has become an obligation, then any negligence in an effort to enforce it is a big sin. Second, according to the theory Maslahah, the idea of HTI is considered contrary to the objectives of Islamic law, namely the protection of religion (hifdz an-din) or the protection of freedom of belief (hifdz al-huriyyah al-I'tiqad). If you look at the shape, Maslahah There are two forms, namely, first, realizing benefits, goodness and pleasure for humans which is called bringing benefits. The benefits in question are benefits for the public, which in this case is the Indonesian people who embrace various religions. And not a benefit to a particular group. Form Maslahah the second is to prevent mankind from damage and evil which is called resisting damage. The idea of al-khilafah According to HTI, this can threaten the integrity of the Republic of Indonesia, this is because the idea is contrary to the conditions of Indonesia. Third, in the context of Indonesia, the application of sharia will maslahah if applied in the form of civil society, not in the nation-state. The application of sharia in the



Indonesian context places more emphasis on maqosid al-tasyri' (meaning the establishment of sharia) and wisdom of al-tasyri' (wisdom of establishing sharia). The implementation is through the democratic process, the Indonesian process and the diversity process.

REFERENCES

- Afrizal. *Sebuah Upaya Mendukung Penggunaan Penelitian Kualitatif Dalam Berbagai Disiplin Ilmu*. Jakarta: Raja Grafindo Persada, 2014.
- Ali, Zainuddin. *Hukum Pidana Islam*. Jakarta: Sinar Grafika, 2007.
- Al-Nabhani, Taqiyudin. *Syakhshiyah Islam (Kepribadian Islam)*. 1st ed. Bogor: Pustaka Thariqul Izzah, 1991.
- Amrullah, Ahmad. *Dimensi Hukum Islam Dalam Sistem Hukum Nasional*. Jakarta: Gema Insani Press, 1996.
- Anonim. *Mengenal Hizbut Tahrir Partai Politik Islam Ideologis*. Bogor: Hizbut Tahrir, 2002.
- Arif, Syaiful. *Sistem Pergaulan Di Dalam Islam*. Jakarta: HTI Press, 2018.
- Aziz, Abdul Aziz. *Islam Versus Demokrasi, Menguak Mitos, Menemukan Solusi*. Jakarta: Saadah Pustaka Mandiri, 2016.
- Champion, Dean J., and James A. Black. *Metode Dan Masalah Penelitian Sosial*. Bandung: Refika Aditama, 2009.
- Gumanti, Retna. "Maqasid Al-Syariah Menurut Jasser Auda (Pendekatan Sistem Dalam Hukum Islam)." *Jurnal Al-Himayah*, no. 2 (2018): 1.
- Hasan, Nur, and Mochamad Parmudi. *Gerakan Sosial Keagamaan Dan Agenda Politik Kelompok Radikal Pasca Pemberlakuan Perpu No 2 Tahun 2017 Tentang Organisasi Masyarakat: Studi Kasus Hizbut Tahrir Indonesia (HTI)*, Laporan Penelitian Klaster Penelitian Terapan Dan Pengemangan Nasional. Semarang: UIN Walisongo, 2018.
- Hayati, Hilda. "Konsep Khilafah Al-Islamiah Hizbut Tahrir Indonesia Kajian Living al-Qur'an Perspektif Komunikasi." *Episteme* 12, no. 1 (2017): 169–200. <https://doi.org/https://doi.org/10.21274/epis.201712.1.169-200>.
- Hizbut Tahrir Indonesia. *Manifesto Hizbut Tahrir Untuk Indonesia (Indonesia, Kilafah Dan Penyatuan Kembali Dunia Islam)*, 2009.
- indonesia.go.id. "Profil Agama," 2020. <https://indonesia.go.id/profil/agama>.
- Jauhari, Imam Bonjol, and Riyadzul Malikah. "Kontroversi Penafsiran Sistem Politik Khilafah HTI." *Al-Manar* 7, no. 1 (2021).
- Jurdi, Syarifuddin. *Pemikiran Politik Islam Indonesia: Pertautan Negara, Khilafah, Masyarakat Madani Dan Demokrasi*. Yogyakarta: Pustaka Pelajar, 2008.
- Madjid, Nurcholis. *Islam Kemoderenan Dan Keindonesiaan*. Bandung: Mizan, 1998.
- Mahmudah, Siti. "Politik Penerapan Syariat Islam Dalam Hukum Positif Di Indonesia (Pemikiran Mahfud MD)." *Jurnal Al-'Adalah* x, no. 4 (2012).
- MD, Moh. Mahfud. *Membangun Politik Hukum Menegakkan Konstitusi*. Jakarta: Rajawali Press, 2010.



- Nazir, M. *Metode Penelitian*. Jakarta: Ghalia Indonesia, 2003.
- Prastowo, Andi. *Metode Penelitian Kualitatif Dalam Perspektif Rancangan Penelitian*. Yogyakarta: Ar-Ruzz Media, 2014.
- Pulungan, Suyuthi. *Fikih Siyasa Ajaran, Sejarah Dan Pemikiran*. Yogyakarta: Penerbit Ombak, 2014.
- Putra, Ahmad Munif Suratma. *Filsafat Hukum Islam Al-Ghazali*. Jakarta: Pustaka Firdaus, 2002.
- Qohar, Abdul, and Kiki Muhamad Hakiki. "Eksistensi Gerakan Ideologi Transnasional HTI Sebelum Dan Sesudah Pembubaran." *Kalam* 11, no. 2 (2017).
- Raharjo, M. Dawam. *Ensiklopedi Al-Qur'an: Tafsir Sosial Berdasarkan Konsep-Konsep Kunci*. Jakarta: Paramadina, 1996.
- Rodhi, Muhammad Muhsin. *Tsaqofah Dan Metode Hizbut Tahrir Dalam Mendirikan Negara Khilafah*. Bogor: Al-Azhar Fresh Zone Publishing, 2012.
- Sadari, Sadari. "Agama Dan Negara Menakar Pandangan HTI Tentang Khilafah Dan Demokrasi." *Jurnal Kajian Islam Interdisiplin* 1, no. 1 (2016): 1-30. <https://doi.org/10.14421/jkii.v1i1.1059>.
- Saebani, Beni Ahmad. *Filsafat Hukum Islam*. Bandung: Pustaka Setia, 2007.
- Shobron, Sudarno. "Model Dakwah Hizbut Tahrir Indonesia." *Jurnal Profetika* 15, no. 1 (2014).
- Sirajuddin M. *Legalisasi Hukum Islam Di Indonesia*. Yogyakarta: Pustaka Pelajar & STAIN Bengkulu, 2008.
- Sudarman, Sudarman. "Khilafah Dalam Pemikiran Hizbut Tahrir Indonesia." *Kalam* 11, no. 1 (2017): 107-34. <https://doi.org/10.24042/klm.v11i1.1179>.
- Suharsimi. *Prosedur Penelitian Suatu Penanganan Praktik*. Jakarta: Rineka Cipta, 1986.
- Supriardi, Cecep. "Relasi Islam Dan Negara: Wacana Keislaman Dan Keindonesiaan." *Jurnal Kalimah* 13, no. 1 (2015).
- Syarifddin, Amir. *Ushul Fiqh*. Jakarta: Kencana, 2014.
- Tim Penulis HTI. *Syariah Islam Dalam Kebijakan Publik*. Jakarta: HTI Press, 2006.
- Wijaya, Aksin. *Negara Islam Indonesia? (Menguji Otentisitas Argumen Hukum Khilafah Islamiah Dalam Konteks Berislam Indonesia)* (Surabaya:). Surabaya: Convergence Proceeding AICIS XII, n.d.
- Yusalia, Henny. "Dinamika Penerapan Khilafah Sebuah Tinjauan Sosio-Historis." *Wardah* 17, no. 2 (2016): 137-154. <https://doi.org/https://doi.org/10.19109/wardah.v17i2.964>.