

# “SAVE INDONESIA BY AND FROM *SHARĪ‘A*” A DEBATE ON THE IMPLEMENTATION OF *SHARĪ‘A*

Ahmad Bunyan Wahib

Lecturer of UIN Sunan Kalijaga Yogyakarta

## المخلص

مر تطبيق الشريعة الاسلامية في اندونيسيا بتاريخ طويل من الجدل، والذي بعد ذلك ولد "بيان جاكارتا" الذي يحتوي على سبعة كلمات "يستوجب تطبيق الشريعة الاسلامية على كل من يعتنق الاسلام". بعد استقلال اندونيسيا، وخلال فترتي حكم سوكارنو وسوهارتو، منع مناقشة تطبيق الشريعة الاسلامية، وذلك بالقرار الرئاسي سنة ١٩٥٩ في عهد سوكارنو والذي قرر بان سياسة الدولة تستند على اساس "المبادئ الخمسة" واستمر ايضا في عهد سوهارتو. هذا الجدل موجود ايضا داخل الجماعات الاسلامية نفسها. فمنها المؤيد ومنها المعارض. الجماعات الاسلامية الاصولية والراдикаلية تؤيد تطبيق الشريعة الاسلامية، بينما الجماعات الاسلامية الليبرالية تعارض ذلك.

## Abstract

*Perdebatan tentang penerapan syariat Islam di Indonesia memiliki sejarah cukup panjang. Bermula dengan "Piagam Djakarta" yang memuat tujuh kata "dengan kewadajiban menjalankan syari'at Islam bagi pemeluk-pemeluknja", pasca kemerdekaan. Pada Orde Lama (Soekarno) dan Orde Baru (Soeharto) perdebatan penerapan syari'at Islam tertutup, terutama setelah keluarnya Dekrit Presiden 1959 serta*

*kebijakan negara (Orde Baru) untuk menjadikan Pancasila sebagai satu-satunya asas bernegara. Di kalangan muslim sendiri penerapan syari'at Islam di perdebatkan. Sebagian mendukung dan sebagian menolak. Dukungan terhadapnya disuarakan oleh Islam garis keras, sedangkan Islam liberal menolaknya.*

**Keywords:** public sphere, liberal Islam, fundamentalist Islam, implementation of *shari'a*.

*About a book entitled Selamatkan Indonesia dengan Syari'ah [save Indonesia by Shari'a] that you promote, I agree with you. ... [However,] while you used word "by", I use word "from". Therefore, what I agree is: 'Selamatkan Indonesia dari Syari'ah' [Save Indonesia from Shari'a].\**

## A. Introduction

In a futuristic story about liberal Islam in Indonesia entitled "Tragedi Presiden Uzil Bashar Abdalla" (The Tragedy of President Uzil Bashar Afdhalla) published by *Suara Hidayatullah*, it is said that *Jaringan Islam Liberal* which was founded by a group of Muslims in 2001 gains its success in promoting such ideas as pluralism, secularization, and deconstruction of *shari'a*. It is imagined that in 2017 Indonesia Raya Serikat becomes a secular state and since 2030, Indonesia will be ruled by Liberal Party with Uzil Bashar Afdalla, ex the leader of Jaringan Islam Liberal and the leader of the Party at that time, as the president. In the period of President Uzil, conflicts both horizontal and vertical are coloring entire the regions of the state. Intelligent bureau gives a report that General Frederik Tanujaya, the great commander of military army, is a man who stands behind the conflicts. President Uzil does not believe in the report because Tanujaya is his close friend. The situation is getting worse and President Uzil is seriously threatened. In such a crisis, Lieutenant General Firman Syakur proposes a proposal asking

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\* Ahmad Sahal in Burhanuddin (ed.), *Syari'at Islam, Pandangan Muslim Liberal*, Jakarta: Jaringan Islam Liberal/The Asia Foundation, 2003, pp. 225-226

the President to join and support *Laskar Mujahidin* in order to save President and Indonesia. The President rejects the proposal on the basis of the assumption that the proposal will break his reputation as a pluralist and an inclusive figure. At the end of the story, it is noted that President Uzil is killed by Frederik Tanujaya in a small island and his body is buried in a well and wrapped with concrete.<sup>1</sup>

A counter story has also been made. In an article entitled "Horor Rezim Fundamentalisme Islam: Balasan terhadap Artikel Suara Hidayatullah," published through a website,<sup>2</sup> it is imagined that in 2017, fundamentalist Muslims will be a majority group in Indonesia and rule the state. In this time, the government is busy to enforce Muslims to wear *jubah*, *jenggot*, and Muslim women are forced to wear the *jilbab* (veil), many *kyais* are accused as propagators of religious innovations (*ahl al-bida*) and sentenced by the death penalty. In the same time, corruption is widely spread among state officials. Indonesia falls into a serious crisis. The crisis gains its peak when the rebellions break entire the country. At the end of the story, it is imagined that fundamentalist Muslims fail to rule the country. They are defeated by civil rebellions. Indonesia is separated into some country under the control of the United Nation Organization.

Those stories can be easily found in the Internet along the debate between liberal and fundamentalist Muslims in Indonesia. They represent two contra tendencies in Indonesian Muslim society. Some hotly debated issues can be raised from the stories. Among others are secularization, religious pluralism, and the implementation of *shari'a*.

This article will elucidate the debate on the implementation of *shari'a* between liberal and fundamentalist Muslims in Indonesia after the collapse of the Indonesian New Order. On the one hand, fundamentalist Muslims believe that the implementation of *shari'a* is

<sup>1</sup> "Reportase Futuristik: Tragedi Presiden Uzil Bashir Afdhalla," <http://www.hidayatullah.com/2002/02/ihwal2.shtml>, accessed on Thursday, 19 February 2004. *Majalah Suara Hidayatullah*, Februari 2002. See also Indah Nur Chaidah, "Pengganyangan Ulil Abshar-Abdalla," *Pantau Tahun III Nomor 024 - April 2002*, pp. 6-8.

<sup>2</sup> See "Horor Rezim Fundamentalisme Islam: Balasan terhadap Artikel Suara Hidayatullah," <http://mail2.factsoft.de/pipermail/national/2002-February/002804.html>, accessed on Thursday, 19 February 2004.

control all aspect of citizens' daily life in the public. All idea proposed to the public are under control of the state and the state selects the idea, which idea that can be exerted a chance to exist depends on the selection of the state. The banning of the newspaper, of magazine like *Tempo* and *Detik* to mention a part, and of books, particularly the books consisting of Marxism ideas, the term *Organisasi Tanpa Bentuk* (OTB/underground organization) to discredit groups of people which are seen as a threat for the state are some examples that show the domination of the state over the citizens. In the short, it is the state which decides the life or the dead of an idea.

After about 32 years Indonesian New Order regime has been organizing the state, this regime was collapse in 1998. The collapse is signed by Suharto's retired. The collapse is a hallmark of the change of the state, from an authoritarian state which is signed by the strong domination of the state over the citizens to a democratic one which exerts a wider room for the citizens to express and act their interests.<sup>5</sup> It is a steppingstone for the development of Indonesian. It brought up a transition period in Indonesia era which is called *Era Reformasi* (Reformation Era). This period is signed by the will of Indonesian people to reform the government from the digression. They insist on the reformation of the state from three evils: *kolusi* (collusion), *korupsi* (corruption) and *nepotisme* (nepotism) which were very well known as KKN which were widespread in the New Order period.

Reformation Era is seen as a transition to change of the state. Many people argue that this period is a period in which the state is moving from an authoritarian to a democratic one. In this transition era, the domination of the state becomes less strong then that of New Order. The weakness of the state is signed by inability of the government to run the state well. In this situation, the society has strong position before the state. The society has a stronger role than that of the period of Indonesian New Order. The room for the dialogue in the society is wider than before. Some parts of the public space, which were closed by

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<sup>5</sup> Compare with Arskal Salim, "Epilogue: *Shari'a* in Indonesia's Current Transition: An Update," in Arskal Salim and Azyumardi Azra (eds), *Shari'a and Politics in Modern Indonesia*, Singapore: ISEAS, 2003, pp. 213-14.

the state at the period of Indonesian New Order, are opened now. The people have a more chance to express their expression regarding public interests. Under this circumstance, the people have more opportunity to express freely their ideas and interests regarding politics, economy and culture whether individual or society. In this, a wider new public sphere, a space in which people propose freely their ideas, is constructed. In short, a new wider public space emerges due to the need of people to wider room in order to express their ideas and interests.<sup>6</sup>

The intensity of the role of the society in the contemporary Indonesia in praxis is signed by the intensity of the socio-political demand of society to the state. The emergence, and to some extent the crystallization, of some groups in the society is an obvious evidence to the intensity of the role of the society. Within Indonesian Muslim community, the emergence of liberal and fundamentalist Islam also cannot be separated from the change of the emergence of the new public sphere above.<sup>7</sup> It is true that both liberal and fundamentalist Islam have an historical root in Indonesia. After the independent of Indonesia, fundamentalist Islam, in one hand, can be traced back to the movement of DI/TII (*Darul Islam/Tentara Islam Indonesia*) in the 1950s. The establishment of some Islamic organization which promoted the ideas which close to the idea of Islamic fundamentalism in the period of Indonesia New Order such as DDII (*Dewan Dakwah Islamiyah Indonesia/the Indonesian Council of Islamic Missions*) and KISDI (*Komite Indonesia untuk Solidaritas Dunia Islam/Indonesian Committee for Muslim World Solidarity*) is also a proof of historical roots of Islamic Fundamentalism.<sup>8</sup>

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<sup>6</sup> On the debate on implementation of *shari'a*, some books have been published to discuss this issue. For example: A. Syafi'i Ma'arif et al., *Syari'at Islam Yes Syari'at Islam No*, Jakarta: Paramadina, 2001; Umar Basalim, *Pro-Kontra Piagam Jakarta di Era Reformasi*, Jakarta: Pustaka Indonesia Satu, 2002; Muhammad Rizieq bin Husein Syihab, *Dialog Piagam Jakarta*, Jakarta: PIS; Burhanuddin (ed.), *Syari'at Islam, Pandangan Muslim Liberal*, Jakarta: Jaringan Islam Liberal/The Asia Fondation, 2003.

<sup>7</sup> Compare with Khamami Zada, *Islam Radikal: Pergulatan Ormas-ormas Islam Garis Keras di Indonesia*, Jakarta: Teraju, 2002; Ahmad Bunyan Wahib, *Liberal Islam in Indonesia, The Attitude of Jaringan Islam Liberal towards Religious Freedom and Pluralism*, MA Thesis, Leiden University, 2004.

<sup>8</sup> See Khamami Zada, *Ibid.*, See also June Candra Santosa, *Modernization, Utopia and the Rise of Islamic Radicalism in Indonesia*, unpublished dissertation submitted to Boston University Graduate School. 1996. Dewan Dakwah Islamiyah Indonesia has

But, the development of both liberal and fundamentalist Islam after the collapse of Indonesian New Order shows a different direction.<sup>9</sup> Fundamentalist Islam is more crystallized which is signed by the emergence of some institutions of hardliner. On the other hand, the emergence of the ideas which close to the idea of liberal Islam in Indonesia was widely spread from the 1970s. The movement of both during the period of Indonesian New Order was a movement which heavily depend on the state. Most of the ideas proposed should be accelerated to the idea of “developmentalism” which was adhered by the state. Islamic renewal promoted by Nurcholish Madjid in the period 1970s, for example, was proposed to attract Indonesian Muslims to be involved in the state development program upheld by Indonesian New Order,<sup>10</sup> and the movement of Islamic fundamentalism was still under control of the state.

The movement of liberal and fundamentalist Islam in the transition period is marked by the ability of both escaping from the domination of the state. For example, a number of *fatwas* (Islamic legal opinion) about *jihad* to the Moluccas issued by Forum Komunikasi Ahlussunnah Wal Jama'ah (FKAWJ/ Communication Forum for Ahlussunnah Wal Jama'ah) are a proof of the independency, even questioning of fundamentalist Islam to the legitimacy of the state.<sup>11</sup>

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also involved itself in a serious polemic on the idea of Islamic Renewal promoted by Nurcholish Madjid. Through *Media Dakwah*, a magazine published by the institution, the institution harshly condemned the idea as an agent of Zionism, cancer of Muslims, enemy of Islam from within and so forth.

<sup>9</sup> Arskal Salim and Azyumardi Azra argue that there are at least four features of the emergence of Islamic fundamentalism. They are the emergence of numerous Islamic political parties that mostly adopt Islam as their basis replacing Pancasila, the growing demand from certain regions of Indonesia for the formal implementation of *shari'a*, the emergence of Muslim groups considered as hardliners, and the popularity of the Islamic magazine. See Arskal Salim and Azyumardi Azra, “Introduction: The State and *Shari'a* in the Perspective of Indonesian Legal Politics, in idem (eds), *Shari'a and Politics in Modern Indonesia*, pp. 1-3.

<sup>10</sup> See Mohammad Kamal Hasan, *Contemporary Muslim Religio-Political Thought in Indonesia: The Response to “New Order Modernization”*, Michigan/London: University Microfilms International, 1975.

<sup>11</sup> See Noorhaidi Hasan, “Transnational Islam within the Boundary of national Politics: Middle Eastern *fatwas* on *Jihad* in the Moluccas, an published paper presented at the conference *Fatwas and Dissemination of Religious Authority in Indonesia* held by International Institute for Asian Studies (IIAS), Leiden, 31 October 2002.

The propagation such ideas as secularization, religious pluralism, human rights by Jaringan Islam Liberal (JIL/Liberal Islam Network) indicates also the independency of the network from the state.<sup>12</sup> In this context, the support of the state does not have a decisive role. The existence of both groups depends on the ability of their proponents to promote the ideas to the audience, and how appropriate the ideas to solve the problems faced by Indonesian Muslims.

### C. Debate on the Implementation of *Shari'a* in Indonesia: A Brief Story

The struggle to realize the *shari'a* in Indonesia was originally regarded as a struggle for a formal proclamation of an Islamic state,<sup>13</sup> and it has been long discussion. In the early period of Indonesian independent, in the case of Djakarta Charter, some Muslim politicians attempted to fight to include a phrase, which consists of seven words: *dengan kewadajiban mendjalankan Sjari'at Islam bagi pemeluk-pemeluknja* (with the obligation for adherents of Islam to practice Islamic teachings), in the introduction of constitution 1945 (UUD 1945) which state the obligation for Indonesian Muslims to perform Islamic teachings in the daily life. The phrase indicates the will of some Indonesian Muslims to insist on the state to implement *shari'a* as a foundation of Indonesian Muslims in their daily lives. This effort was less success because of the rejection from non-Muslims and secularist Muslims.<sup>14</sup>

The debate on the implementation of *shari'a* went on in the 1959 at the meeting of constituent assembly. But the debate was spontaneously skipped when Indonesian President, Soekarno, decreed an edict at 5 July 1959 which stated that the constitution did not need to express verbally the Djakarta Charter because the Charter has inspired the whole body of the constitution 1945.

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<sup>12</sup> See Ahmad Bunyan Wahib, *Liberal Islam in Indonesia*, an unpublished MA Thesis submitted to the Faculties of Theology and Arts Universiteit Leiden, 2004, pp. 85-87.

<sup>13</sup> B.J. Boland, *The Struggle of Islam in Modern Indonesia*, Leiden/The Hague: KITLV/Martinus Nijhoff, p. 159

<sup>14</sup> *Ibid.*, pp. 15-38

In the early period of Indonesian New Order, at the end of 1960s, the debate arose along with the emergence of Islamic Parties. Islamic parties insisted on the implementation of *shari'a* to the government. The problem attracted the government and was discussed in the meeting of People's Consultative Council along period 1966-1967. But, once again, the effort was fail because Indonesian Military, the main supporter of Indonesian New Order did not allow the implementation.<sup>15</sup>

In the second half of the period of Indonesian New Order, the state's policy changed. The New Order was more accommodative to Islam. According to some researcher, this is because of the change of attitude of many Indonesian Muslims which is also accommodative to the state.<sup>16</sup> They did not insist strongly to the implementation of *sharia*. In this, the government issued some policies which are in line with the aspiration of Indonesian Muslims such as the enactment of the law of religious court (UU No. 9/1989), the formation of ICMI (1990), the enactment of Kompilasi Hukum Islam (KHI/The Compilation of Islamic Law/1991), and the establishment of Bank Mu'amalah Indonesia (1992).<sup>17</sup>

Although the state has changed its policies regarding Islam, it is clear that the change does not show any significant difference. The New Order still puts Islam under the control of the state. This can be seen from the policies on the implementation of Islamic law. The enactment of some regulations regarding Indonesian Muslims and the formation of some Islamic institutions as mentioned above only regarded to the private not public life. Islamic law was only implemented in such cases as marriage, divorce, endowment, and inheritance as

<sup>15</sup> See *Ibid.* pp. 149-156.

<sup>16</sup> Some writers such as M. Syafi'i Anwar, Fachry Ali and Bahtiar Effendy argue that the second half period of Indonesian New Order is a period in which state and Islam live in harmony. M. Syafi'i Anwar, *Pemikiran dan Aksi Islam Indonesia*; Fachry Ali and Bactiar Effendy, *Merambah Jalan Baru Islam*.

<sup>17</sup> See Azyumardi Azra and Arskal Salim, "Introduction: The State and *Shari'a* in the Perspective of Indonesian Legal Politics," in Idem, *Shari'a and Politic in Modern Indonesia*, Singapore: ISEAS, 2003, pp. 11-13; see also idem, "Negara dan Syari'at dalam Perspektif Politik Hukum Indonesia, in Burhanuddin (ed.), *Syari'at Islam: Pandangan Muslim Liberal*, Jakarta: Jaringan Islam Liberal and The Asia Foundation, 2003, p.71.



regulated in the law of religious court and KHI, and such economic matters as banking and business by establishing Bank Mu'amalah Indonesia. Other Islamic laws regarding criminal law and the use of Islam as a guidance for governance were not allowed to be implemented.<sup>18</sup>

The state seemed also to be reluctant to involve itself to regulate the rule. This is indicated by the characteristic of the implementation which is optional. This means that no state apparatus should be involved in imposing on Muslims to perform their religious duties, and of course, no punishment is applied by the state to those who neglect the performance of Islamic duties. On the basis of the fact, it can be said that there is no significant change on the policy of New Order Indonesia towards Islamic law.<sup>19</sup>

The collapse of Indonesian New Order in 1998 aroused a wider room for discussing the possibility of the implementation of *shari'a*. Seven words of Djakarta Charter were hotly debated. Many works have been written to discuss the words. Following upon lesser amendments of the 1945 constitution (1999, 2000, and 2001) three Islamic political factions,<sup>20</sup> even, brought the problem in front of the meeting of the Indonesian People's Consultative Assembly (MPR, *Majelis Permusyawaratan Rakyat*) in the annual session held 1-10 August 2002. These factions advocated the enshrinement of the *shari'a* in the constitution. This effort was supported by the Dewan Dakwah Islamiyah Indonesia,<sup>21</sup> an ultra-reformist Islamic organization which energetically propagates the implementation of *shari'a*. on reinserting the famous seven words to the constitution. Again, this effort got no success because of the rejection from secular faction.<sup>22</sup>

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<sup>18</sup> Azyumardi Azra and Arskal Salim, "Negara dan Syari'at Islam," pp. 73-78.

<sup>19</sup> Azyumardi Azra and Arskal Salim, "Introduction," pp. 12-13.

<sup>20</sup> They are The United Development Party (PPP, *Partai Persatuan Pembangunan*), the Crescent Star Party (PBB, *Partai Bulan Bintang*), and the Daulatul Ummah faction (PDU).

<sup>21</sup> See Moch Nur Ichwan, "The Seven-Word Controversy," *ILAS Newsletter*, March 2003, p. 23.

<sup>22</sup> The rejection also came from the two largest Islamic organizations, Nahdlatul Ulama and Muhammadiyah. See Ichwan, *Ibid*.

#### D. "Save Indonesia by and from *Shari'a*": Debate on the Implementation of *Shari'a*

In line with the collapse of New Order Indonesia, Muslims who insist on and reject to the implementation of *shari'a* have wider room for discussing it. Regarding the proponents of the implementation of *shari'a*, Arskal Salim and Azyumardi Azra argue that the emergence of Muslim groups considered hardliners or fundamentalist Muslims such as the *Lasykar Jihad* (Jihad Troops), the *Hizbut Tahrir* (Party of Liberation), *Front Pembela Islam* (Front of Islamic Defenders) and *Majelis Mujahidin Indonesia* (the Council of the Jihad Fighters of Indonesia) is one of the indications of the expression of the will of some Indonesian Muslims to implement more formalistic Islam.<sup>23</sup> On the other side, Indonesian Muslims who are considered by many as liberal people are Muslims who harshly reject it.<sup>24</sup> The formation of Jaringan Islam Liberal (JIL) is a proof of the rejection of some Indonesian Muslims to the implementation of *sharia*. One of the aims of the formation of JIL is proposing a counter discourse of the implementation of *shari'a* promoted by fundamentalist Muslims.<sup>25</sup>

<sup>23</sup> According to Azra and Arskal Salim, there are three other features of the insistence of the implementation of *shari'a*. The first is the establishment of The first is the establishment of numerous Islamic political parties that most adopt Islam as their basis replacing Pancasila such as the United Development Party (PPP/Partai Persatuan Pembangunan) and the Crescent Star Party (PBB/Partai Bulan Bintang). The second is the growing demand from some regions of Indonesia for the formal implementation of *shari'a*. Aceh is a province in which, to some extents, successes to implement *shari'a* now. The success of Aceh exerts inspiration to other province to do so like, to mention some, Banten and South Sulawesi, West Sumatera, and South Kalimantan. The third is the rising popularity of the Islamic magazine such as *Sabili*, *Salafi*, and *Suara Hidayatullah*. See Azyumardi Azra and Arskal Salim, Introduction," pp. 1-2; Arskal Salim, "Epilogue: *Shari'a* in Indonesia's Current Transition, p. 222; anonymous, "Gairah Syari'at Islam di Berbagai Daerah" *Suara Hidayatullah*, July 2000.

<sup>24</sup> Unlike Islamic fundamentalism which uses the collapse of Indonesian New Order as a golden chance to establish some organization, therefore, from the quantity, many organization under the banner of Islamic fundamentalism were established, only one liberal Islam institution was formatted in the period of the transition, i.e. the movement of liberal Islam

<sup>25</sup> Ahmad Bunyan Wahib, *Liberal Islam in Indonesia*, p. 57.

The debate on the implementation of *shari'a* among Muslims originally comes from the relationship between Islam and the state (*shari'a* and the state). Fundamentalist Muslims believe that Islam is both religion and state. There is no separation between religion and state in Islam. In this case, Islamic teachings should be applied in the political life. The ultimate goal is the formation of Islamic state in which Islamic doctrines wholly applied in the daily life. They argue that the state is needed to actualize Islamic teachings. In this context, the application of *shari'a* cannot be avoided. Indonesian society with Muslims as a majority should put the *shari'a* as their way of life. *Shari'a* is implemented to guarantee Muslims performing Islamic teachings.<sup>26</sup>

Fundamentalist Muslims believe that the rejection of the application of the *shari'a* with any kind of argumentation by some Muslims is a mirror of the anxious to be a real Muslim (*muslim kafah*) and it is a weakness of Muslims. They believe that the idea on the rejection of the implementation of *shari'a* does not have foundation in Islam. It is inspired by the idea of secularization applied to the Christianity in the West which is promoted by some Christian intellectuals like Harvey Cox and Robert N. Bellah.<sup>27</sup> In addition, fundamentalist Muslims argue that the supplement ideas which endorse the rejection such as the idea of tolerance, religious pluralism, human rights are ideas coming from outside and then adopted by Muslims to legitimate the rejection. All these ideas does not have authoritative basis for the validity.<sup>28</sup>

In the context of Indonesian society, fundamentalist Muslims believe that *shari'a* is the only way to solve the problem faced by Indonesian society. The implementation of *shari'a* does not only rule Muslim life, but also that of non-Muslims. Therefore, the application of the *shari'a* does not mean that the existence of the other values will

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<sup>26</sup> See Muhammad Rizieq, *Dialog Piagam Jakarta*, p. 14-15; Muhammad Ismail Yusanto, "Selamatkan Indonesia dengan Syari'at Islam," in Burhanuddin (ed.) *Syari'at Islam: Pandangan Muslim Liberal*, pp. 139-171.

<sup>27</sup> See Adnin Armas, *Pengaruh Kristen-Orientalis terhadap Islam Liberal, Dialog Interaktif dengan Aktivistis Jaringan Islam Liberal*, Jakarta: Gema Insani Press, 2003, pp.1-22.

<sup>28</sup> Compare with Hartono Ahmad Jaiz, *Bahaya Islam Liberal*, pp. 52-55.

be rejected. The *shari'a* exerts enough room to the existence of other rule.<sup>29</sup>

While fundamentalist Muslims insist on the implementation of *shari'a*, liberal Muslims believe that the implementation of *shari'a* is in contra position to the spirit of Islam which pays much attention to human rights. It does not also have an adequate precedent in the history of Islam. The prophet Muhammad himself did not propose a set of ideas on Islamic state. What the prophet did is an attempt to create an egalitarian society within which the members respect each other in the spirit of tolerance and plurality.<sup>30</sup> In this sense, the history of Muslim period in Medina has to be seen as a successfulness of the Prophet Muhammad in the implementation of universal values of Islamic teachings in a particularly historical context of society. Muslims do not need to follow literally the Prophet in the implementation of *shari'a*. What Muslims should do is following the creativity of the Prophet to reach a proper understanding of *shari'a* in response to contemporary problems.<sup>31</sup>

Regarding the relationship between religion and state, liberal Islam believes that the state does not have a right to rule the religion. The state has only a right to provide a room for the development of religion. This is based on the conviction that religious affairs should be separated from the politic (state) in order to avoid dysfunction of religion itself. When politic (the state) is involved within the religious affair, it is potential for the state to politicize the religion and the religion will be fall in the negative ideas. Religion will be a tool to justify any political practice of the government whether it is good or bad practice. In order to avoid this, religious affairs should be separated from the politic and the religion becomes a part of private affairs. The state has only a duty

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<sup>29</sup> *Ibid.*, pp. 26-29. See also Muhammad Ismail Yusanto, "Selamatkan Indonesia dengan Syariat, in Burhanuddin (ed.), *Syariat Islam*, p. 161. In this article, Ismail Yusanto differentiates religious rituals and non-rituals. Non-Muslims are free to perform their religious activities according to their believes. But in the matters of non-rituals, he argues that non-Muslims should be ruled under *shari'a*.

<sup>30</sup> See the compilation of interviews, articles and discussion publicized in JIL's website [www.islamlib.com](http://www.islamlib.com).

<sup>31</sup> See Ulil Abshar-Abdalla, "Menyegarkan Kembali"

to provide an enough sphere and facility to the development of religion on the basis of the awareness that it is a right for every people to follow certain religion.<sup>32</sup> Because of the awareness, it is obligatory for the state to provide an adequate facility for the people to fulfill the right, but does not have a right to decide to use religion to legitimate the policy. In this case, religion should be secularized in the sense of the separation between religious and political and mundane affairs.<sup>33</sup>

Furthermore, in such a pluralistic society as Indonesia, the implementation of *shari'a* is a serious problem for the development of an equal community in which all ideas have same position each other. Liberal Islam believes that the application of *shari'a* is contra position to the idea of pluralism and tolerance which are parts of the essence of Islamic doctrines (*maqas? id al-shari'a*). In this context, the implementation of *shari'a* is an effort to establish single interpretation of Islam.<sup>34</sup> It means that the application of *shari'a* within the context of pluralistic society like Indonesia, within which many different ideas exist in the public, is in contra position with the reality of Indonesian pluralistic society. Within Islam itself, the implementation also reject the nature of Islamic society because many different schools and interpretations of *shari'a* have been existing. The insistence of implementation of *sharia*, therefore, ignore both the essence of Islamic teachings and the reality of Indonesian society.

The other objection of liberal Islam to the implementation of *shari'a* is based on the conviction that the implementation exerts negative impacts to the practice of Indonesian Muslims themselves. Liberal Muslims believe that the implementation of *shari'a* gives an impact to the improper way of thinking of Indonesian Muslims. It will limit the scale of Islam itself. Muslims will be busy to uphold trivial issues such as wearing *jilbab* and adultery, while the more significant issues such as democratization, human rights and gender will be forgotten.<sup>35</sup> The implementation of *shari'a* in the context of Indonesian

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<sup>32</sup> See Djohan Effendi, "Harus Ada Kebebasan", pp. 135-136.

<sup>33</sup> Ibid.

<sup>34</sup> Compare with an Interview of JIL with Azyumardi Azra, "Penerapan Syari'at Bisa Kontraproduktif," in Luthfi Assyaukanie, *Wajah Liberal Islam*, pp. 96-101.

<sup>35</sup> "Tafsir Agama Pemicu Fatwa", *Gatra* No. 05/Th. IX, December 2002, p. 29.

society will exert negative impact to several groups of society with women and non-Muslims as the first group who will be touched by the negative impact because Islam makes verbally some regulations which limit the activity of women. They will be a second class in the society like Islamic teaching says literally. Another group is poor people. Poor people will be easily punished for their disobey to the rule because they break the rule by obvious evidences, while rich people and state official who do corruption will free from prosecution because of no obvious evidence.<sup>36</sup> Furthermore, the implementation of *shari'a* in the state level will lead to the hypocrisy among Indonesian Muslims because they obey their religious rules not on the basis of their awareness being Muslims but because of the pressure of the state.<sup>37</sup>

### E. Discussion and Remark

The debates on the implementation of *shari'a* between fundamentalist and liberal Muslims in Indonesia can be seen as a public debate in the society. Both fundamentalist and liberal Muslims propose a set of ideas which are assumed as the best way to solve the problems faced by Indonesian Muslims. From the debates, it can be noted that some problems arise.

Firstly, the debate lies on the originality of the idea. Both fundamentalist and liberal Muslims believe that the idea that they uphold has authoritative foundation in Islamic teachings and history. Both liberal and fundamentalist Muslims argue that the ideas that they promote have authoritative foundation in Islamic teachings. In the case of the implementation of *shari'a*, fundamentalist Muslims believe that it is a part of Islamic teachings. Islamic propagation (*da'wa*) is an

<sup>36</sup> See interview JIL with Muslim Abdurrahman, "Korban Pertama dari penerapan Syari'at adalah Perempuan," [www.islamlib.com/WAWANCARA/muslim.html](http://www.islamlib.com/WAWANCARA/muslim.html). Accessed on 26 February 2003. This interview was published in a book by JIL. See Muslim Abdurrahman, "Korban Pertama dari penerapan Syari'at adalah Perempuan," in Luthfi Assyaukanie (ed.), *Wajah Islam Liberal*, pp. 109-113.

<sup>37</sup> See interview JIL with Masdar F. Mas'udi, "Dibutuhkan Islam sebagai Spirit," <http://www.islamlib.com/Wawancara/masdar%20spirit.html>, accessed on 26 February 2003; "Keadilan Dulu, Baru Potong Tangan," <http://www.islamlib.com/Wawancara/masdar.html>, accessed on 26 February 2003

evidence of the insistence and it is can be proofed in the history of Muslims.

Secondly, the debate also lies on the method by which both liberal and fundamentalist Islam promote the idea. Fundamentalist Islam believes that it is compulsory for Muslims to impose the implementation of *shari'a* like the Prophet did in the period of Medina. It is the best way to guarantee performing Islamic teachings. This is concluded from the literal interpretation of the text of Islamic teachings. For example, the invitation to embrace Islam totally (*islam kaffa*) as literally stated in Q.S. al-Baqara (2): 208 and al-Maida (5): 44, that people who do not take the law of God as their guidance are considered as Infidels, are distinct proof of the insistence of the implementation of *shari'a*.

In other side, the rejection of liberal Islam to the implementation of *shari'a* is based on the conviction that the implementation does not have an adequate foundation in Muslim history and in such a pluralistic society as Indonesia. The implementation contradicts to the idea of religious pluralism, human rights and democratization, which upheld by liberal Islam and Islam itself; and it can be a serious obstacle for the development of Islam.

The rejection of liberal Muslims to the implementation of *shari'a* is a result of the method by which they interpret the text. This is mainly based on the conviction that the essential meaning relies on behind the text. Muslims cannot understand the text solely based on the literal meaning of it. Liberal Muslims try to propose some steps in order to reach a valid understanding of Islamic teachings such as historicity of the text, human as independent agent of interpreter, and progressiveness of history.<sup>38</sup>

Liberal Muslims believe that the text (including the Qur'an and the Hadith) is co-opted under the circumstance within which the text exists. It is impossible that the text is separated from its historical context. So, a valid understanding of the text should be correlated to its historical context. Regarding the implementation of *shari'a*, the text should be

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<sup>38</sup> See <http://www.islamlib.com/en/aboutus.php>. Accessed on Thursday 16 October 2003.

contrasted to the context in which the text applied. The main point of the intention of *shari'a* is creating welfare and equal society. When the application of the *shari'a* is in contra position to this intention, the implementation is useless. In the case of cutting hand for thief, it is impossible to be applied in a corrupt society.<sup>39</sup> Such a creative understanding can be reached by appreciating humans as autonomous agent of interpretation. People have ability by his reason to interpret the text.<sup>40</sup>

Furthermore, liberal Islam believes on the conviction of the progressiveness of history: history of human being goes to be better.<sup>41</sup> Unlike Islamic fundamentalism which believes that the best period of Muslim history was at the period of the Prophet, Islamic liberalism believes that the history will go on to the progressiveness. The history is seen as a time movement which goes on to the progress. That is why the application of *shari'a* in the period of the Prophet should be put in the context of his society. It is an example of the ideal rules in the society.

The different mode of thinking which lead to different opinion on the implementation of *shari'a* between liberal and fundamentalist Islam has significant relation to the network to which both groups affiliate. Liberal Islam, in some cases, cannot be separated form Western's way of life. Many assumptions have been stated to explain the relationship between liberal Islam and the West. It is difficult to argue that such ideas as democratization and secularization originally come from the awareness of the proponents of liberal Islam on the reality of Indonesian society. Do not the negative assumptions only come from fundamentalist Muslims, but also other group of people criticize it. Umarudin Masdar, for example, argues that the idea of liberal Islam is a kind of imperialistic reasoning which is in contra position to the Indonesian context.<sup>42</sup> Liberal Islam is no more that an agent of Western

<sup>39</sup> See, interview JIL with Masdar F. Mas'udi, "Keadilan Dulu, Baru Potong Tangan,"

<sup>40</sup> Dialogue with Ulil Abshar-Abdalla via [islamliberal.yahoogroups.com](http://islamliberal.yahoogroups.com), 28 August 2003, "Liberalisme dan Fundamentalisme, <http://groups.yahoo.com/group/islamliberal/message/5763>. Accessed on Thursday 16 October 2003.

<sup>41</sup> Ibid.

<sup>42</sup> Umaruddin Masdar, *Agama Kolonial, Colonial Mindset dalam Pemikiran Islam Liberal*, Yogyakarta: Klik-R, 2003, pp. 14-26.



imperialism,<sup>43</sup> which is fully colored by the idea of Western orientalism and secularism.<sup>44</sup>

These negative assumptions to liberal Islam are strengthened by the fact that JIL is financially supported by The Asia Foundation, a foreign founding which has considerable attention to the development of democratization and human rights in the developing countries.<sup>45</sup> Billions of Rupiahs are subsidized by The Asia Foundation to JIL in order to disseminate the ideas. From the subsidies, JIL has an ability to disseminate systematically the idea of liberal Islam through the daily newspapers, radios, publishing books and so forth. That is why fundamentalist Muslims negatively claim that liberal Islam is an agent of Western Orientalist and secularism.

On the other side, the existence of fundamentalist Islam in Indonesia also cannot be separated from transnational network. An article by Noorhaidi shows that fundamentalist Islam has an intimate network with the Middle East (Saudi Arabia). Concentrating on *Forum Komunikasi Ahlu Sunnah wal-Jama'ah* (FKAWJ, the Forum for Communication of the Followers of the Sunna and The Community of the Prophet), a *salafi-wahabi da'wa* organization at the beginning of 1998, he argues that the organization has a close relation to the Middle East. This is signed by the fact that in the case of Maluku conflict, the organization asks for justification of the jihad from a number of *salafi 'ulama* in the Middle East.<sup>46</sup> He even argues that it is possible that fundamentalist Islam also reaches financial support from the Middle East.<sup>47</sup> In other words, while liberal Islam has a close relation to Western ideology, fundamentalist Islam at the same time has an intimate relation to Middle East from which *salafi* ideology comes. As Jalaluddin Rakhmat

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<sup>43</sup> *Ibid.*, pp. 156-172.

<sup>44</sup> Adnin Armas, *Pengaruh Kristen-Orientalis*, p. 17.

<sup>45</sup> Fauzan al-Anshari, "Agama Islam Beku, Akal terus Berkembang"

<sup>46</sup> See Noorhaidi, "Transnational Islam", p. 3.

<sup>47</sup> *Ibid.*, p. 8. The financial subsidy from the Middle East on a large scale has been started since the discovery of oil. As soon Saudi Arabia has been furthermore bolstered by its oil wealth. From this time, Saudi Arabia has a decisive role to various local-national Islamic organization all over the world.

argues, it can be said, however, that liberal Muslims follow the West, fundamentalist Muslims follow the Arab.<sup>48</sup>

## F. Conclusion

From the discussion mentioned above, it can be summarized that the debate on the implementation of *shari'a* has historical roots in the history of Indonesian Muslim community. It has been begun since the formation of independent Indonesia. The debate laid on the philosophical way of life of Indonesia. The debate was closed along the period of Indonesian New Order and it was opened again after the collapse of Indonesian New Order in 1998. The collapse gave a wider room for Indonesian Muslim community to discuss the *shari'a*. Two contrasting groups with two contrasting ideas are involved in the debate. The first is fundamentalist Muslims who insist on the implementation of *shari'a*. The second is liberal Muslims who reject the implementation.

From ontological perspective, the debate between both fundamentalist and liberal Muslim groups discusses the originality of the idea, the method by which both groups use, and the authority of groups in issuing the opinion. Fundamentalist Muslims argue that the implementation of *sharia* is a part of Islamic teachings and it is the best way to actualize Islamic teachings in their daily life. This can be known from the literal meaning of Qur'anic verse.

Meanwhile, liberal Muslims argue that the implementation of *sharia* is in contraposition with the spirit of Islamic teachings which pay much attention to equality and justice. Liberal Muslims believe that the implementation of *sharia* will create an inequality between Muslims as a majority and other groups as minorities.

Apart from the debate above, some critiques can be addressed to both fundamentalist and liberal Islam. Fundamentalist Muslims are Muslims who believe that literal meaning is the only valid interpretation of the text. Islamic teachings are what the texts say. This interpretation has some difficulties. It tends to reject the context in which the text will

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<sup>48</sup>Jalaluddin Rakhmat, "Islam Amerika versus Islam Arab?", <http://media.isnet.org/islam/Etc/ArabUSA.html>, accessed on 20 December 2003.

be applied. If it happens, it will lead to an anachronistic interpretation in the sense that some texts are applied in some inappropriate contexts. Otherwise, liberal Islam probably has a remarkable modal for the development of critical understanding of Islamic teachings because it believes that a valid interpretation of Islamic doctrines should be based on the essential meaning of the text. A liberal Muslim is a "substantialist". It means that literal meaning of the text is not the core of Islamic teachings. Islamic teachings are not limited by the textual interpretation of the main sources of Islamic doctrines. From this, a critical understanding of Islam can be derived from the interpretation. But it also can be fallen into a wrong direction. Without a commitment of a liberal Muslim to consistently perform the agenda of liberal Islam, the agenda can be easily to legitimate un-Islamic practices because no parameter can be exactly used to measure the validity of the interpretation. In this context, an adequate understanding of Islamic doctrines and method are absolutely needed.

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