

Between Revelation and Constitution: The Sovereignty *Fiqh* of Muhammad Yamin's Sociopolitical *Ijtihād*

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Abstract

The crucial aspect of studying Indonesian constitutional law that is often overlooked is the dialectic between revelation (religion) and the constitution (state). This interplay significantly influences the foundational thinking of the nation's architects and shapes constitutional law, as well as critical perspectives on colonialism. This study aims to examine the political-legal thought of Muhammad Yamin by revealing how the interaction between revelation and constitution shaped his ideas regarding the basis and sovereignty of the Indonesian state. Utilizing a textual analysis of historical documents, this research situates Yamin's thought within the broader context of constitutional formulation as part of an intellectual resistance against colonial hegemony. The findings reveal that Yamin's concept of sovereignty *fiqh* (Islamic jurisprudence), which is grounded in the Islamic principle of *shūrā* (deliberation), represents a sociopolitical *ijtihād* (independent reasoning) that systematically critiques the Netherlands-Indonesia Union. Furthermore, it clearly articulates his idea of a “*pembanding*” or comparator, a conceptual precursor to judicial review. Theoretically, this study expands the scope of sociopolitical *fiqh* within contemporary constitutional discourse.

[Aspek krusial dalam kajian hukum ketatanegaraan Indonesia yang sering diabaikan adalah dialektika antara wahyu (agama) dan konstitusi (negara). Interaksi ini memiliki pengaruh yang signifikan terhadap dasar pemikiran para perumus bangsa dalam membentuk hukum konstitusi, serta memberikan perspektif kritis terhadap kolonialisme. Penelitian ini bertujuan untuk mengkaji pemikiran politik-hukum Muhammad Yamin dengan mengungkap bagaimana interaksi antara wahyu dan konstitusi mengonstruksi gagasannya mengenai dasar dan kedaulatan negara Indonesia. Melalui analisis tekstual terhadap dokumen-dokumen historis, penelitian ini menempatkan pemikiran Yamin dalam konteks yang lebih luas dari proses perumusan konstitusi sebagai bagian dari perlawanan intelektual terhadap hegemoni kolonial. Temuan ini mengungkap bahwa konsep fikih kedaulatan Yamin, yang berakar pada prinsip *syūrā* dalam Islam, merupakan suatu *ijtihad* sosio-politik yang secara sistematis mengkritik Uni Indonesia-Belanda. Selain itu, konsep tersebut secara jelas mengartikulasikan gagasannya tentang “*pembanding*”, yang merupakan cikal bakal konseptual dari uji materiil (judicial review). Secara teoretis, studi ini memperluas cakupan fikih sosio-politik dalam wacana ketatanegaraan kontemporer.]

Keywords: Indonesian Constitutional Law, Muhammad Yamin, Revelation and Constitution, Sociopolitical *Ijtihād*, Sovereignty *Fiqh*.

Introduction

The dialectic between revelation and the state is a central theme in the formation of political systems and constitutional models in many Muslim-majority countries, including Indonesia.¹ Revelation, as a source of transcendent values in Islam, provides universal moral, ethical, and legal principles such as justice, consultation, and respect for human rights.² Meanwhile, the modern state requires a rational and transparent constitutional system capable of ensuring order and social justice within a pluralistic framework.³ It is at this intersection that the dialectic emerges—how divine values derived from revelation can be articulated in the language of constitutional and democratic politics. In the Indonesian context, this process is evident in the formulation of Pancasila, the 1945 Constitution, and various legal policies that strive to balance religious values with the principles of a modern rule-of-law state.⁴ This dialectic is not always smooth, but it reflects a dynamic effort to shape an inclusive political model—one that is neither secular in the sense of completely separating religion from the state, nor theocratic in the sense of allowing a single religious interpretation to dominate the public sphere.

The era of Indonesia's struggle for independence was characterized by intense constitutional dynamics as the nation sought to establish a legal foundation free from colonial influence. Amid the fervor of constructing a sovereign national identity, various ideas emerged, debating the direction of Indonesian constitutionalism.⁵ However, a fundamental issue that has often been overlooked in academic discourse is how legal and political actors on the eve of independence articulated the concept of sovereignty within institutional frameworks and legal norms.⁶ Central to this issue is the question of how the principle of popular sovereignty was understood and integrated into legal institutions, as well as whether judicial bodies should be empowered to review legislative products. This debate—between the supremacy of parliament and the independence of the judiciary—constitutes an ideological contest with significant implications for the future trajectory of Indonesian

¹ Sohaib Khaliq, "Political Theology and Democratization: A Comparative Study of Indonesia and Pakistan" (Flagstaff, Northern Arizona University, 2019), 29; RK Arakaki, "Religion and State-Building in Post-Colonial Southeast Asia: A Comparative Analysis of State-Building Strategies in Indonesia and Malaysia" (Manoa, University of Hawai'i, 2004), 101.

² Abdulaziz Sachedina, "Reason and Revelation in Islamic Political Ethics," in *Religion, the Enlightenment, and the New Global Order*, ed. John M. Owen IV and J. Judd Owen (New York Chichester, West Sussex: Columbia University Press, 2011), 194–220; Muhammad Zafrulla Khan, *Islam and Human Rights* (Tilford, Surrey: Islam Intl. Publications, 1989), 141–2; Muannif Ridwan et al., "Reconciliation of Human Rights, Positive Law, and Siyasah Syar'iyah: An Innovative Approach to Addressing Human Rights Issues in the Contemporary Era," *MILRev: Metro Islamic Law Review* 4, no. 1 (June 30, 2025): 463–87.

³ Gerard Delanty, *Routledge International Handbook of Contemporary Social and Political Theory* (London: Routledge, 2014), 269; M. Rosenfeld, "Rethinking Constitutional Ordering in an Era of Legal and Ideological Pluralism," *International Journal of Constitutional Law* 6, no. 3–4 (July 7, 2008): 415–55.

⁴ Benyamin Fleming Intan, *Public Religion and the Pancasila-Based State of Indonesia: An Ethical and Sociological Analysis* (Peter Lang, 2006), 86–7; Azyumardi Azra, *Indonesia, Islam, and Democracy: Dynamics in a Global Context* (Jakarta, Indonesia: Solstice Pub, 2006), 212.

⁵ Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia* (Jakarta: Sinar Grafika, 2011), 135; Suwarjin et al., "The Concept of Nationhood and the Implementation of Hadith on Nationalism in the Salafi Perspective: A Critical Study of Contemporary Islamic Law," *MILRev: Metro Islamic Law Review* 3, no. 2 (December 30, 2024): 432–58.

⁶ Timothy Lindsey, *Indonesia: Law and Society* (Annandale, NSW: Federation Press, 2008), 293.

democracy.⁷ Furthermore, the voices of Muslim leaders, as representatives of the majority population, played a crucial role in shaping the early discourses of legal and political thought during Indonesia's foundational constitutional moment.⁸

Muhammad Yamin—hereafter referred to as Yamin—was one of the central figures in the formulation of Indonesia's foundational principles. He possessed a rich and nuanced body of thought that has yet to be thoroughly explored within the framework of Islamic legal theory. Existing studies on Yamin primarily focus on his biographical background,⁹ leadership,¹⁰ and contributions to Indonesia's constitutional development.¹¹ However, the majority of these works tend to emphasize historical and legal-formalistic aspects, without adequately addressing the Islamic dimension of Yamin's visionary political-legal thought. In fact, Yamin's ideas regarding the relationship between religion and the state,¹² sovereignty,¹³ and constitutional legitimacy were profoundly influenced by Islamic insights framed within the spirit of modern nationalism.¹⁴ Therefore, this study aims to bridge the reciprocal relationship between Islamic law (*shari'ah*) and constitutional politics in Indonesia's legal history. It offers a novel interpretation of how Islamic values were integrated into the formation of a modern constitutional system. This research is not only historically significant but also essential for enriching the discourse on contemporary Islamic law and expanding the intellectual horizons of Indonesian Muslim scholars as they confront the nation's complex and multifaceted challenges.

This study employs a cross-literature approach by analyzing Yamin's works and relevant primary sources as both historical and conceptual foundations to trace his thoughts on the principles of statehood, the concept of deliberation (*shūrā*), and integral constitutionalism. The main novelty and distinctive contribution of this research lies in its proposal of a conceptual framework termed the *fiqh* (Islamic jurisprudence) of sovereignty as an analytical lens through which to examine Yamin's political-legal thought. This term refers to the effort to integrate the principles of *shari'ah* into modern debates on sovereignty and state institutions.¹⁵ Such an approach has not yet been explicitly applied to the study of

⁷ Luthfi Widagdo Eddyono, "Independence of the Indonesian Constitutional Court in Norms and Practices," *Constitutional Review* 3, no. 1 (August 2, 2017): 71; Adriaan Bedner, "Autonomy of Law in Indonesia," *Recht Der Werkelijkheid* 37, no. 3 (November 2016): 10–36; Ahmad Yani Anshori and Landy Trisna Abdurrahman, "Constitutional Contestation of the Islamic State Concept in the Indonesian Parliament 1956-1959," *De Jure: Jurnal Hukum dan Syar'iah* 16, no. 2 (December 17, 2024): 278–316.

⁸ Robert W. Hefner, *Islam and Citizenship in Indonesia: Democracy and the Quest for an Inclusive Public Ethics*, Politics in Asia (London New York: Routledge, 2024), 402; M. Fuad Nasar, *Islam dan Muslim di Negara Pancasila* (Yogyakarta: Gre Publishing, 2017), 133.

⁹ Kaka Avian Nasution, *Moh. Yamin: Peran dan Sumbangsihnya bagi Indonesia* (DIVA PRESS, n.d.), 9–25.

¹⁰ Neni Suhaeni, *Ensiklopedi Tokoh Nasional: Mohammad Yamin* (Bandung: Nuansa Cendekia, 2019), 63–6.

¹¹ Yudi Latif, *Negara Paripurna: Historisitas, Rasionalitas, dan Aktualitas Pancasila* (Jakarta: Gramedia Pustaka Utama, 2011), 432–4.

¹² Ahmad Sadzali, "Hubungan Agama dan Negara di Indonesia: Polemik dan Implikasinya dalam Pembentukan dan Perubahan Konstitusi," *Undang: Jurnal Hukum* 3, no. 2 (December 1, 2020): 341–75.

¹³ Jimly Asshiddiqie and Awaludin Marwan, "Proklamasi Menurut Mohammad Yamin: Berdaulat dan Berkonstitusi," *Jurnal Hukum Sasana* 5, no. 1 (May 14, 2020): 1–20.

¹⁴ Ahmad Syafii Maarif, *Islam, Humanity and the Indonesian Identity: Reflections on History*, trans. George A. Fowler (Leiden University Press, 2018), 46.

¹⁵ Fathi Abdulkarim, *Al-Dawlah wa al-Siyādah fī al-Fiqh al-Islāmī* (Cairo: Maktabah Wahbah, 1984), 22–4; Shalah al-Shawi, *Nazariyyat al-Siyādah wa Athāruhā 'alā Shar'īyyah al-Nizām al-Waḍ'ī* (n.d.), 14–6; Muhammad Abdi

Yamin's ideas, even though his intellectual trajectory and speeches clearly reflect a sensitivity to the synthesis between Islamic law and customary law (*adat*) within the national legal system. This research not only offers a reinterpretation of Yamin's texts, speeches, and ideas but also creates space for rethinking the relationship between Islamic law and the state in the construction of Indonesia's legal framework. Theoretically diverging from the prevailing narrative that has dominated research on the relationship between the state and Islamic legal thought—particularly in areas such as citizenship (*fiqh al-muwāṭanah*),¹⁶ minority (*fiqh al-aqalliyah*),¹⁷ and statecraft (*fiqh al-dawlah*)¹⁸—this study contributes to the articulation of the *fiqh* of sovereignty (*fiqh al-siyādah*) as an emerging discourse within the field of Islamic legal and sociopolitical thought in the Indonesian context.

Intellectual Biography of Muhammad Yamin

Yamin was a pivotal figure in the history of Indonesia's national awakening. He was recognized not only as a writer and politician but also as a prominent intellectual who made significant contributions to the construction of Indonesia's national identity.¹⁹ Yamin's intellectual journey reflects a synthesis of traditional values, nationalist spirit, and modernism—shaped by both his education and political engagement. His ideas have influenced various aspects of Indonesian national life, including language, history, law, and

Mahmud, "Maḥmūd Al-Siyādah al-Waṭaniyyah Bayna al-Qānūn al-Duwalī al-ʿĀmm Wa-al-Fiqh al-Islāmī," *Journal of Mogadishu University* 8 (2022): 99–116.

¹⁶ Hijrian Angga Prihantoro, Noorhaidi Hasan, and Mohammad Yunus Masrukhin, "Islamic Law and the Politics of Nation-State: Debating Citizenship Fiqh Through the al-Maskut 'anhu Discourse," *Abkam: Jurnal Ilmu Syariah* 23, no. 2 (2023): 307–28; Tedi Sudrajat, Baginda Khalid Hidayat Jati, and Chander Mohan Gupta, "Questioning Indonesia's Role in Addressing Rohingya Refugees: A Legal, Humanitarian, and State Responsibility Perspective," *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 7, no. 1 (June 1, 2024): 1–19; Nurul Husna et al., "Children Citizenship Status of Acehese-Rohingya Mixed Marriage in Aceh: Maqāṣid Sharī'ah Perspective," *Al-Abkam* 34, no. 1 (April 30, 2024): 169–92; Sheila Fakhria et al., "Securing Muslim Children's Civil Rights: Debate on State Legal Policy towards the Issuance of Family Cards for Unregistered Marriage Couples," *El-Mashlahah* 14, no. 2 (December 26, 2024): 303–22.

¹⁷ Hilmi Ridho, Hamim Maftuh Elmy, and Muhammad Sibawaihi, "Fiqh al-Aqalliyat: Jurisprudence for Muslim Minorities as a Guide to Living in Non-Muslim Countries," *Syariah: Jurnal Hukum dan Pemikiran* 23, no. 1 (2023): 93–106; Dedah Jubaedah et al., "Strengthening Sharia Economics in Jayapura's Muslim Minority Communities through Fiqh al-Aqalliyat," *Jurnal Ilmiah Al-Syir'ah* 23, no. 1 (June 20, 2025): 18–33; Farkhani et al., "Legal Protection of Minority Rights: Study on the Implementation of Qanun Number 6 of 2014 Concerning the Jinayat Law in Langsa City, Aceh Special Region Province," *Al-Manahij: Jurnal Kajian Hukum Islam* 17, no. 2 (2023): 215–32; Suud Sarim Karimullah, "The Implications of Islamic Law on the Rights of Religious Minorities in Muslim-Majority Countries," *MILRev: Metro Islamic Law Review* 2, no. 2 (November 9, 2023): 90–114; Kholifatun Nur Mustofa et al., "Religious Authority and Family Law Reform in Indonesia: The Response and Influence of the Indonesian Ulema Council on Interfaith Marriage," *JURIS (Jurnal Ilmiah Syariah)* 23, no. 2 (December 31, 2024): 383–93; Muhammad Tahmid Nur et al., "Negotiating Islamic Identity Through Cultural Adaptation: A Fiqh al-Aqalliyat Analysis of Masselle Aseng Practice in Indonesian Muslim Minorities," *Jurnal Ilmiah Al-Syir'ah* 23, no. 1 (June 29, 2025): 117–38.

¹⁸ Afifuddin Muhajir, *Fiqh Tata Negara: Upaya Mendialogkan Sistem Ketatanegaraan Islam* (Yogyakarta: IRCiSoD, 2017), 21–40; Mukhlis Latif and Muhammad Mutawalli, "Fiqh of Civilization in Building a Legal State: The Relevance of Muhammad Arkoun's Thought," *Al-Abkam* 33, no. 2 (October 31, 2023): 207–30; Hariyanto Hariyanto, Muhammad Mutawalli Mukhlis, and Daud Rismana, "The Role and Authority of the Deputy Regional Head According to Islamic Principles within the Framework of Regional Government Law," *JURIS (Jurnal Ilmiah Syariah)* 24, no. 1 (February 7, 2025): 13–27.

¹⁹ A Windy and Floriberta Aning S, *100 Tokoh yang Mengubah Indonesia: Biografi Singkat Seratus Tokoh Paling Berpengaruh dalam Sejarah Indonesia di Abad 20* (Penerbit Narasi, 2005), 143–4.

the country's foundational principles.²⁰ Born in 1903 and passing in 1962, Yamin hailed from a devout Minangkabau family deeply rooted in both *adat* and Islamic traditions.²¹ The Minangkabau culture, which places a high value on customary practices and informal education in *surau* (small prayer house), provided Yamin with a strong foundation from an early age—particularly in rhetoric, oral literature, and a profound understanding of Islam. As a literary figure, historian, legal scholar, and statesman, Yamin played a central role in shaping Indonesia's national identity through his literary works, political thought, and contributions to the formulation of the nation's foundational ideology.²²

Yamin's formal education began at the Hollandsch-Inlandsche School (HIS) in Palembang. He then continued his studies at the Algemene Middelbare School (AMS) in Yogyakarta, where he focused on Latin, Greek, Old Javanese (*Kawi*), and ancient history. His profound interest in language and history demonstrated a strong intellectual inclination from an early age. After completing his education at AMS, Yamin initially intended to pursue further studies in Eastern literature at Leiden University in the Netherlands. However, this plan was thwarted by the passing of his father, which resulted in financial constraints. Instead, Yamin enrolled at the Rechtshoogeschool te Batavia (Law School of Batavia), where he earned the degree of Meester in de Rechten (Master of Laws) in 1932.²³ Yamin's academic journey reflects a unique synthesis of local cultural heritage, colonial-era education, and a progressive nationalist spirit—elements that profoundly influenced his later contributions to Indonesian intellectual and political life.

Yamin's practical role in Indonesia's national awakening was evident from the outset of his involvement in youth movements. He emerged as a prominent figure in the Jong Sumatranen Bond (JSB), an organization that provided a platform for young people from Sumatra to express their nationalist ideas and aspirations.²⁴ Within this organization, Yamin introduced the concept of unity among Indonesia's diverse ethnic groups and strongly advocated for the adoption of a single national language as a unifying tool.²⁵ Yamin's most significant contribution to the youth movement culminated in his active participation in the Second Youth Congress of 1928. It was during this congress that the historic Youth Pledge (*Sumpah Pemuda*) was proclaimed. Although not every line of the pledge was personally authored by Yamin, he played a pivotal role in formulating its core concepts—particularly the idea of “one motherland, one nation, and one language: Indonesia.”²⁶ This contribution reflects Yamin's progressive and forward-thinking intellectual vision: that Indonesian identity

²⁰ Ahmad Syafii Maarif, *Islam dalam Bingkai Keindonesiaan dan Kemanusiaan: Sebuah Refleksi Sejarah* (Ujungberung, Bandung: Kerja sama Mizan [dan] Maarif Institute, 2009), 49–52.

²¹ Nasution, *Moh. Yamin*, 9–25.

²² Suhaeni, *Ensiklopedi Tokoh Nasional*, 63–6.

²³ Sutrisno Kuntoyo, *Seri Pahlawan: Prof. Muhammad Yamin S.H.* (Jakarta: Depdikbud, 1988), 2.

²⁴ Hans Van Miert, “The ‘Land of the Future’: The Jong Sumatranen Bond (1917–1930) and Its Image of the Nation,” *Modern Asian Studies* 30, no. 3 (July 1996): 591–616.

²⁵ Restu Gunawan, *Muhammad Yamin dan Cita Cita Persatuan* (Yogyakarta, 2005), 16–7.

²⁶ Muhammad Yamin, *Sumpah Indonesia Raja: Uraian Tentang Rumusan dan Wujud Sumpah Pemuda Tanggal 28 Oktober 1928 untuk Membentuk Indonesia Raja yang Merdeka* (Bukittinggi, Djakarta, Medan: NV Nusantara, 1955), 12.

must be constructed through a collective national consciousness, rather than being rooted solely in ethnic or regional affiliations.²⁷

In addition to being a politician and legal scholar, Yamin was also renowned as a literary figure. He was one of the pioneers of the *Pujangga Baru* literary movement, which bridged traditional Malay literature with modern Indonesian literature. His celebrated works, *Tanah Air* and *Indonesia Tumpah Darahku*, became powerful symbols of the nationalist spirit. Through his poetry and essays, Yamin emphasized the significance of the Indonesian language as both a cultural symbol and a tool for national struggle.²⁸ He was among the earliest advocates for adopting the Malay language as a unifying national language. In his writings, language was not merely a medium of expression but a means of cultivating national consciousness. Yamin also authored numerous historical works that sought to reinforce the narrative of Indonesian nationalism. His books, such as *Gadjah Mada: Pahlawan Persatuan Nusantara*, aimed to portray Indonesian history as a continuous and unified story rather than a fragmented collection of separate kingdoms.²⁹ Through these works, Yamin sought to instill the belief that Indonesia is a nation with deep and ancient historical roots, fundamentally rejecting the colonial narrative that depicted Indonesia as a creation of Dutch imperialism.³⁰ For Yamin, Indonesia was an ancient nation temporarily fractured by colonial rule. With this approach, he skillfully merged political nationalism with cultural nationalism.

As an outspoken intellectual advocating for an independent Indonesia rooted in cultural values, Mohammad Yamin authored numerous works on history and law, including key concepts related to the state, constitution, and popular sovereignty.³¹ During the 1945 session of the Investigating Committee for Preparatory Work for Indonesian Independence (*Badan Penyelidik Usaha-usaha Persiapan Kemerdekaan Indonesia*, BPUPKI), Yamin presented his proposal for the philosophical foundation of the Indonesian state, which comprised five principles. His version closely resembled the Pancasila later articulated by Soekarno. Although debates continue regarding who first formulated Pancasila, Yamin's significant contribution to the early discourse on state ideology is indisputable.³² Yamin was one of the principal drafters of the Jakarta Charter (*Piagam Jakarta*). He played a crucial role in drafting the Constitution, including the preamble, which bears a striking resemblance to the preamble of the 1945 Constitution (UUD 1945) as it exists today. In Yamin's political thought, law was envisioned as an instrument to uphold justice and ensure the sovereignty of the people.³³ His

²⁷ Suryo Sumantri Darmoyo et al., "The Aceh Governor's Authority in Approving Regional Police Chief Appointments: An Analysis within the Unitary State Framework," *Jurnal Ilmiah Peuradeun* 12, no. 2 (May 30, 2024): 787–808.

²⁸ Dewi Susilowati and Hidayah Budi Qur'ani, "Analisis Puisi 'Tanah Air' Karya Muhammad Yamin dengan Pendekatan Struktural," *Literasi: Jurnal Bahasa dan Sastra Indonesia serta Pembelajarannya* 5, no. 1 (April 17, 2021): 38–48.

²⁹ Acep Zamzam Noor, *33 Tokoh Sastra Indonesia Paling Berpengaruh* (Jakarta: KPG (Kepustakaan Populer Gramedia), 2014), 49–59.

³⁰ Ahmad Bahtiar, *Sastra Indonesia Modern Sebelum Kemerdekaan* (Sukoharjo: Tahta Media Group, 2023), 12, 16.

³¹ Asshiddiqie and Marwan, "Proklamasi Menurut Mohammad Yamin," 1–20; Suhaeni, *Ensiklopedi Tokoh Nasional*, 63–6; Nasution, *Moh. Yamin*, 9–25.

³² Nela Kurniana, "Sejarah Perumusan Pancasila sebagai Sistem Filsafat," *Lencana: Jurnal Inovasi Ilmu Pendidikan* 1, no. 1 (2023): 1–14.

³³ Jazim Hamidi, "Makna dan Kedudukan Hukum Naskah Proklamasi 17 Agustus 1945 dalam Sistem Ketatanegaraan Republik Indonesia," *Risalah Hukum*, 2006, 68–86; Ali Akhbar Abaib Mas Rabbani Lubis,

legal philosophy was profoundly influenced by Roman law and republican values, yet he also sought to synthesize these with local Nusantara traditions and values.³⁴

Yamin passed away on October 17, 1962,³⁵ yet his intellectual legacy continues to resonate. He serves as a symbol of the indigenous educated elite who successfully bridged the traditional and modern worlds. His ideas on language, history, law, and the state laid a critical foundation for Indonesia's efforts to cultivate a cohesive national identity. Yamin exemplified the role of an intellectual who not only theorized but also took action. He harnessed the power of the pen, oratory, and political influence to realize his vision of an independent, united, and culturally rooted Indonesia. Although academic historians have often criticized his historical interpretations for being overly idealistic or for glorifying certain historical figures, Yamin's dedication to the nation remains commendable. His works offer valuable insights and deserve to be revisited and reinterpreted in light of contemporary perspectives.³⁶ In recognition of his outstanding contributions to the Republic of Indonesia, Yamin was officially declared a National Hero in 1973 through Presidential Decree No. 088/TK/1973.³⁷

Construction of Sovereignty *Fiqh*: Sociopolitical *Ijtibād* through Five Principles

Fiqh al-siyādah, or the jurisprudence of governance, is an approach within Islamic political-legal studies that prioritizes politics, authority, and communal autonomy in its discourse.³⁸ Unlike classical *fiqh*, which predominantly focuses on individual legal rulings regarding what is *ḥalāl* (permissible) and *ḥarām* (forbidden)—particularly in the areas of worship (*ʿibādah*), transactions (*muʿāmalah*), and personal ethics—*fiqh al-siyādah* operates within structural and systemic frameworks. It shifts the inquiry from “what is prohibited for the individual” to “what is necessary for the community as a collective.” The fundamental distinction lies in orientation and scope: conventional or classical *fiqh* emphasizes ritual practices and private legal compliance, whereas *fiqh al-siyādah* encourages the community to develop political consciousness, protect cultural independence, and liberate itself from colonial domination.³⁹ For instance, reliance on exploitative colonial political systems or the dominance of discourse over the lived experiences of Muslim societies presents a legal-ethical issue that *fiqh al-siyādah* aims to address. Consequently, it repositions *fiqh* as a tool for collective empowerment and sociopolitical transformation.⁴⁰

“Religious Nation State: Bahtiar Effendy and Islamic Political Thought,” *Millah: Journal of Religious Studies* 19, no. 2 (July 9, 2020): 167–98.

³⁴ Aidul Fitriciada Azhari, *Demokrasi & Autokrasi* (Yogyakarta: Pandiva Buku, 2015), 55–70.

³⁵ Kuntoyo, *Seri Pahlawan*, 2; Suhaeni, *Ensiklopedi Tokoh Nasional*, 64–5.

³⁶ Slamet Sutrisno, *Kontroversi dan Rekonstruksi Sejarah* (Yogyakarta: Media Pressindo, 2003), 3–9.

³⁷ Suhaeni, *Ensiklopedi Tokoh Nasional*, 63–4; Salafuddin Noor, Ahmadi Hasan, and Nuril Khasyi'in, “Review of Political Theory of Islamic Law Abul 'Ala Al Maududy Positive Perspective of the Political System of Indonesian Islamic Law,” *Syariah: Jurnal Hukum dan Pemikiran* 23, no. 1 (June 27, 2023): 36–49.

³⁸ Abdulkarim, *Al-Dawlah wa al-Siyādah fī al-Fiqh al-Islāmī*, 95–6.

³⁹ Mahmud, “Maḥmūd al-Siyādah al-Waṭaniyyah bayna al-Qānūn al-Duwalī al-ʿĀmm wa al-Fiqh al-Islāmī,” 99–116.

⁴⁰ Scott Alan Kugle, “Framed, Blamed and Renamed: The Recasting of Islamic Jurisprudence in Colonial South Asia,” *Modern Asian Studies* 35, no. 2 (April 2001): 257–313; Lawrence Rosen, *The Anthropology of Justice: Law as Culture in Islamic Society*, The Lewis Henry Morgan Lectures 1985 (Cambridge; New York: Cambridge University Press, 1989), 52, 58.

The construction of *fiqh al-siyādah* in Yamin's thought is evident in his formulation of five foundational principles of the state: nationalism (*perikebangsaan*), humanity (*perikemanusiaan*), divinity (*periketuhanan*), democracy (*perikerakyatan*), and social welfare (*kesejahteraan rakyat*).⁴¹ These principles serve not only as normative foundations for an independent state but also represent a form of political *ijtihād* (independent reasoning)—a critical endeavor aimed at liberating the Indonesian nation from colonial domination and structural injustice.⁴² Yamin's *fiqh al-siyādah* is transformative, seeking to address geopolitical and colonial challenges that cannot be resolved through classical legal-formal approaches alone. Within this framework, sovereignty is understood not merely as an individual ethical commitment but as a strategic instrument for decolonization and collective liberation.⁴³ It redefines law and politics not as ends in themselves but as means to achieve national dignity, justice, and self-determination.⁴⁴

According to Yamin, nationalism transcends mere emotional expressions of love for one's homeland; it evolves into a form of political consciousness rooted in the spirit of liberation. At this stage, nationalism is understood as a collective responsibility to defend sovereignty—culturally, politically, economically, and spiritually—ensuring that the nation can exist with dignity and independence.⁴⁵ Yamin articulated *perikebangsaan* as a fundamental principle in nation-building, grounded in Indonesia's unique identity, history, and indigenous values—not as an imitation of, or submission to, foreign models.⁴⁶ From the perspective of *fiqh al-siyādah*, *perikebangsaan* entails rejecting all forms of external domination—whether classical colonialism or modern-day imperialism—that undermine the people's free will and distort a just social order. Classical concepts such as *dār al-islām* (the abode of Islam) and *dār al-ḥarb* (the abode of war) are reinterpreted contextually: the dividing line is no longer geographic, but rather based on whether a territory guarantees justice, sovereignty, and the protection of fundamental human rights.⁴⁷ Thus, for Yamin, nationalism becomes a form of strategic *ijtihād*—a conscious legal and moral effort to construct a resilient society rooted in

⁴¹ Muhammad Yamin, "Lima Uraian Tentang Undang-Undang Dasar 1945: Pidato di depan Sidang Keluarga Deparlu di Gedung Pedjambon (Djakarta: 1960)," 27; Aris Hardianto, "Autentitas Sumber Sejarah Pancasila dalam Masa Sidang Pertama Badan untuk Menyelidiki Usaha-Usaha Persiapan Kemerdekaan Tanggal 29 Mei-1 Juni 1945," *Veritas et Justitia* 3, no. 1 (2017): 43–64.

⁴² Loso Judijanto et al., *Sistem Politik Indonesia* (Yogyakarta: PT. Green Pustaka Indonesia, 2025), 20.

⁴³ Kurnia and Andi Miftahul Maulidil Mursyid, "Freedom on Whose Terms? A Decolonial Re-Examination of Religion in Indonesia," *Journal of Religion and Decoloniality* 1, no. 1 (June 26, 2025): 1–15; Suud Sarim Karimullah, Nanda Ahmad Basuki, and Arif Sugitanata, "An Ethical Analysis of the Application of the Death Penalty in Islamic Law," *Antmind Review: Journal of Sharia and Legal Ethics* 1, no. 1 (June 27, 2024): 39–50.

⁴⁴ Faisal Ismail, *Panorama Sejarah Islam dan Politik di Indonesia* (Yogyakarta: IRCISOD, 2017), 178; Habib Ismail, Dani Amran Hakim, and Muhammad Lutfi Hakim, "The Protection of Indonesian Migrant Workers under Fiqh Siyāsah Dusturiyah," *Lentera Hukum* 8, no. 1 (April 24, 2021): 151–74.

⁴⁵ Audrey R. Kahin, *Dari Pemberontakan ke Integrasi Sumatra Barat dan Politik Indonesia, 1926-1998* (Yayasan Obor Indonesia, 2005), 232.

⁴⁶ Gunawan, *Muhammad Yamin dan Cita Cita Persatuan*, 16–7.

⁴⁷ Mahmud, "Mafhūm al-Siyādah al-Waṭaniyyah bayna al-Qānūn al-Duwalī al-‘Āmm wa al-Fiqh al-Islāmī," 99–116; Syukri, Adenan, and Syahminan, "Reinterpreting Justice in Al-Farabi's Political Philosophy: Relevance to Contemporary Islamic Human Rights Thought," *MILRev: Metro Islamic Law Review* 4, no. 1 (June 30, 2025): 489–516.

homeland, national identity, and a unifying language.⁴⁸ It serves as a crucial instrument of *fiqh al-siyādah*, guiding the ummah not merely to be inhabitants of a state but rightful stewards of their collective future.

Following the rise of nationalism, Yamin positioned *perikemanusiaan* as the second pillar of an independent nation—one that is not only free from physical colonization but also liberated from the logic of structural violence that perpetuates oppression. In Yamin's view, *perikemanusiaan* is not merely a universal moral value but a theological-political principle that demands the active defense of human dignity on a global scale.⁴⁹ This principle directly aligns with the core objectives of Islamic law (*maqāṣid al-sharī'ah*), particularly *ḥifẓ al-nafs* (the protection of life) and *ḥifẓ al-'ird* (the preservation of human dignity).⁵⁰ Within this framework, *fiqh al-siyādah* is not conceived as an exclusive or territorial legal system but rather as a universal ethical stance that resists international systems of inequality—such as colonialism, racism, and economic imperialism. *Fiqh al-siyādah* interprets *perikemanusiaan* as a call to activate Islamic humanistic values as the foundation for a transnational justice system—one that does not discriminate based on race, religion, or nationality but instead advocates for all people based on justice.⁵¹ At this juncture, Yamin sought to unravel the universal teachings of Islam so that they could function as instruments of liberatory humanism rather than as exclusive or limiting doctrines.

Periketubanan—the third pillar of Yamin's philosophical framework—was not merely a formal acknowledgment of the nation's spiritual dimension; it served as a strategic foundation for constructing a contextual and inclusive *fiqh al-siyādah*. Within this framework, *periketubanan* is understood as the affirmation that ultimate sovereignty derives from God—not from colonial authorities, repressive regimes, or unjust political systems.⁵² Yamin's conception of *periketubanan* was neither exclusivist nor theocratic. Instead, it formed the ideological basis of the Indonesian state by affirming religious pluralism, freedom of belief,

⁴⁸ Robert Edward Elson, *The Idea of Indonesia: Sejarah Pemikiran dan Gagasan* (Jakarta: Serambi, 2009), 163, 171; Novendri Mohamad Nggilu et al., "Indonesia's Constitutional Identity: A Comparative Study of Islamic Constitutionalism," *De Jure: Jurnal Hukum dan Syar'iah* 16, no. 2 (December 30, 2024): 480–500.

⁴⁹ Moch. Dimas Galuh Mahardika, "Pengaruh Pemikiran Ibnu Khaldun dalam Rumusan Filsafat Sejarah Nasional Muhammad Yamin," *Refleksi Jurnal Filsafat dan Pemikiran Islam* 25, no. 1 (June 12, 2025): 18–36.

⁵⁰ Tarmizi Tahir and Syekh Hasan Abdel Hamid, "Maqasid al-Syari'ah Transformation in Law Implementation for Humanity," *International Journal Ihya' 'Ulum al-Din* 26, no. 1 (June 20, 2024): 119–31; Fuqoha Fuqoha et al., "Constitutional Rights of Citizen Journalism in Indonesia: From Maqashid Sharia Perspective," *De Jure: Jurnal Hukum dan Syar'iah* 16, no. 1 (June 30, 2024): 161–78; Muhamad Harun et al., "The Ideal Legal Protection of the Child Labor Rights in Indonesia: The Dimensions of Maqāṣid al-Sharī'ah and the Welfare State," *JURIS (Jurnal Ilmiah Syariah)* 23, no. 1 (June 30, 2024): 167–78; Adi Syahputra Sirait, Mhd Syahnan, and Budi Sastra Panjaitan, "Community Service Order Punishment: Alternatives in the Criminal Law System From Maqāṣid al-Sharī'ah Perspective," *Nurani: Jurnal Kajian Syari'ah dan Masyarakat* 24, no. 2 (October 10, 2024): 273–96; A. Kumedi Ja'far, Edi Susilo, and Mursyid Al Haq, "Construction of Contemporary Fiqh in the Disorders of Sexual Development Problems Through the Integration of Maqāshid al-Sharī'a and Medical Science," *Al-'Adalah* 22, no. 1 (June 15, 2025): 63–90.

⁵¹ Michael Cook and Seyyed Hossein Nasr, "Sovereignty in Islamic Governance: Comparative Analysis with International Law," *International Journal of the Universe and Humanity in Islamic Vision and Perspective* 1, no. 2 (2024): 78–86.

⁵² Miguel E. Vatter, ed., *Crediting God: Sovereignty and Religion in the Age of Global Capitalism*, 1st ed (New York: Fordham University Press, 2011), 104–5.

and the cultivation of spiritual harmony within a united and diverse nation.⁵³ In the discourse of *fiqh al-siyādah*, this principle functions as a bridge between individual faith and public ethics.⁵⁴ It asserts that divine law is not a tool for domination but an ethical source for upholding justice, freedom, and interreligious harmony.⁵⁵ This understanding of *periketubanan* stands in direct opposition to narrow religious fanaticism. Instead, it serves as the foundation for cross-faith solidarity in defense of human dignity and social justice.⁵⁶ Through this vision, Yamin expanded the horizon of *fiqh*—from the private realm to the public sphere, and from exclusive ritual practice to a liberative and unifying theological vision that binds the nation through shared spiritual civility.

As the fourth pillar in Yamin's formulation, *perikerakyatan* represents the political articulation of a deeply rooted principle of popular sovereignty. From the perspective of *fiqh al-siyādah*, *perikerakyatan* transcends mere procedural legality, such as elections; it affirms that the people are the rightful holders of power and that this power must be exercised in a participatory, just, and sustainable manner.⁵⁷ Yamin conceptualized democracy not merely as an electoral mechanism but as a form of sociopolitical *ijtihad* aimed at cultivating deliberation (*musyawarah*), mutual cooperation (*gotong-royong*), and active civic engagement in public decision-making.⁵⁸ This vision closely aligns with the Islamic principle of *shūrā*, which emphasizes collective, consultative, and accountable governance.⁵⁹ In contrast to classical *fiqh*, which often prioritized the authority of political elites such as *aimmah* or *salāṭīn*, *perikerakyatan*, within the framework of *fiqh al-siyādah*, advocates for the redistribution of authority to the broader community.⁶⁰ It functions as a bridge between Islamic values and modern democratic systems, while also serving as a critique of oligarchic structures—whether colonial, authoritarian, or capitalist—that usurp the people's sovereignty.⁶¹ Within this framework, Yamin laid the groundwork for a sociopolitical *fiqh* that positions the people not as passive subjects of power but as active agents in the realization of social justice and a dignified national life.

The *kesejahteraan rakyat* embodies the culmination of all the state principles articulated by Yamin and simultaneously serves as the highest *maqṣad* (ultimate objective) within the

⁵³ Idris Thaha, Ismatu Ropi, and Saiful Umam, "Religion and the Identity of Independent Indonesia: A Study on Religious Narratives According to the Founding Fathers," *Ulumuna* 28, no. 2 (December 31, 2024): 881–910.

⁵⁴ Intan, "Public Religion" and the Pancasila-Based State of Indonesia, 86–7.

⁵⁵ Fakhri Yusuf et al., "Wasatiyyah Da'wah and Religious Freedom in Malaysia: A Constitutional Perspective," *Jurnal Ilmiah Penradeun* 13, no. 2 (May 30, 2025): 1527–48.

⁵⁶ Anggit Rizkianto, *Relasi Agama dan Pancasila: Mengukuhkan Karakter Kebangsaan* (Pustaka Aksara, 2021), 62.

⁵⁷ Mohammad Fadel, "Political Legitimacy, Democracy and Islamic Law: The Place of Self-Government in Islamic Political Thought," *Journal of Islamic Ethics* 2, no. 1–2 (November 15, 2018): 59–75.

⁵⁸ Piong Khoy Fung, "Islam and the State from the Perspective of Efforts to Establish Positive Law in Indonesia," *Proceeding International Conference on Law, Economy, Social and Sharia (ICLESS)* 2 (March 24, 2024): 513–26.

⁵⁹ Uriya Shavit, "Is Shura Muslim Form of Democracy? Roots and Systemization of a Polemic," *Middle Eastern Studies* 46, no. 3 (May 2010): 349–74.

⁶⁰ Sahid Wahid, Muhammad Yusuf, and Mardan Mardan, "The Implementation of Deliberation as a Form of Collective Decision in Islamic Law," *Journal of Universal Community Empowerment Provision* 4, no. 3 (December 27, 2024): 131–36.

⁶¹ Nazek Jawad, "Democracy in Modern Islamic Thought," *British Journal of Middle Eastern Studies* 40, no. 3 (July 2013): 324–39.

framework of sovereignty *fiqh*. In this perspective, law should not be limited to formal norms; instead, it must ensure economic justice and eradicate structural inequalities. For Yamin, true independence encompasses not only political sovereignty but must also be manifested through tangible and equitable welfare for all Indonesians. Yamin emphasized:

*“The welfare of the people, which serves as the foundation and objective of an independent Indonesian state, can be encapsulated as social justice. This state will be supported by a nation and a population nearing 100 million people. It marks the emergence of a new welfare state, already great and noble on the day of its inauguration. During the First World War, the Indonesian people and their ideals were plunged into the depths of colonialism. In the Second World War, with the assistance of the Japanese Imperial Army and the determined struggle of the Indonesian people, we were destined by God to rise from the status of a colony to that of a free nation. Therefore, the form of a sovereign and independent Indonesia is a Republic of Indonesia founded on the principle of unitarism.”*⁶²

When fully integrated, the five principles formulated by Yamin—*perikebangsaan*, *perikemanusiaan*, *periketuhanan*, *perikerakyatan*, and *kesejahteraan rakyat*—serve as the conceptual foundation for a post-independence of the sovereignty *fiqh* for the Indonesian nation. These principles are not merely ideological pillars of the state; they represent a form of sociopolitical *ijtihad*—a dynamic interpretive effort to develop a liberative legal and ethical order that emancipates the people from the constraints of colonialism, global capitalism, and structural injustice. *Perikebangsaan* affirms the nation’s collective existence as a free subject of history; *perikemanusiaan* grounds the nation in universal solidarity and the rejection of oppression; *periketuhanan* provides a transcendent source of truth and justice; *perikerakyatan* ensures participatory governance and the equitable distribution of power; and *kesejahteraan rakyat* demands genuine and systemic economic justice.⁶³ In the discourse of *fiqh al-siyādah*, these five principles collectively form a transformative legal framework—one that transcends mere legal formalism and advances a jurisprudence that is centered on the people, resistant to hegemonic domination, and empowering to the ummah as a sovereign political entity.⁶⁴ Through these principles, Yamin was, in essence, laying the cornerstone for a contextual, progressive, and historically grounded vision of sovereignty *fiqh*—a jurisprudence rooted in the struggle for national liberation and aimed at achieving justice, dignity, and independence for all.⁶⁵

⁶² “Sekretariat Negara Republik Indonesia, Risalah Sidang Badan Penyelidik Usaha-Usaha Persiapan Kemerdekaan Indonesia (BPUPKI) dan Panitia Persiapan Kemerdekaan Indonesia (PPKI) 28 Mei 1945–22 Agustus 1945.”

⁶³ Ending Solehudin et al., “Transformation of Shariah Economic Justice: Ethical and Utility Perspectives in the Framework of Maqashid Shariah,” *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 24, no. 1 (June 30, 2024): 101–15; Cik Basir et al., “Reconstruction of Sharia Economic Procedural Law in Indonesia and Comparison of Sharia Economic Cases in Malaysia and Indonesia,” *Nurani: Jurnal Kajian Syari’ah dan Masyarakat* 24, no. 1 (June 20, 2024): 17–36; Bunyamin Bunyamin et al., “Reforming Indonesia’s Correctional System: The Role of Maqāṣid al-Syari’ah in Ensuring Justice and Rehabilitation,” *De Jure: Jurnal Hukum dan Syari’ah* 17, no. 1 (April 1, 2025): 52–71; Imron Hamzah et al., “Legal Foundations for Inclusive Halal Tourism in West Java: Between Constitutional Principles and Practical Challenges,” *Syariah: Jurnal Hukum dan Pemikiran* 24, no. 2 (2024): 503–29.

⁶⁴ Syarifah Ema Rahmania et al., “Biopolitics and Stunting Treatment: Barriers to Community Participation in Sambas Regency, Indonesia,” *Jurnal Ilmiah Peuradeun* 13, no. 2 (May 30, 2025): 1263–90.

⁶⁵ Nuraida Fitri Habi et al., “Prioritizing Restorative Justice in the Settlement of the Sumbang Besak Adultery Case in Babeko Village, Jambi,” *El-Mashlahah* 14, no. 2 (December 30, 2024): 343–60; Hani Sholihah, Nani Nani Widiawati, and Mohd Khairul Nazif bin Hj Awang Damit, “Reinterpretation of Justice in Islamic

Sovereignty *Fiqh* in the Politics of *Shūrā* and the Rejection of the *Uni Indonesia-Belanda*

As an intellectual and statesman, Yamin played a crucial role in shaping the foundational principles of the Indonesian state and its constitutional system. One of his most significant contributions was the development of the concept of popular sovereignty, which is rooted in local values and Islamic principles, particularly the notion of *shūrā*.⁶⁶ This perspective formed the political and legal foundation for Yamin's rejection of the Netherlands-Indonesia Union (*Uni Indonesia-Belanda*), which he viewed as fundamentally opposed to the spirit of independence and national sovereignty. Yamin firmly believed that true sovereignty originates from the people—not from foreign powers or monarchic rule. In his speech before the BPUPKI on May 29, 1945, Yamin explicitly asserted that the sovereignty of the people must be the cornerstone of an independent Indonesian state.⁶⁷ He referenced Jean-Jacques Rousseau's notion of the *volonté générale* (general will), emphasizing that sovereignty cannot be divided, transferred, or altered; it must permanently reside with the people. For Yamin, individual liberty was the foundation of sovereignty. Therefore, the sovereignty of the people necessarily included the protection of individual rights. Consequently, he insisted that the Indonesian constitution must explicitly guarantee and safeguard these rights.⁶⁸

Yamin integrated the principle of *shūrā* into his concept of popular sovereignty by emphasizing the central role of deliberation in state decision-making. He grounded his perspective in *Surah al-Shūrā*, verse 38, which highlights *shūrā* as a fundamental practice within Islamic governance. For Yamin, *shūrā* was not only a key element of Islamic law but also deeply embedded in Indonesian cultural traditions.⁶⁹ He regarded it as a foundational principle for governing society under both religious and indigenous values. The verse affirms that public affairs should ideally be resolved through deliberation rather than through authoritarianism or absolute power. In the context of constitutional law, *shūrā* signifies that political legitimacy must be derived from collective participation, with citizens actively involved in shaping public policy. It requires the state to provide inclusive deliberative spaces where all citizens can contribute to decisions affecting law, politics, and governance.⁷⁰ For Yamin, *musyawarah* was more than a procedural formality; it was a mechanism to ensure that power is exercised with wisdom and justice. He articulated this position clearly, as summarized in the Table 1.

After the Proclamation of Indonesian Independence on August 17, 1945, the Dutch sought to establish the Netherlands-Indonesia Union, a federal system designed to integrate

Inheritance Rights Based on Gender,” *Al-Adalah* 21, no. 1 (June 25, 2024): 101–24; Riris Ardhanariswari et al., “Upholding Judicial Independence through the Practice of Judicial Activism in Constitutional Review: A Study by Constitutional Judges,” *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 6, no. 2 (December 27, 2023): 183–207.

⁶⁶ Muhammad Yamin, *Proklamasi dan Konstitusi Republik Indonesia* (Jakarta: Djampatan, 1951), 62.

⁶⁷ Bahar Saafroedin, “Himpunan Risalah Sidang-Sidang dari Badan Penyelidik Usaha Persiapan Kemerdekaan Indonesia (BPUPKI)” (Jakarta: Sekretariat Negara, 1980), 28.

⁶⁸ Asshiddiqie and Marwan, “Proklamasi Menurut Mohammad Yamin,” 1–20.

⁶⁹ Megawati Megawati and Absori Absori, “The Deliberation of Pancasila Democracy Perspective in the Indonesian Constitutional System,” *Journal of Hunan University* 48, no. 3 (January 1, 2021): 64–71.

⁷⁰ Valerian Thielicke-Witt, “Comparing Concepts of Shura – Insights for a Further Deparochialization of Democracy,” *Comparative Political Theory*, March 19, 2025, 1–24.

Table 1
***Shūrā* Legal Politics of Yamin's Perspective**

No.	Political Functions of <i>Shūrā</i>	Yamin's Statements
1.	As a principle of religious government	If we genuinely believe in all the Qur'anic verses that pertain to the preservation and governance of the state, it is essential to prioritize <i>Surah al-Shūrā</i> , verse 38, which states: “ <i>Affairs are decided by mutual consultation.</i> ” This command is clear and unequivocal. History demonstrates that during the time of the Prophet and the era of the Caliph, collective deliberation was conducted in the most effective manner. By implementing this principle, the entire community—or their representatives—was able to participate in the formation and execution of the state. <i>Musyawarah</i> thus becomes a source of strength, as it provides opportunities for stakeholders to engage, enhances the sense of civic responsibility, and creates a moral obligation that binds individuals not through coercion, but through conscience.
2.	As the original identity of the nation	Among all Islamic nations in the world, the Indonesian people perhaps most prominently emphasize the principle of <i>musyawarah</i> and give it a distinctive character in its implementation. This phenomenon is not a mere coincidence; rather, it is deeply connected to and reinforced by the inherent nature of indigenous Indonesian civilization. Long before the advent of Islam in the archipelago, village structures, social systems, and land rights arrangements based on collective decisions had already been established—what may be described as communal consensus within society.
3.	As a means of public participation	The foundational principle of consensus (<i>musyawarah-mufakat</i>) is as ancient as the structures of the village (<i>desa</i>), territory (<i>negeri</i>), clan (<i>marga</i>), and other communal formations. This tradition of consensus diminishes the emphasis on individualism and fosters communal life within an organized society and a village-based system of governance—sustained for the collective good and the enduring welfare of the people across generations.
4.	As a constitutional consideration	An Indonesian state that is established must reflect the spirit of the people's constitutional life by adopting the principle of representation. Conversely, if the indigenous principle of representation is integrated into all elements of the state structure—emphasizing <i>musyawarah</i> and rationalism—it would ultimately create a state system that is genuinely in harmony with our civilization.

Source: The Authors's Extraction Results of Yamin's Works.⁷¹

Indonesia within a new colonial framework. Yamin vehemently opposed this concept, perceiving it as a form of neocolonialism that jeopardized the sovereignty of the Indonesian people.⁷² Yamin contended that the notion of the Netherlands-Indonesia Union fundamentally contradicted the principle of popular sovereignty, which had been arduously achieved through the struggle for independence. He firmly asserted that Indonesia must evolve into a state governed by law—a *rechtsstaat*—anchored in justice and laws formulated by the people themselves, rather than by foreign or colonial powers.⁷³ However, Yamin

⁷¹ Extracted from Yamin's Works and the Document “Sekretariat Negara Republik Indonesia, Risalah Sidang Badan Penyelidik Usaha-Usaha Persiapan Kemerdekaan Indonesia (BPUPKI) dan Panitia Persiapan Kemerdekaan Indonesia (PPKI).”

⁷² Muhammad Yamin, *Pembentukan dan Pembubaran UNI* (Jakarta: Bulan Bintang, 1955), 9.

⁷³ Manan Sailan, “Istilah Negara Hukum dalam Sistem Ketatanegaraan Republik Indonesia,” *Masalah-Masalah Hukum* 40, no. 2 (April 19, 2011): 228–35.

emphasized that Indonesia's interpretation of a *rechtsstaat* must diverge from that of the Netherlands. Indonesia's legal framework should be rooted in indigenous values and Islamic principles, particularly justice, *musyawarah*, and popular sovereignty (*kedaulatan rakyat*).⁷⁴ From this perspective, the Indonesian legal system should not merely replicate Western models, but rather embody the nation's moral and cultural foundations, ensuring that the law serves as a tool of liberation rather than domination. Yamin asserted:

*"The examination of popular sovereignty, when viewed within the broader concept of sovereignty that is scientifically accountable, is best approached through the lens of constitutional legal history. In this regard, a historical-constitutional analysis must always consider the interconnection between legal regulations and legal consciousness, following the perspective of Karl von Savigny, who stated that the entire instinct of life develops over time alongside the people. Such a legal and historical analysis fundamentally falls within the domain of historical-legal sciences, which provide the foundation for methods of investigating sovereignty in its various forms and manifestations within a particular nation or state."*⁷⁵

By grounding his argument in the thought of Karl von Savigny, Yamin posited that law fundamentally develops from customs and traditions, subsequently evolving into jurisprudence and constitutional law. Savigny's well-known position asserts that law, along with other social elements, forms an organic unity that reflects the *Volksgeist*, or the spirit of the people or nation. The term *Volksgeist* carries a specific meaning, derived from the words *Volk* and *Geist*. *Volk* refers to a cultural community, while *Geist* denotes the cultural character or spirit of that community.⁷⁶ Thus, *Volksgeist* can be understood as the national character or cultural identity of a people. At this juncture, Yamin's concept of popular sovereignty is rooted in *musyawarah*, a cultural practice inherent to the societies of the Indonesian archipelago. The mechanism of *musyawarah* constitutes a form of political-legal practice that predates the formal establishment of the Indonesian state.⁷⁷ Accordingly, for Yamin, it was only natural for *shūrā* to be considered a legitimate and foundational source in the formation of Indonesia's constitution.

Moreover, in determining the structure of the state, Yamin regarded the Proclamation of Independence as the fundamental foundation for shaping Indonesia's system of government.⁷⁸ He viewed the Proclamation as the basis for establishing the Unitary State of the Republic of Indonesia (*Negara Kesatuan Republik Indonesia*, NKRI), initially through the formation of the Republic of the United States of Indonesia (*Republik Indonesia Serikat*, RIS), which encompassed the entire archipelago. Yamin envisioned a transition from a federal

⁷⁴ Yamin, *Proklamasi dan Konstitusi Republik Indonesia*, 65; Asshiddiqie and Marwan, "Proklamasi Menurut Mohammad Yamin," 1–20.

⁷⁵ Muhammad Yamin, *Pembahasan Undang-Undang Dasar Republik Indonesia* (Jakarta: Yayasan Prapanca, 1960), 295.

⁷⁶ Mathias Reimann, "Nineteenth Century German Legal Science," *B.C.L. Rev.* 31, no. 4 (1990): 837–97.

⁷⁷ "Sekretariat Negara Republik Indonesia, Risalah Sidang Badan Penyelidik Usaha-Usaha Persiapan Kemerdekaan Indonesia (BPUPKI) dan Panitia Persiapan Kemerdekaan Indonesia (PPKI) 28 Mei 1945–22 Agustus 1945."

⁷⁸ Nana Setialaksana, "Peranan Badan Penyelidik Usaha-Usaha Persiapan Kemerdekaan Indonesia (BPUPKI) 1945 dalam Proses Menuju Kemerdekaan Indonesia," *Jurnal Artefak* 4, no. 2 (September 5, 2017): 109–18.

Figure 1
Yamin's Rejection of the Netherlands-Indonesia Union Concept

I. P e m b u k a.

Madju selangkah! Dalam hubungan luar-negeri dengan keradjaan Nederland maka adanya Uni Indonésia-Belanda sudah sedjak mulanja mendjadi duri dalam daging. Duri itu selalu menjintuh dan menghambat supaja hubungan itu mendjadi lantjar. Hal sedemikian disebabkan oléh beberapa faktor politis dan psychologis. Kedua matjam faktor penghambat ini sudah mulai berdjalan sedjak tanggal 27 Désémber 1949, waktu kedaulatan Indonésia diseluruh kepulauan kita diakui oléh keradjaan Nederland. Dan barulah pada bulan Agustus 1954, djadi setelah empat, tahun, kedua Pemerintah Indonésia dan Belanda menginsjafi dan berpendapat, bahwa Uni jang telah dibentuk oléh Konperénsi Médja Bundar harus dibubarkan. Keharusan itu dapat disusun dalam naskah pembubaran Uni, sebagai hasil perundingan antara dua Délegasi dikota Den Haag jang berlangsung sedjak penghabisan bulan Djuni sampai kepermulaan bulan Agustus tahun 1954. Pembubaran itu dinaskahkan dalam Protokol dan Pertukaran Surat. Pengesahan kedua lembar naskah itu oléh parlemén berarti menutup sedjarah adanya hubungan Uni Indonésia-Belanda selama 5 tahun. Pembubaran dilaksanakan dengan memakai alat-diplomatik, jaitu dengan menempuh djalan perundingan, sehingga tak perlu Rakjat Indonésia menempuh djalan pembatalan Uni setjara unilateral. Setelah pembubaran itu terlaksana dengan njata, maka adalah dua akibat jang akan dialami oléh bekas peserta Uni.

Akibat pertama mengenai kemungkinan bermatjam-matjam perundingan dengan Belanda, jang akan berlangsung diluar ikatan Uni jang tidak ada lagi. Dalam pelbagai konperénsi antara-negara dan begitu pula dikalangan internasional, misalnja dirapat-rapat Persekutuan Bangsa-Bangsa, maka Republik Indonésia akan hadir tanpa mendapat tamparan sebagai peserta Uni dibawah Ratu Juliana.

Source: Yamin, *Pembentukan dan Pembubaran UNI*, 1955.

system back to a unitary state, which would ultimately strengthen the NKRI.⁷⁹ He strongly advocated for Indonesia to be founded upon its own originality and identity, rather than imitating foreign state models. For this reason, when the Netherlands-Indonesia Union was dissolved, Yamin welcomed the development enthusiastically, describing it as a crucial step in removing a “thorn in the flesh” of the Republic of Indonesia.⁸⁰

Yamin's concept of popular sovereignty represents a synthesis of local cultural values, Islamic principles, and nationalist ideals. By integrating the principle of *shūrā* into the constitutional framework, Yamin emphasized the importance of consultative processes and representative governance in exercising just and democratic authority. His rejection of the Netherlands-Indonesia Union was firmly rooted in the conviction that Indonesia must become a fully independent and sovereign nation, founded upon the sovereignty of the people and the values of justice. This concept formed the core of Yamin's political-legal philosophy in constructing a constitutional system that reflects the cultural and moral values of the Indonesian people. In Yamin's view, governmental authority must be based on laws that embody the will of the people. He firmly asserted: “*The Republic of Indonesia is a state governed by law (rechtsstaat, government of law) where codified justice prevails. It is not a police state or a*

⁷⁹ Nasution, *Moh. Yamin*, 9–25.

⁸⁰ Yamin, *Pembentukan dan Pembubaran UNI*, 9.

*military state where police and soldiers hold power and dispense justice, nor is it a state of force (machtsstaat), where coercion and armed power are exercised arbitrarily.*⁸¹ This statement underscores Yamin's commitment to a constitutional democracy grounded in justice, deliberation, and the rule of law, rather than domination or authoritarianism.

Sovereignty *Fiqh* and the Concept of “*Pembanding*” as Judicial Review: A Critique of Absolute Power

In the BPUPKI session of July 1945, Yamin proposed the establishment of a judicial institution endowed with the authority to review legislation against three fundamental sources: Customary law, Islamic law, and the Constitution.⁸² Although he did not explicitly use the term “judicial review,” Yamin employed the term “*pembanding*”—a concept that functionally aligns with what is now understood as judicial review.⁸³ In this context, *pembanding* refers to the process of verifying and validating the conformity of lower-level laws with higher normative principles. Institutionally, Yamin proposed the formation of an entity he called the *Balai Agung* (Supreme Hall), which he envisioned as the authoritative body responsible for assessing whether legislation aligns with the values of *adat*, the principles of *shari‘ah*, and the Constitution as the foundational legal framework of an independent nation.⁸⁴

According to Yamin, the state must be governed by laws that are just and universally applicable, ensuring equality before the law without exception.⁸⁵ Grounded in the principles of popular sovereignty and *musyawarah*, Yamin emphasized the importance of granting the right of *pembanding* and establishing a *Balai Agung* as part of constructing the foundational framework for the separation of powers within the Republic of Indonesia's constitutional system.⁸⁶ Through this proposal, Yamin articulated that state power should not be confined to the traditional three branches of government as outlined in the classical *trias politica* theory. Instead, he envisioned a more expansive model consisting of six distinct branches of power, which he referred to as the “six powers of the republic,”⁸⁷ as illustrated in Table 2. This concept reflects Yamin's nuanced and contextual approach to governance, wherein the function of judicial review is integrated as an essential component of a sovereign

⁸¹ Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia* (Jakarta: Sinar Grafika, 2011), 64.

⁸² Simon Butt, “Islam, the State and the Constitutional Court in Indonesia,” *Pacific Rim Law & Policy Journal* 19, no. 2 (July 28, 2010): 279–301; Herlambang P. Wiratraman, “Adat Court in Indonesia's Judiciary System: A Socio-Legal Inquiry,” *Journal of Asian Social Science Research* 4, no. 1 (August 12, 2022): 43–62.

⁸³ Riris Ardhanariswari et al., “Upholding Judicial Independence through the Practice of Judicial Activism in Constitutional Review: A Study by Constitutional Judges,” *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 6, no. 2 (December 27, 2023): 183–207.

⁸⁴ Saldi Isra, *Indonesian Law in Transition: Perspectives, Challenges and Prospects of Ongoing Law Reform* (Depok: Rajawali Pers, 2021), xiii, 231; Ahmad Rofii, “Constitutional Limits of Islamic Law: God in the Preamble to the Indonesian Constitution,” *Journal of Law, Religion and State* 11, no. 1–3 (December 11, 2023): 1–34.

⁸⁵ Muhammad Yamin, *Bimbingan Nasional Bidang Pembinaan Bangsa Indonesia Jaitu di Depan Akademi Penerangan Tentang Bimbingan Nasional* (Jakarta: Pertjetakan Negara, 1960), 19.

⁸⁶ B. De Villiers, Saldi Isra, and Pan Mohamad Faiz, *Courts and Diversity: Twenty Years of the Constitutional Court of Indonesia*, Brill's Asian Law Series, volume 12 (Leiden, The Netherlands; Boston: Brill/Nijhoff, 2024), 57.

⁸⁷ Saafoedin, “Himpunan Risalah Sidang-Sidang dari Badan Penyelidik Usaha Persiapan Kemerdekaan Indonesia (BPUPKI),” 153; Muhtar Said, “Evolution of Judicial Review in Indonesia: A Comprehensive Legal Analysis,” *Rusian Law Journal* 12, no. 1 (2024): 1977–82.

constitutional structure. It demonstrates his effort to align the Indonesian legal and political order with the nation's pluralistic traditions and aspirations for justice.⁸⁸

Table 2
The Authority of the Six Powers in Yamin's Political Legal Thought

No.	Details of Each Power	
	Branches of Power	Descriptions
1.	President and vice president	<ul style="list-style-type: none"> • The Head of State, who leads and holds executive authority within the state; • Responsible for upholding and exercising the sovereignty of the Republic of Indonesia, both externally and internally; • There are two Vice Heads of State: The first Vice Head of State is tasked with overseeing the vastness of the country, the will of the people, and the significance of the population; The second Vice Head of State serves as a representative of the Islamic World.
2.	People's consultative assembly	<ul style="list-style-type: none"> • Serves as the highest authority within the republic; • Functions as a representative body for regional delegates and societal groups; • Elected by the people through a majority vote; • Holds the authority to amend or revise the Constitution.
3.	Representative council	Member of the people's consultative assembly.
4.	Balance and checks assembly	Having the authority to provide a variety of advice and recommendations to the President.
5.	Ministries	This ministry operates within the central government to assist the President while remaining fully accountable to the Representative Council. In this context, Yamin emphasized the necessity of establishing a ministry dedicated to religious affairs. He viewed this ministry as a unique and essential institution, arguing that matters of religion should not be entrusted solely to the High Assembly (<i>Majelis Tinggi</i>) or the <i>Balai Agung</i> .
6.	Supreme Court	It is responsible for reviewing laws in relation to customary law, Islamic law, and the Constitution.

Source: The Authors's Extraction Results of Yamin's Works.

The table above illustrates the constitutional design proposed by Yamin, in which the People's Consultative Assembly occupies a central role as the embodiment of the people's will.⁸⁹ This design emphasizes the principle of *shūrā*, which is also a fundamental tenet of Islamic law. In Islam, *shūrā* is not merely a deliberative process but an ethical and collective mechanism for achieving sociopolitical justice. Within the framework of constitutional governance, deliberation serves as a safeguard against the concentration of power in a single entity, ensuring public participation in the state's decision-making processes.⁹⁰ Yamin's

⁸⁸ Hasrat Efendi Samosir et al., "Recontextualizing the Medina Charter: Consensus-Based Political Communication for Contemporary Plural Societies," *MILRev: Metro Islamic Law Review* 4, no. 1 (June 30, 2025): 645–75.

⁸⁹ Deny Noer Wahid, Isdian Anggraeny, and Samira Echaib, "The Urgency of Returning the People's Consultative Assembly Authority in Determining the Outlines of the Nation's Direction," *Yuridika* 38, no. 3 (September 1, 2023): 539–64.

⁹⁰ M. Abdul Aziz, "The Principles Studied in Islamic Political Thought: Revisiting Modern Political Discourse," *IJISH (International Journal of Islamic Studies and Humanities)* 6, no. 1 (April 17, 2023): 65–86.

conception integrates the value of *shūrā* into the structure of a modern nation-state, thereby anchoring law and public policy in both the aspirations of the people and the principles of justice. Consequently, *shūrā* is not merely a normative ideal but a foundational pillar of a democratic and sovereign constitutional system—one that is deeply aligned with the religious and cultural values of Indonesian society.⁹¹

Moreover, the elaboration presented in the table above illustrates that the *Balai Agung* occupies a strategic position within Indonesia's constitutional framework, particularly in relation to religious affairs.⁹² The *Balai Agung* is not merely conceived as an institution for constitutional review; it is also functionally linked to the Vice President—who, according to Yamin's formulation, is responsible for overseeing religious matters—and to a dedicated ministry for religious affairs. This institutional interconnection suggests that Yamin viewed the religious dimension, particularly *sharī'ah*, as a crucial element in both the legislative process and the enforcement of laws.⁹³ Consequently, the *Balai Agung* is not solely a judicial body; it also functions as a mechanism to ensure that the laws enacted by the state align with religious principles.⁹⁴ Yamin emphasized:

*"The Supreme Court implements judicial powers and assesses laws to ensure their consistency with customary laws, Syariah and the Constitution and handles the annulment of laws, handing down its Decision to the President, who then delivers it before Parliament. The Supreme Court must not only carry out Judicial functions but should also assess whether the legislation created by Parliament is consistent with the Constitution or with recognized customary laws."*⁹⁵

Through the functions and authority vested in the *Balai Agung*, Yamin sought to promote the constitutional sovereignty of the people through the mechanism of *pembanding*, which he viewed not merely as a theoretical component of the state system but as a normative foundation that necessitates a legal framework enabling the public to challenge laws perceived as infringing upon their rights.⁹⁶ In this context, *pembanding*—functionally equivalent to judicial review—becomes a crucial tool for ensuring the constitutional protection of the people's interests. Furthermore, this concept illustrates that Yamin envisioned every legislative product in Indonesia as needing to align with *sharī'ah* values while remaining consistent with a legal ethic rooted in religiosity and customary tradition.⁹⁷ He believed that positive law must harmonize with both religious principles and the living *adat* laws of society, particularly within Indonesia's multireligious and multicultural context. Thus,

⁹¹ Ismatu Ropi, *Religion and Regulation in Indonesia* (Singapore: Springer Singapore, 2017), 65.

⁹² Daniel S. Lev, *Islamic Courts in Indonesia: A Study in the Political Bases of Legal Institutions* (Berkeley: University of California Press, 1972), 42.

⁹³ Evan Darwin Winet, "Between Umat and Rakyat: Islam and Nationalism in Indonesian Modern Theatre," *Theatre Journal* 61, no. 1 (March 2009): 43–64.

⁹⁴ Ropi, *Religion and Regulation in Indonesia*, 95; Daniel S. Lev, *Legal Evolution and Political Authority in Indonesia: Selected Essays*, The London-Leiden Series on Law, Administration, and Development, v. 4 (The Hague; Boston: Kluwer Law International, 2000), 232.

⁹⁵ Kusuma, *Lahirnya Undang-Undang Dasar 1945*, (Jakarta: Fakultas Hukum Universitas Indonesia, 2004), 385.

⁹⁶ Safi' Safi', *Sejarah dan Kedudukan Pengaturan Judicial Review di Indonesia: Kajian Historis dan Politik Hukum* (Surabaya: Scopindo Media Pustaka, 2021), 24.

⁹⁷ Ropi, *Religion and Regulation in Indonesia*, 95; Wiratraman, "Adat Court in Indonesia's Judiciary System," 43–62; Bambang Tri Bawono et al., "Human Trafficking and the Relevance of Hifz al-Nafs and Hifz al-'Ird in Contemporary Islamic Legal Ethics," *MILRev: Metro Islamic Law Review* 4, no. 1 (June 30, 2025): 597–618.

pembanding is not merely a technical instrument in constitutional law but part of a broader effort to integrate religious and cultural values into the national legal system.

The perspective affirms Yamin's vision of the importance of constructing a legal system capable of balancing state power with judicial oversight to ensure the protection of citizens' fundamental rights and to prevent authoritarianism in governmental practices.⁹⁸ Yamin's ideas regarding judicial review and the principle of checks and balances remain profoundly relevant in contemporary discourse on democracy, governance, and Indonesia's constitutional system.⁹⁹ His thoughts on the equilibrium between legislative and judicial authority contributed to the conceptual foundation for the establishment of institutions such as the Islamic Religious Courts (*Peradilan Agama Islam*) and the Constitutional Court (*Mahkamah Konstitusi*).¹⁰⁰ Yamin asserted that popular sovereignty must be preserved as a safeguard against potential state abuse and repressive policies. In a democratic system, where the executive often wields considerable influence over both the legislative and judicial branches, it becomes imperative to establish an independent institution that can oversee and restrain the exercise of such powers. Without institutional limitations, unchecked authority may lead to the oppression of minority groups or the misuse of power.¹⁰¹

Based on the aforementioned elaboration, the mechanism of *pembanding* proposed by Yamin—as a precursor to the modern concept of judicial review—occupies a strategic position in maintaining the balance of state power. It is not merely a technical legal instrument; rather, it serves as a manifestation of popular sovereignty. This mechanism empowers citizens to demand the review of laws that are deemed inconsistent with principles of justice, the values of *shari'ah*, customary law, or the Constitution.¹⁰² In a democratic legal system, the public's ability to challenge legislative products constitutes a tangible form of constitutional protection. Without such a mechanism, the law risks becoming a repressive tool of power, deviating from the spirit of justice. Thus, *pembanding* functions not only as a check on the legislative branch but also as a guarantee that the law remains under the scrutiny of a rights-conscious public. Within the framework of *fiqh al-siyādah*, this reinforces the principle that law must align with social justice and remain grounded in divine values and the

⁹⁸ Nessa Fajriyana Farda et al., *Hukum Lembaga Negara* (Padang: CV. Gita Lentera, 2024), 70.

⁹⁹ Moh. Mahfud MD, "The Constitutional Court of the Republic of Indonesia: Separation of Powers and Independence of Constitutional Court in Indonesia" (The 2nd Congress of the World Conference on Constitutional Justice, Rio de Janeiro, January 16, 2011), 1–21; Sugeng Riyadi et al., "The Urgency of Establishing Constitutional Court Procedural Law," *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 6, no. 2 (December 27, 2023): 209–23.

¹⁰⁰ De Villiers, Isra, and Faiz, *Courts and Diversity*, 150–6; Said, "Evolution of Judicial Review in Indonesia," 1977–82.

¹⁰¹ Marzuki Marzuki and Roswita Sitompul, "The Existence of People's Consultative Assembly in Indonesian State System in the Pancasila Democracy Perspective," *Journal of Advanced Research in Law and Economics* 11, no. 3 (June 15, 2020): 947; Aprista Ristyawati et al., "Rethinking Legislative Term Limits: Safeguarding Democratic Renewal in Constitutional State of Indonesia," *Diponegoro Law Review* 10, no. 1 (April 30, 2025): 16–28.

¹⁰² Aksin Wijaya, Ibnu Muchlis, and Dawam Multazam Rohmatulloh, "Rethinking Gender Justice in the Quran: A Critical Exploration of Muslim Feminist Perspectives," *Jurnal Studi Ilmu-Ilmu Al-Qur'an dan Hadis* 26, no. 1 (March 2, 2025): 77–98; Otong Sulaeman et al., "Negotiating Gender Justice in Minangkabau Marital Disputes: Between Adat, Islamic, and State Law," *Juris: Jurnal Ilmiah Syariah* 24, no. 1 (2025): 39–49.

aspirations of the people.¹⁰³ Judicial review, in this context, represents the collective right of citizens to uphold the sanctity of the law in a sovereign, just, and dignified state.

Conclusion

The sovereignty *fiqh* in Yamin's political-legal thought represents a conceptual framework that emerges from the integration of Islamic values, local customary traditions, and the principles of modern constitutionalism. This concept is primarily reflected in the formulation of five foundational principles of the state that he proposed: nationalism (*perikebangsaan*), humanity (*perikemanusiaan*), divinity (*periketuhanan*), popular sovereignty (*perikerakyatan*), and social welfare (*kesejahteraan rakyat*). These five principles serve not only as the philosophical foundation of the state but also as a form of sociopolitical *ijtihad* (independent reasoning), rooted in Yamin's profound understanding of the Islamic principle of *shūrā*—namely, deliberation, power distribution, and social justice. Yamin's concept of the *fiqh* of sovereignty emerged as an ideological and constitutional critique of colonial domination, particularly in response to the notion of the Netherlands-Indonesian Union, which undermined the sovereignty and aspirations of the Indonesian people. In this context, Yamin introduced the idea of a *pembanding* (comparator) institution—a body endowed with the authority to review legislation against the standards of Islamic law (*shari'ah*), customary law, and the constitution. Through the *pembanding*, Yamin asserted that the populace holds the right to evaluate the legitimacy of state laws to ensure their conformity with the principles of justice, Islamic values, and local wisdom. Therefore, Yamin's notion of the *fiqh* of sovereignty represents a critical synthesis that situates law within a theological, sociological, and political framework, forming a foundational basis for a just, democratic, and sovereign Indonesian legal system.

Despite successfully uncovering the *fiqh* dimensions within Yamin's political-legal thought, this study has several limitations. First, the scarcity of primary sources has compelled the analysis to rely heavily on formal documents, which restricts a comprehensive understanding of Yamin's ideas within the broader sociopolitical context of his time. Second, the historical-analytical approach employed in this study does not adequately explore the intertextual connections between Yamin's thought and the wider discourse of global Islamic scholarship or the intellectual networks of Muslim thinkers during his era. Third, the research does not engage in a comparative analysis between Yamin and other figures within the spectrum of Islamic political jurisprudence in Indonesia. Therefore, future studies are recommended to: conduct more in-depth explorations of Yamin's unpublished manuscripts, personal archives, and correspondence, which remain largely underexplored; contextualize Yamin's ideas within the landscape of international political Islam; and undertake comparative studies with other founding figures such as Mohammad Natsir, Mohammad Hatta, or Soekarno, to gain a better understanding of the ideological configurations of legal thought in early Indonesian political discourse.

¹⁰³ Zunly Nadia and Niswatin Faoziah, "Gender Equality within Family in Islamic Perspective: Insights from the Hadiths of Ummul Mukminin," *Jurnal Studi Ilmu-Ilmu Al-Qur'an dan Hadis* 25, no. 1 (June 14, 2024): 161–86.

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