

## THE CONCEPT OF SOVEREIGNTY ACCORDING TO ABUL A'LA AL-MAUDUDI AND ABDULLAH AHMAD AN-NA'IM

Achmad Arif\*, Tampan Cresna\*\*  
achmadarif1990@gmail.com, [tampan.cresna@gmail.com](mailto:tampan.cresna@gmail.com)

### Abstrak

Tidak memandang negara Barat ataupun Timur, isu penegakan kedaulatan merupakan sebuah kesepakatan seluruh umat manusia demi terciptanya perdamaian dunia. Namun, persoalan yang sering kali muncul adalah perbedaan standar dan orientasi kedaulatan versi Barat dan Islam, yang kemudian menjadi dua kelompok besar yang saling bertentangan. Adanya perbedaan konsep kedaulatan oleh dua tokoh Islam, namanya Abul A'la Al-Maududi dan Abdullah Ahmad An-Na'im. Dari pembahasan yang telah dijelaskan, penulis mengambil kesimpulan bahwa kedaulatan adalah kekuasaan tertinggi dalam suatu negara atau kesatuan yang tidak terletak dibawah kekuasaan lain. Dalam konsep Al-Maududi terhadap kedaulatan, bahwa sistem kedaulatan hanya milik Allah SWT. Sedangkan rakyat atau umat Islam hanya sebagai wakil atau bisa disebut khalifah. Diantara asas politik Islam yang membedakan dengan sistem kedaulatan adalah menjadikan kedaulatan di tangan syara'. Dalam konsep An-Na'im terhadap kedaulatan, bahwa kekuasaan dipegang penuh oleh umat, umat Muslim ikut berperan dan bertanggung jawab, kebebasan adalah hak bagi semua orang, dan sistem kedaulatan berada dalam undang-undang Islam, kemudian dia memerintahkan untuk menolak sistem-sistem lain yang tidak bersum berdarinya.

**Kata Kunci:** *Pemikiran, Abul A'la Al-Maududi, Abdullah Ahmad An-Na'im.*

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\*Dosen Fakultas Syari'ah, Prodi Perbandingan Madzhab, Universitas Darussalam Gontor

\*\*Mahasiswa Fakultas Syariah, Prodi Perbandingan Madzhab, Universitas Darussalam Gontor

## A. Introduction

The history of sovereignty has passed a fairly long way, even since the beginning of sovereignty in the state related to who will hold the authority of state and where the authority is obtained. It caused the state is not the inanimate objects can move itself, but an organization is organized by a group of people on the society with certain purpose. It does not argue the country of West or East, the issue of sovereignty is a consensus to all of human for the creation of world peace. However, the problem often appear is the difference of standard and orientation of sovereignty in Western and Eastern (Islamic version), which later split into two big groups that continue dichotomous (the division of two groups are conflicting).<sup>1</sup>

The presence of two Islamic figures from each group, first represented by Abul A'la Al-Maududi is figure in Islamic group want to campaign the concept of sovereignty in Islam is the concept of humanist more than sovereignty is campaigned and standardised by the Western. On the other side, second represented by Abdullah Ahmad An-Na'im is figure in Islamic group who want to fight that sovereignty in Islam should follow the standard of sovereignty owned by the Western. The concept of sovereignty become a conversation that continues to appear the attention of law scholars. The sovereignty in Islam explained in different form, namely the definition of sovereignty, the source of sovereignty, the various of sovereignty, the theory of sovereignty until sovereignty in the perspective of two big characters that represented each era itself, namely Abul A'la Al-Maududi and Abdullah Ahmad An-Na'im.<sup>2</sup>

Among Muslim thinkers themselves, there is the confrontation interpretation on sovereignty. Related to the concept of sovereignty which became the instrument of knowledge on constitution, according to Al-Maududi, an expression of the people sovereignty is often become non-definition. Therefore, it applied only four or five once in the election. The control of country on his essentially still in the hands of a small group of authority. Not only that, according to Al-Maududi, the verses of the Qur'an also show that the authority and supreme sovereignty are in the hands of God (Theocentric). The only God has rights to giving

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<sup>1</sup> Ahmad Kosasih, *HAM dalam Perspektif Islam: Menyingkap Persamaan dan Perbedaan antara Islam dan Barat*, (Jakarta: Salemba Diniyah, 2003), hlm. 30.

<sup>2</sup> Mujaid Kumkelo, *Fiqh Hak Asasi Manusia*, (Malang: Setara Press, 2015), hlm. 146.

the law for human formed on basic norms for the creation of fair and prosperous society.<sup>3</sup>

Different to Al-Maududi, An-Na'im criticized the concept of the God sovereignty that leads to the rights given by God as the hold of supreme sovereignty. For An-Na'im, such sovereignty is often hijacked by the authority to legitimize his sovereignty to commit discriminatory. Thus, An-Na'im argues that the sovereignty of modern country is in the hands of people (Anthropocentric).<sup>4</sup>

The approach is used by Al-Maududi that seen more normative. It speaking the Islamic morality to be compared with the history and culture of west which seen more cruel and discriminatory. According to him, Islam as universal religion and cosmopolite (people without citizenship status) had manage everything, including human rights. Islam according to Al-Maududi load the guidance and law that most humanist than the Western which fixed since now.<sup>5</sup>

Meanwhile, An-Na'im argues that between sovereignty and shariah are found the contradiction. Therefore, when the absolute of shariah is applied, thus the sovereignty will not run goodly. An-Na'im argues that need for harmonization of shariah with international law that bring the enforcement of sovereignty. The reinterpretation and reconstruction are needed to be done on the Islamic of teachings and law which still contradict to the universal of sovereignty for the benefit together. An-Na'im example on slavery and discrimination based on gender and religion that are universally not recognized in the international world. According to him, there are many Islamic countries that still applied it.<sup>6</sup>

## **B. Babul A'la Al-Maududi's Biography**

The name of Abul A'la Al-Maududi may not be separated from the ideals of Islamic awakening in the century of 15 H currently. The ideals have been so prevalent in the throughout of Islamic world. He categorized in the front of line in figures of Islamic thought that his ideas and ideals had a big effect on the transformation of the development of

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<sup>3</sup> Abul A'la Al-Maududi, *Hak-Hak Asasi Manusia dalam Islam*, (Jakarta: Bumi Aksara, 2008), hlm. 24.

<sup>4</sup> Abdullah Ahmad An-Na'im, *Islam dan Negara Sekuler*, (Yogyakarta: LKIS, Cet. IV, 2004), hlm. 32.

<sup>5</sup> Abul A'la Al-Maududi, *Hak-Hak Asasi Manusia dalam Islam*, hlm. 24.

<sup>6</sup> Abdullah Ahmad An-Na'im, *Islam dan Negara Sekuler*, hlm. 32.

Islam currently. Abul A'la Al-Maududi was born in Aurangabad (now including the regions of India) on 25 September 1903 AD His father, Ahmad Hasan, a lawyer who had studied at the University of Alligarh, Central India. Al-Maududi died on September 23, 1979 in a hospital in New York, United States.<sup>7</sup>

As a child, Al-Maududiteached and trained by his own father, a Sufi who leave his profession as a lawyer because in his practice often have to do things that contradicted with Islamic teachings. In addition, he also did not follow the way of life partners in same profession such as the Western and non-Islamic, Al-Maududi's father ever tried to open back the office of lawyer because persuasion from his uncle. However, he still chose to spend the time to teach and educate their children, including Al-Maududi. Al-Maududi was the third of three brothers.<sup>8</sup>

After reaching the age of eleven years, Al-Maududi join the entrance examination for next school, where for the first time he got a lesson in chemistry, physics, mathematics, and others. Al-Maududi was known as a smart child. He completed his education on time with get the diploma of *Maulawi*. Unfortunately, he was unlucky. The condition of the economy and health of his father at the time was so weak that he was forced to leave Aurangabad and move to live with his eldest brother in Haiderabad. Al-Maududi also moved. In the new place, he tried to continue the lesson in *DaurAlUlum*, a higher education institution who has scored many scholars in India at the time. However, he can only survive for six months, because in addition to the difficulty of cost, he also must be taking care for his father that worsening the pain.<sup>9</sup>

### C. Abdullah Ahmad An-Na'im's Biography

Abdullah Ahmad An-Na'im was born in a village called Al-Maqawir located on the west edge of Nil, about 200 km from north of Khartoum on April 6 1946, but in the birth certificate inscribed November 19 1946. An-Na'im is the first child from the couple of Ahmad An-Na'im and Aisha Al-Awad Osman. His father just follows the education of read and write the Qur'an in the school (madrasah), while his mother was illiterate (blind

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<sup>7</sup> Ahmad Jamil, *SeratusTokohTerkemuka*, (Jakarta: Pustaka Firdaus, 1987), hlm. 41.

<sup>8</sup> AmienRais, *Kata Pengantardalam Abul A'la Al-MaududiTentangKhilafah dan Kerajaan*, (Bandung: Mizan, 2007), hlm. 10.

<sup>9</sup> *Ibid.*, hlm. 11.

alphabet). An-Na'im's family came from the northern Sudan region that was ever be the region of ancient Nubia embraced the religion of Islam with conversational language which used is Arabic Language during the century of 13 and 14 AD.<sup>10</sup>

An-Na'im completed basic education in Sudan and S1 (undergraduate) in the field of public law at the University of Khartoum in 1970, then completed S2 (graduate) to obtain an LLB title and Diploma in the field of criminology at the University of Cambridge in 1973 with finish a thesis entitled *Criminal Process Penology: Sociology of Crime and Research Methodology*. Then completed S3 to obtain Ph.D title at the University of Edinburg in 1976 with complete a dissertation entitled *Comparative Pre-Trial Criminal Procedure: English, U.S., and Sudanese Law*. After that, An-Na'im return to Sudan then became a lawyer and a law lecturer at the University of Khartoum. In 1979, he became head of the Department of Public Law at the law faculty of the University of Khartoum.<sup>11</sup>

Besides from being academics, An-Na'im is also a national and international activist. On national scale, he joined to the Brotherhood Organization of Republic in Sudan since he was still a high student at the University of Khartoum in the end of 1960s. The organization was founded by Mahmoud Mohamed Taha as a republic party in the middle of the nationalist fight of Sudan at the end of the second world war. Through the establishment of this party, Taha create an alternative to the major nationalist parties. Therefore, he felt that the parties have been dominated by the conservative Muslim of leaders. The party is also become to international attention at the time of Taha as leader was sentenced to death punishment by the Sudan regime, Ja'far Numeiri in 1985.<sup>12</sup>

#### **D. The Concept of Sovereignty in Islam**

Islam is a religion that different from the Western conception that separates religion and life. As a religion, Islam is not just a collection of theological (discourse by reason of religion, spiritual, and God) that there is no relationship with the world. But Islam is a collection into a word view that manage all aspect of human life that God forbids human

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<sup>10</sup> Moh. Dahlan, *Abdullah Ahmad An-Na'im: Epistemologi Hukum Islam*, (Yogyakarta: Pustaka Pelajar, 2009), hlm. 42.

<sup>11</sup> Ibid., hlm. 43.

<sup>12</sup> Ibrahim Siregar, "Abdullah Ahmad An-Na'im dan Pemikirannya Tentang Pembaruan Hukum Islam" dalam *Jurnal Analytica Islamica*, (Vol. 7 No. 2, 2005), hlm. 99.

to take religion other than Islam.

Sovereignty in Latin word is *supermus*, while in English word is sovereignty which has the meaning is highest. Sovereignty is also derived from the Arabic word is *dala-yadulu* or in the the meaning is switch or change. Sovereignty in various languages can be defined as political entity authority. Sovereignty is the supreme authority which not located under the other authority.<sup>13</sup> The properties of the principal of sovereignty as follows:

1. Not limited, which explain that the sovereignty is not limited by other authority and if there are other authority who limit it, then the supreme authority who owned will be lost.
2. Permanent, which explain that the sovereignty will still standing eventhough the government has repeatedly changed.
3. Single, which explain that the sovereignty is the only one of supreme power in a state that can not be delivered or divided to institution.
4. Original, which explain that the sovereignty not derived from the other hand of authority that his position is higher.<sup>14</sup>

The discourse of sovereignty in the Islamic world also received the considerable attention. It is seen by some Muslim intellectuals from classical era to contemporary era that define the sovereignty. Among other figures such as Ibnu Arabi, Al-Ghazali, IbnuSina, Fazlur Rahman, Ayatullah Khomeini, Abul A'la Al-Maududi, and others. The history of Islamic countries, began in the period of Medina where prophet Muhammad put the foundations of Islamic state. In this period, Islam has not declared itself as community that changed into the state. Muslims still be a community that located in Medina along with tribes before such as Auz and Khazraj who had entered to Islam.<sup>15</sup>

Over time, Islam became a community that has a great power, it is seen with military power who owned by Islam was able to dominate the Arab region. This condition does not change until the leadership *KhulafaurRasyidun*. After a period of *KhulafaurRasyidun*, the appear of Islamic dynasties which exist in the region of Arab, Persian, South Africa, and Europe. There are a variety of sovereignty in the thought of Islamic

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<sup>13</sup> EggiSudjana, *KedaulatandalamPerspektifIslam*, (Bandung: Pustaka Setia, 2010), hlm. 15.

<sup>14</sup> *Ibid.*, hlm. 16.

<sup>15</sup> MunawirSjadzali, *Islam dan Tata Negara*, (Jakarta: UI Press, 2008), hlm. 171.

philosopher as follows:

### 1. The God sovereignty

Some philosophers of Islam argued in Islamic state, who sovereign is God namely Allah SWT. Nizam Al-MulkTusi argued that king commanding on the basis of the grace of Allah to make the policy so who lead the society will get happiness in the world. Meanwhile, Harun Nasution argued to the Bani Umayyah caliph as *Khalifatullah* (representative of God) and to the Bani Abbasiyah as *Zhillullah fil Ard* (the shadow of God on earth).

Abul A'la Al-Maududi argued that the Islamic political ideal is the kingdom of God or in the language of politics is theocracy. In the view of Al-Maududi, the concept of Islamic theocracy different from the theocracy that ever existed in Europe are controlled by a group of people such as priests who enforce the Godhead authority to the people. Islam in government administration is done by the whole people by holding to the Qur'an and Sunnah.<sup>16</sup>

Ayatullah Khomeini argued that the Islamic government is a constitutional government. Constitutional here has the definition of object on the specific conditions enacting in the activities of government and manage the country run by leader, namely condition has been stated in the Qur'an and Sunnah of Prophet SAW. The characteristics of Islamic government in Khomeini's view that the legislative authority as legislation makers and authorities in enforcing the law exclusively belongs to Allah.<sup>17</sup>

### 2. The king sovereignty

The leader of state is often called the caliph, in the understanding of king sovereignty became a symbol of kingdom authority or dynasty. In general, the Muslim philosopher became a king as God's representatives on earth. In the view of Al-Farabi, the holder of sovereignty must be one, that is people who have talent and can guide others. Moreover, Al-Farabi criticized the Greek philosopher who initiated the ideals of a country that is very difficult to be filled, it has resulted in people must choose God as ruler.<sup>18</sup>

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<sup>16</sup> Ibid., hlm. 172.

<sup>17</sup> Gahad Hamed, "Adressingthe Islamic Notion of Sovereign State", in *Islamic Studies and Culture Journal*, (Vol. 3 No. 2, 2015), p. 137.

<sup>18</sup> Ibid., p. 137.

### 3. The law sovereignty

In the law sovereignty, the supreme authority in a country is law. Islamic philosopher who embraced this understanding is Majid Khadduri. In the view of Khadduri, Islamic system of government is nomocracy system of government not theocratic as assuming most people. Nomocracy is government based on formal legislation and rule of law in the society.

Khadduri's understanding can not be separated from the concept of Shari'ah which the agreement law between God and human. From this concept later appeared the concept of *single contract* and *two contracts*. The single contract is an agreement between fellow human form a society institution. While the two contracts assume that people who join the society to appoint a leader or king to govern with all conditions and limitations existed in the rule.<sup>19</sup>

### 4. The people sovereignty

The people sovereignty on the time is more popular than other sovereignty understanding. Islamic thinkers both classical and contemporary has initiated the people sovereignty. Philosopher famous classic with the idea of popular sovereignty was IbnuSina and Al-Mawardi. They were both argued in the leadership election, there are two ways, first, the election by *Ahlul Hal wal 'Aqd*, second, conduct the appointment of the head of state before. Ibnu Khaldun confirms the importance of selecting the head of state because he argues that people need a leader to conduct the authority and improve people's lives and prevent the act of mayhem among humans.<sup>20</sup>

### E. Concept of Sovereignty in Abul A'laAl-Maududi's Thought

According to Al-Maududi, Islam is a comprehensive and universal system that covers every aspect of human life, so that it has an answer to any issue the man may encounter with. In addition to guarantee prosperity and welfare of man, Islam redeems man from hardships, diseases, problems, evil deeds, and tyranny. To realize the aforementioned objectives, Islam fights the corrupted systems and replaces them. As proof for universality and comprehensiveness of Islam, Al-Maududi takes the

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<sup>19</sup> Ibid., p. 138.

<sup>20</sup> Fahmi Huwaydi, *Demokrasi, Oposisi, dan Masyarakat Madani*, (Bandung: Mizan), hlm. 161.

word literarily and refers to the Holy Qur'an four times by stating that Islam is the definite religion, which is constituted of four elements:

1. Sovereignty and control of the state represents sovereignty and control of God.
2. Respecting and recognizing the state means respecting God's sovereignty.
3. Executive and theoretical systems of the state are constituted of religious codes, divine laws and foundations of God's sovereignty.
4. Punishment and rewarding or judgment system is implemented by God to distinguish between those who respect and those who breach the laws.<sup>21</sup>

Al-Maududi has made a great contribution to elaboration of political system of Islam within a religious framework. At first, he elaborates on Islam's ideology and then goes through political system of Islam. He tries to highlight that political system in Islam is based on monotheistic ideology. The Holy Qur'an and Sunnah (tradition) are two sources that he uses to articulate and support his arguments. Al-Maududi manages to develop a political and intellectual system that virtually faces with no serious opposition from the religious scholars. He argues that in Toba God specifically names four meanings for the religion, a comprehensive and complete system of man's life that covers all social, moral, political, and practical aspects of life. The religion, under this framework, is not limited to internal and moral affairs that rules the spiritual relationship between God and man, but rather it is a social and civil system as well that dictates relationship between the religion and politics. He writes that by pondering on the story of Moses and Pharaoh in the book one may argue that religion is about not only how to worship but also a social or political system or a state with determined rules and bases to put the social life of man in order.<sup>22</sup>

By breaking the dogmatic limits of Salafi thinking, Abul A'la Al-Maududi brings in a fresh view point to religions matters. He criticizes some of Salafi's beliefs and founds one of the earliest neo-Salafi movements. He defines pre-civilization as an era that started before Bisat (the Prophet's mission), and not limited to a specific age. By introducing

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<sup>21</sup> Zahed Fayyaz, "A Brief Review of Abul A'la Al-Maududi's Thoughts", in *International Journal of Basic Sciences & Applied Research*, (Vol 5. No. 3, 2014), p. 190.

<sup>22</sup> *Ibid.*, p. 191.

theo-democracy and permitting uprising against tyrant and oppressor the idea that later used by Jamate Al-Muslimin, Manzame At-Tahrir, and Tanzim Al-Jihad in Egypt and a new structure of justice seeking attitude of the Prophet's fellow, Al-Maududi sheds light on theoretical foundation of a new Islamic movement. The Islamic state of Al-Maududi longed for requires an Islamic movement and revolution in the mind and ideology of the public. He believes that Islam tries to bring order to social life based on religious principles and codes.<sup>23</sup>

Islam has concept of basic on country system where the sovereignty of society in Islamic religion perspective include philosophy, law, dogma (the object of teaching about certain trust that must be accepted as right and good that cannot be contradicted and doubted), tradition, history, and character's idea. There are three meanings in country system as follows:

1. Something that believed by Muslim in the area of political sovereignty and leader must be from among men are Muslim and have idea about the Islamic sovereignty.
2. The Qur'an and Hadith are the source and rule of Islamic sovereignty and political authority.
3. The attitude and action of Muslim in country event that can spawned the study on history of Muslim's sovereignty and their practice in the contemporary world.<sup>24</sup>

In the source of sovereignty, there are difference of view from syi'ah group and sunni group. Syi'ah group argue that sovereignty is determined by appointment. In the tradition of their idea from Allah to the Prophet Muhammad, then developed the theory of *tanshish* (authority has been determined definitely by proposition or fact) which spawned *wiratsah* (mechanism of inheritance system), and who implement the Islamic of sovereignty system called *imamah*, led by imams (leader or priest).

While sunni group argue that the source of political sovereignty is Allah who mandated to the society. Sovereignty is the agreement of society through political mechanism, either through *intikhab* (choice directly), or *syura* (The agreement that represented according to his function), or *al'ahd area* (appointment of the crown). The sovereignty that taken by

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<sup>23</sup> Abul A'la Al-Maududi, *Hak-Hak Asasi Manusi dalam Islam*, hlm. 66.

<sup>24</sup> Abul A'la Al-Maududi, *Khilafah dan Kerajaan*, hlm.22.

people can be through appointment or deliberation. In the tradition of political idea of sunni, sovereignty is implemented by institution called *khilafah*(caliphate), led by *khalifah* (the caliph).<sup>25</sup>

Islamic sovereignty system is based on three principles, namely tauhid (oneness of God), treatise, and caliph. Tauhid means that the Almighty God is the Creator, Keepers, and Owner of the universe. According to Al-Maududi, that Allah has the rights to give instruction or prohibition. Only God should be worshiped and obeyed. Therefore, in the conception of Al-Maududi, no one people has the rights to make consensus (An agreement agreed together) to the people sovereignty that based on Theocentric values (such sovereignty is God only). The principle of God oneness is led to the concept of law sovereignty and human politics is meaningless. No one individual, group, or ethnic can put it exceed the authority of God. God is sovereign and His instruction are Islamic law.<sup>26</sup>

The Treatise is media at the guidelines Muslim to accept the law of God. According to Al-Maududi, Muslim have received two things from such authoritative sources, namely the Qur'an and Hadith. The Qur'an put the general principles on the foundation of human life and messenger of God. In this principle set out a system of Islamic life model. The Collection from both of elements is called the shariah (law).

Caliph in Al-Maududi perspective interpreted as representative. While human, according to Islam is the representative of God on world. For holding the authority that delegated to them by God and within the limits terms, he is required to carry out God's authority. State established in accordance with the political theory of a caliphate under the God sovereignty.<sup>27</sup> Al-Maududi takes the word caliph to elaborate Islamic state and by this term, he finds the power of man as bliss from God. Thus, the man is not an independent power but rather representative and caliph of God. Caliph of man eligible when it is in line with the orders of the true ruler of God, and it is not eligible otherwise. Leader or head of executive's power is nothing but a trust handed over by people and the term caliph is only used to facilitate communication and addressing the ruler. Therefore, caliph is not the exclusive right holder of ruling

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<sup>25</sup> Ibid., hlm. 23.

<sup>26</sup> Abul A'la Al-Maududi, *Khilafahdan Kerajaan*, hlm. 75.

<sup>27</sup> Ibid., hlm. 76.

the society.<sup>28</sup>

Islam has been linked in two ways, when Islam related with the sovereignty and when it said that Islam is contradicting with sovereignty. From method aspect, comparison between both cannot be allowed, because Islam is a religion and treatise containing the principles that manage the worship and morals of human. While the sovereignty was only a form of government system and mechanism of cooperation between member of society and symbol that brings a lot of positive values. Some people do not argue sovereignty of people on this time as government system based on freedom, political cooperation, and pluralism (a framework where there is interaction of several groups which show the respect mutually and tolerance for each other) as formula for Western concept that worsen the image of Arab and Muslim.<sup>29</sup>

In the Al-Maududi's book entitled *The Islamic Law and Constitution*, explained that Sovereignty is the supreme authority which not located under the other authority. The political system of Islam is universal political system, not know the limit of geographic bonds, language, and nationality. Knowing the concept of sovereignty in western political theory in which sovereignty belongs to the people, Al-Maududi confirms on the exclusive sovereignty where sovereignty only belongs to the God. Then Al-Maududi gave birth to the concept of *theo-democracy* seen as the combination of theocracy and democracy.<sup>30</sup>

Basically, it does not mean Al-Maududi receive absolutely on the concept of *theo-democracy*. Al-Maududi rejects the concept of people sovereignty (democracy) is based on two reasons as follows:

1. Because according to Al-Maududi, the supreme sovereignty belongs to the hands of God. Only God exclusively as legislator or law maker.
2. The practice of people sovereignty is nonsense, because the political participation of the people is only done every four or five years in the general election, while the government is run every day by some people who are sometimes not to represent the interests of the people, even oppress the people.<sup>31</sup>

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<sup>28</sup> Zahed Fayyaz, *A Brief Review of Abul A'la Al-Maududi's Thoughts*, p. 192.

<sup>29</sup> Abul A'la Al-Maududi, *The Moral of the Islamic Movement*, (Pakistan: Islamic Publications, 1982), p. 84.

<sup>30</sup> *Ibid.*, p. 85.

<sup>31</sup> Abul A'la Al-Maududi, *The Islamic Law and Constitution*, (Pakistan: Islamic

However, there is one aspect of democracy that is received by Al-Maududi, namely the caliphate authority belongs to the hands of each individual of the Muslims. The caliphate not devoted for the particular of group or class. This shows the difference between the caliphate system and monarchy system.

Democracy with the principle of sovereignty in the hands of people or human that give the authority to the people to make the law, then we find something that grows (new law) is strongly forbidden by Allah SWT. When Allah SWT. obligates us to implement His shariah in every aspect of life. With this indicates shows disagreement between the concept of sovereignty political and the concept of Islamic political.<sup>32</sup>

The attitude of Muslim on sovereignty emerged from basic differences between the concept of secular sovereignty and the concept of Islamic political which located in the view of the authorities. The concept of secular sovereignty gave the highest authority in the hands of the people because the people's voice are the Allah's voice. In other terms, the decision of law in the hands and command of people. Means, whole cases are in sovereignty from the people, not from Allah SWT.

In this case, Islam argue that Islamic sharia is as a representation of the authority of Allah. Most Muslim believe that the sovereignty of people is a violation of God and all form on the sovereignty of people is not aligned with the Islamic faith that declares the oneness of Allah. While the sovereignty of people consider that the people are the highest authority, so that the sovereignty of people is the law of majority. This is contrary to the Islamic faith and Islamic sharia.<sup>33</sup>

Authority in Islam located to declares the oneness of Allah in faith is the authority of Allah in Islamic sharia is not worth equated with the concept of authority in the people's sovereignty located in the authority of people. The basis of Muslim who reject the sovereignty of people who are basically implement the sovereignty of law where are not handed down by Allah. By this way, they consider that the sovereignty of people is a rival of Allah. In the sovereignty of people appoint someone to be the leader of majority vote. Because only that way election system, then

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Publications, 1960), p. 125.

<sup>32</sup> Ibid., p. 126.

<sup>33</sup> Ibid., p. 126.

follow the elections should be obligatory its law.<sup>34</sup>

In the Islamic sovereignty, there is a theory that made as the foundation of normative by Islamic political thinkers and is only mentioned once in the Qur'an that *syura* (deliberation). Islamic thinkers make *syura* as the antithesis (language style comparing two opposites) to the modern sovereignty of people that no know limit and make *syura* as an ideology which is a foundation that political sovereignty is the unity between the will of God and people. There are several ways of working *syura* as follows:

1. Ask the opinion of specialists to take a policy which is close to the truth.
2. Ask for opinions to the people or their representatives in problems that relating to public interest.
3. Forum for the role of community in order to exchange opinions and make public policy.<sup>35</sup>

In *syura*, the authority of legislative, judicial, and executive are held by the caliph but not absolute. Holders of such authority was given the freedom of taking the law based on *ijtihad* and bound by the *sharia* which must be hold to the Qur'an and *As-Sunnah*. However, the highest authority still in the hands of Allah SWT.

#### **F. The Concept of Sovereignty in Abdullah Ahmad An-Na'im's Thought**

An-Na'im explains there are characteristics of Islamic sovereignty system:

##### **1. The Authority is full held by the People**

Muslim have the rights to determine the course of their selection and their agreement are a condition for the survival of people who are to be their chosen. The majority of *Ahlul Sunnah*, *Mu'tazilah*, *Khawarij*, and *Najariyah* said, "*Behold how the determination of the imamah or leadership through by election of the people*".

Therefore, the people are the owners of leadership in general, he has the rights to elect or choose and unplug the position of priest or leader. In another definition that the people are the source of authority, and not

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<sup>34</sup> Abul A'la Al-Maududi, *Hak-Hak Asasi Manusiadalam Islam*, hlm. 121.

<sup>35</sup> *Ibid.*, hlm122.

as a leader or sovereign, because the leader just as his representative or vice to handle the religion issues and manage their affairs in accordance with the sharia of Allah. So logically, the source of authority is people who represents and not the people who represent it.<sup>36</sup>

## 2. Muslims Join Acting and Responsible

Enforcement of religion and sovereignty, the maintenance of world, and the maintenance on all of the public society are responsibility of the people and not just the responsibility of authorities. In the Qur'an says:

يَا أَيُّهَا الَّذِينَ ءَامَنُوا كُونُوا قَوَّامِينَ لِلَّهِ شُهَدَاءَ بِالْقِسْطِ

"Hi the faith people, you shall be the people who always uphold the truth because Allah and be a justice of witness."<sup>37</sup>

The verse of Qur'an above commanded the Muslim to fulfill interests mutually with each other and make improvement and reform activity through implementation *amar ma'ruf nahimunkar* to have good and true sovereignty according to the concept of Islam.<sup>38</sup>

## 3. Freedom is the rights of people

The expression form of human will freedom itself is the other face of creed monotheism (faith tauhid). The pronunciation of the two sentences of *syahadat* that became the pledge of dedication itself only for Allah SWT. and also his freedom from all form of human sovereignty. Allah give to the freedom to us in the rights to vote or choose with no compulsion.<sup>39</sup>

Therefore, we can choose the path of way with sharia or choose the way contradict to Allah's commands and ignore His sharia, but we will take the consequences all of our action. In the Qur'an says:

لَا إِكْرَاهَ فِي الدِّينِ ۗ قَدْ تَبَيَّنَ الرُّشْدُ مِنَ الْغَيِّ

"There is no compulsion to enter the religion of Islam, in fact has been clearly the true way from the wrong way."<sup>40</sup>

<sup>36</sup> Abdullah Ahmad An-Na'im, *Dekontruksi Syariah I*, (Bandung: Mizan, 2007), hlm. 177.

<sup>37</sup> Q.S Al-Maidah (5): 8.

<sup>38</sup> Abdullah Ahmad An-Na'im, *Dekontruksi Syariah I*, hlm. 178.

<sup>39</sup> Abdullahi Ahmad An-Na'im, *Islam dan Negara Sekuler*, hlm. 55.

<sup>40</sup> Q.S Al-Baqarah (2): 256.

#### 4. Legislation on Everything

The sovereignty in Islamic countries established and ongoing with effort that released the system of Islamic legislation as a whole without differentiate between laws that manage the morals of Muslim in his capacity as son of nation and judge with the core values and noble objectives are mentioned in the Qur'an and the Hadith of Prophet.<sup>41</sup>

An-Na'im criticized the concept of sovereignty which leads to the rights given by God as the holder of supreme sovereignty. According to An-Na'im, such sovereignty like that often hijacked by the authorities to legitimize his sovereign to commit discriminatory. So, An-Na'im argues (give opinion) that the sovereignty of country in the hand of people or human (Anthropocentric).<sup>42</sup>

An-Na'im argues that the sovereignty and sharia get contradiction. Therefore, when the absolute of sharia is applied easily, cause would violate the sovereignty. An-Na'im believes that need for harmonization of sharia with international law enforcement carries the sovereignty. Need doing the teaching of reinterpretation and reconstruction and Islamic law which still contradict with the universal rights for the benefit together. An-Na'im exemplified on slavery and discrimination based on gender and religion universally which not recognized in international world. According to him, there are many Islamic countries that still apply it.<sup>43</sup>

In the An-Na'im's concept on the sovereignty in Islam, he argued the argument about the sovereignty of the people should be in the Islamic system. In his book titled *Toward an Islamic Reformation: Civil Liberties, Human Rights, and International Law*, he said:

*"It must be understood in depth. The sovereignty of people is religion that is placed in the line of Islam, but only a system of interaction between the sovereign and his people. The sovereignty of people in Islam only will not grow the contradiction and exploitation of civilization, then Islam receive the Western pattern with all sorts of its experiment to Islam."*<sup>44</sup>

An-Na'im invited to form the political science in Islamic sovereignty

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<sup>41</sup> Abdullahi Ahmad An-Na'im, *Islam dan Negara Sekuler*, hlm. 56.

<sup>42</sup> Abdullahi Ahmad An-Na'im, *Islam and Human Rights*, (French: Routledge, 2010), p. 244.

<sup>43</sup> Ibid., p. 245.

<sup>44</sup> Ibid., hlm. 102.

its own. He explained to take the reference of Western systems. The other explanation as follows:

1. Some forms of the system are taken by non-Muslim will produce a good product, because humanist produce based on the conscience of people and the faith of Muslim.
2. Islamic faith obligates people to try to form the sovereignty system of theirselves that sourced from the Legislation, then commanded to reject the other systems that are not sourced from it.<sup>45</sup>

The sovereignty of people means the enforcement of law that sourced from the people, while Islam invites to enforce the law that sourced from Allah SWT. To express the description of democracy that teaches the sovereignty of people, An-Na'im formulates that there are seven explanations:

1. Democracy teaches the sovereignty of people. So that all of affair is the authority of people. People are the top reference in all things. People are source of the sovereignty of legislative, judicial, and executive. While Islam teaches the sovereignty of law personality. The law personality become the top reference in all things. And the source of legislative sovereignty is Allah, while the source of executive and judicial sovereignty are the people and the caliph.<sup>46</sup>
2. Leadership in democracy is collective, not singular. His government implemented by the council of ministers and head of state, either as king or president. Islam teaches leadership in the singular, not collective.
3. Countries that embraced the democracy has many institutions with each institution has its own sovereignty. While in Islam, the country and government are one of power and who has the authority to manage the affairs of people. In democracy, that take the voice of people in government affairs is obligatory. While Islam is sunnah.<sup>47</sup>
5. Democracy obligates the government should be bound by a majority vote in all things, both in legislation problem and others. Different with the view of Islam, the majority vote should not be seen as the most powerful. Because in taking the law personality of opinion,

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<sup>45</sup> Abdullahi Ahmad An-Na'im, *Islam and Human Rights*, p. 272.

<sup>46</sup> Ibid., p.275.

<sup>47</sup> Abdullahi Ahmad An-Na'im, *Islam dan Negara Sekuler*, hlm. 62.

- Islam considers the revelation that only advanced by one person.<sup>48</sup>
6. Democracy give the rights of immunization to some people, so he can not reach by law. While in Islam, did not know where the discrimination law who are guilty will be punished.
  7. Democracy teaches the concept of liberalization in individual freedom, ownership, faith, and sound. Different to Islam never teaches the individual freedom like to do what he wants, not teach freedom of ownership as anything can owned, not teach the freedom of faith like to switch the religion with easydoes not teach the freedom of speak as argued about anything even if contrary to the concept of its ideology.<sup>49</sup>

## E. CONCLUSION

From the discussion that has been explained on above, the author has taken the conclusion in the Al-Maududi's concept on the sovereignty in Islam, that the system of sovereignty is onlybelong to Allah. While the people or the Muslim only as a representative or can called caliph. Among the Islamic political principle that differentiate the sovereignty system is making sovereignty in the hands of Allah (syara'). Therefore, the rules of Islam will be used as reference in the life of society and as a reference of law or rules in all aspect of life. In the An-Na'im's concept on the sovereignty in Islam,that the authority is full held by the people, muslims join acting and responsible, freedom is the rights of people, and the system of sovereignty located in the Islamic legislation, then he commanded to reject the other systems that are not sourced from it.

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<sup>48</sup> Ibid., hlm. 63.

<sup>49</sup> Abdullahi Ahmad An-Na'im, *Dekontruksi Syariah I*, hlm. 180.

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