



Umar's Policy Specifications in Constitutional Law in Review of Siyasah Dusturiyyah Aspects

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ABSTRACT

The study aims to determine the specifications of Umar's policy in government from the perspective of siyasah dusturiyyah which is the development of Islamic legal thought. The results of the study show that the specifications of Umar's policy in government have the ability to direct the behavior of others, have certain skills that not everyone has, so that they can solve problems that arise in the life of mankind. Between the leader and the led there must be a synergy relationship, also between the people and the government in carrying out responsibilities. Umar's specifications in government have several principles, namely: (1) The application of legislation includes the benefit of the people (2) The principle of deliberation (3) The principle of justice (4) The principle of equality (5) The principle of responsibility (6) Obey the elected government de facto (real) (7) Build trust between them.

A. Introduction

Umar ibn al-Khattab was the caliph after the death of the Prophet Muhammad. The leadership of Umar ibn al-Khattab brought Muslims towards progress from the aspects of religion, education, culture, socio-culture and politics. The success of Umar ibn al-Khattab in leading Muslims has proven that he is a reliable person in the field of state administration and successful in running the wheels of government. One

of Umar ibn Khattab's policies was to cancel the law of hand cutting for thieves in the famine season due to the difficult conditions that occurred.

When viewed from one of the sources of *siyasah dusturiyah*, namely the customs of a nation that does not contradict the principles of the Qur'an and hadith, then Umar bin Khattab in determining his policy refers to *maslahat* which is contrary to the *nash* in *muamalah* issues can be taken and it does not include ignoring the *nash* with consideration of reason.

As for previous research, it is not easy to find studies that discuss Umar bin Khattab's policies in the aspect of constitutional law. In "The Economic Policy of Umar bin Khattab" written by Arshad Al Makki examines Umar's policies on land management, *zakat*, *usyr*, *jizyah*, *kharaj* and the most impressive is the formation of a good administration in running a large government.¹ Furthermore, Suleman Jajuli's writing "The State Budget Policy of Caliph Umar bin Khattab" shows that the many state financial problems require effective and efficient actions to solve them. Caliph Umar bin Khattab is a head of state in Islamic history who has succeeded in regulating how a country's income can be increased as well as regulating how state finances so that there is no deficit.²

Asri's paper "Analysis of Umar Bin Khattab's Policy and Its Relevance to Indonesian Government Policy in the Agricultural Sector" found the results that Umar bin Khattab's policies in the agricultural sector were: management of dead land, giving agricultural land to the community to be cultivated and prioritized for the public interest, agricultural infrastructure development, *kharaj* policy and agricultural *zakat*.³ In "Legal Policy in the Settlement of Islamic Inheritance (Analysis of Several Policies of Umar bin al-Khattab)" Elfia's writing shows the results that in the settlement of the distribution of inheritance in Islam legal policies can be taken as long as the interests require it and do not violate the *qath'i* postulates in the Qur'an and Hadith.⁴ As for the policy made by Umar bin al-Khattab, in some conditions it is still influenced by the Arab *jahiliyah* tradition which requires men to get more right than women. The article "Contextualization of Islamic Political Ethics Umar Ibn

¹ Arsyad Almakki, "Kebijakan Ekonomi Umar Bin Khattab," *Al Qalam: Jurnal Ilmiah Keagamaan Dan Kemasyarakatan* 11, no. 24 (2018): 123–40, <https://doi.org/10.35931/aq.v0i0.14>.

² Suleman Jajuli, "Kebijakan APBN Khalifah Umar Bin Khattab," *ALAMIAH: Jurnal Muamalah Dan Ekonomi Syariah* 1, no. 1 (2022): 73–88, <https://doi.org/10.56406/alamiahjurnalmuamalahdanekonomisyariah.v1i1.46>.

³ F M Asri, "Analisis Kebijakan Umar Bin Khattab Dan Relevansinya Dengan Kebijakan Pemerintah Indonesia Dalam Sektor Pertanian," *Jurnal Al-Mizan* 6468 (2022): 36–47, <https://ejournal.iaialaziziyah.ac.id/index.php/jiam/article/view/236>.

⁴ Elfia, "Kebijakan Hukum Dalam Penyelesaian Kewarisan Islam," *Fokus: Jurnal Kajian Keislaman Dan Kemasyarakatan*, 2, no. 2 (2017): 125–50.

Khattab in Contemporary Life" by Kemas Abdul Hai examines the practice of ethics in the life of the nation and state that democracy has become one of the urgent needs. Because ethics is not only a reference for appropriateness for every public decision making, but also a guide in the life of the nation and state.⁵

Based on the literature review above, the author will attempt to examine Umar bin Khattab's policy in the field of constitutional law more concretely. He was one of the main caliphs who succeeded the Prophet who had no doubt about his religious reputation. Even in the view of Thaha Husain, the reign of Umar bin Khattab is the most beautiful phase in the history of Islamic civilization. Thus, the focus of this paper is to explain the policy specifications of Umar bin Khattab in constitutional law from the perspective of *siyasah dusturiyah*. This study is expected to contribute to the application of the practice of constitutional law sourced in the tradition and universal Islamic values.

B. Results and Discussion

1. Interpreting the Concept

a. Specifications

Specification means the process, manner, and action of making a selection (detailing); it can also mean a statement of particulars (in a treaty etc.); however, it refers to the specification in the government of Umar ibn al-Khattab.

b. Constitutional Law

State administration means a set of basic principles that include regulations, government structure, form of state and so on which form the basis of a country's arrangements. State administration means everything about state administration, politics and so on. The description can be concluded that the specifications of the Government of Umar ibn al-Khattab have several principles, namely the principle of truth which is the main basis for thinking and acting in managing the state.

c. *Siyasah Dusturiyah*

Siyasah dusturiyah means regulating the relationship between the imam/leader and the people/people, the principle of which is that the imam/leader is a protector, and oversees and manages the government for the

⁵ Kemas Abdul Hai, "Kontekstualisasi Etika Politik Islam Umar Ibn Khattab Dalam Kehidupan Kontemporer," *Jurnal Ilmiah Islam Futura* 16, no. 1 (2017): 52, <https://doi.org/10.22373/jiif.v16i1.743>.

benefit of the people/people. In the Encyclopedia of Islamic law known as al-Qanun ad-Dusturi means basic law, it can also mean a collection of rules governing the basis of the state and cooperative relations between fellow members of society in a country, both unwritten (convention) and written (constitution).

While the principles of *siyasah dusturiyah* that can support and focus on this are:⁶ (1) the principle of *adl* (the principle of justice) (2) the principle of management and the managed (3) the principle of benefit (4) Public responsibility. Meanwhile, Abdul Khallaf, a contemporary Egyptian scholar in the Encyclopedia of Islamic law, states that the principles laid down by Islam in the formulation of this basic legislation are: (1) guarantee of the human rights of every member of society (2) equality of all people in the eyes of the law without discriminating against social status, wealth, education or religion.

2. Specification of Umar Ibn Al-Khattab in Constitutional Law (Public Law)

The Qur'an and sunnah do not specify the model of public law either through forms of representation, direct election or organizational representation. Nor do they specify the relationship between ministers who have legislative, executive and judicial powers. Neither does it specify the pairs in the hierarchy of democratic leadership or Prime Ministerial leadership. However, during the Khulafa al-Rashidin period during the reign of Umar emphasized the relationship between the executive and legislative and the combination between the two, but it took a different form. With regard to the things emphasized by Umar ibn al-Khattab in constitutional law are the following principles:⁷ (1) The application of legislation includes the benefit of the people (2) The principle of deliberation (3) The principle of justice (4) The principle of equality (5) The principle of responsibility (6) obey the elected government *de facto* (real) (7) build trust between them.

The author will explain these principles as follows:

a. The application of legislation the benefit of the people

Umar ibn al-Khattab in the Islamic *daulah* made government regulations that had not existed before as well as improving and making

⁶ Lailan Rofiqoh, "Siyasah Syar'iyah Dalam Hukum Islam Pada Masa Umar Bin Khattab," *Jurnal Al-Himayah* 3, no. 2 (2019): 209–22.

⁷ Moch Yunus, "Konsepsi Politik Islam Klasik (Suksesi Kepemimpinan Muhammad SAW Dan Khulafa' ArRasyidin)," *Palapa* 4, no. 2 (2016): 72–84, <https://doi.org/10.36088/palapa.v4i2.25>.

changes to existing regulations.⁸ When it was seen that the regulations needed to be corrected and changed. For example, the rule that had been in place that the Muslims were given the right to control the land and everything that was obtained by fighting. Umar changed this rule, that the land should remain in the hands of the original owner, but in connection with it a land tax (al-kharaj) was established. Umar also revisited the portions of zakat that were earmarked for those who were tamed (al muallafatu qulubuhum) regarding the conditions under which it was given to them. In this regard Ali ibn Abi Talib said: *Verily Allah made Abu Bakr and Umar the archetype of his government until the Day of Judgment. His main concern was with the affairs of the people, the distress of the people and the correction of the leaders, criticism of the leaders and regulation of the government.*

b. The principle of deliberation

Umar ibn al-Khattab prioritized the principle of deliberation and ignored personal or group opinions. The *government* system of Medina during the time of Umar ibn al-Khattab was based on the government of the Prophet's time and the time of Abu Bakr. Such as creating regulations for everything on a solid foundation, namely the deliberation system that Umar enforced to the best of his ability. In the person of Umar has become a habit as expressed by the fuqaha and law makers said, that actually Umar made the Qur'an as the first reference, if he found the law about something in the Qur'an then he decided based on that book, and if not, then decided based on the sunnah, even if he did not find the law in it then Umar conducted deliberations with people who had knowledge and conducted ijtihad. The basis is Shura (deliberation) which refers to the words of Allah swt. in QS al-Syuara/42: 38

وَالَّذِينَ اسْتَجَابُوا لِرَبِّهِمْ وَأَقَامُوا الصَّلَاةَ وَأَمْرُهُمْ شُورَىٰ بَيْنَهُمْ وَمِمَّا رَزَقْنَاهُمْ يُنفِقُونَ

Translation: And (for) those who accept (obey) the call of their Lord and establish prayer, and their affairs (are) decided by deliberation between them; and they spend some of the sustenance We give them.

The above verse has connected deliberation among Muslims with the establishment of prayer. This indicates that the ruling on deliberation is the

⁸ Nurlaelah Abbas, "Strategi Komunikasi Pemerintahan Di Masa Umar Ibn Al-Khattab," *Jurnal Jurnalisa* 4, no. 1 (2019): 1–15, <https://doi.org/10.24252/jurnalisa.v4i1.5617>.

same as the ruling on prayer. The ruling of prayer is obligatory by shara', and the same applies to the ruling of deliberation, which is obligatory by shara'.

Umar ibn al-Khattab had relied on the principle of deliberation in the state he led, not deciding decisions without involving the Muslims. Umar also did not act arbitrarily towards them in handling public affairs. When faced with a matter, he did not decide on it before gathering the Muslims and taking into account their aspirations.⁹

Umar ibn al-Khattab once said, there is no good in an affair that is decided without consulting and it is an obligation for Muslims to consult their affairs among themselves and among people who have sharp minds (*zawi al-ra'yi minhum*) through deliberation resulting in an agreement which is then used as a guide or rule in running the government.¹⁰

Another moment Umar said that the opinion of an individual is like a spun thread, the opinion of two people is like two threads tied together, and the opinion of three people is like a rope that is strongly spun and almost does not unravel the knot. Umar's method of applying the principle of deliberation was very precise, by asking and listening to public opinion, then gathering the leaders of the companions, then presenting the problem to the public, to confer and ask for their opinions, if their opinions were good then signed and implemented them.¹¹

c. Principle of Fairness

Justice is intended by researchers to focus more on its political aspects. The political government of al-Khulafa al-Rashidun was built on the principle of comprehensive justice, the desired goal in politics and territorial control is the establishment of law with justice and must be realized in all its forms both towards all humans, as well as towards all different corners. The preservation of absolute justice between fellow human beings who are not triggered by personal grudges or because of love. The government of al-Khulafa al-Rashidun was built on the principle of justice. With regard to justice,

⁹ N Adam and T Samsudin, "Struktur Sosial Hukum Islam Pada Periode Pembentukan: Pembacaan Atas Ijtihad Umar Bin Khattab," *As-Syams* 1, no. 1 (2020): 80–90, <https://e-journal.iaingorontalo.ac.id/index.php/assyams/article/view/56%0Ahttps://e-journal.iaingorontalo.ac.id/index.php/assyams/article/download/56/29>.

¹⁰ Qadriani Arifuddin, "Ijtihad Umar Bin Khattab Dan Relevansinya Terhadap Hukum Islam Kontemporer," *JISH: Jurnal Ilmu Syariah Dan Hukum* 3, no. 1 (2021): 69–83, <https://doi.org/10.36915/jish.v3i1.17>.

¹¹ Sugiyanto dan Bibit M.R. Sumardi, Sumarno, "Perbandingan Pemerintahan Khalifah Umar Bin Khattab (634- 644 M) Dengan Khalifah Ali Bin Abi Thalib (656-661 M)," *Jurnal Pendidikan Dan Humaniora* 53, no. 1 (2016): 248–53.

according to Ibn Taymiyyah, it is the main principle of Islamic law, the key to religion and truth and all virtues. Therefore, the highest justice is justice towards Allah which is realized through worship based on Tawhid to Him.

The enforcement of justice between individual humans, groups and the state is not a matter that is allowed to run according to the will of the lust of the leader. The enforcement of justice from an Islamic perspective is a sacred and important matter. Muslims have consensus that the law of upholding justice is obligatory. The description can be concluded that justice must be realized in all its forms both towards all humans, as well as towards all different corners, because the enforcement of justice is a sacred and important matter, so that it can be preserved absolutely between fellow humans who are not triggered by personal grudges or because of love. The highest justice is justice towards Allah, which is realized through worship based on tawhid.

d. Principle of Equality

In religious literature, the principle of equality is known as al-Musawah, which means making something equal, or it can also mean treating something no more and no less or the same or similar situation as another. The principle of Islamic politics is to preserve the principle of equality perfectly, meaning that there is no difference on the basis of type, skin color, or because of kinship or because of other common symbols.

Among the examples of the application of the principle of equality applied by al-Khulafa al-Rashidun is when distributing some property to the general public, the people came while jostling to meet Umar. Sa'd bin Abi Waqqash was one of those who came jostling, including those who received a share. Umar said to Sa'd, "You also came here, you are not honored by the ruler of Allah on this earth, I want to teach you, that the ruler of Allah will never honor you more than others. It is known that Sa'd ibn Abi Waqqash was one of the six people who were guaranteed entry into Paradise. Sa'd was also one of the liberators of Iraq and was one of the six people appointed by Umar to choose one of them to be his successor Caliph. This story shows Umar's consistency in applying the principle of equality.

e. Principle of Responsibility

The principle of responsibility, both personally and institutionally, each of them is responsible to the public. People who are entitled to be leaders are responsible to the State and services to the people. The duties and

responsibilities of the government include:¹² (1) Taking the proceeds of trade, taking one out of ten proceeds of trade (2) Responsible for every State expenditure (3) Responsible for Baitulmal (4) Responsible for the finances obtained from the community and will be returned to the community for the benefit (5) maintaining security and rejecting chaos (6) Responsible for logistical needs and then importing (7) instilling the spirit of soldiering (8) there are those who serve as advisors to soldiers

The Government's sense of responsibility is the responsibility of the obligations weighing on its shoulders in relation to its people. With regard to Umar, he could not be deceived by anyone's words, not shifting an inch from the character he had believed in. Umar understood the ways in which people curry favor and approach rulers and leaders. The head of state is responsible for the mistakes made by the officials he appoints. Ruling is a test for the ruler and a test for the people, ruling is not proper except with violence without arbitrariness, with gentleness without weakness.

Indeed, the caliph is responsible for each of his officials in big or small mistakes and cannot be free from this responsibility even though he has chosen them well. In a dialogue Umar said: What do you think, if I appoint as your leader the best person in my opinion and then I tell him to be fair, have I then fulfilled my duty? They replied: Yes, I have. Umar said: Not yet, until I see his work, whether he does what I tell him to do or not."

f. Obey the depacto-elected government

Obey the ulil amri or the government that is elected in real terms and should not abandon them as long as they adhere to the previous principle. The obligation of the people to obey the leader is a shara' obligation. Allah swt. says in QS an- Nisa'/4: 59. The government must pay close attention so that the people obey their governor, are happy with their government, and are satisfied with their justice.

The verse shows that the people are obliged to obey the leaders who implement the commands of Allah swt. from the above verse it can be seen that the obedience of the people to the leaders, if the leaders also obey Allah swt. when they commit sin then the people are not obliged to obey them.

g. Build trust among them

It is mandatory that trust is built between them, when stepping outside of this principle then it does not become a necessity to follow. Submitting to

¹² H D Hasibuan, "Pemikiran Hukum Umar Bin Khattab Dalam Perspektif Maqashid Syari'ah," 2016.

and prioritizing the jointly chosen decision leaves out the agreement. It is obligatory to revoke trust if they violate the agreed principles. Avoiding violations of the decrees of Allah swt. and eliminating laws that are born from personal interests both individual interests and the interests of certain groups and replacing them with prioritizing the principle of deliberation.

With regard to these principles Umar summarized his stance on three principles among others:

First, Consistency with the sharia that did not limit one's opinion from all walks of life, young, old, and representatives from Basrah, Baghdad and other regions were all summarized. This atmosphere positioned Umar to form a healthy environment framed by sharia even though it was not supported by the text in detail but what dominated was the choice or alternative determined by the congregation and changed with the congregation. And this is the way Umar took and that led to his brilliance.

Second, Umar ibn al-Khattab was open and accepted the opinion of whoever had the better reason. At a meeting with the people in the mosque he demanded from them to always give him advice and criticism. Umar said: O people if I do well then help me and if I do wrong then set me straight. One of those present said to him: If we had seen any wrongdoing on your part we would have straightened it out with our swords. Umar praised him if any of the people dared to set him straight. Because according to him, there is no good in the people if they do not dare to criticize him, and there is no good in him if he is not willing to accept the criticism of the people. For his right over them was to obey in that which Allah swt. commanded and their right over him was to advise him even if it hurt him to do so.

Third, Umar ibn al-Khattab's principle of deliberation Regarding this deliberation has been explained before but this discussion is more about the principles of deliberation, while the previous discussion focused on the function of the deliberation institution. Umar in principle recognized that the election of a caliph was the prerogative of every person, not to be interfered with by others, but he knew that the election process was carried out in different ways depending on the community environment. It centered on personal circumstances and community leaders. Umar was responsible for the execution of the caliphate. Umar avoided the vigor of the caliphate, because the caliphate was the conclusion of many needs that often brought bloodshed and harm. According to Umar, the caliphate depends on the person behind it.

These principles were carried out by Umar ibn al-Khattab because he was worried about leaving the caliphate chaotic or disorganized for that Umar conducted deliberations with various models.¹³ Realizing that the caliphate is like a hiding place for an opponent's ambush, when there is an opportunity people can hum, but realize that the caliphate at any time brings fitnah. Umar thus invited all components of the community leaders to deliberate to choose a leader among them and give allegiance. If it was done perfectly, in the sense that they gave their consent to it, it could reduce the intrigues of division as well as create a healthy environment according to their choice.

The explanation shows that Umar ibn al-Khattab did not agree if the leadership was neglected as it was during the time of the Prophet Muhammad PBUH. unclear figure of a leader born from the process of deliberation. His appointment as caliph required him to immediately carry out the duties of the State that were before him, and had to appoint a Governor to lead the people who were in the territory of people who had the capacity and trustworthiness.¹⁴

With regard to the public aspect, Umar ibn al-Khattab made rules in appointing an official. The rules referred to include:¹⁵ (a) Strong physique and trustworthy, because the good of religious affairs according to Umar lies in three things: fulfilling the mandate, acting decisively and punishing based on what is revealed by Allah SWT. (b) Preferring people with knowledge (c) Mastering work (d) Preferring city dwellers over villagers (e) Compassion and compassion for the people (f) Not appointing employees from his relatives (g) Not giving positions to people who ask (h) Prohibiting employees from trading (i) Calculating the wealth of employees before being appointed (j) Deliberating in appointing governors (k) One must be tested before being appointed as an employee (l) Appointing governors from his people (m) Getting a letter of appointment as governor (n) Not asking Christians to help Muslims.

In addition to the above rules Umar also gave advice to the Governor about service to the people. Open the doors of your house to the people and solve their affairs, you are only one of them, only Allah makes your burden

¹³ Tri Ahmad Faridh, "Paradigma Kesejahteraan Sosial Islam: Tinjauan Sejarah Praktik Pemerintahan," *Kalimah: Jurnal Studi Agama Dan Pemikiran Islam* 20, no. 1 (2022): 1–36, <https://ejournal.unida.gontor.ac.id/index.php/kalimah/article/view/6774>.

¹⁴ Asri, "Analisis Kebijakan Umar Bin Khattab Dan Relevansinya Dengan Kebijakan Pemerintah Indonesia Dalam Sektor Pertanian."

¹⁵ Jamaludin Kusnadi, "Kebijakan Ekonomi Khalifah Umar Bin Khattab," no. 87572 (2018).

heavier than theirs, and compare your position in the sight of Allah with the position among the people. In this regard Umar called out to the people: I did not send governors to you to beat you and take your wealth, but I sent governors to you so that they would teach you the religion, decide between you rightly and establish the law justly. So whoever does anything other than that, let him be reported to me.

One of his sayings and speeches to the people and his advice to officials include: I have been your leader, and had it not been for your wish that I should be the best person for you and the strongest among you and better able to manage your affairs, I would not have been appointed as your leader. This means that a person can be appointed head of state if he has more ability than most people to do good, can act decisively and has the ability to assume the responsibilities entrusted to him.

C. Conclusion

Umar's policy specifications in government have the ability to direct the behavior of others, have certain skills that not everyone has, so that they can solve problems that arise in the life of mankind. Umar's policy requires that between the leader and the led there must be a synergy relationship in carrying out responsibilities. Umar's specifications in government have several principles, namely: the application of legislation including the benefit of the people, the principle of deliberation, the principle of justice, the principle of equality, and the principle of responsibility. This research is inseparable from some limitations. This study has not discussed the implications of Umar bin Khattab's policy. Therefore, further research is expected to discuss the implications of Umar bin Khattab's policies in the aspect of constitutional law in the modern era.

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