AN AMBIGUITY OF CONSTITUTIONAL LAW MAJOR AT THE FACULTY OF SHARIA OF ISLAMIC HIGHER EDUCATION INSTITUTIONS IN INDONESIA

Zainuddin  
Institut Agama Islam Negeri Batusangkar  
zainuddin@iainbatusangkar.ac.id

Yustiloviani  
Institut Agama Islam Negeri Batusangkar  
yostiloviani72@gmail.com

Afrian Raus  
Institut Agama Islam Negeri Batusangkar  
afrin.raus@yahoo.com

Mauliddin  
Institut Agama Islam Negeri Batusangkar  
maulid274@yahoo.com

Abstract  
This article examines the problem of majoring Constitutional Law at the Faculty of Sharia in Islamic Higher Education Institutions in Indonesia. There is an ambiguity of the essence of Constitutional Law at the Faculty of Sharia whose Siyasah (simply translated into Constitutional Law) as a major. The core subjects of constitutional law are legal studies on basic law aka constitution. Meanwhile, the essence of siyasah is politics. Does this ambiguity occur only in the nomenclature or also in its implementation as well that include the department’s vision, mission, curriculum, competency, and profile of graduates? This study was a library research which employs a qualitative data analysis towards the so-called siyasa department’s vision and mission documents, curriculum documents, textbooks assigned,
teaching materials, research journals, and websites across Islamic Higher Education Institutions in Indonesia. It found that there has been an ambiguity in some Departments of Constitutional Law at the Faculty of Sharia both in the Department nomenclature and in its implementation, such as vision, curriculum, student final assignments, student competency, and profile of graduates. This ambiguity lies in which specialization aims at by the major: law in general, politics, or constitution? On the one hand, the objective of the department is to train the students with legal studies focusing on Islamic Constitutional Law \((Qānūn Dustūr al-Islāmī)\). On the other hand, the courses on politics are prominent too while there is not enough subjects on the Islamic Constitutional Law. It thus suggests the siyāsa Department management across the Faculty of Sharia in Indonesia reorient their vision and mission and match them with their curriculum and programs.

**Keywords:** Ambiguity, Constitutional Law, Faculty of Sharia

---

**Abstrak**


Kata kunci: Ambiguitas, Hukum Tata Negara, Fakultas Syariah

A. Introduction

Constitutional Law is a trending legal studies especially in Indonesia nowadays. As a set of laws governing state organization, both vertical and horizontal relations, constitutional law studies is extremely important and cannot be separated from the State. The Constitutional Law could reform the state administration, as what happened in Indonesia in the post-amendment of Undang-Undang Dasar Negara Republik Indonesia 1945 (UUDNRI 1945, The Constitution of the Republic of Indonesia year 1945).¹ This reason makes Constitutional Law one of the study programs or departments at the Faculty of Law in Indonesia.

The department of constitutional law has long been known at the Faculty of Law of several Higher Educations in Indonesia. Constitutional Law is an interesting subject for practitioners and legal experts in Indonesia. In Faculty of Law, it is clear that the object of the study of Constitutional Law is the law governing state institutions but not the study

of state, government or even politics.²

The Faculty of Sharia is one of several faculties which has constitutional law program. In general, Faculty of Sharia is identical to Faculty of Islamic Law. Constitutional Law Department or Study Program at Faculty of Sharia in both state and private Islamic Higher Educations, has been proliferated in the post-Reformation Era of Indonesian politics. This Constitutional Law department is a program development of the Jināyah Siyāsah (Islamic criminal law and politics) Study Program which is split into the Study Program of Islamic Criminal Law and Constitutional Law (Siyasah). Then, the Constitutional Law (Siyāsah) Study Program has changed again to the Constitutional Law (Siyāsah Syar’iyyah) Study Program based on the Peraturan Menteri Agama No. 33 Tahun 2016 (The Minister of Religious Affairs Regulation No. 33 year 2016). The nomenclature of this regulation indicates that the subject of study in Islamic Higher Educations is Islamic Constitutional Law. This subject is really relevant to the domain of Faculty of Sharia as the Faculty of Islamic Law.

The term “Siyasah” or “Siyasah Syar’iyyah” in the Constitutional Law study program in Islamic Higher Educations raises such a question as what is the concern of the study of Islamic Constitutional Law? On the one hand, the term “Constitutional Law” indicates that the object of study is Law which contains constitutional matter. On the other hand, the word “Siyasah”, explains explicitly that the object of study is Politics. Further, the nomenclature of program of constitutional law is also written as “Siyasah Shar’iyyah” which literary means “shari’ah politics” or politics based on sharia. From this ambiguous nomenclature, other question arises whether ambiguity also occurs in the substance that is reflected in the vision, graduate profile, curriculum, and student final project? This is a very interesting topic to research. Therefore, this study explores such ambiguities on how the orientation of the Department of constitutional Law in several Faculties of Sharia in some Islamic Higher Education institutions (Perguruan Tinggi Keagamaan Islam or PTKI). This study is a library research using qualitative

methods. The data are collected through official documents of the study programs, curriculum documents, final project (graduate thesis), references and teaching materials. Mission and curriculum documents are generally collected through the official website of the Department of Constitutional Law and digital library repositories, as well as printed documents. This study was conducted in 14 Departments of Constitutional Law of state Islamic universities (UIN/IAIN). After the collected data is classified, selected and analyzed using content analysis methods, then, they are presented with a qualitative narrative using the theory of jurisprudence and sharia. Finally, a conclusion was drawn as an answer to the problem being studied.

**B. Constitutional Law: Substance, Regulation and Object of Study in Faculty of Law**

The subject of Administration and Constitutional Law has been discussed since the establishment of *Rechtshogeschool* or *Faculteit der Rechtsgeleerdheid* by Governor General D. Fockt in 1924. Before year 1998, studies concerning on Constitutional Law were not very popular in Indonesia. However, the wind of constitutional law studies changed in the *Era Reformasi* in Indonesia, especially since the amendment of 1945 Constitution. Constitutional law studies became an interesting topic for practitioners and legal experts in Indonesia.

Some scholars have their own definition of constitutional law. For example, J.G. Kartaspoetra argues that constitutional law is a set of laws that regulate the organization of a country both in vertical and horizontal relations. Although there are many definitions argued by Kartasapoetra, they are substantially in common. Furthermore, Kartasapoetra sees an intense relationship between Constitutional Law and Constitutional studies, Political studies, and State Administrative Law. This relationship is expressed in

---

5 R.G. Kartasapoetra, *Sistematika Hukum Tata Negara* (Jakarta: Rineka...
the differences in each subject of study. However, some people similarize between Constitutional Law and State Administrative Law, because principally there is no difference in principle.

The definition of Constitutional Law above describes that Constitutional Law is not a product of certain independent laws/regulations, but it is a basic legal concept of a state which is derived from various regulations in a state. For instance, Constitutional Law in Indonesia is based on 1945 Constitution, the state constitution of Indonesia. The constitution, which becomes a general law, carries out such special law, regulations or acts as Judicial Power Act, Prosecutor’s Act, Police Act, and so forth. Thus, there will be no Constitutional Law Act. Unlike the Civil Law and Criminal Law, there are distinctive legal products containing both laws, such as the Kitab Undang Undang Hukum Pidana (KUHP, Criminal Code) and the Kitab Undang Undang Hukum Perdata (KUHPer, Civil Code). Besides, the criminal law and civil law are also found in other legal products that do not specifically contain criminal or civil law.

The Faculty of Law in Indonesia does not have a Constitutional Law Department or Study Program. The Faculty of Law has only one Department or Study Program, namely Ilmu Hukum (legal studies). The constitutional Law studies in several faculties of law in non-Islamic Higher Education Institutions become specializations program of the legal studies. The constitutional studies are also written in various nomenclatures. For example, the Faculty of Law of Universitas Padjadjaran (UNPAD, Padjadjaran University) calls it by specificity program of Constitutional Law, the Faculty of Law of University of Gajah Mada and the Faculty of Law of University of Hasanuddin call it by the Constitutional Law specialization (program peminatan), the Faculty of Law Cipta, 1993).


of University of Indonesia (UI) refers it to specialization of Constitutional Law.\footnote{Admin, \textit{Fakultas Hukum Universitas Indonesia}.}

As a specialization program, Constitutional Law at the Faculty of Law makes law as the object of the study. This can be seen from the courses offered. Constitutional Law specificity program at Faculty of Law of Padjadjaran University offers 5 relevant courses. The courses are: Procedural Law of the Constitutional Court, Nationality and Immigration Law, Capita-Selecta of Constitutional Law, Comparative Constitutional Law.\footnote{Admin, \textit{Program Studi Sarjana Fakultas Hukum Universitas Padjadjaran}.} The Constitutional Law specialization at Faculty of Law of the Gadjah Mada University prepares 7 courses related to constitutional study, namely: Judicial Power, Presidential Institution, Legislative and Executive Relations, State Institutional Law, Regional Government Law, Political party and Election Law, and Comparison of Constitutional Law.\footnote{Admin, \textit{Departemen Hukum Tata Negara Fakultas Hukum UGM}.} The Constitutional Law specialization program at Faculty of Law of the Andalas University offers 11 courses, namely: Legal studies, Rights for Legal Test, Law and Human Rights, Law of State Institutions, Constitutional Law, State studies, Judicial Power, Representative Institution, Legislation Design, Politics of Law and Practice of the Constitutional Court.\footnote{Admin, \textit{Fakultas Hukum Unand} (2018), \url{https://fhuk.unand.ac.id/index.php/2015-11-17-02-05-27/bahan-ajar-htn}, accessed 10 Oct 2018.}

\section*{C. Constitutional Law: Substance, Regulation and Object of Study in Faculty of Sharia}

The Faculty of Sharia is the term for the Faculty of Islamic Law of Islamic Higher Educations in Indonesia. Although the word ‘sharia’ is actually not too identical to law in Indonesian language, the most relevant translation of “sharia” is Islamic law or sharia law. The word “Sharia” shows the rule of law made directly by God and messenger of God in Islamic teachings\footnote{Abd Aziz bin Satham, \textit{Ta’rif as-Siyasah as-Syar’iyah}, vol. 19 (2014), p. 110.} and the word law indicates the
rule of law formulated by leader if Islamic schools (Fiqh). In another case, law is also known as dustūr (constitution) and qānun (law).

The Faculty of Sharia in Islamic Higher Education consists of several departments, those are: Islamic Family Law (Ahwāl al-Syakhshiyah), Sharia Economic Law, Constitutional Law, Islamic Criminal Law (Jināyah), Comparison of School of Islamic Law, Falaq (Islamic astronomy studies). These majors have academic field is Islamic Law. Some students who are graduated from theses majors in faculty of sharia achieve the degree as Sarjana Hukum (SH, Bachelor of Law). This degree according to the regulation of Minister of Religious Affair Regulation No. 33 of 2016.

The department of Constitutional Law becomes a part of Department of Jinayah Siyasah (Islamic Criminal Law and politics) such as at the State Islamic Institute of Antasari, Banjarmasin. Some Islamic universities such as State Islamic Institute of Imam Bonjol Padang that still keep the nomenclature. State Islamic Institute of Purwokerto and State Islamic Institute of Samarinda also go by the nomenclature which issued by the Ministry of Religious Affairs. The Jinayah Siyasah Department generally divided into two majors, namely: Islamic Criminal Law and Constitutional Law. Initially, the nomenclature of Constitutional Law was the
Siyasah, then changed to Hukum Tatanegara Islam (Siyasah Syar’iyyah, Islamic Constitutional Law) based on Minister of Religious Affairs Regulation No. 33 of 2016. All Departments of Constitutional Law which were established before 2016 use “Siyasah” as the synonym of Constitutional Law. After 2016, some new departments which concern on constitutional law use Hukum Tatanegara Islam (Siyasah Syar’iyyah, Islamic Constitutional Law) for the name of department and study program. It seems that this nomenclature wants to show the specificity of Islamic Constitutional Law as seen in the vision of various Constitutional Law Department/Study Program in Islamic Higher Educations (PTKI). Nevertheless, this issue needs to have a clean arguments on how far does this nomenclature describe academic substances of Constitutional Law?

The Constitutional Law Department at State Islamic Institute of Batusangkar is one of the departments that uses initial nomenclature, namely Constitutional Law (Siyasah) based on the Director General of Islamic Education Decree Number 1499 of 2014 dated March 14, 2014. Meanwhile, the Constitutional Law Department in Faculty of Sharia and Islamic Economics of State Islamic Institute of Palu uses the second nomenclature, namely Constitutional Law (Siyasah Syar’iyyah) based on the Director General of Islamic Education Decree Number 3244 Year 2017 dated June 12, 2017.21

Looking at the vision of the Department of State Administration in various Islamic Religious institutions, it is found that there are several kinds in institutional vision. First, a vision that illustrates integrative study between Islamic Constitutional Law and Islamic politics such as the Study Program of Constitutional Law at Universitas Islam Negeri Syarif Hidayatullah Jakarta (Syarif Hidayatullah State Islamic University, Jakarta) 22 and Universitas Islam Negeri Sunan Kalijaga (Sunan Kalijaga State Islamic University, Yogyakarta),23 which has first developed integration

paradigm between Islamic and non-Islamic studies. Second, a vision that indicates more discussion on constitutional law studies such as in the Constitutional Law Department in Faculty of Sharia of State Islamic University of Imam Bonjol Padang and State Islamic University of Makassar. The Constitutional Law Department in State Islamic University of Imam Bonjol Padang formulated its vision: “Becoming the Center of Islamic Constitutional law studies”, while the Criminal and Constitutional Department of State Islamic University of Alauddin formulated its vision: “Become the leading institution of criminal and constitutional law studies in Indonesia”. Third, a vision that describes more on Islamic politics than legal studies, such as in the Constitutional Law Department in the Faculty of Sharia and Law of State Islamic University of North Sumatra. Faculty of Sharia and Law of State Islamic University of North Sumatra has a vision: “Become a Center of excellence in Assessment, Education, and Application of Islamic Constitutional Law studies or Siyasah in Indonesia in 2020”. Fourth, a vision that describes more essence on Islamic Constitutional Law, such as the vision of the Islamic Constitutional Law Department in Palu: Be superior and competitive in the field of Islamic Constitutional Law in Indonesia based on Classical Islam in 2035.


24 Admin, Hukum Tata Negara Islam (Jinayah Siyasah) Fakultas Syariah UIN Imam Bonjol Padang.
27 Wahyuni, Buku Saku Jurusan Hukum Tata Negara Islam Fakultas Syariah IAIN Palu.
Comparative Constitutional Law, State Practice in Islam, Law of Constitution, Party and Election Law, Procedural Law of Constitutional Court. These offered courses do not reflect the subjects that support Islamic Constitutional Law, except for the *Fiqh Siyāsah* and *Fiqh Siyāsah Dhusṭūriyah*. The latter is not even offered by all Constitutional Law Department in Islamic Higher Education.

In other field, graduate thesis of students in several Islamic institution illustrates variety of issues regarding constitutional matter. Of the many research titles found can be classified into seven categories. **First**, it is related to Constitutional Law, such as the research by Dhofir Catur Bashori, “The Competence of the Constitutional Court in Judging the Disputes of Election Before and After the Implementation of Act Number 1 of 2015 and Act Number 8 of 2015 about the Election of Governors, Regents, and Mayors”.

**Second**, the graduate thesis related to Islamic Constitutional Law, such as Imam Mustafa’s research, “Direct and Indirect Local Election from the Perspective of Islamic Constitutional Law”. **Third**, it is related to *Fiqh Siyasah*, such as the research by Muhammad Aria “Legal Analysis on the Clemency Granted by The President after the Constitutional Court’s Decision Number 56 / PUU-XIII / 2015 from the Perspective of *Fiqh Siyāsah-Dhustūriyah*. This review of *Fiqh Siyasah* is more done in the research (thesis) of students in the Constitutional Law (Siyasah) Department in State Islamic

---

28 Admin, *Jurusan Hukum Tata Negara (Siyasah) Fakultas Syariah dan Hukum UIN Sumatera Utara*.

29 Admin, *Hukum Tata Negara Islam (Jinayat Siyasah) Fakultas Syariah UIN Imam Bonjol Padang*.


University of Sunan Ampel Surabaya. Fourth, it is related to political issues, such as Nidaul Hasanah’s research, “Views and Strategies of the Persatuan Pembangunan Party (PPP) Regarding Female Legislative Candidates in Bekasi District for the 2009-2014 Period”. Fifth, it is related to the issue on Islamic Politics (siyasah), such as Budi Susanto’s research, “Money Politic Practice in Village Head Elections from Islamic Law Perspective in Ranah Singkuang Village, Kampar Subdistrict, Kampar Regency”. Sixth, it is related to the problems of the constitutionality, such as the research by Muhammad Hubbul Khair Wasahua, “Impeachment of the President (Comparative Study of Indonesian Constitutionality and Islamic State Constitutionality)” and Indara Nurfati, “The Position of Indonesian Ulama Council (MUI) in Indonesian Constitutionality Viewed from Fiqh Siyasah”. Seventh, it is not included in one of the previous six categories (unclear fields), such as Aziza Aziz Rahmaningsih’s research, “The Effect of Organizational Activity on Academic Achievement in the View of Islamic Law (Study on Students of the Faculty of Sharia of Raden Intan Lampung Islamic University)”.

The graduate profile of Constitutional Law department in several Islamic Higher Education Institutions can be classified

into four work competence: First, as legal practitioners such as: judge, clerk, bailiffs, advocate, legal consultant, legal drafter and mediator. Second, as academic scholar in legal studies or in Islamic legal thought: lecturer, researcher, law observer and analyst. Third, office administrator in government or non-government organization such as: National Army, National Police, Wilayatul Hisbah (WH) in Aceh Province, legal administrators in various agencies (Local Government, Ministry of Religious Affairs, state and private corporations). Fourth, political practitioners such as: member of political parties, and legislators (People’s Consultative Assembly, Regional People’s Representative Assembly, House of Representatives, or Regional Representative Council).

Several Islamic Higher Education Institutions in Indonesia describe graduate profile in three academic competencies: main competencies, complementary competencies and supplementary competencies. Constitutional Law Study Program at Faculty of Sharia and Law of Syarif Hidayatullah State Islamic University and in the Constitutional Law Study Program at Faculty of Sharia and Law of Ar-Raniry State Islamic University describe academic competence based on the graduate profile without dividing such three academic competencies. In other institutions, graduate competencies are described separately from profiles such as in the Constitutional Law Study Program at Faculty of Sharia and Law of Sunan Kalijaga State Islamic University, in the Constitutional Law Study Program at Faculty of Sharia and Law of Sunan Gunung Djati State Islamic University, in the Constitutional Law Study Program at Faculty of Sharia and Law of Antasari State Islamic University and in the Constitutional Law Department at Faculty of Sharia of State Islamic Institute of Salatiga. Some institutions write profiles

39 Admin, Profil dan Kompetensi Lulusan HTN UIN Malang, https://forlap.ristekdikti.go.id/prodi/detail/QkU1RDFFN0QtQzk5NS00RTAzLTg0Qjk0Q0VBODBBOTcRjMy/0;
40 Admin, Hukum Tata Negara.
41 Admin, Program Studi Hukum Tata Negara.
42 Admin, Profil Jurusan Hukum Tata Negara (Siyasah) Fakultas Syariah UIN Antasari.
43 Admin, Kompetensi Lulusan HTN, http://syariah.iainsalatiga.ac.id/
of without describing graduate competencies such as in the Constitutional Law Department at Faculty of Sharia of State Islamic Institute of Tulung Agung and in the Constitutional Law Department at Faculty of Sharia of Teungku Dirundeng Meolaboh State Islamic Institute.

From all description of the graduate profile in several Islamic Higher Education Institutions, legal practitioner (in general field) is dominantly written as graduate profile. Unfortunately, constitutional law study in general is sound rather than Islamic Constitutional Law as academic competence. this condition shows the ambiguity of Islamic constitutional law study between what has written in the nomenclature of the department or study program, and the real implementation in some institutions. In other case, Islamic political study is written as academic competence even though the nomenclature of this department is inappropriate with Islamic Politics. This condition represented by, for instance, Antasari State Islamic University. The university described the academic competence as follows: “Understanding the theory of Constitutional Law and Political science, and its application in building national life which is comprehensively Islamic-oriented “. In State Islamic University of Malang, the scientific competence of Islamic Constitutional Law is described in complementary competence, not in main competence. In State Islamic University of Bandung, the graduate profile of department of Constitutional Law described as legal practitioner in general such as member in executive and legislative field, legal consultant and practitioner.

---

46 Admin, Profil Jurusan Hukum Tata Negara (Siyasah) Fakultas Syariah UIN Antasari.
47 Admin, Profil dan Kompetensi Lulusan HTN UIN Malang.; Admin, Profil Jurusan Hukum Tata Negara.
48 Admin, Visi, Misi dan Tujuan Prodi Hukum Tata Negara (Siyasah),
D. Islamic Constitutional Law Department as an Ambiguity

Before discussing more problems of the Constitutional Law Department in Faculty of Sharia, this paragraph will explain some technical terms as an introduction to terminologically study of this article.

The first term is “constitution/Constitutionality”. Brotoatmojo, one of the early Indonesian scholars in legal studies, defines that constitution is a foundation of people’s aspiration in building the state. Constitution should contain several rules on how the state and people are governed. Meanwhile, according to Herawati, constitution is a central power that regulates the life of the state which concerns the nature and form of the state, and distribution of authority among state institutions. These two definitions illustrate that constitution is a system of order in all components of state institution. The essential object of constitution substantively is connectedness of all state organ. In other complicated explanation, Munawir Sjadzali places constitution as politically product, therefore either constitution or politics are two entity that always interplay one each other.

The second terms is Politics. Meriam Budiardjo defines politics as a variety of activities in state order which involves the process of determining the objectives of the system and implementing those objectives. In this definition it can be seen that politics is an activity to achieve a goal. It can also be understood here that the object of politics substantively is rather activity of power struggling than law.

Siyasah, Fiqh Siyasah and Siyasah Syar’iyyah are also become a key terms in this discussion. These three terms are used in Arabic-language literature. Siyasah initially means “to arrange, to manage” which is technically interpreted in political field. In Islamic terminology, politics
is the arrangement of people affairs based on Islamic law. In Islamic literature, this definition is popularly called *Fikih Siyasah* (Islamic jurisprudence on politics), another Islamic scholar, like Ibn Qayyim, calls it *Siyasah Syariyyah* (Sharia Politics).\(^{53}\) *Siyasah* contains two dimensions, the first is the objectives of power, the second is ways of achieving and controlling power in political arena.\(^{54}\) Khalid al-Fahdawy defines *Fiqh Siyasah* as a deep understanding (*fiqh*) of power controlling to arrange social-political-economic affairs which is regulated by sharia law as a manual instruction of people life.\(^{55}\) In other words, *Fiqh Siyasah* is a politics based on Islamic values. Thus, *Fiqh Siyasah* is not an Islamic Constitutional Law, but it is a provision that becomes a reference for Islamic politics. The dynamic interplay between civilian and political elite makes the substance of *siyāsah syarʿiyah* is similar to political studies. However, *siyāsah syarʿiyah* is still different function with politics. Politics merely contains the way of power achieving and people servicing, *siyāsah syarʿiyah* has a function in bringing people to the right way based on Islamic norms (*išlāh*).\(^{56}\)

The next term is Constitutional Law. Constitutional Law is a set of laws that regulate organization of the state both in vertical relations and in horizontal relations. The object of constitutional law is a positive law that can be applied temporary at a certain time and place. Constitutional law contains certain mutual agreements on the form of state, and relationship among the state, citizens and their human rights. Constitutional Law also discuss on analysis, observations or investigations of living laws in a country.\(^{57}\)

From the explanation, the substantial object of constitutional study, Politics, *Siyasah, Fiqh Siyasah* and *Siyasah Syarʿiyah* are merely a law. However, there is such interconnection among law, as an object of study, Islamic

---

57  Kartasapoetra, *Sistematika Hukum Tata Negara*. 
norms and politics. From these terms, only Constitutional Law has substantial object in law. Nevertheless, the term constitutional law is different from Islamic constitutional law. In Arabic translation of Constitutional Law is Qānūn ad-Dustūrī, while Islamic Constitutional Law is being translated into Arabic as Qānūn Dustūrī al-Islāmī.

Observing the Constitutional Law Department in Islamic Higher Education Institutions in Indonesia, it can be seen that vision, mission, profile, curriculum, design of student competence and final assignments, have no uniformity and firmness of Constitutional Law in the Faculty of Sharia as a Department which is based on law or Islamic Law. Moreover, in terms of nomenclature of the Department, there are such terms ambiguity of the substance and essence of Constitutional Law. On the one hand, it uses the nomenclature of Constitutional Law, but on the other hand it uses siyasah (politics) nomenclature as its synonym. In General Higher Education, the Constitutional Law and Politics Department lies in two different faculties, in consideration on different substantial object of study.

The unclarity of substantial object of study of Islamic constitutional law department in several faculties of sharia in Indonesia might be caused by academic references. Some references are rather inappropriate with constitutional law studies. Several references that used by scholar in Islamic constitutional law department are Islam dan Tata Negara: Ajaran Sejarah dan Pemikiran (Islam and Constitution: teachings, history and thought)58, Fiqh Siyasah Ajaran, Sejarah dan Pemikiran (Fiqh Siyasah: teachings, history and thought)59, Fiqh Siyasah: Implementasi Kemashlahatan Umat dalam Rambu-Rambu Syariah (Fiqh Siyasah: The Implementation of People beneficence in sharia norms) 60, Fiqh Siyasah: Kontekstualisasi Doktrin Politik Islam (Fiqh Siyasah: The contextualization of Islamic political doctrine) 61, Al-Ahkam as-Sulthaniyah wal Wilayatud Diniyah (The

60 Djazuli, Fiqh Siyasah: Implementasi Kemashlahatan Umat Dalam Rambu-Rambu Syariah.
The study of fiqh siyāsah is closest meaning to siyāsah dustūriyah or politics of Islamic legislation. Siyāsah dustūriyah is quite different with qānūn dustūry which means ‘constitutional law’ in English terminology. Therefore, to make siyāsah dustūriyah similar to qānūn dustūry will birth an ambiguity for department Islamic constitutional law in several Islamic Higher Education Institutions.

Indeed, the term “Siyasah Syar’iyyah” is the law governing the state interest and organizing people interest based on the spirit of Sharia. The phrase “law governing the state interests” might underlie the understanding that siyasah syar’iyyah is constitutional law. In fact, siyasah syar’iyyah is political attempt to institutionalize sharia law as a positive law in a state. The term constitutional law has different meaning, it is a set of laws that regulate the organization of a country or relations between state institutions in both vertical and horizontal relations, as well as relations between the state and citizens. Therefore, the object of study is legal rule or constitution, not politics.

The presence of the Constitutional Law Department in several Faculties of Sharia would like to emphasize on the specialization of Islamic Constitutional Law, either in normative or empirical studies. This specialization is supported by curriculum that shows Islamic Constitutional Law expertise. However, in several departments have their own way to describe specialization of Islamic constitutional law. This various way of description seems that departments of Islamic Constitutional Law have an ambiguity in academic competence, curriculum and graduate profile.

E. Conclusion

Based on the above, it can be concluded that there have been ambiguities in several Departments of Constitutional Law in Islamic Higher Education Institutions, especially in terms of department nomenclature, curriculum, student graduate

63 Mufti, Politik Islam Sejarah dan Pemikiran.
64 Muhammad Iqbal, Fiqh Siyasah: Kontekstualisasi Doktri Politik Islam (Jakarta: Kencana, 2016).
thesis and graduate profile and graduate competencies. This ambiguity can be seen from the mix-up of the law, politics and constitutionality as the core of the program. On the one hand, the department of Constitutional Law wants to keep the essence and substance of the law, on the other hand the essence and substance of politics and Islamic constitution studies are more prominent as described above. Therefore, the graduates’ competencies are also ambiguous between the Bachelor of Law (SH), Bachelor of Political Science (SIP) or Bachelor of Government Science. Furthermore, there is no specialization of Islamic Constitutional Law (Qanun Dusturi al-Islamy) in the Department or Study Program as the domain of the Faculty of Sharia of Islamic Higher Education.

Ambiguity of Constitutional Law in some PTKI requires a reorientation of Study Programs in the Sharia Faculty. Furthermore, it is necessary to revise the nomenclature of the department to become the Islamic Constitutional Law department or only the Constitutional Law department. This is accompanied by an affirmation of the vision, mission, profile of graduates and curriculum oriented to the substance of Constitutional Law so as not to be trapped in the Department of Islamic Political studies or Islamic Political Thought.
BIBLIOGRAPHY


----, Profil dan Kompetensi Lulusan HTN UIN Malang, https://forlap.ristekdikti.go.id/prodi/detail/kU1RDFFN-0QtQzk5NS00RTAzLTgQjktQ0VBODBBOTcyRjMy/0.
----, Kompetensi Lulusan HTN, http://syariah.iainsalatiga.ac.id/tujuan/.
----, Visi, Misi dan Tujuan Prodi Hukum Tata Negara (Siyasah), https://fsh.uinsgd.ac.id/site/detail/prodi/siyasah.
As-Sadiri, Taufiq bin Abd al-Aziz, *Al-Islam wa ad-Dustur*.


