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Bay'ah Practice by Pas Election Candidates According to The Perspective of Siyasah Shar'iyah

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Abstract

Bay'ah is a faithful promise to obey the leader and be ready to carry out the leader's instructions either when he wants to or when he has to. Parti Islam Se-Malaysia (Malaysian Islamic Party-PAS) is one of the political parties in Malaysia that has made Islam as the basis of its movement. PAS has made *bay'ah* mandatory for all their candidates who will contest in the election to pledge allegiance. It is an expression of loyalty to God, the Messenger and the party leadership, so that their representatives do not betray the trust they have been entrusted with. The main objective of this article is to evaluate the validity of the *bay'ah* practiced by PAS according to the perspective of *siyasah shar'iyah*.

Keywords: Bay'ah, Malaysian Islamic Party, Loyalty, and Siyasah Shar'iyah.

Introduction

Bay'ah basically needs to be given to the Islamic Caliphate, but due to the fact that the Islamic Caliphate was officially abolished in 1924, the pledge should be given to the Islamic movement that is trying to dignify the Islamic Caliphate again which is in line with its character. One of the Islamic movements that want to achieve this goal is Parti Islam Se-Malaysia (PAS) which is directly involved in the political arena. The essence of Islamic politics is preaching and calling people to bear witness to *La ilaha illa Allah Muhammad Rasulallah*. This means that *taghut* legislation that contradicts the principle of these two words is basically void and should be rejected (Faris, 1984).

Problem Statement

PAS participates in the election to bring awareness and understanding of Islam at the legislative and executive levels. The main purpose of establishing PAS is; First, striving for the existence of a society and a government that implements the values of Islamic life and its laws towards the pleasure of God in the country of Malaysia. Second, defending the purity of Islam as well as the independence and sovereignty of the country (PAS Constitution, 2011).

It has become a practice of PAS, candidates who will represent them to compete in the election will recite the pledge of allegiance (*bay'ah*) in front of the party's highest leadership in their respective states which has been coordinated by the PAS Ulama Shura Council.

The pledge of allegiance reads as follows: "That I (name) pledge to obey the law of God and His Messenger and to obey the instructions of the party leadership that do not contradict the teachings of Islam. And that I swear in the name of Allah, *Wallahi, Wabillahi, Watallahi*, if I leave or jump to another party of my own free will after being selected as a candidate and elected as a member of the State Assembly/House of Parliament or appointed as a Senator, then I will be cursed by Allah, The Messenger, the believers and all the people who cursed, and all my expenses by using the council member's allowance money are haram. And that I also swear in the name of Allah, *Wallahi, Wabillahi, Watallahi* to resign from being a member of the State Assembly/House of Parliament when I leave or be fired from the party."

Based on the above background, this article will discuss some issues as follows: how the concept of *bay'ah* is practiced by PAS according to al-Quran, al-sunnah and ijmak; who has the authority to impose the concept of *bay'ah* on PAS candidates in the election; and does the implementation of *bay'ah* done by PAS comply with the concept of *masalih mursalah* according to *siyasa shar'iyah*?

Research Methodology

This study uses a literature review method (qualitative) which describes the status of the validation of *bay'ah* practiced by Parti Islam Se-Malaysia (PAS) as well as the status of *bay'ah* practiced by PAS according to the perspective of *siyasa shar'iyah*. The use of this methodology is in the form of content analysis to obtain and collect the necessary information and data from various existing sources. The information and data obtained is an important fact in preparing this article. While the secondary sources involved are such as reference books and articles found in public libraries as well as internet resources.

Result

a) *Bay'ah* According to the Quran, Sunnah and Ijmak

Bay'ah is one of the basic principles in Islam. It can be seen in the prophetic sunnah where Muslims have given their allegiance to the Prophet Muhammad SAW. After the death of the Prophet SAW, the Muslims gave allegiance to the *al-Khulafa' al-Rashidin* and the aspiration of allegiance continued until the abolishment of the Ottoman Chaliphate in 1924. The application of this allegiance is based on the arguments of the al-Quran and al-Sunnah and ijmak. Allah SWT says (al-Quran, al-Fath 48: 10):

إِنَّ الَّذِينَ يُبَايِعُونَكَ إِنَّمَا يُبَايِعُونَ اللَّهَ يَدُ اللَّهِ فَوْقَ أَيْدِيهِمْ فَمَنْ نَكَثَ فَإِنَّمَا يَنْكُثُ عَلَىٰ نَفْسِهِ وَمَنْ أَوْفَىٰ بِمَا عَاهَدَ عَلَيْهِ اللَّهُ فَمَسْئُوتِهِ أَجْرًا عَظِيمًا

Verily those who plight their fealty to thee do no less than plight their fealty to Allah: the Hand of Allah is over their hands: then any one who violates his oath, does so to the harm of his own soul, and any one who fulfils what he has covenanted with Allah, - Allah will soon grant him a great reward.

This verse explains that the companions have given allegiance to the Prophet SAW. Although on the surface the allegiance of the companions was given to the Prophet SAW, but in reality the allegiance was to Allah. The verse *يد الله فوق ايديهم* is *tawkid* (affirmation) which reinforces the statement that the pledge of allegiance given by the companions to the Prophet SAW is

in fact a pledge of allegiance to Allah (Muhammad 'Ali Qutb 1982). While the pledge of allegiance according to the sunnah is based on several hadiths of the Prophet SAW. For example the the Prophet SAW says:

من مات وليس في عنقه بيعة مات ميتة جاهلية

Whoever dies without a pledge of allegiance (*bay'ah*) on his neck dies the death of ignorance. (al-Tabarani, *al-Mu'jam al-Kabir*, bab al-Mim, Man Ismuhu Mu'awiyah)

Based on this hadith, it is the duty of all Muslims to give allegiance to the caliph. If they do not do so, it results in them being in a state of sin because of the absence of caliphate and they are feared to die as a death of ignorance. This sin will not be removed except by restoring the power of Islam. Therefore, it is their responsibility to work hard to restore the Islamic Caliphate so as to qualify them to perform the responsibility of pledging allegiance to the Caliphate (Abu Faris, 1984). According to 'Abd al-Rahman (1988), apart from the verses of the al-Qur'an and the Prophetic Sunnah, we also find that it has been the consensus of all Muslims since the era of the Sahabah RA until today that the application of this *bay'ah* is prescribed without any disagreement among them. The closest example is, after the death of the Prophet SAW, a large group of companions gathered in Saqifah Bani Sa'idah to appoint a successor to the duties of the Prophet SAW as the leader of the Muslims and they appointed Sayyidina Abu Bakr al-Siddiq RA as the first caliph of the Prophet SAW. Then the Muslims gave *bay'ah* to Sayyidina Abu Bakr al-Siddiq RA in the Prophet's Mosque (Masjid Nabawi) which was categorized as general *bay'ah*.

b) PAS Ulama Shura Council and the *Bay'ah* Concept in PAS

According to al-Qaradawi (2011), when an Islamic leader facing a problem and he is in the following three situations, namely: first; there is no text from the al-Quran or hadith on the matter, second; there are texts from the al-Qur'an or hadith but have various meanings; third; or also on the matter of *maslahah mursalah*, then it is the duty of the leader to meet and discuss with those who are experts in the problematic field.

Until today, in PAS there is a Shura Ulama Council. It is the highest institution empowered to elaborate, clarify and interpret PAS policy in addition to interpret the PAS Constitution and has the power to make rulings.

In addition, the Shura Ulama Council is also empowered to issue directives so that PAS policies are followed and to control PAS discipline. Although it does not have executive power, it is the highest body in PAS.

The criteria for becoming a member of the PAS Shura Ulema Council is, someone who knows the main and basic Islamic principle (*al-usul*) in sharia and its laws. He should also be able to refer those problems to the al-Qur'an, as-Sunnah, ijmak and *qiyas* by understanding its ultimate meaning and significance. In addition, he must be a just person who does not commit major sins or continuously commit minor sins and must preserve his dignity and must be a member of PAS (PAS Constitution, 2011).

c) PAS *Bay'ah* Complies with *Maslahah Mursalah*

If this practice of PAS's *bay'ah* is evaluated through the lens of *siyasa shar'iyyah*, then it lies within the larger framework of *maslahah*. According to Abu Rahmat (2010), *maslahah* as discussed by scholars is divided into three, namely *maslahah mu'tabarah*, *maslahah mulghah* and *maslahah mursalah*.

Maslahah mu'tabarah is a *maslahah* that is taken into account by the sharia and a law is made based on it. For example, in order to protect the interests of the descendants, the law of flogging or stoning to death is established. The case is different with *maslahah mulghah*, it is a *maslahah* that is abolished by the shariah and contradicts the *nass qat'i* and it removes a bigger *maslahah*; for example doing prostitution to earn a living. It is rejected by the sharia because it removes the greater *maslahah* which is to preserve the *maslahah* of taking care of religion, soul and offspring (Qaradawi, 2011).

Maslahah mursalah has become a hot topic of discussion among scholars because there is no sharia argument that rejects or accepts it. The majority of scholars, Imam Malik and Imam Ahmad accepted it as a source of law while the Zahiri school, some scholars of the Syafie school such as al-Amidi and some scholars of the Maliki school such as Ibn al-Hajib rejected the argument of *maslahah mursalah* (Al-Zuhayli, 2007).

Imam al-Ghazali has imposed three conditions to use this *maslahah mursalah* which mujtahid must obey. First, it must be ensured that the benefit is in the form of *daruri*. If the *maslahah* is only at the level of *haji* or tahsini, then it is not valid to use *maslahah mursalah*. Second, make sure that the *maslahah* is in the form of *qat'i* not *maslahah* in the *zanni* category. While the third, the *maslahah* must be ensured to be at the level of *kulli* which is not *juz'i*. These are the three things that must be examined before *maslahah mursalah* is used as a source of law (Al-Ghazali, 2008).

Scholars who make *maslahah mursalah* one of the sources of law such as Maliki school scholars, Hanbali school scholars and Imam al-Ghazali are very careful when applying *maslahah mursalah* so as not to fall into the valley of shallow thinking, lust or mere conjecture. They have placed strict conditions to use *maslahah mursalah*, namely:

1. *Maslahah* that is clear and certain and not based on *wahm* (conjecture). The problem must be rational and it is believed that it will provide benefit or reject harm for sure.
2. The matter must be general and not for personal interest. The benefits are for the good of the universal people, not just to look after the interests of a few people.
3. Laws established based on *maslahah* must be ensured not to conflict with laws and principles that have been established by al-Quran, al-sunnah and another sharia arguments.
4. It is only limited to the issues of muamalat, it cannot involve the discussion of worship (*'ibadah*).
5. Must not conflict with *maqasid shari'ah*.
6. The application should not cause undue difficulties (Al-Zuhayli, 2007).

These are the six conditions that need to be taken care of in order to use *maslahah mursalah* in issuing laws that are not dictated by sharia.

The PAS leadership practices this pledge to protect their representatives from committing treason, because loyalty must be given to the Islamic struggle through the PAS platform they represent.

The practice of PAS *bay'ah* is categorized as *maslahah mursalah* because there is no proof in the form of a prohibition and there is no proof in the form of a specific command.

Conclusion

The pledge of allegiance (*bay'ah*) used by PAS is aimed at practicing Islam and upholding the law of God in this country. This is practiced by PAS leadership based on evidence from the al-Quran, al-sunnah and ijmak. The practice of *bay'ah* in PAS has been mutually agreed upon among the members of the PAS Shura Ulama Council with the aim that all PAS representatives submit to the law of God and His Messenger and obey the instructions of the party leadership that do not contradict the teachings of Islam. In addition, this pledge also makes them able to maintain discipline as PAS representatives without being arbitrarily bought with ringgit money by their political opponents. Based on the concept of *siyasah shar'iyah*, PAS has taken the initiative to participate in the national political field to jointly develop this beloved country with Islamic aspirations and to fulfill the political responsibilities commanded by religion to Muslims as well as being wise in facing games and kicks in the political arena. PAS as an Islamic movement that practices Islamic politics has taken the *muwajahah silmiyyah* approach, which is to confront peacefully and engage in the parliamentary democratic system practiced in Malaysia to dignify Islam in government in Malaysia.

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