

STUDIA ISLAMIKA

INDONESIAN JOURNAL FOR ISLAMIC STUDIES

Volume 10, Number 1, 2003
SPECIAL ISSUE



INTRODUCTION: ISLAMIC LAW
IN SOUTH-EAST ASIA

MB Hooker

PUBLIC FACES OF *SHARĪ'AH* IN CONTEMPORARY INDONESIA:
TOWARDS A NATIONAL *MADHHAB*

MB Hooker and Tim Lindsey

FIQH, WOMEN AND HUMAN RIGHTS:
COMPETING METHODOLOGIES

Ajmand Ahmad

ISLAMIC CONTRACTS OF
FINANCE IN MALAYSIA

Matt Richards

STUDIA ISLAMIKA

Indonesian Journal for Islamic Studies

Vol. 10, No. 1, 2003

EDITORIAL BOARD:

M. Quraish Shihab (UIN Jakarta)

Taufik Abdullah (LIPI Jakarta)

Nur A. Fadhil Lubis (IAIN Sumatra Utara)

M.C. Ricklefs (Melbourne University)

Martin van Bruinessen (Utrecht University)

John R. Bowen (Washington University, St. Louis)

M. Atho Mudzhar (IAIN Yogyakarta)

M. Kamal Hasan (International Islamic University, Kuala Lumpur)

EDITOR-IN-CHIEF

Azyumardi Azra

EDITORS

Saiful Mujani

Jamhari

Jajat Burhanuddin

Fu'ad Jabali

Oman Fathurahman

ASSISTANT TO THE EDITORS

Heni Nuroni

ENGLISH LANGUAGE ADVISOR

Chloe J. Olliver

ARABIC LANGUAGE ADVISOR

Nursamad

COVER DESIGNER

S. Prinka

STUDIA ISLAMIKA (ISSN 0215-0492) is a journal published by the Center for the Study of Islam and Society (PPIM) UIN Syarif Hidayatullah, Jakarta (STT DEPPEN No. 129/SK/DITJEN/PPG/STT/1976) and sponsored by the Australia-Indonesia Institute (AII). It specializes in Indonesian Islamic studies in particular, and South-east Asian Islamic studies in general, and is intended to communicate original researches and current issues on the subject. This journal warmly welcomes contributions from scholars of related disciplines.

All articles published do not necessarily represent the views of the journal, or other institutions to which it is affiliated. They are solely the views of the authors. The articles contained in this journal have been refereed by the Board of Editors.

STUDIA ISLAMIKA has been accredited by The Ministry of National Education, Republic of Indonesia as an academic journal (SK Dirjen Dikti No. 69/DIKTI/2000).

Virginia Hooker and M.C. Ricklefs

2002 Mount Beauty Workshop on Islam in Indonesia: Report

On 6-9 September 2002, a group of twelve graduate students researching topics to do with Islam in Indonesia met together at Mount Beauty, in the mountains of northeast Victoria, Australia. The location was mid-way between the Australian National University, Canberra, and the University of Melbourne, where the candidates are pursuing their degrees, most of them supported by Australian government funded scholarships (AusAID). All but one of the students was from Southeast Asia, and for them it was also a chance to see the high mountains of Victoria under snow – although weather conditions limited the views.¹ Several of their supervisors also attended: Profs. Arief Budiman, Virginia Hooker, Barry Hooker and Merle Ricklefs, and Associate Professor Abdullah Saeed.

The workshop invited each candidate to present her or his topic to colleagues. There followed debate and discussion about the topics, about conceptual complexities, and about the way in which the research of others shed light on each individual topic. Most of the students were at early stages of research (mostly in the first year of candidature), but three were at final stages (Syafi'i Anwar, Fatimah Husein and Sally White). One candidate, Mohamad Hafiz, is working on the Syariah Court of Singapore. The discussions were vigorous and of great help to all participants.

The abstracts presented by each of the candidates follow below. In the wide-ranging debates which were stimulated, some general issues arose repeatedly.

One general issue, to which the workshop in the end was able to provide no clear resolution, had to do with terminology, deriving from a basic conceptual problem. How should one describe the Islamic movements which in Indonesia tend to be lumped together as *garis keras*? Terms such as 'fundamentalist', 'extremist', 'radical', 'Islamist', 'confrontationist' and 'hard line' all have their uses, but there seems to be no general term which can capture the phenomenon. So perhaps it is best to abandon the idea that we are dealing with a single phenomenon? Yet – despite all the variety of ideologies and tactics amongst these groups – we recognise a common feature in their reliance upon their understanding of Islam to justify attitudes and acts which are regarded by other people as – what? Extremist? Radical?

Similar difficulties attended the analysis of other groups. Ahmad Zaini Dahlan (Zen) asked what terminology applies to the liberals (if that's the right term) of Nahdlatul Ulama. 'Neo-traditionalists' seems to have gained some currency. But there is a tendency to call anything that we think we have seen before but which seems not quite like whatever it was that we saw before, 'neo'-something. The capacity of the term 'neo-' (i.e. a new or renewed but somehow different form of something) actually to explain anything is open to question. In putting together this report, we were inspired to see what definitions of 'neo-' might be found in standard dictionaries. *Merriam Webster's Collegiate Dictionary* nicely illustrates the problem by, *inter alia*, defining 'Neoplatonism' as 'a doctrine similar to ancient Neoplatonism'. Not much clarification to be found there.

Luthfi Assyaukanie raised a similar difficulty with the term 'secularism'. Is the Indonesian state 'secular' or 'religiously neutral'? A discussion about 'standard' texts in Sufism immediately raised the issue of what was 'standard'? One suggestion was that a more useful (and accurate) term might be 'primary source'.

Similar conceptual, and hence terminological, issues arose for most of the candidates attending the workshop. Even for those in advanced stages of thesis preparation, the debates about definitions highlighted the need to pin down even the most basic terms. The quest for conceptual and hence terminological clarity will no doubt continue but it was agreed that it was essential to be specific as to time and place when describing 'Islam' in Indonesia.

At the end of the workshop, we had in mind the need to produce, in due course and through international collaboration, as comprehensive a picture as possible of the major issues in Indonesian Islam. We felt that two steps would be useful:

1. The creation of an international web site listing, in particular, doctoral thesis topics currently being done on Indonesian Islam. This would prevent duplication and facilitate the identification of gaps. A start has been made by listing topics of research currently in progress at the ANU, see <http://www.anu.edu.au/asianstudies/> and search for link to 'Islam in Southeast Asia'
2. The compilation of a list of potential doctoral topics which, so far as we know, are not currently being done, and which would fill gaps in our knowledge.

We pooled our collective wisdom to come up with a list of topics which, in the minds of the participants, constitute attractive and important topics for PhD research which, so far as we know, are not now being done. That list is as follows:

• Studies focussed in particular regions of Indonesia rather than at national level: most of the following topics could be pursued either at national or local level

- Indonesian women and Islam since the Second World War (especially from a historical perspective as most existing studies use anthropology or gender relations as their discipline)
- Analysis of the roles and contributions of women to all aspects of contemporary Islamic life in Indonesia – including critical examination of the reinterpretation of basic texts to study how Muslim women are seeking contextual explanations for the functions of those texts, e.g. the activities of Forum Kitab Kuning
- Islamic education, particularly in recent decades
- Islamic media, especially print media, including the issue of how they are funded
- The Islamic publishing industry generally
- Islamic student movements
- Analysis of psycho-social-educational profiles of various Islamic leadership groups
- International comparative studies (e.g. with Malaysia, Southern Thailand, South Asia and China)

- Links between Islamic movements and organisations and business/financial interests (including those outside Indonesia)
- Links between Islamic movements and military interests
- Background, role and attitudes of ulama/kyais/nyais
- The history of the Madurese in Kalimantan and the background to the conflicts there
- Tafsir
- Detailed analyses of the lives and writings of influential individuals, e.g. Syekh Daud Patani, Ahmad Khatib Sambas

Around 40 postgraduates (at masters and doctoral levels) at the ANU and University of Melbourne are now doing research on Islam in Southeast Asia but we could offer places to only 12 doctoral candidates to attend the first Mount Beauty Workshop. It is planned to make this an annual event and to include a changing group of students each year. All participants at the 2002 meeting agreed the atmosphere for discussions was excellent and '*sersan*' (*serius tapi santai*). And all participants enjoyed an evening at the mountain home of Merle and Margaret Ricklefs, where discussions continued in a setting which was lively and musical (jazz, keroncong, gamelan and Dhafer Youssef's CD *Electric Sufi* – the last courtesy of Professor Martin van Bruinessen).

The abstracts of students' presentations follow:

Female leader discourse among Indonesian Muslim Groups

Deny Hamdani

This research considers recent Muslim groups' responses to female leader during the 1999 presidential election and the nomination of President Megawati Soekarnoputri. It will discuss the relationship between religious edicts, gender issues, politicisation of religion, democracy and social transformation in Indonesia. The shift of political attitude among Muslim groups towards the nomination of female president would be a starting-point to explore the dynamic of Islamic politics in the Muslim-majority country.

The Struggle for formal Islam in South Sulawesi: From the Darul Islam (DI) to the Komite Pemberlakuan Syariat Islam (KPSI).

Hamdan Juhannis

This study investigates the dynamics of Muslim movements in South Sulawesi in their efforts towards formalizing the political role of Islam. It analyses the genesis of the movement, its subsequent development, its relationship with other Darul Islam movements in other areas, as well as its military confrontation with the government in the period of 1950 to 1965. It then tracks the efforts of South Sulawesi Muslims to implement formal Islam, as exemplified by the KPSI which was founded in 2000. The relationship between the Darul Islam movement and the emergence of the KPSI are analyzed as also the broader context of this movement, that is, its relationship with other similar movements in Indonesia, reviewing the evidence for links with any international network.

This study also deal with the perceptions and responses of Muslim people, especially Muslim figures, toward the Darul Islam and the KPSI as well as the responses of the local government to the KPSI. The political motives behind the two local movements are explored taking into consideration cultural, economic, and religious motives.

Sufism and the Revival of Islamic Movements

Lukman Hakim

This thesis will explore the essence of Sufi teachings from the very beginning of Islam and its role in the development of Muslim society, focusing on the core of Islamic proliferation in Indonesia such as Sumatra, Java and Macassar. It will attempt to look at the intellectual discourse that became the main reason for the formation of the variety of Islamic society, culturally and politically in the Malay world especially in Indonesia. In addition to that, this thesis will also try to give a comparative study by showing how various methods of Islamic preachings affect the formation of society in one nation. To sum up, this thesis will show how sufism has a tight relation with the revival of Islamic movement s socially, culturally and intellectually.

The Interface of Adat and State Land Law in East Java, Indonesia

Daryono Daryono

The interface of Adat and state land law in Indonesia produces two different outcomes, integration and conflict. Both reveal different levels of legal action and interaction in each society. Its culture, expectation, social structure, tradition and experience may contribute to its variation. Understanding the whole system in both macro and micro perspectives in each society will reveal the connection and the relevance of legal action and interaction which serve as a central element in understanding the working of law in society. This study attempts to examine and discuss the major social phenomena of conflict and integration concerning the interrelation between adat and state land law in East Java, Indonesia.

Reformist Islam, Gender and Marriage in Late Colonial Dutch East Indies, 1900-1942.

Sally White

This thesis is an examination of the discourse on gender and marriage by individuals and organisations associated with reformist Muslim thought in the Dutch East Indies. It is a discussion of religious rights for women and how these formed the basis for ideas about progress and modernity that contrasted quite strongly with secular notions. It investigates what it meant in this period to be a 'true Muslim woman', and consider the questions of how the discourse on gender was translated in practical terms, where it opened up new doors for women, which doors remained firmly closed and why. With regard to marriage, the thesis discusses a reformist Muslim programs that on the surface appears to have little to do with gender. While the women's movement, secular nationalists and Dutch reformers sought to present marriage reform as a process of asserting universal women's rights, most influential reformist Muslims continued to see marriage as purely an issue of Islamic law. The importance of marriage as the only acceptable means of regulating intimacy between men and women, and the position of Muslim family law under Dutch rule left those reformist Muslim women who wished to challenge prevailing notions little room for manoeuvre. Finally the thesis considers the questions of concubinage and mixed marriage, and what this discussion has to say about the intersection of Islam, gender and nationalism.

Development of Islamic Liberal Ideas – 1984 to 2000

Ahmad Dahlan

In general, the thesis will examine the development of Islamic liberal ideas, more specifically, the new school of thought called post traditionalism, among young generation of NU background over the period of 1984 to 2000. There will be three focuses of the study. (1) The background of the emergence of this generation, i.e. the NU socio-religious development over that period. Since K.H. Abdurrahman Wahid is a very important figure in this regard, the thesis will also explore his thoughts and roles. (2) The genealogy of the thought, sketching two its original sources: the traditional educational institutions (*pesantrons*) and several foreign thinkers, particularly, the post structuralist Muslim thinkers such as Arkoun, Abid Jabiri and Hasan Hanafie. (3) The implication of these liberals to the wider NU society. Questions such as their attitudes and responses toward Wahid's presidency and his fall, and the extent to which they won the competition with the conservative elements of NU to gain influence over the ordinary Nahdliyyin will be discussed here.

The Syariah Court of Singapore: A Study of a Court of Law

Mohamad Hafiz

The earliest literature on the Syariah Court of Singapore makes no pretensions that the Syariah Court is 'a properly organised court which follows the rules of procedure and practice of a court of law'. It is created for the 'proper administration of the law', that is the Muslim law. In short, it is a court of law, supposedly. But when one looks at its statutory provisions (the Syariah Court is a creature of statute having been established by the Administration of Muslim Law Act 1966), it is not difficult to see that they are clearly deficient *vis-à-vis* the essentials of a court of law.

The thesis will argue that the Syariah Court is an impoverished court of law, and barely meets the essentials of one, both from the Islamic and civil (common law) perspectives. And since the Syariah Court is but part of the history of evolution of Muslim law and Islamic administrative structures in Singapore, the argument will take us back in time to the refounding of Singapore, or even earlier, where the process began. The process will be seen within the wider political and socio-economic context; for only then can one under-

stand the shape and form the Syariah Court has taken now. Some suggestions are made in end of the thesis to reform the Syariah Court.

Muslim-Christian Relations in Indonesia: The Inclusivist and Exclusionist Muslims' Perspectives

Fatimah Husein

The thesis argues that both Islamic theology and New Order's policies have played the most determining, though different, roles in the recent relations between Indonesian Muslims and Christians. In particular the thesis examines the perspectives of the Indonesian inclusivist and exclusivist Muslims towards the issue of Muslim-Christian relations, and how these perspectives find their basis and justification in the Islamic theology. The thesis also analyses how the New Order's policies have been responsible for setting the overall conditions under which Muslims make difficult choices to observe their faith, as well as pursue their aspirations as citizens and members of the *umma*.

The Religious Law in the Modern Nation State: The Legal-Political Dissonance of the Aspirations for the Implementation of Shari'a in Indonesia (1945-2004)

Arskal Salim

The main topic of this research is the position of religious law in a modern nation-state, in which the struggles of Indonesian Muslim groups for incorporating the religious law into the Constitution and into the process of lawmaking will be the case of study. The purpose is to explain that the aspirations for the application of religious law are essentially an attempt at religionisation (i.e. islamisation) of the modern nation-state, which is legally and politically dissonant to the concept of modern nation-state. The key argument that will be presented in this study is that the aspirations have been unsuccessful due to the fact that the proponents of religious law are not aware of the difference between the conception of the modern nation-state and the traditional state when Islamic law first developed and was applied. Another important reason of the failure is the shift or the vagueness of the meaning of religious law (i.e. shari'a). The proponents of religious law appear to not distinguish between shari'a (properly meaning God's revelation) and *fiqh* (expanded meaning by human interpretation), and hence, *fiqh* is very often

regarded as shari'a itself. So, once shari'a is politically proposed, in reality, it is the call for the application of *fiqh* which is not divine and has no a single interpretation. No wonder then that many other Muslim people could not agree with such a political proposal.

ISLAM AND POLITICS IN INDONESIA: A Study of Political Behavior of Modernist Muslim Organizations and Their Leaders under Soeharto's New Order Regime, 1966-1998

M. Syafi'i Anwar

This thesis is to examine the determinant factors causing the evolution and changing political behavior of modernist Muslim organizations and their leaders in response to the state politics during the period 1966-1998. To do so, it compares first of all the political behavior of modernist Muslims and traditionalist Muslims in response to the state politics during that period. It investigates whether factors such as ideology, religio-political thought, leadership culture, and personal political interests give significant contribution to the pattern and evolution of modernist Muslims' political behavior. In general, the discussion focuses on five typologies of modernist Muslim political behavior, (1) pragmatic, (2) accommodative, (3) critical ideologue, (4) critical idealist, (5) militant scripturalist. Secondly, it examines the role of the state in changing political behavior of modernist Muslims, which led to the antagonism or accommodation between Islam and the state during the New Order regime. Thirdly, this thesis also examines the evolution of modernist Muslims' political behavior under the shadow of "conspiracy theory" and "the politics of identity", which led to the rise of tension and conflict between Muslims and non-Muslims. Data analysis of the study is based on integrative approach using history, political sociology, and political economy perspectives. In so doing, this thesis focuses on critical analysis of political relationships between modernist Muslims and the state which is divided into four periods. In the first period (1966-1979), the thesis mainly focuses on analysis of the political hostility between Islam and the state and the roots of conflict between Muslims and non-Muslim groups. In the second period (1979-1989), this thesis examines the road to the state ideological hegemony and varying reactions of Muslims toward it. Furthermore, the thesis also discusses the liberalization of modernist Muslims political behavior and the rise of Islamic mili-

tancy or radicalism within modernist Muslim organizations. In the third period (1989-1993), this thesis focuses the analysis on the origins of the state politics of accommodation and the modernist Muslim agenda for Islamisation. In the fourth period (1993-1998), the thesis observes the state politics of co-optation and the split of modernist Muslim leaders during the late New Order regime. The thesis concludes with a discussion of the success and failure of political Islam under the Soeharto New Order regime.

Pious Society and Secular State: The Debates over Political Philosophy in Indonesia, 1982-2004

A. Luthfi Assyaukanie

This study is about the search for a political philosophy of the state in Indonesia as reflected in the intellectual and political debates inside and outside parliament which occurred during 1982 to 2004. The basic argument of this study is that the debates over political philosophy in Indonesia reached the conclusion that a “secular” —that is to say, religiously neutral— state is the final form of political philosophy chosen by Indonesians, both inside and outside parliament. This study runs counter to the “common” view that there has been an Islamization process of the state. Instead, it argues rather more specifically that the Islamization process does happen at the societal level and not at the political one. The political Islam has rather failed to gain its fundamental agenda: to establish an Islamic state at maximum, or to color the state with Islamic symbolism at minimum.

The Emerging of a New Entrepreneur in Indonesia's Economic Crisis

Ludiro Madu

This thesis investigates the nature and dynamics of a new entrepreneur that has emerged during recent economic crisis in Indonesia. It argues that the 1997-1998 political and economic changes seemed to raise a new kind of entrepreneur in Indonesia. Mahaka Group is a case study that represents a different form of entrepreneurship from those developed during and with political support of the New Order government (1966-1999). As old big businesses are still encountering economic problems caused by the crisis, this new business group successfully survives and gradually increases and diversifies its economic activity with less facility from recent government.

Endnotes

1. Just four months after the meeting, the surrounding mountains witnessed the worst bushfires (*api hutan*) to have occurred in over a century. Most of the spectacular bushland which the participants admired was burned and may take many years to return to its former state, but the snows will return in time for the next Mount Beauty workshop.