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Islamisation by Law and the Juridification of Religion in Anomic Indonesia¹

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Abstract

This paper addresses a seeming paradox: while after the fall of Suharto in May 1998 Islam has not gained significant traction in Indonesian politics, Indonesian state law has in fact accommodated Islam ever more conspicuously. Some scholars have argued that only because some degree of legislative authority has been devolved from the centre to the regions in the course of the decentralisation process initiated by Suharto's successor B.J. Habibie in 1999, those areas known as traditional strongholds of Islam have used their newly acquired legislative powers to issue *shari'a*-based regional regulations. They further claim that the Islamisation of law has basically stopped with these regions and at that administrative level. I will show, however, that the legal accommodation of Islamic normativity has long reached the level of national legislation, extending beyond the traditionally Islamist areas. While this dynamic does attest to what John L. Comaroff and Jean Comaroff have called the judicialisation of politics – or lawfare – accompanying the turn from state capitalism to a neo-liberal model in many parts of the world today, it is not altogether without historical precedent. In fact, it brings to mind Karl Polanyi's observation of a double movement of law in 19th and early 20th century Europe. Polanyi pointed to the crucial role of law both in the dis-embedding of the economy from local norms and institutions and in attempts of re-embedding it. During the rise of capitalism in 19th and early 20th century Europe, the increasing liberalisation of the market through the enactment of respective legislation created an anomic society (Émile Durkheim) that subsequently gave birth to different totalitarian regimes and the juridification of anti-liberal norms, to the detriment of large segments of their respective societies. The ongoing juridification of Islam in Indonesia today is a similar effort, I argue, to attenuate the negative local impact of economic deregulation and globalisation, which have helped undermine the rule of law and shared moral standards, by taking recourse in anti-liberal concepts of modernity that are preoccupied with the regulation of individual behavior in accordance with local norms and institutions.

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Introduction

The line of reasoning that I present in this paper has not emerged, as one would perhaps surmise, from a strong research focus on Indonesian Islam. The latter has indeed taken centre stage within Indonesian studies ever since the inter-religious violence that broke out in the wake of the demise of Suharto's "New Order" regime in May 1998, implicating radical Islam. Rather, it was prompted by my long-standing research on the Indonesian Hindu and Buddhist communities who, as minorities, have had to find ways to cope with encroaching Islam, a process that in point of fact had already started in 1989, when Suharto had suddenly "turned to Mecca" (Ashaari Muhammad 1993; Falaakh 1999: 202). The President's "conversion" soon proved to be a matter of political expediency that was thrown into stark relief in the international debates on Indonesian Islam, while non-Muslim segments of Indonesian societies, as well as international scholars observing their changing situation, were growing weary in the face of the mounting harassment dealt out by Islamist groups suddenly favoured by the regime (see also Hefner 2000: xviii).

That said, I do have acquired intimate knowledge of the Islamisation process over the last two decades, since I have been invited to attend discussions and present papers at a number of Islamic schools in different parts of Indonesia, such as the Indonesian State School of Islam in Surabaya, Al-Azhar University in Jakarta, the University of Islam in Riau, and the Indonesian State School of Islam in Medan. These invitations have been extended to me in the course of my interaction with the network of my late mentor, Mohamad Koesnoe, a well-known Muslim legal scholar and specialist on Indonesian customary law (*adat*) in Surabaya, and through my friendship with lecturers from Indonesian Islamic schools that goes back to our mutual time in the Netherlands, where we all pursued longer or shorter research projects between 1997 and 2006. Last but not least, I have consecutively lived, on and off, in three Muslim Indonesian families in Surabaya and Jakarta since 1986, thus having been able to follow closely their members' divergent reactions to changing social conditions. From my perspective as a scholar of Indonesia's religious minorities, I have cherished these opportunities to engage in lively dialogue with Indonesian Muslim scholars and practitioners of Islam, paying close attention to all major developments within the Muslim community that would bear on Indonesia's citizenry at large.

In this paper, I first of all argue that the progressive normative and institutional recognition (Woodman 2008) of Islam on different levels of Indonesian state law has accelerated since 1989, arguably attesting to what John L. Comaroff and Jean Comaroff have called the judicialisation of politics – or lawfare – accompanying the turn from state capitalism to a neo-liberal model in many parts of the world today (Comaroff and Comaroff 2009: 33, 36–37, 56). However, this development can best be understood in terms of Karl Polanyi's double movement of "law". In 1944, Polanyi published his seminal work, *The Great Transformation*, in which he suggested that with the emergence of the market economy in 19th century Europe, the economy became dis-embedded from its social context. The function of the market was no longer to serve the people. Instead, social institutions were shaped in such a way as to meet market requirements. According to Polanyi, law facilitated the deregulation and thus the dis-embedding of the market, by transforming social relations formerly ruled by tradition into contract relations. This process had in fact already alarmed the French sociologist Émile Durkheim who, in his classic treatise on *The Division of Labor in Society* (1893), had attributed to it the growing sense of "anomie" that he had witnessed throughout Europe. For Durkheim, "anomie" referred to a social condition marked by a lack of

shared values and norms, or some kind of state of lawlessness. Anomie, so Durkheim, is thus characterised by a breakdown between the collective and individual consciousness, which in itself contributes to increasing individual suffering (Durkheim 1998: iii, vi; Orrù 1983: 509–510; Orrù 1986: 177; Orrù 1989: 267–268; Kreide 2011: 44). Yet law, according to Polanyi, also enabled “anti-liberal” counter-movements that established protectionist measures geared towards re-embedding the economy into local society in order to protect it from the disastrous effects of deregulation. Attempts at re-embedding the economy entailed the issuance of legal regulations that sought to reverse, or at least reduce, the commodification of social relations and land (Polanyi 2001: 7, 35–44, 134–135; Lie 1991: 221–223; Frerichs 2011: 70, 72, 78, 82; Kreide 2011: 41, 43, 47; Perry-Kessaris 2011: 3–5, 7, 15–16; Ramstedt 2012: 50).

Since the turn of the century, Polanyi’s line of reasoning has regained currency because his portrait of the transformation of Europe has resonated with the transformation processes that various Third World countries have recently undergone in the context of economic globalisation, including Indonesia, as we will see (Block 2001: xviii–xix, xxxiii–xxxv, xxxviii; Stiglitz 2001: vii, xvi; Frerichs 2011: 65–66; Perry-Kessaris 2011: 2). That is, scrutinised through this lens, the juridification of religion in Indonesia appears to be as much an effort to counter anomie, as it is an apparent attempt of re-embedding economy into local society and culture. In my use of “juridification”, I follow Lars Ch. Blichner and Anders Molander (2005) to the extent that I mean the term to refer to the fact that also in contemporary Indonesia law has come to regulate an increasing number of different activities. It can furthermore be said that, in Indonesia too, social activities, actors, and social relations have increasingly been legally framed, and that there has generally been a growth of judicial power.

In the following, I will first highlight the increasing deregulation and dis-embedding of the economy that had already set in under Suharto, markedly accelerating since the Asia Crisis of 1997/98. I will argue that this long-standing dynamic engendered an anomic social condition, a widespread loss of solidarity and belief in shared values, that constituted a fertile environment for the emergence of anti-liberal attempts of “lawfare” ostentatiously directed against the resultant disenfranchisement of large parts of local society. I will then recount why and how Islam came to be a major ideological foundation for these anti-liberal efforts, alongside various modes of ethno-nationalism. Retracing the progression of the recent Islamisation by law, I will challenge scholarly opinions that have cast it merely as an unintended, yet regionally confined by-product of the decentralisation process initiated by Suharto’s successor, interim-President B.J. Habibie, in 1999. Showing how Islamic norms and institutions had already been accommodated within national legislation at the inception of the independent Indonesian nation state, I will contend that this had early on facilitated a degree of Islamisation by law that eventually brought about a fertile social climate for the further juridification of religion from 1989 onwards, despite a rigorous curtailing of political Islam under Suharto. While I concur that decentralisation did indeed facilitate the rapid juridification of both Islamic and customary norms and institutions since 2001, I argue that, in view of the anomic condition within which the Suharto regime and its collapse had left Indonesian society, it has been the widespread need for a common morality, which ultimately motivated this process. I will support my case with examples of the fall from grace of two icons of Muslim piety. These icons have recently experienced a sudden drop in popularity, even receiving some public bashing from their former admirers, after they violated some extremely sensitive moral standards. Their examples show, I hold, that it is not about Islam as an ideological tool for political ends but all about Islam as

a real moral force guiding everyday behaviour in the face of progressing anomie. Once the former icons of Muslim piety failed their followers' moral expectations, they immediately lost all support regardless of their charisma that constituted considerable value as political capital.

Different Dimensions of Anomie in Post-Independence Indonesia

When Indonesia's economy immediately crumbled under the impact of the Asia Crisis that had started off with the devaluation of the Thai baht in July 1997 (Sadli 2009: 146), the much acclaimed economic success of Suharto's "New Order" regime was thwarted, while at the same time the alleged preoccupation of the Indonesian government with "social harmony" and "equal economic development" was finally unmasked as the rhetorical decorum of his version of rent-seeking crony-capitalism (Baig and Goldfajn 1998: 5; Basri 1999: 31–32; Mulya Lubis and Santosa 1999: 343, 356; McGillivray and Morrissey 1999: 11–12).

What is important for us to realise in this respect is that the "New Order" only bore the semblance of democracy. Already Suharto's predecessor, President Sukarno, had ended the liberal democracy period in post-independence Indonesia that had lasted from 1950, i.e. the year in which the unitary Indonesian nation state had finally received international recognition, until 1957. For, in 1957, Sukarno declared Martial Law with the support of the loyal generals of the Indonesian military in order to deal with rebellious army commanders in secessionist regions. In 1959, Sukarno also dissolved the elected parliament and established the system of Guided Democracy under the strong executive leadership of the President, free of any institutional control because he had grown tired with the vagaries of parliamentary democracy that, to his mind, were intrinsically linked to the political instability favouring the rise of secessionist movements. Law No. 19/1964 provided Sukarno with the authority to interfere at will in any stage of the judicial process for the sake of national interests (Lindsey and Santosa 2008: 9). Impressed by Mao Zedong's success in increasing political stability in China through the swift centralisation of power, Sukarno displayed a growing penchant for the Indonesian Communist Party. By mid-1965, this was to be his undoing. During the night of 30 September to 1 October 1965, anti-communist forces in the military under the leadership of General Suharto allegedly aborted a communist coup. Suharto, quick in seizing power from Sukarno, formally ascended to the presidency in 1967.

He established a "New Order" that was marked by fierce anticommunism. In the years 1965 to 1967, anywhere between 400,000 and one million alleged and actual communists were massacred with the help of Islamic – and Hindu-Balinese – militias (Roosa 2006: 24–25; Lindsey and Santosa 2008: 10–11). The original legal act, under which Suharto was to rule more than thirty years, i.e. until May 1998, was a Presidential Instruction from 3 October 1965, issued by the choiceless Sukarno. The instruction authorised Suharto to restore order, which Suharto continued to do while constantly invoking the "threat of Communism" and thereby endlessly prolonging a "state of emergency" (Benjamin 1965: 84; Agamben 2007: 58–59). Suharto extended the role of the military beyond its task of external defence. The military was henceforth also officially allotted an active role in ensuring internal political stability and the development of the necessary internal conditions for economic development. By the early 1970s, Indonesia's formal legal system was completely controlled by the regime that was firmly backed-up by the military-run security apparatus curtailing civilian legal institutions whenever necessary (Lev 2000: 9).

His success in attaining an unprecedented degree of political stability and economic growth, alongside his staunch anticommunism, provided a sound legitimacy foundation for Suharto's regime in the eyes of the liberal West far beyond the end of the Cold War. Moreover, although Suharto personally had always remained highly ambivalent with regard to economic liberalisation, he had in fact conceded to some deregulation of Indonesia's high transaction cost economy in response to the drop in oil prices in the early 1980s and the pressure of the World Bank and International Monetary Fund (IMF) sponsoring Structural Adjustment Programs that were particularly calling for trade liberalisation. However, Suharto had simply opened up industries, including those vital to the Indonesian people, to foreigners, to the detriment of the economic interests of the local people. Moreover, in order to balance the trade deficit caused by a continuously high import ratio, a licensing scheme had been implemented that same year, which provided ample opportunities for graft and "distributional coalition" (Olson 1982: 65) between foreign investors and members of Suharto's family and its cronies (Soesastro 1989: 854, 856–858, 863; Liddle 1991: 403, 405, 410, 413–414, 418, 421–422; Mulya Lubis and Santosa 1999: 356; Soesastro 2000: 52–53; Connor and Vickers 2003: 164).

While a significant number of Indonesian citizens thus profited from the economic boom to a greater and lesser extent as clients of the rentier class, and not as entrepreneurs in a liberal sense, a considerable part of the population of regions in and beyond Java, i.e. Indonesia's most densely populated and developed island, resented their growing disenfranchisement. Parallel to the dissatisfaction of proletarian labourers, landless farmers, petty peddlers, and local fishermen resenting the disembedding of the economy from local society, there was the growing frustration of the emerging middle class who increasingly felt thwarted in its economic opportunities by the upper echelons of the rentier class, to which they themselves belonged. In 1988/89, that is ten years prior to the fall of ex-President Suharto, the criticism of the increasingly vocal working and middle class, seething differences among the ruling elite, unexpected opposition from within the military leadership, as well as the indirect influence of a growing international pro-democracy climate in connection with the break-down of communist regimes occasioned a political opening of Suharto's patrimonial regime. This opening in turn facilitated the formation of an ever more conspicuous countrywide pro-democracy movement. It consisted of NGOs and forums, such as the Democratic Forum, a coalition of Muslim and Christian scholars, businessmen, and human rights lawyers led by the late Abdurrahman Wahid, then head of Nahdlatul Ulama, the largest Muslim organisation in Indonesia with a membership, at the time, of about twenty to thirty million people. They took issue particularly with the widespread collusion, corruption, and nepotism that was deeply entrenched in the regime. The resultant social injustice had been further aggravated by frequent human rights abuses and the total absence of the rule of law that had made state courts unattractive options for dispute resolution (Soesastro 1989: 853; Uhlin 1993: 517, 519–521, 526, 528; Aspinall 1998: 133; Aspinall 1999: 212, 220; Mulya Lubis and Santosa 1999: 346, 348, 357; Aspinall 2005: 51–56). The pro-democracy movement called for a political and legal reform in order to re-embed the economy into local society and to reverse the growing anomie of the state that seemed to have long divested itself from any semblance of morality. Many located the cause for the high degree of corruption and non-solidarity of the nation's elite in the increasing influence of the immoral Western culture marked by individualism, hedonism, indecency, the privatisation of religion, and the concomitant loss of collectively shared religious norms regulating individual behaviour (see also Schoenfeld 1990).

On 21 May 1998 – in the midst of the Indonesian monetary crisis – Suharto was finally forced to step down as president. His successor, interim-President B.J. Habibie initiated a far-reaching governance reform that sought to address the major concerns of the pro-democracy movement and to mend the deplorable state of the Indonesian economy. In the course of the reform, which was implemented during the presidencies of Abdurrahman Wahid (1999–2001) and Megawati Sukarnoputri (2001–2004), a significant number of legislative, administrative, and fiscal powers were devolved from the centre to the regions. By 2004, the reform had thus turned Indonesia from a highly centralised patrimonial state into a largely decentralised liberal democracy.

Already during Habibie's legislature, state control on press freedom had been lifted, Suharto's children were deprived of their former access to licenses, concessions, and credit, political prisoners were released from their sentences, etc. In a series of four constitutional amendments (Lindsey 2008: 24–40) and enabling legislation, the Indonesian military was stripped of its representation in parliament, and the legislature was made entirely elective. The resultant parliamentary structure was supplemented with a Constitutional Court that has the authority to rule on the constitutional validity of any piece of legislation. A new Bill of Rights gave Indonesia's citizens for the first time a legislative basis for claiming human rights. Although the office of president has remained the top rank of the executive, the office holder has been far more dependent on parliament than before. Since 2002, the president has been chosen directly by the electorate.

Yet, how has the majority of the Indonesian citizenry so far responded to these reforms? Gauging the situation, we have to bear in mind that many members of the highly heterogeneous pro-democracy movement were suspicious of the increasing influence of Western donor institutions during and after the Asia Crisis (Li 2009: 240; Ramstedt 2009: 329). There was widespread outrage over the recommendations of the IMF that seemed only to exacerbate the deplorable situation of those people suffering the most from the effects of the crisis, the urban poor and the middle class. Decentralisation promised greater participation of local society in political and economic decision-making processes. And local electorates everywhere in Indonesia used the legislative means in order to ensure that future economic progress would not further the influence of Western culture, including political culture, which had helped to bring on Indonesia's anomie in the first place. Given the still publicly repressed trauma of the communist purge and the atrocities committed in its wake, the unspeakable corruption of the legal, bureaucratic, and military system under Suharto spilling over into the post-*reformasi* era, the relentless appropriation of local commons by Suharto's "family firm", the many human rights violations of his regime, economic deregulation that even accelerated under the recent governance reform, plus the fact that Indonesia's middle class has constituted itself less from among enterprising businessmen and intellectuals than from the clientele of Indonesia's rentier class who are unaccustomed to the vagaries of an ever globalising market, it is not surprising that the momentum of democracy inherent in decentralisation has frequently been used in such a way as to construct legal barriers against the further liberalisation of economy and culture that might enhance the anomic condition of present-day Indonesian society.

It is noteworthy in this respect that Indonesia's transition, between 1999 and 2002, from a strongly centralised and unitary form of governance to a highly decentralised one entailed intense spells of violent inter-ethnic and inter-religious conflict in different regions (Kalimantan, Moluccas, Central Sulawesi, Lombok, and to a certain extent Bali and West Irian/Papua) attesting to a widespread need to assert local identity. While in the following years, the violence largely subsided, efforts of asserting local identities have continued throughout the country in the form of revitalising

local customary law as well as traditional monarchies. Parallel to this development, we have witnessed an accelerating normative and institutional recognition of Islam in Indonesian state law that has impacted negatively on the aforementioned inter-ethnic conflicts, in which the indigenous populations with different religious backgrounds have invariably turned against the local Muslim migrant communities who then tended to receive both ideological and violent support of Muslim hardliners from other parts of the country.

Islamisation by Law and the Juridification of Religion in Post-New Order Suharto

Full-blown measures to Islamise by law had actually already set in when, in 1989, Suharto started to court Indonesia's Muslim majority in order to attenuate criticism from the pro-democracy movement and to acquire a new mass base in the face of his growing differences with the military leadership hitherto dominated by Christian and secularist Indonesians. Evidence for the ensuing Islamisation of Indonesian society was the foundation of the Association of Muslim Intellectuals (*Ikatan Cendekiawan Muslim Indonesia [ICMI]*) in 1990. It was chaired by Suharto's protégé, the Minister of Research and Technology B.J. Habibie, who was instrumental in the rapid invasion of the ranks of the Indonesian bureaucracy by *ICMI* members (Bruinessen 1995: 1, 15; Ramage 1997: 42, 75–121; Hefner 2000: 153–160, 163–166; Zuhdi 2006: 423; Hosen 2007: 72–75; End and Aritonang 2008: 217–218; Lindsey and Santosa 2008: 14). In 1992, the latter already dominated the cabinet and the ruling party. The rise of *ICMI* was reflected in an increasing normative and institutional accommodation of Islam in Indonesia's state law that amounted to a major shift in the Indonesian nomosphere, that is, in the specific closely intertwined social, spatial, and temporal materialities that are produced by as well as constitute particular legal practices (Delaney 2004: 848, 851–852; Delaney 2010: 8, 16, 25).

This shift was a rupture with the earlier political culture of equal public representation of the five religious communities then recognised by the Indonesian state (Islam, Protestantism, Catholicism, Hinduism, and Buddhism). Law No. 2/1989 on the National Education System, for instance, obliged the government to provide appropriate funding for the private Islamic schools hitherto only supervised and not sponsored by the Ministry of Religious Affairs (Zuhdi 2006: 416, 418, 423–424), whereas various Hindu colleges in Java, for instance, had to stop operation for want of sufficient state funding.³

Law No. 7/1989 on Religious Judicature then initiated the upgrading of the traditional Islamic courts. Islamic courts had already existed prior to independence under the auspices of the colonial Ministry of Justice, and so, to give another example from Indonesia's less well-known Hindu minority, had Balinese courts operating according to the Dutch colonial construction of Balinese customary law. After independence, the Islamic courts were allowed to continue under the supervision of the Ministry of Religious Affairs, with judicial authority only pertaining to matters of family law, by 1953, while the Balinese courts, which were regarded as colonial products designed to promote the interests of the Balinese aristocracy, had been dismantled on the grounds of Emergency Law No. 1/1951 on Preliminary Steps towards the Unification of the Organization, Authority and Portfolio of the Civil Courts (Lev 2000: 56–59). New national courts were set up instead, while the Islamic courts, as I said, continued. Law No. 7/1989 now raised the judicial authority of the

³ Interviews with Hindu officials in Blitar (East Java) and Klaten (Central Java), where the schools had formerly operated, over the course of three consecutive field-trips in 1997, 1998, and 1999.

Islamic courts to the level of civil and military courts and called for the compilation of Islamic jurisprudence. The latter was compiled with the help of all Indonesian Muslim organisations and then enacted by Presidential Instruction No. 1/1991 (Djalil 2006: 107–146; Hooker 2008: 17–25).

Two years later, the Ministry of Education and Culture lifted its ban from 1982 (*Surat Keputusan 052/C/Kep/D/82*) against the wearing of headscarves (*jilbab*) in state schools through *Surat Keputusan 100/C/Kep/D/1991* (Liddle 1996: 614; Alatas 2008). In the following year, *Bank Muamalat* was established as the first Indonesian bank operating according to Islamic principles as a consequence of Law No. 7/1992 on Islamic Banking. In the course of the following years, every major Indonesian bank opened an Islamic branch (Aspinall 2005: 40; Nurdin 2005: 33; Hooker 2008: 38–39).

At the same time, on some University campuses, Wahhabi influence, i.e. an extremely puritan form of Salafism originating from Saudi Arabia, became increasingly palpable. It was mediated by Indonesian alumni from Saudi Arabian universities, Indonesian students of Saudi or Yemenite Muslim scholars (*ulama*), and alumni of the Saudi-financed Institute for Islamic and Arabic Studies (*LIPIA*) in Jakarta (Bruinessen 2002: 11–12). The Islamisation of Indonesia's public sphere went hand in hand with increasing discrimination against religious minorities, particularly in Java, South Sulawesi and North Sumatra, partly with the support of the government-controlled Indonesian Council of Islamic Scholars (*MUI*). In 1996, several riots broke out in which Christian churches and a Buddhist temple were burnt down. Several of my Hindu interlocutors in South Sulawesi and Java mentioned vandalism against their temples. The hitherto fairly harmonious co-existence of Indonesia's religious communities was clearly disturbed (Hyung-Jun 1998: 370; Ramstedt 2004a: 20; Beatty 2009).

With the implementation of the legislation on regional autonomy in 2001, a rapid juridification of religion occurred in Aceh following Parliamentary Decision No. IV/MPR/2000 on Strategic Recommendations for the Implementation of Regional Autonomy, which became the source for Regional Regulation No. 5/2000 on the Implementation of Islamic Law stating that all aspects of the *shari'a* were to be applied in Aceh. As a result, a *shari'a* office and a *shari'a* enforcement body, i.e. a kind of *shari'a* police called *Wilayatul Hisbah* working in conjunction with the secular police forces, were established in the same year. The regulation was reconfirmed by Law No. 18/2001 on Special Autonomy Law for Aceh, which gave the Regional Parliament of Aceh the authority to issue bylaws "based on the *shari'a*". It furthermore invested the Deliberation Council of Muslim Scholars (*MPU*) of Aceh, instituted on the basis of Regional Regulation No. 3/2000 and Update Regional Regulation No. 43/2001 on the Formation of a regional Council of Muslim Scholars, with legislative authority and the authority to supervise and to review the implementation of regional policy in accordance with the *shari'a*.

Regional Regulation No. 10/2002 on the *Shari'a* Courts then empowered Islamic courts in Aceh to extend their jurisdiction to business contracts and other economic transactions as well as to apply *hudud*, the strictest of three categories of Islamic penal law involving corporeal punishment, to criminal offenses. Regional Regulation No. 11/2002 criminalised breaches of Islamic orthopraxy, by stipulating that flogging should be enacted on people who propagate deviant sects or cults (12 lashes), failure to observe the Friday prayer three weeks consecutively without religiously legitimate reasons (3 lashes), instigating Muslims to break fast during Ramadan (6 lashes), or to eat and drink in public during the day on Ramadan (2 lashes).

In 2003, a number of Regional Regulations continued the Islamisation of and by law in Aceh: No. 12/2003 on the Prohibition of Liquor, No. 13/2003 on the Prohibition of Gambling, and No. 14/2003 on the Prohibition of Close Proximity between Men and Women Who are Unrelated or Not Married to One Another. Regional Regulation No. 7/2004 on the Management of Alms (*zakat*) allowed for setting up a regional treasury to which also the fines for *shari'a* offenses have been paid. Existent legal ambiguities and lacunae in the implementation of *shari'a* were finally amended by Law No. 11/2006 on the Governance of Aceh, particularly Chapter XVII, Articles 125–127 on Islamic Law and Its Implementation, Chapter XVIII, Articles 128–137 on *Shari'a* Courts, and Chapter XIX, Articles 138–140 on the Deliberation Council of Muslim Scholars (Djalil 2006: 169–173; ICG 2006: 1, 4–6, 11–13; Simarmata 2006: 123; Hooker 2008: 246–251, 258; Salim 2008: 152, 155, 157–158, 176).

Other regions were also trying to incorporate the *shari'a* into their local jurisdiction. In the wake of the 2000 Mujahedin Congress in Yogyakarta attracting more than a thousand Muslim activists from all over the country discussing possibilities of introducing the *shari'a* at the national level, a Committee for the Preparation of the Enforcement of Islamic *shari'a* was formed in South Sulawesi. It drafted a special autonomy law for the province-wide implementation of the *shari'a* (Hooker 2008: 259–264). While special autonomy was not accorded to South Sulawesi, which is also home to other faith communities, several districts and towns have successfully enacted *shari'a*-based bylaws. Taking the lead, the District of Bulukumba issued a number of Regional Regulations that require both men and women to wear Islamic dress, which for the former means wearing a Muslim shirt called *baju koko*, and for the latter donning the veil. Moreover, those who want to obtain a higher education or be married are obliged to be literate in the Qur'an. Liquor, gambling, and prostitution are now strictly forbidden, and alms giving (*zakat*) is no longer voluntary but compulsory, as it is now a religious practice legally required for all Muslims to be performed. The implementation of these regulations was pioneered in twelve villages under the jurisdiction of the District. Altogether 78 of such bylaws have meanwhile been introduced in altogether 52 out of a total of 470 districts and municipalities throughout Indonesia, like in the West-Javanese cities of Banten, Tasikmalaya, Tangerang, and Cianjur, the West Sumatran town of Padang, and other West Sumatran districts (Benda-Beckmann 2006: 247–248; Warburton 2007; Bush 2008: 2–4, 10; Hooker 2008: 264–281; Platzdasch 2008; Rumadi n.d.; Rumadi 2008: 3–6).

This high degree of accommodation of Islam in Indonesian state law constitutes a striking paradox when juxtaposed with the results of the 1999, the 2004 and the 2009 General Legislative Elections in Indonesia. 48 political parties stood for the 1999 General Legislative Elections and could campaign as they pleased. They ranged from avowedly pluralist and social democratic parties to openly Islamist ones that advocated the implementation of the *shari'a* as part of state law valid only for Muslims. 14 parties were Islamic in the sense that their party programme was explicitly based (*berasas*) on Islam. Only 21 of the 48 parties won seats in the People's Representative Council. Seven of them were Islamic parties: PPP (i.e. *Partai Persatuan Pembangunan* or Unification and Development Party with a voter turnout of 11.8%), PBB (i.e. *Partai Bulan Bintang* or Moon and Star Party with a voter turnout of 2.6%), PK (i.e. *Partai Keadilan* or Justice Party with a voter turnout of 1.2%), PNU (i.e. *Partai Nahdlatul Ummat* or Islamic Awakening Party with a voter turnout of 0.6%), PKU (i.e. *Partai Kebangkitan Umat* or Resurrection of the Islamic Community Party with a voter turnout of 0.2%), PSII (i.e. *Partai Syarikat Islam Indonesia* or Alliance of Indonesian Islam Party with a voter turnout of 0.2%), and PP (i.e. *Partai Persatuan* or Unification Party

with a voter turnout of 0.2%). Altogether, the Islamic parties achieved a total voter turnout of 16.8% (*Pemilihan Umum* 1999: 89; Pompe 1999: 28–41, 80–82, 85–89, 119–122, 125–129, 151–152).

The number of political parties standing for the 2004 General Legislative Elections was considerably smaller than five years earlier. This was due to a new election law which allowed only those parties among the original 48 that in 1999 had won 2% of the seats in the People's Representative Council, or 3% of the seats in the provincial legislatures in half of Indonesia's provinces, or 3% of the seats in district legislatures in half of Indonesia's regencies and municipalities. Only six parties met this requirement, and the remaining ones had to merge or reorganise into new parties. Finally, altogether 24 parties stood for election, of which only five were Islamic parties (*PPP* and *PBB* who had survived the new election law, *PKS* or *Partai Keadilan Sejahtera*, i.e. Justice and Welfare Party, *PBR* or *Partai Bintang Reformasi*, i.e. Star of the Reform Party, and *PPNUI* or *Partai Persatuan Nahdlatul Ummah Indonesia*, i.e. United Awakening of Indonesian Islam Party). Together, the Islamic parties achieved a total voter turnout of 21.2%. It was significantly higher than the total Islamic voter turnout of the 1999 General Legislative Elections, but it was still by far unable to threaten the pluralist national consensus of the majority of Indonesia's electorate voting for secular parties (Ananta, Arifin, Nurvidya and Suryadinata 2005: 22).

Sixty parties registered for the 2009 General Legislative Elections. Yet, only 38 of them met the necessary requirements, seven of which were Islamic parties (i.e. *PKS*, *PPP*, *PBB*, *PKNU* or *Partai Kebangkitan Nasional Ulama*, i.e. National Resurrection of Islamic Scholars Party, *PBR*, *PMB* or *Partai Matahari Bangsa*, i.e. Sun of the People Party, and *PPNUI*). Their total voter turnout was 18.2%, 3% less than in 2004. It is noteworthy, though, that the Islamist and very efficiently organised *PKS* scored highest among all the Islamic parties. Gaining 10.54% of the seats, the *PKS* even attained the fourth rank behind President Yudhoyono's Democratic Party (*PD* or *Partai Demokrasi*), *Golkar*, and Megawati Sukarnoputri's Indonesian Democratic Party-Struggle (*PDI-P* or *Partai Demokrasi Indonesia-Perjuangan*).⁴

Due to the low voter turnout for the Islamic parties, some scholars⁵ have downplayed the Islamisation of Indonesian state law, arguing that first of all the legal accommodation of Islam has only taken place on the level of regional regulations. In order to understand the significance of their argument, let us briefly turn to the hierarchy of legal regulations in post-New Order Indonesia. In August 2000, the Indonesian Parliament issued a new hierarchy of legislation (e.g. Hosen 2007: 209–210):

- Indonesian Constitution of 1945 (*Undang-undang Dasar 1945*)
- Parliamentary Decrees (*Ketetapan MPR*)
- Laws (*Undang-undang*)
- Government Regulations Substituting Laws (*Peraturan Pemerintah Pengganti Undang-undang*)
- Government Regulations (*Peraturan Pemerintah*)

⁴ Cf. http://mediacenter.kpu.go.id/images/mediacenter/berita/SUARA_KPU/HASIL_PENGHITUNGAN_SUARA_SAH.pdf, accessed on 3 April 2010.

⁵ E.g. Bill Watson, invited discussant at the 2009 international workshop on *Religion in Dispute and Conflict Resolution: cases from post-new order Indonesia* that I co-convened with Fadjar I. Thufail in Lembang (Indonesia), emphatically denied that the Islamisation of Indonesian state law had reached a significant level. Franz and Keebet von Benda-Beckmann have also been sceptical of what I have called the Islamisation of and by law.

- Presidential Decrees (*Keputusan Presiden*)
- Regional Regulations (*Peraturan Daerah*)

Regional regulations are indeed at the lowest end of the official hierarchy of statutes. The aforementioned scholars furthermore claimed that *shari'a*-based regional regulations have exclusively been issued in those areas that had a predominantly Muslim population with a leaning towards political Islam since colonial times. Due to the fact that a certain amount of legislative powers has been devolved to the regions in consequence of the 1999 legislation on Regional Autonomy initiated by B.J. Habibie's legislature, the issuance of *shari'a*-based regional regulations would have to be entirely regarded as an effect of the decentralisation process, driven by the need to reassert local identity. For example Robin Bush, the Asia Foundation's Country Representative until November 2011, stated in a paper from 2008 that the flood of *shari'a*-based regional regulations has peaked between 2001 and 2003 and appeared to be waning thereafter (Bush 2008: 178, 191). She defined four key factors (Bush 2008: 182–190) that, for her, accounted for why regional politicians and executives had been pushing for these regulations:

1. Importance of religion in the history of local culture and society, as 50 out of the 78 regulations had been issued in former strongholds of the secessionist *Darul Islam* movement of the 1950s (Aceh, West Java, and South Sulawesi)
2. Religious legislation was issued as a means to distract from or obfuscate corruption; moreover, the new *shari'a*-based regulations have provided local officials with additional opportunities for graft as some have offered to lift regulations in exchange for certain "gifts" or "fees"
3. Religious legislation has also been a strategy of local electoral politics, such as when heads of regions want or – in cases of coalition negotiations need – to "prove" their Islamic credentials by opting for what they think is a populist legislation
4. Religious legislation has occasionally resulted from a lack of technical governance capacity at the local level, such as poor literacy and drafting skills on the part of local legislators; this factor is indeed borne out by the fact that more and more heads of local governments and local party leaders welcome assistance in drafting new legislation.

Scholars like Bush are justified in saying that, in consequence of decentralisation, those areas known as traditional strongholds of Islam have used their newly acquired legislative powers to issue *shari'a*-based regional regulations. The issuance of the latter, however, has not stopped in 2007. A case in point is Regional Regulation No. 12/2009 of the Municipality of Tasikmalaya stipulating that the normative order of the local society is rooted in the teachings of Islam. Meanwhile, the legislature of Tasikmalaya has formed a *shari'a* police unit with the assignment to enforce the regulation.⁶ At the time of finalising this paper, i.e. June 2012, the city of Tangerang is about to issue a regional regulation forcing both Muslim and non-Muslim women, Indonesian citizens as well as foreign visitors, to don the headscarf. What is more, as I will demonstrate further below, the accommodation of Islam in state law has not stopped at the level of regional regulations. While I

⁶ Cf. *DPR Pertanyakan Dasar Hukum Pembentukan Polisi Syariah di Tasikmalaya*, available online at <http://berita.plasa.msn.com/nasional/okezone/dpr-pertanyakan-dasar-hukum-pembentukan-polisi-syariah-di-tasikmalaya>, accessed on 10 June 2012.

concede that the points mentioned by Bush have also played a role, I argue that the root cause for what can be called attempts at Islamising Indonesian society by law lies in a need, obviously shared by a large part of the Indonesian citizenry, for a reversal of the on-going anomic situation, a need for ultimate values derived from what, to many, seems an incorrupt source, i.e. religion and ethnic tradition, on the basis of which social order can be re-established locally; hence the parallelity of the emergence of *shari'a*-based regulations and the revival of customary law traditions and traditional monarchies in the archipelago. It is noteworthy in this respect that, while the customary law of village traditions has already attained a significant degree of legal recognition, as the institutions of the Indonesian villages are generally considered not to be in contradiction with democracy, the monarchies are currently seeking legal protection as customary (*adat*) institutions too.⁷ At the time of independence, they had been deemed incompatible with the democratic character of the Indonesian Republic (with the exception of the Sultanate of Yogyakarta due to the eminent role of Sultan Hamengku Buwano IX in the Indonesian Independence Movement), and their power and privileges had been taken away from them. In the current climate favouring the revitalisation of local customs, however, they have already gained some clout as valuable guardians of ethnic traditions.

The revitalisation of local customary law through the integration of re-modified versions of it into state law in regions that had retained their customary law traditions in some form or another until the end of the Suharto-era has constituted a clear attempt of re-embedding the economy into the institutions of local society, by securing access to local resources and resource management for local citizens. This has been substantiated by research on West Sumatra, Bali, South Sulawesi, and Minahasa (cf. e.g. Benda-Beckmann and Benda-Beckmann 2009; Ramstedt forthcoming; Schulte Nordholt 2007; Jong 2009; Thufail 2011; Thufail forthcoming; Davidson and Henley 2007). The research on Bali and Papua has furthermore shown that the revitalisation of local customary law traditions under the heading of “Hindu law” in the case of Bali (Ramstedt 2009: 345, 351) and the attempt of establishing Manukwari in West Papua as a Christian zone through the issuance of a respective regional regulation, a so-called *Perda Inji* (Warta 2011: 81–84), had received a boost by the increasing Islamisation of the public sphere in Indonesia. The growing accommodation of Islamic orthopraxy in regions, where Islam had been strong for generations, attests to a similar need of empowering the local population through a re-conceptualisation of local citizenship on the basis of *shari'a*-based regulations.

Before I substantiate my claim that the Islamisation of Indonesian state law has already for some time reached the national level, I am going to deal with the question of why Islam has apparently constituted a valid source of moral rejuvenation after the fall of Suharto. I argue that earlier phases of juridifying religion in Indonesia had already privileged Islam, a process that had simultaneously led to a certain degree of disembedding religion from local society, prompting a transformation of local notions of religion, and the Islamisation of the moral space of the Indonesian nation. As religion and ethnic tradition remained the only legitimate sources of morality under Suharto, as I have argued above, Islam provided a salient platform for mass-based opposition to the “New Order” regime. After two decades of repression of political Islam and rigorous control of religious organisations, Suharto suddenly turned coat, as it were, and started to court the new Muslim middle class. Between 1990 and 1998, his regime issued new legislation that was marked by an increasing normative and institutional recognition of Islam. All these developments eventually enabled the further Islamisation of state law to take place in post-Suharto Indonesia, not only at the regional but also at

⁷ Cf. *Eksistensi Keraton: Kerajaan dan Kesultanan Belum Dilindungi*. In: *Kompas* (July 9, 2012): 23.

the national level (i.e. the accommodation of Islam, if obliquely, also at the constitutional level and, more pronounced, in *undang-undang*, that is, not only in *peraturan daerah*).

Excursion:

First Phase of the Juridification of Religion at the Inception of the Indonesian Republic

A first phase of juridifying religion had already taken place when Indonesia was constituted as a unitary nation state during the “Indonesian Revolution”, i.e. during the struggle for independence from the Dutch, who had returned to Indonesia in 1945/46 to reclaim their former colony. Around the time of the unilateral declaration of independence in 1945 and again after the attainment of full international recognition as an independent state in 1950, representatives of the Indonesian Independence Movement were faced with the task to draft a basic law or constitution as the basis for further legal provisions that would help to forge a unified nation out of the more than 900 larger and smaller ethnic groups that then populated the archipelago. These groups were speaking more than 250 local languages, even more dialects, and adhered to all the major world religions as well as a plethora of ethnic cosmological-cum-ritual systems. While an extremely heterogeneous Islam was indeed a dominant creed, Muslims did not yet make up the majority of the population. Various of my Javanese interlocutors, all members of different Javanese mystical groups, whom I met in Solo, Klaten, Yogyakarta and Jakarta in the period between the late 1990s and 2011, expressed the opinion that there had been only about 46 per cent of followers of orthodox Islam during the time of the Indonesian National Revolution, that is, between 1945 and 1949. In Java alone, there were a large number of adherents of Javanism (Hefner 2000: 15, 175; Ramstedt 2004a: 3), i.e. a container term for different forms of syncretistic mysticism drawing from Sufism, the old Javanese Hindu-Buddhist heritage, and local, so-called “animist” cults. There were also many with communist leanings who, while not necessarily being atheist, were certainly not orthodox Muslim practitioners.

The success of the whole project of drafting the Indonesian constitution certainly hinged on finding the right balance between integrative measures and the accommodation of pluralism. This was no easy task, for the Independence Movement had not consisted of a homogeneous group of “revolutionaries” but of three broad ideological strands: (1) secular nationalists of Javanist orientation and non-Javanese with a Christian background; (2) communists and socialists; and (3) modernist Muslims. Consequently, there were distinct ideological divisions of those who favoured a unified secular law code, those preferring a more pluralist secular law code that accommodates norms from local customary law traditions, and those lobbying for a prominent place of the *shari’a* in the new constitution.

After the capitulation of the Japanese in 1945, an Investigative Body for the Preparatory Efforts for Independence was formed under the leadership of future President Sukarno. The majority of the representatives endorsed the vision of a pluralist secular law code, despite hot debates on the issue of an Islamic state instigated by proponents of an Islamic theocracy. However, the underlying principle of the decision-making was unanimity, and not majority. Some normative recognition of Islam had thus to be made. Sukarno eventually proposed five unifying principles as a kind of “civil religion” (Bellah 1970: 168–186) to be the foundation of independent Indonesia: Social Justice, National Unity, People’s Sovereignty, Belief in God, and Humanitarianism. “Belief in God” clearly made monotheism one of the pillars of the future Indonesian state. It was, however, an unspecific monotheism equally affirming the beliefs of Muslims, Javanese mysticists, and Christians.

The majority of representatives accepted Sukarno's proposal enthusiastically. The proponents of an Islamic state, however, while realising that their full aspirations could not be fulfilled, kept arguing in favour of a larger constitutional role of Islam. In the end, a special committee of nine representatives achieved a gentlemen's agreement which came to be known as the "Jakarta Charter" (*Piagam Jakarta*) consisting of the following addition to the First Principle, "Belief in God": "with the obligation for Muslims to observe the *shari'a*". Interestingly, when the constitution was finally read out on August 18, 1945, "Belief in God" had been reformulated as "Belief in the One, Almighty God", thus constituting an unambiguous normative recognition of the *Tauhid*, i.e. the Islamic principle of the Oneness of God. Moreover, it had become the first and thus the most foundational principle of the five (*Pantja Sila*). Yet, the Jakarta Charter had been omitted, allegedly because of rumours that the Eastern part of the archipelago with its largely Christian population would not join an Islamic country (Ramstedt 2004a: 2–5; Hosen 2007: 60–65; Hooker 2008: 6; End and Aritonang 2008: 187–193; Salim 2008: 60–69).

With the international recognition of Indonesian independence and the eventual formation of a unitary state in 1950, a new constitution was drafted which retained the five foundational principles of the 1945 Constitution in an unaltered form. The 1950 Constitution lacked legitimacy because no general elections had been held to confirm it. When general legislative elections finally took place in 1955, the Muslim parties together won only 101 out of the 260 parliamentary seats. In 1956, a new Constituent Assembly was formed from among the delegates of the newly formed Parliament proportionally representing its factions. The delegates' votes again clearly tipped the balance in favour of the anti-Islamist parties representing secular nationalists, Christians, socialists, and communists. When, in 1959, the Islamic faction pushed through a voting on the Jakarta Charter, they again lost with 201 against 265 votes. Meanwhile, Sukarno had proposed to reinstitute the 1945 Constitution in order to end what many perceived as the increasing political and ideological fragmentation of the state in the face of various separatist movements, amongst which the *Darul Islam* rebellion in Aceh, West Java, and South Sulawesi was the most prolonged. However, the majority of parliamentarians did not accept Sukarno's proposal, and he resorted to dissolving the Constituent Assembly and reinstalling the 1945 Constitution. He then launched the totalitarian system of "Guided Democracy" with himself as its lifelong President (Ramstedt 2004a: 8, 13–14; Hosen 2007: 65–69; End and Aritonang 2008: 194–200; Salim 2008: 85–86).

Due to the very preliminary and conciliatory character of the 1945 Constitution, the First Principle of its preamble as well as Articles 18 and 29 contain provisions on religion that proved to be somewhat ambiguous, if not outright contradictory. These discrepancies have fed into conflicts between state and religious communities as well as inter-religious conflicts and debates until today. Without a defining Islamic framework, the First Principle of the "Belief in the One, Almighty God" as repeated in Article 29 (*HPPURI* 1992: 1) still remained rather unspecific for orthodox Muslims, as it still allowed for the inclusion of heterodox Javanist mysticism, which is considered heresy (*bid'ah*) by orthodox Muslims. The article provided no theological or philosophical criteria for deciding, which creeds amongst the plethora of belief systems to be found in Indonesia would not be consistent with the principle; nor was there any mention made as to which authority would make such a decision. This issue was particularly grave because of the second paragraph of Article 29 granting every citizen the freedom to fully embrace his or her religion, and to worship in accordance with his or her religion and belief (*HPPURI* 1992: 3). The paragraph implied that government would have no right to interfere with the religious life of citizens, which was increasingly alarming

to many Muslims because no provision was made either concerning the freedom to proselytise and to convert, a freedom that was at the time successfully embraced by Christian missionaries.

Article 18 further complicated things, as it stipulated that the legislation on regional administration should be drafted on the basis of democratic deliberations and by taking into account the customary laws of those regions that have a special cultural character (*HPPURI* 1992: 2). This stipulation in fact confirmed the validity, if limited, of countless local traditions, many of which, albeit not all, were rooted in sacred cosmologies based on ancestor worship as well as animist and/or polytheist beliefs and practices. Article 18 thus evidently jarred with the prescribed “Belief in the One, Almighty God”. It nevertheless received some constitutional reinforcement through Article 32 demanding that Government is to provide for the development of a national Indonesian culture (*HPPURI* 1992: 4); and the official commentary to Article 32 indeed envisioned the future national culture as an amalgamation of the best parts of local traditions and useful foreign elements.

Another point of contention was the religious affiliation of the president (e.g. Salim 2008: 67). Article 9 specified that both the president and the vice-president should either take their oath according to religion or “in a sincere fashion” (*HPPURI* 1992: 2). The addition “in a sincere fashion”, to Islamists, seemed to present a loophole for foregoing religion in favour of a secular oath, thereby compromising the religious foundation of the state.

All these constitutional inconsistencies and ambiguities were enhanced through further legislation by successive cabinets. However, right from the outset of the fledgling Republic, a Ministry of Religious Affairs was established on the basis of Government Decree No. 5/1946. In an attempt to appease political Islam, it was placed in the hands of Haji Mohamad Rasjidi, a Salafi and alumni of the famous Al-Azhar University in Cairo, who initiated Law No. 22/1946 on the Administration of Marriage and Divorce. Although the law only stipulated the compulsory registration of marriage, divorce, and reconciliation, it did contain regulations that forced administrators to take into account relevant aspects of Islamic law (Nasution 2005; Salim 2008: 74). Rasjidi’s initiative was thus the first oblique attempt of further normative recognition of Islam by the state for administrative purposes, despite the fact that Article 29 of the constitution forbade any conflation of religion and governance on the part of the state.

With the integration of predominantly Christian Eastern Indonesia and Hindu Bali into the unitary nation state in 1950, the Ministry of Religious Affairs – which has remained under Muslim direction until today – had to embrace some degree of religious pluralism. Its Decree No. 9/1952, however, significantly curtailed those interpretations of the First Principle which ran counter to Islamic sensibilities by classifying Indonesia’s numerous religious traditions into two categories: (1) religion proper (*agama*) in the form of universal monotheistic creeds that, by an additional decree from 1959, had to have been revealed to holy prophets in a holy book, and (2) non-religious so-called currents of belief (*aliran kepercayaan*), largely based on indigenous concepts and practices. Shortly before his downfall, Sukarno issued Presidential Decision No. 1/1965 on the Prevention of Blasphemy and Abuse of Religions, in which he defined Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism (later denounced as such by Suharto)⁸ as “religion”, and recommended that the mystical groups should return to their source religion, meaning Islam. He

⁸ It is instructive to see that, when Confucianism was eventually rehabilitated as “religion” in 2006 (e.g. Tsuda forthcoming), again strictly conformed to the official definition of “religion” in the presentation of its tenets, practices, and organization (Winarso 2008).

thereby provoked a landslide of conversion (Hyung-Jun 1998: 362-364; Suwandi 2000: 27, 30; Grave 2001: 10–11, 23–24, 80; Howell 2004: 2–3; Ramstedt 2004a: 9; Yang 2005: 2).

In late 1965, the rigorous purge of communism by General Suharto seeking to establish his “New Order” regime triggered further conversions, mostly to Christianity and Islam and to a lesser degree to Hinduism and Buddhism. After Suharto had formally succeeded Sukarno as president in 1968, he turned Sukarno’s Presidential Decision No.1/1965 into Law No. 5/1969 requiring every citizen to officially register his or her religious affiliation with the local authorities. Henceforth, people’s religious affiliation was specifically indicated in their identification cards. This caused another wave of conversions, which specifically concerned adherents of ethnic belief systems that were not acknowledged as “religion proper” by the state. Hence, adherents of ethnic belief systems were classified as “atheist”, and were thus threatened with being treated as “communists”. As many adherents of Javanism and ethnic religions outside of Java had indeed supported the Indonesian Communist Party, this reasoning is not so far off, politically speaking, as it appears to be at the surface (e.g. Bruinessen 1995: 6; Ramstedt 2004a: 16–17).

At the same time, political Islam was subjected to strict regulation. A movement to bring up the issue of the Jakarta Charter in the 1968 General Parliamentary Assembly failed. Further attempts were effectively stifled through the introduction of a heavily policed three-party system in 1973 that forced the heterogeneous voices of political Islam into the moderate United Development Party (*PPP*), thereby blunting its radical edges. In 1975, the government furthermore founded the Indonesian Council of Muslim Scholars (*Majelis Ulama Indonesia* or *MUI*) with local dependencies in almost every province of the country, whose members – representing ten Muslim organisations, the Islamic Spiritual Civil Service, as well as the spiritual offices in the Indonesian military and police – were appointed by the state. *MUI*’s task was to provide Islamic support and legitimacy for the government’s development policies, involving the issuance of fatwas (Arab. *fatawa*, i.e. legal opinions by Islamic law scholars), which often jarred with the views of the larger Muslim community (Bruinessen 1995: 6; Ramage 1997: 29; Ramstedt 2004a: 15–16; Hooker 2008: 30; Ma’ruf Amin et al. 2011).

Potentially disruptive “religious propagation” through proselytising had already been denounced by Suharto in 1967. A further step in that direction was the Joint Decision No. 1/1969 of the Ministry of Religious Affairs and the Ministry of Home Affairs, which provided that permission for the construction of a “house of worship” could only be obtained from the government (Hyung-Jun 1998: 366). Finally, Decree No. 70/1978 by the Ministry of Religious Affairs interdicted proselytising through pamphlets, magazines, books, door-to-door visits, or enticement on the basis of money, food, medicine, and the like amongst members of other denominations (Hyung-Jun 1998: 368–369; End and Aritonang 2008: 207–208). In 1978, when the Khomeini Revolution in Iran threatened to rekindle Islamist movements in Indonesia, particularly among university students, the Parliamentary Decree No. 2/1978 on the Revitalization and Application of the Five Principles (*Pantja Sila*, meanwhile spelled *Pancasila*) was to reinforce the observance of religious tolerance in all public institutions, including institutionalised religion. At the same time, Decree No. 77/1978 by the Ministry of Religious Affairs prohibited religious organisations in Indonesia from receiving funding from abroad. In this way, a tight lid of “harmony” was enforced on the boiling pot of inter-religious relations, while both national and international Islamist aspirations in Indonesia were strongly discouraged.

Anti-Islamist policies were stepped-up in 1983 with a Parliamentary Regulation declaring the Five Principles as the sole philosophical foundation of all “social organisations”. Law No. 8/1985 finally applied the term “social organisation” also to religious communities that then had to embrace the Five Principles as their sole ideological foundation. Islamic exasperation over the fact that the state was trying to force Muslims to regard the man-made Indonesian civil religion as superior to divine revelation escalated into the so-called Tanjung Priok riots of 1985 in which possibly hundreds of Muslim protesters were killed by military police. The massacre inaugurated a period of withdrawal from politics on the part of Indonesia’s major Islamic organisations that then focused on the improvement of religious education and personal devotion (Bruinessen 1995: 3, 11-12; Ramage 1997: 37, 54; Hyung-Jun 1998: 367–368; Bruinessen 2002: 10; Ramstedt 2004a: 19; Hoson 2007: 71–72, 76; Hooker 2008: 7–8).

Only five years later, however, the aforementioned new laws, i.e. Law No. 2/1989 on the National Education System and Law No. 7/1989 on Religious Judicature, signalled the overall change in Suharto’s attitude towards Islam. This change had been precipitated, in 1988, by a friction between Suharto and a powerful faction within the military under the leadership of the Catholic General Benny Moerdani over Suharto’s vice-presidential choice (Bruinessen 1995: 15; Ramage 1997: 42). The friction impelled Suharto to gain political support from among the Muslim community. Under Suharto, the initial juridification of religion, which stipulated the organisation of religion along the lines of Islam as well as religious affiliation as a precondition for Indonesian citizenship, meant that Islam – and all the other recognised religions – provided the only institutional base for moral sensitivities to latch onto, while simultaneously supplying the means for expressing moral outrage in public. The prioritisation of Islam in Indonesian state law as well as the public sphere paved the way for further Islamisation of and by law after the fall of Suharto, despite a certain degree of liberalisation of religion that occurred parallel to this post-New Order Islamisation process. Let me therefore now zoom in on efforts to bring about the Islamisation of law on the national level after the demise of the Suharto regime.

Post-New Order National Legislation Reflecting Islamic Norms

Even though Habibie had to relinquish the chair of *ICMI* when he became president, he was now in the position to do away with the restrictions on religion that Suharto had kept up to the very end of his rule. Parliamentary Decree No. 18/1998 on the Withdrawal of Parliamentary Decree No. 2/1978 on the Revitalization and Application of the Five Principles first of all liberated the religious communities from having to acknowledge the Five Principles as their sole ideological foundation. Regional autonomy was intended to also bring about a certain degree of liberalisation of religion in the sense that religion could now be practiced more freely, with less top-down supervision from the State. Even though Article 7/1 of Law No. 22/1999 stipulated that religion was to remain under the direct authority of the central government and its respective line ministry, i.e. the Ministry of Religious Affairs, it nevertheless allowed regions greater participation in developing religious life, for instance by issuing pertinent regional regulations in accordance with specific local needs and circumstances. This became the legal basis for the aforementioned *shari’a*-based regulations.

At the same time and in accordance with the provision in Law No. 22/1999, the authority of the Ministry of Religious Affairs as line ministry regulating religion was affirmed by two national laws: (1) Law No. 17/1999 on the Hajj Service reconfirming the Ministry’s exclusive right to or-

ganise Muslim pilgrimages to Mecca, for which it is permitted to levy a fee from pilgrims who are all required to register with the Ministry; and (2) Law No. 38/1999 on Alms Giving (*Zakat*) Management – which, in 2004, was supplemented by Law 41/2004 on the Dedication of Properties (*wakaf*) – intended to institute an effective, centralised, and nation-wide Islamic welfare system reaching down to the village level (Hooker 2008: 33–34, 37, 206; Salim 2008: 74, 76, 127ff).

In the Parliamentary Assembly, delegates of the United Development Party (*PPP*) and the Crescent Moon Party (*PBB*) called for a revival of the Jakarta Charter during the 2000, 2001, and 2002 Annual Sessions. Suggestions were made to insert it into Article 29 of the Constitution. Due to the aforementioned slight voter turnout for Islamic parties, all efforts to insert the Jakarta Charter into Article 29 or any other part of the Constitution finally fell through. Almost 90 per cent of the electorate was not in favour of legitimising the *shari'a* as a source of law for Muslim Indonesian citizens (Bruinessen 2002: 16; Fealy 2007: 2; Hosen 2007: 81–83, 85, 93–96, 188, 195–214; Lindsey 2008: 40–41; Salim 2008: 87ff, 105–107). However, Muslim interests were heeded in the revision of Article 31 on Education in the Fourth, and so far final, Amendment of 2002. In Article 32/3, it is now stipulated that the government is to provide for a national system of education that improves faith and devotion as well as supreme morals. This became the constitutional reference point for Law No. 20/2003 on National Education that, by affirming the value of religious education, greatly favours the existing Islamic schools. Article 12A moreover stipulates that every student has the right to receive religious instruction in his or her own religion and from a teacher of the same faith. It thereby addresses longstanding Muslim – and, for that matter, Hindu and Buddhist – grievances as to the fact that non-Christian children attending the prestigious Catholic schools were exposed to religious education provided by Christian teachers. Not surprisingly, the article raised criticism by Catholic educators arguing that it would allow too much government intervention in private schools (Zuhdi 2006: 425; End and Aritonang 2008: 215; Salim 2008: 104–105).

In 2008, Indonesian Islamists campaigned for the dissolution of the heterodox Ahmadiyya sect. The sect had enjoyed full freedom to pursue missionary activities among Indonesian Muslims throughout the New Order regime, despite the fact that already back in 1980, *MUI* had issued a fatwa that had officially branded it as deviant (Ma'ruf Amin et al. 2011: 40–41). In 2005, *MUI* reissued the fatwa (Ma'ruf Amin et al. 2011: 96–100), which was taken advantage of by fundamentalist groups like *Hizbut Tahrir*, the Forum of the Islamic Community, and the Front of Islam's Defenders bent on ousting Ahmadiyya. Their campaign eventually brought about a Joint Decree by the Ministry of Religious Affairs and the Ministry of Home Affairs interdicting the public propagation of Ahmadiyya teachings. Yet, the decree fell short of Islamist expectations for not ordering the dissolution of Ahmadiyya. It even enjoins citizens not to harm members of the Ahmadiyya community. This injunction became very necessary in view of the assaults on members and property of Ahmadiyya in various parts of Indonesia. Nevertheless, the issuance of the decree did underscore the fact that *MUI*'s clout in present-day Indonesia has risen immensely. *MUI* has indeed gained greater independence from the government without losing its institutional infrastructure, which is deeply entrenched on all administrative levels throughout the country. Moreover, *MUI* has gained a stronger public profile ever since the fall of Suharto, which can largely be attributed to the successful promotion of two prestigious projects: (1) *MUI*'s Halal Certification and Halal Assurance System serving Muslim consumers in their consumption of food, drugs, and cosmetics; and (2) *MUI*'s *Shari'a* Office being involved in the overseeing of Islamic banking (Menchik 2007: 1–2; Menchik 2009: 15–16).

In 2005, *MUI* issued other fatwas testifying to a fundamentalist agenda, such as Fatwa No. 7/MUNAS VII/MUI/11/2005 against Pluralism, Liberalism, and the Secularization of Religion denouncing any signs of pluralist or liberal attitudes towards religion as un-Islamic (Ma'ruf Amin et al. 2011: 87-92); Fatwa No. 3/MUNAS VII/MUI/7/2005 against Interreligious Prayer interdicting Muslims to join in prayer with members of other faith communities (Ma'ruf Amin et al. 2011: 216–221); and Fatwa No. 4/MUNAS VII/MUI/8/2005 against Religiously Mixed Marriages (Ma'ruf Amin et al. 2011: 477–482). What is more, in the same year, *MUI* – in accordance with its Fatwa 287/2001 on Pornography and Porno-Action (Ma'ruf Amin et al. 2011: 410–418) – revived a draft law originally developed by the Ministry of Religious Affairs during the New Order period banning “Pornography and Porno-action” (Bush 2008: 5). When the draft law was resubmitted in 2006 (Ma'ruf Amin et al. 860–861), it immediately prompted a countrywide opposition due to its loose definition of pornography threatening to impinge on various non-Muslim local customs and sensitivities. With its Decision No. 8/2006, the Balinese Provincial Parliament formally rejected it right away on the grounds that the draft law would violate Articles 18, 28–29, and 32 of the amended Constitution. Other regions, where the Indonesian indigenous peoples’ movement (*Aliansi Masyarakat Adat Nusantara* or *AMAN*) and related forums were deeply entrenched, also put in formal protest. This broad opposition eventually brought about the founding of the National Alliance for Diversity in Unity (*Aliansi Nasional Bhineka Tunggal Ika* or *ANBTI*).⁹

The draft law was nevertheless converted into Law No. 44/2008 on Pornography two years later. President Susilo Bambang Yudhoyono signed the law, because he did not think it contravened freedom of expression or undermined the integrity of traditional customs. His ratification confirmed *MUI*'s sway in contemporary Indonesian society. Article 1/1 of the law stipulates that the production, dissemination, and use of pornography, as well as the commercialisation of sex in the form of “sketches, illustrations, photos, speech, sounds, writings, films, animations, cartoons, style, body movements or any other form” would threaten the life and order of Indonesian society. Article 2 makes references to the First Principle of the Indonesian Constitution, Human Rights, and pluralism. These references bear testimony to the large degree of how human rights speak has already pervaded Indonesian public thought and discourse as the language of the international civil religion, regardless of its actual impact on people’s belief or, more to the point, the content of the respective legislation. The references in Article 1/1 of Law No. 44/2008 are further elaborated on in Article 3/a–e, adding that the law realises both ancestral and religious values and upholds morals as well as Islamic decorum (*akhlaq*). Articles 4–12 criminalise a whole range of involvements in the production or consumption of pornography, while Articles 29–38 threaten perpetrators with heavy sentences and/or fines (*UPDP* 2008: 8, 10–19, 36–42; *UURI* 2008: 3–10; 21–26).

Referring to Article 3, Information Minister Muhammad Nuh stated that Law No. 44/2008 would clearly protect traditional rites and forms of dress. So neither the famous penis sheaths (*koteka*) of the Dani (one of the West Papuan tribes) nor the traditional *jaipongan* dancers of West Java with their sexy outfit and movements would have anything to fear. Nevertheless, the issuance of the law again elicited nation-wide opposition calling for a judicial review, due to the vague definition of pornography and the reference, within the law, to Islamic norms and values. The Balinese Provincial Parliament in unison with the Governor signed an official statement announcing that it would not enforce the law in the province. Pointing to the culturally varying standards of what “pornogra-

⁹ I had the opportunity to recurrently visit both the *AMAN* and the *ANBTI* office in Jakarta during my 2008 and 2009 field stints in Indonesia and engage in discussions with the local staff.

phy” might be, the Balinese expressed fears that religious representations like the images of the voluptuous Goddess Durga or the naked Acintya (male representation of the Absolute), etc., would become targets of the law, not to mention the many female tourists in their often quite small bikinis, or the limitations the law poses on the vibrant Balinese art scene. The Alliance of the People of Nusa Tenggara Barat critiqued that the law would threaten sensitive elements of local tradition; and the Government of North Sulawesi flatly refuted the law on the grounds that it would be in opposition with local culture. The Alliance of the Christian Churches and the Head of the Parliament of the Province of West Papua not only refuted the law, it even threatened that the province would separate from Indonesia, if it were not withdrawn (*UUPDP* 2008: 57–59, 67–70, 73–74; *UURI* 2008: 52–56, 73, 80–81).

Finally, several judicial challenges of Law No. 44/2008 were submitted to the Indonesian Supreme Court. One was filed by the Communion of Protestant Churches in Indonesia (*Gereja Protestan Indonesia* or *GPI*) together with a number of NGOs arguing that a number of the law’s provisions would be contrary to the Constitution’s recognition of cultural diversity. At the trial for Judicial Review on 23 March 2009, *GPI* representatives again took issue with the wide definition of “pornography” put forth in Article 1/1, pointing out that “principles of law must be clear and easy to understand and implement”. The three judges presiding over the hearing decided to treat the *GPI* challenge in combination with another one filed by a dozen of Christian and cultural groups from the Province of North Sulawesi also specifically attacking the loose definition of “pornography” in Article 1.¹⁰ On 7 May 2009, there was a hearing of a third judicial challenge.¹¹ The applicants comprised the Foundation of the Indonesian Organization of Juridical Help, the Institute of Legal Assistance for Indonesian Women Associations to Achieve Justice representing a host of women’s organisations, the Traditional Society of the Kawanu (i.e. an ethnic group from Northern Sulawesi), and the representatives of two government institutions supporting the judicial challenge: the National Commission on Violence against Women and the National Commission on the Protection of Children. During the hearing, the defence of the government in support of the anti-pornography legislation made morality the central issue and stressed that there would exist an Indonesian version of human rights different from that of the West. On 4 July 2009, another hearing on this judicial challenge took place. On 25 March 2010, the Constitutional Court ruled to maintain Law No. 44/2008. Meanwhile it has already been used to put people in jail, mostly female erotic dancers. The greatest notoriety, however, received the case of the sex-videos featuring the lead vocalist of the Indonesian pop band Peterpan, “Peter Porn” alias Nazril Irham, with a number of different women.¹²

Another important milestone in the Islamisation process was Law No. 3/2006 on Religious Justice. Less noticed by a public raging against the “Pornography Law”, it broadened and strengthened the authority of the Islamic courts throughout the country in two ways: (1) by granting them jurisdiction also over disputes involving Islamic economic transactions and Islamic banking, and (2) by obliging Muslim litigants to henceforth bring disputes of matters under Islamic jurisdiction to Is-

¹⁰ Cf. <http://www.ucanews.com/2009/04/03/christians-ngos-seek-judicial-review-of-pornography-law/> (accessed on 24 November 2009); <http://www.indonesiamatters.com/2869/judicial-review/> (accessed on 24 November 2009); <http://www.thejakartapost.com/news/2009/05/07/porn-law-discussed-judicial-review.html?1> (accessed on 23 November 2009).

¹¹ I owe the following details to an elaborate email communication between Sulistyowati Irianto and Franz and Keebet von Benda-Beckmann, who kindly made it available to me.

¹² Cf. e.g. Leksana, Puji. 2010. Ariel Peter Pan Sleeps with 32 Beautiful Famous Actress And Sex Video Taped, available online at http://www.bukisa.com/articles/315561_ariel-peter-pan-sleeps-with-32-beautiful-famous-actress-and-sex-video-taped, (accessed on 6 August 2011).

lamic courts only (Hooker 2008: 39; Rasyid 2008: 7–8), which comes close to amounting to an institutionalisation of the Jakarta Charter without saying so (see also Lindsey 2008: 41). Last but not least, in April 2010, the Indonesian Constitutional Court upheld the validity of Article 156A of the Indonesian Criminal Code, inserted therein by Sukarno's Presidential Instruction in 1965, which makes it a criminal offense to put to misuse or denigrating circumstances and to make derogatory remarks of one of the recognised religions in Indonesia. In October 2009, a coalition of NGOs coordinated by the Indonesian Legal Aid Foundation had advanced an application for a judicial review of what has commonly been called the "Blasphemy Law" with the argument that it contravened the right to individual freedom guaranteed by the Bill of Rights within the Indonesian Constitution. This move for a judicial review had been occasioned by at least 120 people (in 47 cases) who, in the post-New Order spirit of democracy and liberalisation of religion, had expressed heterodox convictions and had subsequently been tried and convicted for having committed blasphemy. The law has posed threats in particular to members of Javanese mystical sects with their syncretistic creeds and practices (Crouch 2012). On 14 March 2012, for instance, Andreas Guntur, the leader of the mystical group Mandate for Having Characteristics of the Greatness of God (*Amanat Keagungan Ilahi* or *AKI*), received a prison sentence of four years for having committed blasphemy. In 2009, *MUI* had issued a fatwa against *AKI* because the group rejected the conventional Islamic rituals.¹³ On 7 May 2009, the Selong District Court in Lombok had already sentenced 70-year-old Bakri Abdullah to one year of prison because he had claimed to be a prophet, having ascended to heaven twice, for the first time in 1975 and for the second in 1997. Similar claims have been part and parcel of leaders of mystical groups in Java and other parts in Indonesia. Living in an ever more radicalising Islamic environment in Lombok, Bakri Abdullah was charged with blasphemy and then convicted.¹⁴

Conclusion

The normative recognition of vital elements of Islam (the *Tauhid*, i.e. the Unity of God) in the Indonesian Constitution laid the legal foundation for religious identification by force. The Ministry of Religious Affairs and *MUI* have then functioned as motors for further normative recognition (the definition of religion as a universal creed rooted in dualistic monotheism revealed to a holy prophet in a holy book; orthopraxy as an integral part of religion regulating the whole way of life of its followers) as well as a certain degree of institutional recognition of Islam, to the detriment of other religious and philosophical orientations. Legally authorised religious identification by force was in fact instrumental in creating an official Muslim majority in the first place, by annihilating options of publically identifying oneself as atheist, agnostic, or as someone who does not care about religion at all, or as a follower of an ethnic belief system, a Javanese mystical group, for instance, as someone who likes to experiment with different religious traditions, or as someone who has fashioned his or her own belief system.

Religious identification by force, moreover, came on top of religious identification resulting from more or less strategic modes of conversion to modernities (Veer 1996: 4, 19; Ramstedt 2004b:

¹³ Cf. e.g. Jihad Watch Indonesia. n.d. "Spiritual group" leader gets four years in jail for "blasphemy". <http://www.jihadwatch.org/2012/03/indonesia-spiritual-group-leader-gets-4-years-in-jail-for-blasphemy.html> (accessed on 1 June 2012).

¹⁴ Cf. e.g. United States Department of State. *July-December, 2010 International Religious Freedom Report - Indonesia*, available at <http://www.unhcr.org/refworld/docid/4e734c9282.html> (accessed on 24 January 2012).

217). While conversion to one of the varieties of Christianity had initially been seen by many as the surest way to participate in the blessings of modernity in the form of health care, education, and career prospects, Islam was able to catch up in the 1980s as a result of the efforts of a general concentration on education by Muslim organisations in response to Suharto's suppression of political Islam, the effects of the integration of Islamic schools into the national school system stipulated by Law No. 2/1989, and an increase in transnational Islamic networks establishing valuable contacts with affluent Middle Eastern countries, Saudi Arabia in particular.

Last but not least, there is an estimated large number of unreported cases of people giving in to either unacceptably high costs of graft or to outright forms of bureaucratic violence at various administrative levels that deny them official registration of their factual affiliation with a religious community of their own choice (Ramstedt 2004b: 193, 208; Ramstedt 2009: 340–341). Since the rehabilitation of Confucianism in 2006 as one of the religions adhered to by the Indonesian people, the 2010 Census also counted 0.05% Confucianists among the total population of 237,641,326 people, along with 87.18% Muslims, 6.96% Protestants, 2.91% Catholics, 1.69% Hindus, and 0.72% Buddhists.¹⁵ These numbers, however, cannot be trusted. We simply do not know how many “true” Muslims, Christians, Hindus, Buddhists, and Confucianists there have been at any point in the history of independent Indonesia, as we can neither fathom the authenticity of their faith from the outside nor know whether they were falsely registered under coercive circumstances. What we can safely assume, is that habituation through coercion, as well as habituation through education, alongside true piety, have significantly predisposed Indonesians to some recognition of the validity of religion. This predisposition has, even prior to the collapse of the New Order regime, served as a residue of public morality against the anomic tendencies within Indonesian society. It was skilfully harnessed by radical factions within Indonesian Islam bent on fostering Islamisation of – and eventually by – law. Despite the factual democratisation and enactment of a Bill of Rights after the fall of Suharto's New Order regime, the on-going Islamisation progress has started to constrain important individual rights, particularly but not only of Muslim Indonesians. It is furthermore bound to expedite further juridification and Islamisation of religion in the future, which might reverse the liberal democratic trend in post-Suharto Indonesia.

The recent national legislation on religion has provided Islam with a firm institutional base (courts and schools yielding templates for orthodox religious practice), and has protected Islam's traction as a clear-cut orientation for moral behaviour through keeping it, ever more strictly, “uncontaminated” by heterodox teachings and practices as well as Western secularism. The Islamisation of and by law has thus succeeded in providing clear moral orientation in an anomic time of increasing economic and cultural globalisation. It is noteworthy in this respect that, due to continuous corruption in Indonesian politics, some degree of political apathy seems by now to have set in. It has apparently dampened the initial enthusiasm of post-New Order Indonesian society for political participation as voters.¹⁶

The common identification of religion not as a political platform but as a moral force pitted against the anomic social condition is borne out, I argue, by the pop star-like popularity of some Muslim teachers and their subsequent spectacular downfall in people's opinion, when they were found morally lacking. A case in point is the “celebrity preacher” and “modern media *ulama*” Aa

¹⁵ Cf. *Penduduk Menurut Wilayah dan Agama Yang Dianut*. In: *Sensus Penduduk 2010*, edited by Badan Pusat Statistik, available at <http://sp2010.bps.go.id/index.php/site/tabel?tid=321&wid=0> (accessed on 3 May 2012).

¹⁶ Wahyu, Yohan. 2012. Antusiasme Publik Terus Turun. In: *Kompas* (July 9, 2012): 5.

Gym, whose former popularity with millions of Indonesians can be attributed to his entertaining sermons, characteristic turban, and self-help advice of how to “manage the heart”. In 2006, several political parties allegedly courted Aa Gym to run as their vice presidential candidate in the 2009 General Legislative Elections. However, when the preacher took a second wife, his followers became morally outraged – opinion polls have substantiated that the majority of Indonesians is against polygamy – and began to shred Aa Gym’s public image in infotainment shows and gossip magazines (see also Hoesterey 2007). Syekh Puji, the head of an Islamic boarding school in Semarang, Central Java, likewise attracted great media coverage by having married a twelve-year old girl. His marriage was subsequently regarded as an offense against Law No. 23/2002 on Child Protection, an offense for which Syekh Puji was sentenced to four years of prison and a fine of 60 million IDR¹⁷ in 2010.¹⁸ Both cases incidentally show that the common call upon religion as a moral force is not blind regression into pre-modernity, as the kind of morality “religion” is to defend is sometimes more informed by global modern standards as by so-called Islamic “traditions”.

¹⁷ 60 Million IDR (Indonesian Rupiahs) amount to about 6,500 US\$.

¹⁸ Cf. *Kontroversi: Nikahi Ulfa, Syekh Puji Ajukan Izin Poligami*, available online at <http://www.seputar-indonesia.com/ediscetak/content/view/462090/> (accessed on 13 February 2012).

Literature

- Agamben, Giorgio. 2007. *State of Exception*. Chicago: Chicago University Press.
- Alatas, Alwi. 2008. Kasus Jilbab di Sekolah-Sekolah Negeri di Indonesia Tahun 1982–1991. Available online at: <http://maaini.wordpress.com/2008/11/17/sekelumit-sejarah-jilbab-di-sekolah-negeri-di-indonesia/> (accessed on 21 June 2010).
- Aris Ananta, Evi Nurvidya Arifin, and Leo Suryadinata. 2005. *Emerging Democracy in Indonesia*. Singapore: Institute of Southeast Asian Studies.
- Ashaari Muhammad, Abuya Syeikh Imam. 1993. *Presiden Soeharto Ikut Jadwal Allah*. London and Kuala Lumpur: ASOIB International Ltd.
- Aspinall, Edward. 1998. Opposition and Elite Conflict in the Fall of Soeharto. In: Geoff Forester and R.J. May (eds.). *The Fall of Soeharto*. Bathurst and London: Crawford House Publishing, pp. 130–153.
- Aspinall, Edward. 1999. The Indonesian Student Uprising of 1998. In: Arief Budiman, Barbara Hatley and Damien Kingsbury (eds.). *Reformasi: crisis and change in Indonesia*. Clayton: Monash Asia Institute, pp. 212–237.
- Aspinall, Edward. 2005. *Opposing Suharto: compromise, resistance, and regime change in Indonesia*. Stanford: Stanford University Press.
- Baig, Taimur, and Ilan Goldfajn. 1998. Financial Market Contagion in the Asian Crisis. *IMF Working Paper 98/155*. Washington: International Monetary Fund, Asia Pacific Department.
- Basri, Muhammad Chatib. 1999. Indonesia, the Political Economy of Policy Reform. In: Arif Budieman, Barbara Hatley and Damien Kingsbury (eds.). *Crisis and Change in Indonesia*. Clayton: Monash Asia Institute, pp. 27–37.
- Beatty, Andrew. 2009. *A Shadow Falls on Java*. London: Faber & Faber.
- Bellah, Robert N. 1970. *Beyond Belief: essays on religion in a post-traditional world*. New York, Evanston and London: Harper & Row.
- Benda-Beckmann, Franz v., and Keebet von Benda-Beckmann. 2006. Changing One is Changing All: dynamics in the adat-Islam-state triangle. *The Journal of Legal Pluralism and Unofficial Law* 53/54: 239–270.
- Benda-Beckmann, Franz v., and Keebet von Benda-Beckmann. 2009. Recentralization and Decentralization in West Sumatra. In: Coen J.G. Holtzappel and Martin Ramstedt (eds.). *Decentralization and Regional Autonomy in Indonesia: implementation and challenges*. Singapore: ISEAS, pp. 293–328.
- Benjamin, Walter. 1965. *Zur Kritik der Gewalt und andere Aufsätze*. Frankfurt a.M.: Suhrkamp (edition suhrkamp).
- Blichner, Lars Ch., and Anders Molander. 2005. What is Juridification? *Centre for European Studies Working Paper No. 14*. Oslo: Arena.
- Block, Fred. 2001. Introduction. In: Karl Polanyi. *The Great Transformation: the political and economic origins of our time*. Boston: Beacon Press, pp. xviii–xxxviii.

Bruinessen, Martin van. 1995. Islamic State or State Islam? Fifty years of state – Islam relations in Indonesia. In: Ingrid Wessel (ed.). *Indonesien am Ende des 20. Jahrhunderts*. Hamburg: Abera-Verlag, pp. 19–34.

Bruinessen, Martin van. 2002. Genealogies of Islamic Radicalism in post-Suharto Indonesia. *South East Asia Research* 10(2): 117–154.

Bush, Robin. 2008. Regional Sharia Regulations in Indonesia: anomaly or symptom? In: Greg Fealy and Sally White (eds.). *Expressing Islam: religious life and politics in Indonesia*. Singapore: ISEAS, 174–191.

Comaroff, John L., and Jean Comaroff. 2009. Reflection on the Anthropology of Law, Governance and Sovereignty. In: Franz von Benda-Beckmann, Keebet von Benda-Beckmann, and Julia Eckert (eds.). *Rules of Law and Laws of Ruling: on the governance of law*. Farnham and Burlington: Ashgate, pp. 31–59.

Connor, Linda, and Adrian Vickers. 2003. Crisis, Citizenship, and Cosmopolitanism: Living in a Local and Global Risk Society in Bali. *Indonesia* 75: 153–180.

Crouch, Melissa. 2012. Indonesia's Blasphemy Law: bleak outlook for minority religions. *Asia Pacific Bulletin* 146 (January 26, 2012). Available online at: http://www.eastwestcenter.org/sites/default/files/private/apb146_0.pdf (accessed on 20 August 2012).

Davidson, Jamie, and David Henley. 2007. *The Revival of Tradition in Indonesian Politics: the deployment of adat from colonialism to indigenism*. London and New York: Routledge.

Delaney, David. 2004. Tracing Displacements: or evictions in the nomosphere. *Environment and Planning D: Society and Space* 22: 847–860.

Delaney, David. 2010. *The Spatial, the Legal and the Pragmatics of World-Making: nomospheric investigations*. Abingdon and New York: Routledge.

Djalil, H.A. Basiq. 2006. *Peradilan Agama di Indonesia*. Jakarta: Kencana – Prenada Media Group.

Durkheim, Emile. 1998 [1930]. *De la division du travail sociale*. Paris: Quatrigé.

End, Theo van den, and Jan Sihar Aritonang. 2008. 1800 – 2005: a national overview. In: Jan Sihar Aritonang and Karel Steenbring (eds.). *A History of Christianity in Indonesia*. Leiden and Boston: Brill, pp. 137–228.

Falaakh, Mohammad Fajrul. 1999. Islam and the Current Transition to Democracy in Indonesia. In: Arif Budieman, Barbara Hatley and Damien Kingsbury (eds.). *Crisis and Change In Indonesia*. Clayton: Monash Asia Institute, pp. 201–211.

Fealy, Greg. 2007. Shari'a or Secularism? *USINDOBrief*, a Publication of the United States-Indonesia Society (March 29).

Frerichs, Sabine. 2011. Re-embedding Neo-liberal Constitutionalism: a Polanyian case for the economic sociology of Law. In: Christian Joerges and Joself Falke (eds.). *Karl Polanyi, Globalisation and the Potential of Law in Transnational Markets*. Oxford and Portland, Oregon: Hart Publishing, pp. 65–84.

Grave, Jean-Marc de. 2001. *Initiation rituelle et arts martiaux: Trois écoles de kanuragan javanais*. Paris: L'Harmattan.

Hefner, Robert W. 2000. *Civil Islam: muslims and democratization in Indonesia*. Princeton and Oxford: Princeton University Press.

Henley, David, and Jamie S. Davidson. 2007. Introduction: radical conservatism – the protean politics of adat. In: Jamie S. Davidson and David Henley (eds.). *The Revival of Tradition in Indonesian Politics: the deployment of adat from colonialism to indigenism*. London and New York: Routledge, 1–49.

(HPPURI) *Himpunan Peraturan Perundang-Undangan Republik Indonesia Disusun Menurut Sistem Engelbrecht*. 1992. Jakarta: Ihtiar Baru Van Hoeve.

Hoesterey, James B. 2007. The Rise, Fall, and Re-branding of a Celebrity Preacher. *Inside Indonesia* 90: 1–7.

Hooker, M.B. 2008. *Indonesian Shari'a: defining a national school of Islamic law*. Singapore: ISEAS.

Hosen, Nadirsyah. 2007. *Shari'a & Constitutional Reform in Indonesia*. Singapore: ISEAS.

Howell, Julia. 2004. 'Spirituality' vs. 'Religion' Indonesian Style: framing and re-framing experiential religiosity in contemporary Indonesian Islam. Paper presented to the 15th Biennial Conference of the Asian Studies Association of Australia, Canberra, 29 June–2 July 2004. Available online at: <http://coombs.anu.edu.au/SpecialProj/ASAA/biennial-conference/2004/Howell-J-ASAA2004.pdf> (accessed on 16 September 2009).

Hyung-Jun Kim. 1998. The Changing Interpretation of Religious Freedom in Indonesia. *Journal of Southeast Asian Studies* 29(2): 357–373.

International Crisis Group (ICG). 2006. Islamic Law and Criminal Justice in Aceh. *Asia Report* No. 117 (31 July 2006).

Jong, Edwin de. 2009. Reshaping Tana Toraja: a century of decentralization and power politics in the highlands of South Sulawesi. In: Coen J.G. Holtzappel and Martin Ramstedt (eds.). *Decentralization and Regional Autonomy in Indonesia: implementation and challenges*. Singapore: ISEAS, pp. 256–292.

Kreide, Regina. 2011. Re-embedding the Market through Law? The ambivalence of juridification in the international context. In: Christian Joerges and Josef Falke (eds.). *Karl Polanyi, Globalisation and the Potential of Law in Transnational Markets*. Oxford and Portland, Oregon: Hart Publishing, pp. 41–64.

Lev, Daniel S. 2000. *Legal Evolution and Political Authority in Indonesia: selected essays*. The Hague and Cambridge, MA: Kluwer Law International.

Li, Tania Murray. 2009. The Law of the Project: government and 'good governance' at the World Bank in Indonesia. In: Franz von Benda-Beckmann, Keebet von Benda-Beckmann, and Julia Eckert (eds.). *Rules of Law and Laws of Ruling: on the governance of law*. Farnham and Burlington: Ashgate, pp. 237–256.

Liddle, R. William. 1991. The Relative Autonomy of the Third World Politician: Soeharto and Indonesian economic development in comparative perspective. *International Studies Quarterly* 35(4): 403–427.

Liddle, R. William. 1996. The Islamic Turn in Indonesia: a political explanation. *The Journal of Asian Studies* 55(4): 613–634.

Lie, John. 1991. Embedding Polanyi's Market Society. *Sociological Perspectives* 34(2): 219–235.

Lindsey, Tim. 2008. Constitutional Reform in Indonesia: muddling towards democracy. In: Tim Lindsey (ed.). *Indonesia: law and society*. Annandale, Leichhardt: The Federation Press, pp. 23–47.

Lindsey, Tim, and Mas Achmad Santosa. 2008. The Trajectory of Law Reform in Indonesia: a short overview of legal systems and change in Indonesia. In: Tim Lindsey (ed.). *Indonesia: law and society*. Annandale, Leichhardt: The Federation Press, pp. 2–22.

Ma'ruf Amin, K.H., et al. 2011. *Himpunan Fatwa: Majelis Ulama Indonesia Sejak 1975*. Jakarta: Penerbit Erlangga and Sekretariat Majelis Ulama Indonesia.

McGillivray, Mark, and Oliver Morrissey. 1999. Economic and Financial Meltdown in Indonesia: prospects for sustained and equitable economic and social recovery. In: Arif Budieman, Barbara Hatley and Damien Kingsbury (eds.). *Crisis and Change in Indonesia*. Clayton: Monash Asia Institute, pp. 3–26.

Menchik, Jeremy. 2007. Illiberal but Not Intolerant: understanding the Indonesian Council of Ulamas. *Inside Indonesia* 90. Available online at: <http://www.insideindonesia.org/weekly-articles-90-oct-dec-2007/illiberal-but-not-intolerant-25111594> (accessed on 20 August 2012).

Menchik, Jeremy. 2009. Fatwas as Data: methodology, the false position, and mapping historical change in Islamic institutions. Unpublished Manuscript.

Mulya Lubis, T., and Mas Achmad Santosa. 1999. Economic Regulation, Good Governance and the Environment: an agenda for law reform in Indonesia. In: Arif Budieman, Barbara Hatley and Damien Kingsbury (eds.). *Crisis and Change in Indonesia*. Clayton: Monash Asia Institute, pp. 343–361.

Nasution, Khoiruddin. 2005. The Role of Indonesian Women's Movement to the Reform of the Islamic Family Law of Indonesia. http://michailhuda.multiply.com/journal/item/50/50?&show_interstitial=1&u=%2Fjournal%2Fitem (accessed on 20 August 2012).

Nuridin, Ahmad Ali. 2005. Islam and State: a study of the liberal Islamic network in Indonesia, 1999–2004. *New Zealand Journal of Asian Studies* 7(2): 20–29.

Olson, Mancur. 1982. *The Rise and Decline of Nations: economic growth, stagflation, and social rigidities*. New Haven and London: Yale University Press.

Orru, Marco. 1983. The Ethics of Anomie: Jean Marie Guyau and Émile Durkheim. *The British Journal of Sociology* 34(4): 499–518.

Orru, Marco. 1986. Anomy and Reason in the English Renaissance. *Journal of the History of Ideas* 47(2): 177–196.

Orrù, Marco. 1989. Weber on Anomie. *Sociological Forum* 4(2): 263–270.

Pemilihan Umum 1999: Demokrasi atau Rebutan Kursi? Jakarta: LSPP, supported by the Asia Foundation.

Perry-Kessaris, Amanda. 2011. Reading the Story of Law and Embeddedness through a Community Lens: A Polanyi-meets-Cotterrell economic sociology of law? *Northern Ireland Legal Quarterly* 62(3): 401–413.

Platzdasch, Bernhard. 2008. Politics in Indonesia: a misuse of shari'a rules? *The Straits Times* (March 4). Available online at: <http://www.iseas.edu.sg/viewpoint/bp4mar08.pdf> (accessed on 27 October 2009).

Polanyi, Karl. (1944). 2001. *The Great Transformation: the political and economic origins of our time*. Boston: Beacon Press.

Pompe, Sebastian. 1999. *De Indonesische Algemene Verkiezingen 1999*. Leiden: KITLV Uitgeverij.

Ramage, Douglas E. 1997. *Politics in Indonesia: democracy, Islam and the ideology of tolerance*. London and New York: Routledge.

Ramstedt, Martin. 2004a. Introduction: negotiating identities – Indonesian 'Hindus' between local, national, and global interests. In: Martin Ramstedt (ed.). *Hinduism in Modern Indonesia: a minority religion between local, national, and global interests*. London and New York: RoutledgeCurzon, pp. 1–34.

Ramstedt, Martin. 2004b. The Hinduization of Local Traditions in South Sulawesi. In: Martin Ramstedt (ed.). *Hinduism in Modern Indonesia: a minority religion between local, national, and global interests*. London and New York: RoutledgeCurzon, pp. 184–225.

Ramstedt, Martin. 2009. Regional Autonomie and its Discontents: the case of post-new order Bali. In: Coen J.G. Holtzappel and Martin Ramstedt (eds.). *Decentralization and Regional Autonomy in Indonesia: implementation and challenges*. Singapore: ISEAS, pp. 329–379.

Ramstedt, Martin. Forthcoming. Processes of Disembedding and Displacement: anomie and the juridification of religio-ethnic identity in post-new order Bali. *Asian Ethnicity*, Special Issue *Law and the Juridification of Religio-Ethnicity in Post-New Order Indonesia*, guest-edited by Martin Ramstedt and Fadjar Ibnu Thufail.

Rasyid, Abdul. 2008. Settlements of Islamic Banking Disputes in Indonesia: opportunities and challenges. Paper presented at the International Conference on Mediation in the Asia Pacific: Constraints and Challenges, organized by the Harun M. Hashim Law Centre, IIUM, and the Asia Pacific Mediation Forum (APMF), Australia, at Kuala Lumpur, 16-18 June, 2008. Available online at: <http://www.apmec.unisa.edu.au/apmf/2008/papers/25-abdul%20Rasyid.pdf> (accessed on 1 October 2009).

Roosa, John. 2006. *Pretext for Mass Murder: the September 30th movement & Suharto's coup d'état in Indonesia*. Madison: The University of Wisconsin Press.

Rumadi. n.d. Perda Syariat Islam: Jalan Lain Menuju Negara Islam? Available online at: <http://www.lakpesdam.or.id/publikasi/104/perda-syariat-islam-menuai-makna> (accessed on 4 November 2009).

Rumadi. 2008. Regulasi & Pluralisme agama di Indonesia 'Tinggal Selangkah Lagi Indonesia Menjadi Negara Islam'. Available online at: http://www.wahidinstitute.org/Program/Detail/?id=70/hl=id/Regulasi_Pluralisme_Agama_Di_Indonesia_Tinggal_Selangkah_Lagi_Indonesia_Menjadi_Negara_Islam (accessed on 11 November 2009).

Sadli, Mohammad. 2009. Regional Autonomy, Regulatory Reform, and the Business Climate. In: Coen J.G. Holtzappel and Martin Ramstedt (eds.). *Decentralization and Regional Autonomy in Indonesia: implementation and challenges*. Singapore: ISEAS, pp. 145–149.

Salim, Arskal. 2008. *Challenging the Secular State: the Islamization of law in modern Indonesia*. Honolulu: University of Hawai'i Press.

Schoenfeld, Eugen. 1990. Privatization and Globalization: a Durkheimian perspective on moral and religious developments. *Archives de Sciences Sociales des Religions* 35(69): 27–40.

Schulte Nordholt, Henk. 2007. *Bali – An Open Fortress 1995–2005: regional autonomy, electoral democracy and entrenched identities*. Singapore: NUS Press.

Simarmata, Rikardo. 2006. *Pengakuan Hukum terhadap Masyarakat Adat di Indonesia*. Bangkok: Regional Initiative on Indigenous Peoples' Rights and Development (RIPP), UNDP Regional Centre.

Soesastro, M. Hadi. 1989. The Political Economy of Deregulation in Indonesia. *Asian Survey* 29(9): 853–869.

Soesastro, M. Hadi. 2000. Globalization: challenges for Indonesia. *Economic Reform* 1: 51–54.

Stiglitz, Joseph E. 2001. Foreword. In: Karl Polanyi. *The Great Transformation: the political and economic origins of our time*. Boston: Beacon Press, pp. vii–xvii.

Suwandi, Raharjo. 2000. *A Quest for Justice: the millenary aspirations of a contemporary Javanese wali*. Leiden: KITLV Press.

Thufail, Fadjar Ibnu. 2011. Ketika “Perdamaian Terwujud di Bukit Kasih”: Pencegahan Konflik, Lembaga Gereja, dan Politik Adat di Minahasa. In: Martin Ramstedt and Fadjar Ibnu Thufail (eds.). *Kegalauan Identitas: Agama, Etnisitas, dan Kewarganegaraan Pada Masa Pasca-Orde Baru*. Jakarta: Grasindo, pp. 149–166.

Thufail, Fadjar Ibnu. Forthcoming. When Peace Prevails on Kasih Hill: the protestant church and the politics of adat in Minahasa. *Asian Ethnicity*, Special Issue *Law and the Juridification of Religio-Ethnicity in Post-New Order Indonesia*, guest-edited by Martin Ramstedt and Fadjar Ibnu Thufail.

Tsuda, Koji. Forthcoming. The Legal and Cultural Status of Chinese Temples in Contemporary Java. *Asian Ethnicity*, Special Issue *Law and the Juridification of Religio-Ethnicity in Post-New Order Indonesia*, guest-edited by Martin Ramstedt and Fadjar Ibnu Thufail.

Uhlin, Anders. 1993. Transnational Democratic Diffusion and Indonesian Democracy Discourses. *Third World Quarterly* 14(3): 517–544.

UUPDP. 2008. *Undang-Undang Pornografi dan Penjelasannya Dilengkapi Pendapat-pendapat Pro-Kontra*. Yogyakarta: Indonesiatera.

UURI. 2008. *Undang-Undang Republik Indonesia Nomor 44 Tahun 2008 Tentang Pornografi Dilengkapi Dengan: Pendapat-pendapat Pro dan Kontra*. Yogyakarta: Pustaka Timur.

Veer, Peter van der. 1996. Introduction. In: Peter van der Veer (ed.). *Conversion to Modernities*. New York and London: Routledge, pp. 1–21.

Warburton, Eva. 2007. No Longer a Choice: veiling has become a highly politicised practice in Indonesia. *Inside Indonesia* 89. Available online at: <http://www.insideindonesia.org/content/view/16/29/> (accessed on 10 November 2009).

Warta, Christian. 2011. Perkembangan Masalah Agama di Papua: Sengketa Antaragama dan Pencegahan Konflik. In: Martin Ramstedt and Fadjar Ibnu Thufail (eds.). *Kegalauan Identitas: Agama, Etnisitas, dan Kewarganegaraan Pada Masa Pasca-Orde Baru*. Jakarta: Grasindo, pp. 72–95.

Winarso, Hendrik Agus. 2008. *Keimanan dalam Agama Konghucu: Suatu Tinjauan Teologi dan Peribadahannya*. Semarang: Dahara Prize.

Woodman, Gordon R. 2008. The Possibilities of Co-Existence of Religious Laws with Other Laws. In: Rubya Mehdi, Hanne Petersen, Erik Reenberg Sand and Gordon R. Woodman (eds.). *Law and Religion in Multicultural Societies*. Copenhagen: DJØF Publishing, pp. 23–42

Yang, Heriyanto. 2005. The History and Legal Position of Confucianism in Post-Independence Indonesia. *Marburg Journal of Religion* 10(1): 1–8.

Zuhdi, Muhammad. 2006. Modernization of Indonesian Islamic Schools' Curricula, 1945–2003. *International Journal of Inclusive Education* 10(4–5): 415–427.