Indonesia has the largest Muslim population of any country in the world. It is hardly surprising, then, that over the years Islam in Indonesia has been the subject of serious scholarly attention. A significant focus has been Islamic law or Shari’a, given its centrality to the Islamic faith.1

Since the attacks of 11 September 2001, and bombings in Bali and Jakarta from 2002, work on Islam and Shari’a in Southeast Asia and Indonesia has intensified.2 Nadirsyah Hosen’s book is a very welcome and worthy addition to the growing body of work on Shari’a in Indonesia. Further, in light of the recent ‘bad press’ Islam has faced in the West, Hosen’s book is a particularly timely contribution to the general literature on constitutionalism in developing countries, and in particular, the compatibility of Islam with constitutionalism, human rights and the rule of law.

Most of the literature on Shari’a in Indonesia has provided perspectives on the contest between the Indonesian state and Islam for predominance as the source of ‘legal and social meanings’.3 Many scholars have focused on Indonesia’s 1974 Marriage Act and the tensions it created between some Muslims, who believe that marriage law should be largely Islamic, and the State, keen to improve the legal status of women and to stamp its

---

1 Dr Simon Butt lectures in Indonesian law in the Faculty of Law, University of Sydney.
3 Cammack, Young & Heaton, above n1 at 53.
authority on marriage law. Other scholars have also focused on the ‘contest’ as it has been waged in Indonesia’s Islamic courts, investigating the extent to which some Islamic court judges have applied traditional Islamic law and resisted State-sanctioned — some would say watered-down — versions of it as contained in the Kompilasi (Compilation of Islamic Law).

The contest has arguably intensified since the fall of Soeharto, as many of the repressive measures his regime used against Islam have been broken down. However, the political aspirations of Islam have failed to find firm footing. This is partly because these aspirations lack widespread political support, as most Indonesian Muslims are relatively moderate in their beliefs; and partly because the State has largely retained structural control over the Islamic bureaucracy and judiciary. Nevertheless, the State is almost constantly faced with vigorous attempts by more conservative Muslim groups to secure a larger role for Islam within national politics and the national legal system.

Most of the literature refers to the so-called Jakarta Charter — a provision requiring Muslims to follow Shari’a — which was dropped at the last minute from the Indonesian Constitution as independence was declared in August 1945, largely due to the fears of other religious groups and moderate Muslims alike. In place of the Charter was Pancasila — a State philosophy of five principles, with its first principle being a ‘Belief in Almighty God’. The place of Islam within the state was revisited from 1955, when Indonesia’s Constituent Assembly (Konstituante) met to devise a new Indonesian constitution. Again, Muslim aspirations were vocal, albeit in the minority, but the debates were never concluded as then-President Soekarno, amidst economic crisis and social unrest, unilaterally announced by Presidential Decree a return to the 1945 Constitution, including the Pancasila. In this way, Indonesia did not become an Islamic State, but the adoption of Pancasila ensured that neither did it become a secular one.

When Indonesia came to amend its Constitution four times from 1999 to 2002, some Muslim groups attempted again to secure a greater role in public life for Islam. They argued for the insertion of something resembling the Jakarta Charter, but again their appeals fell largely on deaf ears: the proposal was voted down by a majority of almost 90 per cent of Indonesia’s People’s Consultative Council. However, other reforms were


5 Hooker (2003), above n2; Hooker (2008), above n2; Pompe & Otto, above n1; Butt, above n4.


adopted, including a world-standard bill of rights9 and a restructuring of key organs of state and their powers to provide for more accountability and democracy — key features of many conceptions of the rule of law.10

It is upon the most recent parliamentary debates about the political and legal place of Islam within the Indonesian State that Hosen lends his focus. Not only does he provide an impressively well-informed update on the contest, he also takes on the challenging and controversial issues of constitutionalism and human rights within Islam. Locating the Indonesian debates on these issues within the various streams of Islamic scholarship was previously largely uncharted territory and is, for this reader at least, the highlight of his work.

---
