

RELIGION AND STATE IN THE WEST AND INDONESIA

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A B S T R A C T

Muslims rightly emphasize that the Muslim world is diverse, but we should also remember that “the West” is also very diverse. Much of the modern West has been shaped by a Christian background and in particular an emphasis on the freedom of faith and conscience that came to prominence after the Protestant Reformation. Most of Indonesia has been shaped traditional cultures often tolerant of other views; the largely peaceful spread of a form of Islam that has emphasized piety and spirituality; the major colonial power, the Netherlands, emphasized the co-existence of religious group in a ‘consociational’ idea rather than an individualistic one; Pancasila incorporated these elements and is in many ways was a synthesis of them. The United States and Indonesia obviously have very many differences, but their constitutional and basic laws show some surprising parallels. These include: An explicitly religious, not secular, foundation; expectation that the country will have a range of religious beliefs; rights are not restricted according to their religion; an emphasis unity and diversity. Of course, Both countries fail to live up to their constitutional commitments, but both have good models of religious co-existence. These models are currently under threat. In Indonesia by radical forms of Islam, often stemming from the Middle East. In the United States by radical forms of secularism which want to restrict the place of religion in public life.

Keywords: Christianity, Constitutions, Europe, Religious Freedom, Secular.

I N T R O D U C T I O N

I will argue that the relations between religion and the state in the West are very varied and that many Western states are not secular in their political outlook. This means that many of the contrasts, and suspicions, drawn between these areas of the globe are too stark and that there are many similarities of outlook. I will particularly outline some parallels between Indonesia and the United

States in the areas of constitutional and fundamental law. We have more in common than we think.

EAST AND WEST ARE VARIED

Indonesians and others are often concerned that many Westerners tend to make sweeping judgments about the Islamic world, as if all Muslim-majority countries were basically the same, and that they are often unaware of the incredible variety that exists, even within countries such as Indonesia. I believe that this concern is correct. Many Westerners especially tend to equate the Muslim-majority world with the Middle East, and even miss the variety within the Middle East.

But we must avoid the parallel error of thinking that there is a “West” in which countries are largely similar. There too there is incredible variety. For example, in France religion is usually excluded from public life. Muslim face veils have been banned in public, as are ‘large’ Christian, Jewish or other religious symbols, and police have questioned priests because they were wearing their clerical robes in public. In contrast, the Irish Constitution opens with the words “In the Name of the Most Holy Trinity....? The Greek Constitution proclaims the “Holy and Consubstantial and Indivisible Trinity” and even controls bible translations.

MUCH WESTERN POLITICAL STRUCTURE IS NOT SECULAR

There is a tendency in the West to believe that democracy, toleration, and pluralism exist and can only exist, in a liberal and secular society. Indeed, the words are often strung together so that people refer to the growth of ‘liberal democracy’ or ‘secular democracy’ as if these were correlated. But there is no correlation between democracy and secularism. There are highly secular repressive regimes such as North Korea and China.

This tendency can also annoy people in Indonesia and elsewhere who praise and want democracy, toleration and pluralism and, indeed have a large measure of each of these, but they do not want also to embrace liberalism or secularism. This issue lies at the center of Jeremy Menchik’s recent book, *Islam and Democracy in Indonesia: Tolerance Without Liberalism*. Menchik examines Indonesia and finds it democratic, tolerant and pluralistic, but also argues that it is neither liberal nor secular but rather communal and religious. He concludes that a religious state, a communal society, and a pluralistic democracy can go together. He also concludes that Westerners (and others) are incorrect to push secularism or liberalism when what they really want, or should want, is to promote democracy, toleration and pluralism.

This is an excellent book, and I am very sympathetic to its major themes. However, I will maintain that when Menchik criticizes the common

association between, on the one hand, liberalism and secularism and, on the other hand, democracy, toleration and pluralism, in fact what he is arguing against is not actual Western political practices, but the misleading perceptions of their own society and politics held by many secular Westerners. Such Westerners keep describing their own societies as liberal and secular, and are often incorrect in doing so. These polities are usually very religious in their origin, and often so in their political structure, as Menchik himself notes and describes. This means that there can be surprising similarities between East and West, between Indonesia and the United States.

Hence, we should not think of “the West” as alike, nor always secular. I will emphasize the religious dimension of many Western countries and I will concentrate on the United States because I think that it and Indonesia have important similarities. First, I will outline briefly some of the Christian roots of Western polities. Of course, there are many other influences, including Greek, Roman and tribal practices, but I wish to show a clearer religious element. I will then outline some of the variety in contemporary European relations between religion and the state.

Finally, I will outline some of the similarities between Indonesia and the United States.

SOME ROOTS OF WESTERN VIEWS OF RELIGION AND STATE

Some of the many historical factors in shaping contemporary western views are: A. Christian views on freedom; B. Christian Failings and Privilege; C. Protestant emphases

Christian Teachings and Freedom

From its beginnings, the church was in doctrine and in practice separated from any particular tribe or territory—it was not the religion of any particular state or people. The Christian message was spread freely, by preaching, and its hearers and readers were free to accept or reject it. Also, for its first three centuries in the West, the church was a minority and Christians were often persecuted.

Because of these humble beginnings, the church had a commitment to religious freedom, especially its own freedom. Consequently, the Latin-speaking churches of the west sought to keep the authority of the church and the authority of the political order distinct. Even when Christianity became the official religion of the Roman Empire, it was still understood that church and empire were two distinct bodies. Hence one of the features of Christianity since its earliest years has been its insistence on the necessary temporal existence of two authorities instead of the one that has been the feature of most cultures and regimes.

Hence, in the year 494, Pope Gelasius wrote to the Emperor Anastasius on the relation of sacerdotium ('church') and imperium(empire):

“There are two powers, august Emperor, by which this world is chiefly ruled, namely, the sacred authority of the priests and the royal power.... while you are permitted honorably to rule over human kind, yet in things divine you bow your head humbly before the leaders of the clergy and await from their hands the means of your salvation.

There were two centers of authority in society, and neither could properly be reduced to the other. This did not mean that religion itself was excluded from the political order and confined to the church, since both church and state were believed to be responsible to God, but that they were understood to have distinct authorities and distinct roles. This stress on the independence of the church tended to lead to more open society. As George Sabine wrote,

“The rise of the Christian Church, as a distinct institution entitled to govern the spiritual concerns of mankind in independence of the state, may not unreasonably be described as the most revolutionary event in the history of Western Europe, in respect both to politics and to political thought.”

Henry Kissinger similarly observed:

“Restraints on government derived... from the universal Catholic Church, which preserved its own autonomy, thereby laying the basis—quite unintentionally—for pluralism and democratic restraints on state power that evolved centuries later.”

Of course, as we shall see, the church often failed to maintain these principles and it often persecuted others, including fellow Christians, but people still continued to believe that there should be boundaries between these institutions, and they struggled over centuries to define what they should be. This meant that the church, whatever its lust for power and civil control, had always to acknowledge that there were forms of political power which it could not and should not exercise. And the political orders, whatever their fervent and continuing drive to subsume all of human life under their control, had always to acknowledge that there were areas of human life that were properly beyond their reach. However much the boundaries were continually muddled and confused, there was an abiding sense that the political order was not the only order, and was not the order of ultimate human concern; that the spiritual core of human life, and the authority this embodied, was a realm beyond civil control. As with Jesus before Pontius Pilate, the political ruler always faced “another king.”

This view slowly permeated the culture with the belief that political and ecclesiastical jurisdictions were distinct and limited in their authority, and should always be kept so.

Christian Failings and Privilege

Of course, the practice of the church and of Christians often betrayed these principles and beliefs. During the fourth Century, Christianity in the West acquired a privileged position when it became the official religion of the Roman Empire. Many Western Christians gradually accepted the view that, while the church should be independent of political control, Christianity should be protected and supported by the state. (We should also remember of course, that there were millions of Christians in Africa and Asia who lived outside that Empire and did not have a privileged position in their societies). Hence, the Empire restricted and often persecuted non-Christians, and it persecuted Christians that who had different beliefs. Jews and heretics were persecuted, and inquisitions and wars were defended. Similar patterns continued after the Reformation, when many individual European States supported and often enforced their own brand of the faith—Catholic, Orthodox, Anglican, Lutheran and Reformed.

Protestant Emphases on the Freedom of Faith

Another element that had long existed in Christianity, the importance of conscience and its freedom, came to the fore more strongly in the aftermath of the Protestant Reformation. This stress was often confused since many of the early reformers did not directly advocate religious freedom or toleration but still emphasized personal conscience and the freedom of faith. However, their spiritual children, especially those in the ‘free churches,’ (i.e. those not linked to the state) took the notion of conscience and the argument that the nature of faith was inherently free in order to mount a robust defense of religious freedom.

In particular, the Anabaptist groups struggled against political coercion in matters of religions, and they formed the spring of one of the major streams of western religious freedom. This tradition continued in Robert Browne, the founder of Congregationalism. The English Baptists, headed by Hanserd Knollys, were consistent from the beginning, while in the United States Roger Williams founded the town of Providence explicitly as a religious refuge for all faiths. In 1663, the colony of Rhode Island, where the town of Providence was situated, received a Charter from King Charles II of England that affirmed toleration for all religions. Later, similar practices were followed by the Quaker William Penn in Pennsylvania.

In this way, an idea of religious freedom reflecting Christian origins began to be introduced into the modern world. However, it took longer yet to have not just freedom for religious groups, but also their equality before the law. It is also important that all the people referred to in this section were intensely religious and consciously developed arguments for religious freedom that were based on their religious belief.

CURRENT EUROPEAN PRACTICES

While there is currently little actual enforcement of religious belief in the West, some of these historical patterns of privilege remain. As noted, in Ireland, the constitution opens with the words, “In the Name of the Most Holy Trinity,” and it states further that God is the ultimate source of authority: “from Whom is all authority and to Whom, as our final end, all actions both of men and States must be referred.... We, the people of Éire, Humbly acknowledging all our obligations to our Divine Lord, Jesus Christ....” The Greek Constitution is more explicit and proclaims a Chalcedonian “Holy and Consubstantial and Indivisible Trinity” while the state pays Orthodox Christian clergy salaries and finances Orthodox churches. While there are guarantees of religious freedom, non-Christians, and non-Orthodox Christians, do suffer discrimination.

England also has a state church, although its effects are relatively minimal. The monarch is the head of the Church of England, and he or she, as well as some other figures are required to be officially members of the Church of England. Twelve Church of England Bishops sit in the House of Lords, which is the upper chamber of Parliament, and state occasions follow Anglican liturgy and traditions. Also, in practice, the Prime Minister appoints Bishops and other senior church personnel, but that is the extent of state interference. The government does not fund the church, which is facing hard financial times, and, except for these limits, all groups are granted religious freedom.

In other cases, a church may be funded by the state, but for the sake of equality, other groups are also funded. Norway has a state church that is supported by public funds. However, the Church of Norway holds a privileged role only with respect to the monarchy and state occasions. Otherwise, all religions have an equal footing. Since Norwegians thought that it would be discriminatory to pay only the official Lutheran church’s clergy, they now give funding to all religious groups, including Muslims.

Belgium goes further: the Constitution guarantees the rights not only of religious groups per se but also of ‘secular’ ideological and philosophical minorities. The state subsidizes religions and other beliefs so that the Ministry of Justice pays the wages of religious ministers and also secular moral advisers, the Foreign Ministry pays missionaries’ wages, and the Ministry of Public Works finances places of worship. State funding also goes to support

“secular humanism” (la Laïcité), which is recognized through the Central Secular Council.

Hence, Europe has countries with state churches that are funded, with state churches but who also fund all religious groups and equivalent secular groups, and with state churches that are not funded at all. The continent also has countries without state churches that do fund some or all religious groups, and without state churches that do not fund any religious groups. The variety is bewildering.

THE UNITED STATES AND INDONESIA

In the West, the Protestant emphases on freedom of belief, as well as earlier Christian patterns distinguishing the different authorities of church and state came to the fore earlier and more prominently in the United States rather than Europe. I believe that there are similarities between the United States and Indonesia on the matter of the relation of religion and that state and so I will compare these two countries. I will concentrate on their constitutions and other fundamental laws. Of course, countries do not always follow their constitutions, or sometimes they follow them only in part. But constitutions, even when not yet fully realized, reflect countries’ fundamental commitments and shape their ideals and so they can reveal something about what lies at a culture’s heart.

I will outline four similarities between Indonesia and the United States. These are that they: A. have an explicitly religious, not secular, foundation; B. are open to a range of religious beliefs; C. Emphasize that people’s rights are not restricted by religion; D. emphasize both unity and diversity.

An Explicitly Religious, Not Secular, Foundation.

Key Founding documents and people are often explicitly religious The US Declaration of Independence (1776) speaks of human rights as stemming ultimately from God “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights...”

The Virginia Statute of Religious Freedom (1786), forerunner of the religious freedom guarantees in the US Constitution, opens with the words “Whereas Almighty God hath created the mind free; that all attempts to influence it by temporal punishment or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the Holy author of our religion...”

John Adams, the second President of the United States in a speech to the military on October 11, 1798 warned his fellow countrymen, “Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other.”

The Preamble to Indonesia's 1945 Constitution begins "By the grace of God Almighty and motivated by the noble desire to live a free national life, the people of Indonesia hereby declare their independence."

The Pancasila begins with a commitment to "a belief in the One and Only God (Lord)..."

Article 29 of the Constitution declares that
“(1) The State shall be based upon the belief in the One and Only God.”

In 1945, Soekarno said of the new country: "The Christian should worship God according to the teachings of Jesus Christ, Moslems according to the teachings of the prophet Mohammed, Buddhists should discharge their religious rites according to their own books. But let us all have Belief in God.... And the state of Indonesia should be a state incorporating belief in God."

In 2010, the Constitutional Court rules that: "Rule of law in Indonesia must be understood through the viewpoint of the 1945 constitution, namely a constitutional state which places the ideal of Belief in God as its foremost principle as well as religious values underlying the movements of nation and state life, and not as a country that imposes separation of state and religion or merely holds to the principle of individualism or communalism."

Open to A Range of Religious Beliefs

Each country's documents protect a range of religious beliefs. The Virginia Statute continues: the "no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever...."

The First Amendment to the US Constitution (ratified 1791) requires that "Congress shall make no law... prohibiting the free exercise" of religion.

The Pancasila's commitment also supports a range of religious beliefs.

Article 9 of the Indonesian Constitution requires that "Prior to taking office, the President and Vice President shall swear an oath in accordance with their respective religions or shall make a solemn promise...."

Article 29 of the Indonesian Constitution requires that "(2) The State guarantees all persons the freedom of worship, each according to his/her own religion or belief."

People's Rights are not Restricted by Religion.

The Virginia Statute continues: “no man shall suffer... on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinion in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.”

The First Amendment to the US Constitution requires that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...” Meaning that at the federal level there could be no established church or religion.”

From its beginning, Indonesia has rejected the “Jakarta Charter” and other more restrictive patterns of religion and the state. Now the Indonesian Constitution’s Article 28 on human rights repeatedly emphasizes that these rights belong to “every person” regardless of religion.

In particular, Article 28E emphasizes that “(1) Every person shall be free to choose and to practice the religion of his/her choice.... (2) Every person shall have the right to the freedom to believe his/her faith (kepercayaan), and to express his/her views and thoughts, in accordance with his/her conscience.”

Emphasize Both Unity and Diversity

For many years the phrase *E pluribus unum*, Latin for “Out of many, one,” was regarded as the national motto of the US, even though it was never codified in law. It was placed on the Great Seal of the United States and adopted by an Act of Congress in 1782.

Article 36A of the Indonesian Constitution states that the national motto will be “Unity in Diversity (*Bhinneka Tunggal Ika*).”

C O N C L U D I N G C O M M E N T S

Of course, there are also very many differences between these countries, and even when there are parallels, each country often fails to live up to their constitutional ideals. In Indonesia, the recognition of only certain religions, and the banning of the dissemination of Ahmadiyya or other ‘deviant’ teachings seem to violate the constitution’s guarantees of religious freedom. Nevertheless, the similarities are striking and provide good guides for governing religiously diverse societies.

However, both countries are under threat from other views of religion and the state. In the United States the main threat is from a restrictive form of secularism, and in Indonesia it is a restrictive form of radical Islam

In Indonesia, I do not think the main threat is from violent groups such as ISIS or the Islamic Defenders Front but growing more widespread radical views, often supported from the Middle East. Indonesia has also seen more restrictive fatwas from the Ulama Council. There has also been an increase in blasphemy accusations, of which the recent charges against Ahok are one example. My research has shown that the major effect of blasphemy laws is not to stop insults to religion but to suppress religious views that dissent from the dominant religion.

Traditionally in the United States and elsewhere in the West, governments could and did cooperate with or aid religious groups just as they could any other bodies in society. The government simply could not elevate one religious body above the others. But in recent decades, there are increasingly influential radical secular ideologies that argue that only secular views may be supported by the state. In a dissent in *School District of Abington Township v. Schempp*, a 1963 Supreme Court decision that banned Bible readings in public schools, Supreme Court Justice Potter Stewart correctly argued that prohibiting such religious exercises put religion in “an artificial and state-created disadvantage” and that consequently the United States was moving towards “not as the realization of state neutrality, but rather as the establishment of a religion of secularism.” As world examples show, such a move could be another avenue to religious tyranny.

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- 1 For an overview of European relations of churches and states, see Paul Marshall, “Secular and Religious, Church and State,” 12-16 of Paul Marshall, ed., *Religious Freedom in the World* (Lanham, Md: Rowman and Littlefield, 2008).
 - 2 For an overview of the issues, see Alfred Stepan, “Democracy, the World’s Religion and the Problem of the ‘Twin Tolerations,’” *Journal of Democracy* 11:4, 205-218.
 - 3 Jeremy Menchik, *Islam and Democracy in Indonesia: Tolerance Without Liberalism* (Cambridge: Cambridge University Press, 2016), see especially 2-3.
 - 4 Menchik, 161-167.
 - 5 See my *God and the Constitution: Christianity and American Politics* (Lanham, Md.: Rowman and Littlefield, 2002), 116-119.
 - 6 Translated in J. H. Robinson, *Readings in European History* (Boston: Ginn, 1905), pp. 72-73.
 - 7 George Holland Sabine and Thomas Landon Thorson, *History of Political Theory* (New York: Holt, Rinehart and Winston, 1961), 180.
 - 8 Henry Kissinger, *Does America Need a Foreign Policy?* (New York: Simon and Schuster, 2001), 20–21. For background that suggests that this was not “quite unintentional,” see Brian Tierney, *Religion, Law and the Growth of Constitutional Thought, 1150–1650* (Cambridge: Cambridge University Press, 1982).
 - 9 This is drawn from *God and the Constitution*, 117.
 - 10 For an overview, see Paul Marshall, “Secular and Religious, Church and State.”
 - 11 Message from John Adams to the Officers of the First Brigade of the Third Division of the Militia of Massachusetts, October 11, 1798
 - 12 Quoted in Muhammad Yamin, *Naskah Persiapan Undang-Undang Dasar 1945* (Drafting the 1945 Constitution) vol. I (Jakarta: Jajasan Prapatja 1959), 77-78, quoted in Menchik, 1)
 - 13 Court verdict, 2010, 140/puu-vii/2009, 3.34.10, quoted in Menchik 1
 - 14 The drafters of the Statute tended to think only of Christians and Jews but there were many conflicts among the Christians, and the Statute does not side with any of them.
 - 15 In 1956 the phrase “In God We Trust” was adopted as the official National Motto.
 - 16 See Paul Marshall and Nina Shea, *Silenced: How Apostasy and Blasphemy Codes are Choking Freedom Worldwide* (New York: Oxford University Press, 2011).
 - 17 *School Dist. of Abington Tp. v. Schempp* 374 U.S. 203 (1963). Of course, ‘secular’ has as many meanings as the word ‘religious.’ It can refer to countries that regard secularity as non-discrimination between religious and other beliefs, or countries where secularism is the official state ideology and means the exclusion of religion from public life.