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## Islam and competing in doing good

Jennie S. Bev , San Francisco | Mon, 03/03/2008 12:52 AM | Opinion

Indonesia is a country with three legal systems: civil (continental), Islamic and *adat* (customary). Above all, Indonesia is said to be a country based on the concept of rule of law, which is reflected in the 1945 Constitution. But there are also gray areas throughout, and this unique environment serves as a fertile breeding ground for multitudes of interpretations in legal, political and cultural domains.

Based on the rule of law, no one is above the law and the truth occupies the highest form of intent. The continental legal system in Indonesia, which originated from the Dutch imperialism era, is based on this principle.

However, according to Seyyed Hossein Nasr, an Islamic scholar who was educated at MIT and Harvard, in *The Heart of Islam* (pg. 288), "The rights of God stand above the rights of human beings."

It is clear that these two systems interpret justice based on different standards. In Islam, there is an absolute body outside the realm of human beings, which is called God, whose final verdicts can never be contested. In short, the Islamic judicial system acknowledges the concepts of absolutism and absolute power.

In a country with three legal systems, whose historical origins and notions of justice differ significantly from one another, it would take a group of people with mantic capacities to push the country forward in light of being accepted as a part of international society with universal humanitarian standards. Because unless this occurs brazenly in continuum, Indonesia might need to accept the fact that it may degrade itself into the darkness.

A few Islamic scholars and activists have taken their stance in showing the world how Islam is a tolerant religion and that Islamic laws and jurisprudence are adaptable in modern society. Other than our own Abdurrahman "Gus Dur" Wahid, Azyumardi Azra and a few pluralistic ulema and scholars, professor of law at Emory University, Abdullahi Ahmed An-Na'im, and a research fellow at the Lokahi Foundation in Switzerland, Tariq Ramadan, who is nicknamed the "Martin Luther of Islam", are two other examples of outspoken moderates whose voices are heard by the world, including leaders in Western countries.

The world needs more people like them to break the silence of the moderate Muslim majority and to embrace the notions of diversity and tolerance, which the Koran has been preaching to the world but are rarely heard.

It would not be fair for Islam as an institution to be "represented" in the world by noisy fundamentalists and extremists. Because, after all, most Muslims long to live in peaceful coexistence with others.

Tariq Ramadan is one exemplary moderate scholar and preacher. In his book *Western Muslims and the Future of Islam* (pg. 202), he encourages interfaith and interreligious dialogue, as he believes that it is how God wants the totality of humankind to behave.

Ramadan explains, "If there were no differences between people, if power were in the hands of one group alone (one nation, one race, one religion), the earth would be corrupt because human beings need others to limit their impulsive desire for expansion and domination. So, just as diversity is the source of our test, the balance of power is a requirement for our destiny."

This statement is so beautiful that I would contemplate its profound meanings every night before going to bed. Islam is, indeed, a great religion for acknowledging the rainbow of humankind in a balanced mind-and-heart perspective.

Realistically speaking, back to Indonesia, the gray areas in the intertwining legal systems have proven to be very costly. This was evident when Home Minister Mardiyanto did not have a second thought in declaring that the government did not see any need to revise the 600 sharia-based and sharia-inspired bylaws, regardless of the catastrophic consequences that might follow, including opening a Pandora's box to an unjust society and to the end of a democratic republic.

This is quite bothersome because both the people and the religion of peace itself are greatly affected.

A good analysis was put forth by Prof. Abdullahi Ahmed An-Na'im in *Toward an Islamic Reformation: Civil Liberties, Human Rights, and International Law* (pg. 8-9): "If historical Shari'a is applied today, the population of Muslim countries would lose the most significant benefits of secularization. Even Muslim men, who are the only full citizens of an Islamic state under Sharia, stand to lose some of their fundamental constitutional rights

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if Shari'a is restored as the public law of the land."

Under sharia public law, freedom of belief, expression and association of Muslim men would be greatly affected by the law of apostasy and the ruler's powers.

This is a valid argument, as Indonesian analysts point out that substance-wise the sharia-inspired bylaws go against the democratic principles contained in the 1945 Constitution. Articles 28D and 28I state everyone should be free from discrimination and entitled to equal treatment before the law.




An-Na'im also offered a solution that we all need to ponder upon: "The only way to reconcile these competing imperatives for change in the public law of Muslim countries is to develop a version of Islamic public law which is compatible with modern standards of constitutionalism, criminal justice, international law, and human rights."

While An-Na'im gave examples of Islamic countries, which Indonesia is clearly not, Indonesia should be able to grasp the insightful statements as a way to resolve the gray areas between national civil law and Islamic public law.

The 1945 Constitution, in fact, was the brainchild of our founding fathers, most of whom were well-educated and broad-minded moderate Muslims. Thus, in the case of Indonesia as a modern nation, there is no need to reformulate another version of Islamic public law.

For Indonesia to stand tall and be accepted as a member of the international community, which is dignified and democratic with high humanitarian standards, we need to remember that God intended to create communities so we all can compete in doing good for one another and to be each other's check-and-balance. After all, the world does not revolve around Indonesia; Indonesia revolves around the world.

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