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RETHINKING THE SECULAR

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Colophon

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Rethinking the Secular


Abdullahi Ahmed An-Na'im

With responses from
Zainal Abidin Bagir and Sitharamam Kakarala

Pluralism Working Paper no 1

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Welcome to the *Pluralism Working Paper series* for the Promoting Pluralism Knowledge Programme. The series provides a vehicle for early dissemination of knowledge and aims to reflect the broad range and diversity of theoretical and empirical work that is undertaken by academic researchers and civil society based development practitioners in association with the Promoting Pluralism Knowledge Programme.

The Promoting Pluralism Knowledge Programme (PPKP) is carried out in an international cooperative structure that includes the Humanist Institute for Cooperation with Developing Countries (Hivos) and the Kosmopolis Institute of the University for Humanistics, both in the Netherlands, the Centre for the Study of Culture and Society (CSCS, Bangalore, India), the Center for Religious and Cross Cultural Studies (CRCS, Yogyakarta, Indonesia) and the Cross-Cultural Foundation of Uganda (CCFU, Uganda).

The working paper series is intended to stimulate discussion and critical comment on a broad range of issues addressed in the knowledge programme and contains publications in three categories:

- A. academic research (-in-progress) papers**
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We welcome feedback and encourage you to convey your comments and criticisms to the working paper series editors and directly to the authors.

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On behalf of the international Promoting Pluralism Programme staff, we thank you for your interest in our working papers.

Caroline Suransky, Hilde van 't Klooster and Ute Seela

Editors of the *Pluralism Working Paper series*

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Editor's preface

The link between politics and religion is not a new phenomenon. Throughout history, they have overlapped and intersected in complex and various forms and under different circumstances in locations all over the world. Their interaction has continuously led to diverse and changing outcomes, thereby reflecting relations of power at local, national and international levels.

The conceptualization of 'the secular' too can be understood against this fluid background. As a social construction, secularism has taken on different forms and meanings in different nations and within different religious communities.

When we consider the ways in which politics and religion currently intersect in our age of globalization, we may conclude that religion has become an increasingly important consideration in global politics. Religious difference has indeed been posited as a crucial factor in international conflicts and increasingly challenges existing political settlements that define the relationship between the state and religion. Looking at it in this way, the idea of secularism is challenged, not as a move back to religious tradition or a protest against modernity, but as a contemporary challenge of how politics and religion are fundamentally related and how the sacred and the secular connect in the public and private lives of people.

Formations of the secular seem less and less autonomously determined at a national level, and seem increasingly globally interconnected. Individual national states are no longer the primary sites where new arrangements for coexistence can be negotiated and settled. Consequently, notions of the secular too are challenged and re-imagined by religious and political communities in a complex global discourse. Rethinking the secular has thus become a transformative project that goes beyond the boundaries of the nation state.

In the Promoting Pluralism Knowledge Programme, both academic as well as civil society partner organizations are confronted with the challenge to rethink the secular and find new ways to create possibilities for dialogue and coexistence across differences. For this reason, we invited Professor Abdullahi Ahmed An-Na'im to deliver a keynote speech at the conference "Promoting Pluralism through Civic Reason? Rethinking Secularism" in Utrecht, The Netherlands on the 25th and 26th of May 2009. The conference was initiated by the Kosmopolis Institute of the University for Humanistics and organized in cooperation with Hivos. In his presentation, An-Na'im discussed the highlights of the first chapter of his noteworthy book *Islam and the Secular State* (2008). In his presentation An-Na'im presented his key ideas on the secular and offered valuable insights for the Promoting Pluralism Knowledge Programme. The regional coordinators from the Indonesia program, Dr. Zainal Abidin Bagir, and the coordinator from the India program, Prof Sitharamam Kakarala, both responded to An-Na'im at the conference. All three contributions are included in this paper.

We thank Abdullahi Ahmed An-Na'im for his generous time and interest in the project and for giving permission to publish his ideas in the Pluralism Working Paper series.

Dr. Caroline Suransky,

Chief editor of the *Pluralism Working Paper series* for the Promoting Pluralism Knowledge Programme

Islam and the Secular State

Abdullahi Ahmed An-Na'im

Good morning. Thank you all for being here. It's an honour and privilege to be here and join this company. This morning I would like to present some highlights of my first chapter of *Islam and the Secular State* (2008).

Personal journey

The first point I would like to make is how this has been a personal journey for me. I come from Sudan, I was born in 1946, graduated in law in Sudan in 1970, earned Masters and Ph.D. in the United Kingdom and went back to teach. I've been part of an Islamic reform movement in Sudan. And throughout I was very sceptical about secularism and the secular state. In fact in the first book I published when I left Sudan in the eighties - *Toward an Islamic reformation* (1990) – I explicitly rejected the notion of the secular state or secularism as a way forward for Muslims. By the time I came to realise that in fact my understanding of secularism, which was negative as anti-religious and hostile to religions, was not necessarily the case. And I started to reconsider my position. And I have come now to fully embrace the notion of the secular state.

Language

My personal experience teaches me to be cautious towards language. Language is supposed to be the medium of communication. But sometimes it can lead to miscommunication or misunderstanding. Terms and concepts have their own genealogies, histories and associations which are often personal to all of us. So when I hear a term, I immediately know what it means to *me* and assume that this is the exact meaning that the person who was speaking means it for. The term secularism, and probably also pluralism, is one of those terms. Every term has history and association, sometimes negative, sometimes positive. And what I worry about is that people assume immediately that they know exactly what I mean in every respect. And one aspect of this is, looking around in this room, to all of us, that English is the second or third language for most of us. And yet it is has become so dominant globally that we all tend to communicate in English and this can also be a source of misunderstanding and confusion.

Naming something does not make it so

A second point of language that I would like to highlight is “naming something does not make it so”. Often we tend to assume that if something is called something, then it must be that thing it is called. Say for example, a secular state: if it is called a secular state it must be secular. Or in my case an Islamic state: if the state is called Islamic, it must be Islamic. Otherwise, why would they call it Islamic? But, as the point I will make in a minute, there is no such thing as an Islamic state. It is totally incoherent. When I say that, people immediately ask: “What do you mean with there is no Islamic state? What about Saudi-Arabia, what about Iran? How can you say that?” The point I'm just trying to emphasize is: let us be cautious about assuming that language has the power to make things happening. It doesn't. It is only to the extent that we *concede or accept* a notion that it becomes true to us. Anything that we did not concede is not true to us. It may be true to those who are asserting it, but it is not true to the rest of us unless we concede it.

Authority is in the eyes of the beholder

Probably you get a sense of why I am raising these issues at this point. Because the notion to me is that authority is in the eyes of the beholder. That to have authority to me is only to the extent that I concede it to you. If I do not concede it to you, you do not have it. You may put me in prison, you may torture me, you may kill me, but you do not have authority over my mind, over my moral judgement, or my autonomy and personhood unless I concede it. And this is tremendously empowering for me personally, because then it means that if I manage to be clear in my own thinking about what I mean and what I want to be, then, that's it. You cannot violate this inner moral autonomy that I enjoy and that I have as a human being.

Secularism is contextual and historical

My project is not about presenting the systematic studies of specific experiences, although it is not inconsistent with that. In the book *Islam and the Secular State* I emphasize very much that the secular state and the notion of secularism I am talking about are inherently contextual and historical. And that every society has its own experience unique to itself. There are no two identical experiences with this notion of secularism and the secular state anywhere. So I am not in the least pretending to give a vision of what secularism is that has to apply to all, or a blueprint of what the secular state should be. Every secular state has to be distinctive specific to its history, to its state formation, power relations, religious formations and everything that is specific to its society. So in other words, I'm not pretending to present a comprehensive study of this in relation to any society. Even in those studies where I look at the histories of India, Turkey and Indonesia in the book, I'm just trying to highlight particular issues regarding those experiences, but not to be comprehensive or inclusive.

A state cannot be religious

What I'm trying to do is to make a strong case for weak secularism. By a *strong case* I mean I'm making a normative claim that the state should be secular. By the secular state I mean a state that is neutral regarding religious doctrine, that it does not take a position on religion. My claim is that the state cannot be religious. Not only that it should not be religious, but it cannot be. No matter how hard those who control the state try, they will never achieve a claim of making a state religious. I am trying to emphasize this normative affirmation of the point. It is not a question of empirical experience that there has never been a secular state here or there. It is that the state is never religious. It may not be secular enough, or it may not have whatever quality that we needed it to have. But religious it cannot be. Because the state is a political institution it is incapable of having a religion. So the state as such cannot be religious: it cannot have a religion. Whenever we make the claim, what we mean is that this is a political institution that is controlled by elites who are using the state institutions to enforce their view of religion. So the religious quality is of the ruling elite, not of the state as such. And when we see the issue in these terms we immediately realise how dangerous it is to concede the claim that the state is religious. This is why I was emphasizing that you don't have authority unless I concede it to you. So if I do not concede to the ruling elite that they made a state religious by claiming it to be so, it is not religious.

I need a secular state to be Muslim

From the perspective of Muslim tradition I try to make an empirical argument as well as this normative argument. The normative argument is that I need the state to be secular. Not that it should be secular for any other reason, for development, peace... All of these factors are of course true and a case could be made from those perspectives. But what I would like to do when I say I try to make an argument from an Islamic perspective, what I mean is that as a Muslim I need the state to be secular. I need it to be secular precisely for the possibility of being a Muslim. So my claim is to do with being Muslim, not even with being a citizen, which is of course obviously true as well. The point is that I need the state to be secular as you would see in the first chapter of my book in that opening sentence. As a Muslim I need the state to be secular so that I can be the Muslim I choose to be by conviction and choice.

Belief requires the possibility of disbelief

And here is another point: there is no possibility of being Muslim by coercion. You may be forced to conform to certain practices, certain lifestyles, dress style, but it never makes the religious quality of being a Muslim, unless it is by free and totally autonomous choice. So the pious intent to comply is integral to every religious act as a Muslim. The possibility of belief logically requires the possibility of

disbelief. If I cannot disbelief, I cannot belief. Belief has to be a choice. It is totally incoherent to speak about a situation where I have no choice but to believe what I am made by others to believe.

Postcolonial discourse

My argument against an Islamic state or enforcement of Shari`a by the state is from an Islamic point of view. But I am also aware that there is the prevalence of this idea, pushed by Islamic fundamentalists and other forces, of the Islamic state that enforces Shari`a, is taken for granted. This is remarkable because this idea is totally groundless and meaningless. Some of the points I make in the book, is that this sort of Islamic state is extremely recent in Muslim discourse. It is a postcolonial discourse. It has no precedent and it has no basis in pre-colonial Islamic history or intellectual tradition. It is totally premised on a European ideal of the state and a European ideal of positive law. The notion that the state can enact and enforce Shari`a as a state law is a colonial idea, a postcolonial innovation.

Weak secularism

By *weak secularism* I mean a form of secularism that does not exclude the connectedness of religion and politics. It just rejects the connectedness of religion and the state. As I often try to do, I am presenting here a point of view that tries to incorporate competing claims and try to mediate competing claims and see both sides of the issue. I am not in favour of a secularized society. I'm not an advocate of a secularized society. A society might become secularized without me being able to do anything about it, but this is not my point. My point in fact is to assure that the state is secular precisely so that society can be religious. That is my position, no compromise about that point. For me it is clear that the secular state is a means to an end. Society itself is a means to an end. The individual human person is the end or objective of these institutions. For me as a Muslim my ability to be a Muslim that I choose to be is my objective.

Secularism as mediation

Therefore I present this notion of secularism as mediation. It is mediation between the need to keep religion and the state separate and the reality that religion and politics are connected. As already emphasized, my claim is that you cannot take religion out of politics, no matter how hard you try. You cannot control why people vote the way they do. And if they are believers the way they vote and act politically will be influenced by their religious opinions. So some of the confusion about language that I started by mentioning is the tendency to use politics and the state interchangeably. You often hear that people say that Islam and the state cannot be separated or Islam and politics cannot be separated interchangeably as if they mean the same thing. Or that you have unity of Islam and the state and Islam and politics. My point is that, yes, you cannot have a separation of Islam and politics, but you should strive to have a separation between Islam and the state.

Distinction between the state and politics

This last point brings me to highlight the distinction, but not dichotomy, between the state and politics. Maybe I can try to briefly explain the point. Politics is the government of the day. The state is the institution and continuity of sovereignty of a people. So, the judiciary is an institution of the state. The Foreign Ministry, the Ministry of Education, these institutions, in a stable and democratic situation, are institutions of the state. These are the ones that we should keep separate and neutral regarding religious doctrine. The government of the day is a government that is a reflection of the political choices that people make.

Maybe it helps to give an example that happened recently in the United States, so some of you may be aware of it. During the Bush administration it turned out that the Justice Department or the Attorney-General had dismissed some federal prosecutors because they refused to prosecute cases that the Republican Party wanted to prosecute, in various states throughout the country. Now that was a confusion of his mandate as the Justice Minister of that administration and the autonomy and integrity of the Justice Department. Because when the Minister uses his power as Minister of Justice to promote a political end for his party through the institution, that is undermining the autonomy and integrity of the state institution, that is when you have a dangerous confusion. One way of what I am trying to explain is to say that totalitarianism is the collapse of the state and politics. When you have no distinction between the political institutions and the political party and the state institutions, that is what totalitarianism is, whether it is fascist or any other ideological manifestation.

So my point is very much, secularism as mediation is about mediating that paradox, because it is a paradox. The state is a political institution and yet we say that it must be neutral regarding religious

doctrine. And yet we say that religion and politics are connected. Those who are not believers have to worry about what believers are doing, but it is not that they have a religious agenda to bring in to the state. But those who are believers do. So what we have is an effort to keep the state and religion separate, but religion keeps coming into the state through the back door of politics. That's why it is a paradox. It needs mediation. It's a question of vigilance, a question of trying to make sure that it does not happen by institutional safeguards - which for me include constitutionalism, human rights, citizenship - as a framework within which, what I call *civic reason* has to occur.

Civic reason

The idea of civic reason is that our reasons for promoting particular ethical or normative principles or policy objectives through law and administration are varied. Sometimes we have a religious motivation sometimes we have some kind of pragmatic experience or economic or other type of motivation for proposing particular policy objectives or particular legislation. That variety of motivations and reasoning will continue because probably we cannot control why people make the choices they make. The point about civic reason is to try to promote the ability to engage in civic discourse about policy and legislation that is not premised on our religious perspectives and our religious choices or religious convictions. Because if I present a choice to be made like this: "we have to ban this because it is religiously prohibited for Muslims (*haram*)", that's the end of the conversation. What can you say to that? But if I say we have to prevent this or prohibit that because of one, two, three, four, five reasons why it is a good thing to do this and why it's a good social policy, then there is a space to negotiate, a space to discuss the issues.

In this sense, Shari`a can never be enacted as a state law as such. That is, it is never enough to say "this must be the law because God said so". But if I don't even believe there is a God to believe in, or if I totally disagree with you about what God intended, then it is enough that you believe in God and understand God's will in this way and that you say let us do this because of one, two, three, four, five reasons that I debate with you. What I mean by civic reason is the ability to promote consensus over policy and legislation without reference to religious doctrine. That will keep the state neutral regarding religious doctrine and yet keep our government responsive to our religious values as well as our other concerns through politics.

Human rights, international cooperation and donor dependency

I believe that international human rights presuppose international cooperation. In fact the language of the UN Charter itself is "*to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion*". That is article 1 of the UN Charter. So the premise of international support and cooperation is in the idea of human rights itself. But the way it is done will make the difference between an imperial, colonial attitude of what was known in colonialism as "the white man's burden" to civilize colonized people, and a new twenty first century attitude of international cooperation among equal peers.

Donor relations with Africa and the NGOs of other developing countries are problematic. I was director of Africa Watch in 1993 -1995, and I resigned over this issue. For me the point is, as part of the international community, international NGOs and donor countries, we must provide support in a way that diminishes dependency, not enhances it. What we do is that we create dependency that keep those NGOs coming back to be funded in projects that we choose to fund. The priorities are not set by local communities. There is no accountability to local communities. The NGOs which are funded by Western donors have no accountability to their own communities. Their accountability is to Western donors. You submit a proposal with a budget, promising: "I will do this, I will do that", then you get the money, do the activities as promised. Next year you submit a report, saying: "I did this and that, money is over, give me the next grant". The question is that there is no effort to link those NGOs with the local communities in a way that makes them accountable to those communities. That is what I call "perpetuating dependency", not diminishing dependency. Granted that small NGOs do not have the capacity or ability to act effectively we need to support them. But we should do it in a way that over time enhances their capacity to be autonomous from us, to be independent of us, instead of keeping them dependent on us.

Islamic philanthropy

There are tremendous financial resources in Muslim communities. Working with a group of scholars and social justice activists we did a study about six Muslim countries to look at what we call “Islamic philanthropy”. The countries were Indonesia, India, Tanzania, Egypt, Turkey and the Muslims of the United Kingdom. And this was done about five, six years ago. We found that billions of dollars are given by Muslims to other Muslims through *zakat*, and *waqf* and *sadaq*, these are religious charities. This money is consumed. That is, as a resource it is just paid secretly to other people, and they spend it, but there is no sense of using it to develop societies in order to maintain a level of autonomy and independence in those communities. Our proposal out of this study was to say that we should create a coordination mechanism, that is, to guide this money to foundations that can act with transparency to provide funding for local NGOs to promote social justice. The advantage would be that the NGOs will be accountable to the sources of funding, which are local communities. Of course the fact of life is that we are all accountable to the source of funding. If that source is local, we will be accountable locally. If it is international, then we will be accountable internationally. The point I am making here is that it is not a lack of resources; it is a lack of legitimacy. NGOs that are perceived to be supported and funded by Western donors do not have legitimacy in their own communities. And their effectiveness is weakened for that reason. They can stay for decades with the same issues and have no impact. That is what I mean by the dependency problem.

Humanitarian intervention

In principle, we all have a right to intervene as human beings and communities concerned about what’s going on in another human community. But who is intervening, where and how can create problems. When Western powers intervene alone, without the rest of the international community, that can evoke memories of colonialism. Much of the reactions that Africans have to intervention by Western powers is relative to their colonial experiences with the same powers, which are not that far back in history.

Regarding Sudan and Darfur: Darfur is 100% Muslim. In fact Darfur has been Muslim before the north of Sudan was because Islam came to Darfur from West Africa before it became dominant in other parts of Sudan. So it is not a question of religion. It is a power struggle over resources among Muslims, as it happens in any other part of the world. The international community has the means to intervene and take over completely to protect peace and security if it has the political will to do so. Chapter VII of the UN Charter enables the Security Council to enact a binding resolution that justifies military intervention. And we have seen it in the case of Kuwait. The Security Council has not chosen to invoke that authority regarding Darfur. The Security Council choose to invoke chapter VI for so called peace keeping operations. And that depends on the sovereign consent of the state in question. In every situation where you have peace keeping forces it has to be the government of the country in question that consent to the international intervention. So the international community did not choose to use the power it has to intervene forcefully and legally, and choose to use less effective means. That was due to internal differences among Security Council members and the veto power issue which is not only peculiar to the case of Sudan. The veto power has prevented the Security Council from acting under Chapter VII for fifty years during the Cold War. So these are facts of international power relations and international politics, not of Islam.

I support international humanitarian intervention if it is done collectively and institutionally. That is, if the UN act as the UN, I fully support that. But if members of the UN chose to act extra-institutionally, unilaterally, I totally oppose that. So the United States and NATO have no power, no authority, and no right, nothing to do with coming to correct the situation in Sudan. They don’t have the authority and it is not going to work. The UN have the authority and have my personal support to do whatever it takes to keep peace in any part of the world. The question is: do we have the political will to act or are we going to lament the violence in Darfur just to feel good about how we are condemning it without doing what it takes to stop it?

Those are some high features that, I hope, will clarify, or I hope will not confuse too much, of what I’m trying to do. Thank you very much.

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Shari'a in the Secular State: Challenge or Opportunity?

Response to Abdullahi Ahmed An-Na'im

Zainal Abidin Bagir

I'm very honoured to respond to Prof. Abdullahi An-Na'im. His thoughts are quite relevant for the challenges many Muslims face now, including in Indonesia, where the issue of *Shari'a* is quite alive as I shall touch on later. I'd like to comment on just a few points from your rich presentation and book, see what they mean for the idea of religion in politics in general as well as more specifically for civil society organizations' strategies in their advocacy.

Shari'a in the secular state: fundamentalism within the embrace of pluralism?

I would like to start with the premises of this conference and the Knowledge Programme on Promoting Pluralism. Justifying the use of "pluralism" in the title of the Knowledge Programme, the proposal defines it in this way:

Pluralism is accepting and valuing diversity and engaging with the other. Pluralism is more than tolerance; it is active seeking of understanding across lines of difference. Pluralism is not relativism; it does not require leaving identities behind. *Yet it requires accepting the rights of others, the right to design one's own life, the right to be different.* (Introduction to Promoting Pluralism Knowledge Programme at www.hivos.net. Italics added)

The description of the Conference also explicitly states that the Knowledge Programme "starts from a premise that the existence of diverse faith traditions does not only present "challenges for social cohesion and governance but also creates *opportunities for a more vibrant civil and political culture*." ¹ (Promoting Pluralism through Civic Reason. Rethinking Secularism. 25-26 May 2009, Utrecht, p. 2. Italics added.)

What then does it mean to speak about *Shari'a* in the context of pluralist, secular state? Many discussions about *Shari'a* emphasize on the first dimension (as challenges), but do not speak much about the second (opportunities). *Shari'a* may be a challenge for social cohesion and governance as it is regarded (correctly in most instance) to be part of Islamic fundamentalist movement, which is usually judged as an inadequate, unrealistic response to modernity.

In one of the important and early books on fundamentalism, *Defenders of God* (1995), Bruce Lawrence defends the usefulness of using the term "fundamentalism" beyond its historical association with the American Protestants to include also similar phenomena in other religions. He draws an instructive contrast of one of the traits which distinguishes fundamentalism from modernism: "Fundamentalists generate their own technical vocabulary. Reflecting the polysemy of language, they use special terms that bind insiders to one another, just as they preempt interference from outsiders. *Halakha* for Jews, *Shari'a* for Muslims, and 'creation' for Christians, represent three terms, each of which would be open to several interpretations but which the fundamentalists invest with a particular meaning that exceptionalizes, even as it appears to validate, their ideological

¹ The quotation within the above quotation is from Banchoff, Thomas (ed.) (2007). *Democracy and the New Religious Pluralism*. New York: Oxford University Press.

stance.” (100)² If it's quite difficult for many to see creationism as an opportunity, would it be easier to talk about acknowledging aspiration for *Shari'a* as an opportunity “for a more vibrant civil and political culture” in a plural, democratic society?

In multiculturalism discourse, we may call attempts to implement and enforce *Shari'a* as a group/collective right. And discussions about collective rights should remind us that *Shari'a* may be invested with different meanings. I shall not take up An-Na'im's elaborate discussions about the history of *Shari'a* and the methodology he proposes for its interpretation and contextualization through civic reason. But for him, first of all *Shari'a* is not (only) a matter of opportunity, but religious necessity. Quite early in his book, *Islam and the Secular State, Negotiating the Future of Shari'a* (2008), he states his premise: “Muslims everywhere (...) are bound to observe *Shari'a* as a matter of religious obligation” (3).

The issue is *how* *Shari'a* is understood and observed, and this is what distinguishes the way he speaks about *Shari'a* and the fundamentalist way. The above statement is immediately followed by his other central premise: “that [observing of *Shari'a*] can best be achieved when the state is neutral regarding all religious doctrines and does not claim to enforce *Shari'a* principles as state policy or legislation.” Quite early in his presentation as published here he related the two premises bluntly: “As a Muslim I need the state to be secular so that I can be the Muslim I choose to be by conviction and choice.”³

For those who aspire for implementation and enforcement of *Shari'a*, the requirement An-Na'im poses may be too limiting. It concedes too much to the (idea of the) secular state. However, on the other hand, for the liberal, An-Na'im's idea, which opens space for implementation of *Shari'a*, concedes too much to fundamentalists, whose ultimate objective is the establishment of an Islamic state. Surely An-Na'im is aware of this tension, but the question is whether he manages to overcome it. For him, there is no other way except to acknowledge that those who aspire for *Shari'a* have the rights to do so *as citizens*. The key issue is *how* such an aspiration finds its way to the plural public realm.

In brief, his answer is that, in the context of a secular, plural, democratic society, *Shari'a* has to conform to the requirement of civic reason, within the framework of constitutionalism, human rights and citizenship. This requirement may mean radical re-interpretation or even abandonment of some parts of historical *Shari'a*. In some places in the book (as well as in his earlier book, *Toward an Islamic Reformation*, 1990) he points to three crucial issues in historical *Shari'a* which may be in conflict with the demand of civic reason, and thus have to be reinterpreted radically: the issue of treatment of non-Muslim minority, apostasy, and the status of women. It is doubtful that this promotion of reformed *Shari'a* can be accepted by the Muslim groups who want to enforce *Shari'a* as part of state policy. But, indeed, as a participant in the internal Muslim debate, this is precisely the challenge he willingly takes up and he presents arguments for the legitimacy of his position. I shall not discuss this issue further, except noting that, as he shows, such re-interpretation or “reformation” is not something new in the history of *Shari'a*. As such his ideas remain within this tradition of interpretation and re-interpretation.

In principle pluralists have to acknowledge the existence of - to use John Rawls's term- different “comprehensive doctrines”, including the fundamentalists'. This is the undeniable fact of pluralism Rawls refers to, which is prevalent in today's society. Reducing diversity (for example in rejecting *Shari'a*) is surely not a pluralist kind of response. The question is more about the limits of what can be ‘tolerated’ in a democratic society. I would suggest that we consider this tension between *Shari'a* and the secular state (including international laws) to have two aspects or dimensions.

First, we may speak of the general, universal principles such as presented in the universal declaration of human rights, which has been ratified by many, including Muslim, countries. For Rawls, for example, one important principle is that the comprehensive doctrines should be consistent with “the idea of equal basic liberties for all free and equal citizens” (Rawls 1999, 590).⁴ But there's

² Quite similarly, Malise Ruthven (2007). *Fundamentalism A Very Short Introduction*. Oxford: Oxford University Press. p. 4-5 contrasts Christian fundamentalists' belief in biblical inerrancy with Muslims' aspiration to *Shari'a* and Jewish observation of *halakha*. Fundamentalist-like movements in different religions are not identical, but they exhibit family resemblances.

³ The first sentence in the book makes the same statement: “In order to be a Muslim by conviction and free choice, which is the only way one can be a Muslim, I need a secular state.” (An-Na'im 2008, 1)

⁴ See also the question of toleration in the same essay.

bound to be debates about the limits, which ultimately border on how neutral public reason is.⁵ Similarly, An-Na'im's framework of constitutionalism, human rights and citizenship and his conception of civic reason may be too liberal in this regard. I'm not quite sure how far his civic reason differs from Rawls' as well as Habermas' discussions of public reason. He compares them in *Islam and the Secular State* (An-Na'im 2008,97-101), but I fail to see what in principle would distinguish his from the two, though he sees that Rawls' notion of public reason assumes a constitutional and societal stability that does not resonate with post-colonial, non-Western societies.⁶ At this point, Bhikhu Parekh's discussion of intercultural evaluation, as part of multicultural practice may be an answer to An-Na'im's concern (Parekh 2000, 101). This is the second dimension of the tension.

In Parekh's term general universal principles such as human rights are too thin to cover possible disputes about particular practices of certain cultural groups. This is where the dialogue of intercultural evaluation enters. As he shows (when considering some examples of such practices in "The Logic of Intercultural Evaluation", Chapter 9 of his *Rethinking Multiculturalism*) there may not be a general answer that can be given, instead the details need to be worked out case by case, through dialogue. Dialogue would surely not be easy; but Parekh contends that it is not impossible. It would open up a much larger space for deliberation, rather than applying an indiscriminate, supposedly universal wedge in different contextual settings. Not less importantly, I may add, it would also accommodate more of internal diversity to come to the surface in the process of deliberation. Despite objections to An-Na'im that may come from the liberal quarters it seems to me that An-Na'im is still too liberal in his emphasis on the supposedly universal principles and international laws vis-à-vis particular cultural and religious practices.

Shari'a on the ground

Nevertheless, if we take a look at the actual efforts that are going on to implement *Shari'a* in Indonesia by some groups, one would also be worried that, in a different sense, An-Na'im concedes too much to the *Shari'a* groups, many of which understand *Shari'a* narrowly, mostly as historical *Shari'a*. By definition, Muslims are bound to observe *Shari'a* as a matter of religious obligation. But despite the fact that Indonesia is the most populous Islamic country in the world, the groups that want to enforce *Shari'a* as a matter of central or regional governmental policy form a small minority.⁷ Moreover, those efforts are tied so tightly with the current of contemporary local politics in Indonesia as the results of democratization. The newly gained freedom and regional decentralization opened up ample space for numerous groups—whether religious or ethnic—to compete in local politics. *Shari'a* becomes a vote-getting issue; it is not necessarily promoted by Islamic political parties but in some places supported by secular nationalist parties. In this situation, one feels that An-Na'im's discussion may have assumed or ascribed greater significance to the *Shari'a* implementation efforts as part of religious movements, while in many cases one sees political opportunism or elite competition.⁸

While it would be unfair to demand that a substantially theoretical book such as written by An-Na'im would pay attention to issues such as those, what I'd like to say is that a response to the *Shari'a* movement would need to take into account this recent situation (which I described very sketchily in

⁵ Though public reason is in the political, not metaphysical, domain and attempted to be as neutral vis-à-vis comprehensive doctrines as possible, it certainly is not totally empty. The challenge is to be as inclusive of all comprehensive doctrines, religious or not, as possible. Yet, at some point it cannot avoid to be exclusive. For example, Rawls speaks of unreasonable (*contra* "reasonable" doctrines that accept the essentials of a democratic regime), irrational, or mad comprehensive doctrines in a society. In that case, for Rawls, the problem is to contain them so that they do not undermine the unity and justice of society.' (Rawls 2003, xix.) Surely this does not fully solve the problem, for the issue of what qualifies as such doctrines is bound to be controversial.

⁶ To be fair, An-Na'im does acknowledge that his conception of civic reason is tentative and evolving (An-Na'im 2008,101)

⁷ This actually should force us to rethink about the claim of "majority". In the census, indeed Muslims are the majority, comprising of almost 90% of around more than 200 million Indonesians. But this religious identity, as reflected in the census or ID cards, does not translate into effective political force. One doesn't need to look further than the 2009 general election, in which the overwhelming majority of Muslims voted for non-religious political parties; the total percentage gained by several Islamic parties (which, needless to say, also display different Islamic religious identities) is less than the gain of a single nationalist party. This, despite the fact that in many recent global and national surveys, Indonesian Muslims say that their religion is their primary identity-marker. (See Bagir & Cholil (2008)). So, any claim that *Shari'a*, interpreted in a very specific (not to say narrow) way, which may not be shared by other Muslims, has a natural place in Indonesia as an Islamic country is difficult to sustain.

⁸ Of course I do not deny that there are groups who sincerely struggle for "*Shari'a* as solution for our problems", not merely as a political opportunism. What happens seems to be a marriage of convenience between those groups and partisan political forces, which include secular political parties. For a recent review of *Shari'a* movement in Indonesia, look at Robin Bush's article in Fealy & White (eds) (2008).

the case of Indonesia) and the different players on the ground. An adequate response would also look at the root of dissatisfaction with the failure of the existing system (both in the national and global contexts) to deliver justice. Besides theorizing the relation between religion and politics, we also need to understand the dynamics at the smaller, local scale, within the community: how people—not only as citizens, but as individuals and members of his/her own community—respond to the perceived problems in their day-to-day lives, and negotiate their multiple identities as believers, citizens, members of a gender group or cultural groups. Such understanding of the actual struggle to implement *Shari'a* in the wider context, which sees it more than merely a religious phenomenon, would, I believe, help us formulate a more adequate response.

In this response, while appreciating An-Na'im's book as one which promises new avenues of debates about Islam (and actually also religion in general) and politics, what I tried to do is problematize the answers in order to continue the discussion. Ultimately, what I think is the most important contribution of this book is its attempts to bridge the rift between the fundamentalist and the liberal ways of looking at the issue of religion and politics, which almost becomes a stalemate. By acknowledging the legitimacy of *Shari'a* in a secular, democratic society (and construct a methodology to deal with it), An-Na'im acknowledges both the genuine concern to implement *Shari'a* as Muslim's way of life, but also the strong commitment to democracy, religious neutrality of the state, and upholding of human rights as a way of life in the global community. It would be too good to expect that both groups would readily accept his thoughts, but hopefully this may re-open the debate in new, innovative directions.

Implications for CSO strategy

In the end, let me say briefly what I see as a clear implication of An-Na'im's ideas for CSO advocacy strategy in Indonesia. In my observation, the stance of most CSOs working for democracy, pluralism and justice in their many forms is closer to a liberal stance. Their response toward efforts to implement *Shari'a* is to resist them. A common attitude is to see "them" (commonly regarded as fundamentalists) as a group "we" (meaning: those who are working for democracy and justice in a plural country) don't like. Thus the way to deal with fundamentalism is to challenge or resist—not to tolerate it, let alone to engage with it. From this perspective, promoting pluralism is perceived as countering fundamentalism. Since the struggle to enforce *Shari'a* is a manifestation or perhaps a symptom of fundamentalism, many CSOs feel it is their task to resist it.

A different understanding of pluralism and fundamentalism would result in a different advocacy strategy. To return to the normative description of pluralism I quoted in the beginning of my response, we need to remind ourselves that the requirement to "accept the rights of others, the right to design one's own life, the right to be different" should not be discriminative but reciprocal: it is not only addressed to the fundamentalists but obviously also to the pluralists themselves.

If pluralism is engagement with—not resistance against—difference, then, using An-Na'im's theory, what can be done is empowerment (not marginalization) of the *Shari'a* groups so that they (1) use democratic avenues and advocate *Shari'a* through the advancement of civic reason; (2) develop their understanding of *Shari'a* not limited to historical *Shari'a* but within the frameworks of constitutionalism, human rights, and equal citizenship. A further move in this direction is to initiate a kind of "inter-cultural dialogue" as suggested by Parekh so that no cultural or religious claims are rejected right away, and no supposedly "majority" or "mainstream" within a cultural/religious group is given an unquestionable right to claim itself as the representative of the group. In the end, what should result is the widening of the space of deliberation within the society at large. A shift of paradigm from a focus on fundamentalism to a focus on pluralism may mean nothing less than that. To quote An-Na'im's last words on Indonesia: "In the final analysis, what is critically important is to keep the debate [about *Shari'a* and secularism, Islam and the state] itself alive and constructive. (...) and focus on substantive and mutually respectful arguments." (An-Na'im 2008, 266).

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Rethinking the Secular: Possibilities and Challenges

Response to Abdullahi Ahmed An-Na'im

Sitharamam Kakarala

The first time I came across Professor An-Na'im's ideas was as a student, when I was studying human rights. Since then I have always benefited hugely from his work as it presents interesting and divergent vantage points to look at questions such as secularism and the rights debate, especially in the third world. The secularism conversation in India, which constitutes the background of my response, has been driven by a critical scholarship that embraces methods and approaches familiar to postcolonial theory of a particular kind. I am going to refer to such postcolonial reflections whose references are very much there in An-Na'im's work. From that vantage point, I will take up certain questions that emerge in order to present my thoughts on what I perceive as problems for some of An-Na'im's formulations.

The secularism debate in India

In my view, An-Na'im's approach is very instructive for anyone who tries to make sense of secularism, while taking many things for granted, like the neutrality of the state. In India the constitutional framework has permitted a certain kind of secularism. But over the years, especially last twenty five years, India has increasingly been besieged by problems of interreligious conflicts. Of course, there were such conflicts in the past too, from the nineteenth century onwards, but the last twenty five years witnessed conflicts whose nature, origins and causalities are not very easy to identify, for they are always multiple. However, this crisis of the secular in the wake of inter-religious conflict, has also provided opportunities for rethinking. This is the background of 'rethinking the secular question' in the Indian context. From this vantage point, 'rethinking the secular' through 'redefining the secular', is a hugely interesting challenge.

The debates in India however are somewhat differently engaged with the issue. Some important scholars who are involved in these debates on secularism in India are, just to mention a few, Rajeev Bhargava (1998), and Anarudha Needham and Rajeswari Sundar Rajan (2007). By exploring these debates, I need take the debate a little beyond An-Na'im's immediate presentation. I am trying to see whether I can provoke him to share a few thoughts on some of the concerns of postcolonial scholarship.

Rethinking the secular beyond liberal ontology?

A question I would like to pose to An-Na'im at a later point, is related to a set of concerns that emerged from the contemporary postcolonial theory, like work from David Scott (1999) and Gayatri Chakravarti Spivak (1999), and especially from the work of scholars like Ashis Nandy on secularism. But for the moment, through An-Na'im's formulation of 'rethinking the secular' through 'redefining secularism' - within which the idea of 'civic reason' seems to be a fundamental concept - he has already crossed the bounds set by conventional sense of liberal understanding of secularism; for example when he suggests that secularism is not opposite to religion. Further, his mediation argument— interpretative freedom as the basis of agency in linking the divine and the human— shows that his conceptualisation of the secular has gone beyond the Rawlsian position of 'overlapping consensus'.

However, I am tempted to pose a rather small question in this regard. I wonder why, despite going beyond the conventional (liberal) way of defining the secular, there is a need to adhere to the term 'civic', especially when much of the postcolonial scholarship has attempted to find alternatives, such as community, for instance? Would An-Na'im therefore have a reflected reason as to why he feels 'civic reason' is a more appropriate concept than, for instance, 'community reason'?

The second thing that I find hugely interesting in An-Na'im's work is the way that he engages with the Islamic values issue and the reinterpretation of Shari'a. Personally, the distinction between state and politics is very attractive to me because I am interested in rethinking democracy in postcolonial locations and this distinction helps to expand the idea of the political.

Thirdly, An-Na'im's project is primarily normative; there is no doubt about that. I however tend to feel that there is a problem in the conflation of the factual with the normative. My submission in this regard would be to see whether there is indeed such a clear distinction, despite your clear proposition that there is, or, whether the distinction could be somewhat tenuous.

I am absolutely thrilled with An-Na'im's internal critique argument, an insider-outsider critique in the overall sense. My only suspicion is - and here is a precautionary footnote, for I could be absolutely wrong - that there is perhaps some hesitation on his part to push for a more radical internal critique in rethinking the secular, as well as in rethinking the secular and Islam relationship. The reason may be the following: the analytical categories that he seems to deploy tend to vacillate between a liberal ontology and something eluding to go beyond liberal ontology. For instance, take the concept of agency. I wonder whether 'choice' is always the way you represent agency. Or, put in differently, is 'choice' the only way one can think of agency? Is it not the case that choice is primarily a category derived from liberal ontology?

If my understanding is correct, then there is indeed a sense of hesitation in An-Na'im's analysis in going beyond liberal ontology when he defines the concept of agency. I wonder if the case of promoting pluralism in the postcolonial context, is invariably burdened by finding ontological diversity in dealing with the core categories of modernity, such as agency. Another example: should, for instance, equality be singularly defined as equality before law, that is individual vis-à-vis the state? Or could equality be defined in diverse ways, other than constitutional equality? Could there be equality for instance, in forms other than the state, where the state law has no say, like in a place of worship?

These are just some examples, I would like to invite An-Na'im to consider whether his ontological basis continues to be primarily liberal, while at the same time, his analytical categories implicitly traverse beyond liberal philosophy.

Postcolonial critique of the secular

Now permit me to return to the postcolonial critique of the secular. An-Na'im refers to postcolonial critiques in his recent work on the secular state and the future of Shari'a (An-Na'im, 2008). I am tempted to seek An-Na'im's reflections on the role of the state in managing the secular.

The crisis of secularism in India has been identified in multifaceted ways in a series of recent postcolonial contributions (see for instance: Bhargava, 1998; Needham & Rajan, 2007; Nandy, 2007 and 1998). I would like to put forward one of these points by using Ashis Nandy (2007; 1997), who is sufficiently provocative. If the problem with the secular is, *firstly*, to be understood as part and parcel of the problem with the larger sense in which modernity is identified, and, *secondly*, the secular is always something that is associated with the state as a category (about which An-Na'im seems to be not having any problem) it is interesting to consider that, in contrast, some postcolonial scholars consider that to be the central problem. For Nandy, for instance, the religious conflict in India cannot be sufficiently addressed and/or substantially resolved unless one dissociates from the predominant view that the state alone should provide the solution. In other words, if secularism, similar to the French concept of *laïcité*, is state-centric, then the state is expected to be pro-active in being socially non-partisan and to deploy its neutral forces to effectively mitigate inter-religious violence. However, what happens to that normativity, if over a long and persistent time, the state does not act in the way that it ought to? I think that is a puzzling question for all of those who live in postcolonial societies.

This issue became a key vantage point for the postcolonial scholarship in interrogating the connection of the state and the secular, and the state's capacity to resolve the problems. What however I would like to add here, is that this argument is not new. The Indian intelligentsia has always been sceptical about a centralised state and its capacity to produce solutions. A state can be there, it could be important, also a normative framework is equally important. But there are so many aspects to people's personal life – and I think that is where the religions question comes in – where it is doubtful if the state is able to make any meaningful or effective contribution to mitigate inter-religious tensions. I wonder whether An-Na'im has some reflections on these dilemmas.

Finally, I would like to pose another postcolonial insight for An-Na'im's critical reflection: fundamentalist orientations, or singular interpretations, are often the hand work of non-believer politics. In other words, the Hindutva movement in India, for instance, is not about religious beliefs. Rather, it presents an ideological vision of those who are not Hindu believers. Thus it could be argued that non-believer politics often become actual versions of fundamentalism. I wonder whether An-Na'im has some reflections on these kinds of questions.

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