

---

*Book Review:*

## **Islam and the Secular State: Negotiating the Future of Sharia**

Ririn Noviyanti <sup>1</sup>

<sup>1</sup> Institut Agama Islam (IAI) Al-Qolam Malang, Indonesia,  
Email: [rinoviyanti@gmail.com](mailto:rinoviyanti@gmail.com)

---

ARTICLE INFO

*Article History:*

Received Oct 2017

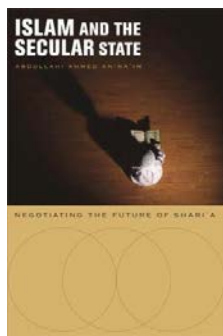
Accepted Oct 2017

Available Online Jun 2018

---

*Keywords:*

*Secularism, Secular State,  
Sharia*



---

ABSTRACT

The development of modern thought in Islam, is a distinct dynamism in the intellectual space, which is never discussed, because the development of this thought is the intellectual muddle of the earlier Islamic thinkers, which is then passed on to the next generation, as the times and the times progress. So when discussing of contemporary Islamic thinkers, it would seem odd to forget the figure of Abdullah Ahmed Al-Na'im, who allegedly included a rare thinker and a scholarly dedication to be reckoned with in the contemporary world of contemplation. Which not only fathers on the matter of worship *mahdhoh*, ethics, etc. However, he is an activist who possesses a high degree of popular loyalty without prejudice to his criticism of political, legal and governmental matters. This is proven through affiliation in human rights institutions, although the figure of Ahmed Al-Na'im is also a brilliant academic figure.

Sharia always has a bright future in the public life of Islamic society because it can play a role in preparing the generations for the life of society, fostering institutions and social relations and so forth. Sharia will continue to play an important role in shaping

---

- *Title:*

Islam and the Secular  
State, Negotiating the  
Future of Sharia

- *Author:*

Abdullahi Ahmed  
An-Na'im

- *Publisher:*

Harvard University Press.  
2008.

- *Length:*

337 pages

and developing ethical norms and values that can be reflected in public legislation and policies through a democratic political process. Muslims everywhere, whether as majority or minority, are required to practice Islamic sharia as part of their religious obligations. But according to the author the principles or rules of sharia cannot be applied and applied formally by the state as law and public policy only for the reason that the principles and rules are part of sharia. In addition, the main target of this book is Muslims everywhere, but not monolithic, remarkable, or static categories of readers. Intellectual and professional Muslims, who tend to be the ruling elite and opinion-maker in their society, are largely shaped by the European style of education, which allows them to appreciate philosophical concepts and terms that may be unknown to those educated in traditional Islamic schools (*madrasah*).

---

## Curriculum Vitae and Education

Abdullah Ahmed An-Na'im, more familiarly called An-Na'im, was born in Sudan in 1946. Na'im completed his undergraduate education at the Khartoum University of Sudan and earned his LL.B with cum laude. Three years later (1973) An-Na'im received three degrees at once LL.B., LL.M., and M.A. (diploma in criminology) from the University of Cambridge, English. In 1976, he received his Ph.D., in law from the University Of Edinburgh, Scotland, with a dissertation on comparative procedures of criminal proceedings (English, Scottish, American, and Sudanese law). From November 1976 to June 1985, An-Na'im became a faculty member at the University Of Khartoum, Sudan. In the same year, (1979-1985) An-Na'im became head of the public law department at the same alma mater. In August 1985-June 1992 An-Na'im became guest professor Olof Palme at the Faculty of Law, Upshala University, Sweden. In July 1992-1993 graduated, living in the office of The Ford Foundation for the Middle East and North Africa, in Cairo, Egypt. In July 1993-April 1995 became Executive Director of Human Rights Watch at Washington D.C. Then since June 1985 until now, he is a professor of law at Emory University, Atalanta, GA., USA.

## Social Affiliation, Religion and Politics

In addition to an academic intellectual figure, as evidenced by his formal positions in the bureaucratic structure of Khartoum University, Sudan, and Emory University, Atlanta, GA., USA, Ahmad Al-Na'im is also a social, law and political activist. This can be known through the involvement of human rights institutions, even the Executive Director of Human Rights Watch in Washington D.C. can also be known through freelance writings and books that belia notabene human rights, Islam, law. Abdullah Ahmad Al-Na'im is a rare thinker, as Myer pointed out, that Ahmad Al-Na'im, besides lawyers and Islam, is also an expert in the field of international relations. His expertise connects two disciplines of science that have different roots, making it a hard-to-find scientist figure.

## Legendary Opus

Among the main works of Ahmad Al-Na'im is, titled *Toward an Islamic Reformation: Civil Liberties, Human Rights and International Law* published Syracuse, NY: University Press, 1990. Who initiated the need for a new format of Islamic law relevant to the demands of the times progressively advanced in modernity, and breaking the contradictions between Islamic public law and international law, human rights, modern constitutionalism and modern criminal law.

Legendary in Indonesia is in the range of July to August 2007, Ahmad Al-Na'im's book *Islam and Secular State: Negotiating the Future of Sharia*. The Indonesian edition is: *Islam dan Negara Sekular: Menegosiasikan Masa Depan Syari'ah*, once booming in Indonesia, crowded to fill the formal discussion space, special and general seminars, enrich the intellectual thought of the intellectuals in particular, despite the swift stream of pro and contest from various parties thinkers. It was also crowded because at that time, along with Ahmad Al-Na'im's visit to several places in Indonesia such as Jakarta, Yogyakarta, Aceh, Bandung and Makassar. An-Naim's other works include:

1. Second Message of Islam: Mahmoud Muhammad Toha (translator)
2. Cultural Transformation and Human Right in Africa
3. Human Right in Cross-Cultural Perspectives: A Quest for Consensus
4. Muslim and Global Justice
5. African Constitutionalism and the Role of Islam

6. Human Rihgts and Religios Values: An Unesay Relationship?
7. Inter -Religious Marriages Among Muslims; Negotiating Religious and Social Identify in Family and Community
8. Islamic Family Law in a Changing World: A Global Resource Book
9. War on Error: Real Stories of American Muslims

Above are some of the books written by An-Naim. There many more books and articles of An-Naim's work has published.

### **Academic Anxiety**

#### 1. Islamic Law

The academic anxiety about Abdullah Ahmed Al-Na'im's thought, which is related to sharia, is the idea of "State neutrality of religion" ie the idea of separation between religion and state, in the applicative realm, it is demanded that the underlying consequences of ideological beliefs are consciousness religious as the religiosity of the beliefs of society itself. Not because of the rules of the state. As Ahmad Al-Na'im pointed out in this book that separation between state and religion is necessary so that Sharia can play a positive and enlightening role for the life of Muslim people and society, that opinion can be called state neutrality to religion.

#### 2. Gender

Ahmad Al-Na'im's idea of gender is: the idea of reforming Islamic law in the perspective of human rights, in this book is the same as that unraveled in his book: *Toward an Islamic Reformation: Civil Liberties, Human Rights and international Law*. In his book, Ahmad Al-Na'im considers that, initially Islam did not understand the conception of human rights, as evidenced by the legality of slavery, the subordination of women, and various discrimination of religion and gender. Even if in Islamic law there is some kind of modification to negative trends in the process of discrimination, but according to Ahmed Al-Na'im, such a way for modern times is now no longer relevant even hamper efforts to abolish slavery and anti-discrimination initiated and upheld high by human rights. Therefore Ahmed Al-Na'im's offer of ideas is, Reform of Islamic Law in Human Rights Perspective. Through the

approach of Tasic Naskh theory developed by Ahmed Al-Na'im. The main target of this book is Muslims everywhere, but that is not a monolithic, incredible, or static category of readers. Muslim intellectuals and professionals, who tend to be the ruling elite and opinion-makers in their society, largely shaped by the European style of education, which makes it possible they appreciate philosophical concepts and terms that may not be known with those educated in traditional Islamic schools (*madrasah*). Therefore, even if this book intended exclusively for Muslims, which will still be diverse and dynamic.

## Book Content

Book of Islam and secular State: Negotiating the Future of Sharia by Abdullahi Ahmed An-Na'im is 337 pages and consists of seven chapters each of which covers the chapters described briefly below:

### *Chapter 1: Introduction: Why Muslims Need a Secular state?*

Why do Muslims need a secular state<sup>1</sup>? This chapter is discuss about Islam and the secular state of sharia. Affirming and supporting the separation of Islamic and state institutions, which is necessary for sharia has a precisely positive and enlightening role in the lives of Muslims and Islamic societies. The considerations emphasized in An-Naim's ideas related to the role of sharia in the public sphere and not with the issue of doctrine and religious practice in the private sphere. The main purpose in writing this chapter is to promote the future of sharia as a normative system of Islam among the *ummah*, but not through the imposition of its principles by force by state power. According to him, his goal on sharia can only run voluntarily by his adherents. Goals are solely the eyes of individual freedom in society to support, objection or modify any views of religious doctrine or principles. An-Naim strongly rejects the dangerous illusion of an Islamic state that implements the principles of sharia should be done so that Muslims and other citizens can actually live up to their religion and belief. In this chapter, An-Naim proposes to use the term pluralism rather than secularism to avoid confusion between the positions of An-Naim and those with a negative

---

<sup>1</sup> Is a concept of secularism, in which a country becomes neutral in religious matters, and does not support religious people or non-believers? The secular state also claims that they treat all citizens as equal, even though their religions are different, and state non-discrimination against the population certain religion. The secular state also has no national religion. Secular states are defined to protect religious freedom. The secular state is also described as a country that prevents religion from interfering in governmental issues, and preventing religion from governing government or political power.

view of secularism. The use of the word pluralism is appropriate because secularism is essentially necessary for the realization of pluralism in a practical and sustainable way, namely the acceptance of various forms of religious, cultural and other diversity as fully positive and institutionalized social and political values. In essence, both pluralism and secularism equally want religious neutrality.

It is illogical to say that *ijtihad* cannot be done on every issue or issue because the state itself is a product of human reasoning and reflection. He thinks it would be very dangerous to limit the ability to exercise *ijtihad* only to a small minority of Muslims, who considered having special qualities, for that power would be manipulated for political or other reasons. In this chapter, a lot explanation about Islam, sharia and the State. Here He proposes the legal shields of the separation of Islam from the state and the regulation of the role of Islamic politics through the constitutionalism and protection of human rights. In this chapter also describes the framework and process of social transformation, culture and identity, cultural legitimacy of social change, elements of the theory of relations of Islam, state and society, the contextual approach to secularism as mediation and the last that He wrote on the cover this chapter is a territorial state not an Islamic one.

### *Chapter II: Islam, the State and Politics in Historical Perspectives*

In this chapter in the discourse of the framework for reading history, the beginning of mediation between the ideal vision and pragmatic reality, the war against apostates and the character of the state, the *Mihnah* implications of the authority and the political and religious institutions, the negotiations between nations and the story of the Fatimid dynasty and the *Mamluk* in Egypt, its influence on judicial and religious institutions and their powers. The main purpose of this chapter is to show that the secularism defined as the institutional separation between Islam and the state while maintaining its association with politics is more consistent with the history of Islamic societies than with the post-colonial idea of an Islamic state that can apply sharia through the coercive power of the state.

### *Chapter III: Constitutionalism, Human Rights and Citizenship*

It consists of discussions on the state, politics and Public Reason<sup>2</sup>, constitutionalism, human rights and citizenship in an Islamic perspective. This chapter describes the modern state according to western scholars. The model of this state is that of "bureaucratically organized and regulated administration and rule of law and operated by a group of administrators. They has authority over whatever happens in its territory, territorial base and monopoly to use power"<sup>3</sup> Illustrated by the case of India, Turkey and Indonesia, the adoption of the European model of state conceptions and legal positivism entails the incorporation of appropriate concepts and principles of secularism, constitutionalism, human rights, and citizenship. This does not mean total aggregation. Naim does not suggest that being Muslim is irrelevant, or that there is no distinction between religious people. Naim's intention is that Muslims and their people who are not superior or inferior simply because of their religious beliefs.

### *Chapter IV: India: State Secularism and Communal Violence*

This chapter discusses the tension between secularism of Indian states and the reality of communal violence and interreligious relations in Indian society today. This issue is approached with reference to the historical context of the relationship between Islam, the state, and politics, which will return to at least the eleventh century. The underlying concern is the influence of relations between Indian Muslim society and the state, as well as other religious communities, on legitimizing and securing secularism as a contextual concept and practice that is negotiated over time. This focus presents a highly controversial issue, including questions about past religious rulers' motivations, self-perceptions and others among Muslims and Hindus, and the degree of syncretism in Indian social identity. There are differences of opinion about the theoretical and methodological framework of the analysis and the question of the availability of independent or verified evidence regarding various claims and counterclaims as well as the survival of interpretations on substantive issues. There is an equally rich discussion and a strong dispute about the secular character of the Indian state, its western and indigenous roots, and its failure and success in post-colonial India. This

---

<sup>2</sup> Namely, a space of dialogue and debate rooted in the Civil Society. That is where the purpose, reason and purpose of a shari'ah are tested and debated by the wider community.

<sup>3</sup> Graeme Gill, *The Nature and Development of the Modern State*, (New York: Palgrave Macmillan, 2003), p. 2-3

chapter does not seek to intervene in any particular debate or to judge any scientific position conclusively, but only to highlight aspects that seem to underlie the legacy of tension between the official secularism of the state and communal relations in India today.

The main purpose of this chapter is to understand how the relationship of the Indian Muslim community with the state and with other communities in the past and the present affects the legitimacy and sustainability of secularism as contextual and constantly negotiated concepts and practices.

#### *Chapter V: Turkey: Contradictions of Authoritarian Secularism*

This chapter discusses the role of religion in the power of the Ottoman dynasty and the legal system of the Ottoman dynasty. On degeneration and transformation, secular republican secularism, the dilemma of secularism negotiations and the challenges and prospects of Islamic politics. In Naim's view, the purpose and basis of secular thought is to increase the religion of pluralism and individual freedom of choice about whether or not to observe the teachings of Islam. It is wrong to force women to close themselves by perpetuating religious obligations in state law, thus depriving them of the basic principles of personal and personal responsibility to God. But it is also wrong for the state to present women with a difficult and demeaning choice between upholding their religion of belief and depriving them of their autonomous education, work, and personal rights in general. This view does not assume that state intervention is the only or major limitation on the freedom of choice for women-or men, in this case-because the pressure of one's family or society can be even more oppressive and hampering. Those other sources of violation of the rights and freedoms of individuals should be addressed through appropriate means, including Islamic reform and popular educational initiatives, as He proposed earlier. A clear understanding of secularism as the negotiation between the neutrality of state religion and the public role of religion is of great importance for the legitimate purposes and the rationale of good religious thought and the state.



### *Chapter VI: Indonesia: Realities of Diversity and Prospects of Pluralism*

This chapter assumes that diversity is a difference in religious matters. Ethnic and other demographic data, while pluralism is a system of values, attitudes, institutions and processes that can translate the reality of diversity into sustainable social cohesion, political stability and economic development. Thus, the phenomenon of diversity is a permanent feature of all societies that must be different in form and dynamics. In other words, diversity is empirical, while pluralism is an ideology or orientation and a system that accepts diversity as a positive value and continually seeks to facilitate the process of negotiation and adaptation between them, without seeking to destroy one or a part of that diversity. Indonesia, it seems, is the largest plural country in all respects. The geographical location and plurality of this region will continue to present fundamental challenges to the possibility of implementing what is termed "the model of the nation states"<sup>4</sup>. In this chapter, we describe in detail the post-independence period of Indonesia, the reality of religious diversity in the archipelago, local religions. At the end of this chapter, the authors state that the debate surrounding the relationship between Islam, the state and society in Indonesia tends to lead to a naive dichotomy and unnecessary dilemma. It is a mistake to imagine a sharp dichotomy between the Islamic state and the Secular state only by looking at the existence of secular political institutions, especially in today's Muslim society.

In an article written by Sukarno, He emphasized the importance of separation of religion and state. He argues that democracy will not have any effect if there a particular religion that weakens solidarity between Muslims and non-Muslims, and the second group will oppose the implementation of sharia.

### *Chapter VII: Conclusion: Negotiating the Future of Sharia*

Some terms and concepts used in this book, such as Sharia, secularism, and citizenship evoke various meanings and associations between each reader group. The author's primary purpose is to persuade Muslims to support and promote the proposed conception of the dynamic relationship between Islam, the state, and politics. To this end, the author has sought throughout this book to support the proposition from an Islamic perspective. As this

---

<sup>4</sup> a concept or form of state which obtains its political endorsement by becoming a sovereign entity for one nation as a sovereign (unit) territory of sovereignty

should be a common concern because of its implications for human dignity and social justice at home and abroad, the author also calls on non-Muslims to participate in debating this issue in relation to public policy and state law. Muslims are also encouraged to participate in debates among other faiths in relation to public policy and state law. Such a debate about all relevant religious traditions must be held with decency, mutual respect, and wisdom. They should also focus on issues of public policy and law and avoid questions of religious teachings and ritual practices. This standard may often be difficult to sustain in practice, but the consensus on modes of politeness, how, and the limits of internal debate and interfaith dialogue will evolve over time.

Without a secular state that allows freedom of religion and expression, there is no possibility of development in any religious doctrine, and there is no possibility of peace within or between religious communities. The secular state also secures effective possibilities to prevent an exclusive and authoritarian group religion from threatening the vital interests of every segment of the population. Naim talks about the possibilities because the secular state itself will not achieve that goal. Yet the secular state is vital to this possibility arises and remains accessible. On the other hand, secularism must be subject to drastic restrictions on normative claims and scope if it is to achieve its own goals, which is the safeguarding of political pluralism within a heterogeneous society. In other words, secularism is able to unite a diverse society of beliefs and practice into a political community because the morals of their claims are limited and thus are unlikely to be a source of serious disputes between citizens. Thus, the secular state is the framework necessary to negotiate ethical differences between citizens, but not to try to resolve those differences.

The relationship of religious symbiosis and secularism can be summarized in the following way. Secularism requires religion to provide a widely accepted source of moral guidance to the political community, as well as to help satisfy and discipline needs within that society. Religion requires secularism to mediate relationships between different communities (whether religious, anti-religious, or non-religious). In other words, the secular function of the secular state in governing the public role of religion itself requires religious legitimacy for society, which is impossible unless the traditional understanding of religion is open to transformative reinterpretation. Therefore, we need the protection of secularism, constitutionalism, human rights, and citizenship. All this is to suggest or imply that the religion of the majority of the population's faith should not be imposed on minorities, except on their own free and voluntary acceptance through civilian sense. The limitation of power and the rights

of the majority is what I mean as protection of secularism, constitutionalism, human rights, and citizenship.

Naim believes that Islamic reform is necessary for the legitimacy and coherence of the proposed model among Muslims. Naim personally believed in certain reform methodologies, but Naim did not insist as a prerequisite for the proposed framework and was fully receptive to reforming any methodology that could achieve the desired goals. In the final analysis, the state can serve the ideals of Islamic society to achieve social justice, peace, goodness and virtue by enabling and facilitating them through the realization of civil discourse and the structure of political life. The neutrality of religion proposed by the state is necessary for the future of the development of sharia itself. There are legitimate functions for the state, such as maintaining peace, adjudicating disputes, and providing essential services, but the authorities cannot and should not be extended to determine what or not Sharia

### Thought Method

The thinking methodology developed by Ahmad Al-Na'im, is the inheritance of the thinker of his teacher Mahmoud Muhammad Toha, the theory contains the theory of naskh (as known in the science of *ushul fiqh*), but modified in such a way that the substance are different

Na'im naskh process initiated is tentative, in accordance with the needs. The verses that are needed at certain times, the verses that are applied (*muhkam*); whereas unnecessary verses (irrelevant to contemporary developments) are abolished or suspended (included) of their use. Therefore, the Na'im according to the text can be a suspension of a verse that comes later by a preceding verse or vice versa, if indeed the actual conditions want it. Because it is appropriate to say that, each verse contains its own validity, he said. The Muslims are free to choose which verse suits their needs, says Na'im<sup>5</sup>. So, the verse that clearly *mansukh*, can be used again on another occasion. Furthermore, Na'im also states, to allow the

---

<sup>5</sup> Dr. Adang Jumhur Salikin, M.A. in its introduction, in *Sharia Reform and Human Rights in Islam: A Critical Reading of An-Na'im Thought*. Yogyakarta: Gema Media. 2004. p. 1-2. Haideh Moghissi stated that the reinterpretation of the Qur'an and Hadith texts, the Refinarization of Shari'a and Fiqh are to 'save Islam from its bad reputation in treating women.'

naskh to be permanent means there is no use in revelation of the texts. In addition,<sup>6</sup> if allowing the naskh to be permanent also means letting Muslims reject the part of their best religion. While the text is essentially the logical process necessary to apply the right nash and delay the application of another naskh, until it is needed again.<sup>7</sup> Here, Na'im elaborates on his thinking with the understanding of his teacher, Mahmoud Mohamed Taha. For Taha, the text is a process of Sharia evolution, namely the movement from one text to another relevant and contextual text. From a text that is worthy to govern the life of the seventh century and has been applied, to the text that was at that time too advanced, and therefore undone.

The main reason for Islamic public law as a pilot project of its renewal is the contradiction between Islamic public law and international law, human rights, modern constitutionalism and modern criminal law. According to Ahmad Al-Na'im, the controversy should terminated immediately. The trick is to build a new Islamic public law version and in accordance with modern constitutionalism, criminal law, international law, and human rights.

Ahmad Al-Na'im argues that demands for reform of Islamic law have begun to emerge since the late 19th century, when the West succeeded in influencing the Islamic world in the field of legislation. This occurs because European legislation is more accommodative to the demands of the nation State as well as the modern international order, than Islamic law. Yet the state model in the form of a nation state is also embraced by modern Muslim countries. Ahmad Al-Na'im formulated techniques for building modern Islamic public law:

1. Addressing key issues related to public law in the sense of the modern term and seeking relevance to the principles of Islamic law.
2. Find the principle of "relevant" Islamic law and determine which parts may be applied as modern public law
3. Break the conflicts and tensions within the framework of Islam as a whole, not within the framework of Islamic historical law.

---

<sup>6</sup> An-Na'im, Abdullahi Ahmed,

<sup>7</sup> Ibid., Long before Na'im, his teacher, Taha had declared it. This is not surprising, for Na'im's thought, as he admits to himself, it was the result of his appreciation of Mahmoud Mohamed Taha's thought, especially Taha's theory of naskh as the basis for Shari'ah reform which he initiates. See Taha, Mahmud Muhammad. 1967. *Reversal of Shari'a*. Translated by Khairan Nahdiyyin. 2003. Yogyakarta: LKIS. P. viii.

Thus the methodology developed by Ahmad Al-Na'im, which is actually the successor or "grounding" of Mahmoud Muhammad Toha's methodology. With the consistency of this Toha methodology Ahmad Al-Na'im was able to break down the "old Islamic law" and reconstruct "new Islamic law" so harmoniously, humanly, and without discrimination between humankind.<sup>8</sup> Na'im in compiling his legal formulation, using this Makkiyyah Madaniyyah concept. However, Na'im understands this Makkiyyah-Madaniyyah concept differently from the view of the *jumhur ulama*. According to him, the verses Makkiyyah and verses Madaniyyah are two separate packages (stages), one with the other is not interrelated. It differs not only in terms of differences in the period of descent, but also related to the different themes and missions that are brought, the objective (*khitab*) it, and the universal character. From here, Na'im concludes that the Makkiyyah verses carry a fundamental and eternal theme and mission; he speaks to all human beings without discrimination, across the boundaries of time and place. While the verses Madaniyyah carry a temporary mission, descended to a particular society in accordance with the human condition of the seventh century so it cannot function anymore at this time. Furthermore, by using the concept of *naskh*, he made generalizations, the verses Makkiyyah *me-naskh* verses Madaniyyah.

According Na'im, Muslims worldwide may be entitled to apply Islamic law, provided it does not violate the rights of other people and groups, both within and outside the Islamic community. It means that in claiming and using individual and collective rights to self-determination, Muslims must also recognize and guarantee the same rights for others. The issue, according to Na'im, if the Sharia histories (Na'im using the term *sharia* to call Islamic *sharia*) applied now, will cause serious problems concerning issues of constitutionalism, criminal law, international relations and rights, human rights. According to him, the most felt is the result of non-Muslim society and women. For non-Muslim communities they will become second-class citizens with *dhimmi* status, and for women, they will lose the opportunity to gain education and lack access to public life. Even men, he said, will also feel the impact, that is, they will lose freedom because it blocked by various laws.

To solve this problem, Na'im proposed the concept of change in public law in Islamic countries by developing a version of Islamic public law in accordance with constitutional

---

<sup>8</sup> Normative and Descriptive Approach in Islamic Studies (Review of the Work of Charles J. Adams) Written by Muhammad Latif Fauzi

standard, criminal law, international law and modern human rights. For that purpose, Na'im denies the sanctity of sharia, because sharia is not divine (revelation that comes directly from Allah). Sharia, he argues, is "the product of the process of interpretation of the analogical derivation of the text of the Qur'an and Sunnah and other traditions<sup>9</sup> (the result of the process of interpretation, derivation through qiyas to the text of the Qur'an, Sunnah and traditions another).

The formulation of sharia, like any other legislative system, follows the stages of the development of the people. He said "The techniques through which the history, the social processes and the political processes of Muslim history,"<sup>10</sup> (the techniques of translation the sharia from its sacred source and the means of drafting its fundamental concepts and principles, is clearly the product of the intellectual, social and political history of Muslims). Understanding of any sharia is always a product of *ijtihad* in the sense of thought and contemplation of humankind as a way of understanding the meaning of the Qur'an and the Sunnah of the Prophet.<sup>11</sup> By citing the view of John L. Esposito, Na'im expressed his lack of agreement on the difference made by modernist Muslims between sharia and *fiqh*, because in practice this distinction is less significant.<sup>12</sup>

The Na'im view (denying the sanctity of sharia) was apparently to make the sharia is relative. This is certainly dangerous, because by eliminating the value of the sanctity of Sharia and making it relative will lead to reduced compliance of Muslims to the implementation of the sharia, because it considered a human product and does not have a certain value of truth.

After the Sharia considered not sacred anymore, then the next step, Na'im called to reform the sharia. Nevertheless, he refused this reform with the existing sharia framework. Because in this framework, according to him, *ijtihad* does not apply to the law that has been touched the Qur'an definitively. While the law that needs to be reformed are the laws that fall into this category such as *hudud* and qisas law, the status of women and non-Muslims, inheritance law and so on.<sup>13</sup> This is a dilemma facing reformers of Islamic law, says Na'im. On the one hand, they are told to be of a jihad, but on the other hand, they hampered by the

---

<sup>9</sup> An-Na'im, Abdullahi Ahmed, *Islam and the Secular State : Negotiating the Future of Sharia*, (England: Harvard University Press, 2008)

<sup>10</sup> *Ibid.*, 14.

<sup>11</sup> *Ibid.*, 12.

<sup>12</sup> *Ibid.*, 50 dan xiv

<sup>13</sup> *Ibid.*, 49-50.

provisions of the classical *ushul fiqh* "*la ijtiḥad fi māwrid al-nass*." Therefore, what is needed is not reform but deconstruction. Na'im seems to want to break down the door of reform by taking the path that Christians have passed. For that he then proposed the use of hermeneutic methods to read the objectives and normative content of verses of the Qur'an as Christians have used it to read their biblical books, regardless of the fundamental differences that these two scriptures possess.

### Writing Approach

An-Naim uses several approaches, including sociological historical approaches, regional approaches, and phenomenologists.<sup>14</sup>

### Book Criticism

The book written by Naim is reaping a lot of criticism among others in the book review conducted in 2007, many Muslim scholars who reject the thought of An-Naim. As expressed Hamid Fahmy Zarkasyi, "According to him, Islamic law was created during the first three centuries of Hijra. Sharia is only a Muslim interpretation of their scriptures. Early-generation Muslims "did not recognize and do not apply sharia"<sup>15</sup> but there are Muslim scholars who support the thought of An-Na'im, the Dean of Graduate UIN Jakarta, Prof. Azyumardi Azra, took time to write a special Resonance column in *Republika Daily* (Thursday, 26/7/2007), entitled: "Islam, Country and the Future of Sharia". Azra writes: "In an essentially 'neutral' Indonesia context to religion, the thought of an-Naim is highly relevant and contextual. Therefore, no doubt, the thought of an-Naim is an important contribution to the nation-state of Indonesia".<sup>16</sup>

However, the book written in Naim is one of many books that carries thoughts that are in line with Naim. For more explicitly, reviewer suggests reading also the books related to Naim's thought, for example, Naim's popular book *Toward an Islamic Reformation: Civil Liberties, Human Rights and international Law* published Syracuse, New York: University

---

<sup>14</sup> Is a method for understanding the religion of one who includes the efforts of some scholars in assessing their choice and commitment neutral in preparation for reconstructing the experiences of others.

<sup>15</sup> [http://insistnet.com/index.php?option=com\\_content&task=view&id=175&Itemid=54](http://insistnet.com/index.php?option=com_content&task=view&id=175&Itemid=54)

<sup>16</sup> <http://idrusalih85.wordpress.com/2007/08/11/tragedi-abdullahi-ahmed-naim/#more-237>

Press, 1990. And compare it with books or articles that are not linear with Naim's thought, to be more able to add scientific treasures.

## **Conclusion**

The framework proposed in this book provides normative and institutional parameters and safeguards for the negotiation and mediation of Sharia roles between Muslims and non-Muslims now and in the future. Through negotiation and mediation, Naim intends to emphasize that there is no categorical and permanent resolution of the paradox of how to secure the religion of state neutrality in the reality of the connectedness of Islam and politics. The conception of the secular state offers an alternative vision for the perception of secularism and secular state which is considered harsh by most Muslims themselves. Naim balances two things by separating Islam from the state and regulating the role of religion in politics. This view combines the continuity of secular world history in Islamic societies with the reformation and adaptation of traditions to offer future possibilities for this society. Naim argues that there is nothing "un-Islamic" about the concept of a secular state as a necessary medium for organic and legitimate negotiations on the role of Islam in life, even in the Qur'an there is no verse that mentions the idea of an Islamic state, therefore. It is also clear that the Qur'an does not prescribe in particular the form of government. Naim's goal is to affirm that the secular state, as defined in this book, is more consistent with the inherent nature of Sharia and the Islamic history of society than the false and counter-productive statements of the so-called Islamic State or the enforcement of alleged Sharia as state law.

To live according to Sharia requires a secular state, because according to self-belief and free choice, personally and in society with other Muslims, which is the only valid and legitimate way of being a Muslim. Confidence in Islam, or other religions, logically requires the possibility of disbelief, because trust has no value if it is forced. As well as maintaining the institutional separation between Islam and the state while arranging a permanent connection. Islam and politics are necessary conditions for achieving a positive role for Sharia now and in the future. Briefly, we will describe the conceptual framework of the Islam An-Naim assessment as follows:

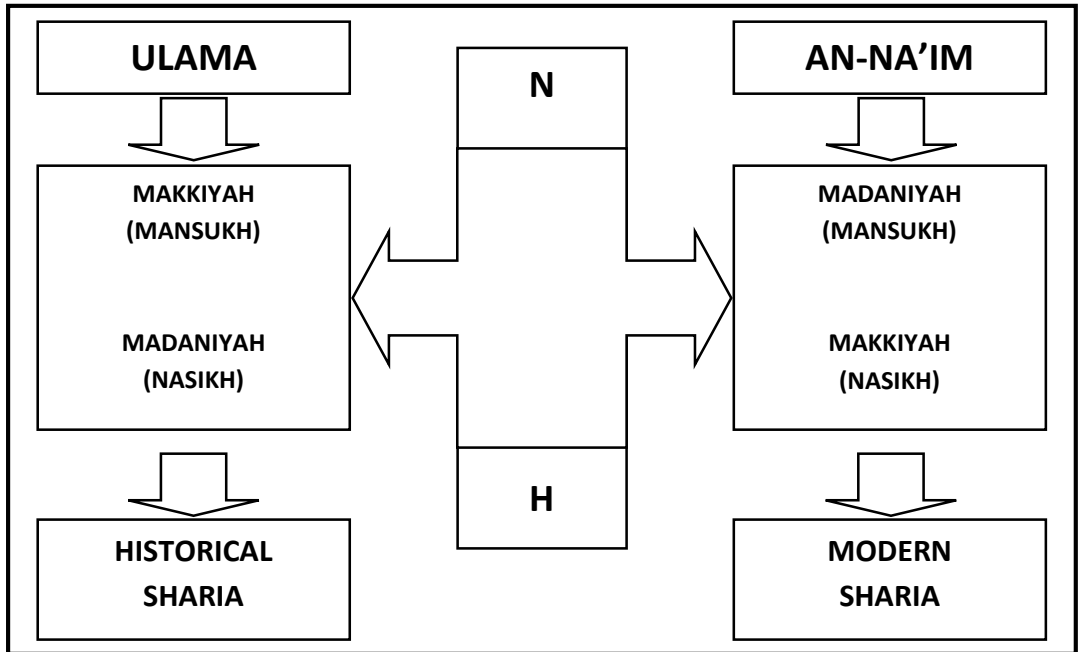


Sharia = Sharia Product	<ul style="list-style-type: none"> <li>a. Sharia is the result of interpretation of the Qur'an and <i>sunnah</i> in the context of the history of the seventh to the ninth century</li> <li>b. Sharia is not a divine nature whose principle and details are revealed</li> <li>c. Sharia can be reconstructed according to human needs and <i>maslahah</i></li> <li>d. This sharia is called historical sharia</li> </ul>
Sharia (makkiyah) = Modern Sharia	<ul style="list-style-type: none"> <li>a. Sharia historically built from the verses of the Qur'an and the sunnah of Medina</li> <li>b. This sharia tends to be discriminatory, undemocratic and intolerant</li> </ul>
Sharia (makkiyah) = Modern Sharia	<ul style="list-style-type: none"> <li>a. Sharia Makkiyah is built on the verses of the Qur'an and the sunnah of the Makkah period</li> <li>b. Sharia Makkiyah upholds equality and dignity of humanity</li> <li>c. Makkiyah sharia relevant to the life of modern society</li> </ul>
Nasakh = Modern Methodology	<ul style="list-style-type: none"> <li>a. <i>Madaniyah</i> = Mansukh</li> <li>b. <i>Makkiyah</i> = Nasikh</li> </ul>

Mapped from An-Na'im (1990)

### Work Process Nasakh

### Formulation of Ulama and An-Na'im



Elaborated from An-Na'im (1990) and Taha.

## **Bibliografi**

An-Naim, Abdullah Ahmed, *Islam and Secular State: Negotiating the Future of Sharia*, Harvard University Press. 2008. Cambridge, Massachusetts and London, England

\_\_\_\_\_, *Islamic Foundation of Islamic Human Rights*, dalam John Witte J.Jr. dan J. van der Vyver (eds.), *Religious Human Rights in Global Perspectives : Religious Perspectives* , The Hague : Martinus Nijhoff Publisher, 1996

\_\_\_\_\_, *Toward an Islamic Reformation* , Syracuse, New York : Syracuse University Press, 1990

Gill, Graeme, *The Nature and Development of the Modern State*, New York: Palgrave Macmilan, 2003

Salikin, Adang Jumhur, *Reformasi Sharia dan HAM dalam Islam: Bacaan Kritis terhadap Pemikiran An-Naim*, Gema Media: Yogyakarta. 2004