

Democratic Transition and the Changing Pattern of State-religion relations in Indonesia: A Study on Institutional Change at Subnational Level¹

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This paper explains the transformation of Pancasila as an institution that governs state-religion relations in Indonesia. Why has Pancasila been stable at the national level but discontinuous at the subnational level since Indonesia's democratic transition and decentralization? By tracing Pancasila's history back to its origin, this paper demonstrates that territorial interest has been an important factor in shaping Pancasila's trajectory of stability and change. Territorial interest consists of two dimensions: the national-level interest of crafting unity and the subnational interest of maintaining autonomy from the central government. Territorial interest defines the logic of coalition-building among actors and gives a motive to either change or sustain an institution. At the national level, the territorial interest of crafting a unitary republic has incentivized coalitional opposition against the Islamists who have tried to change Pancasila as an institution. At the subnational level, territorial interest of establishing financial and political autonomy vis a vis the central government has influenced the coalitions of actors to establish local identity that is oftentimes identical with religion and to pass resource-generating bylaws.

Keywords: *Pancasila, institution, institutional change, state-religion relations, territorial interest*

Introduction: Institutions of State-religion relations in Muslim Democracies

The issue of Islam's relationship to democracy is contentious. A study by Lewis (1996), for example, puts forward a pessimistic view as he observes that autocracy has been the most common regime type in the Islamic world throughout history. This historical observation is supported by another one, the so called "democracy gap" in Muslim countries (Karatnycky, 2002). But nowhere is the verdict firmer than in the writing of Samuel Huntington (1996) who asserts that Islam is not a fertile ground for

¹ This is a work in progress. Please do not quote without permission from the author. Correspondence can be addressed to gde.metera@northwestern.edu. This research is available due to generous funding from Indonesian Scholarship and Research Support Foundation (ISRSF).

democracy since it does not recognize a clear separation of religion and the state². Democracy, he argues, arises in a polity where there is a separation between state and religion. Proponents of this view see secularism as the *sine qua non* of a democratic polity. The critiques of this view, on the other hand, contend that there are multiple experiences of encounter between Islam and democracy. In these various cases, Islam is not always inherently incompatible with democracy (see Esposito & Voll, 1996).

Empirical observation on this matter, however, will yield a contention that the view of incompatibility of Islam and democracy is indeed debatable. Stepan (2000) and Kuru (2009a) argue that the majority of Muslims, in fact, live in a democracy or near democracy. Furthermore, Stepan (2003) argues against the view of “democracy gap” in Muslim countries by stating that it is actually more of an “Arab gap”. Regarding the notion of secularism as the only model of state-religion relations compatible with democracy, Stepan demonstrates that there has never been a full separation of religion and the state in a democratic polity. Instead what exists are certain “minimal boundaries” where the state and religion do not trespass on each other’s jurisdiction. These minimal boundaries are what Stepan dubbed “twin tolerations” where religion does not mandate its agenda in policymaking and the state does not interfere with the right of religious groups to practice their beliefs and express them in the public sphere (Stepan, 2000; 2001; 2012).

Indeed, one direction of this burgeoning literature on Islam and democracy is the examination of the relation between the state and religion in Muslim democracies. A

² In Islam, God is Caesar; in China and Japan, Caesar is God; in Orthodoxy, God is Caesar’s junior partner. The separation and recurring clashes between church and state that typify Western civilization have existed in no other civilization (Huntington, 1996, p. 70)

further step in this direction will find that there is an effort to formulate an alternative model to the secularism found in the Western liberal democracies. There should not be a singular secularism. Instead there is the so-called “multiple secularisms.” This alternative model of Western secularism is one of state-religion relations that work in a certain Muslim polity. Hashemi (2009), for example, explores and offers theories of what form this alternative secularism might take.

An examination of the current state of the literature on state-religion relations in Muslim democracies will yield an observation that there is an underrepresentation of empirical accounts from Southeast Asia. With the exception of the work of Hefner (2011a) which demonstrates how Islamic organizations as members of civil society played a vital role in democratizing Indonesia, Southeast Asian cases are minimally represented in the literature. This is regrettable since Southeast Asia is home to Indonesia, the largest Muslim democracy in the world with the largest population of Muslims. Indonesia should figure more highly in the literature since it has been crafting democracy since the demise of the authoritarian regime in 1998. The issue of state-religion relations in particular is very much salient in the process of establishing democracy in the country.

The second observation is that, with the exception of the recent work on Turkey’s secularism (Kuru, 2009b; Kuru & Stepan, 2012), there are few accounts that elucidate the institutional origin of state-religion relations in Muslim democracies. In addition, little is written about their institutional reproduction or transformation. The previous observation about the broader literature on Islam and democracy informs us that it is replete with discussion of whether Islam is indeed a component detrimental to the enterprise of

crafting democracy or whether the possibility exists that it actually plays a supportive role. As the literature proceeds in the direction supporting the view that Islam indeed plays a supportive role in crafting democracy, the issue of the institutional arrangement of state-religion relations in Muslim democracies should be at the center of attention.

This research is situated in this background of both the paucity of Southeast Asia's representation in the literature of state-religion relations in Muslim democracy and the scarce attention paid by scholars to the institutional arrangements of state-religion relations in such polities. Indonesia, in particular, is characterized in the literature as either a secular Muslim democracy (Kuru, 2009a) or as a special model of "respect all, positive cooperation, principled distance" arrangement of state-religion relations (Stepan, 2011). Not so clear from these studies is the institutional origin of such a state-religion relations in Indonesia as well as the reproduction or the transformation of the institution over time. This research, therefore, considers the origin, reproduction, and transformation of the institution of the state-religion relations in Indonesia in order to narrow that gap in the literature.

The Puzzle

The institutional framework for state-religion relations in Indonesia is a legacy of the previous authoritarian regime of both President Soekarno's (1959-1965) and President Soeharto's governments (1966-1998). This framework is enshrined in the first principle of the state's ideology of *Pancasila* (Five Values) and in Article 29 of the 1945 Constitution which guarantees religious freedom. These documents firmly establish that Indonesia is not an Islamic state and that instead it is a deconfessionalized, inclusive state

accommodating several religious traditions. After the authoritarian regime of President Soeharto fell in 1998, the critical juncture of democratic transition and constitutional amendment of 1999-2002 included a renegotiation of this institution. At that time, the proponents of an Islamic state attempted to formalize Islamic law as part of an agenda to change the institutional arrangement of many of the country's state institutions. While other enterprises of institutional reform were largely successful and resulted in the introduction of, for example, new party systems and decentralization, the effort to formalize Islamic law produced various results. The effort to amend the institution of state-religion relations in Indonesia in 1999-2002 failed at the national level, as seen in the lack of an amendment to the country's 1945 Constitution, and yet it was successful at the subnational level, evidenced by a proliferation of religious bylaws at provincial and district levels since 1999.

These observable phenomena of the failure to formalize Islamic law at the national level and the proliferation of religious bylaws at the subnational level have been addressed as two separate puzzles. The first puzzle of failure at the national level has produced a literature that discusses how Islamist parties in Indonesia grew more moderate, as seen in the work of Hamayotsu (2011), Baswedan (2004), and Buehler (2012a). On the other hand, the rise of religious bylaws at the subnational level has produced a wide-ranging literature that examines the political aspect (Buehler, 2008; Bush, 2008; Hasan, 2007), the socio-historical aspect (Hefner, 2011b), and the legal aspect (Crouch, 2009; Parsons & Mietzner, 2009; Salim, 2008; Salim & Azra, 2003) of the bylaws. These two distinct literatures, however, share a tendency to overlook three important questions. First, these literatures do not address properly the territorial

variation of outcomes regarding the effort to change the institutional arrangement of state-religion relations in Indonesia. What accounts for the national failure and the subnational success? Second, if political Islam is the factor that might explain the success or the failure of institutional transformation of state-religion relations in Indonesia, why was it secular politicians who issued religious bylaws at the subnational level? (Buehler, 2011). Last but not least, why did some regions not pass bylaws? What explains the variation among regions?

This tendency to overlook the three important questions has arisen because too much attention has been paid to the agency of political Islam in formalizing Islamic law in Indonesia. As a consequence, there is a relative neglect of questions pertaining to the institution of state-religion relations in Indonesia that ironically is the very institution that political Islam is trying to challenge. What is this institution? What is its origin? How is it sustained or transformed over time? Buehler (2008) makes an important point of situating and understanding the rise of Sharia at the subnational level in the context of other institutional changes in Indonesia. However, he does not go as far as identifying the rise of *Sharia* itself as a phenomenon of institutional changes regarding state-religion relations. This is arguably due to the lack of attention given to the institutions of state-religion relations in Indonesia to date.

This paper advances a conceptual proposition in order to reframe the failure to formalize Islamic law at the national level and the proliferation of religious bylaws at the subnational level as one institutional puzzle. In order to see these two phenomena as a single institutional puzzle, this paper first defines the institutional arrangement of state-religion relations in Indonesia. The concept of the *Pancasila* model as an institution of

state-religion relations³ is then proposed to facilitate insight to the institutional arrangement of state-religion relations in Indonesia. After defining properly the institutional arrangement of state-religion relations, this paper treats the period of 1999-2002 as a critical juncture with regard to this institutional arrangement. There were significant constitutional amendments to several state institutions in that short period. As a consequence, these two phenomena of failure to formalize Islamic law at the national level and the proliferation of religious bylaws at the subnational level are best seen as a critical juncture puzzle: a negative case of institutional continuity at the national level and successful institutional changes at the subnational level. What accounts for this territorial dimension of institutional changes: institutional stability at the national level and institutional changes at the subnational level?

This reframing will effectively shift the central focus of analysis from actors, i.e. political Islam, to the institutions of state-religion relations. Moreover, this reframing will move to the foreground the territorial dimension of the institutional change that was previously largely hidden from view. Further scrutiny using historical analysis will help elucidate several issues. First, why have efforts to change the institutional arrangement of state-religion relations at the national level always failed? Second, in contrast to the stability at the national level, why has there been institutional change indicated by the successful issuance of *Sharia* based religious bylaws at the subnational level? And third, why have the regional religious bylaws been passed by politicians from secular parties?

³ Pancasila is usually seen as either state ideology or public religion that is promoted by the New Order regime and became identical with the state. See for example Morfit (Morfit, 1981) and Weatherbee (Weatherbee, 1985)

1999

National

Stable Pattern

2011

DT

DC

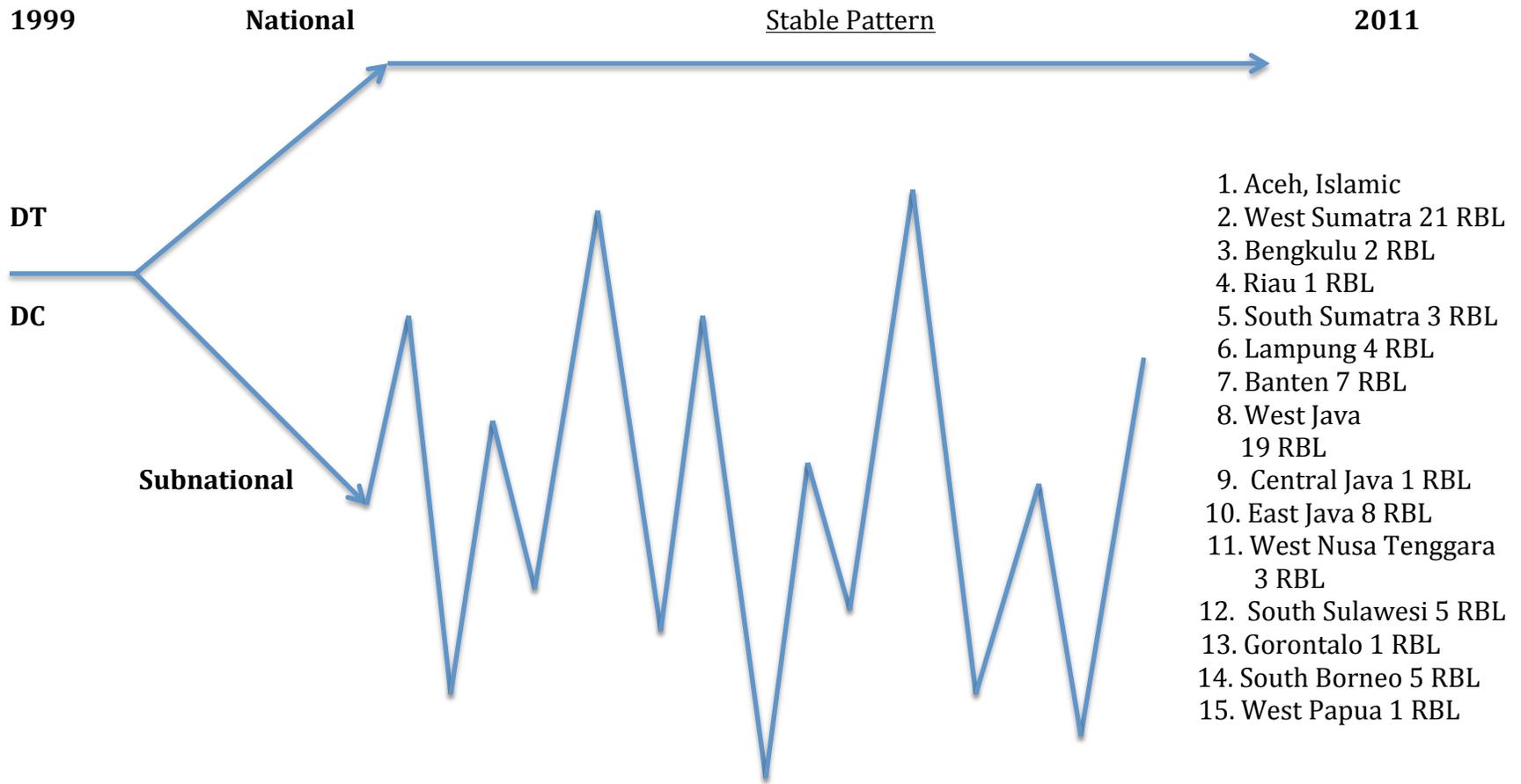
Subnational

1. Aceh, Islamic
2. West Sumatra 21 RBL
3. Bengkulu 2 RBL
4. Riau 1 RBL
5. South Sumatra 3 RBL
6. Lampung 4 RBL
7. Banten 7 RBL
8. West Java
19 RBL
9. Central Java 1 RBL
10. East Java 8 RBL
11. West Nusa Tenggara
3 RBL
12. South Sulawesi 5 RBL
13. Gorontalo 1 RBL
14. South Borneo 5 RBL
15. West Papua 1 RBL

DT= Democratic Transition

DC= Decentralization

RBL=Religious Bylaws



The Argument

This paper demonstrates that to answer the puzzle of the territorial dimension of institutional change to the *Pancasila* model, it is necessary to understand its institutional origin and its institutional reproduction. In order to elucidate factors that influence the varying outcomes of the critical juncture at the two different levels, this paper first traces back the origin of *Pancasila* model as the institution of state-religion relations in Indonesia. This institution was born in 1945 and was actually challenged in another critical juncture in 1955-1959 before being firmly reproduced during the two authoritarian governments of President Soekarno (1959-1965) and President Soeharto (1966-1998). It is important to note that during the first critical juncture of 1955-1959, the *Pancasila* model also survived changes. This means there were actually two negative cases at the national level. These cases took place during two critical junctures of 1955-1959 and 1999-2002. Comparison of the two negative cases shows that neither strong nor weak political Islam is a sufficient condition to explain changes or continuity of the *Pancasila* model as an institution. Instead, this paper argues that the presence of a strong territorial interest at either the national or subnational level is a necessary condition of either institutional continuity or institutional changes.

Territorial interest refers to the solution to the collective problem that elites faced at a special level of government. Territorial interest has two dimensions: national and subnational interest. The national interest can be elaborated further as an interest to solve the collective problem of secessionism from regions faced by national elites and an interest to craft a unitary republic as well as to overcome the problem of religious cleavage in society. In consequence, this national interest that is shared among all of the

parties including the Islamist parties helps to explain first, the logic of coalition in the parliament where there is a strong nationalist coalition; and second, the eventual decision of the Islamist party to accept the *Pancasila* model as the institutional arrangement of state-religion relations. This national interest is a necessary condition for the continuity of the institutional arrangement of state-religion relations at the national level, as can be seen from the comparison of the two negative cases in 1955-1959 and 1999-2002.

In contrast to national interest, subnational interest is defined by the intention of regions to achieve both financial and political autonomy from the national government. Financial independence is achieved by passing resource-generating bylaws, including religious ones (see Buehler, 2008). Political independence is achieved through bylaws that strengthen local identity that is oftentimes symmetrical with religious identity. This strengthening of local/religious identity provides local politicians certain political leverage against others of no affiliation to that local religious identity. Subnational interest is a necessary condition for successful institutional changes in combination with the absence of national interest and the effect of devolution of power to the regions after decentralization. First, the presence of subnational interest can be identified by gauging the intergovernmental balance of power between national government and subnational government in terms of financial dependency of the regions. Second, it can also be identified from the composition of religious groups in the regions. The more homogenous the composition, the less barrier there is to strengthening local identity. The composition of religious groups in the region also serves as an indication of the absence of national interest. A region is exempt from national interest of crafting unity and overcoming the problem of religious cleavage when it is religiously quite homogenous. The presence of

strong subnational interest in combination with the absence of national interest dictates the logic of coalition when there is no nationalist coalition posed against an Islamist coalition. Instead, there is a local majority religious identity coalition posed against an insignificant minority religions coalition. This is why it is possible for most religious bylaws at the subnational level to be passed by secular politicians. The issuance of religious bylaws, especially resource-generating bylaws and religious-symbolic bylaws, can be seen as fulfillment of this subnational interest.

This paper will progress as follows. First, *Pancasila* as the institution of state-religion relations is defined, and its institutional origin is explained. This explanation then is followed by an analysis of the first critical juncture of 1955-1959 and the period of its institutional reproduction during the authoritarian New Order of 1965-1998. Key takeaways from these two analyses on the first critical juncture and on the period of institutional reproduction are used to facilitate an analysis of the second critical juncture of 1999-2002. From the comparison of these two critical junctures, this paper argues that the presence of a national interest to craft a unitary republic is a sufficient condition for the institutional stability of *Pancasila* at the national level. On the other hand, the absence of national interest at the subnational level, in combination with a strong subnational interest in certain regions, explains the proliferation of religious bylaws and the success of institutional changes. This paper concludes with a discussion regarding its contribution to the broader literature of state-religion relations in Muslim democracies.

Pancasila as an Institution⁴ of State-religion relations in Indonesia

The institution of state-religion relations in Indonesia, the *Pancasila* model, was established in 1944-1945 as a compromise among elites during a transitional phase from the country's occupation by Japan to its independence. *Pancasila*, derived from Sanskrit, means five principles or values. These five principles are 1) Belief in One God, 2) Just and Civilized Humanity, 3) Unity of Indonesia, 4) Indonesian Democracy with Deliberation among Representatives, and 5) Social Justice. *Pancasila* was included in the preamble of Indonesia's 1945 constitution, and its status is a "source of all sources of law" in Indonesia (Butt & Lindsey, 2012, p. 14). The first principle of *Pancasila* of "Belief in One God" is the prime rule for the relation between the state and religion. It firmly omits any Islamic reference and yet it also shows that Indonesia is not secular. This first principle finds its concrete implementation in Article 29 of Indonesia's 1945 Constitution that guarantees religious freedom without mentioning an obligation for Muslims to observe Islamic *Sharia* law.

This institutional arrangement was a compromise in the choice between becoming an Islamic or a secular country. During their brief occupation on Indonesia, the Japanese were preparing the country's transition to independence in collaboration with the Indonesian elites. This preparation included the writing of the new nation's constitution. The Japanese chose elites that were largely secular-nationalists and put pressure on them

⁴ Institution in the tradition of Historical Institutionalism is defined as "the formal or informal procedures, routines, norms and conventions embedded in the organizational structures of the polity or political economy. They can range from the rules of constitutional order to standard operating procedures of a bureaucracy to the conventions governing trade-union behavior or bank-firm relations. In general, historical-institutionalists associate institutions with organizations and the rules or conventions promulgated by formal organization." (Hall & Taylor, 1996, p. 938)see also Thelen (1999)

to establish a separation between the state and religion. This separation was intended to bring order in a multicultural society. Out of this compromise, an *ad hoc* draft of *Pancasila* was issued in a rush of declaring the state's independence in August 1945. This *ad hoc* institution did not accommodate the Islamists' interest of including the seven words of "practicing *Shari'a* for the Muslims" in the first principle of *Pancasila* (Anshari, 1976). These controversial words were included in the Jakarta Charter, a previous draft of the *Pancasila*. Therefore, the overall adoption of *Pancasila* was a declaration that Indonesia was not an Islamic state.

There is a lack of consensus in defining the state-religion relations in Indonesia. For sure, it is not an Islamic state like Iran or post-Mubarak Egypt. While many observers put Indonesia under the secular category, that characterization is not quite accurate (see Kuru, 2009a). A secular Muslim democracy like Turkey for example clearly and explicitly writes in its constitution that it is a secular country. Indonesia on the other hand does not write explicitly that it is secular, instead the first principle of *Pancasila* as the foundation of Indonesia as a state writes clearly that it believes in one almighty God. On the other hand, Stepan's category of "respect all, positive cooperation, principled distance" is fairly accurate. By "respect all" Stepan means the state equally recognizes both majority and minority religion by "mandating obligatory paid public holidays" for the religious groups. This is true in Indonesia as the state mandates obligatory paid public holidays to the six official religions. Similarly, positive cooperation means the state provides aid for religious groups in carrying out their activities. In Indonesia, all religious groups can apply for financial aid through the Ministry of Religious Affairs. Lastly, by principled distance Stepan means the state can impose a constitutional constraint to

prevent religious majoritarianism or violations of human right by religious groups (Stepan, 2011). This last point by Stepan is a bit problematic since the state in Indonesia does not always act upon this principle. The passing of religious bylaws especially Islamic *Sharia* law at the subnational level is a symptom of religious majoritarianism that the state did not prevent effectively.

Using Stepan's model to examine Indonesia's state-religion relations, it is obvious there is a tendency toward accommodation of religions, with non-discriminative nature. There is also a fine line where a religion cannot establish itself as the only official religion over others. In this case *Pancasila* as an institution prevents the majority religion of Islam to formalize Islamic law. Effendy (2003) use the term "deconfessionalized" to designate this Pancasila model. This term is fairly accurate to depict the firm stand of Pancasila to prevent establishment of Islam as state religion. In fact, this consideration of not becoming an Islamic state is the sole concern during the birth of this institution.

The First Critical Juncture⁵ of 1955-1959: The First Negative Case

⁵ Definitions of critical juncture differ in the way they treat the issue of change. One definition incorporate change as an inseparable feature of critical juncture as seen in the definition by Collier & Collier (1991) that define it as "a period of significant change, which typically occurs in distinct ways in different countries and which is hypothesized to produce distinct legacies." This definition where change is an important part is also found in Soifer (2012) and Slater & Simmons (2010).

A different definition is one proposed by Capoccia & Kelemen (2007) that does not put change as an inherent feature of a critical juncture. They define critical juncture as: "*relatively* short period of time during which there is *substantially* heightened probability that agents choices will affect the outcome of interest." (Capoccia & Kelemen, 2007, p. 348 italic original). This definition does not build the feature of change into critical juncture. Instead it has several emphases. First, the critical juncture is a phase that is relatively brief in comparison to the path-dependent process following the juncture. Second, it specifies the unit of analysis that experiences the critical juncture. In an institutional analysis, the unit of analysis is an institutional setting. This means a

The first challenge to this *ad hoc* institution was the period of 1955-1959 when unsatisfied Islamists made another move to formally make the state an Islamic one. In 1953 a critical response aimed at Pancasila model was mounting in Indonesia's society triggered by president Soekarno's speech on the status of state-religion relations. President Soekarno stated that a separation of religion from the state would eventually happen following the transformation of Indonesian society (Anshari, 1976). The critical response was especially heightened into a debate approaching the general election in 1955 and the matter of state-religion relations was formally brought to the parliament after the general election.

The situation of contingency in 1955-1959 was provided by the short phase of democratic politics. In fact, it was the first phase of democratic politics in the early years after Indonesia independence in 1949 before ended in 1959 when president Soekarno decided to establish a personalized authoritarian regime. The phase of 1955-1959 was a critical juncture to the institution of state-religion relations in Indonesia as it was a period

critical juncture to an institutional setting might not be a critical juncture to other institutional settings. Third, since a critical juncture does not always bring about change there is a possibility of the restoration "pre-critical juncture status quo" or a "re-equilibration" (Capoccia & Kelemen, 2007, p. 352). This restoration does not mean the juncture is non critical. The change was possible but was rejected perhaps due to the dynamic of power asymmetries among key actors. This case of non-change is a negative case of a critical juncture. Fourth, this definition of critical juncture tries to foreground the dimension of power in the decision-making process during a critical juncture. It focuses on key actors and how they "steer outcomes toward a new equilibrium."

Therefore, based on these emphases above, Capoccia & Kelemen consider critical juncture analysis as "an analysis of decision-making under conditions of uncertainty." (Capoccia & Kelemen, 2007, p. 354). They also suggest specific methods of "reconstructing each steps of decision making process, identifying viable options for the actors, clarify their impact and their connections to other important decisions." These methods are "process tracing, systematic process analysis, analytic narratives, and any form of structured, theory guided narrative." (Capoccia & Kelemen, 2007, p. 355)

of amending the state's *ad hoc* constitution that was made hastily in 1945. After general election was held in 1955, emerging parties in the parliament hold debates to establish a new constitution. Among topics that were severely debated was the state-religion relations.

Given the emerging parties in the parliament that represented power blocks in society, there were several options of how the institutional arrangement of the state-religion relations could have unfolded. The three emerging powers were the nationalist represented by Indonesian Nationalist Party (PNI), the Islamist represented by *Masjumi* and *Nahdlatul Ulama* (NU), and the communists represented by Indonesian Communist Party (PKI). Based on their ideology it was clear that *Masjumi* was the proponent of an Islamic state and the Indonesian Nationalist Party (PNI) was a proponent of a religiously neutral state. By being religiously neutral, the state should not be based on Islam as the majority religion and also not purely secular. Instead the state should resort to an inclusive principle and to keep *Pancasila* model that was a neutral arrangement instead of Islam.

The third option was a state that is based on social economy. Which means in term of state-religion relations the state should be purely secular and fully separated from religious domain. Seen from its ideology, the Communists Party (PKI) and its ideological counterpart, the Labor Party and Murba, seemed to adopt this stance. However, it turned out the Communists Party formed a coalition with the nationalist PNI to support the religiously neutral and inclusive Pancasila while Labor Party and Murba supported the social economy option. The three options and the coalition of parties supporting it:

<i>Pancasila</i>	Islamist coalition	Social Economy
PNI (116)	Masjumi (112)	Labor Party (5)
PKI (80)	NU (91)	Murba (4)
Parkindo (16)	PSII (16)	
Partai Katolik (10)	Perti (7)	
PSI (10)	Four small parties (4)	
IPKI (8)		
Many other small parties (33)		
Total: 273	Total: 230	Total: 9

Source: Anshary (1976)

The situation in the parliament shows that votes were divided into two opposing camps: the supporter of *Pancasila* with 273 votes and the supporter of Islamist state with 230 votes. However, no final decision could be passed since the final decision needed a minimum 2/3 of the total votes. This deadlock means the effort to change the institutional arrangement of the *Pancasila* model failed. In fact, the deadlock forced Soekarno to finally dissolve the parliament. This act of dissolving the parliament was followed by a decision to keep using the 1945 constitution and Pancasila as the base of the state instead of changing into an Islamic state.

An interesting fact to note is that there was a strong Islamist coalition of total 230 votes. This number of votes should have outnumbered the nationalist with its religiously neutral stance (PNI with 116 votes) or the purely secular Indonesian Communist Party coalition (PKI, Murba, and Labor Party with a supposed aggregate of 80+5+4). Again, if the presence of strong Islamist parties coalition was a sufficient condition, we should expect an institutional change of formalization of Islamic law in Indonesia. Instead what happened was the Indonesian Communist Party (PKI) formed coalition with the Indonesian Nationalist Party (PNI) blocking the move made by the Islamist coalition.

What if the Indonesian Communist Party (PKI) did not form coalition with Indonesian Nationalist Party (PNI) and instead support its ideological counterpart, Labor Party and Murba? The configuration of parties supporting each proposal would be different:

Pancasila	Islamist	Social Economy
PNI (116)	Masjumi (112)	Labor Party (5)
---	NU (91)	Murba (4)
Parkindo (16)	PSII (16)	---- PKI (80)
Partai Katolik (10)	Perti (7)	
PSI (10)	Four small parties (4)	
IPKI (8)		
Many other small parties (33)		
Total: 183	Total 230	Total: 89

Territorial Interest

The inapplicability of an explanation with the argument of strong Islamist coalition as a sufficient condition to produce change invites another alternative explanation. At least there are three questions to guide the quest for an alternative explanation: Why there was strong preference to have a religiously neutral state? How can the phenomenon of PKI and PNI coalition be explained? Why the Islamist eventually accepted this institutional arrangement of not being an Islamic state?

A closer scrutiny to the societal conflict at that time might shed some light. Indonesian Communist Party (PKI) agenda at that time was to undergo land reform which made their constituents in conflict with the landed elites. These landed elites were the religious Muslims that were the mass base of the Islamist parties, *Masjumi* and *Nahdlatul Ulama*. Therefore in term of political interests, PKI was the opposition of

Masjumi and *Nahdlatul Ulama*. In contrast to its opposition with the Islamist, PKI found commonalities with the Indonesian Nationalist Party (PNI) in terms of territorial interests, in which they aspire toward a unitary republic.

The idea of crafting a unitary republic was also the commonality that each party shared with each other. This was because the Indonesian elites were in confrontation with the idea of federalism espoused by their colonial master, the Dutch, in crafting the new state after its independence. This idea of federalism was also on the rise in the regions like Padang, Banjarmasin and Minahasa in the 1950s. Moreover, there were two important Islamic regional rebellions in West Java in 1948 and Aceh in 1953 that were against the national elites' effort to craft a unitary republic (Feith, 1962, pp. 488-491). The rebellion was an expression of subnational interest to be separated from the republic and to create independent Islamic regions. This was a collective problem of a threat of disintegration faced by the national elites that made it more problematic for insisting to adopt Islam as the bases of the state at the expense of the unitary republic. A creation of Islamic state would mean surrendering to the subnational interest of several regions that wanted to create independent Islamic regions.

From the observation above, the key takeaways from this 1955-1959 experience are:

1. Islamist failed to formalize Islamic law and change institutional arrangement of state-religion relations because there was a strong opposition from nationalist coalition.
2. The logic of coalitions is less explained by ideology than territorial interest of the elites. There was shared national interest of establishing a unitary republic. This was a stronger territorial interest than subnational interest of forging independent Islamic regions.

The territorial interest at national level to craft unitary republic was at play and it influenced the outcome of the parliamentary battle in 1955-1959. Therefore, the negative

case of failure to change the institutional arrangement of state-religion relations in this critical juncture is best explained by the presence of a strong national interest to craft unitary republic that dictates the logic of coalition among parties in the parliament.

A different trajectory where Islamist would have succeeded to change Pancasila and to make Indonesia an Islamist state would be possible if:

1. There was no national interest of crafting unitary republic.
2. Therefore, parties would be true to its ideology than to their political and territorial interest.
3. As a consequence, there would be no strong coalitional opposition against the Islamist.

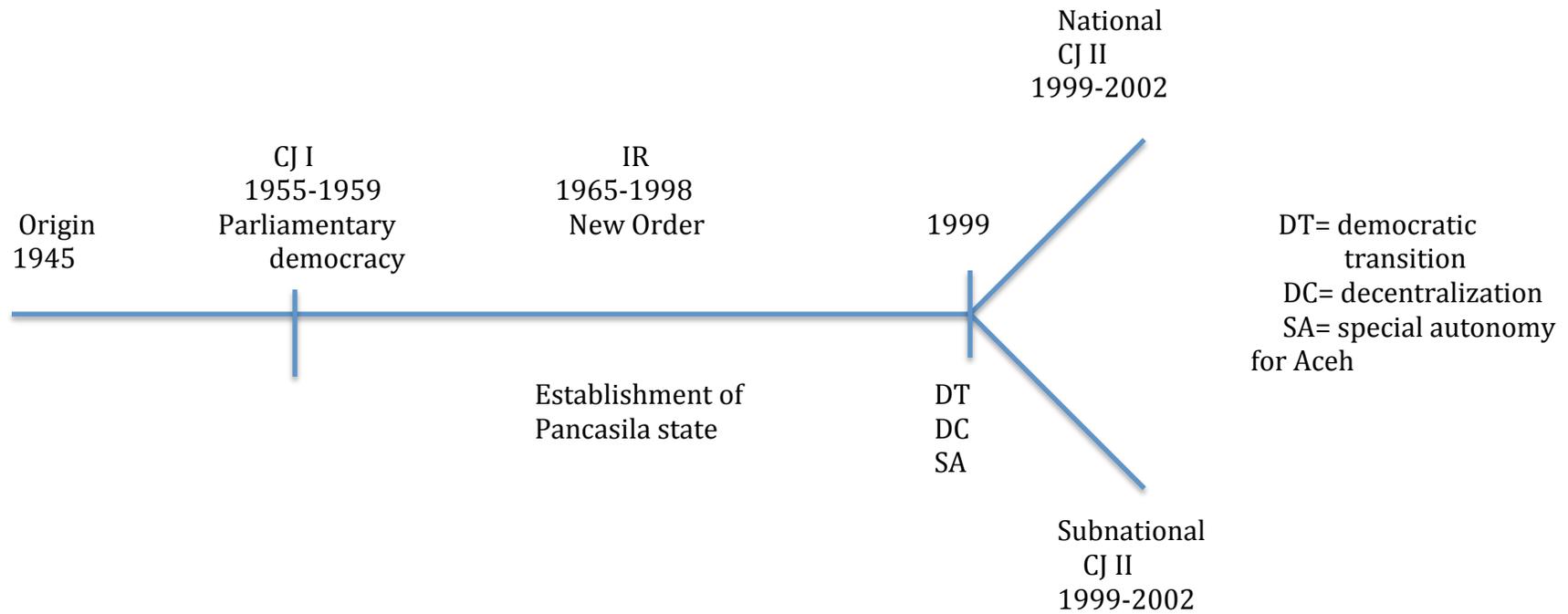
These conditions, as a counterfactual proposition, would be the necessary conditions to produce change.

The first critical juncture phase was put to an end after Soekarno dissolved the parliament and declared *Pancasila* and UUD 1945 as the country's foundation. This move practically ended the debate whether the country would become an Islamic state or a pure secular and put the country firmly at its middle way of neither secular nor Islamic. A *Pancasila* state, instead, was born.

Institutional Reproduction: The New Order (1965-1998)

Before we analyze the second critical juncture in 1999-2002 when there was another effort to renegotiate the *Pancasila* model of institutional arrangement of state-religion relations, we have to look closely the phase of institutional reproduction during the New Order regime of President Soeharto (1966-1998). The New Order government of President Soeharto replaced the short-lived Soekarno's government (1959-1965) and it adopted Pancasila as an inseparable dimension of the state by reproducing it

State-Religion Relations in Indonesia



CJ=Critical Juncture

IR= Institutional Reproduction

Antecedent: DI TII rebellion 1948, Aceh rebellion 1953

institutionally. This phase of institutional reproduction will produce an important legacy that played a vital role in the second critical juncture of 1999-2002.

Soekarno's short authoritarian government (1959-1965) was replaced by General Soeharto's government in a swift taking over of power in 1965 when Soeharto with the support of the military swept over the Communists. General Soeharto's government did not amend *Pancasila* at all. Instead, *Pancasila* was reproduced by the General Soeharto's New Order to serve as a solution to a collective problem of creating stability at the national level that was its vital territorial interest. The second motive of reproducing *Pancasila* was one of power distribution, in which it was at the regime's best interest to weaken political Islam as the only remaining potential threat after the Communist Party (PKI) was completely swept over. The regime increasingly saw political Islam as a potential threat to the unitary republic. The regime learned this after the previous regional rebellion in 1948 and 1953.

During the New Order, the institutional arrangement of being religiously neutral was tied to the rule of being a unitary state and to the *raison d'être* of the Indonesian military that is to keep the republic intact from disintegration. These three institutions plus the idea of unity in diversity (*Bhinneka Tunggal Ika*) were dubbed the four pillars of Indonesia and altogether they form a solid institutional complex.

Soeharto reproduced Pancasila as an institution by making it compulsory as a basis for any civil society organizations. This policy was called the *Asas Tunggal* (one ideology) policy issued in 1984. This policy created protests in society but the protests were eventually tamed and two of the largest civil society members, namely NU and *Muhammadiyah* submit to this policy. Soeharto's government also simplified the party

system and lumped together the Islamist parties into one party (PPP) and forced them to accept Pancasila as their ideological basis.

The effect of this policy is the moderation of certain Islamic groups that otherwise might emerge as potential force to alter the institutional arrangement of state-religion relations. Note that NU and *Muhammadiyah* (formerly under *Masjumi*) that supported an Islamic state during the initial struggle to formulate the institution of state-religion relations became moderate forces that finally accepted Pancasila as an institution (Effendy, 2003; Hefner, 2011a).

These policies produce the most important legacy of the institutional reproduction of *Pancasila*. This legacy is the moderation of the Islamic forces in both civil society and the political society as seen in the changing stance of NU and *Muhammadiyah* as two largest Islamic civil society organizations regarding the issue of state-religion relations (see Effendy, 2003). This legacy played an important role later during the second critical juncture in 1999-2002.

The Second Critical Juncture 1999-2002

The authoritarian regime of New Order fell in 1998 and the breaking down of the regime was followed by a democratic transition since 1999. There was a reform agenda that includes institutional change. Among the institutional changes were the introduction of direct general election, new party system, and decentralization.

This democratic transition was also an important phase for the institution of state-religion relations in Indonesia. Since the mechanism of reproduction of the *Pancasila* model depended heavily on the authoritarian regime of the New Order, the breaking

down of the regime marked a phase of loosening of structural constraint at the political level. After the first general election in 1999 in particular, there was an effort to renegotiate *Pancasila* model by a move to amend the article 29 of Indonesia's 1945 constitution. The agenda being proposed was to restore back the Jakarta Charter and the seven words of Sharia implementation. This article 29 that regulates religious freedom is important since it has a close link to the first principle of *Pancasila*. An amendment of adding the seven words of Sharia implementation was largely seen as a move toward institutional change of the *Pancasila* model. This means the phase of 1999 onward was a critical juncture to the institution of state-religion relations as it was to other state institutions.

Stability at the National Level

The proposal to amend the article 29 of the UUD 1945 was submitted by two Islamist parties, PPP and PBB. These two parties were representative of the Islamist as they supported the idea of Islamic state. They were in contrast with two other Muslims based parties, PKB and PAN, that had a national perspective and did not endorse the idea of an Islamic state. The interesting part was that PKB and PAN were the vehicles of two Islamic civil society groups of NU and *Muhammadiyah*. NU and *Muhammadiyah*, which previously during the 1959 debate were represented by *Masjumi*, were supporters of the formalization of Islamic law. As has been explained above this change of stance adopted by NU and *Muhammadiyah* was the legacy of the phase of institutional reproduction during Soeharto's New Order.

Putting the 1999-2002 into context, this phase also was marked by regional ethnic conflicts that threatened national integration. The region of Aceh was also in the middle of finalization of long years of conflict resolution. In addition, that year Indonesia has just lost Timor Leste that became independent after a referendum took place in the region. Therefore, the national interest of integrating the republic once again present if not intensified by the case of Timor Leste.

As the national interest of integration was present, this interest also formed the logic of coalitions. Those parties with no Islamist ideology were inclined to form a nationalist coalition. They decided not to amend the article 29 of Indonesia's 1945 constitution which was considered sensitive and might reopen the debate of the state's foundation. The other groups were those parties which advanced their ideological interest to formalize Islamic law. These parties were PBB and PPP. But even they were cautious in making a move and did not force a formal voting since they realized their weak position *vis a vis* the nationalist coalition (Hosen, 2005). Once again, territorial interest at the national level triumphed ideological interest.

The recapitulation of coalition of parties supporting amendment and those who were against it is shown in the table below.

No Amendment of Article 29	Amendment of Article 29
PKB (51)	PPP (58)
PAN (35)	PBB (13)
PDI-P (153)	
Golkar (120)	

Source: (Ichwan, n.d.) & (Hosen, 2005)

Therefore, the conditions for the continuity of Pancasila as the state-religion relations were again present. These conditions are as follows.

1. Strong national interest of establishing integration amidst threat of disintegration.
2. This national interest triumphed ideological interest in forming the logic of coalitions
3. As a consequence, there was strong nationalist coalition to oppose the Islamist

This presence of territorial interest explains the stability of Pancasila as an institution at the national level. Note that the situation of the second critical juncture is profoundly similar with the situation of the first critical juncture in 1955-1959. In both critical juncture there were a threat of disintegration by the regions which intensified the national interest of elite to craft integration and abandon their ideological differences.

Institutional Change at the Subnational Level

Similar with the situation in 1955-1959 the phase of 1999-2002 was also marked by a democratic politics as the indicator of heightened contingency. In contrast to the first critical juncture of 1955-1959, the second critical juncture of 1999-2002 was of special importance since it was the moment the territorial renegotiation of *Pancasila* as an institution of state-religion relations took place. There were two preconditions that make this renegotiation at the subnational level possible.

First, there was a process of decentralization and devolution of power to the regional governments. With the issuance of Law No. 22/1999, there was a distribution of political authority to the regional government. This distribution of authority was followed by fiscal rearrangement with the issuance of Law No. 25/1999 in which regional government will receive greater share of revenue generated within their area of jurisdiction. Regional governments were given much discretion to pass policies with reservation of selected administrative fields. Regional governments cannot administer

fields such as foreign policy, defense and security, religious affairs, monetary policy and legal system (Aspinall & Fealy, 2003). Even though religion is not an administrative area that can be taken care by the regional governments, Indonesia still saw a proliferation of religious bylaws in this phase of constitutional amendment in 1999-2002 and it continues to the present (Bush, 2008; *Tempo Special Report 10 years of Sharia*, n.d.)

Second, in this same year, president Habibie interim government granted the region of Aceh the status of special autonomy that gave Aceh's government discretion to implement Islamic law⁶. This event has a crucial impact to *Pancasila* as an institution of state-religion relations. The impact of *Sharia* implementation in Aceh was an introduction of a territorial dimension to a national institution. In contrast to a national institution that inherently means a rule binding in a certain national territory, the *Sharia* implementation in Aceh make *Pancasila* as a national institution that does not nationally bind. Aceh therefore is a subnational exception to a national institution. This was an important moment that has special consequence in terms of inspiring other regions to follow Aceh's path. While Aceh is an exception, the proliferation of religious bylaws in other regions needs to be explained since these other regions are not granted discretion to pass policies related to religion.

In order to explain the successful application of Islamic religious bylaws at the subnational level we have to look closely at the subnational politics. The first thing to keep in mind when approaching subnational politics is that it has a different territorial interest than the national one. Two interests that are being theorized here are: first, resource generating interest; and second, local identity interest. The first interest is an

⁶ There was a granting of Aceh as a special region in 1957, but it was rendered meaningless in the era of authoritarian New Order when the military occupy the region.

attempt to achieve financial independence *vis a vis* the central government. This can be done by negotiating the allocation given by central government or finding a resource at the subnational level. As has been noted by Buehler (Buehler, 2008), *Sharia* implementation related to *zakat* as religious tax is one of resource generating motive of *Sharia* implementation at the subnational level.

The second interest is more political, that is to shape the arena of local politics to be saturated by local identity discourse. Oftentimes local identity is aligned with the majority religion. By passing religious bylaws, local politicians wish to gain certain political leverage against ethnic minorities or immigrant. In general, by attaching a religious identity to a region and playing the religion card certain politicians would get advantage over others.

Therefore, regions with a strong subnational interests will have a different logic of coalition than the logic at the national level. Similarly with the situation at the national level, ideological interest is less the motivation than territorial interest at the subnational level. Moreover, with the lack of party institutionalization in Indonesia, there is ample possibility that party does not behave according to its platforms, if there is any at all.

In order to determine the degree of subnational interest, this study look closely at the intergovernmental power balance between national government and subnational government. The intergovernmental power balance mainly concerns the dependency of subnational government in three areas of administrative, political, and financial area. Financial dependency is deemed the most important in the issue of resource generating religious bylaws.

Regarding the issue of shaping the local politics, the religious distribution of the regions is also important to be scrutinized. This religious distribution is deemed important as it facilitates insights into the pattern of coalitions. There will be less nationalists against Islamist than local majority religions against minority religions in the battle of passing religious bylaws at the subnational level. To gauge the presence of strong subnational interest, the following diagram is used.

	Financial dependency National>Subnational	Financial Independence National<Subnational
Religious majority significantly outnumber religious minority	Strong subnational interest To pass sharia	Weak subnational interest to create resource and yet absence of national interest to craft integration
Even distribution Of religion	Presence of national interest of crafting integration and yet strong subnational interest to create resource-generating bylaws	Weak subnational interest

From this diagram it can be seen that a strong territorial interest takes place when a region is both financially dependent and the number of religious majority far outnumber the religious minority. The regions with strong territorial interest will be very likely to pass Sharia through its house of representatives.

A Case Study of Bulukumba

Bulukumba is chosen in this case study since it was among the first municipals to pass *Sharia* in between 1999-2002. A closer look to the demographic composition will

show that Bulukumba is overwhelmingly Muslim region with 99.75% Muslim population (Elsam, n.d.).

	Districts	Islam	Protestan	Katolik	Hindu	Buddha	Total
1	Gantarang	68.656	73	29	4	12	68.774
2	Ujungbulu	41.199	258	145	4	169	41.774
3	Ujung Loe	36.640	25	7	-	1	36.673
4	Bontobahari	22.833	9	4	3	22	22.871
5	Bontotiro	24.621	9	3	-	-	24.633
6	Herlang	23.856	8	8	-	1	23.873
7	Kajang	45.362	25	3	3	-	45.393
8	Bulukumpa	55.218	30	6	3	4	55.261
9	Rilau Ale	34.526	20	8	3	2	34.559
10	Rindang	30.037	18	1	1	1	30.058
	Bulukumba	375.187	475	214	21	212	383.870

Source: Elsam's document

In terms of intergovernmental balance of power between central government and the regional government, Indonesia's case is unique. Faletti (Falleti, 2005) shows that decentralization does not always make subnational government stronger and more independent from national government. The evolution of intergovernmental balance of power depends on the sequence of decentralization, whether it was started from fiscal, administrative or, political decentralization. Different sequence produces different outcome. Indonesia's case is unique in the sense that all three decentralization took place at once. This decentralization process was dubbed "the Big Bang" since it was carried out in the course of only over a year (Hofman & Kaiser, 2004). Therefore it was rather difficult to measure the intergovernmental balance of power from the sequence of decentralization in Indonesia. However, this study is specifically interested in the dependency of the subnational government in terms of financial disbursement. A

financial dependency is defined as a situation where the subnational government received disbursement from the central government that far out number its own income.

The case of Bulukumba shows that it is deeply dependent to the national government. In 2002, as a municipality it only produced a negligible 9, 451 million of regional income (*Pendapatan Asli Daerah*) in comparison to the fund given by the central government of 162, 943 million to cover its annual expenditure. This means as a municipality it can only cover less than 10% of its own expenditure⁷.

The combination of financial dependency and relatively homogenous society in which religious majority far outnumber religious minority makes Bulukumba a municipality with strong subnational interest to pass Sharia. In fact, Bulukumba since 2002 has been passing several Sharia bylaws. There are *Perda* (bylaws) no. 3/2002 on prohibition of selling alcohol, *Perda* no. 2/2003 on religious tax (*zakat profesi, infaq and sadaqah*), *Perda* no. 05/2003 on Muslim clothes, and *Perda* no. 06 year 2003 on fluency in reading Quran for students and those about to get married (Elsam, n.d.).

An interesting observation is that these bylaws were passed without strong opposition as what usually is found at the national level. In the case of strong subnational interest, ideological identity of parties in the regional parliament is less important than the collective subnational interest. As a consequence, at the subnational level logic of coalition is not nationalist against Islamist. Instead the logic of coalition would be religious majority against religious minority.

An observation on the passing of *Perda* no. 06/2003 on the fluency on reading Quran shows that there was only one objection of this *Perda* from a member of local

⁷ See dataset from Direktorat Jenderal Perimbangan Keuangan (DJPK) of Indonesian Finance Ministry (*Direktorat Jenderal Perimbangan Keuangan*, n.d.)

house of representative that was a Christian and from military background. When he was asked to provide reasoning on why he opposes the bylaws, he had no answer. Eventually, he had to submit to the majority votes. In the Bulukumba's house of representative three factions of Golkar, the military (TNI), and Gabungan (various parties alliance) faction all accept the bylaws. Golkar, the nationalist party also accepted the bylaws. This again needs to be seen from the fact that there is strong subnational interest in which ideology or party platform is less the case than the subnational interest of establishing local identity and political autonomy from the central government. This pit the coalitions into religious majority groups against minority groups as can be seen from the only objection to this bylaw. The only objection came from a Christian member of house of representative.

Conclusion

This study concludes with the theoretical formulation that territorial interest matters in explaining the territorial variation of institutional change toward the institutional arrangement of state-religion relations in Indonesia during the two critical junctures of 1955-1959 and 1999-2002.

At the national level, in the midst of threat of disintegration, the national interest has always been maintaining the unity of the state. This national interest is shared by the majority of actors/parties which dictates their logic of coalition. At the subnational level, on the other hand, there is not always the problem of disintegration. What exists instead is the problem of achieving independence *vis a vis* national government. This independence is understood in two lights: financial independence and political

independence. Financial independence can be seen from the income of the region in comparison to the disbursement of fund given by the central government. The more dependent a region is, the more it is inclined to formalize Islamic laws in order to generate resource.

Political independence means a certain distinct feature of the political arena at the subnational level that favors subnational actors. By renegotiating state-religion relations at the subnational level, actors at the subnational level hope to gain certain leverage. Formalizing Islamic laws saturates politics at the subnational level with discourse of identity politics that strongly favor a certain actors, i.e local politicians with affinity to local religious identity.

This territorial interest at the subnational level dictates the logic of coalition building that is not identical with the national level. While at the national level the logic of coalition is one of avoiding disintegration thus pit the nationalist against the Islamist. At the subnational level the logic becomes local religious majority against religious minority regardless of party ideologies. Therefore, a politician from nationalist party can vote for religious bylaws as it might give him or her the political leverage of identification with local identity and majority religion.

For the discussion on the broader literature of institutions of state-religion relations in Muslim democracies, this paper demonstrates that the institutional arrangement of state-religion relations in Indonesia depends on the contingencies at the phase of its institutional origin and its critical junctures. Scholar like Huntington (1996) proposes that there is something inherent in Islam that predispose the institutional arrangement of its state-religion relations. This notion has been rejected by Stepan (2011)

that indicates there might be several possibilities of the institutional arrangement of state-religion relations in Muslim democracies. This paper shows the presence of territorial interest at the moment of critical juncture drove Indonesia's trajectory toward a *Pancasila* model of state-religion relations. It will be interesting in the future to compare, for example, the institutional origin and reproduction of state-religion relations in secular Turkey and Islamist Egypt.

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