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Hijab Discourse in Indonesia: The Battle of Meaning Between Sharia and Culture in Public Space

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Abstract: The phenomenon of wearing hijab is not only a reality in Indonesia but also in the Muslim world and even the world in general such as Europe, America, and Australia. This paper aims to examine the discourse on hijab between Islamic law (sharia) and culture. This is a normative study using legal pluralism as an approach. This paper concludes that Indonesia has the largest Muslim population in the world, and the wearing of hijab has a long history until contemporary times. Currently, the phenomenon of hijra among Muslims is also on the rise, the hijab is then formalized into educational institutions and offices which not a few cause problems that sometimes arise discriminatory actions to those who do not want to use it. Another phenomenon about the use of hijab occurs in the realm of law. A woman dealing with legal issues, when presented at a press conference, some public figures wear hijab. Even in the judicial room, women who usually do not wear headscarves also change their appearance by wearing headscarves. Likewise, in a political campaign, women who usually do not wear headscarves, appear in hijab suits in public. Of these various phenomena, the hijab as a marker symbol has meaning, namely as a form of religious obedience, the identity of a Muslim woman, discipline in public spaces, and camouflage piety. From the perspective of legal pluralism, hijab is an articulation of strictness to the commandments of sharia as well as an inseparable part of the culture that has become a living practice in Indonesian society.
Keywords: Hijab, *muslim* identity, *sharia*, culture, legal pluralism

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Abstrak**:** *Fenomena menggunakan jilbab tidak hanya menjadi realitas di Indonesia tetapi juga di dunia Muslim bahkan dunia secara umum seperti Eropa, Amerika dan Australia. Tulisan ini bertujuan untuk mengkaji tentang diskursus tentang hijab antara hukum Islam dan budaya. Kajian ini merupakan studi normative dengan menggunakan pendekatan pluralism hukum sebagai alat analisisnya. Tulisan ini menyimpulkan bahwa Indonesia sebagai negera yang berpenduduk muslim terbesar di dunia, pemakaian hijab telah memiliki sejarah yang Panjang sampai masa kontemporer. Saat ini fenomena hijrah di kalangan muslim yang juga sedang marak, jilbab juga kemudian diformalisasi ke dalam institusi pendidikan dan perkantoran yang tidak sedikit menimbulkan persoalan yang terkadang muncul tindakan diskriminatif kepada mereka yang tidak ingin menggunakannya. Fenomena lainnya tentang penggunaan jilbab terjadi di ranah hukum. Seorang perempuan berurusan dengan persoalan hukum, ketika dihadirkan dalam acara konferensi pers, ada sebagian mereka yang publik figur menggunakan jilbab. Di ruang peradilan pun, perempuan yang biasanya tidak berjilbab juga lalu mengubah penampilan dengan memakai jilbab. Demikian juga dalam sebuah kampanye politik, perempuan yang biasanya tidak berjilbab, tampil dengan setelan jilbab di hadapan publik. Dari berbagai fenomena tersebut, jilbab sebagai simbol penanda memiliki makna, yaitu sebagai bentuk kepatuhan beragama, identitas seorang wanita muslim, pendisiplinan di ruang publik, dan kamuflase kesalehan. Dari perspektif pluralisme hukum, hijab merupakan artikulasi ketataan pada perintah syariat, sekaligus sebagai bagian yang tidak terpisahkan dari budaya yang telah menjadi praktik yang hidup dalam masyarakat Indonesia.*
Kata Kunci: *Jilbab, identitas muslim, sharia, budaya, pluralisme hukum*

Introduction

Hijab can be said to be an articulation of Islamic law (sharia) as well as culture not only in the Muslim world but also in European, American and Australian countries.[1] Wearing hijab is a sharia commandment that refers to the Qur'an and Hadith and the opinions of scholars, while the form and way women cover the *awrah* will have differences between regions, nations and certain societies. This is due to differences in culture, culture and natural conditions of the region, so that the way to cover the wearing of hijab and according to the

[1]Furat Jamal Hassan, "Hijab and Burqa in Islamic Fashion System," *Journal - Academy of General Dentistry*, September (2020). Ashiq Ali Shah, "Hijab stereotype: Lightening rod of discrimination against Muslim women in North America," *Conference: Regional conference of IACCP, V Latin American Regional Conference*, San José/Costa Rica, (2019). Zainab Arab, 'When Have Dolce and Gabbana Ever Cared about the Hijab?' Social Media, Fashion and Australian Muslim Women's Perceptions and Expression of Hijab," *Religions* 13, No. 11 (2022), p. 1115.

awrah of Middle Eastern women will be different from the archipelago (*Nusantara*).[2]

The dialectic hijab is a serious issue discussed in the Islamic world, this can be seen from what happened in Turkiye and Iran. The case of Turkey is taken up as a comparison material on how body/clothing discipline always raises pros and cons in society. In Turkey, there had been an act banning the use of religious symbols particularly the hijab in three public places, namely schools, government offices, and hospitals. This prohibition is based on secularism which is the ideology of the modern Republic of Turkey. There was a difference of opinion by the scholars who were pro and con against the ban. Turkish people follow the principle "love of the motherland is part of the faith", they do not question the ban on women wearing hijab. The form of adjustment made by Turkish women was to follow state rules, but after leaving the three previously mentioned places they returned to wearing their hijab. [3]

In Iran, hijab cases increased when 22-year-old Mansa Amini, a woman, died after being tortured by Iranian authorities for not adhering to a dress code for women in public places. Needless to say, this event then sparked massive demonstrations in Iran because the ruling regime was considered to have acted tyrannically in carrying out rules originating from Islamic Law. This incident became the culmination of the Iranian people's anger and distrust of the government. They believed that the government's policies only suppressed the freedom of expression of Iranian citizens. The death of Amini has become the trigger for the birth of protests which are no longer limited to the issue of head coverings for women but extend to other aspects.

The events that occurred in Iran can serve as a reminder for Indonesia to always be introspective in making policies that are counterproductive to the values of democracy and diversity. Regarding women and the issue of covering their *awrah*, not only in Iran, but there have also been several similar cases in Indonesia. Awrah is any part of the body, for both men and women, which may not be visible to the public. The phenomenon of covering the awrah by using the hijab, *burqa*, and veil has become a trend in Indonesia which is generally associated with aspects of religiosity. One of them is the trend of *hijrah* by

[2] Moh Farid Najib, et.al., "The Role of Religiosity on Hijab Buying Intention on Premium Hijab of Muslim Consumers in Indonesia," *KnE Social Sciences* (2023). Aini A Manaf and Saodah Wok, "The Influence of Media on Hijab wearing in Malaysia: A Study Among Malays," *Journal of Islam in Asia,* (2019).

[3] Saliha Uysal, "Psychological Effects of Islamophobia on Hijab Ban Victims in Turkey in The Context of February, 28 Hijab Ban Process and Religious Coping," *Journal of The Near East University Islamic Research Center* 5, No. 2 (2019), p. 281-314. Daily Sabah, 'Deputy Minister Becomes 1st Turkish Governor with Headscarf', News, *Daily Sabah*, 12 May 2022, https://www.dailysabah.com/politics/deputy-minister-becomes-1st-turkish-governor-with-headscarf/news..

celebrities which is used by the popular media as news material and has both a direct and indirect impact on the construction of public knowledge. *Hijrah* in this context means religious consciousness which pushes people to carry out the Islamic values that they believe in. They tend to focus on changing styles of dress, using 'Arabic' terminology, and the like. In short, it makes Arab identity a manifestation of the ideal Islam. *Hijrah* is also intertwined with the business world and eventually becomes an accepted mass culture, either as religious enlightenment or just a viral trend.

Not to say that this social phenomenon is bad but as the veiling trend spreads among women, this culture often translates into rigid and repressive rules. Research conducted by Kistoro et. al. finds that the consistency of the wear of the veil can be influenced by the existence of a strong self-concept from (female) students and also a high level of resistance from the environment[4]. Understanding the substance of religious teachings is more inclined to the exoteric aspect than the esoteric aspect. Moreover, when religious symbols are used in the realm of law and politics, they become a camouflage of piety that is used to influence public judgment as they wish. Some examples of events that occurred in Indonesia related to the use of the hijab:

According to research conducted by Human Rights Watch,[5] the social phenomenon that has occurred in Indonesia regarding the trend of wearing the hijab in public schools or offices occurred two decades ago. In 2014 regulations regarding school uniforms issued by the Ministry of Education and Culture were interpreted as an order that all Muslim female students must wear the hijab in the context of implementing Islamic law. While the school officials admit that the regulations do not specifically state that wearing hijab is obligatory, the regulation can be used to pressure students and their parents to make Muslim female students wear hijab. In various cases including Padang, Banyuwangi, and Nusa Tenggara Barat, the school also made it mandatory for non-Muslim students to wear the hijab.[6] The impact of this regulation is discriminatory acts and social pressure on women, both students and their parents. Such discrimination was not only happening in the school environment, in the office environment there is also a bad stigma for women who are not wearing the hijab. Not only related to clothing but

[4] Hanif Cahyo Adi Kistoro, et. al., 'Islamophobia in Education: Perceptions on the Wear of Veil/Niqab in Higher Education', *Indonesian Journal of Islam and Muslim Societies* 10, no. 2 (2020): 227–46,

[5] Human Rights Watch, 'Aku Ingin Lari Jauh (I Want to Run Far Away)', *Human Rights Watch*, 18 March 2021.

[6] BBC News Indonesia, 'Wajib jilbab bagi siswi non-Muslim di Padang: "Sekolah negeri cenderung gagal terapkan kebhinekaan"', News, *BBC News Indonesia*, 26 January 2021, https://www.bbc.com/indonesia/indonesia-55806826.

even discriminatory actions against women also extend to curfews and prohibitions on sitting astride when riding a motorcycle.

This article will try to provide a critical analysis of the hijab phenomenon which is currently increasing in popularity but not accompanied by a comprehensive understanding of its meaning in the context of religion and culture. The hijab as a religious symbol often has different meanings. The hijab, which supposedly represents piety, can turn into a means of disciplining the body, especially women's bodies. This can give birth to repressive and discriminatory actions. The last and the worst thing is that the hijab can become a camouflage of piety for transactional politics. In the end, the sacredness of religion is sacrificed for trivial interests.

Women have inherent rights as independent individuals to be free to dress and treat their bodies as they wish, whether they wear hijab or not. In Indonesia, the hijab as a religious symbol of Muslims has become a game of signs. This understanding of hijab will be viewed holistically, encompassing sources from religious texts and cultural practices, including cross-continental historical aspects.

Correspondingly, the term discourse is used because there are different kinds of knowledge about hijab that are formed and developed in society which then give birth to debates and conflicting thoughts with one another. According to Michel Foucault[7], human as thinking creature tends to grasp the truth 'will to truth' as a guide to live their life. The truth system can provide certainty or belief in something. Discourse is a way of building knowledge structures together with social practices, forms of subjectivity, and power relations within them. Discourse is not just a way of thinking and or producing meaning, but an attempt to build hegemony or power by making knowledge the main tool. Internalization of knowledge in people's minds will shape the 'nature' of the body, subconscious mind, awareness, and emotional life of its target of influence. This discourse will further give birth to obedience, or perhaps resistance. In the arena of discourse, four elements are important to note, namely language, social institutions, subjectivity, and power. Through looking at the relationship of those four elements, discourse as a tool for the legitimacy of power can be identified. Foucault's thesis will be used as an analytical tool to see head coverings in the dynamics of state life, sociology, and the occurring political activities.

Apart from the will to truth, the term the will to power which was introduced by Nietzsche[8] is also used in analyzing acts of repression against others who are different and often marginalized because they are considered part of a

[7] Michel Foucault, *The Archeology of Knowledge and Discourse on Language* (New York: Pantheon Books, 1972).

[8] Freidrich W. Nietzsche, *On the Genealogy of Morality* (Australia: Blackwell, 2001).

minority or vulnerable group. Will is an essence of reality that makes life move, grow, and survive in the battle and gamble of fate. The human desire to always dominate others through orders of obedience and/or disciplinary action is based on a master-slave binary opposition thinking system, which can also be translated into other forms, namely right-left, right-wrong, up-down, noble-peasant, and the like. Those who are outside the category of the structure of truth will always be considered deviant and wrong. Like the master-slave relationship, those who are wrong then deserve to be punished by the master who claims to be the owner of truth.

Departing from the above background, this study is important to obtain an explanation of hijab from the context of sharia and culture in Indonesia. This study is a normative-theoretical study using a legal pluralism approach. [9] The study of legal pluralism is a relatively new approach to the study of Islamic law that seeks to recognize the existence of law, sharia, *adat* (culture) and the state. In this study hijab is part of sharia and culture and even included in state law.

History of Hijab in Indonesia

The number of Muslim in Indonesia is equivalent to 86.7% of its population. This number is the highest in the Southeast Asia region, as well as globally.[10] As a country with a Muslim majority population, Islamic issues always take an important position in everyday conversation. The hijab is among the most talked about topics in religious discourse in Indonesia. It is interesting to examine the general understanding of Indonesians about the function and role of hijab. Rahim, Agustina and Jannah put forward the idea of how hijab became a commodity for profit, hijab is a trend and fashion that shows how women can be stylish and seem religious at the same time.[11] Today, the discourse on hijab is generally considered a specific topic that is related to Islamic religious teachings, as a mandatory dress for Muslim women. Is hijab only a part of Islamic religious teachings?

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[9] Salim and Erlies Septiana Nurbani, *Penerapan Teori Hukum Pada Penelitian Tesis dan Disertasi*, (Jakarta: Rajawali Pers, 2014). Arskal Salim, "Dynamic Legal Pluralism in Indonesia: Contested Legal Orders in Contemporary Aceh," *The Journal of Legal Pluralism and Unofficial Law* 42, No. 61 (2013).

[10] Cindy Mutia Annur, 'Ini Jumlah Populasi Muslim Di Kawasan ASEAN, Indonesia Terbanyak', databooks, *Katadata Media Network*, 28 March 2023, https://databoks.katadata.co.id/datapublish/2023/03/28/ini-jumlah-populasi-muslim-di-kawasan-asean-indonesia-terbanyak.

[11] Abdul Rahim, 'Between Piety and Lifestyle: Hijab Shar'i on the Commodification Practices of the Islamic Culture Industry', *Ulumuna* 26, no. 1 (2022), p. 88–118. Mardhiya Agustina and Miftahul Jannah, "Hijab: Between Ideology and Fashion (Studi Ekspresi Religiusitas Masyarakat Banjar Pahuluan Melalui Hijab di Hulu Sungai Tengah Kalimantan Selatan), *Tarbiyah Darussalam Jurnal Ilmiah Kependidikan dan Keagamaan* 7, No. 2 (2023).

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Hijab is not a product or culture native to Indonesia. The hijab in Indonesia is closely related to the introduction and development of Islam in the archipelago, which is estimated to happen around the 7th century. At first, the hijab was only used among Minangkabau women. In other areas, such as Java and Sulawesi, Muslim women have not been seen wearing hijab. Prominent Muslim women figures including Kartini did not wear it either.

The religious teachings that make it mandatory for Muslim women to wear hijab began with the return of Indonesian clerics who studied Islam in the Holy Land. The form of this mandate was gradual in nature. G.F Pijper noted that the term of *'mukena'*, prayer clothes that are tightly closed for women, has been known at least since the 1870s in Sundanese society. However, wearing hijab in everyday life did not just occur in society.[12]

The Paderi movement in Minangkabau is believed to be the first movement calling for the wearing of hijab in the Nusantara.[13] The Minangkabau tribe is the first ethnic group in Indonesia to order women to wear hijab. Naturally, because Islamic values have entered inherently into the core views of Minangkabau culture. That is why in Minangkabau there is a known expression: '*Adat Basandi Syara', Syara' Basandi Kitabullah'* meaning 'customs based on Shari'a and Shari'a based on the book of God'.[14]

Similar to Minangkabau, in Aceh, the preaching of Islam has a strong and pervasive influence that extends to the traditional dress of the Acehnese people. On the Sulawesi peninsula Arung Matoa, the ruler Wajo also known as La Memmang to Appamadeng ruled from 1821-1825 in South Sulawesi, enforcing Islamic sharia. He imposed Islamic penal law and made veiling mandatory for Wajo women.[15]

Since Islam entered the archipelago, the use of hijab varies from place to place. Some are tightly closed, and some are not. The female figures of Aceh's national heroes Cut Nyak Dhien and Pocut Baren both did not cover their heads tightly, only using scarves to cover their necks. Nyai Ahmad Dahlan and the administrators of Nasyiatul Aisiyah Muhammadiyah wear closed hijabs. Since the 1910s KH. Ahmad Dahlan, the founder of Muhammadiyah, actively preached and

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[12] Tantowi Ali, 'The Quest of Indonesian Muslim Identity: Debates on Veiling from the 1920s to 1940s', *Journal of Indonesian Islam* 4, no. 1 (2010), p. 62–90.

[13] Tantowi Ali, 'The Quest of Indonesian Muslim Identity, p. 63. Rajab Rajab, "Islamic Inheritance Law in Saruaso and Sawah Tangah Villages Based on Islamic Principles," *Jurnal Ilmiah Islam Futura* 22, No. 2 (2022).

[14]Erwati Aziz, et.al., "The Acculturation of Islam and Customary Law: An Experience of Minangkabau, Indonesia," *QIJIS: Qudus International Journal of Islamic Studies* 8, No. 1 (2020), p. 131. Franz von Benda-Beckmann and Keebet von Benda-Beckmann, "Identity in Dispute: Law, Religion, and Identity in Minangkabau," *Asian Ethnicity* 13, No. 4 (2012), p. 1-18.

[15] Christian Pelras, 'Religion, Tradition and the Dynamics of Islamization in South-Sulawesi', *Archipel* 29 (n.d.), p. 107–35.

stated that the headscarf is an obligation for Muslim women. He preached about hijab and veil in stages. Initially, he called for women to wear hijabs even though part of their hair was visible, after that he advised women to wear the hijab tightly closed.

The Al-Irsyad Congress conducted in Pekalongan, Central Java, addressed issues regarding women entitled '*Women in Islam According to the View of the Al-Irsyad Group'*. Among the results of the mentioned congress was the mandate for its female members to cover their heads and bodies except for their faces and palms.[16] Apart from Muhammadiyah and Al-Irsyad, Persis is an organization that is very persistent and active in voicing the obligation to wear headscarves for women. Through Al-Lisan Magazine,[17] Persis explicitly stated that faces and palms are the only parts of a woman's body that should remain visible to others. Persis's members wear hijabs not only when carrying out celebrations or religious activities, but also as everyday clothing.[18]

Nahdlatul Ulama (NU) one of the largest Islamic organizations in Indonesia is also very persistent in calling for the use of the hijab. During the XIII NU Congress which was held in June 1938 in Banten, the Surabaya branch of NU proposed that women and students at the Banat NU Madrasah wear the Rangkajo Rasuna Said's style of hijab. The reason is that mothers must cover their *awrah* according to Islamic law.[19] Another reason is that a mother is a role model for her children, so in modern times where it is so easy for disobedience to occur, avoiding disobedience is a must.[20]

Two prominent figures of Bani Alawi descent, Idrus Al-Mansyhur and Ali bin Yahya in 1940 at Solo, began to promote the use of '*berguk*' for women. *Berguk* comes from the word *burqah*. This preaching not only occurred in Solo but began to spread to Surabaya and caused conflict. However, in the end, the campaign for the use of *berguk* receded by itself.

Entering the 1980s, the use of the hijab increased for students in public schools. During the reign of the New Order regime, the dress code for public schools became stricter. The General Director of Education and Secondary Education (*Pendidikan Dasar dan Menengah*/Dikdasmen), Prof. Darji Darmodiharjo, SH., issued Decree 052/C/Kep/D.82 concerning National School Uniforms which led to the banning of hijab in public schools on 17 March 1982. Some discriminatory actions were experienced by those who wished to wear hijab

[16] 'Majalah Aliran Baroe', July 1941.

[17] Majalah Al-Lisan, 'Toedoeng Kepala', *Madjallah Boelanan Orgaan Persatoean Islam*, 1932.

[18] Tantowi Ali, 'The Quest of Indonesian Muslim Identity, p. 62-90.

[19] Nahdlatul Ulama, 'Verslag-Congres Nahdlatoel Oelama Ke-XIII 11/12 t/m 16/17', 1938.

[20] Nahdlatul Ulama, 'Verslag-Congres Nahdlatoel Oelama, p. 45-46.

in the school environment. Those who wore the hijab were ostracized and separated from their classmates who did not wear it, and some were even expelled from school.

The Development of Contemporary Hijab in Indonesia

There is a development of hijab in Indonesia seen from the trend, style and public perception. Several female public figures, such as Attorney Pinangki, former Minister of Health Siti Fadilah Supari, socialite Inong Malinda Dee, entrepreneur Nunun Nurbaetie, and politician Angelina Sondakh who were caught in a legal case presented themselves by appearing to wear a hijab during the process of their trials.[21] When the sentence period ended, Attorney Pinangki no longer wore hijab.[22] In contrast to Angelina Sondakh, who after completing her sentence decided to wear the hijab and deepen her knowledge of Islam, the religion she embraced after marrying a Muslim man.[23]

The phenomenon of women wearing headscarves when facing legal cases produces a branched meaning of religious symbols, in this case, the hijab which is generally understood in Indonesia as clothing that is mandatory for a Muslim woman. The first meaning is a form of regret and repentance for sins that have been committed so that one wants to return to the teachings of religion that is *kaffah* (total). The second meaning is pious camouflage which is used for transactional purposes, namely, to get the sympathy of the authorities and the public (other people) to influence legal decisions. This second meaning obscures or even destroys the sacred meaning of the first. Religion or religious symbols in particular have been degraded from their sacredness to become profane, used as a political commodity for profit amid a society that is innocent and fanatical about religious views.

Several verses in the Qur'an are translated as calls to cover *awrah* in Islamic teaching. These verses are generally interpreted as the basis for women to use hijab, such as QS. 33: 59, QS. 24: 31, QS. 33: 53, QS. 33: 33, QS. 24: 60. and QS. 24:60. Another surah that is often used as a reference and raises different views about the obligation to cover the *awrah* for women is QS. 7: 22. According to some interpretations, nakedness is the one that should be covered for both men

[21] M. Luthfan D, 'Jaksa Pinangki dan Mereka yang Tampil Berhijab saat Terjerat Kasus Hukum', News, *Kumparan News*, 24 September 2020, https://kumparan.com/kumparannews/jaksa-pinangki-dan-mereka-yang-tampil-berhijab-saat-terjerat-kasus-hukum-1uFvk3KcAwo.

[22] Tim Detikcom, 'Beda Gaya Pinangki Eks Jaksa yang Kini Bebas dari Penjara', News, *Detik News*, 6 September 2022, https://news.detik.com/berita/d-6276809/beda-gaya-pinangki-eks-jaksa-yang-kini-bebas-dari-penjara.

[23] Ichsan Suhendra and Isra Berlian, 'Cerita Spiritual Angelina Sondakh Saat Putuskan Berhijab', News, *Viva News*, 14 April 2022, https://www.viva.co.id/showbiz/gosip/1466788-cerita-spiritual-angelina-sondakh-saat-putuskan-berhijab.

and women. There is no order to cover the head with a specific type of cloth and model because sociologically the Arab community at the time of the revelation of the Qur'an already had a tradition of covering the head. Some scholars interpret QS. 7: 22 by emphasizing the aspect of piety as the best of clothing. Such interpretation is still constantly debated among Muslims.

This ban was motivated by the regime's suspicion of the increasing movement of extreme Islamic groups against the government. There have been many protests and lawsuits filed against the institution concerning the discriminatory acts that have occurred. After Suharto agreed to the formation of the Indonesian Muslim Intellectuals Association (*Ikatan Cendikiawan Muslim Indonesia*/ICMI) in December 1990, the use of hijab was finally re-allowed as stated in Decree number 100/C/Kep/D/1991 of the General Director of Education and Secondary Education.

Repressive and discriminatory actions in the context of body discipline like in Indonesia also occurred in Turkey. It was only after Recep Tayyip Erdoğan came to power in 2003, that the secularist interpretation of religious symbols changed. Secularism, which aims to ensure the continuity of justice and equal rights for its people is considered that it should not restrain human rights, one of which is the freedom to express religious beliefs. Finally in Turkey today, the phenomenon of women wearing hijab occupying strategic positions in government and parliament is beginning to be seen. Most recently, Kübra Güran Yığıtbaşı became Governor of Afyonkarahisar, Turkey's first governor who's wearing hijab.[24]

The phenomenon of being forced to wear hijab occurs when religious fanatism is high but not balanced with sufficient religious understanding. It is not uncommon to find public schools in Indonesia with all their female Muslim students wearing hijab. The concept of wearing hijab is automatically constructed as the identity of a Muslim woman, whether it is through parenting or a circle of friends.

Islamic scholars have different opinions about the legal obligation to wear hijab or the limitations of *awrah* for women. Ibn Taymiyyah defines hijab as a long women's dress. Ibn Mas'ud called the clothing *al-rida'* which means a coat or robe. Some give the term *alizar*, which is a kind of loose clothing that covers the entire body from the head without exception.[25] Ibn Abbas and Abidah al-Salmani define hijab as women's clothing that covers the face and the whole body

[24] Daily Sabah, 'Deputy Minister Becomes 1st Turkish Governor with Headscarf', News, *Daily Sabah*, 12 May 2022, https://www.dailysabah.com/politics/deputy-minister-becomes-1st-turkish-governor-with-headscarf/news.

[25] Syaikh Ibnu Taymiyah, Al-Anshori, and Abu Said, *Jilbab Dan Cadar Dalam Al-Quran Dan As-Sunnah*, 1st ed. (Jakarta: Pedoman Ilmu Jaya, 1994).

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except for the eyes.[26] Zamakhshari in *al-Kashshaf* defines hijab as a type of clothing that is larger than a headscarf and smaller than a shawl that women usually wear to cover their heads and chests. Ibn Kathir argued that hijab is a shawl over the headscarf.[27] Meanwhile, Quraish Shihab defines hijab as a shirt with loose-fitting brackets and a headscarf covering the head.[28] Islamic scholars have different interpretations of what hijab is in detail, but they agree that hijab means clothing that is wide, loose, and covers the neck and chest.

It is possible to classify the views of scholars/scientists/*ulama* into two groups. The first group said that wearing hijab for women is an obligation. While the second group said that no text in the Qur'an provides explicit restrictions on the use of the headscarf. The view that is most accepted by society is that the boundaries of *awrah* for women are the face and palms, so women are required to wear a hijab and cover their private parts. However, some scholars give a different interpretation. Citing the views of a Turkish scholar, Cemil Denk, who considers hijab a as part of history, culture, and even a political product. According to Denk, the word 'hijab' mentioned in QS. 33:59 does not provide clarity on the meaning of the boundaries that are covered, because the veil in Arabic means a bracketed shirt that is worn from above[29].

Denk describes his views on hijab by using historical approach and criticism of the Qur'anic texts. Historically, hijab has been known for a long time, for example in Greece and Persia before Islam came. The motivation that underlies the tradition of wearing hijab also varies. In Persian society, hijab is used to distinguish noble women from ordinary women and married women (still married or widowed). If a woman is married to a man but she did not wear hijab, then her status is not a legal wife. So, hijab in Persian society was used to show the exclusiveness of a class. In Greek society, hijab is closely related to the theology or mythology of menstruation. Women who are menstruating must be socially isolated because they are believed to be in a dirty condition so that they are easily possessed by devils. Thus, the women must be covered with hijab to prevent the devil from entering their bodies. Denk concluded that in certain societal cultures, the hijab might have different functions.

It is also known that before Islam came, women were showing off their jewelry by exposing certain body parts. This is in accordance with the view of society during that time. If today our society agrees with certain standards and ways of dressing, then that is what applies in today's life. The standard and

[26] Muhammad Husein, *Islam Agama Ramah Perempuan Pembelaan Kiai Pesantren* (Yogyakarta: LKIS, 2004).

[27] Shahab Husein, *Jilbab Menurut Al-Qur'an Dan al-Sunnah* (Bandung: Mizan, 1986).

[28] M. Quraish Shihab, *Wawasan Al-Qur'an* (Bandung: Mizan, 1996).

[29] Cemil Denk, *Yapraktan Çarşafa Türbandan Burkaya Örtünme* (Ankara: Karınca Yayınları, 2010).

purpose of dress are appropriate according to existing social agreements. In this case, people tend to associate a certain culture as a part of their religion, to Islamize a culture that wears hijab. How men are allowed to wear head coverings to adapt to hot weather is one of the examples. However, assuming the head covering is part of religion or religiousizing the head covering is a big mistake. Likewise with hijab or head coverings worn by women. Referring to QS. 7: 26, "O children of Adam! We have provided for you clothing to cover your nakedness and as an adornment. However, the best clothing is righteousness." Denk emphasized that every civilization has certain standards of cultural values and since the appearance of early humans, the standards for the *awrah* of men and women that need to be covered have been agreed upon by mutual agreement.

In terms of textual criticism, Denk criticizes some traditionalist Muslim circles who argue that Muslim women are required to cover their private parts, including covering their faces and hands. According to him, this is an opinion based on their cultural background and not on what is contained in the Qur'an. If Allah really wanted that, Allah should say in His word "Cover all parts of your body except your face and hands." As Allah says in the verse about the Shari'a of ablution, explaining it in detail, "wash your hands up to the elbows." If Allah wants to set certain limits on clothing for Muslim women, then at least he says as in the verse about the Shari'a for ablution. But why not? According to Denk, it is just because Allah does not want to provide clear boundaries for Muslim women. This is closely related to the interpretation of the verse *illā mā ẓahara minhā* (except as evident from it). This term has become controversial among interpreter because the Qur'an itself does not provide clear limits on which parts of the body may not be covered. Determining which parts of women are allowed to be seen depends on the sociocultural context of each individual.

Hijab, Sharia, and Culture: Perspective Legal Pluralism

In addition to historical and cultural reasons, the commentators who did not oblige the headscarf stated that there were political tendencies that were also involved in making the law obligatory to wear hijab for women. Religion is used as a political tool to gain power. Whatever is conveyed by politicians who use religious labels to their people, it is like a prophet, cleric, or *kyai* conveying religious advice. This kind of behavior heavily affected the political power structure. Those who are at odds with his political views, he considers as people who are at odds with religion, even though they come from the same religion. This is what they perceive as the great danger in life. Not to antagonize religion, but placing religion in the private sphere instead of in the public sphere and avoiding religion from being used in political life is a must.

Quraish Shihab, an Indonesian Islamic scholar, argues that hijab is more about identity as a Muslim. There is no obligation to wear the hijab for women,

but it is only advised. According to him, those who cover their entire body except for their face and (palms) of their hands are doing what is written in the Qur'an. However, at the same time, it is not fair for us to say to those who do not wear hijab, or who show their hands, that they have 'definitely violated religious instructions.' This is because the Qur'an does not specifically mention the limits of *awrah* and even previous scholars had different views on the interpretation of this verse[30].

The history of head coverings started in the era before Christ. Several civilizations make head coverings one of the rules of social life. The headdress became a symbol of the marriage relationship as shown in Greek mythology when Aphrodite put a gold-embroidered headdress on Helen's head. In the rules that apply in the Asur period, women who are not prostitutes (servants) must cover their heads. On the other hand, the class of servants must leave their heads without any head covering. Likewise in Greek civilization, based on discovered historical pictures and figures it is possible to conclude that women wore head coverings. In other ancient civilizations, such as in Egypt, women covered their entire body except for the eyes with a white cloth[31].

The concept of the hijab existed long before the Qur'an was revealed, and it is not exclusively owned by Islam alone. There is a term that is synonymous with hijab in the Torah, namely *tif'eret*, while in the Bible, there are several terms that are synonymous, such as *zammah*, *re'alah*, *zaif* and *mipahat*. Even in Jewish literature it is found that the use of hijab originated from the original sin, namely the sin of Eve who seduced her husband, Adam, because she had persuaded him to eat the forbidden fruit. As a result, Eve and her people were cursed. Not only is it a curse to wear the hijab but also to have menstrual cycles with all kinds of rules[32].

Head covering also takes place as a religious rule in Abrahamic religious tradition. The term used is *fara* means clothing worn for the head; *tsnyafaah* means head covering; *tsaayafa* means face covering. As in Judaism, the Talmud explains that a husband may divorce his spouse if she does not wear a head covering in public. Head covering for men is a sign of respect for God, while for women it is a form of respect for men. In a certain Jewish sect, women are required to cover their heads (not showing their real hair) not by using a headscarf but by using a wig. As for the Christian religious tradition, women are considered a source of sin. It is written in Paul's letter that women who worship without

[30] M. Quraish Shihab, *Jilbab Pakaian Wanita Muslimah, Pandangan Ulama Masa Lalu Dan Cendekiawan Kontemporer* (Jakarta: Lentera Hati, 2006).

[31]Murat Aksoy, *Basortusu-Turban: Batilasma-Modernlesme, Laiklik ve Ortunme* (Istanbul: Kitab Yayinevi, 2015).

[32]Nasaruddin Umar, *Konstruksi Sosial: Menstrual Taboo Dalam Kajian Kultural Dan Islam* (Yogyakarta: PSW IAIN Sunan Kalijaga, 2000).

covering their heads are 'dirty'. Women who do not cover their heads should cut their hair. However, cutting hair or shortening hair for women is something embarrassing. Men are imitations of God, so covering their heads is not obligatory. On the contrary, women are the reflection of men, so they have to cover their heads.[33]

How religion and traditions are intertwined creates diverse religious expressions in every place. According to Ibn Fazlan, men and women in the 9th century Oghuz civilization even though they were in a condition of mingling together, did not cover their heads. Before the arrival of Islamic influence, Turkish women did not use head coverings. It was after accepting Islamic teachings that Muslim women began to use head coverings[34].

In the 14th century, Ibn Battuta described his experiences while in the Anatolia region which is now known as Turkey. Women and men in the area both use head coverings. In the early period of the Ottoman Empire, men and women were described as having equal status as exemplified by the fact that women and their partners rode horses, helped each other, and even made important decisions in family matters. The practice of covering the head in that period can be understood to have been heavily influenced by geographical conditions, climate, culture, and beliefs, so that in every place/region people dressed according to the existing conditions. Women in that period covered their heads but did not cover their faces, as in the painting Siti Hatun, wife of Fatih Sultan Mehmed (15th century), who wore loose clothing with open wrists, uncovered head coverings, and uncovered faces. At that time, women attended ceremonies just like men and even joined the battlefield. It is also worth noting that during that time most women had their faces uncovered and their necks could be seen clearly[35].

The issue of covering women's *awrah* became a top priority starting from the 16th century, this period is known as the closed period. During this period, rules about how women should dress were issued. This rule includes the type of fabric, shape, and other details. Using implementing Islamic law as the pretext, women are subject to certain dress codes, prohibited from being seen on the streets, and must obey a certain rule about how they should interact with men. Aside from being part of the religious law, dress codes were issued to indicate one's social class and economic position, as well as to differentiate Muslim and non-Muslim women. Sometimes they are required to wear darker clothes, not wear clothes with flashy colors, and must wear closed clothes known as *çarşaf*. Previously, this rule only applied to the capital city of Istanbul and around Anatolia but in 1725 this rule was abolished.

[33] Murat Aksoy, *Basortusu-Turban…,* p. 35-36.
[34] Murat Aksoy, *Basortusu-Turban,..*, p. 41.
[35] Murat Aksoy, *Basortusu-Turban,..*, p. 42-43.

Looking at the dynamics of wearing hijab in several different places and times, it can be understood that it is not only understood as a mere product of religion but more than that it is also the result of cultural construction and political dialectics from time to time. Historical sources and archaeological evidence show that the tradition of covering the head existed thousands of years ago, namely since the civilizations of Sumer, Urartu, Hittite, Greece, and Ancient India. Archaeological evidence shows that in that era there were also women who did not wear head coverings. Covering the head became one of the rules in the legislation of the Hammurabi civilization and Central Assyria. Women who want to go out into the street or want to access public spaces wear head coverings as a sign that they are from an independent group.

They can easily be recognized as free people who must be respected and protected by covering their heads. While those from the class of slaves or servants apply different rules, namely that they are not allowed to completely cover their heads when outside their homes. If the slave is caught covering his head in a public space or on the street, he will be punished by the apparatus.[36] Meanwhile, head coverings in the Sumerian civilization were only worn by spiritual leaders or monks, and these monks were women. The head covering is a symbol of the difference between monks and ordinary women who are not monks.

In the three divine religions, namely Judaism, Christianity, and Islam, it is only Islam that orders the use of hijab explicitly. However, the interpretation of the command to use hijab gave birth to various interpretations among *mufassir*. In Judaism, even though the Torah is not written explicitly, in the Jewish religious tradition the command to cover the head for women is conveyed through oral tradition. This is a legacy of pagan traditions that existed before the Torah was revealed and then carried on more strictly within the Jewish tradition. Besides functioning as a symbol of honour for women, it is also a form of respect for the wife to her husband.

Indonesia as a republic with Pancasila as the national ideology is neither a religious state nor a secular state. The state accommodates the expression of its people's beliefs with the birth of a state instrument in the form of the Ministry of Religion to guarantee that every citizen of the state can express their most basic rights, namely belief freely and without coercion. Indonesia is also not a religious state, because laws and regulations are not taken from one particular religious teaching or viewpoint but are the result of the crystallization of a plural nation's life.[37]

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[36] Bedriye Yılmaz, 'Tarih Boyunca Başörtüsü', *Anlayis* (blog), 2008, http://www.anlayis.net/makaleGoster.aspx?dergiid=58&makaleid=1076.

[37] Yudi Latif, "The Religiosity, Nationality, and Sociality of Pancasila: Toward Pancasila through Soekarno's Way," *Studia Islamika* 25, No. 2 (2018). Marybeth T Acac, "Pancasila: A Contemporary Application of Maqasid al-Shari'ah?" *Journal of Indonesian Islam* 9, No. 1 (2015).

Indonesia has experienced unpleasant actions because of discriminatory acts by the state against those who want to wear hijab. Ironically, the opposite has happened these past years. There have been cases of discrimination against those who are not veiled or even coercion by particular institutions. Disciplining the body, especially women's bodies, is often a means of affirming power structures, both by the state and by groups that feel they have the power/majority. The entrance is a claim to an exclusive truth and denies the possibility of truth in another. When hardened understanding meets arrogance and a desire for power, that is where oppression begins. Oppression is not only in direct acts of repression but also in discriminatory actions, namely ignoring the rights of others that should stand on an equal footing. The enthusiasm to express and uphold things that are considered sacred but carried out with violence collides with human values which are also sacred in the Islamic view.

When truth is no longer questioned, in the end it will only give birth to a dogmatic tradition without sufficient substance of understanding. Symbols that represent a truth are then mass-produced. Symbols play aspects of recognition and distinction in the social space, as markers that are either the same or different, which then influence the judgment of a person or group of people. The symbol is used as a transactional tool. That's where the intention and desire to disguise themselves hide behind the symbols. Without a deep understanding, it is very easy for someone to disguise their hidden intentions and it is very easy for the recipient to accept the sign as what is sensed. Attempts to see beyond the signs are critically limited by the lack of various information that forms an understanding.

As the background of the writing mentioned earlier, some people who stumble upon legal problems then play the hijab symbol to present a portrait of regret and piety, only to attract sympathy. With the prevalence of such phenomena, without adequate criticism, things that are considered as part of religious representation are then misused. Hijab, which is generally seen as a Muslim identity, is produced and distorted in meaning to become a mere camouflage of piety. Although, basically in scholarly discussions, the position of hijab and *awrah* is something that has been interpreted in various ways by scholars, when it occurs among the uninformed, playing with such a symbol degrades the sacred value of religion.

This is where the importance of knowledge about the substance of the veil and the dynamics of using and understanding hijab. It is so one can decide independently on how to treat their body in accordance with what they believe. Research conducted by Hafid et. al. pointed how some female students in UIN Alauddin Makassar wear veils mostly because their environment despite of their

limited understanding of the hadith.[38] With sufficient knowledge, each subject will treat others equally and with respect without stigma and discriminatory actions even though what is shown is different from the understanding they have. Clothing is part of society's norms but emphasizes the symbol of piety only on the aspect of clothing is narrow. Supposedly, piety has implications for the order of social life that creates peace, respect, and sensitivity for those who are always in oppressed conditions, as well as maintenance of the universe.

Indonesia as a constitutional state should guarantee all its citizens to be treated fairly before the law. In the case of hijab, whether women want to wear hijab, not wear hijab, wear hijab with a veil, or without a veil, this should not lead to negative and discriminatory stigmatization. In the perspective of legal pluralism, hijab on the one hand, Islamic law gives obligations to its adherents, on the other hand the culture views that hijab has become part of the customs of society. While the law of the country guarantees every independence of each citizen, to use it or not. However, a woman wearing hijab is part of sharia as well as a culture and custom.

Conclusion

People's understanding of the hijab as a normative rule in Islam is simply inherited without any process of in-depth understanding of the hijab itself. Wearing the hijab in public spaces has only become a trend, in fact it is not uncommon for the meaning of the hijab to be fabricated for purely transactional purposes. The use of the hijab does not merely mean an expression of deep religious appreciation, for the sake of an embodiment of piety. In fact, the hijab, which has become a mass culture, has experienced a shift in meaning away from the essence of religion, and has even become a camouflage for piety. Low understanding of the hijab, or exclusive truth claims often give rise to repressive and intimidating actions towards those who have different views. In fact, the interpretation of the hijab is so diverse, it is not only a discourse and culture in the Islamic world, but also in various other cultures and religions. The hijab discourse gives rise to a debate between the sacred and the profane, the sharia and the culture in social life. Even though there are differences and debates, everyone who understands Islam well should prioritize the message of love in all their actions. Moreover, as Indonesian citizens who make the law the supreme commander, the position of every citizen is equal. Acts of persecution for the sake of bodily discipline by parties who feel they have power should not occur for the sake of respect for humans and a form of embodiment of the principles of just and

[38] Erwin Hafid et al., 'Knowledge on the Validity of the Hadith on Veil, the Obligation to Wear and Its Application in Social Life: A Case Study at UIN Alauddin Makassar', *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (2023), p. 479–98.

civilized humanity. Furthermore, in the perspective of legal pluralism, hijab is part of the observance of sharia on the side, while on the other hand hijab has become an integral part of a culture that has not become a living law.

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