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## LIMITED RESTRICTIONS ON THE POLEMICS OF HIJAB, BURKA, AND NIQAB IN INDONESIA:

### Human Rights Perspective

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**Abstract:** The niqab and burka are manifestations (forum externum) of freedom of religion and belief (FORB) guaranteed by the UDHR. However, in practice, the niqab and burka, on the other hand, block the application of the FORB. In Europe, the niqab and burka are banned packages that should not be in public. Meanwhile, in Indonesia, after the reforms, the dynamics of the niqab and burka are increasingly diverse. Through the Minister of Religious Affairs, Fachrul Razi, the Ministry of Religious Affairs prohibited the State Civil Apparatus (ASN) women from wearing it while working. On the other hand, there are several regional regulations, such as in Central Lombok. Instead, it is required as a substitute for a medical mask. This paper analyzes the content of the law. It considers the extent to which it can be 'harmonized' so that it does not conflict with Indonesia's aspirations for civil society, non- discrimination, and pluralism. The argument is used as a source of comparison with similar regulations in other countries.

**Keywords:** *restriction, burka, human rights, indonesian law*

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## INTRODUCTION

Article 18 of ICCPR paragraph 3 states that freedom of religion or belief (FORB) may be restricted under certain conditions and achieve particular objectives. Because of the awareness of the limitations of human rights, assumptions arise as if restrictions run indefinitely. However, there are limits within limits. So that in the practice of human rights restrictions, there are also limitations. Therefore, human rights restrictions must be necessary and proportionate. In this paper, I argue that restrictions on the burka or niqab by the state are unnecessary because the basis is a national security factor.

Meanwhile, UDHR (Universal Declaration of Human Rights) does not allow national security to be used as a basis for restricting FORBs (Bagir et al., 2019, p. 35). Meanwhile, regulations require women to wear the hijab, burka, or niqab in public offices or schools. However, in my opinion, it should be restricted because they have injured the FORB guaranteed by the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).

In Indonesia, hijab polemics have begun since the New Order era as a form of concern for the Indonesian government towards the growing wave of Islamism brought by tarbiyah groups among students and students due to the Iranian Revolution movement in 1979 (Furkon, 2004, 116). Through Dikdasmen, in 1982, the government issued Permendikbud Number 52/ C / Kep / D.82, which regulates and determines the pattern of school uniforms (Arief & Husin, 2019, p. 173). It has implications for the discriminatory treatment received by students who continue to decide to work, such as being excluded from the classroom, prohibited from taking exams, not providing report cards, until expelled from school. This was due to the government's perception that wearing a hijab was a form of political expression.

This perception has resulted in the government's stance requiring female students who wear hijab to remove their headscarves while at school. They refer to Ministerial Decree number 52 that the hijab is not

part of the school uniform. Minister Nugroho Notosusanto reiterated this. The statement he made in the jumper:

"Every government school should have a uniform and for students who, for whatever reason, must wear a headscarf, will be helped to move to a school whose uniform wears a hijab. If they still intend to wear the hijab, they should choose a more critical school or hijab (Sirozi, 2004, p. 150).

The affirmation conveyed by Minister Nugroho at that time impacted the application of increasingly strict discipline for students in the school environment. Students who wear jilbab in the school environment during learning activities have violated the rules, and the school will give a warning. This polemic creates tension among students. Some of them have given up on the situation by choosing to remove their headscarves at school. Nevertheless, some students choose to fight even though this makes the school prohibit these students from taking the exam. Some even choose to move to a private school that does not ban hijab (Arief & Husin, 2019, p. 177).

Apart from the regulation of the hijab, some of the repressive attitudes of the Suharto regime also greatly impacted Indonesia's social life. This is in line with the new Orde era picture written by Ariel Heryanto. "In the early history of the New Orde, citizens were urged to change their names and shops from the names of love. In the 1970s, Kopkamtib, the military's most potent apparatus, was busy fighting the long hair of the young. In the 1980s, the student council was abolished, pop songs deemed ugly were banned, headscarves were questioned, and advertisements on TVRI were tabbed. (Heryanto, 1995).

However, in the 1980s, the Suharto regime weakened, marked by a deterioration in its economic foundations. The regime then realized that the wave of urban and political Islamic movements was increasing. In line with that, this remind then changed attitudes towards Muslims and summarized them to promote development. Discriminatory regulations against Muslims, such as the hijab ban, were finally lifted with the

issuance of the Decree of the Director-General of Primary and Secondary Education Number 100/C/Kep/D-1991. This regulation validates the hijab as an alternative uniform for Muslim female students (Sirozi, 2004, pp. 150–152).

Along the way, the hijab is increasingly becoming a trend and pop culture among Indonesian Muslim women. Jilbab began to flood media such as televisions, big screens, and mobile phone screens (David, 2013, p. 3). However, the veil has developed with the advent of wearing the niqab (i.e., a black cloth above the waist covering the face without eyes). The niqab or veil is then brought to justice (Putra, 2019).

Banning the veil or niqab (Tirto, 2017) occurred in 1999 at the University of North Sumatra. Two medical students were banned from wearing veils on campus after the Dean of the Faculty of Medicine issued a letter banning the veil. This assumes that the veil makes communication contact between students and lecturers challenging, in addition to making student-patient contact difficult.

The impact of the veil ban made one of the students leave campus because of the discriminatory behavior of the lecturers. Meanwhile, other veiled students chose to remain on campus in Orde to graduate while struggling amid discrimination. In academic activities on campus, the two veiled students are often discriminated against by their lecturers. They are often excluded from classes when lecturers teach, and they are even threatened that they will not be given grades if they do not want to remove their veils. This discriminatory behavior then gave birth to a massive wave of demonstrations consisting of students at USU, Medan Institute of Technology, and the University of Muhammadiyah North Sumatra.

Regarding the ban on the veil or niqab, at the beginning of his term, namely the beginning of 2020, Minister of Religious Affairs Fachrul Razi imposed a policy prohibiting ASN (civil servants) veiled and wearing shorts in government offices (BBC, 2020). The dynamics of banning the veil or niqab are getting narrower even though no written regulations prohibit it. This attitude is based on a negative stigma against Muslims because the September 11, 2001 attacks are Muslim. After the WTC incident, Muslims

received discriminatory behavior from Americans. They were harassed, insulted, and even killed. Women with headscarves stripped from their headscarves, Muslim residents, were suspected by the authorities arrested (Yudhita, 2013). Even after the 2001 WTC incident, massive terrorist stamps were pinned to veiled women and men with beards. They are scapegoated as the source of the terrorist movement.

In Indonesia, these allegations have become increasingly evident with the emergence of acts of terrorism and suicide bombings that have attacked several cities in Indonesia, such as Bali, Jakarta, and Surabaya. Veiled women unrelated to acts of terrorism were also targeted. They are treated indecently simply because of the veil they wear.

## **HIJAB, BURKA, AND NIQAB IN ISLAM: IS IT A MUSLIM WOMAN OBLIGATION?**

The concept of the veil or "niqab" in Arabic is still a matter of debate, especially in the perspective of the four recognized schools of thought within Islamic jurisprudence, such as Hanafi, Maliki, Shafi'I, and Hanbali. In Arabic, 'niqab' is defined as clothing that covers a person's face. Thus, the discussion of the 'niqab' will lead to a discussion of the intimate parts of the human body, which must be covered by clothing for women, especially related to the face. Does the face include a woman's awrah?

In the study of fiqh (Islamic jurisprudence), I noted there are two findings. Firstly, the scholars from Hanafi, Maliki, most of Shafii, and Hanbali argue the face of women does not include female aurat so covering it does not include obligations (al-Marghinani of Hanafi, Ibn Khalf al-Baji from Maliki, Al-Nawawi from Shafii, and Ibn Qudama from Hanbali). They agreed to argue that the face and the two palms of the woman are not part of her awrah (Al-Baji, 1914, p. 105; Al-Mirghinani, 1996, p. 285; An-Nawawi, 2002, p. 104; Qudama, 1994, p. 20). Secondly, a small part of the Shafii school, Syarqawi argues that the awrah of women outside the prayer is her whole body, including her face and both palms (As-Syarqawi, 1997, p. 174).

Thus, I would argue that the limits of women's awrah are not absolute. There is still a debate in it. Therefore, the practice of wearing the niqab

is still a long discussion to this day. Then, how is the law to wear a veil according to Islam in the practice of women's lives? First, wearing a burka is a ban in some worship practices. This prohibition, for example (1) in hajj and Umrah, especially when tawaf (ceremony of circumambulation of the Ka'abah in Mecca seven times) and ihram (consecration for use in the pilgrimage to Mecca) women should not wear a veil and should not wear a T-shirt, (2) when performing prayers. The legal level of wearing a burka when praying classified as makruh (the avoidance of which yields merit but the performance of which is not sinful) (Al-Bahuti, 1983, p. 256), (3) during the marriage agreement, some even argue that wearing a burka when the marriage agreement is invalid (Al-Haitami, 1938, p. 261).

Meanwhile, scholars have different opinions when wearing a burka in everyday life (outside of the above conditions), including while working or attending school (Burchardt et al., 2014; Dion et al., 2014; Dox & Dox, 2014; Göle, 2014; Jackson & Monk-turner, 2015; Listerborn, 2015; Zainal & Wong, 2017). First, the law of wearing the burka or niqab in daily activities is mubah (permitted). This opinion, for example, is supported by scholars from Hanafi, part of scholars from Shafii, and scholars from Hanbali. Second, makruh (, this opinion is conveyed by scholars from Maliki. According to them, wearing a burka is a manifestation of "ghuluw" exaggeration in religion. Third, sunnah. Some scholars convey this opinion from Shafii. Even others from Shafii oblige the burka (Al-Islamiyya, 2006, p. 134).

From the various opinions of scholars from four Sunni schools, I argue that the veil is not a religious practice that becomes mandatory and should be applied by every Muslim woman. In practice, the burka is returned to each Muslim woman, whether she agrees to give it or not because Islamic jurisprudence does not answer her or forbid it. Thus, in my opinion, the burka or niqab practice does not show a religious affiliation to specific ideas such as radicalism or even terrorism. Pakaian does not become an identity whether a person can be said to be radical or not.

## POLEMICS OF HIJAB, BURKA AND NIQAB IN THE GLOBAL

Observers see that the issue of hijab and veils is part of the acrobatics of European politicians to scapegoat the economic recession they have experienced since 2008. On the other hand, the issue of hijab is a broader multiculturalism debate among European politicians. They argue that there needs to be a more tremendous effort to assimilate ethnic and religious minorities. Based on these assumptions, the veil or niqab is considered a barrier in this assimilation process. The assimilation effort realized by banning the hijab and veil in social life in Europe (BBC, 2018).

Some countries that ban hijab in business restrictions are America, France, Britain, Russia, Switzerland, Italy, Bulgaria, Turkey, Egypt, and Tunisia. Meanwhile, countries in Africa that restrict the wearing of headscarves and veils are Chad, Cameroon, and Congo. In the United States (VOA, 2020), although the hijab ban is not written, in who wear hijab often experience discrimination. The in-practice case of a running athlete is an example. Noor Alexandria Abukaram, a teenage runner from Ohio, was disqualified in a running competition in October 2019. The reason is that she wears a headscarf without a dispensation letter. Although, Abukaram had not experienced any problems in the previous six races he had contested.

Meanwhile, in France, the issue of banning the burka has inspired the most recent cases of hijab and veil restrictions in Europe. France was the first country to ban the burka in public places on April 11, 2011. In 2016, the French government passed a law banning wearing burkinis. Belgium in 2011 banned veiled women from being seen in public places such as parks and highways. A similar rule was implemented in Spain in 2010, banning headscarves and veils from being seen in public places such as city offices, public markets, and libraries. Meanwhile, in the UK, in 2014, the hijab was a symbol of the "division of British society" and that the "hijab oppresses women" and posed a "potential threat to national security."

In Italy, in 2016, several local governments there banned the burka. Russia also banned the hijab in 2013. In 2013, 65% of the population

supported banning the veil in public. The Netherlands banned burkas in public places such as schools, hospitals, and public transport in November 2016. Bulgaria, in September 2016, a coalition of right-wing groups banned the burka for "security" reasons. Austria, in January 2017, banned the niqab and burka in public places such as courts and schools. In Denmark, the government will punish any woman who wears a burka or niqab in public. Meanwhile, 8 of its 16 states agreed to ban teachers from wearing headscarves in school environments in Germany.

In addition to Europe, several countries in Africa and the Middle East have also banned burka and niqab. Chad, in June 2015, banned the burka after a suicide bombing that struck the capital (The Economist, 2016). However, Cameroon, in 2015, also banned burka in public places. This rule spread to half the territory of Cameroon. Nigeria in one region also banned the hijab.

Meanwhile, in Congo, we know that it has never been the target of an act of terrorism, in 2015 also banned the burka under the pretext of "preventing acts of terrorism," followed by Senegal, which also banned the burka. In Kenya, laws banning headscarves are enforced in schools. Those who wear hijab are prohibited from attending school. Mozambique bans headscarves in official photographs for essential documents and students are banned from wearing headscarves in schools. Meanwhile, Gambia and Somalia show another pattern by requiring all-female government workers to wear headscarves.

In the Middle East, burqa bans occur in Tunisia, Algeria, Egypt, Israel, and Oman. Tunisia's prime minister banned the burka at all his government offices under the pretext of national security after a deadly double suicide bombing in Tunis in June 2019. Egypt, in January 2020, also banned the niqab in public places and state institutions after issuing a court ruling banning Cairo University teaching staff under the pretext of "facilitating communication between students and lecturers," as happened at the University of North Sumatra, Indonesia, in 1999.

Although many countries have similar attitudes to banning the hijab, burka, or niqab in public areas, some countries require the niqab or hijab

or burka in their countries. Further, Iran was the country that required all women in the country to wear the hijab after the 1979 Revolution. Although this rule now gained much resistance and decisiveness to punish those who opposed this weakened rule, the rules published by Khomeini after the Iranian revolution still apply to this day (Tirto, 2019: July 15). A similar situation occurred in Saudi Arabia, which required women to wear an abaya (loose black robes) in public places before the rule was weakened after the leadership of King Mohammed Bin Salman. The same thing happened in Iraq, Libya, Sudan, and Russia. In Russia, in addition to the rules of restriction or prohibition of hijab in public areas, some regulations require it, as in one of the Russian countries, namely Chechnya (RBTH, 2016: October 24).

## **POLEMICS OF HIJAB, BURKA AND NIQAB IN INDONESIA**

The openness of information and the shift of authority from central Jakarta to the region are the main doors that lead to the aggregation of identity in society. The shift of identity conflict patterns from violence to contestation is the most prominent condition in the struggle for control over public spaces. This shift is identified in the pattern of conflict resolution. In the New Orde period, for example, the resolution of conflicts was carried out by the hands of the state. However, the reforms event weakened New Orde authority and shifted the power of the new Orde from resolving the conflict by the hands of the state into the public's hands. The dominant indication of a transition of this kind is a "weak state, strong society" (Migdal, 1988).

The shifting pattern of control is inseparable from the success of the democratic system that a country has implemented. When democratization, missal in Indonesia, strengthened then the transition to control over public spaces is increasingly accurate, from violence to contestation. The difference between the two lies in the upa a done. Contestation is carried out through efforts to use democratic mechanisms to seize power over public spaces in the form of a struggle for strategic positions in government, public institutions, educational institutions, and

religious institutions. This situation, on the other hand, benefits political actors who do not have a solid social base. Finally, they take shortcuts by building patronage with social forces that are very pragmatic and only for the benefit of their groups or sectarians. This reality is supported by renegotiating boundaries among other social forces, which usually manifest by associating a region with a particular identity, such as the Portico of Mecca, the City of the Gospel, and the Portico of Medina. The application of identity to a particular region also demands the enactment of local regulations affiliated with certain religious dogmas such as sharia law that requires Hijab in Aceh, Perda Kab. The trunk that requires ASN for congregational prayers, and the Perda that requires the niqab as a substitute for masks for ASN in Central Lombok.

Thus, the above facts further reinforce my assumption that the state 'interferes' in affairs that should be one's private domain. Starting from the decision issued by the Director-General of Primary and Secondary Education SK 052 / C / Kep / D. 82 which prohibits hijab in the school environment (Arief & Husin, 2019). The rule caused controversy for girls who had worn the hijab in all their social activities prior to the issuance of the regulations. This rule also creates the assumption that hijab is not part of a school uniform that should be disciplined. So, they were asked to remove the hijab while in the school environment. This condition became even more crucial when Minister Nugroho Notosusanto held a friendly meeting. In a press conference, he said that those who still insist on wearing the hijab can turn schools into schools that accept students wearing headscarves because each school has its own dress standard. Those who still insist on wearing a headscarf in schools will be authorized to choose between their school and their hijab (Sirozi, 2004, p. 150).

The Minister of Education's statement has an impact on the attitude of schools in Indonesia. They are increasingly tightening the rules of the hijab ban. Finally, some students decide to give up on the situation by removing their hijab at school even though they put it back on outside of school. Some choose to oppose discriminatory regulations even though students are then sanctioned in the form of a ban on taking exams and

threatened that scores would not be issued.

In addition to changing schools, the impact of the issuance of regulations banning headscarves made students then engage with the law as a form of their resistance to forb. In March 1988, seven female high school students in Rapang, South Sulawesi, requested legal assistance for their case (Sirozi, 2004, p. 151). In Bogor, legal experts won the case of six students of SMAN 1 Bogor, West Java. They are allowed to wear hijab at school despite still experiencing bullying from their teachers. For example, they are threatened not to be given test scores, even though their attendance is considered absent despite attending class. In Jakarta, cases of resistance by students occurred at SMAN 68 Jakarta in November 1988.

Although the hijab rule for female students has been repealed by Decree No. 100/C/Kep/D-1991 allowing Muslim female students to wear the hijab in schools and consider the hijab as a uniform alternative for Muslim female students (Sirozi, 2004, p. 152), but now similar rules have also returned. Minister of Religious Affairs, Fachrul Razi in January 2020 proposed a ban on veils and pants for all government employees in government offices under the pretext of security and ease of communication (BBC, 2020: January 20). UIN Rector Sunan Kalijaga Yudian Wahyudi also did the same in 2018. Through circular number B-1031/Un.02/R/AK.00.3/02/2018 he prohibited students from wearing veils on campus. Even enrolled students still wearing the veil since the circular was issued, will be issued after being warned seven times.

One exciting thing about the case of the veil in Indonesia is that veiled women often receive unpleasant treatment. In Aceh (Wakil, 2018: May 4), which is known as a region that implements sharia law and requires all women to wear Islamic clothing. They are ridiculed, insulted, seen as cynical and even considered queer women.

In addition to the development of regulations prohibiting the use of hijab in Indonesia, the mandatory rules are no less competitive in Indonesian social life (Ikrom, 2019, p. 172). Some of these cases occurred in Pamekasan, East Java with "Regent Circular Letter" Number 450 of 2002 concerning the obligation of veils for government employees, in

Maros, South Sulawesi on October 21, 2002 on the obligation of veils for government employees, in Sinjai through local regulations resulting from an agreement between the DPRD, the community and the Sinjai Regional Government that requires headscarves for government employees.

This was followed in Gowa, South Sulawesi, which resulted in local regulations based on an agreement between communities requiring headscarves for government employees. Meanwhile, Perda Pasaman Barat, West Sumatra also regulates women's attributes and clothing. Female students are required to wear brackets and headscarves in the school environment. In Java, local regulations requiring hijabs occur in Cianjur, Indramayu and Tasikmalaya. In Tasikmalaya, through local regulations in 2001, the local government requires hijab for women in public areas. Similar regulations occurred in Padang, West Sumatra in 2005 and Solok, West Sumatra in 2000. Even in Padang (Kompas, 2020: July 2) this rule applies not only to Muslim women but also non-Muslims. In the time of the Covid- 19 pandemic, it seems that the Government of West Lombok, West Nusa Tenggara still has time to regulate the attributes of female civil servants. Regent of Central Lombok, Moh. Suhaili Fadhil, requires female civil servants who are Muslim to wear veils instead of masks to prevent the transmission of the coronavirus. Although these rules are understandable at first glance, in reality, many employees have complained about these rules. They feel that the rule is part of the waste of having to buy a veil that matches their hijab. In fact, as a form of discipline in implementing the rules, the Regent held the best veil competition.

The dynamics of the veil and hijab above then raise a big question for me, does the state have the right to regulate freedom of religious expression shown through dressed like a hijab? How does the perception of human rights see this hijab case?

## HUMAN RIGHTS ON BURQA AND NIQAB

In the ICPPR, which is a derivative of the UDHR, Article 18(1) states that "Everyone is entitled to freedom of thought, conscience and religion..."

including "... The freedom to practice religion and belief in religious activities, observance, practices and teachings in Indonesia, ICCPR has been ratified and adopted by Law 12/2005, so Indonesia is one of the states obliged to ensure this concept succeeds. In accordance with the provisions in article 7 paragraph (2) of Law 39/1999 on Human Rights, which reads "provisions of international law that have been accepted by the Republic of Indonesia on human rights into national law", the provisions in the ICCPR apply and must be implemented in the FORB.

The FORB is divided into two: forum internum, which is absolutely applicable and cannot be restricted even in emergencies (including the freedom to have religion and belief), externum forum, which is understood as the freedom to express or manifest religion or belief, which under these conditions certain conditions and for specific purposes, maybe restricted (Bagir et al., 2019, p. 2), as stated in ICCPR Article 18(3) "Freedom for The UK embodies one's religion or belief can only be subject to limitations as prescribed by law and is necessary to protect public safety, Orde, health, or the moral or fundamental rights and freedoms of others."

There are several general concepts (Panggabean et al., 2014, pp. 51–52) that must be understood in implementing the concepts set out in the ICCPR are first, universal human rights that require each member state (which has ratified the ICCPR) to protect the human rights and fundamental freedoms of every human being. Second, it is indivisible, interdependent, and interrelated, which requires the exercise of rights and obligations not to be selective, which ones should be exercised and which are not, because when one right is violated, it will have an impact on other rights. Third, non-discrimination, where the exercise of human rights must be evenly distributed without exception for any reason. Fourth, the owner of the rights is everyone. Fifth, states are obliged to respect and guarantee rights, including the rights of religious beliefs.

In the context of forb, the hijab, burka or niqab is part of the religious manifestation of the concept of 'piety of Muslim women' in Islamic teachings (Ahmadi & Yohana, 2007) that the state must guarantee. The discourse on banning niqab or burka discussed by Indonesian Minister of

Religious Affairs Fachrul Razi and The Minister of Home Affairs through the instructions of the Minister of Home Affairs is an example of restrictions that need to be studied, although the Minister of Religious Affairs later withdrew the instructions. In applying boundaries, as stated in the Syracuse Principles, limits must meet the requirements, including those specified by law, in a democratic society, necessary to protect (public safety, Orde, health, or moral or the fundamental rights and freedoms of others), and proportionate (Bagir et al., 2019, p. 81). The concept of 'Determined by law' is understood by some provisions such as proportional, restrictive rules should be clear, laws that impose restrictions should not be arbitrary and should be reasonable, not discriminatory, and not based on exclusive morals or of a single tradition, etc. (Bagir et al., 2019, pp. 83–84).

In the context of Indonesia, the highest laws and regulations are the 1945 Constitution and its amendments, and if there are laws and regulations that are contrary to the 1945 Constitution, the laws and regulations do not apply (Bagir et al., 2019). In practice, I see the restrictions carried out by the government not based on the 1945 Constitution (article 28I paragraph 5, article 28J paragraph 1) but with various laws and regulations (Peru) and sometimes even with policies or circulars so that in practice human rights restrictions in Indonesia, there are often cases of restrictions that use local regulations, joint regulations, joint decisions and even regional heads (Bagir et al., 2019, p. 86). Whereas according to applicable law, all restrictions that are not based on the 1945 Constitution must be harmonized either through Law 12/2005 (ICCPR that has been passed in national law) or with article 28J paragraph 2 (amendment 2 of the 1945 Constitution of 2000).

Restrictions on the burka or niqab have been discussed by some state officials, such as the Minister of Religious Affairs and the Interior Minister. Under the terms of the restrictions 'prescribed by law', it must be lifted. In addition, the reason for the restrictions used is a security reason that is unreasonable and seems far-fetched. In fact, the latest case is discourse restriction by the Minister of Religious Affairs of the Republic of Indonesia against someone who has a 'handsome' face and 'has memorized the

Qur'an' in an effort to suppress the number of radicalism (Kompas, 2020: September 5).

In addition, the reasons for restricting the hijab, burka or niqab under the pretext of national security cannot be justified. The Syracuse principle justifies restrictions applied to achieve protection for "public safety" rather than "national security". In the ICCPR, 'national security' can be used as a basis for restrictions on freedom of speech but has nothing to do with forb restrictions (Bagir et al., 2019, p. 35). This error arises because of Article 28J of the 1945 Constitution, which states the basis of restrictions such as "moral considerations, religious values, security and public Orde in a democratic society". The Syracuse principle explains how national security should be handled. "... National security should not be used as justification for actions aimed at suppressing opposition to systematic violations of human rights or engaging in repressive practices against its population" (Bagir et al., 2019, p. 39).

In the discourse of banning the burka or niqab in Indonesia, the purpose of the restriction is to protect safety in Indonesia from attacks by terrorism movements identified with the appearance of veils for women and beards for men. This issue was then echoed in the public media and there were limitations. In such cases, restrictions are influenced by political arguments, religion and military security approaches. Political and religious influence is manifested by the understanding that politics and religion can be used to define limitations. Meanwhile, the security approach of military routes is demonstrated by the phenomenon. When conservative people or groups are identified with the burka or niqab, radical and terrorist assumptions arise so that their presence has the potential to cause unrest and disrupt Orde. So those who wear the burka or niqab will be restricted because it is considered a disturbing factor in Orde.

So the restrictions placed by the government to ban the burka or niqab in public spaces are unjustified and I see those restrictions as unnecessary. In the Syracuse Principle, the concept of 'necessary' implies that restrictions should be based on the objectives permitted in article 18

of the ICCPR (public safety, Orde, health, or moral or fundamental rights and freedoms of others), responding to pressures of public or social needs, the purpose of restrictions valid, and its purpose is proportional (Bagir et al., 2019, p. 93).

The practice of restrictions consistent with regard to the conditions of achieving this goal of protection can be used as an argument for those who disagree with human rights and have long considered it a product of the West or a very free freedom (Panggabean et al., 2014, p. 55).

One of the rights discussed in ICCPR and general comment no. 22 is freedom of belief. This means that one's belief in the teachings of any religion will be guaranteed its freedom, as well as one's belief in not believing in any teaching is also guaranteed. In the case of the regulation of the Regent of Central Lombok, West Nusa Tenggara (2020: July 10), the Regent requires Muslim female civil servants in their region to wear the burka or niqab in government offices, replacing the function of masks in Orde to prevent the transmission of Covid-19, is a policy that needs to be reviewed related to the necessary restrictions.

Based on the principles in article 18 of the ICCPR, religious symbols such as the burka or niqab are liberated manifestations of religion (forum externum). In practice, anyone has the right to make it happen and can also leave it. When religious symbols that are manifestations of religious freedom are required in public areas, then in principle, freedom does not become free. In other words, its implementation has hurt forb so it needs to be limited.

In the case of mandatory veils in Central Lombok, not only impose the burka or niqab, but the Regent who instructed the regulation also held a race as a form of disciplining the rule. Muslim female civil servants who have worn the appropriate burka or niqab will be rewarded. Giving preferential treatment to women who adhere to the veil dress code is an effective sanction against those who do not comply. Regarding restrictions, restrictions must be implemented under clear conditions as prescribed by law, in a democratic society, necessary to protect and proportionately.

In the mandatory case of the veil in Central Lombok, referring to the

terms of restriction specified in the Syracuse Principle is "prescribed by law". This means that a rule should aim to protect morals based on principles that are not exclusively derived from a single religious tradition (Bagir et al., 2019, p. 83). The niqab is one of the traditions that now holds true as an identity for Muslim women. Regulations requiring wearing the niqab have of course undermined the FORB principle so it needs to be limited. Moreover, the reason used to require this niqab is for the replacement of masks. I think this reason is very unreasonable, in addition to the function of different masks and niqabs of course the material or material of manufacture is also different. The mask is used as an air filter while the niqab to cover the aurat. In addition, the prinsik "prescribed by law" also means that the implementation of human rights should not be arbitrary or unreasonable (Bagir et al., 2019, p. 83)

## CONCLUSION

Restrictions on the burka or niqab by the state are not necessary because they are a national security factor. Meanwhile, national security is not allowed to be used as a basis for limiting forbs. Meanwhile, regulations requiring women to wear the hijab, burka or niqab in public places such as offices or schools, in my opinion, need to be limited because they have injured forbs guaranteed by the UDHR and ICCPR. In implementing limitations, requirements must be met, as prescribed by law, in a democratic society, necessary to protect (public safety, Orde, health, or moral or fundamental rights and freedoms of others), and proportionately.

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