

## **Rector's Policy : Veil And Academic Freedom**

### **Syawaluddin Hanafi**

Lecturer at the Faculty of Sharia and Islamic Law, Bone State Islamic Institute, South Sulawesi, Indonesia

[syawaluddin.hanafi9@gmail.com](mailto:syawaluddin.hanafi9@gmail.com)

### **Arini Pratiwi**

Lecturer at the Faculty of Sharia and Islamic Law , Kendari State Islamic Institute, South Sulawesi, Indonesia

[arinnailah88@gmail.com](mailto:arinnailah88@gmail.com)

### **Novita Maulidya Jalal**

Lecturer at the Faculty of Psychology, Makassar State University, South Sulawesi, Indonesia

[novitamaulidya@yahoo.com](mailto:novitamaulidya@yahoo.com)

### **Miftah Idris**

Lecturer at Faculty of Law, Muhammadiyah Pare-Pare University, South Sulawesi, Indonesia

[miftah.idris@mail.ugm.ac.id](mailto:miftah.idris@mail.ugm.ac.id)

### **Zulhasari Mustafa**

Lecturer at Faculty of Sharia and Law, Alauddin State Islamic University of Makassar, South Sulawesi, Indonesia

[zulhasari.mustafa@uin-alauddin.ac.id](mailto:zulhasari.mustafa@uin-alauddin.ac.id)

### **Abstract**

Phobia towards the radicalism movement and the phenomenon of banning the use of the veil at State Islamic Colleges (PTKIN) in Indonesia are the background of this research. The purpose of this study is to analyze the basic considerations of PTKIN in South Sulawesi which issue or stipulate policies against the prohibition of the use of the veil, and analyze the perspective of *siyasa syari'iyah* on the rector's policy. This research is a qualitative research with *siyasa syari'iyah* approach with data collection methods obtained through documentation and interviews. The results of this study found that; First, the Chancellor's Decree on the Student Code of Ethics which regulates the ban on the veil is not a problematic issue. The basic policy considerations that he stipulates are sociological reasons, ideological reasons, and reasons for the teaching and learning process (education). Based on the Chancellor's Decree on the Code of Ethics, several PTKINs do not stipulate in writing the ban on the veil, but in practice impose sanctions, while sanctions are not regulated in the Code of Ethics. The majority of the academic community believe that the veil is a way of dressing (protecting boundaries) and academic freedom is expected to provide space to strengthen Islamic identity. Second, the policy of banning the veil is part of maintaining religion, soul and mind. After discussing the two matters regulated in the chancellor's policy, it turned out that both of them were urgent to protect religion, soul and mind. Both are important to be regulated in the Chancellor's policy in order to benefit the academic community and develop an outlook on religious pluralism and moderation in Indonesia.

**Keywords:** policy, veil, academic freedom, *siyasa syari'iyah*.

## Introduction

The Chancellor who stipulated a policy prohibiting the use of the veil/niqab at the State Islamic Religious College (PTKIN) seemed not to know the existence of the 1945 Constitution of the Republic of Indonesia (UUD 1945). Article 28E paragraph (2) of the Constitution states that "Every person has the right to freedom of belief, express thoughts and attitudes, according to his conscience", and Article 29 paragraph (2) that "The state guarantees the freedom of each resident to embrace their own religion each and to worship according to his religion and belief." The two articles explain that everyone has the right to behave towards the beliefs they believe in, and the state respects that. As the state does not prohibit the use of uncovered clothing (niqab), in other words it is permissible to use or not use the niqab.

Not only the 1945 Constitution, the Chancellor is considered not to understand academic freedom. Law No. 20 of 2003 concerning the National Education System jo. Law No. 12 of 2012 concerning Higher Education has regulated academic freedom, that in Article 13 paragraph (1) Students as members of the Academic Community are positioned as adults who have their own awareness in developing their own potential in Higher Education to become intellectuals, scientists, practitioners, and/or or professional; paragraph (2) further elaborates that "Students actively develop their potential by learning, seeking scientific truth, and/or mastering, developing, and practicing a branch of Science and/or Technology to become scientists, intellectuals, practitioners, and/or cultured professionals"; and paragraph (3) Students have academic freedom by prioritizing reasoning and noble character and being responsible in accordance with the academic culture.

The rector's policy is regulated in the form of a Chancellor's Decree or Circular concerning face coverings or veils, the basis for stipulation is the National Education System Law, the Higher Education Law and the Regulation of the Minister of Religion regarding the Statutes of PTKIN. Some of the PTKIN statutes in it state that: " Further provisions regarding the code of ethics and sanctions for violations are stipulated by a Chancellor's Decree after taking into account the Senate's considerations. The policy governing the code of ethics for academics in dress on several campuses is outlined in the Chancellor's Decree, that dress ethics " For women to wear skirts, headscarves and not cover their faces".

Basically, "Every campus member is required to implement a campus code of ethics which includes Islamic values and the rule of law, and akhlakul karimah in speaking, behaving, looking, and behaving both inside and outside the campus". However, whether or not it is mandatory for Muslim women to wear the veil, in the study of the science of interpretation and the science of fiqh, there are differences of opinion among scholars. Therefore, it is only natural that the rector's policy is also being debated among academics (Muslim intellectuals) in Indonesia. The debate about the veil peaked when the Chancellor of Sunan Kalijaga State Islamic University (UIN SUKA) issued Circular Letter Number B-1301/Un.02/R/AK.08.3/02/2018 concerning Guidance for Veiled Students. Some consider that the policy is discriminatory, especially in Islamic education institutions which understand that it is khilafiyah (debateable/differences of view among scholars).

This discriminatory policy also occurs in various countries such as Germany, Chad, Denmark, Sweden, Belgium and Spain, moreover the Spanish Catholic Church supports the

ban on headscarves in public places. They claim that the headscarf is a symbol of the oppression of women. Even though Spain has recognized Islam based on its religious freedom law which was passed in July 1967. Then the ban on the veil was not only in European countries but also developed in Muslim countries, such as Tunisia and Turkey.<sup>1</sup>

The phenomenon of the use of the veil/niqab for women/Muslim women in Indonesia has only received public attention in the last few years. This was due to the New Order's policy of banning the use of the veil at school or in the workplace, but after the reform, the use of the veil began to gain its freedom as a woman/Muslim identity,<sup>2</sup> although this is still controversial. Female students who wear the veil usually have a community and carry out scientific discussion activities in certain places. Referring to existing regulations, higher education leaders/elements should not forbid or provide guidance, but are obliged to protect and facilitate student activities that are scientific in nature. Because in Law no. 12 of 2012 Article 92 paragraph (1) jo. Article 8 paragraph (3) explains that "Higher education institutions that do not protect and facilitate the implementation of academic freedom can even be subject to administrative sanctions". Article 92 paragraph (2) further elaborates that "sanctions can be in the form of written warnings, temporary suspension of educational assistance from the government, temporary suspension of education delivery activities, termination of coaching, and/or revocation of permits".

Social, cultural and political developments indirectly and it is realized that the veil has found space in the hearts of Indonesian women (Muslim women). On the other hand, challenges and negative stigma are pinned on veil users after acts of terrorism that occurred in parts of Indonesia. because most of the perpetrators or the wives of these terrorists/radicalists wear the veil so that those who wear the veil who incidentally are not part of them get discriminatory treatment, either explicitly or implicitly in the public sphere.<sup>3</sup> Then the various rejections and prohibitions on the use of the veil in public spaces (especially at PTKIN) which expressly prohibit it, both in written and unwritten policies, naturally raise many questions: why does PTKIN regulate the ban on the veil? Or what is the urgency of setting a veil ban at PTKIN? Is it not against academic freedom?, and how is the PTKIN policy in Islamic law?

The questions above constitute the formulation of the problem in this research so that this research does not expand later, because the researcher admits that there are not a few scientific research results related to the veil/niqab. However, it is necessary to describe the originality, so that the differences in objects and perspectives used in this research are determined. The research object is the rector's policy (PTKIN) and the perspective in analyzing the policy is *siyasah syari'iyah* .

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<sup>1</sup>Alamsyah Nurrahmad Putra (Thesis), *Juridical Review European Court of Justice Decision No. C 157/15 Case of Samira Achbita and Centrum Voor Gelijkheid van Kansen en Voor Racismebestrijding vs G4S Secure Solution NV Based on International Human Rights Law* , Yogyakarta: Indonesian Islamic University, 2018., p. 83-87. See also Countries that ban the niqab, <https://www.voaindonesia.com/a/negara-melarang-hijab-niqab-burka-islam-turki-prancis/4769261.html> ., accessed 1 December 2022.

<sup>2</sup>Lintang Ratri, *Media Veil and Muslim Women's Identity* , Bandung: Undip Forum 2011., p. 29.

<sup>3</sup>Aina Noor Habibah, Veil: Between Identity and Symbolic Capital in the Public Sphere Spiritualist Journal, vol. 6, no. 1, March 2020., p. 62.

*Siyâsah Syar'iyah* according to Ahmad Fathi Bahansi's definition, is “management for human benefit based on *syara'* .<sup>4</sup>Therefore, *siyâsah syar'iyah* can be said to be a shari'ah policy, namely an Islamic legal doctrine that gives power to the ruler or government to determine how shari'ah is implemented in the life of society and the state.<sup>5</sup>Literally, *siyâsah syar'iyah* means shari'ah-oriented policies or government that runs according to shari'ah. In this broad sense, *siyâsah syar'iyah* is all government policies, whether there is guidance from shari'ah regarding this matter or there is no guidance at all. According to the fuqaha, the term *siyâsah syar'iyah* means various decisions and policies taken by the imam or ulil amri (ruler who manages the affairs of the people) regarding matters that are not determined by the shari'ah. On this basis, any policy that brings people closer to *shalah* (goodness and compatibility in life) and keeps people away from *fasaad* (all that is destructive) has done a fair *siyasa* (policy), even if it was not prescribed by the Prophet Muhammad or not governed by divine revelation. One thing that is mandatory is that *siyâsah syar'iyah* must actually be carried out without contradicting shari'ah principles. Meanwhile, later jurists used this term in a more specific sense as the implementation of punishments determined by rulers and judges against crime and corruption.<sup>6</sup>

Imam ash-Syatibi in his book *al-Muwafaqat fi Usul ash-Syari'ah* explains that the main purpose of implementing shari'ah is to achieve three main objectives, namely: *dharuriyyat* ( *primary/necessities* ), *hajiyyat* ( *secondary/needs* ), and *tahsiniyyat* ( *tertiary/luxuries* ). *Dharuriyyat* is a need that must be fulfilled by humans, if not fulfilled it will result in damage to human life. *Hajiyyat* is a need that must be met by humans, if not fulfilled it will cause difficulties in human life. While *tahsiniyyat* is a complementary need, because if this need is not fulfilled it will not result in damage and difficulties in human life.<sup>7</sup>

Based on the *dharuriyyat* above, then ash-Syatibi concluded five points which have always been used as general goals of shari'ah or what is called *al-dharuriyyat al-khamsah* which concretely support each other, namely: maintaining religion ( *hifz ad-din* ), maintaining the soul ( *hifz al-nafs* ), protecting offspring ( *hifz al-nasb* ), protecting property ( *hifz al-mal* ), and protecting the mind ( *hifz al-'aql* ) (Syatibi, t.th.) . *Al-dharuriyyat al-khamsah* which is a *dharuriyyat* need, namely a need that must be fulfilled by humans as capital for protection, care and or preservation which if not maintained the five elements will cause damage and difficulties in human life.

According to ash-Syathibi, the ultimate goal of law is one, namely the good and welfare of mankind. And to achieve the general goal, *Maslahat al-'Ammah* , Islam came to bring its teachings as following:<sup>8</sup>

1. Islam stipulates in its constitution a principle of avoiding narrowness and rejecting harm. Based on this principle, Islam stipulates that it is obligatory to act fairly and consult, maintain rights, convey the mandate, and return to the clergy to explain the correct opinion in dealing with cases. contemporary.

<sup>4</sup>Ahmad Fathi Bahansi in HA Djazuli, *Fiqh Siyasah; Implementation of the Benefit of the Ummah in Shari'ah Signs* , Jakarta: Kencana, 2020., p. 1.

<sup>5</sup>Rifyal Kaaba, *Politics and Law in the Qur'an* , Jakarta: Khairul Bayan, 2005., p. 111.

<sup>6</sup>Ibn Taimiyah in Rifyal Kaaba, *Politics and Law in the Qur'an* , Jakarta: Khairul Bayan, 2005., p. 133.

<sup>7</sup> Asafri Jaya Bakri, *The Concept of Maqasid al-Syari'ah in the View of al-Syatibi*, Jakarta: PT Raja Grafindo Persada, 1996., p. 5.

<sup>8</sup>Abu Ishak Al-Syatibi, *al Muwafaqat fi Ushul As-Syariah* , Beirut: Dar al-Ma'rifah, 1979., p. 6.

2. Prioritizing individual mental development so that he becomes a source of goodness for society. <sup>9</sup>Because if the individual becomes good by itself the community will be good too.
3. The principle of maintaining human benefit in the life of this world and the hereafter. Al Syathibi said: 'In fact, the stipulation of various provisions of Shari'a law is nothing but aimed at achieving the benefit of Allah 's servants for the present. and the future.

### Veil ( *Niqab* )

Basically, clothing is a basic thing for humans, besides its function to cover limbs from cold and hot weather, it is also a differentiator from other creatures, namely animals that do not use it. Clothing is part of the grace of Allah SWT which is bestowed on his servant. Allah SWT said in Qs. Al- A'raf verse 31:

students <sup>لِبَنِي</sup>

Translate :

O children of Adam! Wear your nice clothes every (entering) the mosque, eat and drink, but don't overdo it. Truly, Allah does not like excessive people.

There are several functions of clothing. *First* , as a cover for genitals, clothing can cover everything that the wearer is reluctant to show, even the whole body. In the context of discussing religious guidance or law, genitalia are understood as certain limbs that cannot be seen except by certain people. *Second* , as jewelry, clothing is used to beautify which produces harmony and freedom for the wearer to move. *Third* , as protection (physical and psychological), thick clothes can protect someone from cold strokes and thin clothes from heat stroke. *Fourth* , as an indicator of identity, clothing, among other things, functions to show identity and distinguish one person from others, even clothing can be a differentiator of one's social status.<sup>10</sup>

Not only men (Muslims) who must accept the guidance above, women (Muslimahs) are actually arranged in such a way in terms of dress, because according to the view of some scholars that the entire body of a woman is genitalia. It is this stigma that gives rise to the types of clothing on Muslim women to cover their private parts, one of which is the veil. In Indonesia, recently the veil has begun to become a culture, previously the headscarf was a typical Indonesian dress which was the result of an interpretation of covering the genitals.<sup>11</sup>

Why are Muslim women given special attention in dress? Because women in Islam have a very noble position, their rights are the same as men's rights, but women have several privileges and specificities in Islamic law. <sup>12</sup>The privilege and specificity of women in Islam

<sup>9</sup>Muhammad Abu Zahrah, *Usul al Fiqh* , Beirut: Dar al Fikr al Arabi, tt., p. 350.

<sup>10</sup>M. Quraish Shihab, *Al-Qur'an Insights: Maudhu'i's Interpretation of Various Problems of the Ummah* , Bandung: Mizan, 2000., p. 161-171.

<sup>11</sup>Aina Noor Habibah, *Veil: Between Identity and Symbolic Capital in the Public Sphere* , Spiritualist Journal Volume 6 Number 1 of 2020., p. 63-73.

<sup>12</sup>As Sindi, *Risale Al-Hijab fi Kitab wa as-Sunnah* , Riyadh: Daar Al-Ushaimi, 1991., p. 6

is that the hijab and headscarves are prescribed for them. Hijab and headscarves are prescribed with various very noble wisdom, including to protect their honor.<sup>13</sup>

Cadar which is an advanced form of the headscarf which is widely used by Muslim women in Indonesia. Its use in the study of the science of tasfir Al-Quran is obligatory or not is still being debated. However, one thing is certain, the phenomenon of wearing the veil carries a greater consequence of rejection than the use of the headscarf. In addition to the issue of stigma attached to women who wear the veil, they belong to a fundamental (hardline) Islamic sect that is closely related to terrorism.<sup>14</sup>

Basically, the Cadar is a form of clothing that covers almost the entire body of a woman, leaving only the eyes. The use of the veil is an obligation, for them (women/Muslim women) to cover their faces. This is based on the opinion which states that the face is part of a woman's genitals which must be covered and it is forbidden to be seen by the opposite sex who is not a mahram. The veil for Muslim women is an attempt to protect themselves from *slander*. In addition, the use of the veil is common among *salaf* women (the wives of the Prophet Muhammad and his companions).<sup>15</sup> The term veil in the Arabic version is called *niqab*. The entity of wearing the veil is inseparable from Arabic culture long before Islam came. According to Murtadha Mutahhari, the history of the veil is closer to the culture of the Iranian people who come from the Sassanid tribe. Even the use of the veil in Sassan society is more regulated in such a way than that applied in Islamic teachings.<sup>16</sup>

For women, the use of clothing and wearing the headscarf is something that is recommended because the entire body of a woman is genitalia. Islam pays so much attention to women's clothing. This is not to discriminate against women but rather the fact that the relationship between women and men involves the body, so that women's private parts are determined to be more complex than men's. The genitalia must be covered with a garment called the hijab (cover), in addition to protecting it from the eyes of men. Provisions regarding the headscarf/hijab are mentioned several times in the Qur'an, including:

QS. An-Nur verse 31:

وَقُلْ لِلْمُؤْمِنَاتِ يَغْضُضْنَ مِنْ أَبْصَارِهِنَّ وَيَحْفَظْنَ فُرُوجَهُنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا مَا ظَهَرَ مِنْهَا وَلْيَضْرِبْنَ  
بِخُمُرِهِنَّ عَلَىٰ جُيُوبِهِنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا لِبُعُولَتِهِنَّ أَوْ آبَائِهِنَّ أَوْ آبَائِ بُعُولَتِهِنَّ أَوْ أَبْنَائِهِنَّ أَوْ  
بُعُولَتِهِنَّ أَوْ إِخْوَانِهِنَّ أَوْ بَنِي إِخْوَانِهِنَّ أَوْ بَنِي أَخَوَاتِهِنَّ أَوْ نِسَائِهِنَّ أَوْ مَا مَلَكَتْ أَيْمَانُهُنَّ أَوِ التَّابِعِينَ غَيْرِ أُولَى  
الْأَرْبَةِ مِنَ الرِّجَالِ أَوِ الطِّفْلِ الَّذِينَ لَمْ يَظْهَرُوا عَلَىٰ عَوْرَاتِ النِّسَاءِ وَلَا يَضْرِبْنَ بِأَرْجُلِهِنَّ لِيُعْلَمَ مَا يُخْفِينَ مِنَ  
زِينَتِهِنَّ وَتُوبُوا إِلَى اللَّهِ جَمِيعًا أَيُّهُ الْمُؤْمِنُونَ لَعَلَّكُمْ تُفْلِحُونَ

Translate :

And say to women who believe, so that they guard their eyes, and guard their private parts, and do not reveal their jewelry (auratnya), except that (usually) seen. And let them cover their headscarves over their breasts, and do not reveal their ornaments (aurat), except to their husbands, or their fathers, or their husbands' fathers, or their sons, or their husbands' sons, or

<sup>13</sup>Al Tharifi, *al-Hijab fi Asy-Syara' wa al-Fithrah*, Riyadh: Daar Al Minhaj, 2014., p. 29.

<sup>14</sup>Lintang Ratri, *Media Veil and Muslim Women's Identity*. Undip: Forum 2011, p. 29.

<sup>15</sup>Amalia Sofi Iskandar, *Construction of Veiled Muslim Identity*. Unej: Digital repository, 3.

<sup>16</sup>Murtadha Muthahari, *Lifestyle of Islamic Women*. trans. Agus Efendi, Bandung: Mizan 1990, 32.

their brothers. their sons, or their brothers' sons, or their sisters' sons, or their (fellow-Muslim) women, or their slaves, or male (elderly) servants who have no desire (against women) or children who do not understand about women's private parts. And let them not stamp their feet so that the jewels they hide are known. And repent all of you to Allah, O you who believe, that you may be successful.

Qs. Al-Ahzab verse 59:

يَا أَيُّهَا النَّبِيُّ قُلْ لِّأَزْوَاجِكَ وَبَنَاتِكَ وَنِسَاءِ الْمُؤْمِنِينَ يُدْنِينَ عَلَيْهِنَّ مِنْ جَلَابِيبِهِنَّ ذَلِكَ أَدْنَىٰ أَنْ يُعْرَفْنَ فَلَا يُؤْذَيْنَ  
وَكَانَ اللَّهُ غَفُورًا رَحِيمًا

Translate :

O Prophet! Say to your wives, your daughters and the wives of the believers, "Let them cover their heads all over their bodies." This is so that they are easier to identify, so they are not disturbed. And Allah is Forgiving, Most Merciful.

The verse above was interpreted by commentators from among friends and tabiin as an order to cover the face, including: Ibn Mas'ud, Ibn Abbas, Abidah, Hasan Basri, Said bin Jubair, Ibrahim An Nakhai, Atho Al Khurasani and others. <sup>17</sup>This interpretation is also reinforced by the narration of Umm Salamah where she said when following the verse that the Ansar women came out and it was as if there were black crows above their heads because of the clothes that covered their heads and faces.<sup>18</sup>

Even though the scholars of the madhhab differ on whether covering the face is obligatory or sunnah, they agree that the veil is something that is recommended, especially at a time when there are fears that there will be slander in society as a result of showing a woman's face. Ibnu Nujaim (Hanafi School) stated that: "Young women are prohibited from showing their faces among men at this time because it will cause slander. <sup>19</sup>Then Al-Qurthubi (Maliki School) in his Tafsir describes: "Ibn Khuwaiz Mandad, one of the great scholars of the Maliki school of thought, said, In fact, if a woman is beautiful and it is feared that her face and palms will cause slander, then she should cover her face. <sup>20</sup>Then Muhammad bin Qasim Al Ghazzi (Syafi'i School) stated: "The entire body of a free woman is genitalia except for the face and palms, this is genitalia in prayer, as for outside prayer, her genitalia is her whole body."<sup>21</sup>

Some of the views of the Imams of the Mazhab above can be concluded that the debate about covering the face is obligatory or sunnah? They agree that the veil is something

<sup>17</sup>Ibn Kathir, *Tafsir Al-Quran Al-Azim*, vol. 6, Riyadh: Daar Al Thaybah, 1999, p. 481

<sup>18</sup>Al-Sijistani, Abu Daud Sulaiman bin Ash'ats, Sunan Abu Daud. Beirut, Al Maktabah Al Ashriyah, t, th., p. 447. (Hadith No. 4104)

<sup>19</sup>Ibnu Nujaim, *Al-Bahru Ar Raiq Volume I*, Beirut: Dar al-Kutub al-'Ilmiyah, 1997., p. 284

<sup>20</sup> Abu Abdillah Muhammad bin Ahmad bin Abu Bakr bin Farh al-Ansari al-Khazraji al-Andalusi al-Qurthubi, *Al-Jami'li Ahkaam Al-Qur'an wa al-Mubayyin Lima Tadhammanahu Min as-Sunnah wa Ayi al-Furqan: Volume 12*, Cairo: Dar Al-Katib, 1967., p. 229.

<sup>21</sup>Imam Abi Abdillah Muhammad Bin Qasim al-Ghazi, *Fathul Qarib*, trans. Ibnu Abyzain, Kediri: Zam-zam Sources of Knowledge, 2015., p. 19.

that is recommended for women, especially at a time when there are fears of slander in society due to showing off the face.<sup>22</sup>

### **Academic Freedom at the State Islamic Religious College (PTKIN)**

Regarding the debate about whether or not the use of the veil or the limits of genitalia for women is obligatory above, veil users have the knowledge that the veil is an obligation of the Shari'ah that must be carried out by women (muslimah), and the consequence is that when something that is obligatory is not done gets rewards ( sin) of religion. On the other hand, the veil is also used as an identity for the syar`i lifestyle in the world of education. When this structure is formed, it is not surprising why the veil user is able to survive in the midst of a different environment.<sup>23</sup> That's how they respond and show the identity of a Muslim woman who understands religious guidance.

In the world of education, especially PTKIN, a regulation has been established regarding proper clothing to be used on campus. However, it is not only the normal way of dress, but academic freedom is also regulated. These two things are always confronted when there is a debate about banning the veil in the PTKIN environment. If the rules regarding how to dress are found to differ widely in several PTKINs, academic freedom is quite the opposite. However, etymologically, a universal definition of academic freedom is difficult to express because there is almost no literature regarding it. The definition of academic freedom is often influenced by the ideology in which it is conceived. In the trajectory of the social history of education, various definitions of academic freedom appear according to the experts and reviews provided by these experts. Among these are individually defined as the absence of restraint, punishment and intimidation in respect of the traditional endeavors of men in particular, with regard to the study, research, oral presentation of their views, the publication of their findings and opinions, however ancient and subversive whether wise or dumbass.<sup>24</sup>

Parsudi Suparlan as quoted by Hasan Asari stated as follows: "Academic freedom is freedom as a scholar to explore the truth and publish it and make the findings or views to be discussed critically in the relevant scientific community to be rejected, corrected or recognized and solidified. Freedom is also the freedom of a scholar in his field of expertise in teaching and educating his students regarding how truth in science can be obtained or known through processes that apply according to scientific methods or reasonable logic."<sup>25</sup>

The two definitions above come from the western world, which implicitly reflects their ideological framework. The first definition places more emphasis on the aspect of freedom for the teacher's functional duties, while the second tends to reflect the meaning of

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<sup>22</sup>Muhammad Yusram & Azwar Iskandar, *The Veil and Its Law: Rebuttal Against Its Sharia Law* , Nukbatul Ulum: Journal of Islamic Studies, Vol. 6 No. 1, 2020., p. 1-19.

<sup>23</sup>Vivi Sartika & M. Yusuf, *Veil is Confession; Reproduction of the Meaning of the Veil Among Users* , Indonesian Journal of Religion and Society, Vol. 2 No. 2 2020., p. 94.

<sup>24</sup> Ahmed Othman Al-twajjri, *Academic Freedom According to Islamic and Western Concepts* , trans. F. Rozi Dalimunthe and Nur. A. Fadhil Lubis, Medan: IAIN-SU Scientific Institute, 1988, p. 21.

<sup>25</sup> Hasan Asari, *Revealing the History of Searching for 'Ibrah*, Bandung: Citapustaka Media, 2006, p.



unlimited freedom in carrying out academic activities. This is in accordance with the principle that science is *value free*.<sup>26</sup>

Likewise in Islamic literature, the definition of academic freedom is not found, but the basis of academic freedom itself appears in the framework of thinking of Muslim scientists, where they do not restrain one's thinking power, even history records the terms freedom of opinion, freedom of expression, freedom of thought, freedom of movement, freedom of ideology and other freedoms are often also found in the classical Muslim intellectual tradition.<sup>27</sup>

Academic freedom is the highest peak of democracy and a free society. The nature of academic freedom is *a sine qua non* in the functioning of the modern university. Academic freedom is a basic necessity created from knowledge that questions orthodox beliefs and understandings. Indonesia already has a principle of academic freedom known as the *Surabaya Principle on Academic Freedom*. The points of this principle are as follows:<sup>28</sup>

1. *Academic freedom is freedom that is fundamental in order to develop academic institutional autonomy*
2. *Academics, those who carry out activities in the academic realm, have complete freedom in developing community service, education, research and publishing the results in accordance with scientific principles*
3. *Academics who work as teachers in the world of education have the freedom in class to discuss subjects by considering scientific competence and respect for human values*
4. *Academics must be free from restrictions and discipline in order to develop an academic culture that is responsible and has scientific integrity for humanity*
5. *Public authorities have an obligation to respect and protect and ensure measures to guarantee academic freedom*

Basically, Academic Freedom has been regulated in the PTKIN Statute. All PTKINs in South Sulawesi stipulate that the University/ Institute upholds academic freedom, freedom of academic forums, and scientific autonomy. Academic freedom is the freedom of the academic community at the Institute to explore and develop science and technology in a responsible manner through the implementation of the Tridharma of Higher Education.

The PTKIN Statute also regulates the code of ethics, that " Every campus member is obliged to implement the campus code of ethics. The intended code of ethics includes Islamic values, the rule of law, and *akhlaqul karimah* in speaking, behaving, looking, and behaving both inside and outside the campus. University/Institute academics and/or campus residents who commit violations are subject to sanctions in accordance with statutory provisions. Then further provisions regarding the code of ethics and sanctions for violations are stipulated by a Chancellor's Decree.

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<sup>26</sup>Muhammad Roihan Daulay, *Academic Freedom in the Muslim Intellectual Tradition*, Al-Muaddib: Journal of Social and Islamic Sciences, Vol. 1 No. 2 of 2017., p. 34.

<sup>27</sup>Muhammad Roihan Daulay, *Academic Freedom in the Muslim Intellectual Tradition*, Al-Muaddib: Journal of Social and Islamic Sciences, Vol. 1 No. 2 of 2017., p. 35.

<sup>28</sup>Herlambang P. Wiratraman, *Academic Freedom, Neo-Feudalism and Human Rights Oppression*, see *Human Rights: Politics, Law, and Religion in Indonesia*, Jember: The Center of Human Rights, Multiculturalism and Migration, University of Jember and the Human Rights Teaching Association, 2017., pp. 35-34.

The code of ethics for dress/appearance in the Decree of the Chancellor of IAIN Palopo is regulated in Article 13 paragraph (1) that "Students must dress Islamically on and off campus". This article is a manifestation of Article 4 which stipulates that "Students of IAIN Palopo are obliged to implement Islamic Sharia, practice Pancasila and the 1945 Constitution".

Based on these provisions, it can be concluded that female students who wear the veil or wear the niqab think that they are implementing the policies stipulated in the Minister of Religion Regulation and the Rector's Decree regarding academic freedom, because these provisions state that students must dress Islamically and must carry out the sharia. 'at Islam. Such an opinion seems to justify or gain legitimacy from what has been described by the agreement of the majority of scholars who advocate the use of the veil.

If PTKINs such as UIN Alauddin Makassar, IAIN Palopo, and IAIN Bone do not mention explicitly in the rules/code of ethics regarding the prohibition for female students to wear face coverings, this is different from IAIN Pare-Pare. The dress code for female students is "to wear a skirt, wear a headscarf, and not cover your face". These provisions are regulated in the Chancellor's Decree No. 164 of 2018 concerning the Student Code of Ethics, the Lecturer Code of Ethics, and the Chancellor's Decree No. 03 of 2018 concerning the Code of Ethics for Education Personnel (employees).

### **PTKIN's Policy on the Prohibition of the Veil in the Maqasid Syari'ah Perspective**

Opposition to the use of the veil/niqab for Muslim women is not a new thing as described above, the basis for the use of the veil comes from various opinions of scholars who advocated it, especially at a time when there was fear of slander in society due to showing off the face. The use of the veil for Muslim women basically gains legitimacy from the constitution which states that "Everyone has the right to freedom of belief, express thoughts and attitudes, in accordance with his conscience" (see Article 28E paragraph (2) of the 1945 Constitution), and "The state guarantees the independence of every -each resident to embrace his own religion and to worship according to his religion and belief (see Article 29 paragraph (2) of the 1945 Constitution).

Then Law no. 12 of 2012 concerning Higher Education which regulates academic freedom also does not in the least contain material which prohibits the use of the veil, on the contrary the Academic Community is positioned as an adult who has his own awareness in developing his own potential in Higher Education to become intellectuals, scientists, practitioners, and/or or professional. Students actively develop their potential by carrying out learning, searching for scientific truth, and/or mastering, developing, and practicing a branch of Science and/or Technology to become cultured scientists, intellectuals, practitioners, and/or professionals. Students have academic freedom by prioritizing reasoning and noble character and being responsible in accordance with the academic culture.

To assess whether or not there is a conflict of legal norms, the interpretation used for the constitutional articles and laws above is the *original intent interpretation* which interprets according to the original meaning of the text, and the grammatical interpretation which

captures the meaning of the text/rules according to the sound of the words. just. <sup>29</sup>Policies regarding the prohibition of the use of the veil should not have 2 (two) forms of interpretation, whether the policy is in written or unwritten form. The emergence of PTKIN policies that prohibit the use of the veil must be interpreted with a teleological/sociological interpretation. This teleological interpretation departs from factual situations and is determined based on societal goals.

According to JH van Kreveld in Marbun SF Marbun, Policy Regulations can be set forth in the form of: regulations ( *voorschriften* ), ministerial regulations ( *reglemens minitrielle* ), decisions ( *beschikkingeng* ), and guidelines ( *richtlijnen* ). Then the formation policy regulations are not based on attribution obtained from laws and regulations, meaning that their formation is not based on or explicitly ordered by the Constitution or Law. <sup>30</sup>This explains that the rector's regulation or decision regarding the prohibition of wearing the veil is one of the powers given to state administration officials to regulate and make decisions.

The policy regulations stipulated by the rector or leadership/elements of the PTKIN leadership in regulating the ban on the veil from the perspective of the state administrative legal system are not contradictory to the provisions governing the authority of officials, meaning that it is permissible. But how about this policy when viewed from the perspective of *maqasid syari'ah* ? Isn't the use of the veil in the opinion of the ulema recommended, especially if there are fears that there will be slander in society due to showing off the face.

One of the demands of development in policy making is to accommodate the wisdom values that live and develop in society, in South Sulawesi with the *siri' na pesse/pacce culture* as the philosophy that guides life as well as the norm for every individual in the community with an orientation towards creating purpose of the law. IAIN Pare-Pare, for example, the phrase " *malebbi warekkaadana na makkiade ampe* " (graceful in speech and polite behavior) is used as the campus motto which is a manifestation of *siri' na pesse* , namely *matanre siri'* (shame if you do things that are not appropriate ). This is in line with the hadith of Rasulullah SAW " Ibn Rajab ra. In the book Jami' al-'Ulum (497): said if you are not ashamed, then do what you like". The meaning of this hadith is that when shame prevents the perpetrator from various vices and brings him to virtue, just as faith prevents a believer from these vices and brings him to obedience, then he has the status of faith because he equals him in that regard. <sup>31</sup>Shame is a matter brought by the previous Shari'a and this requires strict attention. Because of this, the community adopts a philosophy of shame called *siri'*.<sup>32</sup>

Suherman explained that the regulations governing the academic community are the Code of Ethics for Lecturers, Employees and Students of IAIN Parepare which are in accordance with Islamic law. The code of ethics is a guide in carrying out activities while in the IAIN Parepare environment. The code of ethics is a legal instrument that must be obeyed

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<sup>29</sup>Syawaluddin Hanafi, *Authority of the Constitutional Court in Interpreting the 1945 Constitution of the Republic of Indonesia* , Expose: Journal of Law and Education, Vol. 16 No. 1, January-June 2017., p. 354-57.

<sup>30</sup>SF Marbun, *State Administrative Law I* , Yogyakarta: FH UII Press, 2012., p. 176-184.

<sup>31</sup> Muhyiddin al-Nawawi, *Syarah Arbain an-Nawawi*, Jakarta: Darul Haq, 2016, p. 213.

<sup>32</sup>St. Magfirah, *Siri' na Pacce in Makassar Ethnic Perspective of Al-Qur'an and Hadith* , Journal of Tahdis, Vol. 7 No. 2 of 2016., p. 167.

with the aim of training and forming individuals with character based on Islamic values, including ethical dress. In dress code, it is regulated that:

1. Students must dress cleanly, neatly and politely, reflecting the attitude of an educated Muslim;
2. For women to wear skirts, headscarves and not cover their faces;
3. For men, wear trousers up to the ankles, shirts with a collar and shoes;

According to Suherman the 3 (three) points above are the ethics that are regulated for IAIN Parepare students when carrying out activities on campus, the policy is set does not mean that the veil is prohibited or forbidden. Suherman compared the use of the veil with the use of sandals, that it is prohibited to attend lectures and not get service if wearing sandals, which in fact sandals are not forbidden.

At IAIN Bone, the written policy regarding the prohibition of wearing face coverings is not regulated in the code of ethics, but one lecturer firmly told students that they would expel them from the classroom and were not allowed to participate in the teaching and learning process for those who did not want to remove their veils. So that the female students who had previously veiled in class were willing to let go. this is done so that interaction and communication become easier and more effective, as well as easy to assess performance, liveliness, character and development.

On the other hand, some lecturers have no problem with the use of the veil, according to him it is not contaminated with the negative stigma that develops that the veil is synonymous with radicalism, and that is a matter of the faith of each individual. However, it is necessary to be vigilant and to be examined further by asking the person concerned the reason for using the veil?

One of the ethics of academic life is that academics are required to obey and practice the values of Pancasila and the 1945 Constitution of the Republic of Indonesia, and prioritize rational and objective scientific values in democratic ways. It is in this position that academic freedom exists to protect the academic community. The constitution provides space for discussion, gathering, organizing with the aim of developing the intellectuality of students by developing national and scientific insights in a positive direction, instead of spreading hatred and propaganda to change the constitutional system and reject democracy. Even though Rasulullah SAW and his friends have exemplified this democratic attitude.

According to Hamza Harun, it is important to understand Islam as a whole. This conceptual aspect is important in preventing radicalism, namely: *First* , returning to the Al-Quran and Al-Hadith. *Second* , understanding religion integrally (not only matters of faith, but also morals). *Third* , referring to mu'tabar scholars and respecting differences. *Fourth* , an issue needs to be reviewed from a normative perspective, because it is feared that there will be a misunderstanding in understanding the problem (misunderstanding), then the norm is reflected or connected to the reality that occurs. Hamza Harun further explained that the main focus of tertiary institutions is not politics and religious groups, but rather struggling together to deepen the science of religion and strengthening it, developing/promulgating an integrative Islam and not in a selective manner or even understanding the concept of Islam which is piecemeal. a piece according to the needs of a particular person/group. Because it cannot be denied that there are people/groups who give excessive portions to the text, but turn a blind eye to the development of reality, so that it tends to produce textual understanding. And vice

versa, there are some people/groups who give too much portion to reason or reality in understanding a problem. then, in making a decision, this group actually emphasizes reality and gives free space to reason. Therefore, there is no word "stop" struggling to provide an objective understanding for the progress of the institution.

In addition to the authority possessed by the rector to determine a policy, the notion of academic freedom for some people must be straightened out. Based on Government Regulation Number 30 of 1990 concerning Higher Education jo. Government Regulation Number 60 of 1999 concerning Higher Education that:

1. Academic freedom is the freedom possessed by members of the academic community to responsibly and independently carry out academic activities related to education and development of science and technology.
2. Higher education leaders seek and guarantee that every member of the academic community can exercise academic freedom in the context of carrying out their duties and functions independently in accordance with personal aspirations and based on scientific norms and principles.
3. In carrying out the academic activities referred to in paragraph (1), each member of the academic community must strive so that the activities and results do not harm the implementation of the academic activities of the tertiary institution concerned.
4. In carrying out academic freedom and freedom of academic expression, each member of the academic community must be personally responsible for the implementation and results in accordance with scientific norms and principles.
5. In carrying out the academic activities referred to in paragraph (1), the head of the tertiary institution may permit the use of the tertiary institution's resources, as long as these activities are not aimed at:
  - a. to harm another person,
  - b. solely -to obtain material gain for the person who carries it out.

Accordingly, academic freedom is the freedom to carry out scientific functions without being interfered with by other powers and the freedom to study, teach, research and express opinions in connection with scientific activities. According to Mahfud MD, academic freedom is often confused or distorted with the meaning of freedom of expression in general, namely freedom of expression through open and demonstrative statements by college students about something or things that have nothing to do with scientific activities such as statements of attitude towards a policy. or a situation. Yet such freedom is not academic freedom. Activities like that are basically permissible for college students but cannot be called an expression or implementation of academic freedom but just ordinary freedoms like those of other citizens outside the campus which in a democratic country are usually guaranteed by the constitution.<sup>33</sup>

The Chancellor of PTKIN as an extension of the central government has the authority to stipulate a regulation so that the atmosphere of the campus and the academic community within it, learning and the learning process, is conducive and at the same time can support the

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<sup>33</sup>Mahfud MD, *Political and Legal Perspectives on Academic Freedom and Social Criticism* , UNISIA No. 32/XVII/IV/1997., p. 36.

achievement of national education goals which ensure equal distribution of educational opportunities, improve quality and the relevance and efficiency of education management for face challenges in accordance with the demands of changes in local, national and global life. Therefore, the government seeks and organizes a national education system that increases faith and piety to God Almighty and noble character in order to educate the nation's life based on Pancasila and the 1945 Constitution which are rooted in Indonesian religious and national cultural values.

*the maqasid sharia* principles entity in the regulation. Therefore, there are 3 (three) main things that are the goal of academic freedom and setting a code of ethics for academics, namely:

*First* , the use of the veil for Muslim women is a shari'ah guideline in which there are still differences of opinion among fiqh or khilafiyah scholars. However, the chancellor, with his power and authority, has the right to stipulate laws and subject the academic community to his stipulations, and PTKIN must endeavor with his policies so that the academic community, especially students, deepen the knowledge of religion which is *rahmatan lil alamin* , develop Islam that is tolerant, integrative and does not show an attitude sorting out or even understanding selectively about Islamic concepts according to needs. Therefore, academics are given the freedom to discuss and conduct research related to the problems of the Muslim community.

*Second* , the ban on wearing face coverings (veils) in the code of ethics does not impede academic freedom. Awareness and mutual respect and respect for differences of opinion ( *open minded* ) will maintain solidarity, unity and harmonization within the campus environment and the wider community. Then in the Law on the National Education System, one of the goals is to improve the quality of human beings who have noble character, personality, toughness and responsibility, while at the same time being able to develop their personality to become human beings who are mentally and physically healthy.

*Third* , public perceptions that tend to be negative or phobic towards radicalism or terrorism movements towards the use of the veil are a consideration for issuing written and unwritten policies. A sense of comfort and security must be guaranteed, both on campus and in society, this is important for academics and the public who are worried about these movements. Then, if the scholars agree that the veil is something that is recommended for women, especially at a time when there are fears that there will be slander in society due to showing off parts of the face, as well as policies prohibiting its use because of concerns about radicalist and terrorist movements that are developing in Indonesia.

In addition to the three things mentioned above, students are the next generation of the nation, they must understand cultural values *siri na pesse/pacce* as customary norms in South Sulawesi which are *malebbi warekkaadana*, *makkiade ampena* , *matanre siri* , meaning that academics should be ashamed if they do not understand the rules of the game on campus, you must be ashamed if you don't excel, and also be ashamed if you do damage. And should be ashamed if they do not uphold religious values and national unity for the advancement of civilization and the welfare of mankind.

## Conclusion

The main problem is that some members of the academic community do not know about the existence of regulations regarding how to dress as regulated in regulations or the chancellor's decision regarding the code of ethics (lecturers/staff/students), and secondly, some members of the academic community do not understand the meaning of academic freedom.

The rector's policy, which was stipulated in the form of a decree governing the Code of Ethics regarding the ban on the veil, is not a problematic issue. The basic policy considerations set are the *siri' na pesse/pacce culture* of the people of South Sulawesi which is manifested in the IAIN Pare-Pare campus motto “ *malebbi warekkaadana, makkiade ampe na* ”, the code of ethics regarding dress regulates good behavior/politeness in the campus environment, while academic freedom spur the academic community to excel. One of the ethics of academic life is that academics are required to obey and practice the values of Pancasila and the 1945 Constitution of the Republic of Indonesia, and prioritize scientific rational and objective values in democratic ways. It is in this position that academic freedom exists to protect the academic community. The constitution provides space for discussion, gathering, organizing with the aim of developing the intellectuality of students by developing national and scientific insights in a positive direction.

Lecturers in carrying out face-to-face or classroom learning processes, tell students to open their face coverings (veils) when in class, this is done so that interaction and communication become easier and more effective, as well as easy to assess student performance, liveliness, character and development inside and outside the class.

Based on the Chancellor's Decree on the Code of Ethics, several PTKINs do not regulate the ban on the veil but in practice impose sanctions, because it does not regulate the prohibition of its use as well as sanctions not regulated in the Code of Ethics. The majority of the academic community believe that the veil is a way of dressing (safeguarding boundaries) which is still debatable among the ulemas/fuqaha, and academic freedom is expected to provide space in strengthening the Islamic identity of higher education institutions and also the academic community.

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