

# Implications of *Shariah by-Law* on Moslem Dress Code on Women in Indonesia

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**Abstract.** Following the fall of the New Order regime in 1998, Indonesia commenced reformation to its government system from the authoritarian centralist system of Suharto's New Order toward a democratic decentralized system. As a result, many local governments have used these new powers to locally introduce Shariah-based regulations known as *Perda Shariah*. However, pros and cons have emerged due to the enactment of such Shariah-based regulations. One of the controversial and discriminating point in the implementation of Shariah-based regulation is the regulation on Islamic dress code that requires Muslim women to wear veils. The report from National Commission on Violence Against Women (2010, p.III), for example, has identified around 21 policies concerning the Islamic dress code. For this reason, I will argue that Shariah-based regulations on Moslem dress code have negative impacts on women and minority groups. This essay will then be structured into two sections. The first is the explanation of the Shariah-based regulation on Moslem dress code. The second part is the analysis of the impact of these regulations on women.

**Keywords:** *Sharia-based regulations, islamic dress cod*

## Introduction

Following the fall of the New Order regime in 1998, Indonesia commenced reformation to its government system from the authoritarian centralist system of Suharto's New Order toward a democratic decentralized system. Since then the central government does not interfere in local administration. Each local district has the authority to enact regional autonomous law known as *Perda* (Local Regulations).

The Act 32/2004 on Regional Autonomy has not only granted responsibilities and power to local government, but also democratized their composition and decision-making.<sup>1</sup> However, the autonomy rights exclude six administrative areas: foreign affairs, defence, the judiciary, the monetary and fiscal department, and religion. Some local regulations deal with administrative matters, such as the formation of a parliamentary system, election rules and local government constitution. Some others are concerned with economic and social development such as tax and fiscal regulations. Many local governments have used these new powers to locally introduce Sharia-based regulations known as *Perda Shariah*, which carry an ideological agenda to Islamize the local governments. Nevertheless, legally speaking, such religious regulation belongs to the central government, not to the regional authorities.

According to Bush<sup>2</sup> about 78 such *Perda Shariah* have been enacted in at least 52 of Indonesia's 470 districts and municipalities. Most of those *Perda Shariah* were aimed at religious, social, and moral targets, such as the prohibition of prostitution, alcohol and drugs, gambling, and pornography. Others promote and prescribe Islamic practices, such as religious rituals and Quranic education (Islamic teachings). The third is related to religious symbolism such as regulating women's dress, in which women civil servants are required to wear the Muslim headdress, or *jilbab*.<sup>3</sup> Pros and cons emerged due to the enactment of such Shariah-based regulation. The proponents argue that these regulations are legitimate since the majority of Indonesian people are Moslem. In contrast, the opposing groups argue that Indonesia is not an Islamic state, and that there are people who are non-Moslems, such as Christians, Buddhists, and others. Moreover, not all Moslems

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<sup>1</sup> Otto, J. M., "Sharia and national law in Indonesia" In J. M. Otto (Ed.), *Sharia incorporated: A comparative overview of the legal systems of twelve Muslim countries in past and present* (Amsterdam: Leiden University Press 2010) p. 461.

<sup>2</sup>Bush, R., "Regional Shariah regulation in Indonesia: Anomaly or symptom?" In G. Fealy, & S. White (Eds.), *Expressing Islam: Religious life and politics in Indonesia* (Singapore: Institute of Southeast Asian Studies, 2008), p. 176.

<sup>3</sup> Salim, A., "Muslim politics in Indonesia's democratisation: The religious majority and the rights of minorities in the Post-New Order era" in R. H. McLeod and A. MacIntyre (Eds.), *Indonesia: Democracy and the Promise of Good Governance* (Singapore: Institute of Southeast Asian Studies, 2007). p. 126.

agree with the regulation because it only represents one of many interpretations of Islamic faith. However, regardless of the pros and cons, many of these regulations are discriminatory against women, as such, by restricting the right of freedom of expression and reducing the right to protection and legal certainty. The controversial and discriminating point in the implementation of Sharia-based regulation is the regulation on Islamic dress code that requires Muslim women to wear veils. The report from National Commission on Violence Against Women has identified around 21 policies concerning the Islamic dress code.<sup>4</sup> For this reason, I will argue that Sharia-based regulation of Moslem dress code has negative impacts on women and minority groups. This essay is structured into two sections. The first is the explanation of the Sharia-based regulation on Moslem dress code. The second part is the analysis of the impact of these regulations on women.

### **Sharia-based regulation of Moslem dress**

In response to the regional autonomy regulation, Aceh was granted special status and the right to implement Sharia law under a peace agreement with the national government. This regulation is not only the implementation of Sharia for Moslems but also the provision of protection of inter-religious relations. In this case, Sharia is defined as “guidance on Islamic teachings in all aspects of life and gave the local government authority to set policies on religious life, custom, education and the *ulama’s* role, either through provincial regulations or decisions of the governor”<sup>5</sup> To realise Sharia law, in 2002, the Aceh government passed the regulation The Qanun No. 11/2002 on the implementation of Islamic law in the areas of

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<sup>4</sup> National Commission on Violence Against Women, *In the name of regional autonomy: the institutionalization of discrimination in Indonesian nation-state order: a monitoring report of the status of women’s constitutional rights in 16 regencies (districts)/municipals in seven provinces*. Jakarta: Komnas Perempuan, 2010), p. iii.

<sup>5</sup> International Crisis Group, *Islamic law and criminal justice in Aceh*. Asia Report No 117. Retrieved from [http://www.crisisgroup.org/~media/Files/asia/south-eastasia/indonesia/117\\_islamic\\_law\\_and\\_criminal\\_justice\\_in\\_aceh.pdf](http://www.crisisgroup.org/~media/Files/asia/south-eastasia/indonesia/117_islamic_law_and_criminal_justice_in_aceh.pdf) (accessed 31/7/2006), p. 4-5.

faith, worship, and dissemination of Islamic teachings. This regulation is to criminalise certain kinds of behaviour under Islamic laws, to ban the dissemination of deviant teachings, and to oblige all Moslems to wear Moslem dress, defined as clothing which covers the *aurat* (for men this is knee to navel; for women it is all parts of the body except the hands, feet, and face); that is not see-through; and does not show the shape of the body. The regulation obliges all government offices and educational institutions to require Moslem dress on their premises.<sup>6</sup> In this regard the government has established religious police officers, known as *Wilayatul Hisbah*, who are responsible to patrol vice and virtue and are tasked with monitoring compliance with Islamic law.<sup>7</sup> Moreover, the *Wilayatul Hisbah* officers have the right to punish those who do not wear the *jilbab* or wear tight clothes.<sup>8</sup>

Meanwhile, Padang, West Sumatra has also introduced a decree formalizing Islamic attire, the instruction of the Mayor of Padang 451.422/Binsos-III/2005 on the Obligation to Wear the *jilbab* and Islamic Dress (for Muslims) and Suggested Attire (for Non Moslems). According to Hamdani<sup>9</sup>, such regulation was inspired by the local saying: *Kembali ke Nagari* (Return to the traditional Minangkabau Village), and *Kembali ke Surau* (return to the local house of prayer). In addition, the people of Minangkabau (the majority ethnic in West Sumatra) consider that Islamic attire is one of the crucial aspects of dress code, religious practice and local identity. This regulation has become controversial since it also suggested that non-Moslems wear the *jilbab*. It has denied the privacy of non-Islamic people and

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<sup>6</sup> Human Rights Watch, *Menegakkan moralitas; Pelanggaran dalam penerapan Syariah di Aceh, Indonesia*. Retrieved from <http://www.hrw.org/sites/default/files/reports/indonesia1210inWeb.pdf> (Accessed on 31st/07/2010), p. 6.

<sup>7</sup> Milallos, M. T. R., "Muslim veil as politics: Political autonomy, women and Syariah Islam in Aceh" *Contemporary Islam*, Vol. 1 No. 3, 2007, p. 290.

<sup>8</sup> *Ibid.*, p. 297.

<sup>9</sup> Hamdani, D. *The quest for Indonesia Islam: Contestation and consensus concerning veiling* (Doctoral thesis). The Australian National University. Retrieved from <http://hdl.handle.net/1885/49310> (2007), p. 129.

the existence of religious diversity and cultural aspirations of the people of Padang.<sup>10</sup>

Similarly, the Mayor of Padang also introduced the imposition of Islamic attire for female students, by decree of the Mayor no 451.422/Binsos-iii/2005. The regulation has imposed a single school uniform for all students, that is Islamic dress, which prescribes the long dress and *jilbab* for girls. Moreover, non-Moslem students have to adjust their dress in accordance with the Moslem standard.<sup>11</sup> This regulation amends the national school uniform standard, short-sleeved blouse and short skirt falling to below the knee. Female students reacted to the imposition of Islamic attire in different ways. First, some female students felt comfortable because it is religious practice which obliges girls to cover *aurat*. Second, some girls objected to the imposition of veiling at first but then became accustomed to wearing Islamic attire. Third, there were some who disagreed with the imposition but were unable to reject it openly. Fourth, several non-Moslem students objected to wearing Islamic attire.<sup>12</sup>

Furthermore, a similar case also happened in Bulukumba district, South Sulawesi province where the regulation of Islamic dress code was implemented. This regulation is also imposed in Bulukumba District Regulation (South Sulawesi) No 04/2003 regarding Moslem dress. In essence, this imposition targets students at all levels from elementary school to university, private employees and civil servants, while it is only optional for other citizens.<sup>13</sup> However, in implementation, this regulation also controls wedding party dress and even in some pilot villages of Islamic Sharia, women who do not wear the *jilbab* may not have access to the public service freely as it is explicitly stated in some government offices that they only

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<sup>10</sup> Novriantoni, Kasus *jilbab* padang dan 'fasisme kaum moralis'. In A. M. Ghazali (Ed.), *Ijtihad Islam liberal; upaya merumuskan keberagaman yang dinamis* (Jakarta: Penerbit Jaringan Islam Liberal, 2005), p. 139.

<sup>11</sup> Hamdani, *op.cit.*, p. 139.

<sup>12</sup> *Ibid.*, p. 141-143.

<sup>13</sup> ELSAM. (2008). *Pemantauan terhadap Implementasi Perda-perda Bermasalah*. Lembaga Studi dan Advokasi Masyarakat (ELSAM). Retrieved from [http://www.elsam.or.id/downloads/1269181690\\_Tulisan\\_Monitoring\\_Pera\\_surur.pdf](http://www.elsam.or.id/downloads/1269181690_Tulisan_Monitoring_Pera_surur.pdf) (31/7/2008), p. 19.

serve those who dress as stipulated by the regulation.<sup>14</sup> It is actually quite ironic because the regulation does not require women to wear *jilbab* to get access to public services. On the other hand, this regulation is also contrary to local discretion and ignores the existence of indigenous peoples, as communities that exist in Bulukumba Kajang. For the Kajang community, the form of veil has no meaning. Wearing the *jilbab*, in the Kajang community, does not require covering hair, ears and neck; a hair bun is enough, because in their view, the honor of women is covered in the hair bun.<sup>15</sup> Local distinctiveness is completely ignored in the formulation of this law by giving a strict categorization of definitions of covering *aurat*. For example, women should wear a veil that covers hair, ears, neck and chest. This categorization did not accommodate the beliefs and customs which are the basis of value for women of Kajang.

Besides those three districts mentioned above, there are also many districts that have implemented Sharia-based regulations which specifically regulate Moslem dress code or the *jilbab*.

NO	Districts and Provinces	Regulations
01	South Sulawesi Province	South Sulawesi Provincial Law about the Amar Ma'ruf Nahi Munkar conduct, which covers the following regulations: Zakat regulation, Quranic literacy regulation, Moslem dress regulation, regulation to ban gambling, alcohol drink, drugs and prostitution.
01	Bulukumba (South Sulawesi)	District Regulation No. 04/2003 about Moslem Attire
02	Enrekang (South Sulawesi)	District Regulation No 6/2005 about Moslem Attire
	Takalar (South Sulawesi)	District Regulation about Moslem dress.
	Gowa (South Sulawesi)	Gowa District obliges all women civil servants to wear <i>jilbab</i> and attend

<sup>14</sup> Ad'han & Umam, "Perdaisasi Syariat Islam di Bulukumba" *Jurnal Tashwirul Afkar*, Nomor 20 Tahun 2006, p. 56-77.

<sup>15</sup> *Ibid.*, p. 74.

		Islamic teachings after work.
03	Maros (South Sulawesi)	Bupati's Circulation Letter dated 21 October 2002, on wearing of headscarf ( <i>jilbab</i> ) for women and Moslem Shirt ( <i>baju koko</i> ) and hat ( <i>kopiah</i> ) for men working at government offices, especially on every Friday, termination of office activities during prayer times, and enrichment of religious instructions at school District Regulation No 15, 16, 17/2005 about Quranic illiteracy, Moslem dressing and Zakat management.
04	Cianjur (West Java)	Letter of Bupati Cianjur No 025/3643/Org & Setter No 061.2/2896/Org. about office hours and suggestion to wear Moslem uniform on weekdays.
05	Indramayu (West Java)	Bupati's Call on wearing Moslem dress for government service on every Friday.
06	Garut (West Java)	Letter from Bupati Garut (West Java) about Moslem dress for all civil servants in Garut District.
05	Solok (West Sumatra)	District Regulation No 6/2002 about the obligation to wear Moslem dress.
06	Padang (West Sumatra)	Instruction Letter from Padang City Mayor (West Sumatera) No 0451.442/Binsos-III/2005 about the obligation to wear Moslem dress.
07	Pamekasan (East Java)	Bupati's Circulation Letter No. 450/2002 on the wearing of the <i>jilbab</i> for women and <i>baju koko</i> and <i>kopiah</i> for men working at government offices, especially on every Friday.

Sources:

1. Noorhaidi Hasan (2007).
2. The National Commission on Women, 2010.
3. Dewi Candraningrum (2006)

In fact, in Islamic teaching the compulsory wearing of the *jilbab* is still debatable among Islamic scholars, since it is

considered in the realm of *khilafiah* (debatable). Different interpretations of the Qur'anic verses regarding veiling (wearing *jilbab*) have led Muslims to make various interpretations on the subject.<sup>16</sup> Some people argue that wearing veils for women is a religious requirement based on convincing references in Islamic texts; others reject the notion that Islam provides any criteria for Islamic dress code. According to Ulil Absar Abdalla, the wearing of *jilbab* is not purely Islamic doctrine, but is merely the reflection of Arabic culture, similar to other Islamic cultures such as *qishas* (equal punishment), *rajam* (death penalty) and wearing *jubah* (the long loose robe of Arabia). Therefore, he argues that rather than mandatory, wearing veils for women is optional. *Jilbab* is not the only model of Islamic clothing. All forms of ethnic clothing which cover the *aurat* can be considered as 'Islamic', as long as they are accepted as culturally linked and appropriate, such as Chinese or Indian dress.<sup>17</sup> Similarly, Nong Darol Mahmada argues that wearing *jilbab* is not a religious obligation, but a cultural obligation. He claims that wearing *jilbab* is not compulsory because it is debatable. He further argues that the interpretation of Islamic scholars which obliges women to wear the *jilbab* is based on personal interpretation that is derived from socio-cultural context.<sup>18</sup>

Therefore, the imposition of wearing the *jilbab* by some Shariah-based regulation is very controversial. It only claims the truth of one religious interpretation while ignoring other interpretations, which would cause fears for those who have different stances. In Aceh, for example, women activists are afraid they will be considered as anti-Islam when questioning the means of enforcement of Islamic Sharia.<sup>19</sup> Such impositions have removed the freedom of women to choose according to their own beliefs, to wear or not to wear the *jilbab*. Ironically, when the Sharia-based regulation was formulated, those who

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<sup>16</sup> Kamil, S., *Syariah Islam dan HAM: Dampak Perda Syariah terhadap Kebebasan Sipil, Hak-hak Perempuan, dan Non-Muslim* (Jakarta: CRCS UIN Jakarta & KAS Jakarta, 2007), p.xxvii.

<sup>17</sup> Hamdani, *op.cit.*, p. 177.

<sup>18</sup>N. D. Mahmada, "Kritik atas Jilbab" in A. M. Ghazali (Ed.), *Ijtihad Islam Liberal: upaya merumuskan keberagaman yang dinamis* (Jakarta: Penerbit Jaringan Islam Liberal, 2005), p. 130.

<sup>19</sup> Kamil, *op.cit.*, p. xxvi.

are responsible did not involve representatives from as wide a cross-section of society as possible in their deliberations: in particular, they ignored women as agents.<sup>20</sup>

Generally, according to the initiators of the imposition of wearing the *jilbab*, the practice of wearing *jilbab* is meant to protect women and to reduce social problems in society. Some religious leaders and government officials in Aceh support the imposition of wearing *jilbab* policy on the basis of religious doctrine and public order. They claim that such policy is aimed at reducing sexual desire and male violence against women. Similarly, the Mayor of Padang, Fauzi Bahar, argues that such laws 'will surely help improve morality, thereby boosting regional development as security will be ensured, adolescent delinquency can be curbed and crimes reduced'.<sup>21</sup> The heads of other regions who have the same vision and mission to create religious regions also have the same opinions. Moreover, they assert that, along with other policies on religion, the impact of implementing the policy on dress code reduces the level of crimes in the region, referring to the data published by the proponents of the regulation collected in the local police station.<sup>22</sup> However, when further investigation is undertaken, the data found in the police station was different. It is stated that criminality and sexual violence increase.<sup>23</sup> In contrast, according to many women who are interviewed by Komnas Perempuan, clothing regulation is not needed. They say that their feeling of security was in their freedom to do anything within a certain limit, and was not necessarily affected by wearing a veil. Another person has said that it was more important for the government to provide street lighting and intensify patrols around the areas where crimes often occur in order to provide security for women.

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<sup>20</sup> Musda Mulia, "Tidak Boleh Ada Pemaksaan Jilbab" in Luthfi Assyaukanie. (Ed.), *Wajib liberal Islam di Indonesia/penyunting* (Jakarta: Jaringan Islam Liberal, 2002), p. 129.

<sup>21</sup> Warburton, E., *Private choice or public obligation?, Institutional and social regimes of veiling in contemporary Indonesia* (Thesis). University of Sydney. Retrieved from [http://sydney.edu.au/arts/indonesian/docs/Eve\\_Warburton\\_Hons%202006.pdf](http://sydney.edu.au/arts/indonesian/docs/Eve_Warburton_Hons%202006.pdf) (2006), p. 41.

<sup>22</sup> Komnas Perempuan, *op.cit.*, p. 32.

<sup>23</sup> *Ibid.*, p. 33.

The initiators of the policies tend to respond to society's concern about social problems by issuing policies that are based on a stereotype of women as the moral symbol of the society; on a culture of blaming the victim in a case of sexual violence; and on religious justification in restricting women's mobility and women's expression.<sup>24</sup> By local policies that criminalize or control women's body and sexuality, the initiators of the policies aim to build their images as ones who care for the morality of society and protect women from harm, believing that the harm is sourced from the women themselves. Women are forced to follow the identity uniformity, especially religious identity, by wearing *jilbab*. The women that refuse to follow the policies may have sanctions such as harassment, exclusion, limitation of accessing public service used against them, or even be penalized (fine or prison), as experienced by women in Aceh.<sup>25</sup>

However, to protect women is not the main reason for the imposition of wearing *jilbab*. Al-Makassary noted that ideas on Sharia-based regulation represent only the interests of the political elite. The decision to impose Islamic attire, specifically wearing *jilbab*, cannot be separated from their intention to gain the sympathy of Moslem majority. These regulations are employed as facilities in modifying the political environment in the Head of District election period or in maintaining power.<sup>26</sup> It more relates to the political interests of Head of District candidates or a Head of District who is concerned about losing political support from the Moslems.<sup>27</sup> When the initiators of Sharia-based regulation end their period of reign, the policies will vanish as well. According to research conducted by Komnas Perempuan, after the heads of district that create the policies end their reign, the power of the policies will fade away gradually. Society tends to ignore the existence of the policies.<sup>28</sup>

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<sup>24</sup> Musda Mulia, *op.cit.*, p. 33.

<sup>25</sup> Human Rights Watch, *Menegakkan moralitas; Pelanggaran dalam penerapan Syariat di Aceh, Indonesia*. Retrieved from <http://www.hrw.org/sites/default/files/reports/indonesia1210inWeb.pdf> (2010).

<sup>26</sup> Al-Makassary, R., "Perda Syariat Islam dan Implikasinya Terhadap Kebebasan Sipil, Non Muslim dan Perempuan: Studi Kasus Tasikmalaya" *Jurnal Hukum Respublica*, Volume 6 Nomor 2 Tahun 2007, p. 209.

<sup>27</sup> Komnas Perempuan, *op.cit.*, p. 85.

<sup>28</sup> *Ibid.*, p. 93.

This phenomenon shows that such regulations are not really needed and are only for personal political interests. If the policies are really considered necessary by society, the policies are supposed not to vanish after the end of the administration period.

### **The Impacts On women and Minority groups**

Certainly, the application of these rules has impacted on women's social life as well as that of minority groups.<sup>29</sup> The consequences for those who do not wear a *jilbab* include facing punishment from the authorities as well as from the society in terms of social sanctions. In Sulawesi, where three districts have passed Sharia regulation, schoolgirls have been sent home for wearing clothes deemed immodest. Padang schoolgirls must wear the *jilbab*, regardless of their religious persuasion.<sup>30</sup> In Aceh, numbers of females are apprehended in routine operations because they do not wear the *jilbab*. In some cases, many women are threatened with having their hair cut because they do not wear the *jilbab*.<sup>31</sup> Moreover, women who do not wear a *jilbab* may not have access to public services freely as it is explicitly stated in some government offices that they only serve those who dress as what is stipulated by the regulation.<sup>32</sup> Moreover, female civil servants who are targeted in the Muslim dress code regulation, on the other hand, could be warned directly in public places. As it is an obligation, refusing to wear the *jilbab* could be considered as a breach of discipline which at worst may result in hindering their promotion and career.<sup>33</sup>

Beside formal punishments, women who do not want to wear the *jilbab* would also face social sanctions from the community in the form of being excluded from the community. It is a growing perception within the community that: 'women

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<sup>29</sup> Abdurrahman, M., "Korban pertama dari penerapan Syariat adalah perempuan" in Assyaukanie (Ed.), *Wajah Liberal Islam di Indonesia* (Jakarta: Jaringan Islam Liberal, 2002), p. 109.

<sup>30</sup> Allen, P. Challenging diversity?: Indonesia's anti-pornography bill. *Asian Studies Review*, Volume 31, Nomor 2 Tahun 2007, p. 107.

<sup>31</sup> Kamil, *op.cit.*, p. 183.

<sup>32</sup> Ad'han & Umam, *op.cit.*, p. 74.

<sup>33</sup> Kamil, *op.cit.*, p. 183.

are seen as 'good women' only if they wear Moslem clothes'<sup>34</sup> This demonstrates the perceived nexus between women's clothing and women's morality. As stated by one of the victims of the dress code regulation in Dompus, she chooses to wear the *jilbab* when she is in the places where wearing the *jilbab* is obligatory such as in the office because she does not want to receive that kind of social sanction. She states: 'I only wear veil when I am at the office. When I am not wearing the veil at the office, I feel uncomfortable and discriminated against as my officemates whisper to each other behind my back. They also keep their distance from me. They even avoid going out with me by making up some reasons, but some of them state the direct reason that I am not wearing the *jilbab*, because they assume that women who do not wear the veil are not good'.<sup>35</sup>

There are also problems related to the implementation of this regulation. The Civil Service Police officers known as *Satuan Polisi Pamong Praja (Satpol PP)*<sup>36</sup> tend to use a 'subjective definition' of Islamic clothing based on their own knowledge. In some cases, the *Satpol PP* officers tend to simplify the Islamic attire to *jilbab*. In Padang for instance, the *Satpol PP* admonished a woman who did not wear a *jilbab* at a wedding party, although she was wearing long-sleeved shirt and polite long pants (Malay-style clothing), this being because she was attending the wedding party without wearing *jilbab*. Meanwhile, *the Satpol PP* did not take action against a veiled woman who wore tight clothing which did not meet the criteria of Islamic attire.<sup>37</sup> Ironically, in the case of Aceh, during a routine operation for those who do not wear *jilbab*, the officers of *Wilayatul Hisbah* target those who travel by motorcycle or public transport and not those who travel by car, which raises the

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<sup>34</sup> Andren, K., *Prostitution, pornography and Islamic law; Women's NGOs confronting Islamic conservatism in post-authoritarian Indonesia* (Thesis). (The University of Sydney. Retrieved from, 2007), p. 67.  
<http://ses.library.usyd.edu.au/bitstream/2123/2159/1/Kim%20Andren.pdf>

<sup>35</sup> Komnas Perempuan, *op.cit.*, p. 31.

<sup>36</sup> Security unit formed by local government whose main task is to maintain order and security in the area.

<sup>37</sup> Hamdani, *op.cit.*, p. 161.

accusation that the *Wilayahul Hisbah* discriminate against women based on social class.<sup>38</sup>

It should be emphasised that some aspects of the Sharia-based regulations contravene Indonesia's obligations to protect the right to religious freedom. For example, the instruction of the Mayor of Padang 451.422/Binsos-III/2005 on 'The Obligation to Wear the *Jilbab* and Islamic Dress (for Moslems) and Suggested Attire (for Non- Moslems)' certainly shows that the laws discriminate against minority groups.<sup>39</sup> Although Fauzi Bahar (the Major of Padang) often stated on many occasions that this policy is not required for non-Moslems, there is evidence that non-Moslem students are also required to wear the *jilbab*. When non-Moslem students want to avoid this regulation, they are not allowed to enter the class.<sup>40</sup> As a consequence, a Christian student such as Fransiska Silalahi had to wear a veil for the three years during her schooling.<sup>41</sup> The Wahid Institute's research also states that non- Moslem women in Padang (West Sumatra) and Bulukumba (South Sulawesi) are obliged to wear *jilbab* after the implementation of Sharia-based regulation. Ironically, one of the non-Moslem students reported that she felt stressed by wearing *jilbab*. This is because she thought that she lives in a community which hates her. Besides that, her Christian friends also accused her of converting to Islam because she is wearing Moslem female dress.<sup>42</sup> Indeed, this condition clearly causes social-psychological pressure among non-Moslem followers in Padang.

The discrimination against religious minorities in the regions which implemented Sharia-based regulation also happened in Aceh. It occurred after the implementation of sections of 4 and 5 of Provincial Regulations 5/2000 which

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<sup>38</sup> Human Rights Watch, *op.cit.*, p. 17.

<sup>39</sup> Crouch, M., Religious Regulations in Indonesia: Failing Vulnerable Groups" *Review of Indonesian and Malaysian Affairs*, Volume 43 Nomor 2 Tahun 2009, p. 81-82.

<sup>40</sup> Romli, M. G., Siswi-siswi Kristen pun terpaksa berjilbab: Kewajiban busana Muslim. *Jurnal Perempuan*, Retrieved 6 June 2011, from <http://www.apakabar.ws/content/view/3429/>

<sup>41</sup> Kamil, *op.cit.*, p. 135.

<sup>42</sup> Abdurrahman Wahid, *Ibusi Negara Islam: Ekspansi Gerakan Islam Transnasional di Indonesia* (Jakarta: LibForAll Foundation, 2009), p. 140.

regulates standard dress code for all people who live in Aceh, including non-Moslems and tourists. There we can easily find Western women who wear Moslem veils around Banda Aceh. Ironically, the obligation to wear Moslem dress is also required of Chinese women who work at the bank (BCA)<sup>43</sup> While, the *Perda* No. 5/2003: use of the headscarf for Moslem women in Bulukumba (South Sulawesi) was practiced differently. Non-Moslems in this area have been told to put on a headscarf at certain events, even though they are not subject to this Shariah regulation. One of the respondents to research conducted by Rohaiza Ahmad Asi points out that he had witnessed an incident where outsiders entering Moslem villages were told to put on the headscarf.<sup>44</sup> Relating to this condition, representatives from local community in Bulukumba stated that shariah bylaws have already created intolerance.

In the minority communities that are based on indigenous people, such as the Kajang community in Bulukumba, the Bissu community in Pangkep, the Dayak Hindu Bumi Segadung in Tasikmalaya and the Dayak community in Banjar, there are cultural practices to respect one's body and sexuality (which in this respect is equal to *aurat*). The Kajang community, for example, uses a kind of code to express their respect to their sacred leader. In times of mourning, the family will wear a piece of sarong to cover their body.<sup>45</sup> In the implementation of this policy on clothing for women, the Kajang community, as with other communities still seek freedom to practice their traditions. In practice, this exception happens within their community. As people of Bulukumba, the women of Kajang have no choice but to adhere to the regulation on clothing for men and women determined by the local government although this contradicts their belief. A young woman from the Kajang community said that women are always warned to wear a veil when going out of

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<sup>43</sup> Kamil, *op.cit.*, p. 135.

<sup>44</sup> Asi, R. A. (2007). *Sulawesi: Aspirations of Local Muslims* (working paper). Singapore: S. Rajaratnam School of International Studies Working Paper Series. Retrieved from <http://www.isn.ethz.ch/isn/CurrentAffairs/Security-Watch-Archive/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24a6a8c7060233&lng=en&id=4699> (2007), pp. 8-12.

<sup>45</sup> Ad'han, *op.cit.*, p. 65.

their house. She feels worried about passing through Bulukumba because of this policy but she says that she will obey the regulation in order to avoid unwanted problems.<sup>46</sup>

In addition, these regulations will also threaten the sustainability of local tradition such as the tradition to wear *seulendang* (a long cloth worn by Acehness women to cover their head or to carry a baby on their back), *cipo-cipo* (a cap-like head scarf worn by women in South Sulawesi), *rimpu* (head scarf that covers face) worn by women in Dompu, West Nusa Tenggara, and other local costumes, and discriminate against minority groups. These traditions will gradually fade out, not because of being old-fashioned but due to policy that aims at unifying dress for all women.

### **Conclusion**

Although the imposition of wearing *jilbab* is still debatable in Islamic doctrine, there are many local governments that have enacted regulations that force Moslem women to wear *jilbab*. In some cases, the regulation has also suggested that non-Moslem women also comply on the basis of regional autonomy. These phenomena show that the local policy on Moslem dress code is only based on a single interpretation of Islamic doctrine. The reason for such regulation, according to some of the heads of district, is to protect women from violence and criminality and to create a religious image of the district. They believe that uncovered and uncontrolled women in society and the public sphere are the cause of social problems such as decadence among members of society. However, local governments or political elites often use the imposition of *jilbab* issue in their own political interests to gather public support, specifically to gain Moslem sympathy. Nevertheless, regardless of the pros and cons of the enactment of Shariah based regulations on Moslem dress code, the application of these rules has impacted on women's social life as well as minority groups. It becomes an institutionalized discrimination against women, especially in

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<sup>46</sup> Komnas Perempuan, *op.cit.*, p. 48.

the form of limiting their freedom of expression, having potential to prevent the fulfilment of human rights, threaten local traditions, and discriminate against minority groups and non-Moslems.

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