

MAHRAM FOR WOMEN IN THE IMPLEMENTATION OF THE HAJJ ACCORDING TO CLASSICAL AND CONTEMPORARY ULAMA

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Abstract

Hajj is a worship required by Allāh to his servants who can carry it out. The obligation of this pilgrimage is general, covering all able-bodied Muslims, whether male or female. However, the obligation of this pilgrimage for women has raised many questions among the public. It is due to the hadith, which forbids women to travel alone without being accompanied by their husband or mahram. This study aimed to find out the opinions of classical and contemporary scholars about women's pilgrimage without being accompanied by their mahram. This research is normative analysis research in the form of library research. The method used is the method of content analysis with descriptive and comparative techniques. The study results reveal that there are differences of opinion among scholars regarding the departure of women to perform the pilgrimage, the differences of opinion occur in both classical and contemporary scholars. As with contemporary scholars, Muhammad bin Salih al-Utsaimin argues that a woman's pilgrimage without a mahram is legal, but her journey without a mahram is forbidden. Meanwhile, Yūsuf al-Qaradhāwī argues that the pilgrimage for women not accompanied by their mahram is legal and without sin.

Keywords: Mahram, Hajj, Women

Abstrak

Ibadah haji merupakan ibadah yang divajibkan oleh Allāh kepada hambanya yang mampu untuk melaksanakannya. Kewajiban ibadah haji ini bersifat umum, mencakup semua umat Islam yang mampu, apakah itu laki-laki maupun perempuan. Namun kewajiban ibadah haji ini untuk perempuan banyak menuai pertanyaan dikalangan masyarakat. Hal ini disebabkan adanya hadiis Nabi yang melarang perempuan untuk melakukan perjalanan sendirian tanpa ditemani oleh suami atau mahramnya. Tujuan dari penelitian ini adalah untuk mengetahui pendapat ulama klasik dan ulama kontemporer tentang perjalanan perempuan dalam pelaksanaan ibadah haji tanpa ditemani oleh mahramnya. Penelitian ini merupakan penelitian normatif analisis yang berbentuk library research. Metode yang digunakan adalah metode analisa isi (content analysis) dengan teknik deskriptif dan komparatif. Hasil penelitian mengungkap bahwa terjadi perbedaan pendapat ulama tentang keberangkatan perempuan untuk melaksanakan ibadah haji, perbedaan pendapat itu terjadi baik pada ulama klasik maupun ulama kontemporer. Seperti pada ulama kontemporer, Muhammad bin Sbalih al-Utsaimin berpendapat bahwa ibadah haji perempuan yang tanpa ditemani mahramnya secara fiqh sah, namun perjalanannya tanpa ditemani oleh mahram itu merupakan perjalanan yang dibaramkan. Sedangkan Yūsuf al-Qaradhāwī berpendapat bahwa ibadah haji perempuan yang tanpa ditemani mahramnya secara fiqh sah dan tidak berdosa.

Kata Kunci: Mahram, Haji, Perempuan

INTRODUCTION

Hajj etymologically comes from the word qashdu (intention, intention, intentional), while in terminology, Hajj intends (deliberately) to go to the Baitullah in a predetermined manner and time. It means that the Hajj is a worship whose method and time

are determined by Allāh SWT. and Rasulullāh SAW. If it does not follow the specified method or the time is not specified, then the pilgrimage is considered invalid.

Hajj is a worship that Allāh requires to his servants who are mature, intelligent and

able to carry it out.¹ whether the ability is seen from a financial and physical point of view, or a security perspective during the trip. Muhammad Irfai Muslim discusses this ability with the ability from the outer, inner and financial side.²

According to Amir Syarifuddin, as he explained in his work *Outlines of Fiqh*, the basis for the obligatory pilgrimage is the existence of several words of God that demand to carry out the pilgrimage. There are at least two indications that indicate the existence of an order to perform the pilgrimage, namely:³

- a. By using the lafadz of the call, as contained in the letter al-Baqarah verse 196:

وَأَتِمُوا الْحَجَّ وَالْعُمْرَةَ لِلَّهِ

"And complete the Hajj and Umrah for the sake of Allah."

- b. Using Lafazh *على* which implies an obligation to act. The command for Hajj using this lafazh is contained in the letter Ali Imran verse 97:

وَاللَّهُ عَلَى النَّاسِ حَجُّ الْبَيْتِ مِنْ اسْتَطَاعَ إِلَيْهِ سَبِيلًا

"Performing the pilgrimage to the Temple is a human obligation to Allah, that is, for people who are able to travel there."

The obligation of this pilgrimage is general, covering all able-bodied Muslims, whether male or female. The generality of the obligation to perform the pilgrimage is understood from the Word of Allāh in Surah Ali Imran verse 97 above. Word *al-nās*

contained in that verse when viewed from the side of Usul Fiqh includes *lafazh 'ām*, namely the generally accepted lafazh, because lafazh *al-nās* this is a jama 'which is ma'rifah-kan with *Alif Lam Jinsiyah*.⁴ This means that those who are required to carry out the order for Hajj are all humans who can travel to the holy land.

For men, the journey in performing the pilgrimage is not an obstacle, meaning that they can freely travel to the holy land, without depending on others. In contrast to women who get special treatment in Islam. A woman is not allowed by Islam to travel for a day and a night alone without being accompanied by her husband or mahram.

As is well known, the pilgrimage takes a very long time, no longer a day and night trip, but a journey of days and even more than a month.

Even Sulaiman Rasjid in his very popular work, *Islamic Fiqh* makes the journey of women with their mahram or husband as one of the categories of conditions for Hajj. Sulaiman Rasjid quotes the hadith of the Prophet narrated by Imam Bukhārī from Ibn Abbās Ra:⁵

قال النبي صلى الله عليه وسلم: لا تسافر المرأة إلا مع ذي محرم ولا يدخل عليها رجل إلا ومعها محرم. فقال رجل: يا رسول الله إني أريد أن أخرج في جيش كذا وكذا و امراتي تريد الحج. فقال: أخرج معها. (رواه البخاري)

"Prophet Saw. He said: A woman should not travel unless accompanied by her mahram. It is also not permissible for a man to visit a woman, unless the woman is accompanied by her mahram. A man then asked: 'O Messenger of Allah, I want to participate in jihad in this war and that war, while my wife wants to perform the pilgrimage?' The Messenger of

¹ Ali Jum'ah, *Al-Hajj Wa Al-Umrah; Asrar Wa Ahkam* (Kairo: Markaz al-Dirasat al-Manhajiyah wa al-Ma'rifiyyah, 2008), 78.

² Muhamamd Irfai Muslim, "Historiografi Manajemen Haji Di Indonesia: Dinamika Dari Masa Kolonial Hingga Kemerdekaan," *Jurnal MD; Jurnal Manajemen Dakwah* 6, no. 1 (2021): 52.

³ Amir Syarifuddin, *Garis-Garis Besar Fiqh* (Jakarta: Kencana, 2003), 59.

⁴ Wahbah Al-Zuhaili, *Al-Wajiz Fi Ushul Fiqh*, Damaskus (Dar al-Fikr, 1999), 194.

⁵ Sulaiman Rasjid, *Fiqh Islam* (Bandung: Sinar Baru Algensindo, 2005), 250.

Allāh said to her: 'Accompany her to perform the pilgrimage'. (HR. Bukhārī).

It signifies that a woman, if she wants to travel, must be accompanied by a mahram or her husband, whatever the purpose of the trip, including the trip to perform the pilgrimage.

Outwardly, this hadith can be interpreted that a woman is strictly forbidden to travel alone, unless a mahram accompanies her. It is certainly not as easy as imagined, especially nowadays. It can cause a woman to be prevented from doing many activities, such as studying, staying in a boarding house to study at a university, or even traveling to perform the pilgrimage and Umrah. In conditions like this, students, female employees, or housewives who live far away from their husbands or mahrams will always wallow in sin as long as they carry out traveling activities.⁶

This is a question for many people, what about a woman who is financially and physically able to travel to the holy land, but she does not have a husband or mahram who can accompany her during the Hajj procession. Is he allowed to perform the pilgrimage or does the obligation of Hajj fall from him?

Based on the above background, it is necessary to research the issue of mahram for women in the implementation of the pilgrimage, by explaining the opinions of classical scholars, such as Syamsyuddin al-Sarakhsi (W. 483 H.) from the Hanafi School, Abu al-Walid al-Baji (W. 474 H.) from the Māliki School, Muhammad bin Idris al-Syafi'i (W. 204 H.) the founder of the Shafi'i School and Ibn Qudamah (W. 620 H.) from the Hanbali School, as well as scholars-contemporary scholars, such as Muhammad bin Salih Utsaimin (W. 1421 H.) and Yusuf al-

Qaradhawy. In addition to explaining the opinions of classical scholars and contemporary scholars, the author also describes the main causes of differences of opinion among these scholars.

To conduct this research, the authors use library research methods which are carried out by reading, studying and recording various literature or reading materials that are following the subject matter, then filtered and poured into a theoretical framework.⁷ The library research that the author uses in this research is to collect data from books written by classical scholars, such as Al-Mabsuth by Syamsyuddin al-Sarakhsy, al-Muntaqa Syarah Muwaththa` Mālik by Abu al-Walid Sulaiman Ibn Khalaf Ibn Sa'ad Ibn Ayyub Al-Baji, Muhammad bin Idris al-Syafi'i's Al-Umm, and Ibn Qudamah's Al-Mughny. In addition, the author also examines books written by contemporary scholars such as Fatawa Ulama al-Balad al-Haram written by Muhammad Shalih Ibn Utsaimin with other scholars and Maudu'at al-Fiqh al-Islami wa Qadhaya al-Mu'ashirah who by Yusuf al-Qaradhawy, as well as related articles. In data analysis, the author uses a descriptive method, namely by describing the data following what is written in the manuscript.

DISCUSSION

Defenition of Mahram

Mahram in Arabic comes from the word al-hurm which means the opposite of halal.⁸ So, the word mahram means a person who is not lawful to marry him.⁹ Ibn Manzhur interprets the word mahram as a person who has a

⁷ Kartini Kartono, *Pengantar Metodologi Research* (Bandung: Alumni, 1998), 78.

⁸ Muhammad Ibn Abu Bakr Ibn Abd al-Qadir al-Razi, *Mukhtar Shibbah* (Beirut: Dar al-Fikr, 2006), 65.

⁹ Muhammad Ibn Abu Bakr Ibn Abd al-Qadir al-Razi, 65.

⁶ Imam Ibnu Hajar, "Reinterpretasi Hukum Larangan Bepergian Tanpa Mahram Bagi Perempuan," *Al-Manabij: Jurnal Kajian Hukum Islam* 6, no. 1 (2012): 144.

family relationship, who is not allowed to marry.¹⁰

*Mahram*¹¹ For women it is a man who is forbidden forever (muabbad) to marry that woman, because of the relationship between nasab, mushaharah (marriage ties) and ridha`ah (milk ties).¹² From the opinion above, the mahram muabbad is divided into three, namely:

a. *Mahram* by *Nasab*

Men who are included in the mahram because of this lineage are men who are mentioned by Allāh in Surah al-Nūr verse 31:

وقل للمؤمنات يغضضن من أبصارهن ويحفظن
فروجهن ولا يبدن زينتهن إلا ما ظهر منها وليضربن
بخمرهن على جيوبهن ولا يبدين زينتهن إلا لبعولتهن أو
آبائهن أو آباء بعولتهن أو أبنائهن أو أبناء
بعولتهن أو أخواتهن أو بني أخواتهن...

"And say to the believing women, that they should guard their eyes and guard their private parts, and do not reveal their adornments (aurat), except what is commonly seen. And let them cover their veils to their chests, and do not reveal their adornments (aurat) except to their husbands, or their fathers, or the fathers of their husbands, or their sons, or the sons of their husbands, or their brothers, or the sons of their brothers, or the sons of their sisters..."

Ibn Kathir explains that men who become mahrams for women due to kinship relations in this verse are:

1. Father

¹⁰ Ibn Manzhur, *Lisan Arab*, 2nd ed. (Beirut: Dar Ihya Turats al-Arabi, 1992), III, 139.

¹¹ Mahram dalam Islam ada dua macam: Mahram Muaqqat dan Mahram Muabbad. Disebabkan tulisan ini membahas tentang mahram bagi perempuan dalam melaksanakan ibadah haji, maka yang dibahas hanyalah mahram muabbad, karena menurut jumhur ulama, mahram yang bisa menemani perempuan itu dalam melakukan perjalanan hanyalah mahram muabbad. Wahbah al-Zuhaili, *Mausn'ah Al-Fiqh Al-Islamy Wa Qadbaya Al-Mu'ashirah* (Damaskus: Dar al-Fikr, 2010).

¹² Wahbah al-Zuhaili, III, 102.

2. Boys
3. Brother
4. Brother's son
5. Sister's son

Many scholars are of the opinion that uncle is also a mahram for women, but this is denied by Sya`bī and Ikrimah, both of whom argue that uncle is not a mahram for women, because it is not mentioned in Surah an-Nur verse 31.¹³

b. Mahram Due to Breastfeeding

In Surah al-Nisā verse 23 when describing women who are forbidden to be married by men, Allāh also mentions that among those who are forbidden to marry are:

وأمهاتكم التي أرضعنكم واخواتكم من الرضاعة
"... And the mothers who nursed you, and the sisters who breastfed..."

In the explanation of the verse above, it can be understood that those who become mahram for women due to breastfeeding are:

1. The father of milk (husband of the milk mother)
2. The son of a nursing mother
3. Brother breastfed.
4. Breastfeeding siblings, both male and female breast milk
5. Dairy uncle (brother of father or milk mother)

c. Mahram for Mushaharah

Mahram because this Mushaharah is a mahram that arises as a result of marriage. This means that those who are forbidden to marry after a marriage event has implications for the arrival of a new mahram from the direction of the spouse.

There are several verses that provide evidence for this mahram mushaharah, namely: Surah al-Nūr verse 31 and Surah al-Nisā verse 22.

¹³ Ibnu Katsir, *Tafsir Al-Qur'an Al-Adzim* (Kairo: Dar al-Hadits, 2003), III, 350.

ولا يبدن زينتهن إلا لبعولتهن أو آبائهن أو آباء بعولتهن
أو أبنائهن أو أبناء بعولتهن

“...“*And do not reveal their adornments, except to their husbands, or their fathers, or the fathers of their husbands, or their sons, or their husbands' sons...*”

ولا تنكحوا ما نكح آبائكم من النساء

“*And do not marry the women your father married...*”

وأمهات نسائكم وربائكم التي في حجوركم من نسائكم
التي دخلتم بهن فإن لم تكون دخلتم بهن فلا جناح
عليكم وحلائل أبنائكم الذين من أصلابكم

“... *your wife's mother (in-law); your wife's children who are in your care from the wife you have interfered with, but if you have not mixed with your wife (and you have divorced), then it is not a sin for you to marry her; (and forbidden to you) the wives of your biological children (daughter-in-law)...*”

From the three verses above, it can be seen that the mahrams included in this verse category are:

1. Husband
2. Son-in-law
3. Step-in-law
4. Stepson
5. Son-in-law

Women are not allowed to travel alone

The Prophet in several hadiths forbade women to travel alone, including:

- a. Hadith narrated from Ibn Umar, the Messenger of Allāh said:

لا تسافر المرأة ثلاثة أيام إلا مع ذي محرم¹⁴

A woman should not travel for three days except with her mahram.

- b. Hadith narrated from Abu Hurairah, the Messenger of Allāh said:

لا يحل لامرأة تؤمن بالله واليوم الآخر أن تسافر
مسيرة يوم وليلة ليس معها حرمة¹⁵

“*It is not permissible for a woman who believes in Allāh and the Last Day to travel for a day and a night when there is no mahram.*”

Abdullah Ibn Abdurrahman Ibn Salih

Ali Bassam in his book *Taisir al-‘Allam* says that this hadith is general covering all journeys and all women, whether young women or old women.¹⁶

If you pay attention, some narrations about this mahram seem to have a time difference, in the first hadith the time limit is three days, in the second hadith the time limit is one day and one night, in another hadith the time limit is two days, there is even a hadith that prohibits absolutely without any time limit. Imam Nawawi, as quoted by Atiyatul Ulya in his writings commented on the difference in the limit on the number of days in several hadith narrations, that the problem is not in the number of days passed in traveling. But the point is that the Prophet forbade every woman's journey without a mahram, regardless of whether the journey took three days, two days, or one day.¹⁷

The hadith scholars have different opinions about *al-mar'ah* or *imra'ah* referred to in the hadith. *al-Mar'ah* or *imra'ah* is identified with women and also means the wife. However, Imam Nawawi stated that the mention of *al-Mar'ah* or *imra'ah* is *takhshish li al-'general* or covers all categories, including *syababah* (teenagers).¹⁸

¹⁵ Al-Bukhārī, I, 342.

¹⁶ Abdullah Ibn Abdurrahman Ibn Shalih Ali Bassam, *Taisir Al-‘Allam* (Riyadh: Dar al-‘Ashimah, 2005), 1, 472.

¹⁷ Atiyatul Ulya, “Konsep Mahram Jaminan Keamanan Atau Pengekangan Perempuan,” *Al-Fikir* 17, no. 1 (2013): 248.

¹⁸ Sri Handayana and Arif Budiman, “Pemahaman Proposional Tentang Mahram Sebagai Pendamping Dalam Perjalanan Perempuan,” *Al-Fatbin* 3, no. 1 (2020): 94.

¹⁴ Abu Abdillah Muhammad Ibn Ismail Al-Bukhārī, *Al-Jami` Al-Sabah* (Kairo: Al-Mathba'ah al-Salafiyah, 1989), I, 341.

The law is not for women to travel alone not because of suudzon against them, as many people think, but to protect her honor, protect her from people who have bad intentions towards her.

Islam glorifies women by seeing them as whole creatures with great dignity and infinite dimensions. Women are not judged in terms of the beauty of their bodies, their looks, the sophistication of their relationships. Much broader than that, women in Islam are also seen as human beings who, like men, have humanitarian duties, personal and social responsibilities. They have brains to think, conscience to make decisions, hands to work and create, etc. All the human potential that is given to men is also given to women. Therefore, there is no difference in their rights in education, social and others in the Koran. Even if there are differences, it is the result of the main functions and tasks assigned by religion to each sex which result in one another helping and complementing each other in life and life.¹⁹

Now a question arises among the public. What is the ruling if the woman does not get a mahram to accompany her on a prescribed journey, whether obligatory, mustahab or permissible? Whereas he is with some responsible men or trustworthy women, is his journey safe?

Fiqh scholars have discussed this theme when discussing the issue of obligatory Hajj for women, even though the Prophet forbade women to travel alone without a mahram.

- 1) Some of them hold fast to the zahir hadith, so they forbid women to travel without a mahram, even to perform Hajj, without giving any exceptions.

- 2) Others exclude women who are of old age who have no sexual desire, as quoted from al-Qādhī Abu al-Walid al-Yaji from the Māliki school of thought.
- 3) Some of them give exceptions if the woman is with other women who can be trusted, some even consider that it is enough to be accompanied by a trustworthy Muslim woman.
- 4) While others think that it is enough to have a safe journey, and this is the opinion chosen by Shaykhul Islam Ibn Taimiyah.²⁰

There are two tendencies in understanding hadith texts: textual and contextual understanding. Based on the meaning of the hadith text above, it can be understood that women are not allowed to leave the house without a mahram. Therefore, using the text of the hadith above, many scholars believe that women are not allowed to leave the house, even for Hajj if their mahram does not accompany them. While the contextual understanding interprets the rationes legis of the prohibition for women traveling alone if you look at the historical context of the hadith above is safety and appropriateness, so the current contextualization is if the safety of women traveling alone is already guaranteed and women are considered appropriate and no longer taboo when traveling alone, then it doesn't matter if a woman travels alone without a mahram.²¹

Mahram for Women in Hajj

As the author explained above, that women get special treatment in Islam, they are not allowed to travel for a day and a night

²⁰ Yūsuf al-Qaradhāwī, *Min Hady Al-Islam Fatawa Mu'ashirah* (Beirut: Al-Maktab al-Islamy, 2000), 365–66.

²¹ Firqah Annajiyah Mansyuroh, "Perempuan Bepergian Tanpa Mahram (Studi Kasus Dekrit Kerajaan Arab Saudi Nomor M/134 Tahun 2019)," *Kafa'ah Journal* 10, no. 1 (2020): 96.

¹⁹ Nurhayati B and Mal Al Fahnum, "Hak-Hak Perempuan Menurut Perspektif Al-Quran," *Marwah: Jurnal Perempuan, Agama Dan Jender* 16, no. 2 (2017): 199, <https://doi.org/10.24014/marwah.v16i2.4139>.

alone, without being accompanied by their husband or mahram, it is all for the benefit of themselves. However, the facts shows that many women perform the pilgrimage without being accompanied by their husband or mahram. Even the government of Saudi Arabia itself also permits women to carry out the pilgrimage to the holy land even without being accompanied by their mahram.²²

With such rules and phenomena, the question arises, what about women who are financially sufficient and have physical strength, but she does not have a husband or mahram who can accompany her on her journey to the holy land. Although there is permission from the Saudi Arabian government authorities, on the other hand, there is a prohibition for women to travel alone.

In the Qur'an, there is no information about the obligation of a woman to have a pilgrimage with her mahram. However, in the Hadith of the Prophet there are many explanations about the necessity of a woman who wants to perform the pilgrimage to be accompanied by her mahram.

After a search with several existing takhrij methods, through al-Kutub al-Tis'ah (the nine main books in the field of hadith) found 12 hadiths which mention the necessity of a wife to go on pilgrimage with her mahram, all of which originate from Abdullah bin Abbas through 4 narrators (Bukhārī 4 hadith, Muslim 4 hadith, Ahmad 3 hadith and Ibn Majah 1 hadith).²³

The scholars of the madahib al-Arba'ah have presented their opinions and their respective books on this issue. that is:

a. Hanafi School

The Hanafi school is of the opinion that women are not allowed to go on pilgrimage alone without being accompanied by their husband or mahram if the woman's place of residence and the city of Mecca is more than 3 miles away, for fear of slander against the woman. The Hanafi school of thought argues that the hadith of the Prophet postulate it:

ألا لا تحجن امرأة إلا ومعها محرم

*You know! A woman is not allowed to perform Hajj, unless accompanied by her mahram.*²⁴

This hadith makes the Hanafi School forbid women to perform the pilgrimage without being accompanied by their mahram or husband.

Syamsyuddin al-Sarakhsi, a Hanafi scholar of Fiqh, in his work entitled al-Mabsuth explains that the proposition of ijma' used as a reference by the Hanafi School is the argument of 'aqli, namely if a woman travels alone, she is afraid that there will be slander. Of all the arguments referred to by the Hanafi school, all of which explain the prohibition for women to make the pilgrimage. Whether it's the implementation of the fard pilgrimage (mandatory) and the implementation of the sunnah pilgrimage (the pilgrimage is carried out repeatedly).²⁵

Furthermore, Sarakhsy explained that if a woman wants to perform the pilgrimage, and there is a mahram with her, then her husband should not forbid it. However, if you perform Hajj without a mahram, then your husband has the right to forbid it. Because the woman is the responsibility of the husband. As has been determined that the obligatory condition of Hajj for women is to be with a mahram.²⁶

²² <https://Ithram.Co.Id/Berita/Quu6hi335/Saudi-Bolehkan-Wanita-Menunaikan-Ibadah-Haji-Tanpa-Mahram>, n.d.

²³ Nurun Najwah, "Fenomena 'Mahram Haji' Di Indonesia," *Jurnal Ayy-Syir'ab* 42, no. Ii (2008): 316.

²⁴ Nashir al-Islam al-Ramfury, *Al-Banayab Fi Syarh Al-Hidayah*, 2nd ed. (Beirut: Dar al-Fikr, 1990), IV, 19.

²⁵ Syamsyuddin al-Sarakhsy, *Al-Mabsuth Beirut* (Beirut: Dar al-Kutub al-Ilmiyah, 1993), III, 100.

²⁶ Syamsyuddin al-Sarakhsy, 100.

b. Mazhab Māliki

Imam Mālik explained that if a woman does not have a husband or mahram who can accompany her on a journey to the holy land, the obligation of Hajj will not fall from her, if other female pilgrims perform the pilgrimage, then the woman can join the female congregation, even though her husband and there is no mahram. Because the verse that obliges Hajj general in nature, covering all men and all able women, both those who have husbands and mahrams or those who do not.²⁷

The Māliki school of thought believes that the pilgrimage is still obligatory for women, even though there is no mahram or husband.

c. Mazhab Syafi'i

The Shafi'i school allows women to perform Hajj accompanied by several trusted women, because traveling alone is forbidden by the Shari'ah. They postulated with the hadith narrated by Bukhārī and Muslim:

لا تسافر المرأة يومين إلا ومعها زوجها أو ذو محرم

"A woman should not go on a journey that takes two days unless her husband or her mahram accompanies her."²⁸

Imam Shafi'i himself in his work *al-Umm* explained that Hajj is still obligatory for a woman, even though she is not accompanied by her husband and mahram.²⁹

The Shafi'i school believes that women must perform the pilgrimage, even if there is no husband or mahram. This opinion was raised by the Shari'i School because according to them the function of a mahram or husband for women in traveling is to maintain the

²⁷ Abu al-Walid Sulaiman Ibn Khalaf Ibn Sa'ad Ibn Ayyub al-Baji, *Al-Muntaqa Syarah Muwatbtha' Malik Jil. IV, 160-161*. (Beirut: Dar al-Kutub al-Ilmiyah, 1999), IV, 160-61.

²⁸ Syamsuddin Muhammad Ibn al-Khathib al-Syarbini, *Mughni Al-Mubtaji Ila Ma'rifati Ma'ani Al-Faz' Al-Minhaj* (Beirut: Dar al-Ma'rifah, 1997), I, 682.

²⁹ Muhammad bin Idris al-Syafi'i, *Al-Umm* (Manshurah: Dar al-Wafa', 2001), III, 291.

woman's safety. So, if the husband or mahram is not present, but his function is still realized by the presence of another person who is believed to be able to maintain the woman's security, then he is allowed to travel to perform the pilgrimage.

d. Mazhab Hanbali

Ibn Qudamah, one of the scholars of the Hanbali School explained in his work *al-Mughni* that the pilgrimage is not obligatory for women who do not have a mahram. Ibn Qudamah quoted Abu Daud's expression when he asked Ahmad bin Hanbal about a woman who has wealth but does not have a mahram, whether she is obliged to perform Hajj or not. Ahmad bin Hanbal replied "No."³⁰

Imam Ahmad bin Hanbal is of the opinion that a woman who does not have a mahram to accompany her to perform the pilgrimage, then she should not perform the pilgrimage alone, whether she is young or old, this prohibition is general. The evidence used by Imam Ahmad is the hadith narrated by Imam Bukhārī from Ibn Abbas:³¹

قال النبي صلى الله عليه وسلم: لا تسافر المرأة إلا مع ذي محرم ولا يدخل عليها رجل إلا ومعها محرم. فقال رجل: يا رسول الله إني أريد أن أخرج في جيش كذا وكذا و امرأتي تريد الحج. فقال: أخرج معها. (رواه البخاري)

"Prophet Saw. He said: A woman should not travel unless accompanied by her mahram. It is also not permissible for a man to visit a woman unless she is accompanied by her mahram. A man then asked: 'O Messenger of Allah, I want to participate in jihad in this war and that war, while my wife wants to perform the pilgrimage?' The Messenger of Allah said to her: 'Accompany her to perform the pilgrimage.'

³⁰ Muwaffaquddin Abu Muhammad Abdullah Ibn Ahmad Ibn Muhammad Ibn Qudamah, *Al-Mughni*, 3rd ed. (Riyadh: Dar 'Alam al-Kutub, 1997), V, 30.

³¹ Manshur Ibn Yunus Ibn Idris al-Bahuty, *Syarh Muntaha Al-iradat* (Damaskus: Muassasah al-Risalah, 2000), II, 432.

After looking at the opinions of the classical scholars of the four popular schools of thought above, it can be concluded that the Hanafi and Hanbali schools are very strict in this matter, so these two schools decided that women who do not have a mahram should not go alone to the holy land. While the Māliki and Shafi'i schools are more tolerant in this matter, they are of the opinion that it is permissible for women to go on their own pilgrimage without being accompanied by their mahram if the journey is safe.

In addition to the classical scholars above, contemporary scholars also discuss the issue of hajj for women who are not accompanied by a mahram, including:

a. Muhammad bin Shalih al-'Utsaimin

Shaykh Muhammad bin Salih al-'Utsaimin, a contemporary scholar who is based on the Hanbali school of fiqh,³² in his fatwa said that a woman who goes to perform the pilgrimage alone without being accompanied by her husband or mahram, her pilgrimage is still valid, but her journey without a mahram is a journey that is forbidden and a sin to the Messenger of Allāh, because it has violated the hadith of the Prophet which reads:

لا تسافر امرأة إلا مع ذي محرم

"A woman should not travel unless accompanied by her mahram."

Even if her mahram takes her to the airport, this will still be a problem, because the flight may be delayed, so the woman will automatically sit alone in the waiting room. Even if there is also a mahram waiting at the airport the woman is going to (Jeddah), it could be that the plane is transiting elsewhere, or the mahram forgot to pick her up at the

airport, for various reasons, this will endanger the woman.

Even though the process of dropping off and picking up the woman by her mahram is according to the plan, it could be that the man sitting next to her is not afraid of Allāh, so this will cause slander against the woman. Therefore, it is obligatory for a woman to take care of herself by not traveling alone, and it is also obligatory for her mahram to protect her female family, because a man is responsible for his family, according to the word of Allāh:

يأيها الذين آمنوا قوا أنفسكم وأهليكم نارا

"O you who believe, protect yourselves and your families from the fire of hell."

So one way to keep your family from hellfire is to not let them travel alone.³³

Muhammad bin Salih al-'Utsaimin, who once served as the Chair of the Saudi Arabian Ulama Kibar Hi'ah, understands the hadith that the Prophet forbade women to travel without being accompanied by their mahram textually. Whatever the circumstances, a woman should not travel alone. Even though there are other trusted people on the trip who can keep the woman safe.

b. Yūsuf al-Qaradhāwī

Yūsuf al-Qaradhāwī commented that the purpose of not allowing a woman to walk alone without a mahram is to protect and guard the woman, and this goal is achieved with a safe path and the presence of several trusted women or several trusted men.

If that goal has been achieved. Then the woman's journey to the holy land without the company of her husband and mahram is allowed.

³² Herianto, "Penggunaan Obat Pengatur Siklus Haid Ketika Masa Idah Menurut Syaikh Utsaimin," *Wasathiyah; Jurnal Studi Keislaman* 1, no. 2 (2020): 45.

³³ et al Ibn Taimiyah, *Fatama Ulama Al-Balad Al-Haram* (Kairo: Maktabah al-Shofa, 2006), 261–62.

The arguments for allowing women to travel alone without being accompanied by a mahram, if conditions are safe or with trusted people are:

1. The hadith narrated by Imam Bukhārī in his Sahih that Umar allowed the wives of the Prophet to perform their last pilgrimage, then Umar sent Uthman Ibn Affan and Abdurrahman Ibn Auf to accompany them. So Umar, Uthman, Abdurrahman and the wives of the Prophet agreed to do it without any of the companions denying it. Thus, it is considered as ijma'.
2. The history of Imam Bukhārī and Imam Muslim from the hadith of Adi Ibn Hatim, that the Prophet told him about the future of Muslims and their development, the towering of the minarets of Islam on earth, among which he said were:

يوشك أن تخرج الطعينة من الحيرة (بالعيراق)

تؤم البيت لا زوج معها لا تخاف إلا الله...

"In the future there will be a woman from the city of Hira (Iraq) who goes to visit the Baitullah without her husband, with no fear except for Allah"

The news does not merely indicate that this event will occur, but even more than that, namely showing that women go to Hajj without being accompanied by their husbands if their conditions are safe. Because this hadith he recited in order to praise the development of Islam and its security.

Yūsuf al-Qaradhāwī explained two important rules regarding this issue: First, in principle, muamalah laws look at the meaning and purpose. It is different from the laws of worship, which in principle are to serve and carry out orders, regardless of their meaning and purpose, according to the reasons and arguments put forward by Imam Syathibi.

Second: something forbidden because of its essence is not allowed except because of an emergency, while something forbidden because of blocking the road (sad al-dzari'ah) is allowed because of necessity. In this case, there is no doubt that the journey carried out by women without a mahram is forbidden because it is to stem the cause that will occur (to prevent it from being haram because of its essence).

It should be noted that traveling today is not the same as traveling in the past, which was full of dangers because it had to pass through the desert, be intercepted by robbers, and so on. Even traveling now uses means of transportation that usually carry a lot of people, such as ships, airplanes, and buses. This creates a sense of trust and eliminates worry for the woman, because she is not alone in one place. That's why it's okay for a woman to go on a pilgrimage in this calm and safe atmosphere.³⁴

Yūsuf al-Qaradhāwī who was once the Chair of al-Ittihad al-'Alamy li Ulama al-Muslimin (International Muslim Ulama Association) saw the hadith about the Prophet's prohibition for women to travel alone without being accompanied by a husband or mahram contextually. The point that Yūsuf al-Qaradhāwī sees is the main purpose of the hadith, not the text of the hadith.

Yūsuf al-Qaradhāwī fully understands the concept of maqashid al-syari'ah. If we examine all the laws established by the Shari'ah (Allāh SWT and His Messenger) they have a more important purpose and purpose known as maqashid al-shari'ah.³⁵ Because of his

³⁴ Yūsuf al-Qaradhāwī, *Min Hady Al-Islam Fatawa Mu'asbirah*, 367.

³⁵ Allal al-Fasi mendefinisikan maqâshid al-syari'ah dengan: "Tujuan dari syari'at dan rahasia-rahasia syari'at yang ditetapkan oleh Syari' (Allah) dalam setiap hukum-hukumnya." Allal al-Fasi, *Maqashid Al-Syari'ah Al-Islamiyyah Wa Makarimuba*, 5th ed. (Beirut: Dar al-Gharb al-Islami, 1993), 7.

understanding of the concept of *maqashid al-syari'ah*, he did not see the hadith textually, but saw why the Messenger of Allāh. prohibits women from traveling alone without being accompanied by their husband and mahram.

Yūsuf al-Qaradhāwī enforced *Maqasid al-Sharia* by consistently maintaining the 'illat (causa) of the law, in accordance with the rules of *al-hukm yaduru ma'a al-'illah* embodiment of *wa' adaman*, whether or not the law is in accordance with 'illat.³⁶

Study by Yūsuf al-Qaradhāwī shows that the purpose of the Prophet forbade women to travel alone without being accompanied by a husband or mahram was for the woman's safety. Therefore, when a woman travels to the holy land to perform the pilgrimage without being accompanied by a mahram, but trusted people maintain her security, then her pilgrimage is allowed.

CONCLUSION

After researching the opinions of classical and contemporary scholars regarding the mahram for women in the implementation of the pilgrimage, the writer can conclude several things: *first*, The problem of women's journeys to carry out the pilgrimage to the Holy Land without being accompanied by a mahram or husband is the realm of *ikhtilaf* (difference of opinion), both among classical scholars and contemporary scholars. *Second*, Viewed from the perspective of classical scholars, the Hanafi School and the Hanbali School believe that it is not permissible for a woman to travel to perform the Hajj without being accompanied by her husband or mahram. Meanwhile, the Māliki School and the Hanbali School believe that it is permissible for a woman to travel to perform the pilgrimage without being accompanied by her husband and mahram. In condition that

there are trusted people with her, so that her safety during the trip can be maintained. *Third*, Viewed from the perspective of contemporary scholars, Muhammad bin Salih al-'Utsaimin argues that it is not permissible for a woman to travel to perform the pilgrimage without being accompanied by her husband or mahram. Meanwhile, Yūsuf al-Qaradhāwī is of the opinion that it is permissible for a woman to travel to perform the pilgrimage without being accompanied by her husband and mahram, provided that there are trusted people with her, so that her safety during the trip can be maintained.

These are the different opinion from differences understanding of the scholars regarding the hadith of the Prophet which forbids women to travel alone without being accompanied by their husband or mahram.

³⁶ Jamal Ma'mur, "Moderatisme Fikih Perempuan Yusuf Al-Qardhawi," *Munawarab* 8, no. 1 (2016): 11.

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