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 obligatiopn 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

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, 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.

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:

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

وأتموا الحج والعمرة لله

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

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:

وأتموا الحج والعمرة لله

"Performing the pilgrimage to the Temple is a human obligation to Allāh, 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 Jinziyyah. 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:

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 إنني أريد أن أخرج في جيش كما وذكر وليس لي زوجات. 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."

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1 Ali Jum'ah, Al-Hajj Wa Al-Umrah; Asrar Wa Ahkam (Kairo: Markaz al-Dirasat al-Manhajiyah wa al-Ma’rifiyah, 2008), 78.
3 Amir Syarifuddin, Garis-Garis Besar Fiqh (Jakarta: Kencana, 2003), 59.
4 Wahbah Al-Zuhaily, Al-Wajiz Fi Ushul Fiqh (Damaskus: Dar al-Fikr, 1999), 194.
5 Sulaiman Rasjid, Fiqh Islam (Bandung: Sinar Baru Algensindo, 2005), 250.
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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.' (HR. Bukhari).

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 Malik 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 Shahih Ibn Utsaimin with other scholars and Mausu'ah al-Fiqh al-Islamy 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
1. Definition of Mahram

Mahram in Arabic comes from the word al-burj 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

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


the word mahram as a person who has a family relationship, who is not allowed to marry.\(^{10}\)

\textit{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:

\textbf{a. Mahram by Nasab}

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

\begin{quote}
وقل للمؤمنات يغضضن من أبصارهن ويحفظن فروجهن ولا يبدبن زينتهن إلا ما ظهر منها ولا يبدبن زينتهن إلا لبعولتهن أو أمهاتكم التي أرضعنكم واخواتكم من الرضاعة…
\end{quote}

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

1. Father
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.\(^{13}\)

\textbf{b. Mahram Due to Breastfeeding}

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

\begin{quote}
... And the mothers who nursed you, and the sisters who breastfed…
\end{quote}

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
4. Breastfeeding siblings, both male and female breast milk
5. Dairy uncle (brother of father or milk mother)

\textbf{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-Nur verse 31 and Surah al-Nisā’ verse 22.
"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..."

And do not marry the women your father married...

... 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
3. Stepson
4. Son-in-law
5. Stepson-in-law

2. 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:

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

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

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.

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).

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15 Al-Bukhārī, I, 342.
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 Mālikī 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

3. 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


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 takhrīj 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:

لا لا تحتجن امرأة إلا ومعها حمر

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


http://ejournal.iainbukittinggi.ac.id/index.php/alhurriyah/index
b. Mazhab Mālik

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, 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 Mālikî 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`ah School because according to them the function of a mahram or husband for women in traveling is to maintain the 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 وأمرأتي 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."

29 Muhammad bin Idris al-Sya`fi`i, Al-Umm (Manshurah: Dar al-Wafa`, 2001), III, 291.
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 Mālikī 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 Salih al-`Utsaimin

Shaykh Muhammad bin Salih al-`Utsaimin, a contemporary scholar who is based on the Hanbali school of fiqh, 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 محروم

"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.

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.


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, Abdurrahann 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:

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

   يوشك أن تخرج الظهينة من الحيرة (بالعيراق) يتيم البيت لا زوج معها لا تخاف إلا الله...

   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 who was once the Chair of al-Ittihad al-'Alamy li Ulamai al-Muslimin (International Muslim Ulema 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. Because of his

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 stemmed 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 Ulamai al-Muslimin (International Muslim Ulema 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.

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34 Yūsuf al-Qaradhāwī, Min Hady Al-Islam Fatawa Mu`ashirah, 367.

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 ikhtilah
(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 Mālikī 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, 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.

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36 Jamal Ma'mur, “Moderatisme Fikih
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