



Article

**SHIFTING THE MEANING OF MAHRAM FOR WOMEN IN
THE IMPLEMENTATION OF HAJJ AND UMRAH**

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Abstract

Hajj and Umrah are a series of mahdah worship that has been regulated in Islamic law. Among the rules in the implementation of Hajj and Umrah there are pillars and conditions. Of the several conditions for Hajj, some scholars add the existence of a mahram for women. This means that if a woman does not have a mahram, then the obligation to perform Hajj is lost. A new phenomenon that has occurred in Saudi Arabia since 2021 allows women to perform the Hajj without a mahram. Such practices have been widely practiced in Muslim-majority countries, including Indonesia. This study discusses the opinions of fiqh scholars regarding the implementation of Hajj and Umrah for women without a mahram. The reasons for the difference of opinion and arguments. The purpose of this study is to find out and explain the opinions of fiqh scholars regarding the implementation of Hajj and Umrah for women without a mahram, and to describe the causes of differences of opinion and their respective arguments. This research is a library research (library research). The data sources used are secondary data sources, which consist of fiqh books and journals related to the problems studied. As for Technique data collection used is a literature study. After the data is collected, it is then processed and drawn conclusions so that new findings emerge. Based on the results of the study found four opinions of fiqh scholars. The Maliki school of law states that it is obligatory for women who perform Hajj and Umrah to be accompanied by a mahram. The Hanafi school allows women to perform Hajj and Umrah without a mahram provided that the distance is less than 3 days. The Shafi'i school allows women not to be accompanied by a mahram on condition that conditions are safe. The Hambali school of thought states that it is forbidden for women to perform Hajj and Umrah if there is no mahram, even though it is a condition for istitha'ah for women. The reason for the difference of opinion among scholars in this matter is due to different understandings in compromising various hadiths with the word of Allah SWT in Surah Ali Imran verse 97. From some of the opinions of these fiqh scholars, it can be understood that the implementation of Hajj and Umrah for women without a mahram is permissible. This is based on the opinion of Imam al-Shafi'i and contextual understanding of hadith, and is supported by the rules of ushul fiqh

Keywords: *hajj, mahram, women, umrah*

Introduction

As one of the pillars of the Pillars of Islam, namely the fifth Pillar of Islam, the pilgrimage is a series of obligatory worship for those who are able to carry it out. In contrast to Hajj, the law of Umrah is circumcision and has different pillars and conditions with Hajj. Carrying out the Hajj and Umrah pilgrimages is a dream for every Muslim, especially the pilgrimage as a consummation of the pillars of Islam. For men who will perform the Hajj and Umrah pilgrimages it is not a problem to travel alone, it is different for women who will perform the Hajj pilgrimage must be accompanied by a mahram. This problem arises based on the hadith of the Prophet SAW:

يَدْخُلُ عَلَيْهَا رَجُلٌ إِلَّا وَمَعَهَا مَحْرَمٌ» . فَقَالَ رَجُلٌ يَا رَسُولَ اللَّهِ إِنِّي أُرِيدُ أَنْ أُخْرَجَ
فِي جَيْشٍ كَذَا وَكَذَا ، وَأَمْرَأَتِي تُرِيدُ الْحَجَّ . فَقَالَ « اخْرُجْ مَعَهَا »

Meaning: "It is not permissible for a woman to travel except with her mahram. It is not permissible to have khalwat (alone) with a woman except with her mahram." Then there was someone who said, "O Messenger of Allah, I want to get out of this war and that. But my wife wants to make hajj." He said, "It is better for you to make pilgrimage with your wife." (Narrated by Bukhari, from Ibn 'Abbas r.a)

Based on the hadith above, it can be understood that women are not allowed to leave the house without a mahram. Therefore, based on the text of the hadith above, many scholars are of the opinion that women cannot leave the house without a mahram, including carrying out the Hajj and Umrah pilgrimages. Abu Hanifah instead made a mahram a condition for women who would perform the pilgrimage. This means that for women who do not have a mahram, it is not obligatory for them to perform the pilgrimage. Unlike Imam al-Shafi'i, he did not make a mahram a condition in carrying out the pilgrimage, but only required security for women who would carry out the pilgrimage. Mahram status can be replaced with a trusted woman or entourage.

The phenomenon that is happening now is that the abundance of prospective pilgrims is evidenced by the very long queues. In anticipation of this, some took the initiative to carry out Umrah first. The problem that arises is that women carry out Hajj and Umrah without being accompanied by their mahram for various reasons. Among them husbands died, due to economic factors that caused women to go to perform the pilgrimage and Umrah without being accompanied by a mahram. It means

Hajj and Umrah pilgrimages for women can still be carried out even without a mahram.

Research on women who perform the Hajj and Umrah without a mahram has been carried out by previous researchers. An article entitled "Inclusion of Mahram in the implementation of Hajj and Umrah". This article discusses the policy of paying mahram money for women who do not have a mahram as a substitute for a mahram. However, the practice of having a mahram in Hajj and Umrah is not a mahram for lineage or a mahram for marriage. In addition, this policy applies to women under the age of 40, while women over the age of 40 also need it.

In this paper, the author will discuss what is the meaning of mahram in the opinion of the scholars? Is it still obligatory for women who perform Hajj and Umrah to have a mahram with the current management conditions for Hajj and Umrah? The discussion begins by examining the opinions of the fiqh scholars regarding the law of women performing Hajj and Umrah without a mahram, the reasons for differences of opinion, as well as the arguments used by each in understanding and establishing the law, then it is analyzed.

Research Methods

This research is a type of library research, namely a study that examines various reference books as well as the results of previous studies that are useful for obtaining a theoretical basis for the problem under study. The data sources used are secondary data sources, which consist of fiqh books "Fiqh of the Four Schools" Fiqh Islam Waadilatuhu, Fathul Mu'in, Fiqh Sunnah, Outlines of Fiqh" and journals related to the problem under study. The data collection technique used is literature study by reading books and articles. After the data is collected, it is then processed using steps, selecting and simplifying the raw data in written records. After that, display the reduced data to provide an understanding of the data. After being reduced and displayed, conclusions are drawn from the data. From these conclusions presented new findings from research.

Discussion

1. Overview of Hajj and Umrah
 - a. Meaning of Hajj and Umrah

Hajj is one of the main pillars of Islam, namely the fifth pillar of Islam. Hajj literally means "deliberately". While terminologically it means visiting the Kaaba by carrying out a series of worship at the Grand Mosque and its surroundings, either in the form of hajj or umrah. . In another editorial, it is stated that, linguistically, Hajj means "toward", or "towards many people who are glorified". . Hajj in Arabic means to go to. Al-khali said: hajj means "to go to the exalted one". According to the Shari'a, it means going to the Kaaba to carry out certain deeds, or Hajj is a pilgrimage to a certain place at a certain time to carry out certain deeds. As for umrah in language means pilgrimage, another opinion states that umrah means going to an inhabited place. Meanwhile, according to the term umrah is going to the Kaaba to perform worship, namely tawaf and sa'i.

b. Pillars of Hajj and Umra

- Pillars of Hajj

First, ihram for pilgrimage with the intention of entering the pilgrimage, based on the hadith which means "Charities depend on intentions". Second, standing at Arafah, meaning being present in any corner of the land of Arafah, even for a moment, while sleeping, or passing by. The time for standing at Arafah is between the sun's fall on the day of Arafah, which is the 9th of Zulhijah until dawn on the day of Nahr. Third, tawaf ifadhah. Tawaf is the most important pillar of Hajj, even though compared to standing, it starts on the night of Nahr. Fourth, sa'i, which is jogging between the rows of rows to marwah seven times confidently. The sa'i is carried out after the Qudum tawaf as long as it has not remained at Arafah, or after the Ifadhah tawaf. If the rotation is less than seven times, the sa'i is not valid. If someone is unsure about the number of rounds before completing the tawaf, then he must stick to the small number, because that is what is believed. For those who do sa'i after tawaf qudum, then it is not sunnah to repeat it after tawaf ifadah, in fact the law is makruh. People who do sa'i must start from Safa and end it in Marwah to emulate the deeds of the Prophet SAW. If it starts from marwah, then the journey to Shafa is not counted, and then the return from Safa to Marwah is counted once and from Marwah to Safa is counted one more time. Fifth, tahalul, cutting hair.

c. Hajj and Umrah Requirements

- General terms and conditions

First, being Muslim, Hajj is not obligatory for an infidel, so he is not required to perform it while he is still an infidel, and it is invalid if he does it. Second, Taklif, puberty and intelligence, Hajj and Umrah are not obligatory for young children and the insane because both of them are not required to comply with the Shari'a laws. Third, independence, Hajj is not obligatory for slaves, because Hajj is a worship that lasts a long time, requiring long journeys. This can result in the neglect of the employer's rights related to the servant, therefore Hajj is not obligatory for him. Fourth, able, ability (physical, financial, and safety on the way). This means being able to perform the pilgrimage because it is able to provide supplies to go and go home. Besides that, it can also provide a living and needs for people who are obliged to provide a living.

- Special requirements for women

There are two special requirements for women, namely:

First, a woman must be accompanied by her husband or mahram. If neither of these is present, Hajj is not obligatory for her, based on the hadith of the Prophet PBUH:

Meaning: A woman may not travel a distance of three days unless accompanied by a mahram.

Second, the woman is not undergoing the iddah divorce period or the iddah death, because Allah forbids women who are undergoing the iddah period from leaving the house. Another reason, because Hajj can be carried out at another time, while iddah must be carried out at a special time, as in His words:

لَا تُخْرَجُوهُنَّ مِنْ بُيُوتِهِنَّ وَلَا يَخْرُجْنَ

2. Definition of Mahram

In language there are two terms: namely mahram and muhrim. The word mahram is etymologically derived from the word *ḥaram* which is in the form of masdar *ḥaraman*. The word mahram means "unlawful, unlawful to marry, forbidden". In terms of fiqh, the meaning of the word mahram is someone who is forbidden to marry, both permanent (mu'abbad) and temporary (muaqqat) mahrams. Mahram which is forever (mu'abbad) causes a man to be forbidden to marry a woman forever. Whereas mahram muaqqat only forbids a man from marrying a woman within a certain period of time. If within a certain time there is a change in the relationship between the two men and women so that they are no longer mahrams, then their marriage is lawful to carry out. Meanwhile, the word muhrim is a form of the word *ism al-fa'il* from *fi'l madhi* *ḥaram*. The meaning of the word muhrim means "a person who is doing ihram for Hajj or Umrah by wearing ihram clothes". The muhrim is not allowed to do some things that are forbidden (haram), such as wearing perfume, wearing sewn clothes, hunting, destroying plants and other things that are prohibited for people who are in ihram, until he is tahallul.

In some fiqh literature, the following types of mahrams are found:

a. Mahram mu'abad

Mahram mu'abad is forbidden to marry someone who is forever. A man may not marry a woman forever because of their existence, kinship relationship, marriage relationship, breastfeeding relationship.

1). Prohibition because of kinship relationship

- Mother, what is meant is the relationship between mother and child is what causes mahram ties that fall into this category, namely mother and grandmother (mother of mother or mother of father), with all levels, both from the father's and mother's side.
- Girls born to the wife or son of the male. Included in this group are biological children and stepchildren, grandchildren, great-grandchildren with their rank.
- Sisters born from the same parents, either descended from the father or mother's side or from one of the two.
- 'Ammah is the paternal aunt, who is the father's sibling or father's sister from the offspring of one of the father's parents. besides that, what also includes 'ammah is the mother's sister, namely the mother's father's sister (grandmother's cousin).
- Khalah is an aunt from the mother's side or mother's sister, both a sibling and a half-sister, besides that it can also be addressed to the father's sister (grandmother's cousin).

لَا تُسَافِرُ الْمَرْأَةُ ثَلَاثًا إِلَّا وَمَعَهَا ذُو مَحْرَمٍ

category are as follows: Nephews, including brothers' daughters, both biological and stepchildren. Likewise with nephews of sisters who have the status of biological children and stepchildren.

2). Prohibition because of the marriage relationship

- Mother-in-law includes the wife's mother and grandmother (both paternal and maternal grandmothers and all levels thereof). In this case it is not required that there be a husband and wife relationship between the couple, the implementation of the contract has legalized the mahram relationship.
- Stepdaughter, is the daughter of a wife who has had intercourse with her. In addition, stepson are included in the granddaughter (both from sons and daughters)
- Daughter-in-law is the wife of the child and the wife of the grandson, both sons and daughters and equal levels.
- Stepmother, is not allowed to marry the stepmother even though there has not been a husband and wife relationship. Because this is reprehensible to Allah and is included in the habits of the ignorant people.

3). Prohibition because of breastfeeding relationship

Breastfeeding marriages are forbidden as are marriages related to blood relations. Breastfeeding mothers have the same position as birth mothers. It is forbidden for a suckling child to marry his nursing mother and her offspring, just as it is forbidden for her to marry her biological mother and her siblings. Among those who are forbidden to marry because of breastfeeding are:

- Breastfeeding mothers (a woman who breastfeeds because she has a position similar to that of a biological mother).
- Mother of nursing mothers (grandmother for those who are breastfed)
- Mother of a nursing husband's mother (breastfeeding mother-in-law)
- Breastfeeding sister (aunt)
- Children of suckling mothers, either from the male or female side (they are like siblings)
- Sister of the husband of the wet nurse (aunt of the father of the wet nurse)
- Breastfeeding mother's sister from the father's or nursing mother's side or just one of them.

b. Mahram Mu'aqat

Mahram mu'aqat are women who are forbidden to marry for certain reasons, if the cause is lost, then the prohibition also disappears. The women who fall into this

Brother/brother-in-law, meaning that you cannot marry a woman and also marry a younger brother or sister.

- Wife's aunt, may not marry a woman while marrying her aunt or her nephew.
- The fifth woman, meaning that a man cannot marry the fifth woman, because he has married four women
- Mushrik women, women who do not have heavenly books
- Married women, a man may not marry a married woman who is still in a marriage bond.

3. Legal Basis for Safar Women

The legal basis for traveling women, apart from what has been stated above, is found in several hadiths of the Prophet SAW, including:

- From Ibn Umar r.a from the Prophet SAW said:

Meaning: Let not a woman travel for three days (journey) except with her mahram.

- From Abu Hurairah r.a said: The Prophet SAW said:

لَا يَجُزُّ لِمَرْأَةٍ تُؤْمِنُ بِاللَّهِ وَالْيَوْمِ

Meaning: It is not lawful (permissible) for a woman who believes in Allah and the final day of traveling as long as a day and a night (travel) without a mahram (accompanied) ".

- From Abu Sa'id Al Khudri r.a, the Prophet SAW said:

بِرَّةَ يَوْمَيْنِ لَيْسَ مَعَهَا زَوْجُهَا

Meaning: A woman cannot travel for 2 days without her husband accompanying her.

From Abu Hurairah r.a, the Prophet SAW said: It is not lawful for a Muslim woman to travel as far as one day and one night, except with a man who is her mahram."

- From Abdullah bin Umar r.a, the Prophet SAW said: God bless you A woman is not allowed to travel for three days except with her mahram.

Some of the hadiths above explain that a person must be accompanied by his mahram when traveling. The most rational reason is so that his mahram can look after him and provide security during the trip. Then about who is a female mahram, actually in several fiqh books it is not explained concretely about a female mahram. The explanation

whose contents are presented are male mahrams as explained in the Al-Quran in Surah An-Nisa verse 23. Therefore, a mahram for women is the opposite of a mahram for men, namely everyone who is forbidden to marry her with a permanent ban, either because of kinship, procreation or because of marriage.

4. Opinion of Fuqaha regarding Mahram for Women in the Implementation of Hajj and Umrah

In principle, women and men are both required to perform Hajj, as found in Surah Ali Imran verse 97 and the hadith narrated by Ibn Majah where Hajj is a means of jihad for women. The existence of a mahram for women on a trip needs to be determined which trips must be accompanied by a mahram. According to Imam Ahmad the existence of the mahram is to look after and protect women. Likewise, according to Imam Syafi'i and Imam Malik, it is determined that there should be a female companion on the trip even though the accompanying women themselves. However, in another statement, Imam Syafi'i said that the obligation of a mahram is determined by circumstances and conditions. This means that if the situation is worrying, then the woman must be accompanied by her mahram, and if the situation is safe, then the mahram is not a condition for traveling.

In addition, in the Shafi'i school it is found that women are required to perform Hajj with a group of women who are thiqah, but not if there is only one woman accompanying them. Meanwhile, the Maliki school of thought obliges women to perform Hajj with a trusted entourage, which consists of all women, all men, or a mixture of men and women. The argument used by the Shafi'i and Maliki schools is the generality contained in the verse, "...and one of the obligations of man towards Allah is to perform the pilgrimage to the Baitullah, that is for people who are able to travel there..." So as long as a woman is sure will be safe from harm to him, then he must perform Hajj.

In more detail, the opinions of the scholars of the four schools of thought regarding women performing Hajj and Umrah without a mahram are explained as follows:

- According to the scholars of the Maliki school of thought, the jury of scholars from the Maliki school of thought stated that a woman absolutely must be accompanied by her mahram when she wants to perform the pilgrimage. What is meant by a mahram is a husband, closest relative who is indeed a mahram, or a woman who can be trusted to accompany him on the pilgrimage. If a woman is unable to fulfill these requirements (there is no mahram who can accompany her), then the woman is not obliged to perform the pilgrimage. This means that the obligation to perform Hajj is canceled because based on the hadith of the Prophet, it is forbidden for a woman to travel without her mahram. According to scholars from the Hanafi school of thought, it is permissible for a woman to carry out the pilgrimage alone. However, there are still conditions that must be met when implementing it. Women who are allowed to perform Hajj without a mahram are those whose house to Mecca can be reached in less than 3 days on foot. If these conditions are met, it is obligatory for the woman to perform the pilgrimage. On the other hand, if the distance between her house and Mecca is more than 3 days, her Hajj obligation will automatically be cancelled, unless there is a mahram willing to accompany the woman on her pilgrimage.
- According to the scholars of the Shafi'i School, that if this pilgrimage is a worship that must be performed by all Muslims, then Muslim women are still obliged to perform Hajj even though there is no mahram. The scholars of this school require that conditions at that time be safe. If conditions are not safe, it is obligatory for the woman to go with her mahram or not to go on pilgrimage if there is no mahram.
- According to Hanbali scholars, a woman is prohibited from performing the pilgrimage without being accompanied by her mahram. According to them, the existence of a mahram for women is a form of *istitha'ah* or the ability of a woman to perform the

pilgrimage. Thus if there is no mahram, then the woman is not obliged to perform the pilgrimage. As emphasized by Imam Ahmad bin Hanbal, if a woman does not have a mahram to accompany her, then it is not obligatory for her to perform the pilgrimage.

5. Reasons for Differences of Opinion and Arguments

- The reason for the disagreement among scholars in this matter is due to different understandings in compromising various hadiths (which prohibit traveling without a mahram) with the words of Allah SAW:
- Zahir means istitha'ah is capable of the body (physically). So if you are physically able, then it is obligatory for Hajj. Whoever does not have a mahram, but already has the physical ability, then he is still obliged to perform Hajj. When there is a conflict between textual verses and hadith, differences of opinion arise among the scholars. Imam Abu Hanifah and the scholars who agree with him make the hadith (regarding the prohibition of traveling women without a mahram) as an explanation of the proposition that explains istitha'ah for

woman. Imam Malik and other scholars who agree with him argue that the istitha'ah (ability) that is meant is enough for the woman to get a sense of security from other men or women. Whereas the hadith (which prohibits a woman from traveling without a mahram) is not contradictory if indeed her traveling is to perform the pilgrimage. The point is from Al Qurtubi's explanation, there is a difference in understanding the following two propositions, namely:

The first proposition is about istitha'ah (ability to perform Hajj).

Performing Hajj is a human obligation to Allah, that is (for) people who are able to travel to Baitullah

The second argument is about the prohibition of traveling without a mahram.

لَا تُسَافِرُ الْمَرْأَةُ ثَلَاثًا إِلَّا وَمَعَهَا ذُو مَحْرَمٍ

Meaning: It is not permissible for a woman to travel for three (days) but must be with her mahram." (HR. Muslim no. 1338)

So there are scholars who argue that women still go on pilgrimage even though they only get a sense of security accompanied by pious men or women who are tsiqoh (trusted). Because the scholars who think so consider that the pilgrimage is still performed, if indeed the pilgrimage is obligatory. Meanwhile, the prohibition to travel without a mahram is considered as saddu dzari'ah, namely a prohibition that is not directed at the substance but is forbidden because it can lead to something forbidden. This opinion is also strengthened by the rule of fiqh "Something that is forbidden because saddu dzari'ah is permissible if in a state of need." They consider that the condition of Hajj which is obligatory from a financial and physical perspective is still said to be obligatory even though in the end they leave without a mahram and are accompanied by a man or woman who is tahtiqah.

Whereas scholars who consider it necessary to stay with a mahram, such as the opinion of Hanafiyah scholars and Hanbali scholars, state that a mahram is a condition for istitha'ah because they state that verses that talk about istitha'ah (ability) in pilgrimage are explained by the hadith prohibiting traveling without a mahram. Jumhur scholars refer to the provisions of women traveling without a mahram in hadiths, including the following:

Meaning: From Ibn Umar that the Prophet SAW said, 'Let not a woman travel for three days except with her mahram,'" (HR Bukhari and Muslim).

The sentences in the hadith history above explicitly state the prohibition of traveling for women so that some scholars say that traveling is for any purpose, including obligatory purposes such as pilgrimage.

But besides the hadiths regarding the prohibition of traveling for women as above, it turns out that there are also hadiths which state the permissibility of traveling for women. In a history in Sahih Muslim, it is stated that Umar bin Khatthab RA's friend allowed the Prophet Muhammad's wife to go on a pilgrimage and Umrah trip, which turned out to be without their mahram, but accompanied by friends Uthman bin Affan and Abdurrahman bin Auf. Of course the Hajj and Umrah trips of the Prophet's wives from Medina to Mecca, which is no less than 400 km away.

God bless you, God bless you

Meaning: Umar allowed the wives of the Prophet SAW to go on pilgrimage on the last pilgrimage and sent Uthman bin Affan and Abdurrahman bin Auf. (Muslim HR).

Some Islamic scholars stated that it was safety and the absence of slander that was used as a travel ban, not because there was no mahram. There is also an opinion that a mahram can be replaced by a woman who can be trusted. It's just that it is only permissible in traveling that is considered mandatory, such as hajj.

In principle, men and women are both required to perform the pilgrimage, as well as in the Umrah pilgrimage, women have the same opportunity to perform the pilgrimage. However, the generality of Ali Imran verse 97 has been confirmed by the traditions of the Prophet regarding the prohibition of women traveling without a mahram. So several opinions emerged among the fiqh scholars in understanding the hadith and instituting laws regarding the matter in question.

From some of the fuqaha's explanations above, it can be understood that, the existence of a mahram for women who carry out the Hajj and Umrah pilgrimages needs to be determined which trips must be accompanied by a mahram. Imam Ahmad stated that the existence of a mahram is to look after and protect women. Likewise, Imam Al-Shafi'i and Imam Malik also stipulated that there must be a female companion on the trip even though the accompanying woman was herself. However, in another statement, Imam Al-Shafi'i stated that the obligation to have a mahram is determined by circumstances and conditions. This means that if the situation is worrying, then the woman must be accompanied by her mahram, if the situation is safe, then the mahram is not a requirement for travel.

6. Implementation of Hajj in Indonesia

In general, the Muslim population in Indonesia also performs the Hajj and Umrah pilgrimages, in addition to practicing other Islamic teachings. In fact, recently the phenomenon of the implementation of Umrah worship in Indonesia has increased. The limited haj quota provided by the Saudi Arabian government and the very long waiting list have forced Muslims in Indonesia to switch to performing the Umrah pilgrimage to the holy land. The pilgrimage journey in Indonesia is under the supervision of the Ministry of Religion of the Republic of Indonesia. In terms of carrying out the Hajj pilgrimage, the Ministry of Religion has an important role, starting from the registration of pilgrims in the departure queue, preparation for departure to serving pilgrims when they are in the holy land. The role of the Ministry of Religion in this regard is very important, namely as the main organizer in organizing the pilgrimage. Therefore the Ministry of Religion has regulations and legislation in regulating the procedures for Hajj and Umrah trips for all Indonesian pilgrims.

Regarding the regulations for the pilgrimage, the Ministry of Religion has laws and all matters related to this matter, such as the policy regarding the responsibility of the Ministry of Religion for the implementation of the pilgrimage contained in article 4 paragraph 1: "the government is responsible for the policy of organizing regular pilgrimages nationally". The existence of this law strengthens the statement that the Ministry of Religion is truly the main body for organizing the pilgrimage. In terms of

mahram, it is stipulated by the Ministry of Religion to include the mahram of the pilgrims, the mahram here is what is meant by kinship relations and marriage. This is regulated in the rules for registering pilgrims and relates to the administrative division of Hajj and Umrah services. With the rule that pilgrims who are accompanied by their mahram are also called pilgrims who have a combined mahram, such as a husband or wife as evidenced by a quote from a marriage certificate or family card. Meanwhile, for pilgrims who are not accompanied by a mahram, it is enough to be mahramed to join the existing group of pilgrims (Mahram jamaah). From the provisions of the regulations issued by the Ministry of Religion regarding haj and mahrams in the pilgrimage, there is nothing that conflicts with the Shari'ah, especially with the hadith regarding the inclusion of a mahram. For those who have a mahram as prescribed by law, documents are attached to prove the validity of the mahram. For those who do not have a mahram, they use a mahram as understood by some scholars such as Imam al-Shafi'i, namely the understanding contextually that the participation of a mahram can be replaced with security, in this case the group of pilgrims.

7. Author Analysis

It seems that according to the opinions of the scholars above, the mahram referred to in the hadith is not limited to the mahram in marriage, but includes other people who can look after and protect the woman while traveling. In addition, the hadith also does not explain what kind of journey a mahram must accompany, whether all forms of travel or not. Indeed, there is a hadith that is similar to the hadith above, but only focuses on the length of the trip, so there are variations on the trip, starting from a one-day and one-night trip to a three-day and three-night trip. This means that this is a journey that must be accompanied by a mahram. Because there is no information limiting the description of the hadith above, it means that all forms of travel including Hajj and Umrah trips must be accompanied by a mahram. In this case it can be understood that the generality of the hadith above is also explained by the hadith, as evidenced by the existence of an order from the Messenger of Allah to one of his friends, even though that friend was an army officer who was on duty to accompany his wife in carrying out the Hajj and Umrah pilgrimages.

Analysis of the hadith prohibiting women from traveling without a mahram is that the Prophet's prohibition was a natural one considering the conditions at that time. Dalalah in the hadith provides requirements for security for women who travel. Moreover, seeing the condition of women at that time they could not leave the house alone, knowledge about conditions outside the home was not mastered and even there was no means of communication like today. Therefore, the concern for the security of women at that time was taken into account by the Prophet Muhammad. Another message conveyed is how the responsibility of the family and society for security for women while on a journey. In addition to understanding the moral message implied in this hadith with contextual understanding, namely by understanding the circumstances when the hadith appeared

As an alternative solution, the understanding of the hadith prohibiting women from traveling without being accompanied by a mahram needs to be reinterpreted. In this case using a contextual understanding approach that is looking at the situation when the hadith was recited. The condition of the Arabs at the time of the Prophet was far different from the current condition. The journey is full of dangers, because you have to pass through a vast desert, being blocked by robbers and other dangers. Moreover, at the time of the Prophet the pilgrimage had not been managed and coordinated as it is today. So that women carry out the pilgrimage on their own with simple vehicles and even on foot. So naturally, in order to protect the honor and safety of women, the Prophet forbade women from traveling alone. It seems here that the Illat (legal motivation) for the prohibition is due to fears that unwanted things will happen to women.

Meanwhile, for now the departure of Hajj and Umrah in Indonesia in particular has been neatly coordinated and departs with modern transportation. It also contains many people with the same goal, namely, carrying out Hajj and Umrah. Besides that, for a group of congregations, a group leader is appointed who will supervise and maintain their safety. For the whole led by an amirul hajj. Thus the situations and conditions experienced by pilgrims in the past will no longer be experienced by pilgrims and Umrah pilgrims now. This means that there are no more worries about the danger that might occur to female pilgrims. Thus the illat (legal motivation) prohibition as understood from the hadith also no longer exists. This means that female pilgrims and Umrah pilgrims no longer need a mahram as stated in the ushul rules:

الحكم يدور مع العلة وجودا وعدما

Meaning: The law depends on the presence or absence of legal illat.

Understanding the hadith contextually by looking at the illat tasyri'i (motivation for the birth of legal provisions in accordance with the circumstances at the time the law was enacted) above does not mean that the law of mahram obligations for women does not apply, but it needs to be emphasized that the law has not changed, but what changes is the illat, and when the illat reappears, then the law of mahram obligations applies again. Likewise, on the other hand, as in the rule of ushul: "if the barrier is gone, then the things that are prohibited are re-enforced".

The application of ushul rules and contextual understanding of hadith is also supported by the hadith of the Prophet narrated by Bukhari and Muslim from Adi Ibn Hatim, that the Prophet SAW told him about the future of Islam and its development, the soaring tower of Islam on the face of the earth, among which the Prophet said "From Adi Ibn Hatim r.a Rasulullah SAW said: someday there will be women from the city of Iraq who go to visit the baitullah without being accompanied by their husbands with no fear except for Allah. This news, according to Yusuf Qardawi, does not merely indicate that the incident will occur, it is even more than that, namely that it indicates that women are allowed to go on pilgrimage without being accompanied by their husbands or mahrams if conditions are indeed safe. Because the hadith was uttered by the Prophet in order to praise the development of Islam and its security.

Based on the explanations above, according to the author, women may carry out the Hajj and Umrah pilgrimages without being accompanied by a mahram in the concept of muharamat in fiqh, because the current conditions for the implementation of the Hajj and Umrah pilgrimages are well coordinated which can maintain the safety and security of women. Of the several opinions of the fiqh scholars above, the author is more inclined to the opinions of Imam Syafi'i and Imam Malik, because the understanding of mahram according to Imam Syafi'i and Imam Malik is broader, that is, can be replaced by a group of men or women who can be trusted. This can be understood by the position of the group leader and group members who are determined in the current implementation of the Hajj and Umrah pilgrimages. In addition, the obligation to have a mahram is related to circumstances and conditions. If the situation and conditions are safe, then women are not obliged to be accompanied by a mahram. Conversely, when the situation and conditions are not safe, then accompanied by a mahram.

C. Closing

From some of the above descriptions it can be concluded as follows:

a. Fiqh scholars differ on the law regarding the implementation of Hajj and Umrah for women without being accompanied by a mahram. According to Maliki scholars, if a woman does not have a mahram who can accompany her, then the woman is not obliged to perform the pilgrimage. According to scholars from the Hanafi school of thought,

women who are allowed to perform Hajj without a mahram are those whose house can be reached from Mecca in less than 3 days on foot. If these conditions are met, it is obligatory for the woman to perform the pilgrimage. According to the scholars of the Shafi'i School, it was required that the conditions at that time were indeed safe. If conditions are not safe, then it is obligatory for the woman to go with her mahram. According to the scholars of the Hanbali school, a woman is prohibited from performing the pilgrimage without being accompanied by her mahram. According to them, the existence of a mahram for women is a form of *istitha'ah* or the ability of a woman to perform the pilgrimage. Thus if there is no mahram, then the woman is not obliged to perform the pilgrimage

b. The reasons for differences of opinion are due to different understandings in compromising various hadiths which prohibit traveling without a mahram with the word of Allah SWT in the letter Ali Imran verse 97. Scholars who consider that they still have to

According to the opinion of the Hanafiyah and Hambali scholars, the mahram is a condition for *istitha'ah* because they state that the verses that talk about *istitha'ah* (ability) in pilgrimage are explained by the hadith prohibiting traveling without a mahram. The Syafi'iyah and Malikiyah schools argue that the prohibition on traveling without a mahram is considered *saddu dzari'ah*, namely a prohibition that is not directed at the essence but is prohibited because it can lead to something forbidden. They consider that the condition of Hajj which is obligatory from a financial and physical perspective is still said to be obligatory even though in the end they leave without a mahram and are accompanied by a man or woman who is *tahtiqah*.

b. From the opinions of several fiqh scholars, it can be understood that it is permissible for women to carry out Hajj and Umrah without being accompanied by a mahram. Based on the opinion of Imam Al-Shafi'i and contextual understanding of the hadith prohibiting women traveling without a mahram, and supported by *ushul fiqh* rules.

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