

## **The *Maqashid Sharia* Perspective on Women's Involvement in Supporting Family Livelihoods in Jantho City**

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### **Abstract**

Employing women outside the home to meet the needs of the family can provide benefits, but it can also cause *mafsadat* to the family and the woman herself, both in the context of maintaining religion (*hifz al-din*) and maintaining the soul (*hifz al-nafs*). The benefits are private so they tend to be subjective, while the *mafsadat* that is possible to arise is public so that it can be objectified intersubjectively. This requires the ability to weigh the potential of *mafsadat* based on the conditions and situations experienced. This is the reason why research with problem formulation is important; The criteria for *maslahat-mafsadat* in women's involvement in fulfilling family support. The researcher combines descriptive social research methods with prescriptive legal research methods through a method called *al-ijtihad al-maqashidi*. It was found that there were various benefits including those at the primary level, and there were efforts from respondents to minimize the effects of *mafsadat*. It was also found that the social system at Jantho Market is still within the boundaries of manners and there is no quiet place that has the potential for *khalwat* to occur. In addition, female traders do not do activities at night to avoid a time when crime is vulnerable. This research concluded that the activities of women traders in Jantho Market have been in line with the rules of *maqashidiyyah*. However, mutual awareness and cooperation are needed to anticipate the potential of *mafsadat*.

**Keywords:** Maqashid Sharia; Women's Involvement; Supporting Family; Livelihoods.

### **Introduction**

Husband and wife in the household have their roles, where the husband is in a position as the head of the household who is obliged to protect and provide for the family according to his ability (Putri, 2015). The wife is in the position of a housewife who is responsible for managing household affairs as well as possible (Wahbah al-Zuhayli, 2011). The problem is, that it is not uncommon to find husbands who are not able to meet the basic needs of the family optimally, and some even cannot meet the primary needs of the family. In conditions like this, some housewives take the initiative to help their husbands earn a living by working outside the home, especially in the informal sector such as by trading (Supriyadi, 2016).

Some scholars refuse to hire women outside the home, others allow it with certain conditions (Sanawiah, 2017). Regardless of the differences of opinion of

scholars, hiring women means imposing both domestic and public roles at the same time (Musslikhati, 2004), because the role of women as mothers are irreplaceable in *hadhanah*. This raises legal problems that are not simple, ranging from the emergence of gossip, domestic rifts that sacrifice the future of children, to the occurrence of criminal acts.

Generally, *mafsadat* is not realized because it is in the form of potential, even though this potential can be estimated by paying attention to the situation and environmental conditions. Everyone is required to understand it so that it is not excessive in avoiding it and not being overheated in dealing with it. The problem is that the *mafsadat* that may arise is casuistic and specific, so everyone must analyze it for themselves before the potential *mafsadat* becomes actual. To be able to do the analysis, it is necessary Rules, measures and criteria that can be used in understanding the situation and conditions in the case experienced. Fortunately, this rule has been formulated by scholars into a method preference for expediency (Sabil, 2022b).

The initial exploration conducted by the author on 24 women who trade in Jantho Market shows that what motivates them is the desire to provide for their families. This motivation is a private benefit so it tends to be subjective, while the possible consequences are public *mafsadat* so that it can be objectified intersubjectively.

Considering the rules of fiqh state that rejecting *mafsadat* must take precedence over achieving *maslahat* (Al-Suyūṭī, 1960), then this requires in-depth and comprehensive consideration. This can be done by analyzing the rank of *maslahat* and *mafsadat*, whether it is primary (*daruriyyah*), seconds (*hajiyyat*), or tertiary (*tahsiniyyat*). For this reason, the author refers to the following conceptual framework:

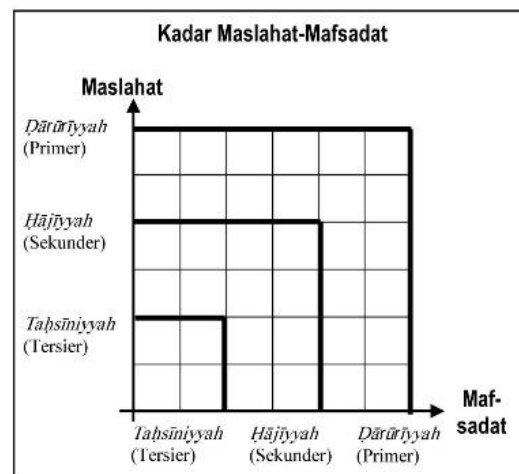


Figure 1: Determination of Values Based on the Mashlahat-Mafsadat Category  
(Source. Jabbar Sabil, *Maqashid Syariah*, 2022)

This illustration shows that acts of benefit at the primary level can cause harm at the tertiary, secondary or primary level. Likewise, *mafsadat* can cause benefits that are tertiary, secondary or primary (Sabil, 2022a). This problem is complex enough to demand the valuation of benefits from two sides; (1) the legal consequences for women themselves; (2) the legal consequences to his family.

As far as the author's observation goes, this issue is included in the context of the preservation of religion (*hifz al-din*) and the preservation of the soul (*hifz al-nafs*). Although the increase in family income is beneficial, working outside the home can cause *mafsadat*. In terms of the consequences experienced by women themselves, it can damage the maintenance of religion, for example experiencing sexual harassment in the market. As for the consequences for the family, this has the potential to be *mafsadat* because it can harm the child's *hadhanah* rights which as a result damages the maintenance of the child's soul.

These *maslahats* must be *tarjih* based on the concept of the validity of *maqashid al-khalq* which is specific and casuistic (Sabil, 2018). This prompted the author to conduct research that questioned the criteria for *maslahat mafsadat* in women's involvement in fulfilling family support. The research was conducted from the perspective of *maqashid sharia* with a sample located in the Jantho market.

## Research Methods

This study is included in empirical legal research in the context of the discovery of unwritten law. This study uses the *maqashid sharia* approach which some authors refer to as *Al-ijtihad al-Maqashidi* (Al-Khādimī, 1998). Methodologically, this study combines prescriptive legal research with descriptive social research. The social research method is used in the context of data collection so that facts can be described objectively (Sabil, 2023b). For this reason, the author uses a type of case study research (*case study*) that seeks to find meaning, process, and deep understanding in individuals, groups or situations (Emzir, 2014). The facts found in the field are brought at the level of prescriptive analysis so that they arrive at the discovery of unwritten laws.

The data collection method in this study is included in the type of qualitative research, where the researcher is the key instrument. In data collection, the author uses observation, interview and documentation techniques, then validated with triangulation techniques (Suggestion, 2013). Next, data analysis was carried out by applying the *tarjih maslahat* method (Sabil, 2023a), where *maslahat* and *mafsadat* are seen in terms of their conformity with the sharia. Thus, the applied analysis can be called the deviation analysis method (Muadz, 2014). This analysis method uses a deductive reasoning pattern that adheres to the results of generalization with a method called *Al-istiqrā' al-Ma'nawi* (Sabil, 2024).

This research relies on data in the form of legal materials collected by the literature method (Zaid, 2004), and non-legal materials in the form of data from field research results (Susanti & Efendi, 2014). After being reduced (*data reduction*), data presented (*data display*) by grouping based on their relevance so that irrelevant data can be easily set aside (*verifying*) in the process of conclusion (*conclusion drawing*) that the author did (Creswell, 2009).

## **Results and Discussion**

### **The Scholar's Opinions on Wives Fulfilling Family Maintenance**

Referring to the provisions in fiqh, Islam burdens the husband with family maintenance so that the wife does not have to work outside the home. (Al-Syawābkaḥ, 2007). This provision contains wisdom to maintain his honor, among other things by reducing activities outside the home (Zaydān, 1993). Scholars agree that the rights and obligations of the household are a barrier of space, not a restriction of rights, so marriage only restricts women's activities outside the home (Al-Jurjāwī, 1997). Imam Malik stated that what a husband can prohibit against his wife is to leave the house, not work (Mālik ibn Anas, 1994). However, even though work such as trading or sewing can be done by the wife at home, Fukaha agrees that the husband should not force his wife to work. Then what if he works willingly?

It should be emphasized that reducing activities outside the home does not mean prohibiting women from working, because in fact property ownership by women is still recognized as the result of men's efforts. Priest al-Syāfi'i states that a husband should not control his wife's property (Asy-Syāfi'i, 2001), including the property he obtained during his marriage. Therefore, the burden of family maintenance on the husband does not mean that the wife's property ownership rights are eliminated, nor does it mean that the wife is prohibited from working to help the husband in meeting the family's needs.

According to Imam al-Sarakhsi, alimony is a consequence of the marriage contract so that scholars agree on the obligation for the husband to provide alimony to his wife (Al-Sarakhsi, 2001). According to Ibn Hazm, through this contract, Allah enshrined the rights and obligations where the wife is obliged to take care of the household and is entitled to alimony. Likewise, the husband has the right to domestic affairs and is obliged to provide for himself, even though the wife is richer than him (Ibn Ḥazm, n.d.). Then what if the husband is unable to meet the needs of his family?

According to Mutakallimin, if the husband does not provide for his wife's maintenance, then it becomes a debt unless the wife voluntarily releases her husband from the debt (Ibn Qudāmah, 2000). Likewise, the obligation to provide for children, according to Imam al-Sarakhsi (Al-Sarakhsi, 2001), the child's living expenses are mandatory for the husband because he is his parent. In some cases, the husband's inability forces the wife to bear the burden of child support. According to scholars Ḥanafiiyyah and Syāfi'iyyah, the cost of living of the child paid by the wife is also a debt to the husband, but according to the scholar Ḥanbaliyyah, it is not a debt, because mothers and parents are also responsible for the maintenance of their children (Ibn Qudāmah, 2000).

It should be remembered that Islamic jurisprudence applies the concept of *al-ibrā'*, which is the ability of the owner of property to relinquish his rights to receivables. This also applies to the husband's debt to the maintenance of his wife and children. Well, if the wife's willingness can free the husband from the obligation to pay for the

living expenses of his wife and children, then what about the husband's willingness, can the wife be freed to work outside the home?

The answer to this question needs to consider cultural factors, which according to Satria Efendi there are two models; (1) a model that distinguishes between husband's property and wife's property; (2) a model that does not differentiate itself like in Indonesia. (Efendi, 2010). In the first model, the husband can prohibit the wife from working because it is limited by the rights arising from the marriage contract unless allowed by the husband. As for the community that does not separate the property of husband and wife, it is considered normal for the wife to participate in working to fulfill the family's livelihood, especially if they have children.

Both of these models depart from the willingness to give up rights, only in the first model it is done consciously, while the second is not realized because it has become a culture. It can be concluded that these two models provide opportunities for women to work outside the home to help meet the family's livelihood. Of course, this opportunity is given by paying attention to the potential of *mafsadat* which can be estimated according to the situation and conditions experienced.

### **Factors Affecting Women's Involvement in Supporting Family Livelihoods Among Female Traders in Jantho Market**

Referring to the Regulation of the Minister of Manpower and Transmigration Number 13 of 2012 concerning Components and Implementation of Stages of Achieving Decent Living Needs, seven components are indicators of decent living, namely: 1) food and beverages; 2) clothing; 3) housing; 4) education; 5) health; 6) transportation; and 7) recreation and savings (Permenakertrans Number 13 of 2012 concerning Components and Implementation of Stages of Achieving Decent Living Needs, 2012). Of these seven components, many female traders in Jantho Market experience problems at the primary level (*darūrah*) family needs. Researchers found that most of the female traders in Jantho Market are forced to work to meet the consumption needs of their families due to the pressure of economic, educational and socio-cultural factors (Tindangen et al., 2020).

Economic factors are quite important because humans meet their daily needs by working for the sake of daily life. From the results of the researcher's interviews with female traders at the Jantho market, it was found that the economy is the main factor that causes them to work to meet the needs of their families. Among other things, Mrs. AZ said, because her husband is only a contract employee whose salary is not enough for daily needs. Meanwhile, Mrs. ST, who trades chips at the Jantho market, explained that her husband works as a farmer who is now old so he is no longer able to meet the needs of his family. Unlike Mrs. Sbr, she became the backbone of the family because her husband was sick, while her children were still young.

In addition to economic pressure, the author found that the educational factor determines the profession they are in. Most of the female traders in Jantho Market are

poorly educated, some even only graduated from elementary school. Mrs. Ysw explained that she graduated from junior high school and could only work as a hired laundryman, but now she can no longer afford it so she has switched to becoming a trader. Mrs. ST (a chip trader) chose this profession because it does not require high skills, and the capital is cheap because she can get cassava from her garden.

The same thing was also stated by Mrs. E who has been trading vegetables for 20 years, she only tasted education until high school (SMA). His family could not afford to continue his education at university, so he was immediately married. Likewise, Mrs. Stwt, who only received a junior high school education, traded chips.

The socio-cultural factor that makes women work is social status and also wants to develop themselves, have an interest in running a business, and fill their free time. From the results of an interview with Mrs. NH (a female chip trader at Jantho market), she likes to sell chips, even though her income is not much, she can fill her free time with friends in the market so that she is not lonely.

NH's mother only has one child, while her husband works with enough income to meet the family's needs. Likewise, Mrs. Rt who trades drugs at the Jantho market, she said that trading is better than staying at home, because she wants to have a bigger business in the future. The same thing was also conveyed by Mrs. An, who trades in glassware, her participation in making a living is driven by the desire to fill her free time.

From the results of the above presentation, it can be summarized that most of the female traders in Jantho Market are motivated to work to increase family income and come from low-income families, so most of their labor income is used to meet consumption needs. and help with her children's school fees because her husband is unable to meet the needs of the household. Another factor is due to limited skills, it seems that the average education of traders at Jantho Market is only at the high school level, some even only graduated from elementary school, although there are one or two who have graduated from S-1.

However, there are also those who work to fill their free time, or for social interaction. Up to this point, it can be concluded that economic, educational and cultural factors cause women to be forced to undergo a profession as traders in order to meet the needs of the family. This is a reason to value the value of benefits, even in some cases it is an emergency because there is no other option for them. It is only now that the level of *mafsadat* is weighed.

### **Women's Involvement in Supporting the Family Economy in Jantho Market from the Perspective of Maqasid Sharia**

After the researcher conducted interviews with informants and respondents, the researcher found that the needs of female merchant families in Jantho Market are getting better in meeting their daily needs, sending their children to school and being able to set aside part of their income to save. Uhrawi, they can maintain faith in Allah

SWT by implementing the pillars of Islam, as well as staying away from all forms of vices, food and drinks that are prohibited by religion, and maintaining ethics in trading.

Viewed from the perspective of *maqashid sharia*, some cases of women traders in the Jatho Market include *daruriyyat* to protect the soul (*hifz al-nafs*). Women work to meet the needs of themselves, their children, and their families to keep their souls healthy. Based on the interview, it is known that those included in the *hajiyyah* level are Mrs. Ysm, Mrs. Sbr, Mrs. St, Mrs. Stw, Mrs. Mrn, Mrs. NH, Mrs. Ftrh, Mrs. E, Mrs. AZ, Mrs. Nwy, Mrs. NA, Mrs. Mnwr, Mrs. Hn, Mrs. T, Mrs. Mlt, Mrs. F, Mrs. L, Mrs. Y, Mrs. N, Mrs. V and Mrs. Ftrna. This is because if they do not work, the daily needs of the family cannot be met optimally.

In addition, several female traders work only to fill the void of their free time (*tahsiniyyah*), because their children have gone to college and some have also been included in the pesantren. Like Dewi's mother who only has a son and has now been given a school in the form of a pesantren, so to fill her free time Dewi's mother opened a grocery business. Then also with Ana's mother, whose two children are now studying S-1 outside the city.

Based on the results of the interviews, the traders at the Jantho market still divide their time in taking care of the household and educating their children, such as Mrs. Yani, Mrs. Hanum, and Mrs. Munawwarah who always supervise the association of their children. Namely by providing time limits in playing, and instilling religious values by inviting children to perform the five-time prayer, and putting them in places of recitation around their residences. Based on this, the researcher can analyze that in guiding their children, the mothers in the Jantho market are included in the category of *maslahah daruriyyat*, because the mothers of the Jantho market traders teach religious education and this is one of the efforts to maintain religion (*hifz a-lidin*).

It can be understood that the *hadhanah* duties are not optimal because they have to work, especially those whose children are still toddlers. For cases like this, the women of the sword at Jantho Market must consider the benefits and anticipate the effects of *mafsadat*. In this case, the scholars formulate the rules of *maqashidiyyah* as befollow (Al-Yūbī, 1998):

أن الأمور الضرورية أو غيرها من الحاجة والتكميلية إذا اكتنفها من الخارج أمور لا ترضى شرعاً، فإن الإقدام على جلب المصالح صحيح على شرط التحفظ بحسب الاستطاعة من غير حرج.

That things *that are daruriyyah* or others in the form of *al-hajiyyah* and *al-takmiliyyah*, if they are covered from the outside by some things that are not covered by shariah, then it is lawful to take them for the sake of realizing the benefits, provided

that they maintain themselves according to their level of ability without causing trouble.

Based on this rule, it can be understood that the swordswoman in Pasar Jantho meets the criteria for *tarjih maslahat*, but this must be accompanied by consideration of the potential for *mafsadat* that may arise.

The potential for benefits is contained in the conditions of the place, and the situation that arises due to the social system that applies in a place. Regarding the association at Jantho Market, the results of the interview showed that the interaction was still within the limits of good manners. Although there was a meeting with a man who was not a mahram, the market situation did not provide space for alone because the market design was open and did not provide a closed place.

In addition, female traders at Jantho Market are not active at night to avoid a time when there is a high chance of crime occurring. It can be concluded that at the time this research was conducted, the condition of traders in Jantho Market still met the rules of sharia. The author hopes that this condition can be maintained, among other things, by cultivating a sharia way of thinking through the application of the rules of *tarjih maslahat*.

## Conclusion

Based on the discussion and analysis results presented above, it can be concluded that the factors that affect the involvement of women traders in Jantho Market in an effort to make a living for their families are economic factors, educational factors, and socio-cultural factors. From the perspective of *maqashid shariah*, women's involvement in efforts to improve the family economy is included in *maqashid* to preserve the soul (*hifz al-nafs*).

Researchers found that some of these traders were motivated to participate in supporting the family because of the encouragement of factors that ranked the primary benefits (*darurah*), because the husband could not work at all due to illness. Some others are secondary (*haji*), because if they do not work, their daily needs are not met optimally. The author sees only a few traders whose encouragement is tertiary (*tahsiniyyah*), namely those who only want to fill their free time and at the same time develop the knowledge they have learned since college.

The author found that the women of the traders in Jantho Market had tried their best in anticipating the potential of *mafsadat* in order to maintain religion (*hifz al-din*), especially in terms of *hadzanah* for their children. In addition, the social conditions and atmosphere at Jantho Market are still within the limits of manners and there is no place for *khalwat* to occur. It can be concluded that at the time this research was conducted, the condition of traders in Jantho Market still met the rules of sharia.

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