

REVIEW OF MAQASHID SYARIAH ON THE PRACTICE OF CHILD LABOR AS A HAWKER AT THE PAWON PURWOKERTO STOP BY RESTAURANT

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Abstract: A child is someone who is still under age, whether male or female. The phenomenon of children as workers often occurs. The reality shows that poor families really need jobs for their children to help the family economy and for their own lives. In the Mampir Pawon Purwokerto Restaurant area, researchers found many underage children working as hawkers. Based on the description above, it is said that children are allowed to work when the child is 13-15 years old, however, the fact that researchers found is that some of the child workers at the Mampir Pawon Restaurant are still in the age range between 6-11 years and their working time is longer. from 3 hours in 1 day, and supervision from parents is still lacking. These child workers are not directly monitored by their respective parents. This has an impact on children's work safety because the Mampir Pawon Restaurant is also a place where other adults work and there are many visitors. The possibility of children experiencing violence cannot be denied because of the hard work life as well as competition in trade or the danger of being kidnapped. So the researcher focused on the research which was outlined in the problem formulation, namely how child labor practices as hawkers at the Mampir Pawon Restaurant in Purwokerto and how Maqasid Syariah reviewed the practice. child laborers as hawkers at the Mampir Pawon Restaurant. The research used is descriptive qualitative field research with data collection techniques using unstructured interviews, observation and documentation. Based on the research results, the author concludes that children are not allowed to work unless the work they do is light and does not interfere with the child's physical, social development and mental health. If you allow children to work in conditions that endanger their lives both physically and psychologically, because long working hours will threaten the child's life, this is not in accordance with maqasid sharia which is a dharuriyyah (primary) need, including protecting the souls of children because children still need them. strict parental protection. Employing children without paying attention to the child's rights is not in accordance with the maqasid sharia, this can make the child mentally weak as contained in the Qur'an, Surah AnNisa' verse 9. Meanwhile, if the child's rights are in accordance with the maqasid sharia, including that is, parents are obliged to provide for their children until the child has the ability to support himself, so that children can explore the potential that exists within them because children are national assets that must be looked after and protected because employing minors can affect the child's growth and development. -children who should get an education but are forced to do a job

Keywords: *Maqasid Syariah, Child Labor, Street Vendors*

INTRODUCTION

Islam explains that children are a mandate of Allah that must be well guarded, especially for parents, they should not just ignore it, because children's rights are included in one of the obligations of parents. Therefore, in pursuing this life, children have absolute rights that cannot be

violated, children are positioned as jewelry and world wealth for their parents. Like jewelry and wealth, children are treated, cared for, and even loved as best as possible by parents. Islamic law views child labor as part of the deprivation of rights that must be fulfilled by parents and the government. Islam also provides an alternative that children are allowed to work for certain reasons and as learning. However, in Islam, the phase of a person's age is divided into three levels, namely *tamyiz* (a person between the ages of 0-15 years), *puberty* (while in the age of puberty it is from the age of 15 years where religious teachings are obligatory for him to undergo as a *mukallaf*, according to his age he is capable), *rusyd* (a person who has grown up or is from 20 years of age or older), each of which has its own criteria and legal consequences. Islam provides a minimum limit on a person being allowed to work if he has reached 15 (fifteen) years (*puberty*).¹ One of the children's problems that received special attention was the issue of *child labor*. This issue has become global because so many children around the world are entering the workforce at school age. In fact, the issue of child labor is not just an issue of children carrying out jobs by earning wages, but is very closely related to exploitation, dangerous workers, inhibited access to education and hindering the physical, psychological, and social development of children. Even in the case of certain workers, child labor has entered as a qualification for children who work in the most intolerable situations.

According to the Great Dictionary of the Indonesian Language (KBBI), exploitation is the exploitation, utilization, or utilization for one's own benefit or extortion of other people's self is an uncommendable act. Child exploitation shows discrimination or arbitrary actions against a child committed by parents or society that force a child to do something for economic, social or political interests without caring about the child's rights to receive protection according to his physical, psychological, and social status.

Child exploitation is the unethical use of children for the benefit of the company or parents. In essence, children should not work because their time should be used to study, play, have fun, be in a peaceful atmosphere, get opportunities and facilities to achieve their goals in accordance with their physical, psychological, intellectual and social development. However, in reality, many children under the age of 18 have been actively involved in economic activities, becoming child laborers, among others in the industrial sector, citing economic pressure experienced by their parents or other factors.

Child labor is an exploitation to meet the economic needs of families hit by poverty. The situation of child labor is dilemmatic, on the one hand, children work to contribute income but are

¹ Ibn Rushd, 'Bidayatul Mujtahid Translation', *Imam Ghazali*, (Jakarta: Pustaka Amani, 2007), *Cet*, 3rd, 2002.



vulnerable to exploitation and mistreatment. The mistreatment in question is that children who work certainly lack attention and affection from their parents, this will make the child lose affection and the child interprets the loss as a failure to foster positive relationships, usually resulting in depression in children, minors should need to get more attention from their parents, especially in the field of education. Education is very important for children's future prospects to achieve success. If the child has worked at a young age, the time will be divided into working,² the child will prioritize work more and not focus too much on his education because when working the child can earn his own income and help the family economy, unconsciously this leads the child as a child worker who should not be able to work. At the Pawon Purwokerto Mampir restaurant, researchers found that there were still many minors who worked as hawkers.

Based on the age limit of the child, the child is allowed to work when he is over 15 years old or has matured intellectually, meaning that the child's intelligence allows him to make a work agreement or do work. History records that the Prophet Muhammad (peace be upon him), working when he was 12 years old, followed his uncle Abu Talib who was in the business of bringing merchandise from Mecca to Sham. This shows that children working was a natural thing during the time of the Prophet, but it is necessary to pay further attention that the motivation and conditions for employing children so that children's rights are not neglected. On the other hand, it is necessary to pay attention to the benefits and harms that arise from working children. Therefore, the age limit for children in work, which is contained in Law No. 13 of 2003 concerning Manpower, provides an age limit for underage workers. Underage worker is any child under the age of 18 (eighteen) years old, both female and male, who is involved in economic activities that can interfere or hinder the process of growth and development and endanger physical and mental health.³ This condition illustrates that underage labor is very unfavorable for the process of children's growth and development and in terms of minimal economic needs, resulting in children being forced to work. If the situation forces the child to work, then parents must pay attention to their protection and rights.

Law Number 13 of 2003 concerning Manpower Article 68 prohibits employers from employing minors to perform further heavy work in Article 69 paragraph (1), explaining that employers are allowed to employ children between the ages of 13-15 years to do light work, as long as they do not interfere with development and physical, mental and social health. Thus the minimum working age is 13 years so that children who work under 13 years old are also called

² Baiq Leni Aprianti, 'A Review of Islamic Law on the Practice of Child Labor as Street Vendors in the Tourist Area of the Mandalika Special Economic Zone (SEZ), Central Lombok Regency' (unpublished PhD thesis, UIN Mataram, 2021) <<https://etheses.uinmataram.ac.id/3649/1/Baiq%20Leni%20Aprianti%20160201162.pdf>> [accessed 21 May 2024].

³ Government of the Republic of Indonesia, 'Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower', *Ministry of State Secretariat of the Republic of Indonesia, Jakarta*, 2003, pp. 1–49.

underage workers. Furthermore, it is explained in paragraph (2) regarding light work carried out by children is a maximum working time of 3 hours in 1 day, carried out during the day and does not interfere with school time as well as the existence of occupational safety and health and receiving wages based on applicable regulations.⁴ Regarding the age limit of children, it is explained in QS. An-Nisa' (4:6)

تَأْكُلُوهَا وَلَا يَمُوتُ أَمْوَالُهُمُ الْيَتَامَىٰ إِذَا بَلَغُوا إِذَا بَلَغُوا إِذَا بَلَغُوا إِذَا بَلَغُوا إِذَا بَلَغُوا
فَإِذَا بِالْمَعْرُوفِ فَلْيَأْكُلْ يَرِافَقَ كَانَ وَمَنْ فَلْيَسْتَعْفِفْ غَنِيًّا كَانَ وَمَنْ يَكْبُرُوا أَنْ وَبِدَارًا إِسْرَافًا
حَسِينًا بِاللَّهِ يَوَكِّفْ عَلَيْهِمْ فَأَشْهَدُوا أَمْوَالَهُمُ الْيَتَامَىٰ دَفَعْتُمْ

Test the orphans (in terms of managing property) until they are old enough to marry. Then, if according to your judgment they are good at managing property, hand over the property to them. Do not eat them (orphans' treasures) beyond the limits of propriety and (do not) hasten (to spend them) before they reach adulthood. Whoever is able, let him refrain from eating the treasure of the orphan, and whoever is poor, let him eat the treasure in a good way. Then, when you give the property to them, you shall hold witnesses. It is enough for Allah to be the overseer.⁵

That the child can be charged in terms of handing over property if he has entered puberty and can manage his property properly as for the relationship with children who work underage. Similar to the above that children can be charged with work if they are old enough and capable in managing property and capable in their religious affairs, then children can distinguish between good and bad. Law No. 30 of 2014 Jo Law No. 23 of 2002 concerning child protection, article 26 paragraph (1) "that parents are obliged and responsible for:

- a. Nurturing, nurturing, educating and protecting children;
- b. Develop children according to their abilities, talents and interests;
- c. Prevent marriage at a young age; and
- d. Providing character education and instilling ethical values in children.⁶

Based on the description above, it is said that children are allowed to work when the child is 13-15 years old, but the fact found by researchers that some child workers at the Pawon Mampir Restaurant are still in the age range between 6-11 years old and also their working time is more than 3 hours in 1 day, and supervision from parents is still lacking. The child workers are not directly

⁴ Indonesian.

⁵ 'Qur'an of the Ministry of Religion' <<https://quran.kemenag.go.id/>> [accessed 24 May 2024].

⁶ Law No, 'Year 2002 on Child Protection'.

monitored by their parents. This has an impact on children's occupational safety because the Pawon Mampir Restaurant is also a place where other adults work and many visitors from various regions. The possibility of children getting violence or kidnapping is undeniable because of the harshness of work life and competition in trade. In addition, the products offered by hawker workers in the Mampir Pawon restaurant area are quite expensive and non-negotiable, as if taking advantage of small children to get a lot of profit.

Departing from the description of the problem above, the researcher wants to examine and research how the practice of child labor as a street vendor at the Pawon Mampir Restaurant, reviewed in terms of *sharia maqoshid*, therefore the researcher took the title of the study, "A Review of Sharia Maqoshid on the Practice of Child Labor as a Hawker at the Pawon Pawon Purwokerto Mampir Restaurant.

METHODS

The research methods described include steps taken in determining, processing, analyzing, and presenting the results of the research. Analyzing and presenting the results of the research. This research is a qualitative research, which focuses on collecting data from the results of interviews, observations and other documents related to the practice of child labor as a hawker at the Mampir Pawon Purwokerto restaurant. The data that has been collected is then reviewed with case studies that focus on more specifically to obtain the most accurate data to find out how the practice of children as hawkers at the Mampir Pawon Purwokerto restaurant refers to Islamic law. Data analysis is carried out in a descriptive-analytical manner, the presentation of information obtained in the field in the form of written and oral data and steps that can be researched, then the data can be interpreted and interpreted so that the data can describe the actual things appropriately by using a theoretical framework related to the subject matter in this research. Focusing his research on how the practice of child labor as a hawker at the Pawon Mampir Restaurant in Purwokerto and how Maqasid Syariah reviews the practice of child labor as a hawker at the Pawon Mampir Restaurant.

RESULTS

Child Labor

The definition of a worker or child laborer in general is a child who does work regularly for his parents, for others or for himself who needs a large amount of time by receiving a reward or not.⁷

⁷ Bagong Suyanto, *Children's Social Problems* (Kencana, 2010), p. 111
<<https://books.google.com/books?hl=id&lr=&id=zqRPDwAAQBAJ&oi=fnd&pg=PA5&dq=Bagong+Suyanto,+Masala>

Article 1 paragraph 3 of Law No. 13 of 2009 concerning Manpower states that a worker is every person who works by receiving wages or other forms of remuneration. From the definition of a worker, it is clear that only a workforce that has worked can be called a worker.⁸ The problem of child labor is not a new problem, especially among rural communities who train children to work at an early age.⁹ The term worker is any person who works by receiving wages or other forms of compensation.¹⁰ There are many child laborers from rural areas in small industrial centers located in the middle of residential areas which indirectly encourage them to work without ruling out the possibility of exploitation by parents against them.

The definition of children according to laws and regulations is as follows:

- a. Children according to Law No. 23 of 2002 concerning Child Protection The definition of a child based on Article 1 paragraph (1) of Law No. 23 of 2002 concerning Child Protection is a person who is not yet 18 (eighteen), including children who are still in the womb.
- b. Children according to the Civil Code are explained in Article 330 of the Civil Code, saying that immature people are those who have not reached the age of 21 years and have not been married before. So a child is everyone who is not yet 21 years old and unmarried. If a child has been married before the age of 21 and then divorced or left dead by her husband before the age of 21, then she is still considered an adult person not a child.¹¹
- c. According to the Child Criminal Code in Article 45 of the Criminal Code, a child is a child whose age has not reached 16 (sixteen) years.
- d. According to Law No. 4 of 1979 concerning Child Welfare, a child is a person who has not reached the age of 21 (twenty-one) years and has never been married (Article 1 point 2)
- e. According to Law Number 11 of 2012 concerning the Child Criminal Justice System Explained in (Article 1 paragraph (3)) A child is a child who has been 12 (twelve) years old, but has not yet reached the age of 18 (eighteen) years old who is suspected of committing a criminal act.
- f. According to article 1 point 5 of Law Number 39 of 1999 concerning Human Rights is as follows:

h+Sosial+Anak,+Jakarta:+Kencana,+2010,+hlm+111.&ots=XS640evPA3&sig=ydZXk3BIXxUnQECe18D6wSL7saA> [accessed 26 May 2024].

⁸ Muhamad Sadi Is, MH SHI, and S. H. Sobandi, *Employment Law in Indonesia* (Prenada Media, 2020) <[https://books.google.com/books?hl=id&lr=&id=2g7uDwAAQBAJ&oi=fnd&pg=PA127&dq=buku+Hukum+Ketenaga+kerjaan+Indonesia+\(Edition+Revised\),+Lalu+Husni&ots=Irr9Ckqaru&sig=CYNvDZk5t9i685v2shDO2wIoKow](https://books.google.com/books?hl=id&lr=&id=2g7uDwAAQBAJ&oi=fnd&pg=PA127&dq=buku+Hukum+Ketenaga+kerjaan+Indonesia+(Edition+Revised),+Lalu+Husni&ots=Irr9Ckqaru&sig=CYNvDZk5t9i685v2shDO2wIoKow)> [accessed 26 May 2024].

⁹ Bagong Suyanto, *Child Labor and the Continuity of Education* (Airlangga University Press, 2003), p. 21.

¹⁰ Indonesian.

¹¹ S. H. Pnh Simanjuntak, *Civil Law of Indonesia* (Kencana, 2017)

<[https://books.google.com/books?hl=id&lr=&id=c_pDDwAAQBAJ&oi=fnd&pg=PA101&dq=Kitab+Undang-Undang+Hukum+Perdata,\(Jakarta:+PT.+Pradnya+Paramita,+2002\),+ppm.+90.&ots=rr65L8s77u&sig=PDcbBrO_rdcx-OqwpCHongl6yY](https://books.google.com/books?hl=id&lr=&id=c_pDDwAAQBAJ&oi=fnd&pg=PA101&dq=Kitab+Undang-Undang+Hukum+Perdata,(Jakarta:+PT.+Pradnya+Paramita,+2002),+ppm.+90.&ots=rr65L8s77u&sig=PDcbBrO_rdcx-OqwpCHongl6yY)> [accessed 26 May 2024].



"A child is any human being who is under 18 (eighteen) years old and unmarried, including children who are still in the womb if it is for their own interests".¹²

Education is one of the efforts that is deliberately held to help the development of the personality and abilities of each child in order to improve the quality of their welfare in the future. On the one hand, there is a conflict about the necessity of children to work to obtain welfare because of their family's economic condition with the right of a child to receive a proper education and only focus on education for his future, but many child workers also attend school. Reality shows that parental poverty makes children lose the opportunity and right to education.¹³

Low level of education and economic helplessness, parents tend to be narrow-minded about their children's future so that they do not take into account the benefits of higher schooling can improve children's welfare in the future. This situation encourages children to choose to become child laborers.

Child Labor in the Perspective of Sharia Maqashid

In Islamic law, employing a child is an injustice as according to LBM NU (Lembaga Bahtsul Masail Nadhdatul Ulama), because in Islam a child has a position of *istimiewa*, and has not been burdened with many obligations, should be given his rights by his parents because as the person in charge of a child, that is, the right to provide support, provide a proper education and prepare for a better future. *Maqashid* is a set of goals, needs, and moral concepts based on Islamic law such as justice, nobility, humanity, freedom of choice, generosity, holiness, and ease to humans and societies that cooperate with each other, therefore all goals and concepts represent the idea of human rights, development and social justice. To realize the achievement of this thing, it can be fulfilled with five elements of *maqashid sharia*.¹⁴

Maintaining religion (*Hifz Al-Din*)

It is the most important factor in human life, with religion human life will be hierarchical and get benefits from this life and the hereafter. Thus, a child must understand the deeds that are prohibited by religion and allowed by religion and always keep their religion strong.¹⁵

Nurturing the soul (*Hifz Al-Nafs*)

¹² 'LAW OF THE REPUBLIC OF INDONESIA'.

¹³ Zahra Firdausi, 'The Relationship between Child Labor and Educational Attainment and Household Welfare Level', 2016 <<https://repository.ipb.ac.id/handle/123456789/81959>> [accessed 26 May 2024].

¹⁴ Darwan Prinst, *Indonesia Child Law* (Citra Aditya Bakti, 1997), p. 80.

¹⁵ 'Buku_Filsafat Islamic Law.Pdf', p. 95 <https://repositori.uin-alauddin.ac.id/17246/1/Buku_Filsafat%20Hukum%20Islam.pdf> [accessed 25 May 2024].



As a parent must take care of their child from the physical and mental health of a child who works causes mudharot, then it is not to be confused if indeed the child has to work to help meet the needs of his family in order to stay alive, then parents must teach the child so that his physical and mental health is maintained.¹⁶

Nurturing the intellect (*Hifz Al-Aql*)

Possessing reason to solve all problems, as a separation from good and right, a person who does not maintain his intellect well can fall into bad things, and always seeks justification for himself. In maintaining intellect, there are several kinds such as seeking knowledge to maintain intellect, of course, a child who works who puts aside his education for the sake of work, then it includes not maintaining his intellect. If a child works in a good environment and the company oversees the education of child labor, then it is possible that the child can maintain his intellect to continue his life.

Maintaining the offspring (*Hifz Al-Nasb*)

Islam prohibits free sex, this is to maintain the preservation of the lineage, an effort to maintain the offspring, namely through a legal bond in the form of marriage, thus it is feared that a child is married because he is still weak in thinking, he can do this act or be harassed by one of the workers, to avoid that the child is not recommended to work.¹⁷

Preserving treasure (*Hifz Al-Mal*)

In life, human beings can live and survive because of wealth, if human beings do not fulfill and neglect their possessions, their lives will be destroyed. To have property, one of the efforts is to work, if the child works to meet the needs of him and his family, that it can be done as long as it does not interfere with his mandatory activities, but there can be harm if the child works from theft or work which is prohibited by religion and the state. Thus, if a child is required to work to meet his needs, then he works in a halal way.

In the view of Islam, not only in the world but children will also help until the hereafter, then in Islam has also given a whole about human rights and paying attention to the salvation of mankind. That in essence children are a gift from Allah SWT, which not all families can be blessed with children, with children needing protection and having the right

¹⁶ M. Ag Nurhayati and Ali Imran Sinaga, *Fiqh and Ushul Fiqh* (Kencana, 2018), p. 81
<[https://books.google.com/books?hl=id&lr=&id=MeFiDwAAQBAJ&oi=fnd&pg=PR5&dq=Nur+Hayati,+dan+Ali+Imran+Sinaga,+Fiqh+dan+Ushul+Fiqh+\(Jakarta:+Prenadamedia+Group,+2018\),+h.+75&ots=V_KFmBwIRV&sig=EaJ-G7KixHWpoAiAYxIIZDxmZlw](https://books.google.com/books?hl=id&lr=&id=MeFiDwAAQBAJ&oi=fnd&pg=PR5&dq=Nur+Hayati,+dan+Ali+Imran+Sinaga,+Fiqh+dan+Ushul+Fiqh+(Jakarta:+Prenadamedia+Group,+2018),+h.+75&ots=V_KFmBwIRV&sig=EaJ-G7KixHWpoAiAYxIIZDxmZlw)> [accessed 25 May 2024].

¹⁷ Afifa Kurnia, 'EFFORTS OF THE CILACAP REGENCY CHILD PROTECTION OFFICE IN DEALING WITH CHILDREN WHO ARE FACED WITH THE LAW FROM THE PERSPECTIVE OF MAQASID SYARIAH' (unpublished PhD thesis, IAIN Purwokerto, 2020), p. 33
<https://eprints.uinsaizu.ac.id/7625/1/COVER_BAB%20I_BAB%20V_DAFTAR%20PUSTAKA.pdf> [accessed 25 May 2024].

to get what they have to get and be able to carry out their rights and obligations. Because children as future generations of the nation play an important role in the development of a country and its people. This has been stated in the 1945 Constitution which stipulates that the protection, progress, enforcement, and fulfillment of human rights are the responsibility of the state.

The Practice of Child Labor as a Hawker at Pawon Stop-in Restaurant

a) Child workers as hawkers at Pawon Stopper Restaurant

In practice, what happens to children at the Pawon Mampir Restaurant is inversely proportional to what has been explained above. Some minors have been employed as hawkers by their parents. At Pawon Stop by Restaurant, hawkers by offering their merchandise at very expensive prices, crackers or dry food that are small in size are pegged at 15,000 per container and the price is patented and cannot be negotiated, and that is a way for parents to take advantage of their children to be employed as street vendors. However, there are children who are only limited to helping people to meet their basic needs.

Amat, one of the workers, also explained that his work was only limited to filling the void, even the money from the sale was saved and some of it. In addition to the two children. There was also one of the children explaining the condition of the work that was done only to help the parents. This was explained by a child named Stenni

b) Children's rights that must be fulfilled

Children have rights that must be fulfilled in their lives. These rights include the following:

- 1) Right to protection
- 2) the right to live and thrive
- 3) the right to education
- 4) the right to receive alimony and inheritance
- 5) the right to equal treatment (non-discriminatory)

Each of the above rights must be fulfilled by parents in meeting the needs of their children's lives. but it is different with the children who trade at the Pawon Stop Restaurant. There are children whose right to a proper education is not fulfilled. However, not all of these children do not receive education, only a few children do not

go to school. This is based on the news that many children who trade as hawkers are categorized as minors.

c) Age of child labour

From the results of a study conducted by researchers at the Pawon Stop by Restaurant based on the age of child labor, it was found that quite a number of children worked as hawkers, but the researcher only took data on 25 people, the average age of the child was still a minor. Based on the data in the report, the researcher concluded that on average, some of the children who work as street vendors at the Pawon Mampir Restaurant are still in elementary school (SD) and the rest are in kindergarten (kindergarten).

Child workers who work as street vendors usually start emptying their goods after school until late afternoon. The activity is carried out every day. The children are usually escorted by their families to empty their goods from the morning after school until late afternoon. There are also those who wait until maghrib to be able to go home.

Activities as a hawker are usually carried out every day because the Pawon Mampir Restaurant is never empty of visitors even though at certain times the place is visited by only a few people. The profits obtained are usually partly used to buy food and part of it is given to their parents for daily needs, sometimes also the money from trading in the tube by the children. The items that are left behind by the children at the Pawon Mampir Restaurant are such as dry food. These dry foods such as fish crackers, starch crackers and many more. The merchandise products are ready-made food and then resold. The habit of being a hawker is a common thing among children at the Pawon Stop Restaurant. This is due to the unmet needs of the children themselves and the very minimal economic situation of the family. This situation makes children inevitably sell as street vendors to meet their needs.

The existence of hawkers at the Pawon Mampir Restaurant is also often complained about by tourists or visitors who come. This is because the hawkers often offer goods when visitors are eating. Especially with an abnormal price, a small pack is pegged at Rp. 15,000 and if bargained, it can't.

d) Factors that encourage children to work as hawkers

1) Economic Factors

a. Poverty

Some children admit that their parents only work as farm laborers, hawkers, fishermen and some do not work and prefer to be housewives. The results obtained from the job cannot meet their needs and that is what motivates children to work as street vendors and is used as a tool to help their parents earn a living.

b. Income

The lack of income obtained by parents results in children as a source of income, one of which is by selling in the Mampir Pawon restaurant area, but not all parents make children as a source of income, this is based on the results of an interview conducted with inaq juminah as a collector of goods where children take their merchandise.

c. Necessity

An inadequate economy is one of the factors for children to work at an early age, if the needs of the child are not met, the children choose to trade as street vendors to meet their living needs such as food, drink and pocket money. In addition to the money from the sale being used for personal needs, there are also children who on their own initiative want to reduce the burden on their parents, one of which is pocket money. There are even children if the income is felt to be more, then the results are given to their own parents.

2) Family Factors

Family factors can also affect children working at an early age, which is in line with several factors that affect it. Based on the experience of various cases, it is stated that the causes of the emergence of hawkers include:

- a) The family is messy so the child chooses to live on the streets.
- b) Not having a family (home, family and so on).
- c) Parental coercion of children to provide for the family economy.
- d) Economic poverty, access to information and so on in the family, so as to encourage children to be independent by living on the streets.
- e) A culture that considers children to serve their parents.

3) Environmental Factors

Environmental factors are also factors that have a great influence on children who work as street vendors, where the environment where the majority of these children live work as street vendors. In practice, most of the hawkers live in the same area or place of residence. This affects other children to participate in selling as street vendors.

4) The child's own will

In addition to economic factors, family and environmental factors of their own volition also affect children to work at an early age. Because most of them sell as hawkers and from selling can meet daily needs such as pocket money and meals as well as intermediaries to play with friends.

DISCUSSIONS

a) Analysis of the Practice of Child Labor as a Hawker at the Pawon Purwokerto Stop-in Restaurant

The practice of child labor as a street vendor at the Mampir Pawon Restaurant, this activity has a negative impact on children, because child workers who work as street vendors are very early. The practice of child labor as a street vendor is a complex problem and still occurs today, where quite a lot of children work as street vendors, both in the formal and non-formal sectors. Children who work as street vendors prefer to trade rather than play like children in general because from work they can collect money to help the family economy. Selling as a hawker is a common thing among children at the Pawon Purwokerto Mampir Restaurant.

The practice of child labor as street vendors in the tourist area of Rumah Makan Mampir Pawon is quite high because the area is a lot of visitors who come from local residents and from other areas. Child workers who work as street vendors take advantage of this to sell various kinds of dry food. The child workers sell to help the family economy where they are already burdened to make a living.

Child labor as a hawker at the Mampir Pawon Restaurant has positive and negative impacts, including the negative impact, namely the physical development of children with adults being more vulnerable because children in the growing up period and the work done by child workers can cause accidents and diseases, this can be in the form of injuries or disabilities due to scratches, hits or bumps, while those that can cause diseases include workplace conditions that are The weather is very hot or too cold. The positive impact is that they get additional income to help meet the needs of life that are not met by their parents.

Child labor, especially in the informal sector, needs to get adequate legal protection as stated in the Labor Law, but the handling of child labor problems is difficult to do due to factors that directly and indirectly hinder the handling of child labor problems in the informal sector.

The causes of employing children as hawkers at the Pawon Mampir Restaurant include:

1) Economy

Family economic incapacity is the main factor for children to work at an early age. The inadequate needs of life make children inevitably do work as street vendors.

2) Education

Poor family conditions force some children not to continue school due to lack of funds, which makes children forced to work with low education. Low education has a bad impact on children's knowledge level. The limitations of education make children gain skills and insight in work are also limited.

This condition is experienced by some children who work as street vendors at the Pawon Mampir Restaurant. Child workers as street vendors are more concerned with work than continuing school, because from working the children get money to meet the needs of the family or the needs of the children themselves.

3) Milieu

In addition to the two reasons above, the environment also greatly affects the mindset of children, one of which is working as a hawker. Areas that are used as tourism are a trigger for the emergence of jobs both from the world of crafts, food, tourist attractions and others. One of them is a handicraft business that is widely looked at by workers or traders who are categorized as minors. In addition to a place that has the potential to be a business field, the number of friends or playmates as hawkers also influences other children to follow or engage in the business that their friends are engaged in. In addition to these reasons, there are also other reasons that are the influence of children working to become accessory traders because in the environment where they live, most children have worked like street vendors.

Law No. 13 of 2003 concerning Manpower Article 68 which states:

- a. Written permission from a parent or guardian
- b. The existence of an employment agreement between the employer and the parent or guardian C
- c. Maximum working time of three hours
- d. done during the day and does not interfere with school time
- e. Pay attention to occupational safety and health f. There is a clear relationship
- f. receive wages in accordance with applicable regulations.⁸⁹ In Law no. 13 of 2003, it is required to comply with the rules that have been set. However, in practice all the rules that have been set are not fulfilled. so that the activities carried out by children

who carry out activities (street vendors) at the Pawon Purwokerto Mampir Restaurant can be said to be contrary to the applicable law.

a) An Analysis of Islamic Law on Children as Street Vendors at Pawon Purwokerto Stop-by Restaurants

Employing children who are still in elementary school and even those who employ children who are not yet in school has often occurred in the surrounding community. Especially in the area of the Mampir Pawon restaurant area, it is based on efforts to teach children to work from an early age. It is undeniable that children in this era can already do adult work, one of which is trading activities such as becoming street vendors. Child labor is a worker who is 13 to 15 years old. In article 68 of Law No. 13 of 2003 concerning employment, employers are prohibited from employing children. Employers can hire children with the following conditions, including:

- a. Written permission from a parent or guardian
- b. The existence of an employment agreement between the employer and the parent or guardian
- c. Maximum working time of three hours
- d. done during the day and does not interfere with school time
- e. Pay attention to occupational safety and health
- f. There is a clear relationship
- g. receive wages in accordance with applicable regulations.¹⁸

In addition to article 68 above, article 75 discusses those related to children's work that:

"The government is obliged to make efforts to deal with children who work outside the employment relationship. Children who work outside of work relationships, for example, the children of shoe shiners or the children of newspaper sellers and so on".¹⁹

This countermeasure is intended to eliminate or reduce children working outside the employment relationship. This effort must be carried out in a planned, integrated, and coordinated manner with related agencies. It must be acknowledged that the rules for the

¹⁸ Wahyu Kuncoro, 'Practical Legal Tips: Smart Solutions to Facing Family Cases', *Jakarta: Achieve Success*, 2010, p. 191.

¹⁹ H. Zaeni Asyhadie, M. Sh, and S. H. Rahmawati Kusuma, *Labor Law in Theory and Practice in Indonesia* (Prenada Media, 2019), p. 134 <[https://books.google.com/books?hl=id&lr=&id=Qb-NDwAAQBAJ&oi=fnd&pg=PA1&dq=Rahmawati+Kusuma,+%E2%80%9CHukum+Ketenagakerjaan+dalam+Teori+dan+Praktik+di+Indonesia%E2%80%9D,\(Jakarta+Timur:+Rawamangun+cet.+1,+January+2019\),+pp.+134&ots=1I6qQLL8Cv&sig=0lcMyPKAuP_V8xgZAiLRuhx5saw](https://books.google.com/books?hl=id&lr=&id=Qb-NDwAAQBAJ&oi=fnd&pg=PA1&dq=Rahmawati+Kusuma,+%E2%80%9CHukum+Ketenagakerjaan+dalam+Teori+dan+Praktik+di+Indonesia%E2%80%9D,(Jakarta+Timur:+Rawamangun+cet.+1,+January+2019),+pp.+134&ots=1I6qQLL8Cv&sig=0lcMyPKAuP_V8xgZAiLRuhx5saw)> [accessed 27 May 2024].

protection of the weak in Law No. 13 of 2003 have reflected the fulfillment of the five basic rights (*adh-dharuriyyat al-khamsah*), and more specifically for the protection of the souls of workers. This is in accordance with the hadith of the Prophet which states:

*"The workers are your brothers whom Allah has power over you. So whoever has a worker should be given food as he eats, clothed as he wears, and not forced to do something that he is not capable of. If he is forced to, he must be helped"*²⁰

In principle, children are not allowed to work, exempt for certain conditions and interests children are allowed to work, as stipulated in Law no. 13 of 2003 concerning employment. The forms of work include:

1. Light work, children aged 13 to 15 years are allowed to do light work as long as it does not interfere with physical, mental and social development and development.
2. Work in the framework of the education or training curriculum, the child can do work that is part of the education or training curriculum authorized by the authorized official with the following provisions:
 - a. Minimum age of 14 years
 - b. given clear instructions on how to carry out the work
 - c. provided with occupational safety and health protection
3. Work to develop talents and interests, to develop children's talents and interests well and their interests. To avoid the exploitation of children, the government has passed a policy in the form of Kepmenakertrans No. Kep. 115/Men/VII/2004 concerning Protection for Children Who Do Work to Develop Talents and Interests.

The requirements for employing children aged 13-15 years for light work are that they must meet the following requirements:

1. written permission from a parent or guardian
2. Employment agreement between the employer and the parent or guardian
3. Maximum working time 3 hours
4. done during the day and does not interfere with school time
5. Ensuring occupational safety and health
6. Existence of a clear working relationship
7. receive wages in accordance with applicable regulations.²¹

²⁰ Abdul Jalil, 'Labor Theology, Yogyakarta: PT', *LkiS Pelangi Aksara Yogyakarta*, 2008, p. 197.

From the above explanation, it can be explained that the condition of the child, if allowed to work, must be in accordance with the provisions that have been explained above that the child can work if the job is a light job where the age of the child is from 13 to 15 years old and is given protection for occupational safety and occupational health. Meanwhile, the condition of children who are not allowed to work is if there is no written permission from the guardian's parents, working hours exceeding the limit of work provisions do not interfere with school time and occupational safety and health are not guaranteed. Meanwhile, what happened to children who worked as hawkers in the Stopped by Restaurant was that many researchers found that children who were less than 13 years old were already working, their working hours also exceeded the limit of work regulations and there was no guarantee of occupational safety and health due to the absence of direct supervision from parents.

The basic and fundamental message of the building of Islamic legal thought (fiqh) is the benefit, the benefit of universal humanity or in more operational expressions of social justice. Any and however theoretical offer (*ijtihad*), whether supported by nash or not, that can guarantee the realization of the benefits of humanity (including children) from an Islamic perspective is legitimate and Muslims are bound to control and realize it. On the other hand, any theoretical offer and however convincingly does not support the guarantee of benefits, much less opens up the possibility of the occurrence of *madadharatan* (*Fath al-Zari'ah*), in the eyes of Islam is a *fasid*, so that Muslims individually and collectively are bound to prevent it.²²

From the explanation listed above, in every decision making on religious law, it should be more considered the aspects of *maslahah* and *mufsadat* as a reference in *maqasid sharia*. According to Al-Syatibi, the way to understand *maqasid sharia* includes the study of *illah al-nur* (command), and *al-nahi* (prohibition), which are found in the nash of the Qur'an and Hadith. For Al-Syatibi, *'illah* contains a very broad meaning, namely benefits and wisdom related to *al-awamir* (commandments), *al-ibahah* (ability) and *al-mafasid* related to *al-nawahi* (prohibitions). This means that *'illah* a law includes benefits and mafsadatan.

²¹ PRESIDENT OF THE REPUBLIC OF INDONESIA, 'Law of the Republic of Indonesia Number 13 of 2003 concerning Manpower', 2006 <<https://www.cekindo.com/wp-content/uploads/2019/02/Undang-Undang-No-13-Tahun-2003-tentang-Ketenagakerjaan.pdf>> [accessed 26 May 2024].

²² Indar Wahyuni, 'The Problem of Child Labor: A Perspective of Maqashid Shari'ah', *Court: Journal of Islamic Law Studies*, 9.1 (2016), p. 93 <<https://jurnal.syekhnrjati.ac.id/index.php/mahkamah/article/view/292>> [accessed 27 May 2024].

Because 'illah in the sense of benefit and mafsadatan in general is *maqasid sharia* itself.

This impression is implied in the verse of the Qur'an surah At-Tahrim (6):

لَا سِدَادَ غِلَاطٍ بِكُمَا لِيَهَا عَ وَالْحِجَارَةُ النَّاسِ وَقُودُهَا نَارًا وَأَهْلِيكُمْ أَنْفُسَكُمْ قُوا مَنُورًا الَّذِينَ أَيُّهَا
يُؤْمَرُونَ مَا وَيَفْعَلُونَ أَمْرَهُمْ مَا اللَّهُ يَعْتُونَ

O you who believe! Protect yourself and your family from the fires of hell whose fuel is man and stone; its guardian angels, rough and hard angels who do not disobey God against what He commands them and always do what is commanded.

سَدِيدًا قَوْلًا وَلِيَقُولُوا اللَّهَ فَلْيَتَّقُوا عَلَيْهِمْ خَافُوا ضِعْفًا رِيَّةً خَلْفَهُمْ مِنْ تَرَكَوْا لَوْ الَّذِينَ وَلِيخْشَ

And fear those who should leave behind their weak offspring whom they fear for their welfare. Therefore, let them fear Allah and let them speak with the right word.

The content of the understanding that can be concluded from the above narration of the Qur'an is the command to protect the family, including children, in order to avoid the torment of hellfire, evil and misery. Therefore, we should build a family that is qualified, faithful and pious. Parents are obliged to educate their children seriously and provide a wide range of knowledge by providing high education for their future so as not to give birth to a weak generation as stated in the two verses above. Islamic law states that caring for and educating children is mandatory, because if young children are not cared for and educated properly, it will have bad consequences for children and can even lead to the loss of their lives.²³

The law in Islam is a person's obedience to carry out obligations and abandon the prohibitions that have been regulated both in the Qur'an, hadith, and sharia laws that regulate legal competence. Islamic law also regulates the propriety of a person that can be judged from his actions so that it has legal consequences for the perpetrator. Legal proficiency here is related to *ahliyatul wujub* which means the ability to own and bear rights, while propriety in acting concerns the appropriateness of a person to do the law in its entirety which in fiqh terms is called *ahliyatul ada'*. *Ahliyatul ada'* is the ability to give birth to obligations to oneself and rights to others. Therefore, uhsul fiqh scholars define the caliber in acting as the propriety of a person who has an act or action from him that has been determined by the law of sharia'. Legal proficiency in Islam is required to be aqil puberty, sensible and healthy so that this is even clearer with the definition of the age of puberty

²³ Abdul Aziz Dahlan, 'Encyclopedia of Islamic Law, Volume 5, Jakarta: PT, Van Hoeve's New Ichtiar, 1997, p. 415.

contained in the hadith of the Prophet narrated by the Muslim Imam in his saheeh book explaining the age limits of puberty and pre-puberty. The following is an explanation of the definition.

"I offered myself to the Prophet (peace and blessings of Allaah be upon him) to fight in the war of uhud when I was 14 years old, but the Prophet (peace and blessings of Allaah be upon him) did not allow me. I again offered my dir at the time of the qhandak war while I was (at that time) 15 years old, so the Messenger of Allah allowed me. Nafi' narrated, then I came to Umar Ibn Abdul Aziz, who was serving as the caliph at that time and I told this hadith and he said, "This is indeed the boundary between the age of children and adults". then he instructed all Governors that they should designate people who have reached the age of 15 years (as befits adults), and those who are under that age should be categorized as children".

The above hadith does not allow children who are 15 years old to participate in wars, judging from this context, indirectly children who work underage are not allowed because there are restrictions that allow children to work. indirectly based on the hadith, children are not allowed to work so that the practice of children who work (trade) who are categorized as minors at the Pawon Mampir Restaurant can be said to be contradictory.

Children who are born have the right to their survival, from still not being able to do anything until the child understands or has reached puberty. Therefore, parents, families and the community and the State are obliged to educate children, if parents are unable to afford it, then the family must follow and take care of the child, if the family is also unable to do so, the community or the government is obliged to take care of the child until the child grows up. Children are actually not allowed to do work because if children work at an early age, it will always bring harm and minimal benefits. Islam also teaches that the duty of parents is to educate children, whatever is experienced by their family, parents are still obliged to take care of children, children must be satisfied with their needs, both in the form of affection and education or teaching.

Based on the view of maqashid shari'ah, minors who work must have a basic goal in order to achieve benefits for their lives. Al-Syatibi explained that in the concept of maqashid shari'ah, there are 3 (three) parts, namely dharuriyat (primary), hajiyyat (secondary), and tahsiniyyat (tertiary). Dharuriyat means the benefits contained in religious sharia to be able to maintain the five basic elements of the purpose of preserving the religion, soul, intellect, property, and heredity. Hajiyyat means a need to make it easier and lift all kinds of things that can give rise to difficulties. Tahsiniyat is the purpose of existence to give birth to a human life where it is born in order to beautify the order of human life in the future.

Syatibi explained about benefits, anything related to rizki for mankind, the fulfillment of their livelihood, what is demanded by their emotional and intellectual qualities, in a sense in language Syatibi also explained to share other explanations where masalah can be studied. Benefit is one of the things in this world or the hereafter. That the essential guidance in the concept of masalah is the consideration and protection of the element of interest.²⁴

According to the explanation above, minors who work must have a clear goal, so that they can avoid harm while the child is working. In Islamic law, minors who work are not prohibited as long as the child has a strong reason to do the work, such as because of experience training or because of other factors. Children who are allowed to work means not giving a burden to replace parents who are supposed to work, the work in question is also in a form that burdens the child and gives time as long as the child works.²⁵

The time a minor works is a maximum of 20 hours per week. They should not give a lot of workload if the treatment given to the minor child will interfere with their intellect and mind. Children who should be treated with full protection and affection but instead do work that can hinder the growth and development of the child. If a minor child is not treated properly or the child is left to do work, of course it is very contrary to maqashid shari'ah which is one of the important concepts in Islamic law in realizing good while avoiding evil or attracting benefits and staying away from harm. The understanding obtained from the above discussion is the command to take care of the family, especially always supervise the children to avoid harm and misery. This shows that parents must be obliged to educate their children with seriousness, in order to achieve the benefits of taking care of their families. It is also contained in the verse of the Qur'an, precisely in Surah At-tahrim (66) Verse 6 The verse explains that taking care of and educating children is an action that must be carried out by parents. Children must be protected from acts of discrimination, it is inappropriate for minors to do work that can threaten their growth and even threaten the child's life. The problem of children who work is not from what they do but from the consequences they will receive after they do the work, basically parents who should be looking for a job, not allowing or abandoning their children to do dangerous work.

²⁴ Al-Syatibi, *Al-Muwafaqat Fi Usul Al-Ahkam*, (Beirut: Dar Al Fikr, 1341 AH), p. 2

²⁵ Hardius Usman Nachrowi Djalal Nachrowi, *Child Labor in Indonesia*, p. 33

CONCLUSIONS

The practice of child labor as a hawker at the Pawon Purwokerto Mampir Restaurant is categorized into two, namely workers of their own volition and the request of their parents, thus child labor. The cause of employing children as street vendors in the Mampir Pawon Restaurant area is caused by economic, educational and environmental factors. Children are not allowed to work except for the work they do is light and does not interfere with the child's physical, social and mental health development. If you let children work in conditions that endanger their lives, both physically and psychologically, because of long working hours that will threaten the child's life, this is not in accordance with *the maqasid sharia* which is a *dharuriyyah* (primary) need, including protecting the child's soul because children still need strict protection from their parents. Employing children by not paying attention to the rights of children is not in accordance with *the maqasid of sharia*, it can make the child mentally weak as contained in the Qur'an Surah AnNisa' verse 9. Meanwhile, if the rights of children are in accordance with *the maqasid of sharia*, including parents are obliged to provide for their children until the child has the ability to provide for himself, so that children can explore the potential that exists in them because children are national assets that must be guarded and protected because employing minors can affect the growth and development of children who should get education but are forced to do a job.

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