

Legal Implications of Return of Gifts After the Cancellation of Khitbah Perspective of Hadith and Maqashid Al-Sharia'ah: An Analysis of Women's Rights Protection and Prevention of Mafsadah

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Abstract

Khitbah is the initial stage towards marriage. In practice, khitbah is often accompanied by giving gifts from the male to the female. The problem that arises is when the application is canceled, causing a debate regarding the legal status of returning the application prize that has been given. This study aims to analyze the law of return of grants after the cancellation of the application. This research uses a library research method with a normative approach through the search of hadith literature, hadith syarah, fiqh literature, and religious studies related to the granting of proposals, cancellation of khitbah and maqashid al-shari'ah. The results of the study show that in the hadith the Prophet in principle prohibits withdrawing grants that have been given because they are seen as inappropriate acts. The scholars provided legal details related to the return of the proposal prize based on the cause and effect of the cancellation of the application and the purpose of giving the gift. The maqashid approach shows that the legal implications of returning the gift of the proposal must consider honor, property protection, benefit, justice, and the prevention of mafsadah such as family and social conflicts. Considering cause and effect, the protection of women's rights and the prevention of mafsadah did not occur.

Keywords: *Khitbah, Hadith, Maqashid Al-Syari'ah, Islamic Law*

Abstrak

Khitbah merupakan tahap awal menuju pernikahan. dalam praktiknya khitbah seringkali disertai pemberian hadiah dari pihak laki-laki kepada perempuan. Persoalan yang muncul adalah ketika lamaran tersebut dibatalkan sehingga menimbulkan perdebatan terkait status hukum pengembalian hadiah lamaran yang telah diberikan. Penelitian ini bertujuan untuk menganalisis hukum pengembalian pemberian pasca pembatalan lamaran. Penelitian ini menggunakan metode penelitian kepustakaan (*library research*) dengan pendekatan normatif melalui penelusuran literatur hadist, syarah hadist, literatur fiqh, dan kajian keagamaan terkait pemberian lamaran, pembatalan khitbah dan *maqashid al-syari'ah*. Hasil penelitian menunjukkan bahwa dalam hadist nabi pada prinsipnya melarang menarik kembali hibah yang telah diberikan karena dipandang sebagai perbuatan yang tidak pantas. Para ulama memberikan rincian hukum terkait pengembalian pemberian hadiah lamaran berdasarkan sebab akibat pembatalan lamaran dan tujuan pemberian hadiah tersebut. Pendekatan maqashid menunjukkan bahwa implikasi hukum pengembalian pemberian hadiah lamaran harus mempertimbangkan kehormatan, perlindungan harta, kemaslahatan, keadilan, serta pencegahan mafsadah seperti konflik keluarga dan sosial. Dengan mempertimbangkan sebab akibat, perlindungan hak perempuan dan pencegahan mafsadah tidak terjadi.

Kata kunci: *Khitbah, Hadist, Maqashid Al-Syari'ah, Hukum Islam*

A. Introduction

In Islam, marriage is a sacred event. Inside is a bond wrapped in the sacred vows of a man and a woman as husband and wife, and enveloped by the best prayers of friends, family, friends, and co-workers.¹ Marriage is a sacred bond that lasts forever, not just for a short time. Therefore, the teachings of Islam command its followers to make an engagement or marriage proposal before the marriage takes place.² Asking or proposing a woman to be married in a way that is known to be common is called *khitbah* or *pinangan*. If an agreement is reached, *khitbah* is only a promise to marry, so the man who proposes to her does not have any rights to the woman he is married to.³ *Khitbah* in *shari'a* is the first door to marriage. When viewed from the perspective of language, the sermon is not part of marriage, but only as a *muqaddimah* (introduction) and an introduction to marriage. The request for the consent of the man to the woman to become a future wife is known as *khitbah*.⁴

Although the engagement is only a preliminary as the execution of the marriage contract, it has consequences if the engagement is cancelled. In society, men usually give money and various gifts, such as rings or clothes, when carrying out engagements.⁵ In *fiqh munakahat*, *khitbah* is considered a promise that is not legally binding, so both parties are free to continue or cancel the marriage process. However, in practice, the cancellation of *khitbah* can have moral, social, and material impacts, especially related to gifts or gifts given during the *khitbah* period.⁶ Thus, the problem that then arises is about the legal status of the gift that has been handed over during the *khitbah* period when the application is canceled. This condition shows that the issue of the return of the prize in the cancellation of *khitbah* is not only related to the

¹ Khoirul Safril Umam Dkk., "Telaah Makna Qurrata A'yun Dalam Al-Qur'an Sebagai Cerminan Dari Keluarga Sakinah," *JOURNAL OF QUR'AN AND HADITH STUDIES* Volume 13, No. 1 (2024).

² Dinda Sri Rezeki, "Double Refund Of Engagement Sign On Wedding Cancellation By The Woman Fiqh Munakahat Perspective (Case Study In Tanjung Putus Padang Tualang Village)," *International Journal Of Sharia Studies* Volume 02 No. 02 (2024), <https://doi.org/10.61810/Ijss.V2i2.169>.

³ Rahmi Ramadhani Dan Elsy Renie, "Tinjauan Hukum Islam Terhadap Pengembalian Mahar Berganda Akibat Pembatalan Peminangan Dalam (Studi Di Kelurahan Belawan II Kota Medan)," *JISRAH: Jurnal Integrasi Ilmu Syariah* Volume 2, Nomor 3 (2021), <https://doi.org/10.31958/Jisrah.V2i3.4962>.

⁴ Faris El Amin, "Studi Komparatif Empat Mazhab Fiqih Tentang Hukum Putus *Khitbah*," *Bilancia: Jurnal Studi Ilmu Syariah Dan Hukum* Vol. 15 No. 1 (2021), <https://doi.org/10.24239/Blc.V15i1.699>.

⁵ Adam Idris Dan Mawardi, "Pandangan Hukum Islam Terhadap Adat Penarikan Harta Pemberian Dalam Tunangan Yang Batal (Studi Kasus Di Desa Kandang Kecamatan Tebo Tengah Kabupaten Tebo Provinsi Jambi)," *Al-Hukmi: Jurnal Hukum Ekonomi Syari'ah Dan Keluarga Islam* Volume 4, No 1 (2023), <https://doi.org/10.35316/Alhukmi.V4i1.3449>.

⁶ Rifka Wahyuni, Amriati, Dan Rahmat Mansur, "Analisis Komparatif Fiqh Munakahat Dan Hukum Positif Terhadap Pembatalan *Khitbah* Nikah (Studi Kasus Kel. Balandete Kec. Kolaka Kab. Kolaka)," *Jurnal Syariah Dan Hukum Islam* Volume (8) No. (1) (2025), <https://journal.usimar.ac.id/index.php/jsh/index>.

ownership of property, but also to ethics, justice, and the emergence of mafsadah in social relations. Therefore, a more comprehensive study of Islamic law is needed.

Studies on *khitbah* or proposals have been researched before, some of which are studies conducted by Soraya Devy (2022) which raises the theme of the consequences of engagement cancellation in the tradition of the people of Jaya District, Aceh Jaya Regency reviewed in terms of the concept of 'urf.⁷ Research conducted by Itsnaya Qonita, Lukluk Ilmaknun, Widodo Hami (2023) which raises the theme of unilateral cancellation of *khitbah* in the perspective of Islamic law and sociological law in Wonorejo village, wonopringgo district, Pekalongan Regency.⁸ Research conducted by Afrinal, Yodi Saputra (2022) unilateral cancellation of agreements after proposing from the perspective of Islamic law.⁹ Research conducted by Uswatun Hasanah (2022) which discusses compensation due to cancellation of *khitbah* in the perspective of Islamic law a case study of cancellation of *khitbah* in the city of Medan.¹⁰ Then the research conducted by Khairatun Nazmi Siregar, Hafsa Hafsa, Ramadhan Syahmedi Siregar (2022) which discusses the cancellation of marriage and its legal consequences according to the perspective of Islamic law and Malay customs, a case study in Labuhan Batu Induk Regency.¹¹

After reviewing previous studies, it can be concluded that these studies generally highlight aspects of application cancellation from the perspective of normative Islamic law, customary law, cancellation of *khitbah* to the implications of legal consequences such as compensation, and unilateral cancellation of *khitbah*. Although some studies have touched on the aspect of canceling *khitbah*, studies that systematically discuss the legal implications of returning gifts after the cancellation of applications from the perspective of hadith and maqashid al-shari'ah are still relatively limited. Moreover, a study that places the issue in the framework of protecting women's rights and preventing mafsadah. This condition shows that

⁷ Soraya Devy, "Konsekuensi Pembatalan Pertunangan Dalam Tradisi Masyarakat Kecamatan Jaya Kabupaten Aceh Jaya Ditinjau Dari Segi Konsep 'Urf," *El-Usrah: Jurnal Hukum Keluarga* Vol. 5 No. 1 (2022).

⁸ Itsnaya Qonita, Lukluk Ilmaknun, Dan Widodo Hami, "Pembatalan *Khitbah* Secara Sepihak Dalam Perspektif Hukum Islam Dan Hukum Sosiologi Di Desa Wonorejo Kecamatan Wonopringgo Kabupaten Pekalongan," *Al-Qawaid: Journal Of Islamic Family Law* Vol 1, No. 2 (2023), <https://doi.org/10.52491/qowaid.v1i2.90>.

⁹ Afrinal Dan Yodi Saputra, "Pembatalan Perjanjian Secara Sepihak Pasca Peminangan Prespektif Hukum Islam," *Sakena: Jurnal Hukum Keluarga* Vol 7, No. 2 (2022).

¹⁰ Uswatun Hasanah, "Ganti Rugi Akibat Pembatalan *Khitbah* Dalam Perspektif Hukum Islam ; Studi Kasus Pembatalan *Khitbah* Di Kota Medan," *Jurnal El-Qanuniy: Jurnal Ilmu-Ilmu Kesyarahan Dan Pranata Sosial* Volume 8 Nomor 1 (2022).

¹¹ Khairatun Nazmi Siregar, Hafsa Hafsa, Dan Ramadhan Syahmedi Siregar, "Pembatalan Peminangan Dan Akibat Hukumnya Menurut Perspektif Hukum Islam Dan Adat Melayu (Studi Kasus Di Kabupaten Labuhanbatu Induk)," *Al-Mashlahah: Jurnal Hukum Islam Dan Pranata Sosial Islam* Vol, 10 No. 02 (2022), <https://doi.org/10.30868/am.v10i02.4100>.

there is a research gap that needs to be filled, especially in strengthening the normative arguments of Islamic law regarding the implications of the law of gifts after the cancellation of the application through the approach of hadith and *maqāṣid al-syarī'ah*.

Departing from these problems, this study is expected to be able to analyze the legal implications of returning the application prize as well as examine it on the protection of women's rights and the prevention of *mafsadah*. Thus, this research is expected not only to contribute to the development of academic knowledge in the study of Islamic family law, but also to have practical relevance in increasing legal awareness for the public on the issue of application cancellation.

B. Research Methods

This research is a qualitative research with a library *research* approach, which is research that collects data sourced from various relevant literature and data analysis sourced from written materials without involving field data collection.¹² The primary data in this study are the hadith of the Prophet about grants in the books of saheeh al-bukhari and Muslim, and classical and contemporary fiqh books related to the cancellation of proposals and proposal prizes. Secondary data in this study was obtained from journal articles, books, which are relevant to the cancellation of applications, proposal prizes, and the protection of women's rights.

The data collection technique is carried out through documentation techniques and systematic tracing of credible literature sources. Data analysis was carried out using descriptive and normative analysis methods. By studying the opinions of scholars, tracing the basis of the hadith, and relating it to the goals of the sharia to find a legal construction that is oriented towards the benefit and prevention of mafsadah. The validity of data is strengthened through source triangulation, namely by assessing and reanalyzing various references and sources in order to obtain objective and comprehensive analysis results.¹³

C. Discussion

1. The Concept Of Khitbah And Gift-Giving In Islam

A marriage proposal is a process in which the groom-to-be expresses a desire to marry the bride-to-be. This process is usually done in a formal and formal way, and

¹² Suharsiwi, Muhammad Syarif Sumantri, Dan Fauzi, *Sukses Penelitian Kualitatif* (Sumatera Barat: Penerbit. Cv. Azka Pustaka, 2022).

¹³ Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif Dan R & D* (Bandung: Alfabeta, 2013).

involves families from both parties.¹⁴ In his book, Wahbah Zuhaili describes "khitbah" as a man's statement to a woman that he wants to marry her, both to his guardian and to her. Men who plan to get married can convey this intention in person or through a guardian representative.¹⁵ The basis of the Qur'anic nash about khitbah or proposal is Q. S Al-Baqarah (2) verse 235:

وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا عَرَّضْتُمْ بِهِ مِنْ خِطْبَةِ النِّسَاءِ أَوْ أَكْنَنْتُمْ فِي أَنْفُسِكُمْ ۗ عَلِمَ اللَّهُ أَنَّكُمْ سَتَذْكُرُونَهُنَّ وَلَكِنْ لَا تُؤَاعِدُوهُنَّ سِرًّا إِلَّا أَنْ تَقُولُوا قَوْلًا مَعْرُوفًا ۗ وَلَا تَعْزِمُوا عُقْدَةَ النِّكَاحِ حَتَّىٰ يَبْلُغَ الْكِتَابَ أَجَلَهُ ۗ وَاعْلَمُوا أَنَّ اللَّهَ يَعْلَمُ مَا فِي أَنْفُسِكُمْ فَاحْذَرُوهُ ۗ وَاعْلَمُوا أَنَّ اللَّهَ عَفُورٌ حَلِيمٌ

Meaning: There is no sin for you for the word insinuation to propose to women or (the desire to marry) that you hide in your heart. God knows that you will mention them. However, do not make a secret promise to marry them, except to say the right words. Do not set a marriage contract before the end of the idah period. Know that God knows what is in your heart. So, fear Him. Know that Allah is Forgiving and Sustaining (Qs. Al-Baqarah:235).

The above verse shows that a person expresses his intention or desire to marry a woman in a good way and does not violate the provisions of the Shari'a. This shows that Islam recognizes the existence of khitbah as a prelude to the marriage contract as a way to convey the desire or intention to get married. In addition to the Qur'an, the concept of proposal is also explained in the hadith of the Prophet as follows:

عَنْ جَابِرِ بْنِ عَبْدِ اللَّهِ، قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ إِذَا خَطَبَ أَحَدُكُمْ الْمَرْأَةَ فَإِنْ اسْتَطَاعَ أَنْ يَنْظُرَ إِلَى مَا يَدْعُوهُ إِلَى نِكَاحِهَا فَلْيَفْعَلْ . قَالَ فَخَطَبْتُ جَارِيَةً فَكُنْتُ أَتَحَبُّ لَهَا حَتَّى رَأَيْتُ مِنْهَا مَا دَعَانِي إِلَى نِكَاحِهَا وَتَرَوُجَهَا فَتَرَوُجْتُهَا .

Narrated by Jabir bin Abdullah: The Prophet said: If one of you proposes to a woman, if he is able to see what will interest her in marrying her, then let him do it. Jabir said: I proposed to a girl, I used to see her secretly, until I saw what made me interested in marrying her. Therefore, I married her. (H.R. Abu Daud No. 2082).¹⁶

دَنَّنَا مَكِّيُّ بْنُ إِبْرَاهِيمَ، حَدَّثَنَا ابْنُ جُرَيْجٍ، قَالَ سَمِعْتُ نَافِعًا، يُحَدِّثُ أَنَّ ابْنَ عَمَرَ رَضِيَ اللَّهُ عَنْهُمَا كَانَ يَقُولُ نَهَى النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ أَنْ يَبِيعَ بَعْضُكُمْ عَلَى بَيْعِ بَعْضٍ، وَلَا يَخْطُبَ الرَّجُلُ عَلَى خِطْبَةِ أَخِيهِ، حَتَّى يَتْرَكَ الْخَاطِبُ قَبْلَهُ، أَوْ يَأْذَنَ لَهُ الْخَاطِبُ.

¹⁴ Nur Fadly Hermawan, "Tradisi Lamaran (Khitbah) Dalam Perspektif Metodologi Studi Islam: Dialektika Antara Normativitas Syariat Dan Praktik Budaya Di Indonesia," *Jurnal El-Wasathiyah* Vol 13 No 2 (2025), <https://doi.org/10.35888/El-Wasathiyah.V13i2.6474>.

¹⁵ Wahbah Az-Zuhayli, *Al-Fiqhul Islami Wa Adillatuh*, Juz 7 (Beirut: Dar Al-Fikr, 1985).

¹⁶ Al-Imam Al-Hafidz Abu Daud Sulaiman Bin Bin Al-Asy'ats Bin Ishaq As-Sijistani, *Sunan Abu Daud* (Riyad: Dar Al-Salam, 1999).

Makki ibn Ibrahim told us, Ibn Jurayj told us, he said: I heard Nafi' narrate that Ibn Umar, that the Prophet (peace and blessings of Allaah be upon him) said: A man should not propose to a woman who has been proposed to by his brother until the previous applicant has left her or allowed her. (Hr. Bukhari No. 5412).¹⁷

In Islam, khitbah or proposal has clear rules, ethics and moral principles. The above hadith shows that a man can see the woman he wants to propose to if it encourages him to marry. The above hadith also shows that the prohibition of preaching a woman who has been preached by someone else unless the person who preached it first cancels or gives permission. The two hadiths above show that Islam regulates khitbah with the principles of prudence, social ethics, and maintaining harmonious relations among Muslims.

In practice, in most societies, the groom-to-be usually gives something, such as money or jewelry, during the proposal event to show that they really intend to get married.¹⁸ According to Wahbah al-Zuhayli, the gifts made during the proposal are basically included in the category of grants (voluntary giving) as long as there is no marriage contract. A grant is a gift of property without compensation given to the recipient after the occurrence of qabd (handover).¹⁹ Therefore, it can be understood that the giving of proposal gifts is in the region between absolute khitbah and gifts that have a specific purpose, namely marriage. It should be underlined that the gift given at the time of the proposal is different from the dowry in the marriage. Dowry is an obligation that must be given to women when the contract takes place. Meanwhile, the proposal gift is voluntary and is not a valid condition for marriage.

2. Return of Hadith Perspective

Islam also provides restrictions on the giving of gifts, especially in relation to the withdrawal of the gift. In some hadiths, Nabi Muhammad SAW expressly prohibits a person from withdrawing a grant that has been given to another person.

حَدَّثَنَا مُسْلِمُ بْنُ أَبِرَاهِيمَ، حَدَّثَنَا هِشَامٌ، وَشُعْبَةُ، قَالَ حَدَّثَنَا قَتَادَةُ، عَنْ سَعِيدِ بْنِ الْمُسَيَّبِ، عَنْ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا قَالَ قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ الْعَائِدُ فِي هَبْتِهِ كَالْعَائِدِ فِي قَيْبِهِ .

Narrated by Muslim bin Ibrahim, who said: Narrated by Hisham and Shu'bah, who said: Narrated by Qatadah, from Sa'id bin Al-Musayyab, from Ibn Abba Ra. The

¹⁷ Al-Imam Abi Abdillah Muhammad Bin Ismail Al-Bukhari, *Shohih Al-Bukhari* (Riyad: Bait Al-Afkar, 1998).

¹⁸ Faiz Ridlo Himamul Wafa, "Status Pengikat Dalam Khitbah Studi Komparatif Pendapat Madzhab Syafi'i Dan Madzhab Hanafi," *Jurnal Al-Wasith: Jurnal Studi Hukum Islam* Vol. 6 No. 1 (2021), <https://doi.org/10.52802/Wst.V6i1.197>.

¹⁹ Wahbah Az-Zuhayli, *Al-Fiqhul Islami Wa Adillatuh*, Juz 7.

Prophet (peace and blessings of Allaah be upon him) said: The one who withdraws his giver is like the one who eats back his vomit (Hr. Muslim²⁰ No. 2621 and Muslim²¹ No. 1622).

In the book *Fath al-Bari*, Ibn Hajar al-Astqalani says that the Prophet's parable of equating the one who withdraws his grant with the one who eats his vomit is a very harsh *tashbih* to show how reprehensible the act is. Using this parable, it is intended to emphasize that revoking what has been voluntarily given is an unethical and moral act. Scholars have largely forbidden returning grants after they have been received, except for grants given by a father to his son. However, some jurists argue that there are certain exceptions, such as when a father withdraws a grant given to his son.²² Imam Nawawi also explained that the Hadith also prohibits the withdrawal of goods that have been donated or donated after they have been handed over. If you give something to someone else, this legal provision applies. A person can take back the given item if it is one's own child or grandchild.²³

Although the above hadith does not explicitly regulate the return of the proposal prize, the principle of the prohibition of revoking *khitbah* can be the standard for assessing the return of the proposal prize and its consequences. The return of the application prize should be understood contextually if it is associated with the gift giving in the application. With the ethical principles contained in the hadith, it emphasizes the importance of maintaining justice, honor and avoiding actions that can harm a person.

3. Opinions of Scholars on the Return of Gifts After the Cancellation of *Khitbah*

In this matter there is a difference of opinion among the scholars of the four schools. Hanafiyah scholars argue that gifts or gifts given by each spouse into grants automatically meet the law of grants. They argue that grants should not be withdrawn unless there are conditions that impede the return process.²⁴ Among Malikiyah scholars, there are two versions of opinion. First, the early opinion of the school held that withdrawing the prize is therefore not absolutely permissible, whether it is decided for a prospective man or vice versa. The second, held by the Maliki School, states that if a man thwarts the *khitbah*, he has no right to withdraw his gift under any circumstances, because he gave it on the

²⁰ Al-Imam Abi Abdillah Muhammad Bin Ismail Al-Bukhari, *Shohih Al-Bukhari*.

²¹ Al-Imam Abi Al-Husain Muslim Al-Hajjaj Bin Muslim, *Sohih Muslim* (Riyad: Dar Al-Salam, 2000).

²² Ibn Hajar Al-Astqalani, *Fath Al-Bārī Bi Sharh Sahih Al-Bukhari* (Riyad: Dar Thaibah, 2005).

²³ Al-Imam Al-Hafidz Muhyiddin Abu Zakariya Bin Syaraf Bin Murri Al-Nawawi, *Al-Minhaj Syarh Sohih Muslim Bin Hajjaj Syarah Al-Nawawi Ala Muslim* (Riyad: Bait Al-Afkar, 2000).

²⁴ Alauddin Al-Kasani, *Badā' i' Al-Şanā' i' Fī Tartīb Al-Şarā' i'*, Juz 8 (Beirut: Lebanon: Dar Al-Kutub Al-Ilmiyah, 2003).

basis of a promise of marriage, and since he himself renounced the promise, he has no right to return it.²⁵

Shafi'iyah scholars said that if the woman who proposed to thwarted the khitbah, the prize must be returned. This is because the suitor will not give a gift unless after the marriage occurs, and with the breakup of the khitbah his dream automatically does not come true. In other cases, if the party who decides on the applicant's side, he has no right to withdraw the prize because he himself ends his purpose.²⁶ According to the scholar Hanabilah, the gift is considered a grant and should not be withdrawn unless the item has not reached the recipient. In the case of the khitbah gift, if the applicant has given the gift and it is in the hands of the prospective woman who will receive it, then the applicant cannot withdraw the prize even after the khitbah ends, this view is then used as the basis of some modern scholars.²⁷

These differences of view show that the law of returning the application prize cannot be determined absolutely without considering the context and purpose of the gift. Therefore, the legal determination of the return of the application prize must consider the cause and effect of the cancellation, the principle of fairness for both parties, and the impact that may occur on a person to make a decision taken more fairly.

4. Return of Gifts After Cancellation of Khitbah from the Perspective of Maqashid Syariah

This study uses the approach of *maqāṣid al-syarī'ah* Abu Ishaq Al-Shatibi in *Al-Muwāfaqāt fī Uṣūl al-Syarī'ah* to analyze the problem of returning gifts after the application is canceled. Makāṣid comes from an Arabic word meaning principle, intention, or goal. It is followed by the word "*sharia*", which means the purpose of Islamic law.²⁸ *The maqāṣid syarī'ah* is an important basis for understanding the purpose of Islamic law being established. The scholars say that all religious rules aim to create benefits and prevent damage. In the book *Al-Muwafaqat*, Abu Ishaq al-Shatibi states that the purpose of Islamic sharia is to maintain the five main principles of human life:

²⁵ Sahnun Bin Sa'Id Al-Tanukhi., *Al-Mudawwanatul Kubra*, Juz 4 (Beirut: Lebanon: Dar Al-Kutub Al-Ilmiyah, 1994).

²⁶ Syihabuddin Ahmad Al-Ramli, *Fatawa Al-Ramli Fi Furu' Al-Fiqh Al-Syafi'i* (Damaskus: Dar Al-Kutub Al-Ilmiyah, 20228).

²⁷ Ibn Qudamah Al-Maqdisi, *Al-Mugni*, Jilid Iv (Kairo: Dar Alam Al-Kutub, 1997).

²⁸ Achmad Hasan Alfarisi, "Relevansi Maqāṣid Al-Syarī'ah Dalam Konteks Hukum Islam Kontemporer," *Lexislamica Law* Vol. 1 No. 2 (2025).

religion (ḥifz al-dīn), soul (ḥifz al-nafs), intellect (ḥifz al-'aql), offspring (ḥifz al-nasl), and property (ḥifz al-māl).²⁹

These basic principles show that every provision of the law must contribute to human well-being. If a law does not bring benefits or even cause harm, then its essence is contrary to the maqāsid of the Shari'ah itself.³⁰ Thus, every legal issue, including related to the return of the proposal prize, needs to be analyzed by considering the extent to which the provision is able to bring benefits and avoid mafsadah for the parties involved.

In practice, giving gifts during the proposal period is often understood as a symbol of the seriousness of the man in establishing a relationship towards marriage.³¹ However, because the application is not yet a legally binding or sharia contract, the cancellation of the application still occurs. With the perspective of maqashid al-shari'ah, the solution to this problem needs to consider the interests of both parties so as not to cause injustice or social conflict. In the context of the return of the gift of proposals, the relevant aspects of the shari'ah maqashid are the protection of property and honor. Property protection is related to the property rights that give gifts, while the protection of honor is related to efforts to maintain women's dignity so that they are not socially harmed due to the cancellation of the application. Nevertheless, maqāsid syarī'ah also emphasizes the importance of maintaining human honor and dignity in social relationships. When social justice is neglected, benefits cannot be realized optimally and can even lead to conflict and social inequality.³²

In many cases, the cancellation of the application can have a greater social impact on women compared to men. If the return of the prize is done unilaterally, or in a way that demeans the woman, then this action has the potential to cause psychological and social harm. In addition, the principle of dar al-mafāsīd is related to maqāsid syarī'ah. The Shari'a was created to promote benefit and prevent harm, according to Al-Syatibi.³³ Thus, decisions regarding the return of the application prize must consider the aspect of

²⁹ Abu Ishaq Al-Shatibi, *Al-Muwāfaqāt Fī Uṣūl Al-Syarī'Ah* (Beirut: Lebanon: Dar Al-Kutub Al-Ilmiyah, 2004).

³⁰ Hasbi Umar, Husin Bafadhal, Dan Emilia Putri, "Pendekatan Maqasid Al -Syariah Dalam Studi Hukum Islam," *Jurnal Inovasi Hukum Dan Kebijakan* Volume 6, No. 4 (2025).

³¹ Adam Idris and Mawardi, "Islamic Law's View on the Custom of Withdrawing Property Gifts in Void Fiancés (Case Study in Kandang Village, Central Tebo District, Tebo Regency, Jambi Province)."

³² Fitria Salsabila Dan Sholihah Samrotul Ilmi, "Keadilan Sosial Sebagai Tujuan Maqasid Al-Syari'ah Dalam Masyarakat Kontemporer," *Interdisciplinary Explorations In Research Journal (Ierj)* Vol. 4, Nomor 1 (2026), <https://doi.org/10.62976/Ierj.V4i1.1688>.

³³ Abu Ishaq Al-Shatibi, *Al-Muwāfaqāt Fī Uṣūl Al-Syarī'Ah*.

protecting women's honor as part of the purpose of the shari'a. A reward return due to an application cancellation made without an agreement can trigger conflicts between families and worsen the social relations of both parties.

Using the framework of maqashid al-shari'ah abu ishaq al-syatibi, the analysis of the return of the proposal prize does not only focus on the formal legal aspects, but also considers the social impact that may arise. Therefore, decisions related to the return of the application prize must consider the balance between the protection of women's rights and efforts to prevent mafsadah such as family conflicts, psychological losses, and damage to social relationships. This approach also shows that Islamic law has a strong orientation towards justice and benefits in community life.

5. Legal Implications

From the previous explanation, gifts during the khitbah period do not have a strong legal position like dowry in a marriage contract. Khitbah in Islam is the initial stage (pre-akad) that is moral and social, not a contract that gives birth to a fixed legal result. Thus, the gift or gift in the application is basically a grant. Revoking the grant that has been given is not permissible in principle, as stated in the hadith of the Prophet. In the case of giving at the time of application, some scholars allow the grant to be withdrawn if the application is canceled by the recipient of the prize. Some scholars also emphasized that the gifts that have been given should not be withdrawn as a form of maintaining ethics and honor for both parties.

Using the maqashid al-syariah approach, the return of the proposal prize needs to consider the benefits, prevent the occurrence of social problems and conflicts. Unilateral withdrawal of gifts can cause moral and social losses for women, especially in a society that still views a proposal as a symbol of family commitment. In resolving this problem, it should be done through deliberation, prioritizing the principle of justice, considering the protection of honor, prevention of mafsadah and human dignity. Therefore, the law on returning a gift after the cancellation of the application is contextual, namely by considering the cause and effect of the cancellation of the application, the intention and purpose of giving the gift.

D. Conclusion

The giving of gifts during the application period is basically a grant given before the occurrence of the contract in the marriage. In principle, the prize that has been given has transferred ownership to the recipient. Retracting the grant that has been given is basically a prohibited act as contained in the hadith of the Prophet. The scholars gave a different view.

Some allow the withdrawal of the proposal prize and some scholars also emphasize that the gift that has been given should not be withdrawn as a form of maintaining ethics and honor of both parties. The legal implications of the return of the prize after the cancellation of the application are contextual and are influenced by the cause and effect of the cancellation of the application, and the purpose of awarding the prize. By using the maqashid al-syariah approach, the best solution to this problem is through deliberation, considering the principles of benefit, honor, justice, preventing mafsadah and social conflicts that can damage family relationships.

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