

## Discussion of Social Assistance Programs for Victims of Online Gambling in the Context of *Al-Maṣlaḥah Al-Mursalah*: The Perspective of Wahbah az-Zuhaili

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### Abstract

The Minister of Human Development and Cultural Affairs, Muhamdijir Effendy, opened the opportunity for victims of online gambling to be included in Social Welfare Integrated Data (DTKS) so that they could receive social assistance. The victims are family members or close relatives who have been financially harmed by online gambling perpetrators. This programme sparked support and opposition from various circles. The emergence of these differing views is influenced by varying perspectives on assessing the *maṣlaḥah* (public interest) of the program. Indeed, in the context of Islamic law, *maṣlaḥah* can be used as a basis for legitimizing something, a method known as *al-maṣlaḥah al-mursalah*. However, according to Wahbah az-Zuhaili in *Uṣūl al-Fiqh al-Islāmi*, the measure of *maṣlaḥah* is not human logic but the legitimacy of syariat regarding a particular form of *maṣlaḥah*. According to Wahbah az-Zuhaili, human reasoning will always differ in assessing *maṣlaḥah*, as seen in the differing opinions of some scholars regarding the *maṣlaḥah* of social assistance programs. The aim of this study is to analyze the discourse surrounding the social assistance program for victims of online gambling from the perspective of *al-maṣlaḥah al-mursalah*, according to Wahbah az-Zuhaili. To achieve this goal, the research method used was qualitative, with a library research approach. The data collection technique involves reviewing various literature, including classical and contemporary scholars' books, scientific articles, and other relevant sources. The results of this study indicate that this program is in line with the standards of the concept of *al-maṣlaḥah al-mursalah*, as outlined by Wahbah az-Zuhaili.

**Keywords:** Social Assistance Program, Online Gambling Victims, *al-Maṣlaḥah al-Mursalah*.

### Abstrak

Menko PMK, Muhamdijir Effendy, membuka peluang agar korban judi online masuk ke dalam DTKS agar bisa menerima bansos. Korban yang dimaksud ialah pihak keluarga atau pihak terdekat yang merasa dirugikan secara finansial oleh pelaku judi online. Program tersebut menuai pro dan kontra dari berbagai kalangan. Munculnya pro dan kontra dipengaruhi oleh perbedaan pandangan dalam menilai *maṣlaḥah* (kemaslahatan) dari program tersebut. Benar bahwa dalam konteks syariat Islam, kemaslahatan dapat dijadikan landasan hukum untuk melegitimasi sesuatu, atau yang biasa disebut dengan metode *al-maṣlaḥah al-mursalah*. Akan tetapi, menurut Wahbah az-Zuhaili dalam *Uṣūl al-Fiqh al-Islāmi*, tolak ukur *maṣlaḥah* bukan logika manusia, melainkan legitimasi syariat atas suatu bentuk *maṣlaḥah*. Menurut Wahbah az-Zuhaili, pikiran manusia pasti akan berbeda-beda dalam menilai suatu *maṣlaḥah*, sebagaimana yang terjadi pada beberapa ahli dalam menilai *maṣlaḥah* dari program bansos tersebut. Tujuan penelitian ini ialah menganalisis wacana program bansos untuk korban judi online melalui tinjauan *al-maṣlaḥah al-mursalah* perspektif Wahbah az-Zuhaili. Untuk mencapai tujuan tersebut, metode penelitian yang digunakan adalah jenis penelitian kualitatif dengan pendekatan studi pustaka (*library research*). Teknik pengumpulan data melalui berbagai literatur meliputi kitab-kitab ulama klasik, ulama kontemporer, buku, artikel ilmiah dan sumber lain yang relevan dengan topik. Hasil penelitian menunjukkan bahwa program tersebut dianggap maslahat sesuai standar konsep *al-maṣlaḥah al-mursalah* Wahbah az-Zuhaili, sehingga dapat diakui secara syariat.

**Kata Kunci:** Program Bansos, Korban Judi Online, *al-Maṣlaḥah al-Mursalah*.

## INTRODUCTION

Based on data from Drone Emprit, there are 201,122 online gambling users in Indonesia. This figure places Indonesia at the top of the list of online gambling users in the world.<sup>1</sup> The Financial Transaction Reports and Analysis Center (PPATK) revealed that the value of transactions related to online gambling in Indonesia reached IDR 327 trillion throughout 2023. This amount was obtained from 168 million transactions related to these illegal activities.<sup>1</sup>

Some of the negative impacts of online gambling, according to Professor Riduan Mas'ud, a distinguished professor and Dean of the Faculty of Islamic Economics and Business at the State Islamic University (FEBI UIN) Mataram, include (1) potential effects on mental health. In 2019, around 1,000 Indonesians experienced mental health issues due to online gambling addiction, (2) causing financial losses. These financial losses can lead to mounting debt, loss of savings, and difficulty fulfilling daily needs. Such financial problems often result in stress, depression, and other mental health issues, which can ultimately affect an individual's productivity and quality of life, and (3) increase the economic burden on families. The financial losses suffered by individuals often affect their families. When a family member loses money because of gambling, the entire family can be affected. In severe cases, families may lose their homes or other possessions to pay off their gambling debts. Reports indicate that these impacts are becoming more severe as the number of people addicted to online gambling continues to rise in Indonesia.<sup>2</sup>

Responding to the growing phenomenon of online gambling, the Coordinating Minister for Human Development and Cultural Affairs (Menko PMK), Muhamdijir Effendy, opened the possibility for victims of online gambling to be included in the Integrated Social Welfare Data (DTKS) so that they can receive social assistance (bansos). "We have provided a lot of advocacy for those who have fallen victim to online gambling—for instance, by including them in the DTKS as recipients of social aid," said Muhamdijir at the Presidential Palace Complex, Central Jakarta, on Thursday (June 13, 2024). His statement came a few days after the case of a female police officer (polwan) in Mojokerto, East Java, who set her husband on fire, allegedly because of financial problems related to online gambling. Muhamdijir stated that online gambling impoverishes society, as it often causes individuals to lose income, assets, and family stability. Therefore, victims of online gambling are at risk of

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<sup>1</sup> Monavia Ayu Rizaty, "Data Perputaran Uang Judi Online di Indonesia pada 2023," *DataIndonesia.id*, 12 Januari 2024, <https://dataindonesia.id/varia/detail/data-perputaran-uang-judi-online-di-indonesia-pada-2023>.

<sup>2</sup> Ade Nasihudin Al Ansori, "5 Dampak Utama Judi Online, Salah Satunya Tambah Beban Biaya Kesehatan," *Liputan6*, 6 Juli 2024, <https://www.liputan6.com/health/read/5636101/5-dampak-utama-judi-online-salah-satunya-tambah-beban-biaya-kesehatan?page=4>.

becoming part of the newly poor population. Overall, this policy reflects the government's social-humanistic approach, which not only focuses on the law enforcement aspect of combating online gambling but also focuses on the humanitarian and social rehabilitation needs of its victims.<sup>3</sup>

The program proposed by Effendy immediately sparked mixed reactions from various groups. The Indonesian Ulema Council (MUI) was among those who rejected the proposal. According to Prof. KH. Asrorun Niam Sholeh, Chairman of MUI's Fatwa Commission, the council opposed the idea of granting social assistance (bansos) to online gambling victims because government aid could potentially be misused for unlawful purposes, such as returning to online gambling. Similarly, Wisnu Wijaya Adiputra, a member of Commission VIII of the Indonesian House of Representatives (DPR RI), rejected Muhamdijir Effendy's proposal. He argued that rather than eradicating the problem, the initiative might worsen the situation, as it could deepen addiction among existing gamblers and encourage new individuals to start gambling. On the other hand, Habiburokhman, Deputy Chairman of Commission III of the DPR RI, expressed support for providing temporary social assistance to online gambling victims. He stated that the provision of aid should be viewed as part of a comprehensive strategy to address online gambling from upstream to downstream. The Gerindra Party politician added that offering social aid to victims could help reduce their dependency on online gambling.<sup>4</sup>

The emergence of pros and cons in response to the program is influenced by differences in perspectives regarding the concept of *maṣlaḥah* (public benefit) underlying the initiative. Indeed, within the context of Islamic law (shari'ah), *maṣlaḥah* can serve as the foundation for the legal justification of an action. In the discipline of *Uṣūl al-Fiqh* (principles of Islamic jurisprudence), the method of deriving legal rulings based on the assessment of *maṣlaḥah* is known as *istiṣlāḥ* or more commonly referred to as *al-maṣlaḥah al-mursalah*. However, according to Wahbah az-Zuhailī in *Uṣūl al-Fiqh al-Islāmī*, the standard for determining *maṣlaḥah* is not human reasoning, but rather the legitimacy granted by the shari'ah (*i'tibār asy-syārī*) to a particular form of benefit. Wahbah az-Zuhailī argues that human judgment naturally varies in assessing what constitutes *maṣlaḥah*, as reflected in the

<sup>3</sup> Fika Nurul, "Klaim Sudah Bantu Korban Judi Online, Menko PMK: Mereka Dimasukkan Jadi Penerima Bansos."

<sup>4</sup> Reporter Tempo.co, "Pro-Kontra terhadap Wacana Bansos untuk Korban Judi Online," *tempo.co*, 19 Juni 2024, [https://metro,tempo.co/read/1888257/pemain-judi-online-didominasi-masyarakat-miskinini-kata-pakar?tracking\\_page\\_direct](https://metro,tempo.co/read/1888257/pemain-judi-online-didominasi-masyarakat-miskinini-kata-pakar?tracking_page_direct).

differing opinions among scholars regarding the benefit or harm of providing social assistance to victims of online gambling. Therefore, a clear shari‘ah-based framework is required to evaluate the *maṣlaḥah* of such programs. In this regard, the researcher employs Wahbah az-Zuḥailī’s theory of *al-maṣlaḥah al-mursalah* to analyze the *maṣlaḥah* aspect of the program. Based on the researcher’s review, no prior studies have been found that specifically discuss the social assistance program for online gambling victims, let alone analyze it from the perspective of *al-maṣlaḥah al-mursalah*.

## RESEARCH METHOD

The research method employed in this study was qualitative using a library research approach. Data were collected from various sources including classical Islamic scholarly works (*kutub al-turāth*), books, academic articles, and other relevant references related to the topic. The literature was chosen based on its relevance and credibility (*mu’tabar*). The collected data were then classified into specific categories and analyzed to draw conclusions.

## RESULTS AND DISCUSSION

### **The Concept of *al-Maṣlaḥah al-Mursalah* in the Perspective of Wahbah az-Zuḥailī**

#### **The Barometer of *Maṣlaḥah***

Wahbah az-Zuḥailī agrees with the concept of the *barometer of maṣlaḥah* as articulated by al-Ghazālī. According to al-Ghazālī, as cited by Wahbah az-Zuḥailī, *maṣlaḥah* essentially refers to realizing benefits and preventing harm. However, al-Ghazālī clarifies that this is not the true meaning of *maṣlaḥah* in the context of Islamic law (shari‘ah). The pursuit of benefits and avoidance of harm are natural objectives, as humans consider something beneficial when it helps them achieve their personal goals. In contrast, *maṣlaḥah* in the shari‘ah sense refers to the realization of the divine objectives (*maqāṣid al-shari‘ah*) intended for all creation — namely, the preservation of religion (*hifż al-dīn*), life (*hifż al-nafs*), intellect (*hifż al-‘aql*), lineage (*hifż al-nasl*), and property (*hifż al-māl*).

Thus, anything that upholds and safeguards these five fundamental objectives constitutes the *maṣlaḥah* (public benefit). Conversely, anything that undermines or destroys it is regarded as *mafsadah* (harm or corruption).<sup>5</sup>

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<sup>5</sup> az-Zuḥailī, *Uṣūl al-Fiqh al-Islāmi*, 1986, 2:756.

According to Wahbah az-Zuhailī, al-Ghazālī's statement emphasizes that the barometer of *maṣlahah* is determined from the perspective of the shari‘ah and not by human reasoning. If *maṣlahah* were measured solely through human logic, its standards would inevitably differ according to individual or group interests. Therefore, only what is recognized as *maṣlahah* by the shari‘ah can be used as a legitimate basis for legal judgment.<sup>6</sup>

### **The Classification of *Maṣlahah***

From the perspective of legitimacy and annulment by the Shari‘ah, *maṣlahah* is divided into three categories:

1. *Al-Maṣlahah al-Mu‘tabarah*, namely a *maṣlahah* that has received legitimacy from the Shari‘ah. The indicator of Shari‘ah legitimacy over a certain form of *maṣlahah* can be seen from the existence of a Shari‘ah ruling that considers a similar form of benefit. For instance, the *maṣlahah* preserving intellect (*hifz al-‘aql*). One indicator that the Shari‘ah legitimizes this *maṣlahah* can be seen from the prohibition of intoxicants, which aims to protect human reason.
2. *Al-Maṣlahah al-Mulghāh*, namely a *maṣlahah* that is annulled or not considered by the Shari‘ah. The indicator of such annulment can be observed from a Shari‘ah ruling that disregards a similar form of *maṣlahah*. For example, the supposed *maṣlahah* imposing the maximum deterrent effect on wealthy individuals who engage in sexual intercourse during the daytime in Ramadan. The initial Shari‘ah ruling required such a person to free a slave as an expiation (*kafārah*). However, since freeing a slave may be insignificant for the wealthy, it does not achieve a strong deterrent effect. This ruling indicates that the Shari‘ah does not consider the *maṣlahah* of maximizing deterrence in such cases.

### **Definition of *al-Maṣlahah al-Mursalah***

Wahbah al-Zuhaylī cites three definitions of *al-maṣlahah al-mursalah* as presented by al-Khawārizmī, al-Ghazālī, and Ibn Burhān. According to al-Khawārizmī, as quoted by Wahbah al-Zuhaylī, *maṣlahah* refers to the realization of Shari‘ah’s objectives by protecting all creatures from any form of harm (*mafsadah*). According to al-Ghazālī, *maṣlahah* is the discovery of a rational element that indicates a legal ruling and establishes logical harmony between the two, while not being based on any specific or agreed-upon textual evidence.

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<sup>6</sup> Ibid.

Meanwhile, Ibn Burhān defines *maṣlahah* as a beneficial consideration that is not supported by any scriptural proof, whether general or specific.<sup>7</sup>

According to Wahbah al-Zuhaylī, these three definitions are similar in substance. Based on these, Wahbah al-Zuhaylī concludes that *al-maṣlahah al-mursalah* conforms to the methods and objectives of the Sharī‘ah, for which no specific textual evidence exists—neither affirming nor rejecting it. When a legal ruling is established upon such a consideration, it results in the realization of benefit (*maṣlahah*) and the elimination of harm (*mafsadah*).<sup>8</sup>

### **The Scope of *al-Maṣlahah al-Mursalah***

According to Wahbah al-Zuhaylī, in general, Islamic law (*Shari‘ah*) encompasses two main aspects: acts of worship (*‘ibādāt*) and social transactions (*mu‘āmalāt*). In matters of worship, human reason cannot grasp the underlying meanings or purposes behind legal rulings. Therefore, the sphere of worship does not fall within the scope of *qiyās* (analogical reasoning), let alone of *al-maṣlahah al-mursalah*. Consequently, the *ijtihād* field is confined to social transactions. One of the forms of *ijtihād* within this domain is the application of the *al-maṣlahah al-mursalah* method.<sup>9</sup>

### **The Operational Conditions of *al-Maṣlahah al-Mursalah***

Wahbah al-Zuhaylī outlines the operational conditions of *al-maṣlahah al-mursalah* by citing the views of Mālikī and Ḥanbalī scholars, and he summarizes them as follows:

1. Any legal ruling established on the basis of *al-maṣlahah al-mursalah* must not contradict any ruling or principle explicitly established by the textual sources (*nass*) of the Sharī‘ah or by *ijmā‘* (scholarly consensus);
2. The *maṣlahah al-mursalah* must represent a definite and certain benefit, not a presumed or speculative benefit;
3. The benefit to be achieved must be a public or collective interest, not a private or group-specific one.<sup>10</sup>

<sup>7</sup> Ibid., 2:757.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid., 2:757–58.

<sup>10</sup> Ibid., 2:799–800.

## Discourse Analysis of the Social Assistance Program for Online Gambling Victims in the Perspective of *al-Maṣlaḥah al-Mursalah* According to Wahbah al-Zuhaylī

### The Primary Objective of Social Assistance (*Bansos*)

The primary objective of social assistance (*bansos*) is to provide financial support to those in severe economic hardships. Victims of online gambling often lose everything they possess, leaving them in urgent need of assistance to meet their basic needs such as food, shelter, and healthcare. From a humanitarian standpoint, providing social assistance can help alleviate their suffering and offer them an opportunity to rebuild their lives.<sup>11</sup>

### The Concept of Distributing Social Assistance Funds to Online Gambling Victims

According to the Coordinating Minister for Human Development and Cultural Affairs (*Menko PMK*) Muhamdijir Effendi, the target recipients of this social assistance program are the victims of online gambling.<sup>12</sup> not the perpetrators themselves. Muhamdijir further explained that “victims of online gambling” refers to individuals close to the gamblers, such as family members, who have suffered losses—whether financial, material, or psychosocial. In other words, from a psychological perspective, these victims experience stress and depression, while socially bearing the stigma of being associated with a gambler’s family.<sup>13</sup> Social assistance is not intended for those who have not suffered losses or hardship, such as individuals from wealthy families.<sup>14</sup> However, Muhamdijir emphasized that the provision of assistance is not limited solely to impoverished gamblers. He added that the distribution process should undergo verification and assessment based on the standards and criteria set by the Ministry of Social Affairs. Therefore, not every poor gambler automatically receives assistance. This process aims to ensure that those who genuinely fall into poverty as a result of online gambling receive appropriate support.<sup>15</sup>

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<sup>11</sup> Andika Bagas Saputra, “Pemberian Bansos untuk Korban Judi Online, Apakah Tepat?,” *Kumparan*, 19 Juni 2024, <https://kumparan.com/andikabagss3/pemberian-bansos-untuk-korban-judi-online-apakah-tepat-22xwWclDOvv/2>.

<sup>12</sup> Friska Mahkia Bambuena, “Ribut Soal Korban Judi Online Dapat Bansos, Menko PMK Muhamdijir Effendy Ungkap Alasannya,” *PemikiranRakyatBMR*, 19 Juni 2024, <https://bmr.pikiran-rakyat.com/nasional/pr-3818227416/ribut-soal-korban-judi-online-dapat-bansos-menko-pmk-muhamdijir-effendy-ungkap-alasannya?page=all>.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Muhammad Ali, “Ragam Sorotan Korban Judi Online Dapat Bansos Pemerintah,” *Liputan6*, 18 Juni 2024, <https://www.liputan6.com/news/read/5621960/ragam-sorotan-korban-judi-online-dapat-bansos-pemerintah?page=2>.

## The Pros and Cons of the Social Assistance Program for Online Gambling Victims

The Coordinating Minister for Human Development and Cultural Affairs (*Menko PMK*), Muhamdijir Effendi, believes that this social assistance program will help the families of individuals affected by online gambling activities. According to Muhamdijir, families—particularly wives and children—suffer not only material losses but also emotional distress, which, in some recent cases, has even led to death.<sup>16</sup> Habiburokhman, Deputy Chairperson of Commission II of the House of Representatives (DPR) from the Gerindra Party, stated that government intervention is necessary to help people break free from their dependence on online gambling. He argued that providing social assistance could help affected individuals and families sustain their livelihoods without relying on gambling activities.<sup>17</sup>

On the other hand, several critics argue that a social assistance program for online gambling victims could create a public perception that the government implicitly supports or legitimizes actions that violate both law and morality.<sup>18</sup> A researcher from the Indonesian Forum for Budget Transparency (*Fitra*), Gurnadi Ridwan, stated that the idea should be rejected because it may trigger public resentment and potentially increase the number of online gambling participants, particularly among lower-middle-class communities that do not receive such assistance.<sup>19</sup> Prof. Asrorun Niam Sholeh,<sup>20</sup> Chair of the Fatwa Commission of the Indonesian Ulema Council (MUI), warned that the program opens the possibility for social assistance funds to be misused again for online gambling activities.<sup>21</sup>

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<sup>16</sup> Shabira Sakina Nisa, “Usulan pemberian bansos ke korban judi online dinilai tak tepat, ternyata begini alasan Menko PMK,” *Hops.id*, 17 Juni 2024, <https://www.hops.id/trending/29412930763/usulan-pemberian-bansos-ke-korban-judi-online-dinilai-tak-tepat-ternyata-begini-alasan-menko-pmk>.

<sup>17</sup> Tim Detikcom, “Pro-Kontra Bansos untuk ‘Korban’ Judi Online,” *detiksumbagsel*, 15 Juni 2024, <https://www.detik.com/sumbagsel/berita/d-7392412/pro-kontra-bansos-untuk-korban-judi-online>.

<sup>18</sup> Saputra, “Pemberian Bansos untuk Korban Judi Online, Apakah Tepat?”

<sup>19</sup> Martha Warta Silaban, “Berbagai Respons Tentang Pemberian Bansos bagi Korban Judi Online,” *tempo.co*, 17 Juni 2024, [https://bisnis\(tempo.co/read/1880753/berbagai-respons-tentang-pemberian-bansos-bagi-korban-judi-online](https://bisnis(tempo.co/read/1880753/berbagai-respons-tentang-pemberian-bansos-bagi-korban-judi-online).

<sup>20</sup> Ali, “Ragam Sorotan Korban Judi Online Dapat Bansos Pemerintah.”

<sup>21</sup> Siti Yona Hukmana, “Kritik Pemerintah soal Beri Bansos ke Korban Judi Online, Pengamat: Bisa Berdampak Buruk,” *MetroTVNews.com*, 15 Juni 2024, <https://www.metrotvnews.com/read/kM6CaWL5-kritik-pemerintah-soal-beri-bansos-ke-korban-judi-online-pengamat-bisa-berdampak-buruk#:~:text=Korban%20Judi%20Online%20Dinilai%20Tak,bansos%20serupa%20korban%20judi%20online>.

## **Identification of *Maslahah* in the Implementation and Cancellation of the Social Assistance Program for Online Gambling Victims**

In general, it can be concluded that there are three potential *mafsadahs* (harms) associated with the implementation of social assistance for online gambling victims. (1) The concern that the program may create the public perception that the government legitimizes or condones gambling activities, (2) The risk of encouraging an increase in the number of online gambling participants; and (3) There is a possibility that assistance funds may be misused for gambling.

It should be understood that, according to al-Ghazālī—as cited by Wahbah al-Zuhaylī—preventing *mafsadah* (harm) is itself a form of *maṣlahah* (benefit).<sup>22</sup> Therefore, the cancellation of the social assistance program for online gambling victims entails three aspects of the *maṣlahah*: (1) Preventing the possibility of assistance funds being reused for gambling, (2) Eliminating the public perception that the government legitimizes gambling activities; and (3) Preventing the emergence of new gamblers who might be attracted to the assistance program.

Meanwhile, the *maṣlahah* contained in the implementation of the social assistance program for online gambling victims included the following: (1) Providing aid to the families of victims; and (2) Helping break their dependence on online gambling. This categorization facilitates the researcher in analyzing which *maṣlahah* should take precedence, whether the benefits associated with the cancellation of the program or those derived from its implementation.

## **Analysis of *Maslahah* in the Implementation of the Social Assistance Program for Online Gambling Victims**

According to Wahbah al-Zuhaylī, the first condition for applying the *al-maṣlahah al-mursalah* method is that the resulting legal ruling must not contradict any *naṣṣ* (explicit textual evidence) or *ijmā'* (scholarly consensus). Considering *maṣlahah* in implementing the social assistance program for online gambling victims leads to the legal conclusion that providing assistance to those who have committed sins is permissible. Granting assistance to sinners does not contradict any *naṣṣ* or *ijmā'*. Al-Nawawī, in *al-Majmū' Sharḥ al-Muhażżab*, affirms that...

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<sup>22</sup> az-Zuhaili, *Uṣūl al-Fiqh al-Islāmi*, 1986, 2:756.

فَلَوْ تَصَدَّقَ عَلَى فَاسِقٍ أَوْ عَلَى كَافِرٍ مِنْ يَهُودِيٍّ أَوْ نَصَارَائِيٍّ أَوْ مُجُوسِيٍّ جَازَ وَكَانَ فِيهِ أَجْرٌ فِي الْجُمْلَةِ قَالَ صَاحِبُ الْبَيَانِ قَالَ الصَّمِيرِيُّ وَكَذَلِكَ الْحَرْبِيُّ وَدَلِيلُ الْمَسَأَلَةِ قَوْلُ اللَّهِ تَعَالَى (وَرِطْعَمُونَ الطَّعَامَ عَلَى حُبِّهِ مِسْكِينًا وَيَتِيمًا وَأَسِيرًا) وَمَعْلُومٌ أَنَّ الْأَسِيرَ حَرْبِيٌّ

*"If a person gives charity (ṣadaqah) to a fāsiq (sinner) or to a non-Muslim—whether Jewish, Christian, or Magian—it is permissible and still rewarded. According to al-Ṣaimūrī, as cited by the author of al-Bayān, such charity may also be given to non-Muslims in a state of hostility (ḥarbi). The evidence for this is the word Allah, the Exalted, "They (the Companions of the Prophet) give food—out of love for it—to the poor, the orphan, and the captive." (Qur'an, Sūrat al-Insān [76]: 8)" It is well known that captives in this verse refer to non-Muslim ḥarbi prisoners."<sup>23</sup>*

A similar point was also conveyed by Wahbah az-Zuhaili in *Fiqh al-Islāmī wa Adillatuhu*.<sup>24</sup> It is clear that when we consider *maṣlahah* in the implementation of the programme, the resulting ruling does not contradict the Qur'anic text or *ijmā'* (consensus). Moreover, according to Muhadjir Effendi, the intended recipients of this social assistance are the closest relatives or family members, not the perpetrators of online gambling.<sup>25</sup>

The first *maṣlahah* to implement the program was that it could help the victims' families. This *maṣlahah* meets the second condition for applying the al-*maṣlahah* al-mursalah method, namely, that it constitutes a *maṣlahah* whose realization is guaranteed and certain (muhaqqaqah). When victims of online gambling and their families have fallen into poverty and become burdened with debt, as emphasized by Basri Baco, a member of Commission E of the Jakarta Regional House of Representatives (DPRD DKI Jakarta),<sup>26</sup> the provision of social assistance, whether in the form of money or basic necessities, is clearly and tangibly beneficial.<sup>27</sup> Moreover, this benefit can be felt collectively by the families of online gambling

<sup>23</sup> Muhyiddin bin Syaraf an-Nawawi, *al-Majmū` Syarḥ al-Muhażżab*, vol. 6 (Kairo: Idāroh at-Tabā`ah al-Muniriyyah, 1347), 240.

<sup>24</sup> Wahbah az-Zuhaili, *Fiqh al-Islāmī wa Adillatuhu*, 4 ed., vol. 3 (Damaskus-Suriah: Dar al-Fikr, t.t.), 2057.

<sup>25</sup> Bambuena, "Ribut Soal Korban Judi Online Dapat Bansos, Menko PMK Muhadjir Effendi Ungkap Alasannya."

<sup>26</sup> "Judi Online Jadi Penyebab Angka Kemiskinan Meningkat," *DPRD Provinsi DKI Jakarta*, 9 Juli 2024, <https://dprd-dkijakartaprov.go.id/judi-online-jadi-penyebab-angka-kemiskinan-meningkat/>.

<sup>27</sup> Chres Dian Veronika Zalukhu dkk., "Pengaruh Program Bansos Terhadap Tingkat Kemiskinan Kota Padang," *Jurnal ilmu Multidisiplin* 3, no. 1 (2024): 90, doi:<https://doi.org/10.38035/jim.v3i1>. Diyah Tri Rezki Setyawardi, Paat Cornelius J., dan Lisbeth Lesawengen, "Dampak Bantuan PKH Terhadap Masyarakat Miskin di Kelurahan Bumi Nyiur Kecamatan Wanea Kota Manado," *Jurnal holistik* 132, no. 2 (2020): 11.

victims registered in the Integrated Social Welfare Data (*Data Terpadu Kesejahteraan Sosial/DTKS*) rather than by a single individual.<sup>28</sup> This means that the *maṣlahah* has fulfilled the third condition for applying the *al-maṣlahah al-mursalah* method.

The second *maṣlahah* in implementing the social assistance program for online gambling victims is that it can help break the addiction to online gambling. It is acknowledged that this *maṣlahah* cannot be guaranteed to materialize (*maṣnūnah*), and therefore does not meet the second condition—that the *maṣlahah* to be achieved must be certain (*muhaqqaqah*).

Nevertheless, the *maṣlahah* of the social assistance program, in the form of breaking dependence on online gambling, is recognized by *shari‘ah* (*al-maṣlahah allatī yashhaduha asy-shar‘ bi i‘tibārihā*). Hence, this second *maṣlahah* does not fall under *al-maṣlahah al-mursalah* (a *maṣlahah* neither recognized nor nullified by the *shari‘ah*) but rather under *al-maṣlahah al-mu‘tabarah*, which carries a higher level of validity. As mentioned earlier, an indicator showing that *shari‘ah* legitimizes a certain form of *maṣlahah* is the existence of a *shari‘ah*-based ruling or policy that embodies a similar *maṣlahah*.<sup>29</sup> The *shari‘ah*'s legitimacy for the *maṣlahah* of breaking dependence on online gambling can be observed in the *hadīth* narrated by Abū Hurairah (may Allah be pleased with him), as cited by Wahbah az-Zuḥaili, which states:

وأقر النبي صلى الله عليه وسلم في حديث الصحيحين عن أبي هريرة: "صدقة رجل على سارق وزانية وغني، وفيه: «أما صدقتك على سارق فلعله أن يستعن عن سرقته، وأما الزانية فلعلها تستعن عن زناها.

*"In the Ṣaḥīḥ of al-Bukhārī and Muslim, as narrated by Abū Hurairah, the Prophet (peace be upon him) approved of a man who had given charity to a thief, an adulterer, and a wealthy person. In that hadīth, the Prophet said: "Your charity to the thief may cause him to stop stealing, and your charity to the adulterer may cause him to cease committing adultery."*

This means that in the practice of giving material assistance to a sinner, the *shari‘ah* recognizes the existence of a *maṣlahah* in breaking the dependence on sinful behavior.

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Muamil Sun'an, Amran Husen, dan Moh. Amrul Badal, "Analisis Dampak Program Bantuan Sosial Terhadap Kemiskinan di Kabupaten Taliabu Tahun 2015-2021," t.t., 27.

<sup>28</sup> Fika Nurul, "Klaim Sudah Bantu Korban Judi Online, Menko PMK: Mereka Dimasukkan Jadi Penerima Bansos."

<sup>29</sup> az-Zuḥaili, *Uṣūl al-Fiqh al-Islāmi*, 1986, 2:752–54.

Moreover, in the context of gambling driven by material deprivation—a motive commonly found among the poor in Indonesia.<sup>30</sup>

From Wahbah az-Zuhaili's perspective, the *shari'ah*'s legitimacy of the *maṣlahah* underlying the social assistance program—aimed at breaking dependence on online gambling—falls under the category of *i'tibār jinsi al-waṣfi fī jinsi al-hukmi*. It is referred to as such because *shari'ah* legitimizes the *type* (*jinsi al-waṣfi*) of *maṣlahah*, which involves breaking dependence on sinful behavior. This type encompasses efforts to end dependence on acts, such as theft, adultery, murder, robbery, and gambling. Meanwhile, the act of providing material assistance (charity) to sinners represents a *type* of legal implementation (*jinsi al-hukmi*) that includes giving material aid to adulterers, murderers, thieves, and gamblers.<sup>31</sup>

### **Analysis of *Maṣlahah* in the Abolition of the Social Assistance Program for Online Gambling Victims**

The first *maṣlahah* in abolishing the social assistance program for online gambling victims was that it could prevent the possibility of the aid being used for gambling again. In the context of implementing the social assistance program, as discussed previously, the *shari'ah* recognizes the type of *maṣlahah* (*jinsi al-waṣfi*) in the form of breaking dependence on sinful behavior within a type of legal implementation (*jinsi al-hukmi*) that involves giving material assistance (charity) to sinners. Accordingly, this *jinsi al-hukmi* also includes providing material assistance to, for example, alcohol addicts or gamblers with the aim of realizing the *jinsi al-waṣfi* of breaking dependence on alcohol or gambling. This means that the *shari'ah* does not consider the potential misuse of aid money for purchasing alcohol or gambling again. If this is the case, then the *shari'ah* does not consider a form of *maṣlahah* based on preventing the possible misuse of aid money for alcohol or gambling as a valid reason to abolish charity for alcohol addicts or gamblers. Therefore, the *maṣlahah* used to justify the abolition of the social assistance program, namely, preventing the possibility of the aid being used for gambling again, falls under *al-maṣlahah al-mulghāh* (a *maṣlahah* nullified or disregarded by the *shari'ah*).

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<sup>30</sup> Defara Dhanya Paramitha, "Pemain Judi Online Didominasi Masyarakat Miskin, Ini Kata Pakar," *tempo.co*, 6 Juli 2024, <https://www.google.com/amp/s/metrotempo.co/amp/1888257/pemain-judi-online-didominasi-masyarakat-miskinini-kata-pakar>.

<sup>31</sup> az-Zuhaili, *Uṣūl al-Fiqh al-Islāmī*, 1986, 1:683.

The second and third *maṣlaḥah* in abolishing the social assistance program was to eliminate the impression that the government legitimizes gambling and prevents the emergence of new gamblers. These two *maṣlaḥahs* have also been nullified or disregarded by the shari‘ah based on the ḥadīth narrated by Abū Hurairah (may Allah be pleased with him) as follows:

عن أبي هريرة رضي الله عنه قال: بينما نحن جلوس عند النبي صلى الله عليه وسلم إذ جاءه رجل فقال: "يا رسول الله هلكت". فقال صلى الله عليه وسلم: "ما لك؟" قال: "وَقَعْتُ عَلَى امْرَأَيِّي وَأَنَا صَائِمٌ". فقال رسول الله صلى الله عليه وسلم: "هَلْ تَجِدُ رُقْبَةَ تَعْتَقُهَا؟" قال: "لَا". قال: "فَهَلْ تَسْتَطِعُ أَنْ تَصُومَ شَهْرَيْنِ مُتَتَابِعِيْنِ؟" قال: "لَا". قال: "فَهَلْ تَجِدُ إِطْعَامَ سَتِينِ مَسْكِيْنًا؟" قال: "لَا". فَمَكَثَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَبَيْنَا نَحْنُ عَلَى ذَلِكَ، أَتَى النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِعْرَقٍ فِيهِ تَمْرٌ – وَالْعَرْقُ هُوَ الْمَكْتَلُ – فَقَالَ: "أَنَّى السَّائِلُ؟" قَالَ: "أَنَا". قَالَ: "خُذْ هَذَا فَتَصْدِقُ بِهِ". فَقَالَ الرَّجُلُ: "عَلَى أَفْقَرِ مَنِيْ يَا رَسُولَ اللَّهِ؟ فَوَاللَّهِ مَا بَيْنَ لَابْتِيْهَا – يَرِيدُ الْحَرَتِيْنَ – أَهْلُ بَيْتٍ أَفْقَرُ مِنْ أَهْلِ بَيْتِيْ". فَضَحِّكَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ حَتَّى بَدَتْ أَنْيَابُهُ ثُمَّ قَالَ: "أَطْعِمْهُ أَهْلَكَ".

"Abū Hurairah (may Allah be pleased with him) narrated:

*"One day, while we were sitting with the Prophet (peace be upon him), a man came and said, 'O Messenger of Allah, I am ruined!' The Prophet asked, 'What happened?' The man replied, 'I had intercourse with my wife during the fast (of Ramadan).' "*

*The Prophet (peace be upon him) then asked, 'Do you have a slave whom you can set free?' The man said, 'No.' The Prophet asked again, 'Can you fast for two consecutive months?' He replied, 'No.' The Prophet asked, 'Do you have food that you can give to sixty poor people?' Again, he replied, 'No.'*

*The Prophet (peace be upon him) remained silent for a while, and then someone brought a large basket filled with dates and gave it to him. The Prophet asked, 'Where is the man who just spoke?' The man answered, 'Here I am, O Messenger of Allah.' The Prophet said, 'Take this basket of dates and distribute it in charity.'*

*The man asked, 'To someone poorer than myself, O Messenger of Allah? By Allah, there is no family between these two black hills of Madinah that is poorer than mine!' Upon hearing this,*

*the Prophet (peace be upon him) smiled so widely that his molar teeth became visible, and he said, 'Then go and feed it to your family.'*<sup>32</sup>

Several points can be derived from ḥadīth. First, the Prophet (peace be upon him) gave dates as charity to the man who had committed sin by having intercourse during the daytime in Ramadan, while at the same time being among those in great need (a poor person). This interpretation is conveyed by Taqiyuddīn and cited by Ibn Ḥajar al-‘Asqalānī in his explanation of the ḥadīth:

قال الشيخ تقي الدين: "وأقوى من ذلك أن يجعل الإعطاء لا على جهة الكفار، بل على جهة التصدق عليه وعلى أهله بتلك الصدقة لما ظهر من حاجتهم".

*"Shaykh Taqiyuddīn stated, "The stronger opinion among those mentioned above is that the Prophet's act of giving (the dates) was not intended as kaffārah (expiation), but rather as charity (ṣadaqah) to the man and his family, who were visibly in need."*<sup>33</sup>

Second, the Prophet's (peace be upon him) decision to give the basket of dates to the man falls within the domain of governmental policy. In this context, the Prophet acted in his capacity as the head of state, responsible for allocating property obtained through charity. This interpretation is affirmed by Ibn Ḥajar al-‘Asqalānī.

وقد تقدم أنه كان من مال الصدقة، وتصرف النبي صلى الله عليه وسلم فيه كان تصرف الإمام في إخراج مال الصدقة.

*"As mentioned earlier, the basket of dates given by the prophet (peace be upon him) came from the charity of one of the residents. The Prophet's decision to give this aid to man falls within the realm of the ruler's policy decisions."*<sup>34</sup>

From this, it can be understood that the *shari‘ah* does not consider the potential perception that it legitimizes the man's sinful act—namely, having intercourse during the fast. It does not consider the possible emergence of others who might commit to the same act.

<sup>32</sup> Ahmad bin Ali bin Ḥajar al-Asqalānī, *Fath al-Bārī bi Syarḥ al-Bukhārī*, 1 ed., vol. 4 (Mesir: Maktabah as-Salafiyah, 1390), 163.

<sup>33</sup> Ibid., 4:172.

<sup>34</sup> Ibid.

In other words, if the *shari‘ah* were to prohibit giving aid to a man who had sinned by having intercourse during the fast, such a prohibition would entail two forms of *maṣlaḥah*: (1) eliminating the perception that the *shari‘ah* legitimizes the act and (2) preventing others from committing the same act. However, in reality, *shari‘ah* permits giving aid to that man. Therefore, the *shari‘ah* has effectively nullified (*ilghā*) both of these forms of *maslahah*.

## CONCLUSION

Based on this study, it can be concluded that the implementation of the social assistance program for online gambling victims contains elements of *maṣlaḥah* that are recognized by *shari‘ah*, according to Wahbah az-Zuhaili's concept of *al-maṣlaḥah al-mursalah*. Therefore, the program can be considered *shari‘ah*-compliant.

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