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Hajj Funds Management Based on Maqāṣid Al-Sharī'ah; A Proposal for Indonesian Context

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Abstract:

Indonesian *hajj* funds (BIPH) have the potential to support the implementation of *hajj* worship in an effective, efficient, transparent, and accountable manner while complying with Islamic law. However, it is said that the management turned out to be ineffective and unprofessional. This research aims to examine the management of *hajj* funds in detail using *maqāṣid al-sharī'ah* perspective to propose a breakthrough for its better management. It uses a normative juridical method through data

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presentation and explanation using an interdisciplinary perspective on *maqāṣid al-shari'ah*. The data comes from journal articles, scientific documents, and statistical data. The research results show that in *maqāṣid al-shari'ah* perspective, namely an instrument to create a balance of the Muslim way of life with Islamic legal values in social, political, economic, spiritual, and universal human aspects, the *ḥifẓ māl* dimension urges using *hajj* funds for the benefit of society. Therefore, the *Hajj* Financial Management Agency (BPKH) should collaborate with the Ministry of Religious Affairs and other related stakeholders to manage *Hajj* funds optimally and efficiently while increasing trust and reducing negative public perceptions. Policies and regulations by the government are made in such a way that it can ease *hajj* pilgrims to carry out the worship comfortably, safely, smoothly, and spiritually enriching.

Keywords:

Hajj Funds Management; *Maqāṣid Al-Shari'ah*; Indonesia

Introduction

As the world's largest Muslim country, Indonesia contributes a lot of *Hajj* pilgrims every year. This is partly supported by its constitution which guarantees Indonesians to worship following their respective religions and beliefs. In addition to formulating and enforcing the constitution, the government is also in charge of planning and organizing the *hajj*. They are supposed to guide, give service, and protect Indonesian citizens in a safe, comfortable, orderly, and compliance with the provisions of the *shari'ah*.¹

In addition to the problem of organizing the pilgrimage, another issue is the relationship between the country of prospective pilgrims and the country of destination, namely Saudi Arabia. Indonesia receives many *hajj* quotas. In 2023, Indonesia got the largest *hajj* quota in the world. It is recorded that Indonesia's *hajj* quota reached 221,000 pilgrims, consisting of 203,320 quotas for regular *hajj* pilgrims and 17,680 quotas for special *hajj* pilgrims. Even if there are a lot of quotas in the current year, they aren't adequate to fulfill the

¹ Endang Jumali, "Management of Hajj Funds in Indonesia," *Journal of Legal, Ethical and Regulatory Issues* 21, no. 3 (2018): 1-9.

demand as indicated by the number of applicants which rises annually resulting in the long waiting list of *hajj*.²

The waiting list for *Hajj* departure is determined by the time of registration when paying the *Hajj* Travel Fee or so-called BIPIH (Cost of Organizing the *Hajj* Pilgrimage).³ This BIPIH is deposited by prospective pilgrims for registration fees to receive a portion of the departure. The Law No. 13 of 2008 mentions that the management is only limited to its optimal use and development in the form of bank instruments whose security is truly guaranteed. Thus, the policies made by the government enabled the funds to be used for the general welfare of the community in line with the objectives of the founding fathers of the Republic of Indonesia.⁴ However, academicians and practitioners consider that the existing legal basis was not sufficient, so a separate law was needed that regulates the management of *hajj* funds at a more specific scope.

According to Law no. 34/2014 on *Hajj* Funds Management, the term *hajj* funds (BIPH) consists of BIPIH deposit funds; efficiency funds; DAU (*Endowment Fund of The Ummah*) as well as the value of benefits controlled by the state in the context of organizing the *hajj* and implementing program activities for the benefit of Muslims.⁵ Due to the limited *hajj* quota each year, there will certainly be a build-up of *hajj* funds from a large number of applicants on the waiting list. This certainly requires a more well-organized management of the funds. It was manifested by the establishment of a special financial institution with the authority to manage the *hajj* funds called the Hajj Financial Management Agency (BPKH) on 26 July 2017.⁶ It is a public legal entity that is independent and responsible to the President through

² Annas Syam Rizal Fahmi, "An Analysis of Investment for Hajj Funds from Islamic Law Perspective," *Al-Iktisab: Journal of Islamic Economic Law* 1, no. 2 (2017): 131, <https://doi.org/10.21111/al-iktisab.v1i2.2388>.

³ Indonesia (1), *Undang-Undang tentang Penyelenggaraan Ibadah Haji dan Umroh*, Pasal 5 Ayat (1).

⁴ Singgih Muheramtohad, "The Use of Hajj Fund for Investment Purpose: A Maqashid Sharia Approach," *Journal of Islamic Economics, Management, and Business (JIEMB)* 1, no. 1 (2020): 99-116, <https://doi.org/10.21580/jiemb.2019.1.1.3740>.

⁵ Indonesia (2), *Undang-Undang tentang Pengelolaan Keuangan Haji*, UU Nomor 34 Tahun 2014, LN. Nomor 5605 Tahun 2014, Pasal 1 Ayat (2).

⁶ Erry Fitrya Primadhany, "Tinjauan terhadap Tanggung Jawab Badan Pengelola Keuangan Haji (BPKH) dalam Melakukan Penempatan dan/atau Investasi Keuangan Haji," *Jurisdictie* 8, no. 2 (2018): 125.

the Minister of Religious Affairs. The structure of BPKH consists of an executive body and a supervisory board responsible for managing the revenue, development, expenditure, and accountability of the *Hajj* funds.

The management of *hajj* funds following their objectives is important to discuss considering the large number of *hajj* funds managed by BPKH so as not to deviate from the initial goal of financing the pilgrimage, let alone from various perspectives embedded in *maqāṣid al-sharī'ah*. This research would therefore discuss it from the perspective of *mâqasid* as a philosophy of Islamic law with its continuously developed concept concerning various basic aspects of people's common needs in the context of Indonesia.

Recently, there has been a paradigm shift from classical *maqasid sharia* theory to the contemporary one. The change lies in the main benefit as the target to manifest, namely the protection and preservation aspects because the contemporary *maqasid sharia* is more about development and rights. To develop the concept, Jasser Auda proposes human development as the main target. He developed the current conception of *maqasid* as an evolution of the old theory which in the context of *hifdz mal* prioritized social concerns; paying attention to economic development and improvement; and advancing human welfare while eliminating the gap between the rich and the poor.

Previous research discussing the management of *hajj* in Indonesia from several aspects, factors, and indicators still requires further development. *Hajj* in terms of political factors, among others, was discussed by Ichwan. He found that the complexity of *hajj* and *umrah* services is not so much caused by religious aspects, but rather by political aspects and economic motives.⁷ From the aspect of economy, Kouchi et al.⁸ studied the relationship between the growth in the number of *Hajj* pilgrims and economic growth in Saudi Arabia. The increase in the number of people performing *hajj* has a major impact on Saudi Arabia's economic progress. The annual *hajj* and

⁷ Moch Nur Ichwan, "Governing Hajj: Politics of Islamic Pilgrimage Services in Indonesia Prior to Reformasi Era," *Al-Jami'ah: Journal of Islamic Studies* 46, no. 1 (2008): 125-51, <https://doi.org/10.14421/ajis.2008.461.125-151>.

⁸ Amin Nouri Kouchi, Mansour Zarra Nezhad, and Pouyan Kiani, "A Study of the Relationship between the Growth in the Number of Hajj Pilgrims and Economic Growth in Saudi Arabia," *Journal of Hospitality and Tourism Management* 36 (2018): 103-7, <https://doi.org/10.1016/j.jhtm.2016.01.008>.

umrah could play an increasingly important role in economic growth and development. In a broad general sense, religious tourism plays an important role as a foreign exchange earner, job creator, and tool for improving the balance of payments. Its contribution to economic prosperity, if planned well, can be greater than that of any other known economic force.

Another study by Kurniadi, et.al⁹ who examined the management of *hajj* funds from an economic theory found that BPKH can function as a representative of the government in the management and development of *hajj* funds. Aziz,¹⁰ meanwhile, examines the Hahslm theory as a guide to the straight path in managing the *hajj* funds. The large number of prospective pilgrims doing registration compared to the available quota means that in normal circumstances, a pilgrim would have to wait an average of 19 years. If he/she has paid a down payment of IDR 25 million, it results in a large accumulation of pilgrims' funds. So far, it is placed in bank deposits which are only guaranteed IDR 2 billion by the deposit insurance agency (LPS). It would be a shame, for him, to find that quite a large of *hajj* funds were managed without playing a significant role in the productive sector.

Based on previous research, it is clear that most researchers still focus on the issue of *hajj* in politics, economy, and religious aspects. There are still few who concentrate on studying the management of *hajj* funds in Indonesia through the newer concept of *maqāṣid al-sharī'ah*. Therefore, this current research examines the issue so that it can propose a breakthrough for better *hajj* funds management based on *maqāṣid al-sharī'ah*. We hope the proposal will help for better *hajj* funds management in the Indonesian context by firstly portraying Indonesian *hajj* management in general, the *hajj* funds management according to *maqāṣid al-sharī'ah*, and a proposal for better *hajj* funds management in the Indonesian context.

⁹ Dece Kurniadi, Jamal Wiwoho, and Hudi Asrori, "Hajj Fund Management in Perspective of the Financial Theory and Fiqh," *International Conference on Globalization of Law and Local Wisdom* 358, no. 34 (2019): 225-27, <https://doi.org/10.2991/icglow-19.2019.57>.

¹⁰ R M Aziz, "Hahslm Theory as Guidance of Straight Path in Management of Hajj and Finance," *KnE Social Sciences* 3, no. 8 (2018): 105, <https://doi.org/10.18502/kss.v3i8.2503>.

Method

This research uses a qualitative approach with normative juridical methods. Data sources include primary and secondary ones. Primary data is obtained directly from the source, namely journal articles, books, magazines, and other articles that have relevance to the problems and objects of research, while secondary is indirectly from the object under study.¹¹ The data analysis used is descriptive-qualitative so that the problems and facts are described descriptively and then analyzed to obtain a complete picture.¹²

Data related to the management of *hajj* funds are then processed through the steps of managing and organizing data, reading and recording emerging ideas, describing and classifying codes, developing and accessing interpretations, and then representing and visualizing data. This spiral analysis is equipped with content analysis, a comparative and critical analysis of *hajj* laws and regulations using the perspective of Islamic legal theory. The *maqasid al-syariah* theory in this research is used to analyze the management of *hajj* funds related to the *hifz māl* aspect so that researchers will be able to draw precise and profound conclusions.

Result and Discussion

An Overview of Indonesian Existing *Hajj* Management

The organization of *hajj* in Indonesia has a long history of policy or regulatory aspects. Before the founding of the Republic of Indonesia, Muslims had performed pilgrimages to the holy land of Saudi Arabia. In around 1267 when the Islamic empire existed in the archipelago, there were no special regulations regarding the *hajj*. Only after the Dutch colonial government came to power did the pilgrimage have regulations in the form of written positive law.¹³

During the colonial period, the Dutch colonial government was worried about people going to the *hajj*. The reason is that when they were in Mecca, there was no longer any caste, race, or position-based discrimination, so it was worrying that the pilgrims realized

¹¹ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif; Suatu Tinjauan Singkat*, (Jakarta: Raja Grafindo Persada, 2015), 33.

¹² Satori, D. A., & Komariah, A. (2009). *Metodologi Penelitian Kualitatif*. Bandung: Alfabeta, 22.

¹³ Aziz, "Hahslm Theory as Guidance of Straight Path in Management of Hajj and Finance."

that everyone had the same rights, and this could trigger a rebellion. The Dutch were furthermore concerned about the political impact of the *hajj* because people returning from the *hajj* were accepted as holy people in Java. For this reason, it is believed that *hajj* pilgrims are more listened to by ordinary people, so the Dutch government made strict regulations relating to the *hajj*.¹⁴

Since the founding of Indonesia as a republic, efforts to deal with issues regarding the organization of the *hajj* have been formulated. The Ministry of Religious Affairs has a central role as a regulator of the *hajj* and the management of its funds. Although the government is the one in charge of organizing the *hajj* service, in practice, it is divided into two, namely the government and private companies that have received permission from the Minister of Religion so called KBIH (Guiding Group of *Hajj* Worship). However, the latter still engages the Ministry of Religious Affairs, particularly in monitoring and guiding the duties to ensure they comply with the stipulated provisions. Historically, the service of the *hajj* pilgrimage in Indonesia was handled directly by the community or the private sector, then during the reign of President Soeharto, the responsibility was taken over by the government after cases of neglect by private parties occurred.¹⁵

BPHI, The Indonesian Hajj Management Agency, is the institution responsible for managing the *hajj* in Indonesia. It is tasked with providing the services and facilities needed by *hajj* pilgrims, mainly when in Saudi Arabia, ranging from accommodation, transportation, food, and health, to protection and security. In recent years, it has often been in the public spotlight due to various problems¹⁶ that occur during the *hajj* process as reported in the annual report of the *hajj* service. Based on the Hajj Organizing Evaluation Report, it was found that problems that arose during the Hajj pilgrimage are as follows:

¹⁴ Rustika Rustika et al., "An Evaluation of Health Policy Implementation for Hajj Pilgrims in Indonesia," *Journal of Epidemiology and Global Health* 10, no. 4 (2020): 263–68, <https://doi.org/10.2991/jegh.k.200411.001>.

¹⁵ Muhammad Iqbal Fasa et al., "Economic Protection Toward Financial Management Hajj Funds: Indonesian Case," *Ad-Deenar: Jurnal Ekonomi dan Bisnis Islam* 4, no. 02 (2020): 163, <https://doi.org/10.30868/ad.v4i02.953>.

¹⁶ Kementerian Agama Republik Indonesia, Laporan Evaluasi Penyelenggaraan Ibadah Haji, 2023

First is the problem of the long waiting period before the departure time. Future Indonesian *Hajj* pilgrims must wait for approximately 20-25 years to perform the *hajj* worship from the time they pay the BIPIH. This is due to the limited quota provided by the Saudi Arabian government on the one hand and the high number of registrations among the future pilgrims on another hand.

The second is health problems. While in Saudi Arabia, many *hajj* pilgrims experience health problems, such as dehydration, heatstroke, and respiratory infections. This is mainly caused by very hot weather as well as pilgrims' old age¹⁷ and lack of knowledge of preparation in dealing with the situation. Apart from that, health problems also occur due to the lack of adequate health facilities, let alone that of Indonesian authorities. Meanwhile, it is reported that the catering distribution service is sometimes not on time along with a monotonous menu that cannot meet the needs of the elderly congregation. There is also a report about the unavailability of food before departure to *Arafat* and after leaving *Mina*.

Third is accommodation problems. While in Saudi Arabia, *hajj* pilgrims stay in dormitories provided by the government. However, many complain that the facility is inadequate, such as having poor hygiene and lack of adequate water, electricity, and sanitation facilities, as well as exceeding capacities rooms. This causes *Hajj* pilgrims to feel uncomfortable during their stay, thereby disrupting the smooth running of their pilgrimage. Out of the dormitory, pilgrims also stayed in tents during the *Arafah*, *Muzdalifah*, and *Mina* in which there were over-capacity tents along with limited bathrooms causing long queues with inadequate facilities for elderly pilgrims.

Fourth is transportation problems. Transportation is very important during the *hajj*. However, many pilgrims have trouble getting adequate transportation. Apart from that, the transportation schedules are quite irregular causing pilgrims to wait a long time to reach their destination, such as delays in buses picking up Indonesian

¹⁷Masyithah Mardhatillah, "Specific Treatment of Elderly Pilgrims on Hajj According to Hadith; the Approach of Mukhtalif Ahadis," *Al-Ihkam: Jurnal Hukum dan Pranata Sosial* 14, no. 1 (2019): 99-123, <https://doi.org/10.19105/al-lhkam.v14i1.2290>.

pilgrims while in *Muzdalifah*.¹⁸ Moreover, transportation services are not yet able to reach all accommodations.

Fifth is service problems. The services provided by BPHI are also often criticized by the public. Many pilgrims complained about the lack of coordination between BPHI officers and officials in Saudi Arabia, causing pilgrims to experience difficulties in getting adequate services. Apart from that, there were also complaints regarding the attitude of BPHI officers who were less friendly and less responsive to complaints and problems experienced by *hajj* pilgrims.

Among the six problems, the *Muzdalifah* tragedy has attracted the most public attention. The *Muzdalifah* tragedy was the moment when thousands of Indonesian *hajj* pilgrims piled up and could not be transported for more than 10 hours in hot conditions above 35 degrees Celsius. This condition resulted in many congregants experiencing dehydration and even fainting. At that time, on June 28, 2023, thousands of pilgrims from Indonesia were stuck in the *Muzdalifah* area because the *Muzdalifah-Mina-Muzdalifah* shuttle bus was stuck in the Mina area due to traffic jams.

To overcome these problems, BPHI needs to make various efforts, such as improving coordination with the Saudi Arabian government and advancing facilities. The Indonesian hospitals located in Saudi are among the most important ones in addition to accommodation of pilgrims like dormitory and transportation services. Since Indonesia does not have any assets for accommodation, a selective search of the chosen one must be ensured. Professionalism and responsiveness to cope with complaints from *hajj* pilgrims also deserve attention, let alone in dealing with or anticipating any unexpected situation. Security and safety aspects of pilgrims should be inevitably the main concern. Every year, some incidents occur during the pilgrimage season, such as transportation accidents, riots in holy places, and so on.¹⁹

In short, it is necessary to evaluate the existing *hajj* management system and service, so that better and more effective solutions can be arranged in overcoming various typical problems.

¹⁸ J. Edward Taylor, M. R. Habib, And M. A. Mustafa, "Transparency, Public Sector Performance, And the Quality of Governance: An Empirical Analysis," *World Development* 42, no. 11 (2014): 2029.

¹⁹ Qomarul Huda and Ilham Dwitama Haeba, "Hajj, Istita'ah, and Waiting List Regulation in Indonesia," *Al-'Adalah* 18, no. 2 (2021): 193-212.

This includes things ranging from enlarging annual quotas to ensuring every detail is well set from the departure to arrival times. By making these various efforts, it is hoped that the *hajj* worship for Indonesian pilgrims can run better and more smoothly while giving them a positive spiritual experience. This public satisfaction will lead to public trust along with a decrease in public criticism.

One of the potential instruments to overcome those disadvantages in the *hajj* service and organization comes from the BIPIH deposit that the future pilgrims pay for getting the portion or seats. Under good and appropriate management, it likely affects in positive ways for development of both *hajj* service and Indonesian/Muslim life in general. The upcoming part will reveal the proposal for the use and allocation of the fund according to *maqashid al-shari'ah* as the philosophy of Islamic law.

Management of Indonesian Hajj Funds on Maqāṣid Al-Sharī'ah Perspective

Hajj funds are all types of wealth that can be valued in money, whether in the form of cash or goods resulting from pilgrims' desk-posted payment (BIPIH) and other related sources. It is the government's right and obligation to manage them well. BPKH has a precautionary principle in managing *hajj* funds, namely by carrying it out in a beneficial, transparent, and accountable manner while considering financial risks. The principle of beneficial means that *hajj* financial management must provide benefits for pilgrims and Muslims. The principle of transparency indicates open and honest financial management by providing information to the public regarding its allocation and implementation. Meanwhile, the principle of accountability is the accurate management of *hajj* funds that enable the community, especially the pilgrims, to account for them.²⁰

The service of *hajj* provides a stimulus for the economy both in the micro and macro scope. This became the basis for the Indonesian government in managing the *hajj* funds reaching trillions of rupiah in the form of investment. For instance, according to BPKH records, if

²⁰ Ilham Maulid and Amirsyah Amirsyah, "Analysis of the Hajj Fund Management Based on the Fatwa of the National Sharia Council (DSN) Number 122 Concerning the Management of BPIH Fund and Special BPIH Based on Sharia Principles," *ADI Journal on Recent Innovation (AJRI)* 3, no. 1 (2021): 21-35, <https://doi.org/10.34306/ajri.v3i1.490>.

154,455 Indonesian pilgrims were sent out in 2015 and each of them paid IDR 20 million, the total amount of money collected would have been IDR 3.09 trillion. In the meantime, it is conceivable that the amount of money that BPKH can manage could approach hundreds of trillions if the number of pilgrims on the waiting list surpasses one million, diverting IDR 20 million. The government potentially makes this calculation very profitably by using gold coins, direct investment, SBSN (State Sharia Securities), or other Sharia-compliant investment funds.²¹

In line with it, *maqāṣid al-sharī'ah* as a framework for developing theories, models, policies, and reform programs in various aspects of life, is deemed relevant to use as a perspective in managing the *hajj* funds. In this case, moreover, the *hajj* is also a *dharuriyyat* (primary need) that the government must facilitate worship which is also included in the pillars of Islam and therefore, in the perspective of *maqāṣid*, is a part of maintaining religion.²² According to *maqāṣid al-sharī'ah*, *maṣlahah* (benefit) should be the target to realize through Islamic law, as is the case in the financial management of the *hajj* considering that *hajj* is one of the devotional rituals that include a great deal of *maqāṣid*.²³

The highest level of *maṣlahah* is called *maqāṣid al-khamsah* (the five main purposes) due to its *ḍarūriyyāt* (urgency) aspect. The maintenance of religion shows that the role of religion is very important. The maintenance of soul, mind, and offspring, meanwhile, relates to individual humans. All three are related to human life needs, namely physical, psychological, educational, health, and survival needs. Asset maintenance, in this talk, is every action carried out in asset management.²⁴ According to Zakiruddin, *et.al.*,²⁵ one of

²¹ Indonesia (7), *Undang-Undang tentang Surat Berharga Syariah Negara*, UU Nomor 19 Tahun 2008, LN. Nomor 70 Tahun 2008, TLN. Nomor 4852 Tahun 2008, Pasal 1 Ayat (1)

²² Mira Munira and Shinta Budi Astuti, "Indonesian Hajj Fund Management: An Overview," *Asian Journal of Accounting and Finance* 1, no. 1 (2019): 1-9.

²³ Auda, J. (2008). *Maqāṣid al-Shariah: A Beginner's Guide* (Vol. 14). International Institute of Islamic Thought (IIIT).

²⁴ Abū Ḥamid Muḥammad ibn Muḥammad Al-Ghazālī, *Al-Mustashfā Min Ilm Al Ushūl* (Beirut: Dar Ihyā at-Turāts al-Ārabi, n.d.)

²⁵ Muhammad Aziz Zakiruddin, Kamsi, and Ahmad Bahiej, "Siyasah Syar'iyah Paradigm of Hajj Financial Management Regulation in Indonesia," *Al-*

the developments in the *maqāṣid al-sharī'ah* paradigm is *hifdzul maal* which is not only about protecting material or assets but also development toward *at-tanmiyyatul iqtishadiyah* (economic growth) based on *maqaashid al-khoshoh* (special benefit) in maintaining the sustainability of people's assets. In this context, *hajj* funds must be safeguarded for the sake of benefit, so that the investment is not only oriented towards the profit aspect but also the welfare (*falah*) as an ideal situation in the development of Islamic economics. Therefore, in this context, one of the developments of *maqāṣid al-khosoh* is *hifdzu al-maal attanmiyyah al iqtishadiyah*. It refers to efforts to protect assets and use them to improve the economy with the aim of providing welfare to society and helping the needs of people who cannot afford it. This accentuates the necessity to maintain the ethical aspect in the whole related process so that it can be in accordance with the objectives of the Shari'a.²⁶

Istinbath: Jurnal Hukum Islam 7, no. 2 (2022): 531–52,
<https://doi.org/10.29240/jhi.v7i2.5310>.

²⁶ M Zidny Nafi Hasbi, Makhrus Munajat, and Abdul Qoyum, "Amwaluna : Jurnal Ekonomi dan Keuangan Syariah A Conceptual Framework of The Islamic Human Development Index (I-HDI) and Its Relationship with Maqāṣid Al- Sharī'ah," no. 2019 (2023).

Table 1. Relevance of Maqāṣid Al-Sharī'ah to Ideal Hajj Financial Management for Pilgrims Need

No	Dimensions	Target	Technical Steps
1	<i>Hifz al-Din</i>	Pilgrims get their spirituality increased through the <i>hajj</i> experience through the mental and material support from the organizer.	Allocating funds to facilitate the fulfillment of <i>hajj</i> conditions, mainly challenging rituals like in Arafah, Muzdalifah, and Mina, while maintaining the prosperity of the <i>hajj</i> pilgrims. Developing more intensive pre-hajj departure Organizing post-hajj guidance Managing <i>hajj</i> fund professionally, transparently, accountably, productively, and in accordance with <i>sharia</i> principles
2	<i>Hifz al-Nafs</i>	The stable health of pilgrims and safety from any diseases	Allocating funds for collaboration with the Ministry of Health in intensifying practical health education for specific purposes (<i>hajj</i>) so that pilgrims are better prepared physically and mentally Allocating funds to develop quality of <i>hajj</i> health facilities and instruments, mainly when the weather changes in Saudi.
3	<i>Hifz 'Aql</i>	Pilgrims get theoretically and practically adequate knowledge about performing the <i>hajj</i> worship.	Allocating funds for renewing curricula and material for pre-hajj departure training as well as building the <i>hajj</i> officers' capability
4	<i>Hifz Nasl</i>	The fulfillment of the need for special segments of pilgrims, such as the elderly, children, disabled, and those with special needs	Allocating funds to provide supporting facilities for those with special needs according to the type of worship such as <i>mabit</i> (overnight stay) in Mina and <i>tawaf</i> (Circumambulate the Kaaba).
5	<i>Hifz Māl</i>	The allocation and investment of <i>hajj</i> funds in <i>halal</i> sectors free from <i>gharar</i> , <i>maysir</i> , <i>tadlis</i> , <i>ihtikar</i> , and usury is unsure.	The agreement between <i>hajj</i> pilgrims and BPKH is carried out with the safekeeping of money replacing the <i>hajj</i> bailout funds funded by loans without compensation.

Table 1 outlines the ideal situation of *hajj* funds management using *maqashid syariah* as the approach for the allocation of *hajj* pilgrims' needs. This furthermore implies that management of *hajj* funds must be carried out by prioritizing security aspects, namely in anticipating the risk of loss in the *hajj* fund investment. This includes the risk of reputation, market, operations, or an inherent one. The protection of prospective pilgrims' assets from any decrease in value becomes urgent because they are saved during the waiting period which can take place a plenty of years. If someone pays the cost this year amounting to IDR 25 million and he will go for *hajj* later in 20 years while inflation is 6% per year, there will be much money he can set aside during that period.

Table 1 also explains the ideal alignment of *hajj* financial management policies by BPKH in accordance with *Maqāṣid al-Shari'ah*. It is necessary, therefore, to manage *hajj* funds according to the objectives of *maqāṣid al-shari'ah* while maintaining integrity in the management process starting from the cost payment process among *hajj* pilgrims to the return and financial inclusion after *hajj*.²⁷ Based on the *maqāṣid al-shari'ah* concept, financial management of the *hajj* can be said to be successful if the aspects of *dharuriyat* needs are met, namely food, drink, and shelter. In the *maqāṣid al-shari'ah* perspective, management of the *hajj* funds is therefore not limited to the protection of religion (*hifz al-diin*) and property (*hifz al-maal*), but also to the sustainability of economic improvement and development. Apart from that, the value of the benefits of the funds can be used to improve infrastructure beneficial to the community. Good infrastructure will certainly have a positive impact on the national economy, social facilities, education, health, etc. This is what is expected from Indonesian BPKH's professional, responsible, and transparent management of *hajj* funds.²⁸

Management of Hajj Funds; A Proposal for Indonesian Context

²⁷ Atika Rukminastiti Masrifah and Achmad Firdaus, "The Framework of Maslahah Performa as Wealth Management System and Its Implication for Public Policy Objectives the Emergence of Waqf Bank: A Social Welfare Alternative in Indonesia," *Media Syariah* 18, no. 2 (2016): 1-36.

²⁸ Andre Zani Deananda and Wirnyaningsih, "Alternative Optimization of Hajj Fund Using Sharia Shares" 413, no. 34 (2020): 34-40, <https://doi.org/10.2991/assehr.k.200306.176>.

The *hajj* in general was regulated in Law No. 13/2008. It contains many verses about *hajj* service, including those related to the *hajj* funds. Article 1 verse 8 mentions that *hajj* cost or so called BIPIH is the cost to pay for getting *hajj* service. In practice, The Law was then completed by another one, namely a more specific Law regulating the management of *hajj* funds, the *Hajj* Financial Management Law No. 34/2014. Article 48 Paragraph 2 of the Law requires the management of *hajj* funds to accord with Sharia principles with aspects of security, prudence, useful value, and liquidity. Then, Article 49 Paragraph 1 stated that investments in *hajj* funds can be made with the approval of the BPKH supervisory board. Apart from that, several other articles in the Law become the legal basis for BPKH in making investments.²⁹

In this talk, there are two correlating terms that are often incorrectly interchanged, namely *hajj* funds and Ummah Endowment Fund (DAU). This is likely because, in Law Number 34 of 2014, *hajj* funds are defined as funds consisting of *hajj* cost or BIPIH, efficiency funds for organizing the *hajj*, DAU, as well as the value of benefits controlled by the state in the context of organizing the *hajj* and implementing activity programs for the benefit of Muslims. Meanwhile, the DAU, which is a part of *hajj* funds, is several funds that, before the enactment of the Law, were obtained from the development of the funds and/or remaining operational costs of *hajj* as well as other sources that are *halal* and non-binding following the provisions of statutory regulations such as *zakat*, *waqf*, and other funds source.

Furthermore, Law No. 34 of 2014 mentions that the government places *hajj* funds in Sharia financial institutions which are limited to a maximum of 50%, while other funds are directly invested in Sharia instruments which are considered safe and provide much better returns. The investment of *hajj* funds becomes a must considering long queues of departure so that the *hajj* cost in the bank is made for investment to make their value not eroded by inflation. Instead, it can provide benefits to the community through, among others, DAU schemes. DAU is typically used for social activities such

²⁹ Diseminasi BPKH (2018) Diseminasi Peran Pengawasan Keuangan Haji, *In*. bpkh.go.id/.

as improving the quality of *hajj* services, education, *da'wa*, health, social, and economic, and religious infrastructure.³⁰

Meanwhile, the *hajj* cost or BIPIH covers flight costs, accommodation costs in Mecca and Medina as well as living costs for *hajj* pilgrims. Each prospective *hajj* pilgrim had to deposit the initial BIPIH cost into the bank to get a portion or seat. Afterward, when it is time for departure, they will pay off according to the total BIPIH amount determined later according to the currency. The deposited fund from the initial payment of prospective *hajj* pilgrims, which has now reached 40 trillion rupiahs with an average interest of 1 trillion rupiahs managed by the Ministry of Religious Affairs, is used to subsidize the needs of *hajj* pilgrims who depart first. However, this practice has minimal legal support because, without the pilgrims' consent, the interest from their savings (through the initial payment they made) is potentially prone to irregularities and fraud as indicated by the Corruption Eradication Commission (KPK).³¹

Despite this, the use of deposited funds triggers various problems and/or requirements.³²

First, the Ministry of Religious Affairs is publicly required to enforce accountability in managing the initial funds for registration of *hajj* candidates amounting to IDR 25,000,000.00 which is deposited from the time of getting the *hajj* portion in Siskohaj (Indonesian *hajj* application) until the time of departure. BPKH as the one that manages *hajj* funds needs to pay attention to accountability regarding transparency and how to present financial reports of managed funds. Along with that, the government and BPKH must guarantee that the deposited money will be used to provide adequate services during the *hajj* worship while ensuring that future pilgrims' financial rights are fulfilled, namely regarding to departure for *Hajj*. For instance, if a future *hajj* pilgrim cancels the departure, BPKH is required to return the deposit.³³

³⁰ Maizul Imran and Rio Satria, "Dinamika Formulasi Akad Terhadap Pengelolaan Dana Haji di Indonesia," *Alhurriyah: Jurnal Hukum Islam (Alhurriyah Journal of Islamic Law)* 3, no. 2 (2018): 141.

³¹ Pasal 1 (1) Keputusan Presiden Nomor 22 Tahun 2001 tentang Badan Pengelola Dana Abadi Umat (BP DAU)

³² Aishath Muneeza et al., "A Comparative Study of Hajj Fund Management Institutions in Malaysia, Indonesia and Maldives," *International Journal of Management and Applied Research* 5, no. 3 (2018): 120-134.

³³ Undang-Undang Nomor 34 Tahun 2014 tentang Pengelolaan Keuangan Haji

Second, the status of legal ownership of the initial funds for registration of *hajj* candidates is in question, whether it belongs to the future *hajj* pilgrims or the government as the *hajj* organizer or service provider. Therefore, it is important to make clear the legal ownership of the fund through transparent management and funding allocation considering that *hajj* deposit funds are deposited in the account of the Minister of Religion. This clear status will also affect the upcoming situation when something unexpected happens. If the registrar dies or there is a sharia obstacle that makes him/her fail to depart, then *hajj* deposit funds must be returned to prospective *hajj* pilgrims or their heirs.

Third, Law No. 13 of 2008 gives authority to carry out an efficiency fund, i.e. remaining funds from the operational cost of *hajj* service through the DAU which the amount is quite large. However, these funds cannot be used for investment or any other purpose because there are no government regulations regarding the management of DAU that cannot be changed since May 2005.³⁴ The policy to make efficiency funds in the *hajj* service contains legal gaps in both state and religious law. For the former, it is argued that no single clause was stated by the *hajj* pilgrims regarding the agreement on utilizing the efficiency fund. Thus, the efficiency policy is deemed to violate the law. Meanwhile, for the latter, even though the DAU aims for the benefit of people, the agreement and willingness of the whole *hajj* pilgrims is in question. It is very important to think about the pledge and agreement among the *hajj* pilgrims who willingly deposit their money to get the departure portion or seat. In dealing with the problems, namely those related to DAU and BPKH recommends the funds be returned for the interests and benefit of the *ummah*, as per the results of the *Ijtima' Ulama* of the All-Indonesian Fatwa Commission III MUI 1430 H/2009 AD in Padang Panjang, 24-26 January 2009.

Fourth, prospective *hajj* pilgrims might become banking business commodities with the offer of a *hajj* bailout system. In this case, prospective *hajj* pilgrims become the target to receive a loan facility numbering IDR 25,000,000.00 so that they can register to immediately receive *hajj* portions. In other words, the banking business seizes a good market opportunity to expand its customers by

³⁴ <https://peraturan.bpk.go.id/Details/39044/uu-no-13-tahun-2005>

providing *hajj* funding to fulfill the wishes of prospective *hajj* pilgrims, so they don't get too far on the waiting list.³⁵

In short, BPKH needs to manifest its function of carrying out planning, implementation, as well as accountability checking and reporting of *hajj* funds in compliance with sharia while prioritizing the principle of prudence, benefits-based, not seeking profits, transparency, and accountability.³⁶ The criteria for optimal, professional, and efficient management of *hajj* funds is the policy after the *hajj* season. If there is greater efficiency and benefit value, it must be returned to the *hajj* treasury belonging to the *hajj* pilgrims. Meanwhile, the transparent criteria of *hajj* funds management can be reached by involving the House of Representatives in the supervision process and BPK in the auditing stage.

Law Number 34 of 2014 concerning *Hajj* Financial Management urges the *Hajj* funds to be used for productive things and managed with high-risk mitigation. Therefore, the government can use these funds in halal sectors, namely sectors that are protected from *maisir*, *gharar*, and usury. In determining the investment sector, it needs approval from the *Hajj* financial placement supervisory board while the investment is transferred from the *Hajj* Treasury to the BPKH Treasury (*Hajj* Financial Management Agency). In fact, the government—through the Indonesian Ministry of Religious Affairs—claimed that it had managed the DAU successfully through, among others, SBSN (State Sharia Securities), including preparing documents for funding the Ministry of Religion's project through Project *Sukuk* (SBSN PBS), namely in the form of a *hajj* dormitory revitalization and development project that around IDR 200 billion. Moreover, The Minister of Finance and the Minister of Religious Affairs, on Friday, 22/11/2017 signed a revised Memorandum of Understanding (MoU) regarding the Placement of *Hajj* Funds in (SBSN).³⁷

³⁵ Eric Kurniawan, "Akuntabilitas Pengelolaan Dana Haji Republik Indonesia," *Jurnal Ilmiah Ekonomi Islam* 7, no. 3 (2021): 1449–56.

³⁶ Acep R Jayaprawira and Abdussalam, "Analysis of the Implementation of the Islamic Contract Principle on Hajj Fund Management by Hajj Fund Management Agency (BPKH)," *KnE Social Sciences* (2019): 628–61, <https://doi.org/10.18502/kss.v3i26.5405>.

³⁷ Anggito Abimanyu, *Naskah Akademik Rancangan Perubahan UU Nomor 13 tentang Penyelenggaraan Ibadah Haji*, 6.

Following the mandate of the Law, according to Anggito Abimanyu, BPKH's investments can be made in sharia securities investment instruments, gold, direct investment, and other investments. The wide scope of this investment is a challenge for BPKH, especially to carry out an effective investment strategy to optimize the value of its benefits. Another challenge is how to anticipate the increase in the cost of performing the *hajj* pilgrimage. Therefore, BPKH needs to carry out an investment strategy that can meet the needs of these costs through returns from various investment instruments complying with Sharia principles, prudence, and liquidity without raising the *hajj* cost.³⁸ Investment risks are borne by the government and should not disturb the process of providing good facilities for the *Hajj* pilgrims. Meanwhile, profits obtained from investments must be used for improving *hajj* facilities at specific and public benefits in general. This can be in the form of financing the construction of schools and campuses within PTKIN with the SBSN scheme.

So far, there are three main instruments for placing initial deposits for BIPIH, namely in the form of national Sharia Securities (Sukuk/SBSN), government debt securities (SUN), and Sharia-based deposits. One of the ways how the government carries out the financial management of *hajj* funds is the issuance of State Sharia Securities (SBSN), in this case, the Indonesian Hajj Fund Sukuk (SDHI) product. This accords with the decision of *Ulama Ijtima*, Indonesian Fatwa Commission IV of 2012 which mentions that deposits in the waiting list for *hajj* departure may be allocated for productive things, namely providing profits through placement in Sharia Banking or invested in the form of *sukuk*³⁹

In line with this, according to the Director of Higher Education and Science and Technology of Bappenas (The National Development Planning Agency) RI, Hadiat,⁴⁰ the SBSN project initiated by the Directorate General of Islamic Education of the Ministry of Religious

³⁸ Indin Rarasati, "Analisis Empiris Potensi Resiko Investasi Dana Haji Melalui Sukuk Dana Haji Indonesia," *Jurnal Ilmiah Ekonomi Islam* 8, no. 03 (2022): 2571-81.

³⁹ M. Rifka Maulana and Sokhikhatul Mawadah, "Management of Hajj Funds in Sukuk Investment from an Islamic Economic Perspective," *International Conference on Islamic Economic (ICIE)* 2, no. 1 (2023): 10-35, <https://doi.org/10.58223/icie.v2i1.204>.

⁴⁰ Enam Tahun SBSN, Bangun Gedung 57 PTKIN (kemenag.go.id)

Affairs which has succeeded in building educational infrastructure at PTKIN (State Islamic Religious College) for six years with a total budget of 7-8 trillion rupiahs should be appreciated. The implementation of educational infrastructure development through SBSN which began in 2015 until 2022 has been running well and PTKIN has benefited from that sector as well.

The importance of investment requires professionalism in its management, including its supervision process. Not only that, but the supervision also needs to be narrowed down, mainly by exploring how the benefits of the investment can be obtained both for the benefit of the institution and the pilgrims themselves. They are the basic principles of Islamic economics to support the distribution of resources and encourage investment, optimize beneficial investment, and encourage investment, optimize beneficial investment, and encourage social participation in the public interest.

Conclusion

The management of *hajj* funds in the perspective of *maqāṣid al-shari'ah* has the aim of benefiting the *hajj* pilgrims not only to fulfill the obligation of the fifth pillar of Islam or maintaining religion (*hifz ad-din*), but also on other related aspects to ensure smooth running service of *hajj*. Therefore, it is suggested the deposited funds of BIPIH be managed transparently with the allocation made appropriate to the pilgrim's needs, both physical and spiritual. Other than that, in the Indonesian context, the funds are best invested in various sectors beneficial for the *ummah* with the minimum risk of loss so that it would not bear expenses for the *hajj* costs. The refinement of pledges on the use of investment or funds between pilgrims and the government is also a need. This research has limitations, especially in terms of methodology and limited analysis of formal aspects. Therefore, it is suggested that further research is needed to develop this research by examining the management of *hajj* funds in Muslim countries other than Indonesia, as well as further research using other variables to expand the study of *hajj* funds management.

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