



Hajj Financing Models: Fiqh Analysis of Payment Contracts for Hajj Funds at The Ministry of Religious Affairs of Indonesia

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Abstract

Hajj is the fifth pillar of Islam for a Muslim and is performed by those who are able. In Indonesia, the pilgrimage is organized by the Ministry of Religious Affairs of the Republic of Indonesia (MORA). For payment of funds, prospective pilgrims make payments at the Bank for Hajj Pilgrimage Fee Deposits. The contract made during the registration of prospective pilgrims is a *wakalah* contract, but the bank asks again about which contract will be used, whether *wadi'ah* or *murabahah*. The purpose of this research is to reveal the contract for the payment of funds for prospective pilgrims and to analyze the principles of the contract applied in the payment of funds for prospective pilgrims. This type of research is field research with a qualitative method using descriptive analysis. Primary data sources come from the Ministry of Religious Affairs of the Republic of Indonesia and secondary data come from journals or research related to the hajj financing model, then using descriptive analysis on the data as the material for the research findings. There are two findings in this study. First is the contract for the payment of funds for prospective pilgrims, starting with the *wakalah* contract between the prospective pilgrims and the Ministry of Religious Affairs, which will apply after the payment of funds for the prospective pilgrims. Second, the jurisprudential analysis of the principles of the contract applied in the payment of funds for prospective pilgrims is *wakalah* and is in accordance with the proper requirements. Nonetheless, the Ministry of Religious Affairs of the Republic of Indonesia must also collaborate with stakeholders to provide the best service to pilgrims so that they can worship in the holy land comfortably and solemnly.

Keywords: Aqad, Contract, Fiqh Analysis, Hajj Funds.

Abstrak

Haji merupakan rukun Islam yang kelima bagi seorang muslim dan dilaksanakan bagi siapa yang mampu. Dalam pelaksanaannya di Indonesia, ibadah haji diselenggarakan oleh Kementerian Agama Republik Indonesia. Dalam pelunasan dana, calon jamaah haji melakukannya di Bank Penerima Setoran-Biaya Penyelenggaraan Ibadah Haji (BPS-BPIH). Adapun akad dilakukan saat pendaftaran calon jamaah haji adalah akad *wakalah*, namun bank kembali menanyakan perihal akad apa yang akan digunakan apakah *wadi'ah* atau *murabahah*. Adapun tujuan penelitian ini adalah mengungkapkan akad pelunasan dana bagi calon jamaah haji dan menganalisis prinsip akad yang diterapkan dalam pelunasan dana bagi calon jamaah. Jenis penelitian ini adalah penelitian lapangan dengan metode kualitatif menggunakan analisis deskriptif. Sumber data primer dari Kementerian Agama Republik Indonesia dan data sekunder berasal dari jurnal atau penelitian yang berhubungan dengan model pembiayaan haji, kemudian menggunakan analisis deskriptif pada data sebagai bahan hasil temuan penelitian. Ada dua temuan dalam penelitian ini, yaitu pertama adalah akad pada pelunasan dana calon jamaah haji, yaitu dimulai dari akad *wakalah* antara calon jamaah dengan Kementerian Agama yang mana akad ini akan berlaku setelah pelunasan dana calon jamaah haji. Kedua, analisis fikih terhadap prinsip akad yang diterapkan pada pelunasan dana calon jamaah haji adalah *wakalah* dan sudah sesuai sebagaimana seharusnya. Pun demikian Kementerian Agama Republik Indonesia juga harus bekerja sama dengan para stakeholder dalam memberikan pelayanan terbaik kepada jamaah haji agar dapat beribadah di tanah suci dengan nyaman dan khusus'.

Kata Kunci: Akad, Analisis Fikih, Dana Haji, *Wakalah*.



Introduction

Indonesia is seen as a country with the largest Muslim population in the world, which is one of the reasons religious activities, especially in Islam, have received excessive attention. The government has several times issued new policies related to the activities of the Indonesian people which are related to the worships. For example, marriage, inheritance, *zakat*, and so on. Not only the dimension of *muamalah*, but the dimension of worship is also used as formal legal material, although not in terms of worship material, but only in its technicalities. At the very least, it can describe the religious culture in Indonesia.¹

When the management of hajj funds is carried out by the MORA, prospective pilgrims have to fill out and signed the *wakalah* account form when paying the initial deposit of the hajj or the next will be abbreviated as Hajj Pilgrimage Organizing Agency (BPIH).² "The provisions regarding the filling and signing of the *wakalah* agreement are regulated in the Cooperation Agreement between the Directorate General of Hajj and Umrah, MORA, with the BPIH Deposit Recipient Bank on the receipt and payment of BPIH".

In the *wakalah* agreement form, prospective pilgrims such as *muwakkil* give power to the MORA as a representative, to receive and manage BPIH initial deposit funds that have been deposited, through BPIH deposited bank (BPS) under applicable laws and regulations. The application of the *wakalah* agreement is also regulated when hajj finance is managed by The Hajj Financial Management Agency (BPKH), it is an institution that manages Hajj Finance. The law No. 34 of 2014 on Hajj Financial Management and The Draft of Government Regulation on the implementation of the Law stipulates that BPKH as a Representative will receive a mandate from prospective pilgrims as *muwakkil* to receive and manage BPIH deposit funds. Law 34/2014 mandates the financial management of hajj carried out by BPKH, as a public legal entity that is independent and responsible to the President through the MORA.³

Then assuming that hajj should not be used as the business must be explained to maintain public trust and to eliminate negative concerns. The establishment of concept patterns or agreements and management models currently make its management a 'business touch' while prioritizing public services to be nonprofit-oriented. Educating its workforce with science still prioritizes customer satisfaction, namely the pilgrims, and the empowerment of human resources in the form of labor properly and correctly in proportion. The accumulation of funds collected at this time is quite large, even very large in number seen from the number of prospective pilgrims who register. So, the management needs to take concrete steps to develop and optimize it with roads that are considered not contrary to Islamic law.⁴

So, this is where the question about the financing model arises, if the agreement signed by pilgrims when registering with the MORA is *wakalah*, with prospective pilgrims as *muwakkil* and the ministry of religion as their representative. Then when going to open hajj savings account a pilgrim will be asked to make another agreement by the bank regarding the funds,

¹ Muchamad Choirun Nizar, *Pembiayaan Talangan Haji Dalam Perspektif Fiqh. Ulul Albab* ISSN: 0853-4114 No. 34. (2016): 92.

² Muhammad Ali Mubarak and Ulya Fuhaidah, *Manajemen Pengelolaan Dana Haji Republik Indonesia (Studi Kolaborasi Antar Lembaga Bpkh, Kemenag dan Mitra Keuangan Dalam Pengelolaan Dana Haji). Iltizam Journal of Shariah Economic Research*, 2. (2018): 143.

³ Amalia, Ananda. *Kepastian Hukum Investasi Dana Haji oleh Badan Pengelola Keuangan Haji. Fakultas Syariah dan Hukum. UIN Syarif Hidayatullah, Jakarta. Skripsi Tidak Dipublikasikan.* (2021): 37.

⁴ Dece Kurniadi, Jamal Wiwoho, and Hudi Asrori. *Hajj Fund Management in Perspective of the Financial Theory and Fiqh, Proceedings of the 3rd International Conference on Globalization of Law and Local Wisdom (ICGLOW)*, (2019): 358.

such as *wadi'ah* or *mudharabah* contracts. If the candidate is re-elected, the contract to be done is *yad amanah*. The money deposited until the candidates leave for hajj remains intact, should not even be disturbed in the slightest, and must be returned a certain amount of what is entrusted. It is different if the candidate chooses other agreements such as *wadi'ah yad dhamanah*, or *mudharabah*. The bank can develop the money, and then there will be profit sharing in it, which, while waiting to leave for hajj, someone, even with the money, can grow savings and meet the costs that should be met until the end.

From here we can trace the root of the problem, if the financing model at the start is clear then we will know clearly how BPIH should be placed, managed and returned to *mustahiq al-awwal*, or Hajj candidates. So that there is no harm and it is carried out according to *sharia* (Islamic Laws), and it is hoped that this financing model will ensure that all parties related to the ummah's endowment funds are also aware of their responsibilities and carry out their mandate according to the principles that have been determined at the beginning. Therefore, the authors need to analyze extensively the Hajj fund payment agreement at the MORA based on *Fiqh* (Islamic Jurisprudence).

Method

This research uses descriptive qualitative methods with literature studies obtained from books and other literature as the main reference to provide clear, objective, systematic, analytical and critical descriptions and information related to the concept of hajj deposit funds and financing models in Indonesia under the auspices of the MORA with *fiqh mu'amalah* analysis. The primary data sources in this research are gained from the Ministry of Religious Affairs of the Republic of Indonesia and secondary data attained from journals or research related to the Hajj financing model, then descriptive analysis of the data as material for the research findings.

Definition of 'Aqd

The word '*Aqd*' comes from Arabic which means bond or obligation, usually also interpreted by contract or agreement. What is meant by a contract is to enter into a bond for approval.⁵ Epistemological aspects of Islamic Contract: From the Islamic perspective, the source of Islamic law of contract is stated in the Quranic verse Al-Maidah:1. A contract ('*aqd*') in Islamic law is a promise or consent between parties to fulfill their obligations as mentioned in the above verse.

To form a lawful Islamic contract, two elements must exist, namely (a) voluntary consent from competent contracting parties and (b) the consent is for a lawful object or aim. In the Quran, through the verse of An-Nisa: 30. Thus, '*aqd*' is in a form that binds two intentions expressed through words or otherwise and produces obligations of the two parties.⁶ '*Aqd*' (covenant) also includes the promise of the servant to God and the Covenant made by man in his neighbor's association.

In addition, Islamic sharia also discusses the pillars of the contract that must be present, including according to the Hanafiyah opinion, the pillars of '*aqd*' are *ijab* and *qabul*, which can be called *sighat 'aqd*. Meanwhile, the definition of the pillars of '*aqd*' according to the majority

⁵ Fauzan. Mewujudkan Ekonomi Islam dengan Ruh Al-'Adl (Studi Pada YaPEIM Malaysi), *An-Nisbah: Jurnal Ekonomi Syariah*, 2. (2015): 405.

⁶ Zelhuda Shamsuddin and Abdul Ghafar Ismail, Agency Theory in Explaining Islamic Financial Contracts, *Middle East Journal of Scientific Research*, 15. (2013): 72.

of fiqh scholars is in the form of three elements that are interrelated and invalid if one of the three is missing, namely: '*aqid, ma'qud 'alaih* and *maudu' al-'aqd*.⁷

The terms were something on which something else depends, and something comes out of the nature of that other thing. The terms of the contract that must be met there are four types:⁸

1. *Sighat*, means form and in a technical sense it is offer and acceptance
2. '*Aqd*, used to mean an agreement arising from a combination of offer (*ijab*) and acceptance (*qabul*) which gives rise to legal consequences
3. '*Aqid*, acts as an agent (*wakil*) of the remaining partners but not as surety (*kafil*) for them.
4. '*Aqd* objects, such as information, services, and products which are not prohibited (halal) by sharia
5. Conditions for the occurrence of the contract.

The requirements of '*aqidain* must be fulfilled namely he must have experts and regions. *Ahliyah* here means that both have the skills and compliance to conduct transactions. Usually, these experts are obtained when they have reached the height and understanding. Whereas territory can be interpreted as a person's right or authority in conducting transactions.⁹

'Aqd in fiqh mu'amalah

The principle of the agreement in *mu'amalah* sharia is, making the contract part of determining every *mu'amalah* transaction. Then, the agreement must be made by both parties who transact. First, mutual consent. Second, the contract must be done because it is equally right between the two parties. The third is openness. The object of cooperation must be free from the manipulation (*najsy*) of data or conditions. Fourth is writing. For cash transactions, the writing can be very simple, but in non-cash transactions, the writing must be perfect and witnessed by fair witnesses and meet the requirements.¹⁰

In general, in the *mu'amalah* account, there are two types of '*aqd*, namely *tabarru'* and *tijarah*.¹¹ *Tabarru'* is an agreement used for noncommercial transactions, aimed at good or help, and is not allowed to take advantage of transactions that occur. However, in the *tabarru'* agreement, there is still allowed the loading of some money is a fee for the transaction.¹² While *tijarah* is an agreement used for commercial or business transactions. So, in the agreement, the parties who transact can agree on the taking of profits, including the consequences that must be borne by the parties if the transaction that occurs does not generate profits.¹³ There are several important principles too outlined by Sharia and must be absorbed by *Fiqh Mu'amalah*

⁷ Ficha Melina and Hendra Eka Saputra, Tinjauan Fiqh Muamalah Kontemporer Tentang Badan Perantara (Samsarah) dan Jual Beli Lelang (Bay Al-Muzayaddah), *Syarikat: Jurnal Rumpun Ekonomi Syariah*, 5. (2022): 31.

⁸ Afrasiab Ahmed Rana, Essentials of a Valid Contract: A Comparative Study of Islamic Law and the Contract Act, 1872, (Pakistan: Eliva Press), *SSRN Electronic Journal*. (2021): 91.

⁹ Laila Afni Rambe, Islamic Law Review on Use of Go-Pay in Payment of Zakat. *Ulul Albab: Jurnal Studi dan Penelitian Hukum Islam*, 3. (2020): 99.

¹⁰ Atmo Prawiro, Aktualisasi Akad Dalam Fikih Muamalah Bagi Lembaga Keuangan Syariah, *Tasyri' Journal of Islamic Law*, 1. (2022): 121.

¹¹ Ahmad Ifham Sholihin, *Logika Fikih Muamalah Kontemporer*, (2016): 57.

¹² Muchamad Choirun Nizar, Qaul Shahabi Dan Aplikasinya Dalam Fiqh Kontemporer, *Ulul Albab: Jurnal Studi Dan Penelitian Hukum Islam*, 1. (2017): 77.

¹³ Mahdalena Nasrun and Shalawati, Keabsahan Pengucapan Ijab Kabul Menurut Pandangan Ulama Aceh Singkil, *Jurnal El-Hadhanah: Indonesian Journal of Family Law and Islamic Law*, 1. (2021): 88.

including.¹⁴ *Ibahah* (permissibility), *at-Taysir* (bringing facility and ease), *Raf al-Haraj* (hardship removal), *Qawaid al-Kulliyah* (legal maxims), *Hurriyah at-Ta'qud* (The freedom of contract) and *Ta'lil* (ratiocination).

Some of the above principles are important principles that have been outlined by sharia in peace that have always been held in both the past, present, and future. Especially when the desire in the economy to make transactions using sharia agreements grows rapidly. Along with the growth of Islamic financial institutions in various fields today, it requires an umbrella and legal firmness that can bind the users of these *mu'amalah* agreements.¹⁵

Determination of 'aqd cooperation agreement in the implementation of Hajj

The agreement applied to the hajj fund was first agreed upon in the *ijtima'* forum in July 2012 by the Central Fatwa Commission of Indonesia (MUI), the Provincial MUI Fatwa Commission in Indonesia, and the central fatwa and Islamic organization institutions.¹⁶ All agree that the relationship between prospective pilgrims and the bank of the recipient of the hajj deposit-organizing agency can be based on two agreements, namely *wadi'ah* and *mudharabah* agreements.

It is also expressed by the director of hajj fund management and integrated hajj information system of the ministry of religious affairs Ramadhan Harisman quoted by Khoiron. The utilization of hajj Costs (BPIH) for development and investment does not need to ask permission from pilgrims, because when the management of hajj funds is carried out by the MORA. Prospective pilgrims have filled out and signed the *wakalah* contract form when paying the initial deposit. Hajj is closely related to *mu'amalah* because in performing hajj a candidate must prepare many things and in preparation, not only himself but also involves many supporting sectors, then arises a contract that then occurs in the practice of hajj, the agreement is as follows:¹⁷

1. Wakalah Contract

Wakalah means representative. *Wakalah* is the surrender of one person to another to do something, the representative applies as long as the representative is still alive. In the language of *wakalah* or *wakilah* means *at-tafwidh* (submission, delegation, and mandate). While according to the term, namely, the surrender of one's authority that can be delegated to others, so that he carries out that authority in his life. This means that the prospective pilgrims give authority to the government to carry out duties to manage the authorized objects.¹⁸

¹⁴ Devid Frastiawan Amir Sup, Selamat Hartanto, and Rokhmat Muttaqin, Konsep Terminasi Akad Dalam Hukum Islam, *Ijtihad : Jurnal Hukum dan Ekonomi Islam*, 14. (2020): 121.

¹⁵ Meri Piryanti, Akibat Hukum Perjanjian (Akad) Dan Terminasi Akad, *Jurnal At-Tahdzib*, 2. (2014): 86.

¹⁶ Muhyiddin, Fatwa MUI Tentang Vasektomi Tanggapan Ulama dan Dampaknya Terhadap Peningkatan Medis Operasi Pria (MOP), *Al-Ahkam: Jurnal Pemikiran Hukum Islam*, 24. (2014): 95.

¹⁷ Juju Jumena, Ilham Bustomi and Siti Fatimah, Hak Jamaah Haji Atas Hasil Pengelolaan Setoran Awal Biaya Penyelenggaraan Ibadah Haji, *Al-Mustashfa: Jurnal Penelitian Hukum Ekonomi Islam*, 3. (2018): 17.

¹⁸ Rachmawaty, Kartika Dian Pandaya, and Alshamma Jamal Mohammed Al Azab, The Implementation of Wakalah Contract by Multifinance Companies in Indonesia, *International Journal of Islamic Economics*, 1. (2019): 84.

2. Wadi'ah Contract

The word *wadi'ah* comes from the word *wada'ah asy-syari'a*, which is to leave something. It is called *wadi'ah* because of something that one person leaves to others to take care of. In terms of contracts applied, the contract between pilgrims and the recipient bank BPS-BPIH or Recipient Bank Deposit Cost of Hajj uses a *wadi'ah* contract. The *wadi'ah* agreement used is the guaranteed *yad damanah* (guaranteed safe custody) where the bank as the custodian is titled to use the deposited property for trading or any other purposes.¹⁹

3. Ijarah Contract

Ijarah means renting. According to the term, *ijarah* is an agreement to allow the possession of known and intentional benefits of a substance rented in exchange. The word *ijarah* is taken from the word *al-Ajr* which means '*iwadh* (reward), from this understanding the reward (*tsawab*) is called *ajr* (reward).²⁰ The application of the *ijarah* agreement conducted by Islamic financial institutions or Islamic banking lies in the management of its finances, which are invested in the state through SBSN, with the trustee who has granted the right of benefits of assets that he has purchased from the government as a seller, to the government as a tenant with the distribution of rewards that have been agreed between the government and investors mediated by the trustee. Also, in *sukuk ijarah*, the application of the *ijarah* agreement occurs when investors ask the company to represent itself in the rental of a need.²¹

4. Urbun Payment (Down Payment)

Urbun in Fiqh terms is known as *al-arabun*, which has the equivalent of the Arabic words *urbun* and *urban*. In language that becomes a transaction in buying and selling.²² Another meaning of *al-'arabun* with the letter '*ain* and *ra*' some scholars state, that is, someone buys something or rents something and gives some of the payment or rent then states if the transaction is perfect. The amount of funds is very significant because since 2004 the Ministry of Religion has implemented a system of early deposit payments (down payment) for the cost of organizing the pilgrimage (BPIH).²³ In terms of the application of this agreement directly related to prospective pilgrims, this payment is a condition to convince one's earnestness when going to perform Hajj that is with a minimum deposit to get a queue number set at Rp 25 million.²⁴

5. Ijarah al-Mausuf fi al-Zimmah (IMFD) Contract

Ijarah mausuf fi zimmah is a lease agreement renting on the benefits of a good or service that at the time of the contract only mentioned its properties, quantity, and quality

¹⁹ Mira Munira and Shinta Budi Astuti, Indonesian Hajj Fund Management: an Overview, *Asian Journal of Accounting and Finance*, 1. (2019): 4.

²⁰ Erwandi Tarmizi and Muhammad Maulana Hamzah, Dropshipping Dalam Perspektif Fiqh Muamalah Kontemporer, *Iltizam Journal of Shariah Economic Research*, 5. (2021): 63.

²¹ Muhammad Syarif Hidayatullah, Urgensi Mempelajari Fikih Muamalah Dalam Merespon Ekonomi dan Keuangan Kontemporer (Membangun Paradigma Ekonomi Syariah Di Masyarakat), *Al-Mizan: Jurnal Hukum Dan Ekonomi Islam*, 5. (2021): 34.

²² Siti Mupida and Siti Mahmadatun, Maqashid Syariah Dalam Fragmentasi Fiqh Muamalah di Era Kontemporer, *Al-Mawarid: Jurnal Syari'ah dan Hukum*. (2021): 29.

²³ Acep R Jayaprawira and Abdussalam, Analysis of the Implementation of the Islamic Contract Principle on Hajj Fund Management By Hajj Fund Management Agency (BPKH), *Journal KnE Social Sciences*. (2019): 629.

²⁴ Ahmad Asep Saefuloh, *Optimalisasi Pengelolaan Dana Haji Melalui Investasi Kemandirian Daerah: Kendala Optimalisasi Pajak Dan Retribusi Daerah*, 2. (2017).

(specifications).²⁵ The type of contract that is most appropriate is applied in the process of registering the hajj between the pilgrims and the Ministry of Religion is, *ijarah maushufah fi dzimmah* contract. The contract model that is appropriately applied in the case of registering BPIH deposits of pilgrims to BPKH is indeed the *ijarah maushufah fi dzimmah contract*.²⁶

Hajj fund management system

Hajj Fund shall mean all rights and obligations of the central government that can be valued against money related to the hajj administration as well as all assets in terms of money or goods that can be valued against money as a result of the implementation of these rights and obligations, both those originating from the hajj congregation and other legal and non-binding sources.²⁷

Hajj fund management is carried out in the form of investments whose benefits are used to improve the quality of hajj implementation, rationality, and efficiency of BPIH, as well as the benefit of Muslims.²⁸ And now who stands as responsible for hajj fund management is BPKH as we knew before then, during the 3 years since BPKH was formed, as what at regulations of the government 5/2018 Implementation of Law Number 34 of 2014 on hajj fund management hajj finance expenditures in the form of placement in Islamic banking products are at most 50% of the total Hajj Fund Placement and investments. After 3 years of formation, Placement in Islamic banking products is at most 30% of the total Hajj Finance Placement and investments. The difference from the total placement of Hajj Finance in Islamic banking products is allocated for investment. Hajj funds in the form of securities, gold, direct investment, and other kinds of investments.²⁹

In principle, investing the hajj funds may be done because a large number of pilgrims registered in the queue causes the hajj funds collected to be unmanaged, it can only be used when the hajj pilgrims perform hajj. Investments are made solely to manage these funds to be more productive and bring in returns from the principal deposit so that they can improve the quality of the implementation of the pilgrimage concerned. All forms of placement and or permitted investments have been detailed in the three regulations above, it's just that for the case of investment in the infrastructure sector it is not clearly stated whether it is permissible or not and what the terms and conditions are.³⁰

The analysis of the concept of payment 'aqd of Hajj Funds at the Ministry of Religious Affairs (MORA)

Based on Presidential Regulation No. 83 of 2015, the task of the Ministry of Religious Affairs is to organize government affairs in the field of religion to assist the president in

²⁵ Ahmad Syaichoni, *Al-Ijarah Al-Maushufah fi Al-Dzimmah* in the Study of Islamic Financial Economics, *Economica: Jurnal Ekonomi Islam*, 11. (2020): 23.

²⁶ Ariani Dian Pratiwi, Idqan Fahmi, and Rifki Ismal, Optimal Hajj Funds Management by Islamic Bank, *Etikonomi: Jurnal Ekonomi*, 18. (2019): 305.

²⁷ Dece Kurniadi, Jamal Wiwoho, and Hudi Asrori. Hajj Fund Management....., p. 359.

²⁸ Muhammad Ali Mubarak and Ulya Fuhaidah....., *Iltizam Journal Of Shariah Economic Research*, 2. (2018): 151.

²⁹ Acep R Jayaprawira and Abdussalam, Analysis of the Implementation..., p. 632.

³⁰ Aishath Muneeza, Amira Shuhada binti Tamby Sudeen, Atiqoh Nasution, and Ratih Nurmalasari, A Comparative Study of Hajj Fund Management Institutions in Malaysia, Indonesia, and Maldives, *International Journal of Management and Applied Research*, 5. (2018): 120.

organizing the state government.³¹ To carry out duties and functions as stipulated in Presidential Regulation No. 83 of 2015 concerning the Ministry of Religious Affairs, through the Regulation of the Minister of Religious Affairs No. 42 of 2016 on the Organization of Working Arrangements of the Ministry of Religious Affairs, further regulates the organizational structure and its working procedures. As one of the organizational units in the Ministry of Religious Affairs, the Directorate General of Hajj and Umrah is the implementing element that is under and responsible to the Minister of Religious Affairs, headed by the Director-General.³²

So, in organizing hajj, the Ministry of Religious Affairs by DJPHU has several cooperation relationships in helping its implementation and implementation. The scope of the implementation is as follows: KBIHU, Sharia Banking, Local Government and Bureaus of Umrah and Special Hajj.

After the cooperation in implementation, cooperation is also needed in implementation that will facilitate its implementation. The cooperation established by the Ministry of Religious Affairs is as follows:³³

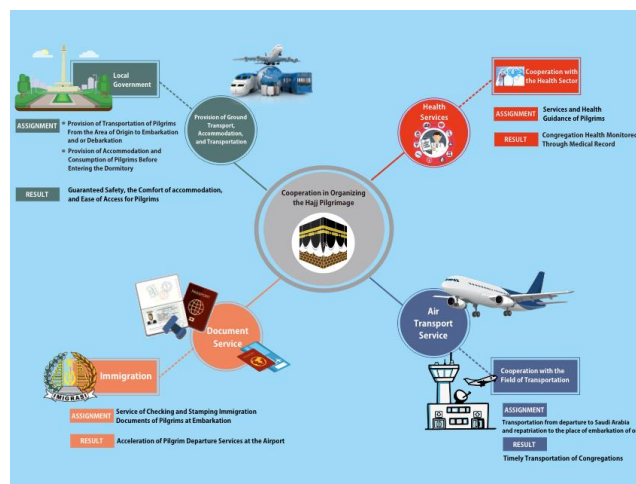


Figure 1. Indonesian Hajj fund flows
Source: Hajj Fund Management MORA

The procedure and requirements for hajj registration previously followed the process of Law No. 17 of 1999 on the implementation of hajj, but over time and the issuance of Law No. 13 of 2008 on the Implementation of Hajj changed the pattern of hajj registration. In the current era, hajj registration is carried out in three stages, namely:³⁴

1. The pilgrims open hajj savings and prepare their initial deposit funds at the bank.
2. Fill out a hajj registration application at the district or city ministry of Religious Affairs

³¹ Siti Arinah Ahmad and Shahir Akram Hassan, The Role and Effort of the Ministry of Religious Affairs of the Republic of Indonesia in Consolidation and Determining the Beginning of the Holy Month of Ramadan and EID Celebrations in Indonesia, *International Journal of Academic Research in Business and Social Sciences*, 7. (2017): 968.

³² Abdul Hafid, Rakhmat, Suradi Tahmir, and Rifdan, Hajj Service Management at the Department of Religious Affairs in Gowa Regency, *Mediterranean Journal of Social Sciences*, 7. (2016): 154.

³³ Reza Fathurrahman, Zaenal Abidin, and Annisa Dwi Utami, Public Service Satisfaction on Hajj-Related Services in Indonesia: Demographic Analysis, *Al-Muzara'ah Journal*, 9. (2021): 100.

³⁴ Regio, D. FG IV – Economic and Policy Analyst. European Commission Joint Research Centre. (2022).

3. Then, pay the initial deposit at the bank to get the portion number.

Concept of Hajj deposit funds in the Ministry of Religious Affairs

The cost of performing hajj or what will be called BPIH is several funds used for the operation of hajj.³⁵ The fee has been determined and submitted by the Minister of Religious Affairs along with the proposed amount of BPIH to the House of Representatives for BPIH purposes.³⁶ As for what must be paid by prospective pilgrims the hajj travel fee which is further called BIPIH is a sum of money that must be paid by citizens who will perform hajj.³⁷

Bank recipient of hajj fee deposit which is further abbreviated as BPS-BPIH is a sharia commercial bank and or sharia business unit appointed by the hajj financial management agency. Jemaah deposit is a sum of money handed over by pilgrims through BPS-BPIH.³⁸

Regular pilgrims pay the initial deposit of BPIH to the BPKH account through BPS-BPIH to get the validation number.³⁹ The amount of the initial deposit as referred to in paragraph (1) is determined by the Minister of Further Payment of the initial deposit of BIPIH as referred to in Article 3 paragraph (1) is carried out by procedure:⁴⁰

1. Regular pilgrims pay the initial deposit of BIPIH to BPKH account through BPS-BPIH
2. BPS-BPIH publishes evidence of the initial deposit of BIPIH
3. BPS-BPIH submitted evidence of BIPIH's initial deposit to regular pilgrims with a gush to the Ministry of Religious Affairs office electronically.

The provisions on the financing of hajj and umrah sharia banks are regulated in the regulation of the Minister of Religious Affairs of the Republic of Indonesia Number 24 of 2016 "Bank of Receiving Deposit of Hajj Costs" stated the regulation of the minister of religion on the bank receiving the deposit of the cost of performing hajj. BPIH in its management has its planning, receipt, expenditure, development, accounting, reporting, and accountability activities.⁴¹

Hajj Deposit Fund Contract

Hajj finance is all the rights and obligations of the government that can be assessed with money related to the implementation of hajj and all wealth in the form of money or goods that can be assessed with money as a result of the implementation of these rights and obligations,

³⁵ Ilham Maulid and 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. (2021): 57.

³⁶ Ahmad Mukri Aji and Muhammad Ishar Helmi. Legal Policies for Non-Subsidized Hajj Financing in Indonesia. *Jurnal Cita Hukum (Indonesian Law Journal)*, 9. (2021): 390.

³⁷ Rahmi Dewanty Palangkey, Kasjim Salenda, Marilang Marilang, A Qadir Gassing, Huilili YuXi, and Tabhan Syamsu Rijal, Analysis of Islamic Law on Consumer Protection in Hajj and Umrah Business in Indonesia, *Jurnal Al-'Adalah*, 18. (2021): 157.

³⁸ Ibid, p. 160.

³⁹ Muh Darmawan Tri Febriansyah and Sabri Samin. Pelayanan Ibadah Haji Khusus Melalui Travel Di Kota Makassar. *Siyasatuna: Jurnal Ilmiah Mahasiswa Siyasa Syar'iyah*, 3. (2022): 135.

⁴⁰ Ibid, p. 164.

⁴¹ Intan Fitri Meutia, Bayu Sujadmiko, Devi Yulianti, Kristian Adi Putra, and Savira Nur Aini, The Agenda Setting Policy for Hajj and Umrah in Post-Pandemic, *Proceedings of the 2nd International Indonesia Conference on Interdisciplinary Studies (IICIS)* (2021): 606.

both sourced from pilgrims and other legitimate and non-binding sources. Hajj finance includes receipts, expenses, and wealth.⁴²

After Law No. 34 of 2014 on Hajj, financial management was passed and BPKH was established, Law No. 8 of 2019 on the implementation of hajj and umrah was passed on April 26, 2019. Law No. 13 of 2008 on the implementation of hajj as amended by Law No. 34 of 2009 on the establishment of government regulations instead of Law No. 2 of 2009 on changes to Law No. 13 of 2008 on the implementation of hajj is no longer by the dynamics and legal needs of the community have been replaced. So, after the PKH Law is enacted, hajj finance must be managed in a sharia commercial bank and or sharia business unit or placed and invested by sharia principles, taking into account aspects of security, prudence, benefit value, and liquidity.⁴³

The development of such a large hajj fund has the potential to be used in supporting the implementation of more qualified hajj through effective, efficient, transparent, accountable, and the provisions of the laws and regulations. The strategy that has been taken by the Ministry of Religious Affairs to optimize the management of hajj funds so that the benefits can be used to improve the quality of hajj is to develop the funds through investment.

For decades, the Indonesian government has had a monopoly on the organization of the hajj to Mecca based on Law 17/1999. Indonesian Muslims who plan to perform hajj are required to make a down payment of 25 million rupiahs, and they are typically put on a waiting list of thirty years before performing the pilgrimage. The Ministry of Religious Affairs developed an innovative application, SISKOHAT, which helps Indonesians to monitor their status on the waiting list for the pilgrimage.⁴⁴

In terms of contract ('Aqd), before the establishment of Law No. 34/2014, the fund was agreed for safekeeping purposes only to perform hajj and therefore, it could not be used or managed for other purposes. Under this contract, the hajj pilgrim depositors signed the *wakalah* contract agreement when they deposited their down payment and as *muwakkil*, they entrusted the MORA as representative (*wakil*), to receive and manage their down payments by the regulation. Returns from the deposits and investments will be used in three ways:⁴⁵

1. To subsidize the cost of attending an annual pilgrimage to Mecca.
2. To cover the operational expenses.
3. To return to the prospective pilgrims' accounts.

Before the issuance of law No. 34/2014, there was no specific and predetermined strategy for managing the hajj fund. The accumulated fund from the hajj pilgrim depositors was pooled in the bank accounts under the administration of the Ministry of Religious Affairs. In terms of banking selection, there was no strict requirement for the hajj fund to be placed in Islamic banks (Law No. 13/2008) and thus it is likely that some portion of hajj fund, if not all, was saved in conventional banks which were not sharia-compliant. A mandatory requirement for

⁴² Khotibul Umam, Zainal Abidin, and Farid Firmansyah, Analisis Perlakuan Biaya Penyelenggaraan Ibadah Haji Dalam Perspektif Akuntansi, *Jurnal Akuntansi, Ekonomi dan Manajemen Bisnis*, 7. (2019): 123.

⁴³ Ibid, p. 126.

⁴⁴ Almasdi Syahza, *Metodologi Penelitian, Edisi Revisi*, (Pekanbaru: Unri Press, (2021): 79.

⁴⁵ Muhammad Aziz Zakiruddin, Dynamics of Hajj Financial Management Regulation in Efforts to Good Governance, *Jurnal Mizani: Wacana Hukum, Ekonomi dan Keagamaan*, 8. (2021): 150.

using Sharia banks for placing the hajj fund was issued in 2013 through the decree of the Minister of Religious Affairs.⁴⁶

Fiqh analysis contract principles on the Hajj model at the Ministry of Religious Affairs of Indonesia

Derik as the Managing Section stated that the data and information of manager of the hajj and umrah implementation section, what accounts are in the management of the initial deposit funds of prospective pilgrims are so interconnected. From the time of registration, with the issuance of validation numbers for the departure of Hajj, then the agreement between prospective pilgrims and the Ministry of Religious Affairs as operators and regulators in the affairs of hajj, the agreement is *wakalah*.

It is continued with BPIH payment deposited to BPS-BPIH the contract used is *wadi'ah* because of the money with a large amount of Rp. 25 million is money that is entrusted to be used for the cost of performing hajj. It should also be explained the difference between BPIH and BIPIH, BPIH is the money paid for the hajj, or it can be said that the initial deposit fund of BIPIH, while the cost of performing hajj or abbreviated as BIPIH is all funds that must be paid or fulfilled by pilgrims before departure to perform hajj.

When the money goes to the deposit recipient's bank, all funds of the ummah will be accumulated and managed by BPKH by existing procedures, with the management process in the form of investment funds in SBSN and so on, which is certainly in place and a contract by the Sharia namely *murabahah* or *musyarakah*. For then the results of the management will be the eternal fund of the ummah, where the funds are used to meet all the needs of the implementation until the repatriation of pilgrims. For example, to improve the infrastructure of the hajj embarkation dormitory, then unexpected benefits at the time of hajj, or when the repatriation of pilgrims from Makkah back to Indonesia.

So, the profit-sharing that we have alluded to at the beginning of the problem is the background of this problem will be answered where when everyone has understood how the way the agreement is interconnected but will still prioritize the interests of jama'ah (group of Muslim People).

Fiqh analysis related to the implementation of the contract on Hajj fund financing model in the Ministry of Religious Affairs of Indonesia

The contract principles in Islamic jurisprudence according to Muhammad Yusuf Musa, fiqh *muamalah* is the rules of Allah that are followed and adhered to in living in a society to protect human interests. In other words, *fiqh muamalah* is all the rules created by Allah SWT. To govern the order of life relationship between humans and other humans. In the context of the problem, *muamalah* is always related to various activities of daily life. The discussion of *muamalah*, especially in economic matters, will often be found in an agreement or contract. A contract is not different from a transaction (handover). All commitments made by two or more parties must not deviate and must be in line with the will of the Sharia.⁴⁷

BPIH and or special BPIH deposits, as the main component of hajj funds, are the funds of prospective pilgrims. The Ministry of Religious Affairs (BPKH in the PKH Law) accepts such deposits through the BPIH Deposit Recipient Bank (BPS BPIH) in the capacity of a

⁴⁶ Ibid, p. 155.

⁴⁷ Fitriyani Zein, Legislation Fatwa National Sharia Board-Indonesian Council of Ulama (DSN-MUI) In the State Economic Policy, *Jurnal Cita Hukum (Indonesian Law Journal)*, 6. (2018): 90.

legitimate representative of prospective pilgrims. The above provisions are in line with the results of the *ijtima'* ulama fatwa commission in Indonesia IV in Cipasung, West Java in 2012, which decided the initial deposit of prospective pilgrims who entered the waiting list (waiting-list), sharia belongs to the registrant (prospective pilgrim).⁴⁸

The discussion conducted through fiqh analysis related to the hajj financing model conducted at the ministry of religious affairs related to the hajj fund payment contract produced several findings related to the contract used, then how the ministry of religion carried out its duties as a representative of the hajj jama'ah candidate in its contract, namely *wakalah*, which was followed by the results of an interview that revealed how customers or registrants of hajj jama'ah candidates carried out the registration process and financing. Which is carried out through BPS-BPIH, and continued with interviews with related sharia banks that move directly under the law without having to be responsible to the ministry of religion but BPKH as a place to store and distribute Hajj funds for their use managed by BPKH.

The customer expressed that the intention and understanding of the contract is something that must be owned by every candidate for hajj jama'ah, the candidates must understand to fully believe in napa who have been represented to the ministry of religion regarding the cost of this hajj, so there is no more suspicion from the candidates of jama'ah who will cause damage to the contract that is notable because questions that do not start to appear, cause of less explanation also I have an understanding from both parties regarding the contract that has been agreed upon.

Likewise, with BPS-BPIH the financing they provide is held or agreed upon by jama'ah candidates before the registration and validated hajj sequence number, if the contract used is *wadi'ah* or *mudharabah* then the contract exists before the *wakalah* contract between the prospective jama'ah and the ministry because the money placed in the bank is only in the form of savings with a long-term deposit system or it should not be taken except for the hajj list. However, when the candidate jama'ah has paid directly the nominal registration, then the contract will be one with the contract where the hajj queue number is issued or validated.

Conclusion

'Aqd of hajj deposit fund in the Ministry of Religious Affairs has been implemented by the regulations set by law, government regulation, regulation of the minister of religious affairs, and fatwa of the national sharia council of the Indonesian ulema council. The concept of *wakalah* agreement accompanies the implementation after filling out the hajj registration application at the district or city ministry office. Filling out the application can be done anytime because it has opened a one-door service at the MORA Office. It means that a Pilgrim has entrusted the entire process of hajj and the implementation of hajj to the Ministry of Trade. Then pay the initial deposit at the bank to get the portion number. This is often a debate for ordinary people. Registration can be done at any time, but that does not mean that after registering will get a portion number. The new portion number will come out if the registrant has paid off the initial deposit payment at the bank.

Fiqh analysis of the hajj fund financing model in the MORA stated that the existing agreement in the management of the initial deposit funds of prospective pilgrims begins at registration. The agreement between the prospective pilgrims and the MORA as the operator and regulator in the affairs of the implementation of hajj then the agreement is *wakalah*, and it runs as it must be. They do all the duties as representatives for pilgrims, preparing from the

⁴⁸ Ariani Dian Pratiwi, Idqan Fahmi, and Rifki Ismal, *Optimal Hajj Funds...*, p. 305.

beginning till the end of hajj. Even so, the MORA must also cooperate with stakeholders in providing the best service to Hajj pilgrims so that they can worship comfortably and solemnly.

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