

Islamic Legal Perspective in The Management of Hajj Funds by The Hajj Financial Management Agency

Imam Bashori

Universitas Islam As-Syafi'iyah, Indonesia

bashori@multazam.co.id

Abstract

The Hajj Financial Management Agency (BPKH) is an institution established based on the mandate of Law No. 34 of 2014 concerning Hajj Financial Management. Hajj financial management must be in accordance with Sharia law and law. The responsibility of BPKH is an important thing to pay attention to in order to avoid adverse things. This research is a normative research with literature law research methods. The approach used is a statutory approach and a conceptual approach. This research is a normative research with literature law research methods. The approach used. is a statutory approach and a conceptual approach. From the results of the study, it was concluded that the Hajj fund managed by BPKH was in accordance with the principles of sharia principles in managing its investment. The government must be able to increase public trust by consistently improving services and good and equitable management of Hajj funds for prospective pilgrims with waiting lists. The Hajj Fund has great potential and its management should aim to provide benefits back to prospective pilgrims with waiting lists in particular and to everyone in general.

Keywords: *Hajj, Hajj fund, Hajj financial management, BPKH*

I. INTRODUCTION

The establishment of BPKH is a mandate from Law No. 34 of 2014 concerning Hajj Financial Management and is an institution in charge of Hajj financial management. BPKH is independent and responsible to the President through the Minister. According to Law Number 34 of 2014 concerning Hajj Financial Management, Hajj financial management is carried out in the form of investments whose benefit values are used to improve the quality of Hajj implementation, rationality, and efficiency of BPKH, as well as for the benefit of Muslims. By investing in Hajj finance, the investment returns are expected to generate significant benefits, for example to improve services in the context of organizing Hajj. These benefits include subsidizing Hajj travel costs, lodging costs in the holy land and others.

In Indonesia there are several religions or beliefs, one of which is Islam. Islam is one of the religions with the majority, in Islam there is such a thing as worship where we have to carry out a spiritual journey known as performing Hajj, in Islam Hajj is the fifth pillar of Islam. The pillars of Islam in its implementation can be said to be obliged

to fulfill it, but if unable to such as going to Hajj, someone is allowed not to carry it out. Islam is a view or way of life that governs all contents of life including the economic field. Meskipun dimasa Rasulullah SAW belum ada lembaga pelayanan ekonomi dan perbankan, tetapi islam telah meletakkan prinsip dan filosofinya didalam menghadapi berbagai macam persoalan kontemporer yaitu dengan cara melakukan suatu ijtihad berdasarkan ketentuan syariat yang berlaku. Pada hakikatnya islam adalah agama yang kaffah dan syamil (komprehensif dan intergatif) yang di turunkan dan memuat segala sesuatu yang mendasar penting bagi manusia.

This is what then encourages humans to cooperate with each other. Islam is basically a guideline or guideline procedure in realizing good and healthy economic cooperation, economic cooperation that has sharia principles becomes an obligation as mentioned in the Qur'an. Related to this, a body was formed that manages Hajj funding where many Muslims want to perform it, especially the number of Indonesian citizens who register to perform Hajj from year to year continues to increase while the Hajj quota is limited so that the number of waiting Hajj pilgrims also increases.¹ Performing Hajj is an annual worship ritual carried out by every Muslim worldwide who is able (both materially, physically and to scientists) by traveling and carrying out several worship activities in several places in Saudi Arabia at a predetermined time, namely in every month of Dhul-Hijah. Hajj is a shari'a stipulated by Allah SWT based on existing provisions, obligatory for Muslims to perform Hajj for those who are able to carry it out. As the Word of Allah SWT in Surah Al-Hajj Verse 27:

It means: "And call upon men to perform the Hajj, and they will come to you on foot, and ride on thin camels that come from all distant quarters."

II. LITERATURE REVIEW

Hajj Fund Management.

Hajj fund management is the management of funds for the deposit of Hajj costs, Hajj efficiency funds, community service funds, and the value of benefits controlled by the state in the context of organizing Hajj and implementing activity programs for the benefit of the people.² Investment is a commitment to a number of funds or other resources carried out at this time, with the aim of obtaining a number of benefits in the future. The term investment can relate to various kinds of activities, investment activities that are commonly carried out, namely investing funds in the real sector (land, gold, machinery, buildings) or investment in financial assets (deposits, stocks,

¹ Achmad Muchaddam Fahham, "Hajj: Problems and Treatment," Study 20, no. 3 (2016): 201–218.

² Law Number 34 of 2014 concerning Hajj Financial Management, Article 1 paragraph 2.

and bonds). Investment activities carried out by the community will continuously increase national income and increase the level of prosperity of the community. This role comes from three important functions of investment, namely:

1. Investment is a component of aggregate expenditure, national income and employment income
2. The increase in capital goods due to investment will increase production capacity
3. Investment is always followed by technological developments.³

Government is an institution or body of direction and administration that is authorized over community activities in a country, city, and so on. The government in a country is the guardian of its citizens. Likewise with Hajj pilgrims, Hajj pilgrims are represented by the state in managing entrustment funds so as to produce greater benefits for prospective pilgrims themselves.⁴ Word of Allah Almighty:

Meaning: O believers! Obey Allah and obey the Messenger (Muhammad), and Ulil Amri (the holder of power) among you. Then, if you disagree about something, then return it to Allah (the Qur'an) and the Messenger (its sunnah), if you believe in Allah and the day after. Such is the greater (to you) and the better the result. (QS. Annisa [4]: 59)⁵

This verse explains that Allah Almighty makes obedience to the third order leader after obedience to Allah Almighty and His Messenger. But for the leader here does not come with lafadz "ta'atillah" because obedience to the leader is a follow-up of obedience to Allah SWT and His Messenger. It means that a leader does not command to obey Allah SWT and His Messenger, so he must obey and listen to a leader.⁶

Use of Hajj Fees

Hajj Implementation Fee (BPIH) is a number of funds that must be paid by citizens who will perform Hajj. Financing for Hajj comes from pilgrims who pay a certain amount of funds to perform Hajj to the Ministry of Religious Affairs through government-appointed and/or private banks. When using Hajj funds for the cost of

³ Chairul Nizar, et al, "The Effect of Investment and Labor on Economic Growth and Its Relationship to Poverty Rate in Indonesia", Journal of Postgraduate Economics of Syiah Kuala University, Vol 1, No 2, 2013, p. 3.

⁴ The results of an interview with Mr. Arijal as the head of the Hajj and Umrah Implementation Section (PHU) of the Aceh Ministry of Religious Affairs Kanwil, on June 2, 2021 at 09:30.

⁵ Ministry of Religious Affairs of the Republic of Indonesia, Al-Qur'an and its Translation, (Surabaya, Halim Publishing & Distributing, 2014), p. 87.

⁶ Ibn Kathir, Tafsir Al-Qur'anul 'Adzim, Volume IV, (Jakarta: Pustaka Imam AsySyafi'I, 2010), p. 465.

organizing Hajj must be efficient and planning in accordance with Islamic law. As in the Qur'an Surah Al-Furqan verse 67:

*“And those who when spending, they are not excessive, and are not miserly, and are in the middle of such” (Q.S Al-Furqan: 67)*⁷

From this verse it can be concluded that, do not spend wealth excessively, meaning spend it sparingly (reasonably), and save it for future interests. In Sura Al-Isra' verses 26-27 it is also affirmed that it is not permissible to waste wealth extravagantly, following the sound of the verse:

“... and do not squander (your treasure) extravagantly. Indeed, these wasters are brothers of Satan and Satan is in great disobedience to his Lord” (Q.S Al-Isra’: 26-27)⁷. From the two verses above it can be concluded that do not use wealth extravagantly or excessively, because no one can predict what will happen in the future. Therefore, it is recommended to use the property appropriately and keep it for the future. The cost of organizing the Hajj pilgrimage (BPIH) is divided into two, namely direct costs and indirect costs. Direct cost is a fund directly paid from the pilgrim's money. The money deposited by pilgrims is only to pay for round-trip air tickets, lodging in Makkah, and living costs. The indirect costs are funds paid using funds from the efficiency of Hajj funds, including for food costs, buses in Saudi Arabia, operations, life insurance, passport change costs, Hajj officer training, and Hajj management guidance.⁸

Utilization of Hajj Funds for the Benefit of the Ummah

Hajj funds are invested in three financial instruments, namely State Sharia Securities (SBSN) are securities issued by the government of the Republic of Indonesia based on shari'ah principles, Government Bonds (SUN) are securities in the form of debt recognition letters guaranteed by interest and principal payments by the State according to their validity period, and Time Deposit is a deposit product managed by banks and for the withdrawal or deposit process is only biased performed at certain times only. The invested Hajj funds provide benefits for pilgrims, namely reducing the cost of Hajj for each pilgrim. Hajj funds can be utilized, but must meet 4 (four) conditions:

1. It can be targeted but it must be ensured that the type of business meets the principles of sharia. So before the Hajj fund is invested or utilized, make sure first that the type of business really meets sharia principles.

⁷ A. Soenarjo et al, The Qur'an and its Translation, ..., h. 284

⁸ Deni Rusli, Kepala Seksi Pembinaan Haji dan Umrah Kanwil Kemenag Provinsi banten, wawancara dengan penulis di rumahnya, tanggal 30 Juli 2018.

2. Related to prudence or safe. In addition to having to comply with sharia principles, it must also be ensured that the business is safe. The logic is like the management of waqf funds, which must not be reduced, but must be developed and have beneficial value.
3. Benefit. Before Hajj funds are invested, the benefits must be known in advance. These benefits are good for the benefit of pilgrims and also for the benefit of Muslims.
4. Liquid. This means that Hajj funds are needed continuously. So if the funds are used for infrastructure development or so on, it has the right calculation. Do not let the funds be used all for purposes outside the implementation of the Hajj.⁹

Hajj funds are a collection of funds from Muslims who perform Hajj and are collected in one place or institution so that they can be organized, both the participation of institutions in collecting Hajj funds, one of which is BPKH (Hajj Financial Management Agency).

III. METHODOLOGY

The type of research compiled is qualitative research,⁷ using library research methods or also called literature research. Referred to as literature research because the data or materials obtained and used in the preparation of research are obtained from various literature in the form of books, encyclopedias, dictionaries, journals, documents, magazines, bospots and so on, from various various data sources will be used as material as processed data. The stages of data processing and analysis that researchers do are: 1) Editing, 2) Classification, 3) Verification, 4) Analysis using inductive predictive methods and vice versa, then verified so that maximum conclusions can be drawn.¹⁰

IV. RESULT AND DISCUSSION

In Islam, all forms of human life are regulated in such a way, including investment issues involving Hajj funds. Various contemporary legal issues in society require in-depth study of Islamic law through the study of the Qur'an and Al-Hadith, ijma' and qiyas. Talking about investment in Hajj funds, there are several legal bases on the recommendation to invest in Islamic concepts, including:

⁹ "MUI Fatwakan 4 Terms for Hajj Fund Utilization" <https://www.cnnindonesia.com/>, accessed on December 30, 2023, at 10.51 WIB.

¹⁰ Duski Ibrahim, "Research Methodology in Islamic Studies (An Effort to Iktisyaf Classical Muslim Methods)," *Intizar* 20, no. 2 (2014): 247–266.

1. Hadith narrated by Umar bin Shu'aib which means: "know, who takes care of orphans, while the orphan has property (inheritance money), then let him invest it (do business it), let him not let the property idle, so that the property continues to decrease because of zakat".
2. Hadith narrated by Imam Muslim which means: "Give opportunity to those who own land to use it, in their own way and if they do not do so, let others also take advantage of it".
3. Umar ibn Khattab's statement means: "Whoever has money should invest it, and whoever has land should plant it".¹¹

Carrying out muamalah activities in the form of investment in Islam is something that is allowed, even highly recommended. By maintaining and in accordance with the principles and provisions of the rules of the Shari'a. Sharia investment cannot be separated from how Islam plans, organizes, manages, and supervises a form of human endeavor accompanied by sincerity and intended to worship Allah SWT. That is, Islamic investment has an important correlation with management as a form of muamalah worship. Thus, the issue of sharia investment in this case is Hajj funds, can be analyzed through the knife of ijma' analysis of scholars using the basis of Islamic law (ushul fiqh).

The deposit funds for prospective pilgrims that have been deposited are managed and invested by the Hajj Financial Management Agency (BPKH). BPKH is a public legal entity in charge of managing Hajj finances which includes the receipt, development, expenditure, and financial accountability of Hajj. One form of development of Hajj funds is investment. The aim is to improve the quality of Hajj implementation, rationality and efficiency of using BIPH, and benefits for the benefit of Muslims. The way to increase the value of an institution is to increase the value of benefits from the results of management. BPKH as a body mandated by the government in managing Hajj funds in accordance with applicable regulations that can generate significant value benefits. The development of Hajj funds is carried out with several principles that guide the management of Hajj funds implemented by the Hajj Financial Management Agency, namely:

¹¹ Subairi Subairi, "Kontekstualisasi Hadist Ekonomi Syari'ah," *Qawānīn: Journal of Economic Syaria Law* 2, no. 2 (2018): 12–14.

1. In accordance with sharia principles where every Hajj financial management process is in accordance with Islamic laws, funds deposited by prospective pilgrims are placed and invested in sharia-based financial institutions
2. The precautionary principle, whereby Hajj entrustment funds are invested in a safe place with full consideration and strict selection. Hajj financial management must pay attention to risk and return by carrying out careful, accurate, and in accordance with applicable regulations.¹²
3. Security, meaning that the management carried out prioritizes security which aims to minimize the risk of loss
4. Transparency, namely the institution's openness to information on Hajj funds, the process of implementing management, and in decision making.
5. Independent, namely carrying out independent management without intervention from any party.
6. Non-profit, which does not prioritize profit (solely seeking profit) in carrying out an activity. Non-profit prioritizes social and community.
7. Accountable, namely clarity of functions and responsibilities in the management process so that it can run effectively and efficiently.
8. Comply with the laws and regulations that serve as management guidelines, namely Law Number 34 of 2014 concerning Hajj Financial Management.
9. Benefits, value benefits mean the implementation of Hajj financial management in the form of placement in Islamic banking and investment in predetermined instruments can provide optimal benefits for Hajj pilgrims and Muslims in Indonesia. The value of these benefits will be used to cover the shortfall in real Hajj costs of approximately Rp70.1 million / pilgrim, besides that BPKH will also provide the value of these benefits to pilgrims through virtual accounts.¹³

In placing and investing Hajj finances BPKH in accordance with sharia principles, prudence, and benefit value (in accordance with BPKH's duties in Law Number 34 of 2014. The Hajj Financial Management Agency must also ensure the availability of liquidity, which is equivalent to 2 times the cost of the Hajj season, Hajj funds are placed with a percentage of 80% for investment placement and 20% for liquidity investments.

V. CONCLUSION

¹² Law Number 34 of 2014 Article 2

¹³ The results of an online interview with Mr. Hari Prasetya as Deputy of Planning and Assessment of BPKH, on June 16, 2021 at 17:06

BPKH must be really responsible for the Hajj fund. If the investment is profitable, then the distribution of proceeds is really to improve the quality of Hajj services and also reduce the cost of Hajj. However, if the investment loses money, BPKH must also be responsible, not only rent responsibility but must be added with private responsibility, this is so that investment activities are really carried out carefully and avoid corruption by members of the body. So in this case, it is necessary to add new arrangements related to BPKH's responsibility in managing Hajj funds for investment.

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