

Siyasah Syar'iyah Paradigm of Hajj Financial Management Regulation in Indonesia

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Abstract

The purpose of this study is to describe the policies taken by the government in the financial management of Hajj in Indonesia through the siyasah syar'iyah paradigm. The questions that arise in this study are regarding the role of the state in the management of Hajj finances and how the policies of Hajj financial management in Indonesia are in the perspective of siyasah syar'iyah. This research is a library research, with a normative legal research method that uses the siyasah syar'iyah approach. After conducting in-depth research, it was concluded that the government in this case through the BPKH seeks to carry out its role in the field of the *'ala al-hajj* and *Maliyah* areas by building the management and investment of hajj funds that are in line with the siyasah syar'iyah, so that the policies that have been implemented by the government in managing the hajj funds include: the initial deposits, the efforts to maintain the value of BPIH, as well as the placements in Islamic banks. It is an effort to achieve Maqasid Syariah, namely the values of benefit that are specifically for the Hajj pilgrims and the community in general which are the government's goal in this policy.

Keyword: Hajj fund; *siyasah syar'iyah*; regulation

Abstrak

Tujuan penelitian ini adalah untuk mendeskripsikan kebijakan-kebijakan yang diambil pemerintah dalam pengelolaan keuangan haji di Indonesia melalui paradigma *siyasah syar'iyah*. Pertanyaan yang

muncul dalam penelitian ini mengenai peran negara dalam pengelolaan keuangan haji serta bagaimana kebijakan pengelolaan keuangan haji di Indonesia dalam perspektif *siyasah syar'iyah*. Penelitian ini merupakan penelitian pustaka, dengan metode penelitian hukum normatif yang menggunakan pendekatan *siyasah syar'iyah*. Setelah dilakukan penelitian secara mendalam ditemukan kesimpulan bahwa. Pemerintah dalam hal ini melalui BPKH berupaya untuk melaksanakan perannya dalam bidang *Wilayah 'ala al-hajj* dan *Maliyah* dengan membangun pengelolaan dan investasi dana haji yang sejalan dengan *siyasah syari'iyah*, sehingga kebijakan yang telah dilaksanakan pemerintah dalam pengelolaan dana haji antara lain: Pelaksanaan investasi pada setoran awal, upaya menjaga nilai BPIH, serta penempatan pada bank syariah. Merupakan upaya mencapai *maqasid* syariah, yaitu nilai-nilai kemaslahatan yang secara khusus bagi jemaah haji dan masyarakat secara umum yang menjadi tujuan akhir pemerintah dalam kebijakan tersebut.

Kata Kunci: Dana haji; *siyasah syar'iyah*; regulasi

Introduction

Hajj is the largest gathering of Muslims in the world every year; more than two million Muslims from every corner of the world are present at the same place and time in the "house of Allah" namely the Kaaba in Mecca.¹ The hajj or pilgrimage has become a priority for Muslims with all the attractiveness in its implementation,² including in Indonesia that participates every year in dispatching hajj. For Muslims in Indonesia, the hajj is an annual worship that gets special attention by the government.³ This concern is also based on the complexity of the implementation of the Hajj,⁴ and the breadth of aspects involved in organizing the Hajj in Indonesia,⁵ not only in the aspect of the departure, but also in the aspect of financial management of the Hajj.⁶

¹ Robert R. Bianchi, *Guest Of God: Pilgrimage and Politics in The Islamic World* (Newyork: Oxford Press, 2004). 3

² Budi Kisworo, "Ibadah Haji Ditinjau Dari Berbagai Aspek," *Al-Istinbath: Jurnal Hukum Islam* 2, no. 1 (2017): 75.

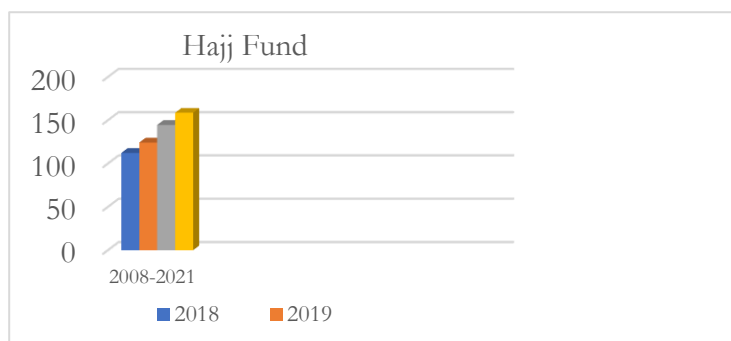
³ Fajri Ramadhan, "Membangun Kepercayaan Publik Terhadap Badan Pengelola Keuangan Haji Melalui Sinergi Dan Good Public Governence," Bidang Perencanaan & Pengembangan BPKH (2018), 3.

⁴ 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), 126.

⁵ Oyo sunaryo Mukhlas, *Pranata Sosial Hukum Islam* (Bandung: PT. Refika Aditama, 2015), 61.

⁶ Muhammad Aziz Zakiruddin, "Problematika Regulasi Pengelolaan Dana Abadi Umat: Disharmonisasi Kelembagaan Dan Legal Standing," *Media Syari'ah: Wahana Kajian Hukum Islam dan Pranata Sosial* 23, no. 1 (2021): 35.

The financial management of the hajj then attracted quite a lot of attention after the discourse delivered by President Joko Widodo on the use of hajj funds for infrastructure. This discourse was later supported by the Head of BPKH and the Minister of Religion.⁷ The discourse was not without reason, Minister of Finance Sri Mulyani also gave a response that Hajj funds were a good source of funding that can be used to cover the state's financial deficit. This is because hajj funds have the potential to be managed and invested, and are encouraged by the amount of funds that continues to increase along with the increasing number of hajj registrants. The increase in hajj funds in the last four years can be seen in the following diagram:⁸



It can be seen from the diagram that the Hajj fund managed by BPKH continued to experience a significant increase in 2018 of funds managed by 112.35 trillion Rupiah, in 2019 it increased to 124.32 trillion Rupiah, in 2020 it increased by 16.56% to 144.91 trillion Rupiah, and in 2021 reached 158.7 trillion Rupiah. The increasing number of accumulated hajj funds then became the basis for the government to seek better hajj financial management through a special agency, namely BPKH. However, the government's efforts to invest in hajj funds reap pros and cons, especially investment in the infrastructure sector. Investment in Hajj funds is considered taboo for the public, especially for those who register for Hajj in their elderly years. The rejection of the investment of hajj funds even occurred in the courtroom of the Constitutional Court regarding the submission of a petition for a judicial review of Law Number 34 of 2014, which in the end the Constitutional Court decided to reject the petition of the applicant in its entirety. The application was born from prospective pilgrims who refused the initial deposit that was deposited for investment.⁹

⁷ “Jokowi Ingin Dana Haji diinvestasikan Untuk Infrastruktur,” <https://nasional.kompas.com/read/2017/07/26/12145401/jokowi-ingin-dana-haji-diinvestasikan-untuk-infrastruktur?page=all>. Diakses 2 Februari 2021.

⁸ BPKH.go.id, *Annual Report BPKH 2020, 2020*. Lihat juga dalam: Bpkh.go.id

⁹ Putusan Mahkamah Konstitusi Nomor 51/PUU-XV/2017 permohonan uji materiil Undang-Undang Nomor 34 Tahun 2014 tentang Pengelolaan Keuangan Haji

The complexity of the financial management of Hajj is not only in its implementation, but at the most basic level at the paradigm level. Hajj financial management has difficulty in finding the most appropriate reasoning based on a particular field of science. In the financial management of Hajj, there are various arguments in it. The arguments appear, then look so logical but, in the next practice they become illogical. For example, arguments against Hajj finance are logical from a modern financial point of view, but are not necessarily logical at other scientific levels such as fiqh. Not only has the difficulty in building harmony in scientific arguments, however, the financial management of Hajj sought how religious morals work to match each different scientific reasoning or argument.¹⁰

Religious morals that live within the scope of society in Indonesia assess the use of Hajj funds as investment is something that is still taboo. In the author's opinion, in managing Hajj finances, the main goal is not to build a new logic or a new concept, but to build a fiqh paradigm which is the basis of religious morals, to become a paradigm in Hajj financial management.

Differences in viewpoints or difficulties in unifying perceptions of the hajj fund are not uncommon. This is because the Hajj fund as a legal entity as well as a collection of funds, is a new phenomenon even in fiqh which has Islamic economic content such as muamalah fiqh or siya'sah fiqh. There has never been an exact same form in the past. Likewise, there is no classical fiqh that specifically discusses in detail the legal aspects related to the collection of funds such as hajj fund and places more emphasis on personal issues and cases. However, basically the muamalah principles discussed for centuries by the high priests of Islamic jurisprudence as well as conventional economics and finance can still be used as a foundation in interpreting new understandings related to contemporary financial assets and new business entities as happened to hajj fund.¹¹

The application of the concept of fiqh in the financial management of Hajj has basically been implemented since the beginning of the formation of the Law on the Organization of Hajj to the Law on the Management of Hajj Finance. Article 2 of Law Number 34 of 2014 concerning Hajj Financial Management states that Hajj financial management is based on the following principles: sharia principles, prudence, benefits, non-profit, transparent and accountable. The principles built in the financial management of the Hajj itself are relevant to the basis of Islamic economic development policies consisting of: Tawhid (*Tawhidullah*), Justice (*'adalah*) and Sustainability (*Istimrariyyah*).¹² The Hajj

¹⁰ M. Arief Mufraini, *Dana Haji Indonesia: Harapan Dalam Paralogisme Pengelolaan Dan Teorisasi Keuangan Syariah* (Jakarta: Prenada, 2021), 69-71

¹¹ Ibid.

¹² Ija Sutana, *Politik Ekonomi Islam: Sijyasah Maliyah* (Bandung: Pustaka Setia, 2019),16.

Financial Management Act gives the government authority in the management of Hajj finances. Hajj financial management carried out by the government has the aim of improving the implementation of the hajj, rationality and efficiency of the use of Hajj Organizing Fees (BPIH), and increasing the benefits for Muslims. The Hajj financial management law has the essence of how politics is elaborated with Islamic law. This is because Islamic law and politics are two sides that cannot be separated in Muslim society.¹³

As for the researches that have been explored in general regarding the implementation of the pilgrimage and the financial management of the pilgrimage, several have been mentioned as an introduction. Meanwhile, in particular, there are several research or studies that focus on discussing the implementation of the Hajj from the regulatory, legal and political aspects, such as Burhanuddin in his writing entitled "The BPIH Management System According to a Positive Legal Perspective", describing the BPIH management system as regulated in Law No. 13 2008 which was studied using a statutory approach (*statue approach*). In this paper Burhanuddin re-examines how the conclusions of the law governing the management of BPHI are, how the outputs are produced, and how they conform to the principles of good governance.¹⁴

Zubaedi in his writing entitled *Analysis of the Problematic Management of Hajj Implementation in Indonesia, Restructuring the Hajj Management Model towards Modern Hajj Management*. Zubaedi focused his research on the topic of the management of the implementation of the hajj which encountered various problems including problems with lodging facilities that have such long distances, low capacity and inadequate facilities. Zubaedi argued that this problem arose due to overlapping authorities, and not being followed by clear regulations.¹⁵

Zainal in his writing "Regulation of Hajj in Historical Review" with library research method provides a historical explanation of how the implementation of the Hajj in Indonesia from the colonial period to post-independence in the regulatory aspect. Several previous studies have similarities in the topic of discussion, but are substantially different from those developed by the author from the focus of the research. The researcher examines the *siyasah syar'iyah* of the 'ala al-haj region, namely how the government's policy in

¹³ Rosdalina Bukido et al., "Ilmu Dan Kepentingan Politik Tinjauan Hukum Islam," *Al-Istinbath: Jurnal Hukum Islam* 4, no. 1 (2019): 69.

¹⁴ Burhanudin, "Perspektif Hukum Positif Di Indonesia the System of Cost Management of Hajj According To," no. 396 (2014), 110.

¹⁵ Z. Zubaedi, "Analisis Problematika Manajemen Pelaksanaan Haji Indonesia (Restrukturisasi Model Pengelolaan Haji Menuju Manajemen Haji Yang Modern)," *Ejournal.Iainbengkulu.Ac.Id* Vol. 4 No. (2016): 189–200, <http://ejournal.iainbengkulu.ac.id/index.php/manhaj/article/view/182>.

financial management of Hajj is an effort to manage finances (*Maliyah*) in organizing the pilgrimage in Indonesia. There is a fundamental and substantial difference with previous research based on the urgency of this research which aims to provide an overview or description of how the financial management of Hajj in the *siyasah syar'iyah* paradigm is, how the policies have been taken and their suitability for the implementation of Islamic sharia values.

This research can be categorized as literature research (library research), a study through source texts of teachings, attitudes and behavior of religious figures or leaders, as well as religious activities such as in this case the Hajj.¹⁶ Researchers use normative law research methods with the *Siyasah Sar'iyah* approach in order to study and analyze policies in the financial management of Hajj.

Through the explanation above, seeing the gaps and reforms in the study of Hajj financial management, especially in the *Siya'sab Syar'iyah* perspective which can be used as an analysis in reviewing government policies in the management of Hajj finances, the authors in this study examine and provide further descriptions of the suitability of Hajj financial management in Indonesia is based on the *Siya'sab Syar'iyah* perspective. Furthermore, this research is derived into two questions: What is the role of the state in the *Siya'sab Syar'iyah* perspective financial management? What is the government's policy in financial management of Hajj in Indonesia from a *Siya'sab Syar'iyah* perspective?

Discussion

The Role of the State and Public Finance in Islam

The state has a very important role, not only in maintaining the economic harmony of the community, but also in fulfilling sharia. Al-Ghazali in his view states that religion and the state are pillars that cannot be separated from an orderly society. Religion is the foundation and the head of state is the regulator and protector. The tendency of conflicting needs between communities can only be controlled if there are collectively agreed regulations with adequate control and supervision mechanisms. Therefore, the role of the state as controller and supervisor of these regulations is very important.¹⁷

According to al-Ghazali, to increase economic prosperity, the state must uphold justice, peace and security, and stability. States should take all necessary measures to enforce conditions of internal and external security. Thus, the state

¹⁶ M. Atho Mudzhar, *Pendekatan Studi Islam Dalam Teori Dan Praktik* (Yogyakarta: Pustaka Pelajar, 2011), 13.

¹⁷ Janwari Yadi, *Pemikiran Ekonomi Islam: Dari Masa Rasulullah Hingga Masa Kontemporer* (Bandung: Remaja Rosdakarya, 2016), 202.

is responsible for creating appropriate conditions for increasing prosperity and economic development.¹⁸

The existence of authority is held by the government as a ruler, and then there are principles that must be held as a ruler. These principles are that the ruler must not abuse his power, must not be arrogant, not be lulled by flattery, and the ruler must always be alert to false scholars which may give fatwas that are not true according to religious teachings. In addition to expressing the principles of governance, al-Ghazali also criticized state administrators. He condemned bribery and corruption in the public sector, particularly in justice enforcement agencies.¹⁹

In a similar statement, al-Ghazali warns the rulers not to indulge in worldly desires, which is something that not only contradicts Islamic values, but also interferes with the administration of the state.²⁰ This is in line with the delivery of Abu Yusuf who warned that resource management is a mandate, which will later be held accountable. Therefore, for the sustainability of a government, efficiency in the use of resources is an important thing.²¹

Related to public finance, regarding the role and function of public finance, there are three things that must be considered in public finance, namely: Sources of state revenue, state debt, and state expenditures. Source of state revenue is necessary to collect data on the income that should be collected from the entire population, both Muslims and non-Muslims based on Islamic law. Some sources of income originating from the Muslim community include assets without heirs whose owners cannot be traced, zakat, shadaqah, and so on. Regarding taxes, according to him, it should be rejected, because the implementation of taxes at that time was only based on prevailing customs, not based on sharia.²²

While the sources of income from non-Muslims are taxes collected from non-Muslims in the form of *ghanimah*, *fai*, *jaziyah*, and tribute. *Ghanimah* or spoils of war is a tax on property confiscated after or during war. *Fai* is possession obtained without going through a fight. *Jizya* is collected from non-Muslims in return for two benefits: exemption from military service and protection of rights as residents. Quoting Imam al-Ghazali's view, the state can impose levies outside of religious provisions, as long as the levies are used for urgent needs, or the state is in a threatened condition. Al-Ghazali suggested that in utilizing state

¹⁸ Adiwarmam A.Karim, *Sejarah Pemikiran Ekonomi Islam* (Jakarta: PT. Rajagrafindo Persada, 2016), 314

¹⁹ Ibid., 342

²⁰ Ibid., 343

²¹ Nur Chamid, *Jejak Langkah Sejarah Pemikiran Ekonomi Islam* (Yogyakarta: Pustaka Pelajar, 2010), 157.

²² Ibid., 345

revenues, the state should be flexible based on welfare. If public spending can provide more social welfare, the government can collect new taxes according to the needs of the existing community. Regarding public debt, al-Ghazali views that state debt must be based on consideration of real economic conditions. The state may take on public debt if possible to guarantee the repayment of future revenues. He stressed that there must be a rational reason why the state has a debt policy, and on what basis these funds are used.²³

With regard to public expenditure, public expenditure must be based on consideration of the needs of the common welfare for the purpose of social benefit. The ruler must allocate funds to people who deserve it, not to those who are seen as useful for the personal interests of the ruler. Public spending should be used to build socio-economic infrastructure to increase public resources, such as: bridges, religious buildings, educational institutions, roads and other activities whose benefits can be felt by the people in general.²⁴

Siya'sah Syar'iyah Paradigm in Wilayah 'Ala Al-Hajj

Etymologically, *siyasah syar'iyah* comes from the word *shara'a* which means something that is *syar'i* or can be understood as a rule or politics that is *syar'i*. Terminologically in the view of Ibn 'Aqil, it is an action that practically brings humans close to the benefit and avoids damage.²⁵

Through the definition of *siyasa* put forward by Ibn 'Aqil above, it contains several meanings. First, the *siyasah*'s actions or policies are for the benefit of the wider community. This shows that politics is made in a communal context and policy makers must be those who have the power to mobilize the public. Second, the policies chosen and followed by citizens are choices among several options, and these choices are more focused on finding those that are closer to the common good and prevent evil. This is indeed one of the characteristics of *siyasah* which has many branches and choices. Third, the *siyasah* is in the area of *ijtihadi*, namely in public affairs for which there is no *qath'i* argument from the Qur'an and Sunnah, but in the area of authority of the Muslim leaders. As an area of *ijtihadi*, the *siyasah* often used is the *qiyas* and *maslahat mursalah* approach. Therefore, the main basis of the existence of *siyasah syar'iyah* is the belief that Islamic law was revealed for the benefit of mankind in this world and the hereafter by enforcing the law as fair as possible even though the method used is not explicitly stated in the Qur'an and Sunnah.²⁶

The *siyasah syar'iyah* in the sense of science is a field of science that studies matters concerning the regulation of public and state affairs with all

²³ Ibid., 347.

²⁴ Ibid., 350

²⁵ Wahbah az-Zuhaili, *Ushul Fiqih* (Jakarta: Radar Jaya Pratama, 1997). 89.

²⁶ A Djazuli, *Fiqih Siyasah* (Jakarta: Prenada, 2003). 29.

forms of law, rules and policies made by the holders of state power that are in line with the spirit and basic principles of Islamic law to realize the benefit of society.²⁷

The terminology of the fuqaha in interpreting *siyasah* can be read, one of which is in the description of Ibn al-Qayyim who quotes the opinion of Ibn 'Aqil in the book *Al Funûn* which states that *siyasah* is an action by which humans can be closer to the benefit and further away from damage even though the action has no stipulation from the apostle and the guidance of revelation that was revealed.²⁸ So it can be understood that the essence of *siyasah syar'iyah* is the policy of the rulers who are carried out to create benefit by maintaining the signs of shari'a. Shari'a signs in the *siyasa* are: (1) Kully arguments in the Qur'an and hadith (2) *Maqâshid Shari'ah* (3) The spirit of Islamic teachings; (4) The principles of *kulliyah fiqhiyah*.²⁹

From the several definitions above, the essence of the *siyasa syar'iyah* is the same, namely the benefit that is the goal of *syara'*, not the benefit that is solely based on human desires and lusts. Because, it is fully realized that the purpose of the legal organization is none other than to realize the benefit for humans in all aspects of human life in the world and avoid various forms that can lead to damage. In other words every legal provision that has been outlined by the Shari'ah is a aims to create benefits for humans.³⁰

Thus, it can be concluded that *siyasah syar'iyah* is every policy of the ruler whose purpose is to maintain human benefit, or enforce God's law, or to maintain ethics, or to spread security in the country, with anything that does not conflict with the *nash*, whether they are texts or texts. exists (explicitly) or does not exist (implicitly).

Dengan demikian, dapat disimpulkan bahwasanya *siyasah syar'iyah* merupakan setiap kebijakan dari penguasa yang tujuannya menjaga kemaslahatan manusia, atau menegakkan hukum Allah, atau memelihara etika, atau menebarkan keamanan di dalam negeri, dengan apa-apa yang tidak bertentangan dengan *nash*, whether the *nash* exists (explicitly) or does not exist (implicitly).³¹ The main purpose of *siyasah syar'iyah* is the creation of an Islamic system of state regulation and to explain that Islam requires the creation of a just political system in order to realize the benefit of mankind at all times and in every country.

²⁷ *Ibid.*

²⁸ Ibnul Qayyim Al Jauziyah, *Al Thuruq Al Hukmiyah Fi Siyâsat Al Syar'iyah* (Damaskus: Matba'ah Dar Al Bayan, 2005). 26

²⁹ Abu Nash Al Faraby, *As Siyâsab Al Madaniyah* (Beirut: Dar Maktabah Al Hilal, 1994). 100

³⁰ Romli S.A, *Muqaranah Mazahib Fil Usul* (Jakarta: Gaya Media Pratama, 1999). 158

³¹ Abdurahman Abdul Aziz Al Qasim, *Al Islâm Wa Taqinil Ahkam* (Riyadh: Jamiah Riyadh, 1977).83

The object of the discussion of the *siyasah syar'iyah* is the various aspects of mukallaf's actions as legal subjects related to the life of society and the state which are regulated based on provisions that do not conflict with the basic principles of universal shari'a texts. In the other word, the object of the study of *siyasah* fiqh is the various regulations and laws needed to regulate the state in accordance with the main religious teachings in order to realize the benefit of mankind in fulfilling their various needs. *Wilayah 'Ala Al-Hajj* as mentioned by Imam al Mawardi is included in the Ahkamus Sulthaniyah (law of power) or *siyasah syar'iyah* authority. The *Wilayah 'Ala Al-Hajj* is an object that is the responsibility of the government in determining policies regarding authority and responsibility in the service of organizing Hajj departures and in leading its implementation.³² *Wilayah 'ala al-hajj* is not only concerned with the implementation of the hajj, but also with financial management, so this is closely related to the *siyasah* maliyah which is the object or scope of the *siyasah syar'iyah*. *Siyasah maliyah* has the meaning of Islamic economic politics. Islamic economic politics is a legal policy made by a government that concerns economic development to ensure the fulfillment of the needs of the community by making the values of Islamic law as a measure. The policy contains laws governing the relationship between the state and society, individuals and communities, individuals and individuals in economic activities.³³

Through the explanation above, *siyasah* contains several meanings. First, the *siyasah* actions or policies are for the benefit of the people. This shows that the *siyasah* is carried out in the context of the community and the policy maker must be someone who has the authority to direct the public. Second, the policies taken and followed by the public are alternatives from several choices whose considerations are to seek closer to the common good and prevent any evil. Such a thing is indeed one of the characteristics of the *siyasah* which is full of branches and choices. Third, the *siyasah* is in the area of *ijtihad*, i.e. in public affairs for which there is no *qath'i* argument from the Qur'an and Sunnah, but within the jurisdiction of the Muslim priests. As an area of *ijtihad*, the *siyasah* often used is the *qiyas* approach and the *masalabat mursalah*. So it can be concluded that the main basis of the existence of *siyasah syar'iyah* is the belief that Islamic law was revealed for the benefit of mankind in the world and the hereafter by enforcing the law as fair as possible even though the method used is not explicitly stated in the Qur'an and Sunnah.³⁴

³² *Ibid.*

³³ A. Djazuli, *Fiqh Siyasah* (Jakarta: Kencana Prenada Media Grup, 2003).31

³⁴ Miti Yarmunida and Busra Febriyarni, "Kedudukan Talak Di Pengadilan Perspektif Siyasah Syariah," *Al-Istinbath : Jurnal Hukum Islam* 4, no. 2 (2019): 253.

Policies for the Management of Hajj Fund in Indonesia in the *Siyasah Syar'iyah* Paradigm

As discussed in the previous discussion, basically Islamic politics is a certain policy made by a government that involves various aspects of people's lives to ensure the benefit of the fulfillment of community needs by making the values of Islamic law as a measure. *Wilayah 'Ala Al-Hajj* in Indonesia based on Article 10 of Law Number 8 of 2019 concerning the Implementation of Hajj and Umrah, has become part of the government's responsibility, so that the government has the authority to determine policies regarding authority and responsibility in the service of organizing Hajj departures, in Leading its implementation, including in terms of financial management of Hajj is the responsibility of the government through BPKH as stipulated in Law Number 34 of 2014 concerning Hajj Financial Management. This sub-discussion will explain how the government's considerations and its role in the management of public finances, in this case the management of hajj funds in the *siyasah syar'iyah* conception, are as follows:

1. Investment in Hajj Initial Deposit Fund

Long queues for the departure of the hajj pilgrimage have been a factor in the increasing number of accumulated deposits for hajj travel costs that are collected in the BPKH account. Payment or deposit of Hajj cost is divided into two stages: the initial deposit and settlement. The initial deposit is a number of funds that must be deposited by prospective pilgrims as a requirement for Hajj registration. The settlement stage is the payment of the cost of organizing the pilgrimage, which changes every year according to decisions related to BPIH.

The accumulation of initial deposits and repayments deposited by prospective pilgrims can basically only cover half the cost of the overall cost of performing the Hajj pilgrimage. As an illustration of a pilgrim who wants to register for Hajj, the congregation must pay an initial deposit of Rp. 25,000,000, which is then continued with repayment in the year of departure. This nominal will be agreed annually through a Presidential Decree, for example the nominal payment for the pilgrimage in 2022 is Rp. 39,886,009, then the cost of paying off the hajj in 2022 is Rp. 14,886.009. The initial deposit and settlement are also known as direct costs or also known as Hajj Travel Costs (BPIH). In fact, the full cost or the so-called Hajj Organizing Cost (BPIH) in 2022 is Rp. 81,747,844. However, in this case, the prospective pilgrims receive a subsidy for the optimization of the Hajj fund, known as the indirect cost.³⁵ If we recalculate, every pilgrim in 2022 will receive an indirect cost of Rp. 41,861,835.

³⁵ Muhammad Akhyar Adnan, "Saatnya Memahami Biaya Penyelenggaraan Ibadah Haji (BPIH)," Artikel dan Riset: Humas BPKH (2019), 3.

Through the above mechanism, there is a debate of understanding and reasoning, which then raises the question of what nominal initial deposit should be? So, in reasoning in the fields of economics and finance, it gives the view that the initial deposit is a saving and investment. From this point of view, the initial deposit is associated with placing a certain amount of money in certain sources or assets in a relatively long term in order to generate profits in the future. Reason for calculating the time value of money is here to calculate the accuracy of the initial deposit amount.³⁶

The perception of the scholars in the initial deposit of the cost of organizing the Hajj, that the Hajj funds use a *mudharabah* or *wadi'ah yad dhamanah* or *ijarah mausuf fi dzimmah* and *qardh*. Therefore, the funds are still the property of each depositor until the funds are used according to the agreement, namely for the cost of the pilgrimage due to using the contract. The consequence that arises is that everyone will receive benefits within a certain period and receive regular reports from the manager and optimize the funds. This practice has been implemented through each customer's virtual account to be able to see the progress of their funds during the waiting period.

The concept in Islamic economics has the principle of sustainability and the prohibition of keeping assets or being unproductive. Someone who owns property and keeps wealth unproductive and accumulates wealth is a very unjustified act. A productive step that can be carried out is to invest the property which can later benefit from it. The prohibition against the accumulation and hoarding of wealth is motivated by the principle in Islamic philosophy which requires the circulation of property to be more evenly distributed.³⁷ The Caliphate of Umar ra emphasized that Muslims should use their capital productively, in his words "*Those who have money need to invest it, and those who have land need to spend it.*" The investment policy for Hajj funds implemented by the government is a financial restructuring in the development of the Islamic economy, which is then set forth in policies or regulations. This investment policy has been applied for a long time through Article 57 of Law Number 13 of 2008, which was later also stated in Article 24 of Law Number 34 of 2014 concerning Hajj Financial Management.³⁸

The initial deposit does not only have an investment value, but also has a benefit value, as quoted by M. Hosnan Jains in his dissertation entitled "A Critical Study of the Implementation of the Hajj for the Indonesian Muslim

³⁶ Mufraeni, Dana Haji Indonesia: Harapan Dalam Paralogisme Pengelolaan Dan Teorisasi Keuangan Syariah., 74-74

³⁷ Ahmad Rodhoni, Investasi Syariah (Jakarta: Lembaga Penelitian UIN Syarif Hidayatullah, 2019), 30.

³⁸ Muhammad Aziz Zakiruddin, "Dynamics of Hajj Financial Management Regulation in Efforts To Good Governance," JURNAL ILMIAH MIZANI: Wacana Hukum, Ekonomi, dan Keagamaan 8, no. 2 (2021), 147.

Community in the Perspective of *Maqasid Asy-Syari'ah*”, that the initial deposit is a form of property maintenance (*hifz mal*), with an initial deposit in order to get a portion of the Hajj, then indirectly preserve property from uses that have no useful value, so that they procrastinate in performing the pilgrimage.³⁹ The placement of Hajj finances in the investment sector does not only provide benefits to the pilgrims but also provides benefits for Muslims in general, as stated in Article 3 of Law Number 34 of 2014, that the financial management of Hajj aims to increase benefits for the benefit of Muslims in general, not only for pilgrimage services, but also for education and da'wah, health, social religion, the economy of the people, as well as worship facilities and infrastructure.

2. Efforts to Maintain BPIH Value and Transaction Currency

BPIH has an amount that the amount can go up and it can go down. Every year there can be differences in the nominal amount of repayment. This is influenced by various factors, both factors in the macro and micro scope. In the macro scope, such as global economic, social, cultural, political and technological factors which have a major influence on increasing the cost of organizing the pilgrimage. On the micro scope side, the examples of internal conditions in the implementation of the pilgrimage are such as the competence of human resources, facilities and so on.

Currently in the financial management of Hajj, various transactions related to the implementation of the Hajj are carried out in three different currencies, namely Rupiah (Rp), US Dollar (USD), and Saudi Arabian Real (SAR). The amount of the use of BPIH (direct cost) in the value of the rupiah is closely related to the fluctuation of the rupiah against foreign currencies. If the rupiah depreciates, then the obligations of prospective pilgrims in the initial deposit and repayment will be greater. So in other words, BPIH transactions are very vulnerable to time and fluctuations in the rupiah exchange rate.⁴⁰

At the time of the initial deposit carried out by prospective pilgrims, the initial deposit has been determined with a definite nominal of 25 million rupiah and the initial deposit is not related to the equalization of foreign currency values. Limited quotas and a very long waiting list cause the time or period of the initial deposit to the stage of settlement to be in a long or indefinite period (indefinite period). So in this case, the initial deposit of the pilgrims at the time of payment was already in a financially risky position because it was deposited in

³⁹ Muhammad Hosnan Jaini Sanusi, “Studi Kritis Penyelenggaraan Ibadah Haji Bagi Masyarakat Muslim Indonesia Dalam Perspektif Maqasid Asy-Syari'ah” (Universitas Islam Indonesia, 2022), 29.

⁴⁰ Mufraini, Dana Haji Indonesia: Harapan Dalam Paralogisme Pengelolaan Dan Teorisasi Keuangan Syariah, 96.

rupiah currency. The price of the rupiah against the dollar at the time of deposit can be ascertained to have a difference at the time the congregation pays off.⁴¹

The value of the rupiah depreciating at the time of settlement caused the value of the congregation's initial deposit to also decrease against the dollar, whether the funds were deposited or not, the value was still below the dollar value at the time of the initial deposit. Thus, in this period the policy of optimizing Hajj funds through investment in the financial sector better is an important part of mitigating the exchange rate, although this can be positively or negatively proportional to fluctuations in the dollar exchange rate itself.

Hedging is a step taken by the government in this case by BPKH. Hedging is very necessary; this is because BPIH does not have the ability to predict variables such as foreign exchange rates and commodity transactions so that the risk of erratic fluctuations in the exchange rate of the rupiah against the USD can be eliminated. As stated in the National Sharia Council Fatwa No. 961/DSN-MUI/2015 concerning Islamic Hedging Transactions (*al-thawwut al-islami/ Islamic Hedging*) on Exchange Rates. This fatwa is also related to the DSN MUI Fatwa Number: 28/DSN-MUI/2020 concerning the Sale and Purchase of Currency. The substance of this fatwa, there are several conditions and limitations so that hedging transactions are not carried out with speculative purposes.⁴²

First, sharia hedging on exchange rates is only allowed if there is a real need in the future for foreign currencies that cannot be avoided in legal transactions in accordance with applicable laws and regulations. *Second*, the right to implement *wa'd* (Promise) in the hedging mechanism should not be traded. *Third*, the object of shariah hedging on the exchange rate is risk exposure because the position of assets or liabilities in foreign currencies is not balanced. Liabilities or claims in foreign currencies that arise from transactions according to sharia principles and the principal of the loan if hedging is carried out on the loan obligations received. by non-financial institutions. *Fourth*, sharia hedging objects on exchange rates include deposits in foreign currencies, obligations in transactions using foreign currencies, needs in foreign currencies for the implementation of hajj according to sharia principles.

Based on the fatwa of sharia hedging transactions on exchange rates, three types of contracts are used, each of which has its own mechanism, including the following:⁴³

- a. *'aqd al-thawwut al-ba'sit* (simple hedging transactions), namely hedging transactions with the *wa'd bi al-'aqd fi al-mustaqbal/forward agreement*

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid, 112

mechanism followed by spot foreign currency transactions at maturity and the settlement is in the form of receiving currency.

- b. *'aqd al-thammut al-murakkab* (complex hedging transactions), namely hedging transactions with a scheme in the form of a series of spot transactions and *wa'd bi al-'aqd fi mustaqbal/forward agreement* followed by spot contracts at maturity and settlements in the form of currency transfer.
- c. *'aqd al-thammut fi' suq al-sil'ah* (hedging transactions through sharia commodity exchanges), namely hedging transactions with a scheme in the form of a series of transactions of buying and selling commodities in rupiah currency followed by buying and selling of commodities in foreign currencies and settlement in the form of currency handover at maturity.

Efforts made by BPKH in maintaining the value of BPIH are placing hajj funds in commodities such as gold which is a fairly sustainable commodity, as well as conducting various investment placements to provide benefits for prospective pilgrims. The initial deposit submitted by the hajj pilgrims is developed and managed by BPKH in order to get the value of benefits for the hajj pilgrims during the waiting period. This is in line with the role and authority of the state to intervene in the economic activities of the community that have the goal of benefiting, namely to bring in something that has a positive impact (benefit) and leaves things that are negatively charged (*mudhorot*) in order to achieve *maqasid ash-shari'ah*.⁴⁴

As the concepts and principles contained in *maqasid ash-shari'ah* in maintaining the five components, life (*nafs*) property (*mal*), religion (*din*), reason (*'aql*) and offspring (*nasl*),⁴⁵ in this case, especially *hifz al-mal* (safeguarding assets), positioning the financial management of the hajj at a *daruri* level, so that the financial management of the hajj has become an absolute obligation for the government, in order to make the management safe, careful, beneficial, and avoid fraud or corruption. So that the government's steps in this case through BPKH by investing in gold or making hedging efforts and making financial placements in other investment sectors, are the government's efforts in carrying out its role in *hifz al-mal* for prospective pilgrims. Not only seeking the benefit of *hifz al-mal*, the government in this case carries out its role in *hifz din* (maintaining religion) in order to maintain the affordability of Muslims in the cost of the pilgrimage.

3. Placement of Hajj Fund in Islamic Banking

⁴⁴ Wahyu Abdul Jafar, "Mursalah Sebagai Alternatif Problem Solving Dalam Hukum Islam," *Jurnal Hukum* 13, no. 1 (2016): 92–110.

⁴⁵ Wael B Hallaq, "Maqasid and the Challenges of Modernity," *Al-Jami'ah: Journal of Islamic Studies* 49, no. 1 (2011): 1–31.

In general, a bank is a business entity that collects funds from the public in the form of deposits and distributes them to the public in the form of credit⁴⁶ and/or other forms in the context of efforts to improve the standard of living of the people at large.⁴⁷ Unlike conventional banks, Islamic banks distribute funds to the public in the form of profit-sharing-based funding. Profit sharing is carried out according to the agreement of the profit sharing ratio that has been agreed in the cooperation contract.⁴⁸

In the process of converting savings into investment forms, Islamic financial institutions have a very significant difference from conventional lending. This is because Islamic financial institutions must consider social and development factors. In this case, Islamic banks are expected to play the role that has been used by state banks and development agencies. These functions are described in the Hand Book of Islamic Banking which are summarized as follows: a) Broad social economic benefits: investment policies must reflect the needs and aspirations of the majority of the population, which must be included in the development process, b) Create opportunities jobs that focus on promising economic sectors, c) Promote and stimulate entrepreneurship: through profit and loss sharing mechanisms such as *mudharabah* and *musyarakah*, banks give priority to small businesses, d) Promote social justice, equality, and eradicate poverty, such as through the establishment of zakat institutions, e) Regional investment distribution must follow two principles that sometimes clash, namely: promoting regional balance, namely channeling money to investment-poor areas.⁴⁹

But in general, banks have the same role in helping the economy of a country. The existence of the banking industry is very important considering Indonesia is a developing country; this is because developing countries have a typical saving investment gap that cannot be covered by the government budget. The involvement of banks in collecting and redistributing public funds will greatly assist the process of economic development. It is not surprising that banks have a dominant role in developing countries compared to banks in developed countries.⁵⁰

⁴⁶ Thamrin Abdullah, *Bank Dan Lembaga Keuangan* (Jakarta: PT. Rajagrafindo Persada, 2014), 162.

⁴⁷ Fahrial, "Peranan Bank Dalam Pembangunan Ekonomi Nasional," *Ensiklopedia of Jurnal* 1, No.1 (2018), 181.

⁴⁸ Taufiq Risal, "Peningkatan Peran Perbankan Syariah Dengan Menggerakkan Sektor Riil Dalam Pembangunan," *Accumulated Journal* Vol.1, No. (2019), 39.

⁴⁹ Ibrahim Warde, *Islamic Finance: Keuangan Islam Dalam Perekonomian Global* (Yogyakarta: Pustaka Pelajar, 2009). 327-328.

⁵⁰ Bachtiar Simatupang, "Peranan Perbankan Dalam Meningkatkan Perekonomian Indonesia," *JRam: Jurnal Riset Akuntansi Multiparadigma*, 6, No.2 (2019), 137.

Islamic banks are in a fairly important position for the Indonesian economy. This is due to the benefits of Islamic Banks. There are three important points of the benefit of Islamic banks. First, Islamic banks use transactions in the real sector so that they have a more tangible impact in encouraging economic growth. Second, Islamic banks do not have products that are speculative (*gharar*) so that they have a strong resistance to the effects of the global financial crisis. Third, the profit sharing system brings fairer benefits to each party, for the owner of the funds, the entrepreneur, and the bank as the fund manager. Efforts are being made to improve the performance of Islamic banks, both through regulations, education and efforts to synergize between institutions. One form of synergy between institutions is the Regulation of the Minister of Religion Number 30 of 2013 concerning Banks Recipient of Deposits for Hajj Organizing Fees (BPS-BPIH). In this regulation, prospective Hajj pilgrims deposit BPIH no longer with conventional banks and are transferred to Islamic banks or commercial banks that have sharia services.⁵¹

Placement of hajj funds in Islamic banks is an opportunity for Islamic banks to get cheap funds,⁵² and to develop its intermediation function in the real sector,⁵³ and which is expected to improve the performance of Islamic banks so that they can contribute to the national economy.⁵⁴ Therefore, Islamic banks also need to innovate new products in order to optimize the placement of Hajj funds in Islamic banks. In the placement of hajj funds in Islamic banks or commercial banks that have sharia business units, currently there are several alternatives, for example, in the form of deposits or demand deposits, or in the form of project-based sukuk.⁵⁵

Funds obtained through the placement of hajj finance, then collected by Islamic banking are mobilized and channeled into productive businesses for various economic sectors such as agriculture, mining, industry, transportation, trade, and other services that can encourage an increase in national income and community income. The existence of a bank will open and expand employment and employment opportunities, so that it can absorb workers who are still unemployed in the community. Banks play an important role in facilitating the exchange of goods and services within the community, providing information

⁵¹ Levyda dan Heri Ispriyahadi Saepujaman, "Analisis Kinerja Bank Syariah Penerima Setoran Penyelenggaraan Ibadah Haji," Management and Accounting Expose 1, No,1 (2018), 52

⁵² BPKH.go.id, *Annual Report BPKH 2020*.

⁵³ Ahmad Bahiej, Naskah Akademis Perubahan Undang-Undang Nomor 34 Tahun 2014 Tentang Pengelolaan Keuangan Haji (Yogyakarta: BPKH, 2020), 93

⁵⁴ Mufraini, Dana Haji Indonesia: Harapan Dalam Paralogisme Pengelolaan Dan Teorisasi Keuangan Syariah., 4.

⁵⁵ Nurul Izzati Septiana, "Analisis Implementasi Akad Musyarakah Mutanaqishah Untuk Pengelolaan Keuangan Haji Di Bank Syariah Pendekatan Analytic Network Process," in Prosiding Seminar Nasional Dan Temu Ilmiah Jaringan Peneliti: IAI Darussalam Bayuwangi, 2017, 294.

and knowledge, and providing financial guarantees. Banks are also financial institutions that act as public financial intermediaries between parties who have excess funds and those who need funds.⁵⁶ The mechanism is simply described in the following chart:



Through the chart, it is illustrated that in the early stages of Hajj pilgrims depositing BPIH for registration and getting a portion of the Hajj, during the waiting period the funds deposited by the pilgrims are not allowed to settle. In this case then BPKH invests and places Hajj funds, one of which is in Islamic banking. In accordance with the functions and roles of banking, Islamic banks mobilize these funds in various productive businesses, which can then encourage the national economy. The placement of hajj funds in Islamic banks has an impact on the prospective hajj pilgrims themselves, directly the prospective hajj pilgrims get a profit sharing from the placement and investment of hajj funds which can then be used as the cost of organizing the hajj pilgrimage, and indirectly the hajj pilgrims benefit from the impact of the increased national economy.

Conclusion

The establishment of the BPKH as a special agency that carries out the financial management of Hajj is a form of *Siyasah Syari'iyah* in implementing the pillars of Islamic economic development in an effort to structural change, namely institutional reform, in order to bring benefits to the interests of Muslims, especially prospective pilgrims. The implementation of the management of hajj funds, as well as the placement of hajj funds in various investment sectors are the efforts of *Siyasah Syari'iyah* in the field of *Wilayah 'ala al-hajj* and *Maliyah* carried out by the government. This effort is carried out to provide a special benefit value for prospective pilgrims in general to the general public. Investments in Hajj funds by the government are carried out and adjusted to the principles of Islamic economics and financial management. Government policies, such as investing in congregational initial deposits, are the government's efforts in implementing Islamic economic principles in the principle of sustainability and prohibitions on keeping assets or not productive. In addition, this investment policy provides benefits for the congregation in the future, this is because the investment results are an additional or subsidy for pilgrims on their departure later. The government's policy in managing Hajj

⁵⁶ Fahrial, "Peranan Bank Dalam Pembangunan Ekonomi Nasional." 182.

finances by investing and placing them in certain commodities is an effort to maintain the value of BPIH itself. Furthermore, the government's policy in placing hajj funds in banks is a step by the government in utilizing the role of Islamic banking in mobilizing and channeling funding into productive businesses for various economic sectors such as agriculture, mining, industry, transportation, trade, and other services that can encourage an increase in national income and community income. The existence of the bank will open and expand employment and job opportunities, so that it can absorb labor in the community.

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