

# *Hajj Fund Management in Perspective of the Financial Theory and Fiqh*

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**Abstract-** With the separation of the management of the hajj funds of the Ministry of Religion to the BPKH, it still leaves some differences in view, related to the amount of the initial deposit charged by Jemaah who are members of the waiting list with a vulnerable period of 5 - 25 years. In addition, there is also a debate related to the use of initial deposit funds for the pilgrims to be dispatched, because BPKH until now must optimize the pilgrimage funds. The community still understands if the initial deposit fund deposited for them is an investment that should be able to continue to grow and be enjoyed by each congregation. The longer the congregation waits for the pilgrimage, the understanding is that the funds returned to the congregation in the form of optimizing the initial deposit must be even higher. But some views assume, the affairs of the pilgrimage are not a matter of investment, but purely to worship God. Related to the length of timing a person goes on the pilgrimage is purely based on the Jemaah departure quota that is limited by the government of Saudi Arabia to Indonesia. In this perspective, researchers feel the need for a study related to Hajj fund entities in formal law and sharia law and finance. Thus it is hoped that this research can answer the current assumptions.

**Keywords-** *Hajj Fund Management, Financial Theory, Fiqh*

## I. INTRODUCTION

The coaching and development of educational sports The presence of the Fund Management Agency Haji (BPKH) based on LAW No. 34 2014 provides a separate enlightenment on the management and development of Hajj funds, although at the beginning of its establishment is not free from public criticism, especially related to the mandate of Hajj funds Investment activity, which is a mandate of the authority of BPKH law.

The above problem can't be separated from the lack of public information relating to the management and development of Hajj funds, on the other hand, the Hajj funds academically is an interesting topic of the jurisprudence of Islam and the Islamic economy. An Islamic economic and financial perspective that is able to enlighten the management of hajj funds is a must for academics and campus communities.

For the government and society in general, the existence of BPKH is expected to be able to answer various problems of / with managing hajj funds and to be a solution for the management of Indonesian studies.

Nevertheless, in carrying out its duties, BPKH can't be separated from various regulations, government

regulations and the continuity previously undertaken by the Ministry of Religious Affairs. Some of the past works restrict cooperation supported by the existence of BPKH, such as the initial deposit amount of BPIH and repayment mechanism, determination and increase the use of indirect cost funds (optimization of Hajj funds) for benefits From the improvement of hajj services, the mechanism of the BPIH sett, back to every other pilgrim.

This presents its own challenges to the framework of exposing BPKH's destiny in the future of the heavy task it must bear. Reference rules are a big thing that must be a concern, although certainly not easy. Innovation and novelty in management will require a minimum of three thing, namely jurisprudence, economics and finance as well as government regulations.

Differences in understanding of the nature of the Hajj Fund in the perspective of fiqh and economics and government regulations will certainly adorn every step of the development of BPKH. A number of critical issues were questioned (by BPKH and the public, of course) for the benefit of further arrangements, such as investment authority, accuracy of initial deposits, use and amount to indirect costs, banking system or nonbanking system and so on.

## II. RESEARCH METHOD

Based on this background, the researcher identified several issues that will be use as research material in this study, namely the Concept of Hajj Fund Entities in the perspective of Formal and Sharia Law and from Perspective Financial. The type of research in this article is a normative research, which is supported by statute approach. The sources and types of legal material used in this research are primary and secondary legal materials. The primary legal materials consist of legislations relating to hajj. Law Number 34 Of 2014 Concerning Hajj Financial Management. The secondary legal materials are in form of legal materials relating to the sources of primary legal material, such as books and journals about hajj.

## III. FINDINGS AND DISCUSSION

Understanding the terms of the hajj funds introduced by the government (legislation number 34 of 2014 and existing field practices) can basically be combined neatly

with the interests in optimizing the benefit of the people towards *fale* (human welfare), namely modern economy/finance (outsider effort) and interpretation or practice of classical Islamic legal (*fiqh madzahib*) [1].

First: In an economic and financial perspective on a macro scale, community activities in making Hajj funds can be interpreted as part of community saving which activities then accumulate to anticipate uncertainty or the up and down funds of future income. Savings activities are often associated with economic growth, thus economic rationality (abstinence, opportunity loss / cost, inflation) presents an intermediary institution that provides a space for rationality of asset storage in more favorable conditions in economic calculations (effort to economize). The intermediary institution accepts which liabilities, will be later translated into assets by means of investment. Financial intermediary institutions in the context of hajj funds are the role of BPKH and banking with managing hajj funds. The results of the study show that the deposit BPIH in the banking world provides a level of confidence in pilgrims, and hajj funds are proven to provide operational stability in the banking world in this case Islamic banking.

However, Islamic knowledge (Islamic economics and finance) corrects the above study, where economic growth does not merely start from capital development efforts in frame saving or investment after consumption, but rather efforts to not functioning a positive linear relationship between income and consumption. Consumption must be in the frame of worship so that its needs become very measurable without having to be an independent variable of income (wealth). Consumption can originate from the consumption of derivatives that can be said to be the transfer of payments for the consumption of others (sharing utilities). The size of the volume sharing utility with/between/among consumption is the first level of the creation of welfare (human welfare), not the size of the income growth rate.

Striving for the rights of others from income does not need to wait for productivity movements coupled with the accumulation of assets and capital owned. High income is not a measure of welfare of certain geographical areas, but rather the high transfer of payment/utility processes of other people's rights that take place massively within limits or beyond certain geographical areas, this can apply to hajj and *ziswaf* funds.

Thus, the BPIH deposits/deposited and its optimization work by BPKH in the banking world for the benefit of improving the pilgrimage service can't be said to be a saving activity but it is a transfer of payment for the benefit of utility sharing among prospective pilgrims in the context of increasing the pilgrimage service. The optimum understanding of benefits of the management of hajj funds is: Benefits (F) + Blessing (B). Utilization will be very related to risk (*algunmu bil gurm wal kharraj biddoman*), there will certainly be a culminated point of marginal benefits, benefits apply together to/for the

amount of accumulation (pilgrims as a whole) but the blessing (applies personally) among fellow pilgrims will always rise exponentially.

In this understanding, the greater the pilgrimage fund, the more likely it is to achieve its optimum benefit, provided that the accumulated funds will not be meaningful in economic development policies of / on anyone managing them properly (the greatest power comes within its management). The author thinks that the spirit of Law No. 34 of 2014 is present as the people's self reinforcement in the framework of avoiding inertia and coordination failure' [2]. The amount of the initial deposit is closely related to government policy (functional distribution), but the provisions are relative if they are related to the interests in pilgrims (gaps and inequality). Open space for discussion of / about / on pilgrims and the government about the fair price, but according to the authors of Law number 34 only regulates the issue of an initial deposit, the nominal amount does not become the substance of the Act. Fair price agreements and agreements can be set forth in the rules below.

Second in the perspective of classical jurisprudence (interpretation and practice); the debate room will be very wide open when the analysis is directed to *fiqh takyif* on the management of the hajj funds starting from the initial deposit, optimization, and operations to the endowment fund of the people. Developing discussion can pivot a number of references (stipulations) that the initial deposit is the property of each pilgrim in the frame of the government financial regime, this then demand a proposal to revitalize the contract, the most appropriate type of contract with / for the investment of pilgrimage fund with permission from pilgrims. The classical *fiqh* reference does not discuss specifically if it is related to the phenomenon of Hajj fund management before or after the advent of Law No. 34 of 2014. Thinking about the *fiqh* of contemporary jurisprudence will be very difficult to let go of the management past and the new period that will be carried out by BPKH. For this purpose, some classical *fiqh* discussion that can be linked are *syirkah*, *huquq wal iltizamat* and *Ahliyah* (*syahsiyah attabiyyah* and *syahsiyah al i'tibariyah*).

The accumulation of hajj funds in the management and development of the period before the Act was impressed (hopefully not a form of *hilah* from the author) such as *amlaak syirkah*, ownership of an object together without being preceded by an agreement (contract). The form of this *amlaak* circulation is *syirkah Ihtiyariah*, a joint ownership that arises as a result of the joint actions of each party that has the ownership rights. Where pilgrims deposit BIPH and then BPIH is managed by the government to improve the services of all pilgrims. The rights and obligations arising from the *Syirkah* is developed by the Government as a regulator and can be implemented in the corridor that the essence of all rights in the Hajj is *Iraadaat Shariyah* (Sharia wish), all no human rights except the rights is addressed to sharia law.

Because only God has all the rights and substance of human rights that are not built from the human mind. However, humans have the freedom to determine other things about these rights, such as how to determine the terms and conditions, such as how to implement, apply and protect these rights. From this was born a number of rules relating to the pilgrimage fund of the supervision of government and community institutions.

With regard to these conditions, the intention to safeguard more sharia rights and obligations was presented by Law No. 34 of 2014. BPKH played a role as a representative of pilgrims in the ownership and management of hajj funds. Sirkatul amlaak ikhtiyariyah more developed to the codification of the Uqud Sirkatul, a rigidity skim akad to be a reference in the management that has already been ikhtiyariyah.

BPKH can do the management and development of hajj funds. BPKH can discuss with the DPR in the determination of the operational costs of hajj and so on without having to first ask for permission to one of the pilgrims and even the hajj funds can be valid as Obligatory Zakat. These Ahliyah confessions provide space for the managers to invest as representatives or series, but the risk of invitation does not only apply to any investment portfolio but also apply to conflict and the role of BPKH agency in the effort to improve Hajj services. Everything for shareholders is an increase in quality of hajj services, being everything for stakeholders is the economic development of the people. Takyif is inspired by the recognition of the entity or the mosque of Baitul Maal [3]. In the era of jurisprudence, there was also an obligation to pay zakat for a company that was separated from its shareholders [4]. in the era of contemporary.

#### IV. CONCLUSION

The diversity of hajj funds will have the ability of personal/legal form into the provisions of the provision of rights, obligations and liabilities (Dzimmah) different (separate) and the parties who have the institutional (prospective pilgrims and pilgrims). BPKH can work as a representative or government as the sarik of the prospective pilgrims in the management and development of hajj funds. Deposit of Hajj funds accumulated as a result of the limitation of the waiting list and on the basis of management conducted by the Government (BPKH). Then direct and indirect policy, hajj operational determination, financial accounting report Hajj and the subsequent investment of Hajj funds can be the basis of capability in legal form in the pool of fund of hajj funds.

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