

Analysis of the Implementation of *Fikkiyah Ad-Dhararu Yuzaal* Principle for Investment of Indonesian Hajj Funds

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Abstract—This research is motivated by the government's desire to reject the Hajj funds for investment in certain fields, the purpose of this study is to analyze the management of Hajj funds in accordance with sharia principles which are based on the *Fikkiyah* principles *ad-dhararu yuzaal*, namely avoidance of things form of *Madharat* so that investments made by the government must provide more benefits to prospective Hajj Pilgrims and the Community at large. The result of this study is one of the safest investment for Indonesian Hajj Fund through *Sukuk Investment*.

Keywords—*fikkiyah Ad-Dharu Yuzaal; Indonesia Hajj Funds*

I. INTRODUCTION

In terminology, pilgrim is a journey of worship visiting the *ka'bah*, *sa'I*, *wukuf* in Arafat and so on [1]. Hajj must be fulfilled by every capable Muslim (*Istitha'ah*), once in a lifetime [2]. Hajj is a special service. Not surprisingly, almost all capable Muslims, want to implement it. No exception, Muslim Indonesia who first travelled to mecca for the pilgrimage [3].

Indonesia is the country with the largest Muslim population in the world, so it is not surprising if the Indonesian pilgrimage quota is given the most by the Saudi Arabian government of 221,000, which is the highest number in the world compared to other countries. However, this number does not even meet the number of applicants for Indonesian pilgrims. Therefore, the applicant of prospective pilgrims must wait for years even decades to leave for the pilgrimage.

Every applicant of the pilgrimage, the government requires them to pay a down payment of 25 million rupiahs to get the pilgrimage queue number, and then the money will settle for some years or even decades. The Director of Financial Management Hajj in Ministry of Religious Affairs said that the amount of funds for the Hajj Implementation Services

(BPIH)/Hajj funds as of 31st December 2016 reached 90.6 trillion rupiahs and he predicted that in 2019 it will reach around 121.9 trillion rupiahs. This phenomenon gives us an idea of a great potential to manage the Hajj funds, which is if it placed on profitable investments with clear calculations and carries out the principle of prudence, the government can maximize it for the benefit of Muslims.

To manage the Hajj fund in 2017, the government formed the Hajj Management Agency (BPKH). As we know that so far the Hajj funds were placed in third party banking funds and in the Indonesian Hajj Funds *Sukuk* (SDHI). The connection with the BPKH in its capacity as a state financial manager requires an investment instrument issued by the government that has the smallest risk, the highest security and the lowest burden for the country and can be utilized by the people and society in general.

The government is also expected to create a guarantor institution like deposit insurance Corporation for Hajj funds that serves to bear the risk of losses from failed project [4].

Based on the description above, it is deemed necessary to conduct a study of investment instruments for Hajj funds which have the nature of avoiding *madharat* of the ummah by using the principle of *Fiqhiyyah ad-Dhararu Yuzaal* to provide security for the government and prospective pilgrims. So that the management of a large Hajj fund can be utilized as well as possible.

II. METHOD

This research is qualitative analysis which is used for normative (juridical) aspects through descriptive analysis methods, namely describing a trend of the data obtained and comparing one another to get a general conclusion. The type of this study is library research conducted by looking for data

from books, journals regarding the rules of *Fiqhiyyah ad-Dhararu Yuzaal*.

III. RESULTS AND DISCUSSION

A. Results

Regulation of Minister of Religious Affairs (PMA) Number 15 of 2016 Concerning Hajj Registration regulates such as the registration of Hajj is carried out every day throughout the year. This policy resulted in the waiting list of the pilgrims or prospective pilgrims who had received a portion number, but could not yet depart for the holy land due to limited quota. Somehow, the number of waiting list has increased to touch quite a large number, considering that every year there are around 500 thousand pilgrims who register, both for regular Hajj and special Hajj, while the Hajj quota is only available for 211 thousand people. As of the end of July 2017, the waiting list of regular Hajj pilgrims in the last two years was recorded at 3,305,207 people and the number of Hajj was 104,941 people. Increasing the waiting list congregation has a positive correlation with the increase in the accumulation of funds for the payment of the Hajj Implementation Fee (BPIH). Therefore, there is should be a strategic way to manage the funds that are collected from the prospective pilgrims.

Based on Law No. 34 of 2014 concerning Management of Financial Hajj, it is also regulated about the establishment of the Hajj Financial Management Agency (BPKH) which is tasked with managing the receipt, development, expenditure, and financial accountability of the Hajj. Carrying the mandate to safeguard people's funds, BPKH is tasked with placing the people's funds into Islamic investment instruments with a high prudence principle.

The data shows that the hajj funds collected as of 30th July 2017 reached 99.34 trillion rupiahs, which consists of the benefits of 96.29 trillion rupiahs and the perpetual community fund of 3.05 trillion rupiahs. From these details, the hajj funds invested provide benefits for the pilgrims in the form of subsidizing the cost of the hajj to reduce the pilgrim's fees by 50%. The total cost of hajj which should be paid is 68 million rupiahs per prospective pilgrim, with the subsidy reduced by half into 34 million rupiahs.

According to the etymology of the word *ضرر* (*Dharar*) means that there is a deficiency in something. The boundary of *Dharar* is a dangerous condition experienced by humans or severe *maysaqqah* that cannot be carried by it [5]. In the large Indonesian dictionary, it is understood that something is harmful and has no use for humans [6]. The word *ضرر* according to language is a reply that intentionally done as a reward for the harm that befell it. In other words, he retaliated or caused harm to other people in accordance with the *madharat* that befell him. Whereas we all know that the word *madharat* itself according to language is the opposite of benefit, or it can also be called danger [7]. *Dharar* in this rule is that it is not permissible to impose harm on others, whether it causes harm or not [8].

The word *يزال* (*Yuzaal*) comes from the word *Zaala - Yazailu - Zaalatan* this word in the form of *majhul* with *wazan Fu'al* which means omitted [7]. Then any existing damages

must be eliminated. So in broad outline this *fiqhiyyah* rule prohibits all acts that bring harm to the same kind of death, especially with the greater harm that befalls them. The purpose of this rule is the obligation to avoid the occurrence of a disaster, or in other words, the obligation to make preventive efforts so that there is no harm, with all possible efforts that can be attempted [9].

This rule is a basic principle of the rules referenced from most *fiqh* problems and is attributed to various laws [10]. The verses of the Koran and Hadith which contain the word *Dharar* and its derivatives are very large. These verses at the same time become the basis for this rule including:

وَلَا تُمْسِكُوهُمْ ضِرَارًا لِّتَعْتَدُوا

Do not follow them for *madharat*, because you persecute them (*Q.S Al-Baqarah* (2): 231)

And do not trouble them to narrow their hearts. (*Q.S At-Thalaq* (65): 6)

لَا يَضُرُّكُمْ مِّنْ ضَلَّ إِذَا أِهْتَدَيْتُمْ

There is no perverse person who will give harm to you if you have received instructions (*Q.S Al-Maidah* (5): 105)

The term *madharat* in the verses means narrowness, misery and every thing that brings danger. These verses also become a source of law which shows that the harm must be avoided and eliminated in everyday life. Especially if the danger threatens human life, it must be eliminated.

B. Discussion

Strategy to optimize the management of Hajj funds so that the benefits can be used to improve the quality of Hajj implementation carried out with investment policies. In 2009, in the spirit of creating benefits for the people, the Minister of Finance and Minister of Religious Affairs have signed a memorandum of understanding regarding the mechanism of investment in the Hajj fund in State Sharia Securities (SBSN) or state *sukuk* by means of a private placement. The agreement was then followed by an agreement to pile up the Hajj fund for the financing of the state budget, including the Ministry of Religious Affairs project by organizing the Hajj through SBSN PBS (Project Based *Sukuk*).

There are three points agreed upon in the agreement. First, the initiative to place hajj funds on SBSN is not only from the Ministry of Religious Affairs, but also from the Ministry of Finance. Both placements of SBSN funds can also be considered as a proposal for the allocation of the Ministry of Religion in the following year's APBN, especially regarding the implementation of Hajj financed by PBS SBSN. Third, the placement of hajj funds on SBSN can be in the form of non-tradable SBSN instruments and tradable SBSN. The state SBSN or *sukuk* was then known as the Indonesian Hajj Fund *Sukuk* (SDHI). The Ministry of Finance's Directorate General of Financing and Risk Management noted that until January 2017, outstanding SDHI reached 36.7 trillion rupiahs. The government believes that the benefits will be obtained if the

funds are more transparent. Because, with the waiting time for the pilgrimage to reach 32 years (the longest), the funds will be safer stored in SDHI.

IV. CONCLUSION

In the management of Indonesian Hajj funds, *sukuk* is one of the country's financing instruments that are most suitable for investment. The Indonesian Hajj Fund *Sukuk* itself is used for general financing not to finance certain projects. However, there are some advantages and disadvantages of managing the Hajj fund at the *Sukuk*. The advantages such as avoid banking risk systems, more guaranteed in terms of welfare, free default investment place, new funding sources, efficiency of the financial sector, and additional investors. While the disadvantages such as reducing Third Party Funds (DPK) in Islamic banks and raises doubts in terms of management, considering that the Indonesian Hajj Fund *sukuk* is placed for general financing so there are concerns mixed with funds other than *sukuk*.

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