USE OF HAJJ FUNDS FOR INFRASTRUCTURE DEVELOPMENT: A REVIEW OF DEPOSIT CONTRACT AND USE OF HAJJ FUNDS

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ABSTRACT

Objective: This study aims to determine the use of the pilgrimage fund deposit contract that has been done and to know the use of the pilgrimage fund for infrastructure development that should (study of the deposit contract and the use of pilgrimage funds). With the focus of research on the pilgrimage fund and the use of hajj funds in view of Islamic economic law that will be used to finance infrastructure development.

Methods: This research is a qualitative research. This type of research is normative legal research. The approach in this research is analytical descriptive, revealing the statutory regulations regarding the hajj pilgrimage contract and the use of hajj funds in terms of sharia law, the 1945 Constitution of the Republic of Indonesia and the laws of the Republic of Indonesia. Legal materials are collected using a documentation system. Data collection used in the form of library research and study documents.

Results: The results of the study show: First, the contractual time that exists between prospective pilgrims and BPKH as the Hajj financial manager must meet the requirements of the contract, that is, there must be consent or offer (ijab) and an acceptance (kabul). The Hanafi scholars require the consent and Kabul in each contract while the scholars from Maliki, Syaffi’i and Hanbali in addition to requiring consent/offer and acceptance in each contract also requires that the parties in contract (muwakkil) the party giving the power of attorney and (wakiil) representatives of the recipient must at least less mumayyiz and ingenious, and the object or the goods of the contract must be something that is lawful according to syara. Secondly, with a wakalah agreement in accordance with syara’, the existing hajj funds can be used by BPKH as the hajj pilgrims representatives to manage the funds that have been deposited and entrusted.

Suggestions: BPKH (Hajj Financial Management Agency) needs to make improvements to the wakalah contract between prospective pilgrims for Hajj fund deposits with BPKH who meet the requirements for consent and qabul by creating a new standard form that accommodates clear and clear consent and qabul from the candidate. pilgrims and BPKH.

Keywords: use of hajj funds, infrastructure development, deposit contracts.

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USO DE FUNDOS DE HAJJ PARA DESENVOLVIMENTO DE INFRAESTRUTURA: UMA REVISÃO DO CONTRATO DE DEPÓSITO E USO DE FUNDOS DE HAJJ

RESUMO

Objectivo: Este estudo visa determinar a utilização do contrato de depósito do fundo de peregrinação que foi feito e conhecer a utilização do fundo de peregrinação para o desenvolvimento de infra-estruturas que deveria (estudo do contrato de depósito e utilização dos fundos de peregrinação). Com o foco da investigação no fundo de peregrinação e na utilização de fundos de hajj tendo em conta a lei económica islâmica que serão utilizados para financiar o desenvolvimento de infra-estruturas.

Métodos: Esta pesquisa é uma pesquisa qualitativa. Este tipo de pesquisa é uma pesquisa jurídica normativa. A abordagem nesta pesquisa é descritiva analítica, revelando os regulamentos legais relativos ao contrato de peregrinação do hajj e ao uso dos fundos do hajj nos termos da lei sharia, da Constituição da República da Indonésia de 1945 e das leis da República da Indonésia. Os materiais jurídicos são coletados por meio de um sistema de documentação. Coleta de dados utilizada na forma de pesquisa em biblioteca e documentos de estudo.

Resultados: Os resultados do estudo mostram: Primeiro, o tempo contratual que existe entre os potenciais peregrinos e o BPKH, pois o gestor financeiro do Hajj deve cumprir os requisitos do contrato, ou seja, deve haver consentimento ou oferta (ijab) e uma aceitação (Cabul). Os estudiosos Hanafi exigem o consentimento e Cabul em cada contrato, enquanto os estudiosos de Maliki, Syafi'í e Hanbali, além de exigirem consentimento/oferta e aceitação em cada contrato, também exigem que as partes no contrato (muwakkil), o advogado e (wakiil) os representantes do destinatário devem ser pelo menos menos mumayyiz e engenhosos, e o objeto ou os bens do contrato devem ser algo que seja lícito de acordo com syara. Em segundo lugar, com um acordo de wakalah de acordo com syara', os fundos existentes do hajj podem ser usados pela BPKH como representantes dos peregrinos do hajj para gerir os fundos que foram depositados e confiados.

Sugestões: A BPKH (Agência de Gestão Financeira do Hajj) precisa fazer melhorias no contrato de wakalah entre potenciais peregrinos para depósitos de fundos do Hajj com a BPKH que atendem aos requisitos de consentimento e qabul, criando um novo formulário padrão que acomoda consentimento claro e claro e qabul do candidato. peregrinos e BPKH.

Palavras-chave: utilização de fundos do hajj, desenvolvimento de infra-estruturas, contratos de depósito.

1 INTRODUCTION

Hajj or pilgrimage is one of the pillars of the pillars of Islam. A person's Islam has not been complete if he has not performed the pilgrimage. Among the order of the pillars of Islam, hajj is the fifth pillar of Islam in the arkanul Islam which is the culmination of all the worship carried out by Muslims. Hajj is a sign that someone has
completed Islam.

The Qur’an explains in surah Ali Imran verse 97 which means the following:

“Arkanul Islam regarding the pilgrimage is also explained by the hadith narrated by Imam Bukhari and Imam Muslim”.

Every Muslim certainly wants to be able to make the pilgrimage to the Baitullah to perform the pilgrimage there and carry out the rituals of Hajj. As a predominantly Muslim country, Indonesia is the largest country that sends its citizens on pilgrimage every year. For 2017 alone, the Indonesian haj quota for those departing amounted to 221 thousand pilgrims. This amount was obtained from the stipulation of the Ministry of Religion of the Republic of Indonesia. The number was then divided for the regular haj pilgrimage totaling 204,000 and the special haj pilgrims totaling 17,000 (Decree of the Minister of Religion of the Republic of Indonesia No. 75 of 2017 Concerning Hajj Quota of 1438 H/2017 AD, 2017). With the highest quota for the province of West Java with a total of 38,852 people and the least quota for the province of East Nusa Tenggara with a total of 670 people.

The discourse on the use of Hajj funds by the government for infrastructure development in Indonesia has again become a hot and interesting conversation, various kinds of opinions have arisen in the community. Indonesia's National Development requires large funds to achieve equitable distribution of development throughout Indonesia. The territory of the State of Indonesia which stretches widely from Sabang to Merauke, from Miangas to the island of Rote. In developing the government uses various ways to raise funds as state revenue including from tax revenues, levies and excise, non-tax state revenue (PNBP) and grants. The 2017 APBN posture data released by the Ministry of Finance of the Republic of Indonesia State Revenue Budget (APBN) amounted to 1,750.3 trillion Rupiah, while State Expenditure was 2,080.5 trillion rupiah. (M. of F. of the R. of Indonesia, 2017)

The Indonesian government has big projections for development in Indonesia. The government will prioritize infrastructure development, economic development, and efforts to increase employment in order to reduce poverty rates in Indonesia and reduce development disparities between one region and another. The Indonesian government will prioritize three aspects of development, namely human development, development of leading sectors and equitable development region.

The Indonesian economy is currently very dependent on domestic demand,
referring to Indonesia's economic growth which only reaches 5.0 to 5.4%, this was excavated from Bank Indonesia's 2016 annual report. Entrepreneurs can take advantage of the various potentials they have so they are confident and have a passion for action. Inflation to be in the range of 4.0+1%. According to the government, with growth from third party funds will reach 9-11%, the government can also seek economic growth from the credit side of between 10 to 12%. Furthermore, the current account deficit is estimated to be below the level of 3% in line with the massive infrastructure development (Bank Indonesia, 2016).

Uncertainty over global economic developments affects the Indonesian economy, but global economic developments in 2017 are improve compared to economic developments in 2016. The economic conditions of developed countries will be influenced and driven by the booming economic expansion of the United States. However, the weakening of the European region's economy became an obstacle. Meanwhile, developing countries are expected to be able to support global economic movements. China and India will be the two countries that will continue to develop and grow in moderation in economic growth (G. O. Indonesia, 2017).

Indonesia, which is the country with the world's largest Muslim population, according to BPS (Central Statistics Agency) data published in 2023, recorded 236 million people (85.82 percent) from totally 277,534,122 Indonesian people (Statistics, 2023). As a country with the largest Muslim population in the world, Indonesians has the highest ranking compared to Muslim countries in the world for fulfilling the fifth pillar of Islam even though every year the pilgrimage fee (ONH) is now the Hajj Travel Expenses (BPIH) which increases every year.

In organizing the pilgrimage, the Indonesian government is a country in the world whose government is very intense in the affairs of the pilgrimage. Since 1950 the implementation of the pilgrimage by the government has been running effectively. At that time the Indonesian Hajj Travel Foundation (PHI) was formed, as well as the Indonesian Hajj Bank and Indonesian Muslim Sailing Ships (MUSI). In its journey the PHI foundation in 1961 and MUSI were disbanded in 1962. In 1961 the government formed a Hajj Travel Improvement Committee then in 1964 formed a new body, the Hajj Affairs Council based on Presidential Decree No. 112 of 1964 (Haq, 2009).

In Presidential Decree number 22 of 1969 article one emphasizes that the overall implementation of this Presidential Decree emphasizes that Hajj affairs are only carried
out by the government. The government has monopolized the management of the affairs of the pilgrimage for the Indonesian population. The advantage of the hajj monopoly system by the government is that hajj candidates are getting more certainty to go to perform the haj pilgrimage. In addition to the advantages of the hajj monopoly system by the government, there are also drawbacks: 1) The cost of going on a pilgrimage in Indonesia increases every year, and the hajj candidate has no choice but the choices set by the government. 2) There has not been found a good pattern or a good system in organizing Hajj in Indonesia, because there is no comparison pattern which is the government's reference to always improve the system of organizing Hajj in Indonesia. 3) The government's monopoly on haj management closes the opportunity for the private sector to organize hajj.

In its journey, the government experienced difficulties in boosting state revenues which experienced a deficit. In 2017, changes in state income and spending resulted in a deficit of 2.92% of PDP. This figure is obtained based on changes in state income and state spending which are estimated to experience a deficit of around 397.230.8 billion. Tax revenue cuts and the amount of state spending that is not well predicted are the causes of the state budget deficit, especially in the infrastructure development sector. The change in the posture of the State Budget in 2017 was due to changes in basic macroeconomic assumptions and fiscal policy measures.

The widening of the budget deficit was caused by several government policies that experienced changes in spending, namely: 1) Policy is needed, in order to maintain price stability for vital and strategic goods, because the distribution of 3 kg LPG cylinders has not been carried out optimally or has not been on target, as well as the ineffective limitation of electricity subsidies for household customers who are classified as poor and vulnerable to poverty through power 450 and 900 VA. 2) Increased priority for additional expenditure budget requirements, such as additional funds for infrastructure development, support for anticipating the impact of natural disasters, preparation for the 2019 election, mitigation funds, horticulture development funds and budget needs to accelerate land certification.

So the government of the Republic of Indonesia began to look to use the Indonesian Muslim Ummah hajj funds parked in Islamic banks at this time. It should be noted that the amount of the Hajj fund balance as of June 30 2017 is at 99 trillion. There are around 36.7 trillion in SBSN while the remaining 62.3 trillion are in Islamic banking.
The Indonesian Muslim Hajj Fund is placed in the form of investment in the first three sectors through state bonds, the second through Sharia deposits and the third through state Sharia securities (Rongiyati, 2017).

In its journey since 2004, through the Ministry of Religion as an authority institution that organizes and makes policies for the initial deposit payment system for the Hajj Pilgrimage Implementation Fee (BPIH). Within 2 years, the initial deposit fee was collected and became a silent asset. BPIH's large funds only settle in the deposit recipient's bank, on behalf of the Minister of Religion of the Republic of Indonesia, without any benefits and only accept conversions to US Dollars as collateral. So that in 2006 the haj deposit funds began to be managed in the form of demand deposits and general bank savings. and in 2009 the initial Hajj funds by the government in this case the Ministry of Religion invested in the Indonesian Hajj Fund Sukuk (SDHI). Through these investments get a sizable profit rather than depositing these funds. the yield reaches 8.1% and the tax is only 15% per year compared to a deposit whose tax reaches 20%, you can be sure that the value of the benefits can be prioritized to the congregation (Prabowo, 2017).

It should be noted, in order to clarify our understanding of the purpose of Hajj funds, stated in law number 23 of 2014, it is explained that Hajj funds are funds controlled by the state originating from deposit fees intended for the implementation of the Hajj, Hajj efficiency funds, endowment funds. people and the value of the benefits controlled by the state in the implementation of the pilgrimage and for the benefit of the Muslim community. Hajj funds come from each hajj candidate who must deposit a certain amount of funds in order to get a "seat" to depart. The money settles until the owner of the money leaves, it could be 2,5,8,10 or even 15 years (Prabowo, 2017).

Through his comments, the government once conveyed in this matter by the President of the Republic of Indonesia after inaugurating the supervisory board and members of the Hajj Financial Management Agency (BPKH) at the State Palace, that the government encourages investing hajj funds to finance infrastructure projects in Indonesia. Bpkh itself is an independent institution that is outside the Ministry of Religion formed on the basis of law Number 34 of 2014 concerning Hajj Financial Management. by BPKH is the value of the benefits obtained from the costs of organizing the pilgrimage (Haq, 2009).

Pilgrimage funds that are only continuously piled up or deposited without proper
management will only be affected by inflation or decrease in value due to exchange rates. Hajj funds that are not managed properly will have very limited benefits, even though the amount will continue to increase along with the increase in the initial deposit by pilgrims. every day throughout Indonesia, the government must really be maximal, not allowed to do mediocre management. The government must really pay attention to the system, strategy, and implementation of the management and Hajj Pilgrimage. Improper investment and pilgrimage will have a major impact on the management of the future pilgrimage, and of course it will also affect the services and benefits that will be received by pilgrims. The amount of haj funds that are entrusted by pilgrims cannot be separated from the management requirements which must be in accordance with sharia principles in their use as investments and others. Unlike the capital obtained from banks and the
like(Prabowo, 2017).

By the 7th President of the Republic of Indonesia, Mr. Joko Widodo, once said that the hajj funds to be invested should be invested in a safe place, not at risk, such as to finance port toll road infrastructure and others. Of course what the government wants reaps pros and cons in the community, many people support it, but not a few also reject the government's wishes or ideas. Many people have questioned the permissibility of Hajj funds for investment, especially for infrastructure financing according to sharia rules, whether such use of Hajj funds does not violate laws and other government regulations(Rofiq, 2017).

Controversy about the use of hajj funds to finance infrastructure development in Indonesia is not only discussed among society in general. However, it is also of great concern to members of the Republic of Indonesia's council, they consider that the use of hajj funds for infrastructure development has the potential to violate the law, violates law number 34 of 2014 concerning the management of hajj finances, they consider that the use of hajj funds for infrastructure development is very contradictory and not in accordance with the interests of organizing the pilgrimage. In writing by the deputy chairman of commission IV eight of the Indonesian House of Representatives named Iskan Qolba Lubis, he rejected the idea of using hajj for infrastructure development in Indonesia because according to him the initial contract for the pilgrimage was for the benefit of performing the pilgrimage, not for infrastructure or anything else (Rofiq, 2017).

Departing from this fact, the author feels the need to conduct research on "Use of Hajj Funds for Infrastructure Development (A Review of Deposit Contracts and Use of
Hajj Funds)”, which the author will set forth in the problem formulation below. Unlike the previous studies, this research integrates the variables of Workload and OCB on Employee Performance at Bank Syari’ah Indonesia. In addition, this study also adds the Satisfaction variable as a moderating variable which researchers assume can moderate the Workload and OCB variables on Employee Performance at Indonesian Syari’ah Banks which are spread all over Indonesia.

2 RESEARCH METHODS

According to its type, this research is normative legal research, namely doctrinal legal research, research that examines a set of theories or related written rules, or research like this which is also common in the world of research is called library research, namely research that emphasizes extracting sources. legal materials from the library. Soekanto & Sri Mamudji (Soerjono, 2011) suggests legal research consists of: 1) Research in the form of an inventory of positive laws. 2) Research in the form of efforts to discover the principles and philosophical basis (doctrine) of positive law. 3) Research seeks to find inconcreto laws that are appropriate to be applied to resolve a particular case. 4) Empirical legal research.

If the type of research is empirical legal research or also called sociological legal research, what needs to be done is to formulate a hypothesis. The hypothesis is a temporary conclusion that is found on the basis of theory and observation of existing phenomena (empirical facts). Soerjono Sukanto explained that normative legal research is library research, namely research that examines primary and secondary legal materials, through a proportional assessment. Normally normative research examines theory, comparative theory, legal views, legal principles, legal norms, legal rules and others. In this study, writing conducted research that focused on legal review of the contracts for depositing hajj funds and the use of hajj funds for infrastructure development in Indonesia, through research on existing legal material literature.

Legal materials consist of primary legal materials, secondary legal materials and tertiary legal materials. The primary legal material in this study is Law No. 34 of 2014 concerning Hajj Financial Management, while the secondary legal material in this research is the legal rules that apply to other laws and regulations such as the 1945 RI Constitution, UU, Perpu, DSN MUI Fatwa RI and the Koran, hadith and sunnah of the Prophet Muhammad SAW. Meanwhile, secondary materials consist of books, research
journals and expert opinions. As for tertiary legal materials, namely other materials that explain primary and secondary legal materials such as dictionaries (laws), encyclopedias (Amirudin, 2016).

The collection of legal materials is carried out using a documentation system. This documentation study is done by examining several existing documents and legal regulations, both directly or indirectly related to the contract and the use of Hajj funds. such as the RI Constitution, Perpu, DSN MUI RI Fatwa, Koran and Hadith. The results obtained from this documentation study are recorded in research cards with the aim of facilitating their preparation in discussing the problems raised in the problem formulation (Amirudin, 2016).

3 RESULT
3.1 CURRENT USE OF HAJJ FUNDS FOR INFRASTRUCTURE DEVELOPMENT (REVIEW OF DEPOSIT CONTRACTS AND USE OF HAJJ FUNDS)

3.1.1 The Initial Contract of the Legitimacy of an Agreement

The existence of a contract is very important in every transaction for Muslims. Whether or not a transaction becomes valid depends on the extent to which the elements in the pillars and conditions at the time of the contract are fulfilled. The existence of pillars in a contract is an absolute existence, disability or absence of pillars will have an impact on whether or not a case is fulfilled, pillars become absolute must be fulfilled differently on condition that one can accept possibilities. The fiqh scholars agree that in an agreement the validity is determined by whether the pillars and conditions of the contract are fulfilled or not. The scholars agreed that the main pillar of the contract is the occurrence of a consent form between two people who are transacting. The conditions that must be fulfilled by the akad are: 1) The consent and qabul is declared by a capable, intelligent person, and without coercion from other people. 2) There is a clear object of the implementation of the consent qabul. 3) The existence of the Ijab Qabul in the assembly contract must be connected between the parties to the contract if both parties are present.

While other things that become the pillars of the contract, jumhur Ulama added that there is a statement that there is an agreement and kabul as well as the shigat of the contract, the object of the contract (ma'qud 'alaihi) and the subject of the contract ('aqidain) as well as the purpose of the contract (maudhu' al'aqd). Sigat contract is a form
of self-binding from the appointees, in the brush there are two known forms, namely sigat in the form of oral and sigat in the form of writing from the contract that occurs. Sighat's existence is the legal consequence. As for the external attitude, such as conveying or expressing wishes, it does not have legal consequences. Object in the contract related to the contract being made. Like a sale and purchase trade contract, the object can be in the form of goods or services and prices. As for the object of the contract, of course it must meet several requirements, such as the existence of the object when the roof, the object is halal, can be known, determined and can be submitted at the time the contract occurs. while the subject of the contract or the person having the contract must be competent, mature, independent and without coercion from others. If it is different or contrary to the Shari'a, it will result in the cancellation or invalidity of the agreement made.

In terms of the discussion regarding the allocation and utilization of Hajj funds for infrastructure as desired by the government, it must first be seen in the initial contract of Hajj funds between the prospective hajj pilgrims and the government. In discussing the use of hajj funds for infrastructure investment by the government, the matters that will be discussed are: 1) The object of the contract, namely funds from prospective hajj pilgrims, is called hajj funds. 2) The contracting parties, in this case the prospective pilgrims on the one hand, and the BPKH on the other. 3) Form of contract between prospective pilgrims and BPKH. 4) And the purpose of the contract between prospective pilgrims and BPKH.

3.2 PROPER USE OF HAJJ FUNDS FOR INFRASTRUCTURE DEVELOPMENT (REVIEW OF DEPOSIT CONTRACTS AND USE OF HAJJ FUNDS)

The largest Muslim country in the world, the potential for citizens to perform Hajj is very large, this is in line with the very large number of pilgrims, even the largest compared to Islamic countries in other parts of the world. driven by the great desire of Indonesian Muslims to perform Hajj as an obligatory worship when able, and supported by economic growth so that the number of pilgrims registering in Indonesia continues to increase, while the quota for pilgrims from Indonesia amounts to 210,000 people each year. Indonesia is one of the countries with the largest number of pilgrims compared to other countries in the world. This was also supported by an increase in economic growth which led to an increase in the number of pilgrims from Indonesia from year to year.
The quota for pilgrims from Indonesia amounts to around 210,000 people per year.

The government spends around IDR 6-7 trillion to finance the annual Hajj operations. Registrants for Hajj candidates reach 40,000 people every month. Until the end of 2023, the accumulated BPIH is IDR 17.945 trillion. There is a silent fund from the Hajj fund whose potential continues to increase every year in line with the large number of Indonesians who register themselves as hajj. So far, in the process of registering pilgrims, BPIH is deposited into the account of the Minister of Religion through Islamic banks and/or national commercial banks that have been appointed and managed by the minister. The funds deposited by the congregation have been invested before the regulation was issued or since Law Number 13 of 2008 concerning the Implementation of Hajj was ratified. At that time the ministry of religion included DAU in three investment instruments, namely government bonds, sharia deposits, and state sharia securities (SBSN) or sharia bonds or bonds.

The total amount of Hajj finance that has been collected is approximately Rp. 99 trillion with the following details, Rp. 36.7 trillion is placed in SUKUK, the remaining Rp. 62.3 trillion is placed in Islamic banking. With the hajj quota for Indonesia currently around 210,000 people/year, around Rp 6-7 trillion is used annually for operational costs. Hajj funds that have been deposited every year have the potential to continue to increase in line with the increase in the number of Hajj applicants.

The Indonesian government in managing Hajj funds has done many things to get value from the Hajj funds, in 2010 the government placed Hajj funds in Sharia securities investments as agreed on April 22, 2009, which was agreed upon by the Ministry of Finance and the Ministry of Religion. This investment activity is the government's step to make the pilgrimage fund grow which in the end will become added value that can be used for the service and comfort aspects of the pilgrimage in Indonesia. Investment by placing hajj funds and people's endowment funds into State Sharia Securities (SBSN) by means of a private placement. Private placement, namely placing a certain amount of capital in a company through the purchase of assets whose transactions occur on the negotiated market. Sharia securities or better known as SDHI (Indonesian Hajj Fund Sukuk) until January 12 2017, the value of SDHI reached Rp. 36.7 trillion.

In 2010, the investment management of Hajj funds in the form of sukuk amounted to IDR 12 trillion. Whereas in 2013 there was an increase in investment placements to IDR 31.1 trillion. In 2015, investment placement of Hajj funds in sukuk
amounted to IDR 35.83 trillion. The management of Hajj funds apart from investment in sukuk is also placed in deposits. In 2010, the number of placements in time deposits was IDR 9.85 trillion and in 2013 it increased to IDR 26.2 trillion. There was an increase in deposits in 2013 due to an increase in yields from banks and the implementation of the LPS guarantee program for stored congregational funds. In that year there was a transfer of the placement of Hajj funds from bank cash to banking products. And in 2015 the amount of placement of hajj funds in deposits increased to as much as IDR 43 trillion.

In 2019, the total value of Hajj funds, for the initial deposit, the value of the benefits and endowment funds of the people, which have been collected, is estimated to reach IDR 100 trillion. Hajj funds placed as of December 31 2016 in SBSN reached a value of IDR 35.65 trillion, in sharia time deposits reached a value of IDR 54.57 trillion and in Government Securities (SUN) amounted to US $ 10 million or equivalent to a value of IDR 136 billion.

As law number 13 of 2008 provides a mandate regarding aspects of state authority to citizens in organizing the pilgrimage:

1) Aspects of coaching

The state, in this case, namely the government, is obliged to conduct outreach to the public in general, provide guidance on rituals to prospective pilgrims and provide services to pilgrims while performing their pilgrimage in Saudi Arabia.

2) Aspects of service

The Government is also obliged to serve prospective pilgrims at the time of registration, at the time of payment of the costs of organizing the pilgrimage, processing of documents serving at the time of embarkation/debarkation, providing maximum service for pilgrims in air transportation, land transportation both at the time of departure and at the time of departure, in Saudi Arabia. The government also has an obligation to serve prospective pilgrims in the form of providing accommodation while carrying out the pilgrimage providing dining and catering facilities while in Arafah and Mina.

3) Aspects of protection.

In addition, the government has an obligation to provide health and safety services when pilgrims carry out their pilgrimage, this task is the main task for the government, and also provides full protection for Indonesian citizens (WNI), from preparing air transportation, embarkation and preparing accommodation hostels preparing documents for prospective pilgrims carrying out Hajj ritual guidance and
various other obligations.

For this reason, the existing Hajj funds are then used to optimize services for pilgrims. With the enactment of Law No. 34 of 2014, hajfunds that have been collected from prospective pilgrims can be placed and invested in banking products and state securities. What should be a concern is that the placement of these Hajj funds must be in accordance with sharia law. Regarding the funds managed by the Ministry of Religion, currently it is felt that it is still not optimal. This is because based on Law Number 34 of 2014 there should be an increase in the return on investment in Hajj funds. Because the financial management of the Hajj fund must be based on sharia principles, the Hajj fund cannot be deposited or left unattended.

In order to get more value for prospective pilgrims and the wider community, of course the management of Hajj finances by investing is one of the choices that is considered appropriate, judging by the good value of the benefits, that the fund is invested in the form of state Sharia securities or SBSN or interest rates to country. The results value of the Hajj funds can be used to finance various operational needs of the Hajj, both while in Indonesia before leaving or after departing in Saudi Arabia and after that if there is an efficiency result in the implementation of the ongoing Hajj, it must be returned to the account. Ministry of Religion, to then be used for the purposes of preaching, social, health, religious activities and building infrastructure for the purposes of the pilgrimage in Indonesia or in Saudi Arabia.

Running with the provisions of law number 34 of 2014 and the results of the Ijtima of the Indonesian Ulema Council in 2012 it was stated that productive sectors are still possible, such as the infrastructure sector. but accompanied by strict regulations such as the investment is carried out by the government so as to reduce risks and of course the management principles are based on Sharia.

In the following case, a debate arose about the benefits of Hajj funds for the benefit of the pilgrims. Some argue that by interpreting the benefit in question, it must always be associated specifically with pilgrims. This means that if the Hajj funds are used for infrastructure development, then the infrastructure is intended for the convenience of pilgrims' pilgrimage, such as the construction of inns or hotels for pilgrims around the Grand Mosque. Repair of airport facilities at the embarkation of pilgrims and other matters directly related to pilgrims.

Another opinion states benefits that are not directly related to pilgrims in a
broader sense, namely for the general public, such as construction of toll roads (toll roads) or construction of hospitals and there has even been talk of hajj funds for handling Covid19. In the use of Hajj funds by BPKH, other sectors that are also appropriate for investing in infrastructure development are partnerships with State-Owned Enterprises (BUMN), especially those engaged in the energy and transportation sectors. Some of these sectors, such as the construction of power plants and the construction of airports, the construction of these two infrastructures are the most needed needs by the people in Indonesia. The development of these two basic infrastructures must be seen and assessed in a more objective and calculative way, because even though they are classified as basic infrastructures, tests still need to be carried out regarding their utility and yields economically. In other ways, BPKH can also build hajj hospitals throughout Indonesia which are useful not only for prospective pilgrims but also for the community in general and at large.

Both Indonesia and Malaysia as neighboring countries have similar problems with pilgrims and the management of Hajj funds, such as the existence of a long waiting list for the departure of pilgrims to the holy land which results in piling up money for prospective pilgrims in the accounts of the Hajj organizers. In Malaysia, the management of Hajj funds in the form of investment has been carried out by the Malaysian government through the Malaysian Hajj Savings Institution (LTHM). LTHM is estimated to have a total hajj fund in Rupiah of IDR 198.5 trillion, of which LHTM puts 9% in investment in the construction and real estate sector which is a direct investment and 17% is placed in bond funds.

Since 1963 through the Malaysia Hajj Savings Institution, management has been carried out with a business and profit approach so that the funds they have do not settle and of course the results obtained will be more beneficial to the services obtained by Malaysian pilgrims. In investing in Hajj savings funds, Tabung Haji Malaysia invests by buying shares in Bank Islam Malaysia and participating in investments in technology, plantations, real estate, construction and the capital market. The results obtained from the investment of the Hajj savings fund are used to subsidize the Hajj Travel Expenses or BPIH so that it is cheaper and in accordance with the Special BPIH value standard. The cost of the Hajj Pilgrimage in Malaysia for the last five years has not increased and remains at RM9,980. Prospective Malaysian pilgrims also benefit from the value of the investment in the form of quality Hajj services.
Malaysia through LTHM manages the Hajj funds by investing them in the property construction sector, such as investing in the construction of a Hajj tube hotel in Kedah, Malaysia, and building real estate in Sydney, Australia. thus LTH Malaysia gets a high profit, even though the funds placed in this sector are only 20% of all the total amount of funds available. The Indonesian government, in this case BPKH, must be observant in looking at all factors that have the potential to be profitable economically, if indeed domestic investment does not receive a response and tends to have low yields, then it is necessary to look at foreign investment which is more profitable and possible. to get a higher profit. As for the selection of investment types and investment locations, of course, they must be analyzed carefully and measurably with the main consideration being professionalism by sticking to maqasidh shari'ah and al-mursalah issues.

As the largest Muslim country in the world, and seeing the Serumpun brothers, namely Malaysia, which is successful in managing Hajj funds through the Malaysia Hajj Savings Institution, optimizing these Hajj savings funds by placing them in productive and value-added investments, so as to be able to provide added value to organizing Hajj in a quality manner. Hajj investment funds for infrastructure development in infrastructure development are expected to get a higher profit value when compared to investing through deposits, securities and sukuk. For this reason, caution and careful calculations are needed in these investments so as to minimize the negative impacts or even losses that you get when investing. So paying attention to investment management is an absolute matter by prioritizing the principle of transparency and accountability and aiming at the benefit and benefit of the pilgrims as the owner of the Hajj funds. The contract between prospective pilgrims in Malaysia and Tabung Haji Malaysia for the funds deposited is a savings account (Mudharabah). and investment. Meanwhile, hajfunds in Indonesia are deposited to BPKH in the form of a Wakalah contract, which is then said to be entrusted by Wadiah Dhamanah, which is then managed by BPKH in the form of deposits, sukuk, bonds, and haj arrangements.

In the end, BPKH as an institution that has the mandate to manage Hajj funds in the Republic of Indonesia needs to carry out studies, in-depth research on investment in Hajj funds in productive sectors such as infrastructure and others, and ensure that these investments do not conflict with laws and regulations and regulations. existing regulations. In order to realize transparent hajj management and responsibility to have legal certainty, the council of the Republic of Indonesia as a representative of the people
needs to encourage the government to make regulations governing the placement or investment of hajj finance as the executor of Law Number 34 of the Year.

4 CONCLUSION

The form of Hajj fund deposit uses a wakalah contract. Wakalah contract, namely the contract of granting power of attorney from the muwakkil representing a number of funds in this case the prospective hajj pilgrims to the wakiil in this case the BPKH (Hajj Financial Management Agency) to manage BPIH funds (Hajj Travel Expenses) deposited by the prospective pilgrims as a condition for get the number of the portion of the pilgrimage because there is a long and long queue of pilgrimage departures (tens of years). In practice, the wakalah contract between pilgrims and BPKH is only in the form of a statement from one of the parties, namely the prospective pilgrims stating that the prospective pilgrims authorize the funds that have been deposited to BPKH to be managed without any statement of acceptance from BPKH.

The use of haj funds should comply with syara' requirements through a wakalah contract that is in accordance with Islamic law. Existing haj funds can be used by BPKH as the representative of the pilgrims to manage the funds that have been entrusted and entrusted. The results of the ijtima of Ulama IV in 2012 in Cipasung The fatwa commission of the Indonesian Ulema Council (MUI) stated that the management of hajj funds for productive sector investment purposes such as infrastructure development is still possible, provided that the investment has a low level of risk, has a value for the benefit of pilgrims and its management is based on sharia principles. This is also in accordance with Law No. 34 of 2014 where BPKH is given the authority to manage hajj funds with the option of developing hajj finance that can be carried out by BPKH in the form of banking products, securities, gold, direct investment and other investments.
REFERENCES


