

**Author:**

<sup>1\*</sup> Jaenal Aripin

**Affiliation:**

<sup>1</sup>UIN Syarif Hidayatullah  
Jakarta, Indonesia

**Corresponding author:**

\*[jaenal.arifin@uinjkt.ac.id](mailto:jaenal.arifin@uinjkt.ac.id)

**Doi:** 10.32332/milrev.v4i1.10424

**Dates:**

Received 15 March, 2025

Revised 28 May, 2025

Accepted 23 June, 2025

Published 30 June, 2025

**Copyright:**

© 2025. Jaenal Aripin

This work is licensed  
under [Attribution-ShareAlike  
4.0 International](https://creativecommons.org/licenses/by-sa/4.0/)



Read Online:



Scan this QR code with your mobile  
device or smart phone to read online

## Hajj Fund Investment: A Comparative Contemporary Fiqh Study on Maslahah and Public Policy Perspectives in Indonesia

**Abstrak:** This study investigates the investment of Indonesian Hajj funds in domestic infrastructure projects through a comparative *fiqh* approach, juxtaposing classical and contemporary Islamic legal perspectives on *maslahah* and its application within modern public policy frameworks. The central debate lies in a perceived conflict (*ta'arudl*) between two types of public benefit: preserving the economic value of pilgrims' savings through investment and ensuring their spiritual rights and religious preparedness. Drawing upon classical jurisprudence (e.g., al-Ghazali, al-Shatibi), modern *ijtihad*, and official *fatwas* from Indonesian authorities (such as the DSN-MUI), the research critically examines how these positions interact with state policies enacted by the Badan Pengelola Keuangan Haji (BPKH). Employing a qualitative analytical method, the study analyzes legal texts, government regulations, and expert interviews to validate the coexistence of economic and spiritual *maslahah*. The findings reveal that the government's dual role as *wakil* (authorized representative) and *nazir* (guardian of public interest) legitimizes proactive fund management under Islamic law. Sukuk-based investments, particularly when oriented toward infrastructure that supports public welfare, are found to be consistent with the objectives of *maqasid al-shari'ah*, especially *hifz al-mal* (protection of wealth) and *hifz al-din* (preservation of religion). Moreover, the study identifies that transparent governance, informed consent, and adherence to Sharia-compliant instruments are critical prerequisites for ensuring ethical legitimacy. This study concludes that a harmonized approach between Islamic jurisprudence and Indonesian public policy can sustain Hajj financing while safeguarding pilgrims' rights and welfare.

**Keywords:** Hajj funds, Islamic law, *Maqasid al-Shari'ah* Sukuk Investment, *Ta'arudl al-Maslahah*.

## INTRODUCTION

Since the reintroduction of the discourse on utilizing waiting list Hajj funds for accelerating national infrastructure development by President Joko Widodo, discussions surrounding the investment of Hajj funds have remained deeply controversial. In 2017, debates centered around the types of contractual agreements (*akad*), the distribution of investment returns, and their alignment with both positive law and Islamic legal principles.<sup>1</sup> The COVID-19 pandemic in 2021, which led to a global lockdown, further intensified the controversy surrounding the management of Hajj funds through investment schemes. The primary concern was that the investment profits were not directly experienced by pilgrims on the waiting list, as international Hajj quotas were suspended. As highlighted by Syarief Hasan, the Deputy Speaker of the People's Consultative Assembly of the Republic of Indonesia (MPR RI), the postponement of Hajj departures lengthened the waiting list, causing widespread disappointment among prospective pilgrims.<sup>2</sup> He also emphasized that the government should not utilize Hajj funds to accelerate infrastructure development or address the COVID-19 crisis.

In 2023, the Indonesian Muslim community was once again startled by a sharp increase in the Hajj cost, from IDR 69.16 million to IDR 90.05 million. Although the mandatory Hajj Travel Expenses (*Biaya Perjalanan Ibadah Haji* or BIPIH) borne by pilgrims was adjusted to IDR 49.8 million, up from the previous IDR 35.24 million,<sup>3</sup> Saleh argued that such a policy was inappropriate, given that society was still recovering economically in the post-COVID-19 period. Furthermore, the increase in BIPIH was projected to generate approximately IDR 20 trillion within a year, raising suspicions that the hike was aimed at accelerating infrastructure development, thus implying a direct utilization of Hajj funds for financing national projects. Meanwhile, according to the Fourth Ijtima Ulama Fatwa issued by the Indonesian Council of Ulama (MUI) in Cipasung, one of the key characteristics of stringent risk mitigation in Hajj fund management is maintaining a high level of liquidity,

<sup>1</sup> K H Arsyad dkk, "Hasil Keputusan Bahtsul Masail FMPP Se-Jawa-Madura XXXI Di Pondok Pesantren Salaf Sulaiman, 18-19 Oktober 2017 Trenggalek Jawa Timur," 2017.

<sup>2</sup> Muhammad Aziz Zakiruddin, Kamsi Kamsi, and Ahmad Bahiej, "Siyasah Syarâ€™iyah Paradigm of Hajj Financial Management Regulation in Indonesia," *Al-Istinbath: Jurnal Hukum Islam* 7, no. 2 November SE-Articles (December 1, 2022): 531-552, <https://doi.org/10.29240/jhi.v7i2.5310>.

<sup>3</sup> Republika, "BPKH Sebut Pemenuhan Tingkat Likuiditas Keuangan Haji Tetap Terjaga," 2023.

which is primarily achieved through indirect investments.<sup>4</sup> Consequently, the controversy surrounding Hajj fund investments centers on the potential for *gharar* (uncertainty or risk) that could directly impact the success or failure of prospective pilgrims in undertaking their journey to the Holy Land.

Nevertheless, over more than a decade of implementing Hajj fund investments, numerous domestic infrastructure projects have been financed through sukuk-based payment schemes sourced from these funds. In 2013, IDR 800 billion was allocated for the construction of the Cirebon-Kroya double-track railway. In 2014, the development of Hajj dormitories across several provinces absorbed approximately IDR 1.5 trillion. In 2017, railway projects in Java, Sumatra, and Sulawesi, as well as the construction of facilities for State Islamic Higher Education Institutions (*Perguruan Tinggi Keagamaan Islam Negeri*, PTKIN) and the Offices of Religious Affairs (*Kantor Urusan Agama*, KUA), were financed through the exact mechanism, totaling around IDR 16.77 trillion. Similarly, the construction of the Jakarta-Cikampek II Elevated Toll Road in 2019 also utilized this investment model.

On the one hand, the management of Hajj funds for infrastructure projects has demonstrated clear financial benefits for the fund owners—namely, the prospective pilgrims on the waiting list. For instance, in 2017, from a total Hajj Travel Expenses (*BIPIH*) of IDR 70 million, pilgrims were only required to pay IDR 35 million, with the remainder subsidized by investment returns. A similar subsidy was applied in 2023, where pilgrims paid IDR 49.8 million out of the total IDR 90.05 million cost. Consequently, public satisfaction with the organization of Hajj services rose to 83%.<sup>5</sup> On the other hand, this investment policy also provided significant advantages for the government, particularly as an alternative to relying on foreign debt. This represents the underlying *maslahah* (public benefit) rationale behind the Indonesian Ulema Council's (MUI) 2012 fatwa supporting the investment of Hajj funds. However, some parties argue that this perceived benefit conflicts with a more fundamental *maslahah*—namely, the proper facilitation of the Hajj

<sup>4</sup> Inti Ulfi Sholichah, "Hukum Investasi Produktif Pengelolaan Dana Haji Dalam Perspektif Ekonomi Syariah," *SYAR'IE* 3 (February 2020): 18-34.

<sup>5</sup> M. Zainal Abidin, "Analisis Investasi Dana Haji dalam Pembiayaan Infrastruktur dan Peningkatan Kualitas Penyelenggaraan Ibadah Haji," *Harmoni Jurnal Multikultural & Multireligius* Vol 15 No. 2 Mei-Agustus 2016, p. 152-164

pilgrimage itself—which they believe could potentially be compromised by channeling funds into infrastructure projects. Moreover, it is important to note that not all claims of *maslahah* are classified as *mu'tabarah* (recognized and valid according to Islamic legal standards).

At the heart of the controversy lies a jurisprudential dilemma rooted in Islamic legal thought: the perceived contradiction (*ta'arudl*) between two competing public interests (*maslahah*). On one side, the government and its proponents argue that investing Hajj funds—particularly through sukuk-based instruments—is essential to protect the funds from inflation and to ensure long-term economic sustainability. On the other side, critics contend that such investments risk undermining the primary religious purpose of the funds, thereby neglecting the rights and spiritual priorities of the pilgrims.

Several studies have examined this issue from various perspectives. Abidin analyzed the correlation between fund investment and the improvement of Hajj service quality, concluding that investment can support affordability when properly managed.<sup>6</sup> Ashidiq emphasized the role of sukuk as a sharia-compliant instrument to channel Hajj funds into productive activities while still securing the principal.<sup>7</sup> Meanwhile, Arafah proposed direct investment strategies to enhance domestic services for pilgrims.<sup>8</sup> Nevertheless, Siregar offered a critical view, arguing that the investment model disproportionately favors national development goals at the expense of individual pilgrim welfare.<sup>9</sup> He questioned the legitimacy of such investments under Islamic fiduciary norms, particularly when non-Muslim communities might indirectly benefit from the returns.

While these contributions provide valuable insights, they lack a comprehensive *fiqh* analysis that systematically compares the underlying concepts of *maslahah* and *mafsadah* within the framework of Islamic legal theory. Moreover, little attention has been paid to the conditions under which these two forms of benefit may coexist or whether their

<sup>6</sup> M Zainal Abidin, "Analisis Investasi Dana Haji Dalam Pembiayaan Infrastruktur Dan Peningkatan Kualitas Penyelenggaraan Ibadah Haji," *Harmoni: Jurnal Multikultural & Multireligius* 15, no. 2 (2016): 152–164.

<sup>7</sup> Abdul Rahman Ashidiq, "Optimalisasi Sukuk Dana Haji Indonesia Sebagai Instrumen Pembiayaan Infrastruktur (Analisis Tugas, Fungsi Dan Wewenang BPKH Dalam UU No. 34 Tahun 2014 Tentang Pengelolaan Keuangan Haji)," *Az Zaqqa'* 11, no. 2 (2019): 423–435.

<sup>8</sup> Muh. Arafah, "Strategi Investasi Langsung Dalam Tata Kelola Keuangan Haji Dalam Negeri," *Jurnal Imara* 5, no. 1 (2021): 1–12.

<sup>9</sup> M Fajri Syahroni Siregar, "Investasi Dana Haji Untuk Pembangunan Infrastruktur Di Indonesia Dalam Pandangan Islam," *Risalah: Jurnal Pendidikan Dan Studi Islam* 7, no. 1 (2021): 172–193.

interaction constitutes a genuine contradiction in legal terms.<sup>10</sup> Furthermore, these studies rarely clarify the specific juristic frameworks used, nor do they offer a comparative view between classical scholars such as al-Ghazali, al-Shatibi, and Ibn Taymiyyah with contemporary fatwa authorities like DSN-MUI or international fiqh academies. The need to bridge the gap between fiqh reasoning and actual policymaking remains largely unaddressed.

In response to this gap, this study adopts a qualitative comparative methodology rooted in classical and contemporary *fiqh* to assess whether the investment of Hajj funds in national infrastructure represents a conflict or a synthesis of public interest goals. The analysis utilizes both *qawa'id fihiyyah* (legal maxims) and *maqasid al-shari'ah* (objectives of Islamic law) as analytical tools. The study systematically compares the views of jurists such as al-Ghazali, al-Shatibi, and Ibn Ashur with those of DSN-MUI and decisions issued by national policy institutions. It also incorporates official government regulations, fatwa compilations, and strategic documents from BPKH to reveal how legal interpretations are implemented at the policy level.

Through this approach, the study examines the roles and responsibilities of the government as a financial *wakil* (authorized agent) and evaluates the legitimacy of current investment practices from an Islamic legal and ethical standpoint. Particular emphasis is placed on distinguishing between *maslahah mu'tabarah* (recognized benefit) and *maslahah ghayr mu'tabarah* (unrecognized or speculative benefit), guided by structured principles from *ushul al-fiqh*. The analysis also explores how public policy decisions reflect or deviate from these principles, thus clarifying the dynamic interplay between Islamic jurisprudence and modern state governance.

By contributing a structured analysis of the *ta'arudl al-maslahah* discourse, this paper aims to clarify the boundaries of Islamic fiduciary obligations and to offer an evidence-based interpretation of how modern Islamic finance mechanisms can align with the foundational purposes of Hajj and public welfare. The discussion also builds a methodological foundation to connect normative Islamic reasoning with empirical state decisions, thereby strengthening the legitimacy and accountability of Hajj fund governance.

At this point, this research focuses on the contradiction between two interests by placing them within the framework of Islamic jurisprudence. Juridical consideration here

---

<sup>10</sup> Moh. Rosyid, "Dinamika Haji Indonesia Sejak Era Kolonial Dan Problematika Calon Haji Ilegal," *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 17, no. 2 (2018): 241, <https://doi.org/10.18326/ijtihad.v17i2.241-259>.

is an effort to carefully assess the principle of *maslahat*, which is increasingly positioned liberally and often used arbitrarily. As will be elaborated in the following section, analyses referring to the principles of Islamic jurisprudence will be grounded in relevant practical jurisprudence, ensuring that the assessment of whether an interest or harm is legitimate (*mu'tabarah*) or not is based on solid reasoning, not mere assumptions. The contribution of this study is to refine the boundaries between ethical and unethical governance of religious funds while providing a clear roadmap for how comparative *fiqh* can inform effective and sharia-compliant public policy in Indonesia.

## METHOD

This study adopts a qualitative approach by integrating doctrinal legal analysis with a comparative contemporary *fiqh* framework. The purpose is to examine the legal and ethical dimensions of Hajj fund investment in Indonesia by comparing classical Islamic jurisprudence with contemporary fatwas and public policy practices. The comparative scope includes explicitly the works of classical scholars such as al-Ghazali (*al-Mustashfa*), al-Shatibi (*al-Muwafaqat*), and Ibn Qayyim (*I'lam al-Muwaqqi'in*), who laid the foundational theories on *maslahah*, *mafsadah*, and the limits of state intervention in financial matters. These classical perspectives are compared to modern interpretations and legal positions issued by authoritative institutions such as the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) and the Hajj Financial Management Agency (BPKH), particularly in light of fatwas on *sukuk*, Islamic public finance, and permissible investment practices.

The primary data sources for this research include classical Islamic legal texts, fatwas issued by DSN-MUI—such as Fatwa No. 41/DSN-MUI/III/2004 on *Sukuk* and Fatwa No. 122/DSN-MUI/II/2018 on Hajj Fund Investment—as well as official regulatory frameworks such as Law No. 34 of 2014 on Hajj Fund Management and Presidential Regulation No. 110 of 2017 regarding the structure and function of BPKH. Further data are drawn from BPKH's Annual Reports (2018–2023), their yearly Work and Budget Plans (RKAT), and public policy statements issued by the Ministry of Religious Affairs. Secondary data include peer-reviewed journal articles, Islamic finance commentaries, and public discourse documents such as media interviews and public responses. In addition, expert

insights were collected through semi-structured interviews with a senior DSN-MUI fatwa authority, a policy officer at BPKH, and an academic expert in Islamic public finance.

Data analysis is conducted in two layers. First, a normative Islamic jurisprudential analysis is applied using *maqasid al-shari'ah* principles and *ushul al-fiqh* hermeneutics. This involves interpreting classical and modern legal sources in light of overarching Islamic objectives such as the preservation of wealth, religion, and public welfare. Legal maxims (*qawa'id fihiyyah*) such as *al-maslaha muqaddama 'ala al-mafsadah* (public benefit takes precedence over harm) and *tasarruf al-imam man'ūn bi al-maslaha* (government action must be based on public interest) are used as analytical tools. Second, a public policy-oriented legal analysis is applied to assess how these religious principles are reflected—or potentially distorted—in actual policy implementation by state institutions like BPKH. This approach ensures a meaningful interface between Islamic legal theory and practical governance.

To ensure the credibility of the research findings, data validation is carried out through triangulation. This includes cross-verifying classical legal doctrines with contemporary fatwas, aligning state policy documents with shariah-based ethical principles, and comparing regulatory outcomes with empirical indicators such as sukuk performance and subsidy distribution for Hajj pilgrims. This layered and validated methodological approach enables the study to offer a robust, evidence-based evaluation of whether Hajj fund investments conform to Islamic fiduciary ethics and support sustainable public financial governance.

## RESULTS AND DISCUSSION

### The Maslahah Argument in Favor of Hajj Fund Investment

Secara bahasa, *maslahat* refers to benefits and advantages. This term is the opposite of *mafsadat*, which means loss and damage. In the terminology of *ushul fiqh*, *maslahat* becomes a consideration in the determination of Islamic law, meaning that if a legal stance brings about benefit or advantage, its ruling can be permissible (*mubah*), recommended (*sunnah*), or obligatory (*wajib*), depending on the supporting evidence. Conversely, if a legal stance causes harm or damage (*mafsadat*), its ruling is either discouraged (*makruh*) or prohibited (*haram*).

In essence, *maslahat* serves as the primary motivation for the establishment of legal rulings (referred to as *hikmah*). However, due to its abstract nature, scholars use measurable legal elements known as *illat*.<sup>11</sup> Over time, however, the study of law based on *ta'lil al-ahkam* has gradually been abandoned because societal issues have evolved far beyond what could be resolved with the paradigm of *qiyas*, which relies on *illat*. It is at this point that the study of *maslahat* has evolved into a paradigm of *ijtihad*. It is well known in the terminology of *ushul fiqh* that *maslahat* is divided into three types. First, *maslahat mu'tabarah*, which is directly confirmed by textual evidence (*nash*), either causally (*muatsir*) or conformably (*mula'im*). Second, *maslahat mulghah*, which is directly rejected by textual evidence, such as the prohibition of *khamr* (alcohol). Third, *maslahat mursalah* which is not confirmed by textual evidence and falls within the domain of the *mujtahid*.<sup>12</sup>

In addition, *maslahat* is also classified into three categories: *maslahat dharuri*, *maslahat hajiyah*, and *maslahat tahsiniyah*. *Maslahat dharuri* refers to interests based on the principle of *dar'ul mafasid* (preventing harm), which encompasses five basic human needs (*al-dharuriyat al-khamsah*): the preservation of religion (*hifz din*), the protection of life (*hifz nafs*), the preservation of intellect (*hifz aql*), the continuity of lineage (*hifz nasl*), and the protection of wealth (*hifz mal*).<sup>13</sup> Meanwhile, *maslahat hajiyah* (or secondary interests) refers to those based on the principle of *jalbul masalih* (promoting benefits). *Maslahat tahsiniyah* is referred to as *tamamiyah*, which pertains to tertiary needs. In the context of Hajj fund investment, neither the benefits nor harms are confirmed by *Nash*, thus falling under the category of *maslahat mursalah*.<sup>14</sup> Some scholars view the profits and benefits from the investment as a tangible manifestation of *maslahat*. Meanwhile, other groups argue that these benefits sacrifice more essential interests, thereby considering it as *mafsadat*.

<sup>11</sup> Muhammad Musthofa Az Zuhailiy, *Al Wajizu Fi Ushi Al Fiqhal Islamiyyi* (Beirut: Dar al-Khoiri, 2006).

<sup>12</sup> Riska Fauziah Hayati, Okto Viandra Arnes, and Arwansyah Bin Kirin, "Innovation Of Online Zakat Institutions: Opportunities And Challenges In The Era Of Smart Society 5.0," *MILRev : Metro Islamic Law Review* 2, no. 2 (November 15, 2023): 175, <https://doi.org/10.32332/milrev.v2i2.8091>.

<sup>13</sup> Chuzaimah Batubara et al., "Realizing Justice and Maṣlaḥah in E-Commerce: Fiqh Muamalah Insights and Challenges in Malaysia and Indonesia," *JURIS (Jurnal Ilmiah Syariah)* 23, no. 2 (September 10, 2024): 253, <https://doi.org/10.31958/juris.v23i2.12356>.

<sup>14</sup> Sukiati Sukiati et al., "Copyright as a Waqf Object in the Context of Fiqh and Positive Law," *Al-Istinbat : Jurnal Hukum Islam* 8, no. 1 (2023): 269-290.

The implementation of the Hajj fund investment policy for infrastructure projects has been underway since 2009. However, this was already delayed compared to other countries, such as Malaysia, which has been implementing it since 1963. As a result, both the level of profits and several policies in Malaysia are more advanced than those in Indonesia. For example, the investment in Malaysia is not limited to the domestic market but also extends to Australia, Singapore, Hong Kong, South Korea, and Indonesia. With such a broad investment reach, Malaysia is able to provide significant subsidies to prospective Hajj pilgrims.

To maximize and ensure the implementation of the investment, the Indonesian Ulema Council (MUI) issued a fatwa in 2012, which stated that:

1. The Hajj deposit funds held in the account of the Minister of Religious Affairs for registrants on the waiting list are considered the property of the registrants (prospective Hajj pilgrims). Therefore, if the individual passes away or encounters a legitimate religious obstacle that prevents them from departing, the Hajj deposit funds must be refunded to the registrant or their heirs.
2. The BPIH deposit funds for prospective Hajj pilgrims on the waiting list in the account of the Minister of Religious Affairs may be used for productive purposes (such as generating profits, including placement in sharia-compliant banking or investment in sukuk).
3. The returns from such placements/investments are the property of the prospective Hajj pilgrims on the waiting list (such as supplementing the pilgrim's savings or reducing the actual Hajj costs); as the manager, the government (Ministry of Religious Affairs) is entitled to receive fair and reasonable compensation.
4. The BPIH funds owned by prospective Hajj pilgrims on the waiting list must not be used for any purposes other than for the benefit of the registrant.

At least four key points are emphasized in the fatwa above. First, the Hajj funds belong to the prospective Hajj pilgrim, who deposits the funds as a form of trust with the government. Second, the government, in this case, the Minister of Religious Affairs, is authorized to manage the funds in the form of sukuk, where the funds are not managed as direct investments as long as they are not related to the execution of the Hajj pilgrimage.

The third point is that this is considered an indirect investment.<sup>15</sup> The fourth point is that the returns from this investment also belong to the prospective Hajj pilgrim.

The involvement of the banking sector is fundamentally positive for enhancing the intermediation role of the real sector. However, the banking sector has limitations in managing such large amounts of funds, making it more feasible to manage them in the form of government sukuk. Moreover, placing the Hajj funds in government sukuk simplifies the portfolio and aids in the transparency of management, which is often a point of public concern.

The placement of Hajj funds in government sukuk also represents a diversification of investment types, which previously only relied on the banking sector and was not optimal in improving services for prospective Hajj pilgrims. With the establishment of BPKH (Hajj Fund Management Agency) in 2014, the management of Hajj funds has become more varied with models such as sukuk backed by government infrastructure projects guaranteed by the government, *mudharabah al-muqayyadah* deposits, sukuk issued by the government or corporations with underlying infrastructure projects, and direct financing for companies or infrastructure projects.<sup>16</sup>

According to Abdul Rahman Ashidiq, the most suitable form of Sukuk for managing Hajj funds is PBS (Project-Based Sukuk), either with an infrastructure underlying asset or infrastructure financing.<sup>17</sup> In the first model, sukuk is applied to existing government budget programs (APBN). Meanwhile, in the second model, sukuk is applied to independent projects, which must first be included in the APBN to secure financing through government sukuk

According to Ashidiq, the PBS model of sukuk can boost economic growth by creating job opportunities, ensuring the equitable distribution of welfare through the development of infrastructure in various regions, and, of course, providing additional

---

<sup>15</sup> Aulia Muthiah, "Pertanggungjawaban Hukum pada Pengelolaan Dana Haji untuk investasi Infrastruktur" *Al-Adl Jurnal Hukum* Volume 14 Nomor 1, Januari 2022, p. 65-83.

<sup>16</sup> Beny Witjaksono, "Analisis Kelayakan Investasi Keuangan Haji Dan Pembiayaan Infrastruktur Dan Tingkat Imbal Hasil Badan Pengelola Keuangan Haji (BPKH)," *Performance* 27, no. 1 (2020): 30-40.

<sup>17</sup> Ashidiq, "Optimalisasi Sukuk Dana Haji Indonesia Sebagai Instrumen Pembiayaan Infrastruktur (Analisis Tugas, Fungsi Dan Wewenang BPKH Dalam UU No. 34 Tahun 2014 Tentang Pengelolaan Keuangan Haji)."

savings for prospective Hajj pilgrims.<sup>18</sup> However, in the implementation of Sukuk, there are four requirements for the development of Hajj funds: first, the type of business must align with Sharia principles; second, the business must be secure, meaning it should not experience a decline; third, it must be beneficial for prospective Hajj pilgrims and the Muslim community; and fourth, it must have liquidity, meaning it needs to be continuously available.

In the government sukuk model, the position of the Hajj funds is very secure because the government guarantees it. Furthermore, from the various types of projects funded by Sukuk, it is evident that these projects are highly beneficial for prospective Hajj pilgrims and the Muslim community, both directly and indirectly. Examples include the construction of Hajj dormitories and the development of toll roads that facilitate transportation access from various regions.<sup>19</sup>

Additionally, BPKH guarantees the liquidity of the Hajj funds with an investment return of 10 trillion IDR in 2022. With this achievement, BPKH placed funds in the banking sector amounting to 48.97 trillion IDR, which is considered sufficient to cover the financing of Hajj operations twice over.<sup>20</sup> This liquidity also serves as an argument for the increase in Hajj costs in 2023. This policy can be rationalized by stating that the departure of Hajj pilgrims is not solely financed by the pilgrims themselves but also by the returns on investments, as outlined earlier

Using the previous calculation model, where the prospective Hajj pilgrims cover 40% of the BIPIH, the investment returns are predicted to be insufficient to subsidize the Hajj operations in 2025.<sup>21</sup> In other words, without rationalizing the BIPIH, the investment returns are at risk of being depleted. Therefore, based on the principle of fairness for

---

<sup>18</sup> Ilyas Supena, "Konstruksi Epistemologi Fikih Pandemik: Analisis Fatwa-Fatwa MUI," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 1 SE-ARTICLES (June 11, 2021): 121-136, <https://doi.org/10.24090/mnh.v15i1.4203>.

<sup>19</sup> Syifa Fauziah and Nurwahidin, "Pembiayaan Infrastruktur Dengan Sukuk Negara Di Indonesia: Prosedur Dan Struktur," *JIMEA, Jurnal Ilmiah MEA (Manajemen Ekonomi Dan Akuntansi)* 4, no. 1 (2020): 30-42.

<sup>20</sup> <https://ekonomi.republika.co.id/berita/roqcru502/bpkh-sebut-pemenuhan-tingkat-likuiditas-keuangan-haji-tetap-terjaga> (diakses pada 20 Mei 2023)

<sup>21</sup> <https://www.cnnindonesia.com/ekonomi/20230127064220-78-905449/menyorot-kinerja-bpkh-di-tengah-usul-biaya-haji-naik-jadi-rp69-juta/2> (diakses pada 20 mei 2023).

prospective Hajj pilgrims who are still on the waiting list, the liquidity of the Hajj funds could also provide a subsidy from the returns for future pilgrims.

Table 1: Hajj Fund Management by BPKH

Years	Investment Benefits	Subsidy	Total Surplus	Hajj Fund Balance
2019	7,14 triliun	7 triliun	650 Miliar	124.320.000.000.000
2020	7,2 triliun	6,8 triliun	5.8 triliun	144.910.000.000.000
2021	10,5 triliun	-	7.72 triliun	158.790.000.000.000
2022	10,08 triliun	5 triliun		166.010.000.000.000

Source: Ministry of Religious Affairs and BPKH

Up to this point, it can be identified that the management of Hajj funds through infrastructure project investments is quite appropriate as long as it complies with the requirements and provisions in Law No. 34 of 2014 and the MUI Fatwa of 2011. The issue that arises, however, is how to ensure that the prospective Hajj pilgrims truly feel this benefit as the owners of the funds and not merely a benefit to the government, which receives funds to finance the state budget (APBN).

The investment of Hajj funds has become a pressing contemporary issue within Islamic finance and public policy. From the perspective of *maslahah mursalah* (public interest without specific textual basis), the argument in favor of investing such funds is rooted in the preservation and optimal use of communal assets (*amwal al-hajj*). As articulated in classical jurisprudence, actions that enhance protection (*tahsin al-hifz*) and secure wealth are considered praiseworthy, provided they do not contradict explicit Shariah principles.

Classical jurists, such as al-Shafi'i and Ibn Qudamah, consistently ruled that entrusted wealth (*al-wadi'ah*) must be preserved in the most secure manner possible. For instance, if a person is instructed to store a valuable in a house but instead keeps it in his clothes while traveling, he is held liable because the house offers greater security. By analogy, maintaining Hajj funds in idle cash holdings without utilizing them for productive investment could be deemed a form of negligence (*tafriṭ*), especially when alternative

financial instruments like sukuk or secure Islamic investments could enhance the fund's value without exposing it to excessive risk.<sup>22</sup>

Furthermore, the idea that increasing security beyond the original instruction does not incur liability—as in the case where an entrusted item was stored in a locked box with two locks instead of one—indicates a legal endorsement of *ihsan* (beneficial improvement). Applying this to Hajj fund management, allocating funds into low-risk, sharia-compliant investments may be considered a valid *ihsan*, mainly if the returns are used to subsidize costs for pilgrims or improve Hajj infrastructure, thus amplifying the collective benefit (*maslahah 'ammah*).

Scholars like Abū Yūsuf also argued that removing funds from a secure place (*hirz*) incurs liability if done without permission. However, when funds are maintained or even enhanced within a proper *hirz*, such as being placed in a secure investment portfolio, the fiduciary responsibility is upheld. Therefore, so long as the investment is conducted transparently, under proper governance, and within the framework of *maqasid al-shari'ah*, the investment of Hajj funds may be seen not only as permissible but also as necessary to prevent economic stagnation and better serve the *ummah*.

### **The Counter-Maslahah Argument: Prioritizing Religious Purpose**

Opposing views stress that Hajj funds should remain solely dedicated to the religious function of enabling pilgrimage. Critics argue that allocating funds to national infrastructure, even indirectly, risks diverting them from their original sacred intent. They invoke the principle that *mafsadah*—potential harm such as delaying Hajj departures or subsidizing unrelated public goods—should be avoided.

The premise proposed by Fakhrurrazi regarding the arbitrary use of the concept of *maslahat* is worth noting. This is because not all benefits can be claimed as *maslahat*. *Maslahat* can be considered *mu'tabaroh* if it truly meets the criteria of providing goodness for many people and preventing harm to many people. However, regarding the investment

---

<sup>22</sup> Muhammad ibn Idris al-Shafi'i, *Al-Umm*, 2nd edition (Beirut: Dar al-Fikr, 1983), p.143.

of Hajj funds, Fakhrurrazi concludes that as long as the investment is guaranteed to be safe, beneficial for the community, and does not violate Sharia principles, it is permissible.<sup>23</sup>

Unlike Fakhrurrazi, Fajri Syahroni Siregar delves deeper into the issue. He raises three fundamental questions.<sup>24</sup> First, to whom is the benefit of the investment of Hajj funds intended? In this regard, he quotes the statement of Sayyidina Umar bin Khattab regarding the management of the wealth of orphans: (I position myself in relation to the wealth of Allah as the guardian of an orphan). In this position, the results of the management should be allocated to the interests of the owners of the funds, namely the prospective Hajj pilgrims. In reality, he argues that all people in Indonesia, both Muslims and non-Muslims, feel the benefits of the investment of Hajj funds.<sup>25</sup>

At this point, he does not deny that there are benefits directly felt by the prospective Hajj pilgrims. However, since other parties, including non-Muslims, also benefitted, he argued that the government had used the Hajj funds beyond their intended purpose. According to him, in order to create a benefit that other parties feel, the government should use funds designated for that purpose, such as tax revenue or other state budget financing.

Second, is it true that investing Hajj funds in infrastructure projects brings benefits? In this case, he quotes several criteria for *maslahat*, which essentially lead to the principle (bringing benefits to most people and averting harm from them). He assumes that a benefit cannot be obtained instantly, and since Hajj funds have already been allocated for infrastructure development, it is highly possible that cross-subsidization could occur, with Hajj funds from the following year being used to finance the pilgrimage of the current year's pilgrims. Siregar ends his inquiry by asking: what authority allows the government to perform cross-subsidization while the status of Hajj funds is *wadi'ah*, where the recipient of the deposit has no right to manage it, let alone allocate it for the benefit of others?<sup>26</sup>

---

<sup>23</sup> R. Fakhrurrazi, "Regulasi Teori Maslahat Dalam Kajian Fiqh Modern," *AL-Mizan* Bol. 4, No. 1, 2017 p. 42-55.

<sup>24</sup> M. Fajri Syahroni Siregar, "Investasi Dana Haji untuk Pembangunan Infrastruktur di Indonesia dalam Pandangan Islam," *Risalah Jurnal Pendidikan dan Studi Islam*, Vol. 7 No. 1 Maret 2021, p. 172-193.

<sup>25</sup> Faisar Ananda and Julhaidir Purba, "Investasi Dana Haji Untuk Pembangunan Infrastruktur Di Indonesia Dalam Pandangan Hukum Islam (Analisis Terhadap Masalah Yang Dicanangkan Pemerintah Indonesia)," *Al-Mashlahah: Jurnal Hukum Islam Dan Pranata Sosial Islam* 10, no. 02 (2022): 467-476.

<sup>26</sup> Siregar, "Investasi Dana Haji Untuk Pembangunan Infrastruktur Di Indonesia Dalam Pandangan Islam."

From these two questions, he emphasizes his suspicion that the profits from investing in Hajj funds are primarily allocated for infrastructure development. Furthermore, from the second question, he suspects that the Hajj funds have been exhausted in the retail sukuk payment scheme for infrastructure development. As a result, to continue fulfilling its role, the Hajj Fund Management Agency (BPKH) must use Hajj funds from the next waiting list.

Third, what kind of *maslahat* is intended by the government? According to Siregar, the *maslahat* in question is avoiding inflation. Therefore, the foundation of this *maslahat* is *dar'ul mafasid* (avoiding harm). In this case, he presents a conflict between two *mafsadats*. The government's *mafsadat* is the occurrence of inflation, while the *mafsadat*, from the perspective of the Hajj pilgrims, is the failure to meet the infrastructure needs for Hajj in the Holy Land. Thus, Siregar argues that prioritizing infrastructure development in the homeland means neglecting the fundamental needs of Hajj pilgrims in the Holy Land.

At this point, Siregar refers to the principle (when two harms are in conflict, the one with greater harm should be prioritized, even at the expense of the lesser one). He argues that inflation is essentially a symbol of the acceleration of national infrastructure development, and as such, in the context of this principle, it is considered a lighter *mafsadat* that can be sacrificed. Therefore, he advocates for prioritizing the development of facilities in the Holy Land for Hajj.

Building on these three questions, he then moves to the next: which version of *maslahat* is greater—the government's or the prospective pilgrims'? Unlike Fakhurrazi's analysis, which views infrastructure development as a *maslahat* of secondary importance (*hajiyyat*), Siregar sees it as *daruri* (primary) in the dimension of *hifz al-nafs* (preservation of life). However, fulfilling the needs for Hajj is also primary, but in the dimension of *hifz al-din* (preservation of religion), it is more critical and thus deserves higher priority than infrastructure.<sup>27</sup>

Fajri Syahroni Siregar's analysis further clarifies the differing perspectives on the management of hajj funds, particularly regarding its use for infrastructure. By quoting the

---

<sup>27</sup> Yunita Wahyuni, Mahia Atha Bagaskara, and Kharis Fadhlullah Hana, "Persepsi Masyarakat Kudus Mengenai Penggunaan Dana Haji Untuk Investasi Pembangunan Infrastruktur," *Al'Aqdu: Journal of Islamic Economics Law* 2, no. 2 (2022): 118-127.

principle (when two interests conflict and cannot be reconciled, if one can be identified as more important, it must be prioritized), Siregar emphasizes that in this case, the investment of hajj funds allocated for infrastructure is seen as irreconcilable with the primary interest of the hajj pilgrims.

Siregar argues that the use of hajj funds for infrastructure disregards the welfare of the Muslim ummah, particularly the hajj pilgrims, who should be the main priority. He compares the status of hajj funds to that of waqf (charitable endowment), in which the funds are considered a trust that should not be used for any other purpose than that which has been determined (i.e., supporting the hajj pilgrimage). In conclusion, Siregar asserts that the government does not have the right to use hajj funds for infrastructure development, as it violates the principles of managing funds that must prioritize the welfare of the hajj pilgrims. The use of hajj funds for other purposes even with the good intention of promoting infrastructure development is considered a violation of the principles of justice and trust in managing entrusted funds.

While proponents of Hajj fund investment argue from the standpoint of public interest (*maslahah*), a counter-narrative rooted in traditional jurisprudence stresses the need to prioritize the original religious function of the funds—namely, facilitating the fulfillment of the fifth pillar of Islam. This position maintains that diverting Hajj savings into financial instruments, even if sharia-compliant, could violate the *niyyah* (intended purpose) of the funds, mainly if it introduces risk or delays the pilgrim's ability to perform Hajj.

Classical fiqh literature emphasizes that any unauthorized change to the agreed method of safekeeping leads to liability, notably when the modification deviates from the expressed will of the owner. For example, jurists have ruled that if a depositor instructs the guardian to place a valuable in a specific location and not to add extra locks, yet the guardian does otherwise—even with good intention—the act may be considered a breach if it leads to loss. Similarly, Imam Malik and others have expressed concern that enhancing security without consent may, paradoxically, attract harm, such as attracting thieves by signaling the presence of valuables.<sup>28</sup>

---

<sup>28</sup> Muwaffaq al-Din Abu Muhammad Abdullah ibn Ahmad ibn Muhammad ibn Qudamah al-Maqdisi al-Jama'ili al-Dimashqi al-Salihi al-Hanbali, *Al-Mughni*, ed. Abd Allah ibn Abd al-Muhsin al-Turki and Abd al-Fattah Muhammad al-Hilu, 3rd edition, juz 9 (Riyadh, Saudi Arabia: Dar Alam al-Kutub li al-Tiba'ah wa al-Nashr wa al-Tawzi', 1997), p. 268.

Applying these rulings to Hajj funds, one could argue that using them for investment—even for benevolent purposes—might constitute a breach of fiduciary trust unless expressly permitted by the contributor. Unlike general public funds, Hajj deposits are often personal religious savings set aside over long periods with the singular goal of pilgrimage. This makes their sanctity and specificity distinct from general waqf or zakat funds, where a broader *maslahah* justification might apply more easily.

Furthermore, scholars opposing investment in Hajj funds may invoke the principle that religious objectives should not be subordinated to economic interests. The foundational aim of these funds is not financial growth but religious fulfillment, and any action that potentially postpones or endangers that objective—even slightly—may be seen as contravening the spirit of *amanah* (trust) and the higher objective of preserving *din* (*hifz al-din*), one of the core *maqasid al-shari'ah*. Thus, from this viewpoint, the safest and most theologically sound approach is to preserve the funds as intended initially without subjecting them to speculative use, however minimal the risk.

### **Reconciling the Perceived Conflict: A Fiqh-Based Synthesis**

This research finds that the supposed contradiction between the two *maslahah* claims is primarily based on misinterpretations and assumptions. Using the principles of *qawa'id fiqhiyyah*, particularly the maxims related to conflicting interests, it becomes evident that both forms of *maslahah*—economic preservation and religious facilitation—are not mutually exclusive.

Siregar's analysis is indeed insightful and fundamental. However, there are several premises based on assumptions (*wahmi*). First, he assumes that the benefits of the hajj fund investment have not yet been realized by the hajj pilgrims, thus justifying the use of cross-subsidization. As discussed earlier, the benefits of the investment have already materialized in the form of reduced BIPIH (Hajj Travel Costs), even though there is an annual shift. It should be clarified that the amount to be paid by the pilgrims is not the full BIPIH, as these investment benefits have subsidized it.

Similarly, regarding the provision of facilities for the pilgrims in Saudi Arabia, Siregar claims a conflict and contradiction between the development of infrastructure projects in Indonesia and the fulfillment of pilgrimage facilities. He argues that the ongoing infrastructure projects, such as toll roads and various public facilities in Indonesia, mean

that the pilgrimage facilities will not be fulfilled. In this regard, Muh. Arafah's research emphasizes two models of direct investment by BPKH related to facilities for hajj pilgrims. These include investments in accommodations, transportation, and catering in Saudi Arabia, as well as facilities during the departure, such as hajj dormitories, flights to Saudi Arabia, and orders for goods from producers in Saudi Arabia as souvenirs for pilgrims' families.<sup>29</sup>

This direct investment model is also related to another of Siregar's assumptive premises regarding the model of hajj fund investment in infrastructure. As explained in a previous section, the hajj fund investment is in the form of Sukuk or sharia bonds, not direct investments. Seventy to eighty percent of the hajj funds are managed in Sukuk, which means that the hajj funds remain secure and do not diminish.<sup>30</sup> Investing in infrastructure projects does not mean that the Hajj funds are poured into infrastructure development, thus posing a risk of being lost and unable to finance the pilgrimage.<sup>31</sup>

The third assumption in Siregar's premise is related to inflation, which is ambiguously linked to the failure of infrastructure development in Indonesia. In other words, Jusuf Kalla emphasizes the potential inflation of funds from prospective hajj pilgrims, which could prevent them from going on pilgrimage due to currency fluctuations against the dollar. To address this, Kalla recommends investing the hajj funds in a way that generates returns higher than the inflation rate.<sup>32</sup> However, Siregar takes a different stance, arguing that this inflation is connected to another benefit, which he believes ultimately leads to a greater societal good (*dar'ul mafasid*), namely, the delay in infrastructure projects.

At this point, the conflict between the two *mafsadats*—inflation and the lack of facilities for prospective hajj pilgrims in Makkah—reaches a conclusion that lacks a solid basis. Inflation, as Siregar understands, does not occur as the hajj funds continue to grow. Additionally, investments in infrastructure do not negate one another; instead, they

<sup>29</sup> Arafah, "Strategi Investasi Langsung Dalam Tata Kelola Keuangan Haji Dalam Negeri."

<sup>30</sup> Akhmad Andi T Tenriajeng Rifa'i, "Analisis Kelayakan Investasi Dana Haji Untuk Pembangunan Proyek Infrastruktur Jalan Tol Jakarta-Cikampek II Elevated," *Politeknologi* 20, no. 2 (May 2021): 123-133.

<sup>31</sup> Muhammad Nizar and Sukamto, "Awareness: Dana Haji Berkeadilan Dan Berkelanjutan," *Al-Iqtishod, Jurnal Ekonomi Syariah* 4, no. 2 (2022): 160-179.

<sup>32</sup> Roikhan Mochamad Aziz et al., "Faktor-Faktor Yang Mempengaruhi Investasi Pengelolaan Dana Haji," *Jesya Jurnal Ekonomi Dan Ekonomi Syariah* 6, no. 1 (January 2022): 722-732.

complement the broader economic and social development, which benefits both the infrastructure sector and the Hajj pilgrimage facilities.<sup>33</sup>

Similarly, the conflict between the two maslahat,<sup>34</sup> which is the third issue, does not arise. The maslahat of infrastructure development in the country is realized through the implementation of various infrastructure projects via sukuk mechanisms. The maslahat for prospective hajj pilgrims, both before their departure, during their journey, and while performing the pilgrimage in Makkah, as well as the gifts for their families, is directly felt by the pilgrims, Indonesian Muslims, and even the entire Indonesian population. These two maslahat are realized and do not negate one another; thus, they cannot be regarded as conflicting.<sup>35</sup>

At this point, the researcher refers to Siregar's quote on the criteria for a valid maslahat, which is that it must be tangible and practical. Therefore, both mafsadat and maslahat should also be real and not based on assumptions, as seen in Siregar's analysis. Continuing on the maslahat of investing hajj funds in infrastructure projects, research by Husnurrosyidah and Nur Hadi finds that such investments contain benefits for five primary dimensions of Sharia. From the dimension of *hifz din* (preservation of religion), placing hajj funds in sukuk creates a benchmark for Sharia-compliant financial instruments, which serve as a symbol of Islam and ensure that the investments comply with Islamic law. From the dimension of *hifz nafs* (preservation of life), as mentioned by Siregar, infrastructure development creates job opportunities and fosters the growth of the Sharia market.<sup>36</sup>

As for the dimension of *hifz aql* (preservation of intellect), investing in infrastructure also means the development of human resources through the construction of formal and

<sup>33</sup> Tita Safitriawati, Indar Fauziah Ulfah, and Neneng Widayati, "Optimalisasi Investasi Dana Haji Melalui Sukuk Dan Deposito Bank Syariah Terhadap Pengembangan Dana Haji Indonesia Priode 2016-2019," *BISEI: Jurnal Bisnis Dan Ekonomi Islam* 06, no. 01 (June 2021): 1-12.

<sup>34</sup> Herliana, "Maqasid Al-Sharia in Court-Mediation Reform: A Study on Efficiency and Social Justice in Medical Disputes," *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 2 (2023): 214-229, <https://doi.org/10.18860/j-fsh.v15i2.23962>.

<sup>35</sup> Dhaniswara K. Harjono, Hulman Panjaitan, and Moermahadi Soerjadjanegara, "Ensuring Fair Business Practices and Consumer Rights: The Role and Impact of Indonesia's Consumer Dispute Settlement Agency," *Jurnal Hukum Unissula* 40, no. 1 (2024), <https://doi.org/http://dx.doi.org/10.26532/jh.v40i1.37177>.

<sup>36</sup> Nur Hadi Husnurrosyidah, "Investasi Keuangan Haji Melalui Sukuk Negara: Model Maqashid Syari'ah," *Akses, Jurnal Ekonomi Dan Bisnis* 15, no. 2 (2020): 138-146.

religious educational facilities.<sup>37</sup> Meanwhile, in the dimension of *hifz nasl* (preservation of lineage), infrastructure, which serves as the foundation for improving the community's economic status, also provides a means for fulfilling the needs of individuals and their families.<sup>38</sup> It can be confidently stated that economic growth, in addition to ensuring equitable social welfare, also contributes to the development of investment instruments, as demonstrated by the comparison between the performance of BPKH and previous institutions.

Regarding the categorization of hajj funds as *wadi'ah*, in essence, the legal status of hajj funds is more appropriately categorized as *wakalah* (agency), in line with the definition of hajj funds as payments for the organization of the hajj pilgrimage, as an eternal asset for the ummah, and the benefits controlled by the state for the purpose of organizing the hajj pilgrimage.<sup>39</sup> Unlike a *wadi'ah*, which is static and not to be managed, hajj funds are *arsala ghayrahu darahima amanatan ila mahallin akhar* (entrusted funds to be transferred to another place).<sup>40</sup> This means that the hajj funds will not end in the hands of the government and will return to the owner (the prospective hajj pilgrims) without any further purpose for discretionary use.

Hajj funds are funds that will be used for the financing of the pilgrimage, as expressed by Imam al-Romli, *ma yaf'aluhi 'anhu hala hayatihi*<sup>41</sup> (what is done on behalf of someone during their lifetime). Therefore, the government, as the manager (referred to as an agent or *wakil*), is entitled to receive compensation for the management of these funds. Based on this, it would be an incorrect conclusion to equate the status of hajj funds with that of *wakaf*, as *wakaf* does not permit free management in the same way.

<sup>37</sup> Akmal Yandi and Dina Dahliana, "Perspective Analysis Mashlahah Mursalah towards Tradition Mamangkeh And Maasok Gombak in the Pre-Wedding Procession in West Sumatra," *Jurnal Hukum Keluarga* 1, no. 02 (2025): 39–46, <https://journal-rabiza.com/index.php/JHK/article/view/16>.

<sup>38</sup> R Reja, M Hasan, and N Hakimah, "Analisis Yuridis Terhadap Isbat Nikah Yang Akad Nikahnya Oleh Wali Hakim (Studi Penetapan Pengadilan Agama Nanga Pinoh, *Al'Usroh*, 2022, <http://ejournal.iainptk.ac.id/index.php/alusroh/article/view/706>.

<sup>39</sup> <https://jdih.kemenkeu.go.id/fullText/2014/34TAHUN2014UU.HTM#:~:text=Dana%20Haji%20adalah%20dana%20setoran,kegiatan%20untuk%20kemaslahatan%20umat%20Islam.> (UU Republik Indonesia Nomor 34 Tahun 2014 Tentang Pengelolaan Keuangan Haji, diakses pada 25 Mei 2023).

<sup>40</sup> Abdurrahman bin Muhammad Ba'alawi, *Bughyatul Mustarsyidin Fi Talkhisi Fatawa Ba'dli Aimmata Min Al-Ulama' Al-Muta'akhirin* (Bayrut: Dar Kutub Ilmiyah, 2022).

<sup>41</sup> Syamsuddin Muhammad bin Ahmad al-Ramli, *Nihayatul Muhtaj Ila Syarh Al-Minhaj*, vol. V (Bayrut: Dar Kutub Ilmiyah, 2022).

Given that *wakalah* entails the right to manage, scholars emphasize that the authority of the agent (*wakil*) is limited to actions that benefit the principal (*muwakil*), in this case, the prospective pilgrims. Therefore, the investment of hajj funds can be understood as two efforts in fulfilling the role of an agent: first, ensuring the security (i.e., no reduction) of the hajj funds by growing them through investment and protecting them from inflation, and second, ensuring that the purpose of the funds—facilitating the pilgrimage of prospective pilgrims—is achieved.

Thus, the investment of hajj funds can be regarded as a maximal effort to preserve the sustainability of those funds. Contrary to Siregar's view, the prohibition on the management of orphaned funds is not meant to leave them unmanaged. In this regard, the government plays a role similar to Sy's ideal. Umar bin Khattab, which is to develop public funds for the benefit of the people, both individually and as members of society. The government does not control public funds, such as state cash, which can be allocated at will for infrastructure projects.<sup>42</sup> The hajj funds, invested in the form of sukuk, belong to the prospective pilgrims and are guaranteed by the government for their security, just as the property of orphans must be returned to them once they reach maturity.<sup>43</sup>

The management of hajj funds, as previously explained, is oriented towards the benefit of prospective pilgrims in the form of cost reduction, improved service quality, and the guarantee of the safety of the funds that have been deposited. Indeed, within this framework, the government does not violate any rules related to public funds. In fact, the growth of hajj funds to the point where their benefits are able to subsidize the payment of the BIPIH can be categorized as *billati hiya ahsan* (doing that which is better).<sup>44</sup>

Moreover, in the terminology of Imam al-Mawardi, the role of the government in organizing the hajj pilgrimage is a political and policy domain and, therefore, cannot be limited to the analogy of managing the assets of orphans.<sup>45</sup> In the words of Izzuddin Ibn

<sup>42</sup> Dewi Fransiska Mamonto et al., "Islamic Civil Law in Indonesia: Developments, Challenges, and Future Prospects," *NUSANTARA: Journal Of Law Studies* 3, no. 02 (December 25, 2024): 50–58, <https://juna.nusantarajournal.com/index.php/juna/article/view/103>.

<sup>43</sup> Abu Ishaq Ibrahim Al-Syirazi, *Al-Muhaddzab Fi Fiqh Al-Imam Al-Syafi'i*, vol. I (Bayrut: Dar Kutub Ilmiyah, 2022).

<sup>44</sup> Abul Husain Yahya al-Imrani, *Al-Bayan Fi Madzhabil Imam Al-Syafi'i* (Syarh Kitab Al-Muhaddzab), vol. VI (Bayrut: Dar al-Minhaj, 2000).

<sup>45</sup> Ali bin Muhammad al-Mawardi, *Al-Ahkam Al-Sulthaniyyah Wa Al-Wilayat Al-Diniyyah* (Misr: Dar al-Muqtabas, 2019).

Abdissalam, if the development of orphan wealth is highly encouraged, then the wealth of the ummah (community) is even more encouraged because it concerns the needs and benefits of the many. Ibn Abdissalam even suggests that if a scenario akin to the incident of Prophet Khidr and Prophet Musa occurs, where a representative has a foresight that surpasses the knowledge of the intended beneficiaries (the pilgrims), it is permissible for the representative to take an unpopular course of action.<sup>46</sup>

Sy further supports the conclusion of Ibn Abdissalam. Ba'alawi al-Hadrami argues that the policy of a representative can override the stipulations of the principal (*muwakil*) if it is believed that the policy brings greater benefit than the principal's conditions. This potential can be observed in the increase in hajj fees, where, at first glance, it appears burdensome to the pilgrims but remains rational when considering the actual costs needed for the hajj pilgrimage and contains long-term benefits aimed at preserving the sustainability of the benefits that belong to all prospective pilgrims.

Thus, the government's authority in managing hajj funds is in accordance with Islamic law (*syar'i*). Similarly, the investment of hajj funds in infrastructure brings dual benefits: ensuring the security of costs and guaranteeing the implementation of the hajj pilgrimage, as well as contributing to the development of infrastructure, which has a broader scope of benefits. These two benefits do not negate each other and form the foundation for macroeconomic growth and its intermediation into the real sector.

The perceived conflict between investing Hajj funds and preserving their sanctity can be meaningfully addressed through a balanced fiqh-based synthesis, drawing on classical jurisprudential reasoning and the objectives of shariah (*maqasid al-shari'ah*). On the one hand, the principle of *maslahah* encourages actions that promote public welfare and protect wealth (*hifz al-mal*); on the other, the commitment to the original intent (*niyyah*) and religious purpose of the funds upholds the objective of preserving religion (*hifz al-din*). Reconciling these aims requires contextualizing the jurisprudential maxims within modern financial realities.

#### Table 2. Maslahah-Based Investment vs. Religious Purpose Preservation

---

<sup>46</sup> Izzuddin Ibn Abdissalam, *Qawaidul Ahkam Fi Masalihil Anam*, vol. II (Bayrut: Dar Kutub Ilmiyah, 2022).

Aspect	Maslahah-Based Investment	Religious Purpose Preservation	Fiqh-Based Synthesis
<b>Theoretical Foundation</b>	Maqasid al-Shariah – protection of wealth (hifz al-mal), public welfare	Maqasid al-Shariah – protection of religion (hifz al-din), preserving original intent (niyyah)	The balance between two maqasid objectives proportionally
<b>Classical Fiqh Basis</b>	Ihsan in safeguarding trusts (e.g., using two locks, enhancing security)	Deviation from explicit instructions incurs liability if harm occurs	Security enhancements are allowed if consented to or clearly beneficial without significant risk
<b>Position on Investment</b>	Permissible if transparent, sharia-compliant, safe, and government-supervised	Considered a breach of trust if done without consent or risks delaying Hajj	Permissible if based on clear contracts, pilgrim consent, and sharia oversight
<b>Potential Risks</b>	Investment failure could harm pilgrims → requires risk mitigation	Delaying or obstructing Hajj due to fund mismanagement contradicts the ibadah goal	Use low-risk investment tools, such as government-issued Islamic sukuk
<b>Ethical Values</b>	Social responsibility to empower community funds	Strict adherence to religious intent and individual trust	Accountability and consultation as ethical governance principles
<b>Practical Recommendations</b>	Optimize Hajj funds for service expansion and cost efficiency	Focus solely on collecting and disbursing Hajj funds	Limited and safe investment as hirz (strong protection) to enable more pilgrims

Source: Author's Interpretation

In classical fiqh, several rulings show that enhancing security and maximizing protection without violating express instructions is not only permitted but commendable. For instance, locking a deposit with two locks instead of one or placing an item in a more secure location was not considered a breach of trust (*khiyanah*) but rather a form of *ihsan*—provided that it did not endanger or obscure the owner's ability to reclaim the deposit. Applied to Hajj funds, investing in low-risk, sharia-compliant instruments—particularly when done under government oversight and with transparency—may fulfill a similar role: securing and even enhancing the value of the trust without compromising its religious purpose.

At the same time, classical scholars also insisted on the importance of consent and clear boundaries in managing entrusted property. This is evident in the discussion that any deviation from the owner's explicit instruction without necessity may incur liability, particularly if the action leads to damage or loss. Therefore, any modern investment mechanism must be predicated on explicit terms of agreement, transparency, and informed consent from the pilgrims whose funds are managed.

From this integrated perspective, the tension between *maslahah* and fidelity to religious intent is not irreconcilable. Instead, it demands a careful framework that combines *maqasid*-oriented reasoning with procedural safeguards grounded in *fiqh*. By framing the investment of Hajj funds not as a profit-seeking venture but as a *hirz*—a fortified method of safeguarding wealth that enables more people to fulfill the pilgrimage—jurists and policymakers can create a legal synthesis that is both ethical and practical. This approach reflects the dynamic adaptability of Islamic law when navigated through the principles of *ijtihad*, *mas'ūliyyah* (accountability), and *shūra* (consultation).

## CONCLUSION

In light of the comparative and jurisprudential analysis presented, this study concludes that the investment of Hajj funds—particularly in state-backed sukuk for infrastructure development—can be justified within the framework of contemporary *fiqh* and the principle of *maslahah* (public interest). From a *maqasid al-shari'ah* perspective, such investments align with the objectives of protecting wealth (*hifz al-mal*) and facilitating religious observance (*hifz al-din*) by enhancing the quality and sustainability of Hajj services. Ethically and jurisprudentially, the investment does not constitute a violation of the sacred purpose of Hajj funds, so long as it is conducted transparently, with appropriate safeguards, and under institutional frameworks that ensure accountability. This reflects classical *fiqh* principles permitting the enhancement of entrusted property (*amanah*) when done with integrity and without breaching the owner's consent. Comparatively, Malaysia's model offers a more integrated synergy between religious oversight bodies and state investment authorities, thereby institutionalizing *maslahah*-driven decision-making.

In contrast, Indonesia still faces challenges in fully embedding *shari'ah*-based risk assessments within its regulatory framework. While both countries justify their policies

under the banner of public benefit, their interpretations of *fiqh* and application of safeguards differ in terms of structure, oversight, and community engagement. From a public policy standpoint, the legal architecture governing Hajj fund management in Indonesia needs further development, especially in incorporating *fiqh*-based accountability mechanisms. The study highlights that investment should not be treated as an automatic good (*mahmūd mutlaqan*)—instead, it requires nuanced deliberation that accounts for divergent scholarly opinions, varying economic contexts, and possible ethical tensions. In conclusion, the investment of Hajj funds must be approached not merely as a financial strategy but as a religiously grounded public trust. It should reflect the balance between spiritual integrity and societal development, requiring continual *ijtihad*, participatory governance, and transparent policy-making to ensure it remains aligned with both Islamic law and the evolving needs of the Muslim community.

## ACKNOWLEDGMENTS

The author would like to express sincere gratitude to the Rector of Syarif Hidayatullah State Islamic University (UIN) Jakarta for providing institutional support that enabled this research to be conducted within a conducive academic environment. Special thanks are also extended to the Dean of the Faculty of Syarif Hidayatullah State Islamic University (UIN) Jakarta for the guidance and facilitation that allowed the author to develop the research ideas effectively. The author is deeply grateful to all lecturers at UIN Syarif Hidayatullah Jakarta, particularly those who have imparted foundational knowledge, methodological insights, and critical perspectives on contemporary issues. Their intellectual guidance has significantly shaped the analytical framework and argumentative direction of this research. May the contributions and dedication of the academic community at UIN Syarif Hidayatullah Jakarta continue to bring lasting benefit and serve as enduring acts of scholarly virtue.

## AUTHOR CONTRIBUTIONS

Jaenal Aripin was solely responsible for the conception, design, and execution of this research. He conducted the literature review, formulated the theoretical framework,

collected and analyzed the data, and wrote the entire manuscript. All interpretations, arguments, and conclusions presented in this study are the result of his independent academic work and critical analysis.

## CONFLICT OF INTEREST

The authors declare that there is no conflict of interest regarding the publication of this paper.

## BIBLIOGRAPHY

- Abdissalam, Izzuddin Ibn. *Qawaidul Ahkam Fi Masalihil Anam*. Vol. II. Bayrut: Dar Kutub Ilmiyah, 2022.
- Abidin, M Zainal. "Analisis Investasi Dana Haji Dalam Pembiayaan Infrastruktur Dan Peningkatan Kualitas Penyelenggaraan Ibadah Haji." *Harmoni: Jurnal Multikultural & Multireligius* 15, no. 2 (2016): 152-164.
- Ahmad al-Ramli, Syamsuddin Muhammad bin. *Nihayatul Muhtaj Ila Syarh Al-Minhaj*. Vol. V. Bayrut: Dar Kutub Ilmiyah, 2022.
- al-Din Abu Muhammad Abdullah ibn Ahmad ibn Muhammad ibn Qudamah al-Maqdisi al-Jama'ili al-Dimashqi al-Salihi al-Hanbali, Muwaffaq. *Al-Mughni*. Edited by Abd Allah ibn Abd al-Muhsin al-Turki and Abd al-Fattah Muhammad al-Hilu. 3rd edition. Riyadh, Saudi Arabia: Dar Alam al-Kutub li al-Tiba'ah wa al-Nashr wa al-Tawzi', 1997.
- al-Imrani, Abul Husain Yahya. *Al-Bayan Fi Madzhabil Imam Al-Syafi'i (Syarh Kitab Al-Muhaddzab)*. Vol. VI. Bayrut: Dar al-Minhaj, 2000.
- Al-Syirazi, Abu Ishaq Ibrahim. *Al-Muhaddzab Fi Fiqh Al-Imam Al-Syafi'i*. Vol. I. Bayrut: Dar Kutub Ilmiyah, 2022.
- Ananda, Faisar, and Julhaidir Purba. "Investasi Dana Haji Untuk Pembangunan Infrastruktur Di Indonesia Dalam Pandangan Hukum Islam (Analisis Terhadap Masalahat Yang Dicanangkan Pemerintah Indonesia)." *AlMashlahah: Jurnal Hukum Islam Dan Pranata Sosial Islam* 10, no. 02 (2022): 467-476.
- Arafah, Muh. "Strategi Investasi Langsung Dalam Tata Kelola Keuangan Haji Dalam Negeri." *Jurnal Imara* 5, no. 1 (2021): 1-12.
- Ashidiq, Abdul Rahman. "Optimalisasi Sukuk Dana Haji Indonesia Sebagai Instrumen

- Pembiayaan Infrastruktur (Analisis Tugas, Fungsi Dan Wewenang BPKH Dalam UU No. 34 Tahun 2014 Tentang Pengelolaan Keuangan Haji).” *Az Zaqqa’* 11, no. 2 (2019): 423–435.
- Az Zuhailiy, Muhammad Musthofa. *Al Wajizu Fi Ushi Al Fiqhal Islamiyyi*. Beirut: Dar al-Khoiri, 2006.
- Aziz, Roikhan Mochamad, Tia Fitriyani, Soeharjoto, Lucky Nugroho, and Syarifuddin Mabe Parenreng. “Faktor-Faktor Yang Mempengaruhi Investasi Pengelolaan Dana Haji.” *Jesya Jurnal Ekonomi Dan Ekonomi Syariah* 6, no. 1 (January 2022): 722–732.
- Batubara, Chuzaimah, Mustapa Khamal Rokan, Muhammad Firdaus Bin Abdul Manaf, Sukiati Sukiati, and Isnaini Harahap. “Realizing Justice and Maslahah in E-Commerce: Fiqh Muamalah Insights and Challenges in Malaysia and Indonesia.” *JURIS (Jurnal Ilmiah Syariah)* 23, no. 2 (September 10, 2024): 253. <https://doi.org/10.31958/juris.v23i2.12356>.
- Dewi Fransiska Mamonto, Selfrinda Rezkita Mahmud, Risnawati Utina, Geya Sukmawati, and Fahira Nadra Male. “Islamic Civil Law in Indonesia: Developments, Challenges, and Future Prospects.” *NUSANTARA: Journal Of Law Studies* 3, no. 02 (December 25, 2024): 50–58. <https://juna.nusantarajournal.com/index.php/juna/article/view/103>.
- dkk, K H Arsyad. “Hasil Keputusan Bahtsul Masail FMPP Se-Jawa-Madura XXXI Di Pondok Pesantren Salaf Sulaiman, 18-19 Oktober 2017 Trenggalek Jawa Timur,” 2017.
- Fauziah, Syifa, and Nurwahidin. “Pembiayaan Infrastruktur Dengan Sukuk Negara Di Indonesia: Proseddur Dan Struktur.” *JIMEA, Jurnal Ilmiah MEA (Manajemen Ekonomi Dan Akuntansi)* 4, no. 1 (2020): 30–42.
- Harjono, Dhaniswara K., Hulman Panjaitan, and Moermahadi Soerjadjanegara. “Ensuring Fair Business Practices and Consumer Rights: The Role and Impact of Indonesia’s Consumer Dispute Settlement Agency.” *Jurnal Hukum Unissula* 40, no. 1 (2024). <https://doi.org/http://dx.doi.org/10.26532/jh.v40i1.37177>.
- Hayati, Riska Fauziah, Okto Viandra Arnes, and Arwansyah Bin Kirin. “Innovation Of Online Zakat Institutions: Opportunities And Challenges In The Era Of Smart Society 5.0.” *MILRev : Metro Islamic Law Review* 2, no. 2 (November 15, 2023): 175.

<https://doi.org/10.32332/milrev.v2i2.8091>.

- Herliana. "Maqasid Al-Sharia in Court-Mediation Reform: A Study on Efficiency and Social Justice in Medical Disputes." *De Jure: Jurnal Hukum Dan Syar'iah* 15, no. 2 (2023): 214-229. <https://doi.org/10.18860/j-fsh.v15i2.23962>.
- Husnurrosyidah, Nur Hadi. "Investasi Keuangan Haji Melalui Sukuk Negara: Model Maqashid Syari'ah." *Akses, Jurnal Ekonomi Dan Bisnis* 15, no. 2 (2020): 138-146.
- ibn Idris al-Shafi'i, Muhammad. *Al-Umm*. 2nd edition. Beirut: Dar al-Fikr, 1983.
- Muhammad al-Mawardi, Ali bin. *Al-Ahkam Al-Sulthaniyyah Wa Al-Wilayat Al-Diniyyah*. Misr: Dar al-Muqtabas, 2019.
- Muhammad Ba'alawi, Abdurrahman bin. *Bughyatul Mustarsyidin Fi Talkhisi Fatawa Ba'dli Aimmati Min Al-Ulama' Al-Muta'akhirin*. Bayrut: Dar Kutub Ilmiyah, 2022.
- Nizar, Muhammad, and Sukamto. "Awareness: Dana Haji Berkeadilan Dan Berkelanjutan." *Al-Iqtishod, Jurnal Ekonomi Syariah* 4, no. 2 (2022): 160-179.
- Reja, R, M Hasan, and N Hakimah. "Analisis Yuridis Terhadap Isbat Nikah Yang Akad Nikahnya Oleh Wali Hakim (Studi Penetapan Pengadilan Agama Nanga Pinoh), *Al-Usroh*, 2022. <http://e-journal.iainptk.ac.id/index.php/alusroh/article/view/706>.
- Republika. "BPKH Sebut Pemenuhan Tingkat Likuiditas Keuangan Haji Tetap Terjaga," 2023.
- Rifa'i, Akhmad Andi T Tenriajeng. "Analisis Kelayakan Investasi Dana Haji Untuk Pembangunan Proyek Infrastruktur Jalan Tol Jakarta-Cikampek II Elevated." *Politeknologi* 20, no. 2 (May 2021): 123-133.
- Rosyid, Moh. "Dinamika Haji Indonesia Sejak Era Kolonial Dan Problematika Calon Haji Ilegal." *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 17, no. 2 (2018): 241. <https://doi.org/10.18326/ijtihad.v17i2.241-259>.
- Safitriawati, Tita, Indar Fauziah Ulfah, and Neneng Widayati. "Optimalisasi Investasi Dana Haji Melalui Sukuk Dan Deposito Bank Syariah Terhadap Pengembangan Dana Haji Indonesia Priode 2016-2019." *BISEI: Jurnal Bisnis Dan Ekonomi Islam* 06, no. 01 (June 2021): 1-12.
- Sholichah, Inti Ulfi. "Hukum Investasi Produktif Pengelolaan Dana Haji Dalam Perspektif Ekonomi Syariah." *SYAR'IE* 3 (February 2020): 18-34.
- Siregar, M Fajri Syahroni. "Investasi Dana Haji Untuk Pembangunan Infrastruktur Di

- Indonesia Dalam Pandangan Islam.” *Risalah: Jurnal Pendidikan Dan Studi Islam* 7, no. 1 (2021): 172–193.
- Sukiati, Sukiati, Rahmadany Rahmadany, Muhamad Hasan Sebyar, and Purnama Hidayah Harahap. “Copyright as a Waqf Object in the Context of Fiqh and Positive Law.” *Al-Istinbat : Jurnal Hukum Islam* 8, no. 1 (2023): 269–290.
- Supena, Ilyas. “Konstruksi Epistemologi Fikih Pandemik: Analisis Fatwa-Fatwa MUI.” *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 1 SE-ARTICLES (June 11, 2021): 121–136. <https://doi.org/10.24090/mnh.v15i1.4203>.
- Wahyuni, Yunita, Mahia Atha Bagaskara, and Kharis Fadhlullah Hana. “Persepsi Masyarakat Kudus Mengenai Penggunaan Dana Haji Untuk Investasi Pembangunan Infrastruktur.” *Al-Aqdu: Journal of Islamic Economics Law* 2, no. 2 (2022): 118–127.
- Witjaksono, Beny. “Analisis Kelayakan Investasi Keuangan Haji Dan Pembiayaan Infrastruktur Dan Tingkat Imbal Hasil Badan Pengelola Keuangan Haji (BPKH).” *Performance* 27, no. 1 (2020): 30–40.
- Yandi, Akmal, and Dina Dahliana. “Perspective Analysis Mashlahah Mursalah towards Tradition Mamangkeh And Maasok Gombak in the Pre-Wedding Procession in West Sumatra.” *Jurnal Hukum Keluarga* 1, no. 02 (2025): 39–46. <https://journal-rabiza.com/index.php/JHK/article/view/16>.
- Zakiruddin, Muhammad Aziz, Kamsi Kamsi, and Ahmad Bahiej. “Siyasah Syariyah Paradigm of Hajj Financial Management Regulation in Indonesia.” *Al-Istinbath: Jurnal Hukum Islam* 7, no. 2 November SE-Articles (December 1, 2022): 531–552. <https://doi.org/10.29240/jhi.v7i2.5310>.