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## Maqashid Syariah on Hajj Insurance in Indonesia

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**Abstract.** The pilgrimage is a risky worship because the pilgrims perform the pilgrimage for one month, in a different place and climate. The Indonesian government has regulated policies related to BPIH (Cost for the Implementation of Hajj). Where in BPIH there is also an insurance component to protect pilgrims from risks. The protection provided is in the form of insurance facilities. This study aims to look at the maqashid sharia component of sharia insurance because basically everything that is done by a Muslim must aim at the benefit or welfare in the world and in the hereafter. This study used a descriptive qualitative approach where in-depth interviews were conducted with the research subjects. The results of this study are from the five maqashid sharia (religion, soul, mind, lineage and property) the participation of pilgrims will fulfill the four of maqashid namely religion, soul, lineage and property.

**Keywords.** maqashid sharia, sharia insurance, hajj insurance

### Introduction

Indonesia is a country where the majority of the population is Muslim. In Islam there is one kind of worship that must be carried out at least once in a lifetime for those who can afford it, namely the pilgrimage. From year to year the number of Muslims who go to Hajj is increasing as shown in the following graph:



Figure 1  
Number of Hajj Pilgrims departing for Mecca (2007 – 2016)  
Source: Central Bureau of Statistics, 2017

In the graph above, it can be seen that in 2007 there were 188,569 people who performed the pilgrimage, in 2008 it increased to 191,823 people. In 2009 the number of people who performed the pilgrimage decreased to 189,358 people and increased again to 196,206 and 199,849 in 2010 and 2011. Meanwhile, in 2012 to 2016 the number of Muslims who departed decreased. Although it is decreasing, every year Muslims make the pilgrimage.

Muslims perform the pilgrimage for 40 days in Mecca, Saudi Arabia. For 40 days many worship activities are carried out with different climates, topography and culture. Muslims who come from Indonesia have their own risks. Especially Muslims with old age. In 2017 there were more than 50% of the pilgrims who were over 51 years old. With the age of 51 years, there are a lot of risks that are carried by the pilgrims, whether they are sick at the time of worship or even die during the pilgrimage. In 2019, the death rate for pilgrims from Indonesia increased by 341 people from the previous year in 2018 of 292 people. Many people influence the increase in the death rate of pilgrims as well as a history of congenital illness, fatigue and different climates and so on.

To minimize the risks that exist, the government has regulated the Government Regulation of the Republic of Indonesia Number 79 of 2012 concerning the Implementation of Law Number 13 of 2008 concerning the Implementation of the Hajj. Article 29 states that there is protection for pilgrims and officers in the form of insurance and other necessary protection. The cost of insurance protection is borne by BPIH (Hajj Implementation Fee). Meanwhile, the cost of insurance protection for officers is borne by the government. However, in the next article 43 it is explained that there is special protection for pilgrims, which includes special pilgrims and special officers in accordance with the agreement between the pilgrims and BPIH. The insurance provided includes life, accident and health insurance.

In addition to the protection provided by the government, pilgrims can carry out personal protection. There are several sharia insurance companies that offer Hajj insurance in accordance with the Fatwa of DSN MUI 39/DSN-MUI/X/2002. The risks that are replaced are the risk of death, the risk of death due to an accident, total permanent disability and partial permanent disability.

Several studies have explained related to Hajj insurance. Herry (2015) in his research entitled prospects and challenges for the development of sharia insurance in Indonesia stated that there are prospects for the development of sharia insurance in Indonesia, including Hajj insurance because many pilgrims from Indonesia go to the holy land every year. Prima (2020) in his research entitled Application of maqashid sharia in sharia insurance mechanisms said that there is a role for hajj insurance with maqashid sharia in religious and hereditary elements.

In contrast to the research conducted by Prima (2020), this study emphasizes the effectiveness of the use of Hajj insurance based on indicators on Islamic maqashid. Maqashid sharia is everything that is determined by Allah for the benefit of mankind as a whole (Muhammad Al Ghifari, 2015). In the concept of maqashid sharia, human welfare can be fulfilled by fulfilling five basic human needs, namely religion, soul, mind, lineage and human property .

## **Literature Review**

### **Hajj Insurance**

Sharia Insurance in accordance with the Fatwa of DSN MUI Number 21/DSN-MUI/X/2001 is an effort to protect and help people/parties through investment in tabarru' funds which provide a pattern of returns to face certain risks through contracts that are in accordance

with Islamic sharia. Meanwhile, Law Number 40 of 2014 concerning Insurance states that sharia insurance is a collection of agreements consisting of agreements between sharia insurance companies and policy customers, in the context of managing contributions based on sharia principles to help and protect each other by:

1. provide a replacement to the participant due to the risk of loss, damage, costs incurred, loss or legally responsible to the policyholder due to an uncertain event
2. provide payment based on the death of the insurance participant based on the participant's life with benefits that have been determined from the results of fund management.

The contracts carried out in sharia insurance are the 'tabaru' contract and the *tijarah* contract. Tabaru contract; carried out between insurance participants and the *tijarah* contract is carried out in the context of risk management (*wakalah bil ujroh*) and investment management (*Wakalah bil Ujrah*, *Mudharabah*, or *Mudharabah Musytarakah*).

Hajj insurance is a product of sharia insurance. Hajj insurance products are based on the Fatwa of the National Sharia Council No: 39/DSN-MUI/X/2002. The consideration for the existence of this product is that the pilgrimage contains risks in the form of accidents or death and conventional insurance is considered contrary to sharia principles, so the insurance used must comply with sharia provisions. Based on several verses in the Qur'an and Hadith such as:

"And help you in (doing) righteousness and piety, and do not help in sin and transgression. And fear Allah, verily Allah is very severe in punishment" (Surah Al-Maidah 5:2)

"Whoever relieves a Muslim of a difficulty in this world, Allah will relieve him of a difficulty on the Day of Resurrection; And Allah always helps His servant as long as he (likes) helps his brother" (Narrated by Muslim from Abu Hurairah).[r2]

Based on the above verse, a Fatwa related to Hajj Insurance is drawn up. Where Hajj insurance is insurance with a *Tabarru* 'contract (grant) which aims to help each other to help fellow pilgrims who are affected by disaster.

The contract is carried out between the pilgrims as the giver of *tabarru*' and Sharia Insurance which acts as the manager of the grant funds. There are two mechanisms in its application, namely insurance which is definitely provided by the government through BPIH and insurance which independently pilgrims participates in it. The technical mechanisms of Hajj insurance are:

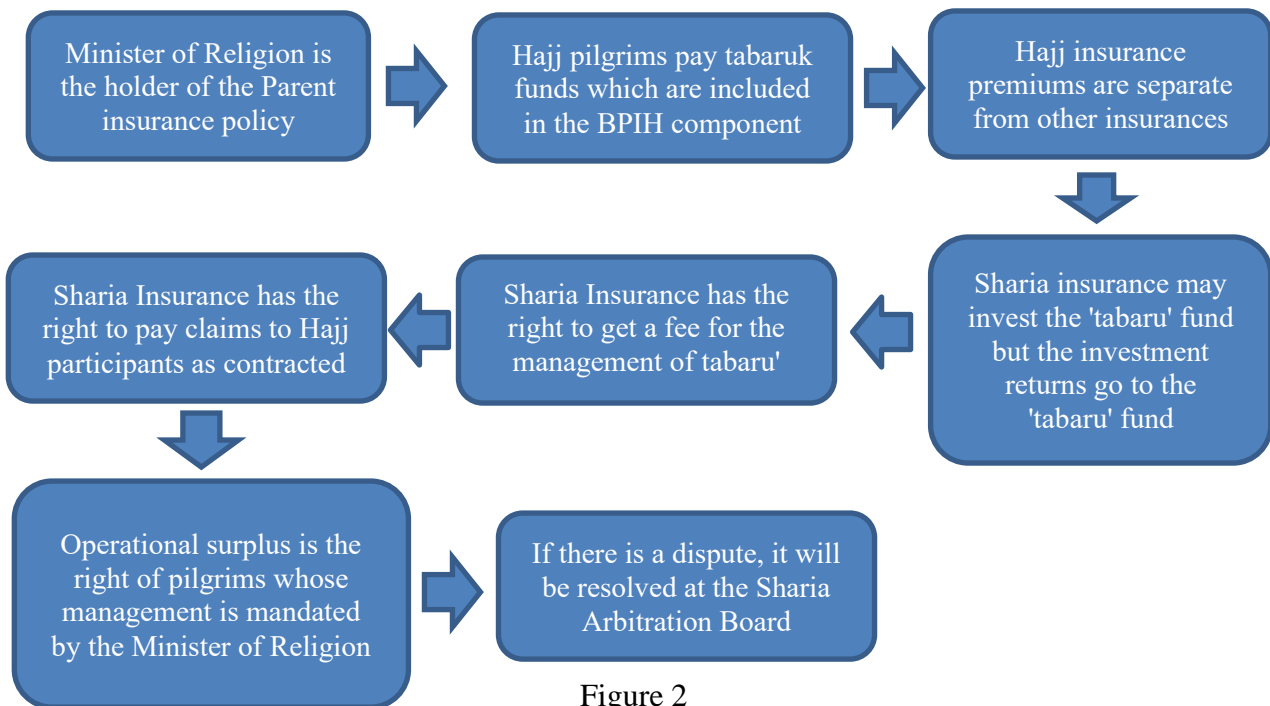


Figure 2

### Hajj Insurance Mechanism

Source: DSN MUI Fatwa No: 39/DSN-MUI/X/2002

#### Maqashid Sharia

Maqashid literally means *al-i'timad* which means to hold fast. According to Ibn Asyur Maqashid, Sharia is by definition divided into two, namely in general, namely a number of meanings and lessons that are concluded for sharia makers in all sharia. Whereas specifically are things that are desired by Allah to achieve useful human goals or to maintain human benefit in particular. Meanwhile, A'lal Al-Fasi stated that maqashid sharia is the goal of sharia and the secret that is set by syar'i in every law of its laws.

Al-Syatibi considers that the goal of sharia (maqâshid shari'ah) is *maslahah* for mankind. *Maslahah* is defined as a sustenance, fulfillment of human life and other acquisitions that are required based on emotional and intellectual qualities. Benefit can be handled by fulfilling the five basic needs of human life that can be developed, maintained and preserved in the form of religion, soul, mind, lineage and property.

1. Religious Protection. Humans naturally have the potential to know Allah, to seek protection from Allah, to surrender oneself to Allah. The form of religious protection is the implementation of the five daily prayers, fasting, zakat and others in accordance with Allah's provisions.
2. Life Protection. That is to carry out and protect the spirit or soul so that what is done is in accordance with Islamic provisions
3. Protection of Intellect. Maintaining reason can be done by someone continuing to study or learn to obtain useful information for himself in this world and in the hereafter
4. Hereditary protection. Namely maintaining self-respect and honor. In its application, maintaining offspring can be carried out by marrying, giving inheritance or protection to heirs and so on

5. Protection of property. Namely the protection of property so that humans can meet their needs. Protection of assets can be in the form of work, investing and so on.[r3]

Al-Ghazali revealed that the main goal of Islamic economics is welfare (benefit). Benefit by maintaining religion, life, reason, lineage and wealth. Furthermore, everything whose purpose is to protect the five elements must be carried out and everything whose purpose is to threaten the five elements must be avoided.

Based on the level of importance, maqashid sharia can be divided into dharuriyat, hajiyat and tahsiniyat:

1. Dharuriyat, dharuriyat is a benefit that must be fulfilled. If it is not fulfilled, it will result in the destruction of the order of life
2. Hajiyat, is the need of the people to fulfill their welfare needs and maintain their order of life. However, if it is not fulfilled, it will not destroy the existing order
3. Tahsiniyat, which is a complementary maslahah for the order of life so that they can live more safely and calmly.

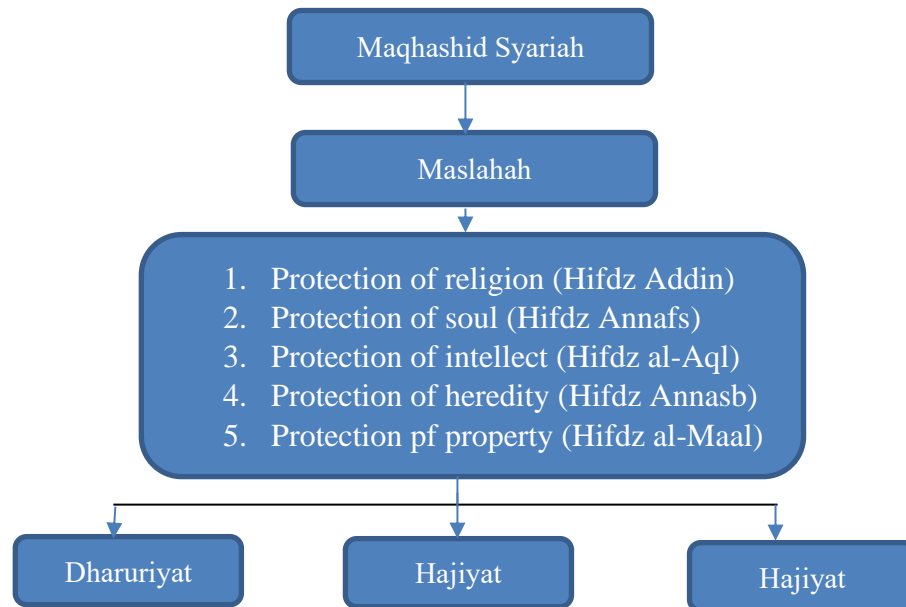


Figure 3  
Maqashid Sharia Structure  
Source: Prima, 2020

### Method

The method used in this research is descriptive qualitative. The data used are primary data from in-depth interviews. Source triangulation method was used in this study. The sources used are pilgrims in 2016, prospective pilgrims for 2022, academics and tour and travel organizers of the pilgrimage.

### Results and analysis

Based on the results of interviews with Mrs. Wiwin as a pilgrim in 2016, Ms. Alifa, a candidate for Hajj pilgrims in 2022, Mrs. Clarashinta as an academic. Then the following results are obtained:

## 1. Maintenance of Religion

In the maintenance of religion, the enforcement of aqidah is very important in ourselves and in the community around us. This aqidah is eternal, does not change either because of time or place. Maintaining and maintaining religion is part of maintaining aqidah. Based on the level of importance, maintaining religion can be divided into three, namely:

- a. The maintenance of religion in the "daruriyat" category, namely maintaining and carrying out religious obligations at the primary level such as carrying out fardhu prayers where if this prayer obligation is abandoned, the maintenance of this religion will be threatened
- b. Maintenance of religion in the "hajiyat" category, namely carrying out religious provisions with the aim of avoiding difficulties
- c. The maintenance of religion in the "tahsiniyat" category is carrying out religious provisions to uphold human dignity and complete their obligations to God. An example of this "tahsiniyat" category is praying before and after eating.

The existence of Hajj insurance is a form of religious maintenance in the "tahsiniyat" rank. When pilgrims perform Hajj there will be a high possibility of unwanted risks. So someone usually minimizes the risk by using insurance. The insurance used is "conventional" insurance which is operationally not in accordance with sharia provisions. The existence of Hajj insurance provided by the Ministry of Religion. Make pilgrims get religious maintenance. Hajj insurance used by the Ministry of Religion is one of the products of Sharia Insurance. Where in its operations Sharia Insurance is in accordance with Islamic law.

This is in line with research conducted by Prima (2020). In his article entitled Application of maqhadif in sharia insurance, he stated that the use of sharia insurance is a form of religious protection. Similar to Hajj insurance, Hajj insurance is one of the sharia insurance products. So that operations are in accordance with the provisions of the MUI DSN and are supervised by the Sharia Supervisory Board

## 2. Soul Nurturing

In humans there is a soul or spirit that must be guarded. The goal is that all actions carried out by humans can be in accordance with Islamic law. Nurturing the soul in terms of its existence (min nahiyat al - form) by providing good nutritional needs in the form of food and drink. Nurturing the soul has three levels, namely:

- a. Maintenance of the soul in the "dharuriyat" category, namely meeting the basic needs of food and beverage nutrition
- b. Nurturing the soul in the "hajiyat" category, namely trying to get delicious food
- c. Nurturing the soul at the "tahsiniyat" level, namely the preparation of rules related to eating and drinking procedures

The existence of Hajj insurance is one of the maintenance of life. By using Hajj insurance, if there is an unwanted risk to us, then Hajj insurance can protect and provide the best treatment. The level of life maintenance in sharia insurance is at the "hajiyat" level, which is recommended to try to get the best treatment if there is a risk during the pilgrimage.

Prima (2020) states that the role of insurance in life maintenance is in the prevention aspect. Hajj insurance provides several facilities for pilgrims who are at risk, such as medical expenses, hospital fees and compensation payments.

3. Mindfulness

The maintenance of reason based on its existence (min nahiyat al-Manifest) is to study and think positively. The maintenance of reason has three levels, namely:

- a. The maintenance of reason in the category of "dharuriyat" is the prohibition of consuming liquor and the like
- b. The maintenance of reason is in the category of "hajiyat" which is recommended for a Muslim to increase knowledge
- c. Nurturing the mind at the level of "tahsiniyat" which is protecting oneself from useless actions

Hajj insurance in this case has not been able to make sense. Hajj insurance is more functioned to maintain the physical or soul of the pilgrims. So if there is a risk related to reason, Hajj insurance is not big enough to cover it.

4. Offspring Maintenance

Maintaining offspring or self-respect of its existence (min nahiyat al-Manifest) that is by advocating for marriage and maintaining offspring. In addition, it can provide sanctions for adultery. There are three levels in maintaining offspring, namely:

- a. Maintenance of offspring in the "dharuriyat" category, which is a recommendation for marriage
- b. Maintenance of offspring in the "hajiyat" category, namely the stipulation of divorce as a settlement of the husband and wife bond
- c. The maintenance of offspring is in the "tahsiniyat" category, namely khitbah (proposal) and walimah (reception) in marriage.

Keeping offspring is basically not just limited to marriage. Protecting descendants from lack of property is also one of the maintenance of descendants at the daruriyat level. Hajj insurance is one way to keep offspring in the "hajiyat" category. When pilgrims experience risk, pilgrims who have Hajj insurance can leave their wealth for their descendants to meet their needs. Pilgrims who died will receive compensation of Rp. 18,608,698. Pilgrims who die in an accident will receive compensation of Rp. 37,217,396 and those who have an accident and disability will receive compensation in accordance with applicable regulations.

5. Treasure Maintenance

Preserving property from its existence (min nahiyat al-Manifest) that is by directing humans to seek lawful risky. There are several levels of property maintenance, namely:

- a. Property maintenance in the "dharuriyat" category, for example, to get ownership can be done through transactions with buying and selling contracts
- b. Maintenance of property in the "hajiyat" category, namely the permissibility of buying and selling transactions with "salam", "istisna", "murabahah" and so on.
- c. Maintenance of property in the "tahsiniyat" category, which is an order to avoid fraud and speculative activities

Hajj insurance is one of the guardians of property. If there is a risk with the pilgrims, the pilgrims and their heirs can get compensation in the form of funds in accordance with applicable regulations. Sharia insurance is also an investment tool. There is a unit-linked insurance scheme where insurance is combined with investment. So that property maintenance can be carried out.



### **Conclusion**

Hajj insurance is implemented based on the Fatwa of the National Sharia Council No: 39/DSN-MUI/X/2002. There are two systems for implementing Hajj insurance in Indonesia, namely Hajj insurance from the government and Hajj insurance where pilgrims can contribute personally. Judging from the maqashid sharia, Hajj insurance has carried out religious safeguards, namely protecting the pilgrims by using a tabaru' contract that is in accordance with Islamic law. The soul is to provide protection to the pilgrims regarding the preparation for handling risks. Descendants, namely by providing protection to descendants in the form of property for their descendants. Property protection is by using Hajj insurance that is connected to the unit link. Suggestions from this research are pilgrims do not need to worry about Hajj insurance because it is in accordance with the MUI fatwa and meets the maqhashid sharia aspects and it is hoped that the government can provide policies that are in accordance with sharia maqashid

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