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## **Legal Protection of Cancelled Prospective Hajj And Umrah Contributors During Covid-19 Pandemic: The Basis of Law No. 8/2019 Concerning The Organization of Hajj and Umrah**

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### **ABSTRACT**

*The impact of Covid-19 which caused hajj and umrah trips were having problem, therefore the government has limited these worship activities to held during this pandemic. There are two objectives of this research, such as to find out the accuracy of the government's policy regarding the cancellation of Hajj and Umrah departures during the Covid-19 pandemic and to analyze the legal protection stipulated under Law No. 8/2019 regarding the cancellation of the departure of prospective pilgrims. The method used in this research is a logical examination method combined with a standardized exploration strategy (juridical regularizing) and a conceptual approach. The existence of this pandemic caused the government to issue a new regulation, that is a decision through KMA No. 494/2020 and KMA No. 660/2021 concerning cancellation of Hajj departures. The policy contains security, safety, and health with the aim that pilgrims are not exposed to the Covid-19 virus. The type of government protection for prospective pilgrims, such as ensuring security, comfort, and funds for pilgrims who cancel their Hajj or Umrah.*

**Keywords:** Cancellation, Covid-19, Departure, Hajj and Umrah, Protection

## INTRODUCTION

Human needs consist of physical and spiritual needs, where spiritual needs are a relationship between a human being and His creator. Thus, humans can be grateful for what is given by His creator as long as he lives. Regarding this, Indonesia is a country that has 5 religions where every citizen must embrace one of the five religions. It can be seen that Islam has the most significant majority of followers in Indonesia. In the teachings of Islam, 5 pillars of Islam must be carried out by each of its adherents which consist of saying the two sentences of the creed, praying, fasting, zakat, and performing the pilgrimage (for those who can afford it). The obligation to perform the pilgrimage can be done at a particular time. It is from the 8th to the 13th of Dzulhijah each year. Performing the pilgrimage is one of the recommended acts of worship for Muslims (if able) where the person is physically and mentally healthy and economically capable.

Hajj is one of the religious worship activities that Allah SWT highly recommends to a Muslim who is considered capable. This movement is a continuation of the love exercises in the peak system that describes obedience, obedience, and the image of submission to Allah SWT. The pilgrimage itself is the fifth pillar of faith in religion (Ali, 2015). There are two objectives of this research, such as to find out the accuracy of the government's policy regarding the cancellation of Hajj and Umrah departures during the Covid-19 pandemic and to analyze the legal protection stipulated under Law No. 8/2019 regarding the cancellation of the departure of prospective pilgrims.

However, there is a phenomenon where the whole world feels the impact. It made people still very worried about countries around the world, namely the Covid-19 pandemic, which has changed the order of human life on earth, and until now, there is still no certainty when this pandemic will end. The public authority through the Ministry of Religion will dispatch pilgrims for Hajj in In 2020. The decision was made because of the situation and conditions during the Covid-19 pandemic that hit the whole world. Saudi Arabia has also not opened access for pilgrims from all over the world. It can also make it difficult for the government to have sufficient time to make significant preparations to provide services and protection for pilgrims. With this notification, pilgrims planned throughout Indonesia in 2020 will not depart from the Holy Land due to the government's choice to limit the number of homecomings during the Coronavirus pandemic.

## RESEARCH METHODOLOGY

This study used a kind of standardized exploration strategy (juridical regularizing). Research regulation was also called a logical examination method to observe reality. The law was conceptualized as what was written in (law in books) and was based on scientific logic from the normative side (Soerjono Soekanto & Sri Mamudji, 2015).

Considering the problem plan in this exploratory collection, the type of examination used was legal or doctrinal. Halal inspection standardization was a halal exploration technique that utilizes additional sources of information or by looking at existing library materials. The nature of this research was descriptive-analytical research. Descriptive-analytical research is conducted by thinking legally or creating conclusions based on rational observations by analyzing the propositions uttered by legal institutions on the basis of case law that has been decided (Mullekyl Devadasan, 2019). Insightful graphic exploration was a test aimed at illustrating the peculiarities regarding legal guarantees for planned Hajj and Umrah travelers during the Covid-19 pandemic, which the government canceled according to Law No. 8 of 2019, the Implementation of Hajj and Umrah during the Covid-19 pandemic.

This type of assessment in this creation used a regularizing juridical and conceptual approach. It was centered on original materials as a guideline and a fundamental reference material in driving investigations. So, a useful technique for this problem was to use a legitimate strategy or rule approach.

## **RESULT AND DISCUSSION**

### **Authority of Government Policy Regarding Hajj and Umrah during Pandemic**

The Covid-19 pandemic that occurred in Indonesia was able to paralyze all activities and various sectors (Y Yuliana, 2020). The impact could cause the Indonesian government to withhold or delay the departure of Hajj and Umrah pilgrims this year. Many prospective hajj and umrah pilgrims for years waiting for their turn as they get older also feel disappointed because of the decision made by the government through the Ministry of Religion, namely canceling the departure of Indonesian hajj and umrah pilgrims in 2020. They share the same feeling for hajj and umrah pilgrims who have waited for eight years to perform Hajj and Umrah. Everything has been prepared, from clothes and health to the items they will use. Around 221,000 prospective Indonesian pilgrims in 2020 did not leave for Saudi Arabia due to the Covid-19 pandemic that swept across the country. Not a few of them expressed disappointment with the decision issued by the government.

The government's decision is quite bitter for prospective hajj and umrah pilgrims to accept. The government has begun to prepare for the departure of the hajj and umrah pilgrimages this year (Santiwati, 2022). Thus, the government started to prepare most of the necessities needed and has a great responsibility in the issue of guaranteeing the protection of pilgrims for Hajj and Umrah. Security and human risks are a priority during this pandemic. In addition, the pilgrimage can be stopped if the pilgrimage continues to be carried out in an era of soaring cases of the Covid-19 pandemic in Saudi Arabia and Indonesia. In religious

teachings, the obligation that must be prioritized during a pandemic is to protect the soul of every human being. It is explained in Law No. 8/2019 concerning the Implementation of Hajj and Umrah that the government has the mandate to carry out the protection task in this rule.

During a pandemic, the government issues new regulations and policies previously explained in Law No. 8/2019 concerning implementing Hajj and Umrah (Suryaden, 2019) . Then, it was refined and strengthened over time with the conditions from 2020. The government reissued and legalized the Decree of the Minister of Religion Number 494 of 2020 and the Decree of the Minister of Religion Number 660 of 2021 concerning the Cancellation of Departures for Hajj Pilgrims. Hence, they can answer and address the problems that exist during the Covid-19 pandemic.

### **Government Reasons and Efforts regarding Cancellation of Hajj and Umrah**

The implementation of the 2021 Hajj pilgrimage which the government canceled, was indeed due to considerations such as safety, health, and security for prospective pilgrims for Hajj and Umrah (Mahel, Mellyana, Nurikas, 2021). Furthermore, this cancellation is also in accordance with the teachings that exist in Islam, namely maintaining the soul contained in the 5 maqasyiq of sharia. In carrying out its role, the government must be responsible for all aspects related to this issue which must be prioritized to prevent harm, including life safety and epidemic prevention which are aspects that must be prioritized for fellow human beings.

1. Cancellation of departures for Hajj and Umrah during the Covid-19 pandemic carried out by the government has several reasons, including Protecting the soul (Khifzhun-Nafs) must be prioritized.
2. Prevent greater harm due to the Covid-19 outbreak that is spreading worldwide.
3. In the implementation of the pilgrimage, it is very obligatory to fulfill the requirements of istitha'ah fi alhal in the form of a condition that is free and safe from disturbances and dangerous outbreaks during the journey and implementation.
4. The government is given a mandate in accordance with the edict of Law Number 8 of 2019 concerning the Implementation of Hajj and Umrah to carry out protective duties with factors that must be prioritized, namely safety, health, and security of the congregation.
5. The government of Saudi Arabia (22 Shawwal 1442 H / 3 June 2021 AD) has not invited the country to send pilgrims to discuss the preparation for the implementation of the Hajj and Umrah pilgrimages, including Indonesia.

6. Require strict implementation of health protocols, including restrictions on worship. It can be seen from the limitations on organizing Umrah at the beginning of this year, namely:
  - a. There are regulations prohibiting praying in Hijr Ismail and praying around Multazam.
  - b. The quota for praying at the Prophet's Mosque and the Grand Mosque is very limited
  - c. There is a limitation on the length of stay in Medina (for three days, the congregation cannot perform the Arbain worship).

The preparations made since December 2020 could not be completed due to the uncertainty of allocating the Hajj quota from Saudi Arabia. On the other hand, Saudi Arabia does not open access to services for organizing the pilgrimage. Whereas the Indonesian government needs time to prepare services for pilgrims, it is preparing technical management in various aspects of services for pilgrims. Wukuf will be held on 19 July 2021, but until now (22 Shawwal 1442 H/3 June 2021 AD), the Saudi Arabian government has not opened access to the visa system and other services. So it is impossible to carry out the implementation and preparation of administration and others. Moreover, ratifying the policy of canceling the Hajj departure in 1442 H/2021 AD, is the best way and considering many factors that form the basis for the policy's validity.

It is estimated that Saudi Arabia did not open access to Hajj services in 2021, so the government does not dare to send prospective Hajj and Umrah pilgrims to Mecca. In addition, as a result of the Covid-19 incident, Saudi Arabia has not asked Indonesia to sign a memorandum of understanding to prepare for the pilgrimage to Mecca. Previously, the Ministry of the Interior of Saudi Arabia also mentioned through its Twitter account that the 11 countries allowed to enter Saudi Arabia include Japan, the United States, the United Kingdom, France, Germany, Sweden, Portugal, Italy, and other countries. Ireland, Switzerland, and the United Arab Emirates. However, Indonesia is not included in the list mentioned.

In Indonesia, several groups reminded the government to be careful and not to neglect its obligations to prospective hajj pilgrims after deciding not to send a hajj delegation this year. The National Commission (Komnas) of Hajj and Umrah needs to monitor the abolition decision, especially regarding the payment of fees (BIPI) for Hajj and the return of documents for each prospective pilgrim (Muhammad, 2017).

### **Forms of Protection for Hajj and Umrah Pilgrims During the Pandemic Government Regulation Cancels Hajj and Umrah**

The Indonesian government has officially canceled the flights of Hajj pilgrims to fix the hajj journey from 1441 H or 2020 to 1442 H or 2021. This decision is regulated in the Decree of the Minister of Religion of the Republic of Indonesia Number 494 of 2020. The government renews in the Decree of the Minister of Religion of the Republic of Indonesia Number 660 of 2021. Regarding the cancellation of the departure of Hajj pilgrims, there is also the government's consideration of canceling. Those are the threat to travelers' health, welfare, and safety due to the Coronavirus pandemic that has hit all countries on the planet. While in Islamic teachings, protecting the soul must be the primary consideration in carrying out the pillars of faith and also includes laws or policies that will be implemented. Public bodies are responsible for safeguarding and securing planned Indonesian pilgrims and residents at home and abroad through efforts to conquer the coronavirus pandemic.

For pilgrims planning the 2020-2021 hajj trip, especially domestically, to remain calm and not rush to issue hajj reserves, following the option to cancel the 2021 hajj trip. This is because the community's Hajj is placed safely. The government hopes that the public will remain calm and think positively and support the government's policies related to the issue of hajj departures in 2020-2021 due to the Covid-19 pandemic. The funds belonging to the pilgrims placed in the Hajj Financial Management Agency (BPKH) or a sharia bank appointed by the BPKH remain safe and are managed prudently and professionally (Mila, Sudin, 2021).

The community is not fully ready to cancel the departure of hajj trips in 2021 through the Announcement of Religious Imams Number 660 of 2021 concerning the Revocation of Hajj flights in the Hajj Association of 1442 H or 2021. Both regular and special pilgrims who have paid off the annual hajj trip costs (1442 H) is expected to be prospective pilgrim for the Hajj pilgrimage in 2022 (1443 H).

### **Consequences of Cancellation of Hajj and Umrah during the Pandemic**

With the most significant majority of Muslims worldwide, Indonesia also sends tens of millions of prospective pilgrims every year. However, from 2020 to 2021, the government cancels Hajj departures because the situation threatens the health and safety of Hajj and Umrah pilgrims. Through the Ministry of Religion, the government proposed an increase in the cost of the 2022 hajj to IDR 45,000,000. The costs include flights, the average cost of living in Saudi Arabia, visa fees, and the cost of a PCR test in Saudi Arabia. Policy for the preparation of services for the implementation of the pilgrimage 1442H/2022M. The scenario for organizing the pilgrimage during the COVID-19 outbreak, the government's Omicron variant, was carried out with 3 options:

1. Quota full
2. Limited quota
3. Unsending pilgrims

The Saudi Arabian government has not provided certainty about the 1443 H/2022 AD pilgrimage for Indonesian pilgrims or pilgrims from all countries worldwide. The problem is not only in Indonesia, but all countries on this earth also have not received a share. There has been no authority statement from Saudi Arabia for this year's Hajj, domestically and globally. Pilgrims canceled from 2020 to 2021 will become pilgrims in 1443H / 2022.

While waiting for news from Saudi Arabia, the Indonesian government needs sufficient time to dispatch prospective pilgrims in 2022. For the two years later, the government cancelled the pilgrimage, funds from pilgrim pilgrims were managed by BPKAH, and pilgrims were advised that their funds were safe, managed by sharia by the government. The piling up queues of pilgrims who have not departed in 2020 will prioritize their departure so they do not have to wait too long. This is the problem of managing the queue of pilgrims, which involves hotels and flights.

Sadness came from the pilgrims who had waited a long time in line for years, thousands of pilgrims who had their departures canceled 2 times in a row due to the Covid-19 pandemic. The Saudi Arabian government had not yet opened a hajj quota for Indonesia. Indonesian pilgrims could only accept and surrender to the government's decision to make this also for the health of the pilgrims in Indonesia and worldwide.

This is because the state is responsible for serving every need of the pilgrims who will come until they complete the process of their journey. Thus, the instructions and administration referred to in Article 3 are for all travelers to depart from the holy land, get convenience in Wukufkan at Arafah, and return to the land of heaven. This is the fundamental norm of administration given by the public authorities.

The protection is referred to ensure the welfare and comfort of the explorers from departing from land to land of paradise until they complete all their travel needs. After that, they return to their country, safe from all disturbances, fear, and security.



## CONCLUSION AND SUGGESTION

### Conclusion

According to Law No. 8/2019 concerning Hajj organizers, the government always strives for the best for pilgrims. This regulation is a refinement and improvement of the previous law. There are several weaknesses regarding the implementation of the Hajj and Umrah pilgrimages. The state is responsible for implementing the Hajj and Umrah pilgrimages after the law is passed. With the pandemic which resulted in the government issuing new regulations, namely decisions through KMA Number 494 of 2020 and KMA Number 660 of 2021 concerning Cancellation of Hajj Departures, the policies taken by the government are for security, safety, and health so that pilgrims are not exposed to infectious viruses. Covid-19.

The form of protection for prospective pilgrims according to Law Number 8 of 2019. There are articles 41 and 42 concerning protecting the life and health of prospective pilgrims for Hajj and Umrah. The government guarantees the security and comfort of the pilgrims starting from departing the homeland until to the holy land. However, with the Covid-19 pandemic, hajj departure was canceled during the Covid-19 pandemic. Pilgrims are advised not to worry, and the Minister of Religion continues to protect pilgrims' funds by being stored and managed safely while waiting for news from the Saudi Arabian government. Pilgrims who have canceled leaving for the past 2 years will become a priority for pilgrims in 1443 H / 2022. So All protections carried out by the government are in accordance with the concepts contained in Islamic teachings and legislation number 8 of 2019.

### Suggestion

Based on the polemic about the cancellation of the pilgrimage, the government must review the law concerning the cancellation of the pilgrimage and Umrah. It must be prepared carefully to anticipate a tragedy or prepare everything in terms of material and time. It must be prepared in terms of material and time of implementation Hajj and Umrah. It can pay attention to future impacts if there are consequences that are accepted by prospective pilgrims so that they do not cause pros and cons in the community, scholars, and existing mass organizations.

Prospective pilgrims for Hajj and Umrah are expected to be patient and sincere with the decision from the government through the Ministry of Religion which canceled the departure of the Hajj and Umrah pilgrimages for the past 2 years. It was due to a Covid-19 pandemic, which was long-lasting. The government has done its best for the security, safety, and health of prospective pilgrims for Hajj and Umrah to reduce the spread of the virus. The government has also carefully considered the good of prospective pilgrims for Hajj and Umrah.



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